

The Goose Creek Scenic River Advisory Committee

ZONING ORDINANCE REWRITE MEMORANDUM

July 13, 2022

TO:

Loudoun County Board of Supervisors

(BOS@Loudoun.gov)

Loudoun County Planning Commission

(LoudounPC@Loudoun.gov)

Zoning Ordinance Rewrite

(ZORewrite@Loudoun.gov)

Dear Supervisors, Commissioners, Officials and Staff:

In its review of the Zoning Ordinance Rewrite, the Goose Creek Scenic River Advisory Committee (GCSRAC) has carefully looked at particular provisions in light of Loudoun County's 2019 General Plan. Chapter 3-37 Item O of the 2019 General Plan states, very importantly, that the County shall:

Prepare and implement corridor management plans, including identifying and defining viewsheds for the County's Scenic Rivers to protect their natural and scenic quality.

Further, the General Plan provides that

A viewshed analysis for a Scenic River typically involves looking at both the view from the resource itself as well as the view towards the resource.

The GCSRAC has reviewed the proposed ZOR for its compliance with these mandates. Chapter 4 identifies eight overlay districts of the type and nature appropriate to a Scenic River Overlay District, but no such district is set out. Further, this omission means that there is no functional "corridor management plan", no identification or definition of a viewshed, nor any concomitant protections for the natural and scenic qualities of the county's two scenic rivers.

Accordingly, the GCSRAC recommends the following:

RECOMMENDATION: Staff should revisit ZOR with the purpose of adding a Scenic River Overlay District with appropriate regulations to effectuate the goals of the General Plan.

The GCSRAC has also reviewed ZOR Chapter 5, ZOR 5.03 in its whole and in particular 5.03.01 River and Stream Corridor Resources. On the whole, the GCSRAC finds many laudable protections for Goose Creek, its sister scenic river Catoctin Creek, and the many streams in the county. Here we do find a corridor management plan that offers significant natural protections but only modified scenic protections. We also note that this Chapter, taken as a whole, does not fulfill the goals of the General Plan that we have outlined above regarding viewsheds.

For instance, in ZOR 5.05.05 there is no definition of a viewshed nor is a viewshed mentioned in Chapter 5. We can find no evidence of a viewshed analysis in any part of the ZOR as anticipated in the General Plan. We note with interest that there is a buffer from Goose Creek of 300 feet, and further protections for floodplain and steep slopes. Yet taken together, these do not substitute for a viewshed. For instance, floodplains, steep slopes and a buffer can be part of a viewshed, but limited or no development in a floodplain or on a steep slope is first and foremost a practical consideration and not a scenic one. Likewise, a 300 foot buffer is arbitrary and cannot be a viewshed on its own.

ALTERNATIVE RECOMMENDATION: In the absence of the inclusion of a Scenic River Overlay District as the a GCSRAC prefers and recommends, staff should revisit Chapter 5 for the expansion of the RSCR Management Area to include a viewshed and appropriate usages.

The GCSRAC notes, with approval, that one provision of the General Plan, Chapter 3-37 Item P, prohibiting the diversion of Scenic Rivers under any circumstances, has been included in ZOR 5.03.01 H. “The permanent or temporary diversion of any Scenic River is prohibited.”

Attached to this memo is an appendix setting out some specific comments on ZOR.

The GCSRAC strongly encourages the County and staff to act on our recommendation, or failing that, our alternative recommendation, in order to implement County policy under the General Plan. The Code of Virginia empowers the GCSRAC to assist and advise the local governments in the management of scenic river resources and their protection. The GCSRAC finds the General Plan embodies the goals set out in the Code of Virginia, but the current draft ZOR does not.

Adopted unanimously July 13, 2022 by the GCSRAC.

Benjamin Winn, Chairman

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Chairman

Benjamin Winn

Vice-Chairman

Erin Smith

Members

John Isom

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APPENDIX TO ZOR MEMO

Specific Comments of the GCSRAC and members

- 5.03.01B.2.b What defines or limits "can be added to"? Can the existing structure(s) footprint(s) be changed? Can the existing structure(s) height, boundaries, or appurtenances be enlarged or altered without any limitation or LoCo review and approval?
- 5.03.01B.2.b Even if using "the same or equivalent footprint," there are no limitations for increasing all or any part of the existing or replaced structure's height
- 5.03.01B.2.b What defines or limits "equivalent footprint"?
- 5.03.01B.2.b What happens if an existing structure's footprint of 5,000 sq. ft. (50' x 100') becomes 5' x 1000'?
- 5.03.01-1 Can a floodplain, or minor/major floodplain include any slopes less than 15°? If extent?
- 5.03.02 Can a floodplain, or minor/major floodplain include any slopes less than 15°? If extent?
- 5.03.01.D.3 Resource Area Width cannot be enlarged?
- 5.03.01.E.4.a Where and how are these terms and phrases defined: "public" "passive" "recreational" "blueway" "improper uses" "visual quality" "innovative and imaginative" "silvicultural" "naturally occurring" "slippage" "motorized" "active versus passive recreation" "native vegetation" "commercial uses" "invasive species"? These are not in 5.03.05 NERS Definitions. For instance, skateboards, bicycles, inline skates, and monowheels all have electrical versions. Are all of these considered motorized? Are noise and bright directed or ambient illuminations also considerations?
- 5.03.05 What describes/limits "maximum extent feasible"?
- 5.03.03 Public Crossings should be a Special Exception for Scenic Rivers.
- 4.01 There is no provision for a Scenic River Overlay District. Inclusion is contemplated by the General Plan.
- 4.03 Purpose fails to acknowledge scenic viewshed as set forth in the General Plan.
- 4.03 No definition of "viewshed" as set out in General Plan.
- 4.03.05 No definition of "viewshed" as set out in the General Plan
- 4.03.05 While Scenic River is defined and existence is acknowledged, no additional protections as contemplated by the General Plan or even the definition are proposed.