

1 **Minutes of a special meeting of the Planning Commission of Henrico County held**  
2 **in the County Administration Building in the Government Center at Parham and**  
3 **Hungary Spring Roads, beginning at 6:00 p.m., Thursday, January 14, 2021.**  
4 **Display Notice having been published in the Richmond *Times-Dispatch* on**  
5 **December 28, 2020 and January 4, 2021.**  
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7

8 **Members Present:** Mr. C. W. Archer, C.P.C, Chairman (Fairfield)  
9 Mr. William M. Mackey, Jr., Vice Chair (Varina)  
10 Mrs. Melissa L. Thornton (Three Chopt)  
11 Mr. Robert H. Witte, Jr. (Brookland)  
12 Mr. Gregory R. Baka (Tuckahoe)  
13  
14 Mr. R. Joseph Emerson, Jr., AICP, Director of Planning,  
15 Secretary  
16 Mrs. Patricia S. O'Bannon (Tuckahoe)  
17 Board of Supervisors' Representative  
18

19 **Also Present:** Ms. Jean Moore, Assistant Director of Planning \*  
20 Mr. Ben W. Blankinship, AICP, Senior Principal Planner  
21 Ms. Rosemary D. Deemer, AICP, County Planner  
22 Ms. Kristin Smith, County Planner  
23

24  
25 \* (Virtually)  
26

27 **Mrs. Patricia S. O'Bannon, the Board of Supervisors' representative, abstains on**  
28 **all cases unless otherwise noted.**  
29  
30

31 **Mr. Archer -** Planning Commission will come to order. We're running a  
32 little bit behind, and we've got a pretty heavy agenda tonight. So, we will go ahead and  
33 get started. We're going to -- the first item tonight --this is a public hearing on zoning and  
34 subdivision updates. And I will turn things over to the secretary so he can bring us up to  
35 date up to as to where we can start. Mr. Emerson.  
36

37 **Mr. Emerson -** Yes. Thank you, Mr. Chairman. As you noted, the first two  
38 items on your agenda this evening are the zoning and subdivision updates that you have  
39 been working on.  
40

41 This is a public hearing, and it is to consider these following items:

42 **ORDINANCE** – To Enact a New Subdivision Ordinance by Repealing Chapter 19 of the  
43 Code of the County of Henrico Titled "Subdivisions" and Replacing It with a New Chapter  
44 19 Titled "Subdivisions". This Ordinance repeals the County's existing subdivision  
45 ordinance in Chapter 19 of the Code of the County of Henrico (the "Code") and replaces  
46 it with a new, comprehensively revised subdivision ordinance in a new Chapter 19 of the  
47 Code (the "Proposed Ordinance").

48  
49 **ORDINANCE** – To Enact a New Zoning Ordinance by Repealing Chapter 24 of the Code  
50 of the County of Henrico Titled “Zoning” and Replacing It with a New Chapter 24 Titled  
51 “Zoning”. This Ordinance repeals the County’s existing zoning ordinance in Chapter 24  
52 of the Code of the County of Henrico (the “Code”) and replaces it with a new,  
53 comprehensively revised zoning ordinance in a new Chapter 24 of the Code (the  
54 “Proposed Ordinance”).

55  
56 Now, as you know, this is a public hearing and we will be taking public comment this  
57 evening after Mr. Blankinship provides his presentations.

58  
59 In order to accommodate all public input, the Commission has a time limit they've  
60 established for these types of public hearings. And that is that the Commission normally  
61 allows up to three minutes to each individual to provide their input. The Commission may  
62 extend the time limit at its discretion. Should the Commission have a question, the time  
63 to answer such questions will not be included in the speaker's allotted time.

64  
65 I would note, if anybody is present with us in the room, there is a lectern to the rear of the  
66 room and that is where you would make your comments to the Commission.

67  
68 For those of you that are joining us via Webex, staff will send a message asking if anyone  
69 would like to speak. This will be done using the chat feature located in the bottom-right  
70 corner of the WebEx screen and you can see the example on the screen that you have  
71 in front of you now. We recommend everybody press on that chat screen now to open it  
72 up in your program and follow the prompts that you will see.

73  
74 To be put on the list of speakers, you must send your request to the correct contact  
75 person. That correct contact person would be Kristin Smith. Please be aware this feature  
76 is only being used to identify speakers. Messaged questions or comments will not be  
77 answered, as they should be directed to the Planning Commission.

78  
79 When it is your turn you will be introduced, unmuted, and prompted to speak. Following  
80 your question or comments, you will be muted again. And with that, Mr. Chairman, I will  
81 turn this over to Mr. Ben Blankinship, our Division Manager of Code Administration, and  
82 he will give you a quick presentation regarding the code update.

83  
84 Mr. Archer - Thank you, Mr. Emerson. Good evening, Mr. Blankinship.  
85 How are you, sir?

86  
87 Mr. Blankinship - Good evening, Mr. Chair, members of the Commission. I am  
88 well, thank you. I thank you, Mr. Secretary, for the introduction. It is exciting to me to  
89 have reached this milestone on a project that we have been working together on for a  
90 very long time.

91  
92 And just to recap very quickly how we got where we are, this process was born out of the  
93 2026 Comprehensive Plan. When the plan was adopted one of the action items was to

94 revise the Zoning and Subdivision Ordinances in order to make them consistent with the  
95 plan. So shortly after the plan was adopted, our consultant, Clarion Associates, did an  
96 assessment of our Zoning and Subdivision Ordinances, and pointed out to us the  
97 strengths and weaknesses and the opportunities for improvement.  
98

99 There are seven key themes. If anyone asks you, Why are we even bothering to do this?  
100 Why don't we just keep our old ordinances? There are seven key reasons that were --  
101 that underlie this effort. We are attempting to implement the Comprehensive Plan, as I  
102 mentioned. We're trying to provide additional flexibility for economic development. That's  
103 a market that changes on a daily basis and we have to change to stay on pace with it.  
104

105 We're trying to make our regulations easier to read and understand and to make our  
106 development review processes easier to navigate, to streamline wherever we can. We  
107 are updating our districts and uses that have been in the code since 1960. We're updating  
108 the development standards, many of which have been in the codes since 1960. And we  
109 are attempting to promote sustainable development. So those are the reasons that we  
110 are undertaking this project.  
111

112 And, like everything we do in Henrico County, it begins with public input and we put a  
113 great deal of emphasis on public input all the way through. The very beginning of this  
114 project our consultants came to Henrico County and had interviews with the Board  
115 Members, with each of you Planning Commissioners, but they didn't stop there.  
116

117 They met also with local land-use attorneys, civil engineers and surveyors, landscape  
118 architects, and developers and builders, real estate professionals and housing advocates.  
119 All the people that work with these ordinances on a daily basis and know them the best  
120 and know what we could improve to make things better.  
121

122 We also heard from a couple of volunteer committees that organized themselves and held  
123 meetings to discuss these drafts and then called us and said, Can we meet with you to  
124 discuss our concerns? We had some very productive meetings with folks who organized  
125 themselves for the purpose of this effort.  
126

127 There's also an appointed committee of individuals who have been working with these  
128 ordinances from the public sector and private sector sides, some of them for 30 and 40  
129 years and longer. People with a great deal of experience not only in specific fields of  
130 planning and zoning but also in Henrico County who were able to provide invaluable  
131 insight to us throughout the process.  
132

133 And, of course, one of our first steps was to set up a dedicated website. And we have  
134 received a great deal of information, ideas, proposals, questions, concerns, through that  
135 website. We have gathered through that a list of about 300 email addresses. So those  
136 people were notified of this evening's hearing. They're notified each time a new draft is  
137 posted. And we have received quite a few comments on the subjects listed before you,  
138 among others.  
139

140 As far as the general public is concerned, by far the most frequent comment we have  
141 received regards backyard hens. And we have also had quite a few on the subject of  
142 beekeeping. So those are a couple of items where we were very pleased to receive input  
143 from the citizens of the county letting us know exactly how they would like these  
144 ordinances to affect their lives.

145  
146 And the latest step in the public input process, you all are very familiar with, we held a  
147 series of eight work sessions ranging from an hour to an hour and a half in length in which  
148 we walked through all of these drafts in detail. I wish there was some way that I could  
149 take the general public through the 10 or 11 hours of accumulated subject matter there,  
150 but it would not be possible. So, we are not making an effort to describe everything that's  
151 changing in the code, because it just couldn't be done in a reasonable amount of time.  
152 But we will give a brief update here in just a minute.

153  
154 But I do also want to mention we have begun the process of taking the Board of  
155 Supervisors through their work sessions. We had a kick-off meeting December 15th, and  
156 the Board is working now to develop a schedule for us to take them through a series of  
157 work sessions as well.

158  
159 So, among the major changes, I want to start with the Zoning Ordinance. In Articles 1  
160 and 2 don't have any really big changes. That's the administration and the processes.  
161 Most of that information has just been reorganized and has been clarified and has been  
162 brought up to date.

163  
164 There are some specific provisions that we have put into place during this year of  
165 pandemic in order to hold more expedited meetings and in order to keep our government  
166 functioning while people are not meeting face-to-face nearly as much. Some of those  
167 you're very familiar with. The plans of development and subdivisions are being reviewed  
168 and approved administratively now. We have found that to be very effective and very  
169 efficient. And we are proposing to continue with those changes on a long-term basis.

170  
171 In addition to that, the R-3A, R-4, and R-4A Districts, which were set aside, I'll say, in the  
172 year 2000, the Board determined that there would be no future rezonings to those  
173 categories. The housing market has again changed, and we believe it is time to again  
174 allow rezonings to those categories.

175  
176 Our R-5A District originally allowed detached dwellings either on the zero-lot-line or in the  
177 middle of a lot, and that was gradually changed to only allow the zero-lot-line form of  
178 development. And a couple of years ago you proposed, and the Board adopted, an  
179 amendment to the ordinance to allow again development of detached dwellings in R-5A.  
180 We are recommending making that change permanent.

181  
182 Also, we have had developers come to us with specific ideas for projects similar to things  
183 that they have seen in other parts of the country that were very successful and they felt  
184 built good communities. And as soon as they put it on the table, all we could say is, No.  
185 We have no place where you can even propose that. And so, we -- our consultant and

186 staff have developed a new, small-lot, Single-Family District which we're calling R-4B,  
187 which would at least allow a developer who thinks he has the right proposal on the right  
188 site to come in and talk about it. Right now, all we can tell them is, Sorry, we don't have  
189 anything that matches up with that.

190

191 We know this is not going to be appropriate everywhere and certainly would have to go  
192 through the rezoning process. They would have to bring you a plan. You would have to  
193 make a recommendation that they would then take to the supervisors. But this proposal  
194 would at least give them the opportunity to have that conversation.

195

196 We've also introduced, or this draft also introduces, four Planned Development districts.  
197 And this is a tool that has been used for the last, I don't know, 10 or 20 years, I guess,  
198 around the country. Chesterfield County uses it as well as many other communities in  
199 Virginia. In Henrico we have not.

200

201 Our Urban Mixed-Use District has some of the characteristics of a Planned Development  
202 District, but it's not a true Planned Development District. And we have felt the need, as  
203 we've seen how the market has changed over the last 20 years since the UMU was added  
204 to our code, we've decided that we really need two different UMU Districts. One sort of  
205 similar to what we do now, but made a little bit simpler, and then a true Planned  
206 Development District for urban mixed-use developments.

207

208 So, you see before you there -- and again this comes straight out of your Comprehensive  
209 Plan. It -- there are areas in the county designated for suburban mixed-use development  
210 and for traditional neighborhood development, and this would give the specific code  
211 language that a developer could use to bring developments like that before you for  
212 consideration.

213

214 Also a light industrial mixed-use district, similar to some of the development that we've  
215 had proposed in and around the Westwood area, and that part of the city/county boundary  
216 there. The opportunity for, say, artisan manufacturing with residential units either above  
217 or nearby just to increase the opportunities for mixing of uses and for developing vibrant  
218 communities rather than standalone. This is where the manufacturing is. That's where  
219 the residences go.

220

221 And, again, these are ideas that a developer would have to develop his plans and bring  
222 them to you for review. You would make a recommendation and then they would go to  
223 the Board for review. But we at least would have a framework in place to have those  
224 conversations.

225

226 Well, that's some of the major changes to Article 3, which is the districts.

227

228 Article 4, which discusses proposed uses, again, this is a ton of detail. It took us about  
229 three hours to go through it in work session. I'm going to try to cover it in about three  
230 minutes.

231

232 But in the Agricultural District, one thing -- major change that we've seen since 1960 is  
233 that the farming economy is completely different in Henrico County than it was 40 years  
234 ago or 60 years ago. And we are now seeing smaller-scale agriculture. And we're hearing  
235 from our farmers that they need more opportunities for different revenue streams. They  
236 can't just depend on a 300-acre dairy to keep -- if we want to maintain the rural character  
237 of our rural areas, we have to provide more opportunities for farmers to have different  
238 revenue streams. So, we've tried to put some of those ideas in here.

239  
240 For the single-family districts, again, as I mentioned, backyard hens would be allowed.  
241 They would require a conditional use permit, so there would be a public hearing and the  
242 neighbors would have an opportunity to comment. Beekeeping would be allowed with  
243 very strict regulations, very clearly written standards for fencing and screening, and those  
244 sorts of things.

245  
246 Accessory apartments would be allowed by conditional use permit. This is something  
247 that we discussed in work session at some length, but it's something that would open  
248 opportunities for different affordable housing options and different flexibility in housing.  
249

250 Updating the home occupation standards, some of the development standards in our  
251 Single-Family Districts are just outdated. They're things that were common in the 1960s  
252 and 1970s, but sum-of-side-yards and reverse-corner regulations are things that you just  
253 don't see today in Zoning Ordinances. So, we are either simplifying and streamlining or  
254 just completely eliminating those.

255  
256 We do propose deleting the minimum finished floor area by district. The standards that  
257 we have are so low that they don't really accomplish what they originally -- again, they  
258 were written in 1960. The market -- the housing markets have changed so much since  
259 1960 that they're just no longer relevant.

260  
261 And increasing allowance for accessory buildings. That's another topic that we discussed  
262 at some length in the work session.

263  
264 The multi-family residential, there aren't really major changes, but we are simplifying the  
265 standards for townhouses. Right now, they're a little different from one district to the next.  
266 Changes from 18 feet to 19 feet; from 8 in a row to 12 in a row. Just minor changes that  
267 don't really accomplish any particular difference. So, we're just standardizing them to  
268 simplify the whole thing.

269  
270 And also, in the R-6 District, there have been provisions in our code for a long time to  
271 allow some mixed uses in R-6. Very, very, few people have taken advantage of them,  
272 because they were so narrowly written and so constricting that it just wasn't really  
273 practical. So, we're trying to broaden that. And, again, that's an issue that you have  
274 changed -- recommended to the Board that they change the code in just the last couple  
275 years. And we've been pleased so far with the response to that. So, we want to continue  
276 that, carry it forward.

277

278 In the Office Districts one of the biggest changes is allowing restaurants. But there are  
279 other supporting uses that right now are prohibited in our Office Districts. So, if you work  
280 in a large office park, you have to go out and get in your car and drive to a shopping  
281 center in order to go to a restaurant at lunch time, because you can't build a restaurant in  
282 an Office District. So, just some things like that that, again, in the 1970s, 1980s, when  
283 those restrictions were put in place, they made perfect sense, but things are not -- the  
284 market has changed and we're trying to keep up.

285  
286 Commercial and Industrial districts: Again, you won't see a lot of big changes on the  
287 ground there, but we are updating all of the language and simplifying. Right now, it's long  
288 lists of very specific uses and they -- there's a lot of overlap. And it's just all being  
289 simplified and clarified, and obsolete terminology deleted.

290  
291 So those are the major changes to the use regulations in Article 4.

292  
293 The other standards in the Zoning Ordinance, again, there are a lot of little changes.  
294 There are a million details in this thing. And we just -- time will not allow us to try to walk  
295 through all of them.

296  
297 But I did want to mention the Subdivision Ordinance. All that's in the Zoning Ordinance.  
298 There's both the Zoning and Subdivision Ordinance before you this evening.

299  
300 The Subdivision Ordinance, the biggest single change is the proposal for a minor  
301 subdivision process which would allow a path of review and approval for re-subdivisions  
302 of previously divided lots, for boundary line vacations and boundary line adjustments,  
303 which are things that we get a lot of questions about, but today our code does not  
304 specifically address.

305  
306 The family division section, I think you're all familiar with that. Restrictions that were put  
307 in place in 2015 that have caused a lot of concern for a lot of people that are trying to  
308 divide a parcel to give to a family member. The code requires a paved driveway, even if  
309 it's a private driveway, it has to be paved with two inches of asphalt. And that's a good  
310 standard. The problem is there's no flexibility. And we have seen some opportunities  
311 where maybe that standard could be -- there could be some flexibility introduced. But  
312 right now, there is no means for us to show any flexibility, so we just want to allow for a  
313 case-by-case review in a case where that may not be the appropriate standard.

314  
315 And, finally, you're all familiar with the change that was made in 1987 in our Subdivision  
316 Ordinance that allowed for one division of a parcel to be exempt from the subdivision  
317 review. Because when major changes were put in place in 1987, we didn't want to catch  
318 people off guard. And we didn't want what's called a race to the courthouse where people  
319 see this coming and go and try to record a plat just because they won't be able to record  
320 it after that is due.

321

322 Well, that was 33 years ago, so the race to the courthouse is over. We feel like, that we  
323 can move on from that provision and once again review subdivisions, all subdivisions,  
324 including the first split of the property.

325  
326 So those are the major changes that I did want to try to fly through as quickly as we could.

327  
328 I want to leave you with the thought, and leave the public with the thought, that this is a  
329 work in progress. A lot of times when we have our Planning Commission public hearing,  
330 we feel like next month we're going to the Board and this is going to be law. That is  
331 absolutely not the case with this ordinance. This is an -- almost a 600-page document,  
332 and we know it's still a work in progress.

333  
334 The Board of Supervisors has just begun the process of digging into all these details, and  
335 we know they are going to make improvements. The County Attorney's review we know  
336 is going to require some changes.

337  
338 So, we know that there are changes still coming. This is not by any means the end of this  
339 process. Specifically, the Form-Based Overlay District --you have been given copies of  
340 letters from the director to a couple of the stakeholders and major landowners whose  
341 property is being affected by that just to say we know that those regulations are not  
342 finished yet.

343  
344 We want to hold the public hearing, we want to get public input, we want to hear people's  
345 reactions to what we have done so far, but we know it's not finished, and we know there  
346 is more work to do.

347  
348 And, finally, you know, when we -- when we do think we're finished, we still have another  
349 public hearing before the Board, and we may find out at that time that we're not as finished  
350 as we thought we were. So, this is not the case where coming to you means we're almost  
351 at the finish line. This is a major milestone, but the finish line is not yet in sight.

352  
353 So, we are hoping that you will hold a public hearing tonight. And if we do have time --  
354 we're down to 34 minutes now -- if we do have time to hear from everybody who has  
355 signed up to speak, then we are hoping that you would close the hearing. But we don't  
356 even want you to think about making your recommendation tonight. We would like you  
357 to defer action until your next meeting, which will be February the 11th.

358  
359 And, Mr. Chair, unless there are any questions for me, we can move on to the public  
360 comment.

361  
362 Mr. Archer - Thank you, Mr. Blankinship. And I, on behalf of the  
363 Commission, I'd like to thank you and your team for all the work that you all put into this  
364 and the many reports that you've given to us throughout this whole process. And your  
365 remarks about this being a work in progress -- I hope those were taken seriously by  
366 people in the audience who might be listening so that you could understand that there are



367 maybe questions that we just can't answer tonight. And -- but we'll do our best. Thank  
368 you, Mr. Blankinship.

369  
370 Mr. Blankinship - Thank you, Mr. Chair.

371  
372 Mr. Archer - It's open to the public now for questions or comment, unless  
373 the Commission has some questions for Mr. Blankinship. Okay. We are open for  
374 comment and questions.

375  
376 Mrs. Thornton - Is anybody online?

377  
378 Mr. Archer - Ms. Deemer and Ms. Smith, have you anyone waiting in the  
379 queue to speak?

380  
381 Ms. Deemer - We do. We have three speakers. Our first speaker is Nicole  
382 Ellis. I am going to unmute her and she will be able to speak.

383  
384 Mr. Archer - Thank you.

385  
386 Ms. Ellis - Thank you. Can you --

387  
388 Mr. Archer - Good evening, Ms. Ellis.

389  
390 Ms. Ellis - Good evening. My name is Nicole Anderson Ellis. I live in the  
391 Varina District, 1431 Chaffins Bluff Lane. And I serve the county on the Henricopolis Soil  
392 and Water Conservation District. But tonight, I am speaking in my role as co-chair of the  
393 Route 5 Corridor Coalition.

394  
395 And I am absolutely delighted to lend my voice to this conversation tonight and just say  
396 thank you. I wanted tonight to thank everyone in the room there and all of the people who  
397 participated in this extraordinary process, including Supervisor Tyrone Nelson, Mr.  
398 Mackey, Mr. Emerson, Mr. Blankinship, Ms. Deemer, and all of the citizens who invested  
399 their limited free time in this process.

400  
401 It was a beautiful example of citizen engagement, which is always fraught and  
402 challenging. But there was so much participation, and I think that the county did a  
403 wonderful job of listening. And there's so many points that were made by Mr. Blankinship  
404 that introduced that feedback from citizens. Everything from small-scale agriculture and  
405 backyard hens.

406  
407 But I also want to specifically speak to the Route 5 Corridor Overlay District which was  
408 very important to a number of citizens in the Varina District and beyond because of its  
409 tourism value. And I think that the county did a wonderful job with that. And I'm thrilled  
410 to see that one section of the -- of Route 5 is having that overlay district put into this  
411 ordinance.

412

413 I did have a question about the other sections of that overlay district and if there is a  
414 timeline for having those designs become law as well. And I did hear you say this is still  
415 a work in progress. But I'd love to know that timeline. And, again, a general thank you to  
416 everyone who was involved in this.

417  
418 Mr. Archer - Thank you so much for your comments. And they're well-  
419 presented and well taken. Do we have a timeline, Mr. Blankinship, or Mr. Emerson?

420  
421 Mr. Emerson - Mr. Chairman, I will be discussing the timeline with the Board  
422 of Supervisors during their retreat over this weekend --Friday and Saturday.

423  
424 Mr. Archer - Okay.

425  
426 Mr. Emerson - I've got a short presentation on several items and one of those  
427 is to discuss the timeline. And part of it has to do with, of course, as Mr. Blankinship  
428 noted, how many work sessions the Board is going to feel a need to have before they can  
429 move forward with their public hearing. So that's yet to be determined. But I would hope  
430 within this calendar year.

431  
432 Mr. Archer - Okay. Thank you, Mr. Secretary. Ms. Ellis, did that answer  
433 your question?

434  
435 Ms. Ellis - Absolutely. Thank you so much.

436  
437 Mr. Archer - Thank you so much. All right. We're open for the next person.

438  
439 Ms. Deemer - Mr. Chair, the next speaker is Ruth Grover, she has now been  
440 unmuted.

441  
442 Mr. Archer - Okay.

443  
444 Ms. Grover - Good evening. For the record, my name is Ruth Grover, and  
445 I work with G. Macy Nelson, LLC. Representing the UFCW Local 400 Union.

446  
447 I've been asked to testify as to my knowledge and professional opinions regarding  
448 warehouses. I would refer you to our letter dated January 14, 2021, which we have  
449 submitted to the Planning Commission, specifically pages 6 through 12 that deal  
450 specifically with warehouses.

451  
452 We feel that the definitions in the draft should be clarified, that a new one should be added  
453 for warehouses greater -- greater than 400,000 square feet, and that new use regulations  
454 should be put in place for these -- the largest ones which are a new use called fulfillment  
455 centers and may measure up to approximately 1-million square feet.

456

457 Three of these have been built in Virginia. From fulfillment centers Amazon ships goods  
458 first to smaller, approximately 200,000-square-foot facilities, called last-mile hubs on their  
459 way to the end user or customer via Amazon vans or private vehicles.  
460

461 Partially due to the pandemic, there's been a marked increase in e-Commerce which has  
462 accelerated the establishment of a plethora of these facilities. To date these new uses  
463 have been mistakenly classified under the category of standard warehouse, though they  
464 are much higher trip generators as per The Institute of Transportation Engineers.  
465

466 We feel both fall under the Warehouse Distribution Use Category. Right now, these sorts  
467 of warehouses are permitted without regard to size by right in the O/S, M-1, M-2, and M-  
468 3 zones, and in the LI-PD zone subject to an approved master plan. The definition  
469 included therein, however, is for a standard warehouse, and the use-specific standards  
470 are insufficient to prevent negative off-site impacts in the zones, and the way that they  
471 are approved in the various zones is also identical to that of traditional storage  
472 warehouses.  
473

474 The Zoning Ordinance should be based on the jurisdiction's comprehensive plan, and we  
475 do not find that the Henrico County Vision 2026 supports these fulfillment centers or last-  
476 mile hubs.  
477

478 Among other things, adequate public facilities, especially the transportation network, is  
479 not in place to support such development. In the history of the county with respect to  
480 neighborhood preservation, creating a sense of place, and a balance of uses would not  
481 be served.  
482

483 We feel that the definition of distribution warehouse must differ from that of storage  
484 warehouse and where and by what method of approval these new facilities be allowed  
485 should be different from each other and fulfillment centers.  
486

487 Fulfillment centers should further be distinguished between by size into two categories  
488 with 400,000 square feet as the demarcation point. Those 4000 -- 400,000 and greater  
489 square feet would be called distribution centers. Those smaller than 400,000 square feet  
490 would be called distribution warehouses.  
491

492 In our January 14, 2021 letter, page 11, we have suggested where the various types of  
493 warehouses be allowed and what their method of approval should be. Generally, we  
494 have indicated that storage warehouses be permitted by right in the O/S, M-1, M-2, and  
495 M-3 zones, and approved subject to a master plan in the LI-PD.  
496

497 Also, we feel it appropriate that distribution warehouses up to 400,000 square feet should  
498 be permitted by right in the M-3, and by conditional use in the M-2. We feel that the larger  
499 distribution centers measuring 400,000 square feet or greater should only be permitted  
500 by conditional use in the M-3 zone. We explain our analysis on pages 11 and 12, which  
501 primarily hinges on the purposes of the various zoning districts and the foreseeable off-  
502 site impacts of the operations of the various types of warehouses.

503  
504 Thank you for your time, and I'd be happy to answer questions if you have any of me.

505  
506 Mr. Archer - Thank you so much for your observations, ma'am. And I'm  
507 sure, as we've said before about this being a work in progress, it seemed like you spent  
508 a lot of time, went into a lot of detail, for questions. So, I'm sure your questions are very  
509 salient. Does anybody have any questions for her? We have none, ma'am, but we thank  
510 you for your observations anyway. Okay.

511  
512 Ms. Deemer - Okay, Mr. Chairman, our next speaker is Grant Giel. He is  
513 now unmuted.

514  
515 Mr. Giel - Thank you very much. Can you hear me?

516  
517 Mr. Archer - Yes. Would you repeat your name again, please?

518  
519 Mr. Giel - Yes. My name's Grant Giel. Good job pronouncing that. Most  
520 people say "Guile". I'm Grant Giel. I'm also with G. Macy Nelson representing UFCW  
521 Local 400. Ruth Grover spoke. Thank you to yourself. I'm joined by Ruth Grover. She  
522 spoke to the warehouse portion of our comments, which you can read in more detail again  
523 in the letter we submitted earlier today.

524  
525 I'm here to talk about our proposed changes to retail sales establishments not also listed.  
526 Which is a catch-all category for not specifically-listed retail uses. So, I -- we believe that  
527 retail sales establishments over 75,000 square feet in size, which we defined as big-box  
528 retail, you know, Targets, Walmarts, et cetera, are improperly located in this catch-all  
529 category because they're substantially different from other listed uses in such category  
530 and are not, by virtue of their size and activity, appropriate as by-right uses in the same  
531 zones that the generic retail uses are allowed in.

532  
533 Generic retail uses in this category are currently allowed by right in the Business 1, 2, and  
534 3 zones, and in the Mixed-Use zone, the O-3 and O/S zones, and the industrial zones,  
535 M-1, M-2, and M-3, and allowed by provisional use in the residential R-6 zone and the O-  
536 2 zone. And then they're allowed -- subject to an approved plan in the overlay zones.

537  
538 We believe that this particular use is sufficiently distinct that it should be separated and  
539 categorized as its own use and restricted accordingly. We believe most specifically that  
540 it should be restricted to conditional use approval in the B-3 and M-1 through M-3 Districts  
541 and I will briefly explain why it's not appropriate in the others.

542  
543 For the Urban M-Use and B-2 zones, the draft ordinance stresses in the purpose of the  
544 zones, pedestrian and cyclist connectivity, which is antithetical to big box stores, as they  
545 rely on automobile usage and large lots.

546  
547 For the B-1 zone, the ordinance calls for low-intensity retail and uses that serve small  
548 land areas, whereas big box stores serve large distant communities and are high

549 intensity. The office zones call for limited retail uses that are only compatible with  
550 medium-density residential or office uses. And big-box stores are not compatible  
551 because of their size and impact.

552  
553 The R-6 zone in particular is not appropriate even for a provisional use, because of the  
554 proportional limitations placed on any retail use in these developments within such a  
555 zone. And the fact that a single big-box store will disproportionately absorb much of the  
556 available retail use in that development.

557  
558 We approve of the general decision for the county to try to allow more mixed-use  
559 commercial uses in R-6 per their very recently stated goals. But allowing by-right big-box  
560 stores would in fact undermine that goal by creating singular monolithic stores instead of  
561 a variety of smaller commercial uses that are in keeping with the residential areas.

562  
563 Simply put, these stores have far greater impacts than other types of traditional retail uses  
564 and, as such, they should be carefully reviewed. Allowing them by right in residential and  
565 office zones undermines the land-use fabric of those zones, and provides little, if any,  
566 oversight on the part of the county to make sure that the developments won't harm local  
567 communities. As a result, we believe these stores should only be allowed by conditional  
568 use, because that would make sure that the county officials can review the developments  
569 and ensure that they won't harm public health and welfare, and that they are properly  
570 integrated within their zones.

571  
572 To that end, we also recommend on page, I believe, 13 of our letter, some additional  
573 requirements for the conditional and provisional uses. Namely, if there is a demonstrated  
574 public need for use in the proposed location, that there will be no significant adverse  
575 impacts on the property values of the surrounding lands, and the development will not  
576 substantially or permanently interfere with the use of the neighboring property for those  
577 uses that are permitted within the zoning district. And three, the development is  
578 adequately served by transportation facilities.

579  
580 This is a change we believe should just be applied generally to conditional and provisional  
581 uses, which have overlapping requirements for review even though they go through  
582 different bodies. As opposed to being specifically something for big-box. We just think  
583 that this is going to make the conditional use process more particular and robust.

584  
585 We also think that the conditional use application should be analyzed in a more quasi-  
586 judicial manner with adversarial hearings. The current language for the public hearing  
587 segment of these conditional use permits is not sufficiently specific to suggest that there  
588 would be the capacity for cross-testimony for individuals within a community to ask  
589 questions of the developer.

590  
591 Mr. Archer - Okay. Mr. Giel.

592  
593 Mr. Giel - Yes.

594

595 Mr. Archer - Pardon my interruption, but you have exceeded your allotted  
596 time limit.

597  
598 Mr. Giel - Yes --

599  
600 Mr. Archer - So could you please wrap it up a little?

601  
602 Mr. Giel - Yes, of course. I was -- I was -- I was almost there. We just  
603 think that with these requirements, the conditional uses generally will better serve the  
604 communities in Henrico. We thank you very much for all the time and effort that you've  
605 put into the ordinance so far. And we look forward to the final draft.

606  
607 Mr. Archer - Okay. Thank you, sir, for your remarks. And we appreciate  
608 your letter which I'm sure is coming. We have not had a chance to read it yet, because  
609 it's dated today. But, anyway, thank you for your remarks. We appreciate it. Any  
610 questions for him from the Commission?

611  
612 Mr. Baka - Mr. Chairman, I have one brief question for the caller, if I may?

613  
614 Mr. Archer - Go ahead, Mr. Baka.

615  
616 Mr. Baka - Yes, sir. And my question, there were many items in there to  
617 unpack, but my question is specifically related to the comment regarding large, big-box  
618 stores of 75,000 square feet or more and the appropriateness in the certain districts.

619  
620 I understand and get the -- I get the approach of B-1, B-2, you have neighborhood  
621 residential and you have other -- and you have R-6 that's not necessarily appropriate.  
622 What I would say, or what I would suggest or even ask, is, you know, when you have a  
623 sliding-scale, B-1, B-2, B-3, zoning districts it would appear, in most cases, in localities  
624 such as this and others throughout the state where you're going to see B-3 be an  
625 appropriate -- be considered to be what might be an appropriate location for larger square-  
626 foot retail uses.

627  
628 And the reason I say that, is the natural zoning, or rezoning, process will typically allow  
629 for the proffer process through rezoning to address some of the concerns. And you  
630 mentioned why you had a concern of it being allowed by right in that zone, such as the  
631 impact to traffic, sight/visual, et cetera. So, a lot of those impacts are addressed by the  
632 proffer process.

633  
634 So, what -- my observation it just, at first glance -- and I'm sure the staff will have time to  
635 review this after tonight. But my observation at first glance would be that in the conditional  
636 use permit process you spoke of, it would actually be, you know, duplicative or, you know,  
637 double step there of why, in your opinion, would a conditional use permit be necessary  
638 when you already have a proffer process. Most of the times land has to be rezoned to B-  
639 3. You simply just don't have the acres and acres of B-3 sitting there. So why would that  
640 be necessary to have a CUP when you already have proffer process through rezoning?

641  
642 Mr. Giel - Specifically the B-3 zone?  
643  
644 Mr. Baka - Yes.  
645  
646 Mr. Giel - We just think that the types of impacts that are allowed there  
647 are more worthy of the county's review. If you could consider it to still be fine by right,  
648 because the B-3 zones are usually located along arterial roadways, probably. But we feel  
649 that because of the size and impacts of these stores, that it's good to have this extra layer  
650 of redundancy and to make sure that the stores aren't going to have improper impacts.  
651  
652 Mr. Baka - Okay. Thank you for your comments and thank you for your  
653 -- for your letter tonight. Thank you.  
654  
655 Mr. Giel - Thank you very much for considering it.  
656  
657 Mr. Archer - All right. Anyone else on the Commission have a question?  
658 All right. There being none, Ms. Deemer, we're ready for the next person.  
659  
660 Ms. Deemer- Mr. Chairman, we have no one else signed up to speak.  
661  
662 Mr. Archer - We have no one?  
663  
664 Ms. Deemer - No one.  
665  
666 Mr. Archer - Okay. Is there anyone maybe in the lobby who would like to  
667 contribute something? Anyone on the Commission like to contribute something? Mr.  
668 Secretary, Mr. Blankinship?  
669  
670 Mr. Baka - I -- does any of the other Commissioners have comments?  
671  
672 Ms. Thornton - No.  
673  
674 Mr. Baka - Mr. Chairman, I have a brief comment for the -- for Mr.  
675 Blankinship.  
676  
677 Mr. Archer - Okay.  
678  
679 Mr. Baka - As the Chairman noted, duly noted, I've sincerely appreciated  
680 the time and effort your staff has put into this. I've worked with many zoning ordinances  
681 throughout Virginia and in this locality too, and I appreciate the professionalism with which  
682 you -- which you put forward here.  
683  
684 I did want to point out two or three comments that I really appreciate in this -- in this draft.  
685 One, you're making older standards easier to read and easier to understand the  
686 regulations. I think that was long overdue and well needed.

687  
688 Also, in planned development districts, I for one have always been asking the staff for the  
689 last couple of years, Well, the UMU doesn't do this. Or the UMU doesn't do that. Type  
690 of approach. And now I'm like, Well, you know, you know, in a TND District you'll see  
691 certain other aspects. So, I appreciate the addition particularly of traditional neighborhood  
692 design and in the Suburban Mixed-Residential Districts. Because that's some of the other  
693 aspects that we -- that you and I've both seen, Ben, in other localities.

694  
695 As we all know, online -- thirdly, online shopping has really hammered brick-and-mortar  
696 retail. And now the pandemic in 2020, we all have masks on here tonight, it's -- in 2021  
697 has really hurt office parks. So, I really like the flexibility that you guys have added to the  
698 draft for simplifying commercial uses. And the idea of allowing restaurants in an office  
699 park, office zoning, is very welcome now in 2021. May not have just been something we  
700 even thought about previously. But thank you for that flexibility. And kudos to the staff.

701  
702 Mr. Emerson - Thank you.

703  
704 Mr. Archer - Thank you, Mr. Baka. The rest of the Commission members  
705 will take those remarks as being from all of us.

706  
707 Mrs. Thornton - Yes.

708  
709 Mr. Archer - Okay if there's nothing --

710  
711 Mrs. Thornton - I like the user friendly.

712  
713 Mr. Archer - Right.

714  
715 Mrs. Thornton - To be able to click and then it tells me. Because I'm that -- I  
716 need 101. I need to, like, click and then it pops up and it says, This is what it is and this  
717 is where you're going. I think the technology piece of it, too, you're going to make it more  
718 user friendly for more builders and more developers out there. So, thank you.

719  
720 Mr. Archer - With that, thank you again, Mr. Blankinship. Okay. If we're  
721 done with all the speakers then I guess we can conclude this portion of the evening. And  
722 we'll reconvene at 7:00 and get on with the meeting.

723  
724 Mr. Emerson - Mr. Chairman, before you adjourn.

725  
726 Mr. Archer - Yes.

727  
728 Mr. Emerson - You do need a motion to close the public hearing.

729  
730 Mr. Archer - Okay.

731



732 Mr. Emerson - And, as you know, we did request that you defer action for  
733 decision only to February the 11th.

734  
735 Mr. Archer - Okay. Somebody would like to make that motion, I think you  
736 could say two of those things in the same motion.

737  
738 Mrs. Thornton - I move that we close the public hearing this evening and that  
739 we defer till February 11th.

740  
741 Mr. Mackey - Second.

742  
743 Mr. Archer - Okay. Motioned by Mrs. Thornton and seconded by Mr.  
744 Mackey. All in favor of that motion say aye. Anyone opposed say no. The ayes have it  
745 and that motion has passed.

746  
747 Mrs. O'Bannon - And I abstain --

748  
749 Mr. Emerson - Mr. Chairman, if I could.

750  
751 Ms. O'Bannon - I abstain from all votes.

752  
753 Mr. Emerson - Yes, ma'am.

754  
755 Ms. O'Bannon - It'll say that. Thank you.

756  
757 Mr. Emerson - Mr. Chairman, just to clarify, that is for decision and discussion  
758 by the Commission only.

759  
760 Mr. Archer - Okay. Let's make sure that's included in the motion. In the  
761 minutes. All right. Thank you. With that, we will reconvene at 7:00.

762

763

764

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766

767

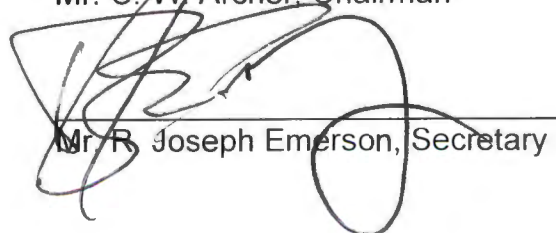
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Mr. C. W. Archer, Chairman

  
Mr. R. Joseph Emerson, Secretary