

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 FEBRUARY 23, 2017 AT**
5 **9:00 A.M., NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-**
6 **DISPATCH FEBRUARY 6, 2017 AND FEBRUARY 13, 2017.**
7

Members Present: Dennis J. Berman, Chairman
William M. Mackey, Jr., Vice Chairman
Gentry Bell
Helen E. Harris
James W. Reid

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

8
9 Mr. Berman - Good morning. Welcome to the February 23, 2017
10 meeting of the Henrico Board of Zoning Appeals. I ask you all to please stand
11 and join us in the Pledge of Allegiance. Please be seated.

12
13 Before we begin, Mr. Bell has a prepared statement.

14
15 Mr. Bell - Thank you, Mr. Chairman.

16
17 On February 2nd, 2017, Henrico County lost one of its supervisors, Richard
18 "Dick" Glover, and I lost a friend of 40 years. Elected in 1987, he represented and
19 served the Brookland District for over 33 years. He made himself visible and
20 accessible to the folks of the district. He was instrumental in preserving Glen
21 Allen's historical Mountain Road corridor, which enhances the sense of the
22 community in that area. He was a leader, and he knew the value of sharing his
23 experience with those coming into the County arena.

24
25 When you hear the whack a ball meeting a bat at RF&P Park, think of Dick
26 Glover. When you hear a whisper at Glen Allen or Libbie Mill libraries, shout his
27 name. When you recall those who worked and played at Meadow Farms or
28 Crump Park, you will feel his spirit. When you attend an event at the Cultural Arts
29 Center, you can be sure your applause for the musicians and actors and dancers
30 will include Dick Glover.

31
32 He leaves a rich legacy in Henrico County, especially in the Brookland District.
33 People who are in power can change lives for the better or for the worse. I can
34 speak for those who knew him and those who knew of him in saying he changed
35 us for the better. Thank you.

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Mr. Berman - Thank you very much for your words. Our Board secretary, Mr. Blankinship, will now read you our rules.

Mr. Blankinship - Good morning, Mr. Chairman, members of the Board, ladies and gentlemen, the rules for this meeting are as follows: Acting as secretary, I'll announce each case. And as I'm speaking the applicant can come down near the podium area. We'll then ask everyone who intends to speak to that case to stand and be sworn in. Then a member of the staff will give a brief introduction to the case, and then the applicant will present the case. After that, anyone who wishes to speak to the case will have the opportunity. After everyone has spoken, the applicant, and only the applicant, will have an opportunity for rebuttal.

After the Board has heard all of the testimony on that case, they will close that public hearing and proceed to the next public hearing. They will render all of their decisions at the end of the meeting. So if you wish to hear their decision on a specific case, you can stay until the end of the meeting, or you can check the Planning Department website—we usually get it updated within an hour of the end of the meeting—or you can call the Planning Department this afternoon.

This meeting is being recorded, so we'll ask everyone who speaks to speak directly into the microphone on the podium, state your name, and please spell your last name so that we get it correct in the record.

We have one case that was deferred. We do not have any requests for deferral or withdrawal from this morning's agenda that I'm aware of.

I think that brings us up to date.

Mr. Berman - Thank you, Mr. Secretary. Let's now call for our first request.

VAR2017-00003 **EVERY M. LYNN** requests a variance from Section 24-95(b)(5) of the County Code to build a one-family dwelling at 6207 Monument Avenue (WESTVIEW MANOR) (Parcel 768-738-0169) zoned One-Family Residence District (R-3) (Brookland). The lot width requirement is not met. The applicant proposes 60 feet lot width, where the Code requires 65 feet lot width. The applicant requests a variance of 5 feet lot width.

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

Mr. Cantor - I do.

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Mr. Blankinship - All right, thank you. Mr. Gidley?

Mr. Gidley - Thank you, Mr. Secretary. Good morning, Mr. Chairman, members of the Board of Zoning Appeals.

Our first case today is located at 6207 Monument Avenue, which is just west of St. Mary's Hospital. It is located in the Westview Manor neighborhood, which consists predominantly of 60-foot-wide lots. At one point, this neighborhood was zoned R-4, which allowed a 60-foot-wide lot to be built on. And you see that in the development of many of the homes to the rear along West Franklin Street.

On Monument Avenue itself, a slightly different development pattern occurred. At least initially you had one home on two lots. And this was evidently done because the homes are slightly larger than the ones behind it. As a result, in order to meet setbacks, they had to have two lots associated with the house.

In 1960, the property was subsequently rezoned to R-3. The lot width requirement at that point increased to 65 feet. Because it has 60 feet of lot width and you need 65 feet in lot width today, they have applied for a 5-foot-lot-width variance in order to sell off the second lot.

The other impediment you have in selling the vacant lot, as I noted earlier, is the setback situation. If you take this as just one lot, the sum of the two side yard setbacks has to equal 30 percent of the lot width. In this case, that would be 18 feet. And since they have 9.7 feet on the right side here, they would need 10.3 feet on this side rather than the 5.6 feet—I'm sorry. They have 9.7 feet and they would need 8.3 feet. So they'd need 8.3 feet from the side line over here to the house rather than the 5.6 feet they currently have.

Therefore, if they wish to sell the vacant lot separately from the home, they would need to rectify the situation with the porch to bring it into compliance with the setback requirements. Otherwise, you would have a home on a lot here by itself that would be in violation of setbacks.

Finally, the majority of the homes in the area contain all or partial brick construction. In order to have the home be more consistent with the surrounding properties, staff is recommending that the front facade at least be constructed of brick and is going with a recommended minimum floor area of 1,800 square feet, which would be a fairly average number for what's out there in the neighborhood.

Evaluation. If the two lots are considered together, the existing dwelling constitutes a reasonable, beneficial use of the property. However, if the two lots are taken separately, the owner would not have any reasonable use of the vacant lot absent a variance. This would result in an unreasonable restriction on

127 the vacant lot. As demonstrated by the development pattern in the neighborhood,
128 development was initially envisioned to be on each 60-foot lot.

129
130 As far as the subtests are concerned, the property owner acquired it in good
131 faith. I think one of the key ones is detrimental impact. Let me back up here. As
132 you can see again, a lot of the homes in this neighborhood, four on Monument
133 Avenue itself, and pretty much all of them to the rear were built on 60-foot-wide
134 lots. So, as a result, a similar home built on that lot I don't believe would have a
135 detrimental impact on those neighboring properties so long as the quality and
136 design of the home is similar to what's there now, thus our recommendation for
137 the front facade and a minimum dwelling size.

138
139 As for a recurring situation, absent a rezoning of the block, staff is unaware of
140 any way to allow building on the remaining vacant lots unless a variance was
141 granted.

142
143 As far as the use permitted, a single-family home is a permitted use in the R-3
144 District, so it's a use variance like we ran into last month. Neither a special
145 exception or a modification is available as a relief valve here either.

146
147 In conclusion, if the vacant is viewed in isolation from the home and the lot it's
148 on, then there is no reasonable beneficial use of that vacant lot. The Planning
149 Department has traditionally taken the position that a home on more than one lot
150 can sell the vacant lot off separately so long as it doesn't put the existing home in
151 violation of the Zoning Ordinance. So in this case, assuming the existing
152 screened porch is removed or reduced in size in order to comply with the total
153 side yard setback requirements, the owner would typically be free to sell off the
154 vacant lot. Otherwise, as I said, you would have a home that all of a sudden
155 would have its own violation regarding setbacks, so we would then in fact solve
156 one problem but have another one.

157
158 So with this in mind and with the adoption of the recommended conditions, staff
159 can recommend approval of this request today.

160
161 That concludes my presentation. I will be happy to answer any questions you
162 may have.

163
164 Mr. Berman - Thank you, Mr. Gidley. Are there any questions from
165 the Board for Mr. Gidley?

166
167 Ms. Harris - Mr. Chair, on the surveyor's plan, I see that the
168 address is 6207 for the lot that has the home.

169
170 Mr. Gidley - Yes ma'am.

171

172 Ms. Harris - And so the other lot, 133, what is the address for
173 that?
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175 Mr. Gidley - That I would suspect would be 6205. I should be able
176 to confirm that here. Yes, 6203 is the next home to the east, so 6205 would be
177 the correct address.
178

179 Ms. Harris - In our packet of material, we have 6207 for the
180 property address.
181

182 Mr. Gidley - That's the official address now because both have
183 been combined for tax purposes. If you own three lots, for instance, rather than
184 sending you three separate tax bills, we would just send you one for simplicity
185 sake and to save money and save you time, frankly.
186

187 Ms. Harris - Okay. And my other question is these two lots are
188 owned by the same person, are they not?
189

190 Mr. Gidley - Yes ma'am, they are.
191

192 Ms. Harris - Okay, thank you.
193

194 Mr. Berman - Any other questions from the Board? Mr. Gidley, as
195 you're facing the lot in question there's a driveway on the left.
196

197 Mr. Gidley - Yes sir.
198

199 Mr. Berman - It goes down and then back across.
200

201 Mr. Gidley - Yes sir.
202

203 Mr. Berman - That driveway, which lots does it serve and who owns
204 it?
205

206 Mr. Gidley - Let's see here. I can get you a picture of that.
207

208 Mr. Berman - Because one of my concerns in looking at it was
209 parking. And I think the staff brought that up as well.
210

211 Mr. Gidley - Yes sir. Initially when we went out there, we didn't see
212 a driveway. So we pulled over on this tiny little shoulder here, which made me
213 extremely uneasy because there's practically no room over there.
214

215 But to your question, this driveway here comes up on the vacant lot now. And
216 then as you go to the back here, it swings around to the west towards the
217 existing home. And it does serve the home. And that was a concern that staff

218 brought up. You have to have access to the property. The new home could use
219 this driveway. The older home would also need to have driveway access to it as
220 well.

221
222 Mr. Berman - I think you answered my question because condition
223 #4 states that they need someplace to park. I parked where you did, too, on the
224 shoulder. Okay. So what you're saying is the driveway is conditioned or some
225 other driveway is conditioned that it needs to serve both homes.

226
227 Mr. Gidley - You're required by code to have two parking spaces
228 on a residential property. Each space is 9-by-18 feet, approximately. So each
229 property would need to provide a parking area on that lot.

230
231 Mr. Berman - So as it stands, do you believe that there is enough
232 for four parking spaces with this driveway?

233
234 Mr. Gidley - I think it could be put in. It's something we did point
235 out to the applicant in the staff report, as you noted as well, that they're going to
236 have to take account of and not just—particularly since the one home's pretty
237 large and they rent it out, you could have a number of vehicles there. And there's
238 not really room to park on the road, so that's something they need to be aware of
239 and something that they need to plan ahead for as a part of this process.

240
241 Mr. Berman - Okay, thank you.

242
243 Mr. Bell - Along the same line, when we get the—well first let
244 me ask this question. Do we have any plans for the house yet?

245
246 Mr. Gidley - No sir, we don't. And that's one reason we put in the
247 suggested conditions to try to—

248
249 Mr. Bell - Because that would give us some clue as to where
250 the driveway might or might not go. That's what I wondered.

251
252 Mr. Gidley - Yes sir. That's a good point.

253
254 Mr. Bell - Thank you.

255
256 Mr. Blankinship - But those are issues that we can work out when we
257 do get a building permit for a house on this location. We did ask the traffic
258 engineer what their preference was, and they didn't express any strong feelings
259 one way or the other. So these are issues that can be resolved and will be
260 resolved at building permit.

261

262 Mr. Berman - Any further questions? Very well. We would like to
263 hear from the applicant now. Please approach, speak into the mic, and spell your
264 name for us please.

265
266 Mr. Cantor - Gentlemen, thank you very much for taking this case
267 up. My name is Stuart Cantor. It's S-t-u-a-r-t. Last name is C-a-n-t-o-r. And I'm
268 here today on behalf of the owner of the property, Mr. Avery Lynn. Mr. Lynn is a
269 real estate investor in town and has a number of residential properties that he
270 owns and rents out.

271
272 The reason why I'm here is I'm actually a volunteer president of a local Jewish
273 high school, the Benjamin and Lillian Rochkind Yeshiva of Virginia that serves
274 boys and girls at two separate locations on Patterson Avenue for high school
275 students in the Jewish faith. Mr. Lynn is a very generous donor to the school, and
276 he has told the school that whatever he makes off of this property that he would
277 donate to the school.

278
279 The request here, as you understand, is to create a second lot. We have actually
280 gotten a lot of interest from builders since the sign has gone up, people wanting
281 to purchase the lot. We are very comfortable with the minimum requirements set
282 here of 1800 square feet and a brick facade. It's likely to be a larger house than
283 that that will be built on the property. As well as in order to maximize the value,
284 some of the monies that come from the sale of the lot would be used to improve
285 the existing house on the property. So I think it's a win-win across the board to
286 improve the neighborhood over there.

287
288 We understand the situation with the porch and having to adjust that, and that
289 can be accomplished. And as far as the driveway goes, subject to the approval of
290 the traffic engineer, the intent is to have two separate driveways for the two
291 separate properties.

292
293 We are comfortable with all the conditions that have been listed here. I did want
294 to ask a clarification on #5, but I can do that offline, about the permit from the
295 Department of Public Works. I know that's just a process that needs to go
296 through at some point.

297
298 We ask for your consideration of our request and hope that you will consider it in
299 an affirmative manner.

300
301 Mr. Berman - Thank you, Mr. Cantor. Are there any questions from
302 the Board for the applicant—or the representative of the applicant?

303
304 Ms. Harris - Do you have a blueprint, Mr. Cantor, of the home they
305 plan to build?

306

307 Mr. Cantor - No I don't. There are a couple builders that are
308 interested and it depends on which builder it will be. One thing I forgot is I do
309 actually have—and I'll just submit it here—a letter from one of the neighbors who
310 lives down the street—they're at 6219 Monument—in support of this. I won't take
311 the time to read it, but I can allow you take it if you'd like.

312

313 Mr. Berman - Mr. Blankinship?

314

315 Mr. Blankinship - Mr. Cantor, there was some concern expressed
316 during the process about the condition of the existing house, a tree laying on it or
317 something of that nature. I know you're not the owner of the property.

318

319 Mr. Cantor - Right. That was mentioned to me I think yesterday.
320 And I have not had a chance to look into that since then.

321

322 Mr. Blankinship - Okay. We have asked staff from Building Inspections
323 and Community Maintenance to look at the property and make recommendations
324 to the Board. And unfortunately they hadn't had a chance to do that by this
325 morning. So I guess I would just say that no action by the Board this morning
326 would relieve the owner of any responsibility for the maintenance of that property.

327

328 Mr. Cantor - That's understood.

329

330 Mr. Blankinship - And we will follow up on that.

331

332 Mr. Berman - Thank you. I meant to ask Mr. Gidley, is there any
333 other remedy available for the porch or does that need to be corrected as in the
334 conditions?

335

336 Mr. Gidley - It needs to be resolved one way or the other, either
337 through a reduction of the porch, removal of the porch, or in theory they could
338 apply for a variance. Just personally speaking, the way we're looking at it now is
339 in the old days you could have one home on one lot in this subdivision, assuming
340 it met setbacks. So I'm kind of like we're willing to let them sell off that separate
341 lot despite the current 65-foot-lot-width requirement if the existing home is
342 brought into compliance with the setback requirements that existed in both in
343 1947 when the home was built as well as today. So I think the preference would
344 be to just bring it into compliance. But in theory, they could apply for a variance
345 as well.

346

347 The other thing is nowadays you get a lot more mortgage companies who look
348 more thoroughly at these homes and sometimes ask for clarification or approval
349 from us saying that everything meets setbacks and so on. And since the
350 setbacks were the same in 1947 as they are today, we think it's important to
351 bring it into compliance to avoid any future problems as far as the title.

352

353 You had a case last month where a guy bought a house and was just refinancing
354 and couldn't go forward because there was an addition, a small one done. But
355 the mortgage company caught it, and he had to come in here and rectify that.

356
357 Mr. Berman - I just want to make sure if there was some financial
358 benefit to take another remedy that we make people aware of it. However, it
359 would need to be heard as a separate variance or if you add it to this variance,
360 we would have to vote as such on those two variances.

361
362 Mr. Gidley - You couldn't add it to this one today because it's not
363 been advertised as such.

364
365 Mr. Berman - Oh, okay.

366
367 Mr. Gidley - The variance has been advertised for the lot width.
368 Again, traditionally we've told people—there are a lot of homes on two lots in the
369 County, and sometimes the other lot is needed just for a small amount of
370 setback. Sometimes it needed to ten feet or so. And we've typically told people
371 we don't mind if you sell the other lot off, but your home needs to comply with
372 setbacks. If you were to let them so sell the separate lot here and also grant a
373 variance for that, you'd probably be opening the door for a lot of people to come
374 in in the future and say, "I want to sell my other lot, and the setback violation I
375 have on my existing home, I just want a variance for that."

376
377 Mr. Berman - All right. Well thank you for the clarification.

378
379 Mr. Gidley - Yes sir.

380
381 Mr. Cantor - May I make just one quick comment? We're aware of
382 the porch issue, and we got incorrect information from our surveyor who had
383 indicated that if it was not enclosed he thought it was not going to be counted in
384 the side yard. But we were informed that since it does have a cover on it that has
385 been included in the side yard. So we kind of had that wrong when we came in.
386 But we knew that was an issue.

387
388 Mr. Berman - Okay. Thank you, Mr. Cantor.

389
390 Ms. Harris - I have just one more.

391
392 Mr. Berman - Yes, Ms. Harris.

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394 Ms. Harris - Mr. Cantor, are you authorized to approve these
395 conditions?

396
397 Mr. Cantor - Yes ma'am.

398

399 Ms. Harris - Okay. By the owner.
400
401 Mr. Cantor - Yes ma'am.
402
403 Ms. Harris - All right. Thank you.
404
405 Mr. Berman - Thank you. Is there anybody else here wishing to
406 speak in favor of this application? Is there anybody wishing to speak against this
407 application? Hearing none, we will make a motion, as Mr. Blankinship stated, at
408 the end of all the requests today. So for now, Mr. Secretary, can we please have
409 the next application.
410
411 Mr. Blankinship - That was our only deferred case and it's also the only
412 variance on this morning's agenda, so we have three conditional use permits to
413 consider now.
414
415 **[After the conclusion of the public hearings, the Board discussed the case**
416 **and made its decision. This portion of the transcript is included here for**
417 **convenience of reference.]**
418
419 Mr. Berman - Do I hear a motion from the Board?
420
421 Mr. Bell - I move that we approve. I do not see where it's going
422 to create any problem in the residential neighborhood where what's requested is
423 no more than the other houses that are there. I don't see any safety problems. It
424 was pointed out to them that for Monument Avenue there are parking concerns.
425
426 Mr. Berman - Thank you, Mr. Bell. We hear a motion for approval.
427 Do I hear a second?
428
429 Ms. Harris - I second the motion. I see that this land probably
430 cannot be used without a variance, and that's why they're here. I had concerns
431 about the driveway, but if the plans are indefinite at this point, they can address
432 that concern to be sure that the driveway is acceptable or agreeable to the
433 property owners.
434
435 Mr. Berman - We have a second from Ms. Harris. Is there any
436 further discussion? Hearing none, all in favor signify by saying aye. Any opposed
437 say nay. The ayes have it 5 to 0.
438
439 After an advertised public hearing and on a motion by Mr. Bell, seconded by
440 Ms. Harris, the Board **approved** application **VAR2017-00003, AVERY M.**
441 **LYNN's** request for a variance from Section 24-95(b)(5) of the County Code to
442 build a one-family dwelling at 6207 Monument Avenue (WESTVIEW MANOR)
443 (Parcel 768-738-0169) zoned One-Family Residence District (R-3) (Brookland).
444 The Board approved the variance subject to the following conditions:

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1. This variance applies only to the lot width requirement for one dwelling only. All other applicable regulations of the County Code shall remain in force.
2. The proposed home shall contain a minimum finished floor area of 1,800 square feet. The front of the proposed home facing Monument Avenue shall be constructed with a brick facade.
3. Any dwelling on the property shall be served by public water and sewer.
4. Prior to the issuance of a certificate of occupancy for the proposed home, a driveway shall be provided to each of the two homes.
5. Before beginning any clearing, grading, or other land disturbing activity, the applicant shall submit an environmental compliance plan to the Department of Public Works.
6. The existing screened porch shall be removed or modified to bring the home into compliance with the sum of the side yards setback requirement. This would require the porch to be at least 8.3 feet from the side property line.

Affirmative:	Bell, Berman, Harris, Mackey, Reid	5
Negative:		0
Absent:		0

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

CUP2017-00002 LUMOS NETWORKS requests a conditional use permit pursuant to Sections 24-56(a) and 24-36 of the County Code to build a telecommunication facility at 2900 Hungary Spring Road (WOODLAWN FARMS) (Parcel 765-752-0302) zoned Business District (B-1) (Brookland).

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

Mr. Madrigal - Mr. Chair, members of the Board, good morning. Before you is a request to expand an existing telecommunication facility. The subject site is located at the northeast corner of Fountain Avenue and Hungary Spring Road. The subject lot is approximately a third of an acre in size and is improved with an existing 480-square-foot unmanned telecommunications

490 building served by a two-car parking lot. It was built in November 2015 by way of
491 a conditional use permit.

492

493 The applicant, a fiber optic network service provider, would like to expand the
494 existing facility by adding a second building on the lot. The proposed building
495 would be located 20 feet in front of the existing structure and will match it in size,
496 design, and finish. Since it is an unmanned facility, the existing two-car parking
497 lot provides sufficient parking for the existing use and the proposed use. In
498 addition to the proposed building, the plan includes a screened-in enclave
499 between the buildings for an emergency generator to be installed at some point
500 in the future if and when the need arises. And you can see that here on the
501 proposed plot plan.

502

503 The property is zoned B-1, and is designated as Commercial Arterial on the 2026
504 Land Use Plan. The proposed use is a quasi-public utility that will enhance
505 telecommunication support services for the business community. As such, it is
506 consistent with both the zoning and Comprehensive Plan designations. No
507 detrimental impacts are anticipated if the applicant's request is approved.

508

509 The proposed building will adhere to the established 35-foot building setback
510 along Hungary Spring Road, and the new building will match the existing
511 building's architectural design and treatment. Since the new building will also be
512 an unmanned facility, it will generate a negligible amount of pedestrian and
513 vehicular traffic.

514

515 In conclusion, the applicant's proposal will add a second building to the site that
516 is an existing telecommunication hub. The new building will be in line with the
517 existing structure and closer to the street frontage. It will architecturally match the
518 existing building in design and materials. Since both buildings are unmanned
519 facilities, there's no need to expand the existing parking lot. The use is consistent
520 with the intent of the zoning and Comprehensive Plan designations. No
521 detrimental impacts are anticipated, and specific conditions of approval have
522 been prepared to mitigate any significant impacts associated with the proposed
523 use.

524

525 Based on these facts, staff recommends approval subject to conditions. This
526 concludes my presentation. I stand ready to answer any questions you may
527 have.

528

529 Mr. Berman - Thank you, Mr. Madrigal. Board, any questions?

530

531 Ms. Harris - Yes. Do you know if when the other building was
532 constructed if they had a condition about the landscaping?

533

534 Mr. Madrigal - Yes, there were conditions for landscaping. During
535 the plan review process, we did have them put in some screening trees along the

536 side of the existing building. There are a couple in front as well as on the street
537 side. And there are a few trees in front, I believe.

538

539 Ms. Harris - If we look at the picture that we have in the packet,
540 the last picture, it doesn't seem as though much landscaping has taken place.

541

542 Mr. Madrigal - The trees are still immature. In fact, I took this picture
543 behind some existing trees along the street frontage, so you're not seeing those.
544 But the trees along the front here, there are a couple trees here. There are some
545 shrubs here in the parking area. And then, let's see here. There's a bunch of
546 trees here to provide screening for this equipment. And there are some trees
547 here on the side. Not to mention there's landscaping in the back of the property
548 as well. So there actually is quite a bit of landscaping on the site.

549

550 Ms. Harris - All right. When you compare that to the—see the last
551 picture we have in the packet? Do you see the home in the background? I guess
552 that's a home or a business.

553

554 Mr. Madrigal - This here?

555

556 Ms. Harris - Yes, what is that? That's a business?

557

558 Mr. Madrigal - Right. This is just showing the area where the
559 proposed building is going to go. So between here and 20 feet is going to be
560 potentially a future enclave for the generator. And then after that is going to be a
561 40-foot building.

562

563 Ms. Harris - Right. But I was concerned that the particular building
564 in the background is so very attractive, and then when you look at the land here
565 that's vacant, I was wondering would more be done to make it more attractive?

566

567 Mr. Madrigal - You can certainly condition additional landscaping if
568 you'd like, if that is a concern.

569

570 Mr. Berman - Any other questions? I have a couple. In speaking of
571 the Simmons building that we're looking at right now, I am concerned about the
572 noise level. And I don't know if the trees, I guess when they eventually reach
573 maturity, would be a good sound buffer, but perhaps we should possibly
574 condition approval on an actual physical latticework or wall of something. While
575 we were on site visiting, one of the exhaust fans kicked in, and just one of them
576 is fairly loud.

577

578 Mr. Madrigal - For the AC equipment on the building you mean?

579

580 Mr. Berman - Yes sir.

581

582 Mr. Madrigal - Okay.
583
584 Mr. Berman - We were standing at the business when it kicked in,
585 and it was pretty loud. I'll ask if anybody's in opposition from that business or
586 otherwise in a few minutes. But I don't know if we should consider some sort of
587 sound barrier or be more specific. I don't know if we're allowed to do that.
588
589 Mr. Madrigal - If it is a specific concern and it is associated with the
590 development of the project, then by all means. I don't see an issue why you
591 couldn't.
592
593 Mr. Berman - I don't want to be a burden to the project. And the
594 other was obviously those trees on the right that you can see in the picture will
595 need to go in order to put the enclave in for the emergency generator. But then
596 it'll be on the landscaping plan as you condition to add back some.
597
598 Mr. Madrigal - Right. Those trees would eventually end up being
599 removed if and when they put in that enclave. As proposed, they'll probably
600 remain in place or they might just be relocated. But keep in mind that the
601 proposed building is going to be 20 feet away.
602
603 Mr. Berman - Right. Will there be any need for them to resubmit if
604 they install the generator? Are we conditioning this such that they can put the
605 generator in whenever they need to?
606
607 Mr. Madrigal - Yes, yes. That's why it was included in the plan
608 because you're approving the overall development of the site with that generator
609 so they wouldn't have to come back to the Board. They could just file for a
610 building permit and proceed with the project.
611
612 Mr. Berman - Okay, thank you. I have no further questions. Any
613 others? Okay, thank you very much.
614
615 Mr. Madrigal - Thank you.
616
617 Mr. Berman - Would the applicant please approach, speak into the
618 mic, state your name and spell, please.
619
620 Ms. Lindenau - Good morning. My name is Allison Lindenau. It's A-I-I-
621 i-s-o-n. Last name is L-i-n-d-e-n-a-u.
622
623 I am with Lumos Networks. We are out of Waynesboro, Virginia. Earlier this
624 week, we were actually acquired by EQT Infrastructure. They are an investment
625 firm that is trying to grow our company, which was already our plan when we put
626 this on the books.
627

628 The existing structure, we actually maxed it out within three months of putting the
629 structure up. There is so much demand in the area locally to bring the fiber
630 network up, speeds faster, that this second building has become a necessity.
631 The existing generator that's on the site is large enough to support the structure
632 that's planned or proposed, so we would not need to add that second generator
633 at this time.

634
635 He pretty much covered everything that I need to say. Any other questions?

636
637 Mr. Bell - Yes. I know people aren't there every day, but what
638 would be the frequency of people coming in and out of there?

639
640 Ms. Lindenau - About once a month, which is what it is now.

641
642 Mr. Bell - Would there be any reason to stay overnight there?

643
644 Ms. Lindenau - No.

645
646 Mr. Bell - Have you read and understand the conditions if it's
647 approved?

648
649 Ms. Lindenau - Yes sir.

650
651 Mr. Bell - Thank you.

652
653 Ms. Lindenau - Mmm-hmm.

654
655 Ms. Harris - What deficiency does the old system have that
656 causes you to feel you must update or improve this business?

657
658 Ms. Lindenau - The equipment, actually we want to enhance the
659 Richmond fiber. We want to grow the fiber locally. So right now it's adequate, but
660 we want to grow even more.

661
662 Mr. Berman - Any other questions for the applicant? Thank you very
663 much.

664
665 Ms. Lindenau - Thank you.

666
667 Mr. Berman - Anybody else with us today that would like to speak
668 on behalf of the applicant? Anybody who wants to speak against the applicant?

669
670 Mr. Blankinship - Or for any other reason.

671
672 Mr. Berman - Thank you. If you could state your name and please
673 spell it for the record.

674

675 Mr. Kline - My name is John Kline. J-o-h-n, K-l-i-n-e. I'm the
676 owner of the property directly across Hungary Spring Road. I don't necessarily
677 have any opposition to it. It's interesting that they outgrew the first building that
678 was just built in 2015. My understanding at the time was that was going to be a
679 one-off construction job. So now they've come back with another building. I don't
680 know, perhaps the gentleman can answer what the size of this building is
681 compared to the first building. Is it the same size? It was 30 feet long or
682 something. I'm not sure how that compares with the first building. My question for
683 the Board is how many more buildings can we have on here.

684

685 Mr. Blankinship - The proposed building is the same size as the
686 existing building.

687

688 Mr. Kline - It is the same, okay.

689

690 Mr. Blankinship - So it would double the capacity.

691

692 Mr. Kline - Is it allowable to have additional buildings on here?

693

694 Mr. Blankinship - It certainly would be. Mr. Madrigal, could you put up
695 the site plan? The proposed site plan does show the buildable area of the lot with
696 the dashed line there. So essentially, everything inside of the dashed line could
697 be built. Now, because of the way the existing parking is configured, it would be
698 very difficult to expand the parking on the lot. They'd have to kind of scrape the
699 lot and start over to do anything about that. So that's going to constrain any kind
700 of a facility that requires people to be there. But there is quite a bit of buildable
701 area still on the property.

702

703 Mr. Kline - Buildable area with similar type buildings.

704

705 Mr. Blankinship - Or other types of buildings.

706

707 Mr. Kline - —office or anything like that.

708

709 Mr. Blankinship - Yes. But not something that would require parking.
710 Office space that requires parking would be very difficult to fit on here because of
711 the way the existing parking was built.

712

713 Mr. Kline - So under the current configuration, the plan
714 configuration, would you say another—you could expand twice—

715

716 Mr. Blankinship - Sure.

717

718 Mr. Kline - The building that's on there now?

719

720 Mr. Blankinship - Yes.
721
722 Mr. Kline - Would that be about the limit?
723
724 Mr. Blankinship - After twice, it would start getting crowded, yes.
725
726 Mr. Kline - Given the landscaping requirements and so on and so
727 forth, at some point you're going to be—
728
729 Mr. Blankinship - Yes. It's not that large of a lot. Yes, at some point they
730 would I guess pull up stakes and pick another location.
731
732 Mr. Kline - Okay. All right, thank you.
733
734 Ms. Harris - Question.
735
736 Mr. Berman - Any questions for Mr. Kline? Mr. Kline?
737
738 Mr. Kline - Oh, I'm sorry.
739
740 Mr. Berman - No problem.
741
742 Ms. Harris - Yes. Where is your business located?
743
744 Mr. Kline - I believe almost exactly across Hungary Spring Road.
745 Across the street are several homes. There's Casa Grande Restaurant on the
746 corner. I own the third property down, which is Office.
747
748 Mr. Blankinship - Is it 2901 Hungary Spring Road?
749
750 Mr. Kline - 2901, correct.
751
752 Ms. Harris - Okay, thank you.
753
754 Mr. Kline - And I'm not sure, honestly, what the long-term plan is
755 for those other homes. I believe they're still residential—is that correct? —on
756 either side of us.
757
758 Mr. Blankinship - To the north I believe is still residential. Well, it looks
759 like two of them are residential, and then at the corner it's Office again. And I'm
760 sorry; I don't have the Comprehensive Plan.
761
762 Mr. Kline - Yes, that is Office on the corner. And so the two R-3s,
763 and then mine, and then another R-3. But the zoning right now is for that to all be
764 commercial long term, is that correct?
765

766 Mr. Blankinship - I'm not certain of the answer to that.
767
768 Mr. Kline - Okay.
769
770 Mr. Berman - Okay. Any other questions for Mr. Kline? We will look
771 up the plan.
772
773 Mr. Kline - Okay.
774
775 Mr. Berman - Okay, hearing none, any others that wish to speak on
776 this application? Okay. Mr. Blankinship, let's move on to the next case, please.
777
778 **[After the conclusion of the public hearings, the Board discussed the case**
779 **and made its decision. This portion of the transcript is included here for**
780 **convenience of reference.]**
781
782 Mr. Berman - What is the pleasure of the Board?
783
784 Mr. Bell - I move that we approve the conditional use permit.
785 The location has not received any complaints. I do not believe that adding
786 another one there will make the area unsafe or hurt the welfare of the area.
787
788 Mr. Berman - Thank you, Mr. Bell. We have a motion for approval.
789 Do I hear a second?
790
791 Mr. Reid - Second.
792
793 Mr. Berman - From Mr. Reid we have a second. Any discussion?
794 Hearing none, all in favor signify by saying aye. Any opposed? None opposed.
795 Motion carried 5 0.
796
797 After an advertised public hearing and on a motion by Mr. Bell, seconded by
798 Mr. Reid, the Board **approved** application **CUP2017-00002, LUMOS**
799 **NETWORKS'** request for a conditional use permit pursuant to Sections 24-56(a)
800 and 24-36 of the County Code to build a telecommunication facility at 2900
801 Hungary Spring Road (WOODLAWN FARMS) (Parcel 765-752-0302) zoned
802 Business District (B-1) (Brookland). The Board approved the conditional use
803 permit subject to the following conditions:
804
805 1. This conditional use permit applies only to the construction of a second
806 telecommunication facility on the property. All other applicable regulations of the
807 County Code shall remain in force.
808
809 2. Only the improvements shown on the site plan and building design filed with
810 the application, as amended by these conditions, may be constructed pursuant to
811 this approval. Any additional improvements shall comply with the applicable

812 regulations of the County Code. Any substantial changes or additions to the
813 design or location of the improvements shall require a new conditional use permit
814 unless required as a condition of approval.

815

816 3. The applicant shall present a complete grading, drainage, and erosion control
817 plan prepared by a certified professional in the state of Virginia to the Department
818 of Public Works for approval. This plan must include the necessary floodplain
819 information if applicable.

820

821 4. The proposed building shall incorporate a gabled roof and brick stenciled
822 exterior finished walls, matching the existing building on-site. Ground and wall
823 mounted equipment, such as but not limited to electrical panels, meters, and air
824 conditioning units, shall be screened from view. The final design shall be
825 reviewed and approved by the Planning Director, prior to the issuance of a
826 building permit.

827

828 5. A privacy fence shall be used to enclose and screen the future emergency
829 generator (to be located between buildings) if and when installed. The design
830 and materials of the fence shall match the existing screen fencing used on-site.

831

832 6. A detailed landscaping plan shall be submitted to the Planning Department
833 with the building permit for review and approval. The landscaping plan shall
834 include the continuation of a minimum 6-foot landscaping strip to the interior side
835 property line. Ground and wall mounted equipment shall be adequately screened
836 from public view via strategically placed ornamental trees and shrubs.

837

838 7. All landscaping shall be maintained in a healthy condition at all times. Dead
839 plant materials shall be removed within a reasonable time and replaced during
840 the normal planting season.

841

842 8. All lighting shall be shielded to direct light away from adjacent property and
843 streets.

844

845

846 Affirmative: Bell, Berman, Harris, Mackey, Reid 5

847 Negative: 0

848 Absent: 0

849

850

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

853

854 **CUP2017-00003** J. WESLEY HOWARD requests a conditional use
855 permit pursuant to Section 24-52(c) of the County Code to operate a commercial
856 kennel at 9304 Level Green Lane (Parcels 787-761-0950, 787-761-4675 and
857 787-762-0418) zoned Agricultural District (A-1) (Fairfield).

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

Mr. Gidley - Thank you, Mr. Secretary, Mr. Chairman, members of the Board.

Mr. John Howard owns three parcels of land that total just under 29 acres, and they are located on the north side of Scott Road just east of Interstate 95, as you can see here. He is proposing two potential locations for a commercial dog kennel. The first location is off Level Green Lane right here, which is approximately 360 feet north of its intersection with Scott Road. The second location would be attached to an existing horse stable, as shown here. This is closer to the family's main home on this parcel.

In evaluating this request, is it consistent with the Comprehensive Plan and the Zoning Ordinance. The Comprehensive Plan designates the majority of this area as Urban Mixed Use, which is similar to what you have out at West Broad Village in Short Pump. It's something that encourages pedestrian-oriented activity centers that contain a variety of uses. While the proposed commercial kennel is not entirely consistent with this designation, staff does not foresee it as deterring future development under this classification in the event a large enough land area was able to be acquired to bring in an application for rezoning to Urban Mixed Use.

As far as the Zoning Ordinance, the Howard's land is zoned A-1 Agricultural District. This permits a commercial kennel with the approval of a conditional use permit. In order for a use permit to be approved, Section 24-52(c) of the Zoning Ordinance requires any kennel to be located at least 200 feet from any A-1 zoned lot that contains a dwelling. The first location under consideration off Level Green Lane appears to meet this requirement. The second location involving the expansion of the existing horse stables does not comply with this requirement. And this is because there are three A-1 zoned parcels that contain residences and are within 200 feet of the proposed kennel. And those residences are shown right here, here, and here. And each of these lots is easily within 200 feet of this location.

In 1985, the previous owner of the property did receive a conditional use permit to board horses. The same distance requirements were in effect in 1985, but the site plan for that measured the setback from the dwellings rather than from the lot lines as required by code. So this use permit would appear to have been issued in error.

903 Would the request result in a substantial detriment to nearby property? With
904 regard to the first location, as you can see, the closest homes are to the south
905 roughly 450 feet away and then to the north roughly 600 feet away. This is
906 looking north on Level Green Lane toward the homes up there that are 600 feet
907 away. And then the ones to the south are located down here. As you can see, to
908 the east there's actually a field, and to the west is Interstate 95. So given that,
909 staff does not believe this first location would propose any detrimental impact to
910 nearby property.

911

912 The second potential location involved expanding the existing horse stable is
913 shown here.

914

915 Mr. Blankinship - Mr. Gidley, let me interrupt you for just a second. I
916 want to note to the members of the Board that we left on the table for you this
917 morning some illustrations that we received from the applicant after our package
918 went out. And as he describes the proposed changes to the barn, those
919 illustrations would be applicable.

920

921 Mr. Gidley - The second potential location involves expanding the
922 existing horse stable shown here to accommodate the boarding of dogs. You can
923 see that and then the expansion. This is a floor plan here. You can see the aisle
924 way to access the different stalls. This would be interior, and then exterior here
925 would contain dog runs. This is a view of the structure itself that is being
926 proposed.

927

928 Again, this location is right here. And as I mentioned earlier, it does not meet the
929 distance requirement of 200 feet from any lots in the A-1 District that contain
930 residences. And this distance requirement exists to protect these residences
931 from the noise associated with a commercial kennel. And although horses are
932 currently boarded at this location, the introduction of dogs would likely cause an
933 increase in noise experienced by these neighbors, potentially resulting in a
934 substantial detrimental impact to them.

935

936 The second point I would make is Level Green Lane is a private road. And so
937 with the increased traffic that would result from a boarding kennel, staff is not
938 really familiar with any sort of maintenance arrangements they have with the
939 property owners out there. So that's something they would want to look into and
940 want to work out. It's not something we're really involved in at this stage. But it is
941 a private road, and you would have an increased use of it as a result of this
942 kennel.

943

944 In conclusion, the applicant is proposing two potential locations for the proposed
945 commercial kennel. Again, the first one is right down here off Level Green Lane.
946 It appears to comply with the distance requirements of the Zoning Ordinance. In
947 addition, the surrounding area is open fields so there should not be any

948 substantial detrimental impact on nearby property. As a result, staff can
949 recommend approval of this location off of Level Green.

950

951 The second proposed location involving the expansion of the existing horse
952 stable is right up here. While this location was approved to board the ten horses
953 in 1985, the use permit appears to have been issued in error due to the horse
954 stable being within 200 feet of three parcels containing homes. Under the Zoning
955 Ordinance, I guess you would view this as a legal but non-conforming use. And
956 the Zoning Ordinance in that case allows such use to remain but does not allow it
957 to be expanded. So for this reason, I don't believe you could approve a use
958 permit to authorize an expansion of a non-conforming use. Because of this and
959 because of the setback requirements not being met, staff is not able to
960 recommend approval of this second location.

961

962 This concludes my presentation. I'll be happy to answer any questions you may
963 have.

964

965 Mr. Berman - Does the Board have any questions for Mr. Gidley?
966 Mr. Gidley, are we also going to attempt to rectify the use permit that was issued
967 in error?

968

969 Mr. Gidley - No sir. That was not part of this request. And as I
970 thought about it, it was issued. It arguably shouldn't have been, but that was a
971 long time ago. Any sort of appeal process or time has expired. So I would think at
972 this point it would arguably be a legal use, although it's non-conforming with the
973 distance requirements from those residences. So I would think it could stay. The
974 secretary may want to weigh on that. I would think it could stay, but because it's
975 non-conforming with regard to the distance, it could not be expanded by adding
976 onto it.

977

978 Mr. Blankinship - As you say, it was a decision of the Board at that
979 time, and that decision was not appealed.

980

981 Mr. Berman - Okay. To be clear, the Board is tasked today with
982 selecting one or the other location or neither. Correct?

983

984 Mr. Gidley - Yes sir, that's correct.

985

986 Mr. Berman - Okay, thank you. I have no further questions. Any
987 others? Thank you, Mr. Gidley.

988

989 Mr. Gidley - Thank you, Mr. Chair.

990

991 Mr. Berman - If the applicant could please approach. State your
992 name into the mic and spell for us, please.

993

994 Mrs. Howard - Hi, I'm Charlotte Howard. I am speaking on behalf of
995 J. Wesley Howard, my husband, the applicant. My name is C-h-a-r-l-o-t-t-e, H-o-
996 w-a-r-d.

997

998 We're applying for a commercial kennel license, as Mr. Gidley said. We have
999 suggested two possible locations—the field and then the barn. We would like to
1000 be approved to use the existing barn structure, which we already have a
1001 conditional use permit, as Mr. Gidley said, to board horses. In reference to the
1002 staff report, there would be no structural changes or expansion of the barn. We
1003 might let the dogs run out the side, but there would be no expansion of it.

1004

1005 In addition, there is already a parking area at the barn, which is 120 feet by 40
1006 feet. I also understand the concerns about noise and how it would affect our
1007 neighbors—or how it could affect our neighbors. They're here today. We've
1008 already spoken to them. They say that they wouldn't mind us using the barn. I've
1009 provided a letter from Ms. Laura. I think you guys have it. I just wanted you to
1010 know that we always have their best interest in mind. We've always had their
1011 best interest in mind. We're all friends. And if anything was to ever come up, we
1012 would always make accommodations to rectify the situation.

1013

1014 Also, about Level Green Lane, that's a private road, and our family owns half of
1015 the road. So I just wanted to bring that to your attention as well.

1016

1017 Since we already have the business and everything is already running smoothly,
1018 we would like to use the barn for the dog boarding as well. So hopefully you will
1019 approve that since we've had the conditional use permit for 32 years now.

1020

1021 That's all I have. Any questions?

1022

1023 Mr. Berman - Thank you, Mrs. Howard. Any questions from the
1024 Board for Mrs. Howard?

1025

1026 Ms. Harris - Mrs. Howard, have you considered using other sites
1027 for that kennel instead of the area that's not in compliance?

1028

1029 Mrs. Howard - We considered using the field at the beginning of our
1030 property, and we're still open to that. We just thought that if we could use the
1031 barn, it's already there. We're only using half of it currently for horses, so we
1032 could use the other half for the dogs if we are allowed to. And that would let us
1033 start the business and hit the ground running instead of going into debt to build a
1034 building and then hopefully it works out. We would of course comply with any of
1035 the restrictions such as having the dogs contained from 7 to 7. I mean I
1036 understand no one wants to hear dogs barking all the time. I wouldn't want to
1037 hear them barking all night either. So we would do our best to contain that noise.

1038

1039 Ms. Harris - Do you live near the proposed kennel site?

1040
1041 Mrs. Howard - Yes. Our house is down at the end of the driveway.
1042 We live about 400 feet away from the barn.
1043
1044 Ms. Harris - Thank you.
1045
1046 Mr. Berman - Any other questions from the Board?
1047
1048 Mr. Blankinship - May I?
1049
1050 Mr. Berman - Yes.
1051
1052 Mr. Blankinship - Mrs. Howard, I remember discussing among staff a
1053 number of dogs and we picked 25, but I don't know whether that was discussed
1054 with you at any time.
1055
1056 Mrs. Howard - Yes. I think that 25 would be plenty. We're not trying
1057 to jump in head first and have 25 right away. We really just want to be able to
1058 board our current boarders' dogs at the beginning, our horse boarders. That's
1059 why we're going through this process to make sure everything is done correctly.
1060 And then if that's successful, we'd like to grow to a maximum of 25 dogs.
1061
1062 Mr. Blankinship - How many dogs would you be starting with?
1063
1064 Mrs. Howard - We have six boarders right now, so each of them has
1065 their own dog.
1066
1067 Mr. Blankinship - One dog each or?
1068
1069 Mrs. Howard - Yes.
1070
1071 Mr. Blankinship - So what you would like to begin with is 6, and what
1072 you would like to grow to is—it didn't occur to me until just now, Mr. Chairman.
1073 You could approve one location as a starting point with the condition that when it
1074 grows beyond a certain point, they either have to move to the other location and
1075 build a building or come back before the Board to see how things have been
1076 going. I'm sorry to surprise you with that. It didn't occur to me until just now, and I
1077 don't know if it makes sense or not.
1078
1079 Mr. Berman - That still doesn't negate the fact that it's close to the
1080 A-1s.
1081
1082 Mr. Blankinship - That is correct. I'm just trying to put alternatives on
1083 the table for consideration.
1084
1085 Mr. Berman - Thank you.

1086
1087 Mr. Mackey - I have a question for Mr. Blankinship. The only
1088 building in existence is the barn, correct?
1089
1090 Mr. Blankinship - As you can see on the aerial photograph, there are a
1091 couple of other outbuildings on the property now.
1092
1093 Mr. Mackey - Okay, I see what you're saying. All right. You're
1094 saying other than the barn.
1095
1096 Mr. Blankinship - Right.
1097
1098 Mr. Mackey - Okay, I got you.
1099
1100 Mrs. Howard - We have run-in sheds for the horses and stuff like that
1101 so if they're out in the field and it's raining, they can get cover if they need to.
1102
1103 I read over everything. With the non-conforming use regulations, it says in 24-8:
1104
1105 Any building that is conforming as to use but is non-conforming as
1106 to floor area, lot, yard, road frontage, distance, or height
1107 requirements may be enlarged or structurally altered but not
1108 reconstructed or substituted provided the enlargement or structural
1109 alterations complies with these requirements.
1110
1111 We wouldn't be changing the barn at all. So it would be considered a non-
1112 conforming use right now, right?
1113
1114 Mr. Blankinship - I'm a little uncomfortable calling it non-conforming
1115 because it was approved by the Board.
1116
1117 Mrs. Howard - Right.
1118
1119 Mr. Blankinship - Well, we weren't here in 1985 and we don't know.
1120 We've read the minutes; we've read the file. We don't know exactly what the
1121 Board was thinking when they made that decision. We do know that the Board
1122 approved it and then it was not appealed. So my tendency is to look at it as a
1123 lawful use not a non-conforming use at all as what was approved in 1985. So
1124 then the question becomes to what extent can you change the use. How big of a
1125 change is it to board dogs instead of horses?
1126
1127 Mrs. Howard - I could tell you that the people are probably the same.
1128
1129 Mr. Blankinship - Very likely.
1130

1131 Mrs. Howard - People who have horses are very particular about
1132 how they want their horses cared for. I'm sure dog people are the same way.

1133
1134 I've run the boarding barn at North Star for the last six years. The horses are
1135 always kept on a strict schedule. They go out at 7; they come in really no later
1136 than 7. If they don't, then they get antsy and they're off their schedule. I would
1137 run the boarding kennel the same exact way. I'm going to be there. I like things
1138 run efficiently and timely. So I don't see that I would run it any differently than I
1139 have for the last six years. The people that board with me have boarded at my
1140 farm for years now.

1141
1142 I think it could just be a good second kind of business for us to run at the farm.
1143 As you know, farming doesn't generate very much income at all. So the horses,
1144 they support themselves, but we're not really getting any revenue from it. So I
1145 think if we could add the dog boarding in, that might let us make a little bit of
1146 money from the farm, which would be great—and shocking. But it would be
1147 great.

1148
1149 Mr. Blankinship - Farming making money?

1150
1151 Mrs. Howard - Yes.

1152
1153 Mr. Berman - Ms. Harris?

1154
1155 Ms. Harris - Mrs. Howard, what about accessibility to the
1156 property? Is that a problem? It was a problem for me. I went on Scott Road
1157 because I've known Scott Road through the ages. And of course that was closed,
1158 so I went around to 95 and came by Park Central. But your clients will be
1159 accessing your property too, so I just wondered do you have any problem with
1160 accessibility.

1161
1162 Mrs. Howard - Currently no. Our boarders would love it if the bridge
1163 was fixed quicker. I think that they started work on it this past week, which is
1164 great. I think from what my family's told me that this is the third time the bridge
1165 has been hit by a truck. It takes a while for it to be repaired.

1166
1167 But no. Most people live within five miles. The Fan is about six miles away, and
1168 that's really easy to get to the farm. You would just take the first Parham Road
1169 exit, go through Park Central, and then you're basically at the farm. That's also
1170 why I feel like having the dog boarding at the barn would be a draw as well
1171 because you're not sending your dog to like a concrete structure while you're
1172 gone. They're actually at a farm.

1173
1174 I see a lot of positives. I understand that you're worried about our neighbors. And
1175 I can just tell you that we would do our best to not let this affect them like we do
1176 with everything.

1177
1178 Ms. Harris - Okay, thank you. One quick question. I guess I should
1179 know the answer. Do dogs and horses get along?
1180
1181 Mrs. Howard - Well they wouldn't be turned out together.
1182
1183 Ms. Harris - Okay.
1184
1185 Mrs. Howard - The horses would have their own fields, and then we
1186 would have a specific place that the dogs would get out to run around and play
1187 and stuff like that.
1188
1189 Ms. Harris - Thank you.
1190
1191 Mrs. Howard - But it wouldn't be together.
1192
1193 Mr. Bell - Well you have the barn—the horses, the barn, and
1194 the dogs. What concerns people is the barking.
1195
1196 Mrs. Howard - Right.
1197
1198 Mr. Bell - And you can only control that a certain amount.
1199
1200 Mrs. Howard - Yes.
1201
1202 Mr. Bell - How about growth in the area there? What are the
1203 plans that you're aware of?
1204
1205 Mrs. Howard - What I'm aware of is Riverstone Properties bought the
1206 field next door to us. A year or two ago when they bought the property, they had
1207 proposed that they would like to put a hospital there. I don't think that ever went
1208 anywhere. So right now, it's rented out to farmers. They grow different crops.
1209
1210 If you go to the left when you come down Level Green Lane, you go in front of
1211 that white house, Dominion Power just built an office park there. If you're driving
1212 through Park Central, there are a ton of buildings in there. So that would be very
1213 convenient for people. If they're going to leave on a Friday, they can drop their
1214 dog off, head on to the beach or wherever they're going to go, and then they can
1215 pick it up Monday night when they're done with work.
1216
1217 In the staff report, it talks about the road that's potentially going to come in the
1218 next seven or eight years, so that would be more traffic for the farm as well and
1219 more visibility. It is growing around us.
1220
1221 Mr. Bell - You've read our report, I'm assuming.
1222

1223 Mrs. Howard - Yes.
1224
1225 Mr. Bell - And the one condition that we're talking about that
1226 you want changed from what I've heard so far—correct me if I'm wrong—is to
1227 take away the Scott Road location and go back to the barn. Paragraph 1 would
1228 be the only thing I see that was changed in all these conditions.
1229
1230 Mrs. Howard - I'm sorry. Can you say that one more time?
1231
1232 Mr. Blankinship - Condition #1 essentially approves the location of the
1233 new building—
1234
1235 Mrs. Howard - Right.
1236
1237 Mr. Blankinship - —and does not approve the location of the expansion
1238 of the barn.
1239
1240 Mrs. Howard - Yes.
1241
1242 Mr. Blankinship - And Mr. Bell is asking you to clarify that you would
1243 like the Board to change that condition.
1244
1245 Mrs. Howard - I would. That would be ideal for me. If you guys can't
1246 see how it could work and that's the only thing you would feel comfortable with, I
1247 understand. But I would like you just to take into consideration the barn.
1248
1249 Mr. Bell - How about if we would follow up on what Mr.
1250 Blankinship mentioned a while ago, the other option? You only have 6 dogs right
1251 now, but if it ever got over say 12 dogs that you would move.
1252
1253 Mrs. Howard - We could definitely consider that. The barn is more
1254 than big enough to accommodate the dogs. We have eight stalls on each side of
1255 the barn. So the horses would move closer to our neighbors. They're quieter
1256 animals. And it would give the neighbors more of a buffer. The other side we
1257 have eight stalls. We would have to do some kind of insulation on the barn and
1258 new doors on the barn, which would also cut down on even more of the sound.
1259
1260 So it would be great if we could grow the business to the 25 dogs that we're
1261 asking to and be able to use the barn if it got approved. I think I read online that
1262 the commercial kennel license, you can get it up to 50 dogs. We're not really
1263 interested in that. But if we had 26 dogs or had more need for more space, we
1264 would be happy to look into a different building.
1265
1266 Mr. Bell - Thank you.
1267

1268 Ms. Harris - One thing just came to mind, Mrs. Howard. If we
1269 approve this and you get complaints from the neighbors about the dogs or
1270 whatever, are you familiar with the fact that that this a conditional use permit and
1271 complaints can come forth?

1272

1273 Mrs. Howard - Yes.

1274

1275 Ms. Harris - Okay.

1276

1277 Mrs. Howard - I understand that they could complain. But I know that
1278 my husband and I and my father-in-law, we would do whatever it would take to
1279 make it better from them before it would get to that point. We are very good
1280 friends. We went to their 60th wedding anniversary. They came to our wedding.
1281 So I don't see it as something that would cause contention between us, but we
1282 would do whatever it takes to rectify any situation.

1283

1284 Ms. Harris - Thank you.

1285

1286 Mr. Berman - Mrs. Howard, if the Board would make a motion later
1287 to change the location, you realize that it could be at risk of being denied.

1288

1289 Mrs. Howard - Yes.

1290

1291 Mr. Berman - Okay. And you had given us instructions as we
1292 approached your site to be careful not to spook the horses.

1293

1294 Mrs. Howard - Yes.

1295

1296 Mr. Berman - Per Ms. Harris's question, isn't there a concern that
1297 the dogs, the noise overall could spook the horses?

1298

1299 Mrs. Howard - It wasn't really about spooking the horses. It was
1300 more about your safety. I didn't want you guys to come down and then something
1301 would happen when I'm not there. Because horses aren't predictable. I assume
1302 you wouldn't go in the fields with them, but I just wanted to make sure that you
1303 guys would be safe if you came down to the farm.

1304

1305 The horses don't really care about the dogs. My boarders bring their dogs down
1306 now when they're riding. They enjoy the outdoors and it's nice to get out of their
1307 apartments and stuff. And the horses we have, they don't mind.

1308

1309 Mr. Berman - They didn't appear to mind. There were several
1310 German shepherds on site when we were there.

1311

1312 Mrs. Howard - Yes.

1313

1314 Mr. Berman - So your neighbors, you've got good arrangements
1315 with them and no issues. But one of the concerns is that neighbors change.

1316
1317 Mrs. Howard - Right.

1318
1319 Mr. Berman - That's the only reason why we brought it up. The
1320 other is if it goes up to 25 dogs—my family does some rescue work and we've
1321 been to like BARK and other places that have 25 or more dogs, and it is loud.

1322
1323 Mrs. Howard - Right.

1324
1325 Mr. Berman - And it's in a concrete structure that's insulated.

1326
1327 Mrs. Howard - Right.

1328
1329 Mr. Berman - So even if they are inside, it still carries.

1330
1331 Question on the front page of the handout you gave us today. It has 12 numbers
1332 on there.

1333
1334 Mrs. Howard - Yes.

1335
1336 Mr. Berman - Do you just put more than one dog in an enclosure?
1337 How do you get up to 25?

1338
1339 Mrs. Howard - That would be kind of a vision of what I was thinking
1340 the building would look like. It's not specifically that building. But everyone I know
1341 has two dogs. So I would say that that the dogs, if they're in the same family,
1342 could probably go in the kennel together. I would say any more than two and they
1343 would have to be in separate kennels. I wouldn't put three dogs in—put them
1344 together or anything like that. And if they were too big, we can make
1345 accommodations.

1346
1347 I don't think any time soon we would be doing 25 dogs. It's just a number that I
1348 would like to have the opportunity to get to one day if I got there.

1349
1350 Mr. Berman - As configured, will the barn be capable of handling
1351 between 25 and 50 or however many the use permit allows you?

1352
1353 Mrs. Howard - Yes.

1354
1355 Mr. Berman - As configured.

1356
1357 Mrs. Howard - Yes.

1358

1359 Mr. Berman - Okay. Last question for me is—similar to some
1360 daycare cases that we hear, I'm concerned about drop-off and pickup. Is there a
1361 set time? Because that road is difficult to navigate and I had to, unfortunately,
1362 turn in your driveway to get out of there. If you have a bunch of people going to
1363 the Dominion Office park, and in the morning they drop it off at Doggie Daycare
1364 or whatever, what is the situation and how do you perceive being able to handle
1365 all the traffic and turnarounds?

1366
1367 Mrs. Howard - Well we have plenty of room at the front of barn. We
1368 have lots of parking if you come through the gates. The gates are not automatic
1369 right now, but that would be something we would like to change. So you would
1370 drive up, they would open, and then shut right behind you. But there would be
1371 plenty of space to turn around.

1372
1373 And with the dog boarding and everything, there's never going to be 100 percent
1374 occupancy. It's always going to be some dogs here. There's like dead months.
1375 January and February, it's very limited. When I read the minutes of the meetings
1376 for the previous cases, for people who have already had commercial kennels
1377 they said that when they looked back through their books, throughout the whole
1378 year if they took an average, it was only 50 percent occupancy for the whole
1379 year.

1380
1381 There's room to turn around. I don't know. We would have to really look at the
1382 road if it became a problem and figure out something else. But I don't think it
1383 would start off that way.

1384
1385 Mr. Berman - I just don't want to block your neighbors from coming
1386 out in timely fashion—

1387
1388 Mrs. Howard - Yes.

1389
1390 Mr. Berman - —if everybody's dropping off at the same time.

1391
1392 Mrs. Howard - Right.

1393
1394 Mr. Berman - Okay, thank you. Any other questions for
1395 Mrs. Howard? Thank you very much.

1396
1397 Mrs. Howard - Thank you.

1398
1399 Mr. Berman - Anybody else wishing to speak to this application?
1400 Yes, Mr. Gidley.

1401
1402 Mr. Gidley - In the staff report, we noted that a conditional use
1403 permit is required to be set 200 feet back from properties that contain residences.
1404 Even if an old use permit was issued, regardless of whether we review it as non-

1405 conforming or not—and this I guess is to the secretary. Doesn't any new use
1406 permit issued by the Board have to comply with the regulations of the Zoning
1407 Ordinance as stated in the staff report?

1408

1409 Mr. Blankinship - It does, but the interpretation of the regulations lies
1410 with the Board.

1411

1412 Mr. Gidley - They can't just ignore—

1413

1414 Mr. Blankinship - Yes, I would agree with you.

1415

1416 Mr. Gidley - Okay.

1417

1418 Mr. Blankinship - If I hadn't seen the plan in the file from 1985, I don't
1419 think we'd be having this conversation.

1420

1421 Mr. Gidley - Yes, and this is a new use.

1422

1423 Mr. Blankinship - I think it was clear that in 19—yes. I'm talking about
1424 what the Board approved in 1985.

1425

1426 Mr. Gidley - Yes, okay. I'm talking about the new one today. I just
1427 want to make sure the staff report still stands.

1428

1429 Mr. Berman - So it wasn't appealed back then.

1430

1431 Mr. Blankinship - Right.

1432

1433 Mr. Berman - It also wasn't overruled by the Circuit Court back then.
1434 But that's not to say that that could not happen.

1435

1436 Mr. Blankinship - Right.

1437

1438 Mr. Berman - Both of those conditions could happen today.

1439

1440 Mr. Blankinship - Certainly could.

1441

1442 Mr. Mackey - Excuse me, Mr. Chairman. I have a question for
1443 Mr. Gidley. Someone mentioned that some other buildings could be used. Are
1444 those buildings also too close or within the 200 yards?

1445

1446 Mr. Gidley - The ones I'm aware of are the ones you saw earlier
1447 here. Let me go to the aerial.

1448

1449 Mr. Blankinship - Yes, I think the aerial's the best place.

1450

1451 Mr. Gidley - The building in question is here. My understanding is
1452 it would be just in this area here. And the lot lines for these two houses are within
1453 200 feet. The 200 feet would come back probably roughly to here. So I would
1454 think this whole area would be within the 200 feet buffer. There are no buildings
1455 here, but this is not within 200 feet of any home as such.
1456

1457 Mr. Mackey - All right, thank you.
1458

1459 Mr. Bell - Is 200 or 400 feet now?
1460

1461 Mr. Blankinship - It's 200 in an agricultural district, 400 in a residential
1462 district.
1463

1464 Ms. Harris - Do we know how long this has been on the books, the
1465 200 feet?
1466

1467 Mr. Blankinship - 1960.
1468

1469 Ms. Harris - 1960.
1470

1471 Mr. Blankinship - Yes ma'am.
1472

1473 Ms. Harris - Okay, because I do know people who have horses,
1474 but they've lived there forever.
1475

1476 Mr. Blankinship - And it does say any dwelling other than a farm
1477 dwelling. So we sometimes have to get into a question of interpretation, is that
1478 dwelling part of another farm. So if you have two farms next to each other, they
1479 don't have to set back from each other. But in this case, we couldn't really look at
1480 those two houses and say those look like farms to us.
1481

1482 Ms. Harris - Okay.
1483

1484 Mr. Blankinship - The owners might disagree.
1485

1486 Ms. Harris - Thank you.
1487

1488 Mr. Berman - Any further questions?
1489

1490 Mr. Mackey - No.
1491

1492 Mr. Berman - Thank you, Mr. Gidley.
1493

1494 Mr. Gidley - Thank you.
1495

1496 Mr. Berman - Mr. Secretary, may we hear the next application,
1497 please.

1498
1499 **[After the conclusion of the public hearings, the Board discussed the case**
1500 **and made its decision. This portion of the transcript is included here for**
1501 **convenience of reference.]**

1502
1503 Mr. Berman - What is the pleasure of the Board?

1504
1505 Ms. Harris - I move that we approve this conditional use permit. I
1506 know we have concerns about the location of one of the kennels, but since this is
1507 a conditional use permit, I would think that if we get a complaint we can certainly
1508 address the complaint and remedies can be made. So this is my motion.

1509
1510 Mr. Berman - Ms. Harris, for clarification, are you indicating that we
1511 are modifying condition #1 to indicate the location near the house versus the
1512 field?

1513
1514 Ms. Harris - I'm asking you to improve the entire conditional use
1515 permit. The condition, I probably need to read it, the one you're talking about.

1516
1517 Mr. Blankinship - The way the condition was drafted, Ms. Harris, it
1518 allows a new building to be built in the field, but does not allow the use of the
1519 existing building.

1520
1521 Ms. Harris - That was not my motion.

1522
1523 Mr. Bell - Then we want to alter #1 so she can use the barn? Is
1524 that what you're saying?

1525
1526 Ms. Harris - Yes. My motion was to use both sites as applied for.
1527 So condition #1 would be altered then.

1528
1529 Mr. Berman - To indicate the preferred location by the applicant?

1530
1531 Ms. Harris - Exactly.

1532
1533 Mr. Berman - Do I hear a second for this application with
1534 modifications stated for condition #1?

1535
1536 Mr. Bell - I'll second it with the conditions at this point.

1537
1538 Mr. Berman - Will we need another motion?

1539
1540 Mr. Blankinship - Seconded how?

1541

1542 Mr. Bell - With the conditions.
1543
1544 Mr. Berman - He wants to modify the modified condition.
1545
1546 Mr. Blankinship - Oh. Well, I guess that would be a new motion then.
1547
1548 Mr. Berman - Yes it would. If you don't second it, then we go to
1549 another motion, a fresh motion.
1550
1551 Mr. Bell - All right. My concern is growth, so I'm not going to
1552 second it.
1553
1554 Mr. Berman - Okay. Is there any second? Hearing none, the motion
1555 does not carry. I open it up again for a motion.
1556
1557 Mr. Bell - I move that we stick with the conditional permit with
1558 #1, the location down by Scott Road and not next to the barn.
1559
1560 Mr. Berman - So you're stating the conditions as-is?
1561
1562 Mr. Bell - As is, yes.
1563
1564 Mr. Berman - We have a motion for approval of that. Do I hear a
1565 second?
1566
1567 Mr. Mackey - Second.
1568
1569 Mr. Berman - We have a first from Mr. Bell and a second from
1570 Mr. Mackey. Any further discussion? Hearing none, all those in favor of
1571 conditions as stated signify by saying aye. Any opposed? One opposed,
1572 Ms. Harris. Motion carries 4 to 1.
1573
1574 After an advertised public hearing and on a motion by Mr. Bell, seconded by
1575 Mr. Mackey, the Board **approved** application **CUP2017-00003, J. WESLEY**
1576 **HOWARD's** request for a conditional use permit pursuant to Section 24-52(c) of
1577 the County Code to operate a commercial kennel at 9304 Level Green Lane
1578 (Parcels 787-761-0950, 787-761-4675 and 787-762-0418) zoned Agricultural
1579 District (A-1) (Fairfield). The Board approved the conditional use permit subject
1580 to the following conditions:
1581
1582 1. This conditional use permit applies only to the use of the proposed location
1583 approximately 360 feet north of Scott Road, for a commercial kennel for the
1584 boarding of no more than 25 dogs. All other applicable regulations of the County
1585 Code shall remain in force.
1586

1587 2. Hours of operation to the public shall be limited to 7:00 a.m. to 7:00 p.m. Any
1588 dogs being housed shall be confined indoors behind closed doors at dusk, and
1589 shall not be let outside before 7:00 a.m.

1590
1591 3. Before beginning any clearing, grading, or other land disturbing activity, the
1592 applicant shall submit an environmental compliance plan to the Department of
1593 Public Works. This approval shall be subject to all conditions that may be placed
1594 on the proposed development during administrative review of the construction
1595 plans.

1596
1597 4. Adequate onsite parking shall be provided and site distance maintained
1598 entering onto Level Green Lane and Scott Road.

1599
1600 5. Before beginning operations, a detailed landscaping and lighting plan shall be
1601 submitted to the Planning Department for review and approval. All landscaping
1602 shall be maintained in a healthy condition at all times. Dead plant materials shall
1603 be removed within a reasonable time and replaced during the normal planting
1604 season.

1605
1606 6. All exterior lighting shall be shielded to direct light away from adjacent
1607 property and streets.

1608
1609 7. No more than one commercial vehicle associated with this kennel and not
1610 exceeding 10,000 pounds gross weight shall be kept on the property.

1611
1612 8. The kennel shall be kept in a clean and sanitary condition so that the
1613 operation does not become a nuisance.

1614
1615
1616 Affirmative: Bell, Berman, Mackey, Reid 4
1617 Negative: Harris 1
1618 Absent: 0

1619
1620
1621 **[At this point, the transcript continues with the public hearing on the next**
1622 **case.]**

1623
1624 Mr. Blankinship - Let me just go back for a second to the Lumos
1625 Network's case. There was a question about the Comprehensive Plan. Paul,
1626 would you mind putting up the site plan from that case? Or site map; I'm sorry.

1627
1628 Mr. Gidley - Sure.

1629
1630 Mr. Blankinship - Just to the north of this location off to the top right
1631 corner there you see the Verizon facility. On the Comprehensive Plan, everything
1632 from the Verizon facility down to West Broad Street fronting on Hungary Spring is

1633 shown as office development. So the Comp Plan calls for all of that to be Office,
1634 not residential. Then you have the apartments behind it that Urban Residential.
1635 That's how the Comprehensive Plan lays that out. I'm sorry I wasn't prepared for
1636 that question when it came up.

1637

1638 **CUP2017-00004 SHOPS AT WILLOW LAWN** requests a conditional
1639 use permit pursuant to Section 24-116(d)(1) of the County Code to hold a special
1640 event at 1601 Willow Lawn Drive (Parcels 773-736-2198 and 773-736-6272)
1641 zoned Business District (B-2) (Brookland).

1642

1643 Mr. Blankinship - Would everyone who intends to speak to this case
1644 please stand and be sworn in? Do you swear the testimony you're about to give
1645 is the truth, the whole truth, and nothing but the truth so help you God? Thank
1646 you. Mr. Madrigal, you may begin.

1647

1648 Mr. Madrigal - Thank you, Mr. Secretary, Mr. Chair, members of the
1649 Board.

1650

1651 Before you is a request for a one-day temporary event to be held at Willow Lawn
1652 Shopping Center. The proposed use will be a fundraising event to benefit the
1653 Special Olympics entitled RVA Polar Plunge Fest. It will be held Saturday,
1654 February 25th, from noon to 4 p.m. in the events courtyard.

1655

1656 Both individual and team participants are encouraged to take part in the
1657 challenge with a minimum donation of \$100. In addition to the polar plunge, there
1658 will be a costume contest, an inflatable children's slide, games, face painting, ice
1659 sculptures, and musical entertainment by way of amplified music provided by
1660 local radio stations. This will be a family-oriented free event.

1661

1662 The polar plunge event will be completely contained in the shopping center's
1663 courtyard where two 4-foot-tall, 20-foot-diameter swimming pools will be erected
1664 along with three large tents. One pool will be used for the main event while the
1665 second pool will be used as a backup. Stairs and platforms will be placed at
1666 either side of the pools to facilitate getting in and out of the water efficiently and
1667 safely. There will be two 400-square-foot heated changing tents and an open-air
1668 600-square-foot registration tent. There will also be a variety of vendors present
1669 during the event. Setup and breakdown activities will occur that same day, and
1670 approximately 68 parking stalls will be temporarily displaced during that event.

1671

1672 The existing stores fronting on the courtyard will remain open for business during
1673 the proposed event. An after-party had been planned at the American Tap
1674 House, but that portion of the event has been cancelled due to the unexpected
1675 closure of the restaurant.

1676

1677 The property is zoned B-2 and is designated as Commercial Concentration in the
1678 2026 Land Use Plan. The center routinely hosts a variety of special events

1679 throughout the calendar year that are family-focused and highlight the shopping
1680 center and its tenants. These events tend to be very popular, well organized and
1681 attended, and make good use of the events courtyard.

1682
1683 Staff finds the proposed use is consistent with the intent of the Zoning Ordinance
1684 and the Comprehensive Plan. No negative impacts are anticipated for the center,
1685 its tenants, adjoining properties, or the community at large. Over 2,100 parking
1686 spaces will be provided on the site.

1687
1688 In conclusion, the applicant's request is consistent with both the zoning and
1689 Comprehensive Plan designations. The frequency and variety of special events
1690 have contributed to the success of the shopping center. There appears to be no
1691 lasting or substantial impacts associated with the proposed use. And specific
1692 conditions of approval have been prepared to mitigate any adverse impacts.
1693 Based on these facts, staff recommends approval subject to conditions.

1694
1695 This concludes my presentation. I'll be happy to answer any questions.

1696
1697 Mr. Berman - Board, do you have any questions?

1698
1699 Ms. Harris - Just one question. To your knowledge, have we had
1700 any complaints?

1701
1702 Mr. Madrigal - No, not that I'm aware of. I haven't fielded any phone
1703 calls with respect to the events at the site.

1704
1705 Ms. Harris - All right, thank you.

1706
1707 Mr. Berman - Are there any precautions we could take or
1708 conditions—I'm concerned about an unattended pool and there's also a backup
1709 pool that a person or an animal could have a problem with if they fell in.

1710
1711 Mr. Madrigal - It's my understanding—and perhaps the applicant can
1712 clarify this in more detail—is that there are people in the pools. So when the
1713 event is going on, if something does happen, there's a medical emergency or
1714 some mishap, there are personnel in the pool that can help get people out
1715 quickly. Also, there is an EMT on the site too.

1716
1717 Mr. Berman - EMT? So they would have, what is it, an AED device
1718 available as well? Okay. Thank you. Any other questions from the Board? Thank
1719 you, sir.

1720
1721 Mr. Madrigal - Thank you.

1722
1723 Mr. Berman - Could the applicant please approach? Speak into the
1724 mic and spell your name for us, please.

1725
1726 Ms. Corbett - Good morning. My name is Jessica Corbett. J-e-s-s-i-
1727 c-a, C-o-r-b-e-t-t.
1728
1729 Our event is scheduled for this Saturday. It's also supposed to be 78 degrees on
1730 Saturday, so it won't be much of a polar plunge, but maybe a cool dip. As far as
1731 our tents go, we're all under requirement for building permits, although I have
1732 spoken with the Building Permit Department. We will actually not be using the
1733 heaters this year in the tents because we don't need them.
1734
1735 The event is from 12 to 4. And as mentioned, we will have an EMT on site the
1736 entire time. We actually have six officers or personnel there. We also have police
1737 there. They're the police that are present all the time at Willow Lawn. They just
1738 staff up for our special events. So the actual event will take place from 12 to 4,
1739 and the actual plunging will take place from 2 to 4. So far we have 260 people
1740 registered to jump and over \$24,000 raised for the Special Olympics.
1741
1742 This is our second. Last year went off without a hitch. There are six polar plunges
1743 within the state of Virginia. This is the Richmond one. The last one was in
1744 January at Virginia Beach at the beachfront.
1745
1746 Mr. Berman - Thank you very much. Does the Board have any
1747 questions for Ms. Corbett?
1748
1749 Mr. Bell - As you said, no complaints from last year.
1750
1751 Ms. Corbett - No sir.
1752
1753 Mr. Bell - It was very good last year.
1754
1755 Ms. Harris - I think it's a very good idea, very creative. And I'm
1756 glad that you have been successful.
1757
1758 Ms. Corbett - Thank you. It's a lot of fun.
1759
1760 Mr. Berman - I will say that Willow Lawn has definitely cleaned up
1761 well through the years.
1762
1763 Ms. Corbett - It definitely has. We were a little upset about the
1764 restaurant closure and we couldn't pull another one together in time. But we'll
1765 figure out an after-party afterward someplace.
1766
1767 Mr. Berman - Thank you very much.
1768
1769 Ms. Corbett - Thank you.
1770

1771 Mr. Blankinship - There was one member of staff who had a question
1772 about the Harley raffle, which is do you have to be present to win.

1773
1774 Ms. Corbett - I believe you do. Thank you.

1775
1776 Mr. Berman - Thank you. Anybody else here today wishing to speak
1777 on this application? Hearing none, that concludes our applications and deferrals
1778 today. We would like to move into the motion portion of today's proceeding.

1779
1780 **[After the conclusion of the public hearings, the Board discussed the case**
1781 **and made its decision. This portion of the transcript is included here for**
1782 **convenience of reference.]**

1783
1784 Mr. Berman - That brings us to the last one. Do I hear a motion?

1785
1786 Mr. Bell - I move that we accept this. This is the second year. It
1787 is an event for charity. We've had no problems in the past with this particular
1788 event.

1789
1790 Mr. Berman - Do I hear a second?

1791
1792 Ms. Harris - I second that motion.

1793
1794 Mr. Bell - Mr. Bell is first; Ms. Harris is second. Any further
1795 discussion? Hearing none, all in favor signify by saying aye. Any opposed? None
1796 opposed. Motion carries 5 to 0.

1797
1798 After an advertised public hearing and on a motion by Mr. Bell, seconded by
1799 Ms. Harris, the Board **approved** application **CUP2017-00004, SHOPS AT**
1800 **WILLOW LAWN's** request for a conditional use permit pursuant to Section 24-
1801 116(d)(1) of the County Code to hold a special event at 1601 Willow Lawn Drive
1802 (Parcels 773-736-2198 and 773-736-6272) zoned Business District (B-2)
1803 (Brookland). The Board approved the conditional use permit subject to the
1804 following conditions:

1805
1806 1. This conditional use permit is for the approval of a one-day temporary outdoor
1807 event to be held on Saturday, February 25, 2017, at the Willow Lawn Shopping
1808 Center. All other applicable regulations of the County Code shall remain in force.

1809
1810 2. The outdoor event shall be limited to the Events Courtyard at the shopping
1811 center between the hours of 6:00 am to 7:00 pm including set-up, event, and
1812 breakdown. Parking within the events courtyard shall not be constrained more
1813 than 24 consecutive hours.

1814
1815 3. Only the temporary improvements shown on the plot plan filed with the
1816 application may be erected pursuant to this approval. Any additional

1817 improvements shall comply with the applicable regulations of the County Code or
1818 as specified in the conditions of approval.

1819

1820 4. The applicant shall clearly delineate the perimeter of the event area with
1821 traffic cones (as needed) and shall install temporary traffic barriers at affected
1822 parking drive aisle entrances to block vehicular traffic from entering the event
1823 area. Main traffic drive aisles (providing general internal traffic circulation) leading
1824 in or out of the shopping center shall be kept free and clear of equipment,
1825 vehicles, and obstacles associated with the event.

1826

1827 5. The applicant shall obtain necessary building permits for items including large
1828 tents (over 900 square feet), temporary stairs, platforms, elevated stages,
1829 inflatables, and electrical generators to be used during the event. The applicant
1830 shall request building permits no later than two weeks prior the event and shall
1831 schedule required inspections no later than 10:00 am on the day of the event.

1832

1833 6. Temporary tents shall maintain a 10-foot setback from buildings. All
1834 temporary tents shall be properly tethered as required by the Building Inspections
1835 Department and the Division of Fire.

1836

1837 7. The applicant shall provide adequate restroom facilities as required by the
1838 Building Inspections Department. Portable restroom facilities shall be located
1839 along the pedestrian corridor, southwest of the children's plaza, between the two
1840 retail buildings.

1841

1842 8. The applicant shall maintain the property so that noise and debris are
1843 controlled. The site shall be kept clean and adequate trash receptacles shall be
1844 provided during the event.

1845

1846 9. On-site landscaping planters shall be kept free and clear of equipment and
1847 displays. All approved landscaping shall be maintained in a healthy condition at
1848 all times. Dead plant materials shall be removed within a reasonable time and
1849 replaced during the normal planting season.

1850

1851 10. The applicant shall comply with the Division of Fire's requirements as outline
1852 in their memo dated February 8, 2017 (see attached).

1853

1854 11. The applicant shall comply with the Health Department's swimming pool
1855 regulations as outlined in their memo dated February 3, 2017 (see attached).

1856

1857 12. Speakers for amplified sound and music shall be directed toward the main
1858 event in order to limit its impact on adjoining businesses and /or residential
1859 neighborhoods and shall not exceed 65 dB at the property line.

1860

1861 13. The sale of alcoholic beverages shall be prohibited at the event.

1862

1863 14. The applicant shall prohibit loitering on the property.
1864

1865
1866 Affirmative: Bell, Berman, Harris, Mackey, Reid 5
1867 Negative: 0
1868 Absent: 0
1869

1870
1871 Mr. Berman - Any other business on the agenda? That will bring us
1872 to the review of the minutes. Any corrections to the minutes? I have one
1873 correction. Page 17, line 737. Where it says "5," it should be—"50 plus" is what I
1874 stated. If you remember, he had a very long list of signatures.
1875

1876 Mr. Gidley - So instead of "5," the number "50" should be there.
1877

1878 Mr. Berman - It should be 50 plus to the best of my recollection of
1879 what I stated.
1880

1881 Mr. Gidley - Okay. Yes, thank you.
1882

1883 Mr. Berman - Any other corrections to the minutes? Hearing none,
1884 do I have a motion on the minutes? Go right ahead, Mr. Mackey, please.
1885

1886 Mr. Mackey - I move that we accept the minutes with the
1887 corrections made by the Chairman.
1888

1889 Mr. Berman - Motion from Mr. Mackey. Do I hear a second?
1890

1891 Mr. Reid - Second.
1892

1893 Mr. Berman - Second from Mr. Reid. Any discussion? No further
1894 discussion. All in favor signify by saying aye. Any opposed. None opposed. The
1895 motion carried 5 to 0.
1896

1897 **On a motion by Mr. Mackey, seconded by Mr. Reid, the Board approved as**
1898 **amended the minutes of the January 26, 2017 Board of Zoning Appeals**
1899 **meeting.**
1900

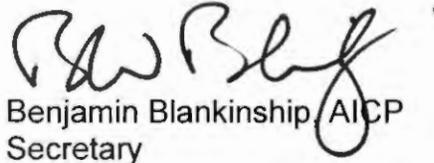
1901 Affirmative: Bell, Berman, Harris, Mackey, Reid 5
1902 Negative: 0
1903 Absent: 0
1904

1905
1906 Thank you very much. We are adjourned.
1907
1908

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- 1923



Dennis Berman
Chairman



Benjamin Blankinship AICP
Secretary