

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, October 15, 2020.**
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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 Mr. Tyrone E. Nelson (Varina)
13 Board of Supervisors' Representative
14

15 **Members Absent:** Mr. Robert H. Witte, Jr. (Brookland)

16
17 **Also Present:** Ms. Jean M. Moore, Assistant Director of Planning
18 Mr. Ben Blankinship, AICP, Senior Principal Planner
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21 **Due to a fire alarm going off in the building, the work session began at 5:54 p.m.**
22
23

24 Mr. Archer - I'm continuing our work session and I won't delay it any
25 longer. I'll just introduce Mr. Blankinship. And, sir, you can bring us up to date. Mr.
26 Secretary, you have any comments before?
27

28 Mr. Emerson - No, sir.
29

30 Mr. Archer - You don't?
31

32 Mr. Emerson - No, sir.
33

34 Mr. Archer - Okay. Good evening, sir.
35

36 Mr. Blankinship - Good evening, Mr. Chair, members of the Commission. This
37 is our wrap-up session of the work sessions on the code update. We have been through
38 all of the text once and I have made careful notes of all of your comments and questions
39 and I hope that I have gotten them according to your original intent. I want to walk through
40 them quickly just to confirm that we have heard what you said and that we either have an
41 answer or are working toward an answer on each item that had caused you concern
42 during the work sessions.
43

44 So, beginning -- these are in the order in which they occur in the code, so this is beginning
45 with 24-2. There was a question about whether provisional use permit transfers would
46 be administrative. And the answer is, Yes, they will. And also POD transfers will be
47 administrative under the new code.

48
49 I will point out, though, we just had an example come up yesterday of a provisional use
50 permit that was approved with a specific condition saying that it could not be transferred.
51 So, if there is a specific condition like that on a provisional use permit, we will not transfer
52 it. It will come back before you and then on to the Board for review. But the general rule
53 would be that PUP transfers will be administrative.

54
55 There was a question when we were looking at the form-based districts about what
56 happens if one small lot owner wants to use the form-based code and the larger
57 landholders around them do not want to use it at that time. And the answer was that we
58 do expect these districts to build out gradually over time. So, there will be periods where
59 that is not -- it's not going to go overnight from the way it is today to the illustrations that
60 we showed last time.

61
62 And I mentioned at the time that I had picked the after illustration, there was a before and
63 an after but there were also steps two, three, and four in between. So I'm not going to
64 walk you through all of them, but this is just an illustration of what it might look like if a
65 couple of the land owners along -- this example is -- Broad Street took advantage of the
66 form-based overlay and other landowners had not taken advantage of it yet. So, you will
67 see -- hopefully we will see some development of this nature where some of the property
68 has been developed according to the form-based standards, but others have not yet.
69 And, again, gradually over time we hope that more and more of them will.

70
71 Mr. Baka - Is that the -- is that the after photo?

72
73 Mr. Blankinship - Well this is step two. I showed you step one -- or before, and
74 I showed you after, which was step five, so this is step two. And you can see --

75
76 Mrs. Thornton - Right, Popeyes.

77
78 Mr. Blankinship - -- in front of the Kabuto here one building has been, or two
79 buildings, have been built.

80
81 Mr. Baka - Okay.

82
83 Mr. Blankinship - And then after Popeyes, beyond Popeyes, there's one more
84 building. But nothing yet on the other side of the road.

85
86 Mr. Baka - Okay.

87
88 Mr. Blankinship - So it's just an illustration of what might happen.

89
90 Mr. Baka - Thank you.

91
92 Mr. Blankinship - Just to show that if a couple landowners move forward and
93 others are not ready to move forward yet, that will work. We can make that work.

94
95 Mr. Baka - If there's a situation -- sorry for the question. If there're
96 situations like that where you had that near me existing retail use in the middle, would this
97 type of form-based code allow for that use to be rebuilt in one of those two, you know,
98 first-floor centers as retail use and then they could actually demo the building and then
99 build another three or four-story new structure there where the existing restaurant was?

100
101 Mr. Blankinship - Yes. Yes.

102
103 Mr. Baka - Okay.

104
105 Mr. Blankinship - That's exactly the idea that's being illustrated here.

106
107 Mr. Baka - All right. Thanks.

108
109 Mr. Blankinship - Mm-hmm. Okay, there we go. There were some specific
110 questions about small-scale agriculture. We have had some -- a lot of comments from
111 people who want to keep up to six chickens in their back yard in a residential district and
112 we had drafted -- Clarion had drafted a proposed ordinance that would allow for that. But
113 we also had questions from people in agricultural districts, particularly in Varina, on two-
114 and three-acre lots who still found the 200-foot distance requirement overly restrictive.
115 And we've discovered that we needed some middle ground.

116
117 So, you know, if you have a large enough parcel to meet those setbacks that's fine. If
118 you have a dwelling, you can have six chickens, that's fine. But we needed something in
119 between.

120
121 And a group who are frequent users of the farmer's market at Dorey Park got together
122 and discussed this and then met with us and brought us their proposal and we've been
123 reviewing that with them.

124
125 And we're not quite finished with that process. Still just a little bit more back and forth
126 before we have it completely ironed out. But they found an example in Loudoun County
127 where they worked through the Soil and Water Conservation District to do a conservation
128 plan for small farms. And the idea is if you have that conservation plan in place, then
129 you're not having the impacts on your neighbors of just having chickens roaming all over
130 the place, because there are controls built into the conservation plan specifically to
131 prevent, say, pollution of the ground water or surface water. Those are mostly the same
132 kind of impacts that we're trying to avoid with what we were looking at.

133
134 So, borrowing their idea I contacted Henricopolis Soil and Water Conservation District
135 and they said, Yeah, we would be happy to work with you on that. So we haven't gotten
136 that completely ironed out yet, but we are moving in the direction of something that would
137 allow a 60-foot setback rather than a 200-foot setback to keep animals on a small, say
138 two- or three-acre farm plot. But in exchange for having a conservation plan approved
139 by the soil and water conservation district.

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Along with that, that same group had also brought some great ideas for agricultural support uses. And Clarion had drafted several of these for us, but they found some ideas that they think would be popular in Henrico County that they think would be appropriate in some of our areas that were not addressed by Clarion's draft. And one of those was, you know, the Clarion draft allows for farm wineries and farm breweries and limited distilleries and that's because the state requires us to allow those. So, there was a specific provision written in for farm uses for the production of alcoholic beverages.

Question was, Well what about other beverages? Or what about other food products? Why are, you know, we ended up actually giving a preferred status to the alcoholic beverages because that's what the state gives the protections to. And they just suggested we allow food and beverage production, other kinds of food and beverages, under those same regulations.

So, again, we haven't quite nailed that down yet, but it's a direction that we definitely want to move. And then we have had proposals for farm to table restaurants on small farm plots where they would take, you know, the food grown on the property -- not exclusively. They would have to bring in some items from other areas, especially if they're going to do meat, since there's not that much meat raised in Henrico County. But being able to take the food, produce, grown on the property, have a chef come out and serve a restaurant-quality meal to paying customers is something that's apparently popular in a lot of areas and is able to create a different additional revenue stream for these small farms.

And again that's the -- one of the keys that we're trying to do in the agricultural district. Large farms are no longer the revenue producers they used to be, and what we're trying to find are additional revenue streams for small farms so that they can keep farming.

We were talking about this just a minute ago, sort of. Mr. Baka, this is not duplexes.

Mr. Baka - Great, thank you.

Mr. Blankinship - This is two one-family dwellings, but on adjoining lots. We allow that now in the R-5A district. You know, you can have the zero lot-line where you have them staggered or you can put two adjoining units on a common lot line and do an attached single-family dwelling. That got left out of the draft, so I just wanted to confirm that we are putting that back in.

Crematory. We had a discussion about how crematories would be regulated. And the proposal is to continue to allow a crematory as a principal use in the industrial districts, M-1, M-2, and M-3, and also to allow a cremation unit accessory to a funeral home in the districts where a funeral home is permitted. Which is also on the same page. And also, what was brought up in our work session, a cremation unit for pets needs to be allowed as an accessory unit to an animal hospital. That was not addressed in the draft previously, so that needs to be added.

186 Self-service storage facility was very simple. It shows a PUP in B-2 and B-3, but the draft
187 did not show it being allowed at all in the industrial districts. In fact, it is allowed in the
188 industrial districts and you don't have to meet the PUP standards. So that needed to be
189 clarified.

190
191 Here we are with accessory dwelling units. The draft that came from Clarion did not
192 include a condition that the people occupying the accessory dwelling unit have to be
193 related to the people living in the house. And a couple of you had mentioned that during
194 the work session. And so, we will be proposing that Clarion add that requirement.
195 Otherwise, as drafted right now, accessory dwelling units would be approved by the Board
196 of Zoning Appeals through a conditional use permit. So, if there is a desire to change
197 that, we need to know, but we're not proposing to change it between this draft and the
198 public hearing draft unless you all ask for it.

199
200 Mrs. Thornton - That'd be a short-term rental probably.

201
202 Mr. Blankinship - There is a specific provision --

203
204 Mrs. Thornton - Yeah.

205
206 Mr. Blankinship - -- that they may not be used for short-term rental. That was
207 Mr. Witte's question from the work session.

208
209 Drive throughs it was an oversight that they're not allowed by PUP in the UMU district. You
210 pointed out that there is one in Green Gate and that that does need to be allowed by PUP.
211 Of course, we don't want to encourage drive through uses in the UMU, but there will be
212 exceptions and they need to be handled by a provisional use permit.

213
214 There was a question about what do we do with uses that are not listed. And that is
215 specifically written into the code. There was a question about it, but I didn't have the text
216 on hand when the question was asked, so here it is. The Planning Director shall
217 determine whether an unlisted use fits into an existing category, and if not, the most
218 appropriate category in the most similar use type. So, it's basically the same process we
219 follow now, but it would be written into the code.

220
221 Parking there were several questions about places of worship, shopping centers, movie
222 theaters, you see the list there. Those are all items that we have either asked Clarion just
223 to double check the figures they have given us, or to consider lower or higher
224 requirements, whatever it was that you all suggested during your work session, and also
225 the curbside pickup and Uber and Lyft spaces. Great comment that needs to be added
226 to the draft.

227
228 There was a question -- Mr. Baka, I think you had a question about the term, finished side
229 of the fence or wall.

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231 Mr. Baka - Yeah.

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Mr. Blankinship - And, again, I didn't have the text in front of me when we met. This is the text that's in the draft, so there's no need to change it. I think it is exactly what you had asked for.

Mr. Baka - Correct.

Mr. Blankinship - And the illustration shows you have a, you know, decorative finished side here. The back of the fence here you see the support structure. So that side needs to be inside. This side needs to be outside.

Mr. Baka - Thank you.

Mr. Blankinship - So no need to change it. On the environmental incentives there was some questions about how those would work and if all of the incentives were of equal value and all of the bonuses were of equal value. So, this is just a little excerpt from the draft just showing some incentives require more -- in order to receive the incentive, you have to do more of the alternatives. The environmentally friendly development.

So, you know, some of them require three, some of them require four points, some of them require two points. And then there's a chart on the next page that shows how many points you get for each one.

There was also a question about low-impact drainage design systems or LIDDS in that. I did a little bit of research on that and it looked to me like the incentives that they are asking for are very consistent with LIDDS principles, but they did not use the term LIDDS. So, we are asking them to just add that in, that term.

Also, there was a specific question about whether pervious pavers were on that list, and they are. If you use pervious pavement on least 50 percent of the parking lot, you get one credit to be, again, applied along with other credits to get the incentive.

Nonconforming buildings. There were some specific questions about repairing, upgrading, renovating, nonconforming -- particularly nonconforming businesses.

This is Bryan Park Bar and Grill on Lakeside and Clark Street. And you can see they've got a couple parking spaces in the front. On the side about half of each parking space is on their property and about half is in the right of way, so we can't count any of those according to today's standards, but they are practical parking spaces that people do, in fact, use.

I was talking to the owner of this restaurant, because he applied for our temporary outdoor dining during the COVID emergency, this is an older picture, but he's got some tables out here now where he can serve his customers. And he said that it's -- he has certain theme nights on Thursdays and Fridays that are very popular with motorcycle enthusiasts, so he

278 actually gets a lot of use out of those otherwise unusable parking spaces. If he's got six
279 people coming on motorcycles, then that's six people that can park on this property that
280 are not taking up other spaces on Lakeside.

281
282 So just an odd little example of one of these older buildings that was developed with
283 standards that we would never approve today, but we don't want that building to sit
284 vacant. If we could get somebody in there who can run a business and, you know, keep
285 that storefront lighted, we want to do that. We want to encourage that. So that's just an
286 example of how those -- the graduated compliance would play out. As he renovates this,
287 he provides additional parking. If he wanted to build an addition, he would have to come
288 up with some additional parking, but he would not have to bring all of the parking up to
289 today's standards, because that would put him out of business.

290
291 Nonconforming lots there was some specific questions about the minimum area and width
292 for nonconforming lots and we are doing some further research on that. Also, on required
293 setbacks. Mr. Witte pointed out that in the current draft, it specifically states that a
294 residence on a nonconforming lot does not have to meet any setbacks. And that's not
295 what we intended so that does need to be revised.

296
297 Replacement of protected trees. There was a question about the species. If you cut
298 down Oak trees can you replace them with loblolly pines. And so we would -- we were
299 going to ask Clarion to add a specific provision to that section stating clearly that it -- we
300 do want to review what species of trees that you're using.

301
302 If you cut down an invasive species, we don't want you to replace it with an invasive
303 species. If you cut down something non-native, we might prefer that you replace it with
304 something native. So, we don't just want to say, "You have to replace it with whatever
305 you cut down." But we do want the opportunity to review it and suggest species or require
306 specific species.

307
308 Detached accessory buildings. Again, this is a proposed change that came from staff.
309 Right now it's -- there is a formula for determining how much of your rear yard can be
310 covered with accessory buildings and a lot of people find it overly restrictive, because it's
311 based on the required rear-yard area, which is the width of the lot multiplied by the rear-
312 yard setback. So, if you have a larger lot, you don't get a larger accessory building.
313 You're still limited to that same allowance.

314
315 We do get a lot of requests from people who have two or three lots together, or just own
316 a larger lot. Or, you know, some of these lots on a cul-de-sac might have a huge rear
317 yard even though they're narrow up at the cul-de-sac. Those people can't build any larger
318 accessory building than the minimum size lot allowed in the district.

319
320 So, the suggestion was to go back to the way that regulation used to be, which was 30
321 percent of whatever your rear-yard is. Now the other side of that is that it will allow large
322 buildings in some cases. So, we're going to add to that a provision that no single
323 accessory building can cover more of the lot than the principal building does. So, if you

324 have a 2,000-square-foot house, we don't want a 3,000-square-foot garage. Because
325 you could have two buildings. You could have a 1500-square-foot garage and a 1500-
326 square-foot pool house, for example, but you could not have just one 3,000-square-foot
327 building if your house is -- only covers 2,000 square feet. Because then you lose the
328 meaning of accessory if the accessory building starts to become the principal building.
329

330 And that's it. Because of the fire alarm I was concerned about how much time we were
331 going to take, so I was kind of rushing a little bit. I guess I rushed faster than I intended
332 to.
333

334 So, having seen my interpretation of your questions and comments, is there anything that
335 we missed or anything you wanted to go back over or anything that we misunderstood?
336

337 Mr. Mackey - Can you just briefly -- could you just briefly go back over the
338 part about the -- what's allowable for the chickens?
339

340 Mr. Blankinship - That's an excellent idea. Let me just go back to the beginning.
341 How do I do that? Guess I just have to -- eh. Just start over.
342

343 Mrs. Thornton - See all slides.
344

345 Mr. Blankinship - There we go. Because it was very near the beginning. Yes.
346 We had several conversations -- have had so far several conversations with a group of
347 residents who are very active in the Dorey Park Farmer's Market and who had expressed
348 some specific concerns around small-scale agricultural operations, two or three acres,
349 which is, you know, doesn't fit the same standard as a large farm does, but it also doesn't
350 fit what Clarion had drafted to allow six chickens in the rear-yard of a dwelling.
351

352 So in order to meet that in-between scale of agriculture, they had proposed a system that
353 they had discovered in Loudoun County where they go to the Soil and Water Conservation
354 District and get a conservation plan approved which provides specific guidelines and
355 recommendations for how to conduct farming in a way that is respectful of the
356 environment and doesn't create particularly pollution of the surface water. Runoff from
357 animal waste being the key concern.
358

359 And since those are a lot of the same concerns that drive our 200-foot setback for animal
360 husbandry, we like that idea. Because if they're meeting that soil and water conservation
361 plan, they're also not having an impact on the neighbors like a larger farm would.
362

363 So the proposal that they brought to us and that we're still studying, but I think we're pretty
364 close to working out a compromise that'll work in Henrico, is that you'd go to the
365 Henricopolis Soil and Water Conservation District Office and get a conservation plan
366 approved for your small farm. And if you do that, then we'll reduce the setback to 60 feet.
367

368 So there's still, you know, a little bit of a setback if there is a neighbor, you know, your
369 animals aren't going to be right up in their -- that is to say you might have a fence where

370 they're grazing right up to the property lines, but you wouldn't have a stable or a feed lot
371 right up at their property line. But as long as it's within the guidelines given to you by the
372 Soil and Water Conservation District, we would allow the lesser setback. Just as a way
373 of trying to find that happy medium for those smaller agricultural operations to exist and
374 still not disturb the neighbors more than necessary.

375
376 Mr. Mackey - Would there -- would there be a -- would there be a fee
377 associated with that?

378
379 Mr. Blankinship - I don't believe there is. I'd have to double check that. I don't -
380 - I think Henricopolis wants people to do this.

381
382 Mr. Mackey - Right.

383
384 Mr. Blankinship - They're, you know, they're trying to get people --

385
386 Mr. Mackey - Right, okay.

387
388 Mr. Blankinship - -- to do this plan.

389
390 Mr. Emerson - I believe they'll charge.

391
392 Mr. Blankinship - You do believe they'll charge? Okay. Mr. Emerson believes
393 they do charge. I do not know. So, I'll have to get with them and get back to you on that.

394
395 Mr. Emerson - We may need to talk about that a little more.

396
397 Mr. Blankinship - Yes. As I said, that is not completely worked out yet. There
398 is a proposal that we've received from a working group that came to us and we like the
399 broad outlines of it, but we're not certain about all the details yet.

400
401 Mr. Mackey - Is Mr. Montgomery on their group?

402
403 Mr. Blankinship - Yes. Mr. Montgomery is the leader.

404
405 Mr. Mackey - All right.

406
407 Mr. Archer - Mr. Blankinship you -- are you finished Mr. Mackey?

408
409 Mr. Mackey - I'm sorry?

410
411 Mr. Archer - Did you have anything else?

412
413 Mr. Mackey - Oh, no sir.

414

415 Mr. Archer - I can -- I can remember, and it might still be that way, that
416 years ago on the -- on the Boulevard between Broad Street and The Diamond, there used
417 to be in the center of the street angled parking. And I always thought that was kind of
418 dangerous, because sometimes people had to back out into traffic. Has there ever been
419 anything like that in Henrico and is it even allowable anymore?
420

421 Mr. Blankinship - Whether there has ever been I --
422

423 Mr. Archer - Do you know -- do you remember what I'm talking about?
424

425 Mr. Blankinship - Yes, sir.
426

427 Mr. Archer - Okay.
428

429 Mr. Blankinship - Yes, sir. I do. Whether there has ever been, I couldn't tell
430 you. Today I'm pretty sure that the Department of Public Works would not approve any
431 parking plan where you're backing out onto a public street.
432

433 Mr. Archer - Right. That's the only place I can ever recall seeing that. And
434 when I first saw it, I was too young to drive.
435

436 Mr. Blankinship - Yeah. That is an unusual one there. Yeah.
437

438 Mr. Archer - But I do -- and it might, like I said, it might still be there. I don't
439 -- I don't know.
440

441 Mr. Blankinship - Yeah. Yeah. Normally if it was right on the street like that
442 you'd use parallel parking. So, you have to back in, sort of, but at least you're pulling
443 straight out.
444

445 Mr. Archer - Right. But this was in the very center of the street and the
446 traffic going by on both sides.
447

448 Mr. Blankinship - Yes. Yeah. I'm familiar with -- yeah. I don't know if it's still
449 like that or not. I haven't been down that way for years.
450

451 Mr. Archer - I haven't either.
452

453 Mr. Blankinship - I do remember seeing that.
454

455 Mr. Archer - Fact I'm curious now. I may ride --
456

457 Mr. Blankinship - I'll have to go look.
458

459 Mr. Archer - Any other questions for Mr. Blankinship? Well, sir, we want
460 to congratulate you for doing such a fine job in educating us on these -- the new and old
461 things that have been going on in the county.

462
463 Mr. Blankinship - Well thank you, sir.

464
465 Mr. Archer - And we appreciate it.

466
467 Mr. Blankinship - -- back to the end again just to say we do want to allow -- we're
468 almost at the point of producing a public hearing draft of the whole code. We don't think
469 we're going to have that together in time for your November meeting.

470
471 Mr. Archer - Okay.

472
473 Mr. Blankinship - But we do hope to have it in time for your December meeting.
474 So, we are hoping -- it's not scheduled yet, of course, but we're hoping to do the public
475 hearing before this body on the complete code on December the 10th. Of course, once
476 you get to a public hearing, you never know what's going to happen.

477
478 Mr. Archer - That's true.

479
480 Mr. Blankinship - But that will be followed by a series of work sessions with the
481 Board of Supervisors and then, of course, leading up to their public hearing. So if you do
482 have any further questions or any more comments occur to you next month as you're
483 working through your cases or, you know, in whatever fashion it may come to you, please
484 do keep in touch with us. Please let us know your ideas. We are still able to make those
485 changes, you know, right up until approval.

486
487 And, of course, once this approved, as we keep reminding everybody, we know the very
488 next day somebody's going to come up with something we've never heard before. So it's
489 never going to be a completely finished product. But if you do have further questions or
490 comments, please reach out to us and we'll be happy to help.

491
492 Mr. Archer - Thank you, sir.

493
494 Mr. Baka - Thank you for all your work.

495
496 Mrs. Thornton - Thank you.

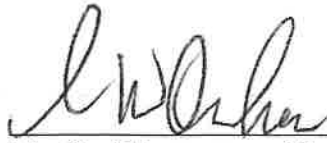
497
498 Mr. Mackey - Thank you.

499
500 Mr. Archer - We would applaud you, but there's nobody that can hear.
501 There's no one here to hear it. So -- well, with that, unless there're any more questions
502 for Mr. Blankinship, we will recess and we will resume at 7:00 at the time for the regular
503 meeting at the sound of the gavel.

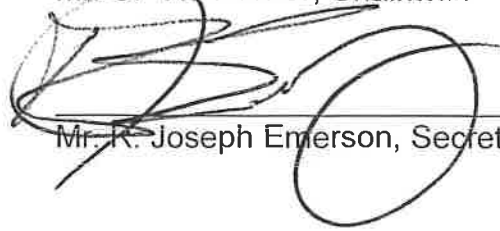
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505 Mrs. Thornton -
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Thank you.



Mr. G. W. Archer, Chairman



Mr. R. Joseph Emerson, Secretary