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Loudoun County Board of Supervisors, ZOR Working Group Discussion on Modifiability, Wednesday, October 4, 2023

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Place Board Room, First Floor, Government Center, 1 Harrison Street SE, Leesburg, Virginia
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- Official meeting video (county, Granicus): <https://loudoun.granicus.com/player/clip/7429>
- Agenda (Granicus): https://loudoun.granicus.com/AgendaViewer.php?view_id=73&clip_id=7429

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[00:18:15] everybody for coming in. Hopefully we can,

[00:19:03] where is the food for people to, if you want to just kind of drift off and go get a box of food and come back in. Is it in the Levittsville room? Can we have somebody bring it down? Yeah, okay. We do have sandwiches. We can bring those down.

[00:19:19] Yeah, no, we're not going to have you sit here and starve. We're going to let you eat. Watch me eat, exactly. It'll get you done faster if you just get you hungry. So we'll get the food brought down, and we ordered lunch and dinner, just in case we need both.

[00:19:41] We ordered lunch and dinner. We're going to start by going around the table and having everybody introduce themselves. I think everyone knows one another, but just in case everybody introduced themselves. And then I'm going to go to Ms. Sitton, or I'm going to go to Courtney, because, well, we'll get there after everybody introduces themselves.

[00:20:00] So, Ms. Walsh-Coplin, would you start with you and go around and actually kind of say who you're representing, if you don't mind. Okay, in this room it's green. Maura Walsh-Coplin, I'm representing Stakeholder Group 5, which is a combination of Loudoun County Conservation and Preservation Coalition

members, up to 55, and all of the input that has been provided through all of these stakeholders throughout the three and a half years of ZOR.

[00:20:32] I'm Jem Bingo, representing Stakeholder Group 6, which is Animal and Wildlife. Ron Meyer, Army Land, here on behalf of the Chamber. I don't remember which Stakeholder Group it is. One. One.

[00:20:49] Just checking. Good afternoon. My name is Matt Leslie. I'm a land use planner with the law firm Walsh Kluge here in Leesburg, representing, I believe it's Stakeholder Group 4, which is Attainable Affordable. Oh, Attainable Housing Support, yeah. Attainable Affordable Housing.

[00:21:04] Yep. I can't believe I know these numbers, but yeah. My name is Colleen Gillis. I'm a land use and zoning lawyer with Cooley. I just turned around. I was like, I'm not sure I'm representing residential and the state culture groups. Thank you. Good afternoon.

[00:21:22] My name is Bill Junda. I'm a civil engineer with Gordon, and I'm representing the commercial development task group. Rick Hancock. I am on the zoning ordinance rewrite team. I'm Dan Galindo.

[00:21:38] I'm director of planning and zoning. Courtney Sintner with the county attorney's office. Judy Burkett, Deputy Director, Planning and Zoning, and Project Manager for the zoning ordinance rewrite. Phyllis Randall, I know Mr. Probst is coming down.

[00:21:53] I don't know, I don't believe, did Ms. Bricksman say she was coming, so you guys set up a place for her? I'll send her a text because if she's not, we can, oh, well, I guess she's coming. I guess she's coming, there we go. That's okay, that's okay. We didn't wait. We're just running late.

[00:22:11] Thank you, Mr. And I'm Mike Turner, Ashburn Supervisor. And T-Lift Chair. Yeah, that too. Kristen Amstott, Leesburg District. Caleb Kirshner, stakeholder Catoclin. Kate McConnell, I'm a member of the Zoning Ordinance Rewrite Team.

[00:22:32] Rebecca Kang, also with the Zoning Ordinance Rewrite Team. I'm Mark Stoltz, Zoning Administrator, Planning and Zoning. Okay. So thank you, everyone. So again, food's coming down, and everyone knows where the bathrooms are, so I think we're good to go.

[00:22:48] So a couple nights ago, the staff had an opportunity to talk to the supervisors just about the zoning ordinance overall. So as you all know, we've already approved three chapters. We've approved one, five, and six. And I don't know that, I don't believe that this modifiability issue applies to every chapter, right?

[00:23:10] I don't think that it does. I don't think it applies to three chapters exactly. And I think those three chapters are seven, nine, and two, right? would we all agree? And so I think what we're going to try to do is boil down this conversation to the chapters it applies to and not spend, we don't think we need to spend time going through every chapter because it just doesn't, we don't need to do that. So Ms. Sittner, did you want to kind of talk a little bit about some of the things you said to us the other night or do you think you're good? I mean, I think if we are in agreement that we're only talking about chapters

[00:23:47] two seven and nine then i don't need to say anything else if there is some dissent about that and somebody thinks another chapter is in play if you can let us know what that is and then we can have that conversation but if we're all in agreement that we're talking about two seven or nine i think i'm good okay yeah we're good with two seven and nine being the limit that we're that's we we uh with staff's request

we didn't provide an updated draft motion because we Stafford requested that they get a chance to sort of amend or work with what we had presented, but we are good with limited to those three chapters.

[00:24:22] Okay. So when we, yes, ma'am. So, yeah, just a point of clarification on that, because there was information submitted for changes to the text in Chapter 4. Just want clarification. As it relates to modifiability? Yes. So the, to clarify, the chamber had originally submitted a motion that included among other chapters chapter four as things that we were seeking modifiability again after reevaluating stake the these four stakeholder groups uh in conjunction with the chamber uh you

[00:24:59] know reevaluated and we are fine with limiting it as the kind of i think the original text had which was two seven and nine um and to ron's point we didn't provide an updated motion because we were asked not to but that's where that's where we're at we're there let me add a fine point i think it might get to your point, Jim. There are a number of requests to define, I believe I have this correct, uses for a number of things that are not uses right now to trigger this Chapter 7 noise ordinance, and there are changes to Chapter, I believe, just four in order to do that. So I will

[00:25:34] be submitting those motions probably by tomorrow, days of fourth, by tomorrow for the next work session. I don't know. I'm not necessarily lobbying one way or the other, but I think they need to be tabled and talked about and actually appreciate your saying that however i was just it was the language that was in your proposal earlier from the from the other four stakeholder groups that that concerned me specifically that um it was rather broad brush so if that's off the table okay appreciate getting that clarification i mean just to be clear from the staff perspective

[00:26:11] four is not on the table because four is already modifiable by minor special exception so we don't feel like we need to talk about that so if we're all just wanted to make sure yeah we're there yep okay thank you okay so then let's let then let's start the discussion um um may as courtney which joe was here when we last when last we met um where we kind of left it was some ideas about um i think it was mr le turner who i really do miss not being here with us today he has a work duty. Some ideas about, you know, when we kick into a PUD and that type of thing.

[00:26:48] Remember that? That's what we last talked about. So let's pick up there. Let's pick up where we talked about, you know, because I know that you all have some concerns with the PUD being the only tool, right? And when a PUD should come into play and why and how that wasn't the tool that could cover everything so just to level set which you maybe give some background as to why you think the PUD alone is not enough and what you might think we we why you do think we need more than

[00:27:25] just that and so then start the discussion of when a PUD might kick in which is where we left off last time does that make sense so yeah so that we that was kind of where we left it was um the idea that possibly kind of i'll call it a compromise uh would be that um there would be some sort of limit to the number of modifications that a legislative application could have before it would be kicked to needing to use a pud right so and this is really just in the first

[00:28:02] this really is like in terms of like okay are we going to use a chapter two zoning district other than PUD or are we going to use the PUD in Chapter 2 right but in terms of the number of modifications like that limit we're talking about ZMODs or SPMIs or SPECSs to not only Chapter 2 regs but Chapter 7 and 9 right so but yeah it was to set a threshold we did not have any discussion about what that number was or what would be appropriate but I think we're prepared to talk about that today if that's the desire of the board yeah I think that'd be a good idea so

[00:28:35] So Dan wants to like, Dan, is the presentation for the whole discussion or just Chapter 2 right now? Whole discussion. Okay, then let's go in and do that right now then. You can all, right here. So since our last meeting, as I've mentioned as much as I can, we greatly appreciate the tables that were provided and the comments that we shared back and forth.

[00:29:01] I pulled together a separate group of planners in the department because this wonderful group here was putting out three or four different packets in that time to go through the comments and to try to evaluate if they were accurate if they could or could not be modifiable if they could not was there a reason to try to hold the line on that so to speak was there a reason to allow it to be modified to a certain extent or maybe just modify all the way and so what I've got here today and Rick is going to help me with a portion of this because

[00:29:35] part of the slides in here are what he provided at the last meeting, but a number of people here were not at that meeting. So it just kind of compares where we're at between the two documents for a few slides I think would be helpful. But part of how we're here at this point is that the initial comments we received during the three rounds of input were really focused on the concept that a high number of ZMODs that accompanied applications had negative connotations, that it took away from the ability to focus on the merits of an application. And so there was a desire at the time, at least, to add administrative processes to help streamline the process and not make

[00:30:12] everything legislative. So in response, the draft that staff initially put forward, and that has since been updated through the Planning Commission's work, worked on having regulations that were updated to reduce the need for ZMODs. It did add administrative processes. It streamlined legislative modifications, and it added the plan unit development, the PUD district, for more flexibility.

[00:30:35] More recent comments that we've heard, especially from the development industry, is a desire for them to know that modifications are allowed with their initial legislative approval instead of receiving some of them after the fact, and also a fear of the unknown outcomes from the PUD rezoning process, which while it is a rezoning, it's a ZMAP, it's new because it's a new district with new regulations for the county.

[00:30:56] Hold on just a second. Colleen, what is your face doing right now? Oh, okay, okay, okay, okay, okay, okay, okay, I thought you, that was your face, okay, okay, I think it's important for the, for the both of us that's on the record that that's not what's happening. I'm like, what's going on? Okay, okay, all right, all right, all right, keep going, Dan.

[00:31:29] So the response that staff has prepared, consider the industry's comments and re-evaluated where additional legislative modifiability is appropriate. And overall, we propose authorizing some additional modifications while maintaining the way that we have the document formatted where we would be stating what is eligible to be modified.

[00:31:49] And I also have a revised Section 10.10.04C, which is the section that has come up a lot with what can be modified on a concept development plan. I'll pass around at the end of this for everyone to review. But the methods of modifiability that are allowed in the ordinance now are perhaps not broader than what was allowed before, but we've made more use of the administrative options.

[00:32:15] So there are certain modifications that would be allowed by a zoning determination, some that would be allowed by a separate process for an administrative modification. The legislative options are

your special exceptions, your specs, minor specs, SIDPs, as well as the concept development plan, which is where a number of the things that were previously allowed by ZMOD would be incorporated into that document that would ultimately be approved.

[00:32:39] Dan, can you back up? Yeah, yeah, yeah. It's a free-flowing conversation. That's kind of what I thought. Yeah. Explain to me administrative modifiability just a bit more, because it's been fuzzy since we started the conversation. I just want to – so they don't have to go through a legislative process.

[00:32:58] How do they modify within an administrative environment? There's a provision within the Virginia Code that allows for administrative modifications. It is similar to but not exactly the same as a variant. So there are certain standards that the zoning administrator would have to evaluate the request by, And if those criteria are met, then we could issue the modification.

[00:33:20] The zoning administrator would say that modification is approved. Yes. Yes. And we've put sort of self-imposed a limitation on that at the zoning administrator's request that that be limited to 20% of the various numbers that we're talking about to kind of keep a certain amount of bounds on staff.

[00:33:38] So that would be limited. It's in the ordinance now. And for the legislative modifications, there could be some bounds, but there does not have to be. And does the zoning administrator have the authority to say, no, no, that's above my pay grade?

[00:33:53] Yes. We're going to kick that to a legislative application? Well, yes, but that's going to be one of the things we talk about. Okay, great. Thank you. And I'm going to ask Rick to go through a few slides for us. Yeah, so on these next few slides, we have kind of a difference between what's allowed currently in the revised 93 and then what the current Planning Commission draft zoning ordinance would allow.

[00:34:15] And so really in the Revise 93, if you are in a planned development district, so it starts with PD, then you could do a ZMOD. You can either do that at the rezoning or later with a standalone ZMOD. Also, if it's a suburban district, such as the R districts or, let's see, Mr. High or GB and CLI, you can do a modification, but only at the rezoning.

[00:34:45] So that has to be at a zoning map amendment or a concept plan amendment, zoning concept plan amendment. It generally includes all of the regulations that are found within those zoning districts, basically all the regulations if you're in those districts, except for uses and density.

[00:35:04] This is to contrast with what is being proposed now is that these modifications would be allowed in basically every zoning district except for the rural zoning districts and it would just be part of a cdp at the zmap or zoning concept plan amendment and there are some additional administrative modifications that we that dan just talked about but these would only be for those very specified sections those very specific regulations so it's one that's more permissive to one that's more

[00:35:37] conscriptive um so my impression is that the new the new method gets to the same spot it just does it in a more efficient way is that a mischaracterization i i think that's a way i would agree with that um so one of the things that's not on here is that we have the planned unit development zoning district which is kind of a instead of trying to make an existing zoning

[00:36:11] district work where you need multiple modifications we have kind of this alternate zoning district where you can start from scratch almost and put things together to match the development that we're talking about instead of having to modify everything so in that sense yes can i yeah can i just maybe

ask an additional question that hopefully will help clarify because i i think this is it's it's i don't think it's purposeful but the scope of the both the administrative modifications and the specified regulations that are permitted in the draft are an extremely limited scope and that's what we spent most of our time talking about last time and so the idea

[00:36:51] that and i don't think he's trying to say that because he said this new one's restrictive versus the other one's permissive and i think that's right but i don't want the i don't want the general perception being that this draft essentially you can modify but it's this new way and you know there's there's this debate on whether pud makes it this new way but outside of pud it's just like you're talking very few regulations versus almost all regulations except for use and density under the current yeah okay can i just say one thing about that comment so in terms of the administrative modifications and the scope of what is administratively modifiable that is constrained

[00:37:25] by the code of virginia so we really don't have the ability to broaden that scope so then at that point if there was something else you wanted to do it would have to be but yeah legislative i I wouldn't want the perception of the board members thinking that it's broader than the code allows, which is pretty limited.

[00:37:43] I don't think we've said that it's broader than the code allows because we couldn't make it broader than what the code allows. Yeah, I think it's just, again, I think what we're trying to do is just try to boil it down to clarity for Supervisor Turner's question. In terms of the scope of what's modifiable, I think what's open for conversation there would have to be on the legislative side.

[00:38:00] I don't think we can broaden what is modifiable on the administrative side. It appears to me that the current method is ZMOD, and I'm a layman characterizing this.

[00:38:20] The current method is ZMOD heavy, whereas the proposed method folds a lot of that function into the CDP. Is that? Well, yeah, that's actually a good way to say it. So we, as part of the looking through the process and the procedures, we've tried to streamline things.

[00:38:39] And so instead of calling it a zoning modification, having a separate application, it's just rolled into the concept development plan. And that CDP is required for every new development that gets a legislative approval. Thank you. And I do think that this is at the heart of one of the things that we've been talking about, which is if you've got an application, a project, a whatever, and it is something that needs to make that project a reality, you need relief from the ordinance.

[00:39:09] Today the process is to ask for a standalone ZMOD in most cases. If that is not something that is covered by the limitations under the Virginia Code to be administratively modified, your option then to make that project a reality is to go the PUD route.

[00:39:25] And so from an economic development perspective, and I mean economic development in the broadest sense possible, right, an affordable housing project, a commercial project, a marquee tenant, that process may be that you have to go through this PUD process in order to get relief from something that is not modifiable today.

[00:39:44] They are different processes. I think we also had part of the conversation at the last meeting was a discussion about consistency and reliability and predictability on the sense of the public in terms of what's happening on a piece of property.

[00:40:00] And so the concept of, okay, do we use all these new zoning districts that we're drafting and use those as a base? And do we want to have those Chapter 2 districts outside of a PUD be kind of like, that's the preference, is to use those districts.

[00:40:16] If there's a situation where a PUD makes more sense or it's just needed, then sure, we use a PUD for a special project. But otherwise, in order for everybody to kind of have an understanding of where we started from, using one of these other Chapter 2 districts, I mean, at least for me, and this is how we do it today, makes sense, right?

[00:40:34] You start with an R24, and then if you need to modify something, you do. And so this is part of the broader conversation in terms of a wholesale change. Like, are we going to wholesale change how things are processed, but also how they're presented to the public? And maybe it's okay that everything's a PUD.

[00:40:50] But I would argue that that leads us down a path where a PUD could be, you know, a data center in one location and could be a residential, right? So there's, and then it's just like, that doesn't mean any, it kind of loses all meaning. So, but that's just my personal preference and personal opinion.

[00:41:07] But I just wanted to lay that out as part of the previous conversation. All right. I do want to restate what Courtney said.

[00:41:26] What can be done administratively is in code, and there is just no wiggle room. Everything that we have choices about is done legislatively, correct? Correct, yes. And we offered the administrative option this time because it's not something we had previously taken advantage of, and there have been times when an applicant has come and said, but we just need this small change.

[00:41:48] Can't Mark approve it? And he'd like to, but he couldn't. So that's why we added it to we're taking advantage of something that's in the code that we have not previously taken advantage of. And we love that. Just so we're all clear, we love giving Mark more power to make those administrative decisions.

[00:42:10] Like, we definitely like it. I don't think that there's an argument there. And that will shorten the amount of time and take over. And for those things that are covered, yeah, that'll get us there. Administratively, our ordinance was more restrictive than code, and we have made it less restrictive. We have aligned it with code. But I think the other thing that I want to make sure all goes crystal clear on is that it's commendable.

[00:42:29] We love that. We're supportive of it. We don't want to walk backwards on that. But it also, it only covers a certain number of things. Yeah, yeah, yes, yes, yes, yes, yeah. Yeah, yeah, yeah. But if the goal is to, and the goal is to not make these applications take three years with, you know, eight revisions, then that actually helps.

[00:42:50] Okay. All right. No, Ron, no? Listen, I am a trained therapist. I am reading body language all over the place over there. Well, I think it's covered later in the staff presentation, but the truth is, so let's say you got a legislative approval, but you need a modification, right?

[00:43:11] Yeah. And if you had to seek it after the fact, then your project doesn't have certainty, right? And so as long as, and this is covered later, where I think there's a discussion on if it's administratively modifiable, should it also be legislatively modifiable so you can get your approvals all at once, then in two separate processes, right?

[00:43:26] And so I think that that's part of the conversation. Ah, interesting. And frankly, I'd also say. Is one or the other is what you're saying? Yeah, putting on a former hat, too, I would say that modifications often are pretty, you want to make sure as an elected official that you have say over what offsetting conditions you may put on modifications, which the modifiability provisions that we have discussed and proposed to you and the current ones allow for those conditions of approval to be imposed on the project, whereas administrative, the board has no authority. Yeah, yeah, yeah, yeah, yeah. Okay, all right. So, Madam

[00:44:04] Chair, if we can get through the whole presentation, I would like to think that by the time we get to the end of this, we will have addressed 70 to 80% of the issues. That was Mr. Turner's fault. He stopped us. So continuing, it's not just the zoning district regulations, right? There are other items in the zoning ordinance, both in the revised and in the draft that are modifiable or flexible or can be changed through a legislative process or otherwise. So for example, additional

[00:44:38] regulations for specific uses 5600 standards which is now in chapter four is use specific standards it's the same process spmi or special exception depending right um and good we're not going to be talking about those today so off street parking is another one it was in the 51100 standards now this is in section 706 so previously you could get a zoning modification or a special exception led to some confusion as which process and procedure that i'm using we've tried to fix that and instead we've allowed a and increase actually the administrative parking reductions that are

[00:45:17] allowed and also allowed a special exception for parking so really if you've got a standalone where all you need is a reduced parking then you could actually go to the board of zoning adjustment or Board of Zoning Appeals and get that approval, right?

[00:45:35] But if it's part of a larger legislative application suite, right, they will still come to you in the same way. Likewise with the SIDP for the science standards, now with Chapter 8, SIDP, same thing. Next slide.

[00:45:51] But doesn't, okay, you guys want to get through the whole thing. Okay, keep going. Landscape buffering and screening, which are the 51400 standards, Really, it's the same process between what those 51400 standards were in the revised 93 to the new Section 704 standards.

[00:46:09] We do have the determination process. It's a little clearer on how we do that. Likewise, light and glare, special exception in the old code, special exception in the new code. And then finally, there are steep slopes.

[00:46:25] You could get a special exception to modify the steep slopes. That is being removed. We do recommend that being removed. That's in Chapter 6. And then affordable dwelling units, you could get a zoning modification. We do have some modifiability in Chapter 9, and that would be, again, as part of a CDP or administratively.

[00:46:49] Okay, okay. So over the past couple of weeks, as I alluded to earlier, we've spent dozens of staff hours trying to review the documents that were provided at the last meeting, going back and looking at some of the documents that were emailed in for various meetings with the board to try to evaluate where there might be room for more modifications that was a legislative modification, not purely administrative.

[00:47:16] Because to an earlier point, the ordinance was sort of oriented towards creating a certain degree of flexibility, and then after that point, moving to a PUD, which in some ways is where we're back at

now when we're discussing whether we set a number of modifications that are allowed before you kind of cut off and get pushed to a PUD.

[00:47:34] Same concept. What we've heard from the board is a desire for there to be additional legislative modifications. So there are a number of things that we're going to propose that are possible to authorize for additional regulation, whether that's by the CDP or by a special exception.

[00:47:52] Okay. And also, in some cases, responding to certain questions, there are areas where we think we can update the regulations that should avoid the need for modification at all. And there are a few, and not many, but there are a few where staff would propose to provide additional flexibility but not allow further modification, so I will cover those as well.

[00:48:09] And we're talking through all three chapters that we're talking about, this applies to all three chapters? All three and maybe a couple of bullets beyond that, because I didn't realize we were all in agreement that we were down to two, seven, and nine prior to walking in here. Okay. But we will cover it.

[00:48:25] All right. So for additional modifications that staff would propose, a lot of the things that were in the tables that were provided dealt with building height. Staff believes that those should be done by special exception to maintain the board's authority to provide conditions.

[00:48:42] Out of all of the numbers that go in the applications, your setbacks, your yards, height is what people react the most to. It's what they care the most about. When the sun is blocked from their yard, when people are complaining about data centers and how much they can be seen, a lot of that is the height, it's the massing.

[00:49:00] So that is one place where we would very clearly want to keep that by a special exception, except for the minimums allowed in the TRC inner core, which is right at the metro stations, and the urban employment district as well, because those minimums are 25 and 30 feet.

[00:49:20] They're not very tall to start with in what should otherwise be an urban area. Beyond that, the tables, the numbers within tables dealing with lot size, lot width, lot depth to width ratio, yards, lot coverage, and setbacks. We would be comfortable allowing to be covered by modification on CDP.

[00:49:40] Actually, I think I skipped a bullet now that I am. I'm sorry, I skipped my first bullet because this is an important point. Since we've allowed administrative modifications in a number of places, we're allowing modification to start with. we would agree to just allow legislative modifications in those same areas so across the board and unless there's something that we haven't dug up yet when we're viewing this if there's an administrative modification allowing that to be a legislative modification either by cdp or special exception i think we are largely okay with okay there were comments about the

[00:50:18] tables mix of uses as well as dwelling unit type mix we would be okay with those being allowed as modifications on the cdp for standards dealing of building orientation and placement specifically in the trc ue and tc which is the town center districts uh we would be okay allowing those to be legislatively modified on the cdp okay wait go back one go back one okay there's uh i believe just one district where there's a table that deals with the minimum number of buildings that

[00:50:56] are required of a vertical mix of uses again allowing them to be modified would be fine for TRC and the Town Center open space we would propose to allow an increase in the distance of something we're calling incremental additions I feel like I skipped a slide sorry an incremental addition is something that

we're trying to clarify in the ordinance where the minimum district size that's provided in the district would be for your initial sort of beachhead that's that that first development that's being built there and then other developers or the

[00:51:36] same developer can come in and add additional land to that and just continue building out that development that style of development at least because ultimately when you look at the general plan and the maps within it you know those different place types cover large areas so we want similar developments all the way across anything that's of the same color in the same place type i'm sorry what is os open space open space okay so so so one developer comes in and they put their development down and then you're saying somebody else comes and they can just

[00:52:10] incrementally add additions to their open space if it's already matching with the first development i'm confused about what you just said well so i'm making a larger point not specific to open space that's why i thought i have my i've got a point on a different slide i thought was before this there are there are certain standards where right now the ordinance is not as clear as it could be what is required of that first larger development and what of those standards would not be required or not required fully for just an addition.

[00:52:42] A 20-acre development can do a lot more of the things we want to see versus a three-acre development that's getting added on to it. And one of the complaints we've heard since the plan was adopted is that every application that comes through, staff is reviewing as if it has to meet the entirety of the plan's goals and policies.

[00:52:58] Oh, okay. I got you. I got you. All right. So this would allow for that style development to continue going and hopefully get easier for the developers to add on and ultimately to get what we want. Because the goal is to keep that style going throughout the development as you're adding, as you're doing incremental increases.

[00:53:16] Yes. All right, gotcha. And so specific to this, and I put this here, I think, because I was focusing on modifications and sort of the changes on the next slide. There's currently a standard that an incremental addition has to be within a quarter mile based on the pedestrian network to any open space.

[00:53:39] So if you're thinking about open space within one Loudon, let's say, and someone added on a few acres to that, they would have to be within a quarter mile of some of one Loudon's open space. But depending on where that's located at, that could be problematic. So we would propose allowing that to be increased somewhat as well.

[00:53:58] I'm sorry, Dan, I have no idea what you just said to me. You've got to do that again. You've got to do that again. I'm sorry. So for our mixed use, place types, and districts, we want walkability. We want places that people enjoy being and that they can walk around. Our districts are oriented towards what we want that ends up in that first main development.

[00:54:16] Okay. And the additions could take advantage of that without having to provide their own additional parks, let's say. Oh, okay. Okay. It all depends on the size. There's not a hard effect. Okay. But for allowing things to be tweaked and modified, it would be easier to continue that style of development and not force every single one that comes in, no matter their size, to do the exact same.

[00:54:40] Okay, all right, all right, all right. Can I just ask a clarification as to what it means, allow modification of minimum size by up to 25 percent? Does that mean? So that's regarding the, I don't have

the term in front of me. It's the open space tables that are primarily in TC, but there's something similar in TRC as well.

[00:55:01] Give me a moment and I'll get the correct term. Ms. Bixman, can I ask a question while you're looking for that? So maybe I can ask this as an example to see if I understand what you're saying. So, for example, the development, I don't know if it was Commonwealth or over there by Silver Diner, and there was a field sort of off-site that was in the development.

[00:55:31] Are you saying that they could then come in with another development, say, south of there, and say, we're not going to put any green space or active space in here because we just did it over there so they would be able to rely on something they previously built to not have to do it in the new build as a minimum standard a minimum legal standard that would have to be met by the ordinance yes but when people coming in for the the legislative applications you see they go through one two many rounds of reviews where we talk about the policies

[00:56:10] the county has and what we would like to see but there's a difference between what we want and what we are requiring wouldn't this give a lot less amenities not necessarily it just depends on on again to allow the flexibility it's to have the board's discretion to make that decision the applicant would be presenting their overall program to you and you would be able to decide if you agree with it or not so we could say for example in my hypothetical you want to build 300 units south of that field we don't think that field gives this application enough active space or open space so we want you to put in more so in other words we still have managerial control

[00:56:48] over that decision but the developer can ask for it yes okay and this is in the trc and tc we're not talking about across the board is that right dan so so like this is a circumstance in which take take cascades marketplace or one loud and that gets approved they've met the open space had they come in initially and that that project had been three acres larger you wouldn't necessarily have asked for new open space but when that new one comes in to Dan's excellent point it's reviewed as if wait a minute you didn't meet all the requirements my question is the modification of the minimum size by up to 25 percent I would think that it

[00:57:25] would scale to the size of the addition as opposed to capped at just 25 percent meaning if the minimum district size was 20 acres hypothetically and you met all the open space in that district and then you came in with a two acre addition I don't think you just get a 25% reduction you should get a 90% reduction because it's 90% smaller than what the minimum district size is does that that make sense I focused on the 25% because I thought that was the reason too is it why an arbitrary 25% isn't it dependent on the size of the addition so if I've got a 20 acre

[00:58:02] and I'm adding another 20 acre that probably probably shouldn't have to do all of that like it should be more holistic but if i'm adding incremental additions especially as we get into more infill i think that that 25 may end up being a being a challenge so the the two um phrases separated but semicolon are two separate ideas so the first is for specific to the distance of how close that incremental addition needs to be to any open space the second point is for modification of the minimum size of the community open space which has specific requirements in these two

[00:58:36] districts looking at tc right now which is table 2.02.03-3 there are five different options depending on the sides of the town center for what the minimum community open space requirement is and so we're saying as part of the modification process staff would be supportive of allowing those

minimums to be reduced by up to 25 percent if the board but it's always yeah i would i would offer that we should just let dan kind of finish getting through the rest of the presentation because I think holistically, I think this is helpful and informative, but I think we need to have a broader conversation kind of once he finishes up because we can, yeah, this is, so.

[00:59:16] Well, yeah, but the problem is you won't speak this language, and if I don't stop and ask some questions sometime, but I would get to the end and I have no idea what I'm talking about. So, oh, my God, that's recorded. I took it in the spirit in which it was intended.

[00:59:31] Somebody's just going to cut that part. I'm sorry, I didn't hear that. and and while i wish we'd had time to to provide draft text that would implement all these things the past two weeks we haven't so i mean some this is high level yeah it's the concept to see if this is what industry and the board supports absolutely um so third bullet there's a section for compact walkable urban parking design specific to the distance that parking spaces need to be in urban districts and in the town center district that's only listed as 500 feet right now it's not listed is something to be modified. We would agree to that being larger, because especially for our

[01:00:09] new urban areas, some of them will need surface parking or parking that's close that maybe ultimately goes away, but for now it's needed. Allowing that to be further away allows the design of that walkable area to be more compact and a better design overall. So we'd be supportive of allowing that to change. One of the things that was brought up three or four times in documents provided last week or the week before is tree canopy coverage. There is a provision state code that requires tree canopy coverage to be measured at the site level, but we currently in the revised 93 allow that to be modified to go across the whole project. So if you see one ZMAP, but they

[01:00:48] come in under three different site plans, they don't have to provide the exact 10% in each site plan if they can cover it in the whole. So we don't think we can tweak the requirement itself because of the state code, but we would agree to allowing that modification back in. There was a comment about a ZMOD for detached dwellings to be able to be served by private roads.

[01:01:11] We agree that that's an appropriate modification that can be allowed. And then we can skip this last one because that's not in 2, 7, and 9, but especially given the board's discussion the other night about 5 and 6 and some of the distances in the river and stream corridor resources setbacks, staff would be supportive of allowing that to be modified by a limited amount, 10%, if that's something the board would be interested in.

[01:01:35] Now, I mentioned that those are new areas of generally broad modifiability. There are a few other things that have been brought up either in those documents or repeatedly over the past few meetings with the board and in various conversations and emails that we think we can adjust the language to just resolve that issue.

[01:01:55] So one of them is district location. Every district includes language that essentially says that that district must be mapped where the underlying place type is, period, must. We would agree that allowing that must to change to a should for those districts where we would anticipate future rezonings, so most things in the suburban area, the urban area, your transition compact neighborhood, transition community center, things of that nature would be appropriate to allow that to happen.

[01:02:23] Staff will still have the same comment. If an application comes in that's completely in the wrong place from a plan perspective, we will point that out. We will point it out to you forcefully as the board for you to know. But it allows them to at least submit that application and for the board to consider it. There is some concern, I think, raised in some of the documents we've seen about the language of where a PUD can be applied for.

[01:02:46] The intent was that that be applied broadly in the urban and suburban policy areas. There's language about it essentially sitting within the boundaries of a place type. That was not intended to mean that the plan unit development could cross place type boundaries.

[01:03:03] just that it's in that general area. So we would agree that that language needs to be upgraded and modified just to make it clear to everybody what is intended. So again, PUDs would not be allowed in rural areas, and staff would even say that it should only be allowed within certain place types in the joint land management areas and in the transition areas, in those higher density areas or commercial areas of those two, but not for your standard TR-10 or JLMA 2, 3 style zoning districts.

[01:03:32] Those are generally all mapped to where they have been and needed to be for the past 20 or 30 years. We would not anticipate anyone coming in to rezone to those districts, so there's really no reason to allow that to differ from what the plan calls for. For district size, I made this point earlier, and this is what I was looking for earlier.

[01:03:54] So we would like to clarify that, and the document currently uses this, the initial district, that that's truly the first district of a certain type in an area. They have to meet those minimums. Then the incremental additions do not.

[01:04:10] To do that, in reviewing all these districts in the past couple weeks, there are some areas where we need to provide clarification about what it would take for those incremental additions to be evaluated as a component of that whole district and not its own separate application and design that's completely separate like I was talking about earlier.

[01:04:30] We don't want to penalize someone for coming in with three acres if it's a good design because they can't provide two acres of open space. There is also within the CC districts some minimum and maximum sizes that allow, and those all in the revised 93 and the current draft nest together where there's a hard line in between when one starts and one ends.

[01:04:53] So instead of allowing modification of those sizes, staff would recommend allowing some overlap in those minimums and maximums so that you have a few acres if you're at the top end of a smaller district, a neighborhood commercial district, you have an option between if you want to go up to the next or not.

[01:05:09] We've seen a lot of applications come through trying to modify those sizes purely to avail themselves of one use that's allowed in a separate district. And we would hope that this would address a number of those issues without needing to be modified wholesale. There are lists of on-site amenities in the TRC and urban employment districts.

[01:05:31] They are lists, and not all those things have to be provided. However, the last one in each list is sort of a catch-all. If an amenity does one of a few things, it should count. And we would like to clarify that just to ensure that it allows for the proposal of an option to address that concern, to make it open-ended, to essentially make it flexible without needing to go in and modify item three within that overall list.

[01:06:00] You would have the ability to propose what you want to propose that staff and the board can evaluate. One area where staff currently would recommend not allowing blanket modifications is in the mix of uses. A number of the uses in districts, especially the new districts, are one-to-one what the plan's ranges are.

[01:06:21] They are ranges, but if the plan place type allows 40% to 60% commercial, the district more than likely says that as well. So because, again, we're looking at the minimum standard for what can be approved by ordinance, staff would support increasing those ranges beyond what the plan policy says.

[01:06:38] Plan policy and our referrals would still ask what we think you should shoot for, but it gives you the flexibility to go beyond that. One thing that gets modified frequently, and in some cases written off completely, is civic space. Right now, there are minimums for civic spaces, especially in our mixed-use districts.

[01:06:59] Instead of allowing that to be modified where it can be modified all the way, we would propose to set a minimum standard that is less than what the plan calls for, So you have that flexibility built in, but then it cannot be modified further. So if something is a minimum of 10% civic space, make it 8.

[01:07:15] If it's 5%, make it 4. A 20% reduction is automatically allowed without any question. For the planning and development uses, the language in there says that the uses may be what is allowed in the underlying place type.

[01:07:31] And we want to clarify that while we think that that's what should be in those districts, We ultimately must ensure that those uses that get used are what are already listed within Chapter 3. We do not want someone to bring in an entirely new use that they're defining themselves.

[01:07:47] There are just some legal implications there that get really murky. But if something is defined within Chapter 3 broadly, anywhere in Chapter 3, it would be an option that could be proposed. Last revision, I believe.

[01:08:03] The town center core distance is something that we have seen revised repeatedly. Now, partially that's because town center districts have been placed in the new urban policy areas before, largely before those policy areas existed. So hopefully this is not something that would be as necessary moving forward.

[01:08:21] However, the current required distance of separation is 10,000 feet. We think we could easily reduce that to five. There is also language that deals with if there are impediments to someone accessing one town center to another that specifically says that a physical constraint would be a road with a minimum of six lanes.

[01:08:42] We don't have that many of them, and a road of four lanes can be an awfully wide right-of-way, as it is. So I think reducing that number also provides us a little bit more flexibility there. Lastly, one issue that we've talked about internally, especially that wasn't really even brought up in what the development industry's comments said, is that we as staff want to ensure that an approval that was done 15 years ago does not prevent a new approval for the kind of use we want to see in an area. So we'd like to clarify the language that that distance should really only count if something is existing and on the ground, because most of our TC districts really don't have, especially

[01:09:20] the substantial ones, don't have things built yet. So we don't want someone to be able to come in, get approval, and then just make sure nothing else can really happen around them for an extended period of time. We haven't talked a lot about Chapter 7 and 9 in our last meetings. There are a few things in the previous slides that I didn't mention what chapter each of those were in, but some of them went into chapter seven. For chapter nine, there are sections that allow modification of the various affordable housing types. And I think one thing that's been lost in the conversation thus far is that those sections, even though it's 9.01H, actually talks about how it can modify

[01:09:59] multiple sections throughout the chapter. So just because there is one thing, do not automatically assume that that means there's very little that can be modified. There are numerous things throughout each of those sections throughout the chapter that can be modified. It is just the information is contained in that one section.

[01:10:15] Now, the industry may have additional things they'd like to be included, and we can definitely discuss that, but I think it's definitely important to note that, and especially 903C3 allows for the timing to be either what's in the ordinance or by another trigger approved by the board.

[01:10:32] So we would not want that language to be modified, but it gives the board the ability to decide when those triggers would happen and be met for affordable housing. 903D is something that the Planning Commission requested that get added to clarify what can be modified in that section as well.

[01:10:52] So, and I'll pass these around now. So, this is staff's attempt to revise the section that has been brought up repeatedly Liam was the subject of the chamber's motion that we've seen various forms of.

[01:11:10] It's section 10, 10, 0, 4 for the modifications on a concept development plan. I'll give everybody an opportunity to receive it before I go through it. Section 10, 10, 0, 4 in chapter 9. No, in chapter 10, sorry.

[01:11:26] Chapter 10, 10, 10, 0, 4 in chapter 10. I haven't, here you go. Okay, hold on a second. Oh, it's the procedures. We will go on over there. 10, 10, 0, 4. But of the motion language, they'll go on over here.

[01:11:43] I just looked it around. 10-10, okay, 10-10-4. The concept development plan. Okay. So if you recall, the Chamber's earlier motions recommended getting rid of number one, which is that a regulation can only be modified if it's expressly authorized.

[01:12:04] The entirety of staff's work to this point has been working towards that path. It would be very time-consuming to completely reverse that. Just give me a second. I want to make sure everybody in the room has this before you keep talking so everyone's kind of working from the same place. This is, you guys, this is lots of work I can see you've done here, and I want to make sure everyone sees it at one time.

[01:12:39] Especially Mr. Hart. Okay, I think we're good.

[01:13:00] Thank you. So as I said at the beginning of the presentation, staff would like to keep that. Again, it will be a lot of work in a short period of time to completely reverse the way that we have handled that in the ordinance at this point. And I hope through the last few slides you've seen the number of areas in which we are trying to find a compromise that suits all parties.

[01:13:18] So I hope that that should, like I said earlier, address 70% to 80% at least of the issues that have been brought up to the best of our knowledge. One of the line, number two, the underlying here would be new text, and that is from the chamber's motion. And it is clarifying that the modifications will only be

approved by the board if the board determines that the modification would better achieve one or more policies of the comprehensive plan, which is our underlying goal for all of the things that you see.

[01:13:46] For number three, we struck reference to chapter four because we'll have it below. So this, again, repeats that chapter three, which is uses, cannot be modified through this process. Okay. Use density, we've never allowed to be modified, period. So this is reiterating that. Four comments specifically on density.

[01:14:05] But Ms. Sedner recommended that we add the language underlined there because it acknowledges that there are certain instances where density can be increased by special exception in the ordinance as it stands. For number five, as you can see that section 901 and 902 were already mentioned, we've gone ahead and added the other two that were added on this last slide as well.

[01:14:30] We just had not updated this language since the Planning Commission's direction to us. So again, we're just trying to capture all the modifiability that's already allowed within the ordinance and make it clear. For six and seven, technically, there's really not a reason to have to have this here, but there's been a lot of talking and potentially some confusion about chapter four being modifiable or not it's modifiable by minor special exception yeah yeah this states that i don't think anyone's had any confusion about that have it okay all right okay all right modifications for sign

[01:15:06] regulations in chapter eight also have always been allowed to be modified by an approved sign development plan so that is stated as well with the necessary cross-references and then for number eight and this goes it's related to the grandfathering concept to some degree but we have had conversations where there's been concern about ensuring that modifications that have been previously approved continue. So this is our attempt to try to address that concern.

[01:15:32] So when a zoning plan amendment, concept plan amendment is filed for an existing development that has been approved prior to the adoption date of this new ordinance, the applicant can request to have that modification essentially carried forward for chapters 2, 7, and 9, even if they're not otherwise modifiable. So if we have previously allowed something to be modified that would not be allowed to be modified now. Whatever that is, it can be carried forward and this would protect that right. That is the goal of that section. And so they would just need to essentially show that that's something that they have and that's necessary to continue forward. They can't otherwise allow it to be brought up to new

[01:16:11] ordinance, which makes sense because if you've reduced setbacks and you've built a building to that new reduced setback, you can't move the building. Is that totally new language? Yes. That's totally new language. Okay. So everything underlined is totally new language and the strike-throughs are just and things we did to clean up to make this language work.

[01:16:26] So, Dan, 6 and 7 basically add clarity because they restate what already exists, but they restate it in a concise place right here. Yes, and maybe over the course of the next month, because we were talking about this this morning, it may ultimately make sense to try to put in a centralized location this kind of summary that sends you to different places, maybe in Chapter 1, instead of having it here.

[01:16:51] But I think the idea to try to make it as clear as possible what you can do and where to go to find that information is useful. And eight, essentially, grandfathers? It's essentially a grandfather. Yeah, I don't want to use that word, grandfather, because it's mixing two concepts, although I know why Mr. Glendo said that.

[01:17:09] We heard a comment on the work session on the 11th. I think it was Mr. Jinder raised that I think when he was talking about Ravonna, there were certain modifications that were approved for Ravonna that under the current draft are not modifiable and what if they come in for the when i won't say what if when they come in for the inevitable uh zcpa what happens if that thing that they've already had modified is no longer modifiable they shouldn't have to kick to a pud and you know and honestly that was something we had not thought of and that's why we appreciate the specific

[01:17:44] comments so you know right one day while i'm driving either home or to work it occurred to me like how we could fix that and so basically the idea is you have a rezoning that was already approved before zor right you come in for a zcpa there's some modification that you need in order to make your existing what's there continue to work then you can go ahead and do that as long as you are still you know you can go ahead and request it it still needs to otherwise comply with the requirements of the ordinance it's just that you need that in order not to basically blow

[01:18:22] up your entire development that was previously approved considered conforming yes and so that was the objective of eight okay good so i know that was a lot i appreciate your patience um but i hope you see that we've we've put a lot of work into this and trying to figure out a way to make this work. The last thing I will say is that I think from the Department of Planning and Zoning and the people that do these reviews, we are most comfortable when there are clearly defined boundaries on some of these things. And that's why the ones we care the most about, we have recommended a 10% change to the louder, 25%. But there are a lot that we have not made that

[01:19:02] specificity in here. And that gives the board the utmost ability to make those changes as they see fit it does make it harder for staff to review those documents and give you a a reasonable recommendation because if something is a setback of 15 feet and they're requesting 14 feet or 13 feet or 12 feet there's no magic line when it comes to those things there might be some plan guidance that setbacks can be small or but there's no no good way to say this is too far and so all of that becomes debatable and and hard to kind of convey accurately and broadly but we've tried our best to carry forward a lot of what we're currently doing and make a few tweaks along the

[01:19:39] way. Yeah, and yeah, that's a perfect example because that's the kind of type of thing that the staff would have to then recommend denial because of the setback of eight feet instead of 12 feet or something that just makes no sense. Dan, thank you. Clearly, there was a lot of listening that happened, and you all, this is a lot of work and changes in a very short period of time. And I really do appreciate all the effort. Before we kind of walk through and talk about what we just saw, are the lunches down here? Have they been brought down? Are they in the

[01:20:15] Levittsville room? They're in the Levittsville room? Does everyone want to go grab a lunch and then we can come back and talk about what we just kind of did? There's plenty of lunches in the Levittsville room. You guys know where the Levittsville room is? So we have a close yeah you do go take it's such a funny guy ron meyer go grab a lunch i need some more caffeine yeah dan amazing thank you really good work really good work really good work in a really short period of time for all that work y'all been here all day and all night and on weekends haven't

[01:20:53] you uh not so much on weekends but as much time as possible other days yes yeah like i said we We hold together. That's amazing. You do. That's amazing. I worked like 70 hours last week also preparing for this meeting, so there was quite a bit of effort on this side of the table.

[01:21:12] And even then, we wake up at 2 in the morning, we're just thinking about it. I actually found out there was a restriction, an old one, that our company had on our laptops as to how early in the morning one could log in because I showed up so early that my computer literally wouldn't let me log in to work.

[01:21:29] You just lay up in bed with your eyes open at night, going like, what's going on, and can we fix this, and so sleepy. And Matt, as you know, when I get sleepy, it's just not good.

[01:21:58] Run to the restaurant. I don't think you need to know that, but now you do.

[01:22:15] I don't know why I told you that.

[01:26:01] But I will say I'm very grateful.

[01:26:18] It's obvious, very obvious. I think what we'll do is we'll go to, which I think is the hardest chapter first, which is chapter 9, Because people are still kind of here and fresh. Chapter 9 is what they think about.

[01:26:41] Yeah. And Brian's, yeah, I saw Brian. Yeah, let's just get that one done first. I do think that that's the hardest one. I do think. Truthfully, I can go home.

[01:26:58] That's in Chapter 9.

[01:27:03] John on vacation?

[01:27:39] John Hall? Is it a conference? Okay. Okay. I'm paying some ridiculous amount of money to OR myself again.

[01:28:10] Makes me so crazy.

[01:28:13] The exception of Mark, I think everyone's back.

[01:30:38] What I think I will do, Mr. Hart, he didn't come back in yet. What I think I will do is go to Chapter 9 first. Because, well, we can, but then we can go to Chapter 9. Because Chapter 9, I think, is the one where we're going to take the most time.

[01:30:55] We have a lot of heartache. Mr. Yeah. No, you don't think so? No, no. I said after we do the big picture, we can talk, if we talk specifics, we're going to do Chapter 9 first. We'll do the big picture first, but after that. If we want to go line by line through Chapter 9, I think we're happy to do that.

[01:31:11] We do not. That's, well, okay, but just to be clear, so where we, I think it's important to set the ground on where we left the last meeting and where we're walking into this meeting, right? Well, I'm thinking for that. I wouldn't mind some feedback on what you all just saw here as part of the big picture discussion. Yeah.

[01:31:26] I mean, which is, you know, which is the first reaction to. Well, I mean, frankly, I think that what we saw with this is a whole bunch of really good text changes to the zoning ordinance that if these text changes were adopted would mean we'd need fewer Z mods and fewer modifications.

[01:31:44] However, we're talking about 17, 18 items that are being added to a list that's already pretty small. That's it. That's modifiability, right? When we have thousands of regulations in Chapter 2 alone, right? And so I think, again, we have to decide if we're going to go through this line-by-line approach with all three of these chapters and figure out which line needs to be modifiable when, which is what staff's

proposing with this, or do we need to back up where we left off at the last meeting, which is start with modifiability, and then how do we restrict modifiability to make sure it's not abuse, right?

[01:32:18] and so and so because again there was this there was something that was just brought up about time you know again these revisions are really really solid revisions overall i mean well there's probably nitpicks here if they are text revisions but as far as this being the limit i wouldn't i wouldn't i wouldn't i wouldn't blow them off as just text revisions some of the revisions that are here the text revision when you change words like must it actually changes what we're saying we do no they're good to shit and things like that so i'm not i'm not trying to diminish the But what they're saying is that these things will now be modifiable.

[01:32:52] What I'm saying is that this should be the ordinance base, right? The ordinance base should be essentially what these revisions say rather than these are the additional things that can be modifiable. So essentially Appendix C has a list of things that can be modifiable. What staff has brought to you today, from what I can tell, is a list of about 18 more things that should be added to that list when we have 1,000 regulations to go through on what should be modifiable and not.

[01:33:15] Now, some of these are clustered together, so that would pare it down. But, like, we're starting off not where we left off the last meeting. The last meeting was we agree with modifiability, but let's make sure it's controlled and measured and not to be abused, right? And now where we're starting off with this proposal is, no, we're going to propose a few things, a few additional things to modify and keep the list restrictive.

[01:33:37] I don't agree with that assessment. I think what we're starting off today is that, first of all, I think there should be some acknowledgement that some of these issues were heard and staff is trying to respond to them. I think it's not we start off here. We start off here. I think we're incorporating everything together.

[01:33:53] We still have work to do, but that was an overview of what we're going to incorporate in going forward. And I do think we have to start off where we left off last time, but I also don't believe that what was just presented were just minor text changes. No, and I didn't say they're minor.

[01:34:10] I think they're really actually amazing. So, frankly, a lot of these mirror our text proposals. They actually were picked up. But think about this. So we proposed a bunch of amendments to Chapter 2, right? A lot of the Chapter 2 amendments that we've asked for are what these are, right? But those should be amendments to the text, right?

[01:34:27] Not things that can be modified, right? And so the issue is when you sort of say only certain things can be modified and here's a list of, you know, 70 or 80 things that can be legislatively modified, then again, you end up with a law of unintended consequences where, okay, well, we forgot to put something on the list and therefore we're like prohibiting a future project.

[01:34:47] The Ravonna example is a great one, right, where, and maybe Ravonna's not because it would be a PUD, but a project like that, like a One Loudon, where, okay, well, there might be something that's not allowed to be modified now that used to be modifiable, and now we have to figure out how to reconcile that.

[01:35:03] That's exactly the problem. Like, why would we be trying to prevent something on projects that we like from being modifiable in the future? So I felt like we left off in a sort of really good spot, and a few

compromises were thought of, right, which was a cap on ZMODs, performance standards for modifications.

[01:35:19] All those things are where we left off the conversation, unless I'm, like, totally out of line. No, no, I'm not saying that. And we aren't seeing any of that. No, I'm not saying that. I'm saying we did leave off in a very good place. And I think what we just heard today, we incorporate to where we left off and then go and start from where we left off right now, knowing that we have these new things that we were just talked about to be incorporated in the discussion.

[01:35:43] That's what I believe this was today. Yeah, I mean, the fundamental problem is so the staff's proposed motion on Chapter 10, 10104C, the one-pager, regulation number. So it says in one, it says the regulation may be modified only if the modification is expressly authorized by the applicable section.

[01:36:01] And, like, that's our fundamental issue. That's our fundamental disagreement is that we shouldn't only have a small list of things that can be modifiable in these chapters because that's what's limiting the flexibility. That's what's causing unintended consequences in the future that we can't predict. And that's what we spent, frankly, the better half of three hours discussing last time.

[01:36:22] Yeah, and that's what's different than how it's done today, right? And so that's where the answer is. But I think we might as well address the elephant in the room here because I think you hit on the philosophical difference. And I don't want to oversimplify it, but something you said, Ron, triggered with me.

[01:36:38] Your intent is basically to start from the premise that everything is modifiable and restricted line by line. We don't agree with that. We don't have consensus on the board to agree with that. Our consensus is if everything is modifiable to begin with as the basis, as the default position, then you don't need to have a zoning ordinance.

[01:36:58] And you have very weak legal standing by Virginia code. And so we understand de facto what's evolved over the last 20 or 30 years is essentially a fully modifiable zoning ordinance, which effectively becomes no zoning ordinance. And we are deliberately taking an approach this time of saying, no, no, we want zoning ordinance that is defaulted to it's not modifiable unless we have areas in which we want to modify it.

[01:37:25] You're correct. we're coming at it from the opposite side and that may be painful compared to where we've been for the last 30 years but there's a conscious decision now by the board and i think reinforcing what staff is saying that the premise is it's not modifiable now let's go through and find out areas where you want it to be modifiable it may be a tedious process but i think that's where i don't want to overstate that staff correct me if i'm wrong or chair correct me if i'm wrong but so i i mean i mean my my initial reaction to that is that's concerning and and just to be completely honest like it's a little upsetting um because i i think what made it i think what's made loud and special

[01:38:03] and what has made loud and uh successful uh and basically frankly the time that i've lived here which is since 1999 has been that the fact that we've had modifiability it is what has made loud in a unique jurisdiction because make no mistake when staff says that the majority of jurisdictions nationwide don't have modifiability, they're absolutely correct. And that is a huge problem.

[01:38:24] It's why there is a nationwide housing shortage, because Euclidean zoning has hamstrung the industry and the market's ability to provide what is needed. We cannot meet demand because we cannot

provide the supply because we are being railroaded by regulations that are not flexible. So for Loudoun to be in a position where currently things are flexible and we have the ability to come to on a case-by-case basis and say, hey, we think this makes sense here, right? Ultimately, you all are elected to make the decision one way or the other as to whether something is acceptable or not. That's why you have the power you have. That's why we live in a democracy. People can come in

[01:39:02] four years later and say, we didn't like what that last board did. That's totally fine. We find ourselves often saying, I didn't like what a board did 20 years ago. Tough nuts. I think that there's, at a certain point, you have to own it, and that's fine, and that's how a democracy works, but I just, from a regulation standpoint, from a way of doing business, I just don't, I fundamentally disagree with the idea that flexibility and modifiability is somehow a problem.

[01:39:27] No, I don't think that's what's said, but I think then the logical question, and I do want to get back to where we left off. I think the logical question is this. If you like the way it's been done all this time with the flexibility and modifiability, then why have we heard so many complaints about how it's been done all this time with the flexibility and modifiability?

[01:39:46] Both those things can't be true. You can't both say you love the way it's been happening, and you have a lot of complaints for the way it's been happening. I think that we've needed more modifiability because our ordinance is 20 years old, right? I would be curious.

[01:40:01] I haven't done this research, but my guess is that in 2004, there were fewer modifications because that ordinance was market-appropriate when it was approved in 2003 than it is now. I actually do think we need more. Let me be real clear. I've used the wrong word for a long time.

[01:40:19] I've been saying malleable, malleability, but it's the same concept I'm trying to get to. I think we do need more flexibility, modifiability, malleability. I do. I absolutely do, and for all the reasons you've said. I don't believe that Mr. Turner was saying we don't need any.

[01:40:34] I think what he's saying is if it's everything, then what are we doing? That's what I think I've heard. Let me clarify, Bill, before I give it to you. I've been asking for about five minutes to make a comment. So to clarify what I was saying, as a philosophical concept, I think the correct movement is to have a solid legal basis to say this is the zoning ordinance.

[01:41:08] Now, we can talk about modification, but this is the zoning ordinance. Rather than have the philosophical premise of the ordinance, do what you want to do. And if we want to restrict you, we will then restrict you by exception from the zoning order. So that's just a general philosophical outlook.

[01:41:24] So now let me drop down a level in specificity. We all agreed at the beginning of the meeting, we're actually talking about chapters 2, 7, and 9. We're on the same page for all the other chapters. So to pick up where we left off the last conversation, I would be very interested in what you would be comfortable with a degree of modifiability in chapters 2, 7, and 9.

[01:41:43] Now, we can do that two ways. we can go through line by line and say change this, change this, which tends to bias towards what we're talking about is just adding to the list of modifiable exceptions, or maybe you have suggestions on how to make the chapter more generally modifiable as a framework, and I think we're probably receptive to that discussion. So what I've been wanting to say for a couple minutes now, and it echoes a little bit of what Supervisor Turner is saying, we've made a decision

[01:42:17] that the way to go is say what is modifiable in the ordinance and I think what you guys are looking for is for us to go the opposite way and just to say what's not modifiable but that if we go the opposite way and just say what's not my modifiable then we don't have essentially don't have a zoning ordinance and Matt if I might finish I have I do want to take a little bit of an issue with what you just said because we're in a housing crisis not because everything was so flexible actually we're in a housing crisis because everything was so flexible i believe because the zoning

[01:42:56] ordinance before didn't work the way it should have worked that's why we have 84 percent of the people in homes in loudon county own their homes we've had exclusionary single family detached zoning for so long and so i i take issue with you saying that that that this is why everything's so great because our last zoning ordinance was so great and so flexible look at where we are we don't have small units we don't have attainable units we don't have rentals so this is what we're trying to get at and we've made the decision basically two seven and nine are going to be modifiable we're going to go through and say which things are modifiable but we're not going to go back the

[01:43:33] other way and just open everything up again why why did we do work for three years to to throw out everything that's in there and then just decide what we're going to restrict yeah i mean so to that point right i mean uh first of all i mean it's an unknown unknown what loudon would look like if we didn't have modifiability and hadn't updated our ordinance for 20 years i think there's a lot of things that probably just wouldn't have gotten built you know maybe that would have sparked us to update the zoning ordinance earlier than we did who's to say but i kind of want to table that because i think what is i think we're i think we're actually saying the same thing in the sense

[01:44:09] that, so what we're saying is, okay, we're only asking for modifiability in 2, 7, and 9. That's three out of ten chapters, so 70% of the ordinance is baked. So I don't think it's accurate to say, even if we had complete modifiability in 2, 7, and 9, that somehow we don't have an ordinance because we're asking for complete modifiability in those chapters. Now, if there is something, if there's some specific thing in 2, 7, and 9 in terms of this concept of complete modifiability for two seven and nine in terms of the ability to ask for a modification that is an issue I think that's worth talking about but I don't I don't know if we're necessarily

[01:44:47] saying different things so I have I have something sorry one of my colleagues reminded me that the board really has not come to a formal position on how much should be modified and how much should not I think it was stated earlier by a colleague that there was a consensus on the board that we should start with the assumption of no modifiability and then exempt out parts.

[01:45:15] We have not taken a formal position on that. And I very much want to hear primarily from all of you on that side as to what the problems are. Because there's been a lot of talking on this side and I would appreciate hearing more from you guys.

[01:45:32] Wait, hold it. Because first of all, I think there's been a lot of talking on both sides. Secondly, I don't think we've taken a formal vote. But we have had this discussion, and in this discussion, there was nobody, and that was two nights ago in our discussion, who had anything different, no supervisors in that discussion, who had anything different to say than what was presented to us by staff, and much of what Mr. Turner said.

[01:45:57] So not taking a formal vote and not having the conversation is two very different things. So let's be real clear about that. And I would disagree. Well, then you and I would disagree. I do think, though, that

I think, Matt, I think you're right.

[01:46:15] 70% of this is baked. And so, yeah, obviously that's the zoning ordinance right there. If we didn't just set that 70% were baked. I think the word complete may be the word, you know, complete is such an absolute word. So is that really the word you want to use?

[01:46:32] Well, that's where I think we got into the conversation about was there some sort of, you know, i'll call it like a governor on that right in terms of right how many would you allow for any individual application absolutely you know before because like i don't think any of us disagree that the the pud granted with you know a couple tweaks here and there is exactly what staff is saying it is and i think it has great potential okay um so yeah i think yeah i don't know what word i would Yeah, complete until it kicks into a purge.

[01:47:07] Yeah, I mean, so the fundamental issue, and I think this goes to Supervisor Bristman's point, is this ordinance, and the staff has said this in their presentation, I don't think it's a contested point, it's a fact, this zoning ordinance is much more prescriptive than the last zoning ordinance. There are more regulations.

[01:47:24] So we're going to go to more regulations, more prescriptivity, meaning harder to build, harder to build detainable housing, right? And this is, I think, Matt's point. And then say that, well, in case those regulations don't work, we're actually not going to be able to modify them either and so that like that i think that's fundamentally the issue and where we started right and where where we sorry where we finished with the last meeting is that you know again we're limiting these to these three chapters and with with with chapter two it has to meet this performance standard that we propose and staff has added right read two with me no such modification

[01:48:00] shall be approved unless the board of supervisors finds that such modification to the regulation will better, will better, will better achieve one or more policies of the comprehensive plan. If there's a regulation in our zoning ordinance, in Chapter 2, anywhere, that could be modified and then be made to better fit the vision of the comprehensive plan and the board's priorities, wouldn't that be something you'd want the authority to be able to approve?

[01:48:25] So, okay, let me say this one time. I don't think we're disagreeing on a whole lot here. I think we're disagreeing a little bit on language. So let's then pick up where we left off. Because we left off at a really good place last time. All right, so when last we spoke, what we talked about was at what point do things push into a PUD and how does that look and why?

[01:48:48] And so I guess then that goes back to Mr. Leslie's word of complete until it pushes into a PUD. I want as much flexibility, malleability, modifiability, whatever, as absolutely possible.

[01:49:05] I want as much as possible. I don't know if as much as possible is everything, but I do want as much as possible. And I think that's a discussion we should be, we should have right now. I think that's a good point. One of the things, first of all, staff did a great job adding to the list. They covered a lot of ground, a lot of important issues, but we don't know what we don't know.

[01:49:22] We don't know what that one issue is going to be that we need to change or modify. And what if we have a project come in and they need one change? They don't need any other modifications, SPMI, special exceptions, but they have one mod that's not allowed. That means they're going to a PUD. And they might be a property that today is not subject to a rezoning.

[01:49:40] There is no CDP today. They have to then take their property and put it through the proffered process because they need one zoning modification. That's it. And I think it's important to address the legal argument. And we have at least one lawyer on here, and it's not me. But it seems to me that, so we aren't, I'm not sure we're necessarily privy to all the conversations that were happening.

[01:50:01] And I think there's probably good reason for that. But we should flush out the legal concern about modifiability, saying that the ordinance that we've used for the last 30 years isn't legally defensible, right? That's the argument that's being put forth. No, I don't think so. Okay, well, good. If that's not the case, then it shouldn't be what we're proposing isn't legally defensible either.

[01:50:20] I think the fair characterization is what we've been doing for the last 30 years is absolutely legally defensible, but it's not codified. Our practical function of the way we've implemented and the way we've behaved, and I don't want to speak non, correct me if I say something, but what we've been doing has been correct and legal for the last 30 years.

[01:50:44] What we're trying to do with the ordinance here is make it more legally precise rather than sort of, we're trying to make it more de jure than de facto. Am I saying that correctly or not? I think how I would drill it down is I think the process that we have today has evolved over probably the last 20 years, and we're taking this opportunity when we are comprehensively updating our ordinance to take a look at all processes, including that modification process, which is heavily used, to give it deliberate attention and look at how it's evolved,

[01:51:24] how it is being used today, and how we want to codify that process going forward. So I think that it is not entirely clear in the current ordinance what in every instance, what is and is not modifiable. And I'll take as evidence of that is that staff and those at the stakeholder table would have disagreed about the notion that every single thing in the current ordinance is modifiable.

[01:51:48] I do not agree with that statement. I don't really think we need to debate that statement today. I think we just need to go forward. But there's some ambiguity there, and so I think it's incumbent upon the county to rectify that. And so if you're seeing something more prescriptive in these procedures, it's in a way to improve to take out some of that ambiguity.

[01:52:08] The one thing I do want to clarify about the current ordinance, because there was a comment made about standalone ZMODs, I think what's clear is that ZMOD, which is not a process that is identified in the current ordinance in those terms, But a standalone ZMOD is only permitted in a PD district.

[01:52:26] So it's not that you can have a standalone ZMOD for any and every application or that we're taking away that wholesale for lots of people who are able to do that. As a practical matter, we see very few standalone ZMODs. Now, it just so happens that in the last couple of years, we've seen more than I've seen.

[01:52:45] But even then, it's probably single digits. So it's not as if a standalone ZMOD is something that happens all the time. Most ZMODs occur with either a ZMAP or a ZCPA application. So when we're talking about we're taking away this process that is available and widely used, I don't think that's correct.

[01:53:08] But in terms of the legality, we don't want to debate the legality of any of this here today. I think that, however, we are making an effort to make our procedures as clear as possible so that on the procedure side, they are subject to as little interpretation by staff as possible, which means as little disagreement between staff and applicants as to what is and is not permissible.

[01:53:31] So that's why we have outlined it the way we have. Ultimately, at the end of the day, it's the board's decision for how they want to approach it. I think we are going to have to go just through chapter by chapter to figure this out. Yes, ma'am. I just wanted to kind of piggyback on to what Courtney was saying there.

[01:53:46] We've also seen an increase in the number of zoning modifications, especially in the past few years, because we understand that the zoning ordinance has not caught up to the 2019 general plan. So we have had more modifications to try to shift toward that because we don't have the zoning districts that we need to fulfill the plan's policies.

[01:54:06] I also kind of want to make a little clarification because we keep talking about the ordinance that's been in place for 20 years. We've had 70 to 80 zoning ordinance amendments done in the past 20 years. We have not been in a stagnant situation. We have responded to industry. We have responded to issues in the ordinance.

[01:54:22] And we have continually done efforts to bring the ordinance into more, better regulations and improve upon. We just did the whole TC district overview, what, in 2020, I think, just recently. So I just kind of wanted to throw those out there, that the plan has been a reason for more modifications and that we are continually updating our zoning ordinance.

[01:54:46] Yeah, that's a fair statement. It's a live document. That's a fair statement. Okay. So what do you all think about going through the three chapters? Again, I mean, I think we're happy to be responsive, but what I'll say is that if we're doing the line-by-line approach, I'm not sure it's something that's going to be all that well received more broadly after this meeting.

[01:55:08] I think we're happy to help be participatory, but change. So what's gone on is since the last meeting, there's been other discussions with board members, right? That's totally changed what came out of last meeting. What's totally changed, Ron? Well, so we agreed at the last meeting, right?

[01:55:23] We walked out of there saying, we're going to allow for modifiability in these three chapters. There's going to be performance standards and limits, a number of limits. If you have a certain amount of modification, it'll then go into a PUD. That's changed right now. No, that's all changed. One change is that. Number one on staff's, their motion says a regulation can only be modified if it's expressly authorized by the applicable section.

[01:55:45] And they proposed 17 new things. So we're going from 60-some-odd legislatively modifiable items to about 90 now, right? So we're not having modifiability in those three chapters anymore. We've totally changed what we walked out of that meeting. It's because of, I understand that there's conversations happening, and I totally understand that.

[01:56:01] We're not getting total transparency on why there's being, we're getting some. So you know, this is the first time we've seen this, too, today. yeah okay just so you just so you know that the staff has been working and i do appreciate it this what this first time we've seen this too today and nothing has changed because nothing's been agreed on right right so nothing's changed nothing's been agreed on we're getting but we're getting different tones like by saying if we have modifiability like we agreed to at the last meeting so then let's go back to let's take up from when we left off this is like the first time i've said this take up from when we left off last time i've said this like four times dan you want to say something? Yes, I think the issue is one of perception. We agreed that there's a likelihood

[01:56:39] that it makes sense to set a limit on the number of ZMODs before we would expect the PUD to be the next tool to use. There was no agreement that whether that was to start from everything is modifiable except, or nothing is modifiable except four. And so from staff's perspective, we're shooting towards the same goal, but if we're going to pick a number to go towards that decision partly we need agreement on from our perspective which of these should be modifiable if the board agrees with everything listed here great that helps build the numbers that we're working with to decide what that that number might be for that decision we had this conversation

[01:57:16] about timing about how we're going to go line by line for all three chapters we're going to be here for a long period of time i might not just today but for indefinitely and what the board had said was well let's take a shot at seeing if we can do a shorter more efficient process and so if we're going to do frankly chapter by chapter what i'd say is let's let's have a goal of getting through like a portion of chapter two today that's like a very long chapter and like not try to get through three check because i mean i think this process is like 20 plus hours to go line by line regulation by regulation should this be modifiable should this not be and we need to think about moving this to the next term okay we're not moving this to the next one we don't have to we're still

[01:57:53] on on the and so on the flip side of that or maybe just to to like have a have a an alternative path um i i would agree that the c1 here is probably the the bugaboo as it were in terms of so because i think so like because what i hear staff saying is right they've spent a lot of time putting together appendix c and i think from the perspective of usability certainly for the public right i mean like for us that do this every day like do like do like Am I going to be using Appendix C versus just kind of knowing which ones are there?

[01:58:27] Probably, right? But so from a usability perspective, I understand wanting to maintain the integrity of Appendix C, right? So that does mean having an understanding of how you want to list that out. But if we could come to a fundamental agreement that there isn't anything in 2, 7, or 9 that shouldn't be modifiability, which I think is the first broad conversation that needs to be had.

[01:58:54] Like, can you all agree with what we're hoping you would agree with, which is that there's nothing in 279 that shouldn't be modifiable? Then the next conversation would be, in terms of kind of moving through the action items we had from the last meeting, would be then to decide what is the number of modifications that would be allowable on an individual application before going to a PUD.

[01:59:19] And we did do some internal homework and research on what we've seen in terms of, like, various situations. And so we could provide some insight there. But I think the first part of my statement is what we need to focus on. So I think that I hear you. And I think the first question I have to ask to Ms. Sidner, is there anything in 279, and let's just do two first, 279, that legally is not modifiable?

[01:59:44] We just can't do it no matter what. Sharon, I don't know that I can say legally there is nothing in those chapters that is not modifiable, but if you can indulge me, I have two examples for you, one and two, one and nine, that I would say you should not modify.

[02:00:01] Two is density. Chapter two has the density limits. That's a premise that we've had, so we're not modifying density. That's not modifiable currently. I think we're not talking about density and usage. Okay. Well, you just said that, can we agree that nothing in 2.7 or 9 should be off the table for modifiable?

[02:00:23] I'll amend my statement. Is there nothing in 2.7 and 9 that can't be modifiable outside of the provisions of how this was written minus number one? I mean, I'm trying to have an honest conversation. I understand. I just want to make sure that legally we're in the right place. My other example I was going to give in Chapter 9, for example, the income limits for the affordable housing programs are in Chapter 9.

[02:00:47] I think the board would agree that you don't want to modify those income ranges for each of the three programs on an application-by-application basis. So not to say that there is not something that isn't currently on the list that the board couldn't add, But the answer to the question, is there anything in those three chapters that the board should not agree to be modified, the answer is yes.

[02:01:14] And whether you approach it from the perspective of everything is modifiable but, or from the perspective of nothing is modifiable unless we list it as such, you're still going to have to go through and determine what you want it to be. I just ask clarification to you guys.

[02:01:32] So, let's clean the slate of everything that's been said thus far. Let me recycle. So, if I said to you guys, okay, let's pretend we just 10 minutes ago finished the last conversation.

[02:01:49] Based on where you think we are on the last conversation, what would be your pie-in-the-sky look at Chapter 2? What would you change in Chapter 2 based on where we left off the last conversation that you would be comfortable with? Whether that's a line-by-line or some broader change that you guys would be comfortable with, what would you want to add?

[02:02:11] Where we left 10 minutes ago, Supervisor Turner, was that we agreed to make Chapters 2, 7, and 9 modifiable under the performance standards that we have included in the motion, which include that the modified regulation has to better meet the comprehensive plan than the current regulation.

[02:02:28] And that it can affect density and that it can't modify the uses that are permitted in that zoning district under Chapter 3. i think i i i there there are i mean the when i kind of i kind of got into this habit of like listing them off right was like it was like lot coverage uh building height um uh district size like there was like there was like four five six things that were like like ones that we modify all today that aren't in appendix c but i i just wanted to i i want to i want to i don't want to go down there quite yet because i want to back up because i thought i i think corny is is making a good point, but I don't think that, I don't think that it necessarily negates doing it the way that

[02:03:07] we're asking it to do it because, okay, I agree. Yeah. Modifying the income requirement things in chapter nine. Yeah. That, I mean, first of all, like we would, I mean, I'd be risking my professional reputation bringing something like that to the board, but of course, like, I mean, they would recommend based on a whole list of policies that that's not something the board should, should approve and and so like just because something is is just because something is theoretically modifiable right i think i mean you know sure if there's if we want to like cherry pick things that staff is like very concerned about and call those out as not being modifiable happy to have that conversation but i think it's a mischaracterization when i say like you know like is there anything in

[02:03:45] 279 that the board would say isn't like something that would be like a red flag for modifiability So hold on, I'm going to just need to, just for a second, be a therapist and say this. It's really important that we listen to the words that are being spoken in this room and the things that are being asked.

[02:04:03] What I asked Courtney was, is there anything legal that is not modifiable? That's not a cherry picking. That is, we don't want to get caught up in court, right? And so that was why I asked that question

that way. I wanted to know the legality.

[02:04:19] Her answer was, not legally per se, but there are some things in her, and she gave two very solid examples. So at this point, my question would be, all right, so let's say that in these chapters, everything we can now talk about is modifiable with the exceptions of density, with the exceptions of income levels, with the exceptions of those types of things.

[02:04:45] Now let's figure out in what way are we saying they're modifiable? What do we, it's all modifiable now, and what way, at what point, and when. But I had to first find out what was legal and not legal. So I think the words we're using are really important to listen to one another.

[02:05:01] I hear that. And I think we, like, I think there's multiple safeguards there, too, right? Like, because in the sense of, I think, the ordinance itself, right, it's either going to be very clear that it's not modifiable, or it will be.

[02:05:19] but I think, you know, if there's a state code conflict, right, like, that's why Courtney's here, that's why Leo's here, right, and so, and I would hope that, like, internally, like, you know, I would not bring something to you that wasn't permitted. It wouldn't better fit the comp plan. I didn't say it would, guys. I just said I wanted to have the question answered.

[02:05:35] I'm not an attorney. She's here for a reason. I just, it was just, it's one question. But it wasn't a legal answer, though. She said that there would be other reasons why you wouldn't want that. And I reflected back that it wasn't a legal answer. Just the HUD example, just to be clear, because this goes to Supervisor Brisbane's point, If HUD changes our regulations tomorrow, then you guys are going to have to pass a ZOAM to match the new HUD regulations rather than allowing a ZMOD if you have an application that's going to go for you.

[02:05:56] Mr. Meyer, I reflected back that her answer said, she started off by saying it's not legal per se. I reflected that back already. Okay. I'm not taking issue with that. What I'm saying is even that one example is actually showing why you probably want modifiability.

[02:06:14] If HUD changes their income requirements, which is a program that we usually go through HUD, right, when we're getting funding. That's an if that we're not there yet. Okay. Right. But then you have to pass a full ZOAM, and that's where we're going, is if a regulation is slightly out of alignment, you're going to have to do a full ZOAM every time you're going to want to make an individual project work.

[02:06:30] Yes, sir. If staff could please address some of these comments. I'd like to clarify, the income requirements are solely based on the county program. They are not based on any HUD numbers. If a project chooses to do an affordable housing unit and they use a funding program through the affordable housing unit program, they are allowed to use those affordability numbers.

[02:06:51] And they do not change because they are based on the program. So we would not have to do a zoning ordinance amendment to change the affordability for affordable dwelling units. So I just wanted to circle back to the fundamental question we're having about how we administer this, whether it's everything's modifiable except or nothing's modifiable but these things.

[02:07:13] I think the current way it's structured in the ZOR, the list is long and going to get longer if we go line by line, whereas if we say everything's modifiable except for these things, I think that list is going to

be a lot shorter, a lot easier for everyone to understand, the general public to understand. I think it'll be less ambiguous.

[02:07:30] There's no way we could flip it within this term. We can't completely change the approach. I'm just going to be very honest. Madam Chair, may I recommend something? Let's take one district as an example, because I believe once we go through, and we can pick suburban compact neighborhood, which everyone loves to beat up on, when you modify all of these things on this list, there is not much left in that district that cannot be modified.

[02:08:00] That's an excellent point. I think it's entirely possible, we went through an example, what the industry is perceiving as not modifiable. Staff could make a fair case, a compelling case, that in fact it is modifiable. It may not be modifiable by the way we've normally done it, but it is, in fact, modifiable by the way that the new ordinance is written.

[02:08:22] And that's including the things that were presented earlier. Admittedly, what's in the draft is not wholesale is modifiable. Once you include these things, there is not much left. Thoughts on that, what he just said? Anybody's thoughts on what he just said? I think we've got to get past a philosophical conversation in order to have a real conversation about, like, dig in on something.

[02:08:43] The same way that in the last meeting we had a conversation about the product mix. And all of a sudden, it illuminated the issue. I think right now, we're kind of up here. I actually, I like the idea of it's modifiable unless we say it's not.

[02:09:01] I actually like that better. I do. I think it's simpler. I think it's cleaner. I think it's, however, hearing the words, we can't get this done in this term, is, whew, that stops us in our track.

[02:09:20] Can I just ask a question? Sure. don't want to step back but the motion that staff not motion but they hand out that staff provided section the paragraph eight which which is intended to I don't use for grandfather so I won't although I'm gesturing in that direction so you all know what I'm talking about that that it that this has to do with applications have already been approved today and they get some benefit of being able to modify to seven and nine going forward I wonder if that

[02:09:55] That provision could be changed to not take out the requirement that's an already approved application that gets this modifiability. In other words, if we're allowing it for existing projects that have been approved today, I'm not clear.

[02:10:13] And I'm sure I'm just saying like we just cut that out and say, you know, the applicant may request modification of any provision chapters to excluding density or FAR seven or nine is not otherwise modifiable. I don't, to me, it gets us halfway there, and it only applies to a subset.

[02:10:31] But if we're going to go to a subset, could we expand it? It would be my question, without having to have staff go back and do a whole lot of work. I think it gets you all the way there, because that's the same thing that they're requesting with the original motion. If you take out that it's an existing approval, and it's just any approval, any application before, you can have anything modified again.

[02:10:55] And how do you feel? Give me your thoughts on that. Well, we disagree with it. That's why we presented things the way that we are. Okay. All right. Chairman, if I can just respond to why it only goes halfway there, as Ms. Gillis said, that was in responding to a concern expressed about existing projects that have already been approved with modifications.

[02:11:18] Yeah. And so it's, we didn't want to take someone who's already got a modification approved. They need to come and do the inevitable ZCPA that we see all the time. and now all of a sudden the ordinance has changed and it makes their project unworkable. That's why that was offered.

[02:11:33] It wasn't the idea of let's perpetuate this going forward, these things that we don't think should continue to be modified for whatever was the professional judgment of staff and the ultimate decision of the board, why they left that off the list. Okay, go on.

[02:11:49] Can I ask a question? It seems to me that we are standing on two separate islands looking across the sea at one another, And the question that I have for staff, which is a fair question, you've kind of posed it to us. Like, what don't you have today? I think that that would be appropriately Dan's question to us.

[02:12:06] Like, what don't you have today that you want to get? And I think that we would ask the question of staff, like, what are the things that are in 2, 7, and 9 that are so important that we cannot modify them? Because maybe we're in agreement on those, but they just recently went through this list and said, we're going to change this, this, this, and this.

[02:12:26] And I would imagine that there were conversations as part of that where staff said, somebody said, I think this should, and somebody said, absolutely not, let me tell you why not. So you're saying take Appendix C and tell them what in there is so important to them that it should not be modified.

[02:12:43] Okay, okay. And we would invite them to do just the opposite. What is the important that should be modified? Okay, but we actually have to get off of the islands on each side of the, we really do. We really, really do. So, okay, we know what Ms. Stittner said is not per se legal, but is, you know, density and things like that, and I'm with that.

[02:13:12] Are there any other things that you all can think of that you just, you know, you're saying everything else. Is there anything of that everything else that would come off that list? And for staff, is it anything that you could say, well, this is not important to be modifiable?

[02:13:32] I mean, can we come to some, can we come closer on some of these things? Madam Chair, I just, I have fundamental loss as to why it can't be solved with performance standards, right? If a modification has to be better as it relates to the comprehensive plan in order to be approved by the Board of Supervisors, then what other standards do we need to judge modifications so that they couldn't come before you or that they'd be recommended against, right?

[02:13:57] Who determines what better is? What's better? That just exceeds the public purpose. We have struggled with that for decades. Well, I think we have quite a substantial comprehensive plan that's pretty explicit on a lot of things. It's judged against a comprehensive plan just like staff judges every single rezoning application against a comprehensive plan.

[02:14:17] And so I think you can use the long document that we spend a lot of time on together to judge it. That's why we put this standard there, which, by the way, isn't a standard that's necessarily in the current ordinance. This is an additional performance standard that says it has to actually be better than the existing regulation as it relates to the policies, not to the concept, not to the emanation, to the policies of the comprehensive plan.

[02:14:37] And so what I would ask is what additional specificity, what other specificity could we add to performance standards that could then narrow down using standards rather than line-by-line edits, standards rather than line-by-line edits, to help us tailor this to make sure that it's not being abused, which is the concept that we left with.

[02:14:55] I think what you're asking for is for us just to rely on the comprehensive plan. And that's the conundrum we've been in for three years. We can't do that. We have to have a zoning ordinance that aligns with the comprehensive plan. So what I think would be very helpful if industry would come to us with a list, instead of saying you want everything modifiable, come to us with a list of what are the critical things in 2, 7, and 9 that you want to be able to modify.

[02:15:27] And that's where we left. So I think I want to address the first part of what you were saying, and then I can answer. I can give you an answer, at least in terms of Chapter 2, kind of give you a flavor for what we're talking about. So to address the first part of what you said, right, we're asking you to rely on the comprehensive plan.

[02:15:46] I don't think that that's wrong, but I also think that, okay, but that's, like, I understand, I don't understand why that's an issue in terms of, you know, judging zoning modifications, because that's exactly how a PUD's going to work, is you're going to have to judge a PUD based on its compliance with the comprehensive plan, and you'll be doing so in a black box, right?

[02:16:11] there will be having no there won't be a base place type right there will be a base place type from the comp plan right that's what i'm saying like every puds will be based in the only thing i i would argue the only thing that that a pud can be judged against is the comp plan i i can very much see and i'm worried that there will be uh uh an inclination to look at okay well what would be the closest zoning district that they could have gone would have had to go to if they didn't do a pod right like but okay tabling that aside like a pud would be judged just in the context of a comp plan so if we're going to do that for pods and that's acceptable in the situation of a pod why is it not acceptable for for for z mods second part in terms of okay like what are

[02:16:49] we asking for so like this is just things that i went through and that and and i will acknowledge that that dan had some some uh you know text fixes that that may address you know one or two of the things on this list i'm not trying to say that that staff hasn't addressed everything here but just in terms of what's on the you know county website today and in terms of things that are for sure things that I have seen modified in applications or modifying currently that is not allowed under a pending C.

[02:17:17] Lot coverage, lot size, lot depth, lot width, unit type mix, which is a new thing in the zoning ordinance. Zoning district size, lot access, road access, building height, vertical. You literally just read all the stuff that he has had for the additional modifications proposed. Lot size, lot width, lot depth.

[02:17:33] I mean, literally, lot coverage. What you're reading is what he's proposed already okay but I'm just to finish the list lot access road access building height vertical building mix land use mix building orientation placement uses and the other thing is the unit type but okay but but some on some okay on some of this on some of this for instance on the on the use type mix right it was um trying to go to that to that slide right it was uh right like in five percent in one one direction the other one we heard last time that they couldn't even recall where they came up with the numbers to begin with so it's just we're

[02:18:11] arbitrarily deciding that five percent and it's like again it's like if somebody comes to you and they're like well six percent's what we really need but we've limited ourselves to five like that's where i'm just getting in the minutiae of the unknown unknown i i don't know maybe we've gone too far into the no i i see you jim i i think this i mean literally eight out of the ten things you read if it was ten he has cut he just put those there i mean like literally and so to some degree I think that maybe what's happened is the staff has listened to you to the industry

[02:18:43] more than you all realize at this point and lots lot size lot whip lot depth with ratio yard lot coverage and setbacks building orientation placement in TRC um in urban development I mean mix of use and dwellings gosh you just said all that and it's there already so a lot of what you are asking for they've done and chair reno if i could just clarify i mean this isn't even staff's professional opinion these are what we are trying to concede to to get the zoning ordinance adopted

[02:19:19] my thinking right in this moment and i defer to the mental health therapist on this seems to me and we might need a a little bit of a break here to this point that that that there is a lot that we didn't have any advanced information about this and so we walked into this meeting with understanding to process all of it you know and it took staff two weeks to figure all this out um we didn't have that but but to the question that judy asked earlier we want the same thing from from the industry what do you still need that's modifiable and i think this is evidence of like it's all moving so quickly that we just we're trying to catch up as well i think and i

[02:19:58] don't know if it makes sense to take a break at this point i don't think so okay okay i was just We're going to obtain like a 20-minute break for us to put our heads in. I don't think so. Okay. Would the purpose of the 20-minute break be to look at the list that you've received already and then think, what else, what might we want to add to this list?

[02:20:16] Oh, that's the \$2.20 thing. I don't know if it's going to be \$2.20 that's supposed to happen. It's \$2.18. Oh, it's a little. At first, I thought somebody called a fire alarm. It's the national yada yada with the checking of the, yeah, for everyone in the whole country right now.

[02:20:34] It is. This is literally everyone's phone in the whole country right now. You know that anybody who's taking a noise level. This is how you know, like the whole country saying stop. Stop, stop. Had this been a real emergency. Actually, every time zone in the country, so yeah, no, every time zone.

[02:20:51] I was only suggesting that there might be an opportunity for us to put. And just so you know, this is the first time we've seen this too. I know, I know. So you're going to take what was presented here and go look at it and see if you want to, if there's some other things you want to add to it. Yeah, like I... Which is what Ms. Bricksman actually just asked you to do.

[02:21:08] Right, and it would be helpful if staff could put their heads together and go, yeah, there were a couple of things that we said were not going to be modifiable, and this is why. Okay, all right. So that we... Yeah. That's a lie. That's a lie. Yeah, to throw one, because I do hear the common list of things and reviewing rezoning applications for the past 20 years.

[02:21:28] I do see that those are the common ones. I just want to throw out there also, because something that hasn't been brought up is civic that is continually a problem for both staff and for the applicants and I just want to draw the attention to that the definition of civic has changed greatly in the ZOR and therefore it's opening up the categories that can be there anything under the civic the

institutional you know the governmental it's not just a government office or a post office or a church so that has been broadened so much to add so much more flexibility there are you know commercial uses that are in there so that is something that is

[02:22:06] not on the proposal to be modified but the increased amount of uses that will now meet that civic requirement should satisfy any issues and concerns that we've had so thank you thanks so before we take a 20 minute break and go and huddle jim did you have something yeah i just wanted to point out in the in the sort of back and forth about relying on the comprehensive plan and that's sort of the guide and we should focus there.

[02:22:33] I think it's important to recognize that staff has repeatedly, I think, pointed to the fact that the zoning ordinance is also supposed to protect the health, safety, and welfare of our community, and we don't want those kinds of protections to be extremely modified.

[02:22:52] Those are very important to the community. So I just wanted to make that point. Okay. All right. Can I just add one thing, Karen? Yeah. we might need to move to the other side of the island because we're on the island that we don't necessarily agree with at the moment.

[02:23:07] Oh, no, we're all... No, I mean us, right? No, no, no, we're all going to bring this island together before we leave this room. We're all going to be in the same body of lands. So my comment is that having been part of ZOR from the very beginning, staff has done an amazing job in doing what ZOC asked for, stakeholders asked for and the planning commission asked for over three years and to make this volume of changes at october 2023 less than two months before it's supposed to be public uh finalized

[02:23:44] with the public not even necessarily even getting to see the changes until i believe it's november 30th i i think that that is completely out of uh out of character in how we have been running the entire zoning ordinance rewrite with the transparency. So for a lot of the things that I have heard, I even did a really zor nerdy thing. Yesterday, I went back and I looked at the bulk of the input that had been provided by industry for the 90-day preview from July last

[02:24:17] year, including the Walsh Colucci 100 page. A lot of this was not in there. Some of it was, but nothing to this extent what industry which industry the folks who all had the opportunity equally with with all stakeholders to provide their input during the 90-day review the public input reviews and a lot of what they're asking for was not in there so in terms of not having transparency to all the stakeholders for these kinds of requests and the level of modifiability I think you almost have to go with the fact that staff has put a tremendous amount of work into this.

[02:24:57] They know what they're doing. The thought I had, I guess it's similar, the thought I had is I perceive this as a giant step towards middle ground. Maybe it's not all the way there, but staff's input here that they put a lot of work into is a giant step toward middle ground.

[02:25:17] You guys haven't had a chance to absorb it or look at it or any of that. What I'd like to see is a giant step towards middle ground from you guys. I don't know what that looks like. I don't know what it feels like. But it's the body language, and it's not intended in any way to be pejorative. It's like, and you haven't had a chance to absorb this, but it's a giant step forward. And this doesn't count. We want to go back to where we were at the last discussion and start at that point. So I don't know what middle ground looks like based on this.

[02:25:53] but i think i'm gonna be i'm gonna be it one more time listen to what they would be what people are saying colleen actually said she literally said this is great it's great right right now we haven't absorbed it yet we want to take this list and go back and see what else that is there that we might want to add she's that's what that's literally what she said and so that's what we're going to do for the next until we'll come back at 10 till and you all um is there a way for them to well no i mean you you i want you to take a picture of this or something so okay okay cool

[02:26:33] cool wonderful yes go to love history room or somewhere and then and then come back and and

[02:26:37] let's huddle again yeah thank you hey everybody excuse me the industry group asked for more time

[02:50:17] to to meet and so there i told them sure um and so they want to they'll be back in at about 3 15

[02:50:23] 315 Michael Robert Turner and the full legal man full legal that's first of all that's Ron Myers

[03:18:48] that's not Ron Campbell I was like whoa big very very different people I should learn Ron's middle name because he he's the kind of person you want to call that whole name Ronald Allen okay huh say it again I like that I listen I am not going to forget that either oh yeah yeah you told me that but I won't forget that because you're the kind of

[03:19:26] person that needs your whole legal name called sometime okay was that helpful okay we we did we did we did not that we need a break from you but you know um so where we left off was that the the additional modification modifications proposed by the staff were as as listed um quite a few of including lot size, lot width, lot depth, width ratio yard, lot coverage, setbacks and other things and so you were going to take that list and you were going to try to add some things that were

[03:20:06] of importance to you to the list we have already and then we will see where we are. That's where we are right now and so we are listening. Given that my wife is an English teacher I would just like to reiterate that reading comprehension is important so So for the record, I appreciate the opportunity to kind of go back and actually, you know, read and absorb what I'm reading and not just skim it.

[03:20:33] But, yeah, I think we're in a good place. So I think just to start off, we're going to humbly request that kind of like in terms of just the ability to process, but also just in terms of kind of like what is discussed in this presentation to kind of hold off and table like the conversation around like what would or wouldn't make sense in terms of any additions for 9, 7, and 8.

[03:20:59] And I don't want to say, sorry, 9 and 7, and then I just want to say we have comments about Chapter 8, but we don't want to talk about that tonight either. I was compelled to say that. So in terms of the specifics, getting into the specifics. Hold on, let's just flesh it out.

[03:21:15] Just let me, can I, I'm going to play a little interpreter. All right. So, so chapter's not, chapter nine's on housing affordability. Mr. Hart and other people in affordable housing think that there may be a lot of other things that may need to be modified or changed in that chapter, but they want to have that discussion the night of chapter nine rather than today.

[03:21:34] And so what we're saying is let's have the housing affordability, like what needs to be modifiable or flexible on the night of chapter nine. And then the same goes for chapter seven. and so really there are there's just chapter two we're talking about them so so well to be fair all right so most of

the things that were proposed by staff is like what could be modifiable now we're from chapter two there's one slide on chapter nine which we're hearing is not going to be adequate and so rather than having a whole chapter nine conversation today you guys should have your chapter nine work session and have it then and same goes for seven we haven't there were no changes proposed by staff to allow any modifiability in chapter seven and we just

[03:22:11] haven't had the capacity to really dig into seven in this 45-minute time period there would have been a lot more things than seven that you want to dig into we we just you just don't know yet you know yeah so what i would say is so i think of the 17 or 18 things that staff said should be could be modifiable now um it's really yeah so it's just we're saying like chapter nine was one of those and let's punt on that and then let's you know let's talk about the ones that are on chapter two which is the other rest okay okay in terms of things that aren't on this slide deck

[03:22:44] there are we have three things that we would like to seek as additions or like changes um to what's here and then we kind of have like four like or sorry with three like questions or like clarifications so for the and and i'm happy to take these one at a time but and so i'll just say them, and then if there needs to be a conversation, let's have it point by point.

[03:23:09] So the first one is initial district size. As I read it, it is not modifiable. We would like that to be modifiable, initial district size. So when you ask me a question, I'm going to turn around and ask staff. No, no, he said he wanted to do one at a time.

[03:23:26] But yeah, I wanted to do one at a time. But I need to rely on staff. Except for NCC. Except for NCC. No, no. The CC, the retail districts. Oh, this is the National Conference Center? It's like the NCC.

[03:23:41] We're exempting that. Or it's a leftist. So we understand. We did hear staff say we're going to provide overlap between the various districts. We're grateful for that. We don't know the extent of that. The staff didn't present that to us.

[03:23:59] So we understand that they're trying to provide for greater flexibility, That if you've got a slightly smaller district, but you need a use in something that's a little bit bigger, that that might be a possibility. We just want to see what that is before we make that decision. I know, for example, for Avonlea as a project, we modified the minimum commercial district size there.

[03:24:21] And that was necessary in order to get the range of uses that would make that a viable center. That was an application that ultimately was supported by staff. So we understand that the approach on the commercial district, how they block out what uses are permitted based on the acreage, is unique to that district.

[03:24:38] And so we just want to say we understand that that might not be, but we also understand they're trying to increase flexibility. Let us just see that before we make a decision, before we actually say we need it modified or not. And Colleen, I think this was the one where Mrs. Miller, where Teresa had mentioned that she sees a lot of applications asking for this to be modified.

[03:24:58] Right. Ms. Miller, is that true? With the initial district size, that does come up. Sometimes there's a maximum district size, and I think that is requested. And in our paperwork, we talk about the minimum district size.

[03:25:16] So that's kind of two different sides of the coin to discuss. Yeah. Frankly, I think we like both people. I don't know if, so Dan and Rick and everybody, I don't know if you all want to so much answer these questions right now, because it kind of puts you on the spot, too, to just say you can just answer them, or you want to take the information in and give some time to think about it, or maybe we huddle separately and come back, but go on and give the other two so they at least know which ones we're talking about, because I don't know, I don't think

[03:25:53] it's fair to put staff on the on the on the line and say respond right now that's not okay so the other the other two then um although if there's if there's question i mean we already ordered dinner so and we only have two more so um we might be able to but still i mean no i i hear you and i and I'm with you on that.

[03:26:17] So the other two is mix of use percentages, so like non-res versus res, civic, that kind of mix of use percentage requirements. Product types too. So basically we're asking for the percentages to be.

[03:26:35] Well, dwelling unit type mixes, that's on the list that they give us. Well, but it's further defined as, It could be only by a certain amount of percentage. No, that's only for mix of uses. Only for mix of uses, okay. That's what you said, reading comprehension. Reading comprehension.

[03:26:52] To be fair to Ron, I went through a very similar process internally in that room privately. So I don't know what you guys are asking for. So right now, so the way that Mr. Galindo has on slide 14, the staff is suggesting that mix of uses, they're saying they're comfortable with allowing it being modified, but only within like a certain range and we are down five percent you know up or down we're simply say asking for it to be modifiable just period if you remember the use table we went through a suburban compact neighborhood i see what you're saying yeah so if we remember our last conversation

[03:27:30] with suburban compact neighborhood right that's different no that's totally different that's different all right so the reason let us give you the justification for making asking for this to be modifiable, I'll wait, that's okay. The reason why we're asking for this to be modifiable is because any of these will come in with a legislative application, right?

[03:27:55] And a legislative application will inherently require a community planning review. Those mix of uses are drawn straight from the comprehensive plan. They're taken straight there. So you have the guidance, it's in the comprehensive plan.

[03:28:12] And the comprehensive plan, as you all know, is a policy, it's a recommendation. it's a guide. And it's something that we try to follow very closely. And it's also sometimes something that you might want to go, oh, that's not exactly right. I need to be a little bit up or a little bit down. And so that was why we thought this should be modifiable because it will be, as I heard Mr. Glendo say earlier, will very strongly point out that it's not consistent with the comprehensive plan, but there might otherwise be a reason for this. Mr. Glendo. So on this one, this is proposed to be an actual change that would go beyond what's in the general plan to provide that additional flexibility just essentially by right, so to speak.

[03:28:49] It wouldn't need a modification if it was within this range. So if something right now is in the ordinance as 40% to 60%, then it's 35% to 65% is what we're proposing. That way it's there and it goes beyond the policy minimum and maximum to give additional flexibility up front. Our concern, and Teresa and Ms. Miller mentioned this about Civic, is that a lot of times Civic gets zeroed out or pretty close to it.

[03:29:13] And so we are trying to find a way to balance this and give flexibility while still maintaining that balance of use. Yeah, yeah. So I can just offer that sometimes the Civic is zeroed out on previous ZMODs because we were using, we had a ZMOD for the Civic Space to count the outdoor, the new definition.

[03:29:36] So much better. It's so much better, and it's not just gross floor area, so we had to do a ZMOD for the Civic Space in that instance. But moving forward, outdoor, recreation, all the things that now count towards Civic don't have a gross floor area assigned to them so we still need to be able to work with those percentages so fundamentally it's more of like the like the residential commercial mixes right if those should be able to be modifiable or if we want to totally restrict ourselves to what was in the comprehensive plan and so or be forced to go into a pud it's right it's a conversation about whether each individual application has to meet to a t the expectations of the place type right we

[03:30:15] run into this all the time right is it are we taught be like for sperm mixed use for instance right sometimes staff has supported in all residential applications for mixed use because they have acknowledged that within a half mile of where that property is the mix of uses is well below the kind of the percentage goals that we're going for right and so there are in in this i think i mean i don't want to speak out of turn but i think we're really talking about the permitted mix of uses in tc and trc and maybe there's other places in the ordinance where this applies but

[03:30:48] right so like um there's there's residential maximums um that are kind of then broken out by unit type there's a non-res maximum and then there's this public and civic percentage requirements and not that not to say that those aren't in line what's there is in line with what is in the the comp plan what we're saying is to limit how much those can be modified up or down potentially hamstrings the ability to incrementally add to a thriving existing you know area right and especially if you've got maybe you're maybe you're heavy non-res and we're trying to add an all

[03:31:27] in all affordable building well under under this for t you know for for tc fringe multifamily attached dwelling units they're maxed out at 70 so you're saying i can only go to 75 and i if i want to build a light tech building as a part of you know some sort of you know tc development and suburban policy area that I have to also find somebody to build me 25% non-residential to go along with that.

[03:31:50] I'll throw out another, can I throw out another example with Ravonna? I think we, I don't, yeah, I don't think that, I think we have an understanding of what you're going for here. And, you know, of course we've seen applications where you guys want more leeway on the civic space.

[03:32:08] I just want to ask staff a quick question and then I'll make a comment. Has the definition i'm reading the definition of civic use here um in chapter 12 and what i hear you saying is the definition has been expanded so that many more things can be considered civic use but we still have open space requirements yes okay do we still have active space requirements in certain districts we won't have in every district okay but we still so we still have the three primary potential requirements okay um i'll just if we're looking for an opinion i i'm not

[03:32:48] comfortable with making it fully modifiable i mean i i as somebody who works with you guys on applications i like having that parameter of what we're looking for and i don't necessarily think that the general plan is going to be enough um and so i i'm okay with what staff is suggesting but i've frankly and you know i'm one of nine but i frankly i still want to see some parameters in there for for civic space so i don't think civic space is actually what we're talking about at all we're good with civic space all together

that was brought up as an example that actually is not like really relevant to their concern so like for instance like with revana we actually had you

[03:33:23] said you want modifiable as request by mixes and you pointed to these percentages here didn't you on slide 14. what we're asking for is a for the percentage of residential versus non-res to be modified. Ravonna, we actually modified it down and delivered less residential. So for example, the development on Riverside right now, it's in the suburban mixed-use place type. If we were to come in the suburban mixed-use district, it wouldn't qualify because there's not enough commercial percentage in that development, right? So right now, suburban mixed-use, and I'm doing this off the top of my head, so I know Dan's probably going to correct me. I think suburban mixed-use requires 30%. 30-70. Yeah, 30-70 is the minimum. It's the preferred mix, but the

[03:34:03] The preferred mix that's in the comp plan is now codified in the zoning ordinance under this current draft, right? And so, therefore, you actually couldn't do that under the suburban mix. We got you. So it's really, it's like commercial residential mix is more of the concern rather than civics. Hold up, hold up.

[03:34:18] Yes, ma'am. Mr. Turner. So you want the res, non-res mix to be modifiable? Can I hear staff's opinion on that? Can we let them, we're going to hear all of it, and then we're going to let the staff go. Well, they don't have to be wedded to it.

[03:34:34] I'm just curious what the first take is on that. And if the first take is, I need time, I don't want to answer because I need time. That's an okay answer. I mean, at first blush, we tried to provide flexibility without modification for the general reason that we are, we want to ensure that there's going to be a mix of uses.

[03:34:53] And what we have generally seen since the plan was adopted has not been that. The plan allows that flexibility, and a lot of that flexibility is still in here for those other development types to be asked for within the suburban mixed use or what have you, the I mean, I think I personally would rather increase the range around what the plan says than allow something to come in that's too underdeveloped from a commercial standpoint, especially.

[03:35:22] Can we, is there a theoretical middle ground here? So, for example, if I'm a supervisor trying to make a decision, I want to hear staff say the preferred mix is 70-30, but it's modifiable. ideally, but it's modifiable under the following conditions to be considered if somebody comes in and asks for it to be modified, so that that way it's modifiable. But you've got to justify to me, the supervisor, why you're going outside plans, the staff's recommended mix of that.

[03:35:54] That's what would happen. And I think what staff wants it to be is really important, and you better have a real good reason why you don't want to meet that mix. I'd be willing to say I can live with a modifiable as long as I know what staff and I and I think that one perhaps misperception is is that we just come in and ask for a modification it would be like just because we want to the comp the the draft language of staff shared today says it's it's got to it's got to meet some objective of the comp plan and that might be it's a it's doing a better job to to Matt Leslie's point it's doing a better job of realizing your objective to get more affordable housing in the county it could be

[03:36:32] meaning the objective of increasing, you know, economic development, whatever. And then you guys have to make a decision. I don't know. Maybe that's not a good enough policy to justify what we're

asking for in terms of the modification. But we fully expect that we've got to justify it. Yep. Okay.

[03:36:49] Form and standard is still in place. We hear – oh, I'm sorry. No, it's okay. I think I just wanted to add one more thing because we were talking specifically about TRC and TC, that because we do anticipate incremental additions to those districts, those incremental additions would not have to meet the use mix themselves.

[03:37:08] If they add to or stay within the use mix of the district that they're adding to or the sub area in the TRC district, then they would be allowed to come in as a percentage that doesn't meet the overall. We're doing that now, right?

[03:37:23] Yes, you can do that now. Well, I mean, you can do that in the draft ordinance. Just from, like, a big-picture perspective, we've got pretty much one or two more really pretty small things. Yeah, I was going to say. We've worked 45 minutes. The general tone of, like, understanding that out of many, many things that we have a problem with or throwing our hands up and saying that, like, maybe this ought to be opposed because this ordinance would be much worse than the current one, that's not what we're doing at all.

[03:37:47] And so I think what we're hoping for is some openness and flexibility and understanding there may be some initial concerns, but what I don't want to hear is, like, sort of a – this is just my personal perspective. What I don't want to hear is, like, a rehashing. We understand where stats coming from but we want to let you know where we're coming from understanding that we're literally meeting you 90 percent of the way of what you came with today yeah probably more than that 90 well but let me be i think you are meeting this 90 percent of the way of what we came with today but what we came with today was 90 percent of what you wanted to initially well when we threw it right in the trash we walked in yeah all right so go into the other ones so um with regard to the tc district um and obviously it's just a very nuanced district as

[03:38:24] teresa indicated earlier i mean which in the last couple of years updated the ordinance as we talk about the minimum district size being modifiable we also think that there's a lot of specificity that is scaled within that district if you've got a district of this size your course shall be a minimum of this size if you've got you know you've got this district your town this is something i wish supervisor bristman were here for but like your town green will be 40 000 square feet and we just think that that should also be scalable and modifiable. So if you've got a minimum TC

[03:39:02] district, and let me say this, the reason why we're focusing so much on TC is because when you look at our comp plan for the county, a lot of it is hot pink. A lot of it is suburban mixed use. And I know from conversations we've had with you all that you'd really like mixed use environments a lot and so as we're talking about this and we think about this we go okay so how do we make that possible in every case we're not necessarily going to be able to meet the minimum district size when we can't first we'd like to be able to modify that but then second where we can't we'd also like to be able to scale the if i come in with a with a and i don't remember what the minimum district

[03:39:39] size is off the top of my head 20 acres let's just say if i come in with a 15 acre um uh 15 acre town center district I'm gonna be able to scale that that town green down appropriately so those were also that and then the second thing is is that we thought it was should be modifiable that there might not be a requirement for a fringe that if you want to create an opportunity meaning and let me explain why let me explain why the thought there with not being required to provide a fringe is that as we move more in the

direction of infill you might be in a situation where you're literally just coming in and dropping in the core and that was it i'm not saying i've got a site in

[03:40:19] mind i don't know we've got a project that we're thinking about but i'm just going that is probably something that we want to think about maybe perhaps being modified we specify that we don't need to fringe is not required um oh great fantastic if it's 30 acres if it's over well right now the minimum district size is 30 acres right so yeah if we i guess we've talked about even allowing that to go shorter just by by what we have in the ordinance because while we have a lot of hot pink or magenta along the highways a lot of that especially along 28's already been eaten up by data centers same's happening on 50 um so whenever we revise the plan it's probably something that

[03:40:54] we will look at but if we can if we can make smaller a smaller uh standard to start with that it might incentivize allowing a few more of those to happen before all the land's gone okay yeah that sounds like a win okay yeah i mean i think the only concern is that you don't always own that parcel you know i mean like you don't always own that area of the fringe and you're being sort of tied to a requirement on another property right i mean i think that's like the fundamental concern so i think it sounds like you're getting at the same point mr glindo and so i think we're all sort of on the same page we'll just have to review the language when

[03:41:28] you guys have one more right yes um yeah i think the rest are just questions or quick clarifications um so and i'll start with maybe the the meatiest one which is that so some of these modifications are in and there seems to be kind of a back and forth and I don't know if because one of the other clarifications was whether these were interchangeable or if it was intentional when it was listed as either by CDP or by specs this specifically for the ones that are by specs currently pretty much all specs is that we do in Loudoun in their conditions of approval have a period of validity

[03:42:07] and so we would request that for specs is that are related to modifications that have been requested that there be no period of validity for those modifications that clause it's a sunset so in the ordinance and in the draft ordinance there's a five-year period of validity that unless modified by the board of supervisors it's it's valid for five years you've got to act on the special exception and so you have to act on that within five years or it expires or we've got to come back and say please extend it and so the thinking there was the way the ordinance is now most often not always

[03:42:42] but most often special exceptions are being requested for uses and I understand right there's a period of validity if I'm going to give you special permission to do this use I don't want somebody to like pop up in 15 years and be like surprise I have the special permission I'm going to do it now a little bit different when we're talking about SPMIs or special exceptions for bulk requirements you know for building height as an example in in here right I might get my approval as part of my my overall application and i've gotten an approval for a specific height okay i just we just want no i understand what you're saying certainty that that's not going

[03:43:19] to expire before we build out what is likely because it could you could put an interim use there and you want to then put something else in later that because the interim use was just until like the market caught up or something like that it could be like a really big development and you haven't filed a site plan for that particular portion of it okay all right i feel like revana for example like phase five yeah in like yeah yeah six or seven years you know it would expire potentially if it's not a site plan that bests it what like like like when I do

[03:43:47] like this that means I got it you stop stop explaining okay the next question And then is kind of, and I alluded to this.

[03:44:05] Can I ask if one on our list? No, no, no, no, no. But I realize that there's one if I can. Yeah, please. Chair Randall, you just mentioned an interim use. And I know that staff, and I don't remember what slide it's on, but staff also mentioned, it's on slide 10. Building height by special exception, except in the TRC inner core and urban employment minimums.

[03:44:26] I do want to just mention this one. You mentioned interim use, and this was exactly what we were thinking about, is that in the TRC inner core closest to the metro stations, this is not a height that's modifiable. The way that the ordinance is drafted now, the minimum height is 95 feet.

[03:44:42] And so that's an eight-story building. And we know we want to see eight stories. That's exactly what I want. 100%. I want everybody to fully appreciate for those properties that eight stories may take us a couple decades to get there and there might be an interim use.

[03:45:01] That's the decision of the board. Yeah, listen, that's almost too small. Dave, did we take a motion the other night? No, I don't think it was acted on. I would make this higher if I could. So, Madam Chair, there's another exception that's actually needed specifically.

[03:45:18] So, and again, this comes from working on like a specific metro area development. Go to Mosaic, go to a lot of the Fairfax County ones. There's these standalone coffee shops. There's these standalone placemaking retail opportunities in the very middle of these cores. And they're really cool, and they're really good for placemaking, and it brings people together.

[03:45:35] There's usually a little green there. And under this, from what I understand, again, staff, and correct me if I'm wrong, that minimum height actually forbids that sort of placemaking retail. And so my concern isn't so much an interim use. My concern is actually bringing REI, Apple.

[03:45:51] That's a good point, but what I do not want is a four-story residential building, right? I mean, that would be just exactly a nightmare. Now, if you have an 11-story residential building or business and all that with the different coffee shops or retail, okay, but I just want to make sure that we know what we're really trying to get to in the inner core of the metro, and we're not looking for stick-build, short residential or commercial buildings.

[03:46:20] And actually, the chamber's draft motion, which I think Supervisor Turner was alluding to, I don't think it got adopted, because I don't think a lot of the Chapter 2 stuff got adopted. We passed a hype motion. We passed a height motion. I just don't remember. Well, and so we limited the scope. The chamber's motion limited the scope to a maximum square footage.

[03:46:39] 5,000 square feet. So 5,000 square feet. So it was literally, well, maybe it was a little bigger than that. No, we did it. Up to 5,000, our motion was up to 5,000 square feet with an inner core, outer core, and TDSA. Yeah, remember that. No, it's literally for like a standalone retail coffee shop type. So maybe there's something that we have to add to say what type of development, what type of building, type of structure we would let be less than that but i do not want it to be a blanket can be under this this this fate because we want these you know and additionally but i think i think your initial question is also still valid and worth and worth flushing out a little bit not that we

[03:47:15] need to flush out in this room but about like because i think there's there is i mean at least for me there's a difference between a like a one-story retail building which may be some sort of marquee like hot user that we really want versus i think what you were kind of referencing initially which is like also kind of something i was thinking about like i know at the rest of metro there's like these all these like little like i want to call them like almost like like porter potty shops right and like in well yeah like i mean but they're not even storage containers are like literally like porter potty i mean that's like a terrible word to use but like they're like i don't know they're like they're like they're they're what 10 feet by i don't know 12 15 feet

[03:47:54] and they've got you know kiosk thank you yeah listen there you go kiosk is a much better word than horopati i was getting really uncomfortable look all of the all of the english language skills got placed into my wife and i'm just i'm just left to kind of flounder on my own as well but yeah that so i think are those permanent structures i mean i don't know they look pretty permanent but so the the ones that won loudon are a good uh example and actually i'd look to to remind me how those exactly were permitted but there's actually the storage containers that have the the frontage right so fantastic which is a terrific gelato shop in one loud and has it

[03:48:34] i think we get what you're saying we're saying we want to we want it's interesting in this place we want to be very specific to be quite honest what we want to see that would be allowed to be um a smaller shorter building versus what we don't want to see so this actually requires more specificity in this language if anything and i think that that's why a special exception would be appropriate in that scenario for sure yeah okay well and again i think there may be other instances if we tailor the special exception too much i'm just worried about five or ten years from now when we actually start building metro if there's some other cool concept that apple or rei

[03:49:10] or one of these cool retailers rolls out that we're going to rule ourselves out as miss miller said there's things that's more of my we can change things things can be addressed we can do Zo-Am. We can do Zo-Am if we need to, but yeah. Buds and Zo-Am. I mean, truth is, because we can't, we're not going to be able to think of every single thing right now. We're not, so.

[03:49:29] I'm almost through my list unless we start coming up with new things that we didn't come up with. Let's not do that. I'm not trying to, but I'm glad that we had that conversation. I think that was important. So the next question, slash, like, clarification. So in the slides that Mr. Galindo prepared uh specifically kind of uh like in nine but really getting into it in 10 um and 11 uh yeah 10 11 is really i think where where it gets used there's we're saying like so for instance

[03:50:06] as an example lot size by cdp is that meant to suggest that when when the new you know when the update comes out we're reading it that the only time that you would be allowed to uh modify lot size is through a rezoning or a zcpa um or if you were doing a specs for a use and um as a part of that specs could you also modify like i mean that's a terrible example but last size but like i guess my point is like a cdp or bias yeah or specs is that is that interchangeable or no

[03:50:44] and and i guess we would have a reaction one way or the other depending on the answer to that question. So they're not intended to be interchangeable largely, and Ms. Sidner might want to chime in here. It's going back to her earlier comments about trying to clean up our language to make it better comply with the Virginia Code. She's kind of conveyed that there's the rezoning process and the proffers

and things go along with that, the CDP, and then there's a special exception process, and so we have tried to put the appropriate modification types in the appropriate buckets.

[03:51:17] Can I ask a clarifying question? Yes. Hold on. Mr. Cohen, do you have something you want to add to that? Okay. Thanks. Yeah, my concern is especially, so imagine like a special exception for an office building to go to a higher FAR, but they also wanted a setback reduction, right?

[03:51:37] And so that doesn't have a CDP. It has a specs plat, not a CDP. So when you file a special exception, you file a specs plat that's not a CDP. I think what we're asking for is could that specs plat, Could we make sure it's clear in the procedures that that SPECS plat could be identified as a CDP so those sorts of modifications could also be included?

[03:51:59] Does that make sense? I think in that instance, and as it is now, what you would then be filing would be a CDP and a SPECS, which is kind of how it works now. I mean, if it's a standalone thing where it's only a SPECS for the use and there's no other concept plan with it, that's fairly rare.

[03:52:24] But because most of the time, if you have something that already has a concept development plan associated with it, you have to do the ZCPA anyway, because otherwise the specs or the modification you're asking for would not comply with the approved plan that you already have approved, which is why we see so few of the standalone applications.

[03:52:45] So that wouldn't change. Well, there are, I would sort of beg to differ. I think that there are quite a few special exceptions for PDOP uses that also carry along some other mods that usually come with them. And I think right now the way they're treated is ZMods, and they're typically either shown on the specs plat, which is also identified as a specs plat slash CDP.

[03:53:06] I think it's identified as a specs plat slash ZMod plat is the way it is right now. And so I think I'm not sure why it makes a difference in terms of the current process versus what we're proposing, because we're just not calling it a ZMOD.

[03:53:23] So basically, in that case, what you would have is a specs, and I think we're missing the question here of whether or not you can have that sort of standalone modification, but I'll get over that in a second.

[03:53:39] That's exactly what we're asking. But what you would have then would be the specs and a concept plan amendment instead of a specs and a ZMOD. Otherwise, the PLAT looks the same. What if it's a by-right side? We haven't talked about, I think it's, you raised the point, we can talk about it or think about it.

[03:53:58] I don't know that we've thought specifically about that. I think that the question comes down because by specs as a process, by CDP, to us, here to four is a document. That's it. And so if, I think that that's the question, is that if you're asking for specs and you need to modify something that on this list says by CDP, does that automatically kick you into a zoning process of some sort, a ZCPA rezoning in that timeline?

[03:54:26] Or, that's really the question, or is it a sheet that gets slipped into the specs? It's really that question. And we wanted to make sure that there weren't going to be circumstances in which I don't have to change my zoning. I don't have to, I've got a buy rate parcel, hypothetically, right?

[03:54:42] I do have a couple of clients. Somebody was here today, and they have a buy rate, large, sizable piece of property that's active, inactive development. And the question was, what happens then? I don't have a CDP today. It wasn't subject to a rezoning. It is buy rate. I've got to get a special exception.

[03:54:59] What happens then? And so that was the question. If we can work on it and just figure that out, that would be great. Yeah, I think Rick and I are probably thinking of the same thing, because there is something in there about that that I'm not sure. Yeah, we do have a provision. So part of the reason with having it on the CDP is that that's where it's shown, right, where you can do things. We do know that there are properties that are PDIP, for example, that don't have a CDP. And so we did go through the thought process of, well, wait, are we going to require a CDP where there wasn't a CDP? But we also don't want to

[03:55:32] get into the process of allowing something that really is a variance and needs to go through the variance procedures. And so we do have a process where if there was no CDP, that you could get a modification with a special exception. So even though it says by the 10104C, which is the CDP process as part of a ZMAP or ZCPA, that you could avail yourself to the special exception PLAT in that unique circumstance. Can we clarify that language to make that clear?

[03:56:06] Well, we do have it in there, but I'll make sure because we do want to clarify that already and make sure that it matches up. I think that's actually getting what you all are asking for, correct? Yes. Okay. Yeah, if you can send that, yeah, just so we're all on the same page and maybe we can have an offline conversation, that'd be helpful.

[03:56:22] Okay, that was good. That was an interesting conversation. Just to maybe. I'm not kidding, it really was. Just to maybe walk through one more hypothetical to make sure I understand that what we're saying is the same thing. So if I have an approved rezoning that has a bubble plan and I'm trying to do a use that is permitted by specs, so I'm filing a special exception plan which has a specs plat, my proposal meets substantial conformance with the original bubble plan, but because of the use, I need to modify, say, a road corridor buffer.

[03:56:59] What I'm proposing is in line with the bubble plan. I'm not getting any closer to anything than what was shown on the original bubble plan, But simply because of the use to be where I was originally identifying this area to be, I'm going to request that I modify the road quarter buffer, for instance, the road quarter buffer width.

[03:57:18] Would that zoning modification be allowed through the specs process as just either, however we're going to call it, a ZMOD or just another specs that's with the specs, if that makes sense? As currently drafted, because there is an approved CDP, it would need to modify that CDP.

[03:57:40] So it would have to be shown on the CDP. But I'm not, I'm... I understand. There's also an administrative process for buffers, to modify buffers. There's an administrative process. And so when we're talking about the administrative process and essentially bumping it up to the legislative process, which we've talked about doing already, I think that may be a way to do it.

[03:58:03] We're going to have to look at that because what we don't want to do is open up the floodgates where you're not modifying the CDP when really those are items that need to be shown on the CDP. I don't know if there's another way to say that. Right, and what I think we want to avoid is having a simple specs application turn into a ZCPA where I'm relitigating every single thing that's in the proffer statement,

potentially a proffer statement that applies to hundreds of acres and I'm only dealing with a use that's trying to go on, you know, like an acre, right, or less.

[03:58:34] so in that instance you wouldn't be relitigating the entire proffer statement we get zoning concept and proffer amendment applications all the time that are for a very small piece of it and if it's what you're trying to modify comes within the scope of an existing proffer statement or cdp i think we i mean i think the con the idea where you have a specs and a z mod coupled is really when it's uh there was no zoning change in most instances i can't think of an instance where there is a concept plan where you didn't have to do a ZCPA for that if for no other reason then you'd have to modify the proffer statement in order to allow that modification

[03:59:14] I think that this is a discussion I think it's interesting you guys are asking for a whole lot of specificity in your modifications we're just we're kind of in this situation where we're trying to I mean honestly I don't know we're like we needed to do this for this one I think our biggest concern really is the buy-write parcels coming in for standalone specs and I think Mr. Hancock outlined a solution that we're good with as long as we can see it in writing and whatever so I think that that's I think hopefully you know as long as the specs plat can cover the sort of same concept I think you guys have one more or is that it yeah go ahead yeah so last

[03:59:53] one and this we're still on chapter two yeah now we're actually moving to the motion that staff handed out can I just say one more thing about chapter two and it's not really a statement or an addition i just want to say that we have emotions to chapter two that like we aren't asking for to be modifiable tonight that we're probably going to ask you to still pass those motions and if they don't pass then like it's probably things we needed to be modified so that's also sort of the overall caveat now that we're wrapping up sort of the chapter two discussion well i think first of all i think that we may take another break and let staff kind of discuss some of the things we've talked about already yeah so that we know what what can be incorporated in the writing and that type of thing so i you know what we're doing now is it's

[04:00:32] this is a great discussion and we're getting what you all are saying and and you know i i believe we're this far along because of what staff is our staff came in here with today already got got us 75 of the way there but we're going to take a break because i want to know i mean you know because because this is you were hearing this for the first time they're hearing this for the first time now too so yeah we should just you know give them and really all i'm saying is we're reserving some some further comments on like chapter two because we think that we think i don't want to reserve too much. I want to walk out of here with some pretty good understandings done, to be honest, because, yeah. I mean, I understand where you're at. We can reserve

[04:01:12] for seven and nine, because I'm just going to take Mr. Hart out to lunch, and we're just going to pound out nine between the two of us. We're going to come back here and just hand it to everybody and say, pass this. But I want to give Chapter 2 done. Chapter 2 is a big lift. If we can get this done, we are really close to being there. And if I can just reiterate from board members perspective and I'm kind of dropped into this mode now it is really really helpful for me if I get an email that says here are the proposed motions word for word what you want me to move the justification as to why you want me to do that and then I will

[04:01:49] submit those to staff and that way they can put them into the matrix whether they agree or disagree and why that process works really well and I think if we can walk out of here with on pretty good

common ground it sounds like we're really close right now with chapter two and go through the normal process with seven and nine that we've established so far i think we're in good shape that's just my feeling okay can i ask a question um matt you had started out saying that there were three things that you wanted additional mods and then questions i got initial district size mix of use percentages and product types and then we went into questions and then it was uh

[04:02:27] TC. Yeah, requirement for fringe and TC. Okay, which we've already established that if you have 30 acres, you don't have to have it, and we're considering dropping that down to a low. Right, everything scales within that. And then scaling of. Right, you've got the town green, you've got some other things, but anything that's got a, got a, got that sort of. An exact number. Yeah. Okay.

[04:02:47] Can I ask just an educational question for me? A ZCPA is an amendment to the CDP that was submitted. Yes, and profits. It's a zoning process. Yes. A SPECS is not a zoning process?

[04:03:04] It's a separate process, and that is a – so think of it this way. A special exception – this is how I explain it to clients. A special exception is an option, not an obligation. If I get a special exception approved, you've got no guarantee that I'm actually going to do it. it's an option, and then staff imposes in that situation conditions of approval on that special exception to say, if you do this, this is how you're going to mitigate your impacts. Separate and different from a zoning concept plan amendment or a rezoning, where that is an entitlement that runs with the land, there isn't an expiration, they run with the land, and the conditions that

[04:03:40] are put on the property, the proffers, are voluntary, and they are drafted by the applicant. And the process is expected to be shorter with a special exception, obviously, given the scope. And there are less requirements for the timing of it in the state code for a special exception than for a zoning.

[04:04:03] Yeah, typically the details on the- Really not a good explanation. Yeah, and to be clear here, I just want to make sure, and Courtney, let me know if I'm not saying this right. So based on the conversation we've had, our desire is to move out of the specs as a standard operating procedure and move more into the CDP and ZCPA process.

[04:04:28] But what I just heard tells me that's a bit more cumbersome and time-consuming and expensive, presumably, than the specs process. Did I characterize that right? I would say, but it's... Are you speaking about this generally, that we're trying to move out of the ZCPA?

[04:04:47] yes no because they're they're different things so a special exception is typically for a typically for a use at times in the ordinance they're allowed to increase far dan was supposed to be allowed to increase height so it's a very specific one kind of one thing you're considering and then and then colleen was right you um impose staff or the county imposes conditions of approval on that one kind of you know um restaurant with a drive-thru or some kind of use that has impacts on that use a zcpc a zoning concept plan amendment or a zmap and rezoning these are sort of bigger

[04:05:23] broader general rezoning to a district and kind of bigger concept than just like a focused special exception okay but my understanding is in an initial application right now and i could be wrong but it seems to me with an initial application we'll see a list of specs minor and and just specs as part of that initial application right sometimes they ask at the same time if we're going to reemphasize the CDP process, we could roll all those into the CDP in the initial application?

[04:05:55] I think so. That is what we're proposing here, which is why we're moving from the ZMOD concept to the modifications shown on the concept development plan as part of that. And it's twofold. One, the legal reason is because an approved proffer statement, and here the proffer is incorporate by reference the CDP, state laws, an approved proper statement acts as a modification to the zoning ordinance regulations applicable to that property. And so what we're trying to move to is that when what you're talking about is modifying the zoning regulations for a project,

[04:06:32] and especially when you have a rezoning application there, that we think the CDP and the proffers is the most appropriate way to do that. So that's one. The second thing when we're moving to that is as a practical matter yes sometimes there are standalone z mods or to mr meyer's point z mods that are coupled with a standalone specs yes but in the instance where you have z mods coupled with a rezoning application or a concept development plan what usually happens then is that they list all of those modifications on the cdp because we require them to do that like what are the modifications you're asking for and then usually especially for the ones that are

[04:07:11] physical requirements of the development you know on the ground they show them in their concept plan it's built into their proposal and so the proper statement is always i'm going to develop in substantial conformance with the cdp but also in those instances when we have a z mod that is part of a rezoning the conditions for approval are usually substantial conformance with the cdp as well. And so what this really is sort of a codifying of merging those two processes into

[04:07:42] one for both of those reasons that I just said. Thank you. Okay. All right. So you had two things? Yeah. Okay. You totally forgot. Okay. So this has to do with the proposed revision by staff of 10-10-04. And specifically, we're just popping down to number eight. First thing has to do with, I think when we went back and talked, we as a group heard different things as to whether

[04:08:16] or not that provision applies to modifications that are carried forward and or new modifications that are requested after approval under the today ordinance, under the existing ordinance.

[04:08:33] I think that's what somebody asked earlier. We heard different things. I'm not saying that it wasn't asked and answered already, but we just want to, we heard different things. Okay. So I think it's intended to be what it says there is that if you already have an existing concept development plan approved, that you may request modification of any provision in 279 that is not otherwise modifiable.

[04:09:01] If you can demonstrate that existing elements of your concept development plan make it impossible for your proposed amendment to comply with the current ordinance without the modification you are requesting. so it's actually not as specific as what you said okay that is a place where it is a little okay loose okay but because the crux is that you've got your approved cdp something that's already partially or substantially built out and because you're coming and doing a modification that happens all the time there's just something that wouldn't work right because of the existing

[04:09:36] elements unless you can get a modification that's what it is and that's why you have that and i would say that the little i there in eight really is i mean the term performance standard was used a lot in in discussion of paragraph two of this motion i don't think two is a performance standard but i think eight little i one is more of a performance standard because it's saying you can't do what you want to do without the modification yes because you have something

[04:10:09] existing. And that's what that is. So, so that, thank you. That's, that's very helpful. I think where we got a little bit of heart palpitations was the concept of make it impossible. Cause that feels like a, like a variance along those lines. And so we have different language that we'd like staff to consider. And I'm, and, and as opposed to impossible, because we get worried that the standard of it's impossible, it's very easy to be like, well, could you do it this way? Well, what about this and and impossible and maybe economically impractical or you know just not

[04:10:46] best practices that that might be a conversation that we have ad nauseum and then we come to you all and go staff says it's possible we say it's not you guys have to make the decision reading your language what yeah no no i don't mind at all thank you so romanette one would say that the existing elements of its approved concept development plan and we you know we will do I can email this to...

[04:11:09] That the existing elements of its approved concept development plan that were not foreseen at the time of the original approval allow the proposed concept development plan to better achieve one or more policies of the comprehensive plan.

[04:11:31] So the idea is that we're reverting back to the comprehensive plan as opposed to an impossible possible standard. Okay, I'm hearing unrest. Well, what causes alarm for us is just hearing, with this better terminology again, and only one policy.

[04:11:55] We want something in between we're going to comply with the comprehensive plan and it's otherwise impossible. We're just trying to, we understand where you're coming from. You're like, don't just come in and just ask for anything. We understand there needs to be a standard, but we also feel like possible and possible is a little bit like innovative.

[04:12:13] Was it the one or more that freaked you out? Yeah, because any time we say one or more policy, I mean, there's always going to be one policy. Right, yeah, yeah. The or more part. Possible is hard, and possible is a tough stand.

[04:12:29] I would say that that part of it is not necessary, because C2 already applies. That applies to any modification anyway, so that's there. What gave me pause was the, and I think there's a disconnect in the way it was written, but that was not reasonably foreseeable at the time of the original approval.

[04:12:49] That's the part that is difficult. And maybe it's the way, because I, the sequence of that, there was something missing in there because I think what it is. I'm not trying to divine what anybody saw or foresaw. We can take that out. Quite frankly, how could anybody foresee a message that you didn't know when you got your Brambleton or One Loudon or whatever approval, you couldn't foresee that.

[04:13:13] So I don't think that's the issue. so maybe the word impossible is something we can talk we were trying to come up with something to replace impossible with and trying to give some it's tied to the elements of what you already have and what's already approved and why we're allowing these additional modifications that are not otherwise allowed because we're not trying to disrupt your project that's already approved that's really the crux of it so there might be something we can do I just don't think that language you said something we can do with the words make it impossible yeah okay i mean our thought is is that right when the initial approval was done the building height was x

[04:13:51] and now we've got the opportunity to land a y yeah yeah can you go on and email that language yeah well maybe maybe i'm okay with staff as long as staff work on language and email to you all that's yeah well and i i went ahead and just i've i've forwarded the clean text of what she just red along with the

red line an image of the red line okay I think I got everybody in the room I don't know but okay what about my best what about I'm just throw it out that existing elements of its approved concept development plan demonstrate applicant demonstrates one that existing elements

[04:14:28] it's approved concept of a plan reasonably I was going to say reasonably prevent the proposed concept plan from complying with the requirements of the zoning ordinance the key word being prevent i don't know what you just said i think we can talk about it i'm not i'm not suggesting as i said i thought about this in my car one day and came to the office and taped it up and gave

[04:15:04] it to staff and they had some input so i think we understand your point and we can talk every once in a while i look up i look at the two attorneys at the table and they look like oh god what just happened there just so you know Courtney and I should get in a room and just go what is this should this say and then I looked at I looked at two of you look at each other and go I think Courtney and I are doing each other look like we can figure this out I think we can figure it out it's not figured out but we can figure it out feasible there you go feasible okay so go to the next you had two you had one more that was it that was it we we didn't uh Bill's going to talk Bill has one okay let me just say as well as when we're talking about this Romanette 2 I don't know

[04:15:40] that it's necessary because we're always going to have to be otherwise compliant so it feels redundant so that was my thought but Bill take it away. I just wanted to clarify that if we were bringing forward a ZCPA and I thought I heard this but then we all debated I didn't hear it correctly that if we're bringing forward Ravana again for its future ZCPA and we need to carry forward ZMODs that were already approved that aren't allowed now does this number eight allow

[04:16:11] that to occur too yes just like yes yeah just like yes yeah if you have something that's already approved that you're not trying to change well we wouldn't change that anyway i think the idea was where you get put in this box because of something you had that was already approved that now conflicts with new ordinance regulations but oh that thing is not modifiable we're making that room for these pre-approved applications to have some space because you made the comment at that other meeting well then our only option would be to

[04:16:49] rezone to a PUD and we don't want to have to do that. We talked and thought that was reasonable so I don't think there was ever that we're going to take away your already approved modification unless you were trying to change it. I mean if you're trying to change something then that that's different story. Thank you that was a helpful clarification. All right so so let me ask staff would I would I'd like to get as much done today as possible because what i don't want is then like a whole lot of motions to come in and and now we're trying to figure out what motions will work or what we just

[04:17:25] discussed and we didn't fully discuss that would make me a little crazy so maybe take another break and have and let and let staff kind of kind of go together and talk about some of the things that were said come back and give feedback so then we all know what motions we're talking about Would come forward because it may not be that they have to come from you They can be staff motions to be honest, which is actually easier for us to be honest if there's staff motions Joe Did you have something? Yes, madam chair. Thank you So first my compliments to everyone for the great discussion that has been ongoing

[04:17:59] I just like to talk a little bit about process because at the beginning of the comments that came back after industry took their break there was a suggestion that we would work out, for example, Chapter 9

on the night that we talk about Chapter 9. So, you know, just like today, industry seen the staff's presentation, you know, as they walked into the room, just like when we did the first round of this discussion, staff seen, you know, some initial comments from industry.

[04:18:32] So my point is that we will not meet the schedule if we see information, either party sees information for the first time the night of a work session. So I would recommend that we develop a process that work is done in advance, if that means other sessions like this or if it means smaller focus groups, However it takes to get to that point so that when we get to Chapter 9, which, by the way, is the last work session.

[04:19:07] And according to our schedule, one week and two days following that work session, the staff must have a new revised book that incorporates all the changes that have been made so that it can go through quality control review.

[04:19:28] It can go through legal review. It can go to the newspaper, all of those things that have to happen in order to meet the December 13th public hearing where the intent is to adopt the ordinance.

[04:19:45] And, by the way, any failure to adopt the ordinance that night means, because of the advertisement rules, it will automatically, by default, go to after January 1st.

[04:20:01] So you have a one-night opportunity, so we have to get all this flushed out before that. And I'm just saying that we need... And I'm actually a little more... I haven't even... Yeah, that applies to... Yeah, and I was going to say that I'm a little more concerned about Chapter 7 than I am 9, because I'm not kidding when I say if Kim Hart and I have to spend eight hours together one day to walk through every word of Chapter 9, which for me, in many ways, is the most important chapter in this book for me, then I'm willing to do that and bring this back to you.

[04:20:36] Chapter 7 feels like it's kind of dangling out there a little more. I have no plan for Chapter 7. And that's the one I'm a little more worried about than 9 because I feel 9, I have enough kind of grasp of that myself. I know that language. I know those words. I've read it. I'm fairly passionate about getting Chapter 9.

[04:20:55] Chapter 7, I'm like, huh? So I'm a little more worried about that one, to be honest, and not addressing that at all and not knowing how many changes you all think you might be looking at in Chapter 7 is something like we have to discuss before we leave here today.

[04:21:15] Well, and I was just going to ask, just clarifying with Joe, like, is what you're saying that, like, if we, because, like, I think, like, the process that we've been kind of, that's kind of, I think, evolved naturally, right, is, like, we're submitting motions, and if we can find a supervisor sponsor, then those are being discussed at a work session and kind of, you know, then voted up or down.

[04:21:43] and is what you're saying that like if we if we as industry feel like that process is not going to be adequate you would like to hear that from us is that what you're asking i just want to cut like i mean because i'm not sure that i'm not sure that maybe that process isn't how do i want to make sure i'm clear on this the process may be adequate as it's currently set up to address our concerns on certainly on on seven i agree with you on on nine but we in terms of trying to shape our comments on NIME within the time frame that's been established and I definitely recognize and respect and I think it's good to acknowledge that

[04:22:20] that's like the last one so like in terms of opportunities to fix anything after that night we're really under the gun right so like gotta come into that ready to go I think you're right on the mark and Joe if I overstep dive in but this process today I thought worked and two was the toughest nut to crack

[04:22:41] If we set up a parallel process where you guys made your inputs on 7, got into us as soon as possible, and we had a session like this, and I hate to do this to everybody, but a session like this on 7, and then submitted your comments for 9, and we had a session like this on 9, well in advance of the night that we vote 7 and 9, I think then we're going into 7 and 9 with a pretty good foundation.

[04:23:04] I don't think Chapter 7 is going to be that big of a deal. I know that it sounded like it was when Matt said, hey, we're just going to table 7 and 9. We'll get to those when we get there. And now you guys went, oh, my God, there's a lot of stuff. I don't think that there's a lot on Chapter 7. But we just wanted to make it clear that we...

[04:23:21] But I don't want to dismiss the opportunity. Well, we haven't gotten that. No, I'm doing this for Chapter 9 because I think that this... Joe's point is something I've been uncomfortable with on the chapters we did, like the end of the night with 5 and 6. We talk about them, and the stakeholders get to talk about them.

[04:23:36] They come up and give their two and a half minutes. But this kind of rich conversation is really valuable. And if two, seven, and nine are the linchpins of the whole effort, and we did pretty well on two today, I don't mind devoting some extra time to kind of talk through seven and nine, even if it's only a two-hour meeting.

[04:23:52] I think we can make it one meeting. I don't think seven is going to be all that of a lift. And I think Mr. Hart and the other advocates in the affordable housing community would appreciate that sort of extra focus because I think it is going to be a bit of a lift on nine. And I think it's worth, I agree with you, it would probably be a great eight-hour lunch, Chair Randall, but I think staff being able to weigh in on that, too, will be helpful in having that sort of collaboration.

[04:24:15] I think me and Kim are going to do it all. That's what I think. No, seriously, I do think that, I mean, it's just really important that we get that right. I think, okay. So, Madam Chair, if I could just clarify.

[04:24:31] So, and I believe Supervisor Turner said it at the beginning of this working group discussion. I believe, and I believe the staff believes, because that's why we propose it to the board, the most efficient way to make a change is for industry to have a discussion with a board member, convince that board member that this is a reasonable change, and agree to promote a motion to staff that comes before the board and that the board acts on it in the work session.

[04:25:09] If there are components of the ordinance that need a level of collaboration like is what is happening today, my point is we can't meet the schedule if we hear about a topic on October 30th.

[04:25:30] The staff will not have the opportunity to go back, analyze it, do a legal analysis, and be able to act on it. Mr. Krobath, could we potentially think about if we set a meeting date for 7 and 9, a collaboration session or whatever we would call these, that maybe we would need four business days before to sort of have our proposed changes or discussion questions, something along.

[04:25:53] Because I know we'd sort of set that for your work sessions, but I don't think we have an issue. Frankly, from the emails I'm seeing and the collaboration that we've had on Chapter 9, I think we're pretty

far along in developing those red lines and comments. And Mr. Hart's been working his tail off to do that, too, as a big part of that and others.

[04:26:12] And so I think we could probably meet, as long as it's obviously not like next week, but if it's sometime in later October, right? I'm just suggesting that if you have information to share and we need time to react back to you And there may be then a discussion has to take place. So so I just I'm just trying to protect the integrity of the schedule.

[04:26:35] That sounds great. I think what we need to do now, and I actually do want to talk to you all before. I do think that the staff needs to take it, take up, take 20 minutes ourselves, kind of go away and kind of powwow, come back and have a discussion about what was said.

[04:26:52] And, to be quite honest, try to get as close as possible, not to specific motion language, but where we're going before we walk out of here today. Because I don't want you all to have to be sending in motions and then find somebody and all that after we've done all this already.

[04:27:10] That was the point of being here. And so, let's do that. Let's staff, and let's all kind of go. We can go in the Leavittsville room this time. I do want to talk to a couple of you before I walk out. Can I just make one admin note really quickly? And we keep referring to it.

[04:27:25] All of us keep referring to it, I think, erroneously, as the industry, as industry reps. It's a stakeholder group. It includes stakeholders five and six. They're at the table. Well, that part of it in industry? Not really. Okay. All right. Okay. You all.

[04:27:42] Thank you. You all. You know of whom we are speaking of. You all. You guys. All right. Let's go. And we'll be back, hopefully, by five or so.

[04:27:52] Jenny? Oh, there we go. See, this is why. This is why. Right there. Yes, she is. This is why.

[05:16:18] Okay, everybody, we're going to come back and try to have like one more session and maybe start to wrap things up after this session and then make some next step plans. There is dinner in the other room. Maybe after this session, people can go grab dinner before you leave out the door so we're not stuck with lots of food. Take some food home to your girls.

[05:16:42] See, Mom cooked this for you. See what a good mom I am? All right. All right, so the goal was for the staff to, first of all, I should stop and say this is a long day for all of us.

[05:17:01] Again, we've been here since 12. It is now 5.15. Thank you, everybody. And I know none of the staff is going to walk out this room and go home. We're all going to go back upstairs. and work some more tonight so thank you everyone for being here once more we're kind of we're kind of dropping supervisors pretty quickly and there now there are two now there are two but um so were there anything dan was there anything that you guys um well how about this how about you guys give just give a read out of what what what what you all discussed

[05:17:38] and is anything that was just absolutely not possible anything that was absolutely possible and can do. Yes, ma'am. So for the CC district sizes in the ordinance right now, there are defined sizes for neighborhood center CCSC with hard lines at six acres and 20 acres. So we had already talked about prior to the meeting was to allow overlap up and down two acres each way. So the maximum size of an NC could go up to eight and the minimum size for a CC could go down to four, for example just in that way it gives the hopefully the flexibility that without having

[05:18:16] to modify things even further to address the kind of issues that are popping up now where that gives you the ability to use uses that you might not otherwise be able to use does that sound reasonable yeah i think so i i mean we're not in our heads and sure yeah yeah yeah yeah yeah i'm gonna take the i'm gonna take the nod of your head says the absolute yes for everyone in all the industry areas i speak for everyone you speak for everyone in the county that's what the head not means to me okay and this is no particular order because my notes are a little everywhere so the period of

[05:18:51] validity for specs we feel is a non-issue typically if you've got a property or a project that has more than one site plan as long as you've worked on the first one your validity continues but if there's a true need someone wants it in writing we can add a condition that sets a time of whatever we define it to be there's not a requirement that it has to be a particular time and only that time is oh but wait a minute say that to me again you can add a condition when would the condition be added whenever the board approves it one of the conditions would establish a period of validity

[05:19:26] at whatever time however whatever length of time the board would like it to be maybe put in a different way if we in an individual application have a specific concern about the period of validity, we could ask for whatever we were seeking in that particular instance, and staff wouldn't have the opportunity to open.

[05:19:47] Is that what you're saying? Yes, ma'am. Okay, wonderful. And that feels reasonable? Yes. Okay. All right. I was just going to add that we've done that on One Loud and Intervana with the Interim Surface Parking Special Exceptions, where we got five years. Yeah, and that was the example I gave, actually, the Interim Surface Parking example. Yep. Yep.

[05:20:03] Okay. Okay, we agreed. What we talked about, we had already talked about allowing the minimum acreage for TC to be down to 20. And so we thought scaling the open space up and down according to the overall acreage would make sense.

[05:20:19] So I think that would be okay. And then for modifying the minimum acreage, we wouldn't want it to go down lower than 15, just because we feel like you need it, again, for the initial zoning districts that's somewhere.

[05:20:34] So if you're adding on, that's separate. But if you're the first town center in a given location, we thought a minimum of 15 would be a good lower bound to be modified to. Okay, okay. For...

[05:20:49] I'm running through the applications. I do know that we did one TC district, the Cascades Overlook. I'm trying to remember off the top of my head how big it was, but I think Dan's response is going to be, if you're that small, talk to me about a PUD. Yeah, I was going to say, I can think of one off the top of my head.

[05:21:06] And this might be what Chair Randall says, you guys are not going to get everything you want. This might be this moment where I say that. That's why I kind of did the shoulder roll and didn't turn my mic on. okay all right all right keep going for the idea of having a one-story building in the inner core there's actually planned policy that would support having something above i forget it's specific to to one story but basically a small building up to 2 000 square feet that would be allowed in that general area as long as it's part of the plaza and it's it's place making like they're talking

[05:21:44] about. So we propose allowing one, well, one or more buildings cumulative of 20,000 square feet per plan policy to be exempt from that minimum height. So it's, I'm sorry, 2000. What did I say? Oh,

2000. Yes. Sorry. That's why I was looking at you like, wait, what? Okay. Say that one more, say it all one more time. So we can exempt up to 2000 square feet. Okay. That could be in one building or could be in three whatever the applicant as long as it's two thousand square

[05:22:19] feet or less okay given flexibility and it be part of the plaza the open area the place making for that okay development and there's plan policy that already supports that and that would have to these laid out fairly specific i mean that that's that would have to be fairly specifically yeah exactly okay all right wonderful wonderful okay and then the one area where we didn't want to allow modification was for the mix of uses so like i said before we had went to the other room we would staff would prefer for there to be a hard bound one way or the other even if if a five

[05:22:54] percent increase on both sides of a mix of uses um if the board doesn't feel like that's sufficient we'd support that going up but to there for there to be an actual boundary on that so that something is not 40 and can be modified down to 10 or something that's way too small what what slide was that oh okay okay would would staff be willing to allow for modifiability for something that's not open-ended meaning you could ask for i'm going to say modification because i'm going to

[05:23:32] leave it to you to say cdp or specs but that that you could you know you could modify it with by 10 10 additional percent or something along those lines like like is there something along those lines it's not quite fully modifiable because i i i hear you dan we're walking into a buzzsaw if the plan says 40 and we go here's eight um but is there some opportunity for for something that is i know you're increasing the ranges and i appreciate that some of our plan policies already have ranges but is there some so the what i was saying about that is if a plan

[05:24:08] policy let me pull up an example just so we can use yeah actually have um in the transition um excuse me, the urban transit center, the preferred mix of uses within a quarter mile is 5% public civic, 45% non-residential, 50% residential, and the possible ranges are 40 to 60. So for something where the example is 40 to 60, and that is what is in the ordinance today, then that would go from 35 to 65, just with what the ordinance allows. If the board wants that to be 30 to 70, I would

[05:24:47] rather have that with a firm defined boundary than have the possibility of going further or if you want to I mean it's all about semantics if you want it to be that but modified up to ten percent either way and I think that if I think that first of all I like miss I like what Dan is saying too and it and with respect if you all don't agree just this this may just be what ends up on the dais as a vote because I agree with mr. what Dan modifiable 10% either way and maybe require, I don't know, a minor or a minor.

[05:25:24] My thought was is that if you're just a little bit beyond not automatically kicking into a pud was all. And I was just like, if you're close. And I am thinking about those circumstances. Yeah, but there has to be a cutoff. I get it. Right, there has to be a cutoff. I am thinking about some of the places where we're asking for suburban mixed use was the example used earlier.

[05:25:43] Suburban mixed use where we've got parcels that are not quite going to meet those mixes right away. Because we've got an application coming up next week for you all, but, like, it's suburban mixed use. We're not quite getting there. We're getting closer to it.

[05:25:59] We're getting closer to it is all. Well, maybe to flesh that out a little bit. So maybe there's a way to, like, split the baby here because I think the, at least for me, the way I'm seeing kind of, like, the primary concern is on a smaller parcel.

[05:26:15] So maybe there's a there's a limit on how big the parcel could be that like you're in a situation where it's an it would otherwise be an incremental addition to TC. Right. But like you're trying to rezone to, like I said earlier, like add a light tech building.

[05:26:34] And so it's all residential. Are we then in that point not willing to modify the mix of uses to do that? Or we're going to make that development be a PUD. And now you have a PUD, you know, that may be literally surrounded by, you know, TC that would have otherwise been an incremental addition to TC.

[05:26:53] And that whole area could have been TC if you're following. And I mean, maybe that doesn't matter. Maybe that's semantics. I don't know. But I just, that's kind of like a hypothetical I could come up with where that would be a possible scenario. Yeah. And I'll just add one other thing. We've talked a lot about urban transit. That's a goal. That is a gem of an opportunity.

[05:27:11] i understand the need i mean the example mr galindo used like in there this is what it says in there there are going to be infill places throughout the county where there might be some benefit to us being able to just be close close to get closer to it but not necessarily sitting there so there's already there's already provisions other other places in the ordinance right about what qualifies for infill and i think we've established although i know i understand the board is having ongoing conversations about certain areas in terms of what qualifies for infill but like infill as a concept is kind of already in the ordinance so maybe you just extend that in the sense of when we're discussing modifying this specific thing it has to be an

[05:27:51] infill to be allowed to modify it would that be a compromise so i think we're supportive of of there being a threshold at which you need to meet it and when you've got some more flexibility so in trc right now there's an exception for meeting the permitted mix of uses if the incremental additions less than five acres um if the lots were existed prior to ordinance adoption a couple things like that so there are not maybe not in all districts but in some districts there are already some parameters set for when you're small enough to be exempt we can look at that for just to see how prevalent it is and if we need to recommend adding it anywhere okay um i think we're going

[05:28:30] to leave this leave this as um as staff has said and i do believe that this may be one that we need take to the dais with some explanations. This feels like we're about 75% to where you all actually are trying to be, to be honest. Absolutely. Okay. All right. All right. We're going to go on then. Thank you. I think that was it. I think that were all the questions.

[05:28:57] Was that it? That wasn't it. That wasn't your question. Yeah, there was a question that you asked. Yeah. So with regard to C8, this language? Yep. We didn't work on that in the room. I don't of Courtney. Oh, that's right. Oh, I guess Courtney and I are working on it. Courtney, we're going to work on it. A female attorney look. That's right. I think we could work something like infeasible or something like that. I would not support getting rid of the too little I, because I think what that does for me is it brings it back to that this is still a limited

[05:29:32] exception here, and you're still otherwise complying with the ordinance, right? We don't have a huge issue with it we just thought it was i think ms turner said to get rid of that i don't think you all said that we did we did he agreed but but for us it was why say it we already have to do it it was just redundant so if it stays it's just redundant we're okay otherwise you all will work on any other language between the replacing impossible with i think it's impossible yep yeah infeasible yeah yeah oh okay i like that yeah all right was there any was there anything

[05:30:04] else was that it was that it i believe so really yeah wow okay so then then this is the next question i know mara and um tia i know you guys want to talk to me before i leave out today i won't we won't make that happen um i had a long talk with mr hart before he walked out um i will i am trying to find some time to sit down and talk to him i am i have i have this other thing going on in my

[05:30:41] life right now. It's taking up a little bit of time here and there. So I'm a little bit busy, but this fairly well wraps chapter two, correct? And you all do not believe chapter seven is going to be too tough. And so what I'm going to try to do is sit down with Mr. Turner and I and Mr. Hart, work a lot of chapter nine through, and then come back and do a chapter seven, nine discussion with hopefully a lot of Chapter 9 being worked through in advance.

[05:31:14] What's up, Dan? You good? So then the goal now is for us to try to find a date for you and I to sit down with Mr. Hart and then for all of us to come back again for Chapter 7 and 9. And that needs to be done by when, Joe?

[05:31:31] Chapter 7 goes out tomorrow, and the meeting is October 16th, and Chapter 9 is October 30th, our final work session.

[05:31:48] We're reviewing the item right now. Chapter 9 is October 30th. You're reviewing 9 right now? The deadline for question and motion submissions for the board is October 24th for the 10-30 work session.

[05:32:12] The deadline for Chapter 7, which is the work session on? The 16th. The 16th. The deadline for board motion submission is 10, 10? No, yeah, 10, 10.

[05:32:27] Oh, my God. Next Tuesday. But I think to kind of maybe reiterate just publicly for the group, I think, I mean, at least collectively for the three of us, I think we feel like the meat of that conversation is much more Chapter 9.

[05:32:49] I don't know if we really have a whole lot on 7. And so I would focus less on the pressure of where we are with seven, but also respect that nine, like, it's the end of the process. So, like, I think it's still under the gun, but I just wanted to maybe throw that out there in terms of. And Mr. Hart has already prepared some information, so.

[05:33:08] I could maybe, Mr. Turner, wait, when's the work session for nine? October 30th. Okay, all right, all right. Three weeks away, but Kate is saying they're working nine. The packet goes out on the...

[05:33:23] Yeah, so they're working on the packet, but the supplemental will go out on Friday. It goes out on the 19th, the packet. Okay. Yeah, it goes the Friday before... So perhaps, Matt, next Friday the 13th, after my event in the morning, my event in the morning, what am I looking like after that?

[05:33:53] Yeah. We have an 11 a.m. that is our normal thing. Yeah, we could do that. Set aside the normal 11 a.m.

[05:34:09] Yeah, that's what I was going to say. But, yeah, that's what I was going to say. Do we want to turn that? We could just turn that into an in-person. Yeah, that's exactly what I was going to say. Because we're all going to be somewhere else that morning, right? Up until, what, 10? Up until 10?

[05:34:25] And then we're going to slog over here and maybe make it then. So you and I have to find some time next week to sit down with Kiln before that. Okay. So then let's plan our next. I just want to let you know that I know I'm not available, but I'm not a key person here.

[05:34:43] Courtney is not available that day. Oh, you're not available on the 13th. Okay. You are a key person. Is there someone else from the county attorney's office that good? No one else is Courtney. There may be, but we want Courtney. That's good for being so good.

[05:35:00] Yes. Are you gone away for a vacation or something? Are you just gone for a day? Okay, all right, all right. Matt, what am I looking like on the 16th?

[05:35:16] Too late. It's just the next Monday. One day earlier. Uh-uh, uh-uh, uh-uh. Because that's the day before the big day.

[05:35:32] I can't. I have to be preparing for the big day. Worried about it. You guys can go without me. I mean, you know, there's nine of us. I don't have. I can do that. No, you can't. I'm just kidding.

[05:35:49] No, you can't. Not because it's for chapter nine.

[05:36:02] I'm not doing this on Saturday. Are you kidding me? No.

[05:36:26] Isn't that Wednesday at the 11th? Don't we have in that public hearing? It doesn't.

[05:36:43] To talk to Mr. Hart. Yeah. Yeah. Yeah, it doesn't. Okay. What about the 17th, Matt? Okay. But is there anything before the business meeting?

[05:37:05] Okay. That is movable. Moveable. So, I mean, because I don't think it's going to take that long. So I will talk to Mr. Zern, and that might be movable. This is for the 7-9 meeting.

[05:37:22] This is for what? Chapter 7 and Chapter 9 combined. I know. Kim and I have to move on. I know, I know, I know, I know, I know. Maybe we can meet in the 13th. Oh, on the 18th, T-Luck is canceled.

[05:37:38] It is. Okay. You want to move into the T-Luck slot? Let's move into, well, not into the T-Luck slot. Not in the evening, but maybe during the day, on the 18th, during the day. How does that look for people? starting i'll i'll take you out the top golf i'll make it up to you what am i missing the matt what what's the top coffee bit oh that's really important actually that's what time is

[05:38:16] that okay so we'll do this in the day we'll do it during the day can we do it during the day on wednesday can we do like same time can we start at 12 and go to five okay let's start at 12 on let's start at 12 on wednesday is everybody does everybody can is that possible joe are you back by then you good okay okay but yes rage did you get that and you and i maybe can meet with him on friday the 13th okay okay which i know is your favorite day of the year or something it is my

[05:38:46] favorite day i know it yeah yes well colleen can't make it to one so i'm for that meeting okay then let's uh let's go earlier then let's go because then you can do it and be done 10 let's say let's say 10 10 o'clock on matt you hearing that 10 o'clock we're going 10 o'clock on wednesday no 10 10 a.m. on the 18th.

[05:39:26] Judy said brunch. And Mike and I, I will call Kim, and Mike and I will try to meet with Kim on the 13th, Friday the 13th. Rach, 13th, Kim and the chair and I. Okay.

[05:39:46] On the 13th, well, it has to be after, let's say, I don't know, 1 o'clock. I would have had a busy morning. 5, 13th, 1 o'clock. Okay. Matt, are you hearing that?

[05:40:04] Thank you. The meeting with Mr. Hart and Mr. Turner and myself, Friday the 13th, 1 o'clock, Chapter 9. Prior to the Wednesday meeting, which will be Wednesday at 10 o'clock with all of us. Colleen will get here at 1, although she thinks there's more important people that could be here.

[05:40:23] But she'll get here at 1. Okay. And that's on 7 and 9, mostly a lot on 9. And we'll tell John Hall and Ms. King and everybody else for that day. Okay. Are we good?

[05:40:40] We are? Oh, thank you. Thank you. Woo-hoo! Great work, everybody. Really good work. Thank you all very much. You know, Colleen, so one of my degrees is in...



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