

1 **Minutes of the regular monthly meeting of the Planning Commission of Henrico**
2 **County held in the County Administration Building in the Government Center at**
3 **Parham and Hungary Spring Roads, beginning at 7:00 p.m., Thursday, June 10,**
4 **2021. Display Notice having been published in the Richmond Times-Dispatch on**
5 **May 24, 2021, and May 31, 2021.**
6
7

8 Members Present: Mr. William M. Mackey, Jr., Chairman (Varina)
9 Mrs. Melissa L. Thornton, Vice Chair (Three Chopt)
10 Mr. C. W. Archer, C.P.C. (Fairfield)
11 Mr. Gregory R. Baka (Tuckahoe)
12 Mr. Robert H. Witte, Jr. (Brookland)
13 Mr. R. Joseph Emerson, Jr., AICP, Director of Planning
14 Secretary
15 Mrs. Patricia S. O'Bannon (Tuckahoe)
16 Board of Supervisors' Representative
17

18 Also Present: Ms. Jean Moore, Assistant Director of Planning
19 Mr. Livingston Lewis, County Planner
20 Ms. Lisa Blankinship, County Planner
21 Mr. Michael Morris, County Planner
22 Ms. Kristin Smith, County Planner
23 Mr. John Cejka, Traffic Engineer, Public Works *
24 Ms. Martha Diuguid, Office Assistant
25

26 * (Virtually)
27

28 **Mrs. Patricia S. O'Bannon, the Board of Supervisors' representative, abstains on**
29 **all cases unless otherwise noted.**
30

31 Mr. Mackey - Good evening and welcome. I call this meeting to order. This
32 is Henrico County's Planning Commission meeting for June the 10, 2021. At this time I'd
33 ask, if you haven't already done so, will you please silence your cellphones or turn them
34 off, and join the Commission as we stand for the Pledge of Allegiance?
35

36 [Pledge of Allegiance recited]
37

38 Thank you. Do we have anyone in the audience from the news media? Do we possibly
39 have someone online from the news media?
40

41 Mr. Emerson - It's possible, Mr. Chairman. We are using simulcast and
42 Webex still. So --
43

44 Mr. Mackey - If we do, welcome. At this time I'd also like to welcome Ms.
45 Pat O'Bannon. She's the representative for the Board of Supervisors and sitting on the
46 Board with us this year. Pleasure to have you. I'd like to welcome our director back up
47 here with us. It's been quite a while since you've been with us.

48
49 Mr. Emerson - It has. It's good to be back.
50
51 Mr. Mackey - All right. All right. Well at this time I will turn the meeting over
52 to the Director.
53
54 Mr. Emerson - Thank you, Mr. Chairman, members of the Commission. It is
55 good to be back and operating somewhat normally. Hopefully soon we'll be back
56 completely to normal.
57
58 In that spirit, I would like to, again, with the Chairman, welcome everybody to the Planning
59 Commission public hearing for June 10th. The attendance capacity for the board room
60 tonight is 100. I don't think that's going to be a problem for us.
61
62 Individuals who are fully vaccinated against COVID-19 are not required to wear a face
63 covering or to maintain social distancing. If you are not fully vaccinated, we ask that you
64 continue to practice those safety protocols for COVID-19 and thank you for your
65 cooperation.
66
67 I would note, the public comments will be given from the lectern in the back of the room.
68 For everyone who is watching the livestream on the county website, you can still
69 participate remotely in the public hearings. You need to go to the Planning Department's
70 meeting webpage at [Henrico.us/planning/meetings](https://henrico.us/planning/meetings). Scroll down under the Planning
71 Commission and click on the Webex event.
72
73 Once you have joined the Webex event, please click the chat button in the bottom-right
74 corner of the screen. Staff will send a message asking if anyone would like to sign up to
75 speak on an upcoming case. To respond, select Kristin Smith from the drop-down menu
76 and send a message to Ms. Smith and she will get you queued up to speak. And then
77 she will let you know when it is your turn.
78
79 I will also note at this time the Commission does have guidelines for the public hearing
80 process, and they are as follows: the applicant is allowed 10 minutes to present the
81 request and time may be reserved for responses to testimony. The opposition is allowed
82 10 minutes to present its concerns. Commission questions do not count into those time
83 limits. The Commission may waive the time limits at its discretion and any comments
84 made must be directly related to the case under consideration. Thank you, again, for
85 your participation and interest this evening.
86
87 And now we will begin with requests for withdrawals and deferrals. We do have two
88 deferred items to take up this evening. And Ms. Jean Moore will present those.
89
90 Ms. Moore - Thank you, Mr. Chairman. Good evening members of the
91 Planning Commission.
92
93 The Commission - Good evening.

94
95 Ms. Moore - The first item to consider for deferral is on page 1 of your
96 agenda, in Fairfield. It's REZ2021-00005.

97
98 **REZ2021-00005 Andrew M. Condlin for Godsey Properties, Inc.:** Request
99 to conditionally rezone from A-1 Agricultural District to R-5AC General Residence District
100 (Conditional) Parcels 804-726-5470 and 804-726-5470.001 containing 120.4 acres
101 located on the north line of Creighton Road at its intersection with Gordon Lane
102 (Glenwood Golf Club). The applicant proposes detached dwellings for sale. The R-5A
103 District allows a maximum gross density of 6 units per acre. The uses will be controlled
104 by zoning ordinance regulations and proffered conditions. The 2026 Comprehensive Plan
105 recommends Traditional Neighborhood Development and Environmental Protection
106 Area.

107
108 The deferral is requested on behalf of the Planning Commission, to the July 15, 2021
109 meeting.

110
111 Mr. Mackey - All right. Thank you, Ms. Moore. Is there anyone in
112 attendance or online that is in opposition to the deferral of REZ2021-00005 Godsey
113 Properties, Incorporated?

114
115 Mr. Morris - There is no one on Webex.

116
117 Mr. Mackey - Okay.

118
119 Mr. Carter - Mr. Chairman --

120
121 Mr. Mackey - You have to go to the lectern.

122
123 Ms. Moore - Over in the back, please.

124
125 Mr. Mackey - For the record, would you please state your name?

126
127 Ms. Hall - Hello. I'm Aljanette Hall.

128
129 Mr. Carter - And I'm David Carter.

130
131 Ms. Hall - Hi. I'm just, I guess, curious why it keeps getting deferred.

132
133 Mr. Emerson - The Commission has worked with the applicant and continues
134 to work with the applicant to try to fine tune the zoning case to make it more acceptable
135 and address the concerns of both the Commission, staff and the citizens. And that
136 process is continuing.

137
138 Ms. Hall - Okay. Thank you.

139

140 Mr. Mackey - You're welcome.
141
142 Mr. Archer - Any other objections?
143
144 Mr. Mackey - Nope.
145
146 Mr. Archer - Then, Mr. Chairman, I move that REZ2021-00005 Godsey
147 Properties, Incorporated be deferred to the July 15, 2021 meeting at the request of the
148 Commission.
149
150 Mr. Witte - Second.
151
152 Mr. Mackey - All right. We have a motion by Mr. Archer, a second by Mr.
153 Witte to defer REZ2021-00005 Godsey Properties, Incorporated to the July 15th Planning
154 Commission meeting. All in favor say aye. Any opposed? The motion is granted.
155
156 Ms. Moore - The second request is actually the companion case to the
157 previous rezoning case, also on page 1 of your agenda. It is PUP2021-00001 Godsey
158 Properties, Incorporated.
159
160 **PUP2021-00001 Andrew M. Condlin for Godsey Properties, Inc.:** Request
161 for a Provisional Use Permit under Sections 24-13.4(c), 24-120 and 24-122.1 of Chapter
162 24 of the County Code to allow adjustable side yard setbacks for lots within the R-5A
163 General Residence District on Parcels 804-726-5470 and 804-726-5470.001 located on
164 the north line of Creighton Road at its intersection with Gordon Lane (Glenwood Golf Club).
165 The existing zoning is A-1 Agricultural District. The R-5A District is proposed for the A-1
166 District with REZ2021-00005. The 2026 Comprehensive Plan recommends Traditional
167 Neighborhood Development and Environmental Protection Area.
168
169 Deferral is requested, also by the Planning Commission, to the July 15, 2021 meeting.
170
171 Mr. Mackey - Okay. Thank you. Is there anyone in opposition to the deferral
172 of PUP2021-00001 Godsey Properties, Incorporated to the July 15th meeting? Anyone on
173 Webex?
174
175 Mr. Morris - Mr. Chairman, there is no one on Webex.
176
177 Mr. Mackey - Thank you, sir.
178
179 Mr. Archer - Mr. Chairman, I move that PUP2021-00001 Godsey
180 Properties, Inc. be deferred to the July 15, 2021 meeting at the request of the Commission.
181
182 Mr. Witte - Second.
183

184 Mr. Mackey - All right. Thank you. We have a motion by Mr. Archer, a
185 second by Mr. Witte to defer PUP2021-00001 Godsey Properties, Incorporated to be
186 deferred to the July 15th meeting. All in favor say aye. Any opposed? Motion is granted.
187

188 Ms. Moore - Mr. Chairman, that concludes our known requests for deferrals
189 tonight.
190

191 Ms. Mackey - Okay. Thank you, Ms. Moore.
192

193 Mr. Emerson - Mr. Chairman, we now move on to requests for expedited
194 items. There are none this evening. So that takes us to your regular agenda for two cases
195 that are to be heard. I would remind, again, the audience and those that wish to comment,
196 of the guidelines that I went over earlier. And also the lectern is in the rear of the room.
197

198 First case, Mr. Chairman, appears on page 2. It is REZ2021-00019.
199

200 **REZ2021-00019 Andrew M. Condlin for KG1 Twin Oaks LLC:** Request to
201 conditionally rezone from B-2C Business District (Conditional) to B-3C Business District
202 (Conditional) part of Parcel 748-759-3503 containing .220 acres at the southeast
203 intersection of Cox Road and Westerre Parkway. The applicant proposes a dog day care
204 and overnight kennel. The uses will be controlled by zoning ordinance regulations and
205 proffered conditions. The 2026 Comprehensive Plan recommends Urban Mixed Use. The
206 site is in the Innsbrook Redevelopment Overlay District.
207

208 The staff report will be presented by Ms. Lisa Blankinship.
209

210 Mr. Mackey - All right. Thank you, Mr. Emerson. Is there anyone in the
211 audience that is in opposition of REZ2021-00019 Andrew M. Condlin for KG1 Twin Oaks,
212 LLC?
213

214 Dr. Irani - Not in opposition.
215

216 Mr. Mackey - Okay. Hold on one second. Mr. Morris, do we have anyone
217 on Webex?
218

219 Mr. Morris - Mr. Chairman, there is no one on Webex.
220

221 Mr. Mackey - Okay. Thank you. How you doing, Ms. Blankinship?
222

223 Ms. Blankinship - Hi. Thank you, Mr. Chairman, members of the Commission.
224 This request was presented at last month's meeting and was deferred by the Commission
225 given the concerns regarding noise impacts and the location of the outdoor play area.
226 Revised proffers dated June 8th and revised exhibits have been handed out to you this
227 evening.
228

229 On May 28th the applicant, staff, and Planning Commissioner met on site to address the
230 concerns of the existing tenants in the shopping center. The applicant has decided to re-
231 locate the proposed outdoor play area to the side of the building seen here. The site
232 exterior would be modified with a pedestrian door to access the outdoor play area and
233 would be enclosed with the same 8-foot-tall pre-cast concrete fence as previously
234 proposed, as seen here.

235
236 The applicant also continues to commit to sound-proofing the tenant space with buildable
237 materials and techniques that would provide a transmission coefficient rating of 70. Given
238 this commitment and the relocation of the outdoor play area enclosed with the 8-foot-tall
239 concrete fence, staff believes these modifications should minimize potential noise impacts
240 from the proposed use.

241
242 For these reasons and because proposed zoning and use is consistent with the site's
243 2026 Comprehensive Plan Urban Mixed Use designation and other service-oriented uses
244 in the shopping center, staff supports this request.

245
246 This concludes my presentation. I'll be happy to answer any questions.

247
248 Mr. Mackey - All right. Thank you, Ms. Blankinship. Does anyone from the
249 committee have any questions for Ms. Blankinship?

250
251 Mr. Witte - I do. Is there any provisions for problem with the smells and
252 odors?

253
254 Ms. Blankinship - There is a waste management plan that Dogtopia utilizes.
255 The applicant may be able to speak to that more, but I believe that that is the plan --

256
257 Mr. Witte - I mean, you got restaurants right here, you know.

258
259 Ms. Blankinship - Right. Right. But at -- on the other side here you -- interior
260 and exterior you speak -- yeah. I mean, they have a very comprehensive waste
261 management plan.

262
263 Mr. Mackey - Okay. All right. Thank you. Any other questions for Ms.
264 Blankinship? All right. Thank you. How would you like to proceed, Ms. --

265
266 Mrs. Thornton - For the applicant.

267
268 Mr. Mackey - Okay.

269
270 Mr. Condlin - Members of the Commission, my name is Andy Condlin here
271 on behalf of the applicant, KG1. As already described by Ms. Blankinship, we did meet
272 outside – turned out to be a lot hotter day than we expected – but we were able to figure
273 out where the setback line is.

274

275 And based on everything I think this is the best location for the outdoor area. Where we
276 actually looked at, if you remember, with behind the property, we were actually going to
277 have the dogs come out. And they were able to re-orient their entire interior layout to be
278 able to – and they're still working on that – to be able to have the dogs go right out towards
279 Cox Road.

280
281 So certainly any outdoor activities will be buffered by not only Cox Road and the noise
282 that's going around, but the building itself. There's no other activity that's going on. And,
283 you know, of course Natalie's restaurant is on the exact opposite of the same building, so
284 the entire building will act as a buffer for all the noise as well. And I think that's -- I think
285 that's the best solution given the situation for everyone.

286
287 We're also going to commit -- while we're not proffering because it's an enforcement issue
288 -- to reserve some parking spots as described with Natalie in the -- Natalie's and the Asian
289 massage place as well for them. For -- so that the dog customers don't take up those
290 spaces.

291
292 So with this, we hope that this is satisfactory to the Commission. This -- obviously, this
293 use is going to energize this entire shopping center, and I think this is the best-case
294 scenario. Continuing to provide for enhancements to the interior, so that will reduce the
295 noise, as well that we had already committed to.

296
297 So, with that, I'll be happy to answer any questions.

298
299 Mr. Mackey - All right. Thank you, Mr. Condlin. Do we have any questions
300 for Mr. Condlin?

301
302 Mrs. Thornton - No. I just -- one comment. So you will have interior -- when
303 it goes to the Board next month you can show them where the door -- the access door
304 will be on the side where the windows are --

305
306 Mr. Condlin - Yeah. Right. They're redesigning the --

307
308 Mrs. Thornton - Right.

309
310 Mr. Condlin - They'd already designed it one way, you know, with the
311 access to the rear. And they're redesigning it so it goes directly into the -- going west --
312 to the western side of the building right to the outdoor play area. And so once we get
313 those -- it just takes 10 days/2 weeks, to get those. So we'll get those in the next week
314 or so.

315
316 Mrs. Thornton - Right.

317
318 Mr. Condlin - I hope. So --

319

320 Mrs. Thornton - So just so everybody knows, this same wall is going to be
321 constructed – 8 feet?
322
323 Mr. Condlin - Yes, ma'am.
324
325 Mrs. Thornton - And it's stone. And they will not have any access from the
326 rear to the play area.
327
328 Mr. Condlin - Correct.
329
330 Mrs. Thornton - Just from the interior to the exterior.
331
332 Mr. Condlin - Right.
333
334 Mrs. Thornton - There's a bunch of windows along Cox Road. You can't see
335 them from this picture. And the interior wall will still be soundproofed from the proffers.
336
337 Mr. Condlin - Yes, ma'am. Yes ma'am. Yeah. But those -- but none of that
338 changed. We still have to do all of that. And then they're enhancing all those interior wall
339 spaces throughout the entire -- entirety of the interior. So not just next to the unit which
340 holds the massage place, but also the entirety of the units. Interior.
341
342 Mrs. Thornton - Okay. All right. Thank you.
343
344 Mr. Condlin - Yes, ma'am.
345
346 Mr. Mackey - Any other questions for --
347
348 Mr. Witte - I want my question answered. Tell me about the waste
349 management and odor control?
350
351 Mr. Condlin - Well, there's two different areas that they -- how they deal with
352 that. Certainly the exterior area they have for one way, because they do put down artificial
353 grass and that. And they don't use the natural grass. They use the artificial grass. And,
354 as we've talked about in other locations, they too will be able to -- and when they -- when
355 they immediately wash it down. When there -- whenever there's -- the dogs have waste,
356 they will wash it down. And they have the spray that they put on there to keep the smell
357 down from the outside.
358
359 We benefit -- in this location there's literally nothing next to us other than Cox Road and
360 the landscape area. In the interior they do the same thing where they have -- the waste
361 where they have specific material -- or specific chemicals that they put down so that the
362 dogs don't go back there again. They have specific areas in which they're supposed to
363 do their business, quite frankly. And they have a whole process that they go through
364 interior-wise to be able to make sure that that gets cleaned up immediately and how they

365 do that. And then they do a final cleaning every night at the end of the night. Both outside
366 and inside.

367
368 Mr. Witte - All right. Just -- when they washed it down it's not going into
369 the public areas and grounds?

370
371 Mr. Condlin - So that's the big -- no, that's the big issue, right? From -- that
372 we did -- had from otherwise. Including not only in the surrounding areas, but the
373 stormwater. So that goes into the sanitary sewer. They have the way to do that where
374 they can -- there's a couple of different ways that they can do it. Either have a dedicated
375 drain that they can open up when they spray it down, so that when the rain comes that's
376 going into the stormwater. But when they're doing the cleanup it's going into the sanitary.

377
378 And that is also all self-contained on the exterior. One of the reasons they use the artificial
379 material is that they -- that when they build it they can build, for lack of a better term, it's
380 a trough around the exterior to capture all that and make sure that that goes into the area
381 that it needs to go into.

382
383 That's probably more than I ever wanted to know, but there it is.

384
385 Mrs. Thornton - Thank you for that.

386
387 Mr. Condlin - Thank you.

388
389 Mr. Mackey - All right. I believe we had some people in the audience that
390 wanted to make some comments.

391
392 Dr. Irani - Yes, good evening.

393
394 Mr. Mackey - Good evening.

395
396 Dr. Irani - So my name is Anne-Marie Irani. This is my husband,
397 Lawrence Schwartz. And our daughter, Natalie Schwartz, really wanted to come here
398 tonight. She is the Natalie behind the Natalie's Taste of Lebanon. And this is going to be
399 short and sweet, which is probably not what you're used to here. But we really wanted to
400 thank the Commission, and especially Ms. Thornton, for listening to us and really caring.
401 And Mr. Condlin, as well. And really trying to come up with a solution that I think will work.

402
403 I really appreciate your concern about the odor and the smell. We did have a concern
404 about the dog's parking -- the people bringing the dogs parking in front of the restaurant
405 and of the massage place. And I understand that the landlord has committed to putting
406 some signs. I understand the issue about enforcement, I just -- anything we can do to
407 kind of discourage people from parking in front of the restaurant and the massage place
408 would be great.

409

410 I did want to bring the thanks of the lady from the Asian massage place who was not able
411 to come here today. But I did communicate to her the changes, and she's incredibly
412 grateful. She did ask me if we could -- and I communicated that to Mr. Condlin -- if when
413 the interior design is shown, if we can make sure that the offices right next to the Asian
414 massage place remains as offices and administrative space so that the dogs are further
415 away from the -- from the massage place, as much as possible with the interior design?
416

417 And I understand from Mr. Condlin that that's -- that's the desire. But, anyway, so thank
418 you so much, everyone. But I really do want to also thank Mr. Chris Good, from Kotarides,
419 who I think worked with everyone to get to that solution and then welcome our new
420 neighbors. Natalie, do you want to say anything?
421

422 Ms. Schwartz - Sure. It's an honor to be here tonight. And it's nice to meet
423 the rest of you Commissioners. And I appreciate what you're doing for our restaurant.
424 And I hope to see some of you there soon. Thank you.
425

426 Mr. Witte - You might as well give us a plug. What's the name of the
427 restaurant?
428

429 Dr. Irani - Thank you.
430

431 Mr. Witte - What's the name of the restaurant?
432

433 Ms. Schwartz - Natalie's Taste of Lebanon.
434

435 Mr. Witte - There you go.
436

437 Ms. Schwartz - Yes. That's me.
438

439 Mr. Mackey - Thank you, Natalie. And we appreciate what you do and your
440 parents do at the restaurant as well. Thank you very much.
441

442 Ms. Schwartz - Thank you. And I appreciate what you do as well. Thanks.
443

444 Mrs. Thornton - And I have to say, they invited me for lunch and it was so
445 delicious.
446

447 Mr. Mackey - I can imagine.
448

449 Mrs. Thornton - It was so delicious. I think I had everything there. They
450 loaded me up. So I appreciate it, and thank you all for coming out tonight.
451

452 Ms. Schwartz - Of course, yeah.
453

454 Dr. Irani - And thank you. And you all have an open invitation. We
455 would love to see you.

456
457 Mr. Mackey - Thank you very much. Yeah.
458
459 Mr. Archer - Can we come tonight?
460
461 Mrs. Thornton - Celebrate.
462
463 Mr. Mackey - All right. What's would you -- what's your pleasure, Mrs.
464 Thornton?
465
466 Mrs. Thornton - Okay. Well, thank everybody for their hard work. Lisa, thank
467 you for meeting us out there. Thank you, Andy, and for working with everybody. I
468 appreciate it. And if you haven't been to the site, this is the perfect location for the area
469 for the dogs. The furthest point, tons of traffic noise that will buffer to the dogs if they are
470 out there barking, which is our major concern from the last meeting.
471
472 So with that, Mr. Chairman, I move that we recommend approval of REZ2021-00019 KG1
473 Twin Oaks, LLC, with the proffers dated June 8, 2021.
474
475 Mr. Archer - I second.
476
477 Mr. Mackey - All right. We have a motion for -- a recommendation of
478 approval of REZ2021-00019 KG1 Twin Oaks, LLC by Ms. Thornton and second by Mr.
479 Archer. All in favor say aye. Any opposed? The ayes have it and the motion is granted.
480
481 Mr. Emerson - Mr. Chairman, we move on to the next item on your agenda,
482 which also appears on page 2. It is REZ2020-00039, Brian Kelmar.
483
484 **REZ2020-00039 Brian Kelmar:** Request to amend proffers accepted with
485 Rezoning case C-69C-85 on Parcel 741-741-8889 located on the south line of Patterson
486 Avenue (State Route 6), approximately 125' east of its intersection with Pump Road. The
487 applicant proposes to amend Proffer #4 to allow a detached, changeable message sign.
488 The existing zoning is B-2C Business District (Conditional). The 2026 Comprehensive Plan
489 recommends Office.
490
491 And the staff report will be presented by Ms. Jean Moore.
492
493 Ms. Moore - Thank you, Mr. Secretary, members of the Commission. This
494 request, as mentioned, is to amend proffer 7. Except it was C-69C-85 pertaining to
495 signage.
496
497 Property is located on the south line of Patterson Avenue, approximately 125 feet from
498 its intersection with Pump Road. The property was rezoned in 1985 to allow a self-storage
499 facility, which is still in use on the property. Proffer 4 allows a sign that is affixed to the
500 building and up to 100 and -- 150 square feet in area. The applicant would like to amend
501 the proffer to also allow a detached sign on the property.

502
503 Proposed is an 8-foot-high detached aluminum sign with a changeable message display
504 area in the center. The applicant has submitted substitute proffers which would allow the
505 additional sign, as well as limit the sign location toward the center of the building, limit the
506 time changeable mess -- limit the time the changeable messages and images are
507 displayed or rotated to no less than every 20 seconds, and limit the time the sign could
508 be lit until 11:00 PM.

509
510 Proffer 4 was a very important consideration when the property was upzoned in 1985
511 from Office to B-2C to allow the self-storage facility.

512
513 The use also required a provisional use permit. So in that review the Board of Supervisors
514 accepted proffers with C-69C-85 to help mitigate the impact on nearby office and
515 residential uses, as well as to minimize visual clutter added along Patterson Avenue. This
516 request does not meet the original intent of the proffer and would add visual distraction
517 along the corridor.

518
519 It would also increase the amount of signage originally intended for the ministorage use.
520 Because it does not meet the original intent of the proffers and because it would set a
521 precedence for more signage of this type in the area, staff does not support this request.

522
523 And this concludes my presentation. I'll be happy to answer any questions you may have.

524
525 Mr. Mackey - All right. Thank you, Ms. Moore. Does anyone on the Board
526 have any questions for Ms. Moore?

527
528 Mr. Baka - I have a question, Ms. Moore, thank you for your presentation.
529 I appreciate what you said about visual distractions on the road. Question: 150 square
530 feet is allowed by the proffer from the original rezoning. About how much square footage
531 is on the building right now? And then say about how much of that 150 square feet is left
532 for possible signage on the building?

533
534 Ms. Moore - Correct. I believe the signage now is affixed is about 6 by 6 –
535 36.

536
537 Mr. Baka - Okay.

538
539 Ms. Moore - So, that's the difference.

540
541 Mr. Baka - So let's say less than half of what's allowed has already been
542 used up. So, number one, there's opportunity to put a sign on the building if the applicant
543 so --

544
545 Ms. Moore - Yes, sir.

546

547 Mr. Baka - So chose. And would the location of the sign as proposed be
548 entirely outside of the Route 6 or Patterson Avenue right of way? Is that --
549
550 Ms. Moore - Correct. It would have to be at least five feet from the right of
551 way by Code.
552
553 Mr. Baka - Okay.
554
555 Mrs. Thornton - They have trees there. Like Crepe Myrtles. You talk -- like,
556 right outside the building so you -- are you saying that it would have to be somewhere
557 right in that area?
558
559 Ms. Moore - They're proposing -- it's the way they proffered it. They're
560 proposing that it be no more than 75 feet from the -- or within 75 feet from the edges of
561 the building which places it toward the middle. So if I -- if you want to look at my cursor,
562 and I believe Mr. Condlin can -- I don't have any more detail than that.
563
564 Mrs. Thornton - Right. But there's trees along that side of the building on
565 Patterson. I just don't know, visually -- I don't know.
566
567 Ms. Moore - Okay.
568
569 Mrs. Thornton - Because is it outside of the trees?
570
571 Ms. Moore - It would be -- yes. I mean, it would be between the trees, or
572 outside of the trees. So it would be perpendicular to --
573
574 Mrs. Thornton - Yeah. So there's a light right there.
575
576 Ms. Moore - Okay.
577
578 Mrs. Thornton - Right?
579
580 Mr. Baka - Right.
581
582 Mrs. Thornton - Pump, Patterson, and then you've got the post office. So --
583
584 Ms. Moore - So it's proposed within this area right here, pretty much where
585 the OF is.
586
587 Mr. Emerson - Jean, could you pull up the aerial and zoom in on it a little bit?
588
589 Ms. Moore - Sure. Thank you. Let's go to -- so within here.
590
591 Mr. Baka - So probably nestled between two trees.
592

593 Mrs. Thornton - Okay. Yeah, because I just --
594
595 Mr. Baka - When I drove by that's what I was envisioning.
596
597 Mrs. Thornton - Yeah.
598
599 Ms. Moore - So if it's five feet from the curb. I don't -- I don't believe the
600 trees are very close to the street. They're closer to the building.
601
602 Mrs. Thornton - No. They're closer to the building.
603
604 Ms. Moore - So it would be outside the tree line.
605
606 Mrs. Thornton - And this might be a dumb question, but what is the reasoning
607 behind the signage? Are they lacking in renting -- what's beneficial?
608
609 Ms. Moore - That would -- that would be -- the applicant is here, Mr.
610 Kelmar. As Mr. Baka alluded, they do have the ability to have additional signage, so I'll
611 have to speak why -- what the -- what the desire here is for it.
612
613 Mrs. Thornton - Okay.
614
615 Mr. Mackey - All right. Are there any other questions for Ms. Moore? All
616 right. I don't -- I was getting ready to say -- I don't -- I'm sure we don't have anyone in the
617 audience that's in objection. Mr. Morris, do we have anyone via Webex that's in
618 opposition of this?
619
620 Mr. Morris - Mr. Chairman, there is no one on Webex.
621
622 Mr. Mackey - Okay. Thank you, sir. All right. Would you like to hear from
623 the applicant?
624
625 Mr. Baka - I would like to hear from the applicant.
626
627 Mr. Mackey - All right. Would the applicant please go to the lectern?
628
629 Mr. Kelmar - Good evening members of the Board. My name is Brian
630 Kelmar. I'm also with Sign Enterprise and I'm representing the owner of the property at
631 Extra Space Attic.
632
633 The original proffer was approved back in September 1985, which is over 35 years ago.
634 And that was based on -- it was one of the first self-storage units in the Henrico area.
635 Since that time one or two things have changed since then. We now have close to 20
636 self-storage units in Henrico. Probably a third of them even have electronic message
637 centers on them to advertise their specials and things that are going on.
638

639 Since that time, technology has also changed. The electronic message centers are now
640 become more popular. There was concerned of visual impairment or things like that
641 there. We have a permit that has actually already been approved. Sign permit 2021-
642 0030, which has an electronic message center on the building.

643

644 Mr. Mackey - All right.

645

646 Mr. Kelmar - That is 60 percent larger than this sign and it's already been
647 approved. Other electronic message centers are in and around this area. There is one
648 across the street at 1006 Pump Road there's already one. There is a church down the
649 street, approximately 2-3 miles, at 920 Maybeury. And there is another one down at 8931
650 Patterson Avenue.

651

652 Let me see here. As stated in -- there was a Supreme Court decision back in 2015. It
653 was Reed v. the Town of Gilbert, Arizona, Number 13502, June 18, 2015. And this was
654 in regards to the Town of Gilbert, Arizona about their sign ordinance of being fair and
655 equitable.

656

657 One of the comments they had -- this was in regards to a church sign and what they would
658 allow for other industries around there -- it says, "Church signs inviting people to attend
659 its worship services are treated differently from the signs conveying other types of ideas.
660 On its face the sign code is a content-based regulation of speech."

661

662 In other words, sign allowances should be content-neutral and should be fair in its
663 restrictions. There are other monument signs along Patterson Avenue. There are other
664 electronic message centers in the area and there is plenty of competition in the Henrico
665 area in mini -- in the ministorage places that have monument signs and have electronic
666 message signs. So, we are asking for this proffer to change and -- relative to the times
667 and how things have changed in that area. And also to provide this business a fair
668 chance, an equal chance, and opportunity as the rest of their neighbors do in and around
669 that property.

670

671 So, we are just requesting that we have a fair and equitable solution to getting that. We
672 would prefer to go with the monument sign, but if this is not approved, we will go ahead
673 and go with the approved building sign, as I mentioned, which is a lot larger and has no
674 restrictions, as mentioned here.

675

676 Any questions?

677

678 Mr. Mackey - All right. Thank you, Mr. Kelmar. Are there any questions
679 from the Board for Mr. Kelmar?

680

681 Mr. Baka - Yeah. I have a couple. First of all, thank you very much for
682 your presentation, sir. We want -- and I hope the business is very successful and remains
683 that way now and into the future.

684

685 As you look at what is fair and equitable -- you mentioned that you were not opposed to
686 a monument sign. And I don't have significant concerns about the proffer changing from
687 disallowing monument signs to allowing a monument sign there. Our -- my concern was
688 more focused on the changeable message nature.

689
690 One thing that hasn't changed over the years -- one thing that clearly hasn't changed over
691 the years is that typically the Patterson Avenue corridor is a lot different corridor than what
692 you'll see, say, up on Broad Street or maybe US Route 1 or other corridors in the County.

693
694 I guess my question is, when -- sir, when you mentioned some of those other sites, there
695 -- some of them, not all, but some of them are more intensive commercial corridors on
696 Broad Street and elsewhere. So I'm curious as to why you would think a changeable
697 message sign might not be in conflict with the more residential areas along Patterson
698 Avenue.

699
700 Mr. Kelmar - Thank you for that question, sir. As you know, the sign code
701 was recently updated, what, within the past few years and electronic message centers
702 were reviewed as part of that. As part of that review of the sign ordinance, you'll see this
703 area is allowed electronic message centers. And those signs that I pointed out to you, as
704 I mentioned, one is directly across the street, not more than probably about 50 feet away.

705
706 Mr. Baka - What sign was that?

707
708 Mr. Kelmar - That sign is on --

709
710 Mr. Baka - That's on Pump Road. Not on Patterson.

711
712 Mr. Kelmar - Yeah. The one on Pump Road.

713
714 Mr. Baka - But it's not on Patterson, right?

715
716 Mr. Kelmar - No. But it's probably, maybe, 100 feet from Patterson Road.
717 You can see it very clearly from the other side. You can see it as you drive down. The
718 other two are actually, even though it has a Mulbury [sic] address, the church. I bring that
719 out because we're allowing the church and the church is in that area. And that does have
720 an electronic message center. And it's only about a mile, two miles, right down the road.
721 And so is the -- and then if you go to the pet place, which is on 8900, that's also -- so all
722 of these are already allowed in this area.

723
724 We're not asking for any special consideration for electronic messages. We already have
725 a permit for the building, which has a larger electronic message center. So, you know,
726 whether we have an electronic message center here on the monument or whether we
727 have it on the building, that's kind of up to you.

728
729 The customer would like to do the monument, because from the economics it was more
730 affordable. But he would still have an electronic message center either way.

731
732 Mr. Baka - Yeah. I'd be open to the monument sign, as you said. And
733 I'm glad you're open to that, too. Open to the monument sign without the changeable
734 message display. I mean, I think that's consistent with the corridor. And we don't review
735 application for signs for churches as part of this Commission. But I think what we are
736 trying to do is in the Patterson Avenue corridor it's a mix of B-1, B-2, and some residential.
737 It's a little less intensive than, say, you know, near Broad Street areas or US Route 1 or
738 other corridors. So, you know, I think we'd be open to a monument sign without
739 changeable message sign. Would you be willing to amend your proffer to allow for that
740 compromise? Perhaps.

741
742 Mr. Kelmar - Joe, I can't really speak for the customer in that standpoint. I
743 know it is a major issue with him, because that's why we had the sign that is approved for
744 the building that has a changeable message center. Which is --

745
746 Mr. Baka - Would you want to look at that consideration for -- I think that's
747 a -- that's a point of concern I had after understanding some of the concerns of the
748 neighbors of not wanting to see changeable message signs. Even those that would be
749 limited by the proffers that Ms. Moore spoke about.

750
751 Mr. Kelmar - I think we're -- I think there's some -- we're mixing up some
752 issues is that the one -- and I do have a -- I believe I have a drawing of the sign that is
753 approved. The permit that I could submit to show you is quite significantly larger and will
754 be brighter and will be more prominent than the monument sign. Again --

755
756 Mr. Baka - Is that the sign you want to build?

757
758 Mr. Kelmar - No. That's the sign that -- well, we can. It's approved. The
759 Henrico County approved this permit. This is permit -- it's 0030-2021. Which is actually
760 a blade sign. It's perpendicular to the building. So, as far as the issue of distractions or
761 electronic message center, you've got -- the County has already set the precedent that it
762 has already approved an electronic message center with the location.

763
764 You've got -- the county has already set the precedent that it has already approved an
765 electronic message center for the location.

766
767 Mr. Baka - It doesn't -- I mean, I'm sorry, I need to interrupt that. That
768 doesn't necessarily set a precedence by allowing a sign by right on a building. It's a wall
769 signage.

770
771 Mr. Kelmar - Right.

772
773 Mr. Baka - But I guess that I'm asking is, if you already have a permit to
774 put that -- construct that on the wall, then why seek this application tonight? Why seek a
775 changeable message sign if you already have what you want?

776

777 Mr. Kelmar - Just for economics to -- he would withdraw that permit and
778 that sign application and go with this one. Just because of the cost. This one -- so the
779 one on the wall is more expensive. And, obviously, from a business standpoint he's trying
780 to be more cost effective and still be able to get his point. But if, you know, worse comes
781 to worse, he would trade off that because he feels that it's more important for him in his
782 competition with -- and there are a lot of storage places have a lot of specials, so he's got
783 a lot more competition than he did 35 years ago as being one of the first. And I think
784 that's his biggest issue. He's been there all these years since then, and is surviving.
785 Right? But as more and more and you see these self-storage units popping up, like on
786 every block now, right --

787
788 Mr. Baka - We want your business to be successful, we're glad you're
789 here in Henrico, we wanted to be able to have signage and attract what you need for
790 customers. I'm not totally convinced that a changeable message sign is necessary to
791 accomplish those key goals.

792
793 But that's just one opinion after hearing concerns from residents about their concern that
794 we not necessarily vote to allow affirmatively a changeable message sign when there
795 may be an ability to have something other than that.

796
797 Mr. Kelmar - Right.

798
799 Mr. Baka - And if, you know, if you all could, you know, reconsider a
800 monument sign with up lighting -- I'm inclined to not recommend approval of the
801 changeable message sign portion of your monument sign. I'd love to, like, recommend
802 approval for your monument sign. But I realize I can't -- I can't ask you to change your
803 application tonight if you're not in a situation to be able to do so.

804
805 Mr. Kelmar - Yes, sir.

806
807 Mr. Baka - But what I can do is recommend denial and then you can
808 come back next month and perhaps if you're able to change it to a monument sign with
809 up lighting, maybe the Board reconsiders and approves it. I think that's probably a better
810 course of action than just deferring it back to the Commission next month. The alternative
811 is to defer back to the Commission next time.

812
813 Mrs. Thornton - Right.

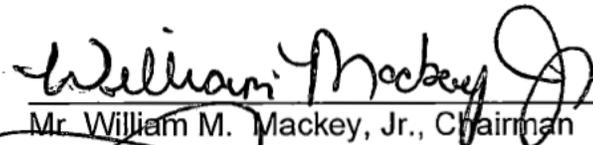
814
815 Mr. Baka - So I -- does any other -- I've gone on for a couple minutes. Do
816 any of the Commissioners have questions?

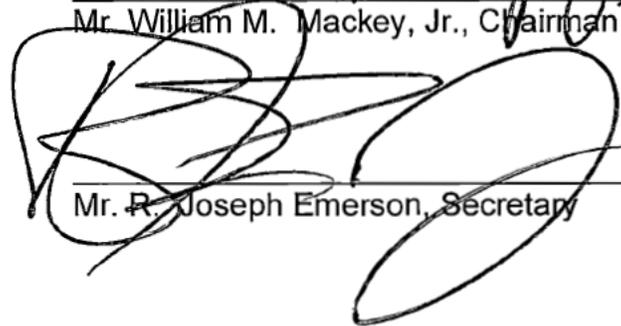
817
818 Mrs. Thornton - I do want to know, like, your occupancy. What is, I mean, are
819 you full? Are you -- are you half full?

820
821 Mr. Kelmar - I'm not the owner. I'm just the sign guy. So I don't know what
822 his occupancy is.

823
824 Mrs. Thornton - Oh. Okay.
825
826 Mr. Kelmar - So, alls I know, he brought the business, you know, the issue
827 to me on trying to help solve some of his business issues. So that's what we do as sign
828 companies – recommendations. And he's looked at this, I think now, for a number of
829 years he's been considering it. And I -- and, actually, I've been working with him for, I
830 think, about five years. And I think it was -- came down to an economics business
831 decision. Because it's a pretty significant cost to do this project with the electronic
832 message center.
833
834 So, I think there was a lot of thought into that. With the electronic message center being
835 an issue. That he finally brought it, you know, with business being so competitive in the
836 area lately. That's why he's done it.
837
838 Mrs. Thornton - Right. Okay.
839
840 Mr. Mackey - Any -- were there any other questions from the Board for Mr.
841 Kelmar?
842
843 Mr. Baka - All right. I guess I've already said, I'd encourage you to see if
844 you can come back with a monument sign with up lighting. With that in mind, I will -- I'll
845 just reiterate the Patterson Avenue corridor seems to have a different character and feel
846 to it for B-1, B-2, and residential-style than the other commercial corridors in the County.
847 Because of that, we're looking to try to minimize visual distractions where possible.
848 Because of that rational and reasoning, Mr. Chairman, I would move that rezoning 2020-
849 0009 -- 39 Brian Kelmar be recommended for denial.
850
851 Mrs. Thornton - Second.
852
853 Mr. Mackey - All right. We have a motion by Mr. Baka, a second by Ms.
854 Thornton that REZ2020-00039 Brian Kelmar be moved to the Board with a
855 recommendation of denial. All in favor say aye. Any opposed? All right. The motion is
856 granted. Thank you, sir.
857
858 Mr. Kelmar - Thank you for your time.
859
860 Mr. Baka - Thank you very much for your time tonight. I appreciate it.
861
862 Mr. Emerson - Mr. Chairman, we now move on to the next item, which also
863 appears on page 2. And that is the consideration of approval of your Minutes from your
864 May 13, 2021 meeting. We have no errata sheet. But, of course, we'll make any changes
865 that the Commission sees necessary.
866
867 Mr. Mackey - All right. Does anyone have any changes to the Minutes? A
868 motion would be in order.

869
870 Mr. Witte - So moved.
871
872 Mr. Baka - Second.
873
874 Mr. Mackey - We have a motion for approval of the Minutes by Mr. Witte, a
875 second by Mr. Baka. All in favor for the approval of the Minutes say aye. Any opposed?
876 The motion is granted.
877
878 Mr. Emerson - Mr. Chairman, other than noting to you that, with the
879 rescinding of the emergency by the Board, you will have a second meeting this month,
880 and you will have a second meeting in July. You do not have a meeting in August.
881
882 So you'll be getting a letter -- if you haven't received it already -- you'll be getting a letter
883 with those dates. I believe it's June 23rd. Let's see. Yes, it's June 23rd. The morning of
884 June 23rd at 9:00 am. So mark that on your calendar. Your preliminary agenda in that
885 letter from me should be in your email shortly. With that said, Mr. Chairman, I have
886 nothing further for the Commission this evening.
887
888 Mr. Mackey - Thank you, sir. If there is no further business, a motion for
889 adjournment.
890
891 Mr. Archer - So moved.
892
893 Mr. Baka - Second.
894
895 Mr. Mackey - Motioned by Mr. Archer, seconded by Mr. Baka. All in favor
896 say aye. Any opposed? Motion is granted. Meeting is adjourned.
897
898
899
900
901
902
903
904
905
906



Mr. William M. Mackey, Jr., Chairman


Mr. R. Joseph Emerson, Secretary