

Dubuque County Zoning Commission

Minutes of the January 30, 2024 meeting.

Chairperson Ronald Breitbach called the meeting to order at 6 p.m.

1. ROLL CALL: Members present at the Dubuque County Emergency Management Training Facility, 14928 Public Safety Way, Dubuque, IA 52002: Kevin Soppe, Jerry Sigwarth, Ron Breitbach, Kathleen Scherrman and Lisa Flanagan. Members present via zoom: Sam Boyes. Members Absent: Dave George. Staff Present at the Dubuque County Emergency Management Training Facility, 14928 Public Safety Way, Dubuque, IA 52002: Ed Raber, Tammy Henry, Amy Schmerbach and Lindsey Schreiber.

2. APPROVAL OF MINUTES:

3. PLAT APPROVAL:

4. REZONING CASES:

5. OLD BUSINESS:

6. NEW BUSINESS: ZC#01-01-24 Work Session on Renewable Energy Ordinance

Ed Raber, Planning and Development Director presented the board with a Dubuque County Board Presentation Packet. See attached. Mr. Raber said the goal for the Zoning board to build an ordinance over the next several months to submit to a recommendation to the Board of Supervisors. He said the Board of Supervisors would also hold public hearings through the final adoption process.

Speaking to the board was Craig Recker, 14106 Route 52, Dyersville. Mr. Recker asked if they knew of anyone being contacted to sign a lease with such companies. Mr. Raber said he knows of a few property owners that have been approached, however, he is unaware of who the company was and what kind of project they were proposing. He said the company has not contacted the zoning office, zoning board, or elected officials. Mr. Raber said he has been in contact with Maquoketa Valley Electric and Alliant Energy, and they provided some feedback as he supplied them with the renewable energy draft, and they prefer to have higher regulations within the ordinance. He said neither company was present for the meeting.

Mr. Breitbach addressed the audience and said he would like to thank the staff and board for their hard work on the ordinance. He said this has been a hot topic over the past several months. He said himself and the board were undecided with the ordinance, and he looked forward to feedback from the public to build the ordinance. He said the meetings were part of the process to build the ordinance and the board has not voted nor have the made any recommendations to the Board of Supervisors.

Mr. Sigwarth said it speaks volumes to have a large public turnout for the meeting however, no utility companies were present to promote the potential projects. He said he would like to find out if it is possible to block these projects within Dubuque County.

Ms. Flanagan said she was not against renewable energy projects however she believes it does not belong on agricultural land.

Ms. Boyes said board had previous conversations about building these projects only in Industrial zoned districts. She said she looks forward to public comments to help shape the ordinance.

Speaking to the board was Craig Recker, 14106 Rt 52, Dyersville and Jeff Pape 31406 Floyd Rd, Dyersville. Mr. Recker brought a flash drive of photos of the Solar project in Grant County, Wisconsin. The zoning administration was unable to showcase the photos but said he could send the photos via email to the board and citizens once the zoning office received the photos. Mr. Pape said this will affect small towns and he was concerned about storm runoff, decommission, environmental impacts. Wants to see the board to protect the property and property owners. Mr. Pape said he would like to see the decommission process include the below ground cables as well as the above ground cables. Mr. Breitbach asked what the tiling depth was. Mr. Recker said it was 4' and this was the same as the underground cable for these projects. Mr. Breitbach asked if the ordinance read that the cable had to be 5'-6' in depth and they said it would help the situation. Mr. Breitbach said this is the information he personally was looking for to make an informed decision. Mr. Recker is concerned about topsoil being returned once the project is installed.. Mr. Pape was concerned with the amount of waste/hazardous waste these projects would create. Mr. Recker said that these projects will affect CO2 levels and the projects will take thousands of acres. Mr. Recker and Mr. Pape said these projects don't belong in Dubuque County. Mr. Recker asked who decided what the setbacks would be for these projects and Mr. Raber said the board would recommend the setbacks to the Board of Supervisors and ultimately the Board of Supervisors would make the final decision. Mr. Breitbach said they have made no decisions on setbacks.

Speaking to the board was Bob Rahe, 15378 Route 52, Dyersville. Mr. Rahe said he is the current clerk on the Board of Trustees that he has served for 30 years. He said while electricity is important, he is concerned with losing the crops that produce food. He said this will also affect the Fire Departments.

Speaking to the board was Wayne Demmer, 9018 Lone Pine Rd, Epworth. Mr. Demmer said he reviewed the 2013 Dubuque County Comprehensive Plan that he was involved with while he was an elected County Supervisor. Mr. Demmer said the plan was to preserve agricultural land. He urged the board members to review the Comprehensive Plan which will help them with their decision-making process. He said he is curious to know what the benefits to the county are and what the tax benefits would be. He wants to know how the ordinance can offset the cost to the county and citizens. Mr. Demmer said he does not want the taxpayers to pick up the additional expense. He said the local fire departments would have to purchase equipment to provide emergency services and he does not feel it was fair to the fire departments to cover the expenses.

Speaking to the board was Howard Steffen, 18615 Hickory Valley Rd., New Vienna. Mr. Steffen said he was concerned with the decommissioning process and restoring the land back to original state and use.

Jeff Schmitt, 20948 Schmitt Lane, Holy Cross. He believes it's a shame to cover agricultural land with these projects and believes they do not belong in Dubuque County. He is concerned about setbacks. He said these projects could affect the atmosphere which can potentially develop severe storms.

Speaking to the board was Wayne Kramer, 12742 Kramer Rd., Farley. He believes this will affect tourists. Farmers can't compete with the solar companies. Mr. Kramer said it would cause job loss in the agricultural industry. He asked the board if they thought these projects should even belong in Dubuque County.

Mr. Breitbach personally encouraged the crowd to attend these work sessions. He this industry is new, and voting could make a difference because these projects are very incentivized. Mr. Breitbach said he was glad the Zoning Board voted 7-0 to suggest the Board of Supervisors to place a moratorium on large scale renewable energy projects.

Ms. Boyes said she would like to have the citizens submit an email with questions, comments, and concerns regarding these projects. She said this will provide full transparency in the decision-making process. Ms. Henry said contact information has been provided in the packet.

Speaking to the board was Sue Kluesner, 30387 New Vienna Rd, New Vienna. She thanked the Zoning Board and Staff for holding the work session for public input. She would like to preserve Agricultural land. She said her son is joining the farming business and she would like to see him be successful and continue to prosper. Ms. Kluesner said he would also like to conserve the Agricultural land to continue producing food.

Speaking to the board was Michelle Schmitt, 21645 James Rd, Holy Cross. Ms. Schmitt was concerned about how these projects would affect wildlife. She said she is against solar panels and asked if a petition would help the board make a decision. Ms. Henry said these meetings are more productive than a petition.

Speaking to the board was Dave Schneider. 26462 Schneider Lane Holy Cross. Mr. Schneider said he was approached by a renewable energy company to use his farm ground and he declined because his land is a family farm that he hopes to pass down to his children. He referred to page 6 (population in Dubuque County) and said only 20% of Dubuque's population is in the rural areas of where these potential projects would be placed. He said the other 80% of the population would not have to live near these projects so the 20% would really have to loudly voice their opinions regarding these projects. Mr. Schneider said getting out to vote would have an effect. Mr. Schneider said regarding the decommissioning process he thinks it needs to be more than a surety bond. He said the property owner should be just as responsible for the decommissioning process. Ron Breitbach said the decommission cost is unknown. He stated that it is the boards responsibility to protect the public and county. He said it concerns him if the utility company walks away from the responsibility of the decommissioning, then it would fall back on the farmer but then the farmer walks away then is the County's responsibility. He said there are so many what if's when it comes to these properties. He said the number of subsidies and financial incentives could change with a simple change in the laws.

Mr. Breitbach said if anyone in the public was in favor of these projects to please speak to the board because he said he has yet to hear from one citizen that is in favor of allowing these projects in Dubuque County.

Speaking to the board was Loras Link, 21385 Horseshoe Rd, Sherrill. Mr. Link said he currently serves on the Zoning Board of Adjustment. Mr. Link said he was approached by a utility company for solar panels, and he declined. Mr. Link said the utility company had

asked him if it would be beneficial for the utility company to appear at the Board of Adjustment meeting and said no because these cases go before the Zoning Board. Mr. Link offered the contact information to the Zoning Board if they would like to invite them to the next meeting.

Speaking to the board was Wayne Demmer, 9018 Lone Pine Rd, Epworth. Mr. Demmer said 5200 acres of farm ground was annexed into the city from 2000-2013 which was for controlled growth in the comprehensive plan. He would like to know how much more farm ground has been annexed since 2013.

Speaking to the board was Steve Hoeger, 14846 Pape Rd., Farley. Mr. Hoeger asked if the citizens were paying the property taxes for these projects? Mr. Raber said no, it would be the utility companies' responsibility. Mr. Hoeger said he would like open transparency regarding these projects. He said these projects affect the neighboring properties that don't receive financial gain. He said he had a substation built by his property and 7 transmission poles were placed on his property. Mr. Raber said the utility companies did not have to apply for permits through the county for that type of project.

Mr. Sigwarth wants to know if the board could suggest a no vote. Mr. Breitbach said that's a possibility, however a moratorium was already suggested to the Board of Supervisors. Mr. Sigwarth said it speaks volumes when the people that are in favor of these projects are not attending the meetings.

Ms. Henry suggested the Zoning Board have more meetings to gather more information to develop a strong recommendation to the Board of Supervisors.

7. PUBLIC COMMENTS:

8. ADJOURNMENT: A motion was made by Mr. Sigwarth, **seconded by Ms. Scherrman to adjourn the meeting. The motion passed unanimously. Vote: 6-0. The meeting ended 8:06 at p.m.**



Dubuque County Zoning Zoning Board Presentation

DRAFT Ch 5 Renewable Energy Ordinance
Tuesday, January 30, 2024

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What We Do

- ▶ Provide excellent customer service – effectively, consistently, and courteously
- ▶ Assist county residents with questions and applications regarding land use in the unincorporated areas of the county
- ▶ Solicit public input on pending applications, development plans and ordinance amendments
- ▶ Facilitate planned development in and around the cities.

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Purpose

- ▶ The purpose of land use regulations in the County is to:
 - Preserve the availability of agricultural land
 - Protect the public's health and general welfare
 - Encourage efficient urban development patterns
 - Efficiently plan for and provide public facilities and infrastructure
- ▶ The land use ordinances were developed in accordance with Iowa Code Chapters 18B, 335, 354 and 355 and are based on the 2013 Dubuque County Comprehensive Plan
- ▶ Regulations are made with reasonable consideration for:
 - The character of the area
 - Suitability of an area for a particular use
 - Conserving the value of land and buildings
 - Encouraging appropriate uses of land throughout the County

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Staff Support to

- ▶ Zoning Board
- ▶ Board of Adjustment
- ▶ Board of Supervisors
- ▶ Future – Historic Preservation Commission

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Zoning Board

- ▶ 7 members appointed by Board of Supervisors
- ▶ Recommending body to BOS
- ▶ Responsible for reviewing/recommending on plats, rezoning applications, and zoning amendments for BOS approval
- ▶ Update the Comprehensive Plan and recommend areas for future development in the County
- ▶ Appeal of Board of Supervisors decisions go to District Court

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Board of Adjustment

- ▶ 5 members appointed by Board of Supervisors
- ▶ Quasi-judicial Board Responsible for acting on Variances and Special Use Permit requests
- ▶ Hearing appeals to decisions of the Zoning Administrator
- ▶ Authority to approve, modify or deny applications
- ▶ Appeals of Board of Adjustment decisions go to District Court (not the Board of Supervisors)

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Zoning Activity by Year

Full Calendar Year

	2021	2022	2023
Board of Adjustment Cases	41	42	47
Zoning Board Cases	30	31	30
Zoning Certificates	172	170	150
Plats	63	57	34
Complaints	14	11	21
New Addresses	58	55	53
Minor Erosion Control Permits *	56	51	51
Entrance Permit Applications	55	60	41

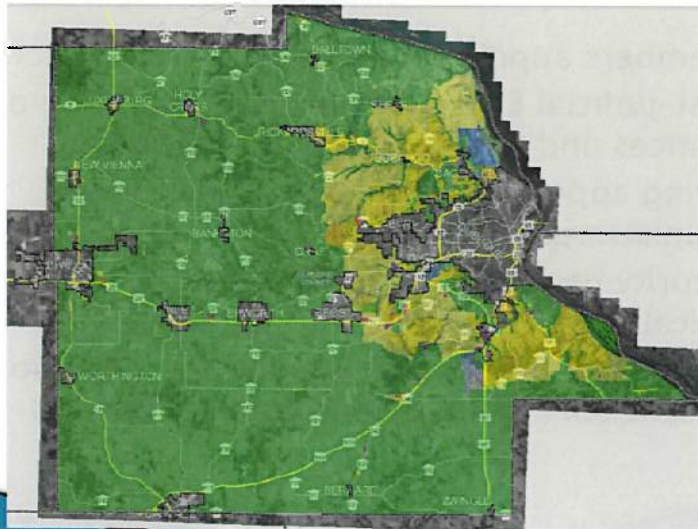
*As of January 2021, the Zoning Office no longer handles the Major Erosion Permits we only process the Minor Erosion Permits.

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Dubuque County Zoning Map

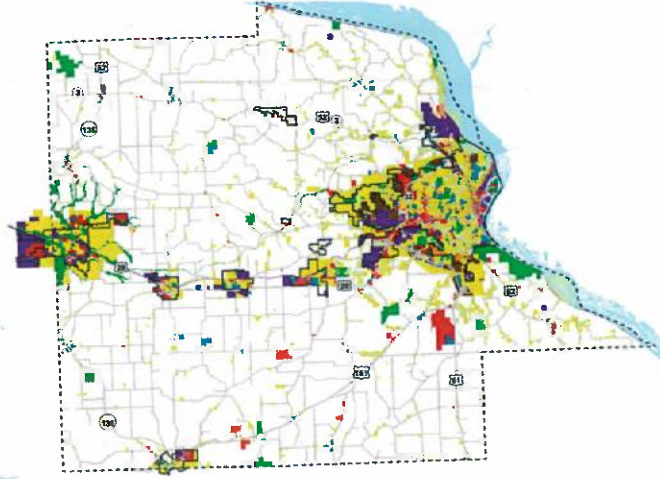


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Dubuque County Future Land Use Map - 2013 Comp Plan

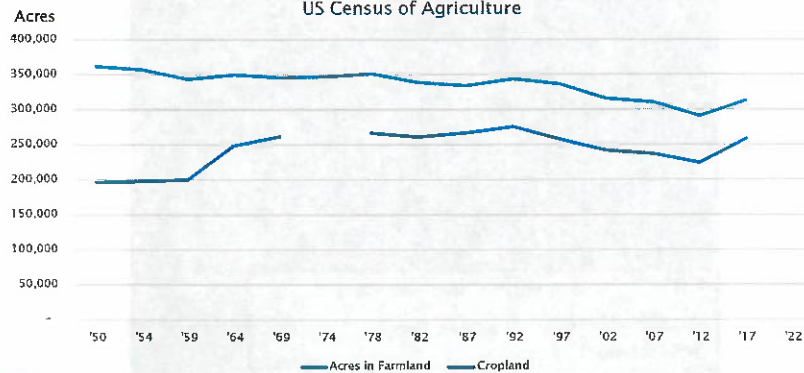


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Farmland & Cropland Historical Trends

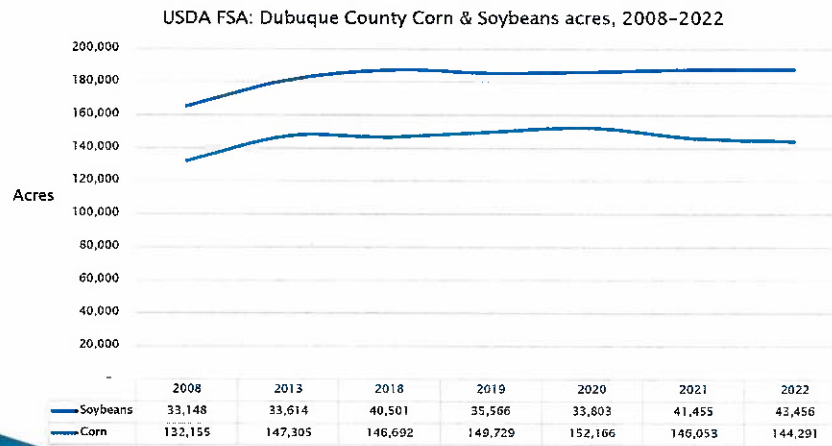
Dubuque County Farmland Historical Trends
1950 - 2017
US Census of Agriculture



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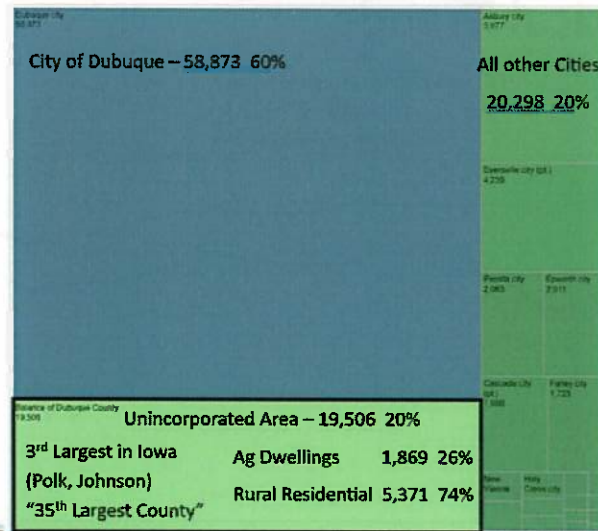
USDA FSA: Corn & Soybeans acres



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Population for Cities in Dubuque County, Iowa July 1, 2022 estimate - **98,677**



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Other Regulatory Bodies

- ▶ Midcontinent Independent System Operator (MISO)
- ▶ The “grid”
- ▶ 15 US states and Manitoba, Canada
 - provide an efficient and reliable transmission system
 - access a diverse number of energy resources, including renewable energies
 - expand energy trading opportunities
 - meet state and federal energy policy objectives
- ▶ Also involved with approving energy generation projects onto the grid.

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Other Regulatory Bodies

- ▶ Iowa Utility Board
- ▶ 3 members, appointed by Governor
- ▶ Regulates services and rates of electric, natural gas, water, & telecommunications providers, and pipelines & transmission lines.
- ▶ Reviews and approves new commercial generation projects over ~20 MW
- ▶ Can trigger environmental reviews

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Property Taxes?

- ▶ “Centrally Assessed” by Iowa Dept. of Revenue
- ▶ Not assessed by County Assessor
- ▶ Like a coal/gas plant or transmission lines, portion of value stays locally and remainder shared across utility grid.
- ▶ Locally assessed by County Assessor according to state guidelines.
- ▶ 30% of development and construction costs for project.

SOLAR

WIND

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Renewable Energy Ordinance
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Renewable Energy

- Wind ordinance in 2006 – outdated, inadequate
- Started Solar ordinance in 2022, codified in 2023
- Broader issues with Wind, Solar, and Battery prompted re-examining existing ordinances in fall 2023
 - Setbacks
 - Project Decommissioning
 - Design standards
 - Managing risk and liability to public/County

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Current timeline

- ▶ Staff conducting ongoing research and info gathering
- ▶ October 2023 – Zoning Board started discussing issues around new Renewable Energy Ordinance
- ▶ November 2023 – draft ordinance document (11/24/2023) made available after
- ▶ December 2023 – Zoning Board discusses draft ordinance, and hears public comment
- ▶ January 2023 – revised 2nd draft 1/29/24 discussed at special 1/30/24 meeting

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Dubuque County

- ▶ Looking to regulate siting and design of commercial renewable energy generation and energy storage.
- ▶ Renewable energy generation or energy storage primarily for the use of the owner is treated differently – as “accessory” use.
 - Still some guidelines but less stringent.
 - Ground mounted solar array at rural residence
 - Battery energy storage in a garage to charge an EV vehicle

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Changes in 2nd Draft 1/29/24

- ▶ Concern: Supervisors should ultimately make project approval decisions, not Board of Adjustment
 - Proposing new “RE” zoning overlay district – sends applications through Zoning Board then Supervisors
- ▶ Concern: Are applicant or project fees enough to review and monitor projects?
 - Proposing fees that require applicants to cover legal or consultant costs to review applications, and if approved, to monitor construction.

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Changes in 2nd Draft 1/29/24

- ▶ Concern: Project Noise levels should be more tightly regulated.
 - Proposing more industry standard treatment of noise with limits of 50 dB, adjustments for existing ambient noise levels, and framework for mitigating.
- ▶ Concern: 1st Draft had no Emergency Response plan requirements.
 - Proposing that Emergency Response Plan be submitted with application. Coordination, training, and equipment supplied by the Project.

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Changes in 2nd Draft 1/29/24

- ▶ Concern: What if a project cuts field tile and causes drainage problems?
 - Proposing requirement for Projects to repair and restore damage to private drainage infrastructure on non-participating properties.
- ▶ Concern: What about damage to roads & public drainage during construction?
 - Proposing requirement for a Road Use and Mitigation of Damages Plan to protect the County.

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Changes in 2nd Draft 1/29/24

- ▶ Concern: What if a solar project wants to engage in some farming or animal husbandry under the solar panels
 - Proposing flexibility on the 20' height limit for applicants agri-voltaics plan
- ▶ Concern: Clarify decommissioning plan requirements
 - Proposing restoration and reclamation activities to include pre-construction surface grade and soil profile after removal. Requiring removal to 4' below grade.

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Changes in 2nd Draft 1/29/24

- ▶ Concern: When can project construction occur?
- Proposing restricting construction to between 7am – 7pm Monday through Saturday. Construction laydown areas for materials must set back 500'+ from non-participating residences
- ▶ Concern: 90-days is too short time frame to remove a discontinued project.
- Proposing more typical that removal must commence within 1 year.
- Also allowing opportunity for submission of a Reactivation Plan for all or part of Project.

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Changes in 2nd Draft 1/29/24

- ▶ Concern: Are the setbacks from residences and property appropriate?
- 2nd Draft Ordinance does not propose any changes. Current setbacks in draft ordinance are within the framework of most other county ordinances. Doesn't mean they are right, just within the typical window.
- ▶ Concern: What if a renewable energy project submits an application prior to the County updating or adopting new ordinances?
- Proposing – Zoning Board is requesting that the Supervisors place an application moratorium until a new ordinance is adopted

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Next Steps

- ▶ Zoning Board, Board of Supervisors, staff, other County departments, etc. are interested in hearing ongoing feedback
- ▶ Likely develop 3rd draft in next 30–60 days
- ▶ Zoning Board will keep this on their monthly meeting agenda
- ▶ When Zoning Board determines it is comfortable with a final draft, can begin official public hearing process and make a recommendation to the Board of Supervisors.

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Questions – Thank You

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