

1 MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING APPEALS OF  
2 HENRICO COUNTY, HELD IN THE COUNTY ADMINISTRATION BUILDING IN THE  
3 GOVERNMENT CENTER AT PARHAM AND HUNGARY SPRING ROADS, ON  
4 THURSDAY JULY 23, 2020 AT 9:00 A.M., NOTICE HAVING BEEN PUBLISHED IN  
5 THE *RICHMOND TIMES-DISPATCH* JULY 6, 2020 AND JULY 13, 2020.  
6

7 Members Present: Gentry Bell, Chair  
8 Terone B. Green, Vice-Chair  
9 Walter L. Johnson, Jr.  
10 Terrell A. Pollard  
11 James W. Reid  
12

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

22 Mr. Bell - Good morning and welcome to the July 23rd Zoning Appeals  
23 Meeting. For those who are able please stand and join in the Pledge of Allegiance. Thank  
24 you.

25  
26 **[Recitation of the Pledge of Allegiance]**  
27

28 Mr. Bell - Mr. Blankinship will now read our rules.  
29

30 Mr. Blankinship - Good morning, Mr. Chair, members of the Board, ladies and  
31 gentlemen. The rules for this meeting will be as follows. Acting as secretary, I'll call each  
32 case. Then we'll ask everyone who intends to speak to that case to stand and be sworn  
33 in. Then a member of the staff will give a brief introduction and then the applicant will  
34 present their case.  
35

36 And then we will ask everyone who wants to speak in favor of the applicant to speak. And  
37 then we will ask everyone who wants to speak in opposition to the application to speak.  
38 And then at the end, after everyone has had a chance to speak, the applicant and only  
39 the applicant will have a couple of minutes for rebuttal in case there's anything that they  
40 need to clarify or change about their application in response to what they hear.  
41

42 This meeting is being recorded, so we will ask everyone to speak directly into the  
43 microphone. There's one set up in the back that is the best way to social distance yourself  
44 as we speak. There is also a microphone here on the podium, but we would prefer that  
45 the public speak at the back.  
46

47 We'll ask you to state your name. Please spell your last name so we get it correctly in  
48 the records. We do not have any deferrals or withdrawals this morning and we do have  
49 all five Board members present.

50  
51 Now today we are broadcasting the meeting over two media. There is a livestream on  
52 the Planning Department webpage, and we are also hosting a video conference using  
53 WebEx. I would like to welcome everyone who is joining us remotely and provide just a  
54 few details for your participation.

55  
56 If you wish to observe the meeting but you do not intend to speak, welcome and thank  
57 you for joining us. You do not need to take any further action.

58  
59 If you are an applicant or if you wish to speak about one of the cases we need to know in  
60 advance so we can connect you. We're managing the speakers using the WebEx chat  
61 feature which can be found by hovering your mouse over the WebEx screen at the bottom  
62 of the page. It's the fourth button from the left, and it resembles a speech bubble. If you  
63 would like to speak at any time during the meeting, please press the chat button now to  
64 open the chat screen and follow the prompts you'll see on the right side of the screen.

65  
66 Following the introduction and presentation of each case the applicant will present their  
67 request and then the public will have their opportunity to comment and staff will use the  
68 chat feature to ask if anyone would like to speak about that case. If you wish to speak,  
69 you must send your request to the correct contact person when prompted. Using the  
70 drop-down menu to the right, please select Kristin Smith before replying.

71  
72 The chat feature is only being used to identify speakers. Please do not type questions or  
73 comments into the chat feature. The question and answer feature in the software will also  
74 be inactive.

75  
76 When it is your turn, you will be introduced, unmuted, and prompted to speak. The Board  
77 will hear whatever you have to say and following your question or comment you will be  
78 muted again.

79  
80 So, in summary, if you want to speak, please use the WebEx chat feature, send a chat to  
81 Kristin Smith and let her know you want to speak and then she'll take care of you from  
82 there. Mr. Chair, I believe that is all the preliminaries.

83  
84 Mr. Bell - So let's now call our first request.

85  
86 Mr. Blankinship - First case is conditional use permit 2020, number 7, William  
87 A. Rogers.

88  
89 **CUP2020-00007 WILLIAM A. ROGERS** requests a conditional use permit  
90 pursuant to Section 24-12(h) of the County Code to allow short-term rental of a dwelling  
91 at 5401 Dickens Road (Parcel 773-744-3103) zoned One-Family Residence District (R-  
92 2) (Brookland).

93  
94 Mr. Blankinship - Would everyone who intends to speak to this case please  
95 stand and be sworn in? Do you swear the testimony you're about to give is the truth, the  
96 whole truth, and nothing but the truth so help you God? Thank you. Mr. Madrigal. I'm  
97 doing this one. All right, Mr. Chair, once again, I'm going to change hats and be the staff  
98 as well on this case.

99  
100 We held a public hearing on this case last month. Just to remind you, the subject property  
101 is located on Dickens Road. It has a driveway that is central to the property. It also has  
102 access to a private road, Krueger Drive. And the purpose of the application is to request  
103 permission to rent the property on a short-term basis through Airbnb and other internet  
104 platforms.

105  
106 There are five bedrooms in the main house, which is located here, the front of the  
107 property. The code allows up to two short-term renters per bedroom, so the maximum  
108 number that would be allowed on the property is 10 at any time. The building behind the  
109 main house is a guest house, which the applicant uses as his office, and behind that is a  
110 small garage.

111  
112 And last month we heard the applicant make his case, and there was some opposition  
113 based on the shared use of Krueger Drive. That is a private road. It is maintained by the  
114 residents. And there was some concern about the additional traffic and activity from short-  
115 term rental guests using Krueger Drive that would have a detrimental impact on those  
116 neighbors.

117  
118 The Board decided to defer that case to allow the applicant, Mr. Rogers, time to meet with  
119 those neighbors, discuss their specific concerns, and develop specific conditions that  
120 would help mitigate their concerns. He has now done so. He's met with, I believe, well,  
121 I know the two who spoke, or submitted comments to the hearing, which are Mr. Jones,  
122 here, and Mr. Wenk on this side. And he has met with several other neighbors. I want to  
123 say five or six other neighbors.

124  
125 And he has agreed to two changes in the application. One is that short-term renters will  
126 use the main driveway on the property. Short-term renters will not be allowed to use  
127 Krueger Drive to access the property. Now, Mr. Rogers will still be able to use Krueger  
128 Drive. He still owns his half of Krueger Drive and he will still be able to use it for his  
129 purposes. And anybody else coming to the property to cut the grass or clean the property  
130 or anything like that will be able to use Krueger Drive. But short-term renters would only  
131 be allowed to use the central driveway across from Wendover Lane.

132  
133 The other concern had to do with the exposure on the sides of the property. This is the  
134 view from Krueger Drive looking into the guest house. So the main house is just to the  
135 left. And this is a deck area here where there is some opportunity for short-term renters  
136 to, you know, take fresh air when they're using the property.

137

138 And there was concern from the neighbor on the opposite side here that he would like to  
139 have more privacy from that. And so, Mr. Rogers, has agreed to plant a row of shrubs  
140 along his property line, generally along his property line in this area, and also down by  
141 the garage. As you can see, there is a gap between the garage and the guesthouse,  
142 which is just to the left of this photo. And he has agreed to plant some shrubbery there  
143 as well, Nelly Stevens Hollies, which as you know grow into a fairly opaque and  
144 impenetrable hedge and would also help control any sounds that may emanate from the  
145 property.

146  
147 So just to summarize that you -- the rear wall of the house, the rear wall of the guest  
148 house and the rear wall of the garage almost form a compound. But there is a gap here  
149 and a gap here, and he has offered to plan shrubs to fill those two gaps.

150  
151 Are there any other questions for me before we bring Mr. Rogers up to present his case?  
152

153 Mr. Bell - Staff? Hearing none.

154  
155 Mr. Blankinship - All right. Mr. Rogers, you can either speak back there or here,  
156 whichever you prefer.

157  
158 Mr. Rogers - Good morning.

159  
160 Mr. Bell - Good morning.

161  
162 Mr. Green - Morning.

163  
164 Mr. Rogers - So I did meet with the property owners along Krueger Drive,  
165 all of them really, and I met with the property owners on Dickens Road across the road  
166 and next to me that were -- one of the houses is vacant so it's not being used.

167  
168 Most of the people down Krueger Drive didn't really have a problem with my application.  
169 A couple had some issues, as Mr. Blankinship said, with the parking on that right side  
170 and a little bit of noise from the deck. I put up a barrier on the deck as well so that noise  
171 would be mitigated from going in that direction off of the deck. I think the hollies will end  
172 up growing to about 10 feet and I think that'll provide a pretty good screen.

173  
174 I did meet with one neighbor who was two houses down on Dickens Road and I feel like  
175 he and I were going to just disagree on the ordinance more than anything that I've done.  
176 I tried to explain that I try to qualify people who come in. Most of the people who come in  
177 are families.

178  
179 He's worried about transients coming into the neighborhood. I can respect that. And I do  
180 my best to try to keep people out who I feel like are either looking for a party or maybe  
181 have a nefarious reason for coming in. So nearly everyone who comes in are families.  
182 Either one or two families who are meeting there for some reason. But I really think that  
183 his problem was more with the ordinance. But maybe he can speak to that.

184

185 I've gone over the checklist that the county has for short-term rentals and I feel like I meet  
186 all the criteria on the checklist. I pay property taxes at this house. I pay automobile taxes  
187 at this house. And I have my small business there so I pay business taxes there.

188  
189 It's my intent to operate within the guidelines of the county ordinances and any other  
190 suggestions that the county may have.

191  
192 I wish to be a good neighbor. Some of my neighbors are here and I appreciate their  
193 attendance. I'm actually a little bit an introvert, so I've actually gotten to meet my  
194 neighbors where in the past I've sort of stayed to myself. And they're actually really nice  
195 people.

196  
197 I gave them all my cell number or nearly all of them who wanted it. And I told them to call  
198 me. Because I have a small business, I keep my cell in my pocket all the time and I  
199 answer it almost at any hour of the day or night for my customers.

200  
201 This is my house. This is the only property I own. It is my primary residence. I'm very  
202 busy. I have two full-time jobs. I coach volleyball and Randolph-Macon and I have for 18  
203 years. I also have my small business. And I have two parents who are in their 90s and  
204 I'm one of the primary caregivers. I spend an awful lot of time at their house, which is  
205 about three miles away.

206  
207 And I think my neighbors, because they don't see me, think that I'm absentee and I'm not.  
208 And I tried to explain it to them. And I think they understood that. And so I ask your  
209 approval of my permit.

210  
211 Mr. Bell - Did you read and understand and agree with the conditions of  
212 approval?

213  
214 Mr. Rogers - I'm sorry. I didn't hear all that.

215  
216 Mr. Blankinship - The conditions of approval. Are you --

217  
218  
219 Mr. Rogers - I did. I've gone over them in great detail.

220  
221 Mr. Bell - Thank you.

222  
223 Mr. Rogers - Yes, sir. And we've amended them. And one thing that wasn't  
224 in the application last time that was a little bit of a controversy was that I'm out of town  
225 sometimes for my business and I wouldn't be able to respond within 30 minutes. I've had  
226 two other people listed in the house and I just didn't realize that I needed to include that  
227 with the application at the time.

228

229 So, there's a notice in the house to call me and then call two other people if there's an  
230 issue and I can't get to it. But so far there hasn't been an issue that we couldn't resolve  
231 within minutes. So, I mean, I had a hot water heater go out few months ago and I went  
232 to Home Depot and had a new one put in within four hours. So I did the work. So I feel  
233 like that we're extremely responsive. So we've gone over all the conditions.

234

235 Mr. Bell - Thank you. Any questions from the Board?

236

237 Mr. Green - So the ones that's at the house that you are referring to, the  
238 house next door. That they're there when you need someone to --

239

240 Mr. Rogers - I'm sorry. I didn't understand.

241

242 Mr. Blankinship - I think the question is when you are not available and the  
243 house is a short-term rental, how far away are the two other contacts.

244

245 Mr. Rogers - I see. One of them's three miles away and one of them is  
246 about two and a half miles away.

247

248 Mr. Green - Okay.

249

250 Mr. Bell - All right. Thank you.

251

252 Mr. Rogers - Okay.

253

254 Mr. Bell - Does anyone else wish to speak in support of this request?  
255 Does anyone else wish to speak in opposition of this request?

256

257 Mr. Blankinship - Mr. Chair, we do have one who wishes to speak in support.

258

259 Mr. Bell - All right.

260

261 Mr. Jones - Good morning. My name's Kevin Jones. I met with Bill  
262 yesterday. I believe he's bent over backwards to accommodate. I'm Jones right across  
263 the street from him. I appreciate all he's done. At this point I would agree with what he  
264 wants to do. So thank you very much, Bill.

265

266 Mr. Bell - Thank you.

267

268 Mr. Rogers - Thanks for coming.

269

270 Mr. Blankinship - Mr. Chair, I am told there is no one on WebEx waiting for this  
271 case. So if there's no one else in the room who wishes to speak that will be the end of  
272 the public hearing.

273

274 Mr. Bell - We will vote on this?

275

Mr. Blankinship - Yes, sir. That would be appropriate.

276

277

Mr. Bell - Okay. First I think I'm going to make the motion on this one. And I move that we go ahead and approve the application the way it was written. Because there's no safety violations or problems here. They've been taken care of.

278

279

280

281

There were a number of things that had to be taken care of. They were taken care of quickly and with an understanding by both parties. There were other parties who didn't understand and due to that and many other considerations from our last meeting we had with him, I go ahead and move to approve this applicant's application. Is there a second?

282

283

284

285

286

Mr. Green - I second it, Mr. Chairman.

287

288

Mr. Bell - Any discussion? Hearing none. All those in favor of approval of the application say aye. All those opposed say nay. Ayes have it and the motion's approved. Thank you, Mr. Rogers.

289

290

291

292

On a motion by Mr. Bell, seconded by Mr. Green, the Board **approved** case **CUP2020-00007, WILLIAM A. ROGER's** request for a conditional use permit pursuant to Section 24-12(h) of the County Code to allow short-term rental of a dwelling at 5401 Dickens Road (Parcel 773-744-3103) zoned One-Family Residence District (R-2) (Brookland). The Board approved the request subject to the following conditions:

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294

295

296

297

1. This approval allows only the short-term rental of the five bedrooms in the principal dwelling on the property for up to 10 persons at a time. All other applicable regulations of the County Code shall remain in force.

298

299

300

301

302

2. This approval is subject to the County noise ordinance (Sec. 10-67 through 10-69), registry ordinance (Sec. 20-280 through 20-282) and short-term rental development standards (Sec. 24-13.01(b)).

303

304

305

306

3. All short-term renters shall use the private driveway (across from Wendover Lane) and shall park on the property. Short-term renters shall not use Krueger Drive and shall not park on Dickens Road.

307

308

309

310

4. No later than November 13, 2020, the applicant shall install a row of Nellie Stevens hollies or equivalent evergreens generally along the property line between the house and guesthouse and between the guesthouse and the garage.

311

312

313

314

5. The property owner or one of his designated emergency contacts shall respond in person at the property within 30 minutes whenever necessary to resolve issues and complaints arising in connection with the short-term rental.

315

316

317

318

Emergency contacts: Bill Rogers (804) 640-3223, Riley Martin (434) 249-4071, Angel Fuller (304) 240-1092.

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<b>Affirmative:</b>	<b>Bell, Green, Johnson, Pollard, Reid</b>	<b>5</b>
<b>Negative:</b>		<b>0</b>
<b>Absent:</b>		<b>0</b>

Mr. Blankinship - All right, Mr. Chair, the next case is conditional use permit 2020, number 14, Mindy Guyer.

**CUP2020-00014** **MINDY GUYER** requests a conditional use permit pursuant to Section 24-12(e) of the County Code to allow a noncommercial kennel at 11801 Oak Point Court (BARRINGTON WEST) (Parcel 740-757-7072) zoned One-Family Residence District (R-3C) (Three Chopt).

Mr. Blankinship - Mr. Chair let me call your attention to an email message that was printed out and left at your places this morning. That was received after your packet went out. Would anyone who intends to speak to conditional use permit number 14 please stand and be sworn in? Do you swear the testimony you are about to give is the truth, the whole truth, and nothing but the truth, so help you God? Thank you. Mr. Madrigal.

Mr. Green - Excuse me, Mr. Blankinship.

Mr. Blankinship - Yes, sir.

Mr. Green - Is there necessary paperwork that we need to have. I don't have one?

Mr. Blankinship - I'm sorry. I did not have an opportunity to speak to you. I failed to prepare draft motions. Have to do it the old-fashioned way. I apologize for that. Mr. Madrigal.

Mr. Madrigal - Thank you, Mr. Secretary. Mr. Chair, members of the Board, good morning.

Before you is a request to allow a noncommercial kennel in a one-family dwelling. The subject property is located in section three of the Barrington West Subdivision at the end of a cul-de-sac, and it backs onto a lake, as you can see here. This is the property and there's a portion of the lake.

The lot is approximately 37,500-square-feet in area, and has improved with a three-story, 5,556-square-foot dwelling with a walkout basement and an attached 4-car garage built in 2004.

366 The rear yard is over 10,000 square feet in area, is enclosed by a 4-foot tall wrought-iron  
367 fence, and is at a lower grade than the front of the lot. The applicant acquired the property  
368 in August of 2017 as a way to consolidate her household and her mother into one home.  
369 As a result, they currently have three dogs consisting of an Irish Wolfhound, a Polish  
370 Lowland Sheepdog, and a Bernedoodle. The dogs range in age between 3 1/2 and 7  
371 years old, and reside in the dwelling with the family.

372  
373 Because of health issues related to age and the breed, the applicant anticipates putting  
374 down one of the dogs, the Irish Wolfhound, sometime at the end of this year. Keeping  
375 this in mind, the applicant would like to acquire two new puppies, they're mini  
376 Bernedoodles, as replacement pets. If approved they would temporarily have five dogs  
377 in the home which would be reduced to four because of attrition by the end of the year.

378  
379 All the dogs are family pets and they have no intention of breeding them. The property is  
380 zoned R-3C and is designated Suburban Residential 1 on the 2026 Future Land Use  
381 Map. A one-family dwelling is a principal permitted use in this district and is consistent  
382 with the land-use designation. The zoning ordinance allows up to three pets by right as  
383 an accessory use, and additional pets may be added or allowed by way of a conditional  
384 use permit.

385  
386 Although the subject property is zoned R-3 where the prescribed minimum lot area is  
387 11,000 square feet, the adjacent lots in Barrington West range in size between 30,000 to  
388 over 58,000 square feet. The closest home is over 80 feet in distance from the applicant's  
389 home. Additionally, the applicant's rear yard backs onto the lake.

390  
391 Because of the large size of the lots and the distance between homes, staff does not  
392 anticipate any substantial detrimental impacts on nearby property. This is further  
393 augmented that the dogs will be kept primarily in the home and have a large fenced in  
394 rear yard for exercise and play.

395  
396 In conclusion, the subject lot is over three quarters of an acre in area and is in a  
397 subdivision with large lots with homes spaced 80 feet to over 100 feet apart. The rear  
398 yard is below street grade, which is over 10,000 square feet in area, is fenced, and backs  
399 onto a lake. The temporary keeping of five dogs has the potential to negatively impact  
400 adjacent neighbors, but the number will be reduced to four dogs by the end of the year,  
401 due the attrition. The dogs will be kept primarily in the home and will be led out in the  
402 rear yard for exercise and play. Staff is not aware of any complaints against the property.

403  
404 Based on the facts of the case, staff recommends approval of this request subject to  
405 conditions. We have received two emails, essentially, one in opposition and one in  
406 support of this request. That concludes my presentation. I'll be happy to answer any  
407 questions.

408  
409 Mr. Bell - Any questions from the staff or Board? Okay. Thank you.  
410 Are there any questions? Thank you.

412 Ms. Guyer - Good morning. My name is Mindy Guyer, G-u-y-e-r. This is  
413 an exciting learning experience for me. So when my daughter two years ago asked for  
414 another puppy I said, Absolutely not. We have three dogs and it's a lot to do. But being  
415 the natural learner that I am, I've been in the Henrico County Public Schools for 20 years  
416 as a teacher and administrator, I decided we'll look into it. Now with being home all the  
417 time, we do have time to put into to properly training a puppy.

418  
419 Well then my son, of course, one of my sons, got on board and said I, you know, If she  
420 can do it can I please do it? And they are older. And I thought, If I'm going to ever teach  
421 them this responsibility, now is the time to do so.

422  
423 So when I did a little research that's when I realized you have to have a permit in order to  
424 have more than three dogs. So I said to them, we're going to go through the process and  
425 we'll see what happens.

426  
427 Both of the dogs in question are mini Bernedoodles, so that's a Bernese Mountain Dog  
428 Poodle mix. So they're very easily trainable. They're also very small in size, which was  
429 intentional.

430  
431 And what I'm hoping is it adds a little life to our family. My mother -- the reason that we  
432 live with her, is to take care of her. She has mobility issues and other health issues. And  
433 her dog we thought we were going to lose actually about two months ago and actually  
434 she's holding steady. But given her large size she will not be with us much longer.

435  
436 So we have spoken with our neighbors and we did have one who had some concerns  
437 when she saw the word kennel, so she thought we were going to be breeding dogs. And  
438 once I explained to her, No, we have no intention of breeding dogs. We're not putting up  
439 any structures, it's just like what we have now. They will remain inside. Then she backed  
440 off and said, Oh, okay. Then I will not be a barrier any longer. I understand.

441  
442 The rest of our neighbors actually have all given us a lot of support and one has even  
443 asked if he can borrow the dogs on occasion because he's very excited. I think it's easier  
444 sometimes to look and play with a puppy and then give it back to the owner to take care  
445 of the puppy.

446  
447 So I really hope that you guys will support this opportunity for my children to take on this  
448 responsibility and I do not anticipate any major changes to not only our house, but the  
449 houses and the environment around us.

450  
451 We do a lot to make sure that the dogs are inside. In addition to what was presented  
452 there's a dog run on the side of the house next to woods. And also, you know, we do  
453 things like we have somebody who comes and helps us clean up every week to make  
454 sure there's no extra odors or anything like that. So we're really trying to have the most  
455 positive impact we can. Thank you.

456

457 Mr. Bell - Any other questions? Seeing none or hearing none. Thank  
458 you.

459  
460 Mr. Blankinship - Is there anyone else who wishes to speak in favor of this  
461 application? Yes, ma'am. I'm sorry. We need you to step to the mic and tell us who you  
462 are.

463  
464 Ms. Marcus - I think she should get the puppies. So much craziness going  
465 on in this world. That's a good thing.

466  
467 Mr. Blankinship - Can we have your name, please?

468  
469 Ms. Marcus - Stephanie (ph) Marcus, M-a-r-c-u-s.

470  
471 Mr. Blankinship - And do you live near the site?

472  
473 Ms. Marcus - No.

474  
475 Mr. Blankinship - Okay. Thank you. Is there anyone else who would like to  
476 speak in favor of this application? Is there anyone who'd like to speak in opposition to  
477 this application? Mr. Chair, I've been informed there is no one WebEx waiting to speak  
478 to this case, so that will be the end of the public hearing.

479  
480 Mr. Bell - With the end of the public hearing, motions would be in order.

481  
482 Mr. Green - Mr. Chair as the Three Chopt representative for that district,  
483 you know, actually I don't really live that far from Barrington, I especially made an effort  
484 to go by the property to see if in fact there can be a kennel in Barrington. You know. It  
485 raises some concern.

486  
487 As you know, I've been a vocal opponent of having more than three dogs. I think that the  
488 rules state that we need to have three dogs and until someone changes those rules we  
489 need to adhere to that. And just because it's a feel good thing that's fine. But we've got  
490 to focus on what the law says.

491  
492 But in this situation having driven by the property and surveyed it and looked at it and  
493 looked at the size of the house, looked at the number of dogs that she wants, and just to  
494 the general area, I would like to move that we grant a conditional use permit pursuant to  
495 section 24-12(e) of the code to allow a non-commercial kennel. And it's not a commercial  
496 type kennel, but dogs kept primarily in her home at 11801 Oak Point Court in Barrington  
497 West, zoned one family.

498  
499 I don't want people to get the impression that because that's a more affluent area, that I  
500 am not cognizant of the less affluent areas. But in this situation because of the size of  
501 the house, the run that the dogs have, the back of it, and lack of major complaints, I would  
502 move to approve.

503  
504 And it's my understanding -- I think one of the dogs serves as a companion for her mother,  
505 which to me would qualify as a different situation. And so I would certainly move that as  
506 representative for that district to approve this.

507  
508 Mr. Bell - Do I hear a second?

509  
510 Mr. Reid - Second.

511  
512 Mr. Bell - Any discussion? Just wanted to add one thing to it and at the  
513 end here Mr. Green made a statement about one of the dogs for her mother. That in and  
514 of itself, if a mother needs an extra dog in your house, is something that's legal. So she  
515 does have another route she could have explored. Not saying she would have got it that  
516 way, but she could have explored it. Any other discussion? Hearing none we will vote.  
517 All those in favor say aye. All those opposed say nay. Ayes have it. We will go on to  
518 the next case.

519  
520 On a motion by Mr. Green, seconded by Mr. Reid, the Board **approved** application  
521 **CUP2020-00014 MINDY GUYER's** request for a conditional use permit pursuant to  
522 Section 24-12(e) of the County Code to allow a noncommercial kennel at 11801 Oak  
523 Point Court (BARRINGTON WEST) (Parcel 740-757-7072) zoned One-Family Residence  
524 District (R-3C) (Three Chopt). The Board **approved** this request subject to the following  
525 conditions:

526  
527 1. This conditional use permit applies only to the keeping of five dogs on the property. All  
528 other applicable regulations of the County Code shall remain in force.

529  
530 2. This approval is only for dogs owned by the property owner, and is not for the boarding  
531 or breeding of dogs at any time.

532  
533 3. The number of dogs shall be reduced to four by December 31, 2020. No new or  
534 replacement animals may be added. When the number of animals is reduced by attrition  
535 to three, this conditional use permit shall expire.

536  
537 4. The applicant shall maintain the property so that noise and odors are controlled.

538  
539  
540 **Affirmative:** Bell, Green, Johnson, Pollard, Reid 5  
541 **Negative:** 0  
542 **Absent:** 0

543  
544 Mr. Bell - We'll go on to the next case.

545  
546  
547 Mr. Blankinship - And that is conditional use permit 2020, number 15, J. E.  
548 Liesfeld Contractor, Inc.



595  
596 In evaluating this request, is it consistent with the zoning ordinance and comprehensive  
597 plan? The property is zoned A-1 Agricultural District and is designated Rural Residential  
598 on the comprehensive plan. The proposed use is allowed by conditional use permit and  
599 ultimately it would restore the grade to its original condition. As a result, it is consistent  
600 with the zoning ordinance in the comprehensive plan.

601  
602 With regard to any detrimental impact on nearby property owners, extraction typically  
603 does have some impact on adjacent property, but this is mitigated in part by the 100-foot  
604 wooded buffer surrounding the site. Limits were also placed on the hours of operation to  
605 better limit any noise impacts from trucks or other equipment on the site. No complaints  
606 have been received by staff since the use permit was approved in 2018.

607  
608 In conclusion, the original reclamation left the site below grade. The operation provides  
609 a needed place to store this material and when completed it will return the site to a level  
610 more consistent with its surroundings. The site has been in operation for close to a year,  
611 and staff has not received any complaints. As a result, staff recommends approval of this  
612 request to allow the facility to continue operation for another two years.

613  
614 This concludes my presentation and I'll be happy to answer any questions you may have.  
615 Thank you.

616  
617 Mr. Bell - Any questions from the Board or from any of the staff?  
618 Hearing no questions we'll proceed. Thank you.

619  
620 Mr. Morgan - Hi. Good morning. My name is Kelby Morgan, M-o-r-g-a-n.  
621 I'm representing J. E. Liesfeld Contractor on this. I think you gave a pretty good overview.  
622 We had it open maybe 18 months by the time we got permits and stuff and plans  
623 approved. I have not received any comments from any neighbors. We have made a  
624 couple improvements. We did pave the entrance recently to try to alleviate a big pothole  
625 at the entrance we went ahead and fixed the road and paved it. Hopefully that'll help in  
626 the future. Pretty much what it is. If you all have any questions, I'd be happy to answer  
627 them.

628  
629 Mr. Blankinship - Let me just add, Mr. Chair, Randy Hooker from Engineering  
630 Design Associates is also available on WebEx if anyone has any questions that would be  
631 better answered by the engineer.

632  
633 Mr. Bell - I didn't get all of that, Ben.

634  
635 Mr. Blankinship - I'm sorry. Mr. Morgan is the applicant. His engineer, Randy  
636 Hooker, from Engineering Design Associates, is usually here with him. Today Mr. Hooker  
637 is available on WebEx, so if you do have any questions of an engineering nature, the  
638 representative from the engineering side is also available to answer your questions.

639

640 Mr. Bell - Thank you. Are there any questions from engineering, then?  
641 Hearing none. You have something to say?

642  
643 Mr. Johnson - I just went by the site just to look to see how they are making  
644 it -- doing improvements out there. But it looks pretty well. Also basically everything in  
645 2018 we've approved for them to do that. And is everything that was done in 2018 going  
646 to carry over to this?

647  
648 Mr. Morgan - Yes, sir.

649  
650 Mr. Blankinship - All of the conditions remain the same. Yes, sir.

651  
652 Mr. Johnson - Okay. That was one of the things that we discussed after the  
653 last hearing.

654  
655 Mr. Blankinship - Yes, sir. And we did have a couple of phone calls from  
656 neighbors as well when they got the notice and saw the sign. And when we told them it  
657 was a renewal of the previous approval they were all satisfied with that.

658  
659 Mr. Johnson - I'm satisfied. Thank you.

660  
661 Mr. Bell - Thank you, Mr. Johnson.

662  
663 Mr. Morgan - All right. Good. Thank you.

664  
665 Mr. Blankinship - Is there anyone else who wishes to speak in support of this  
666 application? Is there anyone who wishes to speak in opposition to this application? Mr.  
667 Chair, I'm told there is no one other than the engineer on WebEx, so that will be the end  
668 of the public hearing.

669  
670 Mr. Bell - Good. Then a motion would be in order. Do I hear a motion?

671  
672 Mr. Johnson - Mr. Chair, I move that we approve the conditional use permit  
673 for this property and also that the conditions that the staff recommend approval subject  
674 to -- the conditions as well. And everything that was done in the beginning, that that would  
675 carry over on this one as well.

676  
677 Mr. Green - Second.

678  
679 Mr. Bell - Mr. Green second the motion. Any discussions? Hearing no  
680 request for discussions we'll go ahead and make the vote. All those in favor of the  
681 application say aye. All those opposed say nay. Ayes have it, therefore the motion's  
682 approved.

683  
684 On a motion by Mr. Johnson, seconded by Mr. Green, the Board **approved** application  
685 **CUP2020-00015 J. E. LIESFELD CONTRACTOR, INC.**'s request for a conditional use

686 permit pursuant to Section 24-116(d)(3) of the County Code to deposit soil as fill material  
687 at 8950 Strath Road (Parcel 816-677-8788) zoned Agricultural District (A-1) (Varina). The  
688 Board approved this request subject to the following conditions:

689  
690 1. This conditional use permit only authorizes the clearing, grading, filling, and  
691 reclamation shown on the plans titled "Liesfeld Contracting Strath Road Mine" prepared  
692 by Engineering Design Associates and revised May 2020.

693  
694 2. The final grades shall have a minimum slope of 2% and a maximum slope of 33% (3  
695 feet horizontal to 1 foot vertical).

696  
697 3. The applicant shall maintain a financial guaranty in the amount of \$135,300 insuring  
698 that the land will be restored as shown on the "Final Reclamation Plan." The applicant  
699 shall maintain the financial guaranty until the Planning Department and the Department  
700 of Public Works approve the reclamation of the property. Reclamation shall not be  
701 considered complete until the site has been graded as shown on the approved  
702 reclamation plan, is covered completely with permanent vegetation, and is seeded with  
703 red cedar trees, loblolly pine trees, or a similar native species in a manner approved by  
704 the Director of Planning.

705  
706 4. The applicant shall continuously satisfy the requirements of the environmental  
707 compliance plan approved by the Department of Public Works (DPW), including  
708 compliance with the Chesapeake Bay Preservation Act and maintenance of all erosion  
709 control measures in accordance with the approved plan. As site conditions change,  
710 updated plans and bonds may be required by DPW.

711  
712 5. The material to be deposited on the site shall be limited to soil and similar materials  
713 excavated from construction sites, and shall not include any hazardous materials as  
714 defined by the Virginia Hazardous Waste Management Regulations. The applicant shall  
715 submit a quarterly report stating the origin, nature, and quantity of all material deposited  
716 on the site, certifying that no hazardous materials were included.

717  
718 6. Any activity that results in sound clearly audible at the property lines shall be limited to  
719 Monday through Friday, from 7:00 am to 5:30 pm. There shall be no activity that results  
720 in sound clearly audible at the property lines on Saturdays, Sundays, or national holidays.

721  
722 7. All access to the property shall be from the designated construction entrance onto  
723 Strath Road. The applicant shall maintain a gate at the entrance, which shall be locked  
724 at all times except when authorized representatives of the applicant are on the property.

725  
726 8. The applicant shall maintain a sign at the entrance to the site stating the name of the  
727 applicant and a telephone number to contact in case of emergency.

728  
729 9. The applicant shall maintain standard "Truck Entering Highway" signs on Strath Road  
730 on each side of the entrance to the property.

731



778  
779 Mr. Blankinship - Mr. Chair, that is conditional use permit 2020, number 16, The  
780 Dominion Club.

781  
782 **CUP2020-00016** **THE DOMINION CLUB** requests a conditional use permit  
783 pursuant to Sections 24-12(b) and 24-59(a) of the County Code to expand a  
784 noncommercial recreation facility at 6000 Dominion Club Drive (Parcel 743-779-0623)  
785 zoned Business District (B-2C) (Three Chopt).

786  
787 Mr. Blankinship - Mr. Chair, as you can see and as you know from the staff  
788 report there has been a tremendous amount of interest in this case. We received  
789 approximately 140 email messages counting both support and opposition to this  
790 application.

791  
792 For everybody who is here to speak we appreciate you taking the time and coming out.  
793 The Board is definitely concerned with your input on this matter. I do want to say however  
794 that we have a time limit of three minutes per person, so we will ask you to please keep  
795 your comments as much to the point that you're trying to make as you can.

796  
797 And I will also say if you hear somebody else say what you came to say, the Board  
798 understands that there are a lot of people with strong feelings on this case and that we  
799 really don't need to hear a repeat or, I agree with what the pervious speaker said. It'll be  
800 easier for everybody if you just allow the previous speaker's comment.

801  
802 If you have something in addition to add, please come to the microphone and speak. We  
803 want to make sure we get all of your concerns on the record. But if your concern has  
804 already been stated, there's no need to restate it.

805  
806 With that, would everyone who intends to speak to this case please stand and be sworn  
807 in. All raise your right hands please. And do you swear the testimony you're about to  
808 give is the truth, the whole truth, and nothing but the truth, so help you God? All right.  
809 Thank you all very much. Mr. Gidley.

810  
811 Mr. Green - Mr. Chair, Mr. Blankinship for purposes of disclosure,  
812 yesterday I drove out to visit the site because it's private property I informed the  
813 individuals at the Dominion Club that I was on site. Someone showed me the facility. So  
814 hopefully that that did not skew me. We did not have any sidebar conversations. I just  
815 wanted to see visually for myself. So hopefully I did not violate any of my duties. But I  
816 wanted for disclosure purposes to put that in the record.

817  
818 Mr. Blankinship - Very good. Thank you, Mr. Green.

819  
820 Mr. Green - And if there is a problem please let me know.

821  
822 Mr. Blankinship - No. Thank you.

823

824 Mr. Gidley - Thank you, Mr. Secretary. This is a request by the Dominion  
825 Club, which provides residents of Wyndham with recreational facilities including an 18-  
826 hole golf course, clubhouse, swimming pool, and tennis courts. It was approved back in  
827 1990.

828  
829 The Dominion Club would like to place a seasonal bubble over four of its tennis courts to  
830 facilitate play during the winter months. This structure would be in place during the  
831 months of November, December, January, February, and the first half of March. Its  
832 maximum height would be 36 feet.

833  
834 The four tennis courts, as you can see here, that would be covered are these right here  
835 and to the south of them is the swimming pool, and to the east and to the west are fairways  
836 from the golf course.

837  
838 The only adjacent neighborhood is the Club Commons neighborhood located immediately  
839 to the north right here. And this consists of 62 freestanding dwellings.

840  
841 In evaluating this request is it consistent with the zoning ordinance and comprehensive  
842 plan? The property is zoned B-2C, Business District and is designated as Open  
843 Space/Recreation on the land use plan. A neighborhood recreation center is consistent  
844 with these designations.

845  
846 Back in 1990 the courts were approved with a 26-foot rear-yard setback. However, today  
847 the B-2 district requires a 40-foot setback from residential property. As a result, any  
848 expansion of the tennis courts, including placing a bubble over top of them, should comply  
849 with the 40-foot rear-yard setback.

850  
851 With regard to detrimental impact on nearby property. Again, as you can see here on  
852 three of the sides are recreational facilities. So the real question is the neighborhood to  
853 the north there, Club Commons. There are four homes directly behind the tennis courts  
854 that would be covered with the bubble and these homes are as close as 50 feet to these  
855 tennis courts where this bubble would go. A fifth home is located in close proximity.

856  
857 As you can see here, there is a significant evergreen screen between the neighborhood  
858 and the courts. However, there are two gaps in the screen that result and increase  
859 exposure for two homes.

860  
861 This home in particular. As you can see here, the buffer is really not in place here. It  
862 looks like it was removed for some reason. It has been replanted, but obviously that takes  
863 time to grow up. And so placing this 36-foot tall bubble right here against this home would  
864 have significant impacts on this property. These people wrote in opposition to this request  
865 and did send in this photograph that was in your staff report showing the view from their  
866 home which, as you can tell, is quite close to the tennis courts.

867  
868 One item that staff also discussed internally that was mentioned by some opponents  
869 concerned a generator to maintain this bubble during the operation of this site. There is

870 a potential, obviously, that this could cause noise during the four and a half months that  
871 this is up that would negatively impact the residents as well.

872  
873 In conclusion, this case has generated significant public interest. Staff has received  
874 numerous comments on this case, well over 100 actually. When we could tell where  
875 people lived, we did do a map to break down where they are. That's shown right here.  
876 The purple is opposition whereas the orange is support for this request. The tennis courts  
877 are located right here in green. And as you can see, the opposition was focused  
878 extensively from the adjacent neighborhood.

879  
880 Folks from the neighborhood have signed up to speak to their concerns, so I'll let them  
881 do that. In addition, the Dominion Club asked their members to write in favor of this  
882 request and many of them did. And, as you can see, these people are located throughout  
883 the Wyndham development rather than right up against the courts.

884  
885 Some of the comments from these people generally focus on the convenience of having  
886 the courts covered during the winter months to facilitate play and also the need to attract  
887 and retain members that they feel this would benefit the club by having this proposed  
888 bubble. They also have speakers who have signed up to speak in favor today.

889  
890 I would like to mention for those following this case, like all use permits, staff review of  
891 this case is based on two factors. One, does it comply with the zoning ordinance and  
892 comprehensive plan, and two, does it have significant detrimental impacts on nearby  
893 residences? That's what this case was reviewed based upon, just like all other use  
894 permits.

895  
896 In this case the existing tennis courts do not meet the current setback requirement of 40  
897 feet from adjacent residential properties. Any expansion, including placing a bubble over  
898 them, should comply with the 40-foot setback. As a result, there is a zoning ordinance  
899 concern here.

900  
901 Secondly, the nearby residents would likely experience various levels of visual impact  
902 from the bubble and noise impact from the generators. The impact would be especially  
903 severe for this home right here.

904  
905 Based upon the output of opposition from the adjacent neighborhood, these residents  
906 clearly believe their property would be negatively impacted by this request. Because the  
907 40-foot rear yard setback is not met, and because the request would negatively impact  
908 the adjacent property, staff recommends denial of this request.

909  
910 This concludes my presentation and I will be happy to answer any questions you may  
911 have. I thank you.

912  
913 Mr. Green - Prior to any individual coming to speak for or against could  
914 you go back to the map that shows the individuals who are for and against it. And if it's

915 not unusual I would request that when someone comes up to speak that they let us know  
916 where they are. You said orange, I see red or purple area.

917  
918 Mr. Gidley - Okay.

919  
920 Mr. Green - Because that would have some significant impact on my  
921 decision on this as well. And I think it's important.

922  
923 Mr. Bell - Yeah. I don't think I'll have any problem with that. Do you,  
924 Ben?

925  
926 Mr. Blankinship - No. I think that'll be fine.

927  
928 Mr. Bell - Yes.

929  
930 Mr. Green - Okay.

931  
932 Mr. Blankinship - All right. Are we ready to hear from the applicant then, Mr.  
933 Chair?

934  
935 Mr. Bell - Yes.

936  
937 Mr. Blankinship - All right. Thanks.

938  
939 Mr. Gidley - Thank you.

940  
941 Mr. Boberg - Good morning and thank you and thank you for the staff  
942 comments. My name is Eric Boberg, B as in boy-o-b as in boy-e-r-g. And I'm representing  
943 the Dominion Club on this matter.

944  
945 I appreciate the staff comments. Also appreciate you allowing us to be here today, and  
946 also appreciate the time at the end to speak again regarding any comments that are made  
947 throughout the hearing today.

948  
949 I want to let you know I did take a meeting with the homeowners on Layton Drive and met  
950 with many of our members in support of this as evidenced by, and I believe you receive  
951 it in your packet, but I did bring a copy of the over 200 signatures in support of this project  
952 that are all Henrico County residents.

953  
954 I think I'll jump right into my talking points from those meetings and maybe address some  
955 concerns early on, and then again speak to it at the end. If that works for you all.

956  
957 The tennis courts were approved for the 26.32-foot rear yard setback in 1990, as  
958 previously mentioned by staff. The courts were constructed between 1994 and 1996.  
959 The Club Commons community was approved by the Planning Commission in 1996 with  
960 construction between 1999 and 2000. Therefore, the club is requesting that not be

961 subject to the 40-foot setback, as the 26.32-foot setback was previously approved. The  
962 tennis courts existed before the Club Commons. There'll be no encroachment to the  
963 neighboring community as the bubble will be inside the existing footprint.

964  
965 The club does not consider the air supported tennis bubble to be a building and therefore  
966 not be subject to conditions proffered with rezoning case C-48C-90. The bubble would  
967 be completely taken down each year as it is seasonal, stored, and put back up each year.  
968 Therefore it cannot be a permanent architecturally finished material, as this is not the  
969 permanent bubble.

970  
971 The club will be used for tennis events only. It will not be used for weddings, concerts, or  
972 any other venue outside of tennis. The courts will be used exactly as we currently use it  
973 with the ability to provide year-round tennis programming versus the seasonal  
974 programming we're able to provide today. Therefore no additional traffic or parking  
975 concerns.

976  
977 I do understand there was a piece of marketing material regarding social events. That  
978 was on a flier for tennis, specific to tennis events, and that has since been removed, and  
979 is in the process of being removed, i.e. it was taken a lot out of context, so we changed  
980 that. But I wanted to let you all know that that was specific to tennis only.

981  
982 Noise. The air handling unit will be located on golf course side of the tennis courts and  
983 landscaped. Norfolk Yacht Club has the same exact mechanical unit with a four-court air  
984 bubble. Our installer went to the Norfolk Yacht Club with a dosimeter and with the unit  
985 off, took a reading of 40dB and that's with the ambient noise from the road. Turn the unit  
986 on at the same 40dB rating. So we feel we will be well within county ordinance and there  
987 will be little if no impact to the homeowner on noise. Additionally, the courts will not need  
988 to be blown off each morning with a blower, and the noise will be less than what is  
989 experienced today.

990  
991 Lighting. The interior of the bubble will have an opaque film. There will be no glow or  
992 light that will be visible from the outside. There will be no skylight or anything that will  
993 create lighting to be visible from the outside. Furthermore, the homes will no longer have  
994 to hear tennis players or have lights on at night during the winter months, which will be  
995 an additional benefit.

996  
997 The club has a landscaping bid from Nature's Way Landscaping for \$26,875 to remove  
998 11 dying trees and do a fall planting of 22 green giants. They're approximately 14-foot  
999 tall when installed.

1000  
1001 The height of the bubble, the tallest point of the bubble, is 36-feet at the Apex. The current  
1002 tree-line of the apex is approximately 31-feet on an upward slope and I did bring, and I'm  
1003 happy to present them, my two drawings that show the bubble in concern of the first  
1004 home. And that first home on the tennis bubble on either drawing is between 14 feet on  
1005 the side up to approximately 30 feet, or 8 feet by 23 feet. So albeit it's 36 feet at the apex,

1006 that first home will have some difference in height measurement compared to the apex of  
1007 the bubble.

1008  
1009 Other locations. We've reviewed the site map for the property, which staff did a nice job  
1010 of showing you on the overhead, and all these other sites are currently occupied by the  
1011 clubhouse, the golf course, the driving range, parking lot, and the aquatic facility. So this  
1012 is the only location that we deemed able to provide this tennis bubble.

1013  
1014 We will have real estate folks talking today in support of the project, so I'll defer comments  
1015 to them on housing value. But I would like to comment that housing value in the Wyndham  
1016 community has held its value through the years because of the Dominion Club, and the  
1017 tennis bubble will have a positive effect on the club, and therefore, a positive effect on  
1018 home values in the community.

1019  
1020 The current proposed color is white for the bubble. However, the club is open to any  
1021 other color, green, gray, or otherwise, that the manufacturer is able to provide.

1022  
1023 So, in summary, I know there will be a lot of comments today. I'm happy to speak to them  
1024 at the end, again, to look at the application and any comments that are made, and we  
1025 appreciate your support of this application. Thank you.

1026  
1027 Mr. Bell - Thank you. Were there any questions for Mr. Boberg before  
1028 he sits down?

1029  
1030 Mr. Johnson - The months that the bubble would be up? What months will  
1031 that be?

1032  
1033 Mr. Boberg - Yes. As staff alluded to, we plan on the bubble going up on  
1034 or about November 1st and be taken down on March 15th on or about each year.

1035  
1036 Mr. Bell - Any other questions?

1037  
1038 Mr. Green - I think it's important to note that because of the type of trees  
1039 that they're putting up, you're not going to have to worry about leaves falling. Because  
1040 those are the type of trees that I have bordering my home. So it's going to always be  
1041 green.

1042  
1043 Mr. Bell Thank you.

1044  
1045 Mr. Green - That's neither for or against. I'm just stating that.

1046  
1047 Mr. Bell - Thank you.

1048  
1049 Mr. Johnson - Another question is you were saying about planting some  
1050 trees that. Would those trees be in front of the closest house or --

1051

1052 Mr. Boberg - There would be 11 trees that would go in front of the closest  
1053 home and the other 11 trees would replace the dying trees that currently exist.  
1054  
1055 Mr. Bell - Anything else?  
1056  
1057 Mr. Green - Mr. Chair, could we do it in reverse? Could I hear from those  
1058 that are in opposition first as opposed to those that support the project? Is that possible?  
1059  
1060 Mr. Bell - I don't see why not.  
1061  
1062 Mr. Green - Okay. I would like especially if the homeowner whose directly  
1063 impacted is here.  
1064  
1065 Mr. Bell - Well let's agree once we start that direction we're going to  
1066 follow that direction until the opposition comments are done and not mix them. Right?  
1067  
1068 Mr. Green - Correct.  
1069  
1070 Mr. Bell - All right. Any other questions?  
1071  
1072 Mr. Green - Have you spoken with the homeowner that oppose the --  
1073  
1074 Mr. Boberg - Yes. I have spoken to the homeowners directly behind the  
1075 courts on Layton Drive.  
1076  
1077 Mr. Green - And do they feel for the same way?  
1078  
1079 Mr. Boberg - My belief as they're here today is they still feel the same way.  
1080  
1081 Mr. Bell - Thank you, sir.  
1082  
1083 Mr. Boberg - Thank you.  
1084  
1085 Mr. Bell - Now we'll call for the extra people who would like to express  
1086 their opinion. And what we want to do is to realize I am only calling at this time all the  
1087 people who are opposed to having the tent put up.  
1088  
1089 Mr. Green - And where you live in reference to --  
1090  
1091 Mr. Gordon - Members of the BZA, good morning. My name is Curtis  
1092 Gordon, G-o-r-d-o-n. I'm an attorney at Dankos, Gordon & Tucker Law Firm. I live in the  
1093 county, but I don't live on that map.  
1094  
1095 I'm here on behalf of Deborah and Charles Gould who do live in one of the purple houses,  
1096 one of the ones that are contiguous to the tennis court and that are going to be most  
1097 directly affected, as well as 81 other folks who live in the neighborhood who are in

1098 opposition to the -- at which I have their letters and support, excuse me, their letters  
1099 supporting the opposition or the letters in opposition all but one of which I think has been  
1100 sent to the county previously. And you should have, hopefully, in your packets.

1101  
1102 The neighbors that I'm representing, the folks that you see largely in the purple, support  
1103 the county staff plan that this plan be denied. There are significant concerns and they're  
1104 the ones in the best position to judge the value of their homes. There are significant  
1105 concerns about the value of their homes. There are significant concerns over the noise  
1106 level. There are significant concerns over the fact that there's going to be more traffic in  
1107 this area during the winter months if you're having indoor events. And the consequence  
1108 of traffic that that's going to pose in the safety on their streets.

1109  
1110 But this case really isn't that hard in my world. Let's talk about that for a second. You  
1111 have one of your county website the Cochran case which says if you want to get a  
1112 variance you've got to show that all reasonable beneficial uses of the property taken as a  
1113 whole are negatively impacted by the zoning ordinance. And that's the authority upon  
1114 which you can grant a variance. We clearly don't have that here.

1115  
1116 The club could say, well, gee, it was 26 feet when we built it 20 some years ago and now  
1117 we have a new ordinance. Well the new ordinance doesn't apply to us. That's not the  
1118 case. As staff said, it's a 40-foot setback. This would violate that. They can't show that  
1119 it negatively impacts the use of the property. What it does, it negatively impacts their  
1120 economic use of the property because they think they can have tennis more and, I  
1121 assume, therefore get more members. That's not a basis for you to grant an exemption.

1122  
1123 Further, this was touched on in a county report -- if you put up a building, this was  
1124 proffered in their original zoning case, or probably their predecessor in interest if I had to  
1125 venture a guess. If you build a building you've got to have certain material on that building.  
1126 It's in the county report.

1127  
1128 Now the club says, Well, gee, that's not a building. It's a building. It's an inflatable  
1129 building. Maybe a building you can take up and take down. You can take up and take  
1130 down any building. But it's still a building and it's got to comply. Not only does it have to  
1131 comply with the specific county ordinances, it's got to comply with the promises that were  
1132 made to the neighborhood and the adjoining landowners when this property was originally  
1133 rezoned.

1134  
1135 There are many folks here who can talk about in opposition and probably even support  
1136 and the folks here. The Gould's and the other neighbors, can talk about their feelings  
1137 better than I can about the negative impacts of this case. But in my world, this case is  
1138 not that hard. This case is clearly not within the zoning ordinances and the applicant can't  
1139 show the requisite harm that they're going to suffer if the variance is denied. Be happy to  
1140 answer any questions.

1141  
1142 Mr. Green - So you were retained by a group of neighbors to --

1143

1144 Mr. Gordon - Dr. and Charles -- Dr. and Deborah Gould. Yes.  
1145  
1146 Mr. Green - Yes.  
1147  
1148 Mr. Gordon - But I've spoken to many other folks.  
1149  
1150 Mr. Green - My only comment is that's unfortunate that individuals who live  
1151 in county have to retain counsel, paid counsel, when they have boards of zoning appeals,  
1152 boards of planning and supervisors that -- well, supervisors can't get in the middle of this,  
1153 or planning, that they can't -- they can talk to. And I think what we need to do is, in the  
1154 future, do a better job of letting folks know while we can't get directly involved, we can if  
1155 we hear from both sides that they should be able to contact us without cost. Because,  
1156 you know, this is what we're here to do. To represent the county and the citizens. Not  
1157 trying to take away any money from you, but --  
1158  
1159 Mr. Gordon - That's okay. Folks have said worse things to me over the  
1160 years so that's okay.  
1161  
1162 Mr. Green - All right.  
1163  
1164 Mr. Bell - Any other statements or questions? Thank you, Sir.  
1165  
1166 Mr. Gordon - Thank you very much.  
1167  
1168 Mr. Hauenstock - Thank you. Good morning. My name is Mike Hauenstock,  
1169 H-a-u-v-e-n-s-t-o-c-k. I am the President of the Club Commons Association. I live in one  
1170 of those purple houses, one of the ones to the very far right. But I'm here today to  
1171 represent the whole community, as well as the Board of Directors, both of which are  
1172 opposed to this proposal.  
1173  
1174 I won't go into individual homeowners, because you're going to hear from some of them  
1175 later. I want to reiterate that we did a survey prior to the signed affidavits that you got --  
1176 saw from an attorney where 80 percent of our homeowners were opposed. The other 20  
1177 percent were not for, or 10 percent were against, 10 percent were more neutral. The  
1178 people who are mostly tennis players.  
1179  
1180 The comments I got were about visual impact, not just from those four homes, but other  
1181 homes can see this bubble across the street, down the road.  
1182  
1183 Noise levels. Mr. Boberg, originally testified there's a 40 decibels worth of noise coming  
1184 from this. I have an email right here that I will read to you that I received from Mr. Boberg  
1185 on July 5th. Our contractor stated that Norfolk Yacht Club has the exact same piece of  
1186 equipment that we are looking to install at TDC. He was at the site last week and when  
1187 the unit was on it was at 50 decibels, including the ambient noise from the road. Now I  
1188 don't know where the truth lies, but that's different facts from Mr. Boberg.  
1189

1190 Let me point out that I did measure the decibel level today and it ranges from 45 to 50  
1191 decibels. Now you're to add in another 50 decibels or so from this tennis bubble, now we  
1192 have double the noise levels that we currently have and that we will hear 24 hours a day.  
1193

1194 People are concerned about their property values. We all bought homes for a high-end  
1195 quiet neighborhood, mostly seniors, with strict architectural standards. You need to go,  
1196 you know, to put a piece of flowers in you need to get approval from our board. This is  
1197 not what we bought into the club. If this is property that was going to be purchased,  
1198 constructed, today, you would enforce that 40-foot setback. So I ask that you take that  
1199 same into consideration now and take that same position now that you would as if the  
1200 club was new, and deny this request. Thank you.  
1201

1202 Mr. Green - I have a question.  
1203

1204 Mr. Hauvenstock - Sure.  
1205

1206 Mr. Green - Club Commons has a board of directors? That whole  
1207 subdivision?  
1208

1209 Mr. Hauvenstock - Yes. We have a regular Board of Directors for the community  
1210 association. I am president. I've been president for three years.  
1211

1212 Mr. Green - Okay. How did you find out about this bubble? Did they come  
1213 to you all and ask you all or --  
1214

1215 Mr. Hauvenstock - They did not initially come to us. We found out about it from  
1216 neighbors who are members of the club. When they sent out an announcement saying  
1217 that this was proposed subject to the Zoning Commission approval.  
1218

1219 And we found out about at that time and immediately engaged in a conversation with Mr.  
1220 Boberg about it stressing our concerns. He made some commitments to us like we had  
1221 mentioned before about colors and trees and so forth, but even that would not satisfy us,  
1222 because it doesn't solve the problems of the visual impact, the noise impact, and the  
1223 property value impact. And what assurances do we have that that will be in effect some  
1224 years from now? He's already been replaced as the general manager. It's owned by a  
1225 private equity firm which has a reputation for selling things. Who knows what the next  
1226 owners might do.  
1227

1228 Mr. Green - So as a member of the Board of Directors, do you have a seat  
1229 on the Wyndham Board which would have some impact on this?  
1230

1231 Mr. Hauvenstock - I do not have a seat on the Wyndham Board.  
1232

1233 Mr. Green - Excuse me?  
1234

1235 Mr. Hauvenstock - The Wyndham Board is separate. I am not a member of the  
1236 Wyndham Board. I am invited to the board meetings of the Wyndham Board.  
1237  
1238 Mr. Green - Okay.  
1239  
1240 Mr. Hauvenstock - The Wyndham Board has so far said that they have no  
1241 jurisdiction over the Dominion Club. It's completely in, you know, they represent  
1242 homeowners. Dominion Club is separate. And so far they have not really taken a position  
1243 on this one way or the other to the best of my knowledge.  
1244  
1245 Mr. Green - Okay. Thank you.  
1246  
1247 Mr. Bell - You mentioned the Wyndham Board and your board, what is  
1248 the rough membership out there that would be affected by this?  
1249  
1250 Mr. Hauvenstock - The Club Commons community that I represent has 62  
1251 homes. The Wyndham community has approximately 1,600 homes. But, again, they're  
1252 not directly affected, and they have -- represents mostly probably tennis players who  
1253 would be in favor.  
1254  
1255 Mr. Bell - Have you talked with the other side about this?  
1256  
1257 Mr. Hauvenstock - The other side? I've told you we've talked with Mr. Boberg.  
1258  
1259 Mr. Bell - All right. In talking with Mr. Boberg, how did you determine  
1260 how far out you could go to get your 200 and your 181? If there's 1,600 out there how  
1261 did you determine how far out to go?  
1262  
1263 Mr. Hauvenstock - I'm not sure I understand the question.  
1264  
1265 Mr. Bell - Well once again, is this for all of Wyndham, these 200 support  
1266 letters and these 81 against, are they from all of Wyndham?  
1267  
1268 Mr. Blankinship - I think I might be able to answer that. The letters that the  
1269 county staff received in support you see represented there, most of them came from  
1270 scattered across Wyndham. There were nine that don't even show on this map. So there  
1271 are some that are from as far as five miles away.  
1272  
1273 The notices that we got in opposition were all located in the immediate neighborhood  
1274 where the bubble will be placed.  
1275  
1276 Mr. Bell - Okay.  
1277  
1278 Mr. Blankinship - Or would be placed.  
1279  
1280 Ms. Price - Can I clarify something?

1281

1282 Mr. Blankinship - In a moment.

1283

1284 Ms. Price - Okay.

1285

1286 Mr. Green - Mr. Chair, you and I could possibly be members of the  
1287 Wyndham Club if we join. And while you live where you live and I live where I live, we  
1288 both could be members. So while there may be 1,600 homes in Wyndham, there may be  
1289 a couple thousand people that could be members of it. So, I think we've got to factor that  
1290 in. Because, you know, it's easier to be away from something than to look at something.  
1291 And so I'm more concerned about the detrimental impact it's going to have on the  
1292 immediate neighborhood.

1293

1294 Mr. Bell - All right. Any other questions? Statements? Thank you, sir.

1295

1296 Mr. Hauvenstock - Thank you.

1297

1298 Ms. Price - Good morning. My name is Nicky (ph) Price, P-r-i-c-e. I live  
1299 in one of the purple designated homes directly behind the tennis bubble. In fact, I live  
1300 right next door to the Goulds who are probably the most impacted.

1301

1302 One point of clarification, the Dominion Club is a private country club. What they are  
1303 building has nothing to do with Wyndham as a community. Just because you live in  
1304 Wyndham does not mean you have access to the Dominion Club. So it sounded like that  
1305 might have been a little bit misunderstood.

1306

1307 I am a member of the club and I very much want them to be successful. Over the past  
1308 10 years they have had at least 3 different owners and several general managers.  
1309 They're currently owned by a private equity firm that has billions of dollars in assets. If  
1310 they're like any other private equity firm that I've ever run into, they're focused on one  
1311 thing and that's profit.

1312

1313 When I think about the impact that this structure is going to have on me and my neighbors,  
1314 it makes me want to throw up.

1315

1316 As a single woman supporting myself, I'm concerned about the value of my home. I  
1317 receive estimates from real-estate agents of up to a ten-percent reduction in the value as  
1318 a result of this bubble. For somebody quickly approaching retirement age that's a big  
1319 concern for me, because it's a big investment for me.

1320

1321 Appearance of the structure. The application, and Mr. Boberg referenced a border of  
1322 trees. As you guys have seen from the photos we submitted, most of those trees are  
1323 dying. Replacing them with smaller trees just doesn't cut it. And we all know, anybody  
1324 that has a yard knows, you can't plant a 20-foot tree. It just doesn't work that way.

1325

1326 Let's talk about the noise. Mike had some really good points. We've gone to the  
1327 manufacturers. We've gotten a lot of different information on the decibels. I'm okay with  
1328 the sounds of the tennis courts. I'm okay with the sounds of the pool. Those are happy  
1329 sounds. They're sounds of people having fun. Hearing the drone of a motor that is going  
1330 to support a bubble the size of two football fields 24 hours a day is not going to be a very  
1331 happy sound and not something I'm looking forward to.  
1332

1333 Despite what Mr. Boberg said, their promotional materials that they have submitted to all  
1334 the club members indicates social events. In fact, as late as yesterday the sign was still  
1335 up promoting the social events. So I don't know. I didn't see it on my walk this morning.  
1336 Maybe it came down this morning.  
1337

1338 When we talk about the surrounding community, that community is Club Commons, it is  
1339 not Wyndham. That's those purple dots that you see up there. Over 80 percent of our  
1340 residents are opposed to this.  
1341

1342 The application indicates the members of the surrounding community will use the facility.  
1343 Yes. If they are members of the private country club, they may use that. If they just live  
1344 in Wyndham, they don't have access to that. You've got to pay the bill.  
1345

1346 The club did initiate a massive outreach to their members over the last several days  
1347 soliciting letters to the Board and looking for signatures on a petition. Some of us here  
1348 were even asked to sign the petition as we were walking by the swimming pool over the  
1349 weekend. In fact, a large number of minors and people that do not live anywhere near  
1350 the bubble, were asked to sign the petition. We saw it with our own eyes. These folks  
1351 are really not aware of the impact this structure's going to have on our neighborhood.  
1352 And, as I said, I know that there's signatures of minor children on that petition, because  
1353 we saw it.  
1354

1355 This bubble is going to require variances to the zoning ordinance, as others have already  
1356 mentioned. That's reason enough to deny the request. But in case you have second  
1357 thoughts please consider the feedback that you've received from people who are  
1358 immediately impacted by this. Think about how you would feel if somebody was going to  
1359 erect a 36-foot-tall bubble behind your house, 50 feet behind your house. And think about  
1360 how you would approach that. I know you're going to make the right decision, and I really  
1361 appreciate your time today. Thank you. Are there any questions?  
1362

1363 Mr. Bell - Staff, Board members, any questions?  
1364

1365 Ms. Price - And I'm sorry. I'm a little emotional about this.  
1366

1367 Mr. Blankinship - Thank you. Fred, can we have the document camera,  
1368 please?  
1369

1370 Ms. Lovelace - Good morning. My name is Teri Lovelace, L-o-v-e-l-a-c-e.  
1371 And my husband, Mark McGahee and I live in Club Commons and we are one of the four

1372 homes located directly behind the Dominion Club's tennis courts and the proposed  
1373 bubble. We are also active members of The Dominion Club, a private country club.

1374  
1375 We oppose the conditional use permit filed by the Dominion Club and Eric Boberg for five  
1376 reasons. First, the bubble does not comply with previously authorized proffers and  
1377 setbacks. The bubble violates the existing 40-foot setback for structures and the zoning  
1378 proffers requiring exposed exterior walls to be made with architecturally finished  
1379 materials.

1380  
1381 Two, the bubble will diminish our home values. A highly-visible 36-foot-high white bubble  
1382 nearly the length of a football field will cause substantial injury to the value of our homes.

1383  
1384 Three, the bubble will cause scenic, light and noise pollution. The bubble will be an  
1385 eyesore and appreciably damage the aesthetic and scenic landscape of our  
1386 neighborhoods.

1387  
1388 Every night for four and a half months there will be a glowing light 36 feet in the air coming  
1389 from the interior lighting of the bubble, as you can see from this photo. In addition, the  
1390 noise associated with the generator will run continuously and will be detrimental to our  
1391 quiet enjoyment of our home.

1392  
1393 According to Mr. Boberg the bubble will also host social events such as tennis parties  
1394 which will also significantly increase the noise and traffic behind our homes. Currently  
1395 there are no tennis parties being held on those tennis courts now.

1396  
1397 Four, the Dominion Club misrepresented key facts in its conditional use permit. The  
1398 application states there was a strand of trees between the two properties that would  
1399 obstruct visibility. The club failed to disclose in its application the dying and diseased  
1400 nature of these trees as evidenced by these photos.

1401  
1402 The club misrepresented that these trees would serve as a lasting and permanent buffer  
1403 to the bubble. The club and our homeowner's association have been in discussion for at  
1404 least three years about removing and replacing these dying trees and today was the first  
1405 time I have heard that there will be trees replaced behind my home.

1406  
1407 The trees near the western end of the tennis courts have all died and been replaced with  
1408 much smaller trees that do not provide any meaningful buffer to the tennis courts. The  
1409 club knew about this ongoing deterioration of these evergreen trees yet they still  
1410 represented in its application that there was a visible tree line buffer between the bubble  
1411 and the homeowners.

1412  
1413 And the fifth reason to deny this request is the Dominion Club failed to seek any input  
1414 from the impacted neighborhood about the bubble.

1415  
1416 The very first time a club representative spoke with the Club Common property owners  
1417 and those residents on Layton Drive about the bubble was on July 13th, less than two

1418 weeks ago, when we invited Eric Boberg over to address our concerns. At that time Eric  
1419 acknowledged and apologized that the club had not proactively sought any community  
1420 engagement and input from us, the impacted neighborhood.

1421  
1422 Our homeowner's association conducted a survey last week and overwhelmingly 80  
1423 percent were against the tennis bubble. Despite our opposition the club has been actively  
1424 promoting year-round tennis with the new tennis bubble to all of its members before  
1425 receiving the necessary approvals from you guys. And this club's aggressive marketing  
1426 efforts to encourage new tennis members clearly disregarded the conditional use  
1427 application process and the views of the adjacent property owners.

1428  
1429 I respectfully request that you deny this application. Thank you.

1430  
1431 Mr. Bell - Any questions. Ma'am. Could you come back here just a  
1432 minute in case we have any more questions? Any questions from staff or Board  
1433 members? No. Thank you.

1434  
1435 Mr. Blankinship - Is there anyone else who wishes to speak in opposition?  
1436 Anyone else in the room?

1437  
1438 Mr. Cuthbertson - Good morning. My name is James Cuthbertson. My wife,  
1439 Barbara, and I live at 6208 Manaford Circle in Club Commons. My name is spelled C-u-  
1440 t-h-b-e-r-t-s-o-n. I'll ask your forbearance. I'm going to read my remarks.

1441  
1442 Thank you for allowing us to speak to the -- this issue this morning. We are, of course, in  
1443 opposition of the conditional use permit that Dominion Club has submitted to the county  
1444 for an inflatable tennis court enclosure.

1445  
1446 The Dominion Club, a commercial enterprise to our south, serves the recreational and  
1447 social interests of many of our residents. I, for one, am a member of the club. But their  
1448 addition of indoor tennis should not be allowed to result in the upheaval and dislocation  
1449 of our beautiful community. This effort by the Dominion Club cannot be allowed to go  
1450 forward without consideration of the impact that such a garish structure would have upon  
1451 the entire Wyndham community.

1452  
1453 As described in the conditional use permit, this structure will be inflated from November  
1454 until March. Deciduous trees in Virginia, of course, have no leaves. Resultingly, this  
1455 structure will be within eyesight of the residents of more than just our community. Those  
1456 communities are The Greens, Fairway Commons, Treyburn, Dominion View Estates, and  
1457 Brentmoor. Additionally, traffic traveling north on Wyndham Lake Drive and Dominion  
1458 Lake Drive will be able to see this gargantuan structure from the roadways. This  
1459 enclosure affects not only Club Commons, but all of these five other communities.

1460  
1461 And to your question about the foundation, Wyndham Foundation, we believe that  
1462 representatives from these communities and the Wyndham Foundation Board should be  
1463 allowed to testify before this Board.

1464  
1465 Our residents have invested much energy and financial resources to protect the  
1466 uniqueness and beauty and desirability of Club Commons. The encroachment of this  
1467 unsightly structure within just feet of our community boundaries, of course, as mentioned  
1468 before, violates Wyndham Foundation and Henrico County setback requirements and  
1469 fails to meet the building materials requirement for structures of this nature.

1470  
1471 We believe that you, as arbiters of matters affecting the livability, beauty, and sanctity of  
1472 residential properties within Henrico County will appreciate the deleterious effect that  
1473 such a structure will have upon our community.

1474  
1475 We respectfully ask that the Board of Zoning Appeals deny the Dominion Club's  
1476 application for a tennis enclosure. Thank you.

1477  
1478 Mr. Bell - Thank you. Any questions?

1479  
1480 Mr. Cuthbertson - I'd be happy to answer any questions.

1481  
1482 Mr. Bell - Any questions from the Board? Thank you.

1483  
1484 Mr. Cuthbertson - Thank you.

1485  
1486 Mr. Nichols - Thank you very much. My name is Duane Nichols, N-i-c-h-o-  
1487 l-s, and my wife and I have the home at 12017 Layton Drive. So we're one of those purple  
1488 dots right there. We've only been in Virginia now for three years. And I want to tell you  
1489 what a unique facility we were able to get in our home. We searched the whole region  
1490 and we can't find something that has the significance, that has the pride of community,  
1491 that exists there.

1492  
1493 We've lived a number of different places. I'm impressed by a planned community called  
1494 Columbia, Maryland, that has existed for decades. And they don't have the quality, the  
1495 private community, that we have here. So it's something to be proud of. Something to  
1496 be protected.

1497  
1498 In that respect then this tennis addition is inconsistent with what we're doing. When I say  
1499 that I want just to quibble about the word tennis bubble. I spent a career as a teacher  
1500 and we taught students the meaning of words. And when you look up bubble you don't  
1501 find anything like this.

1502  
1503 When I taught physics, I knew what a bubble was. It was beautiful. It was symmetrical.  
1504 It was to be admired. And it was a temporary. And so when we think of a tennis bubble  
1505 we tend to say, Oh. That's nice. But in this instance it would be out of place.

1506  
1507 Let me conclude by telling you that the pride of being in our home is to be in the sunroom  
1508 in the house where we can look out and see the scenery. We can actually see the lake  
1509 from there just barely. But what's significant here is that we get to see the sun glow as it

1510 goes down in the west. And guess where this tennis construction will be? It will tend to  
1511 block that off. And we don't know to what extent right now it will interfere with sunsets in  
1512 the best room that we have for viewing and for the pleasure of our residence.

1513

1514 My wife would like to be here today, but she is so concerned about the virus that she  
1515 wouldn't come out. But when we talked about it, we knew that recreational activities with  
1516 groups of people where there's lots of activity. This is adding to the risk of the virus. And  
1517 I'm not saying that this tennis court will contribute to the virus, but I'm saying that it's  
1518 certainly not going to help.

1519

1520 Thank you for your time.

1521

1522 Mr. Bell - Just a minute sir. Are there any more questions or statements  
1523 from the Board? Hearing none, thank you.

1524

1525 Mr. Nichols - You bet. It's important to emphasize that your own staff has  
1526 examined this in great detail. And we appreciate the work of you and them. Thank you.

1527

1528 Mr. Blankinship - Anyone else in the room who wishes to speak in opposition?  
1529 All right. Mr. Chair, I understand we have three people on the WebEx who wanted to  
1530 speak in opposition. Ms. Deemer, Ms. Smith, are we queued up?

1531

1532 Ms. Deemer - Yes, Mr. Blankinship, our first speaker is Mr. Olshansky.

1533

1534 Mr. Olshansky - Thank you very much. My name is Ken Olshansky, O-l-s-h-  
1535 a-n-s-k-y. I am a resident of Club Commons and also a member of the club. And as all  
1536 of our homeowners have mentioned, we want the club to be successful. So this is not in  
1537 opposition to the club, it's opposition to the bubble.

1538

1539 I'd like to address not so much the specifics of the objections, but also the process by  
1540 which this occurred. In your zoning application the first question asked how would this  
1541 permit affect other property in the area, and would the proposed building or activity be  
1542 visible from the neighboring property? They did partially answer that in fact it would be  
1543 partially visible from the neighboring property.

1544

1545 Then they state in the application that many of the surrounding property owners would  
1546 use the facility. And here's the catch. And it says we have asked for such a structure for  
1547 many years. I strongly challenge that answer on the zoning application that made the  
1548 assumption that the surrounding property owners asked for this. As you have heard,  
1549 there has been strong opposition, so I think that's an error in their filing of the application.

1550

1551 Unfortunately, with all due respect, they actually didn't answer your first zoning application  
1552 question which asks, How would this permit affect the other property in the area. We are  
1553 not aware that they actually conducted an environmental or financial impact study to  
1554 answer that question such as, as you've heard mentioned, what are the effects of the

1555 lighting, noise, and most of all, they never really researched what effect this may have on  
1556 our property values.

1557  
1558 Let me also make a point that they are proposing that the bubble be over the tennis courts  
1559 to allow their members, which I am a member, not a tennis member, but I am a member,  
1560 to take advantage of that. There are other options on the Wyndham Club property where  
1561 they could move some parking spots over and place an indoor facility without any  
1562 difficulty. Of course it would be more expensive. But there are other options on their  
1563 property and there are ways of building something that would satisfy their need for year-  
1564 round tennis.

1565  
1566 So I feel very strongly that the way the questions were answered on the zoning  
1567 applications were not completely honest and we all feel in our community we want the  
1568 club to be successful, but they gave no consideration on the impact of what the zoning  
1569 requirements say. So I am strongly opposed to this bubble. Thank you so much.

1570  
1571 Mr. Bell - Any questions from the board? Any questions from the staff?  
1572 Thank you, sir. Anybody else back there, Ben?

1573  
1574 Mr. Blankinship - I believe there are two more. Yes, sir.

1575  
1576 Ms. Deemer - Yes, Mr. Chairman. The next person to speak is Ms.  
1577 Malkman.

1578  
1579 Ms. Malkman - Hi. My name is Elisa Malkman. I live at 12032 Layton Drive.  
1580 I don't want to repeat the other concerns. I am not a public speaker.

1581  
1582 But there's one concern that no one touched upon and that's the safety of that bubble. I  
1583 walk to and from the club many times during the day. My grandchildren walk to and from  
1584 the club many times during the day. During that walk I can see inside the tennis courts,  
1585 see who's playing, see who's sitting around, I can see everything. Now I'm going to walk  
1586 past the tennis courts in this, I guess, path and I have no idea who is behind it hiding. I  
1587 can't see. It's making me go into like a tunnel. I can't physically walk another way to get  
1588 to the -- that's the way that I walk.

1589  
1590 My other concern is as a business owner. They are going to put a lot of money into this  
1591 bubble with the hope of getting many, many more tennis players. My problem is, there  
1592 are many times during the year I try to find a parking spot and I can't find a parking spot.  
1593 And I am a member of the club. So I'm assuming it's going to be like the swim meets.  
1594 When people have a swim meet here they park all over our street. All right, it's a swim  
1595 meet, it's a great activity, I think most of the people here kind of look the other way. But  
1596 if this is going to be an ongoing problem that they're going to be parking here, I don't think  
1597 that's a good idea.

1598  
1599 I understand more than anyone how they need to bring in revenue. My husband and I  
1600 publish Richmond Magazine. And the last management we -- was a very -- we were very

1601 close to them. We gave them many, many, many free ads to try to help them get their  
1602 revenue up. I don't feel that this is going to help them at all. It is only going to hurt us.

1603

1604 As far as the values of our home, it most likely will bring down the value.

1605

1606 But I'm going to end with one thing. I lived in Raintree in Henrico County before I moved  
1607 here 20-something years ago and they had a tennis bubble that they put up. I was a  
1608 block and a half away and I will tell you at night you heard the pounding of that ball and it  
1609 vibrated and you heard it till 11:00 at night. I don't think that I would like that when I'm  
1610 right across the street from it. I think the club should think of another place to put their  
1611 bubble, but not where they are planning to put it. Thank you very much and everybody  
1612 please stay safe.

1613

1614 Mr. Bell - Ma'am. Ma'am.

1615

1616 Ms. Malkman - Yes.

1617

1618 Mr. Bell - Would you give us the spelling of your last name and stay  
1619 there just a little bit and see if there's any questions.

1620

1621 Ms. Malkman - Oh, I'm sorry. Okay. It's M-a-l-k-m-a-n.

1622

1623 Mr. Bell - All right. Does the staff or Board have any questions?

1624

1625 Mr. Johnson - Ma'am, you mentioned about the safety of the bubble. What  
1626 were you referring to? Walking past it or walking through it?

1627

1628 Ms. Malkman - I'm sorry. I can't hear.

1629

1630 Mr. Bell - She didn't hear what you said.

1631

1632 Mr. Blankinship - If you could just lean straight into your microphone and maybe  
1633 even remove your mask.

1634

1635 Mr. Johnson - My question was about the safety. You mentioned about the  
1636 bubble. Were you referring to walking past the bubble, or walking through --

1637

1638 Ms. Malkman - I still can't understand him, sir.

1639

1640 Mr. Blankinship - The question, ma'am, is regarding your statement about  
1641 safety and walking. And I've just zoomed in on the aerial photograph where I believe it  
1642 illustrates the problem. I believe this is the walkway she's describing right here, Mr.  
1643 Johnson.

1644

1645 Mr. Johnson - Oh, okay.

1646

1647 Mr. Blankinship - And right now you can see both sides, you can see if there's  
1648 someone around you. You can see what's going on. If there was an opaque wall along  
1649 here and a 36-foot-high structure, then a person walking here would not be able to see if  
1650 there was somebody next to that structure. I believe that's the concern she's expressing.

1651

1652 Mr. Johnson - Okay.

1653

1654 Ms. Malkman - Yes. Yes. Very much so. For myself and my grandchildren.

1655

1656 Mr. Johnson - Okay. Guess now I got it.

1657

1658 Mr. Bell - Any other questions or statements? If not, thank you, ma'am.

1659

1660 Ms. Malkman - Thank you.

1661

1662 Mr. Bell - Are there any more?

1663

1664 Mr. Blankinship - Yes, sir. I believe there is one more on WebEx. One more  
1665 opponent, and then one in support as well.

1666

1667 Ms. Deemer - Mr. Chairman, we have a Mr. Zwerdling.

1668

1669 Mr. Zwerdling - Good morning.

1670

1671 Mr. Bell - Good morning.

1672

1673 Mr. Zwerdling - This is Jeff Zwerdling, Z-w-e-r-d-l-i-n-g, and I am also a  
1674 member of the Club Commons community. We have all heard from our former speakers  
1675 everything that has caused us to be in opposition to this tennis bubble. So instead of  
1676 reviewing all of that I will just give some bullet points.

1677

1678 Number one, on the application it misrepresented both questions because they never  
1679 bothered to do a study or talk to the community who is most affected by this.

1680

1681 Number two, there are two ordinances that would be violated: The 40-foot setback and  
1682 the building of what type of materials could be used.

1683

1684 Number three, they didn't take into consideration the damage that would be done to the  
1685 homeowners as far as the value and the peace and quiet that they would lose because  
1686 of this bubble.

1687

1688 So, as you can see, the Club Commons neighborhood is really the only one affected.  
1689 When I look at the public comments for the red dot support I see that all of these people  
1690 live outside the area of the club so if they come to play tennis, they go to their homes and  
1691 they don't have to live with a 36-foot-high bubble in their backyard.

1692

1693 So I believe that after all the testimony and the ordinances and, frankly, the fine job the  
1694 Planning Commission gave in their report which reflects all of the issues that the former  
1695 speakers gave, I would respectfully ask that this application be denied. Thank you.

1696  
1697 Mr. Bell - Thank you. Any questions from the Board or the staff?  
1698 Hearing none, thank you Mr. Zwerdling.

1699  
1700 Mr. Blankinship - All right, Mr. Chair, I believe that completes the statements in  
1701 opposition to the application. And you had asked to take statements in support of the  
1702 application after opposition. So now would anyone in the room like to speak in support  
1703 of the application?

1704  
1705 Ms. Derco - It's slipping.

1706  
1707 Mr. Blankinship - It's very difficult to speak with a mask on.

1708  
1709 Ms. Derco - It is. It's difficult to hear back there, too. Hello. My name is  
1710 Susan Derco, D-e-r-c-o, and I live at 12208 Ascot Glen Court in Henrico County.

1711  
1712 Mr. Green - Where is that on the map?

1713  
1714 Ms. Derco - Outside of Club Commons, but in the Wyndham Community.

1715  
1716 Mr. Green - Is that on here?

1717  
1718 Ms. Derco - Yes. I'm sure it would be on there. It's kind of in that lower  
1719 left-hand quadrant.

1720  
1721 As a Wyndham resident and Dominion Club member since the mid-1990s, it's my  
1722 experience as a realtor with Long & Foster over the past 21 years that gives me a unique  
1723 perspective on this discussion of the proposed Dominion Club tennis bubble.

1724  
1725 In my opinion, the Wyndham neighborhood relies on the Dominion Club to differentiate  
1726 itself from other West End neighborhoods. The addition of the tennis bubble will positively  
1727 impact housing values in Wyndham, as it will both attract and retain members by offering  
1728 year-round rather than seasonal tennis and contribute to the well-being of the Dominion  
1729 Club. The health and success of the Dominion Club affects the Wyndham housing market  
1730 in a positive fashion.

1731  
1732 In order to demonstrate the positive impact of the Dominion Club on the community, a  
1733 comparison with Twin Hickory will provide valuable information. The Twin Hickory  
1734 neighborhood used the same developer, same builders, and concept design. The  
1735 amenities are the same, except that Twin Hickory does not have a country club. I  
1736 explored the price per square foot values in both neighborhoods for the past three months  
1737 using only resale construction. In both the sold and under contract categories Wyndham  
1738 sold for an average of \$22 per square foot higher than Twin Hickory. If you apply this

1739 amount to a 3,000-square-foot home, the same home would sell for \$66,000 more in  
1740 Wyndham.

1741  
1742 While I appreciate the concerns of the Club Commons neighbors, the proposed tennis  
1743 bubble will be erected only during the coldest months of the year. The values of those  
1744 few homes closest to the tennis court should not be impacted as their view will remain  
1745 exactly as it is currently for the majority of the year.

1746  
1747 Should the Dominion Club ever financially fail due to a lack of competitiveness with other  
1748 country clubs and be either removed or replaced with additional housing, Wyndham would  
1749 no longer have the special advantage which produces the higher housing values that it  
1750 currently enjoys.

1751  
1752 The Dominion Club's proposed tennis bubble would clearly enhance the Wyndham  
1753 housing market as it makes the total community experience more valuable. Thank you.

1754  
1755 Mr. Bell - Just hold it just for a second. Any questions?

1756  
1757 Mr. Green - I had spine surgery a week ago, so my voice is all messed up.  
1758 That's fine for you to look at it from a business standpoint as a realtor, but, you know,  
1759 sometimes we need to be cognizant of the folks who have bought homes in that area.  
1760 And I too live in a planned community and, yes, we have tennis courts. And so if they  
1761 were to put up a bubble, because I don't see it then it would not impact me as much. But  
1762 I would have to be cognizant of those that got to look at it every day.

1763  
1764 Ms. Derco - Without any doubt.

1765  
1766 Mr. Green - And the problem I have is that if that bubble were there before  
1767 individuals bought their homes, then okay. Then that's what they bought into. But then  
1768 to now impose something upon people who bought thinking that they were buying one  
1769 thing and now because some individuals want to do something because it could be more  
1770 profitable to them and not necessarily to the neighborhood, I kind of have some  
1771 reservations about that.

1772  
1773 Ms. Derco - And --

1774  
1775 Mr. Green - And as a realtor, yes, you can sell all you want to in other parts  
1776 and rent that, but then once that bubble goes up and these individuals try to sell their  
1777 houses, no one has done an analysis to determine the impact that that fiscally could have  
1778 on the individuals if they were wanting to sell their homes.

1779  
1780 So while the business aspect is important and the realtor aspect is important, you know,  
1781 I have to as a Three Chopt representative, I have to look at the folks that have to look at  
1782 this and live in that area every day and make them comfortable.

1783

1784 And then it goes to the mental health of individuals. Psychologically what will this do to  
1785 people who have to be burdened with this.

1786  
1787 Yes other folks can go home. That's why I wanted that. Other folks can go move and  
1788 drive off here and see nothing. Other folks can go over and drive here and see nothing.  
1789 But these folks got to see it. And those are the ones that we need to take into strong  
1790 consideration about.

1791  
1792 And so I reject your notion about what the property values will do. Yes, there may be  
1793 other aspects. But then also, you and I know that Wyndham has a range of homes that  
1794 are a million dollars less. So I'm concerned about the impact that that would have on  
1795 those individual's property values.

1796  
1797 And if those individuals are that concerned, that's why I decided to come and make sure  
1798 I was at this meeting to make sure I heard their concern. Because it's not always about  
1799 property values. It's about quality of life and the quality of life that people want to have  
1800 when they buy something.

1801  
1802 And if, in fact, these folks bought homes knowing that a tennis bubble was coming, or if  
1803 they were told that a tennis bubble was coming, that's one thing. But if they bought and  
1804 then you tell them that a tennis bubble was coming, then that's something else. And then  
1805 they could have decided whether or not to buy a house.

1806  
1807 But I'm certainly not in favor right now of imposing something on people that – look at all  
1808 of those folks that want it. I tell you what, why don't we put the tennis bubble in your  
1809 neighborhood and see what happens?

1810  
1811 Ms. Derco - I would love the ability to walk to the tennis bubble rather than  
1812 drive to it. And I just respectfully disagree with what you're saying. I was asked to bring  
1813 data to support the impact of Wyndham, or the Dominion Club on the Wyndham  
1814 community, and so I'm producing data that does say that there's a price differentiation  
1815 between Wyndham and other neighborhoods that don't have a country club.

1816  
1817 And so there I would say if the Dominion Club were to fail, we would all be negatively  
1818 impacted. And while I appreciate your concerns, I think they're speculative. And I think  
1819 that unless you would have data that would support what you're saying with regard to the  
1820 fact that a bubble diminishes housing prices, then I would have trouble believing it,  
1821 because currently they're already enjoying \$22 a square a square foot more than other  
1822 homes. And I'm saying all of this respectfully. But I'm here mainly to just provide some  
1823 data.

1824  
1825 Mr. Green - Well, respectfully, as a member of the Board of Zoning  
1826 Appeals and a representative for the Three Chopt District -- I have a  
1827 -- I have a vote.

1828  
1829 Ms. Derco - So we're both speculating. We're both speculating.

1830  
1831 Mr. Green - I'm not speculating. I'm hearing the negative impact and  
1832 mental impact that this could potentially have on people and their property.  
1833  
1834 I was out there yesterday and I saw it. And one of those houses that that bubble would  
1835 look at. You know what I would do? I would take a harpoon and shoot at it to knock it  
1836 down. Simply because of the fact that it is just ungodly.  
1837  
1838 Ms. Derco - But thus far you've heard only the negative feedback and  
1839 when you hear more positive feedback perhaps you'll be swayed.  
1840  
1841 Mr. Green - Well I want to hear positive feedback from people who live in  
1842 that area who are impacted by it. I don't want to hear positive impact from people who  
1843 are someplace else. Because like I said, in my neighborhood there is a tennis court, and  
1844 if they put a bubble over it, I don't see it. But if I had to see it then my attitude would be  
1845 different. So if someone in Club Commons can come tell me that they're very supportive  
1846 of this and why then, to me, that's going to carry more influence than folks who are outside  
1847 of the area. Thank you.  
1848  
1849 Ms. Derco - And, excuse me, one final comment here.  
1850  
1851 Mr. Green - Thank you.  
1852  
1853 Ms. Derco - In support of myself, if you would tell me that Club Commons  
1854 would become unsellable because of the bubble and that the houses would be worth  
1855 nothing, I would have a hard time believing that. Thank you.  
1856  
1857 Mr. Bell - Any other questions? Ben.  
1858  
1859 Mr. Green - Excuse me. You threw your thing down. Is something  
1860 bothering you that I said that caused you to throw your material down?  
1861  
1862 Mr. Pollard - I think we went to the next person.  
1863  
1864 Ms. Derco - It's just I'm not comfortable --  
1865  
1866 Mr. Blankinship - Let's go on to the next speaker.  
1867  
1868 Mr. Prince - Mr. Chairman, my name is Barry Prince and I'm getting a  
1869 feeling the decision's already been made, but I'm going to make some comments here.  
1870  
1871 I live at 12001 Club Commons Drive. Part of our community on Layton Drive, as you  
1872 know, adjoins the club. It's my understanding that both the Club Commons and Wyndham  
1873 Boards were neutral on their position on the proposal to erect a seasonal bubble. Maybe  
1874 Mike can clarify the vote a little bit more if he's asked that question.  
1875

1876 The Club Commons owners are divided in their opinions. I'm strongly in support of the  
1877 proposal to erect the seasonal bubble. Excuse me. I'm a member at the Dominion Club  
1878 for both tennis and golf.

1879  
1880 I personally organize playing opportunities for the seniors to get together and play a  
1881 couple times a week throughout the year. Some of our seniors don't have the options of  
1882 going south in the winter or joining second clubs and would greatly benefit from the year-  
1883 round tennis exercise as well as camaraderie that the bubble would provide. Several  
1884 have sent you emails noting their support.

1885  
1886 The tennis community from the time I moved in here four or five years ago, all I've heard  
1887 about from the tennis community is how they've pushed for and hoped to obtain year-  
1888 round tennis in Dominion. We finally have the club willing to move forward with those  
1889 plans. And I commend Dominion Club for their plans to significantly upgrade all phases  
1890 of the club, including the dining experience, golf course improvements, pool renovations,  
1891 and improving our tennis facilities.

1892  
1893 I'll skip a couple of the things I was going to say, because it's already been stated by Eric  
1894 Boberg in terms of the technical issues regarding sound, lighting, and exposure that the  
1895 bubble would provide.

1896  
1897 I want to speak to the use of tennis bubbles. Tennis bubbles are widely accepted and  
1898 commonly used way of providing tennis during the winter months. My previous club in  
1899 upstate New York had three bubbles that went up just for the winter season and were  
1900 taken down every spring. Midlothian Athletic Club has a year-round bubble, and I believe  
1901 Raintree has some sort of tent that's heated in the winter and used for indoor tennis.

1902  
1903 Also, I'm a member of the Westwood club, which is located in Henrico County, off of Broad  
1904 Street. Westwood has a bubble that is erected year-round. It's never taken down. It is  
1905 located within the surrounding Westwood neighborhood and literally is feet away from  
1906 houses across the street. I am not aware of any complaints from neighbors with respect  
1907 to how it looks and any noise or lighting concerns.

1908  
1909 I would assume at some point in the not too distant past when it was erected that the  
1910 Westwood Club got the necessary approval to erect the bubble from the Henrico Zoning  
1911 Board. So you may be able to go back and look at your precedent from your last time a  
1912 bubble was put up in front of the Zoning Board, and that would've been this board right  
1913 here.

1914  
1915 I want to thank you on your deliberations, and I hope you move forward and grant the  
1916 proposal. Thank you.

1917  
1918 Mr. Green - Mr. Chair.

1919  
1920 Mr. Bell - Yes.

1921

1922 Mr. Green - I take offense to initial comments that this individual made.  
1923 When I was called and asked to be appointed to this board -- this was a judicial  
1924 appointment. We have to raise our right hand. We have to swear to be objective. We  
1925 have to swear to listen to the cases. We do, and our staff does an extensive job in  
1926 reviewing all of the cases that come before us. And for an individual to make a comment  
1927 that a predetermined decision had been made is highly offensive to me. Because until  
1928 all the speakers have had a chance to weigh in. Because I have an opinion does not  
1929 mean that I have a predetermined opinion.

1930  
1931 We act in a quasi-judicial sense. And I take that very serious. And I want that on the  
1932 record that I have never or never will I predetermine any decision until I hear from the  
1933 totality of the individuals. And I take offense to that comment.

1934  
1935 Mr. Blankinship - Mr. Chair, I'd just like to clarify, because you had asked earlier  
1936 in the meeting, the previous speaker was the the orange dot in Club Commons there.  
1937 The one nearest all the other purple. That was the speaker who just spoke.

1938  
1939 Mr. Prince - May I offer a clarification?

1940  
1941 Mr. Blankinship - No. Not right now.

1942  
1943 Mr. Sansom - Good morning. My name is Lee Sansom. I've been a resident  
1944 of Henrico County for over 21 years. I've been a member of the Dominion Club for 18 of  
1945 those 21 years. And during that time -- I'm a mortgage banker. And I've done real estate.  
1946 I do about 140 transactions a year. I've done about \$850-million worth of transactions  
1947 over those 20 years. And a large, large part of that is in the West End, and a large part  
1948 of it's in Wyndham. I've done transactions in every neighborhood in this community,  
1949 including Club Commons.

1950  
1951 And before COVID I made it a habit to always meet with clients. And over the years I  
1952 interact with my clients and I find out what their wants and needs are. And to a person  
1953 the enhancement that they believe the Dominion Club brings to their home ownership in  
1954 Wyndham is unparalleled. And that does include Club Commons.

1955  
1956 I find it ironic that Club Commons, common to the club, an adjacency, someone would  
1957 buy a home there with the expectation of not having the club part of their life. And I'm  
1958 finding it extremely ironic that it's good for the people who live there as long as it doesn't  
1959 break one or two things that they think are important. More important than it is to the rest  
1960 of the community. So I'm offended by that in itself. You can't have some of it and not all  
1961 of it.

1962  
1963 I find that there is a common theme that, Don't put it in my neighborhood because I didn't  
1964 vote for it. But you bought the house behind the club. It's adjacent. There are courts that  
1965 line them the other 7 1/2 months out of the year. Tennis plays at night till 11:00. We're  
1966 talking about helping the noise factor. We're talking about providing a service to the rest  
1967 of the community, including Club Commons, that would give them a benefit in the winter

1968 so they're not chasing a club membership at other places around the city and spending  
1969 money outside of Henrico County.

1970  
1971 So I'm fully in support of the bubble, and I hope you'll rethink it and make that an  
1972 opportunity and vote it to pass. Thank you.

1973  
1974 Mr. Blankinship - Sir, is your home indicated on this map?

1975  
1976 Mr. Sansom - It is not. I've recently relocated, but I'm still in Henrico County.

1977  
1978 Mr. Blankinship - Thank you.

1979  
1980 Mr. Bales - Well good morning. My name is William Bales, B-a-l-e-s. I  
1981 live in the Wyndham neighborhood, but I am not in the purple dots. I'm in the red dots.

1982  
1983 I've been a resident of Henrico County for about 25 years, a member of the Dominion  
1984 Club for nearly 20, and an active leader of the tennis community at the Dominion Club for  
1985 about the last 10 years. I'm currently the chair of the tennis committee at the Dominion  
1986 Club, so I'm speaking on behalf of approximately 200 people whose families are actively  
1987 involved in tennis.

1988  
1989 While each person has their own reasons for playing tennis at the Dominion Club, nearly  
1990 all those reasons fit into two themes: health and happiness. We've talked a little bit about  
1991 that even today. At all times and especially during the current pandemic, staying healthy  
1992 is essential for a good life. Participating in tennis is one way to both stay physically  
1993 healthy and also get the mental health benefits out of interacting on the tennis courts.

1994  
1995 Indoor tennis at the club would actually allow those members who are tennis players to  
1996 stay physically and mentally fit during the winter months when it's cold outside.

1997  
1998 The other thing that people want to do is do activities that are keeping them -- are making  
1999 them happy, which is even more critical now. Indoor tennis will provide members the  
2000 ability to continue to socialize and stay happy during the winter months.

2001  
2002 I'm personally turning 55 in the month of January 2021, and I'm obviously looking, too, for  
2003 activities that both my wife and I can do to maintain our health and happiness. This indoor  
2004 tennis bubble will provide opportunities for both and it will actually allow our neighbors  
2005 and our relationships to stay strong.

2006  
2007 You've heard from others that families are actually beginning to relocate out of the  
2008 Wyndham market to places that offer indoor tennis. So it's a telling stat that they're  
2009 interested in indoor tennis. And please help us remain healthy and happy while keeping  
2010 the Wyndham community strong by supporting the request for the indoor tennis. Thank  
2011 you.

2012  
2013 Mr. Bell - Any questions from staff or Board? Thank you, sir.

2014  
2015  
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2059

Mr. Ohman - Hi. My name is Ed Ohman, it's O-h-m-a-n. I'm one of the orange dots relatively close, but not in the purple area for sure. I've lived in Wyndham since 2000 and I've been a member of the Dominion Club since 2005.

I'm going to talk about some stats of tennis in the tennis community. Over the past five years membership in the United States Tennis Association, the USTA, has continued to increase and this year eclipsed an all-time high of 700,000 at the national level. There has also been a similar increase in youth involvement in tennis across the nation, specifically in our Mid-Atlantic region where over 15,000 school-age youth have signed up. Our Mid-Atlantic region participation rate is number one in comparison to other sections across the country.

The increased number of players comes with an increased demand for court time and a desire or even expectation to play tennis year-round. Many of the prominent clubs in the Richmond area either have indoor tennis and or a bubble which provide year-round tennis for its members.

Because of the desire to play winter tennis and due to the lack of winter facilities at the Dominion Club, many members over the years have either purchased winter indoor court time at other facilities while others have bought winter memberships at other clubs.

Unfortunately, as tennis membership and court time demands have increased, many clubs have reduced the amount of wintertime and temporary memberships that they will sell to nonmembers. As a result, we have a significant number of Dominion Club tennis members permanently leave the club so they could join other clubs offering winter tennis.

The national average for a club membership attrition rate is about 14 percent per year. The Dominion Club has seen an attrition rate north of 20 percent over the past 5 years. This is alarming since the Dominion Club is located in Henrico County, arguably one of the best areas in Richmond, if not the state.

The single most common reason for them leaving the club is due to the lack of winter tennis facilities. 39 members have left recently, or in the last few years, and of those 23 providing reasons for leaving, 22 of them said they were leaving due to the lack of facilities, specifically the lack of winter facilities. And all of those members went to clubs outside of Henrico that had winter facilities.

So we talk about a quality of life. The number of youth that are involved and getting involved, this provides them an outlet obviously to play tennis through the winter months. So that's one of the advantages.

The Wyndham community has 720 member families which constitute 2,600 individuals that are part of the Dominion Club. The addition of the bubble will provide a winter option for tennis for all, and with those an increase in the number of youth, as I alluded to, on a year-round basis. This includes not only regular court time, but also tennis lessons,

2060 clinics, junior tournaments, all of which are critical to keeping our youth engaged and  
2061 exercising over the winter months.

2062  
2063 In addition, having the bubble will not only retain members, but would also attract new  
2064 members as a result of the year-round tennis.

2065  
2066 So a couple of other data points. I think earlier it was alluded to the decibel level. There's  
2067 50 decibels plus 50 decibels and that equals 100 decibels. Not the case. I actually looked  
2068 it up. 50 and 50 in the decibel comes out to a total of about 53 decibels. You can look it  
2069 up on Google and find the number that's there.

2070  
2071 And for purposes for people to know, we actually talked together. Two people talking  
2072 together about 60 decibels, so it's actually lower than two people talking.

2073  
2074 Parking. It was alluded to earlier on the parking. There is no parking. And I don't know  
2075 the number of the name and the street, Layton Drive. People playing tennis don't park  
2076 on Layton Drive, they park in the club. The courts will offer four courts to maximum of 16  
2077 players in any given time. Again, no parking in Layton Court.

2078  
2079 So, in closing, adding the bubble to Dominion Club for approximately four or five months  
2080 a year will increase the amenities of the club, helping it get back to the prominence it once  
2081 had as being a highly desirable club in the Richmond area. It will enable winter tennis  
2082 exercise for both young and old when most will typically be stuck inside watching TV or  
2083 playing video games. I also believe it will increase property values of the entire  
2084 community. And, lastly, it would be a quite unfortunate if a small number of homeowners  
2085 which are minimally impacted to drive a decision impacting approximately 1,800  
2086 homeowners, or 2,600 family members of the TDC community.

2087  
2088 Appreciate you letting me take the time. Questions?

2089  
2090 Mr. Bell - Any questions? Any comments? Thank you, sir.

2091  
2092 Ms. Marcus - Hi. Good morning. Thank you for letting us have this  
2093 opportunity to share our thoughts. My name's Stephanie Marcus, M-a-r-c-u-s. I am a  
2094 Wyndham resident and I've been a Wyndham resident for about 24 years. A member of  
2095 the Dominion Club for about 15.

2096  
2097 I currently serve as the President of the Women's Suburban League for the Dominion  
2098 Club. And I'd like to first thank Mr. Green for actually taking the time to come out and look  
2099 at the facility, we appreciate that. And also like to say that I respect everyone's opinions  
2100 here and I know that we'll all be heard, and that's important.

2101  
2102 I'd first like to make a comment before I read my statement. And I apologize, I don't  
2103 remember the name of the nice lady who made this comment, but I am also a member at  
2104 Westwood as well and I did join Westwood because of the year-round tennis. I played in  
2105 plenty of bubbles. Honestly, I have not really paid attention to the noise it makes, so

2106 therefore I just feel like it really didn't have that much impact on me. Again, and I can only  
2107 say that about myself. I certainly cannot attest to people living around it, since I don't.

2108  
2109 I am on that map. And I apologize I can't read that far, but I am one of those dots. I live  
2110 pretty close to the club. So I will not comment on how it affects me or anyone else having  
2111 it in the backyard. Nor to real-estate values because I can't answer that question. But I  
2112 can tell you in response to this young lady's comment about, you know, she said during  
2113 the summertime the voices of people speaking and playing tennis and the traffic and all,  
2114 that doesn't bother me here. And I'm happy to hear that, because I still feel like of these  
2115 16 or 18 weeks, I think, when the bubble will be up.

2116  
2117 In fact, like Ed said, the noise will not be an issue. In fact it will be far less than what it is  
2118 during those summer months and spring and fall. It will have no bearing on the traffic as  
2119 well if that is a concern. So I feel like I can talk about that. So those are my comments  
2120 about what's been said. I guess that's the benefit of speaking last.

2121  
2122 So I'll go and then read my statement.

2123  
2124 Mr. Bell - Before you get into reading your statement give us your name  
2125 and spelling please.

2126  
2127 Ms. Marcus - Oh. Stephanie Marcus, M-a-r-c-u-s.

2128  
2129 Mr. Bell - Thank you.

2130  
2131 Ms. Marcus - Thank you. Under its current ownership group, the Dominion  
2132 Club has not only made investments in the club to benefit all of its members and has also  
2133 made an investment in both the Wyndham community and the greater Henrico County  
2134 community.

2135  
2136 By giving back and being a good neighbor, the Dominion Club has worked to strengthen  
2137 its connection and commitment to the community. Whether it is through sponsorship of  
2138 the Wyndham Fall Festival and Spring Carnival along with its Hole In One fundraiser,  
2139 installation of an aerating fountain in the Wyndham Lake, support of local schools, blood  
2140 drives, in conjunction with the Red Cross, or a \$25,000 donation to the Henrico County  
2141 Education Foundation.

2142  
2143 The Dominion Club strives to connect to those around it in a way that is both impactful  
2144 and meaningful. The addition of this seasonal tennis bubble allows the Dominion Club to  
2145 continue to be a thriving and vibrant part of our local community and to be a good neighbor  
2146 to fulfill its philanthropic focus.

2147  
2148 We ask that you support our zoning request. I personally ask that you support our zoning  
2149 request. And I thank you for your time.

2150  
2151 Mr. Bell - Any questions? Hearing none, thank you, ma'am.

2152  
2153 Ms. Marcus - Thank you.  
2154  
2155 Mr. Blankinship - All right. If there is no one else in the room who wishes to  
2156 speak in support. I believe we have one person on WebEx who wants to speak in support.  
2157 Ms. Deemer.  
2158  
2159 Ms. Deemer - Yes, Mr. Chairman, we have a Mr. Scott Beller.  
2160  
2161 Mr. Bell - Okay.  
2162  
2163 Mr. Beller - Good morning. My name is Scott Beller, B-e-l-l-e-r. And I live  
2164 on Cherry Hill Drive in the Wyndham community in Henrico County. That's one of the  
2165 orange dots on the map. Thank you for taking the time to allow me to speak in support  
2166 of this conditional use permit. Many of my comments have already been addressed, so I  
2167 would like to add the following points.  
2168  
2169 Mr. Bell - Mr. Beller, we have difficulty hearing you back here.  
2170  
2171 Mr. Beller - Okay. I'm sorry. Can you hear me any better right now?  
2172  
2173 Mr. Bell - Much better.  
2174  
2175 Mr. Blankinship - Much better.  
2176  
2177 Mr. Beller - Okay. Great. Sorry about that. I -- do you want me to -- my  
2178 name is Scott Beller, and I live on Cherry Hill Drive in the Wyndham community in Henrico  
2179 County. Last name is spelled B-e-l-l-e-r and I live in one of the orange dots on the map.  
2180  
2181 Mr. Bell - Thank you.  
2182  
2183 Mr. Beller - The indoor tennis bubble will add significant value to the  
2184 membership of both current club members and future members who live in the  
2185 surrounding Henrico County community. Indoor tennis options, as we've already heard,  
2186 during the coldest months of the year are limited in Henrico County, particularly in the part  
2187 of the county near Wyndham and the Dominion Club. Closest options are many miles  
2188 away with some requiring travel outside of Henrico County and are either not available to  
2189 Dominion Club members or require an additional cost for their use.  
2190  
2191 Adding a seasonal indoor tennis bubble at the Dominion Club will improve the financial  
2192 health of the club as well as the physical health and well being of its members. In addition,  
2193 it'll address a Henrico County need that is currently limited, and will ultimately increase  
2194 club membership numbers and member satisfaction.  
2195  
2196 A healthy and thriving Dominion Club will also help to increase home values and real  
2197 estate tax revenues in the Wyndham community that surrounds the club and there will be

2198 no increase in traffic from the bubble since the indoor courts during cold weather play  
99 would have the same usage as the uncovered courts during warm weather play.  
2200

2201 I hope you will consider supporting this conditional use permit as the Dominion Club  
2202 pursues adding a much needed and much desired improvement to the club for current  
2203 members and future members who call Henrico County home. Thank you for your time  
2204 and consideration.

2205  
2206 Mr. Bell - Thank you. But stay there just a second until we see if we  
2207 have any more questions. Any questions from the staff or from the Board? Hearing none,  
2208 thank you, sir.

2209  
2210 Mr. Beller - Thank you.

2211  
2212 Mr. Blankinship - I want to pause just a moment make sure there was no one  
2213 else who intends to speak to this case. Mr. Boberg can, but he's the only one. All right,  
2214 Mr. Boberg, do you have any closing comments?

2215  
2216 Mr. Boberg - And, again, my name is Eric Boberg. B-o-b-e-r-g. Thank you  
2217 very much for letting me have the option to summarize. My opening talking points are  
2218 very similar in nature. I appreciate all the comments that were made today, but for the  
2219 purposes of summation and reiteration, I just want to hit a couple of high-level talking  
2220 points that I previously alluded to.

2221  
2222 One is, and we've heard this, but again, I'll reiterate that we are asking that the setback  
2223 be approved at 26.32 feet due to the fact the tennis courts were completed before '94 and  
2224 '96 with Club Commons being approved in '96 with construction from '99 to 2000.

2225  
2226 To reiterate, there will be no encroachment on the property. The actual bubble will be  
2227 inside the existing perimeter fencing, so the perimeter fencing that exists today does not  
2228 get removed. That bubble will actually be inside of the fencing. Therefore, no  
2229 encroachment.

2230  
2231 Again, we're asking that it not be considered subject to the conditions proffered with the  
2232 rezoning case C-48C-90, as the bubble will not be permanent, it will be taken down each  
2233 year, stored and put back up.

2234  
2235 The usage will be exactly as it's used today. Tennis. There will not be events, parties, it  
2236 will be tennis activities. And we're asking for the same usage that's presented today.  
2237 Four tennis courts outdoors year-round, asking for four courts indoor on a seasonal basis,  
2238 four courts outdoor on a seasonal basis. So no change in usage. Noise will be within  
2239 county ordinances. We heard 40 to 50 dB, but it will be within county ordinances on  
2240 noise.

2241  
2242 Lighting. Again, there will be opaque film. No skylight. No glow. The picture as shown  
2243 earlier obviously did not have an opaque film and the exterior lights were on. Exterior

2244 lights will not be on and there will be an opaque film so there will be no glow or lighting  
2245 from the exterior.

2246  
2247 We've offered a landscaping plan to improve the buffer that currently exists today, which  
2248 you've seen pictures. I have additional pictures, however they're consistent with what  
2249 was shown today, so I don't know that I need to provide you any more. You've seen them.  
2250 But, again, we do have a plan to replace 11 trees and add 11 trees.

2251  
2252 Staff did a nice job of presenting the site plan. I'd encourage you to pull up that site plan  
2253 and revisit it. If you look at the surrounding area being a driving range, a golf course, a  
2254 clubhouse, a parking lot, an aquatics facility, there's not another on-site location to provide  
2255 an indoor tennis bubble.

2256  
2257 And, again, the proposed color is white, but certainly offering any other color that the  
2258 manufacturer can provide.

2259  
2260 I think we've heard some great comments today from both sides, but I can tell you that  
2261 this is a year-round amenity that would provide the members of the Wyndham community  
2262 and the private Dominion Country Club a benefit to year-round exercise and family  
2263 activity, and we feel that the information I've offered today hopefully addresses the  
2264 concerns from the homeowners in Club Commons. And I appreciate the time to speak to  
2265 you, and I appreciate the hearing today.

2266  
2267 Mr. Bell - Thank you. Any questions from the staff or from Board  
2268 members? Thank you, sir.

2269  
2270 Mr. Boberg - Thank you.

2271  
2272 Mr. Blankinship - All right.

2273  
2274 Mr. Bell - Anything else, Ben?

2275  
2276 Mr. Blankinship - No, sir. That will conclude the public hearing.

2277  
2278 Mr. Bell - Good then that will be a good time to give the motion in order.

2279  
2280 Mr. Blankinship - Yes, sir.

2281  
2282 Mr. Bell - So what is the pleasure of the Board?

2283  
2284 Mr. Green - I am Terone Green and I am the Three Chopt representative  
2285 for the district. And before I give my recommendation I want to clarify some things so  
2286 folks don't think that we just make decisions based on, you know, emotions. That we  
2287 have to make decisions based on a certain level of facts, rules, ordinances, and our laws.

2288

2289 The property is zoned B-2C, Business District Conditional. And it's designated Open  
2290 Space/Recreation on the 2026 Future Land Use Plan. A neighborhood recreation center  
2291 is consistent with the designation, so that Dominion Club is there. The B-2 district requires  
2292 a 40-foot rear-yard setback adjacent to residentially zoned property. The tennis courts  
2293 were approved with a 26.32-foot setback.  
2294

2295 A cover over the tennis courts even on a seasonal basis should comply with the 40-foot  
2296 setback. As a result, the proposed cover on the tennis court would not comply with the  
2297 rear-yard setback. Would not comply with the year-round setback. Dominion Club is  
2298 subject to conditions proffered with different zoning cases. If the Board considers a  
2299 seasonal covering of these courts a building, then the proposed structure would not  
2300 comply with the proffered positions governing the Board.  
2301

2302 We also have to look at the detrimental impacts. And then one of the questions that we  
2303 have to look at is would the request result in a detrimental impact on nearby property.  
2304

2305 The tennis courts are bordered to the south by a large swimming pool and to the east and  
2306 west by Wyndham Golf Course neither of which should be impacted by the proposed use.  
2307 The two areas to the north, however, contain a residential community known as Club  
2308 Commons, which many of you live in at Wyndham. There are four homes directly behind  
2309 the four tennis courts proposed to be covered that are as close as 50 feet away, with  
2310 another home in close proximity. 50 feet away.  
2311

2312 These two homes, however, are more exposed than others due to the gaps in the  
2313 evergreen screen. The proposed bubble that would cover the tennis courts would have  
2314 a maximum height of 36 feet. I went out there and I don't know if any other member went  
2315 out there, but 36 feet is pretty high. Taller than the adjoining homes. Taller than the  
2316 adjoining homes.  
2317

2318 The evergreen screen would block much of the structure from the view of the nearby  
2319 residents, however because the land slopes upward from the tennis courts to the  
2320 residences, the bubble would likely be visible from the second floor of these homes.  
2321 Especially when it is light.  
2322

2323 I repeat, the bubble would likely be visible from the second-floor homes, especially when  
2324 it is light.  
2325

2326 Staff has received several inquiries about this case and we've heard your different  
2327 opinions. The Dominion Club would like to place a sealable bubble over their tennis  
2328 courts to allow for the use during the winter months. That's admirable. While recreational  
2329 facilities abut tennis courts on three sides. There are residences to the north.  
2330

2331 Although the existing evergreen screen provides some buffering, not all buffering,  
2332 between the two uses, there are two gaps where the bubble would be clearly visible by  
2333 residents. Two gaps where the bubble would be clearly visible by two residents.  
2334

2335 The proposed bubble will be located within the 40-foot setback. It would not comply with  
2336 the proffer regarding building material. It would likely have a substantial detrimental  
2337 impact of the dwellings to the north, as evidenced by various levels of opposition.  
2338

2339 For these reasons I, as the Three Chopt Board member, recommend that we deny the  
2340 request of the Dominion Club for conditional use permit pursuant to section 24-12(b) and  
2341 24-59(a) of the county code to expand noncommercial residential facilities and 6000  
2342 Dominion Club Parcel 743-779-0623 zoned business district Three Chopt.  
2343

2344 Mr. Bell - Okay. There's a motion by Mr. Green to deny the application.  
2345 Do I hear a second?  
2346

2347 Mr. Pollard - I second the motion to deny.  
2348

2349 Mr. Bell - Mr. Pollard second the motion. Any discussion?  
2350

2351 Mr. Pollard - I just wanted to say a couple things. I think the Dominion Club  
2352 things might have gone differently and things may still go differently, if they are able to,  
2353 you know, accommodate the neighbors in some way, the homes that are the closest.  
2354

2355 One of the things that kind of prevents us from allowing this to go forward is the detriment  
2356 to the people in that neighborhood. And they will have to make them see it differently.  
2357 Even in such case the code would not allow us to approve it. So they would have to have  
2358 that detriment removed. Detrimental impact removed.  
2359

2360 Mr. Bell - All right. Thank you. Any other discussion? All of those  
2361 voting in favor of the motion to deny say aye. All those who --  
2362

2363 Mr. Blankinship - Oppose the motion.  
2364

2365 Mr. Bell - All of those voting against the motion say aye. Hearing no  
2366 ayes, the motion is approved.  
2367

2368 On a motion by Mr. Green, seconded by Mr. Pollard, the Board **denied** application  
2369 **CUP2020-00016 THE DOMINION CLUB's** request for a conditional use permit pursuant  
2370 to Sections 24-12(b) and 24-59(a) of the County Code to expand a noncommercial  
2371 recreation facility at 6000 Dominion Club Drive (Parcel 743-779-0623) zoned Business  
2372 District (B-2C) (Three Chopt).  
2373  
2374

2375 **Affirmative:** Bell, Green, Johnson, Pollard, Reid 5

2376 **Negative:** 0

2377 **Absent:** 0  
2378  
2379

2380 Mr. Bell - Okay. We can go right on with the meeting. Because that is  
2381 the last one, isn't it?

2382  
2383 Mr. Blankinship - Yes, sir.

2384  
2385 Mr. Bell - All right. And so let's go ahead and talk about the minutes.

2386  
2387 Mr. Blankinship - The motion to deny the application carries.

2388  
2389 Mr. Bell - Are there any comments about the minutes of June 25, 2020?  
2390 Hearing none. How many people vote to approve the minutes of June 25th?

2391  
2392 Mr. Johnson - So moved.

2393  
2394 Mr. Bell - Say aye. Those opposed. No opposed, the ayes have it.

2395  
2396 The Board **approved the minutes** of the June 25, 2020 Board of Zoning Appeals  
2397 meeting.

2398

2399

2400 **Affirmative:** Bell, Green, Johnson, Pollard, Reid 5

2401 **Negative:** 0

2402 **Absent:** 0

2403

2404

2405 Adjourned.

2406

2407

2408

2409

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2416

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2419

  
Mr. Gentry Bell, Chair  
Mr. Benjamin W. Blankinship, Secretary

## Gidley, Paul

---

**From:** Gentry Bell [REDACTED]  
**Sent:** Wednesday, August 19, 2020 2:07 PM  
**To:** Gidley, Paul  
**Subject:** Re: BZA minutes

Mr. Gidley,

You are correct in your understanding of the vote as noted in your email message.

Please make the corrections on my behalf.

Best regards,

Gentry Bell, Chairman  
Board of Zoning Appeals

Sent from my iPhone

On Aug 19, 2020, at 1:47 PM, Gidley, Paul <gid@henrico.us> wrote:

Good afternoon Mr. Bell:

On last week's CUP request by the Dominion Club for bubble to cover four of their tennis courts during the winter months (CUP2020-00016), Mr. Green moved to **deny** the request and Mr. Pollard seconded his motion. When you called the vote, it appears you mistakenly said those voting in favor "to deny the **motion**", when you meant to say "voting in **favor of the motion** to deny." Also, this was followed by the second part of the vote where you then said those "voting for the motion", when you meant to say those voting against the motion." The Board's action was to vote for the motion, which was to deny the CUP and that vote was 5-0. Is my understanding of this correct?

Thanks,

Paul Gidley

**Paul M. Gidley, CZA**  
County Planner IV  
Henrico County Planning Dept.  
P. O. Box 90775, Henrico, VA 23273  
(804) 501-4610 [gid@henrico.us](mailto:gid@henrico.us)

In order to help serve you better, please take a moment to complete our customer service survey  
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