

Date: October 18, 2021

**TO: Ms. Alaina Ray, Director of Planning & Zoning**  
**CC: ZOC Distribution list**  
**FROM: ZOC Member Representative, Maura Walsh-Copeland**  
**SUBJECT: Oct. 6<sup>th</sup> New Business Item Discussion Follow-up for Oct. 20<sup>th</sup> Meeting**

Thank you for your new business item discussion remarks at the October 6<sup>th</sup> Zoning Ordinance Committee (ZOC). They were clarifying and appreciated. It was unfortunate that the new business item began so close to the end of the Oct. 6<sup>th</sup> ZOC meeting. Because you had to leave you may not be aware that several ZOC members asked to revisit the matter. The following is provided to assist with that follow-up intended to shorten the discussion time for Staff and ZOC:

**1. REGARDING ZOC'S ROLE.** Your clarification that text being reviewed by ZOC is not to be considered staff's draft, nor recommended, nor final, but rather a "jumping off point" for ZOC discussion as the "sounding board" confirms ZOC may not be the correct vehicle to ensure overall balanced stakeholder input for ZOAMs.

**2. BUSINESS FRIENDLY.** Regarding your statements that  
*"Staff has been directed ---- That our goal is not to curtail existing businesses / operations or to shut down businesses. . . . our mandate is to not shut down or curtail existing operations that are legal today. . . . that is the feedback we have gotten from the Board."*

please be assured there is agreement among the groups I work with for the point to not cause direct harm to any current businesses.

To better frame the overall purpose of this discussion, what has been requested are

- 1) equitable zoning protections for non-business property owners in the vicinity of *high-intensity* business property uses, and
- 2) required zoning changes to implement the policies in the approved 2019 Comp Plan.

**3. HIGH-INTENSITY USE REVIEW.** As you and Staff already are aware, the primary factors impacting non-business property owners are zoning inconsistency (i.e., inconsistent and/or non-existent use performance standards) plus location and intensity impacts. From the standpoint of impacts to non-business property owners and need for zoning protection, it does not matter if a business makes wine, beer, pink lemonade, or milkshakes; it does not matter if the operation is a wedding venue, pick your own farm, equestrian facility, or corn maze. What matters is the scale, intensity and impacts to adjacent and vicinity properties for: hours of operation, quantity of attendees, yard setbacks, buffering, parking, road access/traffic, lighting, and noise; compliance with water & waste with the Health Department and Office of Drinking Water, and the filing of permits for Zoning and Building & Development.

As the Department of Economic Development highlighted to FGOEDC on Oct. 12<sup>th</sup>, more business owners are adding multiple uses to properties thereby creating even more intensity and scale than a single use. High-Intensity Uses, or review of multiple uses on a property resulting in high-intensity or scale – can be defined by using Staff's current model of assigning "Level I, II, III, or IV" to uses based on size of use (acres), daily/yearly attendees, quantity of events, and other criteria used in the zoning ordinance.

4. **ZONING USE COMPARISON REVIEW.** A primary reason to raise this now during the Zoning Ordinance Rewrite (ZOR) is to *HELP* Staff identify the inconsistencies and missing regulations. As a direct aide for this work, an update of Staff’s original [Zoning Use Comparison Matrix](#)<sup>1</sup> has been provided to *facilitate* Staff’s review and discussion. [ZOC members may add Uses for other Place Types/Policy Areas that may also need non-business property owner input for high-intensity and/or multiple use review.]

5. **BOARD “MANDATE.”**

You mentioned in your remarks a “mandate” or direction from the Board, which seemed to prioritize zoning ordinance goal J. (*Encourage economic development activities that provide desirable employment and enlarge the tax base*) over the other 13 zoning ordinance goals, purposes, and intents.

**Could you provide the Board item or document you were referencing to respond to citizens questions on that remark?**

**Zoning Ordinance: Goals, Purpose & Intents**  
**Section 1-102 of Loudoun County Zoning Ordinance:**

- ENVIRONMENTAL/HISTORIC**
  - d. Adequate light, air, convenience of access
  - h. Protection of Historic areas
  - l. preservation of agricultural and forestal land and . . . natural environment
- SOCIAL/RESIDENTIAL**
  - b. Social & economic well being of both private & public property
  - e. Reduce or prevent congestion
  - f. convenient, attractive harmonious community
  - g. Adequate public services
  - i. Protect against undue density of population
  - k. Promote public facilities
  - n. Provide/promote affordable housing
- BUSINESS/ECONOMIC**
  - a. Orderly growth, development and redevelopment,
  - c. Best utilization of land
  - j. Encourage economic development**
  - m. Safe airports

**Sustainable Community Venn Diagram:**  
 Three overlapping circles: SOCIAL Interests (top), ENVIRONMENTAL Interests (left), and ECONOMIC Interests (right).  
 - Social & Environmental: Compatible  
 - Social & Economic: Equitable  
 - Environmental & Economic: Workable  
 - All three: SUSTAINABLE Community

6. **BOARD DIRECTION.** As Staff is very aware, ZOAM-2015-0006 and subsequent phases were specifically approved by the Board to address the consistency of zoning standards across zoning districts. This same ZOAM was “pushed” to ZOR for completion by the Board of Supervisors in Fall 2019. Unfortunately, due to time you did not have the opportunity to respond to the questions that were sent to you in advance and posed during the Oct. 6<sup>th</sup> ZOC meeting regarding Board direction. With additional time, it will be appreciated to get responses to the following:

- a. Will the Zoning Ordinance Rewrite include any additional performance standards that are inconsistent or missing from the current zoning through a “*Consistency audit, [analyzing] existing standards and strive for consistency within the document and across zoning districts*” as originally **directed by the Board** with approval of the ZOAM-2020-0001 project plan on September 19, 2019?
- b. Will changes to existing regulations be made to improve the management of events, yard standards, parking, landscaping/buffering, lighting, noise and road/access for the health, safety, and welfare of the public by reviewing the “*opportunities and challenges [by evaluating] input from stakeholders about the current Zoning Ordinance and make improvements where appropriate,*” as originally **directed by the Board** with approval of the ZOAM-2020-0001 project plan on September 19, 2019?
- c. Will the Zoning Ordinance Rewrite include text addressing all outstanding actions from ZOAM-2015-0006 II and III, as originally **directed by the Board** on Nov. 1, 2016, reaffirmed with the Strategic Plan Update on Nov. 8, 2017, and 2018 ZOAM Work Program on Feb. 6, 2018?

7. **STAKEHOLDER TERMINOLOGY.** I appreciated your assistance to correct my reference to recent input from a “stakeholder group.” The correct term I should have used was “stakeholder category” to describe the economic/business-only vocal input Staff received from business owners, Department of Economic Development, and DED partners (Visit Loudoun, Loudoun Chamber).

<sup>1</sup> <https://loudouncoalition.org/wp-content/uploads/2021/09/ZOR-2021-INTENSITY-SORT-REVISED-Rural-Zoning-Comparison.pdf>

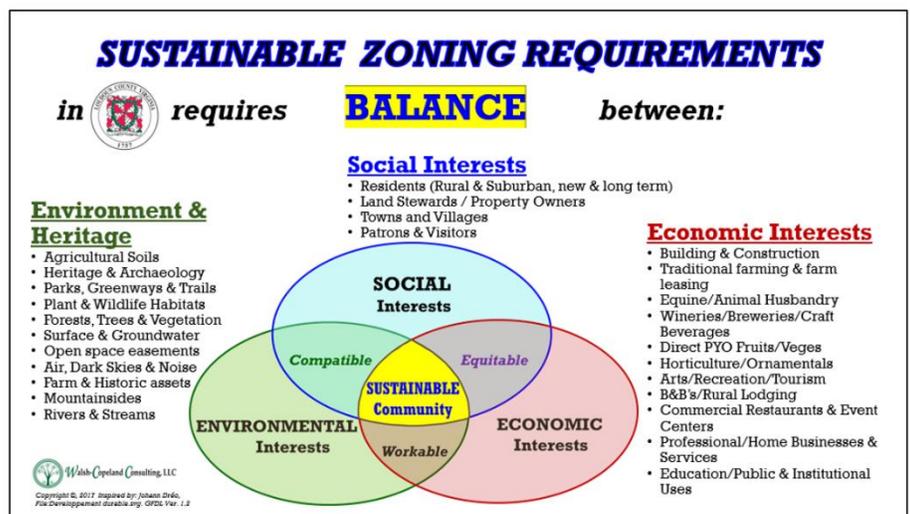
8. **DRAFT TEXT REMOVED.** James David indicated that the removed “*potential language in question will not be part of Staff’s recommended draft at this time.*” Can you clarify whether that means Staff has concluded that the business stakeholder input superseded public input provided during the ZOR Round 1 and 2 focus groups and input for the past 5 to 7 years?

The reason for asking is because

- the draft text for multiple uses removed by Staff at the request of the economic/business stakeholder category **had been specifically requested and supported by the conservation/preservation stakeholder category** (a.k.a., environmental/heritage) in a number of previous focus group meetings and written input,
- the draft text is also **directly in line with regulations approved and implemented<sup>2</sup> in a number of other counties** to address non-business property owner concerns with high-intensity activities, including, but not limited to Albemarle, Clarke, Warren, Goochland, Fauquier, Prince William and Greene Counties, and
- the draft text was **requested by and may be instrumental in resolving complaints from non-business property owners** in proximity to high-intensity uses submitted to the County over the past several years.

9. **TRANSPARENCY.** It is for these reasons the removal of the draft text at this point in time is premature. In light of the fact that you indicated the removed text may only appear in a separate report and not in the proposed Staff recommendation for public-review next April, the removed text may not be easily visible for review or comment by the general public, Planning Commission or BOS.

10. **STAKEHOLDER INPUT.** As you mentioned several times, “*we are not going to ignore stakeholder input.*” This is welcomed news that staff will continue to receive input during what you referred to as the “sausage making” stage of the Zoning Ordinance Rewrite. The Economic/Business stakeholder category requested and received a meeting with two supervisors in August that resulted in draft text being removed from Staff’s packets to ZOC in August and September.



As you also mentioned, Staff received “vocal input” during Round 1 and Round 2 meetings,<sup>3</sup> from the conservation/preservation stakeholder category that included LHVA, PEC, SRL, LEA, Farm Bureau, and related advisory groups (REDC, Heritage Commission, LSWCD, etc.).

11. **MISSING STAKEHOLDER INPUT.** This leads to what appears to be the **gaping hole** in Staff’s consideration of the input from the stakeholder category representing the social/residential input from tax-paying non-business property owners. Such input has been provided to Staff in numerous ways over many years, including but not limited to: LEx complaints, letters and emails to Staff, Supervisors and State legislators, calls and meetings with Staff, Supervisors and State legislators, and case study and chronology reports<sup>4</sup>.

<sup>2</sup> <https://loudouncoalition.org/wp-content/uploads/2020/04/ZOR-2021-Virginia-Counties-Ordinance-Comparison.pdf>

<sup>3</sup> <https://loudouncoalition.org/2020/07/additional-public-input/>

<sup>4</sup> <https://loudouncoalition.org/2020/04/rural-uses/>

You commented that, “*We [Staff] don’t shut out public input after a formal time period.*” Therefore, input from the non-business property owner stakeholder category should be reviewed as additional “*ingredients*” **to provide an equitable perspective before Staff formulates or finalizes their recommendations** in the “*mixing bowl.*”

***From citizen input received, waiting until April to review or obtain non-business property owner input, or make visible the input already provided, would be a gross negligence to implement equitable performance standards ensure the health, safety, and welfare of all Loudoun citizens.*** This perspective matters and should not wait until the “*cake goes in the oven*” for baking in 2022.

- 12. MEETINGS WITH STAFF/BOS.** The Economic/Business stakeholder category has been provided separate meetings with some staff and supervisors for ZOR and other key ZOAMS (as highlighted by SRL). Tax-paying non-business property owner stakeholder category should be provided the same opportunity to ensure Staff receives all input requirements needed to improve inconsistent and/or missing regulations or lack of performance standards for the health, safety, and welfare of the public, to include property owners and patrons – county-wide. This input would be consistent with the Board direction for ZOAM-2015-0006, ZOAM 2020-0001 and ZOAM-2020-0002.
- 13. OFFERS OF ASSISTANCE TO STAFF.** The overall goal is to **ASSIST** Staff manage the huge ZOR and ZOAM efforts. LCPCCC contacts, PEC and other contacts offer the following ways to assist you and Staff have access to the information you need to complete your work:
- a. **OFFER #1:** A hybrid/virtual meeting will be arranged with non-business property owner representatives from multiple districts and policy areas to provide input based on direct knowledge and experience with high-intensity uses, regulations and/or performance standards.
  - b. **OFFER #2:** If a meeting cannot be arranged due to restrictions or in a timely manner, then non-business property owners will be requested to re-submit to ZOR Staff any and all letters, emails, cases, photos, Lex complaint content, discussion summaries with Staff, BOS, state legislators, publications that describe and/or support requirements submitted as public information in the past five to 10 years that highlight recommendations related to mitigating impacts from high-intensity uses.

**It would be helpful to know which offer you believe will be most feasible before the 2021 holidays?**

In closing, I’ll share remarks you missed after you had to leave the meeting. As said so well by REDC ZOC Representative, Mr. Browning, in reference to economic development:

*“We are all also residents. And we all have considerations for the members of the public we hear from as well. That goes to the need for balance. If the rural economy runs roughshod over residential needs, it won’t be able to survive. There has to be balance. The reality is that we all have to live here, and we all have to get along.”*

As a guiding principle, this view will ensure the new zoning ordinance supports the vision of Loudoun County as **“sustainable community where residents feel free to live, work, learn and play.”**

Kind regards,

Maura Walsh-Copeland, ZOC Member  
On behalf of LCPCCC organization members, and  
citizen input/review of the Oct. 6<sup>th</sup> ZOC transcript

## ZONING ORDINANCE COMMITTEE – 10-6-2021

### New Business Item – Discussion Transcript

Meeting recording: [https://loudoun.granicus.com/player/clip/6781?view\\_id=78&redirect=true](https://loudoun.granicus.com/player/clip/6781?view_id=78&redirect=true)

#### **TRANSCRIPT:** Item #9: New Business (Start: 1hr, 49 minutes)

ZOC Member, Maura Walsh-Copeland

- The information sent in advance was hopefully helpful to explain what happened over the last 2 months, specifically the three weeks. This is absolutely a Process review question – not related to operation or business use
- Going forward – If the documentation provided by Staff is reviewed by ZOC and then is changed after the fact, one the recommendation of one stakeholder group, what would prevent that from happening again in next three or four months? It happened to rural business this time, but in two months it could be data centers, three months is could be real estate.
- This matter has received a tremendous amount of reaction in last three weeks. To have draft text leaked, and then have the information presented that it was “ZOC’s recommendation” is not true.
- Correct me if I’m wrong, but was the text that was put forward based on Round 1 and Round 2 public input? James?

Alaina Ray, Loudoun County Director of Planning & Zoning

- Yes, draft text language put before ZOC was based on some very vocal input we received during Round 1 and Round 2.
- That Language put before [ZOC] was, however, not a Staff recommendation; it was not and should not have been portrayed as a Staff recommendation.
- Staff’s recommendations have not been finalized yet, in many cases Staff’s recommendations have not been formulated yet. Staff should not be formulating recommendations until we have all the input from all the stakeholder groups.
- That doesn’t mean if we get information between Round 1 and 2 and now that we’re not going to use it. We’re not going to ignoring stakeholder input.
- Input that was received recently from groups on this issue wasn’t from one stakeholder group. It was from multiple directions. It was from business owners, from DED partners, from Board members.
- Language that comes before [ZOC]---when a packet comes before [ZOC] it is a “jumping off point . . . language to get [ZOC] talking,” to get your response to. It is not a Staff recommendation.
- Staff’s recommendation will not be completely formulated until the draft document is released for [ZOC’s] 90-day referral review. That’s not Planning Commission referral; that is [ZOC’s] referral and public referral and different organizations.
- Text will continue to change between now and then. We take we input we receive from [ZOC] but we also get input from others. To shut out input would double our work on the back end.
- We will continue to take input from groups. Had the Brewery association group been formulated during Round 1 and Round 2 we should have reached out to them as well.<sup>5</sup> Just as other groups were brought to our attention after Round 1 and 2. We don’t shut out public input after a formal time period.
- ZOC will receive all language, and all revisions. That’s why we release the comments in enCodePlus to see Staff response to comments.
- ZOC will have opportunity during the 90-day referral period to review all language. Language will continue to me revised and modified by Staff
- The document released for that 90-day review period will be [ZOC’s] “official” look at what at that point is “likely” to be staff’s recommendations. Not to say Staff can’t modify or change their recommendations after that 90-day referral period. We very likely will.
- Once we get through that 90-day referral period, I want to assure all ZOC members that any recommendations that ZOC makes – and we encourage in 90-day referral for ZOC to take votes on recommendations – all of those recommendations will be forwarded to the Planning Commission and the Board.
- Staff will call out if those recommendations differ from what Staff is recommending at that point.

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<sup>5</sup> Loudoun Local Business League was formed in September 2019, before ZOR Round 1 and Round 2 focus group input.

- We'll bring that to the PC and Board that ZOC felt a certain way. We want Planning Commission and the Board to have full discussions on those issues were in conflict.
- Assure you all that [ZOC's] recommendations will go unedited to the Planning Commission and to the Board. We recognize that they may differ from Staff's recommendations. PC and Board will have full access to those recommendations.

ZOC Member, M. Walsh-Copeland

- Question: Will the public ever see the text that was removed, or will they only see the "clean copy?"

Alaina Ray

- If ZOC recommends that the text that was removed be put back in, then, yes, the public will see that.
- I'm not sure how much access the public will have to all of the "sausage making" in enCodePlus.
- Staff does revised language all the time. We don't release every single version, of documents or ordinances.
- We don't release all that to the public because it would be confusing for the public to understand which version we're actually working off of. It's all public information.
- And if ZOC feels certain language should be in the ordinance and Staff has decided it's not something we can recommend, then that will be in a separate report that will go to the Planning Commission and the Board, and public will have access to that.

ZOC Member, M. Walsh-Copeland

1. James has already said that the "potential language in question will not be part of Staff's recommended draft at this time." So, does that mean Staff has concluded that the business stakeholder input has superseded all public input provided during the ZOR Round 1 and 2 focus groups and input for the past 5 to 7 years?
2. The specific questions are:
  - a. Will the Zoning Ordinance Rewrite include any **additional performance standards** that are **inconsistent or missing** from the current zoning as was described for the ZOR project?
  - b. Will any **changes to existing regulations be made to improve** the management of events, yard standards, parking, **landscaping/buffering, lighting, noise and road/access for the health, safety, and welfare of the public?**
  - c. **Will the Zoning Ordinance Rewrite include text addressing all outstanding actions from ZOAM-2015-0006 II and III?**  
**Questions were cut off**

Alaina Ray

- I have a hard stop, so I can't respond.
- Staff has not formulated their recommendations, however I will say that "Staff has been directed ----- That our goal is not to curtail existing businesses / operations or to shut down businesses."

ZOC Member M. Walsh-Copeland: What about public safety -- health, safety, and welfare?

Director Planning & Zoning, Alaina Ray

- There are a lot of layers to that. Fire Marshall and our public safety partners will be reviewing all of this, and we will take their concerns into consideration and so will the Planning Commission and the Board.<sup>6</sup>
- I'm not going to say today what Staff will or will not be recommending other than to say that our "Mandate is to not shut down or curtail existing operations that are legal today. That is what I can say right now, and that is the feedback we have gotten from the Board. That's how we're moving forward." I have to go.

James David, Deputy Director, Planning & Zoning

- All the language is available to the public in LOLA (Loudoun Online Land Application system) in teach ZOC agenda packets.

ZOC Member, Tia Walbridge:

- I'd like [this subject] brought up again. Addressed again, addressed in full, and not cut off.

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<sup>6</sup> Follow-up question: Will public safety review include concerns and considerations from residents, not only public safety partners?

ZOC Member, Charles Houston:

- Totally agree. “This rabbit has not been run down the hole yet.”
- Really important that we have one constant document that we review that is separate from input from others so that we don’t get messed up. It’s hard enough to deal with what’s on our plate in front of us, much less what we’ve already gone over. My input is to not shut out other people. But to have their input handled differently and let ZOC have the same input document.

ZOC Member, M. Walsh-Copeland

- For alternative viewpoints, it would be helpful for Planning & Zoning and maybe some others to see the REDC discussions. Extremely impressed with our sister group, because the discussions in those meetings are very well balanced between business, agricultural and residential.
- But those are not seen because they are not posted. Need to ask for a dropbox link and have a dropbox account to view them.
- Recommend Planning & Zoning look at sister organization and see input that’s being provided in that forum which IS representing the same business interests in their well-balanced discussions.
- That is the key thing – that it needs to be well-balanced as with the REDC for the last several months of meetings.

ZOC Member, Jeff Browning:

- I’d like to request if we discuss then again, which I would encourage, that staff forward the two blue marked removed language [breweries, events, B&B’s and such] so that we can all have a fresh look at it before we continue this discussion
- As the REDC representative, REDC is charged to look at economic development in the rural community, but we are all also residents. And we all have considerations for the members of the public we hear from as well.
- That goes to the need for balance. If the rural economy runs roughshod over residential needs, it won’t be able to survive. There has to be balance. The reality is that we all have to live here, and we all have to get along.

ZOC Member, Joe Paciulli,

- Regarding having one static document -- We’re still “cleaning out the basement.”
- Not sure we’ll have a clean static document. We need to get to other items that are important to the viability of the county. We have yet to start them.
- We haven’t been brought them by Staff yet because they are being bogged down by different things<sup>7</sup>

ZOC Chair, Kevin Ruedisueli

- We got hung up on one set of regulations or standards. We should all go back and re-look at all the Uses to see if there are some uses that haven’t been put in that bucket of requiring special standards. Use-specific standards.
- Are there some uses that were missing from use-specific standards section? I don’t get the sense we have vetted the whole list of uses to make sure that things that have potential as higher-intensity impacts uses than others.
- You can have a use which may have no impact, or if it has a lot of attendees could have a large impact. If it has a lot of acres it could have a larger impact than if it has a smaller amount. Or you can’t allow a large amount of people on a small amount of ground.
- We have those levels for certain uses, but I’d like us to look back, to double check, that we have all the Uses that need Use-Specific Standards in that bucket.
- Staff – did you get that request?

Ryan Reed, ZOR Project Manager Loudoun Planning & Zoning

- Staff is working hard reviewing Use-Specific Standards and ZOC comments.
- Regarding the Chair’s request, “noted.”

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<sup>7</sup> All ZOC discussions have been driven by the ZOR project schedule put forward by Staff, not “bogged down” by ZOC input.

## Citizen comments received after the October 6<sup>th</sup> ZOC meeting:

<p>Suggest that a conversation be considered with County Attorney regarding her comments about the business community, economic development dept or Board will not allow changes to zoning which will impact business.</p>
<p>How can Staff be impartial to the needs of the community, to reach a compromised solution to address the residents needs, when statements like the above are being made to groups. [Staff] need to be careful.</p>
<p>With regard to recent continued elimination of draft text to ZOR/ZOC committees, . . .I am curious about the power of any group of constituents to have erased the time consuming, carefully deliberated and consensus derived comments of referral agencies and constituents.</p>
<p>The collective consensus of those debated, deliberated, and argued comments from referral agencies and citizens should continue to be ignored at great peril to the County's standing with regard to constituent service, transparent operations, and truthful reporting.</p>
<p>We who are involved in the timesucking tasks of being involved in our local, LOUDOUN governmental processes deserve for our efforts to be meaningful and not in vain. We deserve and demand to be heard, to be ACCURATELY RECORDED, to not be ignored or cancelled!</p>
<p>Staff works for the BOS. Its aggregation of the consensus of Loudoun citizens input is imperative for true assessment by the BOS. By deleting comments of citizen referral agencies, Loudoun staff has become complicit in refuting the Democratic processes on which this society was built and under which it best functions. What lateral Loudoun agency has the power to have affected staff's actions thus?</p>
<p>Alaina Rays comment are unacceptable and clearly displays a bias to staff and economic development groups. Efforts should be made to capture and track all comments and not to allow one group supercede/over write comments by others.</p>
<p>Here comments about not hurting business is not acceptable against other constituents who also have a stake in the County.</p>
<p>The only way to reach and shared solution is to track thoughts by all groups which will be required.</p>
<p>It seems to me that [DED Partners] and others are continuing to chip away at the character which makes Western Loudoun special! Why [with separate meetings] are the Board inserting themselves at this point in the zoning process? The development and business community have never played fair in this county and they are now demonstrating that nothing has changed!</p>