

1 Minutes of the Planning Commission Work Session held in the County Manager's  
2 Conference Room to discuss a change to floodplain ordinances, beginning at  
3 5:15 p.m., Thursday, October 11, 2007.

4

Members Present: Mr. Tommy Branin, Chairperson (Three Chopt)  
Mr. E. Ray Jernigan, C.P.C., Vice Chairperson (Varina)  
Mr. C. W. Archer, C.P.C. (Fairfield)  
Mr. Ernest B. Vanarsdall, C.P.C. (Brookland)  
Mr. Frank J. Thornton (Fairfield)  
Board of Supervisors Representative  
Mr. Randall R. Silber, Director of Planning, Secretary

Members Absent: Mrs. Bonnie-Leigh Jones (Tuckahoe)

Also Present: Mr. Ralph J. Emerson, Jr., AICP, Assistant Director of  
Planning  
Mr. David O'Kelly, Assistant Director of Planning  
Ms. Leslie News, Principal Planner  
Mr. Mike Kennedy, County Planner  
Mr. Tom Tokarz, Senior Assistant County Attorney  
Mr. Edward L. Priestas, Director of Public Works  
Mr. Samuel W. Amos, Jr., Chief Design Engineer  
Mr. Alfredo C. Frauenfelder, GIS Coordinator  
Mr. Tim Foster, Assistant Director of Public Works  
Ms. Sylvia Ray, Recording Secretary

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6 **Mr. Frank J. Thornton, the Board of Supervisors' representative, abstains**  
7 **on all cases unless otherwise noted.**

8

9 Mr. Branin - I'd like to call this meeting to order. Mr. Secretary?

10

11 Mr. Silber - Thank you, Mr. Chairman. This is a work session to  
12 talk about two items this evening, both of which relate to the floodplain ordinance.  
13 The first involves discussion of amending the zoning ordinance and subdivision  
14 regulations pertaining to floodplains. Specifically, these address new federal  
15 regulations. It involves a new definition of a floodplain, being referred to as  
16 "Special Flood Hazard Areas," and will eventually result in the adoption of new  
17 floodplain maps.

18

19 Second on the agenda, I'll mention at this time because it also relates to  
20 floodplains. But more specifically, it's an amendment to the zoning ordinance  
21 that relates to the Urban Mixed Use District to permit residential uses in the  
22 floodplains. This sets forth standards whereby certain residential units would be  
23 permitted in certain locations in Urban Mixed Use developments.

24

25 We have two different people speaking on these ordinance amendments. Tom  
26 Tokarz is here to speak to the first ordinance amendment and he has his experts  
27 from the Department of Public Works here to answer questions that he can't  
28 answer. Then we have Mike Kennedy here who is going to present the  
29 ordinance amendment on Urban Mixed Use floodplains. And he has staff here to  
30 help with questions on that.

31

32 So, unless you have any questions at this point, we can turn it over to Tom  
33 Tokarz.

34

35 Mr. Branin - Good evening, Mr. Tokarz.

36

37 Mr. Tokarz - Good evening, Mr. Chairman, members of the  
38 Commission. I'm glad to be here today. I haven't addressed you in quite a while,  
39 but tonight we have an important amendment. It may not be the most exciting  
40 one, but an important one nonetheless. It's an amendment that the County is  
41 required to consider and adopt in conjunction with the Flood Rate Insurance  
42 Maps which have been approved by FEMA, and which will become effective on  
43 December 18<sup>th</sup> of this year. The reason the County needs to adopt ordinance  
44 amendments is to continue the ability of County citizens to obtain Federal Flood  
45 Insurance. What we have to do is to amend our ordinance to comply with the  
46 federal regulations which are establishing the funding requirements for us. What  
47 we've done is work closely with the Planning staff and the Public Works staff who  
48 really are the experts on this, to craft an ordinance that is going to meet federal  
49 requirements and that is going to also, hopefully, be as workable as it can be.

50

51 Now, the reason we have Public Works staff here tonight is because this is a  
52 very technical area. I know a little bit about engineering, but not enough to  
53 answer any real, serious questions. My role, really, was to make sure, to the  
54 extent that we could, that the ordinance is going to meet federal requirements. I  
55 will tell you that as part of the review process, the Virginia Department of  
56 Conservation and Recreation, which is the State agency that reviews this, has  
57 done a preliminary review, and has given us comments. We received the  
58 comments yesterday. Sam Amos, from Public Works, and I reviewed the  
59 comments today. There will be further amendments that we'll have to bring back  
60 to you, but we're not going to discuss those tonight because, first of all, we  
61 haven't written the amended language to this, and secondly, we didn't want to  
62 bring a new document to you at the last minute. I think the amendments are  
63 more technical rather than substantive, but we will have to make them in order to  
64 get approval from the State and ultimately from FEMA, because we need the  
65 federal approval for the ordinance amendments to be effective and to continue to  
66 qualify the County for participation in the program.

67

68 What I would say to you is that there are federal regulations that are set forth in  
69 some detail. I have a handout for you, which we're going to give you in a  
70 second, to give you sort of a list of facts because it's a somewhat technical area.

71 What I've cited for you is the federal regulations that are in there. The important  
72 point is, not only do we have to meet the minimum requirements for federal  
73 regulations, we also have the ability to be more stringent, if we choose. The  
74 County has, in the past, chosen to do so, most particularly with respect to new  
75 residences. The ordinance right now, and has since 1989, prohibited the  
76 construction of new residences in a floodplain area. The draft that you have here  
77 will continue that. But there are a number of changes, some of which are more  
78 technical in a sense that they're going to be provided to meet the federal  
79 requirements, and some of them are going to be more substantive and may have  
80 an impact on certain individuals who wish to build in a floodplain.

81  
82 What I'd like Sam to do, if you could hand out the little fact sheet. I'll just  
83 describe for you the thing that is probably the most confusing to me, as I was  
84 doing this. Of the non-technical part, there are two types of maps. If you have  
85 questions from the citizens about this or you have questions as you read the  
86 draft, I want to just explain to you the two different maps.

87  
88 The first map is the Flood Rate Insurance Map. That is the map that's going to be  
89 effective December 18<sup>th</sup>. It's the one approved by FEMA. The reason it's  
90 important is because—and you'll see this about midway down in the page. That  
91 map only covers floodplains that are larger, that have a drainage area associated  
92 with them larger than one square mile. So, it doesn't cover the entire County. To  
93 supplement that, the County has a second set of maps, which are the County  
94 Comprehensive Drainage Study Maps. They cover floodplains with a drainage  
95 area associated with them of between one square mile and 100 acres. So, if you  
96 can visualize, the FEMA map is the big map, the County map is a more micro-  
97 map, and then below 100 acres, drainage areas below 100 acres, they are not  
98 mapped at this point. If people need to know about floodplains in those smaller  
99 drainage areas, that's subject to an engineering study by the individual developer  
100 or the individual owner.

101  
102 What I've done is listed for you the major changes here in the proposed  
103 amendments. One of them is we're adopting terminology so that when people  
104 read the ordinance and then look at the maps, they're not going to get confused  
105 by different terminology. We've had to change some of the language in the  
106 ordinance. The second one, and one that has had some impact in some certain  
107 cases in the past two or three years, deals with the change in the definition of  
108 "damaged building," and "substantial improvements." In the current ordinance,  
109 the definition refers to damaged buildings as having damage to more than 50%  
110 of the floor space. The new definition, which is a federally-mandated definition,  
111 refers to damage to 50% or more of the market value. So, it's no longer going to  
112 be based on floor space, it's going to be based on market value.

113  
114 The third change, which is a change which has probably been implicit, but will  
115 now be made explicit in the ordinance, is that there are numerous construction  
116 standards in the Uniform Statewide Building Code and the incorporated

117 standards that will now be made a particular requirement for houses that are  
118 going to be in the Special Flood Hazard Area. That's going to be made explicit  
119 and, of course, that will be something that will be reviewed by the building  
120 inspectors.

121

122 The fourth is there will be a prohibition on encroachments in floodways without  
123 FEMA approval. What we're talking about—actually, if you could leave that map  
124 up there for one second. If you take a look at the green, my understanding is  
125 that's the flood way on the FEMA map. Correct?

126

127 Mr. Frauenfelder - Actually, the floodway is not showing up on that  
128 particular map right there. The floodway is this area inside the lines.

129

130 Mr. Tokarz - Oh, inside the lines. Okay. The significance of the  
131 floodway is that there can be no development in the floodway without FEMA  
132 approval. So, that makes it, obviously, difficult for people who want to get inside a  
133 designated floodway. To do that, we have a prohibition on encroachments and  
134 that is to comply with the federal regulations.

135

136 The fifth one is probably not one of major impact, but for some it will be. There  
137 are requirements for recreational vehicles that are parked in floodplains. You will  
138 see them at the end of the draft ordinance.

139

140 The only other thing I'll mention is that because of the highly technical nature of  
141 the floodplain requirements, there will still be a requirement for a permit from the  
142 Director of Public Works for non-residential development in the floodplain. Once  
143 again, keep in mind there is no residential development in the floodplain  
144 permitted at this point and none permitted in the draft, and that the non-  
145 residential developments, commercial developments will still require a permit  
146 from the Director of Public Works. In the draft ordinance there are probably 9 or  
147 10 numbered paragraphs with development standards that have to be satisfied  
148 before they can get a permit. Some of those are new requirements coming  
149 directly from the federal regulations.

150

151 That's my overview, given the fact that you also have a second floodplain  
152 ordinance amendment to consider. I'll be glad to try and answer questions or,  
153 more likely, refer them on to the engineers who know the most about the  
154 technical aspects of this.

155

156 Mr. Thornton - Mr. Tokarz, many of the residents, citizens of the  
157 County, will be getting some of these notices. They have some qualms about this  
158 because they don't understand some things, so it looks like we're going to have  
159 some education about this. Maybe this piece of information will come in the  
160 second half of the presentation; their concern is actually how they will be  
161 impacted. What you've said is it doesn't specifically say how it does impact  
162 them, so much as maybe what I understand as new construction.

163

164 Mr. Tokarz - Yes, let me address that because there are going to  
165 be two major groups of homeowners that are going—Let's talk about  
166 homeowners because they are the ones who are going to have the most  
167 immediate personal impact. One group of homeowners are those homeowners  
168 whose homes are currently in the floodplain. Under the new maps, their houses  
169 will no longer be in the floodplain. They will not, as I understand the federal  
170 regulations, be required to continue to pay for Federal Flood Insurance; however,  
171 their lenders may still require them or strongly encourage them to do so. But  
172 they are the ones who will be on the plus side of the equation; houses now in the  
173 floodplain going out of the floodplain because of the new study on December  
174 18<sup>th</sup>. They are the ones who don't have anything to worry about and they actually  
175 benefit.

176

177 The second group is the group of homeowners whose homes are currently not  
178 listed in the floodplain who will become part of the floodplain area on December  
179 18<sup>th</sup>. Those homeowners are going to be required to get Federal Flood  
180 Insurance, and their lenders are going to be in touch with them and say, "Either  
181 you purchase it yourself or we will purchase it for you and then charge you for the  
182 insurance." One of the things that we talked about and have done is that, Public  
183 Works, about two weeks, three weeks ago, sent out notices to all the people who  
184 were going to be affected by either being put into the floodplain or taken out of  
185 the floodplain. About 11,000 or 12,000 notices went out. The reason those  
186 notices were sent was because under the Flood Insurance Program, if you buy  
187 your flood insurance prior to the effective date of the new maps, you get the rate  
188 that is in effect at that time, and the rate for the persons that are not in the  
189 floodplain right now is obviously lower than it will be after they become part of the  
190 floodplain on December 18<sup>th</sup>. So, it's really designed to give them advance notice  
191 so they can take steps to get the flood insurance now, at the reduced rates,  
192 rather than have to pay the higher rates after the effective date.

193

194 That was something that we've done proactively. It was also done because on  
195 July 1, 2007, the General Assembly required localities that are adopting new  
196 floodplain maps to notify everybody affected by the change. So, that's why  
197 you're probably hearing about homeowners getting these notices. It was because  
198 of the state requirement; but also to give them advance notice so they could have  
199 a chance to get the flood insurance. The unfortunate thing is that by the time you  
200 get into the floodplain on the FEMA maps, and are subject to the requirement to  
201 get the flood insurance, it's not inexpensive. The reason for that is that the  
202 purpose for the flood insurance program is to prevent the federal government  
203 and the states from having to deal with major losses from property damage  
204 without having adequate insurance for the homeowners to cover it. So, as you  
205 have seen in other situations, for example, the Missouri River when it flooded  
206 some years ago, probably 8 or 10 years ago now; major flooding by residents up  
207 and down the Missouri River. That was a major news story for probably over a  
208 year. The flood insurance program is designed now to say, "Let's get all these

209 houses insured. Let's get them with the premium money coming in so when we  
210 have to pay out the claims, the federal government is not sitting there with a huge  
211 unfunded liability to cover." So, that's what's going on. There is no good answer  
212 to the folks that are now going to be in the floodplain, except that, given the fact  
213 that their flood risk has now been more accurately identified, the requirement for  
214 them to get flood insurance will prevent them from suffering a flood loss in the  
215 future without having insurance proceeds to draw on. That's the plus side. The  
216 down side is they're going to have to pay premiums against the chance that  
217 they're going to be flooded at some point. The floodplain, the base flood  
218 elevation is really built on the idea of a 100-year floodplain, so it's a 1% chance a  
219 year of a flood occurring. So, In their lifetimes, they may never get flooded, but  
220 then again, as we saw with Gaston or Isabel, they could be flooded tomorrow.  
221 We just don't know. Oh, Lee's going to add something.

222  
223 Mr. Priestas - Mr. Thornton and members of the Planning  
224 Commission, the other bit of information that I wanted to make sure you all knew  
225 about was that the letter that Mr. Thornton referred to, and that Tom was talking  
226 about, was not the first time that the citizens who would be affected heard about  
227 this situation. We actually had a letter of a similar nature go out to these 11,000  
228 plus or minus property owners back in early 2006, telling them about the changes  
229 in the mapping. At that time, the mapping was preliminary and we had five  
230 informational meetings throughout the County inviting these people who were  
231 affected to come to these meetings so that we could talk to them and show them  
232 the impacts on their specific property. One meeting was held in each magisterial  
233 district. Out of the 11,000, if you gauge it by that, we didn't have a very good  
234 turnout. We probably did have, out of the total of five meetings, 1,000 or 1,500  
235 people come to these meetings. It was at those meetings we talked to the  
236 individuals one-on-one and we sent them maps of their specific property, if they  
237 desired them. We also met with individuals one-on-one when they came to our  
238 office to talk. And the maps were available prior to now for the people to view.

239  
240 The most recent letter went out to basically apprise them of the situation and, as  
241 Tom said, to give them the opportunity to purchase the flood insurance, if they  
242 were in that situation and desired to do so. We wanted them to have the  
243 opportunity to do that prior to the adoption of the maps because we understand  
244 that the rates are favorable to the homeowners if it's done beforehand.

245  
246 Mr. Thornton - Are there future public meetings to explain this in  
247 another form other than just the letters?

248  
249 Mr. Priestas - Mr. Thornton, there is no additional informational  
250 meeting proposed. The Planning Commission will have a public hearing, and the  
251 Board of Supervisors will have a public hearing to consider the adoption of the  
252 ordinance and, of course, citizens can speak at that point. We've received a lot  
253 of response as a result of the letter that just went out. Sam and his staff have

254 been talking with many, many people over the last week or two or three since the  
255 letter went out.

256

257 Mr. Tokarz - I'll also add that there is a second notice going out  
258 about this and about the public hearing giving the citizens the date of the public  
259 hearing on this ordinance before the Planning Commission on I guess, what, the  
260 25<sup>th</sup> of October.

261

262 Mr. Silber - The 24<sup>th</sup> of October.

263

264 Mr. Tokarz - All right, the 24<sup>th</sup>. They will know that there is a public  
265 hearing on this, so that'll be another opportunity for them to come and observe.  
266 Probably the best thing, Mr. Thornton, is that I think we have the ability to do  
267 what we didn't have the ability to do in 1989, and that is with GIS, citizens can  
268 follow-up on the phone and, as I understand it, the mapping is precise enough  
269 that they can tell an individual citizen, while they're on the phone, what the  
270 situation is with respect to their individual property. They tell me the precision is  
271 what, within three feet? So, citizens don't even have to come to the County, they  
272 can call up and find out for their individual property and what the situation is for  
273 them.

274

275 One other thing I also mentioned to you is the fact that we received comments  
276 from the State agency. We realize this is an extremely technical ordinance. In  
277 the drafting of this, I probably received about 50 e-mails from staff members. I  
278 invite you to join the e-mail parade and send me any questions and concerns. If I  
279 don't know the answer, I'll forward it on to the Public Works staff and to the  
280 Planning staff to get your answers. We know this is important for the people who  
281 are going to be in the floodplain. We want to get it right. But we also want to  
282 make sure that we make the ordinances understandable, and I want to address  
283 all of your concerns to the maximum that I can. So, please feel free to drop me  
284 an e-mail, give me a call about any questions or concerns you have about this. I  
285 know it's a very technical thing. There will be at least one more draft to come  
286 before you. Depending on whether we get a lot of comments in response to this  
287 second round of letters, there may be a second draft coming to you. We already  
288 have started on the changes to comply with the State requirements. And, of  
289 course, then the matter will go to the Board of Supervisors. So, there is going to  
290 be a lot of opportunity to pay attention to this and we do want to get it right. I'm  
291 sorry, Mr. Jernigan.

292

293 Mr. Jernigan - You said under a hundred acres there is no map.

294

295 Mr. Tokarz - That's my understanding, yes sir.

296

297 Mr. Jernigan - Am I to understand that those floodplains did not  
298 change if it's under a hundred acres? If we don't have a map on it, then they  
299 don't have a paper trail on it.

300

301 Mr. Tokarz - That's right. You all correct me if I'm wrong. If it's in  
302 a drainage area under a hundred acres, the floodplain, if it exists, has not been  
303 mapped. Those persons that have—for example, that have an individual situation  
304 will not have to get flood insurance. They may wish to if they know of an  
305 individualized risk to their property, but they are not going to be required to do so  
306 by virtue of being on one of the maps, because they're not going to appear on  
307 the maps.

308

309 Mr. Silber - I think also, to clarify Mr. Jernigan's point. What we're  
310 talking about are drainage areas less than a hundred acres.

311

312 Mr. Tokarz - That's correct.

313

314 Mr. Silber - Not parcels or properties; drainage areas.

315

316 Mr. Tokarz - That's correct.

317

318 Mr. Jernigan - In my neighborhood, let's say that me and three or  
319 four of my neighbors have some floodplain, but it was under a hundred acres,  
320 then it's unaffected.

321

322 Mr. Tokarz - If the drainage area is under a hundred acres, not the  
323 floodplain under a hundred acres, the drainage area. Floodplains associated  
324 with the drainage area of a hundred acres or less, correct? So, if there is a  
325 drainage area, for example, of 50 acres—I'm not the engineer here; they can  
326 address that. Why don't you address that for them?

327

328 Mr. Amos - In the original mapping back in '78 when that was  
329 done, the hundred acres are the cut-off. That's as far down as they went for  
330 drainage area. They used the same drainage area, a hundred-acre minimum, on  
331 the new mapping. There is no requirement for FEMA, as far as having flood  
332 insurance from the 100 acres up to the one-square mile, which is where FEMA  
333 starts their requirement. So, that's the County piece of the floodplain that we're  
334 talking about. It only goes down to the 100-acre minimum.

335

336 Mr. Jernigan - We're not talking floodplain, we're talking drainage  
337 area; its two different things. Let's take behind my house it borders a swamp,  
338 which is downhill. That would be the drainage area. That stream runs a long  
339 ways and goes into the Chickahominy River. Are we counting the Chickahominy  
340 as the drainage area or are we counting the swamp?

341

342 Mr. Amos - No, the drainage area is just the area that's draining  
343 to that section of the floodplain, when it reaches 100 acres, that's where it stops.

344

345 Mr. Jernigan - The floodway.



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Mr. Silber - Mr. Amos, can you use the map that's on the screen right now to describe your point?

Mr. Amos - [Off mike.] [Unintelligible.]

Mr. Frauenfelder - Do you see the two streams coming here? This area [unintelligible]. At this point right here is where the 100 acres begins. From here on is 100 acres, from here down is more than 100 acres, so at this point is where the study ends. Obviously, there should be additional floodplain coming up this way. But because the study ends here, which is 100 acres—The study ends here, so the floodplain is not showing.

Mr. Silber - That might be why the floodplain is showing a flat drop in its designation.

Mr. Frauenfelder - [Off mike.] [Unintelligible.]

Mr. Silber - So, the drainage area beyond that flat location is less than a hundred acres, Mr. Jernigan.

Mr. Tokarz - It's an arbitrary cutoff. I think it's because it would be so costly to map the entire county down to every lot. Given the fact that you're trying to prevent the most serious damage, they adopted a cutoff to do that. It's the same theory for FEMA as well. They're trying to prevent the maximum damage situation from occurring.

Mr. Silber - It will map those areas most likely to have severe flooding. I have a question that might relate something and maybe Lee can answer this question. Obviously, the County had 100-year floodplain maps before, based on a comprehensive drainage study. That designated certain areas that fell within a 100-year floodplain. Now we have maps that show slightly different floodplains. Were our maps before less accurate and the FEMA maps now are more accurate, or have there been physical changes in these drainage areas that have caused these floodways to be expanded or to shrink?

Mr. Priestas - Probably the answer to your question is yes. The reason why I say that, the County did a comprehensive drainage study of floodplains back in the late 1970's. When that mapping was completed it was done using state-of-art information or data, state-of-the art modeling that was actually done by Timmons at the time. Then about 1981, the FEMA flood maps came about and we adopted those. The Code today talks about using the most stringent of those two, if they overlap. FEMA never did adopt our comprehensive drainage study at the time. Now, those maps are 20-some odd years old. Conditions have changed, additional development has occurred, and now we have new, more accurate modeling techniques that are being used for this

392 mapping. So, the reason why I said the answer is yes, is because it is a  
393 combination of more accurate modeling, better state-of-art information, as well  
394 as, recognizing the development that has occurred when this study was done, as  
395 opposed to back in the 1970's. FEMA was planning on doing a revision to their  
396 mapping and we took advantage of that and thought that it would be best to  
397 utilize a mapping system that could be tied in with our GIS system, and as Tom  
398 or Sam said, we can now overlap that floodplain information directly on our GIS  
399 to show much more accurately the relationship of the floodplain to somebody's  
400 property or somebody's house. Previously, the old floodplain maps were  
401 basically approximate in terms of having to scale off of it and then find the house  
402 and that sort of thing. It was very inaccurate.

403

404 Mr. Archer - I have something that might be of interest. As some  
405 of you may know, I'm in the insurance business. As of earlier this year, it was  
406 mandated that all of us that are licensed have to take an approved FEMA flood  
407 class. I just took mine about two or three weeks ago. The interesting thing is, we  
408 used to see very little flood insurance. People figured if they didn't live in a  
409 floodplain, they didn't need it. If they did live in a floodplain, which means that if  
410 any piece of their property, could be just one little corner of it, regardless of how  
411 far the house is away from it, was covered under the floodplain, the mortgage  
412 companies would generally insist that you had flood insurance. Now, since all of  
413 the companies are writing flood insurance because the government backs it,  
414 everybody is writing flood insurance freely. A lot of people, particularly a lot of  
415 new homeowners, will buy a flood policy right along with the other homeowner's  
416 insurance policy. By being able to map it now, and with the new term rates, in a  
417 lot of instances it's not particularly expensive because the chances of a flood  
418 occurring may not ever happen. Of course, the closer that you are to the  
419 floodplain, the more expensive the insurance is. There is a lot of information that  
420 a consumer can get just by going online, particularly with regard to finding out  
421 whether they are in or near a floodplain. But up until about three or four years go,  
422 it was like pulling hen's teeth trying to write flood policies. Everything had to be  
423 written through the NFIP, National Flood Insurance Program. And you had to call  
424 and get these maps, and they give you a zone and all that kind of stuff. And then  
425 you had to try to figure a rate. Then you'd contact the NFIP and they'd give you a  
426 rate and you'd get your policy written. Now, you can go online and write a policy  
427 in about five minutes.

428

429 A lot of this has been since Isabel for us and, of course, since the flood in the  
430 Gulf. FEMA has taken a much larger interest in how flood insurance is done.  
431 Mostly people don't understand what "flood" means. In terms of insurance,  
432 "flood" means surface water. No policy of any kind, homeowners' or business  
433 owners' policy of any kind will cover damaged caused by surface water. People  
434 get trapped into thinking they have flood insurance because their policy is  
435 comprehensive, and covers everything. But it does not cover surface water.  
436 Surface water is only covered if you have a flood policy. One of the interesting  
437 things about it is in order for you to be able to declare yourself that there's been

438 damage by a flood, there has to be an adjacent property owner that has had the  
439 same thing. You can't have an individual flood, by yourself. So, if Ray and I live  
440 next door, you can't claim a flood unless I get some, too.

441

442 Mr. Vanarsdall - How would that apply to a large piece? You're sitting  
443 in the middle of a hundred acres, with nobody around you.

444

445 Mr. Archer - I think that's what they call a gray area. I think you'd  
446 have to put up a pretty good fight to do that. But there has to be some way to do  
447 that. Just speaking off the cuff, you can't say that I've been affected by a flood.  
448 Let's say you live in a subdivision, houses on the street side-by-side. I can't be  
449 flooded unless you are flooded. I don't know how hard and fast that rule is, but  
450 that is the rule. That's the first line of defense that FEMA will offer before they'll  
451 pay a claim.

452

453 Mr. Jernigan - When they say, "surface water," too, it also has to be  
454 rising. Did they put that in there?

455

456 Mr. Archer - The term, "surface water," is usually given by itself. It  
457 doesn't usually say rising.

458

459 Mr. Jernigan - It doesn't?

460

461 Mr. Archer - But if there's any kind of surface water, there's no  
462 flood coverage under a standard policy of any kind, unless you have flood  
463 insurance. There's no charge for that information.

464

465 Mr. Branin - Thank you. Mr. Archer, what I really need to know,  
466 though is when you took the class, did you pass it?

467

468 Mr. Archer - There's no test; you just have to be there.

469

470 Mr. Thornton - Mr. Silber, I have another question for Mr. Tokarz.  
471 Mr. Tokarz, you used a term that I haven't heard used before. And, of course,  
472 there's nothing wrong with that. But the term, "floodplain" is generic, but you  
473 said, "floodway." Is that a special term?

474

475 Mr. Tokarz - Yes sir.

476

477 Mr. Thornton - And does that have a special definition?

478

479 Mr. Tokarz - Yes sir. If you look in the ordinance—I'll just tell you.  
480 If you look on page 6 of the ordinance, we have added a definition of "floodway."  
481 It comes from the federal regulations and is defined as, "a channel of a river or  
482 other water course and the adjacent land area shown on the FRIM, the Flood  
483 Rate Insurance Map. It must be reserved from encroachment in order to prevent

484 a flood from cumulatively increasing the water surface elevation by more than  
485 one foot.” So, the idea is they want to identify areas on the map where you can’t  
486 put something in there that’s going to increase the surface flow. That’s the  
487 significance of that. That is a new term in the ordinance, yes sir.

488

489 Mr. Thornton – Thank you very much.

490

491 Mr. Tokarz - Yes sir.

492

493 Mr. Archer - See in the middle of that blue area where he put  
494 those hatches. That is the floodway.

495

496 Mr. Jernigan - The blue area is floodplain, the cross-section is a  
497 floodway. Do we have that many homes sitting in floodplains?

498

499 Mr. Priestas - There are quite a few. Of course, if you look at that  
500 map that’s up right there, the houses on the right-hand side of that blue area are  
501 in the floodplain.

502

503 Mr. Jernigan - I know we don’t issue building permits for the  
504 floodplain.

505

506 Mr. Priestas - You’re correct.

507

508 Mr. Jernigan - So, these had to be built years ago.

509

510 Mr. Tokarz - Either built years ago or built when they were not in  
511 the floodplain but now will be in the floodplain with the new maps.

512

513 Mr. Jernigan - Okay. So, it could be—

514

515 Mr. Tokarz - And I think that’s what this is. This is a relatively new  
516 development right here, is it not? Yeah.

517

518 Mr. Jernigan - But under the old map, before the new FRIM map  
519 came, or the County map, we had a substantial amount that were in a floodplain.

520

521 Mr. Priestas - There were some older houses that were in the  
522 floodplain, before the ’81 maps.

523

524 Mr. Jernigan - I mean, are we talking 100 or 1,000?

525

526 Mr. Priestas - I don’t know the real number on that, to be honest.

527

528 Mr. Thornton - Is that due to the fact that the County didn’t have any  
529 standards at that time?

530

531 Mr. Priestas - Well, there wasn't any flood mapping when a lot of  
532 these houses were built. That's how they ended up here.

533

534 Mr. Priestas - Anything that was built prior to the Comprehensive  
535 Drainage Study, we did not have a basis, except for what may have been  
536 provided by the consultant at the time, which may not have been as  
537 comprehensive as we would have liked. That's why we did that countywide  
538 comprehensive study in the mid to late 70's. Also, if you compare the existing  
539 floodplains that are in affect today with the ones that are proposed to be adopted  
540 on December 18<sup>th</sup>, you'll see that some of the floodplains have increased in width  
541 and size, and others have shrunk. In very general terms, a lot of the floodplains  
542 in the east end have shrunk, for whatever reason. Maybe it was due to better  
543 accuracy in the modeling or things like that. In this particular case off Ridgefield  
544 Parkway, the floodplain did increase. Those houses, I don't believe, were  
545 identified in the floodplain at the time they were approved for construction.

546

547 Mr. Thornton - And in your report, Mr. Tokarz mentioned that the  
548 County did not adopt FEMA maps. So, is it injurious to the County or un-injurious  
549 if FEMA had some maps we can adopt them, or is that more advantageous?

550

551 Mr. Priestas - If you're referring, Mr. Thornton, to what I said, what I  
552 meant to say, if I didn't, is that FEMA did not approve or adopt our maps. Yes,  
553 that was injurious in the sense that FEMA didn't consider those official maps.  
554 They were still as accurate as they could be at the time and I think they related to  
555 us and to the citizens the actual conditions.

556

557 Mr. Tokarz - The significance of the better mapping is what I was  
558 trying to emphasize in this little handout. Now there is not going to be any conflict  
559 between the FEMA maps and the County maps. There are only going to be three  
560 types of land: land that shows on the FEMA map, land that shows on the County  
561 drainage map, or land that's not on either one. There's not going to be anything  
562 on one and another, and then there's a conflict about that. So, to that extent,  
563 there's going to be increased clarity. People will know what they have to do in  
564 terms of flood insurance and hopefully it will end up with a better result for  
565 everybody.

566

567 With that, I'll end my remarks. Please, as I say, call me or e-mail me with  
568 questions, concerns, proposed language changes. We'll, of course, have a  
569 public hearing on October 24<sup>th</sup>. Whatever comments come out of that, either  
570 from Commission members or from the public, will then be incorporated in  
571 another draft, which will then be shared with the Board of Supervisors in a work  
572 session. And then again, there will be a public hearing by the Board of  
573 Supervisors before adoption. We're looking for adoption by the Board either at  
574 the second meeting in November or the first meeting in December in order to  
575 meet our deadline.

576

577 Mr. Silber - Mr. Tokarz, what's before the Planning Commission  
578 on the 24<sup>th</sup> is a public hearing on the subdivision regulations and the zoning  
579 ordinance.

580

581 Mr. Tokarz - That's correct.

582

583 Mr. Silber - Are they acting on the floodplain maps or is that only  
584 done by the Board of Supervisors?

585

586 Mr. Tokarz - No. The maps have been approved by FEMA. We will  
587 then be, in the "definition section," we'll be incorporating the maps by reference  
588 by the ordinance. The Planning Commission will not do that. It will be ultimately  
589 passed by the Board.

590

591 Mr. Silber - Okay. So, it's just for text changes and references to  
592 maps.

593

594 Mr. Tokarz - That's correct. And, of course, the reason we're doing  
595 this is because in the State Code, the Planning Commission is to make  
596 recommendations on all changes to the land use ordinances to the Board.

597

598 Mr. Silber - Right. Thank you.

599

600 Mr. Silber - We have one other discussion item and that relates to  
601 the Urban Mixed Use District regulations, and permitting of residential units in  
602 floodplains. Not to be confused with the previous discussion. It's totally  
603 unrelated. This is in the UMU District. It's to allow construction of new dwellings  
604 in certain floodplains with certain development standards. This is not in any form  
605 or fashion related to the previous discussion on floodplains. We are running a  
606 little short in time. Mr. Kennedy, we need to be downstairs by 7:00 p.m. He does  
607 have a PowerPoint presentation that he can walk us through.

608

609 By the way, the Planning Commission was provided copies of these ordinance  
610 amendments. Two were stapled together and are attached. If you now want to  
611 refer to the back pages, I believe there are two pages that relate to the ordinance  
612 amendment that Mr. Kennedy is going to refer to.

613

614 Mr. Kennedy - Good evening. This amendment is in the UMU  
615 District, requirements to permit residential uses in the floodplains.

616

617 The current code does not permit residential uses in the floodplain and that's one  
618 of the things that we're trying to address in this ordinance. ~~I'm sorry, I'm not used~~  
619 ~~to this PowerPoint.~~ Specially, the ordinance says that no new dwellings at this  
620 time are permitted in the floodplain.

621

622 The current request is by the developer of Rocketts Landing. They've requested  
623 the County consider permitting the construction of new mixed-use buildings with  
624 dwelling units in the floodplain. They don't want to put the dwellings below the  
625 flood elevation; they want to put the dwellings above flood elevation. But they're  
626 requesting to put the buildings within the floodplain. That's the reason for this  
627 request.

628

629 Code regulation were adopted by the County to comply with FEMA requirements  
630 for flood insurance. The County code is more stringent in this regard with regard  
631 to permitting residential dwellings in the floodplain. For similar dwellings in  
632 Virginia Beach where they're in the floodplain, and they put dwellings there. We  
633 don't permit dwellings at all in the floodplain. The request here is to permit  
634 dwellings above the flood elevation, but in the floodplain for mixed use.

635

636 The construction of non-dwelling buildings including hotels is currently permitted  
637 in the floodplain. There are just certain design standards. There are similar uses.  
638 Hotels have similar uses to dwelling units, so we consider this an appropriate use  
639 for consideration.

640

641 As far as staff recommendations for new dwellings in the floodplain, dwellings  
642 should be constructed in accordance with flood-proof foundations, in accordance  
643 with the State Building Code. Dwellings should have access for egress and  
644 emergency access during a 100-year flood event. These dwellings should be  
645 located in one story and one foot above flood elevation. In that case, not only  
646 would they be a foot free board above flood elevation, but there'd be a whole  
647 story of commercial and mixed use between them. So, it removes the impact to  
648 the dwellings.

649

650 Parking should be prohibited in closed spaces below the flood elevation.  
651 Buildings would be of sufficient size to share the cost of around-the-clock  
652 professional management so that they can manage the property and make sure  
653 that if a flood happens when people aren't occupying it, they can take care of it.  
654 And a master plan should be submitted for review by the Planning Commission.

655

656 Another recommendation is that the areas of eligibility should be limited to the  
657 floodplain. And I have several reasons. One, because flooding results from  
658 significant upstream events that can be predicted. The occurrence and impact  
659 downstream can be predicted. There's a really good chance of flash flooding in  
660 the James River floodway. These are recommended changes. Under Section  
661 95, which is where the floodplain ordinance is, it would just say with exception to  
662 the section referring back to the floodplain ordinance in the UMU district. It would  
663 say notwithstanding provisions of Chapter 24, Section 95. It would be  
664 exceptions to that section. They would have to meet federal requirements.  
665 Those requirements would be, and these are what we are recommending. No  
666 new property would be re-zoned UMU and be located within 300 feet of the

667 James River. That covers the fact that we have a Master Plan and would be  
668 within the James River floodway.

669  
670 The second condition would be that the construction applies to the requirements  
671 of the statewide building code, again, to make sure that they are flood-proof and  
672 hydrostatic and hydrodynamic pressures so that the building couldn't wash away.

673  
674 The third condition would be that parking not be allowed in the portion of the  
675 structure below the flood elevation unless it's open on one side.

676  
677 The next condition would be that the structure be at least 35 feet in height and  
678 contain 40 dwelling units. It has to be large enough to be able to maintain a  
679 professional management company.

680  
681 Staff has reviewed these draft ordinances with DCR, Department of Conservation  
682 and Recreation. They have some technical recommendations, but nothing of  
683 substantial change.

684  
685 Our recommendation is that it would be appropriate to consider an amendment to  
686 the UMU District to permit buildings in the floodplain. It would go back into the  
687 floodplain ordinance and allow those dwelling units.

688  
689 Mr. Branin - Does anybody have any questions for Mr. Kennedy?

690  
691 Mr. Thornton - My concern is always, when we have a request like  
692 this, how does the staff come to quantify and decide if this is the thing to do. It  
693 probably is, but I always have concerns about things like this. I think I understand  
694 that this is just for this request.

695  
696 Mr. Kennedy - No sir. It is in the UMU District only. What the base of  
697 it is, we look at similar uses where hotels would be permitted. So, if this is a hotel  
698 and you have parking underneath and you have it stacked above, you'd be able  
699 to have a hotel, but you wouldn't be able to have dwelling units. The issue in this  
700 request were is there adequate access, and what we required is that there be  
701 access on at least one level so there would be emergency access to the building  
702 and for people to egress. We thought about the fact that what sort of impact  
703 would it have that, now that the people are safe, is their property safe. The issue  
704 here we're providing for is that not only do we have a footer-free board a foot  
705 above flood elevation, but you have a whole story above flood elevation. So, the  
706 first floor would only be a commercial use, and those are already permitted. So,  
707 if there were a 100-year flood event, then there would be full access to the  
708 building because of the access on at least one level. There would be emergency  
709 access to the building. If those people get out and have access to their property  
710 during and before and after the flood, as far as their property, their personal  
711 property, it would be protected not only by a foot, but in addition to that, a whole  
712 story. So there would be very little incidence of that impact. Because we were



713 restricting it to the James River floodway, it's predictable. In normal dwellings  
714 when their cars are parked, if someone is on vacation and their car is parked  
715 there, it could be towed by the homeowners' association. It wouldn't be someone  
716 who went away on vacation for two weeks and no one would know. There would  
717 be a management association. And because it's large enough, more than 40  
718 units, there would be the sharing of costs for the flood insurance that would be  
719 necessary to maintain the building.

720

721 Mr. Silber - Mr. Thornton, I think this is a departure from what the  
722 County has considered in the past as far as allowing residential structures in  
723 floodplains. What this contemplates is allowing them under very limited,  
724 restricted circumstances. It has to be in an Urban Mixed Use District and it has to  
725 be along the James River. And, as Mr. Kennedy indicated, the flooding of the  
726 James River is very predictable. It's not something that floods quickly. There's  
727 usually a day or two notice before significant flooding takes place. This requires  
728 that it be in a mixed-use building to allow for parking to be below it and for a  
729 commercial area to be below it so the likelihood of the residential units being  
730 flooded are very limited. We've built in emergency access and other protection  
731 mechanisms so that the likelihood of any personal damage to individuals we  
732 believe would be extremely limited. This is so restricted by definition and  
733 requirements and design standards, that it will probably only be permitted in a  
734 couple of circumstances along the James River. In this particular case, this did  
735 come forward by a particular development. In this circumstance, we think we  
736 have it tied so that it really is a safe situation. We do not believe this is opening  
737 the door to then allow single-family homes in floodplain areas because we don't  
738 believe that's the proper thing to do. We do feel comfortable with this, that the  
739 standards have been established.

740

741 Mr. Thornton - In other words, if we could look at this, then, is the  
742 case of this particular aspect of code pretty much customized?

743

744 Mr. Silber - Well, customized to the extent—

745

746 Mr. Thornton - Customized to the extent, say in talking about the  
747 James River, talking about this particular Rocketts, and this type of thing, and all  
748 the safety things are in place.

749

750 Mr. Silber - Yes sir. And for the other urban mixed use  
751 developments along the James River it could be utilized.

752

753 Mr. Branin - Does anybody else have any other questions for Mr.  
754 Kennedy? None?

755

756 Mr. Silber - Both of these ordinance amendments will be coming  
757 up for public hearing on the 24<sup>th</sup> of October. We also have a third public hearing  
758 that night, or that day. It's a POD meeting, so it's during the day. Ten o'clock is

759 when these are scheduled. The third one is the sign ordinance regulation for  
760 regional shopping centers. That will be the third ordinance amendment on that  
761 agenda on October 24<sup>th</sup>. If you have any follow-up questions relative to these  
762 two ordinances, feel free to contact Planning staff, Public Works' staff, and, of  
763 course, Tom Tokarz, who knows all the technical aspects of the floodplain  
764 regulation.

765  
766 Mr. Branin - I'd like to adjourn to the Board room where we will  
767 reconvene.

768  
769  
770 The Planning Commission recessed this work session at 6:45 p.m.

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Randall R. Silber, Secretary

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Tommy Branin, Chairperson

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