

1 **MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING**
2 **APPEALS OF HENRICO COUNTY, HELD IN THE COUNTY ADMINISTRATION**
3 **BUILDING IN THE GOVERNMENT CENTER AT PARHAM AND HUNGARY**
4 **SPRING ROADS, ON THURSDAY, JUNE, 27 2013 AT 9:00 A.M., NOTICE**
5 **HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-DISPATCH JUNE 10,**
6 **2013, AND JUNE 17, 2013.**
7

Members Present: R. A. Wright, Chairman
James W. Nunnally, Vice Chairman
Greg Baka
Gentry Bell
Helen E. Harris

Also Present: David D. O'Kelly, Jr., Assistant Director of Planning
Benjamin Blankinship, Secretary
Paul Gidley, County Planner
R. Miguel Madrigal, County Planner

8
9 Mr. Wright - Mr. Blankinship, would you read our rules, please, sir.

10
11 Mr. Blankinship - Good morning, Mr. Chairman, members of the Board,
12 ladies and gentlemen. The rules for this meeting are as follows. Acting as
13 secretary, I will announce each case. And as I'm speaking, the applicant should
14 come up to the podium. Then we will ask everyone who intends to speak to that
15 case to stand and be sworn in. Then the applicant will speak. Then anyone else
16 who wishes to speak will be given the opportunity. And after everyone has had a
17 chance to speak, the applicant and only the applicant will have an opportunity for
18 rebuttal. After the Board has heard all the comments on the matter and asked
19 any questions, they'll take that case under advisement and proceed with the next
20 case on the agenda. They will render all of their decisions at the end of the
21 meeting. So if you wish to know their decision on a specific case, you can either
22 stay until the end of the meeting, or you can check the Planning Department
23 website—we get it updated within about an hour of the end of the meeting—or
24 you can call the Planning Department this afternoon.

25
26 This meeting is being recorded, so we will ask everyone who speaks to speak
27 directly into the microphone on the podium, state your name, and please spell
28 your last name for us so we get it correct in the record.

29
30 And finally, there's a binder in the foyer containing the staff report for each case,
31 including conditions that have been recommended by the staff. It's important to
32 be familiar with those.

33
34 Mr. Wright - Mr. Blankinship. Are there any deferrals or
35 withdrawals?

36
37 Mr. Blankinship - No sir, not that I'm aware of.
38
39 Mr. Wright - All right. Would you please call the first case?
40
41 **VAR2013-00003** **JEREMIAH AND APRIL THOMAS** request a variance
42 from Section 24-94 of the County Code to build a screened porch over an
43 existing deck at 3044 Macallan Parkway (CASTLETON) (Parcel 824-690-0937)
44 zoned R-3AC, One-Family Residence District (Conditional) (Varina). The rear
45 yard setback is not met. The applicant proposes 27 feet rear yard setback, where
46 the Code requires 35 feet rear yard setback. The applicant requests a variance
47 of 8 feet rear yard setback.
48
49 Mr. Wright - All persons who desire to speak on this case, whether
50 for or against, please stand and be sworn.
51
52 Mr. Blankinship - Raise your right hands, please. Do you swear the
53 testimony you're about to give is the truth and nothing but the truth so help you
54 God?
55
56 Mr. Thomas - Yes sir.
57
58 Mr. Wright - All right, sir, please state your name for the record.
59
60 Mr. Thomas - My name is Jeremiah Thomas. Thomas—T-h-o-m-a-
61 s.
62
63 Mr. Wright - Could you pull that mike up, please? That's good.
64
65 Mr. Thomas - T-h-o-m-a-s, Thomas.
66
67 Mr. Wright - All right, sir. Please state your case.
68
69 Mr. Thomas - Well, what we're trying to do is we're trying to get a
70 screened-in porch. We have an existing deck already, and we're just trying to
71 enclose that. Behind us is sort of wetland nature preserve. Of course there are a
72 lot of mosquitoes and all kinds of other unidentified flying objects. I can't even
73 identify it. But my wife and my grandchildren, they're really allergic to these bugs
74 and insects—insect bites from mosquitoes. What we're trying to do is just
75 enhance our quality of outdoor living so they can be able to enjoy the outdoors
76 as much as our neighbors and anybody else. So we would really appreciate it if
77 you guys could grant this; it would help a lot.
78
79 Mr. Wright - Are you the owner of this property?
80
81 Mr. Thomas - Yes sir.

82
83 Mr. Wright - We have a note here on April the 25th about the
84 standard for review of variance applications, which was discussed, I believe, with
85 Mr. Jenkins, who is your representative.
86
87 Mr. Thomas - Here he is.
88
89 Mr. Wright - Is this Mr. Jenkins?
90
91 Mr. Nichols - I'm actually Gordon Nichols.
92
93 Mr. Thomas - Oh, Gordon, yeah.
94
95 Mr. Wright - And I understand there's a note here that,
96 Mr. Thomas, you were called about this question about what we call the Cochran
97 case. This is a Virginia Supreme Court case which pretty well sets forth the law
98 as to what this Board can consider, and I think they went over it with you. You do
99 have a residence on this property at this time. Is that correct?
100
101 Mr. Thomas - Yes, that is correct.
102
103 Mr. Wright - And you have use of the property.
104
105 Mr. Thomas - Do I have use of the property? Yes, I'm living on the
106 property, right.
107
108 Mr. Wright - How long have you been living there?
109
110 Mr. Thomas - It'll be four years in July.
111
112 Mr. Wright - Okay. Well, unfortunately, this case says that if you
113 have use of that property, you've been enjoying the beneficial use of it for these
114 years, this Board has no authority to consider any kind of variance under the
115 County code. In other words, we don't have the authority to really rule on this
116 case.
117
118 Mr. Thomas - My understanding was when I spoke to a gentleman
119 is that variances have been given for this same situation in this County.
120
121 Mr. Wright - Well, I don't know about that. We take each case on
122 its own merits. This case (Cochran) was decided in 2004. This clarified the law
123 on this issue. And since that time, we have not been able to consider any case of
124 this nature because you have a reasonable, beneficial use of the property. And
125 therefore, we can't grant a variance that would permit you to build anything that
126 would encroach on the side or the rear yard of the property.
127

128 Mr. Thomas - There are other counties and Gordon can speak on
129 this.
130
131 Mr. Wright - Mr. Jenkins, you want to get to the microphone?
132
133 Mr. Jenkins - I think a case that would be relevant was the
134 beginning of this month in June. Mr. Sergio Kaffa [sp] in Hanover County.
135 Hanover County has a 25-foot setback.
136
137 Mr. Wright - This is not Hanover County; we're in Henrico.
138
139 Mr. Jenkins - I understand. But I don't think the Cochran case was
140 in Henrico either.
141
142 Mr. Wright - We comply with the Zoning Ordinance of Henrico,
143 and this is what we have. Unfortunately, that's what we're bound by.
144
145 Mr. Jenkins - I understand. I'm just, you know. But in Hanover, the
146 same situation for—and it was a 15—25-foot setback was approved the
147 beginning of this month.
148
149 Mr. Wright - Well that's Hanover; this is Henrico. And we're
150 applying the law as handed down by the Supreme Court of Virginia. We're bound
151 by that law.
152
153 Mr. Jenkins - I understand.
154
155 Mr. Wright - Maybe they don't follow the law.
156
157 Mr. Blankinship - There may have been other circumstances of which
158 we're not aware.
159
160 Mr. Wright - There may have been other circumstances.
161
162 Mr. Jenkins - It was actually my case. They approved it because we
163 weren't changing the footprint. And they've actually presented, in Hanover
164 County, they're going to try to alter this code so that if you have an existing
165 structure—we're actually shrinking the footprint of this. We're actually moving it
166 back in two feet. There is already structure there. We're coming back two feet.
167 We're beautifying the neighborhood. We're making it look nicer.
168
169 Mr. Wright - I understand all that.
170
171 Mr. Jenkins - Right. In Arlington County in June—this was last
172 week. Mr. and Mrs. Geanakos were approved for a sunroom with a glass roof for
173 no reason other than enjoyment. So they do get approved in other counties (This

174 was actually a use permit). I know this is Henrico, but we're talking about federal
175 law. So, you know, all we're trying to do here is move it back two foot to be less
176 intrusive, put a roof on it, screen it in, so that they can, you know, sit outside
177 without the heat and without the bugs.

178

179 Mr. Wright - In the Supreme Court case—there were three cases
180 under this Cochran decision. One of the cases only wanted to extend his house
181 by one foot into the side yard, and that was denied because of this interpretation
182 by the Supreme Court of Virginia law. So we feel that we are bound by this law.
183 Now you have the option to appeal this case to the Circuit Court of Henrico
184 County and get a clarification on it. If you're concerned, I would certainly
185 recommend you do that. That's your option, your prerogative to do that.

186

187 Mr. Jenkins - Right. We're not trying to extend anything.

188

189 Mr. Wright - I understand that.

190

191 Mr. Jenkins - We're actually shrinking two foot.

192

193 Mr. Wright - I've studied the paper, what you've applied for.

194

195 Mr. Jenkins - Right.

196

197 Mr. Wright - The Board has to make the decision, but I'm just
198 trying to explain to you where we would be coming from.

199

200 Mr. Jenkins - And I do understand. I've been through several
201 variances like that. Not in Henrico, though, in other counties. So I do understand
202 the Cochran law. I do understand they were trying to move and extend
203 structures. We're not trying to sprawl out.

204

205 Mr. Wright - Right.

206

207 Mr. Jenkins - We're trying to shrink back, cover a deck, put some
208 brick around it to make it look nicer. The HOA has approved it. I don't think we
209 have any neighbors that dispute it.

210

211 Mr. Thomas - [Speaking off microphone.] I've spoken with my
212 neighbors; none of them have a problem with it. Nothing can be built behind my
213 house.

214

215 Mr. Wright - Yes sir. It looks very nice. I'm in sympathy with what
216 you're saying. But unfortunately, we're bound by the law. Do you have anything
217 else that you would like to state for your case?

218

219 Mr. Jenkins - No, other than, like I said, we're not changing the
220 footprint; we're shrinking back. And, you know, we do have allergies, allergic to
221 bee stings.

222
223 Mr. Wright - I understand.

224
225 Mr. Jenkins - It does help them enjoy—his wife enjoy the outside,
226 so.

227
228 Mr. Wright - Are there any questions from members of the Board?

229
230 Ms. Harris - Yes. Mr. Thomas, are there other houses in your
231 neighborhood, your particular subdivision, that have screen porches, they're in a
232 similar situation as you?

233
234 Mr. Thomas - Yes ma'am. There are several that actually back up
235 against that preserve.

236
237 Ms. Harris - They're screened-in porches and they are—

238
239 Mr. Thomas - They have the actual sunroom, the same thing that
240 we're trying to get.

241
242 Ms. Harris - Are you familiar with the footage of their land?

243
244 Mr. Thomas - I am not familiar with the footage of their land. But if
245 you stand on my deck and you look down, we all look like we're aligned. But I'm
246 not sure exactly, you know, what their property—

247
248 Ms. Harris - How much it intrudes.

249
250 Mr. Wright - Any other questions?

251
252 Mr. Baka - Yes sir. I empathize in this situation. I generally agree
253 and concur with the Chairman's comments that the Supreme Court case here
254 from 2004 ties our hands after that date. Prior to that date, perhaps other things
255 happened. I wanted to ask how large or how small would the screened-in porch
256 area be if you were to adhere to the 35-foot-rear-yard setback.

257
258 Mr. Jenkins - We need seven foot. We've shrunk it back to twelve
259 foot, which is about—for a room, anything less than twelve you start getting—we
260 need seven foot. So twelve would mean it would be five foot.

261
262 Mr. Baka - So it would be seven feet which—

263
264 Mr. Jenkins - It would be a closet.

265
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Mr. Baka - Yes, it's just a small walkway.

Mr. Jenkins - It would be more like a hallway.

Mr. Baka - The Chairman, I believe, is referring back to the state court language says all reasonable, beneficial uses of the property. So since there is an opportunity for the owners to enjoy the property as a residence and enjoy it partially as a deck, it's a difficult hurdle for us to overcome here as a Board. Thank you for your comments.

Mr. Wright - Any further questions from members of the Board? Anything else you wish to offer for your case? Anything else you wish to state?

Mr. Thomas - Well, just the fact that, like I said, the thing she mentioned, I have several neighbors who have a sunroom. I've spoken to both neighbors on both sides; they don't have a problem with it. They don't quite understand the law either. But, like I said, nothing's behind me, so it's not going to affect anybody, it's not going to hurt anything. It's just going to enhance the property and the neighborhood.

Mr. Wright - You have a nice looking house. It's beautifully done.

Mr. Thomas - You know, I moved here four years ago with the intent to retire here, and I really like Henrico County. I was hoping I could stay here, you know. This would really help.

Mr. Wright - Yes sir. Well thank you very much for appearing. Thank you. That concludes the case. Thank you.

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

Mr. Wright - Do I hear a motion?

Mr. Bell - I move that we deny it because of the extenuating circumstances that deal with what we are pretty much restricted to due to the Cochran decision.

Mr. Wright - Right. Mr. Bell moves that we deny 2013-00003. Is there a second to that denial?

Mr. Baka - Second.

310 Mr. Wright - Seconded. Any discussion? I think this is a clear
311 Cochran case decision. Unfortunately we are bound by that. All in favor of denial
312 say aye. All opposed say no. The ayes have it; the motion passes.

313
314 After an advertised public hearing and on a motion by Mr. Bell seconded by Mr.
315 Baka, the Board **denied** application **VAR2013-00003, JEREMIAH AND APRIL**
316 **THOMAS's** request for a variance from Section 24-94 of the County Code to
317 build a screened porch over an existing deck at 3044 Macallan Parkway
318 (CASTLETON) (Parcel 824-690-0937) zoned R-3AC, One-Family Residence
319 District (Conditional) (Varina). The rear yard setback is not met.

320
321
322 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5
323 Negative: 0
324 Absent: 0

325
326
327 Mr. Bell - Ben? Mr. Blankinship?

328
329 Mr. Blankinship - Yes sir.

330
331 Mr. Bell - Do we know if Mr. Thomas has maybe approached
332 the property owner behind him to purchase some land that he could add to his
333 lot?

334
335 Mr. Blankinship - I do not know that. I will suggest that to him.

336
337 Mr. Bell - Okay.

338
339 **[At this point, the transcript continues with the public hearing on the next**
340 **case.]**

341
342 **VAR2013-00004 BAKER HEATING & AIR CONDITIONING, INC.**
343 requests a variance from Section 24-9 of the County Code to build a one-family
344 dwelling at 1420 Crystal Spring Lane (Parcel 804-679-1842), zoned R-2A, One-
345 Family Residence District (Varina). The public street frontage requirement is not
346 met. The applicant has 0 feet public street frontage, where the Code requires 50
347 feet public street frontage. The applicant requests a variance of 50 feet public
348 street frontage.

349
350 Mr. Wright - Does anyone desire to speak on this case? No one's
351 appeared.

352
353 Female - [Speaking off microphone; unidentified.] I'm here to
354 oppose the case, but—

355

356 Mr. Wright - Well—
357
358 Female 2 - [Speaking off microphone; unidentified.] I'm here to
359 oppose it.
360
361 Mr. Wright - You're here to oppose it, but we don't have the
362 applicant.
363
364 Mr. Baka - Deferral?
365
366 Mr. Wright - We will pass this case over and see if the applicant
367 appears. We'll see what happened to him. But the applicant's supposed to be
368 here.
369
370 Male - [Speaking off microphone; unidentified.] Excuse me.
371 How long do you plan to pass it over because—
372
373 Mr. Wright - Well, we'll have to pass it over until we hear the next
374 case and then hear it after that case. That's the only thing we can do. All right, go
375 on to the next case.
376
377 Mr. Blankinship - He may be stuck in traffic or something.
378
379 Mr. Wright - All right, call the next case.
380
381 **[VAR2013-00004, Baker Heating & Air Conditioning, Inc., continued on page**
382 **68.]**
383
384
385 **CUP2013-00014 THE EAST END LANDFILL** requests a conditional
386 use permit pursuant to Section 24-116(c)(3) of the County Code to expand the
387 existing landfill at 1820 Darbytown Rd (Parcels 808-707-7024, 808-706-6679
388 and 809-707-1585), zoned B-3, Business District and M-2, General Industrial
389 District (Varina).
390
391 Mr. Wright - All persons who desire to speak on this case, whether
392 for or against, please stand and be sworn.
393
394 Mr. Blankinship - All raise your right hands, please. Do you swear the
395 testimony you're about to give is the truth and nothing but the truth so help you
396 God?
397
398 Several Voices - I do. Yes.
399
400 Mr. Wright - All right. Ms. Freye, please state your case.
401

402 Mr. Bell - Mr. Chairman?
403
404 Ms. Freye - Yes sir.
405
406 Mr. Wright - Yes. Excuse me.
407
408 Mr. Bell - Due to a personal interest in the properties across
409 from the dump on Darbytown Road, I will recuse myself from participating in and
410 voting on this conditional use permit, 2013-00014.
411
412 Mr. Wright - All right, sir. Mr. Bell has recused himself from this
413 case.
414
415 Mr. Blankinship - You should go ahead and step down.
416
417 Mr. Wright - Ms. Freye, please present your case.
418
419 Ms. Freye - Yes sir. Good morning, Mr. Chairman, members of
420 the Board, and Mr. Blankinship. My name is Gloria Freye. I'm an attorney with
421 McGuire Woods here on behalf of the applicant, The East End Landfill, which is
422 often referred to as TEEL. Also here on behalf of the company is part of the
423 team that is responsible for the landfill's remarkable turnaround that was noted in
424 the staff report. I would like to introduce Mike Monroe in the front row here. He is
425 the vice president and the owner of the company. Mike has provided decisive
426 leadership that cleaned house, installed new management, met with the County
427 and DEQ, and made the changes that were necessary to turn the direction of
428 this company into one of the better run construction, demolition, and debris
429 landfills in the state.
430
431 Darrin Hinderliter, also in the front row, is the director of landfill operations, who
432 has done a fabulous job of opening all lines of communications with the
433 community by conducting six community meetings with notices going to over
434 2,500 residents located in over a one mile radius of the site for each of those
435 meetings. It is noteworthy that these meetings were so successful that the
436 number of attendees steadily declines from twenty-three down to four at the last
437 community meeting held June 6. That success is also noted by the fact that
438 people's opinions did change, as evidenced by the e-mail that was sent by Erika
439 Woods, which I hope was in your package.
440
441 I'd like to introduce Ron DiFrancesco, the consulting engineer who headed up
442 Golder Associates' team, and my partner, Dan Slone. All of these folks have
443 taken the oath and are available to respond to questions.
444
445 To quickly orient us, this is an aerial map showing the location. CSX is in the
446 center. Darbytown Road is here. The TEEL site is here. This is the Simons' tract
447 here in the middle. And this is the BFI municipal waste landfill.

448

449 This slide defines the property that's included in the application. Again, this is the
450 horseshoe-shaped TEEL property with the Simons' parcel in the center.

451

452 The next slide shows the plat of the property that is subject to the current
453 conditional use permit. That would be the area shaded in tan around the
454 horseshoe.

455

456 Before getting into the merits of the case, I think it would be helpful to explain to
457 the public why a conditional use permit is needed. The properties are zoned M-2,
458 General Industrial. There are fifty-two by-right uses in this district, any of which
459 could be developed today—on the Simons' parcel or the TEEL parcel—without
460 any conditions. The M-2 District also lists certain uses, like this landfill, that are
461 conditional uses permitted only by you, the Board of Zoning Appeals, which is a
462 quasi-judicial body who's authority is defined by the Zoning Ordinance. The
463 Zoning Ordinance requires the Board to consider the location and allow
464 conditional uses based on seven jurisdictional findings.

465

466 As noted in the staff report, prior boards have already approved the subject
467 properties as appropriate for landfill operations as early as 1987—including the
468 Simons' parcel—and as recently as 2007 for TEEL. Prior boards determined that
469 conditions were needed because landfill operations, if unregulated, could have
470 adverse effects on public health, safety, and welfare. Conditions were imposed,
471 but TEEL wishes to amend those and add conditions that will be enforceable by
472 the County with respect to location of waste disposal areas and operation which
473 otherwise could be decided by DEQ, the Department of Environmental Quality.
474 My presentation will address each of those seven findings and show that
475 combining the Simons' parcel with the TEEL landfill will not have an adverse
476 effect and that the suggested conditions for both these properties will actually
477 provide additional protections for public health, safety, and welfare.

478

479 This case was advertised and has been perceived as an application to expand
480 the existing TEEL landfill, but let's look at what expansion means. If you just look
481 at the fact that the request does include a new parcel, the new Simons' parcel
482 inside the horseshoe, one can see that the acreage does change from 107 acres
483 to 119. But it is not the acreage that determines impact; it is the operational and
484 waste disposal areas within the defined property which needs to be considered
485 to determine impact.

486

487 The current permit does not expressly limit or define either the landfill operations'
488 area nor the waste disposal areas. The approval defined the property, but left the
489 determination of where waste disposal areas could be located to the jurisdiction
490 of DEQ. With the approval of the proposed permit, the BZA, not DEQ, would
491 define those areas.

492

493 So looking at this comparison under the unspecified 2007 permit and the
494 proposed permit on the right, the land area available for waste disposal is
495 reduced from 107 acres to 73. Looked at from this perspective, the area which
496 could potentially create any adverse impact is being reduced. TEEL would be
497 giving up valuable air space along its frontage and in the crosshatched areas
498 that are already permitted by both the County and DEQ. It makes sense for
499 TEEL to use the back part of Simons' parcel instead, which is far more
500 economical and efficient. Plus, this plan allows the front part of the Simons'
501 parcel to remain in trees.

502
503 This conceptual site plan illustrates most of the proposed amendments. The tan
504 is the condensed waste disposal area. The crosshatched areas in the back and
505 along this front are already permitted for waste disposal, but would not be used.
506 There is a 350-foot setback from the edge of Darbytown Road to the edge of the
507 waste disposal area. There are two tree preservation areas—a 100-foot-wide
508 area here, which is about 470 feet long; a 300-foot-wide stand trees here, which
509 is about 650 feet long—and this 100-foot-wide landscaped area that would be
510 provided for 830 feet of distance.

511
512 Legally, there is a presumption that the determinations by Boards of Zoning
513 Appeals are correct. It follows that prior boards were correct when they
514 determined that a CDD landfill is an appropriate use on both the TEEL and the
515 Simons' parcels. TEEL has a current active permit, but the permit for the Simons'
516 parcel did lapse. So the impact of incorporating the Simons' parcel needs to be
517 considered by reviewing the seven jurisdictional findings.

518
519 The first is the effect on public health, safety, and welfare. It helps to break the
520 criteria down into its components. Public health. With the new conditions, the
521 facility would be prohibited from accepting CCBs and auto shredder residue for
522 any purpose, which greatly minimizes the creation of dust and further protects air
523 quality. Incorporating the Simons' parcel into the landfill will not have any
524 adverse effect environmentally because the operations will be regulated as one
525 facility subject to the same environmental conditions.

526
527 Public safety will not be adversely affected because the future areas of waste
528 disposal are subject to the same measures already governing TEEL. The facility
529 is gated. "No Trespassing" signs are properly posted. There is a superintendent
530 on site to make sure the conditions are complied with.

531
532 And public welfare. Current conditions are already in place that consider and
533 respect the residents on the west side of Darbytown Road, such as limited hours
534 of operation from 7 a.m. in the morning to 5 p.m. in the evening, or 6 p.m. during
535 Daylight Saving Time. Plus, the landfill is closed on Sundays and national
536 holidays. Whereas the M-2 uses that would be permitted by right on these
537 properties can operate 24/7 and potentially pose far greater impacts on the
538 neighborhood. Taken together with the existing conditions and the proposed

539 conditions illustrated on the conceptual site plan, approving the requested permit
540 will have a positive effect on public health, safety, and welfare.

541

542 Effect on adequate supply of light and air. Currently, there are no conditions in
543 the TEEL permit that address this criteria. To assure adequate light and air to
544 adjacent properties, you need to consider proximity and height. So two new
545 conditions are proposed—a requirement that the edge of disposal areas be set
546 back a minimum of 350 feet from Darbytown Road and a condition that places a
547 maximum height of 320 feet above mean sea level and requires the final
548 elevation point to be at least one-quarter mile from any residence. This condition
549 matches the height restriction the Board approved for the BFI Municipal Waste
550 Landfill in 2012.

551

552 Three slides were submitted to illustrate the line-of-sight profiles for TEEL under
553 the new condition and in comparison to the view of BFI. If you like, Ron
554 DiFrancesco will walk us through each of these slides later. But for now, there
555 are two points I would like to focus on, both on Exhibit C2. At the bottom in
556 Section 2, you see that the line of sight from the closest residence to the TEEL
557 facility is 439 feet away. In Section 1 at the top, compared to the TEEL facility,
558 the BFI Municipal Waste disposal area is approximately 275 feet from the closest
559 residence. Much closer. So approving the new permit will increase the protection
560 for adequate light and air by imposing the setback and height restrictions which
561 are not currently provided.

562

563 Effect on public safety from fire. Public safety from fire will actually be enhanced
564 with the approval of this permit as the approval will require the surveillance
565 cameras to monitor incoming loads for any combustible materials.

566

567 Effect on congestion in the streets. The facility-related traffic will remain the
568 same, even with the inclusion of the Simons' parcel, because the daily intake
569 rates are not being increased. A condition is proposed to cap the daily tonnage
570 rates to the current levels that DEQ approved in 2009, which is 2,500 tons per
571 day average and a maximum 3,500 tons per day. It is the daily intake rate that
572 determines the amount of traffic, not the amount of acreage. The operations are
573 just moving to other parts of the property as prior areas reach capacity.

574

575 On the screen is a letter issued by the County's director of Public Works on
576 October 2, 2008. In this letter, Mr. Priestas determined that even the maximum
577 of 3500 tons per day of intake would not be expected to adversely impact traffic
578 volume, road congestion levels, or highway safety on Darbytown Road. So by
579 capping the amount of daily intake and requiring 400 feet of paved driveway,
580 which increases on-site cueing, no congestion in the streets is expected.

581

582 Effect on character of the district and adjacent districts. The County zoning map
583 does a very good job of clearly showing two distinct districts and their different
584 characters. The subject properties are within the large industrial blue area on the

585 east side of Darbytown Road. Immediately along the west side, Darbytown is a
586 strip of mixed-use zoning. It has M-2, B-3, B-1, C-1, A-1, and three R-3 zoned
587 properties. Behind that strip, the properties are mostly zoned and developed as
588 residential, as you see in the yellow. The residential subdivision was generally
589 developed in the time frame of the late '80s to 2006 and for the most part
590 appears to be built out. As the Planning staff reported, the TEEL property has
591 been used for construction, demolition, and debris landfills for over a period of 20
592 to 25 years, back to the 1980s. Landfill approvals have been approved by the
593 BZA in the Industrial District throughout this period. The point is that there has
594 been no change in the character of the adjacent residential district and no
595 change in the character of the Industrial District. Circumstances today are no
596 different than when the BZA approved TEEL in 2007 and approved BFI in 2012
597 in that Industrial District when the Residential District was already developed. So
598 approving the conditional use permit will not impair the character of either district,
599 as both remain unchanged.

600
601 I show you the conceptual site plan again to show that the approval of this permit
602 will actually do a better job of protecting the boundaries of the two districts and
603 transitioning between the uses of the two districts than the current permit does.
604 The adoption of this plan will ensure that the industrial uses do not move any
605 closer to Darbytown Road.

606
607 Another finding the BZA is charged to consider is whether the use is compatible
608 with the general plans and objectives of the County's official Land Use Plan. The
609 County's 2026 Comprehensive Plan recommends industrial use for this area.
610 And, in fact, these properties are zoned industrial. The Land Use Plan then sets
611 out a number of policies to guide industrial development. These slides list those
612 policies and are addressed separately in our applicant report, so I'm not going to
613 walk through each of those, but draw some conclusions.

614
615 These are the general development policies; there are four of those. And there
616 are four of the keystone policies that this proposal would follow. They comply
617 with these policies by providing the 100-foot landscape and vegetated buffer, by
618 designing the site with a 350-foot setback, by preserving existing tree areas,
619 using the Simons' parcel as infill, prohibiting CCBs and auto shredder residue for
620 any purpose, and continuing the re-use of properties that are or were permitted
621 as landfills. Incorporating the Simons' parcel into the TEEL facility is a great
622 example of infill development and at the same time, removes the potential
623 impacts of unconditioned industrial development, which could have far greater
624 impacts on the community.

625
626 The next finding to consider is the effect on property value of buildings and
627 surrounding properties. Considering what effect a proposed use will have on
628 adjacent properties can be rather speculative because of the many unknowns. In
629 this case, however, the landfill use is already known and has been in existence
630 during generally the same time frames as the commercial and residential

631 development on the west side of Darbytown Road. The County real estate
632 assessment records show that the value of adjacent properties increased in
633 value steadily until the time of the 2008-2009 recession. The records did not
634 indicate any effect when the landfill went into operation in the 1980s. There is no
635 evidence that the operation of the landfill had any adverse impact on the value of
636 adjacent land or buildings. TEEL will continue to operate as a landfill even
637 without the applied-for amendments. Without the new amendments, the Simons'
638 parcel could be developed with a wide range of by-right uses such as those that
639 were listed in the staff report, like an asphalt plant. Eliminating the potential
640 impacts of unconditioned industrial manufacturing uses and increasing the
641 restrictions on the existing landfill would have a beneficial impact on surrounding
642 property values, not an adverse one.

643

644 In conclusion, evidence has been presented that supports all the required
645 jurisdictional findings. Each of those is listed on your screen, each with a check
646 beside it. Having made these jurisdictional findings, the only conclusion is that
647 the proposed CDD landfill is substantially in accord with the general purpose and
648 objectives of the Zoning Ordinance. There can be no other conclusion because
649 the new conditions will enhance the public health, safety, and welfare, and have
650 a beneficial impact on the neighborhood because protections are being provided
651 that do not currently exist.

652

653 Section 24-116(c) provides that when the determination that the potential
654 conditional use, any adverse effects from the conditional use can be avoided by
655 the imposition of conditions that are accepted by the applicant, the Board shall
656 authorize the conditional use permit.

657

658 We submit there are no grounds or facts of evidence that would support a denial.
659 People may ask you to deny the permit because they would rather have two to
660 three more years of an operating landfill instead of ten or more. But time is not
661 the issue; the issue is the impact of the use. There is no impact with approval,
662 but there would be impact with denial. A denial would expose the community to
663 increased visibility of the existing landfill, would bring waste disposal closer to
664 Darbytown Road, would allow unconditioned industrial uses like a cement
665 concrete mixing plant to operate there 24/7, would lose the existing trees, and
666 would forfeit the proposed landscape buffer.

667

668 This is what the people who ask you to deny would be asking you to do. Please
669 see that request for what it is—old emotions based on past experiences. The
670 new management corrected those problems. The company has met all the
671 requirements, is fully in compliance and in good standing with DEQ and with the
672 County. The proposed permit has no new impacts, as the scale of the operation
673 remains the same. There just is no reason to deny the permit and many reasons
674 to approve it.

675

676 TEEL does accept the suggested conditions and asks the Board to approve the
677 conditional use permit with the revised conditions and with the exhibits presented
678 today. We ask for the opportunity for rebuttal, and we will be glad to respond to
679 questions.

680

681 Mr. Wright - All right. Any questions for Ms. Freye from members
682 of the Board?

683

684 Ms. Harris - Yes, I have several questions, but I was wondering
685 should we hear the other gentleman before we get into questions.

686

687 Mr. Wright - Do you have anything further in your presentation?

688

689 Ms. Freye - No sir. There are people here who would like to speak
690 in support of the permit.

691

692 Mr. Wright - Let's hear all of that and then we'll—

693

694 Mr. Freye - Okay.

695

696 Mr. Smith - Thank you. Chairman, members of the Board, thank
697 you for this opportunity to speak today on behalf of TEEL. My name is Richard
698 Smith. I own a company called R. J. Smith Construction. We're a large
699 excavating, demolition, and recycling contractor in Richmond, Virginia. I also
700 stand before you today to represent a good friend of mine, C. D. Hall with C. D.
701 Hall Construction who is the largest residential excavating contractor in
702 Richmond.

703

704 Both of us have been in business for almost two decades. We work extensively
705 in Richmond and surrounding counties, Henrico mainly. The landfill is logistically
706 located to benefit people of our nature. I know they say the recession's over with,
707 but in our business it still exists. We've been impacted greatly by the recession,
708 and logistics is everything to us. We work with pennies not dollars. And so
709 without that landfill in its location, we would have no choice but to haul outside of
710 the County to Goochland or to Chesterfield. Darbytown Road Landfill or 623
711 Landfill. They are CDD debris landfills.

712

713 The cost is astronomical. We have to pass that on to consumers, which as you
714 know, in today's time sometimes just knocks people out of a house. You know,
715 two or three thousand dollars sometimes forces them to go some other place.
716 The landfill in its logistic location means a lot to us.

717

718 We were there operating and hauling in there with the old management, and it
719 was not pleasant. It was tough. We've seen drastic improvements, monumental
720 tasks taken by the new management team from the cleanliness of it to the
721 obvious environmental concerns that they have today. The facility looks

722 incredible. Logistically getting in and out is a dream compared to what we used
723 to deal with.

724
725 Most of our vehicles cost around \$200,000. When you go to a landfill, it's always
726 scary for an owner because they sometimes don't come out looking the same
727 way they went in. But at TEEL, they've made improvements on that to where
728 they protect our investment, which is our vehicles getting in and out. That means
729 a lot to us. We like to patron those businesses that help us take care of our
730 investments. Yes, they charge us for that, but we want to spend that money at
731 that location when they help us take care of our stuff.

732
733 Seeing it where it was and seeing where it is today makes us want to support
734 those who are doing what we call right. Whether it be for the County or for the
735 community or for the environment, it's easy to recognize what's right, you know.
736 So we appreciate what they've done. When we heard that they had a limited
737 lifespan left, it greatly concerned to us. Our companies have estimators, and we
738 look in geographical locations in which we can create the most margin. And
739 transportation being one of the biggest costs in any of our businesses, us not
740 being able to haul close to our work, possibly drives us out of working in the
741 geographical area.

742
743 So we would ask the Board to please consider the contractors. I know you have
744 to consider everybody, but the contractors, the impact on us greatly affects our
745 decision-making on where we do our work. And Henrico's a great County. My
746 family's benefited greatly by the investment that people have made in this
747 County. And we want to continue doing that. And we need TEEL to be open for
748 an extended period of time for us to benefit from that. So thank you for your time
749 today, and please consider extending their permit.

750

751 Mr. Wright - Any questions?

752

753 Ms. Harris - Mr. Smith? You mentioned that if you did not use
754 TEEL you would have to go facilities in other counties.

755

756 Mr. Smith - Yes ma'am.

757

758 Ms. Harris - Okay. How far from TEEL is the facility—I think you
759 mentioned Charles City, Charles City Road?

760

761 Mr. Smith - No ma'am. The CDD debris is—the landfills that are
762 close to this landfill, they're represented by Allied or BFI, and they're very
763 expensive. They charge by the ton. So in our industry, the demolition and
764 residential industry, it's a different type of debris. It's a cleaner debris, therefore it
765 has less value. Okay? So those landfills are typically further out. 623 Landfill is at
766 what we call the Rockville exit off of 64. From TEEL, you know, with a dump
767 truck or dump trailer it's typically a 45-minute addition to logistics. It greatly

768 impacts us. Hundreds of dollars. The other one's even further. It's called
769 Darbytown Road Landfill. It's in western Chesterfield County. It's a nightmare to
770 get to, and the roads are terrible. It's not something favorable for us to go to a
771 landfill. So our choices, based on money, we have to choose longer distances
772 because the shorter distance ones just cost so much.

773
774 On the east side of Richmond, I mean, there is no other choice. There is no
775 other choice. And so it forces us to go to Goochland or forces us to go to
776 Chesterfield County, both of which impact us greatly. So from a contractor's
777 standpoint, we look for work closer to those landfills because we're in the
778 business to make money.

779
780 Ms. Harris - Thank you.

781
782 Mr. Wright - All right. Any further questions? Thank you very much
783 for appearing.

784
785 Mr. Smith - Yes sir. Thank you.

786
787 Mr. Wallace - My name is Scott Wallace, and I run River City
788 Rubbish, the owner—co-owner with the fellow back there, Sean Cantrell. We are
789 a fairly small construction demolition hauling company. We work mostly with
790 residential remodelers, roofers in the metropolitan area. We've been in business
791 for about nine years. When we started—we have four landfills that we use that
792 are all geographically—as Mr. Smith was referring to—geographically important
793 because hauling is a significant portion of our expense.

794
795 When we started, I believe that landfill was Cox on the right and Simons on the
796 left. So we were going to Cox, then it shut—I don't know what happened, but we
797 stopped going there. And it obviously increased our expenses substantially
798 because we didn't have anywhere to haul over there. Then the East End started,
799 and we were going in the East End for a while. And back then I was driving a lot.
800 And we would go in there, and it frankly got too dangerous. So my drivers and I
801 decided we're not going there anymore just because of the safety issues. You all
802 know because you all shut it down or whoever shut it down. It was well before
803 they got shut down we stopped going in there just because my drivers and I
804 weren't happy with the safety side of it. They shut down for probably a couple
805 years. I don't even know because we started going elsewhere, going to the other
806 three landfills and a recycling center in Richmond.

807
808 The beginning of this year, I got a letter that said that they were going to reopen.
809 And I was driving down Darbytown Road, and I just popped into their office down
810 there. And I said hey, if you all reopen, I'd love to take a look at it. Frankly, my
811 experience with this place has been very poor. The operator—I believe his name
812 is Brian—and Cheryl Law took me on a tour. It had changed substantially. Then I
813 brought one of my drivers down there to also tour with them. And he's the guy—

814 he's been driving with us for six and a half years and he said thumbs up. So we
815 have started taking a lot of trash there. It has helped our business substantially
816 because of cost, simple as that. Logistically I have to go to 623, I have to go to
817 Ashland, or I have to go deep Chesterfield to dump. And if I can dump right
818 there, it makes me competitive again.

819

820 Bottom line is, it has been a pleasant surprise to my driver and to me how it's
821 been operated. It's on par, if not better, than most of the other facilities we go to,
822 whereas in the past it was not even close.

823

824 Thank you very much. Any questions?

825

826 Mr. Wright - Any questions of Mr. Wallace?

827

828 Ms. Harris - Scott, what's your last name.

829

830 Mr. Wallace - Wallace.

831

832 Ms. Harris - Wallace. Mr. Wallace, you said you went to Richmond
833 recycling?

834

835 Mr. Wallace - Yes.

836

837 Ms. Harris - Do you go there anymore?

838

839 Mr. Wallace - No. Ah, we probably go there—we go there with our
840 heavy stuff, cement, for recycling. And we go in there—I go in there occasionally,
841 yes. I don't go much anymore. I used to go in there a fair amount.

842

843 Ms. Harris - Thank you.

844

845 Mr. Wright - Any further questions?

846

847 Ms. Harris - No.

848

849 Mr. Wright - Thank you very much, Mr. Wallace.

850

851 Mr. Wallace - Thank you.

852

853 Mr. Blankinship - Ms. Harris, while there's a moment. The distance to
854 the Goochland County Landfill is about twenty-three miles. Chesterfield County
855 is about twenty-two. And if I looked at the right one that he just mentioned near
856 Ashland, it's about twenty-one.

857

858 Ms. Harris - I had in mind—there's a facility down Darbytown
859 Road beyond the airport. We see a lot of dump trucks going that way.

860
861 Mr. Blankinship - Charles City County.
862
863 Ms. Harris - Yes, it's in Charles City County. But there is nothing
864 down there.
865
866 Mr. Blankinship - I'm not familiar with that. I don't know whether that's a
867 municipal solid waste landfill rather than a CDD landfill.
868
869 Ms. Harris - Okay.
870
871 Mr. Wright - Please, ma'am, state your name.
872
873 Ms. Dabney-Wooldridge - Good morning. My name is Sharon Dabney-
874 Wooldridge. I'm a resident of the Almond Creek subdivision. We're about half a
875 mile up from the landfill. My reason for being here this morning is that I was
876 greatly concerned when I heard about this new project, The East End Landfill,
877 because I've been in this community going on twenty years. And when I first
878 moved to the community, there was quite an odor from the existing landfill that
879 just wasn't pleasant. And when I heard that a new landfill was coming, I was
880 quite concerned.
881
882 I went to some of the meetings, and then I discontinued. However, I did go to this
883 last town meeting that they had that was on June the 6th, and I was quite
884 surprised and impressed with how they had things set up for the community to
885 find out how the landfill worked. The first thing that I found out was that it was
886 going to be construction debris and not household debris, so that was a
887 revelation for me. I was quite relieved to hear that because that would keep
888 down on the stench.
889
890 The other thing that I heard while I was there was the protections that have been
891 developed that far exceed what the county, state, and federal regulations had
892 put in place. I thought that was a good thing.
893
894 And then the other thing was about the land value, my property value. That was
895 a concern for me. And as Ms. Freye stated this morning, that did not have an
896 adverse affect other than the recession; that's killing me.
897
898 And then the one that really topped it—because I'm an outdoors type person—
899 was the beautification phase that they're going to have along the Darbytown
900 Road. I thought that was wonderful, you know, to give it a nice look so that you
901 would not know that it's a landfill over in that area.
902
903 I did bring up one concern to Ms. Freye. During their QC process when they do
904 their sampling of the water, they have another contractor do that. I just feel that
905 maybe somebody with the County should be assisting in that process when they

906 do that sampling for the QC of the water just to make sure all the i's are dotted
907 and t's are crossed.

908
909 So I'm here to say I was against it at the beginning, but now I'm okay with it as
910 being a neighbor.

911
912 Mr. Wright - Where do you live? I didn't catch that.

913
914 Ms. Dabney-Wooldridge - I live in the Almond Creek subdivision, 6112
915 Bickerstaff.

916
917 Mr. Wright - Which is across—

918
919 Ms. Dabney-Wooldridge - Right across the street.

920
921 Mr. Wright - Yes.

922
923 Ms. Dabney-Wooldridge - Right across the street.

924
925 Mr. Blankinship - Would you spell your last name, please?

926
927 Ms. Dabney-Wooldridge - I have a hyphenated last name. It's D-a-b-n-e-y W-o-
928 o-l-d-r-i-d-g-e.

929
930 Ms. Harris - Ms. Dabney-Wooldridge, how long have you been
931 attending these sessions with TEEL?

932
933 Ms. Dabney-Wooldridge - I can't remember. I know they were having them in a
934 couple of the schools. It's been a few years ago when this first all developed. I
935 went to a couple of them. And I was discouraged, so I stopped going. And then
936 the last couple of ones in—the one most recent was on June 6 where they had it
937 set up at Dorey Park. They had stations where you could go from station to
938 station to see exactly what the landfill was about. It was very educational, very
939 informative. I was very impressed, and I learned a lot about how the landfill
940 works, it's developed, and how it's going to be operated.

941
942 Ms. Harris - Did you attend the meetings where they promised the
943 citizens there—the residents nearby were promised that this operation would end
944 in two or three years?

945
946 Ms. Dabney-Wooldridge - No, I'm sorry I wasn't at that one.

947
948 Ms. Harris - Okay.

949
950 Mr. Wright - Any further questions?

951

952 Ms. Harris - And have you noticed a difference within the last two
953 years with the stench or the odor?

954
955 Ms. Dabney-Wooldridge - There has not been any. Like I say, I've never
956 smelled any stench.

957
958 Ms. Harris - Since when?

959
960 Ms. Dabney-Wooldridge - Oh, it's been quite a few years now.

961
962 Ms. Harris - How long have you been a resident there?

963
964 Ms. Dabney-Wooldridge - Going on twenty years. When I first moved there, the
965 first five years it was pretty bad. And I would say in the last several years I have
966 not smelled that at all.

967
968 Ms. Harris - Okay. I travel that way a lot. I've noticed a difference
969 in odor management over the last year or two. But before then, after a rain, you
970 know, you just keep your windows up because it's not going to be pleasant. But
971 I've only noticed a difference in two years, not fifteen years, you know.

972
973 Ms. Dabney-Wooldridge - Yes.

974
975 Ms. Harris - Okay. I just wanted to clarify that.

976
977 Mr. Wright - Thank you. Any other questions? Thank you very
978 much for appearing.

979
980 Ms. Dabney-Wooldridge - Thank you.

981
982 Mr. Grambo - Good morning, Mr. Chairman, Board members. My
983 name is Glen Grambo—G-r-a-m-b-o. I'm here as the chairman of the finance
984 team of the Varina Church of the Nazarene. I don't have a lot of financial interest
985 in today's hearing as some of other presenters have this morning. My interest is
986 more in what this company, the TEEL landfill, has been giving back to the
987 community.

988
989 Last year we added some space to our parking lot, but we got into trouble, and
990 we needed a registered land disturber permit. We needed some infill. The East
991 End Landfill came alongside of us and allowed us to use their permit, allowed us
992 to—or gave us some infill that was the proper infill. Really made our project what
993 it—and it ended up being approved by Henrico County. And a great addition to
994 us. It allows us to get out into the community to do the things that we do. They
995 can clean up the trash and we can help clean up the community. That's kind of
996 what—the partnership that we've developed with them has been a big blessing

997 to us, and I thank you. I'd ask you to consider their proposal. They do give back
998 to the community that they live in. Thank you.
999

1000 Mr. Wright - Any questions?
1001

1002 Ms. Harris - Yes. Where do you live? I mean where's your
1003 church?
1004

1005 Mr. Grambo - It's 5350 Darbytown Road.
1006

1007 Ms. Harris - How far is that from the landfill in question?
1008

1009 Mr. Grambo - It's, oh, I guess probably five miles from the landfill.
1010 It's on the other side of Turner.
1011

1012 Ms. Harris - Okay.
1013

1014 Mr. Grambo - It's on the eastern side of Turner.
1015

1016 Ms. Harris - Okay. Are you going down to Laburnum or are you
1017 going the other way?
1018

1019 Mr. Grambo - Go down to Laburnum over past the park, Dorey
1020 Park.
1021

1022 Ms. Harris - Yes.
1023

1024 Mr. Grambo - Come out that way.
1025

1026 Ms. Harris - Okay.
1027

1028 Mr. Grambo - Yes ma'am.
1029

1030 Mr. Wright - Any other questions of this gentleman? Thank you
1031 very much.
1032

1033 Mr. Grambo - Thank you, sir.
1034

1035 Mr. Holloman - Good morning, Board and Chairman. My name's
1036 Jermaine Holloman. It's spelled H-o-l-l-o-m-a-n.
1037

1038 I'm here on behalf of the company I work for, East End Landfill. I would just like
1039 to let you know that I started working for East End back in 2004. I was employed
1040 there from 2004 to 2009 before I left to pursue another career. But why I'm here
1041 this morning, yes, back then I was part of the operation. There were some
1042 unsafe things. But as I saw and heard that it was reopening, I got in touch with

1043 my boss, Eric Grambo. And he kind of gave me some things about how the
1044 landfill had changed with the new management. And he took me on a tour. I was
1045 very impressed with the change that they have done. Now, I mean, I feel more
1046 comfortable going to work because with the new company, they're trying to do—
1047 they're *doing* the right thing; they're not *trying* to do the right thing. I really
1048 appreciate that. The reason I enjoy working there is because it's income for me
1049 and my family. Work out here is kind of few, you know. I've been dealing with
1050 landfills since '97. Right now, I mean, with this extension, if they can give us an
1051 extension, you know, I'd really appreciate it. I wish that they can—the Board can
1052 just give us another chance to prove that we're serious about what we're doing.

1053
1054 Mr. Wright - All right. Any questions?

1055
1056 Ms. Harris - Mr. Holloman, how long have you worked there at
1057 that location?

1058
1059 Mr. Holloman - Yes. I started back in 2004 to 2009. And I came back
1060 to work with the company last year in September. From September up until now I
1061 think is about nine months. Since then, it's been a tremendous turnaround. Like
1062 I said, from the odor, how it used to be, there's no longer an odor. The roads are
1063 very clean and safe going in and going out. Actually, I work in the landfill. I'm a
1064 heavy equipment operator. And I have spoken with several drivers that I knew
1065 from back when I worked there the first time. They are very pleased how the
1066 landfill has really changed. They come in and are not doing any damage to their
1067 trucks or stuff like that, so they're very pleased.

1068
1069 Ms. Harris - Thank you.

1070
1071 Mr. Baka - Sir, I have one question, if I may. I understand you
1072 said you were a heavy equipment operator currently. Just in general, I was going
1073 to ask the applicant this, but let me ask what's your understanding of company
1074 policy at the gate, the gate operator. This is a construction debris landfill. If I
1075 come in and my pickup truck has some construction debris in it and some
1076 household debris, can I leave my trash there?

1077
1078 Mr. Holloman - No, no. You'd be rejected. They'll probably send you
1079 to—tell you to go to BFI on Charles City Road. But we only accept CDD. From
1080 the moment they leave the scale and to the time they get to the landfill, our job is
1081 to recognize if it's acceptable. If I recognize it and it reject it, it will be loaded
1082 back up, sent back out.

1083
1084 Mr. Baka - All right, thank you.

1085
1086 Mr. Wright - Thank you very much for your testimony.

1087

1088 Mr. Doggett - Anthony Doggett—D-o-g-g-e-t-t. I live at 3060
1089 Portugee Road in Sandston, Virginia, 23150. I have a son that attends Elko
1090 Middle School and one son that attends Ward Elementary. I graduated from
1091 Varina High School in 1987. I've lived in the Varina District since 1984. I came to
1092 speak in favor of The East End Landfill.

1093
1094 I work at the landfill as an operator. My family and I depend on the income I
1095 receive from the landfill. I was a part of rebuilding the landfill back into
1096 compliance, so I have seen the history of the landfill with my own eyes. I worked
1097 extremely hard and had an awesome team of bosses that knew what needed to
1098 be done to restore the landfill to what it should be. I have learned what doing
1099 things wrong can do to an operation. I know that the management team we have
1100 in place now would never allow us to shortcut anything. They support not only
1101 me, but my family and fellow teammates or employees.

1102
1103 I hope that you allow this amendment to pass through so that my family and I
1104 don't have to worry about where my next paycheck will come from. This means
1105 everything to me, and it's the first time in my life I can that I am enjoying going to
1106 work and seeing my fellow workers on a daily basis and not having to take my
1107 work home with me. Thank you.

1108
1109 Mr. Wright - Question. How long have you worked there?

1110
1111 Mr. Doggett - Thirteen months.

1112
1113 Mr. Wright - When did you begin?

1114
1115 Mr. Doggett - May 1st of 2012.

1116
1117 Mr. Wright - Did you have any association with the landfill prior to
1118 that time?

1119
1120 Mr. Doggett - No sir.

1121
1122 Mr. Wright - Didn't know anything about it.

1123
1124 Ms. Harris - Mr. Doggett, do you know how many employees are
1125 there?

1126
1127 Mr. Doggett - Currently?

1128
1129 Ms. Harris - Yes.

1130
1131 Mr. Doggett - Six.

1132
1133 Ms. Harris - Thank you.

1134
1135 Mr. Wright - Any further questions? Thank you very much for
1136 appearing.
1137
1138 Mr. Doggett - Thank you.
1139
1140 Mr. Wright - Anything further, Ms. Freye?
1141
1142 Ms. Freye - [Speaking off microphone; inaudible.]
1143
1144 Mr. Wright - Would you come up to answer questions the Board
1145 may have, please?
1146
1147 Ms. Freye - Yes sir.
1148
1149 Mr. Wright - Any questions of Ms. Freye?
1150
1151 Ms. Harris - Yes I do. Thank you so much for answering these
1152 questions. I saw several occasions where they say the auto shredder residue.
1153 Are they talking about automatic or are they talking about automobile shredder?
1154
1155 Ms. Freye - I'm sorry. Automobile.
1156
1157 Ms. Harris - Automobile.
1158
1159 Ms. Freye - Yes ma'am. That was a problem at a Chesterfield
1160 County landfill and was in the press recently. We just wanted to make sure that
1161 that would never be a problem at TEEL.
1162
1163 Ms. Harris - Okay. You're going to need to look at your
1164 amendments to the conditions that the County gave you because I have some
1165 questions about your amendments.
1166
1167 Mr. Wright - Are you referring to the ones that are attached to the
1168 staff's report?
1169
1170 Ms. Harris - Yes. They're both. Plus we received another set.
1171
1172 Mr. Blankinship - We probably should be looking at the ones that were
1173 distributed separately with the revised site plan that were hand-delivered to you.
1174
1175 Ms. Harris - Yes. They're the same.
1176
1177 Ms. Freye - They're a little different.
1178
1179 Mr. Blankinship - There are a few changes.

1180
1181 Ms. Harris - Oh, okay.
1182
1183 Ms. Freye - Could I have the copy that you have, Ben, just to
1184 make sure that I'm looking at the same one?
1185
1186 Mr. Blankinship - I can't seem to put my hands on my own copy right
1187 now.
1188
1189 Ms. Harris - I have one.
1190
1191 Mr. Baka - I have one.
1192
1193 Mr. Wright - Now what are we talking about?
1194
1195 Ms. Harris - Okay. Let's look at the amendments and compare
1196 them to the County's recommendations. I was questioning why in #2 do you
1197 make no reference to landfill reclamation bond. There's a number there. And the
1198 amount of \$117,060. I was wondering why you changed that particular condition,
1199 #2.
1200
1201 Ms. Freye - Ms. Harris, that was a condition change that was
1202 recommended by the staff.
1203
1204 Ms. Harris - What staff?
1205
1206 Ms. Freye - The Planning staff at the County.
1207
1208 Ms. Harris - The County Planning staff?
1209
1210 Ms. Freye - Yes sir.
1211
1212 Mr. Wright - Number two is different than your #2. Do you have
1213 the County's recommended conditions?
1214
1215 Ms. Harris - The report that you picked up or you should have
1216 been given when you came in.
1217
1218 Mr. Baka - That's the original.
1219
1220 Mr. Blankinship - The staff report.
1221
1222 Mr. Baka - That's been modified, what Ms. Freye has.
1223
1224 Ms. Harris - Why? Why did you not specify that bond number and
1225 the amount? Is there a reason?

1226
1227 Ms. Freye - If I'm understanding the question, Condition #2, the
1228 reason the applicant did not suggest a change to that was because it was an
1229 existing condition that they did not have a problem with. The Planning staff, on
1230 the other hand, wanted to change that and make that more specific. The
1231 applicant reviewed that and is in agreement with that. So that change was not
1232 initiated by the applicant.
1233
1234 Ms. Harris - So which do you—do you want the County's
1235 recommendation #2 or your recommendation #2?
1236
1237 Ms. Freye - The applicant is perfectly acceptable of the County's
1238 recommendation.
1239
1240 Ms. Harris - Okay. So on the amendment, then, we need to
1241 accept #2 from the County's report.
1242
1243 Mr. Wright - Do you understand what we're talking about,
1244 Mr. Blankinship?
1245
1246 Mr. Blankinship - Yes sir. Yes. And I think she explained it well. That is
1247 not a change that they initiated, but it is a change that they're comfortable with.
1248
1249 Ms. Harris - Okay.
1250
1251 Ms. Freye - Correct.
1252
1253 Ms. Harris - Thank you. Number 13, your amendment #13.
1254 "Exiting traffic" is what the County had in #13. In your amendment you have
1255 "existing traffic."
1256
1257 Ms. Freye - That was a typo. I apologize.
1258
1259 Ms. Harris - I thought it might have been. So it should be "exiting
1260 traffic."
1261
1262 Ms. Freye - Correct. And the County caught that.
1263
1264 Mr. Blankinship - She copied that mistake from us. We made that
1265 mistake in the previous—
1266
1267 Ms. Freye - I copied it from the County. Thank you.
1268
1269 Ms. Harris - Spell check would not have caught that.
1270
1271 Ms. Freye - Probably not.

1272
1273 Ms. Harris - Okay, #20. Why the specific references to delivered
1274 to the property by private haulers and other commercial vehicles? Why have that
1275 restriction at all? Why do you need that restriction?
1276

1277 Ms. Freye - That's a good question. Again, that's one of those
1278 conditions that was carried forward from one of the older permits. When we
1279 submitted the application, we didn't really want to change conditions that were
1280 already there unless we were making them more restrictive. That was a condition
1281 that was already there. The applicant didn't have a problem with it, but when the
1282 staff suggested rewording that, we did not have a problem with that. That's an
1283 old condition.
1284

1285 Ms. Harris - We would keep our own #20 rather than—
1286

1287 Ms. Freye - Actually, I think that the applicant is comfortable with
1288 the condition as Mr. Blankinship has submitted.
1289

1290 Mr. Wright - So we use the one in ours rather than yours.
1291

1292 Ms. Freye - Yes sir.
1293

1294 Ms. Harris - Okay.
1295

1296 Mr. Wright - I didn't understand yours anyway, so we'll take that
1297 one out.
1298

1299 Ms. Harris - So #20 will remain as in the County's report. So why
1300 did you—also in #20—eliminate no tire shredding? Was that a deliberate attempt
1301 or? You talked about the tire recycling, but you did not use tire shredding that
1302 was in the County's report.
1303

1304 Ms. Freye - Again, Ms. Harris, I think that's where we're getting a
1305 little confused about what the applicant suggested as conditions and then the
1306 response or comments we got back from the staff. In that situation, the applicant
1307 had suggested that a tire recycling center would not be permitted. Staff reworded
1308 that to say that they would not be stockpiled, shredded, or recycled on the
1309 property, and the applicant is fine with that.
1310

1311 Ms. Harris - Okay. So #20 in its totality we will accept. Number 20
1312 in its totality as the County presented you will accept.
1313

1314 Ms. Freye - Yes ma'am.
1315

1316 Ms. Harris - Okay. In condition—Amendment 26, why did you
1317 leave out, you know, planting—during the next planting season or the healthy

1318 condition of the landscaping and removing dead plant materials. Why did you
1319 leave that out?

1320

1321 Ms. Freye - We did not. That was additional language that the
1322 County suggested and we were agreeable to.

1323

1324 Ms. Harris - Okay. Then I was looking at the narrative that you
1325 wrote. I'm seeing a lot of differences in the acreage of land. I've heard about
1326 three different sets of acreage. What are we dealing with here? Are we moving
1327 from—are we dealing with 74 of 124? I mean, I really don't know.

1328

1329 Ms. Freye - I think the cleanest way to look at that is that the
1330 TEEL Property, with a capital "P" as a defined term, is 107 acres. If you look at
1331 the Simons' parcel, it's 11-1/2. So the application and this permit would be
1332 governing 119 acres. That's the acreage.

1333

1334 The other areas that you're looking at, Ms. Harris, are the area of waste disposal.
1335 That's where those different acreages come in that I showed you on that
1336 comparison chart, as opposed to what's specified in the 2007 permit. And the
1337 waste disposal area that we're proposing condenses that into the center by using
1338 the Simons' piece. And I do understand that's a little confusing. But when you
1339 issue the permit, the permit will apply to the defined property, which is 119 acres.
1340 So that is a change from 107 to 119. And then if the permit is also approved,
1341 then you can also define the acreage and the area of that waste disposal area as
1342 well. Where otherwise that's been defined by DEQ, we're putting that in front of
1343 the BZA's authority.

1344

1345 Ms. Harris - So Mr. Blankinship, do we—in looking at the
1346 background information in the report, taken together the expansion requested by
1347 this application would increase the area approved for disposal from 47 to 74
1348 acres. Is that accurate?

1349

1350 Mr. Blankinship - Yes ma'am. And that's what you see on the map in
1351 front of you there. The area that was shown as waste disposal areas on the
1352 plans that were approved with the 2007 use permit is approximately 47 acres.
1353 That really shouldn't say 47.00. That's an approximation taken from this map.
1354 But that's approximately the area that was approved for landfill cells, current and
1355 future landfill cells with the 2007 permit. The total area of the parcels addressed
1356 by the 2007 permit is the 110-acre figure. But the amount shown on the plans
1357 submitted by the applicant, approved by the BZA for landfill cells, was 47 acres.
1358 The 27 acres that they are adding with this permit is shown there in green. And
1359 again, we're comparing the area approved for landfill cells to the area that would
1360 be approved for landfill cells under this approval.

1361

1362 The 27-acre figure, however, is two weeks old now. Ms. Freye submitted a
1363 revised plan that pulled that area back a little bit, particularly the southwest

1364 corner there where the old Darbytown Road Landfill comes up toward Darbytown
1365 Road. Some of that area was removed from their amended site plan, so that
1366 number would be a little smaller than 27.

1367

1368 Ms. Freye - And in addition, these areas in the back were also
1369 removed.

1370

1371 Mr. Blankinship - Right, and the two—thank you. The two green areas
1372 to the east side of the property over there abutting the Virginia Power plant,
1373 those areas would also be reduced. So it's no longer 27 acres; it's a little bit less
1374 than that.

1375

1376 Mr. Wright - That's shown in the new plan that they submitted.

1377

1378 Mr. Blankinship - That was distributed to you this past week.

1379

1380 Ms. Harris - Why are you not using those two little slivers?

1381

1382 Ms. Freye - One of the points I made earlier about using the
1383 Simons' piece, because it's in the center, as infill, it's much more economical and
1384 efficient for them. Instead of depositing waste here, here, or here, it's much more
1385 economical to put in the back part here because they're filling in the slopes from
1386 the other sides. It's cost-effective, efficient. It's just better business to do that. By
1387 filling in back here, it keeps this waste from coming closer and leaves this area of
1388 trees of Simons that otherwise would not be protected.

1389

1390 Ms. Harris - Then did you not say in your narrative that—this is
1391 another issue—there was no setback required by the CUP, the conditional use
1392 permit, that the only setback requirement was a 50-foot setback.

1393

1394 Ms. Freye - From DEQ.

1395

1396 Ms. Harris - From DEQ, right. But in looking at the other CUP
1397 applications and stipulations, I thought we always had so many feet back from
1398 the edge. I know when I drive down there I don't see the—I see it sitting back. I
1399 see everything just sitting back.

1400

1401 Ms. Freye - You do. And Ms. Harris, that's a really good point.
1402 Just as recently in 2012 when you all looked at BFI's expansion, the Board was
1403 very careful to say what the setbacks would be, where the landscaping would be,
1404 what the final elevation would be, where the disposal areas were. They were
1405 actually defined and spelled out in the text of the conditions. And the conditions
1406 referred to the maps, tying the approval to those maps. Unfortunately, when the
1407 TEEL permit was approved in 2007, none of that was done. Setbacks weren't
1408 required. Landscaping and buffering was not required. Final elevation was not
1409 required. The distances from homes was not required. Where the waste disposal

1410 areas could be. And that really goes to the point that you made about the
1411 question of where the waste disposal areas could be because it wasn't expressly
1412 limited in the 2007 permit, which is why we're coming up with these different
1413 numbers.

1414

1415 Mr. Blankinship - It was not expressly stated in the text of the
1416 conditions, but the conditions were in the same file as the plan that was
1417 submitted by the applicant and that was in front of the BZA when the use permit
1418 was approved. And the plan does show which areas are approved for land filling
1419 and which areas are not. So while there is not a condition that states "there shall
1420 be no landfill cells within 300 feet of Darbytown Road," there is a plan that shows
1421 that there are no landfill cells approved within 300 feet of Darbytown Road.

1422

1423 Ms. Harris - And this was a plan approved by BZA at that time.

1424

1425 Mr. Blankinship - Yes. In 2007.

1426

1427 Ms. Freye - And Ms. Harris, the point about that is, that those
1428 areas of waste disposal were determined by DEQ, not by the BZA. And so today,
1429 we're here to put that authority under your purview to say where those waste
1430 disposal areas are, and not rely on DEQ or their regulations.

1431

1432 Ms. Harris - Okay. You kept referring to BFI. We know that we
1433 determine each case on its on merit. But how close is a residential section to
1434 BFI?

1435

1436 Ms. Freye - It's 275 feet to the closest house.

1437

1438 Ms. Harris - Yes, I saw that. But I'm talking about the subdivision.
1439 I'm aware of the subdivisions that have been recently constructed, the apartment
1440 units and the subdivisions that have been recently constructed to the east of the
1441 site. I don't know if BFI has anything that vast that's sort of close to that. I know
1442 there are individual homes.

1443

1444 Ms. Freye - There are individual homes. And the finding is to look
1445 at the impact on surrounding properties and buildings, and that's what this permit
1446 does.

1447

1448 Mr. Blankinship - If you see the top of the page, Ms. Harris, on the
1449 screen now, you see a Brighton Road, and a Pickwick Lane, and a Dolphin
1450 Road. That's the subdivision that's closest to the BFI Landfill, which is essentially
1451 all the area surrounding that subdivision on three sides.

1452

1453 Ms. Harris - But they're not as heavily populated as the residential
1454 properties to the east of TEEL.

1455

1456 Mr. Blankinship - Yes ma'am. It's a much smaller subdivision.
1457
1458 Mr. Baka - To the west.
1459
1460 Mr. Blankinship - Yes, to the west.
1461
1462 Mr. Baka - To the west of TEEL.
1463
1464 Ms. Harris - I believe those are my questions. Thank you.
1465
1466 Ms. Freye - Thank you.
1467
1468 Mr. Wright - I have a couple questions, Ms. Freye.
1469
1470 Ms. Freye - Yes sir.
1471
1472 Mr. Wright - Does this application—I want to get this in the
1473 record—increase—if this is approved, will it increase what happened on a day-to-
1474 day basis there?
1475
1476 Ms. Freye - No sir.
1477
1478 Mr. Wright - There will be increase in the number of trucks?
1479
1480 Ms. Freye - No sir.
1481
1482 Mr. Wright - So simply what this application does is let you acquire
1483 more property so that you can extend it longer.
1484
1485 Ms. Freye - The service life of the facility, yes sir.
1486
1487 Mr. Wright - In your estimation, how long would you be able to
1488 exist if you had not applied for this extension?
1489
1490 Ms. Freye - Mr. Wright, you are asking a very, very hard question.
1491 I don't want to give you the lawyer answer, which is "it depends," or the business
1492 answer, which is "it depends," or the engineering answers, "it depends." There
1493 are so many factors that are involved in there—the economy, the market, the
1494 demand, the engineering techniques that are used, the environmental
1495 regulations that have to be complied with, the rate that the tonnage comes in.
1496
1497 Mr. Wright - What would you estimate, about three to five years,
1498 or something like that?
1499
1500 Ms. Freye - If you look at the rate that they're currently operated
1501 at, as they stand today, I think they're looking at three to four years.

1502
1503 Mr. Wright - Yes.
1504
1505 Ms. Freye - If you look at that rate with this proposal, you're
1506 looking at about ten.
1507
1508 Mr. Wright - Ten years.
1509
1510 Ms. Freye - Or more. It could be as much as seventeen. That's
1511 why it's so confusing. You get all these range of numbers because it depends on
1512 whether you're looking at 900 tons a day, 1500 tons a day, 2500 tons a day, or
1513 3500. One of the conditions that we wanted to make sure is in here is to put a
1514 cap on that 3500—in our case a best-case scenario; in your case a worst-case
1515 scenario—so it would never go above that because that will dictate truck traffic
1516 and service of life.
1517
1518 Mr. Wright - Some of the letters of opposition we've received, folks
1519 seem to think that if we approve this there's going to be much more truck traffic
1520 on the road than exists now. I just want to make that clear for the record. My
1521 understanding from reviewing all of this, this is not to increase anything; it's to
1522 extend.
1523
1524 Ms. Freye - Yes sir.
1525
1526 Mr. Wright - So nothing will be increased in that regard.
1527
1528 Ms. Freye - That's correct.
1529
1530 Mr. Wright - I just wanted to get that clear. If the Board were to
1531 decide to impose a limit—the Board has the authority, if it desired, to put a time
1532 limit of, in other words, five years or four years or whatever so that you would
1533 have to come back at the end of that time to get a renewal. How would that sit
1534 with the applicant?
1535
1536 Ms. Freye - I think that would be very discouraging. They have
1537 worked so hard to turn this company around. It really has been phenomenal.
1538 They need this permit so that they can plan their business, they can determine
1539 how to use the property the best, most sustainable way possible to get the return
1540 on the investment that they've made. They've invested hundreds and hundreds
1541 of thousands of dollars to turn this company around. They would like to get the
1542 most useful life out of this facility that they can. Being subject to review, they do
1543 not have a problem with that. That's why they're willing to agree to such
1544 restrictive conditions that they've offered so that the County can monitor those
1545 every step along the way and not wait five years later and come in and review.
1546 They're happy with the County reviewing continually to make sure that those

1547 conditions are being complied with. So their preference would be to have you
1548 monitor and supervise.

1549

1550 Mr. Wright - Well this Board had that prerogative.

1551

1552 Ms. Freye - Yes, yes, I know.

1553

1554 Mr. Wright - When we put these conditions on, if you violate the
1555 conditions, we could yank your use permit.

1556

1557 Ms. Freye - Absolutely.

1558

1559 Mr. Wright - So this is not a guaranteed thing that you go on doing
1560 what you want aside from these conditions.

1561

1562 Ms. Freye - Absolutely. So there is always that risk, and they
1563 know that. They know that.

1564

1565 Mr. Wright - Have you had any odor complaints—

1566

1567 Ms. Freye - No sir.

1568

1569 Mr. Wright - —since the last—when's the last time you had an
1570 odor complaint at this facility?

1571

1572 Ms. Freye - 2010?

1573

1574 Mr. Hinderliter - My name is Darrin Hinderliter, spelled H-i-n-d-e-r-l-i-t-
1575 e-r. I'm the director of landfill operations. I arrived at the site the latter part of
1576 2010, and we have not received an odor complaint since my arrival to the facility.

1577

1578 Mr. Wright - Since what date?

1579

1580 Mr. Hinderliter - August 2, 2010, is when I arrived at the facility.

1581

1582 Mr. Wright - 2010. You've had no odor complains since 2010.

1583

1584 Mr. Hinderliter - Correct. We have not received any odor complaints.
1585 I've had one call from the County just questioning one thing, and it was
1586 something from way over on the far side of Laburnum. And they were just calling
1587 around to all the local businesses. But I have not had one complaint, correct.

1588

1589 Mr. Wright - If they had an odor complaint, would you be the one
1590 to get it?

1591

1592 Mr. Hinderliter - Yes sir.

1593
1594 Mr. Wright - Or who would get it? How would you know that they
1595 didn't have an odor complaint?
1596
1597 Mr. Hinderliter - It would most likely come through the County or the
1598 DEQ who would then follow up with us so that we could enact our odor
1599 management plan.
1600
1601 Mr. Wright - What is your procedure on complaints if there's a
1602 complaint?
1603
1604 Mr. Hinderliter - First thing that we do, obviously, is we follow our odor
1605 management plan, which is to try to find out exactly where the odor would be
1606 coming from. We'll go to surrounding areas around the property, a facility outside
1607 of the property. And we'll conduct sniff tests and see where it's coming from,
1608 we'll observe the wind directions, and we'll see if we can actually pinpoint where
1609 the odor would be coming from, sir.
1610
1611 Mr. Wright - If there were a complaint, you would be sure to know
1612 about it, wouldn't you?
1613
1614 Mr. Hinderliter - I believe I would, yes sir. I have a compliance hotline
1615 also set up that rings directly to my desk that is available for anybody to call. It
1616 calls directly to my desk.
1617
1618 Mr. Wright - All right, sir.
1619
1620 Mr. Baka - Can I ask along those lines? When you find the
1621 source of the odor, what do you specifically do to mitigate that at that time, if you
1622 had a complaint?
1623
1624 Mr. Hinderliter - If we did have a complaint and if an odor did occur,
1625 we would obviously take action, which would be possibly excavating it up,
1626 excavating it and then possibly re-compacting and re-covering, and finding out
1627 what the actual cause of the odor would be. But as I've said, we have not had a
1628 complaint in almost three years at the facility.
1629
1630 Mr. Wright - The material that you have doesn't produce odors,
1631 does it?
1632
1633 Mr. Hinderliter - No sir. I like to equate it to, if you take a bag of trash
1634 and you sit it in your kitchen or in your living room, it's going to smell. If you take
1635 a 2 by 4 and you sit it in your living room, it's not going to smell. We take
1636 construction and demolition debris and concrete, 2-by-4's, bricks and block.
1637
1638 Mr. Blankinship - There have been some odors related to old drywall.

1639
1640 Mr. Hinderliter - H2S has been known to create odor. That's a case
1641 where I know there were some questions prior to my arrival at the site. I don't
1642 know if was ever distinctly pinpointed back to the facility, but that were
1643 allegations. But since my arrival to the site, there has never been an odor
1644 complaint that we've had to even address.

1645
1646 Mr. Wright - Are you familiar with the DEQ Odor Management
1647 Plan?

1648
1649 Mr. Hinderliter - Yes sir.

1650
1651 Mr. Wright - Do you administer that?

1652
1653 Mr. Hinderliter - Yes sir.

1654
1655 Mr. Wright - I notice that that is a new requirement with these
1656 conditions.

1657
1658 Mr. Blankinship - Yes sir.

1659
1660 Mr. Hinderliter - We've added to that, too.

1661
1662 Mr. Wright - That was not in the old conditions that we had
1663 currently in effect.

1664
1665 Mr. Hinderliter - Correct. It was a DEQ plan, but it was not part of our
1666 County use plan.

1667
1668 Mr. Wright - Tell me a little bit about that. What does that require
1669 you to do?

1670
1671 Mr. Hinderliter - As I was stating, if we do receive a complaint, we will
1672 try pinpointing exactly where the odor would be coming from. We also contract
1673 with a third party company as well, Ms. Terry Phillips, who is also present at this
1674 meeting. She's been dispatched to our site to do site evaluations and look
1675 around the facility, take odor management studies from different parts of the
1676 facility as well. If we ever do detect the odor, where it would be coming from, we
1677 would handle that accordingly.

1678
1679 Mr. Wright - Do you handle dust complaints?

1680
1681 Mr. Hinderliter - Yes. Well, we haven't had any, but yes we would.

1682
1683 Mr. Wright - Have you had any dust complaints?
1684

1685 Mr. Hinderliter - No sir.

1686

1687 Mr. Wright - How long have you worked there?

1688

1689 Mr. Hinderliter - I started at the facility on August 2, 2010. I came from

1690 a facility in—

1691

1692 Mr. Wright - You're fairly new on the scene.

1693

1694 Mr. Hinderliter - I came with the intentions of fixing the facility, sir.

1695

1696 Mr. Wright - What is your position?

1697

1698 Mr. Hinderliter - I'm the director of landfill operations.

1699

1700 Mr. Wright - So you're in charge of the operation.

1701

1702 Mr. Hinderliter - Yes sir. I've been in the industry approximately

1703 eighteen years. I ran a facility in South Georgia for one of the largest waste

1704 companies in the United States. Operated that facility for eight years without any

1705 violations and currently am permitted and licensed by the DEQ in Virginia.

1706

1707 Mr. Wright - So the buck stops with you.

1708

1709 Mr. Hinderliter - The buck stops with me, yes sir.

1710

1711 Mr. Wright - Okay. How do you ensure that dust doesn't—is

1712 accumulated or mud on the tires and gets out in the community? We have

1713 complaints of that in past years.

1714

1715 Mr. Hinderliter - Once again, I arrived on the site August 2, 2010, and

1716 we've not had one complaint of mud on the road since my arrival to the facility.

1717 We've installed a wheel wash. We've asphalted the driveway.

1718

1719 Mr. Wright - How does that work?

1720

1721 Mr. Hinderliter - As the trucks leave the facility, there's an electronic

1722 eye there. It's a series of jets and sprayers that contain the water, and sprays off

1723 the mud. It goes through a cleaning system. What's called a flocculent is added

1724 to the water, which allows the debris to settle out into different chambers of the

1725 tank. And as it is pumped out, it recycles clean water back onto the trucks. Every

1726 one to two months we'll have an outside contractor come in and pull the solids

1727 from the tank, and we'll refill it once again with clean water.

1728

1729 Another thing that we've done to address that is last year, when the airport

1730 project was going on, we took all the asphalt millings that came from the airport

1731 and we put asphalt milled road from the scale house all the way to the working
1732 face.
1733
1734 Mr. Wright - So that's asphalt now?
1735
1736 Mr. Hinderliter - Yes. The milled asphalt that came up from the old
1737 airport project, we brought that in and we put an eight-inch bed of asphalt
1738 around.
1739
1740 Mr. Wright - The tires are pretty well clean then. How far does the
1741 truck have to go before it gets on Darbytown Road?
1742
1743 Mr. Hinderliter - I'd estimate—without putting a ruler on it, about 350
1744 to 400 feet. What we do also, at that time, is we also have a sweeper. We have
1745 a gentleman with a sweeper that keeps our driveway swept. And we have a
1746 water truck that runs full time on the facility.
1747
1748 Mr. Wright - Before you came aboard—and thankful for you, you
1749 weren't here the last time we heard this case—we were confronted with a pile of
1750 stuff they called coal—
1751
1752 Mr. Hinderliter - Coal combustion byproduct.
1753
1754 Mr. Wright - —combustion byproducts.
1755
1756 Mr. Hinderliter - Yes sir.
1757
1758 Mr. Wright - And that stuff was blowing all over the neighbors and
1759 all over the community and everything. Now, what happened to that?
1760
1761 Mr. Hinderliter - It's been relocated outside of Henrico County to a
1762 disposal facility.
1763
1764 Mr. Wright - So you don't have that anymore.
1765
1766 Mr. Hinderliter - No sir.
1767
1768 Mr. Wright - That's gone.
1769
1770 Mr. Hinderliter - It's offsite, yes sir.
1771
1772 Mr. Wright - That's good.
1773
1774 Mr. Hinderliter - That was a case where we transported, I guess
1775 probably about 3,500 loads of material off site, without any complaints of mud or
1776 blowing debris from the facility. And that was through the winter months and

1777 spring months, through the heaviest rains of the season. Matter of fact, at one of
1778 our community meetings, one of the local ladies came and said, "What
1779 happened to the coal ash?" And I said, we moved it off site. She said, "Well,
1780 when did you do that?" I said over the course of the last six months. It was just a
1781 case of us operating our facility without residents being affected in any way—
1782 adversely affected in any way.

1783
1784 Mr. Wright - Now, do you take any hazardous waste?

1785
1786 Mr. Hinderliter - No sir.

1787
1788 Mr. Wright - Of course that's in these conditions.

1789
1790 Mr. Hinderliter - Yes sir.

1791
1792 Mr. Wright - You cannot accept hazardous waste. I just want to
1793 get that out in the record.

1794
1795 Mr. Hinderliter - Right. No hazardous waste can be accepted. As a
1796 matter of fact, there's no hazardous waste facilities in the state of Virginia.

1797
1798 Mr. Wright - Any further questions?

1799
1800 Mr. Nunnally - We have several e-mails in here that said that they
1801 had a rotten egg odor since June the 13th, I believe it was, and also mud on the
1802 road. And you say that's not true?

1803
1804 Mr. Hinderliter - Sir, I have to dispute that allegation. We have not had
1805 anything. Matter of fact, we've had local inspectors out to the facility from
1806 Henrico County that have observed the road. They observed the sweeper
1807 operations. I've had a DEQ inspection. Matter of fact, the week of the thirteenth, I
1808 had a DEQ inspector on site, and I got my inspection results back yesterday that
1809 said there was no alleged violations and that the site was 100 percent in
1810 compliance.

1811
1812 Mr. Nunnally - Thank you.

1813
1814 Mr. Wright - Is there a landfill not too far from you? What do you
1815 call it? BFI?

1816
1817 Mr. Hinderliter - Yes there is. There's another facility, an MSW facility
1818 adjacent to our property. The only thing that divides us are the railroad tracks.

1819
1820 Mr. Wright - I understand they take garbage in that place.

1821
1822 Mr. Hinderliter - They take household trash, yes sir.

1823

1824

Mr. Wright -
BFI?

Is it possible that that odor could be coming from

1825

1826

1827

Mr. Hinderliter -

Very possible. I ran an MSW site and I know.

1828

Ms. Harris referenced on rainy days when you go past an MSW site. I can attest to that. I ran one and there can be odors, even if they're properly managed. It's garbage.

1829

1830

1831

1832

Mr. Wright -

Thank you very much for your testimony.

1833

1834

Mr. Baka -

Question for the applicant, I believe. Earlier I heard a comment that there would be a reduction in trucks from about 376 trucks to about 348 trucks. I know Mr. Wright talked about there being a reduction. Can you explain the specific numbers? That was in an early part of your presentation a while back.

1835

1836

1837

1838

1839

1840

Ms. Freye -

Yes sir. The reason that the number of trucks and truck trips goes down, even with the 3500 maximum that they're probably never going to be able to operate at, is because the trucks that are hauling the debris in are the larger trucks instead of the smaller trucks.

1841

1842

1843

1844

1845

Mr. Baka -
impact.

Okay. So that would be a decrease in the visual

1846

1847

1848

Ms. Freye -

Yes sir.

1849

1850

Mr. Baka -

The only other question I had—I had a number of them, but many of them were answered. Referring to the revised conceptual site plan, there are tree preservation areas and landscape buffers shown along Darbytown.

1851

1852

1853

1854

1855

Ms. Freye -

Yes sir.

1856

1857

Mr. Baka -

There's one spot, which is northeast of Oakland Road. Was there any discussion with staff about perhaps a landscaping area in there or any need for landscaping?

1858

1859

1860

1861

Ms. Freye -

I'm not real sure. Can you pull that back up, Ben, and we'll look at right where Mr. Baka is looking at?

1862

1863

1864

Mr. Blankinship -

The latest revised. Yes, conceptual site plan.

1865

1866

Mr. Baka -

It's a small—deep and small parcel separate from the parent parcel. So just northeast of Oakland Road's intersection there's a small parcel.

1867

1868

1869
1870 Ms. Freye - Oh. You're pointing to where the office is?
1871
1872 Mr. Baka - Yes. I guess I'm wondering was there any discussion
1873 about landscaping behind that parcel so that there might be a continuous break.
1874
1875 Ms. Freye - The office for the landfill is in that parcel. That parcel
1876 is not part of this application, and so the conditions couldn't really reach to that.
1877 But what the company has done is they have put some landscaping in front of
1878 that office. They also have a privacy fence or screen that's built behind to help
1879 screen the side of the landfill slopes in the back, for the operations at this point.
1880 So there is some landscaping there, but it's not shown on this plan because it's
1881 not part of this application. Does that make sense?
1882
1883 Mr. Baka - Yes. So the area to the east of that property line is up
1884 slope.
1885
1886 Ms. Freye - Oh, you're talking about behind. Oh, I see.
1887
1888 Mr. Baka - I'm talking about on the subject parcel east of that
1889 small parcel.
1890
1891 Ms. Freye - The fence goes all the way back there.
1892
1893 Male - [Speaking off microphone.] There's a fence—there's
1894 a privacy fence there as well, and there's some natural—natural trees—
1895
1896 Mr. Wright - You're testifying. You have to have—
1897
1898 Male - There is a natural buffer, natural trees that aren't
1899 shown in that. There you can see kind of behind it right there.
1900
1901 Mr. Baka - Okay. So it gives a natural effect of somewhat of a
1902 continuous buffer from the north edge of the property all the way to the southern
1903 edge of the hundred-and-some acres.
1904
1905 Male - Yes sir.
1906
1907 Ms. Freye - And the other nice thing that they've done, even
1908 though this isn't part of the property, is the scale of the office is residential in
1909 scale so that as you're driving by, it really does appear like a residence. And all
1910 the parking is in back so that all the operations are behind.
1911
1912 Mr. Wright - One other thing before we finish here. I want to
1913 understand which conditions we're really going to consider. It looks like there's
1914 some difference between the last thing the applicant submitted and what the

1915 staff has submitted. Can we get some clarification? Are you satisfied with that,
1916 Ms. Harris?

1917
1918 Ms. Harris - I think in every amendment that I questioned, we
1919 decided to go along with the County's proposal. So I don't see any difference.

1920
1921 Mr. Wright - So the County ones would be the ones we would
1922 consider.

1923
1924 Ms. Freye - Yes sir. The applicant has reviewed them and is in
1925 agreement with those.

1926
1927 Mr. Wright - Thank you. Any further questions of Ms. Freye? All
1928 right, Ms. Freye. Now we'll hear from the opposition. Does anyone here desire to
1929 speak in opposition to this request?

1930
1931 Mr. Nelson - Good morning, Mr. Chair and Board, Mr. Blankinship.
1932 My name is Tyrone Nelson, 1448 Village Field Drive, a resident of Varina District.
1933 I also serve on the Board of Supervisors for the Varina District as well.

1934
1935 I feel like maybe this is a moot point at this point. I feel like I'm at a big camp
1936 meeting and you are all ready to grab hands and sing Kumbaya. I am maybe one
1937 of the few people who does oppose this expansion. I want to read something out
1938 of the Henrico County code.

1939
1940 If it should find, after the hearing, that the proposed establishment
1941 or use will not adversely affect the health, safety or welfare of
1942 persons residing or working on the premises or in the
1943 neighborhood, nor unreasonably impair an adequate supply of light
1944 and air to adjacent property, nor increase congestion in the streets,
1945 nor increase public danger from fire or otherwise unreasonably
1946 affect public safety, nor impair the character of the district or
1947 adjacent districts, nor be incompatible with the general plans and
1948 objectives of the official land use plan of the county, nor be likely to
1949 reduce or impair the value of buildings or property in surrounding
1950 areas, but that such establishment or use will be in substantial
1951 accordance with the general purpose and objectives of this
1952 chapter, the board shall grant the exception and authorize the
1953 issuance, by the secretary of the board, of a special use permit.

1954
1955 That's Henrico County code's language. From what I understand today, we're
1956 here talking about expansion. As I think Ms. Harris indicated, and you guys have
1957 asked the question as well, there is different conversation as it relates to
1958 numbers. From what I understand, we're talking about expansion of the fillable
1959 space from 47 acres to 74 acres. I met with TEEL representatives, none of which
1960 are here today, a few days after being elected in November 2011 at Senator

1961 McEachin's office, who was our 9th District senator. He, myself, and about ten
1962 residents, and some TEEL representatives. And we had an opportunity to sit
1963 down and talk about many of the issues and concerns that have happened over
1964 the past two or three years. And we received from them—and this was in
1965 November 2011—pretty much a verbal confirmation that this landfill only had
1966 about three years of life expectancy left and that they were doing what they could
1967 to make sure that the site was cleaned up and would be a good neighbor. I think
1968 now we're talking about an expansion that, you know, from the words of
1969 Ms. Freye, could, at a minimum, expand ten years or, at a maximum, seventeen,
1970 eighteen years. So that's what I understand you guys to be here today seeking to
1971 approve.

1972
1973 My thought is before granting this type of conditional use permit, the BZA has to
1974 find that the proposed expansion would do four things. First of all, it would not
1975 adversely affect the public health, safety, or welfare. Second, will not increase
1976 congestion in the streets. Third, will not impair the character of the district or
1977 adjacent districts. Fourth, will not reduce the value of property in surrounding
1978 areas. We've heard justification for those who are in support of how these things
1979 will not adversely impact or increase or impair or reduce. Now I come to share a
1980 few things that I think may, on the opposition side, lead hopefully to some
1981 thought from your side.

1982
1983 First of all—and I've not heard this during this sharing. Between 2007 and 2011,
1984 this landfill pretty much was an environmental disaster area. The DEQ fined
1985 TEEL \$100,000, which is the maximum amount allowed by law. The County
1986 Environmental Services Division issued several notices to comply and one stop
1987 order. The TEEL group poured approximately 100,000 cubic yards of coal ash
1988 onto the property. They had permission from the state to use some small
1989 amounts, but they abused that permission and piled it up into a mountain, which
1990 I'm sure many—or at least a few of the residents who are here today, who will
1991 speak in opposition will speak about. Coal ash was allowed to blow in the wind,
1992 and no one knows to the extent that it contaminated the soil and the
1993 groundwater.

1994
1995 There were also complaints about odor, which needless to say we will—I'm not
1996 here to speak about the odor because clearly the odor could have come from the
1997 landfill not too far away from TEEL. But there was a fire that was not handled
1998 correctly, and there were some other violations.

1999
2000 Now, to their credit, I will say this, and I'll look these guys in the eye, I met with
2001 both of these guys. Since I started to serve in January 2012, I've been to the
2002 facility several times. We've met. I do think that over the last eighteen months
2003 they've done a great job of trying to correct or maintain the facility. So I want to
2004 let you know that we do appreciate that. You have over the last year and a half
2005 done the best that you can to be good neighbors. My question is for those—and I
2006 represent over 60,000 people— I can't stand here and say that one year of

2007 responsible action should balance out several years of non-compliance? And is
2008 that enough right now, one year, to earn back the trust of the community? And if
2009 this expansion is approved, there is a possibility that the expansion will have
2010 some type of adverse effect on the community.
2011

2012 As it relates to congestion in the street, now there is—Ms. Freye did say earlier
2013 that there probably will not be a day when the usage on the street will reach the
2014 3,500 tons in a day. But let's just say, you know, if on average it's 2,500. Well
2015 let's go to 3,500. Let's just say that the usage does reach that. If you put ten tons
2016 on a truck, that would be about 350 trucks up and down Darbytown Road. In a
2017 full eight-hour day, that's almost a truck a minute. Darbytown Road is a two-lane
2018 highway, and one direction has it going towards a low, narrow railroad bridge.
2019 Some of you guys may have seen on the news a couple of weeks ago a truck
2020 got struck trying to go under that railroad bridge. In the opposite direction, there's
2021 an elementary school, neighborhoods, etc. So an expansion, if approved, could
2022 cause congestion in the streets. And in the past there have been a lot of
2023 complaints and concerns about truck traffic going up and down Darbytown Road
2024 as it relates to operations of the landfill.
2025

2026 As it related to the character of the adjacent district, in 1987 when the Darbytown
2027 Road Landfill was first approved, the area was primarily industrial. You guys had
2028 some maps up earlier. This pretty much was an industrial area. About twenty—
2029 thirty years ago, there were just a few houses. Today it is primarily a residential
2030 area. There are over 3,000 homes in this area. And so the homes moved into an
2031 industrial area, yes. And so it was only fair to allow a landfill to continue, but
2032 allowing it to expand, for the neighbors, it's a whole different question.
2033

2034 And so the question is, how much longer do the 3,000+ homeowners have to
2035 wait to see this landfill reach its capacity or to close. And if this expansion is
2036 approved, it probably will continue to impair the character of the district.
2037

2038 The last thing I want to say relates to property values. It's difficult to say exactly
2039 how much landfills detract from the value of any given home. Can you ask
2040 yourself the question and actually have a factual answer? Is it difficult to say that
2041 having a landfill nearby is bad for property values? You really can't. Would an
2042 expanded landfill be more likely to push property values up or down? That's a
2043 question that homeowners will have to ask themselves and you would have to
2044 ask on behalf of homeowners. The more visible the landfill becomes, the worse
2045 effect it will have.
2046

2047 Now, mind you, I don't have—I do think one of the residents is going to bring you
2048 a picture that shows you if you're in the Varina District and you come down
2049 Oakland Road, when you get to the edge of that road there is a white fence that
2050 blocks most of the landfill from that road. But if you look up, there is still a
2051 mountain. It's not high as it used to be, but there's still a mountain nonetheless. If
2052 there is an expansion—you see here on these presentations that middle area

2053 where Simons is. You're going to have a mountain that is going to connect to
2054 mountains. And we're talking about another ten, fifteen years of continued fill.
2055 And I've not heard one resident of Varina yet who wants to see that.

2056
2057 So it comes down to two questions. Do we want to add another ten or seventeen
2058 years of life to a landfill? And I heard one of the young ladies speak earlier. I
2059 guess in her naiveté, she thinks that this is a new landfill. It's not a new landfill.
2060 This landfill's been around for twenty-five years. Do we want to see another ten
2061 to seventeen years added onto it? And is one year of reasonable operation
2062 enough to undo all of the damage that was done between 2007 and 2011?

2063
2064 Again I say, this is not about smell or just mud. It's not about just landscaping.
2065 This is about the possibility—let's say that this company switches hands or
2066 redirects its focus, and we go back to where we most recently were, then we can
2067 find ourselves in a position that we may regret. That's what I'm asking you guys
2068 to consider. That's why I'm here speaking in opposition to the expansion. Thanks
2069 for hearing me.

2070
2071 Mr. Wright - Any questions of Mr. Nelson? Thank you very much,
2072 Mr. Nelson, for appearing.

2073
2074 Mr. Burger - Good morning. My name is Scott Burger. I'm a
2075 resident of the city of Richmond. I'm with the local Sierra Club, Falls of the
2076 James Group.

2077
2078 Mr. Blankinship - Could you spell your last name, please?

2079
2080 Mr. Burger - Sure. It's B-u-r-g-e-r. I strongly concur with
2081 Mr. Nelson's comments. We have great concerns about the history of this site.
2082 We stand with the residents who are concerned about their safety and wellbeing
2083 moving forward. I say that it's imperative that the BZA recognize decisions made
2084 about landfills now have impact for centuries. The fact of the matter is liners do
2085 fail. And when the liner does fail, you're talking about the water supply. I think it's
2086 imperative to realize the potential impact of this expansion.

2087
2088 Again, the Sierra Club stands in opposition. If the BZA does decide to approve
2089 this expansion, I hope it seriously considers the conditions and limitations that
2090 are needed. Thank you.

2091
2092 Ms. Harris - Mr. Burger, what is your organization's name again?

2093
2094 Mr. Burger - I'm part of the Sierra Club, Falls of the James Group.
2095 It's the local group of the national group, which is the oldest environmental
2096 organization.

2097

2098 Mr. Richardson - Good morning, Chairman of the Board and members
2099 of the Board. I reside at 6924 Alyssa Lane Drive, Henrico, Virginia.

2100

2101 Mr. Blankinship - What was your name, sir?

2102

2103 Mr. Richardson - Oh, Bruce Richardson. I apologize. Bruce
2104 Richardson, Sr. I think some of the comments shared by our elected
2105 representative, Ms. Nelson, drive home. I'm extremely appreciative to him. Each
2106 of you referenced the receipt of e-mails received from concerned residents. That
2107 really lets the residents know that you heard our concerns.

2108

2109 There were some technical references made in the presentation. And I would
2110 like to hope that we could address those technical references. The increase or
2111 the expansion, as referenced, talked about the changes of trucks or the
2112 changing of vehicles who would bring in CDD debris, construction debris. And
2113 those trucks were described as being larger. It is commonly referred to as
2114 possibly rollback trucks versus tandems. If you're going to bring in rollback
2115 trucks, those are heavier weight vehicles.

2116

2117 Right now, Darbytown Road has what we call a design or typical section of
2118 pavement and sub-base material. We, just the last couple of weeks, milled an
2119 upper section of Darbytown Road closer to Laburnum. In observing that work, it
2120 appeared that some of those millings were only three to four inches of asphalt.
2121 What rollbacks will bring is, because of the weight it will require an additional
2122 typical section, which will burden the County. You will have to put in a much
2123 deeper compacted base material to handle the traffic.

2124

2125 One of the things that I have observed—and I've made calls to the County. I
2126 have observed violations of what's called minimum standards, which is debris
2127 being left on the roadway during the hours of operation. Minimum standards.
2128 Virginia puts out eighteen minimum standards that shall be complied with. I have
2129 observed violations of these minimum standards during operation. There are
2130 also minimum standards that landfills have to adhere to. And I hope that those
2131 minimum standards are being adhered to.

2132

2133 There was a description that—the debris, of course, is construction debris. I
2134 worked for years with the Department of Homeland Security, FEMA. And when
2135 we would remove debris, oftentimes in hauling it to landfill sites, we required the
2136 use of a cherry picker or some type of raised apparatus to observe what's being
2137 loaded in trucks. That would be a requirement that you would have some type of
2138 way of identifying what debris is being delivered to make sure it is C&D
2139 construction debris.

2140

2141 I know at the landfill there is a construction entrance, typical construction
2142 entrance of seventy feet in length. It's made up of an aggregate to try to get dirt
2143 that would be trapped into tires. It's made to try to pick that up. One of the areas

2144 that may be suggested or I would like to suggest is to extend that seventy-foot
2145 requirement. That construction entrance may need to be extended to allow any
2146 of that debris that's trapped to be caught. Hence, it would eliminate much less of
2147 the debris being tracked onto Darbytown Road.

2148

2149 Some of those concerns, you know, I've made complaints to the County
2150 regarding odor in the last two years. I would concur that the odor has become—
2151 it's not as often that I smell the odor there. But I think overall there is—at the time
2152 that they start some of the operations, you do have schools, school buses. The
2153 last thing that we would want to have is any issues with our young ones going to
2154 school and trying to maneuver. And none of those issues have occurred, so let
2155 me be clear in stating that. But that does pose a question.

2156

2157 There is a perception—and I speak with a realtor's hat now. There is a
2158 perception. Although I can tell you land values in Area 42 and 40, which is
2159 identified in these two areas have dropped. My comps are not the same in these
2160 areas. My comps are much less. So I do speak from a realtor's viewpoint. I had
2161 twenty-two years, prior to becoming a realtor, working in federal and state
2162 government in construction. So I bring a different type of view to these issues.
2163 But there are comps that have shown in close proximity to this area that land and
2164 improvement—and when I reference improvement, I'm talking of the structure
2165 built onto the land—has dropped. And there are other contributing factors, of
2166 course.

2167

2168 With that being said, I stand in opposition. I say from a sincerity standpoint I do
2169 not want to see—the earlier individuals who spoke of losing their jobs. I mean,
2170 I'm not at all advocating that. But I think also there is just the perception that we
2171 now will have an expanded landfill in the East End of the County. And that just
2172 does not bode well for residents in the East End. So I ask the Board to take that
2173 into consideration in making those decisions. And Mr. Chairman, it is not at all to
2174 belabor. These are just legitimate concerns that I think residents of this area
2175 would like to have shared with the Board.

2176

2177 Thank you guys for your time this morning.

2178

2179 Mr. Wright - Thank you, sir. Any questions?

2180

2181 Ms. Harris - Mr. Richardson? What was the debris—or what road
2182 did you observe the debris?

2183

2184 Mr. Richardson - Darbytown Road.

2185

2186 Ms. Harris - Darbytown?

2187

2188 Mr. Richardson - Right in front of the—

2189

2190 Ms. Harris - Okay, I have it. You live on Alyssa Lane? Where is
2191 that? How far is that from this site we're talking about?

2192
2193 Mr. Richardson - Roughly 2.2 miles.

2194
2195 Ms. Harris - Okay. Thank you.

2196
2197 Mr. Baka - One question I had. Sir, you mentioned doing a
2198 comparative sales analysis when you do your CSAs and they've dropped. What
2199 years are you referring to when they dropped in value?

2200
2201 Mr. Richardson - Well, as recent as the last three months. There are
2202 some other contributing factors, but we have seen prices of properties which
2203 were purchased 2008, 2009, and you go to relist those homes, they are much
2204 less in value today.

2205
2206 Mr. Baka - So other contributing factors such as economic—. I
2207 guess the second question is how you talked about minimum standard one from
2208 the NS green book. If you were to extend the construction entrance, 70-foot CE,
2209 and you make that longer with #1 stone, are you thinking that that would help
2210 reduce any potential problems for mud on the roads?

2211
2212 Mr. Richardson - I would think that would be an option that would be
2213 considered. And as you referred, it is normally #1 stone being in place to catch.

2214
2215 Mr. Baka - All right. Thank you.

2216
2217 Mr. Wright - Thank you, sir. Thank you for appearing.

2218
2219 Ms. Agee - I have some pictures that I took this morning that I
2220 want you all to look at. They're in no particular order because Murphy's Law was
2221 working with me this morning. And everything that I planned—

2222
2223 Mr. Wright - Before you start, would you state your name?

2224
2225 Ms. Agee - Yes. My name is Eva Agee. I live at 1727 Almond
2226 Creek Place, which is less than a quarter of a mile from the landfill. If I were a
2227 baseball player and I could throw a ball, I could throw a ball over to the landfill
2228 from where I live. That little cul-de-sac right there, that's exactly where I live.
2229 Right where you all are pointing. I live in the house in the little cul-de-sac. One of
2230 those homes.

2231
2232 One of the first points I want to make to the question that you all just asked about
2233 land values, my home was assessed three years ago at \$165,000. My latest
2234 assessment that I just received has it assessed at \$121,000. So that's a
2235 decrease, if I do my math.

2236
2237 And the next thing that I want to address is that in the use permit, the two
2238 questions that you all have already had people address was how would this
2239 permit affect other property in the area and would the proposed building or
2240 activity be visible from neighboring property. Murphy's Law, as I said, was
2241 messing with me. And I typed last night a beautiful thing that I wanted to read
2242 this morning.

2243
2244 But on those pictures, one of the things I wanted you all to see was that these
2245 plants that they've put here, I think three years ago was when they told us they
2246 were going to build this fence and put these plants here. They've either all died
2247 and been replanted or are dying again and still being replanted. But nothing
2248 grows there. And you all actually have some pictures of some water, some
2249 standing water in that 100 foot—300-foot barrier. I don't know if it fosters
2250 mosquitoes, snakes or what it is, but my dog caught a fit with snakes out in our
2251 backyard, and I had to start keeping her in the house.

2252
2253 There is a lot going on with that landfill. I found it curious that one of the most
2254 important points of this presentation from the standpoint of TEEL should have
2255 been that area use map and a multiple-million-dollar company gave you all a 3-
2256 1/2 inch—3-by-5-inch picture to demonstrate that area where a lot of—and I
2257 actually blew it up, too, the best I could. The plants there aren't growing. I say
2258 they're dying. The water truck and the driver, somebody needs to give him a
2259 ticket because he spun out in front of me one morning, you know, rushing to get
2260 his thing done and then get back, I guess into the landfill gate. But he spun out in
2261 front of me one morning and had me blowing my horn halfway down Darbytown
2262 Road after I passed him because it upset me so how he was driving that truck.

2263
2264 Mr. Nelson and everybody else who's in opposition have pointed out that in
2265 1987, when you all originally started giving land use permits, there were no
2266 homes there. Mr. Nelson is our representative, so he said everything just about
2267 that I intended to say, and that's that there are now 3,000 single-family—well,
2268 there are 3,000 people, 3,000 single-family homes in that area now. And it's just
2269 not conducive to what the landfill has in mind. And I actually—when I was out
2270 there at about 6:00 this morning, as soon as the sun came up, trying to take
2271 pictures, I thought—and this is probably the second or third time that I've thought
2272 I've seen this. But the area that they're asking for the conditional use permit to
2273 me almost already seems to be being used. So have they just already decided
2274 they're going to get their permit and they're already using that property? I tried to
2275 take pictures. And one of the pictures I gave you all was intended to be trucks,
2276 heavy-duty vehicles on that hill in the general area of where they said they want
2277 to get a conditional use permit for that property. Something is already there.

2278
2279 Mr. Blankinship - Yes ma'am. The Simons Contracting Company has a
2280 contractors' equipment storage yard on the property now.
2281

2282 Ms. Agee - On a hill?
 2283
 2284 Mr. Blankinship - No ma'am. On the property that's the center of the
 2285 horseshoe.
 2286
 2287 Ms. Agee - What I observed appeared to be already a built-up hill
 2288 with that equipment that they use to get up to the top of the hills, it appeared to
 2289 be that type of situation. They have that six-foot fence there now on top of a
 2290 thirty-foot dirt mound. So you really can't see in there other than that little
 2291 mountain part that I showed you. When you're driving down Oakland Road, you
 2292 can see that. And my son's girlfriend actually said to us, "I didn't know you all
 2293 had a mountain over here." So she saw that and wanted to know from us what
 2294 was the name of the mountain that was there. And it was embarrassing. It was
 2295 embarrassing. You all are laughing, but it was absolutely embarrassing that
 2296 that's a landfill.
 2297
 2298 So it's just—they probably have cleaned up, but to me they're not good
 2299 neighbors. I've come in and out of either Oakland Road or Old Oakland Road to
 2300 get onto Darbytown Road depending on when I think the traffic is going to be
 2301 coming in and out of that landfill. Those trucks fly up and down Darbytown Road
 2302 well over the 45-mile-an-hour speed limit, and it comes from a fifty-five to a forty-
 2303 five. And when they get to the forty-five, they don't brake it back. And, you know,
 2304 you can hear the airbrakes as they approach that gate. And it's dangerous.
 2305
 2306 I would just ask you all to consider that homeowners, residents, who have come
 2307 before you all before and have expressed their reservations about the expansion
 2308 or transferred use or whatever terminology they want to give it for this landfill,
 2309 that we're opposed to it. And we're opposed to it for health reasons. People have
 2310 explained that, you know, their health is being impacted.
 2311
 2312 And one of the things that I want to say to the attorney who represents TEEL,
 2313 she said that the number of people who show up at the public meetings has
 2314 declined over the years. I guess she believes that the reason is because we
 2315 don't have anything to fight for, and they've cleaned up their act, and that, you
 2316 know, there is nothing else. She actually termed it as old emotions based on past
 2317 experience. We are working people. My being here this morning is costing me
 2318 half a vacation day. So if you're hourly—and I happen to be salary. But if you are
 2319 hourly and you are struggling in this economy, you cannot afford time off from
 2320 your job to come to a 9:00 a.m. meeting. Everybody doesn't have computers.
 2321 Everybody can't send e-mail. Everybody can't appear in person to let you all
 2322 know that we're opposed to this. And we're opposed to it not because of
 2323 emotion, but because we live over there. We have to breathe that air. And
 2324 actually 6:00 this morning, like I said, when I was out there taking pictures, I
 2325 could smell the rotten egg smell, and it is coming from down the street; it's not
 2326 coming from TEEL. And so the closer you got to the underpass, the more
 2327 pungent that odor got. And there's a natural gas thing that burns there all the

2328 time. So that's where that smell is emanating from. And depending on where the
2329 wind blows or which direction the wind blows is how we end up getting that
2330 where I live.

2331

2332 I've just noticed that the church that's directly across from you all, they have
2333 "rejoice" writing in rocks out there. Stays filthy. They clean it up. Less than a
2334 month later—filthy, nasty. They always have to whitewash their church or power
2335 wash. They always have to power wash their church. They always have to power
2336 wash those little houses that are directly across from the landfill just to show
2337 people as they pass by that we're not so filthy anymore. But it's still a nasty, filthy
2338 blight on the residents of those five or six or seven subdivisions that have all
2339 popped up since 1990, three years after they got their first permit to be allowed
2340 to have a landfill. There are homes there. There are children there. There are
2341 people there.

2342

2343 And one of my son's friends who lives in a brand new subdivision that's just
2344 popped up in the last two years, they had a little dog that got cancer from
2345 drinking water in the backyard maybe. So who knows. This right here scares the
2346 bejeezus out of me. What is this? And there's a whole quarter of a mile little
2347 place in front of that landfill where you have these kinda little water ponds.
2348 What's in them? So it's frightening. It's frightening.

2349

2350 And I don't want to over-dramatize what I go through as a resident, but I'm losing
2351 value on my home, and I'm not having any faith that I'll be able to sell it for a
2352 decent rate when time comes for me to retire. And it's just—it's sad. And I'm
2353 asking you all to vote against this conditional use permit. Thank you very much.

2354

2355 Mr. Wright - Any questions?

2356

2357 Ms. Harris - Ms. Agee? Do you have any concerns about effect on
2358 your water system?

2359

2360 Ms. Agee - I buy water because I'm terrified to drink my water.

2361

2362 Ms. Harris - Okay. That's what I wanted to know. Thank you.

2363

2364 Ms. Agee - Is that it?

2365

2366 Ms. Harris - Yes, thank you.

2367

2368 Mr. Wright - Thank you very much.

2369

2370 Ms. Agee - Thank you.

2371

2372 Ms. Jackson - Good morning. My name is Carol Jackson. I'm a
2373 resident of the Varina District. I live at 6508 Oakland Chase Place. I'm the most

2374 recent president of the Oakland Chase Homeowners Association, as well as
2375 president of John Rolfe Middle School PTA. I'm very active in the PTA. I'm very
2376 concerned about the community, which is why I elected to serve in positions and
2377 represent the community.

2378

2379 In the comments stated earlier, they are correct. Our community is tired. We're
2380 tired of waging this battle to try to keep a decent community in which to live, and
2381 to thrive, and to raise our children. People have been coming to meetings about
2382 this landfill for years. We can't keep taking off work. I have a luxury with my
2383 position that a lot of my neighbors do not have. And they've asked me to speak
2384 on their behalf. But this expansion is not something we want.

2385

2386 You have people here speaking in support of, none of which live there, for the
2387 most part, the majority of. They don't live in Varina. They don't live on the side of
2388 Varina that we live in. They don't have the same impact. I'm the mother of twin
2389 boys. They're thirteen. We moved in Varina as a choice in 2004. I knew this
2390 landfill was there. I knew it was a construction demolition debris landfill I did my
2391 research. I work for a developer. We do—at the time I did. We did green
2392 building, green developing. I understood that. But I tell you, once I moved into
2393 the community and found out how this landfill operated, I was appalled. And as I
2394 went back to work and shared the stories of what was going on there, so were
2395 my coworkers.

2396

2397 And I have to tell you, I moved there in 2004. My boys were four years old. When
2398 they turned seven—seven, eight years old, I'm taking them to the doctor for
2399 respiratory problems. They developed asthma. That, as well as a lot of the kids
2400 around in that community. They have severe asthma. I have parents who will
2401 not—neighbors who will not open their windows because they don't know what
2402 will blow into their homes. And I don't open mine either, and I'm from the country.
2403 I love to raise my windows on a nice day and have a breeze blow through. But
2404 not in this location.

2405

2406 I think to be held hostage in your home and community is totally unfair. And also,
2407 I think the presentation today and what has been going on at this landfill for the
2408 last eighteen months has been strategic. It may have improved, but that was
2409 strategic because what they were trying to do before with the old management, it
2410 wasn't being approved. The state was all over them with violations and fines.
2411 The County was against what they were trying to do. Even this Board here voted
2412 against their most recent action or the one before that; there's been so many. So
2413 I think they had to strategically pull back and say what are we going to do to be
2414 able to get our way in the County with this landfill and maximize our profits.

2415

2416 You can't tell me by a landfill expanding, whichever way it expands, up, down, in,
2417 or out, that there's not going to be increased business, increased traffic. You just
2418 heard a business man who owns a company that dumps say that he just had a
2419 recent visit and will now be giving his business to this landfill. So as they do all

2420 this expansion and do their advertising and marketing, they're going to bring in
2421 new business. I don't know how they feel like they cannot do that. And I don't
2422 think anybody is going to be fooled by that.

2423

2424 And it's about dollars and cents to these people that are sitting here making this
2425 presentation. But to me it's about my family, and their health, and my health, and
2426 the impact on the children in our community. There are two elementary schools
2427 that sit on each side of this landfill. Both carry a capacity of 400 kids. There's a
2428 middle school, as well as a high school, directly impacted in this area.

2429

2430 The management may have changed, but has the ownership changed? I think
2431 this is all strategic, and it's all to gain confidence to be able to do what they had
2432 an ultimate plan of doing. I was in that meeting with McEachin, Senator
2433 McEachin, as well as Supervisor Nelson when we were told that the life of this
2434 landfill was probably two or three years max. That to me was positive, a sign of
2435 relief. But now to hear this and this to come back this way, that it may be another
2436 eighteen, twenty years? To me that's unacceptable. But I dare say when we
2437 were told that in that meeting that it was strategic. The operations have done
2438 nothing but contract. And that to me was for a planning process to clean up the
2439 mess that they had made and to figure out what PR campaign they were going to
2440 put on to be able to get what they wanted out of Henrico County and to maximize
2441 this landfill.

2442

2443 Dollars and cents, that's fine. But the dollar and cents I'm going to have to put
2444 out to maintain the health of my family, because in this economy, as you've
2445 heard, it's hard to sell your home. If I could have done that a year or two ago, I
2446 would have done it and been gone. Thinking about renting now and just leaving
2447 because I'm tired of fighting this fight. Yes, a lot of the neighbors stopped going
2448 to those meetings. We were hearing the same thing. And a lot of people saw
2449 them for what they were—they're PR. They're rebranding themselves. To me it's
2450 still the same bottom line. Has that changed?

2451

2452 To me the wolf has just been changed and wrapped up in sheep's clothing. And
2453 now the package has been sat here in front of you and saying this is what we're
2454 going to do. If they could do all of these great things with an expansion request,
2455 why can't they do them now without it, with all the buffering, and all the trees,
2456 and all the glorified whatever is supposed to be happening that only this
2457 expansion request will give? Why can't they do them now? If that's their
2458 business plan, if that's their mode of operation, why aren't they doing it now?
2459 That is what I would like for you to consider.

2460

2461 Please don't be fooled. This is strategic. I'm not buying it. The neighbors are not
2462 buying it. The people that live there are not buying this. We do not want it in our
2463 community. From the '80s to 2013. I think this landfill has done its duty for
2464 Henrico County. Everybody needs a rest and everybody at some point should
2465 probably want to retire. I think this landfill deserves a rest and a retirement as

2466 well. It's time to close it down. It's time to give the residents in that area some
2467 peace.

2468

2469 It's time to allow the community to heal and the residents to recoup the quality of
2470 life that any other part of the County or the metro area has experienced that
2471 hasn't had the atrocity dumped on them that we have. And this group, the
2472 management may be different, they may have good intentions, but I question the
2473 ownership. They were blatant with denying and defying the state, DEQ, and their
2474 request for years. From my understanding, this is probably the only company in
2475 the state that has had the maximum fine lobbied on them for violating the state
2476 regulations. If they defy—deny the state, what are they going to do to the
2477 County?

2478

2479 They dumped coal ash in on top of us. I saw those trucks rolling in with that black
2480 stuff on the side of them. You couldn't read the names of the companies. I knew
2481 it was death in the trucks; it couldn't be anything good. It couldn't be. And the
2482 EPA was considering coal ash as a hazardous material. They were going to
2483 dump hazardous—well, they did dump it. And their owners. And then the
2484 Chinese drywall. They put that in there. All of that was against their permit, but
2485 they brought it in anyway. It's history, but history is there for a reason. And I hope
2486 we don't repeat it. It's to remind us.

2487

2488 And when you have people come that have basically just, to me, been strategic
2489 about their approach in trying to figure out how they're going to maximize profits,
2490 I ask you to consider the residents of the community and let us maximize the
2491 quality of life and what we moved into that community for. There are a lot of
2492 people that didn't know what they were moving into, but I did because of my
2493 professional background. And I've been truly disappointed. And I really have
2494 regretted, and sometimes cried at night, because I've put my children in that
2495 predicament, not really knowing the neighbors that this ownership—not the
2496 management. I want to see is it new ownership. Management philosophy can
2497 change at any time. We could be looking at another group of managers in the
2498 next six months.

2499

2500 So, ownership. Strategic. Just think about it. This should be about the residents
2501 and about our quality of life, not about the business, and the dollars, and their
2502 impact. Think about the impact on us. Thank you.

2503

2504 Mr. Wright - Any questions? Thank you very much. Anyone else?

2505

2506 Ms. Dominick-Dixon - Chairman of the Board, members, my name is
2507 Dometria Dominick-Dixon. It's hyphenated—D-o-m-i-n-i-c-k hyphen D-i-x-o-n. I
2508 live at 6305 Dawnfield Lane in Henrico, Darbytown Meadows subdivision. I am a
2509 board member, director of the Darbytown Meadows Homeowners Association.

2510

2511 My concerns and some of the concerns of our community is safety. In today's
2512 papers, TEEL representatives suggested the expansion's impact would likely go
2513 unnoticed by the neighborhood. Not so. There has been increased large and
2514 small truck traffic on our two-lane roads with speeds up to fifty-five miles an hour.
2515 I find it daunting to enter and exit my subdivision. The entrance to the landfill is
2516 around a curve from my subdivision. And sometimes the traffic does back up
2517 with them trying to enter and exit the landfill. The noise of the trucks changing
2518 gears, their wheels, the heaviness of the trucks makes a loud bumping noise.
2519 The wear and tear of the road will not be resurfaced by TEEL, which makes our
2520 driving really bumpy.

2521
2522 I know that they'll leave this area and go to their homes in the evenings, but we
2523 are left with the residuals. I use the example of recently June 21st and June 24th.
2524 The amount of trucks that traveled had me rising out of my bed before 6:00 a.m.
2525 I do get up at 2:30 with my husband in preparation for him to drive to DC for
2526 work, so I had been up. And I laid back down, and I couldn't figure out what in
2527 the world was going on. It reminded me of convoys of artillery trucks preparing
2528 for war. And we are retired military, so I do know what the sounds like. I didn't
2529 like the sound then, and I don't like it now. These vehicles are moving before
2530 7:00 a.m., as the sign for TEEL states, 7 to 7—7 to 6 or 7 to 5, depending on
2531 Daylight Saving Time.

2532
2533 I got up because I wanted to know where this traffic was going this time of
2534 morning. They weren't running less than three trucks. There were five and six
2535 trucks in a row. So to say that there are only going to be three deep, that's not
2536 correct.

2537
2538 Debris falling from overloaded trucks, and dust and dirt coming from tires that
2539 enter and exit the landfill. While the sweeper did the immediate area, my
2540 subdivision has caught the residuals that come from the trucks. Our entrances—
2541 and there are two, but the closest to them is Springcrest Lane and it has
2542 accumulated a large amount of dirt and debris. As board members, we get out
2543 and we clean this ourselves because it doesn't look good coming into our
2544 community with all that dirt.

2545
2546 Health-wise, TEEL has had a track record of depositing waste outside of the liner
2547 area. That was a concern for me and my family. Once again, my concern is
2548 whether they will leak and contaminate the drinking water and affect our streams.
2549 We do have a retention pond in my subdivision that backs up to several homes.
2550 It is an area where children and animals do play. Recently, I was given notice by
2551 one of our homeowners that their pet died from running across the retention
2552 pond. That part was sort of dry, a little water. And they wanted an explanation of
2553 what was happening. We weren't able to give them one then, but we will be able
2554 to now.

2555

2556 My family personally has been affected by the dust from the site. My husband
2557 has asthma, which has gotten worse whenever he is home. He stays up in
2558 Northern Virginia with my daughter a couple of days a week. His breathing is just
2559 fine then. But when he comes home, he has to have at least two to three
2560 nebulizer treatments before he goes to bed. Needless to say, I have to listen to
2561 him suck on an inhaler during the days that he is home. So we find ourselves
2562 leaving our residence just to enjoy life, or me enjoying him on the weekends
2563 when he's there.

2564

2565 And it's gotten impossible for us to sit out in our yards. The back of my yard
2566 abuts Darbytown Road. So if you do travel down, look at it; it has a big white
2567 fence. And I'm sure you've seen it. I have to power wash my fence outside and
2568 inside, and the back of my home. And that is costly, along with medical bills for
2569 my husband.

2570

2571 We talked about the egg smell. It has gotten better. But some of the smell is still
2572 there. It had been very embarrassing to me and my family when we moved there
2573 in 2005 having company come over, and didn't know how to eradicate the smell.
2574 In fact, I was concerned something was wrong with my plumbing. So we had that
2575 checked out. But I'm sure that you, too, would like to take a deep breath without
2576 coughing a lot of times.

2577

2578 When we purchased our home, we were excited about rural living and expected
2579 a beautiful quality of life. An expansion would definitely lessen that quality.
2580 Property values. And the beauty of our community would certainly change.

2581

2582 Who would like to sit outside and see mountains of dirt? As Varina moves
2583 forward, it is not a pleasant sight from any area that I drive—Laburnum, Charles
2584 City Road, Route 5, Darbytown Road. I have traveled to and have lived in many
2585 countries and cities. And I can tell you the visual is not the snow-capped
2586 mountains of Europe or in the United States.

2587

2588 I have attended a community meeting where displays were set up. This was at
2589 Dorey Park. I was not able to attend the last meeting, which I believe was at a
2590 hotel on Laburnum Avenue. But this was not a meeting, but an exhibition. During
2591 the event, we were told at the end of erection of fences, planting of various
2592 buffers, and beautification of flowers that will make the site pleasing to the eye. I
2593 haven't seen that yet. The flowers or greenery is dying. At one time it looked like
2594 it was going to be something, but it's not there. And it leads me to think if you're
2595 planting something there that's dying, what is that doing to me who's living there?

2596

2597 My community, my subdivision, has 301 homes. There are ten communities
2598 affected by this landfill. Within my community with 301 homes, there are
2599 approximately two cars per home. And you can imagine how it is when we are
2600 trying to exit our subdivision onto Darbytown Road while these trucks are rolling
2601 during the business hours that we are trying to go to work, we are trying to get

2602 our children off the school. So it backs up in our community before we can even
2603 get out. So we have to kind of like stagger our times so that we can get there
2604 before the rush of the trucks.

2605
2606 We would like to live a clean and quality life. This would not happen with the
2607 expansion of twenty-plus acres. We would have to live with increased truck traffic
2608 for another twenty-plus years. I don't mind telling you I am tired. And I really am
2609 looking forward to sitting back and relaxing. But if I have to endure this for fifteen,
2610 seventeen, twenty years, I won't make it. I'm not in the best of health either.

2611
2612 I am opposed to this expansion. I will admit that I've met with you. A very
2613 enlightening conversation of some changes that were being made. And I do
2614 appreciate that. But I invite you all to come to a cookout during the day at my
2615 house and endure the traffic from the trucks, the noise. Directly behind my house
2616 is fifty-five miles an hour headed to Laburnum and forty-five miles an hour going
2617 towards the landfill. Can you imagine at 7:00 in the morning hearing those gears
2618 shifting down—ba-da-da-da-da-da— with four and five trucks. It's not
2619 pleasant. You have to live there in order to see what we're going through.

2620
2621 So, once again, I ask you to oppose this expansion. Not for the jobs. And I
2622 understand the gentleman here, their jobs. And I also invite you to come up
2623 because I've witnessed here that you all were laughing and giggling during some
2624 of the presentations and remarks. It's not funny to us, because you don't live
2625 there. So as we ask for respect living there, as you ask for your jobs. Grant us
2626 the peace that we need. Thank you.

2627
2628 Ms. Harris - Ms. Dominick-Dixon?

2629
2630 Ms. Dominick-Dixon - Yes.

2631
2632 Ms. Harris - Has anyone from your homeowners association ever
2633 taken samples from that—

2634
2635 Ms. Dominick-Dixon - This is why I stated we will find out, because we have
2636 contracted a company to help us on this.

2637
2638 Ms. Harris - Okay. Well what about video-taping five trucks in a
2639 row going down?

2640
2641 Ms. Dominick-Dixon - I'm sorry I didn't bring it today, but I do have it. I've
2642 had it from truck traffic from 2011 through now. When I get tired of hearing it, I
2643 grab either my cell phone or my video camera, and I'm out there with it. But I
2644 must tell you that I live in a two-story home. You have to run to actually get there
2645 to take it. But I do have them, and if you would like to see them, I could certainly
2646 provide them. Any other questions?

2647

2648 Ms. Harris - That's all. Thank you.
 2649
 2650 Ms. Dominick-Dixon - Thank you very much.
 2651
 2652 Mr. Wright - Thank you very much for appearing. Does anyone
 2653 else desire to speak in opposition?
 2654
 2655 Ms. Anderson-Ellis - My name is Nicole Anderson-Ellis. I live at 1431
 2656 Chaffins Bluff Lane in the Varina District. I do not live in this immediate
 2657 community, but I was very actively involved in the effort to get the coal ash
 2658 removed from this site. And as a part of that process, I had frequent
 2659 communications with residents of this area. They told me about what they'd
 2660 experienced, and a lot of what you've heard today about years of failures of this
 2661 site, the smell, the unsafe slopes, the mud, the fires. And what was most
 2662 important to me, the coal ash that was on the site, and it was blowing in the wind.
 2663 Coal ash is known to contain mercury.
 2664
 2665 Mr. Wright - But they don't have that anymore.
 2666
 2667 Ms. Anderson-Ellis - No, no. No, no.
 2668
 2669 Mr. Wright - I mean that's past.
 2670
 2671 Ms. Anderson-Ellis - You're exactly right. But I think it's an important part
 2672 of this conversation and the way we assess the future for these residents. I was
 2673 at the meeting where we were told that this facility was going to close. I
 2674 remember two years; I've heard two to three. That brought a great deal of
 2675 comfort to a great number of people. I can't imagine what it would have been like
 2676 if I was trying to take care of my children adjacent to this facility for these years.
 2677
 2678 To be asked now to expand the capacity of this facility by 60 percent? The
 2679 analogy that comes to my mind—and we've been told it's not an increase; it's an
 2680 expansion, right? So it's not going to be more of a hardship, it's just going to be
 2681 for a lot longer. But I think if you had a pounding headache and I was the cause,
 2682 and I told you I'm not going to make your headache any worse, I'm just going to
 2683 make it last for another fifteen years, how would you feel? It's a burden on a
 2684 community that has already suffered an undue burden. And I ask you to reject
 2685 this request. Thank you.
 2686
 2687 Mr. Wright - Any questions? No questions. Thank you very much
 2688 for appearing. Is anyone else here in opposition to this request?
 2689
 2690 Mr. Willis - My name is Paul Willis. I live at 1736 Almond Creek,
 2691 North Terrace. I'm about less than thirty seconds from the landfill.
 2692

2693 The new upper management has made some improvements to the landfill. But
2694 my main concern is about construction debris. I'm kind of familiar with landfills,
2695 and I'm quite aware that—my basic concern is about how far is the debris
2696 coming from. Construction debris normally is homeowners, builders, and stuff
2697 like that. My biggest concern is who's actually seeing this debris going into the
2698 roll-off trucks? There is no examination. Like the gentleman from FEMA said,
2699 usually there's a cherry picker to pick the debris up and put it in. Well you know
2700 you have old homes that have asbestos, have lead, have lead paint, have old
2701 kind of gasoline cans, kerosene. Who's actually looking at this stuff going into
2702 these trucks, and who's examining that? Once a roll-off truck is loaded, it goes to
2703 the site. When it goes to the site, it's dumped into it. There's nobody actually
2704 looking into the truck to see what's actually being deposited into it. So how are
2705 we going to be able to know what's actually being disposed into the landfill?
2706

2707 My next concern is about the water quality. I was at the meetings from the
2708 beginning. I wasn't able to make some of the in-between ones, but I was at the
2709 last one. And I spoke with one of the water quality control experts. And she said
2710 they have an outside vendor examining their water. And I was kind of concerned
2711 why it wasn't Henrico County examining the water to ensure that our
2712 neighborhood, there's no leakages from these liners. When you lay debris, you
2713 put liners down. Like the gentleman from Sierra Club said, the liners do leak
2714 occasionally. That's the nature. Nothing's indestructible. My concern was why an
2715 outside vendor? Why doesn't Henrico County come out and examine it them
2716 self? The treatment plant is only, what, five miles down the road, WRVA road.
2717

2718 And my other concern is that expansion. Well, we were told the landfill will close
2719 in two or three years, and now they want to expand it. Who's going to benefit
2720 from this? Does the neighborhood get a cost benefit from it? They're not going to
2721 expand it without the due course of making a profit. Is the profit going to be re-
2722 circulated back into the community to improve other conditions in the
2723 community?
2724

2725 Those are my points that I have to say.
2726

2727 Mr. Wright - Any questions? Thank you very much. Anyone else in
2728 opposition? We hear the opposition, now the opposition has no chance to rebut.
2729 So if you need to say something, you need to say it now in opposition. Once the
2730 opposition is concluded, that will end the opposition.
2731

2732 Mr. Nelson - Mr. Chair, so the applicant can rebut the opposition,
2733 but the opposition can't rebut the applicant. That's the way this process works.
2734

2735 Mr. Wright - Yes sir.
2736

2737 Mr. Nelson - Okay.
2738

2739 Mr. Wright - Thank you. Anyone else? We have one more.

2740

2741 Mr. Cates - Good morning. My name is Joseph Cates. I'm a
2742 resident of Henrico County in the Varina District. My last name is spelled
2743 C-a-t-e-s.

2744

2745 Mr. Blankinship - C-a, like Charles?

2746

2747 Mr. Cates - C-a-t-e-s. And from what I've heard this morning,
2748 Ms. Freye has laid out her case, pointing to the four main articles that she has to
2749 demonstrate. This would seem to make this a very easy decision for the Board of
2750 Zoning Appeals because I can't see any way in which this facility being allowed
2751 to operate potentially for seventeen years rather than two, and two years during
2752 which it would be closing down, would be in the public's interest. This would
2753 seem to constitute a clear threat to the public health, as demonstrated by the
2754 past behaviors of the ownership of this organization. And with all due respect,
2755 the coal ash isn't gone; it's in the groundwater. And that dust that has settled
2756 over these 300 residential properties is there and unaccounted for. Things like
2757 this have a very long lifespan. It is impossible to calculate how long into the
2758 future this site will remain a risk, but it's probably very easy to envision back in
2759 '87 when this was granted initially that this site would be closing down at this
2760 time, not seeking to expand, not seeking to go on for potentially two additional
2761 decades. Thank you.

2762

2763 Mr. Wright - All right. Any questions? Thank you very much for
2764 appearing. Has anyone else decided to speak in opposition? Hearing none, then
2765 that concludes the opposition. Ms. Freye, you have an opportunity to rebut for
2766 the applicant.

2767

2768 Ms. Freye - Yes sir. Before I make some remarks in response, are
2769 there particular issues or questions that were raised for you that you would like
2770 us to address, like the way the stormwater is handled in the photos that were
2771 shown by I believe Ms. Agee? Would you like one of the engineers to explain
2772 how the stormwater is dealt with? We have Mr. DiFrancesco here who can
2773 address that.

2774

2775 Mr. Wright - Yes.

2776

2777 Mr. Baka - It's not a question. I'd like to hear some comments
2778 address Mr. Cates comments regarding—

2779

2780 Ms. Freye - Coal ash.

2781

2782 Mr. Baka - No. In the broader scheme of things. His comment
2783 was it may not be in the public's best interest. How would this affect or not affect
2784 the public health, safety, and welfare?

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Ms. Freye - I don't know that the people who spoke in opposition realize that without approving this permit with these conditions what they're exposing the community to. There is an existing landfill there now. There are conditions that are being asked for that would put the safeguards, the very safeguards that they're asking for in place, enforceable by the County, that are not there now.

The service life of this facility is not what causes impact. It's how it's operated, it's how it's maintained. That's what is within the power of the BZA to control, to put those conditions in place to protect the community from that that are not there now.

I think that the things that you heard today from them are either problems that were in the past that have been corrected, and there are conditions that are being offered that will keep that from happening again, and conditions that would even improve and enhance the public safety, public welfare, that aren't there now and have never been asked for before.

When residents drive out Oakland Drive, and they're looking into that hillside, into that fence, instead what's being proposed is an enhanced landscape buffer. That would be forfeited because that could be valuable airspace that might be available to this company to use. The people who met in that Senator McEachin meeting were not these people. It's not these people that said three years. Those people are not here. Those people were not willing to spend hundreds of thousands of dollars like these have to make the changes that were necessary to enhance and invest in this company going forward to turn the company around. Those people are gone, and they're gone for a reason. The new people are here, and they've made a dramatic change. And even everybody who spoke has said things have improved.

So the record will show that the emotions of the past, and maybe even some of the emotions that have carried over to today, are not founded in how this company operates. So the public benefit is that not only would you be putting conditions in place that affect existing, correct past problems, address current issues, and prevent future problems. That's where the public benefit comes from because the landfill is there already. Some day the landfill will close, and what will the community be left with? Will they be left with a stand of trees? Will they be left with the landscaping? Will they be left with the fence and the screening? Will they be left with a setback? What would they be left with? You need to look beyond the past.

Mr. Wright - Anything further?

Ms. Freye - No, unless you have any other questions of us.

2831 Mr. Wright - Does that conclude your case?
2832
2833 Ms. Freye - Yes sir.
2834
2835 Mr. Wright - Okay. Then that concludes the case. Thank you very
2836 much.
2837
2838 **[After the conclusion of the public hearings, the Board discussed the case**
2839 **and made its decision. This portion of the transcript is included here for**
2840 **convenience of reference.]**
2841
2842 Mr. Wright - Do I hear a motion?
2843
2844 Mr. Nunnally - Mr. Chairman, we had a lot of discussion, good
2845 discussion from both sides, and I can understand both sides' points. But that
2846 landfill was there before any houses were, I believe. And it seems like TEEL is
2847 trying to do a very good job there. I make a motion that we approve this case.
2848
2849 Mr. Wright - Motion is made by Mr. Nunnally that we approve. Is
2850 there a second?
2851
2852 Mr. Baka - I second the motion.
2853
2854 Mr. Wright - All right, seconded by Mr. Baka. Any discussion?
2855
2856 Ms. Harris - Yes. I really feel that this is a clear case where the
2857 health and welfare of the residents are being denied. I commend TEEL for what
2858 it has done recently, but to me the jury is out on the damage to the water system.
2859 I know people are there who have to—they're compelled to purchase water. I
2860 mean, they don't have a choice. They have to purchase water because they
2861 have children and they think the water system has been contaminated. Those
2862 super trucks will not help the welfare of the citizens there. It was bad enough
2863 when they had all the trucks going up and down the highway, but now these
2864 super trucks? To me, you have a traffic hazard there. And there's no way in good
2865 conscience that I could vote for this case.
2866
2867 Mr. Wright - In way of discussion, one thing that wasn't brought
2868 out that Mr. Blankinship brought out in his presentation in the notes is that this
2869 is—M-2 zoning. This particular use is a lot less onerous than many other uses
2870 that it could be, especially—you could have an asphalt plant here. And believe
2871 me, I've represented an owner of an asphalt plant; it's not nice. There are other
2872 industrial uses that could be more intense, in my opinion, that could impact this
2873 than the CDD landfill. Any further discussion?
2874
2875 Ms. Harris - Yes. I know I've already made a statement, but we
2876 have 3,000 residents who are affected by this landfill. I think it has served its day.

2877 Twenty-five years is long enough to torment a community. Of course there are
2878 worse things. I can think of a lot of worse things you can put in a district, but I
2879 don't think that's even the issue. The issue is how much longer do citizens have
2880 to tolerate this situation? I think as a sensitive and compassionate Board—
2881 though I realize now we don't have the votes to deny the request, I still feel that
2882 we should have and we should deny the request.

2883
2884 Mr. Wright - All right. All in favor say aye. All opposed say no. The
2885 ayes have it; the motion passes.

2886
2887 Mr. Baka - One comment, if I can.

2888
2889 Mr. Wright - Excuse me.

2890
2891 Mr. Baka - I was just going to say I think one of the difficult
2892 factors in this is trying to discern to what extent the impacts are caused on this
2893 landfill south of the railroad tracks for construction debris and then the other
2894 property north. I appreciate the extent of e-mails, and comments, and testimony
2895 today, which has been significant. I also feel that there are grounds in the thirty-
2896 two conditions to address the public health, safety, and welfare that the
2897 gentleman spoke about.

2898
2899 Mr. Wright - Any further discussion? Hearing none, all in favor say
2900 aye. All opposed say no. The ayes have it; the motion passes.

2901
2902 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by
2903 Mr. Baka, the Board **approved** application **CUP2013-00014, THE EAST END**
2904 **LANDFILL's** request for a conditional use permit pursuant to Section 24-
2905 116(c)(3) of the County Code to expand an existing landfill at 1820 Darbytown
2906 Rd (Parcels 808-706-6679, 808-707-7024 and 809-707-1585) zoned Business
2907 District (B-3) and General Industrial District (M-2). The Board approved the use
2908 permit subject to the following conditions:

- 2909
2910 1. This use permit is subject to all requirements of the County Code.
- 2911
2912 2. The applicant shall maintain Landfill Reclamation Bond #1020498 issued
2913 by Lexon Insurance Company in the amount of \$117,060, or equivalent financial
2914 guaranty that the land will be properly restored in accordance with all applicable
2915 regulations.
- 2916
2917 3. The applicant shall continuously maintain a complete erosion and
2918 sediment control (ESC) plan and bond as approved by the Henrico County
2919 Department of Public Works (DPW). Throughout the life of this use permit, the
2920 applicant shall continuously satisfy DPW that ESC procedures are in accordance
2921 with the approved ESC plan and are properly maintained. If site conditions

2922 change, an updated ESC plan and subsequent revised ESC bond may be
2923 required as determined by DPW.

2924
2925 4. The applicant shall obtain and maintain all applicable permits from the
2926 Virginia Department of Environmental Quality (DEQ).

2927
2928 5. The applicant shall comply with the Chesapeake Bay Preservation Act
2929 and all state and local regulations administered under such act applicable to the
2930 Property, and shall furnish to the Planning Department copies of all reports
2931 required by such act or regulations.

2932
2933 6. Hours of operation shall be limited to Monday through Saturday, from 7:00
2934 a.m. to 6:00 p.m. when Daylight Saving Time is in effect, and from 7:00 a.m. to
2935 5:00 p.m. at all other times.

2936
2937 7. No operations of any kind are to be conducted at the site on Sundays or
2938 national holidays.

2939
2940 8. All means of access to the Property shall be from the established
2941 entrance from Darbytown Road or such other entrance as may be approved in
2942 writing by the Planning Department. Trucks entering or leaving the site shall not
2943 travel on Bickerstaff, Midview, Oakland or Old Oakland Roads.

2944
2945 9. The applicant shall erect and maintain gates at each entrance to the
2946 landfill. These gates shall be locked at all times except when authorized
2947 representatives of the applicant are on the Property.

2948
2949 10. The applicant shall post and maintain a sign at each entrance to the
2950 landfill stating the name of the operator, the use permit number, the DEQ permit
2951 number, and the telephone number of the operator. The sign shall be at least 12
2952 square feet in area and the letters shall be at least three inches tall.

2953
2954 11. The applicant shall post and maintain "No Trespassing" signs every 250
2955 feet along the perimeter of the Property. The letters shall be at least three inches
2956 tall. The applicant shall furnish the Chief of Police a letter authorizing the Division
2957 of Police to enforce the "No Trespassing" regulations and agreeing to send a
2958 representative to testify in court as required or requested by the Division of
2959 Police.

2960
2961 12. Standard "Trucks Entering Highway" signs shall be erected and
2962 maintained on Darbytown Road on each side of the entrance(s) to the Property.
2963 These signs will be placed by the County, at the applicant's expense.

2964
2965 13. The applicant shall post and maintain a standard stop sign at each
2966 entrance to the Property (for exiting traffic).

2967

- 2968 14. Whenever the Division of Police deems necessary, the applicant shall
2969 provide a flagman to control traffic from the landfill onto Darbytown Road, with
2970 the flagman yielding the right of way to the public road traffic at all times.
2971
- 2972 15. All roads used in connection with this use permit shall be effectively
2973 treated with calcium chloride or other wetting agents to eliminate any dust
2974 nuisance.
2975
- 2976 16. The operations shall be scheduled so that trucks will travel at regular
2977 intervals and not in groups of three or more.
2978
- 2979 17. The applicant shall maintain the Property, fences, and roads in a safe and
2980 secure condition so long as this use permit is in effect, or convert the Property to
2981 some other safe use.
2982
- 2983 18. If, in the course of its preliminary investigation or operations, the applicant
2984 discovers evidence of cultural or historical resources, or an endangered species,
2985 or a significant habitat, it shall notify appropriate authorities and provide them
2986 with an opportunity to investigate the site. The applicant shall report the results of
2987 any such investigation to the Planning Department.
2988
- 2989 19. If water wells located on surrounding properties are adversely affected,
2990 and the landfill operations on this site are suspected as the cause, the affected
2991 property owners may present to the Board of Zoning Appeals evidence that the
2992 landfill operation is a contributing factor. After a hearing by the Board, this use
2993 permit may be revoked or suspended, and the operator may be required to
2994 correct the problem.
2995
- 2996 20. The landfill shall only accept construction, demolition, and debris waste.
2997 All such waste shall originate within 150 miles of the site. No hazardous wastes
2998 as defined by the Virginia Hazardous Waste Management Regulations, nor any
2999 biodegradable material other than woody waste from construction, demolition
3000 and land clearing operations, shall be deposited in the landfill or used as fill or
3001 cover material. In no event shall any coal combustion by-products or auto
3002 shredder residue be accepted by the facility. Tires shall not be stockpiled,
3003 shredded, or recycled on the Property.
3004
- 3005 21. A superintendent who shall be personally familiar with all the terms and
3006 conditions of this use permit shall be present at the beginning and conclusion of
3007 operations each work day to see that all the conditions of this use permit are
3008 observed.
3009
- 3010 22. Each day the applicant shall monitor and clean up any trash, dust or mud
3011 along any public road within 2,000 feet of each entrance to the site. A paved
3012 driveway to the landfill shall be maintained for a minimum of 400 feet from
3013 Darbytown Road. The applicant shall provide a wheel washing station in a

3014 location which requires trucks to travel a minimum of 400 feet of paved surface
3015 before exiting the site.

3016
3017 23. A progress report shall be submitted to the Board on or about April 30 of
3018 each year, detailing the total tonnage of waste received at the landfill; the
3019 average and maximum daily tonnage and number of truckloads of waste
3020 received at the landfill; the acreage of landfill cells that are reclaimed, open,
3021 under construction, and remaining to be opened; and an estimate of the
3022 remaining life of the landfill.

3023
3024 24. The edge of all waste disposal areas shall be set back a minimum of 350
3025 feet from the eastern edge of the existing Darbytown Road right-of-way.

3026
3027 25. The existing 300-foot and 100-foot tree preservation areas shown on
3028 Exhibit B, the Conceptual Site Plan prepared by Golder Associates dated 6-17-
3029 2013, shall be preserved subject to stormwater management facilities; the
3030 necessary removal of vegetation pursuant to relocation of streams or waterways
3031 as may be approved by the US Army Corps of Engineers, DEQ, or the County;
3032 the installation and maintenance of site utilities which shall be designed in a
3033 manner which precludes a direct line of sight through the tree preservation areas
3034 to the extent practicable; and the maintenance of the entrance road.

3035
3036 26. Within 90 days of the approval of this use permit, the applicant shall
3037 submit a detailed landscaping plan for review and approval by the Planning
3038 Department. The plan shall provide for a landscaped buffer a minimum of 100
3039 feet in depth as measured from the eastern edge of the existing Darbytown Road
3040 right-of-way in the general area shown on Exhibit B. The materials shown on the
3041 approved plan shall be planted during the next planting season. All landscaping
3042 shall be maintained in a healthy condition at all times. Dead plant materials shall
3043 be removed within a reasonable time and replaced during the normal planting
3044 season.

3045
3046 27. The final elevation of the Property after completion shall not exceed 320
3047 feet above mean sea level (MSL). Such final elevation point of 320 feet MSL
3048 shall be at least ¼ mile from any residence not owned by the applicant.

3049
3050 28. A video surveillance camera shall be provided at the scale house for the
3051 purpose of monitoring the waste entering the Property. Video recordings shall
3052 be retained for four months and copies shall be made available to Henrico
3053 County upon request.

3054
3055 29. The rate of waste intake shall be limited to 2,500 tons per day average
3056 and 3,500 tons per day maximum as approved by DEQ in 2009.

3057
3058 30. The Applicant shall comply with the Odor Management Plan as required
3059 and approved by DEQ on November 4, 2010 as it may be amended.

3060
3061 31. No additional waste disposal areas shall be developed within the Property
3062 beyond those reflected on Exhibit B.

3063
3064 32. Wood shall not be stockpiled or shredded in the
3065 Dominion Virginia Power easement.

3066
3067
3068 Affirmative: Baka, Nunnally, Wright 3
3069 Negative: Harris 1
3070 Abstain: Bell 1
3071 Absent: 0

3072

3073

3074 **[At this point, the transcript continues with the public hearing on the next**
3075 **case.]**

3076

3077 Mr. Wright - That ends our—

3078

3079 Mr. Blankinship - We did pass over.

3080

3081 Mr. Wright - We did pass over that case. Would you call that case
3082 again, please?

3083

3084

3085 **[VAR2013-00004, Baker Heating & Air Conditioning, continued from page**
3086 **nine.]**

3087

3088

3089 **VAR2013-00004 BAKER HEATING & AIR CONDITIONING** requests a
3090 variance from Section 24-9 of the County Code to build a one-family dwelling at
3091 1420 Crystal Spring Ln (Parcel 804-679-1842) zoned One-Family Residential
3092 District (R-2A) (Varina). The public street frontage requirement is not met. The
3093 applicant proposes 0 feet public street frontage, where the Code requires 50 feet
3094 public street frontage. The applicant requests a variance of 50 feet public street
3095 frontage.

3096

3097 Mr. Wright - Are they here?

3098

3099 Mr. Blankinship - Is there anyone here to represent that case? A
3100 motion to defer would be in order.

3101

3102 Mr. Wright - Well, we have people in opposition that have taken
3103 their time to come out to hear this case. I for one would not defer it, if we can
3104 permit them to withdraw it or whatever. I don't know what that procedure would
3105 be. I don't know how the Board feels about this.

3106
3107 Mr. Madrigal - Mr. Chair, member of the Board, Miguel Madrigal,
3108 staff. I did speak to the applicant on Tuesday and he was well aware of the
3109 meeting today. When you deferred the case to the end of the meeting, I also
3110 called the applicant and left a message. I didn't get a hold of him, so I'm not sure
3111 what transpired between Tuesday and today.
3112
3113 Mr. Blankinship - Thank you, Miguel.
3114
3115 Mr. Wright - We have several people in opposition to this that
3116 have taken their time to come out and sit through all of this today.
3117
3118 Male - [Speaking off microphone.] Thank you very much.
3119
3120 Mr. Wright - I don't think it's fair to defer it, unless they would
3121 agree to defer it.
3122
3123 Male - [Speaking off microphone.] No, I think it should be
3124 denied, Mr. Chairman.
3125
3126 Mr. Blankinship - Do you want to hold the public hearing, then?
3127
3128 Mr. Wright - Well, how can you hold—
3129
3130 Mr. Blankinship - We can invite the neighbors to come and say what
3131 they think.
3132
3133 Ms. Harris - But how can the applicant do a rebuttal? They would
3134 have to refer to the minutes or?
3135
3136 Mr. Wright - Is there a motion that we deny this request? The
3137 applicant's not here. We can't consider it without somebody. Let's get Mr. Bell up
3138 here because he's now back in office.
3139
3140 Female - [Speaking off microphone.] There is not fifty feet left
3141 on Osborne Turnpike.
3142
3143 Mr. Wright - My point is the applicant is not here to present his
3144 case. We have no evidence upon which we can approve this case, except what's
3145 been submitted. Mr. Nunnally, do you have a—
3146
3147 Mr. Nunnally - We can deny it, though, can't we?
3148
3149 Mr. Wright - Yes.
3150
3151 Ms. Harris - Or defer it.

3152
3153 Mr. Nunnally - I make a motion we deny it.
3154
3155 Female - [Speaking off microphone.] Thank you.
3156
3157 Mr. Wright - Motion's been made that we deny VAR2013-00004.
3158 Is there a second? Is there a motion that we approve it?
3159
3160 Mr. Baka - I make a motion to defer the case. I understand the
3161 residents have been quite a while. I had a number of questions I wanted to ask
3162 the applicant after reading through. I would think a deferral would be in order. I
3163 regret the applicant didn't show up after the additional time frame here.
3164
3165 Mr. Wright - If we're going to consider this case, we allow the
3166 opposition to speak. It's recorded and we'll have it in the record to consider.
3167
3168 Mr. Baka - Can we open the public hearing today and therefore
3169 not close it, and allow—okay.
3170
3171 Mr. Blankinship - Yes, we can do that.
3172
3173 Mr. Baka - Do you want to do that right now or five-minute
3174 break?
3175
3176 Mr. Blankinship - A break might be in order.
3177
3178 Mr. Wright - All of this is recorded and is a matter of the record,
3179 and your opposition will be noted. You can come back next month at the hearing
3180 if the Board moves to defer it. Would you please be sworn.
3181
3182 Mr. Blankinship - She's sworn.
3183
3184 Mr. Wright - You're already sworn.
3185
3186 Ms. Anderson-Ellis - I'm Nicole Anderson-Ellis. I live on Chaffins Bluff
3187 Lane, which is at the top of the map. Mr. Blankinship, esteemed members of
3188 Henrico County's Board of Zoning Appeals, in early June I received a notice that
3189 Baker Heating and Air Conditioning wants this Board's approval to build a house
3190 on a piece of land that doesn't meet Henrico's standards for residential
3191 construction. I received a notice because my home abuts that land. I've spent
3192 the past few weeks weighing the request in my own mind.
3193
3194 There would be certain obvious consequences if you made this exception, some
3195 good and some bad. On the plus side, the owners of the parcel could see a
3196 sudden jump in the property's value and the profitability. It's certainly a windfall to
3197 buy a landlocked parcel and end up getting to build on it.

3198

3199 On the downside, saying yes would increase car trips on Crystal Spring by
3200 roughly 30 percent. That impacts levels of noise, and safety, and air quality. In
3201 addition, the decision would have short- and long-term impacts on water quality.
3202 I'm a director on Henrico County's Soil and Water Conservation District board, so
3203 this is a particular interest to me. Replacing the current biological cover with
3204 impermeable or less permeable surfaces—roof, paved driveway, lawn—would
3205 slow groundwater recharge. That matters to a community reliant on well water. It
3206 would also speed stormwater runoff, which increases flooding and erosion, in
3207 this case right into our creek, which runs right into the Cohen's pond, and from
3208 there into the James River.

3209

3210 All of this would be beside the point if this piece of land had the necessary road
3211 frontage. These impacts would be legally acceptable by right. But that's not the
3212 case here. The current owners of this land bought it fully aware that the County's
3213 road frontage requirement limited its residential development potential.

3214

3215 Likewise, the surrounding landowners bought their own properties in good faith
3216 that the County's requirements were thoughtfully established, equally applied,
3217 and not arbitrarily altered.

3218

3219 Certainly the decision to completely ignore the established standardized
3220 minimum road frontage would require a compelling reason. Increasing the
3221 profitability of a single parcel can't be enough. I don't blame them for asking, but
3222 it's not enough. There are no community paybacks on this request. None. The
3223 community pays.

3224

3225 Therefore, I respectfully ask that you uphold the County's own rules about street
3226 frontage and deny this request.

3227

3228 Mr. Wright - Thank you very much. Any questions?

3229

3230 Mr. Blankinship - I don't know that anyone other than Ms. Ellis has
3231 been sworn.

3232

3233 Mr. Wright - Anybody who wants to speak, would you stand and
3234 we'll swear you all at one time. That will save us a little time.

3235

3236 Mr. Blankinship - Raise your right hands, if you please. Do you swear
3237 the testimony you're about to give is the truth and nothing but the truth so help
3238 you God?

3239

3240 Mr. Wright - Come on up and be ready to testify.

3241

3242 Ms. McDonough - Hi. My name is Jennifer McDonough—M-c-d-o-n-o-u-
3243 g-h. My property is at 8788 Osborne Turnpike, which is that first home that is on

3244 Crystal Spring Lane. In order to access my home, we use Crystal Spring Lane.
3245 Our family has lived on this lane for more than fifty years. The property that is in
3246 question has never had a home on it, as you can tell. We live where we live
3247 because we want a quiet life. We have a lot of wildlife in our yard and around us.
3248 And our lane is such that it is not a state-maintained or county-maintained road;
3249 it is a private drive.
3250
3251 Mr. Wright - Is that Crystal Spring?
3252
3253 Ms. McDonough - Yes sir.
3254
3255 Mr. Wright - And you use that to access your property?
3256
3257 Ms. McDonough - Yes sir.
3258
3259 Mr. Wright - How long has that been there?
3260
3261 Ms. McDonough - We have been there for ten years.
3262
3263 Mr. Wright - Ten years. How wide is that road?
3264
3265 Mr. Baka - Sixteen.
3266
3267 Ms. Harris - According to the report, sixteen feet.
3268
3269 Ms. McDonough - It's a narrow lane, and it's lined with thirty-three
3270 dogwood trees that my grandfather planted over fifty years ago.
3271
3272 Mr. Wright - Is it paved?
3273
3274 Ms. McDonough - No. And it is not paved for a reason. We don't want
3275 people driving excessively up and down the lane, you know, at a fast rate. We all
3276 have animals. I have small children.
3277
3278 Mr. Wright - Is it graveled or anything?
3279
3280 Ms. McDonough - It is graveled.
3281
3282 Mr. Wright - Who maintains the road?
3283
3284 Ms. McDonough - The residents of the lane. We all contribute towards
3285 putting gravel down every so many years.
3286
3287 Mr. Wright - How many people do that?
3288

3289 Ms. McDonough - Actually, only three do because one of the
3290 properties—which from this point of view is to your right—had been vacant for
3291 more than fifteen years. So there are only three houses where there is a current
3292 resident. And Baker Heating and Air, from my understanding, had purchased the
3293 vacant residence, restored it, and has also purchased the plot of land, and is
3294 trying to now make a profit from their acquirement of that property.

3295
3296 I know that in the past you have denied these appeals for land that has not met
3297 the street frontage. And I ask that you deny this. What you are doing is setting a
3298 precedent if you allow this to happen. For the land in the area to change from
3299 what we call—enjoy as a rural lifestyle to a more subdivision-type lifestyle. If I
3300 wanted to live in a subdivision I'd move to Short Pump. I don't like that. I don't
3301 want that. And I ask that you deny this.

3302
3303 Mr. Wright - I have another question. Is there a legal agreement
3304 between the residents that use Crystal Spring Lane? Is there a legal agreement?
3305 Do you all have something in writing as to how you would maintain it?

3306
3307 Ms. McDonough - We have not put anything in writing that I know of.

3308
3309 Mr. Wright - Do you know who owns the road?

3310
3311 Ms. McDonough - I own half of the road.

3312
3313 Mr. Baka - Center line.

3314
3315 Ms. McDonough - From the center of Crystal Spring Road, I own from
3316 that center point over. Mr. Butler owns from the center point towards his side.
3317 And Teresa Cousins owns from the center point over to her side. So I own the
3318 top quarter. Teresa owns the bottom quarter, and he owns the other half.

3319
3320 Mr. Wright - Would you agree for the applicant to use it to get to
3321 that house?

3322
3323 Ms. McDonough - No.

3324
3325 Mr. Wright - Looks like to me that's going to be the legal question.
3326 They have to have a legal right to get to their property. And that's why I was
3327 exploring this possibility. If you own the road and you don't grant them an
3328 easement over it, they can't get to their property.

3329
3330 Mr. Wright - Can I get your name, please?

3331
3332 Ms. Cousins - It's Teresa Cousins—C-o-u-s-i-n-s. If you look at the
3333 surveys, it'll show that our properties do go to the center of the road.

3334

3335 Mr. Wright - To the center of the road, yes. Somebody has to own
3336 it.
3337
3338 Ms. Cousins - Right. Baker Heating and Air Conditioning bought that
3339 house and did not tell the people that bought that house—I mean when he sold it
3340 to these other people—
3341
3342 Mr. Wright - The land.
3343
3344 Ms. Cousins - No, there's a house. He bought the house with two
3345 acres of land.
3346
3347 Mr. Blankinship - Two separate parcels.
3348
3349 Ms. Cousins - Right.
3350
3351 Mr. Blankinship - One with a house and one—
3352
3353 Mr. Wright - We're talking about the one without a house on it,
3354 right?
3355
3356 Ms. Cousins - Right. But he bought that one and didn't tell them that
3357 he was going to build a house on the other side or had intentions to.
3358
3359 Mr. Wright - You mean he did that without checking out how he
3360 would access it?
3361
3362 Ms. Cousins - Yes sir. So now he's got a parcel of land that he can't
3363 do anything with. It won't perk because there's a small acre—I mean the way
3364 that it's situated it's not very wide in between where he wants to build and my
3365 house. And it won't perk, because somebody tried to buy that one. And when
3366 they brought them in to perk, it would not perk, and you all denied the variance.
3367 So I don't give permission for him to come down my driveway.
3368
3369 Mr. Wright - And where do you live?
3370
3371 Ms. Cousins - I live at 1462 Crystal Spring Lane. I'm right behind
3372 her. Right there.
3373
3374 Mr. Wright - Okay. All right.
3375
3376 Mr. Baka - One question.
3377
3378 Mr. Wright - Would you come forth and just testify, put that on the
3379 record, please. Yes, state your name.
3380

3381 Mr. Butler - [Speaking off microphone.] Sure. Robert Butler.
3382
3383 Mr. Wright - Just tell us about the ownership of the land. I'm trying
3384 to get that established for the record.
3385
3386 Mr. Butler - Well, my ownership is—I'm 1457 Crystal Spring Lane.
3387 I've got about six acres.
3388
3389 Mr. Wright - You are 1457?
3390
3391 Mr. Butler - 1457.
3392
3393 Mr. Wright - And you own half of the road—lane?
3394
3395 Mr. Butler - I do, yes.
3396
3397 Mr. Wright - Would you grant permission to this applicant to use it
3398 to access his property?
3399
3400 Mr. Butler - No. I'm opposed to it.
3401
3402 Mr. Baka - Has the applicant ever asked you for such
3403 permission?
3404
3405 Mr. Butler - No, no one's ever approached me about it at all.
3406
3407 Mr. Wright - Thank you very much for appearing.
3408
3409 Ms. Harris - I have one question.
3410
3411 Mr. Wright - Wait, a question.
3412
3413 Ms. Harris - The other house at 1440, there is a house on that
3414 property, right? Right next to Ms. Cousins' property.
3415
3416 Mr. Blankinship - Not 1440. There is at 14—there. 1427?
3417
3418 Mr. Baka - 1427? 1421.
3419
3420 Ms. Harris - Okay. I thought you said that the heating and air
3421 conditioning company purchased two parcels of land. What was the other parcel
3422 that they purchased?
3423
3424 Mr. Butler - The way I understand it—hopefully this is factual.
3425

3426 Mr. Blankinship - Wait a minute, wait a minute. Perhaps we should
3427 have the person who made that allegation come back.
3428
3429 Mr. Butler - Right. Perhaps you should ask someone else.
3430
3431 Mr. Blankinship - I don't mind guesses, but not wild guesses.
3432
3433 Ms. Cousins - I'm the one that's there all the time. I don't work, so
3434 I'm just there. His property is across the street from mine. Mr. Butler's is across
3435 the street from mine.
3436
3437 Mr. Blankinship - What was the question, Ms. Harris?
3438
3439 Ms. Harris - Okay. You said two parcels were purchased. One has
3440 a house on it?
3441
3442 Ms. Cousins - Yes. One has a house on it. It's right beside
3443 Mr. Butler.
3444
3445 Ms. Harris - Can you identify that one?
3446
3447 Male - 1421.
3448
3449 Ms. Cousins - 1421.
3450
3451 Ms. Harris - So, Mr. Butler allows that person to come—to use this
3452 access road.
3453
3454 Ms. Cousins - Because that house has been there for fifty-four
3455 years.
3456
3457 Mr. Baka - Do they share in the costs with you currently?
3458
3459 Ms. Cousins - Nobody's lived there for fifteen years.
3460
3461 Mr. Wright - Is that house empty, vacant?
3462
3463 Ms. Cousins - Yes sir. It's been empty for—it's been owned by
3464 Mr. Crouch until he passed away four or five years ago. And then it just sat. And
3465 then finally somebody offered them a price for it, so they sold it. But it's been
3466 empty, like Ms. McDonough said, for fifteen years. It's been empty. Nobody's
3467 been in it.
3468
3469 Mr. Wright - Were you there when it was occupied?
3470
3471 Ms. McDonough - [Speaking off microphone.] I was.

3472

3473 Ms. Cousins - No. Ms. McDonough was.

3474

3475 Mr. Wright - I'm just trying to get this clear.

3476

3477 Ms. Harris - I'd like to know, too, because to me if that person had
3478 access to the property on the same road—

3479

3480 Ms. Cousins - But that person will have access to the road. We will
3481 allow the person who buys that house access to the road. What we're talking
3482 about is the other parcel that he wants to build on.

3483

3484 Ms. McDonough - [Speaking off microphone.] New construction.

3485

3486 Ms. Cousins - New construction.

3487

3488 Mr. Wright - And you will not grant him permission to use it.

3489

3490 Ms. Cousins - No.

3491

3492 Ms. Harris - At 1420 is what you're saying you're not going—

3493

3494 Ms. Cousins - Yes.

3495

3496 Ms. Harris - Okay. But is that directly across the street? Is that
3497 directly adjacent, too?

3498

3499 Ms. Cousins - Yes.

3500

3501 Ms. Harris - I just don't understand.

3502

3503 Mr. Baka - Why would you allow—yes.

3504

3505 Ms. Harris - If they're adjacent lots and Crystal Spring Lane is
3506 directly between the two, how can you tell someone you can come down this
3507 road, you can't go to the right, you have to go to the left.

3508

3509 Mr. Wright - Because they own it.

3510

3511 Ms. McDonough - Because it's already been there. There has been
3512 traffic going to and from that home. Even in the vacancy the property owners
3513 have continued to come down there and maintain it. What we're opposing is
3514 additional use of the land and a variance that will then—the next thing you know,
3515 all of the land of Varina will be asking for variances so that more homes—we're
3516 opposing new construction is what we're opposing.

3517

3518 Ms. Harris - I understand, Ms. McDonough. But that street is
3519 directly in front of the parcel that has the house on it that you allow. In other
3520 words, you're saying that this new piece of land, should they build a house on it,
3521 they can't use the street that's directly in front of it.
3522

3523 Mr. Wright - That's what she says.
3524

3525 Ms. McDonough - I own part of it, so that's what I'm saying.
3526

3527 Ms. Cousins - That's what I'm saying.
3528

3529 Ms. Harris - All right.
3530

3531 Mr. Wright - Ms. Harris, if they own the road, they have to grant
3532 these people an easement to use it. And if they don't want to grant them an
3533 easement, they don't have a legal right to access the property.
3534

3535 Mr. Bell - I have a question, Mr. Butler. Mr. Butler, Crystal Lane,
3536 you own one-half side of the road all the way to Osborne Turnpike, right?
3537

3538 Mr. Butler - All the way up to Osborne, yes.
3539

3540 Mr. Bell - All right. Where your lot adjoins 1421 there's a white
3541 line that goes across the front. Is that part of Crystal Lane or is that a property
3542 line between 1420 and 1421?
3543

3544 Ms. Cousins - It's a property line.
3545

3546 Mr. Bell - That's a property line.
3547

3548 Ms. Harris - Oh, okay. It's not a street.
3549

3550 Mr. Bell - It's not a street.
3551

3552 Ms. Cousins - Their driveway starts at the end of Crystal Spring
3553 Lane.
3554

3555 Mr. Bell - And it's my understanding that the owner now owns
3556 1420 and 1421?
3557

3558 Ms. Cousins - But they have a contract on 1420—1421.
3559

3560 Mr. Bell - Right, okay. If they should get it, that would be theirs,
3561 right?
3562

3563 Ms. Cousins - Right.

3564
3565 Mr. Bell - So anyone who lives in 1421 can go to 1421 using
3566 your road.
3567
3568 Ms. Cousins - Right.
3569
3570 Mr. Butler - I would think so.
3571
3572 Mr. Bell - Okay. What's to stop them, if they own both pieces of
3573 property and Crystal Spring Lane ends, taking and putting a driveway over to the
3574 other piece of property?
3575
3576 Ms. Cousins - But they won't own the other parcel. The same people
3577 that bought from Baker—Baker Heating and Air Conditioning bought both
3578 parcels. Okay? They have got a contract on 1421. They're selling that one. So
3579 they wouldn't own 1421 anymore.
3580
3581 Mr. Baka - Someone else would.
3582
3583 Ms. Cousins - All they would own is 1420. So there's no way to get
3584 to that unless it's down our road, and we don't give them permission.
3585
3586 Mr. Bell - Well who owns 1421?
3587
3588 Ms. Cousins - Somebody has a contract on the house right now.
3589
3590 Mr. Butler - Home Realty owns it now.
3591
3592 Mr. Bell - Okay. Yes. Could they, then, though, give an
3593 easement?
3594
3595 Ms. Cousins - No.
3596
3597 Mr. Wright - If they don't own it. They can't grant an easement
3598 over something they don't own.
3599
3600 Ms. Cousins - And besides that, at the Crystal Spring Lane, the
3601 driveway goes right down to their house.
3602
3603 Mr. Wright - I understand.
3604
3605 Mr. Butler - Since the applicant didn't even show up for the
3606 hearing, possibly he's just totally given up on the idea. I don't know.
3607
3608 Mr. Baka - I have a collective summary question, if I could, for
3609 you all. There's no current written agreement for maintenance of the road. You

3610 all have worked together well as neighbors to take care of that for years. If you
3611 had a situation where a property owner approached you and both these owners
3612 approached you and said we're willing to pay our fair and equal share for
3613 maintenance of this road. If road maintenance is your primary issue, would that
3614 satisfy your concern at that time?

3615
3616 Ms. McDonough - [Speaking off microphone.] It's not our primary.

3617
3618 Mr. Butler - No.

3619
3620 Ms. Cousins - No.

3621
3622 Ms. McDonough - [Speaking off microphone.] It's the additional—
3623 building structures, additional traffic—just a quality of life of living in a rural area
3624 and additional homes in our area.

3625
3626 Ms. Cousins - I bought that house knowing—it was explained to me
3627 that no more houses could be built there because they had to get a variance.
3628 And if we denied the variance, they couldn't build in there.

3629
3630 Mr. Butler - I think there's a more practical answer to that, though.
3631 This road—the Chairman asked about the road. This is a small gravel road. This
3632 is not a road built for a lot of houses.

3633
3634 Ms. Cousins - One car.

3635
3636 Mr. Butler - Four houses is about the max it can possibly handle.

3637
3638 Mr. Baka - Oh, I understand. Typically most rural—not Henrico.
3639 Most rural counties in Virginia allow private roads for seven or nine or eleven
3640 homes. And I was just curious because there were three homeowners here
3641 current today. I was just interested to hear your comments. Thank you.

3642
3643 Mr. Wright - Thank you all very much for appearing.

3644
3645 Ms. Cousins - Thank you.

3646
3647 Mr. Wright - That concludes the case.

3648
3649 Mr. Blankinship - That concludes the public hearing portion.

3650
3651 Ms. Cousins - Are you still going to defer it or?

3652
3653 Mr. Blankinship - Haven't decided.

3654

3655 Mr. Wright - It's up to Mr. Nunnally. Do you want to defer the case
3656 and have the applicant come in, or do you want to deny it.

3657
3658 Mr. Nunnally - I want to deny it.

3659
3660 Mr. Wright - Motion by Mr. Nunnally to deny the case. Is there a
3661 second to that? I will second it. But that doesn't mean the vote. All in favor of
3662 denying the variance say aye.

3663
3664 Affirmative: Nunnally, Wright 2

3665
3666 Mr. Wright - There's just two of us? Okay. All opposed to denying
3667 the case, say aye.

3668
3669 Affirmative: Baka, Bell, Harris 3

3670
3671 Ms. Harris - I think since we heard the con, we need to hear the
3672 pro.

3673
3674 Mr. Bell - I think it's only fair to hear the other side.

3675
3676 Mr. Wright - Okay. Well do I hear a motion?

3677
3678 Mr. Baka - I'll make a motion. I have some concerns about this
3679 case, hearing what the opposition was. But I'll make a motion for deferral of this
3680 variance case until next month.

3681
3682 Mr. Wright - All right. The motion is made that we defer. Is there a
3683 second?

3684
3685 Ms. Harris - Second.

3686
3687 Mr. Wright - All in favor of deferring say aye. All opposed say no.
3688 The ayes have it; the motion passes.

3689
3690 After an advertised public hearing and on a motion by Mr. Baka, seconded by
3691 Ms. Harris, the Board **deferred** application **VAR2013-00004, BAKER HEATING**
3692 **& AIR CONDITIONING's** request for a variance from Section 24-9 of the County
3693 Code to build a one-family dwelling at 1420 Crystal Spring Ln (Parcel 804-679-
3694 1842) zoned One-Family Residential District (R-2A) (Varina). The public street
3695 frontage requirement is not met.

3696
3697
3698 Affirmative: Baka, Bell, Harris 3

3699 Negative: Nunnally, Wright 2

3700 Absent: 0

3701
3702
3703 Mr. Wright - It carries. It will be considered—you don't have to
3704 come back if you don't want to; it's in the record. We have all your testimony.
3705
3706 Ms. Cousins - I want to, but how would I know when it is?
3707
3708 Mr. Blankinship - We'll send you another notice.
3709
3710 Mr. Wright - You'll have another notice.
3711
3712 Ms. Cousins - I didn't get a note to start with. No sir.
3713
3714 Mr. Wright - I'll tell you when it is.
3715
3716 Mr. Blankinship - July the 25th.
3717
3718 Mr. Wright - July the 25th.
3719
3720 Ms. Cousins - July the 25th?
3721
3722 Mr. Wright - Nine o'clock. Yes ma'am. I want to declare a five-
3723 minute recess before we take up anything further.
3724
3725 [Five-minute recess.]
3726
3727 Mr. Wright - Do I hear a motion to approve the minutes?
3728
3729 Ms. Harris - I move that the minutes be approved as submitted.
3730
3731 Mr. Wright - Ms. Harris moves the minutes be approved. Is there a
3732 second?
3733
3734 Mr. Baka - I'll second the motion.
3735
3736 Mr. Wright - All right. Any discussion? Hearing none, all in favor
3737 say aye. All opposed say no. The ayes have it; the motion passes.
3738
3739 On a motion by Ms. Harris, seconded by Mr. Baka, the Board **approved as**
3740 **submitted** the **Minutes of the May 23, 2013**, Henrico County Board of Zoning
3741 Appeals meeting.
3742
3743
3744 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5
3745 Negative: 0
3746 Absent: 0

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Mr. Wright -

Mr. Blankinship, is there any further business?

Mr. Blankinship -

No sir.

Mr. Wright -

Do I hear a motion we adjourn?

Mr. Bell -

Move that we adjourn.

Mr. Wright -

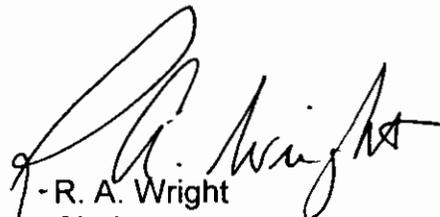
Is there a second?

Ms. Harris -

Second.

Mr. Wright - Second. Motion made and seconded. Any discussion? Hearing none, all in favor say aye. All opposed say no. The ayes have it; the motion passes.

We are adjourned to the next meeting. Thank you very much.



- R. A. Wright
Chairman



Benjamin Blankinship, AICP
Secretary