



PLANNING COMMISSION PUBLIC HEARING

SUBJECT: ZOAM 2015-0006, Rural Uses and Structures and Historic Structure Exemption

ELECTION DISTRICT: Countywide

CRITICAL ACTION DATE: At the Pleasure of the Board

STAFF CONTACTS: Mark Depo, Planner, Zoning Administration
Mark Stultz, Zoning Administrator
Ricky Barker, Director, Planning & Zoning

PURPOSE: The purpose of Zoning Ordinance Amendment (ZOAM) 2015-0006 is to amend the Revised 1993 Loudoun County Zoning Ordinance (the “Zoning Ordinance”) Articles 2, 4, 5 and 8 in regard to rural districts, rural uses, historic structures, and various text errors or “quick-fix” items to further the rural economy and encourage additional economic development opportunities in the County.

RECOMMENDATION: Due to concerns regarding certain aspects of this amendment, staff recommends the Planning Commission forward ZOAM 2015-0006 to a work session for further review.

SUGGESTED MOTIONS:

1. I move that the Planning Commission forward ZOAM 2015-0006, Rural Uses and Structures and Historic Structure Exemption, to a work session for further discussion.

OR

2. I move that the Planning Commission forward ZOAM 2015-0006, Rural Uses and Structures and Historic Structure Exemption, to the Board of Supervisors with a recommendation of **approval**.

OR

3. I move an alternate motion.

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I. EXECUTIVE SUMMARY

On October 21, 2015, the Board adopted a Resolution of Intent to Amend (ROIA) [**Attachment 1**] the Revised 1993 Loudoun County Zoning Ordinance (“Zoning Ordinance”) to implement ZOAM 2015-0006. ZOAM 2015-0006 is a continuation of the County’s efforts to encourage additional economic development opportunities and proposes revisions recommended by the public and Department of Planning and Zoning Staff. To implement the adopted Resolution, amendments are proposed to the following sections of the Zoning Ordinance:

Article 2: Non-Suburban District Regulations

- Section 2-100, *AR-1, Agricultural Rural-1*
- Section 2-200, *AR-2, Agricultural Rural-2*
- Section 2-300, *A-10, Agriculture*
- Section 2-400, *A-3, Agricultural Residential*
- Section 2-500, *CR-1, Countryside Residential-1*
- Section 2-900, *RC Rural Commercial District*
- Section 2-1000, *JLMA-1, Joint Land Management Area-1*
- Section 2-1100, *JLMA-2, Joint Land Management Area-2*
- Section 2-1200, *JLMA-3, Joint Land Management Area-3*
- Section 2-1300, *JLMA-20, Joint Land Management Area-20*
- Section 2-1400, *TR-10, Transitional Residential-10*
- Section 2-1500, *TR-3, Transitional Residential-3*
- Section 2-1600, *TR-2, Transitional Residential-2*
- Section 2-1700, *TR-1, Transitional Residential-1*

Article 4: Special & Overlay Districts

- Section 4-1200, *PD-RV, Planned Development-Rural Village*

Article 5: Division A: Supplemental District Regulations

- Section 5-600, *Additional Regulations for Specific Uses*
- Section 5-700, *Regulations for Optional Development Types*

Article 8, Definitions

The draft text for ZOAM 2015-0006, as proposed by the Department of Planning and Zoning is included as **Attachment 2**.

Additional amendments proposed by the Zoning Ordinance Action Group are included in **Attachment 3**.

II. BACKGROUND

At the September 3, 2014 Board Business Meeting, the Zoning Ordinance Action Group (ZOAG) presented its 2014-2015 Work Plan Items. A part of this work plan included

amendments to address:

- 1) **Rural Issues**. The review of rural use classifications in Article 2 and specific uses, like “Equestrian facility”, “Stable”, “Rural recreation establishment, outdoor” and “Rural resort/retreat”;
- 2) **Limestone Overlay District (LOD)**. The review of Section 4-1900 to remove technical requirements associated with boring depths, etc. and place such requirements in the Facilities Standards Manual (FSM) with other like technical studies and associated requirements; and
- 3) **Historic Structures**. The review of regulations regarding exemptions for individual historic structures or properties similar to the Historic Site District or Historic and Cultural Conservation District exemptions.

On October 1, 2014, ZOAG created the Rural Uses and Historic Structures Sub-Committee that was responsible for working with staff to develop amendments to address the three areas listed above. On October 21, 2015, the Board adopted an Intent to Amend, initiating a Zoning Ordinance Amendment (ZOAM 2015-0006), to consider the ZOAG recommendations related to addressing some of the items included within items 1 and 2 above. Since the adoption of the Intent To Amend, Department of Planning and Zoning and County Attorney Staff have continued to work with ZOAG and the Equine Alliance to finalize the draft text and ZOAG recommendations.

III. SUMMARY OF PROPOSED TEXT CHANGES

The Department of Planning and Zoning and ZOAG worked together to develop amendments to Articles 2, 4, 5 and 8 of the Zoning Ordinance. The proposed amendments have been developed to consistently name uses throughout the Ordinance, to consolidate uses that are similar in nature and to revise various text errors. New uses are proposed as either Permitted, Minor Special Exception or Special Exception uses and revisions to the definitions of certain uses are proposed. Further, amendments are proposed to minimum yard and maximum lot coverage requirements in certain rural districts, to the Additional Regulations of Section 5-600 to exempt historic structures from certain regulations and to apply regulations to restaurants in certain JLMA districts. These amendments are summarized below and the draft text is included as **Attachment 2**.

In addition to the amendments proposed in **Attachment 2**, the ZOAG proposes 36 new **Permitted and Special Exception uses** within the AR-1 (Agricultural Rural-1) and AR-2 (Agricultural Rural-2) Cluster Subdivision Option Common Open Space; TR (Transitional Residential) Open Space; and Rural Hamlet Option Open Space of A-10 (Agriculture) and A-3 (Agricultural Residential) districts. Further, ZOAG proposes to add “Recreation Establishment, Indoor” as a Special Exception use in certain districts, and to add Virginia Farm Winery as a new Permitted use within the PD-RV (Planned Development-Rural Village) and the RC (Rural Commercial) zoning districts. These amendments are

summarized below and the draft text is included as **Attachment 3**.

Staff is supportive of many of the proposed amendments developed in conjunction with ZOAG, however is concerned with the significant implication of certain uses being allowed within open space areas. The draft text provides for uses that are not consistent with the intent of these areas and provides for more intensive uses that are not compatible with adjacent residential uses. Staff recommends that more discussion occur regarding the proposed amendments in these areas and that, in addition, community outreach be conducted to gain input from the residents of these developments prior to proceeding. It is recommended that ZOAG and staff discuss the proposed uses in more detail and bring this topic back to the Planning Commission in the future.

In addition, additional discussion and the possible drafting of performance standards is recommended for the proposed establishment of "Recreation Establishment, Indoor" in certain district, and the establishment of "Virginia Farm Winery" in the PD-RV and RC zoning districts.

A. DEPARTMENT OF PLANNING AND ZONING PROPOSED AMENDMENTS

The full text as recommended by staff is included in **Attachment 2** and is summarized below:

- Revise existing uses for consistency purposes to include, without limitation, "Equestrian Facility" to "Equestrian Event Facility"; "Mill Feed Farm Supply" to "Feed and Farm Supply Center"; "Rural Agricultural Corporate Retreat" to "Rural Corporate Retreat"; "Rural Resort/Rural Retreat" and "Rural Retreats and Resorts" to "Rural Resort"; "Sewage Pumping Station" to "Sewer Pumping Station"; "Sewer Treatment Plant" to "Sewage Treatment Plant"; "Stable, Neighborhood" to "Stable, Livery".
- Consolidate existing uses "Rural Resort" and "Rural Retreat" into a single use "Rural Resort", and delete existing references to the "Rural Retreat" use.
- Amend various text errors identified as "quick-fix" items.
- Add new, and/or reclassify or delete existing, Permitted, Minor Special Exception, or Special Exception uses, to include, without limitation, the following: "Equestrian Facility" (to be renamed to "Equestrian Event Facility"); "Rural Agricultural Corporate Retreat" (to be renamed to "Rural Corporate Retreat"); "Stable, Neighborhood" (to be renamed to "Stable, Livery"); and "Stable, Private", which may be subject to Additional Regulations, to the AR-1; AR-2; A-10; A-3; CR-1; RC; JLMA-1; JLMA-2; JLMA-3; JLMA-20; TR-10; TR-3; TR-2; TR-1; PD-CV; and PD-RV zoning districts.
- Revise Minimum Yard and Maximum Lot Coverage requirements for the AR-1, AR-2, A-10, A-3, and JLMA-20 zoning districts.

- Exempt new types of historic structures from certain Additional Regulations in Section 5-600 for certain uses.
- Apply Additional Regulations for Restaurants (Section 5-643) to Restaurants in the JLMA-2 and JLMA-3 zoning districts.
- Amend Article 8, Definitions for the following uses: “Agriculture Support and Services Directly Associated with On-going Agricultural Activity, On-Site”; “Agriculture Support and Services Not Directly Associated with On-going Agricultural Activity, On-Site”; “Animal Care Business”; “Animal Hospital”; “Animal Husbandry”; “Animal Services”; “Equestrian Facility” (to be renamed to “Equestrian Event Facility”); “Pet”; “Stable, Neighborhood” (to be renamed to “Stable, Livery”); “Stable, Private”; and “Veterinary Service” in regard to certain equestrian uses.
- Revise Article 8, Definitions for “Agriculture”; “Animal Husbandry”, and “Horticulture” to clarify the distinctions between Use Classifications, Use Categories, and Use Types.
- Consolidate, revise, and clarify the Article 8 definitions for “the ZOAG recommended adding Virginia Farm Winery as a new Permitted use Silviculture”.
- Revise the existing definitions in Article 8 for “Winery, Commercial” and “Winery, Virginia Farm” to include cider manufacturing uses.

B. ZOAG – PROPOSED AMENDMENTS

In addition, ZOAG proposes additional amendments to Articles 2, 4 and 5 of the Zoning Ordinance to permit 36 new Permitted and Special Exception uses within the Open Space of certain zoning districts, the addition of the use “Rural Recreation Establishment, Indoor” to certain zoning districts, and the addition of the use “Virginia Farm Winery” to the RC (Rural Commercial) and PD-RV (Planned Development-Rural Village) Village Conservancy and Satellite Conservancy Subdistricts.

For purposes of discussion, these proposed amendments have been separated from ZOAM 2015-0006 as staff believes that additional discussion and community outreach is needed to determine whether such uses are appropriate in those locations. *It is recommended that these amendments be tracked separately and that ZOAG and staff continue discussion of the proposed uses in more detail and bring the topics back to the Planning Commission in the future.*

The additional ZOAG amendments are included in **Attachment 3** and are summarized below:

- Add 36 new Permitted, Minor Special Exception, or Special Exception uses within the Open Space of the AR-1 (Agricultural Rural-1) and AR-2 (Agricultural Rural-2) Cluster Subdivision Option; TR (Transitional Residential); and Rural Hamlet Option of the A-10 (Agriculture) and (A-3 Agricultural Residential) zoning districts. “Agricultural Cultural Center”; “Agricultural Processing”; “Agri-

Education”; “Agritainment”; “Animal Care Business”; “Antique shop”; “Arboretum”; “Art Gallery or Art Studio”; “Botanical garden or nature study area”; “Camp, Day and Boarding, with 30 or fewer campers”; “Camp, Day and Boarding, with more than 30 campers”; “Campground”; “Cemetery”; “Community, Neighborhood, or Regional Park, Active Recreational Uses”; “Community, Neighborhood, or Regional Park, Passive Recreational Uses”; “Craft Shop”; “Direct Market Business for Sale of Products Produced On-Site including but not limited to PYO (Pick-Your-Own); “Eco-Tourism”; “Farm Based Tourism”; “Farm Co-Ops”; “Farm Markets”; “Farm Restaurant”; “Limited Brewery”; “Nursery, Production”; “Outdoor Amphitheater”; “Pet Farms”; “Private Club or Lodge”; “Small Business”; “Stable, Neighborhood” (to be renamed to “Stable, Livery”); “Stable, Private”; “Stables”; “Teahouse; Coffeehouse”; “Tenant Dwelling”; “Wayside Stand”; “Wetlands mitigation bank”; and “Virginia Farm Winery”

- Add “Recreation Establishment, Indoor” as a Permitted, Minor Special Exception, or Special Exception use to the AR-1; AR-2; CR-1; JLMA-3; JLMA-20; and TR-10 zoning districts. Such use may be subject to Additional Regulations.
- Add “Virginia Farm Winery” as a Permitted use to the RC zoning district and the PD-RV (Village Conservancy and Satellite Conservancy Subdistricts) zoning district. Such use may be subject to Additional Regulations.

IV. REFERRAL COMMENTS

ZOAM 2015-0006 draft text amendment was sent for review and comments to: Zoning Ordinance Action Group (ZOAG); Building and Development (B&D), Engineering; B&D, Environmental Review Team; B&D, Zoning Permits; County Attorney’s Office; Economic Development; Department of Planning and Zoning, Community Planning; Department of Planning and Zoning, Land Use Review; Department of Transportation and Capital Infrastructure, Transportation; Virginia Department of Transportation; Rural Economic Development Council, Loudoun County Equine Alliance, and Loudoun County Preservation and Conservation Coalition. Outstanding issues and concerns expressed by the agency referrals are included in the “Summary of Outstanding Issues” Section below. Please review **Attachment 4** for full comments of referral agencies.

V. SUMMARY OF OUTSTANDING ISSUES

The outstanding issues raised by the referral comments pertain to, 1) Open Space uses; 2) Rural Recreation Establishment, Indoor use; 3) Virginia Farm Winery use in the PD-RV Zoning District; and 4) Virginia Farm Winery use in the RC Zoning District. The following issues have been identified for Planning Commission consideration:

1. Additional Uses in Open Space

Proposed Text. ZOAG proposes to add 36 new Permitted and Special Exception uses within the AR-1 and AR-2 Cluster Subdivision Option Common Open Space; TR Open Space; and Rural Hamlet Option Open Space.

Recommendation: Additional review and community outreach is needed before additional uses are added to open space parcels. Planning and Zoning does not oppose the inclusion of uses within the open space parcels, however, as discussed previously, some of the proposed uses are not consistent with the intent of these open space areas and provide for more intensive uses that are not compatible with adjacent residential uses.

During the ZOAG's Rural Use Subcommittee meetings regarding ZOAM 2015-0006, representatives of the Telegraph Springs Rural Hamlet requested that ZOAG consider adding additional uses to the Rural Hamlet Open Space lots. The specific request was to allow a landscape contractor business to use an existing barn structure located on a common open space parcel. The intent was to allow the Telegraph Springs Rural Hamlet the ability to maintain the existing barn structure and common open space parcel. The ZOAG revisions, although well intended, go beyond the original request by the Telegraph Springs Rural Hamlet.

The rural hamlet and rural cluster development options allow for a more compact residential design with residential lots, as small as a quarter ($\frac{1}{4}$) acre, grouped together in a cluster pattern so that a substantial amount of the remaining land is maintained for traditional agriculture, rural economy uses and/or open space to preserve the rural character of the landscape. Many of the proposed uses contradict the purpose and intent of the required open space, consume large areas of land for parking, require significant infrastructure, may adversely impact health, safety, and welfare of adjacent residential properties and uses, and may generate substantial traffic and noise in comparison to existing uses permitted in the open space land which are agricultural based and preserve the open rural character of the land. The Department of Transportation and Capital Infrastructure (DTCI) has concerns with the increase in commercial traffic and the potential scale and intensity of these uses on unpaved roads accessing open space parcels. DTCI notes that the intensity and resulting higher traffic volumes generated by such uses, including delivery and service vehicles, may need to be accommodated on paved roadways, which may be contrary to the purpose and intent of open space.

2. Rural Recreation Establishment, Indoor

Proposed Text. ZOAG proposes to add "Recreation Establishment, Indoor" as a Special Exception use in the AR-1; AR-2; CR-1; JLMA-3; JLMA-20 and TR-10 zoning districts.

Recommendation: Additional review is needed, including the establishment of performance standards, prior to considering the addition of the "Recreation Establishment, Indoor" use to the above zoning districts. Performance standards and design guidelines to regulate the size, scale, and design of the facilities to ensure

their compatibility with the character of the area, to minimize their impact on adjacent properties and to provide all prospective operators with a clear and consistent expectation of requirements is recommended by staff.

During the ZOAG's Rural Use Subcommittee meetings regarding ZOAM 2015-0006, representatives of the Evergreen Sports Complex requested that ZOAG consider adding "Recreation Establishment, Indoor" as a Permitted use in the AR-1 zoning district. Indoor recreation facilities in the County are typically associated within indoor sport complexes for soccer, lacrosse, hockey, ice skating, swimming, tennis, climbing etc. which provide year round training and game facilities for youth and adult athletes. Examples of these types of indoor recreation facilities include the Ashburn Ice House, Dulles SportsPlex, Rebounders and Sport Rock in Sterling. These indoor recreation facilities often have very early hours and extend late in the evening to accommodate teams and leagues which rent space on an hourly basis. Indoor recreation facilities generate peak traffic demand on hourly increments as teams and leagues rotate through the facility and when tournaments are hosted. Appropriate performance standards are needed to ensure compatibility of this type of use in rural zoning districts.

3. Virginia Farm Winery, PD-RV (Planned Development-Rural Village) Zoning District

Proposed Text. ZOAG proposes to add Virginia Farm Winery as a new Permitted use within the PD-RV Village Conservancy and Village Satellite Conservancy Subdistrict.

Recommendation: **Additional review and community outreach is needed before additional uses are added to the PD-RV zoning district.** Although the Village Conservancy and Village Satellite Conservancy Subdistrict consist of large lots that are suitable for the growing of grapes, other activities at wineries may affect neighboring properties. Thus, a Virginia Farm Winery as a permitted use may not be in keeping with the scale and intensity of the other agricultural and passive uses currently permitted and may create conflicts with noise, lighting and traffic on private roads that adversely affect existing residents. It is recommended that this proposal be discussed further to determine whether performance standards that limit the size of the use and address compatibility issues, such as noise, lighting and traffic, can be developed. Representatives from the Department of Transportation and Capital Infrastructure (DTCI) note that allowing a Virginia Farm Winery as a permitted use would eliminate the opportunity for legislative review of potential site-specific access, traffic circulation and operational issues; such legislative review could result in changes to site design and/or site-specific conditions of approval consistent with the County's adopted 2010 Countywide Transportation Plan policies.

During the ZOAG's Rural Use Subcommittee meetings regarding ZOAM 2015-0006, a property owner of a Courtland Farms Rural Hamlet Conservancy Lot requested that ZOAG consider adding Virginia Farm Winery as a new Permitted use within Village Conservancy and Village Satellite Conservancy Subdistrict of the PD-RV zoning district. Concern has been raised by properties within the vicinity of this proposed

Virginia Farm Winery.

There are four approved Rural Villages within the County with approved residential development ranging between 225 and 325 homes each: Elysian Heights, Red Cedar, Courtland and Greene Mill Preserve, formerly known as Woodland Rural Village. The Village Conservancy and Satellite Conservancy Subdistricts lots comprise the required open space lots for a Rural Village and are established to provide significant buffering of neighboring properties and to provide a land base for agricultural, forestal and open spaces uses. The conservancy lots permit a limited number of by-right uses, which include a variety of agricultural uses, farm support uses, and small scale hospitality uses designed to preserve and maintain the rural character of the landscape.

4. Virginia Farm Winery, RC (Rural Commercial) Zoning District

Proposed Text. ZOAG proposes to add Virginia Farm Winery as a new Permitted use in the RC zoning district. ZOAM 2015-0006 proposes also adding Commercial Winery as a new Special Exception use in the RC zoning district, subject to additional regulations.

Recommendation: A Virginia Farm Winery use may not be an appropriate by-right use in the RC zoning district given that it typically includes onsite production and has no regulatory review by the County. If there is no on-site production, the operations would be similar to a Commercial Winery, which is also proposed as a new Special Exception use in the RC zoning district. A Special Exception process would allow the Board of Supervisors and Planning Commission the opportunity to assess the potential impacts of an individual site and allows opportunities for public input throughout the legislative process. Conditions imposed during the Special Exception process can restrict the size and scale of the operation to ensure compatibility with the surrounding uses as development of standard performance standards may not address concerns at all locations proposed in the RC District. If the Planning Commission desires that the Virginia Farm Winery use be a Permitted use, it is recommended that performance standards be developed to limit the size of the use to be compatible in scale with buildings and uses that are typically found in the RC District.

The RC zoning district is generally associated with the existing villages in the western portion of the County. The policies of the Revised General Plan for Existing Villages specifically excludes large scale commercial uses in the Existing Villages and encourages the location of small scale, convenience-sized businesses within the villages that meet local neighborhood needs and are compatible in scale with the surrounding building and related uses in the villages.

VI. ZONING ORDINANCE CRITERIA FOR APPROVAL

Section 6-1211(D), Text Amendments, of the Revised 1993 Loudoun County Zoning Ordinance states "...for an amendment of the text of this Ordinance, the Planning Commission shall consider the following matters:"

Standard *Whether the proposed text amendment is consistent with the Comprehensive Plan.*

Analysis The policies of the Revised General Plan support the development of business uses in the Rural Policy Area, Joint Land Management Area, Existing Village and Transition Policy Area that are compatible in scale, use and intensity with the surrounding land uses, contribute to the rural economy and preserve large areas of land for rural economy, agricultural and open space uses. Review of the proposed Zoning Ordinance amendments has identified several amendments that require further consideration and/or that may be contrary to Comprehensive Plan guidance.

Standard *Whether the proposed text amendment is consistent with the intent and purpose of this Ordinance.*

Analysis The intent of the Zoning Ordinance is defined under Section 1-102, which states: *"This Ordinance is enacted in order to promote the health, safety and welfare of the residents of Loudoun County and to implement the Loudoun County Comprehensive Plan."* Some of the uses proposed to be located in AR-1 and AR-2 Cluster Subdivision Option Common Open Space, the TR Open Space, and the Rural Hamlet Option Open Space are not consistent with the intent and purpose of the Ordinance and thus staff has concerns with certain parts of this amendment that should be discussed further prior to recommendation by the Planning Commission. It is recommended that ZOAG and staff further review such uses to determine which uses are compatible or can become compatible with appropriate performance standards.

VII. ATTACHMENTS

1	Copy Teste/Resolution of Intent to Amend dated October 21, 2015
2	ZOAM 2015-0006 Draft Text
3	ZOAG Additional Recommended Draft Text
4	Referral Comments

* This Staff Report with attachments and additional information can be viewed online at <http://www.loudoun.gov/lola> under the application ZOAM 2015-0006. Copies are also available in the Department of Planning and Zoning.