

1 MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING
2 APPEALS OF HENRICO COUNTY, HELD IN THE COUNTY ADMINISTRATION
3 BUILDING IN THE GOVERNMENT CENTER AT PARHAM AND HUNGARY
4 SPRING ROADS, ON THURSDAY JANUARY 25, 2018 AT 9:00 A.M., NOTICE
5 HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-DISPATCH JANUARY
6 8, 2018 AND JANUARY 16, 2018.
7
8

Members Present: William M. Mackey, Jr., Chair
Helen E. Harris, Vice Chair
Gentry Bell
Terone B. Green
James W. Reid

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

9
10 Mr. Mackey - Welcome to the January 25, 2018 meeting of the Board
11 of Zoning Appeals. All who are able, will you please stand and join us in our Pledge
12 of Allegiance.
13

14 Thank you. Now I'll ask Mr. Ben Blankinship, our Board secretary, if he will read
15 the rules for today's meeting.
16

17 Mr. Blankinship - Good morning, Mr. Chair, members of the Board,
18 ladies and gentleman, the rules for this meeting are as follows: Acting as secretary,
19 I will announce each case. At that time, we will ask everyone who intends to speak
20 to that case to stand and be sworn in. Then a member of the staff will give a brief
21 introduction to the case. In the case of the appeal, the County Attorney's Office will
22 present their case, and then the appellant will have an opportunity to speak. In the
23 conditional use permit cases, a member of the staff will give an introduction to the
24 case, and then the applicant will present their testimony. Then everyone who
25 wishes to speak will be given an opportunity to speak. After everyone has had a
26 chance to speak, the applicant, and only the applicant, will have an opportunity for
27 rebuttal.
28

29 After the Board has completed each public hearing, they will continue to the next
30 public hearing. They will render all of their decisions at the end of the meeting. So
31 if you wish to hear their decision on a specific case, you can either stay until the
32 end of the meeting or you can check the Planning Department website—we usually
33 get it updated within an hour of the end of the meeting. Or you can call the Planning
34 Department this afternoon.
35

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

39
40 Mr. Chairman, we have one withdrawal and two requests for deferral on this
41 morning's agenda.

42
43 **CUP2018-00002 KROGER COMPANY** requests a conditional use
44 permit pursuant to Section 24-116(d)(1) of the County Code to allow a temporary
45 sales stand at 9000 Staples Mill Road (Parcel 768-757-2032) zoned Business
46 District (B-2C) (Brookland).

47
48 Mr. Blankinship - This case has been withdrawn and will not be heard
49 this morning.

50
51 Now, the first case on our agenda, CUP2013-00014, the director of planning
52 requests revocation of the conditional use permit, the director of planning and the
53 that property owner's legal counsel have agreed to a deferral to the March meeting.
54 But that does take a motion and an action by the Board.

55
56 **CUP2013-00014 THE EAST END LANDFILL:** the director of planning
57 requests revocation of a conditional use permit at 1820 Darbytown Road (Parcels
58 808-706-6679, 808-707-7024 and 809-707-1585) zoned Business District (B-3)
59 and General Industrial District (M-2) (Varina).

60
61 Mr. Mackey - Okay. Is there a motion?

62
63 Mr. Green - So moved.

64
65 Mr. Reid - Second.

66
67 Mr. Mackey - It has been moved by Mr. Green, seconded by
68 Mr. Reid. All in favor say aye. Those opposed say no. There is no opposition; that
69 motion passes.

70
71 After an advertised public hearing and on a motion by Mr. Green seconded by Mr.
72 Reid, the Board **deferred** application **CUP2013-00014, The East End Landfill,**
73 until the March 22, 2017 meeting.

74
75
76 Affirmative: Bell, Green, Harris, Mackey, Reid 5
77 Negative: 0
78 Absent: 0

79
80

81 Mr. Blankinship - The last case on the agenda, CUP2018-00003,
82 Christine F. Morlino, DVM, the applicant has requested deferral in order to do some
83 more research and study on the plans. They're going to come in with a revised
84 plan, so that needs to be deferred.

85
86 **CUP2018-00003 CHRISTINE F. MORLINO, DVM** requests a conditional
87 use permit pursuant to Section 24-116(d)(1) of the County Code to allow a
88 temporary office trailer at 4730 Pouncey Tract Road (Parcel 739-767-3152) zoned
89 Business District (B-3) (Three Chopt).

90
91 Mr. Mackey - Okay. Have they given a date for the deferral?

92
93 Mr. Blankinship - Is that one month? To the February meeting.

94
95 Mr. Mackey - All right. Is there a motion to defer CUP2018-00003 to
96 the February meeting?

97
98 Ms. Harris - I so move.

99
100 Mr. Mackey - Is there a second?

101
102 Mr. Bell - Second.

103
104 Mr. Mackey - It's been moved by Ms. Harris, seconded by Mr. Bell.
105 All in favor say aye. Those opposed say no. The ayes have it 5 to 0. The motion is
106 carried.

107
108
109 Affirmative: Bell, Green, Harris, Mackey, Reid 5
110 Negative: 0
111 Absent: 0

112
113
114 Mr. Blankinship - All right, thank you, Mr. Chair. The first case to be
115 heard is APL2017-00013, Michelle J. Slapshak.

116
117 **APL2017-00013 MICHELLE J. SLAPSHAK** appeals a decision of the
118 director of planning pursuant to Section 24-116(a) of the County Code regarding
119 the property at 11812 Willpage Place (COVENTRY) (Parcel 738-755-2220) zoned
120 One-Family Residence District (R-4C) (Three Chopt).

121
122 Mr. Blankinship - Would everyone who intends to speak to this case
123 please stand and be sworn in. All raise your right hands, please. Do you swear the
124 testimony you're about to give is the truth, the whole truth, and nothing but the truth
125 so help you God? Thank you. Mr. Newby, if you would begin.

126

127 Mr. Newby - Thank you, Mr. Blankinship, Mr. Chairman, and
128 members of the Board of Zoning Appeals. My name is Andrew Newby. I'm an
129 assistant county attorney for the county of Henrico, Virginia, and this morning I
130 represent Mr. Emerson, the county's Director of Planning, on his determination in
131 this appeal. Let me pull up my few legal slides here and start a slideshow. There
132 we are.

133
134 Let's cut right to it. The legal question in this case is fairly straightforward. Was the
135 director of planning correct when he ruled in his Notice of Violation that short-term
136 rentals are not allowed in the R-4 District in the County. And it's, of course our
137 position this morning that he was correct, and we ask the Board to affirm his
138 decision.

139
140 You have received in the last couple of days, I hope—and they're in the record—
141 communications from neighbors of Ms. Slapshak and from friends of Ms. Slapshak
142 talking about the impacts in the neighborhood and also I think, unfortunately,
143 discussing character. I think for purposes of the legal component of this case, we
144 can set those aside. I think you should consider them. I think you should hear from
145 everyone who's here this morning. I certainly think it adds something to the case.
146 But for the legal component, I think there are only three narrow, important facts to
147 determine the legal question in this case. And those facts are fairly simple.

148
149 First, that the property is indeed zoned R-4, a residential district. It's actually R-4C.
150 There are some proffers that aren't relevant to the case. But for the essential
151 purposes of this case, it's R-4. The property includes a one-family dwelling. That's
152 its principal use. It's a nice Colonial house in the R-4 District.

153
154 And finally, the fact which has caused this notice of violation is that the property
155 was rented through Airbnb in exchange for money to transient guests for a period
156 of time preceding the Notice of Violation. It should be underscored that since the
157 Notice of Violation, Ms. Slapshak commendably and voluntarily stopped renting
158 the property as an Airbnb until we get this resolved.

159
160 Setting aside the facts, there are two layers of law that are important to this case.
161 The first is Virginia law and the Virginia code. Just last year, the General Assembly
162 enacted a new code provision, 15.2-983. This was an important code provision for
163 lawyers like myself who give advice in the planning area. It went into effect July 1,
164 2017, so just a couple months ago, and it did a couple of important things.

165
166 First, it gives localities expressed authority to set up a registry of short-term rentals,
167 and that's not relevant to this appeal necessarily. But it also defined a short-term
168 rental, and it's a pretty straightforward definition. All a short-term rental is, is a
169 residential property that's rented on a short basis—and the code defines that as
170 less than 30 consecutive days—in exchange for money for the occupancy. So what
171 Ms. Slapshak was doing would meet the definition of a short-term rental under

172 state code. The final bullet point on this slide I think is critical to explain kind of the
173 genesis of how we got here.

174

175 That new law on July 1, 2017, made it clear where it wasn't clear before, in my
176 opinion, that localities do have the authority to regulate short-term rentals through
177 their zoning ordinance. Remember that at least to us in the government sphere,
178 Airbnbs are a fairly new technology. So getting this kind of clarity from the state
179 was both welcome and—it just recently happened. I think that's key. So with that
180 in mind, let's look at the actual Henrico County Zoning Ordinance which will decide
181 this case.

182

183 The first provision on your screen is a provision I know you're all familiar with, and
184 that's Section 24-6. This is the provision of the Zoning Ordinance that says that all
185 of our properties in Henrico County, each of us, shall not be used except in
186 conformity with the regulations for the underlying zoning district. So if you have a
187 home in the R-4 District, as in this case, you have to comply with the regulations
188 for the R-4 District, which are set out in the Code. And importantly, you can't do
189 anything that's not specifically allowed in the R-4 District.

190

191 What I think we'll find as we go through the provisions of the Zoning Ordinance,
192 and what the director of planning determined, is that there is no provision in any of
193 those regulations under the current Zoning Ordinance that allows short-term
194 rentals in the R-4 District. But let's look through them briefly together.

195

196 I have here the four sections that are relevant. The first is 24-11, which sets up the
197 principal uses in the R-4 District. The next section gives the conditional uses, and
198 then the next section gives the provisional uses. Then the final section gives the
199 accessory uses. And that's it. Those are the uses you get in the R-4 District at the
200 10,000-foot level.

201

202 So looking at principal uses, it's fairly obvious. Here we have a one-family dwelling.
203 That's a principal use. That's what you expect in a residential district, and that's
204 what we have. We have a nice Colonial home in the R-4 District. And under the
205 principal uses there is no provision for short-term rental businesses. You can go
206 and look yourself, but there's nothing there. The principal use is a one-family
207 dwelling, as you would expect.

208

209 Next let's look at conditional uses. As you know, any conditional use would have
210 to be approved by the Board of Zoning Appeals. In looking at what's allowed by
211 conditional use, there's nothing on point in short-term rentals. There are utility
212 structures, rec centers, country clubs, things like pigeon lofts and kennels and
213 other things, but nothing that is a short-term rental. And in any event, we know that
214 Ms. Slapshak hasn't come and obtained a conditional use permit of any sort. So
215 we can set aside conditional uses; that wouldn't allow short-term rentals either.

216

217 Provisional uses get a little more interesting. Because again, there's a list of things
218 that are allowed by provisional use permit, and one of them is a bed and breakfast
219 home. You kind of want to go well that makes sense. We have an Airbnb, and "b
220 and b" stands for bed and breakfast. Maybe this is where it fits. But first we should
221 note again that this is a special permit to run a bed and breakfast. It would have to
222 be approved by the Board of Supervisors. And we can full stop there, at least in
223 this case, because we know there's no provisional use permit for a bed and
224 breakfast on this property. So this also is a non-starter.

225

226 Now this is just my opinion, but I think that in looking at the requirements for a bed
227 and breakfast home under the County code, it's not a good fit for the Airbnb model.
228 There are different parking requirements, square-footage requirements, guest
229 limitation requirements that I don't think are a good fit for what we saw in Ms.
230 Slapshak's case. So even if she were to apply for a provisional use permit to
231 operate a bed and breakfast, at least in my opinion it's not a perfect fit and not
232 really the same as a short-term rental under state law.

233

234 In fact, just as a point of interest, if you go back and look at the new Virginia law, it
235 excludes bed and breakfasts from the regulations of short-term rentals. So they're
236 meant to be treated somewhat distinctly. So under provisional uses, we can set
237 that aside too. There's nothing that will allow this short-term rental business.

238

239 Finally, accessory uses. And this is perhaps the broadest, as the Board knows.
240 Under accessory uses, a property owner in a residential district can do any
241 accessory use that's, quote "customarily incidental"—those are key terms—to the
242 principal use as a one-family dwelling. And the code goes on to give some
243 examples, which I think are very instructive in this case. There are things that aren't
244 relevant like parking areas and garages and certain home occupations that can be
245 done, in my opinion, discreetly, like dressmaking or professions like dentistry.

246

247 But note the two that I have underscored here. The first is guesthouses for non-
248 paying guests. That kind of fits the bill; you have "guests". But here we don't have
249 a guesthouse; we just have a single-family dwelling. And more importantly, the
250 guests are paying guests. So that's an immediate disqualifier too. There is an
251 attempt, it seems, under the Zoning Ordinance that there's an allowance for non-
252 paying guests—your friends, your family—can come and stay with you. And they
253 can even stay on a short-term basis. But I think that's distinct—in fact I know it's
254 distinct from the situation where you're running it as a business, that you have
255 paying guests who have no direct relation to you staying at your home in exchange
256 for charge for the occupancy.

257

258 Then there's the second one I underscored, keeping of not more than two roomers
259 or boarders. That also doesn't fit. First of all, we know at least in Ms. Slapshak's
260 case there are many more than two people staying at the house at a time. And
261 also the terms "roomers" and "boarders" under our Zoning Ordinance are distinct
262 from transient guests. They are someone who sets up residency, basically, in a

263 boarding house or a lodging house. So this is not a good fit for the short-term rental
264 business either.

265
266 If we just generally look at what's customary and incidental to a principal use of a
267 one-family dwelling, I don't think the Airbnbs and short-term rentals are intended
268 to fall into that either in the general sense. Airbnb, of course, being a fairly new
269 phenomenon and a new use, it could not have been contemplated that that would
270 be part of what's allowed under the Zoning Ordinance at the time the Zoning
271 Ordinance was enacted. We'll talk about how that could change in a moment.

272
273 But that's really it. That brings you to the simple legal analysis and legal conclusion
274 that at least under the current Zoning Ordinance there's nothing that specifically
275 allows for short-term rental businesses. Therefore, by operation of that Section 24-
276 6 that I had on the slide earlier, it's not allowed. Because it's not specifically
277 permitted, it's not allowed. And that's why the director of planning came to his
278 conclusion that the short-term rental business that was being operated in an R-4
279 District was in violation of the Zoning Ordinance.

280
281 Now I don't want to leave you there entirely, because I think there is a little bit of a
282 larger overlay to this issue that's worth zooming out and looking at. The County is
283 conducting studies of short-term rentals. In other words, it may not be the end of
284 the story. Short-term rentals are new. County staff has been looking at how they
285 impact neighborhoods as they come online. We had a new state law that just took
286 effect that brought clarity to the fact that the County could regulate these through
287 zoning.

288
289 The Board of Supervisors even held a work session in September of last year to
290 kind of kick off its look at how to regulate Airbnbs if at all. But that's for the Board
291 of Supervisors to do. That's their legislative function. And I think what we see in
292 this case is that the Board of Supervisors starts with a blank slate. The current
293 ordinance doesn't speak to it. And if the Board of Supervisors through community
294 input wants to allow it or allow it on conditions or however it wants to deal with it,
295 that's the Board's to consider. But it starts from a blank slate that the current Zoning
296 Ordinance does not allow it and doesn't even speak to it.

297
298 So that concludes my legal presentation, and I'd be happy to answer questions at
299 this time.

300
301 Mr. Mackey - All right, thank you, Mr. Newby. Are there any
302 questions from the Board or from staff for Mr. Newby?

303
304 Mr. Newby - Thank you.

305
306 Mr. Mackey - Thank you, sir. Can we hear from the applicant now,
307 please?

308

309 Ms. Slapshak - Good morning. I'm Shelly Slapshak.
310
311 Mr. Mackey - For the record, could you spell your last name, please?
312
313 Ms. Slapshak - Yes. S-l-a-p-s-h-a-k.
314
315 Mr. Mackey - Thank you, Ms. Slapshak.
316
317 Ms. Slapshak - Today in Henrico County, nearly 200 homeowners are
318 running small businesses as hosts via Airbnb. In the state of Virginia, the number
319 of hosts runs over 4,000. Not only do these businesses generate much needed
320 small business income for the hosts, but also generate significant revenue to many
321 of our County businesses, including restaurants and establishments.
322
323 This is a new business model, but is growing rapidly because it's in demand. The
324 County has never specifically stated where these businesses cannot operate and
325 where they can operate. Instead, Airbnb and others like it have been allowed to
326 grow and contribute to the economic engine of this county. As stated prior, not one
327 but two Henrico employees stated that I was not in violation of any code.
328
329 Now after years of the County's benefiting from these businesses, the County has
330 irreparably changed course with its determination letter due to false information.
331 And this change of course has taken place without public input or debate. Certainly
332 not from the host. This determination effectively acts to shut down 200 plus small
333 businesses in the County. Has anybody informed these businesses of this
334 determination? Has a decision been published so we all know? It is our
335 understanding that the Board of Supervisors will be undertaking the question of
336 how to zone, to amend and address this as new laws, as it specifically pertains to
337 the Airbnb rentals.
338
339 This brings us to the question before the Board of Zoning Appeals. We ask that
340 the determination be rejected based on the County's many prior years of
341 interpretation of the ordinance. By permitting these 200 plus businesses to grow
342 and prosper, the County benefits from the economic activities they attract—
343 shopping, restaurants, sales tax, etcetera. As an alternative, I ask the Board to
344 suspend the determination until a full democratic process can take place on this
345 issue with a public hearing in front of the Board of Supervisors. This should not be
346 done by a backroom determination without public input and without informing these
347 businesses.
348
349 In good faith, I voluntarily stopped my business in detriment of my family and my
350 business income. I ask that while the Board of Supervisors considers resolution to
351 this matter that I be allowed to continue my business just like all my other fellow
352 Airbnb hosts. If the Board with public input says that its determination is to shut
353 down these 200 businesses, then I will respectfully do the same thing at that time.
354

355 Thank you for taking the time to read my position and consider my position. I would
356 like to offer the following rebuttal points to all the false and exaggerated claims
357 made by neighbor, Ms. Acosta. I pride myself on being a responsible citizen, a
358 good neighbor, a caring, compassionate human being. My hope is that these
359 rebuttal points will set the record straight for the Board and the public. When the
360 time is right, I would like to respond to the many false claims that will be made here
361 today. Thank you.

362

363 Mr. Mackey - All right. Thank you, Ms. Slapshak. Does anyone from
364 the Board have any questions for Ms. Slapshak?

365

366 Mr. Green - Ms. Slapshak, I am the representative from the Three
367 Chopt District. In your statement you said by permitting these 200-plus businesses
368 to grow and prosper, the County benefits from the economic activity they attract—
369 shopping, restaurants, other fields, taxes, and on and on. I'm more concerned
370 about the neighborhoods.

371

372 When I purchased my home in the Three Chopt District, I didn't purchase it for the
373 purposes of someone who lives next to me to run a business. I purchased because
374 I wanted to reside there, get along with my neighbors, and all of that. So I'm not
375 concerned about the economic activity that is generated. I'm concerned about
376 neighborhoods, schools, and those particular activities. So I take exception to that
377 particular sentence. I don't think folks move into neighborhoods for business
378 purposes; they move into neighborhoods to live.

379

380 Ms. Slapshak - I understand. I'm just asking for me to be not singled
381 out and being shut down based on false claims. These guests that come into my
382 home are vetted. I know who they are. I ask tons of questions and what brings
383 them into town, who will be staying at the house. All of the names. I actually
384 become very close acquaintances with these guests. It's not just bringing anybody
385 in and not caring who comes into the neighborhood. There is a lot that goes into
386 who will stay and who will not. And I communicate with them every day.

387

388 Mr. Green - Unlike an Airbnb, the owner lives in the Airbnb and
389 oversees what I understand goes on. Are you living in the residence?

390

391 Ms. Slapshak - No, I do not. There are two ways of doing Airbnb. You
392 can stay at the home or you can leave the home. It's 50/50 with the 200 in Henrico
393 whether they stay or they do not. And I'm insured, and my insurance only will insure
394 my house with doing this short-term rental if I leave the house.

395

396 Mr. Green - And you also make reference to false claims. Where is
397 that documented in the material that we've seen? I haven't seen any false claims.

398

399 Ms. Slapshak - Do I have time to go through just a few of those?

400

401 Mr. Mackey - Yes ma'am.
402
403 Ms. Slapshak - It is in the package that everybody should have. Yes, it
404 is in there.
405
406 Mr. Reid - Page 4. Two specific claims.
407
408 Ms. Slapshak - The first one is Ms. Acosta mentions that there's an RV
409 in my driveway. That was my father's RV coming in town for Thanksgiving. It was
410 there for two days. She claims that the generator was running the whole time.
411 That's false. They were plugged in to my electricity, and the generator was not
412 running.
413
414 She mentions all these weddings and commercials at my house and cars in the
415 driveway. There was one wedding rehearsal, which was a barbecue family
416 gathering in my backyard. Twenty-five people. It lasted until 6:30 that night, and
417 everybody was gone. I had people carpool into the subdivision so traffic was not
418 an issue. Nobody parked in the cul-de-sac. Nobody parked on Valerie—across the
419 street from me, that side of the road. Nothing was blocked. I no longer allow group
420 events after hearing the neighbors were complaining about that activity.
421
422 The maximum number in my house is eight. Eight people, not sixteen. You can
423 review that, and it's on exhibit F. It's eight people.
424
425 The police were called on suspicious activity by Ms. Acosta. She called the police.
426 My neighbors told me. Mrs. Paige—. The police came out and quickly left as there
427 was nothing to be concerned about.
428
429 Commercial crew has nothing to with Airbnb. Commercial crew was there for a
430 commercial. It was supervised by me. I was there. As well as a professional on the
431 crew to make sure that traffic was not a problem. They did not park in the cul-de-
432 sac. They did not park on Valerie's side of the road. And if they did for a short
433 period of time, they were told to remove that vehicle. That commercial was over at
434 2:50 p.m. Everybody was gone.
435
436 She is claiming burglary and arson on my Airbnb guests. When arson would
437 happen in the neighborhood, I was home that day. Burglary? I got my car broken
438 into. My money, my IDs, Visa; I was part of that eviction of the teenagers that had
439 been rampaging the neighborhood, seeing if doors were open, and going in and
440 grabbing whatever they want. It happened to me. My Airbnb didn't do it.
441
442 She says parking has always been an issue, and parking is in my rules. I have
443 very, very strict rules for my renters, and they have followed every single one. They
444 never park on Valerie's side of the street or in the cul-de-sac. It's in my driveway
445 or in front of my house.
446

447 I have strict rules for my renters of quiet hours. Weekends, quiet hours are 8:30.
448 Weekends it's 9:30. No parties, no events after that one wedding are allowed. Only
449 the guests that stay at my home are allowed in my home. No one can come from
450 outside and in. I keep great tabs on them. I call, I contact, I come by. I have security
451 cameras—I have an I-cam on the side of my house, so I am having an eye at all
452 times.

453
454 She claims that there there's always trash, that it's just a mess. One time the
455 squirrels got into the trash and left a pile on the street. I kept that house clean; my
456 renters kept it clean. I've had no issues with damage, trash, or destroying my
457 home. These are good people; I'm bringing them into my home. I'm bringing them
458 into the neighborhood. I'm concerned.

459
460 I took all the right steps in doing this. I put my house up on Airbnb because of the
461 bike race in 2015, the UCI World Championships. There was a demand for homes.
462 And I thought oh, what a great way to kind of raise some money to help me and
463 my girl. I didn't have any guests then.

464
465 I didn't start renting until 2016. But I contacted Henrico, Miguel, in July 2016 to
466 make sure it was not in violation. He said right now there is no code, you are not
467 in violation. Then I was brought into a meeting by Paul Johnson. He heard my view
468 of—I have care on my Airbnb. I'm taking consideration of the neighborhood. I don't
469 accept everybody. It's not 16, it's 8. There's no parties or loud music. He said, "You
470 will not be singled out, and then when we make a decision, we will contact you." I
471 never got that contact. All I got was a letter of official determination.

472
473 Mrs. Acosta has really slandered my name and my kid's name through the
474 neighborhood with these false accusations. I am concerned about my safety and
475 my kid's safety. It was on the news with my address, my number all across. There's
476 a lot of people that don't like Airbnb, and I get that. They just don't like the idea of
477 it. But, you know, it's vetted and it's safe. And right now it's okay. And I understand
478 if rules change. I'm fine with stopping.

479
480 Valerie sent me a text message, which I have proof, and it's exhibit B. She says,
481 "Get ready," as she was moving full steam ahead in doing everything to stop
482 Airbnb.

483
484 Female - [Off microphone; inaudible]

485
486 Mr. Mackey - Excuse me, ma'am. One at a time.

487
488 Ms. Slapshak - I have it in exhibit B. Her actions incited and led to my
489 property being vandalized. After that text. My HVAC unit in April 2017, was
490 confirmed by Mid-Atlantic Mechanical and Repair by Randall Lemar, who repaired
491 and replaced my unit. The police were notified and there was a police report on

492 file. This was definitely done by somebody who had a vendetta against me and
493 was out to scare and shut me down. Right after that text message.

494
495 Ms. Acosta singled me out further for her agenda by gathering a handful of
496 neighbors to precipitate her falsehoods to the County. Ms. Acosta went to
497 surrounding neighborhoods, not only Coventry, but surrounding neighborhoods
498 and spread her false claims on my character and my property. Exhibit G. She put
499 a Facebook—or a friend posts on Facebook about my Airbnb and that I was taking
500 no concern for the neighborhood, lots of weddings, lots of commercials, trash was
501 problematic, traffic was so bad.

502
503 My property is fully insured, and I pay my taxes on my Airbnb earnings.

504
505 Thank you so much for your time. Yes?

506
507 Mr. Green - I appreciate you going through that. But you referenced
508 it as “my home.” If you’re not living in it, how is it your home? I interpret a home as
509 a place that you live. Now where are you living?

510
511 Ms. Slapshak - So I live at the home when I don't have Airbnb guests.
512 Airbnb guests come in for the weekend, for a wedding, for a reunion, or a hospital
513 stay. So I stay at the house until there's Airbnb. When they come in, I go to my
514 boyfriend's house. When my Airbnb leaves, I go back to the house with my kids,
515 and we live there. So it's a back-and-forth.

516
517 Mr. Green - So your kids are transient as well?

518
519 Ms. Slapshak - Yes, they go with me. And of course I have my
520 husband. They go with my husband now and then. They support, and it's just down
521 the road. They go to school. Their activities are not being interrupted. It's the way
522 that we're kinda making things come together and live so my daughter can go to
523 travel soccer, which costs thousands of dollars. Without this Airbnb income, I
524 wouldn't be able to sign her up for soccer.

525
526 Mr. Mackey - Thank you, Ms. Slapshak. Are there any other
527 questions for Ms. Slapshak?

528
529 Ms. Harris - Yes. Ms. Slapshak, have you considered moving your
530 business, for example selling the house and going somewhere where you would
531 be welcomed, where your business would be welcomed, and you wouldn't have
532 residential neighborhoods to deal with?

533
534 Ms. Slapshak - I love Henrico County. It's where I'm raising my kids.
535 They're in a great school system. They have their friends. And so I'm not going to
536 uplift them and move to continue this business. So at this point, no, it's not a
537 consideration.

538

539 Ms. Harris - Right. I wasn't asking you to leave Henrico County. We
540 like having you. We were just wondering about the zoning, in an area where the
541 zoning is more conducive to the type of business that you're running. Okay.

542

543 Another question I have is about these transients that come to you. Where do they
544 come from? How do you hear of them?

545

546 Ms. Slapshak - Through the site. They have to email me with their
547 reasons why they want to come in town. It could be fleeing from Miami from the
548 hurricane and needing some place to reside. They have a family funeral, so they're
549 coming with their family to stay in Richmond because that's the only funeral—or a
550 wedding, they come in town. Maybe it's a soccer tournament. Or dads come with
551 their kids or mothers come with their girls for a soccer tournament. So it's all around
552 the area that they come, within driving reach. No one's really flown in, but it's all
553 the surrounding area from Virginia Beach to Charlottesville area.

554

555 Ms. Harris - Okay.

556

557 Mr. Mackey - All right.

558

559 Mr. Green - So they occupy all the bedrooms?

560

561 Ms. Slapshak - Yes.

562

563 Mr. Green - Even the children's bedrooms?

564

565 Ms. Slapshak - Yes.

566

567 Mr. Green - So they have access to disrupting your children's
568 bedrooms.

569

570 Ms. Slapshak - Well, it's a very safe environment. I have my two
571 closets that are locked. So we put everything that's valuable in these closets. I
572 change the sheets. I have the mattresses covered with the zipped liners. And it's
573 a motion of putting on white, clean sheets and then taking off ours. But they are in
574 the kids' room. We've had no problems, no issues, because I'm very selective of
575 who I allow into the neighborhood and in the house. They clean up and follow the
576 rules. I say be very respectful to the neighbors and the noise level. They have not
577 violated any of my strict rules.

578

579 Mr. Mackey - All right. Thank you, Ms. Slapshak. Any other
580 questions? All right, thank you very much.

581

582 Ms. Slapshak - Okay, thank you.

583

584 Ms. Harris - I'm just concerned. People who you have found online,
585 because they have gone to your website, and you're bringing them into your home
586 where you have your children. I'm just concerned that this does not sound like a
587 safe investment. I commend you on what you're doing through Airbnb. I think it's
588 a wonderful idea. I like the productivity of it. I just wish that it were in another zone—
589 in Henrico County however—where you could do the very same thing, providing a
590 safe environment for your family and still produce income.

591
592 Ms. Slapshak - Where would that location be in Henrico that this short-
593 term rental will be allowed?

594
595 Ms. Harris - Probably near a hotel, because it sounds very much
596 like a hotel. There was one more question I had to ask you. It escapes me now. I
597 think I'm done.

598
599 Ms. Slapshak - Okay. Thank you.

600
601 Mr. Bell - Do your renters go through Airbnb or do they come
602 directly to you?

603
604 Ms. Slapshak - That's a good question. They have to go through the
605 Airbnb site. Airbnb holds the money. I don't get it. They control all the
606 communications. You can't even give numbers through Airbnb or email addresses.
607 You can't go around this site. They go through a very thorough vetting situation for
608 each guest that comes into the home. You have their pictures. They have to give
609 you their ID. Face recognition. So it's a lot of cross-references before they can
610 even be accepted into the system. But it's all through the Airbnb system.

611
612 Mr. Mackey - All right. Thank you, Ms. Slapshak. Is there anyone
613 else who would like to speak in support of this application? Would you please come
614 forward to the podium? Would you say and spell your name for the record, please?

615
616 Ms. Bracey - My name is Jennifer Bracey. B-r-a-c-e-y. One thing I
617 noticed when I walked in here this morning is your motto: Proud of our progress.
618 Excited about our future. Airbnb is the future whether or not—have any of you ever
619 stayed at an Airbnb? You have. You have. I stay at Airbnbs. I'm going to Europe
620 in 85 days from today. I'm very excited about staying at somebody's home that's
621 Airbnb.

622
623 My daughter is Ms. Slapshak's best friend. We live in Pine Run, which is a
624 subdivision that's on the other side of Church Road from her. I let my daughter
625 stay at her house. I trust Ms. Slapshak's judgment. I trust her character. I trust my
626 daughter to stay there. What worries me more is how somebody can decide to
627 make this their goal to ruin somebody's good name and to ruin their livelihood and
628 to talk slander, basically, about her and have these things happen to her in a
629 neighborhood. That bothers me more than having somebody stay with Airbnb.

630

631 Airbnb is really the future. And whether or not today it's allowed in Henrico County,
632 you heard Shelly say there's 200 people that are currently using the system. It's
633 going to grow. It's just like Uber and other things. It's your progress. And Henrico
634 County can either inhibit that progress or they can support somebody who is trying
635 to make a living for her daughters in the best possible way that she can.

636

637 She is a carrying mother. Like I said—what more can I say that I let my daughter,
638 who is my most trusted thing in my life, stay at that house?

639

640 I'm willing to answer any questions, but I can attest to the safety of the home. I can
641 attest to the rumors that are going. I've heard it from a number of people, from a
642 neighbor who lived in Waterford going, "Oh my gosh. I heard about Shelly. What
643 is going on there?" All of these things that are happening because of the rumors
644 that her neighbor has attested to and sent out things about. I think it's a shame
645 that somebody can almost make her out to be the bad person.

646

647 Mr. Mackey - All right. Thank you, Ms. Bracey.

648

649 Ms. Harris - Where do you live?

650

651 Ms. Bracey - I live in Pine Run.

652

653 Ms. Harris - How far is that from this area?

654

655 Ms. Bracey - Half a mile.

656

657 Ms. Harris - Okay. I noticed that you keep making a reference—
658 both you and Ms. Slapshak—about one person, but we have many letters. Were
659 the letters from the neighborhood in the packet? Most of them were from
660 Waterford. But we have many letters opposing this business in this particular
661 neighborhood.

662

663 Ms. Bracey - Absolutely. After her neighbor putting it out on different
664 websites, Facebook page—different subdivisions' Facebook pages, making all
665 these things, saying about the trash, about the film crews. I mean, you hear that,
666 you think the worst, right? You think there's a film crew in somebody's yard.

667

668 Mr. Blankinship - But there was a film crew.

669

670 Ms. Bracey - There was, but it had nothing to do with Airbnb. It had
671 nothing to do with Airbnb. Which is not the point of what this is about, correct?

672

673 Mr. Blankinship - But if somebody writes us an email saying there was a
674 film crew there, and there was a film crew there, then . . .

675

676 Ms. Bracey - But that has nothing to do with Airbnb. Right? The film
677 crew wasn't there for this case. It was there for a commercial.
678
679 Mr. Blankinship - I'm just hearing words about slander and lies. I'm just
680 trying to parse that.
681
682 Ms. Bracey - Well, it's the unsaid kind of—have you seen the posts
683 that were out on the Facebook pages?
684
685 Mr. Blankinship - I have seen everything that was submitted to the
686 Board.
687
688 Ms. Bracey - Yes. Okay.
689
690 Mr. Mackey - Yes. Go ahead, Mr. Green.
691
692 Mr. Green - As the Three Chopt representative, issues come to my
693 attention. I can honestly say that I've never heard anything slanderous for the
694 applicant.
695
696 Ms. Bracey - Well I'm glad to hear that.
697
698 Mr. Green - Even if there were anything slanderous said, it's our
699 duty to discount that and just look at the facts.
700
701 Ms. Bracey - Absolutely.
702
703 Mr. Green - I go back to the presentation that the County attorney
704 made. While Airbnbs and Ubers and Lyfts are a wave of the future, there still has
705 to be some regulations and rules and laws in place.
706
707 Ms. Bracey - Absolutely.
708
709 Mr. Green - I've yet to hear any counter to the argument made by
710 our County attorney.
711
712 Ms. Bracey - So I think—I'm sorry.
713
714 Mr. Green - I can appreciate the fact that folks are trying to make
715 money and your support of putting your daughter through a particular program. But
716 there's an appropriate way in which to do it. And we can't break the law to do these.
717 We've got to follow the law. If we ignore it, then that leads to anarchy.
718
719 Ms. Bracey - I totally agree with you.
720

721 Mr. Green - I want to adhere to following the laws. If the director of
722 planning had ruled differently based on—and I don't think that anybody's looking
723 at Facebook posts or emails; they're just looking at the basic ordinances, laws,
724 and rules and being guided by those. That's what we have to consider as we look
725 at this. I'm not hearing anything that counters. The argument would be to counter
726 what the County attorney said point-by-point as to why as opposed to "I need this
727 because I have to send my daughter."

728
729 Ms. Bracey - Right.

730
731 Mr. Green - A lot of things we want to do with our kids and be
732 supportive of, but there are other means by which we have to find ways to do it.

733
734 Ms. Bracey - I understand your point. I think the whole thing is that
735 Ms. Slapshak did go to Henrico County on two occasions and had approval to do
736 this. I think it was a shock for her in July when—all of sudden to be told without
737 any ability to defend herself that this changed. I think what she's asking for is
738 fairness. Are we going to stop all 200 Airbnb people in Henrico County at the same
739 time? Or is she being singled out?

740
741 Mr. Blankinship - Let me just address one word that you used, which was
742 that she was approved to do this. She wasn't approved. She was told, as I
743 understand it, that there were no regulations in place.

744
745 Ms. Bracey - Okay.

746
747 Mr. Blankinship - And that changed on July 1st of last year when the new
748 state law took effect.

749
750 Ms. Bracey - So there was no—she was allowed.

751
752 Mr. Blankinship - At the time she was told that, it was the best information
753 we had. And then the General Assembly changed the law, the state law.

754
755 Ms. Bracey - Okay. All right, sorry.

756
757 Mr. Mackey - All right. Thank you, Ms. Bracey. Is there anyone else
758 here would like to speak in support?

759
760 Ms. Bracey - Thank you.

761
762 Mr. Mackey - You're welcome Thank you. First we would like to ask
763 you to say and spell your name. And try to not repeat anything, as we would like
764 to hear something new.

765
766 Mr. Bruce- Yes sir.

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812

Mr. Mackey - All right. Thank you, sir.

Mr. Bruce - My name's Jeffrey Bruce. Last name like the first name—B-r-u-c-e. Ms. Slapshak's significant other. I'll admit a great bias as this is my significant other of six years.

I will try not to be redundant here as well. I just want to make a couple comments. One is if there is any question relative to the quality of this human being as a mother, I want to dismiss that immediately. This is a wonderful mother who does nothing but thinks about her children first.

To me, this is just largely an issue about fairness. And that's the reason that we have gone—this has taken great emotional toll on my significant other. And it's difficult to watch her go through this.

The fairness of the issue is this: I think as the counselor stated, there really aren't any specific zoning laws relative to Airbnb. So we're trying to put, to me, a square peg in a round hole right now. And I'm sure that the County—and I also believe the state—will eventually put some rules and regulations in place that will address this. But in the meantime, our appeal is why single out Ms. Slapshak when we know 199 others are doing this. The reason we all know that she's being singled out is because of neighborhood claims.

I don't want to be redundant. I won't point a finger at anybody. But this is a good human being, and isn't it a little weird that 199 other Airbnb hosts, who are doing the exact same Ms. Slapshak is doing, have not had the same claims made against them. I just find that interesting, and it kind of makes a point.

The other thing I'd like to say is allow her the opportunity. We haven't stated how important this is to her financially, but it is. So if we're going to single her out, allow the proper judiciary, local, state, whatever, play out a little bit further to figure out exactly how you manage this business.

That's really all I had to comment on.

Mr. Mackey - All right. Thank you, Mr. Bruce.

Mr. Bruce - Thank you.

Mr. Mackey - Is there anyone else who would like to speak in favor? Is there anyone who would like to speak against this request? Please come forward. Please say and spell your name for the record.

Ms. Acosta - Good morning. My name is Valerie Acosta. V-a-l-e-r-i-e, A-c-o-s-t-a. Please excuse me for a moment while I pull up my presentation.

813

814 Good morning. Honorable members of the Board, my name is Valerie Acosta, and
815 my husband, Robert, who is with me here today. And I live in the Coventry
816 subdivision in Henrico's Three Chopt District.

817

818 For over two years, we've been living a nightmare on Willpage Place. I'm here
819 today to ask you, the members of the Board of Zoning Appeals, to please deny
820 Ms. Slapshak's appeal and to restore our cul-de-sac and neighborhood to safety
821 and back to the peaceful residential neighborhood it once was.

822

823 When Ms. Slapshak and her friends were speaking earlier, they were talking about
824 that the issue here today is about Airbnbs. But it's more than that because her
825 home is being used not just as an Airbnb. It's being used as an unregulated hotel,
826 filming and wedding venue, and fitness center. I'd like to take a few moments to
827 give you my perspective of what's been going on directly across the street from
828 our home and to show you factual proof through pictures and videos about what's
829 been taking place. I'd also like to inform you about the numerous ways in which I,
830 my family, my neighbors, our schools, and the Henrico community have been
831 negatively impacted and harmed by Ms. Slapshak's running an unregulated hotel,
832 filming and wedding venue, and fitness center out of her home.

833

834 When the International Bike Race came to town in September 2015, as
835 Ms. Slapshak mentioned she moved out and moved into the home with
836 Mr. Jeffrey Bruce, which is on Cheswick Lane. She opened the doors of her
837 home to anyone who had a credit card and access to Airbnb. She never notified
838 neighbors that she was doing this. One day when we became very concerned
839 that someone was breaking into her home and texted her, she informed us that
840 she was listing her home on Airbnb.

841

842 Motivated by financial profit, Ms. Slapshak converted her living room into a
843 bedroom that sleeps three. Her Airbnb website listed sleeping accommodations
844 for up to 16 to 17 people. Ms. Slapshak testified earlier to you today that her house
845 has been limited to 8 individuals. I regret that I didn't submit a copy to you in the
846 packet of information, but this is a copy of her website when I could print it out. It
847 includes at least 43 reviews, some that show many more people staying there.
848 And it also directly lists the number of sleeping accommodations, which shows
849 that it's clearly able to accommodate more than 8 people. So if this would be
850 helpful for the Board to look at, there are pictures of the people who have listed
851 their information. I can give that to you as well.

852

853 Just to note that in this information, Ms. Slapshak was listed as a super host on
854 Airbnb because of the large number of individuals who had rented from her. As
855 she mentioned, large groups of people have been staying in her home for
856 weddings, family reunions, and parties.

857

858 Ms. Slapshak has never spent a night in her home, nor have her children, when it
859 has been rented. In her appeal, she states that her neighbor's concerns are
860 unfounded. And today I heard that I am the primary person who's making these
861 unfounded and slanderous complaints. I know that not to be true. I have texted
862 her personally about our concerns. Others have sent texts. I have never
863 personally posted on Facebook or asked anyone to post on Facebook any
864 information regarding this

865
866 Ms. Slapshak has ignored neighbors' complaints when we've contacted her
867 about our concerns. And in fact, she responded by adding more rooms and
868 sleeping accommodations to her home. Also, the fact that Ms. Slapshak has
869 never been at her home when it's rented gives her no firsthand knowledge of
870 what goes on in the neighborhood when she is never there. I have been home for
871 every moment of this nightmare. My family has been kept up at all hours of the
872 night with car doors slamming, people partying, people checking in, and
873 unloading their cars at all hours of the morning or night.

874
875 Ms. Slapshak never personally meets these individuals. She has a lockbox that
876 she uses where they can get a key to access her home. She's never there to see
877 who's there. She says that she verifies every single guest. Airbnb verifies the
878 people who are using the credit cards, not the additional guests. And additionally,
879 in many of these occasions when people have rented it, they are bringing friends
880 from the community or other people from the surrounding area into their home.
881 And those people are never—she's probably never been notified.

882
883 This Airbnb was listed as a pet-friendly Airbnb. Pets have used our yard and
884 neighbors' yards as their toilets. We have had to call police. And Ms. Slapshak
885 mentioned earlier that that was for a completely unfounded claim. I'd like to tell
886 you why I personally called the police on that night.

887
888 That night was right after the events that happened in Charlottesville. There was
889 a very loud, small yellow car that drove on and off of our cul-de-sac at least three
890 times. It pulled into numerous driveways and backed out. Finally it came in, the
891 individual pulled into Ms. Slapshak's driveway. I suspect what happened was the
892 individual could not see the identifying house numbers on her home. Found it,
893 finally. And when they got out of that car, they fell into the grass and appeared to
894 be drunk. We were very concerned that our home or her home could be broken
895 into, and we called the police.

896
897 I'd just like to say that Ms. Slapshak once allowed renters to host a wedding
898 rehearsal and wedding reception in her backyard. Large tents were put up. There
899 were more than 25 people at this event. Catering trucks blocked our access to
900 our driveway. Guests did park directly in front of our home. They were partying
901 and drinking well after 10 p.m. Our children had to park on another street to get
902 home that night. Ms. Slapshak was not there. She was not impacted by the
903 noise. She was not impacted by the traffic. She was not impacted by the trash

904 and cigarette butts that were left. Her sleep was not disrupted. But ours and our
905 neighbors' were.

906
907 Ms. Slapshak charged about \$499 per weekend for two guests to stay in her
908 home. For more guests and pets, she charged more money. When her home
909 was rented out to ten people per week, she could make over \$2,000 per week.
910 Of course she wants to continue running and operating this kind of business. But
911 Ms. Slapshak is not the one being unfairly treated by the County here today and
912 singled out. My family and our neighbors are the ones that are being unfairly
913 treated. At least eight neighbors have filed formal complaints.

914
915 This is not between Ms. Slapshak and I. At least eight other individuals have filed
916 complaints with the County and said that they do not want this going on. We are
917 the ones, because nothing like this is going on anywhere else in the County. We
918 are the ones being singled out, and we've been the ones having to deal with this
919 nonsense for two years. She's profited greatly from this and never been impacted
920 by the activity.

921
922 Prior to opening an Airbnb, Ms. Slapshak has a license to run JustFit LLC out of
923 her home. Her Facebook page for this business is still active on Facebook today.
924 She converted two rooms on the first floor of her house into a fitness facility and
925 ran both individual and group fitness training programs out of her home.
926 Routinely people showed up at 7 a.m., slammed car doors, ran on our street, and
927 Ms. Slapshak gave them personal fitness instruction on her driveway and inside
928 her home. This Facebook page mentioned the boot camps that she ran for
929 children and women and in the early mornings outdoors in her yard.

930
931 From the beginning, she has used her home as her primary means of income at
932 her neighbors' expense. Motivated by financial gain, she puts her personal needs
933 above those of her neighborhood and her community.

934
935 The filming and commercial shoots that have taken place are an issue before you
936 today. Because in addition to using her home as a fitness center, an unregulated
937 hotel, and a wedding venue, at least two commercials have been filmed at this
938 residence. This picture was taken from my home at 7:15 a.m. As you can see,
939 trucks are unpacking supplies, actors are arriving. The entire street was turned
940 into a commercial shoot. All of this took place on our cul-de-sac when Ms.
941 Slapshak was elsewhere and when neighborhood children were walking to the
942 bus stop.

943
944 This is a picture taken from the Virginia Commonwealth Bank commercial. It
945 clearly shows that the filming was done outside in the neighborhood. Four
946 children and one female actor spent the day filming this shoot. I did not realize
947 that Ms. Slapshak had been there at all. Since she has insurance that says she
948 can't be in the home while it's rented, I was assuming that she had not been

949 there. She was not impacted, though, as her neighbors were by the noise, the
950 traffic, the chaos. All of her neighbors on her cul-de-sac were.

951
952 These are businesses without any regulations negatively impacting our quality of
953 life in our once peaceful neighborhood. All of the businesses that she has been
954 running out of her home are without regulation and are profoundly affecting us.
955 Our neighborhood, as you've heard today, is not zoned for any of these types of
956 businesses. We're zoned for single-family homes. Not for hotels. Not for short-
957 term Airbnb rentals. Not for wedding or filming venues. And not to be a fitness
958 facility.

959
960 Other businesses in Henrico County have guidelines and regulations. You can't
961 go to Macy's at 7 a.m. or 11:00 at night. But you can check into Ms. Slapshak's
962 unregulated hotel.

963
964 Ms. Slapshak has not lived in her home while running her business, but her
965 children have attended County schools. Mr. Bruce's residence is outside of the
966 school district or the school zones that her children would still be permitted to
967 attend those schools. If we allow people to purchase homes and to run them as
968 these types of businesses and still have their children attend Henrico County
969 schools, we are going to have a huge problem with our schools in the future.

970
971 Ms. Slapshak's ascertains that her neighbors—and today she's saying that I
972 personally—have not been harmed—are unfounded. She knows this. And I want
973 to be sure that you understand how we've been harmed.

974
975 Many of my neighbors who wanted to speak out today could not be here because
976 they had to attend work. I think you have heard their voicemail messages as well
977 as the letters that they have submitted to the County regarding this. The following
978 points that I'm going to make about how we have been harmed are summarized
979 in that.

980
981 Before I mention that, I would like to say my husband and I submitted a video of
982 Ms. Slapshak coming out of her home and taking down the Notice of Appeal sign
983 in her yard. We had problems pulling up that video, but Mr. Blankinship, I know
984 you've seen that. The County attorney has seen that video and can testify to
985 seeing her physically take down that sign in her yard. That speaks to the fact that
986 she does want other individuals to know about this hearing and to not have an
987 opportunity to comment.

988
989 As I've said, in terms of how we've been harmed, we have no sense of safety on
990 our cul-de-sac anymore. Crime has increased. Today I learned that Ms. Slapshak
991 has been vandalized. It was implied that because I had a sent a text telling her—
992 and that text, I would like to speak to the fact, was sent after the commercial
993 when we had spent so much time—I couldn't get out of my driveway to go to
994 work. The text was to let her know that after that commercial had been filmed

995 that I was going to do everything I legally could to contact the County to shut this
996 down.

997
998 Crime has increased. And I'm not saying that crime on our street is directly
999 related to the people that Ms. Slapshak has staying in this Airbnb. What I'm
1000 saying is that we're having to second guess everyone who is on and off of our
1001 street because we never know anymore who should be there. We never know
1002 whether someone is renting her home or whether someone is there to do harm.

1003
1004 Someone attempted to break into the backdoor of our home. Henrico County
1005 Police responded. Fortunately, they were not able to get into the house. We have
1006 installed 24-hours-a-day, round-the-clock video monitoring in our home just to
1007 have some sense of safety and peace. We have a Ring Doorbell that we've also
1008 installed. And was mentioned earlier, a home owned by Joe Price was a victim of
1009 arson. Again, we're not saying that these are due to the renters from the Airbnb.
1010 We're saying that there is such a large volume of activity from people who are
1011 coming to visit that home or to stay in that home that we never know who's
1012 supposed to be on that street or not.

1013
1014 These are some pictures about the negative impact of this event on our quality of
1015 life. Ms. Slapshak has told you today that the RV that's been running there was
1016 her father's. I don't know whether that is permissible to have an RV running in a
1017 residential community or not. But here's a picture of trash that's been left and
1018 some of my other neighbors will also speak to the problem we've had with trash.

1019
1020 Mr. Blankinship - It's unlawful.

1021
1022 Ms. Acosta - It is unlawful? Thank you.

1023
1024 Mr. Blankinship - For an RV to be occupied in a driveway, was the
1025 Board member's question.

1026
1027 Ms. Acosta - Also I wanted to just reference the negative impact
1028 with regards to the fact that people can check in at any hour of the day.

1029
1030 Additional impacts, our traffic has increased. Noise has increased. Parking is an
1031 issue on our cul-de-sac. We are a very small cul-de-sac. There are eight homes.
1032 In 2017, more homeowners moved off our cul-de-sac and out of Henrico County.
1033 Neighbors have concerns about making home improvements. My husband and I
1034 would like to add siding to our home. We'd like to put a covered porch on our
1035 home. We're not willing to put any more investment in our house until this issue
1036 is resolved because we fear we would morally and ethically have to inform
1037 anyone that would want to purchase our house about what's going on. And we
1038 don't think they would want to purchase the house. This is situation is not what
1039 we're paying our County taxes for, and our neighborhood is not zoned for this
1040 activity.

1041

1042 Having taken the letters that were sent to me, and emails, and conversations with
1043 neighbors, an additional way we have been harmed is lost sleep. Over the past
1044 two years while this activity has been going on, I personally have had to have
1045 three surgeries. In April of last year, I was diagnosed with malignant melanoma.
1046 When I most needed rest to recover, to have restorative sleep, Ms. Slapshak had
1047 rented out her home for the entire week. I was denied the opportunity to recover
1048 at home in peace because of Ms. Slapshak.

1049

1050 We have lost time. I cannot begin to tell you the amount of time that I have had to
1051 spend talking with Planning, Zoning, the Board of Supervisors. Mr. Branin has
1052 been incredibly helpful to us in this process in terms of preparing the
1053 presentation, to not sit here to slander anyone's character, but to show you proof
1054 and evidence about things that have happened by taking pictures and videos.
1055 We have lost time.

1056

1057 My husband is here today having to take a vacation day. I'm a small business
1058 owner in Henrico County myself, I'm a licensed professional counselor, and I'm
1059 an independent contractor at Dominion Behavioral Healthcare. I had to cancel all
1060 of my clients, and I have lost wages from having to be here today.

1061

1062 We've had added expenses for round-the-clock security monitoring both in and
1063 outside of our home. Cameras, locks, the Ring Doorbell. And several of our
1064 neighbors have told us about the increased cost to them for adding security. Our
1065 schools have been impacted. Two Henrico County bus stops are within very
1066 close distance of these venues. Our neighbors have written to you that they're
1067 fearful of having their children walk by this home when they never know who's
1068 staying in it and allowing their children to go to the bus stop.

1069

1070 Additionally, the impact, as I mentioned earlier, is Ms. Slapshak's children are
1071 attending Henrico schools in this district while they're not living in a home in that
1072 area.

1073

1074 The negative impact on our property values I've mentioned.

1075

1076 The biggest has been the loss of sense of safety. We never know who is going to
1077 be staying on our street. We never know if it's legal activity or illegal activity that's
1078 going on. We live in fear, especially when we're away from our home, about what
1079 will be going on and whether or not we're going to be safe.

1080

1081 In conclusion, Ms. Slapshak is putting her own personal profit over the best
1082 interests of our neighborhood, our community, and our schools. She has been
1083 contacted and asked by neighbors and individuals, and she responded by adding
1084 more sleeping accommodations to her home. Please prohibit Ms. Slapshak from
1085 running any business out of her home. Not just an Airbnb, but a filming venue
1086 and a fitness facility. Our neighborhood is not zoned for hotels, for filming and

1087 wedding venues, or as a group fitness center. We ask humbly today that you
1088 please end our nightmare. Thank you.

1089

1090 Mr. Mackey - All right, Thank you, Ms. Acosta. Is there anyone else
1091 who would like to speak in opposition of the request? All right. Ms. Slapshak,
1092 would you—

1093

1094 Male - Yes.

1095

1096 Mr. Mackey - Okay. Excuse me, sir. I need you to say and spell
1097 your name.

1098

1099 Mr. Barkovich - Yes. My name is Tom Barkovich. B-a-r-k-o-v-i-c-h. I
1100 happen to live next door to this facility. We moved here at our home 18 years
1101 ago. And we moved here because it was a quiet and peaceful cul-de-sac. We
1102 know our neighbors. We recognize their cars. But all this changed when Ms.
1103 Slapshak moved into our neighborhood.

1104

1105 She has used her house as a physical training facility for a number of women.
1106 They park in front of my home, kind of blocking my parking area so no one else
1107 could park there. I don't know if she had a permit for this or not, but it's still an
1108 inconvenience to us.

1109

1110 The real impact occurred when our peaceful neighborhood was invaded by
1111 strangers that she used this house for Airbnb. I didn't know what Airbnb was. I
1112 saw a lot of activity at this house. I didn't know what was going on. Then it came
1113 to my attention through Valerie that it was being used as a short-term rental. Had
1114 I known that when I moved here, I wouldn't have moved there. I don't think
1115 anybody would want to move next door to a short-term rental. We don't know
1116 who's coming in or who's coming out. We fear for a lot of the safety issues that
1117 might occur because of that.

1118

1119 She said we had singled her out by our complaints. We have been extremely
1120 inconvenienced through this matter. It has impacted my wife and myself. We go
1121 to bed early at night. The people that rent do not go to bed early at night. They
1122 slam doors. They sit on the back deck and talk and laugh. On her back deck. We
1123 feel threatened by some of the people that come and go.

1124

1125 And she is not there to supervise this. The people come and go as they please.
1126 Like Valerie said, they come in and out of our neighborhood, stopping in front of
1127 homes, probably looking for where the facility is. They're not sure or maybe
1128 they're disoriented for some reason.

1129

1130 I pick up trash in my yard that drifts from our neighbors next door. It was never a
1131 trashy neighborhood before. We always took pride in our neighborhood. The

1132 people that rent there don't live there, so I doubt if they're taking any pride in
1133 what they do.

1134
1135 The closing of this business may be a hardship on Ms. Slapshak, but there are
1136 plenty of jobs out there that don't inconvenience neighbors. I took the day off
1137 from work so I could be here, along with other people. Lost time. I'm willing to do
1138 that just so this moves out.

1139
1140 We have many hotels and motels in this County that will accommodate tourists.
1141 We don't need Airbnb that will inconvenience citizens like myself.

1142
1143 I thank you for the opportunity. And hopefully you will vote in opposition to this
1144 request.

1145
1146 Mr. Mackey - All right. Thank you, Mr. Barkovich. Is there anyone
1147 else who has something? Please don't repeat anything we've already heard. For
1148 the record, we have at least ten letters of opposition.

1149
1150 Mr. Acosta - I'll try not to repeat anything.

1151
1152 Mr. Mackey - Thank you, sir.

1153
1154 Mr. Acosta - Good morning, Board. My name is Robert Acosta.
1155 *Acosta* is spelled A-c-o-s-t-a. I'm the husband of Valeria Acosta. The two
1156 individuals sitting right next to us are also neighbors right in the cul-de-sac that
1157 have experienced the things that have been said previously by the two previous
1158 speakers. I'm going to make my thoughts quick. My wife pretty much covered
1159 everything.

1160
1161 I can say that I've been impacted by doors closing and stuff. They mentioned that
1162 they have a check-in time for the Airbnb. Well, there may be a check-in time for
1163 somebody to show up at the Airbnb, but there have been times when several
1164 other cars show up later that night. It's just the first person showing up probably
1165 has to show up at that time. But we have cars showing up all night long to the
1166 Airbnb because they may be driving in from out of town and stuff. And some of
1167 these plates that are shown are from North Carolina. They could be from other
1168 states. So they're not necessarily showing up at that time. So I've been woken up
1169 by that.

1170
1171 I think security is at least my biggest issue with the whole thing. We never know
1172 which cars are coming into the neighborhood. We never know which people are
1173 coming in.

1174
1175 Ms. Slapshak says that she's vetted them through the site and stuff. Well, you
1176 may vet them through the site, you may take somebody's credit card, but since
1177 she has a lockbox on the side of the house, we don't know if they're purchasing

1178 for somebody else to come in the neighborhood. We don't know if they're the
1179 ones that have been vetted. You could have a rich relative decide, "Oh, I'm going
1180 to bring my family up. I'm going to bring them up, and I'm going to pay for the
1181 Airbnb." Who's to say who shows up and lives in that house during that time? So
1182 as far as vetting, I don't think there's any vetting going on.

1183

1184 A regular hotel that you would stay in, you would have somebody check you,
1185 visually see you, check your ID, and give you the key to your room. There is
1186 nothing like that here. People show up, they grab a key out of a box or something
1187 on the side of the house. I've never been on the property, so I don't know. But we
1188 do see them show up. And there's no way to check who's showing up to that
1189 house.

1190

1191 I've spoken to many neighbors. And as far as us kind of being the voice of it, it's
1192 because other neighbors have come to us and said, "We're having that problem
1193 too. We don't like it either. I feel insecure for my children."

1194

1195 We have a Marine Corps active duty member that lives in our neighborhood. His
1196 wife, he's got three small children. He's away on deployment, so his wife's alone
1197 in the house with the three children all day long. We spoke to them. She's scared
1198 because she's alone in the neighborhood. We don't know who's coming in the
1199 neighborhood. Her husband's away. He's worried. He's overseas, and he's
1200 worried about his wife. That's what he told me. I'm a former Marine Corps
1201 member, so we kind of talked. And he confided to me that he's just worried about
1202 her when he's away about this thing.

1203

1204 They just bought their house. They didn't want this when they moved into the
1205 neighborhood. They wanted their children to play in the cul-de-sac. That's why
1206 you move into a cul-de-sac. No traffic. Pretty much children can ride their bikes in
1207 the street and stuff. You're pretty safe. People coming in a cul-de-sac are driving
1208 slow and stuff. But we don't know who's in the house.

1209

1210 Anybody could pretty much rent the house. You know? I'll not point fingers.
1211 These are the things that you think about. It could a pedophile decides to rent the
1212 home and gets the pattern of our kids going to school. Or see which children are
1213 in our neighborhood. They don't have to register where they're staying. It's a
1214 temporary, it's a transient residence. They don't have to tell you that they're
1215 there.

1216

1217 You could have other people that want to basically check who's home during the
1218 day, schedule out who's there because they're going to come back in a couple
1219 weeks after they rented the home and rob somebody. That's what we were
1220 worried about when somebody tried to break into the back of our home. Was it
1221 somebody that was there that was casing the place knowing that we were both
1222 working and nobody else was going to come by the house during the day? We

1223 don't know these things. These are security issues that we worry about more in
1224 the home.

1225
1226 Another thing is in the middle of the night. What if the Airbnb people have a
1227 problem and for some reason they have to go to a neighbor's house and knock
1228 on the door and ask for help. How do I know who they are? They can't tell me,
1229 "I'm your neighbor, Joe." They can't tell me, "I'm your neighbor Jill," or whatever.
1230 Somebody's knocking on my door saying, "I'm across the street," or "I need help,
1231 I need help." Is that a home invasion about to happen? Or is somebody actually
1232 across the—I don't know these things. These are things that we have to worry
1233 about because we're in this neighborhood.

1234
1235 How about if something happens at the house and they have to call the police?
1236 Well the police look at records. They see it's a single-family dwelling, and they
1237 show up and there's 16 men there, and one of them is having a problem. Or
1238 maybe two of them are in a fight. The police are walking into a situation they
1239 don't understand and may not know. And they're safety is at risk. Or if there's an
1240 accidental fire at the house because of Airbnb. Yes, 16 people in the house.
1241 Those rescue people are in danger now because they don't know how many
1242 people they have to rescue out of that home. They're putting their lives into risk
1243 here.

1244
1245 Just to let you know how it feels. Let's say just off chance that if I somehow got
1246 the key to each of your homes and decide to rent a room out in your house and
1247 didn't tell you. Then somebody just walks into your door and rents a room in your
1248 house. You can't kick them out because you don't know what the deal is.

1249
1250 Mr. Mackey - Mr. Acosta, I'm going to have to stop you. You're not
1251 germane to the topic.

1252
1253 Mr. Acosta - Okay, that's fine.

1254
1255 Mr. Mackey - Do you have anything else new? We've addressed all
1256 the safety issues and everything.

1257
1258 Mr. Acosta - No, I'm just trying to point out that the comments
1259 you've got are mostly from us, and we're the ones that live in the neighborhood.
1260 We're the ones that are affected by this.

1261
1262 Mr. Mackey - I understand.

1263
1264 Mr. Acosta - It's our security. We feel like we're the ones being the
1265 victims here because we didn't sign up to live in this situation. We're constantly
1266 under a changing environment where somebody we don't know is in the
1267 neighborhood. We can't go on vacation and say that our neighbor is going to

1268 watch the house because nobody knows who's there. That's basically what I'm
1269 saying.

1270

1271 Mr. Mackey - I don't want you to feel like we're taking your safety
1272 lightly at all. We're not.

1273

1274 Mr. Acosta - That's fine. But that's all.

1275

1276 Mr. Mackey - But we have other cases we—

1277

1278 Mr. Acosta - I would just ask you to stop this.

1279

1280 Mr. Mackey - Thank you. At this point I'm going to give
1281 Ms. Slapshak a brief moment to rebut anything that was brought forth.

1282

1283 Ms. Slapshak - We've been here for quite a while, so I just want to
1284 keep it simple and not go back and forth of she said/we said/I said. A lot of
1285 things. I was at the commercial the whole time. There were no streets blocked.
1286 There was no drinking at that little small barbecue. Basically all I'm asking is if I
1287 just have a fair voice in being treated with all the other 200 Airbnb hosts. If we
1288 decide that this is not what we want for Henrico, then I respectfully will close
1289 down my doors.

1290

1291 Mr. Mackey - All right. Thank you, Ms. Slapshak.

1292

1293 Ms. Slapshak - Thank you.

1294

1295 Mr. Mackey - I believe that's all for this case. Before we go forward,
1296 does anybody need a brief recess? Everybody's fine? Okay. Can we hear our
1297 next case, please?

1298

1299 **[After the conclusion of the public hearings, the Board discussed the case**
1300 **and made its decision. This portion of the transcript is included here for**
1301 **convenience of reference.]**

1302

1303 Mr. Mackey - What is the pleasure of the Board?

1304

1305 Mr. Green - Mr. Chairman, I move we deny her appeal. I want to
1306 point to something that I read. Henrico County Zoning Department says that it
1307 has received complaints about Airbnbs in the County. But they received the most
1308 concerning the Coventry property. This has been the most egregious, Henrico
1309 County Planning Director R. Joseph Emerson said. Our zoning, which is critical—
1310 our zoning codes do not allow Airbnbs, the planning director says. So based on
1311 that, I would tend to want to support our planning director and staff and not break
1312 with that they're duly obligated to enforce, because that could be somewhat
1313 chaotic. So that's my position that we deny her appeal.

1314
1315 Mr. Mackey - All right, thank you. Mr. Green has made a motion. Is
1316 there a second?
1317
1318 Mr. Reid - Second.
1319
1320 Mr. Mackey - All right, it's been moved and seconded by Mr. Reid.
1321
1322 Mr. Reid - I certainly think the negatives outweigh the pros in this
1323 situation.
1324
1325 Mr. Mackey - Okay. Is there any discussion?
1326
1327 Ms. Harris - Yes. I heard and I could feel the grief of the
1328 neighbors. This does not relate necessarily to the code as it is written. But I try to
1329 put myself in the position if I were in that neighborhood just how would I feel. And
1330 I would not like that next door to me. But to have someone constantly observing
1331 you? In the presentation the word "never" was used so many times. That person
1332 never does this and never does that. I always find there are exceptions. You
1333 know we used to say we never say never. So that came to mind. But I know it's
1334 frustrating to the neighbors. It would be frustrating even to me to have someone
1335 surveying my house or in surveillance 24/7. So they would say never, never,
1336 ever.
1337
1338 So, I do plan to support this motion to affirm the decision of the planning director.
1339
1340 Mr. Mackey - Okay. Yes, Mr. Green.
1341
1342 Mr. Green - And the other thing that really bothers me is the
1343 children. You have a situation where you have a home that the children should
1344 be in. And they're in and out, in and out. That just doesn't lead to a sense of
1345 stability as it relates to neighborhood continuity and the children. People do all
1346 kinds of things in a house. I wouldn't want my children to come back into their
1347 bedroom knowing that someone else has slept in their bed, not knowing what
1348 has occurred. That's just not sanitary.
1349
1350 Mr. Mackey - All right. If there is no further discussion, we have a
1351 motion on the floor by Mr. Green. It has been seconded by Mr. Reid. All in favor
1352 to deny say aye. Those opposed say no. The ayes have it. The motion is carried
1353 5 to 0.
1354
1355 After an advertised public hearing and on a motion by Mr. Green seconded by Mr.
1356 Reid, the Board **affirmed** the decision of the director of planning and **denied**
1357 **APL2017-00013, MICHELLE J. SLAPSHAK's** appeal of a decision of the director
1358 of planning pursuant to Section 24-116(a) of the County Code regarding the

1359 property at 11812 Willpage Place (COVENTRY) (Parcel 738-755-2220) zoned
1360 One-Family Residence District (R-4C) (Three Chopt).

1361

1362

1363 Affirmative: Bell, Green, Harris, Mackey, Reid 5

1364 Negative: 0

1365 Absent: 0

1366

1367

1368 **[At this point, the transcript continues with the public hearing on the next**
1369 **case.]**

1370

1371 Mr. Blankinship - The next case is CUP2017-00030, Dreamland
1372 Amusements.

1373

1374 **CUP2017-00030 DREAMLAND AMUSEMENTS** requests a conditional
1375 use permit pursuant to Section 24-116(d)(1) of the County Code to hold a carnival
1376 at 10101 Brook Road (Parcel 785-771-0111) zoned Business District (B-3C)
1377 (Brookland).

1378

1379 Mr. Blankinship - Would everyone who intends to speak to this case
1380 please stand and be sworn in. Raise your right hands, please. Do you swear the
1381 testimony you're about to give is the truth, the whole truth, and nothing but the truth
1382 so help you God? Thank you. Mr. Madrigal.

1383

1384 Mr. Madrigal - Thank you, Mr. Secretary. Mr. Chairman, members of
1385 the Board, good morning.

1386

1387 Before you is a request to allow a temporary event at Virginia Center Commons
1388 Mall. The applicant is proposing to hold a carnival at the shopping center starting
1389 on Thursday, March 29th, and running through Sunday, April 8th of this year. The
1390 carnival will be in the mall's parking lot south of the former Macy's department store
1391 and east of Burlington Coat Factory. It will essentially consist of approximately 25
1392 mechanical rides and a variety of concession stands providing food and games.
1393 Additionally, there will be approximately 16 trailers providing office and staffing
1394 accommodations. Three large generators will be used to provide electrical power
1395 for the set up. Setup will commence on Monday, March 26, and breakdown will
1396 occur after the event, ending on Wednesday, April 11th. The carnival will
1397 temporarily displace approximately 600 parking stalls while on site.

1398

1399 The event will be placed towards the rear of the shopping center in an area that is
1400 currently underutilized due to the vacancy of the anchor tenant space. Here is a
1401 picture looking northeast of the event area, and here's an eastern view of the area.

1402

1403 The area surrounding the event location is commercial in nature consisting of
1404 restaurants, a movie theater, hotels, and office buildings. The closest residential

1405 neighborhood is located over 1,500 feet southwest of the proposed carnival
1406 location. The applicant has been in the amusement business for over 30 years and
1407 is headquartered in Delco, North Carolina. The company tours the East Coast of the
1408 United States from New Hampshire to Florida and holds three annual events in
1409 Virginia consisting of the Richmond Fall Carnival, the Suffolk Peanut Festival, and
1410 the Bedford County Fair. This will be their first carnival in Henrico County. The last
1411 carnival held at this location occurred in May 2012 and was produced by Reithoffer
1412 Shows.

1413
1414 The property is primarily zoned B-3C and is designated predominantly Commercial
1415 Arterial on the 2026 Land Use Plan. Although the adopted proffers prohibit
1416 temporary outdoor sales lots and stands, the proposed carnival is an entertainment
1417 activity that coincides with the recreational nature of the shopping center and
1418 movie theatre. If approved, the proposed use will be one of several amusement
1419 events that have been hosted on the property. Based on the nature of the event
1420 and the venue's history, it is consistent with the underlying zoning and
1421 comprehensive plan designations.

1422
1423 Since 2003, the Board has approved five carnivals at this location, just to give you
1424 some history.

1425
1426 The mall is a recognized regional attraction that provides a variety of dining,
1427 shopping, and entertainment amenities. The mall's central location, excellent
1428 visibility, ease of access, and ample parking lend it to making it a good venue for
1429 these types of events. As long as the mall management and carnival operator work
1430 in conjunction with County requirements, the proposed event should not pose any
1431 significant issues relative to public health and welfare.

1432
1433 Staff's primary concern relates to on- and off-site traffic management and on-site
1434 security. With this in mind, staff has developed specific conditions of approval to
1435 assist in this regard.

1436
1437 In conclusion, the proposed use is consistent with the underlying zoning and
1438 Comprehensive Plan designations for the property. The carnival will be located in
1439 an underutilized portion of the shopping center and will provide an additional
1440 entertainment opportunity at this site. Although several hundred stalls will be
1441 temporarily displaced, ample parking is available throughout the property. The
1442 closest residential neighborhood is over 1,500 feet southwest of the proposed
1443 carnival location, and again, the immediate area is commercial in nature.

1444
1445 Because of the limited nature of the event, staff does not anticipate any lasting
1446 negative impacts. To mitigate any potential impacts, staff has developed specific
1447 conditions of approval for the Board's consideration.

1448

1449 Based on these facts, staff recommends approval subject to conditions. This
1450 concludes my presentation. If you have any questions, I'll be happy to answer
1451 them.

1452
1453 Mr. Mackey - Thank you, Mr. Madrigal. Does anyone from the Board
1454 or staff have any questions for Mr. Madrigal?

1455
1456 Mr. Reid - I have a couple of real quick ones. Have they notified
1457 the police?

1458
1459 Mr. Madrigal - I'm sorry; I can't hear you.

1460
1461 Mr. Reid - Have they notified the police like they normally do and
1462 received their permission?

1463
1464 Mr. Madrigal - Yes sir. I've been coordinating with the police, as well
1465 as the applicant. They have submitted a memo with respect to their
1466 recommendations.

1467
1468 Mr. Reid - Same with fire?

1469
1470 Mr. Madrigal- Sir?

1471
1472 Mr. Reid - Same with the fire department like we normally get.

1473
1474 Mr. Madrigal - Yes.

1475
1476 Mr. Reid - Thank you.

1477
1478 Mr. Mackey - Thank you, Mr. Madrigal.

1479
1480 Mr. Madrigal - Thank you.

1481
1482 Mr. Mackey - Would the applicant please approach? Would you say
1483 and spell your name for the record please, sir?

1484
1485 Mr. Cadwell - Certainly. Good morning. My name is Joel Cadwell. C-
1486 a-d-w-e-l-l. I am the general agent for Dreamland Amusements, based in Stony
1487 Brook, New York.

1488
1489 I'm here just to say that your staff has done a great job helping us get to this point.
1490 We will adhere to any regulations or mandates from police and fire. We do this on
1491 a weekly basis. We're currently moving into the State Fair of Florida in Tampa,
1492 Florida. We would like and look forward to making a stop here on our trek to our
1493 northerly route, which will, by the way, be during Henrico County's spring break
1494 and Easter break.

1495
1496 Mr. Mackey - Mr. Cadwell, have you seen the list of the conditions of
1497 approval?
1498
1499 Mr. Cadwell - Yes sir, I have.
1500
1501 Mr. Mackey - And you say you do not object to any of those.
1502
1503 Mr. Cadwell - None whatsoever.
1504
1505 Mr. Mackey - All right, thank you. Does anyone have any questions
1506 from the Board or staff for Mr. Cadwell?
1507
1508 Ms. Harris - Yes. I've examined the fire department's
1509 recommendations as well as the police department's recommendations. Will there
1510 be any fireworks?
1511
1512 Mr. Cadwell - No ma'am.
1513
1514 Ms. Harris - Okay. You know that area is generally dark, right?
1515 Macy's has closed, and that area is generally dark. You mentioned lighting within
1516 the facility, within the carnival. Will that be streetlights or?
1517
1518 Mr. Cadwell - The parking lot is very well lit. One of the requirements
1519 from the police is that we make sure that mall management leaves those lights on
1520 24/7 while we're there.
1521
1522 Ms. Harris - Okay. If there's a thunderstorm, people can go into the
1523 mall. So that's not a problem?
1524
1525 Mr. Cadwell - No.
1526
1527 Ms. Harris - Okay. How many tents will you be using, do you know?
1528
1529 Mr. Cadwell - Probably 10 to 12 tents, none of which the public will
1530 be able to enter. They will be food concessions or games that you would walk up
1531 to but not be able to go in.
1532
1533 Ms. Harris - Will any of the employees be sleeping—will those tents
1534 be used for any accommodations?
1535
1536 Mr. Cadwell - No ma'am.
1537
1538 Ms. Harris - Okay.
1539

1540 Mr. Cadwell - That would be our father's carnival. We have very nice
1541 accommodations for our employees. I guess the employee pull is very competitive
1542 for us.

1543

1544 Ms. Harris - All right. Thank you.

1545

1546 Mr. Mackey - Are there any other questions for Mr. Cadwell? All right.
1547 Thank you, sir.

1548

1549 Mr. Cadwell - Thank you very much.

1550

1551 Mr. Mackey - Is there anyone here who would like to speak in
1552 approval of this request? Anyone in opposition. All right, thank you. Can we have
1553 the next request please?

1554

1555 **[After the conclusion of the public hearings, the Board discussed the case**
1556 **and made its decision. This portion of the transcript is included here for**
1557 **convenience of reference.]**

1558

1559 Mr. Mackey - What is the pleasure of the Board?

1560

1561 Ms. Harris - Mr. Chairman, I'd like to move that we approve this
1562 conditional use permit. It does not adversely affect the health, safety, or welfare of
1563 the community. And with Macy's currently being closed, that area is very deserted.
1564 So I think the carnival would be a great thing at this time.

1565

1566 Mr. Mackey - All right. It's been moved by Ms. Harris. Is there a
1567 second.

1568

1569 Mr. Green - Second.

1570

1571 Mr. Mackey - Seconded by Mr. Green. Say why you agree.

1572

1573 Mr. Green - Oh. I support Ms. Harris's position.

1574

1575 Mr. Mackey - Okay. Discussion? There being no discussion, the
1576 motion has been made by Ms. Harris and seconded by Mr. Green. All in favor say
1577 aye. Those opposed say no. The ayes have it, 5 to 0. The motion is carried.

1578

1579

1580 After an advertised public hearing and on a motion by Ms. Harris, seconded by Mr.
1581 Green, the Board **approved** application **CUP2017-00030, DREAMLAND**
1582 **AMUSEMENTS'** request for a conditional use permit pursuant to Section 24-
1583 116(d)(1) of the County Code to hold a carnival at 10101 Brook Road (Parcel 785-
1584 771-0111) zoned Business District (B-3C) (Brookland). The Board approved the
1585 conditional use permit subject to the following conditions:

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1. This use permit is for the approval of a carnival to be held at Virginia Center Commons Mall from Monday, March 26, 2018 through Wednesday, April 11, 2018. The temporary event shall be limited to the following dates and times: Set-up: Monday, March 26 to Wednesday, March 28, 7:00 am to 9:00 pm. Carnival: Thursday, March 29, to Sunday, April 8, 12:00 pm to 10:00 pm. Break-down: Monday, April 9, to Wednesday, April 11, 7:00 am to 9:00 pm. All tents, trailers, mechanical equipment, rides, and accessory structures shall be removed from the site at the end of business day, at which time this permit shall expire.
2. Carnival activities that generate noise, light or glare beyond the property lines shall cease one hour after closing and shall not resume until 7:00 am the following day.
3. The applicant shall comply with the Division of Police recommendations as outlined in their Inter-office Memorandum dated January 16, 2018 (see attached).
4. The applicant shall comply with the Division of Fire recommendations as outlined in their Inter-office Memorandum dated January 4, 2018 (see attached).
5. Only the improvements shown on the site plan submitted December 14, 2017, may be constructed pursuant to this approval. Any substantial changes or additions to the footprint of the carnival will require a new use permit.
6. Existing fire lanes shall be marked and maintained in accordance with the Fire Prevention Code.
7. The applicant, in coordination with the property manager, shall clearly designate employee parking and carnival parking areas. Temporary traffic directional signage shall be used to direct carnival attendees. The carnival's parking demands shall not impact adjacent restaurants and businesses located in the out-parcels surrounding the mall. Parking attendants shall be provided as necessary to coordinate parking. Parking fees shall be prohibited.
8. The applicant shall designate an on-site guest loading and unloading zone near the carnival entrances. Dropping off of carnival attendees shall be discouraged on Brook Road, Jeb Stuart Parkway, and Telegraph Road.
9. The sale of alcoholic beverages shall be prohibited at the event.
10. The applicant shall secure the perimeter of the carnival with appropriate temporary fencing to ensure safety and security during and after hours to the satisfaction of the Divisions of Police and Fire. Emergency ingress and egress shall be provided at their discretion.
11. The existing parking lot light fixtures shall remain on during hours of darkness

1632 (dusk to dawn) for the duration of the event, including carnival set-up and
1633 breakdown. At the discretion of the Division of Police, additional lighting may be
1634 required for safety and security during the carnival event.

1635
1636 12. The applicant shall provide adequate restroom (standard and handicap)
1637 facilities throughout the carnival. These facilities shall be serviced daily.

1638
1639 13. The applicant shall obtain necessary building, electrical, and amusement
1640 device permits and shall comply with all required County inspections on or prior to
1641 the opening time on March 29, 2018.

1642
1643 14. All food vendors shall obtain the necessary permits, clearances, and
1644 inspections required by the Health Department.

1645
1646 15. The applicant shall maintain the property so that debris is controlled during the
1647 event. Adequate trash receptacles shall be provided throughout the carnival with
1648 regular pick-ups.

1649
1650 16. Sound generated by the carnival shall not exceed 65 dB at the limits of the
1651 property.

1652
1653
1654 Affirmative: Bell, Green, Harris, Mackey, Reid 5
1655 Negative: 0
1656 Absent: 0

1657
1658
1659 **[At this point, the transcript continues with the public hearing on the next**
1660 **case.]**

1661
1662 **CUP2018-00001 KROGER COMPANY** requests a conditional use
1663 permit pursuant to Section 24-116(d)(1) of the County Code to allow a temporary
1664 sales stand at 11895 W Broad Street (Parcel 735-762-9743) zoned Business
1665 District (B-2C) and West Broad Street Overlay (WBSO) (Three Chopt).

1666
1667 Mr. Blankinship - Would everyone who intends to speak to this case
1668 please stand and be sworn in. Raise your right hands, please. Do you swear the
1669 testimony you're about to give is the truth, the whole truth, and nothing but the truth
1670 so help you God? Mr. Gidley, you may begin.

1671
1672 Mr. Gidley - Thank you, Mr. Secretary. Good morning,
1673 Mr. Chairman, members of the Board.

1674
1675 This is a request to allow a temporary outdoor event for the sale of Valentine's Day
1676 gifts at the Kroger store in Short Pump. Items for sale would include flowers,
1677 balloons, greeting cards, and stuffed animals. The temporary sale would last from

1678 Monday, February 12th through Wednesday, February 14th. The Kroger store is
1679 located in the Corner at Short Pump Shopping Center, which is across West Broad
1680 Street from Short Pump Town Center.

1681
1682 You may recall in the past that two NASCAR events were previously held here.
1683 One was in 2014 and one was in 2015. The NASCAR events involved free games,
1684 free food samples, and a display of both public safety and race vehicles. This
1685 event, however, would involve the sale of items such as greeting cards, which
1686 Kroger already has sections devoted to inside the store. As a result, staff questions
1687 why the proposed sale could not be accommodated within the store rather than
1688 out in the parking lot.

1689
1690 As far as consistency with the Comprehensive Plan and Zoning Ordinance, the
1691 property is zoned B-2C (Business District Conditional), and is designated as
1692 Commercial Arterial on the Land Use Plan. A grocery store and shopping are
1693 consistent with these designations. A temporary outdoor sales event, however, is
1694 not entirely consistent with the store's B-2C zoning, which typically requires
1695 storage of merchandise to be located inside a building.

1696
1697 Condition #47 of the plan of development also provides that no merchandise shall
1698 be displayed or stored outside of the building or on the sidewalks. However,
1699 because there is not a proffered condition that restricts outdoor sales or storage,
1700 the Board of Zoning Appeals may approve a temporary conditional use permit for
1701 this use.

1702
1703 As far as substantial detrimental impact on nearby property, the Kroger store is
1704 right here. The proposed sales event location as requested by Kroger is right here
1705 in the yellow. The overall shopping center itself right here is just over 25 acres in
1706 size. A total of 861 parking spaces are required and 1,021 are provided. The
1707 proposed sales area would occupy roughly 12 parking spaces, so adequate
1708 parking would remain. Due to the extra parking available, staff does not see a
1709 substantial detrimental impact on nearby businesses.

1710
1711 In addition, the closest residential area is located over 400 feet from the store
1712 towards the south down here off the picture. So we don't anticipate any detrimental
1713 impact on nearby residential areas.

1714
1715 As I said, the applicant is proposing to locate the event in the parking lot here,
1716 which is not far from the new fueling center located right here.

1717
1718 Both of the previous NASCAR events were required by this Board to be located
1719 down in this parking lot adjacent to the store. This was done to limit the event's
1720 overall impact on the traffic flow within the shopping center, which again now
1721 includes this new fueling center located right here.

1722

1723 Mr. Blankinship - Excuse me, Paul. I'm having trouble seeing the cursor.
1724 Could you switch to the hand tool?

1725
1726 Mr. Gidley - Yes.

1727
1728 Mr. Blankinship - Thank you.

1729
1730 Mr. Gidley - Yes, that is clearer. Again, they're proposing to locate
1731 this sales event right here. This is out in the main part of the parking lot. There are
1732 a lot of people coming and going in this area. And since the NASCAR events were
1733 held, the fueling center has been built out here, which has added traffic to this area.
1734 Initially, the two NASCAR events were required to be located over here in this
1735 southeastern parking lot. This is the advantage, because although people come
1736 through for the pickup window at the pharmacy. This section here is more isolated,
1737 so it doesn't impact traffic nearly as much at this location up here. And this also
1738 helps to protect pedestrians who would be attending the sales event.

1739
1740 Here are a couple views of this area. The event would be located right here, per
1741 Kroger's request. And again, you can see this area is not far from the fueling
1742 center.

1743
1744 In conclusion, because the store already has sections devoted to the sale of many
1745 of these items, staff questions why the sale needs to occur in the parking lot. That
1746 said, there is adequate parking to accommodate the proposed event and it is not
1747 located near any residences. As a result, staff is unaware of any substantial
1748 detrimental impact on nearby businesses or residences assuming it gets located
1749 in the southeastern parking lot here, as suggested by staff.

1750
1751 Because staff is unaware of any detrimental impact on nearby businesses or
1752 residences, approval of this request is recommended subject to the attached
1753 conditions.

1754
1755 This concludes my presentation, and I will be happy to answer any questions you
1756 may have. Thank you.

1757
1758 Mr. Mackey - Thank you, Mr. Gidley. Are there any questions?

1759
1760 Ms. Harris - I just have a point of clarification. This area, this new
1761 area that we're setting aside, what is the distance away from the store?

1762
1763 Mr. Gidley - The area staff is recommending approval for,
1764 Ms. Harris?

1765
1766 Ms. Harris - Yes.

1767

1768 Mr. Gidley - The store is right here, and the area we're
1769 recommending approval for is right here in the southeastern parking lot where the
1770 two NASCAR events were held.
1771
1772 Ms. Harris - Where is Broad Street on this?
1773
1774 Mr. Gidley - Broad Street is right up here. So people come in off
1775 Broad to the stores in here, including Kroger. And then they come in one of these
1776 entryways here, either this first one or this next one here. So there is a fair amount
1777 of traffic that comes in by their proposed location.
1778
1779 Mr. Mackey - Can you point out the gas pumps?
1780
1781 Mr. Gidley - Yes sir. The gas pumps are right here. So people
1782 coming into Kroger from Broad either need to come in this way or come in at this
1783 entrance right here.
1784
1785 Mr. Mackey - Have you spoken with the applicant about moving
1786 the—
1787
1788 Mr. Gidley - She has a copy of our staff report and I suspect will
1789 either agree to it or make her request.
1790
1791 Mr. Mackey - I understand. All right. Thank you, Mr. Gidley. Any other
1792 questions for Mr. Gidley?
1793
1794 Ms. Moore - Just to clarify, Mr. Gidley. So that's pointed out in our
1795 recommended condition 3 that the location would be at that side area.
1796
1797 Mr. Gidley - Correct, yes ma'am.
1798
1799 Mr. Mackey - And that is condition #3?
1800
1801 Mr. Gidley - Yes, Mr. Chair.
1802
1803 Mr. Mackey - Okay, thank you. Any other questions? Okay. Thank
1804 you, Mr. Gidley.
1805
1806 Mr. Gidley - Thank you.
1807
1808 Mr. Mackey - Can we hear from the applicant?
1809
1810 Ms. Messier - Good morning. My name is Rachael Messier. That's R-
1811 a-c-h-a-e-l, M-e-s-s-i-e-r. I am the floral field specialist with the Mid-Atlantic
1812 Division of Kroger. Therefore, this project is very much under my concern.

1813 Hopefully, I can answer any questions you have. Before I get into the conditions of
1814 approval, I'd like to give you a little background.

1815
1816 Kroger, believe it or not, is the largest florist in the U.S. Valentine's Day, in
1817 particular, accounts for 10 percent of our annual floral sales. It is a huge holiday
1818 and something we are very excited about. I am fairly new to my position as a floral
1819 specialist. Less than a year. So we have wanted to try something new to increase
1820 our sales for Valentine's Day, being it's of special importance to the floral
1821 department.

1822
1823 Something they do in other Kroger divisions across the country is an exterior tent
1824 sale. We are not attempting to take away from our indoor business. This is looking
1825 for additional sales on top of our already projected budget. We are estimating at
1826 this point—seeing that this is the first year we're attempting to do this—an
1827 additional 20 to 25 percent added onto our budget. This is meant to be a one-stop
1828 shop. There will be a register within the tent that customers can take their
1829 selections and check out. They do not need to enter the store at all. So foot traffic
1830 between the tent and the store should be fairly minimal

1831
1832 We will have floral bouquets, floral arrangements, candy, greeting cards, all the
1833 typical things that customers pick up when they're shopping for Valentine's Day.
1834 We have worked with the other Kroger divisions who already execute these types
1835 of sales to ensure we've considered every little detail. We are in the guidelines that
1836 they recommend in addition to any new twists that we've put on here in Mid-
1837 Atlantic.

1838
1839 I would like to go through the conditions of approval. Most we are completely 100
1840 percent on board with. I do have a couple requests for clarification, particularly #3,
1841 which Mr. Gidley mentioned, the change of location. We are open to changing the
1842 location of the proposed tent. However, I would like to propose somewhere
1843 different than the southeastern corner. The reason being the NASCAR event is
1844 significantly different from what we're trying to do here. That was a free
1845 entertainment event meant to be a customer appreciation. We were not attempting
1846 to gain any sales directly from that event. Therefore, the visibility of the event was
1847 not particularly important.

1848
1849 It would place it behind our pharmacy drive-through and in a corner of the parking
1850 lot that is primarily used for employee parking. Customers do not enter that area
1851 very much at all. Being that this is the first year for the event and we have very
1852 high hopes, of course, visibility is key. So we would like the event to remain in our
1853 main parking lot. However, if I may use the cursor here, I understand this is kind
1854 of a main entryway, and traffic could be a concern. So we could shift it further away
1855 from this main entry point to approximately here.

1856
1857 Another condition, #6, mentions traffic barriers. So we could put up traffic barriers
1858 blocking driving and the additional parking spaces, which I'd have to add up how

1859 many that would be. But I believe we would still be within our recommended
1860 number of parking spaces even if we block off this side of this row here and this
1861 side of this row here. That way any foot traffic in and around this tent would be
1862 protected.

1863

1864 The entrances to the tent—and that is mentioned in #4. The tent has solid white
1865 sidewalls all the way around it. It's a 20-by-30-foot tent. However, when the tent is
1866 open for operation—and that's the 12th through the 14th—those sidewalls will be
1867 completely removed, and the tent will be shoppable all the way around. So
1868 entrances will not be a concern there. And the additional blocking off of the parking
1869 here and here would provide a little more protection for our customers. We're
1870 absolutely willing to do that.

1871

1872 The last question I have and anything that I want to address with the conditions of
1873 approval is #9, the mention of pennants, flags, banners, or other displays used as
1874 attention-getting devices. We have two signs that we had been planning to use
1875 outside of the tent. I'm afraid I do not have a picture of those, but I hope I can
1876 describe them well enough. There's an A-frame banner, which is approximately
1877 three to four feet wide and probably three to four feet tall that would be placed in
1878 the location on the grassy area probably right here or right here advertising the
1879 tent sale in advance. It would not impede any traffic or foot traffic.

1880

1881 Another sign we were planning to place just outside the entrance of the tent is what
1882 we call a stanchion sign that's about 22 inches by 18 inches. It simply states the
1883 methods of payment that will be accepted within the tent. I am hoping those would
1884 be approved to coincide with the tent.

1885

1886 All other conditions we will meet in full. I'm just looking for clarification on that one
1887 and perhaps an adjustment on #3.

1888

1889 Mr. Mackey - All right, Ms. Messier, with regards to condition #9, it
1890 says that the use of pennants, flags, or banners or other displays defined in the
1891 Zoning Ordinance as attention-getting devices are prohibited as per item 14(h) in
1892 the conditions proffered with rezoning case REZ2015-00002 as well as the West
1893 Broad Street Overlay 24-92.3(c). So I don't see how we would be able to allow to
1894 you to place a banner. I wish you had a picture of it because what you're calling a
1895 banner may not be a banner, it may be a sign. But you don't have a picture of it.

1896

1897 Mr. Blankinship - She can work with staff to determine exactly what
1898 would and would not fall within the definition of an attention-getting device. But the
1899 Chair is correct; this Board would not have any purview over those requirements.

1900

1901 Ms. Messier - Okay.

1902

1903 Mr. Mackey - All right? As far as condition 3—and this is a question
1904 for staff—will we just need to strike that?

1905
1906 Mr. Blankinship - When the Board makes a decision, we'll cast language
1907 that will clarify what the Board wants.
1908
1909 Mr. Mackey - Okay. In this one it says it would be located in the small
1910 parking lot.
1911
1912 Mr. Blankinship - She had objected to that.
1913
1914 Mr. Mackey - Right.
1915
1916 Mr. Blankinship - But it'll be up to the Board to decide where you want it
1917 to be and we'll describe that.
1918
1919 Mr. Mackey - Okay. All right. Thank you.
1920
1921 Mr. Blankinship - If I can make a suggestion on #4. Did I understand your
1922 statement, Ms. Messier? What if we change that first sentence to read, "The tent
1923 walls shall be removed during the event."?
1924
1925 Ms. Messier - That would be in line with what we had planned.
1926
1927 Mr. Blankinship - Okay, good. I think that would be clearer.
1928
1929 Mr. Mackey - Thank you, sir. All right. Are there any questions from
1930 the Board or from staff for Ms. Messier?
1931
1932 Mr. Green - I live right near there. I utilize that Kroger all the time.
1933 That parking lot is always full, so it's a busy place. I'm struggling to see how many
1934 cars you're going to knock out. Every time I've gone over there it's been busy. But
1935 as you get toward the back where you're talking about, there is some free space.
1936 Given the short period of time that they would want to use it, I could support it.
1937
1938 Mr. Blankinship - Now the shopping center has abundant parking, but
1939 the Kroger, it's a big Kroger.
1940
1941 Mr. Green - Yes. Getting across that street. When you're coming in
1942 and off of Three Chopt and swinging around, it's interesting more accidents don't
1943 occur as you're turning into that Kroger. Those cars just zip down from around. But
1944 where she's potentially looking to move it for that short period of time I think would
1945 suffice.
1946
1947 Ms. Harris - Most of the Krogers are busy. I go to many of them.
1948 And I have a hard time weaving around to get gas. I don't know why you did that.
1949 But you said in your application that you would remove the merchandise by 8:00.
1950 I think that's what I read.

1951
1952 Ms. Messier - The end of the day on the 14th everything will be
1953 removed.
1954
1955 Ms. Harris - So you're going to let the other items stay there
1956 overnight?
1957
1958 Ms. Messier - The sidewalls of the tent will be in place and secured
1959 overnight.
1960
1961 Ms. Harris - Okay.
1962
1963 Ms. Messier - And if I also may mention, we also wish to place it kind
1964 of on the front side of our store for the express purpose of having additional staff
1965 eyes being on the area overnight when there is still product in there. We were
1966 working on securing overnight security for loss-prevention purposes, but should
1967 that not come through, the staff in the fuel center here and coming and going from
1968 the store here would be able to help us monitor the product here a lot better than
1969 they would down in the far corner here.
1970
1971 Mr. Mackey - All right, thank you. Jean, did you have a question?
1972
1973 Ms. Moore - Yes. I just want to note that the reason—and it was
1974 explained—is that this is a major kind of funnel entrance because it is encumbered
1975 with the gas station. People are not going to maneuver there to really get to your
1976 store. So it really is funneling at that point. That was our concern. Also, just to
1977 clarify, when we look at these—and Ben you can weigh in—does this get vetted
1978 through Public Works for parking circulation or does that come later with the
1979 building permit?
1980
1981 Mr. Blankinship - It's in the agenda. As to Public Works, they did not
1982 make any comments on this case.
1983
1984 Ms. Moore - Okay. So I just wanted to address that. If we're going
1985 to relocate it somewhere else or even this location, I just wanted to make sure
1986 circulation was safe and looked at.
1987
1988 Ms. Messier - In terms of a building permit, we did inquire but it's 600
1989 square feet. So it's below the threshold.
1990
1991 Mr. Blankinship - A tent with walls typically requires a permit even if it's
1992 below the size. But if you're taking the walls off when it's occupied then they
1993 probably won't care.
1994
1995 Ms. Messier - Okay.
1996

1997 Mr. Mackey - Okay. Thank you. Are there any other questions for
1998 Ms. Messier? All right. Thank you, ma'am.

1999
2000 Ms. Messier - Thank you.

2001
2002 Mr. Mackey - All right. Is there anyone here who would like to speak
2003 in favor of the request? Anyone to speak in opposition? All right.

2004
2005 Mr. Mackey - That is our last case today. We can move on to the
2006 motions portion unless anyone needs a quick break.

2007
2008 Mr. Green - Yes, I do.

2009
2010 Mr. Mackey - All right. Can we take a very brief break?

2011
2012 Ms. Harris - Yes.

2013
2014 Mr. Mackey - Okay. All right. Let's come back at 11:00, please.

2015
2016 [Board takes a short break.]

2017
2018 Mr. Mackey - We are now at the motions portion of our meeting.

2019
2020 **[After the conclusion of the public hearings, the Board discussed the case**
2021 **and made its decision. This portion of the transcript is included here for**
2022 **convenience of reference.]**

2023
2024 Mr. Mackey - What is the pleasure of the Board?

2025
2026 Mr. Green - I move that we allow the conditional use permit for the
2027 temporary sales stand at the Kroger.

2028
2029 Mr. Mackey - Okay. It's been moved by Mr. Green. Is there a
2030 second?

2031
2032 Mr. Reid - Second.

2033
2034 Mr. Mackey - Seconded by Mr. Reid.

2035
2036 Mr. Blankinship - Mr. Chair, before we vote on that, I had a very brief
2037 discussion with Ms. Moore about the location. Would it be the pleasure of the Board
2038 that we put in the condition that the applicant will submit their proposed location to
2039 the Department of Public Works for review and approval?

2040
2041 Mr. Mackey - I think that is a very good idea, Mr. Blankinship. Any
2042 other discussion?

2043
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Mr. Reid - Yes. Along that same line, Ben, since we didn't really know whether she was talking about a banner or sign, do you think we would want to put that in there?

Mr. Blankinship - Yes. I think that we'll just handle with her in terms of what the Zoning Ordinance allows. There is no flexibility there for the Board to approve anything in addition to what's in the code.

Mr. Reid - Thank you.

Mr. Green - My motion is amended to include these items.

Mr. Mackey - Absolutely. Any other discussion? Okay, it's been moved by Mr. Green and seconded by Mr. Reid. All in favor say aye. Those opposed say no. The ayes have it. The motion is carried 5 to 0.

After an advertised public hearing and on a motion by Mr. Green, seconded by Mr. Reid, the Board **approved** application **CUP2018-00001. KROGER COMPANY's** request for a conditional use permit pursuant to Section 24-116(d)(1) of the County Code to allow a temporary sales stand at 11895 W Broad Street (Parcel 735-762-9743) zoned Business District (B-2C) and West Broad Street Overlay (WBSO) (Three Chopt). The Board approved the conditional use permit subject to the following conditions:

1. This conditional use permit is for the approval of a temporary outdoor sale to be held from February 12, 2018 through February 14, 2018. Setup is to occur on February 10, 2018 and all items are to be removed by the end of February 15, 2018.
2. The outdoor sale shall be limited to the hours of 9:00 a.m. to 7:00 p.m. on February 12 and February 13 and from 6:00 a.m. to 8:00 p.m. on February 14. Setup and breakdown shall occur between 6:00 a.m. and 8:00 p.m.
3. The event location shall be submitted to the traffic engineer for review and approval.
4. The tent walls shall be removed when the tent is occupied. The tent shall comply with all building code requirements, including proper anchoring. No generators shall be placed underneath tents.
5. Only the improvements shown on the description filed with the application may be constructed pursuant to this approval, with the exception of the event location. Any additional improvements shall comply with the applicable regulations of the County Code. Any substantial changes or additions to the design or location of the improvements shall require a new conditional use permit.

2089

2090 6. The applicant shall install traffic barriers at affected parking drive aisle entrances
2091 to separate vehicular traffic from pedestrian traffic. Fire lanes shall be maintained
2092 in accordance with the Fire Prevention Code.

2093

2094 7. Landscaping planters shall be kept free and clear of equipment and displays. All
2095 approved landscaping shall be maintained in a healthy condition at all times. Dead
2096 plant materials shall be removed within a reasonable time and replaced during the
2097 normal planting season.

2098

2099 8. There shall be no speakers for amplified sound or music.

2100

2101 9. The use of pennants, flags, banners, or other displays defined in the zoning
2102 ordinance as "attention getting devices" are prohibited as per item 14(h) in the
2103 conditions proffered with rezoning case REZ2015-00002 and the West Broad
2104 Street Overlay (§24-92.3(c)).

2105

2106

2107 Affirmative: Bell, Green, Harris, Mackey, Reid 5

2108 Negative: 0

2109 Absent: 0

2110

2111

2112 Mr. Mackey - That was our last case. All right. Is there a motion for
2113 the approval of the minutes from the December 21, 2017 meeting?

2114

2115 Mr. Bell - I move that we approve the minutes from last session's
2116 meeting.

2117

2118 Mr. Mackey - Are there any corrections?

2119

2120 Ms. Harris - Yes. I had one quick question. On page 14, line 596. I
2121 think there was an omission of one word, "it." So the third word should be "it."

2122

2123 Mr. Mackey - All right. For the record we're making that correction.
2124 So on line 596 it will read: "And if it would be." Is that correct?

2125

2126 Ms. Harris - Yes.

2127

2128 Mr. Mackey - Any other corrections? It's been moved by Mr. Bell. Is
2129 there a second?

2130

2131 Ms. Harris - Second.

2132

2133 Mr. Mackey - It's been moved by Mr. Bell and seconded by
2134 Ms. Harris, with the correction made, that we approve the minutes as presented.

2135 All in favor say aye. Those opposed say no. The motion is carried. The ayes have
2136 it 5 to 0.

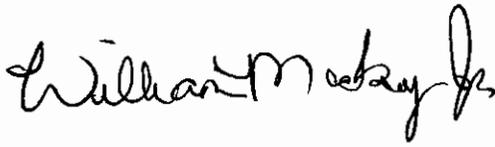
2137
2138 On a motion by Mr. Bell, seconded by Ms. Harris, the Board **approved as**
2139 **corrected the Minutes of the December 21, 2017**, Henrico County Board of
2140 Zoning Appeals meeting.

2141
2142
2143 Affirmative: Bell, Green, Harris, Mackey, Reid 5
2144 Negative: 0
2145 Absent: 0

2146
2147
2148 Mr. Mackey - There is no other business, correct?

2149
2150 Mr. Blankinship - No sir.

2151
2152 Mr. Mackey - Our meeting is adjourned.

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2155 

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2158
2159 William M. Mackey
2160 Chairman

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2163 
2164 Benjamin Blankinship, AICP
2165 Secretary
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2167