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Fairfax County Board of Supervisors Land Use Policy Committee, Tuesday, March 11, 2025

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[00:00:02] Good afternoon. I would like to get the meeting started. If everyone would take their seats, please. Good afternoon. I'm going to call the Land Use Policy Committee meeting to order.

[00:00:27] First thing on the agenda is we have the minutes from the last meeting. If I don't hear any corrections or additions, we'll have those as considered. Okay. We have three topics on the meeting. The first two we scheduled for a shorter amount of time for 15 minutes. It's important that these issues are in the public so the public can see that the work we're doing with this.

[00:00:56] We can take some brief questions, and if we have too many questions, we can follow up by email. And then we thought that the item number four on the agenda might take a little more time, so we put a little more time there. And for industrial land use trends, who am I turning it Kareem. Thank you, Kareem.

[00:01:14] Thank you. Good afternoon, members of the Board. I'm Kareem Bebeck with the Department of Planning and Development, and I'm joined by Kelly Atkinson and Tracy Strunk, also from DPD and additional staff members that will be introduced during the presentations. We're here today with two items related to the policy plan amendment. The first item, industrial land use trends. We're providing information and findings from the research that was conducted with a consultant, and this is similar to the update we provided to the Board in December regarding retail trends.

[00:01:40] For the second item, equitable development, we're seeking your input on if we're on the right track with how it will be addressed through this amendment. The policy plan team is currently working on finalizing a community feedback report where we've captured the comments and questions we've received since we kicked off our community outreach in spring of 2024.

[00:01:56] The report is anticipated to be published later this month and we'll be announcing additional community meetings upon publication. The meetings will allow the opportunity for community members to provide feedback on the draft plan text that we've started releasing and will continue to release through May.

[00:02:12] Of course, we're continuing to accept feedback through email as well. Finally, this summer we'll be working on the staff report and are continuing to target public hearings for this fall as directed by the board. Without further delay, I'll turn it over to Kelly Atkinson for our first presentation. Great.

[00:02:28] Thank you. I know you have a busy agenda, so I will jump right in. So DPD retained Clarion to complete a review of industrial land use trends as part of our ongoing work for Plan 4, the update to the Comprehensive Plan policy plan. Clarion examined national and regional trends in industrial use, space requirements, and anticipated demands over the next decade.

[00:02:50] Based on their research, they identified two trends. First, that demand and growth has been tied to the types of industrial uses. And then second, there's a limited supply in size of industrially zoned parcels. Prior to the pandemic, industrial demand was steady.

[00:03:09] The expansion of e-commerce beginning in 2020 changed the industrial landscape with a continued demand by the warehouse and distribution sector. It spurred a significant increase in construction activity to meet the need for spaces of 100,000 to 500,000 square feet and provide more modern warehouse space to support distribution and fulfillment. In 2023, the primary industry seeking industrial space were warehouse and distribution, the auto industry, construction, machinery, and materials, as well as reshoring. Warehousing and distribution represented the largest demand for space at 22%. The pandemic did reveal weaknesses in the global supply chain,

[00:03:48] which created a demand for manufacturing space and a reshoring trend. This was true for the auto industry, coupled with the recent expansion to meet electric vehicle and battery manufacturing needs. The continued trend for industrial may not be as robust. Since late 2022, construction starts and transactions have slowed, reflecting higher interest rates, tighter lending standards, and cooling demand. The pace of growth appears to be more in line with pre-pandemic trends.

[00:04:18] The Department of Economic Initiatives provided us some information on the inventory and vacancy rates for industrial within Fairfax County. First, the county has an industrial inventory of 38 million square feet, and that information was provided by the EDA. The current industrial vacancy rate is 4.9 percent and this is slightly up from last year and the last few years but it is still a very tight and overheated market and average leasing rates have been steadily increasing according to COSTAR for Q1 2019 to now there's been a 39 percent increase in the average leasing

[00:04:55] rate oops sorry regionally warehouse and distribution space is the primary driver of industrial demand at 100 to 500,000 square feet data centers have also increased the demand for industrial space in the metro region. There is pressure for large tracts of land for data centers that can accommodate facilities of at least 100,000 square feet or larger. Data centers can also pay much higher prices for land

than other industrial users. Although there is a demand for these uses, the availability of industrial land in the county is limited, making the expansion

[00:05:32] of these uses a challenge. So within the county, we have 3,700 acres of land planned for industrial on the county's Comprehensive Plan Land Use Map. This is about 1.5% of the county. The concentrations are found in three special areas that are designated as industrial on the concept for future development.

[00:05:53] It's Feltway South, the I-95 corridor, and Ravensworth. And additional concentrations of industrial are located in the Dulles Suburban Center, Merrifield, and along the Silver Line. Within the county, we have about 8,200 acres that are zoned for industrial, which is about 3% of the county.

[00:06:11] approximately 250 acres of the land zoned industrial is vacant with a total of 67 parcels that are vacant the average size was about 4 acres with the largest being about 21 acres this indicates that there isn't much vacant land available in the county and the land that is available tends to be smaller manufacturing was the second largest driver of demand for industrial space nationally high-tech manufacturing and the maker movement are two prominent examples of emerging industries in need of industrial space. High-tech manufacturing relies heavily on technology and

[00:06:50] automation, and the maker movement involves small-scale artisanal creation of art, handicrafts, food, or other consumer products. Because these industries tend to operate on a smaller scale, they are a good fit for the space available in the county. In urbanized and urbanizing areas, there is a little demand for heavy industry. These kind of users tend to prefer large parcels of land isolated in locations in proximity to raw materials they are processing. Although the county may have the infrastructure to support these uses, the lack of available large parcels to accommodate these uses and the potential for opposition makes heavy industry a less viable

[00:07:29] option for the county. Industrial parks were more of a trend in the past, but can be useful for many reasons, such as synergy of related uses and compatibility of uses. Though standalone industrial park space is still needed, development practice has evolved to include more than just industrial space and developments, often referred to as industrial flex. Lower land cost makes these areas attractive for uses such as religious assembly in private schools. The county's use permissions in industrial districts would permit these mix of uses. And then finally, there is a significant demand for more housing in the county and in some cases is generating pressure and

[00:08:08] request to convert industrial areas to allow housing. The pressure should not be interpreted as an indication of the lack of demand for existing industrial land. In the county, there is comparatively little industrial land and a lot of residential land. Supporting employment goals would indicate the need for conservation rather than conversion of what industrial land there is. However, there are areas in the county where accommodating or encouraging the conversion of industrial parcels may make sense. So where do we go from here? Clarion's recommendations for

[00:08:44] comprehensive plan focus on both potential policy plan amendments as well as future amendments to the area plans for the ongoing policy plan amendment the report recommends that the policy be amended to ensure plan amendment nominations that want to convert industrial land to residential be tied to commensurate community benefits being provided these amendments should meet the high end of the density range and be subject to additional criteria such as providing a higher percentage of affordable units or affordable units at a lower threshold of AMI.

[00:09:18] In regard to the area plans, the report has two recommendations which would be subject to further authorization from the Board. First, the report's recommendation is to retain existing industrial land in designated industrial areas to the extent practical. Specifically, the report recommends a potential area plan amendment to review and update policies for the beltway south i-95 corridor in ravenworth industrial area to discourage the conversion of industrial land for residential uses where exceptions may be applicable due to a site's access proximity to residential or other factors these should be addressed at the land unit level

[00:09:55] second for special planning areas with concentrations of industrial uses or zoning the report recommends a potential area plan amendment that would clarify the land use vision and policy guidance for the tyson's urban center the dulles suburban center and along the orange and silver lines it recommends as part of a plan amendment determining which areas are more appropriate for a mix of uses in which areas are desirable to remain as industrial this may be accomplished by designating portions of the area that are predominantly industrial and desirable to retain as industrial as industrial on the concept for future development as well as through

[00:10:31] the adoption of stronger policies regarding the importance of protecting industrial land for applicable land units the report does emphasize land units h and i and the duller suburban center as the priority today we want to confirm if you have any other considerations for the policy plan as it pertains to this topic as we are actively drafting plan text to present to you later this spring thank you thank you for that presentation um i'm going to throw it to the chairman in just a second uh i know they the report uh talked about h and i in the duller suburban and we've

[00:11:09] We've had a lot of transition already, and I, so we'll need to have further discussion depending how we move forward with that. Mr. Chairman. Thank you for the report. You know, I do think it's essential we protect these industrial areas, so I appreciate the data and the work that's gone into that.

[00:11:25] I guess the area that I would like us to give some more look into, and maybe you already have, but, I mean, there's two ways to solve this problem. One is to protect the industrial that you have, and two is to do a heavy assessment of the existing uses in industrial that probably don't have to be in industrial but can be in some other zoning category.

[00:11:47] It's just to free up space and free up opportunities for the most intense industrial uses to be in these industrial areas. And I'm just wondering how much cultivation, if any, of that has been done and if that's something that we can do. because clearly, you know, things change rapidly.

[00:12:04] And I know some of our maker spaces, we had this conversation about some athletic training facilities recently. You go into industrial parks and you'll see what appear to be a cut between a retail storefront where regular customers come and a place where suppliers come.

[00:12:23] And I'm just wondering how much of that we've done because I do see places being occupied in industrial parks with uses that don't seem like they need to be there. I agree. Hi, Tracy Strunk, Director of the Department of Planning and Development.

[00:12:41] That's something I don't know that we have thought about. And when we looked at ZMOD, we sort of looked at what the uses were in those areas. And certainly after we kind of take this step in the policy plan, something I think that would be appropriate to look at because that's always the question. Places, things go there because it's cheap.

[00:12:58] And then we don't have it available for other uses. So I think that's something that we should be looking at and we can take a look at. Good. I would appreciate that because I even think that going there because it's cheap part might be changing. With the changes in retail in particular, there may be retail spaces that can be leased for a lot less than industrial spaces.

[00:13:19] And I think what we should be focused on is the use and what the use entails. Obviously, if it needs a big outdoor yard attached to it, it's not going to neatly fit into maybe a retail zoning category. But I think if we focus on the use and think about those uses that maybe we can move out of the industrial requirement and maybe into a retail, even if it's a heavier level retail than the low level retails, is something I think we should look at.

[00:13:47] Because I think the ground is shifting underneath us. And I think you're going to see in the future a lot more freed up retail space than you are going to see opportunities to move into industrial space. Thank you. Supervisor Alcorn. Thank you, Madam Chair.

[00:14:02] So to build on the chairman's questions and comments, could you go to slide five? And that is a nice slide showing planned and zoned. Actually, that's four. There we go. That's fine.

[00:14:19] So maybe one thing that would help in what the chairman was asking about and it was what I was going to raise too is maybe there's a third column for built because we have a lot of industrial zone land in particular that has office.

[00:14:37] I know in the Hunter Mill District, built mostly in the 1980s and 90s. And if you didn't look at a zoning map and you just, you know, came upon some of those areas, I mean, they're a traditional office park.

[00:14:53] But on paper, they might even be planned industrial, but they're definitely zoned industrial. We have a lot of places like that. So looking at, I guess, and as you think about a plan amendment for guidance, I would say think about compatibility like the chairman was talking about.

[00:15:12] But in particular, as we're seeing a lot of market demand for housing, you know, where might there be, say, more compatibility of housing and those types of not industrial uses but, you know, other uses like office?

[00:15:28] like maybe there is a little more compatibility there than truly areas that have been built as industrial uses. And I think there might be one level also down on the industrial uses that would be good for staff to be looking at. And this is, this again, it's probably more of an as built and used as opposed to what's on paper. And that's distinguishing between industrial uses that are more retail focused versus industrial uses that are more wholesale and industrial uses,

[00:16:01] like the chairman was talking about. Because I think what we've seen is the economy has, in some ways, moved beyond our categories. And so you do have, and I think in many cases, you have areas and pockets that are, you know, either mostly a kind of mix of retail and industrial or at least they're industrial but you know they're car mechanics and they're you know they're that kind of industrial as opposed to i don't know a data center or something that you

[00:16:35] know that would have no retail uh component to it so i i think sort of taking it down and thinking about sort of the next generation of of development in these areas and the redevelopment of these areas would be really helpful. And then, of course, so there probably is a mix and match that makes

sense for us to be thinking about when we're looking at the policy plan and actually the area plans as well. So thank you. Thank you. I have Palchek, Lusk, and then Stork.

[00:17:08] Thank you so much, Madam Chair. Thank you so much to staff in a very busy time for you. I appreciate this work. I guess as I'm starting to just take a first look at this, you know, I just sit here um thinking about how we look at the you you've called out sort of the transit station areas but i would say even probably like right within a mile or so outside of that and how we start to look at um whether it's area planning because in theory right and to the point is it planned zoned or built um and i recently had a chance to sit in uli tap and like oh that's really effective right

[00:17:47] let's look at what's actually there. Let's see if there are landowners willing to start to look at something, or are we just planning for maybe, maybe a few decades from here, something will happen. But I think for me, at least personally, the whole areas around the Orange and Silver Line in my district, Merrifield all the way to Dunloring and Tyson's, I would like to maybe sit down with you and understand what these, this language would mean, right, in those areas, knowing that the industrial there is probably going to be very light. The lighter, you have a couple, versus the

[00:18:22] heavy industrial, which should be much farther, I assume, from any of the transit or transit heavy areas. So to me, I don't know how we define that further, but as we start to have distinctions within the 400 square miles of, you know, how do we plan in certain areas versus others, And that devils in the detail a little bit. Yeah, no, thank you for that and and just to clarify the you know There was this larger overall recommendation for the policy plan I think as kind of an initial way to address some of the challenges we're seeing with converting some of the industrial to housing

[00:19:00] But up to your point on any further look at the area plans would need additional authorization from the board And I think that we've we've talked about that before with all of you that There are some things being raised with the policy plan that really are more appropriate at an area plan level to address.

[00:19:16] And so, to be clear, we're not recommending changes right now to your area plans. But, you know, when we get to that point, we're happy to have further conversations and obviously would do that to have you be part of that and help inform us. Okay. Yeah, especially as, you know, Metro is investing so much more in our bus network, definitely keeping that in mind here as well.

[00:19:35] Thank you. Thank you. Supervisor Lestons. Yeah, I'll say that the industrial zoning is really, really important, and the hard thing is once it's gone, you can't get it back. This isn't like we can give it up and then try to recapture it at some future point.

[00:19:52] So we really have to be intentional about the decision-making around when we convert it. So I appreciate this report, and I appreciate the analysis that goes behind it, because I think we do have to have very specific points for rationale for that conversion.

[00:20:08] The point about the amount of planned versus zoned, it would be really helpful for me if the staff could help me maybe in a depiction way, see where that kind of planned versus zoned industrial property is.

[00:20:25] And I'd like to sit down and maybe talk to staff about that so I can better understand, you know, where there might be some opportunities for us to rethink some of it, not all of it. The other point I'll make is we've got a couple in my district SSPAs, and in those SSPAs, we're looking to convert that to residential.

[00:20:47] And I've got to tell you, it's been really tough thinking about the compatibility. So back to the point that Supervisor Alcorn made, I think it becomes an issue because you can't push residential right up to industrial without having the people who move in there coming to you and saying, what's that hideous stuff that I see outside my window?

[00:21:07] even though they would possibly buy in that neighborhood. But they're going to come back to us and say, why is that outside my window? So we've got to be very intentional again and specific about how we plan and program it. So I'm all in and thinking about how we can convert some of it.

[00:21:25] But I've got to make the cautionary point here. And I think Supervisor Alcorn will appreciate this. When we were on the Tysons plan many, many years ago, this was a point I raised when we talked about Tysons. We've got to have industrially zoned land in Tysons, and we've got to plan that as well to ensure it for the future because the residents who live there need access to those industrial uses as well.

[00:21:49] So I see the importance of this and just wanted to make those points. Thank you, Madam Chairman. Thank you. Supervisor Stewart. I'm going to take a little bit of a contrary point of view on it. As part of the district that has some of the heaviest industrial, I think there's definitely categories of industrial and whether light versus heavy and having huge storage tanks and cement factories and quarries, et cetera.

[00:22:23] Obviously, these are important recycling areas. Those are all critical, I know, to our past economy, whether or not they're as critical to our future economy, I think, is the conversation that I think you're trying to raise. And so what does that mean? And I think that's absolutely the kind of conversation we should be having.

[00:22:43] But I would say, in general, the heaviest industrial, I don't think, serve a long-term purpose most of the areas for us. They're there because they had value in the past. Maybe they'll be equally important in the future, but we, I think, need to look at the impact that has in the community.

[00:23:03] And looking, as I think the chairman pointed out, looking for how we zone those areas and truly is it industrial, light industrial, or mixed use, et cetera. I think those are all issues that we should take a look at. The other part of this, and this is, I think, the opportunity, and I know you all just presented while we have a need for industrial, obviously the lease rates or occupancy levels are very high, the availability is very low, those matter.

[00:23:34] But I think particularly given our conversations for the last decade that I've been on the board, our biggest challenge still is how do we keep our economy thriving and moving? And that still has to do with having housing prices that are competitive.

[00:23:52] We talked about that in the last conversation. I think for us as a board, having an increased supply of housing would be the single most important thing that we could probably do to keep our economy thriving and growing and doing well, and looking for opportunities to take some of that, quote-unquote, industrial land and look for ways to provide larger tracts that significant amounts of housing could be built in, could

[00:24:27] at least have more of an impact on housing prices, which I think ultimately will be even more crucial to our future. So I'm not offering a specific scenario. I'm just saying that there is, I mean, the other point here is that industrial matters, but the kind of industrial really matters, and some of the heaviest industrial that we have, I don't think it's, for the most part, essential to some of our future.

[00:24:52] Some of it will obviously continue to be important, and we should look at it beyond just industrial or not. We should look at it in terms of is this essential for the mixed economy and to continue to have our area thrive.

[00:25:05] And absolutely, we have to find a way, we have to find a way to create more, if you will, tracts of land that housing can be built more inexpensively and more units can be built to have some impact on our number one problem, which is the supply of housing is inadequate to the demand for that housing, and therefore our prices continue to go up fairly dramatically.

[00:25:32] And as long as those prices are continuing to go up, we're pricing people out of our market, particularly younger people and people who are buying their first home. We're going to, I think, not realize our potential as a county and as a community. So thank you.

[00:25:48] Thank you. It is an interesting discussion. I know from land use cases in my district where we did look at what the use was, and they weren't really industrial. So, okay, we can add residential in. So it's not an easy issue to deal with.

[00:26:04] I appreciate you distinguishing that you're working on the policy plan now. And if we come back with the recommendation for the area plans, we will need to authorize that. So thank you for the presentation. And we will move on to the next one about equitable development.

[00:26:53] Good afternoon. My name is Michelle Stahlhead with DPD. I'm the equity program manager. And I'm here today with, well, for Leah Niebauer, who is also a planner in DPD, And our Chief Equity Officer, Tony Zalicoffer, is joining us today.

[00:27:10] I also want to point out that our Liaison Planning Commissioner for Equitable Development, Commissioner Spain, is here today. And so I just wanted to acknowledge you and thank you for your leadership on this topic. And so we're going to get started with Tony.

[00:27:25] Good afternoon, Tony Zalicoffer, Chief Equity Officer. I'm going to do a little bit of level setting and provide some context before Michelle dives into the presentation. As we all, I think the first slide, thank you.

[00:27:45] As you all know, the board directed staff to incorporate the One Fairfax policy into the update of the Comprehensive Policy Plan. And the One Fairfax policy, as you know, and you adopt it, commits the county to provide guidance and consider equity when planning, developing, and implementing policies, practices, and initiatives.

[00:28:07] In 2020, to better understand the drivers of inequity, the county put together the chairman's task force on race and equity, and the task force considered the circumstances and systems that have made certain places and populations more vulnerable than other places in the county, and specifically considered how institutional and structural racism contributed to these situations and conditions. They also considered that voices must be lifted to better understand and address these issues and what actions should be taken to reshape Fairfax County into a place

[00:28:46] where all can thrive, including what might accelerate or facilitate progress and what stands in the way of progress. The task force then identified five key equity drivers, community health and well-being, community safety and justice, cradle to career success, inclusive prosperity, and for purposes of this presentation, equitable community development.

[00:29:11] And in their report, they defined equitable development as Fairfax County is a place where all people live in communities of opportunity with the ability to engage fully in decisions that affect their lives and neighborhoods. Next slide. To further define and apply this discussion to Fairfax County, last year COG Board of Directors, which included some of the board members that are here, adopted the regional equitable development principles to help guide local governments in advancing equity through comprehensive plans.

[00:29:47] There are several jurisdictions that have adopted these principles as part of their work. And some of the principles outlined here, such as expanding affordable housing and promoting people-centered multimodal mobility and connectivity, are principles that we in Fairfax County have already begun to focus on.

[00:30:08] But there are some that need to be further explored, such as preventing residential, commercial, and cultural displacement. And as we've had a couple of conversations already, this is going to be very, very important as we talk about diversifying Fairfax County and putting these principles in place as we move along.

[00:30:29] And then, of course, practicing inclusive, meaningful community engagement. And so Michelle's going to lead us through the equitable development plan. Thank you. So just to start off, we wanted to talk about we've been talking to the community for the last several months about all of the policy plan topics, especially equitable development.

[00:30:52] And as we've been talking to people, several topics, and this is not all of the topics, believe me, but several of the topics have risen to the top. Far and away, mitigating displacement has been the most discussed topic when we're out talking to the community about equity.

[00:31:08] We've heard concern about people being pushed out of their communities, loss of small businesses or local serving businesses, and that leads to a loss of community and cultural connection. And so far and away that's been the biggest discussion we've had.

[00:31:24] And you'll see that when the community feedback report comes, that'll be a big feature of especially the equitable development part of the report. Another discussion that we've had has been several of our community groups have really taken the time to dive into the policy plan and have really looked at the background and the white paper that we've written, and they've made several suggestions, which is really focused on incorporating those COG equitable development principles throughout the policy plan.

[00:31:54] Another topic that has come up quite a bit and we all hear about quite often is inclusive of community engagement, just the continued consultation and participation of the community throughout the development process, throughout the policy development process, is just a theme that comes up over and over.

[00:32:11] We've heard a lot about environmental justice. We hear frequently things about flooding or lack of trees, especially in certain areas of the county, and so that's a theme that comes up quite a bit. And another theme is just acknowledging sort of the past history of the county and preventing future damage moving forward. I should add that one thing that we've already talked about today that I didn't put on this list is housing, affordable housing, and maybe it goes without saying, but that is always a frequent discussion topic. And so this feedback, in addition to the

[00:32:46] guidance provided by OneFairfax and the countywide strategic plan and the COG equitable development principles, have informed the development of some draft policy recommendations related to equitable development in the policy plan. So the first recommendation was including an overarching equitable development policy plan goal in the plan. This policy, this principle was actually included as a draft goal that was presented to you all in the fall, and it's being incorporated into the larger introduction section of the plan. Second always is the recommendation to

[00:33:22] strengthen the policy plan commitment to inclusive community engagement. There's a mention of community engagement in the introduction to the plan already, but we'll be continuing to strengthen that language, both in the plan as well as continuing our internal work in broadening our outreach. The third, and really the meat of what we're beginning to talk about, is creating policy plan objectives in all of the policy elements to support the strategic plan, the communities of opportunity framework. I just want to note, and this is something I'd like feedback on, is I want

[00:34:00] to note that this means we're not having a separate equity element, for example, in the policy plan. Our goal is to really incorporate equitable development into the different elements of the plan because equity really is part of everything. And so we don't want to create additional redundancy in the plan, or trying to streamline it, I know, with this update.

[00:34:23] And so we don't want to create unnecessary language. And so with equity, it'll be incorporated into all the sections as opposed to a separate standalone section. So some of the examples that we talk about with access to opportunity, for example, something that's applicable to several elements of the plan and overlapping.

[00:34:52] I just wanted to provide an example of some language of what that can mean because it's kind of an amorphous statement. And so this is not language, you know, we're working on drafting language at the moment. And so this is not language that we're putting in the plan right now, but I just wanted to provide an example.

[00:35:09] So an example of a policy related to both health and transportation that also falls under equity could be evaluate transit surfaces to food access points and consider incorporating new bus stops near those locations, which could include community and school gardens, farmers markets, grocery stores, et cetera.

[00:35:26] And so that's just one example. there's we're intending to include some language related to displacement in the land use element specifically there's some language in the strategic plan that talks about displacement and so the language that we'll be developing is really based on the language that's existing in the strategic plan at the moment and so I just want to recognize so those are just some examples and I'm

[00:36:01] happy to talk more about more examples either here or offline there's examples related to all of these topics, I just want to recognize that a lot of these topics that fall under equitable development are certainly not new to the county.

[00:36:17] And we do a lot in the county, especially related to affordable housing, especially related to building near transit centers and our transportation. We have a long history of what can be considered equitable development, but there are certainly opportunities to continue building on that legacy as we move forward.

[00:36:37] So I just look forward to having some feedback on if you think we're headed in the right direction with all of this, and also if you have ideas that you would like us to consider as we move forward. We're just starting the writing phase, and so this is the time. Thank you. Thank you, Michelle.

[00:36:54] I appreciate that explanation, and I appreciate the white paper because sometimes it's good to have things put in one place so we can see the strategic plan and the goals that we have there. I'm going to turn it to the chairman to let him say. Yeah, just I want to drill down on one part of it, because I just want to make sure we understand it.

[00:37:11] And on page five, and you made a point of emphasis out of this, and I think that was probably good to do, which is the targeted policies and the individual elements of the policy plan versus an overarching section on this topic. And I guess maybe drilling down a little bit more on some more examples of that.

[00:37:32] But, you know, the only fear that I have in this is we're trying to develop a policy plan that's simpler, easier for people to interpret and understand. And this might be a vital part of that goal. But it only works if it's not completely redundant throughout the document to a point where if it's missing in one area in an explicit way, one might say, I don't have to consider that.

[00:37:54] So help me understand kind of that. I know it's a fine line to walk down because you could go either direction. And I'm not saying one is better or worse than the other. But if you don't have that as an overarching thing over the whole plan, then you have to desperately chase and make sure that elements of it are in every section where it's intended to be in there.

[00:38:14] Help me with that a little bit, the strategy. Well, the strategy really is we have an overall goal in the land use vision in the introduction. And that's really sort of the framing of the idea with the policy plan. And the idea is to, with all of the elements, there's, you know, in all of the elements, there's a little bit of a preamble that would, an introduction to all of the elements that we would include some language related to equitable development.

[00:38:39] And then where we see an opportunity in each of the sections, we would incorporate maybe examples, an example that comes up a lot with equitable development is using data to inform us moving forward on, you know, moving forward on a project, for example, often related to vulnerable communities.

[00:39:00] And so we would incorporate those policies just into the standard policy plan. So the land use element would maybe have another policy related to that, or the environment element would have another policy related to that. Where we don't need to create additional policy, we won't.

[00:39:18] I think we have some strong policy in some areas related to, you know, things like affordable housing, et cetera. And so that's what we're working through right now with the writing to see where we do need additional guidance and where we don't need to fiddle with it so much and so I mean I'm a strong supporter of this obviously I just want to make sure we you know it's in there in a strong way but that we don't value it based on the amount of words we put in about it that could potentially contradict themselves from one section to the next and so we want to boldly address these issues

[00:39:55] but not feel like we have to in every section of the plan in a way that it conflicts with another one of our equity goals and another part of the plan, and then we're all confused. That is my only guidance on that. And then I want to ask about the displacement piece just for a minute because there is real

concern in a number of very explicit direct communities about displacement that's grounded on, you know, potential future development and economic opportunity or economic development that might occur, some driven like on Route 1 by the Route 1 widening

[00:40:33] project. Maybe there are similar examples along Route 7 with what we're looking at on Route 7 with major infrastructure projects. But I guess my question is, are there real examples where displacement has happened in Fairfax County that helped guide some very substantive changes in the language, because I am trying to divorce a little bit reality from perception. And perception is a lot of people are living in fear they're going to lose their houses because of development.

[00:41:04] In reality, I can't think of any off the top of my head where there's been a direct, full displacement of residential to create some other use that does not include other residential affordable housing units because like for example on route one we have a no net loss provision in the comprehensive plan so i don't know if there are examples that we've looked at within the county where that's happened recently certainly mobile home parks are in a different environment uh than than some other developments but um and and there is a real fear there there

[00:41:40] have been some conversions that have happened where certain elements of the policy plan and other county documents have kicked in to help support some of those communities that might need to be strengthened. But in terms of conventional housing, are there examples that we looked at that are going to help guide our language or maybe even outside of Fairfax? But there's probably not great ones in Fairfax, but there certainly are great ones in the region.

[00:42:06] Right. You know, the thing with displacement is we haven't spent a lot of time looking at it in the past, and so we don't have a ton of data, per se. We have some evidence that change is occurring, that gentrification is occurring in some spots, and some of that, you know, is in the paper that I wrote. So there is some evidence out there, and part of another recommendation that we put in the white paper that is not necessarily part of these recommendations here is it's actually digging in on that a little bit more. And with the support of looking at displacement, we would

[00:42:41] dig into that more to understand exactly the environment we're working with, not just residential, but certainly the commercial. We've talked to our colleagues at the Department of Economic Initiatives about that also, just to understand it a little bit more, because it really hasn't been something we focus on intently. And so you're right, there's a lot of hearsay, I suppose, and fear and certainly some examples of businesses being displaced for example and just rising costs that we're all aware of and so I would also like to look at that I think it's important to look at

[00:43:17] because if there are provisions we can put in place to help with this that are real you know that makes sense both on commercial and residential I think we've been lucky where a lot of that hasn't happened in the county but we can't rest on our laurels to assume that won't happen in the future. And that's where I think looking at what's happened in other places and what policies exist outside of just Fairfax County where areas of the country have dealt with this more intensely might be useful. Chairman McKay, may I also add that cultural displacement is also an important element to make sure that the feel of the community isn't, you know, even though it's

[00:43:53] maybe a one-to-one, that the cultural displacement is real as well. So that's something to look at and to make sure we're stuttering as well. Yeah, definitely. And that extends to all the uses, not just residential, because to the point of you can change the industrial, I mean, I'm sorry, the commercial retail

culture of a community, too, if you're not cognizant of that. Okay, we're going to use as few words as we can to get our viewpoints, of course. I have Alcorn, Lusk, and then Palchik.

[00:44:24] Okay, quickly. Thank you. First, a very brief wordsmithing on the equitable development definition, it looks to me like that's more of a how and not a what for equitable development. And then maybe it's just, you know, the word decision in there. So take a look at that because when I read that, it felt more like how you do equitable development, not what equitable development is. Second thing, I think it's important to remember as we look at this,

[00:44:57] The two core functions of any comprehensive plan, basically it's to review development proposals for compatibility with the broader plan, but then also to guide investment in public facilities. And I think it's helpful for me to look at some of the text in those two lights and think about how we might want to tweak the language a little bit, you know, because there are very specific uses of this language that we'll need to see.

[00:45:28] And I think it may be a way of slimming down some of the worded verbiage a little bit, like the chairman was saying. And then the last thing is let's also be sure – and this is interesting because with equity, we always want to know where we're coming from and what the history is.

[00:45:46] But I think in this case, we not only want to build on that and understand that, but also it's really important to look to the future. So, you know, we do have places in the county where there are inequities that need to be addressed.

[00:46:02] Absolutely no question about that. But we also could use this as an opportunity to lay out more of a vision of future communities that would be inherently more equitable. So, for example, you know, thinking about future communities as transit-enabled or as transit-ready, even if we don't have transit there already, you know, and the ability of future residents of a community to access transit easily, that's actually, to me, that's a good long-term equitable approach.

[00:46:43] You know, and then also just the other example is we have complete streets. You know, we kind of know what that issue is. But, you know, we should also be thinking about complete communities. So where all the amenities are available, where we have health, access to health care, to, you know, to fresh food, to those things.

[00:47:01] And I think thinking about it that way goes a long way to influencing our broader and really underscoring our broader development approach in Fairfax County of developing community business centers, activity centers.

[00:47:18] And I think this provides us an opportunity to sort of take that to a new level. So thank you. Supervisor Alcorn, to your point, that's why inclusive community engagement is really, really key so that the community is actually helping to co-create and co-build their communities, and I think that's a really, really important aspect of this.

[00:47:38] Yeah, and I'm all for it. I didn't mean to nitpick on the definition. I totally support that point, too, just the definition of that term might need to be expanded. Yeah, the community made it up. So it came from the community. All right, got it. Thank you. Supervisor Lusk, then Palchuk.

[00:47:54] Okay, thank you, Madam Chair. Let me say I appreciate very much the work that's been done here and appreciate the priorities that have been set, and I'm going to double down on two of them.

Yesterday we had the Manufactured Housing Roundtable.

[00:48:11] Supervisor Waukenshaw was a part of that as well. Over 30 members of the community that were a part of it representing all seven of the different manufactured housing communities here in Fairfax County. And at the conclusion of it, there was an exercise to get feedback from those participants.

[00:48:28] And the number one issue that they identified, number one, was mitigating displacement. They identified that as the most important threat to them, and they made it clear that they were not included in some of the previous decisions.

[00:48:44] They didn't feel perception, reality. We can argue this however we want, but I think I'm going to go with the perception is we're not a part of this. We've been left out. We've got to do something to make sure they feel included make sure that they're a part of any decision-making that we make in the future and that We've got to give them some sense of protection because they don't feel that sense of protection and I know we've talked a bit And I know this is probably delving into an area outside of our discussion here, but I think okay Then be careful of our time. I know it's important point though the idea here is you know

[00:49:22] preservation of some of these communities is something that we've talked about, and I know that we're going to have a discussion about that in the future, but I think that's what there's an expectation that these housing communities, maybe not all of them, but some of them, will at least be considered for preservation in the future, and that's something I want to advocate for for the ones in my own community. So with that, I will say thank you for the work that you've done, and I will curtail my other thoughts because I went on. Thank you very much.

[00:49:51] I appreciate that, Supervisor Lusk. Supervisor Palchuk. Thank you, Madam Chair. Thank you so much, Michelle, and the whole team for your work on this. I thought Tony was maybe going to address an issue we recently dealt with in displacement, right? Even those of us who think we're doing this work every day, there's always so much learning to do.

[00:50:11] And the community conversations we've had and the ability to come in late but learn from it and fix what had become displacement of some small commercial communities, we'd focus so much on the residential. And I think having a process, and to your point, I would put, it's number three, but the inclusive community engagement, right, is making sure the community has a seat at the table before we move forward.

[00:50:40] Whether they say we want to preserve, whether they say we want to sell and move out and be able to build something new. I think the important thing is that they be at the table and that there's always room for improvement from all of us on that. So I really appreciate that you've really brought that forward.

[00:50:58] I spent the morning learning about the first zoning ordinance in Berkeley, California, and definitely we need to learn about the history in order to do better moving forward. So I very much appreciate that. I appreciate the co-creation. And I would just add here that I also very much appreciate the commercial piece of it, because I do think we've learned that we are very focused on housing, and it's critical, but that organic piece of the community and the placemaking that we talk about and making sure that we have our Department of Economic Initiatives and others together and understand what that process is so we're not always building it as we do it.

[00:51:37] I don't know how much of that belongs here, But I think recommendations for us and for future boards who are looking for, looking at an area, evaluating an area, the process and how to improve that process to me is really, right now, really critical.

[00:51:54] So thank you. Thank you. Excuse me. Supervisors. Thank you, Madam Chair. And I obviously very much appreciate the work and the term equitable development, particularly on Richmond Highway, has been really a number one conversation.

[00:52:13] I would say now for a decade, maybe longer than that, but specifically for a decade as part of the Embark process, and I would just add to that the degree of difficulty of not only defining what that is, but more importantly, getting folks to feel that they were engaged.

[00:52:30] I mean, this concept is a beautiful one. I think this board has endorsed that multiple times, but the challenge of making it a reality is almost impossible, really is, because even when we do, there'll be individuals who didn't feel like they were, even though you've tried to go through all the items that you possibly can think of.

[00:52:53] So all in, my elbows are on the table, listening, engaged, but we're always looking for new ways to reach people and new ways maybe for them to attend to something that maybe isn't immediate, like going to the grocery store or finding a job or whatever it is they're working on, but what we know is consequential in identifying those leaders.

[00:53:17] And I think neighborhood representatives are a key part of that. And I know the United Community and others have identified that. We have a similar kind of process that we've used in our office to identify potential leaders in our civic associations, HOAs.

[00:53:33] But I'm looking for tools. I'm looking for specifics. I understand the policy, the goals, the objectives, but I'm looking for how do we really make that happen and really make a difference. Even though I know Fairfax County has been doing that and we are making a difference, it's just it still is fairly inadequate to the task and the objectives that we have.

[00:53:55] So let me know how we can do it, and I'll be happy to continue that dialogue and look for ways to engage people better. Supervised historic, and I think the Gum Springs process can be a model for how to do that with the bumps and all of the setbacks.

[00:54:12] It can provide a model with that transparency, authenticity, and working with the community on helping to develop that. I think that that can provide a model for how to move forward with equitable development. Tony, you've been very involved.

[00:54:27] Obviously, the office has been involved for a long time. And we also recognize that there's always individuals in a community that have different perspectives, and those aren't always a consensus. Frankly, many times you can't get a consensus when you're just kind of working to move something forward.

[00:54:46] And even the definition of opportunity is wide. And I actually sent this out to my BAC representatives to ask them for their input for things like this. And those were a couple of questions that I got, which is, what does opportunity really mean?

[00:55:04] You know, no matter what, does equitable really mean? And how can we do a better job of explaining and sharing that? And in turn, the most important thing is in getting it done. Thank you. I

appreciate the discussion with everybody. I think staff has some good input from the board.

[00:55:22] And I am going to move us to our next presentation that I thought we would have an hour for. So I'm hoping that staff, when they do this presentation, it will be tight so that we have time for some discussion. I appreciate everybody's work on this.

[00:56:20] Good afternoon. Brandy, are you just taking off with this? Okay. Okay. Good afternoon. My name is Brandy Temple. I am an epidemiologist with the Fairfax County Health Department.

[00:56:38] I'm joined today by Planning Director Tracy Strunk, Chris Revere, and Dr. Benjamin Schwartz, also with the Health Department, Leslie Johnson and Andrew Hushauer, also with the Department of Planning and Development, and Patrick Foltz with the Office of the County Attorney.

[00:56:55] Also in attendance in the room is our Health Director, Dr. Gloria Adoayensu, and Dr. Natalie Gospodinoff, the Northern Virginia Regional Tobacco Control Coordinator. We are here to present our research and recommendations on limitations of retail sale locations of tobacco, nicotine, and hemp products in Fairfax County, as directed by the Joint Board Matter from December 3, 2024.

[00:57:24] In response to the Joint Board Matter, a multi-agency workgroup was convened in late December that comprised staff from across our respective agencies. My portion of the presentation today will guide the committee through the information the workgroup considered to develop our recommendations.

[00:57:39] I will then hand it off to my DPD colleague, Andrew, to discuss those recommendations and details of implementation. In addition to the presentation, the committee has been provided with supplemental documents that includes information on our data sources and additional tables.

[00:57:57] Here is the Virginia Code section that prompted the joint board matter. The Code section is specific to retail sale locations of tobacco products and other nicotine and hemp products, referred to broadly in the slides as tobacco products and tobacco retail locations. The code section states that localities may prohibit a retail sale location on property within 1,000 feet or about one-fifth of a mile of a child day center or public, private, or parochial school, referred to collectively in the slides as youth learning facilities. While analysis is of existing tobacco retail locations, no regulation shall affect any

[00:58:34] retail location of tobacco products operating before July 1, 2024. Any regulation would affect only newly operating retail, which may limit the impact to the current built environment. The regulation would shift future tobacco retail sales to areas that are beyond 1,000 feet of youth learning facilities, with the goal of reducing youth access and exposure to tobacco products and marketing. Therefore, our work group objective was to develop recommendations that accomplish this goal while considering feasibility, acceptability, and enforcement

[00:59:12] within existing county infrastructure. We investigated multiple factors, including types of youth facilities and retail sale locations that might impact implementation and the effects of any regulation. To start, our work group defined the problem of youth tobacco use and exposure to marketing in Fairfax County. We know from Fairfax County youth survey data that some children and youth experiment with tobacco as early as late elementary or early middle school and that middle and high school students who try vaping or smoking have nearly a 50-50 chance of

[00:59:49] continuing to use. Most tobacco products used by today's youth are electronic nicotine delivery systems or ENDS, which are now ubiquitous in all tobacco retail contexts, including gas stations and convenience stores. Factors most influential to youth vaping include widespread exposure to advertising and availability of flavors that are especially appealing to youth. Some vape devices have even been sold in retail stores that come in the shape of toys, miniature food, and popular cartoon and video game characters. More than one in five youth learning facilities in Fairfax County have at least one tobacco retail location within a thousand feet, affecting nearly 41,000 students,

[01:00:29] with some facilities having up to 10 tobacco retail locations within 1,000 feet. 82% of child day centers serve children up to 12 years of age. Research studies of tobacco retail density and proximity around schools show a positive relationship with youth experimental tobacco use and strong positive relationships with youth exposure and receptivity to tobacco marketing.

[01:00:53] Youth recall tobacco marketing most often in retail contexts compared with online or from magazines, which highlights the unique importance of the physical retail space as a source of both access to tobacco products and exposure to marketing. However, the negative effects of tobacco marketing are not limited to adolescents. Children and pre-adolescents are susceptible to tobacco marketing even before they could reasonably access tobacco products. In one longitudinal study of 10 to 11-year-olds who had never used tobacco, 25% were receptive to marketing at baseline and those who showed initial receptivity had a higher risk of experimenting with tobacco later,

[01:01:33] independent of all other factors. In another study of 12 to 13-year-olds who had never used tobacco, 41% showed receptivity to at least one tobacco advertisement, and receptivity for any type of tobacco product was associated with an increased risk of smoking cigarettes later, which means this receptivity isn't just specific to the product being marketed.

[01:01:55] Finally, tobacco sales have been prohibited to those under 21 in the Commonwealth since July 2019, yet 23% of Tobacco 21 compliance checks conducted in Fairfax County tobacco retail stores between 2020 and 2024 resulted in a successful purchase by officials posing as a minor.

[01:02:15] 9% of Fairfax County retailers were issued civil monetary penalties during that time for repeat underage sales violations. The work group also examined the current tobacco retail landscape in Fairfax County. We identified 497 existing tobacco retail locations, with 80 retailers added and 111 retailers removed from inspection lists in the four years between 2020 and 2024, providing an estimate of year-to-year turnover as well as estimates of the burden of implementing a regulation.

[01:02:49] In Fairfax, there are 1.3 tobacco retail locations per square mile, and the map on the right of this slide shows tobacco retail density per square mile by census tract. Tobacco retail locations are concentrated in areas of the county that have higher poverty, with more than five times the density in census tracts with poverty rates that are 25 percent or greater. Most tobacco sales occur within mixed retail settings. 34% are fueling or gas stations, 21% are convenience stores, and 21% are grocery stores or supermarkets. Only about 16% of tobacco retailers are standalone

[01:03:28] or specialty stores. The high proportion of tobacco outlets that are mixed retail is important, as children and youth are far more likely to have a reason to enter a convenience store, whether alone or under supervision, than they would a standalone vape store.

[01:03:43] We also visualized the spatial relationship of tobacco retail outlets and youth learning facilities, creating a map with a 1,000-foot buffer from the building perimeter of each type of youth learning facility, as well as mapping existing tobacco retail locations.

[01:04:00] This slide shows a portion of that map near West Springfield High School. The orange areas indicate 1,000 feet around K-12 public school buildings, and the blue dots indicate existing tobacco retail locations. Clusters of existing tobacco retail are seen at the intersections of Rolling Road and Old Keen Mill Road in the bottom right, near Old Keen Mill Road and Lee Chapel Road in the bottom left, near Burke Lake Road and Burke Road in the top left.

[01:04:28] Most of these areas are commercially zoned C5 through C8, none of which happen to be within 1,000 feet of any K-12 public school. This slide shows that same area in West Springfield, here with a 1,000-foot buffer around K-12 private schools in pink. The area at Rolling Road and Old Keen Mill Road is now partially within this 1,000-foot buffer, while the areas at Old Keen Mill Road and Lee Chapel Road and Burke Lake Road and Burke Road are completely outside the buffer. Current tobacco retail locations that are in the buffer are now yellow, only to demonstrate that they are within the buffer. Any regulation

[01:05:05] may not apply to these retail locations. Here again, the same area is shown now with a 1,000-foot buffer around child day centers in light blue. The area at Rolling Road and Old Keen Mill Road is mostly encompassed within this buffer, and the area near Old Keen Mill Road and Lee Chapel Road is partially within the buffer, while the area near Burke Lake Road and Burke Road is completely outside the buffer. Finally, this same area is shown here, now with all those youth learning facility buffers combined into a single dark blue layer with West Springfield High School labeled

[01:05:42] just for visual reference. All areas at Rolling Road and Old Keen Mill Road are now encompassed within this 1,000-foot buffer, meaning proposed regulation could restrict new tobacco retail in nearly all commercial zoning in this area. Most areas near Old Keen Mill Road and Lee Chapel Road are now within the buffer, meaning proposed regulation would restrict new tobacco retail in some, but not all, commercial zoning in this area. And the areas near Burke Lake Road and Burke Road lie outside the buffer, meaning proposed regulation would not restrict new tobacco retail and commercial zoning in this area.

[01:06:16] However, if a new youth learning facility became operational near these areas, restrictions on new tobacco retail could apply if it was within a 1,000-foot buffer, while tobacco retailers operating prior to the regulation taking effect may not be impacted. The table on the left shows three scenarios we constructed to understand how inclusion of different combinations of learning facilities in the regulation might change the magnitude of potential impact to the existing and future tobacco retail environment. The map from the previous slide is shown on the right just for reference. Scenario number one, the inclusion of

[01:06:53] K-12 public schools in the regulation, reduces area for new tobacco retail by about 9% and includes the sites of 13% of existing retail locations, which are shown in the table, that may be impacted if tobacco sales were discontinued for the duration required to maintain accepted use. Scenario number two, the inclusion of K-12 public and private schools reduces area available for new tobacco retail by 15% and includes the sites of 23% of existing retail locations that may be impacted if tobacco sales were discontinued. Scenario number three,

[01:07:32] the inclusion of K-12 public and private schools and child day centers reduces area available for new tobacco retail by 28% and includes the sites of 47% of existing tobacco retail locations that may be impacted if tobacco sales were discontinued. The expected impact of this regulation is in limiting future tobacco retail within 1,000 feet of youth learning spaces. This means for youth learning facilities with no tobacco retail within 1,000 feet, regulation ensures those surrounding areas remain tobacco retail free. For those with tobacco retail within 1,000 feet, regulation would

[01:08:11] ensure tobacco retail density does not increase with the possibility of modest reductions over time. I'll close with a few key takeaways. First, before handing it over to Andrew, first, many children and youth in Fairfax County are exposed to tobacco products and marketing near where they learn and play. The presence of tobacco retail near youth learning increases youth experimentation and receptivity to marketing. These exposures are harmful at ages before youth may reasonably access or experiment with tobacco products. And given the large proportion of child day centers

[01:08:45] in the county that provide care up to age 12, the work group felt strongly about considering child day centers in our recommendations. Second, some communities in our county have a higher tobacco retail density than others, such as those with higher rates of poverty. Studies modeling effective policies limiting tobacco retail near schools show potential to reduce density overall, but with greatest impact in lower-income neighborhoods compared with higher-income neighborhoods.

[01:09:13] Therefore, regulation over time may have the added effect of reducing tobacco retail density specifically for marginalized communities in Fairfax County. Lastly, gas stations and convenience stores are the most common type of tobacco retail location near youth learning facilities, which increases the chance of repeat marketing exposure of younger children and adolescents who are more likely to enter these spaces versus specialty tobacco retail. Regulation reduces the harm that access and exposure to tobacco products and marketing poses to children and youth in our county's built environment. I'll now turn the presentation over to my colleague Andrew Heschauer from DPD, who will present our recommendations.

[01:09:57] Great. Thanks, Brandy. Andrew Hushauer, Assistant Zoning Administrator. Based on the research the working group has put together to date, I'm going to go ahead and go through the recommendations as you see there on the slide, and then talk a little bit about some of the challenges to implementation that we've identified.

[01:10:13] The recommendations include regulating all retail locations, selling restricted items, as we defined in the presentation. This would include not only the specialty stores, but fueling stations, convenience stores, grocery stores as well. The proposed youth learning centers would include public private parochial schools through the K through 12 levels and child daycare centers which would include religiously exempt childcare centers as well. I do want to clarify that the proposed regulation as we have put forth does not include home-based daycares at this time or other establishments that may provide before and after care as an accessory use. Something like a good example would be like a karate academy that maybe does before and after care for

[01:10:53] like school-age kids. Those would not be included. Regarding the buffer, we recommend that the 1,000 foot linear buffer be measured from the perimeter of the main school building, acknowledging that a lot of school complexes obviously have lots of different buildings on a particular campus, and it would be to the entrance of the retail space. Initially, staff proposed measuring the 1,000 feet from the

boundary line of the retail location of the property boundary of the school, which for staff is much easier to map and to administer. However, in talking with the county attorney's office based on the statutory construct of the language that is in the regulation.

[01:11:28] It's just not a viable option, unfortunately. Concerning existing businesses in operation, any adopted regulation will only apply to new retail locations that are established after the adoption date of the regulation. So existing retailers would be exempted. So, you know, out of the four, roughly 500 that are there today, those sites will all be exempt. We just want to make sure that everybody understands that so it's for businesses moving forward.

[01:11:56] However, we would have some ability to draft the regulations in a manner that would limit the reestablishment of exempted retailers when an existing retail location closes, and we would strongly recommend doing so. And that leads us to the last recommendation. We recommend that any proposed regulation be implemented through a county code amendment rather than through the zoning ordinance itself. And really two primary reasons. First, there's just not a discernible land use impact tied directly to the sale of a product. So whether you're selling, you know, tobacco or clothing or coffee, the land use impacts are just not the same, or they're no

[01:12:32] different from one product to another. In essence, the regulation is geared to prohibiting the sale of certain products within a retail establishment and not the establishment itself, which is the land use. Therefore, we don't view this really as a zoning regulation per se. And if we were to craft it as a zoning regulation, which we did look at, it would really require defining the regulated activity in a very narrow scope. We would look at, you know, unique characteristics or the products that they sell, and it would really come out as just being able to really regulate the specialty shops themselves, because we could define a use where the primary activity

[01:13:06] is just selling only those products. But as you saw in Brittany's presentation, such a regulation is only going to capture the smallest percentage of an individual retail category, which was 16%. Secondly, under the zoning ordinance, an exempt business would be considered a non-conforming land use, and the ordinance already establishes regulations for when those uses could be reestablished in the same location within 24 months of closure, regardless of whether there's a youth learning center within the buffer area.

[01:13:37] However, as I mentioned already, as a separate county code amendment, we have added flexibility to develop a much shorter window of opportunity to reestablish a previously exempt retailer. Perhaps 90 to 100 days, we would have to look at it a little more closely, but definitely less than the 24 months it would be as a non-conforming land use.

[01:13:56] Although we are recommending that this be a county code amendment, there will need to be a companion zoning ordinance amendment in order to add any references to a county code and to the use standards for retail activity in the ordinance. Pivoting to the recommendations, they do present a couple unique challenges to implementing, you know, a regulation.

[01:14:17] Specifically, staff will have to rely on existing land use permitting processes. It's likely going to be the building permit process and then the occupancy permit process or non-REP, as we call it, in order to identify new retailers. Data for both the youth learning facilities and tobacco retailers that we used to put together the presentation was pulled from a variety of different sources, all of which unfortunately are collected and reported at very different rates from, you know, once a month to quarterly to maybe even a couple times, just only a couple times a year.

[01:14:51] This is probably the biggest challenge to implementing a regulation is the availability of data. We have to have accurate, up-to-date information relative to the location of schools and the child care centers or any of the youth learning centers each time a new retailer would come in.

[01:15:08] While we do not anticipate a huge influx of retailers in any given year, the review times for those applications will take longer since they are going to require a lot more scrutiny by staff and county resources to verify their approval. From an enforcement perspective, there is no monitoring system in place to identify changes in sales after occupancy.

[01:15:27] So if a retailer stops selling tobacco, we have no way of knowing that, nor would we know if a retailer leaves and vacates a specific site. So other than periodically checking data used to identify existing retailers, which is not readily available in real time, enforcement will have to rely on complaints, which may result in inconsistent and ineffective enforcement outcomes.

[01:15:51] To close, just real quickly, the timeline that we're working with. As you can see there, the working group has been working now for several months. And, you know, today is the big day to get the feedback from the board. Moving forward, you know, we would probably look at doing some outreach.

[01:16:11] We've identified, you know, the likelihood that we would, you know, notify and talk with existing retailers to let them know that there's possibly a regulation coming. And that way we could identify the exempted retailers that are on record and operating in the county now, as well as the general public.

[01:16:27] We would need to do some outreach there. Realistically, we're anticipating an adoption late in the fall. The board recommends moving forward. There is additional time, though, that we would have to bake into this process because we would have to do that additional zoning ordinance amendment that would run concurrently with it.

[01:16:43] As a county code amendment, that would just come to the board. zoning ordinance text piece of it would actually have to go through the planning commission and the board. The other probably most important point though, the administration, the regulation through the building and occupancy permits, that is going to require several workflow changes in our plus permitting system.

[01:17:02] So there's an IT issue there. And getting those changes done will likely take several months just based on, you know, how the sprints and the workflows work for updating the system. So thank you for your time today and happy to answer any questions that you all have.

[01:17:17] Thank you everybody. Staff knows when we had our briefing that I am not in support of doing this. I will share some of my rationale. We are at a time when we are looking at our resources, we're looking at our budget, we're cutting staff members. And when I look at implementing this, And so I look at those other pieces Andrew talked about, plus you look at a new child

[01:17:51] care center going in, and a lot of it is exposure of kids to advertising. They have more time there in their community than going to and from school. I know with our sign ordinance, you can have 30% of your windows having signage.

[01:18:11] I think that's another way to deal with this issue of too much signage and windows. But I think we're at a time when we're looking at services we provide in the community that we have to be careful when we add new things and we add more staff time to doing work.

[01:18:30] All of these businesses are out there already. There is quite a number of them, and we're only looking at new ones coming in. It's just all those extra pieces, having to change plus the county resources and the age to buy tobacco is now 21, and so I think we need to continue with enforcement and looking at those pieces, but I can't support moving forward with resources for this.

[01:18:59] With that, we will see what my colleagues think. Mr. Chairman. Thank you. I think there are things we can do here. I'm not sure the breadth of what's been presented is necessarily the way to go. I will say we've come a long way.

[01:19:14] When I was a kid, you could walk up to an unregulated vending machine, pull a knob for the brand of cigarettes you want, and out they came and out the door you went. And so I am glad to see all these numbers down with our youth at the beginning of this presentation because I think a lot of the campaigns and the coordination with FCPS and others and a lot of folks on our county staff are making a real difference.

[01:19:39] What is compelling about this, though, that jumps out at me is, one, this is a tool we can take advantage of, and I think if it lowers that number by one percentage point, it's worth looking at. I do think going as far as child care centers is probably too far an overreach in terms of what it is we're trying to do here.

[01:20:00] This is just my opinion. However, I'm always looking at these things through an enforcement lens, too, because I know how difficult enforcement is. So, obviously, whatever we do here has to be easy to understand, easy for enforcement to enforce. And that's where it's compelling, the conversation between the county code and the companion zoning piece of the ordinance, which, you know, I would like to know from an enforcement standpoint, from our enforcement code enforcement folks, what would be the ideal, simplest way for them to do enforcement if we were to implement something, because their lives are hard, too.

[01:20:39] The one thing I would really love to see before making a final decision on this is the most compelling bullet in here, at least to me, is on page 13 and it's the middle bullet, which is communities with the highest rates of poverty of high density of tobacco retailers per square mile. I would sure love to see a map, not disparaging West Springfield High School by any means, but I don't think that necessarily falls into this category.

[01:21:04] I'd sure love to see a map of a school where we have much higher rates of poverty that demonstrates the point that is made in this document. Because I'm not sure if this is a national point that's made or one that can be exhibited in Fairfax County.

[01:21:21] And I'd sure like to get a confirmation of that before moving forward. Because I do think there's a praying and equity piece here that we really need to be cognizant of. And I'd just like to see that mapped in a way that shows that beyond just the one example that is in here.

[01:21:39] And so those are really my comments. I mean, certainly around – I can live with this. These are for new businesses around high schools in particular. The daycare centers, I think, is a step too far, at least from my standpoint. And I would sure love to know, get some feedback from code enforcement, too, about what specifically would be the challenges on the ground in dealing with some of these before we were to take any action on them.

[01:22:07] Thank you, Mr. Chairman. I have Supervisor Walkinshaw, then Pell. Thank you, Madam Chair. And Supervisor Smith and I had our briefing together, so folks got to hear our difference on this play out once already. I do think we should move forward.

[01:22:23] I'll just share the picture on slide 6 in front of Wakefield Forest Elementary School. And I did not send this picture to staff, but this is outside my neighborhood in the elementary school that my son will attend.

[01:22:40] And what the picture doesn't show is that this tobacco shop has regularly huge blow-up flames and cartoon characters. and they've had violations and take them down and put them back up.

[01:22:57] But I'm one of those parents who has had to explain to a three-year-old and a four-year-old, like, what is this exciting-looking shop here, which is a tobacco shop. I was really struck by the statistic in slide six, and clearly I'm naive here.

[01:23:16] I would not have predicted that 23% of the time our retailers are not following the law. 23% of the time they are selling tobacco products to minors.

[01:23:32] So I'm glad that it's 21 in Virginia, but if you are 16 or 17 or 20, clearly all you have to do is go to four places, take you 30 minutes to go to four places, and one of them will sell you a tobacco product illegally in Fairfax County.

[01:23:51] That really shocked me. So, you know, I think with this, we have an opportunity, especially over time, to reduce tobacco advertising and sales across large swaths of the community.

[01:24:07] Folks who still want to get it legally will be able to. These shops, a lot of them turn over regularly. So I think we would see a significant reduction over time. With respect to child day centers, and I think that I agree with the chairman, that is kind of the crux of the decision point, at least for me, in terms of how far we go.

[01:24:31] One thing I would note in the report that notes kind of the percentage of facilities that would be impacted by each of the categories, you know, when you look at it, at least by magisterial district, and if you're thinking about those, you know, equity areas, you impact a lot more of the retailers when you include that child daycare center as a location.

[01:25:03] So that's just something to consider. Other point, and we talked about this staff in our briefing, you know, I appreciate and agree with the determination that we need to measure from, reluctantly agree with the determination that we need to measure from the main building.

[01:25:24] I think that is something we should think about going back to Richmond on. And I presume if we were to implement this ordinance and then went back to Richmond and got that change to the border of the school, it would be relatively easy to adapt our ordinance to reflect that change in the code. Because if you think about most of our, I mean, Lake Braddock and Robinson, a thousand feet from the main building, you're not even halfway through the campus. And that's true of a lot of our high schools and some middle schools too. So I think

[01:26:02] we should be cautious and conservative there, but think about going back to Richmond in the future and maybe with other improvements. But I support moving forward. I think there's a good discussion and debate to be had around the Child Day Center and how well we can implement and enforce that.

[01:26:21] But other than that question, I agree with everything that's in the recommendation. Thank you. So since Supervisor Walkinshaw brought this over, he was allowed to use more words. But if the rest of us could be more succinct, it would help us. Supervisor Pelczyk-Stork, you have been.

[01:26:37] I know you were saving it up. Palczyk, Stork, Bierman, and then Lusk. Thank you. Thank you. I'll be very brief. And I really appreciate hearing those perspectives. I think you've definitely spent a little bit more time both organizing it and thinking through it. I'm open to having a conversation.

[01:26:53] My very quick question is because I and some of us have a lot of bordering jurisdictions. I guess I was wondering just if we've looked at legally what that means and are any of our bordering jurisdictions looking at this as well? Yeah, so that's a great question.

[01:27:11] I would probably have to do a little research because it does have impact, obviously. Somebody like within Vienna, a thousand feet, maybe could fall into Fairfax and vice versa. I mean, I could probably have some idea just based on how we handle zoning and, you know, when there's different jurisdictions and maybe like a split zoning.

[01:27:28] But there is a path forward, but we would probably have to talk to the county attorney's office. Regarding other jurisdictions, City of Alexandria was one of the first to implement regulation. We've talked with the planner there. She actually is a former Fairfax County employee that actually took the amendment through.

[01:27:45] So neighboring jurisdictions are looking at it. Leslie, is there another? I think Leslie Johnson's owning administrator. I know the City of Alexandria, I think, is the only local jurisdiction that has adopted something. As far as to your point about if the tobacco retailer is in Fairfax City and we have a county school, isn't that what you were asking?

[01:28:09] I'm thinking vice versa. Well, either one. I was thinking more if one wants to open on our border, but it's across from their street. Well, I would think that, and we probably do need to reach out to our sister jurisdictions. I think it would be incumbent upon them to adopt a similar ordinance.

[01:28:28] I guess I'd want to know if they don't, what can we enforce at that point or not? If their schools are on their side, can we enforce it if they're building it on our side? Yeah, I think we're just going to have to. That's a great question. We'll take it back and look at it. Supervisor Stork.

[01:28:48] Thank you, Madam Chair. Read the code, but I need an interpretation. Rec centers, community centers, they offer school activities. Would they fall under this law or not?

[01:29:06] I think that's a good question. um we've talked a little bit about that we were trying to kind of try to make it easier to define because they come and go and it's it's already hard with some of the data sources that we have i think that's something that we could consider one advantage of doing it as a county code amendment we're not necessarily um stuck with our zoning ordinance construct of how we define things

[01:29:38] So if that's something that the board wants to look at, but if they have a license for a child day center, then they would probably be included. I'm thinking specifically our public recreation centers, our publicly owned community centers, I mean, areas that youth congregate quite often, and again, if this is part of this.

[01:29:59] And then I would even add, as an additional part of this question, public health facilities. We have mental health facilities. We have hospital, again, public institutions. So it's a broader, can any of that be wrapped into this?

[01:30:16] And then we can have a separate conversation about whether we should, but I just wanted to see if we could. I don't think that we can based on the language in the code, but again, I think we can have further conversations regarding that with...

[01:30:34] Chris Revere, Deputy Director for Innovation and Planning at the Health Department. So there's a lot of ambiguity in the Virginia Code, and we recognize that. One of the more specific aspects of the Code is that it does define Child Day Center. So we've stuck very closely to that definition.

[01:30:52] But I think, as was mentioned, we can have further conversation, and potentially, as Supervisor Walkinshaw has suggested, there may be opportunities to amend the Code in a future legislative session if the Board would like to expand that definition further than Child Day Centers.

[01:31:08] Thank you. And just comment, enforcement, I want to see significant increases there because I think this is a self-medication problem. Anybody who particularly knows a youth, they clearly have self-medication needs, and tobacco is the easiest way to do that, at least historically has been. And if we obviously keep it less available, it reduces the opportunity. And then the dollars that we collect from our cigarette taxes, do we have a specific application for those dollars? I don't need an answer now, but I I would see that as an opportunity to maybe devote some of those dollars to reductions in tobacco use

[01:31:46] and therefore, you know, treatment for folks who could benefit from it. Thank you. Thank you. Supervisor Bierman Menlis. So to Chairwoman or Vice Chair Smith, Chairwoman today, Vice Chair usually, Smith started out by commenting on a new program at a time when we were in tough budget years.

[01:32:11] So all I'd like to ask is, not right now, please try to develop what you think the price tag of implementing this would be in terms of staff time, in terms of other enforcement mechanisms. And for the health department, I would love to be included in that price tag any sort of savings that you think could be priced out from kids not picking up smoking at an earlier age.

[01:32:38] There's got to be a cost-benefit analysis here, and after that, I think we can make a better decision as to whether or not to implement the county staff's recommendations in full or not. Thank you. Thank you. Supervisor Lesk. I'll go very quickly.

[01:32:53] I'm very supportive and acknowledge that the discussion around the Child Day Centers, also open to considering the removal of those. And I'll say on this percentage that 23 percent that Supervisor Walkinshaw identified as those that, you know, were, you know, successfully being able to purchase tobacco products.

[01:33:18] Is there something we can do to advocate for better enforcement? I mean, I think this percentage needs to be much lower. I mean, we shouldn't have 23 percent of our kids being able to purchase these products.

[01:33:34] So we've got to do something on the other side of it to kind of lessen that impact. And I'll say, you know, overall, just thinking about some of the other attendant problems that I've seen in my own district as it relates to, you know, young people breaking into these shops and doing other things.

[01:33:56] Less of them could be better for the overall community. Thank you. Madam Vice Chairman. Okay, so I am in the minority. It's an okay place to be. There was some discussion from some of my colleagues about not including child day centers.

[01:34:19] Are people okay with just focusing on the high school, middle school? Do you want elementary school but not child day centers? Supervisor Lusk? I apologize.

[01:34:34] I meant to say this as well. I noticed that there was a point for private schools. I'm not saying that we should pull out the private schools. I'm sorry. I'm just talking about child-based centers. Okay, just making sure. But some are K-8, K-12, so private schools. So there's not a consensus that I see here easily.

[01:34:52] Mr. Chairman. To me, though, they're not daycare centers. Let's not separate elementary schools. We're saying K-12, private K-12. I mean, for me, I would just, from what it's worth from my standpoint, what we decide on in that category has to be the same for private and public schools.

[01:35:14] So if we say K through 12 for one, it's K through 12 for all. And so, you know, whether we include elementary schools, I think we can have a discussion about. I don't know how many private schools include K through eight.

[01:35:30] And if we do six through eight qualifies them as a middle and high school or qualifies them as an elementary school. And I think that's something the other piece of that is, and I'm not saying this will ever happen, but I know there's an ongoing conversation within FCPS of what constitutes the grades of middle school. And so I think this is a piece of information we're going to need back from staff is does this allow you to designate schools based on grade level? I mean, that's a more restrictive standard than what the enabling authority allows you to have. So is that, would that be legally

[01:36:06] advisable and implementable? I think is one question we need to answer. I for one am okay eliminating taking off of the research element the child daycare centers and coming back with more information about how we can categorize the K through 8 piece so that we know it and again I'm interested in the additional information that I asked about earlier in terms of the high poverty areas and the density of these facilities around those and that's just a request for additional information but for me I think it would be helpful to the chair if we could eliminate the pieces of this that we don't want to further pursue so that we can narrow

[01:36:42] the focus on the work of staff. And I, for one, would narrow it by saying take out for the time being child daycare centers and focus on what constitutes K through 12 and what's advisable in that category as part of what comes back. Supervisor Walkinshaw. I might be in the minority, but I think we should keep the child daycare centers at least consideration. But setting that aside at least because the numbers in the report are a little confusing because it's all percentages of the impacted retailers. I think we should all understand how many retail locations, the number

[01:37:21] of retail locations that would be impacted if they were new when we include child day centers and not because we may be taking off a lot more of the future locations than we think if we were to not move forward with the child day centers.

[01:37:43] And if that number is in the report, I missed it, but there's a lot of percentages that I don't think. So that exact number is not in the report because anticipating how many retail locations open year to year is challenging.

[01:37:59] Well, I think what's on the ground today is a rough estimation of what would be on the ground in the future with or without this new regulatory regime. Yes. And so that information is presented within the table in terms of percentages.

[01:38:16] If having the numbers is helpful, we can definitely provide that information, as well as providing you know the actual you know area where that retail could then shift i think is it was another you know factor that we that we looked at okay okay thank you be helpful this is all on your guys time supervisor stork i just kind of add my voice if it's possible legal to community centers and rec centers i think are i mean that's a core market of high school and middle school and and If we can do it, I think we should absolutely include them.

[01:38:54] So I'll weigh in on that. Okay. So what I think we need to do is staff has some questions. If you would provide a nip to the board and the board can get these questions they asked answered, and then we'll come to staff with a decision once we get some clarifications.

[01:39:12] Okay. I appreciate everybody's work. I am sorry we kept you past three o'clock, and I am going to adjourn the Land Use Policy Committee. Thank you all.



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