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Loudoun County Board of Supervisors, Committee of the Whole Work Session, Thursday, October 12, 2023

Date Thursday, October 12, 2023
Place Board Room, First Floor, Government Center, 1 Harrison Street SE, Leesburg, Virginia
Length 1h 44m (video)

- Official meeting video (county, Granicus): <https://loudoun.granicus.com/player/clip/7437>
- Agenda (Granicus): https://loudoun.granicus.com/AgendaViewer.php?view_id=73&clip_id=7437

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[00:02:36] you thank you uh please join me in the pledge to the republic for which it stands one nation under god indivisible with liberty and justice for all thank you all very much i want to run through kind of an overview of the agenda tonight and uh mentally i've been through a couple of iterations here so i want to make sure i get it right as much for my sake as for yours

[00:03:12] um we will start off uh by going directly into a committee the whole and we will discuss past motions not chapter 10 11 and the appendix but previous motions that have been carried forward to this door and then when that discussion is finished and you'll note there's one minute on the clock that does not mean the world will come to a screeching halt at one minute it means i wanted to roll to zero because we all have pavlovian responses as board members and we see zero on the clock we stop talking and i like that subliminal psychological nudge to you don't

[00:03:49] have to talk for three minutes so we'll keep one minute on the clock but please try and keep your comments as short as possible so we can get through this in an expeditious way so we're going to the committee the whole we'll talk about the carryover motions as we get into the motions just a little bit of twist from from prior sessions to see if we can't tighten it up just a bit if there is a motion we want to talk about we'll make the motion there are five things that we can do as board members with that with those motions in fact uh julie can you hear me okay

[00:04:25] i want to check that can you hear okay i can yes sir okay great thank you very much um we do not have a clock for you you can't see the can you see the clock you can't can you no i cannot okay you're under your own one minute discipline okay so so you know no problem no problem there are five things we can do once there's a motion you can vote yes you can vote no there's actually six if include abstain but we're not going to do that you can vote yes you can vote no we can withdraw the motion if you choose to do that you can if you're the originator you can vote the table to

[00:05:02] a future ZOR session or you can vote the table to the CPAM-ZOAM rural discussion okay if you think you are going to want to table to a future ZOR session or table to a future CPAM-ZOAM discussion please hold that motion until we've made the motion and we've had an opportunity to discuss the motion because you can make the motion to table right up front it cuts off all debate and if it passes that's the end of that discussion and there are some issues in these motions that I want to have discussed by the board so if you're thinking about tabling that's fine as we get into discussion I'll say there any more are there any more questions or

[00:05:40] discussion items when there are none if I can remember to do it I will say are there any motions to table and then that's appropriate to bring up a table motion if you want to do that. So again, you can table to a future ZOR session or you can table to the CPAM-ZOAM rural discussion sometime in 2024. We will go through the prior motions. We'll finish that, come out of the Committee of the Whole, and then we will begin the presentations by staff on Chapter 10, Chapter 11, and Appendix C. They will make each presentation, and then we will ask

[00:06:17] questions of staff after those presentations and then once we are finished with the staff presentations we'll invite the stakeholder input and then once we are finished with stakeholder input we will re-enter a committee the whole and we will discuss tonight's motions on chapter 10 11 and appendix C and then hopefully wrap up so and as we did before I've kind of gone through and identified motions that I think are pretty easy and motions that going to require some discussion. So with that, I move that the board enter into a committee

[00:06:51] of the whole. Do I have a second? Second by Supervisor Kirshner. Any discussion? All those in favor, say aye. Aye. Any opposed? That motion, Supervisor Rieskman, you're an aye. Yes. Thank you. That motion will pass 603. We are now in a committee of the whole, and our first carryover motion is get my other glasses on i'm sorry mr chair um you need to read the notice for supervisor yes i do thank you very much uh so i did call order the october 12th

[00:07:30] board of supervisors ordinance rewrite work session this room has a hearing loop if you need hearing assistance switch your hearing aids to the telecoil mode by the way after this meeting could someone show me how to do that because i have hearing aids and it would be cool and i've never thought about it if you need a headset we have those available as well please see the clerk to request a hearing set and with that I think we are good we are in the committee of the whole and I will start with the first huh okay did I miss something yeah there's a notice you need to read for Ms. Brisman's remote participation but I think Ms. Grimmel is getting that for you now oh yeah

[00:08:07] I don't have that available sorry guys in our audience we need to read a notice for Supervisor

[00:09:32] bristman in order to legally participate remotely that's what we're digging up right now is the

[00:09:37] notice pursuant of virginia code section 2.2 3708. 2 and the board's rules of order supervisor

[00:11:57] bristman requested to participate in this meeting by electronic communication a physical quorum of the board of supervisor is present in the boardroom and the board has made arrangements for the voice of supervisor bristman to be heard by all persons in the boardroom supervisor bristman made this request within the required time frame and the county attorney determined that supervisor bristman's request meets the qualifications to participate remotely the board will record in its minutes that supervisor bristman participated remotely from a secure location from her home in due to medical reasons thank you very much I appreciate it all right we are in a committee the whole and on to the

[00:12:36] motions motion number one I am going to withdraw that motion staff has provided I think sufficient justification as to why that motion is unnecessary so I'm withdrawing that motion any questions or discussion on that motion okay motions 2 through 17 i want to try something here and we don't need to race through it but i think this might go quicker motions 2 through 17 are motions that were made in consultation extended consultation between stakeholders and staff at the modifiability session we all thought that was a very productive

[00:13:13] session. They reflect the agreements that we all agreed on at that session. So I would like to make the motion that we move to approve motions 2 through 17 as a block. That's seconded by Supervisor Returno. And what I will do is I will open it up as Committee of the Whole to any discussions or questions on any of those particular motions 2 through 17 as you'd like to make them.

[00:13:38] I have one of those, but I'll defer to my colleagues. If you have questions on any of the motions please feel free to make those now none very well the only question I have is on motion number three I want to make sure I'm reading this correctly in motion number three we're saying I move that the board direct staff to revise section 2.0 101 a2 and section 2.0102 a2 ue to allow the initial 20 acre

[00:14:13] maximum to to the initial 20 acre minimum district size to be reduced by a maximum of five acres by modification i read subsequent motions i want to make sure i understand that so we're saying you can reduce not to five acres you're saying you can reduce the 20 acres to 15 acres maximum correct correct okay any questions on that everybody understand that that's the only question i had on that motion any other questions or concerns on motion chairman i'm sorry yeah yeah super Could I ask a member of the chamber just for their opinion on voting on this as a block

[00:14:53] and whether they are comfortable that the modification issues have been resolved for them? Mr. Junda? Thank you for the record. My name is Bill Junda, the representative for the Commercial Industry Stakeholder Group.

[00:15:12] Totally agree. Motions 2 through 17 voted as a block. We're very happy and support it. I think motion 25 is also tied to that, but you'll discuss that later. Thank you. Thank you, Supervisor Rumpstein. Any other discussion on the motion to approve motions 2 through 17 as a block?

[00:15:30] Hearing none, all those in favor say aye. Aye. Any opposed? Aye. That will be, the ayes have it, at a vote of 6-0-3. Motion number 18.

[00:15:53] Mr. Chairman. Yeah, I'm sorry. I think your vote count was incorrect. I think it was 6-1-2. Was Supervisor Brisbane a no? No, she was delayed. She was an aye. She was delayed. She was delayed aye. My apologies. That's right. Motion number 18.

[00:16:11] I want to make this motion because I want to have this discussion. I think it's a worthwhile discussion. I just spoke with Mr. Donchus right before this meeting, and so I would like to make this. Staff

does not support this, and I understand why. They refer to the fact that we passed motion number nine. This is about utility energy storage.

[00:16:28] the last motion we passed specified that it would be a specs in certain districts and it would be a minor specs in the three industrial districts the i've got feedback from the stakeholders and the chamber that they actually had hoped for a broader use of that if you remember my logic was this is brand new technology we don't know where it's going to be appropriate we don't know where it's going to fit best we all open up and let it go anywhere in the county but require at least a minor specs so the board will always get to see where it goes. And that was the intent of that. So what

[00:17:02] I've done with this motion is broadened it out to basically say a utility energy can go into any district in the county, but it's either going to be a specs or a minor specs. So I want to read it really quickly. I move the board direct staff to revise tables 3.0201-1, 3.0202-1, 3.0203-1, 3.0204-1 and 3.0205-1 to list energy storage utility scale as a special exception use in all zoning districts except for industrial park, general industry, and mineral resources, heavy

[00:17:39] industry, and to list energy storage utility scale as a minor special exception in those districts in IPGI and MRHI subject to use specific standards in section 4.0702. Do I have a second? Second by supervisor umstead um opening statement um the there are a couple of things here first the the two big issues i think that staff has and staff feel free to chime in i don't want to i don't want to misstate your your feeling number one is um fire is very concerned if there's not a point

[00:18:13] source of water on site and uh utility energy storage is really not an appropriate use in the many of the rural areas in the county and and the residential those are absolutely valid concerns But we don't know where this new technology is going to go, and we want to give ourselves maximum flexibility to use that, and we can always say no.

[00:18:36] My question to staff is, in fact, I guess to legal, Ms. Sidner, if you could answer this. If a utility energy storage site complies with all the requirements in the zoning ordinance, do we have a legal basis to deny a minor specs or a specs?

[00:18:56] Can we just deny a specs because we don't happen to like where it's located, for example? It's got points water source for fire protection. It's not near a residential area, or it's got a 100-foot setback in accordance with Chapter 4.

[00:19:13] It complies with all the other aspects of the zoning ordinance. We just don't seem to like it in that location. Can we deny a specs on that basis? So, I mean, the idea behind a special exception use is that the use is supposed to meet the requirements of the ordinance, But there are other considerations why, for that type of use, you want it to be subject to legislative review, the ideas you're reviewing for some issue.

[00:19:39] So I think in any instance, an approved special exception use would always meet the conditions of the ordinance. It's just whether or not it is appropriate in that location or if there are otherwise conditions that mitigate it.

[00:19:57] So it really depends on the nature of it and the reason why you are making it a special exception. And I'm not sure if Dan wanted to comment too, but. I think the other thing that we'd add is that as a special exception use, part of it should be that it complies with the comprehensive plan, and there's not really any direct guidance that's going to call out this use specifically.

[00:20:21] For the rural areas, maybe even the transition, it may not meet the character, but that's going to depend on the specifics that are proposed with the application. So that would be probably the main thing that we would use as a staff to argue against something if we disagreed with the location that was presented. Okay. All right. So what I'm hearing then is the intent to require the minor specs and the specs is to get board oversight of each one of these applications. And that sounds like we're going to achieve that the way it's written right now. Correct? I'll take that as a yes. Okay. Great.

[00:21:00] Okay. Supervisor Umstead. Thank you, Mr. Chair. I know that in the rural policy area, we have a transmission line substation near the W&OD. Do you foresee this use being more problematic than a substation?

[00:21:24] Yes, and I may even ask Mr. Krobat to chime in on this. From a fire safety standpoint, and I'm saying this secondhand, there are greater concerns with putting out the fire of an energy storage, especially a utility-scale facility compared to a traditional substation, just given the nature of the materials.

[00:21:42] Okay. All right. If you'd like me to add, I would say that there are risks associated with substation fires. And many years ago, it was much worse than what it currently is based on the type of oil that is used in the large transformers as an insulator.

[00:22:04] Those oils are still flammable, can be controlled. The issue with the battery energy storage is the volume of water that is needed in order to extinguish the fire.

[00:22:21] And I know it sounds counterintuitive to use water as an extinguishing agent for an electrical fire, but that is the proven tactic for extinguishing such a fire. But it is massively large volumes of water, And that's the reason that the fire marshal recommended to cite those only where they had adequate water supply.

[00:22:50] And, again, if such an application became before the board and the fire marshal had concerns, I have to believe that would enter into the discussion as part of our oversight process. I do have one other thing I'd like to bring up. Are we not debating a motion on timer?

[00:23:07] I'm sorry? Aren't we debating a motion? We are, but— Didn't you already give an opening to the motion? So are the rest of us? yeah dive in sure yeah i mean there's a bunch of lights we have our lights on so oh i'm sorry everybody's late yeah i wasn't even looking at the lights i'm used the green light superintendent go ahead um okay um yeah i i understand what you're trying to do but i'm not i wouldn't be supportive of this i i don't foresee a circumstance we would want to put these in residential districts a rural district or even an urban district i think we got this right the last time we did it yeah i mean the motion last time which we were kind of

[00:23:47] pushing beyond what staff was comfortable with but i think we got it right i think you got it right um because it was more you know i give you the credit for that this is too far this is just getting kind of wild and i i worry that without really specific use standards for a technology that doesn't really exist yet in the form that we'll probably see it here we we would have difficulty discerning and denying applications should these concerns arise we need to make sure that it's legally grounded so i wouldn't i wouldn't support this motion um as it's written

[00:24:20] anyway okay thank you yeah thank you uh do we call you chair or do you yeah mike is okay mike chair mike my mic is on um so i thank you for thinking through this i appreciate your your thought

process i i would also oppose the motion i mean i think this is a really really important industry that we really want here in loudon county to tap into and it's going to be a growing expanding industry um i agree with at this point anyway with supervisor laterno that we got the last motion right i would be concerned um just given the fire i know it's already been stated um i can see a potential use in the future in the rural policy area

[00:24:58] maybe even the jlma or something like that but i think we have to really come up with some really good use standards how that's going to look where will it even be close to any sort of residential but at this point we are not there I don't think we fleshed it out enough it may not ever work there but I do think it's an industry one I want to encourage and I think where it sits right now in terms of the I guess we have a buy right used presently in certain in the IPGI is it just special just specs in those particular areas I think it's probably right but we probably need to revisit this in the near future too as that industry grows similar as we did to data centers 20 years

[00:25:38] ago so thanks thank you thank you chair turner and and i'm gonna have to say that i agree with two of my republican colleagues regarding this um i i i am concerned that uh you know that it's allowed in residential areas and and um i'm also concerned about you know having to have development standards I'm regarding you

[00:26:12] know this this use here and I'm also want to make sure we get it right because I want I want how I want it done well because future supervisors they're going to interpret this motion and I just want it you know after we're gone that we're not going to look back and say you know we didn't get this well okay thank you Thank you. Supervisor Brisman, did you have any comments?

[00:26:46] Yes. Yes, I do. Thank you, Chair Turner. I did want to ask staff a question real quick, if that's okay. I want to know if they could tell me briefly why they think this motion conflicts with the motion approved on September 26th.

[00:27:04] I think it conflicts in the manner that it's essentially addressing the same subject matter with a different outcome was our primary point. It was just to point out to the board that there had been a previous motion covering this that set the use, where the use was allowed by special exception or minor special exception previously.

[00:27:26] Okay, okay. Yes, I mean, I met with Mr. Donchus as well, and I understand that, you know, there may be some other factors that can govern these aside from the board, but I just don't think I'm ready to go here yet. I think that we have opened the door to the industry, But this, to me, is kind of opening a little bit too wide, and I wouldn't be opposed if the industry is coming here and we've got, you know, a lot of interest and maybe we can solve the water problems or anything like that, bringing back a ZOAM.

[00:27:59] But I'm comfortable where we were at the last meeting when we discussed this, and I probably won't support the motion. Thank you. Thank you very much. One other item I would like to introduce is a possibility. I will not amend my own motion, but I have to talk with Mr. Donchez.

[00:28:16] He points out that a minor special exception in IP, GI, and MRHI generally takes about a year and costs about \$100,000. These are industrial districts. Would anybody like to make a friendly motion to make these buy right rather than minor specs?

[00:28:32] Can I ask a question about that? We asked that question, and that's not what we were told about the minor specs from a time or a cost standpoint. So let's fact check that. That's correct. There's only one public hearing for our minor specs. You told us, like, yeah, three to six months and not \$100,000.

[00:28:50] That's the target, certainly. In reality, it's usually about six months. I don't have the fee, but he may be talking about more than just the application fee. Well, and many of our minor special exceptions are coupled with other applications as well, which could extend things.

[00:29:06] Yeah, so no, I don't think it will. Is there any interest in a friendly? Yeah, I would be interested in a friendly, and I think Judy is right. He was talking about more than application fees. He was talking about hiring land use attorneys, planners.

[00:29:26] So I think that's where the \$100,000 comes from. I'd be willing to offer the amendment that you requested. Okay. So we have a friendly to make IPGI and MRHI by right rather than minor special exception.

[00:29:42] Is there a second? I would second that, but ask that we split the motion. All right. If that makes sense, because I think I would be okay with making those by right, those areas by right. That's what the motion is.

[00:29:57] Correct. But the first part of the motion opens up. There's two parts of the main motion, correct? Well, the friendly would simply change the motion to say, and I can read it. So in the last sentence, it would say, and, comma, to list energy storage utility scale as a by-right use in IPGI and MRHI subject to use-specific standards in Section 4.0702.

[00:30:27] That's a friendly amendment. So you don't need to split the amendment. You just amend the motion as made. But you're still including all zoning districts. I would want to remove the all zoning districts. That's why I want to split. Fair point. Fair point. Yeah, so if you make a friendly and it goes down, we've lost the friendly.

[00:30:49] Is there anybody that would like to make the alternative motion that I just read? Maybe that's a better way to do it. Do you want, and your alternative is to eliminate the first part of the motion in our packet and only go with the second half?

[00:31:06] I'll make that. I would second. So you're making an alternative motion, just the second part? Yes. Right, and I want to make sure staff is with us on that. You understand what we're doing? Yes, sir, we do. First part of the motion is dead. The alternative motion is just the last part, making those three uses by right.

[00:31:23] By right and industrial, yes. Okay, so we have a motion and a second opening comment. No, no comment. Okay, second, any comments? Yeah, the only quick comment I would have is I think these, again, these are heavy industrial, mineral, general industry, which is exactly where these need to be.

[00:31:40] And, again, this is a, if this, if Loudoun County doesn't get this sector, other counties are going to get this sector. And I think obviously we need to work on those use standards, but I think ultimately if we want to capture this industry, these are the places that we want to allow them to come in, and it's building quickly.

[00:31:57] So those are my thoughts. Okay, other comments? Good question to staff. So does staff think that this is a reasonable request to have it a buy right in these three specific zoning districts?

[00:32:14] Yes, if you do add more flexibility, that would be where I would go, definitely. and having it by right are we are we saying that do we have standards of how large it's going to be and that sort of thing that's i think that's my concern also so keep in mind if you make it by right the board will not see these at all they will go through as administrative process through the building development um well if they require a commission permit that's true but i think to judy's point if there's more flexibility desired that's we would support that being where it go

[00:32:50] I don't think that staff supports making them buy right, though, for the things we've said previously. By having some sort of special exception, it still gives us the ability to implement conditions if there's a need for that whenever we're viewing it. Okay. Thank you.

[00:33:06] Yeah, so the reason why we ended up with data centers next to houses in the first place is because they're built in PD and these two donating districts because it's a checkerboard pattern in a lot of places in the county. So for that reason, I would like this to stay a minor special exception so that we can screen those particular instances out.

[00:33:27] And if this motion were to pass, which I hope it doesn't, we would really need strict performance standards. But I really think it's safer for us to keep it as a minor specs. The process is not crazy. It's six months. It's not as expensive. And this is new, and I think I envision the day where we'll get all kinds of residential pushback on this in those areas should that happen there.

[00:33:51] And I just want to try to learn from the mistakes that we've had in the past. So here we go. Thank you. Supervisor Bristman, any comments? I'll associate myself with Supervisor Letourneau's comments. I won't be supporting the motion. I don't want these to end up near homes.

[00:34:06] Thank you. Thank you. And my comments are almost exactly the same. This is sort of how we started down the slippery slope on data centers, and this is a new technology, and I just don't want to go there. Motion's been made and seconded. Joe's got something. Okay. Yeah, Joe.

[00:34:23] So thank you. I'd like to expand on Supervisor Glass's question. And as you know, I am not your fire marshal, and I'm not your fire chief. But if the fire marshal were here, I believe he would make a statement like this. And when we as a staff met with industry as well as met internally to draft amendments to Section 407, which is the development standards for these energy storage systems,

[00:34:56] we had an extensive discussion about whether or not they should be buy-right or special exception. And what I'm trying to convey to you is that FAR codes are developed or updated once every three years.

[00:35:14] Unfortunately, the state does not adopt those new FAR codes as soon as they are published. They are typically one or two cycles behind. The most current fire code that is not adopted by the state does have reference to NFPA 855, which is the fire prevention code around energy storage systems.

[00:35:41] So because they're not integrated in the most current code that is adopted by the state and then hence by Loudoun County, the fire marshal had asked, until those codes catch up to the fire protection standards that exist, that we would recommend that they be special exception so that the fire marshal has the opportunity to recommend conditions until those codes get adopted.

[00:36:10] So that's just a little bit of background. Thank you very much. Any other comments? Motion's been made and seconded. All those in favor, please say aye. Aye. And all those opposed, please say no. No.

Nay. That motion will fail 2-4.

[00:36:29] Therefore, the motion made at the September 26th ZOR Work Session, motion number nine, it stands as passed. Chair Turner, do you need to withdraw your first motion? Yeah. Unless the alternative replaced it.

[00:36:46] We never voted on it, did we? It was an alternative, not an amended motion. So the alternative supplants the original motion. Yes. Okay, good. Very good. Thank you. I think staff's explanation of my motion on farmers' markets is sufficient, and so I'm going to withdraw that motion.

[00:37:08] That was 19. Yes, I'm sorry. Motion number 20, Supervisor Glass. Chair Turner, I would like to table this motion.

[00:37:34] I know this is something that's fairly important to my other colleagues, so I would like to discuss it at a later meeting. Work session? Yes, later work session. Motion's been made to table. Is there a second to table for a future Zohr work session?

[00:37:51] I think you can just skip it. Just don't have to. Just skip it. Yep, I agree. Okay, we'll skip 20, and we are on to number 21, which is my motion on the airport overlay district. I've had extensive conversations today with staff and with Ms. Sidner, and I still think this needs some work.

[00:38:20] DAR is concerned about some legal repercussions, and they've had two already, two cases where people have backed out of real estate deals because of our disclosure. There is no similar disclosure anywhere around either National Airport or Dulles Airport outside of Loudoun County, so this is unique to Loudoun County.

[00:38:39] We're talking about some ideas, but I'm going to hold off on this motion until a future session. We're going to talk some more with DAR and with the legal staff. mountainside overlay district i am comfortable with staff's explanation of why the 600 foot came out so i am going to withdraw that motion and we are on to chapter 10 i'll entertain a motion to come out of committee of the whole so moved supervisor umstott moves to come out of the committee of the whole supervisor kirchner seconded any discussion hearing none all those in favor please say aye

[00:39:16] That motion will pass 603. And staff, we are ready for your presentation on Chapter 10. Good evening, supervisors.

[00:39:35] Okay, good. I'm sharing my screen. Sorry about that. I can just see my screen. So this presentation that I have before you actually includes much of the discussion that we had at the working group on September 19th and October 4th.

[00:39:54] So this will be a refresher for some and maybe new for some others So chapter 10 includes all of the procedures in one place This includes also some general process administration items such as completeness checks and public hearing requirements as well, right?

[00:40:16] But our applications include administrative applications, which is zoning permits items that go to the board Board of Zoning Appeals, such as variances, and then also the legislative items that you see on a regular basis, such as zoning amendments, zoning map amendments, zoning concept plan amendments, or special exceptions, and those types.

[00:40:35] It also includes the procedures and the requirements for enforcement, zoning enforcement, and for appeals. So there are a few things that are new as we've kind of updated many of our procedures.

[00:40:51] So one of those is that inactive applications, there's a process in there for the administrative withdrawal of inactive applications it's there's a noticing requirement they get a certain time to respond if staff doesn't send out the notice to them we can't just withdraw their application they get they get a time frame so it's it's in there in chapter 10 additionally the special exception and zoning map amendment type timelines and procedures have been equalized they're both legislative applications that come before you there really isn't much reason to

[00:41:26] have different procedures between the two and so those have been coordinated as much as possible additionally the planning commission will review minor special exceptions when they are part of when they're bundled with other applications under the purview of the planning commission this avoids the awkward discussion of projects where there are applications that aren't under the purview of the planning commission but are really part and parcel of the application itself And so we can avoid all that.

[00:41:57] Additionally, we've tried to streamline a few things. So standalone signed development plans and special exceptions for parking adjustments go directly to the Board of Zoning Appeals. So they go to the BZA. If they are part of a multi-application project, they would still go to the Planning Commission and you, the Board of Supervisors.

[00:42:22] Additionally, with regards to modifications, we've added a new process for administrative modifications and we've also changed the way that we do zoning modifications or zmods and so now those legislative modifications would be components of the concept development plan there is some procedure or we do have modifications that aren't by concept development plan but those have been changed to a special exception the focus of this report this action item and even this presentation

[00:43:01] are really on modifiability, and it goes hand-in-hand with the block of motions that were adopted, motions 2 through 17, which are based on this. So at the very beginning, we got a high number of comments.

[00:43:19] Well, we got a number of comments that they were a high number of zoning modifications, and those can kind of prejudice the application, perhaps, instead of looking at the application on the merits. We just see that there are all these zoning modifications. And so there's an issue with that.

[00:43:35] And additionally, there was a request to add additional administrative processes so that we didn't even have to go through a long, drawn-out process before the board, taking years and many, many dollars. So staff in the Zoning Ordinance Rewrite Project updated many of the zoning regulations to try and reduce the needs for zoning modifications.

[00:43:59] So we looked at previously and regularly approved zoning modifications and see if we couldn't incorporate those into the standards themselves is one example. Additionally, we added that administrative process that I mentioned previously. And we streamlined the legislative modifications, specifically making it part of the CDP, which you have to have for a zoning change.

[00:44:23] Additionally, we added a new zoning district, the Planned Unit Development Zoning District, which kind of allows for much more flexibility than we've ever had previously in Loudoun County. And so the differences between the two zoning districts, what we have now in the revised 1993 and what is included in the Planning Commission draft zoning ordinance, is I have presented here kind of a breakdown what the difference is in the modifiability of these types of regulations.

[00:44:55] So previously in the revised 93, if it was in a PD zoning district, Or since 2013, in one of the suburban zoning districts, that's our district or a GB, general business, or CLI or Mr. High, or I think that's it.

[00:45:15] Yes, those zoning districts, you could get a zoning modification or a ZMOD. In those suburban districts, you could only do that as part of a zoning map amendment. And it was basically for every regulation.

[00:45:31] Now we've kind of changed things. We don't really have that PD zoning district designation anymore. Instead, we have different classifications. And so we're allowing modifications in all but the rural zoning districts, and that would be as part of a concept development plan or the administrative modifications that are allowed.

[00:45:50] But this is only for specific regulations. So instead of everything except, it's everything is a standard, but there's a few things that can be modified or a significant number of things that can be modified as were adopted. earlier today. Additionally, we have regulations for specific uses, the 5600 standards that were by special exception or minor special exception, and now those are in Chapter 4. They can be modified in the exact same way. Off-street parking standards, you could do a ZMOD or a SPEX, and now

[00:46:26] you can do an administrative parking adjustment or a special exception. Same for signs, it's the same process, sign development plan, or the SIDP. Landscape buffers, they're treated the same in the new ordinance. You can still modify those in basically all the same way. Light and glare, for example, another one, special exception, that same special exception procedure for modifying those standards is carried over. Steep slope standards is the one thing that is no longer

[00:47:02] modifiable so we've we that's no longer modifiable for a variety of good reasons we can certainly get into that if you would like and affordable dwelling units you previously could get a z mod and now we've kind of changed things a little bit for specific regulations although those are quite encompassing but that would be as part of a concept development plan at the zoning map amendment or zoning concept plan amendment. There's also possibility for administrative modifications.

[00:47:35] And so with that, I will conclude my presentation just noting that there are additional staff recommended revisions included in the motion for your consideration regarding quality control revisions. And I'll be happy to answer any questions. Thank you. Thank you very much, Mr. Hancock. Any questions for staff on Chapter 10? Supervisor Armstrong.

[00:48:03] Yeah, that was a very refreshing presentation. I appreciate it. On steep slopes, I seem to remember, and maybe it was a mountain overlay district, but I seem to remember that there was an exception for agriculture.

[00:48:24] Is that the case? The exception still exists. So part of the reason that we don't have steep slopes being modifiable is, I believe, to my knowledge, there's never been a request to modify it.

[00:48:39] And so there's a certain amount of safety standards that are in there, and it just seemed like it was more appropriate if we just had these as the rule. But no exceptions have been changed. No exceptions have been changed. And just out of curiosity, does it make sense to allow agriculture, agricultural uses to, say, clear the tree cover from a steep slope?

[00:49:08] And do you envision that would be allowed if anybody wanted to do it? I would have to ask other staff on that. I'm not as versed in that chapter. I guess my question really is if someone wanted a vineyard and they wanted terraced areas for the vines, that would be considered an agricultural use.

[00:49:35] That would, I believe, be an exception from the steep slope requirements. Is that what we want to see? Have we thought about that? There's Mark. I believe, I know that timber harvesting, for example, is another exception, but it does require the approval of a timber harvesting plan through the forestry.

[00:50:08] So I think that's the way that they would have to do it through that to clear the vegetation in various steep slopes. Okay. Could I ask more? Yeah, the agriculture requires a conservation farm management plan, but the timber harvesting is a timber harvesting, forest management plan, yeah.

[00:50:28] But we don't have any separate interest in preventing steep slopes to be cleared. We are totally comfortable with state standards on this?

[00:50:47] I believe so. I think that, you know, again, that's what the exemption is based on. So I don't think that we have any other concerns beyond that. I mean, clearly, you know, we'd like to retain the very steep slopes because of their environmental integrity, but there are provisions to exempt certain uses.

[00:51:08] And the state, if someone went through the state process, that would preempt local control? Well, I think the staff would still be in coordination with the forestry, the timber harvest plan, forest management plan, to make sure and coordinate with them that it is following their requirements and that the intent of the exemption is met.

[00:51:34] Okay. Well, thank you. Yeah. Okay. Those are some of the questions I had. I wanted to follow up on them, so don't leave Mark just in case. The reason we excluded the special exception, as I understood the presentation, is we've never had a special exception request on a steep slope.

[00:51:55] Is that correct, since the 93 or ever or in the last 10 years? That's my understanding. If there is one, we didn't come across it, and it's very rare. I can imagine it's pretty rare, but that was really, was that a lot of the logic behind, hey, I mean, I know the integrity and those sorts of things, a lot of things we want to protect, but would that seem to be like one of the driving forces?

[00:52:16] And I had the same thought that Supervisor Umstead did, and that was, are we missing something here? Was there any discussion at the Planning Commission level about, are we missing about this? To my knowledge, there was not. I will note that even though I'm saying that you can't get a special exception to change these rules, to modify them, variances are always a possibility to provide some relief on those unique circumstances where the ordinance just doesn't apply.

[00:52:46] But that, of course, would have to be with the BZA. How many, I know we've talked about a couple of exceptions here. How many exceptions exist? Do we know? You don't have to give me the answer now unless you know. Or? The steep slopes that we talked about. The steep slopes? I think it's just for bonafide agriculture.

[00:53:04] Okay. And timber, which is a form of agriculture. Right, which is a form of, yeah. All right, great. Thank you. Any other questions for staff on chapter 10? Thank you, Chair Turner. On slide number eight, you have the revised one side.

[00:53:21] He had the revised 93, talked about the steep slopes that we had discussed. And then one side it says affordable dwelling units, Article 7, ZMOD. And then on the other side, the Planning Commission

draft is attainable housing, Chapter 9. So are you saying that we're going to discuss attainable housing in Chapter 9?

[00:53:42] I'm a little bit confused on. Yes. So the purpose of this was just to show the difference in modifiability between the current ordinance and the Planning Commission draft. If we get into the details, particularly on a chapter that hasn't been presented to you yet, yes, it will be discussed at the Chapter 9.

[00:54:06] If I could just add, this might be a good time to mention that we are planning another work group on the 18th to discuss modifiability in Chapters 7 and 9, Development Standards and Attainable Housing. Mr. Chair, someone has just texted me that they were told the live stream has been cut off.

[00:54:30] Does anybody know whether that's the case? We'll go ahead and check that. Okay. Thank you. Okay. Any other questions on Chapter 10? I have some. Yeah. Thank you. So I have like four questions. Maybe I'll just put them all out there and then and then staff can answer them.

[00:54:55] I was wondering if we've decided yet if there's a number of ZMODs maximum before a developer has to go to a PUD. And then I wondered what the difference in parking requirements were for the draft versus the 1993.

[00:55:12] That might be a really long answer, but in general, which zoning districts are minimum lot size being eliminated in? And then why is staff opposed to dwelling unit mix being modifiable? I think we might have talked about that in our work session, but I just wanted to get a final answer on why we're opposed to the dwelling unit mix being modified.

[00:55:38] Thank you, Supervisor Raceman. I know the parking question was answered in the Q&A sheet. I saw the answer. Yes. You can submit these questions, and we have answered them. They're in your supplemental memo. I'm really bad with these supplemental memos.

[00:55:53] Okay, I'll go look. Okay. Sorry about that. That's all right. Other questions for staff on Chapter 10? Going once, going twice. We are ready for the presentation on Chapter 11.

[00:56:07] So Chapter 11 includes the regulations for officials, boards, and commissions, other than the Board of Supervisors that are specifically mentioned in the zoning ordinance.

[00:56:47] And so it kind of gives some of the rules on this. This includes the zoning administrator, the commission, the Board of Zoning Appeals, and, of course, the Historic District Review Committee, or HDRC. So there's a couple things that have been changed.

[00:57:06] Much of this is housekeeping. And some of it's just bringing up the ordinance to meet current practice. So, for example, the zoning ordinance talks about the commission is composed of five to 15 members. Well, it is, yes, but it's nine members.

[00:57:26] Each board member has their planning commissioner, and so we've just changed the ordinance to match what the practice is. Additionally, because of change in state law, we've elected town officials can serve on the Board of Zoning Appeals. That's a change to state law, and so we're trying to make sure that we're in compliance with state law.

[00:57:47] Also, the HDRC, there's no limit to the number of members in the current zoning ordinance. And so we've changed that to either five or seven. It's helpful to have an odd number when you have a committee making decisions. Additionally, it incorporates the current process of Board of Zoning Appeals candidates being screened by the county administrator.

[00:58:11] And it also tightens some of the language on conflict of interest requirements for the HDRC. So instead of just not voting, now they're not to participate in those items where they could have a conflict of interest. There haven't been any, I mean, I don't have any outstanding issues, and since the board received the draft planning commission zoning ordinance, there have not been any public comments on this chapter.

[00:58:39] There are nominal quality control revisions that staff does recommend that are included in the motions for your consideration this evening. And I'm happy to answer any questions.

[00:58:55] Thank you. Thank you very much. Questions on Chapter 11 from any board members? Hearing none, we'll take the presentation. Wait, I have a question. Yeah, go ahead. So we spent a good amount of time doing the committees on committees, and we talked a little bit about the planning commission in there.

[00:59:17] So I have two questions. Was anything changed in contradiction to what we did in the committee on committees? And secondly, do we have an opportunity at this point to, in this context, to have a rule that planning commissioners are appointed only from the district that they represent?

[00:59:45] In other words, I would have to appoint somebody from Algonquian, Chair Turner would have to appoint somebody from Ashburn. Your first question, I'm not aware that there's anything in this ordinance that would contradict what the committee on committees did because it's really complying with the code and practice, so I don't think there would be any difference there.

[01:00:13] Your second question, if that's something the board wants to put into the ordinance, that is something the board could do. In response to your second question, yes. Okay, thank you. Other questions for Chapter 11?

[01:00:29] Hearing none, Appendix C. There is no presentation for Appendix C. It's essentially rolled into the presentation that I made on Chapter 10. Okay, great. Thank you. Thank you very much. We will move on to our stakeholder input.

[01:00:47] The first speaker is Ron Meyer, and I saw him walk in. Keep it short and sweet. I just mostly want to thank the board and the staff for the great meeting we had on modifiability.

[01:01:02] Obviously, we endorse motions 2 through 17, which you already passed, and endorse motion 25, which hopefully you'll take up here quickly. And so we really do want to say that we appreciate staff's work. We don't think it was necessarily a perfect compromise, but that's the nature of compromise. And so we appreciate staff's willingness to work with us and to get a better product.

[01:01:23] And also I want to say, too, I think that because of our debate during this, there was some misconception that the industry or that the community does not support the PUD district. And I want to say, actually, we think it's a great tool, and we appreciate its inclusion and would advocate that it continue to be included as is.

[01:01:40] And as a complete package with the compromise that we came out of, that meeting plus the PUD, it's something that we think is a workable document. And we're getting closer. There's still some nits and edits you're going to continue to see from us and prioritize. I do want to say that, so Motion 26, we have some questions on that as it relates to the special exception period of validity.

[01:02:03] That means basically how long a special exception can last once it's passed. And so our understanding is that right now that period of validity is five years, and we want to know how that's being altered by this motion because essentially now it's asking that an applicant would sort of diligently pursue developing immediately after getting that special exception, or it's sort of unclear.

[01:02:28] So if that could be flushed out and that motion be talked about, we actually would like to see a longer period than five years as far as special exception use. That way you don't have to keep coming back if your land development plan hasn't hit that specs yet. In regards to some of the data center motions that were discussed earlier, and I appreciate Supervisor Glass saying that you all will take up motion number 20.

[01:02:51] I also want to mention I think there's a couple other high-priority ones that I think can make both data centers good, better for the community and better for a lot of concerns being addressed, but also workable for the industry. And so I expect to see more commentary on that. Regarding the battery storage, I believe that we would like to encourage performance standards to be looked at as far as allowing for either some more buy-write or minor special reception uses in more areas.

[01:03:18] You all already talked about that tonight. I think that conversation was somewhat had. But just so you know, I think that there is a desire to say, okay, maybe there are a couple, like MHRI is pretty much a quarry district. Does that make sense if it had performance standards like some screen walls, some buffering, and then make it by right if it has those standards?

[01:03:36] So I think that's largely it. I think a lot of topics were covered or will be covered this evening, and we look forward to continue working with you in future meetings to continue to clean up Chapters 2. I will say one thing about Motion 25. It has specific call-outs to Chapter 9 that only certain things in Chapter 9 are modifiable.

[01:03:55] just per our meeting, we are tabling what we really want modifiable in Chapter 9 because there's more things than just those that we'd like modifiable. And so expect motions on that forthcoming. But otherwise, 25 is ready to go. So I think that's it.

[01:04:10] Thank you. Thank you, Mr. Meyer. Mr. Junda. Hello again. Again, my name is Bill Junda. I'm a civil engineer with Gordon, and I'm representing the Commercial Industry Stakeholder Group.

[01:04:30] I had a lot of nice things I was going to say about modifiability, but you all have already passed those motions, and we very much appreciate it. Also appreciate staff. I know that that was a lot of work that was not on your schedule already to come prepared last Wednesday with additional ideas, and we appreciate that.

[01:04:46] As Ron said, it's not perfect, but we certainly can live with it, and we appreciate the effort. Ron also mentioned that the special exception period of validity is something that we still want to work out, and it's not just that we want the period of validity for special exception uses to be extended, but now the special exception process under the ZOR is going to be used for things like setbacks and building heights, things like that, where if that were to expire, then you have a non-conforming building that no longer has its special exception for its height.

[01:05:18] So we'd like for that to be considered and discussed. As far as Chapter 10 goes, we appreciate the efforts to try and streamline the legislative process. However, we are not seeing too many things that will actually speed up the process, so we're hoping that maybe there can be more discussion on that on,

you know, maybe there's timelines that were placed maybe on applicants to meet certain timelines to get to public hearing, but not too many other timelines to speed up the administrative review.

[01:05:47] So we appreciate your continued work and effort on that. Lastly, I would like to support Motion 20 that Supervisor Glass asked to be tabled. I'm happy to discuss with any of you the merits of that. It was really just a cleanup from the last or from the September 26th work session where I think a motion was inadvertently passed with language that instead of it acknowledging that a 200-foot setback between residential and data center would still apply with a road there, which we understand, I think the way the motion was passed, it was interpreted that there would be 200 feet in addition to the road right away, and that was not the

[01:06:24] intent or the topic of the discussion, and so we'd like for that to be cleaned up. With that, I'd be available for any other questions you have on any of these topics. Thank you so much. Sure. Next up, Mr. Romeo. Good evening, Chair Turner and members of the board.

[01:06:48] I just want to echo Bill and Ron's comments about the meeting from last Wednesday. It can't be understated how much we've been looking forward to a meeting like that, and I really want to give staff a lot of credit for coming prepared for that and addressing a lot of the comments that we had. It's been a couple years since we've been able to have interaction like that, and it really is appreciated.

[01:07:06] So thank you very much to everybody at the table. One of the comments I was going to make was covered by Ron in regard to the motion 25 in the packet tonight. Item number five addresses chapter nine. And again, that's a discussion I think that Chair Randall and Kim Hart wanted to have before that motion is made official, so to speak.

[01:07:24] But the rest of that motion does look good. And the language that I think Courtney and Colleen worked on changed the impossible language to something different, which is appreciated. The only thing I did want to talk about tonight, because I'm here speaking on behalf of the residential community, is parking. I think you'll be discussing this more on Monday as part of Chapter 7 where the parking standards are located. Every piece of literature we see in planning profession today calls for decreasing parking rather than increasing parking. I think throughout this process, the industry has worked with staff to help reduce parking where it makes sense, also provide good modifiability provisions for reducing that parking in places that do make

[01:08:03] sense there are some instances in particular single family detached and attached where the parking rates increased so we appreciate you taking a look at that see if it makes sense to maybe bring those back to where the ordinance currently is the main issue with that chapter and parking in particular for that chapter for residential is the garage space is counting for only half a space this was something that was added at the planning commission level this was something chair randall mentioned at the July 26th public hearing and it's something that we think deserves no space in this ordinance it really serves no purpose other than to create urban design challenges for every project and environmental problems by creating surface

[01:08:40] lots elsewhere outside of the unit so we would appreciate it if table I'm sorry note one and table 7.602-02-1 and section 7-0611.c.2 be stricken from the ordinance those are the specific references in chapter seven to that garage county is only half a space and those are my comments this evening mr. chairman I'd be happy to answer any questions if you have any later this evening thank you very much next up is

[01:09:10] crown good evening mr. chair and members of the board my name is Paki crown and I'm here tonight representing attainable housing this is I know a topic that you're going to hear much more about when you consider chapter nine so I'm really not going to go into a lot of the revisions that we believe are necessary in Chapter 9 in order to broaden the opportunities that Loudoun County will have going into the future and to

[01:09:49] really codify some of the opportunities that we have now. But we do have several significant changes, I believe, that will be submitted to you all in the near future. And most of them, I think, are just acknowledgments that affordable housing, attainable housing, is a topic now that is a nationwide topic.

[01:10:16] I know from our company, we deal with this in all of our offices across the country. And it's something that is not a one-size-fits-all. And one of the issues that I see in Chapter 9 as I look at that and compare it to other jurisdictions in the country is we're dealing with state codes in different parts of the country, local codes in different parts of the country.

[01:10:48] But what we definitely don't want to see happen is that there are only a list of certain programs that can be used in Loudoun County, and then doesn't acknowledge that as we progress, and just like you've said, for other uses in the county, that we wouldn't be able to utilize other property, or I'm sorry, other programs.

[01:11:12] So this is one of the issues that I've seen in Chapter 9 that I think needs to be addressed. Certainly, there's some issues that the issue that deals with the timing of construction of affordable units and attainable units, parking, different issues like that that we've dealt with throughout the years in Loudoun County for affordable and attainable housing projects.

[01:11:39] So you will be receiving that from the industry, and unfortunately, I won't be able to attend the 18th meeting because i'll be at another one of our offices but i know that you are very concerned about affordable housing just as we are and we're just all trying to get it right and that's the way we're approaching this and we you know we want to work with the staff with you all just to get it right and to provide that

[01:12:12] flexibility, like you were recognizing, Chair Turner, in a burgeoning market area, this is probably the burgeoning area that we need to address in Loudoun County. So I'll leave it at that tonight instead of going into different chapter or verse for you. Thank you very much.

[01:12:35] Ms. Walsh-Copeland. I'm Maura Walsh-Copeland for Stakeholder 5, and we thank supervisors for hearing us two weeks ago to consider quality control corrections to provide consistency and mitigate impacts before a futures OM. The Kimley-Horn report was clear that noise is an unaddressed priority. County-wide noise regulations in Chapter 7 should be applied equally and require corrections in Chapter 4 to do so. Adequate setbacks are needed in Chapter 4 instead of

[01:13:10] Chapter 2 defaults. Use standards clarity is needed for both businesses and residents and should not wait for a future SOAM. Text has been drafted by staff twice with Planning Commission review. We hope to see those motions included in a future meeting.

[01:13:26] For Chapter 10, staff agreed in July there is inconsistent identification of use exemptions between Chapters 7 and 10. It's surprising they disagree now. If not addressed in ZOR, unclear exemptions will cause regulation confusion for businesses and residents.

[01:13:44] Charles Rudd's request to help in June uncovered accurate information to address misinformation given to the Planning Commission in April when staff had insufficient time to research and refute. We'll look for more definition motions on October 30th.

[01:14:02] Although we continue to support a middle ground for modifiability, we are concerned with the volume of motions just passed that were only made available at 10 p.m. last night. Stakeholder time is needed to review and comment if there is such time. Lastly, balancing stakeholder input is required.

[01:14:20] It's not the peg count of stakeholder group input or how many speak publicly at meetings. It's about the volume of the voices represented, who got engaged, who used the tools provided by staff over three years and provided specific input.

[01:14:36] Kimley Horne quantified that volume, consistent with what groups five and six have put forward. It demonstrated the broad outreach through ZOR, which would only be repeated with a future ZOAM. We ask you to recognize the volume of voices and sources in the Kimley report who gave input to improve issues impacting quality of life by approving the motion submitted to provide clarity and minimum protections for constituents throughout the county.

[01:15:04] Thank you. Thank you, Walls-Copeland. Mr. Myers. Hi, I'm Michael Myers, and I'm representing Wildlife Conservation Stakeholders. We thank supervisors and county staff for their efforts during the working group discussions on modifiability to find middle ground and appreciate that chapters 5 and 6 were removed from motion 25 that would have given too broad of modifiability to those chapters.

[01:15:32] And although we were not invited to speak before the vote earlier, upon seeing the specific language of the motions just today, our stakeholder group does have concerns on motions 13, 14, 15, 16, and 17, and in particular 8 and 9, and we will be submitting questions and concerns in writing as noted by mora while the preservation conservation and wildlife stakeholders may be only a few individuals in this room tonight not only do we represent our organizations we represent thousands of our members of our organizations as well constituents across every district we have worked with county staff and others to understand the ordinance thoughtfully ask questions about why and how text edits are

[01:16:09] made trying to understand the reasoning behind staff's recommendations whether it's within their purview to make the changes or if there are legal constraints and if they are or if there is needed to be further direction from the board due to the need for policy guidance in order to make edits to the draft to that end we have thoughtfully proposed specific edits to the zoning ordinance to help the board and staff complete the draft ordinance this term while understanding that many of the unresolved issues that your constituents are concerned about will be addressed through future zoams and cpams we appreciate that tuck chair turner has brought forth many motions for consideration and discussion, and we hope that some of our previously submitted quality control

[01:16:45] edits that we feel are vital and feasible to include in the ZOR will be discussed by the Board in the future. While we appreciate staff's explanation on Motion 22 regarding the Ridge feature and its protections, this information needs to be easily accessible for the public to understand, especially given the complaint-based enforcement system outlined in Chapter 10.

[01:17:02] If the public does not understand how environmental features and protections are defined, it will be extremely difficult for them to report accurate enforcement concerns. Weblogis needs to be

updated with the proposed ridge feature information and the previously presented GIS story map made publicly available so that the public can give thoughtful impact or input on this topic.

[01:17:22] I will close by taking a moment to look to the future work session and wholeheartedly agree with motions 30 and 33 to prohibit the planting of invasive species and defining invasive species. Though the average constituent may not always be the direct user of the zoning ordinance, our quality of life is impacted every day by the zoning ordinance where we live, work, and play.

[01:17:41] This is important for the current chapters under review and even more so for the development standards to ensure we have valuable open space. Thank you for your time. Thank you, Mr. Myers. Just a couple of quick notes for you on the Committee of the Whole. So we're not going to approve Chapter 2 tonight, so if there are additional motions for Chapter 2, feel free to submit those.

[01:18:03] Staff, I'd like to just ask a question on process. I am asking the stakeholders that I talk to, I'm asking stakeholders, don't give me suggestions on text changes give me motions put it in the form of a motion if you want to change I'll submit the motion and staff will respond to that motion with why that's okay or why it's not okay I think that's very helpful certainly for me is staff okay with that process or is there some better way we can do it that's been working really well okay that's what I thought I mean so I can say don't talk to me in volumes give me a motion and then we'll go from there and I like

[01:18:40] I like the explanation so if the chapter even if the chapters closed out I mean we've closed out I've forgotten which ones we've closed out we closed out three I think so far five and six I think right it's correct one five and six one five and six if you have I'm working on a chapter five a the airport overlay district that I'm still trying to work the language on on that so I will probably submit a motion in the future on that so please don't hesitate if you're a stakeholder and you have motions the chapters we've already gone through please submit those with that i will make a motion to enter the committee of a whole do i

[01:19:14] have a second second from supervisor armstadt any discussion hearing none we are now in a committee of the whole and we will move on to the motions for chapter 10 the first one is chapter 23. i would like to ask a clarifying question because the stakeholder five and six groups specifically pushed back a little bit just now and said we really would like to have the lists of the the exemptions. Would you like to respond to that? Because I think what I'm going to do is move to table this to a future CPAM-ZOM discussion, but I would like to hear staff's

[01:19:49] response on that. I guess I would just need, if you could give me a little more parameters, what you mean by exceptions. There are a variety of exceptions throughout the zoning ordinance. The motion, and I don't understand the motion, which is one of the reasons I'm...

[01:20:08] So if we're talking about here specifically, we're just talking about agriculture uses that are accessed by the public. Our concern is that when it's accessed by the public, we've got a different animal. We want to make sure that the public is protected and that security safeguards are met.

[01:20:25] And so that's why we think that it needs to have a site plan as opposed to just a zoning permit. Okay. Do I do this or don't I? Can I get a stakeholder, five, six person, to just quickly respond to what staff just said?

[01:20:49] The quickest answer is we totally agree that they do need to have site plans identified. The problem is that in Chapter 7, you clearly say that agricultural exemptions apply to the following four uses, agriculture processing, agriculture, animal husbandry, and horticulture.

[01:21:12] That's Chapter 7. But in Chapter 10, when you're talking about agriculture not accessed by the public, the answer we got in July was that it applies to all agricultural category of uses from Chapter 3, which is probably about 20 different uses.

[01:21:34] So by not knowing which ones are exempted and which ones are required to have a site plan in Chapter 10, that's the problem. So we totally agree that there needs to be site plans. It's just not knowing it's going to be difficult for residents to know, to double-check, because now they can see it in Landmark, and it's difficult for businesses as well.

[01:21:57] Thank you, Ms. Walsh. I appreciate it. Staff, any response? I guess I'm trying to understand, is what they're wanting, is this for us to list the agricultural uses that we think do not have access by the public? Because sometimes it's not a clear-cut list.

[01:22:16] some uses may or may not be and I think that's what this the the staff response is trying to say is that it's essentially looked at on a case-by-case basis depending on what the user is proposing with that particular use I wish with it was a fix a quick fix but I think I'm going to move go ahead Mr. Hancock oh I think I'm going to move to table this to a future CPAM ZOR discussion is there a second second second by Supervisor Kirshner any discussion oh there is discussion on table motion uh all of in favor of tabling this motion to a future cpam zoom

[01:22:52] discussion please say aye aye any opposed aye that motion will pass 603 for future discussion next motion is uh factors for consideration i am comfortable with staff's explanation on that so i will withdraw that motion i'm on number 24 and then number 25 that's a staff motion um and i'm not going to read it uh it is deals with concept development plan modifications um i will open that

[01:23:27] to any discussion but i'm inclined to uh this is from the modifiability work group 25 we've already talked about this and my impression is we're all good to go on this one any questions any any comments okay um all those in favor of that motion wait have i moved it yet i have i moved motion 25 is there a second second supervisor letourneau any discussion hearing none all those uh in favor of motion 25 please say aye aye any opposed aye that motion will pass 603 motion 26 is me again

[01:24:06] i thought i had this down but i wasn't sure this is a special exception definition is the best way i can describe it and i was sure that we had had a discussion at the modifiability discussion about five years. So when I didn't see five years in here, I think we missed on this. So, staff, any comments? So I was just going to say that the section you're amending here is that the next section talks about the period of validity. So there is a standard that it's valid for a period of up to five years unless the approval specifies an alternate period of validity. So what we said

[01:24:40] at the previous work session with the industry is that the conditions set on any special exception could extend that as part of those conditions. So if it's silent, it would be five. If the board approves a seven-year period of validity or some other time frame, that would be the frame set for that particular use.

[01:24:58] And the reason why this here is the establishment, the G4, it works hand-in-hand with G5 with that period of validity. So the period of validity is just this time that you have, that the applicant has to exercise the special exception, to do what they need to do to make it valid.

[01:25:18] And so that's what G4 is, establishing that special exception. So that means that if you need to have a building permit, because it's a special exception that goes with the building, you need to at least

have applied for the building permit and move forward in getting it.

[01:25:35] Maybe you haven't quite gotten your CFO yet, you haven't quite gotten the building permit yet, but you're moving towards it. And likewise, what we found out and was brought up in that conversation was, there are now going to be some special exceptions where there isn't a building permit well then what do we do because the code is silent and so this is where this adds that in where you have to exercise you have to get this permit it's either a site plan or a subdivision um and and again once you exercise that once you establish that use permit it's it's vested i mean you have it

[01:26:11] it's good to go it doesn't expire overnight that's only the expiration only comes into play if a development hasn't moved forward. And so our concern is that if you make it too long, then the conditions that you applied in the special exception to reduce or mitigate the impacts, you don't know what the impacts are going to be anymore because it's a completely different scheme.

[01:26:36] And just to be clear, the fine point of what you just said, so if the application has not moved along for five years and they're extenuating circumstances, they can come back to the board and ask for an extension of the spec. Yes, yes, and there are provisions in state law as well that have extended these things as well.

[01:26:54] Ever since the 2008 housing crisis, there have been a variety of these that have been extended by state law, and now it's the COVID-19, it's extended by state law. Okay, I think we're good to go on this. Stakeholders, if you would like to fine-tune or please submit any amendments to this motion or subsequent motion, but I think we're good to go on this one.

[01:27:15] So I will move motion. Yeah, I'm sorry. Could I ask a question? Sure, absolutely. Thanks. I just want to make sure that if the board wanted to honor extenuating circumstances and extend the special exception sunset period, is the process for that going to be relatively simple, or is it going to be like a whole new special exception process?

[01:27:44] No. So if an application comes in and they say, well, five years, I don't know if we can do this, It just takes a condition of approval to set whatever time frame the board is comfortable with.

[01:28:00] But that's what you're describing is all done at the initial. At the initial. So there is no opportunity the way this is drafted for someone to come in and say at year four and a half, I'm going to need an extra two years.

[01:28:16] We don't have a way to do that. We do have extension processes. Okay. And how complicated is that process? You're approving them through your AAR motions at every meeting, just about those things come through.

[01:28:32] Okay. All right. So it does not require \$100,000? No. It's not a new special exception. All right. They just need to apply for the extension at least 30 days before it expires. All right.

[01:28:47] Right? They can't wait until the day before it expires and come in and ask for it. Okay. All right. Thank you. So that sounded to me like it would essentially be a consent item at a meeting, correct? Okay. Just a couple questions. What type of special exceptions are there? Is there any special exception?

[01:29:03] The way I read it, and I'm sorry I haven't dug into the text that closely, certain types of special exceptions is what we have here in the text. It would be every special exception. So there are some special exceptions that, for example, if I'm going to, I need a special exception for use, like a dog kennel.

[01:29:21] I'm going to need to get a zoning permit and a building permit for that, right, in order to establish it. And there are other special exceptions, such as for off-site open space, which we'll discuss on Monday. There isn't a building permit for that. I understand that.

[01:29:38] What is the process now? How long? Is it five years now? It is five years unless a different time frame is specified at approval. Okay. And that time frame will still be at approval potentially longer then?

[01:29:53] Yes. Okay. All right. Thank you. Yeah. Yeah, so five years is when you're supposed to build or you need an extension. What's the policy on extensions? Like how many can you get or for how long? There isn't.

[01:30:11] I don't think there's a limit. Because I actually, coming out of this, maybe the opposite of some of you, I get frustrated because we've got some projects that we've approved and circumstances were different. And then nothing happens.

[01:30:27] And, you know, I wouldn't want those to just be indefinite. You know, I want some parameter. I do want some parameter around you have to do this within a certain period of time, and I'm not sure if we should just allow extensions indefinitely. I'm not sure how and exactly how to address that here.

[01:30:46] Well, but if the item would have gone on consent, then presumably we've got an opportunity to go off consent and deny the extension. Yeah, it's a board decision on any extension, so you could do that. Perhaps we can have a conversation offline.

[01:31:03] I mean, let's be honest. None of us necessarily are paying attention to those because they're on their AIR. So it would be helpful, well, I'm just being honest. So it would be helpful, perhaps, though, if in some of these cases, you know, that staff clearly knows this is something that's been around 10 years, maybe it could get flagged in some way for us so we know this is actually on the AIR and we should probably pay attention to it as opposed to something that's truly just kind of administrative.

[01:31:30] Any other questions, concerns on Motion 26? Farewell. I move motion 26. Is there a second? Second by Supervisor Glass. Any discussion, any further discussion on the motion?

[01:31:46] Yes. Mr. Chairman, on behalf of my staff member, I would like to report that apparently my office does, in fact, review the AIR. That's got that from the back. So, well, I may not. Apparently, my staff does.

[01:32:02] So, just wanted to clarify that. Duly noted, Supervisor LeTerno. Thank you, Mr. Chair. All those in favor of Motion 26, please say aye. Aye. Any opposed? Aye. Motion will pass 603.

[01:32:20] Staff, it seems to me, for some reason in the back of my mind, that we do not want to approve Chapter 10 tonight because we're pending some possible changes based on the Chapter 9 discussion or some other future discussions, or are we ready to approve?

[01:32:36] I see some staff back there nodding yes. We don't want to approve Chapter 10 tonight. I don't think there's any harm in going either way. We have approved three chapters before, and there was a motion tonight to address one of them after we had previously endorsed it. So the intent of these was to try to kind of put that aside and keep going, but it's fully at the board's discretion.

[01:32:58] I'm inclined to agree. Any comments from anybody else? I'm inclined to approve the chapter. We're about 95% there, I think. Chair Turner? Yeah. I'm not comfortable approving Chapter 10 tonight

because I do want to bring a motion about the planning commissioners. I mean, I guess I can bring it again at some other point, but I'd rather just leave it open so I can bring that motion.

[01:33:23] That's noted, but what I'd like to do is move approval to Chapter 10, and then we'll see where the vote goes. And if it passes, we can always come back with your motions downstream. That issue is in Chapter 11. It's not in 10. the issue she's talking about is in chapter 11 thank you thank you oh i'm sorry i thought i double checked that it was in chapter 10 oh i see it in 28 okay thank you you bet all right in that case i'm going to move uh that we approve chapter 10 procedures i'm going to read the motion since this is a big milestone i move that the board of supervisors endorse chapter 10 procedures of

[01:34:00] zoan 2020-0001 zoning ordinance rewrite as presented in attachment one to the october 12 2023 uh board of board of supervisors committee of the whole work session supplemental action item subject to all revisions reflected in the motions approved by the board of supervisors during its october 12 2023 work session a further move of the board of supervisors direct staff to make the additional staff recommended revisions as presented in attachment 2 to the october 12 2023 board of supervisors committee of the whole work session supplemental action item second by

[01:34:34] supervisor glass any further discussion hearing none all those in favor please say aye aye any opposed that motion will pass 603 chapter 11 uh this one is pretty straightforward um any further discussion on uh motion 23 or chapter 11 hearing none i move the board of supervisors chair turner yeah oh this is the chapter that i do want to bring this is your motion but i don't have it prepared so okay as long as i can bring it at a later meeting but um i would prefer we leave the

[01:35:12] chapter open so i can bring it at another meeting uh okay i i i have your request i'm going to make the motion anyway and let it go um and you can bring that motion at a subsequent meeting meeting um i moved uh chapter 11 uh i moved motion 28 i moved the board of supervisors indoors chapter 11 officials boards and commissions of zoe m 2020-0001 zoning ordinance rewrite as presented in attachment one to the october 12 2023 board of supervisors committee the whole work session supplemental action items subject to all revisions reflected in the motions approved

[01:35:47] by the board of supervisors during its october 12 2023 work session i further move that the board of supervisors direct staff to make the additional staff recommended revisions as presented in attachment two to the october 12 2023 board of supervisors committee the whole work session supplemental action item i have a second by supervisor umstott any further discussions supervisor bristman any other comments no sir i'll just probably vote no okay all those in favor

[01:36:17] please say aye aye any opposed no that motion will pass five one three um the next motion is um endorsement of appendix c are we okay to move forward with an endorsement appendix c we it is sub your endorsement is subject to the motions you made earlier for chapter two so that is you're good to go okay yeah and i'd say if we if we do make any additional modifications that need to be

[01:36:52] captured in here we will we will put those in the table as well okay thank you very much i move that the board of supervisors endorse appendix c flexible regulations of zoam 20 2020-0001 the zoning ordinance rewrite has presented an attachment one to the october 12 2023 board of supervisors committee the whole work session supplemental action item subject to all revisions reflected in the motions approved by the board of supervisors during its october 12 2023 work session i further with the board of supervisors direct staff to make the additional staff recommended revision has presented an attachment to the october

12 2023 board of supervisors committee the whole work session supplemental action item i want to see how fast they can do

[01:37:29] that is there a second second by supervisor glass any other discussion all those in favor please I'm sorry thank you very much could I get a read from both the chamber and from Ms. Walsh Copeland on their sense of this is anybody in the chamber group have any problems with the endorsement okay the chambers good Ms. Walsh

[01:37:58] Copeland what are your thoughts you have questions all right okay thank you any further discussion all those in favor please say aye aye any opposed aye that motion will pass 603 supervisor Sains is not here but this is on chapter 7 so we're going to leave this one alone until we get to the chapter 7 discussion

[01:38:36] and the other remaining motions are all chapter 12 motions I believe motion let me explain if I can motion 31 motion 32 and motion 33 so I talked with the stakeholder groups 5 and 6 and we had a very good conversation and they said we understand a lot of the agricultural and rural stuff is going to get moved off the CPAM ZOAM but we believe there are certain elements that really need to be

[01:39:13] addressed now in the ZOR within the context of the ZOR and as my remember if my memory serves they were the 60 foot setbacks in the in the rural areas they were the definition of a farm and they were applying noise regulations uniformly to Virginia farm winery limited distillery and limited brewery so the purpose now the way these were evolved the motion that I had originally made on the 60 foot setback I was under the impression that if the way I wrote

[01:39:48] the motion was that you could grandfather existing properties so that they would be conforming they would grandfather and be conforming and staff said no you can't do that it if you create a 60-foot setback and it becomes non-conforming it is non-conforming and so I pushed that one off to the CPAMZOR discussion and I withdrew that motion internally the second one was a definition of farm and I read through and saw at least a half a dozen definitions of farm and quickly realized I was going to end up wrapping myself around the axle on definition of farm.

[01:40:26] So I fell back on the state code definition of farm, and staff came back and said, we think we have a better option for the definition of farm. Give us some time, and we'll present that. So that's where that is right now. That left the limited distillery, limited brewery, and Virginia Farm winery discussions.

[01:40:46] And I'm not sure staff understood what I was trying to do. What I was trying to do was capture those as uses in Chapter 4, which would bring the noise ordinance in Chapter 7 into play. So I didn't really – I wasn't – and rather than trying to find limited distillery, limited brewery, and Virginia Farm Winery in a – get wrapped around the axle about those definitions, I reverted to Code of Virginia for what those definitions were, which you already have here.

[01:41:18] It looks to me like you appeared to think that I wanted to modify Chapter 12 as a definition, when in fact what I was trying to do was list, and I think limited brewery is already in Chapter 4. Virginia Farm Winery and limited distillery is not in Chapter 4, which means they have no noise standard applied.

[01:41:39] And I want to make sure I understand that correctly, but that was the intent of my motion. So I'm not going to make these tonight, but that is the intent of my motion. That's a good clarification. Okay. So now we know the intent is to apply the noise. That's helpful. Thank you. So we will see those in the future at some point. And with that, I believe we are finished.

[01:41:59] Is there a motion to come out of Committee of the Whole? Supervisor Umstad has made that motion, seconded by Supervisor Kirshner. Any other discussions for the staff or for supervisors before we adjourn? Liam, if all interested groups could collect all their remaining concerns and let us know again it might be helpful because otherwise all of this has gotten lost in a lot of

[01:42:37] paperwork so if there's still outstanding concerns it would be great to have those presented in an organized fashion and and just a point on that um i would recommend to the stakeholders if you have a motion that you want to have put into the hoppers for consideration um i would call your favorite supervisor and say, well, you make this motion. And if the supervisor says, I'm not comfortable making that, then go find another favorite supervisor to make that motion. And keep doing that process potentially nine times until you find somebody to say yes. And if you don't

[01:43:14] find someone to say yes, that's a pretty good indication that motion is not going to pass when it gets into the public eye. What that will do, and if you do that sequentially, what that helps is if you blast your motion out to five different supervisors we can't track who's it put what motion into the staff and staff can't track it and they've got an obligation to respond to each of the supervisors so if you could do that sequentially that would really probably help the process quite a bit just start with your favorite and work down until you get a yes

[01:43:46] any other comments thank you all very much I appreciate it I don't want to find out what number I am when they start calling. Thank you all very much. We are adjourned. Good night.



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