

STAFFORD COUNTY BOARD OF ZONING APPEALS MINUTES
April 26, 2016

The regular meeting of the Stafford County Board of Zoning Appeals (BZA) of Tuesday, April 26, 2016, was called to order with the determination of a quorum at 7:00 p.m. by Chairman Robert Grimes in the Board of Supervisors Chambers of the George L. Gordon, Jr., Government Center.

MEMBERS PRESENT: Robert Grimes, Dana Brown, Ernest Ackermann, Danny Kim, Dean Larson, Heather Stefl, Adela Bertoldi, and Robert Gibbons

MEMBERS ABSENT: Steven Apicella

STAFF PRESENT: Melody Musante and Denise Knighting

DETERMINATION OF QUORUM

Mr. Grimes: Good evening ladies and gentleman, and welcome to this meeting of the Stafford County Board of Zoning Appeals. The BZA is a quasi-judicial body whose members are volunteers appointed by the Circuit Court of Stafford County. The purpose of the BZA is to hear and decide appeals for any order, requirement, decision, or determination made by the Zoning Administrator; hear and decide upon requests for Variance from the Zoning Ordinance when a literal enforcement of the ordinance would result in unnecessary hardship to the owners of a property; and hear and decide on requests for Special Exceptions where the Zoning Ordinance allows for Special Exceptions. The Board consists of seven regular members and two alternate members. An alternate member may be called upon to participate when a regular member is unable to hear a case. Let the record reflect that we have a quorum tonight with 7 voting members present. The members present and voting tonight, including alternates who will be voting, are Mr. Danny Kim, Dr. Ernest Ackermann, Dr. Dean Larson, Ms. Dana Brown, Mrs. Heather Stefl, Mr. Robert Gibbons, and myself Robert Grimes, and Ms. Adela Bertoldi is sitting in... Adela, I'm sorry... is an alternate sitting to hear the case. Robert Gibbons is an alternate and he will be seated at the dais tonight for Mr. Apicella. The County staff is represented tonight by Mrs. Melody Musante, the Zoning Manager, and Ms. Denise Knighting, the Zoning Office Manager. The hearings will be conducted in the following order: the Chair will ask the staff to read the case and the members of the Board may ask questions of the staff. The Chair shall ask the applicant or their representative to come forward to state their name and address, and present their case to the Board. The presentation shall not exceed 10 minutes unless additional time is granted by the Board. Members of the Board may ask questions of the applicant to clarify or better understand the case. The Chair will then ask for any member of the public who wishes to speak in support of the application to come forward and speak. There will be a 3-minute time limit for each individual speaker, and a 5-minute time limit for a speaker who represents a group. After hearing from those in favor of the application, the Chair will ask for any member of the public who wishes to speak in opposition to the application to come forward and speak. After all public comments have been received, the applicant shall have 3 minutes to respond. We ask that each speaker present their views directly to the Board and not to the applicant or other members of the public. After the applicant's final response, the Chair shall close the public hearing. After the public hearing has been closed there shall be no further public comments. The Board shall review the evidence presented and the Chair shall seek a motion. After discussion of the motion, the Chair shall call for a vote. In order for any motion to be approved, four members on the Board must vote for approval. In order to allow the Board time for appropriate review, the applicant or applicant's representative is required to submit relevant material to the Department of Zoning and Planning 10 business days prior to this hearing to be included in the staff report. The Board may accept additional relevant material from the applicant or the applicant's representative during the hearing; however, large amounts of additional material may require a deferral, at the Board's option, on behalf of the applicant to allow the Board time to consider the additional material.

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Members of the public and/or staff may also submit relevant material during the hearing. The applicant should be aware tonight that we have 7 voting members present, and you must have 4 affirmative votes to approve an application. If you do not think that there are enough members present tonight and will be able to receive a fair hearing, then you have the right to defer the hearing until another meeting. However, you may defer the hearing for this reason only once in any 12-month period. Deferral requests are granted at the sole discretion of the Board. The applicant may also withdraw his or her application at any time prior to a vote to approve or deny the application provided that the applicant has not withdrawn a substantially similar application within the previous 12 months. Any person, or persons, who do not agree with the decision of this Board shall have 30 days to petition the Stafford County Circuit Court to review our decision. Also, be aware that the Board will not hear any denied application for a Variance or Special Exception that is substantially the same request for at least one year from the date of our decision. I now ask that anyone who has a cell phone, pager, or other electronic device to please silence it. Thank you. It is the custom of this Board to require that any person who wishes to speak before this Board shall be administered an oath. Therefore, I ask anyone who wishes to speak tonight to stand and raise your right hand. Do you hereby swear or affirm that all testimony before the Board shall be nothing but the truth?

Response from the audience members: I do.

Mr. Grimes: Thank you; be seated. The Chair asks that when you come down to the podium to speak, please first give your name and address clearly into the microphone so that the recording secretary can have an accurate record of the speakers. Also, please sign the form on the table at the rear of the room. Thank you. Are there any changes or additions to the advertised agenda?

Mrs. Musante: There are no changes.

Mr. Grimes: Thank you. Before we hear the first case, does any Board member wish to make any declaration or statement concerning any cases to be heard before the Board this evening?

DECLARATIONS OF DISQUALIFICATION

Ms. Brown: I do.

Mr. Grimes: Yes, Ms. Brown.

Ms. Brown: I just wanted to state that I did go by and visit the property last Friday. I believe that was the 22nd. I did not speak with anyone, just took a drive by and looked around.

Mr. Grimes: Thank you. Anyone else? Alright. I will now ask the Secretary to read the first case.

PUBLIC HEARINGS

1. SE16-03/16151174 – Mark Thorsted - Requests a Special Exception per Stafford County Code, Section 28-35, Table 3.1, "District Uses & Standards," B-2, Urban Commercial, (c) Special Exceptions, to allow a microbrewery in accordance with Section 28-39(w) on Tax Map Parcel No. 58-5J. The property is zoned B-2, Urban Commercial, and A-1, Agricultural, located at 390 Kings Highway.

Mrs. Musante: Case SE16-03/16151174, Mark Thorsted, requests a Special Exception per Stafford County Code, Section 28-35, Table 3.1, "District Uses & Standards," for the B-2, Urban Commercial, (c)

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Special Exceptions, to allow a microbrewery in accordance with Section 28-39(w) on Tax Map Parcel No. 58-5J. The property is zoned B-2, Urban Commercial, and A-1, Agricultural, located at 390 Kings Highway. You have the application, application affidavit, site plan, building layout, and a copy of the boundary line adjustment dated April 12, 2002. The applicant is requesting a Special Exception to operate a microbrewery in an existing 3,350 square-foot retail center; 1,384 square feet will be utilized for the brewing and 1,840 (usable) square feet will be utilized for the tasting room. The application states the hours of operation to be open to the public will be 11:00 AM to Midnight, 7 days per week. He plans to install a 3 barrel system with the initial capacity of 576 saleable barrels per year. The brewery will offer tours on weekends to explain the brewing process. The applicant indicates he will have a tasting room where he will sell samples and will have growler fills for takeout use. At this time, he is not planning to distribute his product, but that will be the goal in the future. The site currently has adequate parking to accommodate the anticipated 20 to 25 customers per day. The parking requirements for this use are a combination of those needed for the tasting room and those needed for the manufacturing of the product. For this site, the tasting room is 1,966 square feet and requires 20 parking spaces, and the brew room is 1,384 square feet which requires 2.5 parking spaces per thousand square feet and one space for accessibility, for a total of 25 spaces. The existing site plan has 65 spaces as shown on the site plan submitted. The original site plan was approved for a hardware store at 4 spaces per thousand square feet. There are 3 other tenants in this building which require 3 spaces per thousand square feet based on the intensity of the use. The required number of parking spaces for the other tenants is 39 spaces. Therefore, the total required for the uses on the property is 68 spaces, which leaves 1 additional space on the site. It appears the parking spaces are not striped; this will need to be done prior to occupying the space. Staff has also stated this in the suggested conditions. The property was rezoned in 1987 to B-2, Urban Commercial. In 2002, a boundary line adjustment between 5H and 5J was recorded creating a split-zoned property -- B-2, Urban Commercial and A-1, Agricultural. No portion of the A-1 zoned property will be utilized for the proposed microbrewery. The Board of Supervisors adopted an ordinance on May 21, 2013, giving the Board of Zoning Appeals authorization to grant a Special Exception for microbreweries in the B-2, Urban Commercial Zoning District.

Mr. Grimes: Thank you. Are there any questions of the staff? Yes, Ms. Brown.

Ms. Brown: I'll yield to anybody who wants to go first; I've got several.

Dr. Larson: I just have one.

Ms. Brown: Okay, go ahead.

Dr. Larson: The... when it says no portion of the A-1 zoned property will be utilized for the proposed microbrewery, does that include the parking spaces?

Mrs. Musante: That is correct.

Dr. Larson: Thank you.

Mr. Gibbons: Thank you; that's the same question I had, so I'm glad the doctor cleared the suds.

Ms. Brown: Okay, well I had questions. First of all, public notice sign, the little yellow sign? I didn't see that but maybe I didn't look hard enough. Was that out there?

Response: It was out there.

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Ms. Brown: It was out there? Okay. And regarding the parking, I notice that the 1988 approved site plan delineates the parking space striping has to be done for 65 spaces. I noticed some suggested conditions, they're going to have to do that. Does that mean this applicant would have to do all 65 or just the 25 belonging to him?

Mrs. Musante: The entire site will have to be brought up to the current... to what the site plan shows.

Ms. Brown: So, would that be the owner or would that be the applicant?

Mrs. Musante: It's actually the owner's responsibility.

Ms. Brown: Okay. And then, would the applicant need to delineate his... label them for the brewery?

Mrs. Musante: Our code does not require that. He can show on the plan that he submits to us when he comes in for his building permit where his designated parking is, but there's no enforcement provisions for that.

Ms. Brown: Okay. And did they submit... maybe I just didn't see it in the package... any signage or lighting plans?

Mrs. Musante: No.

Ms. Brown: Okay. And, last one, promise. So the owner of the property is Kings Highway LLC, which is Hugh Cosner.

Mrs. Musante: Correct.

Ms. Brown: Is Mr. Cosner aware of the application for the property?

Mrs. Musante: He is because he signed the owner's consent form for him to come in for the application.

Ms. Brown: Okay. So the Special Exception, should we grant one, that'll be issued to Mark Thorsted at Highmark Brewing, not to Kings Highway LLC, correct?

Mrs. Musante: Correct.

Ms. Brown: So when that tenant decides to leave, that's the end of the Special Exception?

Mrs. Musante: You can put a condition on there, which we have done in the past, if the applicant vacates the premise.

Ms. Brown: Okay. That was all I had, thanks.

Mr. Gibbons: Mr. Chairman?

Mr. Grimes: Yes sir.

Mr. Gibbons: But the applicant can come in and give a condition and put the parking space in an absolute area, can't he?

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Mrs. Musante: I'm sorry, can you repeat the question?

Mr. Gibbons: In other words, we can ask him to make the parking spaces a certain place on the property?

Mrs. Musante: The parking space has to be in accordance with the current site plan. Now if the applicant wanted to do a revision to the existing site plan, he could do that. But, of course, that's additional costs.

Mr. Grimes: And I believe the original site plan is in the attachment 3, page 1 of 3.

Mr. Gibbons: Right.

Ms. Brown: Yeah, that was my question, because the parking does tend to go all around. So, if he wasn't going to delineate where the brewing... brewery parking was...

Mrs. Musante: We cannot require him... the current Zoning Ordinance does not allow us to require him to show where his parking is. The site itself has to have the adequate parking. And as long as he's got the handicap accessibility, that's the main thing was where the ADA requirements... it has to be the closest point before the parking spaces. It does not... if you're doing a shared parking agreement, it has to be within 500 feet. But he does not... the Ordinance does not require him to delineate where his parking spaces are.

Mr. Grimes: The... Melody, the code for this location, what is the allowable signage?

Mrs. Musante: Currently?

Mr. Grimes: Yes.

Mrs. Musante: It's allowed 2 square feet for each linear foot of building frontage for wall signage. If the existing freestanding sign has been used within the last 2 years, he can put a tenant panel on that sign, as long as he does not increase the sign area.

Mr. Grimes: Now, the 2 square feet per linear foot of frontage...

Mrs. Musante: And that's his leased area.

Mr. Grimes: Okay, that's what I was seeking clarification. It's not the total building?

Mrs. Musante: No.

Mr. Grimes: It's of his space?

Mrs. Musante: Leased area, correct.

Mr. Grimes: And if his leased space is not... it's frontage; it doesn't matter whether it's road frontage, parking lot frontage...

Mrs. Musante: Correct. We can take...

Mr. Grimes: If his space is 30 feet wide, he gets...

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Mrs. Musante: Sixty.

Mr. Grimes: Okay. And that's defined in the codes for this zone and use?

Mrs. Musante: It is. But the reason I said currently is we're working on the sign ordinance and that could change in the very near future. Which it could change before this applicant gets up and running.

Mr. Grimes: Okay. So, if we were to put a development condition in that the sign will meet the code at the time of approval...

Mrs. Musante: Mm-hmm, yes.

Mr. Grimes: ... then it'll be whatever it happens to be.

Mrs. Musante: Yes, that would be fine.

Mr. Grimes: Okay.

Mrs. Stefl: I have a question. Did he indicate how far out he's looking at distribution and would anything on the property need to be revised to accommodate that new distribution of the product? (Inaudible - microphone not on).

Mrs. Musante: You'll have to ask the applicant that; I'm not aware, no.

Mrs. Stefl: ... when you did the interview?

Mrs. Musante: No.

Mrs. Stefl: Okay, thank you.

Mr. Grimes: Are there any other questions for staff? Alright, hearing no other questions, we're going to open the public hearing. Will the applicant or his or her representative please come forward to present their case.

Mr. Thorsted: Good evening, my name is Mark Thorsted. I'd like to introduce the rest of my... I have 3 investors that are with me right now. We have Chuck Rau, Patty Payne and her husband, Rick Payne. I think... should I address some of the issues that you guys started to go over?

Mr. Grimes: Please feel free to present your case and then address those issues, or you can do it (inaudible).

Mr. Thorsted: I think Melody did a good job of going over basically what we want to do with the site, so I'm not going to waste anyone's time on that. But I do want to cover some of the things we talked about. The owner's already addressed he's going to repave the parking spots... I mean repaint the lines. The second issue with going over different people... our hours are going to be typically outside of all the other businesses anyway. So even if... right now, we've met all of our... we've met our next door neighbor, MVP, who does screen printing and signs and stuff like that, and they're currently using what would be our spots right now. We've talked to them and they said they're going to move them when we move in, but they're working with us already. And they'll be closed when we basically want to be open. None of them are open on the weekends and that's going to be our busiest time, on the weekends. So I don't think

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parking is going to be an issue. As far as your question about distribution, we have two large bay garage doors open so I don't think we're going to need to do any of that either. If you guys have anything else -- that's all I have right now unless there's some other questions I missed.

Mr. Grimes: Okay, I have just one or two questions for you. We understand from other Special Exceptions that have come through here for microbreweries that there's a byproduct from the process. And how do you plan on handling and disposing of the by-product?

Mr. Thorsted: Okay. Excuse me, my throat's a little dry right now so if I keep hacking, I apologize. I don't know how much you know about the brewing process but I'll give you a quick 101 real quick. I don't want to go in too deep because it could be a lengthy process. But basically what you do is you have grains, multigrains. You put them in some water, a certain temperature for a certain amount of time. Those starches convert to sugars. Those sugars you put them into a boiling kettle. You boil through hops, you cool it down, you throw yeast, and then a couple weeks later you've got something that you want to drink. So the byproducts that you're talking about, you're going to have grains. We're lining up farmers right now. We've talked to other breweries that they have... what they basically do is they set a barrel outside after a brew session and they have their grains they dump in there. And then they tell the farmer, hey, we just brewed, come by. And the farmer comes up so it's a cheap way to feed their livestock. We have a couple that we've already talked to they are interested. We haven't signed any agreements or anything like that but we're fairly confident that we'll have no problem at all. Also, the amount we're doing is not going to be a huge amount to get rid of, so we don't think it's going to be an issue getting rid of those. And that's basically the byproducts that we need to get rid of is just the spent grains. I don't know if you've ever tasted them; they taste like, I don't know, grains with a little sweeter because you convert them into sugars. I don't know if that helps.

Mr. Grimes: As part of the brewing process, is there any odor or vapor put off that will be put out to the air?

Mr. Thorsted: There's definitely 100% nothing toxic, if that's a concern. I brought some samples of some hops and some barley if you guys wanted to see what the...

Ms. Brown: I'd like to see.

Mr. Thorsted: I haven't met one person that didn't like the smell of hops, especially if you're a beer drinker.

Mr. Gibbons: Mr. Chairman, while you're doing that, he won't have any horses and wagon like the other brewers?

Laughter.

Mr. Grimes: I'd ask you to direct that question to the applicant.

Mrs. Stefl: I have a couple questions.

Mr. Thorsted: Yes.

Mrs. Stefl: Are you... do you have any plans for any music festivals or any kind of beer festival or something where there could be a possible noise or disturbance to kind of the area? Because there are some residents or homes in that area.

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Mr. Thorsted: Okay, one, yes, as far as offsite; 100% sure. But I'm assuming you mean onsite where we're talking...

Mrs. Stefl: Right. Like when you get to the point of having distribution and things like that.

Mr. Thorsted: As far as distribution, no nothing like that as far as a size. But Oktoberfest or something like that -- no we don't have any plans right now but that's definitely something we may do in the future. The owner that we're renting from also owns about another 2 acres to the east, and part of it's fenced in already and it's a grassy area so it would be a good spot for something like that.

Mrs. Stefl: Okay. And do you have any plans for banners or marquis on the site to advertise the brewery?

Mr. Thorsted: Right now, the only thing we're going to work with the County with the sign ordinance right now, but no banners right now. Maybe a temporary banner, I don't know. I haven't talked to them about that but we're thinking about a banner to say, coming soon or opening fall of this year or something.

Mrs. Stefl: Okay. And what about in your marketing plan, do you look to do any kind of food or restaurant distribution? Some other breweries in the area, they started small by just brewing and just doing the growler fills, but now they've expanded to having restaurants and food and things like that.

Mr. Thorsted: I mean, we're mainly focusing on the... brewing the beer so no, nothing like that. We have no plans at all to operate a restaurant out of the building.

Mrs. Stefl: Okay, alright.

Mr. Kim: I have a couple questions if you don't mind, Mr. Chairman.

Mr. Grimes: Yes sir.

Mr. Kim: Okay, so what's your background? Like, I mean, have you always been a brewer or have you, you know...

Mr. Thorsted: I've been brewing probably... I started back in college as a cheap way to brew beer and then my system is just getting bigger and bigger to the point where...

Mr. Kim: Because you've made something good.

Mr. Thorsted: Right, and you can only brew so much legally under Federal law, so it's like either open something up or go to jail. And I'm trying to open something up.

Mr. Kim: Cool. The other question I have, too, is maybe I missed it. You're up-to-date with everything from the ABC on brewing and... I mean, there's not anything you're waiting for? I mean, you have to have a special permit to brew beer and distribute or even sell. Any hang-ups right now?

Mr. Thorsted: No... it's funny you say that. So, yeah, we are waiting for a couple things. The Federal process is very lengthy.

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Mr. Kim: Oh, yeah, I used to own a bar so getting there... getting the liquor license is extremely difficult, yep.

Mr. Thorsted: Okay, so you've been there, done that. Okay, so we've got about a 5 month wait. We started that... and you can't start that until you sign a lease.

Mr. Kim: I know, I know, that's difficult because you've got to pay before...

Mr. Thorsted: Right, pay to play. So, we submitted that. We've all submitted the paperwork but he's, our business manager, is following the process. He's talked to the Feds a bunch of times already, so it's on path. But it's typically about 4 to 5 months wait, so we're thinking August would be when we get the Federal license. The state's a smaller window; it only takes about a month to do that. But we have contacts for the ABC; we talked to them several times so, and we know that other breweries have talked very highly of the states also. So everything seems to be going...

Mr. Kim: Everything seems to be going the way it is?

Mr. Thorsted: Right, exactly.

Mr. Kim: The only reason I ask that is I know... I actually I have a lot of friends... I mean, I have some friends that got denied their liquor license which is, I have no idea; it's what they tell me. I don't know how true it is. But if by off chance you guys get denied a liquor license or a brewer's license, whatever that license is that you need to have to brew, I know it's kind of a scary question to ask -- what's your contingency plan? What's the plan for if you don't get your brewers license from the ABC Board?

Mr. Thorsted: I've actually never heard of anyone that didn't get accepted, but they require more information (inaudible).

Mr. Kim: I gotcha. So, they don't deny anybody? Because to get a liquor license, they deny easy for restaurants. I don't know if it's the same process, that's why I'm asking.

Mr. Thorsted: It's not technically (inaudible).

Mr. Rau: Chuck Rau. So, yeah, we looked into the Federal process and the state process as Mark stated. So all the investors... you know, we pick investors based on their background too that have no records that we know of. Mark and I are both DoD employees for the last 15 years; we both hold clearances. The other investors are entrepreneurial and so we don't see any issues with that coming up.

Mr. Kim: Yeah, that was the other thing. I think my buddy had a record for something, so that's why I... anyway, not to get into that, but I don't have that information from you guys. But it happens. So... Okay, thank you.

Mr. Gibbons: Mr. Chairman, I've got a technical question.

Mr. Grimes: Yes sir.

Mr. Gibbons: This goes to... would the applicant and not the property?

Mr. Grimes: That's correct.

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Mr. Gibbons: Okay, so if the applicant fails to get his license, then what do we do?

Mr. Grimes: I would suspect that if the applicant didn't receive his license, and Melody, you can correct me if I'm wrong, then he would just close out the application. He wouldn't finish the process with Zoning.

Mrs. Musante: That's correct.

Mr. Gibbons: So, the application is dependent on him getting a valid license from the state and the Federal government? I didn't see that in here.

Mrs. Musante: We are not concerned whether he gets those licenses or not. That's why we put the condition on there, must comply with all federal, state and local.

Mr. Gibbons: Yeah, but the Board gives it to the applicant and not the home owner, correct?

Mrs. Musante: Correct.

Mr. Gibbons: Alright, so, it's still a valid application. It says micro brewing at this site. So it's only for that person?

Mrs. Musante: Yes.

Mr. Kim: I can answer this, okay, I actually know this. There's two ways you can do it. You can get the license for the property, now this is, now I don't know about brewer's license, but for a liquor license you can get it for the property. And if you get the license for the property, it stays with the property. So if you rent out that location to another restaurant, the new proprietors don't have to have a new license. They don't have to, you know, go to a license that kind of ups their gain. Or you can do it where it belongs to the business owner that's moving in to the location. So it could be either, depending on how they submit their application.

Mr. Gibbons: Well how was this submitted then?

Mr. Kim: Well, you would have to ask them. There's two options. I assume...

Mr. Gibbons: I'm asking the County. How was it submitted?

Mrs. Musante: This application was submitted for this applicant only. It was not submitted for the owner of the property.

Mr. Gibbons: Okay.

Mrs. Stefl: Mr. Chairman, I guess, or the County, and I probably should know this answer, but I'm just going to ask it anyways. If for some reason there is an issue with his landlord, he can take then this application and our approval to another location, or does he have to come back to us?

Mrs. Musante: It's site specific.

Mrs. Stefl: Oh it will be site specific even though it goes directly to him and not the owner of the property?

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Mrs. Musante: Correct.

Mrs. Stefl: Okay. Thank you.

Mr. Rau: And just to reassure you too, we have in our lease agreement an out clause based on this approval, the federal approval, and the state approval. So if for some reason we don't get approved, we don't plan on, you know, we're not going to occupy the space.

Mrs. Stefl: I just didn't know if there was a case where for some reason landlords and tenants sometimes don't always have a happy relationship, and I just didn't know if this would be something where you could then move up to Aquia, or the Hartwood area, or something like that, but the County just clarified its site specific...

Mr. Thorsted: The County says no and the federal government says no.

Mrs. Stefl: Okay.

Mr. Gibbons: Mr. Chairman, Heather had two good issues tonight. How do we amend this application to include that?

Mrs. Stefl: Which ones?

Mr. Gibbons: The one about the banners.

Mrs. Stefl: About the music and noise?

Ms. Brown: I've got something for that.

Mr. Gibbons: You got something?

Ms. Brown: Yeah. Oh, am I on now?

Mr. Grimes: Yes.

Ms. Brown: Okay. Sorry. In the past when we've approved these, we do set some conditions and I was wondering, based on Mrs. Stefl's question to you about, you know, what kind of special events you're going to have, if you would be amenable to limitations on things like carnival style banners, you know, the ones that sit on the side of the road with the big things that blow over in the road, onto Route 3, we wouldn't want that, if you would limit your special events to, you know, a certain number a year, perhaps four. I don't know what would be agreeable to you, but, windsocks, inflatables, you know, all that kind of stuff.

Mr. Rau: Yeah, we're fine with all that.

Ms. Brown: Pardon me?

Mr. Rau: We're fine with all those.

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Ms. Brown: Okay, and as for lighting, and I don't know if this is more for them or for staff, but I noticed on the site plan it did say that there was no more than .25 lumens per square foot allowed, so is that going to... they go by that, or is it...

Mrs. Musante: They have to go by the approved site plan.

Ms. Brown: Okay.

Mr. Kim: You know, can I mention something? I know previously when we did do breweries and we put a limitation on the signage, like... I don't know if I feel comfortable with that, because if there is a business, I mean they're putting a lot of money into this, I don't want to put limitations on...

Mr. Grimes: Danny, we might want to hold that discussion until after we get all the input from the applicant, any member of the public. Then we can discuss these details when we bring it back to the Board.

Mr. Kim: Absolutely. Okay Mr. Chairman.

Dr. Larson: I have a question, Mr. Chairman, I'm not sure...

Mr. Grimes: Yes sir.

Dr. Larson: Somebody just mentioned lighting. I think Dana did. What is the plan for lighting? If you could talk about that. For parking lot lighting.

Mr. Grimes: Are you planning on doing any other lighting than what's already there?

Mr. Rau: No, there's existing lighting already there that... we've been there at night. It's well enough lit for...all the way around the building there's lighting there.

Dr. Larson: So there's already lighting in the parking lot. The parking lot is already constructed?

Mr. Rau: Yes.

Dr. Larson: Okay. Did you... you mentioned, license, you expected it in August-ish? Is that when you intended to open for business, or when might that be?

Mr. Rau: So there's a lot of variation when that license will be approved. I think the best case is August. Once we have that, we have the federal license to actually start brewing beer. We would then probably plan to open within two to four weeks after receiving the federal license, because we also plan to get the state license. We don't have to wait for the federal license to get the state license. So once we get approval from this Board then we plan to start getting our state license. So we'll have that month before we have our federal license.

Dr. Larson: So do you expect to be open before the end of the year?

Mr. Rau: Yes.

Dr. Larson: Thank you.

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Mr. Kim: How long do you think your build out would be for...you said there was going to be a little area for tastings. So what's your estimated time for build out.

Mr. Thorsted: The site, this Mark Thorsted, the site that we picked is/was too good to be true, because there is three sections in the building. One for... that was a tasting room. That worked out and another section that was already built out, basically built out, for the cooling room and then the back room was the brewery. So it was like perfect. So the only thing we really need to do is, put a few walls up for the fermentation chamber and the cooler and then some plumbing work basically. And that's basically it. So we have basically very little, I say that because he does a lot of it, so for me it's going to be little, because he's doing the bulk of it. No, I don't mean it like that, but very little construction or build out. So we plan to be done with the build out way, way before we get the federal permit.

Mr. Kim: Oh you lucked out. Good.

Dr. Larson: Other question Mr. Chairman.

Mr. Grimes: Yes sir.

Dr. Larson: You are then leasing the building. Do you have any interest in the part of the property that is zoned A-1?

Mr. Rau: We do not. No.

Dr. Larson: It's a serious question actually.

Mr. Rau: We have no interest.

Dr. Larson: Okay, thank you.

Mr. Gibbons: Mr. Chairman?

Mr. Grimes: Yes sir.

Mr. Gibbons: You said that you were not going to have a restaurant there?

Mr. Thorsted: Correct. That's also in our lease agreement. We cannot prepare any food there.

Mr. Gibbons: Okay thank you.

Mr. Grimes: Any other questions for the applicant? Hearing none. You can be seated.

Mr. Rau: I'm sorry could I just have one comeback to address...

Mr. Grimes: You have, once we get the rest of the public's comments, then you'll have a chance to respond.

Mr. Rau: Okay.

Mr. Grimes: So if we can do it then? Because I don't think there's anybody else here.

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Mrs. Stefl: Can I just ask how long their lease is?

Mr. Grimes: Sure.

Mr. Rau: The lease agreement right now is 30 months.

Mrs. Stefl: Just 30 month?

Mr. Rau: With options to extend it. Yes.

Mr. Grimes: Alright, any member of the public who wishes to speak in support of the application, please come forward. Seeing none. Any member of the public who wishes to speak in opposition to the application, please come forward. Seeing none. Does the applicant wish to respond and/or add any additional information?

Mr. Rau: Yes sir.

Mr. Grimes: Thank you.

Mr. Rau: Should I give my name, or... So just to address the special events thing, you know the limit, I think we're okay some limit. We would like to do some special events. However the majority, we'd envision, would be during the day, during like Saturday or Sunday afternoons. So if we limited it, I'd prefer to limit the number of night special events. Because we do plan on having, you know, things during the day, like small October Fest, or small things, if we can utilize some of that space that our owner owns in the occupying property.

Mr. Grimes: Well we have placed some conditions on some other microbreweries and I think Ms. Brown has the language of one of the ones that we did. Would you like to read it to the applicant just so he understands what it is?

Ms. Brown: It would be "The use of carnival style flags, banners, balloons, windsocks, inflatables, and unapproved lighting is prohibited, with the exception, the applicant may promote special events, no more than 4 times a year". Something like that. We don't want to see the big, the big beer glass inflatable, three stories high blowing over.

Mr. Rau: Got it.

Dr. Larson: So just to clarify then, are you saying, using those, that list of things that you just read in support of a special event is limited or for example, could he have special events that use any of those?

Ms. Brown: Oh yeah. I was taking this out of the language from a different approval that we had granted, and it was to limit some of that big inflatables and the carnival style...

Dr. Larson: Right, so what you're saying is to limit the number of events that use those types of items?

Ms. Brown: Yes, yes.

Dr. Larson: Okay thank you.

Ms. Brown: And I wanted to know if that was agreeable with him. That's why I asked.

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Mr. Rau: Alright, thank you very much.

Mr. Grimes: Thank you.

Dr. Ackermann: In one that we had approved previously put a limit on the number of gallons that could be brewed in a year. Is that reasonable, and do you have an idea of how much you will produce. You already said that? Did I miss it?

Mr. Rau: I'm sure our current system, we could probably brew about, I believe it's 567, it's in the application. Again, our plans are to grow though by producing more beer. But if we produce more beer, that would be for distribution, not onsite consumption, so we'd prefer not to limit that, just so that we could grow in that space and not have to move to a different location.

Mr. Grimes: But you're aware that you're limited under the classification microbrewery to a certain number of barrels, which I think is 3,900?

Dr. Ackermann: 3,000 we have in a previous condition.

Mr. Grimes: I think the code classification is 3,900, correct? Trying to get clarification on that.

Mr. Rau: We'll definitely comply with all those existing rules. Just, we'd prefer not to have any additional.

Mr. Kim: Yeah, those are more ABC rules, right?

Mr. Grimes: It's actually the definition that was given by the state of microbrewery. Remember because we didn't have one, and then Stafford County adopted it in their Zoning Ordinance that a microbrewery was defined by and one of the biggest limitations was the number of barrels that could be produced per year, because otherwise you become classified as a distillery.

Dr. Ackermann: So I'll just ask then, if you produce 567 barrels per year, how much material has to be removed from the site? What's the waste production of that?

Mr. Rau: It's about 200 pounds per brew, and each brew is 3 barrels; so 567 divided by 3 times 200.

Mr. Kim: And if I can throw in something with the... I actually bought a half a cow that ate the greens from a brewery, and it's really delicious. So farmers actually will seek after brewers. I know it's kind of funny, but it's the truth. I actually know, when I buy the half a cow for the year, I ask, hey, how do you feed your cows and if they say from hay, I get it from this brewery, then I'm very inclined to buy the half a cow.

Mr. Rau: Coors out in Harrisonburg, they sell their grains to all the local farmers. We plan on just giving them away.

Dr. Ackermann: So we're saying it's an easy disposal.

Mr. Kim: It's easy. They can actually even sell the by-product. Just because I know this part.

Mrs. Musante: Ten thousand barrels.

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Mr. Grimes: Ten thousand?

Mr. Gibbons: Mr. Chairman, can I ask you for some guidance? I hear a lot of he's going to this, and he's going to do that, but how do we put that in conditions now?

Mr. Grimes: Yeah, I think that when we bring it back to the Board, we'll discuss the development conditions and outline some adds and changes to it, so they can be codified in the development conditions. Is that all your responses? Is that everything?

Mr. Rau: Yes sir. Thank you.

Mr. Grimes: Okay great. Thank you. We're going to go ahead and close the public hearing for this application and bring the matter back to the Board for discussion. So, I'd like to review the six development conditions on here. I take it the Board has looked at all these. Is there any comment on the six that are here presently?

Dr. Ackermann: Days and hours from 11 a.m. to midnight. So if they want to change those hours...

Mr. Grimes: They would have to come back and get...

Dr. Ackermann: They'd have to come back.

Mr. Grimes: ...a modified special exception.

Dr. Ackermann: Okay. Because in previous ones you know we've done like from 8 a.m. to midnight, I think, to alleviate that situation, and if we're going to do that or not.

Mr. Grimes: I'm open to that, because I could imagine that if the business is successful and takes off, and you become part of the wine and grain trail, that you may want to be open earlier on the weekends, so...

Dr. Ackermann: I think since 8 a.m. to midnight is consistent with what we've done before, I would propose that we change the special development condition number 2 to 8 a.m. to midnight.

Ms. Brown: Does our applicant want to do that.

Mr. Grimes: I saw some nodding.

Mr. Kim: Yeah, they don't have to.

Mr. Grimes: Any other suggestions or comments on the six existing, before we look at adding some additional conditions?

Dr. Larson: Yes, I just want to make a note on development condition number 1 and ensure the applicant understands that they have to stick to their submitted plan. We have actually revoked special exceptions in the past for actually brewing, and one of the reasons was, they didn't stick to their plan. So be sure you're happy with the plan that you submitted, because that's the plan you'll have to follow. Thank you.

Mr. Grimes: And as we discuss these additional development conditions we'll get some feedback from you so that everybody is in agreement where we are with this. Okay, so we've got 1 through 6 taken care

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of with the modification of number 2. I know that we had some discussion about signs and banners. Do we want to add that one first?

Ms. Brown: I would like to add that one and I wouldn't mind putting it as number 5 and moving 5 and 6 down to 6 and 7.

Mr. Grimes: Yeah I think that we would move 5 and 6 to the bottom of the list like we do typically in our development conditions. So you propose a new number 5? Do you have the language for that?

Ms. Brown: I'd like to stick with the same language that we have used in the past, and that is "The use of carnival style flags, banners, balloons, windsocks, inflatables, and unapproved lighting is prohibited with the exception, the applicant may promote special events no more than 4 times a year", meaning 4 times a year you could have your unapproved lighting, and your windsocks, and your banners.

Dr. Larson: Could I make one minor modification and that would be that would be that the applicant could use those items in special events for time per year. In other words there's no limitation of special events that don't use those items.

Ms. Brown: It said that. It said no more than 4 times a year.

Dr. Larson: Read the last sentence please.

Ms. Brown: The applicant... well, it's all one sentence.

Dr. Larson: Oh.

Ms. Brown: I'll just read that part. The applicant may promote special events no more than 4 times a year with... let me read the whole thing, because it reads better that way. "The use of carnival style flags, banners, balloons, windsocks, inflatables, and unapproved lighting is prohibited with the exception, the applicant may promote special events no more than 4 times a year." I think I see what he's saying and don't agree with you. We don't want to use the... my thought is we don't want to use all the inflatables more than 4 times a year for the special events.

Mr. Kim: Now, if you don't mind Mr. Chairman, I'm kind of against that because already when you rent from a location they give you limitations on what you can and cannot do. I, I mean, maybe that might be enough for them, but just having a couple of businesses in the past, and the one that I have now, when everything that I do at my location right now, I have to make sure that it complies with the landlord or the owner of the structure. In my opinion I think it might be a little redundant. I don't know their rules at... who's the property owner? Cosner? Cosner would instill on them. I just find it a little redundant to keep adding limitations when I'm sure they have limitation of what can and... there's already rules set for this development from the landlord. I just feel it's a little redundant. Maybe I'm...

Mr. Grimes: I would be concerned that you've made a couple of assumptions that it's a responsible landlord, that it's a present landlord. The County and what we have been trying to avoid by adding these development conditions is that there's a special event every weekend, and there's banners, and signs, and balloons, and lights and we've tried to limit that. And that's the same development conditions we've placed on other microbreweries so that they didn't have all of this extra signage and commotion going on at the site, potentially every weekend. We don't know what the landlord has. We don't have a copy of their lease language, requirements.

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Mr. Kim: Oh no, absolutely, but also...

Mr. Grimes: So we're trying to control it as best we can from the County's perspective.

Mr. Kim: Oh and I absolutely agree with that but also, like the County to... I hope you guys don't think I'm arguing, I'm just trying to look at it as a business aspect. They...

Mrs. Stefl: Why don't we just say something to the effect of is prohibited except for special events? Because I also want to not have it, you know, them promoting it, say a month at a time. So you got those inflatables, you know. I mean I think there needs to also be a restriction on how early that could be promoted, too. Because I don't want them three months out promoting Oktoberfest, say, in July. And then you got those balloons and stuff like that. I think the thought is not to have it to be a permanent structure. We can't necessarily know every single lease of property managers.

Mrs. Musante: Well keep in mind too, our zoning ordinance does not allow for these types of signage. So bottom line is, if they install a banner, a balloon, a windsock, the inflatables, and it's there more than a couple of days, we're going to be notified and they will be notified to remove it. So if you are allowing them to do this 4 times a year, I think that's fine, but keep in mind we have the enforcement end of it too. If we see these windsocks and things out there and they're not having an event, we're going to go by and tell them to take them down, or they're going to get a violation.

Mr. Grimes: What is the County's position on let's say, Joe's Mattress Store. Gets their blow up mattress guy in the parking lot and he blows it up every weekend. It's not a special event. Is he required to have a permit for that?

Mrs. Musante: He can't get a permit for it. They're not allowed.

Mr. Grimes: They're not allowed. So he's doing it against Code.

Mrs. Musante: It's against the Code.

Mr. Grimes: And by granting this and putting this in the development conditions, we're allowing it.

Mrs. Musante: Yep. Bottom line.

Mr. Kim: And this is kind of the reason why I like to stay away from that. I know you said that you might... the landlord might not be responsible, but just because we had to do more grassroots marketing for the gym and we got calls from VDOT. We got calls from them saying you can't do this. I already think that getting covered of not having obnoxious signs is there by the County, by the landlords, and we actually got something from the landlord. I'm not sounding too good here, but I'm just saying it sounds redundant and I don't want to. I don't know, it just seems like we're adding, adding, adding when already all those limitations are already set in place.

Mr. Grimes: And as I presented in the past, I'm definitely of if it's already in the Code, we don't need to put it in the conditions, but...

Mrs. Musante: Keep in mind though, our sign ordinance is changing and there is a good possibility it will be approved prior to them opening. It does address these types of signs. It does allow for them, but it puts a time limit on them. Like the waveable flags that we have all over the County right now. Those are

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not permitted in our ordinance right now, but they will be when the ordinance is adopted and it could be prior to them opening.

Mr. Kim: And I feel more comfortable by putting verbiage of following state, local, you know, codes of signs or marketing tools.

Mr. Grimes: Again, there was a discussion that we could modify that language that the signs and/or banners must comply with the Zoning Ordinance at the time of the approved application.

Mr. Kim: I think that's fair.

Mrs. Stefl: So it would be the ordinance now rather than what...

Mr. Grimes: Well no, whenever they close the application. Because remember it's not approved.

Mrs. Musante: It would be when they apply for their signage.

Mr. Grimes: Okay. So...

Mrs. Musante: So if the new code is in effect, then when they submit their application, that's what I'm going to apply to their application, is the new sign code.

Mr. Grimes: Okay. So signage would... trying to think of some language for this. I think, signage must comply with the Zoning Ordinance at the time of the sign application?

Mr. Kim: That just seems a little much.

Mrs. Stefl: I feel we're getting kind of off topic.

Dr. Larson: I'm not sure this is actually necessary.

Mrs. Stefl: That is out of our... you know, it's the Board of Supervisor's job here.

Dr. Larson: Or County enforcement. I mean we don't need to... all we need to do is, if we want to insert certain conditions then we need to insert the conditions and if they're already in the Code, I agree with you, unless we want to draw the applicant's attention to something via condition, we could certainly do that, but... and maybe that's the case here, but, you know, if it's procedure for them to go apply for the sign and Melody, I mean, her procedure is to apply code at the time. We don't have to tell her to do that, because it's already there.

Mr. Grimes: I would agree. I don't have to be pushed hard to be convinced of that.

Mr. Kim: So I'd like keeping 5 as is, if that's okay.

Ms. Brown: Why... I was not on Board of Zoning Appeal when these conditions were enforced, why did you make those conditions?

Mr. Grimes: I think at the time of that, if I can recall correctly, was the... we were concerned because the applicant had already put up some banners and some signs that weren't compliant.

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Mr. Kim: I can't remember.

Mr. Grimes: And so to make sure that he understood the requirement, we put it in here. There was also, there was nothing in the zoning ordinance that was very clear about preventing him from doing something much more.

Ms. Brown: And right now it's still the same unclearness. So what's the difference?

Mr. Kim: I think it's pretty clear.

Mr. Grimes: It was mainly because the applicant that was before us had already put up signs saying that he was in business and that he was operating, and they weren't in compliance with the County requirements.

Ms. Brown: Was the County not citing them?

Mrs. Musante: We did, but that's a whole other...

Ms. Brown: I'm just wondering what motivated you to put this in, if in fact we've already had this mechanism to not have these, why we felt we needed to put it in.

Mr. Kim: In polite terms, we can talk after and we can tell you.

Ms. Brown: I want to be consistent when we're dealing with these microbreweries. That's my concern.

Mr. Grimes: And that particular application is... basically it's been pulled, or...?

Mr. Kim: No, he took it to Court. He took it to Circuit Court.

Mr. Grimes: That was one of the ones that we got the ruling on that was because of naming the Board and some other thing, it basically got dismissed.

Mrs. Musante: We have now filed in the Circuit Court.

Ms. Brown: Maybe we should talk about this one later.

Dr. Larson: That's a different case, let's...

Mr. Grimes: If everyone's comfortable with the approach that the signage will be handled by the Zoning Ordinance and the Codes that are in existence at the time they make their application. We'll just not put anything else in here. Mr. Gibbons, you mentioned a couple of other items that you thought might be prudent to include?

Mr. Gibbons: Well he said about the restaurant, that the lease says he can't... but if he gets a new owner the lease can always be changed. So if he doesn't want to have a restaurant I'd rather have it in black and white.

Mr. Kim: But then he has to get approved by the Health Department. He just can't say I'm going to open a restaurant. There's a whole different process they would have to put forth, and there's a different department than ours that would have to approve them.

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Mr. Grimes: And I would also offer that in this zone, in this use he could do a restaurant if he wanted without a special exception.

Mrs. Musante: He could do a restaurant there but the site does not have the adequate parking. So if he's going to come to me and say, hey Melody, I want to expand and I'm going to go, Mark, you cannot do that, because the site is not developed for that.

Ms. Brown: And our first condition also says that any significant modification of the plan, he's got to come back here.

Mr. Kim: No that's change of use, because it's a restaurant now.

Mr. Gibbons: Does it say in the microbrewery that he can't serve food. The code doesn't say that.

Mr. Grimes: No, I think the definition just defines what it is, that they can brew x number of barrels.

Mr. Kim: I mean they can have that taco truck that comes out at Adventure Brewery.

Mr. Grimes: For special events.

Mr. Kim: Well they come out like every Friday.

Mr. Grimes: Mr. Gibbons, anything else?

Mrs. Stefl: My only question was putting in along with the signs verbiage to the effect of like following the noise ordinances, so if they do have a special event... just something to the effect to...

Mr. Grimes: And again, I would fall back towards it's already in the Code. There's a noise ordinance and they can't violate the noise ordinance.

Mrs. Stefl: Okay.

Mr. Grimes: They could, but they could be cited.

Mr. Kim: But then somebody would knock on their door or email them.

Mr. Grimes: That would be my thought on that one.

Mrs. Stefl: That's fine. I just want to make sure that's covered.

Dr. Larson: Mr. Chairman?

Mr. Grimes: Yes sir.

Dr. Larson: Do we want to put a development condition in that states the special exception expires when the applicant leaves the premises?

Mr. Grimes: Absolutely.

Dr. Larson: And what is the wording? Do you have the wording for that that we normally use?

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Ms. Brown: Actually I do not on this one, but I'll look it up. No, I have to go back; it might be on the other one.

Mr. Grimes: While we're looking up any of this information, has the applicant heard anything that they would object to? Thank you. Melody, you have the standard language that the special exception shall expire upon...

Mrs. Musante: I believe the language is "This special exception shall or will expire when the applicant vacates the premise."

Mr. Grimes: Okay. Everyone good with that?

Ms. Brown: I'm good with that.

Mr. Grimes: Great. Are there any other suggestions by the Board?

Ms. Brown: Do we want to do any kind of barrel limits? Like you said, it was 10,000 before they go into distillery, or do we... I know in the past we've done 3,000, but if they can go up to 10,000, is that...

Mrs. Musante: They can go up to 10,000.

Ms. Brown: Do we want to just say no more than 10,000.

Dr. Larson: I don't think we need to say that, but if we want to make it less, we do need to say that.

Mr. Kim: If you don't mind, I'm good with the state code of what they determine between distillery to brewery, or microbrewery, I'm sorry. I'm okay with that; if you guys aren't, I'm just, my two cents is, I'm okay with their determination of the 10,000 barrels or whatever it is.

Mr. Grimes: And I think that the 3,000 limit in this particular one that we're referencing came, again, it was very site specific.

Mr. Kim: Yes.

Mr. Grimes: The location of this microbrewery was going to be difficult to ingress and egress out. There wasn't a lot of parking. So we were really trying to limit the traffic and the crowds potentially. This site, I think, is fantastic for what they're proposing and to limit them the possible growth. Go out, get to 10,000 please.

Mr. Kim: And then become a distillery and then you apply for a distillery. I don't want to put a limitation on it.

Dr. Larson: If there is no reason for this particular property to be less than 10,000 then I don't think we should put a limit on that.

Mr. Grimes: I would agree on that 100%.

Mr. Kim: I know you're referencing the last one, but the last one was completely reasons that were warranted and needed.

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Mr. Gibbons: I like what Heather said, let's not micro-manage the microbrewery.

Mr. Grimes: Absolutely.

Ms. Brown: But you do know that there's a 10,000 barrel limit, right?

Mr. Kim: Yeah, they would know.

Mr. Grimes: The last thing we want to be doing is to limit someone's success.

Mr. Gibbons: Mr. Chairman, I make a motion for approval with the conditions as stated.

Dr. Larson: I'll second.

Mr. Grimes: Alright. Would you like to give your reasoning behind the approval?

Mr. Gibbons: I just think it's an asset for the County.

Mr. Grimes: Mr. Larson, anything you'd like to add?

Dr. Larson: No, I agree, I think that the special exception with the development conditions that we've discussed and approved make sense for this property and I wish them luck.

Mr. Grimes: I would like to just make sure that we have on the record before we actually vote on the motion that was presented, all of the development conditions read back so we can have it recorded.

Mrs. Musante: 1) The microbrewery will comply with the plan submitted with the case and any significant modifications to the plan will be subject to approval by the Board of Zoning Appeals. 2) Days and hours of operation open to the public: 11:00 AM to Midnight, seven days per week. 3) There shall be a minimum of 25 parking spaces allocated for the microbrewery. Site shall be restriped in accordance with the zoning ordinance and approved site plan dated 3/7/88. 4) No portion of the A-1 zoned property shall be used for the microbrewery. This includes parking. 5) All areas and structures associated with the microbrewery shall comply with all applicable Federal, State and Local codes. 6) This approval may be revoked for noncompliance of any of the conditions imposed by the Board of Zoning Appeals. 7) This special exception will expire when the applicant vacates the premise.

Mr. Grimes: Thank you very much Melody. I have a motion made by Mr. Gibbons and second by Dr. Larson to approve the request for special exception in case number SE16/03-16151174 with the development conditions stated. Would anybody else like to make comments on this before we take the final vote? Great. So, all those in favor of the motion signify by saying aye.

Dr. Ackermann: Aye.

Ms. Brown: Aye.

Mr. Gibbons: Aye.

Mr. Kim: Aye.

Dr. Larson: Aye.

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Mrs. Stefl: Aye.

Mr. Grimes: Aye. Those opposed signify by saying nay. Let the record reflect that the motion is approved by a 7-0 vote. Thank you very much. You'll be receiving some follow-up information from the Department of Planning and Zoning. Good luck.

Mr. Rau: Thank you very much.

Mr. Grimes: We look forward to trying it. Going on to the next agenda item. Any unfinished business? It says none, but I'll ask.

UNFINISHED BUSINESS

Mrs. Musante: None.

Mr. Grimes: Fantastic. Zoning Administrator's report?

ZONING ADMINISTRATOR'S REPORT

Mrs. Musante: Yes. The Newton case, we do have a court date now. It's in March of 2017.

Mrs. Stefl: Refresh my memory on that one.

Mrs. Musante: That is the junk yard over on Brooke Road. Wild Run, our County Attorney has filed in the Circuit Court as of last week regarding that case. So we should be hearing something soon on that.

Mr. Kim: Cease and desist or...

Mrs. Musante: Yeah, I'm not sure exactly what it's... I can't think of the word he called it. It's basically filing the case and why he feels like...

Ms. Bertoldi: Can I...

Mrs. Musante: Yes please.

Ms. Bertoldi: Did he file an injunction or did he file a complaint?

Mrs. Musante: Complaint, yes.

Mr. Kim: So you file a complaint and then...

Mrs. Musante: She may know, I don't know how the legal stuff works.

Ms. Bertoldi: What's your question? Maybe I can answer it.

Mr. Kim: So the County Attorney files a complaint against the brewery company, or any company.

Ms. Brown: The junk yard.

Mrs. Musante: No, this is the brewery.

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Mr. Grimes: It's referring to the Wild Run case.

Mr. Kim: So what would that lawsuit, like what's the result to the lawsuit.

Ms. Bertoldi: So once you file a complaint, then there is whatever the statute is for that particular area, local rules, they have a certain time to respond to the complaint. Soon as they respond to the complaint, it could be a motion to dismiss, it could be an answer. Depending on what they do, if they file an answer, there answer includes affirmative defenses. An affirmative defense is basically, you know, where, then you open up discovery, and so then the affirmative defense is not really technically a complaint, but it's still something that, now you have obligations that you have to proof and they have obligations that they have to proof, so it's almost like cross-complaints. If they file a motion to dismiss, you don't do that yet. You would have to respond to the motion to dismiss they reply and you have a hearing. If it's dismissed then your complaint stands and they would be required to answer the complaint stands and then they would be required to answer the complaint. And then you open it up to discovery. Once you do discovery, if it hasn't settled by then it would go to trial.

Mrs. Musante: That's exactly what he told me was happening. Thank you.

Mr. Kim: So more than anything, when the complaint does happen it's to go in and stop the business from doing business?

Ms. Bertoldi: It could last... right, well, that's why I asked if there was a cease and desist, because there's a thing called a temporary restraining order, like if there was something that they wanted immediately done, that's something different, but that wouldn't be till May 2017. That would be something that has a completely different obligation and you have to post a bond, because you're seeking an actual...

Ms. Brown: Okay you lost me again. May 2017, let's get back to this Newton case was March 2017.

Ms. Bertoldi: So the March 2017 is...

Mrs. Musante: March 2017 was the junk yard and then I switched about Wild Run.

Ms. Brown: So what is the date for Wild Run?

Mrs. Brown: We don't have that yet. The complaint was just filed last week.

Ms. Bertoldi: Typically what happens, at least where I practice law, when you file the complaint you have an automatic status date that was usually about 6 months out because it allowed the parties... if you need to be before the judge before then, you would file a motion, otherwise it gave the parties a chance to file an answer and open discovery, you know, they got like a discovery status hearing and it was like 3 to 6 months out depending on the court and depending on how busy they were. And that's typically what happens. So they will either file an answer or they'll file a motion to dismiss. And if it's highly contested, most likely they'll file a motion to dismiss.

Mrs. Musante: Great.

Ms. Bertoldi: I mean, that's totally... I have no particular knowledge on it.

Mrs. Stefl: Are they able to still... they're still operating?

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Mrs. Musante: They're still operating, yes.

Ms. Bertoldi: Nothing will be able to stop them from doing that until you actually have a final court order that tells them they can't.

Mrs. Stefl: Okay.

Ms. Brown: I thought we already got the court orders.

Mrs. Musante: That was on something else with the Wild Run. We've had many things coming.

Ms. Bertoldi: They may have appealed that. Did they appeal it?

Mrs. Musante: They appealed our original revocation and that was thrown out. And then the County went in and tried to...

Ms. Bertoldi: When you say thrown out, you mean their appeal was denied, or your revocation was denied? When you say thrown out, what does that mean?

Mrs. Musante: It was dismissed. Maybe that's the word we need to use.

Ms. Bertoldi: So their appeal was dismissed?

Mrs. Musante: Yes.

Ms. Bertoldi: So the revocation order stood?

Mrs. Musante: Yes and then our County Attorney's office filed something in there to do something with their dismissal and I don't understand this whole legal part of it.

Ms. Bertoldi: No that doesn't make any sense. If it was dismissed there would be nothing else to do on this side.

Mrs. Musante: Okay, then what else could they file before we filed the complaint last week?

Ms. Bertoldi: I, I mean, I don't know the case, so, I mean...

Mrs. Musante: She said could you turn your mic on please?

Ms. Bertoldi: Oh okay, sorry. I don't know the case, so I don't know... but if the... if their appeal was denied, okay? Okay, if it was denied with prejudice, I don't really know really what...

Mrs. Musante: Well one thing I did know happened...

Ms. Bertoldi: What would you want to do, because you won.

Mrs. Musante: He did not...

Ms. Bertoldi: Oh if he's still operating...

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Mrs. Musante: He's still operating.

Ms. Bertoldi: Okay, well then if he's still operating, he's defying the order, then that's what his complaint is. His complaint, I'm guessing, is that there is a defiance of the order, so he's filing a complaint based upon that in order to stop the business from functioning.

Mrs. Musante: Well see and then the County went in, and this is something else they didn't list the County as a party, so that was part... he tried to get our...

Dr. Larson: Was this... the Wild Run did that too.

Mrs. Musante: Our County Attorney went in on that.

Ms. Bertoldi: Who didn't list the County?

Mrs. Musante: The attorney for Wild Run.

Ms. Bertoldi: Okay, well they are... how was that not caught? Then who was named? Who was named?

Mrs. Musante: The Board of Zoning Appeals not the Stafford County Board of Supervisors, which is the way it was supposed to have been done.

Ms. Bertoldi: When it was filed, then did the County Attorney step in and say you did not name necessary parties, and...?

Mrs. Musante: We did, but they didn't... the judge didn't do anything with that.

Ms. Bertoldi: That's interesting.

Mr. Grimes: And I think there was a time limit that also occurred...

Mrs. Musante: There was.

Mr. Grimes: It didn't happen within the 30 days time frame that they revised it.

Ms. Bertoldi: See, this sounds like the perfect case to discuss in a civil procedure law school class. I mean, honestly, this is like the type of thing that you as a first year law student be like wow.

Mr. Grimes: But I think that maybe we can get some more follow-up next month on where all that is.

Mrs. Musante: I should know more at the next meeting.

Mr. Grimes: The email that I sent out to the Board has a little bit of those details, so you can look the case up online.

Ms. Bertoldi: Will we get to see the complaint.

Mrs. Musante: I don't know.

Mr. Grimes: I'm sure it's public record, so...

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Ms. Bertoldi: We can't get like a copy of it? We'd have to go get it?

Mrs. Musante: I can see if I can.

Ms. Bertoldi: Okay, I mean, if not, I mean I would just be really curious.

Mrs. Musante: Sure.

Mr. Kim: It's not online?

Mrs. Musante: It might be.

Ms. Bertoldi: Well usually to see that online you usually have to pay to have like an account and you have to pay for it. It's not something that you can just casually look up, unless you're a lawyer that then has an account.

Mrs. Musante: I'm sure I can get it.

Ms. Brown: Mr. Chairman, is this a good time to ask another question?

Mr. Grimes: Is there anything else on the Zoning Administrator's report?

Mrs. Musante: Yes. As I've already mentioned, we're working on the sign ordinance and that should be going to the Planning Commission here in the next month or so, right Denise?

Ms. Knighting: It's at the Board's Committee meeting.

Mrs. Musante: Board Committee. So that's where we are with the sign ordinance but we need to get that done pretty quickly, because there is some case law on our current ordinance, so we need to get that changed pretty quickly. So that should happen soon. And the uses within the code which she's talking about the zoning districts, is going to be on the agenda for the May 3rd, so if you have any comments that you would like to send to us to present to them on uses that you do not feel are right within the districts, or need to be eliminated, added, whatever, please send those to us so we can forward them on.

Mr. Grimes: And that's for presentation to the Planning Commission?

Mrs. Musante: Yes.

Mr. Grimes: Okay.

Mrs. Musante: Oh, is it to the Board?

Ms. Knighting: May 3rd is Board.

Mrs. Musante: May 3rd is Board. So it'll be Board.

Ms. Brown: So it'll be on their... so the proposed changes will be on the website for the Board?

Mr. Grimes: She's soliciting any comments or suggested changes that we might have as BZA members.

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Ms. Brown: Oh.

Dr. Larson: I have something. One of the things that we recently got overturned on was the chicken case. Okay?

Mrs. Musante: Yes.

Dr. Larson: That's a good idea for the Board of Supervisors to review what they want to do with that.

Mrs. Musante: Got it. Thank you.

Mr. Grimes: That and bird watching gazeebos.

Ms. Bertoldi: Can I ask a question? Is it appropriate that I ask a question? I mean, is it appropriate that I participate in this part or not?

Mr. Grimes: Absolutely.

Ms. Bertoldi: Okay, I just want to make sure. As a Board, do we ever get... because I think that sometimes if we're overturned, do we get a copy of the opinions, so that we as a Board could also learn from, you know, why we're overturned. Because I, just from tonight, I have to say that I think that everybody wants to be really careful about making sure everything's in there, but I think we really need to watch about overreaching about really what we can and can't do, because this is, personally, if I was representing somebody and something I thought was appropriate, it's grounds for appeal. Because, if there's already laws out there, it's really... it's not appropriate and I think that, you know, we can learn, I mean everybody gets overturned, you learn from it. And I don't know if there's a, you know, that's something maybe if we don't do, we can do, like, I don't know this chicken case, but I would love to see why they overturned us.

Ms. Brown: Yeah, and I think it might have been just an emotional onetime thing, because the chicken thing is very clear cut.

Dr. Larson: We have gotten the Court's whatever you call it, the opinion in the past, but the ones that I've seen haven't been particularly elucidating. They don't really say why. I mean there was this one where the processing and... the other junk yard and the processing and we interpreted it one way and the Court interpreted the other and there was really no explanation as to why.

Ms. Bertoldi: There's no opinions?

Dr. Larson: I didn't see anything that explained why they did what they did.

Mrs. Musante: And the one on the chicken case, it didn't either. He just...

Ms. Bertoldi: Do they have court reporters, because usually there's a court reporter so that there's... he might not put it in order, like, he might say, case is denied, or case... but there's usually, I mean, I don't know, I mean, I don't know. I mean, in my 12 years of literally being in court almost every single day of my legal practice, I mean, a judge states why, even if it's not in a written opinion, they state it on the record before a court reporter and there's a way to get a transcript. I mean, maybe I'm overly complicating things, but I just think that, you know, we all can learn. And if there's a way to obtain that information, I think us as a Board will learn from that too.

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Ms. Brown: I agree, and that's why I asked Robert if he could get those cases for us, so we could learn what's going on.

Ms. Bertoldi: Yeah, and it's not always going to be in a written opinion. I think people get really...they think like federal courts always do written opinions no matter what. State courts do not. And typically in these types of appeals cases, unless one of the... usually one of the parties will have a court reporter there, because they may want to appeal it further. You can get a copy. All you got to do is ask who is the court reporter and you order a copy.

Mr. Grimes: Would it be possible to have Susan, because she gets these back when they come back whether they're overturned.

Mrs. Musante: Actually she doesn't. I do. I get them.

Mr. Grimes: I just was curious if there is a mechanism where you can simply just request a transcript of the case.

Mrs. Musante: I can certainly ask.

Ms. Bertoldi: If there's not an opinion. Because sometimes the judges will write opinions but it also depends on the judge. I mean, I knew judges that love to write opinions and all they do is write opinions. Other ones would fill out an order that says denied.

Mrs. Musante: And that's basically what I received on the chickens. It said that he had overturned the Board of Zoning Appeal's decision.

Ms. Bertoldi: There has to be a transcript.

Ms. Brown: And it might have been a case of the chickens can live out their natural life and then no more, you know. We don't know.

Mr. Grimes: Okay, so any other items on the Zoning Administrator's report?

Mrs. Musante: That is all.

Mr. Grimes: Wonderful. Other business, Ms. Brown you had something?

ADOPTION OF MINUTES

March 22, 2016

OTHER BUSINESS

Ms. Brown: Just a question. One of our previous cases was on Chipotle, Verizon, and the parking issue we had over there. It came before us. We said they're not going to be able to pave it, and yet over Christmas time they were out there paving it. I called up and talked to Susan and she says, yes, we gave them permission, but it's not forever and they're going to re-do it in the spring and take it out. Well here's the spring. It's not out. What's going on with that?

Mrs. Musante: We have received a...

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Ms. Brown: Looks pretty permanent to me.

Mrs. Musante: It's not and I've been in several conversations with the engineer and the architect recently. They have submitted us a proposal of the type of new paver that they want to use. It's gone through us. It's gone through stormwater management and it's been approved by both divisions. He has to submit us a letter showing us and giving us examples of how this works. Once we receive that, he'll get the full approval from us and then he'll start the removal process of the pavement to install these pavers.

Ms. Brown: Great. Okay.

Mrs. Musante: But we did receive a bond from him. So it's not like we just allowed him to go in and pave it. He actually submitted a bond. So if he did not remove the pavement and put in the pavers we have enough money to do that.

Mr. Grimes: So how did he... so how is the County... are they just taking a blind eye to the green requirement then?

Mrs. Musante: He will meet the green requirement once he puts these pavers back in.

Mr. Grimes: Okay, so these pavers are going to be drive-on grass?

Mrs. Musante: Yes, they are.

Mr. Grimes: Sort of like fire lane pavers that the grass comes through?

Mrs. Musante: Yes.

Mr. Grimes: Okay, great. Because that was the whole reason. They had to have green space.

Mrs. Musante: Right, yes. No, he will meet the green space once he installs the new paver system.

Mr. Grimes: Okay.

Ms. Brown: When I had talked to Susan that was all unclear. She wasn't really sure how it happened, but bottom line is he got a six month reprieve for the winter.

Mrs. Musante: He did, because the parking lot was such a mess up there. The citizens, we were getting citizen complaints daily so we went to Jeff, which is our Director, and said, he gave us a submittal, a proposal.

Ms. Brown: I'm good. I'm good. As long as they're doing... my concern was that it looked permanent.

Mr. Gibbons: Mr. Chairman, I'm moving right along. I'll make a motion for the minutes.

Ms. Brown: No, because I have some changes.

Mr. Grimes: We'll get to that after the Zoning Administrator's report. Yes, I did skip over that. Thank you, Mr. Gibbons. We have the adoption to the minutes. Are there any changes from any of the members?

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Ms. Brown: Yes, there is. Page 14, line 680, I believe I said: I don't believe this was a situation of her own making and she would... we need to insert the word "not"... be able to move. So put in "not" between the "would" and "be". And then the second one was on page 19, line 928, when I said this was just a "type correction" that should say "typo correction". Yes, page 19, line 928 instead of the word "type" it needs to be "typo". And then did you need the other one, the first one? Okay; that was all I had.

Mr. Gibbons: Okay, I'll change my motion to say, I make a motion for approval with the changes as indicated by...

Ms. Brown: I'll second that.

Mr. Grimes: We have a motion to approve the meeting minutes with the changes. Second by Ms. Brown. All in favor to approve the minutes say aye.

Dr. Ackermann: Aye.

Ms. Brown: Aye.

Mr. Gibbons: Aye.

Mr. Kim: Aye.

Mrs. Stefl: Aye.

Mr. Grimes: Aye. Against? None.

Dr. Larson: Abstain.

iPad Discussion

Mr. Grimes: Continuing the Other Business. We have the iPad discussion. We have two choices. We can have this discussion now, or we can take in some additional information provided by Melody's office and then we can digest that information and come back and discuss it next month.

Dr. Ackermann: So the question is, we have the iPads and when we come to the meeting, the reports are on the iPad, right?

Mrs. Musante: Correct.

Dr. Ackermann: Okay, fine, and tonight when I tried to connect it couldn't do it. Just want to say that.

Ms. Knighting: The Wi-Fi?

Dr. Ackermann: Yeah, yeah. No, no, Wi-Fi connected but when I went to get the agenda from the Stafford County site I could not download the agenda.

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Mr. Grimes: Would you mind explaining how the zoning office and the County perceives that we should use the iPads and what the process will be so that we understand it, like, do the iPads travel with us or do we simply get them when we walk in the door.

Ms. Knighting: The iPad will be assigned to each of you, one to each of you and it would be yours until you're no longer on this Board.

Mr. Grimes: Okay, and the agendas and cases would be delivered electronically to that?

Ms. Knighting: Yes sir.

Mr. Grimes: Via email?

Ms. Knighting: We'll send an email letting know that the new agendas are ready to download on your iPad.

Mrs. Stefl: Is it an app that you can check it through?

Ms. Knighting: Well no. You go to the website and download. It's a separate website that we have for iPads.

Dr. Larson: We had this discussion before and there were some of us that wanted paper copies and some that wanted iPads and there was the condition that it was an all or nothing thing. Has that all or nothing thing changed? So nothing... why are we talking about this again?

Ms. Brown: Yeah, I don't want to do it and I talked to my Planning Commissioner about this recently and I asked how it was going for them. She told me that they get both, hardcopies and iPad.

Ms. Knighting: That is not correct. The Planning Commission does get large plans. We mail them to them because you can't review plans on an iPad. There are some things we mail to them. As an example, right now they're working on the Comprehensive Plan. We did send them hardcopies of those thick books and there are things that we probably would have to send to you, but they're very few. It's a cost savings and it's a time savings.

Mrs. Stefl: Like the maps that we get sometimes. The big maps.

Ms. Knighting: Right.

Ms. Brown: Well for me it's not a cost saving.

Mr. Gibbons: Mr. Chairman, that's being looked at too, because what they're trying to do is get all the submissions to be in DVD right now. So instead of you go up there and you got to have seven blueprint copies it's going to come on a DVD.

Mr. Grimes: It'll be all electronic.

Mr. Kim: Can I ask a... but we would, I think the advantage of having an iPad is you can have all the previous cases we've had right in front of us, right?

Mr. Gibbons: Yes.

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Mr. Kim: I do like that. I like that a lot.

Ms. Knighting: And the County is moving towards electronic plan review.

Mr. Grimes: Most jurisdictions are doing... I mean, Fairfax, Arlington, every job that I do, we do electronic submission, Washington D.C., just the smaller jurisdictions are still using paper because of the cost to implement the new program.

Dr. Ackermann: Mr. Chair, are we going to discuss this now or next time?

Mr. Grimes: I was trying to get all the information.

Dr. Ackermann: I had a couple of questions. I think discussing it next time would be a good idea.

Mr. Kim: Can we... I'm sorry, real quick, but can we figure out what we have next case? Like I don't want to have three cases next month and then say okay, we're going to talk about this too. Yeah, so could we figure out what might be on the case for next month before we do this?

Mr. Grimes: Ms. Bertoldi has a question.

Ms. Bertoldi: I guess my question is also, will... when we're able to download them on the iPad, there are certain applications that allow us to be able to highlight or write in the corners. Will we be able to do that on the iPad, because I think that that's the advantage, I mean, it's like when you have the paper in front of you, you can highlight, you can tab, you can write in the corners, and you can do that in certain docs and stuff like that. So if we're able to do that, I'm much more happier.

Ms. Knighting: There is an application called iAnnotate and Mr. Gibbons can probably explain it better than I, because I have never used it, but you can go in and make notes.

Ms. Bertoldi: And so we will have that accessible to us on the iPad so we can actually highlight and be able to flip back and forth. Okay.

Ms. Knighting: You would have to download it and then give us a bill and we could reimburse you for it.

Ms. Bertoldi: On your iPad, so we would have to use our own apple account on the iPad?

Mr. Gibbons: Right. But Mr. Chairman, just the availability of all the minutes, all the agendas, all the documents. I mean, I was on the Planning Commission and it was the greatest savior.

Mr. Grimes: And last time this came up for discussion I definitely one of the ones cheering for it because I'm a fan of using the technology and quit wasting all this paper. I understand some of the members' hesitation to do that, because they're used to and comfortable with paper, but as pointed out, any member of the Board can go online and print that document out. If you want a piece of paper, you can print it out and bring it with you. Because it's on the iPad doesn't mean you have to use it.

Ms. Brown: Okay, well I take a little issue. I do use an iPad. It's not that I'm afraid or I'm a technophobe about this.

Mr. Grimes: There was no intent there.

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Ms. Brown: I bring it with me and I do use it, okay? However, as Mr. Larson stated last time, I'm a volunteer and I do have to have some of these printed out. I can't have 8 tabs open on my iPad flipping back and forth and that costs a lot of money for me to print. I don't know why I would be expected to do that. I just... I don't like it. I have an iPad, if I need to access old records or old minutes.

Dr. Larson: I guess I don't understand why it's all or nothing. If one or two members of the Board still want to use paper, why not just print out what... for the one or two. I mean if the argument is to save money, wouldn't you save money if, say, half the Board used iPads and the other half used paper rather than the whole Board.

Ms. Knighting: Well we would save money either way, but eventually everything is going to be electronic.

Mr. Grimes: And that's my next question for you...

Dr. Larson: That's not the question I'm asking though, right? The deal that was before was we could all have iPads but everybody must use them. If one person wanted paper, nobody got an iPad. If that's still the deal, I don't understand that whole concept. The arguments I've been hearing are cost savings and efficiency. Well maybe the half that uses the iPads are super-efficient and they're saving lots of money and the other half doesn't. But you're still saving money, right?

Ms. Knighting: Now what we would do, just like we did for the Planning Commission, the first few meetings we would definitely print out and mail to you. It would not be hand-delivered. We would mail to you the packages then eventually, if there were certain things that you wanted, you could call us and we could print them out for you.

Mr. Grimes: And is it also the intention at some point in the near future it's basically going to be mandated, that the County won't print them. Is that coming?

Ms. Knighting: Maybe.

Mr. Kim: So are we going to discuss this now, or are we going to put this off? I'm only asking because it seems redundant if we're not going to discuss it. Can we, I mean, if it's okay Mr. Chairman, can we decide are we going to discuss it today, or are we going to push it...?

Mr. Grimes: I don't have any problem discussing any issues anybody has with it. I think everybody stated a lot of their opinions already. So Mr. Apicella can read on it, read about it in the meeting minutes, so that he has a chance to think about it. So I don't have any problem discussing it further, but not making a decision tonight.

Ms. Knighting: Mr. Chairman, I would also like to add on staff's behalf, it's easier if everybody does the same thing. It's difficult when you have staff members that have to remember this one wants it different from this one, and this one wants it different from the other three. So that's probably why they said all or nothing.

Mr. Grimes: Okay.

Ms. Bertoldi: How many cases do we have for next week, or next month?

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Mrs. Musante: We have two variance cases, but it's the same situation that we had last month where the property line goes through a house. So they're having to move the property line. This one is actually two separate owners. How this happened I don't know, but they are. One of them is up for sale. They're having to move the property line to get the properties in compliance as much as they can.

Mr. Kim: So Mr. Chairman if we can discuss the iPad issue today and come up with a determination on which way we're going to go, either vote for it, or you...? I don't know what's the right procedure here. But I would like to get a definitive answer so this doesn't come up next month.

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

Ms. Bertoldi: I'm for it as long as I'm able to highlight and write notes and so I'm not trying to like write note on the side and trying to figure out where it goes to or what have you. I'm a little more inclined for it. I typically... I like paper. It's easier for me to read paper. I like bleeding all over it in pen, with sticky notes. That's how I practice law, but that is a personal preference, but as long... I can adjust fairly well if I can highlight and stuff.

Dr. Larson: Question for staff on this. Is there a search function on the iPad? Can I search for a word?

Mr. Grimes: Yes.

Mr. Kim: Oh yeah.

Dr. Larson: Just, well, it doesn't hurt to ask.

Mr. Grimes: Yeah, there's several. PDF expert and iAnnotate are two of the best programs I found to mark up and review PDFs. I have done it for six or seven years now in my own business. So there's plenty of ways to bookmark, tab, search. You can actually attach documents to it if you have reference information and store it in there.

Ms. Bertoldi: I do have one question. What happens if it's like, I don't know, it gets stolen from you or it gets lost? Are we responsible for reimbursing the County for that?

Ms. Knighting: I don't know that for sure.

Ms. Bertoldi: Okay. Because this is one more thing to also keep track of.

Mr. Grimes: Yes.

Mr. Kim: That's a great point.

Mr. Grimes: Agreed. And I've moved away from Apple so for me it's like a step back. Mr. Gibbons, what are your thoughts.

Mr. Gibbons: Well I've been four years with it in the Planning Commission, and the thing I love about it, in my little office I got a 40 inch monitor, so when I take the subdivision I jump it up to there right off the iPad and the iAnnotate. So I know it saves us a pile of money on the Planning Commission.

Mr. Grimes: Heather?

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Mrs. Stefl: I'm all for it as long as there is security to keep my 14 year old off of it. Because he will somehow find it in my office. He sniffs out electronics.

Mr. Grimes: Well it sounds like if it's ours to use, we can use passwords and locks on them then, correct?

Mrs. Stefl: I was just trying to make a funny remark. I'm all for it.

Mr. Grimes: Anything else you'd like to add Ms. Brown?

Ms. Brown: Yes, a couple of things.

Mr. Grimes: Okay.

Ms. Brown: God, I just forgot. I was waiting patiently for you to do that.

Mr. Grimes: You didn't write it down on a piece of paper?

Ms. Brown: I only had this to write on. I didn't want to write on that. I can't... there's two things, alright? One of them, I want to address the apple ID thing. I don't want to have to be using my apple account on a different piece of equipment. That is an issue.

Ms. Bertoldi: Yeah, I was about to say, because I have to use my own apple ID with my own credit card and...

Ms. Brown: Yeah, and then now I got a device registered to my other iPad that really isn't going to be mine. It might be... you know, we're inheriting it from the old Planning Commission. So they might have their old apple ID assigned to it. The second is, our board packages are not as big as the Planning Commission. We hear one to two cases at most. The Planning Commission gets stuff like this. Our packages are not that big. I don't know that it's that significant of cost savings for us to switch to that. I mean the Planning Commission, yeah, when they're getting a four inch package and they're not anymore, maybe, but ours aren't that big. And I do like to open all my stuff and I don't have the big monitor at home to be able to do that and I don't... sometimes when you sit next to me you see me. I have seven, eight pieces of paper out at one time. I'm looking. I'm looking at a plat. I'm looking at some old language. I'm looking at several different things that we have in the package and I can't on the iPad. I would have to be flipping back and forth between screens. I wouldn't be able to compare them side by side like that. I don't want to do it. Again, it's not a technophobe issue. I do have an iPad, and I do use it, but I don't want to use it for this.

Mr. Grimes: Mr. Larson, anything else to add?

Dr. Larson: Yeah. I spend most of my day on the computer and I use all kinds of good search functions and edit packages and blah blah blah. So I would be willing to entertain the iPad. This is a change for me. I, although I agree with Dana that I too sometimes have multiple pages at the same time and I'm looking at this and that, and that, and I think that actually is more conducive with the way the human brain thinks. Those of us that still read books, when you read a book, you think of a passage ago, you know what that was back here and I remember what part of the page it was on and you can basically find it. If you had an iPad you don't have a prayer unless you want to search for a particular word in the passage, which you might remember, but then you catch every word all along the way. So, you know, that aside, I, if the iPad had editing capability, not editing but search function, highlighting function, annotations or comments, however it works, and that I wasn't going to owe the county several thousand

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dollars, or whatever it costs for an iPad. Probably not, I'm probably exaggerating, but I don't want to owe the County money if it gets lost or stolen. So somehow the County needs to ensure that, I suppose, if they want to get reimbursement for that. So I would consider it, but I still have to get over the something that Dana just mentioned, that I do also do that, look at several things at once.

Mr. Grimes: Dr. Ackermann?

Dr. Ackermann: Yeah, I find my experience different from Dr. Larson and Ms. Brown's. For the last few meetings I've been working off of the electronic form of these which works fine for me. I always take these home and I use the other side of these for printing and I have several boxes of them. We generate way more paper than I can use in a month. Actually the printing that I do at home is personal, it's not a business. And also, once a month somebody comes to my door and delivers this. And that's somebody on County time who has to do that. He has to come to my house from here, which is not so, so far, but still, that's something that has to be done. So I would be in favor of moving to electronic form for these.

Mr. Grimes: Mr. Kim?

Mr. Kim: I'm in favor. One, the County says we'll save a lot of money. I'm going to take their word on it. Also, I love the fact that there's a tablet and I can go back to, you know, the brewery case and see why we put these exceptions, special exceptions in for the reason we did, because right now we're going off of memory. It would just be easier to search back to Wild Run Brewery. I just think it's more efficient. I do like the paper, but you know sometimes, if we have a continuing case from the month before and something's added, you know, instead of the County saying, Hey remember to bring your package from last month and sending out that extra email, we have it and I do like those aspects of having an iPad. So I want to... I'm definitely in favor. Thank you.

Ms. Bertoldi: Mr. Chairman, can I just... one thing. I'm sorry.

Mr. Grimes: Yes.

Ms. Bertoldi: I guess we're also kind of making the assumption that all of this is going to be at our fingertips when they hand us the iPad. I'm not getting the impression. I think what they're saying is that we're going to have to download our email address on there so that they can email us so that we can then download... they said they're going to email it to us, right? So, if you're going to email it to us... you said an email.

Ms. Knighting: We're going to email you and let you know that it's ready to be downloaded.

Ms. Bertoldi: Okay so all of the, and I guess I would ask that the, whatever app that needs to be on there for us to edit or to highlight already be on there so we don't have to use our...

Ms. Knighting: I can't do that. I'm limited there, because I can only have so many apple accounts myself.

Ms. Bertoldi: The County should be able to, I guess, it sounds like, and we're not really going to be able to go and look back at another case easily. We would have to go to the website, right, and link in.

Ms. Knighting: No ma'am. Once you download it, it's there.

Ms. Bertoldi: Okay, but not previous cases that was before the iPad?

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Ms. Knighting: We can send you anything you want.

Ms. Bertoldi: Okay.

Dr. Larson: Minutes? The County Code? Relevant Code?

Ms. Bertoldi: You guys can download that so it's... and these iPads are old iPads that are the old iPads from...

Ms. Knighting: Used from the Planning Commission.

Ms. Bertoldi: How old are they?

Ms. Knighting: Are they four?

Ms. Bertoldi: Because I think that, you know, apple technology, I mean it's like, after a while it's like, I don't know... they're kind of obsolete. My iPhone is almost two years old, it's like, you know, it's almost so obsolete that, you know, things to download an upgrade are almost like it's not even compatible. So I guess I have concern with that as well.

Dr. Larson: Do you need an apple account to use these iPads.

Ms. Knighting: Yes, you do.

Dr. Larson: I do not have an apple account. Is the County going to buy that for me?

Ms. Knighting: It's no cost for the apple account, but once you have the iPad...

Dr. Larson: I don't have an iPhone. I have an android.

Ms. Bertoldi: You don't need it. It's iTunes.

Ms. Knighting: Once you have the iPad and you have the apple account...

Ms. Bertoldi: It's a free account, but you have to attach a credit card to it.

Mr. Grimes: I would be glad to give everybody, you know, little one on ones on how to use it and how it operates.

Mrs. Stefl: I guess my question is, I buy the iAnnotate, I submit for reimbursement, how long does that usually take? Maybe two weeks?

Ms. Knighting: Depending on, and I think that particular application is \$9.95.

Ms. Brown: It's not like buying the software to use anywhere. It's specific to that device.

Mrs. Stefl: I understand.

Ms. Bertoldi: We can download it to your phone or anything that's in a cloud that's related...

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Mr. Grimes: I think there's been some really great discussion on this. I took a couple of notes that I'd like the County to go back and do some research, email everybody on the Board with the issues here. Number one, that the iPads are owned by the County and therefore are responsible, they are responsible financially for them if they are lost, stolen, or damaged and not the Board members. Number two, there is an apple ID issue and I can respect that. Some folks do not want to get one. I understand there is no cost, but I also know that apple devices can be added to your enterprise network and the enterprise manager, your IT folks can push applications down to them without the Board members having to do that.

Ms. Bertoldi: I like that. I do like that.

Mr. Grimes: Because it is the County's device then, just like it would be a corporation's device, not a individual's device. I'd be happy to talk to your IT folks if you'd like about that, but I believe that's still possible on apple. The other item is the documents that come pre-loaded on it. It doesn't sound like there are any. Again, it would be nice if they could be pre-loaded with the last three years of meeting minutes for the cases before it's send out to everyone, so that folks aren't having to spend time going and downloading, if there's a dedicated website to this. Seems like somebody could do that before they're handed out.

Ms. Brown: What's the storage on those iPads? Are these the 32 gig? The 64?

Ms. Knighting: 64 I believe.

Mr. Kim: That's a lot of data to fill up 64 gigs. We're not going to have enough (inaudible).

Mr. Grimes: If you're not using it for personal use and you're not putting pictures and music on it, it'll hold more than enough.

Mr. Kim: So my only question, so if there is an issue with the iPad, we give it back to the County because it is four years old. How long before we get another one? That would be a question that I would like to know. If that's okay, Mr. Chairman, and obviously if there is an issue with the iPad and we need an actual hard case, are there going to be backups for us? Like, you know, there'll be one on hand or you can actually print one out for us. I'd like to know the actual protocol so that you guys will instill, if there's a downed iPad.

Ms. Brown: (Inaudible - microphone not on).

Ms. Knighting: I think we have ten.

Ms. Brown: (Inaudible - microphone not on).

Ms. Knighting: No ma'am, we had other people in the office that no longer use the iPad.

Mr. Kim: So those are actually, I mean I think, are you okay with those questions being asked?

Mr. Grimes: Absolutely, I just wanted to, I was going to poll everybody to see if there's any other questions we want the county to answer before we come back next month so we can actually make a decision.

Ms. Brown: Again, I want to point out the size of the packages between the BZA and the Planning Commission.

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Ms. Bertoldi: And Steven would probably use the same iPad for Planning Commission and BZA, so there is one less iPad of the ten. Because we have the potential of having ten members on the BZA, because we could have three alternates.

Mr. Grimes: And I would also recommend that, just for everybody's kind of in the back of their mind, that if you use this iPad for BZA business that I would recommend you get a dedicated email for BZA business to use on that iPad and not your personal email, because it is subject to FOIA. So just a FYI. Which is why you guys all got the email that you got from me. So, just something else to keep in mind. Alright, I think that was great discussion. Thank you everyone. Any other business, Melody?

Mrs. Musante: No.

ADJOURNMENT

Mr. Grimes: Do I get a motion to adjourn?

Ms. Brown: Motion to adjourn.

Mr. Kim: Second.

Mr. Grimes: I got one, I got two, everybody say aye.

Dr. Ackermann: Aye.

Ms. Brown: Aye.

Mr. Gibbons: Aye.

Mr. Kim: Aye.

Mrs. Stefl: Aye.

Dr. Larson: Aye.

Mr. Grimes: Aye. Thank you all.

With no further business to discuss, the meeting was adjourned at 8:44 p.m.