

1 MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING  
2 APPEALS OF HENRICO COUNTY, HELD IN THE COUNTY  
3 ADMINISTRATION BUILDING IN THE GOVERNMENT CENTER AT PARHAM  
4 AND HUNGARY SPRING ROADS, ON THURSDAY MARCH 5, 2015 AT 9:00  
5 A.M., NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-  
6 DISPATCH FEBRUARY 9, 2015, AND FEBRUARY 16, 2015. THE MEETING  
7 WAS RESCHULDED FROM FEBRUARY 26, 2015, DUE TO SNOW THAT  
8 CLOSED COUNTY OFFICES.

9  
10  
Members Present: Gentry Bell, Chairman  
Greg Baka, Vice Chairman  
Dennis J. Berman  
Helen E. Harris

Members Absent: James W. Nunnally

Also Present: Jean M. Moore, Assistant Director  
Benjamin Blankinship, Secretary  
Paul M. Gidley, County Planner  
R. Miguel Madrigal, County Planner

11  
12 Mr. Bell - Mr. Blankinship, please read our rules.

13  
14 Mr. Blankinship - Good morning, Mr. Chairman, members of the Board,  
15 ladies and gentlemen, the rules for this meeting are as follows: Acting as  
16 secretary, I will announce each case. As I'm speaking, the applicant should come  
17 down to the podium. We will then ask everyone who intends to speak to that  
18 case to stand and be sworn in. Then the applicant will present their case. Then  
19 anyone else who wishes to speak will be given the opportunity. After everyone  
20 has had a chance to speak, the applicant and only the applicant will have an  
21 opportunity for rebuttal. After the Board has heard all of the testimony on a case  
22 and asked any questions, they will proceed to the next case. They will render all  
23 of their decisions at end of the meeting. So if you wish to hear their decision on a  
24 specific case, you can either stay until the end of the meeting, or you can check  
25 the Planning Department website—we update it within about an hour of the end  
26 of the meeting—or you can call the Planning Department this afternoon.

27  
28 This meeting is being recorded, so we will ask everyone who speaks to speak  
29 directly into the microphone on the podium, state your name, and please spell  
30 your last name so that we get it correctly in the record.  
31

32 Finally, there is a binder in the foyer that includes the staff report for each case,  
33 including the conditions that have been recommended by the staff. It's very  
34 important that the applicants be familiar with those conditions.

35  
36 I said finally, but actually, Mr. Chairman, one other thing. We are missing a  
37 member this morning. My Nunnally was not able to make it in because of the  
38 weather predicted for the ride home. The state code requires that in order to  
39 approve a conditional use permit, there must be three affirmative votes. So this  
40 morning, a two-to-two vote would be treated as a denial. So if you wish to wait  
41 until next month and have the case heard by the full five-member Board, you  
42 have that privilege. When you come to the podium, just ask to have it deferred. I  
43 say next month, but it will be March 26th. If you wish to just proceed with the  
44 case, you can also do that.

45  
46 We also have one withdrawn case. If anyone is here for CUP2015-00006,  
47 Richard Morris, requests a conditional use permit for 7901 Three Chopt Road,  
48 Mr. Morris has withdrawn that request.

49  
50 Mr. Bell - Does anyone here desire to have their case deferred  
51 to the next meeting? You do have that privilege. And if you so desire, please step  
52 forward now. So if no one desires to defer, let's go ahead and call the first case.

53  
54 **CUP2015-00002 GILLIES CREEK INDUSTRIAL RECYCLING, LLC**  
55 requests a conditional use permit pursuant to Sections 24-52(d) and 24-103 of  
56 the County Code to extract materials from the earth at 6650 Hines Road (Parcels  
57 855-695-5768 and 855-695-8710) zoned Agricultural District (A-1) (Varina).

58  
59 Mr. Blankinship - Would you raise your right hands, please? Do you  
60 swear the testimony you're about to give is the truth and nothing but the truth so  
61 help you God?

62  
63 Mr. Hooker - Good morning, Mr. Chair, Board members. My name  
64 is Randy Hooker. That's H-o-o-k-e-r. I'm with Engineering Design Associates  
65 representing Gillies Creek on Hines Road. I have with me Lou Bryant with Gillies  
66 Creek, as well as John Martin. John is the superintendent overseeing the mine.

67  
68 We're here again requesting approval for an extension to continue with the mine  
69 operation and to finalize the reclamation of the property. Significant progress has  
70 been made since the last renewal. We fully expect to have this thing wrapped up  
71 by the end of this proposed extension.

72  
73 Mr. Bell - Any questions?

74  
75 Ms. Harris - Yes, I have several questions. The stockpile material  
76 that you mentioned in your report, how tall is that? What is the height of that?

78 Mr. Bryant - I'm Lou Bryant with Gillies Creek. B-r-y-a-n-t. This is  
79 the stockpile you're referring to, ma'am?  
80  
81 Ms. Harris - Yes.  
82  
83 Mr. Bryant - John, actually you better answer that.  
84  
85 Mr. Martin - My name is John Martin—M-a-r-t-i-n. This pile here,  
86 where it's taken from, I'm trying to see where it's at. But I believe that pile is now  
87 out of there. So it's an elevation of maybe eight feet tall.  
88  
89 Ms. Harris - Okay. Are there any more stockpile areas on the site?  
90  
91 Mr. Martin - No ma'am. Other than what we're placing in there to  
92 reclamate the site, there are no other stockpiles.  
93  
94 Ms. Harris - Okay. I notice in the narrative description 4B, you said  
95 a separate erosion and sediment control plan will not be necessary. Is that  
96 because you have already submitted the E&S plan?  
97  
98 Mr. Bryant - I'm sorry, Ms. Harris, which condition was that?  
99  
100 Mr. Blankinship - It's not a condition, it's in the narrative that you  
101 submitted.  
102  
103 Mr. Bryant - There is an E&S plan in place for the site currently,  
104 yes.  
105  
106 Ms. Harris - Okay.  
107  
108 Mr. Blankinship - And it covers the roads as well as the mining site  
109 itself?  
110  
111 Mr. Bryant - Yes.  
112  
113 Ms. Harris - Okay. My next question. Is any part of the mining area  
114 fenced in?  
115  
116 Mr. Bryant - No ma'am.  
117  
118 Ms. Harris - Okay. And the depth of that is?  
119  
120 Mr. Bryant - From the access road to the bottom of the pit itself, at  
121 this point probably twenty, twenty-five feet deep.  
122

123 Ms. Harris - Is it customary to fence in areas like that? I'm just  
124 wondering for safety reasons.  
125

126 Mr. Bryant - Well, I don't know if I would say it's customary, but  
127 we're kind of in the middle of the woods all by ourselves. Most of the property  
128 surrounding us is guarded by woods.  
129

130 Ms. Harris - And you do say that you foresee you'll be able to  
131 complete this project in a couple of years?  
132

133 Mr. Bryant - Yes ma'am. We think this will be the last renewal we  
134 will need to finish.  
135

136 Ms. Harris - Okay. I believe those are my questions.  
137

138 Mr. Bell - How many trucks do you have every day going in and  
139 out?  
140

141 Mr. Bryant - Per day it would be hard to say. I think the report I  
142 submitted in January for annual intake last year was over 100,000 yards, which  
143 would average about 10,000 loads in a calendar year. So if we said 200 working  
144 days, 210,000 would be an average of 50 per day. Some days less, some days  
145 more, just depending on weather, volume of work, and things like that.  
146

147 Mr. Bell - Are there restrictions on whether they go in  
148 individually, single, two or three, or can they go in convoy style?  
149

150 Mr. Bryant - I think the conditions limit it to no more than three  
151 trucks exiting simultaneously.  
152

153 Mr. Bell - What are the primary types of materials that are  
154 carried in?  
155

156 Mr. Bryant - It's almost exclusively dirt, excess dirt from  
157 construction projects, primarily Henrico County and the surrounding area.  
158

159 Mr. Bell - Have you had over the last year any complaints from  
160 neighbors.  
161

162 Mr. Bryant - Yes. I hear them in the background. We've had  
163 different kinds of problems generally dealing with either truck traffic—primarily  
164 the truck traffic on the road, the haul road that leads from Hines Road into the  
165 site. And I know that the neighbors are very anxious to have us complete this  
166 project, as we are too. And they've been very patient; and we appreciate that,  
167 which again is why I stress that we think this will be the last renewal necessary to  
168 reclaim the site, stabilize it, and depart.

169

170 Mr. Bell - Any other questions?

171

172 Mr. Baka - Yes, a couple. You mentioned that you should have  
173 this thing wrapped up at the end of this renewal. There are thirty conditions.  
174 Condition 27 talks about excavation will be discontinued by February 28, 2017,  
175 about two years from today. So it's your intention that all excavation will be  
176 wrapped up by then, and then reclamation, restoration will be accomplished in  
177 the next year following that?

178

179 Mr. Bryant - Yes. We think that's very feasible based on the  
180 progress that's been made since the last renewal in 2013.

181

182 Mr. Baka - Okay. And the truck traffic, you said about fifty trucks.  
183 So that would fifty trips in and fifty trips out each day. So that's about a hundred  
184 vehicle trips in a day.

185

186 Mr. Bryant - In terms of vehicle trips, yes. Two times for each  
187 vehicle, in and out.

188

189 Mr. Baka - Okay. And that road was in really good shape. Who  
190 owns the underlying fee on that road? Was that gravel previously? It's paved  
191 now.

192

193 Mr. Bryant - It was, I think, at one point dirt. And then we tarred  
194 and graveled the road.

195

196 Mr. Baka - But who owns the land?

197

198 Mr. Bryant - We own the road itself.

199

200 Mr. Baka - You own the fee?

201

202 Mr. Blankinship - Yes, see the survey.

203

204 Mr. Baka - I saw the survey. I was almost a little—pleasantly  
205 surprised. I wish more projects were like that. Sometimes you run into easement  
206 issues if you're traversing off someone else's property. All right, so that's  
207 excellent. And the other question I had was—sorry, just one more here. You  
208 have an E&S plan in place. Is a SWPPP required, a stormwater pollution  
209 prevention plan?

210

211 Mr. Bryant - It is, and there is a SWPPP for the property.

212

213 Mr. Baka - Okay. Thanks.

214

215 Mr. Bell - Have you read and understand all of the suggested  
216 conditions and agree with them if the conditional use permit is approved?  
217  
218 Mr. Bryant - Yes sir.  
219  
220 Ms. Harris - Mr. Bryant, condition #20 talks about the historical  
221 things—cultural and historic things you may have encountered. Have you  
222 encountered any type of historic results in your excavations?  
223  
224 Mr. Bryant - No ma'am.  
225  
226 Ms. Harris - Okay. So no cemeteries or anything like that.  
227  
228 Mr. Bryant - No.  
229  
230 Ms. Harris - Was this the property that had a motorcycle problem  
231 at one point?  
232  
233 Mr. Bryant - Last year, yes.  
234  
235 Ms. Harris - How did you resolve that?  
236  
237 Mr. Bryant - We haven't had them come back. I think at the last  
238 meeting the neighbors had concerns, as did we, about people trespassing and  
239 riding ATVs and dirt bikes on the property. I just asked for the neighbors'  
240 cooperation to help us call the police for trespassing. And since then, we haven't  
241 noticed any incursions.  
242  
243 Ms. Harris - Thank you.  
244  
245 Mr. Bell - That's all, then.  
246  
247 Mr. Bryant - All right. Thank you.  
248  
249 Mr. Bell - Is there anyone else who wants to speak on this  
250 case? Please come forward.  
251  
252 Mr. Dowdy - Good morning. My name is Bailey Dowdy. I live at  
253 6660 Hines Road.  
254  
255 Mr. Bell - Give us the spelling of your last name, please.  
256  
257 Mr. Dowdy - I'm sorry. D-o-w-d-y.  
258  
259 Mr. Bell - Thank you.  
260

261 Mr. Dowdy - I bought my property in 1990. At that time, the pit was  
262 owned by E.R. Plaster. The operation he was conducting at that time was very  
263 limited. If you look at the aerial view there, the first house on the right of the  
264 entrance—that is correct—is the property which I own. I don't know how many of  
265 you have been down to the site. A substantial amount of dirt has been hauled in  
266 there. I would estimate or guesstimate that it is well over—more dirt that's been  
267 hauled in in the last ten years than has been extracted in the last fifty years.

268  
269 The truck traffic is horrendous. Fifty trucks a day, in my opinion, is a little light for  
270 an average. I know some days it's well over a hundred trucks in and out of there.  
271 Speed has been a great problem for me. I've stood out there because—we all  
272 have pets, and there are people that walk up and down the road. I have stood out  
273 there when a truck sped in, and waved when they come back out to stop the  
274 driver and remind him of the speed limit. Some drivers, yeah, it's done a little bit  
275 of good. Most of them totally ignore what I have to say.

276  
277 The speed at which the traffic gets in and out of there, the amount of traffic that's  
278 in and out of there, the noise they create, the trash that the truck drivers have  
279 thrown out—and I've walked up and down the road and picked up trash. I've tried  
280 to actually maintain the grass and all at the entrance of the Gillies Creek  
281 driveway, as well as cutting down the sides of the driveways for—well, the length  
282 of my property plus.

283  
284 Another problem I'm having is Gillies Creek did place a large rock at the entrance  
285 because we had problems with people cutting the corner into the entrance and  
286 rutting up the yard. Since that rock was placed there, the trucks and the lowboys  
287 with equipment on them have literally pushed that rock back I'd say three to four  
288 feet.

289  
290 Just recently, I talked with Gillies Creek and expressed my concerns about some  
291 ruts. They did come in and throw some dirt on top of the ruts; however, that really  
292 doesn't fix the problem. That entrance is not suitable for bringing in tractor-trailers  
293 and fourteen-wheel dump trucks that travel it. When you have a truck that's at the  
294 entrance exiting the driveway, another truck coming down Hines Road getting  
295 ready to turn into the driveway, he sometimes just runs across the corner of the  
296 yard to get in. The neighborhood is fed up. Plain and simple.

297  
298 I don't know what more to say. If you would like to come down and take another  
299 look at it. The pictures that were shown show a very good view of the site . . . if  
300 you are the owner. From my perspective, I think there are other views that would  
301 greatly change your mind. With that, I thank you.

302  
303 Mr. Bell - Thank you. Any questions?

304  
305 Ms. Harris - Mr. Dowdy?

306

307 Mr. Dowdy - I'm sorry. Yes ma'am.  
308  
309 Ms. Harris - Do you actually reside on your property?  
310  
311 Mr. Dowdy - Yes ma'am.  
312  
313 Ms. Harris - Is that your primary residence?  
314  
315 Mr. Dowdy - Yes ma'am. And I look at the trucks when I'm  
316 standing at the kitchen sink. I look at the trucks if I look out the front of the house.  
317 I look at the truck—if I'm sitting in my recliner watching TV and I look just off to  
318 my peripheral vision, there are trucks.  
319  
320 Ms. Harris - So you've actually noticed a decline in your quality of  
321 life since you've—  
322  
323 Mr. Dowdy - Absolutely.  
324  
325 Ms. Harris - Okay.  
326  
327 Mr. Dowdy - Without a doubt. I mean, I can't sit on the patio—now  
328 of course I'm retired now. I finally made it. I have time to spend in my yard. And if  
329 you've been there, I hope you took notice of my yard. I spend a lot of time in it. I  
330 take a lot of pride in the yard. And I've had different employees of Gillies Creek,  
331 as well as a lot of the truck drivers, comment on how pretty the yard is. But yes,  
332 inside working, in the garden, flowerbeds, cutting the grass, whatever, sitting on  
333 my patio in the afternoon—and to listen to diesel engines going up the driveway  
334 and the smell of the diesel exhaust and the dust, yes it's very bothersome.  
335  
336 Ms. Harris - You said they placed a rock at the entrance. Would it  
337 help if they placed another larger rock? Would that help anything with the turn?  
338  
339 Mr. Dowdy - No. Well, I've actually asked Gillies Creek to move  
340 that rock back to its original position. And that has not happened. And that's been  
341 a long time ago. On several occasions I've asked and mentioned that. There are  
342 two culverts; that brings another thing. There are two culverts that are near the  
343 entrance of Gillies Creek. One is the culvert that runs under their driveway. The  
344 rock has been shoved back to a point where it has actually broken off the end of  
345 that culvert and now sits in the end of it. The dirt that's been added to the corner  
346 where the trucks keep rutting it up, there's a drainpipe that runs underneath of  
347 Hines Road. You can't find the end on my side of the road; it's been covered over  
348 with dirt and with the trucks driving back and forth across it.  
349  
350 Ms. Harris - What is the speed limit over there?  
351

352 Mr. Dowdy - The speed limit on Hines Road is thirty-five. The  
353 speed limit posted on the driveway through Gillies Creek is fifteen. There you go.  
354 And of course the sign right below it that they put up that says "stay off the  
355 grass"? Truck drivers can't read. I actually—looking at this picture right in front of  
356 us here, right at the top of the hill there was a truck driver that I had stopped  
357 because he went in at an excessive amount of speed. So I walked down there  
358 and waited for him to come back out. And when he came back out, I stopped  
359 him, and politely asked him. And I've tried to be polite to all of the drivers. Just  
360 simply asked him, you know it's a neighborhood? I'd appreciate it if you'd slow  
361 down. This is a driveway, not a highway. And most of them are polite when we  
362 talk. And while I'm standing right there talking to a truck driver, another truck  
363 driver coming into the plant decides he's not going to wait; he's going to drive  
364 around. And this area is a single lane area; it's not wide enough for two. Well, I  
365 was a little upset, so I stood in front of his truck. I said, "Now you can back it back  
366 up." So, which he did, so. But they don't have any consideration for the  
367 neighborhood whatsoever.

368  
369 Ms. Harris - Have you ever taken the license plate number down  
370 and gave it to the people at Gillies Creek?

371  
372 Mr. Dowdy - Well usually when they're flying, you can't get their  
373 license plate number. I have taken some pictures of some of them. But I call  
374 Gillies Creek on a lot of occasions. Some of them take heed to a warning. It  
375 doesn't usually last very long. And I can only assume that when I've called Gillies  
376 Creek and spoken with them, that they have called the company in which the  
377 truck drivers drive for. Ty's Trucking is one that had a slew of trucks coming in  
378 and out of there. I think they were probably hauling from the Lumber Liquidators  
379 site. A couple of their drivers—I mean, it was just ridiculous. I called John a  
380 number of times on them.

381  
382 Ms. Harris - Now you've put up with this for how many years?

383  
384 Mr. Dowdy - Well I bought the property in 1990. Gillies Creek  
385 bought the property in 2005? Four? Somewhere along in there. 2004. So prior to  
386 Gillies Creek buying the property—and I guess a lot had to do with the fact that  
387 Mr. ER Plaster was getting up in age and wasn't doing as much work. I can only  
388 speak for myself. Yes, it was a bother, but it wasn't a huge bother. The amount of  
389 traffic that's in there now and has been is—I stay pretty mad. And frustrated.  
390 Twice now in front of the Board. I went away with the assumption that that was  
391 going to be the last go round. Gillies Creek has mentioned on occasions that if  
392 everything goes all right, and the economy does all right, we'll be able to wrap  
393 this up. And we come back here, and we come back here, and we come back  
394 here. They have ample dirt there that's already on site to completely reclaim that  
395 property. Like I said, more dirt has been hauled in than was ever excavated.

396  
397 Ms. Harris - Thank you.

398

399 Mr. Berman - Mr. Dowdy, a couple quick questions. You mentioned  
400 you had it in 1990. They acquired it in 2004. Can you estimate how much more  
401 active you feel the property has been 2004 going forward as compared to when  
402 you knew that there was a site down the road from you?

403

404 Mr. Dowdy - Oh, you mean like a month I never ever saw a dump  
405 truck?

406

407 Mr. Berman - Okay, that answers the question. I'm not implying this  
408 is an additional condition, but what would your opinion be if there was half the  
409 traffic, but that would extend the end of the project, it would double the end of the  
410 project?

411

412 Mr. Dowdy - Well see, it's been going on for so long that, you  
413 know, I'm already there at the limit. I think it needs to be ended. I think they've  
414 had ample time, ample opportunity. And I think, for the most part, the  
415 neighborhood has been pretty good about it. You know, we've put up with dirt on  
416 the road. I can only think of—and they may correct me because I'm not there  
417 24/7. I can only recall one time that they cleaned Hines Road. The rest of the  
418 time the good Lord does it. And of course then the next day the traffic comes in  
419 and undoes it with all the mud that they're hauling out from the plant. I would very  
420 much like to ask the Board to eliminate this site. I think they've had more than  
421 ample time to do the work they needed to do. They have said in the past that,  
422 hey, give us one more chance and we'll wrap it up. Again, I'm fed up, and I'd  
423 greatly appreciate it if you'd help me out.

424

425 Ms. Harris - Mr. Dowdy, how many neighbors are we dealing with?  
426 I know you are right there. We saw on the aerial view where your property was  
427 located.

428

429 Mr. Dowdy - I've talked to quite a few of the neighbors. And  
430 unfortunately—no, let me rephrase it. Fortunately, they have jobs. So they can't  
431 attend a meeting like this. They can't just take off work; they can't afford to these  
432 days. Others have kids or they've got their parents that they're looking after. And  
433 quite frankly, their life doesn't allow them to have the luxury that I have to plan on  
434 coming last week and plan on coming this week. And I'll come again next week—  
435 whatever it takes. Some people can't do that.

436

437 Ms. Harris - My question was how many neighbors are affected by  
438 this conditional use permit?

439

440 Mr. Dowdy - The neighbors on the driveway itself? We're looking  
441 at one, two, three, four, five, six—seven that are in direct—are adjacent to the  
442 property that Gillies Creek has and the entrance, which is their property. But the  
443 people that are affected are the people across the road as well with the noise

444 and debris. I'd say 99 percent of the traffic comes up Elko Road from the  
445 Portugee Road direction. It's my understanding that they had a problem on  
446 Portugee Road with the amount of trucks that were coming down there. And the  
447 trucks were headed to Gillies Creek. But I don't want to speak on that. That's  
448 something you may want to look at.

449  
450 Anything coming from that direction the neighbors have to deal with the traffic  
451 and all from these trucks. And I don't think Hines Road was ever designed to  
452 handle such traffic. Now we're not talking about single-axle dump trucks or even  
453 tandem-axle dump trucks. We're talking about fourteen-wheel dump trucks that  
454 haul—I think they're capacity is about 30,000 tons, 20 or 30, something like that.

455  
456 Mr. Baka - Mr. Chairman, if I may, I had a follow-up question.  
457 You said that the speed of trucks was one of the issues. And if speed is a  
458 concern—I can't make one truck any less noisy, but I guess my question is can  
459 you estimate about how fast the trucks are going? If they slowed down, you  
460 mentioned that would be somewhat of an improvement. About how fast are they  
461 driving through there?

462  
463 Mr. Dowdy - Well I know they have a radar gun, but I don't have  
464 one, so I'm going to just flat guess that they're probably going at least thirty-five.  
465 Like I said, they'll turn off of Hines Road onto the entrance to the plant. And  
466 they'll go through four or five gears before they clear the Leyland cypresses.

467  
468 Mr. Baka - Four or five gears.

469  
470 Mr. Dowdy - And Leyland cypresses end at about 300 feet from  
471 the road.

472  
473 Mr. Baka - Okay. Thank you.

474  
475 Mr. Dowdy - So they're pushing it.

476  
477 Mr. Bell - Thank you.

478  
479 Mr. Dowdy - Thank you.

480  
481 Mr. Bell - Ma'am, come on up.

482  
483 Ms. Frazier - Good morning, lady and gentlemen. My name is Joan  
484 Frazier—F-r-a-z-i-e-r. My property is the large parcel behind Mr. Dowdy's. No,  
485 upwards. Right there. We have lived there since at least 1979. At that time, we  
486 were told it would be a five-year operation. It is now over thirty-six years. And  
487 that's as long as we've been there. Had we known that operation was going to be  
488 this long or even was going to get started, we never would have bought the  
489 property.

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Now, I just want to know how long it's going to take to reclaim, and I'm going to be repeating some of Mr. Dowdy's concerns. How long does it take to reclaim these acres? There has been more soil brought in than was ever taken out. Now, are we looking at another thirty-five years? I hope not. I was under the impression at the last meeting that I attended that this operation would be completed by now. Well, it's obviously not.

In 1979, Mr. Clark, the Varina Zoning Appeals rep, asked how long the operation would last. And he was given the answer—five years. Now, I'm a little math challenged, but thirty-five years versus five years is a little different.

Now, our residential area is becoming decidedly industrial. The trucks are a nuisance. They're speeding up and down the access road. The noise is driving us nuts with their engines braking before entering the pit. The tailgate and bed slamming to dump their loads. Now, Gillies Creek, as you showed, did erect speed limit postings. I think they wasted their money. To the trucks, it's pedal to the metal on the access road. And the most consistent speeders are those with the Henrico seal on their doors, I might add. And they're supposed to be in a convoy? Every day there are more than two trucks passing each other. I'm just waiting for one of them to fall off into my pasture.

Now Mr. Bryant requested that we report to him any speeders and he would contact the supervisor at the pit. Well this is useless. The supervisor can't see the access road; he's down there doing his job. It should not be up to us to police Gillies Creek operations or their independent contractors.

Now, just an incident the other day. I was working in my barn, which faces the access road. My neighbor directly behind me keeps her dogs pinned during the day that this is going on. Being beagles, they're going to chase. Well, one of them got away from her. And I saw this myself. She had to yell at the driver to slow down so she could retrieve the dog and not get hit herself.

The daughter of this same neighbor decided out of curiosity to sit on the front porch for an hour one day—counted fifty trucks.

I also resent these truck drivers blowing their air horns at my horses who are grazing up next to the fence. Now, fortunately, they think this is some stupid human trick, but I don't like it.

Now, are we going to have to put up with this for another thirty-five years? We were told that this would be the last one at the last meeting I attended. So I am asking you to deny this.

Mr. Bell - Questions? Thank you, ma'am. Any rebuttal?

536 Mr. Bryant - Thank you. I understand Mr. Dowdy's and Ms.  
537 Frasier's frustration. It's been present since we've operated the facility. I know  
538 that the last time we were here I thought it would be the last time we were here.  
539 That hasn't been the case. I think the County can see that we've made  
540 considerable progress in the last two years. The two years preceding that there  
541 was not a lot of activity. Unfortunately, I find the company is on the horns of a  
542 dilemma. We cannot finish the site without adequate truck traffic to fill the rest of  
543 the hole. But we can't slow the trucks down to appease their concerns for noise  
544 and truck traffic. As Mr. Berman said, if I limit the amount of traffic, I extend the  
545 life of the pit.

546  
547 What we would like to do is to get out of here as soon as we can and move on to  
548 another opportunity. We want to be gone just as much as the neighbors want us  
549 gone. And as I said before, I believe firmly and strongly that this will be the last  
550 time I'm before this Board asking for a renewal.

551  
552 Mr. Bell - Could we put that in it? Would you be satisfied if that  
553 was a condition added to this that this would be the last time?

554  
555 Mr. Bryant - In favor of an approval if that was a condition, yes.

556  
557 Mr. Bell - Okay. When is it due to be completed?

558  
559 Mr. Blankinship - We could just go to condition #27 and just stop right  
560 after the figure 2018. So it will read: Excavation shall be discontinued by  
561 February 28, 2017 and restoration accomplished by no later than February 28,  
562 2018.

563  
564 Mr. Bryant - Yes sir.

565  
566 Mr. Bell - The problems that I hear, I know that when you find  
567 out about it you call the people and tell them. A couple of things crossed my  
568 mind. Speed seems to be a big problem. So when they come off the road making  
569 the turn there, they don't brake all the way down. Is there anything that could be  
570 down there at the entrance that would force them to brake? I'm thinking about the  
571 things I dislike, those little humps. Do you know what I mean?

572  
573 Mr. Bryant - We could put some kind of—yes—speed bumps,  
574 speed control device.

575  
576 Mr. Bell - Then if you slow them there, then that will help solve  
577 it. They might speed up for the rest, but at least you have them slowed down  
578 coming in.

579  
580 Mr. Bryant - Yes sir. All right.

581

582 Mr. Bell - And then second, that easement there at the front  
583 where the rock is, they're cutting it short or they need more room. How far over  
584 could you extend the road to the right or to the left just a little where they can  
585 make that curve without any rock being there?  
586

587 Mr. Bryant - I'd have to have the property line surveyed again to  
588 see exactly how far off the edge of the pavement our property line extends. But  
589 just a quick glance at the plans, it looks like the road is 24 feet wide at the  
590 entrance, and our property is 50 feet wide. So I'm guessing there is room on  
591 either side, but that would encroach upon the neighbors even further. Now I know  
592 Mr. Dowdy's yard is immaculate. There is no dispute that the trucks have cut the  
593 corner, probably a 20-square-foot area, especially when moving equipment, it's  
594 too narrow to make the turn. We would, of course—and we have told Mr. Dowdy  
595 this many time. When we leave, we're going to leave it better than we found it,  
596 and we'll repair any damage he feels is necessary to make him happy.  
597

598 Mr. Baka - Mr. Chairman, if I may follow up on that brief  
599 comment. If you were to widen the driveway out at Hines Road, it may actually  
600 allow trucks to not have to slow down quite as much and be able to take that turn  
601 at a more rapid speed. So in some ways, it may be better to keep that entrance  
602 as-is and just perhaps bring back a second large boulder or rock. Just an  
603 observation.  
604

605 Mr. Bell - The culvert that's filled with dirt, is that your culvert or  
606 is it the County's?  
607

608 Mr. Bryant - I don't know. I don't know about the culvert or its  
609 problem. I'd have to look into that.  
610

611 Mr. Bell - Would you look into that?  
612

613 Mr. Bryant - Yes.  
614

615 Mr. Bell - Any other questions?  
616

617 Ms. Harris - Yes. What can you do to see that the ten-mile-per-  
618 hour speed on the secondary road is enforced? What can you do? We  
619 understand some County trucks are involved, or they have the County seal.  
620

621 Mr. Bryant - Well, you know, every time I get a complaint or Mr.  
622 Martin gets a complaint, we try to talk to the trucking company or the County or  
623 whoever owns the vehicle. And sometimes it does good; sometimes it does no  
624 good. But I think as Mr. Bell suggested, perhaps a speed control device  
625 intermittently down the access road would at least prevent them from gathering  
626 too much speed. And we'd be willing to install that.  
627

628 Mr. Berman - So am I to understand this is not a County road, it's  
629 your road.

630 Mr. Bryant - Yes sir, that is correct.

631 Mr. Bryant -  
632  
633 Mr. Berman - Which means we couldn't increase fines for speeding  
634 on that road? Okay.

635 Mr. Baka - It's private property.

636 Mr. Baka -  
637  
638 Mr. Blankinship - When County vehicles are the problem, I would  
639 appreciate somebody contacting me about that.

640 Mr. Bryant - No problem. Yes sir.

641 Mr. Bryant -  
642  
643 Mr. Berman - Do you own any equipment that could go out daily  
644 and wash down the road?

645 Mr. Bryant - We do own that equipment. And we wash down the  
646 road when we begin to track onto Hines Road. It's not a daily necessity. But  
647 when it is required, we do take water trucks and broom tractors out to take care  
648 of the problem.

649  
650  
651 Mr. Berman - I don't know all the details about finishing the project,  
652 if we told you today that's it, what is the soonest it could be done? Is it one year  
653 or is there no possibility that you have enough material to finish the project within  
654 one year?

655 Mr. Bryant - I think one year would be extremely difficult to finish it  
656 as it is planned now.

657 Mr. Bryant -  
658  
659 Mr. Berman - Okay.

660 Mr. Bryant - But you want a timeline, a definite timeline?

661 Mr. Bryant -  
662  
663 Mr. Berman - What is the earliest it could be shut down if that was  
664 the position we took?

665 Mr. Bryant - The earliest it could be shut down would be 2017.

666 Mr. Bryant -  
667  
668 Mr. Blankinship - It's one year of hauling and one year of reclamation?  
669 Is that what you're thinking?

670 Mr. Bryant - Well ideally I'd like one more renewal for two years of  
671 hauling and one year of reclamation.  
672  
673

674 Mr. Blankinship - Right, right.  
675  
676 Mr. Bryant - But on one and one, hauling simultaneously, I think  
677 it's possible.  
678  
679 Mr. Berman - I would also mention that if traffic calming measures  
680 were taken on that road, it would solve one problem, possibly, the speeding, but  
681 you'd probably hear more noise with air brakes and trucks bouncing off of it. So  
682 we may solve part of the problem, but not all of it.  
683  
684 Mr. Blankinship - Do County school buses use that road? Okay. I was  
685 thinking one year that was a concern.  
686  
687 Mr. Baka - Mr. Chairman, I have a couple of questions too. I  
688 know it sounds awfully specific. We usually don't talk about rocks or boulders.  
689 We've talked about time limits. If you were to add a second large rock or boulder  
690 between the one that got moved—between that one and closer to the road where  
691 it was three or four feet away, could that be done? Could that be done to help  
692 prevent trucks from cutting that corner onto—  
693  
694 Mr. Bryant - I think if it's moved too close to the corner, the rock  
695 itself will just get hit by a truck or a trailer or a piece of equipment.  
696  
697 Mr. Baka - I mean, we'd be able to identify what that turning  
698 radius is, so as long as you're outside the predictable turning radius, I can't see  
699 why—  
700  
701 Mr. Blankinship - Do you know for sure—the rock that's there now, is it  
702 on Gillies Creek property or is it on Mr. Dowdy's property?  
703  
704 Mr. Bryant - I don't know for sure, but I would say it's very close to  
705 the line either way.  
706  
707 Mr. Blankinship - Mr. Dowdy is pointing at you to indicate that it's on  
708 Gillies Creek property. I was going to say if it's on Mr. Dowdy's property, then it  
709 doesn't matter if it's inconvenient, your trucks are trespassing. But if it's on your  
710 property, then that's not the case.  
711  
712 Mr. Bryant - Well the rock was placed there at his request.  
713  
714 Mr. Blankinship - Right, right. No, I understand that. But it was placed  
715 on your property. So even if it's moved, the trucks are still on your property at all  
716 times. They're not driving onto Mr. Dowdy's property.  
717  
718 Mr. Bryant - Correct.  
719

720 Mr. Blankinship - Okay.  
721  
722 Mr. Bell - And the damaged culvert, is that compressed right  
723 now? Is it damaged to the point that it doesn't allow water to entirely flow out?  
724  
725 Mr. Bryant - I don't know. That's the first I've heard of this problem,  
726 so we'll have to investigate that and find out what the solution is.  
727  
728 Mr. Baka - And imagine that could be a matter separate from the  
729 BZA. If the Department of Public Works E&S crew saw that it's damaged, they  
730 could simply require that it be replaced, right?  
731  
732 Mr. Blankinship - They inspect the site every month as well, so I'll make  
733 sure that they take a look at that.  
734  
735 Mr. Baka - That doesn't need to be a condition for us. When we  
736 drove up, I didn't recall seeing—we're talking about speed control and the  
737 dreaded speed bumps. Either speed limit signs and/or speed bumps, we talked  
738 about that. Are there any speed limit signs coming out? I remember going up to  
739 the gate, I just didn't see any.  
740  
741 Mr. Bryant - Yes. Fifteen going in and out.  
742  
743 Mr. Baka - Facing both sides?  
744  
745 Mr. Bryant - Facing each direction.  
746  
747 Mr. Baka - Okay. If there were speed bumps to be placed—just  
748 throwing this out there as ideas, not necessarily as a condition. But maybe on the  
749 northern edge of the property before it gets to someone's house, perhaps if it's a  
750 few hundred feet before someone slows—the truck would slow down before it  
751 gets to a house. I'm thinking everywhere you might see a house, maybe a  
752 hundred feet of two hundred feet north of that there could be some type of speed  
753 bump mechanism—just a suggestion there—if that helps.  
754  
755 Stone. It was a great paved road. You talk about mud on the road and then  
756 clearing mud after it's out on Hines Road. But that's kind of after the fact, after  
757 the horse is out of the barn. But if we go back to the northern edge of the site  
758 where that road cuts right in at the gate here, where we drove up to the red gate,  
759 if you were to go north of that gate and put in a VDOT construction entrance, 70  
760 feet of VDOT #1 stone, you could actually clear the mud that comes off the site  
761 before you even get on your access road. So you wouldn't even have a problem  
762 out on Hines Road. So any consideration to adding stone on top of the paved  
763 road to use it as kind of a mud-cleaning effort before you get out on the access  
764 road?  
765

766 Mr. Bryant - That gate is approximately right there. From there to  
767 here—I think you can see it. We put down #3 stone there on a regular basis for  
768 that very purpose to clean the mud off. And that's an ongoing, obviously,  
769 operation. As the stone gets packed in and caked with mud, it has to be  
770 refreshed and replaced.

771  
772 Mr. Baka - Okay. So I guess that's in place, and I guess that's  
773 general maintenance of that.

774  
775 Mr. Blankinship - Do you still have an operating wheel wash as well?

776  
777 Mr. Bryant - Yes.

778  
779 Mr. Blankinship - Okay.

780  
781 Mr. Bryant - There is a wheel wash on site.

782  
783 Ms. Harris - Have you ever met with the neighbors to resolve  
784 some of their concerns?

785  
786 Mr. Bryant - We've had many conversations about these  
787 concerns, both myself and Mr. Martin. In the past couple of years, mostly Mr.  
788 Martin since he's the operations manager. Once again, I understand their  
789 frustration. Mr. Plaster owned the pit for a long time and did very, very little with  
790 it. It was very dormant. You wouldn't even know it was there. But we're in the  
791 business of filling in the hole, moving on to the next hole and making money. And  
792 we have brought a lot of trucks in there, a lot of material in there. And I think the  
793 finish line is in sight. So I understand their frustration. We've spoken for years  
794 and years about the same recurring set of problems. I think we've tried to  
795 accommodate their concerns—obviously not to their full satisfaction—but we are  
796 doing what we can to appease them.

797  
798 Mr. Bell - Well, like you said, you understand their concerns.  
799 But after thirty-five years of the same thing, it's hard to believe anything is really  
800 going to happen because it hasn't happened in the past. That's why going to a  
801 closer date to complete this is coming closer to satisfying the concerns they have  
802 today. And going to the one-and-one, which makes it difficult for you, is  
803 something I'm sure they'd like to see. However, you're the one who knows  
804 whether that can be done or not. We'll be discussing things along those lines  
805 when we look at it. But if you think now that we can, then let's make it as a  
806 condition.

807  
808 Mr. Bryant - Well, you know, as I said, the pit's been active for  
809 thirty-five years. But in the last ten years that we've owned it, including three  
810 years of almost no activity based on the economy, we've done three times in ten  
811 years—or seven years, really—what was done in the first twenty-five years of the

812 pit's life. So we are actively pursuing this project, unlike our predecessor. There  
813 is going to be traffic, I understand. I am confident that one more renewal will be  
814 all that I ever ask you for.

815

816 Mr. Bell - Thank you.

817

818 Mr. Berman - Are there any known plans for this site once it's  
819 reclaimed that would benefit the community at large?

820

821 Mr. Bryant - Well, at this point the planned use would just be  
822 returned to agricultural, which I believe is how it is defined in the County's Master  
823 Plan.

824

825 Mr. Berman - Thank you.

826

827 Mr. Bell - Thank you, sir.

828

829 Mr. Bryant - Thank you very much.

830

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

834

835 Mr. Bell - Do I hear a motion on this case?

836

837 Mr. Baka - This is a difficult case to try to balance out the  
838 interests of the property owners, who are directly affected, not just now but for  
839 many years, along with the desires of the landowner to try to finish some period  
840 of hauling and some period of shutdown. Perhaps before we even make a motion  
841 maybe the Board can discuss some of their ideas.

842

843 If we were to look at approval of this case, I think one of the first things we heard  
844 was condition #27. We've sent a pretty clear message to the applicant to say it  
845 doesn't appear to be this Board's intent—and whoever's on the Board in a couple  
846 of years, it may or may not be the same individuals. But it doesn't appear to be  
847 this Board's intent to ever grant another extension past this one. Is that pretty  
848 much what I heard from you?

849

850 With that in mind, there were two time periods discussed. One was in the staff  
851 report that excavation should be discontinued by February 28, 2017, about two  
852 years from now, and restoration accomplished no later than February 28, 2018,  
853 about three years from now. As Mr. Berman pointed out, if truck traffic is  
854 decreased to make the days less impactful, less noisy and dusty, and less traffic  
855 and trash, that would in essence almost extend the life of an operation. That's not  
856 our intent here. Our intent, I think, is to draw a line in the sand.

857

858 I wanted to walk through some of the significant conditions of other items about  
859 rock and speed and culverts and talk about that for a minute. But I guess I'm  
860 curious if other Board members have any concerns about the two-year time limit  
861 proposed by staff, that excavation shall be discontinued in two years.

862

863 Ms. Harris - Did you want to put that in the form of a motion so we  
864 can get to the discussion period?

865

866 Mr. Baka - Okay, if that makes it best. I make a motion that—with  
867 concern to the neighborhood that we understand this has been here for many  
868 years, yet also we're cognizant that we intend to not necessarily allow for future  
869 extensions of this. And thirdly, we're trying to address ways to minimize the  
870 adverse impact upon the neighborhood's health, safety, and welfare. I look at  
871 making a motion to approve this case with at least thirty of the conditions and a  
872 couple others we'll add here, and adjusting condition #27 to delete the words  
873 "unless a new use permit is granted by the Board of Zoning Appeals." That would  
874 be the first suggestion to make, to delete those last several words from condition  
875 27. I'd also like to discuss condition #31. It would be to consider that the  
876 applicant add a second large boulder closer to the road at the intersection of the  
877 access drive and Hines Road. I think we should discuss that. Number 32, the  
878 culvert. Mr. Blankinship, is that correct, again, that a culvert would not need to be  
879 a condition of this permit, that Public Works would take care of that anyway?

880

881 Mr. Blankinship - Yes sir. And I'll be in touch with the inspector this  
882 morning.

883

884 Mr. Baka - All right. Number 33, speed bumps should be added  
885 or speed-slowng—whatever the proper terminology is.

886

887 Mr. Blankinship - Traffic calming?

888

889 Mr. Baka - Traffic calming methods should be installed on the  
890 road at some regular intervals to try to alleviate some of the concerns of just not  
891 the neighbors here, but that other neighbors would have along that access road.  
892 Stone. I had a concern about stone and construction, but I don't think that needs  
893 to be a condition. They already have a construction entrance in the rear. So that  
894 would be two additional conditions I suggest the Board should consider.

895

896 So that would be my motion, to approve with those 32 conditions.

897

898 Mr. Bell - Do I hear a second?

899

900 Mr. Berman - I second the motion.

901

902 Mr. Bell - Motion has been seconded. Do I hear any  
903 discussion?

904  
905 Mr. Berman - Yes. Is there an option to increase the surety bond if it  
906 goes beyond this last term?  
907  
908 Mr. Blankinship - If it goes beyond?  
909  
910 Mr. Berman - In other words, if we say shut it down as fast as you  
911 can, and it goes beyond February 2018 to restore it. In other words, we want to  
912 compel a quick close of this project. And the business says that's their goal.  
913  
914 Mr. Blankinship - Right. Normally what would happen—if you wanted to  
915 increase the amount of the bond, now would be the time to increase it. It would  
916 just be amending that condition saying we've decided that a larger bond is  
917 necessary. Having it triggered by something that happens after the term of this  
918 permit is problematic because at that point the permit has expired. So any  
919 conditions under it are—you know, enforcing them is a different matter.  
920  
921 Mr. Berman - Thank you.  
922  
923 Mr. Bell - Any more discussion?  
924  
925 Ms. Harris - Yes. I have a concern that we're not doing anything  
926 about the speed limit being enforced.  
927  
928 Mr. Blankinship - The problem is is that it's private property, so police  
929 won't enforce the speed limit on it. It's really just a courtesy that Gillies Creek  
930 does for their neighbors by putting up those signs. They're not legally  
931 enforceable because it's their own property.  
932  
933 Ms. Harris - They cannot enforce the speed limit on their own  
934 property?  
935  
936 Mr. Blankinship - Police cannot. That's my understanding.  
937  
938 Ms. Harris - I was wondering what all could Gillies Creek do to  
939 enforce that.  
940  
941 Mr. Blankinship - They can do more, obviously. They could have a  
942 person out there with flags or whatever to slow the trucks down.  
943  
944 Ms. Harris - I'm concerned that if they feel that this has to end in  
945 two years, you're going to increase the truck traffic. And it might increase the  
946 speed, and that's really a problem at this point.  
947

948 Mr. Blankinship - Yes ma'am. I wish I had a better recommendation for  
949 that. Most of these cases don't have this long of a private road from the County  
950 road to the haul site.  
951  
952 Mr. Baka - And the road is in good condition. It's so easy to go  
953 fast.  
954  
955 Mr. Blankinship - That's part of the problem. They've maintained the  
956 road well, so the trucks go faster. And it's a straight shot. There are no sight-  
957 distance issues.  
958  
959 Ms. Harris - But you are going to place speed bumps on this road,  
960 right?  
961  
962 Mr. Blankinship - That is the condition that Mr. Baka said, yes ma'am.  
963  
964 Mr. Baka - When people aren't on site, if you have a 15-mile-per-  
965 hour speed limit signs, maybe we could say add more 15-mile-per-hour speed  
966 limit signs or even add little red flags on the side of the signs that I've seen at  
967 construction sites sometimes. I don't know how much that would really help.  
968  
969 Mr. Blankinship - I think there would have to be an employee out there,  
970 don't you?  
971  
972 Mr. Baka - Yes. And when there is no employee there for the  
973 other hours of the day, which would be most of the day, the dreaded speed  
974 bumps might be the only possible thing that could slow something down. But  
975 then you have brake noise also. But at least when people aren't there, those  
976 speed bumps will slow you down. We don't normally get this picky or specific, but  
977 maybe we need to talk about a number of speed bumps.  
978  
979 Mr. Blankinship - We don't normally get this picky, but we don't  
980 normally have this level of community concern either. I was looking back through  
981 minutes while the meeting was going on. Mr. Dowdy had many of these same  
982 concerns in 2008 and 2011. I think he missed one meeting, but Ms. Frazier was  
983 at the meeting that he did not attend. This is an on-going issue. These are  
984 concerns that we hear—  
985  
986 Mr. Baka - Exactly. And Ms. Frazier quoted the case minutes  
987 from 1979, which is outstanding. If a sign says 15 and trucks are going faster,  
988 maybe we should say a number of speed bumps along the distance of this road.  
989 Can we quickly estimate the length of this road? I don't have that on mine.  
990  
991 Mr. Blankinship - I will get that for you in just a second. I guess we can  
992 talk to somebody in Public Works about what sort of standards there are. It's  
993 approximately a quarter of a mile—1,320 feet—from Hines Road to where the

994 road takes a left turn into the site. We can contact Public Work's, Traffic Division,  
995 and ask them what sort of standards there are for how many speed humps he  
996 would have in that distance.

997

998 Mr. Berman - Can I ask a clarifying question? Are you saying that  
999 there is no County or even state jurisdiction on that road because it's a private  
1000 road?

1001

1002 Mr. Blankinship - Right.

1003

1004 Mr. Berman - Even to the point of like reckless endangerment,  
1005 reckless driving you can't cite.

1006

1007 Mr. Blankinship - I used to live in a subdivision with private roads, and  
1008 we had this conversation. My understanding is that there were three things that  
1009 the County police in that case could enforce on that private road, and they were  
1010 reckless driving, drunk driving, or vehicular manslaughter. Things that would be a  
1011 crime even if they weren't a matter of motor vehicles, in other words. But any  
1012 motor vehicle limitation only applies on a public road.

1013

1014 Mr. Berman - But reckless driving, by definition—I can't cite  
1015 chapter—is x-number of miles per hour over posted. Correct?

1016

1017 Mr. Blankinship - I think it is, yes. But again, that's a posted speed limit  
1018 on a—I think it would have to be observed.

1019

1020 Mr. Bell - This sign is Gillies', not the state's.

1021

1022 Mr. Blankinship - I think it would have to be observed *that* vehicle was  
1023 reckless in that he, you know. Some specific behavior that put life or property in  
1024 danger.

1025

1026 Ms. Harris - I'm wondering if we should put the responsibility on  
1027 Gillies Creek as it pertains to the company, the trucking companies with whom  
1028 they deal, with whom they do business. In our particular subdivision, we had a  
1029 problem with school buses driving too fast through the neighborhood. And, of  
1030 course, you know we had to contact the school system about their bus drivers.  
1031 And that condition cleared up. And so I'm wondering if the trucking companies  
1032 can be held—or Gillies Creek can do something with the trucking companies that  
1033 we did not hear expressed.

1034

1035 Mr. Blankinship - That's part of the difficulty. I think the trucks arriving at  
1036 the site have come from some other construction site. And really, Gillies Creek  
1037 has no influence over them until they get on their property. Now when they're  
1038 leaving the site, you can expect a little bit more control. There was specific  
1039 mention of trucks with the County seal on them, and I'm going to take care of that

1040 this morning as well. I don't think the County wants to hear that that is a problem.  
1041 And we'll take steps to address that. But in terms of the trucks coming to this site,  
1042 I don't know practically how Gillies Creek can contact that driver in advance and  
1043 say don't speed on the road. They can stop him at the gate after he's sped on the  
1044 road, but that's not nearly as helpful.

1045

1046 Ms. Harris - I'm not thinking about stopping the driver. I'm thinking  
1047 about who hires the driver.

1048

1049 Mr. Blankinship - Right.

1050

1051 Ms. Harris - You know, dealing with the company that actually  
1052 employs these people. Either you comply or you don't have a job.

1053

1054 Mr. Blankinship - Right.

1055

1056 Ms. Harris - I'm not sure how we could put that in the conditions.  
1057 I'm very concerned that this problem has multiplied since we heard this three  
1058 years ago.

1059

1060 Mr. Blankinship - Yes ma'am.

1061

1062 Ms. Harris - And we, of course, don't want to have anything  
1063 happen and then we, in hindsight, wish we could have done something to change  
1064 that. So I do have a reservation about the increased—I had no idea that fifty or  
1065 more trucks will go down that road driving at those enormous speeds in the  
1066 course of one day. I think it's very hazardous.

1067

1068 Mr. Blankinship - Yes ma'am.

1069

1070 Mr. Bell - If we start with an assumption that Hines Road is  
1071 really the culprit because they're coming off of Hines Road where the speed is,  
1072 I'm assuming, forty-five miles an hour.

1073

1074 Male - Thirty-five.

1075

1076 Mr. Bell - Thirty-five miles an hour. Now coming down Hines  
1077 Road, which is not a very congested road, you can bet thirty-five is not what  
1078 they're traveling all the time coming down Hines Road. So where the police could  
1079 enter into it would have to be Hines Road from such a location to where they turn  
1080 in patrolled more frequently for this specific thing. Or when there are enough  
1081 complaints—and this sort of puts it back on the owners, which I don't like—then  
1082 it's up to Gillies to get an off-duty policeman to work that road. What I'm saying is  
1083 that's the only way I can see where you could get the police involved in  
1084 controlling the speed. But I do believe if that were to happen, they would also  
1085 reduce how fast they're going on the access road to the mine.

1086

1087 Mr. Blankinship - Paul, could you bring up the vicinity map? I think the  
1088 problem with that is that the turn from Elko Road onto Hines Road is only about  
1089 800 feet from this entrance. I don't think that's where the problem's occurring. I  
1090 mean, 800 feet, you can only get up so much speed. Elko, I presume they're  
1091 speeding on Elko as well. Then once you make that turn—you have to come to  
1092 almost a complete stop for a right-angle turn onto Hines. And then it's only an  
1093 800-foot stretch before you turn into the property.

1094

1095 Mr. Bell - Yes?

1096

1097 Mr. Madrigal - I'm Miguel Madrigal, Planning staff. Just as a  
1098 suggestion with respect to controlling speed. Perhaps it helps for the drivers to  
1099 self-monitor. If Gillies were to put up one of those boxes that measure your  
1100 speed as you're approaching, it will post your speed as you're on the road. It's  
1101 similar to what the state police do on highways or roads. They say hey, 45 speed  
1102 limit in a construction zone, and there's radar, and you can see how fast you're  
1103 going as you're approaching. That might slow them down.

1104

1105 Mr. Baka - I've seen those right next to a speed limit sign. So if  
1106 the speed limit sign says 15, it says your speed is 25, and flashing bright red  
1107 lights. If you slow down to the correct speed limit, it stops flashing.

1108

1109 Mr. Madrigal - Yes.

1110

1111 Mr. Bell - They work. In the subdivision I live in, we have them.

1112

1113 Mr. Madrigal - So that might be a suggestion for this site.

1114

1115 Mr. Baka - I know we didn't talk about that with the applicant, but  
1116 that's an outstanding suggestion, Miguel.

1117

1118 Mr. Bell - Why don't we talk about adding it to the paragraph  
1119 where we put the speed bumps and traffic calming. Put them altogether.

1120

1121 Mr. Baka - Thirty-two?

1122

1123 Ms. Harris - Is there a cost involved to place the monitor so that it  
1124 will record the speed as the trucks approach that area?

1125

1126 Mr. Blankinship - I'm sure there is.

1127

1128 Ms. Harris - So that would be on Gillies.

1129

1130 Mr. Blankinship - Yes ma'am.

1131

1132 Mr. Baka - That's something they can do which may help the  
1133 neighborhood in the long run.  
1134  
1135 Mr. Berman - It would require access to electric or solar in order to  
1136 drive it.  
1137  
1138 Mr. Baka - Probably solar. Either one. That's their call.  
1139  
1140 Mr. Blankinship - That's a good question. I don't know.  
1141  
1142 Mr. Berman - This may sound kind of silly, but psychologically, in a  
1143 lot of these traffic calmings they change it from an even or five number to twelve  
1144 just to get people thinking about it. So instead of posting 15, change it to 12.  
1145  
1146 Mr. Blankinship - My son always points out the one in front of Martin's  
1147 that says sixteen. "Why did they pick sixteen?"  
1148  
1149 Mr. Berman - Short Pump Town Center does the same thing.  
1150 People ignore 15 and 20, but maybe they think about 12.  
1151  
1152 Mr. Baka - We could ask them to raise the speed limit to sixteen.  
1153  
1154 Mr. Bell - Anything else?  
1155  
1156 Ms. Harris - How would we word that in the condition?  
1157  
1158 Mr. Berman - Add it to #32.  
1159  
1160 Mr. Baka - Add it to 32.  
1161  
1162 Mr. Berman - Traffic calming plus feedback of current speed.  
1163  
1164 Mr. Baka - Let's say speed control identification device? What do  
1165 you call it?  
1166  
1167 Mr. Berman - Real-time radar.  
1168  
1169 Mr. Blankinship - I'll find out the appropriate wording.  
1170  
1171 Mr. Berman - It should not emit any noise though.  
1172  
1173 Mr. Baka - Correct. And noise is an important issue here. Even  
1174 as we calm the traffic speed somewhat and—it sounds picky, but I think a second  
1175 rock of equal or larger size should be added near the entrance closer to the road.  
1176 If they already had one there and it moved three or four feet, they should have  
1177 something larger to prevent them from doing that. But these aren't going to

1178 reduce the noise. We've talked about these conditions. I'm cognizant and I'm  
1179 aware that these aren't specific in reducing a lot of—it's still going to be noisy for  
1180 two years.

1181

1182 Mr. Berman - Could you zoom in on Mr. Dowdy's corner there  
1183 where the yellow dash is, please? Underneath there, is that the rock?  
1184 Underneath the yellow dash at the corner there on Hines?

1185

1186 Mr. Blankinship - I'm sorry we didn't get a photograph of it, but yes,  
1187 that's where it would be. I don't think you can actually see it in this.

1188

1189 Mr. Dowdy - I've got one on my phone.

1190

1191 Mr. Berman - Could we see it?

1192

1193 Ms. Harris - Well, we normally don't discuss—this is only for us.  
1194 We don't discuss with—

1195

1196 Mr. Berman - Don't interact during this discussion?

1197

1198 Ms. Harris - No.

1199

1200 Mr. Berman - Okay.

1201

1202 Mr. Baka - My concern is if you widen that driveway, like was  
1203 earlier suggested, you're actually encouraging trucks not to slow down as much.

1204

1205 Mr. Berman - Yes.

1206

1207 Mr. Baka - But it was a good idea.

1208

1209 Mr. Bell - Just a minute, Mr. Dowdy, just a minute.

1210

1211 Ms. Harris - So you say if you add an extra boulder, that will slow  
1212 them down as they turn? Is this why the condition is there?

1213

1214 Mr. Baka - It would slow them down, yes. It would restore, I  
1215 guess, the original intent of putting the boulder there, which was what, three or  
1216 four feet, let's say, closer to the intersection. It sounds specific, but we should  
1217 even specify that these two boulders must be removed at the end date of the  
1218 project—by the end of the restoration of the project, referencing condition 27. I  
1219 realize they're doing it at their cost, bringing in a large rock at their cost to do  
1220 that, but again, these neighbors have had to endure quite a bit. And we can  
1221 address some conditions on some of these impacts, but like we said, it's not  
1222 going to be a whole lot less noisy. But, as Ben said, it is going to wrap up in a  
1223 couple years.

1224  
1225 Ms. Harris - So could you word that? You said before you wanted  
1226 to do more than just ask the applicant to consider this. You just want to say  
1227 add—  
1228  
1229 Mr. Baka - If the majority of the Board thinks we should remove  
1230 or strike that detailed condition, I'm okay with that. I'm just proposing that  
1231 condition 31 should say that a second boulder or equal or larger size should be  
1232 placed between the existing boulder and the intersection and removed no later  
1233 than the end date of the restoration date of this project. I think that's reasonable.  
1234 It's a little unusual to talk about in here.  
1235  
1236 Mr. Bell - Does anyone have any questions—  
1237  
1238 Ms. Harris - Question among Board members?  
1239  
1240 Mr. Blankinship - For Mr. Dowdy.  
1241  
1242 Mr. Bell - For Mr. Dowdy, is what I was going to say.  
1243  
1244 Ms. Harris - Oh, I was thinking that after the public hearing period  
1245 was over, it's over.  
1246  
1247 Mr. Blankinship - Right. Then the appropriate thing for him to say would  
1248 be if the member of the Board had a question.  
1249  
1250 Ms. Harris - Okay.  
1251  
1252 Mr. Bell - Which I do. Do you have any pictures of the boulder?  
1253  
1254 Mr. Dowdy - Yes sir, I do.  
1255  
1256 Mr. Bell - All right. Could we see them, please.  
1257  
1258 Mr. Dowdy - [Off microphone.] Here is one of the corners. That's  
1259 the one in the corner that's been shoved back. And you can see where they've  
1260 been driving around it.  
1261  
1262 Mr. Bell - Would you start down there and show it to  
1263 everybody?  
1264  
1265 Mr. Baka - Thank you, Mr. Dowdy.  
1266  
1267 Mr. Dowdy - [Off microphone.] Can is say one other thing? I don't  
1268 think the Board would object to what I'm going to say. The second boulder I don't

1269 think will help since I trim the grass around the boulder. If we simply relocate the  
1270 boulder to its original location.

1271

1272 Mr. Baka - Fair enough. I'm more than willing to adjust the  
1273 condition to say that this existing boulder should be moved—let's be specific—a  
1274 distance of about four feet closer to the intersection. And I'm willing to drop the  
1275 idea of the second boulder. Once one boulder goes back to where it was,  
1276 hopefully it won't get displaced again. That was my intent.

1277

1278 Mr. Dowdy - I understand.

1279

1280 Mr. Bell - Thank you, Mr. Dowdy.

1281

1282 Mr. Berman - How about saying if it does get displaced that Gillies  
1283 will move it back to its original location.

1284

1285 Mr. Blankinship - I'll have the inspector check that every month when  
1286 they go out.

1287

1288 Mr. Baka - Yes. Thank you, Mr. Berman.

1289

1290 Ms. Harris - So are we prepared to vote?

1291

1292 Mr. Bell - Are there any more questions, any more discussion?

1293

1294 Ms. Harris - I just want to hear that condition read.

1295

1296 Mr. Blankinship - Yes ma'am. The motion is to approve the use permit  
1297 subject to the conditions recommended by staff with the change. Condition #27  
1298 would end after the figure 2018, striking the words "unless a new use permit is  
1299 granted by the Board of Zoning Appeals." A condition #31 would be added  
1300 requiring the applicant to move the boulder that is at the intersection of the  
1301 private road and Hines Road to its original location approximately four feet closer  
1302 to the intersection and that that boulder be removed as part of the restoration of  
1303 the property. And a condition 32, wording again to be worked out, but requiring  
1304 speed bumps or other traffic calming devices including a radar indicator of speed.  
1305 We'll get the details of that.

1306

1307 Mr. Baka - One comment on the speed bumps. They could be  
1308 temporary or permanent. Those hard plastic ones or asphalt ones; it doesn't  
1309 matter.

1310

1311 Mr. Blankinship - I don't know if the plastic ones are even effective with  
1312 a dump truck. It may be that that would be flat after the third or fourth truck.

1313

1314 Mr. Baka - Okay.

1315  
1316 Mr. Blankinship - But I'll check with Public Works and find out what they  
1317 recommend.  
1318  
1319 Mr. Baka - Thanks.  
1320  
1321 Ms. Harris - Thank you.  
1322  
1323 Mr. Bell - If there is not any more discussion, let's go ahead and  
1324 vote on the conditional use permit. All in favor say aye. All opposed say no. The  
1325 ayes have it; the motion passes.  
1326  
1327 After an advertised public hearing and on a motion by Mr. Baka, seconded by Mr.  
1328 Berman, the Board **approved** application **CUP2015-00002, GILLIES CREEK**  
1329 **INDUSTRIAL RECYCLING, LLC's** request for a conditional use permit pursuant  
1330 to Sections 24-52(d) and 24-103 of the County Code to extract materials from the  
1331 earth at 6650 Hines Road (Parcels 855-695-5768 and 855-695-8710) zoned  
1332 Agricultural District (A-1) (Varina). The Board approved this conditional use  
1333 permit subject to the following conditions:  
1334  
1335 1. This use permit is subject to all requirements of Section 24-103 of Chapter 24  
1336 of the County Code.  
1337  
1338 2. Throughout the life of this permit, the applicant shall maintain the surety bond  
1339 in the amount of \$3,000 for each acre of land to be disturbed for a total of  
1340 \$31,200, guaranteeing that the land will be restored to a reasonably level and  
1341 drainable condition, consistent with the elevation of the land prior to the  
1342 beginning of excavation. The form of the surety bond shall be subject to  
1343 approval by the County Attorney. In the event of termination of the surety bond,  
1344 this permit shall be void, and excavation shall cease. Within the next 90 days of  
1345 termination, the applicant shall restore the land as provided for under the  
1346 conditions of this use permit. Termination of such surety bond shall not relieve  
1347 the applicant from its obligation to indemnify the County of Henrico for any  
1348 breach of the conditions of this use permit.  
1349  
1350 3. Throughout the life of this permit, the applicant shall continuously satisfy the  
1351 Department of Public Works (DPW) that erosion control procedures are in  
1352 accordance with the approved erosion and sediment control (E&S) plan and are  
1353 properly maintained. Due to changes in site conditions, an updated E&S plan and  
1354 subsequent revised E&S bond may be required as determined by DPW.  
1355  
1356 4. Throughout the life of this permit, the applicant shall maintain a mine license  
1357 from the Virginia Department of Mines, Minerals and Energy.  
1358  
1359 5. Throughout the life of this permit, the areas approved for mining under this  
1360 permit shall be delineated on the ground by five-foot-high metal posts at least five

1361 inches in diameter and painted in alternate one foot stripes of red and white.  
1362 These posts shall be so located as to clearly define the area in which the mining  
1363 is permitted.

1364

1365 6. Throughout the life of this permit, the applicant shall comply with the  
1366 Chesapeake Bay Preservation Act and all state and local regulations  
1367 administered under such act applicable to the property, and shall furnish to the  
1368 Planning Department copies of all reports required by such act or regulations.

1369

1370 7. Hours of operation shall be from 7:00 a.m. to 5:30 p.m. Monday through  
1371 Friday.

1372

1373 8. No operations of any kind are to be conducted at the site on Saturdays,  
1374 Sundays, or national holidays.

1375

1376 9. All access to the property shall be from the established entrance onto Hines  
1377 Road as shown on the approved plans.

1378

1379 10. The applicant shall maintain the paved entrance road from its intersection  
1380 with Hines Road for a distance of 300 feet and a width of 24 feet. All roads used  
1381 in connection with this use permit shall be effectively treated with calcium  
1382 chloride or other wetting agents to eliminate any dust nuisance.

1383

1384 11. The applicant shall maintain gates at the entrance to the property. These  
1385 gates shall be locked at all times, except when authorized representatives of the  
1386 applicant are on the property.

1387

1388 12. The applicant shall maintain the sign at the entrance to the mining site stating  
1389 the name of the operator, the use permit number, the mine license number, and  
1390 the telephone number of the operator. The sign shall be 12 square feet in area  
1391 and the letters shall be three inches high.

1392

1393 13. The applicant shall maintain "No Trespassing" signs every 250 feet along the  
1394 perimeter of the property. The letters shall be three inches high. The applicant  
1395 shall furnish the Chief of Police a letter authorizing the Division of Police to  
1396 enforce the "No Trespassing" regulations, and agreeing to send a representative  
1397 to testify in court as required or requested by the Division of Police.

1398

1399 14. Standard "Truck Entering Highway" signs on Hines Road on each side of the  
1400 entrance to the property shall be maintained at the applicant's expense.

1401

1402 15. The applicant shall maintain a standard stop sign at the entrance to Hines  
1403 Road.

1404

1405 16. The applicant shall provide a flagman to control traffic from the site onto the  
1406 public road, with the flagman yielding the right of way to the public road traffic at

1407 all times. This flagman will be required whenever the Division of Police deems  
1408 necessary.

1409  
1410 17. The operation shall be scheduled so that trucks will travel at regular intervals  
1411 and not in groups of three or more.

1412  
1413 18. Trucks shall be loaded in a way to prevent overloading or spilling of materials  
1414 of any kind on any public road.

1415  
1416 19. The applicant shall maintain the property, fences, and roads in a safe and  
1417 secure condition indefinitely, or convert the property to some other safe use.

1418  
1419 20. If, in the course of its operations, the applicant discovers evidence of cultural  
1420 or historical resources, or an endangered species, or a significant habitat, it shall  
1421 notify appropriate authorities and provide them with an opportunity to investigate  
1422 the site. The applicant shall report the results of any such investigation to the  
1423 Planning Department.

1424  
1425 21. If water wells located on surrounding properties are adversely affected, and  
1426 the extraction operations on this site are suspected as the cause, the effected  
1427 property owners may present to the Board evidence that the extraction operation  
1428 is a contributing factor. After a hearing by the Board, this use permit may be  
1429 revoked or suspended, and the operator may be required to correct the problem.

1430  
1431 22. Open and vertical excavations having a depth of 10 feet or more, for a period  
1432 of more than 30 days, shall be effectively sloped to a 2:1 slope or flatter to  
1433 protect the public safety.

1434  
1435 23. Topsoil shall not be removed from any part of the property outside of the area  
1436 in which mining is authorized. Sufficient topsoil shall be stockpiled on the  
1437 property for respreading in a layer with five inches of minimum depth. All topsoil  
1438 shall be stockpiled within the authorized mining area and provided with adequate  
1439 erosion control protection. If the site does not yield sufficient topsoil, additional  
1440 topsoil shall be brought to the site to provide the required five-inch layer of cover.  
1441 All topsoil shall be treated with a mixture of seed, fertilizer, and lime as  
1442 recommended by the County after soil tests have been provided to the County.

1443  
1444 24. The operator shall submit a quarterly report stating the origin, nature and  
1445 quantity of any off-site generated material deposited on the site, certifying that no  
1446 hazardous material was included. The material to be deposited on the site shall  
1447 be limited to imperishable materials such as stone, bricks, tile, sand, gravel, soil,  
1448 asphalt, concrete and like materials, and shall not include any hazardous  
1449 materials as defined by the Virginia Hazardous Waste Management Regulations.

1450  
1451 25. A superintendent, who shall be personally familiar with all the terms and  
1452 conditions of Section 24-103 of Chapter 24 of the County Code, as well as the

1453 terms and conditions of this use permit, shall be present at the beginning and  
1454 conclusion of operations each work day to see that all the conditions of the Code  
1455 and this use permit are observed.

1456  
1457 26. A progress report shall be submitted to the Board on February 29, 2016. This  
1458 progress report shall contain information concerning how much property has  
1459 been mined to date of the report, the amount of land left to be mined, how much  
1460 reclamation has been performed, when and how the remaining amount of land  
1461 will be reclaimed, and any other pertinent information about the operation that  
1462 would be helpful to the Board.

1463  
1464 27. Excavation shall be discontinued by February 28, 2017 and restoration  
1465 accomplished by not later than February 28, 2018.

1466  
1467 28. The reclamation of the property shall take place simultaneously with the  
1468 mining process. The final grading of the site shall be consistent with the elevation  
1469 of the land prior to the beginning of excavation as shown on the approved  
1470 reclamation plan. Reclamation shall not be considered completed until the mined  
1471 area is covered completely with permanent vegetation.

1472  
1473 29. All drainage and erosion and sediment control measures shall conform to the  
1474 standards and specifications of the Mineral Mining Manual Drainage Handbook.

1475  
1476 30. The boulder on the east side of the intersection of the access road and  
1477 Hines Road shall be replaced at its original location, approximately four feet  
1478 closer to the intersection.

1479  
1480 31. The applicant shall implement traffic calming measures as recommended by  
1481 the Department of Public Works Traffic Division, which may include speed  
1482 bumps, speed humps, radar speed display signs, or other similar improvements.

1483  
1484 32. Failure to comply with any of the foregoing conditions shall automatically void  
1485 this permit.

1486  
1487

1488 Affirmative:	Baka, Bell, Berman, Harris	4
1489 Negative:		0
1490 Absent:	Nunnally	1

1491  
1492  
1493 **[At this point, the transcript continues with the public hearing on the next**  
1494 **case.]**

1495  
1496 **CUP2015-00003 GILLIES CREEK INDUSTRIAL RECYCLING, LLC**  
1497 requests a conditional use permit pursuant to Sections 24-52(d) and 24-103 of  
1498 the County Code to extract materials from the earth at 5500 White Oak Drive

1499 (Parcels 860-709-5622, 863-706-3470 and 864-704-2093) zoned Agricultural  
1500 District (A-1) and Conservation District (C-1) (Varina).

1501  
1502 Mr. Hooker - Good morning again, Randy Hooker.

1503  
1504 Mr. Blankinship - Everybody is still under oath, so we can dispense with  
1505 the oath. Oh, I'm sorry. Do you swear the testimony you're about to give is the  
1506 truth and nothing but the truth so help you God?

1507  
1508 Mr. Hooker - Good morning again. Randy Hooker—H-o-o-k-e-r—  
1509 Engineering Design Associates, representing Gillies Creek. I also have Kelby  
1510 Morgan with me today. He's very in tune to all the activities going at the wetland  
1511 mitigation bank.

1512  
1513 We're here again requesting an extension for this project. We feel confident that  
1514 we'll be here again before you in the future requesting another extension  
1515 because it's a pretty large project in scale, and it's just taking time to accomplish.  
1516 If you have any specific questions about the operation, Kelby will be more than  
1517 happy to answer them.

1518  
1519 Mr. Bell - You've read the conditions, if it is approved, and  
1520 agree with them?

1521  
1522 Mr. Hooker - Yes sir.

1523  
1524 Mr. Bell - Any questions?

1525  
1526 Ms. Harris - Yes. How long has this project been going on?

1527  
1528 Mr. Blankinship - It should be in the staff report.

1529  
1530 Ms. Harris - I did not see it.

1531  
1532 Mr. Hooker - 2006.

1533  
1534 Mr. Baka - July 2006.

1535  
1536 Ms. Harris - 2006.

1537  
1538 Mr. Bell - Nine years.

1539  
1540 Ms. Harris - Will concrete and asphalt be imported as in the  
1541 previous case?

1542  
1543 Mr. Morgan - No ma'am.

1544

1545 Ms. Harris - When I compared the narratives, I noticed that you  
1546 did not mention concrete and asphalt in this report, but it was mentioned in the  
1547 narrative for the previous case by Gillies Creek.  
1548

1549 Mr. Morgan - That's correct. This property is not permitted to accept  
1550 concrete and asphalt.  
1551

1552 Ms. Harris - I believe those are my questions.  
1553

1554 Mr. Baka - What would you say is the traffic generated?  
1555 Estimated vehicle trips per day?  
1556

1557 Mr. Morgan - I would say right now that if you averaged it over the  
1558 course of a year it's probably as low as ten vehicles per day. This property is  
1559 accessed off of Route 60 in New Kent County. It has turn lanes specifically for it.  
1560 To date we have had no issues with traffic.  
1561

1562 Mr. Blankinship - I'll call the Board's attention to a letter that was left on  
1563 the desk for you from New Kent County expressing no comments. We did  
1564 contact them and discuss the renewal with them, and they had no objection.  
1565

1566 Mr. Bell - Any other questions? Thank you. Does anybody else  
1567 wish to speak? Thank you.  
1568

1569 **[After the conclusion of the public hearings, the Board discussed the case**  
1570 **and made its decision. This portion of the transcript is included here for**  
1571 **convenience of reference.]**  
1572

1573 Mr. Bell - Do I hear a motion?  
1574

1575 Ms. Harris - I move that we approve this conditional use permit.  
1576 So far it has not adversely affected the health, safety, or welfare of this  
1577 community.  
1578

1579 Mr. Bell - Do I hear a second?  
1580

1581 Mr. Baka - Second.  
1582

1583 Mr. Bell - Is there any discussion? Hearing none, all in favor say  
1584 aye. All opposed say no. The ayes have it; the motion passes.  
1585

1586 After an advertised public hearing and on a motion by Ms. Harris, seconded by  
1587 Mr. Baka, the Board **approved** application **CUP2015-00003, GILLIES CREEK**  
1588 **INDUSTRIAL RECYCLING, LLC's** request for a conditional use permit pursuant  
1589 to Sections 24-52(d) and 24-103 of the County Code to extract materials from the  
1590 earth at 5500 White Oak Drive (Parcels 860-709-5622, 863-706-3470 and 864-

1591 704-2093) zoned Agricultural District (A-1) and Conservation District (C-1)  
1592 (Varina). The Board approved this conditional use permit subject to the following  
1593 conditions:

1594  
1595 1. This use permit is subject to all requirements of Section 24-103 of Chapter 24  
1596 of the County Code. The operation shall be conducted in accordance with the  
1597 plans and narrative approved with the use permit, except as noted below.

1598  
1599 2. The applicant shall maintain a financial guaranty in an amount of \$3,000 for  
1600 each acre of land to be disturbed, for a total of \$245,700, guaranteeing that the  
1601 land will be restored to a safe, stable, and usable condition, consistent with its  
1602 elevation before excavation.

1603  
1604 3. Throughout the life of the operation, the applicant shall continuously satisfy  
1605 the Department of Public Works that erosion and sedimentation control is  
1606 performed and maintained in accordance with the approved plan. The erosion  
1607 control bond shall remain active throughout the life of the project.

1608  
1609 4. The applicant shall maintain all necessary permits from the United States  
1610 Army Corps of Engineers and the Virginia Department of Environmental Quality.

1611  
1612 5. The applicant shall comply with the Chesapeake Bay Preservation Act and all  
1613 state and local regulations administered under such act applicable to the  
1614 property, and shall furnish to the Planning Department copies of all reports  
1615 required by such act or regulations.

1616  
1617 6. Hours of operation shall be limited to 6:00 a.m. to 6:00 p.m. when Daylight  
1618 Saving Time is in effect, and 7:00 a.m. to 5:00 p.m. when Eastern Standard Time  
1619 is in effect. No operations of any kind are to be conducted at the site on  
1620 Saturdays, Sundays, or national holidays.

1621  
1622 7. All means of access to the property shall be from the established entrance  
1623 onto U.S. Route 60 in New Kent County. This condition shall be enforced in  
1624 cooperation with the Virginia Department of Transportation and New Kent  
1625 County.

1626  
1627 8. The applicant shall maintain all necessary approvals for the access road from  
1628 the Virginia Department of Transportation (VDOT) and New Kent County. These  
1629 shall include, but shall not be limited to, site plan approval of the road, including  
1630 stormwater management and erosion and sediment control, County land  
1631 disturbance permit and VDOT Land Use Permit.

1632  
1633 9. The applicant shall maintain the 30-foot wide entrance, right turn lane with 200  
1634 feet of taper and 100 feet of storage, and left turn lane with 200 feet of taper and  
1635 200 feet of storage, all to VDOT specifications.

1636

1637 10. The applicant shall maintain gates at all entrances to the property. These  
1638 gates shall be locked at all times, except when authorized representatives of the  
1639 applicant are on the property. This condition shall be enforced in cooperation with  
1640 VDOT and New Kent County.

1641

1642 11. The applicant shall maintain the sign at the entrance to the site stating the  
1643 use permit number, the name of the operator, and the telephone number of the  
1644 operator.

1645

1646 12. The applicant shall maintain "No Trespassing" signs every 250 feet along the  
1647 perimeter of the property. The letters shall be 3 inches in height. The applicant  
1648 shall furnish the Chief of Police a letter authorizing the Virginia State Police, the  
1649 New Kent County Sheriff's Office, and the Henrico County Division of Police to  
1650 enforce the "No Trespassing" regulations, and agreeing to send a representative  
1651 to testify in court as required or requested.

1652

1653 13. The applicant shall maintain standard "Truck Crossing" signs (MUTCD W8-  
1654 6) on U.S. Route 60 on each side of the entrances to the property, at locations  
1655 approved by VDOT. This condition shall be enforced in cooperation with VDOT  
1656 and New Kent County.

1657

1658 14. The applicant shall maintain the entrance road, which shall be paved for a  
1659 distance of 300 feet from its intersection with U.S. Route 60 and a width of 24  
1660 feet. All roads used in connection with this use permit shall be effectively treated  
1661 with calcium chloride or other wetting agents to eliminate any dust nuisance.  
1662 Wash racks shall be installed as necessary to prevent the tracking of mud onto  
1663 any public street. This condition shall be enforced in cooperation with VDOT and  
1664 New Kent County.

1665

1666 16. Trucks leaving the site shall travel at reasonable intervals and not in groups  
1667 of three or more.

1668

1669 17. For nine months of each year, the average number of trucks entering and  
1670 leaving the site shall not exceed 28 per day. For three months of each year, the  
1671 average number of trucks entering and leaving the site shall not exceed 56 per  
1672 day. This condition shall be enforced in cooperation with VDOT and New Kent  
1673 County. The applicant shall maintain records on site documenting all trucks  
1674 entering or leaving the site. Such records shall be available to staff of Henrico  
1675 County, New Kent County, and VDOT during normal hours of operation. At the  
1676 request of the New Kent County Zoning Administrator, the Henrico County  
1677 Director of Planning may approve increases in the volume of trucks allowed by  
1678 this condition. All requests for exceptions shall contain the reason, duration, and  
1679 magnitude of the exception requested.

1680

- 1681 18. To limit the total number of truck trips into and out of the site, no truck shall  
1682 be allowed to haul material away from the site unless that truck was also used to  
1683 haul a full load of material to the site.  
1684
- 1685 19. Trucks shall be loaded in a way to prevent overloading or spilling of  
1686 materials of any kind onto any public road. This condition shall be enforced in  
1687 cooperation with VDOT and New Kent County.  
1688
- 1689 20. The applicant shall maintain the property, fences, roads, and bridge in a safe  
1690 and secure condition indefinitely, or convert the property to some other safe use.  
1691
- 1692 21. If, in the course of its operations, the applicant discovers evidence of cultural  
1693 or historical resources, or an endangered species, or a significant habitat, it shall  
1694 notify appropriate authorities and provide them with an opportunity to investigate  
1695 the site. The applicant shall report the results of any such investigation to the  
1696 Planning Department.  
1697
- 1698 22. If water wells located on surrounding properties are adversely affected, and  
1699 the operations on this site are suspected as the cause, the affected property  
1700 owners may present to the Board evidence that the operation is a contributing  
1701 factor. After a hearing, the Board may revoke or suspend this use permit, and the  
1702 operator may be required to correct the problem.  
1703
- 1704 23. No offsite-generated materials shall be deposited on the mining site without  
1705 prior written approval of the Director of Planning. To obtain such approval, the  
1706 operator shall submit a written request stating the origin, nature and quantity of  
1707 material to be deposited. The material to be deposited on the site shall be limited  
1708 to imperishable materials such as stone, bricks, tile, sand, gravel, soil, concrete  
1709 and like materials, and shall not include any hazardous materials as defined by  
1710 the Virginia Hazardous Waste Management Regulations.  
1711
- 1712 24. A superintendent, who shall be personally familiar with all the terms and  
1713 conditions of Section 24-103 of Chapter 24 of the County Code, as well as the  
1714 terms and conditions of this use permit, shall be present at the beginning and  
1715 conclusion of operations each work day to see that all the conditions of the Code  
1716 and this use permit are observed.  
1717
- 1718 25. A progress report shall be submitted to the Board, with a copy to the New  
1719 Kent County Zoning Administrator, on or about April 30, 2016. This progress  
1720 report must contain information concerning how much rehabilitation has been  
1721 performed, when and how the remaining amount of land will be rehabilitated, and  
1722 any other pertinent information about the operation that would be helpful to the  
1723 Board.  
1724
- 1725 26. Operations shall be discontinued by April 30, 2017, and restoration  
1726 accomplished by not later than April 30, 2018 unless a new permit is granted by

1727 the Board of Zoning Appeals. Restoration shall not be considered completed until  
1728 the disturbed area is approved as a wetlands mitigation bank by the U. S.  
1729 Environmental Protection Agency and U. S. Army Corps of Engineers Mitigation  
1730 Bank Review Team.

1731

1732 27. Failure to comply with any of the foregoing conditions shall automatically  
1733 void this permit.

1734

1735

1736 Affirmative: Baka, Bell, Berman, Harris 4

1737 Negative: 0

1738 Absent: Nunnally 1

1739

1740

1741 **[At this point, the transcript continues with the public hearing on the next**  
1742 **case.]**

1743

1744 **CUP2015-00004 QIANA DAVIS** requests a conditional use permit  
1745 pursuant to Section 24-12(g) of the County Code to operate a 24-hour family day  
1746 home with employees at 1305 Woodside Mews (VILLAGE AT OLDE COLONY)  
1747 (Parcel 803-695-3654) zoned One-Family Residence District (R-3C) (Varina).

1748

1749 Mr. Blankinship - Does anyone else intend to speak to this case?  
1750 Would you raise your right hand, please? Do you swear the testimony you're  
1751 about to give is the truth and nothing but the truth so help you God?

1752

1753 Ms. Davis - I do. Good morning, my name is Qiana Davis—D-a-v-  
1754 i-s. I'm the owner and the director for Unity Childrens Learning Center I've owned  
1755 and directed nine years at my previous address, which is 1305 Woodside Mews.  
1756 Before that, we purchased our first home in Sandston, and I did childcare there  
1757 for three years.

1758

1759 I'm asking today for this permit because a lot of changes are coming aboard, and  
1760 I like to do my daycare above just the regular state license. At this time —  
1761 accredited. I have a very large community base that I operate out of my home,  
1762 but I have some parents that are single parents, and I also contract to Fort Lee  
1763 Army base. I have some parents that also have to travel to DC to work. So the  
1764 time that I'm asking for is twenty-four hours. Sometimes it could be 10:00. It just  
1765 varies because the time changes for the parents because I do have different  
1766 employees [sic] that go to different sites to work.

1767

1768 We've been doing daycare in this previous address. I haven't had any complaints  
1769 from my neighbors. Like I said, it's a home away from home that I operate. I even  
1770 keep some kids to the left of my home. I have a child that comes to my house  
1771 that I keep and take of each day. So it's community based. I don't advertise on

1772 any social media, any Internet. It's basically community-based and also referral-  
1773 based daycare.

1774

1775 Mr. Bell - Any questions?

1776

1777 Ms. Harris - How many children do you have now?

1778

1779 Ms. Davis - I currently have ten.

1780

1781 Ms. Harris - What are their ages?

1782

1783 Ms. Davis - The youngest I have is six months. The oldest that I  
1784 have is two months.

1785

1786 Ms. Harris - And the employees that you have now?

1787

1788 Ms. Davis - Right now it's me and my husband. I also made up a  
1789 book. I don't know if you'd like to see it. Right now in my home currently working  
1790 is me and my husband. My husband was laid off two years ago, so he's been  
1791 working with me in the home daycare.

1792

1793 Mr. Berman - You're requesting an additional employee.

1794

1795 Ms. Davis - Yes, because he's an electrician, and he's trying to go  
1796 back to work now.

1797

1798 Ms. Harris - Have you always had your business in the Varina  
1799 district?

1800

1801 Ms. Davis - No. My first was in Sandston, Virginia. So that's still in  
1802 Henrico, but not Varina. The last nine years it's been in Varina at this home.

1803

1804 Mr. Berman - I believe you also previously shared with us that the  
1805 other reason for after-hours is there is a business nearby that has a third shift?

1806

1807 Ms. Davis - Yes sir. I didn't mention that. Nabisco, I have some  
1808 employees. It's a small contract with Nabisco that the employees can use my  
1809 service because they do have three shifts at Nabisco. I couldn't remember, but I  
1810 did meet you that day you came out to the house and I explained that. I do have  
1811 a contract with Nabisco, so some of the parents—sometimes, just depends on  
1812 the shift. Nabisco has been slow right now, so I don't have any current contracts  
1813 with them.

1814

1815 Mr. Berman - I think you also are servicing families who have a  
1816 member who's deployed.

1817

1818 Ms. Davis - Yes, I have one parent. They're usually not a single  
1819 parent, but at this time the husband is deployed, and mom has to go to work in  
1820 DC.

1821  
1822 Mr. Berman - With regards to traffic, you can see in some of these  
1823 pictures that it's a very large cul-de-sac with a very limited number of houses  
1824 impacted for pickup and drop-offs. I believe you also said that some of the  
1825 houses were not occupied?

1826  
1827 Ms. Davis - Yes sir.

1828  
1829 Mr. Berman - So the neighbor concerns are not as much as you  
1830 would expect.

1831  
1832 Ms. Davis - Correct.

1833  
1834 Mr. Berman - Some of them are summer homes, quote-unquote.  
1835 And some just aren't occupied.

1836  
1837 Ms. Davis - You're correct. I'm in a cul-de-sac right here.

1838  
1839 Mr. Berman - There are only two other homes in that cul-de-sac.

1840  
1841 Ms. Davis - Correct. So the homes in the cul-de-sac—all of us  
1842 have children right there in the cul-de-sac. At any given day—like you came out  
1843 that day—you will see all the kids. My home is like their neighborhood house  
1844 where all the kids come and play. But if you go around the cul-de-sac like this  
1845 home right here, that home is vacant. It's been vacant for six years. This house  
1846 right here, that's where I keep the kids, the little boy, he's two. Then we have this  
1847 house. They're there as well. They don't have any kids. They're in the Army. But  
1848 this house right here is a summer home. It's a older, retired family. They're not  
1849 even here but maybe six months out of the year because they go back to Florida  
1850 to live.

1851  
1852 Mr. Berman - And I believe you also park vehicles not on the street,  
1853 regarding congestion, but in these vacant driveways or your driveway. Correct?

1854  
1855 Ms. Davis - Correct. I use my driveway. Even when my parents  
1856 come to my home now, they don't park on the street, they pull into my driveway.  
1857 We have a two-car garage, so they have more than ample space to get in.

1858  
1859 Mr. Berman - Okay. Thank you.

1860  
1861 Mr. Baka - Thank you for the book. It's great to see the  
1862 information about the business. In the rear yard, do you have a fence for the  
1863 children?

1864  
1865 Ms. Davis - Yes sir, we do have a fence. It's about—there you go.  
1866 It's a fenced-in yard. Usually what we'll do is we'll come out—haven't been out a  
1867 lot lately because of the weather. But we do try to get the kids outside to have  
1868 outside play.  
1869  
1870 Mr. Baka - Okay. And then the lot where this is probably taken  
1871 from, I believe, is that drainage parcel immediately east of your home. And then  
1872 you mentioned to Ms. Harris that you have ten children right now.  
1873  
1874 Ms. Davis - Yes sir.  
1875  
1876 Mr. Baka - On average, how many would you anticipate you  
1877 would have overnight?  
1878  
1879 Ms. Davis - Right now I don't have any overnight.  
1880  
1881 Mr. Baka - In the future.  
1882  
1883 Ms. Davis - If this is approved? We're not trying to do—I know  
1884 some daycares do twenty-four hours. I don't advertise for twenty-four hours. I use  
1885 it for emergency cases. And I usually ask the parents if they have another person  
1886 that can care for their child. It's not something—because I have three kids of my  
1887 own. So I'm a mother and I have to work. So it's not like I'm trying to have kids  
1888 twenty-four hours. It's just for an emergency case that we may have a mom that  
1889 goes to work at Fort Lee that would have an overnight shift.  
1890  
1891 Mr. Baka - Right. Thank you.  
1892  
1893 Ms. Harris - You say you have three children yourself. Are they  
1894 involved after school or are they in school?  
1895  
1896 Ms. Davis - The actually go to school. They go to Landmark  
1897 Christian School. And after school, they don't come home to the daycare. They  
1898 actually go out to daycare. They're older. They're nine—I have one that just  
1899 turned thirteen, and five. So they have quote-unquote their own lives. They  
1900 usually will go out to Henrico Pals program after school. My daughter has  
1901 something every day. So they usually don't get home until after daycare hours.  
1902  
1903 Mr. Bell - Have you read the suggested conditions if this  
1904 conditional use permit is approved?  
1905  
1906 Ms. Davis - Yes sir.  
1907  
1908 Mr. Bell - Do you agree with them and understand them?  
1909

1910 Ms. Davis - I do agree. And I already started working on #3, that  
1911 says we should relocate the existing shed. I've already started working on that; I  
1912 have three estimates. So once weather permits—right now the tractor-trailer or  
1913 the dump truck driver said he couldn't pull it to the back because the yard is too  
1914 soft right now. But I do see that. And #2, the vehicles, we never had a problem  
1915 because I don't park on the street. And I don't have any commercial vehicles  
1916 because I don't transport kids.

1917  
1918 Mr. Bell - Any other questions?

1919  
1920 Ms. Harris - Your play area for the children is basically confined to  
1921 one room?

1922  
1923 Ms. Davis - The play area inside?

1924  
1925 Ms. Harris - Inside your house.

1926  
1927 Ms. Davis - Yes.

1928  
1929 Ms. Harris - Okay. And with the new proposed condition, would  
1930 you need more space inside?

1931  
1932 Ms. Davis - No ma'am. Nothing inside of my home will be  
1933 changing because, like I said, I already operated nine years with the same.  
1934 Nothing is going to change.

1935  
1936 Mr. Bell - Any more questions? Is there anyone else who would  
1937 like to speak to this conditional use permit? Thank you, ma'am.

1938  
1939 Ms. Davis - Thank you.

1940  
1941 **[After the conclusion of the public hearings, the Board discussed the case**  
1942 **and made its decision. This portion of the transcript is included here for**  
1943 **convenience of reference.]**  
1944

1945 Mr. Bell - Do I hear a motion on this case?

1946  
1947 Mr. Berman - I move that we approve this conditional use permit as  
1948 recommended.

1949  
1950 Mr. Bell - Do I hear a second?

1951  
1952 Ms. Harris - Second.

1953  
1954 Mr. Bell - Is there any discussion? Hearing none, all in favor say  
1955 aye. All opposed say no. The ayes have it; the motion passes.

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After an advertised public hearing and on a motion by Mr. Berman, seconded by Ms. Harris, the Board **approved** application **CUP2015-00004, QIANA DAVIS's** request for a conditional use permit pursuant to Section 24-12(g) of the County Code to operate a 24-hour family day home with employees at 1305 Woodside Mews (VILLAGE AT OLDE COLONY) (Parcel 803-695-3654) zoned One-Family Residence District (R-3C) (Varina). The Board approved this conditional use permit subject to the following conditions:

1. This conditional use permit applies only to the 24-hour operation of a large family day home with no more than two nonresident employees. All other applicable regulations of the County Code shall remain in force.
2. Vehicles associated with the family day home, including vehicles used by the employees, shall be parked on-site, outside of the public street right-of-way.
3. The applicant shall relocate the existing accessory building from the eastern side yard to the rear yard of the lot no later than April 26, 2015.

Affirmative:	Baka, Bell Berman, Harris	4
Negative:		0
Absent:	Nunnally	1

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

**CUP2015-00005**                      **SUSAN CASSIDY** requests a conditional use permit pursuant to Section 24-12(g) of the County Code to operate a family day home with employees at 8305 Sharonway Drive (DOVE HOLLOW) (Parcel 765-761-7441) zoned One-Family Residence District (R-2AC) (Brookland).

Mr. Blankinship -                      Does anyone else intend to speak to this case? Do you swear the testimony you're about to give is the truth and nothing but the truth so help you God?

Ms. Cassidy -                              I do.

Mr. Blankinship -                      Thank you.

Ms. Cassidy -                              Pardon my laryngitis. I will do my best to speak as best I can. My name is Susan Cassidy. I am the owner and director of Learning Time Daycare. I have been in operation for about seven or eight years. I've been state licensed since 2009. I started my business because I have a special needs child who is at St. Mary's as we speak having a procedure done. I need to be

2002 able to work. I'm a licensed teacher, and I need to be able to continue  
2003 employment while being able to care for my child. So that's why the business  
2004 was started. I needed to hire employees from outside of the home to keep the  
2005 business going, keep my clientele happy so that I could stay open when Olivia  
2006 has doctors' appointments or therapeutic needs.  
2007

2008 When I applied for my state license and went through that process, I had a  
2009 discussion with my inspectors. Part of the state license does involve a certain  
2010 number of hours that I'm allowed to come and go, if needed, for my daughter's  
2011 medical care. Fortunately, she's been very stable lately and I haven't needed to  
2012 come and go as much. Recently, she has had an inpatient—it's called inpatient,  
2013 but she's not overnight—session at Children's Hospital, and that had taken me  
2014 out of the home a little bit more frequently. And then I have what are called other  
2015 lead teachers and other supervisors that are allowed to run the business as per  
2016 my state license if I'm taking care of those needs. So that is why I have a need  
2017 for non-resident employees. My husband is a County employee, so he's working  
2018 all the time with the County. I am licensed for capacity at twelve children.  
2019 Currently, I have eleven children in care. I will be at my full capacity at twelve by  
2020 the end of the year, thinking September is when the twelfth child will arrive.  
2021

2022 My ages for the children are between birth and four, although most graduate at  
2023 three to move on to preschool. The youngest child in care I have at the moment  
2024 is two months old, and the oldest child I have at the moment is three, and she's  
2025 getting ready to graduate at the end of the school year. She will go on to a  
2026 preschool.  
2027

2028 I am not using any social media. I do not advertise. I am referral-based only. I  
2029 have a waiting list of referrals to come in, so I don't foresee closing down any  
2030 time soon, thankfully. Job security. I have never had an issue with any neighbor  
2031 complaints. As a matter of fact, I have cared for all of my neighbor's children or  
2032 am currently caring for them in my house. The neighbors have also been very  
2033 open to—you can't see it in this picture, but the neighbor to the left, if I'm looking  
2034 at this picture, both of their children are current in care. Yes, there you go. Both  
2035 of their children are currently in care. The neighbors across the street, their  
2036 children have aged out, but have both been in care. And I've never had any  
2037 neighbor concerns or complaints.  
2038

2039 I think that's all I have.  
2040

2041 Mr. Bell - I noticed when I went by that you have a long  
2042 driveway. The gate happened to be open, and it looked like it went all the way in  
2043 the back. Is that where the employees park or do they park on the street?  
2044

2045 Ms. Cassidy - Actually, the driveway ends where you see the red  
2046 pickup truck. The gate can open, if I needed to get vehicle traffic back into my

2047 backyard, but there is no pavement. The employees park—I don't know if you  
2048 have a view.

2049  
2050 Mr. Blankinship - Go to the aerial, Paul.

2051  
2052 Ms. Cassidy - The aerial photo would help, yes. Okay, let me get  
2053 oriented here. There we go. So if you're standing on my property and you look to  
2054 the left where the word "Sharonway" is—exactly. Along the straight access, as  
2055 long as we've lived at this property, for fifteen years, nobody has ever parked  
2056 their vehicles there. There have never been any trailers or anything parked there.  
2057 So I have asked my employees that when they come, could they please park  
2058 along that fence. And the neighbor on the corner there doesn't have a problem  
2059 with that—also, former clients of mine—because they never use that space even  
2060 though it's adjacent to their property. So because there is no driveway access  
2061 there would be no person walking from the house to the road in that space  
2062 because of their fence. I've asked my employees to park along that space, and  
2063 that way they're out of road traffic, they're not blocking any other neighbor's  
2064 access to their own property, even if those neighbors want to park in front of their  
2065 front door. So there has never been a traffic concern there. And that way, when  
2066 my clients come in, they can pull in the driveway, unload. And that creates a  
2067 more fluid situation there.

2068  
2069 Mr. Bell - With the young children that you have, infants,  
2070 etcetera, how are they arranged in your house? Do you have several rooms for  
2071 them?

2072  
2073 Ms. Cassidy - Yes, I do. And according to the state license and what  
2074 my inspector would like, I use 100 percent of my downstairs. So we have two  
2075 learning centers for the different age groups that are divided up. The infants have  
2076 the carpeted floor, and there's a teacher with them. Most of the time it's me and  
2077 one other employee. There is an infant room, and then there's the preschooler  
2078 and toddler area, which is in the front room. I have after-care in my dining room,  
2079 which is my children at this point in time. And then the kitchen is used for meals.  
2080 So when it's time to eat, there are age-appropriate tables and booster seats in  
2081 my kitchen, and that is what is used during the business day.

2082  
2083 Upstairs, one of my bedrooms is used exclusively for an infant nap room. It has  
2084 cribs in it, a video monitor, music. And that's also part of the daycare.

2085  
2086 Mr. Bell - Thank you.

2087  
2088 Ms. Cassidy - You're welcome.

2089  
2090 Mr. Bell - Any questions?

2091

2092 Mr. Berman - One of the things that struck me when we were on  
2093 site is that Sharonway Drive is rather narrow. And you say there weren't any  
2094 complaints or traffic issues. Is the drop-off staggered or is—  
2095

2096 Ms. Cassidy - Yes. Drop-off and pickup are staggered. There has  
2097 never been a giant group of people. Breakfast is served. It's one of the  
2098 conversations I have with parents all the time. Sometimes I will text a parent and  
2099 say, you know, is so and so not coming today. "Oh, we're just running a little  
2100 behind." I'm used to them coming in almost as if they're scheduled because the  
2101 parents' jobs are so regular. Somebody will come in, drop off, pull out, they  
2102 leave. The next person is in. Honestly, it's almost as if it's planned that way. It's  
2103 not; it just happens to work very well that way. Pickups are also very staggered.  
2104 Some parents begin to pick up at 4:30, and anywhere in that hour between 4:30  
2105 p.m. and 5:30 p.m. I close at 5:30 p.m., so that is when my neighbors come  
2106 home from work, they're not faced with oh, I can't get in my driveway. So we've  
2107 cleared out before my neighbors are coming home from work.  
2108

2109 Mr. Berman - What is the natural flow generally? Do they do a  
2110 turnaround in Sharonway Court or do they just kind of pull around the block?  
2111

2112 Ms. Cassidy - Pull back out, head out. They pull in the driveway.  
2113 Every now and then, you know, somebody might get there while somebody is in  
2114 the driveway. And they just pull within the parking spaces that I would use for my  
2115 own personal vehicles.  
2116

2117 Mr. Berman - Okay.  
2118

2119 Ms. Cassidy - So it would be no different than my pulling my  
2120 vehicles out of my driveway.  
2121

2122 Mr. Berman - Okay. Thank you.  
2123

2124 Ms. Cassidy - With the conditions suggested and having read  
2125 through them, I did discuss with Mr. Blankinship #2, the last sentence about  
2126 using the driveway and parking on site. As we just discussed, using that blank  
2127 space, possibly to remove that second sentence in the condition. As well as with  
2128 condition #3, the hot tub. I called Mr. Blankinship because I had explained that  
2129 with my license, the state takes a great interest in any bodies of water on  
2130 property where children are in care. And very thoroughly years ago when I  
2131 received my license, we went through the whole scene of the hot tub, which is  
2132 not working. There is no water in it because it is broken. I just haven't been able  
2133 to remove it from the property.  
2134

2135 So in accordance with state law, even though there is no water in it, we have the  
2136 appropriate secured lid on top of it. That is in my record with the Department of  
2137 Social Services for Virginia with my state license that it is compliant with all state

2138 laws for blocking access to it, even though there's no water. There are also two  
2139 grills and plywood. I couldn't get in there if I tried to right now without some  
2140 significant help. Also, the children do not play on the deck. They're supervised as  
2141 they walk off the deck into the yard, and there is no outdoor play on the deck.  
2142

2143 Ms. Harris - So what is it that you want us to do with this condition  
2144 #3?  
2145

2146 Mr. Blankinship - If I could recommend a redraft of that, Ms. Harris. I'd  
2147 like to change that to read: The applicant shall secure the hot tub as required by  
2148 Section 305.2.1 of the International Swimming Pool and Spa code. And just leave  
2149 it at that. So if the state inspector and Building Inspections, whoever else  
2150 inspects this kind of thing says that it's secure, then it would meet the  
2151 requirement.  
2152

2153 Ms. Cassidy - Yes. Thank you, sir.  
2154

2155 Mr. Berman - And you're recommending removing the second  
2156 sentence on item #2?  
2157

2158 Mr. Blankinship - Yes sir, since that's already in place. Oh, it's #2. Yes  
2159 sir. That we'd just leave to the Board. I don't think staff feels too strongly one way  
2160 or the other. We do prefer off-street parking, but in this case, you know, if it  
2161 doesn't cause any concern to the Board, we certainly wouldn't object to removing  
2162 it.  
2163

2164 Mr. Berman - Okay, thanks.  
2165

2166 Ms. Harris - Ms. Cassidy, you said some of the children sleep  
2167 upstairs?  
2168

2169 Ms. Cassidy - Yes ma'am.  
2170

2171 Ms. Harris - You know we heard that case about the—  
2172

2173 Ms. Cassidy - Oh yes.  
2174

2175 Ms. Harris - What do you do to prevent something like that?  
2176

2177 Ms. Cassidy - As required by the state license, we have a video  
2178 monitor and we do in-person checks every fifteen minutes.  
2179

2180 Ms. Harris - And you have a working smoke alarm?  
2181

2182 Ms. Cassidy - Oh yes.  
2183

2184 Ms. Harris - Okay.  
2185  
2186 Ms. Cassidy - Yes. We do drills once a month on our safety plan as  
2187 well as our shelter-in-place plan. So when we're doing our fire drills, even if it is  
2188 naptime—we will not actually wake sleeping children, but as part of the drill,  
2189 employees are required to go upstairs, actually go through the motions of lifting a  
2190 child and leaving as if. But if they're actually napping, we will not actually disturb  
2191 a sleeping child for the drill.  
2192  
2193 Ms. Harris - So you have two employees now?  
2194  
2195 Ms. Cassidy - I actually have six employees on the payroll, which  
2196 does not exceed the recommendations here. But there are no more than needed.  
2197 There are no more than two employees, including myself, at any one time  
2198 working. I base my staff's schedule on the number of points of children in care,  
2199 per state law. So you need one caregiver per every sixteen points of children. I  
2200 just make sure that I don't have any clientele that would exceed thirty-two points  
2201 at any one time. I couldn't afford that.  
2202  
2203 Ms. Harris - You mentioned one child that you have.  
2204  
2205 Ms. Cassidy - I have two children at home.  
2206  
2207 Ms. Harris - You have two children.  
2208  
2209 Ms. Cassidy - Yes. They are school age.  
2210  
2211 Ms. Harris - The yard, is it fenced in?  
2212  
2213 Ms. Cassidy - Yes.  
2214  
2215 Ms. Harris - Thank you.  
2216  
2217 Mr. Baka - You may have mentioned this. Hours of operation  
2218 listed on the application are 7:30 a.m. to 5:30 p.m. And with drop-offs and late  
2219 pickups you are able to stay within that.  
2220  
2221 Ms. Cassidy - Yes. I don't usually have any late pickups. I'm off to  
2222 my next job at 5:31 p.m.  
2223  
2224 Mr. Baka - Thanks.  
2225  
2226 Ms. Cassidy - Thank you.  
2227  
2228 Mr. Bell - Any more questions? Thank you.  
2229

2230 Ms. Cassidy - Thank you.  
2231  
2232 **[After the conclusion of the public hearings, the Board discussed the case**  
2233 **and made its decision. This portion of the transcript is included here for**  
2234 **convenience of reference.]**  
2235  
2236 Mr. Bell - Do I hear a motion on this case? I so move that we  
2237 approve it. Do I hear a second on the motion?  
2238  
2239 Ms. Harris - We have some changes.  
2240  
2241 Mr. Bell - I was going to bring that up in discussions. We have  
2242 two amendments.  
2243  
2244 Mr. Baka - Could you discuss the conditions first?  
2245  
2246 Mr. Bell - Right, that's what I was saying.  
2247  
2248 Mr. Baka - I'll second the motion so we can discuss the  
2249 conditions.  
2250  
2251 Mr. Blankinship - The applicant has requested on condition #2 that the  
2252 second sentence regarding off-street parking be struck.  
2253  
2254 Mr. Baka - It sounds reasonable.  
2255  
2256 Mr. Blankinship - And on condition 3, the applicant had requested, and  
2257 staff agrees, that rather than requiring a specific barrier, that the applicant should  
2258 be required to secure the hot tub as required by code.  
2259  
2260 Mr. Baka - Sounds reasonable.  
2261  
2262 Mr. Bell - Any more discussion? All in favor say aye. All  
2263 opposed say no. The ayes have it; the motion passes.  
2264  
2265 After an advertised public hearing and on a motion by Mr. Bell, seconded by Mr.  
2266 Baka, the Board **approved** application **CUP2015-00005, SUSAN CASSIDY's**  
2267 request for a conditional use permit pursuant to Section 24-12(g) of the County  
2268 Code to operate a family day home with employees at 8305 Sharonway Drive  
2269 (DOVE HOLLOW) (Parcel 765-761-7441) zoned One-Family Residence District  
2270 (R-2AC) (Brookland). The Board approved this conditional use permit subject to  
2271 the following conditions:  
2272  
2273 1. This conditional use permit applies only to the operation of a large family day  
2274 home with no more than six nonresident part-time employees. All other  
2275 applicable regulations of the County Code shall remain in force.



2322 on this site plan, it shows about a 2,000-square-foot building; it's actually about a  
2323 3,000-square-foot building that we constructed. We've constructed one pool, a tot  
2324 lot for an age-appropriate smaller group of children, and a portion of a parking lot  
2325 that would service the needs of the pool area, the one pool we have. We held up  
2326 on constructing the second pool. We kept the first pool down to 1,000 square feet  
2327 because the residents—and this is an HOA. With all the amenities we have in the  
2328 community such as private street lights, and landscaping, and entrance features,  
2329 we're trying to keep the homeowners' dues down as low as we can.

2330

2331 Once you reach 1,000 square feet, you have to have a lifeguard who comes to a  
2332 pool. So the residents have opted to keep it below 1,000 square feet. Once we  
2333 get to that point and we need it, we'll build a second pool. It's hard to see on that  
2334 plan, but the mirror image behind the clubhouse is a second pool.

2335

2336 We know the market hasn't been that great. We've been trying to get sales up.  
2337 And in order to get the sales up, we need to provide some more amenities. The  
2338 other thing, the residents have asked for additional things. Over time, you proffer  
2339 a few things, you build a few things, you find out maybe they're not the right size.  
2340 So the residents—and we've been working with them for approximately three  
2341 years on amenities to be put here, as well as we're in for a rezoning on a  
2342 northern portion of our property to increase some density. So as part of that, we  
2343 actually met with citizens last night, as well as our Planning Commissioner, Mr.  
2344 Leabough, regarding our rezoning and to discuss these amenities and to make  
2345 sure everybody was on board. And they agreed on it, and they knew what  
2346 happens over time in cost.

2347

2348 So since we are having to make some changes, we have to come before this  
2349 Board, whether we're taking things away or adding. We will be adding—it doesn't  
2350 show—there you go. On that plan to the right side of the tennis courts we're  
2351 putting in another tot lot or playground, which will be at the second age group of  
2352 children. So we may have a 2 to 10 or a 2 to 8 year old. That's the one that's up  
2353 there, the existing one. And that new one would be for a little older group so they  
2354 could play in two different areas.

2355

2356 To that right of that, we are building a fitness center. We have a small fitness  
2357 center now that holds about nine pieces of cardio equipment. The residents said  
2358 could we have something a little bit larger, where we could bring those nine  
2359 pieces over, have more room in the main clubhouse, and then add some other  
2360 areas to that. We agreed to do that. That building would be substantially in  
2361 accordance with the design of the main building, so the architecture would look  
2362 similar, the colors would look similar. That's a picture of the main building. And  
2363 you can see the colors in there. So the new building would be—well, I don't know  
2364 if it's 40 by 40 or 38 by whatever, but we've agreed and proffered in our rezoning  
2365 case that we would do a 1600-square-foot building. So that's there.

2366

2367 The other item we would be adding is to the left rear of the first pool. There is a  
2368 pavilion area. I don't know if it's going to be there, pushed down a little bit. We've  
2369 experienced a project in Hampton where we cantilevered a pavilion from a pool  
2370 deck over a retaining wall overlooking a pond, so it was a nice feature. The  
2371 residents would like to have it close so that they can kind of watch their kids, they  
2372 can have a little party under the covered cabana area, and then play in the pool  
2373 area.

2374  
2375 The other item that they have asked for is a trail system around it. So mom may  
2376 be sitting by the pool, dad could walk around the trail and get a little exercise. In  
2377 the staff report, there were a couple of concerns and questions about the  
2378 placement of the trail, making sure that it would work with the topography. We  
2379 will work with staff when we come back with a new engineering plan for the  
2380 redesign. As well as with the pavilion, we want to see what kind of material,  
2381 whether we'll use Trex-type deck or concrete slab or timber. We're trying to keep  
2382 things as maintenance free as we can get. It reduces the homeowners'  
2383 association fees for that.

2384  
2385 Other than that, I'm here to answer any questions you may have. We're fine with  
2386 all the conditions that are in the staff report.

2387  
2388 Mr. Bell - Any questions?

2389  
2390 Ms. Harris - I just have one curious question. How large is this  
2391 subdivision? How many units do you have?

2392  
2393 Mr. Merner - We have approximately 150. We just opened up  
2394 another section 88 lots. We have two homes sold in there. So we'll have about—  
2395 we have developed 250 lots. We have about 150 homes, 160 homes built. So we  
2396 have about another hundred in that section. Then we have what we call the  
2397 northern section of the creek, which I don't know if you an overall master plan in  
2398 here. But currently there are another 244 lots there, so it would be a total of 494  
2399 lots.

2400  
2401 Mr. Berman - Is that the maximum capacity of lots for this  
2402 community or are there other buildable areas?

2403  
2404 Mr. Merner - We bought a house that's across from the elementary  
2405 school on Darbytown Road. You can see that B-1C piece directly 45 up—well, I  
2406 guess I could use the mouse. Right here. There was a dilapidated house and  
2407 basement flooded with water. It's about four or five acres. We bought that piece  
2408 of property. It has a pond on it and some wetlands. So that is now part of our  
2409 property. It's not part of the plan today. But we're in for a rezoning that will take  
2410 this portion of the property—I'm going follow my mouse around. This area right  
2411 here all the way around, wrapping around here. It currently has an R-3A zoning.  
2412 It's a 13,000-plus-or-minus-square-foot lot. Two hundred and forty-four of those.

2413 We're in for rezoning to come up next week to increase that to 2.4 units an acre.  
2414 Actually, we have to go in with an R-5A zoning case because there are no more  
2415 R-3A—or 2A—I'm getting confused.

2416  
2417 Ms. Harris - 3A

2418  
2419 Mr. Merner - 3A. There is no my R-3A, so we have to go with an R-  
2420 5A with R-3A conditions. So the homes on the south side would be matching the  
2421 homes on the north side lot area. So that will increase the density about 60 more  
2422 lots, maybe 70.

2423  
2424 Mr. Berman - The reason for my question is that if you built out this  
2425 community, is it possible that you would overrun the facility that you have now  
2426 and you would have to expand? There are certain County guidelines about  
2427 bathroom sizes and serving community size.

2428  
2429 Mr. Merner - Yes. If it gets to the point where we're overtaxed on  
2430 these facilities, we're going to have to do something else. We're in the business  
2431 to make money; we're developers. And we want to be successful. And the only  
2432 way to be successful is to give the residents what they need and what they can  
2433 afford to pay.

2434  
2435 Now, at the same time, we're probably—I shouldn't say the only one, but one of  
2436 the—with this size development that has these types of facilities within them. A  
2437 lot of other ones this size don't even have these facilities. So we're hoping we  
2438 never get to that point, but if we do, we'll take some area on the north side of the  
2439 property that we haven't developed yet and put other facilities. And we are  
2440 planning that. We have some common areas where we may be putting in those  
2441 tot lots so you don't have to go as far. I can't tell you about the pool or not  
2442 because basically it's a numbers game on how many residents are going to  
2443 actually use it. Last year, we opened up for the first year for the pool, and it's  
2444 hardly ever used. Hopefully as more residents come in it will be used.

2445  
2446 Mr. Berman - Thank you.

2447  
2448 Mr. Baka - One question. When we drove back there—you're  
2449 kind of at the end of the development. You have the development, you go all the  
2450 way through it, and then you get to the recreation center way in the back. So the  
2451 recreation center is not integrated into the middle of residential lots. A lot of folks  
2452 may need to drive to the recreation center in the future rather than walk there. So  
2453 even if you don't expand the facilities in the master plan shown at the recreation  
2454 center, to what you're adding right now, will there be any plans to add additional  
2455 parking spaces? Maybe not actual improvements other than just more parking.

2456  
2457 Mr. Merner - Currently there are about 45 or 50 spaces built. If you  
2458 go back to the master plan or clubhouse site plan, the parking lot that's built now

2459 with 40 spaces or so is right in here. We haven't built this yet. Again, it's one of  
2460 those if I build it, you have to pay to maintain it, keep the cost down, not  
2461 required—so that got one pool. The parking spaces are determined based on the  
2462 pool deck size. So I'll build this parking once I build these other facilities.

2463

2464 Mr. Baka - Thanks.

2465

2466 Mr. Merner - And to answer one more thing on there. See this  
2467 multipurpose field? It's one of those required items in the original zoning cases  
2468 back into the early 2000s, maybe even in the 1990s. We built it out to this area in  
2469 here. It's just a playground area. But if need be, we can always come in here and  
2470 do more parking and reduce the size of the multipurpose field. I'd have to come  
2471 before you again to do that, I would assume.

2472

2473 Mr. Blankinship - Yes.

2474

2475 Mr. Bell - Any more questions? Thank you.

2476

2477 Mr. Merner - Thank you.

2478

2479 Mr. Bell - Is there anyone else who desires to speak on this  
2480 conditional use permit? Hearing none, we can go straight to the voting.

2481

2482 **[After the conclusion of the public hearings, the Board discussed the case**  
2483 **and made its decision. This portion of the transcript is included here for**  
2484 **convenience of reference.]**

2485

2486 Mr. Bell - Do I hear a motion on this case?

2487

2488 Mr. Baka - I'll make a motion we approve this conditional use  
2489 permit on the grounds that it does not adversely impact neighboring properties or  
2490 surrounding properties with the nine conditions as recommended by staff in the  
2491 staff report.

2492

2493 Mr. Bell - Do I hear a second?

2494

2495 Ms. Harris - I second the motion, adding further that it probably will  
2496 be an enhancement to the community to have this enlarged facility.

2497

2498 Mr. Bell - Is there any other discussion? Hearing none, all in  
2499 favor say aye. All opposed say no. The ayes have it; the motion passes.

2500

2501 After an advertised public hearing and on a motion by Mr. Baka, seconded by  
2502 Ms. Harris, the Board **approved** application **CUP2015-00008, ROSS RUN,**  
2503 **LLC's** requests a conditional use permit pursuant to Sections 24-12(b) and 24-  
2504 52(a) of the County Code to allow a private nonprofit recreation facility at 6800

2505 Kidwelly Lane (CASTLETON) (Parcel 824-689-0488) zoned Agricultural District  
2506 (Conditional) (A-1C) (Varina). The Board approved this conditional use permit  
2507 subject to the following conditions:

2508  
2509 1. The property shall be developed in substantial conformance with the plan filed with  
2510 the application, as amended by these conditions. Any changes or additions to the layout  
2511 may require a new conditional use permit from the Board of Zoning Appeals.

2512  
2513 2. The applicant shall submit detailed construction plans including contours at two-foot  
2514 intervals showing how the pavilion and the fitness trail will fit into the topography of the  
2515 site. The Director of Planning may approve alternative locations of those two features  
2516 based on review of the construction plans.

2517  
2518 3. Prior to land disturbance the applicant shall submit an erosion control plan prepared  
2519 by a Professional Engineer certified in the state of Virginia to the Department of Public  
2520 Works for review and approval. Throughout the life of the operation, the applicant shall  
2521 continuously satisfy the Department of Public Works that erosion and sedimentation  
2522 control is performed and maintained in accordance with the approved plan. The erosion  
2523 control bond shall remain active throughout the life of the project.

2524  
2525 4. Prior to application for a building permit the applicant shall submit a landscaping,  
2526 lighting, and fence plan to the Planning Department for review and approval. All exterior  
2527 lighting shall be shielded to direct light away from adjacent property and streets. For  
2528 safety and security, lights beamed only on the swimming pool, operated on a timer, shall  
2529 be provided whenever water is in the pool. The swimming pools shall be enclosed by a  
2530 privacy fence six feet tall.

2531  
2532 5. The recreation center shall be operated on a nonprofit basis and be open only to  
2533 members and their guests.

2534  
2535 6. Hours of operation shall be limited to 6:00 a.m. to 10:00 p.m. for outdoor activities  
2536 and 6:00 a.m. to 12:00 midnight for indoor activities. Up to four times per year, the pool  
2537 hours may be extended to 12:00 Midnight for swim meets. Public address systems,  
2538 starter guns, and similar equipment may be used at swim meets, but at no other time  
2539 except in case of emergency.

2540  
2541 7. The parking lot, driveways, and loading areas shall be subject to the requirements of  
2542 Section 24-98 of the County Code.

2543  
2544 8. All landscaping shall be maintained in a healthy condition at all times. Dead plant  
2545 materials shall be removed within a reasonable time and replaced during the normal  
2546 planting season.

2547  
2548 9. The applicant shall comply with the recommendations of the Division of Police  
2549 regarding Crime Prevention through Environmental Design as detailed in the attached  
2550 memorandum dated February 16, 2015.

2551  
2552  
2553 Affirmative: Baka, Bell, Berman, Harris 4  
2554 Negative: 0

2555 Absent: Nunnally 1  
2556  
2557  
2558 Mr. Bell - Do I have a motion that we approve the minutes?  
2559  
2560 Mr. Berman - I move that we approve the minutes of the prior  
2561 meeting and waive the reading.  
2562  
2563 Mr. Bell - Do I hear a second?  
2564  
2565 Mr. Baka - Second.  
2566  
2567 Mr. Bell - Any discussion? All in favor say aye. All opposed say  
2568 no. The ayes have it; the motion passes.  
2569  
2570 On a motion by Mr. Berman, seconded by Mr. Baka, the Board **approved as**  
2571 **presented the Minutes of the January 22, 2015**, Henrico County Board of  
2572 Zoning Appeals meeting.  
2573  
2574  
2575 Affirmative: Bell, Baka, Berman, Harris 4  
2576 Negative: 0  
2577 Absent: Nunnally 1  
2578  
2579  
2580 Mr. Blankinship - Mr. Chairman, before you adjourn, I would just like the  
2581 Board members be aware that ten years ago when the Virginia Supreme Court  
2582 decided the Cochran case, it changed the way a lot of boards of zoning appeals  
2583 in Virginia handled variances. And since then there's been an almost nonstop  
2584 conversation about restoring the balance, if you will, between the power of the  
2585 Board to grant variances and the need for the ordinance to stay as it is, to be  
2586 respected. The General Assembly has had a couple of attempts to change the  
2587 variance standard that have died in committee. But this year, there was a bill to  
2588 change the variance standard in state law that has been passed by both houses.  
2589 We've been told to expect that the governor will sign it. So it may be that in the  
2590 next few months we'll have someone from the County attorney's office to do  
2591 some training on the new standards that will take effect July 1 that have to do  
2592 with the legal standards for a variance.  
2593  
2594 Mr. Baka - Excuse me, Ben. Would you know the bill number of  
2595 that?  
2596  
2597 Mr. Blankinship - It's House Bill 1849.  
2598  
2599 Mr. Baka - Thanks.  
2600

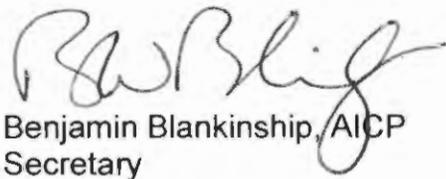
2601 Mr. Blankinship - Make sure you're reading the Senate substitute.  
 2602  
 2603 Mr. Baka - Senate substitute? Thanks.  
 2604  
 2605 Ms. Harris - Do you think they're going to tell us to not put as  
 2606 much weight on the Cochran case?  
 2607  
 2608 Mr. Blankinship - The intent of the legislation, yes ma'am, would be to  
 2609 allow the Board more flexibility in determining what is a hardship.  
 2610  
 2611 Mr. Bell - Any other discussion? Do I hear a motion that we  
 2612 adjourn?  
 2613  
 2614 Mr. Baka - So moved.  
 2615  
 2616 Ms. Harris - Second.  
 2617  
 2618 Mr. Baka - All in favor say aye. All opposed say no. The ayes  
 2619 have it; the motion passes.

2620  
 2621  
 2622 Affirmative: Bell, Baka, Berman, Harris 4  
 2623 Negative: 0  
 2624 Absent: Nunnally 1  
 2625

2626  
 2627 We are adjourned.  
 2628  
 2629  
 2630  
 2631  
 2632



Gentry Bell  
 Chairman



Benjamin Blankinship, AICP  
 Secretary