



COMPREHENSIVE PLAN / ZONING & ORDINANCES AUDIT: [MOUNTAINSIDE OVERLAY](#)

Use form to provide key audit information: 1) Review both the 2001 and 2019 Comp Plan to note policy gaps and issues not addressed. 2) Review three ordinance documents (Zoning, FSM, LSDO) to determine existence or levels of enforcement for policies/issues. Use Section (§) references where applicable. 3) Describe Issue and Recommendations. Links to key documents: [2019 Comp Plan](#), [2001 Comp Plan \(RGP\)](#), [CPAM Revisions to the 2001 RGP](#), [Facilities Standards Manual \(FSM\)](#), [Land Subdivision & Development Ordinance \(LSDO\)](#).

1. Comp Plan Policy or Issue Area (2001 & 2019)	2a. Zoning Ordinance § Reference or N/A (Brief text or summary)	2b. Facilities Standards Manual § Reference or N/A (Brief text or summary)	2c. Land Subdivision & Dev. Ordinance § Reference or N/A (Brief text or summary)	3. Issue Description / Recommendations
<p>CHP 1: Vision Statement recognizes natural environment and County support for “rural & agricultural areas”</p>	<p>Current Zoning Ordinance requires NO CONSTRUCTION PERMIT FOR AG BUSINESSES. This has been mis-interpreted by breweries to mean NO PERMITS/DRAWINGS/PLANS required at all</p>	<p>Chapter 2: water supply Chapter 3: waste/septic Chapter 5: water resource Chapter 6: slopes Chapter 7: environment;</p>	<p>1241.09 Public provisions statement conflicts with local visions to preserve forest habitat and vegetation</p>	<p>BONAFIDE AGRICULTURAL USES ISSUE:</p> <ul style="list-style-type: none"> “agricultural uses” as defined by state statute, allows development that is not traditionally rural or agricultural, as illustrated by breweries/tap rooms/wineries and event centers which can greatly disturb large areas of RPA and negatively impact nearby property values. <p>RECOMMENDATIONS:</p> <ul style="list-style-type: none"> Require Construction Permit, with drawings of planned structures; tighten up land clearing allowances Promote state legislative revision of “Agricultural Business” and/or set County standards more conducive to natural land/native forest preservation
<p>CHP 2: Rural Policy Area: Policy 3: supports “rural business uses that are compatible with the predominant land use pattern...”</p>	<p>4-1601: “preservation of natural resources, wildlife habitats, native vegetation” 2-205 Right to Farm AR-2 2-201 Right to Farm AR-1</p>	<p>1-2C: Review committees</p>	<p>1241.06: Health Dept input is important when commercial AG-Businesses hosting large #'s of public utilize aquifer, impact septic, downhill flow</p>	<p>MDOD – APPLICATION REVIEW ISSUE:</p> <ul style="list-style-type: none"> Does not specifically mention the MDOD, which is currently zoned AR-1 (2/3) and AR-2 (1/3); definition of AG-business per statutes enables large scale deforestation, which negatively impacts native wildlife, aquifer, night sky, and nearby property values <p>RECOMMENDATION:</p> <ul style="list-style-type: none"> Specify lands in the MDOD as a special part of the RPA, with special “overlay” development regulations; review committee shall include representation from PEC, COLT, LCPCC

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<p>HP 2: 2-95 “..limit residential development..” to keep land “available for rural economy uses that preserve the rural character ...and support County’s environmental goals; 2-99 RPA Policies 1 and 2</p>	<p>4-1601: “preservation of natural resources, wildlife habitats, native vegetation”</p>	<p>7.303: Tree protection, detailed measurements for cutting/replanting.</p>	<p>1241.06: Same as above</p>	<p>MDOD FOREST / NATURAL RESOURCE PROTECTION ISSUE:</p> <ul style="list-style-type: none"> 4-1603: allows “by right” uses in the MDOD and b/c MDOD lands are zoned AR-1 and AR-2, natural resources are at great risk; wineries, breweries, ciders as listed on 2-95 are often simply tap rooms/event centers with large traffic; lights, noise, in and out; locations on forest land harm MDOD natural resources and negatively impact nearby property values. 7.303 enforcement must be difficult <p>RECOMMENDATION:</p> <ul style="list-style-type: none"> Develop zoning definition for MDOD lands that protect against large scale clearing of forest; TDRs
<p>CHP 1: Vision Statement recognizes natural environment and County support for “rural & agricultural areas”</p>	<p>4-1602B: “natural features that will define MDODs”</p>	<p>7.300 - 7.303: addresses tree preservation; critical root zones, species</p>	<p>1241.09. Seems to bow to state statutes, but doesn’t prohibit local government from implementing more protective ordinances</p>	<p>MDOD WILDLIFE AND VEGETATION PROTECTION ISSUE:</p> <ul style="list-style-type: none"> Focuses on steepness of slopes; no language addressing native wildlife and vegetation protection. There are 16 Endangered or Threatened species in or adjacent to MDOD lands, per U.S Fish & Wildlife Service <p>RECOMMENDATION:</p> <ul style="list-style-type: none"> Include language recognizing the special habitat protections for MDOD lands
<p>CHP 2: pg 2-97: “programs that provide assistance & reduced tax burdens to land owners; references Ag & Forestal District (AFD)</p>	<p>NA</p>	<p>7.304 Forest Management for MDOD, & other Overlay Districts</p>	<p>NA</p>	<p>FOREST MANAGEMENT PLAN ISSUE:</p> <ul style="list-style-type: none"> Requires a plan to be submitted for silvicultural activities, but not for residential or public-invitation activities; very detailed sizes, etc; enforcement and oversight are needed to consider native wildlife, clean air, potential for negative impact on nearby property values. <p>RECOMMENDATION:</p> <ul style="list-style-type: none"> Require a construction permit, and plan for all clearing, grading, construction activities on MDOD lands;

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AFD: pg 2-98: "limits subdivision of large farmable acreages and forested lands; "prohibits cluster subdivisions" (AFD = Agricultural & Forestal District)	4-1602(A): establishes the MDOD, "land so encumbered may be used in a manner permitted in the underlying district only if such use also permitted in the overlay district"	7.300 - 7.303 tree preservation; species; 7.100; 7.110 Lighting	93-R of 12/5/2006 defines development allowances for AR-1 and AR-2 lands	<p>MDOD LOT AND BUILDING STANDARDS</p> <p>ISSUE:</p> <ul style="list-style-type: none"> It appears AR-1 and AR-2 "by right" zoning trump the 20 and 40 acre minimums implied; conflict with the stated intention of "typically 20-40 acres"; AR-1 allows 1 DUR/5 acres; AR-2 allows 1 DUR/15 acres; negative impact on native wildlife, clean air, aquifer and nearby property values <p>RECOMMENDATION: Regulations to increase the minimum acreage required for a residence: all MDOD lands 1 DUR/25 acres; strongly consider TDRs with the change; special regs to address business development in MDOD</p>
CHP 1: Vision Statement recognizes natural environment and County support for "rural & agricultural areas"	4-1602: references LC Mountainside Protection Area Map; in office of Planning and Zoning; 5-1300: Tree planting	7.300A Tree Conservation in steep slopes; contiguous forests	93-R of 12/5/2006 defines development allowances for AR-1 and AR-2 lands	<p>MOUNTAINSIDE PROTECTION AREA MAP</p> <p>ISSUE: difficult to find map online; not readily accessible</p> <p>RECOMMENDATION: updated map easy to find on line; copy required (cost) to all new property owners</p>
CHP 3-35: Map of River and Stream Corridor Resources; CHP 3-17: River & Stream Corridor Policy 2; CHP 3-18: B: develop guidelines to allow reduction to 50-foot buffer	4-1603C: No land disturbance within 100 feet of springs;	2.100: water systems serving more than 25 people... MAY be subject to more stringent state and federal regs; 2.330: addresses water needs for emergencies/fires; Fire and Safety Director	1241.09. Seems to bow to state statutes, but doesn't prohibit local government from implementing more protective ordinances	<p>MDOD PROTECTION OF SPRINGS</p> <p>ISSUE:</p> <ul style="list-style-type: none"> Large number of streams throughout MDOD, with buffers mostly at headwaters; map difficult to interpret; Per USFWS some endangered species found only near springs/streams in woodlands; does not mention MDOD; Must thoroughly acknowledge for any construction/development plan to avoid negative impact on native wildlife, aquifer, clean air, night sky and property values. <p>RECOMMENDATIONS:</p> <ul style="list-style-type: none"> Shore up development/zoning regulations in MDODs to protect streams; No reduction in 100 foot buffer, as all streams in MDODs flow downhill. Loss of streams affects native wildlife and vegetation. Change "MAY" to "SHALL"; consider county development of regulations to protect vulnerable head waters/streams beginning/coursing from MDOD elevations; require strong input from Director, Fire & Safety

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<p>CHP 3: 3-7: Forest, trees improve air and water quality, important habitat, buffers between communities. Riparian forests along streams...Greatest single protection of water quality</p>	<p>4-1604B: restrictions on land disturbance, with exceptions for a commercial business “with significant public attendance” or a cluster development</p>	<p>7.300: defines Critical Root Zones (CRZ) and Protected Root Zones (PRZ); (A) priority for tree conservation, steep slopes, contiguous forest</p>	<p>NA, except where 1241.09 is concerned</p>	<p>REDUCE/REMOVE MDOD SPECIAL EXCEPTIONS ISSUE:</p> <ul style="list-style-type: none"> Allows exceptions “necessary” to accommodate owners’ plans, thus potentially allowing greater forest clearing, and habitat destruction, as well as negative impact on nearby property values. <p>RECOMMENDATION:</p> <ul style="list-style-type: none"> No special exceptions; zone against certain business with large footprints, and heavy need for water access, clearing, septic fields in MDOD
<p>CHP 3: 3-6: “...mountains...environmental resource...scenic beauty...contain headwaters...critical groundwater recharge area for Western Loudoun... highly sensitive to land disturbance...major soil slippage...excessive ground water withdrawal...”</p>	<p>4-1603A: “all uses and structures permitted by right in the underlying zoning district are permitted subject to 4-1604</p>	<p>7.304: Forest Management;</p>	<p>1241.09 Seems to bow to state statutes, but doesn’t prohibit local government from implementing more protective ordinances</p>	<p>MDOD SPECIAL ZONING – LIMIT FOREST LOSS ISSUE:</p> <ul style="list-style-type: none"> Limits clearing only by steepness of slope definitions, with special reference (1406-B) for 10 or fewer acres. Assume 2/3 of the mountain forests, zoned AR-1, could be divided into 5 acre lots (sensitive soils) which allows for unlimited clearing for “house, driveway, drainfield and well and 10% additional clearing...potential loss of forest habitat could be 3-4 acres. If this happens throughout the MDOD, even without AG-Businesses such as brewery/tap rooms...losses would be major in terms of habitat, clean air, night sky, and nearby property values. <p>RECOMMENDATION: Special zoning in MDODs to limit forest loss to a meaningful extent.</p>
<p>CHP 3: 3-7: Forest, trees improve air and water quality, important habitat, buffers between communities. Riparian forests along streams...Greatest single protection of water quality</p>	<p>1-405C: (1) Landscape buffer COULD be provided...to “provide the maximum buffering effect for potentially adverse impacts ...on any abutting properties.</p>	<p>7.300(B) maintain existing trees...to meet canopy & buffer requirement</p>	<p>1241.04 (3) Shall is mandatory</p>	<p>MDOD BUFFERING PERFORMANCE STANDARDS ISSUE:</p> <ul style="list-style-type: none"> “could” should be “shall” in order to mitigate negative impact on adjacent and/or nearby property values <p>RECOMMENDATION:</p> <ul style="list-style-type: none"> Develop specifications for buffering; set meaningful setback requirements when an AG-Business such as brewery/tap room with large volume and evening hour traffic, is in close proximity to residents, and/or shares road access with private properties; disallow commercial operations on MDOD lands that invite a large (greater than 25 cars) daily public inflow/outflow

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CHP 3: 3-7: Forest, trees improve air and water quality, important habitat, buffers between communities . Riparian forests along streams...Greatest single protection of water quality	1-405C(2) Off street parking COULD be improved; 5-1300: Tree Planting/replacement	7.304 Forest Management for MDOD, & other Overlay Districts	1241.04 (3) Shall is mandatory	<p>MDOD BUFFERING – PROTECTION FOR ABUTTING PROPERTIES ISSUE: "could" should be "shall"</p> <p>RECOMMENDATIONS:</p> <ul style="list-style-type: none"> develop specifications for "mitigating adverse impacts on abutting properties"; disallow commercial operations on MDOD lands that invite a large (greater than 25 cars) daily public inflow/outflow
Chapter 2, pp 93-107 Chapter 3, pp 3-32	4-1604 & 4-1605 focus on % of clearing allowed, but offer room for exceptions	7.304: Forest Management 7.305 Reforestation Standards	1245-15: tree preservation; references FSM guidelines	<p>MDOD – LIMIT FOREST LOSS ISSUE: potential for large scale loss of forest habitat and negative impact on night sky, clean air, aquifer and nearby property values.</p> <p>RECOMMENDATION: Special zoning for MDOD lands to limit forest loss to a meaningful extent.</p>
CHP 3: Strategy 3.3: Actions B, D ("Preserve forests & Native vegetation on very steep slopes"), F	5-1300: Tree planting and replacement	7.30A-C: describes importance of native tree conservation; 7.301 and 7.302 speak to County's desire to preserve native trees	1245-15: tree preservation; references FSM guidelines	<p>MDOD TREE PLANTING AND REPLACEMENT ISSUE: D speaks to preservation; B and F to exceptions; protect habitat, night sky, clean air and property values</p> <p>RECOMMENDATION: No exceptions; TDRs; in MDOD implement more stringent clearing regulations</p>
CHP 3: Strategy 3.4 Speaks to preserving Loudoun's forests & trees, and all the benefits	4-1604: speaks to %'s of clearing; Planning & Zoning site states "no construction permit required"	3.210 New Construction	1241.06: AR-1 and AR-2 developments allow	<p>MDOD CONSTRUCTION PERMIT REQUIREMENTS ISSUE: Philosophically good; difficult to document; must consider habitat, night sky, aquifer, nearby property values</p> <p>RECOMMENDATION: specific ordinances re: replanting, reforestation for harvesters</p>

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<p>CHP 3: 3-6: “...mountains...environmental resource...scenic beauty...contain headwaters...critical groundwater recharge area for Western Loudoun... highly sensitive to land disturbance...major soil slippage...excessive ground water withdrawal...”</p>	<p>5-667: Limited Brewery: requirements of owners; Planning & Zoning site states “no construction permit required” 5-1406 Buffering and Screening, requirements</p>	<p>3.210 New Construction</p>	<p>1241.06: AR-1 and AR-2 developments allow</p>	<p>MDOD ALLOWED USES / PERFORMANCE STANDARDS ISSUE:</p> <ul style="list-style-type: none"> • Allows a Limited Brewery (300 or fewer barrels/year), winery, cidery in AR-1 and AR-2 MDOD; • doesn't address preservation of habitat, night sky, clean air, aquifer health, soil health from septic loads, and nearby property values. <p>RECOMMENDATIONS:</p> <ul style="list-style-type: none"> • Increase the # of acres required, set-backs, buffering, lighting allowed, # of events for breweries, wineries, and cidery; • establish meaningful buffering requirements both vegetation and fencing if necessary to protect adjacent residences
<p>CHP 3: 3-6: “...mountains...environmental resource...scenic beauty...contain headwaters...critical groundwater recharge area for Western Loudoun... highly sensitive to land disturbance...major soil slippage...excessive ground water withdrawal...”</p>	<p>2-100: AR-1 5-667: Limited Brewery: requirements of owners for planning; Planning & Zoning site states “no construction permit required.”</p>	<p>3.210 New Construction</p>	<p>1241.06: AR-1 and AR-2 developments allow</p>	<p>MDOD ALLOWED USES / PERFORMANCE STANDARDS ISSUE:</p> <ul style="list-style-type: none"> • Allows “Agri-business” and “Agritainment (Section 5-627), which cause large scale deforestation: parking, structures, # wells, # and size of septic fields, affecting rural water access (only by well in AR-1); • downhill flow of waste to hamlets, towns, residences below; • doesn't address preservation of habitat, night sky, clean air, aquifer health, soil health from septic loads, and nearby property values. <p>RECOMMENDATIONS:</p> <ul style="list-style-type: none"> • Limit the # of breweries +wineries+ ciders in MDODs, and increase # of acres required to 50; • maintain clearing restrictions

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<p>CHP 3: 3-6: “...mountains...environmental resource...scenic beauty...contain headwaters...critical groundwater recharge area for Western Loudoun... highly sensitive to land disturbance...major soil slippage...excessive ground water withdrawal...”</p>	<p>2-200: AR-2 5-667: As above</p>	<p>3.210 New Construction</p>	<p>1241.06: AR-1 and AR-2 developments allow</p>	<p>MDOD ALLOWED USES / PERFORMANCE STANDARDS ISSUE: As above RECOMMENDATION: As above</p>
<p>CHP 3: 3-6: “...mountains...environmental resource...scenic beauty...contain headwaters...critical groundwater recharge area for Western Loudoun... highly sensitive to land disturbance...major soil slippage...excessive ground water withdrawal...”</p>	<p>5-667C: Limited breweries “shall be served by central water and sewer vs “Craft Beverage Manufacturers (5-668)</p>	<p>3.100: Private sewer systems servicing more than 25 persons;</p>	<p>1241.06</p>	<p>MDOD ALLOWED USES / PERFORMANCE STANDARDS ISSUE:</p> <ul style="list-style-type: none"> • Most, if not all, “breweries” operate as both “Limited Breweries” and “Craft Beverage Manufacturers”; in AR-1 and AR-2 zones, only well water access is available; • venues hosting “event” may host hundreds at a time; impact on aquifer health, septic management for soils, night sky, clean air, nearby property values. <p>RECOMMENDATION:</p> <ul style="list-style-type: none"> • Consolidate definitions, so that if an operation is advertising tasting and/or entertainment to the public, they MUST have central water and sewer access; in the MDOD where aquifer, septic are at risk with large volume use, no more commercial businesses with large volume public attendance
<p>CHP 1; CHP 2; CHP 3</p>	<p>5-668 A (b) set back 50 feet from adjacent residences; 5-600 fences/buffers</p>	<p>7.300 - 7.303 tree preservation; species; 7.100; 7.110 Lighting</p>	<p>1241.06</p>	<p>MDOD BUILDING / SETBACK STANDARDS ISSUE: Inadequate setback when considering light, noise, traffic access; disruption of residents’ quietude; negative impact on nearby property values.</p> <p>RECOMMENDATION: Setback minimum 500 feet; specify allowable structures to buffer in MDOD; trees & shrubs required</p>
<p>CHP 1; CHP 2; CHP 3</p>	<p>5-667 A (2) set back of structure and parking 300 feet</p>	<p>7.300 - 7.303 tree preservation; species; 7.100; 7.110 Lighting</p>	<p>1241.06</p>	<p>MDOD BUILDING / SETBACK STANDARDS ISSUE: As above RECOMMENDATION: As above</p>

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CHP 1; CHP 2; CHP 3	6-500: Enforcement and Penalties: 6-503 and 6-504 speak to criminal (injury on a property) and civil (residential construction) penalties,	8.200; outlines pre-construction requirements/discussions	1242.11/12 Fees: not defined; “set by Board of Supervisors” (BOS)	<p>ENFORCEMENT AND PENALTIES</p> <p>ISSUE:</p> <ul style="list-style-type: none"> 1242.11/12 do not address construction, plan submission, Health Dept, grading, Fire Dept...lack of consult/plan submission for commercial Ag businesses; fire hazard concerns for forests. <p>RECOMMENDATIONS:</p> <ul style="list-style-type: none"> Emphasize MDOD; Establish penalty fees that are meaningful from Day One, and give allowance to BOS to adjust annually; provide summary of same to owner applicants
CHP 1: Vision Statement recognizes natural environment and County support for “rural & agricultural areas”	5-1300 Tree Planting & Replacement	7.303: establishes measurements that seem impossible to enforce unless county representatives are present at each step of cutting, grading, etc.	1242.11/12: Fees/fines; minimal	<p>ENFORCEMENT AND FEES</p> <p>Issue: Impossibility of documentation and enforcement</p> <p>Recommendation: Develop zoning ordinance protection for MDOD lands, and other rural lands that may be vulnerable, e.g. transition zone vegetation near wetlands/bogs/creeks/rivers/streams; Establish penalty fees that are meaningful from Day One, and give allowance to BOS to adjust annually; provide summary of same to owner applicants</p>
CHP 1: Vision Statement recognizes natural environment and County support for “rural & agricultural areas”	5-668 A (b) set back 50 feet from adjacent residences; lights; 4-1602B: “natural features that will define MDODs”; ridge lines	7.100; 7.110; lights; minimize conflicts with other bldgs; commercial businesses; addresses primarily communities	1241.06: AR-1 and AR-2	<p>LIGHTING RESTRICTIONS</p> <p>ISSUE:</p> <ul style="list-style-type: none"> Lighting of ridge lines; visibility; impact on night skies and wildlife; nearby residences; negative impact on nearby property values. <p>RECOMMENDATIONS:</p> <ul style="list-style-type: none"> Lighting restrictions re: type, #, placement, direction for MDODs
CHP 1; CHP 2; CHP 3		5.100: Storm water management; discusses culverts and steep slopes generally	1245.07: drainage	<p>DRAINAGE/STORM WATER MANAGEMENT</p> <p>ISSUE:</p> <ul style="list-style-type: none"> Hard surface paving of large areas for driveway access or parking lot at commercial sites create vulnerability for MDOD slopes; Negative impact on habitat, quietude, nearby property values <p>RECOMMENDATION: prohibit commercial business with high volume needs in MDOD; strict hard surface limits</p>

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CHP1; CHP 2; CHP 3	Title VI: LC Codified Ordinances	3.210: On Site Sewage Handling and Disposal; 3.110: Septic for more than 25 persons	1245.08: water/sewer 1245.10: on site sewer	<p>WATER/SEPTIC MANAGEMENT ISSUE:</p> <ul style="list-style-type: none"> Commercial operations in MDODs that host large volumes of the public stress local wells, forest and land slope septic fields; Negative impact on habitat, quietude, night sky, aquifer, nearby property values. <p>RECOMMENDATIONS:</p> <ul style="list-style-type: none"> Prohibit brewery tap rooms, wineries, cideries in MDOD lands, or any commercial operation that routinely and typically hosts large numbers of public attendees; Define the types of true Ag-Businesses that can operate in MDODs
CHP 3: 3-7: Forest, trees improve air and water quality, important habitat, buffers between communities. Riparian forests along streams...Greatest single protection of water quality	4-1505(A)	7.400 Stream restoration	1245.08: water/sewer	<p>RIPARIAN FORESTS ISSUE: references Floodplain OD only</p> <p>RECOMMENDATION:</p> <ul style="list-style-type: none"> Given the large number of “at risk” streams and headwaters in the MDOD per CHP 3-35, Comp Plan, develop ordinances to protect forest lands/slopes from grading, deforestation, large-scale development
				<p>QUESTIONS/TOPICS FOR CONSIDERATION:</p> <ol style="list-style-type: none"> Could we remove the cluster option from the MOD areas? Legally, only 40% of the land area has to be clustered according to VA. 15.2-228.1. Would it be downzoning and stir opposition? Can criteria for development tightened through the ordinance? How should MOD land be treated for density credits if that property also has some non-MOD land where development could occur? Would they get full credit? This would be a good use of a PDR or TDR program, to remove density from the MOD to compensate the owners. Require removal of rural business uses in MOD for Conservation Easements? Could we require higher level of performance standards for event type facilities in the MOD?