

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, SEPTEMBER 27, 2012 AT 9:00 A.M.,**  
5 **NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-DISPATCH**  
6 **SEPTEMBER 10, 2012 AND SEPTEMBER 17, 2012.**  
7

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

Member Absent: Helen E. Harris

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 Mr. Wright - Good morning, ladies and gentlemen, welcome to the  
10 September meeting of the Henrico County Board of Zoning Appeals. Please  
11 stand and join with me in pledging allegiance to the flag of our country.  
12

13 Mr. Blankinship, please read our rules.  
14

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

29 This meeting is being recorded so we'll ask everyone who speaks to speak  
30 directly into the microphone on the podium, state your name, and please spell  
31 your last name so that we get it correctly in the record.  
32

33 And finally, out in the foyer there is a binder that contains the staff report for each  
34 case, including the conditions that have been recommended by the staff.

35  
36 Ms. Helen Harris, member of the Board, is not able to be with us this morning for  
37 medical reasons. There is a provision in state law that in order for the Board to  
38 take certain actions, particularly to rule in favor of an appellant on an appeal,  
39 there have to be at least three affirmative votes. We'll offer now at the beginning  
40 of the meeting for anybody who wishes to be heard by the full Board rather than  
41 a four-member Board you should go ahead and request deferral at this time.

42  
43 Mr. Wright - Does anybody wish to request deferral at this time?  
44 All right, sir, please state your name.

45  
46 Mr. Shumaker - My name is William Shewmake. I'm an attorney for  
47 LeClair Ryan. I'm the attorney for Park 'N Go on appeal. In light of the state law,  
48 of which I'm familiar, I would respectfully request a thirty-day deferral.

49  
50 Mr. Wright - All right, that would be—

51  
52 Mr. Blankinship - APL2012-00003, Park 'N Go of Virginia.

53  
54 **APL2012-00003 PARK 'N GO OF VIRGINIA LLC** appeals a decision  
55 of the director of planning pursuant to Section 24-116(a) of the County Code  
56 regarding the property at 5701 Audubon Drive (Parcel 821-716-8025) zoned A-1,  
57 Agricultural District, B-3, Business District and M-1, Light Industrial District  
58 (Varina).

59  
60 Mr. Wright - Does anyone other than this applicant have an  
61 interest in this case? All right.

62  
63 Mr. Hart - Yes sir. I'm Jason Hart. I'm the assistant county  
64 attorney representing the Department of Planning in this case. I wasn't aware  
65 that there was going to be a deferral so you will have to speak to Ben as to  
66 Department of Planning's position on this.

67  
68 Mr. Wright - I think we are pretty well committed to grant the  
69 deferral under the law. I just wanted to recognize others so you would  
70 understand if we defer this case, which we probably will, it will be the first case  
71 heard at the next meeting of the Board in October. Do we have a motion on this  
72 case?

73  
74 Mr. Nunnally - I so move we defer it for thirty days.

75  
76 Mr. Bell - I'll second that motion.

77  
78 Mr. Wright - All right. Motion is made and seconded. Any  
79 discussion? Hearing none, all in favor say aye. All opposed say no. The ayes  
80 have it; the motion passes.

81  
82 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by  
83 Mr. Bell, **APL2012-00003, Park 'N Go of Virginia LLC**, has been **deferred** until  
84 the October 25, 2012 meeting.

85  
86  
87 Affirmative: Baka, Bell, Nunnally, Wright 4  
88 Negative: 0  
89 Absent: Harris 1  
90

91  
92 Mr. Wright - Go ahead, Mr. Condlin.  
93

94 Mr. Condlin - Mr. Chairman, members of the Board, my name is  
95 Andy Condlin—C-o-n-d-l-i-n—from Williams Mullen here on behalf of the Epps'  
96 family for APL2012-00004. I, as well as Mr. Shewmake, for the same reason,  
97 would like to have the full board on our appeal to be able to have the best  
98 chance to present the case, which obviously is a little bit complicated and has a  
99 lot of history. So we'd like to be able to have that opportunity with the full Board.  
100

101 **APL2012-00004 LOLITA EPPS** appeals a decision of the director of  
102 planning pursuant to Section 24-116(a) of the County Code regarding the  
103 property at 1296 Concord Avenue (HUNGARY BROOK) (Parcel 783-757-5816)  
104 zoned B-3, Business District (Fairfield).  
105

106 Mr. Wright - Is there anyone else here that has any interest in this  
107 case? Hearing none do I hear a motion?  
108

109 Mr. Nunnally - I also move we defer it for—thirty days, Mr. Condlin?  
110

111 Mr. Condlin - Yes.  
112

113 Mr. Nunnally - Thirty days.  
114

115 Mr. Condlin - Yes sir.  
116

117 Mr. Baka - Second.  
118

119 Mr. Wright - All right. Any discussion? Hearing none, all in favor  
120 say aye. All opposed say no. The ayes have it; the motion passes.  
121

122 After an advertised public hearing, and on a motion by Mr. Nunnally, seconded  
123 by Mr. Baka, **APL2012-00004, Lolita Epps**, has been **deferred** until the October  
124 25, 2012 meeting.  
125  
126

127	Affirmative:	Baka, Bell, Nunnally, Wright	4
128	Negative:		0
129	Absent:	Harris	1

130

131

132 Mr. Wright - Mr. Blankinship, please call the first case.

133

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

139

140 Mr. Wright - Will the applicant please come forward? Anyone else  
 141 who has an interest in this and desires to speak needs to stand and be sworn.

142

143 Mr. Blankinship - Raise your right hands, please. Do you swear the  
 144 testimony you're about to give is the truth and nothing but the truth so help you  
 145 God?

146

147 Mr. Wright - All right, sir, please present your case.

148

149 Mr. Wilson - Thank you, Mr. Chairman, members of the Board. My  
 150 name is Jack Wilson, and I am an attorney representing Westhampton Memorial  
 151 Park in connection with this conditional use permit application. This case has  
 152 been on your docket for several months, and we have repeatedly come before  
 153 you and asked for deferrals. The reason for that is because we were continuing  
 154 to try to work through some issues with the adjacent neighbors at Westhampton  
 155 Glen. I'm pleased to report that those discussions have borne fruit. I think we  
 156 have reached an understanding with the neighborhood as to how we would like  
 157 to move forward with this conditional use permit application.

158

159 Let me give you a very brief background on sort of our legal portion on this case,  
 160 where we were at the beginning and how we came to the conclusion and the  
 161 understanding we have with the neighborhood.

162

163 We believe that this cemetery predated—I think the staff report recognizes—the  
 164 ordinance that would govern cemetery uses in Henrico County. From that  
 165 standpoint we believe that we were vested and theoretically could have burial  
 166 sites right up to the edge of our property. Alternatively, even if we were to look at  
 167 the existing statute and say that we came within the confines of that and were  
 168 bound by those terms, we would be considered an existing cemetery and under  
 169 the language of the statute could have graves as close as thirty-two feet from the  
 170 property line because we have an existing grave thirty-two feet from a property  
 171 line.

172



173 Notwithstanding those legal issues, which we would preserve for an appeal, we  
174 decided that we would work with the neighbors to see if we could reach some  
175 compromise with them that could satisfy their concerns, and at the same time  
176 allow for the reasonable and logical expansion of the cemetery. And so based on  
177 that we've had a series of discussions and were able to develop a plat that would  
178 actually establish what the various setbacks would be within the cemetery  
179 against the adjacent property owners. Mr. Blankinship, I have several copies of  
180 this, as well as larger version of it.

181  
182 Again, I don't need to get into a whole lot of detail about this plat, other than to  
183 say what we have done is we have recognized various setbacks from various  
184 parcels. Used setbacks both from the dwellings and from the property lines to  
185 reach what would be the ultimate setbacks and the possible expansion of the  
186 cemetery. So essentially everything on that plat that is in green would be  
187 available for future burial sites within the cemetery. Everything that is in white  
188 between the green and the property lines would stay as the setback. There  
189 would be no burial sites within that. Beyond that we have also agreed with the  
190 neighbors that we would maintain the existing vegetation within that setback  
191 area, and we would also then enhance that landscaping by planting evergreen  
192 plants within that to, again, provide further screening from the neighborhood. We  
193 have also suggested that this plat itself be made a part of the conditional use  
194 permit and make this one of the conditions, that the setbacks would be as  
195 established by this plat. Again, another condition would be that the landscaping,  
196 as I just mentioned, would be required. Ben, I should have given these to you  
197 when you came down the first time. I have several copies of proposed conditions  
198 as well.

199  
200 And what Mr. Blankinship is handing you now, again, would be proposed  
201 conditions. Condition #1, would be, as I mentioned, would make this plat—it has  
202 a blank date in it now because I think the ink is still wet on the plat itself. But it's  
203 September 14, 2012, would be the date that would go in that blank. Condition 2  
204 would be the one that I just discussed about the landscaping, again requiring that  
205 the existing vegetation remain, that enhanced landscaping be planted, that the  
206 cemetery would be obligated to replant any of the evergreens that died they were  
207 planted, etcetera. We've also talked in here about the height of the evergreens at  
208 the time they were planted, how far apart they would be, and so forth. And these  
209 have all been discussed with the homeowners. And again, the purpose of that is  
210 while there is already some significant vegetation out there, we wanted to put  
211 some additional evergreen vegetation in there to provide a year-round screen,  
212 which is something the neighborhood was interested in.

213  
214 And finally, we've also in here proposed Condition #3, which would be that the  
215 requirements that we have agreed to with the neighborhood would be recorded  
216 as a restrictive covenant for the benefit of the homeowners association and the  
217 thirty-seven lot owners within that subdivision so that there would be no  
218 possibility of coming back at any time in the future to amend these conditions.

219 These are conditions that we're willing to live with in perpetuity, and so we're  
220 willing to put the conditions themselves in a restrictive covenant so that the  
221 neighborhood knows for certain that these conditions will be there for as long as  
222 there are homes and the neighborhood there.

223  
224 We believe that this is an equitable resolution to this. Again, I think I mentioned  
225 this is a unique circumstance. This cemetery has been around for quite a while,  
226 predating the ordinance, has a number of legal issues involved as to whether or  
227 not we even have to go through a conditional use permit process or whatever.  
228 But we think that working through with the neighborhood and reaching a  
229 consensus in agreement with them is the best solution. And what we're asking,  
230 and I think the neighborhood will stand up and ask for the same thing, is that you  
231 sort of honor the agreement from the five or six months of negotiations that have  
232 gone back and forth and approve our conditional use permit pursuant to the  
233 neighborhood's wishes and our wishes.

234  
235 Mr. Wright - Have you read the suggested conditions that the staff  
236 has proposed for this case?

237  
238 Mr. Wilson - I have. Condition #1, that it's only for the expansion of  
239 new grave sites has nothing to do with the expansion of the mausoleum. Sir, we  
240 have no problem with that also being a condition. I think our conditions would  
241 replace Condition #2 of the staff's suggested conditions. And we have no  
242 problem with Condition #3 requiring the erosion and sediment control plan.

243  
244 So essentially what we would be proposing, then, is to accept staff's Condition  
245 #1, replace staff's Condition #2 with our Conditions 1, 2, and 3, and then keep  
246 the staff's Condition #3 as written.

247  
248 Mr. Wright - Mr. Blankinship, has the staff had an opportunity to  
249 review this?

250  
251 Mr. Blankinship - Only very briefly. As you see in our report, I take a  
252 different view of what the County code requires than Mr. Wilson does. We knew  
253 that months ago. It's a fair debate, and I think both sides have been presented to  
254 you fairly. If you have any other questions for either of us, I'm sure we both  
255 would be happy to answer. And ultimately if the staff disagreed with his reading  
256 of the code, then the question would be appealed back to you anyway. So  
257 ultimately it's going to rest with the Board to interpret that setback provision of  
258 24-52(h).

259  
260 Mr. Wright - Well, I understand the law. But to get into that I would  
261 need to—if the staff disagrees with the conditions here—that's what your  
262 statement is.

264 Mr. Blankinship - My reading of the County code is that they cannot  
265 locate a gravesite closer than 250 feet to a dwelling unless there is already an  
266 approved gravesite within 250 feet of that dwelling. And because the dwellings in  
267 Westhampton Glen subdivision have been built over the past year or two and  
268 prior to this approval, I read that condition as imposing the 250-foot setback from  
269 each of those new dwellings. Mr. Wilson disagrees, and he's explained how he  
270 reads it and how the non-conforming aspect of the question comes into play.

271  
272 Mr. Wright - I don't know whether the Board has enough  
273 information, then, to distinguish between the two unless we hear a full discussion  
274 and a presentation of the basis for your position.

275  
276 Mr. Wilson - I can do that briefly. Again, what we had hoped to do  
277 was—we believe, again, that the Board of Zoning Appeals would have the  
278 authority. It's a conditional use permit, and you can impose or adopt whatever  
279 conditions you want. You really don't have to, I don't believe—and maybe Ben  
280 Blankinship would take a different opinion. But I believe you have the authority  
281 as the Board of Zoning Appeals to impose whatever conditions you deem  
282 appropriate for this conditional use permit.

283  
284 Mr. Wright - As long as it's in accordance with the law.

285  
286 Mr. Wilson - Correct.

287  
288 Mr. Wright - The code. And that's the rub, I believe.

289  
290 Mr. Wilson - Our contentions, if you look at the ordinance itself, it  
291 specifically provides that existing cemeteries—and there's no question, I don't  
292 believe, among staff that we are an existing cemetery—

293  
294 Mr. Wright - Existing when?

295  
296 Mr. Blankinship - January 1, 1960.

297  
298 Mr. Wright - Okay. At that time it was existing.

299  
300 Mr. Wilson - It was existing.

301  
302 Mr. Wright - But then you sold off land.

303  
304 Mr. Wilson - Sold off a portion of the property.

305  
306 Mr. Wright - And that's the problem.

307  
308 Mr. Wilson - Well that's what became the Westhampton Glen  
309 subdivision.

310  
 311 Mr. Wright - I know that. But if they had not sold off the property  
 312 you wouldn't be here today.  
 313  
 314 Mr. Wilson - Perhaps not, but eventually.  
 315  
 316 Mr. Wright - No you wouldn't because you had plenty of land to do  
 317 what you wanted to do.  
 318  
 319 Mr. Wilson - There was more land at that point. But nonetheless,  
 320 whether we sold it off or not, we're still an existing cemetery. The cemetery was  
 321 an existing cemetery as of 1960 and is an existing cemetery today.  
 322  
 323 Mr. Wright - As far as I'm concerned you have to satisfy this Board  
 324 how you can get around the law. You sell off property and benefited from it, now  
 325 you come back and you want to change the rules. That's what I need to hear  
 326 something about. At least I assume the Board wants to hear something on it.  
 327  
 328 Mr. Wilson - Under the code itself there are provisions for what  
 329 happens if you're an existing cemetery.  
 330  
 331 Mr. Wright - Existing in 1960.  
 332  
 333 Mr. Wilson - Which we were. And we were existing then, and we're  
 334 existing now at the time this application was submitted. The ordinance itself says  
 335 that new gravesites within an existing cemetery are subject to the setback  
 336 requirements that would apply to new cemeteries.  
 337  
 338 Mr. Wright - In 1960.  
 339  
 340 Mr. Wilson - Correct. Fifty feet from the property line or 250 feet  
 341 from an adjacent dwelling, except when there is an existing grave prior to the  
 342 homes being built and do forth.  
 343  
 344 Mr. Wright - I understand that.  
 345  
 346 Mr. Wilson - Prior to any of the homes being built in Westhampton  
 347 Glen subdivision there was a grave thirty-two feet from the property line.  
 348  
 349 Mr. Wright - Where is that? Which grave is that?  
 350  
 351 Mr. Wilson - It's up in the upper right-hand corner. You can see—  
 352  
 353 Mr. Wright - I don't see it.  
 354  
 355 Mr. Blankinship - I don't think you point on that.

356

357 Mr. Wilson - It's right there. Those are existing graves where the  
358 pen is. One lot to the north of where the pen is it's thirty-two feet. And then if  
359 you'll look to the distance to the left, I think it's 42 feet...41.4 feet. Those graves  
360 were existing at the time or prior to any of those dwellings being built.

361

362 Mr. Baka - So is it your contention you could build a grave up to  
363 thirty-two feet from the property line today on any other portion of the cemetery?

364

365 Mr. Wilson - Because that the property—our property line runs  
366 from—our boundary, our property line is that entire property line. Again, staff  
367 takes a different view. What we were hoping to do is not have to reach a  
368 determination on the proper legal interpretation of the ordinance, but rather—  
369 which we've been doing over the last several months—reach an agreement with  
370 the homeowners that would satisfy them. Because again, this ordinance is  
371 designed to protect the adjacent homeowners. And I think their best interest was  
372 that we not fight and litigate whether we could actually be thirty-feet from the  
373 property line or because we predated the ordinance itself whether we aren't even  
374 governed by this ordinance, therefore do not even need a conditional use permit,  
375 and could go right to the property line. Those are the legal issues that we were  
376 hoping to avoid by working with the neighbors and coming to an agreement that  
377 they would be comfortable with. Again, honoring the intent of the ordinance,  
378 which is to provide separation and screening from cemeteries from  
379 neighborhoods. And that's what we've done over the last several months. That's  
380 why we've come in and repeatedly asked for deferrals so that we could continue  
381 to have that dialogue with the neighborhood. And like I say, we've now reached  
382 the point where the neighbors and the homeowners association are comfortable  
383 with what we've presented to you. And I believe they would affirm that here in a  
384 few minutes. That's what we're asking then, that the Board of Zoning Appeals  
385 recognize, that in order to avoid what could be protracted and perhaps  
386 detrimental litigation, that we approve a conditional use permit that the applicant  
387 and the affected property owners are comfortable with.

388

389 Mr. Bell - On your plat you're showing nine residents. Are all of  
390 them in agreement?

391

392 Mr. Wilson - I believe so. There is nobody here speaking in  
393 opposition that I'm aware of.

394

395 Mr. Bell - How many of these particular nine are here?

396

397 Mr. Wilson - One of them that's adjacent and then we have the  
398 homeowners association. The attorneys have been working with the  
399 homeowners association. But we've had various meetings with all of them. I think  
400 at one point or another all of them have been in attendance. And the  
401 homeowners association has reached out and been in dialogue with them.

402  
403 Mr. Wright - I think we can take your word on that if you say that's  
404 the situation.  
405  
406 Mr. Wilson - They may each have differing views as to what may  
407 be in their best personal interest. But I believe they all recognize that what is  
408 being presented to you is in the best interest of the neighborhood as a whole. I  
409 don't want to put words in the association's mouth. I think that's a fair statement.  
410  
411 Mr. Wright - This grave is thirty-two feet from the property line?  
412 How far is it from the house?  
413  
414 Mr. Wilson - We'd be adding another—  
415  
416 Mr. Baka - About 132?  
417  
418 Mr. Wilson - Another 90 feet, so about 120 feet perhaps.  
419  
420 Mr. Wright - Your position is that doesn't make any difference  
421 because it's thirty-two feet—  
422  
423 Mr. Wilson - From the property line. Exactly. Under the language  
424 of the statute it's not how far you are from the dwelling, it's from the property line.  
425  
426 Mr. Blankinship - In the second sentence it's not explicit.  
427  
428 Mr. Wilson - That's right. It only talks about property line, not  
429 adjacent dwellings. Again, we believe, and we've believed from the outset, that a  
430 legal position is strong and valid that we could be thirty-two feet with graves all  
431 across the property line. But we didn't want to have to go through that and put  
432 the neighborhood through that, put the County through that, if we could reach an  
433 agreement with the neighborhood, which we've done. And that's why we're  
434 before you today asking you to essentially honor the agreement that the  
435 applicant has reached with the neighborhood so that we don't have to test what  
436 the ordinance really means and ultimately have some judge who really hasn't  
437 been involved in the process tell us what that thirty-two foot means. We're  
438 comfortable with the compromise that we've reached with the neighbors. And I  
439 believe the neighbors are. And we're just asking that the BZA then honor that  
440 agreement. You could recognize that there is a disagreement in the  
441 interpretation of the ordinance, and based on that and the unique circumstances  
442 of this application honor the agreement that we've reached with the  
443 neighborhood.  
444  
445 Mr. Wright - Staff's position is if this grave were over here you  
446 wouldn't have any problem.  
447



448 Mr. Blankinship - If there was a grave within 32 feet or 120 feet,  
449 whatever, of each of those dwellings, then I would agree with Mr. Wilson's  
450 position. The other thing I'll say—well, no, except that those dwellings were  
451 built—well, the graves aren't there so that—

452  
453 Mr. Wilson - But even then—

454  
455 Mr. Blankinship - The only thing I would add is that this is a unique  
456 situation in the County. This is certainly not the only cemetery in the County, but  
457 the only one with this set of facts. So there is not the danger that you'd make a  
458 decision this morning that would then put us in a bind somewhere else.

459  
460 Mr. Wilson - Again, I'd also point out that we do have the  
461 mausoleum. That would, I think, have to be considered an existing grave. I mean  
462 there are remains in the mausoleum. That's at a certain distance from the  
463 property line as well, which would bring in a couple of other properties that would  
464 just muddle this whole thing if we actually had to go through, and appeal it back  
465 to you, and then perhaps ultimately the Circuit Court. Nobody wants to do that.  
466 We don't want to do that; the neighbors don't want to do that. And I don't think it  
467 would be in the best interest of the County to want to do that. And so we can  
468 achieve everybody's wishes if the BZA were to say let's honor the agreement  
469 that's been reached and not have to worry about those legal nicities—

470  
471 Mr. Wright - What about the one that was supposed to be a  
472 temporary mausoleum? You were granted a permit I guess it was in 1998. It was  
473 supposed to be removed. It never has been removed.

474  
475 Mr. Wilson - That is something we're going to have to look at. I  
476 noticed that in the staff report this time. That was handled—we did not own the  
477 cemetery when that was done, and so we're going to have to look in to see  
478 exactly how that happened and what can be done. But I don't know that that  
479 needs to be addressed in this conditional use permit.

480  
481 Mr. Wright - It doesn't, but it just concerns me that we have a  
482 violation when we're coming in to ask for something else.

483  
484 Mr. Wilson - I understand. And that's something that we're going to  
485 have to explore again. That was not done by this owner. That conditional use  
486 permit was obtained by the prior owner. I don't think that was in an earlier staff  
487 report. So we have to figure out what the solution to that one is separately.

488  
489 Mr. Baka - Since that's an outstanding zoning violation is it  
490 appropriate to consider whether that could be a condition of this case if it were to  
491 be approved?



Mr. Wilson - I don't from a procedural and legal standpoint. I know it's raised in the staff report, but I don't think we've been actually cited yet with a zoning violation.

Mr. Baka - No need to cite you; it's just literally a condition of the case to say yes we're willing to remove this. It's a negotiation; it's not a citation.

Mr. Wilson - Okay. I don't know all the ramifications of what we have to do to do that yet, to be able to say yes, let's do it. Obviously there are remains in that facility that would have to be relocated. And as I stand here this morning I don't know what the process is for doing that. And so I don't want to put a condition of this that says we're going to do something that I don't know we can do within whatever time frame we have to do it. We may have to go through Circuit Court processes and everything else to notify heirs, and next of kin, and who knows what to accomplish what that condition requires. I can tell you we're going to explore that. We don't want to be in violation of that old conditional use permit, so we're going to explore what we need to do, and obviously work with staff to do that. I just don't know what the remedy is yet.

Mr. Wright - Did you notice the other statement in the report about the unauthorized service yard that's been used by the cemetery for a number of years?

Mr. Wilson - Yes. And that, I believe, has been resolved. There has already been a site plan approved to resolve all of that maintenance area issue, in fact, I think all we're doing is waiting for the erosion and sediment control bond to be posted so we can begin the work that the County has approved for us to remedy that problem. That one is in the process of being taken care of through a separate site plan process.

Mr. Wright - It's your position, to clarify, for us to consider that due to the fact that this grave was there in 1960 thirty-two feet from the property line that that would enable you to use that for the exception for the entire property you have there. All the way around to Patterson Avenue.

Mr. Wilson - The other property on Patterson Avenue is right up to the property line. There is no setback there.

Mr. Blankinship - Across the property line.

Mr. Wilson - Across the property line, perhaps. And then we also have the burial sites in the mausoleum that are only ninety-two feet from the property line. So all of those would be legal issues that ultimately would have to be decided. But I don't think you need to decide those today in order to approve the conditional use permit that we're asking for, because again, we're not asking to go thirty-two feet from the property line; we're asking to go no closer to any

539 residential property line of sixty feet. And in the most part we're ninety to a  
540 hundred feet from the property lines. So that's the compromise we've reached  
541 with the neighbors rather than forcing the issue. And as I suspect you know, that  
542 property is valuable. The burial property that we're giving up is substantial. It  
543 could very well be in the hundreds of thousand of dollars of value in that white  
544 area of that setback. And so from an economic standpoint it would probably  
545 make sense to litigate that issue. But we didn't want to go that route if we could  
546 reach an agreement with the neighborhood, and provide certainty for them and  
547 provide certainty for us. And so because of that we were willing to give up those  
548 legal issues in order to reach the compromise with the neighborhood. And that's  
549 what we've done.

550  
551 Mr. Wright - You haven't determined how many graves would  
552 violate the ordinance in accordance with Mr. Blankinship's understanding or his  
553 position, have you? If we were to approve this plan that you have, how many  
554 graves would be in there that would violate the law if we applied it the way the  
555 staff has?

556  
557 Mr. Wilson - I don't know exactly because, again, we'd have to  
558 measure 250 feet from each of the dwellings, I guess. And those would be arcs  
559 and those would obviously cut into that green area.

560  
561 Mr. Wright - But there would be some.

562  
563 Mr. Wilson - And again, that's why we wanted—if we want to go  
564 with the staff's interpretation of the ordinance, we would be litigating the issue.

565  
566 Mr. Blankinship - It's well over half of what they're asking for. It's  
567 probably about three-fourths of what they're asking for.

568  
569 Mr. Wilson - Again, that's why we thought it best to work with the  
570 neighborhood to see if we could reach an understanding and come back before  
571 you. Otherwise, if we went with the staff's interpretation we would not be asking  
572 for a conditional use permit; we would be litigating the issue.

573  
574 Mr. Wright - I understand now.

575  
576 Mr. Wilson - And that, again, is why we sort of recognized a  
577 compromise was the best solution.

578  
579 Mr. Wright - Any other questions?

580  
581 Mr. Baka - Yes sir. It says Section 24-52(h), and towards the end  
582 of that phrase it says, "Other graves may be as close as the closest existing  
583 grave." So if the applicant contends that the grave thirty-two feet away from the

584 property line gives them the prerogative to put any gave in and around the entire  
585 perimeter—

586  
587 Mr. Wright - For the entire cemetery.

588  
589 Mr. Baka - This sentence ends with, "as close as the closest  
590 existing grave." It doesn't specify whether it's close to the home. So since the  
591 ordinance is silent on what is the closest existing grave from, the question for  
592 staff, then, is what is staff's concern or objection to the Board interpreting that to  
593 include interpreting it in a way that it could be thirty-two feet from any property  
594 line?

595  
596 Mr. Blankinship - I wouldn't say that staff has an objection to the Board  
597 making that interpretation. It's not in my view the most natural reading of the  
598 intent of the code. But I certainly concede that it's fairly debatable.

599  
600 Mr. Baka - But since it's silent on what it's closest from we're  
601 almost reading into and almost interpreting it too much because it doesn't—

602  
603 Mr. Blankinship - You have to read something into it.

604  
605 Mr. Baka - It doesn't specify.

606  
607 Mr. Wright - It's just a matter of opinion.

608  
609 Mr. Blankinship - It's a matter of interpretation.

610  
611 Mr. Wright - All right.

612  
613 Mr. Blankinship - You have to read something there. I read one thing;  
614 Mr. Wilson reads something else. And fortunately you're not replacement  
615 referees.

616  
617 Mr. Wilson - Our view is you don't even need to referee that issue.  
618 You could recognize that this is a conditional use permit, and there may be some  
619 ambiguity in this ordinance, and you decided that this is in the best interest of the  
620 applicant and the adjacent property owners. Sort of as a housekeeping matter,  
621 on the conditions themselves that I gave you, from further discussions with the  
622 homeowners, on our Condition #3 that addresses the restrictive covenant, we  
623 would also propose language that says prior to recordation of that covenant, the  
624 homeowners association would have the right to review and approve that  
625 covenant, and that their approval could not be unreasonably withheld.

626  
627 Mr. Blankinship - That should also be reviewed for—would you accept  
628 it also being reviewed for form by the County?

629

630 Mr. Wilson - Yes, that would be fine too. Obviously this is being  
631 crafted somewhat at the last minute, so we're still working with the neighbors  
632 even as we get here this morning.

633  
634 Mr. Wright - We do appreciate the effort the cemetery has made  
635 to meet with the neighbors. If we could get everybody to do this, our burden  
636 would be much lighter. And it's been going on for about what, four months.

637  
638 Mr. Wilson - Working with the neighbors, obviously there are  
639 different viewpoints, different opinions, and it's taken some back and forth. And I  
640 think Mr. Burnett will speak in a minute, and I just want to thank Alex for his hard  
641 work. And then Lynn Marshall, also with the association, has been active. It's  
642 been a good dialogue and it's been a lot of back and forth. But of course I only  
643 had to deal with one client; they had to deal with thirty-seven different property  
644 owners and homeowners, so it's taken a little bit longer than it otherwise might  
645 have been expected. We appreciate their efforts.

646  
647 Mr. Wright - Do you have someone else to speak on behalf of  
648 your application?

649  
650 Mr. Wilson - Hopefully the homeowners association will be  
651 speaking on behalf of our application. But that's it for our presentation. Thank  
652 you.

653  
654 Mr. Wright - All right.

655  
656 Mr. Burnett - Good morning, Mr. Chairperson, and members of the  
657 Board. My name is W. Alexander Burnett. I am a resident of the Westhampton  
658 Glen neighborhood, and I'm also an attorney at Williams Mullen.

659  
660 Mr. Blankinship - Would you please spell your last name?

661  
662 Mr. Burnett - Yes. It's B-u-r-n-e-t-t.

663  
664 Mr. Blankinship - Thank you.

665  
666 Mr. Burnett - I'm here today on behalf of the board of directors of  
667 the Westhampton Glen Homeowners Association. Here today with me we have  
668 Greg Augustine, who is the president of the HOA Board of Directors, and Lynn  
669 Marshall, who is one of the adjacent landowners. It's the property that is in the  
670 top right corner of your plat. I believe those are the only folks that we have here  
671 today from the neighborhood.

672  
673 I want to be clear, too, so that there is no misunderstanding with the Board. I am  
674 here representing—I'm authorized to speak on behalf of the board. I am not here  
675 on behalf of all thirty-seven residents. We tried to include all of them in these

discussions. I've been sending updates throughout the neighborhood as we progressed with all of this. I've heard back from some; I have not heard back from all. And as you might imagine, some of this is a little bit fluid because several of the adjacent properties are at various stages of construction and sale. And so several of these lots are still owned by builders and not by homeowners. Because of that fluidity I can't tell you—well because I haven't heard from everybody and because of that fluidity I can't tell you that I'm here on behalf of all thirty-seven lot owners, but rather I'm authorized to make the comments that I'm going to make today. I've been authorized by the board of directors for the homeowners association.

Mr. Wright - Of course those lots owners had notice of this hearing.

Mr. Blankinship - And they would all have a right of appeal if they disagree with whatever decision the Board makes.

Mr. Wright - Right.

Mr. Burnett - Right. I can tell you that the board of directors is happy with the proposal, this plat that's been presented to you today. We've had a great deal of back-and-forth and negotiations with the cemetery. We believe that this is in the best interest of the neighborhood. And the board is of that opinion. Because of the certain—because of the conditions and because of the covenants, the board feels that having these covenants recorded in the land records, and having some obligations by the cemetery to landscape the setback area and create essentially what would be a visual screen between the cemetery and the neighborhood, we feel that will protect the neighborhood going forward in the future. And therefore we're on board with the setbacks that have been—the board is on board with the setbacks that have been proposed today.

We are still working on the fine details of these conditions. The conditions that were presented to you this morning, a draft was circulated for the first time last night. I've reviewed it. The board of directors has not reviewed these conditions. And I don't believe the homeowners have had an opportunity to review the language in these conditions. While we can convey the message that this plat has been approved by the board, the language in the conditions has not been approved. It's our position that we'd like another thirty days to be able to try to work out the fine details of both the language in the conditions and the language that would be recorded in the restrictive covenants. I'd like to have an opportunity for the board of directors to be able to approve the language in both the conditions and the language in the covenants before getting final approval from the Board of Zoning Appeals for the language in these conditions. But again, I can tell you that the board of directors for the homeowners association has approved the setbacks in that plat.

722 For example, one thing I did want to point out, in paragraph two it says that  
723 landscaping will be either within—this is starting on the third line—either the  
724 twenty-foot-wide landscape drainage and underground utility easement as  
725 recorded on the plat as it may exist and within the designated variable with  
726 setback area. I suspect that a number of the adjacent lot owners would not want  
727 to have this landscaping in that first part, in that twenty-foot-wide landscape  
728 drainage and utility easement, but are expecting and anticipating that this  
729 landscaping would be placed within that white setback area on the cemetery's  
730 side of the property. I would imagine that a number of those adjacent landowners  
731 would—while I'm not sure where everybody stands, I would imagine that a  
732 number of them would not want those trees on their property line or on their side  
733 of the property line.

734  
735 So there are some small details like that I think we need to just kind of finalize  
736 with the board and with some of these landowners before I can tell you that we  
737 are in agreement with the language in these conditions.

738  
739 That's all of my comments. I'm happy to take questions, or if you all want to hear  
740 from the other two homeowners that are here too. But do you all have any  
741 questions for me or for the board?

742  
743 Mr. Wright - What you're asking is another thirty-day deferral to  
744 work out the conditions.

745  
746 Mr. Burnett - Correct.

747  
748 Mr. Wright - Which we have just seen also.

749  
750 Mr. Baka - Yes.

751  
752 Mr. Burnett - Right, right. I just got this last night. I provided some  
753 of my own personal feedback to Mr. Wilson, but the board has not had an  
754 opportunity to do that. And I don't know what the adjacent landowners would say  
755 on the fine details of what's in here.

756  
757 Mr. Baka - May I ask would a thirty-day deferral also afford you  
758 the opportunity to get these three conditions—well I'll say five conditions  
759 because the applicant was going to merge these three with two of staff's  
760 conditions—these five conditions to all nine affected adjacent homeowners and  
761 the entire homeowners association? Would that be able to be circulated to them  
762 in the next month?

763  
764 Mr. Burnett - You're asking for approval from all thirty-seven—  
765



766 Mr. Baka - I'm just asking to simply notify them. And maybe  
767 that's even something staff could do, is just simply share that information with  
768 them so they have more information at their disposal.

769  
770 Mr. Blankinship - We can certainly do that.

771  
772 Mr. Burnett - And I would certainly plan to notify the homeowners  
773 of what these conditions say, circulate a draft. That's a great point. That's exactly  
774 what we would do. We would circulate kind of our final draft. Well, I will circulate  
775 an interim draft now, but then we'd circulate a final draft before the next board  
776 meeting. And then hopefully be able to come back and report to you that the  
777 board has signed off on it, and we've heard back from at least some of the  
778 homeowners on it.

779  
780 Mr. Baka - Okay. I appreciate the applicant's made great strides  
781 to work with the homeowners here, and they appear to be very close to an  
782 agreement. It's just that some language needs to be worked out it appears.

783  
784 Mr. Wright - Mr. Wilson, do you have any objection, since it's  
785 already been deferred for four months, of one more?

786  
787 Mr. Wilson - Mr. Chairman, I have no objection. Again, I was  
788 hesitant to ask for it because the sentiment of the Board last month seemed to  
789 be you were going to move forward one way or the other. So I figured I'd let Alex  
790 be the one to raise it.

791  
792 Mr. Wright - Well, we're so close. We're so close and I don't think  
793 we could put a condition in here unless we understood that everybody was in  
794 agreement.

795  
796 Mr. Wilson - And that's fine. We would welcome the opportunity to  
797 just fine tune these conditions, incorporate the staff's proposed conditions in it,  
798 and then give the homeowners an opportunity to review. And then we can come  
799 back next month. Presumably all we'd have to do is say we're in agreement and  
800 here they are. And get them to staff in plenty of time to get them into the staff  
801 report.

802  
803 Mr. Wright - Okay.

804  
805 Mr. Baka - With that, I move to defer this case for thirty days until  
806 the next meeting.

807  
808 Mr. Wright - The next meeting is October 25<sup>th</sup>.

809  
810 Mr. Baka - Until October 25, 2012.

811



812 Mr. Bell - Second.

813

814 Mr. Wright - Motion by Mr. Baka, seconded by Mr. Bell. Any  
815 discussion? Hearing none, all in favor say aye. All opposed say no. The ayes  
816 have it; the motion passes.

817

818 After an advertised public hearing, and on a motion by Mr. Baka, seconded by  
819 Mr. Bell, **CUP2012-00005, Westhampton Memorial Park**, has been **deferred**  
820 until the October 25, 2012 meeting.

821

822

823 Affirmative: Baka, Bell, Nunnally, Wright 4

824 Negative: 0

825 Absent: Harris 1

826

827

828 **CUP2012-00026 VARINA MITIGATION LLC** requests a conditional  
829 use permit pursuant to Sections 24-12(b) and 24-52(a) of the County Code to  
830 develop a wetland mitigation bank at 9421 Osborne Turnpike (Majestic  
831 Meadows) (Parcel 808-672-3167), zoned A-1, Agricultural District (Varina).

832

833 Mr. Wright - Will the applicant please come forward? Give him a  
834 second to set up and we'll swear everybody in. Everyone who desires to speak  
835 on the matter, please stand so we can swear you in.

836

837 Mr. Blankinship - Would everyone please raise your right hands. Do  
838 you swear the testimony you're about to give is the truth and nothing but the truth  
839 so help you God?

840

841 Mr. Wright - All right, sir. Please state your name and present your  
842 case.

843

844 Mr. Dodson - Mr. Chairman, honorable members of the Board, Mr.  
845 Blankinship, and the community, my name is Chris Dodson—D-o-d-s-o-n. I am  
846 with Timmons Group, and I'm here on behalf of Varina Stream Mitigation Bank  
847 LLC.

848

849 Just to give a little bit of background on why we're here and clarify a few points.  
850 We're here to obtain approval for a conditional use permit for a stream mitigation  
851 bank on forty-one acres of a 183-acre parcel located in Varina near Osborne  
852 Landing.

853

854 This process started for the stream mitigation bank a little over a year ago where  
855 we entered the banking process with the inner-agency review team of the Corps  
856 of Engineers, the DEQ, and other regulatory agencies. Back in 2005 on the  
857 property a subdivision for 123 one-acre lots was originally approved named

858 Majestic Meadows. It was a well-and-septic subdivision with no sewer or water  
859 proposed in the project. It was approved. During that process, the County  
860 proposed to do a stream restoration project with buffers in the same channels  
861 that we're talking about doing a stream mitigation bank on here today. Needless  
862 to say the residential subdivision did not move forward. The property has not  
863 exchanged hands. The Nelsons continue to actively cultivate the property today.

864  
865 Now we're at the point where we propose to do a stream mitigation bank. The  
866 use is consistent with the 2026 Land Use Plan. This area is shown as being  
867 Rural Residential and Environmental Protection. The activities we're proposing  
868 also are very consistent with the Chesapeake Bay Act from the standpoint of  
869 trying to improve and preserve water quality for the Bay. These activities would  
870 promote that as well. And given that it's been designated a national treasure,  
871 trying to find opportunities in communities such as Henrico County are very  
872 important.

873  
874 One of the additional benefits I'd like to point out is there are currently no stream  
875 mitigation banks in Henrico County. So when development occurs anywhere in  
876 the County, somebody has to purchase mitigation. They have to go outside of  
877 the County, make their purchase elsewhere, whether that's west of the County  
878 out in Appomattox or somewhere else. That money is spent there. So the benefit  
879 of approving a bank here goes directly to Henrico County. So there is an ancillary  
880 benefit there.

881  
882 One of the important things to note here is that we are only talking about forty-  
883 one acres of this piece of property. That is the limit of the bank. And as part of  
884 the process to get a bank approved, we have to put a declaration of restrictions  
885 on the bank and the buffers associated with it. That is a mandatory easement  
886 that gets recorded and is part of the process. We're not allowed to have utilities  
887 or anything else running parallel through those easements that would render the  
888 bank un-approvable by the regulatory agencies. It is not consistent with the bank  
889 mitigation rule of 2008, it is not consistent with the construction plans, the bank  
890 goals, the applicant's goals, or anything else. So I want to make that distinction  
891 because part of what is in the staff report is that there is a conservation  
892 easement on the remainder of the property. We are not here to debate that, to  
893 push that point forward; we are only here to obtain approval of the conditional  
894 use permit for the forty-one acres and the required easement associated with  
895 that. The conservation easement on the rest of the land that the Nelsons may  
896 propose to do in the future, they desire to do, that's a voluntary activity. We're  
897 not here to push that issue.

898  
899 We've reviewed staff's comments, recommendations. Conditions 1 through 7 we  
900 have no objection to. Conditions 8 and 9 are, as I mentioned earlier, inconsistent  
901 with the goals and objections of what we can handle through the process.

903 One other thing I'd like to note is the bank proponent has met with the  
904 community, adjacent property owners, residents in the area regarding the  
905 Department of Public Utilities' desire and comments during the process to have  
906 future easements, a fifty-foot easement along these stream channels to  
907 potentially put a pump station on the Harland property downstream of where our  
908 project is proposed. When the project was approved previously as Majestic  
909 Meadows subdivision, there was no utility planned or requirement for that. I  
910 believe that there is already a potential site over at Osborne Landing. If a pump  
911 station was needed, it could come down the roadway. But in talking with the  
912 residents, which many of them are here today in support of the project. We've  
913 had no one that we're aware of that is in objection as an adjacent community  
914 member. None of them desire to have water or sewer to their property, and are  
915 currently very please with it. They're in support of the project. They like the rural  
916 community aspect that is out there. And it's also important to note that adjacent  
917 to this property is the National Battlefield Park.

918  
919 So this is a larger context, preserving the nature of their life out there. And the  
920 applicant is requesting approval of the conditional use permit striking Conditions  
921 8 and 9.

922  
923 Mr. Wright - Mr. Blankinship, to do what the applicant says, do we  
924 need 8 and 9 if he's going to restrict the conservation easement just to the bank,  
925 he's not talking about the entire property.

926  
927 Mr. Blankinship - Thanks correct. No sir. There is not a requirement for  
928 Conditions 8 and 9. They are not standard conditions. They were added by staff  
929 because the issues had been raised by the Department of Public Utilities. It's  
930 generally our practice if an issue like that comes up we put it down on paper  
931 because it's easier for the Board to say let's strike eight and nine, than for us to  
932 come up with a condition on the spur of the moment.

933  
934 Mr. Wright - Okay.

935  
936 Mr. Blankinship - The Department of Public Utilities is represented here  
937 this morning, so if you have specific questions on their position I'm sure they'll be  
938 available to answer those questions.

939  
940 If I could ask, just to clarify in my own mind. You've shown on the screen here  
941 the area of the mitigation bank. It's how wide?

942  
943 Mr. Dodson - It is 100 feet to the top of the bank on each side of  
944 the creek. So 200 feet wide total, yes sir.

945  
946 Mr. Blankinship - Approximately.

947  
948 Mr. Dodson - Correct.

949  
 950 Mr. Blankinship - And in order for the project to go forward you have to  
 951 put an easement on that strip of land that would prohibit utilities going through.  
 952  
 953 Mr. Dodson - Yes sir.  
 954  
 955 Mr. Blankinship - Okay. There would be now immediate conflict with the  
 956 mitigation bank if there were utilities located just outside.  
 957  
 958 Mr. Dodson - Correct.  
 959  
 960 Mr. Blankinship - Okay, thank you. That's what I've been trying to find  
 961 out for two weeks. I'm glad to finally have the answer to that.  
 962  
 963 Mr. Baka - Could you just summarize and explain, clarify, why  
 964 Conditions 8 and 9 are so onerous to you as an applicant that you would not be  
 965 willing to accept approval if they were in the case?  
 966  
 967 Mr. Dodson - Conditions 8 and 9, we've already provided a draft  
 968 declaration of restrictions document to Corps and DEQ. Corps council is a  
 969 standard document. Corps council reviews it. They take an incredible amount of  
 970 time, even though it is a template document in their mind, to review the  
 971 conditions to make sure it's consistent with their current policy. Prior to  
 972 recordation, this would allow the Department of Public Utilities and Public Works  
 973 to come back in prior to that recordation, potentially add additional conditions to  
 974 permit their activities that would not be consistent with what we're allowed to do  
 975 in a restriction document. The plans are complete. And per the conditions of this  
 976 process, if I had to make a change to the construction plans, I would have to  
 977 come back before you again for a modification to my conditional use permit.  
 978  
 979 Back to the point of clarification, there are two separate easements we're talking  
 980 about here. The first easement is only as it relates to the bank. The question I  
 981 have here is this does not define whether we're talking about the conservation  
 982 easement on the residual 141 acres of the property, or whether Conditions 8 and  
 983 9 are referring to the 41 acres that I'm here to try to get a conditional use permit  
 984 for.  
 985  
 986 Mr. Baka - Can we clarify that now and give you more peace of  
 987 mind on that?  
 988  
 989 Mr. Dodson - As it relates to the forty-one acres, we cannot have  
 990 any additional utilities or activities in those forty-one acres. That's where the  
 991 problem is with eight and nine.  
 992  
 993 Mr. Baka - Is that what was intended by the draft of the condition  
 994 Ben?

995

996 Mr. Blankinship - The condition was drafted without a clear  
997 understanding on my part of the distinction between the two easements. I don't  
998 mind telling you that. It has made me uncomfortable from the beginning because  
999 this is a long-term land use issue of what's best for the County. And those  
1000 decisions are more correctly made by the Board of Supervisors. Those are not  
1001 decisions that would ordinarily be brought before you as the Board of Zoning  
1002 Appeals. So separating those two sets of questions I think is helpful. It allows the  
1003 BZA to rule on the set of plans that are in front of you this morning, and allows  
1004 the County, the Board of Supervisors, and the County administration to then deal  
1005 with Virginia Outdoors Foundation, which has approached the County to get the  
1006 County's response as to whether the conservation easement is a good thing.  
1007 That removes that question from the Board of Zoning Appeals and puts it in front  
1008 of the Board of Supervisors and their staff, which I think is where it more properly  
1009 belongs.

1010

1011 Mr. Wright - So the simple solution is he doesn't have any  
1012 objection to taking eight and nine out, if we restrict the conservation easement to  
1013 the forty-one acres. Which is the bank.

1014

1015 Mr. Dodson - Yes sir.

1016

1017 Mr. Wright - All right. Do you have anything to present to us?

1018

1019 Mr. Dodson - No sir.

1020

1021 Mr. Wright - Anyone else desire to speak in favor of this  
1022 application?

1023

1024 Mr. Robbie Nelson - Mr. Chairman, members of the Board, my name is  
1025 Robbie Nelson. I'm part of the family that owns the property. I represent  
1026 Engineering Design, which has [unintelligible] in this subdivision of 123 lots on  
1027 this property is currently approved. And it's not off the table.

1028

1029 I've also represented the owners of the property in the negotiations with the  
1030 Department of Public Works for the approximately two years that they wanted to  
1031 do this same project. After many hours with my cousin and I meeting with the  
1032 County staff through about two years, the project went south. Bird Creek  
1033 Mitigation approached us or Varina Stream Mitigation approached us and picked  
1034 up the project.

1035

1036 As Chris is saying, I can't stress to you enough that this is basically two different  
1037 projects that staff is sort of muddling up. What takes place here, and what's in  
1038 front of you today, is a stream mitigation project. That's it.

1039

1040 Mr. Wright - This conservation easement necessary to protect it.

1041  
1042 Mr. Robbie Nelson - Those are conservation easements tied to the  
1043 riparian buffers associated with that creek in a mitigation project. They have  
1044 nothing to do with the Virginia Outdoors Foundation conservation easement,  
1045 which may or may not be done. VOF has talked with County staff, as they're  
1046 required to do, I believe. And Ben can vouch for that.

1047  
1048 I have a lot of history and a lot of I guess family pride in this piece of property.  
1049 I've grown up in Varina; I've hunted all this land. I know this land probably just as  
1050 good as my cousin does. Like I say, I've been working with staff for years on this  
1051 piece through a subdivision process, through a mitigation process for the County  
1052 of Henrico. I've known about the pumping station probably for approximately  
1053 eight years. I've seen numerous sewer maps. Until the day before last month's  
1054 meeting I never, ever saw anything from Public Utilities that showed any  
1055 easements through this property. That worries me. That's one thing that worries  
1056 me.

1057  
1058 Another thing is as a representative of Engineering Design and a designer of  
1059 many developments in the County, and I've developed property in the County,  
1060 and represented developers in this County, I've never—and I'm not saying it  
1061 doesn't happen—I've never seen the County require fifty-foot corridors for what I  
1062 consider private utility easements for the future. If we look at what they have sent  
1063 us, those easements go—well they're corridors that they would like to preserve,  
1064 the fifty-foot corridors, which is approximately 8,900 linear feet of future sewer.  
1065 And it involves about ten acres of property to serve private developments that  
1066 are pigeonholed inside of the National Park. They can't cross these roads with  
1067 these utilities. I'm still a little bewildered as to where the sewer is going and what  
1068 it's serving, and why all of a sudden it shows up.

1069  
1070 Mr. Wright - Well that's not before us now.

1071  
1072 Mr. Robbie Nelson - That's right. But I want that distinction. What's before  
1073 you is that stream mitigation bank.

1074  
1075 Mr. Wright - And the conservation easement—

1076  
1077 Mr. Robbie Nelson - Associated with just the bank and those riparian  
1078 rights. Whether or not the property owner records the conservation of VOF has  
1079 yet to be determined.

1080  
1081 Mr. Wright - That's not before us.

1082  
1083 Mr. Robbie Nelson - That's fine.

1084  
1085 Mr. Wright - And we would have no authority to discuss that.

1086



1087 Mr. Robbie Nelson - That's correct. I think Chris has done a good job of  
1088 separating those two. I think Ben understands now that those two items are  
1089 separate. So as a family member and as a representative of the development  
1090 community and some of the Varina community; I would like the County to strike  
1091 Conditions #8 and #9 and vote in favor of this use permit.

1092  
1093 Mr. Wright - Thank you very much. Any questions?

1094  
1095 Mr. Bill Nelson - Gentlemen, my name is Bill Nelson. I'm here to  
1096 represent my family. Robbie is my cousin. My parents, Phyllis and Ridge Nelson,  
1097 who are the owners of the property, are here today as well.

1098  
1099 My family has owned this property for over half a century and we've been  
1100 stewards of this land. For three generations we farmed it. I'm currently the farmer  
1101 running the operation today. My parents saw an opportunity to preserve the  
1102 watershed and the stream bank through this restoration mitigation project. We  
1103 intensively farm this property today. And under the Chesapeake Bay guidelines  
1104 we're allowed to farm within twenty-five feet of these streams because of our  
1105 nutrient management plans and our conservation plans. When we put a  
1106 conservation easement, this mitigation and easement on this property, that  
1107 increases our buffer to 100 feet. It will be a planted buffer that will enhance the  
1108 environmental protection and limit the runoff, improving the water quality for the  
1109 County. They see it as a good thing; I see it as a good thing. The conservation  
1110 easement with VOF has been entertained, looked into, but is not on the table  
1111 today in front of you.

1112  
1113 I respectfully request for you to approve this project as presented today and  
1114 remove eight and nine from the conditions.

1115  
1116 Mr. Wright - Any questions? Thank you. Anyone else desire to  
1117 speak in favor of the application?

1118  
1119 Mr. Edmunds - Good morning. My name is Andy Edmunds. I'm a  
1120 long-time resident of Varina. Edmunds—E-d-m-u-n-d-s. I live at 9510 Osborne  
1121 Turnpike, which happens to be right across the road from this site.

1122  
1123 I want to speak in support of this mitigation project for the creek restoration,  
1124 insofar as it relates the possibility for the entire site to, in fact, go into a  
1125 conservation easement. I speak to that not just from a point of preservation of  
1126 the land because it certainly does have significant historical points related to the  
1127 land, but it's not about preservation of the land. If we tried to preserve every  
1128 piece of land in Virginia that had historical significance we'd never build anything.  
1129 And I'm an economic development person; I work in economic development in  
1130 tourism. However, this site in particular does have significant historical  
1131 significance with being the home of Thomas Jefferson's father, Peter Jefferson,  
1132 the village of Osborne is close by. There are other historical sites close by with



the Battlefield Park, etcetera. But mainly it ties into a bigger vision for this part of the County in the future in terms of tourism, agri-tourism, and how this wide open space of Varina can really play into an opportunity for the future. So instead of looking back at the preservation, I'd like to look forward at the economic opportunity this part of the County can offer to us.

Tourism is \$18 billion a year industry, employs over 200,000 people. To have this much open space so close to a vibrant downtown financial district—for example, you gave drive six minutes from downtown Richmond and be in this rural wide-open territory. In my business in the film business just recently we filmed Lincoln. Steven Spielberg came to film the movie Lincoln. In fact, we looked at this very site as a possible site to film some scenes. So Spielberg was just amazed that so much open land was so close to downtown. Now the \$70 million that this movie spent in this region is real money. This type of asset, having it so close to downtown is something worth preserving, not for preservation sake, but for economic development sake. And I know that the intent of this Board and the Board of Supervisors is to look out for the best interests of this country moving forward, jobs that tourism can create. Once we build 120 [unintelligible] [1:05:28]\* in site like this it's not coming back.

And I just hope that this Board, and the decisions you make, and the decisions that the Board of Supervisors makes as it relates to this opportunity to create conservation districts, keep in the mind the jobs, the economic opportunity that can bring for the County. Thank you very much.

Mr. Wright - Thank you. Any questions?

Mr. Blankinship - The Board also has written comments from Mr. Edmunds in the package that you were given.

Mr. Henry Nelson - Mr. Chairman, members of the Board, my name is Henry Nelson. I live at 3600 New Market Road. I'm interested in this area because of its history, and also I'm currently a chairperson of a local civic group.

There are several things I think that are key to this issue that rest with your hands today. That's why I'm here. It's so important to the entire community.

This is a situation where we're looking at stream mitigation, and we're looking at striking those two Conditions 8 and 9, which I certainly hope you do strike those because they present a very interesting paradox. Here we find a family interested in conservation and preservation of stream lands and other things that to us as a community is a dream come true. We were much in celebration when we heard this. And then we were much in mourning when we heard that it might be mitigated in such a way as to negate it. It's not only a distraction and something that's disappointing to them, but also it could lead to others not wanting to bother with going through all the trouble it takes to get to this point of

1179 trying to have a stream mitigation or a conservation situation and then find that  
1180 the rug is pulled from them in this good effort.

1181  
1182 Agriculture is what put Henrico County on the board as far as money. I know we  
1183 look at revenue very closely. In 1614 John Rolfe came up with a controversial  
1184 crop that's still in debate as to whether its value to the health [sic] offsets its  
1185 detriment to the body. But still, nonetheless, it does bring in revenue.

1186  
1187 And we also look at tourism; Andy alluded to that. But that's a multi-billion-dollar  
1188 business. This view that we have of this farm is what you get when you drive up  
1189 out of Osborne Landing. That's what you see. When you drive up out of Osborne  
1190 Landing Park, that's the farm that you see before you. To think that it could  
1191 remain that way and it could be in perpetuity just to us a community is a dream  
1192 we'd like to see realized.

1193  
1194 We'd like to see people who are willing to conserve and willing to put things aside  
1195 for the benefit of others, to be encouraged not discouraged. And we do see it as  
1196 a valuable asset to the County because it is providing a service to people  
1197 wanting to mitigate stream damages in other areas, and this does afford that  
1198 opportunity, which has in itself a great value, especially in a metro area like we  
1199 have. As far as I know it's the only site, or would be the only site, within the  
1200 County so designated.

1201  
1202 So I think all these things merit having it approved. And I also think that if we get  
1203 rid of eight and nine we have other ways to provide sewer to the County that  
1204 won't put this aside and discourage people from looking at this type conservation  
1205 in the future. So I hope you'll give this due consideration. I appreciate the  
1206 opportunity to talk to you about it. And I look forward to your decision. Thank you.

1207  
1208 Mr. Wright - Thank you very much. Any questions?

1209  
1210 Mr. Helmboldt - My name is Jakob Helmboldt. First name is J-a-k-o-b.  
1211 Last name Helmboldt—H-e-l-m-b-o-l-d-t. I'm a resident of the National Battlefield  
1212 Park adjacent to the property in question.

1213  
1214 I'm also in support of the approval of this conditional use permit and specifically  
1215 with striking Conditions 8 and 9. I'd like to basically echo much of what Mr.  
1216 Nelson just said—Henry Nelson that is; we have a lot of Nelsons to reflect  
1217 viewpoints here. He's been more articulate than I can be in this, but let me just  
1218 again echo some of that sentiment.

1219  
1220 This kind of conservation and use of this kind of mitigation on this property is  
1221 very much in line with what people out there would like to see. It's in line with the  
1222 citizen survey that Henrico conducted in terms of having more conservation and  
1223 limited development out in this area. It's consistent with the 2026 Comp Plan.  
1224 And, in fact, there's a bit of irony with respect to that. As mentioned, this

particular property is designated on the Comp Plan as Rural Residential. Immediately across the street where the future pump station is, is prime agriculture. So again, it's questionable as to the need for this kind of sewer and other utility infrastructure given the proposed nature of the land use, the future land use that the County itself has identified out here. So it has a lot of us scratching our heads why this would even be necessary. And the fact that those utility corridors would go right through the middle of that mitigation area, completely rendering it useless and basically moot is a significant concern.

I'll also point out that there are two character protection areas right here that come to a confluence at the corner of this property, the Osborne Character Preservation Area and the River Character Preservation Area. And then nearby is the New Market Character Preservation Area. This entire area really has received a lot of attention for this nature of conservation and preservation. Again, that sewer easement is really inconsistent with all of this.

One other little aside where I'll kind of put my soapbox down here is it strikes me as a little bit absurd that a conditional use permit is even required for something of this nature. We're talking about rural agricultural land which the owners would like to essentially keep in that type of use with a little expansion of conservation efforts. Whereas so much of our rural area can be developed by right, it seems like it's a little bit upside down to me. We often speak about property rights in a very sacrosanct manner; however, it's often done or spoken in such a context as to facilitate development, not to facilitate this kind of conservation, especially a large parcel conservation where it especially makes sense.

I will also echo the sentiment that this is a benefit to the County. You don't have to deal with the very troubling expansion of Osborne Turnpike, widening the roadway, adding utilities, adding schools, adding services. So there are very significant economic benefits to the County when we start looking at those types of planning issues for land use. So again, I ask you to not only support this conditional use permit and notably striking eight and nine, but also going forward consider how we might be able to better facilitate this kind of conservation easement in the future and not make it so onerous, cumbersome, and expensive for landowners.

Mr. Wright - Thank you. Anyone else desire to speak in favor of the application?

Mr. Montgomery - May it please the Board, very briefly. John Montgomery. I live at 9170 Willis Church Road. And I want to speak in support of the wetlands mitigation project, and support also the striking of Conditions 8 and 9. While I had several notes, quite often we're told to stop talking at some point in time when things appear to be going in a particular direction. But I want to echo Mr. Robbie Nelson's point regarding the process.

1271 If you go back just a moment to the case you heard earlier today regarding the  
1272 graveyard, the cemetery, and the fact that there are two buffers there. There's a  
1273 fifty-foot buffer from the property line and the 250 feet from an adjacent dwelling.  
1274 And what the Department of Public Works has asked in an analogous fashion in  
1275 this particular case with the mitigation process is to say you know what—let's go  
1276 back to the graveyard. We don't have houses adjacent, but there is a buffer,  
1277 there's a requirement that you be no closer than 250 feet to an adjacent house.  
1278 And there are residential lots where houses could be built, so we're going to go  
1279 ahead and look into the future and say for those private individuals who may  
1280 come along and build a house, we're going to go ahead and anticipate that and  
1281 impose the 250-foot requirement. That is identical to what's being asked here by  
1282 Department of Public Works.

1283  
1284 As Mr. Nelson said, these are private sewer easements to serve groups of lots  
1285 that are private lots. And in effect what DPU is saying is those have not been  
1286 developed; they're sitting out there; they maybe be developed in the future. But  
1287 in order to anticipate that we're going to require you, the private owner, to set  
1288 aside this large portion of land and do these things. So I would suggest to you  
1289 that there's another reason to strike eight and nine, in addition to the fact that it's  
1290 unnecessary. But it also turns the process on its head and puts DPU in a position  
1291 where if you go forward with this sort of analogy, with this sort of logic, with this  
1292 sort of planning, then in fact it will turn the process on its head. And outside  
1293 properties will then begin to use—be able to use DPU for private rights. And  
1294 that's certainly not the case in my experience up to this point. So I would ask that  
1295 you strike eight and nine for that reason as well. Thank you.

1296  
1297 Mr. Wright - Thank you. Anyone else desire to speak in favor of  
1298 the application? Is anyone here in opposition to this? Oh, wait a minute. I didn't  
1299 see you; I'm sorry.

1300  
1301 Ms. Anderson-Ellis - I'm going to be very quick. My name is Nicole  
1302 Anderson-Ellis. I live on Chaffins Bluff Lane. And I'm here representing the  
1303 residents of Osborne Turnpike.

1304  
1305 I just wanted to quickly say that in keeping with the reasons that have already  
1306 been given, the residents of Osborne Turnpike as a neighborhood association  
1307 support the request before you. And I'd love to ask for a show of hands from  
1308 those of you who actually took off work as I did this morning to be present to  
1309 show support.

1310  
1311 And I'd also like to note that having read the staff report as it was sent to me  
1312 yesterday—and I don't know if there were amendments to it—but there were  
1313 fifteen letters of support. Every single letter that you received from the  
1314 community that was included in the staff report was in favor. And I'd like to clarify  
1315 there was one where there was some confusion, and I shared your confusion  
1316 and I followed up. I just sent you this e-mail this morning, but for clarification

1317 [unintelligible; distorted audio] Nicole, I'm not sure what you heard, but I do not  
1318 oppose the creek mitigation project, I'm in favor of it. I oppose the easement for  
1319 the sewer lines, Sam Bagby. So I've sent that to you for the record. But everyone  
1320 is unanimous in their support of this project, and I hope you will support us.  
1321 Thank you.

1322  
1323 Mr. Blankinship - There were about ten more e-mails received after the  
1324 package went out that were handed to the Board this morning.

1325  
1326 Mr. Wright - Yes, we have all of those.

1327  
1328 Ms. Anderson-Ellis - Thank you.

1329  
1330 Mr. Wright - Anyone else to speak in favor of the applicant?

1331  
1332 Mr. Harlan - Good morning. My name is Will Harlan—H-a-r-l-a-n.  
1333 I'd like to thank you for the opportunity to speak and address this issue.

1334  
1335 My wife and I, Martha, and our boys, have lived across the road from the Nelson  
1336 property for twenty-five years and built our home there. We're certainly in  
1337 agreement with the proposed wetlands mitigation project for all the reasons that  
1338 have previously been stated.

1339  
1340 One comment that has not been made maybe as fully. Henry Nelson made  
1341 mention of alternatives to the sewage distribution system that's proposed by the  
1342 Department of Public Utilities. I wanted to speak on that just a second.

1343  
1344 I'm a civil engineer by training. And I and others have considered the sewer  
1345 layout proposed by the Public Utilities Department and found it to be flawed and  
1346 unnecessary. If the desire ever truly arises to make sewer available to our  
1347 neighborhood, we certainly don't see the sense in seizing private property and  
1348 disrupting settled citizens, and jeopardizing a beneficial project such as the  
1349 Nelson's when there is a better alternative. And that better alternative exists in  
1350 two components.

1351  
1352 The County has ample property at the Osborne Boat Landing Park for a sewage  
1353 pumping station if ever desired to supply the remaining citizens that exist in the  
1354 community already, when and if this property goes into the conservancy. This  
1355 property exists at a much lower elevation than my front yard where the future  
1356 pumping station is indicated on the drawing. And if it was located at a lower  
1357 elevation it could serve a more expansive area. Item two of the proposed system  
1358 would be the existing utility corridors that exist as part of the right of way for  
1359 Osborne and Kingsland Roads.



1361 Both of these components being in the control of the County would not preclude  
1362 the County from providing sewer to the remaining community if in fact they chose  
1363 to do so in the future. It would certainly not kill the project that's before you.  
1364

1365 For these reasons we request that you support the conditional use permit while  
1366 striking Conditions 8 and 9.  
1367

1368 Mr. Wright - Thank you, sir. Anyone else? The only thing we ask is  
1369 that you don't repeat what has been said before.  
1370

1371 Mr. Jones - Good morning, gentlemen. Clinton E. Jones Jr. My  
1372 wife and I live at 9420 Osborne Turnpike. I would like to compliment the efforts of  
1373 the Nelson family doing this on behalf of the County. We would very much  
1374 recommend that the Board accept this with the exception of eight and nine.  
1375 Thank you.  
1376

1377 Mr. Wright - Thank you, sir.  
1378

1379 Ms. Koontz - My name is Jane Koontz—K-o-o-n-t-z. I live at 9184  
1380 Hoke Brady Road in Henrico out in Varina. I am one of the landowners with  
1381 property fronting a national historical park. One of the proposed sewer trunk lines  
1382 would come right through my backyard. So yes, I do have a personal interest in  
1383 opposing the Department of Utilities sudden and unexpected imposition of the  
1384 sewer line across the Nelson property. This would cause invalidation of the  
1385 conservation efforts, the conservation easement, and the stream mitigation  
1386 project, which is so important. Sparse residential density throughout the rural  
1387 agricultural Kingsland/Osborne Turnpike area does not warrant conversion to a  
1388 public water and sewer system for County landowners.  
1389

1390 For every dollar collected in revenue from the residential sector, local  
1391 governments spend more than a dollar to supply community services to  
1392 residents. For example, schools, police, fire, water, sewer, roads, libraries,  
1393 etcetera. For every dollar collected in revenue from farmland and forest, local  
1394 governments spend less than a dollar to supply community services. Trees,  
1395 gardens, soybeans, and corn do not go to school.  
1396

1397 These plans contradict policies stated in Henrico County's 2026 Comp Plan. The  
1398 following passages are quoted from Chapter 11:  
1399

- 1400 • Locate and design public facilities in a manner that minimizes disruption  
1401 to established land uses.
- 1402
- 1403 • Whenever possible, water and sewer lines should follow public rights-of-  
1404 ways.
- 1405
- 1406 • Encourage new development adjacent to existing lines.

1407  
1408 So I urge the Board of Zoning Appeals to give serious consideration to the  
1409 reasons stated above and rule in favor of the Nelson family and its  
1410 commendable conservation efforts. And I'm delivering to you eight letters that  
1411 you received, or probably did not receive in time to get in your folders. These are  
1412 extra letters that were received in my e-mail that I was asked to print and deliver  
1413 to you today because you probably don't have them. Thank you so much for  
1414 listening.

1415  
1416 Mr. Wright - Thank you very much. Anyone else desire to speak in  
1417 favor of the application? All right, that concludes the applicant's testimony. Does  
1418 anyone desire to speak in opposition to this application? Hearing none, that  
1419 concludes the case. Thank you very much for appearing.

1420  
1421 **[After the conclusion of the public hearings, the Board discussed the case**  
1422 **and made its decision. This portion of the transcript is included here for**  
1423 **convenience of reference.]**  
1424

1425 Mr. Blankinship - At Mr. Bell's request, I've asked Ralph Claytor from  
1426 the Department of Public Utilities to come back so he could answer questions.

1427  
1428 Mr. Wright - All right.

1429  
1430 Mr. Claytor - Good morning, I'm Ralph Claytor.

1431  
1432 Mr. Wright - Mr. Bell had a question I think he wanted to ask.

1433  
1434 Mr. Bell - Yes. In the report from the County in talking about the  
1435 sewer easements, etcetera, there was a statement that sort of implied there were  
1436 other options than going this way. My question is what are those options.

1437  
1438 Mr. Claytor - We do not know. We developed a master plan as one  
1439 element of the Comprehensive Land Use Plan. We developed what we think is  
1440 the most efficient plan for serving both existing as well as future sewer sheds.  
1441 We have not investigated other options. It's not certain that other options would  
1442 be technically or economically feasible. It would take some work to look at what  
1443 might be available.

1444  
1445 Mr. Bell - What, then, would be the effects if we would vote for  
1446 the case and not for the conservation case in developing that area in the future?

1447  
1448 Mr. Claytor - All right. In this instance, the plan that was developed  
1449 by our consultant anticipated a potential location for a pumping station south of  
1450 the subject property. Gravity sewers typically follow streams, and you need to be  
1451 relatively close and parallel to a stream so that the depth does not become  
1452 excessive in order to construct it and to maintain it in the future. This parcel is



1453 central to the small sewer shed that can be served. If the easements are put in  
1454 place, that would preclude the extension of sewer across the property and  
1455 segregate properties into three smaller areas. We've not looked at how those  
1456 other areas could be served of if they even could be served.

1457

1458 Mr. Bell - Thank you.

1459

1460 Mr. Wright - Is that it?

1461

1462 Mr. Bell - Yes.

1463

1464 Mr. Wright - Okay. All right, do I hear a motion?

1465

1466 Mr. Nunnally - I make a motion that we approve this use permit and  
1467 eliminate eight and nine out of the suggested conditions. I believe this would be  
1468 an asset to the County. I don't see where it would affect the health, safety, or  
1469 welfare of the persons residing or working on the premises or in the  
1470 neighborhood, or would affect or change the neighborhood. So I move we  
1471 approve it.

1472

1473 Mr. Wright - Do I hear a second?

1474

1475 Mr. Bell - I'll second it.

1476

1477 Mr. Wright - Motion made and seconded. Is there any further  
1478 discussion? I understand the motion would be to approve it with all of the  
1479 conditions except eight and nine.

1480

1481 Mr. Nunnally - Yes sir.

1482

1483 Mr. Wright - Okay, that is the motion. All in favor say aye. All  
1484 opposed say no. The ayes have it; the motion passes.

1485

1486 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by  
1487 Mr. Bell, the Board **approved** application **CUP2012-00026, VARINA**  
1488 **MITIGATION LLC's** request for a conditional use permit pursuant to Sections  
1489 24-12(b) and 24-52(a) of the County Code to develop a wetland mitigation bank  
1490 at 9421 Osborne Turnpike (Majestic Meadows) (Parcel 808-672-3167), zoned A-  
1491 1, Agricultural District (Varina).

1492

1493

1494 Affirmative: Baka, Bell, Nunnally, Wright 4

1495 Negative: 0

1496 Absent: Harris 1

1497

1498

1499 [At this point, the transcript continues with the public hearing on the next  
1500 case.]

1501  
1502 The Board will take a five-minute recess.

1503  
1504 Mr. Wright - Let's come back to order. Mr. Blankinship, call the  
1505 next case, please.

1506  
1507 **CUP2012-00030** **BETTY H. MARTIN** requests a temporary conditional  
1508 use permit pursuant to Section 24-116(c)(1) of the County Code to occupy a  
1509 recreational vehicle on a temporary basis at 10509 Delray Road (Laurel Glen)  
1510 (Parcel 765-765-8897), zoned R-2, One-family Residence District (Brookland).

1511  
1512 Mr. Wright - Anyone else who desires to speak in reference to this  
1513 case, please stand and you'll be sworn in.

1514  
1515 Mr. Blankinship - Please raise your right hand. Do you swear the  
1516 testimony you're about to give is the truth and nothing but the truth so help you  
1517 God?

1518  
1519 Mr. Wright - Thank you. Ma'am, would you state your name for the  
1520 record and present your case.

1521  
1522 Ms. Martin - I'm Debbie H. Martin—M-a-r-t-i-n. I'm extremely deaf  
1523 and have asked my daughter to sit up here with me because I haven't  
1524 understood a word any of you all have said all morning. So if you ask me  
1525 questions I might need her to help me translate. So that's why she's sitting here  
1526 as more of my translator.

1527  
1528 But I have respectfully applied for the conditional use permit based on the need  
1529 for a place to live during the conversion of our carport into an additional room.  
1530 I'm the heir of an estate, and I just received yet another letter from the attorney  
1531 indicating that should be settled shortly. It was our intention for this to be a very  
1532 short-lived project, but unfortunately it's gone on now for almost two years.  
1533 Supposedly the estate will be settled very soon, and I will be able to begin the  
1534 construction. There really isn't enough living space in the interior of the house for  
1535 an additional adult. That's why we want to enclose the attached carport and  
1536 make it living quarters for me. And that was the reason for my living alone, no  
1537 one else would live in the RV during the construction.

1538  
1539 In response to Mr. Madrigal's comments in his report, the suggestion of moving  
1540 the RV to the side or rear of the property, I have ordered landscape timbers and  
1541 crushed gravel to install a driveway. Looking at the property, to install a driveway  
1542 down the left side of the property, to move the RV over there, as well as installing  
1543 a privacy fence across the front and down the side of the property to make the  
1544 RV less conspicuous. Most of the driveways in the neighborhood go beside the

1545 property to the rear of their yards. Unfortunately, ours only goes, as you can see,  
1546 in the front of the yard and stops right at the carport. So I have already started  
1547 the process for moving the RV.

1548  
1549 As far as not having a building permit on file, I picked up all the paperwork for the  
1550 building permit when I filed for the conditional use permit. And then after reading  
1551 about sediment context and erosion control forms, I decided I had to hire a  
1552 professional, which again is going to require the money coming from the estate.

1553  
1554 And then finally, I only purchased the property in November 2011, so any of the  
1555 references to prior violations I would hope the Board would not hold against me  
1556 and my permission to reside here for a short period of time. Thank you.

1557  
1558 Mr. Wright - Ms. Martin, would you—

1559  
1560 Ms. Martin - Oh, I'm sorry. Excuse me.

1561  
1562 Mr. Wright - Mr. Bell wants to ask a question.

1563  
1564 Mr. Bell - Did you get a chance to read the conditions that the  
1565 staff wrote on the report?

1566  
1567 Ms. Martin - Do what?

1568  
1569 Daughter - He asked if you had read the conditions.

1570  
1571 Ms. Martin - Yes. That was my response. When he said that one  
1572 of the conditions—excuse me; I'm sorry. One of the conditions was he wanted  
1573 the RV moved. That's why I have bought the gravel and the timbers so that I can  
1574 move it. He referred to debris. That piece of plywood has already been moved  
1575 because it was the front of our utility trailer. So we have already moved the  
1576 plywood and put it back on the trailer. The debris is a woodpile because we have  
1577 a fireplace in the house. I don't really classify that as debris, sir. Now that the  
1578 plywood is gone—and I have current picture, if you want to see it, without the  
1579 plywood there. That's just firewood. No trash, no junk, no metal objects—just  
1580 firewood.

1581  
1582 Mr. Bell - And you're in the process—

1583  
1584 Ms. Martin - And then the carport itself has nothing on it currently  
1585 but storage tubs and tables. There are no appliances, no refrigerators, no  
1586 freezers, no washers. No furniture except two canvas lawn chairs. This almost a  
1587 moot point because, of course, once the construction starts that's going to  
1588 emptied completely anyway.

1590 Mr. Bell - You're in the process, you said, of getting a building  
 1591 permit right now to put on the carport.  
 1592  
 1593 Daughter - In the process of getting a building permit.  
 1594  
 1595 Ms. Martin - Oh, yes sir. I have acquired all the forms and what  
 1596 have you from the County, and was talking with the lady at the front desk. And  
 1597 these things about erosion and sediment control forms are still what I'm trying  
 1598 figure out how to comply with. But yes sir, I am in the process of getting the  
 1599 building permit.  
 1600  
 1601 Mr. Bell - Now #4 does have termination date. Will you have  
 1602 the room built by April 1, 2013?  
 1603  
 1604 Daughter - He wants to know if you'll have the room build by April  
 1605 1<sup>st</sup>.  
 1606  
 1607 Ms. Martin - Yes sir. I see no reason why. The attorney says it's  
 1608 going to be settled within the next—and if you want to see this—I don't want to  
 1609 share it with the world—you can see how much money I'm going to get. It will be  
 1610 more than sufficient to have the room completed ninety days at the latest. Two of  
 1611 the existing walls are already there, so we're just closing in two walls and putting  
 1612 in three windows. Should not take more than ninety days maximum, sir.  
 1613  
 1614 Mr. Bell - I just wanted you to be sure since this is just for six  
 1615 months, roughly.  
 1616  
 1617 Ms. Martin - Yes sir.  
 1618  
 1619 Mr. Bell - I wanted you to understand that. And then lastly,  
 1620 people will be living in it. And you know that you cannot attach any extension  
 1621 cords. You have to be solely dependent upon the RV if it becomes temporary  
 1622 living.  
 1623  
 1624 Ms. Martin - I'm sorry.  
 1625  
 1626 Daughter - I don't understand that. It would less intrusive—  
 1627  
 1628 [Ms. Martin and daughter speaking off microphone and both at the same time;  
 1629 unintelligible.]  
 1630  
 1631 Daughter: —than have a generator running.  
 1632  
 1633 Mr. Blankinship - It can't be just a standard indoor electrical cord.  
 1634  
 1635 Ms. Martin - Oh, no, no, no. No.

1636  
1637 Mr. Blankinship - It needs to be—  
1638  
1639 Ms. Martin - It's an RV plug that was installed by an electrician.  
1640  
1641 Mr. Blankinship - It was installed by an electrician. I think that was  
1642 the—  
1643  
1644 Ms. Martin - [Speaking off microphone; inaudible.] I'm sorry.  
1645 [Returns to microphone.] I'm a little nervous. If you went to the back of the house  
1646 you would see a separate 50 amp RV box that was installed by an electrician. It's  
1647 not an extension cord. It's a \$250 extension cord.  
1648  
1649 Mr. Bell - Okay.  
1650  
1651 Ms. Martin - But it's a 50 amp approved box and cord.  
1652  
1653 Mr. Bell - Is the vehicle licensed?  
1654  
1655 Daughter - Oh yes. She drives it.  
1656  
1657 Ms. Martin - Oh yeah, I drive it at least twice a month every month.  
1658 It's inspected; it's insured; it's licensed. And it is driven at least twice a month.  
1659  
1660 Mr. Bell - Thank you.  
1661  
1662 Ms. Martin - It doesn't just stay there forever.  
1663  
1664 Daughter - [Speaking off microphone.] She drives it to the RV  
1665 park up in Ashland to have [inaudible] so that it—  
1666  
1667 Mr. Wright - She needs to get up here.  
1668  
1669 Mr. Blankinship - Yes. We need to have that on the record.  
1670  
1671 Daughter - Say that. Tell them that—  
1672  
1673 Ms. Martin - Oh, I'm sorry, for the record. Yes, I drive it at least  
1674 twice a month to the RV dumping station in Ashland to clean out the holding tank  
1675 so that there is no accumulation of waste in the interior of the RV. It's dumped on  
1676 a regular basis.  
1677  
1678 Mr. Wright - Any further questions? Anything further that you wish  
1679 to state in favor of this application?  
1680  
1681 Daughter - Anything further you wish to state?

1682  
1683 Ms. Martin - Oh, I'm sorry. No sir. And like I said, I didn't intend for  
1684 it to go this long. I had no idea the attorney was going to take this long to settle  
1685 this estate. I thought it would be ninety days from when I brought the property.  
1686  
1687 Mr. Wright - What I understand is you're preparing and will move it  
1688 to the backyard, and comply with these conditions.  
1689  
1690 Ms. Martin - Yes sir.  
1691  
1692 Mr. Wright - If we approve it. All right.  
1693  
1694 Ms. Martin - Yes sir.  
1695  
1696 Mr. Wright - Thank you. All right. Anybody here in opposition to  
1697 this request? All right. Would you come forward?  
1698  
1699 Mr. Kirkland - Good morning, Mr. Chairman and members of the  
1700 Board. My name is Rick Kirkland—K-i-r-k-l-a-n-d. I reside at 10333 Old Courtney  
1701 Road. Probably one of the oldest homeowners in the Laurel Glen subdivision. It  
1702 was my grandfather's home. I resided two blocks over when I was a child, and  
1703 have lived there almost sixty-two years.  
1704  
1705 I am in opposition to any type of trailer, any type of camper, or any type of use in  
1706 a residential area like this. In the past few years we have had storms here in  
1707 Henrico County. Just think if everyone that had their house damaged, but still  
1708 could live in it, wanted to put a trailer in their front yard or in their side yard and  
1709 live in it until they repaired their house. You guys would be here all night hearing  
1710 cases.  
1711  
1712 If she can drive it to an RV park and have it dumped, they would probably work  
1713 out a nice accommodation for her to have a campsite for the next three or four  
1714 months, or until April 1<sup>st</sup>, to let her live there. It's just not right for a residential  
1715 neighborhood. We already have a lot of issues in our area. Revitalization has  
1716 been there quite a few times with other issues going on. Not living in trailers. But  
1717 our whole neighborhood has changed its complexion since I was a kid. And I  
1718 understand things have to take place and things change. But this is not one of  
1719 the things that needs to take place. I do not believe in people living in trailers in a  
1720 residential neighborhood. That's all I have to say.  
1721  
1722 Mr. Wright - Mr. Kirkland, you realize that she could park this  
1723 vehicle in the rear yard if she didn't live in it.  
1724  
1725 Mr. Kirkland - That is correct. She could probably park it on the  
1726 street if she didn't live in it.  
1727



1728 Mr. Wright - So what she's asking is that we permit her to live in it  
 1729 for ninety more days while she constructs this addition to her house.  
 1730  
 1731 Mr. Kirkland - Sir, as well as you know, ninety days sometimes  
 1732 stretches out to April 1<sup>st</sup>, like you all put a deadline on it.  
 1733  
 1734 Mr. Wright - April 1<sup>st</sup> is it?  
 1735  
 1736 Mr. Kirkland - I know the BZA doesn't set precedent, but I do  
 1737 understand that this could be a mass disaster in this County. I have a thirty-  
 1738 three-foot trailer. I could put it in my side yard. My daughter and her husband  
 1739 don't have a place to live right now; they're selling their house and they're renting  
 1740 a home. I could put them in my side yard. I have 2-1/2 acres of land. And I'd  
 1741 have to come in front of you too. And it would be the next one and the next one.  
 1742  
 1743 Mr. Baka - I have a question, Mr. Chairman, if I may. You  
 1744 mentioned that the trailer could be parked on the street if no one was living in it.  
 1745 So it could be parked in the driveway, where it shows in that picture, if there's no  
 1746 one living in it, or in the back yard.  
 1747  
 1748 Mr. Wright - No, it can't be parked in the front.  
 1749  
 1750 Mr. Baka - Okay. So it cannot be parked in the front, but it could  
 1751 be parked in the backyard. So I guess my question is, if this vehicle were parked  
 1752 in the backyard and the debris has been removed, if it were screened with some  
 1753 trees, if it was screened with a fence, would it be seen by the other adjacent  
 1754 property owners in the backyard? What is the net affect or difference of  
 1755 someone residing in that RV in the backyard if it's screened and fenced versus  
 1756 someone not living in that RV parked in the backyard when it's screened and  
 1757 fenced if the adjacent owners don't see it?  
 1758  
 1759 Mr. Kirkland - Would you want a person living next door to you in an  
 1760 RV in their backyard?  
 1761  
 1762 Mr. Baka - I'm just asking what's the effect if you cannot see it?  
 1763  
 1764 Mr. Kirkland - It's the idea that people can live in trailers on  
 1765 residential property and not in the dwelling.  
 1766  
 1767 Mr. Baka - I understand that's the idea.  
 1768  
 1769 Mr. Kirkland - That's the whole philosophy behind this.  
 1770  
 1771 Mr. Baka - I see your point. I'm just trying to understand the  
 1772 impact on the neighbors.  
 1773

1774 Mr. Wright - The point is this is not a permanent residence. It  
1775 would be for up to April 1<sup>st</sup>.

1776  
1777 Mr. Kirkland - I'm still opposed to it.

1778  
1779 Mr. Wright - So there is no precedent there because—what you're  
1780 talking about is a permanent residence. We would not permit a permanent  
1781 residence in a trailer.

1782  
1783 Mr. Kirkland - I understand that. But there are a lot of those  
1784 temporary things that take place in this County.

1785  
1786 Mr. Wright - Well, that's what we need to find out about and  
1787 eliminate them. Anybody have any questions? Thank you, sir.

1788  
1789 Mr. Gasser - My name is O. F. Gasser—G-a-s-s-e-r. I live at 10504  
1790 Lambeth Road in Old Glen Allen. I retired from Virginia Power, but before that I  
1791 worked with the officials of Henrico County to get R-2 zoning all through the Old  
1792 Glen Allen area. And I think if you look at the zoning maps you'll see a lot more  
1793 R-2 in comparison to the rest of the County. I always thought if you had an R-2  
1794 zoning that you would have a lot big enough that the people would take a lot of  
1795 pride in it. Up to this point I think they have.

1796  
1797 Of course this section is no longer new in Henrico County. This was established  
1798 after World War II for the boys coming home from the war. The lots are big. I  
1799 think these lots are probably 100 by 300. Most of the lots in there are 100 by  
1800 300. I have to agree with Rick. I don't want to set a precedent of having a trailer  
1801 or an RV sitting there for a residence.

1802  
1803 I have noticed this property quite often. And I don't know how much of this the  
1804 present owner created. She talked about firewood. The firewood has been sitting  
1805 there for about ten years from a tree that fell and was cut down in the front yard.  
1806 I would be much more agreeable if the general housekeeping of this lot could be  
1807 improved. But I really do think that it does set somewhat of a precedent. I believe  
1808 the paper said a year? We're now down to April the 1<sup>st</sup>. Is that correct?

1809  
1810 Mr. Blankinship - April the 1<sup>st</sup>.

1811  
1812 Mr. Bell - About six months.

1813  
1814 Mr. Gasser - Okay. All right. And certainly move it around back. But  
1815 over there where the plywood board is in that picture there is a lot of tree debris  
1816 that's been there forever almost. And I'm sure some of the people who live  
1817 across the street would have a better idea exactly how long it's been there.  
1818 We're eight-eight, eighty-nine years old, my wife and I, and we live up the street.  
1819 We do our best to try to keep our property in very nice condition. And so far

1820 we've been able to that. But to be frank with you, I don't know how much longer  
1821 it's going to be before we'll have to move because of the fact that we just  
1822 physically can't keep it. This photograph shows the wood that I was speaking of  
1823 right there. And over on the left of this house is an area that looks like the grass  
1824 and all has just grown up. I don't know what the story is there, whether there's  
1825 something inside that natural area there or not.

1826  
1827 But anyway, I leave it to you as to whether—and that's your job, of course, to  
1828 make sure that the R-2 zoning is maintained. I always tried to get good proffers  
1829 on the land and to get things settled, and sometimes the developers didn't like  
1830 me. But anyway, I dealt with that too. I'm known as Big Boy at Henrico County  
1831 Courthouse.

1832  
1833 Mr. Wright - Thank you very much, Mr. Gasser. Appreciate it.

1834  
1835 Unidentified Female - [Speaking off microphone.] Mr. Chairman, would you  
1836 like me to answer the question as to—

1837  
1838 Mr. Wright - You'll have an opportunity to rebut this after all of the  
1839 testimony is in.

1840  
1841 Mr. Miller - Good morning. My name is Joe Miller. My wife, Carol  
1842 Martin-Miller, and I live at 10508 Lambeth Road.

1843  
1844 I'm here to present a view for the community because my wife purchased this  
1845 home there many years ago, twenty years ago. We work diligently daily, and  
1846 certainly weekly, to keep the place maintained, and then as pleasing as possible  
1847 to the entire community. We experienced some damage four or five years ago  
1848 with a lot of trees having to be removed, and sawed up, and chopped—a lot of  
1849 work—and got that out. And because of the flooding we continued to work on  
1850 some basement flood issues in this whole process. And it was done promptly in  
1851 order to, frankly, be safe and to have a good appearance. So I'm here to say that  
1852 this property is only three, four parcels from our location. And since there might  
1853 be another alternative because of the biweekly pumping—you know, being able  
1854 to move this RV, we would think that we'd like them to consider that other  
1855 alternative as opposed to setting a precedent to have it on the property and lived  
1856 in.

1857  
1858 We respectfully depend upon your intelligence and judgment for now and in the  
1859 future. And just want to thank you for taking the time to hear our concerns.

1860  
1861 Mr. Bell - Sir, in the County, however—just to correct you a little  
1862 bit. In the County an R-2, RV trailers are allowed on the property if they are on  
1863 the side of the home or in the rear of the home.

1864  
1865 Mr. Blankinship - And not occupied.

1866  
1867 Mr. Bell - And not occupied.  
1868  
1869 Mr. Miller - Not occupied, correct.  
1870  
1871 Mr. Bell - If it was a permanent occupant situation we could not  
1872 approve that. This is a temporary situation under certain conditions.  
1873  
1874 Mr. Miller - Well, I'd just respectfully like to respond that piece of  
1875 information. I can see that point of view. However, I believe when you're living in  
1876 that then that is your residence whether it's for two months, three months, or  
1877 whatever. And I respectfully suggest that there are no secrets, so that when  
1878 people learn about it they don't necessarily take any action. But in future months  
1879 and years, if we experience another storm like we did a few years ago, again,  
1880 your information, and your intelligence, and your ability to look into it, I  
1881 respectfully ask that.  
1882  
1883 Mr. Bell - Thank you.  
1884  
1885 Mr. Miller - Thank you.  
1886  
1887 Mr. Wright - Thank you, sir.  
1888  
1889 Ms. Arnold - Good morning. And thank you for the opportunity to  
1890 speak. My name is Sharon Arnold—A-r-n-o-l-d. I live immediately next door to  
1891 Ms. Martin. I'm located at 10513 Delray Road. I moved in about eight years ago.  
1892  
1893 I bought a piece of property before the housing boom took off so I got a good  
1894 deal. But I bought there because it was a nice neighborhood. There are a lot of  
1895 people walking. There is a lot of pride in ownership. I believe Mr. Gasser had  
1896 called me at one time to let me know about houses in the neighborhood. So I  
1897 was very well aware of this charming neighborhood.  
1898  
1899 The house that I moved next door to, I was aware that it was rental property. And  
1900 that didn't bother me because people have a right to live where they want to live.  
1901 And quite honestly, I welcomed the tenant, which is here today. I welcomed her  
1902 and her husband into the neighborhood. And I said it's a great place to live; it's  
1903 fantastic. You'll enjoy living here. And I understand since then Ms. Martin has  
1904 purchased the property, and the former tenants still remain as residents within  
1905 the house. I have no issues with them. I don't think I've ever had a cross word  
1906 with you. I called when your dog got loose and held her so that the County  
1907 wouldn't pick her up.  
1908  
1909 I wasn't going to speak today, but I was listening to other people, and I think they  
1910 have valid points. I also think they have a valid point. They're trying to make the  
1911 best of a situation. They're waiting on money. I understand how estates go. And

1912 I'm listening. I don't want to appear to be self-centered. No, I don't want to live  
1913 next door to an RV. No, I don't want to see it in my backyard. But people have a  
1914 right to do what they want with their own land. And I would hope people would  
1915 treat me the same way that I treat them. And I keep my property up. I try to keep  
1916 things clean. I spend two grand last year taking down two trees because of the  
1917 hurricane. I felt bad I had yard debris everywhere. But you get it out as fast as  
1918 you can.

1919  
1920 I don't know where to side on this. I cannot see the RV from the interior of my  
1921 home because I'm next door. I can look out any of the windows; I don't see it. So  
1922 it's not bothering me personally. But once I get out to the street I can see it. I  
1923 wouldn't want to be living across the street looking out my picture windows and  
1924 seeing it.

1925  
1926 I also have concerns about a car that's parked in the backyard. I can see it;  
1927 people driving by can see it. But again, I'm sure the County code provides for  
1928 that.

1929  
1930 I wonder, do you have any questions of me being an adjacent landowner?

1931  
1932 Mr. Wright - Yes. You understand here that this RV, if it's  
1933 approved, would have to be moved to her backyard.

1934  
1935 Ms. Arnold - That is my understanding.

1936  
1937 Mr. Wright - Yes. And she would have a right under the County  
1938 ordinance to park it back there any time, permanently.

1939  
1940 Ms. Arnold - Right. Yes. I understand that.

1941  
1942 Mr. Wright - As long as it's in the backyard. The different is Ms.  
1943 Martin is living in it. But if we approve this it would be just until April 1<sup>st</sup>,  
1944 maximum. She would have to move out.

1945  
1946 Ms. Arnold - Yes. And what would happen on April 1<sup>st</sup>?

1947  
1948 Mr. Wright - She would either move into this house or she'd have  
1949 to go somewhere else because she would not be permitted to stay in that RV  
1950 past April 1<sup>st</sup>.

1951  
1952 Ms. Arnold - Okay. And what's the enforcement on that? What  
1953 happens?

1954  
1955 Mr. Wright - If she continues to live there, the Board would take  
1956 necessary action to have her removed from the RV.

1957

1958 Ms. Arnold - Okay.  
1959  
1960 Mr. Blankinship - The final step would be a summons to court.  
1961  
1962 Ms. Arnold - Okay.  
1963  
1964 Mr. Wright - We would take necessary action to enforce this use  
1965 permit.  
1966  
1967 Ms. Arnold - Right. Okay.  
1968  
1969 Mr. Wright - I just wanted to make sure you understood that.  
1970  
1971 Ms. Arnold - Yes. And I understand. And I appreciate you allowing  
1972 the questions. But I also heard today for the first time there's going to be a gravel  
1973 driveway put in. There are already the concrete sewer pipes with the—yes. That  
1974 was installed. And I know that's there.  
1975  
1976 Mr. Wright - She has a right to put in a gravel driveway.  
1977  
1978 Ms. Arnold - I understand that. But I'm also hearing we're going to  
1979 put it in. And it's, like, okay, how does that affect my property value? I'm all for  
1980 people doing things with their own property. But I also think how will that affect  
1981 me.  
1982  
1983 Mr. Wright - Well, she's not going to do anything illegal. Whatever  
1984 she has to do would be permitted. You could do it; anybody could do it.  
1985  
1986 Ms. Arnold - Right.  
1987  
1988 Mr. Baka - Knowing this information, are you in favor or in  
1989 opposition of the case?  
1990  
1991 Ms. Arnold - Well, that's a tough question when you live next door  
1992 to someone, and you're going to be living next door to someone. It puts me in a  
1993 really tight spot. I understand what everyone has said here. And I can't say that I  
1994 disagree with them. But I also understand that they're trying to do something and  
1995 it takes time. They may be in violation; they may have been in violation. And if  
1996 there is a limit on it.  
1997  
1998 Mr. Wright - April 1<sup>st</sup>.  
1999  
2000 Ms. Arnold - I can live with that. I've been living with it this long, I  
2001 can live with that. As long as it's a hard and fast cutoff, you know.  
2002



2003 Female - [Speaking off microphone.] Are you saying that you  
 2004 would rather—  
 2005  
 2006 Mr. Wright - If you need to ask a question after she finishes you  
 2007 can go to the podium and ask her. We'll ask her for you.  
 2008  
 2009 Mr. Bell - Whose house is this?  
 2010  
 2011 Ms. Arnold - That's not my house.  
 2012  
 2013 Mr. Blankinship - No, this is the other side. She would be on the left.  
 2014 Paul, if you want to click down there.  
 2015  
 2016 Ms. Arnold - I would think these people can look out the windows  
 2017 and see the RV. I live on the other side. That's me.  
 2018  
 2019 Mr. Bell - But on that house I saw they have an RV parked in  
 2020 their driveway, pulling it.  
 2021  
 2022 Ms. Arnold - Yes. I don't see that either. They may have that  
 2023 covered some of the time.  
 2024  
 2025 Mr. Bell - The point is it can be seen by the neighbors. The  
 2026 same situation except it's a pulled RV.  
 2027  
 2028 Ms. Arnold - Right. I spoke with Mr. Madrigal and he said they can  
 2029 keep it in the side yard. And I was like I wouldn't want to look out my windows  
 2030 and see it. But if it's the code, it's the code, you know. And it can go in the  
 2031 backyard. Again, I would not want to have to see it, but what can you do? So any  
 2032 other questions for me?  
 2033  
 2034 Mr. Baka - I have one question of staff as it relates to the current  
 2035 speaker. The staff report reads that 24-102 says that—RVs shall not be  
 2036 occupied for living or business purposes. The application itself specifies they are  
 2037 requesting the conditional use permit pursuant to 24-116(c)(1). I guess we  
 2038 haven't talked about the provision as a group here. How does that code section  
 2039 allow the applicant to apply for this use?  
 2040  
 2041 Mr. Blankinship - 24-116(c)(1) authorizes the Board to approve a  
 2042 temporary use permit for no more than twenty-four months for any use that's not  
 2043 allowed in the district that does not involve buildings, permanent buildings.  
 2044  
 2045 Mr. Baka - Okay. So it's a temporary use provision we talked  
 2046 about a couple months ago. All right. Thanks.  
 2047

2048 Ms. Arnold - I was talking to Mr. Madrigal and I reflect back on  
 2049 things afterwards. And he said there are other people on your street that have  
 2050 RVs. And I know immediately on your other side, your other neighbor, they do  
 2051 have an RV in the side yard. And there's someone down the street that has one.  
 2052 And there is also someone down the street who has one who stores it  
 2053 somewhere else. So there are a lot of different things going on there.  
 2054

2055 Mr. Wright - Well there are plenty RVs in the County; I've seen  
 2056 them all over the place.  
 2057

2058 Mr. Blankinship - But they're not occupied.  
 2059

2060 Ms. Arnold - Yes.  
 2061

2062 Mr. Wright - They're not occupied.  
 2063

2064 Ms. Arnold - That's all I have to say. And thank you for giving her  
 2065 case some consideration.  
 2066

2067 Mr. Wright - Thank you very much.  
 2068

2069 Ms. Arnold - Thank you.  
 2070

2071 Mr. Wright - Does anyone else desire to speak in opposition to the  
 2072 case? Now, Ms. Martin, you have a right to rebut.  
 2073

2074 Unidentified Male - [Speaking off microphone.] Can we see the RV  
 2075 [inaudible]? There you go. That's the wood I'm talking about there.  
 2076

2077 Mr. Wright - We understand. We understand.  
 2078

2079 Daughter - The wood has been there for two years. I know this  
 2080 almost to the day because my sister was married in my backyard two years ago  
 2081 July, and that's when the wood was placed there. At the time we were still renting  
 2082 and our landlord had hired a tree removal company. And he had paid them to  
 2083 take the tree down and put the wood in the backyard. And they left it in the front  
 2084 yard. And all of my friends—I belong to a non-profit organization—they came to  
 2085 my house the two weeks before my sister's wedding and got it to that point. The  
 2086 pieces that the tree company left were so large they could not be moved. They  
 2087 had to be somewhat chopped. Part of that pile also is—a neighbor further up the  
 2088 street on Delray lost a tree. And he brought it and dumped it right there because  
 2089 he couldn't drive any further into our yard. At that time we didn't have the culvert.  
 2090 And so he just backed up into that section of the driveway. So the wood has  
 2091 been sitting there, part of it, because part of it I have burned. It was a very large  
 2092 tree. It was two trees. And I have been burning it, but I'm just one woman and I

2093 can't split all of that at one time. My husband is not well and cannot do yard  
2094 work. So my seventy-year-old mother and I do it all.

2095  
2096 Mr. Wright - All right. Is that it? That concludes the case. Thank  
2097 you very much for appearing. We'll decide at the end of the docket.

2098  
2099 **[After the conclusion of the public hearings, the Board discussed the case**  
2100 **and made its decision. This portion of the transcript is included here for**  
2101 **convenience of reference.]**

2102  
2103 Mr. Wright - Do I hear a motion on this?

2104  
2105 Mr. Bell - Yes. I move that we accept the conditions because I  
2106 do not think it will adversely affect the health, safety, or welfare of the  
2107 neighborhood, nor will it unreasonably impair any sunlight or air. Also, with the  
2108 conditions met, she seems to qualify for all the ramifications of any code that  
2109 might be listed as controlling RVs.

2110  
2111 Mr. Wright - All right. Motion by Mr. Bell that we approve this  
2112 application and the conditions that have been proposed. Is there a second?

2113  
2114 Mr. Baka - Second.

2115  
2116 Mr. Wright - Motion is made and seconded. Is there any  
2117 discussion on this case? Hearing none, all in favor say aye. All opposed say no.  
2118 The ayes have it; the motion passes.

2119  
2120 After an advertised public hearing and on a motion by Mr. Bell, seconded by Mr.  
2121 Baka, the Board **approved** application **CUP2012-00030, BETTY H. MARTIN's**  
2122 request for a temporary conditional use permit pursuant to Section 24-116(c)(1)  
2123 of the County Code to occupy a recreational vehicle on a temporary basis at  
2124 10509 Delray Road (Laurel Glen) (Parcel 765-765-8897), zoned R-2, One-family  
2125 Residence District (Brookland).

2126  
2127  
2128 Affirmative: Baka, Bell, Wright 3  
2129 Negative: 0  
2130 Abstain: Nunally 1  
2131 Absent: Harris 1

2132  
2133  
2134 **[At this point, the transcript continues with the public hearing on the next**  
2135 **case.]**

2136  
2137 **CUP2012-00031 KAREN PLOTT** requests a conditional use permit  
2138 pursuant to Section 24-12(e) of the County Code to allow a noncommercial

2139 kennel at 5220 W Grace Street (North Willow Lawn) (Parcel 771-736-7771),  
 2140 zoned R-3, One-family Residence District (Brookland).  
 2141  
 2142 Mr. Wright - Anyone who desires to speak with respect to this  
 2143 case, either for or against, please stand and be sworn.  
 2144  
 2145 Mr. Blankinship - Raise your right hands, please. Do you swear the  
 2146 testimony you're about to give is the truth and nothing but the truth so help you  
 2147 God?  
 2148  
 2149 Mr. Plott - Yes.  
 2150  
 2151 Mr. Wright - All right, sir. Please present your case. State your  
 2152 name for the record and present your case.  
 2153  
 2154 Mr. Plott - Good morning. My name is Michael Plott—P-l-o-t-t.  
 2155 We're just acquiring this conditional use permit just to be able to keep the dogs  
 2156 that we normally have and have had for a number of years. My stepdaughter,  
 2157 which is my wife's daughter, was living at 506 Westview Avenue. And due to  
 2158 unforeseen circumstances she had to move out and had nowhere to go. And she  
 2159 also had two dogs. And when she moved in that brought the number to five. She  
 2160 will not be living there forever. We're just trying to keep the number of dogs that  
 2161 we have. We do not breed them. They're all fixed—spayed or neutered. And I  
 2162 have read all the conditions and we agree to them. That's basically all I have to  
 2163 say.  
 2164  
 2165 Mr. Wright - Mr. Plott, we have a letter from one of your neighbors,  
 2166 Mrs. Perkinson, who evidently lives behind your property. It states that when the  
 2167 dogs come out they'll jump over the fence into her yard.  
 2168  
 2169 Mr. Plott - I have had one dog jump over the fence one time. I  
 2170 went after the dog, and picked it up, and put it back in our yard. I have since  
 2171 raised the fence to deter them from doing that. And they've only done it one time.  
 2172  
 2173 Mr. Baka - How high is that fence?  
 2174  
 2175 Mr. Plott - Right now it would be about six feet.  
 2176  
 2177 Mr. Baka - So it's higher than what we're seeing in the  
 2178 photograph right now.  
 2179  
 2180 Mr. Plott - Yes, because I added additional fence to it.  
 2181  
 2182 Mr. Baka - Yes sir.  
 2183

2184 Mr. Plott - On that side and the neighbor that would be to my  
2185 right. I've added additional fencing there, too.  
2186  
2187 Mr. Bell - In reading the report, these dogs will be kept in the  
2188 house most of the time, all five of them?  
2189  
2190 Mr. Plott - Yes. They do not live outside. They stay inside the  
2191 house. They are only out no more than a half hour at a time. I let them out to run,  
2192 get exercise, and to do their business. And they're back sitting at the steps  
2193 wanting to come in. They don't like the heat. They have been with us for a  
2194 number of years from puppies. And they're all rescue dogs. They don't stay  
2195 outside that long at a time.  
2196  
2197 Mr. Bell - How are you controlling their barking and odor?  
2198  
2199 Mr. Plott - I clean the yard about every other day, unless it rains.  
2200 I'm not going to go out there in the rain. But if they get real unruly, for one of  
2201 them I have a bark collar. And for another one I have a facial snout mask or  
2202 whatever. Other neighbors have dogs that bark too. I can't control their barking. I  
2203 can only do so much to control my own.  
2204  
2205 Mr. Bell - Your three dogs that you've had a number of years,  
2206 have you ever had any complaints with them about barking?  
2207  
2208 Mr. Plott - No.  
2209  
2210 Mr. Bell - Since you've gotten the two additional dogs have you  
2211 had any complaints about barking?  
2212  
2213 Mr. Plott - I haven't really heard any complaints other than  
2214 myself going out there and trying to calm them down or either bring them back  
2215 inside.  
2216  
2217 Mr. Bell - My concern is—as you well know, that's a high  
2218 density area. So it's not just your next door neighbors, it's a number of  
2219 neighbors. And dogs do bark. And I realize there are other dogs in the  
2220 neighborhood. But I'm more interested in you having three and then adding two  
2221 more. What's the effect?  
2222  
2223 Mr. Plott - When one barks the other barks. If they hear  
2224 neighbors' dogs bark, they'll respond.  
2225  
2226 Mr. Bell - And what's your response?  
2227  
2228 Mr. Plott - They don't bark all the time, not all the time that I've  
2229 heard. If they hear strange noises or someone trying to approach the yard

2230 they're just protecting their property or letting me know that someone is out there  
2231 or someone's coming towards them or whatever.

2232

2233 Mr. Wright - If they're barking inside the house I doubt if that can  
2234 be heard too far. As you know, I'm talking about when they're in the yard. And  
2235 you say they're out in the yard how long each day?

2236

2237 Mr. Plott - I let them out in the morning. They're out there no  
2238 more than fifteen, twenty minutes in the morning, and then they come back  
2239 inside. And maybe a few hours later they want to go back out. I let them back  
2240 out. They're not out no more than a half hour at a time. I don't leave them out all  
2241 day long.

2242

2243 Mr. Wright - And you are there ever day?

2244

2245 Mr. Plott - Yes sir.

2246

2247 Mr. Wright - You're not employed elsewhere or anything?

2248

2249 Mr. Plott - No, I'm disabled. I'm legally blind.

2250

2251 Mr. Wright - So you are there to care for the dogs every day.

2252

2253 Mr. Plott - Right, yes.

2254

2255 Mr. Wright - All day.

2256

2257 Mr. Plott - I'm the one that maintains the yard, too. I keep it  
2258 raked up; I keep it clean.

2259

2260 Mr. Bell - So handling the five dogs, does it create any problem  
2261 for you?

2262

2263 Mr. Plott - They're not creating a problem for me.

2264

2265 Mr. Wright - You can handle them, that's the question.

2266

2267 Mr. Plott - Yes sir.

2268

2269 Mr. Wright - All right. Any further questions? Anything further you  
2270 wish to offer, Mr. Plott?

2271

2272 Mr. Plott - No, other than we agree to the terms and conditions.

2273

2274 Mr. Bell - One other real quick question. You implied that your  
2275 daughter is not going to be there forever. When she leaves will her two dogs—



2276  
 2277 Mr. Plott - Her two dogs will move with her, yes.  
 2278  
 2279 Mr. Bell - Okay. But do you have any idea—  
 2280  
 2281 Mr. Plott - Until she finds another residence she will remain  
 2282 there with us.  
 2283  
 2284 Mr. Bell - Thank you.  
 2285  
 2286 Mr. Wright - All right. Is anyone in opposition and desires to  
 2287 speak? Would you come down, please, sir?  
 2288  
 2289 Mr. Bell - She wants to speak, I think.  
 2290  
 2291 Mr. Wright - Oh yes. Did you want to speak in support? I'm sorry.  
 2292 Yes, we'll hear from you.  
 2293  
 2294 Ms. Fallon - Good morning. My name is Rachel Fallon. From what  
 2295 I see in this letter from Katherine Perkinson, it says that she owns the house and  
 2296 she rents the house. So she's not there all day long to see what's going on. I'm  
 2297 there. I go there every weekend. His stepdaughter is my best friend. The dogs  
 2298 are not an issue. Every dog is going to bark; you can't stop it unless you take  
 2299 their vocal chords out, but that's not going to happen.  
 2300  
 2301 I've been around there for three years. They're really not a problem. I fully  
 2302 support it.  
 2303  
 2304 Mr. Wright - Do you live in the house?  
 2305  
 2306 Ms. Fallon - No, I do not live there.  
 2307  
 2308 Mr. Wright - Okay. So you visit.  
 2309  
 2310 Ms. Fallon - Yes. I was the one that was living with his  
 2311 stepdaughter when we had to move. I also had a dog. So it kind of put us in an  
 2312 awkward situation where she had to move back. There was nothing she could  
 2313 do. She's had one of the dogs for seven years. Trying to get rid of that dog is  
 2314 unheard of.  
 2315  
 2316 Mr. Nunnally - Where do you live? What is your address?  
 2317  
 2318 Ms. Fallon - I live in Varina. I live off Route 5.  
 2319  
 2320 Mr. Nunnally - You live in Varina and he lives in Brookland District,  
 2321 right?

2322  
 2323 Ms. Fallon - Yes. But that's all I have to say. I support it.  
 2324  
 2325 Mr. Wright - Thank you very much. Now we'll hear from the  
 2326 opposition.  
 2327  
 2328 Mr. Taylor - I hate doing this but I have to do it, so. My name is  
 2329 Michael Taylor—T-a-y-l-o-r. I'm the next door neighbor.  
 2330  
 2331 Mr. Baka - Address, please.  
 2332  
 2333 Mr. Taylor - 5218 West Grace Street.  
 2334  
 2335 I'd like to read something and maybe give you some audio visual, if that's okay.  
 2336 Is that all right?  
 2337  
 2338 Mr. Wright - Sir?  
 2339  
 2340 Mr. Taylor - If I just read a statement is that okay?  
 2341  
 2342 Mr. Wright - Oh yes, yes.  
 2343  
 2344 Mr. Taylor - I've lived at 5218 West Grace Street for over nine  
 2345 years. A lot of changes in the neighborhood have occurred during that time. On  
 2346 the positive side, a new row of houses and condominiums have been built at  
 2347 Monument Square about a block away from me. Willow Lawn Shopping Center  
 2348 has been completely redone. It's now become a destination for shopping and  
 2349 dining. At the same time, due to the recession my property value has gone down  
 2350 somewhat, but I'm optimistic due to new construction close to my house so the  
 2351 neighborhood is being uplifted a bit.  
 2352  
 2353 When I moved there it was a quiet neighborhood. There were dogs barking here  
 2354 and there; and everybody's got dogs. But Mr. Dean Haskins, who is my next door  
 2355 neighbor, who used to live at 5220, he past away a few years ago. His son, Tim  
 2356 Haskins, when he was renting the house—he was trying to sell it, rent it, back  
 2357 and forth—promised me and Beverly on the other side that he would rent it to no  
 2358 one with dogs. He just said he wouldn't, but he did. And that's not an issue either  
 2359 because I can get along. Like I said, the neighbor on the other side has beagles  
 2360 and the neighbor on the backside has a Rottweiler mix.  
 2361  
 2362 Mr. Wright - How many dogs are there next door to you?  
 2363  
 2364 Mr. Taylor - There are three on the other side, three beagles.  
 2365  
 2366 Mr. Wright - They have three?  
 2367

2368 Mr. Taylor - Yes, three beagles. The County regulation I believe is  
2369 three.

2370  
2371 Mr. Wright - Three. Do they bark?

2372  
2373 Mr. Taylor - They bark. But we've worked out a deal. I mean I  
2374 complained to them so they—they don't bark at 11:45 at night anymore usually.

2375  
2376 But the house was rented to the Plotts, and they have a pit bull, a Staffordshire  
2377 sort of terrier, pit bull sort of terrier, and a Belgian shepherd. Those are the  
2378 original three dogs. Very soon after moving in the pit bull jumped the back fence  
2379 to the Perkinson's property where her son, Brad Fisher, lives. Attacked her son's  
2380 girlfriend and dog. Sometime thereafter Beverly on the side was gardening, had  
2381 gardening gloves on. She leaned against her fence with slats and the  
2382 Staffordshire nipped at her. Didn't break the skin. Nobody reported anything but  
2383 just went on. I tried to make friends with the dog. I gave them cheese and stuff  
2384 for the first few months that they were there. They still try to bite me if I put my  
2385 hand over the fence.

2386  
2387 When the dogs are in the yard I pretty much stay out of my backyard. Because if  
2388 I go out there they're going to come to the fence, rush the fence, and bark at me  
2389 very aggressively. I'm not saying they bark all the time; I understand that. That's  
2390 not my complaint. I'm not complaining about loud dog barking all day long. I'm  
2391 talking about the nature of the barking and the nature of the behavior of the  
2392 dogs. They're not friendly dogs.

2393  
2394 The neighbors on the back side, the Perkinsons, they have a Rottweiler and  
2395 another dog mix. The have to keep their dogs inside now because every time  
2396 they let their dogs out, the dogs at 5220 rush to the back fence and try to get  
2397 over that fence to get those dogs as much as they can. I don't think you play  
2398 QuickTime movies here. I have some QuickTime movies of this. I can leave that  
2399 with you. It's the nature of the barking.

2400  
2401 For the first time in nine years, this past spring I found thousands of house flies  
2402 on the bushes around my deck, which were never there before. And that was  
2403 related to the dog feces that wasn't there before. You are pretty good at picking it  
2404 up. He's gotten better. But still every now and then there's still the smell and the  
2405 flies. You can't get away from that. By adding two more dogs you just increase  
2406 that.

2407  
2408 I'll say the last draw was when I went out there some time this past year—and I'd  
2409 like to put this up, if I may. This is on the fence between our property. That is dog  
2410 feces on the fence. This happened more than once. It separates our property. It  
2411 falls over into my yard. It's unsightly. I can't see how adding two dogs is going to  
2412 help this situation.

2413

2414 My plan this summer and fall actually was to move, to sell my house and move to  
2415 a different neighborhood. I've been there nine years and it's time to move. I can't  
2416 sell my house right now. With the dogs next door, particularly with five dogs next  
2417 door, my property value—the sales price is going to drop. As a result, tax  
2418 revenue is going to drop. If I do decide to move I'm going to have to rent. If I rent,  
2419 as you know, nothing against renters, but when you start having multiple renters  
2420 in a neighborhood the value of the surrounding property drops.

2421  
2422 This is an area that's being built up right now with Willow Lawn, with Monument  
2423 Square and other things that are going on. I can't see the County wanting this  
2424 area to just sort of fall apart. I feel like adding a non-commercial kennel license  
2425 to a 0.25-acre lot, dense residential, Near West End, row of Cape Cods—I don't  
2426 see how that's beneficial to anyone in the County.

2427  
2428 I'd like to leave this, and I've like to leave my little disc with you, too, if that's  
2429 okay.

2430  
2431 Mr. Wright - Let me ask you a question. If the dogs were  
2432 restrained or tied up, would that make a difference? So they couldn't rush the  
2433 fence or get to—

2434  
2435 Mr. Taylor - There are too many dogs to tie up. You tried tying  
2436 Brent up for a while.

2437  
2438 Mr. Wright - I just said if he had them.

2439  
2440 Mr. Taylor - You're still going to have the feces.

2441  
2442 Mr. Wright - That would be in the yard, yes.

2443  
2444 Mr. Taylor - The yard is right next to my yard. Fortunately I'm on  
2445 the east side. The wind is mostly from the west. I don't see how that really helps.  
2446 The fencing you did, that kept them in, but honestly I don't know why you didn't  
2447 fence—I don't want to attack you personally, but the front gate is not fenced any  
2448 higher. If one of the dogs wanted to jump the front gate they can.

2449  
2450 Mr. Wright - If you take two dogs away you still have three dogs.

2451  
2452 Mr. Taylor - So that's three. Proportionately when you're talking  
2453 about dog feces—

2454  
2455 Mr. Wright - I understand what you're saying, but you're still going  
2456 to have a problem.

2457  
2458 Mr. Taylor - I will, but it will be 40 percent less. And it's not just  
2459 me.

2460  
2461 Mr. Wright - All right, sir. Any questions for Mr. Taylor? Thank you  
2462 very much. Anyone else desire to speak further in opposition to this? All right.  
2463 Mr. Plott, you have an opportunity to rebut his testimony if you so desire.  
2464

2465 Mr. Plott - As far as the dogs being tied, if I have to I can  
2466 position tie-outs for them around the yard. It is big enough to place them in  
2467 separate places for maybe twenty minutes so that they can do their business and  
2468 come back inside.  
2469

2470 As far as the rushing of the fence and all that, it's a dog's normal nature to think  
2471 someone is going to invade their territory. That is their yard as much as ours.  
2472 They're just trying to stop them from coming in. You can reach over the fence  
2473 and pet them. The neighbor behind me has done it. He's reached over the fence  
2474 and petted Brenna. He's petted my Staffordshire pit, Rocky.  
2475

2476 As far as the feces on the fence, that is how this dog has done her business all  
2477 her life. She is very timid. I don't know if she has to be up against a fence. She  
2478 just doesn't do her business any other way. Once I noticed it in my neighbor's  
2479 yard and all that, I did agree to go over there and clean it up and all that. I try to  
2480 stop her from doing it. When I let her out if I see her go towards the fence I'll  
2481 move her away, or pay attention to make sure she's not doing it anymore. I do  
2482 watch the fence line and try to keep it all cleaned up.  
2483

2484 Mr. Wright - All right, sir. Anything further you'd like to say? Any  
2485 questions of Mr. Plott? Thank you very much. That concludes the case.  
2486

2487 **[After the conclusion of the public hearings, the Board discussed the case**  
2488 **and made its decision. This portion of the transcript is included here for**  
2489 **convenience of reference.]**  
2490

2491 Mr. Wright - Do I hear a motion on this?  
2492

2493 Mr. Bell - I'm going to have to move that we do not accept that  
2494 with the conditions. We have a situation here where I think odor and barking, and  
2495 even concern about safety, correct or incorrect, has been expressed by people  
2496 who have testified. This is a dog area. It seems that the neighborhood has many  
2497 dogs. The County code does say that you can have three dogs, which is without  
2498 a kennel. Beyond that you have to have a kennel license. Because of what I've  
2499 heard in terms of the concerns of safety, and health, and welfare, odor, and  
2500 because of what I've heard about how it might affect the surrounding areas, I  
2501 vote that we do not approve this.  
2502


2503 Mr. Wright - All right. Motion by Mr. Bell that we deny this. Is there  
2504 a second?  
2505

2506 Mr. Nunnally - Second.  
 2507  
 2508 Mr. Wright - It is seconded. Any further discussion? Hearing none,  
 2509 all in favor of denial say aye. All opposed say no. The ayes have it; the motion is  
 2510 denied.  
 2511  
 2512 After an advertised public hearing and on a motion by Mr. Bell seconded by Mr.  
 2513 Nunnally, the Board **denied** application **CUP2012-00031, KAREN PLOTT's**  
 2514 request for a conditional use permit pursuant to Section 24-12(e) of the County  
 2515 Code to allow a non-commercial kennel at 5220 W Grace Street (North Willow  
 2516 Lawn) (Parcel 771-736-7771), zoned R-3, One-family Residence District  
 2517 (Brookland).  
 2518  
 2519  
 2520 Affirmative: Baka, Bell, Nunnally, Wright 4  
 2521 Negative: 0  
 2522 Absent: Harris 1  
 2523  
 2524  
 2525 Mr. Wright - Now about the minutes. Do I hear a motion we  
 2526 approve the minutes or are there any amendments to the minutes?  
 2527  
 2528 Mr. Baka - No changes that I see. I would make a motion that we  
 2529 approve the minutes as submitted.  
 2530  
 2531 Mr. Wright - Okay. Motion is made that we approve the minutes as  
 2532 submitted. Is there a second to this motion?  
 2533  
 2534 Mr. Nunnally - Second.  
 2535  
 2536 Mr. Wright - Seconded. Any discussion? Hearing none, all in favor  
 2537 say aye. All opposed say no. The ayes have it; the minutes are approved.  
 2538  
 2539 On a motion by Mr. Baka, seconded by Mr. Nunnally, the Board **approved as**  
 2540 **submitted the Minutes of the August 23, 2012, Henrico County Board of**  
 2541 **Zoning Appeals meeting.**  
 2542  
 2543  
 2544 Affirmative: Baka, Bell, Nunnally, Wright 4  
 2545 Negative: 0  
 2546 Absent: Harris 1  
 2547  
 2548  
 2549 Mr. Wright - Mr. Blankinship, is there anything further that should  
 2550 come before the Board?  
 2551



2552 Mr. Blankinship - No sir.  
 2553  
 2554 Mr. Wright - Do I hear a motion that we adjourn?  
 2555  
 2556 Mr. Bell - I so move that we adjourn.  
 2557  
 2558 Mr. Baka - Second.  
 2559  
 2560 Mr. Blankinship - All in favor say aye. All opposed say no. The ayes  
 2561 have it; the motion passes. The Board is adjourned until its next meeting.  
 2562  
 2563 Affirmative: Baka, Bell, Nunnally, Wright 4  
 2564 Negative: 0  
 2565 Absent: Harris 1  
 2566  
 2567  
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 R. A. Wright  
 Acting Chairman

  
 Benjamin Blankinship, AICP  
 Secretary