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[00:00:03] Okay, I'm going to call the Land Use Policy Committee meeting to order. It's always hard to bring them back. Okay, we have three items on the agenda.

[00:00:22] They should be pretty straightforward. Before we do that, I hear chuckling next to me. We have the minutes from the last meeting. If I don't hear any corrections or other issues, we'll stand those as accepted.

[00:00:41] Okay, so our first presentation is about the fee exemption for electrical vehicle charging, and you should have all received a nip about this yesterday. I'm going to turn it over to John. How do I start the presentation?

[00:01:02] Minor technical difficulty here. Say a word, if I may. Good. Supervisors, thank you for having us today. By way of introduction, my name is Matthew Hanson.

[00:01:19] Bill Hicks, our department director, is not with us today. I lead the Land Development Services Site Inspections Division. And I'm here today with John Friedman and Jerry Stonefield from Site Development and Inspections to tell you about our topics today. Turn it over to John. Thank you, John. Approximately a year and a half ago, the board approved a fee waiver for installation of electric vehicle charging equipment.

[00:01:50] We're here today to talk to you a little bit about the data that we've collected over the course of the last year through the PLUS system. So when the board approved the waiver of the fee, it was for a trial period of 18 months to see whether or not that would incentivize people to install charging equipment.

[00:02:21] So without an amendment to the Land Development Services fee schedule, the permit fees are automatically going to expire the 1st of May. And we'll start, excuse me, the waiver will expire the 1st of May and we'll start charging again for the building permit fees.

[00:02:39] And we've collected data for the first 12 months of the trial period. So there were 38 commercial permits and 858 residential permits during that time period.

[00:02:55] I think the number of residential permits surprised us quite a bit. The data doesn't reflect the number of chargers for the commercial installations. It's just that the single permit may have two, three, four, five, six, you know, 12 charging stations.

[00:03:17] And the data also doesn't include new construction of garages, commercial or, you know, residential multifamily garages because of the types of electrical permits they get.

[00:03:33] we can't track that. It's a general permit. Here's a little bar graph showing the installation of residential chargers by supervisor district. You can see who did the best and who did not.

[00:04:02] And here's a similar graph for the commercial charging stations. These would be the ones that They're installed in parking lots, mostly, retrofits. You know, we'd hoped to be able to collect enough information to determine whether or not having a zero permit fee actually incentivizes the installation.

[00:04:32] We weren't really able to do that because you don't actually know, you know, why people are doing things. And we only actually had data and very limited data on the commercial permits.

[00:04:48] But it appears that over the prior 2019-2021 period, the installations increased about, you know, nine a year. And then they kind of doubled up for the period we're looking at.

[00:05:06] don't really know whether or not the pandemic had any influence on the number of commercial permits that were taken out during that time period. So we don't have any, you know, unfortunately, information on residential installations because until PLUS was implemented, we weren't able to track those under the prior system. We also, at the time that the fee waiver was approved,

[00:05:39] agreed to overlay the charging station installation locations on the equity vulnerability index map to determine what the equity impact was.

[00:05:54] And this slide shows the installation of residential permits by the equity criteria. It seems pretty clear that as far as their residential permits are concerned, So far and away, we're being installed in areas with low vulnerability.

[00:06:17] And that's something that you would pretty much expect because we're talking about installations in garages in single-family, attached or detached homes. On the commercial side, it's a little bit more balanced.

[00:06:41] So most of the permits were in areas of average vulnerability. I don't know exactly what to make of this, but it still seems, you know, biased towards more areas with lower vulnerability.

[00:07:04] The big issue for us is the lost revenue. During the period, a 12-month period where we weren't charging for the permits, we lost approximately $125,000 in fees.

[00:07:22] And this is going to continue to rise if we continue with the fee exemption And it will be large enough that we'll need to balance that out within our overall fee structure since we are an agency that is funded entirely through fees for the most part.

[00:07:47] So we're seeking some guidance today. Again, you know, without an amendment to the fee schedule, the waiver of the fee will automatically expire May 1st. Because of the fee impacts, staff is recommending that the board let the waiver expire.

[00:08:12] If the board wishes to continue with the waiver for an additional trial period or make it permanent, we would prepare an authorization package for the March 5th board meeting with a hearing on March 19th.

[00:08:30] And we would need some director from the board in terms of a board matter at their next scheduled board meeting to accomplish this. Thank you, John, for that presentation. You know, it's interesting because it's a small amount of data in a way.

[00:08:52] We see the information about there if it, you know, if it was an equity impact and trying to figure out that information and the loss of revenue. Since it was the chairman's board matter, I am going to turn to him first. Thank you.

[00:09:09] So, you know, I have mixed feelings about this. I mean, on one hand, this is, for me, as much a value statement of the county in terms of our green initiatives than anything else. And I'm not sure of the 811 residential, as an example, how many of those wouldn't have happened without this, maybe zero.

[00:09:29] Maybe they all would have happened anyway. But I think from a value statement standpoint, being able to say that we do not charge permits to encourage people to adopt EVs is, I think, should be our standard. I look at the revenue loss.

[00:09:45] Frankly, I wish there were more than 811 people who got permits for these. And there's a lot of barriers. The cost of our permit is a tiny barrier. There's already so many other barriers out there that we ask ourselves a question of, does the county want to be one of those extra barriers, even if it's a small portion. I'm one of the ones in Franconia that got one during this period of time, and I pulled up my invoice, and I was, you know, like every other customer, charged $100 for the electrical company to get the permit, even though it acknowledges in here Fairfax

[00:10:19] County waived the permit fee. And so people are still paying. I mean, somebody has to go get the permit, right? The electric companies are not going to eat that. So I'm bringing this up because our permit fee is part of the cost of getting this, but the electrical company still has to obtain a permit. We're not saying you don't have to go get a permit. We're just saying they don't have to pay another $127, which would have been another line item on this invoice that would have been passed on to the customer. And so there's a lot of cost with putting these in. There's a lot of challenges with putting them in. My fundamental is, does the county want to be another one of

[00:10:53] those challenges? And my answer to that for $109,000 for 811 residential permits is no. In the greater scheme of things, the cost of not encouraging people to adopt EVs is higher than $109,000 value statement for us to say you don't have to get piled on by the county and get another fee on top of that.

[00:11:13] And so my preference would be to do this for another year to message out a little bit more aggressively that we don't have to charge these fees. Every person that I've run into in the county that I

have said that to did not know that until I said that to them.

[00:11:32] And so for me, what I'd like us to do is try this for another year, more aggressively message that you don't have to pay the permit fee, and compare one year's data to the next year's data and see what's really happening here. But simply put, there are so many barriers to people adopting EVs.

[00:11:50] I don't think the county should be one of them. And to me, I think this is a small price to pay, and I think we should try this for another year and see if the data says anything else new to us or different. Then I would be open to, you know, maybe doing away with this over time once we're getting more than 811 people in a calendar year who are getting a residential permit for this.

[00:12:11] That's my two cents. But I'm glad we did this because, you know, I mean, frankly, I think it's in line with our green initiatives, and we can't – the county is aggressively adopting EVs. We can't assume that our county residents are, if we're not at the top level of county government messaging how important it is to do this and doing everything we can to help people get them.

[00:12:34] Thank you. I have Supervisor Walkinshaw and then him in. Thank you, Madam Chair. I agree with the chairman. I think we should continue it. Happy to put an end date on it to reevaluate again. And perhaps we could do this now or during that period.

[00:12:54] survey those who have had the permit fee waived to try to suss out what impact that might have had on their decision to move forward with an EV charger. One thing I'll just note on the equity issues, and I think this is true of a lot of our climate initiatives and our air quality initiatives,

[00:13:18] If a wealthy Restonian, I'll just pick a Restonian, makes a decision to purchase an EV and install the charger and maybe the permit fee was a small piece of their decision to do that, the positive air quality impacts are for everybody.

[00:13:40] We know that asthma rates among kids are highest, and I'm sure if you map asthma rates in the county, it would line up very well with our vulnerability indexes. So everybody benefits if even an affluent person decides to move forward with an EV.

[00:14:01] So I think we have to look at the equity questions a little bit differently. Obviously, we should make every effort to ensure that lower- and middle-income communities are aware of this and have the opportunity, but I think everybody benefits from it. But it is something that we should continue to evaluate, and if the administrative burden is not too significant, to do a simple survey to those 800-ish who have already done it or maybe the 1,000-plus who will have done it over the course of the next several months to try to determine what did they know about the fee waiver in advance.

[00:14:36] Did it make a difference in their decision or not? And if the answer is not, then maybe we look at it again in a year. Thank you. Thank you. Supervisor Jimenez and then Beerman. I just want to echo what the chairman said and say that Mr. Walkinshaw, you're completely right when it comes to these communities, disadvantaged communities.

[00:14:56] And I think that if we want to continue to lead in Fairfax County and show not only Virginia, but the country, that we are doing the best we can and making sure that we're moving forward with these initiatives. We need to make sure that the public has the right messaging, that they know what's out there, that we are providing the best service possible without interrupting or making more barriers, as the chairman mentioned, in this process.

[00:15:28] You know, we really need to look at if this does come back, possibly putting in exemptions for certain communities. I think that looking at exemptions would be key if this does come back. But if we're to make sure that those numbers continue to rise, we need to make sure that people aren't feeling their pocketbooks getting lighter because of this. So I think that we, for the moment, need to make sure that we are not putting those fees and those barriers in place.

[00:15:57] Thank you. Thank you. Supervisor Bierman, then Elkhorn. Thank you, Madam Chairwoman. Yes, to echo, I appreciate Chairman McKay's approach here. And my thought was also echoing what Supervisor Walkinshaw said. I think electric vehicles are an interesting catch-22 to some degree when we talk about equity, because until we make our charging infrastructure more accessible to everybody, the people who are going to benefit in the short term are the people who have a nice single family home in Great Falls

[00:16:33] or rested or wherever. But as we start building up our charging infrastructure throughout the county, then we get to a situation in which more people have access to choose an electric vehicle. And as more people have access to even choose an electric vehicle, we see electric vehicle prices as a whole come down. I mean, I think looking at my fancy cell phone right here, knowing that about 80% of Americans these days have a smartphone. That is a byproduct of an expanding market when it used to be that only people who could afford a really expensive cell phone had a smartphone. So I agree

[00:17:10] with the chairman's approach. I believe that Supervisor Walkinshaw and Supervisor Jimenez had strong comments on this as well. Thank you. Thank you. Supervisor Alcorn, then Peltrick. Thank you, Madam Chair. John, just a question.

[00:17:27] Commercial. Does that include, say, townhouse associations and multifamily, or is it only for apartments that would be considered commercial or office buildings? Do you know? Not sure.

[00:17:42] Not sure about that. Okay, no problem. I only bring that up, but I really appreciate the comments of my colleagues. There are definitely equity issues here, but I think the bigger equity play we're doing on EV charging is charge up Fairfax.

[00:17:59] Because that's our program where we're trying to work with communities, multifamily communities, townhouse communities, where there aren't options for indoor garage parking. And I live in a community like that. So, you know, that is actually going to be, I think, a bigger impact on folks.

[00:18:20] So I think we might want to, as we go forward, keep an eye on any other barriers for those multifamily and townhouse communities as well. So I don't think this is the big barrier. This is probably pretty far down on the list, but maybe it can help.

[00:18:39] So thank you. Thank you. Supervisor Palczyk, then Herody. Thank you. I just have one question, I think, related to the last point when we're talking about equity in our last conversations. Fees are a part of it, but in addition to charge at Fairfax, are you all working with NCS and the engagement frameworks to help ensure that it's not just the fees, but we're really engaging and understanding what barriers and opportunities exist?

[00:19:07] LDS hasn't participated in those, to my knowledge. We are only talking about the fees, but I appreciate the question, and it deserves perhaps bundling the message. Yeah, so I would recommend, I know you have a lot on your plate, but doing that and reaching out to NCS. to see how they can support you in that work.

[00:19:25] Thank you. Supervisor Herity. Yeah, I'd assume that we've done the legal review on the loss revenue from this, increasing fees for other LDS permits. Since it is fee-based, does it have to be by fee, or is it, like, over a broad range?

[00:19:46] And has that been through legal? Could you please? So I see in your side it says the loss revenue will be large enough that it will need to be offset by increase in other LDS fees. we operate on a fee recovery basis. I think it's over a group of fees, but I just wanted to make sure we had done the legal review to make sure that, you know, a loss here could be offset by other fees. As Brian Hill County Executive is set up right now, any loss fees or fee reductions

[00:20:22] will be absorbed by the general fund. It's not going for legal review. So we have to really recalibrate how we do the self-supporting entity of LDS. So I'll get back to you on where we stand at the end of the budget year, and it will be part of my budget discussions going forward.

[00:20:40] So then it will be borne by taxpayers, then, if not by other fees? Well, it's going to be borne by the person that is facilitating the budget. So I guess it might be me. Okay. I appreciate that question from Supervisor Herity, because that was what I was going to ask, especially because of the way the LDS budget is set up.

[00:21:08] So that is definitely an issue that has to be addressed. The other question I have comes down to the residential and commercial. Is there a way to split this that you could just waive the fees for residential and not for commercial?

[00:21:26] And I don't know if you have the answer today or not, but I am curious about that. I believe there is. I mean, obviously, we were able to track them separately. Right. so we could set up a structure to charge them separately. Of course.

[00:21:43] Go ahead. Within that, knowing that a lot of our residential communities are zoned commercial, you're able to figure that out, too, and share that data with us. I think what I would like to know is within the 38 commercial permits, how many of them were for residential communities versus another commercial use?

[00:22:03] And we can just take that information later if you don't have it today. yes we'll respond to you with more information about that and to a question of can we separate the fees we'll definitely consult with oca uh before we propose any separate fees to make sure that that's uh an acceptable approach so what i will do is uh coordinate with staff on a board matter to extend it for another year to get clarification on some of the questions that were raised here and i'll work with uh uh chair smith to bring a joint board matter forward that's been vetted with staff um when would the how soon does that need to happen in other words we don't want to lapse i don't i don't want to find out that you know there were three weeks where people

[00:22:41] came in and we charged them a permit fee because the board didn't act quick enough when do i need to do a board matter by uh unfortunately i would say next week well that's disappointing that we're hearing about this now for the first time today but i will work with staff and see if we can accommodate that but we need to hear about this stuff sooner we'll figure it out but if we can do a board matter asap and in the interim we'll figure out a a period where we can still do what what we need to do to to support the board matter that's forthcoming and then we'll move forward so

[00:23:16] yes it needs to be yesterday however we'll figure that out all right thank you sorry i appreciate that so we have a path forward thank you very much all right our next presentation is the chesapeake bay preservation ordinance amendment and this is another situation where the state has implemented something that we kind of have to do um so staff's coming up for that thank you

[00:23:45] thank you so i'll turn it to jerry hi uh jerry stonefield uh land development services site code research and development branch um there we go for the board's consideration today is a proposed amendment to the chesapeake bay preservation ordinance uh to do two things uh talking about

[00:24:24] preservation of mature trees and coastal resilience and adaptation to sea level rise this is an amendment to our chesapeake bay ordinance as a chesapeake bay locality under the state regulations we have to have a chesapeake bay preservation ordinance it defines resource protection areas, and RPAs have limitations on when and what you can build in the RPA.

[00:24:59] The provisions are specified in the state regulations based on the Chesapeake Bay Act. So from a background perspective, this started in the 2020 General Assembly session. They adopted a bill directing state water control board and Department of Environmental Quality, or DEQ, to amend the state Chesapeake Bay regulations to include two things, the preservation of mature trees and the coastal resilience provision.

[00:25:35] One sentence in the state act in 2021, after DEQ had promulgated the regulations, took it to the state water control board.

[00:25:50] They took it as two separate amendments to the regulations. One for the mature trees, another one was for the coastal resilience. They adopted that in 2021, set out the certain regulations that we needed to adopt and a timeline for us to have those in place.

[00:26:16] The first of the two amendments is preservation of mature trees. We're adopting certain regulations, but the state adopted amendments to the existing provisions to say where mature trees are to be removed only removed where necessary sorry and then where we replanted replanting trees long story short we don't think that this is going to make a

[00:26:52] significant difference in the projects within the county because we already have chapter 122 which is our tree preservation ordinance and the public facilities manual already has requirements on using trees when establishing or reestablishing a vegetative buffer in the RPA.

[00:27:13] So it'll be a lot of editorial stuff to make sure the language matches from what the state has told us what we need to say in our ordinance. But provisions for projects, we feel it's not going to make a significant difference because we already require these to other provisions.

[00:27:35] The other aspect is coastal resilience and adaptation to sea level rise. The state had created a new section in the Chesapeake Bay regulations, does several things. One is require consideration of the impacts from climate change, specifically listing sea level rise and storm surge for projects that are developing within the RPA.

[00:28:03] requires a resilience assessment, and we'll get into that another slide. Also creates a new allowed use for adaptation measures and specifies certain criteria, and then there are some other provisions that they throw in there as well we'll get to in a moment.

[00:28:21] The resilience assessment, specifically the state lays out certain items that need to be considered to evaluate the impact from sea level rise and storm surge, and this is based on a 30-year time horizon.

[00:28:41] That's in the regulations as far as where the sea level will be at that point. It specifies that we have to use models that were developed by or for the state, and these impacts need to be evaluated as part of this resilience assessment.

[00:29:01] Staff is proposing that the assessment be incorporated into the water quality impact assessment, which applicants prepare and submit to the county as part of the request to encroach into the RPA. And then based on a review of that resilience assessment, the county may require alterations to the project.

[00:29:25] We can impose conditions of approval, specify adaptation measures be included as part of the project. Adaptation measures, a new allowed use, and that's a term from the ordinance, meaning that they do not need an exception.

[00:29:46] They still would need a water quality impact assessment, but it's a by right use in the RPA. The regulations spell out certain criteria. It has to be a nature-based adaptation measure, be designed in accordance with the applicable specifications, comply with state-federal requirements, does specify maximizing preservation of existing natural vegetation, and does put some limitations on fill within the RPA.

[00:30:26] Some other provisions in the regulations, this is I'll describe as a belt and suspenders type of approach because it's saying you need to comply with the tidal wetlands guidelines and the living shoreline requirements of the state.

[00:30:43] These are already requirements under the tidal wetlands ordinance, so it's just reiterating that in the Chesapeake Bay ordinance as well. Some limitations on the county is that the county cannot grant an exception to encroaching the RPA if this resilience assessment has not happened, and also puts limitations on fill in the RPA that the county can't grant an exception to allow fill that's not otherwise specified in the regulations.

[00:31:15] The last thing it did is it specified a timeline for the ordinance to be in place. We have until September 29th, 2024, to incorporate these provisions. So right now, we are conducting outreach.

[00:31:37] We've gone to some industry representatives, ESI, NVBIA. We've gone to Exception Review Committee. We've gone to EQAC, Tree Commission. We have one virtual town hall that we have yet to schedule that we're planning to do.

[00:31:57] And we have some groups that are already expressed in interest, so we'll make sure that they're specifically aware of that when we get that scheduled. And again, a September effective date. So, this is, again, provisions that are from the state.

[00:32:19] We have to incorporate this. Our plan at the moment is take that language verbatim, copy and paste it, put in our regulations, and move that forward to have that adopted in our Chesapeake Bay ordinance.

[00:32:37] Any questions? Thank you, Jerry. It's kind of we have to do it, but we thought this was a good chance to update the board. Supervisor Walkinshaw? Yeah, thank you. Thank you for the presentation. I'm

just looking at the regulations that are linked to in the presentation. And it says that, this is the new language, mature trees shall be protected during development and only be removed and only removed where necessary, including to provide for the proposed use or development.

[00:33:08] So that phrase, where necessary, strikes me as perhaps subjective. So how and who determines whether the removal of mature trees is necessary to provide for the proposed use or development?

[00:33:31] Jerry Stonefield again. Yes, that is language that was, as my recollection, specifically hesitate to use the word negotiated during the state process that the state went through when they were promulgating the regulations, allowing for, based on the project that is being proposed, there are some times where you would have to remove trees to put in that project.

[00:33:59] This provision about preserving where necessary allows for those projects to move forward and such that if you have mature trees there, this would not prevent those type of projects.

[00:34:14] So just to clarify, it does not give us the authority to say you're proposing a 5,000 square foot house that meets all the other requirements, but because of this requirement to prevent the removal of mature trees, we are going to say you can only build a 4,000 square foot house.

[00:34:35] In our reading of it, we've got to take the proposed use, as long as it meets all of the other setback, et cetera, requirements, and then say you can't unnecessarily remove any mature trees.

[00:34:53] That's correct. Matthew Hanson, Site Development and Inspections Division Director, that's correct, Supervisor Walkinshaw. And I'll add that this is in the context of an RPA exception, so it's not carte blanche to all uses. These are uses permitted in the RPA, which is already a process of strict scrutiny.

[00:35:11] Excessive land disturbance is discouraged and not permitted through exception processes. So there is scrutiny to what is the extent necessary to work to facilitate the allowed use. I also don't want to miss the who part of your question, who determines necessary.

[00:35:27] Jerry used the word negotiated. What happens is that our staff, our urban forest foresters in the Forest Conservation Division, They look with scrutiny to ensure that all trees that can be preserved are preserved, and that's where it may be subjective in negotiation.

[00:35:44] We try to get the limits of work as tight as absolutely possible, especially when it comes to where trees may be able to be preserved. Okay, thank you. I think it's going to be important in the community that we set expectations and not allow the expectation that we're going to be able to say to people, you've got to build a much smaller house on this site because of this new requirement.

[00:36:03] Okay. The only other question I have, having gone through the water quality impact assessment process before personally, how much additional work for us and or an applicant will the resilience assessment add or will it be an additional page on the form that you have to fill out?

[00:36:26] What do we anticipate in terms of the workload for the resilience assessments? Supervisor Walken, Charles Townfield, again. Yes, we do anticipate revising our water quality impact assessment form to include the factors that are specifically listed in the resilience assessment, things like the sea level rise, the storm surge.

[00:36:51] This is part of any request to encroach into the RPA, but the only areas of the county where this is going to have a different number as far as the sea level rise are down along the tidal potomac or the tidal tributaries little antin creek doe creek that type of thing where you would actually have a higher sea level

um got it the intent uh from the state is applicants consider sea level rise uh when they're designing their project um and they again negotiated this 30-year time horizon as far as uh the life of

[00:37:27] the project such that in 29 years, they don't have to come back in and say, well, I built it too low, sea level's higher, I've got to go in and re-disturb the RPA to rebuild my project to elevate it higher because it's now getting wet too often. So the idea of this assessment is to take that into account now, design that into their project so that it's only once they have to do the encroachment into the RPA.

[00:37:56] Okay, thank you. I have Supervisor Alcorn, Stork, and then Lusk. Just very quickly, on the tree preservation and mature trees provision, thank you for noting that Chapter 122 and the PFM already require that.

[00:38:12] And I'll just relate that the current process works pretty well. We had a situation in Reston where there were going to be a tree or two taken down, and it became a big issue in the community. And that discussion and, frankly, you know, the technical support and having an arborist take a look at it made a huge difference.

[00:38:34] So I think the process works well. I'm glad that's going to continue. So thank you. Thank you. Supervisor Stork, then, Les. Thank you, Madam Chair. How is the new allowed use category different from our current administrative approval processes?

[00:38:52] Are they pretty aligned or is there any significant changes that you see? Supervisor Stork, Jerry Stonefield again. In the current Chesapeake Bay Ordinance, there are a section, Article 2, of allowed uses in the RPA. Things that are, by their very nature, need to be in the RPA.

[00:39:11] Water-dependent development, boat docking structure, for example. Pretty hard not to be in the water, to get that to work correctly. Things like that. So this adds to that list another item that specifically lays out the adaptation measure, shoreline stabilization type of thing, specifically gearing towards this living shoreline approach as opposed to a bulkhead, large boulder riprap type of thing of the hardened approach in the shoreline.

[00:39:49] State guidance a few years ago changed that from living shorelines being strongly encouraged to now required unless you can prove it's not going to work, given the specific situation. So this is putting that into the Chesapeake Bay Ordinance, as specifically listed, allowed use with this criteria that applies specifically to that.

[00:40:14] So administratively, they would still come in with a water quality impact assessment, now including the resilience assessment and staff with approval of that, move forward through the RPA approval. They still have to meet all the other applicable requirements, wetlands permits, land disturbance permits, those type of things that apply.

[00:40:34] So this is just checking that box for this particular ordinance. Thank you. And the second question is, have you all been coordinating with the wetlands board? That's, I know, a significant issue, at least in Mount Vernon District, And a number of concerns you you obviously you touched on it with your response to the previous question.

[00:40:54] Yes, we have. I've reached out that we've had numerous emails back and forth with the chair of the wetlands board and staff and DPD that staffs the wetlands board. They're they're one of the interested

parties when we do our town hall that will be making sure that they are specifically involved as well as some of the community groups in Mount Vernon.

[00:41:18] because this is particularly... Have you formally met with them in any way? Have you presented or reviewed this with them directly in any way? With the board itself. I know there's other conversations when you've been having. The full wetlands board as an entity, no.

[00:41:35] We have met with EQAC and with the Exception Review Committee and the Tree Commission. And so there are some overlap of membership, but not specifically a meeting of the Wetlands Board. I'd encourage you to do that as well.

[00:41:51] Thank you. Supervisor Lewis. Thank you, Madam Chairman. The question is pretty quick here. It's along the lines of what Supervisor Walkinshaw was asking on slide four, as opposed to where necessary. My question is, how do we define maximum extent practicable for that first bullet, and then where practicable in the second bullet?

[00:42:18] Supervisor Lusk, yes, that is a term of the regulations as far as practicable. It's not exactly maximum that possible. All right. It's a little confusing that you've got both in this document, but yes.

[00:42:39] I mean, it does take into account the specifics of the project itself. Where you are, is it possible to do this? Is it practicable to do it this way, save these trees or not? It gets into the very specifics on a case-by-case basis.

[00:42:57] Supervisor Lusk, Matthew Hanson again. Survivability is a concern that I talk about with our forestry division. We don't want to see people throwing good money after bad in trees that are in the wrong location. So when I hear practicable, that's the first thing that comes to mind, is not planting doomed trees.

[00:43:13] That's not good for anybody. Thank you. Thank you, Supervisor Jimenez. Thank you so much. This one, and again, thank you for coming in and for the presentation. Just really quickly, what are examples of limited circumstances in the new allowed use in the RPA?

[00:43:31] Which slide are you referring to? I'm sorry. I believe it was. I'd have to look. It was the language around the limited circumstances.

[00:43:50] Yeah, right there. Okay. Still in the RPA is part of an adaptation measure. The picture here is from a report from the Virginia Institute of Marine Science, VIMS, on a living shoreline project.

[00:44:11] Sorry, I forget the location where this was put in. There are some fill that's allowed in that for the living shoreline where you bring in a suitable fill to get the vegetation to grow. The stone revetment there as an energy break is different than armoring the entire shoreline.

[00:44:30] So there is specific criteria of going in that allows certain fill in certain situations, this being an example of that. What it is not allowing, and this stems from other jurisdictions that have further down towards the mouth of the Bay and the Potomac of much flatter land areas that are much lower in relation to the sea level, that there are some properties that apparently through sea level rise already are experiencing at high, high tide.

[00:45:05] The lawn, the yard area being wet, and they've had situations where folks have been bringing in fill under the cover of darkness to raise their yard to try to outpace sea level rise. This provision

specifically is getting to not allowing that type of exception, even through the county, if they requested this through an exception through the county.

[00:45:32] Not that we, Fairfax would have, either the staff or the exception review committee would have approved that, but it's specifically putting into the regulations that, no, you can't do fill for fill's sake. Right, which I think is important. Thank you.

[00:45:49] Thank you. Matthew? Matthew Hanson, revisiting a question from Supervisor Stork regarding the Wetlands Board. I can confirm that this topic will be discussed tonight at the Wetlands Board, and they will be offered, if they would like to have a presentation by Jerry, to do that at their next meeting.

[00:46:06] Staff Coordinator Katie Herman from DPD is discussing with the Wetlands Board tonight. Thank you for getting back so quickly about that. Okay, thank you for the presentation, and I'm going to call our next presentation about Streetlight waiver criteria, which I think it's always good to have criteria, so go ahead, Jerry.

[00:46:28] All right, Jerry Stonefield, Fairfax County Land Development Services again. Coming to the board today, talking about a proposed public facilities manual, PFM, that acronym will slip out of my lips more than once today, amendment for the existing provision that already the director has the authority to waive streetlights. This is proposing criteria for what the director will consider in evaluating

[00:47:05] those type of waiver requests. So under the current PFM, again, streetlights are required based on the subdivision's lot size and that type of thing, unless waived by the director.

[00:47:24] And that's the only phrase that's currently in the PFM. These waiver requests vary, and it's more on whatever the applicant is saying they feel why it needs to be waived. We are proposing criteria to put in a more objective and transparent process so that applicants know what we'd be evaluating and just to spell out

[00:47:57] these are the things including but not limited to type of list. It's not the exclusive thing, not that we can't take other things into account, but it won't substantively change the review process.

[00:48:19] The authority is already there for the director to waive the requirements if it's warranted. This is just putting in those criteria so that everybody knows what to expect. So the amendment, do a few things.

[00:48:36] One, we'll be saying that the waiver request must be submitted by a design professional, a professional engineer, a lighting professional. The idea is that the applicant, typically the developer, has their staff so that they can say, you know, here's our professional opinion, the situation.

[00:48:59] So the list of criteria for the director to evaluate, things like the existing conditions, topography, geometry of the existing road that they're tying into, the stuff that's there beyond their control, that type of thing.

[00:49:16] Proposed intersection information, where is it going, the street classification, the volume of traffic, the traffic of the main road, the amount of traffic at the side street, that type of thing.

[00:49:31] Pedestrian activity and the adjacent land uses as far as are they going to be generating a lot of pedestrian traffic, crosswalks, that type of thing. that's a main part of this as far as what we look at collision crime data in the area and also some environmental considerations such as tree clearing light

trespass dark skies that type of thing that we can take that into account that's specifically listed in here other things that the site-specific

[00:50:12] Again, case-by-case basis evaluating. And then we're also putting in expectation that for intersections, we are going to be requiring at least one street light at that intersection. So right now, conducting some outreach.

[00:50:35] We've gone to the Engineering Standards Review Committee. They're recommending approval of this. We've gone to industry. We have yet to schedule but we will be having a virtual open house and Again, there are some specific interested parties that we know already That we'll be reaching out to reach out to your offices so that you can get that word out so that we can have that Anybody that wants to join we'll do it virtually so that because it is a countywide amendment not having requiring folks to drive from The outskirts of the county to one location

[00:51:16] That type of thing so when we have that scheduled Getting that word out. So we're looking at with the concurrence of the committee to move forward with authorization and public hearings For the amendment. Thank you. I think it's great to put some standards in transparency is really important And so I'm very supportive of this. I don't know if there's any other comments a Supervisor Walkinshaw?

[00:51:47] This looks great. In terms of the items for the director to evaluate, and maybe this is included in pedestrian activity, but bus stops and school bus stops, I know that's an issue that I contend with, school bus stops that don't have street lights, sometimes on relatively busy streets, and making sure that that's in there.

[00:52:11] And then in terms of the outreach, and maybe this has already happened, But internal outreach, the health department has done some really great work in analyzing pedestrian safety. We had a presentation at the legislative committee last year, and one of the key drivers that they identified in serious pedestrian crash and fatalities was lighting or lack thereof.

[00:52:34] So I want to make sure that they're part of this conversation to craft it. Supervisor Moral Control, yes, we have reached the department. All right, you're ahead of me. All right. And getting that information so we can coordinate that, yes. Great, thank you. I saw a bunch of hands. I'm going to start down here with Supervisor Harrity, and then we can go down.

[00:52:52] So what do we, if you go to the requirements slide, what do we currently require? Currently, it is not specified. It is public facilities manuals just says streetlights are required unless waived by the director with site and subdivision plans.

[00:53:09] um four uh three things listed or um the street lights are to deterrence of crime uh pedestrian and uh intersection um criteria that's it as far as the current um pfm goes we are trying to add these are the things that we look at uh so it's a current practice what we do we're trying to specify that in the pfm so that everyone knows up front uh this is what we're So when you say a certified design professional, is this another certified design professional, or is this the design professional that's doing the project in general?

[00:53:48] It could be the professional engineer that's doing the project in general, yes. Not a separate one? It does not have to be a separate one. We are providing a lighting professional, and I'm sorry I don't have the organization that certifies lighting professionals.

[00:54:07] So it has to be a lighting professional? No, it does not have to be. It's either a professional engineer that's doing the project or this lighting professional. Two options. Again, I'm just worried about adding time and cost to a process that's already long and expensive.

[00:54:28] What problem are we trying to solve if we had a couple that have gone wrong? There have been a couple that have been generated some discussion that prompted us to say, let's have this up front so that everybody knows what to expect.

[00:54:43] So where they didn't go in and they should have, or were they, I guess those are the problems? Matthew Hanson again for LDS. I've been involved in a few of these waivers where we were pointing at the purpose statement of streetlights that Jerry mentioned from the PFM, the rationale that's given for why are streetlights installed is the only thing to review against.

[00:55:03] It's not very clear to, if a builder wishes to request a waiver from streetlights, it's not very clear what do they write, what do they give us to try to justify that they don't need streetlights. this effort is to clarify if someone wishes to seek that waiver, what should they give us to justify their request. And so we're solving the lack of instruction to applicants and lack of transparency about how we would review those requests if and when somebody wishes to seek a waiver of the requirements to install streetlights. So if I might on that, I totally support this because I think the clarity is important, but I didn't hear you tell us approximately how many of

[00:55:41] we get a year and do we have documents that show the reasons that people give for requesting the waiver and the reasons that we approve those? I think that'd be something that would be helpful. If we don't have it here, that's fine because I think the clarity is really important and fixing the problem is really important, but I'm trying to think of what the justification would be of someone to ask for a waiver to begin with and what conditions have approved the waiver in the past, just as a part of background. Jerry Stonefield from PLUS, actually great that it has all that

[00:56:16] information in there now. For the last 20 years, we've had 80, 90 waiver requests. So we're not talking about very many here. Right. So approving maybe two-thirds of those. So a couple a year.

[00:56:32] It is, for the last four or five years, it has actually dropped off that we've had one, maybe two. There were a couple of years we did not have any requests. I can't relate why that drop off in this request. But why folks or developers are requesting it is usually, I'd say, the neighboring residents don't want the streetlights.

[00:57:01] I think it's important for us to understand the frequency of the problem that we're trying to fix here. We're not creating a whole new thing for a whole bunch of new people and a whole new expense. This is quite an extreme outlier, and by coming up with this clarity, at least going into the process, staff will have fair criteria to evaluate those requests and make a more educated decision about them. There are very much exceptions to the norm, though, and I just want to make sure that that's on the record.

[00:57:30] Supervisor Alcott. Thank you, and I support moving forward with this as well. There is a related activity that's going on, you know, a lot of times, at least in our transit station areas. It's not a question of the waiver of the streetlights, but it's what kind of streetlights to put in and trying to get consistency.

[00:57:50] The Planning Commission is actually looking at this as part of their site. I think it's Site Development Review. They have one of their committees now that's looking at this. but I do expect we'll be

seeing more from them at some point to try to maybe try to get a little more consistency as well.

[00:58:08] So thank you, Madam Chair. Mr. Professor Alcorn, this waiver request is strictly toward the location or the number of streetlights. This does not get into the non-standard fixtures. That's a wholly separate thing.

[00:58:23] And so this provision does not touch on the type of light fixture to go. Understood, although I think the Planning Commission is going to be talking about these standards as well and the location and that kind of thing.

[00:58:39] So it's really coming. Thank you. Anyone else want to comment? Supervisor Lusk. Yeah, mine's an easy one as well. Just on the pedestrian, and I heard the point about the bus stops, does that also include bicycles? To the extent that bicycles are typically in pedestrian, either roadside trail or that type of thing,

[00:59:07] yes, that is a vulnerable user of the road system, a car versus a pedestrian versus a car versus a bike. Right. Yes, that type of thing.

[00:59:22] That was my thought. If you guys are including it, that's fine. But if not, if we need to spell it out just to ensure that it happens. Thank you. Yes, thank you. Okay, so seeing no other comments, staff will move forward with this.

[00:59:39] Thank you for the presentation. And Landy's Policy Committee meeting is adjourned.

