

1 Minutes of the regular monthly meeting of the Planning Commission of Henrico County  
2 held in the County Administration Building in the Government Center at Parham and  
3 Hungary Spring Roads beginning at 9:00 a.m. Wednesday, June 27, 2012.  
4

Members Present: Mr. Tommy Branin, Chairman (Three Chopt)  
Mrs. Bonnie-Leigh Jones, Vice-Chairperson, C.P.C. (Tuckahoe)  
Mr. C. W. Archer, C.P.C. (Fairfield)  
Mr. Eric Leabough (Varina)  
Mr. Robert H. Witte, Jr. (Brookland)  
Mr. R. Joseph Emerson, Jr., AICP,  
Director of Planning, Secretary  
Mr. Frank J. Thornton,  
Board of Supervisors' Representative

Others Present: Mr. David D. O'Kelly, Assistant Director of Planning  
Ms. Leslie A. News, CLA, Principal Planner  
Mr. Benjamin Blankinship, Principal Planner  
Mr. Kevin D. Wilhite, C.P.C., AICP, County Planner  
Mr. Michael F. Kennedy, County Planner  
Ms. Christina L. Goggin, AICP, County Planner  
Mr. Tony Greulich, C.P.C., County Planner  
Mr. Matt Ward, County Planner  
Mr. Gregory Garrison, County Planner  
Mr. Lee Pambid, C.P.C., County Planner  
Ms. Aimee B. Crady, AICP, County Planner  
Mr. Mike Jennings, Traffic Engineering  
Ms. Holly Zinn, Recording Secretary

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6 **Mr. Frank J. Thornton, the Board of Supervisors' representative, abstains from**  
7 **voting on all cases unless otherwise noted.**  
8

9 Mr. Branin - Good morning. Welcome to the Henrico County Subdivisions  
10 and Plans of Development meeting for June 27, 2012. If everyone would please make  
11 sure your cell phones are off. At the last meeting, mine was the only one that actually  
12 went off. Please join me in standing for the Pledge of Allegiance.  
13

14 We have no news media in the room. All of the Commissioners are present. Good  
15 morning to our supervisor sitting on the Board, the Honorable Frank Thornton, and with  
16 that, Mr. Secretary?  
17

18 Mr. Emerson - Thank you, Mr. Chairman. First, on your agenda this morning,  
19 are the requests for deferrals and withdrawals. Those will be presented by Ms. Leslie  
20 News.  
21

22 Mr. Branin - Good morning, Ms. News.  
23

Ms. News - Good morning, Mr. Chairman, members of the Commission.  
Staff has not received any requests for deferrals this morning.

Mr. Branin - Does any Commission member have a deferral? None?  
Okay.

Mr. Emerson - Mr. Chairman, with that said, next on your agenda are the  
expedited items, and those will also be presented by Ms. Leslie News.

Ms. News - Sir, we have eight items on our expedited agenda. There has  
been one item added since your preliminary addendum was given to you yesterday. The  
first item is on page three of your agenda and is located in the Varina District. This is a  
transfer of approval for POD-123-95, Garden Ridge. Staff recommends approval.

### TRANSFER OF APPROVAL

POD-123-95	<b>Erik Nelson for National Retail Properties, LP:</b> Request
POD2012-00190	for transfer of approval as required by Chapter 24, Section
Garden Ridge – 401	24-106 of the Henrico County Code from 401 International
International Centre Drive	Center Drive, LLC to National Retail Properties, LP. The
	12.66-acre site is located at the northern terminus of
	International Centre Drive, 1,600 feet north of its
	intersection with Audubon Drive, on the southwest corner
	of the intersection of Interstate-64 and Airport Drive, on
	parcel 821-718-7211. The zoning is M-1, Light Industrial
	District and ASO, Airport Safety Overlay District. County
	water and sewer. <b>(Varina)</b>

Mr. Branin - Is anyone in opposition to transfer of approval POD-123-95  
Garden Ridge? No one?

Mr. Leabough - Mr. Chairman, I move that we approve transfer of approval  
POD-123-95 Garden Ridge.

Mrs. Jones - Second.

Mr. Branin - Motion by Mr. Leabough, seconded by Mrs. Jones. All in  
favor say aye. All opposed say no. The ayes have it; the motion passes.

The Planning Commission approved the transfer of approval request for POD-123-95  
Garden Ridge, from 401 International Center Drive, LLC to National Retail Properties,  
LP, subject to the standard and added conditions previously approved.

Ms. News - The next item is on page four of your agenda and is located  
in the Varina District. This is a transfer of approval for POD-89-98, Capital Chrysler  
Dodge Jeep Ram (Formerly Lawrence Chrysler Plymouth). Staff recommends approval.

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## TRANSFER OF APPROVAL

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POD-89-98  
POD2012-00048  
Capital Chrysler Dodge  
Jeep Ram (Formerly  
Lawrence Chrysler  
Plymouth) – 5400 S.  
Laburnum Avenue

**Richard C. Lawrence, Esquire for Capital Laburnum Investments, LLC:** Request for transfer of approval as required by Chapter 24, Section 24-106 of the Henrico County Code from Beacon Press, Richmond Newspapers, Inc., Southeast Building and Realty Corp, and Lawrence Chrysler-Plymouth to Capital Laburnum Investments, LLC. The 4.98-acre site is located at the southwest corner of the intersection of S. Laburnum Avenue and Eubank Road, on parcel 816-711-3847. The zoning is M-1, Light Industrial District and ASO, Airport Safety Overlay District. County water and sewer. **(Varina)**

Mr. Branin - Is anyone in opposition to transfer of approval of POD-89-98, Capital Chrysler Dodge Jeep Ram (Formerly Lawrence Chrysler Plymouth)? No one. Mr. Leabough?

Mr. Leabough - Mr. Chairman, I move that we approve the transfer of approval for POD-89-98, Capital Chrysler Dodge Jeep Ram (Formerly Lawrence Chrysler Plymouth), with Condition #1 noted in the agenda.

Mr. Archer - Second.

Mr. Branin - Motion by Mr. Leabough, seconded by Mr. Archer. All in favor say aye. All opposed say no. The ayes have it; the motion passes.

The Planning Commission approved the transfer of approval request for POD-89-98, Capital Chrysler Dodge Jeep Ram (Formerly Lawrence Chrysler Plymouth), from Beacon Press, Richmond Newspapers, Inc., Southeast Building and Realty Corp, and Lawrence Chrysler-Plymouth to Capital Laburnum Investments, LLC, subject to the standard and added conditions previously approved and the following additional condition:

1. All deficiencies, as identified in staff's letter dated May 21, 2012, shall be corrected no later than November 1, 2012.

Ms. News - Next, on page five of your agenda and located in the Three Chopt District, is a transfer of approval for POD-35-76, 06-78, and 47-08 (Part). This is the Laurels at University Park (Formerly University Park). There is an addendum item on page one of your addendum, which indicates that the fire lane has been reconstructed, as required by the Fire Marshall, and the applicant has agreed to maintain the fire lane to ensure safe access by emergency vehicles. Other deficiencies have been resolved with the exception of recordation of easements, which is addressed in Condition #1 in the agenda. Staff can recommend approval.

**TRANSFER OF APPROVAL** *(Deferred from the May 23, 2012 Meeting)*

POD's 35-76, 06-78, and 47-08 (Part)      **Hirschler-Fleischer for The Laurels of University Park, LLC:** Request for transfer of approval as required by Chapter 24, Section 24-106 of the Henrico County Code from University Park Health Investors, LLC to The Laurels of University Park, LLC. The 8.93-acre site is located at the northeast corner of the intersection of Pemberton Road (State Route 157) and Regirer Place, on parcel 752-753-4706 and part of parcel 752-753-0071. The zoning is R-6C, General Residential District (Conditional). County water and sewer. **(Three Chopt)**

POD2011-00446;  
POD2011-00448;  
POD2012-00008  
Laurels at University Park (Formerly University Park)  
– 2420 Pemberton Road

Mr. Branin -                      Is there anyone in opposition to transfer of approval for POD-35-76, 06-78, and 47-08 (Part), Laurels at University Park (Formerly University Park)? No one? Then I would like to move that transfer of approval for POD-35-76, 06-78, and 47-08 (Part), Laurels at University Park (Formerly University Park), be approved with addendum page one.

Mr. Witte -                      Second.

Mr. Branin -                      Motion by Mr. Branin, seconded by Mr. Witte. All in favor say aye. All opposed say no. The ayes have it; the motion passes.

The Planning Commission approved the transfer of approval request for POD-35-76, 06-78, and 47-08 (Part), Laurels at University Park (Formerly University Park), from University Park Health Investors, LLC to The Laurels of University Park, LLC, subject to the standard and added conditions previously approved and the following additional condition:

1. All deficiencies, as identified in the inspection report dated December 29, 2011, shall be corrected by September 26, 2012.

Ms. News -                      On page six of your agenda and located in the Brookland District is a transfer of approval for POD-46-73 (Part), Ball Office Products Headquarters (Formerly Wards Company). Staff recommends approval.

122 **TRANSFER OF APPROVAL**

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POD-46-73 (Part)  
POD2012-00171  
Ball Office Products  
Headquarters (Formerly  
Wards Company, Inc.) –  
2100 Westmoreland Street

**Charles Louthan for Moreland Realty, LLC:** Request for transfer of approval as required by Chapter 24, Section 24-106 of the Henrico County Code from Moreland Realty, LLC to BOP, LLC. The 1.96-acre site is located in the southwest quadrant of the intersection of Maywill Street and Westmoreland Street, on parcel 776-738-5802. The zoning is M-1, Light Industrial District. County water and sewer. **(Brookland)**

Mr. Branin - Is anyone in opposition to the transfer of approval of POD-46-73 (Part), Ball Office Products Headquarters (Formerly Wards Company)? No one.

Mr. Witte - Mr. Chairman, I move we approve transfer of approval POD-46-73 (Part), Ball Office Products Headquarters (Formerly Wards Company).

Mr. Leabough - Second.

Mr. Branin - Motion by Mr. Witte, seconded by Mr. Leabough. All in favor say aye. All opposed say no. The ayes have it; the motion passes.

The Planning Commission approved the transfer of approval request for POD-46-73 (Part), Ball Office Products Headquarters (Formerly Wards Company), from Moreland Realty, LLC to BOP, LLC, subject to the standard and added conditions previously approved.

Ms. News - The next item is page nine of your agenda and is located in the Varina District. This LP/POD-02-09, Tuckaway Child Development Center on New Market Road and Midview Road. This is a reconsideration of the original landscape plan. Staff recommends approval.

**LANDSCAPE PLAN** (*Deferred from the May 23, 2012 Meeting*)

LP/POD-02-09  
POD2012-00177  
Tuckaway Child  
Development Center –  
New Market Road and  
Midview Road  
(Reconsideration)  
(POD-48-06 Revised)  
(POD-32-04 Expired)

**Balzer and Associates for Karverly, Inc.:** Request for approval of reconsideration of a landscape plan, as required by Chapter 24, Sections 24-106 and 24-106.2 of the Henrico County Code. The 5.22-acre site is located at the southeast corner of the intersection of New Market Road (State Route 5) and Midview Road on parcel 803-701-8673. The zoning is B-1C, Business District (Conditional). County water and sewer. **(Varina)**

Mr. Branin - Is there any opposition to LP/POD-02-09, Tuckaway Child Development Center? No one?

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 152 Mr. Leabough - Mr. Chairman, I would like to declare a personal interest in  
 153 this transaction. Therefore, I will not be participating nor voting on it.  
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 155 Mr. Branin - Okay.  
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 157 Mr. Leabough - My daughter attended this facility during the summer. The  
 158 County Attorney has indicated that I do not have a conflict of interest, but for the record I  
 159 would like to abstain and not participate.  
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 161 Mr. Branin - And from what I understand, Mr. Leabough, there are no  
 162 issues with this.  
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 164 Mr. Leabough - Mr. Archer is handling this for me.  
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 166 Mr. Branin - Okay.  
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 168 Mr. Archer - Mr. Chairman, subject to all the foregoing, I move for  
 169 approval of LP/POD-02-09, Tuckaway Child Development Center, subject to staff's  
 170 recommendation.  
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 172 Mr. Witte - Second.  
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 174 Mr. Branin - Motion by Mr. Archer, seconded by Mr. Witte. All in favor say  
 175 aye. All opposed say no. The ayes have it; the motion passes.  
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 177 Mr. Branin - Yes  
 178 Ms. Jones - Yes  
 179 Mr. Archer - Yes  
 180 Mr. Leabough - Abstain  
 181 Mr. Witte - Yes  
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 183 Ms. News - Next, on page 12 of your agenda and located in the Three  
 184 Chopt District, is POD2012-00191, Duncan Park at Sadler Walk. Staff recommends  
 185 approval.  
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188 **PLAN OF DEVELOPMENT**

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**Youngblood, Tyler, and Associates, P.C. for Oglethorpe Park, LLC:** Request for approval of a plan of development, as required by Chapter 24, Section 24-106 of the Henrico County Code, to construct 64 2-story residential townhouses for sale. The 10.79-acre site is located on the east line of Glasgow Road at its intersection with Dublin Road, approximately 600 feet north of Ireland Lane, on parcels 746-763-1769, 2482, 2896, and 746-764-3818. The zoning is RTHC, Residential Townhouse District (Conditional). County water and sewer. **(Three Chopt)**

Mr. Branin - Is anyone in opposition to POD2012-00191, Duncan Park at Sadler Walk? No one? Then, I would like to move that POD2012-00191, Duncan Park at Sadler Walk, be approved on the expedited agenda with the additional Conditions #29 through #38, subject to annotations on the plan and the standard conditions for developments of this type.

Mrs. Jones - Second.

Mr. Branin - Motion by Mr. Branin, seconded by Mrs. Jones. All in favor say aye. All opposed say no. The ayes have it; the motion passes.

The Planning Commission approved POD2012-00191, Duncan Park at Sadler Walk, subject to the annotations on the plans, the standard conditions attached to these minutes for developments of this type, and the following additional conditions:

29. The subdivision plat for Duncan Park at Sadler Walk shall be recorded before any building permits are issued.
30. The right-of-way for widening of Sadler Road Relocated and proposed Sadler Walk Lane as shown on approved plans shall be dedicated to the County with the subdivision plat.
31. Prior to issuance of a certificate of occupancy for any building in this development, the engineer of record shall certify that the site has been graded in accordance with the approved grading plans.
32. There shall be no outdoor storage in moveable storage containers including, but not limited to, cargo containers and portable on demand storage containers.
33. The proffers approved as a part of zoning case C-19C-06 shall be incorporated in this approval.
34. The pavement shall be of an SM-2A type and shall be constructed in accordance with County standard and specifications. The developer shall post a defect bond for all pavement with the Department of Planning - the exact type, amount and implementation shall be determined by the Director of Planning, to protect the interest of the members of the Homeowners Association. The defect bond shall remain in effect for a period of three years from the date of the issuance of the

- final occupancy permit. Prior to the issuance of the last Certificate of Occupancy, a professional engineer must certify that the roads have been designed and constructed in accordance with County standards.
35. Approval of the construction plans by the Department of Public Works does not establish the curb and gutter elevations along the Henrico County maintained right-of-way. The elevations will be set by Henrico County.
36. The limits and elevations of the Special Flood Hazard Area shall be conspicuously noted on the plan and labeled "Limits of Special Flood Hazard Area." In addition, the delineated Special Flood Hazard Area must be labeled "Variable Width Drainage and Utility Easement." The easement shall be granted to the County prior to the issuance of any occupancy permits.
37. The unit house numbers shall be visible from the parking areas and drives.
38. The names of streets, drives, courts and parking areas shall be approved by the Richmond Regional Planning District Commission and such names shall be included on the construction plans prior to their approval. The standard street name signs shall be installed prior to any occupancy permit approval.

Ms. News - On page 16 of your agenda and located in the Fairfield District is POD2012-00193. This is a POD and a lighting plan for the Dominion Fiber Technologies Expansion. Staff recommends approval.

#### PLAN OF DEVELOPMENT AND LIGHTING PLAN

POD2012-00193 Dominion Fiber Technologies Expansion -- 4590 Vawter Avenue (POD-59-07 Rev.)	<b>Willmark Engineering, PLC for Pinnacle Resource Group, LLC:</b> Request for approval of a plan of development and lighting plan, as required by Chapter 24, Section 24-106 of the Henrico County Code, to construct a one-story 25,000 square-foot building expansion to an existing manufacturing and distribution facility. The 5.96-acre site is located on the west line of Vawter Avenue, approximately 3,000 feet north of Laburnum Avenue, on parcel 799-740-8589. The zoning is M-2, General Industrial District and ASO, Airport Safety Overlay District. County water and sewer. <b>(Fairfield)</b>
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Mr. Branin - Is anyone in opposition to POD2012-00193, Dominion Fiber Technologies Expansion? No one?

Mr. Archer - All right, Mr. Chairman, I move for approval of POD2012-00193, Dominion Fiber Technologies Expansion, subject to the annotations on the plan, the standard conditions for developments of this type, additional Condition #11B, Conditions #29 through #33, and addendum item #37. [See later correction on Page 10 of these minutes to delete addendum item #37 from this motion.]

Mr. Leabough - Second.



Mr. Branin - Motion by Mr. Archer, seconded by Mr. Leabough. All in favor say aye. All opposed say no. The ayes have it; the motion passes.

The Planning Commission approved POD2012-00193, Dominion Fiber Technologies Expansion, subject to the annotations on the plans, the standard conditions attached to these minutes for developments of this type, and the following additional conditions:

- 11B. Prior to the approval of an electrical permit application and installation of the site lighting equipment, a plan including light spread and intensity diagrams, and fixture specifications and mounting heights details shall be revised as annotated on the staff plan and included with the construction plans for final signature.
29. Outside storage shall not be permitted.
30. The loading areas shall be subject to the requirements of Chapter 24, Section 24-97(b) of the Henrico County Code.
31. Approval of the construction plans by the Department of Public Works does not establish the curb and gutter elevations along the Henrico County maintained right-of-way. The elevations will be set by Henrico County.
32. The location of all existing and proposed utility and mechanical equipment (including HVAC units, electric meters, junction and accessory boxes, transformers, and generators) shall be identified on the landscape plans. All equipment shall be screened by such measures as determined appropriate by the Director of Planning or the Planning Commission at the time of plan approval.
33. The limits and elevations of the Special Flood Hazard Area shall be conspicuously noted on the plan and labeled "Limits of Special Flood Hazard Area." In addition, the delineated Special Flood Hazard Area must be labeled "Variable Width Drainage and Utility Easement." The easement shall be granted to the County prior to the issuance of any occupancy permits.

Ms. News - The final item is on page 18 of your agenda and is located in the Three Chopt District. This is SUB2012-00043, Pouncey Place (April 2012 Plan). This is a zero lot subdivision for a road dedication. There is an addendum item on page two of your addendum, which includes a revised plan noting that a building encroachment will be removed out of the right-of-way. Staff can recommend approval.

#### **SUBDIVISION** (*Deferred from the May 23, 2012 Meeting*)

SUB2012-00043  
Pouncey Place (April 2012  
Plan) – 4521 Pouncey  
Tract Road (State Route  
271)

**Bay Companies, Inc. for Pouncey Tract Company of Virginia, LLC and the Commonwealth of Virginia:** The 12.72-acre site proposed for a public road dedication is located on the east line of Pouncey Tract Road (State Route 271), approximately 580 feet south of the intersection of Pouncey Tract Road and Twin Hickory Lake Drive, on part of parcels 740-765-2150 and 7333. The zoning is A-1, Agricultural District, B-2C, Business District (Conditional), and WBSO, West Broad Street Overlay District. County water and sewer. **(Three Chopt) 0 Lot**

295  
296 Mr. Archer - Mr. Chairman, excuse me please. Before we move on, I  
297 referred to an addendum item. [Referring to previous case POD2012-00193] That was  
298 the wrong case. That was for Dunkin' Donuts, so forget the addendum item part of my  
299 motion. I apologize.

300  
301 Mr. Branin - So noted.

302  
303 Mr. Archer - Thank you.

304  
305 Mr. Branin - Is anyone in opposition to SUB2012-00043, Pouncey Place  
306 (April 2012 Plan)? No one? Then, I would like to move that SUB2012-00043, Pouncey  
307 Place (April 2012 Plan), be approved on the expedited agenda with the annotations on  
308 the plan, the revised plan, and Conditions #11 through #15.

309  
310 Mrs. Jones - Second.

311  
312 Mr. Branin - Motion by Mr. Branin, seconded by Mrs. Jones. All in favor  
313 say aye. All opposed say no. The ayes have it; the motion passes.

314  
315 The Planning Commission granted conditional approval to SUB2012-00043, Pouncey  
316 Place (April 2012 Plan), subject to the standard conditions attached to these minutes for  
317 subdivisions served by public utilities for a road dedication, the annotations on the plans,  
318 and the following additional conditions:

- 319  
320 11. The details for the landscaping to be provided within the median and along both  
321 sides of the proposed roadway shall be submitted to the Department of Planning for  
322 review and approval prior to recordation of the plat, and a maintenance agreement  
323 shall be entered into with the Department of Public Works for landscape features  
324 within the right-of-way.  
325 12. Any necessary offsite drainage easements must be obtained prior to final approval  
326 of the construction plan by the Department of Public Works.  
327 13. The proffers approved as part of zoning cases C-27C-05 and C-11C-12 shall be  
328 incorporated in this approval.  
329 14. The developer shall remove the adjacent building outside of the proposed right-of-  
330 way prior to final approval by the Department of Public Works.  
331 15. A concrete sidewalk meeting County standards shall be provided along the north  
332 side of the proposed road.

333  
334 Ms. News - That completes our expedited agenda.

335  
336 Mr. Emerson - Mr. Chairman, that now takes us to Subdivision Extensions of  
337 Conditional Approval. Those will be presented by Mr. Lee Pambid.

338  
339 **SUBDIVISION EXTENSIONS OF CONDITIONAL APPROVAL**

340  
341 **FOR INFORMATIONAL PURPOSES ONLY**

Subdivision	Original No. of Lots	Remaining Lots	Previous Extensions	Magisterial District	Recommended Extension
SUB2011-00042 (SUB-05-11) The Townes at Oakley's Bluff (June 2011 Plan)	131	86	0	Varina	6/26/2013
SUB2011-00033 (SUB-62-07) The Village at Olde Colony Reconsideration (November 2007 Plan)	9	3	0	Varina	6/26/2013

343

344 Mr. Branin - Good morning, Mr. Pambid.

345

346 Mr. Pambid - Good morning, Mr. Chairman and members of the Planning  
 347 Commission. This map indicates the location of two subdivisions that are presented for  
 348 extensions of conditional approval. They are eligible for a one-year extension to June 26,  
 349 2013. This is for informational purposes only and does not require Commission action at  
 350 this time. This concludes my presentation. I can now field any questions you have  
 351 regarding this.

352

353 Mr. Branin - Does anybody have any questions for Mr. Pambid? No one?  
 354 Mr. Pambid, it looks like you're getting off easy today.

355

356 Mr. Pambid - Thank you. I appreciate that.

357

358 Mr. Emerson - Mr. Chairman, that now takes us to page seven of your  
 359 regular agenda.

360

### 361 TRANSFER OF APPROVAL AND RECONSIDERATION OF APPROVED CONDITION

362

POD-85-77  
 POD2012-00151  
 Total Packaging Services  
 (Formerly Continental  
 Forest Industries) – 2900  
 Sprouse Drive

**Spotts Fain, P.C. for Waterville Properties, LLC and Crown Cork & Seal Company, Inc. Real Estate Retirement Trust:** Request for transfer of approval as required by Chapter 24, Section 24-106 of the Henrico County Code from Rosemary Ann Martin and Continental Illinois Realty to Waterville Properties, LLC. The 17.18-acre site is located along the east line of S. Airport Drive, opposite its intersection with Sprouse Drive, on parcel 819-705-5589. The zoning is M-1, Light Industrial District, M-2, General Industrial District, and ASO, Airport Safety Overlay District. County water and sewer. **(Varina)**

363

364 Mr. Branin - Is there any opposition to transfer of approval for POD-85-77,  
 365 Total Packaging Services (Formerly Continental Forest Industries)? No one? Good  
 366 morning, Mr. Wilhite.

367  
368 Mr. Wilhite - Thank you, Mr. Chairman.  
369

370 The applicant has just closed on this property within the last two weeks. They will be  
371 submitting a landscape and lighting plan for approval and will be addressing the  
372 deficiencies that were identified in the inspection of the site. They hope to occupy the  
373 building in September at this point. We have conditions that address the landscape and  
374 lighting plan approval and correction of deficiencies prior to a certificate of occupancy  
375 being issued on this site. There is also one original condition for the POD approval back  
376 in 1977 that required right-of-way dedication along the southern property line here. It was  
377 the extension of Sprouse Drive. Subsequent approval of a plan of development on the  
378 property to the south and change in ownership along this boundary line has made it  
379 impossible for them to meet this condition. Staff is recommending deletion of Condition  
380 #20 from the original approval of POD-85-77.  
381

382 Mr. Branin - Okay. Does anybody have any questions for Mr. Wilhite? All  
383 right.  
384

385 Mr. Leabough - Mr. Chairman, I move that we approve the transfer of  
386 approval for POD-85-77, Total Packaging Services (Formerly Continental Forest  
387 Industries), with Conditions #1 through #3 as noted on the agenda.  
388

389 Mr. Witte - Second.  
390

391 Mr. Branin - Motion by Mr. Leabough, seconded by Mr. Witte. All in favor  
392 say aye. All opposed say no. The ayes have it; the motion passes.  
393

394 The Planning Commission approved the transfer of approval request for POD-85-77,  
395 Total Packaging Services (Formerly Continental Forest Industries), from Rosemary Ann  
396 Martin and Continental Illinois Realty to Waterville Properties, LLC, subject to the  
397 standard and added conditions previously approved and the following additional  
398 conditions:  
399

- 400 1. A landscaping and lighting plan shall be submitted and approved prior to the  
401 issuance of a Certificate of Occupancy.
- 402 2. The pavement, striping, landscaping, and lighting deficiencies identified during the  
403 site inspection shall be corrected prior to the issuance of a Certificate of  
404 Occupancy.
- 405 3. Condition #20 of the Planning Commission approval of POD-85-77 shall be  
406 deleted.  
407  
408

409 **ALTERNATIVE FENCE HEIGHT PLAN**

410  
411 LP/POD-07-10  
412 POD2012-00023  
413 Metromont Corporation  
414 Site Improvements - 1640  
415 Darbytown Road  
416 (POD-47-80 Rev.)

**Engineering Design Associates for Metromont Corporation:** Request for approval of an alternative fence height plan, as required by Chapter 24, Sections 24-95(l)(5), 24-106, and 24-106.2 of the Henrico County Code, to allow a fence exceeding a height of 42 inches in the front yard. The 65.23-acre site is located on the north line of Darbytown Road, approximately 750 feet east of Oregon Avenue, on parcels 806-710-8061 and 807-710-5764. The zoning is M-2, General Industrial District, M-2C, General Industrial District (Conditional) and ASO, Airport Safety Overlay District. County water and sewer. **(Varina)**

417  
418 Mr. Branin - Is there any opposition to LP/POD-07-10, Metromont  
419 Corporation Site Improvements? No one?

420  
421 Mr. Kennedy - Good morning Mr. Chairman, members of the Commission.  
422 The alternative fence height proposes a six-foot-high chain link fence extending close to  
423 the front of the property. A landscape plan has been submitted by the applicant for  
424 current approval by staff. The landscape plan for peripheral parking is equal to the ten-  
425 foot transitional buffer on the front of the fence. The fence satisfies the requirements of  
426 the code for an alternative fence height. The code provides that the Planning  
427 Commission, pursuant to review and approval of a landscape plan shall permit an  
428 alternative fence height—*shall* is the operative word—exceeding three feet, six inches,  
429 but not exceeding ten feet, and a uniform design in the front yard or on the front yard  
430 line, provided the height and design do not affect the following items:

- 431 • the health, safety, and welfare of persons residing and working on the premises;
- 432 • the visibility and value of abutting or adjacent properties;
- 433 • adequate supply of light and air to adjoining properties;
- 434 • traffic or pedestrian safety; and,
- 435 • adequate sight distance.

436  
437 The fence does meet all those requirements, and staff has no objections to the request.

438  
439 Mr. Branin - Okay. Does anyone have any questions?

440  
441 Mr. Leabough - I have one question. Mr. Kennedy, the fence that we're being  
442 asked to approve the exception for, is that only going to span the length of the new  
443 development there on that site?

444  
445 Mr. Kennedy - Yes, sir. Just along the front of where that office section is.

446  
447 Mr. Leabough - And then once you get past the new office section, then that  
448 would be the concrete wall?

444  
445 Mr. Kennedy - Yes, sir.  
446  
447 Mr. Leabough - And that was previously approved, correct?  
448  
449 Mr. Kennedy - That was previously approved with the POD.  
450  
451 Mr. Leabough - So, this is just an exception to the fence height for that?  
452  
453 Mr. Kennedy - For that one section. The remaining section—when they take  
454 that building and demolish that building—they're required to put up a ten-foot-high  
455 concrete wall, and that will be landscaped.  
456  
457 Mr. Branin - Mr. Kennedy, can you do me favor? Adjust that microphone  
458 so we can hear what you're saying. We can't hear you up at this end.  
459  
460 Mr. Kennedy - Yes, sir.  
461  
462 Mr. Branin - Thank you, sir. Does anybody have any other questions for  
463 Mr. Kennedy? All right.  
464  
465 Mr. Leabough - Mr. Chairman, I move that we approve the alternative fence  
466 height request, the exception, for LP/POD-07-10, Metromont Corporation Site  
467 Improvements, subject to the standard conditions for alternative fence height plans.  
468  
469 Mrs. Jones - Second.  
470  
471 Mr. Branin - Motion by Mr. Leabough, seconded by Mrs. Jones. All in  
472 favor say aye. All opposed say no. The ayes have it; the motion passes.  
473  
474 The Planning Commission approved LP/POD-07-10, Metromont Corporation Site  
475 Improvements, subject to the standard conditions for alternative fence height plans.  
476  
477

178 **PLAN OF DEVELOPMENT** *(Deferred from the May 23, 2012 Meeting)*

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POD2012-00149  
Dunkin' Donuts at Glen  
Lea Shopping Center –  
3800 Mechanicsville  
Turnpike (U.S. Route 360)

**Vanesse, Hangen, Brustlin, Inc. for PCS Glen Lea, LLC and Dunkin' Brands, Inc.:** Request for approval of a plan of development, as required by Chapter 24, Section 24-106 of the Henrico County Code, to construct a one-story 1,800 square-foot restaurant with drive-through facilities. The 0.69-acre site is located on an outparcel in an existing shopping center on the west line of Mechanicsville Turnpike (U.S. Route 360), in the northwest quadrant of the intersection of Laburnum Avenue and Mechanicsville Turnpike, on part of parcel 802-736-8028. The zoning is B-2, Business District and ASO, Airport Safety Overlay District. County water and sewer. **(Fairfield)**

Mr. Branin - Is there any opposition to POD2012-00149 Dunkin' Donuts at Glen Lea Shopping Center? No one? Mr. Pambid.

Mr. Pambid - Good morning again.

The proposal is for a 1,720-square-foot restaurant with a drive-through. The pad site is located within an existing shopping center, and access is maintained internally with no direct connections to either Mechanicsville Turnpike or Laburnum Avenue.

A significant amount of concrete is proposed at one of the entrances to the building, and staff recommends that this area be reconfigured to accommodate landscaping. The plan shows two mature ash trees being removed, and staff suggests that the one-way egress point be reconfigured and a parking space be deleted to retain these trees. That's in this vicinity right here.

The plan that was distributed this morning in your addendum shows angled parking required by Public Works, Traffic Division, since a one-way drive aisle is proposed around the entire building. The plan highlights the areas of the shifted egress point, the deleted parking space, the two saved trees, and the landscape area. The engineer has recently demonstrated that it is possible to retain these trees by shifting the egress point and deleting one parking space.

The Department of Public Utilities can recommend approval with the inclusion of Condition #36 that requires documentation that the existing private pump station and force main have the adequate capacity to serve the proposed development, that the owner of the private system has granted permission to connect, and that a certificate to construct has been issued by the Virginia Department of Environmental Quality.

The building is constructed of light beige split-face CMU, dark brown cement board, and dark cream-colored EIFS.

512 The staff recommends approval subject to the annotations on the plan, the standard  
513 conditions for developments of this type, additional Conditions #29 through #36, and  
514 Condition #37 that evidence of an ingress and egress and maintenance agreement be  
515 filed with the County staff prior to the issuance of a certificate of occupancy.

516  
517 This concludes my presentation. Staff can now field any questions you have regarding  
518 this. Bryan Stevenson with VHB Engineers is also here.

519  
520 Mr. Branin - Okay. Does anybody have any questions for Mr. Pambid?

521  
522 Mrs. Jones - I do. Mr. Pambid, did I understand you to say that the  
523 applicant is amenable to including the landscaping recommendations that you have put  
524 on this revised plan?

525  
526 Mr. Pambid - That is correct. We spoke at length yesterday about a design  
527 for a planter in the area that's in question. They are willing to do that.

528  
529 Mrs. Jones - And the access will be shifted and all of that?

530  
531 Mr. Pambid - The access will be shifted.

532  
533 Mrs. Jones - Okay, okay.

534  
535 Mr. Pambid - Bryan Stevenson is also here to address any questions about  
536 that as well. We've been discussing that ever since yesterday.

537  
538 Mrs. Jones - Thank you.

539  
540 Mr. Branin - Mr. Archer, I just have a couple of questions, if I may.

541  
542 Mr. Archer - Certainly.

543  
544 Mr. Branin - Can I talk to the applicant? When you come up, if you'd state  
545 your name for the record.

546  
547 Mr. Stevenson - Bryan Stevenson. I'm with VHB.

548  
549 Mr. Branin - Mr. Stevenson, this looks like it's a new prototype coming in.

550  
551 Mr. Stevenson - That is correct. They've put some into place already, but yes,  
552 it's a new prototype.

553  
554 Mr. Branin - Is Dunkin' Donuts Corporation now looking to do expansions?

555  
556 Mr. Stevenson - Yes. This is one they're putting in the area, yes.

557



558 Mr. Branin - Okay. That's all I have.  
559  
560 Mr. Stevenson - Okay.  
561  
562 Mr. Branin - Thank you. Mr. Archer, I've been trying to get a doughnut  
563 place out in the West End in the Three Chopt District.  
564  
565 Mr. Archer - Do you like the prototype?  
566  
567 Mr. Branin - Well, not particularly, but I have asked for Krispy Kreme,  
568 Dunkin' Donuts, and all the others to be contacted whenever someone's doing a new  
569 shopping center. There's been a freeze on doughnut stores opening up, so that's why I  
570 asked the question.  
571  
572 Mr. Archer - Okay. Well, when this one is open you're welcome to come to  
573 Fairfield. I don't have any other questions. The only question I have, Mr. Pambid, the  
574 revised layout, do we need to waive time limits on that?  
575  
576 Mr. Pambid - We do need to waive time limits, yes, sir.  
577  
578 Mr. Archer - Okay, thank you, Mr. Pambid. Anybody else? Mr. Chairman, I  
579 move to waive time limits on the revised plan that was received in the addendum this  
580 morning.  
581  
582 Mrs. Jones - Second.  
583  
584 Mr. Branin - Motion by Mr. Archer, seconded by Mrs. Jones. All in favor  
585 say aye. All opposed say no. The ayes have it; the motion passes. Time limits are  
586 waived.  
587  
588 Mr. Archer - Okay. Then I move for approval of POD2012-00149 Dunkin'  
589 Donuts at Glen Lea Shopping Center, subject to the annotations on the plans, the  
590 standard conditions for developments of this type, the additional conditions as listed on  
591 the agenda, the additional addendum Condition # 37, and the revised layout.  
592  
593 Mr. Leabough - Second.  
594  
595 Mr. Branin - Motion by Mr. Archer, seconded by Mr. Leabough. All in favor  
596 say aye. All opposed say no. The ayes have it; the motion passes.  
597  
598 The Planning Commission approved POD2012-00149 Dunkin' Donuts at Glen Lea  
599 Shopping Center, subject to the annotations on the plans, the standard conditions  
600 attached to these minutes for developments of this type, and the following additional  
601 conditions:  
602

29. A concrete sidewalk meeting VDOT standards shall be provided along the west side of Mechanicsville Turnpike (U.S. Route 360).
30. Outside storage shall not be permitted.
31. In the event of any traffic backup which blocks the public right-of-way as a result of congestion caused by the drive-up facilities, the owner/occupant shall close the drive-up facilities until a solution can be designed to prevent traffic backup.
32. The location of all existing and proposed utility and mechanical equipment (including HVAC units, electric meters, junctions and accessory boxes, transformers, and generators) shall be identified on the landscape plan. All building mounted equipment shall be painted to match the building, and all equipment shall be screened by such measures as determined appropriate by the Director of Planning or the Planning Commission at the time of plan approval.
33. Only retail business establishments permitted in a B-2 zoning district may be located in this center.
34. The ground area covered by all the buildings shall not exceed in the aggregate 25 percent of the total site area.
35. No merchandise shall be displayed or stored outside of the building(s) or on sidewalk(s).
36. The following items shall be addressed to the satisfaction of the Director of Public Utilities prior to approval of construction plans:
- a. Provide certification that the private pumping station and force main has adequate capacity for the addition of flow for this project.
  - b. Provide written permission from the owner of the private sewer to allow connection of the sewer from this project.
  - c. Provide evidence of approval of the plans by the state water control board in the form of a Certificate to Construct issued by the Virginia Department of Environmental Quality.
37. **ADDED** - Evidence of a joint ingress/egress and maintenance agreement shall be submitted to the Planning Office and approved prior to issuance of a certificate of occupancy.

Mr. Emerson - Mr. Chairman, that now takes us to the consideration of approval of your minutes from your May 23, 2012 meeting.

APPROVAL OF MINUTES: May 23, 2012 Minutes

Mr. Branin - Everybody, I'm sure, got a call ahead of time and submitted any changes. Are there any additional changes? None? Then, I will entertain a motion.

Mrs. Jones - I move we approve the minutes as corrected.

Mr. Archer - Seconded.

Mr. Branin - Motion by Mrs. Jones, seconded by Mr. Archer. All in favor say aye. All opposed say no. The ayes have it; the motion passes. Those minutes are approved.

549  
650 The Planning Commission approved the May 23, 2012 minutes as corrected.

651  
652 Mr. Emerson - Mr. Chairman, that now takes us to the work session portion  
653 of your meeting today. As you're aware, on June 12, 2012, the Board of Supervisors did  
654 adopt a resolution requesting the Planning Commission to study and recommend  
655 amendments to the zoning ordinance regarding noncommercial signage without a sign  
656 permit. We briefly went over this with you at the last meeting so you could begin to think  
657 about it. With that said, this item will be presented by Mr. Ben Blankinship.

658  
659 Mr. Branin - Good morning, Mr. Blankinship.

660  
661 Mr. Blankinship - Good morning, Mr. Chairman. Good morning members of the  
662 Commission.

663  
664 Mr. Branin - What excitement do you have for us today, sir?

665  
666 Mr. Blankinship - Well, as I'm sure everyone remembers, we briefly discussed  
667 this item two weeks ago at the rezoning meeting just to get it onto your calendar and ask  
668 you to set today as the work session.

669  
670 The subject before us is noncommercial signs and, particularly, when to require permits  
671 for noncommercial signs. What's really the focus of this amendment is that staff was  
672 going to recommend allowing additional signs without permits in addition to what is  
673 already allowed without permits.

674  
675 Just to briefly bring you back up to date, Section 24-104 is our sign ordinance. It allows  
676 specific types of signs in each zoning district. There is also a prohibition on any sign that  
677 is not specifically allowed in the zoning district. So, it's like most zoning ordinances in  
678 that a use has to be listed as permitted, and if it's not listed, the presumption is that it's  
679 not permitted.

680  
681 There is also a requirement for a sign permit for every sign that is allowed unless it  
682 meets one of a list of exemptions. A brief form of that list of exemptions is on the screen  
683 now. I want to call your attention particularly to C and D—two-square-foot signs  
684 advertising real estate for sale, three-square-foot signs prohibiting trespassers, and other  
685 signs of that nature. The language that addresses noncommercial signs is in 24-  
686 104(b)(7) where it says, "Prohibited Signs. Any sign not specifically permitted is  
687 prohibited provided, however, that any permitted sign is allowed to contain  
688 noncommercial speech in lieu of any other speech." So, it is already the law that  
689 anywhere a sign is allowed that would carry a commercial message, such as real estate  
690 for sale, the property owner can put up a sign that meets the same specification with any  
691 noncommercial message whether it's a religious message, a political message—any  
692 other noncommercial message can be substituted for any commercial sign that's  
693 permitted.

So, in residential zoning districts, for example, a “real estate for sale” sign—I already mentioned that a two-square-foot “real estate for sale” sign is allowed without a permit, which means that a two-square-foot noncommercial sign is already allowed without a permit. A “real estate for sale” sign up to 32 square feet is listed in the code today as a permitted sign in the residential zoning districts, and that requires a permit. Because that’s already in the code now, it’s already allowed for the property owner to substitute noncommercial speech. You can put up a 32-square-foot sign with a noncommercial message today, if you get a permit. So, up to two square feet, no permit. Between two and 32 requires a permit. Over 32 square feet would not be allowed in residential districts. Of course, it would in business or industrial districts.

These are a few examples of the kinds of signs that we’re already seeing and that we expect we’ll see many more of between now and the first week of November. These signs are three square feet in area, and that’s a very typical size for both real estate signs and political signs. These are a couple of noncommercial signs just to make sure we’re not too focused on political signs. Any noncommercial message would be allowed under this amendment. The top sign there is 14 square feet; the bottom is 11 square feet. So, that total sign area there is 25 square feet, and this is a 32-square-foot sign, a four by eight-foot sign. This is actually the one that began this discussion. Staff notified the owner of this property that this sign required a permit. He came to the Board of Supervisors meeting to ask the question why a permit is required, and he asked the Board to consider changing the regulations and to not require a permit for signs of this nature. So, that’s the sign that brought us to you this morning. This is an example of two 32-square-foot signs next to each other in front of a residential property on River Road.

Of course, whenever we talk about signs there are several legal considerations that we have to bear in mind. Commercial and noncommercial signs are considered speech and are protected by the First Amendment to the Constitution. That does not mean that we can’t regulate them at all. It means the localities may regulate signs, but the regulations must be narrowly tailored to advance substantial government interests such as traffic safety and aesthetics. In general, we can regulate the time, place, and manner of any form of speech, and that includes signs. We can regulate the time, place, and manner of speech through signs, provided that, as stated above, it’s narrowly tailored to advance a substantial interest and also provided that it’s viewpoint neutral. We can’t favor some messages over other messages. When the government limits what sort of argument can be made in the public forum, then the government is going too far, according to some Supreme Court cases in terms of regulating speech. So, we are allowed to regulate time, place, and manner, but we have to remain viewpoint neutral. We can’t regulate what the message is that’s proclaimed.

Specifically, sign regulations cannot favor commercial speech over noncommercial speech. We have to give at least as much deference to religious speech and political speech as we do to any form of commercial speech. That’s been laid down very clearly for us, again by the U. S. Supreme Court.

740 Finally, the most recent word on this was a June 1 opinion by the Attorney General. The  
741 question asked was can a local government regulate temporary political signs more  
742 restrictively than they do other temporary signs. The Attorney General's opinion was no,  
743 you cannot. Anything that you allow for commercial speech, you have to allow  
744 noncommercial speech at least as much deference.  
745

746 So, there are really three questions—or I think it's going to grow to a few more than  
747 three. I'm starting with these three questions to bring before you this morning. Should the  
748 County continue to require a permit for political campaign signs and other  
749 noncommercial signs exceeding three square feet in area? Again, the question is not  
750 really are we going to allow these signs; they're already allowed. The question is, now  
751 we require a permit for between three and 32 square feet in a residential area. Should  
752 we continue to require that permit?  
753

754 The second question is, what should the area and height limits for such signs be? Right  
755 now, the limit for real estate signs is 32-square feet. Some other signs in residential  
756 zoning districts are limited to eight feet in height. For almost all of those larger signs in  
757 residential districts, there is a setback of 15 feet for any property line. So, those are  
758 some of the questions that are on the table this morning.  
759

760 Finally, should the County impose a maximum area limitation for such signs? Right now,  
761 it says for "real estate for sale" signs you can have one sign that's 32 square feet. Should  
762 we continue that? Should it be one sign? Should it be up to 32 square feet of sign area  
763 so you could have ten three-square-foot signs if you want? How exactly should we  
764 regulate the number of signs in those areas?  
765

766 The recommendations that we have been putting together as we've considered this at a  
767 staff level is that we should allow political and other noncommercial signs without  
768 requiring a sign permit with the following limitations. We began with up to 32 square feet  
769 of sign area per lot because we already had that limitation on some other kinds of signs  
770 in residential areas. Since I spoke to you two weeks ago, the concern has been  
771 expressed that number may be too large—that 32 square feet may be too large of a sign  
772 area. For example, on townhouse lots that are only 22 or 24 feet wide, or on zero-lot-line  
773 lots where you only have 35 feet of frontage and 50 feet of width, it might be excessive to  
774 allow a 32-square-foot sign on each lot without requiring a permit. So, we do want to  
775 continue to consider that number. We may want to bring that down. The catch there is if  
776 we reduce it for noncommercial speech, we have to reduce it for commercial speech as  
777 well. So, it would be a little bit more detailed in the amendment to reduce other types of  
778 signs to whatever limit we're comfortable with for noncommercial signs. We can't  
779 regulate these signs more strictly than we do commercial signs.  
780

781 We are recommending sticking with the eight-foot height limit; that seems to work well for  
782 this sort of thing. Of course, no sign should be allowed to be located in the sight distance  
783 triangle because that leads directly to traffic concerns. We're also proposing that the  
784 setback for these signs, particularly in one-family districts, would have to meet the same

785 setbacks as other signs, which is generally 15 feet from any property line, whether it's a  
786 right-of-way, or a side, or a rear.

787  
788 As we mentioned, we are trying to move this amendment through with all deliberate  
789 speed so that we can have new regulations in place before the November election really  
790 hits us in full force. It's already, of course, very much on the TV, and there are some  
791 signs out there. We would like to get ahead of that rather than play catch-up again, so  
792 we are looking at a fairly aggressive schedule. Today is the work session. We'd like for  
793 you to hold a public hearing on July 12 so that we can have it before the Board of  
794 Supervisors for work session on the 24 and they'll be set up to hold their public hearing  
795 on August 14.

796  
797 With that, I'll be happy to try to answer your questions.

798  
799 Mr. Emerson - Mr. Chairman, if I could, before we begin discussion—and Mr.  
800 Blankinship did touch on it; you're aware of this. For the record, Mr. Kaechele did contact  
801 me with the concern about the signage being too large for some residential lots, 32-  
802 square feet. I'm sure Mr. Thornton will recall he had that concern when the Board  
803 discussed this. He requested that I make the Commission aware of his concern  
804 regarding the size of this type of signage that could stay up for an indefinite period of  
805 time on smaller lots. Specifically, he used as an example a 20-foot RTH lot. So, he does  
806 have that concern.

807  
808 Mr. Branin - With that in mind, Mr. Blankinship, can we restrict the size  
809 and point out—restrict on R-5A, RTH, and then where we know the lot size is larger, like  
810 an R-3, leave it where it is?

811  
812 Mr. Blankinship - We certainly can. Right now, the way it's listed in the  
813 ordinance, we have a set of signs that are allowed in the R-0 through R-4A districts and  
814 the R-5A. There are a couple of other districts all grouped together. What we could do is  
815 break that out and R-0 to, say, R-2 or R-2A would be allowed 32 square feet, and all of  
816 the other signs would remain the same. Then, we'd have a new category for R-2A or R-3  
817 or whatever through all the other smaller lots. In those, we'd have to limit the "for sale"  
818 signs. Any other sign that's allowed would have to be limited to 16 square feet, or  
819 whatever number the Commission or the Board picked. By doing that, I think we could  
820 have a separate section for those zoning districts, as long as we treat noncommercial  
821 signs with at least as much deference as commercial signs in those districts. That has  
822 not been vetted by the County Attorney's office. The deputy County attorney is here this  
823 morning. I don't know if he wants to speak to this or not.

824  
825 Mr. Emerson - Ben, is it possible we could—you know, one of the things that  
826 concerns me is you could have an R-2 lot that's an acre. You could have an R-5 lot that  
827 could be 80 feet wide. That's not normal, but you could. Versus zoning categories,  
828 should it be based on width of lot? I know that complicates it.

829  
830 Mr. Blankinship - Yes, that's another approach that could be taken.

831  
832 Mr. Emerson - From an administrative standpoint that would complicate it a  
833 lot.

834  
835 Mr. Blankinship - My immediate impression of that is that it would lead to an  
836 argument that a person with a wider lot has more right to political speech than a person  
837 with a narrow lot. To me, that could be more problematic than separating it by zoning  
838 district, but, again, we haven't had an opportunity yet to discuss this in detail with the  
839 County attorneys.

840  
841 Mr. Witte - We could align this—or can we—with the setbacks for the  
842 zoning or minimum lot square footage?

843  
844 Mr. Blankinship - Yes, sir. In brief, that's what I'm suggesting doing by saying  
845 there's one set of rules for R-0 to R-2 and a different set for R-2A or R-3, wherever you  
846 want to draw the line.

847  
848 Mr. Witte - That's not restricting anybody's freedom of speech by  
849 changing the lot size for different size lots, sign sizes?

850  
851 Mr. Blankinship - Right, it would just be by zoning district, which to me is a  
852 basis on which we already regulate.

853  
854 Mrs. Jones - Mr. Blankinship, just to follow that up. I do have just a couple  
855 of questions, if I could, Mr. Chairman.

856  
857 Mr. Branin - Absolutely.

858  
859 Mrs. Jones - Okay. I didn't want to jump in. Just to follow up on that point,  
860 obviously what we're looking at is scale.

861  
862 Mr. Blankinship - Proportion.

863  
864 Mrs. Jones - What we're trying to do is create a situation that's not just  
865 arbitrary. What we're trying to do is to make sure that we don't get into safety issues  
866 such as a large sign on a very small lot and people can't see coming and going. So, I  
867 think there are a lot of very solid reasons why there might be a delineation, and it seems  
868 logical to me that the R-2 or R-2A might be the dividing point simply because of the  
869 nature of the neighborhoods in which these different zoning districts are. That can be  
870 something we work out later.

871  
872 Before we get too much further, just so I'm sure I'm understanding what you're saying,  
873 could you define noncommercial?

874  
875 Mr. Blankinship - Certainly. It's any speech that is not commercial.

877 Mrs. Jones - Okay.  
878  
879 Mr. Blankinship - It is not a term that is defined in the zoning ordinance.  
880 Typically, *commercial* means relating to a business, and so noncommercial would be all  
881 other. Commercial speech is related directly to a business. For example, when we get  
882 into school buses is the other time when we have to split this hair. You have to have a  
883 commercial driver's license to drive a school bus, but a County school bus is not a  
884 commercial vehicle because the vehicle is not used in connection with commerce.  
885  
886 Mrs. Jones - What I guess I'm getting at is—what I'd love to see is—having  
887 us come to an answer that doesn't create more problems than it solves because of  
888 enforcement issues or whatever. I'm trying to play devil's advocate with this. If a sign  
889 refers to an enterprise that collects fees or provides some commercial element—and  
890 we're talking about like the preschool or maybe an estate sale—I don't know. Whatever it  
891 is, it's a commercial enterprise, but it's not a standard commercial sign because it's not  
892 something that's necessarily going to be up there all the time, which brings me to my  
893 second point. Is there a differentiation in the code between temporary and permanent,  
894 and how are those defined?  
895  
896 Mr. Blankinship - We do use the word *temporary* with respect to signs quite a  
897 bit in the code. There are some cases where that's fairly clearly defined, for example on  
898 real estate for rent, or sale, it says that it has to be removed within so many days of the  
899 sale or rental of the real estate. Now, as we're all aware, that doesn't work the way you  
900 think it will because if you have a shopping center with 30 storefronts, as long as one of  
901 them is vacant and for rent, you can keep your sign up. Those "real estate for rent" signs  
902 tend to become permanent. Apartments are the same way. If you have 300 apartments  
903 with a 99 percent occupancy rate, and you have three apartments vacant at any given  
904 time, you can have a sign up that says, "Apartments for rent."  
905  
906 In political speech, there have been some challenges in court of ordinances that limited  
907 the time period that a sign could be up either before or after the election. Some of those  
908 have survived, but most of them, my understanding is, have been struck down.  
909  
910 Mrs. Jones - They've been struck down which way?  
911  
912 Mr. Blankinship - Struck down in terms of not allowing the time limitation. Here  
913 is the other problem. This is a political sign that makes a political statement, but there is  
914 virtually no limit on the time period that this political statement would be germane.  
915  
916 Mrs. Jones - Because it's not linked to an event.  
917  
918 Mr. Blankinship - Right. It's not like a campaign sign. We would be treading on  
919 thin ice if we were to say campaign signs can go up this date and come down that date,  
920 but this sign could stay up as long as this person is unhappy with the government or  
921 whatever.  
922



923 Mrs. Jones - Just so that I understand the process now, if this person  
924 came into our offices and asked for a permit, would there be a problem with him getting a  
925 permit do you think?  
926

927 Mr. Blankinship - Not necessarily. This one, actually, I think is also too close to  
928 a property line. He wasn't actually served a notice. He was notified that the sign was  
929 unlawful and that he had to get a permit for the sign. I believe as part of getting the  
930 permit, he did have to move the sign.  
931

932 Mrs. Jones - Okay. So, what we're considering now, there is no  
933 differentiation between what would be considered temporary or—for instance, anything  
934 advertising an event of any kind would be considered, I guess, a temporary sign because  
935 it's geared to a time. This gets awfully—  
936

937 Mr. Blankinship - It does. The fact is when people put up signs for temporary  
938 events, they generally take them down. When they put up campaign signs, they  
939 generally take them down fairly promptly. If we were to require it to be taken down—it's  
940 not so much taking down as putting up. If we were to say you can put it up 45 days  
941 before the election, but you can't put it up 46 days before the election, that's the sort of  
942 thing I think the courts have been pretty strict about. They don't want us to put that time  
943 limit on it.  
944

945 Mrs. Jones - How many complaints do we get, generally on a yearly basis  
946 or whatever about signage?  
947

948 Mr. Blankinship - Mr. Strickler is here, and if you really need the details on that  
949 I'll invite him up. I know it's not that many. I think we're looking in the nature of ten a  
950 year. The problem is the nature of the complaints tends to be people are accusing the  
951 County of discriminating based on political feeling. I've had enough of these phone calls  
952 to speak of this in the first person. People call me and yell at me that the County is  
953 favoring one political party over the other because of the way we handle political signs.  
954 There was an article in the newspaper a couple of years ago that basically said the  
955 County does not enforce its sign ordinance. So, there aren't that many complaints, but  
956 when they come in they're the kind of complaints that we'd really like to not have.  
957

958 Mr. Branin - Any other questions?  
959

960 Mr. Archer - Mr. Blankinship, we should give your phone number then. I  
961 did have a question also. Can you put that yellow sign back up again, please? It might  
962 not have been the same sign, but I believe you indicated last time we discussed this that  
963 we only consider the actual footage of that yellow sign?  
964

965 Mr. Blankinship - The ordinance does discriminate between the sign area and  
966 the sign structure, and, in this, I would say the posts are clearly structure.  
967

968 Mr. Archer - And the flag?

969  
 970 Mr. Blankinship - The flags are not regulated; flags are exempt. I would say the  
 971 yellow area that contains the message would be sign area.  
 972  
 973 Mr. Archer - Okay. I was wondering because as Mrs. Jones just indicated,  
 974 if the wind were blowing, those flags are flying. At least one flag could cover a sizable  
 975 area, and it would still sort of be signage, I would think. A flag is just unregulated  
 976 because they are flags.  
 977  
 978 Mr. Blankinship - They are listed as a sign that is allowed without a permit.  
 979  
 980 Mr. Thornton - Mr. Blankinship, I have a hypothetical to ask you. What if a  
 981 sign like this has profanity on it or has racial epithets? My concern is that sometimes  
 982 when we relent to certain groups, we open a different Pandora's Box on some of these  
 983 things here. Sometimes they can come back to haunt us. So, I'm saying what if a person  
 984 put up something like this and it was somewhere between profanity and/or racial  
 985 epithet—would we have to allow that?  
 986  
 987 Mr. Blankinship - You're far enough over my head now that I am going to ask  
 988 Mr. Tokarz if he cares to respond.  
 989  
 990 Mr. Branin - So you're both prepared, Mr. Tokarz, I'm going to ask you to  
 991 come down and answer some questions that we may have and get the feeling of the  
 992 County Attorney's Office. Also, Mr. Strickler, we may have some questions for you, so if  
 993 you'd also be prepared. Sir, would you state your name for the record?  
 994  
 995 Mr. Tokarz - Tom Tokarz with the County Attorney's Office. Members of  
 996 the Commission, we have briefed the Board of Supervisors in closed session to provide  
 997 legal advice to them. What I would propose to you, rather than give you legal advice in  
 998 open session, is to provide legal advice to any questions you would like to forward either  
 999 to me or to the Director of Planning in a closed session prior to your public hearing on  
 1000 July 12. Because of the First Amendment and the Constitutional issues involved, I don't  
 1001 really feel comfortable giving legal advice in the open session. I hope you'll understand  
 1002 that, Mr. Thornton, because your question deals with First Amendment free speech  
 1003 issues. I would prefer to do that in closed session, if that would be acceptable to the  
 1004 Chair.  
 1005  
 1006 Mr. Branin - That would be acceptable and understood.  
 1007  
 1008 Mr. Tokarz - All right. Any questions you may have of a legal nature, you  
 1009 can either forward to me or Mr. Emerson, and I'll be prepared to meet with you like we  
 1010 did with respect to RLUIPA and places of worship. We'll meet with you prior to the public  
 1011 hearing and address all of those for you.  
 1012  
 1013 Mr. Branin - Okay, thank you.  
 1014

1015 Mr. Leabough - I have a question for Mr. Blankinship. I'm just trying to  
1016 understand what's wrong with the way the code is now in terms of requiring that  
1017 someone seek a permit. Now, let me ask this question. In terms of the permit approval  
1018 process, would that process involve the materials from which the sign is made, or does  
1019 that get into that at all? Because, to me, it depends on what the sign is made out of. This  
1020 sign could eventually deteriorate over time. So, then it's not only speech that's there, it's  
1021 an eyesore for the community. Does the permit process look at the materials from which  
1022 a sign is made to make certain that it's durable or anything like that?

1023  
1024 Mr. Blankinship - There are some cases where signs like this might require a  
1025 building permit. If it required a building permit, then Building Inspections would be looking  
1026 at the structural aspect of it and the wind load, that sort of thing. There is never really a  
1027 clear fit between the Building Code and Zoning Ordinance, and it's difficult for us to say  
1028 that this category of zoning signs is exempt from Building Inspections. Basically, any  
1029 painted sign that is unlighted can be considered exempt from the Building Code. So, if it  
1030 is exempt—and I think these sorts of political signs, these would clearly be exempt from  
1031 the Building Code. So, we would not have any review over the materials of that even if  
1032 they applied for a permit. This I'm sure. We would probably route it to Building  
1033 Inspections, but if they looked at it and said that's not covered by the Building Code, then  
1034 no, nobody would be looking at the materials or the durability.

1035  
1036 Mr. Leabough - See, that's what I'm struggling with. What's wrong with the  
1037 way the ordinance is now? I know that people aren't getting the permits required for  
1038 political signs, but I think I agree with Mr. Thornton. I mean, we're opening up a box that I  
1039 don't think we want to open if we start to allow signage up to 32 square feet or 64—  
1040 whatever that number is. In my own personal opinion, I don't know what's wrong with  
1041 what we have today. Now, if it's an enforcement issue, that's something different, but I  
1042 think that we open up Pandora's Box if we allow it to be up to 32 or 64, if we change that  
1043 number. Is it three square feet today?

1044  
1045 Mr. Blankinship - Three square feet without a permit today. These signs are  
1046 allowed but require a permit.

1047  
1048 Mr. Leabough - Just imagine everyone in a neighborhood putting up signs like  
1049 this. To me, just looking at what that would do to a community if we don't control and  
1050 regulate it to some extent—

1051  
1052 Mr. Blankinship - We have had the same discussion among staff that if  
1053 everybody wanted to put up one of these signs, it would be a problem.

1054  
1055 Mr. Leabough - A huge problem.

1056  
1057 Mr. Blankinship - Everyone does have the right to put the sign up now; all they  
1058 have to do is come down and get a permit.

1059  
1060 Mr. Leabough - But most people—your average citizen doesn't know that.

1061  
1062 Mr. Blankinship - Well, that's probably true.  
1063  
1064 Mr. Leabough - So, I think that if we start to open that door by—I don't know. I  
1065 don't know if we want to go there.  
1066  
1067 Mr. Blankinship - Right. One option open to the County is to not take action on  
1068 this.  
1069  
1070 Mr. Branin - Mr. Blankinship, Mr. Tokarz is coming down, and he may be  
1071 able—before you speak—  
1072  
1073 Mr. Tokarz - Let me just step in and talk about the answer to your  
1074 question, and this does not involve anything that is not already public knowledge. The  
1075 way this question came to the Board of Supervisors—Mr. Thornton will remember—the  
1076 gentleman who erected this sign appeared at a public meeting and asked the Board of  
1077 Supervisors why a sign permit was required for a speech in which a political message  
1078 was being provided. He discussed with the Board of Supervisors a Supreme Court case  
1079 called *Ladue* and went through a long discussion about whether the permit required  
1080 imposed a burden in violation of the First Amendment to the Constitution. So, that's the  
1081 argument as to—the proposal is to discuss whether a permit should continue to be  
1082 required for political signs and whether that constitutes a burden on the First  
1083 Amendment. So, that's what has led to staff's review and the recommendation that the  
1084 permit requirement be removed. The fact is right now, under the ordinance, people can  
1085 do political speech up to 32 square feet on a residential lot; they have to get a permit.  
1086 The question was, should a permit continue to be required, and if it's not going to be  
1087 required, should there be any other restrictions? So, that's what's led to the staff  
1088 recommendation today.  
1089  
1090 Mr. Witte - So, any zoning area—residential, commercial, whatever—can  
1091 put up to a 32-square-foot political sign with a permit?  
1092  
1093 Mr. Tokarz - As Mr. Blankinship indicated earlier, every zoning district has  
1094 different sign regulations. What we were focusing on, because this is a residential  
1095 district, is the regulations dealing with residential districts. In a residential district you are  
1096 allowed to put up a real estate sign not exceeding 32 square feet if you have a sign  
1097 permit. You're allowed to put up a temporary real estate sign—one of those little yard  
1098 signs, three-square-foot signs—without a permit. If you want to go above that, you have  
1099 to get a permit, and at that point, you can go up to 32 square feet. This sign the  
1100 gentleman has is 32 square feet. The County notified him he needed a permit. He  
1101 challenged whether a permit could be validly required of him.  
1102  
1103 Mr. Witte - This permit process, I'm not familiar with it. Are there  
1104 guidelines, or is it just I want to put up a sign, here's my fee or whatever?  
1105

1106 Mr. Blankinship - As long as the request meets the requirements of the code,  
1107 the permit has to be issued. So, we would check it against the setbacks. That's probably  
1108 the main thing we would check. We would check the height, and very few of these signs  
1109 challenge the eight-foot height. We'd measure the area, but as long as it meets the  
1110 requirements of code, we're required to issue the permit. We don't have the discretion to  
1111 say we don't think this is a good sign.

1112  
1113 Mr. Witte - Okay. So, if everybody in a neighborhood decided they  
1114 wanted their free speech because they don't particularly like the color of somebody's  
1115 house, they can all put up 32-square-foot signs saying we don't like Bob Smith's house  
1116 and the color, it's pink, or whatever?

1117  
1118 Mr. Blankinship - Yes.

1119  
1120 Mr. Leabough - At least at that point you'd be notified about it so you could  
1121 take enforcement action if it didn't meet the setback requirement or other requirements  
1122 around the process.

1123  
1124 Mr. Blankinship - Yes, that's true.

1125  
1126 Mr. Leabough - But without that process in place, you'd have a whole  
1127 neighborhood full of these signs and nobody would know it until somebody complained.

1128  
1129 Mr. Blankinship - Right. Or an inspector saw it and took proactive action.

1130  
1131 Mr. Leabough - Yes.

1132  
1133 Mr. Archer - Well, Mr. Blankinship, have there been other instances where  
1134 someone has come forward like this gentleman did? I guess the reason I'm asking that is  
1135 because it's sort of in line with Mr. Thornton's question and what Mr. Leabough was  
1136 saying. I always think back when we talk about changing a rule. I think back to what the  
1137 original concept was when the ordinance was first adopted. I'm sure whoever put this up  
1138 gave a lot of long and hard thought to what we would want to put into the ordinance as  
1139 far as the process goes. I just wonder should we think long and hard before changing  
1140 what they came up with because one or two people complain about it.

1141  
1142 Mr. Blankinship - I can assure you we've thought long and hard about this.

1143  
1144 Mr. Archer - I'm sure you did, but—

1145  
1146 Mr. Blankinship - Which doesn't mean that we're 100 percent sure of what the  
1147 right answer is, of course; we rarely are. This is an issue where we know come  
1148 November there are going to be a lot of 32-square-foot noncommercial signs up for  
1149 which no one's going to acquire a permit. We know the phone calls are going to come in,  
1150 "Are these people getting permits for these signs?" The answer is a permit is required,

and they're not getting them. So, the next question is, what is the County going to do about it?

Mr. Branin - And Mr. Blankinship, would you run through the process that say on October 10<sup>th</sup> someone puts up—you can go back to the double signs, which are definitely even beyond the 32 square feet. What is the process that goes through?

Mr. Blankinship - We would notify the property owner, normally. Sometimes—

Mr. Branin - By what means?

Mr. Blankinship - Let me take one step backward and say that in July or August we will send a letter to all of the campaigns stating to them what the regulations are and requesting their cooperation in complying with the code and in removing their signs promptly.

Mr. Emerson - Mr. Blankinship, not to interrupt you, but while you're—we send out the letter. Somewhere in the explanation you're giving right now, why don't you provide the Commission with the background on the requests we received last election cycle from an elected official, and the challenges that presented to us in terms of how permits are issued.

Mr. Blankinship - Okay. I will; thank you. We do send a letter out in July or August of each campaign season. We get the list from the registrar of all the candidates who are registered, and we send them all letters setting out what the regulations are, asking for their cooperation, and reminding them to remove the signs promptly after the election. If we receive a complaint on October 10, we would notify the campaign or the property owner, or sometimes both, that they put up a sign that requires a permit, and we don't have a record of the permit, and they're required to come in and apply for a permit within 30 days.

Mr. Branin - Within 30 days.

Mr. Blankinship - Right. The state law gives them 30 days to appeal a Notice of Violation, so by filing an appeal they can stay any enforcement action. So, we know that within 30 days there's a practical limitation on us taking any effective action. Of course, we always begin by trying to get compliance. We're not into the enforcement business; we're in the compliance business.

Mr. Branin - So, when the critics of Henrico County come out and say we ignore our own sign ordinance, that is actually nowhere near being true. We follow the same process year in and year out, which is proper notification prior, notification of violation, and 30 days to comply.

Mr. Blankinship - Well, when you asked your question you specified October 10. My answer was geared to your question.

1197  
8 Mr. Emerson - Well, it would be 30 days from the beginning of whatever  
1199 point, and I think where Mr. Branin is headed is most of the campaigns get our letter.  
1200 They understand the time frame they have to work in. The majority of their signs go up  
1201 within that 30-day time frame and come back down. Therefore, they use the state code  
1202 to their advantage.  
1203

1204 Mr. Blankinship - The situation that Mr. Emerson referred to a minute ago had  
1205 to do with the three-way Commonwealth Attorney's race last year. One of the candidates  
1206 approached us well in advance of the election and basically said, "I want to be the  
1207 candidate who does everything above board. I'm running for a law enforcement post; I  
1208 feel like I have to be in compliance with the letter of the law. I understand how you  
1209 enforce it, but I want to be in compliance with the letter of law. Tell me what I need to  
1210 do." He wanted to put up—I'm trying to remember the number of signs—I think it was 50  
1211 signs of varying sizes up to 32 square feet. We put our heads together and looked  
1212 through the code. It appeared to us that it requires a permit. It's pretty clear in the code  
1213 that you can put more than one sign on a permit application if they're on the same lot,  
1214 but if you want to put up 50 signs on 50 lots, you have to fill out 50 applications and pay  
1215 50 fees. The minimum fee for a sign is \$40. So, this was not going to be any less than  
1216 \$2,000 in fees and a very large workload item for us. I don't know how long it would take  
1217 us to issue that many sign permits if they were applied for in one day. So, in a way, we're  
1218 punishing the one candidate who comes in and says, "I want to follow all the rules; tell  
1219 me what all the rules are, and we'll follow them." We are rewarding all the candidates  
1220 who rely on business as usual, even though they know that they're not strictly in  
1221 compliance with the rules.  
1222

1223 Mr. Emerson - That's the only time we actually had somebody ask the  
1224 question.  
1225

1226 Mr. Blankinship - Well, not the only time, but that was the most recent and the  
1227 first time it involved 50 signs at once.  
1228

1229 Mr. Emerson - Right.  
1230

1231 Mr. Archer - I think if we look at this in terms of people calling in  
1232 complaints, I would think that the motivation for them calling in is because they don't like  
1233 the sign.  
1234

1235 Mrs. Jones - The sentiment, you mean.  
1236

1237 Mr. Archer - Or the sentiment, yes, what the sign says. So, if a person has  
1238 a non-permitted sign and somebody calls to complain about it and then the person pays  
1239 the fee and gets the permit, then the complaint is still as large as it was before.  
1240

1241 Mr. Blankinship - Yes.  
12

1243 Mr. Archer - The only difference is somebody paid for it. So, we didn't  
 1244 solve anything; we just collected a little money.

1245

1246 Mr. Blankinship - Yes, sir. And created some paperwork for the government.

1247

1248 Mr. Archer - I think this is a little more complicated than the [inaudible].

1249

1250 Mr. Branin - Mr. Tokarz, I'm not going to ask you to come back up. You'll  
 1251 probably shake your head, or Mr. Blankinship, you may be able to answer this question.  
 1252 In this photograph we have presented in front of us, if there is a homeowners'  
 1253 association here that has a regulation against this sign, we wouldn't be getting involved  
 1254 in this anyway. Wouldn't it be a homeowners' association's obligation to interact in this?

1255

1256 Mr. Blankinship - With some noncommercial speech that might be an issue. In  
 1257 the case of political signs—and I believe it was an immediate follow-on of the *Ladue*  
 1258 case that Tom referred—the next step was the homeowners' association tried to make  
 1259 the person remove their sign. She again won in the court. The court said even the  
 1260 homeowners' association could not prevent a homeowner from a—I believe it was—a  
 1261 three-square-foot sign in the window of her home. The court said something as minor as  
 1262 that the homeowners' association could not regulate.

1263

1264 Mrs. Jones - That brings up an interesting point.

1265

1266 Mr. Blankinship - I should check myself on that. Did I get that close to right?

1267

1268 Mr. Tokarz - I don't remember that portion of the opinion. Ben's  
 1269 recollection is better than mine on that. Generally, though, we do not get involved in  
 1270 enforcement of restrictive covenants or homeowners' association's enforcement of their  
 1271 own internal bylaws and rules and regulations. Our concern at this point is simply the  
 1272 structure of the Sign Ordinance and enforcement of the Sign Ordinance as it is regulated  
 1273 by the County. We leave the other—we consider those to be private civil matters. I'm  
 1274 sorry I don't remember that portion of the homeowners' association opinion. I was focused  
 1275 more on the public enforcement under the First Amendment. Homeowners' associations  
 1276 generally are not going to be subject to the same type of requirements as governmental  
 1277 bodies. There are different constraints, so I didn't really focus on the homeowners'  
 1278 association aspect of the opinion.

1279

1280 Mr. Branin - The only reason I brought that up, Mr. Blankinship, is  
 1281 because of the comment that Mr. Leabough made about what if everybody in the  
 1282 neighborhood puts up these signs and the whole neighborhood is going to have signs. I  
 1283 would think in that case a homeowners' association would be stepping in to regulate that.

1284

1285 Mr. Leabough - That would presume that a neighborhood has a homeowners'  
 1286 association.

1287

1288 Mrs. Jones - Exactly.



1289  
1290 Mr. Branin -

Good point.

1291  
1292 Mr. Leabough - And being a former president of my homeowners'  
1293 association, we thankfully have regulations or restrictive covenants around that. Some  
1294 homeowners' associations may not; I don't know.

1295  
1296 Mrs. Jones - And how old the neighborhood is. There are plenty of older  
1297 ones like mine that don't have any restrictions on the books. The point you made was  
1298 interesting; it hadn't occurred to me. We're only talking about exterior signage, correct?  
1299 Signs in windows are not signs?

1300  
1301 Mr. Blankinship - I know in the commercial districts we have a separate  
1302 paragraph in the list of what's allowed for paper signs in windows. They are specifically  
1303 regulated. I would think that if you put a yard sign in the window of a home facing toward  
1304 the street we would consider that to be a sign. We would consider it to be permitted, but  
1305 we would consider it to be a sign.

1306  
1307 Mr. Witte - I have a question, and I don't know how much this relates. As  
1308 for as the HOAs go, if they allow a "real estate for sale" sign, can they restrict religious,  
1309 political, or whatever signs as along that first sign? If they allow a business sign such as  
1310 a real estate sign—for sale, for rent, whatever—can they restrict somebody putting a  
1311 "Hunton Baptist Church" sign in their front yard or a political sign or whatever? I don't  
1312 understand the difference.

1313  
1314 Mr. Blankinship - The difference between the regulatory powers of an HOA  
1315 versus the government?

1316  
1317 Mr. Witte - Right.

1318  
1319 Mr. Blankinship - Starting from there, I can give you a partial answer, which is  
1320 that our regulatory powers come from the state government, from the state code. Theirs  
1321 are a matter of private contract. Everyone who buys a home is essentially joining a  
1322 contract saying I agree to the following. So, they do have a lot broader discretion than we  
1323 have on many matters, particularly on regulating aesthetics. If everyone buys into a  
1324 covenant that says you will not paint your house the following colors because we deem  
1325 them to be ugly—

1326  
1327 Mr. Witte - But that's not freedom of speech.

1328  
1329 Mr. Blankinship - Right, right. But their power is broader there whereas we  
1330 would be on shaky ground regulating solely based on aesthetics. Whether they regulate  
1331 these kinds of rights is a slightly different matter. We'll need to do some research for you.

1332  
1333 Mr. Witte - Maybe Mr. Tokarz can enlighten us; he's smiling back there.

1335 Mr. Emerson - Wouldn't this be similar to the flag issues we've had?  
1336  
1337 Mr. Blankinship - That's a good example, yes. The flagpole in Wyndham and  
1338 others.  
1339  
1340 Mr. Emerson - The HOAs have always had the ability to regulate, and they  
1341 attempted to. Of course, we got all the e-mails.  
1342  
1343 Mr. Witte - But they said no flags and we're saying they're allowing a "for  
1344 sale" sign. So, at that point, can they restrict the freedom of speech to other people with  
1345 their signs?  
1346  
1347 Mr. Tokarz - Tom Tokarz again. I'm glad to say—I'm not so glad to say I'm  
1348 not an expert on the rights of homeowners' associations. There is a whole body of law on  
1349 the rights of homeowners' associations. The flag case is an example of that. That's  
1350 litigation that went on for a long period of time. My recollection is that the attorneys' fees  
1351 involved that case were reported to be in excess of \$100,000. In that situation, the  
1352 homeowners' association situation, the homeowners' association's rights come from a  
1353 declaration of covenants that is placed on the property, and then people purchase  
1354 subject to that declaration. The declaration gives enforcement powers, typical case, to  
1355 the homeowners' association to enforce the rules and regulations. The courts then are  
1356 treating that simply as a matter of property rights and contractual agreements flowing  
1357 from that declaration that's been recorded. What you have in front of you is something  
1358 different. You are invested with the power of government, your police powers, and your  
1359 zoning powers to make governmental regulations. That's the regulatory power that is  
1360 governed by the constitutional provisions and the First Amendment, and other  
1361 provisions. The powers of government are different than the homeowners' association.  
1362 Freedom of speech, I don't believe—and I'm not claiming to be an expert on this—is an  
1363 issue that applies in the same way to homeowners' associations that it does to you  
1364 because governmental entities are the bodies that are regulated by the First Amendment  
1365 to the Constitution.  
1366  
1367 I don't know the answer specifically. That's why I say we leave the regulation of  
1368 restrictive covenants to the homeowners' associations because they are the bodies that  
1369 are entrusted with the enforcement powers. They are the ones who have the right to go  
1370 into court and say this either is permitted or not permitted under our regulations. I'm sorry  
1371 that didn't give you an answer, but it does, I hope, try and distinguish between our rights  
1372 as a governmental entity versus the rights of a homeowners' association.  
1373  
1374 I'm not sure I haven't confused you by saying that, from looking at your expression, but  
1375 there is a significant difference. We'll do some more research because I do want to look  
1376 at the *Ladue* case and see if that did discuss homeowners' association's rights in that  
1377 case.  
1378  
1379 Mr. Witte - I have lived in a homeowners' association subdivision, and I  
1380 liked it. Right now, I'm not in a subdivision, and I like it.

1381  
1382 Mr. Tokarz - One of the choices that people make when they purchase  
1383 property is in exchange for living in a community they like, subjecting themselves to the  
1384 requirements that go within the community. I live in a condominium association. The first  
1385 thing you do when you look at purchasing in a condominium association is find out what  
1386 are the rules and regulations.

1387  
1388 Mr. Witte - You just don't want to cut grass.

1389  
1390 Mr. Tokarz - I'm very lazy. I don't want to cut the grass, and I admit it. I  
1391 had to make a choice. Am I willing to live with these rules and regulations? A lot of  
1392 people like the rules and regulations because they believe it provides a uniformity of  
1393 appearance throughout the neighborhood, and they depend on their homeowners'  
1394 association to enforce that for us.

1395  
1396 Mr. Witte - I just didn't know if they could restrict freedom of speech.

1397  
1398 Mr. Tokarz - Well, it's not the same. They're not bound under the First  
1399 Amendment like the government bodies are. That's the answer. That's the one-sentence  
1400 answer for it.

1401  
1402 Mr. Witte - Okay, thank you.

1403  
1404 Mr. Branin - I'd like to make a recommendation to the Commission, if you  
1405 all are interested. We all still have some questions. I'm sure there are some legal  
1406 questions that we would like to have answered. The Board is eager to get this moved up,  
1407 so we would need to have our public hearing as soon as possible.

1408  
1409 Mr. Emerson - On July 12.

1410  
1411 Mr. Branin - So, if we can make a motion to have a public hearing on July  
1412 12<sup>th</sup>, and then also have a work session prior where we can actually go into closed  
1413 session, it may be enlightening and helpful to the group. So, I will entertain that motion.

1414  
1415 Mrs. Jones - I so move.

1416  
1417 Mr. Witte - I second.

1418  
1419 Mr. Branin - Then, let it be on the record that we will have a public hearing  
1420 on July 12 with a work session prior.

1421  
1422 Mr. Emerson - What time do you want to do that work session, Mr.  
1423 Chairman?

1424  
1425 Mrs. Jones - Five o'clock?

1427 Mr. Emerson - I would suggestion 5:00 or 5:30 because you may have a lot  
 1428 of discussion around this topic.

1429

1430 Mrs. Jones - I would say 5:00.

1431

1432 Mr. Branin - Five or five-thirty, Mr. Archer?

1433

1434 Mr. Archer - Five-thirty would give us a chance to close up—

1435

1436 Mrs. Jones - As long as everybody is punctual because I do think we'll  
 1437 have a bit to discuss.

1438

1439 Mr. Archer - —but I'm just one person. I'll go along with the group.

1440

1441 Mr. Branin - Five-thirty?

1442

1443 Mr. Witte - Are we saying we're not punctual?

1444

1445 Mrs. Jones - I can't hear you. Okay, 5:30.

1446

1447 Mr. Branin - Mr. Blankinship, thank you for your enlightenment, as always.

1448

1449 Mr. Blankinship - Thank you, Mr. Chairman.

1450

1451 Mr. Emerson - So, we will have a public hearing on July 12 and a closed  
 1452 work session at 5:30 with the County attorney to discuss the legal aspects of this topic.

1453

1454 Mrs. Jones - I have a request. Is it possible to get a copy of this  
 1455 PowerPoint?

1456

1457 Mr. Emerson - Yes, ma'am, we can do that for you.

1458

1459 Mrs. Jones - Thank you.

1460

1461 Mr. Blankinship - We'll put it on the portal.

1462

1463 Mrs. Jones - Perfect. Thank you.

1464

1465 Mr. Leabough - And we're able to submit questions prior to the work session?

1466

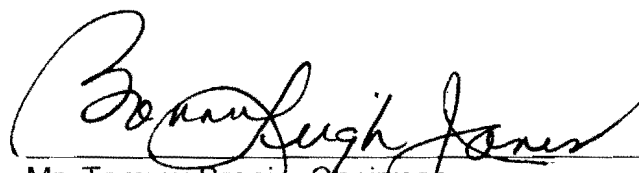
1467 Mr. Emerson - Absolutely. If you would, send them to me, send them to Mr.  
 1468 Tokarz, or send them to both of us. We'll make sure that we're both apprised. We'll share  
 1469 back and forth and get set up for your work session on July 12.

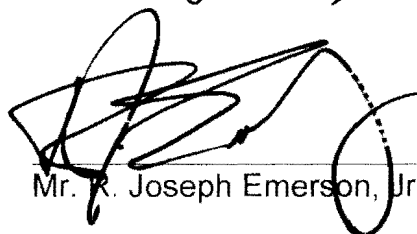
1470

1471 Mr. Branin - Does anybody else have any other topics of business?

1472

1473 Mr. Archer - So, this meeting will be in the County Manager's room?  
1474  
1475 Mr. Emerson - I will have to check on the availability of that room, Mr.  
1476 Archer, but that would be my plan right now, yes, sir.  
1477  
1478 Mr. Branin - If not, it would be in the library, I'm sure, or large conference  
1479 room.  
1480  
1481 Mr. Emerson - Probably.  
1482  
1483 Mr. Archer - And we will be having some sort of food, sustenance to  
1484 sustain ourselves?  
1485  
1486 Mr. Emerson - Absolutely. We will have some sustenance.  
1487  
1488 Mr. Branin - Any others? Anyone? I'll entertain a motion for closure.  
1489  
1490 Mrs. Jones - I move we adjourn.  
1491  
1492 Mr. Leabough - Second.  
1493  
1494 Mr. Branin - So moved.  
1495  
1496  
1497 Meeting is adjourned.  
1498  
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\_\_\_\_\_  
~~Mr. Tommy Branin, Chairman~~  
*Bonnie Leigh Jones, Acting Chairman*

  
\_\_\_\_\_  
Mr. R. Joseph Emerson, Jr., Secretary

**DECLARATION OF PERSONAL INTEREST  
IN TRANSACTION CONSIDERED BY  
THE PLANNING COMMISSION**

Pursuant to the requirements of § 2.2-3112(A)(2) and 2.2-3115(E) of the Code of Virginia, 1950, as amended, I hereby declare my personal interest in a transaction considered by the Planning Commission of Henrico County, Virginia on June 27, 2012 as follows:

- (1) The transaction involved is the Planning Commission's consideration of a landscape plan for Tuckaway Child Development Center at New Market Road and Midview Road in Henrico County, Virginia.
- (2) My personal interest in the transaction arises because of my membership on the Planning Commission which is considering the landscape plan for the facility which my daughter attends in a summer camp program.
- (3) I am a member of a group of people affected by the transaction decision, namely those persons whose children attend programs at the Tuckaway Child Development Center.

The County Attorney has advised me that I do not have a conflict of interest that prevents me from voting on this matter. However, I would like the Clerk to record that I am neither participating nor voting on this transaction.



Eric Leabough  
Planning Commission of  
Henrico County, Virginia

Dated: June 27, 2012

## PLANS OF DEVELOPMENT

### A. Standard Conditions for all POD's:

1. The owner shall enter into the necessary contracts with the Department of Public Utilities for connections to public water and sewer. **(when the property is served by public utilities)**
- 1A. The owner shall enter into the necessary contracts with the Department of Public Utilities for connections to public water. The well location shall be approved by the County Health Department before a building permit is issued. Connection shall be made to the public water system when available within 300 feet of the site/building. **(when not served by public water)**
- 1B. The owner shall enter into the necessary contracts with the Department of Public Utilities for connections to public sewer. The septic tank location shall be approved by the County Health Department before a building permit is issued. Connection shall be made to the public sewer when available within 300 feet of the site/building. **(when not served by public sewer)**
2. The Director of the Department of Public Utilities shall approve the plan of development for construction of public water and sewer, prior to beginning any construction of these utilities. The Department of Public Utilities shall be notified at least **48** hours prior to the start of any County water or sewer construction.
3. The parking lot shall be subject to the requirements of Chapter 24, Section 24-98 of the Henrico County Code.
4. The parking spaces shall be marked on the pavement surface with four-inch-wide traffic painted lines. All lane lines and parking lines shall be white in color with the exception that those dividing traffic shall yellow.
5. Sufficient, effectively usable parking shall be provided. If experience indicates the need, additional parking shall be provided.
6. Curb and gutter and necessary storm sewer shall be constructed as shown on approved plans.
7. The plan of development plan shall be revised as annotated on the staff plan dated **June 27, 2012**, which shall be as much a part of this approval as if details were fully described herein. Eight (8) sets of revised plans, including the detailed drainage, erosion control and utility plans, shall be submitted by the design engineer who prepared the plans to the Department of Planning for final review. Upon notice from the Department of Planning to the Engineer that all comments have been addressed, twenty-one (21) sets of final plans for signature shall be submitted to the Department of Planning for approval signatures. Two (2) sets of the approved plan shall be attached to the building permit application. **(Revised January 2008)**
8. Two copies of an Erosion and Sediment Control Agreement with required escrow shall be submitted to the Department of Public Works. Approval is required prior to construction plan approval and beginning construction. The Department of Public Works shall be notified at least 24 hours prior to the start of any construction.
9. A detailed landscaping plan shall be submitted to the Department of Planning for review and approval prior to the issuance of any occupancy permits.

9. **AMENDED** - A detailed landscaping plan shall be submitted to the Department of Planning for review and Planning Commission approval prior to the issuance of any occupancy permits.
10. All groundcover and landscaping shall be properly maintained in a healthy condition at all times. Dead plant materials shall be removed within a reasonable time and replaced no later than the next planting season.
11. Prior to the approval of an electrical permit application and installation of the site lighting equipment, a plan including light spread and intensity diagrams, and fixture specifications and mounting height details shall be submitted for Department of Planning review and approval.
11. **AMENDED** - Prior to the approval of an electrical permit application and installation of the site lighting equipment, a plan including depictions of light spread and intensity diagrams, and fixture specifications and mounting height details shall be submitted for Department of Planning review and Planning Commission approval.
- 11B. Prior to the approval of an electrical permit application and installation of the site lighting equipment, a plan including light spread and intensity diagrams, and fixture specifications and mounting heights details shall be revised as annotated on the staff plan and included with the construction plans for final signature. **(For POD which includes lighting plan approval)**
12. All exterior lighting shall be designed and arranged to direct the light and glare away from nearby residential property and streets.
13. The site, including the parking areas, shall be kept clean of litter and debris on a daily basis. Trash container units/litter receptacles and recycling containers shall be maintained with regular pickups scheduled and shall be screened properly on all four sides. The gate(s) shall remain closed except when the receptacle(s) are being filled or serviced and shall be repaired or replaced as necessary. Details shall be included with the final site plan or required landscape plan for review and approval.
14. Required fire lanes shall be marked and maintained in accordance with the Virginia Statewide Fire Prevention Code.
15. Traffic control signs shall be provided as indicated on the Department of Planning Staff plan. All signs shall be fabricated as shown in The National Manual on Uniform Traffic Control Devices for Streets and Highways and The Virginia Supplement to The Manual on Uniform Traffic Control Devices for Streets and Highways.
16. The assigned property number(s) shall be displayed so it is easily readable from the street. If assistance is needed with the address, please contact the Department of Planning at 501-4284. The Planning Department must assign all property addresses. **(Revised January 2008)**
17. The owner shall have a set of plans approved by the Director of Public Works, Public Utilities and Secretary of the Planning Commission available at the site at all times when work is being performed. A designated responsible employee shall be available for contact by County Inspectors.
18. The property shall be developed as shown on the plan filed with the case and no changes or additions to the layout shall be made without the approval of this Commission.



19. Upon completion of the improvements and prior to the certification of the permanent occupancy permit, the owner shall furnish a statement by the engineer or land surveyor who prepared the POD plan, to the effect that all construction including water and sewer is in conformance to the regulations and requirements of the POD.
20. The approved Plan of Development is granted by the Planning Commission only to the owners(s)/applicant(s) listed on the Plan of Development application on file for this project. Upon written notification to the Director of Planning, the Plan of Development approval may be transferred to subsequent owner(s) subject to approval by this Commission **(Revised July 2007)**.
21. Vehicles shall be parked only in approved and constructed parking spaces.
22. The name of this development, as designated in this approval, shall be the name used for marketing and public recognition purposes. A written request for a name change must be received and granted by the Department of Planning before such a change can be implemented.
23. The site, including paving, pavement markings, signage, curb and gutter, dumpster screens, walls, fences, lighting and other site improvements shall be properly maintained in good condition at all times. Any necessary repairs shall be made in a timely manner.
24. The developer shall provide fire hydrants as required by the Department of Public Utilities and Division of Fire.
25. Insurance Services Office (ISO) calculations shall be included on the final construction plans for approval by the Department of Public Utilities prior to issuance of a building permit.
26. Any necessary off-site drainage and/or water and sewer easements must be obtained in a form acceptable to the County Attorney prior to final approval of the construction plans.
27. The easements for drainage and utilities as shown on approved plans shall be granted to the County in a form acceptable to the County Attorney prior to any occupancy permits being issued. The easement plats and any other required information shall be submitted to the County Real Property Agent at least sixty (60) days prior to requesting occupancy permits.
28. Deviations from County standards for pavement, curb or curb and gutter design shall be approved by the County Engineer prior to final approval of the construction plans by the Department of Public Works.
29. **(Start of miscellaneous conditions)**

## STANDARD CONDITIONS FOR LANDSCAPE /LIGHTING/FENCE PLANS

1. The plan shall be revised as shown in red on Staff plan dated **June 27, 2012**, which shall be as much a part of this approval as if all details were fully described herein. **Five (5)** sets of **prints** of the revised plan shall be submitted to the Department of Planning for approval stamps and distribution.
2. The property shall be developed as shown on the plan filed with the case and no changes or additions to the layout shall be made without the approval of this Commission.
3. The owner shall have a set of approved plans available at the site at all times when work is being performed. A designated responsible employee shall be available for contact by County Inspectors.
4. All groundcover and landscaping shall be properly maintained in a healthy condition at all times. Dead plant materials shall be removed within a reasonable time and replaced during the normal planting season. **(DELETE IF NO LANDSCAPING)**
5. All exterior lighting shall be shielded to direct lights away from adjacent residential property and streets. **(DELETE IF NO LIGHTING)**
6. All fences, walls, and screens, including gates and doors, shall be maintained in good repair by the owner. Trash and debris should not be allowed to accumulate along the fence or wall. **(DELETE IF NO FENCE, WALL, OR DUMPSTER SCREEN)**

**B. In Addition to Item A, the Following Standard Conditions for Approval of All Zero Lot Line Developments shall apply:**

- 29. Roof edge ornamental features that extend over the zero lot line, and which are permitted by Section 24-95(i)(1), must be authorized in the covenants.
- 30. Eight-foot easements for construction, drainage, and maintenance access for abutting lots shall be provided and shown on the POD plans.
- 31. Building permit request for individual dwellings shall each include two (2) copies of a layout plan sheet as approved with the plan of development. The developer may utilize alternate building types providing that each may be located within the building footprint shown on the approved plan. Any deviation in building footprint or infrastructure shall require submission and approval of an administrative site plan.
- 32. Windows on the zero lot line side of the dwelling can only be approved with an exception granted by the Building Official and the Director of Planning during the building permit application process.

**C. Standard Conditions for Approval of All Dry Cleaners and Laundries in Addition to Item A:**

- 29. The dry cleaning establishment shall use only non-inflammable cleaning solvents and have fully enclosed cleaning and solvent reclamation processes and fully enclosed pressing equipment with no outside steam exhaust.

**D. In addition to Item A, the Following Conditions for Approval of All Shopping Centers Shall Apply:**

- 29. Only retail business establishments permitted in a zone may be located in this center.
- 30. The ground area covered by all the buildings shall not exceed in the aggregate 25 percent of the total site area.
- 31. No merchandise shall be displayed or stored outside of the building(s) or on sidewalk(s).

**E. In Addition to Item A, the Following Standard Conditions for Approval of All Multi-Family Shall Apply:**

- 29. The unit house numbers shall be visible from the parking areas and drives.
- 30. The names of streets, drives, courts and parking areas shall be approved by the Richmond Regional Planning District Commission and **such names shall be included on the construction plans prior to their approval.** The standard street name signs shall be installed prior to any occupancy permit approval.

**F. In addition to Item A, the Following Standard Conditions for Approval of All Service Station Developments Shall Apply:**

29. This business shall not remain in operation after midnight and no exterior signs shall remain lighted after **(12:00 midnight - B-1) (1:00 o'clock a.m. - B-2) (no limit - B-3)**.
30. No merchandise shall be displayed outside of the building except that oil racks will be allowed on the pump islands.
31. This service station shall be used only for the sale of petroleum products and automobile accessories and parts. It shall not be used to sell or rent camping trailers, nor as a base of operation for truck fleets or fuel oil delivery or other such use that is not strictly a service station operation.
32. Only light repair work shall be allowed at this station, including motor tune-up, brake, generator, ignition, and exhaust repairs, and wheel balancing. The only work that can be performed outside the building is those services that are normally furnished at the pump island and the changing of tires.
33. No wrecked automobiles, nor automobiles incapable of being operated, shall be kept on the premises.
34. The prospective operator of this station shall come to the Department of Planning and sign the file copy of the special plan of development letter before he signs a lease with the oil company to operate this station.

**G. STANDARD CONDITIONS FOR CONVENIENCE STORES WITH FUEL PUMPS IN A**

**B-2 ZONE**

29. Bulk storage of fuel shall be underground.
30. There shall be no exterior display of merchandise except on pump islands and on paved walkway areas within three (3) feet of building.
31. Lighting fixtures shall not exceed a height greater than twenty (20) feet.
32. No temporary storage of wrecked or inoperative vehicles or rental of vehicles, trailer campers, vans or similar equipment shall be permitted.
33. Not more than two (2) electronic amusement games shall be permitted.
34. Not more than two (2) vending machines for food and beverage and similar merchandise shall be permitted on the premises outside of an enclosed building.
35. The prospective operator of this facility shall come to the Department of Planning and sign the file copy of the special plan of development letter before he signs a lease with the oil company to operate this station.
36. The landscaping plan shall include details for screening of refuse containers and refuse storage facilities in accordance with Section 24-61(i).
37. Refuse containers or refuse storage facilities shall be serviced during business hours only.
38. The owner or manager on duty shall be responsible for temporarily closing the car wash facility when the on-site stacking space is inadequate to serve customer demand to prevent a backup of vehicles onto the public right-of-way.
39. The owner shall arrange with the Traffic Engineer to provide standard traffic control signs to notify customers that stopping or standing on the public right-of-way shall not be permitted near the entrances to the car wash facility. **(If Car Wash Is Proposed)**

## **H. STANDARD CONDITIONS FOR CONVENIENCE STORES WITH FUEL PUMPS IN A**

### **B-3 ZONE**

29. Bulk storage of fuel shall be underground.
30. The owner or manager on duty shall be responsible for temporarily closing the car wash facility when the on-site stacking space is inadequate to serve customer demand to prevent a backup of vehicles onto the public right-of-way. **(If Car Wash Is Proposed)**
31. The owner shall arrange with the Traffic Engineer to provide standard traffic control signs to notify customers that stopping or standing on the public right-of-way shall not be permitted near the entrances to the car wash facility. **(If Car Wash Is Proposed)**

## SUBDIVISION - CONDITIONAL APPROVAL

### Standard Conditions for Conventional Subdivisions Served By Public Utilities Public Water and/or Sewer (January 2008)

1. All requirements of Chapter 18, 19 and 24 of the Henrico County Code shall be met.
2. Construction plans, including proposed erosion and sediment controls, shall be submitted to the Department of Planning at least 30 days prior to final approval.
3. Construction shall not commence until the Director of Planning has granted final approval of the plat; and until the construction plans including the detailed drainage, erosion control, and utility plans have been approved by the Department of Planning, the Department of Public Utilities, and the Department of Public Works and a preconstruction meeting has been held with the Department of Public Works. Plans for Final Subdivision review shall be submitted to the Department of Planning in accordance with the requirements of the Final Subdivision application. Upon notice from the Department of Planning to the Engineer that all comments have been addressed, twenty-one (21) sets of final construction plans for signature shall be submitted to the Department of Planning for approval signatures. All erosion and sediment control plans, agreements, and bonds must be submitted to the Department of Public Works and approved prior to approval of the construction plans.
4. Clearing and grubbing shall not commence until a clearing and grubbing plan has been approved by the Department of Planning and the Department of Public Works. Upon notice from the Department of Planning to the Engineer that all comments have been addressed, eight (8) sets of clearing and grubbing plans shall be submitted to the Department of Planning for approval signatures. All appropriate bonds and agreements, authorizations from state and/or regulatory agencies for impacts to the Waters of the United States, and offsite easement plats must be submitted to the Department of Public Works and approved prior to approval of the clearing and grubbing plans. Approvals must be updated prior to recordation of the plat.
5. The owner shall enter into the necessary contracts with the Department of Public Utilities for water. **(Substitute condition 5A if well)**
- 5A. A detailed soil analysis shall be performed and other requirements of the Health Department met before final plats are recorded. The developer shall have the center lines of all streets and lot corners staked to facilitate the examination of lots by the Health Department Sanitarians prior to filing for final approval and shall notify the Department of Planning and Health Department in writing when the staking has been done.
6. The owner shall enter into the necessary contracts with the Department of Public Utilities for sewer. **(Substitute condition 6A if on site sewage disposal/septic)**
- 6A. A detailed soil analysis shall be performed and other requirements of the Health Department met before final plats are recorded. The developer shall have the center lines of all streets and lot corners staked to facilitate the examination of lots by the Health Department Sanitarians prior to filing for final approval and shall notify the Department of Planning and Health Department in writing when the staking has been done.
7. A copy of the letter from the Richmond Regional Planning District Commission giving approval to the street names in this subdivision shall be submitted to the Department of Planning before the recordation plat is submitted for review.
8. The plat shall be revised as shown in red on Staff plan dated **June 27, 2012**, which shall be as much a part of this approval as if all details were fully described herein.

9. This approval shall expire on **June 26, 2013**, unless an extension is requested in writing stating the reason such extension is necessary. The request shall include the fee and must be filed a minimum of two weeks prior to the expiration date.
10. The name of this development, as designated in this approval, shall be the name used for marketing and public recognition purposes. A written request for a name change must be received and granted by the Department of Planning before such a change can be implemented.
11. The conditional approval of this plat by the Planning Commission does not imply that all lots shown thereon will be granted final approval. Such approval is contingent on each lot meeting a number of requirements including but not limited to minimum zoning requirements, Health Department requirements as applicable, and design considerations.
12. Prior to a request for final approval, the developer shall provide a buildable area plan showing information for all lots within the subdivision. Such plan shall be a part of the construction plans submitted for review and for signature. The buildable area plan shall be a minimum of 1" to 50' scale or larger and shall show the buildable area for the principal structure, all setback dimensions, the minimum lot width (perpendicular to the center line of the lot at the front building line), and if applicable, any Special Flood Hazard Areas (floodplains) and the area of each lot exclusive of floodplain, wetlands, easements, buffers, Chesapeake Bay Act Areas, wells and primary/reserved drainfields.

**Standard Conditions for Conventional Subdivisions Not Served By Public Utilities**  
**(January 2008)**

1. All requirements of Chapter 18, 19 and 24 of the Henrico County Code shall be met.
2. Construction plans, including proposed erosion and sediment controls, shall be submitted to the Department of Planning at least 30 days prior to final approval.
3. Construction shall not commence until the Director of Planning has granted final approval of the plat; and until the construction plans including the detailed drainage and erosion control plans have been approved by the Department of Planning, and the Department of Public Works and a preconstruction meeting has been held with the Department of Public Works. Plans for Final Subdivision review shall be submitted to the Department of Planning in accordance with the requirements of the Final Subdivision application. Upon notice from the Department of Planning to the Engineer that all comments have been addressed, fifteen (15) sets of final construction plans for signature shall be submitted to the Department of Planning for approval signatures. All erosion and sediment control plans, agreements, and bonds must be submitted to the Department of Public Works and approved prior to approval of the construction plans.
4. Clearing and grubbing shall not commence until a clearing and grubbing plan has been approved by the Department of Planning and the Department of Public Works, and a preconstruction meeting has been conducted with the Department of Public Works. Upon notice from the Department of Planning to the Engineer that all comments have been addressed, eight (8) sets of clearing and grubbing plans shall be submitted to the Department of Planning for approval signatures. All appropriate bonds and agreements, authorizations from state and/or regulatory agencies for impacts to the Waters of the United States, and offsite easement plats must be submitted to the Department of Public Works and approved prior to approval of the clearing and grubbing plans. Approvals must be updated prior to recordation of the plat.
5. A detailed soil analysis shall be performed and other requirements of the Health Department met before final plats are recorded. The developer shall have the center lines of all streets and lot corners staked to facilitate the examination of lots by the Health Department Sanitarians prior to filing for final approval and shall notify the Department of Planning and Health Department in writing when the staking has been done.
6. A copy of the letter from the Richmond Regional Planning District Commission giving approval to the street names in this subdivision shall be submitted to the Department of Planning before the recordation plat is submitted for review.
7. The plat shall be revised as shown in red on Staff plan dated **June 27, 2012**, which shall be as much a part of this approval as if all details were fully described herein.
8. This approval shall expire on **June 26, 2013**, unless an extension is requested in writing stating the reason such extension is necessary. The request shall include the fee and must be filed a minimum of two weeks prior to the expiration date.
9. The name of this development, as designated in this approval, shall be the name used for marketing and public recognition purposes. A written request for a name change must be received and granted by the Department of Planning before such a change can be implemented.
10. The conditional approval of this plat by the Planning Commission does not imply that all lots shown thereon will be granted final approval. Such approval is contingent on each lot meeting a number of requirements including but not limited to minimum zoning requirements, Health Department requirements and design considerations.



11. Prior to a request for final approval, the developer shall provide a buildable area plan showing information for all lots within the subdivision. Such plan shall be a part of the construction plans submitted for review and for signature. The buildable area plan shall be a minimum of 1" to 50' scale or larger and shall show the buildable area for the principal structure, all setback dimensions, the minimum lot width (perpendicular to the center line of the lot at the front building line), and if applicable, any Special Flood Hazard Areas (floodplains) and the area of each lot exclusive of floodplain, wetlands, easements, buffers, Chesapeake Bay Act Areas, wells and primary/reserved drainfields.

**Standard Conditions for Residential Townhouse for Sale (RTH) Subdivisions\**  
**(January 2008)**

1. All requirements of Chapter 18, 19 and 24 of the Henrico County Code shall be met.
2. Construction plans, including proposed erosion and sediment controls, shall be submitted to the Department of Planning at least 30 days prior to final approval.
3. Construction shall not commence until the Director of Planning has granted final approval of the plat; and until the construction plans including the detailed drainage, erosion control, and utility plans have been approved by the Department of Planning, the Department of Public Utilities, and the Department of Public Works and a preconstruction meeting has been held with the Department of Public Works. Plans for Plan of Development and Final Subdivision review shall be submitted to the Department of Planning in accordance with the requirements of the Plan of Development and Final Subdivision applications. Upon notice from the Department of Planning to the Engineer that all comments have been addressed, twenty-one (21) sets of final construction plans for signature shall be submitted to the Department of Planning for approval signatures. All erosion and sediment control plans, agreements, and bonds must be submitted to the Department of Public Works and approved prior to approval of the construction plans.
4. Clearing and grubbing shall not commence until a clearing and grubbing plan has been approved by the Department of Planning and the Department of Public Works, and a preconstruction meeting has been conducted with the Department of Public Works. Upon notice from the Department of Planning to the Engineer that all comments have been addressed, eight (8) sets of clearing and grubbing plans shall be submitted to the Department of Planning for approval signatures. All appropriate bonds and agreements, authorizations from state and/or regulatory agencies for impacts to the Waters of the United States, and offsite easement plats must be submitted to the Department of Public Works and approved prior to approval of the clearing and grubbing plans. Approvals must be updated prior to recordation of the plat.
5. The owner shall enter into the necessary contracts with the Department of Public Utilities for water.
6. The owner shall enter into the necessary contracts with the Department of Public Utilities for sewer.
7. A copy of the letter from the Richmond Regional Planning District Commission giving approval to the street names in this subdivision shall be submitted to the Department of Planning before the recordation plat is submitted for review.
8. The plat shall be revised as shown in red on Staff plan dated **June 27, 2012**, which shall be as much a part of this approval as if all details were fully described herein.
9. This approval shall expire on **June 26, 2013**, unless an extension is requested in writing stating the reason such extension is necessary. The request shall include the required fee and must be filed a minimum of two weeks prior to the expiration date.
10. The name of this development, as designated in this approval, shall be the name used for marketing and public recognition purposes. A written request for a name change must be received and granted by the Department of Planning before such a change can be implemented.
11. The conditional approval of this plat by the Planning Commission does not imply that all lots shown thereon will be granted final approval. Such approval is contingent on each lot meeting all requirements, including but not limited to, minimum zoning requirements, and design considerations.
12. A draft of the Declaration of Covenants, Conditions and Restrictions shall be submitted to

the Department of Planning for review, prior to final approval. The proposed Homeowners Association for the project shall be responsible for the exterior maintenance of all buildings and grounds.

13. All block corners shall be monumented and referenced, where possible, to the exterior boundaries of the site
14. The record plat shall contain a statement that the common area is dedicated to the common use and enjoyment of the homeowners of **(name of subdivision)** and is not dedicated for use by the general public. This statement shall refer to the applicable article in the covenants recorded with the plat.

**Standard Conditions for Zero Lot Line Subdivisions**  
**(January 2008)**

1. All requirements of Chapter 18, 19 and 24 of the Henrico County Code shall be met.
2. Construction plans, including proposed erosion and sediment controls, shall be submitted to the Department of Planning at least 30 days prior to final approval.
3. Construction shall not commence until the Director of Planning has granted final approval of the plat; and until the construction plans including the detailed drainage, erosion control, and utility plans have been approved by the Department of Planning, the Department of Public Utilities, and the Department of Public Works and a preconstruction meeting has been held with the Department of Public Works. Plans for Plan of Development and Final Subdivision review shall be submitted to the Department of Planning in accordance with the requirements of the Plan of Development and Final Subdivision applications. Upon notice from the Department of Planning to the Engineer that all comments have been addressed, twenty-one (21) sets of final construction plans for signature shall be submitted to the Department of Planning for approval signatures. All erosion and sediment control plans, agreements, and bonds must be submitted to the Department of Public Works and approved prior to approval of the construction plans.
4. Clearing and grubbing shall not commence until a clearing and grubbing plan has been approved by the Department of Planning and the Department of Public Works, and a preconstruction meeting has been conducted with the Department of Public Works. Upon notice from the Department of Planning to the Engineer that all comments have been addressed, eight (8) sets of clearing and grubbing plans shall be submitted to the Department of Planning for approval signatures. All appropriate bonds and agreements, authorizations from state and/or regulatory agencies for impacts to the Waters of the United States, and offsite easement plats must be submitted to the Department of Public Works and approved prior to approval of the clearing and grubbing plans. Approvals must be updated prior to recordation of the plat.
5. The owner shall enter into the necessary contracts with the Department of Public Utilities for water.
6. The owner shall enter into the necessary contracts with the Department of Public Utilities for sewer.
7. A copy of the letter from the Richmond Regional Planning District Commission giving approval to the street names in this subdivision shall be submitted to the Department of Planning before the recordation plat is submitted for review.
8. The plat shall be revised as shown in red on Staff plan dated **June 27, 2012**, which shall be as much a part of this approval as if all details were fully described herein.
9. This approval shall expire on **June 26, 2013**, unless an extension is requested in writing stating the reason such extension is necessary. The request shall include the required fee and must be filed a minimum of two weeks prior to the expiration date.
10. The name of this development, as designated in this approval, shall be the name used for marketing and public recognition purposes. A written request for a name change must be received and granted by the Department of Planning before such a change may be implemented.
11. The conditional approval of this plat by the Planning Commission does not imply that all lots shown thereon will be granted final approval. Such approval is contingent on each lot meeting all requirements, including but not limited to, minimum zoning requirements, and design considerations.
12. Prior to a request for final approval, the developer shall provide a buildable area plan

showing information for all lots within the subdivision. Such plan shall be a part of the construction plans submitted for review and for signature. The buildable area plan shall be a minimum of 1" to 50' scale or larger and shall show the buildable area for the principal structure, all setback dimensions, the minimum lot width (perpendicular to the center line of the lot at the front building line), and if applicable, any Special Flood Hazard Areas (floodplains) and the area of each lot exclusive of floodplain, wetlands, easements, buffers and Chesapeake Bay Act Areas.

## **SUBDIVISION - CONDITIONAL APPROVAL**

### **Standard Conditions for Conventional Subdivisions Served By Public Utilities** **Road Dedication (No Lots) (January 2008)**

1. All requirements of Chapter 18, 19 and 24 of the Henrico County Code shall be met.
2. Construction plans, including proposed erosion and sediment controls, shall be submitted to the Department of Planning at least 30 days prior to final approval.
3. Construction shall not commence until the Director of Planning has granted final approval of the plat; and until the construction plans including the detailed drainage, erosion control, and utility plans have been approved by the Department of Planning, the Department of Public Utilities, and the Department of Public Works and a preconstruction meeting has been held with the Department of Public Works. Plans for Final Subdivision review shall be submitted to the Department of Planning in accordance with the requirements of the Final Subdivision application. Upon notice from the Department of Planning to the Engineer that all comments have been addressed, twenty-one (21) sets of final construction plans for signature shall be submitted to the Department of Planning for approval signatures. All erosion and sediment control plans, agreements, and bonds must be submitted to the Department of Public Works and approved prior to approval of the construction plans.
4. Clearing and grubbing shall not commence until a clearing and grubbing plan has been approved by the Department of Planning and the Department of Public Works. Upon notice from the Department of Planning to the Engineer that all comments have been addressed, eight (8) sets of clearing and grubbing plans shall be submitted to the Department of Planning for approval signatures. All appropriate bonds and agreements, authorizations from state and/or regulatory agencies for impacts to the Waters of the United States, and offsite easement plats must be submitted to the Department of Public Works and approved prior to approval of the clearing and grubbing plans. Approvals must be updated prior to recordation of the plat.
5. The owner shall enter into the necessary contracts with the Department of Public Utilities for water.
6. The owner shall enter into the necessary contracts with the Department of Public Utilities for sewer.
7. A copy of the letter from the Richmond Regional Planning District Commission giving approval to the street names in this subdivision shall be submitted to the Department of Planning before the recordation plat is submitted for review.
8. The plat shall be revised as shown in red on Staff plan dated **June 27, 2012**, which shall be as much a part of this approval as if all details were fully described herein.
9. This approval shall expire on **June 26, 2013**, unless an extension is requested in writing stating the reason such extension is necessary. The request shall include the fee and must be filed a minimum of two weeks prior to the expiration date.
10. The name of this development, as designated in this approval, shall be the name used for marketing and public recognition purposes. A written request for a name change must be received and granted by the Department of Planning before such a change can be implemented.