

STAFFORD COUNTY PLANNING COMMISSION MINUTES
June 12, 2013

The meeting of the Stafford County Planning Commission of Wednesday, June 12, 2013, was called to order at 6:30 p.m. by Vice-Chairman Scott Hirons in the Board of Supervisors Chambers of the George L. Gordon, Jr., Government Center.

MEMBERS PRESENT: Hirons, Boswell, English, Gibbons, Apicella, and Schwartz

MEMBERS ABSENT: Rhodes

STAFF PRESENT: Harvey, Bensten, Baker, Blackburn, Harbin, Doolittle, Narvaez, and Stinnette

DECLARATIONS OF DISQUALIFICATION

Mr. Hirons: Do we have any declarations of disqualifications?

Mr. English: We, myself and Mr. Snellings, met with the Crucible on Monday night just to talk about this stuff with the neighborhood.

Mr. Hirons: Thank you. Any others? We'll move right along to public presentations. Since we have no public hearings tonight, members from the public may address the Commission on any topic. We'll ask you to come forward; you'll have 3 minutes to make a presentation. The lights on the podium indicate your time; green, you have 2 minutes to yellow, 30 seconds left and red, we ask you to wrap up your comments. So, if any member from the public would like to come forward and make a presentation, please do so at this time. And also please state your name and address for the record at the beginning of your presentation.

PUBLIC PRESENTATIONS

Mark Jenkins: My name is Mark Jenkins. I represent the owners of 284 lots in Crow's Nest Harbor and here to speak very briefly on that today. We are pleased to work with the Commission and staff to try to craft a TDR ordinance that can be effective and hopefully cure some of the problems that have been perceived in the one passed in February. We hope to be able to aide you in pointing out some ideas and pointing out what we think will help make that an effective revision of the ordinance. And we closely tracked some of the recommendations in the Board resolution, including that we eliminate the common ownership restriction, establish a two acre minimum lot size, and ensure that each lot owner will be able to obtain one minimum TDR and be able to apply for and trade that. We also think it's important to try to focus on the receiving area to try to show or to authorize a broad number of properties and categories as possible because we think that will provide the marketplace and the choices that will enable the trading system to actually function at its optimal by creating demand for these kinds of lots. We do not agree with attempting impose similar kinds of common ownership restrictions which is one suggestion that has been made. We think that's similar to what has already been done which will create issues and problems. We have been in conversation with some of the property owners and neighboring associations and the Northern Virginia Land Trust. We think that's been very useful; we hope we can continue to do that. We may have different views on different things but we are going to continue to try to talk especially on a point that's been raised by the Land Trust about trying to see what kind of connection there can be between the conservation or the

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elimination of development rights on these lots and in the next step how that might end up with lots being in some sort of preserve or land trust. That's a step which I'm thinking might be flexibly done by some sort of arrangement rather than by the ordinance. But that's perhaps a matter of attention, of opinion, but we will continue to have that conversation with them. And I have a few thoughts on that and ideas. And finally, what I'm hoping to do by early next week, is to produce an actual ordinance with our suggested revisions as the most efficient way to identify what we think are the issues and hopefully to aide Mr. Harvey in the drafting, rather than just trade concepts, because now we're down to the details and the details really matter a lot. And hopefully we can help make that happen in an efficient way. Thank you.

Mr. Hirons: Thank you. Anybody else wishing to address the Commission?

Patrick Cody: Thank you. Once again, my name's Patrick Cody; I'm Chairman of the Northern Virginia Conservation Trust and thank you Commissioners for giving me one more chance to make a brief appearance here. I sent around an email to Jeff and to Steve and I have some copies. It's really not so much new news so I'll just summarize the one page and I'll hand this around so that you can take a look at. In a certain sense, our interest has been simple from the beginning is that we've had a high priority to have Crow's Nest Harbor become part of the Crow's Nest Natural Area Preserve. We supported the ordinance that went into the February 19th meeting; it wasn't perfect. There were a lot of aspects to it which, particularly the pathway to having the lots after the TDR severed, have some (inaudible) that they could become part of the Natural Area Reserve. We've had discussions with Mark and Joe Samanaw and the owners about ways that might be done. On that basis, we were supportive of the original ordinance. We've always felt that, technically speaking, the lots, the small lots in Crow's Nest Harbor, ought to be differentiated from the large lots, both in the structure of the residual rights and other aspects because most of the provisions, and some of this has been fixed over time, but (inaudible) apply to large agricultural lots. The most obvious being is if (inaudible) developments rights on a 200 acre farm, you still want a farm so you need a barn, you need structures, and you need the right to do things, or if you have a 200 acre forest. I think we've always viewed Crow's Nest Harbor as being a different kettle of fish. We own four lots there. So, as Mark mentioned, he's having discussions; if we could work out something with him that would... with the three major landowners there... that would go a long way to solving, meeting our goals. Thanks.

Mr. Hirons: Thank you. Anyone else wishing to make a presentation?

Cecilia Kirkman: Good evening ladies... oh, no more ladies left on the Planning Commission... gentlemen, my name is Cecilia Kirkman and I'm here tonight on behalf of Save Crow's Nest. We have continued to dialogue with Northern Virginia Conservation Trust and the property owners to understand the interest that we share and we diverge. And I did send to you all this afternoon a statement of Save Crow's Nest and what we think are some of the most important changes that are needed in the TDR ordinance, as well as some suggested language because I do remember from my days on the Planning Commission that it was always helpful to have some specifics put before you. What I want to focus on now, though, is the concept of two different sending areas. We really see that what makes sense, given the differing needs of a park versus working farms, that it makes sense to divide the area... the current sending area into two, one being the lower half separated by Accokeek Creek and consisting of the Crow's Nest peninsula, and the agricultural area sending area consisting of the Marlborough Point peninsula. And suggesting different criteria for each and, in particular, for the park sending area, basically eliminating any size requirements but requiring that to be eligible the lot must be either designated as park land in the Comprehensive Plan or share a property boundary with land designated as park land or with a public park. It eliminates the lot size and common ownership

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requirements and requires an all or none in terms of the Crow's Nest Harbor lots. If you own multiple lots in the Crow's Nest Harbor, you put them all into TDR or none of them. Using the criteria we have suggested, it would generate approximately 504 development rights from the sending area. And using the criteria we suggest for the agricultural sending area, which is that it's zoned A-1 or A-2 and a separate parcel comprised of 20 acres, this does eliminate the provision for stream together contiguous parcels to equal 20 acres. That would generate 326 development rights. And, in total, using the criteria that we're suggesting, it would create 830 sending rights... development rights in the sending area. And I think this is a critical point because I think the last time we were here I heard an almost audible gasp when staff announced that implementing the changes the Board had sent down would create nearly 1,300 development rights and, my Lord, how are you going to accommodate all of those. We do think it's important to stage this so that priority is given to the lots coming from the park sending area. And that also will give you a chance to work out any bugs and fix any unintended consequences that you find in implementing it. Thank you very much for your consideration.

Mr. Hirons: Thank you. Anyone else wishing to address the Commission?

Charlie Payne: Mr. Chairman, Charlie Payne with the law firm Hirschler Fleischer. It's unusual for me to make a comment during the public segment, but just would ask if the Planning Commission would entertain a motion to move the first item under Unfinished Business back in the agenda under Unfinished Business until the Chairman is here. I know it's an important topic for everybody and I know his input is important, as well as each and every one of yours. I'm just making that suggestion. Thank you Mr. Chairman.

Mr. Hirons: Thank you. After public presentations we'll see the will of the Commission.

John Phillips: Good evening. My name is John Phillips. I want to first thank everyone for considering rezoning. I'm one of the microbreweries looking to establish here in Stafford County and I've read through the proposed changes and completely agree and appreciate the time that it's taken to do that. I would like to make one recommendation or one possible thing for consideration as you're considering it; that's part of the language with respect to conditional use permitting in a B-2 zone. I would like to request that it's not conditional use permitting, that in a B-2 zone you allow a microbrewery. The purpose is, is that a microbrewery is part of the community by definition. Virginia has not taken that on board yet because it just recently allowed pints to be sold in a brewery. Considering now that we are allowed to sell pints, it does become more of a community atmosphere. Observing certain examples such as Lost Rhino Brewery, they are in an industrial area; however, they've got four very large subdivisions surrounding them which you can see from the brewery. Our zoning of BM-1 is a little bit off the beaten path, whereas B-2s are right there within the community, able to service the community and include them in our craft. So, if the Commission would simply consider maybe changing that language and allowing us to just craft brew in B-2, we would appreciate it. Thank you very much for your time.

Mr. Hirons: Thank you. Anyone else wishing to address the Commission? Seeing now one coming forward, we'll close the public presentations.

Mr. Gibbons: Mr. Chairman, I kinda like the last presenter's comments. You know, it used to be industrial, a very heavy use. So when they go to into B-2 it would be like lite beer, very light use I could see that.

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Mr. Hirons: Okay Mr. Gibbons, lite beer only. One thing before we see if there's a will on the motion. Mr. Harvey, would you mind introducing Ms. McClendon's stand-in. We may end up having some questions for our legal representation tonight and I know he's joined us before, but I just can't remember the name.

Mr. Harvey: Yes Mr. Chairman. Seated beside me is Keith Bensten, he is an Assistant County Attorney.

Mr. Hirons: Welcome Mr. Bensten.

Mr. Bensten: Good evening, I will be happy to answer any questions you all have.

Mr. Hirons: Great, thank you. The request by one of the presenters on a motion; would anyone like to make that motion?

Mr. Gibbons: I'll make the motion. (Inaudible, microphone not on.)

Mr. Apicella: Mr. Chairman, would the motioner agree to a friendly amendment to also move the second item as well?

Mr. Hirons: Okay, we need to have some order of where we want to put them. At the end of Unfinished Business or at the end of the agenda prior to the Planning Director's Report?

Mr. Apicella: Mr. Chairman, I think by default they would have to be after... those are the only pieces of Unfinished Business so I think they would have to move to the end of New Business.

Mr. Hirons: Number 1 and 2, correct?

Mr. Gibbons: You've got 8, 9, and 10 and we can just put 1 and 2 after those.

Mr. Hirons: Okay. Very good, that's why I was asking. Is the original motion maker okay with the amendment he requested? Is there a second?

Mr. English: Steven seconded.

Mr. Hirons: Did you? I didn't hear that. I heard you (inaudible).

Mr. Apicella: I whispered it under my breath.

Mr. Hirons: Okay, thank you. We have a motion and second, is there any further discussion? Those in favor of moving items number 1 and 2 to the end of the agenda after New Business, after item number 10, please signify by saying aye.

Mr. Apicella: Aye.

Dr. Schwartz: Aye.

Mr. English: Aye.

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Mr. Boswell: Aye.

Mr. Gibbons: Aye.

Mr. Hirons: Aye. Any opposed? We will move forward with the agenda, moving items 1 and 2 to the end to give our Chairman the ability to participate in that discussion as well. So, we'll move onto item number 3. Mr. Harvey, do you have an update? I know there was a request for deferral.

PUBLIC HEARINGS

None

UNFINISHED BUSINESS

1. RC1300177; Reclassification – George Washington’s Boyhood Home at Ferry Farm - A proposed reclassification to remove the HR, Historic Resource Overlay Zoning District from Assessor’s Parcels 54-93 and 93A, zoned HI, Heritage Interpretation Zoning District. The property consists of 76.94 acres, located on the west side of Kings Highway at the intersection with Ferry Road within the George Washington Election District. **(Time Limit: August 6, 2013) (History: Deferred at May 8, 2013 to May 22, 2013) (Deferred at May 22, 2013 to June 12, 2013)**
2. Transfer of Development Rights (TDR) - Amend the Comprehensive Plan and Zoning Ordinance by adopting textual amendments regarding the Transfer of Development Rights Program, including the Sending and Receiving Area Map. **(Time Limit: August 30, 2013) (Authorize for Public Hearing by: June 12, 2013) (Potential Public Hearing Date: July 10, 2013)**

Items 1 and 2 were discussed after item 10.

3. CUP1200299; Conditional Use Permit – Crucible Properties II, LLC - A request for a Conditional Use Permit to allow an Industrial School in a M-1, Light Industrial Zoning District on Assessor's Parcel 35-22. The property consists of 87.59 acres located at the end of Jack Ellington Road, approximately 1,000 feet east of Richards Ferry Road, within the Hartwood Election District. **(Time Limit: July 21, 2013) (History: Deferred at May 22, 2013 to June 26, 2013)**

Mr. Harvey: Yes Mr. Chairman, this is on your agenda as being deferred to June 26th; however, the applicant has requested an extension of the deferral to your August 28th meeting.

Mr. Hirons: Do we need a motion to that effect?

Mr. English: I had some questions about it before we do anything with that.

Mr. Hirons: Mr. English?

Mr. English: I guess I'm going to make a motion to go ahead and defer it, but have discussion on it, can I do that?

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Mr. Hirons: Sure.

Mr. English: Alright, I make a motion to go ahead and continue till August.

Mr. Boswell: Second.

Mr. Hirons: It's going to be the second meeting of August... the only scheduled meeting of August, is that correct?

Mr. Harvey: Yes sir.

Mr. Hirons: And what's the date of that?

Mr. Harvey: I believe it's the 28th.

Mr. Hirons: Okay. Is there a second? Did I hear that out of Mr. Boswell?

Mr. Boswell: Yes.

Mr. Hirons: You guys gotta speak up on these seconds here. Okay, we have a motion and a second. Mr. English, discussion?

Mr. English: Yes. In reference when they were doing some studies on it, Mr. Payne, there were some questions at the meeting the other night if you guys could look into as far as the traffic issue was one of the ones that if you guys could take a look at that through VDOT. That was one of the issues that had come up and we were concerned about that. If you could address that as you're doing the follow-ups on this.

Mr. Payne: Yes sir, Mr. English. Mr. Chairman, others members of the Planning Commission, for the record my name is Charlie Payne with the law firm Hirschler Fleischer and I represent Crucible Properties II, LLC, which has an application before you, a Conditional Use Permit application before you. We have made a request as the Planning Commission has noted to extend our opportunity to come back to you to August 28th. And I know you haven't voted on that. To answer your question, yes, Mr. English, we had a nice countryside community meeting last night which we really appreciated the community folks inviting us to listen to their concerns regarding our application and our current use. Several issues came up as you know. I don't know if you're going to go through them but certainly a transportation question along Richards Ferry Road was one of those and yes, we're looking into that.

Mr. English: Okay. And then the second thing is, is it possible that staff can go out and get a noise reading out there because one of them, that was a discussion too, that one of them would come from Westfield and the other would come from the Crucible and one of them was not scientific and the other one was. And I would just like to know if staff could go out there and just get a reading at some time.

Mr. Harvey: Yes Mr. English, we can coordinate with the Sheriff's Department who has the equipment and the property owner if that's agreeable.

Mr. Payne: As long as we are obviously notified when you are coming out so that you can coordinate with the appropriate person. John Gardner would be the contact person, but those guys travel quite a

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bit so you can either contact me or John Gardner to let know when you're planning to come on out. We're not going to change anything.

Mr. English: No, right, I think it should be one of these surprise ones that come out there and get a reading so nobody will know that you're out there.

Mr. Payne: We'll lose money if we shut down. So, we're going to keep doing what we're doing. Again, as you know, we've never hidden, we've been very open book about this and I would just also, as a reminder, the reason why we've asked for the extension to the 28th, it gives us adequate due diligence to work with our consultants on the issues that came up at Westlake and, as promised to this Planning Commission, to address the concerns of the public on noise. So, that's why we're asking for the extra time.

Mr. English: And also, you're going to consider about maybe, one of the other considerations where it's about picking a certain time of the month like a Saturday or something that you're going to do some...

Mr. Payne: Well, that came up and, as you know, there was a suggestion that we pick a day of the week that we... you know, some of the comments, as you know, 10 o'clock's not bad but 10:05 is not fun.

Mr. English: Right.

Mr. Payne: It's driven by the contract; it's not us out there having fun sort of pleasure shooting. It's driven by the federal contract. Now, we're looking into it because the question did come up and we need to have the ability to train at night. Now, in the wintertime, there's more night time, if you will, versus the summertime which you might have an hour or two to really kind of fit that in. So, we've got to figure out how that would apply seasonal, perhaps different months, and then figure out whether or not we would pick a day or two to make that happen. Again, obligated under that federal contract, I know we're subject to the noise ordinance, I know we're subject to the concerns of the neighborhood, but we've also got an obligation under our agreements with the federal government.

Mr. English: Right, and also we have an obligation to the residents too.

Mr. Payne: As you know, we can operate, with our zoning, we can operate till those times.

Mr. English: Right.

Mr. Hirons: Mr. Gibbons?

Mr. Gibbons: What is the last date that we can handle this?

Mr. Harvey: Mr. Chairman, Mr. Gibbons, if this gets deferred to August 28th that would be your last time to consider it.

Mr. Gibbons: So, we're going to the last day before we...

Mr. Harvey: Unless there's further extensions.

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Mr. Payne: We made the request, so that extends the obligation of the Planning Commission to make their determination. This is the request of the applicant to extend that.

Mr. Gibbons: Oh, I understand. So, what I'd like to have the request that we bring it up on August 26th and at least give us one more meeting to dispose of it.

Mr. English: Is that possible that we can do that?

Mr. Payne: The dilemma is that there's only one meeting in July and one meeting in August and that's why...

Mr. English: But we can vote on it in September.

Mr. Gibbons: So, I mean we would take it up at the 28th meeting but we would have to dispose of it by the next meeting. Give us one meeting to take all the data and review it.

Mr. Harvey: Mr. Chairman, I would assume that would be up to the applicant and on the extension request.

Mr. Hirons: Right, that's what I was going to request. Mr. Payne, that would be your option to make a request to enable us to continue until the second week in September, whatever date that might be.

Mr. Payne: I would defer to the Planning Commission, if it believes at that meeting that it needs additional time to make a final decision, we will concur with that conclusion.

Mr. Hirons: At that point you're going to withhold enabling that request until the 28th meeting or...?

Mr. Payne: Well, I'm just... at the 28th if everyone is satisfied and they want to vote, that's great. If not and you need additional time, we will agree to that.

Mr. Gibbons: Okay, thank you very much.

Mr. Hirons: Mr. English, you're okay?

Mr. English: Yeah, I'm fine, thanks.

Mr. Gibbons: I just thought it's a complicated issue.

Mr. Hirons: Right. Is there further discussion on the motion? Actually shouldn't have taken the motion there if we were going to speak with the applicant, but that's okay.

Mr. English: I'm sorry.

Mr. Hirons: So, the motion on the table is to defer this application until August 28th at which time the applicant will come before us again and has agreed to agree at that time to extend if the Commission desires.

Mr. English: Okay.

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Mr. Hirons: Any other discussion? Those in favor of the motion please signify by saying aye.

Mr. Apicella: Aye.

Dr. Schwartz: Aye.

Mr. English: Aye.

Mr. Boswell: Aye.

Mr. Gibbons: Aye.

Mr. Hirons: Aye. Any opposed? The motion passes 6 to 0 and one absent. Moving on to item number 4; do we have any action tonight?

4. Comprehensive Plan Amendment; Urban Development Areas - Amend the Comprehensive Plan recommendations for Urban Development Areas and targeted growth areas in the County. **(Deferred at February 27, 2013 until further information from staff) (History: Deferred at March 27, 2013 to April 10, 2013)**
(Scheduled for June 1, 2013 Work Session)

Mr. Harvey: Mr. Chairman, there will not be any discussion tonight. Staff is taking the information that we gathered from the Planning Commission at the work session retreat and we'll be bringing back a proposed revision to the Comprehensive Plan at a future meeting.

5. Discussion of Public Notification Requirements **(History: Deferred at February 5, 2013 to February 13, 2013)**
(Scheduled for June 1, 2013 Work Session)

Mr. Hirons: Alright. Item number 5?

Mr. Harvey: Similar situation Mr. Chairman.

Mr. Hirons: And I'm assuming we don't need any motion on either of those to continue, correct?

Mr. Harvey: Yes sir, they're staying deferred.

6. Proffer Guidelines - Discuss proposed amendments to the County's proffer guidelines for zoning reclassifications. **(History: Deferred at May 8, 2013 to June 26, 2013)**

Mr. Hirons: Okay. Item number 6, Mr. Rhodes had indicated to me we have planned action on the 26th.

Mr. Harvey: Yes sir.

Mr. Hirons: Is there any other action on that for tonight?

Mr. Harvey: No sir.

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7. Comprehensive Plan Amendment; Anne E. Moncure Elementary School Relocation - Consider an amendment to the Comprehensive Plan to include Assessor's Parcels 20-66B, 20-66C, 21-15, and 21-16 within the Urban Services Area, and change the land use designation from Agricultural to Suburban. The property consists of 23.7 acres and is located on the northeast side of Juggins Road, south of Smith Lake Drive, within the Griffis-Widewater Election District. **(Time Limit: August 31, 2013)**
(Authorize for Public Hearing by: July 10, 2013)
(Potential Public Hearing Date: August 28, 2013)

Mr. Hirons: Alright. Item number 7. Is there any action tonight on that?

Mr. Harvey: Mr. Chairman, there has been some updated information with regard to this. Mrs. Baker has informed me that we may be in a position possibly to hold the hearing on July 10th; is that correct Kathy? Yes. So if the Commission would like, we can authorize the public hearing for July 10th.

Mr. Hirons: Okay. Is there a will from the Commission?

Mr. Boswell: I'll make a motion.

Mr. Hirons: There's a motion to authorize a public hearing on item number 7, Comprehensive Plan Amendment for Anne E. Moncure Elementary School Relocation, to authorize the public hearing for July 10th.

Mr. Gibbons: (Inaudible, microphone not on.)

Mr. Hirons: We'll record Mr. Boswell as the motion maker and Mr. Gibbons as the seconder. Is there any discussion? Mr. Gibbons? Any other members? Those in favor to authorize public for item number 7 for July 10th please signify by saying aye.

Mr. Apicella: Aye.

Dr. Schwartz: Aye.

Mr. English: Aye.

Mr. Boswell: Aye.

Mr. Gibbons: Aye.

Mr. Hirons: Aye. Any opposed? Alright, motion passes 6 to 0, one absent. And we're up to New Business, item number 8. Mr. Harvey?

NEW BUSINESS

8. WAV1300235; Assessor's Parcel 8-17; 5:1 Lot Ratio Waiver Request - A waiver of the frontage to depth ratio for a minor subdivision zoned A-1, Agricultural, located on the south side of Garrisonville Road approximately 0.69 mile from the Fauquier County line, on Assessor's Parcel 8-17 within the Rock Hill Election District. **(Time Limit: September 10, 2013)**

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Mr. Harvey: Thank you Mr. Chairman. Mrs. Doolittle will be making the presentation on this issue.

Mr. Gibbons: Could I ask a technical question to the County Attorney? We can take this up without a public hearing?

Mr. Bensten: Yes Mr. Gibbons. The County Code does not require a public hearing for this.

Mr. Gibbons: Thank you.

Mr. Bensten: You're welcome.

Mr. Hiron: Mrs. Doolittle?

Natalie Doolittle: Good evening members of the Commission. Item number 8 is for a waiver request for the 5:1 lot shape ratio requirement for a proposed lot on a part of Assessor's Parcel 8-17.

Mr. Harvey: Computer please.

Mrs. Doolittle: The applicant is Bragg Clark of Cascade Land and Lakes, LLC, and the owner is Joan Anita Sherrill Family, Ltd. Partnership and the application was submitted on May 21, 2013. Assessor's Parcel 8-17 is located on the south side of Garrisonville Road, approximately 0.69 miles from the County line. The proposed lot to be subdivided will be 84.11 acres zoned A-1, Agricultural. Here's the aerial view of the total parent parcel 8-17. There is an existing home in this area. The current owner is preparing to sell the 84.11 acre remainder and retain 8.29 acres for the existing home. She does not wish to be part of the proposed major subdivision, Garrisonville Landing. The applicant is proposing to do a minor subdivision prior to obtaining preliminary plan approval so that the 8.29 parcel can be separate and apart from the proposed major subdivision. Here is the proposed minor subdivision plat to subdivide out the 8.29 acres. The large remainder parcel of 84.11 acres will have a lot shape ratio of approximately 8:1. Section 22-143 of the Subdivision Ordinance states "the depth of a lot shall not exceed five times its width." Therefore, the applicant is requesting a waiver for the large remainder parcel. Here is the proposed preliminary plan for the large remainder parcel, and it will consist of 24 lots. Staff recommends approval of the waiver request of the 5:1 lot shape ratio for one lot. Upon development, the property would fully comply with the ordinance requirements and the need for the waiver would be eliminated. And I'd be happy to answer any questions.

Mr. Hiron: Any questions for staff? Is there any presentation by the applicant?

Mrs. Doolittle: He's here if you have any questions.

Mr. Hiron: Any questions for the applicant?

Mr. Gibbons: Mr. Chairman, I only have one technical question. I follow everything that's being done here but what I don't agree with is VDOT's interpretation of the parcel connection once the subdivision comes into effect. The parcel that's asking for the waiver has direct access to 610, if you look at the... if you can bring that up. Bring up the subdivision that shows the stub into... If you look in here and you go back to the parcel that's being requested, you'll see that VDOT has required a stub-in to that to be extended to the subdivision, and I don't know why. They say they have the right to do that but I don't have the code, Jeff, and I ask for the code to be sent home. We can review that when the plat comes in but I don't think it's required.

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Mr. Harvey: Mr. Gibbons, we'll try to find the provisions in the VDOT State Administrative Code as to what the requirement is. As you indicated from our County perspective, there's not enough lots to require a second access point from County standards.

Mr. Gibbons: So, you'll get that for me?

Mr. Harvey: Yes.

Mr. Gibbons: Okay, thank you.

Mr. Hirons: Okay, any other questions for staff? Alright Mr. Gibbons, this is in your district.

Mr. Gibbons: Mr. Chairman, I reviewed this and I think the young lady's last name doesn't reflect her work ethic, so I want to go on record with that. But they've done a good job with this so I recommend approval.

Mr. Hirons: Is that a motion?

Mr. Gibbons: Yes sir.

Mr. Apicella: Second.

Mr. Hirons: A motion made by Mr. Gibbons to recommend approval for Waiver Request 1300235, seconded by Mr. Apicella. Any discussion Mr. Gibbons?

Mr. Gibbons: No sir.

Mr. Hirons: Mr. Apicella?

Mr. Apicella: Mr. Chairman, I don't see a downside to the waiver request, that's why I agreed with the motioner to go ahead and approve it.

Mr. Hirons: Any other members have any comments? Those in favor of the motion please signify by saying aye.

Mr. Apicella: Aye.

Dr. Schwartz: Aye.

Mr. English: Aye.

Mr. Boswell: Aye.

Mr. Gibbons: Aye.

Mr. Hirons: Aye. Those opposed? The motion passes 6 to 0 with one absent. And we move on to item number 9, and our Chairman is going to miss happy hour. Mr. Harvey?

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9. Amendment to Zoning Ordinance - Proposed Ordinance O13-36 would amend Stafford County Code, Section 28-35, Table 3.1, "District Uses and Standards" and Section 28-39 "Special Regulations" to define breweries, microbreweries, and distilleries and to allow these uses in various zoning district with special regulations. **(Time Limit: August 20, 2013)**

Mr. Harvey: Yes, Mr. Chairman, Ms. Blackburn will give the presentation regarding the proposed zoning text amendment.

Ms. Blackburn: Planning Commission members, good evening. This is an amendment to the Zoning Ordinance, proposed Ordinance O13-36, and it would amend the Stafford County Code to define breweries, microbreweries, and distilleries, and to allow these uses in the various zoning districts with special regulations. The County has received several inquiries expressing the desire to establish microbreweries within the County. The requests have ranged from a space of approximately 1,500 square feet, which includes a beer tasting/selling room and space for distributing the product to the local merchants and to a smaller operation that will include a beer tasting/selling room and a restaurant specializing in local cuisine. After reviewing the Zoning Ordinance, it was discovered the only reference to manufacturing alcoholic beverages (other than wine) was in the definition of heavy manufacturing uses. These uses were only allowed in the M-2, Heavy Industrial, Zoning District with a conditional use permit. Staff felt this zoning regulation was more suited to a distillery or a large brewery, and proceeded to research microbreweries to learn if they could be located in a less-intense zoning district. Staff researched how microbreweries operated, the amount of product they produced, and how surrounding localities regulated this use. The research showed that the majority of microbreweries are small operations producing less than 15,000 barrels of beer a year. Often they have facilities for tasting and selling their products and are located in industrial zones as a by-right permitted use. Staff also reviewed the Virginia Code regulations for such facilities and found that several licenses are required. The licenses are separated into various categories – keg sales, non-keg sales, off-premise, on- premise, etcetera, and the amount of product produced. And less than 10,000 barrels are one set of licenses and more than 10,000 barrels per year are another set of licenses. And these multiple licenses may be required depending on how the facility is conducting business. And as of July, 2012, breweries in Virginia are able to sell their brews from the breweries without the need of a restaurant. Staff proposed Ordinance O13-36 which provides a definition of a brewery, microbrewery, and a distillery, and designates the zoning district in which the uses are permitted. It allows a microbrewery by-right in the M-1, Light Industrial zoning district, and requires approval of a CUP if a microbrewery desires to hold various events such as weddings and parties in the M-1 zone. It also requires a CUP for a microbrewery in the B-2, Urban Commercial zoning district. In addition, it allows a distillery and brewery in the M-2, Heavy Industrial zoning district upon issuance of a CUP. At the May 7th meeting, staff presented this research and draft ordinance amendments to the Board's Community Economic and Development Committee. After a discussion, the Committee recommended sending the proposal to the Board for its consideration. The Board of Supervisors adopted Resolution R13-175 at their May 21st meeting, and that referred this item to the Planning Commission for your review and recommendations. The Planning Commission may make any changes it deems necessary and appropriate. And you have until August 20th to act on this item.

Mr. Hirons: Did staff research require any onsite research? Any questions for staff?

Mr. Gibbons: I didn't see the definition of taster.

Mr. Hirons: We could have a lot of fun with this.

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Mr. Apicella: Mr. Chairman?

Mr. Hirons: Mr. Apicella.

Mr. Apicella: Are there any similar sorts of microbreweries in the Fredericksburg area that you're aware of?

Ms. Blackburn: There is Blue and Gray and I want to say it's in Fredericksburg; I'm not real sure. It might even be in Spotsylvania.

Mr. Apicella: And is Capital Ale House a brewery? A microbrewery?

Ms. Blackburn: Yes. And... well...

Mr. Hirons: At the mike if you could, and state your name and address and I should have disclosed in the declarations Mr. Bornholtz is a former neighbor of mine.

Tim Bornholtz: Blue and Gray is a brewery and they have Lee's Retreat as an attached building but it was just separately licensed. Battlefield Brewing is on Plank Road; that is a microbrewery or brew pub. And Capital Ale House is not a microbrewery.

Mr. Apicella: Thanks. My second question to staff is how does our approach, and more specifically our ordinance, compare to similar ordinances in Fredericksburg, if that's where one or more of these microbreweries exist and/or Spotsylvania County.

Ms. Blackburn: Our ordinance, as I stated, did not address this really at all.

Mr. Apicella: I guess what I'm asking is, if I took the ordinance that's proposed here, as revised, how would it compare to the ordinances that exist in the places around the Fredericksburg region? I understand we don't have an ordinance now, I'm saying what's being proposed.

Ms. Blackburn: Right. Well, the majority of them, and I'm looking for the Spotsylvania one... I had it here... they do allow for these microbreweries in the M-1 districts. They classify them as manufacturing and the majority of them do place them there. And I looked at Prince William and they call it a bottling facility and they allow it in an M-1 district.

Mr. Apicella: When you say allow, you mean allow by-right in the M-1 district?

Ms. Blackburn: By-right, yes.

Mr. Apicella: And how about the same, in terms of the other areas where it's being recommended here under a CUP, how do those other jurisdictions handle the same sets of circumstances?

Ms. Blackburn: As far as allowing weddings and all of that? I mean... which CUP are you talking about?

Mr. Apicella: Well, all the... I mean, you have CUPs if they want to have special events in an M-1, and then you have CUPs if they want to go outside of the M-1 district. So again, I'm just trying to

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understand how our proposal here is similar to or different from the other jurisdictions under the same sets of circumstances.

Ms. Blackburn: I did not see where the special events was addressed in the other jurisdictions. And as far as allowing the microbrewery in a B-2, that would be under our definition which would be that they would be also distributing. That was the key for the B-2 CUP. We have discussed if it is a microbrewery that sells only through its restaurant, if it has a restaurant attached to it, only provides the beer that is purchased in the restaurant, then it would be a restaurant with an accessory brewery. But there would be no distribution or any off sales or anything like that. Okay?

Mr. Apicella: Thank you.

Mr. Hirons: Any more questions? Mr. English?

Mr. English: Is it possible that we can get copies from Spotsylvania and Fredericksburg, like Mr. Apicella said, and just kind of... and for Prince William too.

Ms. Blackburn: Yes, I can have that.

Mr. English: Then we can have a look at them.

Ms. Blackburn: No problem.

Mr. English: Steve, would that...?

Mr. Apicella: I think that would be helpful Mr. English.

Mr. Hirons: Any additional... Mr. Gibbons?

Mr. Gibbons: It would help us a lot if we could, I'm trying to go back to the basic issue, maybe if we could taste it, we could get a better feel for it.

Mr. Hirons: Perhaps. Post public hearing. Dr. Schwartz?

Dr. Schwartz: In addition to breweries, they have distilleries listed. It's quite a quantum leap there. Is there any particular reason why distilleries were added?

Ms. Blackburn: The only statement we had in the code was producing alcohol. And we thought if we were going to do any kind of amendments to the code it would start to make the distinction between them. And a distillery would still be allowed in an M-2 zone with a Conditional Use Permit which would basically be how it would be now; there's no distinction at all. And it would just be making a distinction.

Dr. Schwartz: Okay, well...

Mr. Apicella: And when we say distillery, we're talking something like Bowman's? Also near, I think, Blue and Gray Brewery.

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Ms. Blackburn: The definition is “a facility that produces any type of alcohol beverage other than beer, ale, or malt liquor. This definition does not include wine or a winery.”

Mr. Apicella: Again, I’m just trying to visualize what that might be and I believe Bowman’s is a distillery in outer Fredericksburg or Spotsylvania. And in an industrial park.

Ms. Blackburn: Yes.

Dr. Schwartz: But they’re not open for public sales or distribution.

Mr. Apicella: And I believe they sell to ABC stores; I don’t know how they get their product out.

Mr. Gibbons: I think they moved to Tennessee, their biggest plant, didn’t they? I don’t think they distill there anymore. I think they wholesale.

Dr. Schwartz: So, the distilleries would not be selling to the public, they’d have to be selling to the ABC stores, correct?

Ms. Blackburn: We can add that to the definition. It was not put in there. I don’t think we really considered that, a distillery like a Seagram’s or Bowman’s would be selling to the general public. We can easily add that to the definition.

Dr. Schwartz: Okay, thank you.

Mr. Gibbons: Mr. Chairman, as the proponent of this, has he submitted an application to the staff?

Mr. Hiron: I don’t believe so.

Ms. Blackburn: No, he has not submitted any applications. It was contacting us, discussing it with us, seeing if...

Mr. Gibbons: What I’m trying to get back at, if we had an example of what an application would look like and then you could follow it through to make sure you start stepping it like Mr. Apicella was saying and you can sense what’s there and what needs to be there. Right now we’re just going on language.

Mr. Hiron: Ms. Blackburn, do you have the history? As I understand it, the folks that brought this to you, they have an idea and a thought and a future plan to possibly open a microbrewery. But at this point they’re not at a point in their planning where they actually have an application or a building ready to go. They just recognize the flaws or what’s missing within our ordinance to enable them to continue their planning process.

Ms. Blackburn: Yes.

Mr. Harvey: Mr. Chairman, staff has had discussion with at least two entities interested in taking advantage of an ordinance amendment. Mr. Cobert from Economic Development is here; he may be able to add some more information if there’s been more than two that we’ve talked to. But I know that’s an interesting issue from Economic Development’s standpoint. They would like to see us move forward with the (inaudible).

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Mr. Hiron: Right, that might actually be very helpful at this point because it is also a selling point for the County to be able to provide this type of opportunity for potential new businesses. Mr. Cobert?

Richard Cobert: Yes, thank you. I'm Richard Cobert; I'm in the Department of Economic Development. A brief history... I actually came to Stafford from Baltimore County Economic Development where I worked with several breweries in Maryland. Some of them have made pretty big headlines; Clipper City Ale, Dogfish Head, and have become national microbrews. When these first recommendations came from the two microbrewery representatives that are here today, I provided input on my past experience. But also we talked about the economic development perspective of microbreweries in Stafford County. Microbreweries are becoming a very, very large... are creating a very large presence, particularly among the younger age, 21 to probably 40-45 age group. As much as older groups have gotten into wines back in the early 80's and into the 90's and even into today, so the millennials and gen-x have gotten into microbreweries where it's really offered as different classes of beer, different types, different flavors, and has yielded a very large and broad audience across the country. It's actually a craft, it is something that has brought a lot of interest. And we look at it from an economic development perspective as obviously small businesses being launched in Stafford County. Also, it's a craft that has (inaudible) large growth throughout the United States and in Virginia, and we also look at it from the tourism, the quality of life perspective. Here's something new and interesting for a very large demographic of the community. And we think it would be an excellent fit as part of the total live/work/play atmosphere that we have in Stafford County.

Mr. Hiron: Great, thank you. Any questions for Mr. Cobert? Mr. Gibbons?

Mr. Gibbons: I'm still getting back to the point and Steven brought up good examples. Do you have any examples of ordinances from other counties so we can take a look at them to make sure... I think it's wordsmithing more than... We need this product, but how are you going to write the ordinance and cover the aspects of it?

Mr. Cobert: We do have them as part of my file back in my office. I didn't bring copies for the (inaudible).

Mr. Gibbons: But if we could have something like that, Mr. Chairman, we could go over it.

Mr. Cobert: But we do; we can get you the full representations from, as was mentioned, Prince William, Fredericksburg, and... what was the other? Spotsylvania, thank you. Do you need them now?

Mr. Hiron: We are, I believe, under somewhat a little bit of a time limit. Given our schedule going forward, I think we need to authorize public hearing here pretty quickly. Is that correct Mr. Harvey?

Mr. Harvey: Yes, Mr. Chairman, I was going to mention this item and item 10, the Commission needs to consider authorizing a public hearing for your July 10th meeting at this meeting, because your time limit is August 20th which is before your August 28th meeting.

Mr. Gibbons: This came from the Board?

Mr. Hiron: Yes.

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Mr. Harvey: Yes. And the way the schedules worked out last month, there was a two week time gap between the Board's action and getting this to you. And then with the summer schedule, it's got things a little out of kilter, so we have less time to talk about it in advance of authorizing a public hearing than we normally would see.

Mr. Hirons: And there is a draft ordinance, correct, within our package?

Mr. Harvey: Yes sir.

Mr. Hirons: From any discussion that you've heard, if we were to authorize public hearing on this draft ordinance, is there anything that sounds like we would get more restrictive where we would have issue if this were authorized and we made any changes at our public hearing?

Mr. Harvey: One area, Mr. Chairman, is that one of the proponents has inquired about allowing microbreweries as a by-right in the B-2 zone. As currently written, it would be by-right in M-1 and CUP in a B-2. So, if the Commission were to move forward as drafted and desire to put it as a by-right in the B-2, then you'd have an advertising problem. You'd have to come back for another amendment to fix that.

Mr. Apicella: I'm sorry... did I hear correctly that we had to advertise it at this meeting for a public hearing or at the next meeting?

Mr. Harvey: Authorize at this meeting.

Mr. Hirons: Well, we still have...

Mr. Cobert: Gentlemen, I could make copies probably within five minutes if that would be beneficial.

Mr. Hirons: The will of the Commission? Mr. Gibbons, you brought this issue up.

Mr. Gibbons: It's alright with me.

Mr. Hirons: Would having copies by the end of this meeting help us at all? Mr. Apicella?

Mr. Apicella: Again, I'm just trying to see if they are more restrictive or less restrictive. The first time I'm seeing it in front of us, and we have to make a decision right here and now as to whether or not what's in front of us is the right way to go. So, I think it would be helpful even if we had a little bit of time to digest what else is out there in other communities who have already done this. We're going to be trying it for the first time, let's try to get it right as we can.

Mr. Hirons: How about if we defer this item until the end of our agenda. Mr. Cobert, if you could gather information for us that you're hearing, it would be helpful. And then we can render a decision at that point?

Mr. Gibbons: And going back to what Mr. Harvey said... Jeff, we could advertise both options for advertisement purposes and we could vote on either one. So you could have B-2, by-right, or B-2 the other way.

Mr. Harvey: That's correct, yes.

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Mr. Gibbons: Okay, thank you.

Mr. Cobert: I'll get on it right now.

Dr. Schwartz: So, do we need a motion to defer?

Mr. Hirons: Should we take a motion to move this item to the end of the agenda?

Mr. Bensten: I think that would be appropriate and I think it may also be appropriate for the Commission to decide whether it would be after items 1 and 2 that were deferred, or before.

Mr. Hirons: Mr. Schwartz, would you like to make a motion?

Dr. Schwartz: I make a motion to defer item number 9, is it?

Mr. Hirons: Yes.

Mr. Gibbons: Second.

Dr. Schwartz: Let's go ahead and defer this to after 1 and 2 because I'm sure Mr. Rhodes would want to be here and talk about beer and bourbon.

Mr. Hirons: Maybe he will make it for happy hour. Mr. Gibbons gave the second; any discussion Mr. Schwartz? Any other, Mr. Gibbons? Any other members? Those in favor of moving item number 9 to after items number 1 and 2 that were moved to the end of the agenda please signify by saying aye.

Mr. Apicella: Aye.

Dr. Schwartz: Aye.

Mr. English: Aye.

Mr. Boswell: Aye.

Mr. Gibbons: Aye.

Mr. Hirons: Aye. Those opposed? The motion passes 6 to 0...

Mr. Gibbons: Mr. Chairman, at one time we had quite a few distilleries in Stafford, but I don't know the legality of them.

Mr. Hirons: I'm sure we have. Item number 10. Mr. Harvey?

10. Amendment to the Zoning Ordinance - Proposed Ordinance O13-34 would amend Stafford County Code to create new lighting standards that will minimize glare, light trespass, overlighting, and skyglow, while improving safety and security, and conserving energy for businesses and residents of the County. Additionally, the new lighting standards will help streamline the review process by eliminating the need for CUPs for pole height in all zoning districts. **(Time Limit: August 20, 2013)**

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Mr. Harvey: Thank you Mr. Chairman. Robert Narvaez will discuss this proposed zoning text amendment.

Mr. Narvaez: Computer please. Good evening Planning Commission, this is item number 10. We're going to be talking about introducing you to the proposed Ordinance O13-34 for outdoor lighting standards. The Planning Commission is to consider an amendment to a couple sections to Chapter 22-215, Street Lighting, some definitions in 28-25 and 28-87, Outdoor Lighting Standards. The current standards now are out of date, inflexible, and kind of vague. I worked with the CTED officer, our County's Transportation Department, Parks and Rec, schools, and other people in the development community to help craft this over a year and a half. So, on March 5th of 2013, the Community and Economic Development Committee forwarded this proposal to the Board of Supervisors and this past May the Board of Supervisors forwarded it to you guys for public hearing and review. So, some of the highlights of this is that I tried to incorporate some CTED principles, and if you aren't familiar with that it's Crime Prevention Through Environmental Designs, so providing lighting but also not providing opportunities for crime... opportunity for any types of crime. Another thing is I helped standardize the site plan and subdivision plan reviews. It will give a little bit more teeth to the reviewers, but it will also remove the need for a Conditional Use Permit for pole heights in some zoning districts. We had a lot of Conditional Use Permits for pole lighting for athletic fields for schools and parks. So, this will eliminate that need. This update to the lighting standards is not intended to apply to state maintained roads. It's related to lightings in parking, on the buildings, things of that sort, or to pedestrian paths that might be a little bit too far away from the right-of-way.

Mr. Hirons: With the removal of the CUP for lighting pole size, you just said that that's for athletic fields basically?

Mr. Narvaez: Yeah, the pole height is predominantly for like, you know, stadium lighting.

Mr. Hirons: What review would happen then if a new stadium were to be put in, a new football stadium for a high school, say for their light pole height? And what I'm getting at is with a couple of high school issues, the FAA has surrendered opinions or provided letters with concerns of... I don't know if they're concerned as much about height as they are light disturbance, but there is at least that review there. What review by the County or by any government body would there be?

Mr. Narvaez: From like the FAA or...?

Mr. Hirons: From us, whether it's through the building permit process, FAA, or whatever.

Mr. Narvaez: Well, it hasn't been really crafted as such for that, but if it's in like say for the Stafford Airport, in their flight patterns, they would definitely get a shot to review it. So we have these parcels earmarked so when a site plan does come in for those particular parcels, it automatically would generate a letter to them saying there is a site plan or a development in your flight path and it might affect you.

Mr. Hirons: And is the site plan... can it move forward without hearing back from them? Or is it held until you hear back from (inaudible)?

Mr. Narvaez: We usually wait for a response before we continue.

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Mr. Hirons: Not that they wouldn't respond, but I just wouldn't want to see something move faster than the federal government moves, which never happens.

Mr. Narvaez: Yeah, we will give them an opportunity to review it if they need to.

Mr. Hirons: Alright, thanks.

Mr. Narvaez: Some elements of the proposed ordinance, like I said, it creates new definitions pertaining to lighting in the zoning ordinance. The new lighting standards will help minimize glare, light trespass, overlighting, skyglow, and improve safety and security for Stafford. And again, it will provide standards for reviewing these standards for site plans, residential construction plan, parking, and pedestrian areas. So we recommend the adoption of them but, you know, I'll be here to answer any questions.

Mr. Hirons: Any questions for staff? This is one quiet Commission tonight. Mr. Apicella, thank you.

Mr. Apicella: Not much of a question as maybe a little bit of a gripe. Again, we have another fairly significant modification to our ordinances. This one has brought implications and we have to approve it at the next meeting. It may be perfect, I don't know. But I'm just concerned about the time line by which this is in front of us and the limited amount of runway we have to kind of digest this and make a decision going forward as to what should be put in front of the public as part of a public hearing.

Mr. Hirons: And, Mr. Harvey, the timelines off of here are based on our ordinances and zoning code, correct?

Mr. Harvey: Yes Mr. Chairman. The County Code stipulates that the Planning Commission has 90 days after receipt of a referral from the Board.

Mr. Hirons: And process-wise, we could ask the Board for an extension and they could grant it to us? Is that correct?

Mr. Harvey: I believe that's the case. They can grant you an additional 90 days or...

Mr. Hirons: They could or they may not either.

Mr. Apicella: Mr. Chairman, I was actually headed in that direction and I would recommend that this body ask the Board of Supervisors for a minimum of 30 days, if not 90 days, to take a harder look at this and make sure we get it right. Given that, again, we're seeing it for the first time at this meeting and I just don't think that trying to come up with a bright and best solution for Stafford we can get to in two weeks.

Mr. Harvey: Mr. Chairman, if the Commission asks for an additional 30 days it would allow you to discuss it up to your July 10th meeting, and then you'd need to authorize a hearing at that point in time.

Mr. Hirons: Which would be two more meetings at least.

Mr. English: When was the last time this thing was updated, the lighting? Do you know?

Mr. Narvaez: It hasn't been in a while, I'll tell you that.

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Mr. English: Right, it's been a while.

Mr. Harvey: The light standards were first put in our Zoning Ordinance in 1995 and they have not been substantially modified since then.

Mr. Hirons: If we were to...

Mr. Gibbons: I guess we're saying let there be light, right.

Mr. Hirons: If we were to request an extension, would we still have to, based on our current known timeline, authorize public hearing tonight?

Mr. Harvey: Yes. And then you could, at the next meeting, request that that item be deferred if the extension is granted.

Mr. Hirons: Okay. I'll bring it back to the Commission. What's the will of the Commission on this?
Mr. Apicella?

Mr. Apicella: I thought I made a motion, maybe I wasn't clear. I think we should... I don't know if it needs a motion but, if it does, I would move that we ask the Board of Supervisors for 60 days to take a look at this. We could get it done quicker than that, but... do it 90? Okay.

Mr. English: I mean, it's been in effect since 95.

Mr. Apicella: I'm good with that. Mr. Chairman, I will modify my own motion as I'm making it that we ask the Board of Supervisors for a 90 day extension to (inaudible) on this.

Mr. Hirons: And as a part of your motion, are you also requesting or recommending authorizing a public hearing be advertised? Because if they deny us then we're kind of stuck.

Mr. English: I think you better put that in there.

Mr. Hirons: And I don't know what they do then.

Mr. Apicella: Yes, I will add that to my motion.

Dr. Schwartz: Second.

Mr. Hirons: Alright. So a motion has been made to request the Board of Supervisors give us an extra 90 days on this item. And concurrently authorize advertising of the public hearing. And I'm sure Mr. Harvey will kind of work all that out time wise and request the Board. If we could, if we could kind of make sure this gets in front of the Board as a very important and time sensitive item because they seem to have issues getting back to us sometimes. So the motion's been made and Mr. Schwartz, you seconded the motion, correct?

Dr. Schwartz: Yes sir.

Mr. Hirons: Good. Discussion? Mr. Schwartz?

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Dr. Schwartz: In that the ordinance hasn't been changed in...

Mr. Gibbons: Eighteen years.

Dr. Schwartz: ... 18 years... thanks for the math... I don't see where another 90 days is really going to cripple us here to do it right the first time. Just look at the cluster ordinance that we ran through and first swing of the bat we found some errors.

Mr. Hiron: We don't want another cluster. Any other discussion? Those in favor of the motion to request an additional 90 days and concurrently authorizing public hearing to be advertised please signify by saying aye.

Mr. Apicella: Aye.

Dr. Schwartz: Aye.

Mr. English: Aye.

Mr. Boswell: Aye.

Mr. Gibbons: Aye.

Mr. Hiron: Aye. Any opposed? The motion passes 6 to 0 with one absent. And I believe that brings us back to item number 1 which our Chairman has not arrived for yet. Mr. Gibbons, are we okay to continue? Was there any particular reason your... part of your motion was so the Chairman can participate in this discussion as well.

1. RC1300177; Reclassification – George Washington's Boyhood Home at Ferry Farm

Mr. Gibbons: That's what the applicant desired. I noticed his email said it could be 8:30.

Mr. Hiron: It said between 7:30 and 8 I believe; hopefully relatively soon. Shall we move forward on item number 1? We shall. Item number 1, RC1300177, Reclassification, George Washington's Boyhood Home.

Mr. Harvey: Mr. Chairman, Mrs. Baker will give an update.

Mrs. Baker: Good evening. RC1300177 is a reclassification for George Washington's Boyhood Home at Ferry Farm. This is for the removal of the Historic Resource Overlay District on Assessor's Parcel 54-93 and 93A. The public hearing was held on May 8th with a deferral to May 22nd, as well another deferral till tonight's meeting. This item was discussed at your June 1st work session. The Planning Commission had asked whether there were alternatives to the Historic Resource Overlay District that would allow further County input during the review of any future development plans. There was a recommendation to amend the Heritage Interpretation Zoning District which is the current zoning for the Ferry Farm property. As you recall, Section 28-39 of the Historic Interpretation District has special provisions for that district which requires submittal of a 20 year master plan for any proposal at the time of either rezoning or site plan submittal. The master plan would include a site map of the proposed construction, any reconstruction, the limits of clearing, and a detailed written description of any of the proposed changes, including the buildings and descriptions of any new

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buildings. The Planning Commission did make recommendation for some changes to the language within that section of the ordinance. And I'll just read what you all came up with your work session meeting. "The master plan shall be approved by the Board of Supervisors upon the recommendation of the Planning Commission. The Planning Commission shall provide its recommendation within 90 days of its receipt of the proposed master plan. The master plan shall be approved prior to issuance of any permit for grading or construction on the site." Subsequent to that we did review it, particularly with our County Attorney's office; they had some additional recommended changes just to clarify, specifically if the Planning Commission fails to make a recommendation within the 90 days, the master plan will be deemed to be recommended for approval. That's pretty standard language for something of this nature. So, those were the recommendations that came out of your work session. If the Planning Commission does desire to make those amendments to the Heritage Interpretation District requirements, then a motion would be necessary to move that amendment forward or those amendments forward. And then I'll note that the actual deadline for the rezoning to remove the Historic District is August 6th, so you all would need to take action by your next meeting.

Mr. Gibbons: And then the further recommendation was to remove the Overlay District off of that property because it's all under HI. So that was part of our recommendation that came out of the offsite. There was two things, this and removing the... so do we have to recommend this back to the Board for change and public hearing, is that what we have to do?

Mrs. Baker: If you desire to make changes to the Heritage Interpretation Zoning District, that would need to go forward to the Board to refer back to you. But, the Historic Resource, the subject of the reclassification, can be acted on separately; you've already conducted your public hearing on that. So, proposed amendments to that HI district would need to go forward to go through the regular process.

Mr. Gibbons: Mr. Chairman, I'll make a motion that we forward to the Board of Supervisors recommended changes to the HI ordinance and then take a separate vote on the thing that went before.

Mr. Hirons: Yeah, let's do those separately.

Mr. Gibbons: So it'd be two votes.

Mr. Hirons: Right.

Dr. Schwartz: Can we have more discussion before we move right to the motion?

Mr. Hirons: Can we hold your motion for a few minutes to let Dr. Schwartz ask his questions?

Mr. Gibbons: Yes sir.

Dr. Schwartz: Mrs. Baker, earlier I asked you to look into the situation with the locality that Mt. Vernon falls into. Apparently it's Fairfax County. Now, what oversight does Fairfax County have over the Mt. Vernon site?

Mrs. Baker: I did speak with a preservation planner at Fairfax County and there's no Historic District associated with that as far as from the local level. So, the only reviews they have of any changes at Mt. Vernon are just through their standard building permit and zoning regulations. So, they're not subject to Architectural Review Board or any other reviews at the County level.

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Dr. Schwartz: Okay, so they have pretty much free range as normal building permits and things along those lines.

Mrs. Baker: Correct.

Mr. Gibbons: It's private property though.

Dr. Schwartz: Well, it's owned by a Foundation.

Mr. Gibbons: Yeah, but it's a private owned, it's not a National Park.

Mrs. Baker: Ferry Farm is owned by a Foundation as well; it's not owned by the National Park Service.

Mr. Gibbons: No, but the National Park...

Mrs. Baker: Has an easement.

Mr. Gibbons: Right. But Mt. Vernon doesn't.

Mr. Hiron: They don't have an easement over at Mt. Vernon at all?

Mr. Gibbons: No.

Dr. Schwartz: But my point being, you talk about not trying to reinvent the wheel, Mt. Vernon has a long-running history of doing it the right way, even without the National Park Service overseeing them. And that's quite a tourist venue up there. It brings in a lot of tax revenue for Fairfax County which the Ferry Farm site definitely could do for Stafford County.

Mr. Hiron: Any additional questions or comments for staff? Now, Mr. Gibbons, your motion?

Mr. Gibbons: Is to forward this recommendation to the Board of Supervisors to change the HI District. That's the first motion; once that's put out of the way then the second motion will be to recommend to remove the Historic Overlay.

Mr. Hiron: Okay. So we'll deal with the first motion first. So Mr. Gibbons made a motion to refer to the Board of Supervisors a request to make changes as recommended developed during our work session to the HI Zoning District.

Mr. Gibbons: Right.

Mr. Hiron: Is there a second?

Mr. English: I'll second it.

Mr. Hiron: Seconded by Mr. English. Discussion... Mr. Gibbons? Mr. English, any discussion? Any discussion by any other members? So, our first motion on the floor right now is to forward to the Board of Supervisors recommendations to changes to the HI Zoning District. Those in favor please signify by saying aye.

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Mr. Apicella: Aye.

Dr. Schwartz: Aye.

Mr. English: Aye.

Mr. Boswell: Aye.

Mr. Gibbons: Aye.

Mr. Hirons: Aye. Any opposed? The motion passes 6 to 0.

Mr. Apicella: Mr. Chair, just for clarification, we are talking about the amended language that staff provided, not the original version that we talked about at the retreat.

Mr. Hirons: Correct.

Mr. Gibbons: Now, the second motion is...

Dr. Schwartz: It's in my district.

Mr. Hirons: Mr. Schwartz, this is in the George Washington District.

Mr. Gibbons: Oh, I'm sorry.

Dr. Schwartz: Thank you sir. Mr. Co-Chairman, I'd like to recommend that we send on to the Board of Supervisors recommending approval of RC1300177, removing the Historic Overlay on George Washington's Boyhood Home at Ferry Farm.

Mr. Hirons: Okay, motion to recommend removal of the Historic Resource Overlay zoning.

Mr. Apicella: Second.

Mr. Hirons: Seconded by Mr. Apicella. Dr. Schwartz, any discussion?

Dr. Schwartz: I think we've talked this through enough; no.

Mr. Hirons: Mr. Apicella?

Mr. Apicella: I would have the same comment Mr. Chairman.

Mr. Hirons: Any other discussion by any other members? Those in favor of recommending approval of RC1300177 please signify by saying aye.

Mr. Apicella: Aye.

Dr. Schwartz: Aye.

Mr. English: Aye.

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Mr. Boswell: Aye.

Mr. Gibbons: Aye.

Mr. Hirons: Aye. Any opposed? The motion passes 6 to 0 with one absent. And that brings us all the way to item number 2. Mr. Harvey.

2. *Transfer of Development Rights (TDR)*

Mr. Harvey: Mr. Chairman, Mr. Harbin will be giving the presentation.

Mr. Harbin: Good evening Chairman and Commissioners, my name is John Harbin and this is the Transfer of Development Rights program adjustment continued from our last meeting. Just to refresh your memory, the original TDR ordinance was passed on February 19th of this year. We are looking at changes to that ordinance at this time. In addition, the Comprehensive Plan amendment has not been passed and we are looking at modifications to that as well. One of the tasks that you all gave us at the last meeting was to look at the Courthouse Redevelopment Area, which is the proposed receiving area for the TDR program, and look how the interchange of Courthouse Road and I95 will impact that receiving area in terms of acreage. Speaking with VDOT officials, we've determined that there is approximately 30 acres of receiving zones that would be taken away for right-of-way with this new interchange. So that brings us to what was 550 in the receiving area down to now 525 acres. Obviously, with less receiving area, there are less development rights to be transferred into the receiving area. It goes down from 2,901 to 2,644 rights available within the Courthouse receiving area. That is more than adequate to accommodate the 1,236 development rights that we have currently calculated from the sending area. This is just a map of the Courthouse Redevelopment Area which you all have opted as the proposed receiving area for the TDR program. And this is a map of the new interchange there with I95 and Courthouse Road. As you can see, most of the right-of-way takings occur to the east of I95. One of the other tasks that you all gave us was to compare the program changes from a select group of stakeholders which include the Northern Virginia Conservation Trust, Save Crow's Nest, and a couple lawyers, and what the Board of Supervisors has proposed. So, here is a side-by-side comparison of these proposed program changes. I have highlighted the differences here in blue and we can run through these... please feel free to stop me if you have any questions as I read them off. The select stakeholders have proposed two separate sending areas, which would be a public park and an agricultural forestry and horticultural sending area. The Board has proposed keeping just one sending area. There are no significant differences in the size of the parcels and what area of the County in which those parcels would be eligible. Existing parcels within the public park sending area would be entitled to at least one development right. Both parties agree there. The public park sending area boundary would be extended to the west up to the Brooke Road as proposed by the select stakeholders, and the Board has not proposed any boundary changes to the public park sending area. Some of the stakeholders have proposed limiting residual use of those properties within the public park sending area strictly to public use... excuse me, public park use. The Board has not restricted any of those residual uses; they are either agricultural, forestry, parks, and/or campgrounds.

Mr. Apicella: Can you remind us again of the parcels, the numbers of parcels that are in what is now the park sending area. How many are owned by a few property owners versus, I'll call them small, lot owners? So, 250, 260 owned by 2 or 3 owners and X number by small lot owners.

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Mr. Harbin: Correct. I can't provide you the exact specifics; I defer to Mr. Harvey if he can provide that. I do believe that the vast majority are owned by a select group of 3 to 4 LLCs and private companies.

Mr. Harvey: Mr. Chairman and Mr. Apicella, there's a memorandum that was passed out to you from one of the representatives, a Mr. Jenkins, and he indicates in his letter that he represents 284 lots in Crow's Nest Harbor and there are 3 different entities... oh, excuse me, 4 entities that own that conglomeration of lots.

Mr. Apicella: Again, I'm just trying to understand the remainder that are currently in the defined park area as it exists today, how many additional lots are there.

Mr. Harvey: We can get that number for you.

(Inaudible - microphone not on.)

(Inaudible from audience.)

Mr. Harbin: Three hundred forty-seven.

Mr. Apicella: (Inaudible - microphone not on.)

Mr. Harbin: Four are owned by the Northern Virginia Conservation Trust.

Mr. Apicella: (Inaudible - microphone not on.)

Mr. Gibbons: You've got to put your mike on.

Mr. Apicella: Of the total amount, 347, 284 are owned by large lot owners, or conglomerates, whatever you might want to call them. So, we're talking about another 63. And are any of these people, either the small lot owners or the large lot owners, doing anything with their property? Are they camping on their property? Are they farming on their property? Anybody doing that today?

Mr. Harbin: Not to my knowledge.

Mr. Apicella: No. They could, but they're not.

Mr. Harbin: Correct.

Mr. Apicella: Wasn't there some change in the State Code with regard to campgrounds specific to TDRs?

Mr. Harvey: Yes, Mr. Apicella, the State Code was amended to allow campgrounds as a permitted use for the residual use of the property.

Mr. Apicella: But they weren't envisioning, you know, RVs parking on those properties.

Mr. Harvey: Correct. The stipulations restrict that kind of campground. It's primarily for camping purposes, not as an RV park.

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Mr. Apicella: Okay. And of the 63 lots, in terms of where it sits in the configuration of the park land, are they close to the heron rookery or further away from? I guess what I'm trying to figure out, the large lot owners, are they the ones closest to NVTCs rookery or is it the other way around, the small lot owners close to NVTCs property? Do we know that?

Mr. Harbin: I would have to research that and let you know.

Mr. Harvey: We can provide a map to the Commission that shows some of the ownership distribution.

Mr. Apicella: I thought it was the other way around. I thought most of the large lots are the ones that are closer... again, I'm using the wrong terminology but, these 4 owners own the majority of parcels that are close to NVCTs rookery? Would that be a fairly correct statement?

Mr. Harbin: My personal (inaudible) that it's fairly mixed actually. But, like I said, we'd be happy to provide a map of the current ownership layout of the subdivision.

Mr. Apicella: Okay. I'm sorry to cut you in mid-stream; I'm just trying to understand...

Mr. Gibbons: Why don't you bring up the map.

Mr. Apicella: Yeah, I thought there was a map that showed where NVCT's parcel was versus the lots in that park land.

Mr. Harvey: Mr. Chairman, I can try to get that map but I'd have to get out of the presentation and try to do a search of some of the drives. Would you want us to continue on with the discussion and then we can come back to find that map?

Mr. Apicella: I'm good with that Mr. Chairman.

Mr. Harbin: Right, so I just spoke about the residual uses and this is some additional comparison. Both parties agree to remove the requirement for common ownership of contiguous parcels to comprise the minimum 20 acre size. The select stakeholders would like to delete the tax abatement option for severed development rights, and the Board would like to retain the tax abatement option. The select stakeholders have also proposed that eligible properties within the agricultural, forestry, and horticultural sending area must have participated in the land use tax program for a minimum of 10 years to be eligible for the TDR program. The Board has not proposed any sort of requirement like that. These select stakeholders have proposed a phased implementation of the sending areas notably using the public park sending area as the first phase. The Board has not proposed any phased implementation. The select stakeholders would like to include the B-3 Office zoning district as an eligible receiving zone. The Board also would like to use that and include the R-4 Manufactured Homes zoning district as well. The select stakeholders would like to not allow any dwellings in the B-3 Office receiving zone, as opposed to the Board that would like to see commercial apartments and multi-family dwellings within the B-3 Office receiving zone. The stakeholders would like to eliminate any A-1, Agricultural zoning from the receiving zone. The Board would like to keep the A-1 in there. And they would also like to reduce the R-1, Suburban Residential density but they have not specified to what degree. And the Board would like to retain the density which is currently at 14 dwelling units per acre. Are there any questions before I move on?

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Mr. Apicella: Yes. It's been a couple weeks since this was in front of us, and it's my understanding that there's been some changes in view in terms of what these groups are either collectively or individually now recommending going forward. Do we have a better sense of where they are? I mean, to start out with, there are a number of changes the Board of Supervisors of asked us, I'll call them add-backs, okay. These were provisions that we recommended going forward to the Board of Supervisors and for whatever reason, they took them out and now virtually every single one of them that they asked to take out they're now asking us to put back in. And I believe that vast majority of those add-backs, the coalition, using that term loosely, are recommending that we put back into the ordinance. So, there's that group of 3, 4, 5 different provisions that everybody seems to agree with.

Mr. Harbin: Correct.

Mr. Apicella: There are some other ones that have been recommended that either they still collectively agree to or there may be some disagreement on whether or not they still want those changes made. Do you have a sense of what those area?

Mr. Harvey: Mr. Apicella, what we did here was try to look at the written documentation we had at the time from all the parties and put it together. So, there are some differences in how the recommendations came from the various organizations. I couldn't speak if there's a disagreement or disharmony about it all...

Mr. Apicella: Well, I'll use an example. The tax abatement issue which is kind of near and dear to my heart and I've advocated for from the get-go since I found out it was available to us. That was something that this coalition did not necessarily support but now it does not appear to me that they still have hang-ups with that piece of what was originally in the ordinance, now the Board has asked us to put back into the ordinance, and, again, from what I see that they can live with that tax abatement program. I'm just trying to weed out those things that are no longer an issue that everybody still could agree to. So, we don't have a sense of... I mean, I saw a couple emails to see something in front of us now that changes the list of recommended items the folks would like to see in this ordinance.

Mr. Harvey: Mr. Chairman and Mr. Apicella, to say if there has been a change in thought process from the last meeting to this meeting from these organizations, they may be best able to answer that question if they have a difference of opinion from what was expressed in previous letters and/or the current things we received today.

Mr. Apicella: I thought, when they came up, I think I heard the Chairman of NVCT say that he was actually okay with not albeit not a perfect ordinance, the one that we recommended to the Board of Supervisors if we were to add back in those provisions, he would be okay with where we were months ago in our recommendation to the Board of Supervisors. Does anybody remember him saying that during the public comment period? Maybe he could nod his head if that's the case.

Mr. Hirons: Mr. Cody, if you'd like to come forward.

Mr. Cody: To repeat earlier, we supported the ordinance that was going into the February 19th meeting, you know, with some concerns about how it was implemented, and so that's where we were. We saw the current situation as an opportunity to particularly focus on issues in Crow's Nest Harbor and, as some of the people who we've been in dialogue with, if we could get the major lot holders to give a clear understanding and arrangement with what their intentions are for that, you know, that would kind of lead us to our goal.

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Mr. Apicella: I think I sort of heard the attorney who represents them essentially say the same thing, that they were working towards the same end. And presumably they would also be okay with the ordinance that was recommended to the Board albeit changed at some point in time. But if we went back to that same version that they would be okay with it and you all would potentially work out some agreement about how those lots, the large lot owners, would try to preserve those lots going forward. Is that... I see him shaking his head, maybe he can come up (inaudible).

Mr. Hirons: Is Mr. Jenkins still here?

Mr. Jenkins: I think that's accurate. There's a few technical things but really in the nature of technical things that I've seen in my review of the ordinance. And speaking with Mr. Cody, I think that's a fair characterization.

Mr. Apicella: When you say technical things, help me understand.

Mr. Jenkins: Things like trying to really be precise about, and this is something that's important to us, that there's one... it sounds simple to say... one TDR per one lot. Making sure that what that means is you actually... one lot owner can go and apply if he happens to own one lot, he or she, he can apply and get one TDR. There would be no acreage restriction or any other common ownership trigger that says if I went for 10 TDRs, that means everything that I might own there because this really was another way of getting, and this was suggested by others, to me this thing gets us back into the whole common ownership issue. And that way, working with this group to the extent we can be more flexible hopefully by a private arrangement to address their issue of the ultimate disposition and not interfere for example with the small lot owners, or get that all mixed up or get too complicated in that area. So, that's the kind of technical thing, I mean, to try to be as clear as we can on something like that and on the procedure so it's crystal clear that these individual lot owners, as well as the clients that I represent, have a clear way to apply for and receive their TDR and go trade it and everybody can go home.

Mr. Apicella: But, if anything, that would be a minor tweak.

Mr. Jenkins: Oh yes, yes.

Mr. Apicella: Okay, thank you.

Mr. Gibbons: Mr. Chairman, I'm trying to follow up. You've got 3 entities here, right?

Mr. Hirons: Right... 3 or does it become 4?

Mr. Gibbons: NVCT has 4 lots I believe. Crow's Nest owns none. And Samaha represents two hundred and...

Mr. English: Eight-four.

Mr. Gibbons: What did he say, 284 of the 347. Now, when this program started, it was a volunteer program. So anybody could come in and request it, so it wouldn't be... and then Cecilia said tonight it was all or nothing. But I don't know how you can take a person's right away from them if he owns land. But somebody's got to come to some agreement of... the easiest thing if Northern Virginia Trust bought the property, but they don't have the whereabouts to do that. So the second thing is just if the

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majority of the major lot owners could make an agreement with NVCT then that would take care of a lot of the problems. I don't know how you're going to take care of the other 60 or 70 lots. They're all different owners and I don't know who represents them.

Mr. Hirons: Right. Even at that, TDR is optional... I mean, they may buy in, they may not. So, it may not be an issue. They may not want to sell their development right.

Mr. Gibbons: But the thing that gets me is that I can understand everybody trying to work on the sending area, but I think that the governing body ought to be able to, you know, kind of draft in place where they should go to. I know that it's good to recommend certain things but if you're going to go into the TDR program and everybody in the sending agrees that this is what should send, I think it's up to the governing body to dictate where the area is going and what density and how they want the County to look like in that area. So, I go back to what the attorney is saying, don't go make it complicated. Get it down to something that is successful.

Mr. Hirons: Mr. Harbin?

Mr. Harbin: Computer please. So at this point, are you satisfied with this part of the presentation or would you actually like to go through each of the proposed changes and kind of discuss where the Commission stands?

Mr. Apicella: I think you've done a good job articulating, you know, what was before us previously and where the County Board wanted us to go/wants us to go. I've articulated some concerns I have with some of the provisions that have been recommended. I'll speak to that after you've done your presentation.

Mr. Harbin: Sure. This is just the map of the sending area for TDR, in case you all needed to be refreshed on that. These are a couple of possible discussion topics if you all would like to debate about it. One of them is what density of residential development to allow in a B-3 zoning district, if any at all, if you decide to allow residential development in it. Or, perhaps you don't want to restrict the density at all. And currently there is a minimum tract size of 10 acres for a B-3 zoning district, and right now there is also a maximum of 35% of that that could go to residential. So again, perhaps that needs to be enlarged or decreased or gone away completely. Those are just some open-ended questions for you to think about. So, once again, once the desired scenario is deemed to be acceptable, staff will work towards amending the text of the TDR ordinance and proposed Comprehensive Plan amendment. And at this time I will be happy to take questions.

Mr. Hirons: Any questions for staff? Any questions for any of the stakeholders that would come before any last minute things to get up? Man, quiet Commission.

Mr. Gibbons: Mr. Chairman, we've got a lot of questions from the people that are there but I don't think this forum that we have tonight can bring it all out. That's what I was hoping that maybe the people who represent that district could have a subcommittee or committee meet with these 3 or 4 and see where we actually are at. And then does this fit into what we all agreed upon last Saturday when we were going to do a tiered approach as far as the zoning. Does the receiving area meet the goals that we were talking about on Saturday morning?

Mr. Hirons: Well, I think we're under a little bit of a time challenge. According to our agenda, we have to authorize public hearing tonight. Is that correct Mr. Harvey?

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Mr. Harvey: No Mr. Chairman. In fact, we provided a revised agenda at your desk. The Board's resolution gives you till August 30th.

Mr. Hirons: It still says June 12th to authorize.

Mr. Harvey: Oh, sorry, I apologize for that. It extends the time limit till August 30th so you can authorize a public hearing at your July 10th meeting. So there is time to work on it. From a staff perspective, Mr. Chairman, we'd like to get some guidance from the Commission so that we can prepare the ordinance and also prepare the Comprehensive Plan amendment so we can bring it back to the Commission for a vote to authorize the hearing. As Mr. Harbin had said, one of the questions we have is the way the highlights were put together on the ordinance draft that we put together was that right now in the B-3 zone, commercial apartments and multi-family dwellings would be allowed. There's no specified density. A question was brought to us whether it should be a maximum density or not. The way it would work now, if there's not a maximum density specified, people could land their development rights on the B-3 zoned property and build multi-family structures or commercial apartments. The restrictions would be based on the amount of land coverage that the ordinance allows with open space ratio, and also building height. So, those would be the restrictions that would govern how the overall site would look. But there would be no standardized zoning restriction like say, for instance, a maximum of 14 units an acre as we see in some of the other recommended zones. It's something that staff would like the guidance from the Commission on whether we should have a cap or just let it go so they could put as many development rights as they want to as long as they don't exceed the maximum building height or the maximum floor area ratio.

Mr. Apicella: Mr. Harvey, where is that section in the proposed ordinance?

Mr. Harvey: It's in Table 3.1 (a) which talks about the TDR uses.

Mr. Apicella: I'm still trying to find the exact page, I apologize. Maybe you can help. Oh, it's on page 6 of Attachment 8?

Mr. Harvey: I'm still scrolling through on my iPad so please excuse me for a minute.

Mr. Gibbons: Mr. Chairman, while they're thumbing through, when I read this again the sender can still bank his TDRs.

Mr. Apicella: I hear you. Can I make some comments to you on Mr. Gibbons? If I understand it, the ordinance that has been provided to us in Attachment 8 incorporates the changes that the Board of Supervisors wanted us to add back in to the ordinance, which, I'll reiterate, are essentially the provisions that we had previously that they took out and now want us to add back in. The other changes are to accommodate the additional units that were discovered as a result of going through this process, another roughly 400 units higher than we thought originally. So there were some tweaks to the proposed ordinance to accommodate that additional density, is that correct?

Mr. Harbin: Correct.

Mr. Apicella: And, as far as you know, there are no other changes... they didn't ask us to add something back in that had not been talked about before that wasn't in the previous version that isn't a modification to accommodate that additional density.

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Mr. Harbin: Yes.

Mr. Apicella: Okay. So, the one change that I hear staff recommending is maybe some deliberative discussion about B-3 and whether you can put all residential growth there, no residential growth, or some residential growth. And I think that's a reasonable discussion point because I think what we've been talking about is promoting mixed use development where it makes sense. Well, guess what... the receiving area is the Courthouse Area or the larger RDA area. I think there was some consensus at the last meeting that we prefer the RDA over the UDA to maximize flexibility. So, we would potentially, even though B-3 is commercial, at the end of the day, to incentivize mixed use development, you need rooftops. You need some residential. So it seems to me that that would be practical and useful to encourage the kind of development we want to see in that area. I don't know what the right percentage of residential in that area might be; 35% seems reasonable. I don't know if folks on the Commission have a viewpoint about what the cap might be, so I'm just kind of asking my colleagues what they think of that recommendation from the staff if we were to go in that direction.

Mr. Gibbons: This is what we discussed Saturday morning.

Mr. Apicella: Right. So, I'm saying is it 35%, is it 50%, is it 70%? I don't know; 35% seems reasonable, 50% would seem reasonable. Anything more than that would seem maybe a little too high because it changes the dynamics there I think.

Mr. English: I think 35% would be your best bet.

Dr. Schwartz: The developer is basically going to be driven by what is the most profitable, okay. And you're setting the high water mark. If we set it at 50% and he finds out he can do a better job at 35%, he could always build it at 35%. Putting rooftops in he'll be able to get businesses in at a better rate if they've got people to sell their services and goods to. This is the problem we see down on Rt. 17; they have a high traffic volume and you've got all these large boxes down there but they don't have the actual rooftops and the businesses are not doing well. So, the developers are going to mix this up to the best formula that will bring in the most revenue if he's going to play landlord to the commercial development also he's going to want some successful businesses going in there. So, to set it high gives it a little bit more leeway for something that we might not be expertise in doing the demographics that will work the best.

Mr. Hirons: We're talking about B-3 currently. My problem with allowing multi-family within B-3, we're talking about now the redevelopment area, which the redevelopment plan suggests some design standards. We allow multi-family apartments into B-3, unless I'm wrong, there'd be no real design standards outside of what exists currently. Is that correct Mr. Harvey?

Mr. Harvey: That is correct.

Mr. Hirons: So, we wouldn't be getting necessarily, there is absolutely no guarantee we'd be receiving or a developer would build something that the Planning Commission/Board of Supervisors/County leadership kind of desires in that area.

Mr. Apicella: I appreciate what you're saying. I guess I'll call you Acting Mr. Chairman... I don't know what the right terminology is... but you have to balance that with the notion at the end of the day we want to maximize participation, which is my overriding concern that I articulated in my email back to the Commission members today. I don't know if everybody saw it, but what I see in a lot of the

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provisions that have been recommended to us that are new and different than what we had talked about and included in our ordinance would, I think, dis-incentivize or inhibit participation. So, on the one hand, while I hear what you're saying, B-3 is necessary in order to make the numbers work, I think. I don't think there are other alternatives unless we increase the density in the other options which may be less palatable. And to the extent that redevelopment occurs, I suspect that the growth that does occur, that proceeds that, new growth will look a lot like it. They're not going to, I think, start building something completely different than what is already the growth pattern in that area. So, on the one hand, I appreciate what you're saying about design standards, although we are talking about whether we're going to loosen some of those design standards to make the urban development concept more economically viable to folks who might want to consider that. Again, at the end of the day, I think we're trying... and I know you love that term, Dr. Schwartz, I'm going to try to say it at every meeting... we want a program that moves development from where it could occur, in the Crow's Nest area, to some place else where it's viable. We want to maximize the number of units in the sending area to again preserve as many lots at Crow's Nest as possible. By the same token, we need a place to put those lots, and yes we've encouraged a commercial option as an alternative; that could occur in the B-3 as well, increasing the amount of floor area ratio that somebody can do in B-3. I presume that's correct Mr. Harvey.

Mr. Harvey: Yes.

Mr. Apicella: By the same token, again, to make that economically viable, developers are going to need enough rooftops to sustain or to stimulate the economic development they need in that area to build commercial. So, it's not perfect I think my setting a cap and that's a good thing because it won't turn primarily into a residential area when it was proposed to be a commercial area, but it will provide enough units to make that commercial viable. The bottom line for me is, we've been at this for over a year. We've spent a lot of hours coming up with I think, albeit a not perfect pilot program, one that was largely viable and seemed doable. We're now back at it only because the Board took out those provisions that we thought were good and now they realize they shouldn't have taken them out in the first place and they're asking us to add those back in. What I hear NVCT saying, what I hear the large property owners saying, is they can live with what we had recommended earlier on; it does require some tweaks because of the additional density that was discovered. To me, that's where we should go. If we can get, as Mr. Gibbons rightly pointed out, the people who actually own property there to agree that the original ordinance was workable and viable, albeit not perfect, I think that's what we need to recommend to the Board with this B-3 tweak of say 50%. We can keep talking about this. We can keep changing it. I certainly don't think we should add in provisions that are going to reduce the number of people who are participating. I certainly don't think we should be taking away rights. I saw a recommendation that you're forced to sell your property to NVCT if you participate. Why would people want to do that? They can do that now. They can sell their property to NVCT and they've chosen not to for whatever reason. Forcing people to do it would, in my view, encourage fewer people to participate. Again, my bottom line recommendation to this panel, after spending well over a year on this, is to go back to the version that we had before, make that tweak to the B-3, and use that as the document that we put to a public hearing. I make that in the form of a motion Mr. Chairman.

Mr. Hirons: Describe that motion again, sorry.

Mr. Apicella: My motion is to adopt the ordinance that's in front of us, Attachment 8... I'm sorry, recommend for public hearing the revised ordinance that's in front of us, Attachment 8, modifying the B-3 section appropriately and allowing staff to come up with the appropriate language, saying the maximum number of residential units that could be in a B-3 zone as a result of TDR would be 50%.

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Mr. Harvey: Mr. Chairman?

Mr. Hirons: Yes Mr. Harvey.

Mr. Harvey: May I offer some clarification?

Mr. Hirons: Yes.

Mr. Harvey: What's in your package is not a final draft of an ordinance. Staff would request that we get direction and we bring back a draft ordinance and a Comprehensive Plan amendment, because we don't have one in this packet, for your next meeting... at least on the direction of the Commission.

Mr. Hirons: So we can just give you some direction to come back at our next meeting which, at that point, we can authorize for public hearing; correct?

Mr. Harvey: That would be my suggestion, yes, please.

Mr. Apicella: I'm good with that Mr. Chairman.

Mr. Hirons: Alright. Are you willing to withdraw that motion since it was made?

Mr. Apicella: Well, the motion is still that the revised version that we get at the next meeting is essentially the old version of the ordinance that we presented to the Board of Supervisors in the first place...

Mr. Hirons: Do you need guidance in the form of a motion Mr. Harvey?

Mr. Harvey: No. It seems to me there's a consensus on the Commission.

Mr. Apicella: Okay, I'll withdraw my motion Mr. Chairman.

Mr. Hirons: Is the seconder okay with withdrawing? Okay. Is there any other direction for staff?

Mr. Gibbons: I just have one question. My only question I had from the whole thing and maybe staff could... That the seller or the sending area can put into a bank and he can sit on it for 10, 15, 20 years. Does that affect the area in which it's going into from any further development? If you're going to move say 1,500 units into the RDA, are you saying that that's 1,500 of the authorized density within that area and you keep it in advance? I never could understand why the bank was allowed to be done.

Mr. Harvey: Mr. Gibbons, a property owner could decide to buy development rights from people and hold onto them. During that time that they're holding onto them, they would have to pay taxes on that as real estate. But, if I understand your question correctly, we would still have to keep those receiving zones as eligible to receive those development rights until all the development rights have been exhausted.

Mr. Gibbons: So, your build-out might be 10, 15 years put off because... that's the question I had.

Mr. Harvey: As our Comprehensive Plan takes a 20 year view, we had hoped that this could be accomplished in 20 years. But, if not, then we'll have to reevaluate. Also, the way TDR was

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envisioned, that would be incorporated into part of the overall projected growth. So it would not be in addition to the projected growth because essentially you're...

Mr. Gibbons: Well, that's what I'm saying. But if you take it into the RDA which I think the Commission was right on and say, for example, 4,000 units can be built in this and 1,100 or 1,400 are coming out of this sending area, then that means you can only act on 3,000 of them until this is done, until the banking is done. Right?

Mr. Harvey: I get your point. If we've planned for 4,000 units in an area and we're saying that 1,000/1,500 are coming from TDR, it would probably be bad form for the County to rezone beyond what we had planned for, since we say that some of it's going to be by-right through Transfer of Development Rights.

Mr. Gibbons: Okay. But that was part of the State Code though, wasn't it?

Mr. Harvey: The State Code says that our receiving areas must accommodate the potential number of units or it could be sent.

Mr. Gibbons: Yeah, but I mean, it also authorized the banking of it too, right?

Mr. Harvey: Well, the State Code is silent on that. That's an individual property owner decision on how they deal with that. But the State Code allows someone to purchase development rights and not necessarily extinguish them with a development project right away. They could hold onto them, as you say, bank them.

Mr. Gibbons: But there's no time limit on the banking?

Mr. Harvey: No sir.

Mr. Apicella: That brings up an interesting question though. If you have a maximum yield in a specific area and that gets eaten up while they're sitting in a bank, I mean, that's at their own risk, right, if they choose not to pull the trigger.

Mr. Harvey: Yes. And the County may, in the future, have to go back and reevaluate our receiving areas and adjust them to be able to still accommodate those potential development rights.

Mr. Apicella: I guess I'm saying the opposite though. If you say the RDA... I can't remember the number, whether it was 3,000, 4,000, something like that... if somebody sits on their... Let's say one person buys all 1,200 and their development plan is in place for the RDA area that eats up all 4,000 units and they've been sitting on their 1,200, what happens to their development rights? Is that kind of what you're asking?

Mr. Harvey: The development rights are still there.

Mr. Apicella: But they don't have a place to put them.

Mr. Harvey: If they ran into that scenario, then the County would probably be obligated to make some adjustments to allow them. Again, because your receiving area has to have the adequate zoning to be able to accommodate those severed development rights.

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Mr. Apicella: But that's on the front end. I think it's an interesting question to get an answer to. I mean, they have to... I would think that it's their obligation to do something before the lots get eaten up. We don't have to keep moving the goal post to accommodate their need if they've chosen not to pull the trigger in time. So, it's a good question to get an answer to.

Mr. Harvey: Thank you.

Mr. Hirons: I think... anyone else have any discussion? I'm going to take the Chairman's prerogative and go last. I think we haven't provided any guidance and we've nearly neglecting or ignored a vast majority of recommendations by the landowners there and the stakeholders, the real stakeholders. So, I would most certainly... my preference would be to see at least an ordinance draft based off of the stakeholders and what their recommendations are. Off of their recommendations I have a real issue, and Mr. Apicella, I've been on this Commission for this month I think marks 3½ years and the first time TDRs was even first mentioned was my third meeting, so we've been discussing this for 3 years at least, 3½ years. And we continue to try to pound this round peg into a square hole and it still is not fitting. My ultimate recommendation would be to scrap this TDR pilot program altogether and let's really talk about growth in the County and talk about the tool down the road when we actually need a tool. I most certainly... I will never support this is if there is opportunity for apartments, multi-family in B-3 or if A-1 is anywhere within the receiving area. So, my ultimate point is, I would like to see the ordinance and what it would look like with the recommendations from the stakeholders that we've heard from.

Mr. Apicella: Mr. Chairman, if I must make a formal motion that we not do that, I will. I think it's a waste of time. I don't think what they're asking for is palatable and I see a change in 2 of the 3 stakeholders that they're not asking for the litany of changes that one organization continues to ask for. In fact, new changes that we hadn't seen before were being asked for as late as 5 o'clock, 5:30 today. I'll say it one more time; I think what we had before was a viable solution. It was going to work. The only reason it was opened up again is because the Board of Supervisors decided to change it and then add those provisions back in. So, I don't know if one person gets a prerogative to decide to put two options in front of us, but I don't think we should go there. I think it just muddies the waters and makes it more difficult for us to get to a final solution. So, my recommendation is contrary to yours to go with what I recommended earlier. And if I need to put a motion forward to do that, I will.

Mr. Hirons: Mr. Apicella, this is in the Aquia District. I don't mean this derogatory, I don't know the answer to this. Has either yourself or the member of the Board of Supervisors met with either any of these groups or these groups collectively within the last month or two?

Mr. Apicella: Mr. Chairman, I have had conversations with two of the, I'll call it a coalition... I'm not so sure it's a coalition anymore.

Mr. Hirons: I'm not sure if I'm Chairman, not sure if it's a coalition. Okay. Is there further will by the Commission? Mr. Harvey, do you have the proper direction?

Mr. Harvey: If I understand correctly, the Commission wants us to come back with a second ordinance that compiles all the recommended changes from the various groups. Is that correct?

Mr. Hirons: Right.

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Mr. Apicella: Mr. Chairman, can we poll all the members to find out if that's what we truly want as a collective body? Two separate versions to consider?

Mr. Hirons: I think it would probably be best to do it by way of a motion if that's what you so desire.

Mr. Apicella: Am I motioning to poll the panel or to recommend which version...?

Mr. Hirons: I believe to make whatever recommendations to staff within direction as you so desire.

Mr. Apicella: Mr. Chairman, again, my recommendation is, to staff, is that they provide us an ordinance that includes the add-back provisions that the Board of Supervisors asked us to include in an ordinance for a public hearing with one modification, which is on the B-3 zoning to limit the amount of residential units to 50%.

Mr. Gibbons: I'll second that.

Mr. Hirons: Any discussion? I will note, you didn't put a limitation there so we could make a motion or we could request still a direction but I won't do that. Any further discussion? So, those in favor of the motion with Mr. Apicella's recommendation for direction to staff please signify by saying aye.

Mr. Apicella: Aye.

Dr. Schwartz: Aye.

Mr. English: Aye.

Mr. Boswell: Aye.

Mr. Gibbons: Aye.

Mr. Hirons: Those opposed? No. The motion passes 5 to 1 with one absent. Now do you have proper direction Mr. Harvey?

Mr. Harvey: Thank you Mr. Chairman.

Mr. Hirons: Okay, thank you. Thanks Mr. Apicella. We are back to number 9 I believe on our agenda, correct?

Mr. Gibbons: No, I thought we had the microbrewery.

Mr. Hirons: That's item number 9.

Mr. Gibbons: Okay.

9. *Amendment to Zoning Ordinance - Continued*

Mr. Hirons: Okay, and I believe Mr. Cobert has some information for us.

Mr. Gibbons: Mr. Chairman, can I ask a technical question?

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Mr. Hirons: Mr. Gibbons, yes.

Mr. Gibbons: To the County Attorney, we could tonight, when we get done with this, we could advertise an ordinance that has multiple paragraphs and the Commission could choose which one they had as long as you advertise it for public input? So, in other words, you could take the B-2 and have both of them in there for a possibility, and then after the public hearing you could vote on what version that you wanted?

Mr. Bensten: If I understand the question correctly, if you're asking if you can advertise two ordinances for public hearing...?

Mr. Gibbons: Or maybe two paragraphs within the same ordinance.

Mr. Bensten: I believe the proper way would be to advertise two ordinances.

Mr. Gibbons: Okay sir. Thank you.

Mr. Hirons: Did you have any sort of presentation based off of your research, or just waiting for questions?

Mr. Cobert: I'd be happy to give a brief presentation of what we presented to you.

Mr. Hirons: Okay, go ahead.

Mr. Cobert: I worked with Susan, I huddled with some of my microbrewery experts for some of the information they had passed us early on that helped us with our research. The first section is a group, Adventure Brewing Company, one of the groups that's here, had put together a synopsis for us to begin looking at the different codes in the Commonwealth. Included in here were just quick briefs for the City of Fredericksburg, Prince William County, Fairfax County, Alexandria, and the City of Richmond. And what was noted throughout, and you'll see as you read through these briefly, that it was industrial areas that were pretty much going to be the permitted areas for these types of breweries to take place. I was also talking to one of my other microbrewers over here, Major Phillips, and he had said that in his research he had determined and learned from different zoning bodies that Prince William County, Spotsylvania, and Fredericksburg that he had researched, these zoning codes were made well in the past and they were actually considered industrial brewing; for instance, a Miller plant or a Budweiser plant. As a matter of fact, when Susan and I went back to quickly get the full language, we've obviously given you full packages on Prince William County alone, we had difficulty finding it in the other cities and areas simply because it wasn't under microbrewery which, I learned in conversation, it's probably under industrial brewing. So, we really are in new uncharted territory with the microbreweries. As you know, the Commonwealth has expanded the microbrewery opportunities through law in just the past session. So, we're in an area where we can really look at it and decide do we want to craft brew and keep it in industrial areas, or do we want to have breweries operation and manufacturing with food as an opportunity in the B-2 areas.

Mr. Hirons: Dr. Schwartz?

Dr. Schwartz: Mr. Chairman, I don't see why there's any need to have distilleries and breweries linked together in the B-2. Basically, I think the distilleries should not be allowed and they should be kept in the M-1. So any wording for a public hearing I think should, at the very least, include that separation.

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Mr. Cobert: If I may, sir, there is a difference between distilling and brewing, and the different is the alcohol.

Dr. Schwartz: Right, but according to this, the ordinance that distilleries are going to be allowed to be a CUP in a B-2, correct?

Mr. Cobert: Yes.

Ms. Blackburn: No, excuse me. Well, I can show you what I submitted. I have it as a distillery and a brewery, and a brewery manufacturing more than 10,000 barrels of beer, malt liquor, or ale annually, will be required to be in an M-2, Heavy Industrial district with a CUP. The distillery and the brewery. And then a microbrewery was a facility that produces and sell no more than 10,000 barrels of beer, malt liquor, or ale annually.

Dr. Schwartz: So, you're saying that distilleries cannot use a CUP to get into a B-2.

Ms. Blackburn: Right.

Dr. Schwartz: Okay.

Mr. Hirons: So, the real question is just CUP for a microbrewery within B-2, right? Any additional questions? Mr. Apicella, I know you had questions initially.

Mr. Apicella: Maybe it's counter-intuitive but I'm just trying to understand why it's harder to get a distillery and a brewery in an M-2 than an M-1? I'm looking at Fairfax County appears to allow it by-right in Heavy Industrial. I thought I saw in other places where... It seems counter-intuitive to me. I think you would, at a minimum, make it easier to do it in M-2...

Ms. Blackburn: What?

Mr. Apicella: A brewery, or a distillery for that matter, right?

Ms. Blackburn: Our original, what the code states now, is the only reference we have to alcohol is under Heavy Manufacturing uses I think and it talks about producing alcohol. That's it. That's all it states. And when we started getting the inquiries about doing this microbrewery, it was that it was a much smaller operation. The Virginia licensing for the ABC makes a distinction between 10,000 barrels annually. If you produce more, you have certain kind of licenses; if you produce less than 10,000 barrels, you have another set of licenses. And that was the cutoff point that we suggested for the definitions. If it is a microbrewery, it's defined as 10,000 barrels and less a year. If it is a brewery, it is more than 10,000 barrels of beer a year. And if it meets that criteria in production, it can be only allowed in an M-2 with a CUP.

Mr. Apicella: Right. And I'm trying to understand why. Why would you need a conditional... by definition, Industrial/Heavy Industrial, it seems to me the kind of place where you might want to produce alcoholic beverages. We have other uses that don't require a Conditional Use Permit...

Ms. Blackburn: Because of how the code is stated now, without going through great research and maybe never finding out why they put it in an M-2 with a Conditional Use Permit, we thought if we were going to make the distinction we will keep the more heavy industrial uses, the more volume of

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production types of facilities as basically as it would stand now, as M-2 with a CUP. And that was the reason.

Mr. Apicella: Am I missing something? Are those uses now allowed as a Conditional Use Permit in M-2?

Ms. Blackburn: They would be by us... Manufacturing Heavy is the definition. And it talks about establishments engaged in mechanical and chemical transformation of materials, and it goes on to say "the manufacture of products and the blending of materials such as lubricating oils, plastics, resins, or liquors." So, if they were to come in, as of right now without an amendment to the code, that is the only place our code mentions the word liquor as a use. And I would have to state that that would be where any kind of production of liquor would go. We don't talk about beer, we don't talk about breweries.

Mr. Apicella: Maybe we're not saying the same thing. I'm just trying to figure out why a Conditional Use Permit, why could it not be by-right in an M-2.

Ms. Blackburn: If you want to make changes to the proposed ordinance that way and feel that that is appropriate, yes, that's fine.

Mr. Apicella: Again, to me it is heavy manufacturing, you're bottling significant quantities of alcoholic beverages. It just seems compatible with other heavy industrial uses that don't require a Conditional Use Permit in an M-2.

Ms. Blackburn: I don't know why it was set up that way to begin with.

Mr. Apicella: I hear what you're saying and I agree with it, but I also think in terms of M-2 that we ought to allow it by-right; at least as a starting point to put this in front of the public. And so the distinction in M-1 between a CUP and doing it by-right is just merely whether they're going to have larger events.

Ms. Blackburn: Yes.

Mr. Apicella: Notwithstanding the request from I guess it's a potential applicant to allow it by-right in B-2, I'm not seeing that anywhere in any of the other jurisdictions that they're allowing it by-right in B-2... or something similar.

Ms. Blackburn: There was some discussion that they allowed it associated with restaurants.

Mr. Gibbons: Prince William has it in B-1 if it's associated with a restaurant.

Ms. Blackburn: And until July 2012 it's my understanding (inaudible).

Mr. Apicella: Right. I'm just saying without being in a restaurant or associated with a restaurant, I don't see somewhere else where they're allowing it by-right. So what you've recommended seems to be consistent with what is happening elsewhere. So the two changes I think are the one that Dr. Schwartz recommended and the one that I would recommend that to allow it by-right in an M-2 with breweries and distilleries.

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Mr. Hirons: And microbreweries which, in the draft, already is by-right? Because you have the distinction of brewery and microbrewery, just so we're clear on what's by-right.

Mr. Apicella: Sure.

Mr. Hirons: Any other discussion? Questions for staff?

Mr. English: Spotsylvania has no breweries? I thought they had that Blue and Gray. Is that not in Spotsylvania?

Mr. Cobert: It's in the industrial park next to Bowman Distillery. I don't know if that's Spotsylvania or City of Fredericksburg.

Mr. Harvey: It's Spotsylvania. But I guess from what was indicated in the research, that they don't have it specifically called out for breweries in their zoning code.

Mr. Hirons: Any other questions?

Mr. Gibbons: It probably goes back to the prohibition days.

Mr. Hirons: Mr. Apicella, do you have a motion here? I think you were following that most closely. And this is to... we need to authorize public hearing but we also need to give staff direction which I assume we can do without a motion.

Mr. Apicella: Let's see if I can get this right. I make a motion that we put to public hearing the version of the ordinance recommended by staff with the following modifications, and I think I need your help on the one that you suggested Dr. Schwartz. But for M-2, to allow by-right distilleries, breweries, and microbreweries. And with respect to distilleries... say it again?

Dr. Schwartz: Well, they want the microbreweries to have a CUP in B-2. And she pointed out that the way it's written right now that the microbreweries cannot get in... or the distilleries cannot get into B-2; there's not a CUP option for them. That's what Susan point out. That was my reading of it.

Mr. Apicella: So you wanted to add distilleries as a option under Conditional Use Permit in a B-2?

Dr. Schwartz: No.

Mr. Apicella: I thought you wanted to add it to M-1.

Dr. Schwartz: It can be in M-1 and M-2 but no option for a CUP in B-2 for distilleries.

Mr. Hirons: Okay. But what about microbrewery within B-2? What is the will of the motion?

Dr. Schwartz: I think a CUP in B-2.

Mr. Apicella: Yeah, I think a CUP is appropriate. Again, my point was that seems to be consistent with what happens in other jurisdictions. The only issue I was trying to clarify is in what zoning categories would a distillery be authorized, either by-right or as a CUP, which is not reflected here? So I'm asking for a friendly amendment from you, Dr. Schwartz, just to clarify that.

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Dr. Schwartz: Well, the way it's written right now, in addition it would allow distillery and a brewery in M-2, Heavy Industrial zoning district, upon issuance of a CUP. I think you can extend that to an M-1 also, to be honest with you, as far as a distillery is concerned. And, I mean, if we're going to...

Mr. Apicella: Let me try this again. No change to the B-2. To M-1 allowing a distillery and a brewery under a CUP. And under M-2 allowing a distillery, a brewery, or a microbrewery by-right. Those are the modifications I would recommend.

Dr. Schwartz: Concur.

Mr. Hirons: One more time; what was the M-1 recommendation there? I'm sorry.

Mr. Apicella: M-1 is to add to Conditional Use Permits a distillery and a brewery.

Mr. Hirons: Okay. So a motion has been made; is there a second?

Dr. Schwartz: Second.

Mr. Hirons: Okay, motion made to... and let me see if I can get this somewhat correct... microbrewery, and this is going to be to authorize public hearing, and this is your direction, microbrewery as CUP in B-2. A CUP for brewery, distillery, and microbrewery in M-1. And a by-right brewery, distillery, and microbrewery in M-2. Is that correct Mr. Apicella and Dr. Schwartz?

Mr. Apicella: Again, just to clarify, under M-1 a, that would remain. So you could do a microbrewery by-right. Okay? The change to the Conditional Use Permit category is to also allow distilleries and breweries under a CUP.

Ms. Blackburn: Okay.

Mr. Hirons: Any further discussion?

Mr. Apicella: Have we confused you? You want me to try it one more time? I'd be happy to walk through it one more time.

Mr. Hirons: Susan, do you need it?

Ms. Blackburn: Okay, how about I ask so I know I heard this correctly. B-2, microbrewery, as we have it defined with a CUP. M-1, microbrewery, as we have it defined as a by-right use. Distillery and brewery as we have it defined with a CUP. And also, a CUP if you have a microbrewery and you want to do weddings and parties and things like this. That's also a CUP under an M-1. In an M-2, we want distillery and brewery still with a CUP or as a by-right?

Mr. Apicella: No, by-right.

Ms. Blackburn: Okay, got it.

Mr. Apicella: And as well, adding a microbrewery by-right.

Ms. Blackburn: By-right, yes.

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Mr. Apicella: I guess the only question would be... I don't know whether this would be the case... but if a microbrewery were to have events, parties, whatever, in an M-2, if that's even conceivable, would we want to have the same Conditional Use Permit?

Ms. Blackburn: Well, the rationale that we discussed about having the events was actually the congregating of people in industrial areas, which the zoning code doesn't like that very much as it stands now. We require this for churches and things like this where, you know, the people are congregating and a lot of times the industrial areas are not always designed for the parking for that kind of thing or conducive to having a lot of people coming and hanging out. So that's why we thought if they wanted to do that, it would possibly be fine in certain areas and then reviewed by the Commission and by the Board and there may have to be certain conditions placed on it. And that was our thinking behind that.

Mr. Apicella: So, I think the same rationale would apply to M-2, Heavy Industrial, that if they wanted to have weddings, events, parties, what have you, associated with any of those three categories, that they should do it under a CUP.

Mr. Hirons: Any other discussion? Mr. Apicella? Dr. Schwartz? Any other member? Okay. Mr. Harvey, if we move this forward and that gets advertised, I know we just heard from Mr. Bensten about the best route might be to do it as two ordinances to have an option with CUP and an option without CUP for that B-2. But, if our during our deliberation during public hearing, if we wanted to remove that CUP, it still could be possible. We're not halting ourselves, because going forward with a CUP is the more restrictive, correct?

Mr. Bensten: I think that would be appropriate.

Mr. Hirons: Okay. I just want to make sure we all understand that there's still the opportunity through discussion and public hearing that there may be some of these minor modifications, both here at our level and then at the Board of Supervisors as well. So, Susan, you understand where we're at, correct?

Ms. Blackburn: Yes sir.

Mr. Hirons: Okay, the motion's on the table with the direction to staff and to authorize public hearing. Did we have a date for the public hearing to authorize for?

Mr. Harvey: July 10th.

Mr. Hirons: July 10th. Those in favor signify by saying aye.

Mr. Apicella: Aye.

Dr. Schwartz: Aye.

Mr. English: Aye.

Mr. Boswell: Aye.

Mr. Gibbons: Aye.

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Mr. Hirons: Aye. Any opposed? No? The motion passes 6 to 0, one absent. I think we all have to go do some research. That takes us to I believe the Planning Director's Report.

PLANNING DIRECTOR'S REPORT

Mr. Harvey: Thank you Mr. Chairman. At the last Board meeting, the Board was very busy with ordinance amendments. They passed 8 of them; dealing with highway corridor overlay zones, technical changes, appeals of the subdivision requirements, parking, certificates of occupancy, building permits, home occupations in the RBC zone, and manufactured housing. They also referred an ordinance to the Planning Commission to amend the Subdivision Ordinance dealing with the drainfield standards for boundary line adjustments. There are some concerns that older lots were built under less restrictive standards and, if they were doing a boundary line adjustment under our current code, they'd have to upgrade their drainfield in order to be able to move the lot line for whatever reason. And that may be too onerous of a requirement, so the Board referred this ordinance to the Planning Commission to consider. And that concludes my report.

COUNTY ATTORNEY'S REPORT

Mr. Hirons: County Attorney's Report?

Mr. Bensten: Mr. Chairman, I'm afraid I have no comments at this time, but I thank you.

COMMITTEE REPORTS

11. Proffer Guidelines

Mr. Hirons: Committee Reports? For proffer guidelines, the committee has actually completed its work and that's probably coming forward, correct?

Mr. Harvey: Yes Mr. Chairman, that's coming forward to your next meeting.

Mr. Hirons: Okay. And we have no other committees at this point, do we?

Mr. Harvey: No sir.

CHAIRMAN'S REPORT

None.

OTHER BUSINESS

12. TRC Information – Meeting June 26, 2013

Mr. Harvey: Mr. Chairman, we have one item for TRC and that's for Dr. Schwartz's district. It's a construction plan for a project you've already seen, which is known as Holly Ridge, Section 2.

Dr. Schwartz: What's the date on that?

Mr. Harvey: That is June 26.

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APPROVAL OF MINUTES

February 27, 2013

Mr. Hirons: I believe we have one set of minutes before us to approve or make amendments to.

Mr. English: Motion to approve the minutes.

Mr. Hirons: Mr. English makes a motion to approve the minutes from our February 27.

Mr. Gibbons: Second.

Mr. Hirons: Mr. Gibbons second. Any discussion? All in favor signify by saying aye.

Mr. Apicella: Aye.

Dr. Schwartz: Aye.

Mr. English: Aye.

Mr. Boswell: Aye.

Mr. Gibbons: Aye.

Mr. Hirons: Aye. Any opposed? The motion passes 6 to 0, one absent. Anything else? Thank you.

ADJOURNMENT

The meeting was adjourned at 8:58 p.m.