

1 **MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING**  
2 **APPEALS OF HENRICO COUNTY, HELD IN THE COUNTY ADMINISTRATION**  
3 **BUILDING IN THE GOVERNMENT CENTER AT PARHAM AND HUNGARY**  
4 **SPRING ROADS, ON THURSDAY MAY 24, 2018 AT 9:00 A.M., NOTICE**  
5 **HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-DISPATCH MAY 7,**  
6 **2018 AND MAY 14, 2018.**

7  
Members Present: William M. Mackey, Jr., Chair  
Helen E. Harris, Vice Chair  
Gentry Bell  
Terone B. Green  
James W. Reid

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

8  
9 Mr. Mackey - Good morning and welcome to the May 24, 2018  
10 meeting of the Henrico County Board of Zoning Appeals. All who are able, will you  
11 please stand and join us in the Pledge of Allegiance.

12  
13 Thank you. Now I'll ask Mr. Ben Blankinship, our Board secretary, if he will read  
14 the rules for today's meeting.

15  
16 Mr. Blankinship - Good morning, Mr. Chair, members of the Board,  
17 ladies and gentleman, the rules for this meeting are as follows: Acting as secretary,  
18 I will announce each case. At that time, we will ask everyone who intends to speak  
19 to that case to stand and be sworn in. Then a member of the staff will give a brief  
20 introduction to the case. Then the applicant will present their case to the Board.  
21 After the applicant has spoken, anyone else who wishes to speak to that case will  
22 be given an opportunity. After everyone has had a chance to speak, the applicant,  
23 and only the applicant, will have an opportunity for rebuttal.

24  
25 After the Board has finished that public hearing, they will continue on to the next  
26 public hearing. They will render all of their decisions at the end of the meeting. So  
27 if you wish to hear their decision on a specific case, you can stay until the end of  
28 the meeting, or you can check the Planning Department website—we usually get  
29 it updated within an hour of the end of the meeting—or you can call the Planning  
30 Department this afternoon.

31  
32 This meeting is being recorded, so we'll ask everyone who speaks to speak directly  
33 into the microphone on the podium. State your name, and please spell your last  
34 name just to make sure we get it correctly in the record.

36 And finally, Mr. Chair, we do have two requests for deferral this morning. One is  
37 CUP2018-00003, Christine F. Morlino, DVM. This case was deferred from the  
38 February meeting, and they have requested a further deferral to the July meeting.  
39 They are still working through the plan review process.

40  
41 **CUP2018-00003 CHRISTINE F. MORLINO, DVM** requests a conditional  
42 use permit pursuant to Section 24-116(d)(1) of the County Code to allow a  
43 temporary office trailer at 4730 Pouncey Tract Road (Parcel 739-767-3152) zoned  
44 Business District (B-3) (Three Chopt).

45  
46 Mr. Mackey - All right. Is there anyone here who would like to speak  
47 to that case? Is there a motion to defer this case to the July 26, 2018 meeting?

48  
49 Mr. Bell - I so move because of the request of the applicant.

50  
51 Mr. Reid - Second.

52  
53 Mr. Mackey - It's been moved and seconded. Do we have any  
54 discussion? All in favor say aye. Any opposed? The ayes have it, the motion is  
55 carried. It is deferred to July 26.

56  
57 After an advertised public hearing and on a motion by Mr. Bell, seconded by  
58 Mr. Reid, **CUP2018-00003, CHRISTINE F. MORLINO, DVM**, has been deferred  
59 until the July 26, 2018 meeting.

60  
61  
62 Affirmative: Bell, Green, Harris, Mackey, Reid 5  
63 Negative: 0  
64 Absent: 0

65  
66  
67 Mr. Blankinship - Thank you, Mr. Chair. The second request for deferral  
68 is the second case on the agenda. It's CUP2018-00006, Westhampton Memorial  
69 Park. Mr. Jack Wilson is here.

70  
71 **CUP2018-00006 WESTHAMPTON MEMORIAL PARK** requests a  
72 conditional use permit pursuant to Section 24-52(h) of the County Code to expand  
73 an existing cemetery at 10000 Patterson Avenue (Parcel 744-742-5871) zoned  
74 Agricultural District (A-1) and One-Family Residence District (R-1) (Tuckahoe).

75  
76 Mr. Mackey - Good morning, sir.

77  
78 Mr. Wilson - Good morning, Mr. Chair, members of the Board. Jack  
79 Wilson, W-i-l-s-o-n, on behalf of the applicant. We are requesting an additional  
80 thirty-day deferral so we can continue to work with the neighbors adjacent to us.

81

82 Mr. Mackey - Okay. Our next meeting is June 28, 2018. Is there a  
83 motion to defer this case? I move that we defer the case to give the applicant until  
84 our next meeting, June 28, 2018, to hash out any other details they need.

85  
86 Ms. Harris - Second.

87  
88 Mr. Mackey - It's been moved and seconded. All in favor say aye.  
89 Any opposed? The ayes have it; the motion is carried 5 to 0.

90  
91 After an advertised public hearing and on a motion by Mr. Mackey, seconded by  
92 Ms. Harris, **CUP2018-00006, WESTHAMPTON MEMORIAL PARK**, has been  
93 **deferred** until the June 28, 2018 meeting.

94  
95 Affirmative: Bell, Green, Harris, Mackey, Reid 5  
96 Negative: 0  
97 Absent: 0

98  
99 Mr. Blankinship - All right. Thank you, Mr. Chair. The first public hearing  
100 for this morning will be a case that was deferred from last month, CUP2018-00008,  
101 Midtown Land Partners, LLC.

102  
103 **CUP2018-00008 MIDTOWN LAND PARTNERS, LLC** requests a  
104 conditional use permit pursuant to Section 24-116(d)(1) of the County Code to hold  
105 a festival at Libbie Lake West Street (Parcel 773-739-3784) zoned Urban Mixed  
106 Use District (UMUC) (Brookland).

107  
108 Mr. Blankinship - Would everyone who intends to speak to this case  
109 please stand and be sworn in. Raise your right hands, please. Do you swear the  
110 testimony you're about to give is the truth, the whole truth, and nothing but the truth  
111 so help you God? Thank you. Mr. Madrigal?

112  
113 Mr. Madrigal - Thank you, Mr. Secretary. Mr. Chair, members of the  
114 Board, good morning.

115  
116 Before you is a request to hold a one-day festival at the Libbie Mill mixed-use  
117 development. This case was deferred from last month's meeting to allow the  
118 applicant additional time to modify and refine the fireworks component of the  
119 festival, reach out to state agencies, and also to develop a more thorough safety  
120 contingency plan.

121  
122 The subject site is located at the southwest corner of Staples Mill and Bethlehem  
123 Roads. The property is approximately eighty acres in size and was approved as  
124 an Urban Mixed-Use development in 2007 by way of rezoning and provisional use  
125 permit.

126

127 Since then, the original proffers, conditions, and master plan have been amended  
128 to allow more flexibility in the development of the property and to allow special  
129 activities and events at Libbie Lake and the pier, which you see here.

130  
131 Approximately 60 percent of the property is developed, and some sections are  
132 currently under construction. The applicant would like to host an inaugural  
133 fireworks festival on the property on Saturday, June 30th, from 6 to 10 p.m., with  
134 an alternate rain date of Sunday, July 1st. This will be an annual event highlighting  
135 the property and development.

136  
137 The festival will consist of a family-friendly picnic-style event with local food and  
138 novelty vendors, kids' crafts, music, acts, and a beer and wine garden. The festival  
139 will culminate in approximately a 12-to-15-minute fireworks show later in the  
140 evening, commencing at 9:15. This will be a free event with exception to food,  
141 beer, and wine sales. Those proceeds will benefit a local charity. The applicant is  
142 anticipating approximately 2,800 people to attend the event. Although the property  
143 has an approved provisional use permit governing festivals and outdoor activities,  
144 because of the scale and potential impacts of the fireworks show, a conditional use  
145 permit was required of the applicant.

146  
147 The property is zoned UMU (conditional) and is predominately designed Urban  
148 Mixed-Use on the 2026 Land Use Plan. The approved master plan designates the  
149 lake, the pier, and the surrounding park as a prime location to hold events,  
150 festivals, and concerts. The proposed festival is an entertainment activity that  
151 coincides with the recreational nature of the development and is consistent with  
152 the master plan. Although the fireworks display may extend beyond the physical  
153 limits of the property, the event appears to be consistent with the underlying zoning  
154 and Comprehensive Plan designations.

155  
156 The proposed festival will occur on a developed portion of the property while the  
157 fireworks display will occur on the undeveloped portion of the property. The  
158 fireworks display will be approximately 500 feet distant from the nearest homes to  
159 the north and west of the property. The festival will run for four hours, ending at 10  
160 p.m. Ample parking will be provided onsite with over 950 parking stalls available  
161 throughout the property. The applicant has also designated an overflow parking lot  
162 in the undeveloped portion of the property that is able to accommodate several  
163 hundred vehicles if necessary. They've also developed a traffic and parking  
164 management plan as part of their safety contingency plan.

165  
166 Staff's primary concerns with the event relate to vehicular and pedestrian traffic  
167 management and onsite security. Traffic along Staples Mill, Bethlehem, and  
168 Spencer Roads should be maintained during the event. Onsite parking should be  
169 clearly designated and festival patrons should be protected from vehicular traffic  
170 during and after the event. Finally, onsite security during and after the event is  
171 critical for people attending and residing in and near the property. As long as the  
172 applicant and festival manager work in conjunction with County requirements, the

173 proposed event should not pose any lasting issues relative to public health, safety,  
174 and welfare.

175  
176 In conclusion, the proposed event is consistent with both the underlying zoning  
177 and Comprehensive Plan designations and the development's master plan. The  
178 applicant has reduced the scale of the fireworks show, dropping the ceiling height  
179 from 300 feet to 100 feet with a few 200-foot ceiling heights in the mix, lessening  
180 the impacts of the fireworks show on the adjacent neighborhoods, keeping the  
181 show on the property and establishing the standard for future events on the site.

182  
183 The applicant has also refined their safety contingency plan by coordinating with  
184 local and state agencies. An onsite traffic management plan has been developed,  
185 which includes staffing and a designated overflow parking lot on the property.  
186 Safety and security have been addressed with a combination of private security,  
187 off-duty police, and fire personnel to help control and mitigate any emergency  
188 response. Staff has also developed specific conditions of approval to help mitigate  
189 impacts from the temporary event.

190  
191 Based on the facts of the case, staff recommends approval subject to conditions.  
192 That concludes my presentation.

193  
194 Mr. Mackey - All right. Thank you, Mr. Madrigal. Are there any  
195 questions?

196  
197 Ms. Harris - Yes. Mr. Madrigal, on condition 9, there is mention of  
198 County property. Could you identify the County property that we're speaking of?

199  
200 Mr. Madrigal - Yes ma'am. Basically, it's the library property right  
201 here.

202  
203 Ms. Harris - Okay.

204  
205 Mr. Madrigal - So there will not be any drinking on that. And they're  
206 going to put signage basically prohibiting drinking beyond that point. Just so you  
207 get a feel for it—let's see here. So this is the library. That's the brick walk behind  
208 the building. So there will be signage all along here basically prohibiting drinking  
209 on the County property. Everything on the walk and on the pier and the surrounding  
210 lake will be okay.

211  
212 Ms. Harris - Okay. Another question. I noticed in staffing you have  
213 the acronym "RMC." What are we speaking of?

214  
215 Mr. Madrigal - I'm sorry?

216  
217 Mr. Blankinship - RMC. Identify "RMC."  
218

219 Mr. Madrigal - RMC? That's a private security firm that police  
220 recommends for applicants to employ.

221  
222 Ms. Harris - Okay. We received some more information in our  
223 packets. Why was this necessary?

224  
225 Mr. Madrigal - The additional information? That's the revised  
226 contingency plan, the marketing plan. There were things that were augmented  
227 from our initial meeting. So initially they submitted a plan, but they fortified it after  
228 our meeting with police and fire personnel.

229  
230 Ms. Harris - So the basic difference is what?

231  
232 Mr. Madrigal - It's just a much stronger plan. It's more well thought  
233 out. They've incorporated a parking and traffic management plan on the property.  
234 They've basically solidified the numbers of personnel that will be onsite during the  
235 event for police, fire, and private security.

236  
237 Ms. Harris - Thank you.

238  
239 Mr. Mackey - I had a question. Did you say this is the first time  
240 they've had this event?

241  
242 Mr. Madrigal - Yes, first-time event.

243  
244 Mr. Mackey - Okay.

245  
246 Mr. Bell - Just as a comment more than a question. If you have  
247 a response, I'd appreciate it. Remember there's water, hot weather, and a lot of  
248 people. Water and people go together. Should we put any signs around that lake  
249 there saying no swimming or no wading or something? I believe you're going to  
250 have them out there with shorts on, kids out there doing that.

251  
252 Mr. Madrigal - Just so you're aware, here's the library. This is an open  
253 field right now, slated for future development. This will be a seating area for the  
254 event, the fireworks show. This is the pier over here. That's going to be a fenced-  
255 off area where they're going to have the food trucks, the beer and wine garden,  
256 and activities. This will also be fenced in for security. It's going to be a lower fence  
257 than the drinking area. So they are incorporating a few safety features into it. But  
258 if you'd like additional signage, that's something they could probably condition.

259  
260 Mr. Bell - I've been out there a couple of times, and I didn't figure  
261 in with my question your fencing. So if you've seen it and don't feel like it's really  
262 necessary, then they wouldn't have to put it up.

263

264 Mr. Madrigal - Sure. Here's the view of the lake. This is behind the  
265 library looking—or from the concert area. And you're kind of looking at the lake  
266 here. The fireworks show is going to be here, off in the distance. Just so you get a  
267 sense of it.

268

269 Mr. Bell - So the access to it is going to be from the front side,  
270 and you're going to have trucks lined up there serving the food.

271

272 Mr. Madrigal - Access, yes, there will be some access off of this area  
273 here, as well as on the field area that I had pointed out.

274

275 Mr. Bell - How about from the direction that the camera's being  
276 shown as it takes this picture?

277

278 Mr. Madrigal - Well, the brick walk that I had showed you—let's see.  
279 Here's the brick walk where you were looking—I was standing here looking this  
280 way in a northerly direction. Here I'm looking in an easterly direction. So this walk  
281 will be open. And the beer and wine garden will be here. And here is the start of  
282 that field. Let's see here. Here's the pier. Again here's the field. Townhouses are  
283 over here. Fireworks are going to be here in this area in the distance.

284

285 Mr. Bell - Thank you.

286

287 Mr. Madrigal - Thank you.

288

289 Mr. Mackey - Any other questions? All right. Thank you, Miguel.

290

291 Mr. Madrigal - Thank you.

292

293 Mr. Mackey - Can we hear from the applicant now?

294

295 Ms. Long - Good morning. My name is Micki Long, and I own  
296 Three One One Productions, and I'm going to be the operator for the event for  
297 Midtown.

298

299 Miguel pretty much said it all. The people who own Midtown are trying to develop  
300 an event kind of program for the property, for the new apartments that are going  
301 to be opening in November, for the townhouses that are there. Much like most of  
302 the live-eat-play kind of communities. They had wanted to develop a signature  
303 event, and fireworks was something that we're interested in.

304

305 Knowing that there are a lot of different conditions that go with that, I went and  
306 talked to Dominion Fireworks, which is the company who does a lot of different  
307 fireworks in the area. They've done Genworth, so they're very familiar with closed-  
308 in fireworks-type things. Met with them. Met with the police. Met with fire. Kind of

309 went over the whole thing. They gave me all of the concerns about traffic and so  
310 forth.

311  
312 So that's why we deferred the first one. We wanted to get back. They wanted to  
313 meet with my fireworks guy to make sure that what he was proposing could stay  
314 within certain ceiling heights so that it didn't get way above the buildings, so that  
315 we had issues with 64 and Broad Street. So I know that Mr. Moffett and Bubba  
316 from the fireworks place have been and talked. And he has conceded and agreed  
317 to all those conditions. If signage along there for swimming—I understand the  
318 concern—needs to be up, certainly that's something we easily can do.

319  
320 I'm not a really good speaker, so I don't know if you have any additional questions  
321 that I can help with. It's supposed to be more like a—we're planning on calling it  
322 The Cookout. It's more geared towards a family cookout in the evening, capped  
323 off with twelve minutes of fireworks. We're taking "fireworks" out of the name, trying  
324 to make it a Fourth of July or red, white and blue—for sure what the name will be.  
325 I know we're only a month out. But I do know that that's one of the things we talked  
326 about, we wouldn't push the fireworks element.

327  
328 Any questions that I can help you with?

329  
330 Mr. Green - How many people are you expecting?

331  
332 Ms. Long - My guess was around 2,000. We figured maybe 800  
333 children. That's just because of the area around it. At this point, we're four weeks—  
334 well, we're about a month out. So for most of the marketing we probably would do  
335 some radio. They would do a lot of social on their page. And then the  
336 neighborhood. They've been doing small neighborhood events, just private ones  
337 for the residents. They're usually attended by sixty people. So the marketing for  
338 this would be much larger. But quite honestly, we don't think in this short amount  
339 of time that the word is going to get out but so much.

340  
341 But once again, with the County we've also—in addition to the overflow parking,  
342 I'm working with them to get RMC, a security firm, who has figured out how to get  
343 the traffic in when they would control the traffic in and the traffic out. And then we're  
344 also doing some off-site parking where we're working with Anthem and using that  
345 large parking lot, which is up at the corner—it's probably a quarter mile away—and  
346 doing shuttling in case there is more traffic and more cars, where we can actually  
347 get them to the property without having to walk down the sidewalk and everything  
348 safely. So that is our backup plan, which I'm getting ready to submit to Mr. Moffett.  
349 I've worked with Anthem on that.

350  
351 So we do have another probably—I don't even know how many spaces there are.  
352 Probably over a thousand. It's huge. If it looks like the traffic is getting more than  
353 what we can accommodate with almost 2,000 parking places there, then we do

354 have all of those parking spaces there that we can shuttle from. And we'll have  
355 vans available and drivers available that night to be ready for that.

356

357 Mr. Green - Are police involved? With 2,000 people, you're talking  
358 about a lot of cars and a lot of potential congestion in that area. How is that being  
359 mitigated?

360

361 Ms. Long - The police have recommended that we hire between  
362 20 and 25 off-duty officers to handle the crowd, the traffic, the crossing at the  
363 crosswalks so that pedestrians are safely getting across the streets.

364

365 Mr. Blankinship - That's in addition to the RMC staff?

366

367 Ms. Long - Correct.

368

369 Mr. Mackey - Any other questions?

370

371 Mr. Bell - You would have a lot people, neighborhood people,  
372 who would probably walk to the event to maybe alleviate some of the parking  
373 problem?

374

375 Ms. Long - That's what we're thinking. And that's why we're  
376 making sure we have officers at the roads where—they would either be coming  
377 across Libbie or the crosswalk across Staples Mill. Because there is also parking  
378 near that Wawa right across the street that can be used. We anticipate people will  
379 probably do that. But there is a designated crosswalk with the lights.

380

381 Ms. Harris - Ms. Long, will there be any enclosed areas for the  
382 stage or for seating?

383

384 Ms. Long - No. There is actually a built-in pad behind the library.  
385 You'll see it in that picture. Right there. They built that for having an outdoor band.  
386 We would probably put a 20' by 20' tent over top of them. But other than that, no,  
387 it would be right there on that pad.

388

389 Ms. Harris - Okay. And you mentioned cookout. Are you connected  
390 at all with the restaurant, Cookout?

391

392 Ms. Long - No, just the name.

393

394 Ms. Harris - I was just asking.

395

396 Mr. Mackey - All right, any other questions for Ms. Long? I have a  
397 question, Ms. Long. Did I hear them say that the fireworks were to start at nine?

398

399 Ms. Long - Well, they're probably starting—yes, at 9:00. The  
400 County said we should keep it within twelve minutes. So we're looking from 9 to  
401 9:15, figuring if we had the event officially end at ten, that gave me forty-five  
402 minutes that I could get everybody out of there, the noise gone, everything taken  
403 care of before we hit that ten o'clock noise curfew.

404  
405 Mr. Mackey - Especially with the rain date being Sunday, I wouldn't  
406 want to go much past—

407  
408 Ms. Long - Yes. No we don't. We actually plan it being over by 9:30  
409 at the latest. But that gives me a buffer.

410  
411 Mr. Mackey - Right. Okay.

412  
413 Mr. Bell - You've read and understand all the conditions and  
414 approve of them?

415  
416 Ms. Long - Yes sir. Yes sir, I did.

417  
418 Mr. Mackey - Any other questions? All right. Thank you, Ms. Long.

419  
420 Ms. Long - Absolutely. Thank you, guys.

421  
422 Mr. Mackey - Is there anyone here who would like to speak in support  
423 of the applicant? Anyone to speak in opposition? All right. Can we hear our next  
424 case, please?

425  
426 **[After the conclusion of the public hearings, the Board discussed the case**  
427 **and made its decision. This portion of the transcript is included here for**  
428 **convenience of reference.]**

429  
430 Mr. Mackey - What is the pleasure of the Board?

431  
432 Mr. Bell - I move that approve the conditional use permit. I  
433 believe that it's not going to be a detriment to the area. I believe safety precautions  
434 have been taken for the event. I believe it's an event that has the possibility of good  
435 growth that will benefit the residents of the area plus the County.

436  
437 Mr. Mackey - All right, we have a motion. Is there a second?

438  
439 Ms. Harris - I second.

440  
441 Mr. Mackey - Second. Any discussion? No discussion. It's been  
442 moved and seconded that we approve this CUP. All in favor say aye. Any  
443 opposed? The motion is carried. The ayes have it 5 to 0.

444

445 After an advertised public hearing and on a motion by Mr. Bell, seconded by Ms.  
446 Harris, the Board **approved** application **CUP2018-00008, MIDTOWN LAND**  
447 **PARTNERS, LLC's** request for a conditional use permit pursuant to Section 24-  
448 116(d)(1) of the County Code to hold a festival at Libbie Lake West Street (Parcel  
449 773-739-3784) zoned Urban Mixed Use District (UMUC) (Brookland). The Board  
450 approved the request subject to the following conditions:

451  
452 1. This conditional use permit is for the approval of a festival to be held at Libbie  
453 Mill Midtown on Saturday, June 30, 2018 or Sunday, July 1, 2018. Set-up shall not  
454 begin before 8:00 am. The festival shall be held from 6:00 to 10:00 pm. All tents,  
455 stages, temporary fixtures, and mechanical equipment associated with the event  
456 shall be removed from the site by end of business day on Monday, July 2, 2018,  
457 at which time this permit shall expire.

458  
459 2. Only the improvements shown on the layout plan filed with the application may  
460 be constructed pursuant to this approval. Any additional improvements shall  
461 comply with the applicable regulations of the County Code or as specified in the  
462 conditions of approval. Any substantial changes or additions to the festival location  
463 or design shall require a new conditional use permit.

464  
465 3. The applicant shall comply with the Division of Police recommendations as  
466 outlined in their Inter-Office Memorandum dated May 11, 2018 (see attached).

467  
468 4. The applicant shall comply with the Division of Fire recommendations as  
469 outlined in their Inter-Office Memorandum dated May 10, 2018 (see attached).

470  
471 5. Existing fire lanes shall be marked and maintained in accordance with the Fire  
472 Prevention Code.

473  
474 6. The applicant, in coordination with the property manager, shall clearly designate  
475 event parking areas on the day of the festival. Temporary traffic directional signage  
476 shall be used to direct festival patrons such that the festival's parking demands  
477 shall not impact resident parking. Traffic and parking attendants shall be provided  
478 as necessary to ensure that the internal roadways of the development are not  
479 obstructed during the festival. Parking fees shall be prohibited.

480  
481 7. The applicant shall secure the perimeter of the festival area with temporary  
482 fencing to ensure safety and security during the event to the satisfaction of the  
483 Divisions of Police and Fire. Temporary fencing shall also be installed around the  
484 perimeter of the patron viewing area (grass field) for safety purposes. Emergency  
485 ingress and egress shall be provided along the fence line as directed by the  
486 Divisions of Police and Fire.

487  
488 8. Temporary lighting shall be oriented to limit glare on public streets and abutting  
489 neighborhoods.

491 9. The applicant shall obtain the appropriate license from the Alcoholic Beverage  
492 Control authority. Consumption of alcoholic beverages shall be limited to the area  
493 approved in that license. Alcoholic beverages shall not be consumed on County  
494 property. The applicant shall post signs along the property lines of the County  
495 property indicating this restriction.  
496

497 10. Speakers for amplified sound and music shall be directed toward the festival  
498 area to limit its impact on adjoining businesses and residential neighborhoods, and  
499 shall not exceed 65 dB at the property line.  
500

501 11. The applicant shall provide adequate restroom (standard and handicap)  
502 facilities and handwashing stations throughout the festival as required by the  
503 Building Inspections Department (see email dated April 11, 2018). Restrooms and  
504 hand wash stations shall be dispersed throughout the area of the festival.  
505

506 12. The applicant shall obtain all required permits for tents, stages, temporary  
507 bleachers, lighting, and amusement devices and shall comply with all required  
508 inspections. All temporary tents shall be properly tethered as required by the  
509 Building Inspections Department and the Division of Fire.  
510

511 13. All food vendors shall obtain the necessary permits, clearances, and  
512 inspections required by the Health Department as outlined in their Memo dated  
513 April 16, 2018.  
514

515 14. The applicant shall maintain the property so that debris is controlled during the  
516 event. Adequate trash receptacles shall be provided throughout the festival to keep  
517 the festival and patron viewing area clean.  
518

519 15. This approval is subject to all proffers and conditions placed on the property  
520 associated with REZ2015-00018 and PUP2015-00006. Outdoor music shall cease  
521 at 11 pm as proffered.  
522

523 16. All landscaping shall be maintained in a healthy condition at all times. Dead  
524 plant materials shall be removed within a reasonable time and replaced during the  
525 normal planting season.  
526

527 17. The applicant shall prohibit loitering on the property.  
528

529  
530 Affirmative: Bell, Green, Harris, Mackey, Reid 5  
531 Negative: 0  
532 Absent: 0  
533

534  
535 **[At this point, the transcript continues with the public hearing on the next**  
536 **case.]**



583 During our recent site visits, staff noted several areas which had slopes greater  
584 than the required 2-to-1 slope. While slopes are permissible at this level for up to  
585 thirty days, for safety reasons they really shouldn't extend beyond this thirty-day  
586 period. That is condition #23 in your staff report. Although some slopes appear to  
587 have been recently graded, others appear to have been in place for several  
588 months. If that's the case, it would be in violation of condition #23. I did send an  
589 email to the applicant to let them know what we saw when we were out on the site  
590 so they could be aware of it. This is, as I said, basically a safety issue in case you  
591 get people out on the property.

592  
593 In conclusion, the applicant is slowly making progress towards completion of the  
594 work on the site. Staff is unaware of any complaints regarding this site for the past  
595 two years. A borrow pit is also consistent with the Zoning Ordinance and  
596 Comprehensive Plan. Accordingly, staff recommends approval of this request  
597 subject to the conditions found in your staff report.

598  
599 This concludes my presentation, and I will be happy to answer any questions you  
600 may have. Thank you.

601  
602 Mr. Mackey - Paul, did you receive a response to the email?

603  
604 Mr. Gidley - No sir, I did not.

605  
606 Mr. Mackey - All right, are there any other questions from the Board  
607 or staff?

608  
609 Ms. Harris - Yes. Mr. Gidley, the activity is currently occurring in  
610 which area?

611  
612 Mr. Gidley - The northern portion of the site, which again is to the  
613 left-hand side on here. Let's see here. This is the area up here. Down to the south  
614 here it's actually been filled. So it's back to level here, where up on the northern  
615 portion of the site—fill has been brought in along this area here. But you can also  
616 see where the slide showed them digging down for the sand and the gravel.

617  
618 Ms. Harris - The church is located where?

619  
620 Mr. Gidley - The church is located right over here. Right here,  
621 ma'am.

622  
623 Ms. Harris - Thank you.

624  
625 Mr. Mackey - Who did you email?

626  
627 Mr. Gidley - I emailed the engineer.

628

629 Mr. Mackey - Okay. All right, are there any other questions? All right.  
630 Thank you, Paul.

631  
632 Mr. Gidley - Thank you, Mr. Chairman.

633  
634 Mr. Mackey - Can we hear from the applicant please?

635  
636 Mr. Hooker - Good morning, Mr. Chairman, members of the Board.  
637 My name is Randy Hooker, H-o-o-k-e-r, with Engineering Design Associates,  
638 representing Mr. S. B. Cox and his borrow pit.

639  
640 Just to touch on the conversations that Paul and I had. I've discussed it with the  
641 owner, the operator, and they're addressing those slopes. So that will be rectified.

642  
643 Mr. Mackey - When you say adjusting, what do you mean?

644  
645 Mr. Hooker - Correcting those slopes that are exceeding 2 to 1.

646  
647 Mr. Mackey - Okay. And you realize that they're not supposed to be  
648 open longer than thirty days?

649  
650 Mr. Hooker - Correct, correct. Yes.

651  
652 Mr. Mackey - All right. And they're also aware that that can be a  
653 cause to have the prior approval revoked.

654  
655 Mr. Hooker - They understand, yes. It hasn't been an issue, to my  
656 knowledge. I think it was just the person that was kind of overseeing the mine at  
657 the time wasn't conscious of that. But the owner is very involved in his mine. He's  
658 looking to wrap it up. I just spoke with him yesterday. We'll actually be going out  
659 in the next couple weeks and staking the centerline of the property to provide  
660 grades for him so he knows how much material he needs to bring in and where.  
661 He also stated that the excavation portion of the project probably won't take much  
662 longer than ninety days. He has somebody interested in the material that's  
663 remaining in this mine.

664  
665 Mr. Mackey - I'm sure he's well aware the biggest issue with that is  
666 public safety. The way kids ride these dirt bikes and stuff nowadays, you could  
667 easily have somebody go over the edge and . . .

668  
669 Mr. Hooker - Yes. The property is posted. And also, too, Ms. Harris,  
670 we worked with her a couple of extensions back. A fence was installed along the  
671 eastern side of the mine, the western side of the church property, to keep any kind  
672 of pedestrian traffic leaving the church property and going into the mine area.

673  
674 Mr. Mackey - All right.

675  
676 Ms. Harris - Question. Mr. Hooker, how close to completion is this  
677 operation? I know that this conditional use permit goes into 2020, I believe.

678  
679 Mr. Hooker - I expect the reclamation portion can take up to two  
680 years. But the mining process, like I said, they're close to having that wrapped up,  
681 maybe as soon as ninety days.

682  
683 Ms. Harris - Okay, thank you.

684  
685 Mr. Mackey - Any other questions for Mr. Hooker? All right, thank  
686 you, sir.

687  
688 Mr. Hooker - Thank you for your time.

689  
690 Mr. Mackey - Appreciate it. Is there anyone here who would like to  
691 speak in support of the application? Is there anyone to speak in opposition? All  
692 right. Can we have our next case, please?

693  
694 **[After the conclusion of the public hearings, the Board discussed the case**  
695 **and made its decision. This portion of the transcript is included here for**  
696 **convenience of reference.]**

697  
698 Mr. Mackey - What is the pleasure of the Board? Being the Varina  
699 magistrate, I make a motion that we approve the conditional use permit. I don't  
700 think it will be a detriment to the County as long as they keep up with the condition  
701 23.

702  
703 Mr. Green - Second.

704  
705 Mr. Mackey - So it's been moved and seconded by Mr. Green. Any  
706 discussion?

707  
708 Ms. Harris - Yes. I'd like to compliment them on doing all they can  
709 do to conform to our requirements, and I wish them well.

710  
711 Mr. Mackey - All right. It's been moved and seconded and discussed.  
712 All in favor of passing the conditional use permit say aye. Any opposed? The ayes  
713 have it; the motion is carried 5 to 0.

714  
715 After an advertised public hearing and on a motion by Mr. Mackey, seconded by  
716 Mr. Green, the Board **approved** application **CUP2018-00010, ENGINEERING**  
717 **DESIGN ASSOCIATES'** request for a conditional use permit pursuant to Sections  
718 24-52(d) and 24-103 of the County Code to extract materials from the earth at 1801  
719 Kingsland Road (Parcel 818-676-5915) zoned Agricultural District (A-1) (Varina).  
720 The Board approved the request subject to the following conditions:

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1. This use permit is subject to all requirements of Section 24-103 of Chapter 24 of the County Code.

2. Throughout the life of this permit, the applicant shall maintain letter of credit LC874-095978 in an amount of \$47,400.00, guaranteeing that the land will be restored to a reasonably level and drainable condition, consistent with the elevation of the land prior to the beginning of excavation. In the event of termination of that letter of credit, this permit shall be void, and excavation shall cease. Within the next 90 days of termination, the applicant shall restore the land as provided for under the conditions of this use permit. Termination of such financial guaranty shall not relieve the applicant from its obligation to indemnify the County of Henrico for any breach of the conditions of this use permit.

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

4. Throughout the life of this permit, the applicant shall maintain a mine license from the Virginia Department of Mines, Minerals and Energy.

5. Throughout the life of this permit, the areas approved for mining under this permit shall be delineated on the ground by five-foot-high metal posts at least five inches in diameter and painted in alternate one-foot stripes of red and white. These posts shall be so located as to clearly define the area in which the mining is permitted.

6. Throughout the life of this permit, the applicant shall comply with the Chesapeake Bay Preservation Act and all state and local regulations administered under such act applicable to the property, and shall furnish to the Planning Department copies of all reports required by such act or regulations.

7. Hours of operation shall be from 6:00 a.m. to 6:00 p.m. when Daylight Saving Time is in effect, and from 7:00 a.m. to 5:00 p.m. at all other times.

8. No operations of any kind are to be conducted at the site on Saturdays, Sundays, or national holidays.

9. All access to the property shall be from the established entrance onto Kingsland Road.

10. The applicant shall maintain gates at the entrance to the property. These gates shall be locked at all times, except when authorized representatives of the applicant are on the property.

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11. The applicant shall maintain the sign at the entrance to the mining site stating the name of the operator, the use permit number, the mine license number, and the telephone number of the operator. The sign shall be 12 square feet in area and the letters shall be three inches high.

12. The applicant shall maintain "No Trespassing" signs every 250 feet along the perimeter of the property. The letters shall be three inches high. The applicant shall furnish the Chief of Police a letter authorizing the Division of Police to enforce the "No Trespassing" regulations, and agreeing to send a representative to testify in court as required or requested by the Division of Police.

13. Standard "Truck Entering Highway" signs on Kingsland Road on each side of the entrance to the property shall be maintained at the applicant's expense.

14. The applicant shall maintain a standard stop sign at the entrance to Kingsland Road.

15. The applicant shall provide a flagman to control traffic from the site onto the public road, with the flagman yielding the right of way to the public road traffic at all times. This flagman will be required whenever the Division of Police deems necessary.

16. All roads used in connection with this use permit shall be effectively treated with calcium chloride or other wetting agents to eliminate any dust nuisance.

17. The operation shall be so scheduled that trucks will travel at regular intervals and not in groups of three or more.

18. Trucks shall be loaded in a way to prevent overloading or spilling of materials of any kind on any public road.

19. The applicant shall maintain the property, fences, and roads in a safe and secure condition indefinitely, or convert the property to some other safe use.

20. The applicant shall maintain a fence seven feet tall and approximately 300 feet long, separating the mining site from the First Bethel Baptist Church building and parking lot.

21. If, in the course of its operations, the applicant discovers evidence of cultural or historical resources, or an endangered species, or a significant habitat, it shall notify appropriate authorities and provide them with an opportunity to investigate the site. The applicant shall report the results of any such investigation to the Planning Department.

812 22. If water wells located on surrounding properties are adversely affected, and  
813 the extraction operations on this site are suspected as the cause, the affected  
814 property owners may present to the Board evidence that the extraction operation  
815 is a contributing factor. After a hearing by the Board, this use permit may be  
816 revoked or suspended, and the operator may be required to correct the problem.

817  
818 23. Open and vertical excavations having a depth of 10 feet or more, for a period  
819 of more than 30 days, shall be effectively sloped to a 2:1 slope or flatter to protect  
820 the public safety.

821  
822 24. Topsoil shall not be removed from any part of the property outside of the area  
823 in which mining is authorized. Sufficient topsoil shall be stockpiled on the property  
824 for respreading in a layer with five inches of minimum depth. All topsoil shall be  
825 stockpiled within the authorized mining area and provided with adequate erosion  
826 control protection. If the site does not yield sufficient topsoil, additional topsoil shall  
827 be brought to the site to provide the required five-inch layer of cover. All topsoil  
828 shall be treated with a mixture of seed, fertilizer, and lime as recommended by the  
829 County after soil tests have been provided to the County.

830  
831 25. A superintendent, who shall be personally familiar with all the terms and  
832 conditions of Section 24-103 of Chapter 24 of the County Code, as well as the  
833 terms and conditions of this use permit, shall be present at the beginning and  
834 conclusion of operations each work day to see that all the conditions of the Code  
835 and this use permit are observed.

836  
837 26. The operator shall submit a quarterly report stating the origin, nature and  
838 quantity of any off-site generated material deposited on the site, certifying that no  
839 hazardous material was included. The material to be deposited on the site shall be  
840 limited to imperishable materials such as stone, bricks, tile, sand, gravel, soil,  
841 asphalt, concrete and like materials, and shall not include any hazardous materials  
842 as defined by the Virginia Hazardous Waste Management Regulations.

843  
844 27. A progress report shall be submitted to the Board on June 1, 2019. This  
845 progress report shall contain information concerning how much property has been  
846 mined to date of the report, the amount of land left to be mined, how much  
847 reclamation has been performed, when and how the remaining amount of land will  
848 be reclaimed, and any other pertinent information about the operation that would  
849 be helpful to the Board.

850  
851 28. Excavation shall be discontinued by June 1, 2020 and restoration  
852 accomplished by not later than June 1, 2021, unless a new permit is granted by  
853 the Board.

854  
855 29. The reclamation of the property shall take place simultaneously with the mining  
856 process. The final grading of the site shall be consistent with the elevation of the  
857 land prior to the beginning of excavation as shown on the approved reclamation

858 plan. Reclamation shall not be considered completed until the mined area is  
859 covered completely with permanent vegetation.

860  
861 30. All drainage and erosion and sediment control measures shall conform to the  
862 standards and specifications of the Mineral Mining Manual Drainage Handbook.

863  
864 31. All excavation shall take place above the water table.

865  
866 32. Failure to comply with any of the foregoing conditions shall automatically void  
867 this permit.

868  
869  
870 Affirmative: Bell, Green, Harris, Mackey, Reid 5  
871 Negative: 0  
872 Absent: 0

873  
874  
875 **[At this point, the transcript continues with the public hearing on the next**  
876 **case.]**

877  
878 **CUP2018-00011 BFI WASTE SYSTEMS OF VIRGINIA, LLC** requests  
879 a conditional use permit pursuant to Section 24-116(d)(3) of the County Code to  
880 operate a materials processing facility at 2001 Charles City Road (Parcel 808-712-  
881 0741) zoned General Industrial District (M-2) (Varina).

882  
883 Mr. Blankinship - Would everyone who intends to speak to this case  
884 please stand and be sworn in. Raise your right hands, please. Do you swear the  
885 testimony you're about to give is the truth, the whole truth, and nothing but the truth  
886 so help you God? Thank you. Mr. Madrigal?

887  
888 Mr. Madrigal - Thank you, Mr. Secretary, Mr. Chair, members of the  
889 Board. Before you is a request to allow the operation of a materials processing  
890 facility at an existing landfill.

891  
892 BFI Waste Systems owns several parcels of land totaling approximately 450 acres  
893 between Charles City Road and the CSX Railroad. The property had been mined  
894 for sand and gravel in the 1960s. After that use ceased, four separate landfills were  
895 operated by the County on the property. In 2012, the Board approved a new CUP  
896 to consolidate several landfill areas into one permit, known as the Old Dominion  
897 Sanitary Landfill. That CUP remains in effect to date.

898  
899 The current application is a separate request that occurs within the boundaries of  
900 the property governed by the 2012 CUP. The requested use is for a materials  
901 processing facility, or to be more specific, a metals extraction facility. Although the  
902 landfill and this facility are both located within the boundaries of the property, the  
903 two use permits are separate and independent of each other. The Old Dominion

904 Landfill is a municipal solid waste landfill operated by BFI Waste Systems. For  
905 many years as part of the daily operations, the landfill has received incinerator ash  
906 from other municipal solid waste landfills. The ash contains metals which are  
907 extracted and resold for recycling purposes. The purpose of the materials  
908 processing facility is to do exactly that. The extracted metal is recycled, and the  
909 remaining ash is used for an alternate daily cover in the landfill or as road based  
910 in the landfill operations.

911  
912 Since 2012, as the landfill has filled up and the operations move from one cell to  
913 the next, the processing facility has moved. The current area of landfill operation  
914 is nearing completion, so a new location for the processing facility must be found.  
915 The proposed location is still within the boundaries of the property and is  
916 approximately 1,500 feet northwest of its current location. However, it will be at a  
917 much lower elevation as compared to the existing location. The current location is  
918 approximately 290 feet above mean sea level, while the new location is  
919 approximately 150 feet above mean sea level. That's a drop of 140 feet. As a point  
920 of reference, the nearest elevation on Charles City Road is 160 feet above mean  
921 sea level.

922  
923 The proposed facility will also be at least a thousand feet from the nearest dwelling.  
924 Although there is an existing wooded buffer around the property, the applicant  
925 intends to construct a ten-foot-high landscape berm along the northern and  
926 western sides of the site for screening purposes. The property is zoned M-2 and  
927 is designated as Planned Industrial on the 2026 Land Use Plan. The landfill and  
928 processing facility have both been long-established uses on the property. The  
929 current request is consistent with both the Comprehensive Plan and Zoning  
930 Ordinance. Because the material processing facility is already an active use on the  
931 site, approval of this request should have minimal impact on neighboring property,  
932 and staff doesn't anticipate a change in traffic patterns.

933  
934 The only change in environmental impact would be that the processing facility will  
935 be located outside of the landfill's liner. To mitigate any impacts, the proposed  
936 facility will either be paved or lined. The proposed location for the processing  
937 facility will be at a much lower elevation as compared to the existing location. Also,  
938 the new location is surrounded by an existing wooded buffer. Because the  
939 proposed location is closer to existing dwellings, the applicant intends to improve  
940 the existing buffer with a ten-foot-high landscape berm.

941  
942 In conclusion, the proposed onsite relocation of the materials processing facility is  
943 consistent with the Comprehensive Plan and Zoning Ordinance. The proposed use  
944 is not new to the site, and it is consistent with established practices at the landfill.  
945 Any detrimental impacts on neighboring property should be minimal. Staff  
946 recommends approval subject to conditions.

947  
948 That concludes my presentation.  
949

950 Mr. Mackey - Thank you, Mr. Madrigal. Are there any questions from  
951 the Board?

952  
953 Mr. Bell - Yes, I have one. When you addressed the  
954 environmental impact that will—the processing of the facility will involve the outside  
955 liner, and it's already outside. They're aware that, they're going to correct that?

956  
957 Mr. Madrigal - Yes sir. They're either going to pave that area or they're  
958 going to install a liner underneath that processing facility area.

959  
960 Mr. Bell - Thank you.

961  
962 Mr. Mackey - Any other questions for Mr. Madrigal? All right. Thank  
963 you, sir.

964  
965 Mr. Madrigal - Thank you.

966  
967 Mr. Mackey - Can we hear from the applicant, please?

968  
969 Mr. Rothermel - Good morning, Mr. Chairman, members of the Board.  
970 My name is Mike Rothermel. It's spelled R-o-t-h-e-r-m-e-l. I'm with the law firm of  
971 Spotts Fain here in Richmond. I want to introduce a couple other people in the  
972 audience with me. Tim Torrez and Wade Bailey, who are with Republic Services.  
973 And I believe Jon Clary with the County's Solid Waste Department is here as well  
974 if there are questions of him.

975  
976 I wanted to start—I know this Board has heard a number of landfill applications  
977 over the years. This particular site, we have only been in here I think twice in the  
978 last fifteen years. So I just wanted to give a little bit of background, because I know  
979 a majority of the Board members were not sitting the last time I came in on behalf  
980 of Old Dominion.

981  
982 My colleague Meade Spotts and I came in in 2004. At that time, we applied to  
983 amend the existing CUP to add the closed Henrico County Landfill. At that time,  
984 the Old Dominion Landfill was sort of the most west portion of the diagram you're  
985 looking at. The old closed Henrico County Landfill, we came in to consolidate those  
986 two. We bought the County's landfill and entered into an agreement with the  
987 County and combined those.

988  
989 And then the last time we came in in 2012, we again sought to amend the use  
990 permit for a further expansion to allow us to expand further east down Charles City  
991 Road. Again, over some old closed landfills. This particular corridor has had  
992 landfills on it I think since the '60s. So that was the last time that we were in back  
993 in 2012.

994

995 Just to give a little bit of background on Republic. The applicant is BFI Waste  
996 Systems of Virginia, LLC. That is a subsidiary of Republic Services. BFI was  
997 acquired by Allied Waste around the turn of the century, I think, and then merged  
998 with Republic. So now Republic serves as the owner. Republic is a Fortune 500  
999 company. They have a couple hundred landfills around the country, a large number  
1000 of transfer stations, hauling operations, recycling facilities. So obviously Republic  
1001 is one of the bigger players in the industry.

1002

1003 This particular landfill has now been operation for about twenty-five years. Old  
1004 Dominion opened in 1994. I always like to note that this particular facility has never  
1005 had one waste-related violation in nearly twenty-five years of service. I always like  
1006 to emphasize that up front. Because I note again that this Board has to deal with  
1007 landfill issues perhaps more often than it wishes.

1008

1009 We also have enjoyed a very strong relationship with the County of Henrico. We  
1010 have a host agreement with the County. The County is allowed to dispose of up to  
1011 70,000 tons of waste free each year, which is over a million dollars in value. We  
1012 also pay host fees to the County. So every ton that we take in we pay a royalty on  
1013 that. I went back and looked at the testimony from 2012. I think Mr. Petrini, the  
1014 Public Utilities director, said at the time that that averages about a million dollars a  
1015 year. We also, under the host agreement, pay for a solid waste employee to be  
1016 employed by the County, an inspector. So again, the relationship between this  
1017 particular landfill and the County is longstanding.

1018

1019 I don't want to speak for Mr. Clary if there are any questions about our record. I'm  
1020 sure he'd be happy to answer those.

1021

1022 Moving to the current application, this application is a little bit different than most  
1023 applications I usually come in on. Usually you're coming in to expand a use or to  
1024 add a use. This particular application is really born more out of a technicality. The  
1025 operation will remain the same. We are not proposing to add anything new to the  
1026 operation. We're not expanding the facility boundary. Where we're proposing that  
1027 this be located is within the existing use permit, within the existing Industrial zoning.  
1028 There won't be any more trucks coming in because the particular use we're  
1029 discussing this morning has been going on for a number of years.

1030

1031 What leads to this particular application being filed is the fact that the processing  
1032 facility has been occurring within the disposal area, so on the face of the landfill. I  
1033 know a number of you attended a meeting yesterday where we took you out there,  
1034 and you could see the actual process that they go through in extracting some of  
1035 the metals. But that has been taking place on the landfill itself. So that has, over  
1036 the years, been sort of moved around as necessary. Right now, as you can tell, it's  
1037 pretty high up there. The landfill, at least that portion of the landfill, is starting to  
1038 reach its maximum grade.

1039

1040 So what we're proposing is to take that off of the landfill site or off of the disposable  
1041 area and move it to a portion of the property that we feel is particularly suited to  
1042 become a permanent location for that facility. It's a better buffered site. The  
1043 screening is better. And what we're going to be adding to the screening will better  
1044 protect the surrounding area from being able to view it. The one complaint that  
1045 we've received from one of the neighbors has been that you're able to see it. And  
1046 when you're up there on the top of the landfill where the processing facility is, you  
1047 can see the neighborhood adjacent. So we feel like this is going to address the  
1048 one complaint that we've gotten about that.

1049  
1050 And there are obviously advantages to having it be a permanent location. If you  
1051 look at the plans that were submitted that we will need to adhere to and follow, it  
1052 shows what we call a tighter footprint for the facility. Up on the landfill face, it's a  
1053 little more spread out right now. Where we're proposing in the plans—again, that  
1054 have been submitted that we'll be held to—shows everything a little bit more  
1055 compact.

1056  
1057 We feel that for a lot of reasons—not only is this not going to be noticeable by the  
1058 surrounding community, it's actually going to make the landfill itself less noticeable.  
1059 There are also some other advantages to this. Again, this facility or the processing  
1060 facility has been going on now for a few years. We are not subject to any specific  
1061 conditions with respect to that facility.

1062  
1063 We've reviewed the conditions that staff has proposed; we're fine with those. They  
1064 impose, for instance, a noise requirement, which is more stringent than what the  
1065 state requires. The state requires that there be an 80-decible limit at the facility  
1066 boundary. The County's requirement takes it all the way down to 65. So that is to  
1067 be measured from the nearest residence. So as part of our application, we  
1068 submitted a sound study that shows sort of the effects of the facility and the noise  
1069 levels that will be heard around it. We are well within those requirements. And  
1070 obviously you don't need to take our word on that. The County can come out and  
1071 inspect at any time. And if we're violation of that condition, then that's an issue  
1072 we'll have to address.

1073  
1074 The County is also in the conditions going to require that we submit a landscaping  
1075 and lighting plan. We know from experience that the County is always pretty  
1076 stringent on those things and looks out for the surrounding community. We've  
1077 already stated that we intend—and we've shown in the plans where we intend to  
1078 construct the additional berms. There is a fairly substantial existing stand of  
1079 vegetation there between where we're proposing to put this and the nearest  
1080 houses. I know we're going to construct additional vegetative berms in between  
1081 where we're proposing to locate the facility and that existing vegetation.

1082  
1083 Those are all conditions that are not currently in place and applicable to the  
1084 operation which is going on now, which will be in place and which we will be held  
1085 to.

1086

1087 I guess in closing—and obviously I'll reserve some time to address any issues that  
1088 do come up. As a land use lawyer, most of the time I'm coming in sort of selling  
1089 something, making promises, making representations as to what you're going to  
1090 see. In this case, when you're going in trying to get a continuation or an extension  
1091 to something that's already been going on for a number of years, you're held to  
1092 your track record. And you're held to how you've performed. The County  
1093 representative is here, we have not had any issues with this. The one complaint  
1094 that we have received from surrounding communities we think this addresses.

1095

1096 So for all of those reasons, we would respectfully request that you grant this use  
1097 permit. I'll be happy to answer any questions that you may have.

1098

1099 Mr. Mackey - Thank you, Mr. Rothermel. Are there any questions  
1100 from the Board or staff?

1101

1102 Ms. Harris - Yes. How many decibels are you agreeing to—  
1103 because your report requested eighty, and the County said sixty-five. So which  
1104 one are you going to conform?

1105

1106 Mr. Rothermel - We have to perform at the 65-decibel level. The state's  
1107 requirement is eighty; the County's requirement is sixty-five. That's the condition.  
1108 So if we're in violation of that . . . I mean, if the County comes out and notices a  
1109 violation, and shuts the process down until we remedy it. We're confident. We did  
1110 a very detailed sound study by an environmental noise group. We're confident that  
1111 we're going to be well under the County's requirement.

1112

1113 Mr. Mackey - Do you mind sharing around what decibel it was?

1114

1115 Mr. Rothermel - Yes. I don't know if we have that. We submitted it to the  
1116 County. I don't know if it's on the—

1117

1118 Mr. Blankinship - It's in the file, but it's not a part of the presentation.

1119

1120 Mr. Rothermel - Okay. So what they did—and it's actually very  
1121 interesting the way they do this. They set up—and I'm not an acoustical engineer,  
1122 so I'll do my best in explaining this. They set up sound meters around the existing  
1123 facility, and then they take those readings and in turn put them down where the  
1124 facility is going to go. They set up the readings around that. So what is contained  
1125 in the noise report is, for lack of a better term, a scatter plot showing the decibel  
1126 level at various points around the facility. I want to say—my recollection was that  
1127 at the nearest residence we're well under. I think we're in the fifties.

1128

1129 Mr. Blankinship - Yes, that's correct. Which is comparable to the traffic  
1130 on Charles City Road.

1131

1132 Mr. Rothermel - Right.  
1133  
1134 Ms. Harris - Another question. Do you know when the proposed  
1135 location will reach its maximum potential? I know we're going to use this area—  
1136 you're proposing to use this area because the other site has reached or is reaching  
1137 its maximum potential.  
1138  
1139 Mr. Rothermel - Right.  
1140  
1141 Ms. Harris - The one that you're proposing, do you have any idea  
1142 when it will reach its maximum potential?  
1143  
1144 Mr. Rothermel - I want to make sure I understand the question. The  
1145 current face of the landfill—so we're talking about sort of the western portion of the  
1146 landfill right now. That will reach its capacity within a couple years? Probably by  
1147 the end of 2019. Which at that point the operations will move down to the east end  
1148 of the property. Is the question about the site that we're proposing?  
1149  
1150 Ms. Harris - Yes.  
1151  
1152 Mr. Rothermel - Yes. So that's never going to reach a potential because  
1153 nothing is being added there. It's just a location where the ash can be processed  
1154 and the metals recovered for recycling purposes. What occurs is the ash—and I  
1155 want to specify. This is not coal ash. That's been a hot topic over the years. This  
1156 is not coal ash. This ash is actually approved for use within the landfill. So the ash  
1157 that comes in will be processed, and then the metals that are recovered are taken  
1158 out for recycling, reuse. And then the remaining ash is used for what we call  
1159 "alternate daily cover." So at the end of every evening, a sanitary landfill is required  
1160 to cover the face of the landfill. We can't leave the solid waste exposed. And so  
1161 the ash is actually used as part of that process, as well as to sort of make—to line  
1162 the roads within the landfill.  
1163  
1164 The material that is coming into this processing area is all being used up. So there's  
1165 nothing that's going to be remaining on that particular site. I hope that answers  
1166 your question.  
1167  
1168 Ms. Harris - Yes it does. So that will not be in the proposal. There  
1169 will not be any height complaint based on how high it is from sea level with this  
1170 new proposal?  
1171  
1172 Mr. Rothermel - Yes. The County has attached a condition that the  
1173 equipment and the height restriction within the area we're proposing is thirty-five  
1174 feet. So that would match what you saw yesterday. Nothing would go higher than  
1175 that. And again, with the existing woodlands between that property and the  
1176 adjacent property, as well as the vegetative berms that are going to be put in,

1177 visibility should actually be far less of an issue—it shouldn't be an issue—as it is  
1178 right now.

1179  
1180 Ms. Harris - Okay. Thank you.

1181  
1182 Mr. Mackey - Any other questions from the Board. All right, thank  
1183 you.

1184  
1185 Mr. Rothermel - Thank you.

1186  
1187 Mr. Mackey - Is there anyone here who would like to speak in favor  
1188 of the application?

1189  
1190 Mr. Seelman - Good morning. My name is Frederick Seelman. S-e-e-  
1191 l-m-a-n. I'm actually a neighbor to the landfill. I literally walk out my door, I can see  
1192 it. I have lived there all of my life. My father grew up on that road. We've had a  
1193 Seelman right in that area for close to a hundred years. I can honestly say that we  
1194 have never had any problems or any issues with the dump as far as anything goes.  
1195 So as far as doing this permit or anything, talking to the neighbors around me and  
1196 all like that, nobody sees any problem with it.

1197  
1198 The only question we do have for the dump is—it was about the traffic, which was  
1199 addressed. How much was it going to increase traffic on Charles City Road,  
1200 because Charles City Road is a very narrow road. But if they have stated that it  
1201 will be a minimum, which I'm hoping they will keep it that way, the impact on the  
1202 road, everybody will be very comfortable with that. Because this road is getting  
1203 busier and busier as more traffic uses it and everything like that.

1204  
1205 Another thing they did address was the noise level. And the gentleman behind me  
1206 here, he did address that very well, saying what the noise level would be. Plus I  
1207 enjoy that he did bring down to that level to see what the noise level will be. With  
1208 the hills building up and everything, the concern was with me—and talking to my  
1209 neighbors—was the bouncing of the noise off any equipment coming back our way  
1210 and everything like that. But if they've already tested for that, that will be sufficient  
1211 and everything like that.

1212  
1213 But I'd like to say as far as the neighbors that live—and I mean we literally walk  
1214 out our door, and we can see the landfill. Not doing this, I mean. It's there. I actually  
1215 back right up to it. I can see the hillside. I can tell you how many people walk across  
1216 the top of it every day. But they have been very joyful neighbors, very good  
1217 neighbors to us. If we have a problem, they are very much on it. We can call them  
1218 and say hey, we have this issue. They help us, direct everything and all like that.

1219  
1220 So as far as I'm concerned, and any of the neighbors I have talked to, we have no  
1221 problem with this permit or anything like that. We hope you grant it to them, and

1222 we hope we can continue to be very good neighbors with them and continue this  
1223 relationship we have.

1224  
1225 Mr. Mackey - All right. Thank you, Mr. Seelman. Did anyone have  
1226 anything they'd like to ask of Mr. Seelman? All right. Thank you, sir.

1227  
1228 Mr. Seelman - Thank you.

1229  
1230 Mr. Mackey - Is there anyone else who would like to speak in support  
1231 of the application? Anyone who would like to speak in opposition of the  
1232 application? All right, thank you. Can we hear our final case?

1233  
1234 **[After the conclusion of the public hearings, the Board discussed the case**  
1235 **and made its decision. This portion of the transcript is included here for**  
1236 **convenience of reference.]**

1237  
1238 Mr. Mackey - What is the pleasure of the Board? Being the Varina  
1239 magistrate, I make a motion that we approve this conditional use permit and allow  
1240 them to move their facilities to the new location. I don't think it'll be a detriment to  
1241 the County. I actually think it will improve the situation. Is there a second?

1242  
1243 Mr. Green - Second.

1244  
1245 Mr. Mackey - It's been moved and seconded. Discussion?

1246  
1247 Ms. Harris - Yes. I quite agree with them that this is going to  
1248 definitely make this a more compact operation. The concern I had was about  
1249 height, but it seems that there is no need for any concern about height. I'm very  
1250 glad that we got the opportunity to go and look at this facility. I noticed the sign  
1251 saying "visitors," so evidentially visitors are welcome. But I think that Henrico  
1252 County, especially East End residents, may need to see it sometime. This site is  
1253 completely different from the other cases we had where conditions would be a  
1254 problem and nonconformity is a problem. As long as these people have been in  
1255 operation they seem to keep it pretty clean, and I'd like to compliment them on  
1256 that.

1257  
1258 Mr. Mackey - Thank you, Ms. Harris. I'd like to piggyback on that. I'd  
1259 like to thank the people at the BFI facility for accommodating us yesterday,  
1260 everyone who was able to make it. The presentation was very well put together,  
1261 very professional. We learned a lot. We probably didn't have many questions today  
1262 because we asked all our questions yesterday, and you answered all of them. We  
1263 really appreciate that. Yes, Mr. Green.

1264  
1265 Mr. Green - I'd like to thank the neighbor who took his time to come  
1266 out to speak in favor of that. Typically, when you see situations like this, folks move  
1267 into areas where these landfills already exist and then complain about it. I've

1268 always had a problem with that because why would you move knowing what you  
1269 were moving next too. It was refreshing to hear that you all were there before they  
1270 were there, and since you've been there, they have been receptive and responsive  
1271 to listening to your concerns and needs. That's a compliment to the company for  
1272 paying attention to the citizens. And for you to take your time out to do that is  
1273 commendable and admirable. And I just want to acknowledge it.

1274

1275 Ms. Harris - Mr. Mackey, let me further say that I did hear the  
1276 attorney in his presentation mention the neighbor who was opposed a couple of  
1277 times. But I imagine because, as Mr. Green said, they moved to the location. And  
1278 they could really see the height of the operation and would realize that they're  
1279 neighbors. I can understand if they had concerns about expansion to the point that  
1280 it would increase the height. But this will not increase the height. So I think we've  
1281 taken that into consideration. And the fact that we went out there yesterday, you  
1282 know, we have some guidelines. I mentioned to Mr. Blankinship about ex parte.  
1283 As a Board we went over there. If so many of us go—I think it's three or more—it's  
1284 a meeting.

1285

1286 Mr. Blankinship - More than two.

1287

1288 Ms. Harris - If it's more than two it's a meeting. And we should hear  
1289 both sides, because it's almost like having a hearing. But as Mr. Blankinship  
1290 mentioned to us yesterday, it was publically advertised in the newspaper, and so  
1291 we were open to having other people join us.

1292

1293 Mr. Mackey - We have a motion by Mr. Mackey and a second by Mr.  
1294 Green. All in favor say aye. Any opposed? The ayes have it; the motion is carried  
1295 5 to 0.

1296

1297 After an advertised public hearing and on a motion by Mr. Mackey, seconded by  
1298 Mr. Green, the Board **approved** application **CUP2018-00011, BFI WASTE**  
1299 **SYSTEMS OF VIRGINIA, LLC** requests a conditional use permit pursuant to  
1300 Section 24-116(d)(3) of the County Code to operate a materials processing facility  
1301 at 2001 Charles City Road (Parcel 808-712-0741) zoned General Industrial District  
1302 (M-2) (Varina). The Board approved the request subject to the following  
1303 conditions:

1304

1305 1. This conditional use permit only authorizes the relocation of the materials  
1306 processing facility within the landfill boundaries. All other applicable regulations of  
1307 the County Code shall remain in force. The property subject to this conditional use  
1308 permit also remains subject to the conditions of CUP2012-00003.

1309

1310 2. Only the improvements shown on the plans prepared by Geosyntec Consultants  
1311 dated April 19, 2018, and filed with the application may be constructed pursuant to  
1312 this approval. The equipment shall not exceed 35 feet in height. Any additional  
1313 improvements shall comply with the applicable regulations of the County Code.

1314 Any substantial changes or additions to the design or location of the improvements  
1315 will require a new conditional use permit.

1316  
1317 3. Throughout the life of this permit, the applicant shall maintain an approved  
1318 environmental compliance plan with the Department of Public Works (DPW). The  
1319 applicant shall continuously satisfy DPW that erosion control measures are in  
1320 accordance with the approved plan and are properly maintained. As site conditions  
1321 change, updated plans and bonds may be required as determined by DPW.

1322  
1323 4. Before relocating the facility, the applicant shall obtain approval of a detailed  
1324 landscaping and lighting plan from the Planning Department. The landscaping plan  
1325 shall include landscaped berms ten feet in height, as shown on the plans prepared  
1326 by Geosyntec Consultants dated April 19, 2018, and filed with the application.

1327  
1328 5. All access to the facility shall be within the boundaries of the Old Dominion  
1329 Landfill and shall use the existing entrance of the Old Dominion Landfill on Charles  
1330 City Road.

1331  
1332 6. The facility shall process only municipal waste incinerator ash. This approval  
1333 does not authorize receiving or processing of coal combustion byproducts.

1334  
1335 7. All areas where incinerator ash will be stored or processed shall be protected  
1336 by an impervious surface such as pavement, concrete, or a geomembrane liner  
1337 similar to the lining of the landfill. All leachate from the project area shall be  
1338 collected and conveyed to the County sewer system.

1339  
1340 8. Hours of operation shall be limited to 6:30 AM to 6:00 PM Monday through  
1341 Friday and 7:00 AM to 6:00 PM Saturday, and such other times as expressly  
1342 required or permitted by the Director of Planning or the Director of Public Utilities  
1343 or their designees.

1344  
1345 9. Sound caused by the operation of the facility shall not exceed 65 decibels at  
1346 any point along Robin Grey Lane, Carters Pond Court, or Wendell Drive.

1347  
1348 10. The facility shall meet all applicable federal and state requirements.

1349  
1350  
1351 Affirmative: Bell, Green, Harris, Mackey, Reid 5  
1352 Negative: 0  
1353 Absent: 0

1354  
1355  
1356 **[At this point, the transcript continues with the public hearing on the next**  
1357 **case.]**

1358

1359 **CUP2018-00012** **MARVIN LEE STANLEY** requests a conditional use  
1360 permit pursuant to Section 24-95(i)(4) of the County Code to build a detached  
1361 garage in the side yard at 1101 Challis Lane (HICKORY HILLS) (Parcel 837-722-  
1362 4950) zoned Agricultural District (A-1) (Varina).

1363

1364 Mr. Blankinship - Would everyone who intends to speak to this case  
1365 please stand and be sworn in. Raise your right hands, please. Do you swear the  
1366 testimony you're about to give is the truth, the whole truth, and nothing but the truth  
1367 so help you God? Thank you. Mr. Gidley?

1368

1369 Mr. Gidley - Thank you, Mr. Secretary, members of the Board.

1370

1371 The subject property is a one-acre lot, and it is located in the Hickory Hills  
1372 subdivision, which is off of Grapevine Road. The property currently contains a  
1373 2,336-square-foot rancher. You can see the home right here. This is Challis Drive,  
1374 and this is the brick rancher.

1375

1376 The applicant is requesting a conditional use permit to allow the construction of a  
1377 50-by-30-foot, two-story, three-car garage in the side yard. As you can see on the  
1378 site map here, the property has frontage on two streets—Challis, which we were  
1379 looking at a moment ago, and Foxhead Lane. Because Foxhead Lane is the  
1380 shortest street side, technically that is considered to be the front yard. As a  
1381 practical matter, the front yard that the applicant considers for the property would  
1382 be along Challis. Because the proposed garage location right here is in the side  
1383 yard, the applicant does need a conditional use permit, thus the application today.

1384

1385 The proposed garage is larger than the outbuildings found on the adjacent  
1386 properties, although across Grapevine Road, outside of the neighborhood, there  
1387 are a couple properties that do have similar-sized structures on them.

1388

1389 In evaluating this request, the property is zoned A-1 Agricultural District and is  
1390 designated Rural Residential on the Land Use Plan. A one-family dwelling and a  
1391 detached garage are consistent with these designations. The proposed location  
1392 has the advantage of being in line with the existing home rather than out near the  
1393 street, as you can see here. The site is consistent with the south-facing wall of the  
1394 main dwelling. So when you come into the neighborhood, that would retain the  
1395 current line of sight rather than having a structure right up against the road here.

1396

1397 Staff, however, is concerned about the size of the garage and its proposed height.  
1398 You can see the elevation right here. The first floor of the garage would contain  
1399 1,500 square feet of floor area, which is significantly larger than those found on  
1400 adjacent properties. In addition, a second floor is being proposed, resulting in a  
1401 total floor area of 3,000 square feet. This is important because the definition of an  
1402 accessory structure in the Zoning Ordinance refers to accessory structures as  
1403 being subordinate and incidental to the principal use, which in this case is the  
1404 dwelling. Because the dwelling is only one story in height and has 2,333 square

1405 feet of floor area, the proposed structure at two stories and 3,000 square feet of  
1406 floor area is neither subordinate or incidental. As a result, the proposed garage  
1407 should not exceed one story in height in order to bring it into compliance with the  
1408 Zoning Ordinance's definition of accessory structures.

1409  
1410 In conclusion, the applicant is proposing a 50-by-30-foot garage in the side yard.  
1411 Although there are two similar structures on the opposite side of Grapevine Road,  
1412 the proposed garage is larger than any of the accessory structures found on  
1413 adjacent properties. The applicant is proposing a second floor above this garage.  
1414 This would increase the visual impact of what is already going to be a significant  
1415 structure.

1416  
1417 Because accessory structures are required to be subordinate and incidental to the  
1418 principal use of the dwelling, the building should be limited to one story. The Board  
1419 may also wish to consider whether the proposed 50-by-30-foot structure is  
1420 appropriate for that immediate area. Otherwise, staff recommends approval of this  
1421 request subject to the conditions in your staff report, which does limit it to one floor.

1422  
1423 This concludes my presentation. I'll be happy to answer any questions you may  
1424 have.

1425  
1426 Mr. Mackey - Thank you, Paul. Do we know the height of  
1427 Mr. Stanley's house?

1428  
1429 Mr. Gidley - Let's see here. I don't have an exact height of it. Other  
1430 than the fact that it's a one-story home right now.

1431  
1432 Mr. Mackey - Are we pretty sure that the proposed garage would  
1433 definitely be protruding over the top from a front view? If we were looking from the  
1434 front yard at the house and seeing the proposed garage, it would be sticking out  
1435 over top of it?

1436  
1437 Mr. Gidley - Well he shows 17-1/2 feet here to what would be the  
1438 eaves right here. And then there's going to be some above that. I think it's safe to  
1439 say the home, you're not looking at 17-1/2 feet here. And even if the roof is slightly  
1440 larger, the accessory structure is definitely going to be—

1441  
1442 Mr. Mackey - I'm thinking at the most maybe fourteen feet.

1443  
1444 Mr. Blankinship - To the ridge, yes. The top of the windows is probably  
1445 below eight.

1446  
1447 Mr. Stanley - That is eight and a half feet. I measured it yesterday.

1448  
1449 Mr. Mackey - All right. Okay, thank you. Were there any other  
1450 questions for Paul?

1451

1452 Ms. Harris - Mr. Gidley, the house itself, the rancher, the square  
1453 footage is 2,333? And then we're saying that the garage will be 3,000 square feet?

1454

1455 Mr. Gidley - Fifteen hundred square feet per floor, yes ma'am, for a  
1456 total of three thousand.

1457

1458 Ms. Harris - Okay. And you mentioned in your report that there  
1459 might be some other homes with a similar situation or similar garages. Are those  
1460 nearby? I'm looking at the map.

1461

1462 Mr. Gidley - In the immediate neighborhood the accessory  
1463 structures are smaller. The ones on some of the nearby properties seem to be  
1464 more like six or seven hundred square feet total area. As you leave the  
1465 neighborhood and go over on the opposite side of Grapevine Road, you can see  
1466 here, for instance, there's an accessory structure that's a pretty good size square-  
1467 footage wise. Probably similar to this gentleman's 1,500 on the first floor.

1468

1469 Ms. Harris - Is that two stories to your knowledge?

1470

1471 Mr. Gidley - I don't recall right offhand.

1472

1473 Ms. Harris - Okay. Is the house smaller than the garage as far as  
1474 square footage is concerned?

1475

1476 Mr. Gidley - In this case, the house looks to be slightly larger than  
1477 the garage.

1478

1479 Ms. Harris - Okay, thank you.

1480

1481 Mr. Mackey - Any other questions for Mr. Gidley? All right. Thank  
1482 you, sir.

1483

1484 Mr. Gidley - Yes sir. Thank you, Mr. Chair.

1485

1486 Mr. Mackey - All right. Can we hear from the applicant now?

1487

1488 Mr. Stanley - Yes. It's Marvin Stanley. S-t-a-n-l-e-y. It wasn't in my  
1489 proposal to have a two-story building. It was to have the dream garage where you  
1490 have a 10-foot-tall ceiling in the garage and you have a storage space of 6-1/2 feet  
1491 above the garage, like an attic. Didn't mean to interpret it as two stories, so I wasn't  
1492 thinking of square footage for two stories. It's just I've worked a lot all my life. And  
1493 when I bought this corner lot—I looked at a lot of houses with garages, and either  
1494 the houses were too big for us or the garage was too small. And I said well we  
1495 found a house we like on a corner lot. We have a half-acre lot behind the house.  
1496 Plenty of room to build a dream garage. After 33-1/2 years of working in that factory

1497 and raising five children—four of them have graduated college. My youngest son,  
1498 he's going to college now. Going for his bachelor's degree.

1499  
1500 I've always been mechanically inclined. I was a mechanic before I went to Philip  
1501 Morris. I've always worked on my own vehicles and my own lawnmowers and stuff.  
1502 And I always wanted to have a nice little shop, and I never had it before. We made  
1503 a lot of sacrifices, my wife and I. Renting a small ranch in Highland Springs so we  
1504 could afford to help our children. We made sacrifices for our children. And I've had  
1505 two sheds and a carport to work out of and keep everything going.

1506  
1507 And when I retired from Philip Morris, I did very well on my 401K. So I cashed part  
1508 of my 401K in so I could—I told my wife we're too old for a mortgage, and we're  
1509 too old for car payments. So you go pick out whatever car you want on the lot, and  
1510 I'll get me a new truck, and we'll buy us a house, a nice little rancher somewhere  
1511 with a garage, and we'll live happily ever after. That's the dream. So the house is  
1512 paid for, the cars are paid for. When I go to get the garage built, thinking I had the  
1513 perfect location, the contractor came back so upset because he couldn't get it.  
1514 Anyway, I hope we can get a permit today.

1515  
1516 I can do without the attic, and we can lower it to—16-1/2 feet you say?

1517  
1518 Mr. Blankinship - To match the—

1519  
1520 Mr. Stanley - The height of the house? We measured it yesterday. It  
1521 was 16-1/2 feet. We can do without the attic. But I would like to keep the 30-by-50  
1522 because by the time I pull my pickup truck in with the shell and everything on it, a  
1523 20-foot garage, you don't have room for a workbench or anything. So you actually  
1524 need that extra ten feet to be able to pull it in to do anything.

1525  
1526 Well I really hope you all give me a permit.

1527  
1528 Mr. Mackey - Mr. Stanley, have you seen the full list of the six  
1529 conditions for approval?

1530  
1531 Mr. Stanley - Yes, but can you refresh my memory?

1532  
1533 Mr. Mackey - Okay. You can come on up, sir. I'm looking for the one  
1534 that says one story.

1535  
1536 Mr. Blankinship - Number three.

1537  
1538 Mr. Mackey - Number three. All right. Condition #3, the proposed  
1539 garage shall be constructed with vinyl siding, and it shall contain only one story.

1540  
1541 Mr. Stanley - Yes, one story.

1542

1543 Mr. Mackey - Shall not exceed the 1,500 square feet of floor area. All  
1544 right. So if we were to make the concessions, it would have to be—I believe it  
1545 would be to add in to condition 3 the height?  
1546  
1547 Mr. Blankinship - The next clause there is “shall not exceed the height of  
1548 the existing residence.”  
1549  
1550 Mr. Mackey - Okay. All right. I was saying do we need to put a height  
1551 in there or as long as we say it doesn't exceed the house is it good enough.  
1552  
1553 Mr. Blankinship - I don't know the height in feet.  
1554  
1555 Mr. Stanley - Well you could put the 16-1/2, you could put that in  
1556 there.  
1557  
1558 Mr. Mackey - Okay. So you would agree to keep it at the one story  
1559 as long as it doesn't go above the height of the residence.  
1560  
1561 Mr. Stanley - Yes. At 16-1/2 feet, that would be great. That's from the  
1562 top, not like I have it on this picture here. But at the center of the—  
1563  
1564 Mr. Blankinship - The peak.  
1565  
1566 Mr. Stanley - Yes, the peak.  
1567  
1568 Mr. Mackey - Yes sir.  
1569  
1570 Mr. Stanley - That would be fine with me. I'd still have a garage.  
1571  
1572 Mr. Mackey - We don't have a problem with the 30/50, so we can go  
1573 ahead and leave that as-is. All right. Were there any other questions for  
1574 Mr. Stanley?  
1575  
1576 Ms. Harris - Do we have the 30/50 in the condition or should we  
1577 place it in the condition during our motion?  
1578  
1579 Mr. Blankinship - We put 1,500 square feet, so.  
1580  
1581 Ms. Harris - Okay. All right.  
1582  
1583 Mr. Stanley - And I had the soil analyzed. The engineer soil sample,  
1584 saying that the footing would be eighteen inches wide, twenty-four inches deep,  
1585 and it must have a ten-inch slab. So you're talking like eight trucks of concrete.  
1586  
1587 Mr. Blankinship - That's a lot of slab.  
1588

1589 Mr. Stanley - Seventy-seven square feet of concrete. But it says—  
1590 you're talking footage.  
1591  
1592 Mr. Green - The thirty feet is because your truck and cab are long.  
1593  
1594 Mr. Stanley - Yes.  
1595  
1596 Mr. Green - What I'm noticing now is because they're building  
1597 these trucks bigger even in my garage—  
1598  
1599 Mr. Stanley - Even the Nissans are long.  
1600  
1601 Mr. Green - Yes. Even in my garage, there are certain vehicles I  
1602 wouldn't be able to put in my garage. Like an Expedition or something because  
1603 they're so long. So what you're trying to do is you're trying to pull your vehicle in  
1604 as well as have a workspace.  
1605  
1606 Mr. Stanley - A workspace, yes.  
1607  
1608 Mr. Green - Good.  
1609  
1610 Mr. Stanley - A workbench. Before I went to Philip Morris, I was a  
1611 certified mechanic. Worked at that Nissan dealership, Boulevard Imports up there  
1612 off of Broad. So I still have my tools. And I was a mechanically trained machine  
1613 operator at Philip Morris. They gave me a toolbox full of tools to work on the  
1614 machines at work.  
1615  
1616 Mr. Bell - Sir, I would recommend to you or your son to make  
1617 sure you read the conditions and understand them.  
1618  
1619 Mr. Stanley - Yes sir.  
1620  
1621 Mr. Bell - Because that will be sort of your blueprint of what we  
1622 expect.  
1623  
1624 Mr. Stanley - I'll obey whatever guides you all give me.  
1625  
1626 Mr. Bell - Thank you.  
1627  
1628 Mr. Stanley - I got a permit once before years ago to build a porch.  
1629 And I followed the County code, and it passed. So I'll follow the County code.  
1630  
1631 Ms. Harris - Mr. Stanley, how long have been at this residence?  
1632  
1633 Mr. Stanley - We've been there since 2012—11 or 12. Twelve.  
1634

1635 Ms. Harris - Okay. I just want to say congratulations on reaching  
1636 your goal, the American dream. So congratulations.  
1637

1638 Mr. Stanley - Okay. Does this mean I put in for a permit now?  
1639

1640 Mr. Blankinship - We haven't voted yet.  
1641

1642 Mr. Stanley - Okay. I mean if it's approved, then I can—  
1643

1644 Mr. Blankinship - Is the building permit under review, Mr. Gidley?  
1645

1646 Mr. Gidley - Not that I'm aware of.  
1647

1648 Mr. Blankinship - There's not, okay. If the Board does approve this, then  
1649 yes, you can submit a building permit whenever you're ready.  
1650

1651 Mr. Stanley - All right.  
1652

1653 Mr. Mackey - Are there any other questions for Mr. Stanley? All right,  
1654 thank you, sir.  
1655

1656 Mr. Stanley - Thank you. Thank you so much.  
1657

1658 Mr. Mackey - You're welcome. Is there anyone here who would like  
1659 to speak in support of this application? Anyone to speak in opposition? All right,  
1660 then we've heard our final case of the day. We'll move on to our motions portion.  
1661

1662 **[After the conclusion of the public hearings, the Board discussed the case**  
1663 **and made its decision. This portion of the transcript is included here for**  
1664 **convenience of reference.]**  
1665

1666 Mr. Mackey - What is the pleasure of the Board? Being the Varina  
1667 magistrate—I think after we've talked it over with Mr. Stanley, and he's agreed to  
1668 not have the structure any higher or any taller than his house, I don't think it will be  
1669 a detriment on the rest of the community. And I make a motion that we pass the  
1670 conditional use permit. Is there a second?  
1671

1672 Mr. Bell - Second.  
1673

1674 Mr. Mackey - All right, it's been moved and seconded. Discussion?  
1675

1676 Ms. Harris - We also mentioned that the size of the square footage  
1677 should not exceed 1,500 square feet.  
1678

1679 Mr. Mackey - Any other discussion? All right. It's been moved by Mr.  
1680 Mackey and seconded by Mr. Bell. All in favor of passing the conditional use permit  
1681 say aye. Any opposed? The motion is carried 5 to 0.

1682  
1683 After an advertised public hearing and on a motion by Mr. Mackey, seconded by  
1684 Mr. Bell, the Board **approved** application **CUP2018-00012, MARVIN LEE**  
1685 **STANLEY** requests a conditional use permit pursuant to Section 24-95(i)(4) of the  
1686 County Code to build a detached garage in the side yard at 1101 Challis Lane  
1687 (HICKORY HILLS) (Parcel 837-722-4950) zoned Agricultural District (A-1)  
1688 (Varina). The Board approved the request subject to the following conditions:

1689  
1690 1. This conditional use permit applies only to the location of a garage in the side  
1691 yard. All other applicable regulations of the County Code shall remain in force.

1692  
1693 2. Only the improvements shown on the plot plan and building design filed with  
1694 the application may be constructed pursuant to this approval, except as modified  
1695 by condition #3. Any additional improvements shall comply with the applicable  
1696 regulations of the County Code. Any substantial changes or additions to the design  
1697 or location of the improvements shall require a new conditional use permit.

1698  
1699 3. The proposed garage shall be constructed with vinyl siding. It shall contain only  
1700 one story, shall not exceed 1,500 square feet of floor area, and shall not exceed  
1701 the height of the existing residence.

1702  
1703 4. Before beginning any clearing, grading, or other land disturbing activity, the  
1704 applicant shall obtain approval of an environmental compliance plan from the  
1705 Department of Public Works.

1706  
1707 5. All exterior lighting shall be shielded to direct light away from adjacent property  
1708 and streets.

1709  
1710 6. The proposed garage shall not be occupied for dwelling purposes, as provided  
1711 in Sec. 24-95(i)(2)h. of the County Code.

1712  
1713 Affirmative: Bell, Green, Harris, Mackey, Reid 5  
1714 Negative: 0  
1715 Absent: 0

1716  
1717  
1718 Mr. Mackey - Is there a motion to approve the minutes?

1719  
1720 Ms. Harris - I move that we approve the minutes as presented.

1721  
1722 Mr. Mackey - Is there a second?

1723  
1724 Mr. Bell - Second.

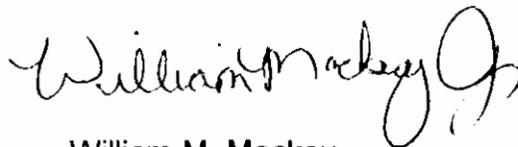
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Mr. Mackey - It's been moved by Ms. Harris and seconded by Mr. Bell that we approve the minutes as presented. All in favor say aye. Any opposed? The motion is carried.

On a motion by Ms. Harris, seconded by Mr. Bell, the Board **approved as presented the Minutes of the April 26, 2018**, Henrico County Board of Zoning Appeals meeting.

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

Mr. Mackey - Meeting adjourned.



William M. Mackey  
Chairman



Benjamin Blankinship, AICP  
Secretary