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Loudoun County Board of Supervisors, Committee of the Whole Work Session, Thursday, September 7, 2023

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- Agenda (Granicus): https://loudoun.granicus.com/AgendaViewer.php?view_id=73&clip_id=7397

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[00:01:34] Patrick Johnson, can you please test your audio? Hi, this is Patrick Johnson. How the feedback was?

[00:01:51] There's still a bit of feedback, but it's fine. It's fine, it's fine, it's fine, it's fine, it's fine, it's fine, it's fine, it's fine, it's fine.

[00:02:17] Patrick Johnson, can you please try your audio one more time?

[00:02:42] Patrick Johnson, can you try your audio one more time, please?

[00:04:45] Good evening, Super Voters. Oh, oh, oh. Welcome to the show. I was very close.

[00:05:02] Wow, I feel like Darth Vader up here or something. Can we, is that, there we go, thank you. Good evening, supervisors, good evening, staff, good evening, Loudon. I'd like to call to order this September 7th, Loudon County Board Supervisor's Zoning, Ordinance, Rewrite, Work Session.

[00:05:22] This room has a hearing loop. If you need hearing assistance, please see your, I'm sorry, if you need hearing assistance, please switch your hearing aid to the telecom mode. If you need a headset, please see our clerk. We have those available as well. Would everybody please join me for the Pledge of Allegiance?

[00:05:40] I pledge allegiance to the flag of the United States of America and to the republic for which it stands, one nation, under God, indivisible, with liberty and justice for all. Okay, so there's a couple things I just want to walk through, talk through before we get started.

[00:06:11] First of all, I'm going to say right now thank you to everyone who's been involved in getting us to this place. Thank you to our staff, including Mr. Yad, who is no longer staff with us, but thank you to all of our staff.

[00:06:27] We know it's obvious how hard this has been. Thank you to the Zoning Ordinance Rewrite Group for everyone who's participated in that effort. Thank you to the many, many, many people who sent in comments, recommendations, your thoughts.

[00:06:44] Our information item tonight, which we will take up first, will detail how many people and where all those comments came from and what happened to them, how they were sorted. That's the first thing we will do. So we appreciate being here. After 18 years, we are looking at our zoning ordinance, taking a new look at our zoning ordinance.

[00:07:05] because it's been so long, and it's been so long because we couldn't do it before we did the comp plan, and we did the comp plan last term, you know, there's a lot of moving parts, and this is a very intense process. And so I'm going to ask everyone to give everyone, everyone give everyone else a little bit of grace.

[00:07:24] This is, I think, the first meeting is when we have to work out some of the hard parts and the kinks, and we will work those through. But I'm going to ask everyone to take a break, take a breath, and just give everyone a little grace as we walk through this. I do want to say that the difference for just tonight's meeting that you won't see at the rest of the meetings is we have this closed session smack in the middle of this meeting to talk about grandfathering.

[00:07:48] So there may be a motion that comes out of the closed session on grandfathering. For the most part, for most of our remaining Zora meetings, we will not walk motions on the same day that we want to make the motion. And so that will be unusual. So supervisors, what we're going to do today is this.

[00:08:09] We'll have the information item. And again, that will talk about what happened with all the comments, how they were heard, all those types of things. If you have questions for staff after the information item, you can ask those questions. And then we will have the two action items.

[00:08:27] However, we will not take a vote on those two action items right after we hear them. After we hear the action items, we're going to hear from representatives of the six industry groups, which again are business, which includes Chamber of Commerce, Data Center, commercial development, residential development, attainable affordable housing, conservation and preservation, and animal wildlife.

[00:08:50] At every meeting, those six industries will be invited to have somebody come speak. It does not have to be the same person each time. The industries will choose who it will be, meeting to meeting, and they will let me know in advance.

[00:09:05] And so that person can be part of our, go out with the agenda and be part of the script as it is tonight. After that happens, after the industry areas speak, we will go into closed session around and about the issue of grandfathering.

[00:09:21] Because that is a very big issue and one of the things that are foremost on the minds of everyone. And when we come back out of there, we will then go into a committee as a whole. The committee as a whole, there will be one hour on the clock for the committee as a whole discussion.

[00:09:40] I would ask that everyone be aware that there's one hour for the committee as a whole. I'm not going to add any more time to it. So no one person take all the time. and then we will make motions. And again, for this meeting and this meeting only, there may be a different motion on grandfathering than one in the package because we may reach some different conclusions while we are in closed session.

[00:10:01] So expect that each meeting will probably last about four hours, hopefully not longer, hopefully not shorter. The last thing I will say is for this meeting today, we will take a vote on the motion on Chapter 1. We will not take a vote on the motion in Chapter 2 today.

[00:10:19] Why? Because yesterday we received 36 suggestions of possible motions. There is no way any of us could have walked our way through all those motions.

[00:10:35] And so the industry that sent us those, we've talked to them, and everyone knows that that won't happen in the future, So those ideas, questions, motions, whatever, will come to us much earlier. But since they came yesterday and they're all on Chapter 2, we will not take up a vote on Chapter 2.

[00:10:56] So at the end of this meeting today, I will not adjourn the meeting. I will recess the meeting and we'll take up the Chapter 2 vote at the beginning of the Monday meeting before we go into the end. And then we will adjourn that. And then we open the meeting and talk about chapters, that would be chapters three, four, and definitions.

[00:11:18] So that's how that will happen. So are there any questions from anyone on any of these processes on the dais today? Mr. Letourneau. Yeah, Madam Chair, do you anticipate that there may be circumstances in which we discuss a chapter here and then potentially, like we're doing, which happens to make motions at the next meeting?

[00:11:40] Yes, I do. And I do think it would be helpful for us just to have that. I do. Yeah, I do. Because, you know, these meetings are like Mondays and Thursdays. And this is, I mean, this is heavy, dense reading. And this is my full-time job.

[00:11:56] I'm here all the time. I walk down to Mr. Hemstreet or Mr. Kroboff's office like five times today, right? And so for people who are not able to be in this building all the time and do that, I can't imagine that there are going to be things that you're just not ready to do yet. So to have a couple more days where that happens, so there will be times where I will recess and not adjourn a meeting for that very purpose.

[00:12:17] Now, I will say, please spend time talking to staff. Please ask the questions. Please talk to the industry leaders. I'm having a conversation with the industry leaders every Friday morning at 11 o'clock. So please do that. And so as many questions can be answered when you are ready to vote as you possibly can.

[00:12:35] So thank you, anybody else. Having said all that, thank you. are now ready for the information item good evening chair randall i'm judy burkett with planning and zoning i'll start the presentation then i also have glenn barber who will jump in as well as a consultant from kimley horn in this presentation we will be covering public input process for the zoning ordinance rewrite and how comments to the planning commission were received processed and analyzed we'll also discuss an independent analysis of the public

[00:13:14] comments and we will end by describing how to submit comments during the board's review next slide first as a reminder I'd like to discuss the scope of the zoning ordinance rewrite as approved by the board in the project plan of first to implement the general plan that was adopted in 2019 to modernize land uses definitions and parking to reflect the current marketplace to create consistency throughout the zoning ordinance to improve the structure and flow of the zoning ordinance and make it more user

[00:13:50] friendly to address known administrative challenges with the zoning ordinance to update the zoning ordinance to reflect changes to the code of Virginia and case law and to streamline processes increase administrative approvals improve the legislative review process next slide please this graphic depicts the public input milestones and the ongoing public input that has occurred for this project over the past four years during those four years the county has received

[00:14:28] documented analyzed and addressed thousands of comments next slide spikes in the public comments have occurred when you would expect them to first during the initial two rounds of focus groups that were held early in the project in 2020 and 2021. Again in the middle of 2022 when the county published the first draft zoning ordinance for a 90-day comment period and surrounding the Planning Commission's public hearings held in August of last year and

[00:15:01] again in January earlier this year. Next slide. The thousands of comments that we received came to us through a variety of intake methods from emails and letters to stakeholder meetings and focus groups. All the intake methods shown on the screen. Next slide. Comments came from a broad range of sources from individual residents and homeowners associations to law firms, the development and business community, non-profit organizations, and some of the board's

[00:15:36] advisory bodies. So how did we manage all of these comments that have come in over the past four years staff collected them documented them and organized them by topic we provided the comments in whole to the Planning Commission in their meeting packets we continually posted the comments on the website and every comment received is part of the public record staff analyzed every comment but it's important to understand that every comment did not result in a revision to

[00:16:15] the zoning ordinance. For instance, many comments were general expressions of support and read more like a policy, such as, I support historic preservation. Some comments were based on previous versions of the draft zoning ordinance, so they were no longer relevant. Some comments were about the public process itself, which is largely governed by the Code of Virginia and not addressed in the zoning ordinance. Regardless, all the comments were documented, posted on the

[00:16:46] website and factored into the themes provided in planning commission meeting packets. Looking quickly at the major themes that we did identify through the public process, there were concerns regarding how the zoning ordinance would impact developers and economic development, a desire for more flexible regulations, especially for attainable housing and flex buildings. Regarding data centers, there were conflicting input. There should be more restrictions or there should be fewer restrictions.

[00:17:21] That was also similar for signs. There should be larger and more signs, or there should be fewer and smaller signs. That's just some of the examples of conflicting input. Generally, there was a lot of support expressed for protection of natural and historic resources and interest in expanding where some uses were allowed, such as energy storage and solar facilities.

[00:17:45] In addition to identifying themes, staff tested each comment against some criteria that are shown on the screen. we asked is this comment within the scope of the project and we did review the scope earlier is it consistent with the comprehensive plan because the scope says we are implementing the general plan is it legal and by that we mean does the Code of Virginia authorize the county to have such a regulation and does the comment conflict with other comments this is frequently the case is there

[00:18:23] often often competing interest between for example residents and the development community. This is a big reason why many comments don't result in a one-to-one change in the draft text. Staff in the Planning Commission, as we typically do and as you do every day, we attempt to define a balance between two competing interests and different views. So generally, how do we respond to comments? If a comment pointed out an editorial change, we went ahead and

[00:18:59] incorporated those changes and sought Planning Commission endorsement. If a comments suggested a major change staff evaluated against the criteria we mentioned previously and presented it to the Planning Commission for consideration. In some cases it did result in a Planning Commission motion.

[00:19:16] The staff did not move forward with any comments that were deemed illegal or inconsistent with the Code of Virginia. At this time I would like to turn the presentation over to Mr. Glenn Barber, the county's public information officer. Thank you, Judy. Good evening, board members. Next slide. Earlier this year, Charles Yud engaged me in the Office of Public Affairs and Communications to help him address the issues that we were hearing from the community around public input.

[00:19:51] At that time, Mr. Yud and I, along with other members of the project team, discussed the overarching question of how can we help members of the public who've submitted comments, which includes the stakeholders, how could we help them track their comments through the review process and ultimately see whether their comments were addressed in draft text?

[00:20:12] that turned out to be a very difficult question to answer. Mr. Yud and I engaged our consultant, who we'd already been working with, Kim Lee Horn, to see if they could help us address that question. And we certainly recognize while it would have been ideal for us to be able to make that one-for-one track or help the members of the public find their comments, we determined that it just was not feasible given the timeline we were working under and the resources that we had available.

[00:20:44] So we said, well, what can we do? If we can't do the ideal, what other actions could we do to try to demonstrate that the comments were being thoroughly analyzed and reviewed? And we all wanted certainly to make sure that there were no major themes or topics that members of the public were raising for the Planning Commission's consideration that were missed.

[00:21:06] We also wanted to see if we could validate the staff review of the comments. And so Kimley-Horn helped us identify a process for doing that. And so we brought on, as you can see on this slide, in April of this year, the consultant to take an independent new review of all of the comments that had been submitted to the county to date.

[00:21:27] And this was up through this summer. And so Mr. Yud approved a scope of work for Kimley-Horn in April. And Kim Lee Horn has been working on this all the way up until your public hearing last month on July 26.

[00:21:45] So at this time, I'm going to ask that our Patrick Johnson, who is with Kim Lee Horn, who conducted and led this analysis for us, to walk us through real quickly some of the highlights of their work

so that you can understand what they brought to the table.

[00:22:01] Patrick, Ali, are you? It's going to be a long night. That's how Patrick's going to sound the entire night.

[00:22:20] Okay, Patrick, could you try to speak?

[00:22:58] Okay. Patrick, if you can hear me, please jump in if you feel like you can speak, and I will attempt to walk through your slides, even though I'm not an expert on the AI analysis that was conducted. But Ali, if you could please try to get Patrick on the line, that would be helpful.

[00:23:19] Okay. Okay. We can skip this slide. This just indicates that you have Kimbley Horn's report in your item tonight. Okay, so Kimbley Horn attempted to conduct an independent analysis, or they didn't attempt to do it.

[00:23:37] They actually did conduct an independent analysis. They presented some methodology to us of how they would do that. And they used artificial intelligence technology or AI and natural language processing. And what they did is ingested all of the comments, literally thousands and thousands of comments, into their system.

[00:23:57] And they synthesized the information to get at what was like the root messages within the comments. They organized and categorized all of the comments that they received, that were received by the Planning Commission.

[00:24:17] and they were able to identify topics and crosswalk those spikes in input with the milestones that occurred throughout the project so we were able to see the times that comments came in were in fact associated with the times that the county was soliciting public input and we also will see in a future slide here in a minute that those comments waned over time which demonstrated that the issues that were of great interest to members of the public at one point waned because

[00:24:49] the Planning Commission was able to address those comments over time in the edits that they made to the draft text. Let's go to the next slide. This slide or this graphic illustrates the process that Kim Lee Horn worked through. They started with what was called comment extraction. So they took all the comments from letters, emails, ENCODE+, all the different ways that the comments were submitted. They went through a process that's called data cleaning. And apparently

[00:25:25] to make the language process and the AI technology work optimally, they want to remove extraneous things like asterisks and commas and periods. They also remove certain words like the and and and this process helps them get to the key content that helps them conduct a proper analysis as they went through this process it's my understanding that they certainly had to put in a lot of manual effort to validate their work as they went on and ultimately through this

[00:26:03] process they extracted out the themes that are identified in the report for you let's go to the the next slide. Ali, are you still working on trying to get them? Okay, great. All right. The common analysis. Let's see. Kimberley Horne made a distinction between the word topic and the word theme. So this is a little bit different than what we saw with the staff analysis that generally used the word theme to identify those hot topics that came up throughout the process. Kimberley Horn indicates that a topic, as presented in the report, is the subject of the comment

[00:26:41] or the key term, like affordable housing, but then within that topic, they identified a number of themes, and within, under each topic, there were multiple themes that were identified and presented.

[00:26:58] There's a little bit about the process there that was articulated in the graphic that we just saw, so I won't go through that. Okay. Let's see. Next slide, please. Topic identification. So through the generative AI process that they used, they were able to synthesize out major topics using key term analysis that are truly the topics of the comments. And it's not as apparent as you might think when you look at it. And I thought this example really highlights what I'm talking

[00:27:37] about. For example, you see somebody submits the comment, while I'm parking at home, I find the noise levels from the neighboring winery to be too high. So in this example, the word parking is in there, which we know is a key theme that came out of the process, but it's really not the point of this comment. This comment is about noise. And so the Kimberley Horton needed to synthesize the information to make sure that we weren't documenting this as a comment about parking, when, in fact, it was really a comment about noise associated with a business.

[00:28:14] So the theme extraction process, as I mentioned, did end up requiring quite a bit of manual synthesization of the information. And because the consultants were already working on the project, they also applied a lot of their institutional knowledge of the zoning ordinance project to help them with this effort.

[00:28:35] Next slide, please. Okay, I recognize that nobody can see anything on this slide. This slide is in the report, so you can zoom in on it and take a look at it on your computer.

[00:28:51] But this slide is important because it shows us quite a bit. It shows the little dots represent comments. The bigger the dot, the more number of comments there were. Along the left side of the column are the topics that came out and the number of comments that were related to that topic.

[00:29:11] And then, as you see over time, the red lines indicate those major milestones, such as when the first draft was published. And as you can see, we got a lot of comments when the first draft was published because, obviously, there was something for the public to react to.

[00:29:34] But what this chart is showing is that, as I mentioned earlier, over time, the comments started to wane, and as we went to the public hearing, two public hearings, which are the last two lines there, you see that comments started to drop off, and there were fewer and fewer comments, and we interpreted that as showing that many of the comments that were submitted around the time the first draft was published had been addressed.

[00:29:59] by Mr. Yud and the staff and the planning commission through the revisions. Next slide. This is another slide that you should take a look at in your staff report because obviously the detail is fine and we can't see it here on the screen but it basically shows the relative percent or share of the major topics over time and you can see that at certain points in time certain topics were commented on much more frequently than later in the process and other comments

[00:30:36] or other topics started to gain traction as other things were resolved and new considerations were made so another interesting data point I wish Kim Lee Horne was able to speak about it because they could articulate the significance of this slide much better than me but it is discussed at length in the Kimley-Horn report. Next slide. Okay, so these are the topics, the major topics that were identified through the AI process, and so as you can see, there's nothing super surprising in this list,

[00:31:13] and while the precise nomenclature of these topics is not necessarily the exact words that the staff analysis used, you do see that these topics are pretty much in the same ballpark as the topics that came out of the staff process.

[00:31:33] And so this process validated that we were on track. There was nothing that through this analysis was revealed that had not already been learned about through the staff analysis. Next slide.

[00:31:49] And this is what I was trying to articulate earlier. Under each one of those topics that's listed on the previous slide, there are multiple themes that were identified through the analysis. And so I'd encourage you, if you haven't already, to take a look at the report in your staff report because you can see the themes that were identified under each of those topics.

[00:32:12] This is just one example I pulled out of the report on affordable housing. And you can see that under that major topic, themes like affordable housing should be kept in character with quality with surrounding development design guidelines, allow conversation of single family to duplex to encourage accessory dwelling units, and so on. And again, the full list of themes is in attachment one, and you can compare and contrast that to the topics and themes that staff identified through their process. Next slide. All right, the findings, the ultimate findings of the report were that

[00:32:49] there were, in fact, periods of high comment frequencies that generally corresponded to the times of public engagement. So when we asked for the public to comment or when we put out something for the public to comment on, like the initial draft, then we certainly got a lot of comments. The public, you know, the analysis by our consultant was that the public was motivated throughout this effort to provide the county with lots of input, and that was demonstrated by the, you know many many thousands of comments that we received another finding was that the initial

[00:33:28] topics in the comments fell to the minority so while maybe a year ago or maybe nine months ago there were a lot of areas of interest that were highlighted for highlighted by the industry and other stakeholders I'm sure Mr. Yudd talked with you about many of those hot topics at that time what we saw was that those topics that were of great interest at one point in time slowly waned off and different topics gained momentum toward the end of the planning commission

[00:34:05] process and that is important because it illustrates that the planning commission was hearing what the public was saying and to the degree that the planning commission felt they could, they addressed those comments, and therefore, people were commenting fewer and fewer times. Another interesting finding that the analysis showed was that individual citizens were relatively engaged. 30% of the comments came from individual citizens, but as you would expect, 70% of the comments came from the stakeholder organizations that Judy highlighted.

[00:34:43] And in the Kimley-Horne report that's included in this item, there is a lengthy list of the individual contributors. So if you're curious to peruse that list, you could see those who provided input on this process.

[00:34:59] Next slide. And so that pretty much wraps up the consultant analysis. You know, what I was going to say is that this particular process that Mr. Yudd asked us to embark on and that I worked on with a consultant over the last few months did what we set out to do.

[00:35:21] While it wasn't intended to accomplish the ideal task that I mentioned earlier, it did accomplish the primary goal of verifying and validating that the staff did not miss any major topics as they conducted

their analysis.

[00:35:39] The last thing, of course, we would have wanted to occur was some major theme surfaced through this analysis that was totally overlooked in the Planning Commission's review, but this process verified that that did not happen. And so we also felt that this effort was important because it was an independent voice, separate and apart from staff that hopefully could reassure members of the public and reassure the Board of Supervisors that the comments were thoroughly considered, thoroughly reviewed, using a very different technological process than staff used,

[00:36:19] and hopefully reassures the public that those comments were fully considered during the Planning Commission's review. And I think that's all I have, so I think it's back to Judy for the wrap-up. - So before we go back to Judy, Mr. Barber, knowing that you hadn't planned on doing that, that was fantastic, thank you very much.

[00:36:39] I hope everything I said was correct. That was really good. Thank you. Are you ready for me, Chair Randall? Well, that's the end. There were two more slides.

[00:36:55] Just a couple more slides. We wanted to just let you know that with the planning commission's publishing of their draft zoning ordinance on July 6th, that we're closing out. We concluded a large phase of public input.

[00:37:12] And now we're starting fresh with public comments for you, the board. going forward any comments should pertain to that July 6th draft and we'll be bringing chapters to you each month on that July 6th draft public comments can be about that draft or any direction that you give staff during board work sessions we have received a small number of comments so far and as new comments are submitted we're attaching those to your work session packets we're also

[00:37:44] posting those on the website. Next slide. There we go. And we wanted to streamline the public input process for the board just to make it easier to receive, document, and analyze those comments during this board review. And what we're asking all stakeholders to do, whether it's a resident, an individual, any organization, to please use the online comment form that's found on the website on the zoning ordinance rewrite web page and that form has been improved since the Planning Commission review we've added the ability to add an

[00:38:23] attachment so anyone who wants to make a comment can make a brief comment and or submit attachments or letters so is it like you're wiping the slate from every other comment that was made before and then we start over a newer I mean so if somebody made a comment before and they feel like that that comment that they made is still valid hasn't been answered whatever it just all goes away now you just start over we would ask people to resubmit a comment if they believe it still needs to be addressed for um because all the previous comments made over the last four years the planning commission took into

[00:39:01] consideration those comments informed the planning commission's draft that came to you on July 6th And so we are hoping that any new comments will be for this version so we can move forward with this whole new fresh phase.

[00:39:22] That's it. All right. Well, thank you. Thank you very much. Appreciate it. That was really helpful. If we have questions just about this, Supervisor, just about the information that we just had on how comments were received and dispensed of or placed or cataloged, it's time to ask those questions right now.

[00:39:41] Supervisor, I'm stopped. Thank you, Madam Chair. I'm glad that you all clarified that you would encourage people to resubmit comments if they felt they hadn't been addressed because I think what happens is someone brings forward a comment and they think it's been dealt with and you don't necessarily, most likely you won't hear from them again, especially if it's a citizen who doesn't really know that they need to be persistent to make sure that we take their comments seriously.

[00:40:16] seriously so it is good to remind people that if they don't want their earlier comments lost in the shuffle they need to reaffirm that they're still interested I think they are still interested and I don't think we can assume they're not because we don't hear from them after the first time most citizens come in you get a hundred at the first meeting they say their piece you try to organize another citizens meeting, you get 50. Third meeting, you get 25. At that point, stop

[00:40:47] organizing. But the initial hundreds still feel the way they did. It's been difficult for the community to understand and may be difficult for some board members to understand what exactly is our deadline? I've got an email that I'm looking at from a community member who is asking, okay, well, if Chapter 2 is not being voted on tonight, is there a new deadline for my comments

[00:41:25] on Chapter 2? And so what exactly is our time frame? I've heard four days, four business days in advance. I've heard more than that. I've heard two business days in advance. What is the exact time frame we're looking at that a citizen has to get in their proposed motion to a board member so the board member can get it to Judy Burkett and so staff can turn it into a motion that makes sense? What exactly is that time frame again? Well, we have a published schedule for, it's an

[00:42:00] internal schedule, but you'll need to back that deadline up because you'll need to have those comments a day or two before they're due to me, to staff. So it's three business days before the work session. So you would want to back that up a couple days so you would have an opportunity to contemplate those comments and provide any draft motions. So if I told a citizen

[00:42:32] to get their comments in seven business days before the work session that would if they came to me or any other board member that would give us a couple days to analyze them see if we want to submit them from our office and we have to get them in three days so what are we looking at is that 72 hours before the work session to you to us three three business days and i do plan on sending you a reminder. We've been sending reminders so that you have a little heads up because the time is moving very quickly. But seven days should be ample time to fit within the time

[00:43:12] frame. Okay. Thank you very much. Thank you. Ms. Laterno. So just clarity on this then. The 72 hours is for the supervisor to submit a question or a motion. Correct. So it's not the public the the public the public has a comment or organizations have suggested motions they have to get it to us a lot of times they're sending them directly to all of you but that doesn't count right we have to then if we if we would want to see one of those things become a motion we would have to then submit it and say i want to make this motion within that time frame you're exactly

[00:43:51] correct and when we receive the motions we're going to i mean the public comments we're going attach those to that next packet so there could be I think this is where hopefully we talked about I asked the question of the chair earlier quite frankly some of these things I don't know if I want to submit a motion to until we have a discussion about it and then I may decide so it may just have to be it goes to the next meeting or something like that or we have to do it in because I can't evaluate I can see somebody's motion but I want to hear what staff's point of view is and then I want to decide I don't want to have to

submit you all otherwise I'm just going to send you all these things as motions and say I may make these motions and that's just going to

[00:44:29] be a lot of work for you that doesn't seem to make sense so yes I agree with that Mr. Turner thank you Madam Chair so we received 32 comments from a stakeholder collaboration stakeholder group yesterday and a lot of them the ones I submitted a few days ago I have a question mark in my mind about how we would submit motions based on those comments so is the process that we submit those recommended changes to you and we wait for you to analyze and give us feedback on

[00:45:08] those changes and then we draft motions and would it be there's 32 changes suppose we like 26 of them would it be one motion and say accept all the attached 30 26 changes or do you need a motion on each change no matter how granular and specific they are? Well, we could do it in either way. We could accomplish it with either way. If it's a succinct attachment, you know, items 1, 10, and 15, I'd like to move. You can do it that way. But if you reach out to me, I can certainly help you craft that motion. What we're trying to do is attach the public comments to the work session memo,

[00:45:45] and then you have time to read the public comments and submit questions and motions. Okay. Well, then in that case, I'm going to put out an appeal to all the stakeholders who make comments. It's a whole lot easier for me to get recommended changes in an Excel spreadsheet that I can manipulate. And if I want to submit it, then create my own Excel spreadsheet, edit it based on how I want to view it, and then submit it as an attachment to a motion. If I get it as a PDF or as a Word document I can probably live with, but as a PDF, that becomes really problematic because I then have to retype all the comments that I agree with and submit as a motion it's just a whole lot

[00:46:25] more work intensive and probably not good for staff either so I don't know that's practical or not but I just found frustration and that I'm sitting here with a pencil and paper and I'm thinking okay I know what I want to do but I don't have the time to rewrite all these 32 different inputs so that's just to the stakeholder community at large that's all I have thank you madam chair thank you thank you um I do have a couple of questions about what you just presented actually uh on page 10 of the of the um presentation you said that there were a lot of um there was a variety of messages from about the data centers some people some some who said yes some who said

[00:47:03] more i'd like to know where that variety of comments came from because i you know i have not heard any constituents say yes please more data centers i've heard obviously the latest in industry and have those discussions. So on the data center comments, and I did today, by the way, go through all the comments and everyone. I know that Wash Copeland Consulting did the most comments. She had two, they had 241. I went all the way down the line. So I do know, but I didn't see a lot of individuals who had comments about data centers that said, we'd like to see more of

[00:47:38] so that's my first question. My second question is on page 11 of 26. You know, the question, the statement is, is the comment consistent with the comprehensive plan? I have heard some concerns that the zoning ordinance is almost like you're picking up the comprehensive plan, changing some words kind of in legal form, and putting in the zoning ordinance. Well, it's not supposed to be a mirror to that degree, and so I'm just a little bit curious as to what that means when you say, is the comment consistent with the zoning ordinance um and then lastly i would say one

[00:48:13] more time to everybody well not lastly two things to everybody guys we got to give ourselves a break that we haven't done this in 18 years there's a lot to do right now we have to kind of give each other a

break and give ourselves a break give staff a break while we get through this process did you did you start my time when i started talking i did not think so i was like i didn't talk that fast I have one more question to start but on page um 20 of 26 are actually all those pages the major comment pages so pages 19 page 20 page 21 a lot of the comments I see the a lot

[00:48:49] of the major topics I see in fact half of them were probably about the RPA and so as we are doing right now the um the suburban policy area the urban policy area the transition policy area but not the RPA, would it be appropriate to pull out those RPA topics and not kind of have them in this area or at least pull them out so when the next board, whomever is on that next board, gets to the RPA topic area, they're not dealing with a lot of issues that are not really RPA, that are not SPA, UPA, TPA focused?

[00:49:29] Because literally half of the topics are RPA topics. You're right. Are you ready for me to respond? I'm done. Yes, I'm done. Thank you very much. Well, you're right. The big thing with this project is we're supposed to implement the comprehensive plan.

[00:49:47] And the comprehensive plan, the whole message that we kept giving the community is we're maintaining the status quo in Western Loudoun. We're making changes to the suburban and a new urban area. So it would be appropriate to defer the rural issues and the Comprehensive Plan Amendment to the future.

[00:50:07] Because when we see so many competing, conflicting comments about an issue, that usually tells us it's revealing that we need a Comprehensive Plan Amendment to fully engage the public. So that would be an option you could choose to do.

[00:50:23] On the example that I gave for data center comments, the residents were concerned about the noise and the lack of screening and the appearance of the outside of a data center. It was the data center industry who wanted less restrictions.

[00:50:42] That's exactly what you would expect. And your other question is, when we say something is consistent or inconsistent with the comprehensive plan, as you know, the comprehensive plan provides policy guidance, broad policy guidance. One of the big issues that came out was the possibility of community solar in Western Loudoun.

[00:51:04] We know we don't have policy guidance for that and that that would be a big issue for the public. So we advised the Planning Commission that that was something where we needed more policy guidance so that we could really have some regulations that were specific about where the county wants to see these and how big they should be and how to mitigate the impacts.

[00:51:26] So that's the best example. Okay. I think I'll keep an eye on that as we go along, that the zoning is not the comprehensive plan just in more legalese. It's not. And I will say to your comment, initially, the first draft in April, it was a lot of language copy-pasted directly into the zoning district.

[00:51:49] But that was over a year ago. We have backed off of that a lot. Okay, wonderful, wonderful. Thank you, and thank you for all you have done. All right, let's go on and go to the next thing, which is both of the action items, and then we will go to the industry speakers, and then we will go to closed session.

[00:52:13] Madam Chair? Yes, sir. Hi, Joe. Good evening. I'd just like to add a couple comments, if I may. Oh, sure. Absolutely. Thank you. So first, responding to the question about why we are asking individuals

and stakeholders to resubmit their comment.

[00:52:32] And that is, remember, this whole process really at a high level was broken down into three phases. The first phase was the staff heard public comment and developed what they thought was the right draft ordinance to be considered.

[00:52:51] And they handed that off to the Planning Commission. So then the Planning Commission took into consideration all the comments that were received and they produced a document that they felt was ready to hand off to the board, which is the third phase, which is what we're entering here.

[00:53:08] So we feel that it would be best to have those comments resubmitted because that was a major milestone for the Planning Commission to drive a stake in the ground and say this is our recommended ordinance to the board.

[00:53:24] So to reiterate that issue, if it's still a major concern for the stakeholders, we feel that should be resubmitted. The other issue I'd like to make is that, you know, ideally, we would love to talk about every motion at the same time we are presenting that respective chapter.

[00:53:45] But the reality is the schedule is so aggressive, the ordinance is so complex, it takes people time to digest it. You may make comments tonight that rings a bell with a stakeholder, oh, I need to get a comment in about that.

[00:54:01] So we expect that as you come to the conclusion of your phase, it will be much like the Planning Commission did. And there will be this large number of motions at the very end in the wrap-up session that will be all the way from Chapter 1, you know, all the way to the end of the document that we'll have to deal with.

[00:54:23] Again, we'd love to deal with it, you know, at the time we're talking about the chapter, but most likely that's just simply not going to be the way that it is. And it's not really approved until you approve it and adopt the resolution. All of your votes are straw votes at this point in time.

[00:54:38] Yep. Okay. All right. We are ready. We are ready for chapter one. Okay, chapter one, the first chapter this evening in your first work session. I'm going to provide a summary of what this chapter covers, inform you about two new provisions in this chapter that were not in the revised 1993 zoning ordinance, and then explain two issues related to chapter one.

[00:55:07] After each issue, I will pause for any questions, and then we'll move on to the next issue. And again, we won't be asking for any motions on Chapter 1. After each issue, we'll pause for a whole – no, we won't do that. You don't want to do that? No, no, no. Okay, we will not do that.

[00:55:23] We will do that at the end of Chapter 1. No, no, no, we won't do that. That is fine. We won't do that. However you want to do it. Okay. Thank you, though. But, yeah, at the end of Chapter 1, we can do a round of questions. I'll have to eat the issue because that's even better.

[00:55:39] That's even better. Chapter one explains the purpose of the zoning ordinance to promote the health, safety and welfare of Loudoun residents and regulate orderly growth, development and redevelopment in accordance with a comprehensive plan. And that's really straight out of the Code of Virginia.

[00:55:56] Chapter 1 also explains how a zoning amendment, including adoption of a new zoning ordinance, may impact previously approved developments such as a rezoning or a site plan.

[00:56:13] Chapter 1 expressly acknowledges that nothing in the zoning ordinance is intended to impair any vested rights in the county or any legal rights of Route 28 tax district property owners. So there's no change to the Route 28 tax district. The language has been reformatted to make it easier to understand.

[00:56:33] This chapter also explains how the county will allow legally established pre-existing structures, uses, and lots to continue even though they do not comply with the new zoning ordinance or any new zoning amendment, and that's the nonconformity section. Next slide.

[00:56:51] Next, I'd like to discuss two new provisions in Chapter 1 that are not in the current zoning ordinance, and they both pertain to nonconformities. First, a property owner must remove a non-conforming sign if it has been abandoned for two years.

[00:57:08] Second, a non-conforming historic structure may expand and exceed the lot coverage and floor area ratio by up to 15 percent, with exemptions from lot area, road setback, and yard requirements, and also there's more flexibility for those allowed uses.

[00:57:26] And we'll talk more about that later, not tonight, but in a future work session. And that relates to adaptive reuse. Next slide. Now I'd like to just brief you on two issues with this chapter. The first one is grandfathering.

[00:57:41] The second one is nonconformities. And we're raising these as issues because at the public hearing, your public hearing in July, the public did raise them as issues. First, grandfathering. Generally, the concept of grandfathering refers to a discretionary action by the board to exempt one or more types of pending development applications from the requirements of new or amended zoning regulations, and in this case, a new adopted zoning ordinance.

[00:58:10] A pending development application, when we say that, we mean something that's been submitted and officially accepted by the county, but has not been approved by the effective date of the zoning ordinance. The process and timing for the board to officially adopt any grandfathering rules is by resolution at the time the new zoning ordinance is adopted.

[00:58:32] But if the board would like to informally identify grandfather rules earlier than adoption, you could make a motion to endorse specific grandfathering rules. And when we say endorse, we're using that term in the work sessions as a straw poll.

[00:58:48] Nothing is binding until the end, until adoption. The endorsement motion if you want to pursue that for grandfathering rules it would need to identify a couple things which types of applications would be grandfathered which means they'd be exempt from the new zoning ordinance Legislative applications like rezonings and special exceptions or administrative applications like site plans and boundary line adjustments Second at what stage in the review process those pending applications would need to be in

[00:59:22] Such as a Planning Commission public hearing has been conducted. That would be an example of a stage in the review process Next slide and the second issue in chapter one is for nonconformities And at the board's July public hearing the public did express concerns that the new zoning ordinance would create nonconformities Adoption of a new zoning ordinance like like most

[00:59:50] Zoning ordinance amendments will result in nonconformities, and nonconformities are simply unavoidable if the county wants to ever change the zoning ordinance, and in this case, to amend

the zoning ordinance to implement the comp plan. The public has expressed concerns that the language damaged by a casualty or event beyond the owner's reasonable control, that's in the existing zoning ordinance, but not in the draft.

[01:00:15] We did not intend as staff to narrow those non-conformity permission reasons. We did not intend to do that. We were trying to align the zoning ordinance language with the Code of Virginia. And should the board wish to add that language back in, we have no objection to that.

[01:00:32] Okay. So that concludes the presentation. I think we just took a straw poll board up here. Oh, yeah. Okay. That concludes our presentation, Chair Randall. Okay. Let's take some questions on Chapter 1.

[01:00:48] which is by far the easier of the two chapters today. Are we working off the supplement item today, not the first item as far as questions we might ask in page numbers and all that type of thing? Because we had a supplemental that went in today for chapters one and two.

[01:01:05] We're working off of that? Yes, work from that, yes. That's fine. That sounds good. All right, if you have questions for chapter one, Ms. Glass. Madam Chair, may I add another comment? If you or a board member has a question specific to a motion, You should have a hard copy of the motion sheets in your packet there at the dais that may be more convenient for you.

[01:01:25] Well, and again, with the exception of the grandfathering motion, which may be different after a closed session. Yeah, yeah, well, okay. Ms. Glass. Thank you, Madam Chair. One question I have is, are pre-applications or pre-submission binding in any way for either the county or the applicant?

[01:01:46] No, they are not binding. Okay. Do pre-applications or pre-submission cost money? No, they do not. And can anyone submit a pre-application or pre-submission for anything regardless of whether it complies with the zoning ordinance?

[01:02:05] I'm not sure I understand your question. Is it for the purpose of determining if it complies? Because we have informal meetings with applicants all the time that don't require an official pre-app. A pre-app is, they're usually, they have a more general idea.

[01:02:23] I definitely want to rezone this property to X, for example. So can they have, like, a number of pre-application meetings, or is it just one pre-application meeting that generally applicants have? They generally have one.

[01:02:40] If there's a significant change to what they're considering, they often request another one because staff gives that cursory review of what's allowed, what right-of-ways would be required, what environmental protections they need to look out for.

[01:02:55] But it is very preliminary, and it's non-binding. Okay, thank you. Thank you. Mr. Kirshner. Thank you, Madam Chair, and thank you to staff, all the stakeholders, Planning Commission, for all the work that they did or have done. I'm going to have to leave in a little bit, so I'm going to miss some of this first session just because of a previous commitment that's been on the books for a long, long time.

[01:03:18] But I do have some questions on this chapter specifically that I want to address. First of all, this non-conforming, the non-conforming, non-conforming is this would deal with properties in the rural policy area, even though we're not dealing with a lot of the rural. This would still apply to structures, buildings, and whatnot there.

[01:03:34] Okay. I just wanted to make sure I clarified that first. That's a great question. The second question I have about that, and I'm going to give you an example. You may or may not be aware of it. And this has happened many times with some of my district's rural structures. For example, at a farmer, he wanted to place an old garage that was from the 1960s.

[01:03:52] He was going to replace it with the exact same footprint of a garage. Unfortunately, his uncle had sold a piece of property on the back side, and now a little driveway went through there. Staff rejected his application to put in a new garage initially, and it was kind of a barn repair garage.

[01:04:10] It would have been a better structure. It would have been the same footprint. It would have still maintained the rural structure of what he had, but he was in a pickle where he couldn't actually do this simply because now it's a non-conforming use because it sat too close to that right away. My question is this.

[01:04:26] Is there any flexibility for situations like that under the new rewrite here? In other words, is there a minor special exception when you have those sorts of issues to come in and say, hey, this is all we're trying to do, bring it to the board. I'm doing the same footprint, et cetera.

[01:04:42] I just don't fall under these acts of God or whatnot. And I think that is my concern, especially with rural, we don't, I mean, someone's got an old barn, but it doesn't really fall under one of those exceptions where you can rebuild. Why wouldn't we encourage them to replace it with a new one and those sorts of things? So my question, I guess, is especially for some of these rural structures that we want to maintain, we want to see, and there are exceptions. I can't think of all of them, but there was another one that came up, kind of a very similar situation.

[01:05:13] What kind of flexibility, if at all, have we built into this chapter in terms of these non-conformities. Can you speak to that, if any? I may need to defer to the zoning administrator, but I will say that we haven't built in any flexibility that would allow for a driveway.

[01:05:30] So non-conformities are so site-specific. It's a really case-by-case situation. So I'm not familiar with exactly the situation you're referring to. So I guess that what I would like to see is some level of what is really practical here, what makes sense, what's within the spirit of this, and I know that's difficult when you're writing a zoning ordinance, but some of these things that come to my office are just ridiculous. I understand you're following the letter of the law, but why can't we make some sort of exception here? Yes, sorry. Yeah, just to comment on it, I think the intent of the ordinance is to try to bring any non-conformities into conformance

[01:06:08] eventually. So the thought behind that is if you are going to replace a building of your own volition, own decision, that when you build the building or the new building, it should conform. So I think the ordinance, that's the intent behind the ordinance. In the case of if it was burned down by a fire or something beyond the control and they want to replace it through that, that that's a little bit different and that it wasn't the option of the property owner to replace the building.

[01:06:34] Well, just repair and it doesn't meet that standard. I mean, this is where, I'm sorry, my time's up. Thank you. But we should talk before you. Mr. Letourneau. So one of the issues I think that staff is trying to get at was on frequent modifications to the zoning ordinance that are made in the current process.

[01:06:58] So were there areas in this that you think will help with that? And then is that why there was a recommendation that only Chapter 2 and Chapter 7 allow for modifications?

[01:07:16] I think what you're asking, we did make some reductions in different parameters in the zoning districts, for example. Reduced setbacks, increased lot coverage in the hopes that fewer modifications would be needed.

[01:07:33] And we also added a lot of administrative processes so that staff could administratively review and approve waivers, parking adjustments. That was one of our goals, to get rid of so many legislative applications. But normally, you would modify an application through a variance process.

[01:07:54] You would deviate from the zoning ordinance from a variance process that the Board of Zoning Appeals approved. Loudoun County is more lenient for modifications than any other jurisdiction I've ever been aware of in my 30-year career. And even the current zoning ordinance doesn't allow everything to be modified.

[01:08:14] It's through a plan unit development or in the R districts. But we'll have a full-blown discussion on that later when we're working with a consultant to do a comparison between what's modifiable today and under the draft. And then we'll be better prepared for a full discussion.

[01:08:31] You'll have more facts at that point. When do you think that's going to happen? Which work session? That'll be Chapter 7, October 30th. So, I mean, my concern with that is, quite frankly, if the board were to address the modifiability issue early, think it could reduce a lot of the concerns comments and things like that we're hearing because we won't be as locked in so i don't know i i personally would would like to address that earlier i don't want to short circuit the process and i certainly want to hear that analysis so just you know perhaps we can have further discussion about that um let's see let me just try to think

[01:09:10] think of what other questions I was going to have I think that's it for now but yeah I concur Ms. Bricksman. Thank you Madam Chair well thank you staff for all the work on this it is kind of mind-boggling when you start reading all of this stuff my one question I had on non-conformities was answered and so I appreciate that just to follow on to what Supervisor Glass was asking

[01:09:39] Could you tell us what does it mean or what is entailed in the criteria involved in an application being accepted by the county? When we say an application is officially accepted, it meets all the checklist requirements.

[01:10:03] You know, the fee has been submitted. So we have a checklist. And I'm answering more than you probably want to know. But we want to not just say filed over the counter because anything could be submitted. And what we see is people submit things and staff has to do kind of the QC for them.

[01:10:23] And it puts a big burden on the staff. But especially accepted is they have submitted everything on the checklist. It means the minimum requirements. Okay, okay. And are there times that you have to send something back that doesn't meet the minimum requirements?

[01:10:39] Always, always, yeah. And so it can take a couple rounds for something to actually be accepted. Yes, ma'am. Okay, thank you. Thank you. Ms. Umstead. Thank you, Madam Chair. I would like to pile on in support of Supervisor Letourneau's suggestion that we eliminate, I would probably say, almost all of the no modification language throughout the zoning ordinance.

[01:11:10] When I first sat down and started reading through it, I was actually surprised at how many times that phrase appears, but I think Supervisor Letourneau is right. We probably, if we get rid of that early or at least have that discussion early, we may reassure a number of folks in the county because I think what they're looking at is stricter rules in every way without the ability of modification,

[01:11:50] which not only makes it more difficult for them to do business, but it takes away authority from the board, and I do believe the board needs to retain that kind of authority. So right now, I mean, I would call into question almost every area in which there's a no modification statement.

[01:12:11] So, but I appreciate all the work you're doing. Thank you. Mr. Turner. Thank you, Madam Chair. This is a general question that I'd like to level set for my own benefit here early in this process. And just let me wax philosophic here for a minute or two.

[01:12:29] My understanding, and this is how I framed it in discussions that I had this morning over the chamber event. When staff sat down and was given this project, they were looking at virtually everything could be modified. And so we have a limited staff with limited resources and limited time, and because everything can be modified, the way I characterize it, almost every application was an original application.

[01:12:52] It's like repainting an original Picasso, and staff is put in the position where they have to adjudicate and make judgment decisions, very subjective judgment decisions, on hundreds and hundreds of the modifiable variables. And so in rewriting the zoning ordinance, staff's desire was, if we can standardize this process to a much greater extent, then it removes uncertainty for the applicant and it removes the requirement for staff to have to make very subjective judgments and continue to look at these modifications. What I'm hearing from the industry is we were here and we understand the

[01:13:30] intent, but now we've moved way over here. And the way I've characterized it is the challenge we have now going forward is to come back but how far do we come back and how do we discern where that optimum sweet spot is in modifiability and I'm not sure what that is and I'm not sure what those criteria are going to be my question to you is can you validate or not or invalidate that concept of how we got to where we are in modifiability is that was that the nature of why we got here and and in having captured the challenge correctly not not exact not exactly

[01:14:08] I mean we looked at what we can modify today you know through the our ones that our one districts are modifiable the plan unit development offers modifiability and what we really set out to do was add more administrative approvals we are abandoning more that it's people love the concept of ZMOD. We're just, we don't have that application type, but we have many other ways to have waivers, deviations, adjustments from the zoning order. It's a different approach, and I think it frightens people because they're not used to it. It's different.

[01:14:48] Okay, let me, if I can interrupt, I apologize, but let me just jump on that point because that may be relevant. So would it be your contention that the perceived lack of modifiability is actually in some ways a misperception that there are new and different mechanisms now in the system to achieve a lot of that functional modifiability without actually being what we would currently call modifiable. 100 percent that's exactly true. Plus we added a PUD district which Kate will talk about and anyone could submit an entire uniquely designed proposal with everything modified and

[01:15:26] that gives you maximum flexibility for the board and the applicant. Okay thank you very much that's really helpful. If I could add one thing to that. Yes, please. The other thing I think, you know, people's

perception of this issue is a lot of times colored by what's happened in the most recent past. The past four years, there have needed to be a lot of modifications submitted in order to try to have projects that result in the type of projects the plan wants that don't match the revised 93 ordinance. A major part of this whole process is to put those things into alignment to avoid the need for that yeah mr buckington thank you madam chair so maybe where

[01:16:05] it says no modifications throughout this ordinance we put an asterisk or something that talks about how there's a there's another way to do it there is a way to do it or maybe we just get rid of that language throughout i don't know but those are my thoughts on that right now um that being said going back to Supervisor Kirshner's line of questioning about referring to old barns and things that people want to rebuild. And I think most of those barns that are in need of being rebuilt, we're probably considering, and if you can go back to slide three on this, on your

[01:16:39] presentation, we would be considering probably those old barns that need to be rebuilt as historic structures, would we not? Yes, most of those would be, absolutely. And then if you look this second bullet on this slide I think this is a discussion we had months ago maybe years ago it seems like I don't know somewhere it's been a while since we had this discussion but I think that's where this came from the new provisions allow for expansion of non-conforming historic structure so you know it's very permissive with this language may exceed lot coverage and floor

[01:17:17] area ratio up to 15 percent exempt from minimum lot area road setback side and rear yard requirements and greater flexibilities for use i know his example was a driveway so that road setback should have covered that um so maybe you guys want to follow up with him since he's not here right now um and just if i'm if i'm right if this is covering what kind of if this is kind the answer to his question then maybe staff would want to follow up with him with that because in my mind it is and if it's not the answer to that question could you let me know because i'm i would

[01:17:55] be confused if that's not the case absolutely thank you okay would it be more logical to not have anything we're doing right now anything apply to the rural policy area including um modifying, including anything, because the rural policy area really is very, very different, non-conforming uses, all those types of things. Would it be more logical that this is the ZOR

[01:18:26] we're doing for Route 15 East in TPA, suburban policy area, but nothing that we're doing right now is applying to the rural policy area? Would that be just smoother, easier, cleaner to do it like that madam chair i think rural policy area is a planning concept and we're dealing with the zoning and so we really can't zone by planning area or policy area in the in the plan so the rules have to apply to zoning districts now okay there are certain zoning districts that only

[01:19:01] exist or primarily in the rural policy area but there are some that exist both in and outside the rural policy area i guess i'm trying i get you i hear you courtney and i understand exactly what you're saying makes perfect sense i guess i'm trying and you see what i'm trying to do i'm trying not to have you know a lot of things apply and then when we get to the when we get to the you know when when the next board gets to see how we do for rural policy there's things that we've already kind of locked up and it's hard for him to for that area to have any speciality mobility

[01:19:34] malleability anything um but maybe the discussion is the the the zoning area and that's a discussion we can have more, we can talk about more, because I don't, yeah. To what Mr. Letourneau and Mr. Turner and other people have said up here.

[01:19:52] So, Judy, you believe that what we have in the, what is now in this new ordinance, when it comes to things that are modified, you don't, you think that that question has been answered enough?

[01:20:08] You think that we're going to have, that some of the things, some of the reasons we did so many modifications was because the zoning ordinance and the comp plan were out of alignment. True, that's absolutely true. And as they get to alignment, we won't see those as much anymore. We should see fewer, absolutely.

[01:20:24] Because those take a lot of time. It takes a lot of time. Okay, that does make sense, but let me just give that one some thought. I'm not sure what I want to do with that yet, but that does make sense.

[01:20:40] I hadn't thought about that. Okay, all right, let's go to Chapter 2. Can I just make a comment in response to what you talked about, about the rural policy area? Well, unless it's a point of clarification or something, otherwise your time is passed.

[01:20:55] Can it be a point of clarification? It can. That's why you cut me off. It would be nice if it was easier to understand, as we go forward, what applies to the rural policy area and what doesn't.

[01:21:13] It's a point of clarification. Because it looks like we could be making decisions that we may not realize impact the rural policy area because we're under the impression that we're doing the rural policy area later, the next board.

[01:21:36] And so I think that's what we're trying to get at. There was one particular question earlier that Supervisor Kirshner asked, and the answer was yes, that would apply throughout the whole county. So it would reply to the rural policy area. And there's examples throughout here where I want to make sure that we understand what impacts it and what doesn't.

[01:22:00] And so I think that's what Chair Randall is trying to get to, too. It would be easier if we could just separate it and do all of that later so we know this is the area we're talking about. But I just wanted to throw that out there. Maybe there's some way it could be really pointed out.

[01:22:17] Mr. Buffett is trying to have that point of clarification where he's asking, and that to be clarified, the question he just asked to be clarified. So I guess I would say that even in the current ordinance, but certainly in this one, there are provisions that apply to the county, and it depends on the type of development you're trying to do, the structure or public infrastructure that it applies to.

[01:22:46] So what comes to mind is chapters 5, 6, and 7, which are the overlay districts, so that applies depending on where the overlay district is. Six is the environmental regulations. Seven is the development standards.

[01:23:02] Those are the type of things that apply everywhere. Two is the zoning district. So to the extent it's a zoning district that's in the rural policy area, it's impacted. I'll defer to zoning staff, but I think they've said they didn't make really any changes to those rural zoning districts.

[01:23:19] Three and four are uses. So uses, again, if it's a use that exists in the rural zoning districts as well as the urban and suburban, it would be impacted, but again, I think zoning staff made the effort not to change those use permissions.

[01:23:38] So I think to the extent there are provisions in this ordinance that apply countywide, yes, it does apply to the rural areas. But things that are uniquely rural in terms of zoning district or a use that is uniquely in the rural area, I believe there wasn't a change.

[01:23:55] I believe the intent was not to make significant changes to those things, other than to bring it in alignment with the new format, because as I'm sure you've seen, this ordinance looks different than the old one, so. Okay, thank you. Thank you. All right, let's go into Chapter 2, and then we'll have our speakers.

[01:24:13] Good evening. My name is Kate McConnell. I'm a program manager in the Department of Planning and Zoning, and I'm presenting this evening on Chapter 2, Zoning Districts. I will provide a brief overview of the zoning district's chapter, talk about what's new, and then I will present on two issues that staff is seeking board direction on.

[01:24:32] And then lastly, I will present some information about how Chapter 2 addresses housing attainability holistically. So the primary goal of the zoning ordinance rewrite is to implement the 2019 general plan as we've just been discussing.

[01:24:48] So one of the things that we did with the zoning districts is group them by 2019 general plan policy area. In this ordinance, we have a section in Chapter 2 for urban, suburban, transition, rural, and joint land management area zoning districts.

[01:25:04] We also include a section for office and industrial zoning districts because these districts are existing non-residential zoning districts that will continue to apply in more than one policy area. And we also have a planned unit development zoning district section, and that's permitted to apply in certain 2019 general plan policy areas and place types.

[01:25:27] With this Chapter 2 and with the zoning ordinance rewrite, there is no remapping recommended, but the approach does align the zoning districts and the current zoning ordinance with the 2019 general plan place types when possible. So based on this approach, we have three categories of zoning districts, retained, new, and legacy.

[01:25:49] The retained zoning districts closely resemble place types in the 2019 general plan, but the regulations are revised to better realize development patterns and housing attainability envisioned in the plan. And they're also revised to improve implementation of the zoning ordinance.

[01:26:06] There are 18 retained zoning districts, nine of which have been renamed, except for one of these retained and renamed zoning districts, the prefix planned development is removed from the name. The exception to these renamed and retained zoning districts is the PDTREC zoning district, which is renamed to urban employment.

[01:26:30] So that's planned development transit related employment center. we revised that name to urban employment to align with the associated 2019 general plan and we appreciate that yes it's a mouthful so we also developed new zoning districts to implement the 2019 general plan and these districts are unmapped and will only be mapped upon approval of a zmap application this includes the pud zoning district as well as eight zoning districts that implement a specific place type. That PUD zoning district provides an option for an

[01:27:08] innovative development scheme provided it implements the place type where the property is located. And then lastly we have 25 legacy zoning districts which are zoning districts that do not closely align with the 2019 general plan place types. These zoning district names and regulations remain the same except for limited revisions to improve implementation and they are included in the draft zoning ordinance to protect previously approved projects. These districts will not be allowed to expand beyond

existing boundaries but projects can develop as approved and approved concept development plans can be amended and I also wanted to note where

[01:27:44] we are retiring the planned development countryside village zoning district that zoning district has never been mapped okay and it does not implement any plan place type uh things that are new with chapter two uh we we are the and we've essentially the additional major changes in the zoning districts in general. We formatted each zoning district so that it appears the same as Courtney had referenced. So these zoning districts each have a zoning district's dimensional standards table where all the density, the floor area ratio, and the dwelling units per acre, the lot

[01:28:22] requirements, the size, the depth, et cetera, the setback, the front side rear yards, and the building requirements, the lot coverage, height, et cetera, are provided in that table. We moved and consolidated all use lists into Chapter 3, which is the uses chapter, and any use limitations included in specific zoning districts into Chapter 4, use specific standards. We consolidated development standards that are repeated over and over in some of the zoning districts into Chapter 7 development standards to reduce that repetition. And I also wanted to note that after commission

[01:29:00] direction, staff removed the proposed suburban compact neighborhood zoning district alternate location criteria to address public comment. That's something that we could revisit after a comprehensive plan amendment that's revisiting those alternate location criteria. And then in some cases, we reduced minimum requirements to increase development flexibility and minimize the need for modifications, as Judy had referenced earlier. So the first issue that staff is seeking board direction on this evening is whether the maximum height of 60 feet should be modifiable

[01:29:37] in the town center or TC zoning district. The TC zoning district is a retained and renamed zoning district. It's renamed from PDTC and it's intended to implement the suburban mixed-use place type which envisions a maximum five-story building that's converted to 60 feet in the zoning ordinance maximum 60 foot height. The TC district is updated to better implement the suburban mixed-use place type and this results in a reduced maximum height in the town center core there's two sub areas in town center there's a core and a fringe the maximum height in the current zoning ordinance the revised

[01:30:14] 1993 zoning ordinance is 120 feet and the fringe is 60 feet and the draft the district and the draft zoning ordinance also permits no maximum floor area and that's similar in the current zoning zoning ordinance. So the draft zoning ordinance, as I referenced, the TC zoning district allows no maximum floor area, but limits the height to 60 feet. So if someone proposed a very high floor area ratio, they likely would not be able to achieve it because of the 60 feet maximum height

[01:30:47] of the building. So this issue is with the height standard is that the TC zoning district is located both in the suburban mixed-use place type and in the urban transit center place type, which is near the Innovation Metro Rail Station.

[01:31:05] It's in this urban transit center place type as a result of rezonings that occurred before adoption of the 2019 general plan when we implemented the urban policy area and its associated place types, and we also have seen some heavily modified PDTC zoning districts that have been approved after the 2019 general plan.

[01:31:24] So, if those PDTC projects just continued on after the draft zoning ordinance was approved, they will be allowed to develop with the height and FAR of that approved rezoning.

[01:31:42] But if they would request a zoning concept plan amendment and come in in the future after the draft zoning ordinance is adopted, they would have to meet for the property that's subject to that DCPA, the new zoning district requirements. And that would mean that in the urban transit center place type, they would be restricted to a 60 foot height this would not be appropriate for tc zoning districts in the urban transit center place type because that place type envisions a minimum eight story or 95 foot building

[01:32:17] and the inner core of the urban transit center place type and a minimum six foot or 70 foot building height in the outer core sub area and inner core is a quarter mile yes and then the outer core is about another half mile outside after that and i'd also note that the inner the urban transit center envisions a minimum 2.0 FAR in the inner core and a minimum 1.0 FAR in the outer core. Really the one thing, the other thing I wanted to note about that is that we do have a zoning district that implements the urban transit center place type. That's the TRC or transit

[01:32:53] related center zoning district. That's the district that is applied around Moorfield Station and Loudoun Station where the original initial transit oriented development was planned. But to accommodate the future those future zcpas in the town center zoning district that are in the urban transit center place type staff is seeking direction from the board of whether we should allow the height to be modified in those instances where they may come in for zcpa

[01:33:26] they want to achieve a higher far the plan supports that higher far and higher building height this would result or rely on the legislative process and it would allow the vision for either the urban transit center or suburban mixed use place types to be achieved through that evaluation of a modification request. One of the principal factors for considering a modification is whether it's consistent with the 2019 general plan. So if an applicant came in and said, I want to increase the height in the TC zoning district from 60 feet to 100 feet, and they were in the urban transit center

[01:34:05] place type, that would be something that staff could support because it's consistent with the plan conversely if an applicant came in in the suburban mixed-use place type where the maximum height is envisioned to be 60 feet and they requested that 100 foot height modification that would be something that staff would not recommend to the board and support i would also note that the other option another option would be if that proposed maximum 60 foot height is not allowed to be modified it may incentivize remapping to the trc zoning district which is the district that implements the urban transit center place type,

[01:34:43] but that is just an alternative to consider. So the second issue that staff is seeking board direction on this evening is replacing the requirement for a percentage of commercial or public, civic, and institutional uses to be in the ground floor of each building frontage in the urban employment zoning district and replace that requirement with a ground floor building materials and design requirement.

[01:35:12] So the urban employment zoning district, again, is retained and renamed, and it updates the PDTREC zoning district to implement the urban employment place type. There's no property in the county that's ever been zoned to this district, and the UE zoning district requirements and the draft zoning ordinance are less restrictive than the current requirements for the PDTREC district.

[01:35:37] However, we did retain some design requirements to ensure the development near Loudoun Gateway Metro Rail Station develops as a walkable employment district consistent with the urban

employment place type. And one of these requirements is that at least 30% of each ground floor building frontage contains commercial or public civic and institutional uses.

[01:36:00] Those uses, commercial and public civic and institutional, are use categories in the use lists in Chapter 3. So there are uses listed under there that if they're permitted in UE, those would be the uses that would be anticipated in that percentage of the ground floor building frontage. After publishing the draft zoning ordinance on July 6th, we received some public comment on the uses permitted on this building frontage.

[01:36:25] The comment noted that flex buildings envisioned in the urban employment place type should be listed as a type of use that would achieve the ground floor pedestrian-oriented use requirement. Flex buildings are categorized as industrial production uses in Chapter 3, and that's not meeting those categories of commercial or public civic institutional.

[01:36:48] So they would not be able to be used to meet the 30% requirement. To address this comment and ensure the walkable environment that offers a prime location for flex buildings consistent with the urban employment place type, Staff is seeking board direction on revisions that replace the regulations regarding the types of uses required in the first floor with new building design and material requirements that would differentiate the ground floor from the stories above and create a more pedestrian-oriented streetscape.

[01:37:21] So this revision is consistent with analogous draft regulations in the TRC and TC zoning districts that are intended to implement their associated place types with a similar vision for a compact, walkable, pedestrian-oriented streetscape, and it provides the most flexibility for ground floor uses while achieving the development pattern for the place type.

[01:37:43] And for reference, staff did include some draft language in your board action item for that for consideration. And then the last topic that I wanted to discuss with you this evening is an informational, sort of some information on attainable housing in the draft zoning ordinance.

[01:38:04] There's no specific issues with regard to Chapter 2, and we are presenting this information because at the public hearing, we did hear about attainable housing as a primary theme of public comment at the hearing.

[01:38:21] We will also address Chapter 9, Attainable Housing, at the currently scheduled October 23rd meeting, but this information is just how we took a more holistic approach to trying to achieve attainable housing in the zoning ordinance overall, and this is how that holistic approach is undertaken in the zoning district's chapter.

[01:38:44] So we did include a requirement for a mix of dwelling unit types in the new zoning districts, suburban neighborhood, suburban compact neighborhood, and transition compact neighborhood zoning districts. This requirement addresses housing policies that generally support providing a continuum of housing types, sizes, and prices to achieve housing attainability.

[01:39:06] So if there's a variety of housing types required, there's a variety of sizes and types and prices. Similarly, in the R2, R3, R4, and R8 zoning districts, we automatically incorporated an Article 7 provision that allows a small percentage of more dense unit types to be permitted in those districts.

[01:39:33] In both the transit-related center and town center zoning districts, there's more multifamily attached units required, and the height and FAR restrictions are removed from the TRC zoning district. Both of these should result in a generation of more multifamily units in the county.

[01:39:50] And we also incorporated the reduced dimensional standards for lots and yards and lot coverage from Article 7 of the current zoning ordinance into the legacy zoning districts. That's one of the minor changes we made to the legacy residential zoning districts, that those reduced standards are already incorporated as the base district standards with the intention of reducing development costs.

[01:40:13] And lastly, we have the Planned Unit Development District, which allows that unique development proposal, and that could intentionally address affordable housing through design that's not allowed in the standard zoning ordinance. And that concludes my presentation, and I'll be happy to answer any questions.

[01:40:32] Wonderful. Okay, so, supervisors, remember, we will probably not have motions on Chapter 2 tonight, although I do see the staff motions in the – well, it just makes more sense to do them all on the same day because they can't impact each other. But this would be a good time to ask questions of Chapter 2.

[01:40:49] Mr. Turner. Thank you, Madam Chair. Can you explain, I saw the one bullet on something was removed about Suburban Compact Neighborhood, and I think it said alternate locations. Can you just describe what was changed there? Yes. So in the draft that the commission considered, there were criteria in the suburban compact neighborhood zoning district that the applicant would need to meet for the suburban compact neighborhood zoning district to be applied in the suburban mixed-use place type or the suburban neighborhood place type.

[01:41:27] And those criteria were based on plan policy. There are some criteria specific to that that I think that TLUC had a lot of discussion on. And we did try to model those regulations as much on the TLUC recommendations as we could.

[01:41:43] But since they're still sort of just the recommendations and the CPAM hasn't been adopted, the Planning Commission directed staff to take that out. And with the possible intent of reinstating that once those... With the CPAM? Yeah.

[01:41:59] Got it. Okay. Am I correct? Did I see that correct that you removed the requirement for 30% of the ground floor to be civic, institutional, and public use, and now you're going to do it with building materials instead? That's correct. Okay. For clarification of terminology, Article 7 and Chapter 9 are the same thing. Article 7 is the current ordinance. Chapter 9 is the new ordinance, but they're both affordable housing. Thank you.

[01:42:27] Can you explain to me the concept of the plan unit development? It's so fuzzy in my head. It sounds to me like if you don't like something that we've got in all this codified stuff, you can come in and just throw something up on the wall that's completely different and totally unique, and we'll look at it.

[01:42:45] That's true, yes. That's not helpful. Now, I mean, there are certain requirements for the application. you need to show us what you're proposing so we can evaluate it and it would still need to be consistent with the place type where it would be located. It could be as simple as taking an existing zoning district and making some tweaks. It could be more extensive and coming up with a completely different

design. So let me clarify here and again the fact that we're things that we're technically calling non-modifiable actually may be able to be changed based on some administrative

[01:43:24] tools that we've implemented now in the system but as I understand it then an applicant could come in and say well okay we can exercise all these tools in this administrative stuff or we can just throw this out there in this place type and go for it that's correct and then the board will be and the staff will be in a position and the board will be positioned say we've looked at this whole package and we're okay with it go right or not okay yeah and then that would regulate the development going forward that package wait okay so that would regulate the development

[01:43:58] meaning once we say okay then they're bound by yes the rules it would that be in a form of a proffer mr turner yes it would be it's kind of open yeah no i gotta let you go a little bit but And Mr. Buffington has learned the term clarifying question.

[01:44:17] I have a clarifying question. I have a clarifying question for another minute. This really is a clarifying question. So regarding that new district, the PUD, that cannot be done in the rural policy area, correct?

[01:44:35] That's correct. And the zoning districts that already essentially, it's based on state code. And right now we don't entertain rezonings in the rural policy area and the JLMA. It's in the TR 1, 2, 3, I mean 1, 3, and 10.

[01:44:54] It's sort of similar to that where we anticipate a rezoning, we would allow the PUD. So the suburban, urban. Thank you for that clarification. Thank you. It's going to be a long time while we're doing this over.

[01:45:11] Ms. Umstead. Thank you, Madam Chair. So you've heard the same things we've heard from multiple economic sectors in the county, almost all of which seem to be very concerned about this, and they don't seem to be persuaded that PUD is the way to go.

[01:45:31] And so the things we hear are no affordable housing will be able to be built under the ZOR. We hear that Ravana would have been impossible under the ZOR.

[01:45:49] We hear that office parks would be impossible under the ZOR. So that is what we are hearing, and the creative response from staff seems to be, make it a pud.

[01:46:08] I mean, that's the impression I'm getting up here, that if you want to do anything, you have to have a planned unit development. So how hard is it to make a PUD? Is this going to be extremely difficult, extremely time-consuming, extremely expensive?

[01:46:30] Because I'm not hearing specifics that address the concerns we've heard about lack of modifiability. I'm hearing generally you have ways of addressing that. But other than PUD, I haven't heard any specifics.

[01:46:49] So unless we hear from the communities represented here tonight that they feel, yes, PUD is the answer to all our problems, I don't think we're addressing the concerns. So a PUD would be a rezoning.

[01:47:09] It would be a simple ZMAP. As Kate alluded to, one of the things you could do is literally copy any zoning district we have, submit that as your application, and change the two numbers you don't like in that zoning district. If it really comes down to that, that is your get-out-of-jail-free card to do something as

simple as that if it's not something that's already baked into what you could be modified in one of the various fashions we have.

[01:47:32] The one thing that I have personally heard in some of our meetings with the development community that a PUD would not directly address is that if someone has an existing development and they want to make a minor change on something that is not allowed to be modified under the new ordinance, they feel like there should be a way to try to address that.

[01:47:57] and I generally agree with that sentiment the question is what what are those issues are they are they height are they setbacks are they because some of those things can be addressed if there are some we are missing we are happy to have that conversation and as we showed here for the TC district we're in favor of allowing that height be recommended for example okay thank you miss glass thank you madam chair um I would have to agree um when you are talking about in chapter two

[01:48:29] TC zoning district height, you said that staff recommends allowing height to be modified regarding to having a TC zoning district in the urban transit center place type.

[01:48:51] I talk to my constituents all the time when we talk about being near the metro where we want tall, dense buildings where we have transportation and people to walk. So is this something that we would have to have the straw vote on?

[01:49:10] So we have a motion on that already. It's the staff motion in the package already, and it would be a straw vote. However, we're not doing any votes on Chapter 2, but when we do get to vote on Chapter 2, that's already it. We already have that vote. We already have that in front of us. Okay. Yep. Okay. Thank you.

[01:49:25] Sure. Ms. Bricksman. Thank you, Madam Chair. Well, I think all of my PUD questions were answered. I still am having a little bit of difficulty with this 100-foot maximum building height versus the 60-foot in the town center zonings.

[01:49:47] So I believe what staff is suggesting is because we can't have a separate rule for the urban policy area in a suburban policy area, it has to be done by special exception, basically, to have a higher building in the urban policy area. So am I saying that wrong? Is that correct? Well, I'll just clarify it after the question. Okay. Well, okay. So what I'm getting at is we will, in the suburban policy areas, say a Cascades marketplace or something like that, or countryside, which might

[01:50:27] come in for redevelopment at some point. We have to be relying on staff to recommend denial of an application that's trying to get to 80 feet by, and maybe special exception is not the right word, but trying to get to 80 feet and then staff would recommend against it. Whereas if it's in the urban policy area, they could get to 80, 120 feet and staff would say, okay. It makes me a little bit nervous having a lot of my district in the suburban policy area that we would have to be relying on future staff to keep the building heights where we want them in those town centers does that make

[01:51:06] sense sure i can i can kind of get into a little bit more so the the current process for evaluating a legislative application part of the process is that we have a community planning staff that evaluate a proposal against the general plan right so they would be doing the same thing with the the zoning ordinance rewrite and if this building height were allowed to be modified that would be part of a legislative application it would be part of a rezoning a zoning map amendment or a zoning concept plan amendment and they would evaluate that and they would say

[01:51:42] now the maximum height is 60 feet five built five stories in the suburban policy area so if an applicant came in in the suburban policy area and asked for more than 60 feet staff would not support that that would be the recommendation to i understand that but don't you think excuse me i'm running out of time but do you think there's a world later 10 or 20 years down the line don't you think there's a world where a developer will come in and say i want a modification for 80 feet be able to convince supervisors like we have the final say in that right even if you recommend

[01:52:17] against it we as a board would have final say in that so without that rule in the suburban policy area i see a future where we end up with 120 foot buildings because they don't start ignoring the general plan but maybe it's not as strong as it used to be or something like that so i'm i'm uncomfortable with that i don't know how to solve it and i did have another question but your time is up i know uh i mean that's the process i don't know that there's it would it would depend on the on the the planning commission and the board to make the decision about whether to support the

[01:52:55] modification request and make a recommendation the way to address your concern is that right now as Kate said that district is mapped in two different places with two different intents but it's the same district and we have to treat everything that's zoned in that district the same you would need to create two districts that specify those different standards in order to lock that in where it could not be addressed but there is there is a district the transit related center or trc zoning district exists work here we're revising that one to also implement the plan it has no

[01:53:31] maximum height it actually has a minimum height requirement has no maximum far as a minimum far requirement so we have a district it's just not been the district that was applied previously in the urban transit center place type that's around innovation metro whale station can i please ask clarify me not you may not i'm sorry come back around well because if i do that we'll be here you guys i can't i can't because i i i can't mr litorno all right let me start on the putt i'm

[01:54:04] i'm still struggling with this i mean why wouldn't every applicant simply apply with the putt why would they bother with any of this well first of all we did update the zoning ordinance to address issues that we have with implementing the zoning ordinance we updated the only zoning ordinance to to implement the plan so you know going forward if the intent of the rewrite is to implement the plan and the plan subordinated by the planning commission and the board that district should

[01:54:37] be the district that is yeah but but without modification in most cases however the get out of jail free card is is the pud so there is sort of modification but you got to go through a different process that seems like where we're at and i'm just not sure why that's better honestly than simply saying, yeah, you can modify it.

[01:54:58] Well, it wouldn't be a list of modifications like we do right now. It would be simply a different application proposal. Yeah, but that's good. I mean, I just think that's more confusing for us when we actually have to deal with that and try to interpret how that lines up the comprehensive plan. So from a staff perspective, because of Virginia's unique in allowing proffers, it's functionally no different than each of these individual rezonings coming through and locking themselves into those proffers.

[01:55:25] It can be very different in other states that have different enabling legislation. But here, it's the same idea as our proffer system is carried forward. What could, we don't have it set up this way, but one of the ways you can see that make a bigger difference between, I'm going to go with the regular traditional

district versus the PUD, is that in some jurisdictions, the requirements for that PUD application are more stringent.

[01:55:50] You do have to provide more specific footprints for buildings or architectures or things of that nature. Okay. But we have not gone that far as things are going to happen now. All right. I want to get into the building height thing. So what you're recommending is that building heights be allowed to be modified in the TC zoning district.

[01:56:09] If it's in the urban policy area, does that mean they can be lower on their modification? And in the suburban mixed use, does that mean they can be higher? The opposite of that. Suburban mixed-use maximum height is intended to be 60 feet.

[01:56:24] Yeah, but if it's allowed to be modified, it could be higher. But that would be to meet, it should only really be supported to be modified in the urban transit center place type, where the building height is anticipated to be high.

[01:56:40] I don't want to be argumentative. I just spent years trying to make some of these suburban mixed-use place types work. And if there's one thing I've learned is that you have to have maximum flexibility for tenants who actually are going to come in. We can put these things on paper all day long. But when you get out with actual tenants and actual people who are going to move in, they want specific things.

[01:56:57] And then the applicant's stuck if we don't allow it to be modified. So I don't, I mean, I don't, if we're going to do it for one, I think it should be in both districts, place types. But, sorry. So I want to remind everyone that we will, after the speaker speak and we have closed session, we will have a committee as a whole still.

[01:57:17] But we have more to do on this. That's why I'm trying to keep you guys in the time limit right now, because we're not finished with the discussion. And if I let people just keep going, we will be here tomorrow in the morning. And then you're all going to be whining to me. Madam Chair, can I address the last thing that surprised us?

[01:57:34] Absolutely. So, and I think you understand this, but the way you phrased it, I just want to clarify this. So, if we were to allow that in this district, it would be modifiable in both policy areas, because that one district is mapped in both. But what we were trying to say is that from a plan policy standpoint, any item we'd put in front of you, more than likely we would recommend that the ends-- - The recommendation would be different.

[01:57:55] - Right. - Yeah, okay, all right. That's what I was trying to get clarity on, so thank you for clarifying. - Mr, oh, move it, Mr. Sainz. - Okay, so to make sure I'm following along with this, you're saying if somebody comes with a town center suburban, the maximum reliable is 60, but they can modify it and come in front of us and ask for permission to go to 70 or 85, and we have to vote yes or no on that?

[01:58:18] That's correct. That's correct. And if they're in the urban, they can go as high as, well, because that's where we want to go high. But again, if they, for whatever reason, want to go lower, they have to come in front of us and ask that question. They would not have to ask to go lower.

[01:58:34] Okay, in the urban only. Correct. Okay, now that you mentioned the TRC Transit Related Center, where is that? That is currently, it's renamed, it will be renamed from Plan Development Transit-

Related Center, and that is currently around Loudoun Station.

[01:58:51] So Moorfield Station to the south, Loudoun Station to the north. Okay. That district exists there. And then that's an urban, so then they can go up with permission or however. Actually, with the new draft regulations, the minimum height is 95 feet, but they can have any maximum height that they propose.

[01:59:10] Okay, now is there any transit-related center in the suburban? There is. um no are you sure there's a little bit actually and uh yes there is a little bit i'm sorry okay now it's but it has its approvals right now okay but can they come in front of us 60 and ask to go higher in that trc and this could you could you repeat that question please and if a trc transit related centers in a suburban area can they come in front of us and ask to go higher than 60 they could request that yes okay and then we have to vote up and down yes or no to go higher But at least we have the authority to say yes or no for the suburban.

[01:59:48] Okay, that's good. Good to hear. Why can't, another question is, why can't we, just to ask a question, why can't the rules be separated? Because the state code of Virginia requires a zoning district to treat that district uniformly regardless of its location.

[02:00:08] So we couldn't say you have a different requirement in the suburban policy area than you do in the urban policy area if it's the same zoning district. but as long as we're able to if they're in the suburban want to go higher than the 60 they have to come in front of us and ask kind of like what's currently happening with a special exception or it would be part of a zoning concept plan amendment because it's as existing tc and they have to give permission yes it's not you can't administratively say oh yeah you can go to 70 or 80 or that's correct it would have to be part of that that's good to hear um i think bear with me One second.

[02:00:44] They have to come in front of us at least. So that's a stop gate, right? I think that was it for me for right now. All right, that's okay.

[02:01:06] Okay, I'm in the book. I'm in the hard copy book, and I'm on page six of chapter two under green space. Community open spaces in the form of plaza, green space, or amphitheater must be provided to satisfy the inner core focal focal focal point how are we using the word open space because i don't believe that an amphitheater in green space is the same thing and so if we're saying we want green space we can't say that all the space including the amphitheater is green space that's my first question go to the next page number seven um are we making the uh are we

[02:01:43] differentiating the page 7, number 4, or differentiating the two terms commercial use and public use, and that is on number 4. If you go one page back, two pages back on chapter 2, page 2, for the outer core suburbia area, how did we determine that it's a quarter mile, or the inner core suburbia area, how did we determine it's a quarter mile and not more than that, or less than that and then finally my question would be for Mr. Stoltz if you could come to the

[02:02:17] podium if we are really trying to get as much and different types of attainable housing as possible why have we taken out co-housing from any of the district areas knowing that we've had some confusion and such about co-housing before why didn't we kind of clean up what co-housing is instead of taking it completely out if we're really trying to get as many houses as as variety of housing as possible i don't care who goes first i'm going to just start to answer your questions from the beginning okay so your first question was about community open space so in the

[02:02:55] trc zoning district there's a um a pretty small amount of open space anticipated because it's supposed to be a dense development. That is, I think it's actually 10%. So that is a different requirement in the development standards, the open space requirement. In this case, you can use...

[02:03:19] I understand what you can use. I'm asking, how can you make an amphitheater and green space interchangeable? They're not the same thing. Well, because community open space is defined as space for gathering. So it's not necessarily green space. It could be some sort of space for gathering. So it could be something that's more community related, like an amphitheater.

[02:03:44] I don't particularly like that, but we may come back to that later. Okay. The question about the commercial and public civic institutional uses. So those are the uses that are listed under those use categories in the use list. Is there something more specific that you're looking for? Do we differentiate at all between those two statements? Is commercial use and public use There are two different use categories. There's commercial and then there's the public and civic institution. Okay, that's not how I read. Okay, that's good.

[02:04:14] That's good. Okay. And then the determination of the quarter mile and the half mile, that's a approximate quarter mile, so it doesn't have to be specifically one quarter mile, and that does come directly from the revised general plan. I mean the 2019 general plan that there there's an inner and outer core in the urban transit center release type all right and it's it's you know it can't be specifically one half mile but it's kind of roughly that way okay again we're gonna have the committee as a whole so i'll come back to that co-housing

[02:04:49] so the co-housing use is in the revised 93 ordinance as a use listed in the air one and air two zoning districts we have not had anybody come in for a proposal for co-housing that meets the zoning ordinance requirements also whether that the way co-housing is is defined it is not so much a use as it is a development option because when you look at the definition co-housing is individually owned dwelling units in the air one or two that would be single-family detached units or the only unit types permitted in that district so it was basically removed just began because a lack of use of that use and the fact that it can be accomplished

[02:05:29] through normal subdivision processes we're going to have that discussion a little more later because i'm going to quibble with that answer a little bit and so we have that discussion a little bit more later okay that's fine thank you sir okay i think that was everybody i think that was all for the chapter two so now we're going to go to our so how do i speakers do i change this i got i got a whole lot going on up here tony and mr buffington and mr sains are very very accommodated of how far I'm spread out along this day, so thank you.

[02:06:01] - Oh, thanks. - Do you have anything else before I go to speakers? You guys good, you're good? - Nothing from staff, thank you. - Okay, so as I said earlier, in an effort to just have continuous and more communication and better understanding, there are six industry areas that have been invited to speak.

[02:06:21] It may not be the same person every time, but they will speak every time for two and a half minutes, and then I will have Mr. Turner joining me Follow-up meeting with these industry areas every Friday for, I have an hour slated, so hopefully for an hour.

[02:06:39] So we will start today. The person representing the chamber today is Mr. Tony Howard. Commercial development is Mr. Mike Romeo. With an intro development, it's Angela Rias. Attainable,

affordable housing. I like the word attainable better, actually.

[02:06:55] Mr. Kim Hart. Conservation and preservation. Mr. Robert Pollard. And today, the animal and wildlife conservation rep would be Ms. Jim Bingle. Good evening, Mr. Howard. Good evening, Madam Chair and members of the Board of Supervisors. My name is Tony Howard, and I am the president of the Loudoun Chamber of Commerce.

[02:07:12] On behalf of the more than 1,000 Loudoun employers that comprise the chamber's membership, I want to thank you all for the opportunity to be here this evening to address the county zoning ordinance rewrite. I especially want to start by thanking the board, as well as individual members of the board, as well as county staff who have worked so hard to meet with the chamber and other business groups and leaders to better understand our concerns with the rewrite. We do appreciate the significant effort from all parties to get the ZOR to this point this evening, yet there is still much work to be done and very little time to address what we feel are still some of those existing

[02:07:47] shortcomings. Tonight and at future work sessions, you have the benefit of hearing from many volunteer business leaders and subject matter experts on most areas of zoning and development. They possess considerable real-world experience that allows them to understand how the zoning text will or won't support this board's goals for creating jobs economic inclusion and attainable housing here in Loudoun. I want to thank you chair Randall for inviting the business community and other stakeholders to speak at these work sessions and to offer the expertise they possess in support of the board's work that rewrite the to work on the draft ZORA this evening the chamber is asking you

[02:08:22] for to support our proposed motion on modifiability no ordinance is perfect and the ability for the board to allow for modifications provides flexibility and the ability for innovation as this motion impacts all chapters of the zoning ordinance rewrite we believe a vote tonight will set the stage for the rest of this process or let's vote at the appropriate time additionally the chamber has worked with NVBIA and NEOP to consolidate all of our proposed changes to chapter two into one document I understand those will not be taken up tonight but we do ask your consideration for approval at the appropriate time of that motions being heard and voted on ultimately when When this rewrite is over, I hope that we can look back with appreciation at the level

[02:09:02] of collaboration and cooperation between the public and private sectors on this process. We should be proud to see how the business community and our county leaders have worked together to meet our collective responsibility for Loudoun's future economic prosperity. I thank you for the opportunity to address it this evening, and I thank you for your service to our community.

[02:09:21] Thank you, Mr. Howard. Mr. Romeo. Hi. Good evening. Good evening, Madam Chair, members of the board. Thank you for allowing us to provide input from the commercial development perspective this evening. We spent countless hours identifying hundreds of issues and working with staff to resolve these issues.

[02:09:39] We hope our input is taken under consideration by the board this evening. For chapters one and two, we have four primary topics of concern, two in each chapter. In chapter one, grandfathering slash transition rules and nonconformities are primary topics of concern. For grandfathering and transition rules, we support efforts to adopt transition rules that protect existing and imminent applications.

[02:09:59] We appreciate that a discussion about the adoption of transition rules is underway, and we support these efforts. For nonconformities, we strongly recommend that the scope of reconstruction rights for illegal nonconformity after a casualty be carried forward from the existing ordinance.

[02:10:14] This language has served the county well and should not be revised as part of the zoning ordinance free right. We are very concerned about how this proposed language will negatively affect financing and refinancing for commercial development projects in Loudoun County. One of the first things that purchasers and equity investors look at when making investments in jurisdiction is their ability to rebuild in case of a casualty.

[02:10:36] Other Northern Virginia jurisdictions have significantly broader casualty reconstruction rules. The proposed change would put Loudoun County at a severe competitive disadvantage for new commercial real estate development investment. And I would just like to thank Judy and Chair Randolph for your comments earlier this evening regarding nonconformities.

[02:10:53] In Chapter 2, modifications and location requirements are primary topics of concern. For modifications, we support an approach that permits modifications similar to what's permitted in the existing ordinance today. There's been much discussion about that. We support the chamber moving forward with those modifications. And we appreciate supervisor Umstads and Letourneau's comments earlier this evening.

[02:11:12] For the location requirements, there are over 20 references in chapter two that restrict the proposed zoning districts to specific general plan place types, including the PUD district. For example, you won't be able to rezone to the IP district in the Route 28 SMU place type a new 10-acre flex industrial use in an area that's already predominantly PDIP today. That just will not be allowed under the current regulations being proposed. These location requirements create a barrier to entry that should not exist. This rigid approach to zoning only occurs in one place in the existing ordinance. That's the Route 28 corridor overlay district.

[02:11:45] These districts were so rarely used and so prescriptive. They've been removed from consideration for being carried forward. To address this issue, we recommend these location requirements be removed or the comprehensive plan amendments allowed to be are allowed to be processed with rezoning applications i'd be happy to answer any questions you might have thank you mr romeo we appreciate it good evening you are you are um representing the commercial no the residential development good evening we're ready thank you madam chair board of supervisory members um i'm angela racis residential um development community representative tonight

[02:12:20] The county has made a significant good-faith effort with the 2019 general plan, policies, and strategies to help provide a full continuum of housing solutions to support the community. There is a real opportunity through the ZOER to provide more housing in the place types envisioned with the proposed densities, opportunities for attainability, and innovative design.

[02:12:40] Given the commitment in the home building industry to continue to build attractive Loudoun communities that we're all proud of, but also to provide smaller housing footprints and sizes, varying product and innovative new architecture to assist with diversification of housing choices, while also contributing more affordable homes in the housing stock, we questioned some of the zoning ordinance specifics that limit and reduce the ability for the residential development community to provide these critically needed homes for future residents.

[02:13:10] We recognize that many comments have been made and addressed by staff and PC through this process, but there are still more concerns and work to do. Specifically in Chapter 2, various setbacks, lot coverage, open space percentages, mix-of-use criteria are prohibiting this opportunity by limiting density, increasing costs, limiting innovation, and ultimately working against this housing supply and attainability policies.

[02:13:36] We've been told to provide some specific examples, which you have seen in your packet. While only have a couple of minutes, some include so many suggested reductions and setbacks in lot coverages in suburban and transitional districts to allow for that innovative design, market conditions, and the quantity of homes envisioned in those areas.

[02:13:56] For example, suburban compact neighborhoods are more restrictive than suburban mixed-use setbacks, where the suburban compact neighborhood was designed in the Comforts of Plan to be compact residential development providing opportunities for a variety of unit types that can be designed to fit within adjacent to surrounding neighborhoods. Also, the transition small-lot neighborhood district has the same setbacks and more restrictive open space criteria as existing TR1, where the density is one dwelling unit versus four dwelling units.

[02:14:26] While smaller footprints help that, it cannot be accomplished alone. So with 50% open space, common public open space with smaller homes can be a community benefit over large private yards whilst allowing for that greater housing supply. Beyond the more restrictive and complicated open space requirements that you'll get to in Chapter 7, Chapter 2 contains... Oops, am I done?

[02:14:49] Yeah, I know your time is up. Thank you. It goes very quickly. For the attainable housing, we have Mr. Kim Hart. Good evening, sir. Good evening, Madam Chair and members of the board.

[02:15:04] as you know i'm kim hard and i build attainable housing in louden county i'm speaking tonight on behalf of the members of my industry when it comes to attainable housing our collective goal now is to implement the unmet housing needs strategic plan in my professional opinion the draft zone entrance you have in front of you cannot meet the goals of that plan for three reasons first of all a bigger stick is not enough the sticks have gotten bigger the percentage of adus required in any residential rezoning has increased, but increasing the percent of ADUs per rezoning is not enough. At the levels of density we need to support ADUs, only the urban and suburban policy

[02:15:42] energy areas are suitable. But have a look at the Google Maps. In my view, staff has not proven that there's enough raw land left for rezonings alone to provide ADUs to meet your goal. Secondly, the new zoning ordinance still provides no carats. In theory, bonus density is supposed to provide ADUs. But in fact, that hasn't worked out. By the time you apply the restrictions from all 10 chapters that you'll go through in detail, it's virtually impossible for a project to hit the initial maximum density. Here's some informal data. In my 20 years, I've managed it only once.

[02:16:18] My friend Roy Barnett, with almost twice my years of experience and probably 150 land use applications, got added ADUs through bonus density only once. And my friend Peggy Crown, who's still going through her files for me so far has found she managed it only once so this carrot isn't working and finally there's not enough flexibility the new ordinance proposes to fixes fix the problem of too many z mods by being highly prescriptive and severely limiting allowed modifications as you note in appendix c out of 650 pages of ordinance there are only 79 items

[02:16:53] that can be modified nothing else can be modified consider this under the proposed ordinance a project must score a perfect 10, if not SCAF is obligated to not support. But if the board wanted to allow modification of two or three reasonable modifications in order to accomplish some new affordable housing goal, that would be attractive for us to do, but we can't do it under the new ordinance. So finally tonight, my request is you have in front of you a straw poll to amend chapter 10 and remove Appendix C. I acknowledge it's out of sequence, but I support what Supervisor

[02:17:31] Letourneau said. It would be a great help if you could vote on that tonight. Support that straw poll so that we could see that we have some hope in the future and you don't have to make it perfect in your work session. Thank you, Mr. Hart. Thank you so much. I appreciate it. Speaking on the conservation preservation is Mr. Robert Pollard. Good evening, sir. Hi. Good evening, Chair Randall, members of the board. I'm from the, I represent the Heritage Commission, but tonight I'm trying to speak on behalf of the broader preservation community. First, you know, we really do appreciate the countless hours and the hard

[02:18:06] work that the staff and the board and the Planning Commission have devoted to drafting the zoning rewrite. As you know, as well, preservation organizations have likewise worked mightily to provide input into this product in an effort to protect our precious heritage and natural resources. Now here's the key message from that community. It's critical to finish the zoning rewrite this calendar year. This is arguably the most important legacy of this board. Failure to

[02:18:42] get it done now would delay implementation of important reforms and improvements that affect everyone's quality of life. This has been years in the making, and delay will not improve the final product. And since it's such a monumental task, looking forward, perhaps the county may wish to plan a rotating schedule for rewrites of various chapters in the future, but that's the future.

[02:19:08] For now, please finish the job this year. Now on chapter one, I'm just going to mention one major point which you've already highlighted, and that is grandfathering. Please instruct staff to strictly limit the opportunity for this practice. We believe the board should identify clear cutoff points. That is exactly at what stage in the review process an application must reach before it's even eligible for grandfathering. Why? Because otherwise developers could effectively circumvent the new rules and regulations by getting their properties grandfathered before they even complete

[02:19:47] a formal application. You know, we know from experience that seemingly small exceptions to the rule like this can later become major loopholes, big hole loopholes through which some can drive a truck or even a bulldozer right through. So please don't let that happen.

[02:20:07] As staff points out, the board has the legislative discretion to limit grandfathering, and we hope you exercise that power thank you very much thank you thank you very much mr paul i want to personally thank you because what time that we talk on a saturday night like 8 30 or 9 o'clock on a saturday night you took my call and we've talked quite a few times and you you've been you've been very accessible the past couple of days i really do appreciate it thank you so much and then our last speaker speaking for the animal wildlife conservation representative is miss jim Bingle. Good evening, Ms. Bingle. Good evening, Chair Randall and board members. Thank you for

[02:20:45] the opportunity to represent and provide comments as a stakeholder for wildlife and habitats. We appreciate the staff and planning commission's many improvements in the draft to protect and expand our natural resources and provide much needed habitat for species survival. We urge you to adopt the ZOA

before the end of December to affect changes sooner than later because there are always opportunities for later amendments and improvements. For example, after the '93 ordinance was adopted, there were four amendments in the first year, and after the 2003 revision, there were five amendments in the first year. So it's possible. Future Boards can also avoid

[02:21:25] a heavy lift of the whole ordinance if they have a schedule for comprehensive plan reviews and associated zoning amendments during their terms, along with adjustments for needed unintended consequences. While we have seen many improvements as the draft has evolved, we understand that there are changes that will need to be scheduled before adoption of the ZOR. There is still a need to address critical quality control issues before adoption, and we have some suggestions we'd offer that don't demand a heavy lift by staff. A couple of points on Chapter 2. Strong, well-written purpose statements for the zoning districts and throughout the ordinance are a feature, not a flaw,

[02:22:05] of our current ordinance that should be included going forward. They provide a framework and consistent description of comprehensive plan elements that the zoning text is designed to implement and common understanding for all users of the ordinance.

[02:22:21] And it's a measure to evaluate proposals for their appropriateness as many proposals ask for regulatory relief during the legislative process. We support staff's position on flexibility as the draft has been developed to stay true to the 2019 Comprehensive Plan, eliminating the need for many modifications while also giving the flexibility needed to accomplish the innovation desired in Loudoun.

[02:22:51] And we appreciate the holistic approach to attainable housing, as has been mentioned, but caution too much reliance or expectations to get attainable housing with market rate housing to meet county targets. To ensure attainable housing in the long term, other means such as the land banking option that's been excluded for this rewrite and changes to ADU covenants, among others, are needed.

[02:23:19] Thank you. Thank you. Thank you very much. And I actually will be talking to all of you at 11 o'clock tomorrow morning, or most of you at 11 o'clock tomorrow morning. So thank you very much. I really, no kidding, appreciate this collaboration, this effort, and how accessible all of you have been.

[02:23:39] We are now going to go to closed session so we can have the discussion around grandfathering and then we will come back out, have a committee as a whole. We have a committee as a whole for an hour. We don't have to take the whole hour, supervisors, if we don't need to take the whole hour.

[02:23:55] and then we will go to any motions that will be made for Chapter 1 and any other motions that people think that will need to be made because they're going to impact the rest of the zoning ordinance as we go through it. Having said that, do we need a quick break before we go to closed session?

[02:24:15] No? Okay. Yes? How about we take a five-minute break before we go to closed session because once we go to closed session, you can't take a break. All right, let's take five minutes before we go to closed session.

[02:27:52] Mr. Sains, would you please read this into closed session?

[02:33:05] I move that the Board of Supervisors recess this public meeting and enter into closed session pursuant to section 2. 2-3711A8 of the Code of Virginia to consult with legal counsel regarding legal considerations for the Zoning Ordinance Rewrite Project concerning grandfathering into specific legal matter requiring the provision of legal advice of counsel.

[02:33:26] Motion was made and seconded by Ms. Glass. Let's cut you on the motion. Seeing none, all in favor say aye. Any opposed? That motion will pass 702. No, Ms. Glass seconded it. Well, Ms. Umstead was just walking back in the day of 702, Ms. Umstead and Mr. Kirsten.

[02:33:50] I wasn't. Me asked too. Nope, I wasn't. But she didn't talk. She just walked back up and she didn't say anything.

[03:07:43] No.

[03:32:42] We are back, and Mr. Sains is going to read us out of closed session.

[03:46:55] I move that the closed session be adjourned, that the Board of Supervisors reconvene in its public meeting, that the minutes of the public meeting should reflect that no formal action was taken in closed session, and further move that the resolution certifying the closed session be adopted and reflected in the minutes of this public meeting. motion is made, seconded by Ms. Vricksman.

[03:47:12] Discussion on the motion. I will say that Mr. Kirshner was not here to vote us in the closed session, but he arrived very shortly after closed session started, so I am comfortable with him voting on this motion and affirming if he would like to do that, because he came in right when closed session was beginning.

[03:47:28] So, all in favor, please say aye. Aye. Any opposed? And would you all please affirm, Mr. Letourneau? Affirm. Affirm. Affirm. Affirm for the 99. Okay. Affirm. Affirm. Affirmed. Affirm? Mr. and everyone has affirmed.

[03:47:51] Thank you very much. All right. So I think I am comfortable saying that we're going to now move to a committee as a whole. We do have a motion coming up later on after on the issue of grandfathering, but it's being worked on and written right now. And so we're going to go to the committee as a whole while that is being worked on.

[03:48:07] So we're going to do a committee as a whole for one hour if we need it. And for the most part, this is to, this is why I was kind of cutting the time off before, to ask more questions, to formulate, especially for Chapter 1, any motions that you've already put out here or the motions that we have already that are in the package, anything you're just not clear at and want to ask staff, this is the time to do that.

[03:48:34] mr schultz you i will be coming back to the issue of uh where'd he go oh there you i'll be coming back to the issue of um co-housing so anything like that we just want to kind of wrap up and and do we can do that now an hour on the clock if you have any now i'm and i'm going to go in the normal order so by the time i talk call on mr sayings and then me if your light hasn't been on i'm not coming back to you right so miss brixman oh uh thank you madam chair um back to the issue we were talking about with the building heights um would there be a way to change the

[03:49:13] district names so that we so that we can limit buildings to 60 feet in the town center in the suburban policy area so i think what you're asking me is to change the name of the zoning district in the suburban policy area where it's tec and the name of the zoning district in the urban policy area just change the name of the district there would not be any other so i just yeah i'm thinking

[03:49:47] that's the only way to resolve being able to treat them differently is to change the name of the district so kate's point earlier was that we actually do have two distinct districts which kind of emphasize the point i was trying to make the issue the issue is is revana and waterside because they've already been

approved yes they're already proven the rtc so if they ever come back in and want to make an adjustment they need the ability to be above 60 feet to just maintain what they have not even change it so the fact that they're in that district is what complicates it it's not that there's not two different districts in the ordinance in front of you that would achieve the same purpose but they would have to choose to go is it t trc um they would have to

[03:50:26] oh and right now they're in suburban they're tc because that's what they had at the time to take they're in this they're in the suburban they're in the urban transit center place type they're using TC, which implements the suburban mixed-use place type.

[03:50:43] Okay, I'm going to have to talk to you guys about this offline, I guess. The other thing that I was concerned about is the urban employment place type. Sorry, no, that's not it. It's the affordable dwelling unit discussion and the density bonuses, and it says the county's solution is to revise legacy single-family residential R2, R3, R4, R8 zoning districts to allow that higher density regardless of whether ADUs are included with

[03:51:20] minimum lot sizes. So I guess what I want to understand here is because I have a lot of the R4, R8 kind of things going on in my district. If we are just allowing those legacy districts to stay but we're taking away the um we're allowing higher density regardless of adus i guess what my mind goes to is older neighborhoods for example like a sugar land or something like that which has

[03:51:53] a lot of smallish townhomes could that could this lead to gentrification for lack of a better word because we're we're now allowing density without any requirements so so could they come into an r4 r8 whatever and then build a lot more density so most of the zoning in the county the residential zoning in the suburban policy area not all of it but primarily anything that's probably some r3 but r4 and higher is subject to a rezoning that rezoning has a maximum density that

[03:52:32] was approved with the rezoning request. So there could not be properties that, or there could not be additional residential units added to those districts unless that density was, has not been used already in the build out of the development. Oh, I see. So they're, they're effectively stuck if it's already been rezoned. That's correct. And they'd have to come in for rezoning. Would they have to come in for rezoning if they wanted to? They could have to come in and get a zoning concept plan amendment, yes. Okay. All right. I think those are all the questions I had. Thank you.

[03:53:11] Because we're in the committee as a whole, if somebody has questions, finds that they have questions again, if everyone else has spoken, I'll come back to you if you find that you have some more questions. Mr. Turner. Thank you, Madam Chair. First of all, I think we should rename the plan unit development a plan unit transformative zoning, so we can call it a putz instead of a PUD. I'm just saying, it's just a suggestion. I have a question on the PUD.

[03:53:44] There seems to be a perception that the PUD is not as flexible as we think it should be, and the belief that even with a PUD application, it can only modify chapters 2, 7, and 9 based on the reading of paragraph 10.10.4c modification, which says you can only modify chapter 2, 7, and nine. Can you guys clarify that? Sure. So chapter one is the introduction. It has some very basic parameters that are being set about how the ordinance is implemented. And if you want to add to that a little bit more, you can. There should not be really any reason that someone would want

[03:54:20] to modify that district or that chapter. Chapter three is uses. Uses are not permitted to be modified in the current ordinance that carries that over. Chapter four, use specific standards have a minor special exception option to modify most of those standards already.

[03:54:43] The overlay districts, we, I think, decided that was not a district to be modified because we're trying to implement something with that overlay district that shouldn't be modified. There's some environmental resource requirements, historic overlay district, airport impact overlay district.

[03:55:02] Those are things that we wouldn't want to have modified. Same with six, which is natural environmental resource requirements. Development standards are, you know, those are things that can be modified, buffering and screening, lots, yeah, lot requirements.

[03:55:20] Signs can be modified with a signed development plan. Chapter nine has certain things that are identified to be modified in the attainable housing. The other things are really things that shouldn't be modified. their um you know kind of the process of how you go through the adu program and then we have procedures in 10 we shouldn't be modifying how to to process applications same with 11 officials boards and commissions and then definitions we shouldn't be modifying the definition of

[03:55:52] okay good thank you that it mr letourneau um yeah i would agree on the especially on the airport impact overlay district i could envision if we allowed modifications on that we would start getting a whole bunch of them um could somebody try to modify if that was allowed to be modified could somebody try to modify that specifically in and then in conjunction with a residential rezoning application if it were allowed to be modified yeah they could make that request they

[03:56:27] could do but we are not identifying that as something to be modified okay um so i wanted to talk for a minute on um in the chapter one stuff the hold on i'm gonna find my notes here the non-conformity issue um i'm kind of of the general opinion also that the language is a little bit too tight i know that supervisor turner has a motion i believe tonight you're offering on this which i'm inclined probably to support um is there a reason that was drafted that way though

[03:57:01] oh we only were trying to align the language with the code of virginia okay that was it but we can go a little further than that and you know i think the language and supervisor turner's motion is casualty or event beyond the owner's reasonable control right you can certainly put that back in that's in the current zone zoning ordinance staff would support that motion yeah okay all right well that's easy enough then um i don't know that i want to get into i mean we got a lot of requests on some of these specific yards, setbacks, sizes, all these kind of issues.

[03:57:37] I think that's where my general inclination, and I'm saying this more for industry's perspective than probably staff's, is I'm not inclined to go and start changing all that stuff in the zoning ordinance if we allow it to be modified. I wouldn't want those changes that have been proposed by some of the industry groups to be the baseline in the zoning ordinance.

[03:57:57] I would want what's in the zoning ordinance as staff has proposed. But I can foresee particular situations where there may be a need to modify that, particularly in the suburban neighborhood districts. And then as well in the transition compacts neighborhood areas where we've also received some feedback, just, I guess, sort of for the benefit of everybody.

[03:58:22] I've been trying to have some, or my office has been trying to have some conversations with the only developer that's actually developed under the TCN so far to see what their experience is like and that's

kind of informing my perspective on that um i think one of the issues in the tcn potentially in the zoning ordinance is um that there's no exemption from the unit mix requirements um and that you know for a particular size of a if it's a really small parcel like under 10 acres or something like that um that could be problematic given given that we're requiring 50% open space, right?

[03:59:02] So do you have any thoughts on that? So when we accommodated smaller lot sizes in the suburban neighborhood and suburban compact neighborhood zoning districts based on a planning commission direction, those sizes and sort of that exemption from those requirements was based on infill requirements.

[03:59:32] There weren't any, there aren't any infill. I mean, not requirements, infill policies. There aren't any infill policies for suburban compact neighborhoods, so we didn't recommend a similar requirement, and that was what the Planning Commission supported.

[03:59:49] I mean, I kind of agree with that, but I also think is there another way to accomplish, you know, if you ended up with the TCN parcel that's 10 acres? Well, the other thing is minimum. You're saying TCN, transition compact. Right, so in the transition policy area, there are no.

[04:00:05] Yeah, and I can agree with not applying infill policies to the transition compact neighborhood area, but I still think there probably should be a way to deal with small parcels. Well, the minimum district size is 15 acres, TCN. So there's an anticipation that that unit mix should be able to be met.

[04:00:21] And it is 70% single-family detached and 70% max, 70% single-family detached, duplex, triplex, quadruplex. So they could split it. They could do 70-30.

[04:00:37] yeah okay i mean with 15 but you know still you have seven and a half acres of developable property right if you had a 15 acre parcel i mean i mean we can look into it but yeah i think we probably should i mean what are you going to do with seven and a half acres of not going to be much of a development i guess is what i'm saying so i don't know it's just that's an issue that i think is probably worth looking into a little bit um and then um were some of these set up as like maximum yards instead of minimums that is i think i have i need to look

[04:01:14] at that more closely i think i tried to direct that once and for some reason it didn't work i just need i can i can easily make that just a change that so that just might be like a scrivener's error yes because that was confusing a heck out of me i saw that i saw that too yeah yeah okay all right i think that that's all i have right now anyway attorney you want to go again okay

[04:01:40] Okay. All right.

[04:01:58] You were this close. Sorry. I do have one question. I wanted to follow up with the non-conforming uses specifically. And I think Mr. Buffington said he thought maybe my question, for example, the farm building that had been addressed earlier maybe was addressed, but I missed a short portion of that. So I kind of wanted to follow up is given that scenario, because I'm concerned we're going to run into this more often, especially when you have, for example, that was you had a subdivision with a lane going back.

[04:02:18] And now you have a farm building that's been used for for farming uses, fixing of tractors, et cetera, that wants to be replaced. But it's a nonconforming use. So it's going to have to move it farther off the road. My question is, under the new zoning ordinance, would that still be a restriction?

[04:02:33] And if that's the case, is there a way to make exceptions for agricultural buildings that are agricultural use so that we can keep them in good improvement and we don't have to wait for an act of God or a burning of the building to actually replace it? So remind me a little bit about the story.

[04:02:54] Was it the request that it was just taking down an old building and putting a new building? Yes, it was a non-conforming use because a subdivision had been put in behind it and you had a right-of-way going past it. And so you had to create, if you were going to take it down, you had to create a longer setback for that building. That's just a perfect example.

[04:03:11] But they were just, there was no damage. They were choosing to just put a new building, same footprint. Right. That was the original request, yes. Okay. I think in the end that that building was damaged. It ended up being that way because a big windstorm came. Right. In the situation where that didn't happen, again, I think the way the current ordinance is written, it does allow more flexibility for replacing non-conforming structures that are historic.

[04:03:39] If I'm not mistaken, I don't know if it goes as far as just any ag structure. Right. So if that's something you would be interested, we could look into that. Yeah, I'd like to look at that because I do think one of the things, of course, we want to continue to do in the West is encourage agriculture, and we don't want to lose some of our agricultural structures and buildings simply because they fall into a nonconforming use because zoning ordinances change.

[04:04:01] And it's going to happen more and more, I'm afraid, just with these developments get bought, And sometimes they go into development and you have a strange situation like you had here. And I just want to make sure there are some protections for those ag buildings because we want to see them come back. We want to see them kept in good repair.

[04:04:17] And so if perhaps we can take a look at that, I'd greatly appreciate it. We can think through it. But the regulations for the historic structure that we spoke about with Supervisor Buffington, I mean, if you take the structure down, obviously it's not historic anymore.

[04:04:34] You're building a new structure. So we need to think through it. So that's a little different than agricultural use, perhaps. It is. It's very different, but we'll think through it. Okay, and I greatly appreciate that. You also don't want a forced act of God. I'm not going to say it. Just saying.

[04:04:52] Exactly. Acts of God often are more human than we know. Exactly. But nonetheless. Anybody else? Mr. Buffton, your light going on now? No? Okay, wonderful. All right, a couple things. Let's go back to the book, and let's go back to chapter 2, page 2 in the book.

[04:05:16] So when we talked about the inner core, outer core, and suburbia, you said that it's not really measured. It's not really a half mile or a quarter mile. That's just what we're kind of working with. Is that just industry standard for the most part, that even if it's not measured to be a quarter mile, Is it industry standards that inter-core is a quarter mile?

[04:05:44] Because that just doesn't seem like very much to me if we're trying to get dense vertical development in those areas. So when we developed that concept in the plan, the quarter mile is generally a five-minute walk, and it was a way to try to keep things closest to the station at your absolute highest densities.

[04:06:05] I mean, I agree with you, it could be larger, but that's where we were at in the plan. And those circles in the plan were based on essentially the exits of the stations as was drawn in GIS at that time. And so that's part of what Carrie is saying.

[04:06:20] The idea is there. We're not going to hold somebody to measuring from that exact point from the circle that's on that other map. But that is the general goal is once you step out of the station, you should be within a five-minute walk of whatever larger building we're talking about. That's the thinking.

[04:06:36] And so that's what's being implemented here. Okay. I understand what you said, what you just said. I don't know that I agree that it needs to be that small. I think a five-minute walk, something like this, I don't know that I agree with that.

[04:06:51] I think a 10-minute walk or more would be completely reasonable, to be quite honest, for what we're trying to do with the inner core of these areas. So, okay. Is it appropriate? Would it be appropriate? And I know I use this term maybe incorrectly, and you all correct the term because it's what you all do.

[04:07:11] As we are building some of these areas where we have inter-core suburbia and out-of-core suburbia and all those things, if at this moment the market doesn't require dense vertical buildings and the things we're talking about eventually, do we put something there as an interim use to hold it?

[04:07:33] What do we do with that right now so that we know that we're not building in those areas buildings that are much too small, not dense enough, but cannot come down easily, be that surface parking, be that green space, whatever that might be.

[04:07:51] Is there something we should be doing right now in those areas? I'm looking at the plan policy. I think it identifies some interim uses, and they are things that could be easily...

[04:08:07] Reverted for something like that? Yes, like a surface parking lot or green space. It would not be a farmer's market area or something. It wouldn't be something that would be a building. It wouldn't be a building that would have to come down later. Right. Okay. Right. Back to the question on page six.

[04:08:28] So I just want to say back what I think you said to me about the open space. And so I'm on six, number one, community open space in the form of a plaza, green space, or amphitheater must be provided to satisfy the inner core focal point requirement.

[04:08:46] All right. So in this area, in this space we're talking about, we're not trying to have a certain amount of just green space because I can foresee an area that is just kind of almost completely concreted over, no matter how nice it might look, there's no green space there at all.

[04:09:09] And so are we not trying to have some green space there? I mean, so if open space can be anything, and I understand what you're saying there, should we not try to program in some of the open space needs to be green space?

[04:09:26] I think you're right that it could, I mean, there's definitely going to be some sort of hard, it could be a hard surface to plaza or something that has, that's not. There's no green space at all. But I'm trying to remember the current zoning ordinance, and I would need to look at it again more closely, but I think that it's, we're sort of mirrored the similar requirement that that open space requirement could have, could be.

[04:09:53] But the reason we're doing this ordinance is because we don't always, I mean, I think there's some things in the current ordinance we actually want to change, and this is the time that we can do that.

So it might mirror what we have there now, but that doesn't mean I want to keep it. There's a, I need to look at the open space requirements as well.

[04:10:10] There's. When we can come back, this is chapter two, so we have. I can give you a more extensive answer, definitely. Because I would tell you what my goal is. I'll tell you that the goal is to say that of the open space, this percentage needs to be green space.

[04:10:26] Sure. So that there's not just, you know, nothing but hard surface in that entire area. And so even if the current ordinance doesn't have that, I'd like to see that a change or something in there that requires some green space right there. Dan, do you have something to say on that?

[04:10:41] The one thing I'd add is that with this being the area where we would have the most density and it would be the most urban, presumably over time the lots and the spaces you're using are going to be smaller and smaller than they are right now. And so by leaving it flexible, if someone comes in and does something on a small lot, they don't have to do 10% of that as green if they only have an acre that they're putting a large building on because essentially at that point you're kind of looking at it as a city block.

[04:11:11] You know, I do. I just think urban doesn't have to mean nothing green or nothing, you know. I mean, I don't know that I think a nice urban area can have a piece of grass. It doesn't, but what you're, in my opinion, what you're saying is better achieved by policy guidance, that when you look at the larger area, we want to make sure that there's some green space there.

[04:11:32] I do. Not that an individual that comes in with one acre has to put green space on their lawn. Absolutely. That is exactly what I'm saying. You are hearing me correctly. And there is also a requirement that there are open spaces that are not necessarily green. They could be a plaza or a pocket park or something that's distributed throughout the development.

[04:11:52] yes i understand that i understand that i understand that too but i just the way i'm reading it right now all of it all of it can be hard surface area and i would prefer not to see that okay that's what i'm saying um mr stoltz i am going to quibble some with your answer on co-housing and the reason i'm going to quibble some when you say nothing came in that was appropriate, not your words, but nothing came in that applied. The reason I'm going to just push back slightly is because we all agree, and I do believe that even you agree, that the definition

[04:12:30] of co-housing, as it appeared in our ordinance, was fairly unclear. And I don't think there was anyone who didn't agree that that definition was unclear enough that you could have 10 people that do your job and get five definitions of what that is. And so to take out the idea of co-housing altogether, when we're really trying to get toward and get to having a diversity of housing, I think it might be a better ideal to clarify what co-housing is. I mean, when I think of co-housing,

[04:13:09] I think of a college dorm, which we maybe want to have a campus at some point, a small college campus here at some point and so not to have it in there at all just it's just not very logical to me because what we had in there before was a little muddy and if it and if no one qualified it could have been the muddy nature of it but I don't I don't know that we want to take out that housing option altogether because it wasn't used before and I'd like your thoughts on that um yeah I would say that if you did want if it was the board's prerogative to establish or

[04:13:48] reestablish or put back in some form of co-housing that it would definitely need revisions from what's in the current ordinance yeah um i agree so i'm not sure whether that's something that we could

you know and again when that happens whether it's part of this this project or when we start looking at rural uses with the subsequent no this would be no no it well you know that's that's a great question because i think you can do it in i mean obviously you can do it in both i mean co-housing in the eastern area. As I said, it could be a college dorm or you know, although we don't own the campus, we don't own the area, we don't own Genelia.

[04:14:26] And if you look at what's at Genelia, that is co-housing. We don't own that. It's owned by Genelia itself, but it's in the county, and that's an example of what co-housing is. If you've ever been over there, Genelia, what they have is co-housing spaces. And so, and if you looked in the rural part of the county, co-housing may be, you know, a, you know, four or five homes on a farm lot where people who were working that lot would share some co-areas, where the washing machines are, or a kitchen area, but they each have their own living area.

[04:15:04] That would be a rural use. And so I just believe it's a very, I believe it's a needed house type in our zoning ordinance and taking it out because, you know, it didn't apply now when we know that it was kind of a muddy definition, I think we should have something in there that's just a clearer definition, to be honest.

[04:15:25] So, again, this might be a motion, this probably will be a motion that I make on Monday to put co-housing in our policy areas, however you all wanted to define it, that was clearer than it is now.

[04:15:45] Yeah, I mean, that's up to you to do that motion. I would just say, I think, given, in my mind, the amount of time that we're on to do this particular ZOAM, I think trying to work out all the specific details of that use might take longer than what we have with this particular project. Well, that's possible, and it may be that we get toward the end, but with due respect, I also just don't see why it was ever taken out versus corrected, corrected or fixed versus taken out altogether.

[04:16:14] that is i think that that's what the mistake was okay so yeah um all right i think that's did i have let me make sure i have nothing else um before we go i thought i had one more thing chair randall may i may i address you just for briefly of course i wanted to let you know that we do have a definition called rooming and boarding that is already in the zoning ordinance and it would allow for dormitory style housing as well as the type of housing that's at janelia

[04:16:47] a farm. So it may just be rooming and boarding. Rooming and boarding. I have to go read that so I know to see if it's the same thing. Maybe it applies. It may be. I have to go read it and see if it applies of what I'm thinking about. I have to go read it. So if we go to chapter one on page five, we talked about non-conforming uses, and I did ask this question. At what point And where in this ordinance period, because it may be this is a Chapter 9 question,

[04:17:26] did we start having discussion about adaptive reuse? Is that a Chapter 9 question? That's actually in the use-specific standards. Okay. That's for adaptive reuse of historic resources. All right. So let me try to explain what I, because I knew.

[04:17:45] When I'm talking about adaptive reuse, again, I'm trying to get to the discussion about having more residences either for purchase or for rent more residences so um let me give you an example if you are if you go near um um a nova lansdowne hospital across the street from um from lansdowne woods there's a row of buildings there that have been used in the past as medical offices for the most part when

the tower in lansdowne was built when the medical tower was built a lot of people who were in those offices moved over to the tower and left many of those

[04:18:24] offices left them there it's a very very nice little office office park office space it is right across from from um lansdowne which which is um residential it has lots of amenities around it why couldn't a space like that be adaptively reused to become residential so i'm not just talking about historic spaces, and maybe I'm using the wrong word, maybe adaptive reuse is not the right word, but if we're trying to find new ways to get to homes, and we literally have a structure that's already sitting there, and that's just an example, that's not being

[04:19:04] filled, why are we talking about adaptive reuse so narrowly, or am I using the wrong word and we're talking and there's some place in the ordinance we're talking about doing something wider and i'm just using the wrong word which is very very possible i think adaptive reuse is most commonly used with historic structures to to address your question if if you if you take a a property that is in a zoning district that has the rights to do both commercial and residential and it has nothing preventing it from max from using any of those rights then it would be a

[04:19:41] simple switch part of our issue is that because so much of the county has been approved by rezonings with proffers associated with it they are locked into what those those approvals let them do whether it was two years ago or 20 years ago so it's not as simple as them just being able to take a use that that they can functionally could use reasonably but if it's not allowed by the essentially law that was passed whenever that rezoning went through we can't just allow it to happen. Okay, and I understand that, but first of all, we don't know what's allowed and what's not allowed. Secondly, we're doing the zoning ordinance right now, and thirdly, this is one of

[04:20:20] these things where, with due respect, it almost sounds like because we've always done it like this, which is never a good answer. Sometimes, if it's always been done this way, there's no need to change it if it's working, but we have a dearth of homes here, and so if we have a chance in the miller bar zoning ordinance to try to look at some areas and if that means that we can legally rezone we legally rezone if we can't we can't but to have not no option to do it this doesn't make any sense to me i mean the whole reason we're doing a zoning ordinance right now is because after 18 19 20 years we need to do some things differently so we can can we legally look at

[04:20:59] things and what what does that look like in the zoning ordinance to say we're going to look at this area because again this area is literally across the street from Lansdowne Woods from a huge development of homes what is stopping us from even trying Courtney I think of what you're talking about as redevelopment maybe or well maybe I guess because you're saying reusing what's already yeah no I'm not saying developing anything new yeah and I'm not familiar with this specific property and that was just an example that's just I don't know what that is but I think

[04:21:35] what mr glindo is saying it's just that the property was rezoned and they had proffers that say we're going to use this property for office or commercial or whatever and nothing else or you know that's what they have to do so we would have to have a process in place to unwind those proffers normally that's by another legislative application i think we have to be very i understand what you're trying to say, I think that exercise requires enough close study that we probably couldn't do that right now in this process, because what we don't want to happen is do

[04:22:14] something trying to accomplish what you're saying, and then end up with where people say, oh, I have proffers, but now I can do something different because of this change that you made in the zoning ordinance that allows reuse of anything. But when we get to a particular piece of property, we will find that out then.

[04:22:33] But to have nothing in there that even lets us have the discussion or start talking about it, even general language. I mean, guys, we're redoing the zoning ordinance for a reason. But I don't think that the ordinance prohibits it because, as Mr. Glendo says, if the zoning rights that they have already allow it, then they could go through the zoning permit process or whatever they want.

[04:22:54] Not prohibiting and encouraging are two different things. I want to encourage us to look at ways to do more attainable, affordable homes. And I don't know that that's the same thing. And with all due respect to everybody here, and I really do mean that, I have been talking about this stuff since I've been on the board.

[04:23:14] So to now say, well, we haven't done it or we didn't put it in here and now it's too late, we've been talking about this moment for eight years. But what we're trying to say is that even if you change the ordinance itself, That does not supersede the proffers on that property.

[04:23:31] So they have the option. They can pursue a rezoning. That is the option for them to pursue right now, unless they are in a district or had proffers that gave them that flexibility up front. There's nothing that we as staff can really do in that scenario.

[04:23:48] It's locked in. Okay, is there anything, any language, anything that we can say in our zoning order to say we are supportive and encouraging of yada yada yada because right now it's almost like policy language policy language is that possible even that possible because right now you're saying you're telling me all the reasons it can't happen why can't can we start off with but if it is to happen this is how it happens madam chair i don't fully understand the specifics to the scenario

[04:24:22] that you're referring to, but I would invite you to Section 4.09, and you may need to take some time to read through that, but that's titled Adaptive Reuse Standards, and there are specific incentives that are identified there.

[04:24:40] As Director Galindo indicated, it is leaning towards more historic structures, but I think it may be... Are you saying Chapter 4? Chapter 4, 4.09. Again, I don't know your specific scenarios, but I would invite you to take a look at that section and see if that...

[04:25:01] So Chapter 4 is one of our next chapters coming up. I haven't read through Chapter 4 yet. I've read Chapters 1, Chapters 2, and Definitions, which has been all I could do right now, to be quite honest. So I'll read it, but...

[04:25:18] Huh? So you chose to be an attorney, man. That was your choice. But overall, I guess I'm saying I'd like for us as a county to not start off with no and then, like, sweat and claw and bleed to get to a yes.

[04:25:44] I'd like for us to get to a place where we're more saying, yeah, maybe how do we make that happen? But right now we almost start with, no, this can't happen. And I think we have to change our thinking some as we're doing this. and it's the perfect time to, and if some things can't work, it can't work, but we can't always start with no first. So let me, let me give you two thoughts. One is that we've, we have

new districts we're creating that right now nobody is using. Those are the districts you'd want to focus that effort in to make sure that those districts allow the flexibility you're talking

[04:26:18] about. But from a policy perspective, what, what you're hypothetically, we have these maps that lay out the place types for everything throughout the county. You could, we could add policy to the general plan or through some other policy document that essentially encourages that regardless of the place type, that this is something that the county wants to encourage and potentially allow. That way, when those rezonings do come in, staff has something more that says, yes, that's a great idea because policy such and such in chapter four over here says the kind of thing we want. Encourages it to happen. Yes. I'll take that right now.

[04:26:59] I will take that right now. All right, thank you, and thank you for, no kidding, thank you for all the work, and thank you for the conversation. It really was very helpful. All right, we do have motions on the dais right now. And, sir, supervisors, your motions are in your package, and then the one I was just handed as well.

[04:27:20] The first motion that's in the package that would be made, I wouldn't have, because chapter one, the motion put forth by Supervisor Amstead is no longer viable.

[04:27:38] So, because that motion now becomes the motion I'm going to make. So the motion put forward by the numbers on section, chapter one, section two, Supervisor Turner is. And so since he took a long time to write this motion out, I'll go with that motion.

[04:27:57] and then i'll go with the motion on grandfathering and then we'll go and then i'll go back to the endorsement motion and again these are all straw poll motions as we're right now okay mr turner thank you madam chair i move to revise section 1.03.03 point a as follows a replace repair or reconstruction period replacement repairs including structural repairs restoration and maintenance may be made to a non-conforming structure one except for structures located within the flood plan overlay district pursuant to section 5.03 the owner may replace or repair a non-conforming

[04:28:31] structure provided the structure is a a legally non-conforming mobile or manufactured home removed by the owner for the purpose of replacement with a comparable manufactured home that meets current hud manufacturing housing code or damaged or destroyed by a casualty or event beyond the owners reasonable control and one the degree of non-conformity is not increased and two permits are obtained in construction is completed within two years of the removal or destructive event an additional two years for a total of four years is granted if the destruction was due to a federally declared disaster two a replacement structure must occupy the same footprint of the

[04:29:11] replaced damaged or destroyed non-conforming structure unless the new footprint complies with the setback requirements of this zoning ordinance three replacement of the non-conforming structure cannot include increased floor area either through an expanded footprint or additional height or stories. Motions made. Second, Mr. Supervisor Letourneau. Discussion on the motion?

[04:29:32] I have none. You have none? Does anyone have any discussion on this motion? No? No closing or anything? You're good, Mr. Turner? No closing. Okay. On paper, say aye. Any opposed? That motion will pass 9-0. All right. Here we go. I'm with the Board of Supervisors direct staff to prepare grandfathering resolution for consideration by the board that is consistent with the following direction. Any and all

legislative and administrative applications that have been officially accepted for review in accordance with applicable county ordinances and policies on or

[04:30:06] before the date of which the new zoning ordinance is adopted may continue to be processed under the provisions of the 1993 zoning ordinance provided the applicant does not make any modifications to such application that one, changes or add uses, two, increases density or FAR, three, changes or increases to land areas subject to the application, four, in the absence of grandfathering would require compliance with a new amended regulation in the new zoning ordinance unless such modification was requested by or made in response to a comment from county staff in an official referral or review

[04:30:43] memorandum, or five, did I say five already, requires a legislative application to be remanded to the Planning Commission for further consideration as determined by the Office of the County Attorney. And two, administrative and legislative applications shall retain grandfathering status for so long as the applicant diligently pursues approval of such applications.

[04:31:09] As part of the grandfathered resolution, staff should develop objective standards for the refining and determining whether an application has been diligently pursued. Motion is made second by Supervisor Sains. Madam Chair, I'd like to make a friendly amendment.

[04:31:24] You read the 93 zoning ordinance. I believe you meant to say the revised 93 zoning ordinance. I did. Okay, yes. Thank you. Thank you very much. That wasn't friendly. That doesn't mean a amendment. That's just in there. Yeah, sure. Okay. First of all, thank you for everyone who's worked on this.

[04:31:41] And thank you. I often tease Mr. Rogers and Ms. Sidnor about how they are always attorneys. But really, the truth is we need to know what we can legally do and what will land us in hot water if we don't do it correctly.

[04:32:02] So I appreciate the two of you and all the information that you gave us tonight. Thank you very much. Our goal was to make grandfathering, give people some space for applications that are already in process and that have been accepted, give some people some space and time.

[04:32:20] We know that even to get to that point takes time and some expenses, and so we didn't want to make it too restrictive, and we didn't want to do anything outside of when the zoning ordinance, when the new zoning ordinance was actually adopted that would not be, could not pass legal muster.

[04:32:40] So this is how we got here today. Other comments? Mr. Letourneau? Yeah, I'm just going to say I think this is a good motion and a fair motion and a fair way to approach this. I understand there were some that wanted us to go back as far as the pre-app process.

[04:32:56] I don't favor that. I think that's too wide open. Quite frankly, anybody can go get a pre-app on anything. But, you know, setting this at the date of passage for the zoning ordinance for an application that's officially accepted, I think, ensures that it's a quality application and meets the staff criteria, but we're also giving plenty of notice, starting tonight, that that's what the rules are going to be.

[04:33:22] And the reality of this motion is such that we're going to be dealing with 93 revised applications, probably for quite some time, because of what's coming in, and I think that's probably true no matter what uh point in time was was set but i think this is the clearest one and a lot of what we're doing in the regulatory world if you can be clear and everybody knows the rules of the road um that that

speaks to a lot even if it's not exactly what everyone wants all the time and i think this motion accomplishes that i agree i agree mr buffington thank you

[04:33:58] Madam Chair, there was discussion of more restrictions and a little less restrictions than what's in here. I think this was a decent compromise. I just want to make clear that to anybody who's going to come try and lobby us to make this less restrictive, please don't waste your time talking to me because any word change that makes this any less restrictive than it already is, I will be voting no for it.

[04:34:24] These are straw poll votes that were taken tonight, so this won't actually be passed until we do the wrap-up at the end whenever we pass the zoning ordinance. So I know there's going to be some pressure on some of us, but don't bring that pressure to me or maybe I won't even support this in the end.

[04:34:39] So thank you. So Mr. Buffington comes with the threats. Very good, very good. Very good, very good, very good. Anybody else? Actually, with the exception of the last part he said, I think that this is not just a good compromise.

[04:35:06] It is a compromise. It is the legal way to do it. And so anything else, we are understanding that it wouldn't pass legal muster anyway. And so there's not a whole lot more room we can give it besides this. And so we are almost at the legal limit we can do anyway.

[04:35:25] No, we are at the legal limit we can do anyway. so there's no reason to have any further discussions because we can't do anything else even if we wanted to legally. So anybody else on paper say aye? Any opposed? That motion will pass 9-0.

[04:35:40] Okay, Chapter 1, endorsement. Madam Chair? Yes. If I could just advise the board, with the action that you took from Supervisor Turner's motion relating to nonconformity, the second part of this motion that you're about to discuss was to address a staff-recommended way of doing that.

[04:36:04] And since you've passed Supervisor Turner's proposal... We don't have to do it. I further move parts, not necessary. You can remove that second part. Yep, yep, yep. So I'm with the Board of Supervisors. Endorse Chapter 1, Introduction of ZOAM 2020-0001, Zoning Ordinance Rewrite.

[04:36:20] It's presented in attachment 1 to the September 7, 2023 Board of Supervisors Committee as a whole work session action item subject to our revisions reflected in the motions approved by the board of supervisors during the september 7th 2023 work session motions may and i will i'm going to give the second to the tuck chair um on that one so seconded by mr um turner discussion on the motion miss umstead uh thank you madam chair in keeping with the chair's request

[04:36:57] that we only vote for motions that we know we will vote for at the very end. I remain concerned about the prescriptive nature of even Chapter 1, so I will probably be doing a lot of no votes chapter by chapter, and then hopefully we will get to a point where I can get to a yes.

[04:37:23] But I have highlighted all the lines that I have issues with, and it's most of the lines in Chapter 1 and subsequent chapters. So a no vote at this time. I hope I can get to a yes by the end.

[04:37:40] Thank you. Ms. Umack, can I ask if you have lots of lines in Chapter 1 or 2? You didn't ask any questions. Could you have... It would take forever. It would absolutely take forever. Okay. All right.

[04:37:56] All right, thank you. Anybody else? All right. On favor, please say aye. Opposed? Nay. That motion will pass 7-2 with Mr. Kirshner and Ms. Umstead voting against the motion.

[04:38:14] We will have, I am recessing this meeting, not adjourning it. When we start the meeting on Monday, the first motion we will probably start with is a motion on modifications that will come first, and then we will go through and have motions on Chapter 2.

[04:38:43] Supervisors, we're not going to go through this whole process again on Chapter 2. We just did it this time, so we're calm with motions on Monday for Chapter 2. So please be expecting that, and then we will continue on because there's just no reason to do that again.

[04:38:59] And the last thing I will say is I think it's really important, even though it's maybe not in the order. If you haven't read the chapter on definitions, go read that chapter, because as you're going through everything else, there's a lot of flipping back and forth if you don't have those chapters.

[04:39:16] I literally took the chapter on definitions, made some copies, and put it in other places so that I wasn't just flipping it back and forth the whole time, so that's a really important chapter just to kind of know what we're talking about is the definitions chapters. If you haven't read that yet, you might want to do that. Mr. Turner, do you have something you want to say?

[04:39:33] I want to clarify, Madam Chair, if I could just clarify the process. So I have a number of requests for changes into staff. Is the expectation now that staff will look at those requests for changes and propose draft motions back to me, or do I now look at the changes I submitted to you and craft my own motions and submit those to you for consideration?

[04:39:54] That was all Chapter 2, right? On Chapter 2, correct. So we've been working through at least the initial list that you provided us with the intention of trying to provide answers. tomorrow similar to what we did yesterday that is not inclusive of the other materials that we received yesterday noon or one and that was after our deadline and those are related to chapter two so if the intention was to provide comment on all of those in addition to the previous table that

[04:40:24] will be a very heavy lift by monday okay you're good uh well so now i'm not sure what we're going to accomplish on Monday, if we're not going to get responses to what we submitted by Monday, and that's the last time we can submit motions on Chapter 2, I'm going to quandary as to what to do.

[04:40:47] So there's nothing that you, nothing that you, because that's the point, well, you're right, there's nothing we can get back, because otherwise... Everything that was submitted by the deadlines and the schedule, yes, but there were other materials that came in afterwards.

[04:41:05] So, I mean, because otherwise we would start off, again, recess the meeting, start off with the modification motion, go on with chapters, the next chapters, and then have to wrap back around the chapter two. These chapters don't build on themselves in that way, except for the definitions. Go read those. They don't build on themselves in that way. I don't mind doing that.

[04:41:28] Only for me, that can just start getting really confusing. When we get through chapters three, four, five, then I got to stop and wrap back around the chapter two. But if it can't happen by Monday, I don't know if we have any other options but to do that anyway.

[04:41:45] And you're saying, that's what you're saying, right? Everything that was put in for Chapter 4, Chapter 3, that'll be ready to go. But what was put, but what was asked are the many, are the 32 changes put in, given to us by the chamber, those won't be ready by Monday.

[04:42:02] That's what you're saying. Right. And to be clear, I did submit those after the deadline. So I... Well, so there's the 32 questions that came in. Yeah. So, all right. Well, then, Supervisors, read chapter three and four and definitions. Read the definitions.

[04:42:18] Good God, read the definitions. But we'll still start off with your motion, if you want to make that. Yeah. Yeah, okay, first thing. So I'm still going to do the same thing. I'm still going to recess this meeting because we're going to start off with that motion on Monday.

[04:42:34] And then after that motion, I'll adjourn, and then we'll open the new meeting. Actually, I'm going to recess this meeting and then go check Roberts' rules of order and talk to Leo, because I'm not sure what to do, because we have Chapter 2 still. Thank you.

[04:42:49] Mr. Hemstreet? Yes, I want to make sure we're clear on the record. So you're recessing this meeting until 6 p.m. on Monday, September 11th? We are. Yes. Yes. Yes, yes, yes. Yes. Okay. Thank you, everybody. We are on recess. Thank you.



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