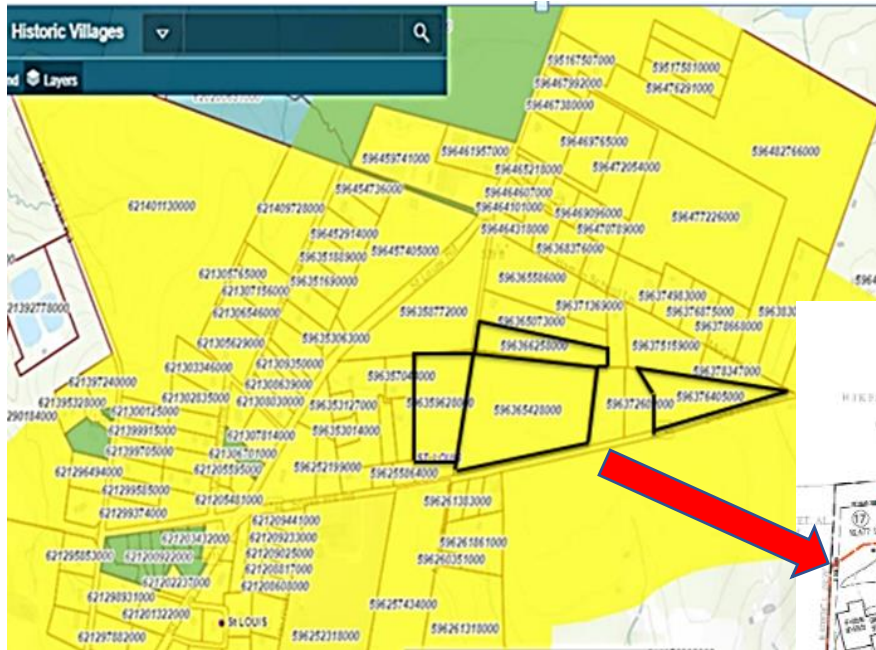




ZONING EXAMPLE INPUT: Rural Historic Village – St. Louis Proposed 27 House development - Middleburg Preserve



St Louis Village Conservation
Overlay District
4 lots outlined in black will be location
of *Middleburg Preserve* subdivision



DRAFT

Impact #	Impact Type
1	Filter/Grading for Road and H Construction, and Installation of Storm Water



ZONING EXAMPLE INPUT: In Progress – As of 5/4/2020

LOCATION or ISSUE: Rural Historic Village – St. Louis

Proposed 27 House development - Middleburg Preserve

The following provides a chronology of key events related to this issue or location, with the purpose of identifying key problems (e.g., uses, permits, policies, procedures, enforcement, etc.) to improve.

DATE (Mth/Yr if known)	KEY EVENT/ACTIVITY/ISSUE (e.g., application, permit, construction, violation notice, etc.)	BRIEF DESCRIPTION OF PROBLEMS/IMPACTS
June and October, 2017	MOJAX, LLC (“MOJAX”) purchases 2 parcels of approximately 17 acres on Snake Hill Road within the St. Louis Village Conservation Overlay District (VCOD). Plan to develop these parcels.	OVERLAY DISTRICT Small parcel on triangle at east end named Middleburg Preserve I; big parcel, behind and next to Mt. Zion Baptist Church (the “Church”), named Middleburg Preserve II; latter is site for proposed 27-house subdivision.
Jan 1, 2018	MOJAX starts clearing property.	PROCESS/PERMITS No permits for this work recorded with Loudoun County. Property contains wetlands, a historic cemetery, potable water issues, and is in one of county’s recognized rural historic villages St. Louis in the RPA. Protected by Village Conservation Overlay District (VCOD).
Jan -April, 2018	St. Louis residents notify Loudoun County officials with letters, emails, phone calls and photographic documentation.	PROCESS At this time, still awaiting a response. St. Louis is a small, rural community, historically the first and largest African American settlement after the Civil War, and its residents are imminently aware of their surrounding fragile ecosystem and problematic water supply.
March, 2018	St. Louis resident files complaint with United States Army Corps of Engineers (“USACE”)	SUBDIVISION DESIGN/PROCESS No apparent action on part of USACE
April, 2018	Loudoun County issues SWO to MOJAX for grading without a permit.	SWO issued more than 3 months after the illegal land disturbance.
October, 2018	MOJAX purchases another 2.4 acres behind big parcel, bringing total acreage of Middleburg Preserve II to approximately 19 acres.	OVERLAY

December, 2018	TNT Environmental, Inc. ('TNT'), on behalf of MOJAX, completes a wetlands delineation on the property.	PROCESS Confirms that MOJAX is aware of size and location of wetlands.
February 2019	MOJAX files CPAP (CPAP-2019-0005) for Middleburg II for 27 lots.	
April 2019	MOJAX digs channels on Middleburg II to drain wetlands.	PROCESS No grading permit.
April 2019	The state of Virginia's Department of Environmental Quality ("DEQ") investigates site and issues a Notice of Violation ("NOV") for unlawful impact to wetlands.	PROCESS NOV places both parcels under DEQ enforcement action. MOJAX prohibited from entering wetlands during this action.
April 2019	Loudoun County issues Stop Work Order (SWO) for unlawful land disturbance.	PROCESS
April, August & November 2019	Loudoun County Health Department issues well permits to MOJAX for Middleburg Preserve II: 8 permits in April (all drilled), 1 in August (expired), 6 in November (all drilled).	PROCESS No hydrogeologic ("Hydro") study completed. Only 8 or 9 test wells are required for the hydro study, Loudoun County issues a total of 15 permits by November 2019. 8 are designated test wells (14 drilled).
July 2019	Loudoun County approves MOJAX's VA Stormwater Management Program (VSMP-2019-0044-Middleburg Preserve)	PROCESS County issues this WHILE the April 2019 SWO and DEQ Enforcement Action pending against MOJAX.
July 2019	The Ottery Group publishes its Phase I Archeological Survey and Cemetery Delineation on Middleburg Preserve I and II.	OVERLAY Delineation indicates cemetery is twice the size as originally estimated and contains the remains of approximately fifty individuals.
<input type="checkbox"/> September 2019	Another wetlands violation determined by DEQ, this time while subject to DEQ enforcement action	PROCESS
September 12, 2019	Public meeting of residents in and around St. Louis at Fellowship Hall of the Church to discuss proposed development and explore all options.	PERFORMANCE STANDARDS First of two well-attended public meetings in St. Louis. BOS Chair Phyllis Randall promises St. Louis that she is 100% against the proposed development and will do all in her power to stop it.
October 2019	Alan Brewer, Director of Building & Development for Loudoun County, denies MOJAX's application for a waiver to Hydrogeologic Study ((WAIV-2019-0037). Cites language and clear intent of Loudoun County Facilities	Mr. Brewer correctly quotes the clear intent of hydro study provisions "to develop reasonable assurances that a sustainable ground water supply exists to serve the proposed development and to assess potential impacts to water resources." He goes on to state

	Standards Manual Section 6210(A)1, which requires a Hydrogeologic (“hydro”) study for any new subdivision of 10 or more lots.	that the overall density of the subdivision, both in size and number of lots, would compel a hydro study, in addition to the fact that the project lies in a rural area with many established residences, all served by varying yields. “Due to the high potential for impacts, the density of lots, and the number of wells proposed, a study will be required...” This justification for the denial is ignored 4 months later when MOJAX attempts a “work around” the hydro study requirement by submitting a three-phased plan for 9 lots, despite clear evidence to the contrary.
October 2019	Loudoun County issues MOJAX a limited grading permit for the express purpose of access for test wells for hydro study (County refers to it as a revision to an earlier grading permit). 6 well permits are issued following the issuance of this limited grading permit.	PERMITS/SUBDIVISION DESIGN Plan submitted by MOJAX for this limited grading permit shows full 27-lot subdivision. Also, grading permit is limited specifically for access to test wells for hydro study. If no hydro study forthcoming, then well permits issued pursuant to this limited grading permit are technically invalid and should be rescinded.
October 18, 2019	Second public meeting in St. Louis to discuss the proposed development; held at Banneker Elementary School to accommodate the large crowd.	The developer attended the meeting, attempting to justify the development; Ms. Randall made same promises to the community and suggested an emergency zoning change.
November 5, 2019	IFFC met with Health Department (both County and State) to discuss and demonstrate scarcity of potable water in St. Louis and to request revocation of well permits issued to MOJAX for good cause pursuant to 12 VA Admin Code 5-630-280, which gives the State and County discretion to deny any well permit “if the installation of the well would create an actual or potential health hazard or nuisance, or the proposed design would adversely impact the ground water resource”.	Loudoun County has been made aware of the sparse potable water supply in St. Louis, which is evidenced by a significant number of dry, low yielding and extremely shallow (many under 50’ or less) wells in the area. Mr. Brewer alludes to this fact in his denial letter for the requested waiver, referenced above. The vast majority of the residents in and around St. Louis are of modest means who do not have the financial resources to move or drill another well should the high-density development, with its 27 wells, adversely impact the yields of their wells. Granting well permits that will damage the already perilously low potable water supply is completely contrary to the Department’s mission “to protect the health and promote the well-being of all people in Virginia.” The Health Department refuses to rescind the well permits.

November 2019	Loudoun County accepts application for the preliminary record plat for Middleburg Preserve I.	PROCESS/PERMITS County accepts application despite the property being subject to a DEQ enforcement action for wetlands violations.
January 2, 2020	Community meeting held at Banneker Elementary School.	Chair Randall invited, but unable to attend. Recommendation made for the residents of St. Louis to create a community organization to move forward.
February 12, 2020	Meeting held with Phyllis Randall, her staff, representatives from Loudoun County B & D, Health, Zoning, Planning, Natural Resources, County Attorney, etc., residents of St. Louis and LHVA, ostensibly to discuss a zoning change of St. Louis in conformity with 2019 Comprehensive Plan.	Meeting was requested by residents of St. Louis. Discussion included reference to Comp Plan language for RHVs of "Compatibility" and repeating concern of impact to already low water supply.
February 14, 2020	MOJAX, through TNT Environmental, Inc., submits to DEQ its wetlands impact map for Middleburg Preserve II for a pre-application meeting with DEQ and USACE on February 21 st ; meeting is in preparation for the permitting process to further impact the wetlands in order to build the high-density subdivision.	The developer's negotiations with the state and federal agencies are prima facie evidence of its intentions to develop the subdivision of 27 houses as planned. This map is forwarded to Mr. Brewer in March letter from FSL (see below).
February 24, 2020	MOJAX files 2 nd submission CPAP for Middleburg Preserve PHASE II for only 9-lots.	Obvious attempt to work around FSM requirements for hydro study by phasing the development in 9-lot increments. This three phased 9-lot submission shows entire infrastructure for the 27-lot subdivision, including the road going all the way through the original 16+ acres, sewer connections and storm water features in place for all 27 houses, as well as other obvious infrastructure items, calculations and engineering for a much larger development. There are no provisions, that we are aware of, that allow a developer to "phase in" a high-density development in clear contravention of these rules. The County unequivocally denied MOJAX's request for a waiver for a hydro study yet appears to be allowing the very activity addressed by the denial. Note: 2 nd Submission is filed by MOJAX with County just 10 days after submitting wetlands impact map to DEQ (see February 14, above) to accommodate all 27 lots.

February 28, 2020	DEQ issues its draft Consent Order to MOJAX for the wetland violations, followed by a public comment period ending April 2 nd .	DEQ receives considerable number of negative responses to draft Consent Order during public comment period.
March 4 & 11, 2020	Two letters to Mr. Brewer from Friends of St. Louis (“FSL”), a nonprofit civic association representing residents in and around St. Louis, citing the clear evidence of MOJAX’s intent to develop the entire 27 subdivision and requesting that he enforce his decision of October 2019 to require MOJAX to submit a hydro study for Middleburg Preserve II.	No response to date from Mr. Brewer.
March 2020	<p>Loudoun County issues MOJAX another limited grading permit for the express purpose of access for test wells for hydro study (County refers to it as a revision)</p> <p>Health Department issues a further 7 well permits, bringing total number of well permits to 22.</p> <p>As of yet no hydro study forthcoming.</p>	<p>PROCESS/PERMITS</p> <p>Plan submitted by MOJAX for this limited grading permit, dated February 18th (and apparently identical to the one submitted October 2019), clearly shows the 27 lots to be developed. This is literally 6 days before the 2nd Submission for 9 lots on Feb. 24.</p> <p>Plan also provides access for wells across wetlands a second time without DEQ permit. Further, as noted above, if no hydro study is forthcoming, well permits issued pursuant to this limited grading permit are technically invalid and should be rescinded.</p>
April 6 – 8, 2020	MOJAX proceeds to clear and excavate areas in the far western end of the property (behind the Church and at the opposite end from the location of the 9-lot submission) pursuant to the Limited Grading Permit issued in March.	Consent order from DEQ not final, yet MOJAX Illegally impacted wetlands again without a permit and caused tremendous runoff within and from the site. Approved VSMP of July 2019 clearly inadequate to prevent or control runoff. Also, more clear evidence of developer’s intent to develop the entire 27-lot subdivision, as it

		is clearing land to drill more wells at the other end of the property from 9-lot submission.
April 8, 2020	Loudoun County issues to MOJAX a Notice of Violation in apparent attempt to address the inadequate erosion and sediment control measures.	
April 14, 2020	<p>Letter from FSL to Mr. Mark Stultz, Zoning Administrator for Loudoun County, requesting a determination as to whether phasing of a project could or should be utilized to avoid the standards set forth in the FSM, specifically the standard requiring a Hydro Study.</p> <p>If such phasing is appropriate or permissible, under what circumstances is phasing appropriate or permissible?</p> <p>If phasing is not permissible or appropriate,</p> <p>(i) what assurances would the community receive from the County Government that the FSM will be appropriately applied when the 10th lot is created, and</p> <p>(ii) what retroactive actions will be taken by the County Government under the FSM.</p>	<p>SUBDIVISION DESIGN</p> <p>Letter lays out incontrovertible evidence of MOJAX's intent to develop the entire subdivision of 27 lots, including the above-referenced infrastructure evidence on the 9-lot submission, the well data from the Health Department, the wetlands impact map submitted to the DEQ, and plans dated February 18 submitted by MOJAX for the March limited grading permit - all clearly showing the 27-lot subdivision.</p> <p>Mr. Stultz declined to address the question and forwarded the letter to Alan Brewer.</p> <p>No response to date from Mr. Brewer.</p>
April 16 & 17, 2020	Similar letters from FSL to Leo Rogers, County Attorney, and to the County Executive for Loudoun County	No response to date.
April 15, 2020	DEQ issues its own NOV (now the 2 nd) to MOJAX for unlawful impact to wetlands.	<p>PROCESS/PERMITS</p> <p>DEQ currently evaluating the situation going forward in light of significant number of negative responses to draft Consent order and latest wetland violations.</p>
April 20, 2020	Loudoun County accepts MOJAX's 2 nd submission for 9-lots.	