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Loudoun County Board of Supervisors, Committee of the Whole Work Session, Monday, October 2, 2023

Date Monday, October 2, 2023
Place Board Room, First Floor, Government Center, 1 Harrison Street SE, Leesburg, Virginia
Length 3h 46m (video)

- Official meeting video (county, Granicus): <https://loudoun.granicus.com/player/clip/7427>
- Agenda (Granicus): https://loudoun.granicus.com/AgendaViewer.php?view_id=73&clip_id=7427

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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.

[00:11:29] There you go. Well, good evening, Loudon. Good evening, staff. Good evening, supervisors. I'm going to call to order the October 2nd Board of Supervisors Zoning Ordinance Rewrite Work Session. This room has a hearing loop. If you need hearing assistance, please switch your hearing aid to the telecom mode.

[00:11:48] If you need a headset, we have those available for you as well. Would everyone please join me in the pledge? I pledge allegiance to the flag of the United States of America and to the republic for which it stands, one nation, under God, indivisible, with liberty and justice for all.

[00:12:12] So I was gone all last week. I had to go home to help with a medical emergency for my mom, and I got home just this weekend.

[00:12:28] And so although I have looked over this item for the meeting, it's one thing to be in the meeting, it's another whole thing to chair the meeting. The chairing of the meeting is a much heavier lift. On Thursday of last week, when I realized that I did not have time to adequately prepare to chair this meeting, I called the chair of the TLUC committee and asked him would he be willing to chair the meeting because I just was not going to be ready to do it. And so he agreed.

[00:13:01] Mr. Turner has been in all of the meetings with me with the stakeholders. He was at the meeting on, when was that, Mr. Turner, two weeks ago with that meeting, and he's been in all of the Friday morning stakeholder meetings.

[00:13:17] And so between that and him being chair of TLUC, I called Mr. Sains, and he was fined to ask Mr. Turner to chair the meeting. So I am going to relinquish the chair seat. I'm going to change seats with Mr. Turner, and he will chair this meeting today. I will be back ready to chair a meeting for our next zoning ordinance workshops, and of course tomorrow when we have our regular business meeting.

[00:13:40] But without objection, I'm going to turn the gavel over to Mr. Turner at this time. Well, no, you were chairing the meeting, sir. Thank you, Madam Chair.

[00:14:05] I would like to declare a holiday for all county staff for the next six months. Sorry, I couldn't resist. Well thank you everybody for being here I think we have been through the preliminaries we have we have had something come up which requires a we hope fairly brief closed session so without further ado we're going to go into closed session and resolve that matter then we will come back out of closed session and resume zoning ordinance rewrite work session so mr.

[00:14:45] vice-chair do you have the motion to take us into closed session I move that Let the Board of Supervisors recess this public meeting and enter the closed session pursuant to Section 2.2-3711A8 of the Code of Virginia to consult with legal counsel regarding legal considerations concerning proposed text and motions for modification provisions in the Zoning Ordinance Rewrite, a specific legal matter requiring the provision of legal advice of counsel.

[00:15:10] And I will second Supervisor Brisbane. Any discussion? Any questions? All those in favor, please say aye. Aye. Any opposed? That would carry 9-0, and we are in closed session.

[00:47:59] Mr. Vice Chair, would you read us out of closed session, please?

[01:09:47] I shall. I move that the closed session be adjourned, that the Board of Supervisors reconvene its public meeting, that the minutes of the public meeting should reflect that no formal action was taken in closed session, and further move that the resolution certified in closed session be adopted and reflected in the minutes of this public meeting.

[01:10:02] Please affirm, Supervisor Letourneau. Affirm. Did somebody second? Affirm, yep. I don't know. I'll second that. We are out of closed session.

[01:10:20] No, no. Got a vote. Oh, all those in favor of coming out of closed session, please say aye. Aye. Any opposed? The ayes have it. All right. Let's lay out some kind of rules of engagement here for the work session tonight.

[01:10:38] Very similar to the last session that we had. A bit different in the sequence of the motions that we're going to cover tonight. In the item, as it was published, item number two is motions from prior work sessions. Those prior work session motions, several from Supervisor Buffington, for example, because he was not here, were carried over into this work session.

[01:11:01] We will go into a committee of the whole, and then we will discuss all of the motions as a committee of the whole. I have one minute set on the clock. What I did last time, what I'll do again this time, is we'll go through the motions, and I'll identify the motion in my judgment.

[01:11:17] It's strictly Mike Turner's judgment to kind of set the stage as we go into that motion discussion. What I perceive is either a simple motion or a complex motion. A simple motion appears to have very little controversy associated with it. Usually staff supports the motion, and there should not be a lot of time required on that motion.

[01:11:35] A complex motion will require some more discussion. I have one minute set on the clock. If it's your motion, introduce your motion. You do not need to read the full motion. We remember that from the last work session. You can just say motion number three, and I move motion number three.

[01:11:53] Take about 30 seconds to introduce your motion. I have a minute on the clock just to kind of be a prompt and be as brief as you can. And in a committee of the whole, we can ask questions as needed of staff.

[01:12:08] and so we will start off by immediately going to the carryover motions this is in your chapter 5 supplemental if you go to the motions matrix the motions are set up so that the first motions are the carryover motions from the prior session we'll do the carryover motions first in as a committee the whole first we'll vote into the committee a whole then we'll do the carryover motions and then we'll have staff present on Chapters 5 and 6, and then we will have the stakeholders speak on Chapters 5 and 6.

[01:12:44] Then we will go into the motions for Chapters 5 and 6. From what I understand, some supervisors are concerned that they're seeing the motions for 5 and 6 tonight and don't feel comfortable voting on those motions. We respect that, and I'll always entertain the motion to table the motion that we're discussing to a future work session if you're more comfortable doing that.

[01:13:03] But by all means, anything we can get done tonight on Chapter 5 and 6, let's get it done so we don't push work forward into the next work session if we can avoid it. But we'll take that on motion at a time. Any questions on any of that from the board members, from my colleagues?

[01:13:20] I see a light on, Madam Chair. No, I'm not. Very well. I move that we take this board into Committee of the Whole. Is there a second? Vice Chair Sainz seconds. I have no discussion. Any questions on Committee of the Whole? all those in favor please say aye aye any opposed there are not motion will pass 9-0 and we are now in a committee the whole and we will take up carryover motion number one and that is supervisor buffington thank you mr chairman um for my colleagues in chapter one page one at the bottom

[01:13:57] of the page section 1.02 application for the application of the zoning ordinance letter a where it has territorial application i'm just trying to add some language here and the gist is i'm not trying to change the meaning of this of what's here already i'm trying to just clarify and my understanding is that staff supports this motion i know we work with staff to come up with the motion but basically what it does is clarify that the board of supervisors has full authority

[01:14:31] to make changes in places like the JLMA around towns within Loudoun County. And the reason I'm bringing this forward is there are certain members of certain towns, town council, that have made public comments during their town council meetings to members of the public from within their towns that the board does not have full authority to do this and that the board would require there being town council approval before we would be allowed to make a land use decision in the JLMA.

[01:15:10] And staff, could you please correct or let me know if I'm correct that that is not accurate? What you're saying is correct, yes. We have that full authority and do not need town approval. That is correct.

Okay. Can I speak more? I think it's pretty clear, but start wrapping it up.

[01:15:29] Just trying to clarify this here so that anyone who looks doesn't have to ask for a legal opinion by an attorney. It's just written clear as day right into the new zoning ordinance. So that's it, Mr. Chairman. Thank you. Thank you. Any questions or comments? This should be a simple motion.

[01:15:48] Seeing none, any close? Just that I move motion one in the packet. And do we have a second? Second from Chair Rendell. No further discussion. All those in favor, please say aye. Aye. Any opposed? That motion will pass 9-0. Motion numbered.

[01:16:04] two is a staff motion I will make that motion number two I'll read it's fairly short I moved to change to change agricultural processing as a standalone principal use from a special exception to a minor special exception in the air one and air two zoning districts and to make corresponding change to the use specific standards in section 4.08 point one two second from supervisor briskman and staff is seeking board direction on whether to change the use permission for standalone as shown in the motion I don't see anything controversial it seems like a fairly simple motion any questions or

[01:16:42] discussion items Supervisor Kirsten thank you Supervisor Turner I'm gonna probably I'm gonna support this motion I believe I have a couple of questions there are a number of other motions that deal with rural policy and a number of issues I may oppose tonight simply because and I think there's some discussion as was alluded to earlier simply because I think it would be wise for us to set those aside and deal with them as we have been saying we're going to deal with a lot of them for a while here but in terms of this one this seems pretty non-controversial i have received some feedback from the from the agricultural folks what is is this right now

[01:17:17] under our current zoning ordinance a a special exception versus a minor special exception currently it's an accessory use and it's by right as an accessory use in most districts The commission received public input that they would like this use as a principal standalone use, and the commission made that change in AR1 and AR2, but they made it a special exception.

[01:17:48] And we're now recommending that it be made a minor special exception to reduce the timeline and the fee. I'm out of time. Go ahead, Chair. So as an accessory use, it would be far easier than a special exception. Is that correct?

[01:18:04] It would remain an accessory use, but it's also being allowed as a principal use now. I see. Okay. In case there's no on-site agriculture. I see. Okay. If that's the case, then it makes it easier to accomplish, correct? Yes, correct.

[01:18:20] All right, I'm fine. Thank you. Madam Chair. I'm going to associate myself with Mr. Kirshner's comments. I'll support this, but for the most part, I think most of the motions tonight that are regarding the rural policy area, I will either not support or I will abstain.

[01:18:37] I do think they should be part of the rural policy. So and because we said that there were, that we would do that, and I do believe that whether or not in the end I'll support them or not is inconsequential to whether or not we're hearing all sides of the discussions, and I'm not sure we're hearing all sides of the discussions about some of those motions.

[01:18:55] I probably will end up supporting most of them if I'm lucky enough to be up here next year, But I do think that we shouldn't make those decisions when we told a whole group of people we're not going to

make those decisions right now. But for this one, I'll support.

[01:19:11] Thank you, Mr. Chairman. Thank you. Supervisor Buffington. And just associate myself with those comments as well. We publicly said numerous times that we were going to do a future separate process after this Board of Supervisors to consider rural uses.

[01:19:30] And so my concern is to now go back and change that and try and make some of these changes. A lot of those folks, the rural economy business owners, are probably not really paying attention anymore because we already said publicly numerous times that we were not going to do that right now.

[01:19:45] We're going to do it later. And so I'm not sure we would get both sides of the argument in the public discussion. I'm concerned that the rural economy business owners would be left mostly out of that discussion or be cramming, you know, scrambling last minute to try and get in here and say something and not have enough time to really put the thought and energy and effort into making sure that what they're saying, that they understand everything they're saying and any possible unintended consequences of that.

[01:20:17] So I think that those things should be done in the future, like we originally said. Thank you. Thank you. Supervisor Bressman. I just want to back up for just a second. I don't know if staff wants to answer this or if Chair Turner does, but aren't there like three or four specific things that staff said we should resolve in the zoning ordinance rewrite, even though we have a CPAM and a ZOAM coming in the next term?

[01:20:45] And if so, isn't this one of them that staff has said we really should address in the zoning ordinance rewrite? We have been trying to work with all sides of the community who have said we're okay with a lot of things waiting for a future ZOAM and CPAM.

[01:21:04] But there's these few things we'd like to tackle right now just as quick fixes. So we've been trying to work with the community, but it's absolutely at your discretion, of course. And this is one of those things? Yes. Okay. That's what I thought. Thank you. Supervisor LeTourneau.

[01:21:20] Yeah, just to piggyback on that, I would go as far as to say, I think it was the last work session, we heard from a few members of the agriculture community that there were a few things that they needed us to do, that they didn't want us to adopt this zoning ordinance with some of this language because they would be stuck in limbo for a period of time until we did the rural use of ZOAMP.

[01:21:46] So it would be helpful to understand if there are concerns about any of these things that we're taking up now, and I say that more broadly, but I don't think that there are, at least the ones that are moving forward for votes. I think they're all things that there is widespread agreement on and, in fact, a desire from industry and the community and everybody to do so that we don't jam somebody up in the meantime.

[01:22:12] Thank you. Supervisor, I'm sorry. Thank you, Mr. Chair. Building on what Supervisor Letourneau said, are we going to jam anybody up with this change? Because it sounds better than what's in the current draft, but it sounds potentially worse than what is in the existing current zoning ordinance.

[01:22:40] We're trying to unjam people up and give them another option so they can do this use as an accessory use, as we do today. Or if they want a standalone, we're creating a new process, a minor special exception, where the planning commission's draft says special exception.

[01:22:58] So we're making that standalone process easier. So for the same facility, will a farmer have the opportunity to choose either the accessory or the standalone?

[01:23:16] And are those two processes equally simple? If it's accessory, that means they have an active agriculture on the property. If there's no agriculture, it would fall under standalone.

[01:23:31] And that's the new piece that we were hearing that the Western Loudoun wanted, just the standalone with no agriculture. All right. And is this going to be a complicated process for them?

[01:23:47] The motion is reducing it from like a six to eight month special exception to hopefully We have four to six months, minor special exception. Do we know what that will cost them? Do you know that, Brian or Teresa? We'll have to look that up for you.

[01:24:05] Okay, and the objection to having it just be by right? If it's by right, we don't know. It could end up being a large-scale slaughterhouse. We want to make sure we can have the opportunity to add any conditions of approval at the board level to mitigate any noise or smell that could be associated with a stand-alone use such as this.

[01:24:35] All right. Thank you. And I'll just say in my comments, I met with stakeholder group five and six on Friday, I believe it was, because they knew I was going to chair this meeting. And I had exactly that conversation Supervisor Letourneau just brought up, that there are a number of items that they feel really strongly that they ought to be included in the ZOR.

[01:24:59] and I said I would be happy to make those motions. I've talked with Supervisor Kirshner and Supervisor Buffington, and they may very well all go down to tabling to the future discussion of the rural CPAM and ZOM. I'll leave that up to the board. I'm not necessarily advocating for them, but I did tell the stakeholders it's fair to have a discussion on the dais around these selected few rural motions to see if they pass a litmus test of these really do need to be considered for the ZOR rather than pushed off, we'll have that at a later discussion.

[01:25:32] I'll send staff those motions after tonight, but those will be coming forward for just that purpose to see if they do, in fact, pass that litmus test of immediacy. Any other discussions? I have no close. All those in favor, please say aye. Aye.

[01:25:48] Any opposed? That motion will pass 9 to 0. Next motion is an endorsement of Chapter 3. I personally don't think we're there yet. I think there's a number of Chapter 3 motions that could be made or that will be made in the future, and so I'm inclined to table this motion to a future meeting unless there is objection.

[01:26:10] Yes, Madam Chair. Thank you. I don't know that I would say objection. Can you, do you mind sharing? I did think that one was ready to go. Do you mind sharing which ones, I mean, are they, do you mind if I ask, are they rural policy motions in Chapter 3 you're talking about?

[01:26:27] The ones I was thinking were that there were rule, but I also had in my mind that there were some other Chapter 3 motions that were still out there. Staff, do you know if there are any other Chapter 3 motions out there? We are not aware of any additional Chapter 3 ones, no. And this is a straw poll vote, so we could approve Chapter 3 and we could start bringing changes back.

[01:26:50] We absolutely could, Mr. Chairman. All right. I will make the motion then, and we'll see where it goes. I move motion number three. Is there a second? I will second that. Chair Randall seconds that.

[01:27:07] Discussion, again, my motions are going to be the rural motions to Chapter 3. I believe it's Chapter 3, and so I will probably bring those up later on in the process for consideration. Boy, I sure thought it was another Chapter 3 motion out there, but any questions or discussion on improving Chapter 3?

[01:27:27] Chair Randall. Mr. Chairman, if you're actually going to make motions on Chapter 3, even if they're the rural policy motions, we probably shouldn't do this right now. But I was asking the question, were you going to make any motions that did not have to do with the rural policy?

[01:27:52] Because I'm obviously, as I said before, not going to support those right now. But if you are going to make those, then we probably shouldn't do this motion right now. I just remembered what it was. Is energy storage chapter 3? Is that chapter 4? It's both. The energy storage would be, in chapter 3, it's where the use is permitted.

[01:28:11] And you did make those motions at the last work session. And the use standards would be chapter 4. I do have a chapter 3 motion that I do want to make on energy storage in addition to the rural motions. So I'd like to hold off on this. So you want to withdraw your motion? I will withdraw my motion.

[01:28:27] Okay. Any other questions? Thank you, Madam Chair. Motion number 4. And I'll let Supervisor Sainz read that one, okay as I stated last meeting That was staff the language wasn't but I was looking for when they presented it to us last week, so we got back together and Came up with the language that we're looking for so I move that the board board direct staff to revise table 4.06 point 02 -1 facades standards to require all four sides of any data center building to meet the requirements of principal facades including any necessary revisions to section 4.06 point zero to

[01:29:07] Formatting and language for consistency and clarity second with supervisor briskman opening statement Thank you. So again all we're looking for is to ensure that all four sides of the data centers Structure has some design elements to it and they could be the differentiated surfaces with different textures materials colors designs They could be functional windows windows. They could be windows Our foe windows I should say This includes the fourth mechanical wall.

[01:29:37] The design could be underneath mechanical equipment, and there's still a screening requirement that we endorsed earlier on September 11th. So I think this, again, we've talked about having some design standards, making sure our data centers are looking very good and presentable.

[01:29:53] And I think this helps us get to that level that we're looking for. So hopefully we can support it. Thank you. Thank you. Supervisor Umstein. Thank you, Mr. Chairman. I will be opposing this motion. We're trying to impose upon one industry restrictions and regulations.

[01:30:13] We do not apply to others. So we're not proposing that a Costco have all of its facades be principal facades nor a target. And where a data center is adjacent to another data center, It seems to make no sense to me to require that those facing facades all be primary facades.

[01:30:36] I'm a little worried about targeting one industry in the county and not applying this uniformly. So I will be voting no. Thank you. Thank you, Madam Chair. Thank you. So, Mr. Sains, I understand what you're trying to do, and I support this, especially if the data center itself is near residences or on a main, especially bucolic corridor like Route 7.

[01:31:06] So I think I would support this motion depending on where the data center is located. If the data center is in, quote, the data center alley, unquote, then that I don't think would be necessary. But if the data center is in a residential neighborhood or somewhere more obvious and bucolic, I would support it.

[01:31:25] So can I offer you a friendly to say that? Because otherwise, I don't know that I could support the motion. Can I ask a question to staff? Sure. Staff, do you interpret this to mean only for, to Chair Reynolds questioning, is it for residential only or is it for everywhere?

[01:31:45] As written, it's for everywhere. Yeah, I will not accept it as a friendly. And the reason why, Madam Chair, is let's just have a standard in general. Let's have them look appealing. We have data centers now that are currently, for example, in Data Center Alley, we have one that won an actual design award for doing what they should be doing in designing a very visual, appealing building.

[01:32:12] So I think we need to just have that standard across the board, in my opinion. Okay. Supervisor Glass. Thank you, Chair Turner. I just wanted to, okay, just to clarify. So you're talking about if the data center is also in the industrial area, you would want them to have on all four sides facade.

[01:32:37] I'm not sure that I'm in agreement with that, especially if it's, I can understand if it's, you know, facing residential or if it's in front of the road. And I understand what you're trying to do.

[01:32:54] I just, I'm not sure if I'm ready to do that. Thank you. Suarez, return. Thank you. Yeah, I think I'm probably in the same place as Chair Randall and Supervisor Glass, but do we have a secondary facade standard or definition, or do we only have a primary facade?

[01:33:15] There is a principal facade standard and a mechanical facade standard. There was a motion, I think two or three motions maybe, about secondary facades that didn't pass. Okay. Well, I think we should do this, and if this motion fails, I might even make it for residential adjacent and for road adjacents.

[01:33:40] And I thought we did deal with road adjacent already, didn't we? And residential. That's the principal facade. Yeah. But, well, we didn't say they had to be on all four sides, did we? No. In road adjacent or residential adjacent? If you're next to residential, then the side of the building that abuts the residential is a principal facade.

[01:34:00] if you're on a road then that's the principal facade okay can i ask for clarification on that so if you've got a residential neighborhood on one side and a road on the other side they have to have two principal facades nope then the the side that faces the residential is the principal facade and then the mechanical facade can face the um the street okay um supervisor briscoe thank you. Not to open a can of worms here, but would this be modifiable? Yes, because it's chapter four.

[01:34:40] Okay, so they could come in and say, we want this to be modifiable because we're facing a small manufacturing facility or a quarry on this side, so we would like that, we would like to be able to do a secondary or something else because we aren't facing anything that would be disrupted by that type of view of the building so this is modifiable yes the use standards are modifiable by minor special exception with the minor special exception oh okay so it's only minor special exception so the board would be able to have managerial control over if they come in and ask to do

[01:35:18] something different on one or two sides of the building we can be like oh yeah that makes sense you're next to you know you're facing the airport on that side or whatever so we could we could do

that so in that case since it is modifiable i will definitely support the motion thank you uh okay yeah i think my question was answered um when i saw this motion earlier i'm kind of like well didn't we or and then i think i realized and and correct me staff if i'm incorrect on this the big difference between this motion and a number of the motions that were passed by this body a couple

[01:35:52] weeks ago is this one is requiring all sides regardless, and those were dealing with basically facing residential and facing main thoroughfares. That is correct, yes. Okay. Yeah, I'm inclined not to support this simply because it's far more burdensome than it needs to be, and I don't think, I think the data center industry opposed some of those, so I'm assuming they would oppose this as well is that is that fair that is definitely fair that's correct thank you thank you I can't support

[01:36:27] the motion I think all four sides for no particular reason just to say all of them have to all four sides have to be a primary facade is unreasonable and and not fair to that industry are you saying if they're not a so if there is a data center that has a road on one side and the rest is surrounded by industrial or i don't know anything other than residential basically no other road just just a public road on one side of the building then that would be that would have to

[01:37:02] be the primary facade right you would designate that as the side that faces them to make look extra nice now if you if you change that scenario and on the opposite side of the building say you add residential then residential would take priority over the road and so the road would no longer be the primary facade it would be the residential side you would have two principal facades but you would the side that faces the road could be the mechanical equipment facade

[01:37:37] so and is that a lesser standard they're still prioritizing the the side that abuts the residential okay which i agree with the residential should be top priority um i can't support the motion, I would support something to increase, like in the example that we just used, so that the second side, which has the road, would also be a primary facade and have a higher standard, but not to the level that you're seeking in this motion. Okay, I have a hypothetical for you. Walk me through it. So I've got a by right data center that's going to go on a piece of land that has

[01:38:16] residential on three sides and another data center on the fourth side, abutting this parcel. If we pass this, it would require them to put principal facades on all four sides by right, but they could come in for a minor specs on the fourth side facing the data center, which would give the board legislative oversight to approve the minor specs on an otherwise by right parcel. Your understanding is correct. Yes, that's the motion on the table.

[01:38:51] Well, I'm going to support this motion, then. I didn't think I would, but on that basis, I think I'm going to support this motion. Closing arguments. Thank you, Supervisor Turner. That's a very good example, and that goes to, for example, if my colleagues remember, we had a data center in my district recently off of Davis Drive that one side is residential, Another side is industrial area, office building on the other, and a road on the other side.

[01:39:24] So to a supervisor, a perfect example, if this passes, the front side with the residential will be primary. And then the other side, they can come and we can look at it and say yes or no or whatever the case may be. And then Supervisor Brisbane's questioning earlier, as staff mentioned, this would be modifiable.

[01:39:41] So again, they can come in front of us and say, hey, yes, we agree, makes sense over here. but over here we're going to be in a dirt road alley that's going to be trees and forests and that can be developed anytime soon or whatever. And we can say, okay, yeah, that makes sense. But I think this is the right thing to do. Again, it gets to the standards that we've all been discussing about the data centers during this whole process and hearing from our residents they want to see a better product out there.

[01:40:03] So thank you. Mr. Chairman, may I have a point of information? Sure. My point of information is this to the staff. So you're saying it's modifiable by a minor special exception. Can you tell us what is involved, both process and possible cost in a minor special exception?

[01:40:24] - We need to look that up, but we will get that information to you. - I only ask because it sounds very easy. If it's not, it sounds very easy. I don't like to know the process before.

[01:40:40] - I seem to remember four to six months and \$8,000. - So we're looking at \$8,000 for a minor special exception If it's more than 10,000 square feet, and normally four to six months, that's the target for a clean application for a minor special exception.

[01:41:01] And one more point of information? Sure. And that special exception can kind of run right along, can run alongside anything else you're doing. Is it always going to be four to six more months? It would run concurrently with any other application that's legislative, yes.

[01:41:17] Run at the same time. So it's not a consecutive, so it doesn't actually add four to six more months? It doesn't unless all they needed was a minor special exception. Okay. If it was by right. Okay. All right. Thank you, Mr. Chairman. That was my question, that it could be part of the application.

[01:41:33] That was my point of clarification. Thank you. Mr. Brad Buffett. Thank you, Mr. Chairman. Point of clarification. Is it even possible to do all four sides as the primary facade? Where would they put the generators and all that if they're all four primary facades?

[01:41:47] So the way the motion is worded is staff would need to look at 40602 to make changes to how it's formatted, to make that clear, but we think the intent of the motion is to ensure that what you see looks and meets all of the standards that apply to the principal facades.

[01:42:16] So they could still put their cooling towers and generators and so forth behind a wall that looks like the rest of the building. Thank you. Any other comments, questions? Maiden, second, and I have no close.

[01:42:31] All those in favor of the motion, please say aye. Aye. Opposed? Nay. That goes 7-2. If you said aye, please raise your hand. Four.

[01:42:47] And if you said nay, please raise your hand. It should be five hands up. One, two, three, four, five. That motion will fail. Four, five. Motion number five. Mr. Chairman, can I make an alternate motion on that topic, please? Okay. So I would move that the board directs staff to revise table 4.0621 facade standards to require all sides of a data center facing residential or a public road to meet the requirements of principal facades, including any necessary revisions to section 4-0602, formatting and language for consistency and clarity.

[01:43:28] Second. Second by Chair Randall. Discussion? Yeah, I think this is capturing, at least my intent, better, which is basically if you can see it, if it's going to be visible to the public or if it's going to be visible to a home, then it should have to meet the principal facade standard.

[01:43:47] I understand maybe the minor special exception is not the most burdensome thing in the world, but quite frankly, I don't know how. I appreciate we try to make four to six months, but I have a sneaking suspicion we don't always. And we certainly are going to see a lot of activity.

[01:44:03] So I would prefer to not send somebody through a minor special exception if it's truly not an issue that any one of us really thinks exists because almost everybody has indicated they thought this really applies when it's visible. So if it's not visible to the public, if it's not visible to anybody who's living there, then I don't think we should impose that requirement, but I think we should otherwise.

[01:44:24] And that's what hopefully the motion that I made would accomplish. Madam Chair, any comment? So I will at least support this motion, but my question would be what if one of the sides is facing a park or what if one of the sides is facing, you know, something like Ravana, which has outdoor shopping and walking.

[01:44:53] so i'd like to make a friendly i just don't know what terms to put in there that we add a couple things to that supervisor letourneau like if it's a park and or like because you said the public right and the public could be any anybody's at the i don't know one loudon right there's people outdoors all the time at one loudon do we really want our folks that are visiting one loudon have to look at a data center um there's roads in one loudon okay there's oh can would you accept a friendly to add park um i'm just trying to understand how this would actually apply like

[01:45:33] is there do you really think there's a scenario in which there's a potential data center site next to a park with absolutely no road near it how would you even access the data center if there's no road well i'm may i continue chair turner there there may be a scenario where the park and the data center are next to each other and the road is in front of both of them Sure.

[01:46:03] Okay. Okay. I think, all right. At least a park. I mean, I'd like to add some other stuff, but at least a park, please. Who's the seconder? Are you okay with that? Okay, thank you. Can I hear the friendly again really quickly? We're adding a park to the list of what would require a primary facade if the side of the data, so it's a residential park and road.

[01:46:31] Okay. So, where's your upset? I mean, this is, I think, substantially better than the original motion was. I'm still concerned because I can think in the town of Leesburg, we have a Costco, a Target, and a Kohl's.

[01:46:49] And they all, the backs of them all face a residential community. Now, there is a fence at the back of the commercial lot, which tends to screen those buildings.

[01:47:04] but there is no primary facade requirement on them and i don't want to say if it's good enough for leesburg it's good enough for everybody um but i just i keep thinking we are again targeting one industry we are not doing this to big box stores um and i have i have friends who've driven down data center alley and said it's like driving through a bunch of costcos or walmarts so i mean beauty's in the eye of the beholder but i just don't like us picking out one industry

[01:47:40] and targeting it when similar situations exist with other industries so regretfully i'll vote no but i think this is this is a step in the right direction uh so a couple of questions um when we say park are we defining park do we have park defined it wouldn't be a shopping park we do You have park defined.

[01:48:06] Is it a county park? Okay. There's a lot of different parks that are defined. Okay. So do we need to define that, or are we – I mean, it seems very broad. I just want to make sure we're accomplishing what we're trying to accomplish here. Do you mean any park? Any park? Sure.

[01:48:23] I mean any park. Or is it a public park, or what? I mean any park. What's that? I'm a little concerned at broad, but I don't have the definition of park in front of me. When we say a facade on any side, what if it's fully screened by vegetation, trees, et cetera?

[01:48:44] They would still be required to put a facade on there, even if they were abutting to a residential or a road under this? Yes, as it's currently proposed, yep. So that seems a little bit overstretched without that exception, but okay.

[01:49:04] So if under current ordinance, if they are next to a road and it's completely buffered where no one on the road could see the building because of trees or whatever might be their big, huge berm, I don't know, would they be required to still make a primary facade that no one can see currently?

[01:49:26] so road frontage buffers are not meant to screen the buildings they are aesthetic buffers for the roadway and not necessarily meant to screen there's no wall component there's no berm component it's more of like a boulevard what if there was a building behind some existing woods that they're not required to remove and you can't see the building but there's a road there's a road on that side but they're they build it back in the woods do they still have to do it even if you

[01:50:01] can't see the building from the road well the well do the woods belong to them in the hypothetical situation and they're using it as buffering yes just wondering if we make them do that even if can't see it it's still facing a road so yes we would and what would be the impact of this if it passes as is with the friendly B if there's residential on one side and a park on the

[01:50:38] opposite side and a road on another side so all three sides now are primary is that what it would be yes okay and last part any are you sure we don't need to define park because should we say public park I mean is there a private park do you do you interpret this to mean county-owned park public park we have three different definitions for park we have community park passive park and regional park and they're defined based on the scale of the park and the facilities and the

[01:51:18] types of things that are at the park not necessarily who owns the facility okay thanks thank you for for the grace of a little bit more time i keep coming up with things in my head that would not want a data center next to like a golf course um what was the other one i was just thinking about or i wouldn't want the i would want the primary facade not that i wouldn't want data center next to it but i'm thinking golf course what about like a creek like broad run you have

[01:51:53] another friendly well i'm wondering if we shouldn't table it and just come up with a good list since since we didn't pass uh i know i'm sorry but if we're going to list where we don't if we're going going to list where we want the primary facades, I think we should list where we want the primary facades. And that will make things more clear, and we won't have to be running circles around, well, this isn't really a park. You know, this is just a community park, so we don't have to abide by the primary facade or something. So I would like to make a motion to table. Can I get a ruling on a motion to table? Does it preempt the motion that's on the table?

[01:52:30] You're asking me? I'm asking If there's a motion on the floor and a motion is subsequently made to table, does it take precedence over the motion on the floor? The motion to table takes precedent.

Thank you. I have a motion to table.

[01:52:48] No, no, the motion to table stands a second, though. So, a motion to table seconded by Supervisor Buffing, by Supervisor Umstadt. And is it like the previous question? No discussion on the motion to table.

[01:53:04] No discussion on the motion to table. All those in favor of table, please say aye aye any opposed opposed supervisor Sainz and the chair are opposed that motion will pass to table 7-2 Supervisor Sainz like screamed loud enough for the whole room to that motion to table will pass 7-2 so this motion is tabled motion 5 supervisor Sainz thank you all right I move that the board direct staff to revise table 4.06.02-2 to add a new requirement for

[01:53:40] soundproofing rooftop and ground level mechanical equipment when a data center is located on a property adjacent to residential which would read as follows for data centers on property adjacent to property with existing residential development and approved CDB or plat or plan showing residential development or zoning district permitting residential use and any data center mechanical equipment located on the property brethren rooftop on the ground level or elsewhere on the exterior of the property must be screened on all four sides by acoustical barrier. For a purpose of this section, acoustical barrier is to find an exterior solid or levered wall containing soundproofing materials designed to absorb noise and protect neighboring properties

[01:54:18] from noise pollution. Second. Second by who? Glass. Supervisor Glass. Thank you very much. Opening comments. And again, we don't need to read the motion. Save some time here. Go ahead. Well, it's the first time being introduced, so that's why I did that. But as it captures in the last part there this is it could be an exterior solid wall or a levered wall containing sound proofing materials to absorb the noise we're getting complaints about the noise that's coming off the data centers this is in regards to data centers adjacent to residential which i think from our previous conversations it sounds like folks were looking for better designs again to help our residents who are complaining about the data centers in their neighborhoods so

[01:54:55] thank you comments supervisor armstock yeah i'm i'm leaning towards supporting this but i have a question for staff. Do we have any knowledge in-house as to the extent to which these requirements would be feasible, practical? Can they be implemented? We have knowledge in building and development. We would need to confer with them more thoroughly, but this type of acoustical

[01:55:27] treatment is done all over the world. All right. Okay. Thank you. Other questions, comments? Closing statement, Supervisor Sains, closing statement.

[01:55:42] Closing statement to Supervisor Armstead's questioning, and staff just answered it. Yes, we do actually have a real-life case in here in Loudoun County in Sterling. Like I said, the Vontaze Data Center, that application did have soundproofing for their rooftop equipment when we passed that one recently. Motion has been made and seconded.

[01:56:00] All those in favor, please say aye. Aye. Any opposed? That motion will pass 9-0. Supervisor Sains, I think you have the next one as well. Yes, sir. Motion number six. Motion number six. Since the chair said not to read it, I'll just summarize my motion here.

[01:56:16] Motion is, if you remember, we had a discussion previously about having some time frames for generator testing. So we are adding in a time frame from 11 o'clock a.m. to 5 o'clock p.m. between October

1st and April 3rd.

[01:56:33] This kind of covers the time period that's left open from the DEQ requirements that we verified from staff that are a requirement. And I believe that 11 to 5 are regular business hours that people are up and about doing their daily activities.

[01:56:50] Yes, there might be instances of somebody taking a nap or whatever have you, but obviously we can't control when everybody's taking a nap. But I think 11 to 5 are, you know, known business hours for people to be up and about. Any questions? Oh, sorry, Luterno.

[01:57:07] Yeah, I may offer a friendly on this. So my only issue would be these are ultimately subject to Virginia DEQ regulations, and they could change. So if you're open to it, I would just add a friendly that the language subject to Virginia Department of Environmental Quality Regulations be added to this so that it's in case it does change down the road, we don't have to amend the zoning ordinance.

[01:57:36] Yeah, I'll be open to that. That friendly is accepted. Thank you. Virginia DEQ regulations. Other comments? Supervisor Armstrong? Yeah, so my understanding is this proposal is in compliance with DEQ regulations at present?

[01:57:59] It's in compliance with, it's trying to fill the gap of what DEQ doesn't address. The A is DEQ and B kind of fills that gap. But I do strongly encourage Supervisor Letourneau's language or as otherwise subject to the permit that they've been issued because we don't know what that could possibly say.

[01:58:23] In your opinion, does Supervisor Letourneau's language replace B or is it just supplementary? Supplementary, yes. I'm not going to vote for this at this time. I would really like to be able to touch base with the industry to find out if this is a practical solution that they can actually implement.

[01:58:50] I may support it later on in the process. Thank you. Other comments, questions? Closing? No, thank you. Like I said, Chair Turner. I'm sorry. We don't actually have a motion with a second. Oh, I thought glass seconded it.

[01:59:07] I thought you made the motion. Yeah, what we heard was, Chair Turner, you say the next motion is for Supervisor Sainz, and then Supervisor Sainz went directly into the opening. No, I read the motion.

[01:59:24] He said, I won't read the motion, because the chair told me not to read the motion. Right, you summarized it, but we didn't actually. Oh, okay, motion number six, sorry. You moved motion number six. You moved motion number six in the packet. And then the second. By Supervisor LeTourneau. All right, thank you. Thank you. thank you for that catch i appreciate it any other discussion all those in favor please say aye aye any opposed that motion will pass 8-1 next motion is a staff motion motion number seven and this is a short one i will read it for clarity i move to affirm the planning commission's

[02:00:00] recommendation that regulations for virginia farm wineries limited breweries and limited distilleries be addressed in a future comprehensive plan amendment and zoning ordinance amendment that seems pretty straightforward and simple. I have a second from Supervisor Buffington. I have no opening comment. Any questions? I'm hearing none. All those in favor please say aye. Aye. Any opposed? Motion will pass 9-0. Next motion is for Supervisor Buffington. Motion number 8. Thank you. This is regarding stable

[02:00:35] livery and I guess I would ask staff if we don't make this motion will this issue be taken up later on in the future rural uses zo-am because that was the only purpose of making this motion so if that's already the case I think it's good to make the motion so we know your intent okay so I will go ahead and move motion 8 regarding live library stable second and seconded by was that you Supervisor Kirshner okay seconded by Supervisor Kirshner opening statement

[02:01:13] Again, this is affecting or impacting our rural uses, being the equine industry, and we have draft language that has been updated by the Planning Commission. However, we receive some language from Loudoun County Equine Alliance saying they support some of the changes.

[02:01:33] And then from my understanding and the best of my staff's understanding, having had conversations with some from the Loudoun County Equine Alliance, there are other areas where they would like to see changes, but they haven't provided all of the information on the specifics of the changes that they would like to see.

[02:01:53] So for that reason, and because this impacts the rural economy, and we plan on doing a future rural economy ZOAM, then I make this motion just to make clear that this will be covered in that future rural economy ZOAM.

[02:02:09] Rural uses ZOAM, mainly impacting the rural economy. Other comments, questions? Supervisor Kirshner. Thank you. Yes, I think this is important. I do know that we have such a large equine industry here in the county that we really want to get this right.

[02:02:26] I think they are very separate and apart from a lot of our agricultural uses. And I think it's really important that we put a CPAM together that specifically addresses their needs. I think, of course, sometimes they have to build exceptionally large buildings. A lot of times they have people who are coming to use their stables on a regular basis.

[02:02:45] We do not want to overburden them. This is something that we certainly enjoy as part of this county in Western Loudoun. We are number one in the state in our horse industry. And so we want to make sure we, I think, ultimately get this right. And I think that's really, I see the purpose of this to make sure that we meet the needs that they have rather than getting them lumped into other agricultural uses.

[02:03:07] So I do support the motion. Thank you. Other comments? Supervisor Chair Randall. I just would associate myself with Supervisor Buffington, Supervisor Gerson's comments. Thank you. And Supervisor Bressman, I'm sorry, Supervisor Buffington. Thank you. Yeah, I just want to get this right.

[02:03:24] I'm doing this in favor of the equine industry. We have an outstanding equine industry here in Loudoun in Virginia, best in Virginia. And we want to make sure that there's plenty of more opportunity for input on this before we make the final decision. So let's just do it once, do it later, and get it right when we do it.

[02:03:43] Thank you. Thank you. We have plenty of information for the vice chair. So Supervisor Buffington and staff alluded to we're doing a zoom down the road. When would that happen? Is that next year, I guess, or with some others? Once you have a new board, you all will prioritize when that should happen, among all of the other items on our work plan.

[02:04:06] Yeah, it's just adding up, right? Yes. Okay. All right. Thank you. I just want to clarify when that was. Okay. Thank you. Made and seconded. All those in favor, please say aye. Aye. Any opposed? That

motion will pass 9-0. I, where am I here?

[02:04:24] I move to table motion 9 to a future Zohr work session. that's seconded by the vice chair opening comment I've got a motion that I'm working on that on energy storage that affects chapter four and there may be others so we'll push that off to the next work session any other questions or comments motion to table moved and seconded all those in favor please say aye aye okay works for me and we are on to chapter five so with that I would ask staff

[02:05:02] to prepare their presentations for Chapter 5. Good evening.

[02:05:24] My name is Kate McConnell, and I'm presenting this evening on Chapter 5, Overlay Districts. An overlay district is a zoning district that overlays another zoning district, and within the applicable overlay district boundaries, the regulations of both the underlying zoning district and the applicable overlay district apply.

[02:05:42] There are eight overlay districts in the county. You see seven of them on the screen here. The eighth is the Route 28 corridor overlay district. This is going to become a legacy district and it will be continued in the draft zoning ordinance to regulate a handful of properties that have taken advantage of that optional overlay to convert into that Route 28 corridor district.

[02:06:10] The regulations in the overlay districts are largely carried over from the current zoning ordinance. We've made some minimal changes to some of the districts to implement the 2019 general plan, and I'll go through those changes briefly now.

[02:06:26] We have the Airport Impact Overlay District. That incorporates ZOAM 2021-2, which was adopted by the board in January of 2023. There are no other changes to that district overlay. We have the Floodplain Overlay District.

[02:06:43] There's no changes proposed at this time, but staff does anticipate updating the FOD as part of a standalone effort after adoption of the draft zoning ordinance. This is primarily to ensure that the county can follow the required state and FEMA review timelines when revisions are made to the floodplain overlay district.

[02:07:04] There are some strict timelines that need to be followed, and we are concerned that they might not be met if it was undertaken as part of the rewrite. We have a quarry notification overlay district. This requires notification of impacts related to quarry operations, and there are only minimal changes with that district.

[02:07:24] The village conservation overlay district, which applies largely to rural historic villages in the county and is intended to protect and maintain the historic character and development pattern of those villages. I'll go over some of those revisions in a moment. We have the historic overlay district.

[02:07:42] Again, very minimal changes. Primarily, we relocated this overlay district from essentially a procedure section of the current ordinance to be grouped with the other overlay districts in the draft zoning ordinance. We have the mountainside overlay district, which regulates development on mountainsides to protect this natural resource.

[02:08:04] And I will go over a couple of changes on the following slide. And then lastly, we have the limestone overlay district, which protects karst and sensitive environmental features. And there's one

minimal change there that I'll go over in a following slide. So in the Mountainside Overlay District, the boundaries of the MOD are not changing, but the draft does strengthen protections in the MOD.

[02:08:30] The draft includes new ridge feature protections. These are for the county-mapped ridge lines, again, within the current limits of the MOD. And we added some new regulations that prohibit land disturbance within these ridge lines. And any use related to agriculture, public roads, or public water and sewer are excluded from those prohibitions.

[02:08:55] We increased the setback from spring features from 100 feet to 300 feet, consistent with the 2019 general plan. And then we also revised the way to calculate somewhat sensitive and highly sensitive areas in the MOD.

[02:09:14] In the draft, these areas are consistently based on the amount of forest and steep slopes in the area that you would be calculating at times in the current ordinance that there's also an inclusion of lot size in that calculation.

[02:09:30] So that portion has been removed. And then lastly, the amount of tree clearing and land disturbance that's allowed in the MOD isn't based on the sensitivity that somewhat sensitive, sensitive, or highly sensitive for non-residential uses.

[02:09:45] So there's less disturbance permitted in highly sensitive MOD areas. In the Limestone Overlay District, staff recommends a minor change to allow some administrative flexibility to the LOD development standards when a deck is proposed in an area where a geophysical study does not identify any karst or sensitive environmental features.

[02:10:12] So it'll make it easier for someone to build a deck if there's none of those features in the area where the deck is proposed. And then in the Village Conservation Overlay District, we had some changes to better implement the rural historic village place type.

[02:10:29] So the VCOD regulations apply generally in the same location as the rural historic village place type. And to the extent currently feasible, these regulations implement the rural historic village policies and design guidelines identified in the 2019 general plan.

[02:10:46] We made some revisions that are intended to further reinforce the pattern, character, and visual identity of the existing villages by improving measures for achieving compatibility of new development with the existing development pattern in the villages.

[02:11:04] And these updates are intended to provide some interim protections for the rural historic villages until small area plans and related zoning regulations are developed pursuant to the 2019 general plan policies. So some of the revisions that provide these interim connections are some revisions to existing development standards for height, average front yard, garages, and the variation of lot sizes and dimensions.

[02:11:28] And we added some new site and building element development standards regarding building features, side yards, rear yards, maximum lot size, building area, and lot coverage. And again, these would be revisited once small area plans are created, and then those would provide additional guidance for zoning regulations to better implement the village, rural historic villages.

[02:11:54] So based on some public comment, we did go back and revisit some of the proposed development standards and are proposing some changes to further clarify and make sure that the

implementation of the standards is successful.

[02:12:11] so the first recommendation is to add some clarifying language that the development standards only apply to new construction so they're not going to apply to the existing building that's in the village they're only going to apply to any new principal buildings any additions new accessory buildings or new subdivisions we're also proposing a change to the the maximum height which clarifies that when you're calculating the average height of the buildings on the same side of the street to determine what your average height can be that you

[02:12:45] take into account a building feature requirement that you're all you're only you're going to provide a building that's similar in stories to other buildings within an area and you're only going to use that building story height the number of building buildings with the same number of stories to calculate the height excuse me we did some preliminary calculations and realized that if you added one or even at times one or even two one story buildings into a calculation but your intent was to achieve a two-story building even with that 25 percent increase you wouldn't be able to you might not be able to achieve a two-story building so we wanted to make sure that if that's

[02:13:24] the character of the village that you can achieve that building height for average front yard we included a way to calculate that average front yard it came to our was noted by public comment that there are places in the county old lots old layouts that sometimes a building might encroach into a right-of-way so we're clarifying that if a building does encroach into the right-of-way you don't really have a front yard to use in that calculation you just use a zero lot line calculation it doesn't mean that the building has to be at the zero lot line it means that that's

[02:14:04] the the yard that you would use in the average calculation so you would have a range of building you know yards you're calculating the average and then you can be 25 percent more or 25 percent less It's not requiring you to be directly at the street frontage.

[02:14:25] And then under the variations of lot sizes and dimensions, we included a new requirement to determine a lot width based on the average of the largest and smallest lots within a certain area of the new subdivision that's being proposed.

[02:14:43] And again, this only applies to new subdivisions with six or more lots. and since we have the lot width requirement we're proposing to not have the average side yard and average rear yard requirements apply so essentially we're just looking at the width of the lot you don't have to figure out the average side yards because essentially what you're doing with the width in and the front yard setback is establishing the pattern of the streetscape through those two regulations and then lastly we received some comment both in support and an objection to the

[02:15:18] revised garage standards. Staff is proposing to maintain the garage standards as included in the draft zoning ordinance. These standards were revised to require that new garages be detached from principal buildings and also limits the garage door size to the width and height needed to accommodate two vehicles. That doesn't mean that you can't have more than one garage door, it just means that when you provide a garage door that that's the size that the garage door needs to be. We recommended this new requirement for garages to be detached from principal buildings

[02:15:54] based on the 2019 General Plan Rural Historic Village Policies. They anticipate development to be compatible with the historic development pattern in villages and historic development. Outbuildings

and accessory buildings are detached from principal buildings. They're not attached, so we're proposing the same thing for garages. And then lastly, we have one recommended quality control revision to strengthen the enforceability of the, actually this is to the Route 28 corridor overlay and we're recommending that that be included in the motion for supporting

[02:16:33] the overlay district regulations this evening. I'd be happy to answer any questions. Any questions for staff on Chapter 5? Supervisor Umston. Thank you. So we've gotten a few emails expressing concern. I just read through Mr. Zick's list of concerns, and I think he makes a very, very good point that every village is unique, and they have different development patterns, different historic development patterns,

[02:17:07] and we're, I think, trying to have a one-size-fits-all approach to them. So my understanding is he would like this not to go forward now, but for more thought to be put into it.

[02:17:23] And he's certainly not the only person from whom we've received emails in the last day or two expressing concerns. One thing that occurred to me, if someone wants to put a deck on their building, do they now have to go and pay for a geotechnical or geophysical study to be done?

[02:17:48] to prove there's not a karst issue? That is correct, and that is currently how it's administered in the current revised 1993 zoning ordinance, and this actually gives them a little bit more flexibility.

[02:18:06] So any land disturbance, including an addition, which a deck would be included in that, currently requires that geophysical study to be done. Okay, so what you're saying, you're not changing that rule at all? That is correct.

[02:18:24] Why was it on the slide? We were talking about, in the presentation, we provide an update of what's changed, so what's new in the overlay districts, and that is one of the things that's been changed and is new in the Limestone Overlay District.

[02:18:41] That is the one change. So it has changed. What has changed is that it's an administrative approval now. It's more flexible than if you, in the past, if you wanted to build a deck, you had to go through a process so in the past it's been a little bit unclear okay what what would have been required and in some cases um it a geophysical study would not be required it depends on um the when the um the residential structure was was built um and then if there

[02:19:18] any mapped features but it does give a little bit more more clarity on the staff side so but we would still be requiring the homeowner to pay for this study do we know how much the study costs it varies based on the consultant but that's something we could discuss with building and get back to you on that. Yeah, I'd like to know that. We do have a county karst or limestone overlay district on maps of the county. Do we not believe that is accurate? Is that why we're

[02:19:57] requiring homeowners to pay for another one? It is correct that we do have some features mapped on our soil map that's available through county GIS, but that is not necessarily based on site specific information that's based on soil survey data from USDA NRCS that is not as detailed as what an engineering or professional geophysical study would identify. So it is possible that

[02:20:32] there are features on sites within the limestone overlay district that are not mapped. Okay thank you. Supervisor Kirschner. Thank you Supervisor Turner. I have a kind of rapid fire question HERE

TRYING TO GET A LOT OF QUESTIONS IN SHORTLY. SO FIRST OF ALL, I APPRECIATE THE LEVEL OF FLEXIBILITY ON THE CARS.

[02:20:50] I CAN'T -- I SOMETIMES WONDER IF THAT SHOULDN'T BE APPLIED TO POOLS AND ANYTHING IN YOUR BACKYARD. IT'S WITHIN REASON, BUT THE FLEXIBILITY IS HELPFUL. IT'S GOING TO MAKE MY OFFICE A LOT LESS BUSY WITH ALL THE COMPLAINTS THAT WE GET WHEN PEOPLE RUN INTO THAT SORT OF THING. A QUESTION REAL QUICK ON THE MOUNTAIN OVERLAY DISTRICT, THE SPRING FEATURE.

[02:21:07] YOU'VE MOVED IT FROM 100 TO 300. IS THAT MODIFIABLE? Because I can imagine that's going to get a few people caught up. It's not modifiable at all. No, nothing in the overlay districts is proposed to me model. And what I mean by that, ultimately, there's no flexibility that staff would have with that in terms of administrative exception, but that's pretty much a hard and fast at this point, the way it's written, as far as you can tell.

[02:21:29] Okay. Moving on to the village conservation overlay. Yeah, I have a lot of concerns. I think it's like four motions we have here. I think, are we going to hear from the industry on this? We are. Okay, great, but one of the things I would like to ask the staff before the industry comes and speaks on this is we are planning to do small area plans for each of these villages moving into the future.

[02:21:56] Is that part, that's part of our general plan process, correct? Yes, that's correct. Okay. Dan's might be. It's a policy. There's not, there's not guidance yet with specificity about the order in which we would do them, speed in which we would do them, but that is the intention of the general plan.

[02:22:11] You don't need anything from us as a board, like a BMI, saying, hey, let's do this. That's something that's in the plan, or we will give you guidance beginning of next year, perhaps? So we already have two villages that are in the work plan right now, and we've discussed with one board office the potential of a third.

[02:22:28] I think if there's an interest in it, I'd recommend having staff bring back sort of a more expanded piece of the work plan for discussion that would prioritize the villages in order instead of just having them kind of roll in. Thank you. That would be super helpful. The last question, because I know we're on a minute clock, we're kind of committee as a whole.

[02:22:49] Under the strategies of the general act, it says coordinate with rural villages, historic villages, communities to determine appropriate methods, differential entrance to villages, et cetera, et cetera, surrounding areas. I'm a little concerned we're getting the cart in front of the horse on this by doing so. I understand, hey, we want to protect these, but I mean, there's a lot of protections already that exist within these villages.

[02:23:09] So we haven't really coordinated with any of these villages or the communities on these particular recommendations that we have here. Isn't that correct? We did do some initial public outreach with Village, I can't remember their name, but in the rural.

[02:23:27] Okay. I got it. I know who you're talking about. Yes, Historic Village Alliance. But aren't we concerned that this one is not going to fit all? Each of these villages are different and unique. And I'm just concerned on any of these, the side setbacks, the heights, et cetera, that perhaps we are moving a little quickly.

[02:23:47] Well, that is why we said to take into consideration the parameters within that new construction so that you're looking at what's out there to base it on what you're – which is essentially what the existing VCOD does as well.

[02:24:04] This is just sort of revising that a little bit and adding some additional considerations. I kind of, I guess I'm of the mind, and we'll get to that, but I'm just of the mind that maybe we push this off until we do those small area plans, but anyway. Thank you. Other comments? So regarding those small area plans and all of these changes that are in the motions for tonight, are you saying that we should adopt these until such time as we're done with each small area plan?

[02:24:32] That's correct. And as we're done with each small area plan, that, whatever comes out of that would kind of trump this or replace these, if there's any changes? Yes, if there were changes. Okay. But we don't know right now how long that would be for each village because we haven't told you which ones to do in order for all of them.

[02:24:53] Okay. Yeah. I think personally, if there was a motion to delay this, I think I would strongly consider it because there's a lot of changes in here. It seems like there's a lot of changes in here, and I'm not sure that all of the village folks really understand what most of these are.

[02:25:14] So I'm just a little bit iffy about supporting this right now when we know we're going to have a process in the future that will specifically apply to each village. So I'm not sure where I'm at right now. Thank you. Madam Chair. So Mr. Kirshner, I mean, yeah, Mr. Kirshner, Mr. Buckingham, to the chair, if I may, are you making the suggestion that for just this overlay district we move it or move it to the discussion in the rural policy area?

[02:25:42] I'm saying this because we don't want to delay the whole chapter, and we don't need to delay the whole chapter. And if we keep pushing things off, we're not going to have a zoning ordinance if we keep doing this. I mean, really, at some point you have to, like, you know, fish or cut bait, to be quite honest. So if you're saying that we're on this issue, because there would be no reason to, you know, to delay the, you know, the airport overlay district or something else.

[02:26:08] I'm asking, are you saying just for this one, through the chair, that's my question. Your question is to me. No, it's through the chair, it's not to the chair, it's through the chair. For me, the answer would be yes, just this specific overlay district.

[02:26:23] Mr. Kirshner? Yes, and that's simply because it's part of our plan to look at each of these villages. Yeah, and I don't disagree with you. Why do we kind of get into it? No, I don't disagree with you. And that is absolutely correct. Thank you. Okay. All right. So that might be something that you want to be put in a motion, with the exception of this overlay district, when the motion is made.

[02:26:47] Thank you, Mr. Chairman. Thank you. that was actually my concern as well that if we don't do the overlay districts can we pass the zoning ordinance um what are the consequences to holding this particular um overlay district out can we still move forward with the zoning ordinance and with this chapter i think what you're asking is would you want to reinstate the current v cod regulations that exist in the current ordinance and just carry those over into the draft zoning ordinance well that's what

[02:27:24] would have to happen because there wouldn't be anything new. So then what's the consequence of that? Is it another CPAM or ZOAM that we'll have to do in the next term? That would be based on the small area plans for each village. So then what I think the rest of the board was discussing

was they would look at the rural historic villages one by one, do a small area plan, and then develop any zoning regulations out of that that would apply to that village. And so it wouldn't be kind of an overlay that applies holistically they would be developed if they felt like there was

[02:27:59] something that needed to be developed specific to a village for that village itself but it would require another zoom process yes it would be another zoom process on top of each town's small area plan each village small area plan yes would it be a zoom with each village small area plan or or we would do all the small area plans and then do a zoom it's up for debate i mean right now the The VCAT is primarily written, and the part that's in the ordinance applies to all of them.

[02:28:30] So we could wait until the end, but that'll take quite some time. So if we are discussing eventually doing slightly different things in different villages, then we would have to discuss that further. Well, if we were doing slightly. We're into the theoretical here, and I want to stay focused on Chapter 5 and whether we should approve Chapter 5 tonight.

[02:28:49] So let's restrict our questions to just Chapter 5 and the VCAT. Okay, well, so then if we want to approve Chapter 5, We would do it without the new draft VCOD. You would need to make a motion, like Kate said, to reinstate the current VCOD because we have to have some VCOD regulations.

[02:29:09] We would need direction on which of the draft from the Planning Commission, which regulations to back out. Yeah. Okay. Thank you. So regarding the Village Overlay District, could we make a motion that says revert back to the 93 for that district until such time as the rural uses occurs where you could consider it then wouldn't be part of the rural uses no it wouldn't be part of the rural uses it would be the village area plans until such time as each specific individual village small area plan is

[02:29:46] done at which time that would take precedent that's right but the consequence someone asked about what the consequences any residential subdivision for example or anything that develops would not have in the interim if it's three or four years before the small area plans are developed there would be no regulation for height or anything which is the current ordinance okay and then on a separate on a separate uh the aioid airport impact overlay district didn't we include

[02:30:17] a cutout of that overlay district on the western side of the airport, just north of Route 50? Yes, we modified the 65-plus area. Okay, and I think I voted against that, so I would request, Mr. Chairman, could we split this so that we can vote separately on AIOD?

[02:30:45] No, I'm not going to accept that. The reason is, essentially, we're introducing a new motion tonight. You're certainly free to make that motion for a subsequent work session, and we can consider that. I don't think we're going to close 5 tonight for another reason that I haven't mentioned yet. But I don't want to, if we're going to split out the AIOD, that essentially becomes a separate motion rather than just dealing with this specific.

[02:31:07] You're introducing a new motion tonight. I don't want to do that. You're free to introduce a new motion, which we can discuss at a subsequent work session if you'd like to do that. Mr. Chairman, I believe it's normally our policy that if any member wants to split a vote, I'm not adding anything new. I just want to vote against one particular overlay district.

[02:31:29] Which motion are you splitting? You have to have a motion. Any of them that impact the AIOD. I don't think we have. Chair Turner, can I make one clarification if it may be helpful? The map of the AIOD is not up for discussion with this.

[02:31:44] All right, so none of the motions impact the AIOD tonight? The regulations, yes, the mapping and the cutouts you're referring to are not part of this discussion. That may not matter to you, but I wanted to make that. But I never want to be on record supporting the current map. So a vote for the Chapter 5 would not support the map because nothing that comes out of this process is going to change the map.

[02:32:11] We cannot change the map as part of this process because there's no mapping component to this process. Thank you. Thank you, Mr. Chairman. I'm trying to have a comment I want to make. Somehow we dove down the rabbit hole on Chapter 5 in a way that is really disturbing to me. So I'm going to ask staff a kind of a loaded question.

[02:32:28] What percentage would you say that the proposed Chapter 5 in the ZOR mirrors existing Chapter 5 or VCOD language? How close is it to what we have now? I don't even know how to say it.

[02:32:46] If you took out VCOD, I would say it's probably 95%. VCOD, it's probably 75%, 80%. Okay, so overall, 95% is similar to what we have now. And VCOD is at least 75% similar to what we have now. So when I hear comments like, oh, this is this is way too prescriptive, we got to start over again. I'm sorry, this process has been going on for two years. If you have a specific change that you want to propose to chapter five into the VCOD, then make that in the form of a motion, we don't need to close out chapter five tonight, and we can pick it up at a future work session.

[02:33:26] But the notion that the generalized comment that, well, this just isn't ready for prime time. We need to push it off and consider it later. That's not acceptable at this late stage. So if you have specific changes, then the process is somebody make the specific change, recommend it to a supervisor.

[02:33:43] The supervisor crafts in the form of a motion. The motion is introduced to staff. They consider it and bring it forward at the next appropriate work session. That's the process. So general conversations about how Chapter 5 is unacceptable is just not appropriate at this stage in the process.

[02:34:00] Supervisor, or Chair Randall. First of all, I would associate myself with your comments, Mr. Chairman, because, I mean, we've been doing this for a long time, and if people have read these items, you know that most of it is still the same. Secondly, we do have representatives from these groups here who are here tonight, and I think you'll be surprised to hear that most of them, including with the VCODS, quite honestly, probably wants this to go forward and doesn't want this to be stopped right now.

[02:34:24] I see jazz hands out there right now amongst people. And so I think that we're getting a little gun shy to do anything. We don't want to do the wrong thing, so we're starting to do nothing. The truth is we haven't done this since the Revised 93.

[02:34:43] It's been a very long time. We're doing a lot of right things, and the staff is doing a lot of right things. Everybody just take a breath. We are talking to the industries. We are talking to our constituents on a regular basis. We've had this stuff for a long time.

[02:34:59] One or two or even three e-mails does not make a flood of e-mails that's coming in. I'm getting all the e-mails you all are getting, and we're just not getting that many. We're just not. We don't respond to just one e-mail when we have people who have been working this for a very long time.

[02:35:16] We have to keep marching, people. We just do. We just got to take a breath. do our best, swallow, and keep marching forward. We cannot keep delaying stuff, especially when the people who are literally in the industry areas are sitting here looking at us saying, do it.

[02:35:35] Thank you. Other comments, Mr. Vice Chair? Actually, I didn't have a comment. I was going to make a motion. Make your motion. Thank you. All right. Let's see. I'll just motion number 10 in the packet, Chapter 5, Overlaid Districts.

[02:35:51] I'll second that. Wait a minute. We haven't heard from the industry at all. Oh, correct. Correct. That is a correct point. I was going to say in my statement that the industry supports this motion. Nice try. We need to hear from the stakeholders. That's a good call to Mike Kirshner.

[02:36:08] Any other questions for staff on Chapter 5? Supports it, yes. Mr. Vice Chair. Thank you. Any other questions? Thank you. Can we have the stakeholders come forward for the comments on Chapter 5? First stakeholder, please. I have the list.

[02:36:29] First stakeholder to speak is Mr. Eric Zicht. Whoops. Stand by. Would you like staff to do the Chapter 6 presentation?

[02:36:50] Okay. Thank you. Sorry, Eric. Thank you very much. Here's my list. It's both five and six. Madam Chair, you can have the chair back anytime you want to catch.

[02:37:16] Thank you, staff. Go ahead. Okay. Chapter 6 is Natural and Environmental Resources. Chapter 6 provides a new location for the River and Stream Corridor Resources Regulations, or the RISCR for short.

[02:37:34] The risker replaces the Scenic Creek Valley buffer in the current ordinance. Chapter 6 also includes the steep slope standards, which were pretty much carried over from the current ordinance. Section 601 determines the applicability and width of the risker, provides for exceptions from risker regulations, and allows limited uses within the risker buffer area.

[02:38:04] Section 602 contains regulations for determining the location of steep slope areas. Section 603 contains a use table for both risk or buffer and steep slope areas. Certain uses, such as shared use paths, roads, driveways, and passive recreation, are listed as permitted by right uses within both the risk or buffer and associated steep slope areas.

[02:38:35] And Section 604 contains general development standards for both the risker and steep slope areas. For example, it tells you when a locational clearance, stormwater management, or grading permit are required.

[02:38:51] There are just a few changes comparing the current ordinance to the draft. Active recreation and stormwater management improvements are added as permitted uses within the minor floodplain risker areas.

[02:39:10] This was done for consistency with the general plan, floodplain overlay district, and FSM. And the width of the risk rebuffer area has changed. The draft establishes minimum 100-foot and 300-foot wide risk rebuffer areas to implement risk rebuffer policies in the general plan.

[02:39:34] Steep slope standards did not change, but they are now formatted so that they easily relate to the risker standards, so that the steep slope standards and risker standards can be easily aligned side by side because they can frequently both apply at the same time.

[02:39:56] Scenic rivers, the Potomac River, Bull Run, and Broad Run have greater protections and larger buffers, and other rivers and streams have a slightly smaller buffer. These risker areas replace the 150 to

250-foot-wide buffers that were established in the Scenic Creek Valley buffer in the current ordinance and are consistent with the general plan.

[02:40:26] There are no outstanding issues. Public comment at the board hearing expressed support for environmental sustainability initiatives and natural resource protection. And in attachment two to the supplemental, staff lists additional quality control changes for chapters five and six.

[02:40:50] That concludes the presentation. Thank you very much. And I saw a clear typo, and I flipped back to the corrections section. It was the very first correction you guys made, the flip of the two subparagraphs. Very good. Any questions from Deus on Chapter six?

[02:41:06] Do you have a question? Of course, you got me first, and I was looking at her screen when I had the question. Um, so there was one in that chart you just had, is it the slide before that one on other creeks, rivers, and streams?

[02:41:22] Why did we reduce the, um, risker from 150 feet to a hundred and what creeks and streams are we talking about? I'm thinking specifically of the broad run, or are we thinking about like Sugarland run Creek?

[02:41:40] What do we, uh, in most cases, this would be associated with, um, streams within areas minor floodplain or small tributary streams and so we're not talking about broad run we're talking about you know smaller creeks associated with minor floodplain I would say that while the draft risker buffer area is less than the current scenic creek valley buffer the restrictions and performance standards and development standards within the draft risker is more stringent than

[02:42:15] the current um scenic creek valley buffer okay all right thank you other questions on chapter six thank you staff very much and we'll now hear from the stakeholders this is the appropriate time for the stakeholders and our first stakeholder is in fact mr zick mr zick you're speaking on behalf of the chamber data centers and tourism represented that yes chamber of commerce my name is eric zick

[02:42:53] i'm an engineer surveyor and land planner i've been working in loudon county since 1986 this will be my fourth zoning ordinance in that time. I apologize for being so tardy in submitting my comments. As Chairman Chair Randall has said, my parents turned 94 this last month, and we've been having a lot of health problems. I've been working with them, so I apologize for being late on my comments. I have one comment on Chapter 6 about the River and Stream Corridor Resource Area, or

[02:43:28] RESCAR. It's really a redo of something that was proposed 10, 15 years ago. It was called RESCAD then. It was an overlay district. It was unpopular then and was not adopted. I bring it to your attention only because it about doubles the area that is made off limits to any kind of development from the floodplain area. My main comments tonight are about the village conservation overlay District. In the 2019 Comprehensive Plan, it calls for neighborhood consultation and small area plans

[02:44:05] for all the rural villages. Logically, don't you think that you should do that before you adopt regulations, new regulations? As a former member of ZOAC, the Zoning Ordinance Committee, I saw these recommendations early on. I thought they were a draft first proposal, and when I was sitting on Zoac, I thought that we had voted unanimously that we would do the small area plans before actually adopting regulations.

[02:44:38] You're doing this with St. Louis, and I applaud you for that. I guess I wasn't aware of the other communities that you were doing it for, but you aren't doing it for Paonian Springs, which is probably the largest of your villages, or for Waterford, shouldn't those?

[02:44:53] And those are such different communities. Don't these larger villages merit the same thing? The proposed standards are very idealistic. They really don't work in a lot of my communities. My office is in Paonian Springs.

[02:45:10] I can't meet some of these criteria. Nobody can. How can you have a uniform backyard and front yard when you've got, in the case of Bowmantown, lots that are one acre and 20 acres adjoining each other? My time's up.

[02:45:27] Thank you. Thank you, Mr. Zick. Mr. Canonico from the commercial development community. Members of the board, my name is Luke Canonico with IMIG. I'm here representing NAOP this evening.

[02:45:43] I'm pleased to say that NAOP has no specific issues with the proposals in Chapter 5 and 6. We thank the board for the work that they have been doing and incorporating a number of recommendations that NAOP has made.

[02:46:00] Having said that, I would caution the board, like Eric, this would be the fourth zoning ordinance that I would have been involved in. I've had the pleasure of having to deal with new zoning ordinances.

[02:46:17] I can guarantee you, having gone through that process a number of times, no matter how hard everybody tries to get it right, there's always going to be unintended consequences. And when I look at some new provision like the risker, I can't help but believe that once you start applying this criteria to specific parcels, you'll start seeing certain things.

[02:46:42] So I just encourage the board with any implementation motion that there is a rigorous process for the staff to monitor, perhaps with the zoning ordinance committee, what they're seeing in terms of issues that are being developed.

[02:46:57] I would say specific as to this slide, the way that the risker is measured is different from the way the Scenic Creek Valley buffer is measured. So that 150 feet to 100 foot comparison is somewhat deceiving because it's not apples to apples, so to speak.

[02:47:14] But again, no specific issues with Chapter 5 and Chapter 6, and we thank the board for your efforts in this matter. Thank you. Thank you, sir. Mr. Matt Lawrence from the Residential Development Community. Good evening, Board, and again, we'd like to thank you for the opportunity to speak this evening, and also, again, acknowledge the efforts of county staff through this process.

[02:47:42] With respect to Chapter 5, for the most part, the residential development community has been operating under the application of overlay districts for quite some time, and understands the issues that can arise as a result of those overlays. Therefore, we don't really have any many talking points on Chapter 5 for the residential development community. I would like to provide some comment on Chapter 6 and the codification of the River and Stream Corridor resources.

[02:48:03] The 2019 General Plan cites the risker as applying to rivers and streams that drain 100 acres or more. Chapter 6, as written, makes no distinction as to drainage area, just identifies rivers, streams, and other water bodies as being subject to this regulation.

[02:48:20] The setbacks identified in Chapter 6 are based on the ordinary high watermark, and there are streams with drainage areas of much less than 100 acres that will exhibit an ordinary high watermark. There is no definition of a stream in the zoning ordinance, and I'm not suggesting one be added, as streams are subject to the Army Corps designations.

[02:48:39] However, it is unclear if the regulations of this chapter will be dictated by the Army Corps definitions and the subsequent Army Corps and DEQ permitting process, or is there another authority within the county that will try to dictate or define a stream. This ambiguity adds uncertainty to the process, as it would appear we will be chasing two separate approvals on not only what defines a stream, but what the DEQ and core allows versus what this chapter allows.

[02:49:10] Secondly, at one point earlier in the rewrite process, there was an exhibit associated with a text that clarified the features and associated buffers identified in Table 6.01-1. That exhibit provided much-needed clarity to the text and would urge it be included in the ordinance as a guide to applying the standards of Chapter 6.

[02:49:29] There is little doubt that Chapter 6 is written, places additional regulations on streams outside of the 100-acre drainage area cited in the 2019 General Plan. Given the potential impact of Chapter 6 to the typical environmental processes we already follow, we would ask and request for clarification be considered.

[02:49:46] Thank you. Thanks, sir. Next up is Ms. Sasha Brower speaking for the Attainable Affordable Housing. Good evening, Chairman Turner and supervisors. My name is Sasha Brower. I'm a land use attorney with Walsh Colucci, and thank you for the opportunity to speak with you this evening.

[02:50:03] First of all, I just want to express my appreciation for the time and energy you all have spent and invested in this process. I was last before you at the July 26th public hearing, and I've been encouraged by the progress that has been made. I'm here tonight to make a few high-level comments for your consideration on the affordable housing chapter 9 chapter, which I believe will be on the October 30th agenda, so just some high-level comments for your consideration this evening.

[02:50:25] In reviewing the current draft of chapter 9, I don't think that the current draft quite gets us where we need to be with affordable housing. There's some unnecessary restrictions that I think could be eliminated to allow for increased production of affordable housing. For example, ADUs are now required to be provided proportionally for every unit type in a project.

[02:50:45] Although I believe I understand the intention there, I think a restriction like that limits the degree of flexibility that an applicant can propose an innovative solution for a unique type of project. Along those same lines, I would recommend taking a look at creating some additional incentives to increase affordable housing.

[02:51:01] The draft zoning ordinance provides an option for bonus density. However, that's usually not pursued by applicants. so providing some other incentives that would encourage more affordable housing, such as potentially fast-tracking an application that goes above and beyond the minimum requirements.

[02:51:18] And lastly, the draft Chapter 9 regulates both ADUs and UNUs, and it's somewhat confusing as to why and how these are two different regulatory tools. I believe the current draft has provided some additional clarification there, but I think clarifying those tools and how they work would be helpful for applicants and understanding that process.

[02:51:37] thank you for all you do and for considering my comments thank you very much do we have a representative from stakeholder group five conservation preservation present thank you that would be me madeline skinner from loudon historic village alliance good evening chair turner chair randall supervisors and staff my name is madeline skinner chair of the loudon historic village alliance as lhba made significant progress with their 2019 comp plan revisions

[02:52:11] they need the need to implement the associated zoning ordinance is critical to provide much needed protection for the rural historic villages the last few years villages have been faced with ongoing battles to preserve the rural historic goals of the 2019 comp plans rural historic village policy and its related strategies and actions we support small area plans we would have loved to have been working on small area plans for the last few years but i think we and staff have been a little bit busy so we haven't been able to do that so we support we support them we look forward to working on them we hope that would be very soon but you could be looking two or three years down

[02:52:49] the road this action will provide county with additional guidance to further develop zoning regulations to better implement the rural historic village place type we support all of the staff revisions we are talking almost a dozen villages and hundreds of residents we all support the guidelines that have been outlined by the staff we also appreciate the staff that they understood our concern on the building height revised the wording which took away our motion motion 12 and we support motion 11 distant change the subject here for a moment allowing wholesale modifications to chapter 5 is

[02:53:26] not acceptable and should not be included in the subcommittee review the overlay districts are designed to protect humans animals and wildlife and contribute to the health safety and welfare of all in the community for quality of life heritage and environmental concerns regarding the mountain overlay district organizations including friends of blue ridge mountains pec loudon wildlife thanks staff for including the current language protecting the rich futures and springs knowing there will be future refinements needed to be more stringent and protective as part of the future rural zoom additional mod changes should be included to address ongoing concerns and issues improve protections for overlay districts and starting rural village small area plans are why we stress

[02:54:06] the importance of wrapping up the zoning ordinance rewrite this year and to be able to move forward knowing there's still work to be done for the outstanding zooms in 2024. We have been on this for three years and all of a sudden one person, one person representing the development community is trying to throw us under the bus and I just don't agree with that. Sorry. Thank you. And a speaker from the conservation preservation. Hi my name is Michael Myers and I'm representing wildlife conservation stakeholders tonight. We are appreciative of staff listening to and

[02:54:42] including recommendations from the past three plus years in regards to natural environmental resources such as language included in table 6.04-1 general development standards in regards to permeable surfaces, Virginia natural heritage resources, Virginia wildlife and habitat, and preserving existing vegetation. While we do not support active recreation uses within the risk or buffer associated with a minor flood plan as allowed by the 2019 general plan, we are supportive of other efforts by staff to align the risker language and the zoning ordinance with the general plan, including improved stream protections via the management buffer and adjacent steep slopes language.

[02:55:17] Additionally, ridge and spring setbacks in the Mountainside Overlay District are a good starting point for protecting environmental features. We are cognizant of time constraints to address every

outstanding issue, and we want you to approve the zoning ordinance this term, so we urge you to prioritize future zoams to address uses in the floodplain overlay district and especially the Mountainside Overlay District, which could happen as part of the future ZOAM on rural use-specific standards.

[02:55:40] From our perspective, these environmental protections are the least we can do, and tables and content in Chapters 5 and 6 should not be modifiable more than what is already allowed. Protecting natural environmental resources doesn't end with Chapter 6. Adequate development standards in Chapter 7 and appropriate uses and use-specific standards in Chapters 3 and 4 are equally important to protect natural resources and the quality of life for all residents.

[02:56:03] We stand with other preservation stakeholders to stress the need to consider raising motions submitted prior to the September 26th work session to address quality control issues for equal application of noise regulations to all use-specific standards, adequate setbacks for uses in proximity to residential properties, and a definition of farm.

[02:56:22] Standards that protect the environment would also increase the quality of services and products businesses produce and host, and the businesses become better and more responsible neighbors and stewards of our landscapes. These minor changes we propose to support rural residents in the same manner as you have done for suburban residents are doable without extending the timeline to approve the zoning ordinance.

[02:56:42] And while we look forward to participating in future ZOAMs discussions, we've been providing thoughtful input for over three years to improve the zoning ordinance and support much of what staff has presented. So thank you for your time and considerations and for your efforts to approve the zoning ordinance this year. Thank you very much.

[02:56:59] And board members, we will now entertain motions on chapter five. The first one is a staff motion, motion number 10. Mr. Chairman, I cannot believe I'm saying this, but you want to give the board a break? Oh, oh, that's right.

[02:57:15] I'm substituting for chairwoman. And I'm substituting for you. We're going to go on for another hour or so before we take a break. I'm cool with that. Yeah, let's take that 10 minutes. Thank you very much. Okay.

[03:04:56] All right, everyone.

[03:16:12] We will begin to entertain motions on Chapter 5. And the first one is a staff motion. I'll make that motion. I move motion number 10. I'll just read the title, section 5.07D, Village Conservation Overlay District Development Standards.

[03:16:29] It's proposed by staff. It looks like a relatively innocuous word change. The notes staff is seeking board direction on whether... I apologize.

[03:16:47] Who would like the second? I actually hadn't finished reading the motion, but... No, no, no, by all means, correct at any time. All right. So the second will go to Supervisor Brissman.

[03:17:06] Chair Randall gets a second. Okay, fine. We're out of control here. Brief discussion on the motion. You're right, I did go to brief the narrative here. Staff seeking board direction on whether to include language clarifying that the village conservation overlay district development standards apply to

all new construction, including additions to existing and accessory buildings and new subdivisions within the VCOD.

[03:17:28] That's the extent of my opening comments. Any other comments? Supervisor Brissman. thank you for for moving forward these notions these motions i think it's important that even though we are going to be doing village plans later that we set out some standards um that i know that staff and the community has been working on for a really really long time thank you thank you other comments yes brother kirschner yes so i i continue to have concerns um well can staff help me understand what this just lays out the new standards and the new to the villages is that correct can you give me a little bit of clarity on this this applies to every single village

[03:18:06] conservation overlay district in the county okay all right so with all these motions that we're dealing with here on in with the villages i i continue to be concerned that they do one size does not fit all um i think this one's probably okay although i'm not entirely i'm sure i really would prefer that we move this to a future when we actually do these small area plans because it it would seem to me that we can set this up on these small area plans this specific the zoning itself I am concerned that some of these motions that we're about to go through will actually have

[03:18:43] application that is with unintended consequences and do have we looked into just out of curiosity whether or not the new fire station that is currently planned in Philomont whether any of these motions will affect that or not I have not looked at that specifically but I can do you have motion? There is. The only motion that's available is a motion to table if you want to push it off to a future date. I would motion to table this for now. Second. Moving to table. Is there a second?

[03:19:22] Second. Supervisor Umstadt seconds. No debate. All those in favor of tabling this motion to a future session, please say aye. Aye. All those opposed? Nay. That motion will fail to seven. We're back to the original motion. Other discussion items. I think I saw a light. It might have been Supervisor Any other lights? Any discussion?

[03:19:46] So thank you, Mr. Chairman. So we have been doing this for three years. And first of all, remember, these are straw poll votes. And so if we need to go, if we do some more studying or talk to somebody else before the process, before we do a certifying vote, we can do that.

[03:20:07] But I would also say that there are times that I'm just not going to substitute my judgment for that of staff and of constituents, our constituents who, one, live there, and two, who have been deeply involved in this process for three years, who talk to their neighbors, who talk to their friends, who knows the feeling of the areas that we're talking about.

[03:20:37] I try to talk to all of our industry groups often. That's why I put this in place, to have the industry groups talk to us. I don't know why we'd ask the industry groups to talk to us and then never ever hear what they have to say or take their advice or listen to what they're saying or why.

[03:21:00] So we have all the industry groups and the staff saying this is why we're doing this. Of course, it's always our decision, and I realize that, and I appreciate that. But we know we're going to have to circle back to things that are in the rural policy areas anyway.

[03:21:21] We know that. That's not a question. But there is no reason to not do some of the things that we can do right now. And if it's a definition, I might or might not do that because it's a different issue. But for this item and for these issues, I don't see any reason to put this off.

[03:21:38] And, in fact, just the opposite. I would want to thank both staff and thank, and I'll call names, Marwars Copeland, Jim Bingo, Tia Ehrman, Malin Skinner, who are doing this stuff, I mean, like every single day.

[03:21:55] And so, yeah, I fully support this motion, and I will say that I'm going to listen to the voices of the people who live in these areas. Thank you, Mr. Chairman. Thank you, Madam Chair. Mr. Wilkington. Thank you, Mr. Chairman. I want to thank the same folks that Chair Randall thanked for all their work on this.

[03:22:17] I am currently not sure where I'm at on this, and I want to vote with intention, as Chair Randall always tells us. And as these are straw poll votes, I'm going to abstain currently and wait and see where I'm at before we make the final vote on all of the XOR.

[03:22:35] So that basically reserves the right to vote differently or consider other motions and be clear about that with my intention here with this vote tonight. I'll be abstaining on this one. Thank you. Thank you, Supervisor Buffington.

[03:22:50] Mr. Kirshner. I just want to associate my comments as well with Supervisor Buffington. That's my intention as well. Okay. Motion has been made. I'm sorry, Madam Chair. A point of clarification. On a straw poll vote, and I'm not saying I'm doing anything different, just clarifying, on a straw poll vote, because it's a straw poll vote, even if you are not on the rebellion side of a vote, you can always bring it back because it's a straw poll vote.

[03:23:18] So I'm not saying I'm doing anything different. I'm just giving you all that information to have going forward. Okay. Okay. Can I get a clarification? I'm sorry, from staff, Mr. Rogers. We had this discussion, I think, at the last session.

[03:23:33] A straw poll vote that failed does not require a reconsideration by a member of the prevailing side? That's right. As you have a straw poll vote, you're taking the feel of the board, and it's very similar to what you do with the budget, and you put together the whole package that you can then vote on.

[03:23:54] Okay. All right. Very good. Thank you very much. Motion's been made and seconded. I have no close. All those in favor, please say aye. Aye. all those opposed, and abstentions. That motion will pass 6-1-2, 6-1-2. The next motion is, again, a staff motion, motion number 11, deals with building heights, and I'm going to make that

[03:24:29] motion. I move motion 11, second by Vice Chair Sains. Opening comments for myself. I had a long discussion with staff over this one, and essentially, and staff, please correct me if I'm wrong, The language proposed by staff here takes into account that the prevailing architectural type in our villages are two-story buildings.

[03:24:51] And that under the current language, it's possible that if you took the average height on 150 either side of center line, that just a few one-story buildings could make it impossible to reach the 25% threshold and allow you to build a two-story building.

[03:25:06] The new language basically says if you're going to do an average, it's an average of like buildings with the same number of stories you're considering. I didn't, I just moved forward the stakeholder five and six request to put that motion in. But my discussion with you clarified that and the item that I read clarified it.

[03:25:24] So I'm very fine with this motion. I will not be making motion number 12. So motion number 11 is made and seconded. Any other questions or discussion on motion 11? Hearing none, all those in favor, please say aye. Aye. All those opposed? That motion will pass 9-0.

[03:25:43] I'm abstaining. I'm sorry. That motion will pass 8-0-1. I didn't catch your abstention. Thank you. I will not be making motion 12. Motion 13 is a staff motion again. Has to do with average front yard calculations.

[03:26:04] And I will move motion 13. I hear a second by Vice Chair Sains. I have no further discussion on the calculation of average front yard. This seems reasonable to me.

[03:26:20] Any questions on average front yard on this motion? Supervisor Rumpstein. I think this falls under the same problem that Supervisor Kirshner brought up earlier, that these villages are different one to the next. The yards are different widths, lengths, and so I cannot support this at this time.

[03:26:43] Thank you. Thank you. Supervisor Krishna. And, I mean, again, all these different lot sizes within these villages are different. And so I think what you're going to create is actually unintended consequences. And, again, one size does not fit all in these villages. I'm going to abstain from this vote. I'm going to come back and revisit it.

[03:27:00] I'm going to try to see those within the industry and talk to see if there's any wiggle room here. But we're setting a very stringent sort of requirement here. And I'm concerned that it's going to have unintended consequences. And listen, I get calls from the villages, from Western London, from the rural area all the time when different overlay requirements, I mean, it happens in the steep slopes, it happens in the limestone, it happens in your village, and someone's trying to do something really good, and guess what, they can't.

[03:27:33] I had a couple old ladies who, because of the steep slopes, they had a perfectly property, they wanted to sell their property, they wanted to develop one house, I'm just giving you an example and they they could not they were going to end-of-life care and they couldn't sell their property to go to end-of-life care so there are intended consequences on these things i'm going to abstain i was laughing thank you yeah i i wonder if i'm missing something a little bit here because i kind of read this clarification to actually make it easier to do something not more difficult and my colleagues are acting like this is more restrictive but i actually think that

[03:28:08] what you're arguing about is the existing language, not the amendment. The amendment is saying basically you have to have some calculation for a non-conforming front yard that crouches into the right of way. So you're setting that at zero. And absent that, wouldn't it be worse? Wouldn't it be more difficult to build something? Yes, because you wouldn't know what that front yard would be to use in the calculation for the average. Right. So I appreciate where my colleagues are coming from, but I don't think it's logical because this amendment is actually trying to address some of the things that you're expressing concern about i think there are

[03:28:45] other issues potentially with this chapter maybe but and maybe there's other you know amendments or whatever that want to be offered but i don't i don't know that the ones that were actually in front of us are are really problematic so i would support it thank you other comments seeing none uh all those in favor please say aye aye opposed and abstentions that motion will pass 7-1-1

[03:29:12] next motion is also a staff motion I move motion 14 onto 3 the title section 5.0 79 village conservation overlay district variation of lot sizes and dimensions this is very similar and for a second second supervisor Brisbane very similar to the prior motion it allows a calculation of varying lot sizes and I'm comfortable with this motion. Any other comments or questions on this motion?

[03:29:48] Going once, going twice, seeing none. All those in favor please say aye. Aye. Any opposed? Motion will pass 8-1-8-1. You abstained again. 7-1-1. Thank you.

[03:30:05] And finally a motion which I will make and I'm gonna read the entire motion and then I have some comments about that motion. I move motion 15 chapter 5 overlay districts I move that the Board of Supervisors endorse chapter 5 overlay districts of ZOAM 2020-0001 zoning ordinance rewrite as presented in attachment 1 to the October 2nd 2023 Board of Supervisors Committee the whole work session supplemental action item subject to all revisions reflected in the motions approved by the Board of Supervisors during its October

[03:30:42] 2nd 2023 work session I further move that the Board of Supervisors direct staff to make the additional staff recommend revisions as presented in attachment to to the October 2nd 2023 Board of Supervisors committee the whole work session supplemental action item and attachment for correction sheet to the October 2nd 2023 Board of Supervisors committee the whole work session supplemental actual action item second seconded by chair Randall opening comments I strongly endorse this motion correct me if I'm wrong is this

[03:31:17] the first chapter that we're approving the second okay doors chapter one oh that's right chapter one um uh i had a long conversation with the dallas area association of realtors and they had running into serious legal issues with the current language in the disclosure paragraph it's so detailed that what they've encountered is people are entering into contracts to buy homes then changing their mind not wanting to buy the home and going straight to this paragraph and finding really minute reasons why they can back out of the contract because

[03:31:54] we didn't comply exactly with all the detailed requirements in the disclosure paragraph. They have talked to me about a change. That change seems to be a little bit more complex than I expected it would be. I may come back subsequently before the final Zor vote to make a motion to amend that language in Chapter 5, but I may not.

[03:32:14] So in the interim, I'm happy to approve moving Chapter 5 forward. Any other items on Chapter 5? Yeah, just since that issue got brought up, I had a similar conversation with Dahr, and there was clearly just some lack of basic understanding on both sides going on here because when I started explaining how we didn't actually change the requirement, we just changed the map, a lot of them hadn't been using the requirement.

[03:32:39] So what I committed to them, and I know we kind of started the process of, was to set up sort of a working group discussion with staff that were involved from the county attorney's office and that were involved in the creation of that amendment or that update and dar so that we could talk through these issues i'm not sure exactly where that stands i know we have a lot of the same staff are involved in this so it may not have actually progressed but you may remember some email traffic not if you do so at least through some confirmation i'm not making all this up um about this and i would like for that to occur and i especially i wouldn't want

[03:33:17] to make any changes before it did so I just kind of flagging that as as we continue the discussion thank you thank you supervisor Turner that's good news I'm pleased to hear that supervisor Brisman thank you chair no I just want to say I feel very comfortable with these three motions knowing that staff worked with advocates for our villages to put this together and I appreciate all the work that they did on this and these are very special places and I feel like

[03:33:46] We're working toward a nice balance to make sure that they can be preserved, but also, you know, leave some room for other stuff with the understanding that the Village Alliance supports it. So, thank you. Thank you. Chair Randall. I just want to reiterate what Mr. Letourneau said earlier.

[03:34:04] We didn't, not only did we not make anything more stringent, we made things more flexible in these motions. And I don't know how people are reading this to think that they're more stringent. I think because we know that the villages are different place to place to place. We worked to try to -- we worked -- well, staff worked with the Village Alliance to make sure that people understood the difference between one village to the next and that, you know, Waterford is very different to Peonia Springs.

[03:34:30] And so we made things more flexible so that each village can make some decisions that they feel like they want to make for their area. And I don't know how that got lost, but I think that it's worth reiterating that that's what these motions are doing here.

[03:34:46] Thank you, Mr. Chairman. Thank you, Madam Chair. And if I could just, we're in a committee of the whole yet, so I'm going to go out of turn because I just want to clarify that last comment. And let me ask staff, when we passed the AIOD, was it last year, two years ago?

[03:35:02] When we passed the AIOD? January. In January. Did we change the disclosure language from what it had been? I was under the impression we did change the disclosure language. We tried to clarify the original intent that the disclosure would be made for any sale and not just the first one right but the i think the underlying issue that's been brought to us is one of implementation on the end of the realtor not not necessarily an issue with the exact language that changed correct but i wanted to point out to chair randall that that the problem that they're having is not a result of the proposed language the problem they're having

[03:35:38] is now with the practical implementation of the aiod disclosure language we passed last january I wasn't talking about the AOD. I'm sorry, I was on the impression. No, I wasn't talking about the AOD. Okay, my apologies. Supervisor Rumpstott.

[03:35:55] Thank you, Mr. Chair. I would echo what Supervisor LeTourneau said on the idea of getting together with representatives of the Dulles Area Association of Realtors.

[03:36:12] They have consistently brought up the point of confusion over what the obligations are to disclose overlay districts. So I think it is a good idea to meet with them. I still find this to be trying to come up with another term for overly prescriptive.

[03:36:35] I mean, that's the common one. But I do believe that this does not take into consideration the very different designs of the different villages. So I will not be supporting this motion of endorsement at this time.

[03:36:51] I also would note, in defense of some of our friends who work in the development industry, like Mr. Zick, he lives in one of the villages. He lives in Paoni and Springs, so he knows what he's talking

about when he says there's a problem.

[03:37:08] I would also point out that as opposed to statements that have been made that we've all had this for three years. No, we haven't. We have had it since July 6th, and changes have been made throughout the process going up to that date.

[03:37:29] And it's no wonder that various sectors of our economy are having trouble wrapping their minds around what this says and trying to get effective comments into us. So that is all I have.

[03:37:44] Thank you. Thank you. Supervisor Kirshen. Thank you. So the two lawyers on the board say this is overprescriptive. One of the engineers here says this is going to be problematic for our villages. And we just are getting ignored through this whole process.

[03:38:03] And clearly, you know, listen, I more than anyone want to protect our towns and our villages. What I am very concerned about is that one size does not fit all. And that's why I have always thought that when we get to these small area plans, and we're already doing two, we're doing Lockett's and we're doing St. Louis.

[03:38:22] We have a number of other villages that I think would serve really, really well to rewrite our zoning for that particular village when we do those. I think that was really the concept that I had in mind all the time, that we would protect and put the necessary impacts into the villages.

[03:38:39] I feel like this has somewhat, and truthfully, I just have to disagree with my colleagues that somehow this is making things far, far easier. I just don't think that is accurate. But with that said, I understand the will of the board has decided to move forward on this, and I, again, I'm going to oppose moving this forward just simply because I think it is not the best practice.

[03:39:02] We should stop. We should take our time. We should make sure we get this right into the future, and I think kind of going this route is probably not the wisest honestly thank you mr. chairman i'm going to vote in support of this motion and since we had so many motions on specifically the village conservation overlay district i want to specify that the one of the one motion i did abstain on the reason i abstained on motion number 10 was because it talks about whether or not to apply this to new construction which I'm fine with, but also it includes additions to existing and accessory buildings.

[03:39:41] And I'm not sure where I'm at on that yet. That is the specific reason that I abstain from Motion 10. Thank you. Mr. Vice Chair. Thank you. Just like to quickly clarify the record. Mr. Zick, or Zockt, or Zick, Zick, forgive me for pronouncing it incorrectly.

[03:40:00] His job is in the rural, his office is in Peony Springs area, but he actually lives in Fairfax County. So I just wanted to clarify that. Thank you, Mr. Vice Chair. The only point I would make is if we hold off on the zoning order that's rewrite until we have found a way to accommodate 12 different villages in a single village conservation overlay district, we'll be here forever.

[03:40:28] This will never get approved. The correct answer is small area plants. There's no question about it. its small area plans. That's years away. In the interim, staff has attempted to refine this language to make a better village conservation overlay district. I think they've achieved that goal. Motions made and seconded to endorse Chapter 5. All those in favor, please say aye. Aye.

[03:40:49] Those opposed? That motion will pass 7 to 2. I will move right into Motion 16, which is an endorsement of Chapter 6. I move Motion 16, Chapter 6, Natural Environmental Resources. I move that

the Board of Supervisors endorsed Chapter 6, Natural and Environmental Resources of ZOAM 2020-0001, zoning ordinance rewrite as presented in Attachment 1 to the October 2, 2023 Board of Supervisors Committee of the Whole Work Session Supplemental Action Item, subject to all revisions reflected in the motions approved by the Board of Supervisors during

[03:41:27] its October 2, 2023 work session. I further move that the Board of Supervisors direct staff to make the additional staff recommended revisions as presented in attachment to to the October 2nd 2023 Board of Supervisors Committee of the whole work session supplemental action item second second by Chair Randall I have no discussion comments or discussion items Supervisor Armstrong yes thank you Mr. Chair I remain concerned that we do

[03:42:03] not have accurate cost information on how much it's going to cost a family to abide by these rules and the question is whether whether additional setbacks from a stream or a spring is actually going to be effective in preserving water quality there my understanding is that the further you move back from the stream the better it gets up to a certain point and then any movement further away does not have any positive impact. So we don't have the cost information. Some of us

[03:42:43] have asked for it, and staff has been willing to look at it. But even if you look at, say, the \$8,000 that it might cost to have, or the \$3,000 to have a geophysical study done, that still does not include the cost of hiring someone to represent you before staff and the time you lose when you go through a staff process we've had severe pushback from rural residents in the past when a previous board increased buffer areas

[03:43:22] they they could not understand it I don't think and again I'm gonna go go with the fact that we've only had this since July. The public in the rural areas has not had adequate time to look at this, so I will be opposing it at this time. Thank you, Supervisor Armstead.

[03:43:42] Chair Remy. So we've only had this since July, but the public and many of the people who have spoken in this room were actually on the zoning ordinance committees. They've actually been here from the first day we started this, and so let's not make a mistake about when we received it and when And when most of the people who are sitting in this room speaking in support were literally on all these committees from the first day we started.

[03:44:12] And if, like me, you all were talking to staff, you were talking to your planning commissioner, you were talking to the constituents who have spoken on these issues. Yes, we got it in July, but that wasn't the first time we ever saw it. That wasn't the first time we ever read about it.

[03:44:28] That's the first time we ever heard about it, not the first time we talked to constituents. We've been doing this for three years. We got it in July. We didn't see anything for the very first time in July. And certainly, Mountlin Skinner didn't see it for the first time in July. Jim Bingle didn't see it for the first time in July.

[03:44:45] Tia Ehrman didn't see it for the first time in July. Michael Myers didn't see it for the first time in July. And Mara Walsh-Copeland, who submitted 251 comments, didn't see it for the first time in July. We have been doing this for a while now. And I don't know, truthfully, I think the bigger question would be, what is the cost to a family who builds on karst land or somewhere you shouldn't build?

[03:45:10] What is the cost then, and how does that work? So I would be supporting this motion. Thank you, Madam Chair. Other comments? Senator Kirshner. I'm going to go ahead and vote to move this forward, but I will associate myself with Ms. Umstead's comments in terms of the waterways.

[03:45:27] To me, we may be overreaching a little bit here. I'm not sure what I'll do when we get down. I mean, moving it at 300 feet is quite significant. I think we're at 250 on the Potomac and whatnot. So those as well as a few other are my concerns.

[03:45:44] Thank you. Other comments? Motion's been made and seconded. All those in favor, please say aye. Aye. Those opposed? I hear one nay. Do I hear another nay? Yeah, okay. So that motion will pass 8-1.

[03:46:01] I do not plan to make the motion on Chapter 7 or the motion on Chapter 10. If someone else would like to make those motions, you're certainly free to do so, but I don't plan to do that. I'm sorry. They're in the motion pack. Going once, going twice.

[03:46:20] Hearing no other business for the board, I call us adjourned. Thank you all very much.



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