



ZOAM-2020-0001-Zoning Ordinance Rewrite -- DEVELOPMENT STANDARDS Draft Text

GENERAL / INTRODUCTORY COMMENTS:	
5.03.0	<p>LIMITED EnCodePlus DISPLAY FOR ZOC MEMBERS.</p> <p>At a previous meeting I requested a full Table of Contents of all sections for the new Zoning Ordinance with section numbers referenced. This was displayed on enCodePlus at the next meeting. However, now that ZOC has limited view after the Planning Commission has started ZOR work, there is no way to cross-check / confirm / review the links referenced in the draft text under review.</p> <p>Either provide a pdf full table of contents or allow the table of contents on enCodePlus to REMAIN VISIBLE to ALL users.</p>
5.03.0	<p>2019 COMP PLAN COMPLIANCE CHECKLIST.</p> <p>Although the Staff summary memo is very useful, distribution of only "a clean version of draft text" (p. 2 of memo) makes it difficult to determine to what extent this draft implements the 20+ environmental actions called for in the Comprehensive Plan.</p> <p>Rather than "tracked changes" that Staff feels is "impracticable,"(p.2) could a reverse check list be provided that lists the 2019 Comp Plan Policy/Action (bullet or column format) with the reference to where it is implemented in the Draft text by Section reference?</p> <p>Without this general means to review the draft text, if it is difficult for ZOC members and associates to evaluate how each Policy/Action has been achieved then it may result in exponential volume of questions from the general public when the draft is released for 90-day review in April 2022.</p> <p>Does such a 2019 Comp Plan "checklist view" already exist for ANY/ALL sections? If not, can it be prepared before ZOC Subcommittee review in March/April?</p>
	<p>In regards to codifying the recommendations of the LPAT Framework Plan, what is PRCS's stance? Does PRCS believe "they will take care of it" and therefore does not require reference in the Zoning Ordinance? If that is the case, how will the environmental protections put forth in the LPAT Framework Plan actually be incorporated?</p> <p>Is PRCS staff able to request provisions in the new Zoning Ordinance? If not, it would be helpful for PRCS to achieve what they want to achieve in regards to the LPAT Plan if there is language in the Zoning Ordinance to codify.</p> <p>Being part of the Zoning Ordinance would help ensure that environmental protections are included as part of implementation, and would provide accountability for the public and PRCS, and it seems like the RSCR section would be an appropriate place. It would also ensure that employees, current and future, would have to follow the standards, which is important during the long-term LPAT project that may last longer than the current employees.</p> <p>In general, how will the County ensure that LPAT Framework Plan design elements, (which are good), will not be cast aside if they are not incorporated into the Zoning Ordinance?</p>
5.03.0	<p>ENCODE COMMENTS FROM STAFF FOR: When will the Staff comments on the SIGNS packet be distributed?</p>
<p>*LCPCCC Patricipating Organizations: Aldie Heritage Association, Bike Loudoun, Bluemont Citizens Association, Blue Ridge Mountain Civic Association, Catoctin Coalition, Farm Bureau of Loudoun, Friends of the Blue Ridge Mountains, Goose Creek Association, Goose Creek Scenic River Advisory Committee, LCPCCC Executive Committee, LCPCCC Finance Cte, Leesburg Garden Club, Loudoun Climate Project, Loudoun County Equine Alliance, Loudoun Historic Village Alliance, Loudoun Preservation Society, Loudoun Rural Landfills, Loudoun Soil & Water, Loudoun Walking Club, Loudoun Wildlife Conservancy, Piedmont Environmental Council, Potomac Heritage Trail Association, Save Rural Loudoun, Sterling Foundation, Transition Area Alliance, Unison Preservation Society, Virginia Native Plant Society (Piedmont Chapter), and Virginia Piedmont Heritage Area Association</p>	

Section	COMMENTS TO DRAFT TEXT
JANUARY 5, 2022 ZOC AGENDA DISCUSSION TOPICS	
5.03.0	5.03. 2019 COMP PLAN SUSTAINABILITY POLICIES. How will new Zoning Ordinances to reflect the new Sustainability Policies in the new Comprehensive Plan be handled?
5.03.0	5.03. PROHIBITION OF CLEAR CUTTING. Is there a place where clear cutting of lots is prohibited in advance of building lots or future uses (e.g., solar commercial) later? While there may be restrictions in the state codes on how this is handled, at the least there could be a grace period to disincentivize people to clear lots in anticipation of selling them to a developer to be built upon without as many restrictions due to the lack of a tree canopy.
5.03.0	5.03.02 STEEP SLOPES. APPLICABILITY & EXEMPTIONS. CLOSING B&D LOOPHOLES. Staff (including the ZOR Project Manager) are directly aware of instances where land is being cleared on Steep Slopes under the guise of a non-existing (or expired) "Forestry Management Plan," after the County was made aware of the lack of VDOT entrance permits, with no applied for or approved grading permits or review for erosion, and attempts to use a third party "soils report" to obtain a farm management plan on property in conservation easement -- all with the directly knowledge of the ultimate development plans based on boundary line adjustment submission and county approval. Due to the KNOWN lack of communication and enforcement issues related to grading/clear cutting, and ignoring permits, how will these loopholes be closed with the new zoning ordinance for steep slope areas?
5.03.0	5.03.02 STEEP SLOPES. APPLICABILITY & EXEMPTIONS. B.2.a states, "Single Family Dwelling on Existing Legal Lot. Construction of a single residential use on a legal lot existing as of June 16, 1993, is exempt from the requirements of Section 5.03.02.D. Such exemption does not apply to nonresidential uses. Development on such lot is subject to all applicable standards provided in Section 5.03.04." The only thing that has changed from current zoning is the date, which still indicates that the steep slopes protection is ruled null and void if the lot existed 30 years ago. The primary issue is that many of the "lots of concern" are the old wood lots on the Short Hill, Blue Ridge, and Catoclin Ridges, which are the areas that tend to have the most steep slopes. If the new Zoning Ordinance does not protecting those slopes -- probably our most sensitive and most important to protect -- what are we protecting? The logic is similar to the prime ag soils question -- "protecting" the asset as long as the residential development potential is still allowed to supersede any agricultural or environmental concern.
5.03.0	5.03. CIRCULAR REFERENCES BETWEEN ZOR AND FSM. The Zoning Ordinance needs to be updated to initiate an update of the FSM. Otherwise circular logic of the ZO pointing to the FSM before the FSM standards have been updated to reflect the new ZO is circular and non-effective.) When will this review be done for ZOR/FSM updates?
5.03.01	5.03.01. RIPARIAN BUFFER PLANTINGS. Is there a place within the RSCR section where the County could initiate the needed studies to revisit the FEMA ruling on riparian buffer plantings?
5.03.01.B.2	5.03.01.B.2.b. EXISTING STRUCTURES can be "added to." Is there a limit on this? There is apparently a limit on rebuilding, but it is not apparent for adding to existing structures?
5.03.01.E.4	5.03.01.E.4. MODIFICATION OF REQUIRED BUFFER. Uses a, b, and c: are these uses, such as parking, limited?

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5.03.02	<p>5.03.02 STEEP SLOPES. APPLICABILITY & EXEMPTIONS. Timber Harvesting. Does the County ensure or monitor the requirement below and ENFORCE when presented with KNOWN violations? (Recent examples know to the ZOR Project Manager indicate the answer may be no and need to be addressed.)</p> <p>Section 10.1-1181.2.H of the Code of Virginia. Prior to completion but not later than three working days after the commencement of an operation, the operator shall notify the State Forester of the commercial harvesting of timber. . . . The notification may be verbal or written and shall (i) specify the location and the actual or anticipated date of the activity, (ii) include an owner's name or the owner's representative or agent and contact information, and (iii) be provided in a manner or form as prescribed by the State Forester. If an operator fails to comply with the provisions of this subsection, the State Forester may assess a civil penalty of \$250 for the initial violation and not more than \$1,000 for any subsequent violation within a 24-month period by the operator. Such civil penalties shall be paid into the state treasury and credited to the Virginia Forest Water Quality Fund pursuant</p>
5.03.03	<p>5.03.03 NERS USE TABLE: INFRASTRUCTURE. Paths and Trails...and Raised Public Boardwalks. There should be extra protections to ensure there is adequate space for the infrastructure/recreation use while protecting buffers for river and stream health including wildlife habitat. Design standards from the LPAT Framework Plan could be incorporated here. Protecting the environment and natural resources should be the primary objective for this section. Why are there not additional specific standards to protect buffers for river and stream health and wildlife habitat?</p>
5.03.03	5.03.03 NERS USE TABLE - RECREATION. Why are there not additional specific standards to protect buffers for river and stream health and wildlife habitat?
5.03.03	5.03.03 NERS USE TABLE - CONSERVATION AND PRESERVATION. Why are Planting Native Vegetation and Historic and Archaeological Sites not permitted uses in Steep Slopes?
5.03.03 NERS	5.03.03 NERS. USE TABLE: Are the uses on very steep slopes in the 25% area under "Purposes" for this section allowed? Does this mean a blanket permit for them would also be allowed without review?
5.03.03 NERS	5.03.03 NERS. USE TABLE: Why, if water, sewer, roads and driveways are permitted on steep slopes, are planting native vegetation, historic and archaeological (studies), and conservation and scientific research not permitted?
5.03.03 NERS	<p>5.03.03 NERS USE TABLE FOOTNOTE 2 indicates, "All Minor Special Exception and Special Exception uses listed in the underlying zoning district, and overlay district if applicable, may be permitted within moderately steep slope areas by the Board of Supervisors by separate Special Exception approval of this Section 5.03.xx, and if approved, may be subject to certain conditions, pursuant to the provisions of Section 7.09."</p> <p>This is the PRIMARY justification for separate use lists for MDOD, LOD, FOD, etc. that specifically DO NOT INCLUDE SPEX or Moderate SPEX uses that would violate the intent and purpose of the 2019 Comp Plan.</p>
5.03.04-1	5.03.04-1 TABLE NERS DEVELOPMENT & LAND DISTURBANCE STANDARDS. 4-10. These are good standards. Why are they not also applied to Moderately Steep Slopes?

Section	COMMENTS TO DRAFT TEXT
5.03.04.A	5.03.04.A NATURAL & ENVIRONMENTAL RESOURCE DEVELOPMENT, Land Disturbance, and Additional Use Specific Standards. The design standards of the LPAT Framework Plan should be codified in the Zoning Ordinance. If the LPAT plan is going to be exempt from these use standards, how will the Zoning Ordinance ensure that the natural resource, environment, and wildlife habitat/corridor protections outlined in the LPAT Framework Plan will be implemented and enforced?
5.03.04.B	5.03.04.B.2.f.1 NATURAL & ENVIRONMENTAL RESOURCE DEVELOPMENT, Land Disturbance, and Additional Use Specific Standards. As part of protecting natural heritage resources, should state species of concern, or studies for exemplary natural communities, habitats, and ecosystems also be added studies requested by the Zoning Administrator? This should be universal, not just for this specific use in the RSCR, does Staff agree?
5.03.05	5.03.05 DEFINITIONS. OTHER PROTECTED RESOURCES. Wetlands are mentioned as "other protected resources." Wetlands creation and protection could be used as a tool to reduce post-development runoff peak rate, frequency, volume. Why are there not guidelines and performance standards to also protect wetlands and wetland buffers to protect and improve stream and watershed health?
5.06.0	5.06. TREES: This is overall very weak on preserving existing trees. Lots on "planting" and "replacement" - the latter indicating removal of existing trees, which cannot be actually replaced as they would have been already established. I assume that the strong recommendation of use of native species (for all plantings) is in the FSM.
5.06.0	5.06 TREE PLANTING, REPLACEMENT AND ENFORCEMENT. Why is there no mention of requiring tree plans to join with neighboring contiguous habitats to reduce habitat fragmentation and promote wildlife corridors?
5.06.0	5.06 TREE PLANTING, REPLACEMENT AND ENFORCEMENT. Does this satisfy the requirement for a Tree Preservation Ordinance? Or will a separate ZOAM be used to satisfy the 2019 General Plan policy for a Tree Preservation Ordinance?
5.06.0	5.06 TREE PLANTING, REPLACEMENT AND PRESERVATION. While the policy statement was updated to be consistent with 2019 GP Policy Chapter 3, FTV p.3-7 and FTV Action 4.1.B., there are many other relevant and important policies as part of FTV Policy 4 including, but not limited to, 4.1.C "require the removal of invasive plant species during the development process" and 4.2.A "prioritize the planting of native vegetation, specifically along those corridors that provide connections to other natural, environmental, and heritage resources". Why was this, and other actions from FTV policy 4 omitted from the Zoning Ordinance? And, why are there not corollary ordinances related to removal of invasive species and planting native vegetation along corridors (which would reduce habitat fragmentation)?
5.06.0	5.06 TREE PLANTING, REPLACEMENT AND PRESERVATION. Why are 2019 General Plan NHR Policy 6 strategies 6.1 actions A-C, and 6.2 actions A-E not incorporated into Section 5.06? While 6.2.D is included in Section 5.07, many of these strategies and actions also apply to this section as they relate to protecting wildlife, wildlife corridors, native vegetation, and other elements that relate to trees. How/where will they be incorporated?

Section	COMMENTS TO DRAFT TEXT
5.06.A.4	5.06.A.4 TREE PLANTING, REPLACEMENT AND ENFORCEMENT. The current FSM Table 3 of Tree Conservation and Landscape Plan includes 45% non-native trees. Why does the Zoning Ordinance not include a 100% (or other minimum percentage) native trees and shrubs requirement? A minimum requirement is needed to prioritize native vegetation per the 2019 General Plan - FTV 4.2 Action A. (The Zoning Ordinance needs to be updated to initiate an update of the FSM. Otherwise circular logic of the ZO pointing to the FSM before the FSM standards have been updated to reflect the new ZO is circular and non-effective.) When will this review be done for ZOR/FSM updates?
5.06.B.1	5.06.B.1 TREE PLANTING, REPLACEMENT AND ENFORCEMENT. These percentages should be raised to better protect trees. Are there higher percentages allowed by Virginia Code?
5.06.B.4	5.06.B.4 CANOPY REQUIREMENTS, 4: Though tree canopy requirements can be filled with preservation of existing trees or replacement of trees, shouldn't the County be encouraging the preservation of existing trees on a site? Can Staff change the first sentence to: "Existing trees are encouraged to be preserved and may be included to meet...." rather than "Existing trees which are to be preserved may be included..."
5.07.0	5.07 LANDSCAPING BUFFER YARDS, SCREENING AND LANDSCAPE PLANS. Except for 5.07.04 Cemetery, Burial Ground, and Grave Buffer, there are no mentions of invasive species removal. As per 2019 General Plan FTV Policy 4 Strategy 4.1.C, shouldn't language be included throughout Section 5.07 to "require the removal of invasive plant species during the development process"?
5.07.0	5.07. LANDSCAPING. PURPOSE & APPLICABILITY. D. Regular references to "existing vegetation MAY be used. It seems that it should using existing vegetation SHOULD be encouraged.
5.07.0	5.07. LANDSCAPING: D. 3 - Could this be strengthened by recommending using native species wherever possible?
5.07.01	5.07.01 PURPOSE, APPLICABILITY, AND EXCEPTIONS, PURPOSE: Is this list intended to be a comprehensive list? Should add: "Protect our night sky from light pollution and intrusive artificial light; Enhance water quality and storm water control by reducing runoff and erosion; Reduce heat-island impact; Increase property values to homeowners by 10%-20%; Increase economic benefits to homeowners and commercial property owners; Reduce crime; Clean our air; Protect, feed and shelter wildlife;
5.07.01	5.07.01 PURPOSE, APPLICABILITY, AND EXCEPTIONS, Purpose: Shouldn't the County encourage the use of native plants in landscaping? Why is there no mention in this section of naturalistic plantings especially for government buildings and sites?
5.07.01	5.07.01 PURPOSE, APPLICABILITY AND EXCEPTIONS. While "contribute to ecosystem benefits" is good language to include, it could be more specific. Why are more elements of NHR Policy 7 Strategies and actions related to 6.1 and 6.2 not included in this section?
5.07.01	5.07.01 PURPOSE, APPLICABILITY AND EXCEPTIONS. We appreciate the inclusion of NHR Policy 7 Strategy 6.2.D on pollinator habitat to apply to all new landscaping rather than just the Rt. 7 corridor, as noted on Page 4 of the 1.5.22 Cover Memo. However, why is this not mentioned as part of section 5.07.01?
5.07.01.D	5.07.01.D PURPOSE, APPLICABILITY AND EXCEPTIONS.. The current Tree Conservation Plan within the FSM does not include minimum requirement of native vegetation. Strategy 6.2.C specifically states development "ensure" that it "incorporates existing native vegetation and plantings of native vegetation into the landscape design." Shouldn't this section include a requirement that it is existing native vegetation and supplemented by new native vegetation? (The word "native" is currently missing.)

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5.07.02	5.07.02 A-D ROAD CORRIDOR BUFFERS & SETBACKS. Since D.1 specific requirements for Gateway Corridor Buffers includes specific language for pollinator habitat, but the other buffer types do not, it is not clear if all buffer types are to follow the same requirements. Supporting pollinator habitat is also mentioned under General Landscape Provisions, which would seem to apply to all buffer types. If it is to be required in all buffer types, why is it not mentioned?
5.07.02.D.1	5.07.02.D.1 ROAD CORRIDOR BUFFERS & SETBACKS. Gateway Corridor Buffer. The supporting pollinator habitat references 5.07.07.B.8, but should it be 5.07.07.B.7?
5.07.02.E.3	5.07.02.E.3 ROAD CORRIDOR BUFFERS & SETBACKS. Specific Requirements for Street Trees. It currently states that "all vegetative material must meet the specifications included in the FSM." Does the FSM need to be updated to include greater provisions to comply with new 2019 General Plan policies in regards to native plants, pollinator habitat, and removal of invasives that have not yet been updated in the FSM? If so, how and when? Otherwise, circular logic will not result in requiring updates to the FSM, because it was not required by the Zoning Ordinance.
5.07.03-1	5.07.03.1 USE BUFFER YARD MATRIX: Where in this matrix does the Gable landfill or "personal recreational field" or stockpile fall under? Category 6? Community and Active Recreation Uses, and if so, what are the buffer requirements?
5.07.03.	5.07.03 BUFFER YARDS: Where in this section does the County address the need for buffers for illegal landfills, stockpiles of dirt and "personal recreational fields"? These sites need to be heavily buffered and/or screened from neighboring properties. For example, the Gable landfill rises more than 30 feet at the top of the Watershed over 18 acres. Why is there no buffer or screen anywhere on this site?
5.07.03.A.7	5.07.03.A.7 BUFFER YARDS, GENERAL PROVISIONS: Shouldn't the County emphasize native and non-invasive vegetation? Change to: "Existing native and non-invasive vegetation and trees are encouraged to be used to meet requirements....." Rather than "Existing vegetation and trees may be used to meet the requirements..."
5.07.03.A.7	5.07.03.A.7 BUFFER YARDS. General Provisions. Should this read "existing native vegetation and native trees" rather than just existing vegetation and trees?
5.07.03.A.9	5.07.03.A.9 BUFFER YARDS. General Provisions. This section has the same circular logic of vegetative materials meeting specifications of the FSM. As noted previously, does this need to be updated to include greater provisions to comply with new 2019 General Plan policies in regards to native plants, pollinator habitat, and removal of invasives that have not been updated in the FSM yet?
5.07.05	5.07.05 SCREENING OF CERTAIN ON-SITE FUNCTIONS: Does this section provide for the screening of illegal landfills, stockpiles of dirt or "personal recreational fields" from neighboring properties? The Gable landfill rises more than 30 feet at the top of the Watershed over 18 acres but has no screen or buffer. If loading areas, dumpsters, outdoor storage areas etc. are required to be screened from neighboring properties, surely illegal landfills, stockpiles of dirt and "personal recreational fields" should be screened.
5.07.06	5.07.06 PARKING AREA LANDSCAPING AND SCREENING REQUIREMENTS. Should this section include language in regards to 2019 General Plan CE Policy 7 Strategy 7.3 to prevent light pollution?
5.07.06	5.07.06 PARKING AREA LANDSCAPING AND SCREENING REQUIREMENTS. As part of 2019 General Plan FTV Policy 4 Strategy 4.2, should this section include more tree canopy to reduce the heat island effect?
5.07.07.B	5.07.07.B GENERAL LANDSCAPE PROVISIONS. Plant Unit Requirements. Should these buffers take into account existing vegetation on neighboring lots to create contiguous habitat between lots as part of the buffers?

Section	COMMENTS TO DRAFT TEXT
5.07.07.B.7	5.07.07.B.7 GENERAL LANDSCAPE PROVISIONS. Why is the percentage of native species only 50%? To truly support pollinator habitat, that percentage should be higher, if not 100%.
5.07.07.C.1	5.07.07.C.1 GENERAL LANDSCAPE PROVISIONS. Use of Buffers. Should passive recreation trails include references and/or requirements to comply with the LPAT Framework Plan design standards? How is the LPAT Framework Plan being utilized to incorporate into buffer requirements?
5.07.07.E	5.07.07.E GENERAL LANDSCAPE PROVISIONS. Maintenance. Different pollinators need access to food throughout the growing season from April through October, and many overwinter in stems. Should language be added limit disturbances to overwintering pollinators? This could includes restrictions on when mowing could occur, or the minimum height of stems to allow overwintering pollinators homes.