

King George County Board of Supervisors
and
King George County Planning Commission
Joint Work Session
August 29, 2023



The joint work session of the King George County Board of Supervisors and the King George County Planning Commission was called to order at 6:00 PM by Chairman Richard Granger, KGCBOS in the Robert H. Combs Board Room of the Revercomb Building, located at 10459 Courthouse Drive, King George, VA, 22485. ¹

Board of Supervisors Present: Chairman, Richard Granger
Vice Chairman, T.C. Collins
Cathy Binder
Ann Cupka
Jeffery Stonehill

Planning Commission Present: Joseph DaCorta
Ross DeVries
Denise Flatley

County Administrator: Christopher Miller

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

Staff Present: Louis Pancotti, Interim Director of KGCCD
Richard Stuart, Senior Planner, KGCCD
Jaclyn Fish, Executive Assistant, KGCA

The Berkley Group: Rebecca Cobb
Tori Haynes

CALL TO ORDER:

0:00:00.0 Chairman, Richard Granger: I call to order this meeting of the King George County Board of Supervisors. And I know we're supposed to have the Planning Commission call to order as well, I'm going to ask Ms. Lackey, though. Since we don't have a quorum, I'm assuming then that means that the Planning Commission at this time will not be able to call to order this meeting, a joint work session with the Board of Supervisors. Is that an accurate assessment?

0:00:21.0 Kelly Lackey: Correct. So, there won't be any ability for the Planning Commission to make any votes or decisions, but the individuals here can participate in the discussion.

0:00:30.0 Chairman, Richard Granger: Okay. I appreciate that clarification, I'll just make sure, my colleagues, everyone's amenable to the situation. Okay, thank you everyone, and thank you, for our Planning Commission members, if more show up and we do hit a quorum, we can take a moment and have you call to order and then it could be an official joint work session, so we'll see if that does occur, but thank you for showing. We'll move on to amendments to the agenda. Mr. Miller, do we have any amendments?

AMENDMENTS TO THE AGENDA:

0:00:56.0 Chris Miller: No, sir. Oh, you do, yes, you have two, I believe.

¹ Due to a lack of quorum, the KGCP's meeting was not called to order.

0:01:00.0 Chairman, Richard Granger: We have two or one?

0:01:03.0 Chris Miller: One but two actions, I believe. Is that correct?

0:01:07.8 Kelly Lackey: There is a suggested closed meeting that has two components to it.

0:01:13.3 Chairman, Richard Granger: Okay.

0:01:16.7 Chris Miller: You do have an amendment to the agenda? Yes, sir.

0:01:17.5 Chairman, Richard Granger: Okay. And I did speak to my colleagues about this before, and so this is the draft, but we do need a vote upon it and we need everyone here in order to decide, so I'll ask my colleagues, if anyone would be willing to entertain a motion for an amendment to the agenda to include a closed session to tonight's meeting?

0:01:35.2 Ann Cupka: So, moved.

0:01:37.0 Jeffrey Stonehill: Second.

0:01:37.9 Chairman, Richard Granger: We have a motion properly seconded. Do we have any discussion? All in favor say "aye."

0:01:42.4 Ann Cupka: Aye.

0:01:42.4 Cathy Binder: Aye.

0:01:42.4 Vice Chairman T.C. Collins: Aye.

0:01:42.4 Jeffery Stonehill: Aye

0:01:43.1 Chairman, Richard Granger: Any opposed? Chair votes aye, motion carries. Thank you Mr. Miller. We'll move on to public comment. Public comment will be limited to three minutes per person in order to afford everyone an opportunity to speak. If comments relate to a specific public hearing item, we ask you to offer those comments at the time of the public hearing. When you come up to give public comment, please state your name and your address, and then your three minutes will start. So, the floor is officially open for public comment.

PUBLIC COMMENT:

0:02:08.8 Kyle West: I will kick it off. Thank you all Commissioners, Supervisors, Staff, and Berkley Group. You've heard from me before, my name's Kyle West, I'm the founder of Vega Renewables, a consulting and development company focused on utility-scale solar, primarily in the Commonwealth of Virginia. I've attended a past work session, and I attended the open house that you had previously, and I've been pretty impressed that it looks like the ordinance has come together, it's a lengthy one. The one item I wanted to address tonight is the remaining 500-acre cap around utility-scale solar. We've been trying to raise this because during the work session when items like proximity to transmission lines and lot coverage were addressed, there seemed to be a consensus among the Commissioners and Supervisors, well, a consensus. A majority of folks wanted things moved to a special exception and analyze projects on their merits and allow projects to come forward. I just want to stress again, that was the consensus, the only reason the 500-acre cap wasn't discussed, it was never mentioned, so we're just hoping that it is addressed this evening. I do want to also state that

proactively limiting the size of a utility-scale solar project immediately limits the economic engine and the financial benefits of that project. So, it could be perfectly sited, but you'll never see it because it's reduced in size, therefore you get fewer financial benefits. So again, we feel like the 500-acre number is arbitrary, you could pick it out of nowhere, certain counties that have nothing, actually, most counties have nothing, some have smaller, some have bigger, so we're asking for not arbitrary numbers, let projects come forward on their merits. And I appreciate the Berkley Group noting the comment saying max project acreage can be revised to be determined during the special exception process if Commissioners and Supervisors are amenable to that. From what I heard in the past, they wanted things pushed as special exception, so all we ask tonight is that you do discuss it and get some resolution around that issue. Thank you all.

0:04:41.1 Al Hales: All right. Thanks for the opportunity to make public comments. I'm Al Hales, I live at 7115 Kitchen Point Road in King George. I've worked and/or lived in King George for over 50 years, this is home, I love it here, never planned to leave. One issue that does concern me is being retired on a fixed income. I do feel the squeeze as local taxes increase and so I would hope we can come up with alternative ways, alternative sources of revenue to help reduce that squeeze on people, particularly with a fixed income. I think there are a lot of different alternatives. This updated ordinance provides a framework for how we can pursue those alternative sources. The one that I'm particularly interested in, like Mr. West, is the use of utility solar as a means of not only producing clean power but also as an alternative diversified source of revenue for the County. I think that's something that the County should promote, support, endorse, encourage, as much as we can, and I think the special exception process is the ideal way to do that. And roll all the parameters up into that process and allow them to be considered and waived and prioritized as to how they meet the County requirements. And in particular, the one standout in that process is that 500-acre cap. And that's something I would hope we could resolve and have that be included in the special exception process, rather than being called out separately. So, thank you for your time, and I look forward to hearing the process.

0:07:08.3 Debbie Fairfax: Debbie Fairfax, 623 Kings Highway. My comments are in regard to the open house draft comments beginning on page one. Comment number four, proffer amendments, keep all allowable public hearings. A small site plan change for a large project could significantly change the impacts. For example, moving battery energy storage on a site could move it closer to a school, moving generators on a site could move it closer to residences. Comment number 12, I district regulations. Please keep the building heights no revisions. Comment number 55, battery energy storage facilities. To their number one, what input does Chief Moody have regarding fire detection and extinguishing base specifically on King George? To their number two, regarding the fence, while I see that immediate decommissioning seems a bit intense, A, the requirement to repair it should not be incumbent upon the County's notification that there's a problem with the fence. That puts the burden on us. Secondly, the turnaround time should be rapid, 30 days is unsatisfactory, it should be no more than 48 hours. That type of facility is not a facility that the County wants to be breached, whether it be by teenagers or terrorists. The impacts are far too great. Comment number 64, utility-scale solar. Keep as is, no revision. We don't want multiple 500-acre parcels linked together to form a larger project. To give you a point of reference, Birchwood's initial August 2022 application included 600 acres of solar to power some amount of square feet of data center, 600 acres. That's in the same range as the 500 that we have capped as now. Comment number 71, Todd's going to address our comment here, but I want to take a chance to celebrate something good. All of us worked together to get good noise limits put in the new ordinance, and two data center applicants have willingly proffered those. Let's keep up the good work to make King George a place for prosperity and peace.

0:09:43.2 Todd Fairfax: Todd Fairfax, 623 Kings Highway. Mr. Chair and members, Planning Commissioners, good evening. My comments this evening focus on comment number 71 on page five

of the comments. And you'll not be surprised at all that it's from the Fairfax's. Number one, a third paragraph for complaint-based testing needs to be added to Section 8105. Clear requirements need to be enumerated and codified on how many noise complaints within a period of time trigger Zoning Administration action. As an example, four complaints within a three calendar-day period, not just workdays since the industrial uses operate 24/7.

0:10:30.0 Chairman, Richard Granger: Mr. Fairfax, hold off for a second, we'll restart the timer. I apologize. I would like to make sure your comments are captured, though, and so I'm sorry for that interruption.

0:10:39.2 Todd Fairfax: If you give me the three minutes, I'll start over.

0:10:41.5 Chairman, Richard Granger: We will start it over because of this situation. I apologize, though, thank you.

0:10:46.3 Todd Fairfax: No worries.

0:10:46.7 Chairman, Richard Granger: And we're good with your name.

0:10:47.7 Todd Fairfax: Skip that part.

0:10:48.4 Chairman, Richard Granger: That's fine. Yes, but thank you.

0:10:52.4 Todd Fairfax: My comments this evening focus on comment number 71 on page five of the comments. And as I've said, you'll not be surprised that it's from my wife and I. So, number one, a third paragraph for complaint-based testing needs to be added to Section 8.10.5. Clear requirements need to be enumerated and codified on how many noise complaints within a period of time triggers Zoning Administration action. As an example, four complaints within a three calendar-day period, not just workdays since the industrial uses operate 24/7. The complaints need not originate from the same person or same property, but they could. The complaining properties need not be adjoining or abutting the offending industrial use. Number two, how soon after the required number of complaints will the Zoning Administrator be required to take action to investigate? Perhaps the ordinance should require the response to take place within 48 hours of the minimum number of complaints that trigger action. Number three, what will the response look like? Perhaps the Zoning Administrator will contact the offending use and require mitigation within 48 hours, or their certificate of occupancy will be automatically suspended, and operations cease until noise levels are demonstrated to be back in compliance and verified by the Zoning Administrator. Number four, clear details need to be enumerated in Section 8.10.4, paragraph B, as in boy, five, on the duration of each measurement that each measurement is for the same duration, and how closely spaced in time are the three measurements. All the measurements should be made during the same daytime or nighttime period since different allowable maximums would apply. All measurements should be taken at the same location. Each property's noise complaint needs to be investigated separately and from the direction of that complaint relative to the industrial use. Remeasurements Unannounced to the industrial use of 10 minutes each separated by 15 minutes from the direction of the complaining property should be taken. Since current applications have proffered the sound levels in the ordinance overhaul, there should be no hardship adding these complaint-based specifics because they should not need to be used. Perhaps there are more details that also make sense for discussion and consideration, and we'll leave that for another time. Thank you.

0:13:40.1 Chairman, Richard Granger: Mr. Dines, do we have anyone online who would like to give

public comment?

0:13:51.8 Chris Dines: No, Mr. Chairman.

0:13:53.2 Chairman, Richard Granger: Did anyone receive correspondence to be read into the record? Cathy, go ahead.

0:14:00.5 Cathy Binder: All right. I received this today; the resident could not attend this meeting and asked me to read this. "Brein Gregan, Shiloh District 9485 Elm Court, King George, Virginia. I am not against data centers as they could be a tax revenue source for King George County. Unfortunately, this is not the case for King George County for the seeable future as it relates to the proposed Amazon Birchwood site. Most of the dealings with Amazon are happening out of public view and behind closed doors. This is not unusual for deals of this size; however, Amazon Birchwood has presented us with potential tax revenue of 88-125 million annually after full buildout. I truly wish this were true but unfortunately is not. Expectations of tax revenues for King George County for the next 15 years have been replaced with concern that as citizens, we could actually pay for Amazon to house their data centers in King George County and make billions of dollars of profit on the backs of King George residents." "Amazon Birchwood were forced to discuss briefly the cloud computing cluster infrastructure grant fund at the 8/15 Board of Supervisors meeting. This grant requires a local match of at least twice the amount provided from the grant fund to Amazon related to the construction of and creation of new full-time jobs at the facility in King George as set forth in a performance agreement. Infrastructure costs for grant purposes, including costs related to fiber, water, wastewater and stormwater facilities, gas pipelines, electrical and transmission and distribution lines and site clearing grading and other improvements to support the construction and development of a facility. Any infrastructure cost included in a memorandum of understanding with Amazon related to the construction and operation of a facility are subject to the local match. Yesterday afternoon, I emailed the Board contact information for a Virginia Economic Development Partnership Authority, VEDP, representative, who is willing to answer questions regarding the grant." "I encourage the Board to ask questions and understand the long-term implications for King George County residents. Considering every resident will pay three times for many Amazon data infrastructure costs. I've requested from the Board to be provided with a public version of the 15-year buildout tax projections for both personal and real property for the Amazon Birchwood data center project based on our Fredericksburg Regional Alliance, FRA, advertised rates and depreciation schedules. I've also requested a potential fiscal impact projection of the cloud computing cluster infrastructure grant fund. I now request that this information be provided to the public in the agenda for the 9/5/2023 public hearing and may be presented to the public at the hearing."

0:16:35.3 Chairman, Richard Granger: Did anyone else have any public comment to be read in? Okay, in that case, I will close the floor for public comment, and we will move on to presentations. I will hand it over to the Berkley Group. Thank you for being here.

CHAIRMAN GRANGER CLOSED THE FLOOR FOR PUBLIC COMMENT.

THE BERKLEY GROUP:

0:17:00.2 Rebecca Cobb: All right. Thank you for having us once again. And for the record, I am Rebecca Cobb with the Berkley Group and I also have with me Tori Haynes with the Berkley Group. And tonight, we are doing the first of two preadoption joint work sessions. This is the time for us to fine-tune elements of the proposed zoning and subdivision ordinance, and that's what we'll be working on tonight and through the next work session. So quick reminder, I see lots of familiar faces, so I think everyone is up to speed on our process so far. We did initial investigation, we drafted it with help from Planning Commission and Staff, and now we're in the adoption phase. We had a public open

house in July, collected public comment, and we have put those together in a comment tracker that you should have before you tonight. At the beginning of that tracker is the public comment from that open house, we included things that we got verbally, as well as those that we received in writing, as well as we had a survey open even after the open house to allow time for those who couldn't attend the open house or just needed some additional time for review to provide response. So, your comment tracker includes all of that, as well as comments from Board members, Planning Commission, your planning Staff, as well as your attorney. And so tonight, we are going to be working through some of the comments in that comment tracker, specifically the ones that are highlighted in gray. And we're going to share slides as we go through each of those. There's about 10 topics that we're hoping to cover tonight, and so on each slide, you'll see the topic and the line reference, and so that's why you've got those sheets in front of you so you can flip to it. But also, on the slide on the left-hand side is going to be ordinance highlights, so it's going to have the section information there that relates to the comment. In some cases, we include use permissions or other tables and things that are relevant. The middle is going to be the comment itself, and then to the right is the Berkley Group recommendation. Again, we are focusing tonight on those comments we received from the public. But Planning Commissioner and Board members and Staff comments were also in common with some of those, so we have included those in common items as well just so that we can wrap up a topic and not have to revisit it, if at all possible. And then we will next time, next session focus on items that are not in gray, and we'll provide you with a new tracker prior to that meeting, and that meeting happens in September. So, one of the things that I'll note too, is you'll see in terms of our recommendations, in some of those, we have given specific recommendations. And we've done that when we saw that, oh this is an error. We remember conversations with Planning Commissioner direction, and there's an error that needs to be corrected or if we remembered discussions and we feel like we are pretty sound on what the desires of King George are, we have supplied specific recommendations for those or we are seeking Staff input or attorney input on some items. And then items in gray, you'll notice that they say, "no recommendation." And that's because this is your time to fine-tune and make sure it meets what King George wants. We've provided you with what we propose and now it's time to hear from you guys. Certainly, if you have questions or things like that, we're happy to answer, but tonight our goal is to come to consensus on these items, receive your edits. If you have trouble coming to consensus, we might just have to take a vote so that we can move on to the next item and that sort of thing, but that's what we plan in a nutshell. Are there any questions about our process and what we've done either at open house or on the comment tracker? All right, well, then let's get into it. I'm actually going to hand it over to Tori, and she will talk us through each item.

0:21:58.8 Tori Haynes: Okay. Thank you again for having us here tonight. We will start off with accessory dwelling units, and this is line number 18. I will also just clarify just for the record, that this does correspond to the revised corrected version of the tracker. All of the language is exactly the same, we did notice some of the numbering was off, so we did fix some of the numbering so that we could get through this discussion on the same page. So, the version in front of you tonight that Staff has provided will line up with this presentation. So, looking at accessory dwelling units, we did have a comment on line 18 and I also believe a Staff comment that corresponded. Just really quickly running through the ordinance highlights, I won't go through every detail, but just want to highlight that currently, the ordinance does say that where accessory dwellings are permitted by right, if the standards can't be met from Article VII, a special exception would be required, an accessory dwelling is only allowed as accessory to a single-family detached dwelling. An accessory dwelling could be within or attached to the house or it might be detached but from there, detached accessory dwellings are only allowed in agricultural districts. And finally, accessory dwelling should not be offered, leased, or rented for less than 30 days. Some comments on these particular provisions. We heard from residents that the proposed ordinance only allows attached ADUs in residential districts. We were hearing some concern that detached accessory dwellings might be appropriate in certain residential

districts, we were also hearing that accessory dwellings are restricted from being used as Airbnb's. And we also heard that the provision from the original ordinance that was removed, that allowed for two principal structures on agricultural and residential lots, that provision has been changed. And there was some concern that things that people could do now with accessory dwelling units, they might not be able to going forward. So, when we reviewed these comments, our recollection was that some of these provisions were added during the work session phase, they were discussed, and that's where we came to. However, we are perfectly happy to amend this if some newer thoughts are out there or some things that haven't been considered. So, I'll break here to get your thoughts on this.

0:24:34.4 Chairman, Richard Granger: Does anyone have any input upon this in regard to wanting to see it changed?

0:24:39.7 Cathy Binder: I just have some questions.

0:24:40.8 Chairman, Richard Granger: Sure, go ahead, Ms. Binder.

0:24:42.0 Cathy Binder: Thank you. So, on Section 732, in B, does that address like a tiny home? And why bring this up as if a person has an elderly family member that they want to put like a tiny home or something on their property?

0:25:00.0 Tori Haynes: A tiny home. So, an accessory dwelling unit, if it's constructed in a way that is considered a tiny home, that there might be some overlap there. From there, to my knowledge, the ordinance doesn't specifically define a tiny home. If someone were to use something of that nature as their principal dwelling, it would need to follow building code. If it follows building code and if it meets the zoning standards, it could presumably be someone's primary home and be tiny. But we haven't pulled out special restrictions on tiny homes, and if in ADU, by nature, they might be tiny, but it's not intended to overlap those concepts.

0:25:37.7 Cathy Binder: But also, with that, in reading this over, and help me out, we've been reading so many different items in the last two months, I want to make sure that families that need to take in a family member are not excluded. So, you had to take in your family member who is ill, I want to make sure our citizens can do that by building an addition. That's just me, colleagues could think differently, that's just for me.

0:26:07.3 Rebecca Cobb: There would be a couple of options under the ordinance, one in terms of accessory dwelling. We do have maximum size limits, but we don't have minimum size limits. So again, as Tori mentioned, if it meets building code and the other standards here, then yes, they could do an accessory dwelling. There is another option that is required through state code, that is a temporary family dwelling, and I might not have the exact phrase or the name of that use, but it is in your ordinance that they can put up something temporary that does have size limits as well, and that could be up temporary until it's no longer needed and then gets removed off of the property. So that's also included in the ordinance.

0:27:00.2 Cathy Binder: But just as an accessory to, it's not really defined as a family member like if there was a hardship. I guess I'm not understanding exactly. Is that in here? So that's no? Or I'll just ask offline.

0:27:15.7 Rebecca Cobb: You're asking like if it's not a family member?

0:27:19.0 Cathy Binder: Yes, that's what I'm talking about. I'm saying you have Airbnb in here, so if

you wanted to put accessory dwelling to make extra money off of your property, that would be no, under the way it's currently written. Correct? But if you had a family member you needed to take in or wanted to take in, that could be?

0:27:42.6 Rebecca Cobb: No, it's the short-term rental that is the no, so you can't rent it out to someone who's just coming in a tourist capacity, but if it's a teacher or a law enforcement officer or someone who needs to rent a piece of property, you could do a long-time or a long-term rental of an accessory dwelling unit.

0:28:07.7 Cathy Binder: So, if a teacher came to King George and was looking to buy a home but needed some time to find a home, you could technically rent it to them? Now, is that restricted only in AG (agricultural) or could you do it in Hopyard? I know that's probably a small lot to do that but could you?

0:28:23.9 Rebecca Cobb: So, it would be determined by the district, I don't know what Hopyard is zoned. So, Staff is saying hopyard is R3, which at the top, you can see R3 does not allow accessory dwelling units, but R2, R1, A3, A2, A1 does allow.

0:28:50.1 Cathy Binder: That makes sense because then a higher density wouldn't have space for it. Thank you.

0:28:57.1 Vice Chairman, T.C. Collins: Okay. So, on that same number 18, if I had a shed in my backyard and I put water and sewer in it, I could put somebody out in the backyard if I'm in those districts?

0:29:13.4 Tori Haynes: It would need to be accessory to a principal house, so you need to have your primary dwelling established. And then in any district, it could be within like an attic apartment or maybe an attachment, maybe you've added on to the house, so it's now an L-shaped plan or something, so you can have attached or within in those districts, and then in agricultural districts, you can have the detached version. Now, accessory structures, say you have a house, an accessory dwelling unit, you get one, and then but you also have a shed, so the accessory structure is a separate consideration, but could you have an accessory dwelling unit as your primary unit? I guess it comes back to if it's being used as a primary dwelling, the size, as long as it meets building code is okay. But now could you put an accessory dwelling unit beside a store or beside something that's not a house? You might have an established principal structure, but if it's not a home, that would not be allowed as written.

0:30:15.5 Vice Chairman, T.C. Collins: So, are you saying accessory or accessory dwelling? Accessory building is not necessarily a dwelling.

0:30:29.4 Tori Haynes: Right. so you could have an accessory structure in addition to an accessory dwelling, but you cannot have two accessory dwellings.

0:30:36.8 Vice Chairman, T.C. Collins: So why would we want accessory dwelling in C1, C2 or industrial of any kind?

0:30:45.2 Tori Haynes: I don't believe that accessory dwellings. You could not have an accessory dwelling in R3, C1, C2, I1, or I.

0:30:52.2 Vice Chairman, T.C. Collins: You cannot.

0:30:55.2 Tori Haynes: But you could presumably have an accessory structure that is accessory maybe for storage, for those uses, but that would be separate and distinct from an accessory dwelling. But they are both considered types of accessories.

0:31:08.4 Vice Chairman, T.C. Collins: So, Fredericksburg is battling with this because they have a lot of accessory dwellings in the backyard from yesteryear, and I don't know if we want to restart with that problem. So, what I'm seeing is that literally I could turn a shed in my backyard into a, Ms. Binder calls a "tiny house," or whatever.

0:31:36.3 Tori Haynes: There are instances of conversion of existing, whether it's a garage or a shed. Presumably, from a zoning perspective, if it can meet zoning code and it can meet building code and it's permitted in the district, there could be a conversion. You would still be limited to one, so if you already had one, you couldn't convert your garage into a second one, you could presumably swap or rent, take one down, build one somewhere else on the same property, but those restrictions do remain of one accessory dwelling only to a house with additional accessory structures permitted as they meet the zoning standards.

0:32:18.0 Rebecca Cobb: And the accessory dwelling that is detached, like what you're talking about, converting some other building to an accessory dwelling, that is drafted, would only be allowed in agricultural districts? So that's one of the questions tonight. Is that appropriate? Do you only want to allow those detached accessory structures in the agricultural districts or should you also allow those detached accessory dwellings in the R1 and R2 district?

0:32:49.5 Vice Chairman, T.C. Collins: So, I'm trying to make clear what is the meaning of this? A dwelling is different than an accessory building, but you're calling it a "dwelling accessory." Are they one and the same or are they two different things?

0:33:02.7 Rebecca Cobb: It's an accessory dwelling, meaning that there is already a dwelling on the property. This is second.

0:33:11.1 Vice Chairman, T.C. Collins: And it's another dwelling place?

0:33:13.3 Rebecca Cobb: Yes.

0:33:14.5 Vice Chairman, T.C. Collins: It's not an accessory building. So, a shed is an accessory building.

0:33:22.7 Rebecca Cobb: Yes. And this is not titled "accessory building."

0:33:25.7 Vice Chairman, T.C. Collins: Okay. You went back and forth on that, well, I was trying to understand that. So do you all want to have an R1 and R2.

0:33:39.4 Chairman, Richard Granger: So, an R1 and R2, I believe it allows it to be an attached accessory dwelling, which means it'd have to be connected to the existing home, it would be an addition and it's not connected in the sense that you can walk through a hallway to get to it. It's like a duplex? I don't know, were you worried about having R1 or R2 having a detached.

0:34:07.0 Vice Chairman, T.C. Collins: I'm worried about having R1 and 2 unattached.

0:34:11.6 Chairman, Richard Granger: They do not. By the way, this is currently written. They do allow for attached accessory dwellings but not detached. Does that make sense, what I'm saying?

0:34:21.6 Vice Chairman, T.C. Collins: Mm-hmm.

0:34:22.1 Chairman, Richard Granger: Okay.

0:34:23.9 Cathy Binder: I want to ask a clarifying. I researched this a long time ago when I looked into maybe bringing my dad to live with us. You could have like a carport that attaches the two dwellings. Right? As long as there is a structure attaching the home to whatever it is. Is that correct? Like what's your definition of "attached," I guess? Does that make sense?

0:34:51.5 Joseph DaCorta: I think it has to be a conditioned space.

0:34:56.4 Cathy Binder: That's why I'm asking a clarifier because you could say something's attached by putting a porch in between it.

0:35:05.9 Vice Chairman, T.C. Collins: No. Ms. Binder, they allow that now, so let's say you want to have a garage apartment in your garage as long as it attaches to the house, it doesn't have to be conditioned. As long as it's attached to the house, that garage. To have that garage apartment up there above the garage.

0:35:29.3 Cathy Binder: Right. I just want to make sure it's clarified just so if somebody read it. They need to know what "attached" means even if it's somewhere in the glossary.

0:35:42.8 Rebecca Cobb: And that's what I was looking at right now, to see if we did define attached versus detached. And I don't think that we do, but we can add that to the glossary.

0:35:55.0 Cathy Binder: I just think it would be helpful because somebody might not know. You could come up with different ways of what attached means. But thank you.

0:36:01.9 Louis Pancotti: But would you want it to be attached as in a breezeway or what Mr. DaCorta was saying, more of a conditioned space?

0:36:12.3 Cathy Binder: I don't mind breezeway either because I've seen some nice ones that use a porch. The breezeway is a porch between. I don't want to be that restrictive, but that's my view.

0:36:26.1 Chairman, Richard Granger: So that'd be allowed in residential? That's fine.

0:36:27.5 Denise Flatley: So, my feeling is a lot of people are looking for supplemental incomes. I mean times are hard, and to prohibit people from doing something in their own home, I think we need to respect the fact that these circumstances happen where people are coming back to live with their parents or they're bringing their parents' home. A lot of these subdivisions have their own HOAs, and so I think the most limiting governance from the County. So that people who actually live in the neighborhood can determine what's best for them. And for a lot of the cases of what we're looking at, I think HOAs cover people that live in close proximity to each other, and the people who don't live in close proximity to each other might not need these types of ordinances.

0:37:21.9 Vice Chairman, T.C. Collins: Well, HOAs can't take care of themselves, believe me. Ever been in one? They're a disaster.

0:37:29.2 Denise Flatley: But it also takes the responsibility off of us to hold people accountable. The HOAs can hold people accountable.

0:37:39.7 Vice Chairman, T.C. Collins: Yes, ma'am, what I've seen of most HOAs, the covenants aren't clear enough for those type of restrictions or any type of restrictions, there's a lot of gray area in there that causes a lot of problems between neighbors. So, I could tell you that if I decided to put a shed out back in my house, under this, I could, and it would be an uproar, and there's nothing that in the covenant would stop me. So, I think from a county base, it needs to be clear what people can do, no matter whether they're in an HOA or not in an HOA.

0:38:23.7 Chairman, Richard Granger: Mr. Devries, did you have something?

0:38:26.9 Ross Devries: Yes, I think I don't think we want to defer these decisions to HOAs for a variety of reasons. I did also want to bring up that I think we also owe an obligation to people's expectations who already live in R1 and R2. I mean they've been occupying these homes with a certain expectation of a certain density, and I think adding a lot of accessory dwellings into R1 and R2 could be counter to those expectations. I don't think we should have it in any R district. Attached I can see but detached, absolutely not.

0:39:15.7 Chairman, Richard Granger: Okay. So, then I guess I'll just circle back for definition of "attached." What is the consensus amongst the Board? And I'll certainly let the Planning Commission provide their input, but again, as this is not an official Planning Commission meeting, can't vote. But how do you guys feel? We'll start with Mr. Devries. So, you said you're okay if it's attached, conditioned or unconditioned. Why is that?

0:39:44.7 Ross Devries: Are we talking about structure?

0:39:46.4 Chairman, Richard Granger: Correct. For the residential accessory dwelling attached.

0:39:49.9 Ross Devries: Attached I think should have something to do with the foundation, some connected foundation, it could be described as conditioned, air-conditioned, or attached adjacent foundation.

0:40:01.8 Chairman, Richard Granger: Okay. Mr. DaCorta.

0:40:04.8 Joseph DaCorta: I support allowing R1, R2 attached for the reasons stated. I think the septic naturally has to be accommodating the increased number of bedrooms.

0:40:19.8 Chairman, Richard Granger: So conditioned, like similar to how Mr. Devries said?

0:40:23.0 Joseph DaCorta: Yes.

0:40:23.3 Chairman, Richard Granger: Okay. Ms. Flatley.

0:40:25.2 Denise Flatley: I guess my only question would be if you have detached garage, but then the dwelling is in the garage, is that attached or detached?

0:40:34.6 Chairman, Richard Granger: If it's detached garage, then I would imagine that would be considered detached because that has a detached structure, so it's a detached accessory building at

that point. So yes, if you had a single-family home in residential with a detached garage, then you would not be able to turn the garage or a portion of it into an apartment based off the way the ordinance is written unless you attached it.

0:40:56.4 Denise Flatley: Okay. And then so are we defining what "attached" means?

0:41:00.6 Chairman, Richard Granger: That's what we're trying to get to. Both Mr. Devries and Mr. DaCorta were saying that having a shared foundation or a conditioned space, adjacent essentially, so not like a breezeway or like a shared porch, but an actual like connection at the foundation.

0:41:16.7 Denise Flatley: I would say enclosed.

0:41:17.9 Chairman, Richard Granger: Okay. Enclosed.

0:41:19.2 Denise Flatley: Because that means roof, walls, floor.

0:41:21.7 Chairman, Richard Granger: Okay. Thank you.

0:41:23.9 Joseph DaCorta: Is making it a special exception an option for that particular circumstance?

0:41:29.9 Chairman, Richard Granger: I believe there are. It does say, "A special exception will be required if the provided standards in this Section cannot be met." So, I believe, and please correct me if I'm wrong, that it would be allowed for residential for them to bring forth a special exception and ask for it, a situation that might not fit the ordinance exactly, and maybe a detached. Is that a correct sentence to say? Okay, thank you. Ms. Binder?

0:41:52.3 Cathy Binder: I would say it could be a porch or breezeway, especially with folks taking in their family members that might need it. So, I'm against the conditioned space part of that.

0:42:02.6 Chairman, Richard Granger: Okay. Mr. Collins?

0:42:04.3 Vice Chairman, T.C. Collins: I'm for the attached. I don't think it needs to be conditioned or otherwise, just needs to be attached.

0:42:11.3 Chairman, Richard Granger: Like a breezeway.

0:42:12.5 Vice Chairman, T.C. Collins: Breezeway. Something like that.

0:42:14.1 Chairman, Richard Granger: Okay. I am actually for connected and not just a breezeway, but being a little more substantial from a residential perspective, so that's my stance more along what the Planning Commission is saying, but I'll ask Ms. Cupka?

0:42:31.6 Ann Cupka: I actually would like to know Staff's opinion on this.

0:42:40.1 Louis Pancotti: So how we would currently enforce something like attached would be a shared wall or a conditioned space or hallway. My concern with allowing it by a breezeway, you would end up with essentially two complete separate dwellings that have the appearance of two complete separate dwellings just attached by a roof. So, if that is the way that you want to go, I would think that maybe limiting the size of or the length of the breezeway or connection could be something to

consider.

0:43:17.2 Ann Cupka: Okay. If we're talking about residential zoning, R1, R2, yes, attached. I can see both arguments, conditioned versus nonconditioned, but I like your suggestion of limiting the size if it's nonconditioned. Thank you.

0:43:53.4 Chairman, Richard Granger: Mr. Stonehill.

0:44:00.4 Jeffrey Stonehill: I would be in favor there. It's going to still be the 5 acre lots. Correct?

0:44:04.4 Chairman, Richard Granger: No, no, this is residential. This would be the accessory dwelling for residential R1, R2.

0:44:20.7 Jeffrey Stonehill: I would be in favor of attached. I would be okay with a breezeway but maybe with a concrete foundation, or it would be attached. And you're only going to go so far with a concrete walkway due to the cost of it, you're not going to put it all the way on the back piece of your property and have it connected. But if you have a solid foundation with concrete, with a breezeway over it, I've seen a number of houses that already have that, and it looks very nice. And it cuts down on their costs as well. But if it is connected with the concrete, I think that makes it a lot more substantial, so.

0:45:03.9 Chairman, Richard Granger: So, both Mr. Stonehill and I, I think we're on Board with more of a foundational attachment. I believe Mr. Collins and Ms. Binder were not in favor of that, where it would necessarily require a foundation connection. Is that correct? I don't want to put words in your mouth.

0:45:16.9 Cathy Binder: I would like to know what the definition of a foundation is. I know that's getting into the woods, but I'm envisioning, would it be concrete? You could have a porch or a breezeway that would connect the structures that they could share to use. And I do not mind Ms. Cupka's suggestion of limiting the size of the accessory dwelling with that. Yes, I don't mind that at all, I think that's a good compromise.

0:45:51.0 Chairman, Richard Granger: Do you have a suggestion for distance?

0:45:53.7 Cathy Binder: I would ask our Staff what's a good distance.

0:45:57.1 Chairman, Richard Granger: Mr. Collins had a point. I'll let you think about that for a minute. Okay, Mr. Collins.

0:46:04.2 Vice Chairman, T.C. Collins: So, attached, could you not have 6 x 6s and then the roof attach to the building with the door and door, and then pavers, would that not be attached? Then why does it have to be concrete?

0:46:22.8 Chairman, Richard Granger: My thinking was that then at some point you could pretty easily just remove that connection and then you essentially have two distinct buildings. And that was really the perspective I was thinking in having them actually be attached a little more substantially. That was my thinking. Yes. But you're welcome to disagree. And however, the Board votes, that's fine.

0:46:51.2 Vice Chairman, T.C. Collins: So as far as your length, Ms. Cupka, I'm fine with that. I'll just throw a number to start. No more than 25 feet.

0:46:58.2 Chairman, Richard Granger: Mr. Pancotti, What do you think?

0:47:08.4 Louis Pancotti: In the residential district, is that it still has that appearance of a single-family dwelling, that we're not now just putting two homes on two lots. So, I think having them closer together would be ideal, I was thinking somewhere around 10 or 12 feet.

0:47:25.3 Chairman, Richard Granger: All right. I will ask my colleagues. Would you be amenable to going with the Staff recommendation of 10 to 12 feet if it's an attached accessory dwelling in a residential?

0:47:42.0 Vice Chairman, T.C. Collins: Ten feet's pretty small.

0:47:43.4 Chairman, Richard Granger: It is.

0:47:44.2 Cathy Binder: I would say compromise 15 or 20.

0:47:48.6 Jeffrey Stonehill: I'd be good with 15, and I mean I don't really go with the conditioned aspect of it if it's, I would be good with a breezeway.

0:48:01.0 Chairman, Richard Granger: Fifteen? I'm amenable to the 15 then, so we'll go that route. And we will try to move on to item two.

0:48:08.9 Vice Chairman, T.C. Collins: Well, Mr. Granger, 15 feet.

0:48:09.6 Chairman, Richard Granger: Oh, I'm sorry.

0:48:09.7 Ross Devries: Can I jump in before we do that?

0:48:12.9 Chairman, Richard Granger: Okay.

0:48:13.9 Ross Devries: A question just occurred to me, how do A1, A2 cluster provisions apply to this?

0:48:24.8 Rebecca Cobb: If it's A1, A2, it would still be by right, but then there's going to be associated setbacks and those types of things, and so my guess would probably be, in a cluster situation, it's going to be difficult. If it's true, small-area cluster meant, then it's going to be hard to accommodate a detached accessory, but if they could, then they could, it would be permitted.

0:48:56.2 Ross Devries: It would be permitted to have a detached on, say, an acre lot in a cluster. A lot that was developed under the cluster provisions.

0:49:05.9 Rebecca Cobb: If it's zoned A1, A2 yes.

0:49:08.6 Ross Devries: I think that might be trouble. I think we might have to get to some square footage limitations in a case like that.

0:49:19.9 Tori Haynes: There is a 5-acre minimum in A1 and A2.

0:49:24.3 Ross Devries: I'm talking about cluster provisions.

0:49:26.1 Tori Haynes: Yes, so if a cluster is in A1 or A2 and it can't meet the 5-acre minimum, that is, I think it's 732 that would apply to clusters. Presumably clusters probably can't meet that 5-acre minimum.

0:49:48.9 Louis Pancotti: And that would apply to attached as well. Correct?

0:49:54.8 Tori Haynes: Yes. Correct. Yes.

0:49:56.3 Rebecca Cobb: Are we ready to move to the next topic?

0:50:03.1 Chairman, Richard Granger: Yes. Oh, I'm sorry, Mr. Collins.

0:50:05.7 Vice Chairman, T.C. Collins: So, we haven't been cleared up on the nonattached. Is that going to be allowed?

0:50:12.5 Chairman, Richard Granger: In ordinance, the way it's written, it would be allowed by right for A1, A2.

0:50:17.4 Tori Haynes: Detached would be allowed in all three agricultural districts, that's detached, attached is allowed in all five of the districts that are shown up there on the left. Right now, you could get a special exception in the residential districts if your ADU doesn't meet the standards, except there is a specific clause that was added during the work session phase prohibiting detached in the residential districts. If we remove that provision, it puts it back to saying presumably a detached structure, number one, would be allowed. We could clarify that further, that says "detached by special exception only in residential districts," so there's different ways we could approach it, but it would involve editing that provision.

0:51:06.3 Vice Chairman, T.C. Collins: Well, I think it needs to be clear so when people decide they want to do that, they can see black and white whether they can or can't. And at this point, I'm not sure people would see if they could or couldn't clearly.

0:51:24.4 Chairman, Richard Granger: So, it's allowed. Detach is allowed in agricultural, and that means that it has to have the 5 acres per lot, so. I don't know, I'm not seeing it.

0:51:33.0 Ann Cupka: So, on page 7-13 732, Section B, general limitations, it states "detached accessory dwellings shall only be permitted in agricultural districts."

0:51:48.7 Tori Haynes: Correct.

0:51:49.0 Ann Cupka: Doesn't that address that then?

0:51:52.0 Tori Haynes: So, if we leave that in, it draws a clear line that says, "attached in all agricultural districts in R1 and R2," if we remove that, then they would all be treated the same. Or we could further clarify that we could permit the detached accessory dwellings in the R districts but with a special exception only. As of right now, there is a special exception clause, but that was negated in the R districts when B22 was added. So, if you look, 713 at the top, B22, that very clearly says that detached is not allowed in R1. If there is an appetite to allow detached in R1, those are the ways we could do it, we could strip that clause altogether, it would all be treated the same, or we could say detached is allowed. Maybe attached is by right but detached is special exception in your R districts.

0:52:57.3 Ann Cupka: So, I thought we had consensus that we were looking at only detached in the A districts, not the R districts.

0:53:07.6 Tori Haynes: Okay. We just wanted to make sure that that's actually where we landed.

0:53:12.3 Jeffrey Stonehill: But we have done that for hardship special exceptions to have a second dwelling in a residential area for a family member, so we hadn't had that in a special exception.

0:53:31.2 Tori Haynes: Except as written, "The detached would not be eligible for special exception in R districts."

0:53:35.6 Chairman, Richard Granger: It was. Correct?

0:53:42.1 Tori Haynes: I'm not familiar with what it's at in the current ordinance, Staff might be able to.

0:53:46.9 Ann Cupka: So, is that not addressed in Section 737, family health care structure temporary? Is that the thing? Because yes, we did do one of those a couple years ago.

0:54:02.5 Louis Pancotti: So, the current ordinance does allow a manufactured home by special exception for an immediate family member for reasons of hardship in the agricultural districts, not the residential districts. And correct me if I'm wrong, but I believe that manufactured home that is currently allowed is not a health care or a family health care unit, that's a very specific use and has a specific definition in regard to size, how many people can occupy it and that sort of thing.

0:54:39.2 Cathy Binder: Mr. Granger, since they brought that up, I have concerns about that. You were talking about size, and I brought up tiny home earlier, I'm thinking, because there's some really tiny homes that do quite well for maybe two elderly family members. So, is restricting it to one person too, a limit? Because I would have concerns like that because what if you brought both of your parents to live with you or maybe you have a disabled child, and they brought their wife. You know what I mean? Like an adult. That is my concern.

0:55:11.4 Rebecca Cobb: The temporary family dwelling is very specifically defined by state code, so in terms of that particular use, you can't change that definition and those standards around that in terms of size and how long it's occupied and by whom and that sort of thing. In terms of accessory dwelling, there is not a minimum size or who can be in the accessory dwelling or anything like that.

0:55:38.2 Cathy Binder: An accessory dwelling does not have to be removed. Correct? You could keep it on your house. Okay, thank you.

0:55:48.9 Vice Chairman, T.C. Collins: I think that's going to be problematic.

0:55:53.0 Chairman, Richard Granger: Letting it stay?

0:55:56.1 Vice Chairman, T.C. Collins: So, the nonattached accessory dwelling, so you have it under a special exception, it should be actually clearer so somebody don't have to come in to get a special exception to do that, they should know whether they can or cannot.

0:56:14.2 Chairman, Richard Granger: So, for detached, you're saying? That is allowed in agricultural, it's not by special exception, it's allowed. That correct?

0:56:24.3 Rebecca Cobb: Yes, so B22, I think hopefully clearly says "detached accessory dwelling shall only be permitted in ag districts," so meaning it is permitted, you can do it in ag districts.

0:56:36.6 Chairman, Richard Granger: Okay. That's correct then.

0:56:39.3 Louis Pancotti: No, but if they meet those requirements, that is a permitted use by right, they will only need a special exception if they don't meet any of those standards, such as the 5-acre minimum lot size.

0:56:52.1 Chairman, Richard Granger: Which is defined in D, 732D.

0:56:56.6 Louis Pancotti: Yes.

0:56:57.8 Chairman, Richard Granger: Okay. Thank you. Are we ready to move on? Okay, let's move on.

0:57:06.9 Tori Haynes: All right. Next. Let me get oriented here. This is a public comment about recreation facilities noncommercial. Right now, recreation facilities, noncommercial, those are things like parks, trails, which is pertinent to this particular comment, and you can see that there is special exception across the board in those districts where they're allowed, which is basically all of them except commercial and industrial. The comment was that they should also be allowed by special exception in commercial so that if something like a rail-to-trail would come in, which fits the definition of a "recreation facility noncommercial." If those types of more lengthy, meandering facilities were to cross a commercial district, to add that in so that it wouldn't geographically break up certain projects that are recreational. Berkley Group, in addition to that and with that context in mind, we think it could be appropriate, if you all agree, that through special exception, not by right, we could extend that not just to commercial but industrial districts so that there is some flexibility if there are spanning trail projects and other things for recreation and tourism.

0:58:27.1 Vice Chairman, T.C. Collins: What Section are we speaking of?

0:58:29.7 Cathy Binder: And what page?

0:58:29.9 Tori Haynes: Oh, this is line 19 in the comment tracker. And I don't believe there is a use standards for this use, but there is the definition in Article 11, which is displayed on the screen.

0:58:47.1 Cathy Binder: How about for the page in the big booklet. Do you have a page number it's on?

0:58:51.8 Tori Haynes: I can find one. I did have it bookmarked. The definition is on page 11-32 in Article XI. And we're looking at the definition of recreation facility, noncommercial. And then accompanying that, the use matrix, which is that teal color, represents what you would also see in Article VI.

0:59:29.6 Rebecca Cobb: And I believe the use matrix page would be 6-4, but both of those things are up on the screen, and so hopefully you can see at the top, we've got this particular use is special exception in A1, A2, A3, R1, R2, R3, and then RC and MU. And so, what we are essentially saying is you could potentially make it special exception in every district because it tends to go with rails-to-trails projects, and those tend to be near commercial, industrial, and those types of things. And then the definition is also on the screen.

1:00:13.3 Chairman, Richard Granger: Okay. I'm checking, I'm in favor of the adding as by special exception, so any questions?

1:00:20.2 Rebecca Cobb: I see lots of head nods.

1:00:23.1 Chairman, Richard Granger: Sorry, say it again.

1:00:24.1 Rebecca Cobb: I see lots of head nods, it looks like we have consensus.

1:00:25.0 Chairman, Richard Granger: Yes, yes, ma'am, thank you.

1:00:40.5 Tori Haynes: Okay. We'll move on to home occupations. This topic covers two slides, so I'll run through some of these highlights. Just as a reminder, so our class A home occupations stipulate accessory uses of a dwelling unit for gainful employment involving the provision of goods and services, which only generates one additional employee other than family members residing there already and such occupations may require the use of accessory structures. Class A, the lowest intensity, and that is by right in all of our ag and residential districts, as well as C2 and MU. Class B is accessories of a dwelling unit for gainful employment involving the provisions of good or services which generates not more than two employees other than family members. And then Class C or excuse me, and I'll go back. Right now, we have that proposed as a special exception in your agricultural and residential districts by right and commercial and by right and mixed use. For class C, we have that by right in A1 only, and that's for home businesses that don't meet the criteria of class A or B, it may need larger equipment, supplies, or heavy machinery. So that is by right, but relegated to just A1 and A2. From there we do have for class C, you can see the screenshot of the standards there. So, we have some lot size requirements, some considerations for intensity, and that goes with certain minimum requirements for those class C home occupations. Excuse me. So, the comments we got on this cover a few different topics. The first one is that some home-based occupations occur on an adjacent lot, so if a homeowner owns the lot next door for whatever reason, maybe they work in their house, maybe some other building is on the other lot, so the comment is to allow adjacent parcels to be used for the home occupation and have that worked into the application process, if they can meet the use standards. We then have a comment on class B noting those special exception provisions in ag and residential, but then noting that the more intense class C is by right at least in AG, so there was a suggestion to add class B as by right, and those comments suggested the intensity would be appropriate for by right in those districts. And then a question on clarification on the employees', customers' vehicles per day. Just having some more details on some of those definitions added to the ordinance. Berkley Group, we're recommending for class C intent to go ahead and allow the use of an adjacent parcel under the same ownership as the primary dwelling. If you all are amenable to that, that could be a reasonable change. We also recommend revising table 401 to make home occupations class B a permitted by right in A1 and A2. We are also recommending going ahead and keeping it special exception in the other districts listed. And then we can also add that clarification about the employees per day, customers' vehicles, so we can get those details recorded tonight and incorporate that in.

1:04:24.1 Chairman, Richard Granger: So, the last recommendation for revising 7-3-10(A) to allow use for an adjacent parcel under the same ownership as the primary dwelling, the adjacent parcel, what could that be zoned?

1:04:40.7 Rebecca Cobb: We could draft that to say that it has to be zoned the same or comply obviously with the use matrix.

1:04:51.3 Chairman, Richard Granger: Okay. I would like to see something along those lines if we go with that recommendation to allow it an adjacent lot because if it is zoned differently, that that could make some weird situations if it gets sold off at a later date, but I'll leave it to my colleagues to weigh in. Because you're not forced to keep both lots, you could separate them and then you'd have this home where there's a dwelling on there.

1:05:17.4 Denise Flatley: I just have a question about what is gainful employment? Is this ordinance supposed to govern people giving piano lessons, people doing Etsy businesses? Does the business have to have a business address at the residence or is it someone who is working at the residence full time, even if their employment address is somewhere else? So, I'm trying to understand exactly who this is going to apply to.

1:06:07.5 Rebecca Cobb: So, in terms of the definitions, the class A is intended to be an actual business, not necessarily someone who like us just works from home every day and we work from somewhere else and we're not creating income through our own business, if that makes sense. It would be someone who maybe has an Etsy business and has light truck traffic for deliveries or things like that. And then your class B gets a little more intense and you might cut hair and so you have customers come to your property, or you have an employee, you're running a tax business or something like that and you have someone assisting you. And then class C is even larger than that, and that was during our discussions meant to be like a landscaping business because A and B are pretty tight in terms of not being very outwardly visible. But if you have a landscape business, you're going to have equipment and supplies and things like that that need to be stored, and so the class C accommodates those things.

1:07:21.9 Denise Flatley: I'm sorry, the part I was asking more was the definition of gainful employment. So, if someone is doing part-time piano lessons twice a week, I mean are we saying they can't have any more than two customers at a time? So, mom can't bring two kids to piano lessons? So, I guess I'm just trying to say, "gainful employment," is that a matter of money or is that a matter of time spent being employed at the home or is that solely based on how much traffic that employment is going to generate? So really, gainful employment is the definition that I'm not sure I understand.

1:08:03.5 Joseph DaCorta: If I recall, the ordinance that was licensed businesses was a divider, I support these changes.

1:08:19.0 Cathy Binder: So, this goes to C and A or B. Well, the first one I want to ask is, what if someone owned a duplex and they wanted a beauty shop in one part of it? Is that allowed under one of these?

1:08:33.5 Rebecca Cobb: Yes. I mean, if they fit in terms of employees and those types of things, yes. If it is split, if it's a dwelling that is across two pieces of property, then they would not be as currently drafted. And so that's why that first question is, do you want to allow in some instances for it to be on a separate piece of property?

1:09:03.0 Cathy Binder: Okay. And with that, I know there's quite a few folks, especially younger folks that would like to do personal training out of a shed garage. And for personal training, you don't need a lot of space. So, would that be allowed in this if someone wanted to build an accessory dwelling like a barn, to do personal training?

1:09:23.3 Tori Haynes: I believe as written, accessory structures could be used as part of the home

occupation, yes.

1:09:28.8 Cathy Binder: All right. Yes, that's dwelling, but structure. So that would be allowed under these?

1:09:31.8 Tori Haynes: As currently drafted, that is already allowed. Yes, if you have a shop in your backyard or a yoga studio that you've created out of a shed, it's not a dwelling, but it might be something that could be used for an office or anything like that, that is currently allowed.

1:09:47.4 Cathy Binder: And going with the piano lesson analogy, you could have more than one. Like say a parent brought their two kids to do CrossFit. You know what I mean? They could do that.

1:09:55.6 Tori Haynes: Yes, I think the idea is, it's more about controlling commercial level of traffic in a residential district, so we wouldn't want three customers representing three car trips. So maybe more of three contracts, three separate services, but presumably, yes, if a husband and wife came, they might be a combined customer unit, but they're only generating that one unit of car traffic.

1:10:21.0 Cathy Binder: One car trip.

1:10:23.0 Tori Haynes: And generally, all the other provisions that are already in there also help support the concept of making sure that it's quiet, that it doesn't have this commercial look in a residential neighborhood, and things like that, but certainly, if someone has a licensed home business has gone through the Commissioner, is set up properly, and they just happen to work at home, then yes, if a mom is bringing her kids to the piano lesson, that would be okay. It's more about, we don't want her doing a piano class of 20 students generating 20 cars.

1:10:56.8 Cathy Binder: Okay. Right, thank you.

1:11:00.0 Denise Flatley: So, I looked at some other ordinances, and you used Westmoreland as your example, I found them to be the most restrictive of any of the other ones that I read. I will say I like Loudoun County basically says, "No equipment or process shall create noise, vibration, glare, fumes, basically. It's not going to interfere with anything. And then no traffic shall be generated by homes, such occupation in greater volumes that would normally be expected. Any need for parking shall be met by off-street parking." So, I just think that the square footage and the number of trips or the number of people, it's hard for us to obviously, it could be complaint-based, and then we're not going to sit outside somebody's house and see how many people arrive. We're definitely not going to go into somebody's house and measure their square footage. And so, I think more generalized restrictions. And I know that you guys all went over this last year, and I wasn't available at that time to have input, but I think that the specifics here are very hard to hold people accountable for.

1:12:14.0 Chairman, Richard Granger: So, us Board, what do you guys feel? I'm amenable to the changes as requested. Like I said, I was just concerned about the adjacent lot, making sure that the adjacent lot was zoned in such a way that would make sense. Mr. Stonehill said yes.

1:12:32.2 Ann Cupka: Can I ask a question that hasn't come up yet?

1:12:32.5 Chairman, Richard Granger: Sure.

1:12:32.8 Ann Cupka: So how did we arrive at, I think it's restricted the hours, 8:00 AM to 8:00 PM, Monday through Saturday, in A, B and C, if I've read that correctly. So, no Sundays?

1:13:01.2 Rebecca Cobb: And that is just to limit it so that it's not every single day of the week. You could choose whatever day you want that to be, and we could maybe word it that way so, you could choose based on your business what benefits you in terms of traffic. So, we could say "any six days a week" or something like that.

1:13:25.1 Ann Cupka: Where I'm coming from is, and maybe you can help me with this. If I have a cut flower farm, does that come under a home occupation under like C with the machinery and heavy equipment? I know there's also an agritourism Section and there's also a section for roadside farm stand. Did I get that right? I just want to make sure if we have people with that kind of agritourism business, they are allowed to have people come to cut flowers, pick pumpkins, or whatever they want to do on a Sunday if that's the only day that they can come do that.

1:14:06.0 Rebecca Cobb: And so, you're exactly right, that type of use would fall under the agritourism, and the standards related to agritourism. And I do not think that we have that standard in terms of days for that use.

1:14:15.6 Ann Cupka: Okay. Like I said, I don't want the home occupation permit rules to be used against someone doing something like that. Okay, thank you.

1:14:26.0 Chairman, Richard Granger: So, I'm sorry, then were you in favor or how do you feel about the recommended.

1:14:30.5 Vice Chairman, T.C. Collins: Still have more discussion.

1:14:32.5 Chairman, Richard Granger: Okay. I'm just trying to get it.

1:14:35.1 Denise Flatley: Go ahead Mr. Collins.

1:14:37.1 Vice Chairman, T.C. Collins: So, Ms. Flaherty? Flaherty? How do you say that?

1:14:41.8 Denise Flatley: Flatley.

1:14:42.9 Vice Chairman, T.C. Collins: Flatley, I still haven't got an answer to your question about the piano lessons. So, to rephrase it, if it was violin lessons, how many people could be there and how many people could drop off? Is that gainful employment, and what does make gainful employment? So, I'm trying to understand what's prohibited and what's acceptable.

1:15:07.7 Tori Haynes: I believe the business license aspect that. To be considered and eligible for a true home occupation, the business license would really close that gap of what is considered gainfully employed.

1:15:21.4 Vice Chairman, T.C. Collins: Thank you.

1:15:22.2 Tori Haynes: So, if they have the business license. And then from there, depending on the class, if they have an employee, if that's a personal assistant or a co-accountant or a co-owner of their business or just a kid that helps after school, they can have certain levels of employees up to and including whatever is in the ordinance. Now, if they want to work from home but they can't meet these employee standards, these trip standards, the idea would be that's okay in the sense that I think that's a trigger for you to go find a commercial space. So, we do know that there are home businesses

that are probably going to come right up to these limits and they're not necessarily going to meet them, or they may have to structure their business in such a way that they stay under these limits. But those limits are intentional to make sure that we're very much defining, if you are getting more intense than what we've set out, it probably means that what you should do is take your business to a commercial area. So again, if you're a piano teacher and you're bringing in a student at a time every half hour, that's okay, it's one car at a time. And they leave and the traffic is relatively low. It's at a scale that is typical of a residential neighborhood that might have visitors coming and going occasionally. But again, if that piano teacher wants to have a masterclass with 20 students all at the same time, that's not going to fly, that's going to be too many trips especially at once. And again, there may be, depending on the class or whatever else is spelled out in the ordinance, it would have to stay under that in terms of how many trips overall. And again, part of that is if we need to better define how many trips, not just at once but overall, we want to make sure they're coming one at a time. But maybe we don't want the possibility of there to be 50 individual trips for whatever reason, we could go back in and depending on what class you want to edit there, we can continue to clarify that if there's discomfort with how many trips is allowed currently.

1:17:16.9 Denise Flatley: So, what I'm basically saying is, you're only allowing two customers at a time, which means a mother and two children couldn't all arrive and leave.

1:17:24.9 Tori Haynes: Again, I think the intent is to cover car traffic, so if a mother has a child getting their piano lesson, their little sister is there, and then at most, and then maybe there's some overlap because the next student comes, there's a little bit of overlap in the exit and the entering.

1:17:44.6 Denise Flatley: I'm sorry.

1:17:46.8 Rebecca Cobb: I think I have the solution, if I may?

1:17:46.9 Denise Flatley: But also, the other point was like, a lot of people do these home businesses where they sell Tupperware because nobody does that anymore. But you're saying that somebody can't have 15 people over for a Tupperware party. I mean I just feel like the number of people and the number of customers in a day being five, I don't understand why we would say "only five customers in a day." and what if you're doing Etsy? Well, obviously you're not saying, "they can only have five customers in a day." So, you need to say, "number of trips" or "amount of traffic," not "customers."

1:18:20.0 Rebecca Cobb: And so that's what I was going to say, my solution there, instead of saying "customers," we could say "customer vehicle trips" so that it's understood, if you've got three kids in your car and they're all coming for piano lessons together, then that is okay, that doesn't mean that you're over the two at a time limit, it's focused on the vehicles.

1:18:45.1 Cathy Binder: The only thing I want to add is I like the idea of doing these six days, not having Monday through Saturday, so somebody could choose like maybe Sunday is a better day for whatever their occupation is, they get more traffic that day, to do the six days as opposed to Any six days.

1:19:00.8 Joseph DaCorta: I want to second that, six days a week, voice choice.

1:19:04.8 Vice Chairman, T.C. Collins: Well, I'm still a fan of not having Sundays, but I'm sure a minority on that one.

1:19:16.5 Ann Cupka: So, I'm agreeing in agreement to move forward with recommendations, but I

also agree that we shouldn't limit someone's ability to conduct business on Sunday if that's something they want to do or need to do.

1:19:36.3 Vice Chairman, T.C. Collins: Ms. Cupka, my only thing is, if you're my neighbor and you're conducting business on Sunday, then you are interfering with my peaceful coexistence, and that is the Lord's Day.

1:19:53.2 Ann Cupka: Right. But that's your day of rest, that's your choice and you can still honor that, I just think we should allow people to conduct business on the days that they choose to.

1:20:10.4 Vice Chairman, T.C. Collins: Okay. Good lord, but why can you choose to infringe upon me? I might not be available on Wednesdays, but that's one of the days that would be prohibited. You see what I'm saying? No?

1:20:33.7 Ann Cupka: Because you have the right to exercise your religion just like people who choose not to exercise a religion have the right to do that as well.

1:20:49.2 Joseph DaCorta: And in recognition of other faith groups.

1:20:52.7 Vice Chairman, T.C. Collins: What?

1:20:53.3 Joseph DaCorta: And in recognition of other faith groups. However, the intent of the ordinance, I believe, is to restrict total traffic burden, not restricted on particular days.

1:21:09.2 Jeffrey Stonehill: I've been in favor with that, but I would give him six days of their choosing.

1:21:14.3 Chairman, Richard Granger: Agreed.

1:21:14.7 Jeffrey Stonehill: I will leave it at that.

1:21:16.4 Chairman, Richard Granger: Okay. Thank you.

1:21:20.9 Vice Chairman, T.C. Collins: So, did you ever finish up with the piano lessons?

1:21:25.7 Chairman, Richard Granger: Yes, I think we got that done.

1:21:28.3 Vice Chairman, T.C. Collins: Are you clear? Do you understand what they're talking about?

1:21:33.7 Denise Flatley: I understand that it would be prohibitive the way it's written now, it's not written as "trips now."

1:21:41.5 Chairman, Richard Granger: But they were taking notes to change it to "trips" as opposed to based off the feedback.

1:21:45.6 Rebecca Cobb: So, I'll summarize so that everyone knows what we've got. I've got that we are clarifying the adjacent lot should be zoned the same as the owner with the principal dwelling. Monday through Saturday would be changed to six days a week. And then amending the customer visits or trips to customer vehicle trips. And then I think there was agreement for the other recommendations that we proposed.

1:22:22.4 Chairman, Richard Granger: So, vehicle trips were the key there. So, if you were in a neighborhood and someone were to walk to your home, that would not be a vehicle trip. Just, I guess to try to clarify some of these things.

1:22:34.8 Denise Flatley: My whole point was not to come up with a different number, or it was basically to lay out that it shouldn't result in increased traffic flow that encumbers the neighborhood. I understand that. And you have other counties that write it that way. When you get into a number, a number is enforceable and nobody's going to sit there and count. And so, what you have is, the neighborhood gets mad, sits there and counts, creates problems for enforcement. And so, I also feel like somebody wants to have 15 people at their home. We do it all the time for birthday parties, anniversaries, graduations, and so I'm just not.

1:23:17.1 Chairman, Richard Granger: So, you're saying you want to remove the vehicle trips completely?

1:23:20.1 Denise Flatley: I just feel like we shouldn't be prohibiting it and if we don't have a lot of problems in this County with people having Tupperware parties, why are we restricting it? I mean, is it a problem that we have.

1:23:31.6 Chairman, Richard Granger: I will ask my colleagues. Any interest in removing that portion of vehicle trips?

1:23:39.0 Vice Chairman, T.C. Collins: So, the home-based business should be in regard to what you were talking about earlier as a license, so everything else should not fit into that category.

1:23:53.4 Chairman, Richard Granger: You're correct. So, I think that's what Mrs. Flatley is saying. There is like you have birthday parties, you have other kinds of gatherings and they do not fall under this, and they would be over that vehicle trip, and they would have an impact. And so, I think her point is why would you target the business for this situation? And the only thing I would say personally would be, you have birthday parties or parties, but you're not having them six days a week, most people are not, whereas this business would be having it regularly, recurring, so.

1:24:23.5 Denise Flatley: And that's why I asked about gainful employment. I mean if somebody's doing a Tupperware party twice a month and so, this is just a really complex ordinance is what I'm saying, and it probably doesn't need to be as complex as it is.

1:24:43.7 Joseph DaCorta: I see your point of view, but I think the business license, most Tupperware events like that are not licensed businesses by the County. I mean, I suppose they could be. Or you're run out of your home, I think the concern, as Supervisor Granger said, was that you don't want to have an activity of 20 people coming, 20 car trips or 20 people or 40 people coming six days a week to your property up. I don't know how to address that in a language, but I think that's a restriction people are concerned about.

1:25:23.8 Jeffrey Stonehill: Mr. Chair, I would be in favor of getting rid of the car trips and the numbers. Like Ms. Flatley said, it's a number and it's unenforceable, nobody's going to sit there and count. I guess that they were just trying to cut it down in our neighborhoods so there's not a huge amount of traffic. A business could be only so lucky to have that much business, that would be great for them, but like she said, nobody's going to sit there and count. And parties are once a month, twice a month. I don't really count that as business trips, I mean that's like a special event that they're going

to have. But if you want to do away with the number of trips, I would be in favor of that.

1:26:08.3 Denise Flatley: So, if I could, sorry, go ahead.

1:26:09.3 Cathy Binder: I was just going to say, I agree.

1:26:10.8 Denise Flatley: I can read what Loudoun County has. "No traffic shall be generated by such home occupation in greater volumes that would normally be expected in a residential neighborhood. Any need for parking created or generated by the conduct of such home occupation shall be met with off-street parking and other than in required front yard. Other than in a required front yard." So, they can't park in the yard, they can't park on the street, and that traffic can't be in greater volume than you would normally expect in a residential neighborhood.

1:26:42.6 Vice Chairman, T.C. Collins: Sounds good to me.

1:26:48.8 Chairman, Richard Granger: Okay. So, I think then I'm hearing from the majority of the Board that they would like to see the car vehicle trips per day removed. Okay.

1:27:01.1 Joseph DaCorta: Wanna replace it with the Loudoun language?

1:27:04.1 Chairman, Richard Granger: We can, I mean that's completely unenforceable. Right? I mean all, none of those are quantifiable.

1:27:15.3 Joseph DaCorta: Well, without it, you have a scenario where somebody has a garage sale every day, six days a week.

1:27:20.6 Chairman, Richard Granger: Yep.

1:27:22.8 Joseph DaCorta: And that's permissible in the view of the.

1:27:25.8 Chairman, Richard Granger: I'll be honest. Even with it, I think that could occur. And again, the onus is then to provide evidence that, yea, barely this has moved beyond from an impact perspective.

1:27:37.3 Denise Flatley: I think putting in there expresses an expectation.

1:27:41.3 Chairman, Richard Granger: Okay. We can put it in, sure.

1:27:46.1 Vice Chairman, T.C. Collins: I second that.

1:27:48.7 Chairman, Richard Granger: All right. Fifty-five? Well, I guess 55, 56, 57, I think it's capturing all three of these at once. Right?

1:28:18.8 Tori Haynes: Okay. Yes, the next topic, battery energy storage facilities. So, we heard basically two of the same comments from both the public and from PCM Board members. And it's regarding the automated fire detection and extinguishing technology built into each individual battery and then also the failure to maintain security fencing resulting in revocation of the zoning permit and the facility's decommissioning. So, the comments here, got some comments about the actual technology, some technicalities with the language and then just that technology may not exist as written. It could be interpreted like that, and it would essentially be a ban on battery energy

storage systems. And then also some more specificity, the notice and violation and revocation process would actually be concerning fencing violations. So, we did take some of the recommended language from both PC Board members as well as the public. Now the intent of the fire-extinguishing technology is just to make sure that each battery is actually connected to a detection system, so it wasn't intended to trip up the technicality of maybe it's not literally installed in each unit. So, we did clarify that to make sure it's connected to the overall system, that each battery can be detected for safety issues, but we do understand we don't want to hold this up from the equipment technicality. And we also worked on the recommendation from I believe a PC member on the NFPA855 reference to make sure it's up to their standards. And then we also recommend clarifying the fencing provisions to make sure that that ties back to our standard violation procedures that are in Article II Division IV. So that helps clarify what those procedures are and has those timing standards that would go along with the revocation and the user being able to correct the problem, and has those procedures specifically spelled out for a little bit of protection on both sides.

1:30:36.8 Joseph DaCorta: I support the Berkley Group recommendations.

1:30:40.3 Chairman, Richard Granger: Okay. Ms. Flatley.

1:30:43.3 Denise Flatley: So, we already require that everything falls under the standards of the National Fire Protection Association. They have a hundred and twenty-three pages of standards for installing, maintaining, and decommissioning. They update this regularly, according to national statistics and data. And what we put down could very well not coincide with what they recommend in a matter of a year or two years. And so, I would say that if we put something in there basically that says that everything needs to be maintained according to those standards and that if there are any changes to those standards, that you have 30 days to get it in compliance, they're going to do a much better job than we are of knowing this stuff. Also, I will say that they have different recommendations based on different battery types, where those types are located, indoors or outdoors, so I mean it's just a whole lot more information. I would also say maybe somebody in the County should be paid to become a subject matter expert in this so that we know if companies are compliant.

1:32:01.0 Vice Chairman, T.C. Collins: So, Mr. Chairman, so could we table that part until we get the Chief to give us some of his input on that?

1:32:09.2 Chairman, Richard Granger: Leave it to my colleagues to say.

1:32:17.1 Ann Cupka: I too would like to hear from Chief Moody, but if I could suggest, right now? I agree with Ms. Flatley, her recommendation of some kind of language consistent with NFPA standards, plural, including but not limited to NFPA 855 because that would address this specific one but also other standards in the future that she's concerned about. So maybe if there was consensus to put that in there temporarily so we have something to work with and then consult Chief Moody for his recommendation as well.

1:33:06.8 Chairman, Richard Granger: Ms. Binder?

1:33:08.4 Cathy Binder: Yes. I have not read that document, but I notice its existence, but I want to bring up one thing that was brought up at our summer VACO meeting because of Moore County, North Carolina, and the issue there with terrorism with their substations. Is there a provision or something to put about concern like maybe a safety plan or something if there was an event because battery storage would be a target or a data center or like some kind of energy producing facility? Because that is a concern that has been brought up by some localities, to be concerned about that.

1:33:47.0 Tori Haynes: We do have provisions under item M, under Section 7-6-1 for battery energy storage facility. Item M, page 763. We do have requirements for an emergency plan outline there.

1:34:05.4 Cathy Binder: We could also be put in, besides emergency plan. That's if there is an accident, but what if there was an attack on a facility?

1:34:12.3 Tori Haynes: Okay.

1:34:15.7 Cathy Binder: The definition of emergency plan could just be if there's a fire, but what if there was a terrorist?

1:34:22.7 Tori Haynes: Okay, so adding additional language to cover additional events such as terrorism?

1:34:29.2 Cathy Binder: Correct.

1:34:35.5 Rebecca Cobb: So, item four under M. And you can tell me what you think or if what you're saying needs to be added there. It says, "Emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts or other potentially dangerous conditions." And then it talks about that it should contain procedures. So, do you feel like that covers attacks or do we need to say attacks in that item four?

1:35:02.0 Cathy Binder: Which number is that?

1:35:05.5 Chairman, Richard Granger: M4.

1:35:06.8 Cathy Binder: M4. I would say also if there was a terrorism event because that is quite different than the rest of this.

1:35:17.8 Ann Cupka: So, I guess, is that no other or other potentially dangerous conditions?

1:35:26.4 Cathy Binder: It could be, but we need to specify. I would think we need to specify that particularly or at least it be a thought. You can't plan after the event.

1:35:41.1 Ann Cupka: And I understand the point you're trying to make, but I responded on 9/11, and there was no doubt in my mind that was an emergency, whether it was a terrorist attack or not. So, it's already another potentially dangerous condition just by nature of the definition, a terrorist attack.

1:36:11.4 Cathy Binder: Well, I guess my point is, I want to make sure it's in consideration when the facility comes in and they discuss with our Fire EMS and our Sheriff's Office that be part of. I don't know, we have a difference of opinion on that. Just looking for it to be in there so it is considered because that could not be talked about.

1:36:32.1 Vice Chairman, T.C. Collins: So, I thought we agreed that we're going to have the fire Chief give us a little bit more expertise information on that, and then we could own that up a little bit.

1:36:44.1 Mr. Miller: If I could? Would you like us to have Chief Moody provide an overview on the entire portion of the battery storage? Is that what Mr. Collins is asking?

1:36:57.2 Vice Chairman, T.C. Collins: So, fire detection, draft ordinance, they talk about the draft ordinance in this number 55, and I mean the Chief subject matter expert to give us recommendations before we put anything in there, period, on fire.

1:37:28.4 Mr. Miller: I know that Mr. Pancotti indicated that the Chief has obviously looked through this, but he will ask him specifically to provide the overview that you're looking for.

1:37:42.1 Chairman, Richard Granger: So, do we have consensus? We want to hold off on making the decision on this until we hear from Chief explicitly. Okay. Let's move on then.

1:37:49.4 Denise Flatley: I just wanted to ask one question. Do these ordinances cover battery storage only if it's primary use, or are these going to be the same governing ordinances if it's an accessory use?

1:38:34.2 Rebecca Cobb: I'm just checking definitions. I believe in terms of other uses; we tend to say that it does not like for the electrical generation and those types of things, we say that battery storage is a separate use and has to meet those standards. So even if it's an accessory to power plant or solar, it's considered its own use and has to comply.

1:39:08.7 Chairman, Richard Granger: With 7-6-1?

1:39:09.0 Rebecca Cobb: Yes.

1:39:10.3 Chairman, Richard Granger: Okay.

1:39:17.9 Vice Chairman, T.C. Collins: On number 55, do you still have fencing?

1:39:30.1 Denise Flatley: I believe there might be some security stuff.

1:39:35.1 Vice Chairman, T.C. Collins: Well, I was more interested in the, as far as the fencing, one of the speakers mentioned about violations holding fencing and stuff like that. Needs to be a little bit more defined. Responsibilities and time to fix the homes or whatever you want to call it.

1:39:57.2 Denise Flatley: I was just saying I can't recall if fencing or I know there's some type of security that's part of the NFPA 855, I don't remember the specifics, but I do think that any action needs to be immediate.

1:40:16.7 Vice Chairman, T.C. Collins: Do you all agree with that?

1:40:21.9 Tori Haynes: Okay. So, we're hearing to go ahead and wait on any revisions including fencing or were we okay with fencing referencing the standard violation procedure that's outlined in Article II, Division IV? We understand anything substantive to fire protection, we'll wait for Chief Moody. In terms of just the procedural item for fencing violation notification, again, we just recommending closing that gap and tying it back to the standard violation procedures that any violation would follow, which does provide that opportunity for the user to correct any issues before it escalates to something impacting the business.

1:41:01.4 Cathy Binder: No, are you talking about 7-6-1(K)(4)? Is that what you're talking about?

1:41:05.5 Tori Haynes: Yes, ma'am.

1:41:06.2 Cathy Binder: I have one, because I could understand from the developer point that taking the zoning permit without allowing them to fix it. Could we put in like within a certain timeframe, like so many days, that it has to be repaired?

1:41:20.4 Rebecca Cobb: In that Article II, Division IV, when it talks about pursuing violations and those types of things, it says that the administrator has to provide a timeframe to fix the issue.

1:41:34.3 Cathy Binder: Okay. Because I want to make sure they would have the opportunity to repair it without being hit right away with revocation.

1:41:42.6 Rebecca Cobb: Yes. That is part of that typical process and that's one reason why we're recommending tying Article II, Division IV, so that you're universally treating all violations with the same procedure.

1:41:55.5 Cathy Binder: I would agree with that because serving on the state committee, that is one thing, once the developers say that they're all treated fairly. So, I would agree with that.

1:42:05.0 Chairman, Richard Granger: I would agree with Ms. Binder on this.

1:42:08.6 Tori Haynes: Okay. So, are we hearing consensus that we're okay on the fencing violation procedures, just closing that gap and making sure that we're being consistent there? And again, we'll hold off on the more substantive edits.

1:42:21.8 Chairman, Richard Granger: Yes, ma'am.

1:42:23.7 Tori Haynes: Thank you. Moving on. Utility-scale solar. And this hits at mainly that comment about the 500 acres. And again, our previous direction, we clarified the total lot coverage, some of those details, this is a related detail that we didn't get that direction specifically, but of course we can absolutely change that acreage cap of 500 acres, whether it's a project cap or some other definition that you would be comfortable with. Certainly, you could just say, all projects are decided case by case at the special exception process. You could do a combination and still maybe raise the cap so that there is a cap overall, but it would be a little more flexible, and you could still determine total size during special exceptions. So, there's different routes that you can take here.

1:43:22.6 Vice Chairman, T.C. Collins: I don't want to raise the cap, I want to lower the cap, but I don't know how you all feel about that. It should be a cap that we had already talked about. I think the Planning Commission talked about it and I think we've talked about it some, but we were interested in a cap.

1:43:43.9 Jeffrey Stonehill: Mr. Chair.

1:43:45.0 Chairman, Richard Granger: Go ahead.

1:43:45.1 Jeffrey Stonehill: If it's going to be about special exception, I think it just needs to be case by case and there should be no caps at all. Each project's going to be different, and I think it should be just up to the project and special exception, so there is no point in having both.

1:44:02.3 Chairman, Richard Granger: I would agree with Mr. Stonehill.

1:44:05.3 Ann Cupka: Yes, I agree. I think as long as we can make it a condition of a special exception on a case-by-case basis, that would have some more scrutiny on what each individual project was looking to do.

1:44:28.0 Cathy Binder: I would not agree with that because then it's treating different people differently. But I even had the problem with the minimum lot acre of 2 acres, it should be 10 acres. But 2 acres is quite small to put a utility-scale solar on it.

1:44:47.9 Joseph DaCorta: I agree with Supervisor Stonehill, case by case. If someone approached me and said, "We want to put free solar array on every home in King George County, and that exceeds 500 acres, for free." But the total project, and when we reviewed this on the Planning Commission, we were thinking of single site or continuous sites of 500 acres, and then thought even that was arbitrary. And we thought it could be managed case by case by special exception if it was a bunch of disaggregated sites that were joined in a single project that were in different lots.

1:45:34.1 Vice Chairman, T.C. Collins: This is utility-scale solar, not solar on houses, this is like ethics.

1:45:43.0 Joseph DaCorta: They could tie all those 2000 square foot of roof into 10,000 units, wire them together, can be a utility solar.

1:45:54.1 Cathy Binder: That's not utility solar.

1:45:56.8 Joseph DaCorta: It is.

1:45:57.7 Cathy Binder: Well, we'll disagree on that one.

1:46:01.6 Chairman, Richard Granger: So, I think we had three Board members who were interested in removing the cap, and two that wanted to either keep it or reduce it, so I think we have a majority that said, "Let's remove the cap and just keep it by special exception."

1:46:12.5 Tori Haynes: Yes, sir, that's right. All right, our next set of comments involves the industrial noise provisions that were added in the spring. Some relevant sections here about the initial testing and annual testing. You all recall we did add that, but we've had some comments about having similar provisions for complaint-based testing. So, we did hear that, and we think a path forward there would be if complaints are received by Staff, we can include some enforcement provisions that stipulate that when they get that complaint, Staff notifies that user that there is a complaint, they have a certain number of days that we can specify that they have to get a test done, a sound test done, return those results to Staff. And if a violation is confirmed, then it must be corrected within 48 hours, similar to the other provisions. We do recommend that we put the onus of testing on the applicant, we do understand that they would be allowed a certain amount of time to get that test done, but we could put a cap on how long that would be, a few weeks or they need time to be able to get that test done, return those results, and then when the violation is confirmed, fix it within two days. If we don't put that onus on them, then it would be Staff that would need to go out and actually do the testing and calibrating and would be responsible for the testing. So, we do recommend making sure that a licensed professional individual with audio testing submits that. They'd have their seal to be able to verify the results so that onus is not on your Staff.

1:48:11.4 Vice Chairman, T.C. Collins: So, the ideal is not to have the wolf do the testing? So, ideally, I can go buy anybody to do a test for me and come back anything I want it to be.

1:48:24.3 Tori Haynes: It could then maybe specify instead that the County go ahead and get that test done, they commission a test and the user reimburse. If you want a little more control over the process, making sure you're using a sanctioned, approved vendor, and then, yes, so we can specify it to that extent, if that would be better.

1:48:43.9 Cathy Binder: My other concern when you say "fixed." There are noise problems with one data center in Prince William County that has not been fixed as of this date, so I guess some noise complaints might take a while to fix or might not be able to fix. So, I guess that is concern for me in like, how do we resolve the problem? If there's a complaint, how is it resolved?

1:49:13.3 Tori Haynes: Right. So, there would need to be some time for that testing confirmation to come in, and it would line up with the 48 hours for correction, so presumably.

1:49:25.1 Cathy Binder: What if there is no correction?

1:49:26.8 Tori Haynes: I believe the ordinance in the other sections that we would model this on, in the use for that time, it would revoke the CO or something else about operate, but it would revoke its ability to operate after 48 hours if that violation continues. So, if they were to continue operating, they would be illegally operating until they fixed the provision and got all of their approvals reinstated.

1:49:50.5 Cathy Binder: But one other question is also too, would the testing have to occur at the time, say it's a specific time, if they randomly tested a different time, then that would not be an accurate reading. If the complaint from the citizen is at 10:00 PM every night, "This is loud." And they test at 2:00 in the morning, how do we square that?

1:50:07.0 Rebecca Cobb: So that would be up to you all, I think I saw some nods, that it would be you all hiring a third party to go do the testing. And so, you would tell them, "Hey, this complaint comes in, it's at 10 o'clock, can you go test at 10 o'clock?" And if they say, "No," then you're going to go to someone else and ask them to do the testing. So, you would arrange that.

1:50:34.8 Denise Flatley: I had a thought, just today when somebody was speaking, that if they say that they're committed to maintaining this noise ordinance, and so they are going to be out there testing. I think it would be in their best interest to possibly post the results of those tests publicly and then we can pay a third party to just spot-check them to make sure that what they are promoting as the sound is accurate and that we don't give them notice on those spot checks. The other thing is, we have an ordinance that says an Airbnb gets three verified noise complaints in a year and they no longer get to do business. All I say is that we treat everybody the same.

1:51:16.3 Vice Chairman, T.C. Collins: So, Ms. Flatley, so on Amazon or whoever else, you're not going to shut them down on a noise complaint. Even by our ordinance, they'll have you, have the County in court for it and continue to operate, there's no teeth in that. So as far as a shutdown, you're not going to shut them down.

1:51:39.1 Denise Flatley: Well, I'm just saying that if we're not going to shut them down, why are we going to shut down Mr. and Mrs. Smith who run Airbnb? The point is to be consistent. And if we're not going to shut them down, what are the consequences going to be? And I just thought, maybe if we made them do what they say they're going to do, test, it would take some of the burden off of us to just spot-check it. And if they're not being true to their word through our spot checks, what is then the accountability going to look like?

1:52:12.1 Denise Flatley: Can we have a monetary, like if they were found in violation, they have to pay into a fund or something? Is that allowed?

1:52:19.0 Vice Chairman, T.C. Collins: They got plenty of money, they don't care about that, they'll just continue to violate the ordinance possibly in business. So, I'm worried about the teeth obviously, about if they don't comply, how are we going to control that? How is King George County going to control a big player? You can control an Airbnb because County has plenty of lawyers to go after somebody who can't afford a lawyer, but I do want everybody treated the same, but you have to understand that the world doesn't treat everybody the same.

1:52:57.8 Jeffrey Stonehill: Mr. Chair.

1:52:58.5 Chairman, Richard Granger: Go ahead.

1:53:02.9 Jeffrey Stonehill: Maybe we can ask our local attorney about teeth in an ordinance like this.

1:53:12.5 Kelly Lackey: So, one observation I have is that it might be problematic to have a complaint. Of course, zoning complaints are generally complaint-driven, you might not want to have mandatory testing based on one complaint or even two complaints, I don't know. Just to give you all some thought about how you might want to structure that, you might want to empower your Zoning Administrator to at least make some kind of preliminary investigation to find it credible before you would either have the testing by someone selected by the company or by spot-testing, as Ms. Flatley's suggesting. In terms of enforcement, yes, that could be problematic to enforce, but the more teeth we put in our ordinance, the more potential we have. Perhaps rather than correction within 40 hours, they have to submit a plan of correction that's acceptable to the Zoning Administrator. Depending on the level of the repair, that might be something that takes six months, maybe it's something that can be corrected in 48 hours. But maybe there's a reasonable explanation as to why something is going to take longer to repair, as long as they're showing good-faith efforts. Typically, we don't immediately take people to court on zoning violations if they're making good faith efforts to come into compliance within a reasonable period of time.

1:54:42.9 Vice Chairman, T.C. Collins: I was thinking about the citizens, the normal citizen that don't have all the ability to defend or attack somebody who's in a violation or the County. So, the folks up there that Ms. Binder was talking about, they've been making complaints for a long time, and they don't have any teeth because they're just Joe and Jane, and they're telling people about this problem. And the only way that anything is being changed up there is through their complaints to press. Now, do you understand what I'm saying? So, the simple guy doesn't have the ability to make a difference in that, but they should be able to say, "Hey, here's a problem and you people, Board of Supervisors, Planning Commission need to fix it, and County employees." And there should be some teeth in it where you can actually do something instead of just giving nonsensical fines.

1:55:54.6 Joseph DaCorta: Is enforcement of the noise ordinance a law enforcement responsibility?

1:56:02.6 Vice Chairman, T.C. Collins: It is, but do you want your law enforcement officer driving around data centers and doing noise enforcement?

1:56:11.7 Ross Devries: I think they're going to get the calls; I think they're going to get the complaints.

1:56:15.4 Chairman, Richard Granger: So, once it goes into our zoning ordinance, it would fall under our community development to enforce it, as opposed to law enforcement. We have a general noise ordinance currently which is enforced by the Sheriff's Office. So, this would be changing that up and it would be putting it into the zoning ordinance. Please correct me if I'm mistaken, but it is my understanding that it would be upon the community development to be the enforcer of those regulations because they're the ones who are the ones who are in charge of those regulations.

1:56:47.6 Joseph DaCorta: Right. I fully support putting in a revocation of the CO as a remedy. Once it was established by law enforcement as out of violation. I further support including requiring corrective action plan after a complaint, after a validated complaint by a CD.

1:57:12.1 Chairman, Richard Granger: Validated. Okay.

1:57:17.9 Joseph DaCorta: And work through the community development office. Then to have in our planning or zoning ordinance a remedy of revocation of the CO if determined by the CD that they failed to comply with the requirement of corrective action plan and a specific result compliance.

1:57:40.0 Ross Devries: Well, I think the question is, how do we get to validated? And my point was, the Sheriff's Office is going to get the call at 2:00 in the morning, not Mr. Pancotti, unless he wants to publish his number somewhere. So that would be the preponderance of complaints to the Sheriff's Office, that would validate it and kick it up to the development office to trigger the independent review, to trigger the independent study of the complaint.

1:58:14.7 Chairman, Richard Granger: I appreciate what you're saying, yes, I would not be surprised to the calls would go into the Sheriff's Office, but then yes, you are correct, it would have to then be funneled to the Community Development office for them to be the authority for that regulation.

1:58:28.6 Ross Devries: So, Mr. Pancotti's decision would be, "Well, I've gotten what, three, six, nine complaints over a certain time?" So, I think that's what you need to look at.

1:58:42.7 Chairman, Richard Granger: I would agree.

1:58:43.3 Ross Devries: Okay.

1:58:44.3 Chairman, Richard Granger: I would agree with you, Mr. Devries, yes, and I think it is the Zoning Administrator who would be the one who would be making those decisions and enforcing it, yes, but I'll leave it to my colleagues as well to weigh in.

1:59:02.1 Cathy Binder: I would want to just make sure it's more than one call because one call wouldn't be fair. You know what I mean? To trigger it, there would have to be a preponderance, like if they've gotten four or five calls at the certain time because just for one call could be just somebody that doesn't like it being there.

1:59:19.8 Chairman, Richard Granger: I would agree, I think that it does allow for the opportunity for someone who has been slightly talked about. So, neighbors sitting around and don't like someone driving around their roads, similar situation, they don't like this activity and so they would start complaining regularly. And obviously, then that puts an onus on our Staff. And we're not looking to unduly put onus, obviously we want to take all credible complaints.

1:59:44.7 Cathy Binder: And I guess for Staff, what would be teeth? Are there teeth you could really

put in it to enforce it?

1:59:51.8 Kelly Lackey: Well, one aspect of the new proposed ordinance that I don't know has been discussed in detail is that there are criminal violations now possible for severe or repeat violations, so that would be your most severe penalty. That does come also with additional resources. Currently, the Commonwealth's Attorney's office would have to prosecute criminal penalties, but there are other ways, other aspects of enforcement that are possible. So, I've asked Commonwealth Attorney, Ms. Gusmann to give some feedback on the capabilities of her office, not just for this, but for the prospect of providing support for criminal penalties. So, I'm expecting to get some feedback in that regard.

2:00:41.0 Cathy Binder: So, we could get that at the next meeting as possibly adding into here.

2:00:48.4 Kelly Lackey: So, there is currently a criminal enforcement mechanism, but I did want to get the Board to be fully advised of the capabilities of the Commonwealth Attorney's office. Does that mean they're going to be asking for another position? There's also a possibility that you can have an agreement between the County Attorney and the Commonwealth Attorney, where certain violations can be prosecuted by the County Attorney's office, so that's another option if we wanted to pursue that.

2:01:19.2 Vice Chairman, T.C. Collins: Is that corporate criminal charges or is there any individual criminal charges?

2:01:27.7 Kelly Lackey: My understanding is they'd be individual charges, so they would be corporate officers or Staff members who would be getting those kinds of summons, the responsible parties.

2:01:42.5 Vice Chairman, T.C. Collins: So, somebody running that big facility could even though they're working for a big corporation, they could be criminally charged. Do I understand that correctly?

2:01:55.9 Kelly Lackey: Potentially, depending on their culpability.

2:02:01.1 Vice Chairman, T.C. Collins: So that would be a big proof of culpability all the way up. Right?

2:02:10.4 Kelly Lackey: So that is the ultimate enforcement possibility, whether or not those types of convictions are likely, I can't really speculate. I don't know of other jurisdictions that are going to that extreme at this point in time, but it is certainly a possible recourse if there were circumstances that warranted it.

2:02:39.0 Rebecca Cobb: And so, if I could? I think I heard some agreement that there should be a number of complaints to trigger, and so we would like to know what that number should be. And then also, I would say that that number should fall within a certain timeframe because, as we're talking, it could be the same person that calls this week and the next week and that sort of thing, and so substantiating that it's six separate complaints through what duration of time? Would be my question.

2:03:19.1 Chairman, Richard Granger: Anybody have suggestion?

2:03:20.7 Cathy Binder: Maybe five or more.

2:03:23.3 Chairman, Richard Granger: Over what period of time?

2:03:24.3 Cathy Binder: Separate, not the same individual calling.

2:03:28.3 Chairman, Richard Granger: Over what period of time?

2:03:30.7 Cathy Binder: Yes, maybe a month.

2:03:31.8 Chairman, Richard Granger: Month? How does everyone else think.

2:03:37.1 Ann Cupka: I think that's too broad; I think a month is too long to have it go.

2:03:45.7 Cathy Binder: A week?

2:03:47.9 Ann Cupka: Yes, within days. Like I'm talking days, not weeks.

2:03:50.1 Cathy Binder: How about three days?

2:03:53.2 Vice Chairman, T.C. Collins: Sounds good.

2:03:57.9 Ann Cupka: Five in three days?

2:04:00.5 Chairman, Richard Granger: Five unique individuals.

2:04:01.1 Rebecca Cobb: So, I want to be clear about something that when you say five in three days, that means after three days have passed and you've only received four complaints, you're not going to do anything. So, then a week goes by, and they have the same cycle of events, and you get a couple of complaints, you might miss the chance that, yes, there is something happening on a regular basis, but it's not happening more than five days at a time.

2:04:29.6 Chairman, Richard Granger: Could we also empower our Zoning Administrator to decide if they're seeing a pattern that they can make a choice to be like, "Hey, it hasn't bubbled up to actually hit that number, but based off of the patterns I'm seeing, I am making decision to move forward with a test."

2:04:52.2 Rebecca Cobb: I think you could do that, but that puts a lot of pressure on the administrator to make those decisions and maybe opens up the County to suit to say, "You're being arbitrary, why are you picking on us? And you didn't do that before." So, I think in the case, if you're thinking 30 days or 20 days or something like that, then that actually allows capture. It doesn't mean that I'm going to wait 30 days to act, it means, okay, in this 30-day time span, I've received five complaints, four on day one and one more on day 30. I can take action." Or if all of them come in that one week or that one night, then you can act because you've gotten the five. Does that make sense?

2:05:42.0 Cathy Binder: So, the five could be the trigger, is either three days or five?

2:05:46.1 Chairman, Richard Granger: No, no, no, I think she's saying she thought having it at that periodicity of three days might be a problem.

2:05:56.0 Cathy Binder: So just five, so when we get five complaints?

2:06:00.5 Chairman, Richard Granger: No, I think she was not necessarily saying that either, I

thought there was still some timeframe but a larger one was the recommendation.

2:06:04.1 **Rebecca Cobb:** Right. I think there needs to be both maybe a little larger timeframe to allow.

2:06:11.9 **Chairman, Richard Granger:** Capturing.

2:06:12.8 **Rebecca Cobb:** Yes.

2:06:14.0 **Chairman, Richard Granger:** Okay.

2:06:16.5 **Joseph DaCorta:** I'd support three unique individual complaints over a 30-day period and give again a new Zoning Administrator the latitude to independently investigate.

2:06:33.2 **Chairman, Richard Granger:** Based off some of the feedback, I'd be more concerned about giving latitude to the Zoning Administrator just because based on a legal perspective, I'm making that decision and then opening us to litigation possibly if it appears that we are attacking someone in particular, so that was the pushback on giving the Zoning Administrator that.

2:06:57.4 **Joseph DaCorta:** Well, I'm just considering how we handle other zoning violations if someone has an overflowing sewer, if someone has some noxious emission burning on no-burning days, some other violation that violates the Zoning Ordinance, how would we respond to that?

2:07:20.6 **Chairman, Richard Granger:** Okay.

2:07:23.8 **Vice Chairman, T.C. Collins:** And this one, this is industrial noise, that's different than the noise, yes, but we're talking about noise specifically.

2:07:38.8 **Chairman, Richard Granger:** This is zoning.

2:07:48.9 **Denise Flatley:** I have a little bit of concern too, that if I'm the one that lives the closest to the noise and I'm the only one who is in proximity of the violation, it shouldn't be ignored just because I'm the only one that called.

2:08:08.2 **Ann Cupka:** Mr. Chair, I still think 30 days is too long. I understand where you're coming from, to try to see a cycle or a pattern, but one of your recommendations was when results are provided to the County and confirm a violation, it must be corrected within 48 hours or other agreed timeframe. I just can't see if there is possibly a violation, letting it go on for a period of 30 days before it gets corrected.

2:08:50.9 **Vice Chairman, T.C. Collins:** Well, what I'm hearing is that 30 days is out, it's more like three days, three and three, what it sounds like.

2:09:01.5 **Cathy Binder:** And my concern is, once again, how is it corrected? because what if there is not an easy fix? Maybe it's a flaw in the technology, they're trying to figure out how to fix, so the fix part is still concern for me.

2:09:17.6 **Vice Chairman, T.C. Collins:** Ms. Binder, some of the things that we're probably referring to, they already are agreeing to do these things, so there shouldn't be a problem. Right?

2:09:28.0 **Ann Cupka:** And I agree with you, Mr. Collins, because one of the things that we can do is yank the certificate of occupancy. And it's not our problem to worry about how they fix it, that's their

problem, like he said, because they already agreed to certain standards when they came in and they had to submit to initial testing to get their certificate of occupancy in the first place, so.

2:10:05.3 Chairman, Richard Granger: So, I'll say five in a two-week period? Trying to find a cycle over a couple weeks? Put that out there.

2:10:14.5 Vice Chairman, T.C. Collins: I thought we were on three.

2:10:17.3 Chairman, Richard Granger: We've been all over the place.

2:10:19.8 Vice Chairman, T.C. Collins: There's three, three, three, three.

2:10:26.0 Chairman, Richard Granger: I think Mr. Stonehill said five.

2:10:30.7 Vice Chairman, T.C. Collins: That's, one, three, two, four, five, six threes.

2:10:33.6 Chairman, Richard Granger: Well, it's the Board right now because the Planning Commission is not in session, so.

2:10:37.6 Vice Chairman, T.C. Collins: We're not voting.

2:10:40.4 Chairman, Richard Granger: I'm just saying that at this point, from a decision-making point of view. Ms. Binder?

2:10:48.3 Cathy Binder: I can be to minimum of the three.

2:10:52.3 Chairman, Richard Granger: Okay. Ms. Cupka.

2:10:54.3 Ann Cupka: So are we saying five complaints in three days.

2:11:00.5 Chairman, Richard Granger: I was saying over a two-week period, trying to capture if you had five in a two-week period, that would trigger a response because at that point, you would try to find that cyclical thinking from like a week-to-week perspective.

2:11:23.0 Ann Cupka: It's better than a month.

2:11:30.5 Chairman, Richard Granger: Or 10 days maybe? It still gives you overlap on a weekly basis. That's the only thing I was thinking, trying to capture that cyclical nature. I don't know. Trying to think if from a week perspective makes sense or not.

2:11:44.3 Cathy Binder: What if we want with a week?

2:11:46.6 Chairman, Richard Granger: A week? Okay.

2:11:47.4 Cathy Binder: Seven days?

2:11:50.7 Ann Cupka: I could do it if it was a week.

2:11:52.6 Chairman, Richard Granger: Okay. I can be on board with a week.

2:11:57.5 Vice Chairman, T.C. Collins: What's a week? Five days or seven?

2:12:00.0 Cathy Binder: I said seven.

2:12:01.9 Vice Chairman, T.C. Collins: Okay.

2:12:01.9 Chairman, Richard Granger: That is a week, yes. Mr. Stonehill? Okay.

2:12:09.0 Rebecca Cobb: I think your County Attorney raised a good point too about the fixing of the situation. Do you want to leave that as 48 hours or do you want to say they have 48 hours to produce the plan of correction and that it be accepted by the County?

2:12:30.7 Vice Chairman, T.C. Collins: I like the 48 hours, but that means everybody else won't like the 48 hours, so we'll see what happens.

2:12:37.8 Cathy Binder: I agree with the 48 hours, but I do understand the plan. The plan aspect, within 48 hours, a plan of mitigation needs to be submitted.

2:12:47.3 Chairman, Richard Granger: That's acceptable to the County, yes. Okay.

2:13:13.8 Tori Haynes: Okay. And our next topic deals with minor subdivisions, this is line 83. Specifically, we're looking at provisions for minor subdivisions and a 40-acre lot if that counts towards it. And Section 10-2-2 are languages, minor subdivisions, or subdivisions of any parent tract into three to five lots and have reduced impact on environment, highways, etcetera. For major subdivisions, we define that as six or more lots. And we do have the additional provision that says parcels in excess of 50 acres or more will not count towards that major subdivision. So, if you have certain lot triggers, that large remnant lot wouldn't count towards it, but it does still need to meet all the standard plating requirements. So, the comment was regarding basically, can a similar provision be added to minor subdivisions? And we believe it's also provided in the current subdivision ordinance. So, we did hear that, and we can recommend adding a 40-acre provision to minor subdivisions.

2:14:27.6 Rebecca Cobb: I will add here, this one I was having trouble recalling way back when we were drafting, and I don't know if Louis or other Staff have input on that and recalls that original discussion and maybe recalls a reason why we had left it out or if it was just an inadvertent leave-out.

2:14:51.1 Louis Pancotti: So, our current ordinance it's just the definition of subdivision, not major or minor, that says essentially this exact language, that parcels in excess of 40 acres or more do not count towards a major subdivision. So, the way that has been interpreted, if you would do a minor subdivision of five lots or less that are less than 40 acres, you can have parcels of 40 acres and still just have to meet minor subdivision requirements, not major subdivision requirements, even though you have more than five lots. So, I'm not sure to me that is still what this draft ordinance says, where it says, "parcels in excess of 40 acres or more will not count towards a major subdivision," so I don't know if it needs to be reset.

2:15:52.6 Rebecca Cobb: Okay. And that was my question, of whether you still wanted to make sure subdivisions are triggered under the minor subdivision requirements even if there are parcels of 40 acres. And it sounds like that's how you currently operate, and so maybe we leave it as drafted.

2:16:24.0 Chairman, Richard Granger: I would say leave it as drafted.

2:16:28.8 Jeffrey Stonehill: Mr. Chair? I just want to make sure. I don't see it in here, but we've also had issues where things were dubbed a major subdivision of the piece of land had already been subdivided before. And I know on occasions that you've got a tract of 50 acres; it was divided 30 years ago. Well, now someone is looking to buy 1 acre of that property, but since it was divided before, it's now dubbed a major subdivision just for like one or two houses.

2:17:09.1 Louis Pancotti: Yes, that parent tract language is in this ordinance, in the draft ordinance as well.

2:17:21.5 Jeffrey Stonehill: That's all still in there?

2:17:22.8 Louis Pancotti: Yes. Correct.

2:17:30.1 Cathy Binder: I have one more question because I'm not sure if it belongs here or in our next one, and it might not be possible to fix this. And Mr. Pancotti can remember four or five years ago, Mr. Davis. As if people that have lots that were subdivided before 1987, you remember that. Correct?

2:17:54.4 Louis Pancotti: Yes, he was, if I remember correctly, commercially zoned.

2:18:00.8 Cathy Binder: Part of it was, and he wanted to give a lot to someone who took care of his wife. And so, is this addressed at all, or legally, can it be addressed where you have a large bunch of acreage that was reduced before the zoning ordinances and now they have a parcel they want to give to someone or sell to someone, but it violates some of the ordinances that were put in 1987? So, I'm asking for people that have been here a long time, is that even addressed in this one or is that just not possible? And that might be something that has to be looked at next time, but I just want to bring that up because there are some landowners in this County that have had their parcels for a long time, and it was subdivided differently because it was before 1987.

2:18:46.1 Chairman, Richard Granger: So, is that like allowed nonconforming idea?

2:18:49.2 Louis Pancotti: Yes. So how that exists is like what Chairman Granger said, is that would be legal, nonconforming and that it's allowed to exist and continue. But what you are saying would be a subdivision, would be a new subdivision that would have to meet current ordinance requirements.

2:19:07.8 Cathy Binder: So, somebody in that condition, and if I remember right, Mr. Devries doesn't even own the property anymore, but that would not be allowed because that's just unfortunate.

2:19:17.5 Louis Pancotti: If it didn't meet the requirements of the current ordinance, at the time that he was trying to subdivide, then that wouldn't be allowed.

2:19:26.2 Chairman, Richard Granger: So yes, my understanding would be the property could be continued to be used legally even if it's nonconforming, but if then you were to start making changes to the property, if you were to make it more nonconforming, that's where it'd be problematic because it's just less nonconforming.

2:19:37.6 Cathy Binder: No, I got that, from a property owner standpoint, I'm just sticking up for the person who might have owned a property for a very long time, subdivided under old standards that are before 1987 and now are stuck. There might not be anything legally you could do about it because that's just the way the rules are now, but I just wanted to bring that up as a point of reference.

2:20:07.7 Louis Pancotti: Okay. That would be something we'd have to think through, I'm not sure how to do that.

2:20:13.6 Cathy Binder: I don't even know if it's possible, I know I've brought it up before, I just wanted to make sure that the question was asked and if it's a no, it's no, it might not be possible. I just felt should bring it up.

2:20:26.0 Rebecca Cobb: To me, I think that would mean removing the parent tract, that's where that date of October 1, 1987, comes into play. And the parent tracts and establishment of that and how many parcels can be divided is something that localities do to help conserve rural space and make sure that it doesn't get divided and divided and divided. And so, if you wanted to move away from that and wanted to be more open and say, "We don't have an issue with lots of division or we're not worried about being rural and conservative anymore," then yes, you could remove that. If you're desiring to still be rural in areas and limit the divisions, then I would say, "Keep the parent tract." And unfortunately, that means that some people are not able to redivide their property.

2:21:28.1 Cathy Binder: Okay. Well, I appreciate you explaining that because I just wanted to bring that up because that has come up with landowners that have been here a long time and that unfortunately subdivided their property before 1987. If I remember the case right, he went through everything. I'm good, thank you for clarifying that.

2:22:03.2 Rebecca Cobb: All right. And so, I heard a couple of, "Let's leave this as drafted," in terms of the excess of 40 acres. Is there anyone who disagrees with that? Okay, so we will not do our original recommendation since we got further input from Staff. Thank you.

2:22:28.8 Tori Haynes: Our next topic is related to lot remnants in subdivisions. The code section right now says that all remnants of lots below minimum size, left over after subdividing a tract, must be added to adjacent lots rather than allowed to remain unusable parcels. This can be relevant to things like a major subdivision that's doing common space, BMP parcels, things like that. As it's written now, those lots would still have to meet the basic standards. So, the comment was, "This appears to preclude the creation of parcels for common space below a standard size, and then also, remnants smaller than minimum lot size should be allowed to exist as their own nonconforming parcel." We don't recommend allowing blanket approval of nonconforming lots, there could be though provisions specifically for if it's a major subdivision and lots are created specifically for apartments to the subdivision, so open space, BMP lots, recreational amenities. If those items need to be on their own lot and they just can't meet that minimum lot size, we could make that specificity so that they do have some flexibility but that it's not a blanket approval of nonconforming.

2:23:53.3 Chairman, Richard Granger: Yes, I would agree, I don't want to provide blanket nonconforming lot creation.

2:24:00.5 Ann Cupka: Mr. Chair, I agree with the recommendation, I don't think we should have a blanket, but I think it would be helpful to clarify those types of, like Hopyard has the common mailbox stations, and that probably is not an individual homeowner's parcel.

2:24:28.7 Chairman, Richard Granger: So, I'll also ask for Zoning Administrator. Do you have any input on this topic from your perspective?

2:24:38.1 Louis Pancotti: Our current ordinance has a provision that exempts stormwater and open-

space parcels, and I don't believe we've had an issue.

2:24:48.0 Ross Devries: I think you might want to also consider Service Authority lots, well lots, pump station lots, those should not be required to.

2:25:00.2 Chairman, Richard Granger: Minimum lot sizes?

2:25:01.7 Louis Pancotti: Would you just want that to be ones that qualify as public use, as in maintained by the government or the Service Authority, or private ones as well?

2:25:11.5 Ross Devries: No, it would be Service Authority, as well as HOA governed lot.

2:25:16.6 Chairman Granger Okay. Anyone else have any input on this? Okay.

2:25:31.8 Tori Haynes: And so, we were hearing consensus to allow for exemptions for BMPs and open space. Okay. And our next item concerns subdivision streets, the ordinance highlight here is, "Development shall upgrade private streets in its entirety or any private street in its entirety to VDOT standards when any subdivision except family subdivisions is created that results in a private street having six or more existing proposed lots." So, the question was, "Let's say there is a street that already has more than six, that has eight, would the next upgrade require the street to be upgraded?" So, we recommend clarifying text so that existing number approved lots as of the effective date of the ordinance are okay, but if you have additional new construction, new triggers, then that would trigger the upgrade. But we wouldn't go back and retroactively identify everyone that's over six and make them upgrade.

2:26:37.3 Chairman, Richard Granger: This would be another one of those like nonconforming situations that allowed usage, and so once you start making changes is when it's, now we have to apply?

2:26:42.5 Tori Haynes: Exactly, once it becomes more intense, the idea would be that you would trigger those upgrades.

2:26:48.0 Chairman, Richard Granger: I would agree with that recommendation. Okay.

2:27:08.2 Tori Haynes: Alright, I believe with this one, that last comment concluded, our public comments that we brought for discussion. These are additional comments from PC and Board Members, this one concerning our three standards for townhouse density. The comment was that townhome density should be lowered from eight to five per acre. We did mirror what is in the current ordinance now of eight units per acre in terms of townhomes, but we are certainly able to amend that if you all feel strongly.

2:27:44.0 Vice Chairman, T.C. Collins: So why would.

2:27:45.2 Tori Haynes: At this time, though, we don't recommend that you do that just because it is what you're already doing, but again, if the feeling that eight is too high, we can change it.

2:27:55.9 Vice Chairman, T.C. Collins: Eight is too high and the density of eight is too much with the parking of 1 acre included. I would like it to be less than five, but five was the number that the Planning Commission talked about for a long time.

2:28:30.0 Tori Haynes: Correct, just the R3 for this comment.

2:28:36.5 Chairman, Richard Granger: R3.

2:28:38.5 Tori Haynes: Yes.

2:28:40.3 Chairman, Richard Granger: High-density residential is what R3 is. Yes.

2:28:51.3 Joseph DaCorta: They are relieving parking requirements for residences, so it may be true you can't fit parking, but you're next door to a public parking lot or other resource, but the trend nationally is to do high density and high-density development risk.

2:29:15.5 Vice Chairman, T.C. Collins: But that's if you're more suburban-located or a more city environment. We're not.

2:29:24.5 Joseph DaCorta: How much R3 do we have? My impression, it's not a lot.

2:29:32.0 Louis Pancotti: Yes, I can look it up, but it's not a lot.

2:29:37.6 Vice Chairman, T.C. Collins: So why would we encourage that? Why would we encourage eight as opposed to five?

2:29:44.4 Chairman, Richard Granger: Because there's not a lot of R3. Basically, right now would require rezoning and the Board at that time would have to take a look at it and decide. Do you want a high-density residential? I tend to agree with Mr. DaCorta. We have a high-density residential district. Either get rid of it completely and say, "There's no such thing as high-density residential," or have it been that what it is. I'm not personally really in favor of a lot of high-density residential either, it's probably not something that's going to really see a whole lot of usage, if any, in the near or even distant future, I would guess, but you never know.

2:30:30.1 Vice Chairman, T.C. Collins: So, let's get rid of it.

2:30:31.2 Chairman, Richard Granger: Is an option, but then that means it's gone, and it can't be used at all.

2:30:37.1 Denise Flatley: So, I'm not super familiar with this, but are there a certain number of parking lot spaces required for each unit? In which case, if it doesn't fit on an acre, then they're not going to put them on an acre.

2:30:53.2 Vice Chairman, T.C. Collins: So, an acre of property, I mean, think about what an acre is, then think about eight townhouses, I don't even know, I mean they're going to be skinny and tall, that's for sure.

2:31:06.2 Chairman, Richard Granger: That is townhouses.

2:31:07.8 Vice Chairman, T.C. Collins: I don't think that's the environment that we're trying to create in King George's, what I've heard on all the comments from the public.

2:31:19.3 Denise Flatley: Okay. So, it sounds like it's not necessarily the number in the space, that's just a math problem.

2:31:25.2 Chairman, Richard Granger: High-density residential.

2:31:26.8 Denise Flatley: We don't want that high-density situation.

2:31:30.8 Joseph DaCorta: Okay. Well, we want to control where high density is.

2:31:35.1 Chairman, Richard Granger: Yes.

2:31:37.5 Joseph DaCorta: If we're going to do affordable housing, we're going to do high density and high density.

2:31:43.1 Cathy Binder: That's where I was coming from. And you do know that there is legislation in looking at the state level about affordable housing and having localities have to address it. I know that's a state mandate, but that is something that has been bandied around.

2:32:02.3 Vice Chairman, T.C. Collins: So that's the government telling localities what they can do and not do again.

2:32:06.5 Cathy Binder: I know, I'm just making everybody aware of that, that that is a discussion that will come up.

2:32:10.8 Chairman, Richard Granger: Unfortunately, it's literally Virginia to a T. All right since we're a Dillon state.

2:32:17.1 Joseph DaCorta: Why do we need to encourage Virginia asking us to tell them what we are doing for high density? And if we fail to have a good answer to that, we will be told what to do.

2:32:30.9 Rebecca Cobb: I'll just add to increase the mud in the waters maybe of this discussion, is that we did hear during public engagement that there was desire for additional housing and that there, in some of the denser areas, there was a lack of housing and a need. And so that was one of the reasons that we spent quite a bit of time discussing it with the Planning Commission.

2:32:56.2 Chairman, Richard Granger: So, I'm in favor of leaving it at eight for R3 because it is defined as high identity.

2:33:02.4 Ann Cupka: I agree with that as well.

2:33:03.8 Cathy Binder: I agree.

2:33:04.9 Chairman, Richard Granger: Okay.

2:33:05.6 Louis Pancotti: If I may?

2:33:07.5 Chairman, Richard Granger: Yes sir.

2:33:07.5 Louis Pancotti: I want to just answer Commissioner DaCorta's question. One percent of the County is currently zoned R3, just for perspective, Hopyard is R3, so that takes up quite a bit of that. To my knowledge, there are very few undeveloped R3 parcels that exist just naturally, so most R3 is going to come to both the Commission and the Board for rezoning.

2:33:39.9 Joseph DaCorta: By the base or industrial center or walkable work situations, I mean those kinds of contexts.

2:33:51.0 Chairman, Richard Granger: I understand what you're saying. Obviously, that would be at those centers to consider, but I think the zoning ordinance should stay as presented currently. Okay.

2:34:01.4 Tori Haynes: Okay. Thank you. Okay, the next comment concerns the RC resort commercial district with nonresidential building height. As drafted, we have the 45-foot height limit with the footnote that nonresidential structures can go up to 50 feet if there are additional setbacks provided. So, the common is that 45 feet is too tall for nonresidential buildings, except by special exception, to determine by case-by-case basis. So, when we drafted this, it was considering recreational buildings and other commercial type uses, height can be reduced to 35 feet to match the other districts if desired. But again, because we did have specific buildings in mind, we don't necessarily recommend that. But again, if there is a desire to keep that height lower, we can certainly make that consistent across the Board.

2:35:02.3 Cathy Binder: Are you talking about like a resort or something like that?

2:35:05.4 Tori Haynes: This is the resort community district, so we were thinking that they might be wanting to build a little bit taller to get those units in. This is not your typical residential apartment building, it's a little more specific.

2:35:23.8 Vice Chairman, T.C. Collins: So, with height, it's always the same arguments about we can only reach no more than two stories right now, Fire and Rescue. So, 45 feet is four and a half stories, so if you approve that, then we're putting people in peril because we can't get to them. I mean if you're calling somebody from Stafford to come to King George to get the third story.

2:36:17.8 Ann Cupka: Mr. Chair, we have a couple of hotels in the Dahlgren District, and we seem to be able to get, and don't get me wrong, I would love to have a ladder truck. But we seem like we can get to them up there. And given that this would be for a resort community district, I get why it would be a little bit different height standard.

2:36:51.8 Vice Chairman, T.C. Collins: Ms. Cupka, Chief Moody came and told us he cannot get past the second floor of any of those hotels down there.

2:37:01.2 Ann Cupka: Not without mutual aid, having someone else's ladder truck come.

2:37:04.9 Vice Chairman, T.C. Collins: Well, I'm on the third floor of the Holiday Inn, I don't want to wait until a Stafford truck comes and I burn up, so why don't we just not do it?

2:37:17.4 Ann Cupka: That's an issue that should have been addressed when those hotels were approved. But they were.

2:37:23.8 Vice Chairman, T.C. Collins: But we're here now.

2:37:28.4 Cathy Binder: But I could also see this. If it was a resort, they might have a clubhouse that is this height and there's nobody in it, it's just decorative space or you know what I mean? Or a balcony.

2:37:40.2 Ross Devries: Well, and language about occupied space because it could be an amphitheater too.

2:37:44.7 Cathy Binder: It could be an amphitheater, so there would be nobody up there.

2:37:50.9 Chairman, Richard Granger: I'm going to say, let's leave it as currently presented.

2:37:56.9 Joseph DaCorta: If I read this correctly, this is nonresidential building. Right?

2:38:00.3 Chairman Granger: That's correct.

2:38:02.4 Joseph DaCorta: So, I think that is a consideration that supports leaving it at 45. So that's not just what you're speaking of.

2:38:21.4 Jeffery Stonehill: Louis, do we have an RC district?

2:38:24.2 Louis Pancotti: Yes.

2:38:25.7 Jeffery Stonehill: Where?

2:38:28.2 Louis Pancotti: We have it in our ordinance, we have not had an approved one. Mr. Devries may remember there was one public hearing for a project called Hope Retreat, but they withdrew after the Planning Commission public hearing.

2:38:50.6 Cathy Binder: I'm okay with just leaving it.

2:38:52.1 Chairman, Richard Granger: Okay. Mr. Stonehill, how do you feel? You're not on.

2:38:57.6 Jeffrey Stonehill: I would leave it as is.

2:39:03.4 Tori Haynes: Okay. Thank you, so we'll leave that one as drafted in the RC districts. We have two more topics tonight. Now we move into Stem lots. Just for those that aren't aware, Stem lots are a type of subdivision. In this ordinance, they are prohibited, except in cluster subdivisions or in cluster developments, so they're not allowed in general, but we do allow them. And what that does is allow for a configuration with a narrow stem of road frontage to exist to get to the main lot in the back. And there are some other provisions and standards there for stem lots. So, the comment is, "Should we allow them at all?" We did carry over this text from the existing ordinance, we can certainly revise it as always, but we don't necessarily recommend a revision based on the fact that this is what has been enforced so far.

2:40:08.2 Cathy Binder: I guess one question I have is, what if somebody has a lot that's trapped? So, does this alleviate having access out of the lot?

2:40:19.5 Chairman, Richard Granger: This would be subdividing it, making the decision on how to subdivide it at the time of.

2:40:23.8 Tori Haynes: This is a way to not create those landlocked lots. King George specifically only allows them in clusters. But yes, instead of making a landlocked lot, the idea would be you would have this pipe stem, that's where you put your driveway. It ensures that you not only just have an easement, but you also actually own that section of property.

2:40:42.4 Cathy Binder: I guess I'm confused by that.

2:40:44.1 Tori Haynes: It connects the lot physically to the road through that stem. That would be the yellow portions, that L-shape.

2:40:50.8 Cathy Binder: Okay. But what about the white? So, do they use the same road?

2:40:56.0 Tori Haynes: A lot in front of it. It would be a separate lot that has its own road frontage so it's not landlocked.

2:41:01.8 Chairman, Richard Granger: So, it's like one house behind another house and then there's a long road back to the little house at the back on their own property. That little yellow stem allows them to get back to their house.

2:41:09.4 Tori Haynes: Yes. So, if someone wanted to subdivide their lot, give the rear lot to someone instead of just subdividing that lot so that it's not connected to the road, this mandates that that pipe stem exists. And again, since King George only relates to clusters, it would be because clusters are typically smaller lots, they may need more creative lot configurations to meet cluster intent, and so it would be very specific circumstances. And then this allows for problem-solving lot configurations without sacrificing road frontage. And then that would mean that their driveway can go on their own actual piece of their lot rather than having to get the easement from the lot that owns in front of them. So, it's a little more cut and drier in terms of ownership and access.

2:41:56.5 Cathy Binder: So, I'm just going to give an example. So, this would be if a developer came with 50 acres and he parceled it all up and there was one or two lots that became landlocked, this would be an option to get out of that or to have a solution?

2:42:11.5 Tori Haynes: In a cluster.

2:42:13.0 Cathy Binder: In a cluster?

2:42:15.2 Tori Haynes: Yes.

2:42:15.4 Cathy Binder: And just to clarify, how big is a cluster again.

2:42:18.4 Tori Haynes: I would have to double check, but generally they would be smaller than typical residential lot sizes.

2:42:26.7 Louis Pancotti: In the A2, which is the most typical, that we see clusters in, it would reduce the minimum lot size from 2 acres to 40,000 square feet.

2:42:38.3 Ross Devries: It's just under an acre. Right?

2:42:41.3 Louis Pancotti: Yep, a lot of them we see are, well and septic.

2:42:45.8 Ross Devries: They can be smaller in the community or in public.

2:42:50.3 Louis Pancotti: Not in the agricultural districts, I don't believe so.

2:43:00.2 Chairman, Richard Granger: That makes sense. Ms. Binder.

2:43:01.6 Denise Flatley: I've seen these and I wouldn't want my front yard to be in someone's backyard or vice versa, I wouldn't think these are profitable, but I don't know if they should be disallowed. Sorry, Louis, you were talking about A, agricultural lots? Okay, so nobody could use this to get past the accessory dwelling rules and just put a whole new lot behind their lot.

2:43:32.0 Louis Pancotti: If they were to do that, that would come as a subdivision and it then wouldn't be an accessory, it would be a dwelling on its own lot.

2:43:42.7 Tori Haynes: And it still wouldn't be allowed in typical A2 or A1, it would be a cluster in whatever district allows clusters.

2:43:53.2 Joseph DaCorta: I support the current language limiting them to cluster developments.

2:43:57.5 Jeffrey Stonehill: I would leave as is.

2:43:58.6 Chairman, Richard Granger: Agreed. Thank you.

2:44:09.2 Tori Haynes: Alright, and this is our final topic for tonight. Concerning bond release as currently proposed, we have it as outlined in the Code of Virginia, the subdivider may apply for periodic partial, or for periodic partial, and the final complete release of the bond required under this article. The comment was to add approval by the Board of Supervisors as a condition of releasing the bond. We continue to recommend that the agent's decision to release is specifically or especially provided here, we are recommending keeping that provision, but we can amend as needed.

2:44:47.0 Chairman, Richard Granger: I'm going to ask Ms. Lackey, from a legal perspective. What kind of concerns might there be from a legal perspective?

2:44:57.8 Kelly Lackey: I was just about to interject that by state law, we have to release within 30 days. So, this probably would have to act.

2:45:04.3 Chairman, Richard Granger: If conditions are met.

2:45:07.4 Kelly Lackey: Well, yes, within 30 days, you can object, which typically is done by Mr. Pancotti's office, they will inspect and confirm if things have been done properly. And if not, then they object to their release. But so, it is a 30-day window, which is pretty tight to require a Board of Supervisors' approval. State law would take precedence over local ordinance, so if the Board didn't act within 30 days, then it would be deemed an approval.

2:45:41.5 Vice Chairman, T.C. Collins: So, in the past, bonds have been released and the Board of Supervisors have not known, and things have not gone as planned. This would put another checks and balance into that so that wouldn't occur.

2:46:00.1 Chairman, Richard Granger: Did I hear you correctly? Did you say that if the Board didn't vote on it, it would automatically trigger it as an approval? Or did I mishear you?

2:46:08.0 Kelly Lackey: Right. So, the state code provides that you have to release within 30 days, or you have to state why the release is not required. Like if you say specifically what needs to be completed, you can't just say, "The approval has not been completed." As a suggestion, you could have a procedural notification to the Supervisors when those types of releases are requested by Staff, that might be an intermediate position.

2:46:34.5 Cathy Binder: I was going to ask if it could be that they have to notify us, and we're allowed to respond in a certain amount of time?

2:46:43.4 Ann Cupka: I like that idea, to have a notification to the Board.

2:46:45.0 Chairman, Richard Granger: I do too. Yes.

2:46:48.6 Cathy Binder: Do you also like the idea of the response time allowing us to stay in the 30-day window, but that they have to tell us, and we have time to respond if we choose to?

2:47:00.2 Chairman, Richard Granger: So, you're saying.

2:47:02.0 Cathy Binder: They have to notify us and then we have a certain amount of time to respond, as long as we stay within the 30-day window that the state mandated.

2:47:11.2 Vice Chairman, T.C. Collins: Well, don't respond, they're automatically released.

2:47:12.2 Ann Cupka: Yes, I don't know that we need a timeframe because we're already dictated by a state timeframe of 30 days.

2:47:19.2 Cathy Binder: But they have to notify us with this.

2:47:22.0 Ann Cupka: Yes, I would like that notification, yes.

2:47:25.7 Joseph DaCorta: Burden fall on the agent or does it fall on the bonded?

2:47:37.6 Cathy Binder: And I guess the question would be too is, can we require that when the County has served the notification that starts the 30-day window, like when does the 30-day window start?

2:47:52.9 Kelly Lackey: I believe it's upon receipt, although under the law, receipt can be placed in the mailbox, so I can review that and let you know specifically how this one applies.

2:48:06.0 Chairman, Richard Granger: I would agree though, I would like notification. Okay.

2:48:08.8 Vice Chairman Collins: She said that was the last one. Could we do 152 and 172 please?

2:48:22.4 Tori Haynes: Could you say those numbers one more time?

2:48:24.9 Vice Chairman Collins: One fifty-two and 172.

2:48:34.1 Chairman, Richard Granger: Let's ask my colleagues. Everyone amenable to moving forward with looking at those right now?

2:48:58.5 Tori Haynes: Okay. One fifty-two concerns a minimum block size of 10 acres for campgrounds, the suggestion is to increase it to 40 acres and permitted by special exception only, and not permitted an A1 or A2 at all. One seventy-two. Okay. Yes, this is one where we can certainly amend that minimum lot size for campgrounds as well as use permissions.

2:49:41.8 Chairman, Richard Granger: This is 152, you said?

2:49:43.4 Tori Haynes: One fifty-two, yes, sir. On the tracker. This concerns Section 7-4-1.

2:49:51.4 Chairman, Richard Granger: Seven-four-one.

2:49:53.0 Kelly Lackey: If I may, Mr. Chair?

2:49:54.9 Chairman, Richard Granger: Sure.

2:49:55.9 Kelly Lackey: There might be agritourism exemptions to that, but if you did want to change it as a rule of general applicability, if the agritourism rules don't apply.

2:50:15.4 Chairman, Richard Granger: Anyone have any strong feelings? Mr. Devries, you do not? You're fine? Okay.

2:50:23.4 Joseph DaCorta: The agritourism. Say an agritourism site be restricted to 40 acres if we moved it, or would they be restricted to this, whatever standard the plot?

2:50:42.5 Kelly Lackey: So Assistant County Attorney Washington, Jessica Washington and I have provided some edits to agritourism. I understand it was discussed at length, the Planning Commission, but there are some fairly stringent state rules that we felt possibly needed to be further addressed. So, I think it's probably a discussion for another meeting. I think we've tried to do some sliding scales for size of events on certain types of property, but I don't think you could require 40 acres to have a campground if it met all the other agritourism requirements.

2:51:24.6 Cathy Binder: Can we bring this up at the next meeting. Agritourism and in this line item?

2:51:30.8 Vice Chairman, T.C. Collins: I'm talking about campgrounds, not agritourism, I'm talking about the campgrounds. Do you want campgrounds on 10 acres? A campground.

2:51:43.0 Joseph DaCorta: I mean if they met state standards for sanitation and water supply, I think 10 acres is not an unreasonable lot size.

2:52:04.8 Vice Chairman, T.C. Collins: And it'd be permitted in A1 and A2?

2:52:14.1 Denise Flatley: Again, I haven't looked at this specifically, but is there any rules for how many campsites per acre? I mean 10 acres might be too small if you're cramming people in. So, is it how saturated the space is, or is it the space itself? Is it buffers from other properties?

2:52:39.9 Vice Chairman, T.C. Collins: Well, I think of campground like an RV park, or a bunch of tents pitched. Do you want them in a 10-acre spot? Do you want a campground next to you, basically? You're in this one, A1, A2.

2:53:09.4 Ann Cupka: Mr. Chair, I agree with Ms. Binder, if we need to bring this back for additional consideration because I'm thinking as our Counsel has advised, that there are likely some agritourism impacts that we need to consider. I know you, Mr. Collins, have a definition of a campground, you think of it as tents and RVs, but there are some fancy campgrounds that are used for agritourism purposes that have yurts in them. Do you know what a yurt is?

2:53:44.6 Vice Chairman, T.C. Collins: I do.

2:53:45.1 Ann Cupka: So that's a completely different application than what you're looking at. And so, I think we do need to flesh this out a little bit more at a future meeting.

2:53:54.2 Vice Chairman, T.C. Collins: Yes, I don't want a bunch of yurts either.

2:53:57.4 Chairman, Richard Granger: Okay. So, Ms. Binder, you're asking for more information? Ms. Cupka as well. So okay, let's hold off.

2:54:04.6 Joseph DaCorta: Just FYI, state statute is 20 campsites per acre.

2:54:14.3 Chairman, Richard Granger: Twenty campsites per acre? Okay, thank you for that.

2:54:24.3 Vice Chairman, T.C. Collins: One seventy-two, in regard to political signs in general, there should be specifically in the ordinance that you can't regulate political signs. You can't regulate maintenance; you can't regulate location. Well, you can regulate a bit of location, you can't block somebody's view from a highway, but other than that, there should be no control on political signs. And what happens in this County is people try to control political signs, from my observations.

2:55:00.2 Kelly Lackey: If I may, Mr. Chair?

2:55:03.5 Chairman, Richard Granger: Go ahead.

2:55:05.4 Vice Chairman, T.C. Collins: Couldn't be a time period. You can have a political sign on your property forever if you want it if it's on your property.

2:55:08.6 Kelly Lackey: So, there was a decision by the United States Supreme Court in 2015 that stated that you could not regulate political signs differently from other signs. There's been subsequent changes to state law, there's also been an Attorney General opinion, so we could not have a regulation specific to political signs. Now that's not to say that you can't regulate signs in general in such a way that they might achieve your goals for political signs, but in doing so, you open the door to commercial signs, other types of First Amendment expression on the same basis as. So, signs of certain types, certain shape, temporary signs, all of those would have to be regulated on a content-neutral basis.

2:55:57.8 Vice Chairman, T.C. Collins: I understand the Supreme Court's decisions, but I also understand that when I give you this example of political signs, I have had the Zoning Department contact me to take down my signs because the time period had gone by. There is no time period. So, in order to make it clear that the zoning can't regulate that, I want it to be clear in the ordinance because you see it on Facebook all the time, "You got to take the signs down at this date." You don't have to take signs down ever. So, I want it to be clear so it can be brought out in ordinance. Go check sections such and such and such, you can't regulate it.

2:56:51.4 Jeffrey Stonehill: But if the state and courts have said that you cannot differentiate, they need to come down just like every other portable sign.

2:57:00.8 Vice Chairman, T.C. Collins: No, no, they don't. No, they don't have to come down, that's my point. A political sign is the only sign that you can't regulate as far as I can put it on my property, I can put a "Stonehill for President of the United States" on my property for the rest of my life if I wish.

And there's nothing that any ordinance can do about it unless I'm blocking your view on a highway. That's it. So, it needs to be enumerated in that ordinance. Do I like them up all the time? No, but that's not the way that it works.

2:57:44.7 Chairman, Richard Granger: So how did that case go again?

2:57:48.0 Kelly Lackey: So, the specific US Supreme Court case was about church signs, the temporary signs you see sometimes for facilities that are used by churches, they put up temporary signs. Those had to be removed, and that objection carried to the Supreme Court, and the Supreme Court said, "You can't regulate signs differently from others." So that includes a church sign, it includes a political sign. They have to be similarly treated.

2:58:14.7 Vice Chairman, T.C. Collins: No, the Supreme Court says that a political sign is exempt specifically, so absolutely, you can put up a political sign as long as you want on your property as long as it doesn't block anything. So that's an incorrect statement, Ms. Lackey, I know I'm not a lawyer, but a church sign, yes, but not a political sign.

2:58:31.7 Kelly Lackey: I'd be happy to review additional authority on that.

2:58:38.0 Vice Chairman, T.C. Collins: That's my whole point, it's a political sign.

2:58:39.8 Denise Flatley: Ms. Lackey used the word "temporary sign," so what makes a temporary sign permanent?

2:58:49.5 Vice Chairman, T.C. Collins: So, you can have a temporary sign up forever if it's a political sign.

2:58:55.0 Denise Flatley: Well, but my question is, what makes a sign temporary? If I want to put "Jesus loves you" permanently, what makes that temporary or permanent?

2:59:05.0 Vice Chairman, T.C. Collins: That's not a political sign.

2:59:08.1 Denise Flatley: But it is protected speech, so my question is, according to the law, what designates something as temporary and has to be taken down? Is it faith, is it political or is it based on the dates of a certain event?

2:59:22.1 Vice Chairman, T.C. Collins: Nope, it's not dates, a political sign has its own specific case law, it has nothing to do with religion or anything else, it's just political signs, and they can be temporary or permanent on private property. When it gets off of private property, that's when the state can take them down and homeowners can take them down if it's on their property that they didn't want it on there.

2:59:49.4 Chairman, Richard Granger: Ms. Lackey, would you just go through and check the case law to verify and bring it back to the Board?

2:59:56.4 Kelly Lackey: Will do.

2:59:57.1 Chairman, Richard Granger: Okay. Is the Board amendable to that? Mr. Stonehill and Mrs. Cupka, Mr. Collins?

3:00:03.9 Vice Chairman, T.C. Collins: Well, I know what the law says.

3:00:05.6 Chairman, Richard Granger: Okay. Ms. Binder. Okay, thank you.

3:00:20.0 Tori Haynes: Okay. So that was our final topic for tonight, I'll turn it over to Ms. Cobb to wrap it up, but I will just go through that our next work session would be next month, September 26th, to discuss all the remaining comments.

3:00:34.4 Mr. Miller: Could you just clarify again the purpose of the gray? I had a Board member ask me why only the gray denied again and what the priority and all that is.

3:00:46.9 Rebecca Cobb: So, the gray items we were highlighting so that you could focus there because that's what we were going to talk about first. We're going to go back through that comment tracker and highlight some new items to discuss at the next session, but I would still say review everything because we can't possibly talk about all, how many items we got?

3:01:15.0 Tori Haynes: A hundred and ninety-five.

3:01:16.6 Rebecca Cobb: Hundred and ninety-five items. So, we're not going to talk about each a hundred and ninety-five items. And so there are ones that we have said, "Hey, we think we already know your feelings on this, we've had previous discussions." Or "Hey, this looks like an obvious error," or something like that. And so, we've made those recommendations. But we want to make sure that you read those so that next time we can hear, "Yes, items one through 20, we agree, we don't have any objections." Or "One through 20, except item number 18. Let's tweak what you're saying there. Let's tweak how you're recommending changing that." So that's a way that we can do it in big batches to make sure that we're good and keep moving if we don't need to keep belaboring it and talking about things. But we will have items that we want to visit. We've just had two that we plan on talking about, as well as a couple from earlier discussions. We wanted to get fire Chief input and those types of things. So those items are going to be highlighted again to draw your attention to, "These are the specific items we're going to talk about." But certainly, we're going to allow time next time that you can bring up any item, whether it's highlighted or not, so that you can say, "Hey, wait a minute, I don't agree with the recommendation there." Or "Hey, you're saying, 'Keep that as is.' But I want to make a change." So, we will have time for you to bring up those items as well next time. Does that clarify and make sense?

3:02:53.1 Vice Chairman, T.C. Collins: So, we have one more time?

3:02:56.3 Rebecca Cobb: We have one more meeting, and if we don't get through everything, if there's desired additional discussion and changes, then we would need to do a scope to add an additional meeting. But the plans right now would be September 26 would be our final direction from you all. In October, we would be incorporating all of those revisions and then we could move to scheduling public hearings for November and December.

3:03:28.0 Chairman, Richard Granger: Understood.

3:03:30.5 Rebecca Cobb: One thing I'll add quickly. I know we're getting late, and you all have another closed session. But one thing I will say too is that the ordinance drafted while we want to get it as close to perfect as possible, it's not going to be perfect. And so, one thing that's going to have to occur is for your County Staff to keep a record annually of, what are the questions that we're hearing a lot? What is being misinterpreted? Or where is there needs? There's something that we didn't think of,

and someone has brought it up. And so, each of your Staff should bring that to you all to say, "Hey, here's the places that we can improve." And you continually amend each year and improve the ordinance.

3:04:18.0 Chairman, Richard Granger: Thank you.

3:04:18.7 Rebecca Cobb: Thank you.

3:04:19.5 Chairman, Richard Granger: Okay. In that case, did anyone else have any other questions for the Berkley Group?

3:04:28.5 Ross Devries: I do, I just want to say thank you to all the Board for letting us stay and contribute tonight, appreciate it very much.

3:04:34.9 Chairman, Richard Granger: Absolutely, thank you for coming out, and I appreciate your guy's comments, I really do, so thanks for coming out. In that case, I know we do have a closed session, so I will entertain a motion. And once we make that, everyone's obviously welcome to stay, but I understand you probably will lay down. That's fine as well.

CLOSED SESSION:

3:04:53.7 Cathy Binder: I move that the King George County Board of Supervisors meet in closed session to discuss a proposed local incentive package for a major economic development project pursuant to Virginia Code, Section 2.2-3711A6 for discussion and consideration of investment of public funds where competition or bargaining is involved, where if made publicly the financial interest of the County would be affected in specific legal matters requiring the provision of legal advice regarding the proposed incentives and mandatory and discretionary disclosures related to those incentives or projections pursuant to Virginia Code, Section 2.2-3711.A.8. I invite the County minister, County attorney, assistant County attorney, and director of economic development, and because they're deemed necessary and/or their presence will reasonably aid the Board in its consideration of the topics to be discussed pursuant to Virginia Code, Section 2.2-3712. F.

3:05:48.5 Ann Cupka: Second.

3:05:48.9 Chairman, Richard Granger: We have a motion probably seconded. Do we have any discussion? All in favor say "aye."

3:05:52.6 Cathy Binder: Aye.

3:05:52.6 Ann Cupka: Aye.

3:05:52.6 Jeffery Stonehill: Aye.

3:05:52.6 Vice Chairman, T.C. Collins: Aye.

3:05:53.3 Chairman, Richard Granger: Any opposed? Chair votes aye, motion carries. We are in closed session, thank you.

RETURN FROM CLOSED SESSION

3:46:20

Cathy Binder: I move that the King George County Board of Supervisors return to Public Meeting and certify by vote that only public business matters lawfully exempted from open meeting requirements by Virginia law, and only such public business matters as were identified in the motion convening the closed meeting were heard, discussed, or considered during the closed meeting.

Ann Cupka: Second

Chairman, Richard Granger: We have a motion properly seconded. We will certify by roll call.

Cathy Binder: So, certify.

Vice Chairman Collins: So, certify.

Ann Cupka: So, certify.

Jeffrey Stonehill: So, certify.

Chairman, Richard Granger: Chair so certifies. We are back in open session.

ADJOURNMENT:

After completing the August 29, 2023, King George County Board of Supervisors agenda. Chairman Granger called for a motion to adjourn to Tuesday, September 19, 2023, at 6:30 PM in the Robert H. Combs Board Room; so, moved by Ms. Cupka and carried by a vote of 5-0-0. Each member voted as follows: Chairman Granger, Aye; Vice Chairman Collins, Aye; Ms. Binder, Aye; Ms. Cupka, Aye; and Mr. Stonehill, Aye.