

**POLICY COMMITTEE MEETING**

June 12, 2013

3:00 p.m.

County Government Center, Building D

**1.) Roll Call**

**Present**

Ms. Robin Bledsoe  
Mr. Tim O'Connor

**Absent**

Mr. Al Woods  
Mr. Rich Krapf

**Staff Present**

Mr. Paul Holt  
Mr. Chris Johnson  
Mr. Allen Murphy  
Mr. Russell Seymour  
Mr. Telly Tucker  
Ms. TC Cantwell

**Others Present**

Mr. Tim Trant  
Mr. Steve Barrs  
Mr. John McSherry  
Ms. Brittany Voll

**2.) Minutes**

Mr. Tim O'Connor moved to approve the May 31, 2013 minutes.

In a unanimous voice vote, the minutes were approved (2-0).

**3.) Old Business**

a. Zoning and Subdivision Ordinance Amendments

Ms. Robin Bledsoe asked Mr. Paul Holt and Mr. Chris Johnson if they would like to open the discussion.

Mr. Holt stated that this item was on the June Planning Commission Agenda and was deferred to the July meeting, with the request that it be heard at today's Policy Committee meeting for additional discussion and review. Mr. Holt stated that Mr. Johnson will be detailing Staff's report and the basis for Staff's recommendation, followed by Mr. Tucker and Mr. Seymour with Economic Development and who are representing the Office of Economic Development. Mr. Holt began by discussing proposed updates and changes to the ordinance other than those within the M-2 district. Mr. Holt stated that these changes constituted the bulk of the material sent to the Committee, and he had not heard any concerns from the Planning Commission regarding those issues. Mr. Holt added that additional housekeeping items for consideration by the Committee include a revised definition of flag lots in both the subdivision and zoning ordinances, as well as a clarification of the use list for outdoor sports facilities.

Ms. Bledsoe asked if there was a new definition of outdoor sports facilities.

Mr. Holt clarified that outdoor sports facilities are currently in the ordinance; what is being proposed is the deletion of the portion of the sentence regarding water and sewer. Mr. Holt stated the rationale is that in the M-2 district there is a subsequent section that specifically defines the basis for a waiver of that provision by the Board, and to have it referenced in the use list and to have another section deal with it seems redundant and creates confusion.

Ms. Bledsoe stated it is clear that such redundancy has been cleaned up in multiple places.

Mr. Holt stated that is correct, in order to be consistent.

Mr. Holt asked if anyone had any further questions regarding that cleanup.

Ms. Bledsoe stated she did not at that point.

Mr. Holt stated the focus of Staff's report and the basis for Staff's recommendations is recognizing the broader importance of M-2 as a whole. Mr. Holt explained that M-2 is not a variation of M-1, nor is it a variation of B-1; M-1 is a bit of a hybrid district that allows for a multitude of uses. Specifically for M-2, staff recommendations are based on the goal of preserving the district as a place where heavy industrial uses can be realized in a manner that is consistent with the statement of intent for M-2. Mr. Holt explained that the statement of intent defines the purpose of M-2 is to encourage the use of land for industrial purposes and prohibit residential and commercial development on land otherwise reserved for industrial. Mr. Holt also stated that included in the Policy Committee packet was the ordinance for the M-2 district that was adopted and in place prior to January of 2012 in order to provide a historical reference to the uses traditionally listed in M-2, as well as to give an understanding of the items that were both added and had fallen out in January.

Ms. Bledsoe inquired if the majority of the items added in were items that had literally fallen out of the old ordinance or were new uses.

Mr. Holt replied that they are not new uses, and that this is a good entry point for Mr. Chris Johnson to talk about the importance of getting those items that had fallen out added back in and the comprehensive re-review of M-2 that was completed.

Mr. Chris Johnson stated that the commercial and industrial districts were one of the priority topics identified by the Board at the beginning of the ordinance update which began in 2008 when the Board accepted the Business Climate Task Force recommendations. Mr. Johnson explained that one of the objectives of the ordinance update is to bring the ordinance into greater compliance with the Comprehensive Plan, but it also is necessary to streamline administrative and legislative processes to add consistency, predictability, flexibility, and communication to the development review process. Mr. Johnson stated that commercial and industrial districts was one step in that process; other steps came in 2008 and 2010 including the Subdivision and Site Plan Review and Improvement Team (SSPRIT) revamping the processes and procedures of the Development Review Committee. Mr. Johnson stated that the amendments to LB, B-1, M-1, and M-2 in January of 2012 included a formatting change from alphabetical use lists into a categorized tabular format, which increased the reader-friendly nature of the ordinance. Mr. Johnson explained that greater flexibility was added to the commercial districts (LB and B-1), for example, restaurants that were below 100 seats or over 100 seats, grocery stores less than 10,000 square feet or more than 10,000 square feet, transitioning to B-1 where those uses were allowed without regard to size. Mr. Johnson explained that M-1 is a hybrid of the B-1 district and very different from M-2. M-2 is not merely an extension of the M-1 district and was never intended to become a desired location for retail and commercial uses. Mr. Johnson stated that M-2 is the County's only exclusive industrial zone and provides a significant source of revenue to the County's tax base. Mr. Johnson stated that the uses that migrated over from M-1 into M-2 were primarily commercial and retail uses that historically have never been part of M-2 and it was not Staff's intention to say that they were. Mr. Johnson explained that as part of

the update significant manufacturing and industrial based uses were inadvertently omitted as well. Making sure that these important uses are put back into the ordinance formed the basis for the M-2 portion of the update. Mr. Johnson stated that Development Management and Economic Development jointly examined the uses that had been omitted as well as those retail uses that had migrated into M-2 to determine if M-2 should be reserved exclusively for manufacturing and industrial uses, as had been the case prior to January 2012. Mr. Johnson stated that the purpose for adding or removing items is to return the ordinances to the state they were in in 2008 and consistent with the M-2 statement of intent.

Ms. Bledsoe inquired if the migration of uses into M-2 began in 2008.

Mr. Johnson stated that a small number of non-controversial uses were changed in 2008, but the larger series of amendments were made in January 2012.

Ms. Bledsoe inquired if this was by accident or by design.

Mr. Johnson explained that the use table created for LB formed the baseline for revisions to B-1 and then to M-1. It was a formatting error that uses never intended to be included in M-2 migrated forward from LB, B-1 and M-1 and created the larger issue of previously permitted uses in M-2, such as breweries and various manufacturing uses, being omitted entirely.

Ms. Bledsoe asked if M-2 was intended to be a standalone district with its own criteria.

Mr. Johnson confirmed.

Mr. Holt stated that M-2 is a very unique district and more importantly a very limited area in the County of significant economic importance. Mr. Holt requested that Economic Development address the importance of M-2 to the County's tax base and the ability for job creation.

Mr. Russell Seymour stated that he was asked to look at, from an Economic Development standpoint, the significance of M-1 and M-2, their importance in the local economy, the types of requests the County gets for projects in those districts, and the remaining amount of M-2 land. Mr. Seymour stated that Staff created a snapshot of the land currently being marketed in M-2 and found there to be roughly 1,038 acres that are actively being marketed; of that, 620 acres belongs to BASF. Mr. Seymour stated that BASF site is very unique because they are interested in marketing the parcel as one site; they have not expressed any interest in subdividing or breaking pieces off. Mr. Seymour explained that it's difficult in today's economy to find someone willing to purchase a 620 acre parcel. Mr. Seymour stated that when you take away BASF's 620 acres and the recent announcement of Hankins Industrial Park there are roughly 400 acres remaining in the County that are zoned M-2. Mr. Seymour further stated that of all of the projects dealt with by Economic Development in 2011, roughly 75% were industrial-type uses, as compared to an office-type use; for 2012 that percentage was 77%. Almost mid-way through the year 2013, that percentage is holding steady at 57%. Mr. Seymour stated that in 2012 to 2013 there were four of five new projects classified as M-2 which were new construction, three of which involved new land. Mr. Seymour also stated that is important to look at the enterprise zone, which is a state and local incentive zone package allotting the County a certain number of acres designated by the state and a finite number of years in which to use the enterprise zone; the County's is set to expire in December 2015, at which time it will reapply. Mr. Seymour stated that over the past two years the County has taken acreage out of the enterprise

zone that was located within wetlands, waterways or otherwise undevelopable land and reallocated that acreage predominately into the County's existing industrial and/or business parks. Mr. Seymour explained that the enterprise zone is one of, if not the best, incentive program the County has, and the County has expanded the zone in areas that are most consistent with those types of businesses. Mr. Seymour further explained that the County is funded solely on tax revenue; the majority of this revenue comes from residents, while businesses contribute a smaller share. Mr. Seymour stated the goal should be to bridge that gap, which is done by bringing new businesses into the County or expanding existing ones. When looking at remaining areas in the County to do that it is important to consider their zoning, infrastructure and access to utilities; when looking at industrial land in particular, one should consider existing rail, access to major transportation arteries, and the possible impacts on surrounding uses. Mr. Seymour also noted that areas appropriate for non-industrial uses outnumber industrial lands.

Ms. Bledsoe asked if the enterprise zone credit located in wetlands had been moved to other properties and when that change occurred.

Mr. Seymour confirmed that the shift began in 2011 with acreage associated with water ways, and the County is allowed a fifteen percent adjustment per year.

Ms. Bledsoe inquired if the statistic of 77% of 2012 projects being industrial referred to M-2 projects only.

Mr. Seymour clarified that 77% of the projects the County has are classified as industrial, but they do not necessarily have to be in M-2; these projects are typically manufacturing, distribution centers and warehouse space.

Ms. Bledsoe asked if these people are looking for space or people who have found space.

Mr. Seymour stated that these are projects that are actively looking for space.

Ms. Bledsoe asked to verify that in 2012 it was 77% and in 2013 it is 57%.

Mr. Russell Seymour confirmed.

Ms. Bledsoe inquired if the number has dropped due to the lack of space needed.

Mr. Seymour stated that his office consistently runs into the issue that projects primarily search for existing buildings; a good aspect to James City County is a low vacancy rate, but this is also a bad component because there is not a lot of product to put on the market. Mr. Seymour stated that has been an impeding factor, as the County is competing with localities that have the warehouse space, manufacturing space, and vacant offices, as well as the available acreage.

Ms. Bledsoe inquired if the County is not as competitive as it could be, and if this is an attempt to get it there.

Mr. Seymour stated we are not as competitive in terms of having product that is ready for use, which is difficult to obtain without building spec buildings, but the strengths the County does have are the enterprise zone and the available acreage.

Ms. Bledsoe asked what the percentage was for the year 2011.

Mr. Seymour stated it was 57%.

Ms. Bledsoe noted that the percentage stayed relatively consistent and then dropped in 2013.

Mr. Seymour explained that the 2013 number is for roughly five months of data, not the whole year. Also, the County has expanded their role by now going after retail, which is something that has not been done in the past.

Mr. Telly Tucker stated that between the years of 2000 and 2010, 12 industrial projects participated in the Enterprise Zone, providing capital investments of more than \$131 million. During these businesses' five year eligibility window, nearly \$7 million in tax revenue was generated for the County. Mr. Tucker also noted that all 12 of these projects, with the exception of one, are still in business today and thus still paying taxes to the County. Mr. Tucker stated that he consistently looks at the availability of industrial to office space and the features that projects are asking for.

Ms. Bledsoe inquired if the \$7 million was a cumulative number.

Mr. Tucker confirmed.

Ms. Bledsoe asked if Mr. Tucker agreed that when businesses come to the County, they are looking for a specific product which the County does not have an unlimited supply of.

Mr. Tucker confirmed.

Mr. O'Connor asked what the typical project acreage is.

Mr. Tucker stated that in 2012 the mean acreage was 150 acres, and in 2013 that number has dropped to 35 acres; the median acreage for 2012 was 58 acres and 16 acres in 2013. Mr. Tucker explained that both types of calculations were made in order to discount the few outliers in 2012 that were looking for very large pieces of property. Mr. Tucker also stated that in 2012 the mean building square footage for existing buildings was 37,000 square feet, and the median was 18,750 square feet; in 2013 the mean was 23,250 square feet, and the median was 9,000 square feet.

Ms. Bledsoe asked if this meant a single project would, on average, be looking for 37,000 square feet of space, or if that number was a total of all projects.

Mr. Tucker replied that that was an average per project.

Mr. Seymour clarified that that number is for existing buildings. Mr. Seymour also stated that, traditionally the percentage of people looking for buildings, versus people who are looking for acreage, was very high. This gap has closed a little over the last few years because the buildings that had been on the market are starting to get filled and building a new facility has become more affordable. Mr. Seymour stated that this is why Economic Development has now been working so closely with Planning.

Ms. Bledsoe inquired how much of the marketable land in M-2 has existing buildings.

Mr. Seymour responded that he did not know the exact percentage, but that most of it is vacant land.

Mr. Tucker stated that he believed there is only one large industrial building currently available in the County that is located adjacent to the BASF property.

Mr. Holt stated that the importance of adding back in the traditional M-2 uses that had fallen out, several of which are existing businesses in the County, combined with the analysis of the M-2 land were the two items that Staff wanted to ensure were reflected in the comprehensive examination and update of M-2. Mr. Holt also stated that the packets distributed to the Policy Committee members contained a list of what the M-2 uses have historically been and what M-2 consisted of prior to January 2012. The items proposed to be removed were typed in blue colored font, and items to be added back in were highlighted in yellow.

Ms. Bledsoe stated that she and Mr. O'Connor wanted to go through M-2 and ask questions regarding items that had been added or deleted. Ms. Bledsoe stated that she would begin with the first edit on page 18. Ms. Bledsoe asked if "Firing and shooting ranges limited to a fully enclosed building" was removed because it was allowed in another capacity on page 19, where "Indoor sports facilities including firing and shooting ranges" is listed.

Mr. Holt stated that she was correct, and it was removed because it was a duplication.

Ms. Bledsoe asked Mr. O'Connor if he had any questions on page 18.

Mr. Tim O'Connor asked Mr. Seymour if he believed funeral homes were a good use for M-2.

Mr. Seymour said that he would continue to be very protective of the M-2 land, because there is not a lot left. Mr. Seymour stated that he is in a position in which he must look at what will provide the most benefit to the County. Mr. Seymour explained that if the County has an opportunity to get a business in M-2 that will be a higher tax payer or a higher employer, then it should be the focus. Mr. Seymour noted that, of course, there is no guarantee of any businesses coming into a particular location, but areas should be available for that.

Ms. Bledsoe stated that there was discussion at the last meeting about avoiding the placement of uses in M-2 that are readily available in other districts. Ms. Bledsoe stated that it is her opinion that funeral homes would fit that description, as they are already available around the community.

Mr. Seymour stated that another factor to be considered is the number of existing businesses on M-2 property whose operations alone work well for that area, but when other uses, such as non-industrial, are mixed in, there could potentially be a negative impact on those existing businesses.

Mr. Holt asked if the Policy Committee would propose to also delete the use of funeral homes.

Ms. Bledsoe confirmed.

Mr. O'Connor stated that it should be either deleted or listed as a specially permitted use, as there are other places for that use to go.

Ms. Bledsoe stated that she is in favor of deletion because a tax payer shouldn't go through the SUP process if the use can easily go somewhere else.

Mr. O'Connor stated that he agreed it is not compatible to have a funeral home next to an industrial use.

Mr. Bledsoe stated that she had a question regarding medical offices and emergency care clinics. She stated that those uses are readily available across the community, and inquired as to why the use remains for M-2.

Mr. O'Connor stated that he believed they are accessory uses as larger companies could have in-house clinics.

Ms. Bledsoe inquired if this was referring to accessory uses.

Mr. O'Connor stated that they are not, but in 2012 similar uses, such as daycares, were changed to be accessory uses to larger places.

Ms. Bledsoe stated that she would not have a problem with them being an accessory use.

Mr. Holt stated that an example of similar wording for accessory uses could be found at the top of page 19, listing health and exercise clubs as an accessory use. Mr. Holt also stated that the way it is currently worded could allow it as a stand-alone use, but if the Policy Committee wished to make it an accessory use, he recommends using the similar language of "Medical clinics, offices and first aid centers as accessory to other permitted uses".

Ms. Bledsoe stated that she does not see having it as a stand-alone use to be consistent with what the County is trying to accomplish. Ms. Bledsoe also stated that she also does not understand allowing hospitals and believes the patients would also agree that they are not part of an industrial endeavor, although she does understand that it is a tremendous entity that would generate a large amount of taxes.

Mr. Seymour stated that he understands her point. Mr. Seymour also stated AVID Medical is an example of a medical use in M-2. He stated that he did not want to limit medical manufacturing and supply firms.

Mr. Holt replied that those instances would be listed as a manufacturing use.

Ms. Bledsoe stated that she agrees, but the inclusion of hospitals is still confusing.

Mr. O'Connor inquired if outpatient surgery centers provided a tax benefit.

Mr. Holt stated that those uses, such as urgent care facilities, would fall under the category of medical offices that had already been discussed.

Mr. O'Connor clarified that he was referring to uses such as Riverside's outpatient center at the end of Kings Way.

Mr. Seymour stated that the majority of hospitals are tax exempt; however, he is not sure if that includes taxes on machinery and tools.

Ms. Bledsoe stated that her experience in the non-profit world would lead her to believe that the machinery is not taxable, and she recommends they be removed.

Mr. O'Connor stated that he would recommend them being included as a specially permitted use.

Ms. Bledsoe asked if it is currently an SUP.

Mr. O'Connor confirmed.

Ms. Bledsoe asked for the reasoning behind the removal of "Places of public assembly" on page 20.

Mr. Holt explained that the reason for their removal, similar to the removal of antique shops, drug stores, gift and souvenir shops, and grocery stores, is that prior to January of last year those uses never existed in M-2 and were part of the unintentional carry-over from other districts.

Ms. Bledsoe inquired if this particular listing of "Places of public assembly" was a part of that copy-and-paste mistake.

Mr. Holt confirmed.

Mr. O'Connor inquired if industrial janitorial uses, such as Cintas, are allowed in M-2.

Mr. Holt stated that they are listed on page 23 as a permitted use.

Ms. Bledsoe asked why government offices and libraries are allowed in M-2, and if government offices generate tax revenue.

Mr. Holt stated that historically libraries were not allowed, and professional and government offices were a separate use, as well as post offices and fire stations.

Ms. Bledsoe asked if "Non-emergency medical transport" refers to ambulance storage.

Mr. Holt responded that medical transport is normally privately owned, not provided by a locality, and this would be a business such as Eastern Shore Ambulance Service.

Ms. Bledsoe stated that, in order to be consistent, she felt that government offices and libraries should be removed from M-2.

Mr. O'Connor asked Mr. Holt how he would classify defense contractors.

Mr. Holt replied that if it consists of employees sitting at a desk, they would most likely be classified as general office.

Mr. Seymour stated that defense contractors with research and development components will want to locate in areas that are not tied in to other uses and want to be relatively secluded. Mr. Seymour noted that while the County has not seen a significant amount of this activity historically, moving forward the option of government offices should not be removed.

Ms. Bledsoe stated that she had not considered that aspect, and inquired if there is a way to better define it in order to only allow certain types of government offices, such as the defense contractors.

Mr. Allen Murphy stated that it may be possible to incorporate some sort of research and development use.

Mr. Seymour stated that Ms. Bledsoe has a very valid concern. Mr. Seymour noted that Culpepper provides an excellent example to look at; federal agencies located there because of the available space, and the area has thus become a magnet for uses such as defense contractors.

Ms. Bledsoe inquired if making it a specially permitted use would narrow the land's appeal.

Mr. Johnson stated that historically, the use category for any district combined business, government, and professional offices as one collective use; when the uses for all districts were transformed into a tabular format in order to make it more user friendly, it did not make sense to have government offices listed as a commercial use when a civic category existed.

Ms. Bledsoe stated that she does not have a problem with government offices remaining in the ordinance, but libraries should be removed.

Mr. Holt stated that one of the benefits of working through a public process is that if there are concerns that a local government office could be located in M-2, doing so would be a part of other public discussions, such as discussions regarding the operating budget.

Ms. Bledsoe stated that she is fine with that.

Mr. Holt asked if the Policy Committee wanted to delete libraries and non-emergency medical transport from the M-2 list.

Ms. Bledsoe stated that only libraries should be deleted.

Ms. Holt stated that the yellow highlighted items being added back in to the ordinance begin on page 23.

Mr. O'Connor asked why there is a stipulation requiring the screening of heavy equipment from adjacent properties on page 23. Mr. O'Connor stated that heavy equipment, such as that found at the Caterpillar property in Richmond, is difficult to screen. Mr. O'Connor stated that he could understand requiring screening from the road, but the requirement of a 12 foot fence seemed too strict.

Mr. Johnson replied that the intent is not to require screening of the entire height of the equipment.

Mr. Holt noted the ordinance specifies that “major repair” to the equipment is what triggers the requirement of indoor use or screening, not necessarily the presence of equipment.

Mr. O’Connor stated he wants to ensure that unrealistic expectations are not being placed on businesses.

Mr. Holt stated that in this case it is not the equipment itself that triggers the requirement it is the process of breaking it down; the County would not want a company in front of their property changing tires or taking apart a transmission.

Ms. Bledsoe stated that she did not have any questions regarding that issue.

Mr. O’Connor asked what a light industrial product or component is, found on page 24.

Ms. Bledsoe read from the ordinance, “Processing, assembly, and manufacturing of light industrial products or components.”

Mr. O’Connor stated that he was most concerned about the storage component.

Mr. Holt stated that because this particular use category is an SUP, the County would get the ability to look at the master plan and proposed site layout and make any SUP conditions in order to mitigate any potential impacts on adjoining properties.

Mr. O’Connor stated that if a business was, for example, producing outdoor fountains, the product could conceivably be stored outdoors at the end of the production process, and perhaps should not be forced to be stored indoors.

Mr. Holt stated that the way the language is worded, all storage must occur indoors or under cover.

Mr. O’Connor stated that this requirement is adding extra expense to businesses producing things such as brick, stone, small tractors, outdoor fountains, picnic tables, or anything else designed to be outdoors. Mr. O’Connor also stated that the Policy Committee has previously discussed at length the warehousing of products and whether it would be a permitted use or an SUP, and that some of the language is not giving potential businesses much “wiggle room”.

Mr. Johnson stated that the language found under the commercial uses on page 21 requiring storage indoor or under cover has been removed, and the County has realized that in some cases the cost of bringing those activities indoor is not appropriate.

Mr. Holt stated that there are several examples of other SUP’s, such as the manufacture and assembly of sheet metal products and the manufacture, compounding, packaging of food products, in which that condition is not listed. Mr. Holt also stated that inherent protections on the issue would be a part of the SUP process.

Mr. O'Connor asked if the word "all" could be removed.

Ms. Bledsoe stated that she agreed with the suggestion.

Mr. Holt stated that the removal of the word "all" would be a good way to bridge that gap.

Ms. Bledsoe asked if there were any other questions regarding M-2 or anything else to be presented before the meeting is opened for public comment.

Mr. Holt stated that he did not have anything else to present.

Ms. Bledsoe asked Mr. Tim Trant if he would like to speak first.

Mr. Trant with the law firm Kaufman and Canoles on behalf of his client, The Peninsula Pentecostals, stated that the conversation he just observed appeared on the surface to be a very thoughtful one and would make sense in a vacuum; however, what is being dealt with is not abstract ideas, but instead people's property rights and livelihoods. Mr. Trant stated that in a Utopian world, there would be a heavy industrial zone that would serve as the economic savior of the County, containing all high paying jobs with no environmental or other negative impacts, but this does not exist. Mr. Trant stated that a fundamental question in making such drastic changes to the M-2 zone is the effect these changes would have on the rights of people who own property and have been paying taxes to James City County for quite some time. Mr. Trant also stated that making changes to M-2 land without focusing on the individual parcels to be impacted is a mistake, and no one has discussed the status or ownership of each parcel of land in M-2. Mr. Trant inquired if anyone knew how many businesses would become non-conforming uses once these changes are made.

Mr. Holt responded that they have not identified any businesses whose status would change.

Mr. Trant questioned that there are no uses being eliminated that currently exist on M-2 land.

Mr. Holt responded that there are not any cases he is aware of because those uses being deleted were not in the ordinance 18 months ago.

Mr. Trant stated that although everyone makes mistakes, there have never been such significant changes to ordinances to make it through Staff review, the Policy Committee, Planning Commission, and Board of Supervisors that have fundamentally been a mistake, and he has trouble with the fact that these uses accidentally crept in. Mr. Trant also stated that one of the goals of Planning's effort is to bring the ordinances into conformance with the Comprehensive Plan. Mr. Trant stated that designation in the Comprehensive Plan for the property he is most interested in is mixed use, and inquired if Planning's effort is justified by consistency with the Plan, why there is an attempt to make the land more industrial. Mr. Trant stated that regarding economic development, if the County is trying to bring in more businesses, they should allow more by right uses instead of specially permitted uses because the SUP process is expensive and uncertain, thus being a discouragement to users. Mr. Trant also stated that there are many inconsistencies with support for this initiative. Mr. Trant explained that Economic Development expressed the opinion that industrial land is the most precious commodity of the County; however, retail has thus far been a much greater economic development tool for James City County, and should be focused on more. Mr. Trant stated that the

County should be realistic about who they are, as the property he is looking at has been on the market for quite some time. Mr. Trant further stated that in trying to position the County for higher and better uses in M-2, smoke stacks and manufacturing are being placed immediately adjacent to a church, two neighborhoods, and a drinking reservoir. Mr. Trant also stated that the County has gone to great lengths to oppose Dominion Power putting high tension transmission lines in this vicinity to minimize the impacts on quality of life, but wants to put industrial uses right next to those neighborhoods and reservoir. Mr. Trant stated that the property's owner has been one of the most successful developers of M-2 land and still has a significant inventory of undeveloped and unsold land; this owner is very concerned regarding the value of their M-2 holdings. Mr. Trant asked that the Policy Committee to consider the specific properties impacted by the ordinance changes, including their nature, size, and present land use, as well as the direction of the market in the area and if M-2 is the correct designation for the 40 acre parcel. Mr. Trant explained that, in regards to his situation, he would like to build a church and be able to do so by right. Mr. Trant also stated that if this process moves forward in spite of the objections, he would like consideration given to the grandfathering of the Pentecostals or a rezoning of the property, initiated by the administration, to the higher and better use, as recognized by the Comprehensive Plan, to Mixed Use.

Ms. Bledsoe asked what consideration is given to the landowner in this situation.

Mr. Holt replied that regardless of the type of change being made to the ordinance, it is important to be consistent in how the issue is presented to the public. Mr. Holt added that the County advertised in the paper, specifically listing the items proposed for addition or deletion.

Ms. Bledsoe asked if that advertising was done for the May 31, 2013 Policy Committee meeting.

Mr. Holt replied that those advertisements are done for public hearing items every month before the Planning Commission and Board, and in addition, Planning sends a separate round of notification for the Policy Committee.

Ms. Bledsoe inquired when the notification was published for Mr. Trant's clients to been made aware of the changes that were to happen.

Mr. Holt replied that it was published as part of the information for the Planning Commission meeting as well as the notices sent out before the Policy Committee meeting, as those are the standard notices sent out each time an ordinance is brought through. Mr. Holt stated that these notices are the best way to ensure that everyone receives the same, consistent information.

Ms. Bledsoe asked if it was possible that someone's land could be rezoned and never be aware if they do not read the newspaper.

Mr. Murphy replied that a rezoning is a different process than a language change to the ordinance.

Mr. Trant stated that it is also different to create such a dramatic change to permitted uses.

Ms. Bledsoe acknowledged that the church clearly has a different view on what happened and stated that she wants to further understand how land owners are made aware of these changes.

Ms. Bledsoe inquired if there is any way, other than reading it in the newspaper, which landowners are made aware of use changes.

Mr. Holt stated that he would like to clarify that in this instance he is not talking about rezoning a piece of property, changing a Comprehensive Plan designation, or whether or not it is appropriate for a specific piece of property to be zoned M-2. Mr. Holt stated that those are appropriate questions for a rezoning or SUP application, and always come about as part of that action, as they involve the direct mailing of notices to adjacent property owners.

Ms. Bledsoe stated that those applications are not what is being discussed.

Mr. Holt stated that that is correct; the discussion is regarding the consistent process that has been used for the last 18 months of putting notifications in the paper and online.

Ms. Bledsoe inquired if it is the responsibility of the land owner to know what uses the County is permitting for their land.

Mr. Holt confirmed and stated that the process which the County uses to get the word out is that consistent notification process.

Ms. Bledsoe stated that she understands that process but feels that the landowner may be at a disadvantage by having to continually follow what is happening in the County.

Mr. Holt stated that Staff is returning the M-2 ordinance to what it had historically been, not reinventing the district. Mr. Holt also stated that the legislative process is not something Planning would jump into if it were not necessary.

Mr. Trant stated that he disagrees with Mr. Holt for the reason that in his original meeting with Staff to discuss their plan for the property, he was told that there would be very little, if any, support for a legislative change to accommodate their proposed land use, and this is why they indicated their intention to proceed by right with a more limited vision on only a portion of the property. Mr. Trant further stated that the suggestion of the legislative process being used as his client's relief is an empty promise.

Ms. Bledsoe asked Mr. Trant when he decided to proceed by right.

Mr. Trant stated that it was discussed April 2 after meeting with Staff. Mr. Trant explained that Staff's disinterest in having the proposed type of use on the property, coupled with an indication that a church would not trigger commercial SUP requirements, led him to decide that a more limited vision, in particular the church and the daycare, would be the preferred venue. Mr. Trant stated that this was conveyed to Mr. Holt and Mr. Johnson on April 29.

Mr. O'Connor stated that he was not able to attend the last meeting and asked to clarify that Mr. Trant was referring to a 40 acre parcel currently zoned M-2.

Mr. Holt stated that there are three separate parcels, totaling 40 acres.

Mr. O'Connor asked what the proposal was on April 2.

Mr. Trant stated that he and the Pastor met with Staff and Steve Romeo's of VHB, and showed them a conceptual master plan for the 40 acres, the driving principal use of which would be a church campus located on the north western portion of the property, wrapping around the existing church and adjacent to the existing residential neighborhoods of Carter's Village and Skiffe's Creek. Mr. Trant also stated that continuing south east, there would be a transition into the more industrial area with light industrial uses, such as truck refueling center and convenience store, a restaurant, or other ancillary uses serving the industrial park and surrounding community.

Mr. Holt stated that the context of the meeting was in the light of developing a comprehensive master plan for all 3 parcels which would include a church, retail, convenience, diesel pumps, potential senior housing, as well as supporting uses for the church, including a daycare and a vision for a school. Mr. Holt stated that it was a discussion regarding the possible rezoning of the property from M-2 to Mixed Use.

Ms. Bledsoe asked at which point Mr. Trant and his clients met again with Staff.

Mr. Trant stated that he had been told that Staff would need some time to digest and consider all of the information presented at the first meeting. Mr. Trant stated that on April 29 he received a telephone call from Mr. Holt and Mr. Johnson indicating that after deliberation with the Development Administrator and the Economic Development office, the County concluded that a rezoning of the property for those uses would not be suitable based on the consumption of valuable M-2 land.

Ms. Bledsoe asked if this conclusion was for the entire master plan concept.

Mr. Trant confirmed, and stated that he informed Mr. Holt and Mr. Johnson at that time that he and his client decided to continue with a more limited proposal. Mr. Trant stated that his client was most concerned with the church and the daycare, which would not trigger an SUP, and thus decided to proceed by right.

Ms. Bledsoe asked to verify that there were 18 months in which the ordinances had changed and Mr. Trant viewed the use list at that time. Ms. Bledsoe also inquired when a discussion was had with Mr. Trant warning him that the use list would be changing, or if that was not an appropriate discussion because an application had not been submitted.

Mr. Holt responded that nothing had been submitted, and the concerns expressed were the same as those discussed today: adjacency, the uses, traffic generation, and the possibility of a commercial SUP. Mr. Holt noted that the driving force behind the ordinance changes was getting those industrial and manufacturing uses which had been omitted brought back into M-2.

Ms. Bledsoe asked why, if the County knew they were planning on proceeding by right, Mr. Trant would not have been notified.

Mr. Holt replied that no plans in any form had been submitted and the County must ensure that it maintains consistency in its notifications, without relying on informal conversations. Mr. Holt added that one group cannot be notified and not another because of the issue of operating transparently in a public realm.

Ms. Bledsoe stated that she understands it is not policy, and asked Mr. O'Connor if he had any questions or comments.

Mr. O'Connor declined.

Ms. Bledsoe asked Mr. Steven Barrs if he would like to speak.

Mr. Barrs stated that he is one of the owners of the Greenmount property, as well as a self-storage facility in M-2. Mr. Barrs stated that he recently went through a similar process regarding property he owns in York County, during which everyone affected was sent a letter inviting them into the process, and he feels that is a much better practice. Mr. Barrs also stated that Mr. Trant and his clients signed a contract earlier this year, planning for a by right designation, and they did not find out about the changes being submitted until the day of the Planning Commission meeting.

Mr. O'Connor asked when the contract was signed.

Mr. Trant replied that it was signed in March.

Mr. O'Connor stated that the plan in March was for a rezoning application, not a by right use.

Mr. Trant stated that in March they did not know for sure which direction they were going to proceed.

Ms. Bledsoe asked if the preference was the larger operation.

Mr. Trant stated that their preference was for the church and daycare. Mr. Trant explained that he felt that in order to build the church he would be forced into a commercial SUP, and to succeed in the legislative process for the SUP, he would have to offer some sort of offset to the church uses in order to make Staff more comfortable with their proposal, such as the commercial uses adjacent to the entrance to the industrial park. Mr. Trant stated that they later learned the master plan would most likely not be supported and they would not have to get a commercial SUP for the church, thus deciding to proceed in that direction.

Mr. Barrs stated that he is aware the County has already considered this issue, but they have inventory in which they need large tracks of land available to sell. Mr. Barrs stated that he has sold several small parcels in Greenmount, but unfortunately his most marketable pieces have been small five to seven acre parcels.

Mr. Seymour inquired if those have been closer to the front.

Mr. Barrs confirmed.

Mr. Seymour stated that he understands and agrees that there is land further back there if access can be gained to it, and he is hoping that the connector road will allow that access.

Mr. Barrs stated that he is concerned how this decision will affect those purchasers who have not done anything with their land yet due to the economy.

Ms. Bledsoe stated that she asked so many questions today because she wanted to ensure everyone was very clear on Staff's thought process and why they have made the decisions they have made. Mr. Bledsoe stated that it seems that not having existing structures on M-2 land is a drawback, but it is still very valuable land.

Mr. Seymour confirmed that most recent projects have been looked for existing buildings.

Ms. Bledsoe stated that in the scheme of 400 acres, 40 acres does not seem like too much to consider since they are willing to put structures on the property themselves; however, the precedent cannot be set of a dialogue with the County constituting rights to a piece of property if something happens. Ms. Bledsoe asked what the possibility would be of allowing the church a certain amount of time to submit an application and continue on with the property.

Mr. Holt replied that Mr. Adam Kinsman explained at the Planning Commission meeting that the grandfathering rights are very clearly defined and are subject to a completely different set of conversational points.

Ms. Bledsoe inquired if that would be an unrealistic situation.

Mr. Holt replied that it would be a discussion for a separate forum.

Mr. Trant stated that he felt that was not an accurate statement, as ordinance adoptions are made all the time with provisions that applications under conceptual review or within a certain threshold are exempted from the ordinance changes.

Mr. Seymour stated that the Policy Committee must look County wide, not at individual parcels. Mr. Seymour also stated that Mr. Barrs is correct in his statement that existing land owners should be considered, because the County should not put a use somewhere that will negatively affect other businesses or other land owners looking to market their property in the industrial park.

Mr. Trant asked if BASF is aware of the ordinance changes and the impacts to their property.

Mr. Seymour stated that he has not spoken with anyone other than Staff regarding the changes.

Mr. O'Connor stated that regarding the 40 acres, he would prefer to see it go through the rezoning process; however, the purpose of the Policy Committee is not to consider single parcels, and doing could result in piecemeal developments and missing of the bigger picture. Mr. O'Connor further stated although he does not want to minimize what Mr. Trant has brought to the table, they are here to discuss M-2 throughout the entire County.

Mr. Trant stated that that discussion is what has brought the issue to the table.

Mr. Murphy replied that the issue has been brought to the table because of a series of uses that had fallen out of the ordinance, including breweries – an industry most important to James City County.

Ms. Bledsoe stated that Mr. O'Connor is correct in his statement of what that the Policy Committee should be focused on, and although she is sympathetic to the situation that has arisen, but she is not here to discuss a specific case. Ms. Bledsoe further stated her recommendation is to approve the ordinance as is and take it to the Planning Commission.

Mr. Holt stated that this will include the changes articulated during the meeting for other specific uses.

Ms. Bledsoe stated that there does not appear to be a remedy that could make everyone happy, and the Policy Committee cannot fix an event that has transpired that they are not privy to.

Mr. O'Connor stated that he would not be opposed to a meeting before the Planning Commission meeting to discuss the issues Mr. Trant has brought forward regarding ordinance rewrites.

Mr. Trant stated that he would like for his request for consideration to be given to the unique circumstances of this property to be included in the Policy Committee's recommendation to the Planning Commission. Mr. Trant also stated that there are ways to accomplish the desired changes to the ordinance without offending his clients' interests.

Ms. Bledsoe asked how it could work to include that discussion at the Planning Commission meeting.

Mr. Holt responded that grandfathered or vested rights are not a discussion for the Planning Commission public hearing forum.

Ms. Bledsoe asked Mr. Trant if that is what he is asking for.

Mr. Trant replied that he is not referring to vested rights, as there is a legal process involved in getting those. Mr. Trant stated that he feels it is within the purview of the Policy Committee to consider impacts on property owners that have investments underway and exempt interests who have met certain threshold requirements, such as a conceptual site plan submission, from those impacts.

Ms. Bledsoe inquired if any of that exists now.

Mr. Holt replied that they do not, but he, again, would not like to involve the Planning Staff in a discussion involving vested rights at today's meeting.

Mr. O'Connor stated that he agrees that the Policy Committee meeting is not the time or place for that discussion.

Ms. Murphy stated that Mr. Trant could see the Attorney's office.

Ms. Bledsoe stated that her goal is to accomplish what the Policy Committee is charged with, and moved to approve the ordinance amendments with the changes cited during the meeting. Ms. Bledsoe also stated that she is sure Mr. Trant will continue to pursue another avenue.

Mr. Trant stated that the Religious Land Use and Institutionalized Person's Act is a federal statute that provides certain protections to religious land uses in situations such as this. Mr. Trant further stated that it is his assessment that the act, as applied to this process, has run afoul, and no one should want a lawsuit. Mr. Trant also stated that the conversation will never make it to the Attorney's office for a vested rights discussion if the Planning Commission does not endorse the cause being raised.

Ms. Bledsoe stated that because there was no application submitted, there is nothing to compel Staff to consider the situation. Ms. Bledsoe further stated that, since lawsuits have now entered into the conversation, that a decision should be made on the recommendations to the Planning Commission. Ms. Bledsoe asked if Mr. O'Connor agreed with her motion.

Mr. O'Connor agreed, and the motion passed unanimously.

#### **4.) New Business**

There was no new business to discuss.

#### **5.) Adjournment**

The meeting was adjourned at 5:08 p.m.

  
  
Robin Bledsoe, Chair of the Policy Committee