




County of Fairfax, Virginia

MEMORANDUM

DATE: July 12, 2023

TO: Board of Supervisors' Land Use Policy Committee (LUPC)
Kathy L. Smith, Chair

FROM: Leslie B. Johnson 
Zoning Administrator

SUBJECT: **Zoning Ordinance Work Program**
Land Use Policy Committee (LUPC)
July 18, 2023, at 11:00 a.m.

This memorandum provides the annual update of the Zoning Ordinance Work Program (ZOWP).

Introduction

The Board of Supervisors (Board) endorsed the FY 2023/2024 ZOWP on June 28, 2022. While the work program is a two-year program cycle, Zoning Administration provides the Planning Commission and Board with a yearly update and an opportunity to evaluate and reprioritize the work program to ensure that it continues to align with the policies and priorities of the Board as outlined in the Strategic Plan, One Fairfax, the Comprehensive Plan and other county-wide initiatives. The following documents are attached to facilitate the Committee's discussion of the ZOWP:

- Attachment 1 – FY 2023/2024 Priority 1 ZOWP Status Update
- Attachment 2 – Proposed FY 2024/2025 Priority 1 ZOWP
- Attachment 3 – Priority 2 ZOWP Update
- Attachment 4 – Proposed Timelines for FY 2024/2025 Priority 1 ZOWP

FY 2023 Accomplishments (Attachment 1)

The FY 2023/2024 Work Program included a total of 12 amendment topic areas with several of these topics broken down into more specific sub-topics for a total of 18 individual items. A summary of the status of each amendment topic or sub-topic is presented in Attachment 1 in ***bold italics***. A total of 8 topics/sub-topics were completed or 44% of the items on the Work Program including:

- ✓ Reports to the Board on outdoor dining and emergency homeless shelters (Topics 1B and 1C)
- ✓ Reduction in the fee for extension of time for a special event – approved as part of the Minor and Editorial Revisions Item (Topic 3C)
- ✓ Historic Overlay District/Holmes Run Acres – Board motion to rescind authorization of the amendment and remove from the work program due to lack of community consensus (Topic 6).

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- ✓ State Code changes related to agricultural uses – approved as part of the Minor and Editorial Revisions Item (Topic 11A)
- ✓ Minor and Editorial Revisions related to zMOD implementation (Topic 12A)
- ✓ Report to the Board on the monitoring of Home-Based Business (HBB) and Accessory Living Unit (ALU) provisions (Topic 12B)
- ✓ Readoption of zMOD Ordinance (Topic 12C)

While the Holmes Run Acres potential HOD was removed from the work program, it has been included in the list of completed items due to the considerable staff resources spent on community outreach and development of proposed draft text. In addition, in March 2023, the Supreme Court of Virginia issued an opinion finding the County's 2021 zMOD Ordinance, void *ab initio*, requiring the County to operate under the previous 1978 Zoning Ordinance. At the Board's request, staff quickly prepared, for the Board's consideration, a Board Item to authorize scheduling of public hearings to consider readoption of the zMOD Ordinance to provide a clear path forward for those zoning applications, plans, and permits that were submitted under the 2021 zMOD Ordinance that was declared void by the Supreme Court. On May 9, 2023, following public hearings and with a recommendation of approval by the Planning Commission, the Board readopted the zMOD Ordinance. Given the considerable staff resources spent on this topic, it was added as a new item to the FY 2023/2024 Work Program and counted as a completed item. Staff will continue to conduct ongoing monitoring and review related to potential impacts to zoning applications resulting from the Supreme Court decision and will continue to review the readopted zMOD Ordinance and recommend changes as appropriate to address changing needs and policies impacting the County.

Significant progress has also been made on the following amendment topics:

- ✓ Landscaping and Screening (Topic 7)
- ✓ Outdoor Lighting around the Turner Farm Observatory (Topic 8)
- ✓ Parking Reimagined (Topic 9)
- ✓ Sign Ordinance Part 2 (Topic 10)

Except for Outdoor Lighting, these topics have either been authorized for advertisement of public hearings (Parking Reimagined – June 27, 2023) or brought forward to the Board's Land Use Policy Committee for discussion and direction and will be carried over to the Proposed FY 2024/2025 ZOWP. The Outdoor Lighting amendment only applies to properties within a ½ mile radius of the Turner Farm Observatory. This amendment has had specific and ongoing outreach to affected property owners.

Proposed FY 2024/2025 Priority 1 Zoning Ordinance Work Program (Attachment 2)

The proposed FY 2024/2025 Priority 1 ZOWP reflects a minor reorganization of topics, and includes updates on the anticipated timing of amendments, removal of items that have been completed, and addition of new items that have been requested by the Board and/or were part of the zMOD readoption follow-on motions or were recommended by staff. Below is a summary of the changes.

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Reports to the Board (**Topic 1**) was a new topic added to the Work Program in FY 2023. As noted previously, the sub-topics related to Emergency Homeless Shelters and Outdoor Dining have been completed. These topics have been added to the Work Program for FY 2024/2025 as individual Priority 1 Amendments (**Topics 2B and 9**), respectively. It is anticipated that the report on Short-Term Pop-Up Events and Longer-Term Interim Uses will be brought to the Board for initial discussion in the Fall of 2023. As such, this item has been carried over as an individual Priority 1 Amendment (**Topic 12**) for FY2024/2025. Two new items have been added under Reports to the Board for FY 2024/2025. As part of the initial adoption of zMOD, the Board requested updates on Accessory Living Units and Home-Based Businesses. While the first report was completed in January 2023, staff indicated that they would continue to monitor this topic and prepare a similar report for FY 2024. This report has been relocated from zMOD Implementation to Reports to the Board as **Topic 1A**. In addition, on May 9, 2023, the Board directed staff to prepare a report regarding Data Centers to include evaluation of potential environmental issues, mitigations and industry advances; review of locational guidelines regarding siting of data centers and potential approval processes and determine where any new guidelines should be located including the Zoning Ordinance and/or Comprehensive Plan. This item has been added to the Work Program as **Topic 1B** with the understanding that possible changes to the Zoning Ordinance are only one component of this broader review.

Affordable Housing Initiatives (**Topic 2**) has been divided into two sub-topics. **Sub-topic 2A** carries forward the previous initiative to consider zoning changes to support new affordable housing initiatives and land use policies, including strategies to incentivize preservation of existing manufactured home communities and will be monitored. **Sub-topic 2B** is new and is added based on the December 6, 2022, Board Matter to consider zoning changes to facilitate adaptive reuse of vacant and underutilized commercial and industrial buildings to provide shelter, services and permanent supportive housing to people who are unhoused. The timing for this item is proposed as a Second Tier item to be brought forward for either discussion at a Board LUPC meeting and/or to authorize advertisement of public hearings by July 2024.

Application Fees (**Topic 3**) is being carried over with a timeline of TBD. While staff reviewed certain application fees during zMOD, mostly with the intent to lower fees for certain uses or add fees for new types of applications, an overall review of application fees or fee adjustment has not occurred since 2011. The minimum expenditure for recreation facilities in a Planned District was last increased in 2017.

Green Initiatives (**Topic 4**) has been renamed as Climate Action and Resiliency Initiatives and the description has been updated in coordination with staff in OEEC to support implementation of the Community-wide Energy and Climate Action Plan (CECAP) and Resilient Fairfax. These plans are in the implementation phase now and may translate into future amendments, therefore the timing remains TBD/Monitoring.

As noted previously, for the FY 2024/2025 ZOWP, Landscaping and Screening (**Topic 6**), Outdoor Lighting (**Topic 8**), Parking Reimagined and the Sign Ordinance Part 2 (**Topic 11**) are all carried over and it is anticipated that these topics will either be completed or authorized for

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advertisement of public hearings during the first half of FY 2024. **Topic 5**, Contractors Office and Shop is also proposed for carry over with an anticipated timeline for bringing back to the LUPC for further discussion and possible authorization of public hearings in the second half of FY 2024 (Second Tier).

For FY 2024/2025 the State Code Changes Topic and the zMOD Implementation Topic have been combined and renamed Minor and/or Editorial Revisions (**Topic 7**). This is intended to be an ongoing Work Program entry that will address changes to the Code of Virginia that necessitate a change to the Zoning Ordinance or other minor and editorial revisions that are limited in scope and intended to correct minor errors or updates in the Zoning Ordinance that do not need dedicated outreach. Three items have been added under this topic area; but should not be viewed as an all-inclusive list, as other items could be added as issues arise:

- ✓ Consider updates to timing of published notices for public hearings
- ✓ Update Board of Zoning Appeals (BZA) membership to recognize that BZA may have up to three alternative members in addition to seven permanent members
- ✓ Consider adding checklist for minimum wastewater information to submission requirements for Rezoning, Special Exception, Special Permit and Development Plan Applications

Lastly, a new item – PRC Plan Exceptions (**Topic 11**) has been added to review exceptions for when a PRC Plan or amendment to a PRC Plan may be required and consider expanding the types of minor improvements that would not require a PRC Plan submission, particularly as they relate to open space or community facilities. This item was identified during the readoption of the zMOD Ordinance as a topic for the ZOWP.

Priority 2 Zoning Ordinance Work Program (Attachment 3)

The Priority 2 ZOWP includes those amendments that are not proposed to be added to the current ZOWP but have been retained for future consideration. The Priority 2 list reflects potential changes recommended by various Boards, Authorities, and Commissions, as well as staff, citizens, and industry stakeholders. The Priority 2 list has been included as part of the Work Program since the late 1980s to track recommendations for potential amendments. A significant number of items on the Priority 2 ZOWP were addressed with the adoption of zMOD. Given that the county is operating under a new and modernized Zoning Ordinance, staff proposes a reset to the Priority 2 list and recommends that any item that has been on the ZOWP since FY 2018 or before should be removed (with some exceptions). The Priority 2 list has been reformatted to include a summary of each item and a rationale for its deletion or retention on the list. A few items have been added by staff that could be considered as part of future minor and editorial amendments or as individual amendment topics.

As currently proposed, staff recommends that 33 items be removed, 7 items be added, and 13 items be retained on the Priority 2 ZOWP. A more focused Priority 2 ZOWP will allow a better allocation of staff resources in the future.

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Conclusions and Recommendations

The FYs 2024/2025 ZOWP anticipates additional progress and completion of many of the ambitious efforts that began under the previous Work Program, including Parking Reimagined, Signs Part 2, Landscaping and Screening, Outdoor Dining, Outdoor Lighting and a follow up report on Accessory Living Units and Home Based Businesses.

The work program was presented to the Planning Commission Land Use Policy Review Committee on June 8th. The Planning Commission expressed support for the Work Program as presented. There was considerable discussion regarding Data Centers. In addition, there were comments regarding the Climate Action (formerly Green Initiatives) topic. There was a recommendation to revise the topic name to recognize the resiliency/sustainability issues related to this topic. Therefore, the topic has been renamed Climate Action and Resiliency Initiatives.

Staff will present the ZOWP at the Board of Supervisors' Land Use Policy Committee meeting on July 18, 2023, to provide an overview and answer questions. After review, the Work Program will be brought forward as a Board Matter for endorsement by the Board. Once endorsed, staff will update the ZOWP webpage, will include the topic in upcoming outreach meetings, and will distribute the ZOWP using govDelivery announcement.

cc: Planning Commission
Bryan J. Hill, County Executive
Rachel Flynn, Deputy County Executive
Chris Leonard, Deputy County Executive
Elizabeth Teare, County Attorney
Tracy Strunk, Director, DPD
Jill Cooper, Director, Clerk Services
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