

1 Minutes of the regular monthly meeting of the Planning Commission of Henrico County
2 held in the County Administration Building in the Government Center at Parham and
3 Hungary Spring Roads beginning at 9:00 a.m. Wednesday, June 27, 2012.
4

Members Present: Mr. Tommy Branin, Chairman (Three Chopt)
Mrs. Bonnie-Leigh Jones, Vice-Chairperson, C.P.C. (Tuckahoe)
Mr. C. W. Archer, C.P.C. (Fairfield)
Mr. Eric Leabough (Varina)
Mr. Robert H. Witte, Jr. (Brookland)
Mr. R. Joseph Emerson, Jr., AICP,
Director of Planning, Secretary
Mr. Frank J. Thornton,
Board of Supervisors' Representative

Others Present: Mr. David D. O'Kelly, Assistant Director of Planning
Ms. Leslie A. News, CLA, Principal Planner
Mr. Benjamin Blankinship, Principal Planner
Mr. Kevin D. Wilhite, C.P.C., AICP, County Planner
Mr. Michael F. Kennedy, County Planner
Ms. Christina L. Goggin, AICP, County Planner
Mr. Tony Greulich, C.P.C., County Planner
Mr. Matt Ward, County Planner
Mr. Gregory Garrison, County Planner
Mr. Lee Pambid, C.P.C., County Planner
Ms. Aimee B. Crady, AICP, County Planner
Mr. Mike Jennings, Traffic Engineering
Ms. Holly Zinn, Recording Secretary

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6 **Mr. Frank J. Thornton, the Board of Supervisors' representative, abstains from**
7 **voting on all cases unless otherwise noted.**
8

9 Mr. Branin - Good morning. Welcome to the Henrico County Subdivisions
10 and Plans of Development meeting for June 27, 2012. If everyone would please make
11 sure your cell phones are off. At the last meeting, mine was the only one that actually
12 went off. Please join me in standing for the Pledge of Allegiance.
13

14 We have no news media in the room. All of the Commissioners are present. Good
15 morning to our supervisor sitting on the Board, the Honorable Frank Thornton, and with
16 that, Mr. Secretary?
17

18 Mr. Emerson - Thank you, Mr. Chairman. First, on your agenda this morning,
19 are the requests for deferrals and withdrawals. Those will be presented by Ms. Leslie
20 News.
21

22 Mr. Branin - Good morning, Ms. News.
23

24 Ms. News - Good morning, Mr. Chairman, members of the Commission.
25 Staff has not received any requests for deferrals this morning.

26
27 Mr. Branin - Does any Commission member have a deferral? None?
28 Okay.

29
30 Mr. Emerson - Mr. Chairman, with that said, next on your agenda are the
31 expedited items, and those will also be presented by Ms. Leslie News.

32
33 Ms. News - Sir, we have eight items on our expedited agenda. There has
34 been one item added since your preliminary addendum was given to you yesterday. The
35 first item is on page three of your agenda and is located in the Varina District. This is a
36 transfer of approval for POD-123-95, Garden Ridge. Staff recommends approval.

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38 **TRANSFER OF APPROVAL**

39
POD-123-95 **Erik Nelson for National Retail Properties, LP:** Request
POD2012-00190 for transfer of approval as required by Chapter 24, Section
Garden Ridge – 401 24-106 of the Henrico County Code from 401 International
International Centre Drive Center Drive, LLC to National Retail Properties, LP. The
12.66-acre site is located at the northern terminus of
International Centre Drive, 1,600 feet north of its
intersection with Audubon Drive, on the southwest corner
of the intersection of Interstate-64 and Airport Drive, on
parcel 821-718-7211. The zoning is M-1, Light Industrial
District and ASO, Airport Safety Overlay District. County
water and sewer. **(Varina)**

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41 Mr. Branin - Is anyone in opposition to transfer of approval POD-123-95
42 Garden Ridge? No one?

43
44 Mr. Leabough - Mr. Chairman, I move that we approve transfer of approval
45 POD-123-95 Garden Ridge.

46
47 Mrs. Jones - Second.

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49 Mr. Branin - Motion by Mr. Leabough, seconded by Mrs. Jones. All in
50 favor say aye. All opposed say no. The ayes have it; the motion passes.

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52 The Planning Commission approved the transfer of approval request for POD-123-95
53 Garden Ridge, from 401 International Center Drive, LLC to National Retail Properties,
54 LP, subject to the standard and added conditions previously approved.

55
56 Ms. News - The next item is on page four of your agenda and is located
57 in the Varina District. This is a transfer of approval for POD-89-98, Capital Chrysler
58 Dodge Jeep Ram (Formerly Lawrence Chrysler Plymouth). Staff recommends approval.

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TRANSFER OF APPROVAL

POD-89-98
POD2012-00048
Capital Chrysler Dodge
Jeep Ram (Formerly
Lawrence Chrysler
Plymouth) – 5400 S.
Laburnum Avenue

Richard C. Lawrence, Esquire for Capital Laburnum Investments, LLC: Request for transfer of approval as required by Chapter 24, Section 24-106 of the Henrico County Code from Beacon Press, Richmond Newspapers, Inc., Southeast Building and Realty Corp, and Lawrence Chrysler-Plymouth to Capital Laburnum Investments, LLC. The 4.98-acre site is located at the southwest corner of the intersection of S. Laburnum Avenue and Eubank Road, on parcel 816-711-3847. The zoning is M-1, Light Industrial District and ASO, Airport Safety Overlay District. County water and sewer. **(Varina)**

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Mr. Branin - Is anyone in opposition to transfer of approval of POD-89-98, Capital Chrysler Dodge Jeep Ram (Formerly Lawrence Chrysler Plymouth)? No one. Mr. Leabough?

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Mr. Leabough - Mr. Chairman, I move that we approve the transfer of approval for POD-89-98, Capital Chrysler Dodge Jeep Ram (Formerly Lawrence Chrysler Plymouth), with Condition #1 noted in the agenda.

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Mr. Archer - Second.

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Mr. Branin - Motion by Mr. Leabough, seconded by Mr. Archer. All in favor say aye. All opposed say no. The ayes have it; the motion passes.

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The Planning Commission approved the transfer of approval request for POD-89-98, Capital Chrysler Dodge Jeep Ram (Formerly Lawrence Chrysler Plymouth), from Beacon Press, Richmond Newspapers, Inc., Southeast Building and Realty Corp, and Lawrence Chrysler-Plymouth to Capital Laburnum Investments, LLC, subject to the standard and added conditions previously approved and the following additional condition:

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1. All deficiencies, as identified in staff's letter dated May 21, 2012, shall be corrected no later than November 1, 2012.

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Ms. News - Next, on page five of your agenda and located in the Three Chopt District, is a transfer of approval for POD-35-76, 06-78, and 47-08 (Part). This is the Laurels at University Park (Formerly University Park). There is an addendum item on page one of your addendum, which indicates that the fire lane has been reconstructed, as required by the Fire Marshall, and the applicant has agreed to maintain the fire lane to ensure safe access by emergency vehicles. Other deficiencies have been resolved with the exception of recordation of easements, which is addressed in Condition #1 in the agenda. Staff can recommend approval.

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94 **TRANSFER OF APPROVAL** (*Deferred from the May 23, 2012 Meeting*)
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POD's 35-76, 06-78, and 47-08 (Part) **Hirschler-Fleischer for The Laurels of University Park, LLC:** Request for transfer of approval as required by Chapter 24, Section 24-106 of the Henrico County Code from University Park Health Investors, LLC to The Laurels of University Park, LLC. The 8.93-acre site is located at the northeast corner of the intersection of Pemberton Road (State Route 157) and Regirer Place, on parcel 752-753-4706 and part of parcel 752-753-0071. The zoning is R-6C, General Residential District (Conditional). County water and sewer. **(Three Chopt)**

POD2011-00446;
POD2011-00448;
POD2012-00008
Laurels at University Park (Formerly University Park) – 2420 Pemberton Road

96
97 Mr. Branin - Is there anyone in opposition to transfer of approval for POD-
98 35-76, 06-78, and 47-08 (Part), Laurels at University Park (Formerly University Park)?
99 No one? Then I would like to move that transfer of approval for POD-35-76, 06-78, and
100 47-08 (Part), Laurels at University Park (Formerly University Park), be approved with
101 addendum page one.

102
103 Mr. Witte - Second.

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105 Mr. Branin - Motion by Mr. Branin, seconded by Mr. Witte. All in favor say
106 aye. All opposed say no. The ayes have it; the motion passes.

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108 The Planning Commission approved the transfer of approval request for POD-35-76, 06-
109 78, and 47-08 (Part), Laurels at University Park (Formerly University Park), from
110 University Park Health Investors, LLC to The Laurels of University Park, LLC, subject to
111 the standard and added conditions previously approved and the following additional
112 condition:

- 113
114 1. All deficiencies, as identified in the inspection report dated December 29, 2011,
115 shall be corrected by September 26, 2012.

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117 Ms. News - On page six of your agenda and located in the Brookland
118 District is a transfer of approval for POD-46-73 (Part), Ball Office Products Headquarters
119 (Formerly Wards Company). Staff recommends approval.

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TRANSFER OF APPROVAL

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<p>POD-46-73 (Part) POD2012-00171 Ball Office Products Headquarters (Formerly Wards Company, Inc.) – 2100 Westmoreland Street</p>	<p>Charles Louthan for Moreland Realty, LLC: Request for transfer of approval as required by Chapter 24, Section 24-106 of the Henrico County Code from Moreland Realty, LLC to BOP, LLC. The 1.96-acre site is located in the southwest quadrant of the intersection of Maywill Street and Westmoreland Street, on parcel 776-738-5802. The zoning is M-1, Light Industrial District. County water and sewer. (Brookland)</p>
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125 Mr. Branin - Is anyone in opposition to the transfer of approval of POD-46-
126 73 (Part), Ball Office Products Headquarters (Formerly Wards Company)? No one.

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128 Mr. Witte - Mr. Chairman, I move we approve transfer of approval POD-
129 46-73 (Part), Ball Office Products Headquarters (Formerly Wards Company).

130

131 Mr. Leabough - Second.

132

133 Mr. Branin - Motion by Mr. Witte, seconded by Mr. Leabough. All in favor
134 say aye. All opposed say no. The ayes have it; the motion passes.

135

136 The Planning Commission approved the transfer of approval request for POD-46-73
137 (Part), Ball Office Products Headquarters (Formerly Wards Company), from Moreland
138 Realty, LLC to BOP, LLC, subject to the standard and added conditions previously
139 approved.

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141 Ms. News - The next item is page nine of your agenda and is located in
142 the Varina District. This LP/POD-02-09, Tuckaway Child Development Center on New
143 Market Road and Midview Road. This is a reconsideration of the original landscape plan.
144 Staff recommends approval.

145

146 **LANDSCAPE PLAN** *(Deferred from the May 23, 2012 Meeting)*

147

<p>LP/POD-02-09 POD2012-00177 Tuckaway Child Development Center – New Market Road and Midview Road (Reconsideration) (POD-48-06 Revised) (POD-32-04 Expired)</p>	<p>Balzer and Associates for Karverly, Inc.: Request for approval of reconsideration of a landscape plan, as required by Chapter 24, Sections 24-106 and 24-106.2 of the Henrico County Code. The 5.22-acre site is located at the southeast corner of the intersection of New Market Road (State Route 5) and Midview Road on parcel 803-701-8673. The zoning is B-1C, Business District (Conditional). County water and sewer. (Varina)</p>
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149 Mr. Branin - Is there any opposition to LP/POD-02-09, Tuckaway Child
50 Development Center? No one?

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152 Mr. Leabough - Mr. Chairman, I would like to declare a personal interest in
153 this transaction. Therefore, I will not be participating nor voting on it.
154
155 Mr. Branin - Okay.
156
157 Mr. Leabough - My daughter attended this facility during the summer. The
158 County Attorney has indicated that I do not have a conflict of interest, but for the record I
159 would like to abstain and not participate.
160
161 Mr. Branin - And from what I understand, Mr. Leabough, there are no
162 issues with this.
163
164 Mr. Leabough - Mr. Archer is handling this for me.
165
166 Mr. Branin - Okay.
167
168 Mr. Archer - Mr. Chairman, subject to all the foregoing, I move for
169 approval of LP/POD-02-09, Tuckaway Child Development Center, subject to staff's
170 recommendation.
171
172 Mr. Witte - Second.
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174 Mr. Branin - Motion by Mr. Archer, seconded by Mr. Witte. All in favor say
175 aye. All opposed say no. The ayes have it; the motion passes.
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177 Mr. Branin - Yes
178 Ms. Jones - Yes
179 Mr. Archer - Yes
180 Mr. Leabough - Abstain
181 Mr. Witte - Yes
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183 Ms. News - Next, on page 12 of your agenda and located in the Three
184 Chopt District, is POD2012-00191, Duncan Park at Sadler Walk. Staff recommends
185 approval.
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PLAN OF DEVELOPMENT

POD2012-00191

Duncan Park at Sadler
Walk – 4391 Glasgow
Road

Youngblood, Tyler, and Associates, P.C. for Oglethorpe Park, LLC: Request for approval of a plan of development, as required by Chapter 24, Section 24-106 of the Henrico County Code, to construct 64 2-story residential townhouses for sale. The 10.79-acre site is located on the east line of Glasgow Road at its intersection with Dublin Road, approximately 600 feet north of Ireland Lane, on parcels 746-763-1769, 2482, 2896, and 746-764-3818. The zoning is RTHC, Residential Townhouse District (Conditional). County water and sewer. **(Three Chopt)**

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191 Mr. Branin - Is anyone in opposition to POD2012-00191, Duncan Park at
192 Sadler Walk? No one? Then, I would like to move that POD2012-00191, Duncan Park at
193 Sadler Walk, be approved on the expedited agenda with the additional Conditions #29
194 through #38, subject to annotations on the plan and the standard conditions for
195 developments of this type.

196

197 Mrs. Jones - Second.

198

199 Mr. Branin - Motion by Mr. Branin, seconded by Mrs. Jones. All in favor
200 say aye. All opposed say no. The ayes have it; the motion passes.

201

202 The Planning Commission approved POD2012-00191, Duncan Park at Sadler Walk,
203 subject to the annotations on the plans, the standard conditions attached to these
204 minutes for developments of this type, and the following additional conditions:

205

206 29. The subdivision plat for Duncan Park at Sadler Walk shall be recorded before any
207 building permits are issued.

208 30. The right-of-way for widening of Sadler Road Relocated and proposed Sadler
209 Walk Lane as shown on approved plans shall be dedicated to the County with the
210 subdivision plat.

211 31. Prior to issuance of a certificate of occupancy for any building in this development,
212 the engineer of record shall certify that the site has been graded in accordance
213 with the approved grading plans.

214 32. There shall be no outdoor storage in moveable storage containers including, but
215 not limited to, cargo containers and portable on demand storage containers.

216 33. The proffers approved as a part of zoning case C-19C-06 shall be incorporated in
217 this approval.

218 34. The pavement shall be of an SM-2A type and shall be constructed in accordance
219 with County standard and specifications. The developer shall post a defect bond
220 for all pavement with the Department of Planning - the exact type, amount and
221 implementation shall be determined by the Director of Planning, to protect the
222 interest of the members of the Homeowners Association. The defect bond shall
223 remain in effect for a period of three years from the date of the issuance of the

- 224 final occupancy permit. Prior to the issuance of the last Certificate of Occupancy,
225 a professional engineer must certify that the roads have been designed and
226 constructed in accordance with County standards.
- 227 35. Approval of the construction plans by the Department of Public Works does not
228 establish the curb and gutter elevations along the Henrico County maintained
229 right-of-way. The elevations will be set by Henrico County.
- 230 36. The limits and elevations of the Special Flood Hazard Area shall be conspicuously
231 noted on the plan and labeled "Limits of Special Flood Hazard Area." In addition,
232 the delineated Special Flood Hazard Area must be labeled "Variable Width
233 Drainage and Utility Easement." The easement shall be granted to the County
234 prior to the issuance of any occupancy permits.
- 235 37. The unit house numbers shall be visible from the parking areas and drives.
- 236 38. The names of streets, drives, courts and parking areas shall be approved by the
237 Richmond Regional Planning District Commission and such names shall be
238 included on the construction plans prior to their approval. The standard street name
239 signs shall be installed prior to any occupancy permit approval.

240
241 Ms. News - On page 16 of your agenda and located in the Fairfield
242 District is POD2012-00193. This is a POD and a lighting plan for the Dominion Fiber
243 Technologies Expansion. Staff recommends approval.

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245 **PLAN OF DEVELOPMENT AND LIGHTING PLAN**

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POD2012-00193 Dominion Fiber Technologies Expansion -- 4590 Vawter Avenue (POD-59-07 Rev.)	Willmark Engineering, PLC for Pinnacle Resource Group, LLC: Request for approval of a plan of development and lighting plan, as required by Chapter 24, Section 24-106 of the Henrico County Code, to construct a one-story 25,000 square-foot building expansion to an existing manufacturing and distribution facility. The 5.96-acre site is located on the west line of Vawter Avenue, approximately 3,000 feet north of Laburnum Avenue, on parcel 799-740-8589. The zoning is M-2, General Industrial District and ASO, Airport Safety Overlay District. County water and sewer. (Fairfield)
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247
248 Mr. Branin - Is anyone in opposition to POD2012-00193, Dominion Fiber
249 Technologies Expansion? No one?

250
251 Mr. Archer - All right, Mr. Chairman, I move for approval of POD2012-
252 00193, Dominion Fiber Technologies Expansion, subject to the annotations on the plan,
253 the standard conditions for developments of this type, additional Condition #11B,
254 Conditions #29 through #33, and addendum item #37. [See later correction on Page 10
255 of these minutes to delete addendum item #37 from this motion.]

256
257 Mr. Leabough - Second.

259 Mr. Branin - Motion by Mr. Archer, seconded by Mr. Leabough. All in favor
260 say aye. All opposed say no. The ayes have it; the motion passes.

261
262 The Planning Commission approved POD2012-00193, Dominion Fiber Technologies
263 Expansion, subject to the annotations on the plans, the standard conditions attached to
264 these minutes for developments of this type, and the following additional conditions:

- 265
266 11B. Prior to the approval of an electrical permit application and installation of the site
267 lighting equipment, a plan including light spread and intensity diagrams, and
268 fixture specifications and mounting heights details shall be revised as annotated
269 on the staff plan and included with the construction plans for final signature.
- 270 29. Outside storage shall not be permitted.
- 271 30. The loading areas shall be subject to the requirements of Chapter 24, Section 24-
272 97(b) of the Henrico County Code.
- 273 31. Approval of the construction plans by the Department of Public Works does not
274 establish the curb and gutter elevations along the Henrico County maintained
275 right-of-way. The elevations will be set by Henrico County.
- 276 32. The location of all existing and proposed utility and mechanical equipment
277 (including HVAC units, electric meters, junction and accessory boxes,
278 transformers, and generators) shall be identified on the landscape plans. All
279 equipment shall be screened by such measures as determined appropriate by the
280 Director of Planning or the Planning Commission at the time of plan approval.
- 281 33. The limits and elevations of the Special Flood Hazard Area shall be conspicuously
282 noted on the plan and labeled "Limits of Special Flood Hazard Area." In addition,
283 the delineated Special Flood Hazard Area must be labeled "Variable Width
284 Drainage and Utility Easement." The easement shall be granted to the County
285 prior to the issuance of any occupancy permits.

286
287 Ms. News - The final item is on page 18 of your agenda and is located in
288 the Three Chopt District. This is SUB2012-00043, Pouncey Place (April 2012 Plan). This
289 is a zero lot subdivision for a road dedication. There is an addendum item on page two of
290 your addendum, which includes a revised plan noting that a building encroachment will
291 be removed out of the right-of-way. Staff can recommend approval.

292
293 **SUBDIVISION** (*Deferred from the May 23, 2012 Meeting*)

294
SUB2012-00043
Pouncey Place (April 2012
Plan) – 4521 Pouncey
Tract Road (State Route
271)

Bay Companies, Inc. for Pouncey Tract Company of Virginia, LLC and the Commonwealth of Virginia: The 12.72-acre site proposed for a public road dedication is located on the east line of Pouncey Tract Road (State Route 271), approximately 580 feet south of the intersection of Pouncey Tract Road and Twin Hickory Lake Drive, on part of parcels 740-765-2150 and 7333. The zoning is A-1, Agricultural District, B-2C, Business District (Conditional), and WBSO, West Broad Street Overlay District. County water and sewer. **(Three Chopt) 0 Lot**

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296 Mr. Archer - Mr. Chairman, excuse me please. Before we move on, I
297 referred to an addendum item. [Referring to previous case POD2012-00193] That was
298 the wrong case. That was for Dunkin' Donuts, so forget the addendum item part of my
299 motion. I apologize.

300
301 Mr. Branin - So noted.

302
303 Mr. Archer - Thank you.

304
305 Mr. Branin - Is anyone in opposition to SUB2012-00043, Pouncey Place
306 (April 2012 Plan)? No one? Then, I would like to move that SUB2012-00043, Pouncey
307 Place (April 2012 Plan), be approved on the expedited agenda with the annotations on
308 the plan, the revised plan, and Conditions #11 through #15.

309
310 Mrs. Jones - Second.

311
312 Mr. Branin - Motion by Mr. Branin, seconded by Mrs. Jones. All in favor
313 say aye. All opposed say no. The ayes have it; the motion passes.

314
315 The Planning Commission granted conditional approval to SUB2012-00043, Pouncey
316 Place (April 2012 Plan), subject to the standard conditions attached to these minutes for
317 subdivisions served by public utilities for a road dedication, the annotations on the plans,
318 and the following additional conditions:

- 319
- 320 11. The details for the landscaping to be provided within the median and along both
321 sides of the proposed roadway shall be submitted to the Department of Planning for
322 review and approval prior to recordation of the plat, and a maintenance agreement
323 shall be entered into with the Department of Public Works for landscape features
324 within the right-of-way.
 - 325 12. Any necessary offsite drainage easements must be obtained prior to final approval
326 of the construction plan by the Department of Public Works.
 - 327 13. The proffers approved as part of zoning cases C-27C-05 and C-11C-12 shall be
328 incorporated in this approval.
 - 329 14. The developer shall remove the adjacent building outside of the proposed right-of-
330 way prior to final approval by the Department of Public Works.
 - 331 15. A concrete sidewalk meeting County standards shall be provided along the north
332 side of the proposed road.

333
334 Ms. News - That completes our expedited agenda.

335
336 Mr. Emerson - Mr. Chairman, that now takes us to Subdivision Extensions of
337 Conditional Approval. Those will be presented by Mr. Lee Pambid.

338
339 **SUBDIVISION EXTENSIONS OF CONDITIONAL APPROVAL**

340
341 **FOR INFORMATIONAL PURPOSES ONLY**

Subdivision	Original No. of Lots	Remaining Lots	Previous Extensions	Magisterial District	Recommended Extension
SUB2011-00042 (SUB-05-11) The Townes at Oakley's Bluff (June 2011 Plan)	131	86	0	Varina	6/26/2013
SUB2011-00033 (SUB-62-07) The Village at Olde Colony Reconsideration (November 2007 Plan)	9	3	0	Varina	6/26/2013

343

344 Mr. Branin - Good morning, Mr. Pambid.

345

346 Mr. Pambid - Good morning, Mr. Chairman and members of the Planning
347 Commission. This map indicates the location of two subdivisions that are presented for
348 extensions of conditional approval. They are eligible for a one-year extension to June 26,
349 2013. This is for informational purposes only and does not require Commission action at
350 this time. This concludes my presentation. I can now field any questions you have
351 regarding this.

352

353 Mr. Branin - Does anybody have any questions for Mr. Pambid? No one?
354 Mr. Pambid, it looks like you're getting off easy today.

355

356 Mr. Pambid - Thank you. I appreciate that.

357

358 Mr. Emerson - Mr. Chairman, that now takes us to page seven of your
359 regular agenda.

360

361 TRANSFER OF APPROVAL AND RECONSIDERATION OF APPROVED CONDITION

362

POD-85-77
POD2012-00151
Total Packaging Services
(Formerly Continental
Forest Industries) – 2900
Sprouse Drive

Spotts Fain, P.C. for Waterville Properties, LLC and Crown Cork & Seal Company, Inc. Real Estate Retirement Trust: Request for transfer of approval as required by Chapter 24, Section 24-106 of the Henrico County Code from Rosemary Ann Martin and Continental Illinois Realty to Waterville Properties, LLC. The 17.18-acre site is located along the east line of S. Airport Drive, opposite its intersection with Sprouse Drive, on parcel 819-705-5589. The zoning is M-1, Light Industrial District, M-2, General Industrial District, and ASO, Airport Safety Overlay District. County water and sewer. **(Varina)**

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364 Mr. Branin - Is there any opposition to transfer of approval for POD-85-77,
365 Total Packaging Services (Formerly Continental Forest Industries)? No one? Good
366 morning, Mr. Wilhite.

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Mr. Wilhite - Thank you, Mr. Chairman.

The applicant has just closed on this property within the last two weeks. They will be submitting a landscape and lighting plan for approval and will be addressing the deficiencies that were identified in the inspection of the site. They hope to occupy the building in September at this point. We have conditions that address the landscape and lighting plan approval and correction of deficiencies prior to a certificate of occupancy being issued on this site. There is also one original condition for the POD approval back in 1977 that required right-of-way dedication along the southern property line here. It was the extension of Sprouse Drive. Subsequent approval of a plan of development on the property to the south and change in ownership along this boundary line has made it impossible for them to meet this condition. Staff is recommending deletion of Condition #20 from the original approval of POD-85-77.

Mr. Branin - Okay. Does anybody have any questions for Mr. Wilhite? All right.

Mr. Leabough - Mr. Chairman, I move that we approve the transfer of approval for POD-85-77, Total Packaging Services (Formerly Continental Forest Industries), with Conditions #1 through #3 as noted on the agenda.

Mr. Witte - Second.

Mr. Branin - Motion by Mr. Leabough, seconded by Mr. Witte. All in favor say aye. All opposed say no. The ayes have it; the motion passes.

The Planning Commission approved the transfer of approval request for POD-85-77, Total Packaging Services (Formerly Continental Forest Industries), from Rosemary Ann Martin and Continental Illinois Realty to Waterville Properties, LLC, subject to the standard and added conditions previously approved and the following additional conditions:

1. A landscaping and lighting plan shall be submitted and approved prior to the issuance of a Certificate of Occupancy.
2. The pavement, striping, landscaping, and lighting deficiencies identified during the site inspection shall be corrected prior to the issuance of a Certificate of Occupancy.
3. Condition #20 of the Planning Commission approval of POD-85-77 shall be deleted.

ALTERNATIVE FENCE HEIGHT PLAN

LP/POD-07-10

POD2012-00023

Metromont Corporation
Site Improvements - 1640
Darbytown Road
(POD-47-80 Rev.)

Engineering Design Associates for Metromont Corporation: Request for approval of an alternative fence height plan, as required by Chapter 24, Sections 24-95(l)(5), 24-106, and 24-106.2 of the Henrico County Code, to allow a fence exceeding a height of 42 inches in the front yard. The 65.23-acre site is located on the north line of Darbytown Road, approximately 750 feet east of Oregon Avenue, on parcels 806-710-8061 and 807-710-5764. The zoning is M-2, General Industrial District, M-2C, General Industrial District (Conditional) and ASO, Airport Safety Overlay District. County water and sewer. **(Varina)**

411

412 Mr. Branin - Is there any opposition to LP/POD-07-10, Metromont
413 Corporation Site Improvements? No one?

414

415 Mr. Kennedy - Good morning Mr. Chairman, members of the Commission.
416 The alternative fence height proposes a six-foot-high chain link fence extending close to
417 the front of the property. A landscape plan has been submitted by the applicant for
418 current approval by staff. The landscape plan for peripheral parking is equal to the ten-
419 foot transitional buffer on the front of the fence. The fence satisfies the requirements of
420 the code for an alternative fence height. The code provides that the Planning
421 Commission, pursuant to review and approval of a landscape plan shall permit an
422 alternative fence height—*shall* is the operative word—exceeding three feet, six inches,
423 but not exceeding ten feet, and a uniform design in the front yard or on the front yard
424 line, provided the height and design do not affect the following items:

425

- 426 • the health, safety, and welfare of persons residing and working on the premises;
- 427 • the visibility and value of abutting or adjacent properties;
- 428 • adequate supply of light and air to adjoining properties;
- 429 • traffic or pedestrian safety; and,
- 430 • adequate sight distance.

431

432 The fence does meet all those requirements, and staff has no objections to the request.

433

434 Mr. Branin - Okay. Does anyone have any questions?

435

436 Mr. Leabough - I have one question. Mr. Kennedy, the fence that we're being
437 asked to approve the exception for, is that only going to span the length of the new
438 development there on that site?

439

440 Mr. Kennedy - Yes, sir. Just along the front of where that office section is.

441

442 Mr. Leabough - And then once you get past the new office section, then that
443 would be the concrete wall?

444
445 Mr. Kennedy - Yes, sir.
446
447 Mr. Leabough - And that was previously approved, correct?
448
449 Mr. Kennedy - That was previously approved with the POD.
450
451 Mr. Leabough - So, this is just an exception to the fence height for that?
452
453 Mr. Kennedy - For that one section. The remaining section—when they take
454 that building and demolish that building—they're required to put up a ten-foot-high
455 concrete wall, and that will be landscaped.
456
457 Mr. Branin - Mr. Kennedy, can you do me favor? Adjust that microphone
458 so we can hear what you're saying. We can't hear you up at this end.
459
460 Mr. Kennedy - Yes, sir.
461
462 Mr. Branin - Thank you, sir. Does anybody have any other questions for
463 Mr. Kennedy? All right.
464
465 Mr. Leabough - Mr. Chairman, I move that we approve the alternative fence
466 height request, the exception, for LP/POD-07-10, Metromont Corporation Site
467 Improvements, subject to the standard conditions for alternative fence height plans.
468
469 Mrs. Jones - Second.
470
471 Mr. Branin - Motion by Mr. Leabough, seconded by Mrs. Jones. All in
472 favor say aye. All opposed say no. The ayes have it; the motion passes.
473
474 The Planning Commission approved LP/POD-07-10, Metromont Corporation Site
475 Improvements, subject to the standard conditions for alternative fence height plans.
476
477

PLAN OF DEVELOPMENT (Deferred from the May 23, 2012 Meeting)

POD2012-00149
Dunkin' Donuts at Glen
Lea Shopping Center –
3800 Mechanicsville
Turnpike (U.S. Route 360)

Vanesse, Hangen, Brustlin, Inc. for PCS Glen Lea, LLC and Dunkin' Brands, Inc.: Request for approval of a plan of development, as required by Chapter 24, Section 24-106 of the Henrico County Code, to construct a one-story 1,800 square-foot restaurant with drive-through facilities. The 0.69-acre site is located on an outparcel in an existing shopping center on the west line of Mechanicsville Turnpike (U.S. Route 360), in the northwest quadrant of the intersection of Laburnum Avenue and Mechanicsville Turnpike, on part of parcel 802-736-8028. The zoning is B-2, Business District and ASO, Airport Safety Overlay District. County water and sewer. **(Fairfield)**

Mr. Branin - Is there any opposition to POD2012-00149 Dunkin' Donuts at Glen Lea Shopping Center? No one? Mr. Pambid.

Mr. Pambid - Good morning again.

The proposal is for a 1,720-square-foot restaurant with a drive-through. The pad site is located within an existing shopping center, and access is maintained internally with no direct connections to either Mechanicsville Turnpike or Laburnum Avenue.

A significant amount of concrete is proposed at one of the entrances to the building, and staff recommends that this area be reconfigured to accommodate landscaping. The plan shows two mature ash trees being removed, and staff suggests that the one-way egress point be reconfigured and a parking space be deleted to retain these trees. That's in this vicinity right here.

The plan that was distributed this morning in your addendum shows angled parking required by Public Works, Traffic Division, since a one-way drive aisle is proposed around the entire building. The plan highlights the areas of the shifted egress point, the deleted parking space, the two saved trees, and the landscape area. The engineer has recently demonstrated that it is possible to retain these trees by shifting the egress point and deleting one parking space.

The Department of Public Utilities can recommend approval with the inclusion of Condition #36 that requires documentation that the existing private pump station and force main have the adequate capacity to serve the proposed development, that the owner of the private system has granted permission to connect, and that a certificate to construct has been issued by the Virginia Department of Environmental Quality.

The building is constructed of light beige split-face CMU, dark brown cement board, and dark cream-colored EIFS.

512 The staff recommends approval subject to the annotations on the plan, the standard
513 conditions for developments of this type, additional Conditions #29 through #36, and
514 Condition #37 that evidence of an ingress and egress and maintenance agreement be
515 filed with the County staff prior to the issuance of a certificate of occupancy.
516

517 This concludes my presentation. Staff can now field any questions you have regarding
518 this. Bryan Stevenson with VHB Engineers is also here.

519
520 Mr. Branin - Okay. Does anybody have any questions for Mr. Pambid?

521
522 Mrs. Jones - I do. Mr. Pambid, did I understand you to say that the
523 applicant is amenable to including the landscaping recommendations that you have put
524 on this revised plan?

525
526 Mr. Pambid - That is correct. We spoke at length yesterday about a design
527 for a planter in the area that's in question. They are willing to do that.

528
529 Mrs. Jones - And the access will be shifted and all of that?

530
531 Mr. Pambid - The access will be shifted.

532
533 Mrs. Jones - Okay, okay.

534
535 Mr. Pambid - Bryan Stevenson is also here to address any questions about
536 that as well. We've been discussing that ever since yesterday.

537
538 Mrs. Jones - Thank you.

539
540 Mr. Branin - Mr. Archer, I just have a couple of questions, if I may.

541
542 Mr. Archer - Certainly.

543
544 Mr. Branin - Can I talk to the applicant? When you come up, if you'd state
545 your name for the record.

546
547 Mr. Stevenson - Bryan Stevenson. I'm with VHB.

548
549 Mr. Branin - Mr. Stevenson, this looks like it's a new prototype coming in.

550
551 Mr. Stevenson - That is correct. They've put some into place already, but yes,
552 it's a new prototype.

553
554 Mr. Branin - Is Dunkin' Donuts Corporation now looking to do expansions?

555
556 Mr. Stevenson - Yes. This is one they're putting in the area, yes.
557

558 Mr. Branin - Okay. That's all I have.
559
560 Mr. Stevenson - Okay.
561
562 Mr. Branin - Thank you. Mr. Archer, I've been trying to get a doughnut
563 place out in the West End in the Three Chopt District.
564
565 Mr. Archer - Do you like the prototype?
566
567 Mr. Branin - Well, not particularly, but I have asked for Krispy Kreme,
568 Dunkin' Donuts, and all the others to be contacted whenever someone's doing a new
569 shopping center. There's been a freeze on doughnut stores opening up, so that's why I
570 asked the question.
571
572 Mr. Archer - Okay. Well, when this one is open you're welcome to come to
573 Fairfield. I don't have any other questions. The only question I have, Mr. Pambid, the
574 revised layout, do we need to waive time limits on that?
575
576 Mr. Pambid - We do need to waive time limits, yes, sir.
577
578 Mr. Archer - Okay, thank you, Mr. Pambid. Anybody else? Mr. Chairman, I
579 move to waive time limits on the revised plan that was received in the addendum this
580 morning.
581
582 Mrs. Jones - Second.
583
584 Mr. Branin - Motion by Mr. Archer, seconded by Mrs. Jones. All in favor
585 say aye. All opposed say no. The ayes have it; the motion passes. Time limits are
586 waived.
587
588 Mr. Archer - Okay. Then I move for approval of POD2012-00149 Dunkin'
589 Donuts at Glen Lea Shopping Center, subject to the annotations on the plans, the
590 standard conditions for developments of this type, the additional conditions as listed on
591 the agenda, the additional addendum Condition # 37, and the revised layout.
592
593 Mr. Leabough - Second.
594
595 Mr. Branin - Motion by Mr. Archer, seconded by Mr. Leabough. All in favor
596 say aye. All opposed say no. The ayes have it; the motion passes.
597
598 The Planning Commission approved POD2012-00149 Dunkin' Donuts at Glen Lea
599 Shopping Center, subject to the annotations on the plans, the standard conditions
600 attached to these minutes for developments of this type, and the following additional
601 conditions:
602

- 603 29. A concrete sidewalk meeting VDOT standards shall be provided along the west
604 side of Mechanicsville Turnpike (U.S. Route 360).
- 605 30. Outside storage shall not be permitted.
- 606 31. In the event of any traffic backup which blocks the public right-of-way as a result
607 of congestion caused by the drive-up facilities, the owner/occupant shall close the
608 drive-up facilities until a solution can be designed to prevent traffic backup.
- 609 32. The location of all existing and proposed utility and mechanical equipment
610 (including HVAC units, electric meters, junctions and accessory boxes,
611 transformers, and generators) shall be identified on the landscape plan. All
612 building mounted equipment shall be painted to match the building, and all
613 equipment shall be screened by such measures as determined appropriate by the
614 Director of Planning or the Planning Commission at the time of plan approval.
- 615 33. Only retail business establishments permitted in a B-2 zoning district may be
616 located in this center.
- 617 34. The ground area covered by all the buildings shall not exceed in the aggregate 25
618 percent of the total site area.
- 619 35. No merchandise shall be displayed or stored outside of the building(s) or on
620 sidewalk(s).
- 621 36. The following items shall be addressed to the satisfaction of the Director of Public
622 Utilities prior to approval of construction plans:
- 623 a. Provide certification that the private pumping station and force main has
624 adequate capacity for the addition of flow for this project.
- 625 b. Provide written permission from the owner of the private sewer to allow
626 connection of the sewer from this project.
- 627 c. Provide evidence of approval of the plans by the state water control board
628 in the form of a Certificate to Construct issued by the Virginia Department
629 of Environmental Quality.
- 630 37. **ADDED** - Evidence of a joint ingress/egress and maintenance agreement shall be
631 submitted to the Planning Office and approved prior to issuance of a certificate of
632 occupancy.

633
634 Mr. Emerson - Mr. Chairman, that now takes us to the consideration of
635 approval of your minutes from your May 23, 2012 meeting.

636
637 APPROVAL OF MINUTES: May 23, 2012 Minutes

638
639 Mr. Branin - Everybody, I'm sure, got a call ahead of time and submitted
640 any changes. Are there any additional changes? None? Then, I will entertain a motion.

641
642 Mrs. Jones - I move we approve the minutes as corrected.

643
644 Mr. Archer - Seconded.

645
646 Mr. Branin - Motion by Mrs. Jones, seconded by Mr. Archer. All in favor
647 say aye. All opposed say no. The ayes have it; the motion passes. Those minutes are
648 approved.

549

650 The Planning Commission approved the May 23, 2012 minutes as corrected.

651

652 Mr. Emerson - Mr. Chairman, that now takes us to the work session portion
653 of your meeting today. As you're aware, on June 12, 2012, the Board of Supervisors did
654 adopt a resolution requesting the Planning Commission to study and recommend
655 amendments to the zoning ordinance regarding noncommercial signage without a sign
656 permit. We briefly went over this with you at the last meeting so you could begin to think
657 about it. With that said, this item will be presented by Mr. Ben Blankinship.

658

659 Mr. Branin - Good morning, Mr. Blankinship.

660

661 Mr. Blankinship - Good morning, Mr. Chairman. Good morning members of the
662 Commission.

663

664 Mr. Branin - What excitement do you have for us today, sir?

665

666 Mr. Blankinship - Well, as I'm sure everyone remembers, we briefly discussed
667 this item two weeks ago at the rezoning meeting just to get it onto your calendar and ask
668 you to set today as the work session.

669

670 The subject before us is noncommercial signs and, particularly, when to require permits
671 for noncommercial signs. What's really the focus of this amendment is that staff was
672 going to recommend allowing additional signs without permits in addition to what is
673 already allowed without permits.

674

675 Just to briefly bring you back up to date, Section 24-104 is our sign ordinance. It allows
676 specific types of signs in each zoning district. There is also a prohibition on any sign that
677 is not specifically allowed in the zoning district. So, it's like most zoning ordinances in
678 that a use has to be listed as permitted, and if it's not listed, the presumption is that it's
679 not permitted.

680

681 There is also a requirement for a sign permit for every sign that is allowed unless it
682 meets one of a list of exemptions. A brief form of that list of exemptions is on the screen
683 now. I want to call your attention particularly to C and D—two-square-foot signs
684 advertising real estate for sale, three-square-foot signs prohibiting trespassers, and other
685 signs of that nature. The language that addresses noncommercial signs is in 24-
686 104(b)(7) where it says, "Prohibited Signs. Any sign not specifically permitted is
687 prohibited provided, however, that any permitted sign is allowed to contain
688 noncommercial speech in lieu of any other speech." So, it is already the law that
689 anywhere a sign is allowed that would carry a commercial message, such as real estate
690 for sale, the property owner can put up a sign that meets the same specification with any
691 noncommercial message whether it's a religious message, a political message—any
692 other noncommercial message can be substituted for any commercial sign that's
693 permitted.

94

695 So, in residential zoning districts, for example, a “real estate for sale” sign—I already
696 mentioned that a two-square-foot “real estate for sale” sign is allowed without a permit,
697 which means that a two-square-foot noncommercial sign is already allowed without a
698 permit. A “real estate for sale” sign up to 32 square feet is listed in the code today as a
699 permitted sign in the residential zoning districts, and that requires a permit. Because
700 that’s already in the code now, it’s already allowed for the property owner to substitute
701 noncommercial speech. You can put up a 32-square-foot sign with a noncommercial
702 message today, if you get a permit. So, up to two square feet, no permit. Between two
703 and 32 requires a permit. Over 32 square feet would not be allowed in residential
704 districts. Of course, it would in business or industrial districts.
705

706 These are a few examples of the kinds of signs that we’re already seeing and that we
707 expect we’ll see many more of between now and the first week of November. These
708 signs are three square feet in area, and that’s a very typical size for both real estate
709 signs and political signs. These are a couple of noncommercial signs just to make sure
710 we’re not too focused on political signs. Any noncommercial message would be allowed
711 under this amendment. The top sign there is 14 square feet; the bottom is 11 square
712 feet. So, that total sign area there is 25 square feet, and this is a 32-square-foot sign, a
713 four by eight-foot sign. This is actually the one that began this discussion. Staff notified
714 the owner of this property that this sign required a permit. He came to the Board of
715 Supervisors meeting to ask the question why a permit is required, and he asked the
716 Board to consider changing the regulations and to not require a permit for signs of this
717 nature. So, that’s the sign that brought us to you this morning. This is an example of two
718 32-square-foot signs next to each other in front of a residential property on River Road.
719

720 Of course, whenever we talk about signs there are several legal considerations that we
721 have to bear in mind. Commercial and noncommercial signs are considered speech and
722 are protected by the First Amendment to the Constitution. That does not mean that we
723 can’t regulate them at all. It means the localities may regulate signs, but the regulations
724 must be narrowly tailored to advance substantial government interests such as traffic
725 safety and aesthetics. In general, we can regulate the time, place, and manner of any
726 form of speech, and that includes signs. We can regulate the time, place, and manner of
727 speech through signs, provided that, as stated above, it’s narrowly tailored to advance a
728 substantial interest and also provided that it’s viewpoint neutral. We can’t favor some
729 messages over other messages. When the government limits what sort of argument can
730 be made in the public forum, then the government is going too far, according to some
731 Supreme Court cases in terms of regulating speech. So, we are allowed to regulate time,
732 place, and manner, but we have to remain viewpoint neutral. We can’t regulate what the
733 message is that’s proclaimed.
734

735 Specifically, sign regulations cannot favor commercial speech over noncommercial
736 speech. We have to give at least as much deference to religious speech and political
737 speech as we do to any form of commercial speech. That’s been laid down very clearly
738 for us, again by the U. S. Supreme Court.
739

740 Finally, the most recent word on this was a June 1 opinion by the Attorney General. The
741 question asked was can a local government regulate temporary political signs more
742 restrictively than they do other temporary signs. The Attorney General's opinion was no,
743 you cannot. Anything that you allow for commercial speech, you have to allow
744 noncommercial speech at least as much deference.

745
746 So, there are really three questions—or I think it's going to grow to a few more than
747 three. I'm starting with these three questions to bring before you this morning. Should the
748 County continue to require a permit for political campaign signs and other
749 noncommercial signs exceeding three square feet in area? Again, the question is not
750 really are we going to allow these signs; they're already allowed. The question is, now
751 we require a permit for between three and 32 square feet in a residential area. Should
752 we continue to require that permit?

753
754 The second question is, what should the area and height limits for such signs be? Right
755 now, the limit for real estate signs is 32-square feet. Some other signs in residential
756 zoning districts are limited to eight feet in height. For almost all of those larger signs in
757 residential districts, there is a setback of 15 feet for any property line. So, those are
758 some of the questions that are on the table this morning.

759
760 Finally, should the County impose a maximum area limitation for such signs? Right now,
761 it says for "real estate for sale" signs you can have one sign that's 32 square feet. Should
762 we continue that? Should it be one sign? Should it be up to 32 square feet of sign area
763 so you could have ten three-square-foot signs if you want? How exactly should we
764 regulate the number of signs in those areas?

765
766 The recommendations that we have been putting together as we've considered this at a
767 staff level is that we should allow political and other noncommercial signs without
768 requiring a sign permit with the following limitations. We began with up to 32 square feet
769 of sign area per lot because we already had that limitation on some other kinds of signs
770 in residential areas. Since I spoke to you two weeks ago, the concern has been
771 expressed that number may be too large—that 32 square feet may be too large of a sign
772 area. For example, on townhouse lots that are only 22 or 24 feet wide, or on zero-lot-line
773 lots where you only have 35 feet of frontage and 50 feet of width, it might be excessive to
774 allow a 32-square-foot sign on each lot without requiring a permit. So, we do want to
775 continue to consider that number. We may want to bring that down. The catch there is if
776 we reduce it for noncommercial speech, we have to reduce it for commercial speech as
777 well. So, it would be a little bit more detailed in the amendment to reduce other types of
778 signs to whatever limit we're comfortable with for noncommercial signs. We can't
779 regulate these signs more strictly than we do commercial signs.

780
781 We are recommending sticking with the eight-foot height limit; that seems to work well for
782 this sort of thing. Of course, no sign should be allowed to be located in the sight distance
783 triangle because that leads directly to traffic concerns. We're also proposing that the
784 setback for these signs, particularly in one-family districts, would have to meet the same

785 setbacks as other signs, which is generally 15 feet from any property line, whether it's a
786 right-of-way, or a side, or a rear.

787
788 As we mentioned, we are trying to move this amendment through with all deliberate
789 speed so that we can have new regulations in place before the November election really
790 hits us in full force. It's already, of course, very much on the TV, and there are some
791 signs out there. We would like to get ahead of that rather than play catch-up again, so
792 we are looking at a fairly aggressive schedule. Today is the work session. We'd like for
793 you to hold a public hearing on July 12 so that we can have it before the Board of
794 Supervisors for work session on the 24 and they'll be set up to hold their public hearing
795 on August 14.

796
797 With that, I'll be happy to try to answer your questions.

798
799 Mr. Emerson - Mr. Chairman, if I could, before we begin discussion—and Mr.
800 Blankinship did touch on it; you're aware of this. For the record, Mr. Kaechele did contact
801 me with the concern about the signage being too large for some residential lots, 32-
802 square feet. I'm sure Mr. Thornton will recall he had that concern when the Board
803 discussed this. He requested that I make the Commission aware of his concern
804 regarding the size of this type of signage that could stay up for an indefinite period of
805 time on smaller lots. Specifically, he used as an example a 20-foot RTH lot. So, he does
806 have that concern.

807
808 Mr. Branin - With that in mind, Mr. Blankinship, can we restrict the size
809 and point out—restrict on R-5A, RTH, and then where we know the lot size is larger, like
810 an R-3, leave it where it is?

811
812 Mr. Blankinship - We certainly can. Right now, the way it's listed in the
813 ordinance, we have a set of signs that are allowed in the R-0 through R-4A districts and
814 the R-5A. There are a couple of other districts all grouped together. What we could do is
815 break that out and R-0 to, say, R-2 or R-2A would be allowed 32 square feet, and all of
816 the other signs would remain the same. Then, we'd have a new category for R-2A or R-3
817 or whatever through all the other smaller lots. In those, we'd have to limit the "for sale"
818 signs. Any other sign that's allowed would have to be limited to 16 square feet, or
819 whatever number the Commission or the Board picked. By doing that, I think we could
820 have a separate section for those zoning districts, as long as we treat noncommercial
821 signs with at least as much deference as commercial signs in those districts. That has
822 not been vetted by the County Attorney's office. The deputy County attorney is here this
823 morning. I don't know if he wants to speak to this or not.

824
825 Mr. Emerson - Ben, is it possible we could—you know, one of the things that
826 concerns me is you could have an R-2 lot that's an acre. You could have an R-5 lot that
827 could be 80 feet wide. That's not normal, but you could. Versus zoning categories,
828 should it be based on width of lot? I know that complicates it.

829
830 Mr. Blankinship - Yes, that's another approach that could be taken.

831

832 Mr. Emerson - From an administrative standpoint that would complicate it a
833 lot.

834

835 Mr. Blankinship - My immediate impression of that is that it would lead to an
836 argument that a person with a wider lot has more right to political speech than a person
837 with a narrow lot. To me, that could be more problematic than separating it by zoning
838 district, but, again, we haven't had an opportunity yet to discuss this in detail with the
839 County attorneys.

840

841 Mr. Witte - We could align this—or can we—with the setbacks for the
842 zoning or minimum lot square footage?

843

844 Mr. Blankinship - Yes, sir. In brief, that's what I'm suggesting doing by saying
845 there's one set of rules for R-0 to R-2 and a different set for R-2A or R-3, wherever you
846 want to draw the line.

847

848 Mr. Witte - That's not restricting anybody's freedom of speech by
849 changing the lot size for different size lots, sign sizes?

850

851 Mr. Blankinship - Right, it would just be by zoning district, which to me is a
852 basis on which we already regulate.

853

854 Mrs. Jones - Mr. Blankinship, just to follow that up. I do have just a couple
855 of questions, if I could, Mr. Chairman.

856

857 Mr. Branin - Absolutely.

858

859 Mrs. Jones - Okay. I didn't want to jump in. Just to follow up on that point,
860 obviously what we're looking at is scale.

861

862 Mr. Blankinship - Proportion.

863

864 Mrs. Jones - What we're trying to do is create a situation that's not just
865 arbitrary. What we're trying to do is to make sure that we don't get into safety issues
866 such as a large sign on a very small lot and people can't see coming and going. So, I
867 think there are a lot of very solid reasons why there might be a delineation, and it seems
868 logical to me that the R-2 or R-2A might be the dividing point simply because of the
869 nature of the neighborhoods in which these different zoning districts are. That can be
870 something we work out later.

871

872 Before we get too much further, just so I'm sure I'm understanding what you're saying,
873 could you define noncommercial?

874

875 Mr. Blankinship - Certainly. It's any speech that is not commercial.

876

877 Mrs. Jones - Okay.

878
879 Mr. Blankinship - It is not a term that is defined in the zoning ordinance.
880 Typically, *commercial* means relating to a business, and so noncommercial would be all
881 other. Commercial speech is related directly to a business. For example, when we get
882 into school buses is the other time when we have to split this hair. You have to have a
883 commercial driver's license to drive a school bus, but a County school bus is not a
884 commercial vehicle because the vehicle is not used in connection with commerce.

885
886 Mrs. Jones - What I guess I'm getting at is—what I'd love to see is—having
887 us come to an answer that doesn't create more problems than it solves because of
888 enforcement issues or whatever. I'm trying to play devil's advocate with this. If a sign
889 refers to an enterprise that collects fees or provides some commercial element—and
890 we're talking about like the preschool or maybe an estate sale—I don't know. Whatever it
891 is, it's a commercial enterprise, but it's not a standard commercial sign because it's not
892 something that's necessarily going to be up there all the time, which brings me to my
893 second point. Is there a differentiation in the code between temporary and permanent,
894 and how are those defined?

895
896 Mr. Blankinship - We do use the word *temporary* with respect to signs quite a
897 bit in the code. There are some cases where that's fairly clearly defined, for example on
898 real estate for rent, or sale, it says that it has to be removed within so many days of the
899 sale or rental of the real estate. Now, as we're all aware, that doesn't work the way you
900 think it will because if you have a shopping center with 30 storefronts, as long as one of
901 them is vacant and for rent, you can keep your sign up. Those "real estate for rent" signs
902 tend to become permanent. Apartments are the same way. If you have 300 apartments
903 with a 99 percent occupancy rate, and you have three apartments vacant at any given
904 time, you can have a sign up that says, "Apartments for rent."

905
906 In political speech, there have been some challenges in court of ordinances that limited
907 the time period that a sign could be up either before or after the election. Some of those
908 have survived, but most of them, my understanding is, have been struck down.

909
910 Mrs. Jones - They've been struck down which way?

911
912 Mr. Blankinship - Struck down in terms of not allowing the time limitation. Here
913 is the other problem. This is a political sign that makes a political statement, but there is
914 virtually no limit on the time period that this political statement would be germane.

915
916 Mrs. Jones - Because it's not linked to an event.

917
918 Mr. Blankinship - Right. It's not like a campaign sign. We would be treading on
919 thin ice if we were to say campaign signs can go up this date and come down that date,
920 but this sign could stay up as long as this person is unhappy with the government or
921 whatever.

922

923 Mrs. Jones - Just so that I understand the process now, if this person
924 came into our offices and asked for a permit, would there be a problem with him getting a
925 permit do you think?

926
927 Mr. Blankinship - Not necessarily. This one, actually, I think is also too close to
928 a property line. He wasn't actually served a notice. He was notified that the sign was
929 unlawful and that he had to get a permit for the sign. I believe as part of getting the
930 permit, he did have to move the sign.

931
932 Mrs. Jones - Okay. So, what we're considering now, there is no
933 differentiation between what would be considered temporary or—for instance, anything
934 advertising an event of any kind would be considered, I guess, a temporary sign because
935 it's geared to a time. This gets awfully—

936
937 Mr. Blankinship - It does. The fact is when people put up signs for temporary
938 events, they generally take them down. When they put up campaign signs, they
939 generally take them down fairly promptly. If we were to require it to be taken down—it's
940 not so much taking down as putting up. If we were to say you can put it up 45 days
941 before the election, but you can't put it up 46 days before the election, that's the sort of
942 thing I think the courts have been pretty strict about. They don't want us to put that time
943 limit on it.

944
945 Mrs. Jones - How many complaints do we get, generally on a yearly basis
946 or whatever about signage?

947
948 Mr. Blankinship - Mr. Strickler is here, and if you really need the details on that
949 I'll invite him up. I know it's not that many. I think we're looking in the nature of ten a
950 year. The problem is the nature of the complaints tends to be people are accusing the
951 County of discriminating based on political feeling. I've had enough of these phone calls
952 to speak of this in the first person. People call me and yell at me that the County is
953 favoring one political party over the other because of the way we handle political signs.
954 There was an article in the newspaper a couple of years ago that basically said the
955 County does not enforce its sign ordinance. So, there aren't that many complaints, but
956 when they come in they're the kind of complaints that we'd really like to not have.

957
958 Mr. Branin - Any other questions?

959
960 Mr. Archer - Mr. Blankinship, we should give your phone number then. I
961 did have a question also. Can you put that yellow sign back up again, please? It might
962 not have been the same sign, but I believe you indicated last time we discussed this that
963 we only consider the actual footage of that yellow sign?

964
965 Mr. Blankinship - The ordinance does discriminate between the sign area and
966 the sign structure, and, in this, I would say the posts are clearly structure.

967
968 Mr. Archer - And the flag?

969
970 Mr. Blankinship - The flags are not regulated; flags are exempt. I would say the
971 yellow area that contains the message would be sign area.
972
973 Mr. Archer - Okay. I was wondering because as Mrs. Jones just indicated,
974 if the wind were blowing, those flags are flying. At least one flag could cover a sizable
975 area, and it would still sort of be signage, I would think. A flag is just unregulated
976 because they are flags.
977
978 Mr. Blankinship - They are listed as a sign that is allowed without a permit.
979
980 Mr. Thornton - Mr. Blankinship, I have a hypothetical to ask you. What if a
981 sign like this has profanity on it or has racial epithets? My concern is that sometimes
982 when we relent to certain groups, we open a different Pandora's Box on some of these
983 things here. Sometimes they can come back to haunt us. So, I'm saying what if a person
984 put up something like this and it was somewhere between profanity and/or racial
985 epithet—would we have to allow that?
986
987 Mr. Blankinship - You're far enough over my head now that I am going to ask
988 Mr. Tokarz if he cares to respond.
989
990 Mr. Branin - So you're both prepared, Mr. Tokarz, I'm going to ask you to
991 come down and answer some questions that we may have and get the feeling of the
992 County Attorney's Office. Also, Mr. Strickler, we may have some questions for you, so if
993 you'd also be prepared. Sir, would you state your name for the record?
994
995 Mr. Tokarz - Tom Tokarz with the County Attorney's Office. Members of
996 the Commission, we have briefed the Board of Supervisors in closed session to provide
997 legal advice to them. What I would propose to you, rather than give you legal advice in
998 open session, is to provide legal advice to any questions you would like to forward either
999 to me or to the Director of Planning in a closed session prior to your public hearing on
1000 July 12. Because of the First Amendment and the Constitutional issues involved, I don't
1001 really feel comfortable giving legal advice in the open session. I hope you'll understand
1002 that, Mr. Thornton, because your question deals with First Amendment free speech
1003 issues. I would prefer to do that in closed session, if that would be acceptable to the
1004 Chair.
1005
1006 Mr. Branin - That would be acceptable and understood.
1007
1008 Mr. Tokarz - All right. Any questions you may have of a legal nature, you
1009 can either forward to me or Mr. Emerson, and I'll be prepared to meet with you like we
1010 did with respect to RLUIPA and places of worship. We'll meet with you prior to the public
1011 hearing and address all of those for you.
1012
1013 Mr. Branin - Okay, thank you.
1014

1015 Mr. Leabough - I have a question for Mr. Blankinship. I'm just trying to
1016 understand what's wrong with the way the code is now in terms of requiring that
1017 someone seek a permit. Now, let me ask this question. In terms of the permit approval
1018 process, would that process involve the materials from which the sign is made, or does
1019 that get into that at all? Because, to me, it depends on what the sign is made out of. This
1020 sign could eventually deteriorate over time. So, then it's not only speech that's there, it's
1021 an eyesore for the community. Does the permit process look at the materials from which
1022 a sign is made to make certain that it's durable or anything like that?

1023
1024 Mr. Blankinship - There are some cases where signs like this might require a
1025 building permit. If it required a building permit, then Building Inspections would be looking
1026 at the structural aspect of it and the wind load, that sort of thing. There is never really a
1027 clear fit between the Building Code and Zoning Ordinance, and it's difficult for us to say
1028 that this category of zoning signs is exempt from Building Inspections. Basically, any
1029 painted sign that is unlighted can be considered exempt from the Building Code. So, if it
1030 is exempt—and I think these sorts of political signs, these would clearly be exempt from
1031 the Building Code. So, we would not have any review over the materials of that even if
1032 they applied for a permit. This I'm sure. We would probably route it to Building
1033 Inspections, but if they looked at it and said that's not covered by the Building Code, then
1034 no, nobody would be looking at the materials or the durability.

1035
1036 Mr. Leabough - See, that's what I'm struggling with. What's wrong with the
1037 way the ordinance is now? I know that people aren't getting the permits required for
1038 political signs, but I think I agree with Mr. Thornton. I mean, we're opening up a box that I
1039 don't think we want to open if we start to allow signage up to 32 square feet or 64—
1040 whatever that number is. In my own personal opinion, I don't know what's wrong with
1041 what we have today. Now, if it's an enforcement issue, that's something different, but I
1042 think that we open up Pandora's Box if we allow it to be up to 32 or 64, if we change that
1043 number. Is it three square feet today?

1044
1045 Mr. Blankinship - Three square feet without a permit today. These signs are
1046 allowed but require a permit.

1047
1048 Mr. Leabough - Just imagine everyone in a neighborhood putting up signs like
1049 this. To me, just looking at what that would do to a community if we don't control and
1050 regulate it to some extent—

1051
1052 Mr. Blankinship - We have had the same discussion among staff that if
1053 everybody wanted to put up one of these signs, it would be a problem.

1054
1055 Mr. Leabough - A huge problem.

1056
1057 Mr. Blankinship - Everyone does have the right to put the sign up now; all they
1058 have to do is come down and get a permit.

1059
1060 Mr. Leabough - But most people—your average citizen doesn't know that.

1061
1062 Mr. Blankinship - Well, that's probably true.
1063
1064 Mr. Leabough - So, I think that if we start to open that door by—I don't know. I
1065 don't know if we want to go there.
1066
1067 Mr. Blankinship - Right. One option open to the County is to not take action on
1068 this.
1069
1070 Mr. Branin - Mr. Blankinship, Mr. Tokarz is coming down, and he may be
1071 able—before you speak—
1072
1073 Mr. Tokarz - Let me just step in and talk about the answer to your
1074 question, and this does not involve anything that is not already public knowledge. The
1075 way this question came to the Board of Supervisors—Mr. Thornton will remember—the
1076 gentleman who erected this sign appeared at a public meeting and asked the Board of
1077 Supervisors why a sign permit was required for a speech in which a political message
1078 was being provided. He discussed with the Board of Supervisors a Supreme Court case
1079 called *Ladue* and went through a long discussion about whether the permit required
1080 imposed a burden in violation of the First Amendment to the Constitution. So, that's the
1081 argument as to—the proposal is to discuss whether a permit should continue to be
1082 required for political signs and whether that constitutes a burden on the First
1083 Amendment. So, that's what has led to staff's review and the recommendation that the
1084 permit requirement be removed. The fact is right now, under the ordinance, people can
1085 do political speech up to 32 square feet on a residential lot; they have to get a permit.
1086 The question was, should a permit continue to be required, and if it's not going to be
1087 required, should there be any other restrictions? So, that's what's led to the staff
1088 recommendation today.
1089
1090 Mr. Witte - So, any zoning area—residential, commercial, whatever—can
1091 put up to a 32-square-foot political sign with a permit?
1092
1093 Mr. Tokarz - As Mr. Blankinship indicated earlier, every zoning district has
1094 different sign regulations. What we were focusing on, because this is a residential
1095 district, is the regulations dealing with residential districts. In a residential district you are
1096 allowed to put up a real estate sign not exceeding 32 square feet if you have a sign
1097 permit. You're allowed to put up a temporary real estate sign—one of those little yard
1098 signs, three-square-foot signs—without a permit. If you want to go above that, you have
1099 to get a permit, and at that point, you can go up to 32 square feet. This sign the
1100 gentleman has is 32 square feet. The County notified him he needed a permit. He
1101 challenged whether a permit could be validly required of him.
1102
1103 Mr. Witte - This permit process, I'm not familiar with it. Are there
1104 guidelines, or is it just I want to put up a sign, here's my fee or whatever?
1105

1106 Mr. Blankinship - As long as the request meets the requirements of the code,
1107 the permit has to be issued. So, we would check it against the setbacks. That's probably
1108 the main thing we would check. We would check the height, and very few of these signs
1109 challenge the eight-foot height. We'd measure the area, but as long as it meets the
1110 requirements of code, we're required to issue the permit. We don't have the discretion to
1111 say we don't think this is a good sign.

1112
1113 Mr. Witte - Okay. So, if everybody in a neighborhood decided they
1114 wanted their free speech because they don't particularly like the color of somebody's
1115 house, they can all put up 32-square-foot signs saying we don't like Bob Smith's house
1116 and the color, it's pink, or whatever?

1117
1118 Mr. Blankinship - Yes.

1119
1120 Mr. Leabough - At least at that point you'd be notified about it so you could
1121 take enforcement action if it didn't meet the setback requirement or other requirements
1122 around the process.

1123
1124 Mr. Blankinship - Yes, that's true.

1125
1126 Mr. Leabough - But without that process in place, you'd have a whole
1127 neighborhood full of these signs and nobody would know it until somebody complained.

1128
1129 Mr. Blankinship - Right. Or an inspector saw it and took proactive action.

1130
1131 Mr. Leabough - Yes.

1132
1133 Mr. Archer - Well, Mr. Blankinship, have there been other instances where
1134 someone has come forward like this gentleman did? I guess the reason I'm asking that is
1135 because it's sort of in line with Mr. Thornton's question and what Mr. Leabough was
1136 saying. I always think back when we talk about changing a rule. I think back to what the
1137 original concept was when the ordinance was first adopted. I'm sure whoever put this up
1138 gave a lot of long and hard thought to what we would want to put into the ordinance as
1139 far as the process goes. I just wonder should we think long and hard before changing
1140 what they came up with because one or two people complain about it.

1141
1142 Mr. Blankinship - I can assure you we've thought long and hard about this.

1143
1144 Mr. Archer - I'm sure you did, but—

1145
1146 Mr. Blankinship - Which doesn't mean that we're 100 percent sure of what the
1147 right answer is, of course; we rarely are. This is an issue where we know come
1148 November there are going to be a lot of 32-square-foot noncommercial signs up for
1149 which no one's going to acquire a permit. We know the phone calls are going to come in,
1150 "Are these people getting permits for these signs?" The answer is a permit is required,

1151 and they're not getting them. So, the next question is, what is the County going to do
1152 about it?

1153
1154 Mr. Branin - And Mr. Blankinship, would you run through the process that
1155 say on October 10th someone puts up—you can go back to the double signs, which are
1156 definitely even beyond the 32 square feet. What is the process that goes through?

1157
1158 Mr. Blankinship - We would notify the property owner, normally. Sometimes—

1159
1160 Mr. Branin - By what means?

1161
1162 Mr. Blankinship - Let me take one step backward and say that in July or August
1163 we will send a letter to all of the campaigns stating to them what the regulations are and
1164 requesting their cooperation in complying with the code and in removing their signs
1165 promptly.

1166
1167 Mr. Emerson - Mr. Blankinship, not to interrupt you, but while you're—we
1168 send out the letter. Somewhere in the explanation you're giving right now, why don't you
1169 provide the Commission with the background on the requests we received last election
1170 cycle from an elected official, and the challenges that presented to us in terms of how
1171 permits are issued.

1172
1173 Mr. Blankinship - Okay. I will; thank you. We do send a letter out in July or
1174 August of each campaign season. We get the list from the registrar of all the candidates
1175 who are registered, and we send them all letters setting out what the regulations are,
1176 asking for their cooperation, and reminding them to remove the signs promptly after the
1177 election. If we receive a complaint on October 10, we would notify the campaign or the
1178 property owner, or sometimes both, that they put up a sign that requires a permit, and we
1179 don't have a record of the permit, and they're required to come in and apply for a permit
1180 within 30 days.

1181
1182 Mr. Branin - Within 30 days.

1183
1184 Mr. Blankinship - Right. The state law gives them 30 days to appeal a Notice of
1185 Violation, so by filing an appeal they can stay any enforcement action. So, we know that
1186 within 30 days there's a practical limitation on us taking any effective action. Of course,
1187 we always begin by trying to get compliance. We're not into the enforcement business;
1188 we're in the compliance business.

1189
1190 Mr. Branin - So, when the critics of Henrico County come out and say we
1191 ignore our own sign ordinance, that is actually nowhere near being true. We follow the
1192 same process year in and year out, which is proper notification prior, notification of
1193 violation, and 30 days to comply.

1194
1195 Mr. Blankinship - Well, when you asked your question you specified October
1196 10. My answer was geared to your question.

1197

8 Mr. Emerson - Well, it would be 30 days from the beginning of whatever
1199 point, and I think where Mr. Branin is headed is most of the campaigns get our letter.
1200 They understand the time frame they have to work in. The majority of their signs go up
1201 within that 30-day time frame and come back down. Therefore, they use the state code
1202 to their advantage.

1203
1204 Mr. Blankinship - The situation that Mr. Emerson referred to a minute ago had
1205 to do with the three-way Commonwealth Attorney's race last year. One of the candidates
1206 approached us well in advance of the election and basically said, "I want to be the
1207 candidate who does everything above board. I'm running for a law enforcement post; I
1208 feel like I have to be in compliance with the letter of the law. I understand how you
1209 enforce it, but I want to be in compliance with the letter of law. Tell me what I need to
1210 do." He wanted to put up—I'm trying to remember the number of signs—I think it was 50
1211 signs of varying sizes up to 32 square feet. We put our heads together and looked
1212 through the code. It appeared to us that it requires a permit. It's pretty clear in the code
1213 that you can put more than one sign on a permit application if they're on the same lot,
1214 but if you want to put up 50 signs on 50 lots, you have to fill out 50 applications and pay
1215 50 fees. The minimum fee for a sign is \$40. So, this was not going to be any less than
1216 \$2,000 in fees and a very large workload item for us. I don't know how long it would take
1217 us to issue that many sign permits if they were applied for in one day. So, in a way, we're
1218 punishing the one candidate who comes in and says, "I want to follow all the rules; tell
1219 me what all the rules are, and we'll follow them." We are rewarding all the candidates
10 who rely on business as usual, even though they know that they're not strictly in
1221 compliance with the rules.

1222
1223 Mr. Emerson - That's the only time we actually had somebody ask the
1224 question.

1225
1226 Mr. Blankinship - Well, not the only time, but that was the most recent and the
1227 first time it involved 50 signs at once.

1228
1229 Mr. Emerson - Right.

1230
1231 Mr. Archer - I think if we look at this in terms of people calling in
1232 complaints, I would think that the motivation for them calling in is because they don't like
1233 the sign.

1234
1235 Mrs. Jones - The sentiment, you mean.

1236
1237 Mr. Archer - Or the sentiment, yes, what the sign says. So, if a person has
1238 a non-permitted sign and somebody calls to complain about it and then the person pays
1239 the fee and gets the permit, then the complaint is still as large as it was before.

1240
1241 Mr. Blankinship - Yes.

12

1243 Mr. Archer - The only difference is somebody paid for it. So, we didn't
1244 solve anything; we just collected a little money.

1245
1246 Mr. Blankinship - Yes, sir. And created some paperwork for the government.

1247
1248 Mr. Archer - I think this is a little more complicated than the [inaudible].

1249
1250 Mr. Branin - Mr. Tokarz, I'm not going to ask you to come back up. You'll
1251 probably shake your head, or Mr. Blankinship, you may be able to answer this question.
1252 In this photograph we have presented in front of us, if there is a homeowners'
1253 association here that has a regulation against this sign, we wouldn't be getting involved
1254 in this anyway. Wouldn't it be a homeowners' association's obligation to interact in this?

1255
1256 Mr. Blankinship - With some noncommercial speech that might be an issue. In
1257 the case of political signs—and I believe it was an immediate follow-on of the *Ladue*
1258 case that Tom referred—the next step was the homeowners' association tried to make
1259 the person remove their sign. She again won in the court. The court said even the
1260 homeowners' association could not prevent a homeowner from a—I believe it was—a
1261 three-square-foot sign in the window of her home. The court said something as minor as
1262 that the homeowners' association could not regulate.

1263
1264 Mrs. Jones - That brings up an interesting point.

1265
1266 Mr. Blankinship - I should check myself on that. Did I get that close to right?

1267
1268 Mr. Tokarz - I don't remember that portion of the opinion. Ben's
1269 recollection is better than mine on that. Generally, though, we do not get involved in
1270 enforcement of restrictive covenants or homeowners' association's enforcement of their
1271 own internal bylaws and rules and regulations. Our concern at this point is simply the
1272 structure of the Sign Ordinance and enforcement of the Sign Ordinance as it is regulated
1273 by the County. We leave the other—we consider those to be private civil matters. I'm
1274 sorry I don't remember that portion of the homeowners' association option. I was focused
1275 more on the public enforcement under the First Amendment. Homeowners' associations
1276 generally are not going to be subject to the same type of requirements as governmental
1277 bodies. There are different constraints, so I didn't really focus on the homeowners'
1278 association aspect of the opinion.

1279
1280 Mr. Branin - The only reason I brought that up, Mr. Blankinship, is
1281 because of the comment that Mr. Leabough made about what if everybody in the
1282 neighborhood puts up these signs and the whole neighborhood is going to have signs. I
1283 would think in that case a homeowners' association would be stepping in to regulate that.

1284
1285 Mr. Leabough - That would presume that a neighborhood has a homeowners'
1286 association.

1287
1288 Mrs. Jones - Exactly.

1289

Mr. Branin - Good point.

1291

Mr. Leabough - And being a former president of my homeowners' association, we thankfully have regulations or restrictive covenants around that. Some homeowners' associations may not; I don't know.

1295

Mrs. Jones - And how old the neighborhood is. There are plenty of older ones like mine that don't have any restrictions on the books. The point you made was interesting; it hadn't occurred to me. We're only talking about exterior signage, correct? Signs in windows are not signs?

1300

Mr. Blankinship - I know in the commercial districts we have a separate paragraph in the list of what's allowed for paper signs in windows. They are specifically regulated. I would think that if you put a yard sign in the window of a home facing toward the street we would consider that to be a sign. We would consider it to be permitted, but we would consider it to be a sign.

1306

Mr. Witte - I have a question, and I don't know how much this relates. As for as the HOAs go, if they allow a "real estate for sale" sign, can they restrict religious, political, or whatever signs as along that first sign? If they allow a business sign such as a real estate sign—for sale, for rent, whatever—can they restrict somebody putting a "Hunton Baptist Church" sign in their front yard or a political sign or whatever? I don't understand the difference.

1313

Mr. Blankinship - The difference between the regulatory powers of an HOA versus the government?

1316

Mr. Witte - Right.

1318

Mr. Blankinship - Starting from there, I can give you a partial answer, which is that our regulatory powers come from the state government, from the state code. Theirs are a matter of private contract. Everyone who buys a home is essentially joining a contract saying I agree to the following. So, they do have a lot broader discretion than we have on many matters, particularly on regulating aesthetics. If everyone buys into a covenant that says you will not paint your house the following colors because we deem them to be ugly—

1326

Mr. Witte - But that's not freedom of speech.

1328

Mr. Blankinship - Right, right. But their power is broader there whereas we would be on shaky ground regulating solely based on aesthetics. Whether they regulate these kinds of rights is a slightly different matter. We'll need to do some research for you.

1332

Mr. Witte - Maybe Mr. Tokarz can enlighten us; he's smiling back there.

1334

1335 Mr. Emerson - Wouldn't this be similar to the flag issues we've had?

1336
1337 Mr. Blankinship - That's a good example, yes. The flagpole in Wyndham and
1338 others.

1339
1340 Mr. Emerson - The HOAs have always had the ability to regulate, and they
1341 attempted to. Of course, we got all the e-mails.

1342
1343 Mr. Witte - But they said no flags and we're saying they're allowing a "for
1344 sale" sign. So, at that point, can they restrict the freedom of speech to other people with
1345 their signs?

1346
1347 Mr. Tokarz - Tom Tokarz again. I'm glad to say—I'm not so glad to say I'm
1348 not an expert on the rights of homeowners' associations. There is a whole body of law on
1349 the rights of homeowners' associations. The flag case is an example of that. That's
1350 litigation that went on for a long period of time. My recollection is that the attorneys' fees
1351 involved that case were reported to be in excess of \$100,000. In that situation, the
1352 homeowners' association situation, the homeowners' association's rights come from a
1353 declaration of covenants that is placed on the property, and then people purchase
1354 subject to that declaration. The declaration gives enforcement powers, typical case, to
1355 the homeowners' association to enforce the rules and regulations. The courts then are
1356 treating that simply as a matter of property rights and contractual agreements flowing
1357 from that declaration that's been recorded. What you have in front of you is something
1358 different. You are invested with the power of government, your police powers, and your
1359 zoning powers to make governmental regulations. That's the regulatory power that is
1360 governed by the constitutional provisions and the First Amendment, and other
1361 provisions. The powers of government are different than the homeowners' association.
1362 Freedom of speech, I don't believe—and I'm not claiming to be an expert on this—is an
1363 issue that applies in the same way to homeowners' associations that it does to you
1364 because governmental entities are the bodies that are regulated by the First Amendment
1365 to the Constitution.

1366
1367 I don't know the answer specifically. That's why I say we leave the regulation of
1368 restrictive covenants to the homeowners' associations because they are the bodies that
1369 are entrusted with the enforcement powers. They are the ones who have the right to go
1370 into court and say this either is permitted or not permitted under our regulations. I'm sorry
1371 that didn't give you an answer, but it does, I hope, try and distinguish between our rights
1372 as a governmental entity versus the rights of a homeowners' association.

1373
1374 I'm not sure I haven't confused you by saying that, from looking at your expression, but
1375 there is a significant difference. We'll do some more research because I do want to look
1376 at the *Ladue* case and see if that did discuss homeowners' association's rights in that
1377 case.

1378
1379 Mr. Witte - I have lived in a homeowners' association subdivision, and I
1380 liked it. Right now, I'm not in a subdivision, and I like it.

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Mr. Tokarz - One of the choices that people make when they purchase property is in exchange for living in a community they like, subjecting themselves to the requirements that go within the community. I live in a condominium association. The first thing you do when you look at purchasing in a condominium association is find out what are the rules and regulations.

Mr. Witte - You just don't want to cut grass.

Mr. Tokarz - I'm very lazy. I don't want to cut the grass, and I admit it. I had to make a choice. Am I willing to live with these rules and regulations? A lot of people like the rules and regulations because they believe it provides a uniformity of appearance throughout the neighborhood, and they depend on their homeowners' association to enforce that for us.

Mr. Witte - I just didn't know if they could restrict freedom of speech.

Mr. Tokarz - Well, it's not the same. They're not bound under the First Amendment like the government bodies are. That's the answer. That's the one-sentence answer for it.

Mr. Witte - Okay, thank you.

Mr. Branin - I'd like to make a recommendation to the Commission, if you all are interested. We all still have some questions. I'm sure there are some legal questions that we would like to have answered. The Board is eager to get this moved up, so we would need to have our public hearing as soon as possible.

Mr. Emerson - On July 12.

Mr. Branin - So, if we can make a motion to have a public hearing on July 12th, and then also have a work session prior where we can actually go into closed session, it may be enlightening and helpful to the group. So, I will entertain that motion.

Mrs. Jones - I so move.

Mr. Witte - I second.

Mr. Branin - Then, let it be on the record that we will have a public hearing on July 12 with a work session prior.

Mr. Emerson - What time do you want to do that work session, Mr. Chairman?

Mrs. Jones - Five o'clock?

1427 Mr. Emerson - I would suggestion 5:00 or 5:30 because you may have a lot
1428 of discussion around this topic.

1429

1430 Mrs. Jones - I would say 5:00.

1431

1432 Mr. Branin - Five or five-thirty, Mr. Archer?

1433

1434 Mr. Archer - Five-thirty would give us a chance to close up—

1435

1436 Mrs. Jones - As long as everybody is punctual because I do think we'll
1437 have a bit to discuss.

1438

1439 Mr. Archer - —but I'm just one person. I'll go along with the group.

1440

1441 Mr. Branin - Five-thirty?

1442

1443 Mr. Witte - Are we saying we're not punctual?

1444

1445 Mrs. Jones - I can't hear you. Okay, 5:30.

1446

1447 Mr. Branin - Mr. Blankinship, thank you for your enlightenment, as always.

1448

1449 Mr. Blankinship - Thank you, Mr. Chairman.

1450

1451 Mr. Emerson - So, we will have a public hearing on July 12 and a closed
1452 work session at 5:30 with the County attorney to discuss the legal aspects of this topic.

1453

1454 Mrs. Jones - I have a request. Is it possible to get a copy of this
1455 PowerPoint?

1456

1457 Mr. Emerson - Yes, ma'am, we can do that for you.

1458

1459 Mrs. Jones - Thank you.

1460

1461 Mr. Blankinship - We'll put it on the portal.

1462

1463 Mrs. Jones - Perfect. Thank you.

1464

1465 Mr. Leabough - And we're able to submit questions prior to the work session?

1466

1467 Mr. Emerson - Absolutely. If you would, send them to me, send them to Mr.
1468 Tokarz, or send them to both of us. We'll make sure that we're both apprised. We'll share
1469 back and forth and get set up for your work session on July 12.

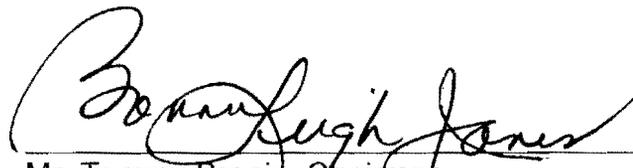
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1471 Mr. Branin - Does anybody else have any other topics of business?

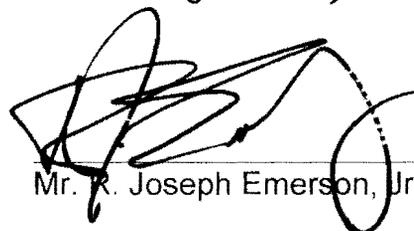
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1473 Mr. Archer - So, this meeting will be in the County Manager's room?
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1475 Mr. Emerson - I will have to check on the availability of that room, Mr.
1476 Archer, but that would be my plan right now, yes, sir.
1477
1478 Mr. Branin - If not, it would be in the library, I'm sure, or large conference
1479 room.
1480
1481 Mr. Emerson - Probably.
1482
1483 Mr. Archer - And we will be having some sort of food, sustenance to
1484 sustain ourselves?
1485
1486 Mr. Emerson - Absolutely. We will have some sustenance.
1487
1488 Mr. Branin - Any others? Anyone? I'll entertain a motion for closure.
1489
1490 Mrs. Jones - I move we adjourn.
1491
1492 Mr. Leabough - Second.
1493
1494 Mr. Branin - So moved.
1495
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1497 Meeting is adjourned.

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~~Mr. Tommy Branin, Chairman~~
Bonnie Leigh Jones, Acting Chairman



Mr. R. Joseph Emerson, Jr., Secretary

**DECLARATION OF PERSONAL INTEREST
IN TRANSACTION CONSIDERED BY
THE PLANNING COMMISSION**

Pursuant to the requirements of § § 2.2-3112(A)(2) and 2.2-3115(E) of the Code of Virginia, 1950, as amended, I hereby declare my personal interest in a transaction considered by the Planning Commission of Henrico County, Virginia on June 27, 2012 as follows:

- (1) The transaction involved is the Planning Commission's consideration of a landscape plan for Tuckaway Child Development Center at New Market Road and Midview Road in Henrico County, Virginia.
- (2) My personal interest in the transaction arises because of my membership on the Planning Commission which is considering the landscape plan for the facility which my daughter attends in a summer camp program.
- (3) I am a member of a group of people affected by the transaction decision, namely those persons whose children attend programs at the Tuckaway Child Development Center.

The County Attorney has advised me that I do not have a conflict of interest that prevents me from voting on this matter. However, I would like the Clerk to record that I am neither participating nor voting on this transaction.



Eric Leabough
Planning Commission of
Henrico County, Virginia

Dated: June 27, 2012

PLANS OF DEVELOPMENT

A. Standard Conditions for all POD's:

1. The owner shall enter into the necessary contracts with the Department of Public Utilities for connections to public water and sewer. **(when the property is served by public utilities)**
- 1A. The owner shall enter into the necessary contracts with the Department of Public Utilities for connections to public water. The well location shall be approved by the County Health Department before a building permit is issued. Connection shall be made to the public water system when available within 300 feet of the site/building. **(when not served by public water)**
- 1B. The owner shall enter into the necessary contracts with the Department of Public Utilities for connections to public sewer. The septic tank location shall be approved by the County Health Department before a building permit is issued. Connection shall be made to the public sewer when available within 300 feet of the site/building. **(when not served by public sewer)**
2. The Director of the Department of Public Utilities shall approve the plan of development for construction of public water and sewer, prior to beginning any construction of these utilities. The Department of Public Utilities shall be notified at least **48** hours prior to the start of any County water or sewer construction.
3. The parking lot shall be subject to the requirements of Chapter 24, Section 24-98 of the Henrico County Code.
4. The parking spaces shall be marked on the pavement surface with four-inch-wide traffic painted lines. All lane lines and parking lines shall be white in color with the exception that those dividing traffic shall yellow.
5. Sufficient, effectively usable parking shall be provided. If experience indicates the need, additional parking shall be provided.
6. Curb and gutter and necessary storm sewer shall be constructed as shown on approved plans.
7. The plan of development plan shall be revised as annotated on the staff plan dated **June 27, 2012**, which shall be as much a part of this approval as if details were fully described herein. Eight (8) sets of revised plans, including the detailed drainage, erosion control and utility plans, shall be submitted by the design engineer who prepared the plans to the Department of Planning for final review. Upon notice from the Department of Planning to the Engineer that all comments have been addressed, twenty-one (21) sets of final plans for signature shall be submitted to the Department of Planning for approval signatures. Two (2) sets of the approved plan shall be attached to the building permit application. **(Revised January 2008)**
8. Two copies of an Erosion and Sediment Control Agreement with required escrow shall be submitted to the Department of Public Works. Approval is required prior to construction plan approval and beginning construction. The Department of Public Works shall be notified at least 24 hours prior to the start of any construction.
9. A detailed landscaping plan shall be submitted to the Department of Planning for review and approval prior to the issuance of any occupancy permits.

9. **AMENDED** - A detailed landscaping plan shall be submitted to the Department of Planning for review and Planning Commission approval prior to the issuance of any occupancy permits.
10. All groundcover and landscaping shall be properly maintained in a healthy condition at all times. Dead plant materials shall be removed within a reasonable time and replaced no later than the next planting season.
11. Prior to the approval of an electrical permit application and installation of the site lighting equipment, a plan including light spread and intensity diagrams, and fixture specifications and mounting height details shall be submitted for Department of Planning review and approval.
11. **AMENDED** - Prior to the approval of an electrical permit application and installation of the site lighting equipment, a plan including depictions of light spread and intensity diagrams, and fixture specifications and mounting height details shall be submitted for Department of Planning review and Planning Commission approval.
- 11B. Prior to the approval of an electrical permit application and installation of the site lighting equipment, a plan including light spread and intensity diagrams, and fixture specifications and mounting heights details shall be revised as annotated on the staff plan and included with the construction plans for final signature. **(For POD which includes lighting plan approval)**
12. All exterior lighting shall be designed and arranged to direct the light and glare away from nearby residential property and streets.
13. The site, including the parking areas, shall be kept clean of litter and debris on a daily basis. Trash container units/litter receptacles and recycling containers shall be maintained with regular pickups scheduled and shall be screened properly on all four sides. The gate(s) shall remain closed except when the receptacle(s) are being filled or serviced and shall be repaired or replaced as necessary. Details shall be included with the final site plan or required landscape plan for review and approval.
14. Required fire lanes shall be marked and maintained in accordance with the Virginia Statewide Fire Prevention Code.
15. Traffic control signs shall be provided as indicated on the Department of Planning Staff plan. All signs shall be fabricated as shown in The National Manual on Uniform Traffic Control Devices for Streets and Highways and The Virginia Supplement to The Manual on Uniform Traffic Control Devices for Streets and Highways.
16. The assigned property number(s) shall be displayed so it is easily readable from the street. If assistance is needed with the address, please contact the Department of Planning at 501-4284. The Planning Department must assign all property addresses. **(Revised January 2008)**
17. The owner shall have a set of plans approved by the Director of Public Works, Public Utilities and Secretary of the Planning Commission available at the site at all times when work is being performed. A designated responsible employee shall be available for contact by County Inspectors.
18. The property shall be developed as shown on the plan filed with the case and no changes or additions to the layout shall be made without the approval of this Commission.

19. Upon completion of the improvements and prior to the certification of the permanent occupancy permit, the owner shall furnish a statement by the engineer or land surveyor who prepared the POD plan, to the effect that all construction including water and sewer is in conformance to the regulations and requirements of the POD.
20. The approved Plan of Development is granted by the Planning Commission only to the owners(s)/applicant(s) listed on the Plan of Development application on file for this project. Upon written notification to the Director of Planning, the Plan of Development approval may be transferred to subsequent owner(s) subject to approval by this Commission **(Revised July 2007)**.
21. Vehicles shall be parked only in approved and constructed parking spaces.
22. The name of this development, as designated in this approval, shall be the name used for marketing and public recognition purposes. A written request for a name change must be received and granted by the Department of Planning before such a change can be implemented.
23. The site, including paving, pavement markings, signage, curb and gutter, dumpster screens, walls, fences, lighting and other site improvements shall be properly maintained in good condition at all times. Any necessary repairs shall be made in a timely manner.
24. The developer shall provide fire hydrants as required by the Department of Public Utilities and Division of Fire.
25. Insurance Services Office (ISO) calculations shall be included on the final construction plans for approval by the Department of Public Utilities prior to issuance of a building permit.
26. Any necessary off-site drainage and/or water and sewer easements must be obtained in a form acceptable to the County Attorney prior to final approval of the construction plans.
27. The easements for drainage and utilities as shown on approved plans shall be granted to the County in a form acceptable to the County Attorney prior to any occupancy permits being issued. The easement plats and any other required information shall be submitted to the County Real Property Agent at least sixty (60) days prior to requesting occupancy permits.
28. Deviations from County standards for pavement, curb or curb and gutter design shall be approved by the County Engineer prior to final approval of the construction plans by the Department of Public Works.
29. **(Start of miscellaneous conditions)**

STANDARD CONDITIONS FOR LANDSCAPE /LIGHTING/FENCE PLANS

1. The plan shall be revised as shown in red on Staff plan dated **June 27, 2012**, which shall be as much a part of this approval as if all details were fully described herein. **Five (5)** sets of **prints** of the revised plan shall be submitted to the Department of Planning for approval stamps and distribution.
2. The property shall be developed as shown on the plan filed with the case and no changes or additions to the layout shall be made without the approval of this Commission.
3. The owner shall have a set of approved plans available at the site at all times when work is being performed. A designated responsible employee shall be available for contact by County Inspectors.
4. All groundcover and landscaping shall be properly maintained in a healthy condition at all times. Dead plant materials shall be removed within a reasonable time and replaced during the normal planting season. **(DELETE IF NO LANDSCAPING)**
5. All exterior lighting shall be shielded to direct lights away from adjacent residential property and streets. **(DELETE IF NO LIGHTING)**
6. All fences, walls, and screens, including gates and doors, shall be maintained in good repair by the owner. Trash and debris should not be allowed to accumulate along the fence or wall. **(DELETE IF NO FENCE, WALL, OR DUMPSTER SCREEN)**

B. In Addition to Item A, the Following Standard Conditions for Approval of All Zero Lot Line Developments shall apply:

29. Roof edge ornamental features that extend over the zero lot line, and which are permitted by Section 24-95(i)(1), must be authorized in the covenants.
30. Eight-foot easements for construction, drainage, and maintenance access for abutting lots shall be provided and shown on the POD plans.
31. Building permit request for individual dwellings shall each include two (2) copies of a layout plan sheet as approved with the plan of development. The developer may utilize alternate building types providing that each may be located within the building footprint shown on the approved plan. Any deviation in building footprint or infrastructure shall require submission and approval of an administrative site plan.
32. Windows on the zero lot line side of the dwelling can only be approved with an exception granted by the Building Official and the Director of Planning during the building permit application process.

C. Standard Conditions for Approval of All Dry Cleaners and Laundries in Addition to Item A:

29. The dry cleaning establishment shall use only non-inflammable cleaning solvents and have fully enclosed cleaning and solvent reclamation processes and fully enclosed pressing equipment with no outside steam exhaust.

D. In addition to Item A, the Following Conditions for Approval of All Shopping Centers Shall Apply:

29. Only retail business establishments permitted in a zone may be located in this center.
30. The ground area covered by all the buildings shall not exceed in the aggregate 25 percent of the total site area.
31. No merchandise shall be displayed or stored outside of the building(s) or on sidewalk(s).

E. In Addition to Item A, the Following Standard Conditions for Approval of All Multi-Family Shall Apply:

29. The unit house numbers shall be visible from the parking areas and drives.
30. The names of streets, drives, courts and parking areas shall be approved by the Richmond Regional Planning District Commission and **such names shall be included on the construction plans prior to their approval.** The standard street name signs shall be installed prior to any occupancy permit approval.

F. In addition to Item A, the Following Standard Conditions for Approval of All Service Station Developments Shall Apply:

29. This business shall not remain in operation after midnight and no exterior signs shall remain lighted after **(12:00 midnight - B-1) (1:00 o'clock a.m. - B-2) (no limit - B-3)**.
30. No merchandise shall be displayed outside of the building except that oil racks will be allowed on the pump islands.
31. This service station shall be used only for the sale of petroleum products and automobile accessories and parts. It shall not be used to sell or rent camping trailers, nor as a base of operation for truck fleets or fuel oil delivery or other such use that is not strictly a service station operation.
32. Only light repair work shall be allowed at this station, including motor tune-up, brake, generator, ignition, and exhaust repairs, and wheel balancing. The only work that can be performed outside the building is those services that are normally furnished at the pump island and the changing of tires.
33. No wrecked automobiles, nor automobiles incapable of being operated, shall be kept on the premises.
34. The prospective operator of this station shall come to the Department of Planning and sign the file copy of the special plan of development letter before he signs a lease with the oil company to operate this station.

G. STANDARD CONDITIONS FOR CONVENIENCE STORES WITH FUEL PUMPS IN A

B-2 ZONE

29. Bulk storage of fuel shall be underground.
30. There shall be no exterior display of merchandise except on pump islands and on paved walkway areas within three (3) feet of building.
31. Lighting fixtures shall not exceed a height greater than twenty (20) feet.
32. No temporary storage of wrecked or inoperative vehicles or rental of vehicles, trailer campers, vans or similar equipment shall be permitted.
33. Not more than two (2) electronic amusement games shall be permitted.
34. Not more than two (2) vending machines for food and beverage and similar merchandise shall be permitted on the premises outside of an enclosed building.
35. The prospective operator of this facility shall come to the Department of Planning and sign the file copy of the special plan of development letter before he signs a lease with the oil company to operate this station.
36. The landscaping plan shall include details for screening of refuse containers and refuse storage facilities in accordance with Section 24-61(i).
37. Refuse containers or refuse storage facilities shall be serviced during business hours only.
38. The owner or manager on duty shall be responsible for temporarily closing the car wash facility when the on-site stacking space is inadequate to serve customer demand to prevent a backup of vehicles onto the public right-of-way.
39. The owner shall arrange with the Traffic Engineer to provide standard traffic control signs to notify customers that stopping or standing on the public right-of-way shall not be permitted near the entrances to the car wash facility. **(If Car Wash Is Proposed)**

**H. STANDARD CONDITIONS FOR CONVENIENCE STORES WITH FUEL PUMPS
IN A**

B-3 ZONE

29. Bulk storage of fuel shall be underground.
30. The owner or manager on duty shall be responsible for temporarily closing the car wash facility when the on-site stacking space is inadequate to serve customer demand to prevent a backup of vehicles onto the public right-of-way. **(If Car Wash Is Proposed)**
31. The owner shall arrange with the Traffic Engineer to provide standard traffic control signs to notify customers that stopping or standing on the public right-of-way shall not be permitted near the entrances to the car wash facility. **(If Car Wash Is Proposed)**

SUBDIVISION - CONDITIONAL APPROVAL

Standard Conditions for Conventional Subdivisions Served By Public Utilities Public Water and/or Sewer (January 2008)

1. All requirements of Chapter 18, 19 and 24 of the Henrico County Code shall be met.
2. Construction plans, including proposed erosion and sediment controls, shall be submitted to the Department of Planning at least 30 days prior to final approval.
3. Construction shall not commence until the Director of Planning has granted final approval of the plat; and until the construction plans including the detailed drainage, erosion control, and utility plans have been approved by the Department of Planning, the Department of Public Utilities, and the Department of Public Works and a preconstruction meeting has been held with the Department of Public Works. Plans for Final Subdivision review shall be submitted to the Department of Planning in accordance with the requirements of the Final Subdivision application. Upon notice from the Department of Planning to the Engineer that all comments have been addressed, twenty-one (21) sets of final construction plans for signature shall be submitted to the Department of Planning for approval signatures. All erosion and sediment control plans, agreements, and bonds must be submitted to the Department of Public Works and approved prior to approval of the construction plans.
4. Clearing and grubbing shall not commence until a clearing and grubbing plan has been approved by the Department of Planning and the Department of Public Works. Upon notice from the Department of Planning to the Engineer that all comments have been addressed, eight (8) sets of clearing and grubbing plans shall be submitted to the Department of Planning for approval signatures. All appropriate bonds and agreements, authorizations from state and/or regulatory agencies for impacts to the Waters of the United States, and offsite easement plats must be submitted to the Department of Public Works and approved prior to approval of the clearing and grubbing plans. Approvals must be updated prior to recordation of the plat.
5. The owner shall enter into the necessary contracts with the Department of Public Utilities for water. **(Substitute condition 5A if well)**
- 5A. A detailed soil analysis shall be performed and other requirements of the Health Department met before final plats are recorded. The developer shall have the center lines of all streets and lot corners staked to facilitate the examination of lots by the Health Department Sanitarians prior to filing for final approval and shall notify the Department of Planning and Health Department in writing when the staking has been done.
6. The owner shall enter into the necessary contracts with the Department of Public Utilities for sewer. **(Substitute condition 6A if on site sewage disposal/septic)**
- 6A. A detailed soil analysis shall be performed and other requirements of the Health Department met before final plats are recorded. The developer shall have the center lines of all streets and lot corners staked to facilitate the examination of lots by the Health Department Sanitarians prior to filing for final approval and shall notify the Department of Planning and Health Department in writing when the staking has been done.
7. A copy of the letter from the Richmond Regional Planning District Commission giving approval to the street names in this subdivision shall be submitted to the Department of Planning before the recordation plat is submitted for review.
8. The plat shall be revised as shown in red on Staff plan dated **June 27, 2012**, which shall be as much a part of this approval as if all details were fully described herein.

9. This approval shall expire on **June 26, 2013**, unless an extension is requested in writing stating the reason such extension is necessary. The request shall include the fee and must be filed a minimum of two weeks prior to the expiration date.
10. The name of this development, as designated in this approval, shall be the name used for marketing and public recognition purposes. A written request for a name change must be received and granted by the Department of Planning before such a change can be implemented.
11. The conditional approval of this plat by the Planning Commission does not imply that all lots shown thereon will be granted final approval. Such approval is contingent on each lot meeting a number of requirements including but not limited to minimum zoning requirements, Health Department requirements as applicable, and design considerations.
12. Prior to a request for final approval, the developer shall provide a buildable area plan showing information for all lots within the subdivision. Such plan shall be a part of the construction plans submitted for review and for signature. The buildable area plan shall be a minimum of 1" to 50' scale or larger and shall show the buildable area for the principal structure, all setback dimensions, the minimum lot width (perpendicular to the center line of the lot at the front building line), and if applicable, any Special Flood Hazard Areas (floodplains) and the area of each lot exclusive of floodplain, wetlands, easements, buffers, Chesapeake Bay Act Areas, wells and primary/reserved drainfields.

Standard Conditions for Conventional Subdivisions Not Served By Public Utilities
(January 2008)

1. All requirements of Chapter 18, 19 and 24 of the Henrico County Code shall be met.
2. Construction plans, including proposed erosion and sediment controls, shall be submitted to the Department of Planning at least 30 days prior to final approval.
3. Construction shall not commence until the Director of Planning has granted final approval of the plat; and until the construction plans including the detailed drainage and erosion control plans have been approved by the Department of Planning, and the Department of Public Works and a preconstruction meeting has been held with the Department of Public Works. Plans for Final Subdivision review shall be submitted to the Department of Planning in accordance with the requirements of the Final Subdivision application. Upon notice from the Department of Planning to the Engineer that all comments have been addressed, fifteen (15) sets of final construction plans for signature shall be submitted to the Department of Planning for approval signatures. All erosion and sediment control plans, agreements, and bonds must be submitted to the Department of Public Works and approved prior to approval of the construction plans.
4. Clearing and grubbing shall not commence until a clearing and grubbing plan has been approved by the Department of Planning and the Department of Public Works, and a preconstruction meeting has been conducted with the Department of Public Works. Upon notice from the Department of Planning to the Engineer that all comments have been addressed, eight (8) sets of clearing and grubbing plans shall be submitted to the Department of Planning for approval signatures. All appropriate bonds and agreements, authorizations from state and/or regulatory agencies for impacts to the Waters of the United States, and offsite easement plats must be submitted to the Department of Public Works and approved prior to approval of the clearing and grubbing plans. Approvals must be updated prior to recordation of the plat.
5. A detailed soil analysis shall be performed and other requirements of the Health Department met before final plats are recorded. The developer shall have the center lines of all streets and lot corners staked to facilitate the examination of lots by the Health Department Sanitarians prior to filing for final approval and shall notify the Department of Planning and Health Department in writing when the staking has been done.
6. A copy of the letter from the Richmond Regional Planning District Commission giving approval to the street names in this subdivision shall be submitted to the Department of Planning before the recordation plat is submitted for review.
7. The plat shall be revised as shown in red on Staff plan dated **June 27, 2012**, which shall be as much a part of this approval as if all details were fully described herein.
8. This approval shall expire on **June 26, 2013**, unless an extension is requested in writing stating the reason such extension is necessary. The request shall include the fee and must be filed a minimum of two weeks prior to the expiration date.
9. The name of this development, as designated in this approval, shall be the name used for marketing and public recognition purposes. A written request for a name change must be received and granted by the Department of Planning before such a change can be implemented.
10. The conditional approval of this plat by the Planning Commission does not imply that all lots shown thereon will be granted final approval. Such approval is contingent on each lot meeting a number of requirements including but not limited to minimum zoning requirements, Health Department requirements and design considerations.

11. Prior to a request for final approval, the developer shall provide a buildable area plan showing information for all lots within the subdivision. Such plan shall be a part of the construction plans submitted for review and for signature. The buildable area plan shall be a minimum of 1" to 50' scale or larger and shall show the buildable area for the principal structure, all setback dimensions, the minimum lot width (perpendicular to the center line of the lot at the front building line), and if applicable, any Special Flood Hazard Areas (floodplains) and the area of each lot exclusive of floodplain, wetlands, easements, buffers, Chesapeake Bay Act Areas, wells and primary/reserved drainfields.

Standard Conditions for Residential Townhouse for Sale (RTH) Subdivisions
(January 2008)

1. All requirements of Chapter 18, 19 and 24 of the Henrico County Code shall be met.
2. Construction plans, including proposed erosion and sediment controls, shall be submitted to the Department of Planning at least 30 days prior to final approval.
3. Construction shall not commence until the Director of Planning has granted final approval of the plat; and until the construction plans including the detailed drainage, erosion control, and utility plans have been approved by the Department of Planning, the Department of Public Utilities, and the Department of Public Works and a preconstruction meeting has been held with the Department of Public Works. Plans for Plan of Development and Final Subdivision review shall be submitted to the Department of Planning in accordance with the requirements of the Plan of Development and Final Subdivision applications. Upon notice from the Department of Planning to the Engineer that all comments have been addressed, twenty-one (21) sets of final construction plans for signature shall be submitted to the Department of Planning for approval signatures. All erosion and sediment control plans, agreements, and bonds must be submitted to the Department of Public Works and approved prior to approval of the construction plans.
4. Clearing and grubbing shall not commence until a clearing and grubbing plan has been approved by the Department of Planning and the Department of Public Works, and a preconstruction meeting has been conducted with the Department of Public Works. Upon notice from the Department of Planning to the Engineer that all comments have been addressed, eight (8) sets of clearing and grubbing plans shall be submitted to the Department of Planning for approval signatures. All appropriate bonds and agreements, authorizations from state and/or regulatory agencies for impacts to the Waters of the United States, and offsite easement plats must be submitted to the Department of Public Works and approved prior to approval of the clearing and grubbing plans. Approvals must be updated prior to recordation of the plat.
5. The owner shall enter into the necessary contracts with the Department of Public Utilities for water.
6. The owner shall enter into the necessary contracts with the Department of Public Utilities for sewer.
7. A copy of the letter from the Richmond Regional Planning District Commission giving approval to the street names in this subdivision shall be submitted to the Department of Planning before the recordation plat is submitted for review.
8. The plat shall be revised as shown in red on Staff plan dated **June 27, 2012**, which shall be as much a part of this approval as if all details were fully described herein.
9. This approval shall expire on **June 26, 2013**, unless an extension is requested in writing stating the reason such extension is necessary. The request shall include the required fee and must be filed a minimum of two weeks prior to the expiration date.
10. The name of this development, as designated in this approval, shall be the name used for marketing and public recognition purposes. A written request for a name change must be received and granted by the Department of Planning before such a change can be implemented.
11. The conditional approval of this plat by the Planning Commission does not imply that all lots shown thereon will be granted final approval. Such approval is contingent on each lot meeting all requirements, including but not limited to, minimum zoning requirements, and design considerations.
12. A draft of the Declaration of Covenants, Conditions and Restrictions shall be submitted to

the Department of Planning for review, prior to final approval. The proposed Homeowners Association for the project shall be responsible for the exterior maintenance of all buildings and grounds.

13. All block corners shall be monumented and referenced, where possible, to the exterior boundaries of the site
14. The record plat shall contain a statement that the common area is dedicated to the common use and enjoyment of the homeowners of **(name of subdivision)** and is not dedicated for use by the general public. This statement shall refer to the applicable article in the covenants recorded with the plat.

Standard Conditions for Zero Lot Line Subdivisions
(January 2008)

1. All requirements of Chapter 18, 19 and 24 of the Henrico County Code shall be met.
2. Construction plans, including proposed erosion and sediment controls, shall be submitted to the Department of Planning at least 30 days prior to final approval.
3. Construction shall not commence until the Director of Planning has granted final approval of the plat; and until the construction plans including the detailed drainage, erosion control, and utility plans have been approved by the Department of Planning, the Department of Public Utilities, and the Department of Public Works and a preconstruction meeting has been held with the Department of Public Works. Plans for Plan of Development and Final Subdivision review shall be submitted to the Department of Planning in accordance with the requirements of the Plan of Development and Final Subdivision applications. Upon notice from the Department of Planning to the Engineer that all comments have been addressed, twenty-one (21) sets of final construction plans for signature shall be submitted to the Department of Planning for approval signatures. All erosion and sediment control plans, agreements, and bonds must be submitted to the Department of Public Works and approved prior to approval of the construction plans.
4. Clearing and grubbing shall not commence until a clearing and grubbing plan has been approved by the Department of Planning and the Department of Public Works, and a preconstruction meeting has been conducted with the Department of Public Works. Upon notice from the Department of Planning to the Engineer that all comments have been addressed, eight (8) sets of clearing and grubbing plans shall be submitted to the Department of Planning for approval signatures. All appropriate bonds and agreements, authorizations from state and/or regulatory agencies for impacts to the Waters of the United States, and offsite easement plats must be submitted to the Department of Public Works and approved prior to approval of the clearing and grubbing plans. Approvals must be updated prior to recordation of the plat.
5. The owner shall enter into the necessary contracts with the Department of Public Utilities for water.
6. The owner shall enter into the necessary contracts with the Department of Public Utilities for sewer.
7. A copy of the letter from the Richmond Regional Planning District Commission giving approval to the street names in this subdivision shall be submitted to the Department of Planning before the recordation plat is submitted for review.
8. The plat shall be revised as shown in red on Staff plan dated **June 27, 2012**, which shall be as much a part of this approval as if all details were fully described herein.
9. This approval shall expire on **June 26, 2013**, unless an extension is requested in writing stating the reason such extension is necessary. The request shall include the required fee and must be filed a minimum of two weeks prior to the expiration date.
10. The name of this development, as designated in this approval, shall be the name used for marketing and public recognition purposes. A written request for a name change must be received and granted by the Department of Planning before such a change may be implemented.
11. The conditional approval of this plat by the Planning Commission does not imply that all lots shown thereon will be granted final approval. Such approval is contingent on each lot meeting all requirements, including but not limited to, minimum zoning requirements, and design considerations.
12. Prior to a request for final approval, the developer shall provide a buildable area plan

showing information for all lots within the subdivision. Such plan shall be a part of the construction plans submitted for review and for signature. The buildable area plan shall be a minimum of 1" to 50' scale or larger and shall show the buildable area for the principal structure, all setback dimensions, the minimum lot width (perpendicular to the center line of the lot at the front building line), and if applicable, any Special Flood Hazard Areas (floodplains) and the area of each lot exclusive of floodplain, wetlands, easements, buffers and Chesapeake Bay Act Areas.

SUBDIVISION - CONDITIONAL APPROVAL

Standard Conditions for Conventional Subdivisions Served By Public Utilities Road Dedication (No Lots) (January 2008)

1. All requirements of Chapter 18, 19 and 24 of the Henrico County Code shall be met.
2. Construction plans, including proposed erosion and sediment controls, shall be submitted to the Department of Planning at least 30 days prior to final approval.
3. Construction shall not commence until the Director of Planning has granted final approval of the plat; and until the construction plans including the detailed drainage, erosion control, and utility plans have been approved by the Department of Planning, the Department of Public Utilities, and the Department of Public Works and a preconstruction meeting has been held with the Department of Public Works. Plans for Final Subdivision review shall be submitted to the Department of Planning in accordance with the requirements of the Final Subdivision application. Upon notice from the Department of Planning to the Engineer that all comments have been addressed, twenty-one (21) sets of final construction plans for signature shall be submitted to the Department of Planning for approval signatures. All erosion and sediment control plans, agreements, and bonds must be submitted to the Department of Public Works and approved prior to approval of the construction plans.
4. Clearing and grubbing shall not commence until a clearing and grubbing plan has been approved by the Department of Planning and the Department of Public Works. Upon notice from the Department of Planning to the Engineer that all comments have been addressed, eight (8) sets of clearing and grubbing plans shall be submitted to the Department of Planning for approval signatures. All appropriate bonds and agreements, authorizations from state and/or regulatory agencies for impacts to the Waters of the United States, and offsite easement plats must be submitted to the Department of Public Works and approved prior to approval of the clearing and grubbing plans. Approvals must be updated prior to recordation of the plat.
5. The owner shall enter into the necessary contracts with the Department of Public Utilities for water.
6. The owner shall enter into the necessary contracts with the Department of Public Utilities for sewer.
7. A copy of the letter from the Richmond Regional Planning District Commission giving approval to the street names in this subdivision shall be submitted to the Department of Planning before the recordation plat is submitted for review.
8. The plat shall be revised as shown in red on Staff plan dated **June 27, 2012**, which shall be as much a part of this approval as if all details were fully described herein.
9. This approval shall expire on **June 26, 2013**, unless an extension is requested in writing stating the reason such extension is necessary. The request shall include the fee and must be filed a minimum of two weeks prior to the expiration date.
10. The name of this development, as designated in this approval, shall be the name used for marketing and public recognition purposes. A written request for a name change must be received and granted by the Department of Planning before such a change can be implemented.