








ZONING ORDINANCE REWRITE (ZOR) CODE AUDIT & DISTRICTS PUBLIC INPUT – *ROUND 2*


ZONING ORDINANCE REWRITE	 ZONING CODE AUDIT PUBLIC INPUT (ROUND 2) SUBMITTED BY Maura Walsh-Copeland, LCPC Representative to ZOC
CODE AUDIT SECTION	COMMENT / QUESTION
Code Audit I. Introduction	<p>p. iii-iv. What are the estimated receipt timeframes for the remaining Tasks (4: Best practices; 5: Sign regulations; 6: Parking regulations) and Annotated Outline and Legal Analysis?</p> <p>p. iv. Lists five other reports/sub-tasks that have been completed. Can copies be distributed? 1) Subtasks 2 (related County Code and relationship to ZOR), 2) Task 3.1 (Land Use goals in existing policies, strategies and actions), 3) ‘Proffers, variances and zoning amendments,’ 4) Task 3.2 (Adopted policy review, land use by Policy Area), 5) “VA Policy areas/place types, zoning district discrepancies analysis”</p> <p>p. 3 Many citizens are confused about the relationship of “Place Type” to “zoning district. The statement, <i>“The Place Types are not zoning districts, but instead describe complete communities that would occur within them”</i> is the best sound-bite definition seen to date!!</p> <p>p. 5 Are the listed 2019 GP Policies, Strategies, Actions being used CURRENTLY to guide CURRENT applications, or is the County using the pre-2019 GP checklists/policies for evaluation of applications?</p>
Code Audit II. Zoning Ordinance Structure	<p>p. 6 Favorite quotations: <i>“A zoning ordinance is not just a document – it is a process,”</i> and <i>“The zoning ordinance should make the right things easy.</i> They may be the best justifications to update internal processes (e.g., checklists) where possible NOW.</p> <p>p. 6 <i>“Zoning ordinance should balance flexibility and certainty.”</i> Is it envisioned that the use of form-based codes, where applicable, will help reduce the volume of requests for variances in applications?</p>


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	<p>p. 6 <i>“Provide a clear and fluid administrative process.”</i> This can/should only be accomplished if sufficient performance standards and protections are implemented, especially for uses that currently have NO performance standards defined.</p>
	<p>p. 7 <i>“Provide enforcement tools.”</i> There is a fundamental misunderstanding held by many for the <u>causes</u> of zoning enforcement issues. Since 1992 (and reconfirmed in 2005, 2009 and 2010), the Loudoun BOS <i>POLICY</i> has stipulated Zoning Enforcement Staff investigation was approved for proactive enforcement in Sterling area only for “blight,” or for “eminent peril to life or property.” This means a zoning application must have been filed and a violation occur before Zoning Enforcement Staff can take action on a complaint. Numerous case studies have shown that incomplete, inaccurate, or falsified applications, as well as pre-app “advice” and incomplete review for performance standards compliance at the front end are the primary causes of zoning enforcement complaints regarding uses on the back end. Fix the zoning performance standards, checklists, process and procedures during ZOR and it’s predicted Zoning Enforcement complaints will be significantly less.</p>
	<p>p. 7 <i>“Provide enforcement tools.”</i> Although Loudoun Express Request (LEx) is a generally adequate trouble ticket ENTRY system to distribute trouble tickets to Staff, it is a poor ticket closing and REPORTING tool. The original plan was to improve trouble ticket entry, tracking, notification and reporting via enerGov. What is the timeframe for implementation? Will there be any interface with enCodePlus?</p>
<p>Code Audit Approach</p>	<p>p. 8 How would performance zoning “ratios or other numeric standards” be determined for the various Loudoun policy areas? (i.e., by industry standards, or location-specific review?)</p>
	<p>p.8-9, Form-based codes would be more applicable in the UPA, SPA and TPA, possibly in some Villages and some JLMA, whereas the general RPA would better accommodate hybrid codes, correct?</p>
	<p>p.8 Could “use patterns” be created/created to further define “forms of development that are authorized” is areas smaller than a zoning district or place type, such as Mountainside Overlay Districts?</p>


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	<p>p. 11. In the alternative, could “composite zoning” be used to augment overlay districts to provide improved protections and/or exclude Uses in Mountainside Overlay districts?</p>
	<p>p. 11 Under the Use Patterns portion of the table, is the Consultant using the term “conservation subdivisions” as a synonym for “cluster subdivision?”</p> <p>If so, did the Consultant’s project scope include reviewing the ZOR Round One Public Input from LCPCC, REDC, FRBM, SRL and a number of other sources that provide requests for design changes and more input rather than by-right, administrative approval?</p> <p>Were the Consultants made aware of the initiation of ZOAM-2020-0002 Subdivision/Prime Soils prior to completing their Code Audit?</p> <p>Are “composite zoning” and/or “use patterns” being considered as recommendations as a means to implement ZOAM-2020-0002?</p>
	<p>p. 12 Under Design Guidelines – could “neighborhood conservation districts that follows in area plan” be used to better define 1) Loudoun Historic Villages, and/or 2) “neighborhoods” in a common overlay district, such as MDOD, LOD, etc. to provide improved protection guidelines?</p>
	<p>p. 12, Under Performance Zoning – Has Kendig-Keast Collaborative been requested to review how their concept could be discussed and applied for the ZOAM-2020-0002 Subdivision/Soils initiative? If not, this should be directed to that project team for review.</p>
	<p>p. 12 Recommendations for Loudoun’s Zoning Ordinance Structure – Heartily agree with statement,</p> <p><i>“For the County’s Rural Place Types, the districts can include cluster or conservation subdivision options with performance-based metrics that preserve the County’s countryside and environmental resources. Building and site design typologies in for Urban Place Types and walkable centers in the Suburban and Transition Place Types can blend form-based metrics with conventional use and setback regulations. The district and development regulations could define a range of building and site design typologies. For any given application, the building and site design typology would correspond to the underlying district.”</i></p>
	<p>p. 13 District Nomenclature – agree to reduce volume of Planned Development districts. Rural is not really a “neighborhood.” What does Section III say?</p>


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Code Audit Organization	<p>p. 14. For those who say the 2019 Comp Plan is “just a guideline,” the Consultant’s statement is more clear and accurate: “Zoning regulations are legal documents that implement plan policies. While they should be legally enforceable, they communicate to a variety of audiences. These include citizens, applicants, elected officials, and professional staff.”</p>
	<p>pp. 15-16. The Zoning Ordinance organization recommendation are excellent.</p>
Code Audit Codification	<p>p. 17. The Consultant’s point about making section numbering format properly with enCodePlus is not a suggestion, but a requirement for proper implementation.</p>
Code Audit Format	<p>p. 19. Consultant’s statement, <i>“Definitions should never include standards because readers will normally search the body of the ordinance for development requirements”</i> agrees with LCPC Round 1 Public Input.</p>
Code Audit Definitions	<p>pp. 19-20. The Consultant’s recommendation to include both General and Use Definitions similar to New Castle County, DE would be in line with LCPC, Farm Bureau, REDC, PEC and other recommendations to better define “FARM” and “Bona Fide production” as planned for the Rural Uses III ZOAM (now part of ZOR).</p>
Code Audit III. Districts (separate document)	<p>p. 1. The Consultant’s recommended changes appear to be based on industry standard comparisons for similar districts, or are they “fuzzy math” based on various locations (not industry or Loudoun)? How will their standards recommendations (setbacks, FAR, lot coverage, ratios, etc.) be discussed at ZOC and/or presented for approval via ZOR? Are (can/will) the general guidelines (and corrected math) being used currently for applications?</p>
Code Audit Districts: Rural Policy Area (RPA) <i>NOTE: Relates to Subdivision/Soils Zoning Ordinance Amendment (ZOAM)</i>	<p>p. 4. The following should be included in the ZOAM-2020-0002 discussion: <i>Open Space. The Rural North Place Type recommends 70 percent open space for clustered subdivisions. However, it is possible to achieve 90 percent open space at a density of one dwelling unit per five acres depending on utilities.</i></p>
Code Audit Districts: Rural Historic Villages	<p>pp. 4-5. Consultant’s recommendations for changes to Village Conservation Overlay District (VDOC), and Rural Commercial (RC) density to be transitioned to a <i>“Village Conservation District that would recognize and perpetuate historic development patterns of individual villages”</i> is consistent with ZOR Round One Public Input as they are correct that <i>“each Village warrants a zoning approach that allows for preservation of its individual character.”</i> Defer comments on specific recommendations to Loudoun Historic Village Alliance input.</p>

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<p>Code Audit Districts: Joint Land Management Areas (JLMA)</p>	<p>p. 7. Appreciate that the Consultants did their “math,” showing the current 30% open space requirements cannot be achieved with 8K sqft minimum lot and 4Du/ac.</p>
<p>Code Audit Districts: Transition Policy Area (TPA)</p>	<p>p. 10-11. Does Staff agree with the Consultant’s proposed “Small Lot Neighborhood,” “Compact Neighborhood,” and “Community Center” new districts definitions? How are rezoning requests for Compact Neighborhood being evaluated during this pre-ZOR time period, specifically regarding, “None of these options reach the 50 percent open space required by the Place Type?”</p>
<p>Code Audit Districts: Suburban Policy Area (SPA)</p>	<p>p. 14. Regarding “Compact Neighborhood,” are new regulations being planned for “manufactured homes,” and would they include modular construction? Both may be of assistance to create more Affordable Dwelling Units as an interim use on certain parcels planned for denser or alternative uses where such use may not be viable for 10-20-30 years. The benefit of modular construction include the capability to relocate the units to other sites in the future.</p>
<p>Code Audit Districts: Urban Policy Area (UPA)</p>	<p>p. 16. Overall, how and/or will the impacts of the pandemic on employment and work-at-home changes in the past year influence the plans for the UPA in the near and long term?</p>
<p>Code Audit IV. Development Standards</p>	
<p>Code Audit Parking</p>	<p>p. 22. Generally, the Consultant’s report reviewed at the 2/3/21 ZOC meeting demonstrated they primarily focused on parking requirements in Urban, Suburban and Transition areas. Review of the ZOR Public Input Round One highlight the types of parking issues found in the Rural Policy Areas related to Uses that have either inadequately defined or no defined parking requirements for high traffic, tourist-based applications. Examples include: 5-625, Winery, Commercial. Parking compliance with 5-1102: Winery use not listed (Industrial/manufacturing?) 5-628, Farm Based Tourism. No parking rqmts. Reference 5-1407 – Landscaping, buffering 5-642, Banquet/Event. Parking compliance with 5-1102. No differentiation for rural areas (e.g., using repurposed barn, terrain, floodplain) 5-667, Brewery, Limited. No parking requirements. “Location” on sketch plan only. Photos to be provided of inadequate and dangerous parking. 5-668, Craft Beverage Manufacturing. Parking not referenced, but specs do exist in 5-1102</p>

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	<p>p. 23. Rural tourism data and document complaints to Zoning Enforcement and Sheriff should also be validated to prevent parking and traffic issues documented to the county. Past Zoning Enforcement tickets (documenting actual back end issues caused by ill-defined or missing zoning) can/should be used as examples of the zoning changes needed to prevent the front-end application and checklist requirements.</p>								
	<p>p. 23. As discussed at the 2/3/21 ZOC meeting, the formulas and ratios used for the Zoning Ordinance Rewrite should be evaluated and/or created based on data. Urban, Suburban, Transition data collected can be facilitated by the LCHCA group. Rural business use data should be collected as the non-standard parking types (paved, gravel, grass) and locations (field, adjacent to neighbors, compatibility with rural rustic roads) for these uses are different from UPA, SPA and TPA locations (e.g., paving, lighting, landscaping, terrain, etc.)</p>								
	<p>Requirements for RURAL USES should include and/or address:</p>								
	<table border="1"> <tr> <td data-bbox="709 911 2003 1076"> <p>Environmental</p> <ul style="list-style-type: none"> - Parking area should not negatively impact water run off or disrupt neighboring property via water flow - Parking area should be permeable type to avoid impacting water table - Parking area should be built in a way that does minimal harm to wildlife, good soil availability, tree cover, etc. - Great care should be taken to assure parking area lighting does not impact wildlife. </td> <td data-bbox="2003 911 2045 1076"></td> </tr> <tr> <td data-bbox="709 1076 2003 1214"> <p>Landscaping/Buffering</p> <ul style="list-style-type: none"> - Great care should be taken to landscape the area around the parking area to blend in with neighboring properties. - Buffering should be natural and prevent impacting neighboring properties. - In the rural use areas, parking should not be designed like a shopping center or strip mall. </td> <td data-bbox="2003 1076 2045 1214"></td> </tr> <tr> <td data-bbox="709 1214 2003 1352"> <p>Size of Parking Area</p> <ul style="list-style-type: none"> - The size of the parking area should in some way be tied to the size of the overall property and in a manner that avoids dramatic changes to the surrounding area. (Maybe a percent of open space could be established as a baseline.) </td> <td data-bbox="2003 1214 2045 1352"></td> </tr> <tr> <td data-bbox="709 1352 2003 1484"> <p>Traffic</p> <ul style="list-style-type: none"> - Parking area reviews should have a careful traffic study done to assure that access and egress of parking area can be done in a safe manner. - Parking areas should be limited to assure they do not negatively impact overall traffic in an area. </td> <td data-bbox="2003 1352 2045 1484"></td> </tr> </table>	<p>Environmental</p> <ul style="list-style-type: none"> - Parking area should not negatively impact water run off or disrupt neighboring property via water flow - Parking area should be permeable type to avoid impacting water table - Parking area should be built in a way that does minimal harm to wildlife, good soil availability, tree cover, etc. - Great care should be taken to assure parking area lighting does not impact wildlife. 		<p>Landscaping/Buffering</p> <ul style="list-style-type: none"> - Great care should be taken to landscape the area around the parking area to blend in with neighboring properties. - Buffering should be natural and prevent impacting neighboring properties. - In the rural use areas, parking should not be designed like a shopping center or strip mall. 		<p>Size of Parking Area</p> <ul style="list-style-type: none"> - The size of the parking area should in some way be tied to the size of the overall property and in a manner that avoids dramatic changes to the surrounding area. (Maybe a percent of open space could be established as a baseline.) 		<p>Traffic</p> <ul style="list-style-type: none"> - Parking area reviews should have a careful traffic study done to assure that access and egress of parking area can be done in a safe manner. - Parking areas should be limited to assure they do not negatively impact overall traffic in an area. 	
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	<p>Viewshed</p> <ul style="list-style-type: none"> - Parking area should blend in with the surrounding area and not disrupt or change the viewshed - Great care needs to be taken to assure parking area lighting does not create a dark skies disruption and does not cause a change to the viewshed of areas in the surrounding area
Code Audit Landscaping	Defer to Environmental, Historic Resources & Sustainability Sub-committee input.
Code Audit Natural, Environmental & Heritage Resource Protection	<p>p. 26. The Consultant report is on target with its recommendation that the, <i>“Zoning Ordinance should provide for contextually appropriate incorporation of low-impact development (LID), environmentally sensitive site design, and conservation design into both site design regulations and a robust menu of open space options.”</i></p>
	<p>p. 26. The Report is on target that River Stream Corridor Resources (RSCR) require <i>“more robust . . . protection requirement[s].”</i> Instead of reinventing the wheel, review the ordinance language removed in 2003 deemed more robust and legal and only removed due to error in public notice.</p>
	<p>p. 27. The Consultant’s comment that VCOD one-size-fits-all approach may not recognize individual village development patterns is on target. Agree with recommendation to, <i>“Replace the existing Village Conservation Overlay District (VCOD) and the underlying zoning districts for the Traditional Villages with Neighborhood Conservation Districts.”</i> In fact, all recommendations in that column (including conservation design and adaptive reuse) should be considered.</p>
	<p>p. 28. Consultant’s recommendation that contiguous space requirements should be required to <i>“avoid isolated pockets of fragmented open space”</i> agrees with Round One Public Input.</p>
	<p>p. 29. Would like more information about footnote #6 and how the referenced locality’s methods to strengthen <i>“incentive for high value, connected open space”</i> could be applied to Loudoun’s zoning ordinance.</p>
Code Audit Soils & Geologic Resources/ MDOD <i>NOTE: Relates to Subdivision/Soils Zoning Ordinance Amendment (ZOAM 2020-0002)</i>	<p>p. 29-30. The Report is on target to <i>“consider strengthening steep slope regulations.”</i> Instead of reinventing the wheel, review the ordinance language removed in 2003 deemed more robust and legal and only removed due to error in public notice.</p>
	<p>p. 30. Has Staff reviewed and/or selected any of the Pace Land use Law Center for Sustainable Development language to improve the current or proposed MDOD? https://appsrv.pace.edu/GainingGround/?do=TopicSearch&Topic=74#bottom.</p>

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	<p>p. 30. DISAGREE with Consultant’s recommendation to “<i>expand the passive recreational uses allowed in the MDOD</i>” and to “<i>add a list of agricultural uses permitted</i>” in Steep Slope Standards – UNLESS they are special exception AND inappropriate uses allowed in AR-1/AR-2 currently allowed “by-right” in MDOD are <u>removed</u>.</p>
Code Audit Forests, Trees & Vegetation	Defer to Environmental, Historic Resources & Sustainability Sub-committee input.
Code Audit Rural Policy Area <i>NOTE: Relates to Subdivision/Soils Zoning Ordinance Amendment (ZOAM 2020-0002)</i>	<p>p. 32. Concur with Consultant’s regulatory recommendation to “<i>Update and include Additional Regulations for Specific Uses, as well as other regulations, to ensure adequate infrastructure is provided, affects from incompatible uses are sufficiently mitigated, and site design protects the rural historic landscape.</i>”</p> <p>The ORIGINAL intent of ZOAM 2015-0006 was to incorporate revisions recommended by the public, and make rural use performance standards equitable. In the past six years concerned groups have been told changes would be made 1) after a new Comp Plan and 2) in a new Zoning Ordinance. Therefore, that time is now. Please see LCPC Zoning Ordinance Audit modules for recommendations.</p>
	<p>p. 32. New “agrihood” uses should not be added UNTIL and unless the new zoning ordinance establishes improved application checklist (to avoid abuse and loopholes), clearer performance standards, means of enforcement for performance standards (such as 5-654 traffic) and addresses zoning enforcement mitigation and consequences for ongoing abuse.</p>
	<p>p. 32. Support Consultant’s recommendation for “adaptive reuse” with adequate designation procedures and heritage resources provisions.</p>
	<p>p. 33. Consultant’s recommendation is on target for ZOAM-2020-0002, to “avoid development on prime agricultural lands and displacing open space with drain fields, requiring a minimum percentage of active agricultural use in prime agricultural land for rural economy lots, and grouping rural economy lots closer together to achieve more usable agricultural space.”</p> <p>During ZOAM discussions all implementation options should be vetted by review of actual data for the amount of protection provided by quantifying acres of land potentially preserved.</p>
Code Audit Sustainable Development Practices	Defer to Environmental, Historic Resources & Sustainability Sub-committee input.

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Code Audit Affordable Dwelling Units	pp. 34-38. Hold comments on Consultant’s zoning-specific recommendations until Unmet Housing Strategic Plan report is available for review.
Code Audit Building Design	p. 39. Agree with Consultant’s recommended alternatives to include composite zoning, form-based codes or use patterns in district standards, as well as development standards and missing middle housing types. Look forward to seeing Staff recommendations.
Code Audit Site Design	p. 39. Would the recommended “menu approach” be implemented via an enCodePlus calculation module or some other means?
Code Audit Transition Standards	pp. 40-44. Section was informative, but have actual draft standards/metrics for transitions been developed?
Code Audit V. Use Regulations	p. 45. Big thumbs up to the use tables with updated use classifications by categories as proposed, to be implemented in enCodePlus!
Code Audit Codifying Uses	pp. 47-48. Application of Uses only by district may not (does not?) address locations within a district where uses may not be appropriate (e.g., where there is an Overlay District that should not allow all underlying district uses). How can/will uses in Overlay areas (MDOD, LOD, Village, etc.) be address in a table?
Code Audit Supplemental & Additional Use Regulations	p. 48. The Consultant’s observation that supplemental and additional use regulations are (literally) scattered throughout the current zoning ordinance is correct and must be addressed via ZOR. In fact, the way the additional use regulations were created as “one-off” ZOAMs over the past 20 years has also created a great deal of inconsistency in regulations and performance standards. As indicated previously, for the RPA the ORIGINAL intent of ZOAM 2015-0006 was to incorporate revisions recommended by the public and make rural use performance standards equitable. In the past six years concerned groups have been told changes would be made 1) after a new Comp Plan and 2) in a new Zoning Ordinance. Therefore, that time is now. Please see LCPCCC Zoning Ordinance Audit modules for recommendations.

ZONING ORDINANCE REWRITE



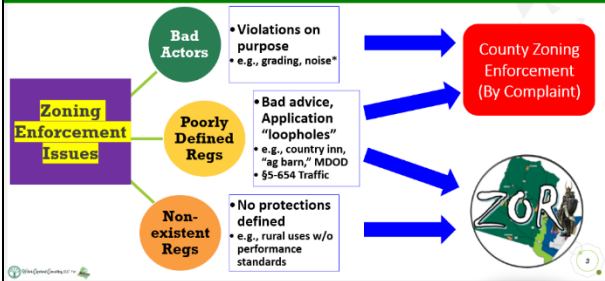
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CODE AUDIT SECTION

COMMENT / QUESTION

ZONING: Enforcement vs. ZOR



p. 48. A point of clarification should also be made regarding “zoning enforcement” versus “zoning ordinance requirements.”
 Mentioned previously, past Zoning Enforcement complaints and tickets document not only violations by “bad actors” or “bad advice.”
 Zoning complaints/tickets also document instances of taking advantage of poorly defined regulations and non-existent/inconsistent/missing regulations, processes or procedures. These zoning complaints can/should be used as *examples* of the zoning changes needed to define the *front-end* application and checklist requirements to prevent the *back-end* zoning enforcement issues.

Code Audit VI. Administration

p. 49. Consultant’s make good recommendations for

- “the ordinance can require neighborhood meetings to sort through issues that could otherwise become the topic of a variance request or third-party lawsuit challenging the application.”
- “summary table or flow chart showing clear lines of authority, notice requirements, and decision-making authority,”
- General procedures and individual workflows for each process
- Require “neighborhood meetings” for rezoning, amendments, prelim sub plats, special use permits, and variances and “consider neighborhood premeeting on every application.”
- Clearer submittal requirements for “providing guidelines and project design information [that] should be a comprehensive checklist submittal requirement to facilitate development review,” and provide DPZ staff the critical information “to understand how a proposed project requiring legislative approval will achieve the anticipated design” and reduce requests for variances.

Code Audit VII. Conclusion