

1 Minutes of a joint meeting of the Board of Supervisors and Planning Commission of Henrico,  
2 Virginia, held in the Board Room of the County Administration Building, Parham and Hungary  
3 Spring Roads at 7:00 p.m. on February 12, 2002, Display Notice having been published in the  
4 Richmond Times-Dispatch on January 29, 2002, and February 5, 2002.

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6 Board of Supervisors: James B. Donati, Jr., Chairman, Varina  
7 David A. Kaechele, Vice-Chairman, Three Chopt  
8 Patricia S. O'Bannon, Tuckahoe  
9 Frank J. Thornton, Fairfield  
10 Richard W. Glover, Brookland

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12 Others Present: Virgil Hazelett, County Manager  
13 Paul Proto, Director, General Services  
14 Joseph P. Rapisarda, County Attorney

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16 Planning Commission: Allen J. Taylor, C.P.C., Chairperson, Three Chopt  
17 Eugene Jernigan, C.P.C., Vice-Chairperson, Varina  
18 C. W. Archer, C.P.C., Fairfield  
19 Lisa D. Ware, Tuckahoe  
20 Ernest B. Vanarsdall, C.P.C., Brookland  
21 Frank J. Thornton, Board of Supervisors, Fairfield  
22 John R. Marlles, AICP, Secretary, Director of Planning

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24 Others Present: Randall R. Silber, Assistant Director of Planning  
25 Ben Blankinship, County Planner  
26 Debra Ripley, Recording Secretary

27  
28 Mr. Hazelett - Mr. Chairman and members of the Board and members of the  
29 Planning Commission, ladies and gentlemen, I would indicate to you that Henrico County  
30 Planning Commission is down on the floor and to our left. The next item is a joint public hearing.  
31 You will hear us go through a procedural aspect involving the joint public hearing. Chairman and  
32 members of the Board, this is a joint public hearing. The item is 57-02. This is an ORDINANCE -  
33 To Amend and Reordain Section 24-3 Entitled "Enumerated," Section 24-62.1 Entitled "Permitted  
34 uses," Section 24-65 Entitled "Development standards and conditions for permitted uses" and  
35 Section 24-66 Entitled "Principal uses permitted (subject to the conditions required in section 24-  
36 69)" of the Code of the County of Henrico, All to Regulate Adult Businesses.

37  
38 All of this is related to regulated adult businesses. Mr. Chairman.

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40 Mr. Donati - Because this is a joint public meeting with the Planning  
41 Commission, at this time I would like to recognize the Chairman of the Planning Commission, Mr.  
42 Taylor, to conduct his business.

43  
44 Mr. Taylor - Thank you, Mr. Chairman. I, in turn, will ask our Secretary of  
45 the Planning Commission, and Director of Planning, Mr. John Marlles, to take the roll.

46  
47 Mr. Marlles - Mr. Chairman, all members of the Planning Commission are  
48 present and the Planning Commission can conduct business.

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50 Mr. Donati - At this time we will receive a staff report from our Planning  
51 Department, and Mr. Blankinship will give the presentation.

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53 Mr. Blankinship - Thank you, Mr. Chairman, and members of the Board and

54 members of the Planning Commission.

55  
56 About seven months ago, County staff began receiving complaints about an adult business on  
57 Brook Road. As part of our investigation, the staff reviewed a number of case studies and judicial  
58 decisions regarding similar businesses in other locations to determine whether additional  
59 regulations were necessary to protect the public health, safety and welfare.

60  
61 This book contains studies from a number of different localities. In addition, several judicial  
62 decisions are cited in the preamble of the proposed ordinance. The studies and the court cases  
63 all reach similar conclusions. Briefly stated, the studies found the following: First, that adult  
64 businesses are frequently used for unlawful sexual activities, including prostitution; second, that  
65 there is convincing, documented evidence that adult businesses have harmful secondary effects  
66 on existing businesses around them, and residential areas nearby, including increased crime and  
67 the reduction of property values; and third, that these adverse secondary effects raise legitimate  
68 issues of substantial governmental concern, as described in more detail in the ordinance before  
69 you tonight.

70  
71 In order to prevent the adverse secondary effects, described in the court cases and studies,  
72 which we will be filing with the Clerk of the Board, the Planning Office has drafted the ordinance  
73 before you tonight. Let me summarize its content.

74  
75 As you know, the County Code was amended in 1999 to control the potential impacts of adult  
76 bookstores and adult video stores. They are allowed only in B-3 zoning districts, and they are  
77 prohibited within 500 feet of any "R" district, residence, church, school, library, playground, park,  
78 and other listed uses. The store may not display any adult-oriented merchandise in the windows,  
79 or advertise such material on its signs. Hours of operation are limited to 6:00 a.m. to midnight.  
80 No one is allowed to view adult-oriented videos on the premises. Sexually-oriented materials  
81 must be kept away from minors, and minors are not allowed to work in the store.

82  
83 The proposed amendment before you tonight would extend those same requirements to other  
84 defined adult businesses and would provide additional protection in some cases. The following  
85 uses are defined and included in the umbrella term "adult business:" adult model studio, adult  
86 motel, adult movie theater, adult nightclub, adult store, any business providing adult  
87 entertainment, and any business that regularly exploits an interest in matter related to specified  
88 sexual activities or specified anatomical areas. All of those uses, in the future, would be subject  
89 to the regulations currently imposed on adult bookstores and video stores (except that adult  
90 movie theaters, adult nightclubs and businesses providing adult entertainment would be allowed  
91 to remain open until 2:00 a.m.)

92  
93 In addition to the requirements already in the Code, all adult businesses would be required to  
94 install and maintain video camera systems and security lighting. These requirements are similar  
95 to the standard conditions currently imposed on certain businesses that raise security concerns.

96  
97 That is a brief summary of the requirements that would be imposed by the ordinance before you  
98 tonight. Let me emphasize that this ordinance does not ban adult businesses, nor is it designed  
99 to interfere with anyone's right of free expression. The purpose of this ordinance is to prevent or  
100 mitigate the adverse secondary effects of adult businesses by controlling their location, their  
101 hours of operation, and certain aspects of their conduct.

102  
103 And finally, I would like to point out, as you already know, that under State law, existing  
104 businesses would be treated as lawful non-conforming uses and would not be required to comply  
105 with the proposed regulations. Do you have any questions?

107 Mr. Donati - Any questions of Mr. Blankinship?  
108  
109 Mr. Kaechele - That is the grandfather clause that you are referring to?  
110  
111 Mr. Blankinship - Yes, more or less.  
112  
113 Mr. Donati - Any other questions for Mr. Blankinship? OK. Thank you, Mr.  
114 Blankinship. Planning Commission, Mr. Taylor, did any of your members have questions?  
115  
116 Mr. Taylor - Any comments from members of the Planning Commission? No,  
117 sir, Mr. Chairman.  
118  
119 Mr. Donati - Thank you.  
120  
121 Mr. Thornton - Mr. Chairman, could I ask something that I usually ask  
122 sometimes? We have some residents here tonight who have not been coming before, and if I  
123 could ask your indulgence, have someone just explain the "grandfather clause." That is it.  
124  
125 Mr. Blankinship, would you like to answer that question?  
126  
127 Mr. Blankinship - Certainly, Mr. Thornton. Zoning is used to implement the  
128 County's Comprehensive Plan, and for that reason it is forward looking. We zone a piece of  
129 property and then those regulations pertain to any development that comes on the property in  
130 the future. The State Code that enables the County to adopt the Zoning Ordinance specifically  
131 requires that the County not use zoning retroactively, that is to say, if there is a business located  
132 in the County today that does not comply with these requirements, the State prohibits you from  
133 passing an ordinance that would make that business unlawful, and then going out the next day  
134 and closing it down pursuant to that ordinance. That does not affect other parts of the County  
135 Code. It is specific to the zoning ordinance.  
136  
137 Mr. Donati - Thank you, Mr. Blankinship. Now is the time for public comment  
138 and I would ask that anyone that would like to speak in favor of this ordinance, if they would  
139 please come down to the podium and state your case, and after we are through with those that  
140 are in favor of this ordinance, I will ask for those that are in opposition to come. At this time,  
141 anyone that would like to speak in favor of this ordinance, would you please come to the podium  
142 and try to restrain yourself from making – repeating points – if possible. Anyone wish to speak in  
143 favor? OK.  
144  
145 Would anyone like to come and speak in opposition to this ordinance? OK.  
146  
147 Mr. Hazelett - At this point, Mr. Chairman, you would end the public hearing  
148 process, because you have a joint meeting. The Planning Commission will give consideration to  
149 the proposed ordinance.  
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151 Mr. Donati - OK. Mr. Taylor.  
152  
153 Mr. Taylor - Thank you, Mr. Chairman. Are there any comments from  
154 members of the Planning Commission? Mr. Chairman, there are no comments from the Planning  
155 Commission, and members of the Commission are here. Is there a motion?  
156  
157 Mr. Vanarsdall - Yes, sir. Mr. Chairman, I move that the Henrico County Planning  
158 Commission recommend the proposed amendments to the Board of Supervisors, Section 24-3

159 Section 24-62.1, Section 24-65 and Section 24-66, regarding adult businesses contained in  
160 tonight's agenda, Item 57-02 found on Page 1.

161

162 Mr. Taylor - Is there any discussion on that motion? OK.

163

164 Mr. Archer - Second.

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166 Mr. Taylor - Motion made by Mr. Vanarsdall and seconded by Mr. Archer. All  
167 in favor say aye. All opposed say no. The motion carries.

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169 Mr. Vanarsdall - Mr. Chairman, since this is the only item of business we have  
170 this evening, I would suggest that you close the meeting. I make a motion that the meeting be  
171 closed.

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173 Mr. Taylor - Motion made by Mr. Vanarsdall that the meeting be closed. Is  
174 there a second?

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176 Mr. Jernigan - Second.

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178 Mr. Taylor - Mr. Jernigan seconds the motion. All in favor say aye. All  
179 opposed say no. The motion carries. We are adjourned.

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181 Mr. Hazelett - Mr. Chairman, and Board of Supervisors, the Planning  
182 Commission has voted to recommend the adoption of the proposed ordinance to you, and now it  
183 is before you for consideration of the motion.

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185 Mr. Donati - All right. We have a recommendation of adoption of the  
186 ordinance from the Planning Commission. Do we have a motion from the Board?

187

188 Mr. Kaechele - Mr. Chairman, I move that we follow the recommendation of the  
189 Planning Commission and move this ordinance.

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191 Ms. O'Bannon - Second.

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193 Mr. Donati - We have a motion by Mr. Kaechele and seconded by Ms.  
194 O'Bannon. All in favor of the ordinance signify by saying aye. All opposed say no. The motion  
195 carries and the ordinance is adopted.

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197 The Board of Supervisors voted to adopt Item 57-02, An ORDINANCE To Amend and Reordain  
198 Section 24-3 Entitled "Enumerated," Section 24-62.1 Entitled "Permitted uses," Section 24-65  
199 Entitled "Development standards and conditions for permitted uses" and Section 24-66 Entitled  
200 "Principal uses permitted (subject to the conditions required in section 24-69)" of the Code of the  
201 County of Henrico, All to Regulate Adult Businesses.

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Allen J. Taylor, C.P.C., Chairman

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John R. Marlles, AICP, Secretary