

**BOARD OF SUPERVISORS  
TRANSPORTATION AND LAND USE COMMITTEE  
INFORMATION ITEM**

**SUBJECT:** ZOAM-2020-0001, Zoning Ordinance Rewrite  
Project Update

**2011 ELECTION DISTRICT(S):** Countywide

**2022 ELECTION DISTRICT(S):** Countywide

**CRITICAL ACTION DATE:** At the pleasure of the Committee

**STAFF CONTACT(S):** Judi Birkitt, Planning and Zoning  
Daniel Galindo, Planning and Zoning

**PURPOSE:** To update the Transportation and Land Use Committee (TLUC) on the Planning Commission's (Commission) progress on the Zoning Ordinance Rewrite (ZOR) project and discuss a potential path forward for the Board of Supervisors' (Board) review, revision, and adoption of the new Zoning Ordinance.

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**BACKGROUND:** The Board endorsed (8-0-1: Meyer absent) the ZOR Project Plan on September 19, 2019<sup>1</sup> and approved (8-0-1: Briskman absent) the Resolution of Intent to Amend the Zoning Ordinance (ROIA)<sup>2</sup> on November 16, 2021. The Project Plan and ROIA describe the Board's intent to rewrite the Zoning Ordinance to implement the [Loudoun County 2019 Comprehensive Plan](#), modernize land uses and definitions, improve document consistency and structure, improve the legislative application review process, offer more administrative review processes, make improvements based on public input, and incorporate changes based upon revisions to the Code of Virginia.<sup>3</sup>

The Commission held Public Hearings on the ZOR project on [August 30, 2022](#), and [January 24, 2023](#), as outlined in Table 1.

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<sup>1</sup> [September 19, 2019, Board Business Meeting Item 14 – Zoning Ordinance Overhaul Project Plan](#)

<sup>2</sup> [November 16, 2021, Board Business Meeting Item 07 – Zoning Ordinance Rewrite ROIA](#)

<sup>3</sup> For additional background on the ZO Rewrite, including Zoning Ordinance Committee (ZOC) involvement and recommendations, and public engagement and participation, please see the [August 30, 2022, Commission Public Hearing staff report](#).

<b>Table 1. Planning Commission Public Hearing Topics</b>	
August 30, 2022 Commission Public Hearing Topics	January 24, 2023 Commission Public Hearing Topics
Chapter 7: Development Standards Chapter 8: Signs Chapter 10: Nonconformities and Adaptive Reuse <sup>1</sup> Chapter 10: Procedures Chapter 11: Officials, Boards and Commissions Chapter 12: Definitions and Rules of Interpretation Appendix A: Acronyms Appendix B: Land Development Application Fees	Chapter 1: Introduction Chapter 2: Zoning Districts Chapter 3: Uses Chapter 4: Use-Specific Standards Chapter 5: Overlay Districts Chapter 6: Natural and Environmental Resources § 7.02 Open Space Chapter 9: Attainable Housing Chapter 10: Procedures – Additional Requirements (§§ 10.10.06, 10.10.07, 10.10.09)
<a href="#">Aug. 30, 2022 Staff Report</a> <a href="#">Aug. 30, 2022 Video</a> <a href="#">Aug. 30, 2022 Minutes</a>	<a href="#">Jan. 24, 2023 Staff Report</a> <a href="#">Jan. 24, 2023 Video</a> <a href="#">Jan. 24, 2023 Minutes</a>
<sup>1</sup> Relocated to Chapters 1 and 4, respectively and subsequent chapters renumbered.	

Since the August 30, 2022, Public Hearing, the Commission discussed the August 5, 2022, Staff Recommended Draft Zoning Ordinance during 25 Work Sessions, including two parking subcommittee meetings and six uses subcommittee meetings. Table 2 includes Commission Work Session dates, organized by Zoning Ordinance Chapter, with links to respective staff reports, meeting videos, and meeting minutes.

<b>Table 2. Planning Commission Work Sessions by Zoning Ordinance Chapter</b>		
<b>Chapter 1: Introduction</b>		
Work Session	Meeting Video	Meeting Minutes
<a href="#">March 16, 2023 Staff Report</a>	<a href="#">March 16, 2023 Video</a>	<a href="#">March 16, 2023 Minutes</a>
<b>Chapter 2: Zoning Districts</b>		
Work Session	Meeting Video	Meeting Minutes
<a href="#">Feb. 25, 2023 Staff Report</a>	<a href="#">Feb. 25, 2023 Video</a>	<a href="#">Feb. 25, 2023 Minutes</a>
<a href="#">May 11, 2023 Staff Report</a>	<a href="#">May 11, 2023 Video</a>	<a href="#">May 11, 2023 Minutes</a>
<a href="#">June 5, 2023 Staff Report</a>	<a href="#">June 5, 2023 Video</a>	June 5, 2023 Minutes (in progress)
<b>Chapter 3: Uses, and Chapter 4: Use-Specific Standards</b>		
Work Session	Meeting Video	Meeting Minutes
<a href="#">Feb. 25, 2023 Staff Report</a>	<a href="#">Feb. 25, 2023 Video</a>	<a href="#">Feb. 25, 2023 Minutes</a>
<a href="#">March 16, 2023 Staff Report</a>	<a href="#">March 16, 2023 Video</a>	<a href="#">March 16, 2023 Minutes</a>
<a href="#">March 22, 2023 Staff Report</a>	<a href="#">March 22, 2023 Video</a>	<a href="#">March 22, 2023 Minutes</a>

<b>Table 2. Planning Commission Work Sessions by Zoning Ordinance Chapter</b>		
<a href="#">March 30, 2023 Staff Report</a>	<a href="#">March 30, 2023 Video</a>	<a href="#">March 30, 2023 Minutes</a>
<a href="#">April 10, 2023 Staff Report</a>	<a href="#">April 10, 2023 Video</a>	<a href="#">April 10, 2023 Minutes</a>
<a href="#">April 25, 2023 Staff Report</a>	<a href="#">April 25, 2023 Video</a>	<a href="#">April 25, 2023 Minutes</a>
<a href="#">May 11, 2023 Staff Report</a>	<a href="#">May 11, 2023 Video</a>	<a href="#">May 11, 2023 Minutes</a>
<a href="#">May 18, 2023 Staff Report</a>	<a href="#">May 18, 2023 Video</a>	<a href="#">May 18, 2023 Minutes</a>
<a href="#">June 5, 2023 Staff Report (Chapter 3)</a>	<a href="#">June 5, 2023 Video</a>	June 5, 2023 Minutes (in progress)
<a href="#">June 8, 2023 Staff Report (Chapter 4)</a>	<a href="#">June 8, 2023 Video</a>	June 8, 2023 Minutes (in progress)
<b>Chapter 5: Overlay Districts</b>		
<b>Work Session</b>	<b>Meeting Video</b>	<b>Meeting Minutes</b>
<a href="#">Feb. 9, 2023 Staff Report</a>	<a href="#">Feb. 9, 2023 Video</a>	<a href="#">Feb. 9, 2023 Minutes</a>
<a href="#">May 11, 2023 Staff Report</a>	<a href="#">May 11, 2023 Video</a>	<a href="#">May 11, 2023 Minutes</a>
<b>Chapter 6: Natural and Environmental Resources</b>		
<b>Work Session</b>	<b>Meeting Video</b>	<b>Meeting Minutes</b>
<a href="#">Feb. 9, 2023 Staff Report</a>	<a href="#">Feb. 9, 2023 Video</a>	<a href="#">Feb. 9, 2023 Minutes</a>
<b>Chapter 7: Development Standards</b> (Site Development; Open Space; Tree Planting, Replacement, and Preservation; Landscaping, Buffers, and Screening; Light, Noise, and Vibration; Parking; Transportation; Utilities; Owners Associations; Rural Hamlet Development Option A-3 and A-10)		
<b>Work Session</b>	<b>Meeting Video</b>	<b>Meeting Minutes</b>
<a href="#">Feb. 17, 2023 Staff Report (Parking)</a>	<a href="#">Feb. 17, 2023 Video (Parking)</a>	<a href="#">Feb. 17, 2023 Minutes</a>
<a href="#">March 23, 2023 Staff Report</a>	<a href="#">March 23, 2023 Video</a>	<a href="#">March 23, 2023 Minutes</a>
<a href="#">April 15, 2023 Staff Report (Open Space)</a>	<a href="#">April 15, 2023 Video (Open Space)</a>	<a href="#">April 15, 2023 Minutes</a>
<a href="#">April 15, 2023 Staff Report (Parking)</a>	<a href="#">April 15, 2023 Video (Parking)</a>	<a href="#">April 15, 2023 Minutes</a>
<a href="#">May 11, 2023 Staff Report (Open Space)</a>	<a href="#">May 11, 2023 Video (Open Space)</a>	<a href="#">May 11, 2023 Minutes</a>
<a href="#">June 5, 2023 Staff Report</a>	<a href="#">June 5, 2023 Video</a>	June 5, 2023 Minutes (in progress)
<b>Chapter 8: Signs</b>		
<b>Work Session</b>	<b>Meeting Video</b>	<b>Meeting Minutes</b>
<a href="#">Feb. 25, 2023 Staff Report</a>	<a href="#">Feb. 25, 2023 Video</a>	<a href="#">Feb. 25, 2023 Minutes</a>
<a href="#">March 9, 2023 Staff Report</a>	<a href="#">March 9, 2023 Video</a>	<a href="#">March 9, 2023 Minutes</a>
<a href="#">April 15, 2023 Staff Report</a>	<a href="#">April 15, 2023 Video</a>	<a href="#">April 15, 2023 Minutes</a>
<a href="#">June 5, 2023 Staff Report</a>	<a href="#">June 5, 2023 Video</a>	June 5, 2023 Minutes (in progress)

<b>Table 2. Planning Commission Work Sessions by Zoning Ordinance Chapter</b>		
<b>Chapter 9: Attainable Housing</b>		
<b>Work Session</b>	<b>Meeting Video</b>	<b>Meeting Minutes</b>
<a href="#">Feb. 9, 2023 Staff Report</a>	<a href="#">Feb. 9, 2023 Video</a>	<a href="#">Feb. 9, 2023 Minutes</a>
<a href="#">May 4, 2023 Staff Report</a>	<a href="#">May 4, 2023 Video</a>	<a href="#">May 4, 2023 Minutes</a>
<a href="#">June 5, 2023 Staff Report</a>	<a href="#">June 5, 2023 Video</a>	June 5, 2023 Minutes (in progress)
<b>Chapter 10: Procedures</b>		
<b>Work Session</b>	<b>Meeting Video</b>	<b>Meeting Minutes</b>
<a href="#">May 4, 2023 Staff Report</a>	<a href="#">May 4, 2023 Video</a>	<a href="#">May 4, 2023 Minutes</a>
<a href="#">June 5, 2023 Staff Report</a>	<a href="#">June 5, 2023 Video</a>	June 5, 2023 Minutes (in progress)
<b>Chapter 11: Officials, Boards, and Commissions</b>		
<b>Work Session</b>	<b>Meeting Video</b>	<b>Meeting Minutes</b>
<a href="#">October 13, 2022 Staff Report</a>	<a href="#">October 13, 2022 Video</a>	<a href="#">October 13, 2022 Minutes</a>
<a href="#">October 20, 2022 Staff Report</a>	<a href="#">October 20, 2022 Video</a>	<a href="#">October 20, 2022 Minutes</a>
<b>Chapter 12: Definitions</b>		
<b>Work Session</b>	<b>Meeting Video</b>	<b>Meeting Minutes</b>
<a href="#">October 13, 2022 Staff Report</a>	<a href="#">October 13, 2022 Video</a>	<a href="#">October 13, 2022 Minutes</a>
<a href="#">October 20, 2022 Staff Report</a>	<a href="#">October 20, 2022 Video</a>	<a href="#">October 20, 2022 Minutes</a>
<a href="#">February 25, 2023 Staff Report</a>	<a href="#">February 25, 2023 Video</a>	<a href="#">Feb. 25, 2023 Minutes</a>
<a href="#">May 18, 2023 Staff Report</a>	<a href="#">May 18, 2023 Video</a>	<a href="#">May 18, 2023 Minutes</a>
<a href="#">June 5, 2023 Staff Report</a>	<a href="#">June 5, 2023 Video</a>	June 5, 2023 Minutes (in progress)
<a href="#">June 8, 2023 Staff Report (Chapter 4)</a>	<a href="#">June 8, 2023 Video</a>	June 8, 2023 Minutes (in progress)
<b>Appendices</b>		
<b>Work Session</b>	<b>Meeting Video</b>	<b>Meeting Minutes</b>
<a href="#">October 13, 2022 Staff Report (Acronyms and Fees)</a>	<a href="#">October 13, 2022 Video (Acronyms and Fees)</a>	<a href="#">October 13, 2022 Minutes</a>
<a href="#">May 4, 2023 Staff Report (Flexible Regulations)</a>	<a href="#">May 4, 2023 Video (Flexible Regulations)</a>	<a href="#">May 4, 2023 Minutes</a>

At the June 8, 2023, Work Session, the Commission concluded their work on the ZOR project and forwarded (6-3: Barnes, Kirshner, and Miller opposed) ZOAM-2020-0001, Zoning Ordinance

Rewrite, as reflected in the Planning Commission Draft Zoning Ordinance dated June 2, 2023, to the Board with a recommendation of approval, subject to all revisions reflected in motions approved by the Commission during its June 5, 2023, Work Session and June 8, 2023, Work Session. The Commission directed staff to test the Planning Commission Draft Zoning Ordinance in a manner that considers the regulations holistically. The intent of these scenarios is to provide the Board and the public with additional context for the various changes in the Planning Commission Draft Zoning Ordinance.

Further, the Commission directed staff to compile all revisions approved by the Commission on June 5, 2023, and June 8, 2023, into a final Planning Commission Draft Zoning Ordinance for consideration by the Board and directed staff to correct any typographical errors, internal cross-reference errors, or formatting errors identified by staff as they compile the final Planning Commission Draft Zoning Ordinance.

Further, the Commission recommended (9-0) to the Board that the following Comprehensive Plan Amendments (CPAMs) and/or Zoning Ordinance Amendments (ZOAMs) as discussed in the June 8, 2023, Work Session Memo, be addressed in a future Planning and Zoning Work Plan after adoption of the new Zoning Ordinance. When voting on this motion, the Commission agreed to discuss prioritizing these CPAMs and ZOAMs for the Board's consideration at a future Work Session.

1. Data Center Environmental Sustainability Policies and/or Standards;
2. Repurposing Commercial, Retail, and Office Buildings to Residential;
3. Community-Scale Solar Facilities;
4. Floodplain Overlay District Updates;
5. Use Restrictions in the Mountainside Overlay District (MOD);
6. Western Loudoun: Limited Breweries, Limited Distilleries, and Virginia Farm Wineries Uses and Use Standards; Stable, Livery and Equine Event Facility Uses and Use Standards; Indoor Recreation; and Outdoor Lighting and Music Hours of Operation;
7. Evergreen Mills Road Corridor Area Plan; and
8. Land in Lieu of Affordable Dwelling Units (ADU).

**DISCUSSION:** This item offers a potential path forward for the Board's review and adoption of a new Zoning Ordinance for TLUCs consideration, discussion, and recommendation. Between the June 8, 2023 Commission Work Session and the Board's Public Hearing, staff will compile the Planning Commission Draft Zoning Ordinance, incorporating motions from the June 5 and June 8, 2023, Commission Work Sessions.

*Board Member Briefings:* Throughout July, before the Board Public Hearing, which is tentatively planned for the end of July, staff will offer briefings to each Board member on the Planning Commission Draft Zoning Ordinance. The District Planning Commissioner will be invited to attend Board member briefings. Throughout the Board's review, staff will continue to be available for additional briefings, questions, and clarifications, as needed.

*Board Public Hearing:* A Board Public Hearing dedicated to the Planning Commission Draft Zoning Ordinance is tentatively scheduled for July 26, 2023. The focus of the Public Hearing will be providing the public and various stakeholders an opportunity to speak regarding the Commission’s Draft Zoning Ordinance. Additionally, the Chair and Vice Chair of the Commission plan to provide a brief presentation to the Board at the Board Public Hearing, to share their experience developing the Commission’s Draft Zoning Ordinance and highlight any issues they would like to bring to the Board’s attention.

*Committee of the Whole Work Sessions:* Preliminary consultation with the Board Chair suggests that following the Public Hearing, Board deliberations of the Planning Commission Draft Zoning Ordinance could occur during a series of Committee of the Whole Work Sessions dedicated to the Planning Commission Draft Zoning Ordinance. Work Sessions could be scheduled for Monday’s at 6:00 p.m. in the Board Room, beginning in September 2023. Table 3 is a preliminary meeting outline which contains possible Committee of the Whole Work Session dates and potential Zoning Ordinance chapters to discuss at each Work Session. Staff attempted to group related chapters that could logically be discussed together, such as uses, Use-Specific Standards, and definitions.

Prior to each Work Session, staff will publish a memorandum and a presentation focusing on issues from the chapter(s) scheduled for the meeting. The memorandum will identify decision points needing the Board’s direction, such as when staff does not recommend approval of a section in the Planning Commission Draft Zoning Ordinance or an unresolved stakeholder issue. Appropriate staff from multiple departments will be available at Work Sessions to address Board questions and receive Board direction regarding needed revisions to the Zoning Ordinance the Board may ultimately adopt.

<b>Table 3. Board of Supervisors’ Review, Revision, and Adoption of the New Zoning Ordinance – Potential Path Forward</b>	
<b>Potential Meeting Date</b>	<b>Potential Discussion Topics/Zoning Ordinance Chapter</b>
July 26 (Wednesday)	Public Hearing dedicated to the Planning Commission Draft Zoning Ordinance
September 7 (Thursday)	Chapter 1: Introduction Chapter 2: Zoning Districts
September 11 (Monday)	Uses in Urban, Suburban, Office, and Industrial Zoning Districts: Chapter 3: Uses Chapter 4: Use-Specific Standards Chapter 12: Definitions
September 25 (Monday)	Uses in Rural, Transition, and JLMA Zoning Districts Chapter 3: Uses Chapter 4: Use-Specific Standards Chapter 12: Definitions
October 2 (Monday)	Chapter 5: Overlay Districts Chapter 6: Natural and Environmental Resources

<b>Table 3. Board of Supervisors’ Review, Revision, and Adoption of the New Zoning Ordinance – Potential Path Forward</b>	
October 12 (Thursday)	Chapter 7: Development Standards
October 16 (Monday)	Chapter 8: Signs
October 23 (Monday)	Chapter 9: Attainable Housing
October 30 (Monday)	Chapter 10: Procedures Chapter 11: Officials, Boards, and Commissions Appendix C: Flexible Regulations
November 3 (Friday)	Post the November 3, 2023 Board of Supervisors Draft Zoning Ordinance incorporating the Board’s directed revisions to date
November 13 (Monday)	Wrap Up – Additional Board member motions for revisions to the November 3, 2023 Board of Supervisors Draft Zoning Ordinance
November 20 (Monday)	Adoption of the new Loudoun County Zoning Ordinance including any Grandfathering Rules
Unavailable dates: September 4, 2023 – Labor Day September 18, 2023 – Joint Board of Supervisors and School Board Committee, 4:00 p.m. October 9, 2023 – Indigenous Peoples Day November 7, 2023 – General Election	

To assist with the Board’s review of the Planning Commission Draft Zoning Ordinance, the County is currently working with a consultant that will provide two analyses for the Board and the public. First, a crosswalk between the Planning Commission Draft Zoning Ordinance and the existing Revised 1993 Zoning Ordinance is being created to assist the public and the Board in comparing the regulations included in the two documents. This tool will help the public and the Board find information in the draft text that may be located in a different section than it is currently located in the existing ordinance. Second, the consultant is providing an analysis of the public comments that have been received to date by the Commission using special techniques. The analysis aims to synthesize the thousands of comments received through various public input channels during the early phases of the project so that the Board may understand the Zoning Ordinance topics on which the public commented previously and to understand how the feedback to the Commission has been incorporated into the Planning Commission Draft Zoning Ordinance.

**ISSUES:** The Commission and staff have worked with stakeholders throughout the ZOR project, resolving numerous issues and refining draft text. Staff plans to continue stakeholder engagement and issue resolution efforts throughout June and July prior to the Board Public Hearing. Below is a list of major issues (in alphabetical order) discussed with the Commission and stakeholders as part of the ZOR project. While significant progress has been made on these issues, further discussion on these topics could occur during Board deliberations.

## 1. Attainable Housing

### *Public Comment Themes:*

- More affordable housing is needed in the County.
- Attainable Housing regulations need more flexibility and opportunities for modifications.

*Staff:* Staff revised ADU Program regulations as follows to generate more attainable housing, implementing 2019 GP Housing Policies:

- Require all projects with 24 or more dwelling units served by public water and sewer to provide ADUs.
- Increase the required percentage of single-family detached (SFD) and single-family attached ADUs from 12.5 percent to 15 percent; multifamily stacked ADUs from 6.25 percent to 15 percent; and multifamily attached ADUs from 6.25 percent to 10 percent.
- Revise the ADU exemption for elevator-served buildings with four or more stories to elevator-served buildings with eight or more stories.
- Increase the optional density increase for multifamily projects providing ADUs to 20 percent.

Other zoning revisions were included in the Staff Recommend Draft Zoning Ordinance to holistically address housing attainability, including:

- Require a mix of dwelling unit types in each residential Zoning District.
- Incorporate the reduced lot standards from Article 7 in the current Zoning Ordinance.
- Remove floor area ratio and height maximums from the Transit Related Center (TRC) Zoning District.
- Allow the Adaptive Reuse of historic buildings for residential uses in districts that allow more than only SFD dwelling units.
- Reduce yard requirements for detached accessory dwellings.
- Incorporate a Planned Unit Development (PUD) District that allows unique development proposals that could intentionally address attainable housing through a design not allowed by the standard Zoning Districts.

*Commission:* The Commission endorsed the above changes and directed staff to also allow SFD ADUs to count as 1.25 ADUs, allow the proportionality requirement to be modified, and allow Affordable Housing Unit Timing and Compatibility requirements to be modified.

## 2. Community-Scale Solar Facility

*Public Comment Theme:* Solar Facilities should be more widely allowed.

*Staff:* Permissions and standards have been incorporated into the Planning Commission Draft Zoning Ordinance for utility-scale and site-specific (accessory) solar facilities. Utility-scale



uses are understood to be appropriate in industrial districts, and site-specific uses are treated like any accessory structure and are allowed countywide.

Additional policy guidance is needed to address impacts of middle-tier Solar Facilities, which staff has called “Community-Scale” Solar Facility uses. Staff recommends a future CPAM and ZOAM to guide preparation of regulations and to ensure that new regulations address onsite and offsite visual impacts of these facilities in a manner that respects substantial public input. This level of policy discussion is needed to determine how and where to allow these uses. Other middle-tier applications of the use do not have established guidance, and the purpose of a CPAM/ZOAM would be to establish that guidance, to include appropriate location, scale, and design criteria for this use.

*Commission:* The Commission recommends that the Board include this future CPAM/ZOAM in the Planning and Zoning Work Plan to address a middle-tier Solar Facility use.

### 3. Data Center Use-Specific Standards

*Public Comment Themes:*

- Enhance the facade requirements contained in the current Zoning Ordinance, to better mitigate the industrial impacts of a Data Center on residential uses and public roads.
- Mitigate the impacts of a Data Center use when the use is proposed to be in proximity to a residential use.
- Reduce the environmental impacts of a Data Center use on a site.

*Staff:* As part of the ZOR project, staff routinely engaged the Data Center Coalition during the development of strengthened Use-Specific Standards for Data Centers. The *Loudoun County 2019 General Plan* (2019 GP) and 2023 Energy Strategy include policy direction to directly engage with the Data Center industry on efforts to reduce building emissions and increase energy efficiency. Staff recommended that revisions to environmental standards be conducted as part of an upcoming CPAM/ZOAM to address additional policy and regulatory needs related to Data Center environmental impacts, consistent with existing policy direction to continue to work with the public and industry on Data Center energy sustainability.

*Commission:* The Commission directed (6-3: Barnes, Kirchner, and Miller opposed) staff to make the following revisions to the Data Center use specific standards:

- Increase the building setback adjacent to residential uses from 100 feet to 200 feet and increase the parking setback adjacent to residential uses from 50 feet to 100 feet;
- Increase the triggering distance for requiring a 15-foot building step-back from within 200 feet to within 400 feet of the adjacent residential property line;
- Require a bermed Buffer Type C for Data Centers, except along existing adjacent industrial uses;
- Require that Data Centers adjacent to residential uses limit generator testing to weekdays between 8:00 a.m. and 5:00 p.m.;

- Limit the use of generators for Data Centers to back up/emergency use, exclusive of any commissioning activities;
- Require Data Centers developers to submit pre- and post-construction plans for noise modeling; and
- Require that Data Centers developers submit a photometric lighting plan that depicts all lighting, including security lighting, meets lighting standards.

#### 4. **Farm Definition/Rural Economy Uses**

*Public Comment Themes:*

- Add a definition of “Farm” to the Zoning Ordinance that would be applied generally throughout the Zoning Ordinance.
- Strengthen regulations for rural economy uses to reduce noise, lighting, parking, and traffic impacts.

*Staff:* Staff recommend a comprehensive Agriculture/Rural Economy use ZOAM after adoption of the Zoning Ordinance, to accommodate forthcoming Code of Virginia amendments to some farm winery and agritourism uses. It would be appropriate as part of that ZOAM to consider the implications of adding the term “Farm” to the Zoning Ordinance. Staff and the County Attorney’s Office need time to verify that any definition of “Farm” in the Zoning Ordinance does not affect or contradict the Code of Virginia’s specific definitions of “Farm” for various uses. Staff is concerned about consistency and needs time to ensure there are no conflicts with other definitions and standards or no unintended consequences associated with adding the term “Farm”. Additionally, the term “Farm” may need to be added to Use-Specific Standards for some uses.

Throughout the ZOR project process, there has been public input and Commission discussion regarding a variety of rural economy uses. The breadth of topics associated with western Loudoun exceeds the scope of the ZOR project and warrants extensive public engagement and Board direction. Topics for inclusion include limited breweries, limited distilleries, farm wineries, livery stable, equine event facilities, indoor recreation, and outdoor lighting and music hours.

*Commission:* The Commission voted (3-6: Barnes, Hayes, Madireddy, Frank, Miller, and Kirshner opposed) to include a definition of “Farm” in the Zoning Ordinance at this time, which failed. The Commission recommended (9-0) that a rural economy uses ZOAM be incorporated into the Planning and Zoning Work Plan, after adoption of the new Zoning Ordinance, and that Work Plan could consider adding a definition of farm.

#### 5. **Energy Storage Facility**

*Public Comment Theme:* Stakeholders continue to advocate for allowing utility-scale energy storage facilities more broadly and without Special Exception approval.

*Staff:* Energy storage is an emerging technology and code development at different levels of government has not caught up with this emerging technology. Staff continue to recommend that before expanding the use permissions in the Zoning Ordinance, the County work with a consultant to assist the Fire Marshal and the Building Official with developing stringent fire and life-safety standards. It is Staff's position that it is premature to revise a Zoning Ordinance to expand where a use is allowed before standards have been fully vetted and added to the Zoning Ordinance. If an application is submitted before thoughtful standards are in place, the County would be unable to adequately evaluate any submitted applications.

In the current Zoning Ordinance, the Zoning Administrator has interpreted energy storage facilities as a "Utility Substation, Transmission", which is allowed only by Special Exception in industrial districts, specifically Mineral Resource-Heavy Industry, Industrial Park, and General Industry. Due to the fire and life-safety risks associated with this use, the use is ideally suited for industrial areas and evaluated through the Special Exception process. As part of the ZOR project, staff added two tiers of energy storage facility: Utility Scale Energy Storage as a principal use (serves off-site uses/sends power to the grid) and Site-Specific Energy Storage (serves onsite uses). Further, staff added definitions and Use-Specific Standards for the new uses.

In response to Commissioner discussion regarding allowing energy storage facilities in areas other than industrial, staff conferred with the County Fire Marshal and invited the Fire Marshal to present their concerns to the Commission, a few of which are described below:

- Energy Store Facilities are an emerging technology requiring unique types of fire extinguishing techniques and firefighter training.
- Locating Utility-Scale Energy Storage facilities in the more rural portions of the County where water supply is not as readily available would present challenges to extinguishing fires.
- Minimum setbacks from all public roads, principal buildings, and adjoining property lines are necessary for additional fire protection, particularly in areas where inadequate water supply is available, as deemed by the Fire Marshal.
- Limiting the maximum area a Data Center or Utility-Scale Solar Facility can use for accessory energy storage needs to be considered.

*Commission:* Contrary to staff's recommendation, the Commission directed (5-4: Barnes, Frank, Kirchner, Vance, opposed) staff to make the following revisions to Utility Scale Energy Storage:

- Change from a Special Exception to permitted (by-right) in IP, GI, and MR-HI;
- Add the use as a Minor Special Exception in OP;
- Add the use as a Special Exception in TR-10, JLMA-1, JLMA-2, and JLMA-3.
- Reduce the minimum required project area from five acres to three acres.
- Reduce setbacks for all components of the facility from 100 feet to 50 feet from all nonresidential lot lines. Setbacks of 100 feet from all residential lot lines will be maintained as proposed.

- Reduce the required distance from any historic resource, as defined by the Zoning Ordinance, from one mile to 1/3 mile.
- Include a reference to fire safety standards and add a requirement that any zoning permit is subject to Loudoun County Fire and Rescue approval. More discussion on this topic will be needed as the ZOR project proceeds to the Board.

## 6. Flex Building (currently referred to as Flex-Industrial Uses)

### *Public Comment Themes:*

- Draft regulations for flex buildings are too restrictive.
- Flex buildings should be allowed in more zoning districts.
- More uses should be allowed in flex buildings.
- Too much parking is required.
- Outdoor storage should be allowed.

*Staff:* Flex buildings have been a topic of much discussion throughout the ZOR project. Staff and the Commission have worked closely with stakeholders to add restrictions and expand permissions for this type of building.

- The term “flex industrial” has been updated to “flex building” to reflect the changing nature of the uses that occupy these buildings (i.e. shifting away from industrial uses and towards non-industrial uses such as recreation establishments and/or religious assembly).
- Any use allowed in the underlying zoning district is allowed within a flex building.
- Up to ten percent of the lot on which the flex building is located may be used for outdoor storage, subject to screening requirements.
- Flex buildings without outdoor storage are now also allowed in urban and suburban zoning districts, expanded from industrial and office zoning districts.

*Commission:* During the Commission’s review of draft text, the Commission added flexibility, directing staff to lower the minimum amount of required parking, remove the limitation on the maximum amount of parking, and require uses to demonstrate compliance with any Use-Specific Standards at the time of zoning permit prior to being established in a flex building.

## 7. Flexibility in the Zoning Ordinance

*Public Comment Theme:* Stakeholders continue to express concerns that the Planning Commission Draft Zoning Ordinance is too prescriptive, with fewer opportunities for zoning modifications (ZMOD’s.)

*Staff:* Currently, under the Revised 1993 Loudoun County Zoning Ordinance, with limited exceptions, the regulations in Suburban (Residential (R-1 through R-24)) and Planned

Development (PD) Zoning Districts can be modified through a ZMOD application approved by the Board. Suburban Zoning Districts can be modified only as part of a rezoning. Additionally, certain uses have special standards that can be modified by Minor Special Exception.

The ZOR project takes a different approach that is more consistent with the Code of Virginia. The Planning Commission Draft Zoning Ordinance omits the distinction that only Planned Development (PD) and Residential (R) Zoning Districts may be modified and de-emphasizes ZMODs. In the Planning Commission Draft Zoning Ordinance, regulations cannot be modified unless specifically noted in the regulation as being modifiable. However, instead of being less flexible, new provisions allow for different forms of flexibility, including determinations, administrative modifications, legislative modifications, Special Exceptions, modification of Use-Specific standards by Minor Special Exception, landscape adjustments and waivers, parking adjustments, and Sign Development Plans (SIDP.)

Further, an applicant can request a rezoning to the new totally customizable PUD Zoning District. With the PUD option, an applicant can propose a new innovative development project that is consistent with the (2019 GP, without the need to request modifications to a base Zoning District.

*Commission:* At the June 5, 2023, Work Session, the Commission recommended (7-0-1-1: Kirchner absent; Hayes abstained) the 20-acre minimum lot size for PUD districts be modifiable. This allows for creative, customized infill projects on property smaller than 20 acres.

## 8. Mountainside Overlay District

### *Public Comment Themes:*

- Further strengthen protection of the natural resources of the Mountainside Overlay District (MOD) as discussed by the Commission.
- Develop better protections for forest, tree, soil, and mountainside preservation.
- Consider how intense uses in the underlying districts impact the mountain and overall environment.
- Expand the 100-foot streams setback.
- Expand the ridgeline setback requirement.

*Staff/Commission:* Staff worked with the Commission to revise the MOD regulations to include the following enhanced protections:

- New protections for County Ridgeline Features – As part of the ZOR process, staff conducted a mapping analysis of ridgelines within the MOD and developed a [Ridge Feature Landform Analysis Viewer](#). This approach analyzes the ridgeline as landform polygons based on evaluation of County GIS and mapping data, specifically elevation change, Primary Mountain Range Critical Elevations (The area located above the

- critical elevations of the primary mountain ridges of the Blue Ridge Mountains, Shorthill Mountain, and Catoctin Range), and visibility from public rights-of-way.
- Enhanced standards for somewhat sensitive, sensitive, and highly sensitive MOD areas based on the degree of sensitivity, the amount of existing forested area, and the amount of Steep Slopes areas.
  - New standards specific to nonresidential uses to address the potential impacts posed by commercial and industrial uses in the MOD – These regulations intend to mitigate any significant environmental and safety impacts associated with tree cover clearing and land disturbing activity in the MOD while ensuring the reasonable use of property in protected MOD areas.
  - Increased setback for spring features from 100 feet to 300 feet, consistent with similar 300-foot water resources protections for River and Stream Corridor Resources. The 300-foot setback applies to all spring points in the County soils layer GIS data and any other spring that may be discovered on a site during the land development process.

## 9. Open Space:

### *Public Comment Themes:*

- Draft open space calculations are too complicated.
- Open space regulations are too restrictive and will severely reduce commercial development.
- The proposed regulations lack necessary environmental protections.

*Staff/Commission:* To implement the (2019 GP) open space policies, the ZOR project includes a different approach to open space. Instead of open space standards, definitions, and calculations being different among the Zoning Districts, all open space standards are consistently applied throughout the County. All open space requirements are consolidated in Section 7.02.

To implement the (2019 GP) open space policies, a new approach to open space in the ZOR project, prioritizes quality open space and environmental features by separating eligible open space into three tiers of value: extra credit (150 percent), standard (100 percent), and less valuable (50 percent). Higher quality open space counts more, meaning an applicant can provide less open space if that open space is higher quality, such as Tree Conservation Areas, Wildlife Habitat, and Archeological and Historic Resources.

## 10. Sign Development Plans and Digital Signs:

*Public Comment Theme:* Stakeholders expressed concerns that the SIDP process is time intensive and costly.

*Staff:* The ZOR moves the review of stand-alone SIDP applications to the Board of Zoning Appeals. SIDP applications that co-process with other legislative applications will continue to be reviewed by the Commission and Board. The Planning Commission Draft Zoning

Ordinance also includes new regulations for digital signs in certain commercial, urban, and mixed-use zoning districts instead of relying on the current SIDP process.

*Commission:* The Commission discussed digital signs during multiple Work Sessions. The primary concern was ensuring the size of digital signs in suburban areas did not detract from the existing suburban character. The Commission found that in urban areas (Transit Related Center and Urban Employment Zoning Districts) it would be appropriate for 100 percent of the sign area to be digital, whereas in suburban mixed use areas (Town Center and Planned Development – Mixed Zoning Districts), 70 percent would be adequate.

**FISCAL IMPACT:** The ZOR is currently funded and is operating within its \$1 million budget. The Board authorized carrying this fund balance over from fiscal year to fiscal year as the project continues. There are approximately \$689,821 in identified costs, which include consultant expenses, outreach materials, public noticing, meeting materials, and print and production. Approximately \$538,724 of the \$689,821 has been paid, with approximately \$310,179 remaining in the project budget.