

1 Minutes of the regular monthly meeting of the Planning Commission of the  
2 County of Henrico held in the County Administration Building in the Government  
3 Center at Parham and Hungary Spring Roads, beginning at 7:00 p.m. May 1,  
4 2018. Display Notice having been published in the *Richmond Times-Dispatch* on  
5 April 23, 2018 and April 30, 2018.  
6

Members Present: Mrs. Sandra M. Marshall, Chair (Three Chopt)  
Mr. Gregory R. Baka, Vice Chair (Tuckahoe)  
Mr. C. W. Archer, C.P.C. (Fairfield)  
Mrs. Adrienne F. Kotula (Brookland)  
Mr. Eric Leabough, C.P.C. (Varina)  
Mr. R. Joseph Emerson, Jr., AICP, Director of Planning,  
Secretary  
Mrs. Patricia O'Bannon (Tuckahoe)  
Board of Supervisors' Representative

Also Present: Ms. Jean M. Moore, Assistant Director of Planning  
Mr. James P. Strauss, PLA, Senior Principal Planner  
Mr. Benjamin Blankinship, AICP, Senior Principal Planner  
Ms. Rosemary D. Deemer, AICP, County Planner  
Mr. Seth Humphreys, County Planner  
Mrs. Lisa Blankinship, County Planner  
Mr. Michael Morris, County Planner  
Mr. Miguel Madrigal, County Planner  
Mr. Ned Smither, Director of Finance  
Mr. Leo Marsh, Jr., Revenue Division Director  
Ms. Lee Ann Anderson, Senior Assistant County Attorney  
Mr. Andrew Newby, Assistant County Attorney  
Mr. Gregory H. Revels, Building Official  
Ms. Sharon Smidler, Public Works  
Ms. Sylvia Ray, Recording Secretary

7  
8 **Mrs. Patricia O'Bannon, the Board of Supervisors' representative, abstains**  
9 **on all cases unless otherwise noted.**

10  
11 Mrs. Marshall - At this time, I ask that you please take a moment to  
12 silence your cell phones. As you do, please stand with the Commission for the  
13 Pledge of Allegiance.

14  
15 Do we have anyone in the audience with the news media this evening? We do  
16 not.

17  
18 We have Mrs. Pat O'Bannon from the Board of Supervisors here. Thank you for  
19 being here.  
20

21 All Commissioners are present, so we can conduct business. So at this point, I'll  
22 turn the agenda over to Mr. Emerson, our secretary.

23  
24 Mr. Emerson - Thank you, Madam Chair. The first item on the  
25 agenda this evening are the requests for withdrawals and deferrals. Those will be  
26 presented by Mr. Jim Strauss.

27  
28 Mr. Strauss - Thank you, Mr. Secretary. We have two requests for  
29 deferral this evening. The first is in the Brookland District on page 2 of your  
30 agenda. It's REZ2017-00032, The McGurn Company. In this case, the  
31 applicant's requesting deferral to your July 12, 2018 meeting.

32  
33 **(Deferred from the April 12, 2018 Meeting)**

34 **REZ2017-00032 Arthur McGurn for The McGurn Company:** Request  
35 to conditionally rezone from R-2 One-Family Residence District and [R-6C]  
36 General Residence District (Conditional) to R-5AC General Residence District  
37 (Conditional) Parcel 767-760-8701 and part of Parcel 768-760-1507 containing  
38 3.89 acres located at the northeast intersection of Hungary and Hungary Spring  
39 Roads. The applicant proposes a zero lot line development of no more than 12  
40 homes. The R-5A District allows a minimum lot area of 5,625 square feet and an  
41 overall density of 6 units per acre. The use will be controlled by proffered  
42 conditions and zoning ordinance regulations. The 2026 Comprehensive Plan  
43 recommends Suburban Residential 2, density should not exceed 3.4 units per  
44 acre.

45  
46 Mrs. Marshall - Is there anyone present in opposition to the deferral of  
47 REZ2017-00032, Arthur McGurn for The McGurn Company? I see no opposition.  
48 Mrs. Kotula?

49  
50 Mrs. Kotula - Madam Chair, I move that REZ2017-00032, Arthur  
51 McGurn for The McGurn Company, be deferred to the July 12, 2018 meeting, at  
52 the request of the applicant.

53  
54 Mr. Archer - Second.

55  
56 Mrs. Marshall - We have a motion by Mrs. Kotula and a second by  
57 Mr. Archer. All in favor say aye. Those opposed say no. There is no opposition;  
58 this motion passes.

59  
60 At the request of the applicant, the Planning Commission deferred REZ2017-  
61 00032, Arthur McGurn for The McGurn Company, to its meeting on July 12,  
62 2018.

63  
64 Mr. Strauss - The second request for deferral this evening is in the  
65 Varina District on page 3 of your agenda, REZ2018-00014, Quality of Life of VA  
66 LLC. The applicant is requesting deferral to the June 14, 2018 meeting.

67 (Deferred from the April 12, 2018 Meeting)

68 **REZ2018-00014 Leroy Chiles for Quality of Life of VA LLC:**  
69 Request to conditionally rezone from R-4 One-Family Residence District, B-1  
70 Business District, and M-1 Light Industrial District to R-5AC General Residence  
71 District (Conditional) Parcel 805-710-1834 containing 11.7 acres located south of  
72 Darbytown Road approximately 300' south of its intersection with Oregon  
73 Avenue. The applicant proposes detached, zero lot line units. The R-5A District  
74 allows a minimum lot area of 5,625 square feet and a maximum overall density of  
75 6 units per acre. The use will be controlled by zoning ordinance regulations and  
76 proffered conditions. The 2026 Comprehensive Plan recommends Suburban  
77 Residential 2, density should not exceed 3.4 units per acre and Environmental  
78 Protection Area.

79  
80 Mrs. Marshall - Is there anyone present in opposition to the deferral of  
81 REZ2018-00014, Leroy Chiles for Quality of Life of VA LLC? I see no opposition.  
82 Mr. Leabough?

83  
84 Mr. Leabough - Madam Chair, I move that REZ2018-00014, Leroy  
85 Chiles for Quality of Life of VA LLC, be deferred at the request of the applicant to  
86 the June 14, 2018 meeting.

87  
88 Mr. Baka - Second.

89  
90 Mrs. Marshall - We have a motion by Mr. Leabough, a second by  
91 Mr. Baka. All in favor say aye. Those opposed say no. There is no opposition;  
92 this motion passes.

93  
94 At the request of the applicant, the Planning Commission deferred REZ2018-  
95 00014, Leroy Chiles for Quality of Life of VA LLC, to its meeting on June 14,  
96 2018.

97  
98 Mr. Emerson - Madam Chair, that completes the withdrawals and  
99 deferrals this evening, unless the Commission has additional deferrals to add. If  
100 you don't, we move on to the next item, Requests for Expedited Items. We do  
101 have one this evening; however, based on phone calls this afternoon, I think I  
102 would recommend that the Commission take this back up when you reconvene at  
103 7:00 to see if there is anyone that may wish to speak to it. If not, at that time you  
104 may want to consider expediting it. But at this time, I would suggest you wait until  
105 7:00 p.m. on that one.

106  
107 Mrs. Marshall - Okay, thank you.

108  
109 Mr. Emerson - Madam Chair, with that said, the first item on your  
110 agenda this evening is an ordinance that you've held a work session on. The  
111 staff report will be presented by Mr. Miguel Madrigal. And we also have with us  
112 this evening to respond to any questions Andrew Newby of the County Attorney's

113 Office; Ned Smither, Director of Finance; and Mr. Revels, I believe, is in the  
114 audience somewhere as well. There he is hiding over there. So, we do have staff  
115 here to answer any questions that you may have.

116  
117 **ORDINANCE –** To Amend and Reordain Section 24-3 Titled  
118 “Definitions,” Section 24-12 Titled “Conditional uses permitted by special  
119 exception,” Section 24-13 Titled “Accessory uses permitted,” Section 24-13.01  
120 Titled “Development standards and conditions for permitted uses,” Section 24-28  
121 Titled “Principal uses permitted,” Section 24-29 Titled “Conditional uses permitted  
122 by special exception,” Section 24-36 Titled “Conditional uses permitted by special  
123 exception,” Section 24-94 Titled “Table of regulations,” and Section 24-121 Titled  
124 “Conditional zoning or zone approval” of the Code of the County of Henrico, and  
125 to add a new Section 24-32.2 Titled “Conditional uses permitted by special  
126 exception,” and Section 24-38.1 Titled “Conditional uses permitted by special  
127 exception.” This ordinance allows for short-term rentals of real estate for periods  
128 of fewer than 30 consecutive days. Specifically, this ordinance allows hosted  
129 short-term rentals by-right in detached, single-family dwelling residential units up  
130 to 30 days in a calendar year. For all other short-term rentals in residential  
131 districts, this ordinance requires the operator of the rental to obtain a conditional  
132 use permit. All short-term rentals would be subject to regulations limiting rentals  
133 to the operator’s primary residence and limiting the use of guesthouses, the  
134 number of short-term renters and pets, and the length of rentals. The ordinance  
135 would also require the provision of life-safety equipment consistent with the  
136 building code, prohibit rentals to minors and double-booking, require the posting  
137 of certain information within the rental, and require the designation of responsible  
138 persons to respond to complaints. Finally, the ordinance adds and revises  
139 definitions related to the rental of real estate.

140  
141 Mr. Madrigal - Thank you, Mr. Secretary. Good evening, Madam  
142 Chair, members of the Commission. As mentioned by Mr. Emerson, I’m here this  
143 evening to present the draft ordinance addressing the issue of short-term rental  
144 of properties through platforms like Airbnb.

145  
146 As mentioned at last month’s work session, this proposal resulted from our  
147 concerns at preserving the health, safety, and welfare of our residents. This  
148 encompasses preserving the residential character of our neighborhoods and  
149 protecting the peaceful enjoyment of our homes. The few complaints that we  
150 have received were the results of unhosted stays creating issues related to  
151 safety, noise, parking, late-night activity, traffic, and maintaining property values.  
152 These are the central themes addressed by way of this proposal.

153  
154 The proposed ordinance can be broken down into four main components. The  
155 new definitions are added specifically defining short-term rental and other  
156 important terms. The short-term rental use gets inserted into each respective  
157 residential district either by-right or by conditional use permit. A new section gets  
158 added establishing the specific requirements governing short-term rentals. And

159 we finish up by clarifying a few existing terms found in the code to avoid conflicts  
160 and create consistency between existing and new terms.

161

162 There are also a few housekeeping items. The registry component of this issue  
163 will be handled by the County Attorney's Office, and the goal is that it should  
164 follow along with the adoption of this draft ordinance.

165

166 These are the new definitions to be added to the code. I'd like to call your  
167 attention to just a few. We'll start with *booking transaction*. As defined, this is any  
168 transaction where there's a charge to one or more short-term renters by an  
169 owner or operator in exchange for the occupancy of a short-term rental. Next is  
170 *short-term rental*. Briefly, this is the provision of a room or space suitable or  
171 intended for occupancy for dwelling, sleeping or lodging for a period of fewer  
172 than thirty consecutive days in exchange for a fee. The code also distinguishes  
173 between a hosted stay versus an unhosted stay. In a hosted stay, the owner or  
174 operator is present during the rental versus not being present during the rental of  
175 an unhosted stay.

176

177 The code proposal then establishes the short-term rental use by residential  
178 district. As outlined here, hosted stays are permitted by right as an accessory use  
179 in one-family residential districts provided they do not exceed thirty days in one  
180 calendar year. Unhosted stays or hosted stays that exceed the thirty-day limit  
181 would require a conditional use permit. These same rules apply in R-5A and A-1  
182 Districts by reference. For the multi-family districts consisting of the R-5, R-6,  
183 UMU, and RTHC districts, a CUP would be required for either hosted or  
184 unhosted stays. In all these instances, the short-term rental use would have to  
185 comply with the new operational rules proposed in Section 24-1301(b).

186

187 This is really the heart of the proposal governing short-term rentals, applying to  
188 both hosted and unhosted stays. Briefly, item 1 limits short-term rentals to a  
189 person's primary residence.

190

191 Item 2 allows an unhosted stay operator to designate a responsible person to act  
192 in his or her stead in case of a complaint or emergency. That person has to be an  
193 adult and be available twenty-four hours a day, seven days a week while the  
194 home is being rented out to address concerns in person. In a hosted stay, the  
195 operator would be the responsible person.

196

197 Item 3 sets a maximum limit on the number of short-term renters allowed in a  
198 dwelling to no more than two per bedroom.

199

200 Item 4 prohibits short-term renters in guest houses, accessory buildings, trailers,  
201 boats, RVs, and yard space.

202

203 Item 5 prohibits short-term rentals in homes being used for daycare, a group  
204 home, assisted living facility, massage therapy, taxi or carrier service, or a non-

205 commercial kennel. It also prohibits commercial rental activities for parties,  
206 banquets, weddings, meetings, and filming.

207  
208 Item 6 prohibits double booking of the dwelling to two unrelated parties at the  
209 same time.

210  
211 Item 7 prohibits renting to minors.

212  
213 Item 8 sets minimum/maximum rental periods to less than twenty-hours and no  
214 more than thirty consecutive days.

215  
216 Item 9 requires all life safety equipment in the residence to be in good working  
217 order. This includes smoke and carbon monoxide detectors and fire  
218 extinguishers as required by law.

219  
220 Item 10 requires the posting of contact information for the owner or operator and  
221 responsible person for the short-term rental, county recycling and trash  
222 schedules, and the County Noise Ordinance.

223  
224 Item 11 sets a maximum limit of pets allowed at a residence to no more than  
225 three. And that includes the operator's pets as well as the short-term's renter's  
226 pets.

227  
228 The last component of the draft ordinance is to clean up and clarify some existing  
229 definitions, remove an antiquated term from the code, and a few housekeeping  
230 items.

231  
232 That is the extent of the proposed code changes regulating short-term rentals. As  
233 always, the guiding principles for this proposal are the health, safety, and welfare  
234 of our residents, preserving the residential character of our neighborhoods, and  
235 protecting the peaceful enjoyment of our homes. Although we have not received  
236 a large volume of complaints regarding this issue, of the complaints we have  
237 received, residents have been very upset. Homeowners have an expectation of  
238 neighborhood stability and familiarity with neighbors when purchasing a home.  
239 This vested interest is diminished when a homeowner habitually rents out a  
240 home for short-term lodging, especially if it's an unhosted rental. We hope this  
241 proposed amendment helps address and alleviates many of these concerns.

242  
243 With respect to next steps, we would suggest continuing this item to the  
244 Commission's July 12th meeting to allow for additional public input. As a side  
245 note, we have received a letter of opposition on this issue from a County  
246 resident. We've provided you with a copy of that letter for your consideration.

247  
248 That essentially ends my presentation. I'll be happy to answer any questions you  
249 may have.

250

251 Mrs. O'Bannon - I have a question. What is the current number of pets  
252 that someone can have in their home?  
253  
254 Mr. Madrigal - It would be a maximum of three, ma'am.  
255  
256 Mrs. O'Bannon - Even today?  
257  
258 Mr. Madrigal - Even today.  
259  
260 Mrs. O'Bannon - Even today. I thought—it's three. So this isn't  
261 increasing or decreasing?  
262  
263 Mr. Madrigal - That is correct.  
264  
265 Mrs. O'Bannon - It's the same number. All right.  
266  
267 Mr. Baka - If one seeks more than three pets in their home, are  
268 they allowed to seek a kennel license from the Board of Zoning Appeals for  
269 additional animals within the home?  
270  
271 Mr. Madrigal - They would be required to file for a non-commercial  
272 kennel, depending on what the situation is.  
273  
274 Mr. Archer - Mr. Madrigal, in one instance you mentioned that a  
275 certain type of rental would require a Conditional Use Permit. Is that Conditional  
276 Use Permit pertaining only to that particular rental, at that time? Or does it expire  
277 at the end of a certain period of time? Or does it just extend until. . .  
278  
279 Mr. Madrigal - It would essentially run with the land up until that use  
280 is no longer existing. In this case, it would be a one-time application. And then  
281 from there, if they were successful in obtaining a conditional use permit, they  
282 would follow through with the registry component that we're proposing with this.  
283  
284 Mr. Archer - That's what I thought; I just wanted to be sure.  
285  
286 Mr. Leabough - So under the law, we don't have any obligation to  
287 approve these types of short-term rentals in some of the residential districts,  
288 correct? There's nothing that mandates that we do it.  
289  
290 Mr. Madrigal - No, that is correct. There's nothing that mandates that  
291 we have to do that. It's at our option to.  
292  
293 Mr. Leabough - I'm going to go on record with my concerns with this,  
294 by allowing these uses by-right, potentially, in residential districts. I think there  
295 needs to be more thought put into that. Again, I'm going to speak to unhosted  
296 stays related to renters in the property have huge concerns about that. Has there

297 been anything done as it relates to the ordinance to address the concerns that I  
298 shared at the last meeting? For example, a renter can basically be assumed to  
299 be a hosted stay, right? Even though they have no—again, no real vested  
300 interested in that particular community other than that they're a tenant. But they  
301 could be considered under the draft ordinance a hosted stay.

302

303 Mr. Madrigal - That is correct. If you have a long-term renter or  
304 leasor on a property, and their lease allows them to sublet, then they could apply  
305 for a conditional use permit for unhosted stays. If it's a single-family residential  
306 district, they could do unhosted stays for thirty days or less as long as they do  
307 register. But again, we would have to fall back on it to see if the property owner  
308 would allow that by way of the lease agreement.

309

310 Mr. Leabough - But if the lease agreement doesn't speak to whether  
311 they can or can't sublease, then they are automatically assumed to be allowed to  
312 do so, right?

313

314 Mr. Madrigal - We're establishing the general framework here, and I  
315 think the nuances of that we'll have to flesh out once we start talking about the  
316 forms that will have to be filled out. As part of this process, people have to certify  
317 that whatever the property is, that's their primary residence. If we do have a  
318 rental situation, we could, in essence, require that we get a property owner's  
319 signature, that there's nothing with respect to the lease. But again, that all has to  
320 be fleshed out with staff as far as how the workload is going to go and what are  
321 the things we're going to require and ask for.

322

323 Mr. Emerson - I think Mr. Leabough, that would require either the  
324 property owner's signature or some power of attorney—

325

326 Mr. Leabough - Oh, okay.

327

328 Mr. Emerson - —in order to make that application on that property.

329

330 Mr. Leabough - That's good. So there are other items that your  
331 reference as it relates to compliance with code and noise ordinances, things of  
332 that nature. How is that going to be regulated? This use isn't really regulated like  
333 the hotel industry, the hospitality industry, so how are we going to make sure that  
334 they're adhering to those regulations as far as posting of things and so on and so  
335 forth?

336

337 Mr. Madrigal - When people come down and they register, there will  
338 be a series of things that have to happen. They're going to have to certify that  
339 that's their primary residence. If it's going to be an unhosted stay, they're going to  
340 have to designate a responsible person. In that process, we're probably going to  
341 go over the rules and hand them the rules. We're talking about maybe a safety  
342 inspection to verify that they have safety equipment. All that has to be worked



343 out. As far as verifying that they're complying with those relevant aspects at that  
344 time with the code for them to proceed with that, that would be the registry,  
345 certification, and going out for verification, and then final approval.  
346

347 Mr. Leabough - But there will be a process by which we would make  
348 sure that they're in compliance?  
349

350 Mr. Madrigal - Yes.  
351

352 Mr. Leabough - Okay.  
353

354 Mr. Madrigal - Like I said, this is just a general framework. All the  
355 nuances and details will still have to be worked out if this ends up getting  
356 approved.  
357

358 Mrs. Marshall - The designated person does not necessarily have to  
359 be the homeowner?  
360

361 Mr. Madrigal - No it does not. Well for a hosted stay, it would be the  
362 homeowner or the renter, long-term renter. For an unhosted stay, it could be a  
363 person not living on the property but within a reasonable distance that would be  
364 available during the rental period, 24/7 basically.  
365

366 Mrs. Marshall - Any more questions?  
367

368 Mrs. Kotula - The registry does have an annual re-registration  
369 requirement?  
370

371 Mr. Madrigal - Yes.  
372

373 Mrs. Kotula - Even though a conditional use permit would not  
374 necessarily have that.  
375

376 Mr. Madrigal - That is correct. It's an annual registration, and they  
377 could not rent without filling out that registry.  
378

379 Mr. Baka - Does that annual re-registration come with an  
380 additional fee year after year?  
381

382 Mr. Madrigal - For the administration, I would assume so, yes.  
383

384 Mr. Emerson - At this point, that hasn't been determined.  
385

386 Mr. Baka - Okay.  
387

388 Mr. Emerson - The registry is currently under development. I believe  
389 the question of whether it's annual or if it's one time is also an option. It doesn't  
390 necessarily have to be annual. We've talked about it being annual, but we don't  
391 have that document per se in that final form. Finance and the County Attorney's  
392 Office has been working on it. I know the current concept is that it would be an  
393 annual registration and there would be an annual fee and Finance is  
394 considering—and correct me, Mr. Smither, if I put you under the bus here—  
395 mailing the operators on a yearly basis, and there would be an annual fee. But  
396 that number hasn't been set yet.

397

398 Mrs. O'Bannon - Isn't there a hotel/motel tax? That would be the fee?  
399 Is that what the fee is for?

400

401 Mr. Emerson - Mr. Smither, would you like to come down and  
402 address the hotel/motel fee and how the taxes do and don't apply to—or the  
403 thresholds, I guess, how they apply to this type of use.

404

405 Mr. Smither - Good evening, everybody. Good evening, members  
406 of the Planning Commission, Madam Chairman.

407

408 If the home has four rental bedrooms in it, it does qualify for the hotel/motel tax. It  
409 would be subject to our 8 percent. So, we're thinking that's going be a number  
410 less than 10 percent of our population. So most of our homes will not be qualified  
411 for the hotel/motel tax. However, they will be subject to the registry fee. We're  
412 charged with making the registry fee identifiable to our cost of operating the  
413 project, whether it's software development, staff time. It has to be a documental  
414 number that we could justify when we set that fee. But the 8 percent fee on the  
415 hotel/motel tax only applies to four bedrooms or more.

416

417 Mrs. Marshall - Are there any more questions from the Commission?

418

419 Mr. Leabough - Just one more question, and this is probably for the  
420 attorneys. Did the issue regarding the Residential Landlord and Tenant Act get  
421 resolved as it relates to issues regarding a lease and whether there are  
422 protections or provisions that govern the tenant's responsibilities as an unhosted  
423 renter?

424

425 Mr. Newby - Madam Chair, members of the Commission, Andrew  
426 Newby with the County Attorney's Office. Sorry to report that no, I don't have a  
427 specific answer to that particular concern of whether that would apply.

428

429 Mr. Leabough - It seemed to me that staff mentioned that the lease  
430 would kind of govern or provide some protections as it relates to if the tenant,  
431 who is having the hosted stays, there would be some sort of control that the  
432 landlord would have in terms of making them do something, in terms of being  
433 accountable and responsible. But if they don't fall under the Residential Landlord

434 and Tenant Act or if there is a privately drafted lease, then there may not be  
435 those protections in place. So no research has been done as it relates to that?

436

437 Mr. Newby - No, but I still agree with that very point, that if there is  
438 no lease in place, then you would have the protections we would assume would  
439 be in place with an ordinary contract or lease—

440

441 Mr. Leabough - Like a commercial—like a normal lease—

442

443 Mr. Newby - Exactly. So if it's more of a handshake thing or a  
444 month-to-month thing, you can't presume that there's some other document  
445 setting what the standards would be. I think it's an interesting concept, and I think  
446 it's already been mentioned of having the owner consent to the use of the  
447 property in this manner. Because of course the owner of the property—not the  
448 long-term renter—is going to be ultimately responsible if there is a zoning  
449 violation. They can be held accountable. So they should be on notice and  
450 consent to this actual use of the property. And have some—perhaps “skin in the  
451 game” is not the right term, but at least be on notice that this is occurring.

452

453 But no, as far as the actual Landlord/Tenant Act, I have not conducted research  
454 on that point, on whether it would have bearing on this.

455

456 Mr. Leabough - Let's presume, for example, that they're out of state  
457 and they're no more responsible than now for the tenant that's there. What  
458 changes in that regard?

459

460 Mr. Newby - That's true. And as someone who does zoning  
461 enforcement from time to time, when you have an out-of-state owner or  
462 sometimes an LLC owner, enforcement against the owner is less effective than  
463 with someone who's in town. That trouble is present in all of our zoning  
464 enforcement, all of it. It's not peculiar to this.

465

466 Mr. Leabough - That's true. Thank you, sir. I appreciate your  
467 answering.

468

469 Mr. Newby - Yes, of course.

470

471 Mr. Baka - I had a couple questions for Mr. Madrigal. I just  
472 wanted to clarify. This process for a conditional use permit would not go through  
473 the Planning Commission and the Board of Supervisors. This would go to one  
474 public hearing at the Board of Zoning Appeals. Is that correct?

475

476 Mr. Madrigal - That's correct.

477

478 Mr. Baka - So as the Board of Zoning Appeals would consider  
479 this, is there a draft also that goes beyond the ordinance of what the criteria

480 would be for approval? Or are there criteria from other communities in Virginia? I  
481 saw you had a matrix of other localities. What would they use to decide the  
482 merits of whether or not a case would be approved? Are there any comparable  
483 criteria you could determine from other counties in the next, month maybe?  
484

485 Mr. Madrigal - That's a good question. I guess we won't know until  
486 we get there. But generally when we do process Conditional Use Permits, as a  
487 staff planner, we look at the underlying zone of the property, we look at the  
488 composition of the neighborhood. When we put boots on the ground, we're  
489 looking at the condition of the property. In this instance, it could be that we enter  
490 into the house and take a look at the inside of the property to see what condition  
491 it's in and what's going on, how many bedrooms we're dealing with, what the  
492 parking situation is. So we'll look at the property in its totality, and at that point  
493 we'll start coming up with conditions maybe beyond what's in the code here as  
494 special conditions of approval. What those would be, I can't tell you because it's  
495 probably going to depend on each individual property and the composition of  
496 what's going on in the neighborhood, parking situation on the street.  
497

498 Mr. Baka - Okay. That type of future framework which gives  
499 some illustration to the general concept that the Conditional Use Permit being  
500 approved shall not adversely affect the health, safety, or welfare of the  
501 neighborhood, that would be most helpful down the road.  
502

503 Mr. Madrigal - The last thing we want to do is create a nuisance  
504 situation by way of a Conditional Use Permit. So that's why we impose these  
505 conditions to avoid that situation.  
506

507 Mr. Baka - And then in those conditions, is it correct for me to  
508 say that there would be some type of standard also for a revocation process if  
509 there were certain items or certain instances that a neighbor has seen that were  
510 an objection to this, and the BnB was not being operated in a safe manner?  
511 Would there be some way to revoke the permit by the BZA?  
512

513 Mr. Madrigal - Yes, and actually, we would probably get a quicker  
514 result going through the registry. I don't know if Andrew would want to come back  
515 down and address that aspect of it, the code enforcement aspect of the registry if  
516 we have too many complaints on a particular property.  
517

518 Mr. Emerson - The registry is really where the teeth are located in  
519 this regard.  
520

521 Mr. Newby - I'd be glad to address that specifically. When the  
522 General Assembly enacted the law last year that gave us the authority to institute  
523 a registry, one of the protections they put in was that if there are a certain  
524 number of violations of any law affecting the use of the property in this manner.  
525 Once they add up to a particular number—and I think it's three—they can be

526 prohibited from renting that particular property as a short-term rental, period. So it  
527 has that kind of protection in it.

528

529 And that, interestingly enough, is not enforced through the Zoning Ordinance,  
530 which is part of the reason why it's not in front of you. The registry is not part of  
531 the Zoning Ordinance. But that's also a good thing, because enforcement of  
532 something outside of the Zoning Ordinance is easier, actually, than something  
533 that's in the Zoning Ordinance.

534

535 Mrs. O'Bannon - Who would enforce it?

536

537 Mr. Newby - I don't want to designate staff.

538

539 Mr. Emerson - That has yet to be determined.

540

541 Mrs. O'Bannon - Okay.

542

543 Mr. Newby - I could imagine my office having a role in perhaps—  
544 okay, I'll leave it at that.

545

546 Mr. Emerson - That's good.

547

548 Mr. Newby - Yes, all I can do is speculate.

549

550 Mr. Leabough - Now it's kind of coming to me. So it sounds like we're  
551 better positioned in terms of having the registry in place in conjunction with  
552 allowing the uses by-right. That's where I'm kind of struggling here, because all  
553 we see is the ordinance itself. But like you said, Mr. Emerson, the teeth are in the  
554 registry itself.

555

556 Mr. Emerson - More so they're in the registry. And they'll move  
557 forward to the Board at the same time. If we can get the registry settled between  
558 now and—that's one of the reasons I wanted you to wait until July 12th. I would  
559 like to give you a rough draft of the registry. I think the public would like to see it.  
560 And a couple of other things that I'll mention to you when we conclude our  
561 conversation that I'd like to do between now and the twelfth.

562

563 One of the other things I'd like to touch on, too, in regard to the BZA. I wouldn't  
564 want to put forth an overall structure of how one would be approved because  
565 each one is individual. And I would never want to give the impression that if you  
566 check off all the boxes that the BZA is automatically going to approve you. There  
567 is one critical component, and that is the input from the neighborhood. They may  
568 be approved; they may be denied. Each one is unique within its own situation,  
569 and I don't think we would want to put forth, you know, XYZ criteria and you're  
570 halfway there. As we develop it along over time, as we do with provisional use  
571 permits for extended hours, for example, we may have certain conditions you

572 would see repeat themselves. But also you'll see unique conditions on some, and  
573 in some instances you'll see them denied, I would think.

574

575 Mr. Baka - Thanks.

576

577 Mrs. O'Bannon - I have a question that is not complicated. There is  
578 limit on—and it's whoever wants to answer it. You have a limit on the number of  
579 people, two per bedroom. And you have the issue of numbers of bedrooms. Then  
580 we have complaints. Those are three that we're hearing. The Airbnb facilities that  
581 I know about, they did have a lot of people, so you've address that. But I'm  
582 thinking in terms if somebody has several bedrooms, and they've got an aunt or  
583 an uncle there, and this person is coming, can they put them in the living room or  
584 the dining room in a bed? When you say "bedroom," does that mean this person  
585 must stay in a bedroom?

586

587 Mr. Madrigal - The way the code reads, it's the number of available  
588 bedrooms for the rental. So the owner/operator would have to designate how  
589 many of those bedrooms are going to be for that short-term rental. If they have  
590 kids or family in one of the bedrooms, then I would assume they wouldn't use  
591 that.

592

593 Mrs. O'Bannon - That's what I'm thinking. I'm kind of thinking of it both  
594 ways. But by limiting the number of people, you've helped.

595

596 The other thing I'm thinking is if it is by complaint—the only reason I brought it up  
597 if somebody ends up in a dining room, they might complain. Is there a sign that  
598 would be put in there, if you have a complaint, call this number or call this person  
599 or contact this location, or the registry number or something like that?

600

601 Mr. Madrigal - No, there's nothing like that in ordinance.

602

603 Mrs. O'Bannon - So if the person who is renting has a complaint—

604

605 Mr. Madrigal - Generally, if there is a complaint, first off you're going  
606 to see it on the platform itself. This is a very tight-knit community. The Airbnb  
607 users use a platform to recommend each other and also to rate the facilities and  
608 the operators.

609

610 Mrs. O'Bannon - But I want to make sure our registry people get those  
611 complaints. That's all I'm saying. I want to make sure that we hear it.

612

613 Mr. Emerson - The number of rooms and what occurs in terms of  
614 what's going to be rented, all that will be defined at the time they come in to get  
615 their initial permit to operate. Once they've got that license, we're going to be  
616 complaint-based in terms of responding. We don't have staff to go out and police  
617 these things.

618

619 Mrs. O'Bannon - Oh, no. I understand that part. But that's what I  
620 meant. If the bedroom suddenly becomes unavailable, and they stick the person  
621 in the sofa bed in the den, this BnB person renting wants to make a complaint,  
622 I'm [unintelligible] that too.

623

624 Mr. Emerson - As Mr. Madrigal said, the first place we would  
625 probably see that would be if we were monitoring the Airbnb website. If you're  
626 going to stay in a hotel, and you're curious about that, you'll look on any of  
627 various platforms. You can get rankings of that hotel by people that have stayed  
628 there. That's very similar to what you see on the Airbnb website. So that's the  
629 first place a complaint's going to appear.

630

631 Mrs. O'Bannon - I think Mr. Revels gets the complaints for the hotels in  
632 the area, don't you, Mr. Revels?

633

634 Mr. Emerson - It's certainly not something that—that is a little bit of  
635 an unknown for everyone. But it's part of the new economy.

636

637 Mrs. O'Bannon - And understanding that we are trying to use  
638 restraints, and we want feedback, and we want to make sure that the neighbors  
639 are okay.

640

641 Mr. Emerson - Yes ma'am.

642

643 Mrs. O'Bannon - We're trying to build something that is not so  
644 restrictive that people won't use it or can't use it, but also we are very sensitive to  
645 the neighborhoods.

646

647 Mr. Emerson - Yes ma'am. The balance we're trying to hit is to allow  
648 people use of their property that belongs to them, but also protect the integrity of  
649 neighborhoods, which that's why people move into neighborhoods. I think that  
650 goes back to Mr. Leabough's comment about the districts that they're allowed in.  
651 And that's certainly where we're looking for input on from the five, six of you, and  
652 also from the neighborhoods—so we were hoping for a little bit better turnout  
653 tonight from the operators—to understand where is that balance. And are there  
654 certain residential districts that you would prefer not to see it in? Are there some  
655 that you consider too dense for these types of uses? I don't know. That's what  
656 we're looking for your opinion on and the input from the community to make  
657 those determinations. This is a starting point, what we have in front of you.

658

659 Mrs. O'Bannon - I'm going to assume—since RTH, you've said they  
660 don't have to be hosted?

661

662 Mr. Emerson - You can have an unhosted stay, but it has to go  
663 through the BZA and get a conditional use permit. So you can have a hosted

664 stay. And certainly in a townhome—I know from just perusing the Airbnb site  
665 myself there are rooms in townhomes being rented in Henrico County.

666  
667 Mr. Leabough - So the thought here is that it's already happening  
668 without our knowledge. So this actually protects us in a way that we now have a  
669 process by which we can address the situations that may not be the best for the  
670 community?

671  
672 Mr. Emerson - Correct. Currently, it's an illegal use in the county,  
673 period. It's not allowed in the Zoning Code. But our process for addressing that is  
674 to issue a Notice of Violation. Under the state code you have thirty days to rectify  
675 that. If it's rectified within thirty days, we have no recourse. And somebody may  
676 turn around and do it again. That's where the registry comes into effect because  
677 it allows fines, you can remove someone from the registry and essentially shut  
678 them down. Certainly, there was a question about the conditional use permit and  
679 how long it may run. If there's no limitation, it could run with the property for the  
680 period. The BZA may very well see fit for one that they issue to only issue it for  
681 two years or three years or one year, and they can come back for some sort of  
682 review, be it administrative or in front of the Board of Zoning Appeals. There are  
683 a lot of different things that can happen. And that might be on ones in  
684 neighborhoods that are more sensitive than others to the use. There are a lot of  
685 different things with this that could possibly happen.

686  
687 Mr. Leabough - Quick question, Mr. Emerson. Were you done? I'm  
688 sorry.

689  
690 Mr. Emerson - I was finished, sir.

691  
692 Mr. Leabough - Okay. Is there a penalty for not registering? Let's say  
693 you have an operator that just refuses to register, but we know the use is  
694 occurring, is there a penalty for that?

695  
696 Mr. Madrigal - There would be a penalty in the registry—

697  
698 Mr. Leabough - In the registry.

699  
700 Mr. Madrigal - If you're doing that use, you must register. That's  
701 state law.

702  
703 Mr. Emerson - Is it limited to \$500? Am I remembering that correctly,  
704 Mr. Newby? But we could set anywhere from zero to five hundred, is that right?

705  
706 Mr. Newby - Correct. It can be set anywhere from zero to five  
707 hundred. And if they fail to register, they are forbidden to continue the use until  
708 they pay the penalty, pay the registration fee, and properly register. Then you  
709 mentioned earlier that if there are three or more violations of other laws, like



710 zoning laws, on more than one occasion, they can be prohibited from ever  
711 renting the property again.

712

713 So that's where the two really marry. The Registry Ordinance will be looking to  
714 the Zoning Ordinance for what are the rules, what the violations that can prevent  
715 them in the future from renting.

716

717 Mr. Leabough - Thank you. I think I'm starting to like this now. I'm  
718 coming around.

719

720 Mr. Emerson - I do think you need to see the registry. Even though  
721 you can't consider it, I think you need to understand it, have it in front of you and  
722 how it interacts with your Zoning Code, because that's an important piece.

723

724 Mr. Leabough - Thank you.

725

726 Mrs. Marshall - Thank you. At this time, I would like to invite the  
727 citizens. If you would like to speak, you can come forward one at a time. Please  
728 state your name when you get to the podium.

729

730 Ms. Acosta - Madam Chairwoman, Commission representatives,  
731 good evening. My name is Valerie Acosta, and I live in the Three Chopt District.  
732 I'm here tonight to voice my opposition to the proposed short-term rental  
733 amendment. My concerns are based on having lived directly across the street  
734 from an Airbnb for over 2-1/2 years. I know firsthand how lack of clear County  
735 regulations can significantly and negatively impact a beautiful Henrico  
736 neighborhood.

737

738 While I appreciate the spirit of this amendment, to limit Airbnbs to operating only  
739 thirty days per year, the proposed changes as I have read, that were provided to  
740 me—as well as my husband Robert and I attended the work session—are not  
741 clear enough. They're not tight enough. And they're simply not good enough for  
742 Henrico County.

743

744 Having an Airbnb on our street has been a major disruption to our neighborhood.  
745 Zoning's proposed short-term amendment does not address many of the key  
746 concerns that we have been sharing with the County for the past three years. For  
747 example, the amendment, in my opinion, and after having read it, does not  
748 clearly state that the homeowner must be on the premises when the home is  
749 rented. They are allowed to have a responsible party to be there. And it only  
750 states that that person must have a phone number provided twenty-four hours a  
751 day, seven days a week. So this proposed amendment will mean that people can  
752 check in at all hours of the night. There may or may not be someone on the  
753 premises to monitor the activities, and we can't ensure the safety of our home.

754

755 Additionally, this proposed amendment does not limit the total number of rooms  
756 that can be used and rented out. It clearly—it defines spaces. By not clearly  
757 stating exactly how many rooms can be rented in an Airbnb, you're leaving it  
758 open to the host to convert living rooms, dining rooms, and other spaces into  
759 bedrooms. Our neighbor rented her home on Airbnb to sixteen people. Air  
760 mattresses were used and listed as accommodations. And she converted her  
761 living and dining rooms into bedrooms. Your proposed amendment will allow this  
762 to continue.

763

764 In the current Zoning Code, other home businesses are restricted from using  
765 more than a quarter of the total space for business purposes. At a minimum, I  
766 believe the same should apply to Airbnbs.

767

768 In areas of our county where you have larger homes, your amendment would  
769 allow up to twelve to fourteen people per night to rent a home. I don't believe our  
770 neighborhoods were designed for this added traffic or parking. And I know  
771 firsthand the noise and disruption that can be caused by six cars pulling up at  
772 midnight to check into an Airbnb across the street. We don't want this in our  
773 neighborhoods. We ask that you please not permit it.

774

775 We would like to see the County prohibit short-term rentals in all R-4 areas. All  
776 Henrico County residents who purchased their single-family homes did so  
777 knowing that short-term rentals were not permitted. If homeowners would like to  
778 make money renting out part of their homes, they can do so legally with no  
779 changes to the zoning amendment by renting out on a long-term basis. We ask  
780 that you continue this practice. To do otherwise is to give priority and preference  
781 to the 200-plus illegal Airbnb owners and operators who are currently operating  
782 in the county. And you're allowing them to negatively influence the safety, peace,  
783 and harmony of all of Henrico County.

784

785 I've heard from zoning officials that the County has had few complaints about  
786 Airbnbs. I believe that Henrico County is assuming that because there haven't  
787 been many complaints that residents want Airbnbs. I do not agree with this  
788 assumption. I ask that before the County would move forward with this proposal,  
789 you put a sign in the front yard of every home currently listed on Airbnb or VRBO  
790 who is currently operating, designating it as such, and wait sixty days to see what  
791 you hear from county residents. Because there have not been complaints does  
792 not mean that the citizens of Henrico want Airbnbs in our community.

793

794 I ask that you further delay moving forward with this amendment to address the  
795 concerns brought forward tonight. My husband and other neighbors will also  
796 speak on this. If you do move forward with the short-term rental amendment, I  
797 ask that you clearly spell out—because I don't believe that it is clearly spelled  
798 out—that the homeowner must be home during the time that the home is rented.

799

800 I ask that you limit the space that can be rented to no more than a quarter of the  
801 total space that's required of other businesses. I own a small business. I'm a  
802 licensed professional counselor in private practice. I do not work out of the home.  
803 But I am very concerned that you are not taxing Airbnbs, and you're not requiring  
804 them to get business licenses. I would ask that anyone who is applying to the  
805 registry, that these operators have to get a business license and be taxed like all  
806 other businesses. By not taxing them, you're incentivizing them. You are also  
807 discriminating against all other current business owners in the county.

808

809 I don't see how the County is also going to be able to enforce this amendment. If  
810 you can't possibly keep track of the days that a home is rented on Airbnb, I don't  
811 know how you're going to enforce this. If you look on Airbnb, after each month  
812 passes you cannot go back and see the number of days that a home was rented.  
813 So by saying that we're only allowed to rent for thirty days, there really is no way  
814 to keep track of that. I ask that if you cannot enforce this amendment, that you  
815 please not move forward with it.

816

817 In conclusion, three months ago something wonderful happened. The Board of  
818 Zoning Appeals shut down the Airbnb directly across the street from us. I'd like to  
819 tell you what's happened since that time. Children are riding their bikes on our  
820 street again. Their parents are no longer afraid that every weekend there are  
821 sixteen strangers at the home. Parents no longer have to drive their children to  
822 the bus stop because they have no idea who's staying on our street. Neighbors  
823 are outside talking again. They're cleaning their yards. They're enjoying the  
824 benefits of their hard-earned labor and their homes. We have our neighborhood  
825 back, and we love it.

826

827 We're grateful to the Board of Zoning Appeals for their decision. We believe that  
828 if any Airbnb owner has had their home shut down by the Board of Zoning  
829 Appeals that that homeowner should never be allowed to reopen their Airbnb  
830 again.

831

832 I ask each of you to think about this. After reading the proposed amendment, I'd  
833 like you to think about this summer coming up. I'd like you to think about from  
834 June until September 15 weekends. I'd like you to think about the two houses  
835 that are on each side of you and imagine fourteen to sixteen people coming to  
836 those homes, checking in at midnight, leaving early in the morning, slamming  
837 their doors. And imagine there are three barking dogs in the backyard because  
838 three pets are going to be permitted. And they'll be allowed to keep those  
839 outside.

840

841 I don't think this is what you want or how you want to spend your summer. I don't  
842 want to spend my summer that way, but this is what the amendment will allow.  
843 Please save our neighborhoods and keep us safe. Other communities do not  
844 permit short-term rentals. Let's be that kind of community. Please do the same.

845

846 I've heard it mentioned—I think the words were “the new economy.” I would like  
847 to see Henrico [unintelligible] none of us signed up to live next door to this. And I  
848 ask that you please not allow it. Thank you.

849

850 Mrs. Marshall - Thank you.

851

852 Mr. Barkovich - Hi, I'm Tom Barkovich. I live in the Three Chopt  
853 District. In addition to that, I lived next door to the bed and breakfast or the Airbnb  
854 that Valerie had mentioned. She took all of my thunder. She did a great job,  
855 better than I would do. However, I do have some concerns.

856

857 I heard about regulations and monitoring. This is going to put a cost on the  
858 County that's unnecessary. We don't need Airbnbs here to monitor. We don't  
859 have to have that. I don't know who is going to benefit from an Airbnb in this  
860 county. If there are 200 Airbnbs that will benefit from it, there are going to be  
861 200,000 homes like mine that will not benefit from it.

862

863 There is a small number of people here opposed to this because no one knows  
864 that it's happening. No one knows that someone's going to act on this today or  
865 have it proposed today. We just happened to be concerned citizens and we're  
866 aware of it. That's why we're here. I don't know why all the citizens couldn't be  
867 aware of this. Why couldn't this be put to a vote in November and allow this to  
868 happen, rather than six people making a decision whether they should change  
869 zoning for 200-and-some people that want to advance their finances?

870

871 I see a lot of loopholes in this proposal. I'm not going to mention them because I  
872 hope this proposal doesn't come about. I'm not even going to mention it. But I do  
873 have some concerns. You mentioned three pets. Are you aware that there are  
874 people who have pigs as pets, and horses and other things like this? If you want  
875 to put “pets” in there, you better define what kind of pets you're looking at. I don't  
876 want a horse next to me.

877

878 I don't know what kind of revenue will come about from a bed and breakfast or  
879 Airbnb. And will the County benefit from it? I certainly am not going to benefit  
880 from it from a revenue standpoint.

881

882 I think it's going to affect the motels and the hotels in the county. I think if you're  
883 looking at tourism, we ought to talk about planning more hotels and more motels.  
884 I think this proposal is taking us back to a hundred years ago when my  
885 grandparents had boarders in their house because there wasn't enough housing  
886 and enough hotels. I think we're a progressive county; that's why I live here. I  
887 love this county, and I think it is progressive, and I think we're going backwards  
888 by putting these Airbnbs in and affecting our well-being in our neighborhoods.

889

890 Please consider eliminating this proposal.

891

892 Mrs. Marshall - Thank you.

893

894 Mr. Acosta - Hello, I'm Robert Acosta. I'm Valerie's husband.  
895 Three Chopt District.

896

897 First of all, Airbnb, no go. They shouldn't be in Henrico. I'm just opposed to them.  
898 The thing is, leave it the way it is. Make a phone number so you can complain  
899 about it if they're causing problems. If they're not causing problems, just let them  
900 go. If they are causing problems, then give us some way for the neighborhood or  
901 the neighbors to contact the County. It took us two years to get—it would be  
902 three years. A year of it we didn't know who to contact. And finally we got some  
903 action after two years, and then we still had to come in here. And now we're still  
904 going to have to come in here on July 12th and continue this. It's becoming our  
905 life trying to protect our neighborhood. So basically prohibit them.

906

907 But seeing the way it's being pushed anyhow despite people being opposed to  
908 it—I don't know if there are any Airbnb people here. But 90 percent of the people  
909 are opposed here, and there could be one Airbnb person here, it should be  
910 prohibited.

911

912 Primary residence occupied for at least 185 days out of the year. If there is going  
913 to be an amendment on this thing, that means that they should have the Airbnb  
914 during that 185 days in the year when they're there. They need to be there. Make  
915 sure that's part of it.

916

917 Thirty days of the year is fifteen weekends. That's two nights every weekend. So  
918 fifteen weekends. So pretty much my whole summer I'm going to have to have  
919 cars parked in the cul-de-sac, people having to watch their children because they  
920 don't know who's there each weekend. We're going to be wondering who's  
921 walking around the neighborhood at night. Are they looking for the Airbnb, are  
922 they drunk, are they coming across over to us? Whose car is coming into the  
923 neighborhood? All summer they're going to be set, unless they spread it out over  
924 the whole year. Then we're suffering all year.

925

926 If this goes forward despite county residents not wanting Airbnbs, the following  
927 should be considered. First of all, criteria for approval. When an Airbnb person  
928 wants to get approval for it, they should be required to bring a form around the  
929 neighborhood and have the immediate neighbors, all eight points of their house,  
930 sign that they agree that they can rent an Airbnb. And bring that back to the  
931 County so that the County can know that everybody approved it. If the Airbnb  
932 person doesn't get permission, then they don't get it. All those people  
933 surrounding that house are going to either suffer or benefit from that person  
934 renting an Airbnb. If you can't do that, post a sign in front of somebody's house  
935 that's requesting to become an Airbnb so that the neighbors have a chance to  
936 call that number and voice their desire not to have an Airbnb in the area. And  
937 make sure that the people calling put their address on there so you know that it's

938 not Airbnb's friends calling up to say that they're approved when it's actually not  
939 the neighbors calling about it. So you can have legitimate neighbors calling to  
940 voice whether they approve or not.

941

942 The County website should post addresses and names of people responsible for  
943 the Airbnbs so that neighbors can go on the site and go oh, that's an Airbnb, I'm  
944 not going to buy my house in Henrico; I'm going to go over here to Chesterfield  
945 or somewhere else. Or maybe they're not going to buy it on that street; I'm going  
946 to move over here. So the County should post the addresses and names of any  
947 Airbnbs. And have a number on there so the people know who to contact if they  
948 have problems with that Airbnb.

949

950 Airbnbs shut down by the County should not be allowed to drain further County  
951 funds by reopening under the same owner. Once they're shut down, shut them  
952 down.

953

954 Airbnb, like every other business in Henrico, should have to post a sign in front of  
955 their home when they're renting. Every other business in this county has a sign in  
956 front of it stating they're running a business. When they're running an Airbnb,  
957 they should post a sign out front to let the neighbors know that at that point in  
958 time they're renting. Okay, we understand that they're renting. If they don't have  
959 their sign there, then if somebody's messing around in the neighborhood, we  
960 know that these people don't belong in the neighborhood, we have to watch  
961 ourselves.

962

963 Airbnb hosts should be required to be on site from dusk to dawn, the same thing  
964 with bed and breakfasts, hotels, everything. There should be required hours  
965 where an Airbnb host needs to be on site and be there living with the person who  
966 they're renting their home to, just like the rest of the neighborhood has to live with  
967 those people that are renting that home. They are subjecting the rest of the  
968 neighborhood to accepting their business, so they should be there to represent  
969 themselves.

970

971 Airbnb should have acceptable check-in times and check-out times. Just like any  
972 business, they open at a certain time and they close at a certain time. The people  
973 showing up for the Airbnb should be within a reasonable time period. And after  
974 that time period, nobody should be showing up at the home, checking in and  
975 checking out in the middle of the night, moving bags, and unpacking luggage.

976

977 The problem we had is you'd have the initial person showing up for the Airbnb.  
978 They'd pull the key out of a lockbox there. They'd never see the owner. Then two  
979 hours, three hours later in the middle of the night, the rest of the group shows up  
980 because they're driving from out of state. We have three or four cars showing up,  
981 driving around, people laughing. They're on vacation, but the rest of the  
982 neighborhood's working. They're showing up making noise, slamming doors and  
983 stuff. And in the morning, they're all getting up and disappearing.

984

985 If animals are allowed, they should require the yards to be fenced. The one  
986 across the street doesn't have a fenced yard. If they are allowed pets, the dogs  
987 could run outside of that. We don't know these dogs. The dogs are in an  
988 unfamiliar area. Animals are not used to being in an unfamiliar area. They  
989 become nervous. Which means these dogs could run around the neighborhood  
990 and bite people.

991

992 The number of guests should be limited to what tax records state the home is. If  
993 it's a three-bedroom home on taxes then the primary resident should take one  
994 bedroom. If they register and they have children, then that's two bedrooms,  
995 because I don't think they're going to—if they have a three-bedroom, they might  
996 be splitting it up. Then that they have one room to rent. If it's just a couple, then  
997 maybe they have two rooms to rent. But you go off what tax records say the  
998 number of bedrooms are. The zoning thing says bedrooms and spaces. Spaces  
999 don't count as bedrooms. I'm almost done here.

1000

1001 Revoke permission. There should be a certain number of complaints that they  
1002 get so that you can revoke permission for them being an Airbnb. Neighbors  
1003 shouldn't have to take—this shouldn't be a long, drawn-out process. It's a  
1004 privilege; it's not a right.

1005

1006 A short-term rental operator needs to be limited to the owner of the residence. If  
1007 the owner rents out the house to somebody else, and that renter decides to rent  
1008 it out on Airbnb and stuff, the neighbors are not going to know that renter as well,  
1009 first of all, because they're renting. We don't know how long they're going to be  
1010 there. And then they're going to be bringing other people into that neighborhood  
1011 that the neighbors don't even know. It should be limited to the owner of the  
1012 residence. And if they're the owner of the residence, they're living there anyway  
1013 because they're the primary party.

1014

1015 That's good. I think I covered everything. That's just my thoughts. I hope you  
1016 think about some of the things I said, and maybe some of them can be applied to  
1017 the zoning thing. But honestly, I'd rather us not have Airbnbs. The County doesn't  
1018 need to be spending funds. I don't want my tax dollars going to support it. And if  
1019 you're going to do it, then it should be annually. And charge them a reasonable  
1020 amount to support this thing so you can get a decent website and decent  
1021 enforcement rules in place. That's all I'm going to say. Thank you very much for  
1022 listening.

1023

1024 Mrs. Marshall - Thank you.

1025

1026 Mr. Baka - Thank you.

1027

1028 Mrs. Marshall - Any questions from the Commission? At this time, I  
1029 move to continue the hearing on—

1030  
1031 Mr. Emerson - You have someone else.  
1032  
1033 Mr. Rogers - [Off microphone] Can I be heard?  
1034  
1035 Mrs. Marshall - Yes you may. Sorry. Please state your name when  
1036 you come to the microphone.  
1037  
1038 Mr. Rogers - Hi, folks. My name is Bill Rogers. I have an Airbnb. I  
1039 wasn't going to say anything. But I listened to these people, and I empathize with  
1040 them and really sympathize with them quite a bit. It sounds to me like you have a  
1041 neighborhood that might not be conducive to it. And I get that.  
1042  
1043 I have a house that has four bedrooms, and I keep up to eight people there. As  
1044 far as I know, I've never had a complaint from anybody because nobody's ever  
1045 contacted me. I do everything I can to ensure that this place is first rate. I actually  
1046 rented this house out to long-term rentals for a long time. What I found was that  
1047 when people moved out, no matter what I tried to do, they trashed my house.  
1048 This last time, which was about two years ago, it took me about thirty days to get  
1049 my house back in order. And that's even with me asking them to do things and  
1050 inspections.  
1051  
1052 My Airbnb gets cleaned every week that someone's in the there. And it is  
1053 absolutely pristine. I keep the grounds nice. I try to make it as nice as possible.  
1054 You guys I'm sure have looked at Airbnb websites, and you see ratings, and we  
1055 strive for five-star ratings so that we don't have issues from people.  
1056  
1057 I don't have a problem with your tax. I think if I have a four-bedroom, and I use it  
1058 as a four-bedroom, I guess I would be subject to the hotel tax. I don't really have  
1059 a problem with that. And I don't have a problem with the Conditional Use Permit.  
1060 I think it's a good thing. In fact, I think that takes care of an awful lot of the  
1061 problems that these people have had because the neighbors would have input  
1062 into the Conditional Use Permit, as Mr. Emerson said. So I think that would take  
1063 care of a lot of your problems. I'm all for that. So reasonable regulation, I think,  
1064 that at least has been proposed I think is a good thing. And I'd be happy to help  
1065 with those guidelines in order to come up with ways to keep the properties  
1066 neighborly, friendly.  
1067  
1068 Mr. Baka - Sir, could you please state your name and your  
1069 address for the record?  
1070  
1071 Mr. Rogers - Are you all going to come by my house?  
1072  
1073 Mr. Emerson - No sir, no sir.  
1074



1075 Mr. Baka - Could you state your name for the records, restate  
1076 your name for the record, just your name?  
1077

1078 Mr. Rogers - Sure. It's Bill Rogers. And it's 5401 Dickens Road.  
1079

1080 Mr. Baka - Thanks.  
1081

1082 Mr. Rogers - I'm in Brookland. Every year that I've had Airbnb, I've  
1083 called the Planning Commission asking if I could pay taxes. Up until this came  
1084 about, I got an email from Mr. Blankinship. I hadn't heard that there was that  
1085 much interest, and they seemed to think that there wasn't that much interest. I  
1086 feel like that there probably are some complaints, but I imagine there aren't that  
1087 many complaints relative to complaints in non-Airbnb houses and  
1088 neighborhoods. Again, I feel like you guys have had a really terrible experience,  
1089 and I'm sorry for that.  
1090

1091 Mr. Leabough - I wasn't going to say anything, but I think what this  
1092 requires is robust communication. People may not be complaining because they  
1093 don't know who to complain to. So I think that there needs to be a robust  
1094 communication's process whereby people know about the registry, know how to  
1095 make complaints. Because a lot of times what I've found in the community is that  
1096 you don't know what you don't know. You don't know who to complain to about  
1097 tall grass. You don't know who to complain to about a lot of things like noise  
1098 ordinance complaints. We kind of, being in this field, take for granted the amount  
1099 of information that we know in terms of who to complain to about what. I think it  
1100 would be important that people in the community know front and center who they  
1101 can complain to about what, as it relates to problems with these properties.  
1102

1103 The other concern that I have relates to on-street parking. Living in a  
1104 neighborhood that has an Airbnb, there have been some challenges—and I'm  
1105 just being candid here—about parking. They're advertising now on Airbnb the  
1106 ability to have up to twelve guests at one time in a basement that's only 1,000  
1107 square feet. So concerns about properties that are served by water and septic.  
1108 That may be a concern. I don't think they were built to handle that much traffic or  
1109 that number of people living there.  
1110

1111 The other piece to this is the challenge that we've experienced relate to  
1112 neighbors having cars parked in front of their homes consistently. This is not the  
1113 neighbors having cars where the guests are parking there. It's the owner who  
1114 parks there to allow their guests to park in the driveway. So it's not a periodic  
1115 thing; it's an ongoing thing. If there are four people living in a home, and every  
1116 person has a car or two, that's a lot of cars that are being parked in front of their  
1117 neighbors' homes. So maybe something to consider would be to limit, if we can—  
1118 there may not be, because it's a public street—parking in the front of other  
1119 people's homes, especially during holidays and things like that when you want to  
1120 have cookouts and family over.

1121  
1122 I'll just throw that out there just to kind of close this, unless other folks have  
1123 comments.

1124  
1125 Mrs. Kotula - I agree with your parking concerns. Coming from a  
1126 neighborhood where not everybody has driveways, there are parking issues with  
1127 just the residents. So if you add this onto it, I think it could exacerbate that.

1128  
1129 Mr. Emerson - Madam Chair, if there's no one else here to speak to  
1130 this tonight, I have a couple of suggestions. Number one, I will point out to you—  
1131 Ms. Kotula reminded me—that the package you received from me on the  
1132 nineteenth did contain a draft registry ordinance. So you might want to take a  
1133 look at that. It is in rough draft; I think it's missing a few things. So we'll work a  
1134 little more on that. When we come back on the twelfth, we will be able to provide  
1135 you, I hope, more information, possibly fill some numbers out, and maybe make  
1136 a few adjustments based on what we've heard tonight.

1137  
1138 A couple of reasons why I wanted to go out to the twelfth. One was to give us a  
1139 little more time to get the registry together and work on the ordinance a little  
1140 more. I do want to do a direct mail, if I can, to the Airbnb community because I  
1141 don't think we got a good feeling tonight from their side. Mr. Rogers, I appreciate  
1142 your input, as well as the neighborhoods, because there are two folds to what I'm  
1143 saying here.

1144  
1145 One, I have to reach out to a third-party vendor in order to be able to extract all  
1146 the folks that are advertising on the different platforms on the internet. So I'm  
1147 talking with some of those vendors now. So hopefully between now and I would  
1148 hope within thirty days of the twelfth I will be able to pull that list of operators and  
1149 their addresses from the internet and send them a mailer to let them know of the  
1150 twelfth meeting so we can get them here.

1151  
1152 Also, other than advertising in the newspaper, it's a little hard to get to the  
1153 communities. But I did want to make an effort to direct mail all the homeowners  
1154 associations that we have registered in an effort to try to get the word out into the  
1155 communities that we also have this under consideration. State code only requires  
1156 that you advertise in the newspaper. We can't direct mail every resident of the  
1157 county. It's a balancing act, but we'll try to notify people as best we can. And  
1158 certainly word of mouth, I would encourage the neighborhoods to work to get it  
1159 out so we can get full input when this comes back on the twelfth.

1160  
1161 With that I'd ask the Commission to continue this hearing to July the 12th. Not  
1162 knowing the agenda at that time, we will advertise the time of the hearing on the  
1163 twelfth.

1164  
1165 Mrs. O'Bannon - I have one comment to make, and it can either be  
1166 before or after the vote, but I'll go ahead and say it.

1167

1168 We've heard that you have a hard time figuring out who you should call and who  
1169 you should contact. For anything, whether it's a dog roaming at large, the County  
1170 has a website. So googling Henrico County, getting a website. Also, the County  
1171 is working on an app. With that in mind, you could go to that and write in what it  
1172 is your concern is, and you would get an answer of who you could call. The point  
1173 is yes, we are trying to work on these communication techniques. Going online to  
1174 Henrico County, it says "search." Type in what it is, and you should be able to get  
1175 an answer there.

1176

1177 Mr. Archer - Madam Chair, I just wanted to make a comment. First  
1178 of all, I want to compliment the folks who came in here from your neighborhood.  
1179 You all were well prepared. You did your research. I think it gave us an eye-  
1180 opener as to what can happen. I'd also like to compliment Mr. Rogers because  
1181 his story is almost diametrically opposed to what happened. So there are a lot of  
1182 individual circumstances here that it's going to be difficult to try to contain under  
1183 one roof. I promise you Mr. Secretary will back me up on this. We'll do the best  
1184 we can to try to do that. It's easy to just say no, and then it's not easy to just say  
1185 no.

1186

1187 BnBs are relatively new here. I think I can remember when the first one was  
1188 approved maybe ten, twelve years ago in the Brookland District.

1189

1190 Mr. Emerson - Probably around twelve. Yes sir.

1191

1192 Mr. Archer - Yes I remember. But in other places in the country,  
1193 they've been around for a long time. So each circumstance is very unique. We'll  
1194 do our best. And I hope you all will come back on the twelfth and help us as we  
1195 try to sort through all of this. You, too, Mr. Rogers.

1196

1197 Mrs. O'Bannon - I would like to add the reason we started this is  
1198 because of you. We learned of your situation, and we realized we needed to do  
1199 something. Mr. Branin brought this up to the Board and asked us to start this  
1200 process, asked the Planning staff to start this process. So your voice has been  
1201 heard.

1202

1203 Mrs. Marshall - At this point, I move to continue the short-term rentals  
1204 ordinance until the July 12, 2018 meeting.

1205

1206 Mr. Archer - Is that a motion?

1207

1208 Mrs. Marshall - It's a motion.

1209

1210 Mr. Archer - Second.

1211

1212 Mrs. Marshall - We have a motion by Mrs. Marshall, a second by  
1213 Mr. Archer. All in favor say aye. Those opposed say no. This motion passes.

1214

1215 Mr. Emerson - Madam Chair, we now move on to the next item on  
1216 your agenda, which appears at the top of page 2. Again, it's an ordinance  
1217 consideration. The staff report will be presented by Mr. Ben Blankinship.

1218

1219 **ORDINANCE -** To Amend and Reordain Section 24-3 Titled  
1220 "Definitions," Section 24-32 Titled "Principal uses permitted," Section 24-51 Titled  
1221 "Principal uses permitted," Section 24-54.1 Titled "Principal uses permitted,"  
1222 Section 24-57 Titled "Development standards and conditions for permitted uses,"  
1223 Section 24-58.1 Titled "Principal uses permitted," Section 24-61 Titled  
1224 "Development standards and conditions for permitted uses," Section 24-62.1  
1225 Titled "Principal uses permitted," Section 24-66 Titled "Principal uses permitted  
1226 (subject to the conditions required in section 24-69)," Section 24-68 Titled  
1227 "Accessory uses permitted," Section 24-70 Titled "Principal uses permitted,"  
1228 Section 24-72 Titled "Accessory uses permitted," and Section 24-96 Titled "Off-  
1229 street parking requirements" of the Code of the County of Henrico. This  
1230 ordinance allows a variety of brewery, distillery, and winery uses in business,  
1231 industrial, and agricultural zoning districts of Henrico County. Specifically, this  
1232 ordinance allows (i) microbreweries in the urban mixed use district and B-2 and  
1233 B-3 business districts, (ii) farm wineries, limited breweries, and limited distilleries,  
1234 in the A-1 agricultural district, (iii) microbreweries, breweries that produce no  
1235 more than 15,000 barrels of beer per calendar year, and wineries, in the M-1 light  
1236 industrial district and M-2 general industrial district, and (iv) breweries located at  
1237 least 300 feet from any R (residential) district and distilleries located at least 600  
1238 feet from any R (residential) district, in the M-2 general industrial district. The  
1239 ordinance also defines "brewery," "distillery," "farm winery," "limited brewery,"  
1240 "limited distillery," "microbrewery," and "winery." Finally, the ordinance specifies  
1241 off-street parking requirements of one space for each 100 square feet of floor  
1242 area for restaurants, dine-in or take-out, including tasting rooms and other areas  
1243 designated for on-premises consumption of alcoholic beverages at a brewery,  
1244 distillery, or winery.

1245

1246 Mr. Blankinship - Thank you, Mr. Emerson. Good evening, Madam  
1247 Chair, members of the Commission.

1248

1249 We are here this evening to discuss an opportunity that has come our way  
1250 because there is a growing industry, as most of you are aware. The brewery  
1251 industry has experienced rapid growth nationwide, statewide, and particularly in  
1252 the Richmond area. I mentioned at the work session that we were featured in a  
1253 national magazine as the number one beer destination in the world. So this is  
1254 certainly something that's happening around us.

1255

1256 As of right now, our current regulations only mention brewing in one place, and  
1257 it's in the phrase "brewing or distilling of liquors," which is allowed in the M-2,

1258 General Industrial District, and requires a distance of 600 feet from the nearest R  
1259 District. That's an appropriate regulation for large-scale industrial breweries, but  
1260 we find that it is overly restrictive for the kind of craft breweries that are popping  
1261 up all around the region today. Some of these are paired with restaurants. You're  
1262 familiar with a couple of brewpubs in the county and several in the city. And there  
1263 are also microbreweries that just brew and have a tasting room right there on the  
1264 premises. We don't believe that the M-2 Industrial District with a 600-foot  
1265 distance from the nearest R District is necessary for those kinds of uses.

1266

1267 At the same time, there have also been some changes to state law requiring that  
1268 we treat farm wineries, limited breweries, and limited distilleries, as those terms  
1269 are defined in the state code, as uses permitted by right in the A-1 District. No  
1270 one has come to us up to this point to establish one of those, but we do want to  
1271 get our Zoning Ordinance updated to address those changes to the state law.

1272

1273 The regulation that is proposed for you this evening would begin with some  
1274 definitions defining *brewery*, following closely Virginia code definitions, and the  
1275 subsets of that being a microbrewery is a brewery that brews 3,000 barrels per  
1276 year or less. And a limited brewery is fewer than 15,000 barrels per year, but also  
1277 located on a farm where the hops or the other grains that are going into the beer  
1278 are grown on that farm. Again, those are definitions taken from the state code.  
1279 The *farm winery* definition would be taken from the state code and the *limited*  
1280 *distillery* would also be taken from the state code.

1281

1282 Once we have those definitions, the proposal would recommend that in the A-1  
1283 Agricultural District you allow a limited brewery, a farm winery, and a limited  
1284 distillery by right. Again, those are already requirements of the state code.

1285

1286 In the B-2 and the B-3 Business Districts and in the UMU Urban Mixed-Use  
1287 District, we would recommend that you allow a microbrewery. Again, that's up to  
1288 3,000 barrels per year where all the beer brewed on the premises is sold on the  
1289 premises. So there's no distribution, no trucking aspect to this business. We  
1290 would recommend that you allow that in those districts. The commercial  
1291 component of the UMU closely tracks the B-2 District. So they are already more  
1292 or less parallel.

1293

1294 Then in the M-1, Light Industrial District, we would recommend allowing the craft  
1295 breweries of up to 15,000 barrels per year, and also allowing wineries in the M-1  
1296 District with no particular limit on their production. And we would recommend  
1297 allowing distribution from those businesses. Since they're in industrial areas,  
1298 those are generally designed to allow for truck traffic and are farther away from  
1299 residential areas.

1300

1301 Then finally, in the M-2 District, where we currently, as I said, have the listed use  
1302 of "brewing or distilling of liquors", we would recommend you break that in half  
1303 and have a brewery with no limit on production but with a requirement of 300 feet

1304 from the nearest R District. Then a distillery, again, with no limit on production,  
1305 keeping that regulation that we have in place now requiring that that be 600 feet  
1306 from the nearest R District.

1307

1308 That's the completion of the summary. The next step here after the public  
1309 hearing, if the Commission feels comfortable with this, would be to make a  
1310 recommendation to the Board of Supervisors. With that, I am prepared to answer  
1311 your questions. I will remind you this is a public hearing.

1312

1313

1314 Mr. Baka - One question of staff. How would the County  
1315 determine the number of barrels being produced at the different businesses? Is  
1316 that done on an application or honor system, or is that verified?

1317

1318 Mr. Blankinship - The ABC Board regulates that. They're required to file  
1319 applications with ABC, and we would be able to check their records.

1320

1321 Mr. Baka - Those are annual statements?

1322

1323 Mr. Blankinship - Yes sir.

1324

1325 Mr. Baka - All right, thank you.

1326

1327 Mrs. Kotula - I think the only question that I had, which we were  
1328 discussing beforehand, was special events. It's talked about a little bit in the staff  
1329 report. We know some of the breweries in the city have significant events that  
1330 draw sometimes thousands of people. How would that be addressed?

1331

1332 Mr. Blankinship - We have several different ways of addressing special  
1333 events already in the code. The first is our Music and Festival Permit, which is  
1334 managed by the County Attorney's Office. It includes input from a lot of different  
1335 departments. That would apply to any event where admission is charged and  
1336 there is an entertainment component that is a major part of the event.

1337

1338 Short of that, or for cases that don't fit that requirement, we also very often use  
1339 the conditional use permit process that we were just discussing in terms of short-  
1340 term rentals. We use a similar process particularly in places where a building  
1341 permit is going to be required. A lot of them have large tents that require a  
1342 building permit or stages or generators, things that require electrical permits. So  
1343 those we prefer to run through the Board of Zoning Appeals process, because it  
1344 is a little faster than some of our other processes.

1345

1346 We do sometimes get requests for events that don't even rise to that scale.  
1347 Maybe a hundred or two hundred or five hundred people are going to somewhere  
1348 on a Saturday from noon until five o'clock in a commercial or an M-1 industrial  
1349 area. We have a process in place that's not really formal. Several staff members

1350 from the various review agencies, and Police and Fire and the Health  
1351 Department have a means of communicating on those where they review those  
1352 requests and make sure that everybody understands what's going on, and all the  
1353 different department get all of their permits and things handled in an appropriate  
1354 fashion.

1355  
1356 Mrs. O'Bannon - I have learned very recently that there are several  
1357 areas where there is remnant zoning left over from a piece of property that was  
1358 cut through or something. And now there's a remnant M-1 right in the middle of a  
1359 business area. Is that why you put the feet from a residential as one of the  
1360 requirements? They're all over the place. I was just thinking about one right now.

1361  
1362 Mr. Blankinship - Yes ma'am. Even in the M-1 districts there are  
1363 situation where they abut residential districts or are within a hundred or two  
1364 hundred feet. We would want to see some separation if you're going to have the  
1365 truck traffic. If you're going to be doing distribution, we would want to have some  
1366 separation to make sure that we don't have conflicts with the neighborhoods.

1367  
1368 Mrs. Marshall - Any more questions from the Commission? If not, at  
1369 this time I would like to invite anyone from the public who would like to speak on  
1370 the situation. Is there anyone?

1371  
1372 Mr. Baka - No one?

1373  
1374 Mr. Emerson - Madam Chair, a motion would be in order on however  
1375 the Commission feels. Staff supports this ordinance. We're recommending that  
1376 you provide a recommendation to the Board of approval.

1377  
1378 Mrs. Marshall - I move that the amendments for breweries be  
1379 forwarded to the Board of Supervisors with a recommendation of approval.

1380  
1381 Mrs. Kotula - Second.

1382  
1383 Mrs. Marshall - We have a motion by Mrs. Marshall, a second by  
1384 Mrs. Kotula. All in favor say aye. Those opposed say no. There is no opposition;  
1385 this motion passes.

1386  
1387 Mr. Emerson - Madam Chair, we are now at the 7:00 p.m. portion of  
1388 the meeting. You had mentioned to me you might want to take a short break.  
1389 This would be an appropriate time to do that, if you would like.

1390  
1391 Mrs. Marshall - We'll take a short five-minute recess, and we will  
1392 return then.

1393  
1394 [Five-Minute Recess]

1395

1396 **THE PLANNING COMMISSION RECONVENED AT 7:30 P.M. FOLLOWING A**  
1397 **SHORT RECESS.**

1398

1399 Mrs. Marshall - May I have your attention. We are ready to begin the  
1400 meeting again. Mr. Emerson.

1401

1402 Mr. Emerson - Madam Chair, thank you very much. As you recall, at  
1403 the beginning of the meeting we passed over expedited items in order to bring  
1404 those up at the seven o'clock portion of our meeting. We will now bring the  
1405 expedited items to the front of the agenda. They will be presented by  
1406 Mr. Strauss.

1407

1408 Mr. Strauss - Thank you, Mr. Secretary. We did have one request  
1409 for approval on the expedited agenda. It's on page 3 and is in the Fairfield  
1410 District. It's REZ2018-00023, Land One, LLC. Staff is recommending approval of  
1411 this development proposal for townhouses.

1412

1413 **REZ2018-00023 Andrew M. Condlin for Land One, LLC:** Request to  
1414 rezone from R-5C General Residence District (Conditional) and B-2C Business  
1415 District (Conditional) to R-5C General Residence District (Conditional) Parcel  
1416 804-737-7961 and part of Parcel 804-736-0481 containing 20.58 acres located  
1417 on the north line of Neale Street approximately 300' east of its intersection with  
1418 Mechanicsville Turnpike (U.S. Route 360). The applicant proposes a townhouse  
1419 development. The use will be controlled by zoning ordinance regulations and  
1420 proffered conditions. The 2026 Comprehensive Plan recommends Urban  
1421 Residential and Commercial Concentration. The site is in the Airport Safety  
1422 Overlay District.

1423

1424 Mrs. Marshall - Is there anyone in opposition to REZ2018-00023,  
1425 Andrew M. Condlin for Land One, LLC?

1426

1427 Ms. Samuels - [Off microphone] [Inaudible] not necessarily to  
1428 oppose.

1429

1430 Mrs. Marshall - Okay, thank you. Mr. Archer, how would you like to  
1431 proceed?

1432

1433 Mr. Archer - We've had a couple of meetings on this. I believe I  
1434 met you, didn't I?

1435

1436 Ms. Samuels - [Off microphone] Yes.

1437

1438 Mr. Archer - Do you all want to come up? Please state your name.

1439

1440 Ms. Samuels - My name is Diane Samuels.

1441



1442 Mr. Archer - I'm sorry; you were going to do it anyway. Go ahead.

1443

1444 Ms. Samuels - Yes. I'm the agent for Saddlewood Apartments.

1445

1446 Mr. Archer - Right.

1447

1448 Ms. Samuels - And this is Kimberly. Like I said, we don't oppose the  
1449 development. My biggest concern, which I said at the Glen Lea meeting, was  
1450 Neale Street and the fact that already—I mean I have 85 apartments there at  
1451 Saddlewood with 135 residents. Eighty percent work outside of the home. And  
1452 already I've had concerns from the residents that between like 6:30 and 7:30 in  
1453 the morning, getting out to Mechanicsville Turnpike. Like I said, there is only 300  
1454 feet from our entrance and what would be the new development entrance. That  
1455 will handle about 15 to 17 vehicles only.

1456

1457 I can envision with a new construction and the 110—or I think 95 now—more  
1458 homes and how many adults that will have, who knows how far back Neale  
1459 Street will be when it comes to leaving and coming in in the evening. I know that  
1460 they had said that they would request to extend the stoplight so the green light  
1461 would be longer. But I just think it's imperative that Neale Street—I know they  
1462 said it was a possibility that it would be widened. I feel like it's imperative,  
1463 otherwise I can—I can see even into our community that the only entrance and  
1464 exit will be backed up and people not being able to get out of their parking  
1465 spaces. I know I'm projecting, but I've just been there for so long.

1466

1467 I wouldn't oppose it happening. We've been there for thirty years, and it's been  
1468 so serene and quiet. I've already seen what they're going to develop; it's a  
1469 beautiful community. It does not threaten us. They're for sale. They're three  
1470 bedrooms. But I have a severe concern about Neale Street.

1471

1472 Mr. Archer - Did you want to speak to this?

1473

1474 Ms. Krzemien - I'm just here to basically support the same concerns.  
1475 Just the traffic patterns and hopefully recognizing that additional residents and  
1476 guests coming into that area are going to be even more of a concern. We'd feel  
1477 much more comfortable if that was addressed and everyone is aware of what the  
1478 plan is.

1479

1480 Mr. Archer - Okay. You and I spoke about that the last time we  
1481 met. And I think even the applicant, we had some conversations with the  
1482 applicant. Somebody has thought about having the entrance closer to  
1483 Mechanicsville, which would create what we call a dogleg. We find that that really  
1484 is less effective than having a straight-across entrance.

1485

1486 Ms. Samuels - Right. Closer would be even worse for everybody.

1487

1488 Mr. Archer - I guess the best way I can clear this—I can't clear it  
1489 up. Logically, anytime you build anything anywhere, you create traffic. In this  
1490 particular instance, there is a bright side, because originally there were  
1491 scheduled to be 260 units. That's been cut to 95. And that plan has been  
1492 approved. Had it not been for the Ample Storage place being built down there,  
1493 that would have been what we would have had. Since it had been approved all  
1494 the way through the Board, it would have eventually been built. So now we've cut  
1495 that down to 95.

1496  
1497 The only regress I see that we have is to, at some point in time have that traffic  
1498 light attendance measured so that we can time it out to see how it really works.  
1499 We tend to think the worst. We think that everybody is going to come out of there  
1500 at one time. Generally, that doesn't happen. But between now and the time it  
1501 gets to the Board, and if it is passed at the Board, by the time construction comes  
1502 up, I think we'll find a way to sort of gauge that traffic and make it work.

1503  
1504 But I don't have any means at all of not recommending it. I understand your  
1505 concerns. I live back in there too.

1506  
1507 Ms. Samuels - Right. I know.

1508  
1509 Mr. Archer - But I think at this point in time the only thing we can  
1510 do is pass it along to the Board. They will meet on this close to a month from  
1511 now. If you all still have concerns, you can come back and express those again,  
1512 because they'll make the final decision. We'll make a recommendation here  
1513 tonight and go from there. But I appreciate the stewardship you all provide to  
1514 your community. I guess that's why Saddlewood has been there so long and  
1515 been so quiet. You can drive by and not notice it.

1516  
1517 Ms. Samuels - Nestled in the woods there, yes. Thank you.

1518  
1519 Mr. Archer - You're welcome. And I appreciate you all coming out.  
1520 Does anybody else have any comment to make or questions?

1521  
1522 Mrs. Marshall - Any questions from the Commission?

1523  
1524 Mr. Archer - Ms. Deemer, thank you so much for your work on this.  
1525 Appreciate it. With that I move that REZ2018-00023, Andrew M. Condlin for Land  
1526 One, LLC, be sent to the Board with a recommendation for approval.

1527  
1528 Mr. Leabough - Second.

1529  
1530 Mrs. Marshall - We have a motion by Mr. Archer and a second by  
1531 Mr. Leabough. All in favor say aye. Those opposed say no. There is no  
1532 opposition; the motion passes.

1533

1534 **REASON -** Acting on a motion by Mr. Archer, seconded by Mr.  
1535 Leabough, the Planning Commission voted 5-0 (one abstention) to recommend  
1536 the Board of Supervisors **grant** the request because it would not adversely affect  
1537 the adjoining area if properly developed as proposed.  
1538

1539 Mr. Emerson - Madam Chair, that will be heard on the June 12th  
1540 meeting of the Board of Supervisors. Madam Chair, it's my understanding the  
1541 Commission would like to move to the Three Chopt cases now. Is that correct?  
1542

1543 Mrs. Marshall - Yes, please.  
1544

1545 Mr. Emerson - Madam Chair, with that being said, we'll move to page  
1546 3 to the bottom for REZ2018-00005, John Chandler & Company LLC. The staff  
1547 report will be presented by Michael Morris.  
1548

1549 **(Deferred from the April 12, 2018 Meeting)**

1550 **REZ2018-00005 John Chandler & Company LLC:** Request to  
1551 conditionally rezone from A-1 Agricultural District to R-2AC One-Family  
1552 Residence District (Conditional) Parcels 751-764-6432 and 751-764-6608  
1553 containing 3.59 acres located on the east line of Thorncroft Drive approximately  
1554 300' north of its intersection with Chicopee Road. The applicant proposes five (5)  
1555 single-family residences. The use will be controlled by zoning ordinance  
1556 regulations and proffered conditions. The 2026 Comprehensive Plan  
1557 recommends Suburban Residential 1, density should not exceed 2.4 units per  
1558 acre.  
1559

1560 Mr. Morris - Thank you, Madam Chair, members of the  
1561 Commission.  
1562

1563 As stated, the applicant is requesting to rezone 3.59 acres from A-1 Agricultural  
1564 District to R-2AC One-Family Residence District (Conditional) to allow for no  
1565 more than four lots of single-family dwellings. The subject property is located on  
1566 the east line of Thorncroft Drive, just north of its intersection with Chicopee Road.  
1567

1568 The site is surrounded by existing residential developments, with Oakland Hills,  
1569 zoned R-2A, located to the south and east of the site, with one lot located directly  
1570 to the north. The Village at Innsbrook subdivision, zoned R-3A, is located to the  
1571 north of Oakland Hills and directly to the east of the subject property. Innsbrook  
1572 Office Park sits directly to the west of Oakland Hills and is zoned O-3C Office  
1573 District (Conditional).  
1574

1575 You just received revised proffers dated April 25, 2018. Time limits do not have  
1576 to be waived. The applicant has also submitted an un-proffered, revised  
1577 conceptual site plan showing four lots fronting on Thorncroft Drive. The major  
1578 differences with these revised proffers are as follows: Proffer #7, which stated  
1579 that "no vinyl siding is permitted" has been removed. Proffer #8, which previously

1580 set the maximum number of buildable lots at five and stated that “all homes shall  
1581 front Thorncroft Drive” has been changed. It now sets the maximum number of  
1582 buildable lots at four and the language regarding lot orientation has been  
1583 removed.

1584

1585 The property sits among an established neighborhood with minimum 100-foot lot  
1586 widths. This is also reinforced by restrictive covenants for a portion of Oakland  
1587 Hills, including the two subject properties.

1588

1589 Lot widths have been an important consideration, and the case has been  
1590 deferred three times, so the applicant has hosted three community meetings. At  
1591 the third meeting, area residents again expressed concern over the proposal  
1592 meeting the 100-foot-lot-width minimum, and the applicant verbally agreed to  
1593 limit the number of lots in the proposal to four.

1594

1595 The 2026 Comprehensive Plan recommends Suburban Residential 1, limited to  
1596 detached, single-family residential uses, with a recommended density not to  
1597 exceed 2.4 units per acre. Staff supports the proposed use and it does fit within  
1598 the density range; however, it would be inconsistent with the adjacent, well-  
1599 established lots in the area, which sit on lots of 100-foot widths or larger. Staff  
1600 could fully support this application if the applicant were to address this concern.

1601

1602 This concludes my presentation. I am happy to answer any questions you may  
1603 have

1604

1605 Mrs. Marshall - Are there any questions from the Planning  
1606 Commission? Is there anyone present in opposition to REZ2018-00005, John  
1607 Chandler & Company LLC? In opposition? Or for?

1608

1609 Mr. Mack - [Off microphone] [Inaudible] Sounds to me like you're  
1610 trading—

1611

1612 Mrs. Marshall - Sir, if you would like to speak, if you could come to  
1613 the podium. And state your name. Thank you.

1614

1615 Mr. Emerson - Madam Chair, as the citizen approaches, I will review  
1616 the public hearing time limits that the Commission uses to guide their public  
1617 hearing process.

1618

1619 The applicant is allowed ten minutes to present the request, and time may be  
1620 reserved for responses to testimony. Opposition, or the citizens in general, are  
1621 allowed ten minutes cumulative to present their concerns. Commission questions  
1622 do not count into time limits, and the Commission may waive time limits for either  
1623 party at its own discretion. Comments must be directly related to the case under  
1624 consideration.

1625

1626 Sir? Please state your name for the record.

1627

1628 Mr. Mack - My name is Mike Mack. I'm resident of Thorncroft. I'm  
1629 in opposition of what I'm seeing here, but it sounds like Michael Morris has just  
1630 corrected all of our concerns. So when you asked if I was in opposition, I was just  
1631 simply saying I was in opposition to this, but I am in agreement with what Michael  
1632 Morris has just presented.

1633

1634 Mrs. Marshall - Thank you.

1635

1636 Mr. Baka - Thank you.

1637

1638 Mr. Lowe - My name is Donald Wayne Lowe, and I live at 4323  
1639 Thorncroft Drive. Our main concern throughout the neighborhood and throughout  
1640 this whole ordeal, should I say, is that the property width adjacent to Thorncroft  
1641 be at least 100 feet. That has been our only opposition from the beginning. We  
1642 would just like it to look like the rest of the neighborhood. Some of the neighbors,  
1643 like myself, have 150 feet. The minimum is 100 feet. My neighbor Mike, he can  
1644 tell you the story about the fight that he had to be able to get the 100 feet so he  
1645 could build his house. That's all we ask is that any new houses built have a  
1646 minimum of a 100-foot road front. Thank you.

1647

1648 Mrs. Marshall - Thank you.

1649

1650 Mr. Taylor - Good evening. How are you all?

1651

1652 Mrs. Marshall - Good evening.

1653

1654 Mr. Taylor - My name is Ryan Taylor. My address is 4421  
1655 Thorncroft Drive. I just came to stand up just for validation. We did come to an  
1656 agreement with Chandler; it was great. He agreed to the four, and I support that.  
1657 That's just me speaking. Four is okay with me.

1658

1659 Mrs. Marshall - Is there anybody else that would like to speak?  
1660 Mr. Chandler?

1661

1662 Mr. Chandler - Thank you, Madam Chair, members of the  
1663 Commission. I am the applicant, the developer, and the builder, John Chandler.  
1664 What Mr. Morris indicated about the revised proposed division of four lots was  
1665 just sent to him yesterday. That's when I was able to receive the revisions from  
1666 my surveyor. Mr. Taylor and Mr. Lower are correct. At the last meeting, I said I  
1667 would build four houses. The proposed division does show the lot width  
1668 anywhere from 111 to 113 feet, which exceeds the covenants required.

1669

1670 I'd be happy to answer any other questions.

1671

1672 Mrs. Marshall - Mr. Chandler, what I'm hearing is that you are willing  
1673 to meet at least the 100-foot-width requirement.  
1674  
1675 Mr. Chandler - Correct.  
1676  
1677 Mrs. Marshall - In these four houses.  
1678  
1679 Mr. Chandler - Correct.  
1680  
1681 Mrs. Marshall - Okay, thank you. Any questions from the  
1682 Commission? Thank you.  
1683  
1684 Mr. Chandler - Is that it? Thank you.  
1685  
1686 Mr. Haynie - [Off microphone] May I ask a question?  
1687  
1688 Mrs. Marshall - Sure. Please come up.  
1689  
1690 Mr. Haynie - I just want to make sure I understood. My name is  
1691 Chris Haynie. I also live on Thorncroft Drive. During your presentation, did I  
1692 misunderstand? There was a statement made about the facing of the lots on  
1693 Thorncroft or not on Thorncroft? Did I misunderstand what you were saying or?  
1694  
1695 Mr. Morris - I was referencing the amended proffers that were  
1696 provided dated April 25th versus the previously submitted proffers. Just  
1697 acknowledging the fact that the amended proffers dated April 25th do not reflect  
1698 any mention of orientation.  
1699  
1700 Mr. Haynie - The orientation of—  
1701  
1702 Mr. Morris - Of the lots on Thorncroft.  
1703  
1704 Mr. Haynie - I don't understand what that means.  
1705  
1706 Mr. Morris - Orientation, the way the houses would face sitting on  
1707 the property.  
1708  
1709 Mr. Haynie - So would the houses potentially be sideways or what?  
1710 I don't understand. I'm not sure I follow. I'm sorry. I don't mean to be ignorant; I  
1711 just don't know what that means. Would all of the houses face Thorncroft Drive or  
1712 no? Yes? Okay.  
1713  
1714 Mr. Morris - Mr. Chandler said yes.  
1715  
1716 Male - [Off microphone; inaudible]  
1717

1718 Mr. Haynie - No, that's okay. I just wanted to make sure I  
1719 understood. Thank you for the clarification.  
1720  
1721 Mr. Emerson - Mr. Chandler, would you come to the front and just  
1722 make that statement into the microphone for the record, please? We do do  
1723 verbatim transcription.  
1724  
1725 Mr. Chandler - No problem. When the proffers were revised, I just left  
1726 that off by mistake. But they'll all face Thorncroft as they're drawn right there.  
1727  
1728 Mr. Emerson - Mr. Chandler, since you now have the survey plat,  
1729 would you be willing to add that to your proffer statement between now and the  
1730 Board meeting?  
1731  
1732 Mr. Chandler - Sure.  
1733  
1734 Mr. Emerson - So the hundred feet is in the record. The Commission  
1735 doesn't like to approve anything that could possibly change and be inconsistent  
1736 with covenants in the neighborhood.  
1737  
1738 Mr. Chandler - No problem.  
1739  
1740 Mr. Emerson - So if you'd be willing to do that, that would be great.  
1741  
1742 Mr. Chandler - No problem.  
1743  
1744 Mr. Leabough - Is there a concept plan that shows that the house  
1745 would front Thorncroft? Am I missing something?  
1746  
1747 Mr. Emerson - The lots will front Thorncroft, correct?  
1748  
1749 Mr. Chandler - Correct.  
1750  
1751 Mr. Leabough - Oh, okay. So it's not on there.  
1752  
1753 [Several people talking at the same time; unintelligible.]  
1754  
1755 Mr. Leabough - I know I'd seen it, and I feel bad. Because I was so  
1756 busy looking at the paper, I didn't see it on the screen. Sorry.  
1757  
1758 Mrs. Marshall - Thank you, Mr. Chandler.  
1759  
1760 Mr. Chandler - Sorry for the confusion.  
1761

1762 Mrs. Marshall - Any questions from the Commission? I move that  
1763 REZ2018-00005, John Chandler & Company LLC, be forwarded to the Board of  
1764 Supervisors with a recommendation of approval.

1765  
1766 Mr. Baka - Second.

1767  
1768 Mrs. Marshall - We have a motion by Mrs. Marshall, a second by  
1769 Mr. Baka. All in favor say aye. Those opposed say no. There is no opposition;  
1770 this motion passes.

1771  
1772 **REASON -** Acting on a motion by Mrs. Marshall, seconded by Mr.  
1773 Baka, the Planning Commission voted 5-0 (one abstention) to recommend the  
1774 Board of Supervisors **grant** the request because it represents a logical  
1775 continuation of the one-family residential development which exists in the area.

1776  
1777 Mr. Emerson - Madam Chair, we now move to the top of page 4 for  
1778 two companion cases, and I will call them together. They will require separate  
1779 motions when the Commission takes action. The first case is REZ2018-00006,  
1780 Andrew M. Condlin for CR APT Land LC.

1781  
1782 **(Deferred from the April 12, 2018 Meeting)**  
1783 **REZ2018-00006 Andrew M. Condlin for CR APT Land LC:** Request  
1784 to conditionally rezone from O-3 Office District and O-3C Office District  
1785 (Conditional) to UMUC Urban Mixed-Use (Conditional) Parcel 747-759-4312  
1786 containing 5.427 acres located on the west line of Cox Road at its overpass of I-  
1787 64. The applicant proposes a mixed-use multifamily development. The uses will  
1788 be controlled by zoning ordinance regulations and proffered conditions. The 2026  
1789 Comprehensive Plan recommends Urban Mixed-Use. The site is in the Innsbrook  
1790 Urban Area Overlay District.

1791  
1792 Mr. Emerson - The companion provisional use permit is PUP2018-  
1793 00001, Andrew M. Condlin for CR APT Land LC. The staff report will be  
1794 presented by Ms. Lisa Blankinship.

1795  
1796 **(Deferred from the April 12, 2018 Meeting)**  
1797 **PUP2018-00001 Andrew M. Condlin for CR APT Land LC:** Request  
1798 for a Provisional Use Permit under Sections 24-32.1(a, n, s, t, v, w, and z), 24-  
1799 120 and 24-122.1 of Chapter 24 of the County Code to allow for an area  
1800 designated for the preparation or service of food or beverages or the sale or  
1801 display of merchandise conducted in an open area or structure; parking garage  
1802 with no associated ground floor retail uses; buildings and structures exceeding  
1803 60' in height; density of residential exceeding 30 dwelling units per acre; open  
1804 space within a development of less than 20 percent; commercial or office square  
1805 footage of less than 25 percent of the total building square footage of the UMU  
1806 district; and the number of for-lease multifamily dwelling units exceeding 30  
1807 percent of the total units of the UMU district on Parcel 747-759-4312 located on



1808 the west line of Cox Road at its overpass of I-64. The existing zoning is O-3  
1809 Office District and O-3C Office District (Conditional). The 2026 Comprehensive  
1810 Plan recommends Urban Mixed-Use. The site is in the Innsbrook Urban Area  
1811 Overlay District.

1812

1813 Mrs. Blankinship - Good evening.

1814

1815 The subject property is located on the west line of Cox Road at its overpass of  
1816 Interstate 64 and is currently undeveloped. The property is zoned O-3 and O-3C  
1817 and is surrounded on three sides by office, hotel, and retail uses. The site is  
1818 designated Urban Mixed-Use on the 2026 Comprehensive Plan and is also part  
1819 of the Innsbrook Redevelopment Overlay District.

1820

1821 The applicant is requesting to conditionally rezone to Urban Mixed-Use for a  
1822 multi-family development and has submitted revised proffers and a pattern book  
1823 that have been handed out to you this evening. These proffers and pattern book  
1824 address staff's concerns outlined in the staff report regarding the two  
1825 development options and a possible parking plan.

1826

1827 The applicant now proposes only one development, shown here, the revised  
1828 concept plan. The proposed development would consist of no more than 407  
1829 units within two buildings connected by a structured parking deck. Two points of  
1830 access would be provided from a private drive from Cox Road. An additional  
1831 gated emergency access would also be provided further north on Cox Road.

1832

1833 This elevation shows the development's potential overall appearance with the  
1834 understanding that building designs, materials, setbacks, height, and frontages,  
1835 along with sidewalks, landscaping, lighting, and other site details would be  
1836 governed by the revised Cox Road Multi-Family Development Book dated May 1,  
1837 2018. This pattern book serves as the master plan, as required by the UMU  
1838 Zoning Code.

1839

1840 In addition to the rezoning case, the applicant has also submitted a provisional  
1841 use permit request, which proposes additional development characteristics and  
1842 changes to various thresholds. With the PUP case, the applicant wishes to  
1843 receive approval for the following:

1844

- 1845 • outdoor vending areas;
- 1846 • a parking garage with no associated ground floor retail uses;
- 1847 • building in excess of sixty feet in height but not too exceed eighty-five feet;
- 1848 • residential density in excess of thirty units per acre;
- 1849 • open space of less than 20 percent;
- 1850 • commercial or office square footage of less 25 percent; and
- 1851 • the number for leased multi-dwelling units to exceed 30 percent of total  
1852 residential units.

1853

1854 The conditions referenced in the staff report have also been amended by staff  
1855 and handed out to you this evening. Condition #1 has been revised to reference  
1856 the updated pattern book dated May 1, 2018. Language was added to condition  
1857 #2 to limit the number of outdoor events to four a year unless otherwise approved  
1858 by the Planning Department. And a sentence was added to condition #5 to  
1859 ensure that if residential use changes to commercial and/or office uses, a traffic  
1860 study would be provided if requested by the traffic engineer.

1861  
1862 Considering the site's UMU designation, consistence with County goals to  
1863 encourage Innsbrook redevelopment, compatibility of surrounding office and  
1864 commercial uses, proffered assurances including design guidelines, and the  
1865 suggested revised PUP conditions, staff believes the proposed development  
1866 would be appropriate at this site. For these reasons, staff supports both requests.

1867  
1868 This concludes my presentation. I'll be happy to answer any questions.

1869

1870 Mrs. Marshall - Is there anyone present in opposition to REZ2018-  
1871 00006, Andrew M. Condlin for CR APT Land LC? I see no opposition. Do we  
1872 have any questions from the Commission?

1873

1874 Mr. Leabough - Just a quick question. I'm wondering if there is a typo  
1875 on Condition 5. Maybe I'm missing something. It says, "Open space on the site  
1876 may be less than 20 percent." Should that say "may not be less"?

1877

1878 Mr. Emerson - May be less. It allows you to go less than that with a  
1879 provisional use permit. So that's what that allowance is for.

1880

1881 Mr. Leabough - Oh, okay.

1882

1883 Mr. Baka - Is there a minimum?

1884

1885 Mr. Emerson - Twenty percent.

1886

1887 Mrs. Kotula - No, I think like with the condition is there a minimum,  
1888 a new minimum.

1889

1890 Mr. Emerson - No. It'll be in the design and determined at the time of  
1891 plan of development.

1892

1893 Mr. Baka - Okay, thanks.

1894

1895 Mr. Leabough - So a lot of density. And no open space?

1896

1897 Mr. Emerson - There will be open space worked into it, but there is  
1898 not a minimum number right now.

1899

1900 Mr. Leabough - Without a minimum percentage.  
1901  
1902 Mr. Emerson - Is there a minimum number? It'll be worked out  
1903 through the plan of development process.  
1904  
1905 Mr. Leabough - POD process.  
1906  
1907 Mr. Emerson - But it'll be less than twenty. That's why the request  
1908 is—  
1909  
1910 Mr. Leabough - Okay. All right.  
1911  
1912 Mrs. O'Bannon - Is the parking in the building?  
1913  
1914 Mrs. Blankinship - Structured parking is between the two buildings. And  
1915 there's also podium parking shown here. There is podium parking with the  
1916 stories, the apartment units above that. In addition to the structured parking.  
1917  
1918 Mrs. O'Bannon - Okay.  
1919  
1920 Mrs. Marshall - Do we know the total number of parking spaces?  
1921  
1922 Mrs. Blankinship - The parking spaces to be provided would be one  
1923 space per one-bedroom unit and 1.5 spaces per two or more bedroom units. The  
1924 maximum would be 611 based on the two-bedroom. And the minimum would be  
1925 407 based on the one bedrooms. I do not have a mix of the number of bedrooms,  
1926 the types of bedroom units.  
1927  
1928 Mrs. Marshall - Any more questions for Mrs. Blankinship?  
1929 Mr. Condlin?  
1930  
1931 Mr. Condlin - Madam Chair, members of the Commission, my name  
1932 is Andy Condlin here on behalf of CR APT Land LC, the applicant in this case.  
1933 I'm not even going to pull up my presentation unless you have specific questions.  
1934 I thought I'd answer at least a little bit of the discussion. Obviously, as Mrs.  
1935 Blankinship has already pointed out, the parking deck and the parking garage  
1936 that will go underneath, both the podium and the deck, with access. This is a very  
1937 urban area, and it's a little more unusual than your typical case. Because it's part  
1938 of the UMU, we feel like this is adding into the entire block of the area, which  
1939 includes a lot of different commercial uses already without any residential. To be  
1940 able to create that mixed use, we're adding that portion into what we consider an  
1941 urban area.  
1942  
1943 The area surrounding, the block that's surrounding it includes a hotel currently,  
1944 that's immediately next door, with a hotel planned to the rear. There is also  
1945 450,000 square feet of office, and 137,000 square feet of retail, all within the

1946 same block area of 64, Cox, and Broad. So there is already the commercial  
1947 aspect of it, and that doesn't even count the five million square feet of office in  
1948 Innsbrook, across Broad Street, and Parkside, and the Colonnades, and also  
1949 Westerre Parkway office and retail around that whole area. So there is a lot of  
1950 retail, a lot of commercial, a lot of services, a lot of office, but there's no  
1951 residential. What we're trying to do is introduce the residential use to create that  
1952 mixed use into a more urban—again, an urban mixed use—and to be able to  
1953 provide support for those businesses and economic vitality of those businesses,  
1954 but also pedestrian, and bicycling, and being able to provide sidewalks along this  
1955 area and connection.

1956  
1957 With that, we're a very urban development. And with the small acreage that we  
1958 have—with the concept plan that we had, as you can see, and this is just from  
1959 looking down. We do have three courtyards, and I can pull them up and show  
1960 them as part of the pattern book that we have.

1961  
1962 But we have a rooftop sky lounge that will include a fireplace and a bar area with  
1963 both indoor and outdoor seating on the top. So it's not your typical suburban,  
1964 open space with green spaces, dog parks, and bocce ball courts, and stuff like  
1965 that. But again, we have the rooftop sky lounge, the courtyard with a resort pool  
1966 with a fountain and lap lanes, spa deck, pool cabanas, outdoor kitchens with the  
1967 pool courtyard, a second courtyard with fire pits and activities available, outdoor  
1968 grilling spaces, a pet spa center inside. And obviously your typical fitness center.  
1969 A concierge area, theater room with large-screen TV, and fitness facilities with  
1970 yoga and a spin cycle room. So there are a lot of resort-style amenities that are  
1971 provided. But again, it's part of an urban area, so it's not like your typical  
1972 suburban apartment complex.

1973  
1974 With that we think that we've met all the requirements and the criteria. We meet  
1975 the Comprehensive Plan. We would appreciate a recommendation to the Board  
1976 of Supervisors by following the recommendation of staff. I'm happy to answer any  
1977 questions or get into more specifics, if you'd like to.

1978  
1979 Mr. Leabough - Mr. Condlin, how many total units will there be?

1980  
1981 Mr. Condlin - We have a max of 407. It depends on the final  
1982 program that we put together when we go through the engineering. That's our  
1983 thought that we'd be somewhere within that range. We may end up phasing this  
1984 to be able to put up the initial apartments up. And then finalize it in the second  
1985 phase. Because that is a lot of apartments to come online at one time, so that  
1986 hasn't been finalized. But we're going to be a max of 407. That's what we think  
1987 we can have, almost all one and two bedrooms.

1988  
1989 Mrs. Marshall - Okay. With the top end of 407 total units, how will that  
1990 impact the traffic along Cox Road?

1991

1992 Mr. Condlin - We've done a little bit of analysis. I'm going to go  
1993 back to this area. We currently will have access on Cox Road. We'll also have an  
1994 access easement to get out to the light at Westerre and Cox Road. And of course  
1995 there's an internal traffic pattern that gets out to Broad Street through here as  
1996 well. And of course Westerre Parkway goes around to Broad Street.

1997  
1998 Currently it's zoned O-3. Based on our estimates—there's a current POD. With at  
1999 parking deck, our estimates are that we can get closer to 200,000 square feet of  
2000 office currently. Adding office on top of what's currently out there with a lot of  
2001 office and retail having the same traffic pattern. Adding residential instead of the  
2002 office, doesn't just add on. Instead, it's got a different traffic pattern. It's going to  
2003 have different peak hours. And it's going to encourage a lot more walking and  
2004 biking. People that work in this area, kind of the reason we're going with Urban  
2005 Mixed-Use. That's the whole reason for the Innsbrook Overlay District is to  
2006 encourage people to live near where they work, where they shop, where they  
2007 play. This will now provide that opportunity.

2008  
2009 While anything built is going add to traffic, we think with the residential we're  
2010 going to have a much better phase to be able to have it at different time  
2011 periods—people coming when other people are leaving—than it is currently, and  
2012 it will actually help out with the traffic from the standpoint of not adding onto it like  
2013 the current zoning would.

2014  
2015 Mr. Baka - What's the approximate tallest height on the building  
2016 or the deck? The concept plan shows the building wall a fairly short setback from  
2017 Cox Road right away to the eastern portion of the building.

2018  
2019 Mr. Condlin - I don't know if we have a specific height, but six  
2020 stories on the back.

2021  
2022 Mr. Leabough - Eighty-five feet is the maximum height, right?

2023  
2024 Mr. Condlin - Right. Eighty-five feet. We have the parking deck. We  
2025 want to be able to provide that. With the parking deck and podium parking, you  
2026 have to be able to have the height in there. We wanted to have that flexibility to  
2027 be able to provide that. As part of our pattern book—and I can pull those up if  
2028 you want to—we have some sight lines from 64 and from Cox Road and from the  
2029 internal road, again, to be able to see. That's with being able to provide the  
2030 density that we think is appropriate. This is the last chance for this whole area to  
2031 provide that density with the appropriate placement of height.

2032  
2033 Mr. Emerson - I would remind everybody this is in the Innsbrook  
2034 Overlay Area, which we did an extensive study on 1100 acres here to encourage  
2035 this style of development.

2036  
2037 Mr. Condlin - It's a little different than your typical—

2038  
2039 Mr. Baka - Is this the southernmost parcel in the Innsbrook Study  
2040 Area such that I-64 might be an interstitial boundary or a natural boundary of that  
2041 Innsbrook Study Area?  
2042  
2043 Mr. Emerson - The Innsbrook Study Area goes all the way down to  
2044 Gaskins and 64.  
2045  
2046 Mr. Baka - Gaskins.  
2047  
2048 Mr. Emerson - Yes. It continues down.  
2049  
2050 Mr. Baka - To the east.  
2051  
2052 Mr. Emerson - Sixty-four is your border.  
2053  
2054 Mr. Baka - So 64 is the southern—  
2055  
2056 Mr. Emerson - This is the southern edge of it, yes.  
2057  
2058 Mr. Baka - So it's a natural border. That makes sense.  
2059  
2060 Mr. Condlin - And as you can see from this picture, there's not a  
2061 whole lot of opportunity otherwise that would be able to provide a lot of pavement  
2062 here, which is what we're trying to get away from.  
2063  
2064 Mr. Emerson - And SunTrust just recently moved into the Westerre  
2065 building or the WestMark building. I believe they have well over a thousand  
2066 employees there. We're trying to accommodate some of those folks.  
2067  
2068 Mrs. Marshall - Do you have any more questions?  
2069  
2070 Mrs. O'Bannon - I'm curious. Is there a roof garden or is the pool on  
2071 the roof?  
2072  
2073 Mr. Condlin - There's a rooftop, what they sky lounge. The pool is  
2074 not in the roof; it's in one of the—you can see the courtyards and the pool  
2075 courtyard. But on the roof, which we're not showing here, but we do have some  
2076 pictures otherwise, that rooftop sky lounge has a fireplace and a bar area. It'll  
2077 have indoor and outdoor seating. There is going to be an amenity space up on  
2078 the roof, which is the hot thing. People like to do that.  
2079  
2080 Mrs. O'Bannon - I'll be honest. I'm just concerned about the parking.  
2081 I'm not sure, if they invited friends or something. Is there overflow parking near  
2082 here that could be used?  
2083

2084 Mr. Condlin - Certainly within the parking garage and the podium  
2085 parking that we got underneath here, we'll have to meet the UMU parking  
2086 requirements. We're not asking for an exception for that. While I can't legally say  
2087 otherwise, certainly on weekends with guests and evening times, if there is  
2088 concern about parking in the parking deck, there is a whole lot of parking that's  
2089 unused in the evening hours within the area, if someone were brave enough to  
2090 try to park somewhere else—

2091

2092 Mrs. O'Bannon - I'm sitting here and thinking this type of thing has—  
2093 okay, I've seen it before. But they had an agreement with the business next door,  
2094 like a bank or something. I've worked on that before to get extra parking on the  
2095 weekends because the bank was not open at night and stuff like that.

2096

2097 Mr. Condlin - There's a hotel right next door, so that's not available  
2098 there. But we could certainly talk to the folks to see if that's available. We feel like  
2099 that the UMU parking code requires the parking we're providing. So as we go  
2100 through the POD process, we're going to have to show how many units we have  
2101 and how much parking meets the code requirements.

2102

2103 Mrs. O'Bannon - But that's what I'm getting at. I like the UMU concept  
2104 because there is the office next door. If there were a party and somebody used  
2105 that wonderful facility you have talked about on the roof, where is everybody  
2106 going to park? It'll be Saturday night, and everybody else is home, and there are  
2107 no parking places.

2108

2109 Mr. Emerson - There is ample parking in this area.

2110

2111 Mrs. O'Bannon - But they have permission to do that?

2112

2113 Mr. Emerson - When we get to the plan of development phase, if a  
2114 need is seen, we will ask for some sort of parking agreement with the WestMark  
2115 building, most likely. If they don't meet the required standards of the code, they  
2116 also have to do a parking study that demonstrates that they have adequate  
2117 parking. So we haven't had any issues with parking in our Urban Mixed-Use  
2118 projects at this point.

2119

2120 Mr. Condlin - Usually the parking studies relate to when you have  
2121 office and retail and—like West Broad Village where there's a mix of that. Here,  
2122 we are providing an infill. So we're planning on providing our parking specifically  
2123 per the code.

2124

2125 Mr. Leabough - Will there be a charge for parking or is that provided  
2126 with the rental of the units?

2127

2128 Mr. Condlin - That's part of it.

2129

2130 Mr. Leabough - I know what we've experienced in some other  
2131 communities is that even though the parking is provided, they have to pay a  
2132 monthly fee. What we've found is that people don't want to pay that additional  
2133 fee. So what they'll start to do is create conflicts with the adjacent businesses  
2134 because they'll start to park there.

2135

2136 Mr. Condlin - Part of what people are paying for is the resort style.  
2137 The last thing I want to do is go find parking, because that's usually issue number  
2138 one. This is all going to be part of that. Obviously with key fobs that take care of  
2139 everything. You can control that access and guests and everything. It's amazing  
2140 what they can do now. All these amenities that I've just named are all going to be  
2141 part of that. Again, to pay the price that they're paying, they want to have these  
2142 amenities, including the parking.

2143

2144 Mr. Leabough - What about the guests? So there are 407 units, and  
2145 then there are people that live there with multiple vehicles. What about the  
2146 guests that visit folks there, where are they parking?

2147

2148 Mr. Condlin - The parking deck. We'll be able to work that with the  
2149 security. We're going to have the garage and the podium parking. A lot of times,  
2150 [unintelligible] electronically, remotely. A lot of folks are using it with their  
2151 smartphone, you have this screen, it depends. We haven't figured all that out  
2152 specifically. But you can let guests as they come up to the deck, and you can  
2153 have that work for that purpose too. So you can work all that. Again, it's using  
2154 smartphones and electronics. The technology that we have now we can take  
2155 care of all that.

2156

2157 Mr. Leabough - But your parking requirements account for all that?  
2158 The parking requirements accounts for guests?

2159

2160 Mr. Emerson - They account for some overflow, yes sir.

2161

2162 Mr. Leabough - But probably not enough.

2163

2164 Mr. Emerson - It's probably not a hundred percent, no. But the size  
2165 of these apartment units, I don't think they're going to be having that many  
2166 guests at one time. What are the sizes of units, Mr. Condlin?

2167

2168 Mr. Condlin - The sizes are from 700 square feet to 1800 square  
2169 feet. That's what they're anticipating, the one bedroom. So there are not going to  
2170 be lot of guests from that standpoint. Rents are going to be up to \$2400 a month.  
2171 That's what they're anticipating. Which includes all the amenities.

2172

2173 Mr. Baka - I notice the acreage is 5.4 acres, give or take. So the  
2174 407 units, that number was stipulated by being just under 75 dwelling units per



2175 acre. Is that correct, the density? The UMU allows for 75 dwelling units per acre,  
2176 okay. Thanks.

2177

2178 Mr. Condlin - Thank you.

2179

2180 Mrs. Marshall - I move that REZ2018-00006, Andrew M. Condlin for  
2181 CR APT Land LC, be approved with proffers dated May 2, 2018, and the revised  
2182 pattern book dated May 1, 2018.

2183

2184 Mr. Archer - Second.

2185

2186 Mrs. Marshall - We have a motion by Mrs. Marshall and a second by  
2187 Mr. Archer. All in favor say aye. Those opposed say no.

2188

2189 Mr. Leabough - No.

2190

2191 Mrs. Marshall - We have one opposition, Mr. Leabough.

2192

2193 Mr. Leabough - I don't think it's good planning.

2194

2195 Mrs. Marshall - We do have a quorum, so the motion passes.

2196

2197 The vote was as follows:

2198

2199 Mrs. Marshall – Yes

2200 Mr. Baka – Yes

2201 Mr. Archer – Yes

2202 Mrs. Kotula – Yes

2203 Mr. Leabough – No

2204

2205 **REASON** - Acting on a motion by Mrs. Marshall, seconded by Mr.  
2206 Archer, the Planning Commission voted 4-1 (one abstention) to recommend the  
2207 Board of Supervisors grant the request because it conforms to the  
2208 recommendations of the land use plan.

2209

2210 Mr. Leabough - We need two separate motions, right?

2211

2212 Mrs. Marshall - Yes. I move that PUP2018-00001, Andrew M. Condlin  
2213 for CR APT Land LC, be approved with the conditions dated May 10, 2018.

2214

2215 Mr. Archer - Second.

2216

2217 Mrs. Marshall - We have a motion by Mrs. Marshall and a second by  
2218 Mr. Archer. All in favor say aye. Those opposed say no.

2219

2220 Mr. Leabough - No.

2221  
2222 Mrs. Marshall - We have opposition from Mr. Leabough. We do have  
2223 a quorum, so the motion passes.

2224  
2225 The vote was as follows:

2226  
2227 Mrs. Marshall – Yes  
2228 Mr. Baka – Yes  
2229 Mr. Archer – Yes  
2230 Mrs. Kotula – Yes  
2231 Mr. Leabough – No

2232  
2233 **REASON -** Acting on a motion by Mrs. Marshall seconded by  
2234 Mrs. Archer, the Planning Commission voted 4-1 (one abstention) to recommend  
2235 the Board of Supervisors **grant** the request because it conforms to the  
2236 recommendations of the land use plan.

2237  
2238 Mr. Emerson - Madam Chair, we now move back to page 2 for  
2239 REZ2018-00021, John Montgomery for Godsey & Son, Inc. The staff report will  
2240 be presented by Mr. Michael Morris.

2241  
2242 **REZ2018-00021 John Montgomery for Godsey & Son, Inc.:** Request  
2243 to conditionally rezone from A-1 Agricultural District to M-2C General Industrial  
2244 District (Conditional) Parcels 813-711-5121 and 813-711-6615 containing 4.506  
2245 acres located on the north line of Charles City Road approximately 500' west of  
2246 Glen Alden Drive. The applicant proposes office and industrial uses. The uses  
2247 will be controlled by zoning ordinance regulations and proffered conditions. The  
2248 2026 Comprehensive Plan recommends Planned Industrial. The site is in the  
2249 Airport Safety Overlay District.

2250  
2251 Mr. Morris - Thank you, Madam Chair, members of the  
2252 Commission.

2253  
2254 As noted, the applicant has requested to conditionally rezone 4.5 acres from A-1  
2255 Agricultural District to M-2C General Industrial District (Conditional) to allow for a  
2256 two-story office with attached shop area and equipment yard. The site consists of  
2257 two vacant lots and sits on the north line of Charles City Road approximately 500  
2258 feet west of its intersection with Glen Alden Drive.

2259  
2260 Surrounding uses include Richmond Industrial Interport to the north (zoned M-1  
2261 Light Industrial district); vacant M-1C property to the immediate east; M-2  
2262 (General Industrial District, conditional) zoned properties to the south, including  
2263 the closed Charles City Landfill; and single-family residential to the west (zoned  
2264 A-1 Agricultural districts).

2265

2266 You just received a revised conceptual site plan dated April 20, 2018, revised  
2267 proffers dated April 24, 2018, and elevations dated April 25, 2018. Time limits do  
2268 not have to be waived.

2269

2270 The applicant is proposing to construct a two-story office with an attached shop  
2271 area, both of which are approximately 9,000 square feet in size. A fenced-in  
2272 equipment yard is shown to the rear of the building, with access gates located at  
2273 the rear of the office portion of the structure. A BMP is shown along the front  
2274 property line at Charles City Road adjacent to the one point of access. Also  
2275 provided on the concept plan is a 50-foot transitional buffer along the western  
2276 property line, adjacent to the A-1 property, and a 25-foot landscape buffer along  
2277 the front of the property adjacent to Charles City Road.

2278

2279 In addition to the concept plan, the applicant has proffered elevations for the  
2280 proposed building, showing an eight-foot-tall brick skirt wall topped by a flush  
2281 panel, beige in color, which will run along the front and portions of the side. The  
2282 engineer has indicated that the flush panel will be made of metal. The entrance  
2283 of the building can be found on the front elevation, offset from the center and  
2284 framed by a canopy and two wing walls.

2285

2286 In addition to the concept plan and elevations, the applicant has provided a  
2287 number of additional proffers, including limiting building height to thirty feet, and  
2288 limiting use of the property to those permitted in the M-1 District in addition to  
2289 contractor's equipment storage yard. There will also be a prohibition of all retail  
2290 uses, as well as screening of all rooftop heating and air conditioning equipment.

2291

2292 Located in a predominately industrial area of the county, the subject property is  
2293 designated Planned Industrial on the 2026 Comprehensive Plan, which  
2294 recommends minimal impacts on adjacent uses, coordinated design with other  
2295 industrial uses, and shared access. Staff has expressed concern over the lack of  
2296 shared access provided between adjacent sites. Should the applicant provide  
2297 shared access, Planning staff could more fully support the proposed rezoning.

2298

2299 This concludes my presentation. I am happy to answer any questions you may  
2300 have.

2301

2302 Mr. Leabough - I have a quick question. Mr. Morris, a question about  
2303 storage. Can you please pull up the concept plan and point out the storage limit  
2304 line?

2305

2306 Mr. Morris - Yes sir. The storage limit line would be dashed here  
2307 and here. So running along both sides of the rear of the building.

2308

2309 Mr. Leabough - So the condition that's provided says "will be beyond  
2310 the storage limit line." Should it say "behind" or? What does that mean? What

2311 does "beyond" mean? So it should say there should be no storage of equipment  
2312 or materials in front of or—something that clarifies where the—  
2313  
2314 Mrs. Kotula - To the south of or something.  
2315  
2316 Mr. Leabough - Yes.  
2317  
2318 Mrs. Kotula - Yes.  
2319  
2320 Mr. Morris - I believe so.  
2321  
2322 Mr. Emerson - We would interpret that to be behind the line. Yes sir,  
2323 we would.  
2324  
2325 Mr. Leabough - Okay. So that would prevent them from storing like  
2326 trucks in front of it or anything like that.  
2327  
2328 Mr. Emerson - Correct, yes.  
2329  
2330 Mr. Leabough - Should that also say "vehicles and other things"?  
2331  
2332 Mr. Emerson - Well it says equipment and materials, so equipment  
2333 would be vehicles.  
2334  
2335 Mr. Leabough - So it would be included in there.  
2336  
2337 Mr. Emerson - I think so, yes sir.  
2338  
2339 Mr. Leabough - All right.  
2340  
2341 Mr. Emerson - Certainly it could be worded a little better, but I would  
2342 interpret that to be behind the storage limit line, and equipment would include any  
2343 vehicle licensed to the business that would be part of that of that operation.  
2344 That's part of their equipment.  
2345  
2346 Mr. Leabough - All right. Just wanted to make sure that we  
2347 understand.  
2348  
2349 Mr. Emerson - Absolutely. It could be worded better.  
2350  
2351 Mr. Leabough - All right. I thought there was a request that there be  
2352 some sort of opaque fencing material. Can you share with us again what they're  
2353 proposing, Mr. Morris?  
2354

2355 Mr. Morris - Yes sir. They're proposing a chain link fence to run  
2356 along the perimeter of the property. Again, the gate would be right here on this  
2357 side as well as on this side. A chain link fence.

2358

2359 Mr. Leabough - Okay.

2360

2361 Mr. Morris - Staff had expressed some concern over visibility  
2362 issues with that sort of fencing. But I believe security concerns were cited by the  
2363 applicant.

2364

2365 Mr. Leabough - Okay. Well we'll have the applicant address those  
2366 concerns or explain to us why those are concerns. No further questions from me.

2367

2368 Mrs. Marshall - Is there anyone present in opposition to REZ2018-  
2369 00021, John Montgomery for Godsey & Son, Inc.? I see no opposition.

2370

2371 Mr. Leabough - Okay. Could the applicant please come forward?

2372

2373 Mr. Montgomery - Good evening, Madam Chair, members of the  
2374 Commission, Mr. Emerson. May it please the Commission. John Montgomery  
2375 here on behalf of the applicant. I appreciate the opportunity to speak to this and  
2376 to answer the questions you have.

2377

2378 You may be familiar with Mr. Godsey's business. It's already located on Charles  
2379 City Road to the east and on the south side of Charles City Road. Frankly, the  
2380 reason the company is seeking to move is that they've outgrown that space.  
2381 Some of the issues that you might find with the current location will be addressed  
2382 with the additional property that they have here.

2383

2384 To answer specifically the questions that you have brought forward, first about  
2385 the fence. There was some conversation with staff regarding whether it would be  
2386 an opaque fence or some sort of screening material. In conversations with  
2387 Mr. Godsey and his company, and knowing where they are now—they've had  
2388 situations in the past where vandalism or pilfering or theft has occurred in the  
2389 evening, coming over the fence or from the side. In working with the police, one  
2390 of the things that Henrico County Police Department has asked that they do in  
2391 their current location is to try to make sure that there's good visibility from  
2392 Charles City Road into the yard, that it will help them patrol that area.

2393

2394 So as we looked to locate down the street apiece, we wanted to continue that  
2395 good practice and that good relationship we have with Henrico PD to continue to  
2396 improve the security there.

2397

2398 So as sort of an opportunity to address the concerns of visibility, we have agreed  
2399 and are glad to limit storage, as has been explained, beyond the storage limit  
2400 line. So it's back off of Charles City Road, predominantly behind the building. So

2401 it gets further away than what the current usage is up the street. But also to  
2402 maintain the visibility by not blocking the fence with any sort of slats or any other  
2403 materials. That was the thought process, and that's how we came to that  
2404 conclusion. And it was in conjunction with our conversations with staff.

2405

2406 Mr. Leabough - Mr. Montgomery, what's the estimated distance from  
2407 Charles City to that fence? Do you know off the top of your head?

2408

2409 Mr. Montgomery - I don't know off the top of my head. If I had better  
2410 eyes or I could get closer, I could probably figure it out from the schematic.

2411

2412 Mr. Leabough - It looks like it's a good ways back there.

2413

2414 Mr. Montgomery - It is. Well the building itself. . .

2415

2416 Mr. Leabough - So I don't know how much more visible it will be by  
2417 not providing opaque fencing.

2418

2419 Mr. Montgomery - Except if there's an alarm or anything else that goes  
2420 off and the Henrico PD pulls into the parking lot, they can look through it and see  
2421 the light back there without too much difficulty and have better visibility. We  
2422 believe that it would be something that would encourage security and discourage  
2423 circumstances where you couldn't see back into that area. We do believe the  
2424 placing opaque material there would diminish the security of the location. But I do  
2425 understand.

2426

2427 Mr. Leabough - So what we're trying to accomplish by pushing the  
2428 storage limit line back and having the building front Charles City and also the  
2429 planting material that's on I guess the westernmost side of the property in effect  
2430 screens the storage area. So the only part that's really visible from a crime  
2431 perspective or a policing perspective is really just the entrance area to the  
2432 storage yard.

2433

2434 Mr. Montgomery - That is true. So in effect what we have is minimum  
2435 space. If we now make it opaque, then we have no visibility. It seems to us that  
2436 what we've proposed is a reasonable compromise. It both minimizes the visual  
2437 aspect of the storage yard from Charles City Road, but continues to provide the  
2438 ability for the police and for others to maintain security.

2439

2440 Your point is well made, and is valid, and I understand the argument. But I  
2441 believe that the counter position that we've taken, the compromise of not having  
2442 the opaque material there, and providing that ability to see through is a  
2443 reasonable one.

2444

2445 Mr. Leabough - Mr. Emerson, we've had other uses similar to this,  
2446 and I think we've done a good job of trying to screen a lot of that equipment. If I

2447 remember correctly, there was another case over off of Nine Mile where I think  
2448 they provided some wrought iron fencing and also brick columns.

2449

2450 Mr. Emerson - They did, yes.

2451

2452 Mr. Leabough - When we look at the other industrial area over off of  
2453 Williamsburg, they provided berms because the intent is to screen that area. And  
2454 it may do the opposite, so people may not know what's back there.

2455

2456 Mr. Emerson - Right.

2457

2458 Mr. Leabough - Because they can't see it from the street.

2459

2460 Mr. Emerson - Ms. Moore is checking the code for me,  
2461 Mr. Leabough, but I believe the code requires the fence to be opaque. We're  
2462 checking that right now to verify it.

2463

2464 Mr. Montgomery - As it's being checked, I believe there was another  
2465 question, but it's slipped my mind.

2466

2467 Mr. Leabough - Oh. The only other question I have relates to the  
2468 signage. Is there a need to have a six-foot sign here for this type of company?

2469

2470 Mr. Montgomery - I would have to go back and actually measure, but I  
2471 believe that the sign we've proposed is virtually identical in size to what is there  
2472 now just up the street. And it's very much in keeping with the other signage along  
2473 the road. That's not a question that's been presented to me, so I don't have a  
2474 definitive answer from my client as to whether that would be essential or not.

2475

2476 Mr. Leabough - I was just wondering. Are you proposing something  
2477 monumental in style, externally lit, anything like that? I just want to better  
2478 understand.

2479

2480 Mr. Montgomery - We're proposing something very similar to what is  
2481 there now. What is there now is a brick pedestal sign. I'm going from my memory  
2482 now. But it's a brick pedestal sign that has bricks on both sides. In between the  
2483 brick is a—

2484

2485 Mr. Leabough - So more a monument style.

2486

2487 Mr. Montgomery - Yes. Yes, that's exactly it. I'm sorry. That's exactly  
2488 what it is.

2489

2490 Mr. Leabough - Okay. So you're not planning to put a pole-mounted  
2491 sign or anything like that.

2492

2493 Mr. Montgomery - No, no.  
2494  
2495 Mr. Leabough - Okay.  
2496  
2497 Mr. Emerson - Mr. Leabough, I believe the code requires that the  
2498 fencing has some type of screening in it. In many of these cases we've had the  
2499 fabric strung along the chain link. But at the time of POD that will come up. So I  
2500 believe the code is going to require you, Mr. Montgomery, to screen or do  
2501 something to make that fencing opaque.  
2502  
2503 Mr. Montgomery - We certainly intend to comply with the code.  
2504  
2505 Mr. Leabough - All right. With that I have no further questions, Madam  
2506 Chair.  
2507  
2508 Mrs. Kotula - I would like to talk about the access between adjacent  
2509 parcels. It's certainly something that I would like to see as we continue to develop  
2510 throughout the County. Can you address that situation?  
2511  
2512 Mr. Montgomery - I can. Thank you for the opportunity to do that. On this  
2513 particular parcel, first of all if you look from there. The adjacent parcel to the west  
2514 is a vacant house site. It has some useful land but not much. It's mostly  
2515 wetlands. To the east is another M-1 conditionally-zone property.  
2516  
2517 The issue that we have with shared access is that Mr. Godsey's company is a  
2518 site contracting company. Most of their equipment is ordinarily out on the site  
2519 where they're going to work because it's not making money for him if it's in the  
2520 shop. So it's just there to be repaired and so forth. But the trucks that bring it in  
2521 and out are large low-boy trucks. This is large equipment. Some of the other  
2522 uses that are along this corridor would not be compatible. And it would be a  
2523 safety issue, we believe, having the adjacent parcels have access through the  
2524 parking lot, to have a shared access into this Godsey property. Particularly since  
2525 we don't know what it might be in the future, and it's something that if we  
2526 proffered now or we were required to proffer now or asked to proffer now would  
2527 put us in a potential situation where it would most likely and could probably be  
2528 unsafe in the future. One of our primary concerns is safety. And that's one of the  
2529 reasons that we have not at this point proffered the shared access.  
2530  
2531 Moreover, if you drive up and down the corridor, other than one particular  
2532 location where there are multiple smaller offices and all owned by one landlord,  
2533 the other parcels don't have shared access. I don't know that it's the only place  
2534 that's been required, because there may be some that were required that aren't  
2535 developed yet. But it's the only one that would be developed at this point that  
2536 would require it. So we would ask that we continue to be compatible and develop  
2537 in the same fashion as that which is along this particular corridor. We don't  
2538 believe it will diminish the use of the adjacent properties.



2539

2540

Mr. Baka - To follow up on Mrs. Kotula's question. Would it be possible to put a cross-access easement through the employee parking south of the building and then put a security fence north of that employee parking so that two goals are accomplish? One would be what Mrs. Kotula mentioned about cross-access easement, and two would be that the owner's trucks would be in a safe and secure lot north of the security fence without those two types of trucks intermingling.

2547

2548

Mr. Montgomery - I'm not sure if I follow your suggestion.

2549

2550

Mr. Baka - Sorry. Can I use the mouse on this?

2551

2552

Mr. Emerson - No you can't.

2553

2554

Mr. Baka - [Distorted audio; unintelligible] just on the southern wall of that front door of the building, right there. What if there were a cross-access easement through the employee parking—right there—to the next door neighbor east and west, and a security fence would be just about forty feet to the north so that there would not be any intermingling of trucks that need to be in a secure area behind the fence. "Behind" meaning north of that fence. And then south of that fence in that employee parking area you just highlighted there going east and west, you'd have a cross-access easement for other future development.

2563

2564

We see this issue on Staples Mill Road, for example, and other roads, too, throughout the county, Charles City Road and others.

2566

2567

Mr. Montgomery - If I understand . . . this is access where the trucks will come in and out.

2569

2570

Mr. Baka - Correct. The only crossing would be where the major trucks will come in off Charles City Road, go north right there where your cursor is. But if parking were to be extended to the west so that a cross-access easement would be possible to connect to the next property—right about there. So that way your security fence is north of that access point. In likelihood, the owner's vehicles would be safe and secure behind a fence there, and it would still allow for easements to the adjacent parcels.

2577

2578

Mr. Montgomery - If I'm following what you're asking or suggesting, there would be an easement allowing access to come in and out of this way from this parcel over here, which is A-1, by the way. If you can see the property line, it's not conducive, in its current condition anyway, to development for anything other than perhaps A-1. But if what you're suggesting is then vehicles could come through here, it doesn't alleviate or address our concern that these trucks that will be pulling off of Charles City Road into the parking area and back into

2579

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2584

2585 the shop area will be sharing access with what we don't know will be in the  
2586 future. I don't know that you are suggesting coming from this direction too. But in  
2587 effect, creating a service road through our parking lot. And given the  
2588 circumstances of the type of business and the vehicles that we will be having  
2589 back in the shop area, we don't believe that would be conducive to safety.

2590

2591 I am familiar with what you suggest along some of the areas of Staples Mill and  
2592 those with some of the broader parking areas and so forth, or at least the ones  
2593 that come to my mind. That model we don't believe would work here for the  
2594 reasons I've stated.

2595

2596 Mr. Leabough - Could we hear from Traffic, please, in terms of their  
2597 position or thoughts on this? Is that okay, Madam Chair?

2598

2599 Mrs. Marshall - Yes.

2600

2601 Ms. Smidler - Hi. Good evening, Madam Chair, members of the  
2602 Commission, Mrs. O'Bannon. My name is Sharon Smidler. I'm assistant traffic  
2603 engineer. You were asking, Mr. Leabough, about cross access.

2604

2605 Mr. Leabough - Yes.

2606

2607 Ms. Smidler - Cross access would be beneficial. Traffic does not  
2608 require it, but we do see how it would be beneficial. The access-basing standards  
2609 on Charles City Road, it is classified as a . . . it's a major arterial, so the access-  
2610 basing is 250 feet between access points.

2611

2612 Mr. Leabough - So you wouldn't achieve that if the site adjacent to  
2613 this site were to develop and provide another access point onto Charles City.  
2614 Correct?

2615

2616 Ms. Smidler - Depending upon how the parcels were sold and  
2617 developed. But yes.

2618

2619 Mr. Leabough - But if it were sold as is . . . yes, I guess it would  
2620 depend upon that. What about the concerns that Mr. Montgomery raised related  
2621 to the truck traffic in and out of this parcel? Do you all have any concerns about  
2622 that access point, the cross access and the potential conflicts with the truck traffic  
2623 that would enter and exit the site? I guess it's kind of hard to answer without  
2624 knowing what the adjacent parcel is developed for.

2625

2626 Ms. Smidler - And the use, the type of business.

2627

2628 Mr. Leabough - If there were two trucking companies, it probably  
2629 wouldn't be as big of a deal. Or storage. Or a similar company in nature. But it  
2630 just depends.

2631  
2632 Ms. Smidler - Yes.  
2633  
2634 Mr. Leabough - Okay. I have no other questions.  
2635  
2636 Mrs. Marshall - Any more questions for Traffic?  
2637  
2638 Mr. Leabough - Oh, I do have a question for Mr. Emerson. We have  
2639 asked for this on other parcels in this area?  
2640  
2641 Mr. Emerson - Yes sir, we have. We have on previous cases.  
2642  
2643 Mr. Leabough - Do you know how many?  
2644  
2645 Mr. Emerson - Just one.  
2646  
2647 Mr. Leabough - Just one?  
2648  
2649 Mr. Emerson - Yes. About twelve years ago.  
2650  
2651 Mr. Leabough - Okay.  
2652  
2653 Mr. Baka - Just to clarify. The Comprehensive Plan shows  
2654 Planned Industrial for many of these parcels or all Planned Industrial on Charles  
2655 City?  
2656  
2657 Mr. Emerson - It does, yes sir.  
2658  
2659 Mr. Baka - Okay.  
2660  
2661 Mr. Emerson - Cross access would be preferred, but as Traffic told  
2662 you, it's not necessarily required. But it would be preferred.  
2663  
2664 Mr. Leabough - Okay. I have no further questions, Madam Chair.  
2665  
2666 Mrs. Marshall - Any more questions from the Planning Commission?  
2667 Mr. Leabough?  
2668  
2669 Mr. Leabough - All right. I'm going to move that REZ2018-00021,  
2670 John Montgomery for Godsey & Son, Inc., move on to the Board of Supervisors  
2671 with a recommendation of approval subject to conditions 1 through 15 as  
2672 presented on April 24.  
2673  
2674 Mr. Baka - I'll second the motion.  
2675

2676 Mrs. Marshall - We have a motion by Mr. Leabough and a second by  
2677 Mr. Baka. All in favor say aye. Those opposed say no.

2678  
2679 Mrs. Kotula - No.

2680  
2681 Mrs. Marshall - A "no" by Mrs. Kotula. We do have a quorum; the  
2682 motion passes.

2683  
2684 The vote was as follows:

2685  
2686 Mrs. Marshall – Yes  
2687 Mr. Baka – Yes  
2688 Mr. Archer – Yes  
2689 Mrs. Kotula – No  
2690 Mr. Leabough – Yes

2691  
2692 **REASON -** Acting on a motion by Mr. Leabough, seconded by  
2693 Mr. Baka, the Planning Commission voted 4-1 (one abstention) to recommend  
2694 the Board of Supervisors **grant** the request because it is appropriate industrial  
2695 zoning in the area.

2696  
2697 Mr. Montgomery - Madam Chair, as I depart, I would invite you all to  
2698 come out to Dorey Park on June 2nd. Not only will be celebrating Varina Day, but  
2699 it will also be the grand opening of the Dorey Park Farmers' Market, which has  
2700 been an effort that I've been associated with, but my wife's done all the work,  
2701 which is not unusual in my circumstance. We have about twenty vendors, a  
2702 variety of growers, some artisans. Everything will be homemade, and everything  
2703 will be local, and everything will be from Henrico County. So it will be a grand  
2704 opening, and it will be a fresh place to me. We hope that you'll come out and  
2705 enjoy the country for a little while.

2706  
2707 Y'all have a good evening. Thank you.

2708  
2709 Mrs. Marshall - Thank you.

2710  
2711 Mr. Archer - Thank you, Mr. Montgomery.

2712  
2713 Mr. Emerson - Madam Chair, we now move on to page 4 of your  
2714 agenda for the consideration of approval of your minutes from your April 12, 2018  
2715 meeting.

2716  
2717 Mrs. Marshall - Are there any corrections to the minutes?

2718  
2719 Mrs. O'Bannon - [Off microphone] I found one typo.

2720  
2721 Mr. Leabough - I think you muted yourself. There you go.

2722

2723 Mrs. O'Bannon - I found a typo on line 1266. Instead of "they can  
2724 possible," "they can possibly." And I apologize I did not point that out earlier.

2725

2726 Mrs. Marshall - I couldn't hear what you said. What do we need to  
2727 correct?

2728

2729 Mr. Leabough - Change it from "possible" to "possibly."

2730

2731 Mrs. O'Bannon - Possibly.

2732

2733 Mr. Emerson - Okay. On line 1266, correct?

2734

2735 Mrs. O'Bannon - And the next thing, I want to apologize. I talk too  
2736 much.

2737

2738 Mr. Leabough - No more than I do, Mrs. O'Bannon, so you're all right.

2739

2740 Mrs. Marshall - So correct the typo on line 1266, changing it to  
2741 "possibly." A motion would be in order.

2742

2743 Mr. Archer - I move that the minutes be accepted as corrected.

2744

2745 Mr. Leabough - Second.

2746

2747 Mrs. Marshall - We have a motion by Mr. Archer and a second by  
2748 Mr. Leabough. All in favor say aye. Those opposed say no. There is no  
2749 opposition; that motion passes.

2750

2751 Do we have any more new business this evening?

2752

2753 Mr. Emerson - Madam Chair, I have nothing further for the  
2754 Commission this evening.

2755

2756 Mr. Leabough - I move that we adjourn, Madam Chair.

2757

2758 Mr. Archer - Second.

2759

2760 Mrs. Marshall - We have a motion to adjourn by Mr. Leabough and a  
2761 second by Mr. Archer. All in favor say aye. Those opposed say no.

2762

2763 Have a good evening.

2764

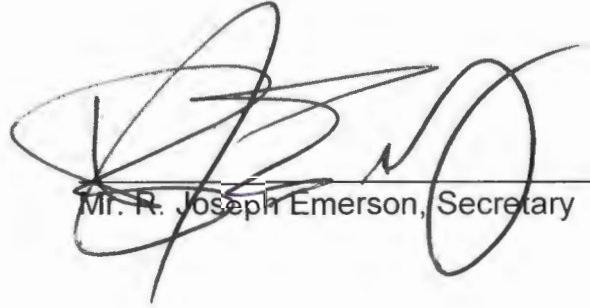
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Sandra M. Marshall  
Mrs. Sandra M. Marshall, Chairman

  
Mr. R. Joseph Emerson, Secretary