

1 **Minutes of the Work Session of the Planning Commission of Henrico County held**  
2 **in the County Administration Building in the Government Center at Parham and**  
3 **Hungary Spring Roads, beginning at 5:30 p.m. Thursday, July 9, 2020.**  
4  
5

6 Members Present: Mr. C. W. Archer, C.P.C., Chairman (Fairfield)  
7 Mr. William M. Mackey, Jr., Vice Chairman (Varina)  
8 Mrs. Melissa Thornton (Three Chopt)  
9 Mr. Gregory R. Baka (Tuckahoe)  
10 Mr. R. Joseph Emerson, Jr., AICP, Director of Planning  
11 Secretary  
12

13 Mr. Tyrone E. Nelson (Varina)  
14 Board of Supervisors' Representative  
15

16 Members Absent: Mr. Robert H. Witte, Jr. (Brookland)  
17

18 Also Present: Ms. Jean Moore, Assistant Director of Planning  
19 Mr. James P. Strauss, PLA, Senior Principal Planner  
20 Mr. Ben Blankinship, Senior Principal Planner  
21

22 Mr. Archer - I will call a work session to order, and I suppose we'll turn  
23 things over to Mr. Blankinship.  
24

25 Mr. Emerson - Yes, sir. Mr. Blankinship's going to give you an update and a  
26 continuing review of the code update. We're moving on to Module 2a and Module 2b this  
27 evening.  
28

29 Mr. Archer - All right, Mr. Blankinship, good evening, sir.  
30

31 Mr. Blankinship - Good evening Mr. Chair, members of the Commission. Thank  
32 you, Mr. Emerson. We are, as you said, opening the second module tonight which is in  
33 two parts, A and B. A being the zoning ordinance and B being the subdivision ordinance.  
34

35 We had discussed with our consultant combining those two into what's called a unified  
36 development ordinance, but the way the state code enabling legislation is structured it's  
37 a lot easier, apparently, to do it all together but in two different chapters. So that is the  
38 way it is in the code today as you know, Chapters 19 and 24, and that's the way we're  
39 going to continue.  
40

41 So I'm going to go through zoning first, which will remain Chapter 24. So, the articles  
42 now are numbered 24, dash, and then then, you know, the sequential article number. So  
43 24-1 is General Provisions. 24-2 is Administration, and that's where we'll spend most of  
44 our time. 24-7 is Enforcement. And 24-8 is Definitions. Again, we've talked about the  
45 definitions, and only a few have been added. So, there are a few new definitions, so they  
46 reprinted the entire article.  
47

48 To go through these one at a time, I'm not going to explain each one of these things to  
49 you. I just put this up as an illustration to show you that 24-1, the general provisions, is  
50 mostly boiler plate. A lot of it is taken straight from the state code. The title, the authority,  
51 the purpose and intent are all things that are really pretty straightforward.

52  
53 There is one section here, though, that is worth focusing a little more on. I've indicated it  
54 with a red arrow there. 24-1.8 is Transition from Prior Regulations. Of course, any time  
55 you adopt a whole new ordinance like this everybody that's caught in the middle wants to  
56 know how they're going to be affected by it, so that's what that section is about. And it  
57 has, what, seven or eight subsections.

58  
59 The first states that violations continue. So, if somebody is in violation of the code and a  
60 new code is adopted, if what they're doing is still unlawful under the new code, then we're  
61 just going to continue the violation process. Very straightforward. Nonconformities will  
62 be regulated in Module 3, but anything that is a permitted use today, if we change the  
63 code so that it's no longer permitted, that will become a nonconforming use and it may  
64 continue. That's a matter of state law as well as a matter of basic fairness.

65  
66 Pending applications will be processed under the old rule. So if somebody has applied  
67 for a rezoning and then the next month the new code is adopted, we will process their  
68 application under the rules that were in place when they submitted their application unless  
69 it is to their advantage to play under the new rules. And if that's the case then they have  
70 the choice to withdraw their application and submit a new one.

71  
72 So the applicant can do whatever is in their favor. If they were favored under the old  
73 rules, they could continue with that, but if they would prefer the new rules then they can  
74 choose that.

75  
76 The trick to that, though, is if the applicant fails to follow through and their application is  
77 withdrawn or just dies, or if they expire, I meant to say, or if, you know, they need to file  
78 something in addition and they never do so, and then they come back a year later, we're  
79 going to apply the new rules. So they will lose that right if they don't continuously pursue  
80 whatever they have submitted.

81  
82 All valid approvals will remain valid. So, nobody has to wonder if something that was  
83 approved under the old rules will still be allowed under the new rules. And vested rights  
84 will be protected. Vested rights is the doctrine where you are, again, caught in the middle  
85 of a development process. If you have gotten a significant governmental action affirming  
86 that you can do what you want to do and you make a substantial unrecoverable  
87 investment based on that, then that becomes a vested right. And it's almost like a  
88 nonconforming use. You have the right to continue that until it is occupied.

89  
90 Are there any questions on transitions? Okay. That's pretty much it for Section 1, though,  
91 24-1. The rest of that is really just carrying forward state code provisions.

24-2, Administration is the title of it. The first section sets out who the decision-making bodies are and gives the powers and duties of each one, the organizational structure of each one. So that's, again, mostly information that we already have today either in the code or in your rules. But this is an attempt to reorganize that, reformat it, and standardize it so that it's easier for everyone to find what they're looking for.

Then section 2, 24-2.2, is Common Procedures. And then .3 is Specific Standards and Requirements. So the common procedures sets out how we hold a public hearing, how we do notice letters, all the things that we do for all different kinds of applications. And then the specific standards in .3 tells you which of those things apply to each kind of case. So as you're reading through it, the first time you see the general case that encompasses everything that might apply to a specific application. And then from that it goes on into the specific types of development approvals and tells you which of those pieces apply.

So there's the decision-making bodies and, again, there's not a lot of change here. The text amendment or, you know, code amendment is still going to be prepared by the staff, reviewed by you, and the decision will be made by the Board of Supervisors. Same thing is true of rezonings which are called map amendments under this code. That's a fairly common term, because that's really what a rezoning is, it's an amendment to the zoning map. It's a change to the zoning map. So, again, it's prepared for you and reviewed by staff, reviewed by the Planning Commission to make a recommendation, and then the decision is reserved to the Board of Supervisors.

Conditional zoning is the same thing. It's just a sub-type of rezoning and really a planned development district is just a subtype of rezoning. So they're all the same. And then, of course, provisional use permits follow that same process. The transfer of provisional use permits however will be handled administratively by the director. So each time there is a transfer from one owner to another. Unless there is a specific condition on the permit that says you want to see those again, we will handle those administratively.

Mrs. Thornton - Transfer of ownership, is -- that's not the same?

Mr. Blankinship - No that is just -- well, that is the main reason why a provisional use permit would transfer. If, say, a restaurant has extended hours of operation, and they go out of business and another restaurant goes in, we want to go through a process of making sure that that permit should still apply to the new restaurant.

Mrs. Thornton - So as of right now do we review?

Mr. Blankinship - No. They're usually done administratively now.

Mrs. Thornton - Okay.

Mr. Blankinship - Under the current code.

139 Mrs. Thornton - Yeah. The TOAs that he reviews --  
140  
141 Mr. Blankinship - That's plans of development. This is provisional use permits.  
142  
143 Mrs. Thornton - Okay. Okay. All right.  
144  
145 Mr. Blankinship - We'll get to TOAs, though. They're in the same table, but  
146 they're on the next page.  
147  
148 Mrs. Thornton - Okay.  
149  
150 Mr. Blankinship - Conditional use permits, as you know, go to the Board of  
151 Zoning Appeals for the decision. There is a quirky provision in the state code that actually  
152 requires us to route those to you for review. You may not have been aware of that,  
153 because you've probably never actually reviewed a conditional use permit, but it is in the  
154 state code, so it is carried forward here. But that's just kind of a formality, really.  
155  
156 Building permits and occupancy certificates. There are provisions spelled out in our  
157 current code of how to handle those, and they're kind of outdated. That's one of many  
158 things that we are bringing up to date in this code. So we have kind of a placeholder  
159 here. So if somebody's wondering where those old provisions went they can see, Oh,  
160 okay, now I just need to go to Chapter 6, because it's really all building code issues. The  
161 building code has changed since our provisions were --written.  
162  
163 Sign permits are actually a kind of building permit so they kind of follow that same process.  
164 They are reviewed and approved by the Director of Planning with an appeal to the Board  
165 of Zoning Appeals. Temporary use permit, now that is a new creature. We talked about  
166 it a lot when we were going through the uses, temporary uses, but that is a new  
167 authorization for an administrative review of certain temporary buildings and certain  
168 temporary events.  
169  
170 We have another one of those that we were struggling with just today. One of our private  
171 schools needs some temporary classroom space in order to provide additional distancing  
172 in their classrooms. Their enrollment's not increasing, but they need more room for the  
173 current number of students and they found out that they needed to apply for a conditional  
174 use permit too late to get on the July agenda, so they're scheduled for the August 27th  
175 Board of Zoning Appeals meeting. School starts August the 31st. So that's the kind of  
176 time crunch that we're trying to get around by having an administrative review of a  
177 temporary use like that. Still with an appeal to the Board of Zoning Appeals if there's  
178 some reason why we don't feel comfortable handling it administratively.  
179  
180 Special flood hazard area permit is another review that is in the code now but you  
181 probably don't see very many of them because they're actually done by public works, so  
182 they're assigned to the county engineer with a staff review by the Planning Department.  
183

184 And then tree removal permit, I think we also talked about some in one of our previous  
185 work sessions. We don't have that regulation yet. That's going to come in Module 3.  
186 This is just kind of a place holder, that whatever comes of that -- the review process will  
187 be administrative. But we'll see what that actually is when we get Module 3.  
188

189 Continuing on with plans of development and administrative site plans. As it is now, Plan  
190 of Development goes to the Director for review, you know, staff will write a review, and  
191 then the Planning Commission has the -- just makes the decision. Board of Supervisors,  
192 of course, approves plans of development for county projects. So that's what the footnote  
193 two is for there.  
194

195 We are broadening the administrative site plan review. There is some provision in our  
196 code today for administrative site plans, but very few things qualify for it. It's really only  
197 additions to projects that were approved under a POD. This draft would allow -- in order  
198 to streamline our review process for smaller projects this would allow an administrative  
199 site plan review for commercial sites under 65,000 square feet and also for residential  
200 units like townhouses or zero lot lines where you get a POD. If it's fewer than 50 units,  
201 they would be done administratively.  
202

203 And they picked 50 units because as you know the state code has changed so that  
204 subdivisions of fewer than 50 units do not have to submit a preliminary plat anymore. So  
205 that, we just kind of picked up on that same threshold.  
206

207 So the proposal from our consultant is that those smaller projects be approved  
208 administratively with an appeal to the planning commission, which is not exactly an  
209 appeal. But if there is an adjoining neighbor who really dislikes something about the  
210 design and they don't feel like they're being heard either by the applicant or by staff then  
211 they can request that that be transferred from an administrative site plan to a full-blown  
212 plan of development and come before you. So some of these projects that are particularly  
213 contentious might still land in your laps. Sorry about that.  
214

215 But as a matter of just overall trying to streamline our processes and trying to do as much  
216 as we can to just improve, you know, the way the system works, we're going to do more  
217 of those reviews administratively.  
218

219 Mrs. Thornton - Okay. So, you said there could be any type of housing 50 or  
220 less?  
221

222 Mr. Blankinship - Well this is for plans of development. So, yeah, where you  
223 would normally see a plan of development is townhouses and zero lot lines.  
224

225 Mrs. Thornton - Yeah.  
226

227 Mr. Blankinship - Where you would get both the subdivision and the plan of  
228 development.  
229

230 Mrs. Thornton - Right. Okay.  
231  
232 Mr. Blankinship - Yes, ma'am.  
233  
234 Mrs. Thornton - And we had some of those right now that are coming in.  
235  
236 Mr. Blankinship - Yes, ma'am.  
237  
238 Mrs. Thornton - So they wouldn't even make it to -- okay.  
239  
240 Mr. Blankinship - Right. And, as you know, those reviews are ministerial.  
241 Meaning that if they meet the requirements of the code we're required to approve them  
242 anyway. So --  
243  
244 Mrs. Thornton - Right. Okay.  
245  
246 Mr. Blankinship - And just streamline that process. Variances, as today, go to  
247 the Board of Zoning Appeals. Chesapeake Bay Exceptions, again, there is a specific  
248 provision in the code just to deal with those. So, it's here so that if somebody's looking  
249 for it in this table, they find the cross reference.  
250  
251 Interpretations we do not specifically address in our code today. Most of the written  
252 interpretations that we issue are what we call zoning confirmation letters where we write  
253 on a specific site that a specific proposal is allowed or a specific existing use is a permitted  
254 use. So we write about 250 or 300 of those a year. And, again, most of those do not  
255 come before you. They're handled at the administrative level and there is always, of  
256 course, the opportunity to appeal our decisions.  
257  
258 Proffer interpretations are the one kind of interpretation that does not go to the Board of  
259 Zoning Appeals. The Planning Director makes the interpretation, but if someone wants  
260 to appeal his interpretation, those go directly to the Board of Supervisors. And that again  
261 is a matter of state code. I guess that's because proffers are more of a negotiation  
262 between the Board and the property owner. So only the board knows exactly what was  
263 in their minds when they accepted the proffer.  
264  
265 Administrator modification is another new tool that we are proposing, or our consultant is  
266 proposing. It's similar to a variance where if somebody needs flexibility in the setback, a  
267 building setback, this -- our draft has proposed that we allow administrative modifications  
268 for building setbacks up to 15 percent of whatever the requirement is. And that was just  
269 based on, you know, research of some of the other communities in the state. A lot of  
270 communities in Virginia do administrative modifications. Henrico never has.  
271  
272 So this, our consultant's proposing that we should take advantage of that, again, for small  
273 matters that don't really need to go on to the Board of Zoning Appeals agenda. They  
274 would be able to -- we would be able to process those administratively.  
275

276 And then, finally, appeals of any decision of the Director of Planning or any administrative  
277 officer. Most of those are notices of violation, we have appeals after we serve a notice of  
278 violation. And those are, again, decided by the Board of Zoning Appeals.

279  
280 So, a lot of that, again, is state code. A lot of it is what we do now. But there are a couple  
281 of major changes. The administrative site plan and the administrative modification are  
282 significant changes.

283  
284 So, the common procedures, as I mentioned, just kind of lays out the overall skeleton of  
285 how the procedures all work: Pre-application conference, submission, staff review, public  
286 hearing before the Planning Commission review and recommendation. And then a  
287 decision by whoever the decision-making body on that earlier chart is in most cases the  
288 Board of Supervisors, but in some cases the Planning Commission or the Board of Zoning  
289 Appeals. And then post-decision actions and limitations. This kind of sets out the general  
290 framework so that all the details can be written down once, don't have to be repeated in  
291 every other section.

292  
293 And then 24-3 is where you have -- or 2.3, excuse me, is where you have the specific  
294 standards for each kind of approval. So, again, it's kind of the same list that you just  
295 looked at. But for each one it tells you exactly which of those, you know, Does *this* need  
296 a public hearing? Does *this* have to go to the Board? Does *this* have to have a  
297 recommendation from the Planning Commission? So it's just a more specific review of  
298 each kind of permit and I've just, you know, listed them all here for you, but I'm not going  
299 to go through them all.

300  
301 Mr. Archer - Right.

302  
303 Mr. Blankinship - Again, the plan of development: commercial uses or industrial  
304 or office uses of 65,000 square feet or more would still come to the Commission. Those  
305 up to 65,000 square feet could be approved administratively. Residential developments,  
306 particularly townhouses and zero lot lines, 50 or more still go to the Commission. Up to  
307 50 could be handled administratively.

308  
309 And there is some inconsistency today in which items we schedule for public *hearing* and  
310 which items you review at a public *meeting*, but not a public hearing. And that causes a  
311 lot of confusion for people so we just want to clarify for PODs and for subdivisions. It is  
312 a public meeting. Anybody has the right to come to your meeting, but it is not a public  
313 hearing. So there doesn't have to be the notice and advertising that we have to do for a  
314 public hearing. We don't need to do that for PODs and subdivisions.

315  
316 And, again, there's some inconsistency today on... I can't even remember all of the rules,  
317 of which things get notified and which ones do not, which things have public hearings and  
318 which do not. We're going to standardize the, when those come to you, those  
319 administrative actions come to you they will be public meetings, but not public hearings.

320  
321 Mrs. Thornton - I would just add --

322  
 323 Unknown Speaker - (Indiscernible) --  
 324  
 325 Mrs. Thornton - Oh. Sorry. 65,000 square feet or more. I'd add or more.  
 326  
 327 Mr. Blankinship - Okay. Yep. You're right. That should be or more.  
 328  
 329 Mrs. Thornton - Okay.  
 330  
 331 Mr. Mackey - So you would consider a work session a public meeting?  
 332  
 333 Mr. Blankinship - Yes. A work session is an example. Anybody has the right to  
 334 come to this meeting and watch you do what you're doing. We're not -- we're not going  
 335 to ask them to speak.  
 336  
 337 Mr. Mackey - Right, okay.  
 338  
 339 Mr. Blankinship - Or invite them to speak. Oh. And for the administrative  
 340 reviews, we would do a notification, but there wouldn't be a meeting unless it's necessary.  
 341 Now if we have something that's 60,000 square feet and highly controversial, we send  
 342 out a lot of notices and people inundate us with comments and concerns and we can't  
 343 resolve them, again, that may be referred up to you.  
 344  
 345 Mrs. Thornton - Okay.  
 346  
 347 Mr. Blankinship - And the rest of these, again, are continuations of what we do  
 348 now except for the modification which would give the director the authority to approve the  
 349 building setbacks up to 15 percent.  
 350  
 351 Okay. That gets us through 2.3. 24-7 is the enforcement. And, again, most of this is  
 352 straight out of the state code and some of it you have just recently seen, because we just  
 353 recently amended the penalties, brought those up to date with the state code. But, you  
 354 know, just clarifies what constitutes a violation and who is responsible for a violation so  
 355 that when we go to court we can show the judge, Yes, your honor, this is something that  
 356 the Board of Supervisors has adopted.  
 357  
 358 Enforcement generally I had marked with my arrow here because I wanted to go into a  
 359 little bit of detail. There is one new penalty that we asked our consultant to do some  
 360 research and make a recommendation.  
 361  
 362 And that is the penalty for cutting down large trees that are within a tree-save area. The  
 363 problem, of course, is that when somebody cuts down a large tree it's gone and there's  
 364 nothing you can do about it no matter what piece of paper you serve him or, you know, if  
 365 you drag him into court. You can get mad at him, you can fine him, but fining him doesn't  
 366 put the tree back. And there are some communities that do something like this. If you  
 367 cut down a 12-inch tree, you have to replace it with nine 2-inch trees. And the math is

368 spelled out here: it's the number of 2-inch trees that would equal 1.5 times the size of the  
369 tree he'd cut down. So, you cut down a 12-inch tree you have to replace it with nine 2-  
370 inch trees. You cut down a 24-inch tree you have to plant 18 2-inch trees to replace it.

371

372 Mr. Archer - Wow.

373

374 Mr. Blankinship - Now, again, it's going to be years before those trees are  
375 mature, so the loss is really something we can't make up, but at least it's a way of requiring  
376 the person who did the damage to the environment to do a little bit more to undo that  
377 damage for the long run.

378

379 Mr. Mackey - Is there a monetary penalty with it as well?

380

381 Mr. Blankinship - There could also be. Yes. If they go to court they could also  
382 be hit with a fine.

383

384 Mr. Mackey - Okay.

385

386 Mr. Archer - Do the trees have to be similar to the ones that were  
387 destroyed? Or same I guess I should say.

388

389 Mr. Blankinship - I don't know if we require the same species. I'd have to look  
390 at that.

391

392 Mr. Baka - Probably want to leave that flexible for landscape architects  
393 to determine if you need different species here and there.

394

395 Mr. Blankinship - Right.

396

397 Mrs. Thornton - Right.

398

399 Mr. Blankinship - But you wouldn't want them cutting down, you know, nice big  
400 oak trees and replacing them with loblolly pines.

401

402 Mr. Baka - Right. Right. Right. To be approved by the staff's landscape  
403 architect.

404

405 Mr. Blankinship - Right.

406

407 Mr. Baka - How about that?

408

409 Mr. Blankinship - Right.

410

411 Mrs. Thornton - All right. So, can you give me an example where --a tree-save  
412 area is?

413

414  
415  
416 Mr. Blankinship - Well, a proffered buffer would be one example.  
417  
418 Mrs. Thornton - So -- okay.  
419  
420 Mr. Blankinship - When somebody stands up in front of you and says, I promise  
421 that if you approve this, I won't take down this row of trees here.  
422  
423 Mrs. Thornton - Okay.  
424  
425 Mr. Blankinship - And then nobody tells the guy on the bulldozer. And so we  
426 get a complaint from this citizen, "You promised us these trees would never come down."  
427 Yes, it does happen. Yes.  
428  
429 Mrs. Thornton - Yeah.  
430  
431 Mr. Blankinship - Yeah. And, again, there's nothing we can do about it really,  
432 because the tree is gone.  
433  
434 Mrs. Thornton - So then you'll follow up, I guess, or somebody will go out there  
435 and make sure they do it, and if they don't, then what's the next step?  
436  
437 Mr. Blankinship - It would go to court and a judge would order them either to  
438 plant the trees or to pay a fine or both or whatever the judge chooses.  
439  
440 Mrs. Thornton - Okay. Now if a tree's dead?  
441  
442 Mr. Blankinship - Usually the buffer provision is written to say that if there is  
443 deadfall it should be removed promptly and then replaced at the next planting season.  
444  
445 Mrs. Thornton - Okay.  
446  
447 Mr. Blankinship - All right. So that's about the only innovative thing under  
448 enforcement. And then, as I mentioned, you have already seen most of the definitions,  
449 because they were mostly in Module 1. They just repeated that section in Module 2 and  
450 added the definitions in front of you here: Controlled access road, major and minor arterial  
451 road, major and minor collector road. Those terms get used a lot in the code, and we just  
452 wanted to make it clear that it has the same meaning in the code that it has in the comp  
453 plan. We've always interpreted it that way, but this way it's spelled out for somebody  
454 who's not familiar with that.  
455  
456 And then, finally, fence, retaining wall, and wall are defined. Lot of regulations about  
457 fences, walls, and hedges, as you know.  
458

459 And right now, we don't have a definition of retaining walls, so I was really happy to see  
50 that one included. Because we -- it raises a different issue in terms of measuring the  
461 height, because a retaining wall is always high at one end and low at the other. And the  
462 code today doesn't say where you measure the height, so I just want to spell that out. We  
463 know where to measure it, but we have to argue with people a lot, because it's not written  
464 in the code.

465  
466 Mr. Archer - Mr. Blankinship?

467  
468 Mr. Blankinship - Yes, sir.

469  
470 Mr. Archer - Who determines major and minor arterial road? Is there a  
471 number of vehicles that have to pass in a certain amount of time, or how is that done?  
472 And same thing for --

473  
474 Mr. Blankinship - I don't know exactly. I know by looking in the comp plan, you  
475 know, there's the major thoroughfare plan as an element of the comp plan, so once that's  
476 adopted that's where I go to look for it. Mr. Emerson, do you know how public works  
477 determines or consultants or whoever determines that?

478  
479 Mr. Emerson - No (indiscernible).

480  
481 Mr. Blankinship - I would guess that it's based on traffic counts, primarily.

82  
483 Mr. Emerson - That's what I believe is correct.

484  
485 Mr. Blankinship - Yeah. I think the road width probably follows after the traffic  
486 count issue.

487  
488 Mr. Archer - Same thing with collector?

489  
490 Mr. Blankinship - Sorry?

491  
492 Mr. Archer - Same thing with collector roads?

493  
494 Mr. Blankinship - Yes. Yeah. Yeah. They're all -- that is just the classifications  
495 that are used to map out which roads are which.

496  
497 All right. I put a deep breath slide in here, but actually we're going really fast.

498  
499 Mr. Baka - One question about text amendments, if I could.

500  
501 Mr. Blankinship - Yes.

502  
503 Mr. Baka - Can only -- does only the staff propose changes to the text  
504 amendment? And if a --, not applicant, if a citizens or developer comes in and says I want

505 to change the code is -- am I correct that their only option is literally to go have a  
506 conversation with their esteemed, either board member or their local district supervisor  
507 and talk through that. Because -- and is that correct?

508  
509 Mr. Blankinship - Yes, sir. Has to be initiated by either the Commission or the  
510 Board of Supervisors. And, of course, you usually initiate them after the Board has asked  
511 you to. So really, they all come from the Board of Supervisors.

512  
513 Mr. Baka - With a Board member. Okay. All right. Thank you.

514  
515 Mr. Blankinship - All right. Moving on to the subdivision, these modules came  
516 together because they're very similar. Again, we're going to look at the general  
517 provisions, the administration, who does what, the common procedures and the specific  
518 procedures, and then enforcement, and then definitions. So, it's exactly the same  
519 structure as what we just went through.

520  
521 And the general provisions, again, are mostly taken from the state code. The purpose  
522 and intent, the applicability, those things are all spelled out in the state code. Relationship  
523 with other laws just saying that if there's a conflict, you have to meet the more restrictive.

524  
525 Again, the transitional provisions is the one thing here that you wouldn't have seen before,  
526 but it's not very different from the one for zoning. Violations continue, pending  
527 applications under the old rules unless the applicant prefers the new rules.

528  
529 Oh, preliminary plat. Of course, you do have the multiple steps in subdivision so that's a  
530 little bit different. If a preliminary plat was approved under the old rules, then the final plat  
531 would also follow the old rules. Unless, again, the applicant would rather have the new  
532 rules and if the applicant allows, Let's say you have a preliminary plat and it expires and  
533 then they have to do a new preliminary plat, they would have to do it under the new ones.  
534 So pretty similar to the zoning provisions.

535  
536 The administration, again, is very similar. It's structured identically. The table is very  
537 similar. An amendment to the ordinance is the one thing in this ordinance that goes to  
538 the Board of Supervisors. Preliminary plats would go to the Commission, final plats to  
539 the Director. And, again, the state code has said that if it's fewer than 50 units they don't  
540 have to file a preliminary plat, so that's taken out of our hands. In those cases, final plats  
541 are all that's required, and they are handled administratively.

542  
543 Minor subdivision is a new line in this chart, however. Today we do not have any provision  
544 in our code for adjusting boundary lines once they are approved. We don't have any  
545 provision in our code for vacating a lot line between two lots and we do not have any  
546 separate provision for a small subdivision into, you know, say, one parcel into two lots.

547  
548 We have a rule that was put in place in 1987 that land that has not been divided since  
549 1987 can be divided once without going through the subdivision process. But that's been,

550 what, 30, 40 years in place now and we believe its time has run. Everybody who really  
551 wanted to do a subdivision by 1987 has had plenty of time now.

552  
553 So in lieu of that, we are recommending a minor subdivision process which would just  
554 simplify the amount of engineering that the applicant has to pay for. As you know,  
555 subdivision plats are extremely expensive on the private sector side. Our fees are  
556 minimal, but the cost to the applicant is still significant because the engineering is so  
557 expensive. So, by instituting a minor subdivision plat for boundary line adjustments,  
558 vacations, very simple divisions, we can save people a lot of money that doesn't really  
559 benefit anybody other than the engineers.

560  
561 So that's a major change for us that will allow us to see things that today sometimes just  
562 go straight to record in the courthouse without us ever reviewing it. And we spend a  
563 significant amount of time arguing with people over what is a boundary line adjustment  
564 and at what point you've really created a new lot through subdivision and it really has to  
565 go through the process.

566  
567 And today that difference is the difference between going straight to the courthouse with  
568 a survey and going through all of the engineering necessary for a subdivision. So, we  
569 really need an in-between step so that people can do those adjustments, we can review  
570 them, but it's not as burdensome on them as the overall subdivision process.

571  
572 And vacations are the same as they are -- the state code is very specific on when the  
73 Board of Supervisors has to vacate a street or a -- they do building lines on our older  
574 plats. Prior in 1960 it was common to show setbacks as a building line on the plat, and  
575 those have to be vacated by the Board of Supervisors because of the state code  
576 provision. So, there's, again, a cross-reference there so you know where to find those  
577 rules if you're looking for them. But they're not in our code.

578  
579 All right. And then again, just like in the zoning section, you have this table and a long  
580 description that follows it of all of the processes that might apply, and then for each  
581 individual application you have a table of what processes -- which of those processes  
582 apply to that specific kind of application.

583  
584 It's a much shorter list here than it is in the zoning ordinance because all the -- all the  
585 subdivision ordinance regulates is it's -- amendments to the subdivision ordinance and  
586 then preliminary plats, final plats, minor subdivisions which also, yeah, I mentioned  
587 vacations and relocations. That is one item that would go through this new minor  
588 subdivision process.

589  
590 Another is divisions that are also going through POD. As you know, you can divide  
591 property, commercial or industrial or office property, through the POD process and it  
592 doesn't go to subdivision. That's great in terms of streamlining. The problem is that a lot  
593 of people don't take that POD plan to the courthouse and record it. So, at the courthouse  
594 you have property transactions taking place for which there is not a clear chain of how  
595 the property got divided, because the division was never recorded.

596  
597 So, the way that our consultant has suggested we resolve that issue is basically have an  
598 additional sheet in the POD set that takes the place of a subdivision plat. It would just be  
599 reviewed and approved as part of the POD review, but then it would be signed and taken  
600 to the courthouse and recorded. So, it is one subdivision sheet that will be a part of the  
601 Plan of Development review.

602  
603 So that sheets is a minor subdivision in these new regulations. And also, the family  
604 subdivisions would be minor subdivisions, because there are always only two or three  
605 lines.

606  
607 And that's it for those processes. The enforcement, again, is even simpler because  
608 violations of the subdivision ordinance are very rare. But people are required to comply  
609 and there are penalties if they don't comply.

610  
611 And then the definitions, there are only a handful, so I just went ahead and listed them all  
612 here so you could see they're really not definitions that take a lot of arguing over.  
613 Nobody's going to argue over what circuit court means, or what Board of Supervisors  
614 means, but they are set out there in case anybody needs to know, What do you mean by  
615 final plat? What do you mean by minor subdivision? The definition of subdivision is  
616 probably the most complex of them. Just trying to spell out what is and is not a  
617 subdivision.

618  
619 And the definition of family subdivision, of course, includes the definition of who is a  
620 member of the immediate family. But, again, that's stated in the state code so it's not  
621 really something for us to spend a lot of time arguing. And, with that, it is 6:29 and we  
622 are finished.

623  
624 Mr. Archer - Excellent, Mr. Blankinship. Anybody have questions for the  
625 expertise of Mr. Blankinship?

626  
627 Mrs. Thornton - No. Thank you.

628  
629 Mr. Blankinship - You are more than welcome.

630  
631 Unknown Speaker - Thank you.

632  
633 Mr. Baka - Thank you.

634  
635 Mr. Archer - Anything new come out of the general assembly that you had  
636 to consider while you were doing the updates?

637  
638 Mr. Blankinship - There has been last year and the year before, last year there  
639 wasn't very much. Last year was a pretty quiet session. Year before we had some of  
640 that proffer, the changes to proffers that had been so troublesome. I'm trying to think of

641 what else was -- seems like there was something else in the 2018 session that caused a  
642 lot of heartburn.

643

644 Mrs. Thornton - Antennas.

645

646 Mr. Blankinship - Sorry? Oh. Antennas, yes. Right, yeah, the changes to  
647 antennas.

648

649 Mrs. Thornton - I was like, I know that was a big change.

650

651 Mr. Blankinship - Yeah. Certainly simplifies our process, but --

652

653 Mrs. Thornton - Yeah.

654

655 Mr. Blankinship - -- yeah, makes people unhappy. Every year there are a  
656 handful of things. You know, we work with the county attorney's office and decide which  
657 things we need to amend and which things we can just do administratively.

658

659 Mr. Emerson - Well there are some things that we have --

660

661 Mr. Baka - The proposed --

662

663 Mr. Emerson - -- such as (indiscernible) at the federal level as (indiscernible).

664

665 Mr. Blankinship - Yeah. We have the 110 percent fall-zone requirement for  
666 towers that is no longer enforceable. We still have it in our code, but we don't enforce it.  
667 We have a provision that caps ham radio antennas at 50 feet and there's now a federal  
668 law that requires us to allow them up to 75 feet.

669

670 So we've never bothered to correct the code because there's so few Ham operators these  
671 days. But if somebody comes in with a 65-foot antenna we approve it. You know. We  
672 know that we're bound by the state code even if we don't go the effort of amending our  
673 county code every step.

674

675 Mr. Baka - You referred to previous -- oh. Go ahead.

676

677 Mr. Archer I was going to say, do you or Mr. Emerson know of any case  
678 in which an antenna fell?

679

680 Mr. Blankinship - I do not.

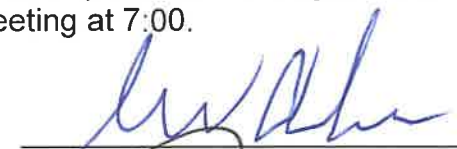
681

682 Mr. Emerson - No. No. Well I -- I've seen them come down before when a -  
683 - I saw one come down one time when a tractor trailer backed into a guidewire. And it  
684 was one of the lattice-style towers. You know, they were designed to where they should  
685 fall straight down, and that one did, amazingly enough. It just kind of unwound and came  
686 straight down.

687  
688 Mrs. Thornton - Yeah.  
689  
690 Mr. Emerson - But beyond that I've never known of one to fall. I've seen  
691 some pictures of some that have -- that had fallen, but I've never known them to.  
692  
693 Mr. Baka - I do have some older pictures from work previous to Henrico  
694 County where in upstate New York there was ones that had fallen, and they were older  
695 design that did not collapse themselves. But that's been many years.  
696  
697 I did want to ask about the -- you mentioned about proposed legislation. One of the bills  
698 proposed in the general assembly was proposing a duplex unit or two units per home  
699 might be allowed as a matter of right, or might be prescribed to be -- to be required that  
700 each locality have that in their ordinance.  
701  
702 So -- and that was a concern I had in a previous meeting to the extent that there are many  
703 communities throughout Henrico County that do not have deed covenants, or restrictive  
704 covenants. A lot of newer ones do. So, you know, the potential effect could be, you  
705 know, perhaps twice as many cars, twice as many traffic, impact on neighbors. So I  
706 wanted to ask, Is that a provision that we're not considering including in the new  
707 ordinance? I know -- I know in previously talked maybe we're looking at that.  
708  
709 Mr. Blankinship - There were several bills in the last legislature that kind of fit  
710 into that category. One of them would've required us to allow accessory dwelling units:  
711 In-law suites, granny flats, those kinds of things. That has come forward. We talked  
712 about that some, you know, last time. Or was it two meetings ago?  
713  
714 Mr. Archer - Yeah. Maybe -- maybe --  
715  
716 Mr. Blankinship - Maybe it was last time. Yeah. Yes. That would be an  
717 accessory use. And we had proposed allowing it by conditional use permit, or our  
718 consultant has. The one that just would've allowed every single-family home to be divided  
719 into a duplex, no. We have not recommended anything along those lines in this draft.  
720  
721 Mr. Baka - Okay.  
722  
723 Mr. Emerson - And we would continue to oppose that in the state level. That  
724 just -- that's not good legislation.  
725  
726 Mr. Baka - Okay.  
727  
728 Mr. Emerson - From our perspective.  
729  
730 Mr. Baka - Thank you.  
731  
732 Mrs. Thornton - Is that (indiscernible) mental health?

733  
734 Mr. Emerson - I think that was what it was called.

735  
736 Mr. Archer - Okay. Any other questions? All right. Then I will declare this  
737 meeting suspended until our regular meeting at 7:00.

738  
739  
740  
741   
Mr. C. W. Archer, Chairman

742  
743  
744   
Mr. R. Joseph Emerson, Secretary

