



**BOARD OF ZONING APPEALS
AGENDA
August 19, 2013
4:00 P.M.**

Agenda

1. Call To Order

Members of the public have been invited to attend in person or access this meeting by public access television Cox Channel 84, Verizon Channel 42, online at www.regionalwebtv.com/fredcc, or Facebook live at WWW.FACEBOOK.COM/FXBGGOV.

2. Determination Of A Quorum

3. Determine Public Notice Requirements Have Been Met

4. Disclosure Of Ex Parte Communication

5. Disclosure Of Conflicts Of Interest

6. Approval Of Agenda

7. Approval Of Minutes

7.I. November 30, 2020

Documents:

[2020-11-30 BZA MINUTES - DRAFT.PDF](#)

7.II. December 7, 2020

Documents:

[2020-12-07 BZA MINUTES - DRAFT.PDF](#)

7.III. September 20, 2021

Documents:

[2021-9-20 BZA MINUTES - DRAFT.PDF](#)

7.IV. June 20, 2022

Documents:

[2022-06-20 BZA MINUTES - DRAFT.PDF](#)

8. Public Hearing

9. General Public Comments

A general public comment period is provided at each regular meeting for comments by citizens regarding any matter related to Board of Zoning Appeals business that is not listed on the agenda for public hearing. The Chair will request that speakers state their name, address and zip code; observe the three-minute limit, and yield the floor when the Clerk indicates their time has expired. No dialogue between speakers will be permitted.

Citizens who wish to make general public comments without attending the meeting will be able to send their comments in writing by (1) dropping them in the lobby drop box at 601 Caroline Street , (2) U.S. Mail at PO Box 7447, Fredericksburg, VA 22404, or (3) email to planning@fredericksburgva.gov. Comments must be received by 1:00 p.m. the day of the meeting. The plan is to read these comments out loud during the public comment portion of the Board of Zoning Appeals meeting. The standard rules apply to public comments: the person must identify himself or herself by name and address, including zip code; limit his or her remarks to 3 minutes or less (read aloud); and address a topic of City business. Public comments submitted during the meeting, through the Facebook Live streaming video, will not be considered part of the official public comments of the meeting.

10. Staff/Board Comments

11. Adjournment



**Board of Zoning Appeals
Minutes
November 30, 2020
Electronic Meeting**

You may view and listen to the meeting in its entirety by going to the Board of Zoning Appeals page on the City’s website:

<https://amsva.wistia.com/medias/swbe5fwyml>

The Agenda, Staff Report, Applications and Supporting Documents are also available on the Board of Zoning Appeals page.

MEMBERS PRESENT (Absent)

Frank Reyes, Chairman (electronic)
Dr. Roy Gratz, Vice Chairman (electronic)
Stephen Eubank (electronic)
Jay Jarrell III (electronic)
Matthew Muggeridge (electronic)

STAFF

James Newman, Zoning Administrator (live)
Cathy Eckles, Admin Specialist (electronic)

This meeting was held both in person in Council Chambers and electronically by “Go to Meeting” application, pursuant to City Council Ord. 20-05, An Ordinance to Address Continuity of City Government during the Pendency of a Pandemic Disaster.

Members of the public were invited to attend this meeting with masks and social distancing required or access by public access television Cox Channel 84, Verizon Channel 42, online at www.regionalwebtv.com/fredcc, or Facebook live at www.facebook.com/FXBGgov.

Chairman Reyes called the meeting to order at 4:30 p.m., explained electronic meeting procedures and did a roll call.

PUBLIC NOTICE REQUIRMENTS

Chairman Reyes determined that a quorum was present, and asked if public notice requirements had been met. Mr. Newman stated that public notice requirements had been met.

DISCLOSURE OF EX PARTE COMMUNICATIONS

Chairman Reyes asked if any Board member had engaged in *ex parte* communications on any item before the Board. No one indicated that they had participated in any *ex parte* communication.

DISCLOSURE OF CONFLICTS OF INTEREST

Chairman Reyes asked if any Board member had any conflicts of interest on any item before the Board. There were no disclosures.

APPROVAL OF AGENDA

Dr. Gratz motioned to approve the agenda as presented. Mr. Jarrell seconded. The motion carried 5-0.

APPROVAL OF MINUTES

Dr. Gratz motioned to approve the minutes of July 20, 2020, as submitted. Mr. Jarrell seconded. The motion carried 5-0.

Dr. Gratz motioned to approve the minutes of July 27, 2020, as submitted. Mr. Jarrell seconded. The motion carried 4-0-1 (Mr. Muggeridge abstained).

PUBLIC HEARING

Elizabeth and Raymond Dameron Jr., request a variance for 410 Canal Street and 1513 Prince Edward Street/GPINs 7779-96-6997/7779-96-6923. The applicant requests a variance from City Code section 72-31.3.B:

- A) Reducing the required minimum lot area from 7,500 sq. ft. to 4,826 sq. ft. for 1513 Pr. Edward St.
- B) Creation of a new lot at 410 Canal Street that is 2,985 sq. ft. in area, which is less than the required minimum lot size of 7,500 sq. ft.

Mr. Newman reviewed the staff report with a power point presentation (Att. 1). One public comment was received from Stephen Klein (Att. 2), who had questions about the request, but did not offer support or opposition. Mr. Newman noted that a vote on this matter would occur on December 7, 2020.

Charlie Payne, attorney for applicant, explained that for many years this was thought to be one parcel. The reason for the requested variance is to create two separate parcels. Discussion ensued regarding if granting this variance will create a precedent that may affect other parcels. Ms. Dooley said there may have been previous instances. Mr. Payne noted those properties were undeveloped.

Mr. Muggeridge asked for clarification as to why one lot is bigger than the other. Mr. Payne said due to the size of the house already on it.

Discussion ensued regarding the previous property tax actions on the property, other properties near the proposed variance, the plat inconsistencies with the deeds, the history of what transpired in 1941 and what was added in 1948 to increase 1513 Prince Edward property by 18 feet, the fact that the property can't be marketed as a home with a rental since Accessory Dwelling Units are not allowed in the City, the marketability of the property in its current state, and that possibility of building a driveway.

Clarification was made that the actual approval is for one variance request, but needs a vote on both reducing the required minimum lot area for Prince Edward Street and creation of a new lot at 410 Canal Street. Ms. Dooley said she would continue to work with Mr. Newman regarding a single record of decision regarding both matters.

Chairman Reyes deferred the vote to December 7, 2020.

GENERAL PUBLIC COMMENTS

No public present.

STAFF / BOARD COMMENTS

None.

ADJOURNMENT

Chairman Reyes adjourned the meeting at 5:16 p.m.

Efrain Reyes, Chairman

APPROVED: _____, 2022

DRAFT



**Board of Zoning Appeals
Minutes
December 7, 2020**

You may view and listen to the meeting in its entirety by going to the Board of Zoning Appeals page on the City's website:

<https://amsva.wistia.com/medias/c28x9z4qc8>

The Agenda, Staff Report, Applications and Supporting Documents are also available on the Board of Zoning Appeals page.

MEMBERS PRESENT (Absent)

Frank Reyes, Chairman (electronic)
Dr. Roy Gratz, Vice Chairman (electronic)
Stephen Eubank (electronic)
Jay Jarrell III (electronic)
Matthew Muggeridge (electronic)

STAFF

James Newman, Zoning Administrator (live)
Cathy Eckles, Admin Specialist (electronic)
Kathleen Dooley, City Attorney (electronic)

This meeting was held both in person in Council Chambers and electronically by "Go to Meeting" application, pursuant to City Council Ord. 20-05, An Ordinance to Address Continuity of City Government during the Pendency of a Pandemic Disaster.

Members of the public were invited to attend this meeting with masks and social distancing required or access by public access television Cox Channel 84, Verizon Channel 42, online at www.regionalwebtv.com/fredcc, or Facebook live at www.facebook.com/FXBGgov.

Chairman Reyes called the meeting to order at 4:30 p.m., explained electronic meeting procedures and did a roll call.

PUBLIC NOTICE REQUIRMENTS

Chairman Reyes determined that a quorum was present, and asked if public notice requirements had been met. Mr. Newman stated that public notice requirements had been met.

DISCLOSURE OF EX PARTE COMMUNICATIONS

Chairman Reyes asked if any Board member had engaged in *ex parte* communications on any item before the Board. No one indicated that they had participated in any *ex parte* communication.

DISCLOSURE OF CONFLICTS OF INTEREST

Chairman Reyes asked if any Board member had any conflicts of interest on any item before the Board. There were no disclosures.

APPROVAL OF AGENDA

Dr. Gratz motioned to approve the agenda as presented. Mr. Jarrell seconded. The motion carried 5-0.

APPROVAL OF MINUTES

None.

PUBLIC HEARING

Elizabeth and Raymond Dameron Jr., request a variance for 410 Canal Street and 1513 Prince Edward Street/GPINs 7779-96-6997/7779-96-6923. The applicant requests a variance from City Code section 72-31.3.B:

- A) Reducing the required minimum lot area from 7,500 sq. ft. to 4,826 sq. ft. for 1513 Pr. Edward St.
- B) Creation of a new lot at 410 Canal Street that is 2,985 sq. ft. in area, which is less than the required minimum lot size of 7,500 sq. ft.

Mr. Newman read one public comment received from John Roberson & Savannah Griffin (Att. 1), which had concerns about parking impact. Mr. Newman noted that 410 Canal Street has been used as a duplex since 1941 and is a legally non-conforming use.

Ms. Dooley said that pursuant to the discussion at the last meeting this matter will be one variance with two provisions.

Discussion ensued regarding the possible creation of a hardship, the marketability of the two lots, the creation of a driveway, vacation of the boundary line, the intention in 1948 to consolidate, and possibly adding a condition that the 18' lot be vacated and two new lots created.

Mr. Jarrell suggested an additional condition that the property line of the 13 foot strip alongside of 410 Canal Street be vacated to the extent it exists.

Mr. Jarrell motioned to approve VAR 2020-03 with the following conditions:

- A) Reducing the required minimum lot area from 7,500 sq. ft. to 4,826 sq. ft. for 1513 Pr. Edward St.
- B) Creation of a new lot at 410 Canal St. that is 2,985 sq. ft. in area, which is less than the required minimum lot size of 7,500 sq. ft.; and
- C) The 13 foot strip boundary line alongside 410 Canal St. be vacated.

Dr. Gratz seconded. Motion passed 5-0.

GENERAL PUBLIC COMMENTS

No public present.

STAFF / BOARD COMMENTS

None.

ADJOURNMENT

Chairman Reyes adjourned the meeting at 4:55 p.m.

Efrain Reyes, Chairman

APPROVED: ???, 2022

DRAFT



**Board of Zoning Appeals
Minutes
September 20, 2021**

You may view and listen to the meeting in its entirety by going to the Board of Zoning Appeals page on the City's website:

<https://amsva.wistia.com/medias/8sh9c5i3c3>

The Agenda, Staff Report, Applications and Supporting Documents are also available on the Board of Zoning Appeals page.

MEMBERS PRESENT (Absent)

Frank Reyes, Chairman (absent)
Dr. Roy Gratz, Vice Chairman
Stephen Eubank
Jay Jarrell III
Matthew Muggeridge
Helen Ross

STAFF

James Newman, Zoning Administrator
Cathy Eckles, Admin Specialist

1. CALL TO ORDER

This meeting was held both in person in Council Chambers and electronically by "Go to Meeting" application, pursuant to City Council Ord. 20-05, An Ordinance to Address Continuity of City Government during the Pendency of a Pandemic Disaster.

Members of the public were invited to attend this meeting with masks and social distancing required or access by public access television Cox Channel 84, Verizon Channel 42, online at www.regionalwebtv.com/fredcc, or Facebook live at www.facebook.com/FXBGgov.

Acting Chairman Gratz called the meeting to order at 4:00 p.m., explained electronic meeting procedures and did a roll call.

2. DETERMINATION OF A QUORUM

There were 5 members present.

3. PUBLIC NOTICE REQUIREMENTS

Dr. Gratz determined that a quorum was present, and asked if public notice requirements had been met. Mr. Newman stated that public notice requirements had been met.

4. DISCLOSURE OF EX PARTE COMMUNICATIONS

Dr. Gratz asked if any Board member had engaged in *ex parte* communications on any item before the Board. No one indicated that they had participated in any *ex parte* communication.

5. DISCLOSURE OF CONFLICTS OF INTEREST

Dr. Gratz asked if any Board member had any conflicts of interest on any item before the Board. There were no disclosures.

6. **APPROVAL OF AGENDA**

Mr. Eubank motioned to approve the agenda as presented. Mr. Jarrell seconded. The motion carried 5-0.

7. **PUBLIC HEARING**

- A) **2607 Charles Street** – Christopher Hallberg requests a variance and a fence special exception for 2607 Charles Street/GPIN 7779-79-8783, which is located 60 feet north of the intersection of Charles and Bridgewater Streets. The property is zoned Creative-Maker. The Comprehensive Plan designates this parcel as T-5M Core-Maker Zone, which is characterized as up to 12-24 units per acre and a commercial Floor-Area-Ratio of 1.0-3.0

The applicant requests a fence special exception to erect a chain link fence. Unified Development Ordinance Section 72-56.4 prohibits chain link fences in the Creative-Maker zoning district. The applicant desires to put a chain link fence for security.

The first variance request is from Unified Development Ordinance Appendix I, Section 6-2, Building Type 2, which requires a rear setback of 20 feet for multifamily, non-residential, and mixed-use buildings and a rear setback of 24 feet for residential structures. The applicant requests a rear setback of 5 feet, so as to enlarge the main structure.

The applicant also requests a variance from Unified Development Ordinance 72-82.4.B.2, which regulates side setbacks. The side setback for the property is 5 feet, and the applicant wishes to have side setbacks of 0 feet, so as to enlarge the main structure. **SEF2021-01, VAR 2021-01**

Mr. Newman reviewed the staff report along with a PowerPoint presentation (Att. 1) and noted that the fence special exception application was withdrawn. Applicant Christopher Hallberg, 1005 Raymond Court, was present.

Mr. Hallberg discussed his reasons for the request for variance: storage for a collection of antique cars, moving office to this location, requests are for structures against an 18 foot tall brick building with no windows on the side facing the subject property, neighbors have approved the plans, and everything on property is already on a zero lot line.

Discussion ensued regarding the exact placement of the main structure, proposed sheds, and carports. Mr. Eubank asked if the ordinances determining the setbacks were in place when applicant bought the property. Mr. Hallberg said yes. Mr. Eubank asked why applicant can't set up new offices inside the existing structure. Mr. Hallberg said he needs more space than is available. Mr. Hallberg said the only way to expand the main structure for the room he needs is to expand on the southeast side.

Discussion ensued regarding replacing existing legally non-conforming structures. The house currently on the property is the only structure that is conforming. Mr. Muggeridge stated it is unclear why applicant feels the Board should approve the variances for ordinances that were in place when applicant bought the property. Mr. Hallberg noted that he was well aware of the setbacks and code in place and knew exactly what he was doing when he bought the property, but he felt this was a request that wasn't going to affect anything and he got the property at a very affordable rate.

Discussion ensued about the construction and movability of the proposed carports, the placement of the entrances, where the gates will be situated, and the possibility of a condition that makes the carport

required to be temporary. Applicant noted that tearing down the current garage and putting up a structure that meets the setbacks isn't economical.

Mr. Eubanks noted that he is inclined to move to deny the variance application since applicant bought the property with plans that require variances. Ms. Ross agrees. Mr. Jarrell said he agrees but feels that creative conditions just need to be set due to the history of the property, the neighbors all building right up to the property lines, and that not much really changes.

Mr. Eubanks motioned to deny the variance application. Ms. Ross seconded. Mr. Muggeridge moved to amend the denial to approve the variance for the rear setbacks to allow the carport to be established but which would prohibit an addition to the main structure. Mr. Eubanks accepted the amendment. Mr. Jarrell motioned to amend the option to allow the variance on the rear setback line with a condition that the carport is temporary, but to deny the variance on the side setbacks. Mr. Eubanks accepted the amendment. Chairman Gratz clarified that the motion is to deny the side setbacks but approve the rear setbacks, with a condition that the carport is temporary. Mr. Newman asked if the Board was denying applicant from putting in a concrete pad at the proposed carport location. Mr. Jarrell said yes. Motion carried 4-1 (Ross, no).

- B) **812 Weedon Street** – John Mersiovsky requests a variance for 812 Weedon Street/GPIN 7779-93-6198, which is located 165 feet south-east of the intersection of Weedon and Hanover Streets. The property is zoned Residential-8. The request is for a variance from Unified Development Ordinance, Section 72-31.4.B, which requires a rear setback of 24 feet. The applicant desires a rear setback of 5 feet to put an addition to the rear of the house. The Comprehensive Plan designates this parcel as T-3 Sub-Urban, which is characterized as 4-8 units per acre and a commercial Floor-Area-Ratio of up to .5.
VAR 2021-02

Mr. Newman reviewed the staff report along with a PowerPoint presentation (Att. 2) and noted that should the Board decide to approve the variance, the decision should be deferred until the issue of the status of an additional parcel in rear of the property has been settled. Applicant's agent, John Mersiovsky, 700 Lee Avenue, was present

Discussion ensued regarding the potential parcel and a condition for the lots to be consolidated, the encroachment line, an easement running across 816 Weedon Street, the conveyance of both parcels to the property owners, and the rear setback changes made in January 2020 before property was acquired in July 2020.

Mr. Mersiovsky reviewed his work on the house, discussed the request being for a mother-in-law suite (MIL suite), stated his rebuttals to staff's concerns and reasons for denial, and said the most affected property of this variance is 810 Weedon Street and that property's owners are in agreement with the request. The proposed addition can't be seen from the street. Mr. Mersiovsky distributed a copy of a letter from WW Webb and Associates, PLLC, regarding 812 Weedon Street (Att. 3).

The Board discussed with applicant the potential parcel, the possible consolidation of the two parcels, the current setbacks, the existing structures on the property, and potential room inside house or the garage for a MIL suite.

Mr. Newman read one public comment into the record from Cheryl Myers, 810 Weedon St. (Att. 4), who supported the request.

Mr. Jarrell noted that this property is the shallowest on the street, not a normal lot depth. Mr. Muggeridge said he doesn't see a reason for the variance, and there did not seem to be a hardship. Ms. Ross said she walked the alley and open space, but the amendments to the UDO were passed to keep open space and agrees with City's recommendation for denial. Dr. Gratz agreed.

Mr. Eubanks motioned to deny the variance application. Ms. Ross seconded. Motion carried 5-0.

8. GENERAL PUBLIC COMMENTS

None.

9. ELECTIONS

- Chair (currently vacant)

Mr. Jarrell nominated Mr. Muggeridge for Chairman. Mr. Eubank seconded. Motion carried 5-0.

- Vice-Chair (currently Roy Gratz)

Mr. Jarrell nominated Mr. Eubanks for Vice Chair. Ms. Ross seconded. Motion carried 5-0.

10. STAFF / BOARD COMMENTS

Mr. Muggeridge asked if the Board is allowed to set conditions to a BZA request to affect the future of a property. Mr. Newman and Mr. Jarrell said yes, conditions can be issued that run in perpetuity with the land

Mr. Muggeridge asked about the philosophy of the Creative Maker District and how it affects variance requests. Mr. Jarrell stated he didn't believe the City would bring the matter before the Board if it wasn't an allowed use through a variance.

Dr. Gratz requested that he be allowed to attend the state required training.

11. ADJOURNMENT

Chairman Gratz adjourned the meeting at 6:19 p.m.

Roy Gratz, Chairman

APPROVED: _____, 2022



You may view and listen to the meeting in its entirety by going to the Board of Zoning Appeals page on the City's website: <https://amsva.wistia.com/medias/s4eil8j3ln>

The Agenda, Staff Report, Applications and Supporting Documents are also available on the Board of Zoning Appeals page. <https://www.fredericksburgva.gov/225/Board-of-Zoning-Appeals>

MEMBERS PRESENT

Matthew Mugeridge, Chairman
Stephen Eubank, Vice Chairman
Dr. Roy Gratz
Jay Jarrell III
Helen Ross

STAFF

James Newman, Zoning Administrator
Taylor Owen, Admin Support Specialist

1) CALL TO ORDER

Members of the public were invited to attend this meeting or access by public access television Cox Channel 84, Verizon Channel 42, online at www.regionalwebtv.com/fredcc, or on Facebook live at www.facebook.com/FXBGgov.

Chairman Mugeridge called the meeting to order at 4:02 p.m. and did a roll call.

2) DETERMINATION OF A QUORUM

There were 5 members present. Chairman Mugeridge determined that a quorum was met.

3) PUBLIC NOTICE REQUIREMENTS

Mr. Newman stated that public notice requirements had been met.

4) DISCLOSURE OF EX PARTE COMMUNICATIONS

Mr. Mugeridge asked if any Board member had engaged in *ex parte* communications on any item before the Board. No one indicated that they had participated in any *ex parte* communication.

5) DISCLOSURE OF CONFLICTS OF INTEREST

Mr. Mugeridge asked if any Board member had any conflicts of interest on any item before the Board. There were no disclosures.

6) APPROVAL OF AGENDA

Mr. Jarrell motioned to move the review of the minutes toward the end of the agenda, after the public hearing. Mr. Eubank seconded the motion. Mr. Jarrell motioned to approve the amended agenda, Mr. Eubank seconded the motion. The motion passed 5-0.

7) PUBLIC HEARING

- a) **AP2022-01: CVAS P8A, LLC and CVAS P8, LLC appeal a Determination regarding the maximum residential density within the Planned Development – Commercial Zoning District.** CVAS P8A, LLC owns GPIN 7860-50-3126, a 20.49 acre parcel of land north of the Poet’s Walk Assisted Living Facility and the Seasons apartment complex on the west side of Gordon W. Shelton Boulevard in Celebrate Virginia South. The appeal regards Unified Development Ordinance section 72-33.2(D)(4), “Residential Density Use Limitations,” which states that “residential uses shall not exceed 10% of the overall PD-C District and 24 units per acre.” The Zoning Administrator determined 10% of the land in Celebrate Virginia South now contains residential uses and no more residential development is currently permitted in Celebrate Virginia South. The appellants contend that the 10% rule should be applied to all 920 acres of land zoned PD-C throughout the City, not just the 541 acres located in Celebrate Virginia South. They argue that an additional 31.5 acres in Celebrate Virginia South are eligible for residential development, under this interpretation. The BZA has authority to affirm, modify, or reverse the Zoning Administrator’s determination.

Chairman Muggeridge opened the public hearing and Mr. Newman presented the appeal. Attachment 1 includes reference materials from the information packet that are used in presentation

Mr. Newman confirmed that there was no written public comment.

John Walk, the appellant’s representative, made a presentation to the board, stating that a plain reading of the Planned Development-Commercial (PD-C) district text was essential. [Attachment 2]

After Mr. Walk’s presentation, Mr. Larry Silver, owner of the properties of interest and the CVAS P8A LLC and CVAS P8 LLC companies, addressed the board about his and his father’s activities in the City over the past 35 years, and described the strong relationship that had been developed. He presented a letter [Attachment 3] to the board at this time.

Chairman Muggeridge asked if there were any more public comments to be made. There were not any members of the public present to give comment.

Ms. Kathleen Dooley, City Attorney, requested an opportunity to speak, applying the equal time rule. She said Mr. Newman’s presentation had taken 20 minutes, while the appellant’s presentation had taken 50 minutes, thus giving up to 30 minutes of rebuttal time. Chairman Muggeridge agreed to the request, and Ms. Dooley proceeded.

Ms. Dooley clarified that plain language is important, and that Mr. Newman did a thorough history on this ordinance’s plain language. His remarks in the presentation reflected his zoning expertise. Ms. Dooley referenced the PD-C ordinance and that the word *district* used in the ordinance can be applied in more than one way, such as: a singular district text is established: the PDC district, the R4 district, and so forth, but a the district can be established on the zoning map, and applied on the ground in different geographic areas, thus creating multiple meanings.

Next, Ms. Dooley spoke to a City Comprehensive Plan amendment in 1998 that stated the 10% rule was applied to the 541 acres that was rezoned to Planned Development-Commercial in Celebrate Virginia

South. Ms. Dooley said that this amendment to the Comprehensive Plan and staff memo made the intentions material.

Ms. Dooley responded to Mr. Walk's remarks that the applications for *PrimeCore* and *DVDs on the Run* did not meet the open space requirements, reading from the staff report that 25% of open space is required and *PrimeCore* provides 31.5% of open space. *DVDs on the Run* is showing requirement of 15% and has provided 22% of open space. Ms. Dooley stated that she had not researched the history on this topic specifically, but that there was no evidence that the applicants claimed to create less open space on their sites due to excess open space in Celebrate Virginia South.

Ms. Dooley encouraged the board members to convey to the appellant that the meaning of the rule is plain and obvious, and that the Silver Companies is asking for the rules to be changed for them.

Chairman Muggerridge asked for more information about the *PrimeCore* acreage, and Mr. Newman directed him to the site plan in the appeal, exhibit E.

Mr. Walk then spoke saying that both *PrimeCore* and *DVDs on the Run* were under the required acreage of open space, and had documentation he wanted to include in the official record.

Chairman Muggerridge confirmed there were no public comments and proceeded to questions from the board members.

Mr. Eubank asked the applicant's attorney about the appeal, in which the word *districts* (plural) was used. Mr. Eubank asked under what interpretation of the ordinance would there be multiple? Mr. Walk stated that the word is used many times in the singular form throughout the ordinance, but that subsections had the plural use of the word. Mr. Eubank and Mr. Walk discussed the usage of the word *district* in the singular or plural form, and where it was utilized in the ordinance.

Mr. Eubank further asked about the land in question. Mr. Newman referred to a map used as an example from the meeting materials. Mr. Eubank asked that if the applicant developed its parcel under its interpretation, would it keep another land owner in the district from developing out their property as residential use as well. Mr. Walk stated: yes, that is how the ordinance is written.

Dr. Gratz asked where the different Planned Development-Medical Center Zoning Districts were? Mr. Chuck Johnston, Planning Director, responded and spoke to the two locations in the City. Dr. Gratz then went on to describe the different planned development district areas, PD-MU (Planned Development Mixed Use), PD-C (Planned Development Commercial), PD-R (Planned Development Residential). Dr. Gratz then spoke to the four separate applications for PD-C zoning, and that it shows there were intentions to be four districts. Mr. Johnston confirmed that is the Zoning Administrator's position.

Mr. Jarrell asked for the definition of a district. Mr. Newman read zoning ordinance definition of *District, Base*: "*An area delineated on the official zoning map of which sets forth standards and guidelines for all development within the prescribed district.*" Mr. Jarrell asked if there were any other definitions such as *site, project, or development* that would help clarify the meaning between the district(s) that might have prevented the appeal.

Mr. Jarrell asked about the four rezoning's that occurred in 1998, and how it was determined that it was all pertaining to Celebrate Virginia South as one entity. Ms. Dooley responded that Mr. Walk had previously referred to their project as Celebrate Virginia South. Mr. Jarrell asked how it became one project as a unit,

instead of four individual rezoned parcels. Ms. Dooley states that it was presented at the rezoning as one project on multiple properties. It is referenced in the Comprehensive Plan as a one unit, 541-acre Planned Development zoning.

Mr. Jarrell asked if Mr. Walk happened to have a *findings of fact* for the board. Mr. Walk stated he did not prepare something of that nature, but he did request that they board would reverse or modify the zoning determination.

Mr. Walk also responded to Dr. Gratz's question regarding the other planned development districts and stated that none of the other districts have an overall district requirement like the 10% cap on residential use in PDC.

Chairman Muggeridge stated that it was time to move to discussion among the board. He referenced Mr. Eubank's earlier point of the plural use of the word *districts* and the manner in which the City has applied the 10% limitation previously and how it intends to apply it here. Mr. Eubank stated that is it unfortunate that the word *district* is used in two ways as a classification and as a geographic location, however the plural use of PD-C districts is superior in section 72.33.2 which refers to multiple PD-C districts. Mr. Jarrell expressed that it was a poorly written ordinance, and until the applicant faced the issue, it was not a relevant issue to bring forward.

Chairman Muggeridge asked if anyone would like to put forward a motion. Mr. Eubank moved to affirm the Zoning Administrator's decision as proposed in tabs three (the Draft Record of Decision) [Attachment 4]. Dr. Gratz seconded that motion. The vote on Mr. Eubank's motion was 3 in favor (Eubanks, Gratz, Ross) and 2 opposed (Muggeridge, Jarrell).

Chairman Muggeridge explained his "no" vote stating that he did not think that the part of the motion incorporating all of the findings of fact should be incorporated into the decision. Chairman Muggeridge acknowledged that Mr. Eubanks' motion carried 3-2. Chairman Muggeridge moved to amend Mr. Eubanks' motion, to adopt the draft Record of Decision, but to remove all of *The Findings of Fact* and to remove Point 2 ("it avoids an absurd result") of the *Conclusions of Law*. Mr. Jarrell seconded the motion.

Mr. Eubanks offered his comments against the motion to amend, stating that he felt that Zoning Administrator's decision does avoid an absurd result, because it would be absurd for the build out of this parcel or development to drive what the City can decide for PD-C districts elsewhere in the City, contiguous or not; and for the development potential of parcels in Central Park, which are owned by different entities [to be conveyed to Celebrate Virginia South], would be absurd. Mr. Gratz asked again for a clear statement of the exact motion. Mr. Eubanks repeated that his motion had been to affirm the Zoning Administrator's decision by adopting the Record of Decision in Tab 3 of the BZA hearing materials. The Chair's motion to amend, was to adopt the Record of Decision but striking "conclusion of law" #2, "it avoids an absurd result."

The Chair clarified that Mr. Eubanks' motion had already carried, and that the motion before the Board was his motion to amend: to not include the Findings of Fact, and to strike "it avoids an absurd result." The vote on the motion to amend was 3 votes against (Ross, Eubanks, and Gratz.) The Chair did not call for votes in favor, and the motion to amend failed.

At the request of the Chair, Mr. Eubanks restated that the decision of the Board was to affirm the Zoning Administrator's determination as expressed under Tab 3 (Record of Decision, "in toto.") The Chair announced that that was the decision of the Board.

The approval of minutes was moved to the next BZA meeting to ensure all board members had time to review the minutes before voting.

8) GENERAL PUBLIC COMMENTS

None

9) ELECTIONS

Mr. Jarrell nominated Mr. Muggeridge to remain as chairman and Mr. Eubank to remain as vice chairman. Ms. Ross seconded. Motion carried 3-0.

10) STAFF / BOARD COMMENTS

None

11) ADJOURNMENT

Chairman Muggeridge adjourned the meeting at 7:05 p.m.

Matt Muggeridge, Chairman

APPROVED: _____, 2022

DRAFT