

1 **MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING APPEALS OF**
2 **HENRICO COUNTY, HELD IN THE COUNTY ADMINISTRATION BUILDING IN THE**
3 **GOVERNMENT CENTER AT PARHAM AND HUNGARY SPRING ROADS, ON**
4 **THURSDAY FEBRUARY 28, 2018 AT 9:00 A.M., NOTICE HAVING BEEN PUBLISHED**
5 **IN THE *RICHMOND TIMES-DISPATCH* FEBRUARY 11, 2019 AND FEBRUARY 19,**
6 **2019.**

7
8 **Members Present:** Helen E. Harris, Chairman
9 Gentry Bell, Vice Chairman
10 Walter L. Johnson, Jr.
11 Terone B. Green
12

13 **Members Absent:** James W. Reid
14

15 **Also Present:** Jean M. Moore, Assistant Director of Planning
16 Benjamin Blankinship, Secretary
17 Paul M. Gidley, County Planner
18 R. Miguel Madrigal, County Planner
19 Kuronda Powell, Account Clerk
20
21

22 **Ms. Harris -** Good Morning and welcome to the February 28, 2019 meeting
23 of the Board of Zoning Appeals. All who are able, please stand and pledge allegiance
24 with us to the flag of the United States.
25

26 ...THE PLEDGE OF ALLEGIANCE IS RECITED...
27

28 **Ms. Harris -** Mr. Blankinship, our Acting Secretary, will read the rules that
29 govern this meeting.
30

31 **Mr. Blankinship -** Good Morning, Madam Chair, members of the Board, ladies
32 and gentlemen. The rules for this meeting are as follows: Acting as secretary I'll
33 announce each case and then we will ask everyone who intends to speak to that case to
34 stand and be sworn in. Then a member of the Planning Department staff will give a brief
35 introduction to the case, and then the applicant will present their case. And, then anyone
36 else who wishes to speak will be given the opportunity. We ask for the supporters first,
37 and then the opponents. After everyone's had a chance to speak, the applicant and only
38 the applicant will have an opportunity for rebuttal. After the Board has heard all the
39 evidence and asked their questions, they'll close that public hearing and proceed to the
40 public hearing on the next case on the agenda. After all of the public hearings, they will
41 go back through the agenda and discuss each case. They will render all of their decisions
42 at the end of the meeting. So, if you wish to know their decision on a specific case, you
43 can either stay until the end of the meeting, or you can check the Department of Planning
44 website. We usually get it updated in about an hour after the end of the meeting, or you
45 can call the Planning Department this afternoon.
46

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

50
51 The Code of Virginia provides in order to rule in favor of an applicant or an appellant,
52 there must be three affirmative votes. We have one member absent today. So, if anyone
53 would like to defer your case until next month that could increase your chances of getting
54 three votes in favor. If anybody would like to defer until next month, now would be the
55 time.

56
57 Madam Chair, we do have one request to defer already, which is Variance 2019-00005,
58 Martin C. Collins requests a variance from Section 24-9 of the County Code to build a
59 one-family selling at 7990 Upper Western Run Lane. Mr. Collins, are you here? I don't
60 see Mr. Collins. I guess that the least is that we can do is carry it over to that portion of
61 the meeting.

62
63 Ok Madam Chairman, we do have some deferred cases from last month and they are
64 variances. So, I would suggest that we hear them in the variance portion of the meeting
65 after we have heard the conditional use permits. Does that meet with your approval?

66
67 Ms. Harris - Yes. Board members is that ok?

68
69 The Board - Yes.

70
71 Mr. Blankinship - Alright, CUP2019-00004, Turner Solar.

72
73 **CUP2019-00004** **TURNER SOLAR, LLC** requests a conditional use permit
74 pursuant to Sections 24-12(c) and 24-52(a) of the County Code to amend an existing use
75 permit at 8558 Strath Road (Parcel 814-680-9784) zoned Agricultural District (A-1)
76 (Varina).

77
78 Mr. Blankinship - Would everyone who intends to speak to this case please
79 stand and be sworn in. Raise your right hands, please. Do you swear the testimony you're
80 about to give is the truth, the whole truth, and nothing but the truth so help you God?

81
82 Mr. Madrigal - I do.

83
84 Mr. Blankinship - Mr. Madrigal.

85
86 Mr. Madrigal - Madam Chair, members of the Board, good morning. Before
87 you is a request to amend an existing use permit for a solar farm.

88
89 In December of 2017, the Board approved a CUP to allow the development of a 20-
90 megawatt solar farm on a 463-acre property. The approved development plans showed
91 one entrance on Strath Road. It also showed a large area of wetlands and ponds on the
92 site which complicated the property's development. As detailed plans emerged, it became

93 clear that the planned interior roads crossing the wetlands were having more impact than
94 desirable. The project engineers determined that it would be better to enter the property
95 from two points of access instead of one - one access point on Strath Road and the other
96 on Varina Road. Two entrances would allow construction and operation of the site with
97 fewer crossings of the wetlands, resulting in less environmental impact. Because the
98 previously approved plans showed just one entrance, it is necessary to revise the
99 approved CUP to allow the second entrance on Varina Road.

100
101 The property is zoned A-1 and is designated Rural Residential and Environmental
102 Protection Area on the 2026 future land use map. As part of the formal review process,
103 the project has been determined to be substantially in accord with the Comprehensive
104 Plan and the Board of Supervisors has agreed with that determination. Also, this Board
105 has already approved the overall use of the site and staff has found the proposed
106 entrance on Varina Road to be compatible with the zoning ordinance. Furthermore,
107 preservation of additional wetlands would make the revised project more compatible with
108 the comprehensive plan, because it would enhance the preservation of environmental
109 features within the Environmental Protection area on the property. The overall impact of
110 the project would not be affected by this proposed change; however, an entrance on
111 Varina Road would increase the impact on residents along the western side of the
112 property, while reducing the impact on residents along the eastern side of the site. With
113 this in mind, the applicant has provided the following information on traffic patterns: The
114 Department of Public Works has no objections to this request, provided that there is
115 adequate sight distance entering onto public roads. The applicant will be required to show
116 the sight distance information on the construction plan when it is routed for review. The
117 necessary intersection sight distance is 495 feet based on the speed limit and width of
118 the roadway.

119
120 In conclusion, the overall impact of this amendment will be to reduce the environmental
121 impact on the site, because there will be less disturbance of wetlands. There will be no
122 change to the overall impact on nearby property although, there will be some reduction
123 of traffic on Strath Road and some increase in traffic on Varina Road, but the overall effect
124 will be to spread the impacts across a larger area. Based on these facts, staff
125 recommends approval to amend the CUP, subject to conditions. And, that concludes my
126 presentation. This was Ben's case. So, I'm sure we'll both try to answer questions.

127
128 Ms. Harris - Mr. Madrigal, could you indicate on the map just where the
129 points of exit will be on each road, Strath and Varina?

130
131 Mr. Madrigal - Sure. I believe this is the site entrance here at the top on
132 Varina ...

133
134 Mr. Blankinship - That's the new one.

135
136 Mr. Madrigal - That's the new one that's proposed, and then this is new site
137 entrance over here that was proposed originally on Strath Road.
138

139 Mr. Blankinship - The one that's previously approved.
140
141 Ms. Harris - Ok. Any questions for Mr. Madrigal? Thank you so very
142 much.
143
144 Mr. Madrigal - Thank you very much.
145
146 Ms. Harris - We'd like the applicant to come forward and give us your
147 reason for this request.
148
149 Applicant - Yes, good morning. My name is Haley Larabee. I'm a
150 Development Coordinator with Cypress Creek Renewables. We are now the developer
151 of the solar project.
152
153 Ms. Harris - Excuse me, would you spell you last name, please?
154
155 Applicant - Yes, Ma'am. L-A-R-A-B-E-E and Haley is spelled
156 H-A-L-E-Y.
157
158 Mr. Blankinship - And, the information you just passed out a few moments ago
159 is from today?
160
161 Ms. Larabee - Yes. I'm here with Cypress Creek Renewables. We are here
162 today to request an additional site access on Varina Road. The original site access was
163 approved, I believe, on Strath Road. ... Wait one second, I'm going to pull this up ... We
164 are here to ask for additional site access on the project. Just to give a little overview of
165 the Solar Farm, it is located along Strath and Varina Road, west of Interstate 295.
166
167 The project is going to be a 20-megawatt project. And, we are expecting about 200-acres
168 of solar panels. The max extent plan from Timmons that was submitted by Virginia Solar
169 called out about 253 with the lessened impact that we now have, it will be up to about
170 200. Again, the project was originally developed by Virginia Solar. Cypress Creek
171 acquired this project in May of 2018 and we've been working on it since.
172
173 The conditional use was originally approved with eleven conditions by the Board of Zoning
174 Appeals in December of 2017.
175
176 This project, to give some scale, can power about 3,400 homes, and will be the equivalent
177 of taking 7,200 vehicles off of the road. Just to zoom out a little bit. This is the property
178 location ... this is the property line here that's shown south of Varina, west of Interstate
179 295. Again, the site layout, this is by Cypress Creek Renewables internally. This
180 gentleman here did point out the original site access is there on the eastern side on Strath
181 Road. The new proposed site access would be on the northwestern corner there along
182 Varina Road. And, the reason being is that we would do less impact to wetlands and it
183 would make it easier for our operations and maintenance and construction teams to be
184 able to get the equipment on the property without the impact to the wetlands. I circled

85 there where the new site access will be. It will be back about 100-ft. from the property
186 line. There will be existing vegetation kept there. We will also uphold the existing
187 condition that the screening needs to be, I believe, a double row of evergreens staggered.
188 Whatever that standard is we are willing to continue to uphold. It will be a gravel driveway
189 and it would just be used for construction and maintenance purposes.
190

191 I did provide a transportation and traffic memo to you all. It calls out the different types of
192 vehicles, the weights of the vehicles that would be used and the types of equipment that
193 would be brought to the project. There would be anything from bulldozers to pile drivers
194 to just regular SUVs or pick-up trucks, flatbed cargo trucks bringing in solar modules and
195 the wrapping. Again, all of those things are listed in the memo. Also, feel free to ask me
196 if you have any questions on that.
197

198 The traffic is expected to rise during the construction period, which is expected to take
199 about six to nine months. Receiving cars at both those accesses, we do hope we will kind
200 of lessen the impact on ... while we do acknowledge it will increase impact on another
201 road. Both of them, again, will be used to receive cars and larger trucks that have the
202 equipment.
203

204 When it comes to the operation and maintenance of the Solar Farm, once it is complete,
205 it will only require one to two visits a month by a pick-up sized vehicle. They will be
206 checking on equipment like inverters, checking on solar modules, making sure that the
207 maintenance of the landscaping is up to par, and then of course landscaping will also be
208 accessing that site, and that's included in the one to two site visits a month.
209

210 I'd be happy to answer any questions that you guys may have.
211

212 Ms. Harris - Is the site active now?
213

214 Ms. Larabee - It is not. We are still under the actual Permit by Rule process
215 with Virginia DEQ, and we are still working on the final engineering plan. So, it has not
216 started construction yet and we would have to still get building permits and such, as well.
217

218 Ms. Harris - Ok. When do you anticipate it will be active?
219

220 Ms. Larabee - I believe, we anticipate starting in the summer of 2020 and we
221 expect the project to be placed in service, probably at the end of March 2021.
222

223 Ms. Harris - Ok. Other questions from Board members?
224

225 Mr. Johnson - Oh, yes. The buffer there from the solar panels ...
226

227 Ms. Larabee - Yeah ...
228

229 Mr. Johnson - Will you be able to see them from the roadway?
230

231 Ms. Larabee - My understanding is no because that area is forested, and so
232 I believe that we intend to try and keep some of the existing vegetation, but again, we are
233 willing to uphold whatever the existing condition was on the approved condition, which I
234 believe was ... If you don't mind, I'll read it from the condition here?
235

236 Mr. Johnson - Go ahead.
237

238 Ms. Larabee - "You should provide a landscaping plan that provides
239 screening at least equivalent to double staggered rows of Meyers Spruce or Eastern
240 Cedar planted on 15-foot centers along Varina Road." And that's near the cemetery. So,
241 I believe there are specific requirements for that area. "And in any other location where a
242 100-foot setback does not include undisturbed wooded buffer ... at least 30-foot width.
243 So, I believe we plan on keeping at least that 30-foot buffer of existing vegetation. If, for
244 some reason, that is not upheld then we will certainly uphold whatever the existing
245 conditions are or whatever you may choose to impose today.
246

247 Ms. Harris - Other questions? Mr. Johnson?
248

249 Mr. Johnson - So, when the solar panels are installed, is there a danger or
250 anything?
251

252 Ms. Larabee - No, sir. Installation is actually pretty simple. These are steel
253 I-Beams that will be pile-driven just into straight dirt. There will be no concrete poured.
254 There will be nothing like that. The most audible noise from this entire process will be
255 from the pile-driver because it will be hitting the steel beams, but with the restrictions that
256 you guys have put in place, we will only be active in doing that from, I believe, from 8:00
257 a.m. to 6:00 p.m. any day. And, we can only work Monday through Saturday per the
258 conditions on the current conditional use permit.
259

260 Ms. Harris - Ok, Ms. Larabee.
261

262 Ms. Larabee - Yes.
263

264 Ms. Harris - We were told that there would be two ways to enter the site,
265 Strath and Varina?
266

267 Ms. Larabee - Yes, Ma'am.
268

269 Ms. Harris - How will you determine which trucks will enter and exit?
270

271 Ms. Larabee - So, virtually I cannot quite speak to that because I work on our
272 development team, so I just kind of help shepherd through the zoning permitting side of
273 things. The construction engineers would be the ones to determine which trucks are
274 going towards accesses. My understanding is that ... I mean there are panels in both
275 sections, so I would assume that the equipment required to install on both of those
276 sections would be required to go. So, my assumption would be that all equipment that is

277 used to install this equipment would be used on both entrances ... or would be used to
278 access both entrances, if that makes sense.

279
280 Ms. Harris - Ok, in your presentation you said this will ... this installation
281 will take so many cars off of the road. Is that what you said?

282
283 Ms. Larabee - Yeah, by that I mean the CO₂ offset of cars being on the road.
284 So, if you took 7,200 cars off the road and you took the combined CO₂ that they would
285 have put out into the atmosphere, if they were driving, then that's offset by this solar farm.

286
287 Ms. Harris - C-O-T, I mean C ...

288
289 Mr. Johnson - CO₂.

290
291 Ms. Larabee - CO₂, carbon dioxide.

292
293 Ms. Harris - Oh. Thank you.

294
295 Ms. Larabee - CO₂, one of the greenhouse gases that will be reduced by
296 those cars not being on the road is equivalent to this project coming online.

297
298 Ms. Harris - Oh, that's great. Any other questions from Board members?

299
300 Mr. Blankinship - I just want to make sure we are ok with one thing. I haven't
301 had a chance to speak with Ms. Larabee about it. Condition #2 from the original use
302 permit ... it specified the maximum extent to where there would be any of the project
303 activities. I compared that to your new plan and the only conflict I saw was the laydown
304 area on the Varina Road site. So, I did amend that condition to specify that the laydown
305 area proposed along Varina Road will be relocated inside the max extent.

306
307 Ms. Larabee - Ok, I'm completely good with that. Thank you.

308
309 Ms. Harris - Ms. Larabee, are you familiar with those two roads, Varina
310 Road and Strath?

311
312 Ms. Larabee - I personally have not driven down either one.

313
314 Ms. Harris - Because I was wondering which one was more residential. I
315 know about the residential nature of Strath Road and the truck traffic that's already on
316 that.

317
318 Ms. Larabee - I believe that Strath Road has no residences, but I cannot
319 speak to that with a hundred percent certainty.

320
321 Ms. Harris - Thank you.

323 Ms. Larabee - You're welcome.
324
325 Ms. Harris - Any more questions? Thank you so very much.
326
327 Ms. Larabee - Absolutely. Thank you guys for having us.
328
329 Ms. Harris - Is there anyone else who wishes to speak for this applicant?
330 ... You are speaking in favor of?
331
332 Citizen - I'd actually would like to ask a few questions.
333
334 Ms. Harris - Ok. Please come forward and give us your name, please.
335 Were you sworn in?
336
337 Mr. Blankinship - No, he probably was not.
338
339 Ms. Harris - Ok, please come forward and state your name.
340
341 Mr. Blankinship - Good morning. Would you raise your right hands, please? Do
342 you swear the testimony you're about to give is the truth, the whole truth, and nothing but
343 the truth so help you God?
344
345 Citizen - Yes, sir. I do.
346
347 Mr. Blankinship - And, what's your name please?
348
349 Citizen - My name is Timothy Cumbo.
350
351 Ms. Harris - And, spell that.
352
353 Mr. Cumbo - C-U-M-B-O. I am one of the adjacent residents, property
354 owners of the project. I have a couple of questions about this map because it looks
355 different from what I've seen at some of the Town Hall meetings, especially the border up
356 in the top center. Looks like that crosses over on to my property ...
357
358 Ms. Harris - Ok, excuse me. Mr. Madrigal, could you ...
359
360 Mr. Cumbo - ... and I'm concerned about that.
361
362 Ms. Harris - ... show him how he can point to the area in which he is
363 speaking?
364
365 Mr. Blankinship - And while he is doing that ... What is your address, sir?
366
367 Mr. Cumbo - 2401 Turret Court, in Henrico.
368

369 Mr. Blankinship - Turret?
 370
 371 Mr. Cumbo - Yes, sir. T-U-R-R-E-T.
 372
 373 This area, right here ... because my property line, there's a creek ...which should be this
 374 that comes right here, and this is a pond. Part of the pond that is on my property. I came
 375 here this morning because I'm in favor of it, but now I have some concerns because this
 376 property line crosses over into a very good substantial part into my property, which I own
 377 about almost six-acres ... which should include this area, right here, to about here and
 378 part of this waterway.
 379
 380 My other concern and question is, I'm curious as to what this area is? Because, if this is
 381 the solar panels, this is not what was discussed at the Town Hall meetings that I had
 382 attended, that were held at the Varina Library in discussion in reference to the Solar Farm.
 383 I'm just curious and asking if this ... cause this is large pine trees, right here, in this whole
 384 region. There are some low areas in the land which had been discussed that it was gonna
 385 have as little impact on the environment, which was passed to attendees who attended
 386 that Town Hall. So, my concern is and my question is, what is this area where it looks to
 387 be in these areas ... I understand this is an area beyond my property, but this is right next
 388 to my property and it was discussed that there would be no cutting of trees ... of the taller
 389 trees that would impact that area by my property. And, if this has changed then I am not
 390 in favor of this project.
 391
 392 Mr. Blankinship - Those are the solar panels.
 393
 394 Mr. Cumbo - These?
 395
 396 Mr. Blankinship - The area you are pointing to ... I'm sorry, we switched
 397 screens. I believe that there are two ponds though. One that is your pond on your
 398 property is not really shown on this map. That area is grayed out because this is just a
 399 map of their property. In the ... yes is the aerial tight enough to show it? We could try at
 400 least.
 401
 402 Mr. Cumbo - Ok. ...because ...
 403
 404 Mr. Blankinship - See, there you can see your pond is not the pond that you
 405 were just indicating on the plan.
 406
 407 Mr. Cumbo - Right here, this is my property.
 408
 409 Mr. Blankinship - Right, and just to the southwest of that ... on their property is
 410 a 100-foot buffer where they will not be removing the trees. But, then beyond that 100-
 411 foot buffer, this project would require the removal of the trees.
 412
 413 Mr. Cumbo - So, they are going to cut these trees down?
 414

415 Mr. Blankinship - Beyond 100-feet. There's a 100-foot buffer being maintained
416 against your property. And, then beyond that 100-feet ...

417
418 Mr. Cumbo - That is not what was discussed at the Town Hall, because
419 there were low areas, like here, that we had been to towards the field ... and some lower
420 pines over in this area. That's what was, and I know me and a neighbor that is right here
421 had been and had talked about ... that's what we thought was going to be discussed.
422 Because we did not see the maps that talk about cutting the trees down 100-feet.

423
424 Mr. Blankinship - Miguel, can you bring up the original plan? I was not at the
425 Town Hall meeting that you are discussing, so I don't know what was shown there. But,
426 this is the plan that the Board approved I believe, in 2017. And, you see the max extents
427 is the dark blue sort of purplish area ... and that does come up right where it does on the
428 revised plan. There is no change from what the Board approved. Now, what was
429 discussed at the meeting with you, I do not know. That part of the approval is not being
430 changed by this morning's meeting. The only thing that's being changed this morning is
431 the entrance on Varina Road.

432
433 Mr. Cumbo - I can tell you, like I said, this is not what was discussed at the
434 Town Halls ... this close to my property.

435
436 Ms. Harris - So, Mr. Cumbo, you think a 100-foot buffer is not enough?

437
438 Mr. Cumbo - No, Ma'am. No, Ma'am, I do not.

439
440 Ms. Harris - Any questions of Mr. Cumbo?

441
442 Mr. Cumbo - Because this is gonna visually impact the property that I
443 purchased. I'm retired from the military and I ... We looked for weeks ... the whole area
444 appealed to our property when we bought it. And, when we went to the Town Hall
445 meetings it was not made clear that was going to be encroached upon to within a 100-
446 feet of that, and that disturbs me.

447
448 Mr. Bell - Mr. Secretary, was this approval we've done ... at the Board
449 ... the library or here?

450
451 Mr. Blankinship - This is the plan that the Board approved.

452
453 Mr. Bell - Right, so were you aware that the Board members approved
454 this?

455
456 Mr. Cumbo - No, sir. No, because I never received anything. The only time
457 any mail that I received was when I went to the Town Hall ... I went to the library to try to
458 be ... to stay informed about this. I never received any information about any meeting
459 here. Neither one of us, adjacent land owners.

460

461 Mr. Blankinship - Did you receive a notice for this morning's meeting?
462
463 Mr. Cumbo - Yes.
464
465 Ms. Harris - We don't use the same area?
466
467 Mr. Blankinship - Yes, Ma'am.
468
469 Ms. Harris - We do use the same mailing list each time. Are there other
470 residents near you who would be affected by this?
471
472 Mr. Cumbo - Yes, Ma'am.
473
474 Ms. Harris - How many? How many neighbors do you have that would be
475 affected by this?
476
477 Mr. Cumbo - There are neighbors right on these properties here, they're
478 probably, at least ... one, two, three, four, five, six others. And this neighbor here is Dan
479 McCoy, that has ... I know he has some livestock on this property.
480
481 Ms. Harris - So, they would be close to the 100-foot buffered area?
482
483 Mr. Cumbo - Well, that border ... looks like it borders on his property, right
484 here. Well, like I said, there's a very tall stand of pine trees. And through this whole
485 thing, we were told it was going to have very little impact to us, as far as the environment.
486 And now today, what I'm seeing is that all these trees are going to be cut down. That's a lot
487 of tall pine timber trees.
488
489 Ms. Harris - Ok, thanks. Mr. Johnson, did you have a question?
490
491 Mr. Johnson - Yes. That 100-feet behind your place and also the adjacent
492 properties ... those ... the trees there as a buffer ... they're probably be tall trees as well
493 ... Why would that conflict with your property?
494
495 Mr. Cumbo - I'm talking about the visual aspect of it. This is in my backyard.
496 That's a 100-foot buffer zone. It's not a very large buffer zone. When they discussed the
497 buffer zone, they talked about that 100-yard buffer zone would be in the low areas where
498 there were low pines, when we were at the library in Varina. That's what was discussed
499 to us when we were at that meeting. The 100-yard buffer would be in those low-lying
500 area pines that were maybe 40-foot tall trees that is set back further back from the
501 property that's not very visible from my property. This 100-foot is still visible from my
502 property.
503
504 Ms. Harris - Ok, I've got another question, this one from Mr. Green.
505

506 Mr. Green - Well I guess if he can't answer it, somebody else can. The
507 sense I'm getting is that when you went to the library to hear it, you were under the
508 impression that a lot of that would remain the same.

509
510 Mr. Cumbo - Yes, sir.

511
512 Mr. Green - Has that been an addition to the solar panels to bump up
513 against where he is talking about? Has that changed?

514
515 Mr. Blankinship - It is not changed from what the Board has approved in
516 December 2017. I was not at the meeting, the community meeting that he's describing
517 so I don't know what was said.

518
519 Mr. Cumbo - I wish that I had brought material from that meeting that
520 showed the layout of those pines. Because I was in favor of this and where it showed the
521 layout of the solar panels. Because it would mean there would be no other residential
522 building in the area. So, I was in favor of keeping it natural, but not when it's coming up
523 to pretty close to the edge, to within 100-feet of the edge of my property, that's concerning
524 because that's not what was shown on the map.

525
526 Mr. Green - So, is it your sense that they increased the solar panels?

527
528 Mr. Cumbo - That's what it looks like to me. Like I said, I wish that I had
529 been more prepared today because I was just coming to make sure that ... of what they
530 were going to do. This map is different from what I have at my house.

531
532 Ms. Harris - Mr. Cumbo, we will address that. Any more questions from
533 Board members? Ok, we heard you and we will address that with the applicant.

534
535 Mr. Cumbo - Thank you.

536
537 Ms. Harris - Are there any more persons who wish to speak against or for
538 this application? If not, Ms. Larabee, we need you to come back and address some of
539 these concerns.

540
541 Ms. Larabee - Would you like to ask questions or should I just address
542 those?

543
544 Ms. Harris - Address those please.

545
546 Ms. Larabee - Ok, great. So, yes, that is the maximum extent that was
547 approved by the Board of Supervisors. That is ... meaning that we need to find area
548 within this dark blue area that gives the minimal impact to the wetlands and any potential
549 archeological or any other type of ... excuse me ... resources that could potentially be on
550 the property. We've already submitted our Permit by Rule application to the Department
551 of Environmental Quality and have been getting feedback from them. The layout that we

52 have provided is, so far, the preferred layout to reduce the impact to the wetlands.
553 Unfortunately, I cannot speak to anything that may have been said at a Town Hall meeting
554 because that was held under Virginia Solar, and not Cypress Creek Renewables. So,
555 unfortunately, I cannot really uphold anything that may have been promised at the
556 community meeting. To that point, again, and we would absolutely uphold any conditions
557 that would be necessary for the landscaping. There's going to be a 100-foot setback which
558 I believe is shown on this plan and also on our plan. It will be only on the subject property.
559 There will be no solar panels elsewhere. Also, to that point, the solar panels will even be
560 set back farther than the edge of the setback, and the reason for that is we are leaving
561 some very, very tall trees within the setback ... and that would create shading if the panels
562 were too close to the edge of the setback. So, although our required setback is a 100-
563 feet, we're likely to be anywhere from another 10-20 feet beyond that at the start of our
564 panels ... to prevent any reduction in the production of the facility.

565
566 Ms. Harris - Ok. Will you swear by that?

567
568 Ms. Larabee - Yes, Ma'am.

569
570 Ms. Harris - Ok, any questions ... more questions of Ms. Larabee? Thank
571 you so very much. That concludes this case.

572
573 **[After the conclusion of the public hearings, the Board discussed the case and**
574 **made its decision. This portion of the transcript is included here for convenience**
575 **of reference.]**

576
577 Ms. Harris - Ok, let's look at the first case we must vote on. CUP-2019-
578 00004, what is the pleasure of the Board? This is the Turner Solar.

579
580 Mr. Johnson - Oh, 0-0-4?

581
582 Ms. Harris - Yes.

583
584 Mr. Johnson - Madam Chair, I move that we approve this with the conditions.
585 It is consistent with the Comprehensive Plan and also the Zoning Ordinance. And there
586 would also not be any detrimental impacts to the surrounding properties. I recommend
587 that we approve this site.

588
589 Ms. Harris - Is there a second to this motion?

590
591 Mr. Bell - Second.

592
593 Ms. Harris - Ok, moved and properly seconded that we approve this CUP,
594 Case four. In discussion, I think that we need to mention that even though the buffered
595 area is 100-feet ... according to testimony, 20-feet more within the subject area is allotted
596 as a buffer, so the complaint we had about not having enough footage ... with 100-feet,
597 we'll really have like 120-feet.

598
599 Mr. Blankinship - And I did double check ... we did send him a notice of the
600 December 2017 hearing. I'm sorry that he didn't receive it, but we did send it.

601
602 Ms. Harris - Ok, any other discussion?

603
604 Mr. Johnson - And the other reason was ... when I was out there looking at
605 it, it seemed like a buffer was ideal for that area and plus you won't be able to see too
606 much from that site. I rode on both those roads just to see myself and just to make sure
607 that ... especially that area, that everything should be ok.

608
609 Ms. Harris - Ok, anymore discussion? Ok, are we prepared to vote?
610 All in favor of approving this CUP case four, say aye. All opposed say no. Ok, the ayes
611 have it.

612
613 After an advertised public hearing and on a motion by Mr. Johnson, seconded by Mr. Bell,
614 the Board **approved** application **CUP2019-00004, TURNER SOLAR's** request for a
615 conditional use permit pursuant to Sections 24-12(c) and 24-52(a) of the County Code to
616 amend an existing use permit at 8558 Strath Road (Parcel 814-680-9784) zoned
617 Agricultural District (A-1) (Varina). The Board approved the application subject to the
618 following conditions:

619
620 1. Only the improvements shown on the conceptual plan titled "Turner I Solar, LLC" by
621 Cypress Creek Renewables revised 1/14/2019 and filed with the application shall be
622 constructed pursuant to this approval. Any additional improvements shall comply with the
623 applicable regulations of the County Code. Any substantial changes or additions to the
624 design or location of the improvements shall require a new conditional use permit.

625
626 2. No improvements other than supplemental landscaping and the two entrance roads
627 shall be located outside the area shown on the "Max Extents" exhibit by Timmons Group
628 dated 12/18/2017 and included in the file. The "laydown area" proposed along Varina
629 Road will be relocated inside the "max extents."

630
631 3. Before beginning any clearing, grading, or other land disturbing activity, the applicant
632 shall obtain approval of construction plans, including erosion and sedimentation plans as
633 required by the Department of Public Works. This approval is subject to all conditions that
634 may be placed on the construction plans by the Department of Public Works and the
635 Department of Public Utilities.

636
637 4. Before beginning any clearing, grading, or other land disturbing activity, the applicant
638 shall obtain approval of a detailed landscaping and lighting plan from the Planning
639 Department. The plan shall provide screening at least equivalent to double staggered
640 rows of Meyers Spruce or Eastern Cedar planted on 15-foot centers along Varina Road
641 near Fort Harrison National Cemetery, and in any other location where the 100-foot
642 setback does not include an undisturbed wooded buffer at least 30 feet in width. Approved
643 landscaping shall be installed prior to activation of the facility. All landscaping shall be

644 maintained in a healthy condition at all times. Dead plant materials shall be removed
645 within a reasonable time and replaced during the normal planting season.

646
647 5. Any activity that results in sound clearly audible at the property lines shall be limited to
648 Monday through Saturday, 8:00 am to 6:00 pm. There shall be no activity that results in
649 sound clearly audible at the property lines on Sundays or national holidays.

650
651 6. The maximum height of any structures other than the point of interconnection shall be
652 15 feet.

653
654 7. All exterior lighting shall be shielded to direct light away from adjacent property and
655 streets.

656
657 8. All electrical wiring shall be underground except for the interconnection point to the
658 local utility power grid.

659
660 9. Prior to the issuance of permits for installation of equipment, the applicant shall obtain
661 approval of a plan for decommissioning the facility. The solar energy system shall be
662 decommissioned and removed within 12 months after the facility ceases electricity
663 generation for a continuous 12-month period. Decommissioning shall include removal of
664 solar collectors, cabling, electrical components, any bases or footers, and all other
665 associated items. The plan shall include a financial guaranty of a type and amount
666 approved by the Director of Planning to insure the decommissioning will be completed at
667 the applicant's cost.

668
669 10. During the construction and operation of the facility, the applicant shall cooperate with
670 the Virginia Department of Historic Resources and the Henrico County Department of
671 Recreation and Parks to identify, preserve, and interpret historical and cultural resources
672 on the site. This shall include, at a minimum, the completion of a Phase I Cultural
673 Resource Review before the issuance of permits for installation of equipment.

674
675 11. Before the facility is energized, it shall be secured with a fence at least 6 feet in height.

676
677
678 Affirmative: Bell, Green, Harris, Johnson 4
679 Negative: 0
680 Absent: Reid 1

681
682
683 Ms. Harris - Mr. Blankinship, please call the next case.

684
685
686 **CUP2019-00005** **CHRIS AND ZOE KAPOGIANNIS** request a conditional use
687 permit pursuant to Section 24-12(g) of the County Code to operate a family day home
688 with employees at 1301 Cherrystone Avenue (BROOKLAND GARDENS ADDITIONS)
689 (Parcel 774-755-1740) zoned One-Family Residence District (R-3) (Brookland).

690
691 Mr. Blankinship - Would everyone who intends to speak to this case please
692 stand and be sworn in. Do you swear the testimony you're about to give is the truth, the
693 whole truth, and nothing but the truth so help you God?

694
695 Mr. Gidley - I do.

696
697 Mr. Blankinship - Mr. Gidley.

698
699 Mr. Gidley - Thank you, Mr. Secretary, Madam Chair, members of the
700 Board.

701
702 The subject property is located in the Brookland Gardens subdivision. It contains a two-
703 story home. The lot is 60-foot wide and 300-foot deep and, as you can see here, there
704 are woods in the rear of the property. And, there is one immediate neighbor who's on the
705 western side. The applicant is licensed to have up to 12 children and operate between
706 the hours of 7:00 a.m. and 6:00 p.m. They would like to have two outside employees, one
707 who is the Mother-in-Law who lives in the house immediately to the east, right here.
708 Outside employees do require the approval of a conditional use permit.

709
710 You can see the residence, right here, and then over to the side here is the side street,
711 which is unimproved other than some gravel that the applicant has put in ... and that's
712 used to facilitate parking for the daycare.

713
714 In evaluating this request with regard to the Comprehensive Plan and the zoning
715 designation, it is zoned R-3 Residential and the Comprehensive Plan designation is
716 Suburban Residential 2. A family day home is allowed in this district with the approval of
717 a conditional use permit.

718
719 With regard to substantial detrimental impact, the only immediate neighbor is on the west
720 side, as I showed earlier. The drop-off will be here in the right-of-way, which is on the east
721 side, adjacent to the Mother-in-Law's home. So, staff is not anticipating any substantial
722 detrimental impact to other neighboring properties. Because the daycare has been
723 operating as well, the only real change is going to be the two outside employees coming
724 in and one of which, as I said, is the Mother-in-Law who would just walk across the street
725 basically.

726
727 In conclusion, the Kapogiannis family day home is consistent with the zoning designation.
728 Staff does not anticipate any substantial detriment to nearby neighbors. And the
729 Kapogiannis family day care can benefit the neighborhood by providing services in that
730 neighborhood. As a result, staff recommends approval of this request subject to the
731 conditions in your staff report. If you have any questions, I would be happy to answer
732 them.

733
734 Ms. Harris - Thank you, Mr. Gidley. Any questions from Board members?

735

736 Mr. Bell - One question. Who resides in the house now?
737
738 Mr. Gidley - The applicant resides in the house now, is my understanding.
739 At least a family member ...
740
741 Ms. Harris - Thank you, Mr. Gidley. Would the applicant please come
742 forth?
743
744 Applicant - Good morning Board members. I'm Chris, Zoe's husband and
745 yes we do reside in the home here. We've been residing there ever since we moved
746 down from New York. And, it is true that we had been operating the facility ever since we
747 came down. She operated with me when we got married up in New York. Also, my mom
748 and my sister have been operating daycares for 40 years.
749
750 Just to clarify a couple of points. The road was put in, we recently purchased the home
751 next door, to the west, I believe is the way you termed it. The right-of-way and gravel on
752 all the road was put in by the prior lady that owned the home. We haven't touched
753 anything. It's still the way it is, other than we just put in more gravel to stop any mud or
754 any erosion and all that closer to our property. So, nothing has really been changed other
755 than we put in some nice flowers. I love to garden ... make it attractive to the road and
756 to the other neighbors there. And also in addition to Zoe's mom, we have been using
757 some help from the immediate neighborhood. So, they've always walked in fact Adrienne
758 was right here down Gillis, and another young lady right down the street from Gillis
759 Terrace. So, it's basically people that just walk right to the daycare. There is absolutely
760 no impact at all, even an extra car coming. There is nobody currently driving to the
761 property. And we are not requesting anything in addition, just what we've been doing.
762 She carries normally 9-11-12 children. It's a just a normal family daycare home.
763
764 Ms. Harris - Mr. Kapogiannis, we do have a few questions for you.
765
766 Mr. Kapogiannis - Sure.
767
768 Ms. Harris - Will the play area be enclosed? I noticed in driving by you
769 have quite a bit of play equipment in the rear yard.
770
771 Mr. Kapogiannis - Yes, Ma'am. If you would snap back to the previous picture,
772 that's ok ... Right now, because I removed the gate area ... we're just improving it. The
773 daycare facility has only allowed Zoe to operate with the deck ... the existing deck that I
774 have here and we have the patio there. So, it's basically just a patio and maybe the swing
775 set. I need to get the gate back on there ... and then that's also allowed. But those are
776 items that are assessed, the Department of Social Services govern. So we're not making
777 any further changes other than ... I've got to put the gate back up.
778
779 Ms. Harris - You've been at this location for 13 years?
780

781 Mr. Kapogiannis - Yes, Ma'am. We moved only moved down here in six ... Zoe's
782 mom lives in the neighborhood, too. The whole family ... a whole bunch of them ... it is
783 like a big Greek wedding family.
784
785 Ms. Harris - What is this equipment that we are seeing here on the screen,
786 to the right of the screen?
787
788 Mr. Kapogiannis - I'm sorry?
789
790 Ms. Harris - What are these...?
791
792 Mr. Kapogiannis - Oh, that's a recently constructed home. People in the
793 business framed ... and they built their own home there.
794
795 Ms. Harris - I mean within your yard.
796
797 Mr. Kapogiannis - I'm sorry?
798
799 Ms. Harris - Within your yard ... Your side yard. There seems to be quite
800 a few pieces of equipment. ...you can go back to the former slide.
801
802 Mr. Kapogiannis - Oh, just a pickup truck. Oh, the patio play area ... those are
803 little children's play area, for the daycare.
804
805 Ms. Harris - Ok, thank you. Questions?
806
807 Mr. Bell - Just one. Have you read and understand and agree with the
808 conditions of approval?
809
810 Mr. Kapogiannis - I believe it just said that we are in conformance with the 6:00
811 a.m. to 6:00 p.m. She doesn't operate that early anyway. And we always close at 6:00
812 p.m. normally. There is absolutely no afterhours operation, never has been. And I believe
813 it said no more than two outside employees driving in ... and that's never been the case
814 either. It's not a problem.
815
816 Ms. Bell - So, you agree with the conditions?
817
818 Mr. Kapogiannis - Yes, sir. Of course.
819
820 Mr. Bell - Thank you.
821
822 Mr. Kapogiannis - Thank you.
823
824 Ms. Harris - Other questions. Thank you for coming in, sir.
825
826 Mr. Kapogiannis - Thank you.

27
828 Ms. Harris - Is there anyone here who's in favor of this petition would like
829 to speak? Anyone opposed to this request who would like to speak? If not, that concludes
830 this case.

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

835
836 Ms. Harris - Ok, the next case is five. CUP, case five. What is the
837 pleasure of the Board? This was Chris and Zoe Kapo ...

838
839 Mr. Blankinship - Ka-po-gian-nis, was my guess. He did not pronounce his last
840 name.

841
842 Ms. Harris - He did not pronounce his last name. What is the pleasure of
843 the Board? Here, they want a conditional use permit to operate a family daycare home
844 on Cherrystone.

845
846 Ms. Harris - Brookland District.

847
848 Mr. Blankinship - This was the one with the right-of-way running down the ...

349
850 Mr. Bell - Not a problem. I recommend the approval of CUP2019-00005
851 because the request will not result in any substantial detrimental impact on nearby
852 property.

853
854 Ms. Harris - Is there a second?

855
856 Mr. Johnson - I second.

857
858 Ms. Harris - The move is properly seconded that we will approve CUP,
859 case number five. Any discussion on this particular ... any additional discussion or reason
860 for this approval?

861
862 Ok, all in favor of approving this conditional use permit five, say aye. Those who oppose,
863 say no. Ayes have it and so ordered.

864
865
866 After an advertised public hearing and on a motion by Mr. Bell, seconded by Mr. Johnson,
867 the Board **approved** application **CUP2019-00005, CHRIS AND ZOE KAPOGIANNIS**
868 request for a conditional use permit pursuant to Section 24-12(g) of the County Code to
869 operate a family day home with employees at 1301 Cherrystone Avenue (BROOKLAND
870 GARDENS ADDITIONS) (Parcel 774-755-1740) zoned One-Family Residence District
871 (R-3) (Brookland). The Board approved the application subject to the following
872 conditions:

- 873
874 1. This conditional use permit applies only to the operation of a family day home with two
875 employees from outside the home. All other applicable regulations of the County Code
876 shall remain in force.
877
878 2. No more than 12 children, exclusive of the provider's own children, may receive
879 daycare services at any one time.
880
881 3. The hours of operation shall be limited to between 6:00 am to 6:00 pm.
882
883 4. Vehicles associated with the family day home, including vehicles used by the operator
884 and employees, shall not be parked within the Cherrystone Avenue right-of-way.
885

886
887 Affirmative: Bell, Green, Harris, Johnson 4
888 Negative: 0
889 Absent: Reid 1
890

891
892 **CUP2019-00006 BFI WASTE SYSTEMS OF VIRGINIA, LLC** requests a
893 conditional use permit pursuant to Section 24-116(d)(3) of the County Code to deposit
894 soil as fill material at 1851 Charles City Road (Parcel 808-712-0741) zoned One-Family
895 Residence District (R-4), Business District (B-3), Light Industrial District (M-1) and
896 General Industrial District (M-2) (Varina).
897

898 Mr. Blankinship - Would everyone who intends to speak to this case please
899 stand and be sworn in. Raise your right hands, please. Do you swear the testimony you're
900 about to give is the truth, the whole truth, and nothing but the truth so help you God? Mr.
901 Madrigal.
902

903 Mr. Madrigal - Mr. Secretary, Madam Chair and members of the Board,
904 before you is a request to allow the deposit of soil as a fill material at an existing landfill.
905

906 BFI Waste Systems of VA owns nine parcels totaling over 500 acres between Charles
907 City Road and the CSX railroad. Most of this property was mined for sand and gravel in
908 the 1960's. After the mining was completed, four separate landfills were operated in the
909 area which included one by BFI. Over the years BFI has acquired the other landfills as
910 well as several surrounding parcels. In January of 2012, the BZA approved a Conditional
911 Use Permit consolidate several areas previously approved for landfilling into one permit,
912 and this is known as the Old Dominion Sanitary Landfill – that CUP remains in effect
913 today.
914

915 The request before you today would be a separate Conditional Use Permit within the
916 boundaries of the landfill site so that there would be two independent permits on one
917 property. BFI is currently constructing a new landfill cell. As part of that project, soil must
918 be excavated to reach down to the base elevation where an impervious cell liner will be

19 placed. That soil will later be used for daily cover of the landfill. In order to avoid
920 transporting the soil to another site and then back again, BFI would like to stockpile the
921 soil on a portion of their property that is not in use. This will allow them to store and move
922 soil internally without having to transport it on and off-site using county roads. For years,
923 BFI has excavated and stockpiled soil on areas internal to their property. The current
924 location of stockpile is near the center of the site. As the property fills-up and approaches
925 build-out, they are running out of room to stockpile soil.
926

927 The proposed location, subject to this Conditional Use Permit, is currently a grassy field
928 near the northwest corner of their property. Excavated soil will be moved to this location
929 from the new landfill cell and will gradually be used as daily cover during normal
930 operations of the landfill. The maximum height of the proposed stockpile would be
931 approximately 78 feet above their existing elevation, and 80 feet lower than the final
932 elevation approved for the landfill. The proposed stockpile location will be screened from
933 view by existing landscaping berms, built in the early phases of the landfill operation. As
934 part of this project, BFI will increase the width and height of the berms and plant additional
935 landscaping on them. When finished, the result will be a two-tier berm 16 feet in height
936 and over 100 feet in depth. Additionally, this project will include filling-in a 150-foot void
937 where the original berm was not constructed due to the presence of an old driveway.
938 Finally, because this project is located between the northern property boundary and the
939 recently approved material recovery facility, this proposal will provide additional buffering
940 and screening from that facility.

941 Most of the landfill is zoned M-2. The subject site is a combination of four zoning
942 designations consisting of R-4, B-3, M-1, and M-2. The property is designated Planned
943 Industry on the 2026 Future Land Use map. The landfill has been a long-established use
944 and this soil stockpile is directly related to its operations. As such, the proposed use is
945 consistent with the Comprehensive Plan and Zoning Ordinance. Although this portion of
946 the property has long been a part of the landfill, it has never been approved as part of its
947 operations - it is a portion of the property closest to Charles City Road and to residences
948 along Wendell Drive, Eanes and Robin Grey Lanes. Potential impacts include noise from
949 heavy equipment, visual impacts, and dust. As previously mentioned, the project includes
950 increasing the depth and height of existing berms that provide screening. The
951 modifications would result in a two-tiered landscaping berm 16 feet in height and over
952 100 feet in depth surrounding the stockpile to the north and west. Consequently, the
953 northern half of the stockpile will function as a berm for the southern half, because
954 residents to the north will be less likely to hear activity occurring on the south side of the
955 stockpile. The stockpile itself will buffer sound from the processing facility this is in
956 addition to the sound buffering provided by a 16-foot tall landscaping berm. Current
957 landfill operations involve the application of soil as a daily cover. The operator is familiar
958 with state and county requirements regarding dust control based on experience. Staff
959 has recommended specific conditions to address dust control. Also, there have been no
960 complaints regarding dust from current operations.
961
962

963 In conclusion, the public benefit derived from this proposal is that excavated soil from the
964 site will be stockpiled on-site and will be reused as part of their daily operations. If the

965 on-site stockpile is not approved, the excavated soil would have to be transported off-site
966 and be hauled back to the property on an as needed basis – impacting county roads. The
967 proposed use would be located within the property’s boundaries and would be consistent
968 with the Comprehensive Plan and Zoning Ordinance. Any detrimental impacts on
969 neighboring property should be mitigated by the extensive landscaped berms that will be
970 constructed and extended as part of the project. Based on these facts, staff recommends
971 approval subject to conditions.

972
973 Ms. Harris - Ok, thank you. You said the origin of the topsoil will be what
974 they actually excavate from the land or is it going to originate somewhere else?
975

976 Mr. Madrigal - No, it’s going to be soil from the excavation. Basically, they
977 are going to dig down for a new cell to fill in and they will put a liner in, and all that
978 excavated soil will be stockpiled at this location and it will be used over time as fill. So,
979 when they bring in trash and debris, they use that soil to cover it on a daily basis.

980
981 Ms. Harris - And the depth of the berm, you said 100-feet ... Do we have
982 anything else near that property that is that deep?
983

984 Mr. Madrigal - You mean the berm, the depth of the berm?
985

986 Ms. Harris - Yes.
987

988 Mr. Blankinship - When I say depth that just means the distance from the front
989 of the berm to the back.
990

991 Ms. Harris - Oh, I was thinking it was going downward.
992

993 Mr. Blankinship - I was wondering why you would say that. The distance is from
994 where it would slope up ... then it would slope up twice then slope back down.
995

996 Ms. Harris - Thank you, sir. Other questions of Mr. Madrigal? Thank you
997 so much.
998

999 Mr. Madrigal - Sure.
1000

1001 Ms. Harris - Let us hear now from the applicant.
1002

1003 Applicant - Good morning Madam Chair, members of the Board. My
1004 name is Mike Rothermel, R-O-T-H-E-R-M-E-L. I’m an attorney with the law firm Spotts
1005 Fain, here in Richmond. I’m here on behalf of the applicant.
1006

1007 I have a number of people here with me today that I’d like to introduce: Wade Bailey is
1008 the General Manager of the facility, Tim Torrez is the Environmental Manager of the
1009 facility ... in the back row back there, as well as Tim Selden who with Geosyntec that is
1010 their outside engineer who prepares the plans.

11
1012 This is the fourth time that I have appeared before this BZA on behalf of this particular
1013 landfill. And while this particular application is a very specific, and somewhat narrow
1014 request, I thought it might be helpful to walk through, briefly, the background of this site
1015 because it to the overall request to better understand.

1016
1017 There were originally four landfills that operated along Charles City Road, four separate
1018 landfills. So, beginning on the eastern side, down here ... working west, you had the
1019 Charles City Road Landfill, which I believe opened in the mid-seventies and operated for
1020 about 20 years until, I think, it closed in 1993. Then you had the S.B. Cox C & D Landfill,
1021 which operated until 2002 at which time it closed. You have Virginia Power Dominion
1022 Energy sort of a big transmission line that goes through the property here.

1023
1024 Moving west then ... you had the old Henrico County Landfill that was there, landfill that
1025 was owned by the County of Henrico, that closed in 1991.

1026
1027 And then, you have the original Old Dominion landfill, which began operation in 1994.
1028 And, so that has been in operation for 25 years. And, the progression here ... I first came
1029 in with one of my colleagues back in 2004 when BFI purchased the county landfill and we
1030 consolidated those two landfills; and, back in 2012, we came in after Republic Waste
1031 purchased these old landfills on the east side of the transmission lines and basically got
1032 approval to continue the operation of the landfill once the capacity was reached here on
1033 the western side of the transmission lines. So, that is what has occurred. They are
1034 nearing completion here on the western side of the Dominion Energy lines. Probably ... I
1035 believe ... later this year or the beginning of next year ... at which point they will be moving
1036 to the other side. And so what's occurring right now in this area, right here will be where
1037 the first cell is located. They're excavating. It's just soil. Dirt and soil that they are
1038 excavating. You go down a certain amount and then you put a liner in and so there is a
1039 lot of soil, there's a lot of soil that they need to move. The thing is that they are eventually
1040 going to use a lot of that soil. So the question becomes ... Where do you put that soil?
1041 And so that is what this particular application is about. So, I will note that over the course
1042 of 25 years ... and I always make sure to say this up front because with landfills, you're
1043 judged by your track record. And certainly, some landfills are in the news. I was stressed
1044 when I come in here on this particular site. In 25 years, they have never had one waste
1045 ... violation on this site.

1046
1047 So, just very briefly with Republic Services, this was originally owned by BFI. BFI was
1048 acquired by Allied Waste around the turn of the century, and then Allied and Republic
1049 merged back around 2008. So Republic Services is one of the largest waste-related
1050 players in the industry. They own hundreds of landfills, transfer stations, recycling facilities
1051 and hauling operations around the county.

1052
1053 We've always had a very good relationship, not only a strong environment record, but a
1054 very good relationship with the County. We have a host agreement with the County of
1055 Henrico where the County of Henrico receives 70,000 free tons of disposal each year.
1056 We also pay a ... the site pays a royalty to the county for each ton that is received, and

1057 we also fund a full-time employee for the solid waste division with the county. So, those
1058 are things that have been in place and will continue to be in place through the life of this
1059 facility.

1060
1061 So, moving into this particular application, the area that we are looking at here is within
1062 the boundary of what has been approved as the landfill CUP. So, it's always been part
1063 of the site. In looking at the overall site and where was the best place to put the soil ...
1064 most of you will recall, the most recent time we were here was last year. We came in to
1065 permit the materials recycling facility and that would be located where I have the mouse
1066 here. That has been installed now; I think recently. The stockpile will go just to the north
1067 of that. And, there's a couple of benefits to this particular location. In looking at the staff
1068 report ... and we looked at the same issues when preparing this application ... and we
1069 worked with staff. We did have some meetings with staff before we filed this to get their
1070 thoughts, and we appreciate their comments because it did help to refine what we
1071 ultimately submitted. But, there are three concerns when you look at this, noise, visibility,
1072 and dust. And we took great efforts to address each of those.

1073
1074 The noise and visibility ... First, with respect to noise, when we came into the recycling
1075 facility the state's requirements were 80 decibels measured at the facilities boundaries.
1076 The county suggested, and we agreed to, actually a more stringent requirement and
1077 lowered that to 65 decibels. We submitted in connection with that particular application a
1078 sound study done by an acoustical engineering firm that showed that that wasn't going to
1079 be an issue. This is actually going to enhance the sound buffering with the adjacent
1080 residences because you will have nothing but soil and that's a condition ... something the
1081 county has put in there. So, it's just gonna be a soil stockpile and that will help to reduce
1082 the sound effect to the neighboring properties. Also, I think, as Mr. Madrigal pointed out,
1083 the trucks that will be going and obtaining some of this soil will be doing so internally from
1084 the facility. So, they will be accessing the soil from the southern half of the stockpile. And
1085 so that will be away from the adjacent residences.

1086
1087 With respect to both the noise and the visibility, I can't stress enough the extent to which
1088 these berms that will be constructed, will help, not only to shield this particular stockpile,
1089 but help to shield the landfill itself, as well as further shield the recycling facility. These
1090 are very, very extensive berms as Mr. Blankinship has pointed out, 100 feet in depth and
1091 it's not just going to be just the berms then. There's going to be vegetation planted on
1092 top of them as well. And were required, as part of the conditions, before we do anything,
1093 to submit a detailed lighting and landscaping plan. And so it has always been our
1094 experience that the county will be very stringent with those things and has looked out for
1095 the adjacent properties in mandating exactly what gets planted on top of those. So, those
1096 berms ... not only will they be enhanced and bolstered from what they have been ... we
1097 will ... Republic has recently acquired one of the lone remaining properties that they did
1098 not own along Charles City Road, along the frontage here. And so, there is certain areas
1099 here that do not currently have berms that will get berms under this particular plan. I think
1100 Mr. Madrigal noted that. And I think in closing, the largest benefits of this is the reduction
1101 and elimination of trucks that would otherwise have to go out onto the road. And we're
1102 talking about thousands ... tens of thousands of trucks over the course of this that will

03 have to go out into the road. And it's not only the trucks that will need to haul the dirt off
1104 of the site, but it will be the trucks then that will have to bring the dirt back into the site.
1105 So, it's sort of unusual that we're talking about truck traffic if this doesn't get approved or
1106 if we have to go elsewhere. It's kind of the inverse of what I'm normally talking about, the
1107 amount of truck traffic that this permit would bring. In this case, it's the amount of truck
1108 traffic that by not allowing the stockpile onsite would bring about. So, I'd certainly like to
1109 reserve some time to address questions. I'll address some questions right now.
1110

1111 Ms. Harris - Ok, thank you. Any questions from Board members? Mr.
1112 Johnson?

1113
1114 Mr. Johnson - On the excavation ... you said most of the excavation would
1115 take place onsite and stay onsite as well. Is that what you were saying?
1116

1117 Mr. Rothermel - Yes, sir. Absolutely. The dirt that will be stockpiled will only
1118 be from on site. We are not bringing in outside dirt. There's nothing coming in. So, yes.
1119 Mr. Johnson, you saw a little bit about what was occurring already there. There's quite a
1120 bit of soil. So, that needs to be removed to get down to that base level where the liner is
1121 put in. So, all that soil is what would be going into ... I guess the first thing that would be
1122 constructed ... some of that soil is going to be used to construct the berms. Then it would
1123 be all that soil that is onsite. Nothing will be coming in from offsite.
1124

1125 Mr. Johnson - And also, when after you finish up, you are going to have a
1126 berm built that would have vegetation that would make it look ...
1127

1128 Mr. Rothermel - Yes. So, that is ... correct me if I'm not answering your
1129 question. When this site is ultimately finished, so when the landfill is closed and there are
1130 a number of years until that is going to occur. As they finish cells ... both ... I'll just explain
1131 this briefly. So, there's a requirement to cover the landfill both on sort of an ongoing basis
1132 as well as final cover. At the end of every day they are required to put on what's called
1133 alternate daily cover, you can't leave the waste exposed. So, I think some of the soil will
1134 be used on a daily basis, but then when each cell is finished ... and these guys can correct
1135 me if I'm wrong on this ... but when each is finished, it's covered with soil. The
1136 requirements by DEQ are obviously extensive. But when the site is completely finished
1137 everything will be covered and grassed over as well as this particular ... I think the county
1138 has included some conditions with respect to whatever is remaining of the stockpile at
1139 that point would be graded and covered with grass.
1140

1141 Mr. Johnson - That's what I was trying to get to.
1142

1143 Mr. Rothermel - Yes, sir. Thank you.
1144

1145 Ms. Harris - Do you know the projected life of this process?
1146

1147 Mr. Rothermel - Life of the landfill? About another 17 years.
1148

1149 Ms. Harris - Thank you. Any other questions from Board members?
1150 Thank you so very much. Do we have anyone else who wants to speak for this
1151 application? Ok. Someone to speak in opposition? Please come forth and give us your
1152 name and spell your last name.

1153

1154 Citizen - Good morning.

1155

1156 Ms. Harris - Good morning

1157

1158 Citizen – My name is Linda Taylor Wilkinson, W-I-L-K-I-N-S-O-N, and I
1159 have some concerns. My mother resides at 3707 Pickwick Lane and she is elderly, along
1160 with a whole lot of the residents that live in that tiny little area there, that backs up against
1161 the dump. I just found out about this just two days ago when I was going through my
1162 mother's mail. So, I need to know ... I have some questions, if that's ok?

1163

1164 Ms. Harris - Yes.

1165

1166 Ms. Wilkinson - How close is the excavation to my mother's home? Right
1167 now, there seems to be a barrier in her backyard where all types of animals you would
1168 not believe ... rodents, bugs, come into her home. She's 82 years old, on oxygen with
1169 several health problems and a failing liver. So, I need to know ... we're talking about a
1170 large noise level. There are about approximately 17 homes in this little cul-du-sac, from
1171 Brighton to Dolphin. And, like I said, most of those people are elderly. They've asked me
1172 what the noise level will be. I don't know. I'm just someone's daughter who is here trying
1173 to find out some information.

1174

1175 I would also like to know, on this excavation that I'm hearing ... which sounds as if that
1176 dirt is going to be removed from right behind my mother's house ... on a closed site to the
1177 upper northwest corner ... which would be like there was a dilapidated old house there,
1178 right on Charles City Road ... and, that is where they are talking about building berm and
1179 what not. On all these tiny little houses, you can see all of that. These people have had
1180 to live with this dump. Many of them did not own ... that owned their homes before the
1181 dump was put in. Many of them. Most of them are in their 80's. How much more are we
1182 going to ask these people to go through? Many of them cannot get affordable
1183 homeowners insurance on their homes right now. And, we're talking about 80-year old
1184 people paying almost two-thousand dollars a year for homeowners insurance that does
1185 not cover fire damage. If the dump caught on fire, and their houses are gone ... those
1186 trees that ... anything ... brush or whatever is... none of that is cleared. None of it's
1187 maintained. The vines in the back of the trees behind my mother's home ... the only thing
1188 that is between her and the separation barrier is a chain-link fence. All of that is covered
1189 with ivy and types of vines that we can't get through to clean them out. So, I'm just really
1190 concerned on this ... If this is allowed to expand, how much higher is my mother's
1191 homeowners insurance gonna go up? Two, what is the noise level? When do we get to a
1192 point with these 17 homes that at some point in time these gentlemen decide that they
1193 need to buy our old people out and give them nothing for what their homes are worth?
1194 Which is not very much anymore. Let's be honest about it. Many of them, their houses

95 are starting to fall apart now. Children like me ... I'm 60-years old, I'm telling my mother
 1196 don't do anything to your home. It doesn't make sense. We just need to get you out of
 1197 here. I don't even know, at this point, if I can physically say with all good heart to anyone
 1198 who... if I contacted a Real Estate Agent, anyone ... This is a great house to go in to ...
 1199 buy my mom's house. Let's get her someplace else to live. It seems like to me that you've
 1200 got to disclose a whole lot of stuff like rodents coming up into the yard and you can't go
 1201 out after dark in the yard. That's scary. My mother likes to sit on the front porch. I'm
 1202 scared to death she's going to get hurt. So, if somebody can explain to me how this is
 1203 going to help those neighbors ... exactly where it's located as far as 3707 Pickwick Lane
 1204 is concerned. And, at what point in time of 17-years more that this dump is being allowed
 1205 to be open at this new site ... When will they start encroaching on my mother's property?
 1206
 1207 Ms. Harris - Ok, Ms. Wilkinson, before you leave ... we'd need to locate
 1208 your mother's property on this map ...
 1209
 1210 Ms. Wilkinson - It's 3707 Pickwick Lane.
 1211
 1212 Ms. Harris - Yes, we have the address, but we need to see the map.
 1213
 1214 Mr. Blankinship - Can you bring up the aerial overview, Miguel? Thank you.
 1215
 1216 Ms. Wilkinson - Ok, you see where Dolphin Road is? She's right in that corner.
 1217 Underneath the "O" and the "L" ... That's her property
 1218
 1219 Ms. Harris - We've got it?
 1220
 1221 Ms. Wilkinson - Come down a little bit further. That's it, right there. That's my
 1222 mother's property.
 1223
 1224 Mr. Blankinship - So, that's a little bit more than half a mile. It's about 3,500 feet
 1225 from the area that we are looking at this morning. It's all the way at the end ...
 1226
 1227 Ms. Wilkinson - But, are they saying ... I don't really know how to work this,
 1228 where I'm putting the cursor ... are they saying that is where they are going to excavate
 1229 the dirt?
 1230
 1231 Mr. Blankinship - That is the area where some of the dirt is coming from, yes
 1232 Ma'am, but that's not what's under review this morning. What's under review this morning
 1233 is the stockpile at the other end of the property where it's going to be put.
 1234
 1235 Ms. Wilkinson - Over here?
 1236
 1237 Mr. Blankinship - Yes, Ma'am.
 1238
 1239 Ms. Wilkinson - But, in order for that dirt to come out, there has to be a large
 1240 noise level.

1241
1242 Mr. Blankinship - Well, that dirt's going to come out no matter what the Board
1243 does this morning. Whether ...
1244
1245 Ms. Wilkinson - I know, I know I'm late ... I understand ...
1246
1247 Mr. Blankinship - No, I'm not criticizing you, I'm just saying whether the Board
1248 approves or denies this use permit, it's not going to affect your mother's property.
1249
1250 Ms. Wilkinson - The noise level is not going to affect all of these little people?
1251 All of this, right here, is all extremely elderly people.
1252
1253 Mr. Blankinship - If this request is denied, they still have to remove that dirt.
1254 They're just going to have to haul it out of the property out on Charles City Road and haul
1255 it back in to the property later.
1256
1257 Ms. Wilkinson - Ok, see ... I'm just not clued in to this.
1258
1259 Mr. Blankinship - Right.
1260
1261 Ms. Wilkinson - Why are they removing the dirt?
1262
1263 Mr. Blankinship - Its part of the process of constructing the next cell ... to line
1264 the cell.
1265
1266 Ms. Wilkinson - And, when they say "the next cell" ... that's what they are
1267 talking about ... putting a liner in?
1268
1269 Mr. Blankinship - Yes, Ma'am.
1270
1271 Ms. Wilkinson - So, that liner would also contain trash, more trash?
1272
1273 Mr. Blankinship - Yes, Ma'am.
1274
1275 Ms. Wilkinson - So, at a later date we're still talking about more rodents for my
1276 mother's home?
1277
1278 Mr. Blankinship - Well, that ...
1279
1280 Ms. Wilkinson - I know that that doesn't have to do with today. I'm just trying
1281 to wrap my head about what's going on so that when I go back and talk to my 82-year old
1282 mother who is at my home right now on oxygen with all kinds of health problems who just
1283 doesn't understand what's going on anymore ... You know how it is when you are telling
1284 someone you can't go back to your home ... There are problems there. I want to be able
1285 to say to my Mom because the noise levels are going to be so dramatically high, you're
1286 not going to be able to handle that... or when the old people come to me, they think I

1287 have answers. And, they say ... What are we expecting? I just want to give the an
1288 informed opinion of what I got from here of what to expect without giving them fear
1289 because, like I said, they're all old. They can't even fathom moving. And, the one lady
1290 who lives right here, right where the word "road" is ... directly across from her now has
1291 been put in ... she calls it the service station, but it's for the big trucks to gas up and what
1292 not. She can't sleep because that's now 24-hours, and I do know that can be heard from
1293 my mother's house. Those trucks being filled up can be heard. So, I'm thinking ... and
1294 we're not talking that far of a distance, I'm just thinking ... Am I up every night in the
1295 middle of the night with my mom because she can't sleep because she's, for whatever
1296 reason, afraid ... you see what I'm saying? I just want to be able to go back and give
1297 these elderly people ... When they realized that Y'all bought that old house, or these
1298 people bought that old house and they realized that part of that dump was going in ... into
1299 that area, the berms or whatever ... the way that this little cul-du-sac feels is that the dump
1300 is closing in and surrounding them now, and their homes aren't worth anything. And, at
1301 some point in time, I would expect as the Planning Board that someone would take in
1302 consideration of our elderly and what their needs are too. Y'all aren't asking ... BFI is not
1303 asking to buy these people out, are they? They're just asking to continuously build in
1304 their area.

1305
1306 Mr. Blankinship - This morning, Ma'am, all they're asking for is ...

1307
1308 Ms. Wilkinson - I understand ...

1309
1310 Mr. Blankinship - ... the approval of the stockpile all the way at the opposite end
1311 of the property. I don't mean to sound callous ...

1312
1313 Ms. Wilkinson - I understand.

1314
1315 Mr. Blankinship - The decisions you are asking about are not the decisions
1316 being made this morning.

1317
1318 Ms. Wilkinson - I understand. We have to stick to the proffers.

1319
1320 Ms. Harris - Ok, Ms. Wilkinson, we talked about the noise level ...

1321
1322 Ms. Wilkinson - Yes, Ma'am.

1323
1324 Ms. Harris - They said 65 decibels ... what we'll do is check to see what
1325 decibels are existing right now, and whether or not that would intensify. We can find that
1326 out today.

1327
1328 Ms. Wilkinson - But you can imagine when you are ... many of these people
1329 are on oxygen and ...

1330

1331 Ms. Harris - Yeah, but all of the ... The truck noise is not only coming from
1332 the site. You know, you are surrounded by trucks. Believe me, I was there yesterday. So
1333 ...
1334
1335 Ms. Wilkinson - That whole area is now is becoming an industrial ...
1336
1337 Ms. Harris - Truck city ... I sometimes refer to it as. They are proposing,
1338 this morning, that they will not to have more trucks moving ... you know ... topsoil from
1339 point A to point B. So, I'm not sure they're going to be part of this problem or what. But,
1340 I will check on the decibels.
1341
1342 Ms. Wilkinson - I really appreciate it. Just because, like I said ... you know ...
1343 we so often in this world ... that the days are changing now and are nothing like they
1344 were. It's very easy to throw our humans away. And, you know, I will stand for every old
1345 person. One day ...
1346
1347 Ms. Harris - I think you're going to have to stand for me. I'm the oldest
1348 member of the Board. So, I think you're going to have to stand for me.
1349
1350 Ms. Wilkinson - I'm sixty years old, I already feel like...
1351
1352 Ms. Harris - But anyway, thank you so very much for coming. We'll see
1353 what we can do. Anyone else with ... Oh, there's a question, Mr. Johnson? You have a
1354 question or a statement?
1355
1356 Mr. Johnson - Yes, a statement.
1357
1358 Ms. Wilkinson - Yes, sir.
1359
1360 Mr. Johnson - I was noticing earlier they mentioned about the decibels...
1361 Normally, it's supposed to be about 80 ...
1362
1363 Ms. Wilkinson - Can you imagine?
1364
1365 Mr. Johnson - But, now they only have 65 ...
1366
1367 Mr. Blankinship - Yes, the county requirement is stricter than the State
1368 requirement.
1369
1370 Ms. Wilkinson - Right ... which is still loud.
1371
1372 Mr. Johnson - That's a ...
1373
1374 Ms. Wilkinson - I realize that's a decrease, but that is still loud when you are
1375 elderly. They're hearing ... even though many of them are deaf as a door nail, many of
1376 them have very acute hearing when it comes to wanting to rest. You know, the TV can be

77 blasting as high as it will go and they can sleep through it, right? But, if you walk in the
1378 room, they wake up. Or, if something happens outside, they wake up immediately, but
1379 they can't hear you talking over the TV. I guess it's like we're all going to be there. So,
1380 that's one of the things they are complaining about is the noise levels are already high.
1381

1382 Ms. Harris - Ok, thank you so very much ... Ok.
1383

1384 Ms. Wilkinson - May I ask one other question? I've never been to a meeting
1385 before so I'm not sure how all this works. But, I have to go to work. You said that I can
1386 get the online ... I just go to the Planning ...
1387

1388 Mr. Blankinship - Yes, Ma'am, it's on the agenda. The address is on the agenda
1389 or you can call us, either way.
1390

1391 Ms. Wilkinson - Ok. Thank you very much. Have a good day.
1392

1393 Ms. Harris - Ok, thank you. Is there anyone else who opposes this
1394 application? If not, we're going to ask the attorney to come back and address some of
1395 the concerns.
1396

1397 Mr. Rothermel - If I may say, sort of as a general comment, one of the things
1398 that has made my job a little bit easier over the years is that the folks at Old Dominion
1399 Landfill have really maintained a good relationship with the community. I'm happy to ... I
1400 know my folks will be happy to talk with Ms. Wilkinson afterward. We mentioned that
1401 before we came in on the recycling facility last year ... we have had some dialogue, and
1402 there is always ongoing dialogue with some of the neighbors around the landfill. With
1403 some of the folks, over here, that were most impacted by the recycling facility. We did
1404 have a community meeting last week. We sent out notices. We asked for the notice list
1405 from the county. We sent out notices to the same folks that the county sends out notices
1406 to. We had a couple of people come and we had a good dialogue with them. So really,
1407 over the years, they really have attempted because ... and obviously, landfills are not the
1408 sexiest application ... And really, like I said, you are judged by your record. And these
1409 folks know that they need to work with the community as much as possible. So, they've
1410 attempted to do that over the years. So, I know they'd be happy to reach to Ms. Wilkinson
1411 to discuss this.
1412

1413 With respect to, I think Mr. Blankinship covered this, you know ... what's going on here is
1414 going to go on. That's been approved. That's actually, seven years in the works now. I
1415 think I mentioned we came in in 2012 to get the expansion to go over here and that's how
1416 long it takes to go through the State permitting process... and for a good reason, landfills
1417 are scrutinized quite a bit. That's all been approved by the county, by the state, so that's
1418 going to be occurring. So, all we're talking about is this over here. So, any impacts as far
1419 as today's ruling really occur over here. That being said, we're sensitive to anybody that
1420 lives right around the landfill and we'll be happy to talk to them.
1421

1422 Ms. Harris - Question... on the previous application, did you all specify the
1423 decibels?

1424
1425 Mr. Rothermel - On this application?

1426
1427 Ms. Harris - No, not on this but on the related application that had already
1428 been approved. Did we specific decibels? Was it 65 decibels or was it greater or do you
1429 know?

1430
1431 Mr. Rothermel - I don't ... I think that's controlled by the state. We, on the
1432 subsequent applications that we came in on with respect to the recycling facility and this
1433 one now, we have specified sound limits.

1434
1435 Ms. Harris - Yes, on the preceding application ... you specified decibels
1436 before.

1437
1438 Mr. Blankinship - On the materials processing facility they did. I'm not sure
1439 whether we did in 2012 or not.

1440
1441 Ms. Harris - I was just wondering does it conform to what we were saying
1442 this morning on this particular application. Did we say that in the previous application that
1443 we heard?

1444
1445 Mr. Rothermel - I don't recall whether or not. There's quite a list of extensive
1446 conditions with respect to the landfill. I just don't specifically recall that.

1447
1448 Ms. Harris - Well, could you just take a look and be sure because if the
1449 neighbors are complaining about the noise ... we know noise comes from many sources
1450 ... we just want to be sure that BFI checks its requirement so you can be good neighbors.

1451
1452 Mr. Rothermel - Right. And I know, then again I'll ask Ben to comment on this
1453 if he feels it's appropriate. The county has a pretty specific noise ordinance and
1454 requirements in place that ...

1455
1456 Ms. Harris - Look, we're aware. We're quite aware of that. This is not the
1457 first issue ... first time.

1458
1459 Mr. Rothermel - Right. No, I understand. So, we've always made as much
1460 effort as we can to ... you know, when we talk about the berms, when talk about the
1461 landscaping to really minimize ... Charles City Road itself is very loud and the ambient
1462 noise when trucks are going up and down is probably equivalent or even greater than
1463 what you get from the landfill itself.

1464
1465 Ms. Harris - Just check that, if you don't mind. Ok, any other questions
1466 from Board members? Mr. Green?

1467

1468 Mr. Green - When talking about decibels ...65 ... 85 ... What is that
1469 equivalent to? What does that sound like? I can hear you reducing, but in terms of actual
1470 sound, what is 65 decibels?
1471

1472 Mr. Rothermel – So, one of the things I always do before these meetings is go
1473 back and read the transcripts of the prior meetings to make sure everything is staying
1474 consistent. I recall exactly what was said. So, that issue came up when we came in last
1475 year for the recycling facility and the sound study that we submitted ... the measurements
1476 that were taken, as far as impact from the recycling facility on some of the surrounding
1477 roads measured, I think, somewhere in the 50's which I believe we said was sort of equal
1478 to the existing noise from Charles City Road from the trucks. I think that's sort of the best
1479 equivalent. So, that's the comparison.
1480

1481 Mr. Green – Yes, thanks.
1482

1483 Ms. Harris – And, I know when we approve concerts in Henrico County, I
1484 think 65 is the requirement. You know, concerts can be pretty loud. So, I think that citizens
1485 may be able to live with that.
1486

1487 Any other questions from Board members? Thank you.
1488

1489 Mr. Rothermel – Thank you very much.
1490

1491 **[After the conclusion of the public hearings, the Board discussed the case and**
1492 **made its decision. This portion of the transcript is included here for convenience**
1493 **of reference.]**
1494

1495 Next case is BFI Waste Systems, CUP 00006. What the pleasure of the Board?
1496

1497 Mr. Johnson - Madam Chair, I recommend that we approve this because the
1498 ... because they're talking about the sound ... working with that as well, also how the
1499 buildout ... also the height, we talked about that as well. So, it's conforming with the
1500 Comprehensive Plan and also the Zoning Ordinance. I motion that we approve this one.
1501

1502 Mr. Green - Second.
1503

1504 Ms. Harris - It has been moved and properly seconded that we approve
1505 this Conditional Use Permit. Is there any discussion on this motion? As the attorney
1506 indicated, if this were not the alternative, it would mean additional truck traffic, which we
1507 talked about through all these cases. It would seem as though they're going to conform
1508 with all the requirements as far as decibels is concerned. So all in favor of the motion,
1509 say, aye. Those opposed, say no.
1510

1511 Mr. Johnson - Madam Chair.
1512

1513 Ms. Harris - Yes.

1514
1515 Mr. Johnson - Also, the other thing is that the truck traffic will also be internal;
1516 it will not be on the street.

1517
1518 After an advertised public hearing and on a motion by Mr. Johnson, seconded by Mr.
1519 Green, the Board **approved** application **CUP2019-00006, BFI WASTE SYSTEMS OF**
1520 **VIRGINIA, LLC's** request for a conditional use permit pursuant to Section 24-116(d)(3)
1521 of the County Code to deposit soil as fill material at 1851 Charles City Road (Parcel 808-
1522 712-0741) zoned One-Family Residence District (R-4), Business District (B-3), Light
1523 Industrial District (M-1) and General Industrial District (M-2) (Varina). The Board
1524 approved the application subject to the following conditions:

1525
1526 1. This conditional use permit only authorizes the construction and operation of a soil
1527 stockpile. All other applicable regulations of the County Code shall remain in force. The
1528 property subject to this conditional use permit also remains subject to the conditions of
1529 CUP2012-00003.

1530
1531 2. Only the improvements shown on the plans prepared by Geosyntec Consultants dated
1532 January 2019 and filed with the application may be constructed pursuant to this approval.
1533 Any additional improvements shall comply with the applicable regulations of the County
1534 Code. Any substantial changes or additions to the design or location of the improvements
1535 will require a new conditional use permit.

1536
1537 3. Throughout the life of this permit, the applicant shall maintain an approved
1538 environmental compliance plan with the Department of Public Works (DPW). The
1539 applicant shall continuously satisfy DPW that erosion control measures are in accordance
1540 with the approved plan and are properly maintained. As site conditions change, updated
1541 plans and bonds may be required as determined by DPW.

1542
1543 4. Before stockpiling begins, the applicant shall obtain approval of a detailed landscaping
1544 and lighting plan from the Planning Department. The landscaping plan shall include
1545 landscaped berms as shown on the plans prepared by Geosyntec Consultants dated
1546 January 2019 and filed with the application.

1547
1548 5. All access to the facility shall be within the boundaries of the Old Dominion Landfill and
1549 shall use the existing entrance of the Old Dominion Landfill on Charles City Road. 6.
1550 Hours of operation shall be limited to 6:30 AM to 6:00 PM Monday through Friday and
1551 7:00 AM to 6:00 PM Saturday, and such other times as expressly required or permitted
1552 by the Director of Planning or the Director of Public Utilities or their designees.

1553
1554 7. Sound caused by the operation of the stockpile shall not exceed 65 decibels at any
1555 point along Robin Grey Lane, Carters Pond Court, or Wendell Drive.

1556
1557 8. The material to be deposited on the site shall be limited to soil and similar materials
1558 excavated on the property.

1559

9. The applicant shall control dust in accordance with the latest version of the Virginia Erosion and Sediment Control Handbook.

10. When this stockpile is no longer necessary, the site will be graded to a maximum slope of 3:1 and seeded with permanent vegetative ground cover.

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

CUP2019-00007 **RHONDA EDMONDS** requests a conditional use permit pursuant to Section 24-12(g) of the County Code to operate a family day home with employees at 8712 Lakefront Drive (WEST END MANOR) (Parcel 761-758-5894) zoned One-Family Residence District (R-3) (Brookland).

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

Mr. Madrigal - Thank you Mr. Secretary. Madam Chair and members of the Board, before you is a request to allow a large family day home with employees from outside the home.

The subject property is approximately 12,800 square feet in area and backs onto a large pond which is part of the West End Manor recreation complex. The lot is improved with a one-story, 1,178 square foot residence with open parking, constructed in 1961. The rear yard is approximately 7,300 square feet in area, is enclosed with a four-foot tall chain link fence, and gently slopes down towards the pond. The applicant and her daughter leased the property in late 2018. The county received a complaint about a family day home with over 12 children operating at an empty residence. The complaint alleged that no one lived at the property and that it was only being used as a daycare center, which is not allowed. Upon investigation, it was determined that although the applicant does not live at the residence, her daughter and granddaughter do. The case was closed because the code of Virginia allows a family day home to be "offered in the residence of the provider or the home of any of the children in care." In this case, the applicant provides care for her granddaughter at the child's home. She also intends to provide care for any future grandchildren, in addition to providing a child care service for the community. The applicant intends to establish a large family day home at her daughter's residence and wishes to have a nonresident employee to help with the business. She is currently running a small family day home at the property and is awaiting approval of this use permit to move forward with her business plans. Because the applicant is not a resident, she is also an employee from outside the home. As such, a family day home with nonresident employees requires the approval of a CUP.

1606
1607 In conclusion, the proposed use is consistent with both the zoning and comprehensive
1608 plans designations on the property. Although the home is not the applicant's residence,
1609 she will be providing care to her granddaughter, who lives at the residence. Specific
1610 conditions of approval have been prepared to mitigate any detrimental impacts. Based on
1611 these facts, staff recommends approval subject to conditions, and I'll be happy to answer
1612 your questions.

1613
1614 Ms. Harris - Mr. Madrigal, is the county concerned about the pool behind
1615 the lot?

1616
1617 Mr. Madrigal - The pond?

1618
1619 Ms. Harris - The pond ... yes, I'm sorry, the pond behind the lot.

1620
1621 Mr. Madrigal - Yes, the pond ... personally, it makes me very uncomfortable.
1622 You know ... to me it's just a red flag and I noticed it's just a low four-foot chain-link fence.
1623 And, I was thinking about ... staff was thinking about maybe imposing a condition for a
1624 higher fence, maybe a solid wood fence, but then after thinking it through ... it would block
1625 view into the pond and I think it would present more of a danger if a kid got over that. So,
1626 then I was think about a taller chain-link fence, but then again that's just an enticement to
1627 a kid. So, I thought ... let's just leave it at that height and insert vinyl slats into the fence
1628 to kind of make it difficult to climb over but still you'd be able to see over it and somewhat
1629 through it.

1630
1631 Ms. Harris - Any questions for Mr. Madrigal?

1632
1633 Mr. Johnson - Oh yes, Madam Chair, you mentioned that the applicant did
1634 not live in the home?

1635
1636 Mr. Madrigal - That is correct. She does not live there. She drives there. Her
1637 daughter resides at the residence, along with her daughter's family. She has a grandchild.
1638 So, the applicant cares for the grandchild and in addition to that, I think there's a baby on
1639 the way and she'll be caring for that child as well. And, along with those two children, she
1640 wants to establish a family day home.

1641
1642 Mr. Johnson - Is there a stipulation in the regulations about whether the
1643 applicant should live in their home or not?

1644
1645 Mr. Madrigal - Yes, sir. Ben and I looked up state code and the state code
1646 does permit a non-resident to provide care as long as they're providing care for one of
1647 the children that resides at the residence. And that's what's happening at the property.

1648
1649 Ms. Harris - And the care is at the granddaughter's house. Is it not?

1650
1651 Mr. Madrigal - Yes.

1652

Ms. Harris - Any other questions? Thank you, Mr. Madrigal.

1653

1654

Let's listen to the applicant now, please.

1655

1656

Applicant - Good morning. We have been, actually, at that residence ...
it will be two years in August.

1657

1658

1659

Mr. Blankinship - Can you tell us your name, please?

1660

1661

Applicant - Oh, I'm sorry. Rhonda Edmonds, E-D-M-O-N-D-S.

1662

1663

We've actually been at that residence two years in August. We currently have four
children, plus my granddaughter at the residence. We have met all of the licensing
requirements with the State of Virginia except for this permit. We did not realize we have
to do this until the day we were supposed to receive our license from the state. So, we
are ready to go, pending this approval.

1664

1665

1666

1667

1668

1669

Our conditions, of what I received from you all, we will have two outside employees ...
one being myself, one being my helper. We will not have more than two ... excuse me
... not have more than 12 children because we will actually max out with numbers;
children now have points given by the state. So, our points will meet more than our
children will. So, we'll have less children, more points. If that makes sense. Our hours will
be from 7:00 to 6:00. And, we have someone coming today, providing it doesn't rain to fix
our driveway to meet our conditions for approval.

1670

1671

1672

1673

1674

1675

1676

1677

And as far as the fence and the pond, the gate is locked with a bicycle-type lock that we
have the key in the house ... but, we were hesitant to do anything about the gate until we
had received our final inspection from the state ... because we ... once the state basically
tells us what to do, then we were going to fix it. The state has seen it. They didn't tell us
one way or the other what we needed to do. So, basically, we were waiting for our final
inspection to do anything to fix it. But, we will do whatever you all say we need to do or
what the state says we need to do to fix it.

1678

1679

1680

1681

1682

1683

1684

1685

Ms. Harris - So, how can you fix it?

1686

1687

Ms. Edmonds - We're willing to tear it down and replace it, whatever we need
to do. That's not a problem.

1688

1689

1690

Ms. Harris - Ok.

1691

1692

Ms. Edmonds - The children don't, unfortunately, the weather has not been
conducive enough to for the children to play outside. So, we haven't really played out
much as you can see from the other pictures. We don't have a lot of outside equipment.
Because of the pond, we have a whole lot of bugs. The kids don't like to play outside
because the bugs are so bad, and our backyard is huge as you can see. So, they don't

1693

1694

1695

1696

1697

1698 ... we don't really have to have it so they can go off all the way to the pond, but it is a
1699 good place to have science classes and they can see the animals. We have some great
1700 animals. All kinds of species of ducks and huge turtles and stuff. So, we can do science
1701 and stuff outside on the picnic tables. The kids don't have to actually go down to the
1702 pond.

1703
1704 Ms. Harris - So, your fence completely encloses the property ... or the play
1705 area?

1706
1707 Ms. Edmonds - To the backyard, yes, Ma'am. We have gates on both sides
1708 and it goes all the way back to the back.

1709
1710 Ms. Harris - Ok. Are there any questions from Board members?

1711
1712 Mr. Bell - Yes, I have a couple.

1713
1714 Ms. Harris - Yes, sir.

1715
1716 Mr. Bell - Let's go back to the fence. ... Put that picture back up! The
1717 one with the lake on it ... with the gate and the fence. So looking at this, right here, looks
1718 like the water is no more than four-feet from the fence

1719
1720 Ms. Edmonds - It may not even be that far.

1721
1722 Mr. Bell - Could you move that fence back even further?

1723
1724 Ms. Edmonds - Towards the house?

1725
1726 Mr. Bell - Yes.

1727
1728 Ms. Edmonds - We, possibly could, yes sir. I'd be willing to do that, if that
1729 needed to be done.

1730
1731 Mr. Bell - That would give a little bit more safety cushion, if they would
1732 get out.

1733
1734 Ms. Edmonds - Absolutely. We'd be willing to do that. How far in would you
1735 like it? How far in closer to the house do you think it will need to be moved?

1736
1737 Mr. Bell - Ben, how would we go about finding something like that out?

1738
1739 Mr. Blankinship - I'm afraid I don't know really know the state regulations on that
1740 kind of thing very well. I would want to coordinate with their state inspector on that.

1741
1742 Ms. Edmonds - Ok so, would that be something that I need to ask my DSS
1743 inspector?

1744
1745 Mr. Madrigal - I'd probably contact the state inspector ...
1746
1747 Ms. Edmonds - Ok, alright.
1748
1749 Mr. Johnson - And also, can we look at the height of the fence as well?
1750 Because that will probably be another issue because kids like to play on the fence.
1751
1752 Ms. Edmonds - Ok.
1753
1754 Mr. Bell - So, you don't have 12 children at any one time, I understand?
1755
1756 Ms. Edmonds - No, sir.
1757
1758 Mr. Bell - What are the maximum amount of children you might have
1759 there do you think?
1760
1761 Ms. Edmonds - Ok, so the state changed that ... things. Children have points,
1762 you know. So, I'll be glad to give you all this if you would like to see it.
1763
1764 Children 0 – 15 months have four points, and then it goes down ...
1765
1766 From 16 - 23 months, they're 3 points;
1767
1768 From 2 - 4 years old, they're 2 points;
1769
1770 And then from 5 - 10 years old, they are 1 point.
1771
1772 So, it's two of us, so we can max out at 35 points. So, 17 ½ points. Each one of us can
1773 have half. So, the way we have it broken up now is 0-24 months is one of us. I do the
1774 older children because I'm a former teacher. So, we would never have 12 children
1775 because we would max out in points. She could only have four children from 0-2 years
1776 because she would max out in points. She would only have our kids. I would only have
1777 ... I'm looking at maxing out with only eight children because in my brain, even in my
1778 classroom when I had 22, 24 kids, eight is a really good number with the space that we
1779 have and then the way that the state requires that we do it. I think eight is a really good
1780 number. And, even though they say 12 is what we can be licensed for, with a new
1781 grandbaby on the way, that's going to require time. I don't want to over-extend either one
1782 of us. Even though my daughter will be home for a while after the new baby comes, I just
1783 think eight's gonna be a better number ... but the state says 12.
1784
1785 Mr. Bell - And real quickly, I just had to make a statement too ... I don't
1786 know ... being a teacher ... is eight people sufficient for one adult supervisor when they're
1787 all in the backyard at the same time?

1788

1789 Ms. Edmonds - Oh no. There will be two of us at all times. Always. Always
1790 two of us outside. Always.
1791
1792 Mr. Blankinship - That's way they need to have the conditional use permit for
1793 the employee from outside the family.
1794
1795 Mr. Bell - Right.
1796
1797 Ms. Edmonds - Because if somebody falls and gets hurt, somebody's got to
1798 go inside and get the first-aid kit and ...Lord have mercy if ... leave those children
1799 unattended outside.
1800
1801 Mr. Bell - Have you read the conditional use report?
1802
1803 Ms. Edmonds - Yes, sir. I have.
1804
1805 Ms. Bell - Do you agree with everything that's on it?
1806
1807 Ms. Edmonds - Absolutely. Somebody's coming today to look at the
1808 driveway.
1809
1810 Mr. Bell - Thank you.
1811
1812 Ms. Edmonds - Yes, sir.
1813
1814 Ms. Harris - Ok. Other questions? Thank you so very much for coming in.
1815
1816 Ms. Edmonds - Ok, and thank you all.
1817
1818 Ms. Harris - Mr. Blankinship ... First of all, let me ask is they anyone in
1819 favor of this petition who would like to speak? Is there anyone who is opposed to this
1820 application and you would like to speak? Please come forward.
1821
1822 Citizen in Opposition - Good morning.
1823
1824 The Board - Good morning.
1825
1826 Citizen in Opposition - My name is William Smith, S-M-I-T-H. And, I'm the neighbor
1827 next door to this house. ... Can you go back to the previous one? How can I get back to
1828 the previous one.
1829
1830 Mr. Blankinship - He will be there in just a second.
1831
1832 Mr. Smith - Yeah, this should be my house right here. And the main
1833 reason I'm here is to get some understanding as to what's going on. I live right next door.
1834 Number one, how will they affect my property taxes? How will it affect me if I ever want

1835 to sell my house? Because I've lived in this neighborhood for a little over 30 years. When
1836 I first lived here, I lived in this house ... right about, right here. Which means that if I really
1837 didn't like the neighborhood, I wouldn't be here. Now, being where I am now, my main
1838 concerns is one, where's all this parking going to go? For employees, for people dropping
1839 off kids. And honestly, I wouldn't have been here for so long if I didn't respect my privacy,
1840 my neighbors' privacy. I really need to know how this is going to affect me. I really, really
1841 do. Like I said, I wouldn't be here this long if I didn't ... there's this pond back behind us,
1842 which is one of the features why I did buy this house from the other one. I was comfortable
1843 where I was. I was there. It's a nice house; it's a nice neighborhood. But, all I'm hearing
1844 here is like everybody's talking like its commercial property. How will this fence affect the
1845 water and the kids ... and it's like ... it's a business. This is my home. Understand what
1846 I'm saying. And I need to feel like, at least I'm being heard, I'm being understood. And,
1847 yes, I do have some real concerns. As far as that pond, you can try to make it as safe as
1848 possible, but it's hard for me to see how this house can be set up for a daycare. I knew
1849 the previous owner. I know its a rental property. I know there are other rental properties
1850 here in that neighborhood and maybe that's why you are not seeing as many people. It's
1851 not a lot of rental properties, maybe about four in the immediate area. But, most of the
1852 people that live there, have been there a while. They may not be here ... maybe because
1853 they are not right next door to it. I don't know, but it definitely ... it definitely has some
1854 setbacks to being a childcare. I mean, sure kids need room, they need room to run and
1855 play. Looking at that lot, do it seem like that to you? Honestly, and yes there is all types
1856 of wildlife there. The types of birds and all you see there is off the chain. I've seen Bald
1857 Eagles, Herring, I mean ... trust me ... all types of wildlife will show up at different times.
1858 And whether ... as this place being a daycare, whether they would be a good neighbor
1859 ... Would they? Whether it would be a business next to my house, or whether it would be
1860 a residence where a resident would respect one another or try to do certain things for one
1861 another. Because, honestly, the person that's renting this house don't care as long as
1862 she's getting a check in. And, I'm being honest because I know certain things about what
1863 went on before this property ... That they don't care. As long as they get the money for
1864 the house that their father left them.

1865
1866 Mr. Blankinship - The answer to your question, Mr. Smith, is that it's both a
1867 residence and a business. The family is going to live in the house.

1868
1869 Mr. Smith - They weren't before.

1870
1871 Mr. Blankinship - The family with the small child is going to live in the house,
1872 and the grandmother of the small child, the mother of ...

1873
1874 Mr. Smith - In order to get the business ...

1875
1876 Mr. Blankinship - is going to come to the home to care for the granddaughter
1877 and other children.

1878
1879 Mr. Smith - I understand that, but this was done in order to get the
1880 business permit because they weren't there until recently. That's fine. Anybody can move

1881 in there all they want I didn't kind of get an understanding of what was going on until I got
1882 up in this meeting. And that was to comply with the rules laid by the county and state
1883 laws.

1884
1885 Mr. Blankinship - Yes, and this use would last only as long as they rent the
1886 house. So, if they were to move out, then this would be over.

1887
1888 Mr. Smith - Yes, I understand that.

1889
1890 Mr. Blankinship - Unless the next tenant wanted to do the same thing.

1891
1892 Mr. Smith - But, my concern is the type of neighbor that's gonna be there.
1893 Whether things will be kept up like it needs to be. And, basically, whether it would be
1894 conducive for a child to be there.

1895
1896 Mr. Blankinship - Those are the Board's concerns as well, sir.

1897
1898 Ms. Harris - Yeah, and we know that the state department will be sure they
1899 issue this license that it's going to be kept up the way it should be for a daycare business.
1900 Let me ask you this, do you all park your cars on the driveway or do you park them on
1901 the street?

1902
1903 Mr. Smith - Mine is in the driveway and sometimes on the street.

1904
1905 Ms. Harris - How many cars can get in the driveway, you think?

1906
1907 Mr. Smith - Well, mine, I had enlarged so I could get my boat, my car and
1908 everything else in there.

1909
1910 Ms. Harris - Ok, so ...

1911
1912 Mr. Smith - Their situation is different... just two cars parking, and then
1913 maybe you can park three cars in front of the house; it's all on the street.

1914
1915 Ms. Harris - I live in a neighborhood where one of our neighbors runs a
1916 family care, daycare business and the other neighbors kind of like it because when they
1917 have small children, they have someone local who they can go to and who they trust. So,
1918 and they park their cars ... the employees park their cars either on the driveway or maybe
1919 one will stay on the street, but in the evening, at 6:00 o'clock, people are coming and
1920 going. So, it not really a problem for us. I've been in my house for 50 years. It's not really
1921 a problem for us because they don't stay.

1922
1923 Mr. Smith - It was a bit of a problem when they first came there. Not so
1924 much anymore ... because they used to turn around in my driveway.

1925
1926 Ms. Harris - Ok.

1927
1928 Mr. Smith - They used to park right in front of my driveway, on more than
1929 one occasion, but that's not going on anymore. I'll be honest with you.
1930
1931 Ms. Harris - That's good.
1932
1933 Mr. Smith - Like I said, I didn't move in here for ... you know ... I'm here
1934 because I wanted to be residential ...
1935
1936 Ms. Harris - We heard you, now we have some questions from one of the
1937 Board members, Mr. Green.
1938
1939 Mr. Green - It is my understanding that the house is already occupied by
1940 a young lady and ...
1941
1942 Mr. Smith - That's just recently.
1943
1944 Mr. Green - Well, yeah, but it's occupied.
1945
1946 Mr. Smith - It is now, yes.
1947
1948 Mr. Green - ... by her, and I think you said she had a small child there too.
1949 So, they already are your neighbors.
1950
1951 Mr. Smith - But, because of the daycare and all that's going on, it will
1952 affect me because basically, what if there is noise, what if there's ... You understand what
1953 I'm saying? A regular family might have one or two kids, and this isn't going to be a family
1954 dwelling. It's easy enough to say you can put it anywhere. But, my main concern is
1955 because of that part of it, how good of a neighbor will it be?
1956
1957 Ms. Harris - I think that the hours, I am told ... do you have that?
1958
1959 Mr. Blankinship - six ...
1960
1961 Ms. Harris - So, they could be gone at six. Other questions from Board
1962 members?
1963
1964 Mr. Bell - No questions.
1965
1966 Ms. Harris - Ok, Mr. Johnson.
1967
1968 Mr. Johnson - Oh, yes, I have one question. Is there any noise or anything
1969 going on around the property?
1970
1971 Mr. Smith - Well, not recently because it's been so rainy.
1972

1973 Mr. Johnson - Not lately, I'm referring to the past and also ... a lot of traffic
1974 ... around ... on the street and around your neighborhood?
1975
1976 Mr. Smith - Yeah, people are always dropping off their children and ...
1977
1978 Mr. Johnson - I mean, prior to this.
1979
1980 Mr. Smith - Well, the whole time this has been there people are coming
1981 and going to drop their kids off.
1982
1983 Ms. Harris - Mr. Smith, I appreciate what you were saying, but to many
1984 young parents it's a service for them. It's convenient for them to find someone in the
1985 neighborhood, you know.
1986
1987 Mr. Smith - Yeah, I understand that.
1988
1989 Ms. Harris - Maybe you are retired and you ...
1990
1991 Mr. Smith - Oh, I'm not retired yet ... but I'm not far off of it either ...
1992
1993 Ms. Harris - You might want peace and quiet, but they do a service. These
1994 family daycare businesses are all over the county, all over the city. They do a service for
1995 the young couples and they need childcare, especially for their young children before they
1996 go to school.
1997
1998 Mr. Smith - I understand that.
1999
2000 Ms. Harris - So, you understand that.
2001
2002 Mr. Smith - I've got two daughters. I know what it costs ... and I know
2003 about all that.
2004
2005 Ms. Harris - Then we want you go back a little bit and remember that we
2006 do need daycare, family daycare services somewhere.
2007
2008 Mr. Smith - And, we also need ...
2009
2010 Ms. Harris - But, not next door to you?
2011
2012 Mr. Smith - And, I've seen this neighbor go to from where it was basically
2013 a lot of older people living there when I first got there ... and the houses are turning over
2014 ... it's good to see some kids back in the neighborhood again ... don't get me wrong, but
2015 if you are right next door to this ... it's fine if you are living away from it ... four or five
2016 houses away. You understand? I'm not living four or five houses away, I'm right there.
2017

2018 Ms. Harris - Ok, well we're gonna ask if this be approved, we'll ask them
2019 to be good neighbors. And it works both ways, you know. But thank you for coming in.
2020
2021 Mr. Smith - And I'm respectful to anybody that's there, trust me. I know
2022 the person that they are renting from. And some of the people that they have rented to
2023 before, two or three people back, they would not take care of their yard, they would leave
2024 leaves. We're right on the water ... and you leave leaves on your yard or buildup of
2025 anything. You are right on the water and it encourages rats ... and my favorite, snakes.
2026 They will come in your yard because of that overgrowth and all, that's where they live. I
2027 spend a fair amount of time in nature, and trust me, I know.
2028
2029 Ms. Harris - Mr. Smith, Mr. Johnson ... Mr. Green has a question.
2030
2031 Mr. Green - You know, I hear your concerns, but I really would ask that
2032 you ... what someone else did previously is not ...
2033
2034 Mr. Smith - No, I'm not saying that they will do it. I'm just telling you that
2035 from my side as the person that owns it.
2036
2037 Mr. Green - Well, yeah ...
2038
2039 Mr. Smith - And they may not take care of the place the way it should be.
2040
2041 Mr. Green - Yeah, but ...
2042
2043 Ms. Smith - I'm not saying them, I'm talking about the owners.
2044
2045 Mr. Green - Yeah, but we just heard them make ... said they will make
2046 necessary improvements ...
2047
2048 Mr. Smith - And, like what else?
2049
2050 Mr. Green - But, she said she would put a different fence in and ...
2051
2052 Mr. Smith - A fence is one thing and there's also a diseased tree in that
2053 back yard dropping limbs in my back yard, all the time. Now I said disease, and if you got
2054 kids, boys will climb trees. This is a diseased tree.
2055
2056 Ms. Harris - Ok, well I think they heard that and maybe they will be doing
2057 something about it. Thank you for coming in and we appreciate your opinion, and we'll
2058 rule on this case after we see if there is anyone else who ...
2059
2060 Any more questions from Board members?
2061
2062 Mr. Smith - I just want my concerns ...
2063

2064 Mr. Blankinship - Alright, we need to move on. We have a long agenda this
2065 morning.

2066
2067 Ms. Harris - Thank you for coming in. Is there anyone else who opposed
2068 this application? Ok, I'll ask the applicant to come back for rebuttal or address some of
2069 the concerns.

2070
2071 Ms. Edmonds - Do you want to ask questions?

2072
2073 Ms. Harris - No, I think the questions have already been asked. So ...

2074
2075 Ms. Edmonds - Like I said, we moved there two years, in August. There were
2076 a point in time where we had 15 kids there. I mean, I don't know what to say. We always
2077 speak to him. There was a time when there was no one living there, but we had a daycare.
2078 Parents were in and out all the time. I mean, I asked parents from day one, please do not
2079 park in front of their driveway. There. The biggest concern was parking on the street,
2080 which we are in the process of getting fixed. I mean, we have a ... basically a mud pit that
2081 we pull into every morning. I have no control over Mother Nature. I'm trying to get the
2082 situation fixed. I mean we have kids that are there. I can't control what kids do. I'm sorry.
2083 I don't know what else to say.

2084
2085 Ms. Harris - Ok, thank you. We just wanted to address those concerns
2086 and encourage everybody to be good neighbors.

2087
2088 Ms. Edmonds - We try.

2089
2090 **[After the conclusion of the public hearings, the Board discussed the case and**
2091 **made its decision. This portion of the transcript is included here for convenience**
2092 **of reference.]**

2093
2094 Ms. Harris - Let's move on to CUP case number seven, Rhonda Edmonds
2095 with the family day home. What is the pleasure of the Board?

2096
2097 Mr. Bell - Just one second.

2098
2099 Ms. Harris - Ok.

2100
2101 Mr. Bell - I recommend approval of 2019-00007 provided the specific
2102 conditions of the approval be approved by the applicant.

2103
2104 Ms. Harris - Ok, is there a second to this motion?

2105
2106 Mr. Johnson - I second.

2107
2108 Ms. Harris - It is moved and properly seconded that we approve
2109 Conditional Use Permit number seven. Any discussion on the motion? We do need to

2110 state as far as that pond is concerned the applicants said that they would follow the state
2111 guidelines and coordinate with the state inspector to see what needs to be done. Also,
2112 that they could move the fence back. Is there any other discussion?
2113

2114 Mr. Johnson - Yes, Madam Chair.
2115

2116 Ms. Harris - Ok.
2117

2118 Mr. Johnson - Yes, they also mentioned about the height of the fence
2119 because you have kids back there and if you didn't move it ... and they should check with
2120 the regulations for what height they should have.
2121

2122 Ms. Harris - Alright, I think she said that they would be in compliance with
2123 whatever the State inspector would recommend.
2124

2125 Mr. Johnson - Right.
2126

2127 Ms. Harris - Any other discussion on this motion?
2128

2129 Mr. Bell - And to follow up on that, we discussed the height of the fence
2130 ... once we had concern about the fence's location next to the ... a large pond behind the
2131 house and the applicant agreed that she would not only follow the State's instructions,
2132 but if we had suggestions such as having a higher fence, or moving further back into the
2133 yard she would also follow those instructions.
2134

2135 Mr. Johnson - Yes.
2136

2137 Ms. Harris - Do we need to discuss whether we recommend a higher
2138 fence?
2139

2140 Mr. Green - I think we should just come back with what the State said.
2141

2142 Mr. Bell - Right.
2143

2144 Ms. Harris - Ok, we'll go by the State's recommendations. Ok, are we
2145 ready to vote now? All in favor of this motion, say aye.
2146

2147 The Board - Aye.
2148

2149 Ms. Harris - Opposed, say ...
2150

2151 Mr. Blankinship - I'm sorry, who seconded that motion?
2152

2153 Ms. Moore - Mr. Johnson.
2154

2155 Mr. Blankinship - Thank you.

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Ms. Harris -

The ayes have it and so ordered.

After an advertised public hearing and on a motion by Mr. Bell, seconded by Mr. Johnson, the Board **approved** application **CUP2019-00007, RHONDA EDMOND's** request for a conditional use permit pursuant to Section 24-12(g) of the County Code to operate a family day home with employees at 8712 Lakefront Drive (WEST END MANOR) (Parcel 761-758-5894) zoned One-Family Residence District (R-3) (Brookland). The Board approved the application subject to the following conditions:

1. This conditional use permit applies only to the operation of a large family day home with two employees from outside the home. All other applicable regulations of the County Code shall remain in force.
2. No more than 12 children, exclusive of the care provider's own grandchildren, may receive daycare services at any one time.
3. The hours of operation shall be limited to Monday through Friday, 6:00 am to 6:00 pm.
4. No later than April 1, 2019, the owner of the property shall improve two parking spaces on the property. Vehicles associated with the family day home, including vehicles used by the operator and employees, shall be parked on-site.

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

CUP2019-00008 **JENNIFER BARNETT** requests a conditional use permit pursuant to Section 24-12(e) of the County Code to allow a noncommercial kennel at 1808 Aeronca Avenue (WOODMAN TERRACE) (Parcel 775-761-9998) zoned One-Family Residence District (R-3) (Fairfield).

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

Mr. Madrigal - Mr. Secretary, Madam Chair and members of the Board. Before you is a request to allow a noncommercial kennel in a One-Family Residence. The subject lot is over 12,288 square feet in area and is improved with a one-story, 960 square-foot residence with open parking, constructed in 1963. Other improvements include an attached 200 square foot covered deck and a detached, 264 square-foot shed located in the rear yard. The rear yard backs onto Navion Park and is approximately 7,000

202 square feet in area and is enclosed by a 6-foot tall wooden privacy fence. The applicant
2203 purchased the property in 2000. She currently has seven Pembroke Welsh Corgis that
2204 reside in the dwelling. She was in the process of purchasing an additional dog, but she
2205 has placed a hold on the puppy until a determination is made on this use permit. She has
2206 indicated to staff that she is not a commercial breeder and does not board dogs for other
2207 pet owners. She has requested a CUP for a noncommercial kennel to keep the dogs as
2208 pets.
2209

2210 The property is zoned R-3 and is designated SR 2 on the 2026 Future Land Use Map. A
2211 one-family dwelling is consistent with both designations. The zoning ordinance allows up
2212 to three pets as an accessory use, with additional pets possible through the issuance of
2213 a Conditional Use Permit. The applicant was made aware of the need for a CUP for a
2214 noncommercial kennel as a result of attempting to license her dogs after their routine
2215 vaccinations. She stated to staff that she has had this breed for several years and has grown
2216 to love and appreciate this breed's traits and temperament. The dogs are kept primarily
2217 in the residence and are let out into the rear yard for play, exercise, and necessities. The
2218 county has not received any complaints with respect to the animals at this residence. As
2219 long as she adheres to the recommended conditions of approval, there should be no
2220 substantial or lasting detrimental impacts on nearby property.
2221

2222 In conclusion, the keeping of seven dogs on a residential property would be more
2223 appropriate on a larger parcel of land where homes are spaced farther apart, and density
2224 limits are lower. The subject lot is roughly ¼ of an acre in area and is located in a dense
2225 and well-established residential neighborhood. The keeping of so many dogs have the
2226 potential to negatively impact neighbors – fortunately, the applicant's property backs onto
2227 a neighborhood park rather than other residential properties. Additionally, based on the
2228 lack of complaints, it appears that the applicant is a responsible owner. Accordingly, staff
2229 recommends approval of this request, subject to the conditions. That concludes my
2230 presentation.
2231

2232 Ms. Harris - Thank you. Any questions for Mr. Madrigal?
2233

2234 Ms. Green - Mr. Madrigal, we have heard cases before where it was only
2235 three pets allowed. Am I ...
2236

2237 Mr. Blankinship - Well, three pets is what's allowed without the use permit.
2238

2239 Mr. Green - Right, and we have pretty much adhered to that and there
2240 have been a lot of individuals that have come in and because that was the rule, we pretty
2241 much have followed that rule.
2242

2243 Mr. Blankinship - Well, the Code specifically authorizes the Board to approve
2244 more than that, if you find there's not going to be any detrimental impacts and there an
2245 appropriate location for it. So, the Code specifically provides the Board with the authority
2246 to grant the use permit for additional ...
2247

2248 Mr. Green - Yeah, I'm aware of that but, I'm just ...
2249
2250 Mr. Blankinship - In cases where the Board have found there's a detrimental
2251 impact, they've denied the use permit ... so the homeowner was allowed to only keep the
2252 three.
2253
2254 Mr. Green - I guess that I'm just trying to think back, since I've been on
2255 this Board, have we granted that ... I just thought we always thought we adhered to what
2256 the rule was.
2257
2258 Mr. Blankinship - I would have to look for a couple. I believe there have been
2259 some approved, and there have been some denied, as you said. I can look for that as
2260 you continue, Madam Chair.
2261
2262 Ms. Harris - Ok. We will address that question when ... we'll move on.
2263 Any other questions of Mr. Madrigal? Ok, well thank you, Mr. Madrigal. We're gonna ask
2264 the applicant to come forward ...
2265
2266 Mr. Johnson, you had a question?
2267
2268 Mr. Johnson - No, no.
2269
2270 Ms. Harris - We're gonna ask the applicant to please come forth and state
2271 your case.
2272
2273 Applicant - My name is Jennifer Barnett, B-A-R-N-E-T-T. I've owned
2274 Corgis for about 15 years, and I suffer from a variety of mental health concerns, as does
2275 my daughter. We have found that I'm no longer on any medicine. I took six different mental
2276 health medications, but these dogs are my therapy dogs. They are being trained as
2277 therapy animals. They go to work with me. I take a different one to work with me every
2278 day and go out in public with me. We're training one to be able to go to my daughter
2279 when she graduates from high school in 2020. And, we intend to move out of the county
2280 as soon as she graduates so that we can have a larger space for our animals and that
2281 type of thing.
2282
2283 But, as far as neighbor impact, two of my neighbors emailed support letters. And, we have
2284 various people in the neighborhood come to visit our animals just because of the nature
2285 of their temperament. And so, they have become kind of a beacon if you will or a
2286 monument because we have folks come over just to play with them.
2287
2288 I recognize it's more than what's allowed, but I think that we've met the conditions. We've
2289 never had a complaint, and like I said, folks come to visit us.
2290
2291 Background Speaker - They are our pets and they do live inside ...
2292
2293 Ms. Harris - Can you give us your name, sir?

94
 2295 Background Speaker - I'm sorry. My name is Wade Barnett, B-A-R-N-E-T-T. They
 2296 are our pets. If we were to breed or anything like that, this would not be the area. That's
 2297 why ... I'm from the country myself. Brought my kids up here for better schools. As soon
 2298 as I get the last one out, I'm going back. I'm getting some ... a piece of land where I can
 2299 just not have dogs, I want some other animals. But, really these dogs ... they're our pets.
 2300
 2301 Ms. Harris - Ok, can you give us a little history on the dogs, like their ages,
 2302 their sex, whether they've been spayed and neutered, or what?
 2303
 2304 Ms. Barnett - Well, we've got seven currently. Fifteen years ago, I had one
 2305 and he got cancer and passed away. And, then my husband and I became despondent,
 2306 then my husband gifted me with Banner for Christmas, he's five, just turned five; and then
 2307 Sully just turned four. Then my son moved away, which he did great ... but he moved six
 2308 hours away. We suffered some other family issues, and then so I just began accumulating
 2309 them. My husband ...
 2310
 2311 Mr. Barnett - So, every time something bad happened, the dogs added.
 2312
 2313 Ms. Barnett - In the span of a short amount of time, we acquired four which
 2314 are Nugget, Ripley, Foxy, and Blaze and they are all between the ages of seven, six
 2315 months and nine months, or just under. And they're ... the ones that are old enough to
 2316 have been fixed, have been. They're not all old enough yet.
 2317
 2318 Mr. Barnett - It's just an addiction.
 2319
 2320 Ms. Barnett - Yes, it is.
 2321
 2322 Mr. Barnett - I'm glad y'all stopping her. I do want to breed them, one day.
 2323 Because I told her we can't afford this. If we continue, it's twelve-hundred a pop.
 2324
 2325 Ms. Harris - Are they all male? Are they all male dogs?
 2326
 2327 Ms. Barnett - No, they are ... we have three females and four females ...
 2328 for balance. I'm weird like that. The fourth one that we had a deposit on, but I told the
 2329 Breeder that I don't think that I'd get her. That it would be the fourth female of a different
 2330 color so that there's one ...
 2331
 2332 Ms. Harris - So, none of them have ... Which ones have been spayed?
 2333
 2334 Mr. Barnett - Two of the older ones, the four year old and the five year old.
 2335
 2336 Ms. Harris - Male and female?
 2337
 2338 Mr. Barnett - They're both male.
 2339

2340 Ms. Barnett - Both male.
2341
2342 Ms. Harris - Ok.
2343
2344 Mr. Barnett - Because we end up taking dogs ... if she thinks they look bad,
2345 then we end up saving them.
2346
2347 Ms. Barnett - Yeah.
2348
2349 Ms. Harris - Ok. Are there any questions of Board members?
2350
2351 Mr. Johnson - Yes. With having seven ... I know you say you are aware of
2352 the regulations and all ...
2353
2354 Ms. Barnett - I am now.
2355
2356 Mr. Barnett - Now, we are.
2357
2358 Ms. Barnett - We had three and it was fine, and then because these last
2359 ones were gotten in kind of quick succession ... they didn't start to get their rabies and
2360 vacci ... rabies shots ... and that's when it triggered the paper to the county ... so, when
2361 these kind of four came, bam, bam, bam ... we got the letter, and then we saved the
2362 money until we could file the application and all that.
2363
2364 Mr. Johnson - So, if the Board said ... ask you to maintain the three, the
2365 seven you have ...
2366
2367 Ms. Barnett - And, then per natural attrition ... to get within legal limits.
2368
2369 Ms. Johnson - Right. Would you consider that?
2370
2371 Ms. Barnett - Yes, sir. Oh, well ... if the Board said I have to ... I can't move
2372 yet, I guess I'll have to. So, we will have to do what we have to do.
2373
2374 Mr. Barnett - Yes, we will consider that. We're not going to add any more.
2375 And, if any pass away, we won't add any more.
2376
2377 Ms. Barnett - Right, absolutely.
2378
2379 Mr. Barnett - I've got one more year.
2380
2381 Mr. Johnson - Ok.
2382
2383 Ms. Harris - Other questions from Board members?
2384

2385 Mr. Bell - The three that you had before you got the other seven, are
2386 they the oldest?
2387
2388 Ms. Barnett - Yes.
2389
2390 Mr. Barnett - Yes, and we have several that are young.
2391
2392 Ms. Barnett - I essentially had a breakdown, and we got four quickly.
2393
2394 Mr. Barnett - Well, our first dog passed away, she ended up getting a
2395 couple. Then we were away in Kentucky visiting my son in college. He goes to Kentucky
2396 Christian or he did then, he graduated. We came back home, we'd gotten a new dog and
2397 she was there on our kitchen floor with a plastic bag over her head and she'd gotten into
2398 the recycling can ... so, that was kind of rough and we ended up with a pout after that.
2399
2400 Ms. Barnett - And the recycle stays outside.
2401
2402 Mr. Bell - You said after your daughter after she graduate might take
2403 one ... and you have one that's going to college.
2404
2405 Ms. Barnett - Yes, we have one that's graduated from college. He lives in
2406 Kentucky. My daughter, when she goes to college, we plan on having her be able to take
2407 one because Sully's her therapy dog. And then, as soon as we are able, we will be
2408 moving. She graduates June 2020.
2409
2410 Mr. Bell - Thank you.
2411
2412 Ms. Harris - And what are you going to do if they start breeding right there?
2413
2414 Ms. Barnett - You can't really see, but we've subdivided our back yard into
2415 two halves.
2416
2417 Mr. Barnett - And so, plus we ... are doing some work to keep them away
2418 from one another.
2419 Ms. Barnett - Boys go out on one half and girls go out on the other half, and
2420 they are separated even in hour house. They don't crate together and that type of thing,
2421 yeah.
2422
2423 Ms. Harris - I thought in one of the pictures that we saw, they were all in
2424 the same yard. Can you go back?
2425
2426 Mr. Blankinship - There were four, I think.
2427
2428 Ms. Barnett - Yeah, there were.
2429
2430 Ms. Harris - And I saw the four, but go back to the original.

2431
2432 Ms. Barnett - Yeah, we had just put that fence up that day.
2433
2434 Mr. Barnett - We had visitors ... all that had just happened and this
2435 gentleman ...
2436
2437 Ms. Barnett - And you can see we took our pool down to facilitate the other
2438 side of the yard so that there would be ample room.
2439
2440 Ms. Harris - See, the picture I'm looking at ... I counted six dogs.
2441
2442 Ms. Barnett - Right, because when had put that fence up, and then my
2443 husband and was in the yard working and all the dogs were in crates. We let them out
2444 with supervision on one side. That way they can be monitored and they all can be together
2445
2446 Mr. Barnett - Yes, you have to be out there, other than that we've separate
2447 them... or they have there's not going to be any accident ...
2448
2449 Ms. Barnett - Right.
2450
2451 Mr. Barnett - There is no accidents. I'm from the country, from the farm. I
2452 know how it works. And I know what to do with them.
2453
2454 Ms. Harris - Separate them.
2455
2456 Mr. Barnett - Separate them. Keep them separated, yes Ma'am.
2457
2458 Ms. Harris - Ok.
2459
2460 Ms. Barnett - And that why kinda all that ...
2461
2462 Ms. Harris - Mr. Green? He has a question.
2463
2464 Ms. Barnett - Yes, sir?
2465
2466 Mr. Green - You said they are certified as therapy dogs?
2467
2468 Ms. Barnett - Actually, a therapy dog certification requires a letter from your
2469 mental health professional, and I have that.
2470
2471 Ms. Harris - So, you have that for how many dogs?
2472
2473 Ms. Barnett - Well, I'm certified to have a therapy animal or an emotional
2474 support animal.
2475
2476 Ms. Harris - So, that's one.

77
2478 Ms. Barnett - It didn't specify. It just said I was allowed due to the nature of
2479 my disabilities to have emotional support.
2480
2481 Ms. Harris - You don't have a copy of that letter with you?
2482
2483 Ms. Barnett - No, sir, I do not.
2484
2485 Ms. Harris - Ok any other questions?
2486
2487 Mr. Johnson - You ...
2488
2489 Ms. Harris - Go, ahead Mr. Johnson.
2490
2491 Mr. Johnson - And you said that you had separated the males and females?
2492
2493 Ms. Barnett - Yes.
2494
2495 Mr. Johnson - Also, I noticed when I was out there, you had some materials
2496 in the back ...
2497
2498 Mr. Barnett - That ... I was just doing construction when I got my business.
199 We tore down a pool that we had. I'm in the process of tearing that down and moving it
2500 out the way and taking the deck out... and you know ... I just ... safety for the dogs. I
2501 didn't want them over there on that side.
2502
2503 Mr. Johnson - Ok.
2504
2505 Ms. Harris - Because I noticed, too, that you had ... some construction
2506 going on as you face the house on the left side. Did you have new construction of a fence?
2507
2508 Ms. Barnett - No, that's ...
2509
2510 Mr. Barnett - No, that fence was already there.
2511
2512 Ms. Harris - The lumber?
2513
2514 Mr. Johnson - Materials ...
2515
2516 Ms. Harris - I think I saw some lumber there ...
2517
2518 Mr. Barnett - The lumber that's there is for construction on the deck.
2519
2520 Ms. Barnett - That's for for the decking ...
2521
2522 Mr. Barnett - I'm building a deck.

2523 Ms. Harris - Ok, that was what I saw.
 2524
 2525
 2526 Mr. Barnett - Yes, I got to fix all that.
 2527
 2528 Ms. Barnett - So we have to square off the deck from where we took the
 2529 pool down.
 2530
 2531 Ms. Harris - Any more questions from the Board members?
 2532
 2533 Thank you, sir, very much for coming in. Anyone who is in favor of this petition? Do we
 2534 have anyone who opposes this petition? If not, this is case is closed and we'll move on
 2535 to the next.
 2536
 2537 **[After the conclusion of the public hearings, the Board discussed the case and**
 2538 **made its decision. This portion of the transcript is included here for convenience**
 2539 **of reference.]**
 2540
 2541 Ms. Harris - Ok, the next case is CUP 00008 regarding the noncommercial
 2542 kennel. And I'm going to move that we reduce the number of dogs to four. The reason
 2543 I'm saying four is because the county regulations stipulate three, but since Ms. Barnett
 2544 had a service agreement ... or the permission to have a service dog so that could be
 2545 determined that she's entitled to four. So, my motion is that this particular conditional
 2546 permit will specify reducing the dogs to four. That's my motion.
 2547
 2548 Mr. Johnson - Yes.
 2549
 2550 Mr. Harris - Questions?
 2551
 2552 Mr. Johnson - Madam Chair, when you mention that ... you were referring to
 2553 by attrition?
 2554
 2555 Ms. Harris - Attrition ...
 2556
 2557 Mr. Johnson - Or, are you just saying get rid of the ...?
 2558
 2559 Ms. Harris - Three.
 2560
 2561 Mr. Johnson - Yes.
 2562
 2563 Ms. Harris - I was saying adjust it to four. In a world where attrition is
 2564 involved ... well, when dogs get older and they pass ... I think the oldest dog is seven
 2565 years old. So, you just don't know how long a life will last for that particular dog. So, I
 2566 simply say four and we can vote it up or down. Who will second it?
 2567
 2568 Mr. Johnson - second it.

2569
2570 Ms. Harris - Moved and properly second that we approve this Conditional
2571 Use Permit with the recommendation that the dogs will be reduced to four. Any further
2572 discussion on this. Ok, Mr. Green.
2573

2574 Mr. Green - Typically, I would follow the rule of the county for the particular
2575 amount of dogs. She's using the dogs for service dogs. They indicated that they are
2576 going to move in a year, as soon as the daughter graduates. And because most cases
2577 come in and there's an attachment to the dogs, but in this situation, she ... it was
2578 stipulated that they were service dogs. She needs this for mental stability and I certainly
2579 don't want to put any undue stress on her to have to choose to get rid of three dogs. So,
2580 I would, on this one because they are planning to move ... haven't had any complaints ...
2581 are using them as service dogs ... will be giving one of the dogs to the daughter ... I would
2582 just be more inclined to let her keep her seven dogs because of the nature of the case.
2583 And, like I said, they said they were moving. They're going to move.
2584

2585 Ms. Harris - Ok.
2586

2587 Mr. Johnson - Madam Chair.
2588

2589 Ms. Harris - Yes.
2590

2591 Mr. Johnson - Would you consider a motion to do attrition?
2592

2593 Mr. Green - Attrition.
2594

2595 Ms. Harris - Attrition.
2596

2597 Mr. Johnson - Attrition ... to seven and let them by attrition go since they're
2598 going to be moving sometime soon ...
2599

2600 Ms. Harris - Well, let's just go ahead and vote down. All in favor of the old
2601 motions of reducing the dogs to four, say aye. Those opposed, say no.
2602
2603

2604	Affirmative:	Harris	0
2605	Negative:	Bell, Green, Harris, Johnson	4
2606	Absent:	Reid	1

2607
2608
2609 Ms. Harris - We need a new motion.
2610

2611 Mr. Green - I motion that we allow them to keep all seven dogs, given the
2612 fact that for medical reasons that she clearly articulated and they are going to be reducing.
2613 They do have a plan to reduce the dogs. And, I heard something that they said it was
2614 triggered by that. I don't think a lot of folks are aware they can't have but X amount of

2615 dogs once that notification triggers. Most cases, I'm saying, people are talking about
2616 keeping their dogs and increasing their dogs. So, it appeared to me that they were going
2617 to adhere to ... once that trigger was made ... that they were just going to stay in place.
2618 I motion that we allow them to keep all seven of the dogs.

2619
2620 Ms. Harris - Ok. That was the discussion? Did we get a second to that?

2621
2622 Mr. Blankinship - No.

2623
2624 Ms. Harris - May we have a second, please?

2625
2626 Mr. Johnson - I second that.

2627
2628 Ms. Harris - Ok, now we're ready since it's been moved and properly
2629 seconded ... now we're ready for the discussion.

2630
2631 Mr. Bell - Question, so what you were saying, Mr. Green, is that no
2632 attrition?

2633
2634 Mr. Blankinship - Well, subject to the conditions.

2635
2636 Mr. Green - Yeah, yeah ...

2637
2638 Mr. Bell - Oh, ok. I'm sorry.

2639
2640 Ms. Harris - So, they will lose some based on attrition? And you know in
2641 her statement regarding the permission to have service dogs, she said she didn't know
2642 how many. She didn't specify a number, so I ...

2643
2644 Mr. Green - She did, she said one.

2645
2646 Ms. Harris - Did she say one?

2647
2648 Mr. Green - Yes, she said one

2649
2650 Mr. Blankinship - She didn't specify which of ...

2651
2652 Ms. Harris - I didn't know ... I see.

2653
2654 Mr. Green - But, what you can do ... you can go online fill out paperwork
2655 and make your dog service worker ... any animal a service animal. And folks are cutting
2656 down on that. But I heard her say her therapist ... she did acknowledge that she had had
2657 some condition ... I certainly don't want to aggravate it.

2658
2659 Mr. Bell - Three times, she acknowledged it.

2660

2661 Ms. Harris - Right.
 2662
 2663 Mr. Green - I want people to see I have some compassion.
 2664
 2665 Ms. Harris - Yes. Ok, you're ready to vote? Any more discussion? All in
 2666 favor of this motion to allow Ms. Barnett and her husband to keep the seven dogs that we
 2667 know that based on the condition that when it comes to attrition, the number will be
 2668 reduced. And, we are compassionate about her situation. So, let's vote. All in favor of the
 2669 motion, say aye. Opposed, say no. Ok, we have a unanimous vote.

2670
 2671 After an advertised public hearing and on a motion by Mr. Green, seconded by Mr.
 2672 Johnson, the Board **approved** application **CUP2019-00008, JENNIFER BARNETT's**
 2673 request for a conditional use permit pursuant to Section 24-12(e) of the County Code to
 2674 allow a noncommercial kennel at 1808 Aeronca Avenue (WOODMAN TERRACE) (Parcel
 2675 775-761-9998) zoned One-Family Residence District (R-3) (Fairfield). The Board
 2676 approved the application subject to the following conditions:

- 2677
2678 1. This conditional use permit applies only to a noncommercial kennel for the keeping of
2679 no more than seven small dogs currently owned by the property owner. The approval is
2680 not for the boarding or breeding of dogs at any time. All other applicable regulations of
2681 the County Code shall remain in force.
- 2682
2683 2. No new or replacement animals may be added, so that the number of animals will be
2684 reduced by natural means to three, as allowed in a residential district, at which time this
2685 permit shall expire.
- 2686 3. No later than April 1, 2019, the applicant shall repair or replace damaged sections of
2687 the wooden privacy fence surrounding the rear yard.
- 2688
2689 4. No later than May 1, 2019, the applicant shall obtain building permits for any existing
2690 improvements for which permits are required.
- 2691
2692 5. The applicant shall maintain the property so that noise and odors are controlled.

2693	2694	2695 Affirmative:	Bell, Green, Harris, Johnson	4
2696	2697	Negative:		0
2698	2699	Absent:	Reid	1

2700 Ms. Harris - Ok, I do have one question about that Mr. Blankinship. How
 2701 did the county know that she was in violation?
 2702

2703 Mr. Blankinship - As Mr. Green mentioned, when you go to get rabies shots, the
 2704 Vet enters them into a database and enters them by your address and if there are four or
 2705 more at the same address, the Vet will notify you that this is a problem.
 2706

2707 Ms. Harris - Ok, yeah. I was wondering about that.
2708
2709 Mr. Green - Is that ... in follow-up to that question, on those other cases
2710 ... has that been county-generated or has it been the same ...
2711
2712 Mr. Blankinship - There have been some of each. Oh, and for the record, Mr.
2713 Green has not been on the Board when a kennel was approved.
2714
2715 Ms. Harris - Ok.
2716
2717 Mr. Blankinship - There were none in 2017, and the only one in 2018 was on
2718 the month when he was out.
2719
2720 Mr. Green - And that was approved?
2721
2722 Mr. Blankinship - Yes.
2723
2724 Ms. Harris - And, we've had some compassionate cases ...
2725
2726 Mr. Blankinship - Quite a few have been approved, but none while he was on
2727 the Board.
2728
2729 Ms. Harris - ... on the Board, yes.
2730
2731 Mr. Blankinship - That was the last of the use permits.
2732
2733 Ms. Harris - Do we want to take a 5-minute now to 7-minute recess? Yes?
2734
2735 **...THE BOARD RECESSED FOR 7-MINUTES ...**
2736
2737 Ms. Harris - We're calling the meeting back to order. Mr. Blankinship, we
2738 do have several requests for deferral?
2739
2740 Mr. Blankinship - Yes. Madam Chair, there were two cases deferred from the
2741 last meeting, **Variance 2019-00003 Mann Kidwell Shade Corporation** and also
2742 **Variance 2019-0004 Higgins Family Limited Partnership**. I was approached by the
2743 representative from the Higgins Family case during the break and he said that on further
2744 consideration, given that Mr. Reid is absent today, both of those applicants would like to
2745 defer their cases until next month in hopes that they will have a full five member Board.
2746
2747 Ms. Harris - Ok.
2748
2749 Mr. Blankinship - It would be easier to make two separate motions and I think
2750 it's the best way to keep the record straight.
2751

2752 Ms. Harris - Yes. May we have a motion in reference to variance number
2753 three?

2754
2755 Mr. Bell - I move that we accept that deferral.
2756

2757 Mr. Johnson - I second.
2758

2759 Ms. Harris - It's been moved and properly seconded that we defer
2760 Variance 00003. Any discussion on the motion?
2761

2762 Mr. Blankinship - And, that would be to the March 28th meeting.
2763

2764 Ms. Harris - Again, we can defer it until March 28th, next meeting. Any
2765 other discussion on the motion? All in favor, say aye. Opposed, say no. The ayes have
2766 it.
2767

2768 The Board **deferred** application **VAR2019-00003, MANN KIDWELL SHADE CORP's**
2769 request for a variance from Section 24-94 of the County Code to build a loading dock and
2770 canopy at 6011 West Broad Street (WESTWOOD) (Parcel 770-741-2406) zoned
2771 Business District (B-3) (Brookland). The rear yard setback is not met.
2772
2773

2774 Affirmative: Bell, Green, Harris, Johnson 4
2775 Negative: 0
2776 Absent: Reid 1
2777

2778
2779 Ok, Variance 00004. What is the pleasure of the Board?
2780

2781 Mr. Green - I move to defer.
2782

2783 Mr. Johnson - Second.
2784

2785 Ms. Harris - Ok, it's been moved and properly seconded that we will defer
2786 this case until the next Board meeting which is on the March 28th. Any questions on the
2787 motion? All in favor, say aye.
2788 .
2789

2790 Ms. Harris - I think that was unanimous. I think we will defer this case as
2791 well.
2792

2793 On a motion by Mr. Green, seconded by Mr. Johnson the Board **deferred** application
2794 **VAR2019-00004, HIGGINS FAMILY LIMITED PARTNERSHIP's** request for a variance
2795 from Section 24-94 of the County Code to build a one-family dwelling at 916 South
2796 Gaskins Road (Parcel 738-732-0576) zoned One-Family Residence District (R-0)
2797 (Tuckahoe). The lot width requirement is not met.

2798			
2799			
2800	Affirmative:	Bell, Green, Harris, Johnson	4
2801	Negative:		0
2802	Absent:	Reid	1

2803
2804

2805 Ms. Harris - Ok, Mr. Blankinship, the next case.

2806
2807 Mr. Blankinship - Variance 2019-00002, Liberty Homes.

2808
2809 **VAR2019-00002** **LIBERTY HOMES** requests a variance from Section 24-9 of
2810 the County Code to build a one-family dwelling at 11623 Patch Road (Parcel 771-778-
2811 9384) zoned Agricultural District (A-1) (Brookland). The public street frontage
2812 requirement is not met. The applicant proposes 0 feet public street frontage, where the
2813 Code requires 50 feet public street frontage. The applicant requests a variance of 50 feet
2814 public street frontage.

2815
2816 Mr. Blankinship - Would everyone who intends to speak to this case please
2817 stand and be sworn in. All raise your right hands, please. Do you swear the testimony
2818 you're about to give is the truth, the whole truth, and nothing but the truth so help you
2819 God? Thank you. Mr. Madrigal.

2820
2821
2822 Mr. Madrigal - Mr. Secretary, Madam Chair and members of the Board.
2823 Before you is a request to build a one-family dwelling in an agricultural district. The subject
2824 property was originally derived from a 28-acre tract of land purchased by A.B. Spicer and
2825 his wife in 1945.

2826
2827 In 1973, at the passing of Mr. Spicer, the family prepared a subdivision plat in anticipation
2828 that the property would be divided among his heirs. The family subdivision consisted of
2829 eight lots of varying sizes from 1 to 6 acres in area. Four of the lots fronted on a public
2830 right-of-way and the other four were served by a 50-foot wide private access easement
2831 internal to the property. At that time, there were two dwellings on the property, one of
2832 which has since been demolished. In 1988, upon the death of Mr. Spicer's wife, the lots
2833 were conveyed to their four children. The 1973 subdivision plat indicated that their son
2834 Howard should inherit a six-acre lot. Mrs. Spicer's will, however, indicated that two acres
2835 of that property should go to her son Robert and his wife and the remainder should go to
2836 Howard and his wife. In 2009, the two-acre portion of the property was inherited by Robert
2837 Jr, a grandson, and his wife. In February 2018, the Board granted a variance from the
2838 public street frontage requirement for a dwelling to be built on that two-acre lot. The
2839 remaining land was inherited by Howard and his wife, Mary, and is the subject of this
2840 variance request. Howard passed away in 2009, leaving Mary as the sole owner. County
2841 records evidence that the property has been in the Spicer family since 1945 and has been
2842 handed down by way of three separate wills since 1973. Although the boundaries of the
2843 parcels bequeathed by the family matriarch in 1998 are different from those parcels

2844 bequeathed by the family patriarch in 1973, the right to build on this land can be traced
2845 back to that original Will. The subject lot is 3.46 acres in area and is located at the rear of
2846 the subdivision. It is currently unimproved and heavily wooded and fronts on the north
2847 side of the access easement. The lot gently slopes down from front to rear. The adjoining
2848 lots to the north and south are improved with dwellings and the adjoining lot to the west
2849 is under development while the lot to the east is owned by CSX Transportation. The
2850 applicant is a local home builder and is the contract purchaser of the subject property. He
2851 intends to build a new, two-story, 2,400 square-foot dwelling with an attached garage on
2852 the lot which will be served by well and septic systems.

2853
2854 With respect to the threshold question, at the time that the family division was platted, in
2855 1973, it complied with the county's subdivision standards. The owners had a reasonable
2856 expectation that the resulting lot was developable, and the current owner inherited that
2857 expectation. Because of the size of the subject lot, its limited access, and the surrounding
2858 development pattern, it would be impractical to use the lot for anything other than a one-
2859 family dwelling. Absent a variance, the lot would not be developable. Therefore, the
2860 zoning ordinance unreasonably restricts the use of that property.

2861
2862 Relative to the 5 subtests, **item no. 1 – acquisition in good faith and self-imposed**
2863 **hardship**, the property has been passed down within the family over the last 74 years.
2864 The current owner acquired it by right of survivorship in 2009. She intends to sell the
2865 property to so that it can be developed by the purchaser. It appears that the applicant, is
2866 acquiring the property in good faith and played no role in the creation of the existing
2867 hardship.

2868
2869 **Item no. 2 – substantial detriment**, the surrounding property is developed as a family
2870 subdivision with dwellings on lots of one to four acres in area. Although a public street
2871 was not built with the subdivision, it is served by a private right-of-way 50 feet in width
2872 and provides access to the interior lots – this access easement is improved with a 10 to
2873 12-foot wide gravel road. The proposed dwelling will be consistent with the surrounding
2874 residential development pattern and will not have any substantial detrimental impacts on
2875 its immediate surroundings.

2876
2877 **Item no. 3 – general or recurring situation necessitating a code amendment**, as
2878 previously mentioned, the property has been in the family since 1945 and has been
2879 passed down through 3 separate wills occurring in 1973, 1998, and 2009. Because this
2880 family division predates the family subdivision standards adopted by the county in 2012,
2881 it does have to conform to those standards. It should be noted that any further division of
2882 the remaining lots will require subdivision approval and the construction of private street.

2883
2884 **Items no. 4 and 5**, have been satisfied as outlined in the staff report.

2885
2886 In conclusion, the proposed dwelling is consistent both the zoning and comprehensive
2887 plan designations for the property. The family subdivision was platted in 1973, prior to the
2888 adoption of standards for family subdivisions. This property has been devised by three
2889 wills, each of which lawfully complied at each respective interval. Absent of a variance,

2890 there would be no reasonable beneficial use of the property. Based on the facts of the
 2891 case, staff recommends approval, subject to conditions. And that concludes my
 2892 presentation.
 2893
 2894 Ms. Harris - Mr. Madrigal, how many homes will use the access road if this
 2895 is approved?
 2896
 2897 Mr. Madrigal - Well, you can see here ... one, two, three, four, and then the
 2898 one that's currently under construction here will be using it ... that'll be a fifth. And, when
 2899 this gets built, that will be a sixth.
 2900
 2901 Ms. Harris - Ok, are there other questions of Mr. Madrigal? Thank you.
 2902 Mr. Johnson?
 2903
 2904 Mr. Johnson - On that access road, was that part of the county's facilities?
 2905
 2906 Mr. Madrigal - It's not county land. Its private property and it's an established
 2907 easement.
 2908
 2909 Mr. Johnson - Ok.
 2910
 2911 Ms. Harris - Any other questions? Thank you so very much.
 2912
 2913 Mr. Madrigal - Thank you.
 2914
 2915 Ms. Harris - Will the applicant please come forward now and give us your
 2916 request.
 2917
 2918 Applicant - My name is Sean Tuthill, T-U-T-H-I-L-L. I'm the owner of
 2919 Liberty Homes and we seek to purchase the property ... to sell it ... there is no other
 2920 viable use for the property other than single-family home. It would be the last one on that
 2921 street, which has a private road maintenance agreement, as well as ... I'm not sure what
 2922 else I can say anymore, this gentleman has covered it.
 2923
 2924 Ms. Harris - We saw the plans in the packet.
 2925
 2926 Mr. Tuthill - Yes, Ma'am.
 2927
 2928 Ms. Harris - Any questions of Mr. Tuthill from Board members? Thank you.
 2929
 2930 Mr. Tuthill - Ok, thanks.
 2931
 2932 Ms. Harris - Is there anyone who wish to speak for this application? You're
 2933 on.
 2934

2935 Citizen - I didn't hear any question to go against this, but I ... I'm Sean
2936 Maxwell. I own this first house on this private road. This piece of land actually belongs to
2937 my mother-in-law who wishes to sell. Today, is the 10th anniversary of my father-in-law
2938 passed away, and so she is liquidating some things. When the Tuthill's came in and built
2939 this home, we decided to go ahead and sell that. We're hoping for approval on it so we
2940 can move forward on getting rid of this piece of property.

2941
2942 Ms. Harris - Ok, Mr. Maxwell, that's M-A-X-W-E-L-L?

2943
2944 Mr. Maxwell - M-A-X-W-E-L-L, yes.

2945
2946 Ms. Harris - Any questions of Mr. Maxwell? Thank you for coming in, sir.

2947
2948 Mr. Maxwell - Thank you.

2949
2950 Ms. Harris - Is there anyone else who wish to speak in support of this
2951 application? Is there anyone who wishes to oppose this application? If none, I believe
2952 that concludes this case.

2953
2954 **[After the conclusion of the public hearings, the Board discussed the case and**
2955 **made its decision. This portion of the transcript is included here for convenience**
2956 **of reference.]**

2957
2958 Ok, the next case is the Variance 00002 for Liberty Homes. What is the pleasure of the
2959 Board? And this one is on Patch Road. This is Liberty Homes. They want a variance.

2960
2961 Mr. Green - Brookland District.

2962
2963 Ms. Harris - Brookland District. Remember they showed us the public
2964 road? I'm sorry ... the access road.

2965
2966 Mr. Bell - I'll make a move that we approve this motion. I note there are
2967 no discernable problems with the neighborhood, and no understandable or reasonable
2968 suggestions presented while we should not approve it.

2969
2970 Ms. Harris - And we have to state here, too, that absence this variance,
2971 they will be unable to use this property.

2972
2973 Mr. Blankinship - Thank you.

2974
2975 Ms. Harris - So, you know, we have to go by the threshold question
2976 whether or not there's any use at all of the property if we don't grant the variance and
2977 there would be no use if we did not grant the variance.

2978
2979 Mr. Johnson - Madam Chair.

2980

2981 Ms. Harris - Yes. We'll get a second first before we discuss.
2982
2983 Mr. Green - Second.
2984
2985 Ms. Harris - Ok, it's moved and proper seconded that we will approve this
2986 variance number two, and ... Any discussion? ... Mr. Green ... Mr. Johnson?
2987
2988 Mr. Johnson - Yes. Also, I want to make sure ... I would like to see that the
2989 conditions of approval would also be included in that.
2990
2991 Ms. Harris - What do you mean?
2992
2993 Mr. Johnson - All the conditions that were put in there. That we have ...
2994
2995 Mr. Green - Yes.
2996
2997 Ms. Harris - You mean we did not ask him?
2998
2999 Mr. Johnson - It was not mentioned. Yes.
3000
3001 Ms. Harris - It was not mentioned?
3002
3003 Mr. Johnson - Yes.
3004
3005 Mr. Blankinship - Mr. Bell, was that the intent of your mention, I mean motion?
3006
3007 Mr. Bell - Yes, sir.
3008
3009 Mr. Blankinship - To include the conditions?
3010
3011 Mr. Bell - It was.
3012
3013 Ms. Harris - Any more discussion on this motion? All in favor of this
3014 variance, say aye. Those opposed say no.
3015
3016 After an advertised public hearing and on a motion by Mr. Bell, seconded by Mr. Green,
3017 the Board **approved** application **VAR2019-00002**, **LIBERTY HOME's** request for a
3018 variance from Section 24-9 of the County Code to build a one-family dwelling at 11623
3019 Patch Road (Parcel 771-778-9384) zoned Agricultural District (A-1) (Brookland). The
3020 public street frontage requirement is not met. The Board approved the application subject
3021 to the following conditions:
3022
3023 1. This variance applies only to the street frontage requirement for one dwelling only. All
3024 other applicable regulations of the County Code shall remain in force.
3025

- 3026 2. Only the improvements shown on the plot plan and building design filed with the
- 3027 application may be constructed pursuant to this approval. Any additional improvements
- 3028 shall comply with the applicable regulations of the County Code. Any substantial changes
- 3029 or additions to the design or location of the improvements will require a new variance.
- 3030
- 3031 3. Approval of this request does not imply that a building permit will be issued. Building
- 3032 permit approval is contingent on Health Department requirements, including, but not
- 3033 limited to, soil evaluation for a septic drainfield and reserve area, and approval of a well
- 3034 location.
- 3035
- 3036 4. Clearing, grading, or other land disturbing activity shall not begin until the applicant has
- 3037 submitted, and the Department of Public Works has approved, an environmental
- 3038 compliance plan.
- 3039
- 3040 5. The applicant shall present proof with the building permit application that a legal access
- 3041 to the property has been obtained. The driveway shall be maintained with a durable
- 3042 asphalt or compacted gravel surface at least 10 feet wide with 12 feet of horizontal
- 3043 clearance and 14 feet of overhead clearance to provide access for police, fire, emergency
- 3044 medical services, and other vehicles. The owners of the property, and their heirs or
- 3045 assigns, shall accept responsibility for maintaining access to the property.
- 3046

3048 Affirmative:	Bell, Green, Harris, Johnson	4
3049 Negative:		0
3050 Absent:	Reid	1

3051

3052

3053 Mr. Blankinship - Variance 2019-00005 and Variance 2019-00006, we're going

3054 to go ahead and call these together. Martin C. Collins request a variance to build on 7990

3055 Upper Western Run Lane and Johnathan T. Evans to build on 8000 Upper Western Run

3056 Lane. Is there anybody here that wish to speak to those two cases? Sir, are you

3057 representing the applicant in either case? Can you ...

3058

3059 Citizen - I'm the owner of 8000

3060

3061 Mr. Blankinship - You're the owner? You're Mr. Evans? ...

3062

3063 Citizen - Sir?

3064

3065 Mr. Blankinship - You're Mr. Evans?

3066

3067 Mr. Evans - Yes.

3068

3069 Mr. Blankinship - Oh, ok. Let's go ahead and ... Mr. Collins had said, in writing,

3070 that he was going to defer his case

3071

3072 Mr. Evans - He is deferring his portion of the case, yes.
 3073
 3074 Mr. Blankinship - Oh, ok. And there is no one here to speak to that case.
 3075 Madam Chair, a motion would be in order on that case.
 3076
 3077 Ms. Harris - Ok. Before ... Mr. Gidley ... Before you speak, let's get a
 3078 motion on deferring Variance 00005, Martin C. Collins. I think the request was made to
 3079 defer this case until the next ... for two months they want?
 3080
 3081 Mr. Blankinship - Yes, until April.
 3082
 3083 Ms. Harris - Ok, may I have a motion?
 3084
 3085 Mr. Johnson - Madam Chair,
 3086
 3087 Ms. Harris - Yes?
 3088
 3089 Mr. Johnson - I motion that we defer this case for the next two months,
 3090 00005 Variance.
 3091
 3092 Ms. Harris - Is there a second to this motion?
 3093
 3094 Mr. Bell - Second.
 3095
 3096 Ms. Harris - Moved and seconded that we will defer 00005 until April. Any
 3097 discussion on the motion? All in favor, say aye. All opposed, say no. Ok, this case is
 3098 deferred.
 3099

3100 On a motion by Mr. Johnson, seconded by Mr. Bell the Board **deferred** application
 3101 **VAR2019-00005, MARTIN C. COLLIN's** request for a variance from Section 24-9 of the
 3102 County Code to build a one-family dwelling at 7990 Upper Western Run Lane (Parcel
 3103 855-688-4123) zoned Agricultural District (A-1) (Varina).
 3104

3106 Affirmative:	Bell, Green, Harris, Johnson	4
3107 Negative:		0
3108 Absent:	Reid	1

3109
 3110 **VAR2019-00006** **JONATHAN T. EVANS** requests a variance from Section 24-
 3112 9 of the County Code to build a one-family dwelling at 8000 Upper Western Run Lane
 3113 (Parcel 855-687-6511) zoned Agricultural District (A-1) (Varina). The public street
 3114 frontage requirement is not met. The applicant proposes 0 feet public street frontage,
 3115 where the Code requires 50 feet public street frontage. The applicant requests a variance
 3116 of 50 feet public street frontage.
 3117

3118 Mr. Blankinship - Would everyone who intends to speak to this case please stand and
3119 be sworn in. Raise your right hands, please. Do you swear the testimony you're about to
3120 give is the truth, the whole truth, and nothing but the truth so help you God?

3121 Thank you. Mr. Gidley?

3122
3123 Mr. Gidley - Thank you, Mr. Secretary, Members of the Board. The subject
3124 property is roughly one-half mile south of the intersection of Elko and Charles City Roads.
3125 And, it is accessed by Upper Western Run Lane. And this is a private access road that is
3126 graveled, and you can see up here. So, actually, it's in pretty decent shape.

3127
3128 The land subject to this request was originally part of a 102-acre parcel owned by the
3129 Cochran family. A family division in 1994 created a two-acre and an 18-acre parcel. The
3130 variance was approved for the two-acre parcel in 1999, but never acted upon. And, the
3131 owner of that parcel, Linda Evans, passed away and her sons inherited both parcels.

3132
3133 The sons have since done a boundary line adjustment to provide for more equitable
3134 distribution, an 8 and 12-acre parcel. Today's request is for the 12-acre parcel that you
3135 can see right here, and it's for a public street frontage variance which would allow a home
3136 to be constructed on the property. The home being proposed by the applicant is shown
3137 here, and it's a single-story, 1,625 sq. ft. dwelling that is being proposed.

3138
3139 During our site visit, staff did notice there was significant debris being stored on the
3140 property; and noted in the staff report that this would need to be removed prior to a
3141 Certificate of Occupancy being issued for the home, and that would bring them into
3142 compliance with the zoning ordinance. And we can see some of that here ... some of
3143 those old cars, wood, and what have you. So, the property would need to be cleaned up
3144 to comply with the zoning ordinance.

3145
3146 In evaluation, with regard to the major test, the other property consisted of two individual
3147 lots going back to 1994. The recent boundary line adjustment does not create any
3148 additional lots. While the parcel could be used for agricultural purposes, limited access to
3149 the property along with environmental constraints would make that less than ideal of an
3150 option. As a result, the zoning ordinance arguably unreasonably restricts the use of the
3151 property. Staff believes the five sub-tests are met. I would just point out number two,
3152 dealing with substantial detrimental impact ... On the plat that was submitted with the
3153 application, it refers to an easement granting legal access to the property as well as a
3154 recorded road maintenance agreement. As a result, the concern regarding any access
3155 and maintenance of Upper Western Run Lane appeared to have been addressed. You'll
3156 notice below this is a private access drive that comes off Upper Western Run Lane. And
3157 you can see here where it crosses a creek. It was wet when we were out there and we
3158 are requesting that it be improved at this point to allow access for emergency vehicles to
3159 the proposed home. As noted, we believe all the other sub-test requirements are met.
3160 So, in conclusion, the property was acquired in good faith by the Cochran family in 1947
3161 and has been inherited by various family members. The dwelling would appear to be the
3162 only reasonable use for the property and assuming the applicant cleans up the property
3163 and improves the access to the home site, staff doesn't see any detrimental impact at

3164 that point from this request. As a result, we recommend approval subject to the conditions
3165 in your staff report. This concludes my presentation and if you have any questions, I'd be
3166 happy to answer them.

3167

3168 Ms. Harris - Ok, any questions of Mr. Gidley?

3169

3170 Mr. Johnson - Yes.

3171

3172 Ms. Harris - Mr. Johnson?

3173

3174 Mr. Johnson - On the entrance of the facility, I noticed there is a gravel
3175 highway going in ... Is there any regulations as far as emergency vehicles going in down
3176 there and getting out?

3177

3178 Mr. Gidley - In this ...

3179

3180 Mr. Johnson - The reason is, I went down looking at the property ... I didn't
3181 go totally down ... all the way down ... I was noticing it had about six mailboxes out so I
3182 know there are some other residents there. But if some kind of emergency happens, is
3183 there a ... would there be a time when you would have a problem with the emergency
3184 vehicle getting in there?

3185

3186 Mr. Gidley - I would respond, in this case ... first of all, this comes down
3187 roughly one-half mile so there are several homes that use this road. As you can see, it's
3188 a private street that's not paved, but is in pretty decent shape ... as you can see. And I
3189 suspect emergency vehicles could get down here. As a condition of the staff report, we
3190 did note the driveway access would need to be improved. And typically the language,
3191 although it's not a legal requirement, per se, typically we take language from recent
3192 amendments dealing with family divisions with regard to the road and the access and try
3193 to make the actual entrance drive improved as well. Which would get at your concern
3194 over emergency vehicles so they are not forced to stop short of the house.

3195

3196 Mr. Blankinship - And that's Condition #5 in your staff report, Mr. Johnson.

3197

3198 Mr. Johnson - Yes, ok.

3199

3200 Ms. Harris - Mr. Gidley, can we get the aerial map, please, the aerial view?
3201 So, exactly where will the house be constructed, if you can point that out?

3202

3203 Mr. Gidley - Ok, as you come down off of Western Run Lane ... here ...
3204 and then you turn here ... and basically you would cross the creek ... roughly here ... and
3205 the home would come up in this area here.

3206

3207 Mr. Blankinship - Can you zoom in there?

3208

3209 Mr. Gidley - Sure.

3210
3211 Mr. Blankinship - You can see the old foundation. There you are, you can
3212 actually see the old foundation that was built ... I want to say around 2000, Madam Chair.
3213 And the proposed house would be about maybe 100-feet south of that ... yes.
3214
3215 Ms. Harris - I did go down there, too. And the road does get a bit rough the
3216 further you go and it's no way to turn around. So, unless you go into someone's yard.
3217
3218 Mr. Gidley - Well, once you pull in there ...
3219
3220 Ms. Harris - Yeah ... so, I had to do that yesterday. So, any more
3221 questions from Board members? Thank you, Mr. Gidley.
3222
3223 Mr. Gidley - Yes, Ma'am.
3224
3225 Ms. Harris - And now we can hear from the applicant. Come forth, sir, give
3226 us your name, spell your last name, and state your case.
3227
3228 Applicant - Good morning, my name is Jonathan Evans, E-V-A-N-S.
3229
3230 Ms. Harris - Ok.
3231
3232 Mr. Evans - I just ... The property has been in the family for a long time
3233 and it's always been my intention to build a home on this property. I also want to state
3234 that I have intentions of cleaning up the debris that's in the outlying area where I want to
3235 build a house.
3236
3237 As far as the road goes, prior to construction of the new home, I intend to re-gravel ... to
3238 make accommodations for myself and any other vehicles coming in and out of that
3239 driveway.
3240
3241 Mr. Blankinship - Do you have any problems with demolishing the old
3242 foundation that's out there?
3243
3244 Mr. Evans - I actually do intend on having that back-filled since that will be
3245 part of my yard. And prior ... and post doing that, you'll get more access to turn around
3246 and stuff. It won't be an immediate action, unless it's deemed necessary by the Board.
3247 But, it is a future plan, yes.
3248
3249 Ms. Harris - Any questions for Mr. Evans? Ok, thank you for coming in
3250 and thank you for waiting so patiently for us.
3251
3252 Mr. Evans - Thank you.
3253

3254 Ms. Harris - Ok, we need to ask you ... Do you have a copy of the report?
3255 I need you to look at the conditions. There are seven conditions. Have you seen the
3256 conditions?
3257
3258 Mr. Evans - No.
3259
3260 Mr. Blankinship - They do actually include demolishing that foundation. That's
3261 a part of the reason I asked that, and the cleaning up of the property.
3262
3263 Mr. Evans - These items will have to be addressed before I can begin any
3264 construction?
3265
3266 Mr. Blankinship - Before the Certificate of Occupancy.
3267
3268 Mr. Evans - So, during the process of building ... having all this stuff
3269 removed to obtain occupancy permit to move into the home ... all these would have to be
3270 addressed?
3271
3272 Mr. Blankinship - Right.
3273
3274 Mr. Evans - Is that what you are saying?
3275
3276 Mr. Blankinship - Right.
3277
3278 Mr. Evans - So, if you guys approve me for the variance today, and I
3279 proceed with construction ... all of these things can be taken care of during the process
3280 of construction?
3281
3282 Mr. Blankinship - Right, while you have the crew out there mobilized that would
3283 be the perfect time to do it.
3284
3285 Mr. Evans - That would be fine.
3286
3287 Mr. Blankinship - I apologize for not recognizing you. I guess I was looking for
3288 Martin. When I didn't see him, I didn't realize it was you sitting out there.
3289
3290 Mr. Evans - Yes, sir.
3291
3292 As far as having that basement back-filled, is there any county requirement or can that
3293 just be done with topsoil?
3294
3295 Mr. Blankinship - You'd have to ask somebody in Building Inspections about
3296 that. I don't know if there is a specific process.
3297

3298 Mr. Evans - Ok, because there still a remainder around that basement
3299 footing of dirt that goes back in ... that's back-fill for the basement itself. I have that
3300 intention but I have not pushed back that dirt.
3301
3302 Mr. Blankinship - As far as I know that's all there is, but you'd still will want to
3303 check with Building Inspections.
3304
3305 Mr. Evans - Ok.
3306
3307 As far as the lumber that's stored around that general area, does that have to be
3308 completely removed from the property or could it be organized?
3309
3310 Mr. Blankinship - It can certainly be stored in a shed or another building ...
3311
3312 Mr. Evans - But is has to be internal?
3313
3314 Mr. Blankinship - Not necessarily, if it's like firewood it could be stacked. If it's
3315 building materials and there's no building project going on, it's supposed to be secured in
3316 some way. I'm not sure if you could do like a tarp or something.
3317
3318 Mr. Evans - Well, some of its tarped now. What that wood is ... is trees
3319 that were brought down by Hurricane Isabel ... and I have a friend that used to have a
3320 portable sawmill that milled that lumber for me so that I could use it for furniture and other
3321 things in the future when I have the home built. And, that's my question ... does it have
3322 to be removed from the property?
3323
3324 Mr. Blankinship - The intention is to comply with the requirements of the Code.
3325 So, we'd have to look at exactly what's required. I'm sorry I don't know now ... off hand.
3326
3327 Mr. Gidley - The zoning ordinance requires them to be stored inside a
3328 building.
3329
3330 Mr. Blankinship - Yes, typically it would be indoors but there may be ... you may
3331 be allowed to secure it with tarps and things like that. We'd just have to double check
3332 that.
3333
3334 Mr. Evans - Ok, thank you very much.
3335
3336 Ms. Harris - So, you are in agreement with and you understand the
3337 conditions?
3338
3339 Mr. Evans - Yes.
3340
3341 Ms. Harris - Any questions from Board members?
3342

3343 Mr. Evans - I do have one more questions about the access over the
3344 creek. Is there a ... that's been there for decades. Well, not decades but within the 40
3345 years that I've been alive, that's been there. When Gaston came through, it did some
3346 damage to it and I had it backfill with crushed concrete and put a brand new culvert in
3347 there. Is there some way I can get the information for what the standard is for that
3348 crossing?

3349
3350 Mr. Blankinship - Yeah, the Department of Public Works will help you with that.

3351
3352 Mr. Evans - Ok. Thank you.

3353
3354 Ms. Harris - Thank you for coming in.

3355
3356 Mr. Evans - Ok.

3357
3358 Ms. Harris - Anyone else who wishes to speak to this application? If not,
3359 that concludes the case and we are going to vote.

3360

3361 **[After the conclusion of the public hearings, the Board discussed the case and**
3362 **made its decision. This portion of the transcript is included here for convenience**
3363 **of reference.]**

3364

3365 Let's go on to the Collins ... Did we vote to defer them?

3366

3367 Mr. Blankinship - Yes, Ma'am.

3368

3369 Ms. Harris - And so the last case we heard was Mr. Jonathan Evans,
3370 Variance six, what is the pleasure of the Board? And this is in the Varina District, the area
3371 where we saw the washed out road, if I may use that description.

3372

3373 Mr. Johnson - Madam Chair, I motion ... recommend that we approve this
3374 with the conditions of approval ...

3375

3376 Ms. Harris - With the conditions that were specified?

3377

3378 Mr. Johnson - Yes.

3379

3380 Ms. Harris - Ok, is there a second to this motion?

3381

3382 Mr. Bell - Second.

3383

3384 Ms. Harris - The move is properly seconded that we approve variance
3385 number six. Any discussion on this motion? Again, because this is a variance, if they
3386 have no reasonable use of this property, we do have the authority to act and give them
3387 the authority to build. Otherwise, there will be no reasonable use of the property.

3388

389 Mr. Bell - And I would mention, too, that we added verbally ... prior to
3390 voting on this, which he also agreed upon that while the construction of his house is going
3391 on to make sure that the footings of another house that's been there for a while will be
3392 taken care of as well.
3393
3394 Ms. Harris - You mean the foundation ...
3395
3396 Mr. Blankinship - That's in condition number six.
3397
3398 Mr. Johnson - Yes.
3399
3400 Ms. Harris - Ok.
3401
3402 Mr. Johnson - Also, ... that private roadway, I just want to make sure that is
3403 suitable for all vehicles.
3404
3405 Mr. Blankinship - Condition 5.
3406
3407 Ms. Harris - That was Condition 5.
3408
3409 Mr. Blankinship - Yes.
3410
3411 Ms. Harris - The gentleman did say that they're going to try to bring in
3412 some more gravel or whatever pavement to get it up to par.
3413
3414 Ok, we have two sets of Minutes that we need to talk about.
3415
3416 Mr. Gidley - You need to vote.
3417
3418 Ms. Harris - Say what?
3419
3420 Mr. Gidley - You need to vote on the last one.
3421
3422 Ms. Harris - I thought we voted on it.
3423
3424 Mr. Blankinship - Yes. Yes. Did you not call the question?
3425
3426 Ms. Harris - I did call the question.
3427
3428 Mr. Blankinship - Let's call the question.
3429
3430 Ms. Harris - All in favor of the last CUP case ...
3431
3432 Mr. Green - Variance.
3433

3434 Ms. Harris - I'm sorry, variance. It was a variance. Say, aye. Opposed,
3435 say no. That variance has been approved.

3436

3437 After an advertised public hearing and on a motion by Mr. Johnson, seconded by Mr. Bell,
3438 the Board **approved** application **VAR2019-00006, JONATHAN T. EVAN's** request for a
3439 variance from Section 24-9 of the County Code to build a one-family dwelling at 8000
3440 Upper Western Run Lane (Parcel 855-687-6511) zoned Agricultural District (A-1)
3441 (Varina). The public street frontage requirement is not met. The Board approved this
3442 application subject to the following conditions:

3443

3444 1. This variance applies only to the public street frontage requirement for one dwelling
3445 only. All other applicable regulations of the County Code shall remain in force. This
3446 variance does not authorize construction on top of the abandoned building foundation
3447 currently on the property.

3448

3449 2. Only the improvements shown on the plot plan and building design filed with the
3450 application may be constructed pursuant to this approval. Any additional improvements
3451 shall comply with the applicable regulations of the County Code. Any substantial changes
3452 or additions to the design or location of the improvements will require a new variance.

3453

3454 3. Approval of this request does not imply that a building permit will be issued. Building
3455 permit approval is contingent on Health Department requirements, including, but not
3456 limited to, soil evaluation for a septic drainfield and reserve area, and approval of a well
3457 location.

3458

3459 4. Clearing, grading, or other land disturbing activity shall not begin until the applicant has
3460 submitted, and the Department of Public Works has approved, an environmental
3461 compliance plan.

3462

3463 5. The driveway from Upper Western Run Lane to the homesite shall be improved with a
3464 durable asphalt or compacted gravel surface at least 10 feet wide with 12 feet of horizontal
3465 clearance and 14 feet of overhead clearance to provide access for police, fire, emergency
3466 medical services, and other vehicles. The owners of the property, and their heirs or
3467 assigns, shall accept responsibility for maintaining access to the property.

3468

3469 6. Before requesting a certificate of occupancy for the dwelling, the applicant shall bring
3470 the property into compliance with the County Code by removing all inoperable vehicles,
3471 trash, and debris from the site, and demolishing the unfinished dwelling foundation. Any
3472 building materials shall be stored inside a completely enclosed building as required by
3473 the County Code.

3474

3475 7. The carport located in front of the proposed home location shall be removed or
3476 relocated to the rear yard of the property prior to the issuance of a certificate of
3477 occupancy.

3478

3479

3480	Affirmative:	Bell, Green, Harris, Johnson	4
3481	Negative:		0
3482	Absent:	Reid	1

3483
3484

3485 Ms. Harris - Now we move on to Minutes. We have two sets, October and
3486 December. Did you notice October's Minutes had 90 pages?

3487
3488 Mr. Blankinship - I'm sorry I didn't break a hundred. I thought for sure I would
3489 break a hundred.

3490
3491 Ms. Harris - I saw some minor corrections, but I don't think it's anything
3492 that will affect ... you know ... For example, they used "u" instead of use. They used "to"
3493 instead of two.

3494
3495 Mr. Blankinship - Can you give me the line numbers, please? We will correct
3496 them.

3497
3498 Ms. Harris - Ok.

3499
3500 Page 13, line 574, the word should be "use", and not "u" ... not the letter "u".

3501
3502 On page 624, the word should be "two" and not "to".

3503
3504 Page 28, line 1250, the word should be "life" not "live".

3505
3506 Ok ... page 37, line 1634, the word should be "was" and not "as".

3507
3508 On page 50, the word should be "gate" and not "dates". And that Line number was 2259.

3509
3510 Page 81, Line 3650, the word should be "up" and not "yup". And that was a typo. ...

3511
3512 Mr. Blankinship - Found another word.

3513
3514 Ms. Harris - I believe those are all the questions I saw on that.

3515
3516 Mr. Blankinship - Ok, thank you very much.

3517
3518 Ms. Harris - We do need a motion ... Can we have a motion to approve
3519 these minutes?

3520
3521 Mr. Bell - So moved.

3522
3523 Ms. Harris - May I have a second?

3524
3525 Mr. Johnson - I'll second.

3526
3527 Ms. Harris - It's been moved and properly seconded that we approve the
3528 Minutes as corrected. Any discussion on the Motion? If not, all in favor say, aye.
3529

3530 The Board - Aye.

3531
3532 Ms. Harris - Those opposed say, no. The ayes have it and so ordered.
3533

3534 On a motion by Mr. Bell, seconded by Mr. Johnson, the Board **approved as corrected**
3535 **the Minutes of the October 25, 2018 Board of Zoning Appeals meeting.**
3536

3537
3538 Affirmative: Bell, Green, Harris, Johnson 4

3539 Negative: 0

3540 Absent: Reid 1
3541

3542

3543 Ok, on the second set of Minutes, I think we can just approve those if we get a motion.
3544

3545 Mr. Johnson - Motion to the Minutes be approved.
3546

3547 Ms. Harris - Ok, may I have a second?
3548

3549 Mr. Bell - Second.
3550

3551 Ms. Harris - These are the December Minutes of 2018. Are there any
3552 questions on the Motion? All in favor of approval say, aye. Opposed say, no. The
3553 Minutes have been approved.
3554

3555 On a motion by Mr. Johnson, seconded by Mr. Bell, the Board **approved the Minutes of**
3556 **the December 20, 2018 Board of Zoning Appeals meeting.**
3557

3558

3559 Affirmative: Bell, Green, Harris, Johnson 4

3560 Negative: 0

3561 Absent: Reid 1
3562

3563

3564 Ms. Harris - Any other business.
3565

3566 Mr. Green - Yes. I have a question.
3567

3568 Ms. Harris - Yes.
3569

3570 Mr. Green - I'm beginning to notice that when we do go out and look at
3571 these sites ...

3572
3573 Ms. Harris - Yes.
3574
3575 Mr. Green - ... that they do have these community meetings and ... you
3576 know where they are talking of notices and ... Is there any way we can get notified for
3577 some of those so that we can go as observers and not identify ourselves? You'll get a
3578 sense of what the community is thinking versus who can come ... sometimes you can get
3579 more out of ... you get better flavor of what's happening. I'm saying that the differences
3580 here than what someone thought they heard versus what was said.
3581
3582 Mr. Blankinship - Yes, sir. We can certainly do that. ... We don't normally get
3583 an official notification ... but a lot of times, the applicant will tell us, "by the way, we're
3584 having a meeting." And, we can certainly say would you please notify members of the
3585 Board.
3586
3587 Mr. Green - Yeah, I'd like to go to a couple of them. Not identify myself,
3588 just ... you know, observe.
3589
3590 Mr. Blankinship - Right, I know.
3591
3592 Ms. Harris - I think the only problem we have with that is that we hear one
3593 side. If it is for information, I can see it, but you know we have ex parte rule ... that if you
3594 hear one side, you got to hear the other.
3595
3596 Mr. Green - No, they're presenting to the communities.
3597
3598 Mr. Blankinship - The communities ...
3599
3600 Ms. Harris - Yeah, but that's ... Oh, never mind then.
3601
3602 Mr. Green - That's what I'm talking about ... when they are presenting to
3603 the community.
3604
3605 Ms. Harris - ... you want to hear the information they give.
3606
3607 Mr. Green - Right.
3608
3609 Ms. Harris - Exactly.
3610
3611 Mr. Green - So it may give opportunity for input.
3612
3613 Mr. Johnson - And there, both sides will speak?
3614
3615 Ms. Harris - Yeah, both sides will speak so it wouldn't be in violation of ex
3616 parte. Ok, so Mr. Blankinship says he will let us know.
3617

3618 Did anyone get a chance to look at the BFI property? Mr. Johnson?
3619
3620 Mr. Johnson - Oh, yes, I was going to mention that. I went out to look at the
3621 BFI property and also took the tour and it was very informative. And some of the things
3622 that they were doing we weren't aware was going on. And also as far as keeping the
3623 smell down for the area, they are doing something about that. They're also washing all
3624 the trucks when they come out to make sure they don't get materials on the highway. And
3625 also how they are putting those Matts on ... the rubberized Matts at the bottom ...
3626
3627 Ms. Harris - The lining.
3628
3629 Mr. Johnson - The linings ... that when as they bring trash in there ... how
3630 they put soil over top of that. I think 12 inches ... 16 inches a day ... over that every time
3631 they do it. Then by a time when its gets to a point that its finished ... you know ... And
3632 then they also have a pipe in there that drains all the water out. So, maybe the City ...
3633 ... And I wasn't even aware ...
3634
3635 Ms. Harris - So you were impressed? You were impressed. We get the
3636 impression you did go ...
3637
3638 Mr. Blankinship - ... Mr. Johnson ...
3639
3640 Ms. Harris - No other business.
3641
3642 Mr. Johnson - Also, before we finish ... I want to say, I finally finished the
3643 class.
3644
3645 Ms. Harris - Oh, congratulations!
3646
3647 Mr. Johnson - Yesterday. That was really interesting. And that's a class that
3648 really is helpful. Especially for persons just coming in and just getting started. You know,
3649 some of the things they talk about, comes up. You know ... so very interesting ...
3650
3651 Ms. Harris - Mr. Blankinship, do our Minutes have a copy of this? You
3652 know, if we are going to hear next month about the Minutes ...
3653
3654 Mr. Blankinship - I'll pull it up ...
3655
3656 Ms. Harris - ... ok then ... there's no other business at this point?
3657
3658 Mr. Green - ... I'd like to initiate ... sign up to that class ... I started at a
3659 later date in the position and when I started, time didn't allow it. For me to just take time
3660 off ... just started a new job, so ... If the opportunity avails itself again, I would like to so
3661 do it.
3662
3663 Mr. Elankinship - You shall be notified.

3664
3665 Mr. Johnson - Also, in the class, I did see your name on it. And I assumed it
3666 was the same person.
3667
3668 Mr. Green - Moving my daughters to college and starting a new job ... I
3669 just had to make some choices.
3670
3671 Ms. Harris - There's no more business for this body. The meeting's
3672 adjourned.
3673
3674
3675
3676
3677
3678
3679
3680
3681
3682

Helen E. Harris

Ms. Helen E. Harris, Chairman

Benjamin W. Blankinship

Mr. Benjamin W. Blankinship, Secretary