

*MEMORANDUM

To: **Building and Development, Subdivision, Mary Valenta**
Building and Development, Subdivision, Ronald Dunbar
Building and Development, Zoning Permits, Theresa Stein
Building and Development, Natural Resource Team, Anna Dougherty
Economic Development, Katy Lowitz
Fire, Rescue and Emergency Services, Maria Taylor
Health Department, Environmental Health, Mark Sharrer
Planning and Zoning, Community Planning, Pat Giglio
Planning and Zoning, Zoning Enforcement, Keith Fairfax
Zoning Ordinance Committee (ZOC), c/o Ryan Reed

From: Jacob Hambrick, Sr. Planner, Zoning Administration, Planning and Zoning

Date: 8/8/2022

Re: Referral Review for ZOAM-2020-0002, Prime Agricultural Soils and Cluster Subdivision (Attachment 1)

CC: **County Administration, Charles Yudd**
County Administration, Joe Kroboth
County Administration, David Street
County Attorney's Office, Courtney Sydnor
County Attorney's Office, Jason Hobbie
Economic Development, Buddy Rizer
Building and Development, Alan Brewer
Health Department, David Goodfriend

Comment Due Date: August 31, 2022

If warranted, a referral meeting will be scheduled during the week of September 5, 2022. At this meeting, referral agency representatives are expected to be prepared to share/discuss/resolve any comments or issues. If warranted, a meeting with ZOC to discuss the ZOAM draft text amendments will take place on September 7, 2022.

Background: The *Loudoun County 2019 General Plan* (2019 GP), adopted by the Board of Supervisors (Board) in June 2019, carried forward the growth management approach of the Rural Policy Area (RPA) provided for in the prior plan, the Revised General Plan (RGP), which seeks to retain farmland and sustain the rural economy. The RPA strategies and actions of the 2019 GP specifically point to "evaluating" and "revising" zoning regulations and design standards to improve upon development within the RPA to incorporate and protect natural features as well as ensure the success of rural economy uses and agricultural operations.

(Note: Please provide referral comments, paper and/or electronic copy, to jacob.hambrick@loudoun.gov. If you have any questions, please contact me at 571-258-3197).

ZOAM-2020-0002 looks to guide all future cluster residential subdivision applications in the Agricultural Rural – 1 (AR-1) and Agricultural Rural – 2 (AR-2) zoning districts with amendments to protect and conserve agriculturally productive prime agricultural soils, improve the design of clustered residential development by incorporating natural features, allowing for equine and rural economy uses, and further implementing the policies of the 2019 GP with respect to clustered rural residential development.

On [June 16, 2020, a Board Member Initiative](#) (BMI) was brought forward by Chair Randall and Supervisor Buffington seeking amendments to ordinances and revisions to regulations to improve cluster development design, preserve prime agricultural soils, and ensure the success of rural economy uses in the AR-1 and AR-2 zoning districts of the RPA. The Board approved the BMI (9-0) and directed staff to begin the process of a separate Zoning Ordinance Amendment (ZOAM) and Development Ordinance Amendment (DOAM), to revise zoning regulations in the Revised 1993 Loudoun County Zoning Ordinance (Zoning Ordinance) and associated regulations in the Facility Standards Manual (FSM) and Land Subdivision and Development Ordinance (LSDO). A DOAM is not being proposed at this time.

Following the approval of the BMI, at the [September 1, 2020, Business Meeting](#) the Board approved (9-0) an updated ZOAM Work Program that directed staff to develop amendments to the cluster subdivision regulations in the AR-1 and AR-2 zoning districts as a separate stand-alone ZOAM with an estimated completion timeframe of 18-24 months. Most recently, at the May 3, 2022 Business meeting the Board approved (8-1) the Department of Planning and Zoning Work Plan which maintains the current list of project prioritizations which includes the Prime Agricultural Soils and Cluster Subdivision ZOAM.

As part of the approved ZOAM Work Program and direction contained in the approved BMI, staff was directed to seek community input from stakeholders, to include farmers and owners of land zoned AR-1 and AR-2. Based on 12 outreach sessions with various community groups, committees, commission, or advisory boards, as well as other public input, Zoning Administration staff have made draft Zoning Ordinance text amendments to Article 2 (AR-1, AR-2) and Article 8, Definitions, with the goal of protecting and preserving agriculturally productive prime farmland soils and to further implement the policies of the 2019 GP with respect to clustered rural development.

On January 3, 2022, Zoning Administration staff distributed the initial draft Zoning Ordinance language to County referral agencies, stakeholder groups, and the Zoning Ordinance Committee (ZOC) for comments. Zoning Administration staff received comments after a 30-day referral period from County agencies, stakeholder groups, and ZOC. On [February 16, 2022](#), Zoning Administration staff met with ZOC to discuss the initial draft text, provide needed clarification, answer questions, and receive additional comments from ZOC members.

Based on comments received from County referral agencies, stakeholder groups and ZOC, Zoning Administration has revised the initial draft Zoning Ordinance language. The comments received have been addressed, partially addressed, or not addressed in the 2nd draft Zoning Ordinance language. A summary of the comments received from outreach groups are included as Attachment 2. A summary of the comments received from ZOC are included as Attachment 3.

Objectives of the ZOAM: In preparing the proposed 2nd draft text, staff continued to be guided by the following objectives:

- Adhere to the Board direction contained in the June 16, 2020, Board Member Initiative;
- Adhere to the Board direction contained in the September 1, 2020, ZOAM Work Plan
- Implement the policies of the 2019 GP;
- Incorporate ZOC and Stakeholder input that is consistent with the 2019 GP and Board direction;
- Add new requirements to the Cluster Subdivision Option in the AR-1 and AR-2 that preserve a percentage of prime farmland soils;
- Retain the financial incentives for landowners to preserve prime farmland soils and other environmental features by placing their land in conservation easements;
- Retain cluster subdivision requirements intended to allow a variety of rural economy uses, in addition to farming activities;
- Retain cluster subdivision requirements intended to preserve sensitive environmental resources

Summary of Revised Draft Text: The following is a summary of the changes from Staff's first draft text amendments provided in Attachment 1. Please be advised that staff's 2nd draft of the proposed text is based on input received to date and is subject to change based on additional input received from referral agencies, stakeholders, and the Planning Commission during the public process.

- Revised the permitted, minor special exception, and special exception uses within the "Use List" for the specific lot types of the Cluster Subdivision Option.

- Combined the Characteristics of Cluster Subdivision Option under the General Requirements section.
- Removed repetitive language that is stated in the FSM, and/or LSDO;
- Revised wording of the requirement that 70% of the total land area of the originating tract must be comprised of non-residential cluster lots;
- Maintained the original number of residential cluster lots (25) allowed in a grouping, but added language which will allow flexibility with the number of lots, if less impact to environmental features and the preservation of more connected prime farmland soils can be demonstrated;
- Further reduced the distance between groupings of residential cluster lots from 500 feet to 200 feet to allow greater flexibility of design to preserve prime farmland soils;
- Reduced the maximum lot size of Residential Cluster Lots from 4 acres to 2 acres to enhance the preservation of prime farmland soils;
- Clarified requirement for the delineation of prime farmland soils to only those originating tracts that have 5 acres or more of prime farmland soil;
- Revised requirements for the new Preservation Farm Lot
 - Revised the minimum percentage of prime farmland soils to be located on the Preservation Farm Lot(s) to 70%, when the originating tract being subdivided contains 5 or more acres of prime farmland soils;
 - Added a requirement that all Preservation Farm Lots must be placed within a Permanent Open Space Easement;
 - Removed requirement prohibiting private agreements from limiting permitted uses due to legal concerns;
 - Revised the minimum lot size, to be based on the size of the Originating Tract;
 - Removed the requirement that the lots had to be contiguous;
 - Removed the maximum lot width requirement;
- Revised the requirements for the Rural Economy Cluster Lot(s):
 - Only require a Rural Economy Lot for those Originating Tracts containing less than 5 acres of Prime Farmland Soils;
 - Maintained the minimum 15-acre size and removed the requirement of excluding areas of Major Floodplain, very steep slopes and highly sensitive areas of the MDOD from the minimum 15-acre size;
 - Revised the Maximum Lot Coverage from 8% to 15%;
 - Removed the requirement prohibiting private agreements from limiting permitted uses under the Agriculture, Horticulture or Animal Husbandry Use Category due to legal concerns;
- Revised the requirements for Common Open Space Lot(s):
 - Removed Common Open Space requirement prohibiting private agreements from limiting permitted uses under the Agriculture, Horticulture or Animal Husbandry Use Category due to legal concerns;
 - Renamed Open Space back to Common Open Space;

- Added Easement and Stormwater Management Facility uses within Common Open Space;
- Removed Perimeter Setback requirement of 100 feet;
- Clarified Lot Access language pertaining to private access easements;
- Revised Pre-submission meeting requirement making it optional for developments using the Cluster Subdivision Option.
- Clarified advisory design guidelines for developments using the Cluster Subdivision Option;
- Added and clarified the areas or improvements that the HOA has responsibility of maintaining; and
- Revised definitions in Article 8:
 - Revised the definition of "Cluster Development (AR Districts Only)"
 - Revised the definition of "Rural Economy Uses";
 - Removed the definition of "Rural Economy Conservation Lands";
 - Revised the definition of "Rural Economy Lot";
 - Revised the definition of "Preservation Farm Lot"
 - Revised the definition of "Prime Farmland Soils.
 - Added a definition for "Rural Economy Cluster Lot"

A table comparing the current regulations with staff's 2nd draft of the proposed regulations are provided in Attachment 4.

Attachments:

1. ZOAM-2020-0002, Staff's 2nd Draft Text dated August 5, 2022.
2. Outreach Groups Comment Summary
3. ZOC Comment Summary
4. Comparison Table of Current and Proposed Regulations.