

King George County Board of Supervisors  
 and King George County Planning Commission  
 Zoning Ordinance Overhaul Work Session  
 September 26, 2023

The joint work session of the King George County Board of Supervisors (KGCBS) and the King George County Planning Commission (KGPC) was called to order at 6:00 PM by Chairman Richard Granger, KGCBS and Vice Chairman Parker, KGPC in the Robert H. Combs Board Room of the Revercomb Building, located at 10459 Courthouse Drive, King George, VA, 22485.

**KGCBS Members Present:** Chairman, Richard Granger  
 Cathy Binder  
 Ann Cupka  
 Jeffery Stonehill

**KGCBS Members Absent:** Vice Chairman, T.C. Collins

**KGPC Members Present:** Chairman Walter Moss  
 Vice Chairman Kristofer Parker  
 Joseph DaCorta  
 Ross DeVries  
 Denise Flatley  
 Ian Fox  
 Gary Kendrick  
 Roger Kniceley  
 Kevin Myers

**KGPC Member Absent:** Jason Williams

**County Administrator:** Christopher Miller

**County Attorney:** Kelly Lackey, County Attorney  
 Jessica Washington, Assistant County Attorney

**Staff Present:** Chirs Dines, Director of IT  
 Louis Pancotti, Interim Director of KGCCD  
 Richard Stuart, Senior Planner, KGCCD  
 Jaclyn Fish, Executive Assistant, KGCA  
 Cheyenne Courtney, Senior Admin. Assistant, KGCA

**The Berkley Group:** Rebecca Cobb

**Call to Order:**

**0:00:03.2 Chairman Richard Granger:** I call to order this joint meeting of the King George County Board of Supervisors.

**0:00:07.8 Vice Chairman Kristofer Parker:** All right. I call to order this joint meeting with the King George County Planning Commission. And for the record, we do have a quorum.

**Amendments to the Agenda:**

**0:00:15.1 Chairman Richard Granger:** Awesome. Thank you, Mr. Parker. We will move on to amendments to the agenda. Mr. Miller, do we have any amendments?

**0:00:21.8 Chris Miller:** No, sir.

**Public Comment:**

**0:00:22.7 Chairman Richard Granger:** Okay. We will move to public comment. Comments will be limited to three minutes per person in order to afford everyone an opportunity to speak. When you come up please state your name and your address and then you'll have your three minutes. Floor is open for public comment.

**0:00:47.1 Todd Fairfax:** Todd Fairfax, 623 Kings Highway. Mr. Chair and Members, Mr. Chair and Planning Commissioners, good evening. Admittedly, I'm feeling a bit surrounded right now so I'll be mindful of that. My comments this evening continue to focus on complaint-based noise testing. That's line 71 through 82 in the table in your packets this evening. First, thank you for agreeing to five verified complaints to the Zoning Administrator within a seven-day period, triggering the county to hire a third-party testing firm to conduct sound testing; again, thank you. But please specifically codify in the ordinance that these complaints need not all be from different complainants. One party being harmed is just as valid as multiple parties. Thank you for agreeing that the user needs to submit a plan of correction that is acceptable to the county within 48 hours. However, more specificity needs to be added regarding how long correction must actually take. Having an acceptable plan of correction is one thing; actually, implementing the correction in a timely fashion is an entirely different matter. Please grant the Zoning Administrator specific authority to impose "not to exceed timeframes on the correction." These timeframes should be short one week, for example, so that the environment for nearby residence is restored to being free from noise that jeopardizes their health or welfare or degrades their quality of life. That's a quote from our current ordinance. Finally, please specifically codify that not satisfactorily correcting the noise violation within the agreed to timeframe will result in certificate of occupancy, suspension, and operation ceasing until noise levels are demonstrated to be back in compliance and verified by the Zoning Administrator. Thank you.

**0:02:55.3 Chairman Richard Granger:** Do we have anyone else for public comment?

**0:03:04.5 Justin Boynton:** My name is Justin Boynton. I live at 5889 River Road in Spotsylvania County, but our family owns about 100 acres off Indiantown Road on South Hall Lane in King George County. And again, I appreciate the Board of Supervisors, your attention as well as the Planning Commission's attention. Just looking for clarification and some modification regarding the updated ordinance section 1-4-4 and section 1-4-5. Specifically, we have a subdivision plan under review; it's received its first round of comments. Our understanding is as the ordinance is currently worded, once the new ordinance goes into effect, these entirely new rules, especially that apply to cluster subdivisions, would apply to our subdivision even though it's already been submitted, already been reviewed and we're working through the comments on it. So just the idea that the rules are changing as the game's being played. So just what we would submit for consideration is just that plans be processed in accordance with the regulations in effect when the submittal was accepted. Thank you very much for your consideration.

**0:04:28.8 Chairman Richard Granger:** Do we have anyone else for public comment?

**0:04:40.9 Ben Lazarus:** Hi. Ben Lazarus. I'm a private businessman. This is, appreciate the opportunity to speak here. Chairman Granger, Members of the Board of Supervisors, Chairman Moss, and Members of the Planning Commission. I wanted to have a few quick comments about the proposed Zoning Ordinance. The comments are in reference and some of the changes, it looks like, are in, sort of have been recommended, that we asked for, have been recommended by the Berkeley

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Group and a couple were not. But the reason I'm here tonight is just any developer that's looking to do whether it's townhouses or apartments, market rate or non-affordable dwellings would seek a few minor clarifications and changes in the draft zoning ordinance, and up here to ask for a few of them. The first are height and some of the subdivision street ordinances about private streets and the number of lots and structures needed. And the last is loading docks, didn't look like that one made the agenda to, a minor one, but based on the current requirements the requirement seems quite, a little bit large. It's a small thing that an easy clarification could change. Overall, if you all hear some of these changes, make some of these changes, don't include approving certain projects, it is just to change the Zoning Ordinance. I know you all have done a lot of work. This has obviously been in process for several years and would appreciate anything you all are willing to consider on those items that'll come up later on the agenda.

**0:06:41.2 Chairman Richard Granger:** Mr. Dines, do we have anyone online for public comment?

**0:06:50.8 Mr. Dines:** No, Mr. Chairman.

**0:06:54.3 Chairman Richard Granger:** Did anyone receive correspondence to be entered into the record? Okay. In that case I will close the floor for public comment. And before we move on I will just ask Mr. Pancotti, and my understanding at least, but so I don't get into trouble, Mr. Boynton had asked in regards to having a site plan submitted; my understanding is the way the rules work is if you have a site plan submitted, you adhere to the rules that were in place when the site plan was initially submitted, and then if something were to change after that point, it does not apply and it's an allowed use based off the previous Zoning Ordinance. Is that a correct interpretation? I don't want to get into trouble; that's why I'm asking you.

**Chairman Granger Closed the Floor for Public Comment.**

### Zoning & Subdivision Ordinance Discussion:

**0:08:03.0 Mr. Pancotti:** Okay. Can you hear me now? Okay. The current draft ordinance talks about complete applications and/or plats, and it also references, it says, "Applications received but still pending final action as of the date of the proposed." If it's the will of the Board and Commission to have it, that if it's the first round of submissions and it had comments that that be considered a complete application, cleaning that language up. Because I feel like with it saying that pending final action. **[0:08:45.6 No Audio]**.

**0:08:48.6 Chairman Richard Granger:** I understand what you're saying, is no, I was asking because I just want to make sure I understood, and so I appreciate that clarification. Thank you.

**0:08:57.6 Ian Fox:** I have just a little follow up, a similar question. Simply put, if you have a project that's approved under the current Zoning Ordinance, and then a new ordinance comes in and it's more favorable in some respects to your project, can you then avail yourself of the more favorable elements of the new ordinance, whatever; for example, maybe it's parking or some other aspect.

**0:09:23.8 Mr. Pancotti:** If you were to amend your site plan?

**0:09:26.9 Ian Fox:** Well, I mean, let's just take the first step is you didn't amend your site plan, but I mean, this is hypothetical, but there were issues that were treated more favorably in the new ordinance. Could you then avail yourself of the new treatment? Assuming you didn't have to make any physical changes to your project, let's say.

**0:09:50.2 Mr. Pancotti:** If the site plan was approved, then you could submit a site plan amendment and that could be the new ordinance, as I understand. Is that correct, Rebecca (Cobb)?

**0:10:02.8 Rebecca Cobb:** Yes. And there's also another item under that 1-4-4, it is, that says you can choose. Even if you are submitting prior to and you see that what's in the new is really what you're wanting to go for, you can elect to go for that. It's not a piecemeal thing. You can't say, well, I want some of this and some of that, but you can choose. Am I going to go under the old or do I want to go under the new? You can make that choice. But I will say we do have a slide about this topic, and so maybe if we hold further discussion till we get to that, then we can actually see what the text says and that might help us too.

**0:10:52.5 Chairman Richard Granger:** Thank you. In that case, we will then move on to our presentation. I believe the Berkeley Group will start with a project progress.

### Home Occupation Discussion:

**0:11:11.2 Rebecca Cobb:** All right. So welcome to this second pre-adoption joint work session. We are going to talk about a little bit of our process, progress, and then we're going to get into the comments and discuss edits for the ordinance and then next steps. We started out, we did investigation, public engagement, then we went into drafting and let that engagement lend itself towards what we were drafting. We completed that first draft and then went to public open house where we received many comments that you have before you in your comment tracker, and we've been working through those in our two pre-adoption work sessions. We had one last month, and then this is the final one this month and then we can incorporate those final revisions and then move into the public hearings. There would be public hearing with the Planning Commission and public hearing with the Board of Supervisors for them to then adopt the ordinance. So that's where we've been and where we're going. And I'll just lay out that we do have quite a bit to discuss tonight. We worked through last time there were still 15 or so topics and some of those topics have multiple questions. So just kind of being mindful of our time and trying to come to consensus as quickly as possible on the items that we have selected, because I do want to leave time so that you all can pull out any other items and discuss those as well. Our slides are set up just like last time, to help with our discussions, and we'll go ahead and move right in. The first one is home occupations. We talked about this last time. I bring it up again because during the last time there was a comment about the customers and the vehicle traffic at the site, and there was decision or direction for us to mimic Loudoun County and that they just have a very simple statement without actual numbers in it. And what we found when we started digging into that to pull that language over, we found that their ordinance does have the very statement we found, that statement about, let's see, I'll even read it. I've got it. The statement was, "No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood", and then it goes on, but it doesn't have the actual numbers. So that statement is on their website, it's kind of like a guidance document, a sort of checklist for people who want to do a home occupation. But when we dug into their ordinance, the current and the proposed, we saw that they do have numbers there. And when we compare that to what we have proposed, you actually would be a little bit more lenient than what they are proposing. My question is, do you want to maintain what is proposed because it is a little more lenient than Loudoun? Do you want to be more stringent? Or what's the feelings there on that?

**0:14:58.6 Chairman Richard Granger:** I'm amenable to leaving it as the way it is currently proposed, but I'll leave it to the Planning Commission and my colleagues to weigh in.

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**0:15:11.9 Rebecca Cobb:** I would ask, is there any opposition? I've heard a statement in favor of leaving it as proposed. Is there any opposition to leaving it as proposed?

**0:15:24.7 Denise Flatley:** Now, I'll just repeat myself from last time. Yes, I think that we don't want to prohibit people from working part time from home. Their income is just supplemental, they're staying home with their children. And I would just like to see this presented in a way that's not prohibitive to that.

**0:15:52.1 Rebecca Cobb:** Other comments?

**0:16:02.0 Chairman Richard Granger:** I think we're good.

**0:16:02.5 Rebecca Cobb:** All right. I will leave as proposed.

**0:16:07.8 Kelly Lackey:** If I may, I just, I asked Louis a question that you all might be interested in as well. I just asked him about how many complaints they get about home occupations. I don't know if that's of interest to the members or not.

**0:16:21.0 Mr. Pancotti:** I'm not prepared. I don't have an exact number. But we do get complaints about people running businesses outside of their homes, whether they have a home occupation permit or not. What we find is without, I don't believe it's actually in our ordinance, but on our guidance document or application for a home occupation, it does have a very similar statement to what in Loudoun that says, can't generate more traffic than is normally expected. And the enforceability of that is difficult since that is a subjective statement. So typically, we try to find another way to enforce any violation of the ordinance related to home occupations because it's tough to enforce. Well, they have a bunch of customers coming in and out when all we have is that general subjective statement.

**0:17:25.5 Chairman Richard Granger:** Thank you, Louis. Does anyone have any comments on that or about the proposed changes?

**0:17:36.6 Rebecca Cobb:** All right. Hearing none, I'll move on. Oh, okay.

**0:17:46.6 Kevin Myers:** I guess volume, when you had those cases, was there a large volume? I mean, there's a difference in someone having a business at home and having under 10 trips, or five or 10 trips or whatever, and someone selling and having 50 people come to their house in a day. I don't know if there should be a number, I don't know what the number is. But that would be, if you have complaints, that would be, at least give you some teeth to enforce something.

**0:18:18.8 Chairman Moss:** Yes, that would be my question, do you have any language that you would prefer to help with enforcement?

**0:18:29.3 Mr. Pancotti:** The best thing to help with enforcement is clarity, where if I can look at it and it's clear what it says to where there's not a major stretch.

**0:18:43.8 Chairman Richard Granger:** Objective as opposed to subjective; a number that makes it easily identifiable.

**0:18:55.8 Rebecca Cobb:** And I'll just say, again, that the last time the thought was, well, match it to



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Loudoun. And what I can tell you is, from looking at what Loudoun has compared to what we have proposed, you're actually being a little looser and letting a little more business occur, if that's your desire.

**0:19:19.5 Chairman Moss:** You said that Loudoun has numbers; what are their numbers?

**0:19:23.0 Rebecca Cobb:** You see on the right-hand side of your screen, the, and it's the same; they're not really changing it from the current zoning to the proposed. It's 10 additional vehicle trips or five round trips per day.

**0:19:44.3 Chairman Moss:** Louis, would that help?

**0:19:46.8 Rebecca Cobb:** What we have proposed for Class A, which is to be a lighter use, is no more than five customers a day, which would match with Loudoun. Class B is where we allow a little more because we do say 10 customers can be on the property at any one time. Same thing for Class C. So that does allow additional vehicles there.

**0:20:18.0 Mr. Pancotti:** I would say that this would loosen up how we currently enforce home occupations as well as more flexibility for homeowners who run a business out of their residence.

**0:20:40.7 Chairman Moss:** Yes. So right now, I'm torn. I'd like to have the home business folks have the opportunity to run their businesses, but if it's a challenge with enforcement, that's what I'm trying to understand. If there's any language that kind of hits that middle of the road well.

**0:21:01.7 Rebecca Cobb:** I think what Louis, and correct me if I'm wrong, Louis, has said is that what is proposed does help him because it does have a number there. Louis?

**0:21:09.8 Mr. Pancotti:** What it does do is it would allow more customers to someone's residence than we allow now.

**0:21:22.5 Denise Flatley:** It's my understanding that the draft ordinance allows only two customers at a time. Are you saying that we're more stringent than that now?

**0:21:36.7 Mr. Pancotti:** it allows five daily and two at a time.

**0:21:43.7 Rebecca Cobb:** Right now, do you only have one classification?

**0:21:47.5 Mr. Pancotti:** Yes.

**0:21:48.1 Rebecca Cobb:** So right now, there's only one Class of home occupation, and we have branched that into three different classes of home occupation which are allowed in different areas. Class A is the lighter intensity; it's by right. In that top bar there, you can see it's in all the A districts, the R districts and C2 and MU. And then Class B is by right in the A1, A2, special exception in A3 and R districts, by right in Commercial and MU, and then the Class C, which is more intense, would just be allowed in the A districts as by right.

**0:22:29.3 Ann Cupka:** Mr. Chair. Would there be any appetite to entertain if you look at the Class C box on the bottom right of the slide? Everything else is scaled by lot size; the maximum employees increase based on acreage, the business-related vehicles increase, the heavy equipment vehicles

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increase. However, the maximum number of customers still remains at 10 across the Board. Would anyone be interested in seeing the maximum customer number scaled likewise?

**0:23:11.5 Chairman Richard Granger:** Yes, especially if you start getting to those larger acreages. I think that's very reasonable to allow for more customers at that point.

**0:23:20.4 Ann Cupka:** And I get that it has to do with vehicle trips. I get that and more traffic on the road and so forth. But it seems to me that if everything else is scalable, we ought to allow more customers in some of the larger lot sizes as well.

**0:23:37.5 Cathy Binder:** I would agree with that because I could see someone who has a large tract that might have, allow like a soccer team to come use a facility to work out and that would probably be more than 10 people so, if it's a large acreage, as done in other localities, like a training center.

**0:23:56.3 Chairman Richard Granger:** The question is, how would it scale exactly? Do we have any recommendations?

**0:24:02.8 Chairman Moss:** Eight, 10, 12.

**0:24:04.6 Chairman Richard Granger:** It's 10 right now, so you want to drop it. I would be inclined to go higher, especially once you get to 50 acres.

**0:24:22.2 Ann Cupka:** I was going to say at least 10, 20, 30. At least.

**0:24:25.4 Chairman Richard Granger:** Once you get to 50 acres.

**0:24:28.1 Ann Cupka:** And see what everyone else thought.

**0:24:28.7 Chairman Richard Granger:** It's pretty large. I would agree with you. I don't think that's terribly unreasonable. If people really feel that's too high, we could go lower, but there is a fair amount of land and space.

**0:24:47.9 Kevin Myers:** How about, how about if we do 10, 20, and no number on C?

**0:24:52.4 Cathy Binder:** You mean what?

**0:24:54.5 Kevin Myers:** No number on C.

**0:24:56.3 Chairman Richard Granger:** Oh, so we're talking about on C.

**0:25:00.6 Kevin Myers:** Eight, 10, 20 and no number on C.

**0:25:03.9 Chairman Richard Granger:** Ms. Cupka was referring only to Class C because on Class C there is a scale on lot sizes. But you're speaking to Class A, Class B, Class C, and you're just saying if you hit Class C, even if it's only a five-acre lot, because that's that little grid down there, it's showing. Correct. And that grid down there shows you right now, it's on yours, up there as well, but that lower right-hand corner for C, or it's too hard to see. You should have the handout as well, though, like the physical document. I can hand you mine if you want. I'll just bring it down there. Sorry. It's true. I have the digital version. I'd be hesitant to leave it as undefined because then that means you could

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have any number and it could become a problem. I'd be a little concerned about that. But we could pick a fairly significant number, which I don't think is unreasonable. This would be an accessory use of a dwelling unit for gainful employment. 10, 20, 50?

**0:27:01.8 Gary Kendrick:** If you're going to do business, go ahead and do business on commercial property. I mean, when you start talking about 50, 75, 100 trips today you got a fairly serious business going on. I think when we were talking internally in the Planning Commission, it was like you got a few acres residentially and you're doing a plumbing business and you got a couple of service trucks and a warehouse; that seems reasonable. All right? But in a residential area, or even in an agricultural area, you're not normally seeing a whole bunch of traffic. I don't care how big the lot is. If you got one road into the lot, that's a lot of traffic back and forth. It will aggravate neighbors. Coming in and out of your own driveway on a collector's road. Well, let's not get carried away. I want to allow people to do some work from home. I get that. But if you're going to go into business, go into business.

**0:28:14.7 Ross Devries:** Well, if it is a 50-acre Lot, how close are the properties and how many neighbors are there?

**0:28:20.7 Gary Kendrick:** It all depends on how the lots are laid out. They can ask for variance, ask for an exception.

**0:28:27.8 Vice Chairman Parker:** I agree too. If you start thinking about some of the narrower roads in the County, you could really increase the volume of traffic.

**0:28:37.1 Chairman Richard Granger:** Okay. 10, 20, 30. Is everyone amenable to 10, 20, 30? Okay. 10, 20, 30. And then A and B will stay the same.

**0:28:45.8 Rebecca Cobb:** Okay.

**0:28:46.9 Chairman Richard Granger:** Okay.

**0:28:47.8 Rebecca Cobb:** Got it.

**0:28:49.0 Roger Kniceley:** And is this something that they would be able to do an exception to that? because we had one, someone in our neighborhood that had a dog grooming business. Well, you've got people constantly coming in and then they had a dog club in the afternoon and had a lot of kids coming in. They could pretty quickly exceed 30 or 40 a day. And it was not in a 50-acre lot; it was in a 10a-acre lot that they did it, and it did not cause any problems. As long as it's something they can do an exception to and get some approval, I'm fine with those numbers.

**0:29:21.4 Chairman Richard Granger:** Well, I think what Mr. Kendrick's concern the idea was just of like, if it's a business, like it's an actual business, because this right now is talking about doing a home business as an accessory use to your dwelling.

**0:29:31.4 Roger Kniceley:** Which is what they were doing with their dog grooming business.

**0:29:33.8 Chairman Richard Granger:** Okay. Which then the question is, do we want to take on allowing for a larger impact to those neighbors then and there's been some pushback on that. So again, I'll ask everyone, I heard 10, 20, 30 was acceptable. Right now, that's, my understanding is no, there would not be a way to go about it, from a special exception, to address it. But I'll let Louis speak



to that in case I'm misunderstanding.

**0:29:56.4 Mr. Pancotti:** I do not believe there's a special exception avenue for this. It would have to be a variance.

**0:30:04.3 Chairman Richard Granger:** Okay.

**0:30:04.7 Mr. Pancotti:** Through the Board of Zoning Appeals.

**0:30:07.6 Chairman Richard Granger:** Okay. It would be a different process.

**0:30:10.3 Roger Kniceley:** There would be a way for them to address that in a different process?

**0:30:13.5 Mr. Pancotti:** By right, let's say they're over 50 acres and the ordinance was approved to allow 30 vehicle trips to the site, then if they wanted, that would be approved by right. So that would just be approved administratively by Staff. But if they wanted more than that, then they would have to go to the Board of Zoning Appeals.

**0:30:41.3 Roger Kniceley:** Okay. As long as there is a process for them to go through. I think it's going to be a very rare occasion, but we've at least talked about a couple of them. I know the dog situation there and the kind of dog grooming and a 4-H club and also a soccer, someone who let me use a soccer field, and we certainly had more than 20 or 30 people showing up every day.

**0:31:02.7 Chairman Moss:** Well, if we go with the 10, 20, 30, and Louis, you have people call and say, hey, we'd like to do more and it's legitimate, this stuff isn't in concrete, we could always revisit it in the future if it's something that really comes into, in demand.

**0:31:23.3 Chairman Richard Granger:** Particularly if there's evidence that the neighbors have no objection.

**0:31:26.8 Jeffrey Stonehill:** Yes. We could always, I think 10, 20, 30 be a fair starting point and then address it further if there's a need.

**0:31:38.0 Roger Kniceley:** Yes.

**0:31:38.5 Chairman Richard Granger:** Outstanding. I think we're good at this one.

**0:31:41.3 Rebecca Cobb:** All right, I've got it. 10, 20, 30.

**0:31:45.6 Chairman Richard Granger:** For Class C.

### **Battery, Energy, Storage Facilities Discussion:**

**0:31:48.2 Rebecca Cobb:** And on to topic two. Battery, energy, storage facilities, lines 55 through 57, 154 and 155. We talked about this last time and there was requested to hear comments from the Fire Chief. And I believe he's here today.

**0:32:26.5 Chief Moody:** Chairman, members of the Planning Commission, members of the Board of Supervisors. I did listen to the comments at your last meeting. Thank you for engaging me in this conversation. What I prepared for you tonight was a kind of response to the question that was at

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hand and then also more of an overview. I know you all have a lot of items on your agenda tonight; this is one amongst many. I'll just kind of dive into it, and if you want to hear more, if you have certain questions, I will tell you it was referenced a couple times. This is [NFPA2020.pdf](#) right here. I've made a copy of that. It is about 65 pages in length. All right. This is, was your presentation at the last meeting. I specifically want to address the 7-6-1, the I-1, the comment listed, was, each individual battery shall have a 24/7 automated fire detection and extinguishing technology built-in. The comments that were made in that section, depending on what was meant by "individual battery", this technology may not exist. Individual battery cells are not sold with fire detection extinguishing technology. This could easily be a ban on battery energy storage systems. Berkeley Group's recommendation was a recommended clarification that all individual batteries shall be connected to a 24/7 automated fire detection extinguishing system inconsistent with 855 and reference standard and stored systems to detect the precise location of a malfunctioning battery and suppressed fire. Next slide please, Chris. This is my recommendation. Whoever made that comment was on point. Batteries don't have, they're not going to have a fire detection and extinguishing system. My recommended revision for that section is talking about the building, the facility. And if we're talking about battery energy storage system facilities, the building, each battery energy storage facility shall install and maintain an automatic fire alarm and detection system, which is different than automated. A fire suppression system and other extinguishing technology built-in based on specific hazards as approved by the County Fire Official and Fire Chief. That's my recommendation. I think that the first thing that I read prior to that that was in the section originally is, I think we're talking two different things. I think one's talking about batteries; I think the other is talking about the facility. So that's my recommendation on that. And then to caveat to the second one right under that, and I posted that, as you can see at the bottom of this slide, I would revise that second one to read, the battery management system shall include 24/7 monitoring. The battery management system is going to be that around the clock system that manages the state and status of all the batteries and all the battery modules inside of a data center or a BES system and then it would include the rest in that section. I'll stop right there, I know it's a lot of information to throw at you, and answer any questions.

**0:37:16.6 Chairman Richard Granger:** First, just like to say, Chief, thanks for coming out, I do appreciate it, in order to address our questions about this. I will ask on 7-6-1, I-1, top one, starting at, and other extinguishing technology built in based on specific hazards as approved by the County Fire Official, Fire Chief, and currently it would be you.

**0:37:40.5 Chief Moody:** Yes.

**0:37:40.9 Chairman Richard Granger:** What that's saying is, as someone's who's been in the system, then you would review it and then help prescribe what the extinguishing technology should be?

**0:37:48.8 Chief Moody:** Yes, based on the hazard.

**0:37:50.6 Chairman Richard Granger:** Understood. So that would be on a case-by-case basis.

**0:37:54.1 Chief Moody:** On a case-by-case basis, that's correct. In accordance with fire code and building code.

**0:38:00.6 Chairman Richard Granger:** Yes. Correct. But I just wanted to make sure I understood how that was going to work.

**0:38:03.6 Chief Moody:** Correct.

**0:38:04.0 Chairman Richard Granger:** Okay. Thank you. That's the only question I had for Chief. Does anyone else have any questions?

**0:38:08.0 Gary Kendrick:** One. What criteria would you use to make that decision?

**0:38:12.5 Chief Moody:** We would look at what type of batteries. For example, I mean, right now all the talk and the energy are around lithium ion. However, lithium ion is not the only type of batteries that's covered under 855. If it was lead acid, nickel-cadmium, nickel hydride, and the list go on. So again, it would be based on the hazard. I will say, credit to our folks with the Berkeley Group because I think even if none of this is mentioned in the, at the first section labeled intent, it goes through and says, hey, this is kind of the disclaimer, that this doesn't, it's not to replace all other state, local fire codes, building codes, environmental, et cetera. It covers that in a broad statement. But if it's going to be in there, then it needs to say that. My recommendation.

**0:39:22.0 Gary Kendrick:** Normally Chief, I would defer to your judgment without question. I am not really excited about the idea of putting decision authority in the hands of an individual. I was asking what criteria you would use; is there an industry standard? Is there something out there that you would use to guide yourself rather? And no disrespect meant here, not just your personal opinion.

**0:39:54.0 Chief Moody:** Sure.

**0:39:55.4 Gary Kendrick:** because you might decide to leave the county next week and whoever follows you, I personally might not have that sense of confidence in, or I wouldn't have had the chance to grow that sense of confidence in.

**0:40:11.0 Chief Moody:** And that's certainly a fair point. My recommendation to that would be, then would be to strike County Fire Official and Fire Chief and put, as based on the current NFPA 855 and Virginia Statewide Fire Prevention Code.

**0:40:39.7 Gary Kendrick:** I'd be much happier with that.

**0:40:42.4 Chief Moody:** Because I, because that's what I'm, that's what I would be basing the approval on anyway.

**0:40:48.2 Gary Kendrick:** Okay. But then there's something that if it's challenged and it was accused be the particular Chief at the time's opinion, we could get around that and come back and say, no, we said it was based on these formalized set of rules from some authority beyond a county official. All right. That's my only concern.

**0:41:12.4 Ian Fox:** Do we need to, this is more of a question for Berkeley, but do we need to leave mechanics in case the standard has changed because they realize that it wasn't sufficient at some point? If we lock in the standard, or whatever code we specify, and then three years later they realize they, the state or some other body that has knowledge of this recommends that it should be higher some, do we have mechanics to account for that?

**0:41:44.2 Rebecca Cobb:** Yes. We can add to that as amended so that if there's amendments to that, then that would govern.

**0:41:51.6 Ian Fox:** All right.

**0:41:55.1 Chairman Richard Granger:** I'm sorry, go ahead. Yes.

**0:41:55.9 Denise Flatley:** I just have one question. Yes. We talked about these battery storage facilities, and I know that they are used for data centers and solar. I just want to make sure that whatever we do here is consistent for all battery uses. What do you think the other uses might be where this should be enforced?

**0:42:20.9 Chief Moody:** The data centers are going to be the, obviously the biggest, point of conversation. I mean, we've had energy storage systems and facilities around for many years. Most of your Verizon buildings, most of them are full of lead-acid batteries and they, and so they have been around for years. I don't suspect we're seeing a whole lot more of that. The data center is going to be the most significant. NFPA 855 just doesn't cover data centers; it covers even residential solar systems and so on so forth. This section right here particularly deals with what meets the definition of a battery energy storage system facility, and that's the zoning title of that chapter, or that section. This is all that would serve, is that facility. I don't see any other additional facilities probably than data centers fitting in that category.

**0:43:34.3 Denise Flatley:** My following question would be, if someone has home solar, are there other guidelines, requirements that they need to follow?

**0:43:46.7 Chief Moody:** Not necessarily in the zoning piece. If you want to put solar panels on a home or a business, you will certainly have to fill out a building permit application. That system would come under review, and then it would go towards the Virginia Residential Code or the Virginia Building Code for commercial building and then also 855. Yes.

**0:44:15.7 Chairman Richard Granger:** Do we have any other questions or comments? Is everyone amenable then to accepting Chief Moody's revisions but switching out the county fire, official fire Chief for the language with the NFP, I'm sorry what was the other?

**0:44:34.6 Chief Moody:** The Virginia, as approved by the Virginia Statewide Fire Prevention Code and the NFPA 855.

**0:44:46.0 Chairman Richard Granger:** Does that seem reasonable to everyone?

**0:44:49.8 Ross Devries:** I'd like to leave the language for the Chief in there. I mean, it's about approval. I mean, we can add an amenable change in language to NFPA 855 and the Virginia State Code, but who's the approving authority that the application has met those specifications?

**0:45:11.4 Chairman Richard Granger:** You're saying the Fire Chief would use those documents to make the determination?

**0:45:15.2 Ross Devries:** Yes.

**0:45:16.2 Chairman Richard Granger:** Yes. Okay. Obviously as the expert, which makes the most sense, so. All right. Thanks Chief.

**0:45:27.0 Chief Moody:** I can go into more detail. I know you all got a long agenda; we can save it for another day, but I prepared for an overview of 855 and battery energy storage facility, so I'll certainly,

that's y'all's call.

**0:45:41.1 Chairman Richard Granger:** I think we'll move on to our next item. But Chief, I really appreciate you being prepared, and we can have you for a future presentation.

**0:45:48.9 Ian Fox:** Quick query. I mean, is this subject to periodic inspection of the fire suppression system? Basically, make sure it's operating.

**0:45:57.8 Chief Moody:** Yes. They'll be required, they're required annually to have a company come in and do a testing and inspection and then we ensure that that's been done, maintenance has been done on the system.

**0:46:11.8 Ian Fox:** And they're supposed to provide that information to you?

**0:46:15.4 Chief Moody:** Correct.

**0:46:16.6 Ian Fox:** Okay.

**0:46:16.8 Chief Moody:** Yes.

**0:46:20.7 Chairman Richard Granger:** Thanks again, Chief. Okay.

### Posting Notice on Property Discussion:

**0:46:44.4 Rebecca Cobb:** All right. So that was battery energy storage. And we can go to the next one, and this might be our shortest conversation on these. But posting notice on property, there was a comment related to, it would require 200 feet, there'd be a sign every 200 feet, and the comment was that this would be too much and is unsightly, would clutter visibility and that sort of thing, and so there was proposal by the commander to change this to 400 feet. Is there a desire among the rest of the group here to change this to 400 feet?

**0:47:30.1 Ann Cupka:** Mr. Chair. I would say no because this is part of how we give notice to our citizens regarding a public hearing or a change in ordinance or rezoning. I get people don't like signs, but again, this is part of how we offer public notice. I'm saying no.

**0:47:50.2 Vice Chairman Parker:** I would agree just from the standpoint of, if you've got, you figure 250 feet's an acre, so every 200 feet is fairly reasonable. And being that there's not one single way that people get information anymore, it used to be we post things in the newspaper where everybody got a newspaper, what if no one gets a newspaper? I think from that standpoint, every 200 feet is extremely reasonable because, in Ms. Cupka's point as well, you're driving past it and you see a dozen of them, there's something going on that's out of the ordinary, you might want to stop and see it. So yes, I wouldn't be inclined to change it. Just my thoughts.

**0:48:25.5 Chairman Richard Granger:** Ms. Binder.

**0:48:27.0 Cathy Binder:** The only thing I wanted, a caveat to add is, I know from the last public hearing, several citizens reached out to me that is there any way to make the sign, because they're flushed to the property, to a little catty corner or maybe double so people can see it? Because unless you look directly like this, you're not seeing the sign. Like for if you're driving on the road because it's flush. Like say it's flushed to the property like this, it could be hard to see it.



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**0:48:58.5 Denise Flatley:** Yes. No billboard or advertisement would never put the sign perpendicular to the road because you can't see it. And when you are going sometimes 40, 50, 60 miles an hour, I agree with 200 feet, you're going to miss them if you spread them out too far.

**0:49:21.4 Chairman Richard Granger:** Yes. I'm amenable to the 200 feet. Is anyone for 400 or more than 200, we'll say?

**0:49:27.9 Gary Kendrick:** I would much rather over notify than under notify.

**0:49:31.8 Chairman Richard Granger:** Okay. I think 200 is the amenable decision.

**0:49:36.4 Rebecca Cobb:** All right, great. Thank you.

**0:49:38.1 Cathy Binder:** What about having in little catty corners, or does that have to be flush?

**0:49:43.0 Rebecca Cobb:** I think that would be a process; that would be something when they're coming in and talking with Staff. Staff could direct that. I don't think that needs to be in the ordinance in terms of positioning.

**0:49:54.3 Roger Kniceley:** Yes. I guess the other concern would be, which way do you have them facing which flow of traffic? Am I going eastbound or westbound?

**0:50:01.4 Rebecca Cobb:** We could put in there because I think the ordinance does talk about, the size and what needs to be on the sign. We could say that it's a double sided, so then you know how to position it, and it is both ways that it can be seen. We could do that.

**0:50:18.6 Gary Kendrick:** So not to be argumentative, but right now a lot of these signs wound up getting put up on fences, and now if we say double sided, now we're going to require them to come out and put up a sign on a post both ways. I get the comment but they're temporary and now you're creating more of an expense on the developer, which, trust me, I don't normally worry about the developer, but it is a pretty good jump.

**0:51:00.4 Chairman Richard Granger:** Yes. I think I'm amenable; we'll just leave it as is honestly, so.

**0:51:02.3 Jeffrey Stonehill:** Mr. Chair?

**0:51:03.9 Chairman Richard Granger:** Go ahead.

**0:51:06.3 Jeffrey Stonehill:** it is actually in the ordinance that it has to be parallel to the road. I have been through this myself. Number one, it's very expensive and two it is kind of silly that it is parallel to the road, and I believe it is in the ordinance for posting. There's a sign, there is paperwork in there that there's an example of the sign that you have to have done and to where it is. As Mrs. Binder said, if there was a way to offset it to 45 or whatever, that would make it a whole lot more visible.

**0:52:07.7 Cathy Binder:** Is that something that could be brought back for the final part if there's a happy 45 degrees, whatever degree?

**0:52:22.3 Rebecca Cobb:** Sure. I was just reading 3-10-3 to see if it says parallel, it does not currently,

that I see in my quick scan. Yes. So right now, there's no direction about positioning; it talks about height and distance and that sort of thing and what needs to be on the sign. But we could add something, or it could be a process. It sounds like there's several concerns, so I'll just say we add something if everyone's okay with that. Just say that it needs to be angled so that it's visible while driving.

**0:53:10.7 Vice Chairman Kristofer Parker:** But I don't know that anybody could fully read one of those and digest it while driving safely. Right. I mean, there's a lot of information on one of those. I don't know that the expectation is you're ever going to be able to read it while you're driving I think there's a general expectation if you see bunch of them, you're going to pull over and read it anyway. I don't know if it's going to make a big difference one way or another if we change it.

**0:53:38.7 Ann Cupka:** Mr. Chair, so right now it does say the notice shall be posted at reasonable intervals along roads abutting the subject property or if there is no abutting road at the proposed road or entrance into the property in locations reasonably visible from existing roads. So I agree with Mr. Parker that someone isn't necessarily going to be able to read one of these signs, but the fact that there are a number of them posted at repetitive intervals along a property is going to draw one's attention to the fact that there might be something about to happen here or being considered here, and let me reach out to someone at the county office and say, hey, I saw all the signs posted here; there's a public hearing. Can you refer me to somewhere on the county website so I can learn more about what's going on?

### Commercial Kennel's Discussion:

**0:54:37.8 Rebecca Cobb:** Consensus to leave it as is? Seeing nods. Okay. Our next one is actually four and not one. But looking at it, there's several comments related to how some uses are supplied, in terms of their permission. The first one, kennel's commercial, the comment was not to allow this by right in the Ag (Agricultural) districts and to have it be special exception. What I'll say, for a little background information there, is that as a by right use, it does have use standards. Some of those standards are that it has to be 100 feet from Ag zoned property, other properties, 200 feet from residential properties, 200 feet from a dwelling, which is not on the property. There are also fence standards and some standards regarding waste and a standard that says that the animals have to be up in enclosed structure between 10 PM and 8 AM. The definition for commercial kennel is raising, grooming, caring for dog daycares, Boarding of three or more over four months of age for commercial purposes. What are the desires? Is there a desire to have this special exception?

**0:56:34.2 Chairman Richard Granger:** I would leave it as by right, but I'll leave it to everyone else's just to weigh in.

**0:56:39.5 Kevin Myers:** I'm good by right.

**0:56:40.2 Vice Chairman Parker:** And it is currently by right?

**0:56:57.2 Mr. Pancotti:** In our current zoning ordinance, yes.

**0:57:02.6 Vice Chairman Parker:** Okay.

**0:57:03.0 Mr. Pancotti:** It is.

**0:57:04.2 Vice Chairman Parker:** Yes. I have no concerns about that.

### Manufactured Modular Homes Sales Discussion:

**0:57:10.2 Rebecca Cobb:** All right. Looking at manufactured modular homes sales, the comment is that it should not be by right in the C-2 and industrial districts, requesting to change this to special exception. I would, my questions for this would be what are the impacts and the concerns? There aren't any use standards for this currently. If there are impacts and concerns, potentially we can write use standards to address that and if not, then yes, it could be by special exception. Is there a desire to change this use to special exception in the C-2 and I district?

**0:58:01.0 Chairman Richard Granger:** My understanding is we currently in C2 and I have this as a use that is by right. Is that correct? I'm a little fuzzy about what the concern is for the sale of modular homes in a commercial industrial zoned area.

**0:58:15.2 Vice Chairman Kristofer Parker:** I was going to ask, was there any amplifying information about the comment or concern as to what was the beef? I mean, who's got an issue? They might have one.

**0:58:29.2 Rebecca Cobb:** these came from Mr. Collins, and we don't have him here tonight to elaborate on that, so I don't, I can't give you anything further.

**0:58:39.7 Gary Kendrick:** Yes. My only comment would be if you oppose them in C-2 and industrial, where do you want them? I would say leave them there.

**0:58:54.0 Chairman Richard Granger:** I would agree.

**0:58:54.7 Gary Kendrick:** Yes.

**0:58:55.2 Chairman Richard Granger:** Is anyone opposed to it? Let's ask that.

**0:58:57.1 Gary Kendrick:** Right.

**0:58:57.2 Chairman Richard Granger:** With the way it's currently proposed. Okay. I think we're leaving that one alone.

**0:59:02.5 Rebecca Cobb:** Okay. Nursing homes, the comment is not to have it by right in R-3 and to change that to special exception. What I'll say there is, our considerations there was that it is similar use and similar intensity to an R-3 district, so that's why we allow that as a by right use there. But open to your desires.

**0:59:29.6 Chairman Richard Granger:** How much R-3 property do we currently have zoned that is not built upon, just out of curiosity? Do we know that off the top of our head?

**0:59:36.7 Mr. Pancotti:** That is not developed, I don't know.

**0:59:41.8 Chairman Richard Granger:** Okay.

**0:59:44.0 Kevin Myers:** The one I know of is across from the townhouses there by the dentist's office.

**0:59:49.7 Chairman Richard Granger:** Okay.

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**0:59:49.9 Kevin Myers:** That's the only piece I know.

**0:59:50.9 Vice Chairman Parker:** Right. And that's topography limited.

**0:59:52.9 Kevin Myers:** Right.

**0:59:57.0 Chairman Richard Granger:** I'm inclined to say leave it as is. I could be talked into it. I could see this being a little bit different than high density residential because it's a nursing home, having people there to provide services and things like that. It's a little different. But I'll leave it to everyone else to weigh in, how they feel about it.

**1:00:17.0 Ross Devries:** I'm a little curious as to what the definition of nursing home is. Is that very tightly tied to elderly, or could it include something else that we do want to address?

**1:00:33.0 Vice Chairman Kristofer Parker:** Are you talking about rehabilitation facilities, Mr. Devries?

**1:00:37.5 Ross Devries:** Yes.

**1:00:37.7 Vice Chairman Kristofer Parker:** Okay. Yes. Can we probe into a little bit more with the definition of the, or what's encompassing a nursing home under the definition?

**1:00:52.3 Rebecca Cobb:** Nursing home definition, I use providing bed care and inpatient services for the aged and infirm that require regular physical and mental medical attention and it goes on. But that answers the main question.

**1:01:00.4 Denise Flatley:** I would just say no matter what we have currently for R-3, we know that we're going to be changing some of our zoning and eventually we'll have more R-3. The only problem I have with this being by right is that it requires a lot of employed people coming back and forth to provide physical therapy, nursing, cleaning, trash, all of that stuff. And if it's with other R-3 homes, it's going to have an impact. And we've seen that when we like some of our high impact stuff to be well thought out by special exemption, it would give us the chance to make sure that it would be not in conflict with other R-3 uses.

**1:02:00.4 Chairman Richard Granger:** I think that's a fair point. I do recognize there's service that's going to be provided to these individuals, so it is a little bit different than just high-density homes where people are just living. I'm amenable to moving it to special exception. I'll leave it up though to everyone else.

**1:02:20.9 Cathy Binder:** Thinking about it, it would be consistent because we moved healthcare and hospitals to that.

**1:02:29.3 Vice Chairman Parker:** Well, that's true.

**1:02:29.4 Chairman Richard Granger:** Okay. With special exception for nursing homes and R-3. Okay.

**1:02:39.7 Rebecca Cobb:** The last one on this slide is parking lot, commercial should be added as by right in I and I-1. This I'll say I have heard that you all have limited industrial lands and so I would air to concentrate that for industrial uses. Whereas this parking lot is more for commercial paid parking;

there's multiple sites, people go, they pay, then they walk to three, four shops. So that's the intent of the commercial parking lot.

**1:03:22.4 Chairman Richard Granger:** Understood. I would not be in favor of adding this to the industrial district. I don't even see it being used really in commercial right now with the current makeup of the county; it just doesn't really make a whole lot of sense, but I mean, if someone really wanted to. So yes, leave it, leave it as it's currently proposed, I think is the consensus. Okay.

**1:03:44.7 Vice Chairman Parker:** Not the best use of industrial anyway.

**1:03:47.5 Chairman Richard Granger:** I would agree.

### Campgrounds Discussion:

**1:03:54.8 Rebecca Cobb:** All right. Next item is campgrounds. The request here was to increase the minimum lot size and to not allow it in the agricultural districts. The County Attorney mentioned last time that there might be some agritourism things here to consider. With agritourism and other agricultural uses you can't do certain things like special exceptions. I would ask to start off as from, the County Attorney to have some clarity and whether or not for the definition of campground, if we need to include in that definition that it's not activities covered under § 15.2-2288.6. Agricultural operations; local regulation of certain activities., which is the Ag uses, State Code, if that would help separate that out, so.

**1:04:55.5 Kelly Lackey:** I would say that the agritourism provision I think stands separately from campground, so I don't know that we necessarily need to include a reference to agritourism, but that said, you may very well want people to have well-managed, well-planned campgrounds of smaller acreage than kind of encouraging people to set up perhaps more makeshift campgrounds on agricultural properties, so that's a policy decision I would say. But if you did increase your campground size, you might be getting more folks to the door through the agritourism route. So just, I think it should be understood that if you increase the acreage, you're not going to eliminate all small campgrounds. There's still going to be smaller properties that would have entitlements as the agritourism property.

**1:05:46.4 Chairman Richard Granger:** How does everyone feel about this?

**1:05:54.1 Vice Chairman Kristofer Parker:** Could you say the last part of that again, Ms. Lackey?

**1:05:57.4 Kelly Lackey:** Yes. The request here, or at least the comment, is a suggestion to increase the minimum lot size from 10 to 40 acres. So that's certainly something that could be done, but it would not regulate properties that fell under the agritourism provision. So smaller properties that qualify as bona fide agricultural silviculture operations could still have campgrounds with lesser acreage.

**1:06:33.5 Chairman Richard Granger:** Right now, it's about special exception in A-1, A-2. I would leave it at 10 acres as well, but if someone wants to speak up, feel free.

**1:06:48.7 Vice Chairman Parker:** This is one of those things too, I think like usage of land, like a commercial parking lot. As land prices or land values in the county increase, I think you're going to find fewer and fewer people who are going to be inclined to use it as a camper, right? It just doesn't seem like an itch we need to scratch.

**1:07:09.3 Chairman Richard Granger:** I'm going to say leave it as it currently is, unless I hear anyone



Speak up and say, no, let's change. Okay.

### **Parking Design Standards in the RPA Discussion:**

**1:07:27.6 Rebecca Cobb:** The next item is parking design standards in the RPA. The current proposal has some requirements that require hard surface, but it also has some leeway too in terms of some particular uses. Within the use standards, driving range, rodeo, outdoor theater things would kind of fall under the outdoor recreation entertainment. So those are allowed grass parking, agritourism things; event venues allow grass parking. And then also the standards here say eight or fewer parking spaces are allowed grass. I did talk with Staff a little bit more about this one, and I think that we could add some language here to say, except existing parking lots, that if someone needs to expand their parking lot, they're required to have more parking, then they shouldn't have to go from dirt in an RPA. We're trying to save CHES Bay standards (Chesapeake Bay), and so I could see adding language here that would just simply say, except existing parking lots in the RPA.

**1:09:09.8 Jeffrey Stonehill:** All right, I can jump on this one because this is one of, this is my little personal experience that I ran into. I redid a building on the creek, which is within the RPA. The way our county ordinances is that if you did a change of use, you had to do a paved parking lot with lines, like our ordinance states. Well, the property is within the RPA, and the state specifically says you cannot pave within 100 feet of the parking lot, or the water. I'm sorry. We went around and around with community development and Ms. Hall, and she said, you have to go through the process and that, yes, it's in direct violation of what state regulation says that you can do. We're at a standstill. You can't do anything. The recourse was that I had to go in front of a, the BZA and cost about \$1500 and post my signs and do all that stuff, took a lot of people's time out of everywhere, out of their busy day. And they said, okay, yes, you're right. Here you go. Here's your exception. Somewhere there needs to be, if an ordinance comes in direct violation with what the state is saying, there needs to be some type of workaround with that as opposed to going through a Zoning Appeals Board. Fairview Beach is in the process of being bought and changed. They're all within the RPA Wall Point. Marina is all within the RPA. There's needs to be somewhere in there, either by special exception or some type of wording that says that if it's in direct violation of what the state is asking, that there needs to be a workaround. I don't know what the answer is. I've been back and forth, and I don't see any other explanations or workarounds. So that's where, that's where that is. The Berkeley Group, I've asked a number of times and sent numerous emails, but I'm not getting any type of fixes for this. Do we have a fix?

**1:11:44.3 Ann Cupka:** Mr. Chair? So, is it current? because I know I'm looking at the original binder that was provided to us, that there was an editor's note as a result of the September 27 work session and Staff review, gravel removed from, wait, I'm sorry. No, no. Above, above the footnotes. Those uses that permit grass parking through their use standards provided in Article Seven use performance standards of this ordinance. Could we not in, say section five, 7-5-9 marina commercial, could we not incorporate in the use performance standard for, in particular a business that is located on the water, some type of language because then it's incorporated in their use performance standards, like it says here, to cover that?

**1:12:45.7 Rebecca Cobb:** Yes. I would need to look to see if we currently have standards for Marina; we do. We could add to that. If there's concern that there are other uses along the water that might have a similar situation, you may want to do it in the design standards just to say if it is along the, and existing in the RPA. It would follow state surface requirements, is what we could say.

**1:13:23.2 Ann Cupka:** Is there a consensus to do that? Thank you very much. There's your fix, Mr.

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Stonehill.

**1:13:30.3 Jeffrey Stonehill:** Ms. Lackey, what happens in an ordinance if it is in direct conflict with a state ordinance? There could be a lot of these in there that all of a sudden you find out that is, it is in conflict. I mean, when Ms. Hall told me, she said, "Well, that's just the way it is. You can't do anything." I would think that state would trump local ordinances, but what's the legal fix for that?

**1:14:00.0 Kelly Lackey:** The legal fix, it sounds like the process we went through is through the variance process. And so that's the finding of hardship with that specifically situated property can't comply with all the rules, so something's got to give to relieve the hardship affecting that particular property. But what you're contemplating now is not a variance where you're recognizing that there's something common to a group of properties. So that's something that's a bit different because a variance is more specific to a particular property. That's unusual. But if you're recognizing something that might be reoccurring, that's one way to handle it. And I don't know if it dovetails at all with what the Berkeley Group's doing, but another possibility might be to recognize best management practices that are recognized as the Clearinghouse by the Clearinghouse under DEQ. I don't know if that's a possibility, but my understanding is most of those best management practices, they have to have management criteria. It's not like you're going to have a substandard parking lot that's not going to be taken care of; it's actually supposed to improve water quantity or quality. So that might be another avenue where you work with your engineering and design firms so that you're achieving better water quality through the practice.

**1:15:30.6 Rebecca Cobb:** Sometimes we will have in an ordinance, it'll have language that says, if there's conflicts between this and state or other things, the more severe applies or, and I think it, we have that in terms of conflicts within the ordinance itself, if there are things, but I did not see that related, that will fix this type of situation other than what has been proposed tonight, so.

**1:16:10.4 Joseph DaCorta:** Is it unusual to have a preemption cause or, nothing in this ordinance shall be understood to be, and conflict with state federal or other, like just Bay Act stuff?

**1:16:32.0 Ann Cupka:** Mr. Chair, can I read a section from the proposed text says, "Marina Commercial Compliance; all commercial marinas shall comply with the Chesapeake Bay preservation area overlay regulations provided in Article five overlay zoning districts of this ordinance, in addition to all relevant state laws and regulations, including but not limited to those protecting soil and water quality." As I read that, and I'm not a lawyer but I'm fairly well read, that looks to me like they have to comply with state laws and regulations and the ones that protect soil and water quality. So how could we ask or demand that they do something not in compliance?

**1:17:31.8 Rebecca Cobb:** Right. I would say, yay, Berkeley Group, we knew it was an issue before we knew it was an issue. The question then becomes, since that text is there, do you still want the extra text in the design standards? Because I would, if I were your Administrator, that's how I would interpret that standard for the Marina. Again, that only covers Marina. If you've got other uses to consider, then yes, we still need that in the design standards.

**1:18:08.3 Chairman Richard Granger:** But could we have similar verbiage in the design standards, just so that it would cover any activity that falls within those, those regions.

**1:18:18.5 Gary Kendrick:** But if we're talking about inside an RPA, why do we have other activities?

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**1:18:23.1 Kevin Myers:** You could have a restaurant, you could have white parking, you could have whatever else.

**1:18:27.2 Gary Kendrick:** Okay. And then I would suggest some kind of special exception depending upon what the activity was. I don't know if we're ever going to be able to walk through the zoning ordinance and define ever possible activity that might occur there legitimately. So why don't we just allow them to come before, whether it's the Zoning Board or the Planning Commission or the Board of Supervisors and request a special exception.

**1:19:02.5 Chairman Richard Granger:** I guess I don't understand. Is it a problem to put it in the design standards so that it just covers any activity that falls within those regions? Is it, is there a problem with that?

**1:19:11.4 Rebecca Cobb:** Yes, I think we can. So that we're not calling out Marina, it would be in the design standards to say, shall not conflict with RPA, DEQ, etc....

**1:19:23.6 Chairman Richard Granger:** Okay. To me that seems like a good solution in order to address making sure that, hey, we have standards, but if there's conflict, then obviously those state standards are going to be the priority and then the other ones may fall away because of it. Does everyone agree with that? Just thinking from an enforcement perspective to make sure that you don't have a situation where we're saying, you have to do this, and the state's saying you have to do this, and then say, well now you got to come to the Board. Well, why don't we just say, hey, if the state has authority over the county, then just say that the states will be the one that takes place at that point because the state has the authority.

**1:20:06.7 Ian Fox:** Would there be a general conflict of laws provision somewhere in the ordinance, Ms. Lackey?

**1:20:12.1 Kelly Lackey:** Well, so state law does take precedence over local law. The difficulty is when you get into a feasibility situation where it's a cost or a design decision not to proceed in a certain way. You don't necessarily want to let applicants choose and apply state law that may or may not conflict with local laws, depending on how they design their project. That's the only caveat I would give.

**1:20:42.0 Chairman Richard Granger:** But identifying at least from like the, was it the RPA? Is that what it was? Like that region and addressing it like that. At least that one aspect, I guess. Maybe if we're not even just making it so broad to say anything that is state.

**1:20:56.9 Kelly Lackey:** Yes, I mean you could provide some kind of design criteria that you would consider alternative parking design, in RPA areas. But then again, you have your policy decision of do you want to encourage development in the RPA area? Would you prefer that folks stay away.

**1:21:15.2 Ross Devries:** Well, any development in the RPA is limited to water dependent development. I mean, that's what it says in 5-2-6, performance standards.

**1:21:29.6 Roger Kniceley:** Yes. And I was also reading early on in the document, and we asked if there was an overarching way that it could be put into the, into the ordinance. You look in section 121A-3, it specifically says, when regulations of this ordinance conflict with each other, other County Ordinances or State or Federal Law, the more restrictive regulations shall govern. I'm not sure that

that doesn't cover this condition that we're talking about.

**1:22:03.3 Joseph DaCorta:** the issue there is the definition of restrictive in the sense that is, the gravel lot is less restrictive than a paved and lined lot for a restaurant. I would say specifically environmental concerns should be, the state should preempt the ordinances, or the federal should preempt the ordinance, and that kind of statement belongs right there in section one.

**1:22:32.6 Roger Kniceley:** Okay. Then we clean up that language a little bit to make it so it's not just the most restrictive but the higher authority if it's the state and federal. Just wondering if that were a location where we could put the language in there and not bury it in, down in a loose and a use just for marinas or something specific.

**1:23:11.9 Chairman Richard Granger:** Is that something that could be entertained, or?

**1:23:19.8 Rebecca Cobb:** We have two issues and maybe let's settle the one first before we move to another topic. I think the main question first was about the parking lot and parking standards in RPA. And so new things in RPA would not really occur. This would be about existing parking lots. I think for that reason it's best to address it in the design standards and to have that there. If I saw head nods earlier about agreement for that statement, and so I just want to make sure that that's the case. And then it would be a separate topic to talk about the kind of overarching issue of conflicts between your ordinance and state and federal and those types of things.

**1:24:24.5 Chairman Richard Granger:** All right, let's start with the parking lot. Moving that to the design standards, was there an agreement? Were a majority of people in agreement? Okay. Mr. Stonehill? Okay. I just want to make sure. All right. Now the question is do we want to take the next question right now, or do we want to save that for the end?

**1:24:48.4 Rebecca Cobb:** That's what I would pose to you all. We do have several more slides that I have selected, four, five, more to work through. Do we want to work through those and then have this as a topic at the end of that?

**1:25:06.8 Vice Chairman Parker:** Yes.

### Service Authority Discussion:

**1:25:13.1 Rebecca Cobb:** Okay. The next item was about the Service Authority, and the comment or concern was about the Service Authority approving subdivision plat requiring water and sewer hookups and that sort of thing. And this is more of a clarification item and that the text 10-2-4 and 10-3-10 are really to make connections. And the first one on the screen, the top one, is actually approval by the health department but making sure that nothing from your other regulations relating to water and sewer is missed. And then the bottom portion is just, again, making sure your other regulations are met. Just making that connection to those regulations. Are there desires for changes to the text related to the Service Authority? There are also some other references to the Service Authority in 10-3-10 related to fire protection and doing fire hydrants and one other item too, but it wasn't very significant.

**1:26:42.5 Chairman Richard Granger:** Did anyone want to see any changes to this section? Okay, I don't think there's any desire for that.

**1:26:56.0 Rebecca Cobb:** Okay.

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**1:26:58.0 Chairman Walter Moss:** I'm interested in the comment, the fire hydrant is not here.

**1:27:05.6 Rebecca Cobb:** I'm sorry, I don't understand your question.

**1:27:07.2 Chairman Walter Moss:** You had made a comment referencing fire hydrant.

**1:27:13.6 Rebecca Cobb:** It just, there wasn't enough room to put it on the screen. It's in 10-3-10-E-5 if you want to flip to it and look at what it says. It just requires fire hydrants when next to public water and sewer. This was one of the items that came up in request for additional fire safety, especially for subdivisions and things like that.

**1:27:50.3 Chairman Walter Moss:** Yes. It's a personal concern of mine. I mean, we're building subdivisions with no fire protection.

**1:27:57.9 Rebecca Cobb:** So that's in there, that's in the ordinance.

**1:28:00.6 Chairman Walter Moss:** Yes, if we're adjacent to the water source.

**1:28:05.4 Rebecca Cobb:** They are for other fire protection.

**1:28:09.8 Chairman Walter Moss:** All right.

**1:28:14.9 Mr. Pancotti:** Mr. Moss, it does say that where private wells are used for lots, that one or more of the following supplied in the preferred order may be used to provide fire protection. A. fire hydrants, B. cisterns that are connected to a public water source or cisterns that are filled by hauling. They would have those three options.

**1:28:39.8 Chairman Walter Moss:** And that's in the new ordinance.

**1:28:44.4 Mr. Pancotti:** Yes.

**1:28:44.8 Chairman Walter Moss:** Okay.

**1:28:50.3 Rebecca Cobb:** All right.

**1:28:54.9 Roger Kniceley:** Before we leave that, did we address the, I'm sorry, I may have missed it in the lower section, the 10-3-10 comment that was made there. Are we going to require people to connect to public water when lines are installed? That was the comment that was made. I did not hear the discussion clearly on that, I apologize.

**1:29:17.5 Chairman Richard Granger:** So right now, the way it works is if your own well or well in septic, and becomes available, we don't enforce you to connect unless your septic system fails or your well fails and then at that point, you would have to then connect. Is it similar in regard to this current proposal that if you have an existing infrastructure in place that meets your needs and then Service Authority were to be expanded into your region, does it say, hey, you have to abandon that now, even if it's still functional and then connect? Or is it, you're allowed to continue using what you have, but you won't be able to build a new or drill a new well if it were to fail or put in a new septic field?



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**1:30:04.7 Mr. Pancotti:** this section refers to new subdivisions, is that correct? Our current regulations or the Service Authority regulations, but correct me if I'm wrong, are that a subdivision is required to connect if they're within, I believe it's 250 feet of a connection, then they would have to bring that into their subdivision.

**1:30:32.3 Chairman Richard Granger:** That is fair; this is actually referring to subdivisions in this portion. This would be a new subdivision. If a new subdivision is being built and it does have access to public water and sewer, then yes, it would have to connect, is what it's saying, so.

**1:30:47.9 Rebecca Cobb:** Right. Yes, the connection requirements for existing things are through your Service Authority regulations and not through the Zoning Ordinance.

**1:30:58.8 Roger Kniceley:** Is this for new subdivisions? Okay. because I am technically in a subdivision, but I am a long way back in the backside of the subdivision, and there is no public water. Some people in our subdivision have public water, but I do not, I have a well. Might I be required to connect up to the public water when my well goes bad, and I have to build a 1,500-foot line back from the public water back into my property?

**1:31:29.6 Chairman Richard Granger:** I'll let Louis speak to it or Ms. Lackey.

**1:31:36.9 Kelly Lackey:** the current Service Authority regulations determine your availability as of when you construct. If a line is expanded later on, at least in the current regulations, you're not required to connect. And Louis may be able to address it more fully, but I believe the proximity to the subdivision is judged by the lot. If there are certain lots that are close to the line, am I correct, then those have to connect, but not the entire subdivision, is that correct?

**1:32:07.4 Mr. Pancotti:** It would, that'd be more Service Authority.

**1:32:10.0 Kelly Lackey:** The Service Authority would have to look at it. But I do seem to recall an instance recently where depending on the layout of the site, there would be certain lots and not others that may or may not be required to connect.

**1:32:23.3 Chris Miller:** And I think in that circumstance, I'm sorry, Mr. Granger. In that circumstance, Mr. Kniceley, if you had something that failed, then the Service Authority would certainly entertain a discussion about how to get to you or something like that, but it would be your prerogative at that point. I don't think that we would demand that you connect in that instance.

**1:32:52.1 Roger Kniceley:** No, that's fine. I understand that we can't really account for every condition here. I just wanted to make sure this wasn't going to be blanketly interpreted, that if water comes in, everybody that's along that water line has to now connect to it.

**1:33:06.8 Ann Cupka:** Mr. Chair, can I just add to that that decision too in the event of a failure may be governed by state authorities, Virginia Department of Health and DEQ. So that might not even be a Service Authority decision, that would be out of our hands.

**1:33:26.2 Roger Kniceley:** Yes. Certainly, with failures, there's, as new laws come into place, you have to comply with those, with repairs and things. That's fine.

**1:33:34 Vice Chairman Parker:** Can we not drop anchor on this right now and keep moving? Sorry.

**1:33:42.6 Cathy Binder:** I just have to ask a clarifying question because I just thought about the discussion, is there are some developments that are not technically considered subdivisions because they existed before the Chesapeake Bay Act.

**1:33:56.3 Chairman Richard Granger:** For approval of a subdivision. That's what this is about.

**1:34:00.9 Cathy Binder:** Right. I understand we were talking about old ones. It's just a clarifying question. You can answer later. That just brought it to my attention, to ask that question.

**1:34:15.2 Rebecca Cobb:** This would be for new subdivisions. If that property were then to be subdivided and coming forward and there was water availability, then these items apply. In terms of connection though, that is not in your zoning ordinance. That's in a separate code.

**1:34:37.0 Chairman Richard Granger:** Okay. Go to the next one.

### Completed Applications (Transition Between Current and Adopted Ordinance):

**1:34:42.2 Rebecca Cobb:** So next item is regarding complete applications. And this is where we were discussing earlier on Section 1-4-4 about the transition between your current ordinance, your existing ordinance, and when this ordinance is adopted, what happens to those applications or plats that have been received? And I would say the text here in 1-4-4 is meant to serve two purposes. So one, it is to prevent sort of a kind of hot and fast influx of, oh no, I just realized that I can't do X, Y and Z and I'm going to kind of hastily put this application in and send it through, which would then bombard the office and you all with kind of, no, this isn't right, you need to correct and you need to fix, because they just kind of drew it on the napkin and tried to slide it in to meet the old standards. However, the second thing that it tries to do is to allow someone who has had that due diligence, they have been getting their site plan together, they've read your existing ordinance and know what the requirements are, and they're working with Staff to submit that application; that if they get that in and they are, can check all of those boxes, they haven't done it haphazardly, then they can proceed forward through the old ordinance. It's certainly, we can clarify some language here because I think there's a little bit of difference in terms of plat and site plans which are administratively reviewed and have very clear requirements in terms of submissions but also clear in terms of meeting the ordinance, versus some rezonings and special exceptions which are not administratively approved and can meet check boxes in terms of application, but in terms of getting final decision, there may need to be some additional conversations and submissions and those types of things. I'll step away and just let some conversation happen, but I do, I was kind of thinking through this because it is sort of a hard topic to digest. I do have some examples, some little scenarios, if we want to talk through those at any point. But I'll go ahead and let you guys share some immediate thoughts.

**1:37:45.1 Joseph DaCorta:** Are there state statutes governing this, regarding vested rights?

**1:37:56.8 Rebecca Cobb:** There are texts in the ordinance about vested rights. The County Attorney can correct me if I'm wrong, but those are if a decision has been made. Say you have approved a site plan or a rezoning or a special exception from the existing ordinance, then when they come in to get other permits, you can't pull the rug out and say, "Oh no, we just adopted. Now you've got to meet these other items." So that's my understanding of vested rights, but.

**1:38:32.6 Joseph DaCorta:** Right, right. I understand what vested rights are, what the issue is. At what point does the property owner attain the vest?

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**1:38:44.2 Rebecca Cobb:** State code says after a, a government decision, so that would be like a permit approval.

**1:38:53.9 Joseph DaCorta:** I know there's case law on that, that turns out to be pretty complicated, that vesting may not be subject to government decision alone. I'm not thinking about a particular case, and I don't know how to manage it. I think those cases will be handled by the applicant pressing their request for an exception. But I think we should be pretty clear to the community about what their rights, I mean, how to stay on the right side of what they're trying to do.

**1:39:40.4 Vice Chairman Kristofer Parker:** Louis, how often does rework have to occur on an application? I guess at what point is it "complete"?

**1:39:56.1 Mr. Pancotti:** So complete in what sense that the application is submitted and can be reviewed or that it's ready for approval?

**1:40:05.0 Vice Chairman Kristofer Parker:** Well, I think that's what we need to get to, right?

**1:40:10.0 Mr. Pancotti:** So ready for approval for commercial site plans, major subdivision plats, major construction plans, I don't think I've ever seen one ready for approval at the first stage. Typically, it would take two to three, some can go up to five. Even as far as minor subdivisions, boundary line adjustments, even those, although some have gone, been ready at the first submission, still likely those take at least two weeks.

**1:40:51.3 Gary Kendrick:** I think for me the point here is that we need to pick a point in time when the applicant has done his due diligence and is prepared to request it to come to the Planning Commission, or whoever, the Board of Supervisors, for approval. Not that they just threw something in and there's still lots of work to be done on it. Is there some magic document or something or a piece of communication you give to an applicant to say, yes, now you're ready to go before the Planning Commission?

**1:41:31.9 Mr. Pancotti:** Most of the things we review, like site plans and subdivision plats, don't go to the Planning Commission anymore. That was the case a couple of years ago.

**1:41:43.5 Gary Kendrick:** Okay. A lot of them are approved out of your office.

**1:41:46.5 Mr. Pancotti:** Yes. And with that we do, we send comment letters after the review, after each review, and eventually it would have an approval. And then the plan would be signed.

**1:42:01.2 Gary Kendrick:** I'm guessing I'm looking for some piece of documentation where you tell the applicant, yes, it's ready for approval or it's ready to go for further review for approval. Is there a piece of communication that you send?

**1:42:16.2 Mr. Pancotti:** Yes. After each review we provide a comment letter. Most of the time that would have every deficiency with the site plan or anything else that would need to be submitted upon the next submission. And then once it goes through those reviews and there's no more comments, we would send a letter saying that there's no more comments and the planning can be approved, pending a few housekeeping items that are usually submitted at the later stage.

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**1:42:49.2 Gary Kendrick:** If the issue is to clarify this statement, , deemed by the Administrator to be complete, I'm looking for a thing that we can point to that says that decisions were made and that's the point at which you're either subject to the old rules or you've got to work under the new rules.

**1:43:18.1 Mr. Pancotti:** That would be once all comments, like stormwater comments, EMS comments and Zone Ordinance comments or Subdivision Ordinance comments have been addressed and all meets ordinance requirements.

**1:43:39.2 Gary Kendrick:** I thought I had an answer to the problem, but I guess not.

**1:43:40.9 Cathy Binder:** I was thinking of a checklist.

**1:43:45.3 Gary Kendrick:** But I don't necessarily want to change this. I'm just looking for some definitive point you can point to and say, okay, the decision's been made that it's ready for approval now.

**1:44:00.5 Cathy Binder:** I was only wondering if there could be a checklist, some kind of like checklist, and when it gets to that point of the checklist. Because one of my other questions is, you could have a lot of people rushing in applications to try to get in before the change, but my other concern is what if an applicant puts in and they go through the process and they're under the old ordinance and then five, six years down the line they want to change. What ordinance would they come under, the newer one or the one they submitted five years ago?

**1:44:27.0 Rebecca Cobb:** So once the permit is issued, that application is done. It's approved. Let's say that it's a site plan. So that site plan is approved. They built the site based on that site plan that was approved. The old standards, if they want to amend or they don't build and they come back later and then that is new standards because it would be a new process after the effective date. And I'll also add, we do have this blank and effective date, so it doesn't say adoption of the ordinance. It's not as if December 12th, whatever, you have your public hearing and you adopt the ordinance. That does not have to mean that the next day the ordinance is effective. You can set that effective date to be 30 days after, 60 days after, to allow additional time for people who have been in the process or who are trying to get an application in. I don't recommend going beyond the 60-day timeframe. You could even just pick a date, and say it becomes effective on this day. So that's something to weigh into this as well.

**1:45:53.9 Denise Flatley:** I don't feel like I have a complete understanding of this process. My questions are, we talked about some of the steps, I don't know that we talked about how long it takes, and I'm sure that depends on the applicant. But, you said you might have some scenarios that we could talk about to illustrate this, and I think that for me would be very beneficial. because I don't like the idea of somebody putting in a site plan and sitting on it and then not having to conform even though they don't intend to actually start work right away. To me, that's one of those workarounds that might be legal, but really probably not beneficial when other people would have to abide by the new standards. If you could explain some of them, that would be great.

**1:46:43.2 Rebecca Cobb:** Sure. One instance would be someone is submitting a plat prior to the adoption or the effective date, I should say. Staff reviews it; it has all the required elements of what needs to be on a plat. There's like a list that says, here's all the things that need to be on a plat, and he can check those off. Yes, it has all those signatures and all of the details that need to be there and if it meets the standards required under the existing ordinance. He can look at it and he can say the lot

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size is right for this district, the other requirements for this district are correct. Then he can sign off on that based on the old ordinance. If there were things that were incorrect on that, the lot size, this does not meet the R-3 lot size requirement, you don't have this signature panel on here that needs to be on there, then he would reject that and then they have to resubmit. And if that resubmission comes again before the effective date, then they're still under the old. If it takes them a while to get that and it comes after the effective date, then I would say, no, you're no longer able to operate under that old ordinance. Does that make sense?

**1:48:19.0 Denise Flatley:** If I understand you right, you're saying that when the package finally gets all of those approvals, is that just for the site plan or does that also include buildings? If we have heights or whatever requirements for buildings, would those apply or is that just for the layout of the development?

**1:48:42.0 Rebecca Cobb:** In this situation it was just a plat, it wasn't a site plan. But if we want to talk about site plan, similarly that's what, how that could be applied, is that it's denied, you haven't met these requirements, and then it gets resubmitted to meet those requirements. And depending on the date of that resubmission is whether it would fall within the old or the new. In terms of site plan, yes, it is looking at all of the ordinance standards and then once approved, they are allowed to continue as the site plan that was under the old ordinance. If the height was 60 feet, and the new ordinance says 20 feet, but you had your site plan approved under the old ordinance, then you can do 60 feet. Does that make sense? But we can edit in terms of if there's desire for what complete means, and if that means it's just complete in terms of all of the details are there versus it is complete and meets the ordinance requirements.

**1:50:15.0 Cathy Binder:** I go back again. Is there a possibility of having a checklist?

**1:50:27.2 Mr. Pancotti:** We don't have the checklist currently; what we have is just what's listed in the ordinance as what's required on a site plan. But what we've seen is each development is sort of different, so it's hard to come up with sort of one checklist that would be applicable to anything.

**1:50:53.5 Cathy Binder:** And I only ask this because in all the meetings I've had in, when you hear developers of all different kinds, housing, solar, they just want consistency, and they always ask that a checklist would be really good because everybody has the same standard. I don't know, it could be generic. I like the checklist idea, but I know it's something we haven't done before, but it doesn't mean we can't do it.

**1:51:16.4 Mr. Pancotti:** And with a checklist, so that would show that the elements are being submitted. But one of the things that comes up a lot is, yes, you've shown how you're addressing storm water, but sometimes there are a lot of comments with that because it does involve a lot of calculations and a lot of nuances with how to meet those state regulations. Although it's addressed on the plan, there may still be comments on how it's designed that would need to be addressed. So would you, if there are those sorts of comments and they go to address them, but don't resubmit until after the new ordinance.

**1:52:07.0 Chairman Walter Moss:** To me, the challenge here is so we'd have potentially large developers, they have a lot of time and money invested, and then we're talking about what's that point, and then you'd have medium and smaller projects that are being processed through. Would it be reasonable to say, if you've been engaged in the process and truly involved in working the solution for something, 60 days or longer, meaning there could be developers that were here for eight months,



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a year, really working at it? And then you could say, okay, they could continue on the old ordinance and then all the other ones, unless you're ready for approval, to go into the approval process, whether it's a letter from your office or they're going on to the Commission and the Board, anything short of that, you fall under the new ordinance. Because I think if you give too many options, you're going to be chasing your tail on new ordinance, old ordinance, and I think you'll leave the door open for a lot of discussion.

**1:53:29.8 Ian Fox:** And just a thought on that. Then there may have to be some provision or time provision for how long the new ordinance has been made available in final form to the public. Because if you're working as a developer and you've gone a year with the old ordinance and then the new ordinance is out for a week, and is that fair also? If it's available on the other hand for some meaningful period of time, 60 days, or 90 days, then it's fairer to say, well, you knew what was coming down the pike and so on.

**1:54:04.2 Ross Devries:** Louis, do you provide a notice that an application is complete and is about to be reviewed or do you, versus a notice that it is incomplete, and all the elements aren't there for a first review yet?

**1:54:18.8 Mr. Pancotti:** Typically, we do not provide notice that it is complete; we just review within the state mandated 45 days. We do a completeness check and just begin our review there within 45 days. If it's incomplete, we will provide that notice within 10 days.

**1:54:32.3 Ross Devries:** If it's incomplete, you would provide that notice. Okay, so I'm thinking maybe if you started just providing a notice that it is complete and will be reviewed, the fair thing is to, if it's complete in your office and is notified, the applicant's notified that it's complete, that it will be reviewed under the old ordinance. That's where I stand. I think that's the fair thing.

**1:54:58.9 Chairman Richard Granger:** Approved.

**1:55:00.4 Mr. Pancotti:** So complete would just mean that the application, that the elements for the application are there, but there may still be comments related to the specifics on that.

**1:55:10.4 Ross Devries:** Correct.

**1:55:11.9 Mr. Pancotti:** Okay.

**1:55:12.7 Ross Devries:** I think that's fair to the applicants.

**1:55:19.2 Kevin Myers:** I think that the bones or the 90% of this ordinance or what we would be looking at for a subdivision ordinance has been out for several months now, kind of. And even though it's not a final approval, it's already been out there. You approve in 45 days on the comments, you'll turn around as 45 days, correct?

**1:55:42.9 Mr. Pancotti:** Yes.

**1:55:43.6 Kevin Myers:** On the comments. We have 90 days till this thing can be approved completely, right, and December. If it applied in December when it's done, right now you still have time to get it through. The warning is already out there, I think, to finish what you've done. If anything, that's complete through your office by the time we adopt, then we'll look at the old ordinance, otherwise it's

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the new.

**1:56:12.9 Chairman Richard Granger:** And we keep saying the word complete, and Louis keeps coming back to what does complete mean. Does that mean approval? Comments have been addressed. Is that what you mean by complete?

**1:56:22.9 Kevin Myers:** Yes, it's through his office, approved or it's through his office waiting for a Planning Commission meeting.

**1:56:29.7 Chairman Richard Granger:** Correct, but they've addressed all the comments from the perspective of.

**1:56:33.1 Kevin Myers:** They've addressed everything and they're ready to go.

**1:56:34.1 Chairman Richard Granger:** Yes, okay. So that's, so complete for you is approval, because I think that's the term that Louis is using.

**1:56:42.2 Kevin Myers:** Right.

**1:56:42.5 Chairman Richard Granger:** Is that correct, Louis?

**1:56:43.7 Mr. Pancotti:** That is the, what the current draft reads because of awaiting, complete and awaiting final action. But as Mr. Devries mentioned, per state code, we do a completeness check on the application before we begin the actual review of the specifics of that plan. Once that's reviewed, then comments would go out and then they can resubmit again. And even though the package itself is complete, there still could be some further comments.

**1:57:17.2 Chairman Richard Granger:** And how many times could they keep coming back to address comments?

**1:57:21.6 Mr. Pancotti:** Again, I've seen, typically it's going to be more than once.

**1:57:27.4 Chairman Richard Granger:** But I mean, there's no time limit. It could go, so like it could go a year. I know that's an exceptional situation, but the idea then would be you're saying we're going to use these existing ordinances, old ordinances, until this person gets all the way through this process, no matter how long it goes, which that does seem a bit onerous to say, hey, now you got these tools. It's this for this group and this for this group as you're reviewing the site plans. I'm in favor of saying approval and then looking from the perspective of when we do the adoption if we want to push it out a little bit further to give people a little bit more time. And the only other thing I would say would be if someone submitted it, to look at it from the perspective of the existing order because it's a 45-day period. And if there's no comments, because they actually had a complete approved application that was in beforehand, then that way I'd say would be okay, but if there were comments, then it's like well now you missed the bow down if that's possible or, if that makes sense what I'm saying. Like if it was like, hey, it's a week beforehand, I've submitted. I've addressed all the comments because it's my third time. I got them all and then you don't get a chance to review them before the ordinance goes into place and then it's like a week later and you're like, yes, you met what the old ordinance was when you submitted it. It was on time and just because it takes time to review it. So that would be the one thing I would ask, is it possible to do something like that? If it was submitted.

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**1:59:00.5 Rebecca Cobb:** This is by the submission date. It means that, yes, if it's submitted prior to that effective date, even if he doesn't get to it on his desk until after that. If they squeak it in the last hour, the day before it's going to be effective. But when he goes through that list and he sees that there's no comment, I can approve this, then I can approve it under the old ordinance.

**1:59:24.3 Chairman Richard Granger:** But if there are comments, then it goes back and now it's under the new ordinance. That's the idea. That's what I was trying to get at. So that's what I would endorse.

**1:59:34.2 Kevin Myers:** They've addressed the comments and when you address comments, normally once it's been through on the 45-day process, you're addressing comments within a couple of days, I would think. Right?

**1:59:43.7 Mr. Pancotti:** If we send all the comments we have all at once and then the typical process is they would address all of them and then submit the entire package back to us as a second submission.

**1:59:54.2 Ross Devries:** There are VDOT comments and Health Department comments too. It's not just your comments; there are two or three letters sometimes for each applicant. Are we talking about Louis' letters or are we talking about all the letters?

**2:00:15.1 Chairman Richard Granger:** Louis, when you provide approval, do you look at all the letters.

**2:00:20.5 Mr. Pancotti:** Yes. So each submission we get, we send it out to all the applicable agencies, whether that'll be Service Authority, VDOT, Health Department, they have their own statutory deadlines of when they have to get comments back to me, and they will send them back to me and I usually would put them all together with my comment letter saying one of the comments, maybe you need VDOT approval C letter dated, whenever that letter was sent to me. And then before I can approve it that would be one of the comments, that you need VDOT approval. So even if all my comments are met and they haven't addressed all of VDOT's, they would need that approval before I could sign the submission.

**2:01:07.6 Chairman Richard Granger:** I would say it needs all the approvals, that's what I would say, but I'll leave it to everyone else to weigh in.

**2:01:13.8 Vice Chairman Kristofer Parker:** And correct me if I'm wrong, we're not talking about a huge number, right? This would be applications that would be caught between now and **[2:01:24.7 No Audio]**, right?

**2:01:28.9 Mr. Pancotti:** Yes.

**2:01:38.1 Vice Chairman Kristofer Parker:** But I agree with Mr. Granger and Mr. Myers, and I also go back to Ms. Binder's comment about the rush to get things in..

**2:01:57.1 Cathy Binder:** And I would jump on there. I know there are some that will rush at the end once they know it's coming because a couple of them have actually told me so.

**2:02:09.9 Gary Kendrick:** Question to the Berkeley Group. You, under your recommendation on this one, you had two bullets at the bottom of your recommendation. If we adopted those and we added something in like, all reviews are complete and comments successfully resolved, and we made like those three bullets the criteria for when you had to have those done prior to whatever date we set,

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would that adequately deal with this situation?

**2:02:40.9 Rebecca Cobb:** Yes, that is what the intent of item B, but it would definitely lend more clarity and answer the questions around item B if we did that.

**2:02:50.4 Gary Kendrick:** What I'm hearing is, is that they not only need to submit everything and meet the requirements for submittal, but they need to successfully resolve all the comments, and once that's done, it'll either be okay for Louis to grant approval under his authority or it'll be scheduled for review by whoever needs to review it beyond that. I mean, I guess I'm suggesting we just adopt your recommendation but just add one more comment about, all review comments are successfully resolved.

**2:03:28.8 Rebecca Cobb:** And that is within those two bullets. For Plats and site plans, there's not going to be, well it doesn't say it in that bullet, but if that bullet, like the first one, plats and site plans, if it said, must meet submission requirements, existing ordinance regulations and be approved, then that means all comments are resolved.

**2:03:55.1 Gary Kendrick:** Okay. All right.

**2:03:55.4 Rebecca Cobb:** And we could do similarly with the rezonings and special exceptions and saying that when it's being put on the agenda, then all of his comments are resolved. You all may have things, but that's kind of to be expected for those cases.

**2:04:12.9 Gary Kendrick:** I could live with just adopting your recommendation then if you believe that the way you've worded it covers all the, not only the ordinance comments but all the other comments that are coming in.

**2:04:26.7 Rebecca Cobb:** Yes, yes.

**2:04:27.7 Ian Fox:** Provided that the Administrator is the one that deems this to have been fulfilled.

**2:04:33.4 Denise Flatley:** I have a quick question. Let's say somebody plans their subdivision, or whatever they're going to do, and it ends up getting flipped over to the new ordinances, even though that wasn't really what they want, do they then get the chance to ask for variances? I mean, is that the end of the road for them, or does that just mean that they have to ask for exceptions?

**2:05:19.4 Kelly Lackey:** I was just going to say so the whatever metric you set as your ordinance triggers, they still may or may not fall under the vested rights analysis that Mr. DaCorta was speaking of, but then that is a case-by-case determination. They'd be proceeding at their risk that they meet those criteria and not.

**2:05:43.7 Mr. Pancotti:** As far as the subdivision not meeting ordinance requirements, which would need to go through any mechanism that the ordinance has for variances or exceptions, which could be multiple exceptions or variances for one subdivision.

**2:06:05.7 Cathy Binder:** Do we have to have an exact date, or is it just going to be the day we passed it?

**2:06:11.2 Rebecca Cobb:** It is the effective date and not adoption date. Your adoption date would be in

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December and then you can set the effective date to become effective February 1st, or you could say 60 days after adoption.

**2:06:26.6 Cathy Binder:** You actually just said what I was going to recommend, February 1st.

**2:06:36.0 Roger Kniceley:** I would concur with that. A 60-day or February 1st, which allows one review cycle. If there are comments that are still remaining, that would give, right, if I understand the timing that I've been hearing, that will give you one more review cycle for them to address any remaining comments; it would give them sufficient time to go through that one last time. They can only get one more bite at the apple effectively in that extra 60 days.

**2:07:03.6 Chairman Richard Granger:** Okay. So then what I'm hearing is it seems there's agreement that the ordinance as presented by Berkeley wouldn't meet what we're looking for and then it would be a matter of when it gets adopted setting the implementation date.

**2:07:24.0 Cathy Binder:** I'll throw out February 1<sup>st</sup>.

**2:07:28.1 Rebecca Cobb:** I'll let you all sit on that until December.

**2:07:30.9 Cathy Binder:** That is fair.

**2:07:33.1 Chairman Richard Granger:** We wait until the December. We got a little bit of time. Okay, so let's move on to the next one.

### Townhouses, Multi-Family, Private Streets Discussion:

**2:07:41.1 Rebecca Cobb:** So next one is related to townhouses, multi-family, private streets, and then we will have one more after this and I will let you guys hit your hot topics. This one is actually related to another comment as well, or there's two parts to this. One is about multiple primary structures and so that's also in line 188. And we have suggested there that we clarify that language, to allow additional principal structures at the discretion of the Zoning Administrator if the requirements of 4-5-2 and 7-3-5 are met. This would be for R-3 to allow multiple townhouses, multi-family units on one piece of property. The other issue, and I guess my question, just making sure that you all are amenable to this, would be to revise 10-3-8 (G) to say that public streets are not required for townhouse developments and may front on access easement provided that it's no more than 60 units and then also that there's a maintenance easement agreement, and that it meets VDOT standard so that if in the future or something like that it needed to be turned over to VDOT, it could be.

**2:09:15.8 Ross Devries:** Why the limit of 60 units?

**2:09:26.4 Rebecca Cobb:** That would, just kind of thinking about design, usually if you've got that many units, you could probably do a design where you are constructing a road and then having an entrance off of that so that the roads, going in would be a VDOT road; it's going to be longer, bigger, versus something less than that.

**2:09:57.6 Ann Cupka:** Mr. Chair, can I ask a question? Could staff remind us what percent of the county is actually zoned R-3? We entertained this in our last meeting, but we need a reminder. because we're talking about a very small, a small, very small percentage of the county that we have already designated for use for multi-family housing.



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**2:10:35.1 Mr. Pancotti:** The current amount of R-3 is 1,165 acres and that is 1% of the county. A lot of this comes from when you have more of a multi-family development with, typically they would have more than one building on the lot, but under our current ordinance in the residential zoning districts you can now only have one primary structure per lot so you would have to subdivide. And then under the access standards of certain number of lots, six, would require a VDOT road. So that means if you were doing a multi-family development that creates more than five lots, you would, each of those buildings would have to be on its own parcel that fronts on a state-maintained road.

**2:11:44.4 Chairman Richard Granger:** You're saying a little over 1,000 acres, is that right? And my understanding, most of that's Hopyard (Subdivision) which has already been planned.

**2:11:56.4 Rebecca Cobb:** Well, I will add though that if it, changing 10-3-8 (G) would apply to all townhouses, and in the use matrix townhouse is by right in R-2, R-3, R-C and M-U. It is a little bit more than just the R-3 district for townhouses.

**2:12:20.0 Walter Moss:** To me this is perspective. If we're doing town homes, then those will be properties that'll be sold to individuals, and that means that the common roads being used would be under whose supervision?

**2:12:37.8 Mr. Pancotti:** The HOA, I believe that's how the language is written.

**2:12:42.0 Walter Moss:** Okay. The HOA would be responsible. They would have to have an HOA.

**2:12:52.8 Mr. Pancotti:** Yes.

**2:12:55.6 Walter Moss:** To me, in a town home community those roads should all be VDOT mandated. And if you are going to have an apartment where you actually have property management, then a company owns the property, then I think you could do with having the maintenance plan.

**2:13:15.0 Gary Kendrick:** I like what we have in this scenario that was just mentioned where you've got a commercial development, high density, a lot of units privately owned. HOAs in those situations I think are just problematic, okay? Now, the one example that I can think of though is that if you've got a large lot and you decide to put six individuals, break it up into six individual family lots or just six lots say, but you're talking about, say 60 acres of land. Now I'm not sure I necessarily want to make them do an VDOT standard road through it. That's the only exception that gets me.

**2:14:19.1 Rebecca Cobb:** This would be townhouse.

**2:14:21.1 Gary Kendrick:** Well, it just says multi-family, private streets.

**2:14:25.0 Rebecca Cobb:** So down at the bottom, under the 10-3-8 (G).

**2:14:27.9 Gary Kendrick:** Townhouse?

**2:14:29.8 Rebecca Cobb:** It says, "Public streets are not required for townhouse development."

**2:14:36.3 Gary Kendrick:** All right.

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**2:14:36.6 Rebecca Cobb:** And then the VDOT standard would be applied to that townhouse situation.

**2:14:43.7 Gary Kendrick:** Okay. The situation that I was talking about doesn't apply here, but I just, beyond that then, I just don't understand why we wouldn't require them to build the VDOT standard.

**2:15:00.4 Vice Chairman Kristofer Parker:** I agree. I mean, would this be, Louis, would we still be talking of a situation where they'd be bonded? The developer would have to put up a bond and then they would default on, should the road or whatever go into disrepair, then the county might be stuck.

**2:15:13.1 Mr. Pancotti:** It'd typically be once the road is constructed the bond is released. I haven't seen where we've done a road maintenance bond in perpetuity. But again, usually with a VDOT road they would bond it and then once it's complete and taken over by VDOT.

**2:15:42.6 Denise Flatley:** Yes, I've got one more and that is, if you have 60 homes on a private road, a lot of times school buses won't even go down those roads, so I'm not really sure why that would be a good idea, to allow 60 families to live on a private road with no access to school buses.

**2:16:07.9 Rebecca Cobb:** It sounds like I'm hearing mostly not in favor of making this change for 10-3-8 (G). Is, does that seem fair as consensus? Any disagreement?

**2:16:28.7 Joseph DaCorta:** I'm okay with it, but I mean, let me ask Louis, have we experienced any issues based on the current ordinance which allows 60 units fronting private road? Is this a problem?

**2:16:56.7 Mr. Pancotti:** In terms of a townhouse community [2:16:57.5 No Audio].

**2:17:00.7 Joseph DaCorta:** That's my understanding, is most of the problems with these under standard roads. But I mean, we have a few of these town home developments in the county that I believe are mostly fronting private roads, and if it's not a problem, I'm trying to understand what the anticipated problems might be.

**2:17:24.4 Kevin Myers:** I'm good at putting it in as is. This is for your smaller town homes, like if you go down on the way to the base there where they can have their parking lot, it doesn't have to meet VDOT standards, correct?

**2:17:41.5 Mr. Pancotti:** The part about the multi-family structures would allow for a sort of a modern design that you see for multi-family, where you have multiple buildings sort of fronting on a parking lot as opposed to a state-maintained road.

**2:18:00.5 Kevin Myers:** And anything we would put, anything this would qualify, or 90% of what this would qualify for, would be new. I mean, we have less than 150 acres of R-3 out there that isn't built on, right?

**2:18:13.0 Mr. Pancotti:** Yes. But still when you go to a rezoning you still should meet ordinance requirements. I would hope for the Planning Commission to approve something like that today where the ordinance says that you can't have more than one primary residential structure on a parcel without that being subdivided and then meeting the subdivision rules.

**2:18:47.6 Chairman Richard Granger:** Mr. Myers, I'm sorry, what was that? You agreed with what? Okay. You're talking about the Berkeley Group recommendation, third column? Okay. I'll be amenable

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to moving forward with that as well. See another head nod; do we have any more? Head nod, head nod, head nod, head nod. Ms. Cupka.

**2:19:11.2 Ann Cupka:** Can I ask a question then? How do Monmouth (Apartments) work? Where there are apartments there, those streets in there, are those public, private? because this is just addressing townhouses; it doesn't say townhouse developments.

**2:19:50.3 Jeffrey Stonehill:** You're talking Monmouth Village or Monmouth Apartments?

**2:19:52.9 Ann Cupka:** The apartments.

**2:19:53.5 Jeffrey Stonehill:** It's all private.

**2:19:55.1 Ann Cupka:** It's all private.

**2:19:55.9 Rebecca Cobb:** And so I'm not familiar with the area that you're talking about, but the reason that this only says townhouses is that the thought was that by changing the 4-2-1 about multi-family or allowing more than one principal structure, then those could be, as what Louis was mentioning before, is just a parking lot and so you don't have the private street there to consider.

**2:20:22.9 Mr. Pancotti:** Monmouth Apartments were built prior to our current ordinance. So how it's designed, how the ordinance is written now wouldn't, how our current ordinance is written now, that wouldn't be allowed anymore. This would open it up to that opportunity to have that private road in multiple buildings on one parcel.

**2:20:49.3 Ann Cupka:** This would allow for something like that?

**2:20:51.2 Mr. Pancotti:** Yes.

**2:20:53.1 Rebecca Cobb:** I think, Louis, it would need to in 10-3-8 (G) to say townhouse and multi-family dwelling. To do what I'm seeing on the screen.

**2:21:07.1 Ann Cupka:** That's what I'm asking.

**2:21:14.5 Rebecca Cobb:** It allows the multiple structures, but it doesn't address the private street aspect. That's assuming that it's like a parking lot.

**2:21:19.5 Mr. Pancotti:** Yes. because then if it's one parcel, it doesn't need to meet VDOT standards.

**2:21:40.8 Rebecca Cobb:** Yes, okay.

**2:21:44.6 Ann Cupka:** If 4-2-1 is revised.

**2:21:48.7 Rebecca Cobb:** Yes.

**2:21:57.0 Ann Cupka:** Okay.

**2:22:01.3 Chairman Richard Granger:** There's agreement then? Okay.

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**2:22:07.9 Rebecca Cobb:** All right. Last topic for me is measuring building height. The comments here are that 35 feet is not enough for multi-family dwelling. We measure that from grade up to the very top. And the request is to change it to 35 feet height for habitable space but allow 45 feet to accommodate different types of roofs. And we have done something like that for other localities. I put that other image down there on the right-hand side so that you can see the measurement is different based on the type of roof. So flat roof goes to the top and then those others that have pitches goes to like the mean of the eaves. We could write the measurement of the height that way. And so that would be where the 35 feet would be and then it could go higher than that. But we could also use the habitable space. I know that there was concern about public safety, fire equipment and that sort of thing, and so we could also include some of that text if you wanted to.

**2:23:37.4 Cathy Binder:** I understand the, our limitations right now with the ladder truck, but I also understand, especially in the more modern apartment structures, they try to make them a little more palatable, especially for rural communities, and they put different kind of roofs that would exceed the 35, but it's not livable space. They're putting instead of a flat roof, a taller roof. I would at least allow them to have it a little higher so that it is a better-looking design then flat roof in the old-style apartment complex.

**2:24:09.4 Vice Chairman Kristofer Parker:** I would agree.

**2:24:13.8 Chairman Richard Granger:** I like the recommendation for using some mean from the top of the pitch of the roof.

**2:24:27.6 Ian Fox:** I also agree with that.

**2:24:29.9 Vice Chairman Kristofer Parker:** I think if we could divert to Chief Moody, is that still something that we still be effective in putting out fire at that height? And I'm sorry sir, I know I caught you off guard, but the discussion being is if we increase the height to 45 feet, would you have equipment currently that could adequately or effectively combat a blaze in a structure of that height?

**2:25:00.9 Kevin Myers:** They're taking the 35 foot and then adding a taller roof.

**2:25:05.3 Vice Chairman Kristofer Parker:** Correct.

**2:25:06.2 Chief Moody:** I don't think that'd be a problem. I'll tell you the concern sometimes that we have is where you have two levels in the front, three in the back due to the slope. You got different walkout basements and things such as that. Now you really have four. I don't think the proposed language is going to have much change in the way we operate. I never have been a big fan of getting on a whole lot of roofs unless we absolutely have to, especially.

**2:25:44.8 Ross Devries:** Your main concern is getting to that top window, isn't it, for rescue?

**2:25:49.1 Chief Moody:** That's the main concern, yes.

**2:25:51.0 Christopher Miller:** Chief, what about the naval base? Do they have the capacity to get up? Because they're your backup in that situation?

**2:26:00.6 Chief Moody:** Yes, in that case right now they're actually our primary as far as a ladder truck, and they have a 75-foot ladder. Moving forward we're just going to have to, we're going to

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eventually have to get the equipment to adapt to the needs of the community. We have hotels that are four stories high, and the roof lines are much higher as it speaks today, and we're just, we got to, we're going to have to adapt. And that's why I've come before both of these Bodies and CIP sessions. Thank you.

**2:26:39.6 Denise Flatley:** Is fire safety the main concern here? The only reason I ask is, when you live next to something like a beautiful river and somebody decides to put their residence in front of yours, then it becomes like a competition of, I'm going to go just a little bit higher so that I don't lose my rooftop view. So yes, I was just wondering if this is strictly for fire safety, or are we trying to have any concerns about that?

**2:27:14.3 Chairman Richard Granger:** For me, I think the biggest concern would be fire safety, because just looking at the amount of property that currently is zoned in such a way to allow it would so minimal and where it's located. I think those would be factors to consider if someone were to come with a rezoning request. The perspective of, hey, it's on water and does it have an impact to sight lines and how does that affect neighboring lots and things along those lines, and does it fit in with that area or not? But that's my opinion and I'll leave it to other people to speak up.

**2:27:48.6 Kevin Myers:** How about if we put living spaces no more than 35 feet above ground level, not to more than 30, was it 30 feet or 35 feet? 35 feet, not to exceed 40 feet on either side or the back side.

**2:28:13.0 Gary Kendrick:** I got some concerns about the way it's written. Front side, middle of the front side. Still for me it's about being able to get the existing ladder truck up to the windows of the second floor for life safety in case of a fire. I don't care how tall the roof is; that doesn't really bother me one way or another. And as an architect, I'm all for letting them play and having fun with their roof lines, but for me it's, I want to make sure somebody doesn't find a way to work around this to wind up with three floors of living space. Can we try to word it a little differently to cover the ability of the fire department to reach the second floor of windows?

**2:29:09.8 Rebecca Cobb:** I mean, I think we can put the limit to say that capital space shall not be higher than 35 feet. And that should cover your item.

**2:29:23.3 Gary Kendrick:** 35 feet.

**2:29:24.0 Chairman Richard Granger:** I'm sorry, go ahead, sir.

**2:29:27.5 Gary Kendrick:** Excuse me. 35 feet was based on the idea that his ladder can only go like 20 something feet. We just picked the number off above to say, that's how high your roof can be. Let's put the wording back to the ability to reach the second-floor level. I mean, get what I'm saying?

**2:29:50.6 Roger Kniceley:** I guess my concern with that is if you limit it to a second floor instead of the height, if you have someone that has a walkout basement, you are now going to limit them inhabitable space to only effectively a first floor, a single-story building.

**2:30:07.3 Gary Kendrick:** Well, we're saying the way it's written that on the front, the entrance side of the building, that's assuming that if you're on the second floor, you can somehow make your way to the front of the building to be rescued in case of a fire. I guess he's already living with that aspect. If you got an eight-foot ceiling and you put in, joist your framing of another foot or even 18 inches, you



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could get three feet or three stories inside of 35 feet, which is not what he wants. The way it's written, I just see an inventive designer figuring out how to get to the third floor of a building, which means he can't access the third floor then, so.

**2:31:02.7 Ian Fox:** Chief, you want to speak to that?

**2:31:08.7 Chief Moody:** I'll try to create a visual because I think we've all seen it. If you look at the town homes right there at the corner of Lafayette Boulevard as you're going into town, those are three stories with about a 35-foot third story and then a higher roof line. If we had that, our ladder we continue our firetruck in King George with outside the base or any mutual aid is a 24-foot extension ladder. So that's typically good for a second-floor window. A 24-foot extension ladder is typically where a 21-foot windowsill of a second floor will come into play. Now, some builders can build three floors within that, and they'll lower their window lines. I think I couldn't say it better than you did, Mr. Kendrick. Our concern is getting in those top floors; those are where your bedrooms are, those are typically where your rescues are going to be. It's not necessarily getting to roof lines.

**2:32:33.6 Cathy Binder:** Now, this ordinance also can be amended when we do get a taller ladder truck, correct?

**2:32:40.0 Chief Moody:** I would say, once we have the equipment and it's in service, then I think certainly we could look at that if that's the county's desire or wishes. I really don't feel comfortable giving a recommendation to do occupancies where we know people are staying in around the clock where fires could potentially break out in, and we don't have the equipment without calling our neighbors that may or may not be able to help.

**2:33:15.1 Gary Kendrick:** I'll add to your, unless the rules have changed since I retired, the Dahlgren Base Fire Department is controlled out of DC.

**2:33:27.0 Chief Moody:** That's correct.

**2:33:27.1 Gary Kendrick:** They have pulled equipment out of that fire station over the years, not always to replace it. While they might have a ladder truck of 75 feet, it would be at the whim of somebody in DC to say, I want that truck moved to, God knows where.

**2:33:43.4 Chief Moody:** I can tell you even beyond that we have days that they call us up in the morning and say, we can't run any mutual aid calls today.

**2:33:54.2 Chairman Richard Granger:** Chief then what would, from a height perspective, so 35 feet is, you're talking about, let's say that's the roof line. How obviously does it need to get to 35 feet to get to the window? Because the window's not going to be like at the very tippy top. What kind of number from a roof line perspective are we talking about in order to be able to access the window?

**2:34:20.0 Chief Moody:** I think if you had a 35-foot, including the roof line, I think most of your two-story with a traditional style roof, traditional pitch roof is going to fit within that. If you allow 45 feet, then what you're doing is you're allowing three-story structures, residential structures, and at the front of the address of the property.

**2:34:44.0 Chairman Richard Granger:** If it's 35 feet in a flat roof, because we don't have anything in there that it says it can't be a flat roof.

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**2:34:50.5 Gary Kendrick:** And I can put three floors in there.

**2:34:52.5 Chairman Richard Granger:** You're saying that would, you're like, can't reach it?

**2:34:56.4 Chief Moody:** If the window is up at past 24 feet, then no, we can't reach it.

**2:35:04.4 Chairman Richard Granger:** Okay. Then I think what Mr. Kendrick's then trying to say is lower that number from 35 feet down to some number. And we can still use the medium roof line, but the whole idea is getting to that top roof, that top window, right? That's your concern.

**2:35:19.4 Gary Kendrick:** That's the important piece here. I don't think I care one way or another what kind of roofs on it; it could be flat with a parapet wall, and it doesn't even have to have a parapet wall. I've seen a lot of apartment buildings built with a flat roof that has nothing but a drip edge on the edge. Now, I don't know what the current codes are about having a parapet wall, but even then if you say rooftop, top of the structure, then there's ways to get around that. But the important thing is, is the windowsill hike and 24-foot ladder, by the time you kick out the base you're saying 21 feet.

**2:35:56.4 Chief Moody:** Correct.

**2:35:57.6 Gary Kendrick:** Is like the max he can reach. So that's the important thing. But how do you word that?

**2:36:03.3 Chairman Richard Granger:** So livable space then that would be like, at least my understanding of what livable space would be, that would be the roof up the top floor, for the height of livable space. Then it's working your way down, like how far is the windowsill edge.

**2:36:21.2 Rebecca Cobb:** You were, you added a moment ago with, we could change how the height is measured. So do what we've proposed in terms of, okay, you measure from here to here on a flat roof. If you've got pitches, you measure from here to the mean, and then we just lower that 35 number. That means your tables for your residential districts, instead of saying maximum height of structure, 35 feet, it would say maximum height of structure, 25 feet, 30 feet, to accommodate and ensure that he can reach that second story.

**2:37:01.7 Chairman Richard Granger:** So then if you're saying 21 feet with a 24-foot ladder, like you're getting 21 feet up, straight up height, what would we want to lower it to? I feel like 25 feet would clearly get it because if that's the roof line, you're going to be able to get to the window.

**2:37:20.5 Gary Kendrick:** You got to be careful.

**2:37:22.6 Chairman Richard Granger:** Yes.

**2:37:23.2 Gary Kendrick:** It depends on what you're trying to achieve. Eight-foot floor to ceiling, you've got a foundation underneath it to bring it a couple of feet up off the ground just so water won't run in your front door. You've got a joist system of minimum 12 inches, more, if they put in a floor joist and then another eight feet on top of that. You're already over 20 feet, now you're telling them they got to build a flat roof. If you want to leave the design of the exterior structure open to the designer, the look of it, you got to say something about sill height on the second floor can be no higher than 21 feet. Or you just say you can only have a two-story building plus basement. And even that isn't

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a guarantee because the building on base that is taller than that has a basement underneath it, but it's only like two thirds of it is exposed above ground. I'm not sure your ladder could reach the second floor of that building. I'm just saying the wording here becomes critical because he's got a ladder that'll only go so far. Now three and a half, four years from now, and even if you had one ladder truck in the county, you'd still have to run it all over the county. We can come back and revise that to something different. I just think there's a different way to word it. I don't think any of us care how tall the building is.

**2:39:17.5 Rebecca Cobb:** I like your wording a moment ago of, sill height at the second story no higher than 21 feet.

**2:39:26.0 Gary Kendrick:** There you go.

**2:39:27.6 Chairman Richard Granger:** You're amenable to that Mr. Kendrick?

**2:39:29.1 Gary Kendrick:** That's what he needs.

**2:39:33.3 Chairman Richard Granger:** Okay. And then we don't really worry about the roof because they can make it how they want to look.

**2:39:36.7 Gary Kendrick:** He's not going to climb up to put out the fire.

**2:39:37.1 Chairman Richard Granger:** But as long as we get access to it. Okay.

**2:39:45.2 Gary Kendrick:** He's going to let the building burn unless the designer decides to put a sprinkler system in it. But he's not going to go up on the roof because his interest is getting people out of there.

**2:39:50.6 Chairman Richard Granger:** So, 21 feet from, for the sill height. Is everyone amenable to that verbiage and then we can readdress it?

**2:39:57.9 Kevin Myers:** Is there any reason to put inhabitable space?

**2:40:01.6 Chairman Richard Granger:** I don't think anymore.

**2:40:03.4 Kevin Myers:** Just the sill height.

**2:40:04.1 Chairman Richard Granger:** I guess we could put it; we could say no more than 30 feet with the sill height being a 20. You could put some numbers because otherwise I don't know why someone would do it, but some super high roof.

**2:40:17.6 Kevin Myers:** You also don't want them to take the sill height and put it two inches above the floor.

**2:40:23.0 Roger Kniceley:** Because when you put the ladder up, it's going to be awkward. I mean, it's going to be a step straight down.

**2:40:28.4 Chief Moody:** And I think there's some building code requirements on that anyway.

**2:40:31.0 Kevin Myers:** Okay.

**2:40:31.6 Chief Moody:** Residential code. And it's an important point because you see these structures being designed where they don't have a basement, but the first level was a garage and then their second-floor level is their main floor and then they put a second floor above that. I like the recommendation.

**2:40:50.1 Chairman Richard Granger:** 21 feet sill height; is everyone amenable to that? Head nods?

**2:40:53.6 Roger Kniceley:** Is that sill height in the habitable space? I just want to make sure.

**2:41:00.0 Chairman Richard Granger:** Yes.

**2:41:03.2 Roger Kniceley:** I'm clear on the wording of this, because I've seen people put windows in their attic space.

**2:41:03.9 Chairman Richard Granger:** If it's decorative for the roof line and at a window, yes, again I don't think it's going to apply because that's not livable space, so yes. Is everyone else amenable to that? We could revisit it if and when we get a ladder truck. Okay.

**2:41:20.7 Rebecca Cobb:** We are going to take the measurement now.

**2:41:27.5 Chairman Richard Granger:** Yes, the roof at this doesn't have a huge impact, if they want to get creative with it and make something that looks, however.

### Open Floor Discussion by Boards:

**2:41:39.9 Rebecca Cobb:** All right. So that was the end of the items that were on your comment tracker in gray. But we have lots of other colors there and so I'll run through what those meant and then open up the floor for any other comments and things that you would like to discuss. The blue items are items that the County Attorney has provided as language or is providing as language. Also, some Staff review needed on some of those glue items. We feel like you're comfortable with County Attorney recommendations and Staff recommendations and we would just go with what they are suggesting for those items. Green items are things that we have called housekeeping. They are minor revisions, to correct clarity. We feel like we had an understanding about the intent of an area, or of some text. We agreed from the comment that there needs to be additional clarity and have noted that. The white items are things that we have acknowledged but don't have any revisions for. In some of those it was questions or not related to the ordinance or we felt like we have, again, a good understanding from you all for those items. The orange items were things that we discussed last time, and we have direction on those. We can revisit or visit for the first time any of those items that you would like if you're like. You said this was green, housekeeping, but I feel like we need to add some additional edits there or I don't like what you have proposed. Feel free to bring those items up. If there are items that are not on the comment tracker but are of concern that you want to bring to the full group, then please do so.

**2:43:40.8 Chairman Richard Granger:** We did have one item we talked about circling back to, which had to deal with the, ensuring compliance with state regulations and locality regulations don't conflict and how to address that. Did we want to circle back to that now and have that discussion?

**2:44:00.9 Vice Chairman Kristofer Parker:** I wonder, would that be something that Staff and Counsel

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would need to weigh in on first or, with regard to higher level instructions or statutes? Meaning, do you all want some time to digest it and revisit it?

**2:44:21.8 Roger Kniceley:** Yes, I prefer to have that reviewed by the attorneys and the subject matter experts here from BG. We can sit here and discuss it and come up with something that's just not applicable.

**2:44:37.6 Chairman Walter Moss:** But we just give the guidance that the intent is that we would defer to the higher authority, correct?

**2:44:47.9 Chairman Richard Granger:** I think so, yes. Okay. Go ahead.

**2:44:57.1 Vice Chairman Kristofer Parker:** If I may ask, where did we, it came before you all last week, the training facility?

**2:45:05.7 Chairman Richard Granger:** That comes to us on the 3rd of October.

**2:45:07.7 Vice Chairman Kristofer Parker:** Okay. All right.

**2:45:10.3 Chairman Richard Granger:** You're talking about the text amendment.

**2:45:11.1 Vice Chairman Kristofer Parker:** Correct.

**2:45:12.4 Chairman Richard Granger:** Okay.

**2:45:12.7 Vice Chairman Kristofer Parker:** No need to talk about that one then.

**2:45:19.4 Rebecca Cobb:** I will say, if you're about to do a text amendment, make sure we know so that we get it into the existing ordinance, or the new adopted ordinance, if it's different from what we have proposed.

**2:45:32.4 Chairman Richard Granger:** Ms. Binder, you had a couple of things you want to circle back to.

**2:45:35.3 Cathy Binder:** Yes, I've heard this since COVID, from many folks about food trucks. I was relooking over this, and I just want some clarification because this is one area I didn't, I have not looked at since earlier this summer. So under, it's Section 7-5-14, restaurant mobile. Under this wording it would allow mobile food trucks. Because there's a lot of people in this community that would like those.

**2:46:05.9 Rebecca Cobb:** Yes, that is an allowed use.

**2:46:08.7 Cathy Binder:** Okay. I just wanted to clarify. I just wanted to make sure, because when you read legally sometimes you just want to clarify. And then my last is Section 7-6-5 under the data centers. One thing, when we toured one of the facilities, is it allowable, requirable for extra noise protection for soundproof walls around any chillers or generators that are on the ground?

**2:46:42.2 Rebecca Cobb:** Can you give me the section reference again?



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**2:46:45.1 Cathy Binder:** Section 7-6-5. If this is still the correct page, 7-7-6 and 7-7-7.

**2:46:55.9 Rebecca Cobb:** Thank you.

**2:47:00.0 Cathy Binder:** I have an old copy, so it might not be exactly that.

**2:47:31.5 Rebecca Cobb:** It does have in 7-6-5(B), it talks about the cooling systems being enclosed and screened. And then it says brown mounted mechanical equipment is prohibited in front yards. Solid screening walls must be constructed with engineered sound barriers and design materials compatible with those used on the nearest facade. And then it does allow ventilation for mechanical equipment.

**2:48:07.7 Cathy Binder:** Well, I just wanted to clarify. It would say that they needed to put soundproof walls.

**2:48:12.9 Rebecca Cobb:** Yes.

**2:48:13.0 Cathy Binder:** Okay. I just wanted to clarify that. Thank you.

**2:48:15.6 Rebecca Cobb:** Yes.

**2:48:16.5 Chairman Richard Granger:** Mr. Stonehill, you had something.

### Food Trucks Discussion:

**2:48:20.2 Jeffrey Stonehill:** Yes, going back to food trucks, 7-15, 14, Ms. Binder, you must not have talked to anybody that owns a restaurant because nobody is in favor of that. So currently we don't allow food trucks except at special events, fall festivals, stuff like that. So going back over the years, 10 years ago or so food trucks became very popular and food trucks popped up in every little parking lot around here. And in my previous career you would have had to talk to these people and say you couldn't be here. All the restaurants were complaining again about it, so we don't allow them. So here, just recently, food trucks were allowed on Base (NSWC Dahlgren). On the federal installation food trucks can go on base; that came all the way down from the admirals up in DC. Command at base is not in favor of it. They don't want food trucks here. So as soon as the food trucks started showing up all the restaurants along Dahlgren Road and the Dahlgren area, they saw a drop in sales. They got ahold of me and said, "what's going on?" I contacted Command, and they explained to me what was going on. They (Food Trucks) don't pay taxes, they don't pay utilities, they don't do anything except take money from our local businesses, our brick-and-mortar businesses. So those folks (brick-and-mortar) came to me and said, we're completely against this. I mean, we watched our sales drop as soon as the food trucks came on base. Command said, we don't have anything to do with it because it came from Washington. Do you think Uncle Dave's right down the street here would want a food truck to set up right across the street from him? I can tell you the answer right now is going to be no. Restaurants pay all their utilities, all their cable bills, their water bills. They pay for everything, personal property tax, real estate taxes. So why are we going to allow food trucks to come in here and set up and take business away from our restaurants? I don't see the reason. I mean, if we had them at specific locations like vineyards, breweries, things like that that have to serve food to comply with all their regulations and ordinances, that's fine. Farmer's Market, Fall Festival, all those types of things, absolutely bring them on in. But to have them allowed to come in and set up 100 feet away from a restaurant or 50 feet away from a single-family residence, you're just, you're cutting the throats of our local businesses. I can't see there's a reason for that. A couple of years ago when we were dealing

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with this little flu outbreak that we had, there was a food truck at the end of every single cul-de-sac here in King George. And if the people could go out to go to a food truck that's paying taxes and paying sales tax to wherever they came from, Fredericksburg, Stafford, Spotsylvania, those folks could have gotten in their car and driven to a local restaurant and taken a takeout order. Those folks were right there giving their money and their tax money to an outside location. I don't see how we would go and put this in to allow this outside of specific locations because it's just cutting the throats of our local businesses.

**2:52:15.0 Cathy Binder:** I'm just throwing in one caveat. What if it is a local King George resident who does not have the capital to open a storefront restaurant and wants to have a food truck and they're a King George resident and they would pay King George taxes? That's what I'm asking about. Because there are some folks like that that do not have the cost of entry to start a business, and that is one option, and then they go to a storefront once they've gained enough info, enough money to be able to do so. I don't want it to cut out small local entrepreneurs.

**2:52:48.2 Jeffrey Stonehill:** They can go to one of the vineyards, they could go to any of these specific locations to set up a food truck there until they get their feet on the ground, and they get their business up and going, and then they can move into a brick-and-mortar situation if they want.

**2:53:07.0 Denise Flatley:** My comment is, I love restaurants and I love food trucks, and my husband can't drive. There are opportunities, and also the Staff can tell you it's very hard to open anything brick and mortar because when you go into a building, you have to bring everything up to code. There aren't a lot of places that are available and it's very expensive to get started. I understand your position and other business owners because I do frequently go to all restaurants because there's only a handful of them or two handfuls of them. But I think that to prevent people from also providing a different kind of service isn't quite fair.

**2:53:53.4 Vice Chairman Kristofer Parker:** People don't always go to a food truck because it's close; they go because it's a variety, and we don't have a lot of variety in King George County and so the food trucks offer that, a little bit of different flavor, so. Just my thoughts.

**2:54:14.5 Chairman Richard Granger:** Ms. Cupka.

**2:54:14.5 Ann Cupka:** Thank you, Mr. Chair. I do understand your concerns, Mr. Stonehill; I do understand that you are a small business owner. I do know that during the flu, at that point in time, we were requested back in 2020 to consider food trucks and at that time we did not want to address it because we did not want to hurt the ability of our existing brick and mortar businesses. We felt like they were already hurt by the restrictions during that time. However, I, in reading this over I feel like it's pretty well rounded and it addresses many concerns. Even if it is not a business situated physically in King George County, let's say it's a food truck from Stafford or another county, they still have to get a business license from our Commissioner of the Revenue in order to sell in our county. They still have to comply with all the county codes. If the equipment that they own, if they are cited or garaged here in King George County, they do pay personal property tax on that equipment. And then the other thing I will note is there are some safeguards with regard to location. Mobile restaurants shall only be located on private property in conjunction with non-residential primary use. Examples include commercial businesses, religious assemblies, churches, schools, etcetera. Two, no mobile restaurant shall locate within 100 feet of an entrance to any brick-and-mortar restaurant, gives you how that's determined, unless permission by the owner of the brick-and-mortar restaurant is provided. To me, a brick-and-mortar restaurant has recourse here, they can say no. And then if the

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food truck still chooses to violate the ordinance and park close to them without permission, right now, community development is complaint driven. So that said, brick and mortar restaurants can call community development and file a complaint. I see both sides here. But this is something that people asked for and we put it off because of COVID, and now we're at the point where there is still a desire in the community. I get that you have heard from the Base, you've heard from your colleagues in the restaurant business, but I have heard from, and it sounds like Ms. Binder has to, and I will tell you there was a great deal of comment on social media today, "Why aren't food trucks allowed?" And it was because the Board of Supervisors is antiquated, and the Board of Supervisors didn't want it during COVID. And we're at the point where we have what looks to me like a reasonable ordinance, so I would like to see us move forward with it.

**2:57:33.3 Joseph DaCorta:** Mr. Chair, I think if we are to commit to the King George business community in the restaurant food service world, I think one thing we should seriously consider is moratorium on franchise restaurants, chain restaurants opening in the county. Many counties, many jurisdictions have adopted similar ordinances in some of the nicest places in the country. I think food trucks that are associated with existing brick and mortars are the model that is the most sustainable that I've seen. But to talk about food trucks and not talk about convenient fast-food franchises, a moratorium is something we ought to consider.

**2:58:35.9 Gary Kendrick:** Good luck with that. I mean, this county's growing every day. And I live in this county, I eat in this county, Lord knows I eat in this county. There aren't enough restaurants now nor the variety as was mentioned. And hey, as a restaurant owner, if you are one, I'm sure that would be great for you, but I'm not sure it's our business to be getting into protecting a piece of the business community that way. You're the Board of Supervisors, you'll do what you want, but the Planning Commission, I would say I wouldn't be in favor of it as a citizen of the county. I'm all for more competition, more options, more choices.

**2:59:24.3 Vice Chairman Kristofer Parker:** I'll say that of everything that's changing in these ordinances, all the feedback back I got, the most overwhelming topic was food trucks. I mean, people want food trucks. And I get where you're coming from, Jeff, but I think you're just as likely to ban minivans at this point as food trucks, because people are, people are fired up about this.

**2:59:49.8 Jeffrey Stonehill:** Yes, what you need to do is go through the restaurants in King George and ask them.

**2:59:56.9 Vice Chairman Kristofer Parker:** But you can find somebody, you can find somebody opposed to a lot of things, right? I mean, there's people opposed to a lot of stuff around here but that doesn't mean you just deny it because of that.

**3:00:09.7 Jeffrey Stonehill:** Like you said, the other thing is the enforcement action of it. We're complaint driven. Is Mr. Stuart going to be out there with a tape measure measuring how far away or who's going to be checking; you're supposed to get a permit and you're supposed to get all that from the Commissioner of Revenue, but who's going to be checking on that, besides somebody complaining and saying, hey, can you go check x, y, z, or go do that? It's also, how are we going to enforce that if we only have a Staff of two or so, three right now? At this point, it's going to be tough for them to run around and check on these things.

**3:01:00.6 Ann Cupka:** Mr. Chair. I can tell you personally, at least twice in the last three years I have submitted complaints to the Department of Community Development and within a day they sent

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someone out and they advised the food truck operator that they shouldn't be there or even if they were on private property, they needed to have a business license from the Commissioner of the Revenue and all of the issues were remedied. I have confidence. I get that we are short Staffed in Community Development, but I do have confidence that if we receive complaints, our Staff will be able to address them in a timely fashion.

**3:01:48.5 Chairman Richard Granger:** Is there a consensus or at least a majority? I agree with the way the current proposed ordinance is written in regard to the areas that could go. It is not just anywhere at any time and setting up just, like at the end of someone's driveway. I would be in favor of including it in the ordinance. I know, there could be some, some things that could be cleaned up. I'm not sure 100%, but allowing to some degree I think is reasonable. Is it okay? Okay. I think I've seen enough head nods and enough voices that feel like the current ordinance is a reasonable cut at the moment. Did anyone else have any other particular items they'd like to bring?

**3:02:51.4 Kevin Myers:** I haven't reviewed that a little bit. Are they allowed to sell from public streets, like stopping in the middle of a public street and selling food, or is this at a location where they're paying rent, or somebody is allowing them to be?

**3:03:08.5 Mr. Pancotti:** It would not be on a public street. They would have to be on private property. It could be on, in the parking lot of a commercial business.

**3:03:15.7 Kevin Myers:** Okay. But it would have to be somebody allowing them. They're not going to come and park between the Sheetz and the parts store on that little road and sell food.

**3:03:28.0 Mr. Pancotti:** Yes.

**3:03:29.2 Ann Cupka:** I can read the section, if you'd like, it says under parking, no mobile restaurant shall park on any fire lane road or right of way, whether public or private. And then the prior section that I previously read with regard to location, shall only be located on private property.

**3:03:48.3 Ian Fox:** With the owner's consent.

**3:03:50.7 Chairman Richard Granger:** Was there any other items that the Board or the Commission would like to address tonight?

**3:04:02.8 Ann Cupka:** Mr. Chair.

**3:04:03.5 Chairman Richard Granger:** Yes, ma'am.

**3:04:03.9 Ann Cupka:** We did have some public comment at the beginning of the meeting with regard to the noise complaint based. Did anyone want to revisit that? I know we came up with some measure. Was there anyone interested in revisiting that?

**3:04:25.3 Chairman Richard Granger:** I was satisfied with what we came up with. We did debate a fair bit about whether it would have to be distinct individuals that were providing the complaint or if it could be one individual who provided the complaint. I think we had come to an agreement that it had to be distinct in order to meet that requirement for a complaint and enforcement. Unless other people want to revisit it but those were considered. And that was the decisions that the Board and the Commission at that time were looking at.

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**3:05:04.0 Denise Flatley:** I'll just say that was the majority. But I think that from a legal standpoint when you consider that every citizen deserves the same protection under the law, that even if it's one person's property who is under the area of the violation, that they deserve the same process as if it were more than one person.

**3:05:32.3 Cathy Binder:** I would agree with that.

**3:05:42.3 Ann Cupka:** Can we have that recirculated, what we ended on?

**3:05:47.6 Rebecca Cobb:** If you want to look at lines 71 through 82 in your giant comment tracker, it does give a brief of what you've all said, during the August meeting.

**3:06:05.5 Ann Cupka:** In the online version, sorry.

**3:06:11.3 Rebecca Cobb:** Yes. What you have in front of you is just the extra comments that came in since that August meeting.

**3:06:17.8 Chairman Richard Granger:** Upon five verified complaints to the Zoning Administrator within a seven-day period, the county would hire a third-party testing firm to conduct sound test and be reimbursed by the user. User needs to submit a plan of correction that is acceptable to the county within 48 hours. That's assuming that they are out of compliance from the test by the third party.

**3:06:43.9 Denise Flatley:** I just have a question about that. When they say, when it says five verified complaints, how do the complaints are verified until you have someone come out?

**3:06:56.6 Chairman Richard Granger:** I remember distinct or saying five unique individuals. So that's what I thought it meant, verifying that, I'm not even sure if it's like looking at their citizens or not just someone coming in, calling in from who knows where.

**3:07:19.3 Rebecca Cobb:** Yes. There is still prank calling. I have a teenager, I know. There is the chance that it isn't someone who lives here, works here, passes through here, or is someone just doing a prank call or something like that. So it would be, okay, where's your address or what time, where were you, just some simple verification like that.

**3:07:48.1 Denise Flatley:** Okay. Because we're using the same words when it comes to the Airbnbs, when we say that there are verifiable complaints within a certain year that we would shut down an Airbnb. We have to really define what a verifiable complaint is, and it has to be more than just somebody saying it's loud. If I'm not mistaken, that word, verifiable complaint, is used in both of those situations.

**3:08:18.2 Rebecca Cobb:** And so, in Airbnb it would be, Sheriff's Office responded and, yes, there was a party going on and it was loud and, or Staff here responds, there's trash everywhere, something like that. In that instance that would be verified. The discussion that I remember about this though was that the county didn't want to invest in things like noise detection instruments, to go out and do that. So that's where some difference comes in there. But if you want to invest in that so that the Sheriff's Office or whoever responds can say, yes, they called and it was loud, it was this many decibels.



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**3:09:15.3 Denise Flatley:** I'm just thinking that in terms of consistency, you've got one business that might be creating noise, you have another business that might be creating noise. I think there needs to be more consistency in how you deal with that. If you're telling one business you're going to shut them down and another business they can come up with a plan, that doesn't quite seem fair. Is there a way to resolve the inconsistency?

**3:09:45.2 Cathy Binder:** And I'm thinking about it more and more and we said five based complaints in seven days. Well, is there some way that we, if one person put in a complaint, send the Sheriff's Office out to at least investigate and we hire a third party when it goes to the other standard so that person has been heard. because I could see how one person could be quite upset. It's ruining their life and they're very sensitive to it and they have to wait for four more people to file a complaint. Like, is there some way that we could have, send somebody from the Sheriff's Office out to do, if it's one complaint, to at least get a reading and the people know that they're being heard?

**3:10:29.7 Chairman Richard Granger:** This is all in zoning, which would not be handled by the Sheriff's Office.

**3:10:35.0 Cathy Binder:** Or somebody from our Community Development. I'm just trying to think, because I know now, if I were that one person, I would have to wait for four more people to file a complaint. Do you know what I mean? That could be really upsetting, especially if it's disturbing your life.

**3:10:50.0 Chris Miller:** This is also something to bear in mind when you're dealing with your budget next spring, that you had a zoning enforcement officer budgeted. I know we had to let them take it out last time, but I do think that that is going to have to be revisited with all this because I don't think you want to ask the Sheriff to be involved in this, unless it gets to the level of something that possibly could be criminal. I know there's a distinction in that. Something to bear in mind.

**3:11:23.0 Cathy Binder:** Could we then possibly put in, because this would have to be adopted before new budget, that when we include that position, that position would go out on one complaint, like put some line in it that that would kick in when we employ a person in that kind of position? I don't know if that's even possible in an ordinance.

**3:11:46.4 Rebecca Cobb:** I wouldn't suggest tying to a position that you don't currently have. I would say when that time comes amend. because as it's been stated a couple of times tonight, this isn't in stone; when things change go in and do text amendments. And actually, we recommend that you do that annually. There may be things that arise that don't need an immediate amendment, but Staff should keep a running list of, hey, here's a question. Here's some little things. Revisit annually and address those items, okay. Which ones do we want to tackle this year so that you're keeping it up to date?

**3:12:25.8 Ann Cupka:** Mr. Chair, can I just ask you a question? In reading it, it says, upon five verified complaints to the Zoning Administrator within a seven-day period. Nothing in that says that they all have to be five unique, correct?

**3:12:43.1 Rebecca Cobb:** It does not.

**3:12:43.2 Ann Cupka:** Okay.

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**3:12:43.5 Rebecca Cobb:** And so that would be a question that if you all want it to be unique or not, whether it's the same person that calls every day, it's up to you all.

**3:12:58.9 Ann Cupka:** Given that then I'm okay with leaving it how it was, the consensus at the last meeting.

### Junkyard and Salvage Yards Discussion:

**3:13:14.0 Jeffrey Stonehill:** Moving on to another one I just wanted to check on, 7-6-2, junkyard and salvage yards. I know I had a discussion with Ms. Hall about this a couple of years back. If you go down to, D-4, and it talks about record keeping, reporting requirements. If you go to the scrap yards up in Fredericksburg, you pull in there, they take a picture of your driver's license, they take a picture of your license plate and everything for everything. Any type of scrap, wire, cars, anything that you're going to drop off and sell, they get your information on that. We did have a scrap yard come into the county here, and Ms. Hall and I had long conversations about what the requirements were for that. And I do see that C, reporting to Leads Online, which that's what they do to the Sheriff's Office to access vehicle history; that's great on a vehicle. But I was also wondering if it says, operated in compliance with all federal, state record keeping and reporting requirements to include, but not limited to, blah, blah, blah. They talk about motor vehicles. There's nothing in there about wire, piping, any of that type of stuff. If you go to the Code of Virginia, it does say the governing body of any county, city or town by ordinance requires each licensee within the jurisdiction to make written, electronic reports of information, of all scrap taken in. Since that saying that we have to have a local ordinance, is that something we have to have in this section here?

**3:15:22.8 Rebecca Cobb:** Yes. I would suggest if that's something you want, then it can be an item D there, to include all scrap or a report of all scrap collected.

**3:15:36.8 Jeffrey Stonehill:** All the other counties around us do that. Maryland, well, some in Maryland, some don't. But that helps with reporting. Years ago, when we had a big issue with wire and piping and everything being stolen, it was going out and being sold. I know when Ms. Hall was still here, we had a long conversation about this, but we need to put a local ordinance, like the state says that we need to do, into this as well. I mean, because all federal and state record keeping is great, but we don't have a local ordinance that requires identification and everything as the state requires.

**3:16:22.0 Chairman Richard Granger:** I would agree with you, Mr. Stonehill. It seems pretty reasonable to be me. Is there anyone that's opposed to adding that to the proposed ordinance so that it could be done? Okay.

**3:16:35.2 Rebecca Cobb:** Could you give me your wording on that one more time? You said, a report of all scrap collected.

**3:16:42.0 Jeffrey Stonehill:** Yes. You can pull it up if you want. It's 46.2-1608.1; reports to police, local ordinance holding period. And it's that whole, that whole paragraph.

**3:16:58.7 Rebecca Cobb:** Thank you.

**3:17:12.5 Chairman Richard Granger:** Did anyone else have any other particular ordinances they would like to readdress tonight? Okay. Seeing none.

**3:17:22.9 Rebecca Cobb:** Seeing none.

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**3:17:24.7 Roger Kniceley:** Mr. Chairman?

**3:17:26.4 Chairman Richard Granger:** Yes, sir.

**3:17:27.4 Roger Kniceley:** I talked with Mr. Pancotti today, since I'm the new member of the panel here, I've been slowly trying to read this, and I just wanted to make the Board aware. I've got a number of questions, I think they're just clarifications, that I need to understand, and interpretations. I agreed to send the list of those questions. I don't think I'm going to come up with any big issues, but there are just some things, if I'm going to continue on the Board, I'd like to understand exactly how to interpret some of these ordinances. Some of them, I have some questions about. I just thought I'd let you know that I'll be sending that list of questions.

**3:18:10.2 Chairman Richard Granger:** Thank you. Appreciate the heads up on that. Overview of next steps.

### Next Steps:

**3:18:15.4 Rebecca Cobb:** Next steps. We will incorporate the revisions as we have discussed tonight, and as we discussed in August. And then I will provide that public hearing version of the ordinance to your Staff; they can get that up online so public can see it, get it to you all and get this advertised. My question for you all is that we need the next month or so to get that all into place. What is your process in terms of setting public hearing? Do we know? Are we ready to set that with Planning Commission for November? And do we know the date of that?

**3:19:03.0 Chairman Richard Granger:** Does the Planning Commission have a meeting in November?

**3:19:05.1 Chris Miller:** That's what I was going to ask.

**3:19:06.2 Vice Chairman Kristofer Parker:** I think so, right? Okay.

**3:19:15.4 Mr. Pancotti:** At our meeting in October, we'll set it.

**3:19:30.9 Vice Chairman Kristofer Parker:** Okay.

### Other Business:

**3:19:35.9 Chairman Richard Granger:** Okay. In that case do we have any other business to bring before the Boards? I'll entertain a motion.

### **KGCBOS Adjournment:**

**3:19:46.6 Jeffrey Stonehill:** I move that the Board of Supervisors adjourn until Tuesday, October 03, 2023, at 6:30 PM here in the Boardroom.

**3:20:00.8 Cathy Binder:** Second.

**3:20:01.1 Chairman Richard Granger:** We have motion properly seconded. Do we have any discussion? All in favor say aye.

**3:20:02.7 Jeffrey Stonehill:** Aye.

**3:20:02.8 Cathy Binder:** Aye.

**3:20:02.8 Ann Cupka:** Aye.

**3:20:02.9 Chairman Richard Granger:** Any opposed? Chair votes aye. Motion carries. We're adjourned.

**After completing the September 26, 2023, King George County Board of Supervisors agenda. Chairman Granger called for a motion to adjourn to Tuesday, October 03, 2023, at 6:30 PM in the Robert H. Combs Board Room; so, moved by Mr. Stonehill, seconded by Ms. Binder, and carried by a vote of 4-0-0. Each member voted as follows: Chairman Granger, Aye; Ms. Binder, Aye; Ms. Cupka, Aye, and Mr. Stonehill, Aye.**

### **KGCPA Adjournment:**

**3:20:09.9 Chairman Walter Moss:** Do we have a motion to adjourn?

**3:20:12.5 Vice Chairman Kristofer Parker:** I'll make a motion that the King George County Planning Commission adjourn until our next meeting on October 10, 2023. Thank you.

**3:20:20.5 Kevin Myers:** Second.

**3:20:21.9 Walter Moss:** We have a second. All right. All in favor? Motion carries. We're adjourned.

**After completing the September 26, 2023, King George County Planning Commission agenda. Chairman Moss called for a motion to adjourn to Tuesday, October 10, 2023, at 7:00 PM in the Robert H. Combs Board Room; so, moved by Vice Chairman Parker, seconded by Mr. Myers, and carried by a vote of 9-0-0. Each member voted as follows: Chairman Moss, Aye; Vice Chairman Parker, Aye; Mr. DaCorta, Aye; Mr. Devries, Aye; Ms. Flatley, Aye; Mr. Fox, Aye; Mr. Kendrick, Aye; Mr. Kniceley, Aye, and Mr. Myers, Aye.**