

1 MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING  
2 APPEALS OF HENRICO COUNTY, HELD IN THE COUNTY  
3 ADMINISTRATION BUILDING IN THE GOVERNMENT CENTER AT PARHAM  
4 AND HUNGARY SPRING ROADS, ON THURSDAY JULY 26, 2018 AT 9:00  
5 A.M., NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-  
6 DISPATCH JULY 9, 2018 AND JULY 16, 2018.

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8  
Members Present: Helen E. Harris, Acting Chair  
Gentry Bell  
Terone B. Green  
Walter L. Johnson, Jr.  
James W. Reid

Also Present: Jean M. Moore, Assistant Director of Planning  
Benjamin Blankinship, Secretary  
Paul M. Gidley, County Planner  
R. Miguel Madrigal, County Planner  
Kuronda Powell, Account Clerk

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10  
11 Mrs. Harris - Good morning and welcome to the July 26, 2018  
12 meeting of the Henrico County Board of Zoning Appeals. Will all who are able to  
13 stand please join us in the Pledge of Allegiance.

14  
15 Thank you. Now I'll ask Mr. Ben Blankinship, our Board secretary, if he will read  
16 the rules for today's meeting.

17  
18 Mr. Blankinship - Good morning, Mr. Chair, members of the Board,  
19 ladies and gentlemen, the rules for this meeting are as follows: Acting as  
20 secretary, I will announce each case. Then we will ask everyone who intends to  
21 speak to that case to stand and be sworn in. Then a member of the staff will give  
22 a brief introduction to the case, and then the applicant will present their  
23 presentation. After the applicant has spoken, anyone else who wishes to speak  
24 in favor of the case will be invited to do so. And then anyone who wishes to  
25 speak in opposition to the case will be asked to do so. After everyone's had a  
26 chance to speak, the applicant, and only the applicant, will have an opportunity  
27 for rebuttal.

28  
29 After the public hearing on each case is completed, the Board will proceed to the  
30 public hearing on the next case. They will render all of their decisions at the end  
31 of the meeting. So if you want to hear their decision on a specific case, you can  
32 either stay until the end of the meeting, or you can check the Planning  
33 Department website—we usually get it updated within about an hour of when the  
34 meeting ends—or you can call the Planning Department this afternoon.

36 This meeting is being recorded, so we'll ask everyone who speaks to speak  
37 directly into the microphone on the podium. State your name, and please spell  
38 your name so we get it correctly in the record.

39  
40 I believe that's everything Madam Chair. We have all five members, and there  
41 are no requests for deferral or withdrawal at this time.

42  
43 Ms. Harris - Thank you. Please call the first case.

44  
45 Mr. Blankinship - All right, CUP2018-00003, Christine F. Morlino, DVM.

46  
47 **CUP2018-00003 CHRISTINE F. MORLINO, DVM** requests a  
48 conditional use permit pursuant to Section 24-116(d)(1) of the County Code to  
49 allow a temporary office trailer at 4730 Pouncey Tract Road (Parcel 739-767-  
50 3152) zoned Business District (B-3) (Three Chopt).

51  
52 Mr. Blankinship - Would everyone who intends to speak to this case  
53 please stand and be sworn in. Raise your right hands, please. Do you swear the  
54 testimony you're about to give is the truth, the whole truth, and nothing but the  
55 truth so help you God? Thank you. All right, Mr. Gidley, you may begin.

56  
57 Mr. Gidley - Thank you, Mr. Secretary. Good morning, Madam  
58 Chair, members of the Board.

59  
60 This is a request to allow temporary office trailers for an existing veterinary clinic.  
61 It has been deferred several times because the applicant is going through the  
62 site plan review process concurrently with this request to the BZA. Although plan  
63 review is not yet complete, the applicant is confident that the proposed design  
64 will proceed through the review process for the renovation plans.

65  
66 The subject property is located at the northwest corner of Kain and Pouncey  
67 Tract Road. This is Pouncey Tract and this is Kain Road right here. It's improved  
68 with an existing 2,400-square-foot veterinary clinic, shown right here. In  
69 conjunction with the purchase of the property, Dr. Morlino would like to do an  
70 extensive remodeling of the veterinary clinic. This would include a 300-square-  
71 foot addition, a complete interior remodel, along with exterior modifications.

72  
73 Because of the extent of the improvements, she would like to install a 1680-  
74 square-foot office trailer on the property that would maintain her practice while  
75 the work to the main veterinary clinic is being performed. Additionally, she would  
76 like to install two 160-square-foot trailers that would house x-ray equipment and  
77 accommodate some storage of office furniture and equipment as well. You can  
78 see the main veterinary clinic right here. Again, this is Pouncey Tract out here.  
79 The main medical trailer would go right here and two smaller x-ray trailers here  
80 and here.

81

82 In evaluating the request, the southern two-thirds of the property is zoned B-3,  
83 Business District, while the northern 30 percent is zoned A-1 Agricultural. The  
84 site is designated as Suburban Mixed Use on the Future Land Use Map. The  
85 commercial use of the property is consistent with the both the B-3 zoning and the  
86 Comprehensive Plan designation. The proposed officer trailers will serve the  
87 veterinary practice until renovations are complete. Staff does not anticipate any  
88 substantial or lasting detrimental impact from the temporary office trailers.

89  
90 The site is bordered by Short Pump Middle School to the east across Pouncey  
91 Tract Road, a gas station to the south across Kain Road, and two residents on  
92 large lots to the north and west. The positioning of the trailers on the property  
93 along Kain Road here should limit their impact on adjoining residences and  
94 capitalize on existing vegetation as a buffer.

95  
96 The existing parking lot will remain in use and provide necessary parking for the  
97 clinic during these renovations. So in conclusion, the proposed trailers are  
98 consistent with both the zoning and the Comprehensive Plan designations on the  
99 property. No lasting detrimental impacts are anticipated from this proposed use.  
100 And based on the facts of the case, staff can recommend approval of this request  
101 subject to the conditions in your staff report.

102  
103 This concludes my presentation, and I will be happy to answer any questions you  
104 may have. Thank you.

105  
106 Ms. Harris - Mr. Gidley, in the application and the letter, they  
107 stated February 1, 2018, ending April 2018. So do we need to make that  
108 adjustment?

109  
110 Mr. Blankinship - What did we put in the conditions? I think we have  
111 adjusted it. They, of course, have been deferred several times as they have  
112 worked through the plan review process. Condition #11 would now say: "The  
113 trailers and storage containers shall be removed from the property on or before  
114 July 1, 2019." So that should give them enough time, I think, to complete the  
115 process.

116  
117 Ms. Harris - Thank you. Are there any other questions from Board  
118 members? Thank you, Mr. Gidley.

119  
120 Mr. Gidley - Thank you, ma'am.

121  
122 Ms. Harris - Could we have the applicant come forward? State  
123 your name and spell your last name, please.

124  
125 Mr. Morlino - My name is Joe Morlino. Last name is spelled M-o-r-l-  
126 i-n-o.

127

128 Ms. Harris - Okay. Please summarize your request.  
129  
130 Mr. Morlino - As was described. Two temporary trailers so that we  
131 can continue to operate as a veterinary clinic as it has been in the locations as  
132 described.  
133  
134 Ms. Harris - Why was it deferred? I know you were waiting for  
135 some information.  
136  
137 Mr. Morlino - It's largely been the process of approvals through the  
138 County.  
139  
140 Ms. Harris - Thank you. Are there any questions from Board  
141 members?  
142  
143 Mr. Bell - Have you read, understand, and agree with the  
144 conditions if it is approved?  
145  
146 Mr. Morlino - Yes indeed.  
147  
148 Mr. Bell - Thank you.  
149  
150 Ms. Harris - Are there any more questions from Board members?  
151  
152 Mr. Green - A statement or?  
153  
154 Ms. Harris - Questions, statements.  
155  
156 Mr. Green - I'm the Three Chopt District representative. I don't live  
157 that far from that location, and I don't see where those trailers would be  
158 problematic for that area. That area is growing, developing, and you're seeing a  
159 lot of improvements. So I applaud them for wanting to improve that piece of  
160 property.  
161  
162 Mr. Morlino - Thank you.  
163  
164 Ms. Harris - Thank you so much.  
165  
166 Mr. Morlino - Thank you very much.  
167  
168 Ms. Harris - Is there anyone who wishes to oppose this request? If  
169 not, that concludes this case. Mr. Blankinship, please call the next case.  
170  
171 **[After the conclusion of the public hearings, the Board discussed the case**  
172 **and made its decision. This portion of the transcript is included here for**  
173 **convenience of reference.]**

174 Ms. Harris - What is the pleasure of the Board?  
175  
176 Mr. Green - As the Three Chopt representative, I move we  
177 approve the permit.  
178  
179 Ms. Harris - Okay. Would you care to state a reason?  
180  
181 Mr. Green - Because I think it will give them the necessary ability  
182 to allow a temporary office trailer for their veterinary services.  
183  
184 Ms. Harris - All right. Now may I have a second?  
185  
186 Mr. Bell - Second.  
187  
188 Ms. Harris - So moved by Mr. Green and seconded by Mr. Bell  
189 that we approve this conditional use permit. Are there questions? All in favor say  
190 aye. Those opposed say no. There is no opposition; that motion passes.  
191  
192 After an advertised public hearing and on a motion by Mr. Green, seconded by  
193 Mr. Bell, the Board **approved** application **CUP2018-00003, CHRISTINE F.**  
194 **MORLINO, DVM's** request for a conditional use permit pursuant to Section 24-  
195 116(d)(1) of the County Code to allow a temporary office trailer at 4730 Pouncey  
196 Tract Road (Parcel 739-767-3152) zoned Business District (B-3) (Three Chopt).  
197 The Board approved the conditional use permit subject to the following  
198 conditions:  
199  
200 1. This conditional use permit applies only to the installation of two temporary  
201 office trailers and a temporary storage container. All other applicable regulations  
202 of the County Code shall remain in force.  
203  
204 2. Only the improvements shown on the plot plan filed with the application may  
205 be constructed pursuant to this approval. Any additional improvements shall  
206 comply with the applicable regulations of the County Code. Any substantial  
207 changes or additions to the location of the improvements shall require a new  
208 conditional use permit.  
209  
210 3. Before beginning any clearing, grading, or other land disturbing activity, the  
211 applicant shall obtain approval of an environmental compliance plan from the  
212 Department of Public Works.  
213  
214 4. This approval is subject to all conditions of plan of development POD-114-86  
215 and any new conditions that may be placed on plan of development POD2018-  
216 00158.  
217

218 5. Any gravel pads used to temporarily accommodate the proposed trailers shall  
219 be removed at the termination of this permit and the affected areas shall be  
220 returned to their original condition.

221  
222 6. All animals kept overnight or for extended stays due to required treatment shall  
223 be housed indoors. Exterior kennels or boarding shall be prohibited.

224  
225 7. All exterior lighting shall be shielded to direct light away from adjacent property  
226 and streets.

227  
228 8. All bathrooms in the trailers shall be connected to sanitary facilities approved  
229 by the Virginia Department of Health.

230  
231 9. The trailers shall be skirted on all sides with a durable material to screen the  
232 required foundation systems, waste water storage tanks, and water supply  
233 connections.

234  
235 10. The applicant shall delineate the perimeter of the existing septic system with  
236 temporary fencing at least three feet tall to protect the septic system from  
237 damage during construction.

238  
239 11. The trailers and storage container shall be removed from the property on or  
240 before July 1, 2019, at which time this permit shall expire.

241  
242  
243 Affirmative: Bell, Green, Harris, Johnson, Reid 5  
244 Negative: 0  
245 Absent: 0

246  
247  
248 **[At this point, the transcript continues with the public hearing on the next**  
249 **case.]**

250  
251 Mr. Blankinship - CUP2018-00015, Liesfeld Contractor Incorporated.

252  
253 **CUP2018-00015 LIESFELD CONTRACTOR, INC.** requests a  
254 conditional use permit pursuant to Section 24-116(d)(3) of the County Code to  
255 deposit soil as fill material at 8950 Strath Road (Parcel 816-677-8788) zoned  
256 Agricultural District (A-1) (Varina).

257  
258 Mr. Blankinship - Would everyone who intends to speak to this case  
259 please stand and be sworn in. Raise your right hands, please. Do you swear the  
260 testimony you're about to give is the truth, the whole truth, and nothing but the  
261 truth so help you God?

262

263 Mr. Gidley - Madam Chair, members of the Board. You should  
264 have received a petition containing a number of signatures in opposition to this  
265 request.

266  
267 This is a request to deposit soil as a fill material at a reclaimed mine. It was  
268 deferred from the June meeting to allow the applicant to hold a community  
269 meeting, which was held on Wednesday, July 11th. As a result of comments  
270 received at that meeting, as well as the public hearing, the applicant has agreed  
271 to several changes to the project, and I will point those changes out as I go  
272 along.

273  
274 Vulcan Land owns 147 acres on both sides of Strath Road. Liesfeld Contractors  
275 has applied for a conditional permit for the 64 acres on the west side of Strath  
276 Road. Approximately 40 acres of this parcel would be disturbed while 24 acres  
277 would remain intact.

278  
279 Originally, the request showed some activity down here to the south in between  
280 these two residences, and that has been changed. The applicant has agreed to  
281 stop right here, as you can see on the clearance plan. So it would not extend  
282 down between these two houses right here. That was one change the applicant  
283 made.

284  
285 The subject property is a former mining site. In 1988, the Board granted a  
286 conditional use permit for West Sand and Gravel to mine the property. After  
287 extraction was completed, the operator did not entirely fill back the site and  
288 instead they simply put topsoil over the property and planted groundcover. As a  
289 result the elevation near the center of the property is approximately fifteen to  
290 twenty feet lower than the surrounding land.

291  
292 The original plan showed fill as deep as twenty feet at the maximum. After the  
293 community meeting, however, the applicant submitted revised plans that showed  
294 significantly less fill. Roughly half the site will now have less than ten feet of fill  
295 with fourteen feet in a few areas. Again, you can see how the land kind of goes  
296 down right now. This would be the fill here, which would bring it back closer to  
297 the original level.

298  
299 Mr. Blankinship - Excuse me just a moment. For anyone who is not  
300 used to reading this kind of engineering plan, the vertical axis here is at a  
301 different scale from the horizontal axis. So these appear to be much, much  
302 steeper than they are just to make the drawing easier to read. The point of the  
303 drawing, through, is if you look to the right side there, you see the existing grade.  
304 The proposed grade is going to kind of tie into the existing grade. It's not going to  
305 go up twenty feet suddenly when you start to fill. It's actually that the existing  
306 grade goes down ten or fifteen feet at that point. So rather than having a steep  
307 downhill, you're just going to have a very subtle downhill after that, if the permit is  
308 approved.

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354

Mr. Gidley - Thank you.

In October 1992, the County accepted the reclamation of the property. And over the past twenty-five years, the site has turned into a woodland. Liesfeld Contractors would like to remove the existing trees from the property, fill the lower grade with material excavated from construction sites, and then reclaim the site a second time. Phase 1 grading is here.

No new material will be excavated from this property unlike the previous mining operation. The applicant's request is to only place additional fill material on the site. Most of the surrounding area is rural in character, except for a cluster of seventeen homes on both sides of Strath Road just north of the entrance to the property. There are also eight dwellings near the southern property line as well.

The project plans to show a 100-foot wooded buffer along the perimeter of the subject property that you can see here. The site is bordered to the west out here by a 200-foot Virginia Power easement. The site is also bordered by a solar farm that was approved last year.

The final reclamation plan shows 3-to-1 slopes from the finished grade of the property down to the existing elevation. Again, you can kind of get a rough idea of how this is going to look.

At the community meeting, there was some confusion on the shape of the proposed hill. The applicant has clarified that they would only bring the site level with the adjoining land. They have submitted profiles that illustrate this, as you can see here.

The property is zoned A-1 Agricultural and is designated Rural Residential on the Future Land Use Plan. Extraction and reclamation of a former mining site are consistent with these designations. The future use of the property would arguably be enhanced by this request because the property would be re-graded, and finished grades returned closer to what they were originally.

The applicant originally proposed reclaiming the site with groundcover, which is pasture or row crops. However, because trees have taken over the site since the original mining and those trees will be removed, staff recommends a condition that the reclamation plan include reseeding of the site. You'll find in your conditions that it says evergreens, either white pine, red cedar, or another species approved by the director of Planning. Instead of the white pine, I believe that's loblolly pine that's actually out on the site, which is the native species. So perhaps that condition can be amended to just say with a native tree species or what is approved by the director of Planning. Because of the— consistent with the zoning and Comprehensive Plan designations.

355 Although this request would not have all the impacts associated with a traditional  
356 mining use, it would increase truck traffic on Strath Road, and it would bring  
357 additional noise and dust to a site that has been dormant for many years. Strath  
358 Road, however, is a public road maintained by the County, and it can  
359 accommodate truck traffic safely and efficiently. Compared to a traditional mining  
360 request, where detrimental impacts are found during the excavation phase as  
361 well as the reclamation process, this project would be different in that the  
362 excavation phase was completed twenty-five years ago when soil, sand, and  
363 gravel were removed from the site initially.

364

365 There are, however, potential impacts from the reclamation process the Board  
366 does need to consider. Although a 100-foot buffer will be retained along the  
367 perimeter of this site, most of the trees existing on this property will initially be  
368 removed. There will also be noise and dust generated by the trucks bringing  
369 material to the site and dumping it, along with the equipment used to spread and  
370 compact that material. Potential impacts from the dust will be mitigated by  
371 requiring the deployment of water trucks to spray and control dust as needed. At  
372 the June public hearing, Ms. Harris asked a question about chemicals being used  
373 to control that process. Evidentially, that was obsolete language. We checked  
374 with Public Works, and they recommended new language, which is in your staff  
375 report. That's condition #13, and it says the applicant shall sweep Strath Road as  
376 necessary to prevent tracking of mud, and dust must be controlled in accordance  
377 with the latest version of the Virginia Erosion and Sediment Control Handbook.

378

379 In conclusion, as long as there is construction in the Richmond area, there will be  
380 a need for sites to place excavated material. Wherever they are located, it will be  
381 necessary for trucks to carry the material from the excavation site to the fill site.

382

383 Some of these sites will have some detrimental impact on their neighbors. When  
384 the subject property was previous mined, the limited reclamation left the property  
385 surface fifteen to twenty feet below the grade. This application would return it to a  
386 more consistent condition consistent with the surrounding property, which would  
387 better enable it to be developed in the future. While there will be some  
388 detrimental impacts on nearby property, those will be temporary in nature and  
389 mitigated by the proposed conditions. Because of this, staff recommends  
390 approval of this request subject to the conditions in your staff report.

391

392 That concludes my presentation. If you have any questions, I'll be happy to  
393 entertain those. Thank you.

394

395 Ms. Harris - Yes, I do have a question about condition #6 where it  
396 says, "There shall be no activity that results in sound clearly audible at the  
397 property lines." Will there be activity on the site on Saturdays and Sundays and  
398 national holidays? We know according to this condition if sound is generated,  
399 we're opposed to that. But will there be operation on this site on Saturday,  
400 Sundays, and national holidays?

401  
402 Mr. Blankinship - Whether they intend to have any activity would be a  
403 good question for the applicant.  
404  
405 Ms. Harris - Okay. I will ask the applicant.  
406  
407 Mr. Gidley - Mr. Hooker, the engineer for the applicant would—  
408  
409 Ms. Harris - Will answer that.  
410  
411 Mr. Gidley - —indicates he wants to address that.  
412  
413 Ms. Harris - All right. Thank you so much. Other questions from  
414 the Board? Questions of Mr. Gidley from the Board?  
415  
416 Mr. Bell - Yes, I have a couple. Does this complete the  
417 reclamation process of this piece of property?  
418  
419 Mr. Gidley - The property was accepted as reclaimed. The  
420 negative is that it's substantially lower than a lot of the surrounding property. So  
421 to an extent it would make it, as I noted, more consistent with the surrounding  
422 topography. Once they fill it up, it will bring it back up to grade similar to what's  
423 there. So arguably it would be better reclaimed in the long run than it is right now.  
424  
425 Mr. Bell - What I'm thinking, though, is will there be any other  
426 requests to do anything else on this piece of property once this is completed?  
427  
428 Mr. Gidley - I don't know, Mr. Bell. As you know, they mined the  
429 site originally, and then they've come back with the second request. So I can't  
430 really speak to the future.  
431  
432 Mr. Bell - Do you know who owns the property?  
433  
434 Mr. Gidley - It's owned by Vulcan.  
435  
436 Mr. Blankinship - The applicant has a contract to purchase it. Right now  
437 it's owned by Vulcan Materials, a mining company. But the applicant has an  
438 option to purchase the property.  
439  
440 Mr. Bell - Thank you.  
441  
442 Ms. Harris - Mr. Gidley, at the last hearing I think it was Mr. Nelson  
443 who suggested hours from 7 a.m. to 5:30 p.m. Yet in the condition we're getting 7  
444 a.m. to 6 p.m. Did they tell us why that changed?  
445

446 Mr. Gidley - That was from the public hearing, Ms. Harris. I'm at a  
447 little bit of a disadvantage. This is not my case, so I haven't followed it as closely,  
448 but I'm presenting all of these today. It looked to me like the initial condition was  
449 modified in ways that in some ways limited the hours more but in other ways did  
450 not. So I didn't really get into that too much with staff's presentation. It seemed to  
451 me to be more of a wash at that point. I'm sure you can ask the engineer or the  
452 applicant to see what they have to say as well.

453  
454 Ms. Harris - Okay, another condition. At the last meeting,  
455 Mr. Nelson indicated they could run different backup alarms so that it would not  
456 be so noisy when the trucks back up. But I don't see that mentioned in the  
457 conditions.

458  
459 Mr. Gidley - And I've not been given any information on that.

460  
461 Ms. Harris - Okay. All right. Are there any other questions of  
462 Mr. Gidley? Thank you so much.

463  
464 Mr. Gidley - Yes ma'am.

465  
466 Ms. Harris - I'm going to ask the applicant to come forward, please

467  
468 Mr. Hooker - Good morning, Madam Chair, members of the Board.  
469 My name is Randy Hooker. H-o-o-k-e-r. I'm with Engineering Design Associates.  
470 I'm here on behalf of Liesfeld Contractor Incorporated. Also with me this morning  
471 is Kelby Morgan, who is the representative of Liesfeld. He may speak to address  
472 certain concerns you may have.

473  
474 I'm before you today to request your consideration of the use permit. I would like  
475 to start by saying that Liesfeld Contractor Incorporated is a good steward of this  
476 community. Mr. Liesfeld started his business in 1972. His business has grown  
477 over the years and operates two facilities in Henrico County today. Until recently  
478 Liesfeld maintained a use permit for the sand and gravel barrow pit off Hines  
479 Road. The reclamation process has been completed, and that use permit has  
480 been closed. Gillies Creek Industrial Recycling facility off of Masonic Lane is a  
481 division of Liesfeld. This facility started in 1997. Gillies Creek also is constructing  
482 a wetlands mitigation bank off of White Oak Drive in Varina. This facility began  
483 operations in 2007.

484  
485 I would like to take a moment to follow up on a comment Ms. Harris made at the  
486 last hearing regarding a fatality that happened approximately thirty years ago. I  
487 spoke with Billy Moffett, Division of Police, regarding this matter. Billy informed  
488 me that they keep records for ten years and would not have any information at  
489 all. Billy then suggested checking the *Richmond Times-Dispatch* archives. I  
490 checked the archives, which there are two. One system starts in 1903 and runs  
491 through 1986. The second system starts in 1985 and runs to the current day. So

492 there's an overlap in those two systems. I searched both archive systems and  
493 could not find a record of a fatality at Strath Road and Kingsland Road within that  
494 time frame.

495  
496 Now I would like to request two changes to the conditions of approval. First, I'd  
497 like to change the hours of operation as designed in #6, Monday through Friday  
498 from 7 a.m. to 6 p.m. to read Monday through Friday from 7 a.m. to 5:30 p.m.  
499 Any activity taking place on weekends will be associated with maintenance of  
500 erosion and sediment control measures. So no physical activity would really take  
501 place on weekends, just maintenance of erosion and sediment control.

502  
503 The second item is that we're requesting that item 16 be revised to omit the  
504 statement that the reclamation shall include cedar trees, white pine trees, or  
505 similar species, or loblolly.

506  
507 Our client would like to have the ability to utilize this property upon reclamation.  
508 One option would be to lease that land for agricultural use.

509  
510 Lastly, we acknowledge that there are people here today in opposition to this use  
511 permit. We held a community meeting on Wednesday, July 11th, 6:30 p.m. to 8  
512 p.m., at the Fairfield Library to discuss the concerns brought forth. Prior to the  
513 community meeting, we revised the final grades shown on the reclamation plan  
514 to provide a gentler slope across the site.

515  
516 I received a copy of the petition yesterday, which is dated and was submitted to  
517 Planning on July 23rd, which was assembled by Mr. and Mrs. Kidd. I do have a  
518 few concerns regarding that petition. The first concern I have is that the petition  
519 states misleading information such as depositing contaminated soil. Permits are  
520 required for moving dirt. Those permits track where the dirt's coming from and  
521 where the dirt's going to. Any contaminated soils have been processed and go to  
522 an approved facility. This is not that type of facility.

523  
524 The second concern is the hours of operation requested—will be from 7 a.m. to  
525 5:30 p.m. Monday through Friday.

526  
527 The third concern is the information provided by many individuals signing the  
528 petition is incomplete. The information they provide is only a street name or a city  
529 and state or nothing at all. It is my understanding that some people have signed  
530 under an address which is not their residence, and there are addresses in the  
531 petition that are a mile or more away from the subject site. So I ask you, what is  
532 the distance that is relevant to noise and dust?

533  
534 The fourth concern is that there has been an active use permit, sand and gravel  
535 mine, across Kingsland Road, which is operated by S. B. Cox. It has been in  
536 operation for many years. The activity at this site depended upon the need for  
537 quality construction fill materials. This borough pit is currently in the reclamation

538 phase and should be complete in about a year. This facility, like I said, has been  
539 in operation for many years, and we have not seen such opposition to that  
540 facility.

541

542 The final comment to make is that I think the Board needs to consider the  
543 opposition. I'll let the owner's representative discuss this further. But if somebody  
544 has true opposition to this use but offers a deal instead, we just have to question  
545 that. But regarding this matter, I'll let Mr. Kelby Morgan speak to that.

546

547 Ms. Harris - Before Mr. Morgan speaks, I want you to—you can  
548 Google Dr. Benjamin W. Robertson, who is the pastor of Cedar Street Baptist  
549 Street, and Mrs. Delores Robertson lost their nineteen-year-old son in front of the  
550 gate of this facility. It was widely known in the community. I'm very familiar with  
551 that case.

552

553 Mr. Hooker - Okay.

554

555 Ms. Harris - Are you ready for the other gentleman? Please give  
556 us your name and spell your last name.

557

558 Mr. Morgan - Kelby Morgan. M-o-r-g-a-n.

559

560 Ms. Harris - Okay, Mr. Morgan, what do you need to add?

561

562 Mr. Morgan - Like Randy said, we have been in business a long  
563 time. We started in this area. We are a contractor. We have a history of running  
564 very, very similar operations to this. We've been good stewards to the  
565 community. In the multiple locations that we have, we haven't had any problems.  
566 We work with the neighbors. Very, very little opposition to anything we do. Most  
567 of the time people—we never hear anything from anyone. So it's a little odd,  
568 startling that in this situation it would come out like this where there is a lot of  
569 opposition to it.

570

571 When I first read the petition—which interestingly enough we just got yesterday  
572 afternoon—it appeared that a lot of people who signed that petition were not  
573 affected one way or the other by this operation. Some of them are up to maybe  
574 ten miles away, which kind of had me wondering what's the validity of it. There  
575 were people on Strath Road that signed it. I question whether they understand  
576 the case based on some testimony that we've heard here before from opposition.  
577 Someone could easily go on a rant about contaminated materials and dust and  
578 noise, and that's just not what we're doing. We know we're going to have some  
579 noise. We've mitigated the best we can. We do have alternative backup alarms  
580 that we can put on equipment. Most of our equipment runs on that now anyway.

581

582 Our biggest opposition is from one of our neighbors that didn't like the banging,  
583 didn't like the noise, didn't like the traffic, was actually more interested in

584 purchasing the property from us and leasing it back to us for the same use under  
585 the agreement that that opposition would be eliminated. I don't think that's right. I  
586 find it hard that he's got a grievance for me but he doesn't have one for himself.

587  
588 So that's what I can add to it.

589  
590 Mrs. Marshall - Mr. Morgan, what are the other sites? You said you  
591 had other sites.

592  
593 Mr. Morgan - Like Randy mentioned, Gillies Creek has just closed.  
594 And we currently have Bottoms Bridge.

595  
596 Ms. Harris - What is the name?

597  
598 Mr. Morgan - Bottoms Bridge.

599  
600 Ms. Harris - That's not in Henrico County.

601  
602 Mr. Morgan - It is.

603  
604 Mr. Blankinship - It is.

605  
606 Ms. Harris - It is? Okay.

607  
608 Mr. Blankinship - That's the wetland mitigation bank that's been under  
609 construction.

610  
611 Ms. Harris - Okay. Those are the only two?

612  
613 Mr. Morgan - We have a recycling center there on Masonic Lane.  
614 We did have a site on Meadow Road as well that has since been reclaimed. That  
615 one was completed several years ago.

616  
617 Ms. Harris - Is this Vulcan you're talking about?

618  
619 Mr. Morgan - No ma'am. That's us, Liesfeld.

620  
621 Ms. Harris - Okay. Are there questions from Board members?

622  
623 Mr. Green - Yes. You referenced something earlier and then you  
624 said he would speak to it.

625  
626 Mr. Morgan - Yes, he did.

627  
628 Mr. Green - Could you get into more details?

629

630 Mr. Hooker - A telephone call he received about the deal.  
631  
632 Mr. Green - No, give us more information on that.  
633  
634 Mr. Morgan - Well, in exchange. If we sell the property and lease it  
635 back then there would be no opposition to the case.  
636  
637 Mr. Green - This is from who?  
638  
639 Mr. Morgan - An adjoining property owner.  
640  
641 Mr. Green - Why?  
642  
643 Mr. Morgan - I can't answer why.  
644  
645 Mr. Green - You sell him the property, then there would be no  
646 opposition?  
647  
648 Mr. Morgan - Correct. I did not agree to that deal, and a petition  
649 showed up the afternoon before our hearing. But I would still have the use.  
650  
651 Ms. Harris - Can you step to the mic, please? Mr. Hooker, could  
652 you step to the mic? When you were saying something we couldn't get it for the  
653 record.  
654  
655 Mr. Hooker - I was just saying that I guess you just have to  
656 question the opposition on why, the motive.  
657  
658 Ms. Harris - Okay. Mr. Johnson, did you have a question?  
659  
660 Mr. Johnson - Yes, Madam Chair. When was that call made?  
661  
662 Mr. Morgan - Maybe two—right after our community meeting.  
663  
664 Mr. Hooker - The community meeting took place on July 11th.  
665  
666 Mr. Johnson - Okay, thank you.  
667  
668 Ms. Harris - Mr. Hooker, I'm pleased that you had the community  
669 meeting. And I know you received a list of people to contact from the County of  
670 Henrico. Did you contact all of them?  
671  
672 Mr. Hooker - No ma'am, I do not believe I did. It was a scramble to  
673 get that meeting put together, as well as find a facility to have it at. I attempted to  
674 have it at Varina Library and the Sandston Library and Fairfield. I had the ability  
675 to have it there that night with a limited crowd as well. And like I said, I was



722

723 Mr. Morgan - As the use permit is set up, on weekends and  
724 holidays, no materials are brought in. If we were to use that time, it would be for  
725 fixing erosion control if a silt fence is down or clean out a pond, but not the traffic  
726 on the road, not the constant back-up alarms. The operation will not be going on  
727 during those times. So we kind of use those days for maintenance of erosion  
728 control, stuff like that.

729

730 Ms. Harris - Okay.

731

732 Mr. Blankinship - Is there a legal requirement that erosion control  
733 measures be inspected within a certain period of time of a rain event?

734

735 Mr. Morgan - There is. So we're required by law to inspect it every  
736 four days. Every four days you have to inspect. If there's a problem, you have  
737 seventy-two hours to fix the problem. That's kind of generally how it works.

738

739 Ms. Harris - In the conditions, I noticed that you did not mention  
740 burning activities. But in the narrative, the request that we received, burning was  
741 mentioned. So tell me where we are with that.

742

743 Mr. Morgan - We will not be burning on this site. No burning.  
744 Henrico County does not allow burning.

745

746 Ms. Harris - You questioned why people expressed an interest  
747 who were not really located within the immediate vicinity of the facility. We were  
748 talking just a few minutes ago about the report from the County that there were  
749 eight houses close by, and in the community there are about twenty-some. I  
750 counted them before the last meeting. But many of them are senior citizens.  
751 Some people are working. They trust the County to be fair to them. I sense from  
752 this community that they feel they are burdened with these borrow pits and  
753 landfills and you name it all over Henrico, but especially in Varina. I remember  
754 one day just driving for ten miles and I came upon seven.

755

756 So the people who may not live in the direct vicinity might be just concerned that  
757 this community is being targeted for such activity, and that concerns them. So not  
758 that they live next door or across the road, but that this community is being  
759 bombarded with landfills and borrow pits and construction sites, things of that  
760 nature. Maybe they're just tired of it. We'll hear from them in a few minutes, so  
761 you can judge for yourself.

762

763 Are there any other questions from the Board?

764

765 Mr. Johnson - I have a question about the truck traffic entering and  
766 leaving. Would you have any guidance on how many come in and how many  
767 would go out at the same time or intervals?

768  
769 Mr. Morgan - Not particularly. It's a little bit sporadic with what it is.  
770 A lot of it can change based on the stoplight at the end of the road on how trucks  
771 come into the site.  
772  
773 Mr. Johnson - And also exiting.  
774  
775 Mr. Morgan - Sir?  
776  
777 Mr. Johnson - Also exiting.  
778  
779 Mr. Morgan - Yes sir. Exiting, we like to get them in and out as  
780 quick as possible off the site. Typically, as traffic allows or does not allow, that  
781 will vary. If there's traffic, they'll back up a little bit. If there's no traffic, then you'll  
782 get two or more running together.  
783  
784 Ms. Moore - Do you have just an estimate maybe what the  
785 maximum would be with truck traffic like on their busiest day?  
786  
787 Mr. Morgan - On your busiest day, you're probably in the  
788 neighborhood of maybe 200 loads. On your non-busiest day, zero. So it's not a  
789 facility that would be used every day.  
790  
791 Ms. Harris - When you said 200 loads, 200 trucks? Is that what  
792 you're saying?  
793  
794 Mr. Morgan - Two hundred trucks, yes ma'am.  
795  
796 Ms. Harris - In one day?  
797  
798 Mr. Morgan - Yes ma'am.  
799  
800 Ms. Harris - I know they're not supposed to travel, according to  
801 condition #12, in groups of three or more. So you have 200 trucks coming in.  
802 Okay, all right. Any other questions from the Board?  
803  
804 Mr. Green - Yes. What is the greatest number of trucks you had in  
805 any given day? Have you had that level of trucks?  
806  
807 Mr. Morgan - Typically not. That's a lot of trucks coming in. That's  
808 more than we like to have come in just because we have to handle the material  
809 when it arrives.  
810  
811 Mr. Green - What's the largest number of trucks you've had in one  
812 day?  
813

814 Mr. Morgan - I don't know. Probably in the 150 range.  
815  
816 Mr. Green - So you've had as many as 150?  
817  
818 Mr. Morgan - One fifty, 150 loads.  
819  
820 Mr. Green - So you're potentially looking at fifty more trucks.  
821  
822 Mr. Morgan - Possibly. I'm kind of guessing a little bit on what that  
823 number would be. I don't want to tell you it's going to be thirty and it's more than  
824 that.  
825  
826 Mr. Green - I guess what I'm trying to figure out is you're not going  
827 from 25 trucks up to 200. If you're going from 150 to 200, I'm just trying to put it in  
828 perspective.  
829  
830 Mr. Morgan - Yes sir. I would say—it's hard for me to average it.  
831 Your average loads per day if you take out all the zeros would probably be in the  
832 30 range, 40 range would be my guess on average. Some days it would be 5  
833 loads, some days it would be 150. It just depends on the demand.  
834  
835 Mr. Green - Are you saying it's going from potentially 30 to 150 a  
836 day?  
837  
838 Mr. Morgan - With the nature of what this is if, for example, there's  
839 a project being developed in the vicinity of that area where we would utilize this  
840 project, we'll have the amount of trucks on it needed to what we can reasonably  
841 load and have them run correctly. Sometimes that might be five trucks. So you're  
842 getting very little activity. You're getting just, say, twenty or thirty loads a day.  
843 And sometimes it might be twenty trucks where you're getting up in the  
844 hundreds, low hundreds loads per day. It's just a lot of variables associated with  
845 how many trucks on any given day are going to be on the road. I would say most  
846 of the time it's going to be zero. We might not haul for weeks on end just  
847 because we don't have a need to dispose of material in that area. For example,  
848 somebody does a shopping center down the street and they need to get rid of  
849 material as part of that development. Well then we would haul it to this facility.  
850 Once that's over with, if there's nothing else, the facility shuts down until the next  
851 one comes along. It's not an everyday thing.  
852  
853 Mr. Reid - Once the property is reclaimed, are there any plans  
854 for development of it?  
855  
856 Mr. Morgan - At this time, we do not have any plans for  
857 development of the property once it's been reclaimed. It is an uncontrolled fill. So  
858 if you were to build a—I'm not an engineer. I think it would be very, very difficult  
859 to build a structure on it. It's an uncontrolled fill, so you're looking at a use. That's

860 why we mentioned farming or trees or something like that would be a better use  
861 for this property because it's an uncontrolled fill. You couldn't get a septic system  
862 to function correctly, and foundations would not be stable. If you dug all the way  
863 through it, I guess you could do something.

864  
865 Mr. Reid - Thank you.

866  
867 Ms. Harris - Any more questions from the Board?

868  
869 Mr. Johnson - Those trucks, it's really not 200 every day, it just  
870 varies.

871  
872 Mr. Morgan - No sir, it is not. I picked what I thought would be the  
873 highest maximum that would ever roll in there in a day. Maybe I'm off some. But  
874 this is not an everyday operation.

875  
876 Mr. Green - How many times have you had 150 since you said  
877 that's the minimum [sic] that would roll through there in a given span of time?

878  
879 Mr. Morgan - We have come off a recent project where we were  
880 running probably on average three days a week for several weeks.

881  
882 Mr. Green - A hundred and fifty trucks?

883  
884 Mr. Morgan - Yes sir. But then it tapered to thirty and zero. That's a  
885 unique situation. That's a lot of material to move at one time. It's very rare.

886  
887 Mr. Green - But there were three trucks at a time at 150.

888  
889 Mr. Morgan - Yes sir.

890  
891 Ms. Harris - No more than two, right?

892  
893 Mr. Blankinship - Leaving the site. They can't really control the traffic  
894 coming to the site, but they can control how fast they leave the site.

895  
896 Ms. Harris - They cannot have three or more.

897  
898 Mr. Blankinship - Right. They have to run two out, and then there would  
899 have to be a pause for the traffic on the road, and then two more.

900  
901 Ms. Harris - Right, because it says not in groups of three or more.

902  
903 Mr. Blankinship - And if there is a need, then we would have a flagman  
904 at the entrance.

905

906 Ms. Harris - Are there any more questions from Board members? I  
907 do want to thank Mr. Hooker, Mr. Morgan, and Mr. Nelson for meeting with the  
908 citizens. We do respond to applicants who are good neighbors because we have  
909 to deal with the health, safety, and welfare of the community. So we want to  
910 thank you for having that meeting on July 11.

911  
912 Mr. Morgan - That meeting was helpful for us and the people who  
913 showed up. I'm speaking for them, but it was helpful for us to at least understand  
914 a little bit better the needs and how we can address them.

915  
916 Ms. Harris - Thank you so much. Okay. Is there anyone who  
917 wishes to speak in opposition to this request? Would you come forward and state  
918 your name, and spell your last name, please.

919  
920 Mr. Kidd - Yes. My name is Ray Kidd. It's K-i-d-d. The first thing  
921 I'd like to do is clarify what he talked about as far as me calling him. The reason I  
922 called him is because as far as I know he never reached out to us individually or  
923 anybody else. I called him trying to promote a dialogue to help this versus hurt it.  
924 He mentioned the fact that I wanted to buy it and lease it, he's correct. I thought  
925 owning it I could control it tighter than you could. And because he didn't want to  
926 hear about it, he just kind of just cut the conversation off, and that's where that  
927 stopped. So that's clarifying that. If he'd taken a few more minutes and listened to  
928 what I had to offer, maybe we could have been better.

929  
930 I started the petition. We went to some neighbors and people that live in this  
931 area, and that's how it got to where it is today. Again, I thought that if he had  
932 listened to me I could have gone back to the neighbors, and we could have had a  
933 little better deal going on than what we have here.

934  
935 He talks about how good of a steward they are. Well, in my surprise, in our last  
936 County meeting, Mr. Blankinship informed us that he got so far out of control at  
937 Hines Road they were considering pulling the permit. So I have to look at that as  
938 well.

939  
940 The challenge with us is we have to live with it, we have to be there. You all just  
941 get to deal with the end results. So it makes it us hard for us to do that, especially  
942 when he doesn't even want to listen to what we have to say. There is a whole list  
943 of things here I could go over, and I don't know that I should or would or could.  
944 But it's a big deal.

945  
946 You talk in terms of traffic. Call it 100 loads, call it 50 loads, that's two trips.  
947 That's one trip in, one trip out. So if he's 150 loads, that's 300 trips. It's called  
948 traffic count. In our petition, we bumped into a young lady the other day that said  
949 her daughter was involved with a minor truck accident on Strath Road about  
950 three months ago. I can't recall her name off the top of my head. So all that's a  
951 big deal to us.

952  
953 He talks about contamination. Well, he didn't say that. It's a possibility. And as far  
954 as the three-truck thing goes? You can't control a dump truck driver. When there  
955 are twenty of them sitting to go, and they want to go, they go. He can't go stop  
956 them. You put all the flagmen out there you want to; it's just not going to happen.  
957  
958 So I'm in strong opposition of it, and you'll see there are some other people here  
959 who want to talk as well.  
960  
961 Ms. Harris - Are there questions for Mr. Kidd?  
962  
963 Mr. Green - Would you have financially benefited from the sale of  
964 the property?  
965  
966 Mr. Johnson - Certainly no more than they could.  
967  
968 Mr. Green - So there's a potential financial motive, incentive.  
969  
970 Mr. Kidd - We looked at buying it before they did, and they  
971 offered more money for it. That's not the point.  
972  
973 Mr. Green - No. I'm asking you financially would you—  
974  
975 Mr. Kidd - We wouldn't do anything with it, no.  
976  
977 Mr. Green - You would have financially benefited from that?  
978  
979 Mr. Kidd - Not necessarily. It would depend on what he would  
980 have sold it to me for. If would have sold it to me for five million dollars, I can't  
981 benefit from that. And of course we didn't get anywhere with that. He just shut the  
982 door on it.  
983  
984 Mr. Green - I take offense to—when we are deliberating, looking  
985 at these, we spend a lot of time looking at all of these issues and looking at the  
986 consideration that he has for the citizens that are impacted. To insinuate or imply  
987 that we deal with it after that fact is not the case. We deal with it throughout the  
988 process. For those of you who are for and against, I want you to recognize that  
989 that's not the approach that I think we take. I think we're very sensitive to it.  
990  
991 Mr. Kidd - The point I meant by that—  
992  
993 Mr. Green - Hold on, hold on, hold on.  
994  
995 Mr. Kidd - Okay.  
996

997 Mr. Green - I think you insulted me when you made that  
998 statement. I think you insult the County when you state that regardless of how  
999 many flagmen you have out there, they're going to just let stuff go. I think the  
1000 County of Henrico operates well, and they do their due diligence. If folks are out  
1001 there assigned to control, then I think people are doing their jobs.

1002

1003 And then you referenced an accident that someone had. Well, technically, in my  
1004 perspective, until that individual stands there and tells me that, that's just  
1005 hearsay. And I don't want to deal with hearsay; I want to deal with the facts.

1006

1007 Mr. Kidd - Okay.

1008

1009 Mr. Green - That's all I'm here to deal with are the facts. And I'm  
1010 not here to deal with being somewhat insulted or making assumptions, that you  
1011 don't know what we do as we deliberate in looking at this. So I would just like you  
1012 to know. And explain to me. Whoever owns it versus you owning it, what's the  
1013 difference? Especially when you have financially benefited from that.

1014

1015 Mr. Kidd - The difference is I can go out and put a key on the  
1016 gate; you can't do that. And the facts are that the Hines Road project that he just  
1017 closed down, according to Mr. Blankinship, was about to have their permit  
1018 revoked. That's a permit that you all gave them, set boundaries. That's what  
1019 happened, right?

1020

1021 Mr. Blankinship - What happened was actually very similar to what  
1022 Mr. Green is describing. That site, first of all, is unique in that there was a long,  
1023 private drive that went from Hines Road to the site. It passed several other  
1024 homes and at one point was also used by a school bus. So it had some  
1025 challenges that most sites don't.

1026

1027 There was some concern about the truck drivers approaching the site not  
1028 obeying the—well it's not actually a posted speed limit because it was a private  
1029 road. But driving too fast on that private road.

1030

1031 Mr. Kidd - The point being—

1032

1033 Mr. Blankinship - And it got to the point where we told the operator of  
1034 the site if you don't get a handle on the truck drivers, we're going to have to  
1035 discuss whether the permit can be revoked for that. And it was brought under  
1036 control. So the truck drivers may think that nobody can control what they do, but  
1037 there are ways to control even rogue truck drivers. The point is that we will  
1038 enforce whatever conditions the Board puts on the permit if the Board chooses to  
1039 approve it.

1040

1041 Mr. Kidd - That's part of the question. You allow them to do it,  
1042 and you give them constraints or rules, whatever you want to call them. And then

1043 they obviously push them as far as they can until it's a problem. Then they pull  
1044 back as much they can get by with. That's the challenge you have with stuff like  
1045 this. He talks about maintenance on the weekend? Well that's all fine, but there is  
1046 not a piece of equipment on his yard that doesn't have back-up alarms on them,  
1047 whether it's a skid steer or a mini excavator or a pickup truck. The crazy things  
1048 are even on pickup trucks now. So any kind of maintenance is going to involve  
1049 some level of noise. I'm not here to be crazy about it, but I have to live here.

1050

1051 We think about the Cox Road thing. It took twenty years to close that, and he's  
1052 two or three times larger than that. We keep asking him if there is a number of  
1053 years that they would operate, and he won't commit to that. He won't commit to a  
1054 bunch of stuff.

1055

1056 Mr. Blankinship - That twenty years includes the time period that they  
1057 were taking material out of the site.

1058

1059 Mr. Kidd - That's correct.

1060

1061 Mr. Blankinship - Which has already been accomplished on this site. So  
1062 the time periods are not directly comparable either.

1063

1064 Mr. Kidd - But it's still a much larger site.

1065

1066 Mr. Blankinship - It is.

1067

1068 Mr. Kidd - With a lot more fill to be brought in. We just think it's  
1069 not too much to ask if he could at least say two years, four years, or twenty  
1070 years. It makes us nervous when he doesn't even say. He can't even say twenty  
1071 years. This makes us nervous when he doesn't do that.

1072

1073 Ms. Harris - Mr. Kidd, do you have a copy of the report?

1074

1075 Mr. Kidd - Not in front of me.

1076

1077 Ms. Harris - Okay. Condition #17 says that this conditional use  
1078 permit shall expire by July 31, 2020.

1079

1080 Mr. Kidd - But then they have a chance to renew it every two  
1081 years, right? And that's what happened at Cox, right? Well that's what happens  
1082 at all of them. They typically run two years at a time, right?

1083

1084 Ms. Harris - Yes, but if they get a complaint, we can pull the  
1085 conditional use permit. Okay. Are there any other questions?

1086

1087 Mr. Green - Mr. Kidd, while I appreciate your concerns, I'm a fact-  
1088 based person. I like to stick to the facts. Like I said, not only did you insult the

1089 integrity of what I think I'm supposed to do, there are processes by which we can  
1090 control what happens. I'm very concerned that you might have been speaking to  
1091 some of these citizens—you spoke on behalf of Mr. Blankinship. Mr. Blankinship  
1092 is a grown man; he can speak for himself.

1093

1094 Mr. Kidd - I thought I spoke correctly.

1095

1096 Mr. Green - Hold on, hold on, hold on. He can speak and clarify  
1097 things for himself. And he did, and it made sense. I don't speak for people when  
1098 they can speak for themselves. So I would just caution you if you want me to  
1099 support this thing to be a little bit more fact-based. What I hear are a lot of  
1100 assumptions, and what might have happened, and what the County cannot do.  
1101 We're an efficiently run County, we have rules in place, and we follow those  
1102 rules. We have tough Board of Zoning Appeals members who will definitely  
1103 scrutinize, and I take my hat off to Ms. Harris because she definitely goes  
1104 through and makes sure everything is done properly.

1105

1106 Mr. Kidd - I'm just asking as a private landowner for you to help me as well.

1107

1108 Ms. Harris - Okay. Thank you, Mr. Kidd.

1109

1110 Mr. Kidd - Thank you.

1111

1112 Ms. Harris - Thank you, Mr. Green. Are there other people who  
1113 wish to speak in opposition to this request? Please step forward, give us your  
1114 name, and spell your last name.

1115

1116 Mr. Austin - My name is Larry Austin. A-u-s-t-i-n. We've  
1117 addressed the noise issue, which I don't think you can do a whole lot about.

1118

1119 Mr. Blankinship - Mr. Austin, we do have one member who wasn't  
1120 seated last month. Could you tell us where you live, please.

1121

1122 Mr. Austin - Yes, if I could point it out to you. Right there.

1123

1124 Mr. Blankinship - So he is the closest resident to the actual site.

1125

1126 Mr. Austin - I'm the closest person to everything. And it's going to  
1127 be approximately 300 feet behind me, which is not very far. So I have some  
1128 concerns—a lot of concerns. My well, for one thing. I'm scared to death that  
1129 that's going to get contaminated, and what are you going to do about it if it does.  
1130 Or who's going to do anything about it? And it's mine, and my neighbor over  
1131 here, Tom, his house is in the same boat I'm in.

1132

1133 I don't know if you realize it or not, but there are an awful lot of bicycles that go  
1134 up and down Strath Road and Kingsland Road. Those are the only two ways

1135 they can get into the site, either Strath or Kingsland. There are lots of bicycles.  
1136 Why they don't ride on that trail, I don't know. But it's a ton of them that ride up  
1137 and down there. That's a concern for the truck drivers.

1138  
1139 The dust. Grant you, he tried to address that. Mud on the roads. They had the  
1140 one down at the end of Strath, that thing was getting so muddy it would ruin your  
1141 car when you went through it. It's impossible to keep it clean.

1142  
1143 There are two schools in the area. I don't know if you've thought about that.  
1144 There are least two schools. People are getting picked up, kids are going to be  
1145 picked up every morning, dropped off every evening along Strath, along  
1146 Kingsland. That's an issue you might want to think about.

1147  
1148 And my property value. What's that going to do to my property value, all of their  
1149 property values? I'm sure nobody wants a dump behind their house. That really  
1150 concerns me. I've been working for the Henrico Fire Department for twenty-five  
1151 years. I bought that property to have a nice, quiet place to live in my retirement. It  
1152 doesn't look like that's going to happen now. I don't want all that noise that's right  
1153 behind the house. The banging. It's going mess my deer up. They come up to the  
1154 house, and they're going to be gone.

1155  
1156 Liesfeld Contractors, they're a multimillion-dollar company. There is no reason  
1157 why they couldn't find a site that's more rural, with less people around that they  
1158 could use other than right here. I just want you to consider that.

1159  
1160 That's about all I've got. My property values are going to tank. I appreciate your  
1161 time.

1162  
1163 Ms. Harris - Mr. Austin, did you attend the community meeting—

1164  
1165 Mr. Austin - I did.

1166  
1167 Ms. Harris - —on July 11th?

1168  
1169 Mr. Austin - I did.

1170  
1171 Ms. Harris - So did you hear anything at the meeting that was in  
1172 the form of a compromise or that might change anything?

1173  
1174 Mr. Austin - Well, he did—like right here. They said they were  
1175 going to come down. That would have been almost even with my house, which  
1176 it's on a hill. There's no point in doing that. So they did compromise on that point.

1177  
1178 I'm a little concerned about the water runoff, because when it comes out, it's  
1179 going to go down, and it goes into a big creek which goes out to the James.  
1180 Whatever's in that material is going to leach into the water, and it's going to go

1181 down and run into that creek. And he's also saying about another creek—not a  
1182 creek—a retaining pond over in this area. That's going to run down also. And of  
1183 course everything goes into the James. I'm concerned. I guess the EPA needs to  
1184 get involved with something like that. I'm not sure about it.

1185

1186 But yes, I was at the meeting. These names he's talking about on this petition, I  
1187 personally got seventy-five of them. Most of the ones I got were very  
1188 apprehensive about signing where they live, for some reason. But all of them  
1189 lived in the Varina area, and all of them travel up and down that road all the time.  
1190 They have a lot of concerns about it. Grant you they don't live as close as I do,  
1191 but they travel. And that's why they were concerned about it.

1192

1193 Mr. Green - You said they were apprehensive about signing.

1194

1195 Mr. Austin - Well, you know, when it says your address, and they  
1196 said, "Do I have to put my address?" And I said, "No, you don't have to. Just put  
1197 Varina down."

1198

1199 Mr. Green - Okay.

1200

1201 Mr. Austin - Because they're in the area.

1202

1203 Mr. Green - I thought we addressed the well situation.

1204

1205 Mr. Blankinship - We did. We added a condition, which is one of the  
1206 standard conditions for an excavation site. We didn't put it in this one originally  
1207 because it's not an excavation. But it was added after the community meeting,  
1208 and it's #15.

1209

1210 Mr. Green - Did you get that?

1211

1212 Mr. Austin - I didn't get anything like that.

1213

1214 Mr. Green - Five hundred feet. As well as Mr. Kidd. Does he have  
1215 the conditions?

1216

1217 Ms. Harris - Yes he does.

1218

1219 Mr. Blankinship - They wouldn't have been mailed to him, but I think he  
1220 did get them.

1221

1222 Ms. Harris - He said he has them.

1223

1224 Mr. Austin - I didn't get anything.

1225

1226 Ms. Harris - If you got today's report. Did you receive today's  
1227 report? This morning, have you received a current report? Mr. Kidd, did you  
1228 receive that?  
1229  
1230 Mr. Kidd - I hadn't seen it until just now.  
1231  
1232 Ms. Harris - Okay, okay.  
1233  
1234 Mr. Austin - I haven't seen it at all.  
1235  
1236 Ms. Harris - Okay. Do we have another one we can give  
1237 Mr. Austin? Okay, other questions? Mr. Johnson, you had something, and  
1238 Mr. Green, you had something.  
1239  
1240 Mr. Johnson - Mr. Austin, how long have you lived in that area?  
1241  
1242 Mr. Austin - I bought that property back in '85, I believe. I've been  
1243 there thirty-some years.  
1244  
1245 Mr. Johnson - Have you had any other problems with your well?  
1246  
1247 Mr. Austin - My well?  
1248  
1249 Mr. Johnson - Yes.  
1250  
1251 Mr. Austin - As a matter of fact I did. When I bought that property,  
1252 behind my house was trees. But when they dug it out for whoever bought it and  
1253 dug it out, got the gravel out of it, they hit my water supply and dried my well up. I  
1254 went to them and asked them; I figured they did. They were very nice about it  
1255 and they said, "Yeah, we did," and they dug me a deeper well, which I haven't  
1256 had any problem yet. But that's not to say—it's already low, and you put stuff in,  
1257 and that leaches into—evidently, my well water is coming from that area. They hit  
1258 it once. So if it leaches in, it could get to it again.  
1259  
1260 Mr. Johnson - So you haven't had any problems since then.  
1261  
1262 Mr. Austin - Not since they put a deeper well in.  
1263  
1264 Mr. Johnson - Because they took care of—  
1265  
1266 Mr. Austin - They were very nice. They admitted they did it, and  
1267 they dug me a deeper well. Of course they weren't putting any contaminants in it  
1268 either. They were just digging the dirt out and hit my water supply. So they  
1269 weren't putting anything in it to leach into it to contaminate. You don't know what  
1270 they'll be dumping in this. They say they won't, but who's monitoring it.  
1271

1272 Ms. Harris - Mr. Blankinship, while Mr. Austin is here. Are there  
1273 any environmental controls for the runoff?  
1274  
1275 Mr. Blankinship - Yes. The environmental division of the Department of  
1276 Public Works will require the erosion sedimentation control. The plan that was  
1277 shown before the phase 1 plan shows the detention ponds that are put in as part  
1278 of that, and that's what they're talking about. If they have to do anything on the  
1279 weekend, it would be going out to make sure that those controls are functioning  
1280 the way they're supposed to. So that is carefully monitored.  
1281  
1282 Ms. Harris - Do our conditions—  
1283  
1284 Mr. Blankinship - Yes ma'am. That's all stated in #4.  
1285  
1286 Ms. Harris - Okay. We're dealing with the Chesapeake Bay.  
1287  
1288 Mr. Johnson - Are they posted back in the back anywhere?  
1289  
1290 Mr. Blankinship - We used to have a copy out in the lobby. I don't know  
1291 if we still do. Yes, we do.  
1292  
1293 Mr. Johnson - Can we get them copies so they can see?  
1294  
1295 Mr. Austin - I'd just like to add one other thing. I dare say that  
1296 anybody in this room wouldn't want that behind their house or near their property.  
1297 If you say you would, I believe you're lying. Nobody would want it there. Thank  
1298 you.  
1299  
1300 Ms. Harris - Thank you so very much, Mr. Austin. Is there anyone  
1301 else—oh, another question. I'm sorry. Mr. Austin, we have one more question.  
1302  
1303 Mr. Bell - You mentioned you got seventy-five of these  
1304 signatures, a lot of them went up and down Strath Road. What kind of complaints  
1305 did they give you?  
1306  
1307 Mr. Austin - Well, they just all said—I explained to them what they  
1308 were going to do. They all said, "Well I wouldn't want that in my backyard."  
1309  
1310 Mr. Bell - So that was the complaint.  
1311  
1312 Mr. Austin - Right. They wouldn't want it in their backyard. They  
1313 were all adamant about it.  
1314  
1315 Ms. Harris - Are there any more questions of Mr. Austin?  
1316

1317 Mr. Johnson - I noticed that when they were reading the distance  
1318 from the location, almost 5 percent of it was close within that area. Why were you  
1319 thinking that—would there be a sound problem there?

1320  
1321 Mr. Austin - For me?

1322  
1323 Mr. Johnson - For the other folks.

1324  
1325 Mr. Austin - Oh, for the other folks. Well not for all of them, no, if  
1326 they just live in the area and travel and work in the area. Like he said, they could  
1327 live a mile away, half a mile away. A lot of them won't hear it. I'll sure hear it. Tom  
1328 will hear it. He'll hear it. And Mr. Kidd will hear it. But there are a lot of other  
1329 people that didn't show up for this because, like you said, a lot of people are  
1330 elderly, they can't get here. They work, they can't get off. So there are a lot of  
1331 people that probably would like to be here that couldn't. It's going to be a big  
1332 hassle for everybody. And the bicycles, you better think about those bicycles  
1333 going up and down that road. I've come across curves before; they were in the  
1334 middle of the road. You could run over them pretty easy. And three feet staying  
1335 away from them on a car is a bigger difference than a dump truck.

1336  
1337 Ms. Harris - Thank you so much, Mr. Austin.

1338  
1339 Mr. Austin - Thank you.

1340  
1341 Ms. Harris - Any more questions from the Board? Is there anyone  
1342 else who wishes to oppose this? Please step to the microphone and give us your  
1343 name, spelling your last name.

1344  
1345 Mr. Albanese - Thomas Albanese. A-l-b-a-n-e-s-e.

1346  
1347 Ms. Harris - Spell your last name again please?

1348  
1349 Mr. Albanese - A-l-b-a-n-e-s-e.

1350  
1351 Ms. Harris - Thank you.

1352  
1353 Mr. Albanese - Larry covered most of what I wanted to say, but my  
1354 property is the other little jig there on the south side. The company that dug that  
1355 out I feel obviously left it as a bowl because they didn't want erosion problems.  
1356 Well I'm near the drain of this bathtub, right where one of the retention ponds is  
1357 located.

1358  
1359 My only concern really is the water, where does it go after it overflows the  
1360 retention pond. Will it be right on my property and a neighbor that's not here that I  
1361 couldn't get a hold of? I'm not much of a reader either. I just know the water has  
1362 been traveling that way. We have a seasonal babbling brook, which they have on

1363 the map. On a heavy rain, it's pouring. But most of the time it's just damp right  
1364 there and a little bit of water. The grade that they're going to put in, they're  
1365 starting on the other side of this bathtub and coming towards my house with the  
1366 grade coming this way. They said they're going to leave the retention pond up  
1367 until the end of the process. Well when the retention pond goes and there's no  
1368 more vegetation in that flat area they just put and graded towards my property  
1369 and my neighbors, is anybody going to be watching out for that? And it may be  
1370 five to ten years down the road. Whether or not I'll be living there by then or what,  
1371 but I could be there until I'm dead.

1372

1373 What I want to know is if I have a problem with what's going on there, whatever  
1374 day it is from the day they start doing it, is this where I would come and voice my  
1375 opposition without having to go through this big meeting? Would you send  
1376 somebody out to investigate it?

1377

1378 Mr. Blankinship - Yes sir.

1379

1380 Mr. Albanese - My complaint?

1381

1382 Mr. Blankinship - There will actually be two inspections every month.  
1383 One is by the zoning staff who will be checking the conditions, the hours of  
1384 operation, the fencing, those kinds of things. There will also be a monthly  
1385 inspection by the environmental division of the Public Works Department. They're  
1386 looking specifically at those erosion control issues, making sure that everything's  
1387 installed the way—before work begins, they'll be out there making sure where  
1388 everything's going to go. And then they'll clear. The first thing they'll do is build  
1389 those detention ponds, and then they'll be inspected again before they actually  
1390 start the grading and filling.

1391

1392 Mr. Albanese - I truly believe you when you say that.

1393

1394 Mr. Blankinship - Yes.

1395

1396 Mr. Albanese - But what I don't understand is whether it be two or  
1397 five years, when they're in my backyard a hundred feet from my property line,  
1398 and they cap off the natural berm that the last company left to keep the water off  
1399 my property. They're talking about coming to the top of that berm. It's a fifteen-  
1400 foot drop on their side, but on my side the previous owner flattened out the  
1401 property to put up a building. The water's going to be coming over onto my  
1402 property because there will be no retention. And this could be down the road five  
1403 to however long it takes to fill the bathtub. That's what my concern is. They'll  
1404 probably watch the whole time this process is going on, but it's the end result at  
1405 the last stage of this project is where I'm going to be stuck with something I  
1406 can't—

1407

1408 Mr. Blankinship - The final reclamation plan when they leave the site  
1409 will require them to leave it such that the normal flow of water will not disturb your  
1410 property, will not change the flow of water onto your property. When there is a  
1411 100-year storm, a major flood event, there may be some run-over.  
1412  
1413 Mr. Albanese - I understand that.  
1414  
1415 Mr. Blankinship - It's designed with the ten-year storm in mind. And  
1416 they will be required to provide for that.  
1417  
1418 Mr. Albanese - There's a natural flow of water on that property. I've  
1419 been on it numerous times. One of the flows of water comes right back down off  
1420 the corner of my property—my neighbor that's not here. But even though they fill  
1421 that in with their blocks and bricks and all their organic material, that's going to  
1422 continue to have that track of water going where it's always been going.  
1423  
1424 Mr. Blankinship - Yes.  
1425  
1426 Mr. Albanese - Even if they cover it with dirt, there's no vegetation to  
1427 help suck up that water that's being sucked up now. If they leave it like they  
1428 found it before, there's no vegetation.  
1429  
1430 Mr. Blankinship - They will be required to cover the site with permanent  
1431 vegetation.  
1432  
1433 Mr. Albanese - My concern is at the end, not during the process.  
1434  
1435 Ms. Harris - Could we have your address, please?  
1436  
1437 Mr. Blankinship - Yes, he's identified.  
1438  
1439 Ms. Harris - His address.  
1440  
1441 Mr. Blankinship - Well go ahead and state your address. I'm sorry.  
1442  
1443 Mr. Albanese - 1680 Kingsland Road, Henrico, Virginia.  
1444  
1445 Mr. Blankinship - They will be required to establish permanent  
1446 vegetation across the whole site.  
1447  
1448 Mr. Albanese - At the end of this.  
1449  
1450 Mr. Blankinship - Yes.  
1451  
1452 Mr. Albanese - I could be dead by then, but I'll be keeping an eye on  
1453 it.

1454  
1455 Mr. Blankinship - Well up until that point, they're required to maintain  
1456 the retention pond.  
1457  
1458 Mr. Albanese - I need to know that the same amount of water that's  
1459 coming off that property now is all I'm going to see coming, even during a heavy  
1460 rainstorm. I've checked in a rainstorm, and it's controllable. And it's going where  
1461 it needs to go.  
1462  
1463 Mr. Blankinship - In addition to that, there will be no changes to the  
1464 property within 100 feet of your property line.  
1465  
1466 Mr. Albanese - Yes. What is that, a hundred feet?  
1467  
1468 Mr. Blankinship - Whatever change is 100 feet north.  
1469  
1470 Mr. Albanese - I'd really like to see, like I said, that berm stay where it  
1471 is, the top edge of the bathtub, if you will.  
1472  
1473 The only other request that I have is how do you feel about having my well and  
1474 my neighbors that are directly impacted by this, their wells checked before it  
1475 starts, before they dump the first load so it's on record that we all had good wells  
1476 before they dump. And have that done at least once a year.  
1477  
1478 Mr. Blankinship - We could certainly—  
1479  
1480 Mr. Albanese - Can that happen?  
1481  
1482 Mr. Blankinship - We've not done that before, but it certainly can be  
1483 discussed.  
1484  
1485 Mr. Albanese - My only two concerns are the water problem and the  
1486 well problem.  
1487  
1488 Mr. Green - How would that be done?  
1489  
1490 Mr. Blankinship - We should probably give that a little thought.  
1491  
1492 Ms. Harris - Discuss it with the applicant.  
1493  
1494 Mr. Albanese - I'm concerned about my septic. We all are on a  
1495 septic. That will come under the water problem. If I see more water on my  
1496 property than I normally see during a torrential downpour or the cars start sinking  
1497 in the driveway . . . I've been down this road with a previous house up in New  
1498 Jersey, and I know what to look for. This is where I'll come, right?  
1499

1500 Mr. Blankinship - Yes sir.  
1501  
1502 Mr. Albanese - I thank you all for your time.  
1503  
1504 Ms. Harris - Thank you. Who else wishes to speak in opposition?  
1505 Please come to the mic and give us your name, spelling your last name.  
1506  
1507 Ms. Kimbrough - Good morning. I'm Susan Kimbrough. K-i-m-b-r-o-u-  
1508 g-h. I live at 9201 Varina Road. There are wetlands on my property. I also have  
1509 a—in there. So my concern is the noise, the dust, and the traffic. I also have four  
1510 grandkids that are all around my property. I'm very opposed to this happening  
1511 here. That's why I bought out there.  
1512  
1513 Ms. Harris - Okay, thank you.  
1514  
1515 Ms. Kimbrough - Thank you.  
1516  
1517 Ms. Harris - Any questions of Ms. Kimbrough? Okay. We're going  
1518 to call for the next person to make comment, but please do not repeat anything  
1519 that has already been said.  
1520  
1521 Mr. Garrett - My name is Adam Garrett. G-a-r-r-e-t-t. I live at 9225  
1522 Varina Road. I'm probably one of the furthest ones away from it in relationship to  
1523 the petition that was signed. The trucks aren't coming from a mile away; they're  
1524 coming from twenty miles away. They're traveling right past these people that did  
1525 sign this petition. They're concerned about traffic as well. At the rate of vehicles  
1526 that are going to be coming through, if we do your low count at fifty, that's two  
1527 trips, so that's a hundred. A hundred into an eight-hour day, you're looking at a  
1528 trip about every five minutes. You're not going to get that many trucks in there in  
1529 an eight-hour period at three at a time. It's not going happen.  
1530  
1531 My other concern is the water that's coming off of there. Kingsland Road floods  
1532 now. I used to fish right there. I used to have a permission slip to fish it when I  
1533 was in college. I used to go over there and fish. Those ponds over there hold  
1534 water back from sheeting as it is. When they have too much, like with some of  
1535 the rain we have now, that pond overflows. It goes into their swamp, which drains  
1536 down to the river as well as across Kingsland Road. It's going to tear that road  
1537 up. That road's going to wash out. We've seen it a hundred times. Sandston  
1538 down at Meadow Road, Old Kingsland, and the backside of Kingsland Road  
1539 itself. There used to be a pond back there. That dam washed out. This property  
1540 is far enough away to where I probably won't hear it in the summertime, but fall  
1541 and early spring—. And he backs right up to this. That equipment we're going to  
1542 hear.  
1543  
1544 I work in construction every day. I know these back-up alarms; they have to be  
1545 louder than the equipment. I don't care what you have; you can't just go by

1546 visual. They're louder than the equipment. The equipment's loud enough. The  
1547 beating and banging. Service on the weekends. Yes, they're not going to go out  
1548 there and trench to replace a piece of fence by shovel; they're going to put a  
1549 piece of machinery out there. When they go out there to service their equipment,  
1550 you have to run it to check it. All right. You have to back it up, you have to move  
1551 it forward to clean the tracks. Stuff like that.

1552

1553 These trucks are going to be up and down this road with bicyclists and everything  
1554 as he said. But not just that, kids catching buses.

1555

1556 Ms. Harris - Mr. Garrett? Step to the mic because when you turn  
1557 away we can't hear you.

1558

1559 Mr. Garrett - He's retired. Does he have to get up at 7:00 in the  
1560 morning because they're beating and banging? He's retired. I know Mike very  
1561 well. His awake time is usually around nine. But they've earned that right.  
1562 They've worked all their lives. All right? Now they're going to be woken up. Mike's  
1563 going to have to settle down his animals, because he does have an alpaca farm.  
1564 He's gotta settle down his animals and everything else.

1565

1566 This is impacting more than just right there in the immediate area, and that's why  
1567 I wanted to say something about that petition. That petition concerns the people  
1568 that are in the traffic line coming to there. Now you can say my address—you  
1569 google from their address, it's greater than a mile. You go through the woods I  
1570 bet I can hit it with a bow. All right? And that concerns me. And like I said, noise  
1571 travels. When those trees are clean, he can see his house. If he can see his  
1572 house—. You have a 100-foot buffer. A hundred feet with no leave doesn't stop  
1573 noise. It doesn't stop any of that beeping and banging. That's why with this  
1574 petition that's been signed, I don't care if these people live all the way down on  
1575 the other side of 295. When those trucks come off, they're going to grocery  
1576 stores and everything else right there on the corner of Strath. They are troubled  
1577 by these trucks. At fifty a day, you're still looking at about every ten minutes.

1578

1579 Ms. Harris - Mr. Garrett, you're repeating yourself.

1580

1581 Mr. Garrett - —about why they were in that area.

1582

1583 Ms. Harris - Yes. We understand. Is there any other point you  
1584 wish to make?

1585

1586 Mr. Garrett - No. Do you all have any questions?

1587

1588 Mr. Green - The trucks are already coming through there now,  
1589 right?

1590

1591 Mr. Garrett - I see about five a week. Now I'm not there every day.  
1592 There's probably more than that. And I agree with that. But you're going to add  
1593 up to fifty a day?

1594  
1595 Mr. Green - No. What I'm trying to get at is that this is not a new  
1596 project. These trucks are already coming through there.

1597  
1598 Mr. Garrett - No, this is a new project.

1599  
1600 Mr. Green - No, no, no. These trucks are already coming through  
1601 there, from what they said.

1602  
1603 Mr. Blankinship - Going to the Kingsland site.

1604  
1605 Mr. Garrett - That one right there is in reclamation. They are  
1606 settling that. They are getting their erosion under control. They're getting their  
1607 vegetation growing. They're getting ready to pull out. I think Varina's been  
1608 impacted enough by it. I think Varina Road's been impacted enough by it. There  
1609 are two handicap buses and GRTC bus for my girlfriend's daughter that sits in  
1610 that road and picks up kids. Trucks are going to get backed up waiting on buses,  
1611 especially getting started at 7 a.m.

1612  
1613 There is a whole lot more than just the trucks. We've got noise that we have to  
1614 deal with. I just put a \$30,000 deck on the back of my house. I'm not going to  
1615 want to sit out there in the afternoon if they're beating and banging until six  
1616 o'clock that night. I don't think it's fair. We move out here for the quiet, and then  
1617 they come in. No offense. Let's put it out in Goochland.

1618  
1619 Ms. Harris - Okay, Mr. Garrett, we got the point. Are there any  
1620 questions from Board members of Mr. Garret? Thank you so very much.

1621  
1622 Mr. Garrett - Thank you.

1623  
1624 Ms. Harris - Is there anyone else who wishes to speak in  
1625 opposition to this petition? We ask that you not repeat what we have already  
1626 heard. Please state your name and spell your last name.

1627  
1628 Mr. Rellis - My name is Joseph Rellis. R-e-l-l-i-s. The couple of  
1629 questions that I have are as part of the background that was submitted, it has on  
1630 here that new excavation sites typically have some detrimental impact on  
1631 neighborhood property. The main impacts are during the excavation phase, but  
1632 there are also impacts during the reclamation. This project is different in that the  
1633 excavation was completed twenty-five years ago. But as part of the permit, they  
1634 would be excavating the trees and the ground soil. And as was previously stated,  
1635 the use there potentially would be sporadic. So the area would be excavated,  
1636 cleared. No activity may be there for six months, and then all of a sudden there

1637 would be activity. The potential environmental impact of removing that large  
1638 amount of area and no activity on it would have a detrimental impact to the  
1639 environment, would have a detrimental impact to the area. I think it would be  
1640 detrimental to the area.

1641

1642 The proposal sounds nice, they're going to make the area back to what it was  
1643 before originally it was excavated and then reclaimed. And now they're going to  
1644 clear it out to make it better again. But it has been fine for the past twenty-five  
1645 years.

1646

1647 Ms. Harris - Okay. Thank you, Mr. Rellis. Any questions from  
1648 Board members? We thank you so very much. If there is anyone else who  
1649 wishes to speak in opposition to this case, please come forward to the  
1650 microphone and give us your name, spelling your last name.

1651

1652 Mr. Nelson - Mike Nelson. I live at 8911 Strath Road. The only  
1653 thing that I haven't heard yet, the inhabitants surrounding the area, wildlife. There  
1654 are hawks, eagles. There are fox, rabbits, deer. Unfortunately, I've seen a  
1655 coyote. But they haven't been spoken for either. With the water that's already on  
1656 this land, they get plenty of water, and as far as I know, they have not been a  
1657 hindrance to the people who live there, the population that lives there. So I'd like  
1658 for you to consider the wildlife and see what we can do for them. As well as the  
1659 noise and the other things that have already been mentioned. Thank you.

1660

1661 Ms. Harris - Thank you. Are there any questions for Mr. Nelson?  
1662 Mr. Nelson, you spell your name N-e-l-s-o-n?

1663

1664 Mr. Nelson - N-e-l-s-o-n, yes ma'am.

1665

1666 Ms. Harris - Yes, thank you so very much. Is there anyone else  
1667 who wishes to speak to this case in opposition? Please step to the mic and give  
1668 us your name, spelling your last name.

1669

1670 Mr. Kimbrough - Michael Kimbrough. K-i-m-b-r-o-u-g-h. My wife spoke  
1671 earlier. I thought she was going to be a little more thorough. This is our property  
1672 right here, the L-shaped property. We share that line with the creek, Roundabout  
1673 Creek, which Ray shares the uphill side of the creek. It's a major watershed. The  
1674 whole south side of Varina Road feeds this creek. Everything north of this, the  
1675 topography of all of this south of Strath feeds this creek in a runoff area.

1676

1677 This land that's proposed right here is above everything else. It's one of the  
1678 highest spots around topography-wise. Anything that they dump here is going to  
1679 leach into the groundwater. It's going to go downhill, it's going to go into  
1680 Roundabout Creek. It's going to get in Larry's groundwater. These residential  
1681 homes right here are in severe jeopardy. Radon dirt. Petroleum-infested dirt.  
1682 Lead-infested dirt. We're not monitoring that. It's on an honor system. How can

1683 that not be monitored and put in an existing hole where we have shrink/swell soil  
1684 that absorbs water like a sponge? It's going to get in the groundwater. That's my  
1685 concern. I'm half deaf; I'm not going to hear the back-up beepers.

1686  
1687 And the wood ducks, the twenty-five beavers that live in that beaver bottom, all  
1688 the deer and the turkey around there. That's my major concern, that runoff.  
1689 We've already got one right down the road. Why do we have to suffer another  
1690 one? The traffic has been pointed out. Trip in/trip out. Every 4.8 minutes we're  
1691 going to have a truck in and out at a hundred a day. And that's a skinny little  
1692 road. The trucks tear up the road. It's already got patches all over it. And if they  
1693 come down Varina Road, that's a skinny little road. It doesn't even have a center  
1694 line on it.

1695  
1696 That's about what I need to say. I'm just mainly concerned about the  
1697 groundwater. That's my major concern.

1698  
1699 Ms. Harris - Thank you so much. Are there questions from Board  
1700 members?

1701  
1702 Mr. Green - How is the groundwater issue addressed?  
1703

1704 Mr. Blankinship - Well, he is correct that we do not have somebody  
1705 standing there watching each truckload of soil to make sure that there's nothing  
1706 in it that shouldn't be. Mr. Morgan addressed that a little bit at the beginning of  
1707 his comments, and I suspect that we'll ask him more questions about that at the  
1708 end when he has time for rebuttal. I cannot say that there is no possibility of  
1709 contaminated material being put on the site.

1710  
1711 Mr. Kimbrough - From radon to lead to petroleum-based and whatever  
1712 else. Asbestos. Anything that they tear a building down, an old building has  
1713 asbestos.

1714  
1715 Mr. Blankinship - Now this is not a construction and demolition debris  
1716 landfill. They would not be putting material from demolished buildings here.

1717  
1718 Mr. Kimbrough - Not from previous structures.

1719  
1720 Mr. Blankinship - No, no. This would just be land clearing and  
1721 excavation material. It would just be soil and rock and that sort of thing.

1722  
1723 Mr. Kimbrough - My probably is L-shaped. My neighbor adjoining me  
1724 had the other L-shaped property. They just sold it, and I've got a brand new  
1725 neighbor. I haven't even met them yet. I was hoping I could get them here  
1726 because they're going to be directly impacted by this also. Any other questions?  
1727

1728 Mr. Reid - With the water issue, have you been impacted by that  
1729 in the past in any way—well, septic tank, and such?  
1730

1731 Mr. Kimbrough - Well, when I lived in Powhatan we lived right—  
1732

1733 Mr. Reid - I'm referring to this property you live at now.  
1734

1735 Mr. Kimbrough - Not on this property. But in Powhatan, Luck Stone  
1736 had the quarry right behind our house. And when they started a new division, it  
1737 took away our water, our aquifer. And I never did get a free well. I had to dig my  
1738 own well. That's going to be a concern. And like the gentleman pointed out, I'd  
1739 like to have my well tested, too, and just monitor the thing, and make sure that  
1740 everything's on the up-and-up on this.  
1741

1742 Ms. Harris - Okay.  
1743

1744 Mr. Green - Mr. Kimbrough, have there been any problems with  
1745 the creek down there overflowing?  
1746

1747 Mr. Kimbrough - Oh, it's—as Adam pointed out, there are times when  
1748 the County has come down and made a detour at Kingsland Road. If you'll see  
1749 where Kingsland—Roundabout Creek comes down and crosses Kingsland right  
1750 there. I own this whole point of land right here. And numerous times they've had  
1751 bucket trucks and pump trucks and blocked this whole area off because we'd get  
1752 so much runoff here that you can't even go up and down Kingsland. You've got  
1753 to go around through Mill Road and back. And it's not a 100-year rain. We see it  
1754 probably once or twice a year. I'm surprised we haven't seen it this week, to be  
1755 honest with you.  
1756

1757 Mr. Blankinship - Yes, I am too.  
1758

1759 Mr. Johnson - And most of the time it's above the site? The runoff  
1760 starts above the site?  
1761

1762 Mr. Kimbrough - Topography-wise it would be below because  
1763 Kingsland is lower than this. Roundabout Creek runs from west to east. Their  
1764 property is north of that. And that whole topography runs down straight to  
1765 Roundabout Creek.  
1766

1767 Ms. Harris - Okay. Are there other questions?  
1768

1769 Mr. Green - Yes. What do you contribute the creek overflowing to?  
1770 The site, or just nature, or is it something County needs to do to better improve  
1771 that area? Who do you think is at fault with that?  
1772

1773 Mr. Kimbrough - Beavers.

1774  
1775 Mr. Blankinship - Very good answer. There is a very large floodplain in  
1776 that area. It's just a naturally occurring floodplain.  
1777  
1778 Mr. Kimbrough - For the most part, they've got it chalked up pretty  
1779 good. But the drainage system has not been maintained well enough. They  
1780 probably could put a larger culvert underneath the road there to probably  
1781 alleviate the major runoff when we have it.  
1782  
1783 Mr. Blankinship - The floodplain there is almost 500 feet wide.  
1784  
1785 Mr. Kimbrough - I own almost twelve acres, and I only have six viable  
1786 acres. My other six is under water, basically.  
1787  
1788 Ms. Harris - Are there other questions? Thank you,  
1789 Mr. Kimbrough.  
1790  
1791 Mr. Kimbrough - Yes ma'am. Thank you.  
1792  
1793 Ms. Harris - Are there others who would like to address this issue  
1794 in opposition? We ask that you come forward to the microphone. Give us your  
1795 name and spell your last name.  
1796  
1797 Mr. Jennings - Hi. My name is Thomas Jennings. J-e-n-n-i-n-g-s.  
1798  
1799 Ms. Harris - Were you sworn in, Mr. Jennings?  
1800  
1801 Mr. Jennings - Yes I was.  
1802  
1803 Ms. Harris - Thank you.  
1804  
1805 Mr. Jennings - Most of the questions I have have been addressed  
1806 already. You know, the property value and of course groundwater. One thing I  
1807 haven't heard is, is there any directive or is there any say-so as to where this fill  
1808 comes from? Is it all coming from Virginia or could it just come from any state  
1809 whatsoever?  
1810  
1811 Mr. Blankinship - It's very expensive to haul this material. Every mile  
1812 that they haul it costs them more. So the reason they want this site is because  
1813 they don't want to haul it any farther than they have to. So the economics of the  
1814 situation pretty much guarantee that it'll be nearby. There are other locations.  
1815  
1816 Mr. Jennings - It doesn't necessarily have to be it just—  
1817  
1818 Mr. Blankinship - No. There's not a requirement on that. But there are  
1819 other locations that Liesfeld controls. He mentioned Bottoms Bridge. If they're as

1820 far away as that, they would go to that site rather than this one just to save the  
1821 money.

1822  
1823 Mr. Jennings - Okay. The only other comment that I really have is  
1824 most of the people—and a lot of them are from the neighborhood that I'm in in,  
1825 Battlefield Run, —is we didn't hear about this community meeting, and we didn't  
1826 hear anything about it ahead of time. So we're coming in here now just trying to  
1827 get what information we can. So we're still learning—or at least I am—about this  
1828 whole project.

1829  
1830 One thing I would like to at least bring up for my own self is that I am one of the  
1831 cyclists that uses Strath Road. It will definitely be an issue for me. I'm not going  
1832 to be able to ride on that road anymore, so that is a big concern for me. I ride the  
1833 Capital Trail constantly, and I love it, and I thank everybody in the County for  
1834 that, for any participation in that. But you can't ride one thing all the time. You  
1835 need some variety. And Strath Road is one of the roads that I ride on, so it is a  
1836 large concern for me. Thank you very much.

1837  
1838 Ms. Harris - Thank you so much. Are there any questions of  
1839 Mr. Jennings? Okay. Is there anyone else who wishes to speak in opposition to  
1840 this case?

1841  
1842 Mr. Weis - Yes. My name is Jim Weis. W-e-i-s. I just wanted to  
1843 say that in the Varina area it doesn't have to necessarily have to be pinpointed  
1844 where you can get complaints. I won't stick on this, but just the fact that the  
1845 trucks coming in and out also hit Route 5, and they go by live people up and  
1846 down the road. The road will probably be torn up before this is over.

1847  
1848 Most of the time you come to these landfills or whatever and before work starts—  
1849 and that's when I was working; I'm retired now. Trucks would be lined up and  
1850 down the road. I think that's something to keep in mind for these trucks sitting  
1851 there running. And what about the school buses running up and down the road  
1852 during the winter? There are so many things like they've already discussed.

1853  
1854 My big concern is the noise, no proof of soil contamination. A lot of people out  
1855 there are retired and don't want to hear all that noise. I thank you.

1856  
1857 Ms. Harris - Thank you so very much. Any questions from Board  
1858 members? Okay.

1859  
1860 Ms. Mondak - My name is Phyllis Mondak. M-o-n-d-a-k. I live on  
1861 Route 5 east of 295. Right now there are a lot of dump trucks that are starting to  
1862 run up and down Route 5. I come out of my driveway, and I have to stop and look  
1863 for bikers because the Capital Trail runs right in front of my house, which is fine.  
1864 I'm glad it is well used, and I think it's a wonderful thing. But I also have to watch  
1865 out for the trucks coming right now from the east heading west. They are

1866 barreling down the highway quite fast. And to get out of my driveway during the  
1867 day when these trucks are running up and down the road is getting to be quite a  
1868 safety issue. The same with them coming the other direction. I have wait until  
1869 they as past my driveway for me to turn out because the highway is narrow  
1870 enough that they are on the yellow line a lot of times. That does not leave me a  
1871 lot of time to pull out.

1872  
1873 The other issue I'm finding is that I have a small hybrid car. It's a two-seater. And  
1874 it's little. They don't see me. If they do see me, they don't care. So I see a lot of  
1875 times that when they're coming up to Strath along Route 5, I have to be very  
1876 careful with people going to turn right and left, especially these large trucks as  
1877 they swing out to turn. So again, it becomes another safety issue. The  
1878 intersection at Strath and Route 5 is not a big intersection. Yes there are turn  
1879 lanes, but still the traffic as it comes through in the morning and the afternoon,  
1880 because of the buses is heavy. Adding dump trucks that are going to be coming  
1881 through there from 7 in the morning until 5:30 at night is going to make a lot of  
1882 safety issues with the school buses and just the other traffic.

1883  
1884 The roads are small. They're not made for that heavy traffic. I don't think anybody  
1885 there wants the roads to be enlarged, as you can go up and down Route 5 all the  
1886 way. People don't want it enlarged. They don't want it industrialized. They don't  
1887 want a lot of housing developments coming in. If they have the dump here and  
1888 it's only coming from a certain distance around, what does that say for extra  
1889 building and other things that are going to go in the area which the people who  
1890 are there presently aren't in favor of?

1891  
1892 Mr. Blankinship - Well this material is going to have to go somewhere,  
1893 and it's going to get there on a road in a truck.

1894  
1895 Ms. Harris - Are there questions? Thank you so very much.

1896  
1897 Mr. Green - Thank you.

1898  
1899 Ms. Harris - Is there anyone else who wishes to speak in  
1900 opposition to this request? If not, Mr. Hooker and Mr. Morgan, we're ready for the  
1901 rebuttal.

1902  
1903 Mr. Hooker - To address a few items, especially regarding  
1904 stormwater. We're required to get permits for this type of project. Not only is it a  
1905 County permit, but it's also a state permit that is obtained. The state permit  
1906 addresses stormwater, as well as runoff, and we have to—during disturbance.  
1907 Temporary seeding will be placed in times that future additional disturbance will  
1908 take place. Once the disturbance has been completed, it will be permanently  
1909 seeded. There are two sediment traps shown on the plan. As the site  
1910 progressively gets cleared, it will not be clear in its entirety. They will start  
1911 clearing up at the northern end, and they will progress south.

1912

1913 Initially, the requirements will be to have these two sediment basins installed to  
1914 collect any runoff from the site before it leaves the site. The runoff that leaves the  
1915 site is going to be—. Any contaminants—not contaminants. But any sediment will  
1916 be contained in these structures before releasing to go out to the adjacent  
1917 streams.

1918

1919 The final grading plan shows grading at gentle 2 percent slope across the site.  
1920 There will be a swale that will run from east to west, discharging to this area,  
1921 which is an existing outfall location. And then this area here will outfall this way.  
1922 There is an existing channel coming across here.

1923

1924 About contaminants, again, permits are required to move dirt. Anybody doing site  
1925 work, they have to document if they're importing material where it's coming from.  
1926 Same thing here. If it's material coming into this site, they need to know where  
1927 it's coming from.

1928

1929 I'm trying to think what other comments that were brought up.

1930

1931 Mr. Blankinship - The suggestion of testing wells.

1932

1933 Mr. Hooker - I guess that could be coordinated with the Health  
1934 Department; I'm not sure.

1935

1936 Mr. Morgan - I'm not against doing it. I don't know the procedure or  
1937 I'm not familiar with the process. I'm not sure exactly what that means. But  
1938 obviously we're open to protecting the neighbors.

1939

1940 Ms. Harris - Okay, thank you. Thank you so very much.

1941

1942 Mr. Hooker - Thank you.

1943

1944 Ms. Harris - Okay. That concludes this case. Gentlemen, do you  
1945 want to take a recess for about five minutes? Okay. We'll be back.

1946

1947 **[The Board of Zoning Appeals takes a five-minute recess.]**

1948

1949 Ms. Harris - This is the continuation of our session. Please call the  
1950 next case.

1951

1952 **[After the conclusion of the public hearings, the Board discussed the case**  
1953 **and made its decision. This portion of the transcript is included here for**  
1954 **convenience of reference.]**

1955

1956 Ms. Harris - What is the pleasure of the Board?

1957

1958 Mr. Johnson - Being in the Varina District, I make a motion that we  
1959 approve. It's necessary for the materials to get to a location. We need to have  
1960 trucking anyway. If it was in another area we would still have the same situation.  
1961  
1962 Ms. Harris - We need to add to that those conditions that were  
1963 modified, the one that the hours would be from 7 to 5:30 instead of 7 to 6. And  
1964 the agreement that there will be back-up alarms that are traditional.  
1965  
1966 Mr. Blankinship - I'll see if I can get some good language on the  
1967 alternative back-up alarms. I'm not familiar with those. Also in condition 16 if we  
1968 could change white pine trees to loblolly pine trees. And while we're looking at  
1969 16, the applicant had requested that he be relieved of that condition and not be  
1970 required to plant trees.  
1971  
1972 Mr. Johnson - I would like to have shrubbery, some kind of a buffer  
1973 there rather than just having those removed. Have trees in there and some  
1974 shrubbery.  
1975  
1976 Mr. Blankinship - So when they complete the reclamation, you do think  
1977 it would be better to have it planted with trees.  
1978  
1979 Mr. Johnson - Yes.  
1980  
1981 Mr. Blankinship - Okay. We'll leave that there. The applicant also  
1982 mentioned—there was something in the narrative that said that they would be  
1983 burning the trees on site. The applicant said during his testimony there would be  
1984 no burning on the site. Can I suggest that we add a condition stating simply there  
1985 will be no burning on the site?  
1986  
1987 Mr. Johnson - Yes.  
1988  
1989 Mr. Blankinship - Okay. And the final note that I had made,  
1990 Mr. Johnson, was about testing of the wells. That's another thing that we haven't  
1991 done before. I don't know exactly what language to propose to you. Is that  
1992 something the Board wants us to try to work out with the applicant and the  
1993 neighbors and get into the conditions?  
1994  
1995 Mr. Johnson - That might also set precedent for other areas that  
1996 also have wells.  
1997  
1998 Mr. Blankinship - It certainly could, yes sir.  
1999  
2000 Ms. Harris - But we take each case on its own merit. So if we see  
2001 that there's a need for well testing, we need to state it.  
2002  
2003 Mr. Johnson - Yes.

2004  
2005 Ms. Harris - Is there a charge for that?  
2006  
2007 Mr. Blankinship - There would be some expense involved.  
2008  
2009 Ms. Harris - Okay. Mr. Johnson?  
2010  
2011 Mr. Johnson - I think that we should look into testing the wells to see  
2012 if there are any changes. This would also give us an idea when we're doing  
2013 something someplace else as well.  
2014  
2015 Ms. Harris - Whose responsibility would that be?  
2016  
2017 Mr. Johnson - It should be—do we have anyone to do the wells?  
2018  
2019 Mr. Blankinship - The County Health Department does some of that  
2020 kind of work, but I don't know under what circumstances.  
2021  
2022 Mr. Johnson - I would just say look into it to see what would be best.  
2023  
2024 Mr. Blankinship - All right. I'll see if I can come up with some good  
2025 language on that, and I'll check back with the Board before we finalize it.  
2026  
2027 Mr. Bell - To my understanding, it wasn't just checking the well,  
2028 it was to check it every year.  
2029  
2030 Mr. Blankinship - Right. They wanted to test it as a baseline and then  
2031 have some kind of periodic testing.  
2032  
2033 Mr. Bell - Obviously it wouldn't do any good just to test it one  
2034 time.  
2035  
2036 Mr. Blankinship - Right.  
2037  
2038 Mr. Bell - Their concern was what might happen in the future  
2039 when stuff was added.  
2040  
2041 Mr. Blankinship - Right. Thank you. I'll see if we can come up with  
2042 some language that everybody can agree to. And if not, then we'll just have to  
2043 discuss it again next month.  
2044  
2045 Ms. Harris - Okay.  
2046  
2047 Mr. Green - I second it.  
2048

2049 Ms. Harris - It's moved by Mr. Johnson, seconded by Mr. Green  
2050 that we approve this conditional use permit. Is there any discussion on this? I  
2051 really feel that we have burdened this community too much. To put those trucks  
2052 on the highway, I cannot image living in the area where 150 trucks will come  
2053 through my community in one day. I feel that the safety aspect is just  
2054 overwhelming here. So that's my concern. Any more discussion?  
2055

2056 Mr. Green - Yes. They did state that on average it could be 20 to  
2057 30 trucks a day, which the neighbors are already quite familiar with. The most it  
2058 could be from 150 would be 200, which is an additional 50 trucks. But that's not  
2059 assuming all at one time. I don't want us to get the impression that there are 150  
2060 trucks traveling that road every day, because they said in some instances, if I'm  
2061 not mistaken, that it could be zero, it could be 20, it could be 30. But never did I  
2062 hear anybody indicate that it would be 150. And if there are additional trucks in  
2063 that area, one has to assume because of growth there are going to be additional  
2064 cars in that area. So it's just organic that you're going to see that kind of growth  
2065 in trucks as you do in cars.  
2066

2067 Ms. Harris - But in keep in mind that the solar farm is less than a  
2068 couple of blocks away. We were told at the last meeting that there will be  
2069 construction trucks coming in temporarily until the solar farm is constructed. Then  
2070 we have Kingsland at Strath Road with a mining site that's about two blocks  
2071 away. I just think that this is a very serious burden that's going to be placed on  
2072 the community, and we had a number of people who are very concerned about  
2073 Varina and just what's happening as far as these trucks, as far as the safety is  
2074 concerned. In good conscience I cannot support this particular conditional use  
2075 permit. But I do pray that there will be no more fatalities at this site. Not the  
2076 Kingsland site, but this site. One person who is considered a fatality is too much.  
2077 With that we're ready to vote. Any more discussion?  
2078

2079 Mr. Johnson - Madam Chair, I understand that incident. And also I  
2080 had the opportunity to go down to look at the site that's closing up now. They're  
2081 still covering it over. So some of the activity there would be dropped. Some of the  
2082 truck traffic as well. But hopefully there are no more fatalities.  
2083

2084 Ms. Harris - Mr. Green?

2085  
2086 Mr. Green - Madam Chair, that fatality that we're all familiar with  
2087 occurred a long time ago. Some of us may be sensitive because we're familiar  
2088 with the family. I don't know the circumstances, and I can't lay blame for the  
2089 facility or the individual. I don't know what caused it, if it's the fault of the  
2090 individual, or if it was the fault of the site. I think that we have to look at the  
2091 totality of the number of years as well as the traffic. While one death is too much,  
2092 one accident is too much, in the aggregate over a 20- or 30-year period there  
2093 hasn't been a consistent problem.  
2094

2095 Ms. Harris - Mr. Green, the site has been closed for twenty-five  
2096 years, so we would have no more problems.

2097  
2098 Mr. Green - But there could be accidents.

2099  
2100 Ms. Harris - Exactly. And Mr. Johnson, even though they're saying  
2101 reclamation is going on now, they're saying that's at least a two-year process. So  
2102 we've known it to go on longer than two years. Anyway, as long as we have the  
2103 facts, the facts are out there. I'm very familiar with the case because this pastor's  
2104 son, who was the only child, went to church to get some chairs for an  
2105 engagement his mother was sponsoring. So the chairs, of course, that were in  
2106 the car when it was impacted by the truck complicated the injury. So I'm very  
2107 familiar because our entire community was touched by that.

2108  
2109 Mr. Green - But with all due respect, we are personalizing this,  
2110 and we should not personalize.

2111  
2112 Ms. Harris - No, these are the facts. You're a man of facts. These  
2113 are the facts dealing with at this particular site, and I think we all need to be  
2114 aware of that. So let's go to a vote please. Any more discussion?

2115  
2116 Mr. Bell - Real quickly. The whole thing I think that brought it up  
2117 was the number of people who have mentioned truck traffic. What they  
2118 mentioned was the excessive amount. However, what you've got to think about  
2119 goes to what Mr. Green said. On any other sites—and we have many in the  
2120 county—at any given time there could be none or there could be fifty an hour  
2121 because that's the way they get the material to the site. This site right here right  
2122 now we know will be having large amounts of traffic coming in and out for one to  
2123 two years. Thank you.

2124  
2125 Ms. Harris - Not one to two years. This is good until 2020.

2126  
2127 Mr. Bell - That's two years.

2128  
2129 Ms. Harris - That is two years.

2130  
2131 Mr. Blankinship - It's later than you think. We're all tired.

2132  
2133 Ms. Harris - We're all tired. Okay, let's vote. All in favor of  
2134 approving this conditional use permit say aye. Those opposed say no. There is  
2135 no opposition; that motion passes.

2136  
2137 After an advertised public hearing and on a motion by Mr. Johnson, seconded by  
2138 Mr. Green, the Board **approved** application **CUP2018-00015, LIESFELD**  
2139 **CONTRACTOR, INC.'s** request for a conditional use permit pursuant to Section  
2140 24-116(d)(3) of the County Code to deposit soil as fill material at 8950 Strath

2141 Road (Parcel 816-677-8788) zoned Agricultural District (A-1) (Varina). The  
2142 Board approved the conditional use permit subject to the following conditions:

2143

2144

2145 1. This conditional use permit only authorizes the clearing, grading, and  
2146 reclamation shown on the plans titled "Liesfeld Contracting Strath Road Mine"  
2147 prepared by Engineering Design Associates and revised July 9, 2018, as  
2148 modified by these conditions.

2149

2150 2. The final grades shall have a minimum slope of 2% (50 feet horizontal to 1 foot  
2151 vertical) and a maximum slope of 33% (3 feet horizontal to 1 foot vertical).

2152

2153 3. Before beginning any land disturbing activity, the applicant shall post a  
2154 financial guaranty in the amount of \$135,300 insuring that the land will be  
2155 restored as shown on the "Final Reclamation Plan." The applicant shall maintain  
2156 the financial guaranty until the Planning Department and the Department of  
2157 Public Works approve the reclamation of the property. Reclamation shall not be  
2158 considered complete until the site has been graded as shown on the approved  
2159 reclamation plan and is covered completely with permanent vegetation.

2160

2161 4. Before beginning any land disturbing activity, the applicant shall obtain  
2162 approval of an environmental compliance plan from the Department of Public  
2163 Works (DPW), which shall include compliance with the Chesapeake Bay  
2164 Preservation Act. The applicant shall continuously satisfy DPW that erosion  
2165 control measures are properly maintained in accordance with the approved plan.  
2166 As site conditions change, updated plans and bonds may be required by DPW.

2167

2168 5. The material to be deposited on the site shall be limited to soil and similar  
2169 materials excavated from construction sites, and shall not include any hazardous  
2170 materials as defined by the Virginia Hazardous Waste Management Regulations.  
2171 The applicant shall submit a quarterly report stating the origin, nature, and  
2172 quantity of all material deposited on the site, certifying that no hazardous  
2173 materials were included.

2174

2175 6. Any activity that results in sound clearly audible at the property lines shall be  
2176 limited to Monday through Friday, from 7:00 am to 5:30 pm. There shall be no  
2177 activity that results in sound clearly audible at the property lines on Saturdays,  
2178 Sundays, or national holidays.

2179

2180 7. All access to the property shall be from the designated construction entrance  
2181 onto Strath Road. The applicant shall maintain a gate at the entrance, which shall  
2182 be locked at all times except when authorized representatives of the applicant  
2183 are on the property.

2184

- 2185 8. The applicant shall post and maintain a sign at the entrance to the site stating  
2186 the name of the applicant and a telephone number to contact in case of  
2187 emergency.  
2188
- 2189 9. Standard "Truck Entering Highway" signs shall be posted and maintained at  
2190 the applicant's expense on Strath Road on each side of the entrance to the  
2191 property.  
2192
- 2193 10. The applicant shall post and maintain a standard stop sign at the entrance to  
2194 Strath Road.  
2195
- 2196 11. The applicant shall post and maintain "No Trespassing" signs every 250 feet  
2197 along the perimeter of the property. The applicant shall furnish the Chief of Police  
2198 a letter authorizing the Division of Police to enforce the "No Trespassing"  
2199 regulations, and agreeing to send a representative to testify in court if necessary.  
2200
- 2201 12. There shall be no burning on the site at any time.  
2202
- 2203 13. Trucks leaving the site shall travel at intervals and not in groups of three or  
2204 more. If requested by the Division of Police, the applicant shall provide a  
2205 flagman to control traffic from the site onto Strath Road.  
2206
- 2207 14. The applicant shall sweep Strath Road as necessary to prevent tracking of  
2208 mud, and shall control dust in accordance with the latest version of the Virginia  
2209 Erosion and Sediment Control Handbook.  
2210
- 2211 15. If the applicant discovers evidence of cultural or historical resources, or an  
2212 endangered species, or a significant habitat, it shall notify appropriate authorities  
2213 and provide them with an opportunity to investigate the site. The applicant shall  
2214 report the results of any such investigation to the Planning Department.  
2215
- 2216 16. At the request of the owner of any water well located within 1,000 feet of the  
2217 fill area, the applicant shall reimburse the cost of testing the well water for a  
2218 baseline test prior to land disturbance, and annually thereafter. If one or more  
2219 annual tests shows contamination compared to the baseline test, the owner of  
2220 the well may request a hearing before the Board. If the Board finds, after  
2221 reviewing the evidence at a public hearing, that the well was adversely affected  
2222 by the activity authorized by this conditional use permit, the applicant shall  
2223 immediately cease operations until the problem has been corrected to the  
2224 satisfaction of the Board.  
2225
- 2226 17. When the project is complete, the reclamation of the site shall include  
2227 seeding with red cedar trees, loblolly pine trees, or a similar native species in a  
2228 manner approved by the director of planning.  
2229
- 2230 18. This conditional use permit shall expire July 31, 2020.

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19. Failure to comply with any of the foregoing conditions shall automatically void this permit.

Affirmative:	Bell, Green, Johnson, Reid	4
Negative:	Harris	1
Absent:		0

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

Mr. Blankinship - CUP2018-00018, Susanne McGinley-Gorman.

**CUP2018-00018 SUSANNE MCGINLEY-GORMAN** requests a conditional use permit pursuant to Section 24-12(e) of the County Code to allow a noncommercial kennel at 2100 Boardman Lane (ROCKSTONE) (Parcel 748-751-5049) zoned One-Family Residence District (R-3AC) (Tuckahoe).

Mr. Blankinship - Would everyone who intends to speak to this case please stand and be sworn in. Raise your right hands, please. Do you swear the testimony you're about to give is the truth, the whole truth, and nothing but the truth so help you God? Mr. Gidley?

Mr. Gidley - Good morning again, members of the Board, Madam Chairman.

The subject property is located the Rockstone subdivision, which is off of Pemberton Road. The applicant is requesting permission to allow the continued keeping of nine dogs on the property. The applicant states the dogs would be cared for on a permanent basis due to medical conditions that make them unadoptable. You should have a copy of a news article, however, that indicates the applicant, Ms. Gorman, may have taken in a tenth animal, a Boston terrier. If this is accurate, then the request should be changed to ten animals rather than the nine applied for.

The applicant and her husband purchased the property in 2007 and have been operating a rescue on and off since at least 2010. This is when the County first received the complaint for the Rockstone Homeowners Association regarding the use. Since this time, seven additional complaints regarding the animals on the property have been received with the latest filed in April of this year. Of these complaints, at least three, including the most recent, have come from three different, adjacent property owners. The complaints have focused not only on the number of dogs, but on noise, odor, and safety issues as well. Three years ago, a Notice of Violation was issued, but evidently the property was brought into

2277 compliance, albeit temporarily. In response to the most recent complaint, the  
2278 applicant has applied for a conditional use permit to keep up to nine or perhaps  
2279 ten dogs now.

2280

2281 In evaluation, the property is zoned R-3AC, One-Family Residence District, and  
2282 is designated as Suburban Residential 2 on the 2026 Future Land Use Plan. The  
2283 Zoning Ordinance allows up to three pets by right. The keeping of more than  
2284 three pets requires a conditional use permit. The County was provided a copy of  
2285 an email chain going around the neighborhood to the property owners. In it,  
2286 Ms. Gorman, the applicant, stated this is permit is for us to keep our personal  
2287 dogs and that is it, nothing more or less. In another part of the email chain,  
2288 however, Mr. Gorman stated these are all animals that rotate through our home  
2289 as rescues. I do want to be clear.

2290

2291 While staff opposes this request, the BZA may approve the keeping of more than  
2292 three of one's own pets by conditional use permit. The Board does not have the  
2293 ability, however, to approve the keeping of rescue dogs rotating through a home  
2294 in a residential district. So hopefully, Ms. Gorman's statement is the correct  
2295 statement reflecting for what they're applying for.

2296

2297 As far as substantial detriment on nearby property, a total of eight complaints  
2298 have been received by the Community Maintenance Division since 2010. This  
2299 primarily focuses on barking dogs along with odor issues. Following the  
2300 publication of this case, staff received numerous phone calls and emails in  
2301 opposition to this request. You should have copies of five of these emails at your  
2302 desk. In addition, staff has received two phone calls and an email from three  
2303 adjacent property owners in opposition. Based on the number of complaints from  
2304 adjacent property owners, it appears that the keeping of the dogs on the property  
2305 has already caused a substantial detrimental impact to nearby property owners.

2306

2307 In conclusion, based upon the history of complaints received by County, along  
2308 with the opposition received in response to this particular request, staff has  
2309 concluded that the keeping of the dogs on the property has a substantial  
2310 detrimental impact on the neighborhood. For this reason, staff recommends  
2311 denial of this request.

2312

2313 This concludes my presentation, and I'll be happy to answer any questions you  
2314 may have. Thank you.

2315

2316 Ms. Harris - Thank you. Are there any questions from the Board?  
2317 All right. Can we please hear from the applicant?

2318

2319 Ms. Gorman - My name is Suzie Gorman, and this is James  
2320 Gorman. It is true that I have a Boston terrier currently. I have unique skills  
2321 because I worked for a vet for fifteen years. So the rescue asks me to foster  
2322 certain dogs. He is not going to stay at my residence because he's going to be

2323 taken care of until he can be adopted. He has two severely broken back legs.  
2324 CBS-6 aired a story about him, and there's nobody else that was able to take  
2325 care of his very severe injuries. Because of my skills, I was able to do that.

2326  
2327 Most of the dogs that come through my property are there temporarily. It is true  
2328 that we applied for our own personal dogs. Occasionally, I take those that need  
2329 special fostering skills because of injuries to them. He's one. I have a tiny little 4-  
2330 1/2-pound Yorkie where he came in with severe pneumonia and half his tongue  
2331 was rotting away. It required special skills to take care of him.

2332  
2333 The rescue that we work for is nonprofit. It's 501. It's state regulated. There is not  
2334 one single animal that's in my residence when I do foster that has not been to a  
2335 vet within twenty-four hours. I have a complete file on each animal at any time.  
2336 We're not talking humongous big dogs. We're talking the dogs that the rescue  
2337 tries to save from local shelters. They are like maybe ten to five pounds. We get  
2338 them in as small as three pounds. I've pulled a lot of them from Henrico. We've  
2339 pulled from Colonial Heights, Hopewell. These are all dogs that are on death row.  
2340 If they have any special medical needs, I'm the only one in the rescue that's  
2341 qualified to help them.

2342  
2343 They don't stay with me. As soon as they're healthy and can be adopted, they go  
2344 into a permanent home. I have provided valuable service to the Rockstone  
2345 community as well as surrounding communities with my skills, and I'm always  
2346 available to help anyone. We had a little poodle at Christmas that got for one of  
2347 the neighbors and that would have died had it stayed out. My daughter at that  
2348 time lived with me, and she had a big shepherd. And she is scent trained, and  
2349 she actually went out, and we located the dog and were able to return it to the  
2350 owner. If anyone in the neighborhood finds an animal, even if it's wildlife, they  
2351 always come to me, and I always help people anytime anyone knocks on my  
2352 door. I will always continue to do that no matter where I am.

2353  
2354 But I have never disrespected anyone. If there is any barking, I go out, and I ask  
2355 my dogs to come inside. If they don't, I physically go out and pick them, and bring  
2356 them inside. They're never left outside when we are not home. They are all  
2357 securely inside our residence. There is no kennel, there are no cages, there is no  
2358 structure outside of the home that could take away from the property. The  
2359 property is boxed in by a natural area. The very end of my property is up against  
2360 Gaskins. There is significant traffic down there that — my property. So barking  
2361 dogs, I hear lot so barking in the rest of the neighborhood, so I'm very  
2362 considerate of that. I wouldn't want—someone that's trying to sleep in or  
2363 someone that's trying go out and enjoy their yard on the weekends, if the dogs  
2364 bark, that's not nice. So I always bring them in. The dogs are not just put out and  
2365 then I just do what I want. I pay very close attention to that.

2366  
2367 And like I said, we have two big dogs, but those are personal dogs, and then I  
2368 have these five little poodles that couldn't be adopted because they have medical

2369 issues. One has seizures. One has one eye; one was not good with strangers.  
2370 So all of these dogs came through and were not able to be adopted out. Because  
2371 they are not adoptable, my husband and I let them live their life out at our house.  
2372 Some of them are like this big, and some of them don't like to go out. I carry them  
2373 out, I try to get them to do their business, and I bring them back inside. It's like  
2374 you go out and walk around the yard. You think it's a beautiful day and you're  
2375 enjoying it. And before you even try to get to your back door, the dogs are in  
2376 before you are. So it's not like they go out there and just bark nonstop. I can sit  
2377 out on my deck with all the dogs, and I hear lots of other dogs barking. I think  
2378 that's part of being in a residential neighborhood, and it's part of being with your  
2379 family. My animals are my family.

2380

2381 Like I said, I did have my daughter living with us. She has finally moved out, and  
2382 she took her dog with her. And she was a little bit loud and big because a  
2383 German shepherd tends to do that. But since then it's gotten a lot more quiet at  
2384 my house. Most of the dogs, I'd say 80 percent of them are ten and older. So  
2385 we're not replacing them when any of them die.

2386

2387 We never intended on having this many animals. I personally have three, he had  
2388 three. So when we got married, we ended up with six. The Zoning committee was  
2389 aware of it. They said well, we don't do anything unless there are complaints.  
2390 And I understand not everybody supports my passion or my love for my animals.  
2391 You can't have everybody agree with you on that. But I am super conscious of  
2392 everybody around us. We keep our property in pristine condition. The back is  
2393 kept natural, and there are a lot of trees. We poopy-scoop every day, and  
2394 everything is taken care of as far as keeping it nice and clean. I have a vet that I  
2395 still volunteer for, and I go in for emergencies if there is any problem. So there is  
2396 no disease to worry about because they're under constant supervision.

2397

2398 As soon as they're adopted out, then they don't stay with me. There are times I  
2399 don't have a lot. When Henrico called me, and I ended up with ten that stayed up  
2400 in one bedroom because they were horribly sick. Two of them didn't make it, and  
2401 the others were adopted out as soon as they were healthy.

2402

2403 I help the community, in my opinion, as well as I help my neighbors. If there were  
2404 any issues, I would be happy to try to resolve them. Nobody has ever come and  
2405 knocked on my door and said, "Suzie, we have a concern. Could you try to do  
2406 this for us?" I think it's really sad that you have to put in a complaint instead of  
2407 whatever happens you just talk to me. I'm not an oppositional person, so if you  
2408 come and talk to me, that would be awesome. I'd love to try to all get along.  
2409 That's what it's all supposed to be.

2410

2411 But if some reason the Zoning committee does not want to grant that permission,  
2412 my husband I understand. At some point we were going to downsize since the  
2413 kids finally left, which was way later than we thought. But they are gone. But if we  
2414 can't stay in our current residence—even though we lived in the current

2415 neighborhood for twenty years—we would at least like to have six months to  
2416 locate another residence and move where we are not going to be a nuisance as  
2417 you are projecting us to be.

2418  
2419 The email that went out I felt it kind of made it sound like we were installing a  
2420 commercial kennel, and we were going to profit from having these animals. I  
2421 think there is a lot of misconception on the neighbor's part as to what exactly was  
2422 going on. So I think a lot of people got scared thinking we were going to put a  
2423 kennel in. You think of cages and runs outside, and there are no cages, there are  
2424 no runs, there is no extra structure. These dogs live with us. And like I said, all of  
2425 them are totally vetted. They are checked all the time. They are given  
2426 preventative care. We keep a clean and tidy area. My husband recently had knee  
2427 surgery. We hired a landscaping company so we can make sure the property  
2428 continues to look nice.

2429  
2430 My worst sadness in all of this is the fact that we can't just go knock on each  
2431 other's door. We have one neighbor that likes to have fires in their backyard.  
2432 They were nice and knocked on the door and said, "We know the smoke kind of  
2433 blows your way. If it becomes too much, please let us know." I greatly  
2434 appreciated that, and I told them I certainly would be happy to do that. At some  
2435 point every time a car backfires or there are fireworks, his dog always jumped my  
2436 fence because it got scared. And I'd just hold onto it and return it when they got  
2437 back home from wherever they were.

2438  
2439 I consider myself a very nice and generous person. If I saw one of you guys fall  
2440 on the side of the street, I'd stop my car and ask you if you were okay. So that's  
2441 the worst part about all this is to find out that people have these complaints, that  
2442 they don't feel comfortable to come knock on my door. If there was a way that we  
2443 could resolve it, we would be happy to. At some point, we are going to move  
2444 because, like I said, the house is a little big now that the four kids have left. They  
2445 were a little hard on the house. I thought dogs were hard, but kids can be a little  
2446 bit difficult too. So we are looking to fix the house up. It's the biggest one in the  
2447 entire neighborhood. It's the most private one. So we take pride in what we own.  
2448 That's our house, our home. That part of it I don't feel—

2449  
2450 It's not like I'm here to make a nuisance of myself. I don't go next door and say I  
2451 don't care what your opinion is. The sad thing is nobody has ever knocked on  
2452 my door and said, "We would like you to work with us." If that can't be resolved, I  
2453 understand that people are not going to agree, and we will be happy to move.  
2454 We just need time to do that.

2455  
2456 Ms. Harris - Thank you, Ms. Gorman.

2457  
2458 Mr. Blankinship - But ma'am, there have been seven complaints since  
2459 2010, so approximately one a year on average. Not that your neighbors are  
2460 afraid something may happen, but about what is happening now. The reason

2461 you're here this morning is because there was a complaint about what is going  
2462 on now. Right?

2463

2464 Ms. Gorman - It's been going on since 2010.

2465

2466 Mr. Blankinship - And the complaints have been going on since 2010.

2467

2468 Mr. Gorman - Can I speak to that? I think—

2469

2470 Mr. Blankinship - And I haven't gotten to my point yet. In the weeks  
2471 leading up to this hearing, you took in an additional dog. After receiving the  
2472 Notice of Violation telling you that you have too many dogs on the property  
2473 already, you added another dog.

2474

2475 Ms. Gorman - He doesn't go out in the yard because he is very  
2476 debilitated with two back broken legs.

2477

2478 Mr. Blankinship - But you're under a Notice of Violation that you have  
2479 too many dogs on the property. You have a hearing coming up to see if you can  
2480 be allowed to keep that many dogs on the property. And in the weeks leading up  
2481 to the hearing, you added another dog to the property.

2482

2483 Ms. Gorman - I'm not keeping him permanently. The dogs on the  
2484 sheet that I have, those are the ones I'd like to keep permanently. The other ones  
2485 are going to be adopted. And Sparrow, the one that you're talking about, as soon  
2486 as he has recovered from his injuries, he's going to go to somebody else's home.  
2487 Part of fostering is that anyone that fosters, they take care of them until someone  
2488 has interest in them, and then they get adopts.

2489

2490 Mr. Blankinship - So that doesn't strike you as problematic, that while  
2491 you're under a Notice of Violation for having too many dogs you took in another  
2492 dog.

2493

2494 Ms. Gorman - Because he doesn't add to the—

2495

2496 Mr. Blankinship - Okay, that was my question.

2497

2498 Ms. Gorman - It wasn't one that I was going to keep. The dogs that I  
2499 had on my list, they were going to be kept because they're my family dogs. He's  
2500 not going to stay. He's just there temporarily.

2501

2502 Ms. Harris - Yes. Ms. Gorman, we understand that. Mr. Gorman,  
2503 were you going to say something.

2504

2505 Mr. Gorman - Yes. That little dog was on TV last week. He had two  
2506 broken back legs. Obviously, my wife is very passionate about this. Obviously,

2507 we want to do what's best for the community. We're asking for a little more time.  
2508 We've looked at five properties. We're trying to get to a situation where we're  
2509 downsized, we have the land, we can do what we want to do. I can support her  
2510 with her—the number of little souls that she's saved just amazes me. The work  
2511 she does, I think she really does help out the County in regards to getting  
2512 animals out and through and to people. I mean she has a whole album of  
2513 pictures of all the people that have had their dogs. And the letters that she gets.  
2514 She could have inundated this place with people today, and she didn't want to do  
2515 that, and we talked about that.

2516  
2517 We want to leave the neighborhood. We want a little time, we need a little time.  
2518 Probably three to six months will do. We'll do what we can to stay at the ten- or  
2519 nine-animal limit. We've been there twenty years. We have raised our four  
2520 children there. We've been a part of the community for a while. We're just asking  
2521 for a little time. That's really it.

2522  
2523 Ms. Harris - Thank you so much. Are there questions from Board  
2524 members?

2525  
2526 Mr. Johnson - How many are in the household now?

2527  
2528 Ms. Gorman - In the current household, I have the nine that I  
2529 consider my family dogs, and then I have three that I'm fostering with severe  
2530 injuries, Sparrow being one of them. And they're inside the house because they  
2531 can't walk or they have injuries that prevent them. Like I said, I can do IVs, I can  
2532 do medication. As soon as they have recovered. Two of them are going into  
2533 surgeries this week. As soon as they are recovered, they go into their new  
2534 homes.

2535  
2536 Mr. Johnson - I'm referring also to people, how many people.

2537  
2538 Ms. Gorman - It's just the two of us now.

2539  
2540 Ms. Harris - So you have twelve dogs is what you're telling us  
2541 now?

2542  
2543 Ms. Gorman - Yes.

2544  
2545 Ms. Harris - Okay. Are you aware that the guidelines say three?

2546  
2547 Ms. Gorman - I understand that.

2548  
2549 Ms. Harris - Okay.

2550  
2551 Ms. Gorman - But there was also no guidelines that talked about  
2552 fostering dogs. Like when we ask people to foster dogs, that's not their

2553 permanent dog. That is just something we do temporarily to help out the  
2554 community so they don't have to be killed in shelters. We try to make sure that—  
2555 when you have fosters, you can rescue more dogs. It's hard for rescue groups  
2556 with budgets and all of that to be able to take care of these dogs. So when we  
2557 ask people in the community to step up and foster, then they might be over the  
2558 limit, but they only do it temporarily until the dog is adopted. It's not a dog that  
2559 they're going to keep permanently. The sad thing is, this will also affect—we  
2560 have to look into if people have their limit in their community, are they allowed to  
2561 foster a dog for two, three weeks or three months?

2562  
2563 We don't know that. We were told that it is not a problem unless somebody  
2564 complains. I understand people have complained. I hear other people's dogs  
2565 bark because they're left outside. My dogs are never left outside.

2566  
2567 Ms. Harris - Ms. Gorman, we have another question from Board  
2568 member.

2569  
2570 Ms. Gorman - Okay.

2571  
2572 Mr. Green - Mr. Gorman, you made the statement you have nine  
2573 family dogs. So that's over the limit.

2574  
2575 Ms. Gorman - I understand that.

2576  
2577 Mr. Green - So the foster of those nine—you said family, they're  
2578 not foster dogs.

2579  
2580 Ms. Gorman - No.

2581  
2582 Mr. Green - So the impression I'm getting—and I appreciate your  
2583 compassion for the animals and taking care of them, so I just want you to know  
2584 that. But the impression I'm getting is that you are still in violation of the rules  
2585 because you have nine. You're six over. In addition to what you might foster.

2586  
2587 Mr. Gorman - Our request for the conditional was for the additional  
2588 animals.

2589  
2590 Mr. Blankinship - The application only mentioned the nine. If the Board  
2591 approved the application for nine, you'd be in violation when you left the room.

2592  
2593 Mr. Gorman - So we'd have to remove those three dogs.

2594  
2595 Mr. Blankinship - Because you have twelve.

2596  
2597 Ms. Gorman - But they would leave as soon as they were medically  
2598 recovered from their injuries.

2599  
2600 Ms. Harris - Yes, we understand that. Mr. Gorman, you had said if  
2601 we gave you so many months that you would be able to move and not be in  
2602 violation.  
2603  
2604 Mr. Gorman - Yes ma'am. We've actually looked at five properties.  
2605  
2606 Ms. Harris - How many months did you say, six months?  
2607  
2608 Mr. Gorman - Six months. If we could have until the end of the year.  
2609  
2610 Ms. Harris - Okay, we'll consider that.  
2611  
2612 Mr. Green - But given the market and realistically—you don't know  
2613 what the market will do, how fast the house will sell. Do you think you would need  
2614 more time than that? Or is that a drop-dead date? What happens if—  
2615  
2616 Mr. Gorman - We don't believe we would need more time. We've  
2617 redone the stone internally on the floors. We have already talked to a realtor, and  
2618 we would actually do a bridging with the home that we would buy as well. So we  
2619 ensure that this house was spic and span and ready to go on the market. We  
2620 bought it in 2007 when the market was way overblown. And this house by far is  
2621 the most expensive in this subdivision. We bought it for half a million dollars. Now  
2622 its value is only at about four ninety, and that's not through anything that we've  
2623 done, that's just what the market is. That's what we'd put in on the market for so  
2624 we'd make sure it was ready to go.  
2625  
2626 Ms. Harris - Okay. Any other questions from Board members?  
2627  
2628 Mr. Johnson - Just one question out of curiosity. Have there been  
2629 animals that you had that have been contagious?  
2630  
2631 Ms. Gorman - No. I've never had parvo in my property. There have  
2632 been some dogs that had some parasites, but they're isolated. Let's say they  
2633 have roundworms or hookworms. They're treated, and once they get the clear bill  
2634 of health from the vet, then they get adopted. Just trying to help and make sure  
2635 that a lot of animals in the local community, Henrico included, don't have to be  
2636 put down; they get a second chance to live with a loving family. And  
2637 unfortunately, there are a lot of them that are discarded. The rescue, the only  
2638 time they put down animals is if they're horribly sick and suffering or if they are a  
2639 danger to somebody. If they pose a danger to a person, unfortunately we have to  
2640 put them down because we can't adopt a dog out like that.  
2641  
2642 It's very, very sad that so many get put down, so I do try to foster, and  
2643 unfortunately because of my medical skills with Dr. Miller, I end up taking care of  
2644 the ones that stay a little longer because they have bad injuries.

2645

2646 Ms. Harris - Yes.

2647

2648 Mr. Johnson - When they've been sent out for relief, to relieve  
2649 themselves, how is that taken care of, especially those that would have some  
2650 kind of—

2651

2652 Ms. Gorman - Let's say they have worms or something of concerns.  
2653 They are kept in isolation. I have like baby pools, and they are lined with pee  
2654 pads, and the dogs are kept in there. They have an area they can sleep, and an  
2655 area they can relieve themselves. They are not allowed to go outside until I know  
2656 that they have no parasites, and that comes from the vet when he gives them a  
2657 clean bill of health. So there have never been any diseases, especially parvo.  
2658 That's very, very bad. And I have never had that ever occur at my home. And like  
2659 I said, I worked for Dr. Miller for almost fifteen years, and I still do on-call  
2660 emergencies for him at three in the morning and on weekends and holidays.

2661

2662 Ms. Harris - Okay. Ms. Gorman, I hate to cut off. We try not to  
2663 repeat ourselves because there are so many cases that are before us. Let me  
2664 understand this. Mr. Gorman, you're saying that if we gave you six months that  
2665 you would be able to comply with County Code.

2666

2667 Mr. Gorman - Or have moved off the property, yes. We're going to  
2668 move off the property. We need to be zoned differently so she can pursue her  
2669 passion.

2670

2671 Ms. Harris - So if we gave you six months rather than to decide  
2672 today that you need to get rid all over three—

2673

2674 Ms. Gorman - We're going to move because I'm not putting down  
2675 my personal dogs, and I'm not giving them away because they're not adoptable.

2676

2677 Ms. Harris - I'm not asking that. I'm asking if Mr. Gorman and you,  
2678 are you willing to accept the fact that we will give you six months to either move  
2679 or comply with the County Code.

2680

2681 Mr. Gorman - Yes.

2682

2683 Ms. Harris - Okay, that's what I needed.

2684

2685 Mr. Gorman - Yes.

2686

2687 Ms. Harris - Any more questions from Board members? Okay,  
2688 thank you so very much.

2689

2690 Mr. Gorman - Thank you.



2737 If this petition is approved, whether it's on an extended basis or for six months,  
2738 we neighbors wonder if this kind of non-commercial kennel facility will be  
2739 appropriately supervised by the County since it seems that there wouldn't be  
2740 licensing regulations of a commercial kennel that would apply. But as a non-  
2741 commercial kennel, even for six months, is that going to be continually  
2742 supervised by the County to be sure that this is in compliance with whatever  
2743 agreements are made here today.

2744

2745 I also worry about the precedence that this would set for other people in our  
2746 neighborhood who may decide that they too want an exception to the rule.

2747

2748 I hope that you will deny the application and not extend it. They've had many  
2749 years to come into compliance.

2750

2751 I appreciate your time today. Thank you very much.

2752

2753 Ms. Harris - Thank you. Any questions?

2754

2755 Mr. Green - Yes. I live in Short Pump. When I moved out there,  
2756 one of my neighbors did rescues. To be quite honest with you, I never saw a  
2757 problem with it. I just knew that they did it. They had dogs. In terms of dogs  
2758 running loose, a lot of the dogs that were running loose in the neighborhoods  
2759 were other neighbor's dogs that got out. So I would not want to say that a dog  
2760 running loose is because of their situation.

2761

2762 Ms. Horne - Right. I understand.

2763

2764 Mr. Green - They're compassionate about the dogs. They bought  
2765 the house for approximately a half a million dollars. May or may not sell it at that.  
2766 They could potentially take a loss because of their compassion. So are you  
2767 saying you're not in favor of at least giving them six months to deal with this  
2768 issue? And in terms of other folks doing that, if the rule states that anybody can  
2769 have three dogs in their house, then all of us that live in houses, we can have  
2770 three dogs, and our neighbors can have three dogs. So by the time you run up  
2771 and down the street, you could have fifty, a hundred dogs in a particular  
2772 neighborhood.

2773

2774 Ms. Horne - Exactly.

2775

2776 Mr. Green - So I'm just wondering how do you feel about us being  
2777 compassionate enough to give them the opportunity to move out of the house.  
2778 They raised their children there. Would you be okay with the six months?

2779

2780 Ms. Horne - I feel that they have not been in compliance with the  
2781 rules for many, many years. So they have had an opportunity to abide by the  
2782 regulations of the County. They have a connection of people in the community

2783 that are likeminded, who also do rescue dog operations. I think that in this six  
2784 months that they say they're going to need to sell their house that they might ask  
2785 their friends to take some of their dogs.

2786  
2787 When you moved to Short Pump, you may be like I was when I moved to Short  
2788 Pump. There was no Short Pump Town Center. There were new developments. I  
2789 lived in Wellesley, which was still being built. Many people in Short Pump had  
2790 lived in the country. Nobody in our neighborhood where we live now lived in the  
2791 country. So there is a difference between your situation and this situation.

2792  
2793 Mr. Green - No, no. My situation was—we moved to Wellesley, a  
2794 strong residential area. And like I said, the neighbor I know that's had a rescue—  
2795 and like I said I never really had a problem with it or heard of a problem. My  
2796 question is, the six months. Would you—

2797  
2798 Ms. Horne - I think that this situation has gone on for too long. I  
2799 think that we have seen today that they are willing to go beyond what they're  
2800 allowed. They are willing to continue to do this in the manner that suits them the  
2801 best. And so I think that now the time comes where their friends in the rescue  
2802 community can help them out and can do some dog fostering for them, and let  
2803 them come into compliance of having three adult animals in their home. I think  
2804 that we need to think about that definition that's in the Code. And I would strongly  
2805 urge that they find other ways to finally come into compliance.

2806  
2807 Think about what happens at the end of the six months. Where are we at the end  
2808 of the six months if the house hasn't sold, if they haven't found the appropriate  
2809 property? At what point are you doing to say you have lived in this house since  
2810 2007 in non-compliance with the County Code. So I would urge you to say today  
2811 is the day. Thank you.

2812  
2813 Mr. Green - Thank you.

2814  
2815 Ms. Harris - If we granted them six months, then we would say  
2816 then today is the day. Okay. So we thank you so very much. Any more  
2817 questions? Ms. Horne, one more question.

2818  
2819 Mr. Johnson - Do you have or have you had any animals?

2820  
2821 Ms. Horne - I have. I have in the past; I do not now. I have a son  
2822 with autism. He's deathly afraid of dogs. I love dogs. I'd love to have a dog, but I  
2823 cannot have a dog. That's not where I'm coming from. I honor their commitment  
2824 to this. I'm saying it's in the wrong place, and it's been in the wrong place for a  
2825 long time. I find that the reprehensible part about it is that you are aware of what  
2826 the regulation is. You've been told repeatedly what the regulation is. And you  
2827 decide that you are just going to continue to do what you want to do.

2828

2829 Ms. Harris - Thank you. I'm just trying to rush us along a little bit.  
2830 Okay. Is there anyone else who wishes to speak to this case? Please come  
2831 forward and give us your name. And we do ask that you not repeat your points.  
2832 Thank you so much.

2833  
2834 Ms. Wren - Thank you for allowing me to speak. My name is  
2835 Suzanne Wren. W-r-e-n. I live on Hitchin Drive, and I've lived there for twenty-five  
2836 years. This is the street that's right behind Boardman. I've been a dog owner for  
2837 forty years of my life. I have always had one dog at a time in my life. I walk my  
2838 golden retriever around the neighborhood every single morning. I've walked by  
2839 this house every single morning for the twenty-five years I've lived there.

2840  
2841 I just don't feel that it is appropriate in our neighborhood that is zoned  
2842 residential—we're not agricultural—to have nine dogs. Or what we're really  
2843 talking about is a lack of transparency here because clearly there are more than  
2844 nine dogs who are in and out of this house and have been for years and years  
2845 and years. I am a totally compassionate animal lover. I don't feel that this is an  
2846 appropriate activity that has been going on in this house since 2007. And then  
2847 previous to that, the Gorman's lived in another house in the same Rockstone  
2848 neighborhood, but it was smaller. I think there are health issues. I don't care what  
2849 we say, you cannot have that many dogs who are only using the backyard to  
2850 defecate and urinate. Every morning I walk my dog. I clean up after my dog. I  
2851 understand the issue of pet waste, and I only have one dog.

2852  
2853 I feel like there are issues of property value for the neighborhood. People are like  
2854 oh well, we have a lot of animals down here. It just is not right, and it's gone on  
2855 too long. So that is my perspective as a long-term homeowner in the  
2856 neighborhood and a dog owner and dog lover.

2857  
2858 Ms. Harris - Okay. Are there questions of Ms. Wren? Thank you  
2859 so very much.

2860  
2861 Ms. Wren - Thank you.

2862  
2863 Ms. Harris - Are there others who wish to speak in opposition to  
2864 this request?

2865  
2866 Ms. Trivette - Hi. My name's Tina Trivette. It's T-r-i-v-e-t-t-e. Can  
2867 you hear me?

2868  
2869 Ms. Harris - Yes.

2870  
2871 Mr. Green - Can you speak up a little bit?

2872  
2873 Ms. Trivette - A little more, okay. I wrote it down. I just want to say  
2874 that I did not want to come today, as my husband and I get along with our

2875 neighbors Jim and Suzanne. I was hoping with so much neighborhood opposition  
2876 this would take care of itself. However, we live next door and have been  
2877 impacted by this situation and cannot stay silent.

2878  
2879 We have lived at our house for almost sixteen years, and all three of our kids  
2880 were born here. We love our home and want to secure a peaceful existence, an  
2881 enjoyable life in Henrico County, and even protect our property value, which  
2882 could be at stake should this permit be approved.

2883  
2884 Our neighbors have consistently had seven to fifteen dogs since they moved in in  
2885 2007. They claim to have their own dogs and also to rotate dogs in and out while  
2886 they run a pet rescue. We have put up with the frequent barking at different  
2887 hours, the random unfamiliar dogs, dogs jumping fences, and the stench of  
2888 multiple dogs defecating on the property. Not to mention the added traffic  
2889 delivering and picking up these dogs. We'd like to see an end to it.

2890  
2891 Henrico County allows three adult pets, which we feel is a just and acceptable  
2892 amount. Yet they have always been in violation of this law. As they already have  
2893 more than the lawful number of dogs, what will happen if they get a permit for  
2894 more?

2895  
2896 We love dogs. Our dog of almost seventeen years passed away three years ago,  
2897 and we finally got a puppy who was six months old. We applaud Suzie's rescue  
2898 efforts, but feel that she should use her talents at a vet or another venue instead  
2899 of our neighborhood.

2900  
2901 The application for this permit states that the granting of a variance must not  
2902 have a detrimental impact on nearby property. Clearly having this many dogs on  
2903 the property has already been a problem according to the eight complaints on file  
2904 since 2010, and it still is.

2905  
2906 So this is what we are asking as their next door neighbors. We would like to see  
2907 this permit denied and the applicants limited to three adult pets like every other  
2908 Henrico citizen. The County record shows that when a Notice of Violation was  
2909 issued in April, the applicant admitted to having ten dogs, only three of her own.  
2910 She is now claiming that nine of them are her own. The applicant will keep  
2911 rotating dogs in and out as her own and the cycle continues. They have had  
2912 years to obey the law, and even six months I believe now is too much. I'm not  
2913 sure if they will actually move. And if they do, it will be easier to prepare the  
2914 house with fewer dogs. I would urge you at the most to consider three months.

2915  
2916 I feel like we have the right to live peacefully next to neighbors that adhere to the  
2917 Henrico County law of having no more than three pets. We should be able to  
2918 enjoy our backyard without being threatened or annoyed by a pack of backing  
2919 dogs. Thank you for your time.

2920

2921 Ms. Harris - Thank you. Are there any questions of Ms. Trivette?  
 2922

2923 Mr. Green - They're asking for six. You say three, and others are  
 2924 saying nothing. Do you reasonably believe someone can sell their house in a  
 2925 three-month period?  
 2926

2927 Ms. Trivette - Well no, I don't think they actually will probably move.  
 2928 I mean I don't know; I'm not sure. But they might say they want to do that, but I  
 2929 think the issue here it that they've been in violation of the law for so long and had  
 2930 a chance to fix this. I think they just are stalling.  
 2931

2932 Mr. Green - Since you live next door, could you speak a little bit  
 2933 more? You're more impacted than anyone.  
 2934

2935 Ms. Trivette - Okay. Did you have any other questions?  
 2936

2937 Mr. Green - No, no. I mean could you just expand.  
 2938

2939 Ms. Trivette - Oh. Like I said, we applaud her efforts running this  
 2940 rescue. But it shouldn't take place in a residential neighborhood. I know that  
 2941 she's trying to help dogs and everything. Like I said, we love dogs, we had a dog,  
 2942 and have a dog now, a new puppy. But I think that it's just going to continue on  
 2943 and on. When they were in violation before, they admitted to only three of their  
 2944 own. They had nine dogs but only three of their own. And so I think those are  
 2945 rescue dogs, but they're claiming that they're own so that they keep them for  
 2946 longer. They got them from somewhere. They were adopted from somewhere.  
 2947 So they adopted them. You really shouldn't be taking on more dogs when you're  
 2948 already in violation. Even this one since this has happened. It's just a continual  
 2949 pack of dogs out there.  
 2950

2951 Mr. Green - I have a question for staff. If it's three months or six  
 2952 months, and let's say the house sells in six months, but it's going to take another  
 2953 two months to close. Then they're still in violation. What do we do? Or if we go  
 2954 three and it takes six, because there's a process of moving and all of that. What  
 2955 do you do?  
 2956

2957 Mr. Blankinship - There are two issues in hand. One is what this Board  
 2958 should do, and the other is based on what this Board does, how the enforcement  
 2959 departments would take their action. I would say three to six months is a  
 2960 reasonable time for the enforcement for Community Maintenance and Animal  
 2961 Protection to do their jobs. If we served a summons tomorrow, it wouldn't get to  
 2962 court for three months. And a judge may very well look at it in three months and  
 2963 say, "Okay, you have to do this. You've got thirty days."  
 2964

2965 So I think if the Board were to deny this application, it would easily be six months  
 2966 before any final enforcement action is taken. The enforcement people are in the

2967 room with us this morning. So they are hearing and understanding that there  
2968 probably won't be a summons tomorrow. But if they put off a summons for three  
2969 months or four months, then that's putting off a court date for six months. So it's  
2970 not like they're going to walk out of here at 11:00 this morning and get rid of the  
2971 dogs by noon. The enforcement activities are not really part of your decision so  
2972 much as whether this is an appropriate location for this use. If you decide that it's  
2973 not, the three months and six months, all that will be managed by the  
2974 enforcement staff and ultimately by the court.

2975  
2976 Mr. Green - I guess what I'm ultimately asking is, if we give them  
2977 six months, nothing happens, then enforcement steps in, and it could be another  
2978 six months.

2979  
2980 Mr. Blankinship - Yes. You're really giving them a year.

2981  
2982 Mr. Green - Okay.

2983  
2984 Ms. Harris - Thank you. Any more questions? Okay, thank you,  
2985 Ms. Trivette. Is there anyone else?

2986  
2987 Mr. Meadows - Good morning Madam Chair, members of the Board.  
2988 My name is Mark Meadows. My last name is spelled M-e-a-d-o-w-s. I live at 2022  
2989 Boardman Lane, which is the other next door neighbor to the house in question.

2990  
2991 I had some things that I was going to say that have already been mentioned, so  
2992 I'm going to try to skip through them.

2993  
2994 Mr. Blankinship - Thank you.

2995  
2996 Mr. Meadows - You're welcome. The communication which was  
2997 mentioned in the staff report earlier this week that had gone through including  
2998 several emails back and forth was, by the way, Jim, the first time—

2999  
3000 Mr. Blankinship - Excuse me. The Board's in this direction.

3001  
3002 Mr. Meadows - Yeah, I know. But I do want—

3003  
3004 Mr. Blankinship - Sir, please address the Board. You can speak to  
3005 him—

3006  
3007 Mr. Meadows - The first time that I heard anything about moving. So  
3008 I'm not trying to make anybody move, but I guess if that's what they're looking to  
3009 do, ideas about giving some time period actually strike me as being quite  
3010 reasonable. What exactly that time period ought to be, I don't know. I would be  
3011 delighted, in fact, if my next door neighbors were able to sell their house for more  
3012 than a million dollars because that means good things for my property value.

3013

3014 Other than all of the issues with dogs and smells, property value is the one thing  
3015 that I'm fairly concerned about here. If I was trying to sell my house, and there is  
3016 a registered, permitted kennel right next door, some buyer is going to look,  
3017 they're going to search. What's around, what's near me? So in fact, in many  
3018 ways, I'm against this being permitted because if it's permitted then suddenly it's  
3019 this thing that somebody who wants to buy my house eventually can see. Oh  
3020 look, there's a kennel next door. I'm pretty unflappable, not terribly bothered by  
3021 the barking. The barking is out there. It happens. And it is absolutely true—at  
3022 least as near as I can tell—that when it happens that they do bring the dogs in  
3023 very quickly. Although I have to say, fundamentally when it comes to what we  
3024 believe as being compassionate to animals, I actually disagree with that. I'm one  
3025 of those like let your dogs be out and let them roam and let them bark and be  
3026 dogs kinda people.

3027

3028 I halfway grew up on a farm where we raised animals that ran wild. I've got a  
3029 cousin who trains dogs that do rescue work for FEMA. She has like eight dogs,  
3030 but they're on a farm.

3031

3032 Those are my main concerns. I think the other neighbors have talked about other  
3033 things regarding sanitation, safety, and all that. There are lots of things that have  
3034 come up. I guess when you talk about timeframe, I would love to see a  
3035 timeframe, because I think that is very reasonable and very respectable. By the  
3036 way, I'm the fire neighbor who makes fires and does the smoke and has the dog  
3037 that jumped the fence a couple times. Like I said, we've tried to be—we do try  
3038 and communicate and talk. And I think it would be wonderful for the Gorman  
3039 to have an opportunity to fix up their house and to do so in a way that maybe ends  
3040 up the exact opposite of what we feared, which was something that's detrimental  
3041 to property values. But given the opportunity to fix it up if moving is in fact part  
3042 of their plan. And I have no intention to push someone into moving, but if they can  
3043 make their house even better and bring up property values, it's a big win.

3044

3045 Ms. Harris - Thank you, Mr. Meadows.

3046

3047 Mr. Meadows - You're welcome.

3048

3049 Ms. Harris - Any questions from Board members? Thank you.  
3050 Anyone else who wishes to oppose this request? Okay. Let's go back to Mr. and  
3051 Ms. Gorman. Would you like to address any of these concerns?

3052

3053 Ms. Gorman - I just wanted to say that as we spoke earlier that if  
3054 people feel it's inappropriate, we would be happy to move. I'm not trying to  
3055 inconvenience anybody. We're just asking for proper time to fix the house up and  
3056 to sell it so it benefits the whole neighborhood. When they talk about well you  
3057 haven't been in compliance. Well, the Trivettes, which are right next door, they  
3058 have had a chicken coup and several chickens. They're down to one, but that is

3059 not part of the zoning committee allowance either. As I love all animals, I never  
3060 made any big deal about it.

3061  
3062 But if they're talking about you're not in compliance, there are other people that  
3063 are not in compliance. I actually got several emails from people privately asking  
3064 me, "Suzie, what is the limit in Henrico?" If you ask probably a hundred people, I  
3065 will almost guarantee you that over half of them never researched how many  
3066 pets are allowed when moving into a neighborhood. It's not until accidentally  
3067 sometimes you find out. When I told people—and it is true; we do have a cat. If  
3068 you want to make it technically—I thought the issue was the dogs, so the cat  
3069 wasn't put on the list. But it wasn't because we're trying to hide him. The dogs  
3070 are what the question was about. So yes, we do have a black cat, and he comes  
3071 and goes and stuff.

3072  
3073 We just want time to sell the property, fix it up so it benefits all the neighbors. If  
3074 we sell it for more, that benefits them in the long run. That's all we're asking. And  
3075 we're not asking for two or three years. We're asking for time to put the house—I  
3076 have my realtor with me, and she is doing her best. We're going to try to find one,  
3077 do a bridge loan. And we'll get out of there as soon as physically possible and  
3078 make everybody else happy.

3079  
3080 Ms. Harris - Okay, thank you. The next case, Mr. Blankinship.

3081  
3082 **[After the conclusion of the public hearings, the Board discussed the case**  
3083 **and made its decision. This portion of the transcript is included here for**  
3084 **convenience of reference.]**

3085  
3086 Ms. Harris - What is the pleasure of the Board?

3087  
3088 Mr. Reid - After all the discussion about this conditional use  
3089 permit, first I would like to commend Ms. Gorman for her devotion to taking care  
3090 of these rescue animals. But I move that we decline the conditional use permit to  
3091 allow the noncommercial kennel at 2100 Broadman Lane. They are not in  
3092 compliance with the County ordinance of only having three animals in a  
3093 household. There have been a number of complaints. I think the lot sizes out  
3094 there are small. And for those reasons I recommend that we not approve.

3095  
3096 Ms. Harris - Is there a second?

3097  
3098 Mr. Green - Second.

3099  
3100 Ms. Harris - It's been moved and properly seconded that we deny  
3101 CUP2018-00018. Any discussion on this motion? All in favor of denying this  
3102 conditional use permit say aye. Those opposed say no. There is no opposition;  
3103 that motion passes.

3104

3105 After an advertised public hearing and on a motion by Mr. Reid seconded by  
3106 Mr. Green, the Board **denied** application **CUP2018-00018, SUSANNE**  
3107 **MCGINLEY-GORMAN's** request for a conditional use permit pursuant to Section  
3108 24-12(e) of the County Code to allow a noncommercial kennel at 2100 Boardman  
3109 Lane (ROCKSTONE) (Parcel 748-751-5049) zoned One-Family Residence  
3110 District (R-3AC) (Tuckahoe).

3111

3112

3113 Affirmative: Bell, Green, Harris, Johnson, Reid 5

3114 Negative: 0

3115 Absent: 0

3116

3117

3118 **[At this point, the transcript continues with the public hearing on the next**  
3119 **case.]**

3120

3121 Mr. Blankinship - CUP2018-00020, Siobhan Cone.

3122

3123 **CUP2018-00020** **SIOBHAN CONE** requests a conditional use permit  
3124 pursuant to Section 24-52(a) of the County Code to allow a noncommercial  
3125 kennel at 11600 Long Meadow Drive (ROCK SPRING ESTATES) (Parcel 764-  
3126 776-2224) zoned Agricultural District (A-1) (Brookland).

3127

3128 Mr. Blankinship - Would everyone who intends to speak to this case  
3129 please stand and be sworn in. Raise your right hands, please. Do you swear the  
3130 testimony you're about to give is the truth, the whole truth, and nothing but the  
3131 truth so help you God? Thank you. Mr. Gidley?

3132

3133 Mr. Gidley - Thank you, Mr. Secretary, members of the Board. We  
3134 did receive a letter in support yesterday from a Ms. Abernathy. That should be at  
3135 your desk. She lives roughly three blocks to the north of the applicant's property.

3136

3137 Madam Chair, members of the Board, the subject property today is located in the  
3138 Rock Spring Estates subdivision, which is off of Mill Road north of 295. It is  
3139 zoned A-1 Agricultural District and contains an acre of lot area. The applicant is  
3140 requesting permission to allow the continued keeping of eight cats on the  
3141 property. They range in age from ten months to thirteen years old, and they  
3142 spend time both indoors and outdoors.

3143

3144 Since 2010, the Community Maintenance division has handled fourteen  
3145 complaints on the property regarding tall grass, trash, and debris. The only  
3146 complaint regarding the cats was received last month. In response, the owner  
3147 has applied for today's conditional use permit request.

3148

3149 In evaluation, the property is zoned A-1 and is designated Rural Residential on  
3150 the Future Land Use Plan. The Zoning Ordinance allows up to three pets by right

3151 and more with a conditional use permit. In looking at the substantial detrimental  
3152 impact on nearby property, this application results in a complaint from an  
3153 adjacent property owner who was concerned about the number of cats along with  
3154 trash and debris on the property. Two other property owners have submitted  
3155 written comments in opposition that are in your staff report. And staff has also  
3156 received two phone calls from adjacent property owners expressing opposition to  
3157 this request. They have cited the numerous Community Maintenance complaints  
3158 along with the use of their yards by the cats as a litter box.  
3159

3160 While the owner's history of maintaining their property is not strictly an issue  
3161 before the Board today, the neighbors are concerned that similar enforcement  
3162 issues will follow if a conditional use permit is approved for these cats. The  
3163 primary impact on the neighbors appears to be that the cats trespass on their  
3164 properties and use their yards as a litter box.  
3165

3166 The Board could approve this application subject to the condition that the cats  
3167 remain indoors. Such a condition could mitigate the impact of the cats on the  
3168 adjacent property, but it would be difficult to enforce.  
3169

3170 In conclusion, the keeping of eight cars on a one-acre lot is not an unreasonable  
3171 request. In this case, however, the applicant has consistently allowed the  
3172 condition of the property to fall into disrepair. It is possible to approve this  
3173 application requiring the cats to be kept indoors, but this is rather difficult to  
3174 enforce. And given the history of enforcement problems out there, staff is  
3175 reluctant to create a new one. Based on the detrimental impact currently  
3176 experienced by the adjacent property owners, staff recommends denial of this  
3177 application.  
3178

3179 This concludes my presentation, and I'll be happy to answer any questions you  
3180 may have. Thank you.

3181  
3182 Ms. Harris - Thank you. Are there any questions from Board  
3183 members?

3184  
3185 Mr. Green - What's the total number of cats a person can have,  
3186 three?

3187  
3188 Mr. Gidley - Eight cats.

3189  
3190 Mr. Green - No, no, that you can have.

3191  
3192 Mr. Gidley - Three, yes sir.

3193  
3194 Mr. Blankinship - Three adult animals. And that is the total of dogs,  
3195 cats, and whatever else you may have.  
3196

3197 Ms. Harris - Thank you so much.

3198  
3199 Mr. Gidley - Yes ma'am.

3200  
3201 Ms. Harris - Now let's hear from the applicant making the request.

3202  
3203 Ms. Cone - Good morning. My name is Siobhan Cone. C-o-n-e. I  
3204 am requesting a conditional use permit to be allowed to keep all eight of my adult  
3205 cats. I apologize that I wasn't aware that there was a three-pet limit, so I was  
3206 taken by surprise. This is the first complaint I've ever heard about my cats. Just  
3207 wanted to bring that to your attention.

3208  
3209 These are all my personal pets. They've come into my house from having  
3210 children that I raised. We also are rental property owners. So over the years we  
3211 have found cats that were abandoned by tenants who moved out, cats who have  
3212 been under houses we were working on. That's mostly the way we've attained  
3213 this many cats. And actually, one of our cats was given to us by our next door  
3214 neighbors. They found him in a storm sewer and brought him over and said,  
3215 "Here. You like cats; take care of him." He's Edgar, if you've got pictures of all of  
3216 my cats.

3217  
3218 We do love animals, and I'm very compassionate, and I truly believe that I've  
3219 given these cats a home. My goal would be to keep them until they pass away. I  
3220 don't intend to get any more. I never intended to have eight cats. It wasn't my  
3221 plan, but life has rolled the dice that way for me.

3222  
3223 I do have a one-acre lot. I have an equal number of male and female cats. Most  
3224 of the females stay close to home. They do go outside; they all like nature. But  
3225 they sit on the screen porch and walk around the pool outside. It's the male cats  
3226 that want to venture out into the neighborhood and see what's up. They're all  
3227 neutered, spayed, vaccinated. I give them a treatment for fleas and ticks and  
3228 everything, and take good care of them.

3229  
3230 But anyway, that's my situation. I've never heard a complaint from anybody. I  
3231 would hope that anybody in the neighborhood who was unhappy with the  
3232 situation would drop me a note, send me an email. Anything like that. We have a  
3233 neighborhood directory that my information is on. It just concerns me a lot that I  
3234 have to finding places to put five adult cats. That's not what people want. So they  
3235 could sit in a shelter in a cage for the rest of their lives.

3236  
3237 What started this incident is a little bit of a concern to me. We had a rough spring.  
3238 It's been a rough year in general. Trying to open our pool in a timely fashion to  
3239 prevent—we had a complaint last year about smell. So I'm going to get an early  
3240 start, open the pool up so it doesn't smell bad. We ended up with a pump that  
3241 failed, which led to an algae bloom. So quick, quick we got a new pump and put it  
3242 in. Then some pipes burst, and our backyard was full of water. And my backyard

3243 neighbors came and tried to find somebody to resolve the situation, which was  
3244 really nice of them. In the process, found my nineteen-year-old daughter who  
3245 went and tried to make things right with the pool. But I guess in the process of  
3246 walking around in my driveway, probably saw a cat or two. And then I feel like  
3247 that might have led to the call to Animal Control. Other than that, I really wasn't  
3248 aware of my cats causing problems for the neighborhood.

3249  
3250 They came, spoke first to my daughter, and then I spoke with them on the phone.  
3251 Got this violation in the mail and proceeded this way to try to resolve the  
3252 situation. Like I said, my goal really is to keep these cats for the rest of their lives.  
3253 I don't need to add to the household. But I applied for this permit, and a sign was  
3254 put in my yard, which I think sort of expanded the whole view of the whole  
3255 neighborhood. Anybody who rode a bike, walked an animal came past my house  
3256 and was able to write in, call in, and whatever. I don't know whether anybody  
3257 truly looked at what my request was about, which was just about cats.

3258  
3259 Which leads us to most of the complaints, which had to do with property  
3260 maintenance. And I'll admit that being rental property owners we are constantly  
3261 running in and out with trailers full of stuff, and appliances. And granted, those  
3262 things should find their way to the landfill and the metal scrap yard faster than  
3263 they do sometimes. But we get a lot of resistance not really being commercial.  
3264 So it's really hard sometimes to get rid of it. We haven't kept the most pristine  
3265 yard. We don't do a lot of extra work with our yard. We don't have a sprinkler  
3266 system. But I understand that our grass is not always perfect. But we've been  
3267 making a lot of effort this year since this all came up to try to be better neighbors  
3268 and keep a better yard. I've got somebody that I've hired who's cutting grass for  
3269 me on a regular basis, and he trims and does all of that. He was recommended  
3270 to me by a neighbor. So he's been doing that for about six weeks now.

3271  
3272 We've been cleaning up the driveway. We've taken everything that shouldn't be  
3273 in it away. And anything that we needed to keep is inside our garage at this point.  
3274 So we're trying to do a better job and resolve to maintain our property in the way  
3275 that's consistent with what the neighbors would like.

3276  
3277 So that's what's going on with that. Like I said, trying really hard. One of the  
3278 neighbors complained about our detached garage that was built years later after  
3279 we moved in. It was built with permits, and they were all approved and inspected.  
3280 I think everything is right. It could use some finishing work, but other than that it's  
3281 permitted.

3282  
3283 So really I feel like I've come under scrutiny from the neighborhood initially  
3284 because this was an opportunity for them to tell you guys and everybody what  
3285 they thought about our maintenance habits. And I'm truly sorry for that and hope  
3286 to be able to do better. But now I feel punished because these cats who I don't  
3287 think anybody would ever have thought twice about. You don't see most of them.  
3288 Most of them stay in my driveway, on my porch. But now they're all at risk of

3289 being homeless and everything else because I haven't cut my grass and kept my  
3290 driveway up.

3291  
3292 So I would really like to make the point that we want to have a good relationship  
3293 with our neighbors. I feel like it's sort of death sentence. You have one complaint  
3294 and now by asking, other people are coming up. And I don't know the context of  
3295 any of those complaints, what cat, what they're doing.

3296  
3297 I listened just before this to the previous case. And interestingly, this all came  
3298 down, and within a few weeks of me being absorbed by this case, this big, fluffy,  
3299 orange cat just shows up. I'm serious. He's like, "I own you. Period." I don't know  
3300 where he came from, if anybody's seen him. But he's living on my porch. He sits  
3301 in the windows. He lounges in the chairs in the backyard with my other cats. I  
3302 tried to find his home to no avail, so he's moving to Philadelphia next week. In  
3303 case anybody's wondering, this is not my cat. This would make nine, but he's not  
3304 mine. There is also a gray cat, big and furry, scruffy looking, that comes into my  
3305 yard. I don't feed my cats outside, so he's not coming to look for food. Well  
3306 maybe he is, but he's not mine.

3307  
3308 So anyway, in closing, I'm looking for other alternatives and opportunities to try to  
3309 make this right as opposed to just being three is the limit, get rid of your cats—it's  
3310 really less than 100 pounds of cats in my house. They don't smell, they don't  
3311 make noise. I don't have cages or anything like that outside. There is one cat  
3312 who's a 90 percent outside cat; his name is Rico. You've probably got all the  
3313 pictures. He's probably the likely offender if anybody is seeing cats in their yards.  
3314 But I'd like to try to do whatever I need to do to be able to hold onto my cats. You  
3315 talked a little bit about the option of saying they have to stay inside. That's hard  
3316 on them; that's hard on me. I want to walk on my screen porch in the morning  
3317 with my cup of coffee and my five cats sitting on the drink rail, and sit there and  
3318 enjoy time. If they are bad cats, yes, I'll get rid of them, I'll find another home for  
3319 them. But I'm concerned. These are my family members. My daughters are both  
3320 on their way out the door. One of them is gone, one of them is a junior in college.  
3321 These are my extended family members.

3322  
3323 So some of the things I'd like to recommend is if there is a cat that my neighbors  
3324 say is bothering them, if they could let me know which one is it, what are they  
3325 doing. I could put GPS tracking collars on them. We'll chase them around the  
3326 neighborhood and see where they go. If they're coming in your yard or seriously  
3327 doing something, I'd like to know about, and I'll try to find homes for the bad  
3328 ones. But it's hard, because sometimes I feel like knowing that I have two stray  
3329 cats in my yard, maybe they do too.

3330  
3331 Anyway, at a minimum give us ninety days to get neighbor feedback to figure out  
3332 which of my animals is causing distress for people, and let me deal with those  
3333 and revisit the situation maybe down the road a ways. Like I said, I would like my  
3334 neighbors to not hate me. We want to be accepted in the neighborhood. I'm not

3335 ready to sell my house. We've been here sixteen years. Every one of these cats  
3336 was brought into this house as their initial home.

3337

3338 I hope I said everything I needed to say. Do you have questions for me?

3339

3340 Ms. Harris - Any questions from Board members? Thank you so  
3341 much, Ms. Cone. Is there anyone who wishes to speak for this request, you're in  
3342 favor? Anyone in opposition to this request? Please come forward. Please state  
3343 your name and spell your last name.

3344

3345 Ms. Simester - Good morning. My name is Karen Simester. S-i-m-e-  
3346 s-t-e-r. The address is 4304 Longmeadow Crossing in Glen Allen. Our home, if  
3347 you could bring up the previous screen. We're this next house here, so our side  
3348 yard—there was a better view than that with the street map versus an overhead  
3349 shot. There you go. That's our home. So their backyard abuts our side yard.

3350

3351 We moved in a little over three years ago. At that time, the Cone's cats had  
3352 adopted our home as well. The reason I know this is because the stench was so  
3353 awful. Cats will mark an area. And as a fun fact, cats have been studied, believe  
3354 it or not, domestic cats and their behavior. And domestic cats, the mean home  
3355 territory of a domestic cat is 4.9 acres if a cat is allowed in and out and is free to  
3356 roam when it's out. So that's a lot of backyards.

3357

3358 We do have a cat. It's an indoor-only cat. We also have a dog. We have a fence  
3359 around a portion of our backyard so that our dog has a place to play and  
3360 exercise. When we walk him, we take a bag, and we pick up after him. But our  
3361 cat is an indoor-only cat.

3362

3363 Unfortunately, the Cones, as they mentioned, they own rental properties. And  
3364 they have had a habit of bringing debris from these homes as people move out,  
3365 things that are broken, things that are going to be disposed whether it's awnings,  
3366 fencing, washers, dryers, gas tanks, whatever, and they pile up. And trash. And it  
3367 piles up in their driveway. There is a fence that their next door neighbor built. It's  
3368 a six-foot-tall wooden fence that runs along the side that goes down between the  
3369 two properties. The Cones know that that fence was built precisely because their  
3370 side neighbors didn't want to look at all the trash.

3371

3372 Mr. Blankinship - Ma'am, can we try to stay focused on the cats?

3373

3374 Ms. Simester - Sure. I'm bringing this up because what it says to  
3375 me—and these cats came from their rental properties. When we moved in there  
3376 were I believe five cats at the Cones. Shortly after that there were six, and now  
3377 there are eight. And I've seen the yellow cat, so now effectively there are nine  
3378 cats staying there, although the one is supposed to be moving. The cats don't  
3379 stay on the property. Because they're indoor/outdoor cats, they roam. They tend  
3380 to come over. I have to keep our garage door down. They come in the garage,

3381 they mark. They mark the car if it's left outside. They mark the front and the side  
3382 of our home. They defecate in our yard, which means that we have to make sure  
3383 we pick up so that the dog does get to it. Because, unfortunately, dogs have a  
3384 habit, they usually eat cat excrement.

3385

3386 So while they believe that they don't—and I must say, the front of your home, my  
3387 husband had to come over.

3388

3389 Mr. Blankinship - Ma'am, let's address the Board.

3390

3391 Ms. Simester - Okay. We did not report the Cones in terms of the  
3392 overpopulation of cats. We truly had no idea how many cats were allowed on a  
3393 residence. But they do impact neighbors. They impact us. So I would ask that the  
3394 Board either limit the Cones to the allowed number of cats, which would be three  
3395 adult cats, or that these cats be limited to at least no more than four or five. She  
3396 said that they would not be adopted. I don't believe that. We adopted our cat as a  
3397 rescue, and we've adopted cats as old as seven years old. Cats can live to be  
3398 twenty-one years old. So either keep it to a reasonable number of three or four  
3399 that are kept inside or just the three.

3400

3401 I don't know why, if I'm a responsible homeowner and I'm maintaining my  
3402 property, and I'm properly taking care of my animals, but in residential  
3403 development, I should also have to pick up and try to clean areas that a  
3404 neighbor's pets are soiling. It's unfair. Thank you.

3405

3406 Ms. Harris - Thank you. Before you leave the podium, are there  
3407 any questions from Board members?

3408

3409 Mr. Green - Yes. The statute says three adult cats, but you said  
3410 three or more. Either we're going to have to follow it—

3411

3412 Ms. Simester - The reason I said that is because she had sent out a  
3413 letter. And it looks like, if I'm remembering correctly, four of her cats are over the  
3414 age of eight—seven or eight. So just in consideration of what she's worried about  
3415 if she would have to give up some of these cats if they would be adoptable. I'm  
3416 saying fine, if they're at some age which they're not adoptable anymore let her  
3417 keep those cats. But the younger ones, certainly if given to a reputable shelter—  
3418 which we have here in Henrico County—they could find homes.

3419

3420 Mr. Green - But we have to follow the three adult cats.

3421

3422 Ms. Simester - Okay, well that was my thinking.

3423

3424 Mr. Blankinship - Well the Board could approve the use permit to keep,  
3425 say, five. That is at the Board's discretion.

3426

3427 Ms. Simester - As their only cats.  
3428  
3429 Mr. Blankinship - That would be a condition that the Board could put on  
3430 the use permit. That would then lead to enforcement issues, but we've handled  
3431 enforcement issues before.  
3432  
3433 Ms. Harris - And we do have one cat that's thirteen years old, and  
3434 one that's ten years old, and one that's eight years old. I think they're the oldest  
3435 cats.  
3436  
3437 Mr. Bell - You've been living there for three years, and you  
3438 noticed this when you moved in, I believe you said. What has changed say in the  
3439 last year, if anything, with cats coming on your property?  
3440  
3441 Ms. Simester - What has changed? In the past year?  
3442  
3443 Mr. Bell - Yes. In other words, with the cats—let me digress.  
3444 Have you talked to the owner of the cats about your problem?  
3445  
3446 Ms. Simester - No, I have not. I've been remiss about that.  
3447  
3448 Mr. Bell - Okay. Has the problem changed in any way since  
3449 you've moved in, problems with the cats coming on your property?  
3450  
3451 Ms. Simester - Yes.  
3452  
3453 Mr. Bell - In what ways has it changed?  
3454  
3455 Ms. Simester - They're in our yard more frequently. There are more  
3456 of them.  
3457  
3458 Mr. Bell - Thank you.  
3459  
3460 Ms. Harris - Are there any other questions? Thank you so much.  
3461 Do we have anyone else who wishes to oppose this request? Okay.  
3462  
3463 Ms. Eichler - My name is Alison Eichler. E-i-c-h-l-e-r. I live across  
3464 the street from the Cones, diagonally across. I am not a cat lover, and I really  
3465 don't care how many cats she has. I'm concerned that having more than three  
3466 cats attracts even more cats. I think this orange cat showed up in Siobhan's yard  
3467 because she has eight cats. It's like, "Whoa, party. We're going to the Cone's  
3468 house." I'm concerned that if you grant this variance on the petition even more  
3469 cats will show up. And let's face it, cats do what they want to do, when they want  
3470 to do it. I have a dog. He mostly listens to me. Cats don't listen to you. They're  
3471 going to do what they want. How can she get rid of an extra cat who shows up in  
3472 her yard? I'm concerned that even more cats will show up. Siobhan admitted that

3473 this one cat—and she is trying to get rid of it. We all got that email, I saw the  
3474 picture. I know she doesn't want to keep it. But how do you keep cats out of her  
3475 yard? If you give her permission to keep eight, what does she do when three or  
3476 four more show up? That's my primary concern that by granting the variance it's  
3477 an open door for even more cats to show up.  
3478

3479 Ms. Harris - Are there any questions from Board members? Thank  
3480 you.

3481  
3482 Ms. Eichler - Thank you.

3483  
3484 Ms. Harris - Is there anyone else who wishes to oppose this  
3485 request? Please come forward and give us your name, please. You were sworn  
3486 in were you not?  
3487

3488 Mr. Strohman - Pardon me?

3489  
3490 Ms. Harris - Were you sworn in?

3491  
3492 Mr. Strohman - Yes I was.  
3493

3494 Ms. Harris - Thank you.  
3495

3496 Mr. Strohman - My name is Niles Strohman. S-t-r-o-h-m-a-n. I'm an  
3497 abutter to them. I did not know that they had this number of cats until I received  
3498 the request for a zoning variance. But now I understand some things that have  
3499 been happening. In the past, we have had four or five nesting bluebirds. We now  
3500 have none. I have found remains of bluebirds and cardinals and robins in our  
3501 backyard from cats that I see out around our birdfeeders and stuff. I had no idea  
3502 whose cats they were. Well I think it's fairly obvious what's going on now  
3503 because cats love to hunt. They'd done a big job on the bird population.  
3504

3505 I really protest that this is not granted. I had four other neighbors who signed a  
3506 petition that they protest the same thing. I don't particularly like to have other  
3507 people's animals in my yard. We see their cat droppings and stuff, and the cats  
3508 are in my garden. Cats are doing their cat thing. That's all I have to say.  
3509

3510 Ms. Harris - Thank you, Mr. Strohman. Any questions for  
3511 Mr. Strohman? Thank you so very much. Is there anyone else who wishes to  
3512 oppose this request? Please come forward.  
3513

3514 Mr. Babik - Madam Chairwoman, the rest of the Board. My name  
3515 is Fred Babik, B-a-b-i-k. I live across the street from them as well. I'll be very  
3516 brief. I just want to thank you for all that you guys do. I believe I live in one of the  
3517 best managed counties on this planet, so Mr. Green I agree with your comments  
3518 before.

3519  
3520 We do see cats on our property as well. We're not very keen on that. So these  
3521 cats are not confined to their property, and I do believe that you guys are going to  
3522 be doing the right thing. So I'm requesting, if you may, you reject this proposition.  
3523

3524 Ms. Harris - Thank you. Any questions? Thank you so very much.  
3525 Is there anyone who opposes this request?  
3526

3527 Ms. Geffen - Good afternoon. My name is Kathy Geffen. G-e, f as  
3528 in Frank, f as in Frank, e-n. I am not a direct neighbor of this street. I am  
3529 president of the Rock Spring Estates Civic Association, which is a volunteer  
3530 association. We have about half the neighbors that do join the organization once  
3531 a year.  
3532

3533 When this permit went out, I was contacted as the president of the association.  
3534

3535 Ms. Harris - Excuse me. Ms. Geffen, would you get closer to the  
3536 mic, please? Thank you.  
3537

3538 Ms. Geffen - I apologize. I was contacted when the permit went out  
3539 by close-by neighbors to the Cones with concerns over the permit. I did not  
3540 receive a letter from the County regarding the permit; however, I understood and  
3541 researched the use of what a conditional permit is and how many pets are  
3542 allowed within the County, three adult pets. I feel that our neighbor should  
3543 appreciate the County guidelines. And as well, our property owners should  
3544 appreciate the guidelines within their property of the Rock Spring Estates  
3545 covenants.  
3546

3547 We do have a few sections within our neighborhood. This property is in section 3  
3548 of the neighborhood and is underneath the covenants of the property. In Article 3,  
3549 Section D, generically it could be argued that our neighbors feel that this is an  
3550 issue. Section D says, "No noxious or offensive activity shall be carried out in any  
3551 lot"—which I don't think pets are—"nor shall anything be done therein which may  
3552 or may become an annoyance or nuisance to other owners." And as you've  
3553 heard, many neighbors have expressed a nuisance with the pets.  
3554

3555 Ms. Harris - Thank you. Are there any questions from Board  
3556 members? Thank you so very much for coming in.  
3557

3558 Ms. Geffen - Thank you.  
3559

3560 Ms. Harris - Is there anyone else who opposes this request. Okay,  
3561 we'll go back to Ms. Cone. Do you want to give us a rebuttal?  
3562

3563 Ms. Cone - Okay. I guess I understand people not wanting cats to  
3564 trespass onto their property, and I fully appreciate that. In looking into what was

3565 acceptable—and I don't know that I have the full text of what is acceptable to the  
3566 County. I asked Animal Control, and he said it was okay for cats to roam and that  
3567 they understood that was the nature of cats. So that's what I thought was  
3568 acceptable.

3569  
3570 What I'm really asking is for a little bit of compassion here. I would love to be able  
3571 to resolve whichever animals are coming into people's yards. I think that behind  
3572 where the Simesters live they do have a cat, and I think that may have initially  
3573 attracted my cats over there. They also came over and visited our prior neighbors  
3574 and their dog and spent a lot of time in the yard. And so it was acceptable to  
3575 them, and they got used to it. They're also follow-the-leader. So if I have one cat  
3576 that will go over and visit then the others—usually males, I'll continue with that,  
3577 are the ones that will go.

3578  
3579 But I would ask you to consider giving me the chance to remove the animals that  
3580 cause the problems. Just because cats are in a yard hanging around, messing  
3581 with birds—and I apologize for that. I get dead birds on my deck all the time. But  
3582 if I can address it on an animal-by-animal basis, if these are the cats that you're  
3583 seeing and the cats that are roaming. Because I truly believe my females—yes,  
3584 they go around in my yard and my driveway, and I have plenty of space for them.  
3585 They're not the ones you're going to see two yards away over on somebody  
3586 else's property. I feel like that's a humane decision.

3587  
3588 Even if you were to hold me to my three, are they able to go outside? I'm just  
3589 trying to understand how little impact we can have and still make everybody in  
3590 the neighborhood happy. Like I said, I love these animals, and I think at least four  
3591 of them really just are homebodies. When I go away in the morning, there may  
3592 be one cat outside, for the most part. We come in at six o'clock at night, open up  
3593 the door, and there's a jailbreak. They all go out, and they check out the great  
3594 outdoors, and then they come back in and say, "Hey, how are you?"

3595  
3596 So it's not like it's twenty—it's eight cats outside in the yard all day long every  
3597 day of prowling around the neighbors' lots. But anyway, I don't have anything  
3598 much more to say than that than to ask you to please consider a more liberal  
3599 interpretation of this and allow me to keep as many cats as possible. And I'll be  
3600 happy to GPS track them, take immediate feedback from anybody who sees one  
3601 of my animals. But like you said, there are other neighborhood cats. Yes, they do  
3602 come to my house. I don't know if they come to other people's houses or not. But  
3603 they don't seem to have homes—like I said, this gray one and this orange one.  
3604 So not necessarily my animals. I haven't ever had a complaint from anybody, to  
3605 my knowledge. Nobody's ever contacted me in any way about this, and then here  
3606 I have lots of opposition to something that people didn't even know I had.

3607  
3608 Ms. Harris - Okay.

3609  
3610 Mr. Blankinship - Did you say you have four male and four females?

3611  
3612 Ms. Cone - I do.  
3613  
3614 Mr. Blankinship - Okay.  
3615  
3616 Ms. Harris - Ms. Cone, I don't think the objection from the County  
3617 is because of the indoor or outdoor cats. The objection is that the County says  
3618 three adult animals period. So we're not saying they have to be kept indoors or  
3619 outdoors, it's just three.  
3620  
3621 Ms. Cone - I'm asking you for a conditional use permit to allow  
3622 me to keep them.  
3623  
3624 Ms. Harris - I understand.  
3625  
3626 Ms. Cone - And that's where I'm saying is if the eight is a  
3627 problem, can we identify the troublemakers and get rid of them and then come up  
3628 with a little bit more liberal interpretation for my conditional use permit, which I  
3629 hope you'll give me, to allow us to maintain our household pretty much as it is. If  
3630 anybody has specific questions about any of my cats, I'll be happy to do it. But  
3631 like I said, most of them stay inside. They don't want to be outside when nobody  
3632 is going to open the door and let them back in when they want to come in. I have  
3633 eight litter boxes in my house. I'm sure if they're outside and they're stuck they're  
3634 going to use somebody's yard. But I have cats who I open the door and they run  
3635 straight in to the litter box.  
3636  
3637 I'd like to resolve this, I really would. This is my daughter. She can speak on our  
3638 behalf.  
3639  
3640 Ms. Harris - Was she sworn in?  
3641  
3642 Ms. Cone - She was.  
3643  
3644 Ms. Harris - Okay.  
3645  
3646 Ms. Hannah Cone - From what I've heard from everybody that's spoken,  
3647 nobody here knew that that there were eight cats in this house at all. Nobody  
3648 knew that. But for some reason we're all here because of that. I think we're here  
3649 because there's stuff in the driveway. I think we're here because the bushes  
3650 aren't trimmed. I think we're here because the grass doesn't get cut biweekly like  
3651 everybody else. I think that's what it is.  
3652  
3653 But if nobody knew there were eight cats the whole time, then I feel like the point  
3654 is kind of off. Whose cats are they? Do you even know that they belong to them?  
3655 And the fact that—you said sixteen years you all lived there? Sixteen years, and  
3656 we've had more than three cats I'd say the whole time we've lived there. I don't

3657 live there anymore, but we've always had cats. And not up until now was it a  
3658 problem. So I guess they've lived there three years. That's the first time I ever  
3659 heard anybody complain about a cat. Ever. Thirteen years no one complained  
3660 about a cat. So this isn't about cats. Now everybody knows we have eight cats,  
3661 and it can be about cats. But it was never about that before. That's all I have to  
3662 say.

3663  
3664 Ms. Harris - Excuse me. Could we have your name, please?

3665  
3666 Ms. Hannah Cone - Hannah Cone. C-o-n-e.

3667  
3668 Ms. Harris - Okay, thank you.

3669  
3670 Mr. Bell - I have a question too. If it's not about cats, when you  
3671 open the door in the morning and let them out and they go to different yards,  
3672 what is about? And do their business. You don't have to know who the cat  
3673 belongs to. And if they came to my yard, I would find out and go and give them a  
3674 chance to keep this cat out of my yard. But I do know if you let a cat out, and he's  
3675 gotta go to the bathroom, and he wants to get out of your yard to do it, he's going  
3676 to do it. And I do know that I'm the one who's got to clean it up.

3677  
3678 Ms. Hannah Cone - Well sure, yes. I mean there's something to be said  
3679 for the cats being in other peoples' yard, and I can understand people not  
3680 wanting that. I can say I lived there my whole life with cats. Never once did I go  
3681 outside in my yard and say, "Oh, there's cat poop. Wow, there's cat pee all over  
3682 here. There's cat poop everywhere." How can I live in a house full of cats and not  
3683 be bothered by them using the bathroom outside. All the other animals use the  
3684 bathroom outside. Does everybody have to go pick up after the squirrels and the  
3685 rabbits and all the other animals that live out there? It's just a comparison. What  
3686 difference is a cat from a squirrel really? Other than that it belongs to somebody,  
3687 and you can tell somebody what to do about it. I don't know. I just feel like it's  
3688 petty.

3689  
3690 I get the rule, the breaking of the rule, and see that. But I feel like it's not really  
3691 what everybody was upset about in the first place. The things that people were  
3692 actually complaining about before, I feel like that's the foundation for this.

3693  
3694 Ms. Harris - Thank you. Your mother said if we could determine  
3695 which cats were being offensive she could do something about that.

3696  
3697 Ms. Hannah Cone - Yes.

3698  
3699 Ms. Harris - If we gave her a number, could she determine what  
3700 cats would be offensive? For example, the code says three cats. But if we said  
3701 four, then it would be up to her to decide which ones are sort of breaking her  
3702 rules.

3703  
3704 Ms. Hannah Cone - Yes.  
3705  
3706 Ms. Harris - I didn't know if that would be—I'm not sure what the  
3707 Board is going to do, but I just thought I would just throw that out.  
3708  
3709 Ms. Hannah Cone - Yes. And like she said, I think addressing the problem  
3710 cats makes sense. Because, like I said, nobody ever complained about it before.  
3711 We've always had cats and it never came up. So it's just kind of confusing to me  
3712 that sixteen years later everybody has a problem with something that—  
3713  
3714 Ms. Harris - Yes, we get cases like this all the time based on  
3715 complaints.  
3716  
3717 Ms. Hannah Cone - I believe it.  
3718  
3719 Ms. Harris - Based on complaints.  
3720  
3721 Ms. Hannah Cone - I just feel like it's about what the complaints are about.  
3722 This is not a hearing about—  
3723  
3724 Ms. Harris - But when it's based on complaints, we as a Board  
3725 have to go back to what the ordinance is saying. Mr. Green, you had a question?  
3726  
3727 Mr. Green - I just wanted to say that one thing that we do that I  
3728 don't think people recognize is that we will go out and look at properties. And we  
3729 do that. I can say that I think you have a beautiful home. And I think your grass is  
3730 fine. Even in the pictures that you showed, if you all didn't bring up the issue of  
3731 the appliances and all that, we would have never known that. So I don't think  
3732 that's the issue. And if someone's making it the issue, I certainly didn't get that.  
3733  
3734 So I applaud you for a beautiful home and beautiful yard. And like I said, this  
3735 issue is about the cats.  
3736  
3737 Ms. Harris - You have to come to the mic if you're going to speak.  
3738  
3739 Ms. Cone - I think in speaking about her situation where she talks  
3740 about property maintenance is in the staff report that came out that I got last  
3741 weekend, there were two emails from neighbors. The emails went into great  
3742 lengths about how our yard is full of weeds, and our grass isn't cut, and we've got  
3743 too many vehicles in our driveway, and there's always trash. Those are the only  
3744 real feedback I got as a result of this process was those two emails.  
3745  
3746 In response to that, I wrote letters to both of those neighbors and described a  
3747 little bit more. One of the things that was evident from one of the letters is they  
3748 thought I was building a physical kennel in my yard. So I didn't even know if

3749 anybody read my write-up and what I was asking for. And it may not make a  
3750 difference to some of these people. But what we were seeing is property  
3751 maintenance, property maintenance, and then the sign in the yard. And it  
3752 probably spread through the neighborhood. I just feel like I'm under attack right  
3753 now. I feel like it's rising up. And really just from one complaint about a cat. And  
3754 now it's like oh, that's what's causing it, my birds are getting killed. And I know  
3755 they do it. I see it all the time. But I do feel like the main impetus for the  
3756 neighborhood feedback originally was property maintenance issues. And like I  
3757 said, we've stepped it up. I've got pictures now of what our driveway looks like if  
3758 anybody wants to see them.

3759  
3760 We've really been working hard. My husband has been out for three weeks with  
3761 an injury, so it's been challenging for us to do everything we need to do. We  
3762 cleaned out huge sections of our garage to move building supplies inside. I think  
3763 he made four or five trips to the medal yard. So we've been trying really hard. I  
3764 feel like that's what's causing a lot of this, and that's what she's saying.

3765  
3766 Mr. Johnson - Over the years, were you aware of the limit on this?

3767  
3768 Ms. Cone - No sir. Never even thought about it. I worked at Petco  
3769 for two years and never heard about it. Never ever heard there was a limit ever.  
3770 That's how unknown it is. So it's not like a "let's go in this to break the rules."  
3771 Nobody knew that.

3772  
3773 We didn't have any idea, and we had so much land. A whole side of our yard is  
3774 wooded. Loads of places for them to run and play and unfortunately hunt. We  
3775 don't have moles and things for sure. So we really didn't know we were breaking  
3776 a rule. And I really didn't know that we would have neighbors that would be this  
3777 upset. So again if we could focus on the cats that cause this problem. That's  
3778 really what I want.

3779  
3780 Ms. Harris - If we allowed you four cats, could you handle that?  
3781 Would that be agreeable to you? I know you love these cats, and they've been  
3782 with you for years. But considering the fact that you're being held to a standard of  
3783 three. I notice the older cats. If we allow four.

3784  
3785 Ms. Cone - I guess what would be better for the neighbors and  
3786 better for me is if I could figure out who's bad. Like I said, Rico. And if anybody  
3787 has these pictures, I know he's bad.

3788  
3789 Ms. Harris - It's going to be on you to find out. In other words, if we  
3790 said four, then you need to find out which ones are bad and reduce it.

3791  
3792 Ms. Cone - But I might be giving away homebodies. Like Lucy—

3793  
3794 Ms. Harris - That's not what I'm saying.

3795  
3796 Mr. Blankinship - So you're not really accepting four.  
3797  
3798 Ms. Harris - Okay. So you're not accepting four.  
3799  
3800 Ms. Cone - I'm asking you if maybe I found that three cats are  
3801 finding they way into neighbors' yards, and the other four or five are not a  
3802 problem . . . I'm asking for more research. And like I said, I'll comply with  
3803 whatever we decide, but I don't want us to do it in a rushed way because I could  
3804 have five perfectly homebody cats and three that take off to neighbors' yards.  
3805 Those are the ones I want to get under control.  
3806  
3807 Ms. Harris - Our Board would not get involved in which cats are  
3808 misbehaving or not.  
3809  
3810 Ms. Cone - But my neighbors could.  
3811  
3812 Ms. Harris - Yes, your neighbors could. But we have to deal with  
3813 the ordinance. That's what we're dealing with today. So we thank you for coming,  
3814 and we're going to vote on this case shortly if you want to hang around.  
3815  
3816 Ms. Cone - Yes ma'am.  
3817  
3818 Ms. Harris - Okay. Next case, please.  
3819  
3820 **[After the conclusion of the public hearings, the Board discussed the case**  
3821 **and made its decision. This portion of the transcript is included here for**  
3822 **convenience of reference.]**  
3823  
3824 Ms. Harris - What is the pleasure of the Board?  
3825  
3826 Mr. Bell - I move that we deny this conditional use permit. I  
3827 think it is detrimental to the area. You have eight cats that are roaming the area  
3828 we know once or twice a day going to eight different homes. So that in itself I  
3829 think carries some detrimental effect to the people who live in those homes they  
3830 might be going to. Based on that and the debris—not debris as much as the  
3831 deposits that might be left on these properties which creates an odor and other  
3832 problems I also feel we can consider.  
3833  
3834 Ms. Harris - Okay. Is there a second?  
3835  
3836 Mr. Johnson - Second.  
3837  
3838 Ms. Harris - Okay. We're open for discussion. Okay, then we're  
3839 ready to vote. All in favor of denying this conditional use permit say aye. Those  
3840 opposed say no. There is no opposition; that motion passes.

3841

3842 After an advertised public hearing and on a motion by Mr. Bell seconded by Mr.  
3843 Johnson, the Board **denied** application **CUP2018-00020, SIOBHAN CONE's**  
3844 request for a conditional use permit pursuant to Section 24-52(a) of the County  
3845 Code to allow a noncommercial kennel at 11600 Long Meadow Drive (ROCK  
3846 SPRING ESTATES) (Parcel 764-776-2224) zoned Agricultural District (A-1)  
3847 (Brookland).

3848

3849

3850 Affirmative: Bell, Green, Harris, Johnson, Reid 5

3851 Negative: 0

3852 Absent: 0

3853

3854

3855 **[At this point, the transcript continues with the public hearing on the next**  
3856 **case.]**

3857

3858 Mr. Blankinship - CUP2018-00021, Julie and Pat Grandy.

3859

3860 **CUP2018-00021 JULIE AND PAT GRANDY** request a conditional use  
3861 permit pursuant to Section 24-95(i)(4) of the County Code to allow a pool in the  
3862 side yard at 5859 Shady Hills Way (SHADY RIDGE) (Parcel 745-777-2766)  
3863 zoned One-Family Residence District (R-3C) (Three Chopt).

3864

3865 Mr. Blankinship - Would everyone who intends to speak to this case  
3866 please stand and be sworn in. Raise your right hands, please. Do you swear the  
3867 testimony you're about to give is the truth, the whole truth, and nothing but the  
3868 truth so help you God? Thank you. Mr. Gidley?

3869

3870 Mr. Gidley - Thank you, Mr. Secretary. Madam Chair, members of  
3871 the Board.

3872

3873 This is a request to allow a swimming pool in the side yard of a one-family  
3874 residential lot. The property is located at the southwest corner of Shady Grove  
3875 Road and Shady Hills Way in the Shady Ridge subdivision. It is three-tenths of  
3876 an acre in size and improved with an existing 3,000-square-foot residence.

3877

3878 The lot is a reverse corner lot because it abuts the side yard of the property to  
3879 the rear. The lot to the rear is vacant. And enclosed is a second lot that is under  
3880 the same ownership. This second lot contains an existing residence, and the two  
3881 lots combined are 2.4 acres in size. As you can see here, this property owner  
3882 also has a swimming pool in his backyard.

3883

3884 The applicant wishes to install a 350-square-foot inground swimming pool in their  
3885 rear yard. However, because this is a reverse corner lot, the only location

3886 permitted for this would be in the far side yard 65 feet away from the side street,  
3887 which is actually over twice the distance of the home itself from the side street.

3888  
3889 In evaluating this request, the property is zoned R-3C and designated Suburban  
3890 Residential 2 on the Land Use Plan. The existing residence is a principal  
3891 permitted use in a one-family district and consistent with the Comprehensive  
3892 Plan. Swimming pools are permitted accessory uses as well.

3893  
3894 The home to the rear is approximately 150 feet distance from the proposed pool  
3895 location. And, as I noted, they have an existing in-ground swimming pool  
3896 themselves. This is the side street here, and this is the front yard of the property  
3897 in question. As you can see, there is a row of existing Leyland cypress along  
3898 here that do a substantial job in screening the property where the pool would go.  
3899 There is also a six-foot-tall privacy fence within these Leyland cypress—or on the  
3900 other side, actually. To the rear yard, the applicants also have a four-foot-tall  
3901 fence. As a result of this screening, staff does not really see where this proposal  
3902 would be noticeable to hardly anyone. As a result, we don't really anticipate any  
3903 substantial detrimental impact if this were approved.

3904  
3905 In conclusion, the proposed pool would be located 29 feet from the side street,  
3906 which is more than the existing dwelling's 25-foot setback. The intent of the  
3907 reverse corner lot standards are to protect the streetscape and limit the visual  
3908 impact of any pool or building in the rear yard. But as you can see here, there  
3909 would be no visual impact. So as a result of this, staff does not anticipate any  
3910 detrimental impact and can recommend approval of this request subject to the  
3911 conditions in your staff report.

3912  
3913 If you have any questions, I'll be happy to answer those. Thank you.

3914  
3915 Ms. Harris - Mr. Gidley, on the site map we see 5750 Shady  
3916 Grove Road and 5744. What is that parcel of land behind the subject property?

3917  
3918 Mr. Gidley - There are two parcels of land here. There is this one  
3919 here that's vacant and this one here at 5750 that contains the dwelling. Both are  
3920 owned by the same individual. So essentially, from a practical purpose, there is  
3921 just one large 2.4-acre lot here.

3922  
3923 Ms. Harris - Okay.

3924  
3925 Mr. Gidley - If you go to the aerial here, as you can see, between  
3926 the driveway and the pool the owner basically utilizes both of them.

3927  
3928 Ms. Harris - Okay. What is that circular accessory structure there?  
3929 It has a slight picketed fence around it. I noticed that when I drove by.

3930  
3931 Mr. Gidley - This one here?

3932  
3933 Ms. Harris - Yes. What's that?  
3934  
3935 Mr. Gidley - That's their swimming pool.  
3936  
3937 Ms. Harris - Okay. Thank you.  
3938  
3939 Mr. Gidley - Yes ma'am.  
3940  
3941 Ms. Harris - Any questions from Board members? Thank you so  
3942 much.  
3943  
3944 Mr. Gidley - Thank you.  
3945  
3946 Ms. Harris - Would the applicant come forward now and state the  
3947 request.  
3948  
3949 Mr. Grandy - Good morning, I think. I'm not sure. My name is Pat  
3950 Grandy. G-r-a-n-d-y. My wife Julie and I own the property, and we're here to ask  
3951 that you approve this request. We think that staff did a great job in evaluating our  
3952 property. As you can see from the photos, it would be very hard to see this pool  
3953 from the front or the side of the house. One thing I do want to clear up. I'm not  
3954 sure why the terminology says that the pool is in our side yard. It is in the  
3955 backyard. It is totally—as he mentioned on the dimensions, it's totally behind the  
3956 house. It's behind the dwelling. Actually, one of our restrictions in the  
3957 neighborhood is that it must be behind the dwelling. Obviously you can see the  
3958 trees along Shady Grove Road. Also in the back of the property there are several  
3959 trees of landscaping there as well.  
3960  
3961 One of the big questions that I have is if this conditional permit is granted is how  
3962 long it would be in effect. We're running into a situation. We had to wait until this  
3963 meeting, and then the contractor needs to schedule it and finish up the details  
3964 that he does. By the time this is all going to be done it will be very late into the  
3965 season. Probably October or November, which is probably not a great time to be  
3966 installing a pool. If we do get the green light, I would be much more interested in  
3967 probably starting construction in April, but I don't know how long these permits  
3968 last.  
3969  
3970 Mr. Blankinship - You would have two years.  
3971  
3972 Mr. Grandy - Two years.  
3973  
3974 Mr. Blankinship - Yes.  
3975

3976 Mr. Grandy - I think we could get it done by then. That's why I'm  
3977 here. That's why we've been exposed to this interesting government process this  
3978 morning. Are there any questions?  
3979  
3980 Ms. Harris - Mr. Grandy, are there any objections from your  
3981 neighbors as to your installing this swimming pool?  
3982  
3983 Mr. Grandy - No. There are details on our homeowners association  
3984 that we have to comply with, which we have done. We've had no objections from  
3985 anyone.  
3986  
3987 Ms. Harris - Okay.  
3988  
3989 Mr. Grandy - There are other pools in the neighborhood. In fact,  
3990 there was a pool in our property at one time.  
3991  
3992 Ms. Harris - Mr. Blankinship, this is a reverse lot, right?  
3993  
3994 Mr. Blankinship - Yes ma'am. And that is the answer to his question on  
3995 the side yard thing.  
3996  
3997 Ms. Harris - Yes, the side.  
3998  
3999 Mr. Blankinship - The street side yard requirement for the reverse  
4000 corner lot is the requirement—  
4001  
4002 Ms. Harris - Right. This is question about why do we call this a  
4003 side yard rather than a backyard. It's because this is a reverse lot.  
4004  
4005 Mr. Blankinship - The rear of your lot abuts the side of the adjoining  
4006 property and there's an additional setback that goes with that.  
4007  
4008 Mr. Grandy - I see.  
4009  
4010 Ms. Harris - Any questions from Board members?  
4011  
4012 Mr. Bell - Real quickly. The conditions of approval, are you  
4013 familiar with those?  
4014  
4015 Mr. Grandy - I am not.  
4016  
4017 Mr. Bell - Okay. Just look at them—  
4018  
4019 Mr. Grandy - You mean—oh, the conditions on it?  
4020  
4021 Mr. Bell - Yes.

4022 Mr. Grandy - Oh yes. I'm sorry, I'm sorry.  
4023  
4024 Mr. Bell - Okay. Then that's fine.  
4025  
4026 Mr. Grandy - I did look at them.  
4027  
4028 Mr. Bell - Do you agree with them?  
4029  
4030 Mr. Grandy - Yes.  
4031  
4032 Mr. Bell - Okay, thank you.  
4033  
4034 Ms. Harris - Any more questions from Board members? Thank  
4035 you.  
4036  
4037 Mr. Grandy - Okay, thank you.  
4038  
4039 Ms. Harris - Is there anyone else who wishes to speak in favor of  
4040 this petition? Is there anyone who is opposed to this request? If not, that  
4041 concludes this request. Next case?  
4042  
4043  
4044 **[After the conclusion of the public hearings, the Board discussed the case**  
4045 **and made its decision. This portion of the transcript is included here for**  
4046 **convenience of reference.]**  
4047  
4048 Ms. Harris - What is the pleasure of the Board?  
4049  
4050 Mr. Green - As the Three Chopt magistrate, I recommend we  
4051 approve allowing the Grandys the ability to put a pool in the side yard at 5859  
4052 Shady Hills Way.  
4053  
4054 Ms. Harris - And your reasons?  
4055  
4056 Mr. Green - I was convinced that it would not pose a problem. The  
4057 height of the trees, the fence, and the other protections that they have in place  
4058 I'm satisfied with.  
4059  
4060 Ms. Harris - Okay. Is there a second to this?  
4061  
4062 Mr. Johnson - I will second it.  
4063  
4064 Ms. Harris - Okay, it's been moved and properly seconded that we  
4065 approve this conditional use permit. Any discussion on this motion? All in favor  
4066 say aye. Those opposed say no. There is no opposition; that motion passes.  
4067

4068 After an advertised public hearing and on a motion by Mr. Green, seconded by  
4069 Mr. Johnson, the Board **approved** application **CUP2018-00021, JULIE AND**  
4070 **PAT GRANDY's** request for a conditional use permit pursuant to Section 24-  
4071 95(i)(4) of the County Code to allow a pool in the side yard at 5859 Shady Hills  
4072 Way (SHADY RIDGE) (Parcel 745-777-2766) zoned One-Family Residence  
4073 District (R-3C) (Three Chopt). The Board approved the conditional use permit  
4074 subject to the following conditions:

- 4075
- 4076 1. This conditional use permit applies only to an in-ground swimming pool in the  
4077 street side setback of a reverse corner lot. All other applicable regulations of the  
4078 County Code shall remain in force.
  - 4079
  - 4080 2. Only the improvements shown on the plot plan filed with the application may  
4081 be constructed pursuant to this approval. Any additional improvements shall  
4082 comply with the applicable regulations of the County Code. Any substantial  
4083 changes or additions to the design or location of the improvements shall require  
4084 a new conditional use permit.
  - 4085
  - 4086 3. Before beginning any clearing, grading, or other land disturbing activity, the  
4087 applicant shall obtain approval of an environmental compliance plan from the  
4088 Department of Public Works.
  - 4089
  - 4090 4. All exterior lighting shall be shielded to direct light away from adjacent property  
4091 and streets.
  - 4092
  - 4093 5. The landscaping along the street shall be maintained in a healthy condition at  
4094 all times. Dead plant materials shall be removed within a reasonable time and  
4095 replaced during the normal planting season.
  - 4096
  - 4097 6. The swimming pool shall be secured as required by the Building Code.

4098

4099			
4100	Affirmative:	Bell, Green, Harris, Johnson, Reid	5
4101	Negative:		0
4102	Absent:		0

4103

4104

4105 **[At this point, the transcript continues with the public hearing on the next**  
4106 **case.]**

4107

4108 Mr. Blankinship - CUP2018-00022, Lynn Melnick.

4109

4110 **CUP2018-00022 LYNN MELNICK** requests a conditional use permit  
4111 pursuant to Section 24-95(i)(4) of the County Code to build a detached garage in  
4112 the side yard at 213 Wexleigh Drive (DORSET WOODS) (Parcel 743-734-8312)  
4113 zoned One-Family Residential District (R-1) (Tuckahoe).

4114

4115 Mr. Blankinship - Would everyone who intends to speak to this case  
4116 please stand and be sworn in. Raise your right hands, please. Do you swear the  
4117 testimony you're about to give is the truth, the whole truth, and nothing but the  
4118 truth so help you God? Thank you. Mr. Gidley.

4119

4120 Mr. Gidley - Thank you, Mr. Secretary. Madam Chair, members of  
4121 the Board.

4122

4123 This property is located at the northeast corner of the intersection of Wexleigh  
4124 Drive and Welwyn Road in the Dorset Woods subdivision. The property is just  
4125 over one-half acre in size, and as you can see here it contains an existing  
4126 dwelling that's 3600 square feet in area. It also has open parking right here in the  
4127 side yard.

4128

4129 The applicants would like to add a 292-square-foot covered patio at the rear of  
4130 their existing residence, and you can see that on the plot plan here. This addition  
4131 would go right here. In addition to that, they would like to build a 624-square-foot  
4132 garage that would be connected to the home via an 8.5-foot-wide breezeway.  
4133 Because the proposed patio is considered an extension of the home, the garage  
4134 would be partially in the side yard. As a result they need a conditional use permit  
4135 to place this proposed garage in the side yard.

4136

4137 In evaluating this request, the property is zoned R-1 and is designated as  
4138 Suburban Residential 1 on the Comprehensive Plan. The existing residence is a  
4139 permitted use in the one-family district, and it is consistent with the  
4140 Comprehensive Plan designation. The proposed garage would be twenty-seven  
4141 feet from the side property line, as you can see right here. This is well in excess  
4142 of the required ten-foot setback. And that would be for a detached structure.

4143

4144 These are the elevations for the proposed garage and the proposed addition. As  
4145 you can see, the proposed garage would be oriented towards the street, and it  
4146 would match the house in design and materials. As long as the applicants adhere  
4147 to this proposal, staff does not anticipate any substantial detrimental impacts if  
4148 this request were approved.

4149

4150 So in conclusion, the proposed improvements are consistent with both the zoning  
4151 and Comprehensive Plan designation. However, because the covered patio that  
4152 would be added onto the rear of the home is considered part of the home, the  
4153 placement of the garage creates a situation where it's technically in the side yard  
4154 and in need of a use permit. Although there is ample room in the rear yard to  
4155 accommodate the garage without the need for a conditional use permit, the  
4156 applicants wish to utilize the existing driveway and not go through the expense of  
4157 re-grading and pouring a new concrete driveway. Again here's the driveway right  
4158 here. And as you can see, it's concrete and aggregate.

4159

4160 Because the proposed improvements would match the existing dwelling and the  
4161 garage location would maximize the existing driveway and parking location, staff  
4162 does not see any detrimental impacts. Because of this, we can recommend  
4163 approval of this request subject to the conditions found in your staff report. If you  
4164 have any questions, I'll be happy to answer those. Thank you.

4165  
4166 Ms. Harris - Mr. Gidley, is there already a structure in that rear  
4167 yard?

4168  
4169 Mr. Gidley - Let's see. I see what you're seeing. Let's go to the  
4170 aerial. I think what you're looking at here—let me zoom in. I think what you're  
4171 looking at is a detached structure in the neighbor's yard that's slanted somewhat  
4172 here. This is the applicant's rear yard. And if you look at the view of the  
4173 rear . . . they have an addition that comes off right here. But I think what you're  
4174 seeing is that detached structure in the neighbor's yard.

4175  
4176 Ms. Harris - Thank you.

4177  
4178 Mr. Gidley - Yes ma'am.

4179  
4180 Ms. Harris - Any questions of Mr. Gidley? Thank you.

4181  
4182 Mr. Gidley - Thank you, ma'am.

4183  
4184 Ms. Harris - We'd like the applicant to come to the mic. Identify  
4185 yourself and tell us about your request. And we thank you for being so patient.  
4186 You're our last case today.

4187  
4188 Ms. Melnick - My name is Lyn Melnick. M-e-l-n-i-c-k. First of all to  
4189 answer that question, there is a structure in the backyard. It's a small shed in the  
4190 back corner of the property.

4191  
4192 Mr. Green - No, I think she's talking about that. That's not yours, is  
4193 it?

4194  
4195 Ms. Melnick - No, no, no, that's the house—that's my next door  
4196 neighbor's house. It's to the right of the fence. If you see the fence. The privacy  
4197 fence goes horizontal and then it cuts this way along the driveway, and then goes  
4198 this way. And there's a shed right there in that corner.

4199  
4200 Ms. Harris - Yes. I thought I saw one there, but I wanted to be  
4201 sure.

4202  
4203 Ms. Melnick - So behind where it where it says "26 by 26 garage," in  
4204 that back right corner. Right there is a small shed.

4205

4206 Ms. Harris - Thank you.

4207

4208 Ms. Melnick - We bought this house a year ago, and we knew we  
4209 wanted to add a garage onto it immediately. We also wanted to cover the porch.  
4210 When we had the plans drawn to do the covered porch, the best place to put the  
4211 garage was right above the driveway and to do the breezeway to connect it to the  
4212 existing house, which we're connecting it to a laundry room door, which is right  
4213 there. So in our opinion it was the best place to put the garage. And I guess we  
4214 have to apply for this conditional use permit because it's in the side yard. That's  
4215 my understanding.

4216

4217 Am I saying everything I need to say? Aesthetically, we think that that would be  
4218 the best place also because the sunroom on the house in the back, the portion  
4219 that juts out—right there with the patio doors—there's a big window on the side of  
4220 that sunroom right there. And we didn't want the structure to block that view. So  
4221 we want to start the garage—line it up at the back of that sunroom so that vision  
4222 would not be impaired. Also, the big window to the left of that, right there, that  
4223 looks from my kitchen. And we also didn't want the structure to be blocking that  
4224 view because that's a nice big pretty window.

4225

4226 That's all we're asking.

4227

4228 Ms. Harris - Are there any questions from Board members? Thank  
4229 you.

4230

4231 Ms. Melnick - Thank you.

4232

4233 Ms. Harris - Is there anyone who wishes to speak to this  
4234 application? There appears to be none. Okay, I think we're ready to go back and  
4235 vote.

4236

4237 **[After the conclusion of the public hearings, the Board discussed the case**  
4238 **and made its decision. This portion of the transcript is included here for**  
4239 **convenience of reference.]**

4240

4241 Ms. Harris - What is the pleasure of the Board?

4242

4243 Mr. Reid - I recommend that we approve CUP2018-00022 for  
4244 Mrs. Melnick to build a patio and detached garage in their side yard. It met the  
4245 County requirements, and it would certainly be a nice additional to a home.

4246

4247 Mr. Johnson - Second.

4248

4249 Ms. Harris - It's been moved and properly seconded that we  
4250 approve this conditional use permit. All in favor say aye. Those opposed say no.  
4251 There is no opposition; that motion passes.

4252  
4253 After an advertised public hearing and on a motion by Mr. Reid, seconded by  
4254 Mr. Johnson, the Board **approved** application **CUP2018-00022, LYNN**  
4255 **MELNICK's** request for a conditional use permit pursuant to Section 24-95(i)(4)  
4256 of the County Code to build a detached garage in the side yard at 213 Wexleigh  
4257 Drive (DORSET WOODS) (Parcel 743-734-8312) zoned One-Family Residence  
4258 District (R-1) (Tuckahoe).

4259  
4260 The Board approved the conditional use permit subject to the following  
4261 conditions:

4262  
4263 1. This conditional use permit applies only to the construction of a two-car garage  
4264 in the side yard. All other applicable regulations of the County Code shall remain  
4265 in force.

4266  
4267 2. Only the improvements shown on the plot plan and building design filed with  
4268 the application may be constructed pursuant to this approval. Any additional  
4269 improvements shall comply with the applicable regulations of the County Code.  
4270 Any substantial changes or additions to the design or location of the  
4271 improvements shall require a new conditional use permit.

4272  
4273 3. The new construction shall match the existing dwelling as nearly as practical in  
4274 materials and color.

4275  
4276 4. Before beginning any clearing, grading, or other land disturbing activity, the  
4277 applicant shall obtain approval of an environmental compliance plan from the  
4278 Department of Public Works.

4279  
4280 5. All exterior lighting shall be shielded to direct light away from adjacent property  
4281 and streets.

4282  
4283  
4284 Affirmative: Bell, Green, Harris, Johnson, Reid 5  
4285 Negative: 0  
4286 Absent: 0

4287  
4288  
4289 Ms. Harris - Look at your minutes. Are there any corrections to the  
4290 minutes that we received?

4291  
4292 Mr. Green - I do have one thing that is not related to the minutes.

4293  
4294 Ms. Harris - All right.

4295

4296 Mr. Green - I think we need to sanction Mr. Blankinship for  
4297 freezing us out of—he's keeping us in a frozen state. If we get pneumonia or a  
4298 cold . . .  
4299

4300 Ms. Harris - Can I have a motion on the minutes?  
4301

4302 Mr. Bell - So moved.  
4303

4304 Mr. Johnson - Second.  
4305

4306 Ms. Harris - Okay, it's been moved and properly seconded that  
4307 the minutes be approved as presented. All in favor say aye. Those opposed say  
4308 no. There is no opposition; that motion passes.  
4309

4310 On a motion by Mr. Bell, seconded by Mr. Johnson, the Board **approved as**  
4311 **presented the Minutes of the June 28, 2018**, Henrico County Board of Zoning  
4312 Appeals meeting.  
4313

4314  
4315 Affirmative: Bell, Green, Harris, Johnson, Reid 5  
4316 Negative: 0  
4317 Absent: 0  
4318

4319  
4320 Mr. Blankinship - The calendar for next year was included in your  
4321 package. As always, the meetings will be the fourth Thursday of each month  
4322 except November and December. It will be the third Thursday of those two  
4323 months in order to avoid the holidays. The application deadlines are five weeks  
4324 prior to the meeting dates with the exception of the January meeting, which is six  
4325 weeks, again because of the additional holiday.  
4326

4327 Ms. Harris - Okay. Can we have a motion to approve the calendar  
4328 for 2019?  
4329

4330 Mr. Johnson - I so motion.  
4331

4332 Ms. Harris - Is there a second?  
4333

4334 Mr. Bell - Second.  
4335

4336 Ms. Harris - It's been moved and properly seconded that we  
4337 approve the calendar for 2019. Any discussion? All in favor say aye. Those  
4338 opposed say no. There is no opposition; that motion passes.  
4339

4340  
4341 Affirmative: Bell, Green, Harris, Johnson, Reid 5

4342 Negative: 0  
4343 Absent: 0

4344  
4345  
4346 Ms. Harris - Mr. Blankinship will give you now the zoning update  
4347 from September 13, 2017. In the application they ask the applicants to state the  
4348 Zoning Ordinance, the number that involves the case. You'll find that some of  
4349 them have been changed, have been updated. This might help you as you  
4350 prepare for each case.

4351  
4352 Mr. Blankinship - Those of you who are newer on the Board, the copy  
4353 that you were given probably already reflects these changes. But those of you  
4354 who have been around longer, these updates may not have been distributed to  
4355 you.

4356  
4357 Ms. Harris - Okay.

4358  
4359 Mr. Reid - What happened to case #16 here, the Gurleys?

4360  
4361 Mr. Blankinship - Number 16, they did not get their plans submitted in  
4362 time, so they've been bumped out to August. It was before the agenda was  
4363 advertised and before the notices were sent. So we didn't have to actually list it  
4364 on the agenda.

4365  
4366 Ms. Harris - Any other business? If not, the meeting is adjourned.

4367  
4368  
4369  
4370 *Helen E. Harris*

4371  
4372  
4373 Helen E. Harris  
4374 Acting Chair

4375  
4376  
4377 *Benjamin Blankinship*  
4378 Benjamin Blankinship, AICP  
4379 Secretary  
4380  
4381