



MACHINE TRANSCRIPT • CORAGGIO CONSULTING

Loudoun County Board of Supervisors, Committee of the Whole Work Session, Monday, September 11, 2023

Date Monday, September 11, 2023
Place Board Room, First Floor, Government Center, 1 Harrison Street SE, Leesburg, Virginia
Length 5h 14m (video)

- Official meeting video (county, Granicus): <https://loudoun.granicus.com/player/clip/7399>
- Agenda (Granicus): https://loudoun.granicus.com/AgendaViewer.php?view_id=73&clip_id=7399

Machine transcript (speech-to-text) produced by Coraggio Consulting. Not an official county record. Names and numbers may be misspelled; check the video at the timestamp before quoting.

Speech-to-text: whisper.cpp, model large-v3-turbo. Produced 2026-10-20. Each paragraph starts with its time [HH:MM:SS] in the meeting video.

[00:04:44] Well, good evening supervisors, good evening staff, good evening Loudon. Let's start with this. 22 years ago, 200, I'm sorry, 2,977 innocent people lost their lives to evil and hate.

[00:05:00] The families of these men, women, and children couldn't have known that on that beautiful summer late morning it would be the last time they held their loved ones, kissed them goodbye, and sent them on their way. If you don't mind, would you all join me in a moment of silence for the victims and the families of 9-11 who perished that day and many who perished after as a result of working on the PAL.

[00:05:31] Thank you. Would you all join me in the Pledge of 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.

[00:05:59] Thank you. Okay, so there's a lot of stuff that has gone on over the weekend. And a lot of things, okay, supervisors, I'm going to, when we left on September 7th, I recessed the meeting.

[00:06:23] I did not adjourn it because I thought we would come back for motions on Chapter 2 today. As it turns out, that won't happen, and I can go into the reasons that won't happen later. But before I do anything else, I now adjourn the meeting from September 7th, and I'm going to call to order the September 11th Board of Supervisors Donning Ordinance Work Session Rewrite.

[00:06:50] This room has a hearing loop. If you need hearing assistance, please put your hearing aid to the telecall mode. If you need to headset, we have those available as well. Please see a clerk to request one. For the time when we're not in a committee as a whole, supervisors, you will have three minutes, as always, during the question and answer period when we're not as a committee as a whole.

[00:07:10] Also, the staff has to do some more tweaking and doing some more things for the presentation on Chapter 12, which is the definitions. So we thought we were going to hear the presentation tonight, but actually, we're not going to hear the presentation on Chapter 12 tonight because it just wasn't quite ready to be presented to us at this time.

[00:07:31] So the presentation on Chapter 12, the definitions, will not be heard tonight. We're doing something a little different than we've ever done before, but I've always said that just doing the same things the way we've always done it for the sake of always doing it that way doesn't always work.

[00:07:47] There has been a lot of discussions with every single one of us individually, some of us two by two, with the staff and with stakeholders on the issue of modifiability. The discussions have been very helpful for me as I've learned this process, but none of us, none of us are land use experts.

[00:08:13] We rely on our staff, and of course we have land use experts as part of our community. And so today what we're going to do is this. We are going to do a committee as a whole, but we're going to invite three of our community members who are land use experts, just like our staff are, to the table to have the discussion on modifiability.

[00:08:33] Because the modifiability discussion really does impact almost every other chapter in the zoning ordinance. I don't really think it impacts Chapter 3, which we will take up tonight and vote on the chapter of Chapter 3.

[00:08:48] But it certainly impacts Chapter 4. Gosh knows, it definitely impacts Chapter 9. So many other chapters it does impact. And so I thought the best thing, the best way to do this versus having the staff talk to us, especially like in closed session, and then people come up and speak for just two and a half minutes, where you can only say so much in two and a half minutes, is to have people come to the table and ask questions and have kind of a discussion.

[00:09:13] And so that's what we're going to do tonight. I know we've never done this before. This is new. But you know what? We haven't done this in 18 years. So it's okay that we do something totally different. It's more important that we get this right. So I'm going to ask and invite three people to the table.

[00:09:31] Representing the chamber will be Colleen Gillis will come to the table. Representing attainable housing, or I should say residential housing for the most part, will be Matt Leslie. And representing commercial developers will be Bill. And I need Bill to say your last name because we've actually all said your last name.

[00:09:48] Janda. Is Junga? Janda. Okay, none of us said it like that. I thought maybe it was an H, so we did it with an H. We did it all kind of different ways. So welcome to the table, sir. You gave him a new nickname that we're using.

[00:10:05] We actually had a long discussion about your name today in my office. So welcome to the table. So we wanted to have the discussion about modifiability. I know I've talked this weekend. I've even talked

or emailed or texted or something with Mr. Turner, Ms. Bricksman, Ms. Glass, Ms. Letourneau, when we've had lots of Mr. Sainz.

[00:10:28] And so there are lots of just, I won't say confusion, I think that's the wrong term, confusion. But I do believe that we really want to know that we know that we know what we're doing on this issue. I honestly believe that when I read the Appendix 3, on modifiability, And I was confused right up front when it says, Appendix C is a guide only, it's not exhaustive.

[00:10:56] I thought, well, how are we going to do that? Because this is law, and you can't have some law that's not exhaustive, because you can't be like, well, this part's law, and the rest of you got to figure it out on your own. And I asked Ms. Sittner that today, gave me a great answer, so we'll go to her for that answer. And so when I read Appendix C, I thought, there's a lot of stuff in here, and perhaps too much, and perhaps we don't quite know what to do with all this.

[00:11:23] On the other hand, when I read with the Chamber and the Developers one, which really was just two things, density and uses, I thought, yeah, that's not quite enough. It doesn't get me to where I want to go in other things, like setbacks and stuff. How do I do that? And so as it often is, there's sometimes somewhere, something in between.

[00:11:44] And I know Ms. Letourneau had a motion and Ms. Letourneau had a motion and all that. But then we just said, okay, let's just stop, have the discussion in the open for 45 minutes, and then let's see where we go. So there will be no motions tonight, but there will be an open discussion.

[00:12:01] And truthfully, I actually kind of want to hear you all have the discussion to some degree, just so we know what we are doing. So supervisors, 47 minutes on the clock, if you have questions at all, and Ms. Sittner, I'm going to actually start you with my first question.

[00:12:17] You know, Appendix C is opposite of guide. It is not exhaustive, but a resource. Can you talk to me a little bit about that? And then if you just have questions in general, let's do that right now. So let's start the clock. Okay. So good evening. Thank you, Madam Chair.

[00:12:33] So the way the draft ordinance is organized, there are provisions throughout the ordinance where it says this particular regulation or this section is modifiable by X process because we have a number of processes in the draft ordinance by which an applicant can seek to modify regulations generally through administrative process to the zoning administrator, certain types of special exception applications that could go to the bza which is a more streamlined process than going to the planning commission and the board by special exception minor special exception or as part of a concept

[00:13:08] plan amendment and so where there are provisions in the ordinance that are modifiable it says this provision is modifiable by x process as we were working our way through the planning commission there were some concerns about well it's all it's scattered throughout how is there a a resource that we can have that lists everything in one space and so that is how we came up with the idea of appendix c to provide that as a quick reference guide mr hancock went through the ordinance and and assembled appendix c identifying every provision in the ordinance that is modifiable

[00:13:43] and specifying the process by which it is modifiable but then there became i mean he went through and did that there's a chance that he might have missed something right just going through the whole ordinance and at the planning commission there was also some concern because someone said well if it's not an appendix c it's not modifiable and so we wanted to go back and correct that and say no that is a

resource for you like a quick reference guide so you can check but actually what's modifiable is governed by the provisions in the ordinance itself so that language about this is not an exhaustive list it is a resource to assist applicants was really

[00:14:22] intended to say that like this is to help you we made a very strong effort to put everything in appendix c we think it's all there but what if there was some provision somewhere in the ordinance that we missed that didn't get added to appendix c as long as it says it in the text that provision is modifiable in the way it says so so you're pretty you feel pretty comfortable that if something was missed in appendix c which very likely there was nothing missed then then that was captured in the text yes because appendix c was based upon the text so basically the text is what controls

[00:14:56] a provision as it's set out now a provision is modifiable if the zoning ordinance text itself says you can modify this regulation by x process the only purpose of appendix c was just to give people a one location place where you could reference quickly to see what things are modifiable and how, but ultimately it's just a resource. It's not the definitive answer. Okay, I understand. Supervisors, if you have, first of all, do you guys have anything to say about that?

[00:15:28] Are you good with that? You're good with that? Okay. Supervisors, if you have questions, because I'm not going to take up, I don't want to take up the entire 41 minutes left to speak, about the modifiability discussion at all, please put your light on. Mr. Letourneau. Okay. lots of questions but i think there's ultimately a bit of a schism between the staff approach to the zoning ordinance which as it's been explained to me relies more on administrative ability to

[00:15:59] modify and board-directed modifications so um one of the concerns i've heard about an approach in which entire chapters become modifiable is how it may impact those administrative flexibility that's in the zoning ordinance. I don't necessarily have a deep understanding of what that new administrative flexibility is. So can we start with that and just have some sort of baseline understanding of what staff believes is a new feature in the zoning ordinance that allows for

[00:16:33] greater flexibility. Administrative flexibility. Administrative flexibility. And that may supersede the need for, you know, board-directed flexibility. Okay, so there are a couple things in the new zoning ordinance that we've tried to use to be more flexible, right, this modifiability concept. And one of those is a new process, which would be an administrative modification. And that actually comes from a provision that exists in the Code of Virginia now. And so there are certain things usually dimensional standards like widths setbacks and many of the zoning districts where

[00:17:09] you could you don't have to go to the board for approval for a legislative approval which can take a lot of time and money and effort and energy instead you could go through this other process which is a lot quicker and easier there is a 21 day notice period anybody who submits a comment must receive a copy of what the final decision is, and it gives lists of how you look at these applications and the criteria to apply. That's just one of the administrative ways of looking at it.

[00:17:43] There's a few others where it kind of writes in the text what the zoning administrator is looking for, where this certain provision could be waived if it meets certain criteria. There's other things such as the parking adjustments which is another administrative process where you can provide certain parking studies or if you meet certain criteria that are spelled out you get the parking gets to be reduced because it matches up with what we're looking for in in urban vibrant community where too much parking is a problem and everybody knows that anyway it's it's pre-described there

[00:18:20] There are a few other administrative processes as well, such as for landscaping, some of those. They actually kind of already exist in the current zoning ordinance that we're keeping and expanding upon a little bit in the new zoning ordinance. Does that answer your question?

[00:18:38] I think so, sort of. So if I'll just add, so the administrative process is by application to the zoning administrator, and so as anything that the zoning administrator determines, that could be appealed to the Board of Zoning Appeals and then ultimately Circuit Court but it's just obviously going to the zoning and for the zoning administrator there would have to be criteria for him to judge against in order in making the decision as to whether to grant that modification and I think for some of the things like Rick mentioned some of the dimensional standards it's only up to a certain percentage like if and I don't recall it's 20% so if you want a modification up to 20%

[00:19:17] you could go to the zoning administrator and seek that administratively. If you want something above that, then you would need to do a legislative process. But if it's not modifiable, there is no legislative process, right? Right, and if it's not modifiable, there's no application to the zoning administrator either.

[00:19:33] So this is only for those things that are identified as... So I think the industry concern is that there's not enough of those things identified. So you guys can turn on your little green lights whenever you want to. We've been really well-trained through other public hearing processes only to speak when spoken to, I think Supervisor Letourneau, you hit it on the head.

[00:19:54] It really comes down to, are there things that we can't modify? We did a quick analysis of One Loudon, and we haven't shared it with staff, but we're happy to, that of the 11 zoning modifications that are approved at One Loudon today, five, there is no process under the current ordinance to modify those.

[00:20:15] Ultimately, it's up to you all, up to you nine and your successors at some point in future to say yes we we agree with that zoning modification that's where the industry concern comes from which is we're going to shift the ordinance significantly in one direction for specificity and details etc without necessarily specific projects in mind right we may know what the projects are today but we may not know what the projects are going to be in two four ten years what do we do when we're when we're faced with an application with a project that is great in all these ways but there is no process to make a small tweak to do that and that's that's

[00:20:50] the heart of what the industry concern is right so what i think the feedback from staff and i'm trying to just foster conversation is that doing an entire chapter is just too much it's too broad there's it affects too many other things in the ordinance and if if we are to add flexibility which, in fairness, I think there's openness to, and I wish to do, I've said that already, we should be more surgical with how we do it and really identify what it is that we want that is not existing in the ordinance.

[00:21:24] The pushback I've gotten to that is that there's just simply too many of those things, and we would be here for months and months and months. And I would agree with that. And I think it is easy to say the ability to modify anything within a singular chapter is to rod, But that is, I think, discounting that those modifications don't, you know, nobody's coming in and modifying every single thing that every single regulation under R24 today, right?

[00:21:49] It is, you know, maybe modifying the front yard requirement for R24, modifying, you know, the setbacks or buffering requirements that are associated with the regulations for R24. So when we say, you know, and that was already in there, but I'm just using this as an example, you know, the ability to modify

anything within Chapter 2, yes, that encapsulates all of the regulations that are laid out in Chapter 2, but it's not as if all of those things would be being modified all at once.

[00:22:17] And I think the other thing I wanted to say in terms of the zoning administrator process, there are certain areas in the zoning ordinance today where that is a process that is available to folks. my understanding at least, and I can certainly say in my practice, I have never availed myself or been able to avail myself of that pathway towards modifiability. It's always been through legislative application. Perhaps the new ordinance is more favorable to that, and that is something that maybe may develop over time, but my experience to date would suggest that that's not

[00:22:52] a process that is kind of the first thing that we would go to, if that makes sense. If I could add one other thing, we're working on an affordable housing project right now and it's an infill project and you'll be seeing it later this fall and it's a unique application.

[00:23:09] We're asking for a couple of ZMODs that I've never, ever asked for. So if we were to go through this process and identify we need this one and this one and this one, we wouldn't have identified these handful of ZMODs that we need today and we'll probably never, ever need again. But without it, this project dies on the vine. We don't get 118 affordable high tech units.

[00:23:25] In addition to one Loudon, I looked through Ravana, which was just approved a couple of months ago. We had 14 ZMODs that were approved with that, nine of which we could not ask for under the ZOR. And that basically flips that project upside down on its head without those modifications.

[00:23:41] And we're not talking about things that really change density or uses or the things that we're really concerned about. It's nuances related to, like, building heights and placement of buildings within the site. That applicant really had a vision, and that vision couldn't be accomplished with any of the districts we have in the zoning ordinance today.

[00:23:56] Okay, I'm going to go over to... Yeah, can we just get Dan's response? Sure, I can see his light on. And then I'll be done. Yeah, I just want to keep us... One additional response is that that's the purpose of a PUD for the previous comment that was just made. The second is that what we've been asking the industry for for months, when we have continued to meet with them during the Planning Commission, after the Planning Commission, even in the past couple weeks, are the specifics that you're asking for so we can try to be strategic, because we are open to making those changes.

[00:24:24] And a number of the comments that we've had and conversations we've had will lead to additional comments and recommendations we will be making in future packets we put in front of you. We just have not gotten to that point in this process yet based on the schedule we currently have. Before I go to Mr. Turner, can you just talk about the PUD process a little bit more?

[00:24:44] First of all, maybe not just the acronym, but talk about it because we're hearing PUD a lot is like the answer. So can you just talk about that process a little bit more? So within a plan unit development, essentially, you are creating your own zoning district. You are allowed to define the setbacks as you want them, the building height as you want them, the uses that you would have within that district.

[00:25:04] It was to some degree intentional that we did not want to just allow modifications across the board in all chapters, in all districts, to the utmost capacity, because then at that point, there's no reason to have a PUD. So we're trying to find a way to make the modifications for what I'll call standard applications reasonable, and then at some point it does push you to making a fuller proposal.

[00:25:27] That way the entire application to the board is explaining why this is unique and does need that extra set of adjustments or modifications or whatever term you'd like to use. Okay, I'll come back with more questions. Mr. Turner. Thank you, Madam Chair. Staff, if you could turn in your hymnal to the actual written draft, it's page 116, it's paragraph 2.07, Planned Unit Development and Zoning District, and it's subparagraph capital A.

[00:25:59] And I just want to read that, and I want to make sure I understand what it's saying here. The planned unit development zoning district is a customized zoning district. The requirements in Section 2.07, Chapters 1, 5, 6, 9, 10, 11, and 12 are not customizable and apply to all PUD zoning districts.

[00:26:22] Okay, so if I flip that on its head and make the counter statement, the mirror image statement, And that means that with a planned unit development, you can modify all of Chapter 2, all of Chapter 3, all of Chapter 4, all of Chapter 7, all of Chapter 8 under a PUD.

[00:26:42] Am I reading that correctly? Except for the statement about all of Chapter 2, because Chapter 2 is each— Except 2.07. It specifically includes that one page and a half. But the rest of Chapter 2 are the other districts. so really those other districts wouldn't apply to like chapter seven is the or chapter two is the zoning district section or chapter so the other sections yeah so it's mutually exclusive it wouldn't make any sense to create a pod if you got all the other just okay got that but i am correct that under a pud you have full modified ability of all of chapter three all of

[00:27:17] chapter four all of chapter seven all of chapter eight correct okay and then we got the memo today from the chamber and the chamber is asking for modifiability of two five which is the overlay district and I think we mentioned at the last meeting why you really would rather not have the overlays be modifiable correct if I remember that correct okay six is natural resources in the environment I haven't gone into that my default position would probably be I'm okay with that not being modifiable but I haven't looked at it all seven is development standards and we can debate that eight is signs I don't want to go near signs

[00:27:57] I'm perfectly happy that's never modifiable and nine is affordable housing and I absolutely right now my default position is that has to be modifiable so I think we've narrowed it down if we accept the PUD concept we've narrowed it down to three chapters maybe that we can have a serious discussion about and the other criteria is I know staff was pretty hard over the planning commission not to go below 20 acres for PUD I'd like to have that discussion and find out what the logic is behind that because i'd like to remove that 20 acre constraint that was made modifiable at the planning commission i'm sorry that was made modifiable at the planning commission by one

[00:28:36] of their motions the 20 acres very good okay so we don't have the 20 acre restriction anymore great okay i just want to make sure i got all that because that that sounds like a whole bunch of modifiability there that i didn't understand under the the plan unit development concept and i swear i'm going to come up with a better name before we're done with this process thank you So before I go to Ms. Umstead, you know, for eight years I've been hearing that how you can never do spot zoning.

[00:29:03] How is a PUD, and I know that's a very colloquial kind of loose term, how is a PUD different than spot zoning? Because you were still evaluating it based on the policy guidance you have for that specific area. So you're still looking at the place type and all the other chapters of the comprehensive plan to determine if that specific proposal matches those policies and brings us towards the goals we have as a county.

[00:29:25] Okay. Okay. Anything? Good? You're good? I was just going to offer up. We have heard, obviously, throughout this process about the PUD process. One of the things that just as somebody who's done this in the county for close to 20 years, and I'm sitting next to two people who have done it just, you know, as long as I have, is that I've always had the sense that there is comfort to supervisors and planning commissioners when we come in and we go, it's 95% this district.

[00:29:53] And we have just tweaked these couple of things. And it focuses everybody on the things that deviate from the very thing that you know already. There is less comfort when I go, I'm doing a PUD. And this one may look very different than the PUD that you saw last week right across the street from this.

[00:30:14] It might look different from the PUD in your district, in your district, et cetera. And so that is, I want to be very straight up and clear. That is an attitudinal, that is a cultural shift to make it so that each of these times that we deviate from one of these zoning districts, it's brand new. I think about the comfort to the board. I think about the comfort to the planning commission, but I also think about the comfort to your constituents, right? The constituents have an understanding that when I'm coming in for an R4, an R8, a T, I know what I'm going to get. If I go, I can't meet TC and I'm going to come in with PUD and it's going to be totally different. I just think that there's a, that there's a cultural and educational shift that

[00:30:54] will have to do with the community so that they fully embrace and understand that this PUD does not mean, if they saw PUD last week and it was to approve Ravana and now it's for a 10-acre parcel in their neighborhood, it's not the same thing. And I'm just putting that out there just as an observation. Madam Chair, can I? Yes, before I go to Ms. Umstead. And by the way, I haven't been doing this for 20 years because Matt's only 22 years old. Came out of the womb just talking

[00:31:24] zoning. Really quickly, what is the functional, practical difference, if not only attitudinal, between a PUD, which is kind of an unknown concept that is designed basically from scratch, and a fully modifiable stated district that is so fully modifiable that it could be just as different from Monday to Wednesday to Friday even with the the modifiability of the districts the practical effect is the same on the recipient's end it's a completely new product yeah so there i

[00:32:02] think in a process it's different in a PUD you're looking at every aspect of what you're proposing against all the policies of the plan so everything gets reviewed every aspect of it whereas with if I'm coming in and I'm saying okay I'm going to use like the current ordinance when I say this I'm coming in with an R16 but I'm modifying these four things there is a comfort with whatever the other other than the four things that there is that you know we're not we're not getting into every aspect of what is being proposed is it consistent with this policy is there another policy that it conflicts with etc you've just now introduced the comp plan there's there's no kind

[00:32:36] of like off the shelf okay we're okay with a bunch of this and so I I think that you have and I will speak for the industry when I say this I think that there is a lot of concern about how does that process work and is it a longer process and is it a more involved process and is it more burdensome etc etc I don't know what it's going to be like because we haven't done that yet but but I do think that it just it changes that and I know I cut cut Matt Leslie off no I just I mean I think it's it's just the process of it right I mean and I think for the PUD to be a real catch-all it does have to be like very very flexible and I think we've provided red lines as to how we think we can

[00:33:15] make the button more flexible. But I think if, you know, we, if we're going to spend all this time creating all these new zoning districts that align with the 2019 general plan, I think that we need to set

ourselves up for a process that then makes those things usable today, but also 10 years from now. And I think we've seen that, you know, while we all have admirable goals about how often we want to be doing these policy and regulation updates, we're all human. And even if we're on a, you know light speed track where we're doing this every five years a lot can change in five years

[00:33:50] i mean you know look at technology and all that right so i just i think it's it's just the unknown unknown where that modifiability really comes in and i i always come back to this is about board authority it is about giving the board the authority to make the interpretation of the policy of the day as to whether something is appropriate or not that's what you all are elected to do. That's why we've entrusted you with that. And I think to take away from that was a shame. Judy? Thank you. I just wanted to address the reason that we changed the approach

[00:34:24] and made a PUD so open is because at the front end of all this process, the industry expressed concern about the negative connotation of having to submit an application with so many deviations from a zoning district they see so many z mods we were told that that looks bad to the public and that that has a negative common connotation the other thing i'd like to say is at any point someone can submit an application under the draft zoning ordinance for a plan unit development and and just frame it i'm i'm starting with this particular district with these two changes there's nothing

[00:35:04] in the draft zoning ordinance that would prevent someone from doing that and and we review every rezoning for against the policy every reason so this is no change dan did you have anything you want to add i would just add that particularly during the plan to some degree in the comments that we received during the rewrite process too some of the community resident concerns were that there was not predictability with the process that we have now because and our whatever district here is different than the one over here if this one can be 20 feet taller and 20 feet closer to the neighboring neighborhood or something of that

[00:35:41] nature so there I'm not sure which is right and wrong but that was part of the reason why we were trying to use a standard district within a certain degree of standardization with the out that the PUD is something truly different and that they will come to understand that so they can look at that perhaps uniquely and try to understand its its value its pros and cons before providing comments to staff and to the board. Thank you. Thank you, Madam Chair. For staff, I had a conversation with one of my colleagues earlier today, and the perception that I got of

[00:36:20] that conversation was that rather than the board passing a sort of blanket pro-modification motion that staff would prefer that the board address line by line where it wants to have modifiability.

[00:36:43] My question is, if the board were to pass a generic modification motion, the chamber has requested one that would come up, I guess, under Section 10, why couldn't we then go line by line and see where we might not want modification?

[00:37:05] Why does lack of modification have to be our basis, our default? Why can't we have modification be the default and then carve out specific areas where we don't want modification? So I think to start with, there's, I think, 120-something lines in Appendix C, which is just a summary.

[00:37:27] And some of those are essentially to change all the setbacks in a given district. So there's plenty of modification built there, plus the plan unit development option that we've been talking about. the the fundamental reason that that passing a blanket modification motion will be problematic especially at this

point is that the entire ordinance has been written one way and to flip it on its head will require us to go back in to every place that modification is mentioned and adjust the language there all of these things are interconnected so if that's what the board wants to do we can do it it will be a fair amount of work to do so in addition to what other motions you may have for us to do beyond that and if Courtney would like to speak

[00:38:06] on this by all means you know we have some some concern about we want to make sure that what we're doing is legally defensible both for the board the staff the residents and for the applicants themselves too the the issue and thank you Dan the the issue for multiple industries not just one it's not just the chamber. It's not just NVBIA. It's not just NIOP. The issue is that this is so prescriptive,

[00:38:42] and you've heard that term endlessly, I know, but it is so prescriptive that nobody can do anything that the board in the past has accepted as a good policy. That's my major concern with it, And unfortunately, I don't see a way around that, and I don't see my ability to vote yes for perhaps any of it because of how prescriptive it is.

[00:39:12] And I would like to get to a yes, but if we don't deal with modifications, we're going to have this battle for whatever remaining time we choose to allow for this process.

[00:39:27] And frankly, I think the process should be extended into next year because I don't think we can handle all of this adequately in the time frame that's been allowed. But could I get a read from any representative of the industry?

[00:39:48] So I think if we can get this modifiability right, I think that a lot of the concerns over the rest of the ordinance go away. And I think we can get pretty comfortable pretty quickly with trying to get this done this year. And I think we're on a pace now where we've caught up with the process the board would like to see.

[00:40:07] And that, you know, come the end of this month, we will be ahead of the game in terms of working with staff and you all to provide the rest of the feedback that we need to provide. I wanted to go back to your viewpoint on how modifiability should be looked at in terms of kind of starting with everything is and let's restrict what isn't.

[00:40:25] I think it has to be that way. And I want to point out just one example that kind of came to mind of something is that, for instance, PDTC under the current ordinance is a zoning district that I think had a very specific intention when it was written into the revised 1993 zoning ordinance. We are in a day and age now in 2023, partly because we haven't updated our zoning ordinance, but where we are using that as very, very much a square peg in a round hole.

[00:40:51] And there's certain provisions in there, such as a 40,000 square foot green, right? That seems like, I mean, there could have been somebody when that district was being written that said, that's something you should not be able to modify. If you're going to do this kind of giant, high density, high rise type of development in Loudoun County, you better make sure you have that one acre of green space.

[00:41:09] And thank God they didn't, because that is one of the things we always have to modify, because right now PDTC is one of the only options we have for urban development in the county. Now, that will change with the adoption of this ordinance. But I tell that story just to make the point that if the flexibility that is available in the current ordinance doesn't carry forward with this ordinance, who knows what kind of problems we could run into down the road that are exactly that kind of unknown unknown.

[00:41:33] And Mr. Corbett, could you come to the podium just for a second? I'm going to put you in the spot a little bit here. um and i apologize um does staff have concerns about this zoning ordinance going past this year and what would those be well it is certainly the staff's desire that this ordinance get adopted before the end of this board's term we're very concerned that if any of the board members are

[00:42:05] replaced with individuals who are unfamiliar with the process that it may take one or even as many two years to get back to where we're at today simply because of the learning curve of stepping into the job of a board of supervisor member. And in six weeks after a new board member is elected, they'll be in the midst of a multi-billion dollar budget and that will take you and carry you through

[00:42:38] pretty much the first four or five months of your term. And then new board members will come with their own objectives and desires to implement. So there could be a significant shift in the board's priorities and direction to the staff.

[00:42:56] So we believe if we don't take advantage of this opportunity now, it may be one to two years before we get back to where we're at today. Thank you. Ms. Bricksman. Thank you, Madam Chair. So I kind of want to ask you almost the opposite of what you were saying, Colleen and Matt, and that is...

[00:43:17] If we leave three, four, seven, eight, modifiable, maybe nine, I could be swayed maybe on affordable, attainable units. And then you have your PUD. Why would you not or could you not do exactly what staff is suggesting?

[00:43:37] And that is take something, you know, one of our districts and say, we're basically doing this, but we want to modify X, Y, Z. So wouldn't that be beneficial for you guys to do so that everyone can have the comfort that, well, they're kind of going for this district and place type, but they want to modify several things so they're going under the PUD.

[00:44:04] Why wouldn't that work? So I think it goes back to what I was saying with my PDTC example, but now from a comp plan perspective. So right now the putt is reliant on the 2019 general plan for its justification for what anyone is proposing under that.

[00:44:26] And we have no idea what the market is going to dictate 5, 10, 15 years from now. It is admirable to expect that we would update the comp plan at a reasonable pace. We have not done that, and that I think is unsettling to everyone in the county, not just developers, but residents and business owners in this county that we could get out of alignment or just we could get down into this path where people are trying to do things and their only option because we've restricted modifiability so heavily is to use the PUD district, but they can't do the PUD district because...

[00:45:03] But couldn't you argue, pardon me, but couldn't you argue that the reason things aren't modifiable is because there is an expectation of a certain quality of life in loudon county and we don't want things going off the rails i mean there's a reason why we have certain standards so just to make everything modifiable could totally pull us off the rails and i i think that hopefully the the staff and the board have learned that waiting 20 years is not wise i i can't imagine that happening let me jump in and

[00:45:41] say modifiable does not mean modified right thank you modifiable doesn't mean it's modified ultimately the decision resides with you all as to whether or not we've made a good justification and said this is something that makes a lot of sense and you go oh i see your vision and i will i will modify that aspect of it i wanted to say one other aspect of it which is i know the three of us do a lot of rezonings in the

county we have seen i know i've had conversations with some of you We have seen some comprehensive plan policies that are not written out, but they're extrapolations of policies.

[00:46:15] They are extrapolations of a policy like we want to be a leader in the environment, translated into it's a thousand cubic foot planting pit for every single tree. I know we're dealing with the Supervisor Briskman in your district, right?

[00:46:31] Yes. That is not a policy that is in the plan. You can search for a thousand cubic feet. It's not there. that is a referent that is a referral comment and we get it on every single application now that's not the plan but it's an extrapolation of it and if we go down the path of okay we're going to review your application and now it's all the plans and the permutate the comprehensive plan and the permutations and the expansion of it i fear that we're going to come to you with a lot more issues not fewer we're not coming to you with a because now we're in an area where everything that five years ago was adopted by the last board on the comprehensive plan now becomes something

[00:47:09] that we're measured against yeah um miss miss sittner yes thank you madam chair i want to address a couple of things so first there was being comments throughout this debate but also tonight that the ordinance the draft ordinance does not allow you to modify everything that is modifiable in the current zoning ordinance or that it allows significantly fewer modifications than is allowed in the current zoning ordinance i don't think that latter statement is correct and staff had been planning and preparing for a presentation on that, which we don't have available tonight's specifics because this sort of came up last minute.

[00:47:46] But generally speaking, the types of things that are modifiable under the current ordinance are also modifiable in the proposed draft. Legislatively or administratively? Mostly legislatively because the administrative option was much more narrow under the current ordinance.

[00:48:06] And so Mr. Leslie said earlier, they've never used the administrative option, because generally speaking, under the current ordinance, that is a very narrow option that's available. And we have expanded that, significantly taking advantage of Express Code Authority for that. earlier on, Ms. Gillis had mentioned that they had done an analysis of one loud and Mr. Gendis said they had done an analysis of Ravonna and they had identified modifications that were approved in those cases that are not available here in the current draft ordinance.

[00:48:37] I think that's what staff and the board need to not just hear that that exists, but to hear actually what they are. That's the conversation that we need to have because what they're telling you is that some, I believe Ms. Gillis said five out of the 11 Z mods in one loud and that means six of them are available.

[00:48:54] Nine out of the 14 ZMODs in Ravonna. So that means that my math five, at least five of them are available. I don't know what those other nine are. I don't know if I would agree with this analysis of whether they are or not available now, but that's what we should be talking about in terms of those specific things.

[00:49:12] We have very serious concern about opening up an ordinance and starting with the default that the entire ordinance or at least these substantive chapters, because the chapters we're talking about are the substantive regulations and saying, let's start from the place that it's all modifiable because that is not what the current ordinance is.

[00:49:29] That's not how the current ordinance works. We have very significant legal concerns about crafting your ordinance that way. And we absolutely, as legal counsel would say, do not do that. And if you want more specific details about that, we're happy to discuss that with board members individually or in a different forum.

[00:49:46] But the reason for that is legally, we do not recommend doing it that way. There were some comments just in the last couple of minutes about the plan and how um you know maybe the plan doesn't catch up with the current market or how staff is making extrapolations of the plan and so I guess where Miss Gillis was going is that if you have a PUD where it's all based on the plan and so they're concerned about the type of comments they might get that are not strictly speaking in the text of the plan um well modifications even today

[00:50:22] Legislative modifications are evaluated against plan policy you don't just get to make up a modification that you want to do if it's not supported by the plan now there are debates you know maybe staff will come and give you their plan analysis the applicant will come and give you their pitch as to why they think it does comply with the plan or why you should approve their modification, even if it doesn't comply with the plan. And ultimately, the board makes that decision, yes, but it's all based on the plan. So whether it's a PUD or modification of existing district, there is still plan analysis, and there's still a concern if the board is

[00:50:59] consistently making legislative decisions that are contrary to its plan. And so then that's also the other concern that we have is that the more broadly you open this up without fixed guide points leads to and the concern is inconsistent decisions where you do something over here and then you do something different over there and then the next thing you know is this person is to say well you approve that for these two other people you have to approve it to me because now you've just made that the de facto regulation if you don't give it to me that's discriminatory so can we avoid that in every instance no but that is why you don't start with an ordinance that says Everything is modifiable.

[00:51:39] And so that's the baseline concern. So if there are specific provisions, I would love to hear of these. And actually, let me stop you, because I think she has a valid question. I think that, I mean, listen, we were all thrilled with Ravonna and really happy to do it.

[00:51:55] I think it passed 9-0 or 8-1 or something. So, you know, I think, you know, what Ms. Hittor is saying is, you know, because when you said that to me about Ravonna, my response was, my gosh that's a problem but she's right I mean what what are we talking about exactly we're happy to share that list with staff I mean share it with us right now I mean give me give me some ideas of what you couldn't have done that you could do that you couldn't do in the new ordinance so one of them is just the very basics of Ravanna we needed a zoning modification because it's proximity to Waterside it's closer than 10,000 feet uh the original Dallas World Center didn't

[00:52:31] need that modification because it became it came first before Waterside Waterside came second now when we come in for Ravonna, we now need that modification because we're closer than 10,000 feet to Waterside. That modification is not available to us in the drafts or so we couldn't even locate our town center in that location just based on that one issue. Okay all right and actually I think it'd be good idea to share that list with us. That'd be helpful. Mr. Turner? Well I'm kind of wrapped around the axle. Now what would be the industry's response to the statement if you have

[00:53:09] a fully modifiable ordinance you have no ordinance yeah so we're not asking for a full and modifiable ordinance that everything you're asking for chapters two five six seven eight nine that's about 95 percent of the meat of the ordinance so the way that the modifications work in the current ordinance is is that we can modify things other than use density definitions far we can't do that actually we can only do that in the suburban districts the way chapter three today and then also p districts um that extends to us being able to modify obviously the the dimensional standards

[00:53:47] setbacks buffers things of that nature as well and we're we're really just looking to carry that flexibility forward we're not looking to do something brand new and and and and carve more into uh modifiability with the new zoning ordinance we literally and and and i will say this conversation over the last couple of days has led to a lot of conversations amongst us to go can we get tighter with the modifiability language can we get can we can we do like like ms sidner said can we create some guideposts we're not looking to create an ordinance where where everything is

[00:54:24] modifiable under the sun we are just worried as as i think bill identified earlier we are worried that we miss something and and we come to you and go we've got this great project we've got this great user we've got this great whatever i need to do this and there's no matter for modifying that we've seen i've seen in other jurisdictions in which i work that sort that inability to modify or inability to be market responsive kill deals and i know that that's not what your priority is And so we're not saying it's our way or the highway.

[00:54:57] We are just trying to create an environment that does allow for us to be market responsive going forward. Would you say that what you're asking for right now, though, is too narrow? What we're asking for? Too narrow or too broad? I mean, too broad. I'm sorry. Okay.

[00:55:12] I was like, I mean, if you want to go there, I mean, go on. Too broad. What you're asking for right now is too broad because it's pretty broad. so so um i would say we're willing to talk about how to narrow it down the between where we were with our with our draft motion or our approach to modifiability at 9 a.m this morning to where we ended it at 3 30 is a lot for it is a lot narrower than where we started and so when you say is it you know right we are moving but if but again we don't want to negotiate against yourselves So if you guys have suggestions, you can go, could you end up with this?

[00:55:51] We're all ears. We want to have a dialogue and figure out what the research is. Mr. Turner, because we're winding down on time. I'd like to ask both the industry and staff, if I could, this question. You said that Ravonna could not develop under the draft.

[00:56:09] Does that include the PUD? If you use the PUD, could you develop Ravonna? Please answer it. And then staff, could you answer it? Could they have gone with Ravonna with a PUD? I guess potentially, without knowing what the actual process is, we're going through a PUD, and I guess we could go in as a PDTC with those modifications, but again, they would feel like we would have even more comments or more elements of the plan being reviewed as if they were modifications, because we're going in, you know, without any guidelines or any guardrails.

[00:56:41] Well, but you said the baseline model, you would pick one of the Chapter 2 districts, and this is a thought about a little refinement of the PUD concept, that you come in with a PUD and you say this PUD-based model is based on district whatever, so that that gives us a guide, all of us a guide as to where to go.

[00:57:01] So, Saf, could you answer that one? Could they develop under a PUD? Yes, absolutely. 100% that could be developed under a PUD. And currently, the developments they're referring to are very heavily modified PDTC. So it would be no different, just that they could pick a zoning district and explain how they want to deviate from it. And the process is just like any other rezoning. And one of the criteria for consideration of any rezoning is, is it consistent with a comprehensive plan? Thank you. Ms. Latero? So first off, I know you're preparing an analysis

[00:57:38] for us looking at the current zoning ordinance and the proposed one. But when I look at the current one, there is specific language that says any of the PD zoning districts and anything that's suburban specifically is modifiable, right? So how, I mean, that seems pretty broad in the existing ordinance. What am I missing? The existing ordinance does not have anything approaching what a plan unit development is as drafted in this ordinance. The plan districts we have that then have this section administered as R8 and this section administered as OP and this

[00:58:14] section administered something else is just Euclidean standard zoning by a different name applied in different places under the terminology of what would classically be a planned unit development. But the Revised 93 does not have anything that's as flexible as what we have proposed in this ordinance. Okay, but that doesn't necessarily make it... So you need those extra modifications to be able to approach that level of overall flexibility there's no other way to get there in the 93 yes and you're saying there are other ways of getting there in the new ordinance yes potentially well it seems like a lot of this discussion comes down to the pud honestly

[00:58:51] because that's kind of the you know it was the phrase was used get out of jail free card the last meeting maybe that's a little uh much but um and what the comfort level is with the pud and you know i can see it's something new so therefore there may not be but that's what we're really going to have to evaluate more than anything the only thing the only last thing i'll say i know we're out of time is the sooner we can land on an approach to this issue and i think we we may need some additional facilitated conversation between industry staff and the board on this topic as as

[00:59:28] it is trying to be narrowed down i really do think this issue is going to hold out the rest of the ordinance because i would have a different approach personally to some of these chapters if it couldn't be modified or if there was concern about it oh yeah compared to if it is that i may be you know frankly less likely to just kind of intervene on some areas so i'm sorry that's more for staff here like i know you all had a plan and we've just blown it up but i can't emphasize enough how we need this discussion as soon as possible because i don't

[01:00:03] know how we do the rest of this until we really at least know where we're going and that and that is exactly i'll get to you i see you judy that's that's exactly why i i did this tonight because that is spot on we can't this we can't really just keep marching forward until this issue is adjusted and and mr turner talked about the chapters but one way or the other we gotta know what we're doing so so for lack of a better word i'm having just have closing argument I feel like I'm a better way to say this, and then we've got to figure out how to go from here,

[01:00:42] and I may call you back up, Joe, just to have the discussion of where we go from here on this subject. So, Mr. Leslie? I think we agree wholeheartedly with Supervisor Leitero's sentiments, which is that we need to address this before we can address the rest of the ordinance. I think it could simplify quite a bit whether industry continues to have kind of these line-by-line concerns or not. But to your point, I think

trying to get this closer to what we have today, I think would provide all of us with a lot more flexibility. We realize that that is kind of a very big sea shift from how it was set up, but we are open and committed to working with you all

[01:01:18] and staff to try and figure out a path forward. And I will say that if the PUD process is, to your point, Supervisor Letourneau, there's a little bit of like, we haven't done this yet. if that's a more attractive process, modifying existing districts is going to go so far down the list. That is not going to be the approach. But we all watch. We all see what's happening with other applications. And I think that, if you will, modifiability is a little bit of the whoopee of the way we've done things already. Please say people know that Mr. Mom reference.

[01:01:52] No? Okay. Never mind. Okay. The whoopee's the blanket. The blanket. It's the blankie. Exactly. Sorry, but no. Okay, now I do. I thought I was charmed. I've heard about those.

[01:02:09] Yes, sir. I just have one closing comment, and I agree with what Matt and Colleen both said. I think where I'm also a little concerned about the PUD, even for a project like Ravonna, when we come in for a ZCPA in a couple of years, say we have to have one new modification, does that mean we have to ditch our current zoning and take the entire project into a PUD, All for one little tiny little nuance thing that no one will notice on the ground.

[01:02:33] You know, walking around one loud and we noticed 11, we mentioned 11 ZMODs on this latest application, but there were 24 to start with back in 2007. I don't think anyone walks around one loud and goes, man, those 24 ZMODs made this a terrible place. Okay. All right. Judy?

[01:02:49] Just a couple things, and I'll respond to Mr. Jutta's last comment. You've been great to work with throughout this whole process, and that's the kind of information that is helpful for us. Internally, we have spoken about the need for that. We could certainly come up with some proposals for a ZMOD for an existing project needing to come back for a ZCPA.

[01:03:11] Second, we were talking originally as staff about the planning and development concept, and we had based it on a base zoning district. Throughout the planning commission, in order to get more flexibility, that's when we removed it.

[01:03:27] We would be certainly supportive of adding back in the requirement to have a PUD based on a base zoning district. Where you might not want that is for infill projects, and, you know, we're all moving more towards infill as we build out.

[01:03:43] That's where we would want that greatest flexibility. So if you want us to make changes like that or contemplate those and bring back some alternatives, that's a direction we could go in. Madam Chair, really quick. Nope. No, I'm sorry. So, first of all, thank you, everybody.

[01:04:01] I think this is a really helpful conversation. I don't know quite exactly where we go from here. I do have, I mean, I will have questions like, you know, does the PUD apply equally to large acreage and small acreage, or would that be a different discussion? I think we haven't discussed that tonight.

[01:04:19] I think I'm ending up where we started, which is these are kind of two extremes, And we need to figure out how to get to not a happy medium, but something that just makes a little more sense, you know, I think. And I also have, I do have a concern about board authority because, you know, I think we are elected for a reason.

[01:04:41] And I don't want to move too many things to administratively and not have as much board authority. So we're not going to do motions tonight. What I might do, it is very hard to make these phone calls to all my colleagues one at a time, one at a time, one at a time, one at a time, because I can't talk to more than one person at a time.

[01:05:08] It is incredibly time consuming. It took my whole day yesterday making individual phone calls, and I didn't even get to everybody as I'm doing this. So we may have to bring together some kind of, because we're not back on the dais for a while, and I'll have a motion about that in just a second, some kind of small group with, I would like to see at least two more of my colleagues, which means I have to be in a four-year calendar, to have this discussion, as what Mr. Turner was talking about doing before, but I did think we need to do this first.

[01:05:41] And so when we come back to this issue, which we won't come back to this issue until, help me out, Joe, October 12th? October 12th, is that when it is?

[01:05:59] Madam Chair, according to the original schedule that's been adopted by the board, it would not be until October 30th. But we're moving that up. That's impossible. We have prepared a draft motion for the board to consider to move Chapter 10, Chapter 11, and Appendix C discussion to the October 12th work session.

[01:06:21] Which will still put that before Chapters 7, 8, 9, and the closing of 12. 7, 8, 9, and 12. Well, 12 is, you know, 12 is definition, so I don't know if I need to count that in the same way. Well, let me, I'm going to send something out to a couple of my colleagues to see where you all are next week as far as maybe getting together and having a meeting.

[01:06:52] Again, I would want more than just one other colleague there because I think that different opinions are really valuable. And invite you all to come as well and obviously our amazing, incredible, hardworking, excellent expert staff to figure out how we fall.

[01:07:11] Because I don't believe we can march on through this without this being settled. And I do believe that when we settle modifiability, so many other things fall into place. Dan, I did hear you. And I need you to know, Dan, I did hear you. And we say, if we change this too much, it changes so many other things in the zoning ordinance.

[01:07:31] And as we're trying to get this done, for all the reasons that I believe we should, and Mr. Crobot have already stated, You're all still doing everything else we've asked you to do, too. You're not like you just stop everything, drop it, and do just this. I get that. I heard that. I get that.

[01:07:48] And so supervisors, expect me to send you an email probably tomorrow to put some possible dates forward. I don't want the entire board, to be honest, because, oh, my gosh. But I do want to have some discussions with people who could probably be part of this discussion.

[01:08:07] And then I will, at the same time, I'll send an email to Mr. Leslie, Mr. Lawrence, and the chamber, and put you in that, and so you can decide. Because, again, I don't want, it doesn't help me also to have 20, 35 people in that room either, right?

[01:08:28] Three, four in that room is about all we can do or need to do, you know. But I'll send that email out tomorrow, and we'll see how we can get this issue back on track as soon as possible. So then we can get through all the other chapters, chapter 7, 8, 9, which chapter 9 all by itself is, are you serious?

[01:08:53] Chapter 9 is just such a heavy lift. We've got to get this right before we get to chapter 9. So that's what I'm going to do. Anything else on that right now? Mr. Kroboth? This motion I have in front of me doesn't work.

[01:09:09] It doesn't get me to where we're trying to go. So I'm going to go on and do Chapter 3. I'm going to hand this motion back to you because it's not specific enough. I'm going to hand this motion back to you all, and let's make it a little more specific to say what we're trying to do as far as the new work session dates.

[01:09:26] It doesn't get me here. And so we're going to go on to Chapter 3. Yeah, I know I see that, but it's not in the motion. and the motion needs to be a little clearer. Thank you very much to the three of you.

[01:09:41] I know you guys are going to stay around and speak on the next item, but Mr. Sainz, I'm going to ask you to take this meeting for me, and we're going to go to Chapter 3. The staff will present. We will ask questions. Stay close to ask questions. Mr. Kroboth, can you meet me back in the back so we can just work on this motion a little bit more than it is right now?

[01:10:05] Oh, did they attach the schedule to it? Not everybody has that. Yeah, we all got it. Oh, you all got the schedule? Yeah. Oh, I didn't see that you all had the schedule. He goes, I don't have it in front of me. I knew what it was. I didn't know they had it. Okay, but I'll go on and make the motion right now then. I'm good. Mr. Letourneau, come on back.

[01:10:22] You guys all see the schedule. I know the schedule. I have the schedule. I helped make the schedule. Do all of you have the schedule in front of you? Okay. It was all in our packets if everybody didn't see it. In the package in front of you? In our black folders.

[01:10:37] In your black folders at the dais. Yes. Yes. Okay. All right. Well, then I'll make a motion. I move that the Board of Supervisors approve the Board of Supervisors zoning ordinance rewrite ZOAM 2020-0001 work session public hearing amended schedule dated as of September 11, 2023 for review in the zoning ordinance rewrite as provided to the Board at the dais.

[01:11:03] Second. All right. Motion is made seconded by Mr. Sainz. Yes? Yes. Oh, Mr. Kroboth? My apologies, Chair Randall. uh this schedule failed to make a correction that the board made uh when you adopted this before you'll see that there's a there's a work session scheduled on this schedule for september 25th the board moved that to september 26 because of jom kapoor so could you could amend your motion to include uh it was okay and and we had that discussion date so yeah september 25th is jom

[01:11:42] Yom Kippur, so the meeting would be on September 26th instead. You guys see that in your schedule? Yeah, thanks. Tuesday instead of Monday, right, because we're not going to meet on Yom Kippur. All right. Supervisors, a couple things.

[01:11:58] One, you know, I'm never political on the dais, and I shouldn't be, but I need to say this. You know, no one can absolutely have any idea what's going to happen with the exception of three people.

[01:12:13] Mr. Buffington won't be here next term. Mr. Sains has no opponent and Ms. Umstead has no opponent that's all we know that's all we know we don't know anything else that's going to happen over the next 57 days of what's going to happen before the election we have no idea we may all be back with the exception of Mr. Buffington or none of us might be back with the exception of two people who don't have

opponents it is not logical to believe in my opinion to believe we can push this to a new board and have this done have a new zoning ordinance done in anything if they're very lucky less than a year i just don't

[01:12:53] see that happening look how long it's taken us to get to this point um and that's after a lot at least one two three four five of us and including five of us and mr turner because he's on the stakeholders group having been through the comp plan but then this is the and this is the other document that goes to the comp plan. So basically six of us had the experience of the comp plan that matches with the zoning ordinance. If you walk seven new supervisors on this dais, if you walk five new supervisors on this dais, they are not going to get this done in a year,

[01:13:33] and no one should expect them to, which leaves the comp plan and the zoning ordinance out of alignment for at least another year, probably more. And they will all come in with new planning commissioners. So to ask that of a new board, and truthfully, listen, I hope we're all back. Everyone who wants to be back, I hope is back. I think we are a fantastic board. We are a very collegial board, and I have really enjoyed working with everyone on this dais. So I hope we're all back. And that is the God's honest truth. But I don't know what's going to happen.

[01:14:10] And so it is irresponsible for us to leave this to a new board and a new planning commissioner. The other thing that the staff, although he's now gone, has done the most and heaviest lifting in some ways has been Mr. Yud. So what we're seeing is still kind of has that part in there.

[01:14:28] And so, yes, I am pushing us to get this done this term. And after almost 20 years of a zoning ordinance of a county that's been one of the fastest growing counties in the country, this is going to be a hard, sometimes messy process.

[01:14:48] It just is. But if you think it's going to be any less hard or any less messy for a new board, you guys are not thinking straight. You're just not. And so this is going to be tough, and with due respect to every single one of you, there's no supervisor spending more time in this thing than I am right now.

[01:15:07] There's just not. This is all I'm doing. But we need to get this done, and if it means we have to adjust the schedule to get this done, then that's what we're going to do. And if it means we have to adjust the schedule so that we fully understand the modifiability issue, that, as Mr. Letourneau says, does absolutely impact every other chapter, then that's where we are.

[01:15:30] It just is. And so I appreciate very much the staff, you know, working with us. I appreciate that the motion today was one that Mr. Crowboth and I sat down and worked through. He brought the schedule to me.

[01:15:46] And I think this is just where we are after almost 20 years of not doing the zoning ordinance in this county. So, anybody else? I guess I could have kept on my lecturing all to myself. All right. All right. Motion is made.

[01:16:02] Second by Supervisor Sainz. All in favor, please say aye. Aye. Opposed? Nay. That motion will pass 8 to 1. Okay. We're going to go on and do the Chapter 3 item. and the staff is going to present.

[01:16:21] We are ready. Thank you, Chair Randall. Before Mr. Wagner begins the presentation on Chapter 3 and 4, I wanted to bring your attention to this wayfinding document. There should be a paper copy on the dais for each of you. And what this is, it's kind of a crosswalk between the current zoning ordinance and the draft zoning ordinance.

[01:16:43] So if you're familiar with the regulation today and where it is, You can look it up and see where you might find something comparable in the draft zoning ordinance. We're also going to place that on the website. We have plans to put additional copies in your offices tomorrow for your staff.

[01:17:01] And if you need additional copies, just let us know. But before Brian starts, I just want to remind you that the focus of this evening's Chapter 3 and 4 is only the Suburban Urban Office and Industrial. And at the September 26th, we'll bring back the rest of Chapter 3 and 4, Rural Transition and Joint Land Management Area.

[01:17:24] Okay. Good evening. Judy stole my first slide here, there. I have a couple of slides for the board that might seem like a repeat from the public hearing, but I just wanted to give some background for context so that everyone's on the same page as to how Chapters 3 and 4 have changed and how they work together.

[01:17:49] So uses have been moved from the zoning districts and consolidated into tables. And the tables are organized by zoning district category, such as urban and suburban districts or transition rural and JLMA districts.

[01:18:05] So if you're looking at a table in Chapter 3 and you don't see the zoning district that you're looking for, go to the next table. Some use names have changed to make a more streamlined ordinance. For example, Medical Office is a new use name that replaces Medical/Dental Office, Office, Medical, and Office, Medical and Dental to make the name consistent throughout the ordinance.

[01:18:37] A handful of uses were deleted from the ordinance. These are uses that have proven to be administratively problematic or uses that are not likely to be established. For example, magazine-contained-explosive facility.

[01:18:53] I'm sorry, say that again? Magazine-contained-explosives facility. That was in the old ordinance? Yes. Okay. In like 8th reading. Okay, then. New uses were added to address new trends and new facilities, such as energy storage.

[01:19:15] Uses already listed as permitted in some districts were added as permitted in additional districts to address public comment. Examples are Dog Park, Kennel, and Flex Building. The draft also allows more uses by right that previously required a special exception.

[01:19:35] And all of these changes are enumerated in the Public Hearing Staff Report. Chapter 4 replaces Section 5600 in the current ordinance. In the use tables of Chapter 3, if you see P slash S, that means the use is either permitted or it requires a special exception based on circumstances, and you need to look at the standards in Chapter 4 for that specific use to see what those triggers are, and most of those triggers have carried over from the current ordinance.

[01:20:13] The current ordinance scatters standards throughout. The draft places all standards that pertain to uses in Chapter 4. The county received a variety of public comment on Chapter 4.

[01:20:32] The commission and staff work closely with stakeholders to address that comment, and standards for some uses were changed. Staff has identified some outstanding issues for the board, and I'd like to go over those next. The county worked closely with stakeholders to prepare enhanced standards for data centers focusing on their impacts when they're adjacent to residential uses.

[01:21:02] Data center outstanding issues identified by staff relate to the minimum required setback and limits on generator testing. The current ordinance does not have a specific universal setback that would apply when a data center is adjacent to a residential use.

[01:21:23] Staff had originally proposed that the setback be 100 feet for buildings and 50 feet for parking. The commission increased that to 200 feet for buildings and 100 feet for parking. Staff seeks board direction on this setback requirement.

[01:21:43] The commission also limited generator testing to weekdays between 8 a.m. and 5 p.m. and limited use of generators. In working with the data center coalition, staff discovered that the state requires nighttime generator testing certain times of the year, which conflicts with the commission's change.

[01:22:04] So in other words, when you say the state requires, is that a state code? I don't. I mean, is it the law? Because, I mean, there's nothing we can do with that if it's the law. Correct. It's DEQ. Yeah. DEQ. Okay. DEQ. Okay. The county worked closely with stakeholders to ease restrictions for flex buildings.

[01:22:28] Outdoor storage is not allowed under the current ordinance. The rewrite allows up to 10% of the lot to be used for outdoor storage in certain districts, subject to screening requirements. The use is also allowed in more districts in the draft, and any use allowed in the underlying zoning district is allowed in a flex building, not just industrial uses as originally intended.

[01:22:52] Based on public hearing comment, there are areas where stakeholders disagree with the draft ordinance, and staff identifies these as outstanding issues. Specifically, staff seek board direction on whether to require each specific use, occupying a flex building, to demonstrate conformance to applicable use-specific standards in Chapter 4, and parking rates at time of zoning permit.

[01:23:23] Staff recommends no changes to the text. Staff has observed instances where if a building is identified as flex on a site plan, the building could later be occupied with 100% of a specific use and not have to demonstrate compliance with applicable standards and parking requirements for that specific use.

[01:23:52] For example, a child care center not having to provide the required dedicated drop-off and pickup spaces and outdoor play area. The commission's revisions address this issue and codify an existing administrative practice while also providing flexibility and allowing any use permitted in the zoning district.

[01:24:18] Regarding utility-scale energy storage facilities, staff seek board direction on which zoning districts to permit the use and which standards should apply to the use. In the current ordinance, the use is treated like a utility substation transmission, which is only permitted by special exception in IP, GI, and MRHI.

[01:24:44] Staff recommends only those permissions because fire and life safety standards, I'm sorry, fire and life safety risks and aesthetic concerns make the use better suited to industrial districts.

[01:25:03] The commission did expand where the use could locate, so the draft ordinance allows the use by right in IP, GI, and MRHI, by minor special exception in OP Office Park, and by special exception in TR-10 and JLMA 1, 2, and 3.

[01:25:25] Staff recommends that the use require special exception approval to ensure that staff, the fire marshal, and the board can evaluate potential impacts and impose conditions of approval. Staff and the fire marshal also recommend additional standards as identified in attachment four to the staff report.

[01:25:48] We recommend these standards regardless of whether the use is permitted or a special exception. Staff is also seeking board direction for two changes the commission made that impacts a public school's ability to locate certain facilities, such as utilities and trails, in the floodplain.

[01:26:15] The commission decreased the maximum on-site area used for such facilities in the floodplain from 20% to 10% and increased the area of on-site floodplain that must be forested from 80% to 90%.

[01:26:32] Planning and zoning and LCPS staff do not support the commission's changes and recommend the prior requirements be reinstated. Attainable housing was a primary public comment theme at the board public hearing, so staff has identified this topic as an outstanding issue for any chapter that deals with housing.

[01:26:59] The draft ordinance addresses this topic holistically by requiring more ADUs in new developments and permitting and or requiring a variety of housing unit types. Also, the current ordinance requires that accessory dwellings meet the minimum setback that applies to the principal dwelling. The draft reduces those setbacks and only requires five feet from the side and rear lot lines as long as no windows or doors face adjacent properties. The

[01:27:38] intent of that change is to ensure that an accessory dwelling is allowed similarly to or above a detached garage. The draft also provides incentives in section 4.09 for adaptively reusing historic structures, including for residential purposes.

[01:28:02] We did not have a presentation planned for Chapter 12 because there were no outstanding issues relating to the urban and suburban use definitions, but we note that you received an information item to support your review of Chapters 3 and 4.

[01:28:19] And we also want to remind the board that Attachment 2 to the staff report lists out some additional staff recommended changes that we encourage you to approve. And that concludes the presentation. Okay. Supervisors, we're going to do like we've done before.

[01:28:35] We're going to have questions for staff and your normal time for questions. And then we will have the stakeholders come up and speak. We will go, we might after that take a break because we may need a break. And come back, go into a committee as a whole, have a discussion, and then make motions.

[01:28:53] That's just, we are now kind of back on the normal path of what we're going to be doing for these meetings. And so if you have questions for staff on the presentation or anything in three and four, you can do them now. You can do them as a committee as a whole, but you can definitely do some now.

[01:29:09] Ms. Bricksman. Thank you, Madam Chair. I apologize if I didn't see staff's opinion on this, but does staff support the idea of reducing the setback for data centers that the Planning Commission recommended?

[01:29:30] Our recommendation is 100 feet for building and 50 feet for parking. The commission increased it without asking our opinion. Do we know the justification for that?

[01:29:46] To protect the adjacent residential properties. Okay. All right. This is kind of, well, first of all, I guess I'll talk about it during motions, but the special exception for data centers in CLI, was that changed from permissible to special exception at some point?

[01:30:18] Not during this process, but before. Was it changed with a ZOAM? You've got to turn your mic on because you've got to be on camera, I mean on audio. Yes, CLI did permit data center as a by-right use,

and it was changed with a ZOAM to a special exception use.

[01:30:37] Okay, okay. And staff would support the idea of restricting data center use in town center fringe or town center core. We would support it, but in some cases there's a way to do it right as long as it's in keeping with the urban area.

[01:31:03] So there are ways to do it that staff can support. Okay, but it's not by right in either of those areas right now? No. It requires a special exception, and it's subject to design standards in the current ordinance.

[01:31:19] Design standards. Okay. And then do you know of which districts have the most – I'm kind of springing this on you – but do you know which districts have the most PDRDP types of – Plan Development Research Development Park. I believe that's right.

[01:31:39] Yeah. Yeah. The largest PDRDP district that we have in the county, is that what you're asking? Well, I think I know which is the largest. I think GW is probably the largest. Is there anything like that comparable in any other district? I believe there are maybe a couple small PDRDPs throughout Eastern Loudoun, but not very many and definitely not comparable to the University Center.

[01:32:05] Okay. And do you happen to know how many acres are in that? I don't, but I can find out. And it is under the 1972 zoning ordinance. Also, for further information, it's not under the 93. Thank you, Ms. Brixman. Thanks. Ms. Letourneau. All right.

[01:32:24] I'm going to hit you with some oddball stuff, but it's all in there. Vehicle sales. So right now, we only permit vehicle sales in certain districts. I think general business is one of them. But for some reason, it's expanded quite a bit to include CCSC, GB, PD, MUB, and then it's also a special exception on CLI. What's the rationale with that? Auto sales is currently permitted in the PDCCSC and RC districts under the revised 1993 zoning ordinance, so those districts are not changed.

[01:32:58] Okay. One of the, I believe it's on the attachment of the board of the staff recommended changes is auto sales the use was consolidated with automobile rental okay and therefore some of the district permissions changed unintentionally and so we would like board direction on going back and evaluating the districts that permitted the rental alone versus the automobile sales so you're saying in ccsc now it is permitted ccsc and ccrc i may actually want to change that because i we have a lot of issues with this this is where we have a lot of the parking problems stack cars

[01:33:36] all over the place so when we get to parking standards I'm definitely going to want to look at that but I may come back with something on that specifically um wait a minute stop this time so that's planned development regional center commercial center right yeah you guys if if you can maybe not just I mean because people watching do not know what all these acronyms are I can't People watching, quit watching a long time ago.

[01:34:02] But I get your point. Yeah, but just to, I know, but I think it's just, I think that's helpful to do that. Sometimes all I know is the acronym. I can't even tell you what it stands for. Anyway, I know that one because it's what Avonlea is. Dog parks. So we made, we had a ZOAM to allow dog parks to be permitted in PDH districts if they were administered by the HOA.

[01:34:26] It appears as though now we're making a dog park a special exception in the SN and all the districts, suburban neighborhood and other, compact neighborhood. So are we sort of becoming more

restrictive on dog parks?

[01:34:43] You are correct that previously a dog park was a permitted use within a PDH as long as it was administered and regulated by the Homeowners Association. The use was also permitted in the PDMUB district. The Planning Commission's direction and recommendation was for the new districts that we were adding the dog park to that they be a minor special exception.

[01:35:05] That way they could go through the public process and any conditions of approval that would be necessary to mitigate the impact of the dog park could be imposed within the districts. So what about the existing districts in which they're currently permitted under that ZOAM?

[01:35:23] They still have to go through? They would still remain if they have been legally established, they would be remaining. Well, right, but any new ones would have to go through a minor or regular special exception. Minor special exception, yes. All right. Well, I'm not sure I like that either.

[01:35:40] Indoor rec, last question. We're limited to 10,000 square feet in the TRC and UE districts. Somebody can tell me what those are because I don't know what it stands for before requiring a special exception. What happens if like an HOA would want to build an indoor rec center because it looks like they're not permitted at all in suburban districts?

[01:36:02] And then does that preclude us from doing a shared use type of sports facility like the type we've been trying to recruit in those districts? Should we be successful in recruiting them? UE is urban employment. Yeah, you're right.

[01:36:19] If I had thought about it, I probably could have. - Okay, so yes, the UE is the Urban Employment Center. There's not residential component within that district. So there wouldn't be a homeowner's association that would be developing a facility within that district.

[01:36:40] - But we don't permit them at all in any of the suburban districts, it appears. - What you're talking about sounds like it would be something of the HOA nature. So that would be the community center. It would not be regulated as a recreation facility indoor. Yeah, but some HOAs have, I'm thinking of one in particular in Ashburn, that's a recreation center.

[01:37:01] That's not a community center. And if somebody else wanted to do that, we'd be saying they couldn't, right? Yeah, if we consider it as a community center, then it would be permitted in the district, yes.

[01:37:18] Okay, we're going to keep going. Ms. Umstead? Thank you, Madam Chair. So in the staff presentation, there were a number of recommendations to, in some cases, go back to the staff draft and reject the Planning Commission's amendments.

[01:37:42] It's hard from an organizational standpoint because we're getting information by email. We're getting information on the dais, but nowhere do I see the recommendations staff just presented in front of me.

[01:38:00] So the easiest way to process this is if you have recommendations, get them in the handout that is given to the board members as we go through the chapters because your ideas sounded good, but I have no way to make motions based on those ideas. So that's just one comment. Can we stop our time? I think everyone's a little confused as to what you're saying. Where would you...

[01:38:35] So the staff presentation had a number of good ideas in it that I would be happy to support, but it requires making motions. And I can't find in my handout, either from our last session or this session, all of the ideas embodied in motions. And so I don't know how we go about making motions without those provided. I think all of staff's recommendations are in the motion sheet, except for the one about flex buildings,

[01:39:12] because we're not recommending any changes to the text for that one. So there was no motion needed. Okay. You also, more specifically, have, I think in our handout, a recommendation on energy storage use, and Judy would have received from me early this morning a forwarded email with a series of motions, which we could not accommodate today.

[01:39:47] but i'd like to get staff's view on those particular motions that were proposed by mr donches as we go forward because i think his ideas may be compatible with what you're you're recommending but i can't tell i understand and we have been working with mr donches since the zoning ordinance committee he would come and speak to the zoning ordinance committee so we're very familiar with Mr. Donchus. We did not evaluate your motions. We did receive motions from

[01:40:24] at least two board members for data centers over the weekend. Those will be included in the next packet. We will certainly evaluate them and give your opinion. But you'll see from all the various motions, there's a lot of conflicting motions across data centers and energy storage. So I just wanted to bring that to your attention but it is our intention to have every issue that we raise to have a corresponding motion on the motion sheet so when you see a motion that on the motion sheet that does not have a board member's name that is a staff motion that we corresponded from the issues in

[01:41:02] the work session memo if that helps at all thank you miss miss glass thank you madam chair um on the uh section for um this chapter three the section under automotive i was looking at the list that you have and there's um vehicle repair heavy and um it's not permitted anywhere what what would be considered vehicle heavy repair versus light repair i'm going to

[01:41:39] jump to the definition so i can give you that information um it has to do with the types of services that are being offered. A heavy repair establishment does things such as repairs of transmissions, differentials, straightening of body parts, welding, paint booths, things that would be louder, noisier, fumes coming. Vehicle repair light is more your oil changes, windshield wipers, tires, that type of activities. Okay, okay, thank you. Also,

[01:42:17] So in your list on automotive, I don't see anything for vehicle storage. And actually, I'm thinking about folks that may have an antique automobile or someone that may have, you know, a more, I don't know, flamboyant, expensive type of car where they would like to keep it stored.

[01:42:43] Those types of facilities, when they're indoor, are considered warehousing. We do have several throughout the county, I believe, for those types of facilities, and they would be warehousing. Warehousing. So they would be under the industrial production category of wholesale distribution, warehousing, and storage.

[01:43:06] So for warehousing, I guess in what area would that be in? Because I don't see it in urban and suburban, or maybe I'm not looking in the right section where it could be.

[01:43:24] Those are permitted uses in our industrial park, IP, GI, General Industry, MRHI, and I believe the TC, the Town Center Fringe, it is a special exception use within that district.

[01:43:41] Okay, thank you. Thank you. Mr. Kirshner. I'm sorry, was your light on before? I'm sorry, I must have seen something. Mr. Turner. Yeah, Madam Chair, I just have a question. So, as staff just alluded, there's at least two more sets of motions related to these chapters.

[01:44:01] So if we vote on Chapter 3 and 4 tonight and the motions pass and there are conflicting motions that have yet to be considered and are considered a future meeting, I'm very confused as to what happens. Okay, so a couple things. I sent you guys out something today already that said that for Chapter 3, will we be voting on endorsing the chapter in Chapter 3 after questions are asked?

[01:44:25] In Chapter 4, we would not be doing that. We would be voting on motions that were brought up to the days by supervisors. So hopefully, if there are conflicting motions, as we vote, we won't be voting on conflicting motions on this board right now. Chapter 4, except for supervisor motions, some of that we thought, you know staff concurred some of that also goes back to the modifiability discussion so so that's how that will work tonight and I sent that to you all earlier today already okay I hope

[01:44:54] that helps Mr. Sains thank you Madam Chair real quickly so I know I think I'm one of those supervisors who sent in some late questions so that'll be chapter four so we wouldn't discuss those tonight anyway right is that from what I'm going off what Madam Chair just said that's correct, but we did have some from Supervisor Turner from Chapter 3. Okay, and then noise mitigation. Maybe I missed it in my deep dive. Do we have anything for data center standards

[01:45:28] for noise mitigation next to residential to capture some of the sound that's coming off of these buildings? The use is subject to the noise requirements in Chapter 7, and there is a new requirement in chapter 4 for a pre and post construction noise study and if the post construction study shows that the noise would exceed the standards in chapter 7 then noise attenuation would be required okay and that'll be like a

[01:46:04] standard thing okay good and supervisor Brisbane's question our motion chapter uses a move to eliminate data centers as a special exception in town center core town center fringe zoning district so she's saying to eliminate the special exception so with that take it out altogether with that have a by right use by anything or is that just removed altogether I think the intent was to take it out altogether so there's not a by right use skin okay okay we change that by right use to a special exception in this zone ordinance so which the motion

[01:46:43] to take it out all together all together all right perfect sounds good to me there okay and what is this table 4.06-02-1 data centers principle facade standards staff is open to preparing lesser criteria for a secondary facade if so directed by board give us a little bit more information on that what are

[01:47:15] looking for exactly well we received some feedback from a mr. the data center coalition the data center coalition mr. Levy and also there were questions from supervisor Umstead that right now what is required in the draft and you know endorsed by the Planning Commission was that there would be either a secondary facade that might have mechanical equipment or whatever and that would not

[01:47:51] be facing residential but that any facade that faces a public road or residential would have to be a consistent primary facade and the thinking there is maybe there there was somewhere in the middle that we could have just a different tier so it wouldn't be the same you know principal facade requirements for three sides and in some cases four sides so that's where we were coming from on that it's a good idea

we hadn't thought of it and it's a good idea from industry. Thank you. Thank you. All right, let me take you to the presentation

[01:48:27] on page 15, where it says, drafts on an ordinance and sentence of adaptive reuse of historic properties for residential use. That's on page 15 of the presentation. If you go to the book under definitions, adaptive reuse, repurposing of an existing structure to accommodate new uses while preserving the structure. This often involves improving existing structures to allow for modern design and programming for this new use. What you guys have said to me that is adaptive reuse as far as historic structures does not match the definition of what adaptive reuse is. It just doesn't. I mean, there are two different discussions completely. That's the first thing.

[01:49:04] The second thing is the other day I asked about why we took out, completely took out co-housing, and I was told that there was something in here around congregant living and something in here around dormitory. If you go back and read what congregant living and dormitory in the definitions, they have nothing to do with co-housing as I was describing it.

[01:49:23] Hungry living is short-term emergency shelter for victims of domestic violence, sexual assault or child abuse, temporary resident shelter for the homeless, traditional housing for low income, more than eight individuals with mental health issues, more than eight aged, infirmed or disabled persons, and special care treatment.

[01:49:41] That is not what I'm talking about when I talk about co-housing. And when you go to the dormitory section, the dormitory seasonal labor, which is on 13 of the book, that is a structure located in the same property of an active agriculture, horticulture, or animal husbandry operation. That's all about seasonal labor as it refers to the, basically, I guess, the rural policy area. None of this gets to the co-housing I'm talking about, and none of it gets to the, definitely doesn't get to the adaptive reuse. The reason I'm a little frustrated, to be quite honest, it's because I have been talking about adaptive reuse

[01:50:20] since I walked into this building. And so, and this is what, it feels a little to me like, I know that I may not be saying the exact right words, because this is not my love language, and I don't know this language as well, and I know that I'm not, but I do know that I'm also putting forward what I'm trying to say and what I mean. And it feels a little like staff that this is your language is kind of falling behind like this language and so not getting me to where I want to go almost purpose purposely it would be like if I said to you do you know what bipolar is and you guys would go yeah we've heard that language before we've heard bipolar and I would

[01:50:58] go but do you know what bipolar 2 is most recent episode manic you would have no idea what I'm talking about would you none whatsoever so I know that you know where I'm trying to go because I've been talking about this forever, but I also know that you know that I've never been talked about adaptive use being purely historic, and even in the definitions you have, your definitions is different than what you have in your presentation. So I'm a little bit frustrated. Can you please help me? So we had a very similar conversation with the planning commission. Okay. The only usage of the term in the ordinance now is four historic buildings.

[01:51:35] You are right. The definition is different. Very. They had us change it when they were having us work on the other, what I'm going to call repurposing idea that is what you were, the planning commission, what you were talking about. They pulled back from that, but we did not change the definition to comply just with the rest of the regulations in the document.

[01:51:55] So I think if I understand what you're talking about, essentially, ignore the historic part. If there is an empty commercial or industrial building in a good location, you'd like that to be able to be used as residential. No, if there is a strip mall that is sitting empty and gone dead, I'd like to figure out how we do adaptive use in that strip mall to do a multipurpose thing.

[01:52:17] That's what I'm talking about. So I think what we would need to do would be to create a newly defined use because we would not want to use any of our current dwelling definitions to try to capture this idea because this is something that you're not, well, because everything in Eastern Loudoun is proffered, it's going to be difficult to apply this because of some of the characteristics we went into at the last meeting. So we could potentially create a new use, something that we don't already have drafted, that the board would then list in as many districts as you think is appropriate. So the option is there. What I had referenced last time is that as part of a comprehensive plan

[01:52:56] amendment, which we could do when we revise things next year, the wholesale revision, we could capture it in that. That would be where we could express that policy intent that we prioritize allowing those changes will work on the wording but essentially over other policies and goals that might be there so it shows some level of priority that that's a higher priority than some of the other things that might otherwise be limiting it right now and then as part of that but whether it's the definition or standards that would limit this new use that would be where we need to make sure it's contained to an existing building it's again as I understand what you're saying so that it's not someone trying to come in and go around all of our other residential definitions because this is truly something unique

[01:53:34] compared to just a single-family detached home or standard multifamily detached or multifamily. I'll have more when we do the committee as a whole, just more questions. That was very helpful, though. That was very, very helpful. I'll have more questions. All right. What we're going to do now, though, is have the stakeholders come speak on chapters three and four.

[01:53:54] And so let's start with our business chamber stakeholder, who's Pat Quante today. And the commercial development is Mr. Jinder, say his name for me, say it one more time louder, Jinder, come back to the table, so thank you, and then Mr. Lawrence on residential development, and then we'll go from there.

[01:54:19] We're ready for you, Mr. Quante, who is here for the chamber. Either podium is fine. Thank you, Madam Chair and members of the board.

[01:54:36] For those of you that don't know me, I'm Pat Quante with Bowman Consulting. I'm here on behalf of the data center coalition. We've been working with staff since September on trying to work through some changes to the ordinance that are proposed here that will definitely improve the look and appearance and make data center better neighbors.

[01:54:59] But there's a few things that weren't quite worked out. And then there was a few things that came up during the Planning Commission review that we'd like to take a few minutes of your time to go over. Data center community is really interested in being good neighbors, and so this is a, I think it's a positive thing.

[01:55:21] It's just, there's a few things we need to work out. So a big thing you'll hear about is the fenestration and principal's facades. And the issue there is there's a lot of ideas on what looks good, but definitely some fenestration definitely looks good.

[01:55:39] And the examples we have in the county, there's lots of different percentages. The coalition has a lot of good facilities that are around 20 percent. But so we've recommended 20 percent for that. The other issue is that if you have something that has roads on three sides, that's technically three sides that then would have to have this 30% facade.

[01:56:04] So that's why we introduced some type of secondary measure so that there's a lesser requirement on the other two sides, the one that doesn't have the office. Fenestration on an office actually can be real glass, but the other sides of the building are just concrete walls with equipment inside.

[01:56:20] So it wouldn't be that useful. The setbacks from residential, we were on board with the staff's recommendation initially of 50 foot for parking and 100 for buildings. Planning commission increased that significantly.

[01:56:36] That's going to create a lot of basically unused tax base, a lot of land that we're not able to use for the projects. So that is a concern. Another thing in the ordinance is right now, the way it's written, You're not allowed any equipment between the building and a residential property line.

[01:56:57] At one time, there's a qualifier of like 100 feet. But as of right now, you can have a building whatever distance it turns out to be 100 feet or 200 feet. But no equipment between the building and the residential property line, even if the buildings were 500 feet away.

[01:57:14] Thank you. Thank you. Thank you very much. Thank you all. Nice to have you here, actually. Appreciate it. Good evening. Ready when you are. then after you, it would be Matthew Lawrence and then Matt followed by Matt Leslie. Thank you, Madam Chair and Board. My name is Bill Junda. Just remember, it's like fun, like funda, like having lots of fun here tonight. So I wanted to thank you for the opportunity to speak. And I also wanted to take a second to say thank you for the work you did last Thursday. I think the motions on legal nonconformities and grandfathering are a really good step in the right directions for the ordinance. So we appreciate that effort. You may or may not have seen that our group submitted some draft motions today. You probably have not

[01:57:52] time to read them yet and maybe you'll you know try and fall asleep to them later there's really only three items I wanted to touch on briefly this this evening the first is related to energy storage we support the planning commission's recommendation regarding energy storage in the industrial districts we feel that energy storage is vital it's a vital tool used to integrate variable electricity generating assets such as wind and solar and other sustainable practices onto the grid, and it will improve grid reliability and defer costly and land-intensive transmission upgrades, among other benefits.

[01:58:26] So please do not roll back the permissions that the Planning Commission proposed at the cost of these green energy solutions. Second, we agree with staff that the Planning Commission probably went a little too far on some of the data center performance standards related to setbacks and fenestration and all the things that Pat so eloquently just talked about.

[01:58:46] So we agree with staff that a lot of those things should be rolled back to what was originally proposed by staff. And thirdly, I wanted to talk about Flex Industrial, which is very important to our commercial industry group. Again, staff did a tremendous job working with us on creating the various use standards and the definitions for Flex Industrial, and we really only have one little nuance that we wanted to talk through, and that's related to a multi-tenanted building.

[01:59:11] Right now, the way the ordinance is drafted, if you have multiple tenants, which is now allowed in a flex building, they would each still have to comply with their own individual performance standards in Chapter 4. And that makes it complicated, every time you have a tenant change out, you know, one tenant leaves, a new one comes in, and it's a slightly different, it's still allowed by right as a use, but how do you implement that when they have maybe different performance standards?

[01:59:36] The whole purpose of identifying flex as a holistic use for an entire building is that all those uses are permitted, everything fits within the original site plan, you don't have to check all those boxes every time you have a tenant switch out. So with that, I'm happy to answer the other questions you have about any of those issues. Well, you did that with like nine seconds left. Good job. Thank you very much.

[01:59:58] Mr. Lawrence, sir, you're going to be followed by Mr. Leslie. And then Mr. Pollard, are you speaking? Okay. And then for wildlife, is that you, Ms. Bingo, speaking? Okay. Ready for you, Mr. Lawrence. Okay. Thank you. Good evening. I am Matt Lawrence, representing the Residential Development industry as part of the review of the chapters tonight first like to thank the board for the opportunity to speak and also acknowledge the efforts of the county staff through this process the chapters are subject to the next couple of work sessions are some of the more technically clear-cut and slightly less arduous for the residential development community based on some of the modifiability discussions this evening i believe what you're seeing from the development

[02:00:35] community is a desire for clarity on how the ordinance will be administered the urban place type is a new one for loudon county and it's a place type where more discussion should be had on the opportunities associated with it. The uses within the urban place type cite residential development in the form of multifamily dwellings in the inner and outer core with a wide range of housing options in the transit designed supportive areas. I believe the residential development industry agrees in principle with the densest development occurring within the core of the urban place type. Can we start his time or he can just keep going forever? I can slow down. Okay

[02:01:10] additionally the transit design supportive area is intended to provide a transition between the high intensity development of the inner and outer core sub areas and the surrounding lower intensity development patterns given this is a new place type and the nature of urban residential development my concern is the unintended consequences of the parking requirements will have on aesthetics affordability and function of the urban place type i know parking is not specifically the topic of tonight's discussion but it impacts the ability to provide the quality uses desired in chapter three

[02:01:41] I'm aware we all have plenty of reading that we have done and to be done with respect to the zoning ordinance rewrite, but would cite some of the case studies presented by Henry Gravar in Paved Paradise, How Parking Explains the World. In a chapter called Parkitecture, the author provides several examples of where development is dictated by parking requirements and not desired use.

[02:02:02] In the core of urban development is the type of development that typically can afford to build structured parking given the type of uses being encouraged. Once you reach the lower intensity development, there are uses that could be comfortably surface parked. It's between the high density core and the lower intensity development where surface parking takes up too much room, but structure parking costs too much to build.

[02:02:25] This means the size, quantity, and shape of housing in the missing middle will follow what can fit as parking allows, as opposed to what the community needs. This could also apply to adaptive reuse,

where the new use is limited by only available parking.

[02:02:40] The zoning ordinance has encouraged connected open space, pedestrian and bicycle access, and plaza areas in the urban place type, which is all logical. The urban place type encourages a lifestyle that's not dependent on the use of vehicles. However, parking requirements for the desired residential development in the urban core make parking spots as obligatory as bathrooms in some cases.

[02:03:01] As we have expressed with stakeholders before the residential development community is concerned with the cumulative effect of more restrictive open space and parking requirements On obtaining allowable density which in turn impacts the cost of housing and the ability to make up ground on the number of attainable housing units Thank you. Thank you. That was really very helpful. Thank you so much Mr. Leslie ready when you are and you will be followed by Mr. Pollard and Ms. Bingo, staff, it is my fault that you don't have those last two names.

[02:03:32] I didn't send them to you. They sent them to me already. That is my fault. I apologize. Ready. Chair Randall, members of the board, thank you for the opportunity to speak before you this evening. For the record, my name is Matt Leslie, and I am an AICP-certified land use planner with the law firm Walsh-Galucci, located in our Leesburg office, here tonight to speak on behalf of the affordable, attainable housing community.

[02:03:53] In doing so, I would like to speak specifically about energy storage as a use and the draft use standards that are currently in the draft zoning ordinance. Energy storage may seem like an odd topic for housing affordability, but utility costs play an important role in determining whether an individual or family is considered cost burden. The functioning of utilities and their impact to the environment is both hyperlocal and global. Virginia's goal of net zero emissions by 2045 and a carbon-free grid by 2050 are going to be achieved or not achieved, in large part by how Loudon and similar jurisdictions regulate uses such as energy storage moving forward.

[02:04:31] Loudon's 2023 energy strategy also notes that energy should be clean, reliable, and affordable for all residents and businesses countywide. When utilities can take up as much as 10 percent of household income, ensuring affordable, reliable energy is imperative to achieving Loudon's affordable and attainable housing goals. Additionally, we should seek environmental justice when considering new and potentially burdensome regulations such as some of those proposed in the draft ordinance for energy storage. Energy storage is essential to bringing more renewables onto the grid as well as potentially lowering energy costs and modernizing the grid

[02:05:06] overall. Minor tweaks to the use standards as recommended in change number 21 for chapter 4 by the chamber as well as updates to where energy storage is permitted by right and or by special exception as recommended in changes number 24 through 27 in chapter 3 of the chamber's document sent to you all will go a long way towards ensuring we do not stamp out energy storage as a viable business opportunity in Loudoun. I implore the board to consider these changes in light of known updates coming to the state building code and fire code. Loudoun is an emerging leader in the energy storage market and with the adoption of the recommended changes before

[02:05:44] you we can address both affordability and the board's environmental goals together thank you for the opportunity to speak before you tonight and I'm available outside the setting of this meeting to answer any questions the board may have thank you thank you Mr. Leslie this was the the document sent to us today correct yes ma'am okay we have it we have it good evening Mr. Pollard how are you doing very

good thank you chair Randall members of the board I'm Bob Pollard speaking on behalf of the preservation community first we applaud your decision to defer a review of data centers to 2024. The proposals in the XOR to mitigate their impact are a good first step,

[02:06:22] but they only scratched the surface of larger concerns about county budget, energy and water usage, climate, power lines, land use, and quality of life. Given their energy use alone, it's extraordinary that data centers are considered like industry. Already data centers are transforming the very landscape of Eastern Loudoun. So we need to respond to data centers with a holistic approach. For now, we strongly support the Planning Commission's proposal to increase setbacks to 200 feet and cut generator noise. Second point, we agree with staff, it's premature to revise zoning

[02:07:02] on energy storage facilities before proper vetting of standards. Third, I want to emphasize why adaptive reuse of historical structures is so important. You know, there's a common misconception that preservationists want government to protect every single historic site by turning it into a shrine or a museum or just mothballing it forever at taxpayer expense.

[02:07:28] Quite the opposite. We know it's much better if private owners rehabilitate those buildings. A neighbor of mine turned a church into a private residence, preserving it down to the pews. You've all probably dined in restaurants, converted from old mills or banks, or visited stores and B&Bs, readapted from historic homes.

[02:07:53] Such readaptation may also alleviate shortages of attainable housing, but we agree with staff that that is a separate subject. So, in the meantime, please retain the language on adaptive reuse in the ZOR.

[02:08:10] It incentivizes preservation of historic sites and villages at no cost to the public. Thank you very much. Thank you, Mr. Pollard. We appreciate you. And Ms. Bingel. Good evening, Ms. Bingel.

[02:08:27] Good evening, Chair Randall and board members. I am pleased to be able to speak to you on behalf of the Animal Wildlife Stakeholder Group. However, I would also be remiss to not mention that we have been working directly with the HOA coalition, and they are not able to speak to you this evening.

[02:08:54] But we've been working with them and members, HOA members, on data center impacts. And so I think it would be a huge oversight to not address the standards and motions offered in the supplemental package. The motions would reduce the proposed standards, and with them, reduce your ability to offset negative impacts where data centers can be built by right.

[02:09:15] The proposed standards will not affect data centers that aren't next to residential uses, but are essential next to residential so they can apply to both by right and legislative applications. Residents have a right to know that their biggest investment won't be impacted by a lack of protections against intrusive uses that come in next door, wherever they live in the county.

[02:09:39] Please vote against the proposed motions that reduce the setbacks and setbacks, pre- and post-noise testing requirements, equipment placement, and any improved lighting standards. We suggest a slight revision to the Planning Commission's proposed limitation on generator testing to keep the testing timeframe outside of the DEQ limited May 1st to September 30th.

[02:10:05] And in that time frame, suggests that testing should occur between 5 p.m. and 9 p.m. to be the least intrusive. We support the flex industrial uses that have been suggested for change. We support staff's

position on energy storage facilities and the limitations that they are suggesting at this point.

[02:10:28] I want to particularly point to school uses related to floodplains and say that they are critical to our natural resources. wildlife, and stream health. We support keeping the 10 percent max limitation on school uses in the floodplain and preserving or restoring the tree cover in the floodplain to 90 percent to avoid affecting floodplain functionality and benefits, and in fact think that that should apply not only to school sites, but all county-owned sites to demonstrate county leadership. And I'll stop there. Thank you. Ms. Ming, before you walk away, I just want to make sure we heard what you

[02:11:02] said, so what you all are supporting is generator testing not 8 a.m. to 5 p.m., but 5 p.m. to 9 p.m.? Did I hear that correctly? Between May and September when DEQ says don't do it during the day. Okay, so between 5 p.m. to 9 p.m. between May and September is what you're supporting.

[02:11:19] And the rest of the time during the day when it won't disturb the neighborhood. I understand. Okay, all right, all right. Thank you. I just, okay, thank you. Thank you. Okay, supervisors, I know. So advisors, let's take our break. And we will come back, and we will go to committee as a whole, and then we go to motions.

[02:11:38] We will attempt tonight to get to a motion that actually codifies, well, not codifies, but close out Chapter 3, but not Chapter 4. Remember, please remember, these are all straw poll votes and all straw poll motions.

[02:11:57] And so if we really need to go back, we can. But we also can't, we have to keep kind of, we can't not take motions on chapters forever and then get through the process. So we will do Chapter 3 tonight. But in the meantime, yes, we're not going to do any motions. If I'm reading this right, Chapter 4 is the data center, so no data center motions.

[02:12:15] So what I said today and what I said to you all is we're going to do motions that were sent in by supervisors tonight. Whatever those motions might be, that is what I sent to you guys already. We're going to do motions that were sent in by supervisors. Some supervisors sent in data center motions.

[02:12:32] We will do those motions tonight. I said that to you guys earlier. I put that in the email. I said, this is like the third time I said this. No. Just a point of clarification, Madam Chair. How are we going to resolve the staff issues that the staff brought up?

[02:12:54] Do those have to be like the 10% for the public schools or the discrepancy for the 100-foot versus the 50-foot? On Chapter what? I'm sorry, on Chapter 3. The staff have identified 1, 2, 3, 4, 5. I don't understand your question how we're going to resolve.

[02:13:10] You mean outside of motions how we're going to resolve on Chapter 3? Right. I don't know that we have motions for every single one of these. I don't know if there's a motion on the school's issue of 10%. So don't we need to have some? Oh, I see what you're asking. We need to either direct staff somehow or have a motion.

[02:13:26] You want to answer that? You want to have this? So to that specific example, Motion 13 would cover that. I thought we actually did have motions for all these. So we have motions that cover all these. Okay, thank you. Dan, am I incorrect? I do believe we have motions for all these. Do we not? Yes. Thank you very much, Dan. Okay.

[02:13:43] All right. Let's take at least 15 minutes for a break because we're going to come back on this dance and be here for a long time.

[02:25:36] Oops.

[02:43:17] Okay, we are back. In talking one-on-one with some of my colleagues on break, there are people who don't feel ready to vote on endorsing Chapter 3, although there may be more questions and motions on Chapter 3. We do have a pretty long time until the next meeting, which is not until the 26th.

[02:43:36] And so we can come back on the 26th with a lot. Now, that means we'll come back on the 26th, and we'll be doing Chapter 2, Chapter 3, Chapter 4. So 26th is going to be, I mean, plan on bringing your sleeping bag on that day if you feel like you need to wait until then.

[02:43:52] That's fine. I don't want people to go places they're not ready to go yet and making decisions. That's fine, and there's no reason to put a motion, especially a motion to endorse that won't pass. A motion to endorse that not passing would be just a bit ridiculous, and so that's fine, but just know that we will have a very long time until, I mean, we do have a very long time until the 26th, relatively for how fast we're going right now, so we have had this book.

[02:44:22] We had this book since before we went on August break. People have had at least six weeks to ask questions. But as we go through, more questions come up, new questions come up, and things like that. So that's not an issue with me at all. Just know the 26th is going to be pretty heavy.

[02:44:40] Okay, let's do the committee as a whole on Chapters 3 and 4 and talk about things, whatever. I think, yeah, I think 45 minutes is plenty. We don't got to go an hour. 45 minutes is fine. I'm going to pull that back some, because we've already had one, so 45 minutes is fine.

[02:45:00] If we're not going to do any endorsement chapters, I think that's fine. There are also maybe motions that are made right now. Wait, let me stop that. Motions that are on the dais to be made right now that I know will be in conflict with future motions that are coming. If that's happened, we may want to hold those motions and not do two things at one time.

[02:45:20] So we'll just see how that goes when we get there in those motions, okay? But first, let's do a committee as a whole, which basically is time to ask staff any questions or have any thoughts, statements, whatever, about Chapters 4 and 5. So if you have anything to say right now on Chapters 4 and 5 or any questions, this is the time to put your light on.

[02:45:39] I'm sorry, 3 and 4. 3 and 4. Not 5, not 5, and not 12. Yes. Okay. Ms. Umstapp. Thank you. I don't know if I'm just remembering something Judy Burkett said during the break, and I can't stop laughing about it.

[02:46:00] Anyway, I don't know if you all have had a chance to see what the chamber has submitted in relation to redlining. But I think that email came in today, so I don't really expect it to be ready for action tonight.

[02:46:20] But I do have some questions. For example, animal hospital in the UE district, the chamber would remove square footage limitations with the question being, why wouldn't we want larger hospitals in the UE?

[02:46:38] Do you have any thoughts on that? Not on that specifically, but let me mention one thing that we've talked about internally. Whenever we work on the upcoming CPAM for data centers and the TLUC

recommendations came out of that, one of those things was to remove the urban employment place type, which effectively means this district, we do want to get it right now if we're going to implement it, but also presumably will be going away if that place type goes away as well.

[02:47:08] So just to mention that. But do you all have any thoughts on that? All right. I mean, that's a good answer. I can live with that one. but if you have more detail. That's carryover from the current zoning ordinance.

[02:47:24] The UE is the TRPDTRC, Transition-Related Employment Center. Those size restrictions are in the current Revise 93, and they have been carried over into the zoning ordinance rewrite.

[02:47:42] Okay, thank you. There's one that especially resonated with me, And this is on, I think, hotels, and there was a requirement, yeah, 4. 03. 04. D, hotels, motels, and the TCRDP, OP, and IP zoning districts allows, I think, the chamber requests that we allow hotels and motels to be permitted if they have three of five of the following amenities rather than all five.

[02:48:17] or one, a restaurant or carry out food service, two, swimming pool, three, exercise room, four, guest store or area offering personal necessities, and five, meeting conference space.

[02:48:35] The chamber's rationale is many of the nicer hotels could not check all five of these requirements, yet we would probably want them in the county. do you see a problem with reducing the requirement from five items down to three supervisor um said my concern is staff hasn't seen what you're referring to I'm I feel a little uncomfortable responding since we haven't even seen that letter okay I was not aware that I won't ask any more questions I will

[02:49:11] forward it to you immediately thank you madam chair came in today about what 3:30, that's why you haven't seen it. It's a very new document. Mr. Kropath? I'd just like to add for the board's awareness that I did receive the email from the chamber at 4:40 this afternoon, but in the haste of preparing for the meeting and taking care of other things, I have not opened it yet, and I will forward it to the staff right now. So for their benefit, they have not seen it yet. My apologies.

[02:49:46] No, no. I mean, no apologies. I mean, I will say the chamber has been, when I asked the chamber, they said it's kind of a reference for what we're going to do next. They know that we were not going to do anything with that tonight, and no questions could be answered. They understand that. So no apologies needed, Mr. Probst. Anybody else? I'm sorry, Ms. Umset, will you finish?

[02:50:10] Yes, thank you. Mr. Bricksman. Thank you, Madam Chair. I don't see a motion. I did find some of them, but I don't see a motion on staff's issue with flex building use specific standards. I think that we do need some use specific standards for flex industrial. I, you know, being very, very flexible, of course, is exactly what we want so buddy riser don't strike me with lightning but um i uh i think

[02:50:43] there are some certain circumstances in which we would want the um tenant to comply with certain use standards you brought up the child care center um i i have visions of warehousing children You know, if they don't have the specific use standards for a child care center or a limited number of children they can have if they're in flex industrial space.

[02:51:12] The other ones I was thinking about was what if there is a some type of health care facility in there. There may be some egress, ingress issues. So does staff have kind of a short list of uses that you might recommend?

[02:51:34] And I don't want to be too restrictive. Like, I understand Flex Industrial, but I just feel that there may be a couple specific ones that we just want to pull out and say they need to follow the use standards for that facility.

[02:51:50] so there's no motion in the motion list because staff doesn't recommend any changes to the text the text already requires that any use locating within a flex building have to meet the standards in chapter 4 and the parking oh okay okay pardon me on that then okay hmm I guess all right maybe okay I guess I could look at the use standards in chapter 4 again but okay I'm comfortable

[02:52:25] that and no motion and not changing thank you um and then just one more time walk me through what staff's recommendation is for the energy storage i see the motion um i see the recommendation but can you just walk me through that one more time what staff is recommending we are recommending that we permit that use the same way we do today which is by special exception in ip gi and mrhi

[02:52:57] The Planning Commission made it a by-right use in those districts, a minor special exception in Office Park, and a special exception in TR-10 and JLMA 1, 2, and 3. Okay, so it sounds like in almost all but three cases, it has to be a legislative decision because it's specs everywhere else.

[02:53:20] You said it's by-right in three places, right? In the draft as it is today. In the draft as it is today, and then it's specs everywhere else. Okay. All right. I think I'm good with that as well. Thank you. Just to expand on that, in attachment four, staff is recommending those additional edits to the chapter four section on energy storage as well.

[02:53:44] It's an attachment four to the staff report. Okay. All right. Thank you. Mr. Letourneau. Thank you. Can I go back to the indoor recreation use for a minute? I just want to understand broadly in the new ordinance where that's allowed and why we would want to limit it to 10,000 feet in certain districts.

[02:54:18] Can you give me a little bit more information? Where are you seeing 10,000 square feet? Is it a use-specific standard for the use? In TRC. I'm going to.

[02:54:40] I think it's carryover, and I think the use is by right in TRC if it's under 10,000 square feet. and it's a special exception if it's over 10,000 square feet. Okay. Was there any discussion about it being by right over 10,000 square feet?

[02:54:59] I mean, 10,000 square feet is not very big for one of these. I'm trying to think specifically at a certain type of facility that Visit Loudon and the county have been working on, and I want to make sure that just broadly we are covering the type of facility we're trying to get in certain districts or pretty much any district.

[02:55:21] So we can discuss it a little bit more offline, and I can submit some questions, but I think those of you who know what I'm talking about on the board know what I'm talking about, I think. Ms. Loudon has brought up using a larger number there as well, but it's not something that was a significant discussion at the commission.

[02:55:39] So if the boards would like to make that number larger, we're definitely open to that. Okay. All right. So I may have a motion on that then. And then energy storage more broadly. So I know a little bit enough to be dangerous because of my day job on this topic.

[02:55:55] What I'm kind of getting is some hesitancy over safety issues, and I'm not sure I quite know why something being a special exception inherently makes it safer. I mean, it's either a safe use or it's not, and in a special exception, I mean, I wouldn't want us to be approving something that wasn't safe, of course, but do we need to handle that via special exception in all instances?

[02:56:28] Or I think in the Planning Commission's version, this is a minor special, maybe, is it? And like Mr. High and GI and a few of those. It is. I just wanted to address that staff's concerns are alleviated somewhat because we did work with the fire marshal to develop those fire safety standards in attachment four.

[02:56:53] Okay. So then there would be no objection if this were a by right use in the industrial districts? No, not as long as they were subject to those standards. And what we did is we took them from the National Fire Protection Association, recognizing that it's not going to be adopted yet.

[02:57:15] So as long as the by-right, as long as they were subject to those standards, that would be acceptable and industrial. Okay. And then on the question of generator testing, interesting to hear Ms. Bingle's commentary on the 5 to 9, because I think what staff was thinking was 8 to 5 would be the least disruptive time period.

[02:57:41] Obviously, we know now that DEQ only permits this overnight from May to September, but that would not, I believe, and correct me if I'm wrong, preclude us from putting hours limitations on this use or on this activity outside of those months.

[02:58:02] You're correct. You could add those hours. But it looked like staff was almost telling us just to take this out completely and not to do it outside of May through September. We didn't even contemplate Ms. Bingle's recommendation, but that's a great recommendation to consider.

[02:58:19] Well, not even just Ms. Bingle's recommendation, but just in general, it looked like once the issue of DEQ was raised, at least looking at this packet from staff sort of support of motions, it was just to take the section out. But we could, if we wanted to, from September until May, place some hours on it.

[02:58:40] I think four hours probably is not enough time. But we could do eight to five, for instance, like we were originally proposing from September to May. So I think the reason you're seeing that is that the commission, there was language related to that specific to the TC district, and they essentially copied it over to everywhere.

[02:58:59] So we just, by reverting it, we would just remove it as it was originally done. But, again, that doesn't mean we couldn't put some reasonable hour standards on it if we could find a good balance. Okay. Thank you.

[02:59:17] Mr. Turner. Thank you, Madam Chair. Just to follow up on that last discussion a little bit. So, as I understand it, DEQ requires it from 5 to overnight, and our ordinance was proposing it during the day, and that's in direct conflict.

[02:59:33] So what's the resolution there if the state agency is saying you can't do it during the day and we're still going to leave it in there that you can do it during the day? EEQ only precludes testing during those hours, during certain months, and it's an environmental issue. I don't know if it's herons or something, some type of nesting that occurs between September and May, or May and September.

[02:59:56] Okay, and then the next question I have, reading the Chapter 7 noise standards, I believe it is 55 decibels at the receiving property. How do we confirm that we are meeting those noise requirements during generator testing?

[03:00:21] The generator testing is exempt from the 55 decibels. Really? Very interesting. Okay, thank you. Ms. Bricksman? Sorry to belabor the point, but did you say that DEQ makes them test at night during those months because of nesting birds?

[03:00:46] It's some type of environmental issue. I would have to look and make sure, but it is something along those lines. It's an environmentalism. It's ozone. I thought it was ozone. Okay, that's what I thought. That's what I thought. It was probably ozone. And I don't know how DEQ defines night, but I would think if it's – well, first of all, can we set hours at all during those months, as Ms. Bingle suggested?

[03:01:10] Or is it just we're overridden by what the state says and whatever their definition of night is night, and that's it. we can't place hours during those months. DEQ prohibits the generator testing from 7 a.m. to 5 p.m. May 1st through September 30th. Oh, okay, until 5 p.m. The 5 to 9 p.m. suggestion should work. Okay, well, I'm not, actually not sure I'm supportive of that suggestion because if it's an ozone issue, why would you allow it between 5 and 9 in the middle of the summer? Like, that's kind of the hottest part of well not I mean nine o'clock is not the hardest or not hottest part

[03:01:49] of the day but it's pretty darn hot at five o'clock with and with um you know everyone driving home from work that's that's key ozone hours so okay thank you so I probably wouldn't support that motion if anyone made it thank you okay um Mr. Turner you know sometimes I I forget what you do at your day job and so there may be some times I'm going to call you about some of this energy stuff because, yeah, I may just ask you some questions right now. Mr. Kirshner. Yeah, I just had a follow-up question. This is something I'm not familiar with and those maybe who have data

[03:02:27] centers in their district would. How often does testing need to be done and for what period of time? Is it an hour? Is it 30 minutes? Is it daily? Yeah, is it weekly? That's something I just don't know in terms of, obviously, because the proposed motion was to remove restrictions. That's a good question restrictions and i just want to make sure when i mean i don't know if anyone's from the industry or staff can answer that or have some idea of that we don't know offhand we'd have to look into it okay it would probably be seem to be a very important piece of information to know before we propose a motion regardless of where we come down on it i completely agree

[03:03:05] yeah i was going to actually ask that question because if it's if it's daily that's very different than if it's once a week right it's just it's a very different discussion yeah miss glass yes madam chair i i think it's quarterly that's done yeah really oh it's a quarter that's a whole different discussion then matt we're all looking at you do you know this no but mr josh levi might so oh okay sir will you come down to the podium and and help us out here thank you how's your point to miss bingle again no

[03:03:44] Sorry to put Josh on the spot. We love putting people on the spot who just come to observe our meeting. So thanks so much. Madam Chair, Josh Levy with the Data Center Coalition. I will get the schedule very quickly for you in terms of how frequently there is state-mandated testing where they will actually mandate, and I think maybe the generators run 10 to 15 minutes, but I'll verify that for you.

[03:04:09] In terms of the limitations, those are in the permits themselves that are issued by DEQ. And what we don't know is whether those could or would change over time in terms of as individual permits

get issued moving forward, depending on air quality and other considerations.

[03:04:26] So I would urge you all to have some flexibility as you think about that DEQ might further restrict or further push the timelines for... And Mr. Levy, so you're going to let us know. So you're saying in the 15 minutes, but you don't know like how often, so it's daily, weekly, quarterly?

[03:04:45] I will send some texts and then I will wave over staff maybe that would be great thank you I'm going to go to Mr. Sainz and then I'll come back if you need me to come back Mr. Sainz I'll just simply say it can be direct staff to research and they sound like they are because I remember we asked some of these questions when DEQ was going to have the public sessions in regards to this a few months back and we asked these questions and we never actually got true answers from DEQ about these various questions. So if staff can do their homework and Mr. Levy do his homework and they confer and get back to us, that would

[03:05:23] be greatly appreciated. Thank you. All right. Okay. A couple things. Can we go in the book to page 40 on chapter C? I'm sorry, chapter 3, page 40. So there are very, very, very restrictive prescribed prescriptive uses in this ordinance are these uses if they were to pass enforced by complaint only let me give you an example if you drop down on this

[03:05:59] page to number seven which is trip generation the home occupation must not generate more than ten additional vehicle trips five round trips per day including deliveries now that is the home occupation for a house that is also being used as an accessory dwelling.

[03:06:18] Who is monitoring whether or not the home occupation generates more than 10 additional trips, five round trips per day, including delivery? Because truthfully, I'm not sure why this kind of stuff is in here. I mean, and these are like all through this chapter.

[03:06:35] You know, if you do number four, visibility, no visible evidence of the conduct of the home occupations permitted other than the signs permitted pursuant to the sign ordinance.

[03:06:53] If you do F1, the whole property owner's consent for donation and drop-off boxes. I literally just wrote down what right next to it. So how are these being enforced? We don't monitor it.

[03:07:09] It is all complaint-based, but having these regulations give us a tool so that we can regulate it should there be a complaint there would be something to measure it against if someone did for example see a lot of do you want to have it this prescription because that does make sense should there be a complaint but I mean there has to be a number first evaluated it has to be a number so then so it's a complaint then you go out there and sit and see if there's more than 10 trips do you know if they're round trips what do you do once you get a complaint we will go investigate it depends on the type of severity the complaint if they're if a enforcement

[03:07:45] officer would be sitting out there all day or if they go for two hours it just depends on the nature of what the actual complaint is but we do have staff go out and sit at sites for multiple hours sometimes to try to verify whether the complaint is legitimate or not i don't i don't think i like you know i'm i'm minded it's just that you know i think if we're going to have these kind of things now we need to know how we're going to enforce it because i mean they are very chapter three was interesting and kind of funny but they are very very very prescriptive and so But it's all just complaint-based?

[03:08:21] Yes. I mean, with your second example, the property owner's consent, I mean, that does state in there it needs to be submitted with the required zoning permit, essentially, application. So a number of these, they are verifying when they submit their permits or what have you, that they comply with these standards.

[03:08:36] That way, if they aren't, it gives us another reason to be able to enforce it. All right, number three on this page is employees. A member of the home occupation, employee, family, reside in the premises may be engaged in the home occupation. One employee, one full-time equivalent, other than members of the home occupations, operators, family, reside in the premises may be permitted to work on site.

[03:08:59] So those types of things, again, that's, I mean, there's absolutely. So I have an accessory dwelling, and I am a therapist, and I have an accessory dwelling that has three offices in my accessory dwelling.

[03:09:17] I'm a therapist. I have two more therapists in the accessory dwelling. Those other two people, well, when they're not family, one is, and that's fine. And you're saying with all that, the trip generations can be, because what about trip generations of clients coming to my house or clients coming to my dwelling?

[03:09:35] What is that looking like? Because I just don't, I mean, I don't have, I know you have to have numbers, but these numbers are, I think, unrealistic if somebody's actually going to have a business that works. A home occupation's intended to be accessory. Yes. Since it's at your home. So in this case, the standards are intended to be small so that you're limiting the use there because it's just a home occupation.

[03:09:57] If you have a lot of people coming and going, that's when we would want that business to look at finding a retail space or an office or depending on what they do. My best friend is a therapist. She has her own. That's why you say she has her own place. Okay, so she has two employees.

[03:10:13] Those two employees and her may have three clients a day. You're counting the client trips to the home office as trips? Yes, any trips associated with that home office. And UPS deliveries?

[03:10:30] Yes, UPS deliveries does count. But again, if you have 13 visits and no one complains about it, it's not something we're proactively trying to seek and cause problems for people. Okay. All right. I think this is okay.

[03:10:46] All right. All right. I did want to say that, and I know, I did want to say for the adaptive use discussion, I was not saying to anybody who might have heard me that it shouldn't be historic, the historic structure shouldn't be. Leave that there. I was just simply trying to say that what you have in your presentation and what you have in your books don't match.

[03:11:10] I think that was all I had on Chapter 3. Anybody else before we go to motions? Okay. I think that was all. Supervisors, one more thing. I am literally moving my definitions sections around in front of the new section that we get.

[03:11:34] How do you want us, I mean, so when we get to the definition section, which I actually think we should, I don't know when we should do that. Do you want us to ask you to change definitions depending on what they are? Because, I mean, we're going to endorse this whole chapter.

[03:11:50] What is that going to look like? It depends on what you're trying to do, essentially. I mean, if you think a definition should be broader to capture more stuff or narrower, I mean, those are the kind of things. So just bring those motions when it's time. Right. Okay. All right. So these definitions are not like state code definitions.

[03:12:09] It can't be changed. Some of them may be referencing state code, but a lot of it's just specific to our zoning ordinance. Okay. That's good to know. That's good to know. All right. So we didn't use 18 minutes of the committee as a whole, which is fantastic. We're not going to do an endorsement motion on either 4 or 5, but we are going to do other motions and other questions.

[03:12:28] I'm sorry, 3 or 4. Darn it. I'm sorry. I keep, I, I, I, I'm kidding. I do, I do keep, Joe and I want us to go. So, so yes, 3 or 4. If you have motions, please turn your light on.

[03:12:44] Chair Randall, just a quick point of clarification. You do not have to read the full motion. you can say i move motion one and oh no no for the record i want the motion read that's okay okay i understand what you're saying but i'm just i'm passing along what legal counsel has i know i know legal counsel wants to go home i don't blame the council but but we're just for the record we're gonna we're gonna read them all all right i think that there are some motions on

[03:13:15] the days that are not motions from staff that we should wait a minute I do have one more question for the data center discussion I actually support the planning commission's position on data center setback if no one makes that motion to support that then it then that motion automatically file falls to the planning commission recommendation of the staff's recommendation the planning commissions okay that sounds fine fine fine okay very good all right motions i saw miss umstead's

[03:13:54] light come on first uh thank you madam chair all right this is listed as number three chapter four use specific standards draft motion table 4.06.02-1 data centers principal facade standards applicability. I move that the board directs staff to revise Table 4.06.02-1 as follows.

[03:14:23] Develop another tier of design standards in addition to those for principal facades and mechanical equipment facades that would apply to secondary facades and be less restrictive than the standards for principal facades, and develop criteria for when the design standards for secondary facades would apply. The intent is to not require principal facades on all sides of a data center that face a public road or existing planned or permitted residential property. Prince, the page you're

[03:15:01] on either on our iPad or in the book? So it's the handout that was at our places tonight, and it is page two of the handout. okay okay well did you reference a chart though miss four point zero six point zero two dash one okay and where's that chart uh we could be found table table rather i know but what page thank you

[03:15:35] mr turner funny guy do you have the page though i'm going off yeah but the handout's just verbiage i'd like to see the table miss i'm asking miss umset because it's our motion i do not have the page the table the page of the table chair randall would you like the paper copy hard copy page number yes that's fine so that is obviously chapter four page 56. page 56 thank you and miss umset i apologize will you do you mind reading that motion one more time please i move that the board direct

[03:16:14] staff to revise table 4.06.02-1 as follows develop another tier of design standards in addition to those for principal facades and mechanical equipment facades that would apply to secondary facades and

be less restrictive than the standards for principal facades and develop criteria for when the design standards for secondary facades would apply. The intent is to not require principal

[03:16:48] facades on all sides of a data center that face a public road or existing planned or permitted residential property. Okay, thank you. And Mr. Kirsten, seconded the motion. Would you like to open, Ms. Umstead? No, we'll be here all night because I have nine of these. Okay, so you would not like to open. All right, would you like to speak on this motion? Mr. Letourneau. Question.

[03:17:17] So when we talk about the secondary facade here, is this still a side of the building that's facing something? Would this apply to? Well, based on the second bullet, it would potentially be facing a public road or residential property.

[03:17:33] So the primary facade would be facing what? Well, we'd have to work that out. I assume the intention would be the primary facade would face the most prominent property line, something to that effect. I mean, it would be kind of site-specific. We'd have to work on the language.

[03:17:50] - So I just think this motion is a little too broad for me. I would want to make sure that anything facing anything residential would still have the primary facade and potentially depending on the location of the data center, I would want it facing a roadway, even if we didn't consider it the primary roadway, if it was a high volume roadway.

[03:18:14] I could see some instances where a secondary may make some sense, but I think this may be a little too much for me. - Thank you. Mr. Kirshner? Yeah, just to follow up with what Mr. Letourneau said, I'm looking at the staff background.

[03:18:32] It says staff would maybe support a lesser criteria for secondary, but kind of the devil's in the details here a little bit. So to Mr. Letourneau's point, we don't really know ultimately what would qualify as a secondary facade or not.

[03:18:48] That's really the purpose of the motion. Is that the way staff understands it and what Supervisor Umstead meant to imply? Because I think it's kind of an open-ended comeback with some sort of plan for this. Yes, and I'm aware that the Data Center Coalition's concern has been that there could potentially be four principal facades.

[03:19:04] We tried to address that partly by creating the mechanical facade, knowing that there's essentially always at least one on every building. So that would still leave you the possibility of there being three. So I assume that the intention of this is to reduce that number to some degree. But we would take this and try to figure out something that we think works best and bring it back to you.

[03:19:24] If you would like to give us more direction on exactly what you're looking for, we take that into account as well, obviously. We have a motion on the table in a second. Even if it's a straw poll, we're going to go in and finish the motion and take the vote, and then we'll see where we are. So since I have a minute, 51, real quick, what is your understanding of the industry's concern for that, just the intensity of the requirement?

[03:19:46] The extra expense of the requirement, essentially. That it's more than they've been required to do and are required to do in many other localities where they're locating. So not only are we requiring the facade, requiring one facade that has a large amount of fenestration, potentially requiring more than one, which is not common on data centers in other places.

[03:20:08] Okay, thanks. Thank you. Ms. Glass. Thank you, Madam Chair. I would just say that when I hear from many of my constituents, they are concerned about how the data center looks and the principal facade may not necessarily be in front of the main road where cars are driving back and forth.

[03:20:34] So I know, I just have to say that I would not be in support of this motion. Thank you, ma'am. Thank you. Ms. Brixman. Thank you, Madam Chair. If I might ask staff, the last sentence on the motion says, the intent is to not require principal facades on all sides of a data center that face public road or existing planned or permitted residential property.

[03:21:02] So this is saying that residential properties could be looking at a data center that doesn't have a principal facade, and it could have something else.

[03:21:17] If the motion passes and we implement it, yes. Okay. I do not want to reduce regulation on what we might have if we have data centers facing residential properties.

[03:21:33] So I won't be supporting the motion. Thank you. Mr. Buffington? Thank you, Madam Chair. I associate myself with Supervisor LeTurneau's comments on this one. If it was a little more prescriptive, maybe I could get there, but not with this. Thank you. Mr. Sains? Yeah, thank you.

[03:21:50] Kind of wavered, actually, for a second, but let's be honest. We haven't seen all the data center designs all over the world. If you do a Google search and do some research, you'll see there's plenty of data centers that look a hell of a lot better aesthetically than what we have here and in our region.

[03:22:07] So we can't say we don't know what others say with all due respect what the data center coalition tells us. So I will not support this motion. Thank you. So when I had a meeting with the data center coalition, I did appreciate the meeting. It was a very good meeting.

[03:22:23] What I said is that the difference right now that we're having as we talk about data centers is we've never had a discussion about data centers in residential neighborhoods because we've all agreed that for the most part, they don't belong in residential neighborhoods. And because that's where both buy right and space and money has taken us, we're at a place where we're talking about data centers in residential neighborhoods and how to make them as accommodating as possible.

[03:22:49] I personally don't want any data centers in a residential neighborhood. And if it was my home, I wouldn't want to look at a data center. Now, some of these data centers, we can't stop because they're by right. And if there's nothing we can do about them, nothing at all. But at the very least, I will say that I often put myself in the place of that resident.

[03:23:09] And in the place of that resident, if I have no choice but they have a data center that I can see, I want to look as nice as I possibly can. But quite frankly, I don't want that one there anyway. So I absolutely will not be supporting this motion. Ms. Umstead, would you like a closing?

[03:23:25] Nope, thank you. All right, all the motion was made by Supervisor Umstead, seconded by Supervisor Kirshner. Are you able to say aye? Aye. Opposed? That motion will fail, 7 to 2, with Supervisor Umstead and Kirshner voting for the motion. Supervisor Umstead, do you have another motion?

[03:23:40] Yes, I do, thank you. All right, this is listed as number 4, Table 4.06.02-1.C.A. and C.A.A. data centers, principle facade fenestration.

[03:24:00] I move to revise the fenestration provisions in Table 4.06.02-1.C.A. and 4.06.02.C.A. as follows.

[03:24:17] Each principal façade of a building must include fenestration as follows. Fenestration must comprise at least 20% of the total surface coverage area of the principal façade and a point A point distributed fenestration coverage.

[03:24:37] Fenestration provided to meet the required 20% total surface coverage area of the principal façade must be located in separated individual placements or clustered bays, period.

[03:24:56] Point of clarification, aren't those last two, isn't that, didn't you make a motion in conflict? Because if you don't mind, could you please read your last two lines? Because one place is fenestration that's separated, and one place is all in one place.

[03:25:11] That's what I thought I heard. I'm sure that I heard you wrong. Can you read it again, please? Fenestration, well, from the first, from C, each principal facade of a building must include fenestration as follows. Fenestration must comprise at least 20% of the total surface coverage area of the principal facade.

[03:25:31] That would be a decrease down from 30%. And A.A. point distributed fenestration coverage. Fenestration provided to meet the required 20%, again, down from 30%.

[03:25:46] total surface coverage area of the principal facade must be located in separated individual placements or clustered bays. That's the part that I'm not quite. So it must be separated or in cluster bays. Isn't that a motion in conflict of itself? I'm a little confused about that. Help me understand. Those two sentences is what I'm having. Well, it's an either or, either or. So So it could be...

[03:26:19] So it's really just about the decrease, no matter how it's done. I understand. Thank you, Vera. Thank you. Okay, I understand. Thank you. Would you like to have an opening? Nope. Thank you. Anyone else like to speak on this motion? Mr. Sains. Thank you, Madam Chair. I will not be supporting this motion.

[03:26:37] I'm in favor of the 30%. As staff noted, staff does not support this motion as well. The definition of festuration in Chapter 12 clarifies that includes faux windows treatments. Registration, therefore, refers to a real functioning opening or faux opening, a decorative veneer giving the appearance of an opening because of frustration can consist of faux openings.

[03:26:56] Frustrations would not impact equipment with the interior of the building. So I think this is what Stafford's presenting, 30% is fine, and we should vote against this motion.

[03:27:12] Thank you. Thank you. Do you like to close you, Ms. Umstead? No, thank you. All right. All in favor say aye. I oppose that motion will fail 7-2 with Supervisors Kirshner and Umstead voting for the motion like another motion. Yes ma'am. All right. This is listed as draft motion number five table 4. 06. 02-1 green wall treatment applicability and table 4. 06-02-1 point D point B distributed green

[03:27:49] wall surface coverage. I move that green wall treatment applicability section of table 4.06-02-1 be revised as follows. A green wall treatment may be provided in lieu of up to half of the fenestration surface coverage of the facade requirement of section 4.06.02-1.C. I further

[03:28:17] move that table 4.06-02-1.d.b. be revised as follows. Green wall areas provided to meet up to half of the required 30% total surface coverage area of the principal facade of a building must be located in separated individual placements.

[03:28:48] - Okay, motion is made and seconded. Ms. Pat, would you like to make an opening on the motion? - I am a big fan of green walls and they provide, this would be living vines in discussions with the data center coalition, most likely flowering vines that are native to the area.

[03:29:12] They would provide food for birds, butterflies, bees, And I think they are incredibly attractive. So I would ask for support. Thank you. Thank you.

[03:29:27] Mr. Turner. Thank you, Madam Chair. May I ask staff a question? Absolutely. Staff, why do you not support this motion? The purpose of the regulation is to spread out the green wall so that it's not just all in one place.

[03:29:46] Because what we're trying to do is not have these long, blank, industrial-looking walls. But the motion states that the green wall has to be located in separated individual placements.

[03:30:02] We got rid of the seven and a half, but it still has to be separate individual placements, so it's not all in one spot. That's why I'm curious why you oppose it. I think losing the portion from the I further move, honestly, would be fine if the board so choose.

[03:30:29] That was an attempt to put numbers to it to make it measurable whenever it's something that staff is reviewing, be it legislative or administrative. Without that, it will be, as long as there's more than one and they're separated, it would qualify under that provision.

[03:30:45] It would satisfy that provision. Okay. So anything that is, I further move down, staff would support. No, he would go. I mean, staff would not support anything that I further move.

[03:31:03] I don't have this. No, we would support the after I further move. It's still requiring a separation. It's just not going to be as specific as what we're doing. Make sure that you're helpful. Normally I am. Can you say it again? It's still separating them.

[03:31:20] It's just it's not giving us as much specificity about how they would have to be designed. So we could be okay with that. It's not our preferred because we had the other option there, but we could be okay with that. I'm still not sure. So you want to clarify? Well, hold on.

[03:31:36] I'll call on everybody else before we go to Miss, no they can't, but Miss Umstead, Miss Umstead, I mean Miss Brickman. I'm sorry, I couldn't hear Mr. Galindo's answer a second ago. You're saying you support after I further move, but not before I further move. Yes, that was the original, the original intent was that this would be a portion of the fenestration and not the totality

[03:32:09] of it so by limiting by deleting the first portion of the 15 that was defining that it would be half of the 30 from the previous motion okay i'm not going to support it thank you is this less fenestration is hurt with her motion end up with have with having less green wall than not than than before that's that's what we would try to do the green wall is an option the green they don't have to put any green wall i know but if they did it does her motion give give do less green wall and more we're we're confused up here because we're confused can you can you miss emson let

[03:32:48] me just turn back to you there's your motion if they did to green wall is it saying they're doing less in lieu of what so it can replace up to a certain percentage of the fenestration so instead of a fake window you'd have a green wall no and but but you're not um dictating what that amount might be this this motion doesn't do that she took away the part so so let me say this let me

[03:33:22] say this like this so they can do a green wall or not it's up to them either way if they do if they choose to do a green wall you're saying that this motion says that 30 percent of what they were doing has to be a green wall or and it was 15 or vice versa i am well it says green wall areas provided to meet up to half of the required 30 percent total surface coverage area of the principal

[03:33:54] facade if i may madam chair so part of what theresa just caught that i was stumbling on i think if the previous motion had passed the 30 came down to 20 losing that 15 would still require to be half which would be 10 since that did not pass this is 15 because of it's half of 30% which is 15% either way if that makes sense losing that second portion here because we did not pass the first motion makes no difference it just loses the actual number but it half of 30%

[03:34:29] is still 15% okay all right Mr. Buffington so are you good with her whole motion now if not could you read the parts of her motion that you're good with omitting the parts that you're not good with I think we're okay with I can make a friendly so you're okay we're okay with the I'll be supporting this motion okay um mr latour all right i don't know much about green walls and how viable they are and how they work if they're separated are they viable like i mean they're smaller though

[03:35:08] i mean we're talking about it partly depends on the scale of the building a single story one could be something is that's um smaller in the way that you might actually see in a residential structure if it's a large building it's going from the ground to the roof then it would be a It could be a really large section of that that's a green wall.

[03:35:25] I don't know that I know enough about the specifics of the actual plants that we planted there either, but it's still, these buildings are large, and so a significant percentage of those, whether it's broken up as 5% chunks or all 30% of that, as long as the plants are taken care of, they should be viable.

[03:35:42] And this, I mean, this is just one option. Nobody has to do a green wall. Correct. But we don't want to make it so that it's too hard to do a green wall and that nobody does one. We all agree on that. Right. So I guess I can support what's being proposed, but I'm not sure.

[03:35:59] I think I probably need to learn more about this particular topic before we regulate it. Thank you. Mr. Turner. Yeah, Madam Chair, Supervisor Umstadt, will you accept a friendly? I think requiring the green wall portion to be separated creates an intricacy that I don't know that we want to impose on the data centers.

[03:36:22] I would be happy to just say green wall areas provided to meet up to half of the required 30% total service coverage area of the principal facade of a building and just stop it right there. So basically we're saying you can, if you want to, half your fenestration requirement can be green wall.

[03:36:40] You figure out how you're going to put it on the wall. But if you want to, half of it can be green wall. I think I could accept that. Okay, so that would be a friendly offer by Mr. Turner. It's a friendly, it doesn't need a, The seconder of the motion need not accept the friendly as well.

[03:36:59] Mr. Sains. Okay, and so let me ask this question. We have the language that's struck out on the first part of my move and may count towards a maximum of up to 15% of the required total service coverage area of the facade. Is that staff struck that out or was that Ms. Umstead striking that out?

[03:37:17] Ms. Umstead. And what is the staff's take on this now that the previous motion failed and we're making this motion with adding in Mr. Turner's language? Do you feel not having that verbiage in is okay, or would you prefer to have that back in?

[03:37:33] So if I understood correctly, on the second paragraph of this, I'll call it the way it's shown on here, if we're removing the multiple placements, we really don't even need that second language at that

point. If you're comfortable with them having one block of green wall, period, then we only need the first paragraph.

[03:37:53] And in that case, since it may be provided in lieu of half of the 30%, it's already 15%, so the language is duplicative anyway. So we would be fine with it. With keeping the 15% out or adding it back in? Frankly, either way, we don't need it at that point because it already says half, which is half of 30%.

[03:38:10] So it's fine without it. Okay. All right. Okay. You did say one thing that caught my ear. You said as long as it's kept up. If we did this, would there be some language about who keeps it up? Because otherwise, you don't want to have dead, ugly vines on a big, big wall.

[03:38:26] So would you have some language around that? And you did just say that, as long as it's picked up. We have it under D. The first A is maintenance. The owner or the owner's agent is responsible for the repair, replacement, and maintenance of the green wall for the duration of the use. Okay.

[03:38:42] So it's up to them to keep it up, and that's in the language. Okay. Wonderful. Ms. Umstead, would you like a closing? And basically, we're closing. The closing is discussing the friendly Mr. Turner has made, and you accept it. Yes, I'm agreeable to Mr. Turner's friendly amendment.

[03:39:01] No closing. All right. Motion made, Mr. President Umstead, I think Mr. President Kirsten. All in favor, please say aye. Aye. Opposed? That motion will pass 8 to 1 with Ms. Bricksman voting against the motion. Do you have another motion, Ms. Umstead?

[03:39:18] Yes, ma'am. This is listed as item as number six, chapter four, use specific standards, draft motion, table 4. 06. 02-1 point, that looks like an E point A, partial or full visual screening of data center mechanical equipment and table 4. 06. 02-2.

[03:39:52] c, refuse collection. loading bay area screening. I move to revise Table 4.06.02-1.E.A. as follows. Data center mechanical equipment attached to or mounted on the building facade must be partially or fully visually screened from view at the ground level from all existing and planned public roads and adjoining parcels using mesh, lattice, cladding, or grill work, or a combination of these methods

[03:40:28] or similar methods so as to ensure that the data center mechanical equipment is partially or fully screened to the maximum extent that permits necessary ventilation for any equipment. I further move to revise Table 4.06.02-2.C as follows, screening of refuse collection and loading bay areas.

[03:40:53] Refuse collection areas must be fully screened on all sides, and loading bays must be screened from view at the ground level from all adjoining parcels and existing or planned public roads. Motion is made and seconded by Mr. Kirshner. Discussion on the motion, Ms. Umstead?

[03:41:14] Just staff supports these clarifications. All right, anybody else? Mr. Letourneau? So are rooftop mechanical covered in this regulation? Mr. Sands, you cannot whisper.

[03:41:36] Whispering is beyond you. I'm not sure that's true. That's why I'm asking. In this section, is rooftop covered? Yes. It is covered. So then by adding the language from view at the ground level from all existing and planned public roads, what happens when you have a situation like we have in Eastgate where we have several story townhouse or two over two units with data centers across the street and mechanicals on top?

[03:42:13] Are they then no longer required to screen from the view of the homes? next door to them because that view isn't from the ground level yes it would not be it would not be yeah so i don't think i can support this because because we have instances where we have data centers that have come in next to residential and the residential is high enough where you can see it i'm not saying they should have to screen infinitely but they should have to screen for

[03:42:42] wherever it's visible so without this modification would that be the case yes with the the it just says partially or fully visually screened the one issue would be if they're building adjacent to property that could have residential but doesn't they would just be screened against what what is on the ground right so someone coming in afterwards with a three or four story townhome or two over team but at least they would know sure but in the case of like the east gate stuff they didn't know the houses were there first so yeah i would i would want this to be screened from the view of

[03:43:21] where there's property or people, not just from the ground. And so for that reason, I wouldn't support this motion. You sound like a short tank. So for that reason, I'm out. Okay. Mr. Turner. I mean, Mr. Turner, I'm sorry.

[03:43:40] Madam Chair, I have an amendment, and it won't be a friendly amendment. Roberts calls for me to make the amendment now and is to vote and discuss the amendment first. But I leave it to the Chair's discretion as to how you want to handle that amendment. Well, what I would suggest is that you ask to see if it could be a friendly first, and then if it's not, we'll go from there.

[03:44:02] Okay. The amendment I would like to propose is as follows. In the second paragraph, there's a number of lineouts, so I'll just read it with what would be left. I move to revise Table 4.06.02-1-E-A as follows.

[03:44:20] data center mechanical equipment must be fully visually screened from view from all existing and planned public roads and adjoining parcels using mesh lattice cladding or grill work or a combination of these methods or similar methods so as to ensure that the data center mechanical equipment is fully screened to the maximum extent that permits necessary ventilation for any such equipment all remaining verbiage is the same yes I'm sorry take that as a friendly I will take that as a friendly okay wonderful um uh sorry can you repeat it sure sure and it's the part that you

[03:44:57] change it speaks directly to your your concern uh i moved to revise table 4.602-1 to point e point a as follows data center mechanical equipment must be fully visually screened from view from all existing and planned public roads and adjoining parcels using mesh lattice cladding or grill work or a combination of these methods or similar methods so as to ensure that the data center mechanic equipment is fully screened to the maximum extent that permits necessary ventilation for any equipment.

[03:45:30] Okay. All right. So Mr. Turner has made a friendly that Ms. Umstad has accepted. Because it's a friendly, the seconder does not have to accept a friendly as well. So we're still on the main motion with that as a friendly, which actually changes the motion quite a bit, to be quite honest.

[03:45:49] Would you like to have any other discussion? Because you still have 50 seconds. One time. Okay. Ms. Bricksman. Okay. So if I might ask Mr. Turner, in the beginning of that motion, you pretty much removed partially.

[03:46:04] Correct. You did. And also from ground level. Yes. But you also said that you want to keep the rest of the motion, which is screening of reuse collection loading bay areas. And that still says if we keep

Supervisor Umstead's motion at the ground level from all adjoining personnel.

[03:46:23] I don't think we can have a loading bay as anything but the ground level. No, but pardon me, Madam Chair. The problem is who can view the loading bay, not how high the loading bay is, but who can view the loading bay and if it should be screened.

[03:46:39] And if they're anywhere near offices or homes, then I would not vote for that because it's not fixing the second problem. It's a good catch. I'd have to make another friendly to fix it. Even that, or Ms. Bricksman can, since she caught it.

[03:46:56] Would you like to make a friend if you want? Would you like to make a friend at the ground level? Well, no, I would remove at the ground level from all adjoining parcels. That's what I mean, delete at the ground level. Well, you want it to be screened from view from all adjoining parcels.

[03:47:11] From all adjoining parcels. Get rid of it at the ground level. Yep. Okay. That's a friendly that Ms. Bricksman offered on Mr. Eternals. Mr. Turner's friendly has already been accepted by Ms. Umstadt. She's accepting that friendly also.

[03:47:27] Okay. Okay. Staff has that. Staff has that. Yeah. Sorry, Madam Chair. That's pretty good. You guys have that? It just says everything is screened from all levels. So we were discussing that, actually, because this is a conversation we have with the coalition, if I may, Madam Chair.

[03:47:45] The, especially for loading bays, I believe with what you're changing, essentially you'd saying that the loading bays would need to have a roof type structure covering them so they couldn't be seen from other taller buildings is that your intention because if you're not listen my intention would just be to leave whatever staff had okay so just to remove the additions and subtractions yes please i'm happy with what staff had so that's screening from adjacent properties and existing planned public roads so then the other the other um thing that was discussed with the the coalition

[03:48:24] is the partial screening. They were concerned that because they need to have preparations, mesh, what have you, so that they can get that airflow, depending on the angle you're looking at, it may not be truly fully screened as if it was a solid piece of metal or masonry or what have you.

[03:48:40] So that was why they preferred to have the partial language there as well. But isn't that cop by saying, like, that last part that basically says... Lattice. No, no, no, no. As long as it still allows... necessary ventilation for any equipment.

[03:48:59] Doesn't that catch that? Yes, that does capture. Okay, then that catches that. All right. Good catch. No, yeah, okay. As of now, we haven't addressed that, right?

[03:49:14] Or we have? No, I think we have. We have, okay. I think we have. As long as Supervisor Umstead is okay with just going back to the staff motion. Okay, thanks. Okay, so I need someone, after Mr. Sainz speaks, to read the motion, Because now I'm a little confused myself.

[03:49:36] Mr. Sains. Okay. And please clarify for me. Are we speaking about mechanical equipment that's on the ground? Or are we speaking about mechanical equipment that's on the ground and on the rooftops for this item? So for this portion, you're looking at equipment that's attached or mounted to the building facade.

[03:49:57] So that may be low and close to the ground. It may be up towards the roof. But it's along the vertical facade you're looking at. Okay. So this does not capture anything that's on the roof? - Correct, I

believe, one second.

[03:50:13] - That's not, no. - Because there's a second, there's another section in the second table. So in .02-2B is location screening of more mechanical equipment, all ground level and rooftop data center mechanical equipment must meet the following standards that are different than what's in this motion.

[03:50:37] - Okay, so again, clearly, is this capturing equipment that's on the roof or not? - No. - Okay, so that will need something else. So, and Ms. Judy, during the break, I asked that question, because of my intent, I want to make sure we capture the equipment that's on the roof.

[03:50:57] I'll give an example, a recent data center application that we voted for for Vantage that was on Davis Drive. If you guys remember, I asked for, well, if you read the proper language, we asked for acoustic sounding materials on the roof to capture the sound coming off.

[03:51:14] And I want to make sure we capture that now. So I don't know if I need to do a... That's not what this means at all. Okay, that's what I want to get clarity on. But I wouldn't even allow that type of friendly because that's a whole... No, no, that's what I was asking if this covers that or not.

[03:51:32] It does not. Okay, then I'm going to bring another motion the next meeting or whenever that happens to cover that because we need to make sure we cover that aspect of mechanical equipment that's on the roof. It doesn't because what we're discussing right now is visuals. You're discussing noise.

[03:51:48] And they're two different things. You can still see stuff on the roof. I get that, but I'm just saying, we're discussing this visuals right now. Can we stop my time? You may not. Well, that's a point of clarification, because there is a difference. They both are visual. You can see stuff on the roof, and you can see stuff on the facade and on ground.

[03:52:06] So that's why I wanted to make sure we're covering everything. We are covering anything that's visual right now. But what you just brought up was what you hear. But also, it is visual on the roof, because there's equipment on the roof. We don't have something on the roof. You're going to see, like, the air conditioning units and all that stuff.

[03:52:23] And that's covered. That part is covered. He just said it's not. Can we stop on top to clarify? You're not stopping your time, but go in and clarify anyway. Yeah, I know. You're like, I don't know. We're having multiple conversations trying to keep up, too. So if you're talking about the acoustic paneling and the noise you're discussing, that would be under the second table in B.

[03:52:50] There's another row there that talks specifically about all ground-level and rooftop data center equipment must meet standards, and that was where you'd capture rooftop. This is specific to what's on the wall, on the facade. Okay, then I would like to make it friendly as well, then.

[03:53:06] I add the requirement to specifically include acoustically screen wall or other materials to create acoustic barrier and provide sound intuition for this particular topic here. So, Mr. Sains, now, it's her motion, but I am saying to you, my very good friend, that what you just made was a motion about sound.

[03:53:35] Okay. That wasn't a motion about visuals. Now, it may be that what covers sound is also visual, but your motion was about sound. So, I think this does fit, because the visual, for example, a lattice or whatever have you, those are going to have holes in it.

[03:53:53] that's the sound is going to come through that because if you're talking about equipment that's on the ground or on the facade they make noise sound is going to come off that equipment so i would like to have if we're putting barriers and walls up those walls and those barriers to be acoustic to catch the acoustics coming off it within the materials that are used for the barrier in the wall mr sayings i i'm i'm going to ask you to bring that motion back to the board i think it's a i think it's a solid motion but i don't think it's part of this conversation so i'm going to ask you to bring that motion back to the board I'm going to disallow that motion all right I'll bring it back to the board for okay on the roof and on just okay on the ground as

[03:54:32] well to capture the sound because all of this stuff does make noise madam chair may I offer some clarity so the motion number six that's being discussed is relating to table 4.06.02-1 that is titled facade standards so this is relating to mechanical equipment that basically is from ground to to roofline

[03:55:10] mechanical equipment that is affixed on the side of a building only on the side not only on the full side of the building okay the next chapter which is the subject of the next motion that you will undertake is the next chapter in the book 40602-2 that speaks to ground-mounted design standards mechanical equipment and rooftop mechanical equipment. So that's the difference between motion six, full facade, motion seven that you're about

[03:55:45] to take up next is rooftop and ground mount. So what you just said to me was everything that was accepted as a friendly is not even appropriate for this motion because anything on the rooftop anything else is is not facade is the next one is the next chapter so all that so what mr. Turner said that was accepted what miss Bricksman said that was accepted is not even appropriate for this discussion because it's not facade is that correct I don't know that I would characterize Was that...

[03:56:18] No, they amended the language. I'm referring to who it was or saying... Okay, all right. Oh, okay, okay. Well, I had already handled that, Joe. Okay, so I'm going to go to Ms. Umstead for a closing, understanding that at this point, it was her motion as friendly amended by Mr. Turner and Ms. Brixman.

[03:56:37] Could you all read something close of what you think this motion is now? Dan, you want to take a shot at that? I can. You can? Okay, let's go, Mr. Turner. Thank you.

[03:56:53] I move to revise Table 4.06.02-1.E.A. as follows. Data center mechanical equipment must be fully visually screened from view from all existing and planned public roads and adjoining parcels using mesh, lattice, cladding, or grill work or a combination of these methods or similar methods so as to ensure that the data center mechanical equipment is fully screened to the maximum extent that permits necessary ventilation for any equipment.

[03:57:24] I further move to revise Table 4.06.02-2.C as follows. Screening of reuse, is that a typo? Refuse. Refuse. Screening of refuse collection and loading bay areas.

[03:57:40] Refuse collection areas must be fully screened on all sides, and loading bays must be screened from view from all adjoining parcels and existing or planned public roads. Okay, so that's the motion. Mr. Turner, great job. All right, I'm going to go back to Ms. Umstadt for a closing.

[03:58:00] Just hope people vote for it. Thank you. All right. I'm sorry, Madam Chair, may I say something about what Mr. Turner just read? And I think because of the distinction that Mr. Kroboth made about this section that you're amending is the table that is about the facade only and not about anything rooftop or ground mounted.

[03:58:23] So part of what Mr. Turner read would delete the part that says attached to or mounted on the building facade. I think it's important to keep that because otherwise you create ambiguity in the ordinance because this is a section that deals only with what's attached to the facade.

[03:58:41] The next table after this one is what deals with ground mounted. I said exactly that. So I don't really think it changes what you're doing, but it just limits it so that it's limited only to the subject of that section. And does everyone understand that at this point, this motion is about the facade?

[03:59:01] Okay, thank you, Court. Then we need to change the motion again. But that is literally what I... I understand because the logic was I don't want to restrict. I thought it was being more restrictive by saying attach to the building. But we'll get to that part in the next section.

[03:59:18] I understand that, and so if that's the case, then the first paragraph would read, data center mechanical equipment attached to or mounted on the building facade must be fully visually screened from view from all existing and planned public roads, da-da-da-da-da.

[03:59:35] Okay. All right. You're good? Yeah, I'm good. You're good. And then if you want to take up the next section, we can, and then, Mr. Sains, if you want to take, I know, in a further meeting, take up the acoustics, then you can do that too. Okay, all right.

[03:59:52] All in favor, please say aye. Aye. Any opposed? That motion will pass 9-0. Ms. Umstott. Yes, ma'am. All right, this is draft motion number seven. We're still in Chapter 4, use specific standards.

[04:00:09] Table 4.06.02-2.B.B, Data Center Mechanical Equipment Separation from Residential. I move to revise Section 4.06.02-2.B.B. as follows.

[04:00:25] Separation from residential. Ground-mounted data center mechanical equipment must be separated from adjacent property that has existing residential development and approved CDP or PLAT or plan showing residential development or zoning district permitting residential uses by a principal building or must be set back a minimum of 100 feet from the abutting property line of adjacent property that has existing residential development and approved CDP or

[04:01:01] plat or plan showing residential development or zoning district permitting residential uses. And this is specifically discussing mechanical equipment, ground-mounted data center mechanical equipment specifically.

[04:01:20] That's what this is discussing, yes? Yes. All right. Motion's made and seconded by Supervisor Kirshner. And your light just keeps coming up first, Ms. Letourneau. So Ms. Letourneau. So the staff comment sums it up. This motion would permit mechanical equipment to face residential as long as it's 100 feet away.

[04:01:41] The intent, I believe, with the original language is that that would not be permitted to be facing residential, correct? I, yes, you have to say something, though. Correct. Thank you. So I support the intent of the original language and not the other option, which then provides 100 feet.

[04:02:07] Therefore, I would not support the motion. I understand. Mr. Letourneau, I mean, Mr. Turner. Thank you, Madam Chair. Well, as I suspected, this motion has nothing to do whatsoever with fully screening ground-mounted mechanical equipment. So I would have to add back in as a friendly, fully screened and separated from adjacent property.

[04:02:27] But I agree with Supervisor Letourneau, I'm not comfortable with the 100-foot absent any kind of a berm or natural vegetation screening. So I will not support this motion. Thank you. Ms. Bricksman? Thank you, Madam Chair. I can't support this motion.

[04:02:45] I don't know why anyone would think it's a good idea to only have 100 foot between residential and mechanical equipment operating for a data center. Thank you. Mr. Sainz.

[04:03:01] Thank you. I like the original language that staff had in here, so I cannot support this motion as well. And I will say that I am sad that we're talking about data centers and neighborhoods, period. So there we are. All right.

[04:03:17] Ms. Umstead, would you like a closing? No, I'm good. Thank you. All right. All in people say aye. Aye. Mr. Kirshner, do you say aye? Opposed? That motion will fail, 7-2, with Ms. Umstead and Mr. Kirshner voting for the motion. I think you have one more or two more motions left, Ms. Umstead.

[04:03:35] I have, I think, three, four. I have four more motions. All right. This is number eight, table 4.06.02-2.G.A and B, data center setbacks when adjacent to residential.

[04:03:57] I move to revise Table 4.06.02-2.G.A and B to reduce the parking and structure setbacks as follows. G, setbacks in building massing when adjacent to residential.

[04:04:17] The following requirements apply when a proposed data center is to be located on a property adjacent to property with existing residential development and approve CDP or plat or plan showing residential development or zoning district permitting residential uses a parking must be set back at least 50 feet from the common property line and B structures must be set back at least 100 feet from the common property line staff supports the motion it would revert minimum required setbacks back to staff's original recommendation okay

[04:04:57] Motion is maintained by Mr. Kirshner. This, as Ms. Umstead says, it takes this back to staff's original before the Planning Commission said something different. Okay. Yes. All right. Mr. Letourneau.

[04:05:13] Again, I'm first. Well, you keep turning your light on, man. Okay. No, no, I'm not complaining. I'm not supporting this motion, so I think the Planning Commission got this right. I appreciate where staff is coming from, but at some point, the board needs to take the public input.

[04:05:28] getting and the public input we're getting on this topic is overwhelming. In fact, the HOA communities think that even the number the Planning Commission did is not enough. So really, the Planning Commission language is actually a compromise between what's out there and what other people would have. So I'm certainly not going to weaken it.

[04:05:50] Ms. Glass. Thank you, Madam Chair. I would have to agree with Supervisor Letourneau with this. I'm hearing for my constituents as well. I'd like to have the setbacks of what the Planning Commission had stated. Thank you.

[04:06:06] Thank you. Mr. Turner? Thank you, Madam Chair. I spoke with the Data Center Coalition, and I was willing to go with these setbacks with the proviso that we had adequate screening of either a buffer of natural vegetation or a berm, and in the absence of any of those, I can't support these, so I'll be voting no on this. Thank you. Mr. Buffington?

[04:06:29] Thank you, Madam Chair. Even this, at 200 feet, being the building back from adjacent residential, I mean, that's less than a football field. If you've been to a football game recently at the high

schools or wherever, you know, that's only two-thirds of the football field, and that's not very far away when you're talking about buildings that are as big as data centers. So I think, you know, this really is a compromise. It still doesn't even go far enough from what we're hearing from the residents who are currently live in near these um this is less bad than what the what the staff wanted so i i support this

[04:07:08] because i'm supporting trying to support what i'm hearing from the residents thank you i'm not so you don't support this really i mean i would support more yeah yeah but yeah we're not there so mr miss brixman thank you madam chair if i might ask staff a question sure um would staff support more? We worked to find a compromise of the 1,500. Pardon me, pardon me, just so there's not a mistake up here. I'm asking if you would support more of a buffer than 200 feet and 100

[04:07:44] feet, not support more of a reduction from what? I understand. I was trying to explain. Thank you. So we chose these because we were trying to find a balance. 200 feet, depending on the, it all depends on individual properties spacing. So the further we go, the fewer properties could have these on them, essentially. So we were not trying to preclude properties that could have them from allowing them. So no. What was the feedback at Planning Commission from residents and from the environmental community? If this is a compromise, what did the folks want who wanted more? How much

[04:08:24] did they want? We'd have to look to see if we got specific numbers that were mentioned. I don't believe when Super Elder Turner was a compromise. We were saying in looking at, because before it was just the district standards so we were trying to find a greater number without making it so great that it prevented it from going on multiple properties where would otherwise be allowed okay all right well these are straw polls i mean we can talk amongst ourselves if we want more of a buffer i'll be voting no on this thank you madam chair thank you mr kirschner yeah i have a follow-up question to what mr supervisor turner said in terms of the buffering we would still

[04:09:04] have significant buffering requirements, even with this. So, I mean, he said he wouldn't support it without buffering requirements, but those are already in place, I believe, in the adjacent section. Is that correct? Yes, they are. K of this table? Yes, of this table, of the second table. Right, okay. So I guess I don't maybe understand that objection, but thank you.

[04:09:31] Thank you. Mr. No, you've already spoke. Haven't you spoke on this already? Yes, you have. No, you did. Yes, you did. You just said with the buffer thing. That was you. Never mind. Mr. Sains. Thank you, Madam Chair. So does staff feel they fully vetted this proposal from 100 and 200, 500, and 100, and whatever else was thrown out there during the PC hearings?

[04:09:56] We've not examined every property. The consultants have chosen a selection of sites that they have been trying to vet this, so we will have some diagrams we can bring back. We just don't have them for this meeting. but it would take some time to look at all of our existing approvals to see if this would affect those by increasing those setbacks.

[04:10:18] Okay. Well, yeah, at this time, yeah, I cannot support this motion, but thank you. So I think this is a – I think I've maybe been a little too glib or too flippant, and I want to just pull that back some. Ms. Glass is correct.

[04:10:37] We talk to constituents on a regular basis, and I'm going to share right now what I've shared with the Data Center Coalition when I spoke to them. There was a time that I would talk about data centers

and I would say, but this is how much it lowers your property value and this is what they do for the community.

[04:10:53] And people would go, oh, okay, I get that. And many people would kind of come along with this idea. Now that we're seeing these in neighborhoods more and more in residential areas, I say those things and people say to me almost eight times out of 10, if not more, I'll pay the taxes.

[04:11:09] I will pay the higher taxes. Do not put this near my house. People have asked, will it lower their property value? I don't actually know the answer to that question one way or the other. I actually do think that the data centers have been good neighbors in Loudoun County, and gosh knows we are sitting at a tax rate that we're sitting at because of the data centers, and no one can argue with that.

[04:11:34] We have the lowest tax rate in Northern Virginia to include Clark County, and that is largely because of the data centers. And I know that, and I want to say that I appreciate that. At the same time, we have to listen. The data centers are our constituents, but so are the residents.

[04:11:52] They are our constituents also. And I have seen a market shift in what I receive in my email. It is no longer, my gosh, I hate those data centers on Waxpool Road. They're so ugly. It is, how dare you put this near my home?

[04:12:08] And even when I let people know that we couldn't stop it, it was by right, yada, yada, people do not care. People are angry. They are angry about the data centers and them being in neighborhoods. And that doesn't mean that I discount all the good work the data centers community does, because I don't discount it.

[04:12:28] And I certainly don't discount what it does to the lower the tax rate. But at some point, there is a point where we have to say enough is enough. And our constituents are loudly saying to us, data centers near our homes is enough.

[04:12:46] Tax rate, be darn. Community involvement, be darn. No more. No more. And so not only will I not support this, I agree with Mr. Buffington. I want these as far away from homes as possible with as much screening or buffering or whatever as possible.

[04:13:03] And I keep going back to this. Were this my home, do I want to look out my back door and see a data center? center because even with buffering, they're pretty big buildings. And I wouldn't. And I think we have to respect not just our data center community, but our residents and their homes and their home value. So I will absolutely be a no on this and may support in the future even a larger setback than this. Ms. Umstead, would you like to have a closing? Nope.

[04:13:34] All right. Motions made by Supervisor Umstead, seconded by Supervisor Kirshner. All people please say aye. Aye. Opposed? this motion will fail seven to two uh next motion please all right one of the last three chapter four use specific standards uh number nine table 4.06.02-2.g.4 data center setbacks and building massing when adjacent to residential building you say the the number one more time

[04:14:11] please. Number 9? No, no, no, 4.0, I'm sorry. 4.06.02-2G4. I move to delete table 4.06.02-2G4, section 4.06.02-2G4. And in your handout is the old language.

[04:14:44] And in your handout, the 4 is a D. We've had some issues with tables reverting, numbering back to letters, so sometimes we catch it, sometimes we don't. Oh, okay, thank you. So 4 is D?

[04:15:00] Yes. Oh, okay, because I'm like, where's a 4? Okay, that helps a lot. Okay, okay, so let's read what D is before we, because let's, will you read what D is first before, no, D, it's G, D, uh-oh.

[04:15:21] nope nope it's it's well see see what you guys have done to me because you've turned me into look at this all right so will you please read d so people know what we're talking what we're responding to so the language that would be eliminated if that table section is deleted is building step back if a building is located within 400 feet measured from the property line

[04:15:54] adjacent to property with existing resident residential development and approved cdp or plat or plan showing residential development or zoning district permitting residential uses the building envelope must provide a step back of no less than 15 feet from the building wall at a height point, that begins at the top of the second story of the building, or 40 feet, whichever of the two is lower.

[04:16:23] You're not saying you would want to delete altogether? That would be eliminated altogether. And Mr. Kirsten, you seconded that motion. All right, Ms. Unsa, would you like to open on that? Yes, so the problem is the way data centers have to be constructed. They are not able to build them like, I guess you'd say, a Mayan temple.

[04:16:48] You cannot build a data center so it has a certain height at one point and then steps back and then goes to a higher height. You would have to have one height for the data center, which means you might have to go back 800 feet or 420 feet, whatever.

[04:17:12] So it's just the construction of a data center is not compatible with a step-back approach. So let me help you say that. So data centers kind of are too long, or if they're more than one level, they're too long rectangles.

[04:17:29] And you can't do the bottom floor be a rectangle that's this length and the top floor of a rectangle of a different length because of how they are constructed. So you're saying to remove this so that the data centers are the same square footage, FAR, on all levels, with the exception of what might be the reception area when you walk in.

[04:17:52] That's what you're basically saying, correct? Okay. Mr. Kirsten, you're seconding that motion. Okay. Any other discussion on this motion? Ms. Bricksman. Thank you, Madam Chair. Can staff explain why they don't support this motion?

[04:18:12] and is it true that you can't build data centers that way I can't say if it's true completely whether or not you can build them that way what the coalition has consistently told us is that because they use the tilt wall construction they're trying to build a box it's the same height everywhere they tilt up all the walls they build the floors in between them and put everything in I think from our perspective we were thinking that where these setbacks are that could be where the offices are or something that is not the box within which you are building the server racks. But again, because all of these are different sizes, different property dimensions,

[04:18:51] that may not fully work out in every case. I'd say from my personal experience being at the table with various members of the coalition, this has been the one issue where they have adamantly across the board said, we do not like this. On some other ones, I wish that number was a little lower. There was a little bit more leniency. But on this one, they have always said, that's not how we build data centers, we don't support this. So as planners, we like the idea of lowering the massing and helping the residents feel like that giant building's not quite as big. That's the

[04:19:27] intent behind this language. Feel like what's quite so big? The building itself. By putting the step back in, it makes the building feel smaller. But if it functionally doesn't work for the industry, then we may not actually end up having it implanted. Sorry, does somebody have their phone flashlight on back there? Why? It was totally blinding me. I thought it was phone flashlight um okay staff do you do you happen to know um i think i think it was theo's watch um i know it was horrible sorry um do you happen to know if we have any data centers

[04:20:05] near residential in leesburg or catoctin district to go that far down so the microsoft campus south of south of town is in leesburg i believe um catoctin there will be none in the new catoctin district and near residential no not not near residential at all right okay thank you um mr latourno yeah i don't have any desire and i think i've demonstrated that through my votes to make it

[04:20:42] easier to build data centers next to residential but i don't think that that's what this is really about this is about all data centers everywhere it does say adjacent to residential but the question is if you know is there some other way to accomplish what staff is trying to do because i think i would support the goal which i imagine is to make these less visually impactful we'll say residential but i also take the point that this is probably not feasible because most data centers just simply unbuilt like this so obviously on the fly it's difficult to do this but could there be

[04:21:22] another approach that staff could have or support other than the debt back you know kind of this 15 foot sort of thing so compared to staff's original recommendation the coal to the excuse me to the planning commission um the the setbacks have already been increased um we do have requirements for landscaping um so i i think the the intention was when this when these buildings were going to be closer that this was a bigger issue so now that they are at least 200 feet back

[04:22:00] if not more it's probably going to be less vision and what about if we did something more with berms or landscaping i know there is potentially a motion i don't know if supervisor is going to make it about um existing vegetation which actually like that motion something like that would that accomplish the goals i think so okay so i may support this motion because i think there's other ways to accomplish this that are more viable. So that's why you would support the motion? Yes, because I think there's other ways of getting to what the goal of this motion was that

[04:22:39] are more viable than what this regulation actually is, which I think is inconsistent with the real world sort of logic. Okay. Ms. Glass? Thank you, Madam Chair. So I don't know, I might have been thinking differently on this, but I thought it was more of when the when the developers data center builders are building the their structure that you can't have like half of it at a certain level and then the second love

[04:23:16] the another portion of it at another level so it all has to be at the same level so that's what I was thinking why we had this the building building set back so I guess it's what I'm not sure if I'm if I'm following I believe you're correct what the the industry has said is that by creating that step back where something is shorter and something's taller they would need an internal wall

[04:23:54] here and one out here to even make that work if they're just using the the tilt concrete construction they'd have to have two walls instead of one essentially to make that work with the different building heights. Okay, okay, thank you. Mr. Buffington.

[04:24:13] Thank you, Madam Chair. So what was the distance under the current ordinances that they would have to do step backs if adjacent? There wasn't one. The step back requirement would be new. Okay,

and do you remember the distance, like on the Hiddenwood application, the JK application?

[04:24:34] Didn't we do step backs on that one next to Hiddenwood? I'd have to check. I'm sorry, I can't remember. of him. I think we did. I just can't remember how far away it was. So now with the previous motion, we said that the building could be within 200 feet of the property line of residential. And now with this one, if it doesn't pass, this motion doesn't pass, then the building is now, it doesn't need to be stepped back like this unless it's within 400 feet, right? If the existing language

[04:25:13] in the ordinance, yes. So anywhere between 200 feet and 400 feet would be the area in which the step back would be required is required okay thank you yeah mr kirchner so originally staff supported 100 foot i'm assuming you wouldn't you you didn't support this motion because you were supporting 100 feet but now that we have a straw poll that says and i think you dan you kind of alluded to it earlier that the straw poll was that the setback is now 200 feet this becomes less of an issue although still within 200 to 400 but it becomes a little bit

[04:25:51] less of an issue perhaps from staff's concern am i am i kind of hearing that a little bit because if before we're looking at 100 feet which was your recommendation even though it wasn't the model now we're looking at 200 feet and so there is less of a i guess visual impact there's still a visual impact with any of these even at 400 feet but am i hearing that correctly you kind of alluded to it a little bit earlier yes i'd have to verify what we had at the commission hearing but the step back requirement would have been in a would have been when it was closer to the property line under a previous version of this. I just don't recall exactly what the number was. It was probably 200

[04:26:25] feet? Yeah. 200? Okay. It was 200 feet instead of 400. So I'm assuming that one of the issues that we're having here is the industry obviously has gone vertical. I think Mr. Turner talks about this a lot. And when you require this step back requirement, then you may be encouraging less desirable data centers such as one story. Is that one of the arguments that I think is kind of being put forward by the industry. Yes. Okay. Okay. Thank you. If I may, I don't know that this

[04:27:01] discussion is really about the setback anymore. The setback is the setback. We're actually talking about whether or not the building itself builds on itself. So whether or not we're back 100 feet, 200 feet, 400 feet is not really the discussion we're having. We're having the discussion of for each floor or each floors, do the floors mirror each other's top to bottom so that the racks, the bathrooms and all that are the same with the exception of the entry area

[04:27:35] or whether offices as such may be is actually a discussion we're having. So I think to be focused on the setbacks right now, that's not what we're really talking about. I think we're past that discussion. Now, I don't want day-to-day to make neighborhoods.

[04:27:53] I think I've said that a couple of times. And I want even more of a setback than 200 feet. However, at the point that we're going to go on and have them, it doesn't make sense to have ones that don't work at all or that can't really work because they're not logically built in that way.

[04:28:12] And so as much as I wish the day-to-day community would say, hey, we don't want to build by houses at all and we're going to be out of these areas, If we're going to say, if we are saying yes to them to be in these areas, and I guess we are, it doesn't say yes, but now we're going to make it so difficult that you can't actually function.

[04:28:34] So this is not a setback discussion anymore. This is a what's happening, how it's built discussion, much more than a setback discussion. Am I wrong about that? No, I think that's accurate. Okay. All right. So, yeah, that's what I see this discussion as right now.

[04:28:56] All right. Now, in my time still. I didn't get to speak. Oh, I thought you did. I'm sorry. Okay, I'll go back to you when I finish, because I'm going to reference something with you anyway. Go ahead. I am going to go ahead. In my time still, I'm going to reference, and Mr. Sains is going to say in just a second, which is he has found some data centers that are built in a way that look like that there are different, not so much elevations, because elevations is how it looks in the front, but no, not setbacks.

[04:29:26] It's not setbacks. It's not stepbacks. None of that's true right now. No, it's not. Anyway, he has found some pictures of data centers that have different floor plans on different floor plans.

[04:29:42] And so I'm probably going to abstain on this vote because I need to find out if it's possible to do what is being asked of us. I don't want to just delete it until I find out if the data center community can actually get there and do what's possible.

[04:30:01] So I think I'm going to abstain on this vote. Mr. Sainz, I'm sorry I missed you. That's quite all right. Thank you, Madam Chair. I'm going to vote no on this. And again, like I said before, if you do a Google search, go through, look what's worldwide and in the U.S., you can see there are different designs for data centers, not just the ones that we've been seeing here in our areas.

[04:30:21] If you look in Germany, you look in London, you look in Arizona, Texas, California, there's a whole lot of different designs that are out there, and they show different elevations, Maybe one floor is three floors, another floor is four stores, another floor is two stores, and different levels and height elevations.

[04:30:38] So it is very, very possible for them to do so. We just have to ask them and require them to do so, and I guarantee you they'll start doing it. But if we don't, we're going to continue to get the same product we've been getting for years and years and years. So I will not be supporting this motion. Thank you. All right, Ms. Umstead.

[04:30:55] No further comments. All right, all in. This motion was made by Supervisor Umstead and second by Supervisor Kirshner. Only people say aye. Aye. Opposed? Abstaining. Abstaining. Okay, I'm going to abstain as well. So that motion is 4-2-3, with Supervisors Amstatt and Kirshner voting for the motion, Supervisors Letourneau, Randall, and Buffington abstaining on the motion.

[04:31:34] No, it's four people voted against it. Oh, 2-4-3. Okay, 2-4-3. Yes, with four people voting. Yes, 2-4-3. So the straw poll motion does not pass, but three of us abstain.

[04:31:50] So if we need to bring her back, we still can, which is the goal. Ms. Umstead. All right, we're down to our last two. This is item number 10, 4.06.02-2.8, data centers, generator noise adjacent to residential.

[04:32:11] I move to revise Table 4.06.02-2.H as follows. Generator testing adjacent to residential for data centers on property adjacent to property with existing residential development and approved CDP or PLAT or plan showing residential development or zoning district permitting residential uses, except for generator testing or commissioning activities generator use is limited to backup

[04:32:50] emergency use only staff supports this motion motion was made and seconded by supervisor umstar supervisor would you like to have an opening no i i think this this is to remain in compliance with deq rules i believe and um it's a voluntary recommendation from the data center industry that their generator use only be used for backup or emergency what's it

[04:33:27] used for now what's it used for now well it may only be used for that now but they're i think they're trying to reassure okay reassure the board gotcha gotcha uh any other discussions on this motion well hold on mr. Letourneau all right I sensed you were moving there isn't this the isn't this the topic that we need to understand better what generator use actually is so can we can I move to table this until we have that information is there a second motion to table

[04:34:06] in the second motion table has no discussion on the motion to table on paper motion to table say aye aye opposed nay that motion to table will pass 8-1 well mr. mister the turner do you want the table to a date specific probably the next work session I would guess but I mean I'll leave that to you madam chair let's table that to the next work session or until we have some information on the generator questions so yes all right and miss I'm such like a last most last one oh this is chapter

[04:34:43] four, use specific standards. This is number 11, table 4.06.02-2.k.b, data center specific buffer and berm requirements. In lieu of the buffer required under table 7.04.03-1, a buffer type C is required with the specified plantings and located on an earthen berm that has a minimum height of six feet and a grade lower than 2 to 1.

[04:35:18] Use of natural topography and preservation of existing vegetation supplemented by new vegetation if needed may be substituted if determined by the county urban forester to provide an equivalent density, depth, and height to the required buffer type C and earthen berm.

[04:35:40] And staff supports this motion. Motions made and seconded by Supervisor Kirshner. Discussion on the motion. Ms. Bricksman. If I might, Supervisor Umstead, when you say existing vegetation, did you mean native?

[04:36:00] Do I mean what? Native. Natives. So if it says native, then that is what it means, but it doesn't say native in that. So existing vegetation might not be entirely native.

[04:36:20] The part that's underlined, is that the part that you added? That is my understanding. Oh, it's what staff wrote for you. I submitted.

[04:36:36] Make it, yeah, I get it. Okay. They wrote it, yeah, okay. Staff, would there be a problem with saying preservation or somehow requiring native plants? That would not be a problem. A lot of existing vegetation is invasive, but this is the same language we have elsewhere in the data center section, so we would probably want to add the native vegetation language elsewhere.

[04:37:03] As well? As well? Okay. The same number? The same amount? I'm just not, if I were to make a friendly amendment, I just don't know where I would put the word native. How about supplemented by new native vegetation?

[04:37:21] Put it before vegetation in that clause. But that doesn't take out existing vegetation, it could be invasive. True. Does staff have a recommendation? Sorry, on the fly. I would definitely recommend existing native vegetation.

[04:37:43] Oh, existing native vegetation, is that okay? Sure. Okay, is it friendly? Is that okay with you, Supervisor Krishner? It's a friendly. Yeah, can I ask a clarifying question? Not yet. Okay. And then I would, staff, if we could, maybe for the next, we could email you and ask you where we might enhance native plants or the language that you were talking about.

[04:38:12] Yes, absolutely. Okay. All right. Thank you. Thank you, Madam Chair. Thank you. Thank you. Mr. Turner. Oh, thank you, Madam Chair. I won't support this, but the reason is because if you look at a type C buffer, it's a six-foot-high berm.

[04:38:28] It's a 25-foot-wide strip with 120 plantings per 100 linear feet, which is wholly and completely insufficient to screen a data center. I think the screening requirements need to be a lot more rigorous. So I think this is woefully insufficient, so I will not support this motion.

[04:38:46] Thank you. Okay. Mr. Letourneau. So I like the concept of this. the question is what what the buffer requirement should be perhaps and maybe it should be greater than c um to supervisor turner's point so i generally like the idea that if there is existing trees screening a site you can use that as a way to meet the requirement that's logical um but i don't know enough about what i think on the buffer type that we're actually pegging this

[04:39:23] to. If I may, through the chair, ask Supervisor Turner a question. Is your concern that the existing vegetation could be, say, somewhat barren, but might be found to be the equivalent of a type C, and that's just not sufficient? Mr. Turner? Yeah, we recently saw a depiction in the Hidden Lane group, the 22 houses, and when I got that presentation, the data center they were going to build, they showed the amount of old growth they were going to leave in place.

[04:39:54] um and they went and talked to the residences right next to that data center and it was well insufficient uh screening of that data center under those circumstances i can i think that's that is probably the probably best way to mitigate both the visual and the noise impact of data centers if they're going to go in next to a residential area and i agree they shouldn't but if they are that's the best way to do it a type c buffer is not enough basically nothing yeah

[04:40:21] Okay. Well, perhaps, Supervisor Rumpstead, we could put a pin in this question and bring it back at the next work session with more work on the exact buffer type equivalent that we're getting at. Because I suspect what we're thinking of in concepts is probably compatible with a greater than type C buffer, but we haven't designated it, and I'm not going to on the fly be able to do that.

[04:40:48] So I guess for tonight, I would join Supervisor Turner, but I think this is a motion that should be considered further. Do you want to table it? Sure. I will move to table once again, Madam Chair. Second. Motion to be made to table, seconded by Supervisor Roffington.

[04:41:06] Motion to table does not have a discussion on the motion to table. All in favor, please say aye. Aye. Opposed? Nay. That motion to table will pass 9-1 with Supervisor Umstead, but against the motion. Oh, I'm sorry. Ms. Glass is off the dais, thank you, thank you.

[04:41:24] It's 7-1-1, Supervisor Umstead voting against motion table, and Supervisor Glass being off the dais. Thank you, Mr. Sains. Ms. Umstead, I do believe that that's all your motions, yes? - That is it, yes. - Okay. Does anyone else have any other motions on Chapters three or four?

[04:41:43] We're not gonna do the endorsement motions tonight, so are there any other motions on Chapter three or four? Mr. LeTerno, your light's on. Ms. Umstead, your light is on. Okay, are there any other motions? Ms. Bricksman. So I, may I say a few comments first in that I did submit these, I'll say it in my opening.

[04:42:09] Oh, no, I'll say that for you, actually. Thank you. Thank you. Ms. Bricksman did submit her motion on time, and because the staff is completely overwhelmed and doing like 15 things at one time, they missed putting it in the package. So we're gonna go and let her make the motion because she, in fact, did submit it on time.

[04:42:28] And the staff has been, they were very regretful that they missed it, but we certainly understand with all that's going on how that could have happened. Ms. Brixman. Thank you, Madam Chair. I move to eliminate data center as a special exception use in the town center core and town center fringe zoning districts.

[04:42:50] Motion made and seconded by Mr. Sainz. Discussion on the motion. and Ms. Brixman. Thank you, Madam Chair. So both the Town Center Core and Fringe propose mixed-use pedestrian-friendly environments with retail housing and other family-friendly, pedestrian-friendly uses.

[04:43:12] A data center is antithetical to those goals. The county needs to invest in housing and diversify its economy through retail and commercial. Also, the TC Core and the TC Fringe envisions a good amount of residential, and if we are to abide by what we are thinking, and that is that we don't want more data centers near residential, I propose this motion. Thank you, Madam Chair.

[04:43:41] Thank you, Madam Chair. Can staff remind me, I remember having a discussion about the possibility that a company like let's say Verizon might in a town center have a building with maybe a retail component on the first floor but they might have a supporting data center above that and I don't know if any of you guys remember

[04:44:17] that discussion and whether I have the the place type correct but would this if this motion passes and i see staff supports it but would if this motion passes would it eliminate that possibility of verizon having you know a retail first floor and then its data center above

[04:44:42] in the same building so if if the data center portion were small if there was an accessory component then no but if it were greater than accessory then yes in this district in the tc district all right but this this motion would not eliminate the data center as an accessory component

[04:45:18] before you're talking about is like a not data center in a classical sense what we see everywhere else correct yes it would not would not eliminate it okay thank you mr latourne yeah that was the question i was going to ask so what we don't want to do we have this discussion when it comes to some flex as well um flex that we don't necessarily want data center in but some of those uses are um have server rooms or, you know, so those would still be allowed in town center. I guess the

[04:45:48] question is, how exactly do we define data center in the ordinance? I'll have to look that up for you. Establishment engaging in the storage management processing and or transmission of digital data and housing computer and or network equipment, systems, servers, appliances, and other

[04:46:19] associated components related to digital data operations. Okay. But as a primary use. Yes, as a primary use.

[04:46:35] Yeah. Is there another place where we're defining the accessory uses? No. I'm sure there is. Yes, we have a definition of use, accessory, and it's a use of a building, lot, or portion thereof, which is customarily incidental and subordinate to the principal use of the building or lot.

[04:46:56] Okay. All right. I think I'll support the motion. If this turns out to be problematic, we can always have more discussion about it, but I support the intent, so okay. Thank you, Madam Chair.

[04:47:12] Because I didn't see this motion until I sat down on the dais, I haven't really had a chance to kind of look over it, so I'm not sure where I fall. I may just pass on it for now, but I do have a couple questions for staff specifically. I thought earlier when we were talking about the TC and the TC fringe zoning, and correct me if I'm wrong, the TC core, that one of the staff members, and I don't remember who, had mentioned that perhaps under a very specific type of use, it might be appropriate.

[04:47:43] Was that a different zoning district we were talking about earlier? Does anyone remember that conversation? That what might be appropriate? A data center. That's why I was surprised when I saw this motion and staff was supporting it. Perhaps at what you were not talking about, town center core.

[04:48:03] I think it was, Judy. Yeah. I mean, I think where it came up is it could be appropriate in an accessory standpoint, yes. Having a traditional data center is obviously not compatible with a town center.

[04:48:19] Right, like a megawatt data center. I got it, yeah. Okay. Was there any discussion in the Planning Commission on this specific? Because obviously it's come to us as a special exception. Supervisor Bristman's motion is to eliminate it as a special exception.

[04:48:37] So why do we, was there any previous discussion that we recall? Was there any alarms that were brought up or, hey, this, there could be possible use. Does anyone recall? No, I don't believe we discussed it at the commission in TC. Okay. And I will point out there are use-specific standards specific to the TC zoning district.

[04:48:58] And that's kind of where I was alluding to before, that there are design standards. So the motion, you may want to add deleting those use-specific standards in 4.0602-3. Okay. All right, I'm not sure where I am.

[04:49:14] I might fall in line with Supervisor Letourneau, but I may just pass on this at the moment because I just don't know enough about it. So for me, if this were two years ago, I might not support this. But what I've learned over the past couple of years is wherever a data center can be built, it will be built.

[04:49:36] And, yes, it's a special exception, but I don't know what board will sit up here and allow it to be built, to be honest. And if we are going to diversify our economy, if we're going to have areas where we don't have data centers, We have to put them in this own ordinance right now because there are so many, so many parcels for buy-write data centers as it is that we can't really do anything about.

[04:49:59] We can, you know, do setbacks here, whatever, but we can't stop them. And so if we're going to have a moment where we just say, at least in this area, you can buy a house here and know that in this one small area, you won't even have a chance to have a data center. I'm going to go for that at this point, because the demand for data centers is everywhere, and it's like a monster we cannot feed enough.

[04:50:28] And so unless we cut it off in somehow, some way, there will be a data center here, there, and everywhere. And again, I understand it's a business. I get it. But I also get that our constituents are saying,

stop, please stop. And it is my goal to try to listen to both voices of the data center community who are also my constituents.

[04:50:54] but if constituents are saying we cannot do i mean it is a constant constant constant refrain constant complaint i get it in my email i get it on my facebook i get it when i'm walking i get it in the grocery store i get it at church i get it everywhere i get it at home i get it at home like why I do it just we get it all the time and it is maybe the one thing that I almost I don't think I hear any descending voices on I don't hear any constituents saying well

[04:51:32] maybe a few more maybe in this neighborhood even when we say what we do what they do for us and they do a lot there are no dissenting voices it is unanimous please stop building data centers I have to hear the voices of my constituents.

[04:51:52] I will be supporting this motion. Ms. Bixman, do you want a closing? Well, thank you, Madam Chair. I think that you said everything that probably needs to be said. I'll just say that I do believe that the data centers that we think about, the industrial-sized data centers, don't belong in a town center.

[04:52:10] Ms. Birgit, do you think that something needs to be added to change a use standard or a use specific, or are we okay? I would recommend, since you're eliminating the TC use, that you also eliminate the use standards in 40602-3.

[04:52:28] Okay. Madam Chair, may I add, I further move that we delete the use standards in 4.0602-3. Give me the friendly amendment, your own motion. So I'm fine with that. Okay, all right. Who seconded the motion? Who seconded it?

[04:52:43] Okay. Mr. Sains did? Okay. All right. All right. Thank you. I really appreciate my colleague's support on this. Thank you. All right. Motion is made by Supervisor Brickman, second by Supervisor Sainz. All in favor to say aye. All opposed.

[04:53:01] All abstentions. And we have one person who has left the dais. So I think that's a 6-1-1-1 vote. If I'm quoting that right, it's Mr. Umstead abstained. Voted against Mr. Kirshner abstained.

[04:53:18] Ms. Glass has left the dais. All right. Ms. Brixman, do you have another? I do. Thank you, Madam Chair. I move to change data center as a permitted use to a specs used in the Plan Development Research Development Park Zoning District.

[04:53:35] Motion is made and seconded by Mr. Sainz. Discussion on the motion. Thank you, Madam Chair. I didn't say this at the last motion, but this is on page 15 in Chapter 3. So the PDRP district, we have them in Ashburn, we have them in Broad Run, we have them in Sterling, and we have them in Algonquian.

[04:54:05] It exists bordering residential parcels in several places in Loudoun County. The residential development park is planned to be a mixed employment park, including mixing of research development firms, office complexes, and certain types of manufacturing and interrelated uses.

[04:54:25] As we know, data centers do not have very many on-site employees and often have strict security protocols that do not allow for free access to their sites. In addition, data centers need large land areas to build tall structures that do not fit with the existing character of much of the suburban or urban policy area.

[04:54:43] It is important also that we maintain managerial authority over where data centers can be located in the county moving forward. My staff did research where we have PDRDP districts in the county,

and I believe that Algonquian District has the most in that the entirety of the GW campus in Algonquian District is this type of district.

[04:55:10] We also have Janelia Campus in Ashburn. It borders R8 and A3 districts. We also have it actually the Carter School of Cascades, that property at 21290 Spring Lake Court in Sterling, Virginia. That would be Caddy Corner from new residential development that was just approved by us near the Costco, also kind of across the street from the Target over there.

[04:55:35] There's an undeveloped parcel between Loudoun County Parkway and Shellhorn Road up against Broad Run. This is surrounded by PDOP zoning, and there's some data centers nearby, and the Lifetime Fitness is near there. There's an undeveloped parcel along Route 28 just south of Sheetz and the Comfort Inn and Suites.

[04:55:55] But most of these, and that borders town center parcels and nearby large housing developments such as Ravonna and Waterside. So most of these areas that are now PDRDP are pretty close to residential.

[04:56:12] And so I am aiming to make this as specs so that we can have control over the land use. Thank you, Madam Chair. Thank you. Discussion? Further discussion on this motion? So, Ms. Bricksman, just so I understand, so you're basically saying make a specs for any data center that will be, this is the research area, basically.

[04:56:39] And really, this is only area in your district. Doesn't Mr. Turner have a little bit in his district? Okay. But this is not in Catocin as of right now.

[04:56:55] This is not in Leesburg as of right now. Not in Dulles. Not in Dulles. Not in Little River. Yeah. Not even in Sterling, right? A little bit in Sterling. Yeah, just a little bit. Yeah. All right. All right. Thank you. Thank you. All right. Anybody else?

[04:57:11] All right. Would you like a closing? I think that's all. Thank you, Madam Chair. I appreciate the support. All in favor say aye. Opposed? Nay. Okay, that motion will pass 6-2-1 with Mr. Kirshner and Ms. Stepboe No and Ms. Glass being off the dais for the motion.

[04:57:37] Are there any other motions in the dais? What do you mean, um? I'm going to double check if this motion is allowed or not because it does mention JLMA. Joint management area, is the motion already been given? Yes, by staff.

[04:57:53] Yeah, it's a staff motion. Oh, the staff motions. Okay, I'm sorry. I said that you were coming from a motion by yourself. Oh, no, no, sorry. Yeah, that's a staff motion. All right, go for it, sir. Okay, I move that the, it's the table, number one in the handout from staff in your back folders on the dais, number one, table 3.02.

[04:58:13] By the way, I didn't get these motions at my place. It's number one on the draft motions. Yeah, I didn't get them. All right, table 3.02.03-1 and table 3.02.05-01, I move that the principal use tables, which I just read, 3.02.03-1 and 3.02.05-1 be adopted as follows.

[04:58:43] energy storage utility as a use allowed in the TR-10, JLMA-1, JLMA-2, JLMA-3, and OP zoning districts and change energy storage utility scale in the IPGI and MR-HI zoning districts from permitted to special exception. Motion to maintain Mr. Buckingham. Discussion on the motion. Mr. Sains.

[04:59:09] Chair, if I could just add, we do have some motions that have been submitted by supervisors that conflict with this particular motion that did not make it into the packet, but are anticipating for the next packet, just so you're aware. Okay, so what I've said, thank you for that. And what I've said for those motions is that we should hold them. Yeah, we can wait. Because we have no idea what those motions are going to look like or what the discussion is going to look like. So thank you so much. Would you mind withdrawing that motion? I'll withdraw them. Okay, and withdraw the second. All right.

[04:59:38] I don't have the motion seat in front of me. I don't know why I don't have the motion. It wasn't in my in my folder so are there any other motions uh to be made that staff motions to be made that will not conflict um can we number 12 number 12 also will or will not conflict 12 will not conflict 12 13 or 14 will not conflict okay all right perfect uh all right then i'll go ahead and do number, let me check my cheat sheet here, hold on a second, yeah, I'll do 12, you said

[05:00:14] 12 is fine? Okay, all right. Maybe we could do it, maybe we could do all three of them at once, like I have suggested. Point of order. They're different ones. The pending motions are going to conflict with number 12 as well. Oh, she just said no. Well, they are, I know my motion directly conflicts with number 12. All right, how about 13 or 14? I have nothing on that all right then we'll do 13 14 then yep all right then I'll do anybody have an issue with 13 or 14 nope go for it yeah I'll have to do that okay so you

[05:00:51] said 13 and 14 which is related to school would you like to want to make that motion I'll go ahead I'll just double check and make sure there's no you guys get with that 13 and 14 are good mr. Turner I'm sorry We're so lost. Dan's doing this thing right here. All right.

[05:01:10] I move to revise section 4.05.18.j.5a as follows. A maximum of 10% of on-site areas in major and minor floodplain may be used for utilities, trails, and other uses permitted within the floodplain, exclusive of road crossings.

[05:01:33] These areas are excluded from the calculation for meeting the forced cover requirement of section 4.05.18.j.5c. Staff supports this motion. It's staff's motion, right? Yep. Okay. Okay, motion's made and seconded by Supervisor Bricksman.

[05:01:53] Did you say? Yes, 10%. No, it striked out the 10. No, the 10 is struck out. It's 20. Oh, excuse me. Yeah, sorry. Yeah, 20% my fault.

[05:02:09] 20%. I had it wrong in my notes. Okay, all right. Motion made and seconded. Would you like, even the staff motion, would you like an opening? No. Would anyone else like to speak on the motion? Yes, Mr. Buffington. During my time, could staff speak on this?

[05:02:26] This was the recommendation the Planning Commission made sort of off the cuff to minimize the amount of construction that could be done within the floodplain, reduce it from 20% to 10%.

[05:02:42] We think it should be more just because this is specific to public schools. We know we're having issues with finding suitable sites, and so we want to maintain as much flexibility as possible. So if we don't support this, it'll be 10%? It would revert to 10%? Correct. If we do, it increases the development that they could do or the district land disturbance in the wetlands?

[05:03:07] It does. It'll return it to 20%, which is what's in the current zoning ordinance. Oh, it was 20. planning commission make it 10 and you wanted to go back to 20. Yes and the public schools have strong opposition to this because they already have at least one school in the queue that this wouldn't comply

with. They can comply with the 20 but not the 10. We have a person from the public schools who's in here with us. Are you here for this item? Would you like to come up to the podium? Have you been here with us all night long? Yeah just right I just realized I just noticed it

[05:03:46] too i am sorry super sorry you come to the podium and we are so sorry have we been fascinating to you since we so much so i'm returning wednesday night you all are opposed to this motion yes ma'am would you like to say why we are you support the motion oh we support yes thank you support the

[05:04:15] We have the Silver District West property, which when it was rezoned, we acknowledged that we had probably a quarter of that site within Flood Plain.

[05:04:31] And this would hinder our ability to develop that as an urban elementary school site. And that was noted when the application came forward. Is that the only school that you have that this would impact? At this point, as much as I can recall at this moment, yes, ma'am.

[05:04:51] Okay. All right. Thank you. I don't know enough to know because, you know, when I hear words like floodplain or even minor floodplain, it seems to me like we shouldn't be building utilities in that. I mean, yeah, maybe used for utilities trails and other permitted within the floodplain.

[05:05:11] Yeah, yeah, yeah. Explain to me what I'm not getting, because just a layperson just kind of says, we probably shouldn't be building utilities and floodplains. Why am I wrong about that? Many trails are often in floodplains. Most of our LPAT trails are probably- Well, not the trails part, the utilities part.

[05:05:31] Sewer lines are usually in floodplains because they're following the creeks to use gravity flow. So are we restricting, when we say utilities, are we restricting it to sewer lines? No, it could be other utilities as well. It could be power. It could be a water line.

[05:05:46] Power could be in floodplains? Okay. Seems to me that those two things don't mix. May I? May I also? Still seems illogical.

[05:06:04] Electricity and water. You wanted to say something? We also have opportunities potentially on school sites as we research geothermal opportunities at schools. And so if we are limited with respect to putting those in areas that are not floodplain or playing field, Well, I'm just going to trust that the experts know better than I do on this one.

[05:06:29] So that's where I'll just go, because there's no reason for me not to trust that. You guys know what you're doing. Mr. Turner? Thank you, Madam Chair. So the key words here are maximum of 20 percent of on-site areas may be used for utilities, trails, and other uses, quote, permitted within the floodplain.

[05:06:45] So the uses that they're going to put in the floodplain are already permitted floodplain uses. That's the key piece. That's correct. Okay, so the 20 or 10% is because the environmental community does not want to impinge on more floodplains, so they wanted to reduce it to 10%, and the schools are saying let us use permitted uses in the floodplain to 20%, particularly for this one school and potentially for future schools, right?

[05:07:10] That's correct. Thank you. That's what I thought. Thank you. Okay. Mr. Letourneau? Is it 20% in the zoning orders now? Yes. I was going to say, so why is it only 20% if it's permitted uses in the floodplain? This is coming from 5-600, so this is an additional requirement.

[05:07:33] This is a requirement that's in the current ordinance to protect the floodplain for the schools. It's an additional requirement for the school, and it's carrying over from the existing ordinance.

[05:07:50] Is the 20% ever been problematic? You've got to come back up here, though. Okay. I'm not going to answer that one off the top of my head at this point. Zoning staff, I don't think so.

[05:08:07] I'm just saying, to Chair Randall's point, it's always been 20%, so it sounds like the motion would be to go back to 20%. I'm just asking if 20% is actually the right number. So I'm happy to support this tonight. But if you want to do any additional research, then, because as Supervisor Turner said, it's only uses that are already permitted in the floodplain.

[05:08:26] So it's not like we're talking about something that's problematic. Well, I don't know about that because it still has environmental impacts. No, I'm fine with 20. All right. Mr. Sains, would you like to close? Nope, I think we had a good discussion.

[05:08:46] All in favor, please say aye. Aye. Any opposed? That motion, we're just bleeding supervisors at this point. That motion will pass. We have two supervisors off the dais. Ms. Umstadt, has she left? Yep. And Ms. Glass has left.

[05:09:03] Yeah. One more. Right. All right. I got one more. Yep. I have one more. 14. 14 in the handout schools. I move to revise section 4. 05. 18. J. C. as follows. Unless excluded by section 4. 05. 18. J. 5. A. or J. 5. B. above, which one is it? Is it 80 or 90?

[05:09:37] 80 of major and minor floodplain located on site must be forested either through the retention of existing forest cover or through the planting of unforested floodplain with at least five different native decadence deciduous species.

[05:09:56] thank you at a distance of three hundred three gallon plants a hundred and parentheses 180 can be trees and 120 understory trees and parentheses per acre on 12 by 12 grid staff supports this motion all that for us please so it's taking a little bit for my brain to start working you have to forgive me it is a little late in the evening these conditions these use specific standards were created a few years back when schools used to be a special exception use in most districts.

[05:10:35] These conditions were created to allow the use to be permitted in all districts, so there were additional requirements. This goes hand in hand with the motion that you just passed. This is reverting it back, the 80-20 versus the 90-10 that the Planning Commission had recommended.

[05:10:57] So this goes with the previous motion you just passed. Sounds good. I'm looking to speak on this motion, and I'm going to go back to Ms. St. for a closing. So anybody else? Mr. Letourneau? I support the motion. Thank you.

[05:11:13] Mr. Buffington? So the schools want to be able to do less retention of existing forest cover? Since the other motion you can use up to 20%, you have 80% is what is remaining.

[05:11:30] So they're doing the most they can, being able to use up to that 20%. So basically, because we passed the last motion, we basically need to pass this one so that it adds up to 100%. Yes. Okay. So we're basically going back to the 80-20.

[05:11:50] Okay, cool. Mr. Sainz, do you have a closing? I think we're all good. All right. All right. All people say aye. Aye. Any opposed? That motion will pass. 702 with two people being locked in.

[05:12:06] Yes. And number 15, we do not do tonight. Is that correct? It's a conflict motion, yes? It's a motion that will be in conflict. Okay, supervisors, I will send out an email tomorrow discussing the modifiability meetings.

[05:12:28] And, of course, the chamber will give me names. We're going to try to keep, I mean, I want more than two supervisors in the room, But really, if we have all of us in the room, it would be really kind of hard to do that. And so, you know, if you can make it okay, but if you can't, that's okay too.

[05:12:45] I will work really hard to call you all or text you all or email you or something to tell you how these are going, how these discussions are going, how these meetings are going. I would ask, I would remind us of this. We have moved so much stuff back that when we come to the states on the 26th, we're going to be very busy with motions.

[05:13:05] We will have the modifiability motion. We will have motions on Chapter 2, Chapter 3, Chapter 4, including endorsing the chapters, including motions that were set aside today because they were conflicts. So please come to the meeting on the 26th fully ready to make motions, take votes, and possibly be here for a little while on Chapter 26.

[05:13:29] I will ask that the chamber and all the other stakeholders group take this time to talk to supervisors about the motions that you've already sent because there have been quite a few. They may change or may not change based on the modifiability discussion, but we want people to come back on the day.

[05:13:48] It's on that day ready. We know that once you send out today, you weren't really sent to be made today, but to be kept. And so supervisors, when people call you to have meetings, please take the meetings. and so we know what we're doing when we come back. To the staff, we are plowing through.

[05:14:08] I know this is a lot. I know it's tough and hard. Mr. Kroboff, thank you so much for taking a weekend Sunday night call from me. I really do appreciate that. And everybody else, thank you, and we look forward to the 26th. We are adjourned.



Coraggio Consulting · aguyonx.com