



COMPREHENSIVE PLAN / ZONING & ORDINANCES AUDIT – Public Input ROUND 1 UPDATES

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 \(LSDO\)](#). **MOUNTAINSIDE DEVELOPMENT OVERLAY DISTRICT: March 2, 2021: UPDATE ROUND 2**

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
CHP 2-148 Map of Policy Areas	Currently not included	NA	NA	Issue: does not show MDOD within the RPA Recommend: a map on which MDOD, re-defined by elevations, as recommended below, is outlined; include with ZO document
CHP 2-108 Map of RPA Place Types	Currently not included	NA	NA	Issue: does not show MDOD superimposed on AR-1 and AR-2 Districts Recommend: a map on which MDOD, re-defined by elevations, as recommended below, is outlined. Include with ZO document
AR-1 & AR-2 DISTRICTS UNDERLIE MDOD	AR-1 & AR-2 DISTRICTS UNDERLIE MDOD	AR-1 & AR-2 DISTRICTS UNDERLIE MDOD	AR-1 & AR-2 DISTRICTS UNDERLIE MDOD	AR-1 & AR-2 DISTRICTS UNDERLIE MDOD
CHP 1	2-101(A-E) & 2-202(A-F)			Issue: statements of purpose and intent are identical, except 2-101 (B) focuses on residential densities, and is not part of 2-201; 2-201 (A) includes equine economy. Recommend: Edit to emphasize environmental benefits of conserving MDOD lands. See Attached MDOD Overview Document

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<p>CHP 3: Vision; 3-6 Trees, Vegetation, Plant and wildlife Habitats; 3-10 Air quality, aural Environment; Lighting & Night Sky, Sustainability.</p> <p>https://myersappraisalservices-my.sharepoint.com/:p:/g/personal/norman_myersappraisalser vice_com/EXb2QF56lExGvF09JFkSHvQBO5S-A8rQlM4kzvoXOb9Q?e=clrS73</p>	<p>2-101 (C) & (D) and 2-201 (C) & (D) reference “broad range” of “agricultural activities; focus on “tourism”</p>	<p>Chapter 7: Environmental Design Stds: protect the night sky</p>	<p>1245.14 Tree conservation plan required</p>	<p>Issue: the allowed uses in both AR-1 and AR-2 Districts are identical; most are inappropriate for MDOD lands (traffic; night sky; forest canopy, ground water recharge, habitat value, air quality)</p> <p>Recommend: The Permitted Uses, whether by use, or special exception, need to be re-evaluated and culled so as to be compatible with the documents locally and at the state level that speak to conservation of MDOD lands</p>
<p>CHP 3: Vision; 3-6 Trees, Vegetation, Plant and wildlife Habitats; 3-10 Air quality, aural Environment; Lighting & Night Sky, Sustainability.</p>	<p>2-201 and 2-202: use regulations: identical</p>	<p>Chapter 7: Environmental Design Stds: protect the night sky</p>	<p>1245.14 Tree conservation plan required</p>	<p>Issue: Tables 2-102 and 2-202 list identical uses where public and private schools are listed. Even though 2-101 (A-F) does NOT mention equine facilities, it is listed as a permitted use in the AR-!. The other serious issue with the table listings of “ADDITIONAL SPECIFIC USES REGULATIONS” is that the acreages specified as required are small, even at 5 or 10 acres, which</p> <p>Recommend: Establish use regulations that optimize MDOD forest preservation in each; land use and clearing should be tailored to each</p>
<p>CHP 3: Vision; 3-6 Trees, Vegetation, Plant and wildlife Habitats; 3-10 Air quality, aural Environment; Lighting & Night Sky, Sustainability.</p>	<p>Tables 2-201 & 2-202: list permitted, special exception, and minor sp. exception uses allowed</p>	<p>Chapter 7: Environmental Design Stds: protect the night sky</p>	<p>1245.14 Tree conservation plan required</p>	<p>Issue: Most uses are not appropriate for MDOD lands. By their listing, they become identified as “by right” in an Ag District. As the MDOD overlies the AR-1 and AR-2 Districts, mountain forests are made vulnerable to extensive clearing.</p> <p>Recommend: Eliminate many of these uses from MDOD. See Attached MDOD Overview Document</p>

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CHP 3: Vision; 3-6 Trees, Vegetation, Plant and wildlife Habitats; 3-10 Air quality, aural Environment; Lighting & Night Sky, Sustainability.	2-103(A)2 & 2-203(A)2 Development options	Chapter 7: Environmental Design Stds: protect the night sky	1245.14 Tree conservation plan required	Issue: references Permitted uses tables for each District, which are essentially identical; land clearing/development impacts as allowed are very different on the different sized lots Recommend: develop appropriate standard for AR-1 and AR-2 respectively that use BMP to protect MDOD forests
CHP 3: Vision; 3-6 Trees, Vegetation, Plant and wildlife Habitats; 3-10 Air quality, aural Environment; Lighting & Night Sky, Sustainability.	2-103 (A) (e) & 2-203 (A)(e) Mx bldg hts, exempts AG	Chapter 7: Environmental Design Stds: protect the night sky	1245.14 Tree conservation plan required	Issue: MDOD ridge lines and view sheds are important County assets Recommend: no exception in MDOD for agricultural, horticultural, animal husbandry activities.
Comp Plan Emmy award for historic gravel roads	Article 5: Additional Regulations & Standards	Chapter 7: Environmental Design Stds: protect the night sky	1241.06	Issue: The minimum acreages currently allowed “by right” in the MDOD are small; over time, if all were “occupied”, extensive tree canopy would be lost, along with its environmental benefits, diminishing the health and ambiance of rural Loudoun. Recommend: Thoughtful ordinances which limit the nature of commercial Ag businesses allowed in MDOD lands, AND establish appropriate minimum acreages.
NA	Article 5: 603-656: specific standards for specific use permits	NA	NA	Issue: often use the word “request” where advising applicants prior to any document submission. Recommend: The applicant shall contact.... <i>See example below**</i>
CHP 3: Vision; 3-6 Trees, Vegetation, Plant and wildlife Habitats; 3-10 Air quality, aural Environment; Lighting & Night Sky, Sustainability.	**5-667 . “The owner of a limited brewery is requested to contact the Loudoun County...” (lists Fire/Rescue and DPZ)	Chapter 7: Environmental Design Stds: protect the night sky	1241.06: Need to address	Issue: assumes facility already in existence; “requested’ is too vague Recommend: “The applicant shall meet with a representative of the Departments of Fire/Rescue/Emergency, Traffic & Transportation , and the DPZ to discuss preliminary plans. VDOT may also need to be included upon recommendation by any of the LC representatives.” The County could charge a modest fee for each staff person’s time, e.g. \$50.00

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CHP 3: Vision; 3-6 Trees, Vegetation, Plant and wildlife Habitats; 3-10 Air quality, aural Environment; Lighting & Night Sky, Sustainability.	4.1600 MDOD document	Chapter 7: Environmental Design Stds: protect the night sky	Need to address	Issue: does not reference ridge line protections. Recommend: define ridge line protections here: set backs , land clearing parameters, lighting standards at or near ridge lines, etc Example: no land clearing within 100 horizontal feet of a ridge line; no building within 125 horizontal feet of ridge line, down-lighting only; see VA 15.2-2295.1 ;describes heights as above the valley floor, not sea level; See Attached MDOD Overview Document
CHP 3: Vision; 3-6 Trees, Vegetation, Plant and wildlife Habitats; 3-10 Air quality, aural Environment; Lighting & Night Sky, Sustainability.	4.1600 MDOD document	2.300 Water supply where systems are not available for fire protection	1245.14 Tree conservation plan required	Issue: MDOD forests are noted as high risk per the Virginia Dept of Forestry, particularly where forest meets suburbia. The presence of commercial entities with fire pits, outdoor grills, and outdoor smoking areas pose a risk to MDOD lands, where major water sources are limited and at a distance. Recommend: If such entities as Campgrounds, agri-tourism, and various sources of agritainment which include fire-producing components, the entity must include a sketch plan approved by the LC Fire Chief, preferably with appropriate on site tanks, the clearing for which is included, not excluded, in the land clearing limitation.
NA	4.1601 MDOD document			Issue: does not recognize the nature of MDOD roads Recommend: revise: see Attached MDOD Overview document
CHP 3: Vision; 3-6 Trees, Vegetation, Plant and wildlife Habitats; 3-10 Air quality, aural Environment; Lighting & Night Sky, Sustainability.	4.1603(A) “by right”	Chapter 7: Environmental Design Stds: protect the night sky	1245.14 Tree conservation plan required	Issue: use of “by right” commits MDOD lands to allowing uses incompatible with BMPs for forest canopy protection Recommend: “All uses and structures permitted in the MDOD are permitted subject to the performance standards listed in Section 4-1604 and 4-1605 where applicable.” Omit reference to Special Exception at this point.

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CHP 3: Vision; 3-6 Trees, Vegetation, Plant and wildlife Habitats; 3-10 Air quality, aural Environment; Lighting & Night Sky, Sustainability.	4.1604 & 4.1605 Land disturbing activity limits based on soils/slopes			Issue: MDOD land overlays AR-1 and AR-2, thus land clearing standards impact each District differently, e.g a 10 acre vs a 20 acre lot; current ZO allows each to clear 1 acre plus an additional unspecified amount for the actual home, buildings, driveway, drain field(s) and well (s).; based on soils/slopes Recommend: Establish clearing standards for AR-1 and AR-2 MDOD lands respectively; NOT based on soils/slopes except where highly sensitive soils/slopes should prohibit major clearing
CHP 3: Vision; 3-6 Trees, Vegetation, Plant and wildlife Habitats; 3-10 Air quality, aural Environment; Lighting & Night Sky, Sustainability.		7.300: “recommends,” and “be Considered”; mentions Floodplain Overlay District, but not MDOD	1245.14 Tree conservation plan required	Issue: FSM language is vague Recommend: The following are required priorities for tree conservation:” Include MDOD. A certified LC forester to review and sign off on the sketch plan.
CHP 2; CHP 3	4.1605(C) 1-3 forest clearing maximums based on slopes: special exception	7.300. describes tree clearing in general terms; subjective judgement re: clearing and replanting	1245.14 Tree conservation plan required	Issue: allows extensive forest clearing, up to 50%, depending on slopes, which could devastate Loudoun’s forested areas. Recommend: No special exceptions. The limits should be stated clearly as above
PLANNING COMMISSION	PLANNING COMMISSION	PLANNING COMMISSION	PLANNING COMMISSION	PLANNING COMMISSION
CHP 3: Vision; 3-6 Trees, Vegetation, Plant and wildlife Habitats; 3-10 Air quality, aural Environment; Lighting & Night Sky, Sustainability.	6-106 (A): Planning Commission: Prepare and recommend a comprehensive plan for the physical development of the County, and review said plan at least once every five (5) years	NA	NA	Issue: This is allows for consideration of county growth plans as finances, unexpected disasters, or other variables change, before the 20-year Comp Plan is due. Also good for providing steps upon which the 20-year CP can build. Environmental impacts have evolved over past decades; important for MDOD habitat; night sky, ground water regeneration, etc. Recommend: continue

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	6-106 (L) Conduct public hearings on specific items.	NA	NA	<u>Issue:</u> vague <u>Recommend:</u> specify any Special Exception within MDOD lands; any re-zoning, re-districting, or otherwise major land use change in MDOD
	BOARD ZONING APPEALS			BOARD OF ZONING APPEALS
CHP 2 and CHP 3	6-206 (D) To hear and approve special exceptions for errors in building location in accordance with Section 6-1612 of this Ordinance, including, but not limited to, structures erroneously erected within required yards, setbacks and open space	NA	1241.03 provides standards for all un-incorporated areas in LC; to ensure public health, safety....general welfare; 1242.11: describes penalties for violations for 1242.07 - 1247.09; too lenient - \$500.00	<u>Issue:</u> This speaks to issues of enforcement authority; allows the offender to ask forgiveness, rather than permission, thus having the potential to negatively impact neighboring lands/residences, and setting precedents whereby others can justify their own similar offenses. Especially detrimental to Environmental Impact Districts, such as MDOD, where habitat, ground water recharge areas, and forest canopy are difficult, if not impossible, to repair. <u>Recommend:</u> eliminate any “after the fact” approval of exceptions in the Overlay Districts; any special exception MUST be submitted prior to land clearing, building, etc. NOTE: State statute 15.2-2286, Paragraph 5 sets ZO violations as “misdemeanors”, but only addresses fines in reference to Building Occupancy issues; where other violations occur, such as dumping, grading, forest canopy and habitat destruction...meaningful penalties shall be imposed: \$2000.00; failure to correct within 10 days, or proffer a correction plan, shall be a fine of \$500.00/day and cease work order imposed until resolution is achieved. Legal action by LC or an individual if the violation is not addressed within 60 days.

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CHP 3: Vision; 3-6Trees, Vegetation, Plant and wildlife Habitats; 3-10 Air quality, aural Environment; Lighting & Night Sky, Sustainability.		Chapter 6.200	1243.03 Boundary Line Adjustments	<p>Issue: Does not address a situation where a parcel may be enlarged by the addition of land in a different District...e.g. adding Transition Zone land to AR-1 land.</p> <p>Recommend: The more stringent ordinances of the District at the time of BLA shall apply to the resulting parcel.</p>
CHP 3: Vision; 3-6Trees, Vegetation, Plant and wildlife Habitats; 3-10 Air quality, aural Environment; Lighting & Night Sky, Sustainability.	6-210(B) Addresses the ability of an aggrieved party to file a writ with the LC court. The allowance of the writ shall not stay the work in progress, unless the court issues a restraining order	NA	NA	<p>Issue: Failure to halt progress on an “error” promotes further land destruction or impingement on adjacent properties; once additional resources are invested in an error, it becomes more emotionally difficult to halt the process. MDOD canopy and slopes could be left irreparably damaged</p> <p>Recommend: The BZA should immediately halt further work until the matter is resolved via the Court process. The County needs a stronger way to discourage bad actors; a strong ZO that addresses these issues keeps “personal” out of the equation. Every permit applicant should be given a document stating this rule, and fines, at a PRAP.</p>
CHP 3: Vision; 3-6Trees, Vegetation, Plant and wildlife Habitats; 3-10 Air quality, aural Environment; Lighting & Night Sky, Sustainability.	6-401(C) Allows the Zoning Administrator to use his/her judgment if an application is for a use not specifically listed as allowed, or allowed by special exception	NA	1241.05 Definitions: page 5: “Originating Tract” refers to lots/parcels in AR-1 and AR-2 districts; and the MDOD is super-imposed on top of these	<p>Issue: brings personal/favoritism issues into play; puts the BZA at risk for accusations of same; sets precedents that could be destructive going forward</p> <p>Recommend : Every use should be specifically listed, either as Permitted or by Exception, and otherwise is not allowed. The Overlay Districts should have allowed uses tailored to their unique nature.</p>

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MAPS: CHP 2: Rural Policy Area 2-148; Rural Policy Area Place Types 2-108;	Ordinance 93R, ZMAP 2005-0042: depicts AR-1 and AR-2 Districts	NA	NA	<p>Issue: These maps all depict lands that, by current ZO policy, contain slopes of various steepnesses which define the MDOD. In essence, MDOD land is within a Policy Area, one or more Place Types, and one or more districts, leading to difficulty in developing ordinances that specifically protect mountain forests as prescribed in both the 2019 CP, and the 2006 MDOD document.</p> <p>Recommend: . Create a unique MDOD Map which shows the independent of other districts, places or policy areas</p>
			<p>1244.01 Excepts “agricultural: structures from having to submit a site plant</p>	<p>Issue: Current ZO covers a very broad range of ag activities by definition; e.g. Limited Breweries, with buildings used by large # of guests; conflicts with CP Vision, and etc</p> <p>Recommend: codes should be applicable and required as for any publicly served entity</p>
MAP: CHP 3 Natural & Environmental Resources 3-34	4-1602 (C): the MDOD shall be shown on the LC Mountainside Protection Area Map	5.302 (E)	1245.14 Tree conservation plan required	<p>Issue: Nowhere in the 2006 ZO Chapter 4, or in the specific section 4-1601 titled MDOD - the CP Map 3-34 shows a defined MDOD separate from very steep slopes, moderately steep slopes and wooded areas.</p> <p>Recommend: Revamp the definition of the MDOD based on elevation: Blue Ridge and Short Hill Mountains: 700 feet above the valley floor ; Catocin Ridge: 500 feet above the valley floor; easier to understand/follow; provides optimal protections to sensitive habitat, water recharge areas, night sky, and ridge lines. (See below)</p>

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CHP 3: 3-6: mountains...environmental resources...critical groundwater recharge areas...highly sensitive to land disturbances	4-1602 (D) Defines categories of soil areas based on steepness of slopes; 4-1604	6.130: soils analysis; 6.140: soils report for sewage disposal systems	1245.14 Tree conservation plan required	Issue: The definitions reference both steepness and environmental impact of the 3 soil divisions; which is important; however mountain forests include large areas of “somewhat sensitive” and “sensitive” soils which allow more liberal grading/clearing, which in turn negatively impact MDOD environmental resources. Recommend: Define the MDOD based on elevation, as above. Eddit soils analysis and reports accordingly. See also ATTachment C: VA 15.2-2295.1
CHP 3: 3-6: mountains...environmental resources...critical groundwater recharge areas...highly sensitive to land disturbances	MDOD 4-1603 (A) Permitted uses: “All uses and structures permitted by right in the underlying zoning districts.....”	5.302 (E)	1244.01: Exempts agricultural structures	Issue: Inclusion of the wording “by right” creates undesired vulnerability for MDOD lands, as they “overlay” AR-1 and AR-2 Districts: This has led to intrusions by breweries that are little more than bars and event centers, negatively impacting forest environments and neighborhoods. See also Tables 1-102 and 2-202 for the listing of “permitted uses within the AR-1 and Ar-2 districts; remove all references to Agricultural Exemptions Recommend: 4-1603(A): Change the wording of the Ordinance so that MDOD is specifically excluded BUT ideally edit the Permitted Uses lists for both AR-1 and AR-2 in a way so as to optimally protect MDOD lands AND set minimum lot sizes required for uses that remain “allowed.”
CHP 3: Vision; 3-6 Trees, Vegetation, Plant and wildlife Habitats; 3-10 Air quality, aural Environment; Lighting & Night Sky, Sustainability.	4-1603(A) “All uses...by right...subject to performance standards listed in 1604.	5.302 (E)	1245.14 Tree conservation plan required	Issue: the Performance Standards address clearing of forest based on slopes/soil type. Protection of forest canopy and root systems a must; which may be difficult to document Recommend: Final recommendations should be specific acreages required for each allowed use that corresponds to the District’s minimum lot size. No clearing on “Highly Sensitive” soils, if County maintains MDOD definition by soils/slopes.
	GENERAL REGULATIONS			GENERAL REGULATIONS

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CHP 3: Vision; 3-6Trees, Vegetation, Plant and wildlife Habitats; 3-10 Air quality, aural Environment; Lighting & Night Sky, Sustainability.	1-102: Purpose...safety and welfare of citizens: (A), (B) (C) and (D); (I) orderly growth; long term vision; protect established character; best utilization of land; public interest; provide safety of access and protection from flood, fire, and other dangers	5.302 (E)	1245.14 Tree conservation plan required	Issue: Excellent philosophically; in 2021 vs 1972, when the first extensive ordinance document was developed, the focus was on expanding the tax/business base, and safe construction. Population growth impacts infrastructure and public services, in turn placing heavier burdens on the County tax base Recommend: Significant focus to now include consideration of environmental issues, as climate change has caused important storm, fire, and habitat changes; strong ordinances to preserve rural farm and forest lands can mitigate expenses while preserving the character of Loudoun’s charm which draws visitors , who in turn support bonafide agricultural businesses
CHP 3: Vision; 3-6Trees, Vegetation, Plant and wildlife Habitats; 3-10 Air quality, aural Environment; Lighting & Night Sky, Sustainability.	1-102(J) Encourage economic development activities that provide desirable employment and enlarge the tax base.	5.302 (E)	1245.14 Tree conservation plan required	Issue: A “one size fits all” philosophy Recommend: Omit, or choose wording such as: Encourage economic development activities appropriate to each of the County’s Zones, Districts and Overlay Districts so as to protect those with special Environmental and Historic Impact potential.
CHP 3: Vision; Trees, Vegetation, Plant and wildlife Habitats; 3-10 Air quality, aural Environment; Lighting & Night Sky, Sustainability.	1-102(L) Provide for the preservation of agricultural and forestal land and other lands for the protection of the natural environment.	5.320(E)	1245.14 Tree conservation plan required	Issue & Recommendations: See both sections immediately above

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CHP: 3: Impaired Streams; Surface & Groundwater Resources	1-103 (D) ; 3 keeps MDOD; Limestone, and Flood overlays under wetland & stream mitigation per Articles 2, 3, and 4	5.320(E)	No reference	Issue: Good, but no reference to issues in LSDO where impaired streams and watersheds might be an issue Recommend: continue concept; address in LSDO
CHP 2 and CHP 3	1-204 Adding an unspecified use to a particular district	1241.06	Chapter 7	Issue: approved by the Board of Supervisors Recommend: Must also require notice to those residents within the District, and public hearing. The notification process in rural neighborhoods must consider the large distances and be broadly inclusive. Develop a standard
				Issue: brings personal/favoritism issues into play; puts the BZA at risk for accusations of same; sets precedents that could be destructive going forward
NA	NA	4.200 (B)1.a. Traffic Studies	NA	Issue: Does not specify Special and Minor Special Exceptions Recommend: make sure wording is "Traffic studies required for zoning map amendments and ANY special exception (Minor or otherwise)
CHP 3: Vision; Trees, Vegetation, Plant and wildlife Habitats; 3-10 Air quality, aural Environment; Lighting & Night Sky, Sustainability.	5.600: listing of various commercial entities, many of which are currently allowed in MDOD by right	4.200 (B) 2 b County holding traffic study	NA	Issue: vague; accountability Recommend: "The County SHALL invite VDOT and other county agencies, such as Law Enforcement and Emergency Management to the meeting, and the applicant shall provide additional relevant materials prior to the meeting. "

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CHP 3: Vision; Trees, Vegetation, Plant and wildlife Habitats; 3-10 Air quality, aural Environment; Lighting & Night Sky, Sustainability.	5.600: listing of various commercial entities, many of which are currently allowed in MDOD by right	4.200(B) 4 i Traffic and safety	NA	Issue: The advent of breweries/taproom/ music and event centers on MDOD lands, which are served by 2-lane country roads has negatively impacted residents' access, safety, and that of First Responders. Multiple commercial entities with large volume guest attendance are not safely accommodated along MDOD 2-lane roads. Recommend: " Analyses requested by the County in the traffic study SHALL include...studies."
	5.600: listing of various commercial entities, many of which are currently allowed in MDOD by right	4.330 (B) 3 Paved driveways	1245.02	Issue: Impermeable surfaces contribute to run off and erosion in MDOD lands Recommend: use of permeable surfaces and swales, tailored to either percentage of the length and/or width of the surface, or the steepness of grade, per engineering BMP
CHP 3: Vision; Trees, Vegetation, Plant and wildlife Habitats; 3-10 Air quality, aural Environment; Lighting & Night Sky, Sustainability.		7.120: Lighting in developments	1245.14 Tree conservation plan required	Issue: where Cluster Development is allowed in MDOD, this negatively impacts night sky/migration patterns/neighbors Recommend: covered and down lighting only
CHP 3: Vision; Trees, Vegetation, Plant and wildlife Habitats; 3-10 Air quality, aural Environment; Lighting & Night Sky, Sustainability.	5.600 Chapter: lists the additional regs for specific uses.	7.120: Lighting in developments; does not address commercial uses	1245.14 Tree conservation plan required	Issue: Lighting and traffic lights can negatively impact MDOD habitat, migration patterns, and residential neighbors. Recommend: Limited night hours of operation; limit uses to not "by right" in MDOD; strict buffering; down lighting