



July 18, 2022

The Honorable Phyllis Randall
Loudoun County Board of Supervisors
P.O. Box 7000
Leesburg, VA 20177-7000

Dear Chair Randall:

On behalf of the Apartment and Office Building Association (AOBA) of Metropolitan Washington, I write to express our concerns with the current draft of the Zoning Ordinance Rewrite. We are concerned that the draft ordinance is inflexible and difficult to comprehend. Proceeding with its adoption as written will likely create new barriers to real estate development, resulting in the loss of housing and employment opportunities within Loudoun County. Businesses, developers, and investors all crave predictability and consistency in policy and process, and the proposed ordinance lacks these characteristics.

As you know, AOBA is the premier non-profit organization representing owners and managers of 400,000 apartment units and approximately 172 million square feet of office space in the District, Maryland, and Virginia. Of that portfolio, approximately 1.9 million square feet of office space and 11,000 multifamily residential units are located within Loudoun County. Our members play a critical role in building and operating the commercial and residential buildings that will accommodate the economy and workforce of the future. As such, our member companies consider themselves part of the Loudoun community and maintain a vested stake in the county's long-term economic sustainability and well-being.

Office and commercial flexibility are critical to ensure that Loudoun County can take advantage of economic development opportunities as they arise. The proposal to allow office buildings by right in urban policy areas and suburban mixed use, commercial, and employment policy areas, and by special exception in suburban neighborhood and compact neighborhood areas is sensible. For the same reason, we encourage allowing flexibility for other uses that may align with offices in the future; for example, allowing research and development by right in urban and suburban mixed use districts.

We support the draft zoning ordinance's strong goal for the provision of affordable housing. However, its complexity will likely be counterproductive to facilitating increased affordable housing development. The density bonus calculations in Section 8.01.D are unclear and could dissuade the development of affordable dwelling units if applicants are unsure whether the size of the increase will adequately support the units offered below market rate. Additionally, developers cannot always control the timing at which units come online, and so requiring specific linkage between the granting of market rate and affordable unit occupancy permits in Section 8.01.K could inhibit project delivery and thus prevent, rather than promote, the creation of new housing.

We look forward to further updates to the draft ordinance and to participating in the review thereof. We thank you for your consideration of our comments.

Sincerely,

Scott E. Pedowitz
Manager of Government Affairs, Virginia
Apartment and Office Building Association of Metropolitan Washington (AOBA)

cc: Loudoun County Board of Supervisors; Loudoun County Administrator Tim Hemstreet; Loudoun County Department of Planning and Zoning



From: Martha Polkey
To: [DEPT-PZ-ZORW](#)
Subject: [EXTERNAL] Zoning rewrite - Rural Uses
Date: Monday, July 18, 2022 7:51:47 PM

General comment: Any new or existing allowed rural use should be contingent upon the adequacy of the current local infrastructure it will depend upon. We have seen again and again that these new uses create traffic, noise, and safety issues in rural areas, with taxpayer dollars having to be allocated to improve access, traffic volume, etc., in an area the use should never have been permitted in (e.g., Bear Chase Brewery). Traffic studies and proffers to bring a road up to a standard sufficient to accommodate the new use—with direct involvement by affected neighbors—should be required.

Intensive uses along unpaved rural roads endanger pedestrians, walkers, cyclists, and horseback riders. These rural roads are our sidewalks as well as our residential streets, as well as the routes that our abundant wildlife uses (and crosses).

Rural tourism must be sustainable, and not overwhelm/degrade the environment in which it occurs.

Martha Polkey
Black Sheep Farm
martha.polkey@icloud.com

From: pqweeks [REDACTED]
To: [DEPT-PZ-ZORW](#)
Subject: [EXTERNAL] Loudoun County Rezoning
Date: Saturday, July 9, 2022 9:47:47 AM

Dear County ZOR Staff,

I am very concerned about the future of Loudoun's beautiful historic landscape, and I strongly urge you to revise the zoning ordinance to appropriately protect our vast and varied historic resources. I sincerely appreciate the hard work you all are doing, and understand you must be inundated with feedback, but we must take this opportunity to safeguard Loudoun's identity which attracts tourists and improves the lives of residents.

Considering the big picture, I implore you to focus on the following priorities:

1. *Reduce development and density in the Rural Policy Area*
2. *Protect Loudoun's historic villages and districts*
3. *Reduce the ease of approval for special exceptions that compromise the scenic and historic integrity of our landscape*
4. *Define and install protections for our vast historic resources*

More specifically, I request the following changes:

1. *Section 2.04.01:* "It is critical that we limit density and development in the Rural Policy Area. In the table in 2.04.01.D.9, the standards for lot sizes in the Agricultural Rural North district in reference 9 should be: Base Density Division Option – 1 dwelling unit per 25 acres; Principal/Subordinate Subdivision Option – 1 dwelling unit per 15 acres; Cluster Subdivision Option – 1 dwelling unit per 15 acres."
2. *Section 2.04.02:* "It is critical that we limit density and development in the Rural Policy Area. In the table in 2.04.01.D.9, the standards for lot sizes in the Agricultural Rural South district in reference 9 should be: Base Density Division Option – 1 dwelling unit per 50 acres; Principal/Subordinate Subdivision Option – 1 dwelling unit per 30 acres; Cluster Subdivision Option – 1 dwelling unit per 25 acres."
3. **Section 4.07: "Each of Loudoun County's historic villages is unique, and each needs its own Small Area Plan. It is critical that the County commit to providing support and working with each village to create Small Area Plan, so that the unique character of each village is preserved in accordance with the Loudoun County 2019 Comprehensive Plan."**
4. *Section 5.04.01:* "In order to ensure adequate open space is included whenever development is present, remove the following text from section 5.04.01.B.5: 'Development applications for up to and including 4 new single-family dwelling units, regardless of form (SFD or SFA duplex, triplex or quadruplex) are exempt from providing open space according to the requirements contained in Chapter 2, Zoning Districts unless the affected land area was included in an approved zoning map amendment or CDP with open space requirements.'"
5. *Section 5.07.04:* "In order to establish strict standards to protect the historic integrity of the county's historic cemeteries, remove the following text in section 5.07.04.D.5: 'The Zoning Administrator may approve a request to waive or modify the preservation buffer in accordance

with the requirements of Section 5.07.08 or in conjunction with a Minor Special Exception request pursuant to Section 5.07.04.C.4.”

6. *Section 11.03.H*: “The zoning ordinance does not define the word “historic.” It is absolutely essential that this word be precisely defined in order establish standards to protect our priceless historic sites and resources. We recommend using the criteria for evaluation on the National Register of Historic Places, as found in 36 CFR § 60.4 - Criteria for evaluation.”

Thank you for your time and consideration.

Respectfully,

Peter Weeks
President, *Bluemont Citizens Association*

From: Martha Polkey
To: [DEPT-PZ-ZORW](#)
Subject: [EXTERNAL] Zoning Ordinance rewrite comments - Rural uses - ENFORCEMENT
Date: Monday, July 18, 2022 7:27:16 PM

Please include mine in the public comments regarding the Zoning Ordinance review of the Mountainside Overlay District.

Perhaps no other issue has raised such ire among the good citizens of Loudoun as the lack of proactive, vigorous enforcement of Zoning Ordinance provisions. We have seen flagrant and cynical violations of the ordinance, with the absence of enforcement and anemic, paltry enforcement on the occasions when it does occur—and the result is often contempt on the part of citizens who expect that their local government will enforce its own rules—and I daresay contempt on the part of the scofflaws who know—and whose lawyers apparently tell them—not to worry about violations, because a gentle tap on the wrist or a very small fine will be the only consequence.

Please strengthen the language in these sections, so that citizens' faith in their government can improve.

Section 7.13 B. 3. Please strengthen this language: require that the administrator **MUST** take action to remove the violation or inform the party that if they violate the ordinance that the structure, use, etc. **WILL** be removed.

Section 7.13 B. 6. a. Please insert language requiring violators to return the land on which the violation occurred to be fully returned to its original condition (pre-violation).

Section 7.13E.10.b. Please ensure inspection of the property to verify that a violation has been corrected -- that the land has been returned to pre-violation condition.

Martha Polkey
Black Sheep Farm
martha.polkey@icloud.com

From: Martha Polkey
To: [DEPT-PZ-ZORW](#)
Subject: [EXTERNAL] Zoning Ordinance input: Adaptive reuse in rural historic villages
Date: Monday, July 18, 2022 7:01:57 PM

Good evening.

As a Lucketts Community participant in the deliberations of the Loudoun Rural Historic Village Alliance regarding the Zoning Ordinance review, I would like to second the recommendations on adaptive reuse that it has forwarded to county staff (below).

Sincerely,

Martha Polkey
Lucketts

The Adaptive Reuse Standards (Chapter 5: Development Standards, Section 10) will greatly benefit efforts to preserve these villages and other historic sites by expanding the use of existing historic structures. These older structures have struggled to meet current zoning standards for various uses. Adaptive Reuse will change that and help keep older structures in use which will benefit everyone: the property owner, the community, the building itself, and the environment.

A selection of some of the updates we recommend:

- Purpose:

Bullet 5 Add a statement about standards that must be met when a property is renovated; "meet Secretary of the Interior Standards for Rehabilitation or apply for a CAPP through HDRC."

- Eligibility:

5.10 B To be eligible.... structure must be one of the following: so it is clear that structure does not need to meet all 3 criteria.

5.10 B.1 add e. Designated a historic property by the Loudoun County Heritage Commission

5.10 B. 3 The structure is greater than 50 years old. Delete the rest

5.10 B. 3 Delete a. through c. Adaptive Reuse is meant to promote reuse of old structures. It cannot be cumbersome or expensive for property owners to do so. We need to encourage reuse.

- Standards and Requirements.

C we support protecting the site but suggest adding that “owner must comply with the following design standards unless an alternate design is recommended by the HDRC upon submission of an application following COA application standards. If the property is located outside an HCC overlay district, then HDRC shall be guided by the Secretary of Interior Standards when making their recommendation”

- Table 5.10-1 Uses Permitted as Adaptive Reuse

2nd box on right: see new live/work definition

A single building or space within a single building (e.g. studio, loft or 1 bedroom) used jointly for commercial/office and residential purposes where the residential use of the space is occupied by the person(s) operating the commercial/office use.

Delete: Secondary or accessory to the primary use as a place of work.

4th box on right: Delete kennel indoor

Add at end: Kennel, indoor may be permitted by special exception if the building to be used was originally constructed for agricultural use (e.g., barn).

- Table 5.10-2 Adaptive Reuse Incentives

All the incentives are very good and will also help protect Loudoun’s old structures.

Martha Polkey
Black Sheep Farm
martha.polkey@icloud.com

From: Catoctin Scenic River
To: [BOS](#); [DEPT-PZ-ZORW](#); [DEPT-PZ-PLANNING COMMISSION](#)
Cc: [Bruce Johnson](#); [Carol Matheny](#); [David Nelson](#); [David Ward](#); [Eleanore Adams](#); [Joan Linhardt](#); [Pattii Psaris](#); Samantha.Wangsgard@dcr.virginia.gov
Subject: [EXTERNAL] Zoning Rewrite Letter and Comments from Catoctin Creek Scenic River Advisory Committee
Date: Sunday, July 10, 2022 8:24:15 PM
Attachments: [2022-ZOR-DRAFT-TEXT-REVIEW-Catoctin_Creek_Scenic_River_Advisory_Committee_07_10_2022.pdf](#)
[Catoctin_Creek_Scenic_River_Advisory_Committee_Letter_StoryMap_to_BOS_Zoning_Rewrite_July_10_2022.pdf](#)

Dear County Zoning Staff, Members of the Board of Supervisors and Planning Commission:

The Catoctin Creek Scenic River Advisory Committee is pleased to submit our letter and comments regarding the zoning rewrite.

The Catoctin Creek Scenic River Advisory Committee is the voice of the scenic river as it winds its way to the Potomac River. Protection of the creek, its viewsheds, its natural resources and history are paramount to our mission. Our mission is to preserve, protect and explore this wonderful natural resource.

Bruce Johnson, Chair
Catoctin Scenic River Advisory Committee, Chair
www.CatoctinScenicRiver.org
<https://www.facebook.com/CatoctinScenicRiver/>

Committee Members:

Eleanor Adams
Bruce Johnson
Joan Linhardt
Carol Matheny
David Nelson
Patti Psaris
David Ward



Catoclin Creek Scenic River Advisory Committee
Protect, Preserve and Explore!

Loudoun County Zoning Rewrite Staff, Board of Supervisors and Planning Commission
Loudoun County, Virginia

July 10, 2022

Sent via email to: zorewrite@loudoun.gov, BOS@Loudoun.gov and LoudounPC@Loudoun.gov

Dear County Zoning Staff, Members of the Board of Supervisors and Planning Commission:

The Catoclin Creek Scenic River Advisory Committee is the voice of the scenic river as it winds its way to the Potomac River. Protection of the creek, its viewsheds, its natural resources and history are paramount to our mission. This is best accomplished when the riparian areas are mapped and designated formally as a zoning Overlay District and that viewshed analysis be required along the scenic rivers.

The Catoclin Creek Scenic River Advisory Committee requests that two fundamental revisions be included in the Draft Zoning Ordinance. We are requesting the following changes to:

- Implement the **River and Stream Resource as an “Overlay District”** in Chapter 4, and
- Include **viewshed analysis** requirements for proposed development (by-right and legislative) along State-Designated Scenic Rivers (Goose and Catoclin Creeks)

In order to be an effective Overlay District, the River Stream Corridor Resource needs to be definitively mapped and procedures incorporated to allow for updates over time consistent with other overlays districts including the Limestone Overlay, Mountainside Overlay and Floodplain Overlay Districts. We suggest that this Overlay District be named: **“River and Stream Resource Overlay District (RSROD)”**.

As currently drafted, the **“River and Stream Corridor Resource (RSCR) Management Areas”** appear as Development Standards in Chapter 5. The revision that we request is that the Zoning Ordinance formally define a River and Stream Corridor Resource Overlay District in Chapter 4. We believe that to be effectively enforced, a mapped overlay is the best approach.

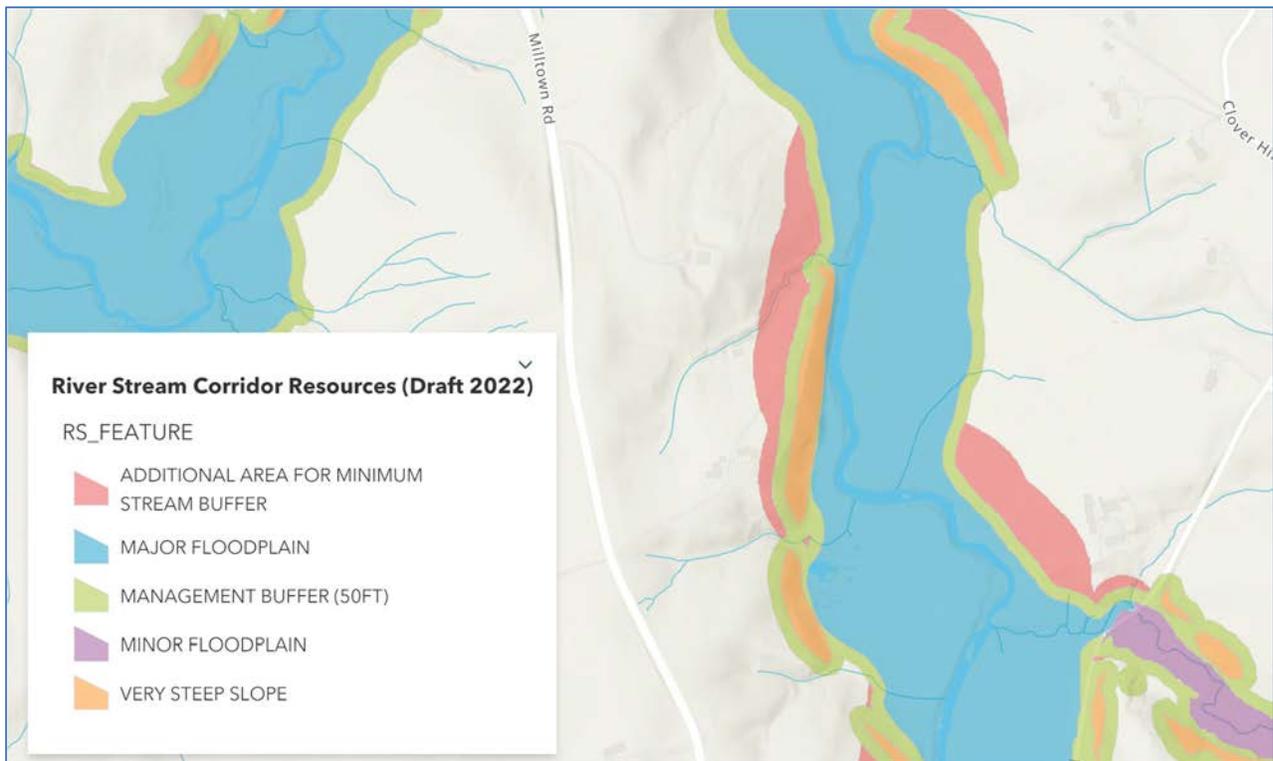
This request is in line with the former **“River and Stream Corridor Overlay District (RSCOD)”** which was approved and enacted, but shortlived in 2004. It was rescinded due to a technicality associated with advertisement and not technical details. The attachment to this letter provides a comparison of the former RSCOD and the proposed RSROD.

The zoning rewrite does not include a map, although there is a RSCR map in the 2019 Comprehensive Plan. Unfortunately, because of the scale of a static map, it is difficult to envision where the setbacks are. We have obtained GIS data from the Loudoun County Office of Mapping and have assembled our own map using the setback elements as described in Chapter 5. The draft Zoning describes setbacks are measured from “bankfull bench”. This requirement is an unnecessary complication in which most stream reaches



Catoctin Creek Scenic River Advisory Committee
Protect, Preserve and Explore!

are dominated by the Floodplain Overlay District. The additional buffer by measuring from bankfull bench rather than edge of water is insignificant. We estimate that for the majority of perennial streams the additional bankfull consideration only adds a few feet to at most a few tens of feet. This is rightly addressed in the additional 50-ft management buffer already included in the performance standard. In our mapping analysis, we have dropped the bankfull width setback.



We provide side-by-side interactive map comparisons at <https://storymaps.arcgis.com/stories/8be0799afc06431e9261787a2c7179d4> which is included as a static attachment to this letter. The interactive website allows search by address.

Note further that the River and Stream Corridor Resource as described in the Draft Zoning Ordinance does not include the 200-ft transition buffer which the Board of Supervisor Approved on June 1, 2021. The full width of the 500-foot buffer along the Goose Creek, Catoctin Creek, Goose Creek Reservoir, Beaverdam Reservoir, Broad Run, Bull Run and Potomac River shoreline should be revised per Board direction.

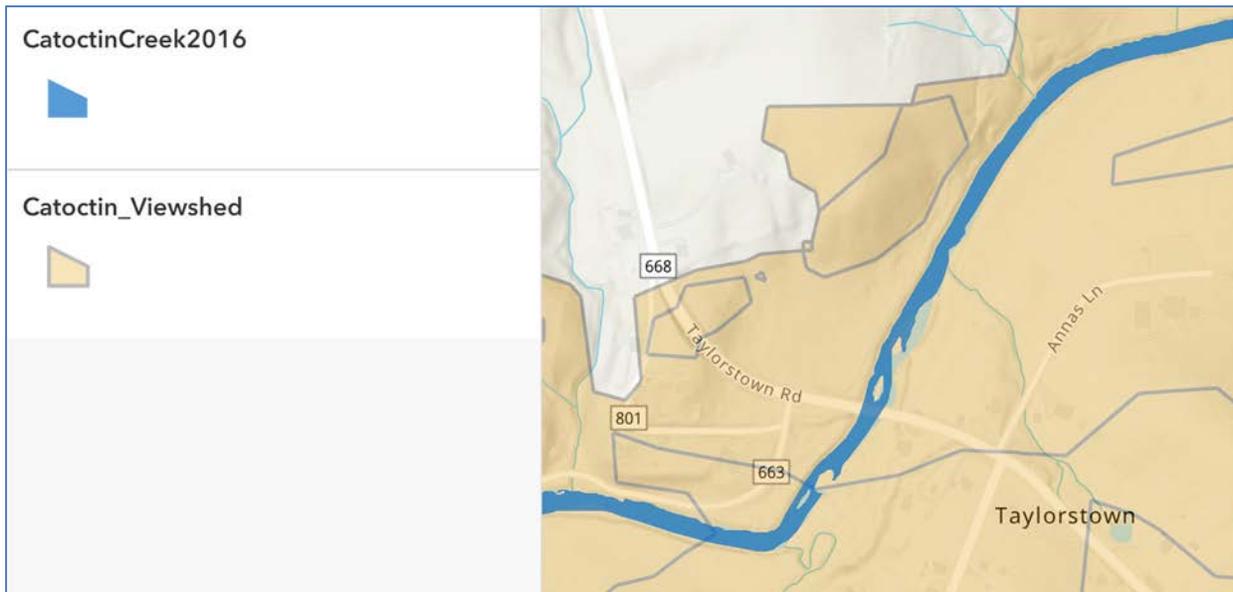
We applaud the update designations of River and Stream Resource Management Area which will replace the **1993 Scenic Creek Valley Buffer Ordinance (ZO93)**. This nearly 30-year old ordinance is fatally flawed with unnecessary exceptions to the setbacks. We have observed several new homes constructed along the scenic portion of Catoctin Creek that are visibly close to the water's edge. The setback per ZO93 is 200 feet, but this is often reduced to 100 feet. The houses are clearly visible from the creek and detracts greatly from the scenic river which was designated by the State in 1976.



Catoclin Creek Scenic River Advisory Committee
Protect, Preserve and Explore!

The second request is that zoning include a requirement for a **viewshed analysis**. As described in the 2019 Comprehensive Plan, *“Prepare and implement corridor management plans, including identifying and defining viewsheds for the County’s Scenic Rivers to protect their natural and scenic quality.”* Per Historic, Archaeologic, and Scenic Resources, HASR Policy 5, Strategy 5.1, Action O. Note further that the Comprehensive plan calls for *“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.”*

For example, development in the vicinity must require a viewshed analysis supported by field photographs.



<https://earthward.maps.arcgis.com/apps/mapviewer/index.html?webmap=5d158ea1aaec42a0a6256b5e6a676772>





Catoctin Creek Scenic River Advisory Committee
Protect, Preserve and Explore!

The Catoctin Creek Scenic River Advisory Committee was established by the Virginia Scenic Rivers Program. The Program's intent is to identify, designate and help protect rivers and streams that possess outstanding scenic, recreational, historic and natural characteristics of statewide significance for future generations. One of the Program's strength is the partnership forged between citizens, local government and the state. The Committee's focus is to build and utilize those partnerships in support of the health of the creek and preservation of the scenic corridor. Please view our "Story" at <https://earthward.maps.arcgis.com/apps/MapJournal/index.html?appid=28107b0f471d4fd099b29c99b4affc06>

Our mission is to preserve, protect and explore this wonderful natural resource. The Catoctin Creek Scenic River Committee can be reached at CatoctinScenicRiver@gmail.com.

Sincerely,

Bruce Johnson, Chair
Catoctin Scenic River Advisory Committee, Chair
www.CatoctinScenicRiver.org
<https://www.facebook.com/CatoctinScenicRiver>

Committee Members:

Eleanor Adams
Bruce Johnson
Joan Linhardt
Carol Matheny
David Nelson
Patti Psaris
David Ward

cc: Samantha Wangsgard, Virginia Department of Conservation and Recreation, Planning & Recreation Resources, Scenic Rivers Program (Samantha.Wangsgard@dcr.virginia.gov)



River and Stream - Zoning Review

Comparison of previous and current stream buffers

David Ward - Catoctin Creek Scenic Creek Advisory Committee

July 8, 2022

In the 2022 the Loudoun County, VA Draft Zoning re-write, a new "map" of riparian buffers has been defined. This StoryMap provides a visual display in support of developing review comments of the draft text. In summary, the draft buffer areas are similar to those from 2004 and should be adopted as an overlay district.

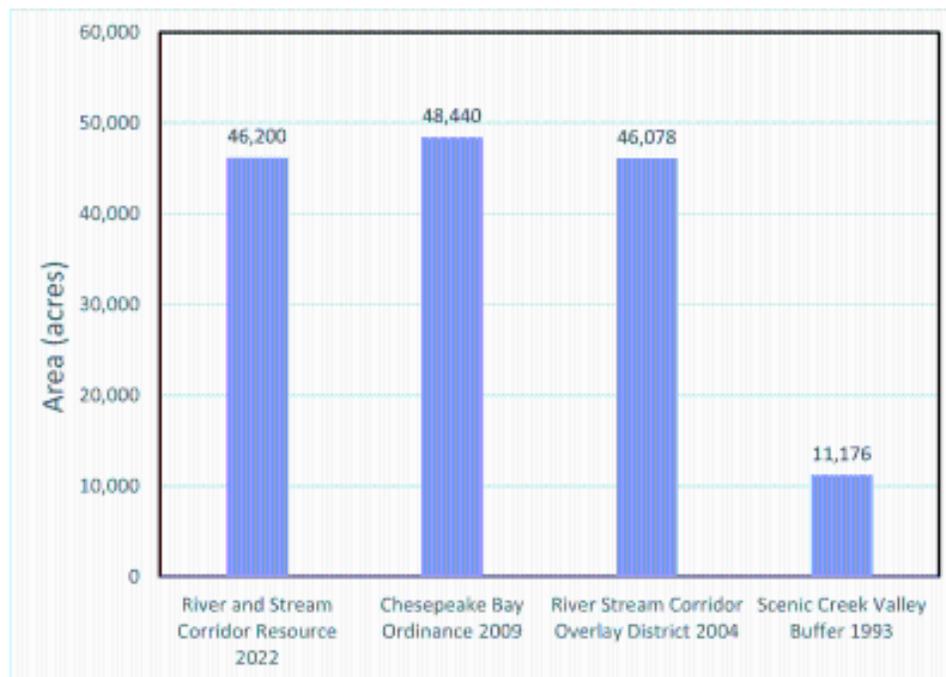
To best understand the new river and stream resource, a comparison with other management buffers is presented here. There are four maps of stream protection areas:

- 2022 DRAFT River Stream Corridor Resource Management Areas (RSCR)
- 2009 Chesapeake Bay Preservation Ordinance (CBPO) - Never adopted
- 2004 River Stream Corridor Overlay District (RSCOD) - Rescinded

- 1993 Scenic Creek Valley Buffer Zoning (SCVB) - Current zoning

Currently the effective zoning is based on the Scenic Creek Valley Buffer ordinance circa 1993 which has never been mapped at a County scale, however has been in use for 29 years. Development applications currently reply on the applicants to show their interpretation of the Scenic Creek Valley Buffer using a rather obscure definition of channel "scar line" and nontraditional measurements taken along the slope of the buffer. An approximate map representation shown below was recently created and offers a reasonable estimate of buffer.

In comparing the applicable areas, the Scenic Creek Valley Buffer is limited to major floodplain.



Total buffer area in acres.

The river and stream protection areas maps exclude the five towns as Loudoun County zoning only applies to unincorporated areas of the county.

The Draft 2022 RSCR is designated using conventional definition of bankfull benches and commonly used horizontal distance measurements. and is a composite of several buffers:

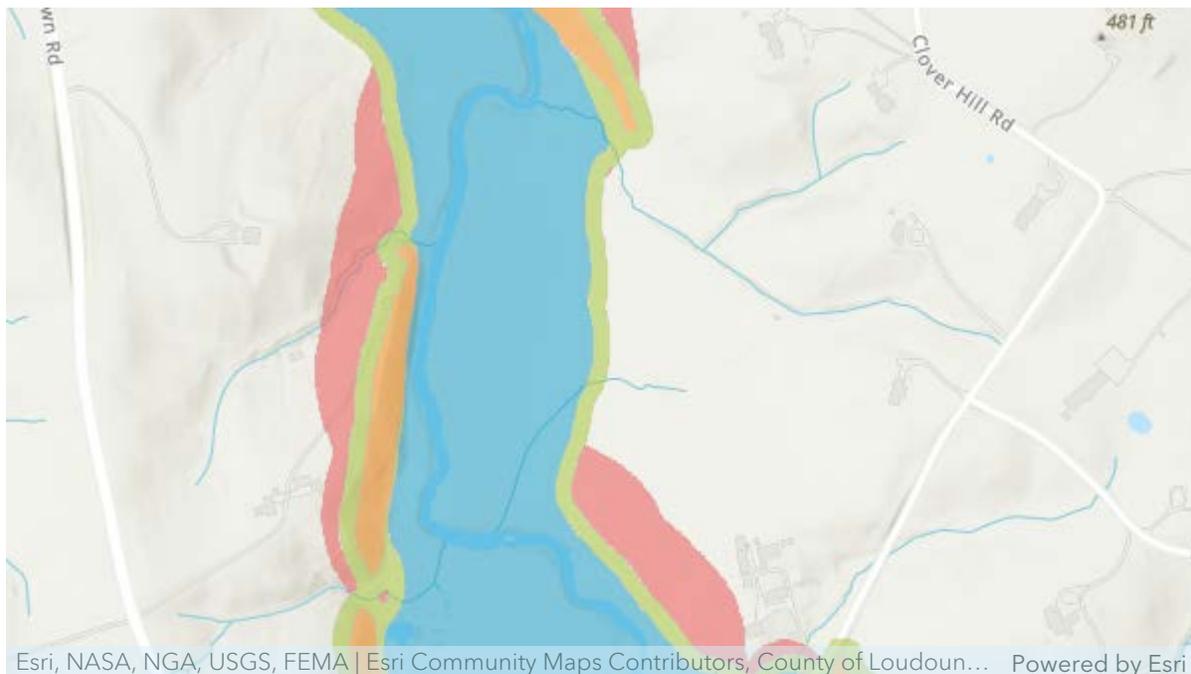
- Floodplains (major and minor) for 1% change or as it is commonly referred to 100-year flood, and
- Additional Management area (50 feet), and
- Minimum 300 foot wide buffer measured from the bankfull bench along each side of Scenic Rivers, the Potomac River, and Bull Run, or
- Minimum 100 foot wide buffer measured from the bankfull bench along each side of all other rivers and streams, and
- Very Steep slopes (terrain grade is greater than 25 percent).

Use the search tool in upper left of the below map of the 2022 Draft RSCR Management Area map with your address.

Note that the GIS files shown below were provided upon request to Loudoun County Office of Mapping in 2022. The data were assembled, however without bankfull bench distances. The County does not have an interactive display of the the river resources areas for public viewing, just the static map in the 2019 Comprehensive Plan.

Note further that the GIS files received do not reflect the approved 200-ft additional transitional buffer per Board of Supervisors June 1, 2021 meeting. There should be a total buffer of 500-feet along the Goose Creek, Catoctin Creek, Goose Creek Reservoir, Beaverdam Reservoir, Broad Run, Bull Run and Potomac River shoreline. In other words, the current draft does not reflect BOS approved 500-ft buffer on major waterways.

These maps may be very slow to load, so please be patient...



DRAFT River and Stream Resources 2022 (per zoning rewrite).

In 2009 the County had considered voluntary adoption of the Chesapeake Bay Preservation Act. The protection includes all wetlands and the riparian buffer width of 100 feet on each side of perennial streams.

The Chesapeake Bay Preservation Areas (CBPA 2009) dataset is comprised of Resource Protection Areas (RPA), Resource Management Areas (RMA), Perennial Waterbodies, and Non-Jurisdictional Areas. An RPA is (i) all wetlands connected by surface flow and contiguous to water bodies with perennial flow; and (ii) a 100-foot Buffer Area measured horizontally from, and located adjacent to and landward of (i) and along both sides of any water body with perennial flow, as measured horizontally from the channel scarline. An RMA is all areas of the County not designated as a Resource Protection Area. [Click here](#)

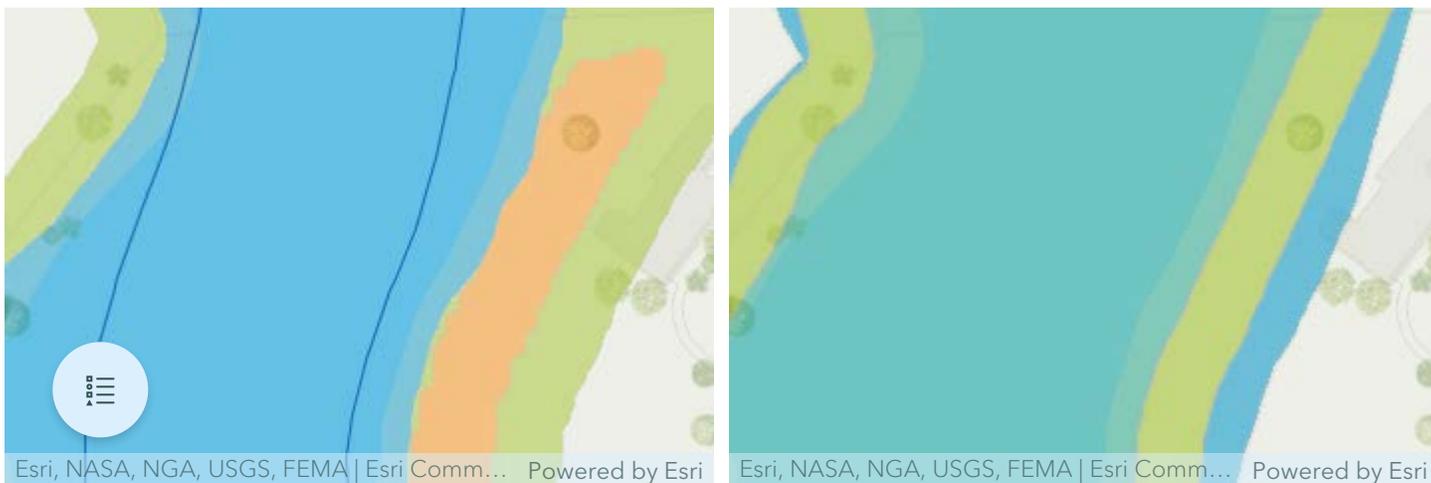
In 2004 the River Stream Corridor Overlay District (RSCOD), the district areas are composed of:

- Floodplain - boundaries reflect the limits of flooding resulting from a storm having an occurrence probability of 1% - identified as the 100-year storm, and
- Steep Slopes as derived from the soil layer, and
- Riparian buffers of 100 feet around rivers and streams that drain more than 100 acres, and
- Riparian buffers of 300 foot buffers around Beaverdam and Goose Creek Reservoirs, the Potomac River, Bull Run and state designated scenic rivers of Goose Creek and Catoctin Creek.

The 1993 Scenic Creek Valley Buffer ordinance has been in effect for the past 29 years. It is defined by inclusion (greater of) of:

- Major floodplains, and
- 250 feet measured along the slope of the ground from the channel scar line on the Potomac River, and
- 200 feet on each side of the creek measured along the slope of the ground from the channel scar line of the Scenic River designated portions of Goose Creek and Catoctin Creek, and
- 150 feet on each side of the creek measured along the slope of the ground from the channel scar line of each creek or stream not mentioned above, and
- Subject to 100 foot setback (reductions) when Forest Management or stormwater management facilities are included.

You can compare RSCR and RSCOD or RSCR and SCVB below using a swipe maps.



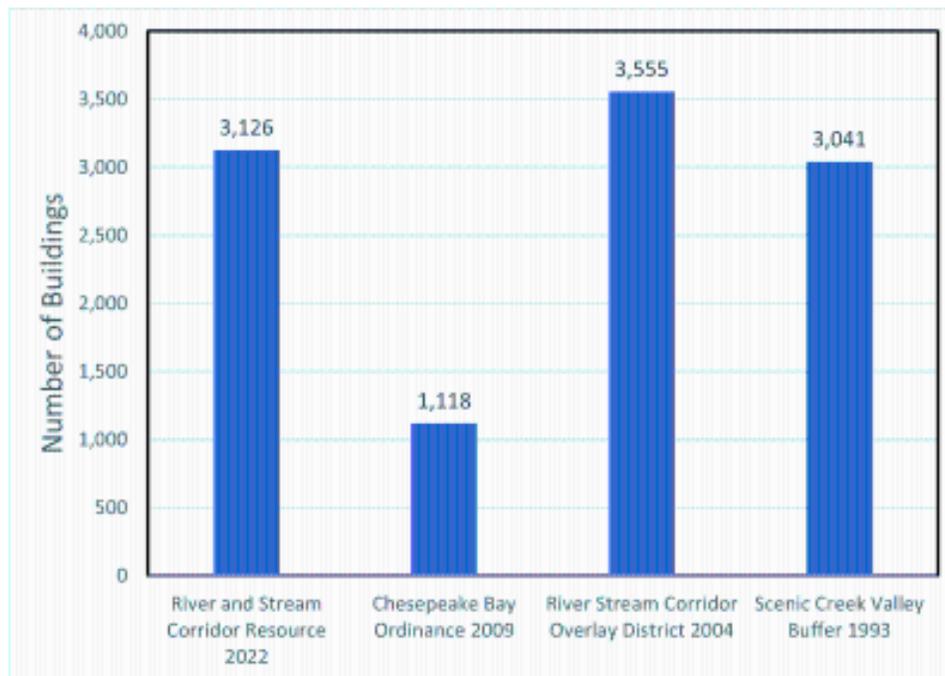
Swipe comparison - 2022 RCSR on left and 2004 RSCOD on right.

The map element are summarized as follows:

Buffers or Setbacks	River and Stream Corridor Resource 2022	Chesapeake Bay Ordinance 2009	River Stream Corridor Overlay District 2004	Scenic Creek Valley Buffer 1993
Floodplain	Yes	Not included	Yes	Not included
Scenic River (Goose and Catoclin Creek)	300 ft	Not included	300 ft	200 feet
Potomac River	300 ft	Not included	300 ft	250 feet
Reservoirs	?	Not included	300 ft	Not included
Stream	100 ft	100 ft	100 ft	150 feet
Extent of Streams included	Within all floodplains	All perennial streams (possibly beyond floodplain)	Within all floodplains	Just in Major Floodplain
Starting Measurement Point	Bankfull Bench			Scar Line - along slope
Additional Management Area	50 feet	Not included	50 feet	Not included
Steep Slopes	Very Steep Slopes (> 25%)	Not included	All Steep Slopes	Not included
Wetlands	Not explicitly	yes	Not explicitly	Not explicitly
Setback Reduction	Not included	Not included	Not included	Reduced (100 ft) or no setback with management plans or a stormwater facility
Existing lot development	All lots as of 2022	Not included	Not included	One residential as of 1993

Map component summary.

Using buildings with area greater than 850 sq ft (i.e., exclude sheds), the number of buildings within each zone show that the CBPO has far less than other maps. These "buildings" may be existing homes or barns and might be non-conforming structures. These "buildings" are a small percentage of the 100,000 buildings in Loudoun County.



Number of buildings in stream protection areas.

Summary Comments:

The 2022 RSCR Management Areas are similar to 2004 RSCOD Overlay District.

Differences in the allowable uses in RSCR and RSCOD is not known in detail, but are likely similar.

The current 1993 SCVB applies to substantially less area and allows for unnecessary setback reductions.

None of the maps areas address headwater protection (intermittent or ephemeral streams).

None of the mapping strategies address imperviousness or population or road crossings.

Management areas do not consider existing stream health and EPA-designated impairments due to excessive pollution (bacteria, sediment, etc.).

Management areas do not include analysis and recommendations for pollution reduction in Watershed Management Plans (Upper Broad Run and Western Hills) which only cover 25% of Loudoun).

None of the management areas consider forest cover or land use classification.

The current 300-ft setback along major waterways should be 500 feet to reflect the decision on June 1, 2021 BOS Business meeting.

Photo Credits

Cover image overlooking Catoctin
Scenic River, just north of
Waterford

Lauren Hart



**ZOAM-2020-0001-Zoning Ordinance Rewrite (ZOR)--
DRAFT TEXT INPUT**
Prepared by Catoctin Creek Scenic River Advisory Committee

Section Ref.	COMMENTS TO ZONING ORDINANCE REWRITE DRAFT TEXT
4.01 General Provisions of Overlay Districts	4.01 Why is there no re-instatement of the River Stream Corridor Overlay District (RSCOD) which was overturned on technicality in advertisement back in 2004? The RSCOD was approved and temporarily adopted in 2003-2004 and can easily adopted now. The draft language of RSCR is very close to that of the former RSCOD, so there should be no problems with adoption as an overlay district.
4.01 General Provisions of Overlay Districts	4.01 Why is there no overlay district for protection of streams and riparian zone? The 2019 General Plan states that the River and Stream Corridor Resources (RSCR) "constitute the County's largest natural ecosystem, supporting air quality, water quality, and biological diversity. If the floodplain and adjacent steep slopes are less than 100 feet beyond either stream bank, a 100-foot minimum stream buffer will protect the river and stream corridor. The buffers help to maintain stream bank stabilization, temperature moderation, flood control, and aquatic habitat as well as filter nutrients and sediments from upland disturbances and adjacent development. Because rivers and streams and their associated floodplains are dynamic, the buffers help to ensure that development adjacent to the floodplain today will not be in the floodplain in the future. The 50-foot management buffer can be reduced if it can be shown that a reduction does not adversely impact the floodplain, adjacent steep slopes, wetlands, and riparian forests of the river and stream corridor only guidance. The RSCR is mapped on page 14 at https://www.loudoun.gov/DocumentCenter/View/152286/General-Plan---Maps Therefore the RSCR is "mapped" and should be designated as an overlay district in Chapter 4.
4.01 General Provisions of Overlay Districts	4.01 What replaces the current implementation in the Revised Zoning Ordinance 1993 (R93ZO) Scenic Creek Valley Buffer ordinance Section 5-1000? It appears to be the RSCR which is a performance standard and should be identified as an overlay district.
5.03.01 River and Stream Corridor Resources	5.03.01 Where is no overlay district to protect streams? The current 2-page 1993 Scenic Creek Valley Buffer ordinance that has governed development for the past 28 years, has been shown by the poor stream health as indicated by the EPA-approved stream impairments to be inadequate. As a result of uncontrolled land development, we have seen significant and ever increasing degradation on stream aquatic life and habitat, both of which are critical to maintaining the scenic beauty of the waterways. Therefore the RSCR should be implemented formally as an overlay district and be mapped as such.

Section Ref.	COMMENTS TO ZONING ORDINANCE REWRITE DRAFT TEXT
5.03.01 River and Stream Corridor Resources	5.03.01 Where is protection from dam inundation and zoning implementation in the form of a Subdivision ordinance? The Code of Virginia states that a Subdivision ordinance shall include reasonable regulations and provisions which include impact within dam inundation zones. Regulations: Code of Virginia 15.2-2241(A)3 Section 3. "For adequate provisions for drainage and flood control, for adequate provisions related to the failure of impounding structures and impacts within dam break inundation zones, and other public purposes, and for light and air, and for identifying soil characteristics;" per https://law.lis.virginia.gov/vacode/title15.2/chapter22/section15.2-2241/
5.03.01 River and Stream Corridor Resources	5.03.01 Where is conditional permitting process implemented in cases where the is dam inundation impacts? According to Code of Virginia § 15.2-2295.2. Dam break inundation zones. "A locality may by ordinance require the modification of an application for zoning modification, a conditional use permit, or a special exception for the area of a development that is proposed within a mapped dam break inundation zone." per https://law.lis.virginia.gov/vacode/title15.2/chapter22/section15.2-2295.2/ The State has allowed the County to regulate development in the inundation zone, therefore there should be conditional permitting, possibly as a special exception, prior to development approval.
5.03.01 River and Stream Corridor Resources	5.03.01 Where is the public display of a zoning map of dam inundation? The map which must include mapping and protection of properties though public display and posting of dam inundation zones as required per Code of Virginia 15.2-2224-2 Section B. "The comprehensive plan shall recommend methods of implementation and shall include a current map of the area covered by the comprehensive plan. 7. A map of dam break inundation zones." Please include a map of inundation zones.
5.03.01 River and Stream Corridor Resources	5.03.01 Where is the map of groundwater recharge areas? Zoning must include overlay districts and/or identification of recharge areas required to ensure continued availability, quality, and sustainability of groundwater and surface water as required by Code of Virginia 15.2-2223(C) 4. "The designation of areas for the implementation of reasonable measures to provide for the continued availability, quality, and sustainability of groundwater and surface water;" Furthermore, the map needs to routinely updated as development occurs in the form of imperious area.
5.03.01 River and Stream Corridor Resources	5.03.01 Can an interactive (Web GIS) version of the RSCR map be made available? The scale is such that we are unable to view and assess the various zones. There is a RCSR Map included in the 2019 Comprehensive Plan. Using data provided by Office of Mapping we created an interactive map at https://earthward.maps.arcgis.com/apps/mapviewer/index.html?webmap=e4a3f9df98ee4804bb58a2ead1047a57 This was done by excluding the distance from "Bankfull Bench" which is unmappable at County scale and an unnecessary encumbrance offering limited ecological protection on water quality.
5.03.01 River and Stream Corridor Resources	5.03.01 Has the county mapped stream bankfull benches through all river reaches in the County? If so, how? Did this cover the over 1,500 miles of perennial streams? Are these included in the static RSCR map? It would seem that adding bankfull benches is an unnecessary complications. There is no mention of bankfull benches in the 2019 Comprehensive Plan. It is an unnecessary complication which appears in the DRAFT Zoning ordinance which should be stricken.

Section Ref.	COMMENTS TO ZONING ORDINANCE REWRITE DRAFT TEXT
5.03.01 River and Stream Corridor Resources	5.03.01 When will the County map the true extent of perennial streams? This is critical to include all perennial stream in the RSCR Management Area. There is an ad-hoc representation of perennial streams using historical soil drainage lines. These drainage lines were estimated to be about 900 miles which is larger than the USGS blue lines of about 500 miles. Nonetheless, the soil drain lines do not display the estimated 1,500 stream miles as identified and estimated in the 2009 Loudoun County Stream Assessment. In other words, it is know that perennial stream extend further upstream than the current RSCR Management Areas which stop at the 100-acre drainage area watershed. In 2009 there was a statistical analysis in a memo by staff presented to the Water Rersources Technical Advisory Committee of the 155 perennality points field verified in 2009 in which the drainage areas for headwater perennality streams was between 20 and 40 acres. Therefore the current definition of RSCR should be extended to include a minimum buffer (50 or 100 feet) on headwater streams which drain less than 100 acres.
5.03.01 River and Stream Corridor Resources	5.03.01 Has the County explored the acreage impacted by the River and Stream Management Areas? In the Story Map at https://storymaps.arcgis.com/stories/8be0799afc06431e9261787a2c7179d4 , the acreage is estimated to be about 42,000 acres. This is comparable to the areas defined in River and Stream Corridor Overlay District which as rescinded in 2004. The proposed River and stream Resource Management Area is about 4 times larger that the area in the once-proposed Chesapeake Bay Preservation Act ordinance of about 11,000 acres.
5.03.01.D	5.03.01.D How are bankfull benches defined? We are pleased to see that the ZOR no longer references the undefined and obscure "scar line" definition.
5.03.01.D	5.03.01.D Rather than use bankfull benches, why not just map from the water's edge? In almost all locations throughout Loudoun, the aggregated width of the River and Stream Resource Management Area will be defined based on floodplain and scenic setback elements. Using bankfull bench only complicates the definition. It cannot realistically be mapped county-wide and impinges on the ability to create a recognized overlay district. The cost of field work to support such mapping is prohibitive. Please keep the definition simple and remove bankfull bench.
5.03.01	5.03.01 How will source water quality be protected if the quarries that Loudoun Water plans to use for water storage are no included in the reservoir protection area? Will there be "reservoir protection areas" added 5 miles up the watershed as we now have for existing reservoir (i.e. Goose Creek Reservoir)?
5.03.01 River and Stream Corridor Resources	5.03.01 What protections are in place for water bodies within the "Reservoir Protection Areas? Will there be an Overlay District defined to protect these source waters? If we are defining Overlay Districts for floodplain and river corridors, it is logical then to use an Overlay District buffering reservoirs. Neighboring Counties have enacted reservoir protection overlays and Loudoun should do so also.
5.03.01.E	5.03.01.E. Why is there not a specific overlay district defined that will be protective of the RSCR Management Areas? Why can't the RSCR Management Area as mapped, become the RSCR Overlay District and be recognized and named as such?

Section Ref.	COMMENTS TO ZONING ORDINANCE REWRITE DRAFT TEXT
5.03.01.D	5.03.01.D How the edge of the river defined when identifying the RSCR Management areas? Are distances measured from the average river edge per spring photogrammetry ? Are distances measured from normal pool elevations of ponds? At what scale are double line streams mapped as single line streams? These questions and specification are critical to documenting the RSCR map.
5.03.01.D	5.03.01.D Are the Scenic Rivers just those as designated and recognized by the state per Virginia Scenic Rivers Act of 1970, §10.1-400.? What about possible future extension to the Scenic River Designations. The State routinely allows for extensions to be added each year.
5.03.01.D	5.03.01.D If additional river reaches are added to the list of state designated Scenic Rivers, how will this be handled? (Scenic River as designated per Virginia Scenic Rivers Act of 1970, §10.1-400)
5.03.01.D	5.03.01.D Why are RSCR Management Areas defined using bankfull benches, when identification of the bench requires detailed on the ground field inspection and is generally used only in discussion of stream restoration protects? There are many, many reaches in Loudoun County where identification of bankfull benches are simply non-existent.
5.03.01.D	5.03.01.D Why are RSCR Management Areas defined using bankfull benches, when there are many reaches in Loudoun County where identification of bankfull benches are simply impossible?
5.03.01.D	5.03.01.D What is the procedure that will be used to measure bankfull bench of the RSCR Management Areas?
5.03.01.D	5.03.01.D What professional staff qualifications are required to make bankfull bench determinations? Would a person need to have licenses for PE, PG, Certified Wetlands delineator?

Section Ref.	COMMENTS TO ZONING ORDINANCE REWRITE DRAFT TEXT
5.03.01.E	5.03.01.E The categories in table 5.03.01E are not logical, hydrologically speaking. In the first section, there are setback for the Scenic Rivers, the Potomac River, Bull Run and Broad Run. Relative to historical designation the 300-foot setback appears to have been extended to also include Bull Run and Broad Run. Bull Run and Broad Run are not included in the 1993 Scenic Creek Valley Buffer Ordinance. The State-designated Scenic Rivers are limited to the primary channel of Catoctin Creek (16 river miles) and the primary channel of Goose Creek (over 25 miles in Loudoun, 48 miles total). The Scenic Rivers do not include tributaries such as (South Fork Catoctin, North Fork Catoctin, Beaverdam Creek, North Fork Goose Creek and others.) The second section with 100-foot setback is for all other streams and rivers. It is unclear exactly what constitutes a stream or river. There are many streams that the USGS has not assigned names. Possibly what is needed here it to identify "Major" streams which can be defined by the drainage area. For example, Catoctin Creek has a drainage area of over 92 square miles. The subwatersheds of North Fork Catoctin and South Fork Catoctin Creek watersheds drain 38.1 and 31.6 square miles, respectively. So the main channel which is close to the State-Designated Scenic River drains about 22 square miles. A logical definition of "major" stream might be watershed larger than 30 to 40 square miles. Watersheds that would not be "major" would include Limestone Branch (7.9 square miles) and Piney Run (13.5 square miles).
5.03.01.E	5.03.01.E How can the outermost 25 feet be allowed to be modified if the Outermost Required Buffer is not the 50-ft management buffer, but is actually the floodplain boundary? It would be inconsistent to allow the Zoning Administrator allow exempt uses in the outermost 25 feet if this is floodplain or steep slopes. This is because the outermost zone in RSCR is not always the 50-ft management buffer. For example, as written, the exemption for a house or barn (5.03.01.E.4.b) which is a structure associated with a principle use should not be allowed if the outermost 25 feet is the floodplain.
5.03.01.E	5.03.01.E Modification of the Outermost Required Buffer. What constitutes a modification? Does this include: tree removal, tree planting, removal of invasive species, dredging, floodplain reconnection or fence construction?
5.03.01.E.4.b	5.03.01.E.4.b What is a "principal" permitted use? Seems like the back reference would allow a single family home, driveway, shed and other structure. This seems to be a major loophole and is not protective of the RSCR Management Area.
5.03.01.D.3	5.03.01.D.3 How are streams defined? Is this all streams including perennial, intermittent and non-perennial? Does this include all "drain" lines at 1:2,400 scale per county basemap GIS? Are streams defined based on outdated USGS "blue lines" Will perennality be addressed in defining streams, and if, so, what protocol will be used to define perennality? Will the Fairfax County perennality method be adopted?
5.03.01.H	5.03.01.H How can the County "legally" prohibit permanent or temporary diversion of any Scenic River? Prohibition is defined in the Code of Virginia in which the required authorization is done by the Virginia General Assembly vote per Code of Virginia - Title 10.1. Conservation » Subtitle I. Activities Administered by the Department of Conservation and Recreation » Chapter 4. Scenic Rivers Act » § 10.1-407. The County is not authorized to control stream diversion.

Section Ref.	COMMENTS TO ZONING ORDINANCE REWRITE DRAFT TEXT
5.03.01.H	5.03.01.H Can the River and Stream Resources be extended to include headwater streams? For example, the Chesapeake Bay Preservation Act uses a 50-ft buffer around all "perennial streams". In Loudoun County, the cutoff for minor floodplain is 100 acres in defining the floodplain overlay district. However, based on findings from the 2009 Loudoun County Stream Assessment, perennial streams generally extend further into the watershed to drainage areas well below 100 acres. The definition of the River and Stream Corridor Resource management areas should be extended to include a 50-ft buffer around perennial streams in drainage areas less than 100 acres. The ordinance could be implemented through the Facility Standards Manual to allow for exemption based on field perenniality determination. Note that Fairfax County protects all perennial streams.
5.03.01.D.3	5.03.01.D.3 Why is there a 450-foot break in RSCR in PIN 216495854000 north of 42350 LOVETTSVILLE RD as there should be a 100-foot buffer on each side of the stream? See the maps at https://storymaps.arcgis.com/stories/8be0799afc06431e9261787a2c7179d4 and enter the address.
5.03.01 River and Stream Corridor Resources	5.03.01 Why is the same cyan color used for both water bodies and floodplain? This makes readability of the RSCR Management area difficult to assess, specifically PIN 114256156000. See the maps at https://storymaps.arcgis.com/stories/8be0799afc06431e9261787a2c7179d4 and zoom to Luckstone Quarry across from 19951 BELMONT STATION DR
5.03.01 River and Stream Corridor Resources	5.03.01 Why are stream centerlines hidden by the floodplain component of the RSCR Management Areas? Without the stream centerline it is more difficult to view the RSCR Management Area.
5.03.01 River and Stream Corridor Resources	5.03.01 Why are inline ponds not buffered and included in the RSCR Management area such as in PIN 267363686000? The address is 40755 CARPER LN. See the maps at https://storymaps.arcgis.com/stories/8be0799afc06431e9261787a2c7179d4 and enter the address.
5.03.01 River and Stream Corridor Resources	5.03.01 Why are the tree in the cross section drawn such that base of tree is below ground surface? The display is a cross section, not a perspective diagram. The diagram is located at https://loudouncoalition.org/wp-content/uploads/2022/01/2022-01-05-Static-Maps-and-Graphics.pdf
5.03.01 River and Stream Corridor Resources	5.03.01 Why is there no buffer around the Beaverdam Reservoir in defining the RSCR Management Area? It is noted that Beaverdam Reservoir is included and buffered in the Reservoir Protection Area map per WebLogis.
5.03.01 River and Stream Corridor Resources	5.03.01 Why is there no buffer around the Milestone Reservoir (former Luckstone quarry) in defining the RSCR Management Area?
5.03.01 River and Stream Corridor Resources	5.03.01 Why is there no mention of Landfill Water Supply Overlay District? Please consider re-establishing this District.

Section Ref.	COMMENTS TO ZONING ORDINANCE REWRITE DRAFT TEXT																								
5.03.01 River and Stream Corridor Resources	5.03.01 Can a calculation of the number of miles of perennial streams and total length of streams within the 100-year floodplain down to drainage area of 100 acres be made? Our rough ballpark estimate is that there may several tens of miles of perennial stream which drain less than 100 acres (minor floodplain minimum).																								
5.03.01 River and Stream Corridor Resources	5.03.01 How does the number of stream miles (i.e., the extent of applicability) in the RSCR compare with the Chesapeake Bay Preservation Act which is protective of all perennial streams?																								
5.03.01 River and Stream Corridor Resources	5.03.01 How will the new RSCR interface with the legacy Town of Leesburg Creek Valley Buffer ordinance, specifically along Tuscarora Creek which is split along town boundaries? https://www.leesburgva.gov/home/showdocument?id=4536																								
5.03.01 River and Stream Corridor Resources	5.03.01 Can the 155 Points of perennality as identified in the Loudoun County 2009 Stream Assessment be used to support creation of a field verified map of perennial streams? The report at https://www.loudoun.gov/DocumentCenter/View/5091/Stream-Assessment--Results-Report only covered a portion of the County.																								
5.03.01 River and Stream Corridor Resources	<p>5.03.01 What is the estimated the total stream miles in Loudoun County are subject to RSCR? How does this compare to other stream miles? For example:</p> <table border="1" data-bbox="302 808 2032 1224"> <thead> <tr> <th></th> <th>Perennial</th> <th>Intermittent</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>USGS NHD High Resolution (24K)</td> <td>485</td> <td>793</td> <td>1,277</td> </tr> <tr> <td>USGS NHD Medium Resolution (100K)</td> <td>456</td> <td>264</td> <td>721</td> </tr> <tr> <td>Historic Soil Drains (2,400 scale)</td> <td>952</td> <td>4,791</td> <td>5,743</td> </tr> <tr> <td>Perennial drains (CBPO) in 2009</td> <td>1,000</td> <td></td> <td></td> </tr> <tr> <td>Estimate from field perennality (2009)</td> <td>1,500 (not mapped)</td> <td></td> <td></td> </tr> </tbody> </table>		Perennial	Intermittent	Total	USGS NHD High Resolution (24K)	485	793	1,277	USGS NHD Medium Resolution (100K)	456	264	721	Historic Soil Drains (2,400 scale)	952	4,791	5,743	Perennial drains (CBPO) in 2009	1,000			Estimate from field perennality (2009)	1,500 (not mapped)		
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5.03.01 River and Stream Corridor Resources	5.03.01 Re-enactment of RSCOD (2004) is supported by the Loudoun County Comprehensive Watershed Management Plan 2008. The recommendation is "At a minimum, reduce requirements to establish stream buffer from watersheds greater than 640 acres to include all perennial streams." (This recommendation could be achieved with approval and implementation of one of the stream buffer ordinances [Chesapeake Bay Act or RSCOD] currently being considered by the Board.) (From CWMP report item # 23.)																								

Section Ref.	COMMENTS TO ZONING ORDINANCE REWRITE DRAFT TEXT
5.03.01 River and Stream Corridor Resources	5.03.01 Please discuss and compare areas in RSCOD (2004) and RSCR Management Areas (Draft 2022). Using GIS files supplied by Loudoun County Office of Mapping the maps may be viewed at https://storymaps.arcgis.com/stories/8be0799afc06431e9261787a2c7179d4
5.03.01 River and Stream Corridor Resources	5.03.01 The performance standards should include a viewshed analysis for proposed developments along the state-designated a Scenic Rivers (Goose and Catoctin Creeks) in following the 2019 Revised Comprehensive Plan Page 3-27 "River typically involves looking at both the view from the resource itself as well as the view towards the resource." The performance standard would expand the scope beyond the 300-foot buffer. Restrictions would require minimization of the visual impact on the scenic rivers.
5.03.01 River and Stream Corridor Resources	5.03.01 The RSCR description should include viewshed analysis and setback requirements along the Scenic Rivers and the Potomac River. The 2019 Revised Comprehensive Plan: "Prepare and implement corridor management plans, including identifying and defining viewsheds for the County's Scenic Rivers in order to protect their natural and scenic quality."
5.03.01 River and Stream Corridor Resources	5.03.01 The RSCR should require that a viewshed analysis be performed as referenced in the 2019 Comprehensive Plan. An example may be seen at https://earthward.maps.arcgis.com/apps/mapviewer/index.html?webmap=5d158ea1a0ec42a0a6256b5e6a676772 Here the observer height is assumed at 6 feet. Range of search was limited to 2 miles. Underlying DEM is 10-meter National Elevation Data from US Geological Survey.
5.03.01 River and Stream Corridor Resources	Table 5.03.01E. The full 500-ft setback is missing. This table is in direct conflict with Board of Supervisors vote on June 1, 2021 to expand the buffer to 500 feet. This is comprised of the 300 foot setback which is shown in the table, but the table fails to include the "approved" 200-foot transitional setback. See https://lfportal.loudoun.gov/LFPortalInternet/0/edoc/511067/Item%2014%20BMI-Source%20Water%20Protection.pdf and https://lfportal.loudoun.gov/LFPortalInternet/0/edoc/514023/Item%2014%20BMI%20Source%20Water%20Protection.pdf
5.03.01 River and Stream Corridor Resources	Table 5.03.01E. This is missing the 200-foot transition setback. The restrictions should be less than the primary 300-foot buffer, but what are the restrictions? Is there a restrictions on grading and clearing within the 200-foot transition? This transition was approved in June 2021. See https://lfportal.loudoun.gov/LFPortalInternet/0/edoc/511067/Item%2014%20BMI-Source%20Water%20Protection.pdf and https://lfportal.loudoun.gov/LFPortalInternet/0/edoc/514023/Item%2014%20BMI%20Source%20Water%20Protection.pdf
4.03.01 FOD Definitions	The minor floodplain is defined as river reaches which drain between 640 acres (1 square miles per FEMA) and 100 acres. The 100 acre limit is too great and should be reduced to 70 acres are is done in Fairfax County. https://online.encodeplus.com/regs/fairfaxcounty-va/doc-viewer.aspx#secid-251

From: Karlie Kinneer
To: [Karlie Kinneer](#)
Subject: [EXTERNAL] DAAR Review of Loudoun County Zoning Ordinance Rewrite
Date: Friday, July 8, 2022 12:08:25 PM
Attachments: [image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[DAAR ZO Rewrite Memo.pdf](#)

Dear Loudoun County Officials,

The Dulles Area Association of REALTORS® (DAAR) is releasing a memorandum today following an in-depth review of Loudoun County’s draft Zoning Ordinance. The memorandum includes recommendations for improvements, as well as potential concerns for the County’s residents, property owners, developers, and other stakeholder groups. [The full document is attached and can also be found by clicking here.](#)

Throughout the memorandum, DAAR points out several potential issues with the draft Zoning Ordinance, including questioning whether the draft is aligned with the county’s existing Unmet Housing Needs Strategic Plan (UHNSP) or the impacts it may have on the production of affordable units.

Additional issues addressed in the memorandum include a general lack of information and guidance for the public regarding the specific differences between the existing Zoning Ordinance and the draft, potential effects of the proposed Mountainside Resource Protection Setback, and the reduction of lot coverage allowances for agricultural districts.

Please contact DAAR with any questions.

Karlie Kinneer
Communications Specialist
Dulles Area Association of REALTORS®

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MEMORANDUM

From: Dulles Area Association of REALTORS® (DAAR)

Subject: Loudoun County, Virginia Zoning Ordinance Rewrite

In reviewing this memorandum, please note that we are not Virginia attorneys, and that our analysis reflects our review of the issues discussed from the perspective of our general experience with land use planning, policies, and techniques, along with their implementing laws and regulations. We do not purport to offer a legal opinion or legal advice with respect to the interpretation and effect of Virginia law.

EXECUTIVE SUMMARY

This memorandum argues that Loudoun County (the “County”) should provide the public with more information and guidance on how the draft zoning ordinance¹ (the “Draft ZO”) differs from the 1993 comprehensive rewrite of its zoning ordinance (the “Existing Zoning Ordinance”). It is unreasonable for the County to expect the public to digest the nearly 1,300 pages in the Existing Zoning Ordinance and the Draft ZO² and identify and comment meaningfully on the changes without providing guidance to help them understand exactly what the County proposes to change and why. It also argues that the Draft ZO appears to disregard, in whole or in part, most of the recommendations in the recently adopted Unmet Housing Needs Strategic Plan for zoning amendments to address housing affordability. In addition, it discusses how some of the proposed changes to the Affordable Dwelling Unit Program could have the unintended consequence of discouraging the production of affordable units. A particular concern is that the Draft ZO would increase the affordable housing requirement but does not appear to offer any additional incentives to offset the added burden on developers.

The memorandum also questions the rationale for offering a FAR bonus rather than a density bonus under the proposed Unmet Housing Needs Unit (UNHU) Program. It seems doubtful that a FAR bonus will incentivize the production of additional affordable housing. It also raises the concern that the proposed Mountainside Resource Protection Setbacks, which would prohibit development within 100 linear feet of a ridgeline, could expose the County to regulatory takings claims as it is applied to certain properties. Finally, it points out that the existing AR-1 and AR-2 district regulations are predominantly carried over to the proposed Agricultural Rural North (ARN) district and Agricultural Rural South (ARS) district regulations but cautions that the Draft ZO would reduce the maximum lot coverage allowances for the ARN and ARS districts and does not appear to implement some of the Rural Policy Area action items from the 2019 Comprehensive Plan.

¹ See generally “About the Zoning Ordinance Rewrite,” Loudoun County Planning & Zoning (<https://www.loudoun.gov/5717/About-the-Zoning-Ordinance-Rewrite>).

² A comprehensive summary of the zoning ordinance rewrite process to date is available in “Zoning Ordinance Rewrite” blog, which is available online at <https://www.loudoun.gov/Blog.aspx?IID=75#item>.

ANALYSIS

Issue: The County should provide the public with more information and guidance on how the Draft ZO differs from the Existing Zone Ordinance.

In some respects, the County’s effort to facilitate public involvement in the Zoning Ordinance Rewrite process has been commendable. According to the Zoning Ordinance Rewrite website, for example, early in the process the County held two rounds of “preliminary public engagement,” including 56 in-person and remote public input sessions with community groups and advisory bodies. The County also created both a website and a blog dedicated to the Zoning Ordinance Rewrite, each of which contains “project updates” and provides access to copies of documents and other information regarding the rewrite process, including meeting notices, videos of prior meetings, copies of presentations, and the ability to sign up to receive updates on the Zoning Ordinance Rewrite.

After publishing the Draft ZO, the County established a 90-day public comment period and invited residents, businesses, community groups, and other stakeholders to review and comment on the Draft ZO, prior to a Planning Commission public hearing that is anticipated to take place in fall 2022. While a 90-day public comment period might seem generous, the County arguably has not done enough to provide members of the public with the tools they need to understand how the Draft ZO differs from the Existing Zoning Ordinance. The volume of materials involved makes that especially concerning— the County is proposing to repeal the Existing Zoning Ordinance, which is more than 1,000 pages long, and replace it with an entirely new set of zoning regulations in the Draft ZO, which currently contains 288 pages, not counting the table of contents.

For residents, landowners, developers, and other stakeholder groups, the task of reviewing and commenting on even fairly straightforward update of a community’s zoning regulations can be daunting. However, that task is even more difficult where the existing regulations are being repealed and replaced in their entirety, as the County is proposing to do. Based on a review of the County’s Zoning Ordinance Rewrite website and related blog, it appears that the County has provided the public with little information about how the Draft ZO differs from the Existing Zoning Ordinance.

The “table that compares Existing Zoning Districts with Draft New Zoning Districts,” for example, only lists the names of the existing and proposed zoning districts; it says nothing about whether or how the regulations for each of the new zoning districts differ from the corresponding existing districts. The website and the blog both include links to a “May 2 staff presentation” with some slides discussing “What’s New?” in certain chapters of the Draft ZO, but these slides do not have enough detail to be very useful.³ For example, one of the items listed under “What’s New?” in Chapter 3 (Uses) states: “Some uses have been added or deleted in certain zoning districts based on General Plan policy guidance.” Without more specific information about which uses, or categories of uses, were added or deleted in particular zoning districts, this statement does not help readers to understand how the use regulations would change if the Draft ZO is adopted.

It appears that the County has chosen to simply release the Draft ZO for public review and leave it up to interested members of the public to figure out on their own what has changed. Local legislative bodies

³ See Virtual Public Engagement Meeting, Zoning Ordinance Rewrite, May 2, 2022 (available online at <https://www.loudoun.gov/DocumentCenter/View/169936/Public-Meeting-PowerPoint-Presentation>).

often use a redline/strikeout approach in drafting new zoning codes and other legislation in order to show how the legislation would add and delete language from existing regulations and ordinances. The County could create a “redline” version of the Draft ZO in order to show how exactly its text differs from the text of the Existing Zoning Ordinance, and make that version available to the public, but it apparently has not done that. While this tool may be of limited benefit for the sections of the Draft ZO that are essentially entirely new, it could be helpful, particularly for Chapter 2 and Chapter 3. These chapters address the various zoning districts and uses, most of which are very similar to the comparable district regulations in the Existing Zoning Ordinance. The redline would be a good tool to show readers exactly what has changed.

In addition to providing a standard redline markup, there are other ways the County could provide a more meaningful guide to proposed changes. Examples of communities that used a better approach include the City of Wilmington, North Carolina, which completed a comprehensive rewrite of its Land Development Code in November 2021 and Fairfax County, Virginia, which completed a similar process in March 2021. Rather than simply publishing the proposed updates and inviting public comment, these jurisdictions took steps to ensure that residents and stakeholders understood how each chapter of its draft code update differed from its former counterpart. These steps included:

- **Article-by-Article Update:** Rather than drafting and seeking public input on the entire draft Land Development Code, Wilmington took a more deliberate approach in which individual chapters were presented separately for public review. For example, in February 2021, planning staff gave a public presentation on the draft of Article 2 (Zoning Districts), followed by presentations on draft Article 3 (Use Standards) in March and draft Article 6 (Subdivisions) in April. Fairfax County organized its outreach in a similar manner, with sessions organized by general topics such as “accessory structures and other residential changes” and “commercial and industrial changes.” *Comment:* While an article-by-article or topic-based process may take longer to complete, it gives residents and stakeholders the benefit of digesting a very large and cumbersome document in smaller bites, rather than having to absorb it all at once.
- **Public Information Meetings:** Rather than holding one or more public meetings to present and seek public input on the *entire* draft Land Development Code, Wilmington held public information meetings on each draft article. At these informational meetings, planning staff and the City’s planning consultant provided an overview of the key “Planning Themes” and Policies underlying the draft article, together with a series of slides summarizing “What is Changing” and “What is NOT Changing.” For example, the presentation for proposed Article 2 (Zoning Districts) discussed which existing zoning districts would be eliminated and which would remain unchanged.⁴ A similar effort was used in Fairfax County, where a multi-year outreach project called “zMOD” included a series of “lunch and learn” sessions that were organized by specific topics (e.g., accessory living units and home-based businesses). *Comment:* These public presentations inform attendees about the changes being proposed to a particular article or topic and also give them the opportunity to engage in a deeper discussion of particular issues related to that article than would be possible at a meeting designed to receive public input on the entire draft code.

⁴ See Wilmington LDC Article 2 Presentation Slides (available online at <https://www.wilmingtonnc.gov/home/showdocument?id=11392>).

- **Written Summaries:** In addition to the public presentations, Wilmington created a separate webpage for each draft article that described in detail “What is Changing” and “What is NOT Changing.” Each webpage also contained links to the presentation slides, a video of the public meeting on the draft article, and a one-page “Overview Sheet” describing and summarizing how the draft article differed from its counterpart in the prior land development code.⁵ Fairfax County also provides extensive topic-focused information on its website.⁶ There are both videos of the lunch and learn sessions as well as the presentation materials from these sessions readily available. The County also provided a succinct three-page handout that summarized the proposed changes to the zoning code.⁷

The City of Wilmington’s and Fairfax County’s deliberate approach was designed to elicit public interest in and facilitate understanding of the proposed zoning revision. By contrast, the County has chosen to publish the Draft ZO in its entirety and invite public comment all at once. It is unreasonable for the County to expect the public to identify and comment on the changes the Draft ZO would make to the Existing Zoning Ordinance without providing guidance to help them understand exactly what aspects of the Existing Zoning Ordinance the County proposes to change.

The County should consider preparing chapter summaries and other guidance on the changes being made to the Existing Zoning Ordinance to assist members of the public in fully understanding the Draft ZO. It should also consider taking a more deliberate approach when it begins holding public meetings on the Draft ZO in the fall. Rather than seeking public input on the entire Draft ZO at the Planning Commission public meeting, the County should consider breaking up the document and holding public meetings on individual chapters or small groups of chapters. While this approach would result in a longer review process and a later adoption date, it would better enable members of the public to understand and provide meaningful comments on the Draft ZO.

DAAR’s Stance: The Dulles Area Association of REALTORS® (DAAR) urges the County to provide residents, property owners, developers, and interested members of the public with more information and guidance on the Draft ZO and how it differs from the Existing Zoning Ordinance. We encourage the County to consider breaking up the document and holding public meetings on individual chapters or small groups of chapters to facilitate a deeper discussion of particular issues than would be possible at a meeting designed to receive public input on the entire document.

Issue: **The County’s recently adopted Unmet Housing Needs Strategic Plan recommends several amendments to the Existing Zoning Ordinance “to improve and increase housing affordability.” The Draft ZO appears to disregard most of them, in whole or in part.**

In September 2021, the County adopted an Unmet Housing Needs Strategic Plan (UHNSP) that “defines how the county will address the unmet housing needs of households in a systematic and comprehensive

⁵ For example, the webpage for Wilmington LDC Article 2 is located at <https://www.wilmingtonnc.gov/departments/planning-development-and-transportation/land-development-code/ldc-article-2>.

⁶ See <https://www.fairfaxcounty.gov/planning-development/zmod/documents> for links to the topics and presentation materials.

⁷ <https://www.fairfaxcounty.gov/planning-development/sites/planning-development/files/assets/documents/zmod/executive-summary-notable-changes.pdf>

way with integrated programs.”⁸ The UHNSP describes the County’s housing affordability problem as follows:

Housing costs are unaffordable in Loudoun County for renters with incomes at or below 80% AMI and first-time homebuyers with incomes up to 100% AMI. Just 23% of homeownership housing is affordable to households earning up to 100% AMI and 47% or approximately 12,800 units of rental housing is affordable to households earning up to 80% AMI, though only 6,150 units are actually available to low-income households.⁹

It also states that as of 2019, more than 35,000 County households were paying more than 30% of their income for housing and therefore are considered “cost-burdened.”¹⁰ This is especially problematic for low-income households because it does not leave enough money for other necessities like food, medical care, transportation, educational enrichment, and clothing. According to the UHNSP, 86% of the County’s cost-burdened households are low-income, and 36% are severely cost-burdened, which means they pay more than 50% of their income for housing.¹¹ In Loudoun County, renters are more likely to be housing cost-burdened than homeowners.¹²

The UHNSP notes that the 2019 Comprehensive Plan “calls for significant changes to zoning regulations to ensure housing type diversity and to reduce and eliminate barriers to affordability and the development of the UHNSP to identify strategies, actions, and programs to address the County’s current and future unmet housing needs.”¹³ Toward that end, Strategy 5.3 of the UHNSP, titled “Remove Regulatory Barriers to Affordability in the Zoning Ordinance and Consider Barriers During the Zoning Ordinance Rewrite,” recommends five revisions to the Existing Ordinance to increase housing affordability. Each recommended zoning amendment is copied below, followed by comments on the extent to which the Draft ZO implements the recommendation, if at all.

Proposed Zoning Amendment #1: “Parking reductions for affordable housing development.”

Comment: Section 5.05.08 of the Draft ZO ostensibly addresses this recommendation by allowing developers to request reduced parking rates for affordable housing units. However, several factors make it unlikely that this provision will advance the goal of making housing more affordable. First, the proposed parking reductions are very low, ranging from just a 5% reduction for units affordable to households at 60% AMI, up to a 15% reduction for units affordable at or below 30% AMI. Second, the proposed parking reductions apparently would not apply automatically to affordable housing units; instead, Section 5.05.08 appears to give the Zoning Administrator the discretion to decide whether to approve reduced parking applications. In fact, Section 5.05.08 would require submission of a parking study that “substantiates the need for an adjusted number of parking spaces” for any requested parking reduction of more than ten parking spaces. Lastly, the parking reductions would apply only to the affordable units within a development. For example, if a 100-unit development includes 25 affordable units and 75 market rate units, then the parking reduction would apply only to the affordable units. Therefore, even if all of the

⁸ A PDF copy of the UHNSP, along with a brief overview of the document and links to related documents and resources is available online at <https://www.loudoun.gov/5278/Unmet-Housing-Needs-Strategic-Plan#:~:text=The%20Unmet%20Housing%20Needs%20Strategic,solution%20to%20the%20housing%20issue.>

⁹ UHNSP at 6.

¹⁰ UHNSP at 12.

¹¹ See *id.*

¹² See *id.*

¹³ UHNSP at 4.

affordable units qualify for the highest possible reduction (15%), Section 5.05.08 would result in a parking reduction of just 7.5 spaces for the entire 100-unit project.

Proposed Zoning Amendment #2: “Zoning changes that ensure the ability to develop multi-family housing near transit such as amendments to the Planned Development – Transit Related Center (PD-TRC) district to include density bonuses, additional floor area ratio, building height increases, setback reductions, lot coverage increases, technical study waivers, buffer modifications, and parking reductions.”

Comment: Under the Draft ZO, it appears that the Planned Development – Transit Related Center district would be replaced by the proposed Urban Transit Center/Mixed Use (UT/UM) district. While the proposed UT/UM district regulations do provide a floor area ratio (FAR) bonus of 0.3 for “attainable housing” units created under the ADU Program or the proposed UHNU Program, they do not provide a density bonus, building height increases, technical study waivers or any other incentives the UHNSP recommended.

Proposed Zoning Amendment #3: “Amendments to Article 7 to increase the percentage of affordable housing required and eliminate the limitations such as number of stories in a building. Much of current and future residential development is multi-family so eliminating or changing the exemption for developments over four stories is critical to generating more affordable housing.”

Comment: The Draft ZO appears to address the first part of this recommendation by increasing the affordable housing requirement from 12.5% to 15% for single-family development, from 6.25% to 15% for multifamily stacked development, and from 6.25% to 10% for multifamily attached development. It does not, however, appear to eliminate the maximum building height (stories) restriction. As will be discussed below, increasing the affordable housing requirements may discourage developers from producing more housing, particularly when there are not corresponding incentives that offset the increased cost to developers of the higher affordable housing requirement.

Proposed Zoning Amendment #4: “Amendments to Article 7 to use Affordable Housing Units more strategically, including prioritizing location in opportunity neighborhoods.”

Comment: The Attainable Housing provisions in Chapter 8 of the Draft ZO do not appear to identify or prioritize “opportunity neighborhoods” for the production of affordable housing units.

Proposed Zoning Amendment #5: “The County can also allow manufactured housing units on permanent foundations in any area zoned for residential in the County. While the Revised 1993 Zoning Ordinance allows manufactured housing in all the non-suburban residential districts and R-8 and R-16, it could explicitly allow manufactured housing units on permanent foundations in every residential district. Additionally, the County can designate sites for manufactured housing to include sites of existing manufactured homes to preserve them.”

Comment: One way of assessing the extent to which the Draft ZO implements this recommendation is to determine whether it would permit manufactured housing (on permanent foundations) in all districts where single-family detached dwellings are permitted by right. It does not. Pursuant to Table 3.02.01-1 (Principal Use Table for Urban and Suburban Policy Areas) single-family detached dwellings are permitted but manufactured homes are not permitted in the SN-4, SN-6, and SM districts. In addition,

single-family detached dwellings are permitted by-right but manufactured homes require a special exception in the SCN-8, SCN-16, and SCN-24 districts.

DAAR's Stance: We would like to ask the County to explain why the Draft ZO appears to mostly disregard UHNSP's recommended zoning amendments for improving and increasing housing affordability. We argue that the proposed parking reduction standards for affordable housing developments are too limited. We also question whether the County sought and received input from local residential developers in developing the proposed parking reduction standards, and if so, whether proposed Section 5.05.08 is consistent with that input.

Issue: Some of the proposed changes to the ADU Program could have the unintended consequence of discouraging the production of affordable units.

The UHNSP identifies an “unmet housing needs continuum” and recognizes that “households along this housing continuum do not have sufficient housing options in terms of price, size, accessibility, and location and receive limited assistance in terms of programming.”¹⁴

This continuum includes housing for the most vulnerable and housing-cost burdened individuals and affordable rental and ownership opportunities for those who are otherwise excluded by the housing product types currently provided by the market. The UHNSP notes that Article 7 of the Existing Zoning Ordinance (the existing ADU Program) is one way that affordable housing is created in the County, but “should not be the only avenue by which the County addresses housing affordability challenges.” As discussed above, it also recommends that Article 7 be amended to “to increase the percentage of affordable housing required and eliminate the limitations such as number of stories in a building” and to “use Affordable Housing Units more strategically, including prioritizing location in opportunity neighborhoods.”¹⁵

Chapter 8 (Attainable Housing) of the Draft ZO is presumably intended to address the need for more affordable housing along the continuum through amendments to the existing ADU Program (which seeks to encourage the production of units for households in the 30% AMI to 70% AMI range) and by creating the UHNU Program (which targets housing for households with incomes in the 0% AMI to 30% AMI and the 70% AMI to 100% AMI range). The proposed revised ADU Program, located at Section 8.01 of the Draft ZO, appears to be a *mandatory* inclusionary housing program in which any development that would create 24 or more dwelling units and requires a rezoning, special exception, site plan, subdivision, or preliminary subdivision must set aside a minimum percentage of the units as “moderately priced.” The ADU Program seeks to offset the affordable housing requirement by offering an optional density bonus.

By contrast, the proposed UHNU Program in Section 8.02 of the Draft ZO appears to be a *voluntary* inclusionary housing program that seeks to encourage the development of housing units that are affordable to households within the target AMI ranges by offering increased floor area ratio (FAR) for projects that require a rezoning, special exception, site plan, subdivision, or preliminary subdivision.

Some of the proposed changes the Draft ZO would make to the County's ADU Program could be counterproductive to the goal of increasing the production of affordable housing units.

¹⁴ UHNSP at 4.

¹⁵ UHNSP at 43.

- **Increased Affordable Housing Requirement, but No Offset:** The Draft ZO increases the percentage of affordable housing that must be provided under the ADU Program –from 12.5% to 15% for single-family development, from 6.25% to 15% for multifamily stacked development, and from 6.25% to 10% for multifamily attached development. However, it does not appear to provide developers with any additional incentives that would offset the increased cost of the higher affordable housing percentage requirement. In particular, the density bonus would remain unchanged at 20 percent. Without additional incentives (e.g., a higher density bonus) to offset the increased affordable housing requirements, the Draft ZO likely will result in lower profit margins for affected projects and could discourage developers from pursuing housing developments that trigger the ADU requirements (i.e., projects that would create 24 or more units).
- **More Detailed Design Standards:** The Draft ZO proposes to add more detailed dimensional requirements and add design standards for affordable units. These could increase development costs. The Existing Zoning Ordinance generally requires that the “dwelling dimensions and the number of bedrooms in an affordable multifamily unit shall be comparable to equivalent market rate units on the subject parcel.” The Draft ZO, however, would replace the existing standard with detailed width, depth, and height requirements which are presumably intended to standardize the size of the ADUs relative to the market rate units. Proposed Section 8.02 would also impose design and architectural standards on affordable units, a requirement that does not exist in the current ADU Program regulations. While the additional detail could be beneficial to the extent that it eliminates ambiguity in the current equivalency standards for affordable units, the Draft ZO could make the affordable units costlier to build.
- **Potentially Longer Review Process:** Proposed changes to the ADU Program regulations could also lead to a less predictable, and possibly longer, development review timeline for affected projects. Section 7-105 of the Existing Zoning Ordinance requires the County to process final site plans, preliminary subdivisions or record subdivision plats for projects with affordable housing units within 90 days after receiving the application. This provision does not appear to be carried over to the Draft ZO, meaning that the County could take longer to complete these reviews.

DAAR’s Stance: We question whether the County has adequately considered the potential consequences of increasing the affordable housing requirement without providing additional density or other incentives to offset that added burden. We would also point out that eliminating the 90-day review period for final site plans, preliminary subdivisions, or record subdivision plats for projects with affordable housing will make the review process for those projects less predictable and presumably longer.

Issue: It is questionable whether the proposed FAR bonus offered in the Unmet Housing Needs Unit (UNHU) Program will incentivize developers to produce more affordable housing rather than just larger units.

The proposed UNHU Program that would be established by Section 8.02 of the Draft ZO appears to be a voluntary inclusionary housing program, unlike the ADU Program, which is mandatory for developments that create 24 or more dwelling units. The proposed UNHU Program would offer developers a *floor area ratio* (FAR) bonus of 0.3 in the Urban Mixed-Use Subarea of the Urban Transit/Urban Mixed-Use and

Suburban Mixed-Use districts.¹⁶ The rationale for offering a FAR bonus rather than a density bonus, a commonly used incentive in inclusionary housing programs, is not clear.

Moreover, the proposal to grant additional FAR in exchange for affordable housing units appears to be inconsistent with the County's stated need for smaller housing units. Both the 2019 Comprehensive Plan and the UHNSP acknowledge that the prevailing type of development in Loudoun County has long been low-density, large single-family homes. In fact, the 2019 Comprehensive Plan states that over 82% of the County's existing housing stock consists of detached single-family homes, about 80% of which have three or more bedrooms. By contrast, studio and one-bedroom units make up less than 6% of the County's existing housing inventory.¹⁷

County and national trends indicate that the number of smaller households is projected to increase in coming years with more aging seniors, couples without children, and single persons seeking housing.¹⁸ The UHNSP identifies accommodating aging residents as one of its 5 primary housing goals.¹⁹ This includes diversifying the housing stock to "provide more opportunity to age in place at home, and to do so affordably."²⁰ The UHNSP also points out that 45% of households in the County are already single or two-person households, highlighting the disparity between the type of housing that is currently available in Loudoun County and the type of housing that is in greatest need.²¹

Providing an FAR bonus as an incentive may have the unintended consequence of encouraging developers to build both larger market rate units and larger affordable units. The UHNU Program requirements dictate that affordable and market rate units be of similar size. In an effort to maximize profit, a developer would likely use the FAR bonus create larger market rate units and will be required to also build larger affordable units. If the FAR bonus leads to the construction of larger units, rather than a greater number of smaller one- and two-bedroom units that the County apparently needs most, it will exacerbate the problem the County has identified.

An alternative approach could be to provide a unit density bonus rather than an FAR based incentive. This would lead to the production of a greater number of affordable units, rather than larger versions of the same number of units. It would encourage developers to provide smaller units, perhaps those one- and two-bedroom affordable units that have been identified as being in short supply. Presumably it would also be in the best interest of the developer to build a product for which there is pent-up demand.

DAAR's Stance: DAAR would like to ask the County to explain the rationale for offering a FAR bonus rather than a density bonus as the primary incentive for developers to build affordable housing units under the UNHU Program. We question whether the County consulted with local developers or conducted any other kind of research to assess whether an FAR-based incentive would be effective at creating affordable housing and whether it would be more effective at that than a density bonus or other possible incentives. DAAR would also like to point out that the proposed FAR bonus incentive seems like it would lead to the construction of larger units, and contrast the findings of the 2019 Comprehensive Plan and the UHNSP that the County's housing inventory is already dominated by large single-family homes, but lacks much-

¹⁶ See, e.g., Draft ZO §§ 8.02.1, Table 2.01.01-2 (UM Adjusted Base Floor Area Ratio).

¹⁷ 2019 Comprehensive Plan at 1-7.

¹⁸ *Id.*

¹⁹ UHNSP at 3.

²⁰ UHNSP at 15.

²¹ UHNSP at 11.

needed smaller housing units for the County’s growing population of aging seniors, couples without children, and single persons in need of housing.

Issue: The proposed Mountainside Resource Protection Setbacks might expose the County to regulatory takings claims, if it leaves some properties unbuildable.

Note: The following discussion is not intended as legal advice or a legal opinion. Readers should consult with a local attorney if they would like a legal opinion or legal advice on this or any other issue addressed in this memorandum.

Property ownership in the United States is often expressed metaphorically as consisting of a “bundle of rights” or a “bundle of sticks.”²² Each stick in the metaphorical bundle consists of a subsidiary right of ownership, such as the right to possess and use the property, the right to exclude others from the property, and the right to gain income from the property.²³ In some respects, historic notions of property rights have been scaled back by modern experience. Zoning and environmental regulations, for example, represent commonly imposed limitations on the “absolute” nature of property ownership. Few property owners would understand or expect the ownership of a property to encompass the absolute right to use it or develop it in whatever fashion they choose. Today, it is commonly understood and generally accepted that some degree of such regulation is a condition of owning property under our American system.

The Fifth Amendment to the U.S. Constitution protects private property from being taken for public use without just compensation.²⁴ Ultimately, it is up to the courts to decide whether application of a regulation to an owner’s land constitutes a regulatory taking. Under the federal constitutional standards, a per se taking occurs when the government physically condemns private property or when a regulation authorizes a permanent physical invasion of a property or deprives property of all economically beneficial use.²⁵ In cases where there is not a per se taking, courts will apply a balancing test known as the Penn Central test, taking into consideration (1) the economic impact of the regulation on the claimant; (2) the extent to which the regulation has interfered with the distinct investment-backed expectations of the claimant; and (3) the character of the governmental action, i.e. whether it is similar to a physical invasion or affects property interests through a program altering benefits and burdens for the promotion of the common good.²⁶

The Draft ZO would amend the Mountainside Development Overlay District regulations by adding “Mountainside Resource Protection Setbacks,” including crest and ridgeline protection setbacks. These changes would establish a new “Crest and Ridgeline Protection Setback” that prohibits all development on or within 100 horizontal linear feet on either side of the crest of any “designated hill or slope,” as

²² See Denise R. Johnson, *Reflections on the Bundle of Rights*, 32 VERMONT L. REV. 247 (2007) (hereinafter “*Bundle of Rights*”).

²³ *Bundle of Rights* at 253.

²⁴ Pa. Const. Art. I, §10 states: “[N]or shall private property be taken or applied to public use, without authority of law and without just compensation being first made or secured.”

²⁵ *Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U.S. 419, 441 (1982) (“[A] permanent physical occupation of property is a taking.”); *Lucas v. South Carolina Coastal Commission* 505 U.S. 1003, 1027 (2003) (“Where the State seeks to sustain regulation that deprives land of all economically beneficial use, we think it may resist compensation only if the logically antecedent inquiry into the nature of the owner’s estate shows that the proscribed use interests were not part of his title to begin with.”); Daniel R. Mandelker, *Land Use Law* at 16 (5th ed. 2003).

²⁶ *Penn Central Transportation Company v. City of New York*, 438 U.S. 104, 124 (1978).

measured from the ridgeline.²⁷ The Existing Zoning Ordinance does not appear to include a similar prohibition on development near ridgelines.

Because the Mountainside Resource Protection Setback would impose an outright ban on development on or within 100 horizontal linear feet of the ridgeline, there may be some circumstances in which it effectively prevents the property owner from undertaking any development at all on a parcel that otherwise would be buildable, potentially supporting a per se taking claim by the property owner. Likewise, to the extent that the Mountainside Resource Protection Setback drastically reduces the extent to which a parcel can be developed, even if some development use remains, its impact on the owner's "investment-backed expectations" may be significant enough to cause the owner to seek compensation by bringing a regulatory taking claim. For example, if a lot is presently undeveloped and all the potentially buildable area is within 100 feet of the ridgeline, Section 4.04.D of the Draft ZO would appear to prevent any new building or use at all on the lot.

Unless a variance from the restrictions on new development is available to allow a reasonable use of the parcel, the County could face claims that applying the Mountainside Resource Protection Setback to that property results in a regulatory taking. A variance provision would provide the County with a potential "safety valve" allowing it to grant relief in cases where it might otherwise face a risk of liability for a regulatory taking, for instance, a situation where the Mountainside Resource Protection Setback renders a parcel unbuildable because that site is fully within the setback. The potential availability of a variance can help to alleviate concern that the Mountainside Resource Protection Setback will result in a "taking" of property. Nonetheless, the County may still find itself facing takings claims in circumstances where the Setback causes a substantial reduction in the development potential and value of a property.

DAAR's Stance: The proposed Mountainside Resource Protection Setback has the potential to result in costly regulatory taking claims against the County if it will result in some property owners being prohibited from developing otherwise developable parcels. Has the County done any study to identify the number of privately owned parcels on which the proposed Mountainside Resource Protection Setback would effectively prohibit all or most development? DAAR urges the County to include a procedure by which the restrictions of the Mountainside Resource Protection Setback are lifted to the extent that they would otherwise prohibit economically viable use and development or redevelopment of a previously created lot or parcel.

Issue: **The proposed Agricultural Rural North (ARN) district and Agricultural Rural South (ARS) district regulations are predominantly carried over from the Existing Zoning Ordinance, but the Draft ZO would reduce the maximum lot coverage allowances for the ARN and ARS districts and does not appear to implement some of the Rural Policy Area action items from the 2019 Comprehensive Plan.**

The Rural Policy Area (RPA), the largest of the geographic policy areas established by the 2019 Comprehensive Plan, "encompasses approximately 230,000 acres, representing about 67 percent of the County's total land area."²⁸ The RPA is described as having a blend of low-density residential, working

²⁷ See Draft ZO § 4.04.D.

²⁸ 2019 Comprehensive Plan at 2-93.

farms, rural economy uses, pastoral landscapes, forested areas, mountains, and wildlife habitats. As of April 2017, the RPA reportedly was home to only about 10% of the County's total population.²⁹

Under the Existing Zoning Ordinance, the RPA is predominantly zoned either Agricultural Rural-1 (AR-1) or Agricultural Rural-2 (AR-2). Under the Draft ZO, the AR-1 district would be replaced by the Agricultural Rural North (ARN) district, while the AR-2 district would be replaced by the Agricultural Rural South (ARS) district. A comparison of the existing AR-1 and AR-2 district regulations with their ARN and ARS counterparts reveals that very few changes would be made by the Draft ZO. For example, the existing AR-1 and AR-2 district regulations provide for three development options: the Base Density Division Option, the Principal/Subordinate Subdivision Option, and the Cluster Subdivision Option.³⁰ The same three development options are carried over to the proposed ARN and ARS district regulations.³¹ In addition, the proposed ARN and ARS district dimensional standards (e.g., lot size, yard, and open space requirements) for each development option are largely carried over from the Existing Zoning Ordinance.³² The table of land uses that are permitted by-right or with a special exception or minor special exception in the proposed ARN and ARS districts likewise are largely carried over from the Existing Zoning Ordinance.

Despite being predominantly the same as the Existing Zoning Ordinance, the proposed ARN and ARS district regulations raise the following concerns.

Reduced ARN and ARS District Lot Coverage Allowances. One substantive change made in the proposed ARN and ARS district standards is a reduction in the maximum lot coverage allowances. For example, under the Base Density Division Option for the AR-1 district, the maximum lot coverage is 25% overall and 10% for residential or non-residential structures.³³ The proposed ARN district regulations would reduce the lot coverage allowances to a maximum of 15% overall and just 3% for residential or non-residential structures.³⁴ Similarly, the Principal/Subordinate Subdivision Option for the AR-1 district allows a maximum lot coverage of 15%, but the Draft ZO would reduce the lot coverage standards to just 4% for lots of less than 80,000 square feet and 15% overall for lots greater than 80,000 square feet, including just 3% for residential or non-residential structures.³⁵ Similar lot coverage reductions are proposed for the ARS district.

Some Rural Policy Area Actions are Not Implemented by the Draft ZO. The 2019 Comprehensive Plan established several "RPA Policies" that are accompanied by strategies and actions for implementing those policies within the Rural Policy Area. The Draft ZO, however, does not appear to implement the following action items.

Action 2.1.A. Evaluate and revise zoning regulations and design standards to improve the design of subdivisions and clustered residential development by incorporating natural features and buffering from roadway and scenic byways.

²⁹ See *id.*

³⁰ See Existing Zoning Ord. § 2-103.

³¹ See Draft ZO §§ 2.04.01.C, 2.04.02.C.

³² See Draft ZO at Table 2.04.01-1, Table 2.04.02-1.

³³ Both the Existing Code and the Draft ZO exclude agricultural, horticultural, and animal husbandry structures not open to the public from the calculation of coverage.

³⁴ Draft ZO at Table 2.04.01-1.

³⁵ See *id.*

Comment: The proposed ARN and ARS district regulations do not appear to be revised in a manner that requires subdivisions and clustered residential development to incorporate natural features and buffering from roadways and scenic byways.

Action 3.2.A. Adopt zoning regulations and design standards that include new types of rural business and agricultural uses, permit flexibility for the sale of farm products, and promote rural tourism, hospitality uses, and similar kinds of rural business uses that are compatible with the character of the RPA.

Comment: The proposed ARN and ARS district regulations do not appear to permit new types of rural business and agricultural uses or reflect changes intended to better accommodate rural business uses that are compatible with the character of the RPA.

Action 3.2.B. Evaluate and revise zoning regulations and design standards to permit a variety of accessory residential unit types, such as accessory apartments for seasonal farm laborers and year-round tenant housing, that support the rural economy.

Comment: Contrary to this action item, the ARN and ARS regulations may make it more difficult to provide seasonal or year-round housing to support to agricultural and other rural businesses. Under the Existing Zoning Ordinance, “co-housing” is permitted by-right in the AR-1 and AR-2 Districts. Co-housing is defined to mean:

A residential arrangement on the site of an active agricultural, horticultural or animal husbandry operation consisting of more than one individually owned dwelling unit and extensive common facilities, such as a large dining room, kitchen, lounges, meeting rooms, recreation areas, library, workshops, childcare, laundry, greenhouse, or other facilities for use by the organized group of residents living in the co-housing who participate in the planning, design, ongoing management and maintenance of the residential arrangement and in the routine activities of household living.³⁶

The co-housing use is not carried over to the Draft ZO. Another housing category that is currently permitted by-right in the AR-1 and AR-2 districts is a “rooming house,” which the Existing Zoning Ordinance defines as:

A lodging place for four or more boarders where rooms are offered on a single room occupancy basis and where sanitary facilities may be shared. A common cooking facility may be provided. Lodging is provided on no less than a month-to-month basis.³⁷

The rooming house use likewise is not carried over to the Draft ZO, though the draft does include an apparently similar use called “rooming and boarding,” which would require a minor special exception in the ARN and ARS districts. Both co-housing and rooming house uses appear to be well-suited seasonal or year-round housing to support agricultural and rural businesses. While these types of generally low-cost, communal housing accommodations currently are allowed by-right in the AR-1 and AR-2 districts, the Draft ZO would eliminate the co-housing option altogether and require a minor special exception for the rooming and boarding use in the ARN and ARS districts.

³⁶ Existing Zoning Ord., Article 8.

³⁷ *Id.*

Future Amendments to the Prime Agricultural Soil and Cluster Subdivision Regulations. Notably, the proposed ARN and ARS district regulations both begin with the following disclaimer:

*Note: Prime Agricultural Soil and Cluster Subdivision regulations are being amended separately from the Zoning Ordinance Rewrite in a stand-alone zoning ordinance amendment, ZOAM-2020-0002. Contact Project Manager Jacob Hambrick at clustersubregs@loudoun.gov for information or to comment on that ZOAM.*³⁸

The County's Zoning Ordinance Amendments (ZOAMS) website says the following with regard to ZOAM-2020-0002:

This ZOAM would amend the cluster residential development standards in the AR-1 and AR-2 zoning districts to prioritize the preservation of prime agricultural soils to support the long-term viability of farming in the Rural Policy Area (RPA). The ZOAM is further intended to improve the overall design of clustered residential development in the Rural Policy Area (RPA).³⁹

While there does not yet appear to be a draft ordinance available for review, this description suggests that the County intends to further amend the AR-1 and AR-2 district regulations (possibly after they have been replaced by the proposed ARN and ARS district regulations) in order to prioritize the preservation of prime agricultural soils, possibly by restricting or prohibiting altogether the development of land classified as prime agricultural soil. It is unclear whether the County intends to incorporate these amendments into the Draft ZO or pursue them after some version of the Draft ZO has been adopted. In either case, the DAAR will monitor future activity relating to ZOAM-2020-0002 and is taking the position that greater protection for prime agricultural soil should not result in a reduction in the development potential of affected property – e.g., the allowed density should remain the same, possibly with reduced lot sizes and dimensional standards, to the extent necessary accommodate the same amount of density in a smaller cluster area.

DAAR's Stance: DAAR questions the rationale for reducing the maximum lot coverage standards for the ARN and ARS districts, which could reduce the development potential of some lots. We question why the Draft ZO does not appear to implement some of the proposed RPA action items contained in the 2019 Comprehensive Plan. DAAR will monitor future activity and provide input on ZOAM-2020-0002, which indicates that the County intends to amend the cluster residential development standards in the AR-1 and AR-2 zoning districts (i.e., the ARN and ARS districts under the Draft ZO).

³⁸ See, e.g., Draft ZO § 2.04.01 (emphasis in original).

³⁹ See the County's Zoning Ordinance Amendments (ZOAMS) website at <https://www.loudoun.gov/2935/Zoning-Ordinance-Amendments-ZOAMS>.

From: [Moore, Keara](#)
To: [DEPT-PZ-ZORW](#)
Cc: [Aveni, Marc](#); [Gem Bingol](#); [william marsh](#)
Subject: Environmental Commission comments on Zoning Ordinance Rewrite
Date: Monday, July 18, 2022 12:45:17 PM
Attachments: [Environmental Commission - ZOR Comments, 7-18-2022.pdf](#)

Hello –

This is to inform you that the Loudoun County Environmental Commission has submitted comments on the County’s draft Zoning Ordinance Rewrite as posted on April 18, 2022 on the County’s website.

[Comment on the Draft Zoning Ordinance | Loudoun County, VA - Official Website](#)

The Environmental Commission developed the comments by consensus agreed upon at their public meeting on July 13, 2022. As the staff liaison, I have entered the comments into EnCode on the Commission’s behalf. A document including all of the comments is also attached.

Please let me know if you need any further action from the Commission.

Thanks,

Keara

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Keara Moore
Environmental Program Manager
Department of General Services
Loudoun County, Virginia
Office: 571-258-3443
Cell: 571-410-9424

**Environmental Commission Recommendations on Zoning Ordinance Rewrite
Part I: Sections Related to Natural Resources**

Topic	Category	Comment or Concern	Recommendation
4.03 Floodplain Overlay District	E. 1.b. Permitted uses	Allows Active recreation in Major Floodplain in contradiction to Comp Plan uses for RSCR (p. 3-19) and Table 5. 03.03. Not clear why 3% max imperviousness was picked.	Clarify that active recreation is only allowed in minor floodplain, whether by-right or special exception per 5.03.03, NER Use Standards Table and Comp Plan RSCR policies.
This section primarily addresses flooding issues, but has one issue pertinent to preserving ecological value.	F. 6. Special Exception Uses	Allows Active recreation in Major Floodplain in contradiction to Comp Plan uses for RSCR (p.3-19) which makes no exceptions for active recreation in Major Floodplain. Allowing up to 10% imperviousness has negative ecological impacts.	Clarify that active recreation is only allowed in minor floodplain, whether by-right or special exception per 5.03.03, NER Use Standards Table and Comp Plan RSCR policies. Reduce the amount of imperviousness to not exceed 3%.
Topic	Category	Comment or Concern	Recommendation
4.04 Mountainside Development Overlay District	C.3.c	Groundwater extraction for commercial use or sale is not a listed use in the rural policy area. Including a special exception for this use conflicts with public benefit of groundwater recharge areas.	Delete C.3.c “Groundwater extraction for commercial use or sale” as part of allowable special exceptions.
	D. Mountainside Resource Protection Setbacks.	It’s important to avoid sensitive features: crest and ridgeline, perennial headwater stream & spring protection setbacks.	Support the draft text that requires setbacks from crest and ridgeline, perennial headwater streams and springs. Also add 100 foot setbacks to wetlands and vernal pools and add their definitions to list.
Mountainsides are important for recharge to groundwater, susceptible to erosion and slippage	E. Performance Standards in Somewhat Sensitive and Sensitive Areas.	Useful measures to avoid impacts—related to % of clearing and activities to allow development to occur.	Support the draft text limiting the amount of clearing allowed on 15% to 25% slopes to 25% max.
	F. 4.c Performance Standards in	Measures to avoid impacts—related to % of clearing, roads/driveways and other activities to allow development is even more critical due to higher degree of slope.	Support the draft text limiting the amount of clearing on 25% and greater slopes and addition under F.4.c

	Highly Sensitive Areas.		Add to sentence: Minimal clearing for “dwelling”, roads and drives on existing slopes of greater than 25%.
Topic	Category	Comment or Concern	Recommendation
4.05 Limestone Overlay District Limestone erodes easily creating safety risks in construction, and has many surface to groundwater channels for pollution to travel, posing health risks.	D. Identification of Karst/Sensitive Environmental Features and Required Setbacks.	Protection of areas susceptible to collapse or pollution channels is good to avoid health and water quality impacts.	Support the draft text in D.1 Geophysical Studies and D.3. Add “vernal pools” to D.3 and to table 4.05-1 Karst/Sensitive Environmental Feature Setbacks
Topic	Category	Comment or Concern	Recommendation
5.04 Open Space Standards	5.04.04 Credits for inclusion in open space A. Bonus credit	Bonus credit as sited for protecting important features would result in a loss of overall open space which could reduce natural spaces for wildlife corridors and watershed protection and tree preservation.	Baseline should be to protect all important environmental and historic features, with subtraction of credit if those elements are not protected. Delete bonus credit section and create a checklist of environmental protections which could allow for waivers of certain site design requirements with full protection of environmental and historic features. (See comment on Section 5.04.05 B. Limitations)
	5.04.05 B. Limitations	1. How much open space credit is acceptable for non-usable open space? i.e. islands in parking lots 2. Are non-contiguous parcels acceptable?	Create an environmental protections credit checklist (as suggested in comment on Section 5.04.04) for protecting and connecting exemplary and high-quality native plant vegetation areas, and other vegetated undeveloped areas that connect exemplary and high-quality native plant areas as part of wildlife corridors. Protect exemplary and high-quality native plant vegetation areas outside of wildlife corridors to the maximum extent possible. (as referenced by p. 12 (14/23) of the MN

			Natural Resources Performance Standards)
	5.04.09 Comprehensive Open Space Plan	Doesn't require showing environmental (and historic) features onsite as part of the plan, so it doesn't give a full picture of what's being conserved and not.	Support the draft text requiring a Comprehensive Open Space Plan and add that it should be depicted on top of the existing conditions plat. Native plant communities should also be mapped and ranked according to their ecosystem functional value, and applications should note the location of mapped exemplary and high-quality wildlife and habitat communities on adjacent parcels to protect areas critical for maintaining connectivity between high value native plant communities.
	5.04.10 Maintenance and Management of Open Space	Good—requires removal of invasive and noxious plants	Support the draft text requiring removal of invasive and noxious plants.
Topic	Category	Comment or Concern	Recommendation
5.06 Tree Planting, Replacement, and Preservation	5.06 A. General Standards	Circular reference to FSM without addressing native species minimum percentages. FSM Table 3 of Tree Conservation and Landscape Plan includes 45% non-native species without a minimum native plant requirement.	Include minimum percentage of 80% native species as part of the Tree Conservation and Landscape Plan.
	5.06 B. Canopy requirements	Are the requirements adequate and/or should there be an incentive/bonus for preserving mature native trees versus planting trees to meet the identified requirement in 20 years.	Include the preservation of mature trees with greater ecological value, and high-quality successional habitat, in a checklist of environmental considerations that could be reason for providing a waiver as an incentive. Replacement of mature trees should be at least 3 young trees for every 1 mature tree lost.
Topic	Category	Comment or Concern	Recommendation

5.07 Landscaping, Buffer Yards, and Screening	5.07.06 Parking Area Landscaping and Screening Requirements	Bioretention facilities help to reduce the impact of offset the impacts of impervious parking lots and streets.	Include bioretention in parking lot landscaping requirements.
	5.07.07 General Landscape Provisions A. Landscape Plan	Consider more guidance on plant materials used to improve sustainability, e.g. reducing the need to mow slopes and roadway medians, to provide more habitat, and to protect potential wildlife corridors within a development.	<p>Landscaping requirements should include reference of sustainability measures and support for wildlife corridors that can be further described in the FSM. For instance, 100' buffers for delineated exemplary or high-quality wildlife and habitat communities that exclude roads or buildings, and prohibit vegetation clearing except for removing invasives.</p> <p>Applications should note the location and prioritize protection of exemplary and high-quality habitat communities on adjacent parcels to protect areas critical for maintaining connectivity between high value habitats.</p> <p>Additionally, exemplary or high-quality wildlife areas should be mapped, and protection prioritized, as part of wildlife corridors, to ensure barrier-free movement between identified wildlife corridors. Necessary conditions should be maintained to provide habitat function for species along wildlife corridors and species of greatest conservation need as identified by the VA Wildlife Action Plan.</p> <p>Native grasses and perennials should be used on slopes and other hard-to-maintain areas and medians.</p>

	5.07.07 General Landscape Provisions B. Plant Unit Requirements	There should be further specificity regarding native plants and percentages, not just to flowering plants.	Reference to native and flowering plants is a good start. Higher percentage (80%) of native plants should be required and reference to flowering plants should be adjusted to recognize host plants as well as pollinator needs (as part mapping and ranking the value of the ecological function of native plants). For lists of Native Plants, refer to VADCR native plant list , Digital Atlas of the Virginia Flora , The Wildflower Center and the United States Department of Agriculture
	5.07.07 General Landscape Provisions B. Plant Unit Requirements	B.2.e Include “native” in the description for use of grasses and perennials.	The use of native ornamental grasses and/or perennials is encouraged and may constitute a maximum of 25% of the required plant units.
Topic	Category	Comment or Concern	Recommendation
5.09.02 Road Network	A.2.b	Add new text to include compliance with VDOT wildlife collision avoidance guidelines.	b. New road projects must implement VDOT technical guidelines for appropriate countermeasures (e.g., underpasses, fencing, dynamic message signs) to improve wildlife habitat connectivity and reduce crashes with deer and a variety of other wildlife species, particularly in vehicle collision hotspots. https://scbi-cec.shinyapps.io/WVC_Hotspots_Virginia/
Topic	Category	Comment or Concern	Recommendation
5.03.01 River and Stream Corridor Resources (RSCR)		Matches the Comp Plan.	Strongly support the draft text.
Topic	Category	Comment or Concern	Recommendation
5.03.02 Steep Slope Areas	5.03.02 Steep Slope Areas	Very steep and steep slope areas adjacent to streams are often intermingled. As written, the regulations (with size limitations), may not	Do not permit density increases allowed by the underlying zoning for steep and very steep slopes adjacent to streams and

	D. Uses and Activities	adequately protect the slopes and streams during development (i.e. from blasting). The ability to drastically increase densities above what's allowed by-right may not adequately protect the stream.	require strict conditions on blasting under limited circumstances besides what is allowed for extension of utilities.
	5.03.03 Use Table for Natural and Environmental Resource Standards Active recreation, outdoor within RSCR minor floodplain or RSCR buffers only	Table appears to conflict with floodplain ordinance. Note that allowing active recreation in minor floodplains is still not good for riverine ecosystems.	See FOD section and ensure that the FOD section matches this table.
Topic	Category	Comment or Concern	Recommendation
5.03.04 Development, Land Disturbance, and Additional Use Specific Standards	5.03.04 Natural and Environmental Resource Standards (NERS) Development and Land Disturbance Standards	Section A. Development and Land Disturbance standards should have specifics on blasting for purposes other than those outlined in B.2.g	Add a limitation on blasting to make a site more suitable for development in this section or other appropriate section.
	Table 5.03.04-1 Natural and Environmental Resource Standards (NERS) Development and Land	10. Natural Heritage Resources	Apply Rare, Threatened and Endangered Species, and species of greatest conservation need protection standards countywide in all zoning districts, as defined in the VA DCR Natural Heritage Office list of rare and endangered species and habitats https://www.dcr.virginia.gov/natural-heritage/infoservices#lists .

	Disturbance Standards		
Topic	Category	Comment or Concern	Recommendation
11.03 Definitions	Wetlands	Missing definition	Wetlands are areas where water covers the soil, or is present either at or near the surface of the soil all year or for varying periods of time during the year, including during the growing season. (Source: EPA)
	Vernal Pools	Missing definition	A small lake or pond that is filled with water for only a short time during the spring; many species of reptiles, amphibians, insects and invertebrates rely on vernal pools for breeding. (Source: Restoring Virginia's Wetlands-A Citizen's Toolkit by VADEQ and Alliance for the Chesapeake Bay)
	Natural Open Space	Missing definition	Natural Open Space is undeveloped land that is preserved in its natural state. It can include protected cultural resource areas and wildlife habitat; and can include passive recreation like hiking or bird-watching in some cases. (Source: Marana Arizona website) Term should be used throughout Zoning Ordinance as appropriate, especially Sections 5.04 and 5.07.
	Environmentally Sensitive Area/Open Space	Missing definition	Environmentally sensitive area means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments. (Source: LawInsider.com) Term should be used throughout Zoning Ordinance as appropriate, especially Sections 5.04 and 5.07.

	Meadow	Missing definition	Meadow: A mix of native grasses and forbes (herbaceous, flowering plants) maintained to remain in a relatively stable, early successional state over many years. (Source: Ecological Landscape Alliance) Term should be used throughout Zoning Ordinance as appropriate, especially Sections 5.04 and 5.07.
	Turf grass	Missing definition	Turf Grass: Turfgrasses are narrow-leaved plants that can provide a uniform cover, tolerate low mowing, and traffic. (Source: Texas A&M Agrilife Extension) Term should be used throughout Zoning Ordinance as appropriate, especially Sections 5.04 and 5.07.
	Lawn	Missing definition	Lawn: An area of short, mown grass in a yard, garden, or park. Term should be used throughout Zoning Ordinance as appropriate, especially Sections 5.04 and 5.07.
	Native grass	Missing definition	Native grass: Perennial grasses native to the local ecosystem. Term should be used throughout Zoning Ordinance as appropriate, especially Sections 5.04 and 5.07.
	Native plants	Missing definition	Native plants should be defined.
	Wildlife corridor	Missing definition	Wildlife corridor: An area connecting fragmented wildlife habitats separated by human activities or infrastructure (as in § 29.1-578). Term should be used throughout Zoning Ordinance as appropriate.

Environmental Commission ZOR Recommendations
Part II: Sustainable Energy Issues

1. Energy Storage

11.03 Use Definitions

3.02.01, .02, and .03 Use Tables

Recommendation: “Energy storage” and “Batteries” should be defined as uses in Section 11.03. The Use Tables should then be updated to allow these uses in all zoning districts.

Concern: “Energy storage” and “batteries” are uses but not defined in the ordinance. This has previously been accepted as a use by the County when CMPT-2021-0005 approved an energy-battery storage use on a parcel adjacent to an existing substation, on a parcel zoned AR-2. It is also mandated statewide, requiring 3,100 megawatt of energy storage by 2035 per the Virginia Clean Economy Act. ZO should add definitions and then update Use tables to allow this use. “Energy storage” and “Battery” definitions available at [Taming the Sun: Innovations to Harness Solar Energy and Power the Planet](#)¹ could be used as examples to draft something similar to what was approved in CMPT-2021-0005.

Battery – Electrochemical devices that store and release electric energy by using chemical reactions. Lithium-ion batteries, which operate by shuttling lithium ions between two electrodes, are increasingly popular for powering electric vehicles as well as for stationary uses such as stabilizing the electricity grid. Many other battery designs exist or are under development – from well-established lead-acid batteries to promising flow batteries. (pp.283-4)

Energy storage – The process of storing energy, or converting it from one form to another, for later use. Energy storage technologies used – or under development for future use – in the electric power sector include pumped hydro storage, electro-chemical batteries, superconducting magnetic energy storage, supercapacitors, flywheels, compressed air, and underground thermal energy storage. (p.285)

2. Renewable Energy as Accessory Use

3.03-1 Permitted Accessory Uses and Structures

Concern: Some renewable energy, such as wind, can be used to generate power for single lots, but without a use in the ZO, it could be prohibited or discouraged.

Recommendation: Site-specific renewable energy as defined in the [Virginia Clean Economy Act](#) should be recognized as a permitted accessory use for the same principal uses as site-specific solar energy. Specific standards may be necessary to limit some characteristics such as the height of a wind turbine or setback requirements from property lines.

¹ Varun Sivaram, 2018; ISBN 9780262037686

3. “Solar Facility, Commercial”

3A. Definitions

11.03 Definitions, S

11.03.23.06 Use Definitions, Infrastructure

Concern: There are two different definitions for “Solar Facility, Commercial,” one in 11.03 S and one in 11.03.23.06, which could lead to confusion

Recommendation: Eliminate one definition of “Solar Facility, Commercial.” Recommend retaining the definition in 11.03.

3B. Expanded use of commercial solar

3.02.01 Urban and Suburban Use Table

3.02.02 Transition and JLMA Use Table

3.02.03 Rural Use Table

3.05.07.04 Use-Specific Standards, Infrastructure

Concern: The draft Zoning Ordinance unreasonably restricts ability of property owners to voluntarily install commercial solar facilities.

Recommendation 1: Allow more districts to allow “solar facility, commercial” as a use in transition, suburban, and JLMA policy areas. The Environmental Commission recommends expanded application of “solar facility, commercial” based on benign land use impact when compared to other commercial uses like commercial or retail areas with surface parking. “Solar facility, commercial” uses do not produce noise or traffic, unlike residential and commercial uses. Performance standard language added to Section 3.05.07.04 should mitigate other potential impacts of “solar facility, commercial.” Suggested zoning districts for solar include: any zoning district with a history as a brownfield (ie Hidden Lane Landfill, zoned PDH-3), all suburban and JLMA districts allowing commercial use, and all transition districts that require open space.

Recommendation 2: Include for public comment draft language for Section 3.05.07.04, as presented to the Zoning Ordinance Committee in the 2022-04-26 Use Standards Subcommittee Packet. Environmental Commission will comment on this section when it is published and will support language that includes protections for natural resources and prime agricultural soils.

Recommendation 3: Recommend a subsequent zoning amendment creating a regulatory path to approve “solar facility, commercial” in the rural area. Statement of policy for Board to consider in authorizing this recommendation:

The Environmental Commission recommends the initiation of a County solar zoning review pursuant to Virginia Code regulating residential, commercial, industrial, institutional, and rural zoning of solar facilities.

The solar zoning review would include Virginia Code parameters from electrical co-operative NOVEC and Phase II Utility Dominion to inform solar facility size.

The Virginia Code empowers a solar zoning review to concern forest and prime agricultural land, areas of high ecological value, setbacks and fencing, and gives the municipality the flexibility to express its values to create a solar facility review process codified by County zoning.

4. Community solar, district energy, geothermal/ground source heat pumps

5.04 Open Space Standards

Recommendation: Ensure that Section 5.04 standards for open space do not prohibit installations of community solar, district energy, or geothermal/ground source heat pumps.

5. Community Solar

11.03.23.06 Definitions, Infrastructure

Concern: Not all residents currently have the opportunity to benefit from solar power generation. See description in Power for the People blog dated March 15, 2022: [multifamily solar | Power for the People VA](#)

Recommendation: Update definitions of solar facilities to allow community solar generation, also called shared solar, for example for multi-family housing or HOAs. Base a definition on “shared solar” definition in Virginia Code Section 56-594.3.

6. Parking Ratios:

5.05.02, C Parking Requirements by Use and Policy Area

Concern: Unnecessary parking increases land disturbance and impervious surfaces and inhibits development of walkable communities.

Recommendation 1: Retain maximum parking ratios for some uses, as proposed in this draft zoning ordinance.

Recommendation 2: Consider eliminating the minimum parking requirements in some non-residential uses adjacent to Metro stations. As an example, the Fairfax County Zoning Ordinance does not require minimum parking rates at hotel and office uses within one-half mile of a metro station (see below).

Fairfax County Zoning Ordinance Section 6102. PTC (Planned Tysons Corner) District – Off-street Parking and Loading, [Document Viewer | Zoning Ordinance \(encodeplus.com\)](#)

Use	Per unit or 1,000 square feet of gross floor area	Less than 1/8 mile to Metro Station Entrance* (TOD District)		1/8 to 1/4 mile to Metro Station Entrance* (TOD District)		More than 1/4 to 1/2 mile to Metro Station Entrance* (TOD District)		Non-TOD Districts	
		Min.	Max.	Min.	Max.	Min.	Max.	Min.	Max.
Single-Family Attached	Space(s) per unit	1.75	2.2	1.75	2.2	2.0	2.5	2.0	2.7
Stacked Townhouse		1.5	1.9	1.5	1.9	1.7	2.1	1.7	2.3
Multifamily									
0-1 bedroom		1.0	1.3	1.0	1.3	1.1	1.4	1.1	1.4
2 bedrooms		1.0	1.6	1.0	1.6	1.35	1.7	1.35	1.7
3+ bedrooms		1.0	1.9	1.0	1.9	1.6	2.0	1.6	2.0
Hotel/Motel	Spaces per 1,000 square feet of gross floor area	none	1.0	none	1.0	none	1.05	0.85	1.08
Office		none	1.6	none	2.0	none	2.2	2.0	2.4

* As set forth in the Comprehensive Plan

7. Parking rates, Electric Vehicle:

5.05.04, Electric Vehicle Parking

Concern: Electric vehicle usage is expected to grow dramatically, and minimum standards set based on current usage may not be sufficient for future circumstances. According to “Grid of the Future: PJM’s Regional Planning Perspective” dated May 10, 2022, estimates of EV purchases by 2030 range from 4% to the White House target of 50%. (p. 28, see [20220510-grid-of-the-future-pjms-regional-planning-perspective.ashx](https://www.pjm.com/~/media/committees-and-panels/grids-of-the-future/pjm-regional-planning-perspective.ashx))

Recommendation 1: Develop flexible minimum standards for Required Electric Vehicle Parking Percentages rather than using a set value and update them on a biannual basis. The standard could be indexed to a trusted resource that accurately accounts for EV purchase ratios.

Recommendation 2: Minimum required EV parking percentages should be required for more uses than currently covered in the draft ordinance. For example, include theater, warehouse, storage, distribution, government, medical clinic, airport, parking facility, and non-profit.

Recommendation 3: In denser residential areas, EC recommends encouraging installation of streetlight poles and fixtures that also provide electric vehicle charging capabilities and, in the FSM, spell out more detailed standard.

8. Electric Vehicle Charging as Accessory Use:

3.03, Accessory Uses

7.05, Site Plan

Concern: Without accessory use status, there can be unnecessary barriers to installing electric vehicle charging stations. For example, Loudoun County Public Schools had to undertake a time-consuming process to get new permits (site plan amendment, or SPAM) when they installed charging stations for electric school buses, despite there being no land disturbance and minimal infrastructure installation.

Recommendation 1: Electric vehicle charging should be included as a permitted Accessory Use for all Principal Use categories.

Recommendation 2: Further, electric vehicle charging equipment installation for residential or commercial use (where commercial use is for a commercial property owner's or renter's fleet use) should be exempt from site plan requirements under Section 7.05.A.2.

9. Pedestrian and Bicycle Safety / Streetlights:

- 2.01 Urban Policy Area Zoning Districts
- 2.02 Suburban Policy Area Zoning Districts
- 2.05 JLMA Districts
- 5.09.03 Pedestrian and Bicycle Network

Concern: The Environmental Commission supports promoting walkable and bikeable communities to achieve the multiple environmental benefits of reducing vehicle miles traveled. Current streetlight standards in Chapter 7 of Facilities Standards Manual do not ensure adequate lighting performance for pedestrians and bicyclists.

Recommendation: For the "Purpose" statements in all Urban and Suburban Policy Area Zoning Districts, add language emphasizing support for pedestrian and bicycle mobility. For all "Pedestrian and Bicycle Network" sections in the Urban and Suburban Policy Area Zoning Districts (2.01.01.L, 2.01.02.I, 2.02.01.J, etc) and for the Pedestrian and Bicycle Network Development Standard (5.09.03), add language to require lighting along streets sufficient to keep pedestrians and bicyclists visible at night to improve their safety. An amendment to the ZO should include a follow-up amendment to the FSM to include lighting performance standards that account for bicycle and pedestrian traffic while recognizing International Dark Sky Association standards.

10. Building Energy Efficiency Incentives

- 2.01.01.D UM Subarea Adjusted Base Floor Area Ratio, Table 2.01.01-2
- 2.02.03.E Suburban Mixed Use Adjusted Base Floor Area Ratio, Table 2.02.03-2

Concern 1: As written, the goal is unclear and could lead to incentives being given for buildings that do not achieve adequate benefits or could lead to multiple incentives being given for the same improvement if it is included as a factor in several sustainability standards.

Recommendation 1: Clarify what it means for a building to "achieve energy efficiency and/or sustainability standards" in order to receive FAR incentives. An option would be to use the definition in Virginia [§ 58.1-3221.2](#), which states that "an energy-efficient building is any building that exceeds the energy efficiency standards prescribed in the Virginia Uniform Statewide Building Code by 30 percent."

Concern 2: Embedded carbon emissions as described in recommendations account for about 10% of global carbon emissions, per June 18, 2022 Economist article ("Greening Property: A Tall Order" [The construction industry remains horribly climate-unfriendly | The Economist](#)) Adding

incentives in Zoning Ordinance for preventing embedded carbon incentivizes construction industry towards better practices.

Recommendation 2: Include incentives for reducing embedded carbon during the construction process due to construction activities, demolition of existing structures and use of new materials like concrete, steel and asphalt. Examples of practices that reduce embedded carbon in construction industry include modular home construction and use of cross-laminate timber in multi-family and high-rise construction.

11. Building Orientation

2.01.01. Sections H. and J. UT/UM Building Orientation

2.01.02.G UE Building Orientation

And 5.09.02 Road Network

Concern: Without acknowledgement of the benefits of north/south orientation, the draft ordinance could create a bias against energy efficiency.

Recommendation: Add language that would encourage and accommodate north/south orientation of buildings to maximize energy efficiency.

- Recommend new subsection 5.09.02A.2.b : *“Road networks are further encouraged to form perpendicular intersections with north-south-east-west alignments to encourage building orientations that are north-south, thereby improving energy efficient design.”*
- Amend 2.01.01H.1. to read *“the UT/UM District must be arranged in a predominantly rectilinear pattern of interconnecting streets and blocks , where said rectilinear pattern enables north-south building orientation where feasible to improve energy-efficient design.”*
- Amend 2.02.02.J to add .3 *“Where feasible, oriented in north south direction to improve energy-efficient design.”*
- Add similar text amendments for District UE.

12. District energy

11.03. U

Recommendation: Edit the definition of “Utility Transmission Line, Underground” to include conveyance of thermal energy.

From: pqweeks@aol.com
To: [DEPT-PZ-ZORW](#)
Subject: [EXTERNAL] Mountain Overlay District (MDOD) Overview
Date: Sunday, July 17, 2022 5:12:31 PM

My name is Peter Weeks. I am the President of Friends of the Blue Ridge Mountains and live in Bluemont, Virginia.

I am going to challenge you to start thinking of the Blue Ridge as absolutely essential to the financial health of the County and absolutely essential to the physical health of its citizens.

Think of the Blue Ridge as a big blue machine. What does this machine do? It takes in all of the carbon dioxide that Loudoun's 400,000 citizens and 12,000 business produce and turns it into oxygen.

How does this wondrous machine do this? Trees. Cut down the trees and that part of the machine stops working and we will have to find some other way to take the pollution out of the air and generate oxygen.

Does this big blue machine do anything else important? How about cleaning up the water that flows down its slopes and eventually finds its way into our wells, our reservoirs, and the Potomac.

So, this big machine cleans our air, cleans our water and it does it for free – pretty good deal so far.

Anything else? How about creating wealth for all of us? How many jobs in Loudoun County are due to the mountains? The county is constantly bragging about the strength of our tourist industry and how many people that employs, but how much do the Blue Ridge Mountains add to our attractiveness? The beautiful settings for our vineyards and our beer gardens help keep the industry thriving even in tough times.

I have another challenge for you. The current zoning code was adopted in 1993 – 30 years ago. What new tools have you added to help control over development? What new tool is there to help reduce clear cutting? What new tool is there to reduce erosion? What about enforcement? The most wonderful regulations imaginable are irrelevant without enforcement. Tell me one thing these regulations have done to improve enforcement. The fines -- where there are fines -- simply become a cost of doing business.

Friends of the Blue Ridge Mountains has a number of specific concerns about the MDOD regulations as currently drafted and we have proposed specific language to correct them. The definition should be changed to include the entire Mountain environment not just scattered areas. The list of uses permitted by right is too broad and will allow significant overdevelopment and uses that are not compatible with the steep slopes and tree cover. Finally, the enforcement mechanisms and corrective measures are totally inadequate. At a minimum, serious violations must be corrected

by returning the land to the condition it was in before the violation

I have one final challenge. We are aware that ZOC has already addressed the MDOD regulations and sent it on to the Planning Commission. ZOR staff need to find a way to look again at Section 4.04 of the ordinance. The importance of the mountains to the economic and physical health of the County demands that ZOC revisit the regulations designed to protect the big blue machine.

Thank you for listening!

From: pqweeks [REDACTED]
To: [DEPT-PZ-ZORW](#)
Subject: [EXTERNAL] Special Exceptions in the MDOD
Date: Monday, July 18, 2022 11:27:25 AM

4.04. C. 3. Special Exception Approval Required.
Special Exception approval is required for each of the following:

3. Groundwater extraction for commercial use or sale.

This part of the MDOD absolutely is inappropriate and should be deleted. Mountains are the source of drinking water for the entire County.

Peter Weeks
Bluemont, Virginia
President, *Friends of the Blue Ridge Mountains*

From: [Britain, Allison](#)
To: [DEPT-PZ-ZORW](#)
Subject: FW: [EXTERNAL] Special Exceptions in the MDOD
Date: Monday, July 18, 2022 11:32:10 AM

Hello Judi and Ryan,

Forwarding from the DPZ inbox.

Kind Regards,

Allison Britain

Planner | Customer Service Center

Loudoun County Department of Planning and Zoning

1 Harrison Street, 3rd floor/PO Box 7000, Leesburg, VA 20177

703.777.0246, option 5 (main)

703.771.5779 (direct)

571.498.2573 (cell)

Visit Us on the Web: www.loudoun.gov/planningandzoning

This e-mail is not intended to be and shall not be deemed to be an official order, requirement, decision or determination made by or on behalf of the Zoning Administrator. In keeping with the Virginia Freedom of Information Act (FOIA), emails and all attachments may be released to others upon request for inspection and copying without prior notification.

From: [REDACTED]
Sent: Monday, July 18, 2022 11:30 AM
To: DEPT-PZ-PLANNING_ZONING <DPZ@loudoun.gov>
Subject: [EXTERNAL] Special Exceptions in the MDOD

4.04. C. 3. Special Exception Approval Required.
Special Exception approval is required for each of the following:

3.Groundwater extraction for commercial use or sale.

This part of the MDOD absolutely is inappropriate and should be deleted. Mountains are the source of drinking water for the entire County.

Peter Weeks
Bluemont, Virginia
President, *Friends of the Blue Ridge Mountains*

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

GooseCreekSRAC@gmail.com

Chairman

Benjamin Winn

Vice-Chairman

Erin Smith

John Isom
Phil Daley

Members

Mark Peterson
Jeff Millington

John Cox
Blake Netherwood

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.

From: Robert Pollard
To: [Kroboth, Joe](#)
Cc: [DEPT-PZ-ZORW](#); [BOS](#); [Hemstreet, Tim](#); [Turner, Valmarie](#); [Chad Campbell](#); [Mitch Diamond](#); [Donna Bohanon](#); [Siebentritt, Heidi](#); [Robert Pollard](#); [Gladys Burke](#); [Michelle Thomas](#); [Jane Covington](#); [Thompson, Stephen](#); [Ryan Myers](#); [Alicia Cohen](#); [Derrick Clarke](#); [Alexander Walker](#); [Cliff Keirce](#); [Lori Kimball](#); [William Wilkin](#); [Travis Shaw](#); [Moore, Jennifer](#); [Inthavong, Diana](#); [Mary Sheehan](#)
Subject: [EXTERNAL] Zoning Ordinance Rewrite: Heritage Commission Recommendations
Date: Saturday, July 9, 2022 3:55:36 PM
Attachments: [Zoning Ordinance Rewrite, Heritage Commission comments to Joe Kroboth, 7-9-2022.docx](#)
[Heritage Commission Comments to the Zoning Ordinance Rewrite July 9 2022.docx](#)

Dear Mr. Kroboth,

Please find attached a letter from the Heritage Commission with recommendations for the Zoning Ordinance Rewrite, as well as our detailed submission to the ZOR.

Regards,

Robert A. Pollard
Chairman
Loudoun County Heritage Commission
pollardra@hotmail.com



Loudoun County, Virginia

HERITAGE COMMISSION

1 Harrison Street, S.E., P.O. Box 7000 Leesburg,
Virginia 20177-7000

Telephone (703) 777-0246 • Fax (703) 777-0441 • E-mail: loudounhc@loudoun.gov

July 9, 2022

Joe Kroboth III, Acting Director, Planning and Zoning
1 Harrison Street, SE 3rd Floor
Leesburg, VA 20175 zorewrite@loudoun.gov

Dear Mr. Kroboth,

Re: Zoning Ordinance Rewrite – Heritage Commission Comments

The Heritage Commission would like to thank you and your staff for your commitment to the Zoning Ordinance Rewrite (ZOR), which will ensure that Loudoun County's zoning code reflects the 2019 Comprehensive Plan. In particular, we applaud the work on Village Conservation Overlay Districts (Chapter 4.07) and Adaptive Reuse (Section 5.10). The inclusion of these two chapters in the Zoning Code will help to achieve our common goals as outlined in Loudoun County's Heritage Preservation Plan.

While the Heritage Commission has entered specific comments into the ZOR (attached), we wish to emphasize two broad points that we feel are essential to preserving Loudoun's heritage:

1) Under the **Village Conservation Overlay District** (Chapter 4.07), we observe that **Loudoun's rural villages** currently have little ability to guide their own planning, despite the promise of the 2019 Comprehensive Plan for a "community plan framework" within the Rural Policy Area. We strongly urge you to ensure that County staff have funding and resources to initiate development of the formal community plan framework so that villages can begin to develop their own small area plans as soon as possible. We also urge the County to respect all historic villages as though VCODs were in place, and ensure the rural village list is comprehensive. Our attached comments provide additional detail.

2) Under **Adaptive Reuse** (Chapter 5.10), we have proposed broadening the scope of eligibility for these promising new provisions, with the intention of allowing additional older buildings to qualify for adaptive reuse. Our aim is to proactively encourage adaptive reuse of historic structures by keeping the process simple and enhancing the incentives for its adoption. In particular, we recommend **streamlining the adaptive reuse provisions** to make their application as user-friendly and financially affordable as possible, for example by removing onerous requirements for market analysis, structural engineers, and verification of obsolescence. See attached comments for additional detail.

We have been pleased to see the strong response from the heritage and preservation community stimulated by the County's ZOR outreach effort. We urge you and your staff to take into account the large number of thoughtful comments made by communities and individuals across the County.

Once again, the Heritage Commission thanks you and your staff for your significant contribution to Loudoun County and its heritage preservation.

Sincerely,

Robert A. Pollard
Chairman, Loudoun County Heritage Commission

cc: Loudoun County Board of Supervisors
Tim Hemstreet, County Administrator
Valmarie Turner, Assistant County Administrator
Loudoun County Heritage Commission

Heritage Commission Comments to the Zoning Ordinance Rewrite

Chapter/Section	Zoning Ordinance Language	Heritage Commission Comments
3.05.07.06 Infrastructure	"Telecommunications monopoles are prohibited along ridge lines, but are allowed downslope from the top of ridge lines, to protect views of the Catoctin, Bull Run, Hogback, Short Hill, and Blue Ridge Mountains."	Please add: "Monopoles must be downslope from the ridgeline such that the height of the monopole is below the height of the adjacent ridgeline."
3.05.07.06. D.3.P.	"Telecommunications monopoles are prohibited along ridge lines, but are allowed downslope from the top of ridge lines, to protect views of the Catoctin, Bull Run, Hogback, Short Hill, and Blue Ridge Mountains."	Please add: "Monopoles must be downslope from the ridgeline such that the height of the monopole is below the height of the adjacent ridgeline."
3.05.07.06 Infrastructure	"Applicants proposing a new telecommunications tower within 1 mile of a County designated historic district, property listed on the National Register of Historic Places or Virginia Byway must at least 3 visual simulations and written justification as to why the tower could not be sited elsewhere."	Please insert (language in bold capitals): "Applicants proposing a new telecommunications tower within 1 mile of a County designated historic district, property listed OR ELIGIBLE TO BE LISTED on the National Register of Historic Places or Virginia Byway must provide at least 3 visual simulations and written justification as to why the tower could not be sited elsewhere."
4.07 Village Conservation Overlay District	General comment	As unincorporated villages of Loudoun County, historic villages in the Rural Policy Area do not have any local planning authority, and are dependent on County intervention for assurance of infrastructure and other basic services, including heritage preservation. As a general comment, we urge County BOS and administration instruct staff that developing the community plan framework for the VCOD is a priority to which resources should be allocated as soon as possible.
4.07 Village Conservation Overlay District, Purpose	After the fifth bullet point	Please add the following new bullet point: "Protect the character, culture and identity of the historic crossroads communities of Airmont, Bloomfield, Howardsville, Morrisonville, Unison and Willisville pending formal designation of their status as Rural Historic Villages as discussed in the General Plan."
4.07. B Village Conservation Overlay	"The VCOD boundaries are as established on the adopted zoning map and affect the following villages set forth below."	Please insert following "set forth below":

District, District Boundaries		“except that the historic crossroads villages noted in the General Plan and noted in Section 4.07.C. shall be treated as Rural Historic Villages pending completion of County review of their status”
5.10 Adaptive Reuse Standards	General comment	The proposed language on adaptive reuse for eligible structures is a very welcome development, and will be essential for further sustainable preservation and productive use of the County's numerous historic structures, in turn a critical element of heritage tourism particularly in the Rural Policy Area. In order to facilitate use of this new zoning code provision we urge that the eligibility and requirements be made more flexible, particularly for historic villages. Specific comments follow in sections below.
5.10 Adaptive Reuse	General comment	We have included reference to widely recognized standards of adaptive reuse to encourage retention of character defining features of historic properties. We also see a natural overlap between re-use of the built environment and the sustainability movement. These general comments are reflected in the specific comments that follow:
5.10 Adaptive Reuse, Purpose	Fifth bullet: “Encourage preservation of historic structures through appropriate renovation.”	Please add at the end of the bullet: “... consistent with standards such as the Secretary of Interior Standards and/or HDRC Guidelines (see Section C Standards).”
5.10 Adaptive Reuse, Purpose	Seventh bullet: “Prolong building lifespans, encourage reuse of existing resources ...”	At the start of the bullet, please add the two words “Encourage sustainability, ...”
5.10. B. Adaptive Reuse, Eligibility	General comment	We propose broadening the scope of eligibility with the intention of allowing more older buildings to qualify, so as to encourage adaptive reuse of the built environment by keeping the process simple. We recommended streamlining the rezoning process to make the process more user-friendly and financially affordable by removing requirements such as market analysis, structural engineers, and verification of obsolescence. Adaptive reuse should not be expensive and burdensome.
5.10. B. Adaptive Reuse, Eligibility	“To be eligible for adaptive reuse, a structure must be:”	Please clarify by adding the words: “one of the following: ...”
5.10. B.1. Adaptive Reuse, Eligibility		Please add new line item “ B.1.e Designated ‘locally historic’ by the Loudoun County Heritage Register.”

5.10. B.3. Adaptive Reuse, Eligibility	The structure is greater than 50 years old, and the prior use or uses in the structure are obsolete or economically nonviable.	Please delete "... and the prior use or uses in the structure are obsolete or economically nonviable."
5.10. B.3. Adaptive Reuse, Eligibility	Section B.3.	Please delete line items a. through c.
5.10. C. Adaptive Reuse, Standards and Requirements	General comment	We recommended allowing more options when making changes as some historic buildings and sites don't lend themselves to traditional zoning set-backs or rear, off-street parking spaces. When there are questions, we recommend the Zoning Administrator consult with the HDRC.
5.10. C. Adaptive Reuse, Standards and Requirements	"Adaptive reuse projects must comply with the standards and requirements of this Zoning Ordinance, except as set forth in Sections 5.10.C and 5.10.D below, and must comply with the following	Please include that design standards must comply with the Zoning Ordinance, unless an alternative design is recommended by the HDRC upon submission of an application following the COA application standards and process. If the property is not located in an HCC overlay district, please add that "the HDRC shall be guided by the Secretary of Interior standards in making its recommendations."
5.10. C. Adaptive Reuse, Table 5.10-1	Table 5.10-1. Uses Permitted as Adaptive Reuse	We recommend allowing additional density for onsite property owners
5.10. C. Adaptive Reuse, Table 5.10-1	Second line of the table, under 'Permitted as Adaptive Reuse'	Please see suggested definition of "Live /Work" in the Section which covers 'Definitions.'
5.10. Adaptive Reuse	General comment	Please consider allowing for some limited flexibility based on context-appropriate original historic uses in specific cases (e.g., for African American churches or cemeteries). Where there are questions on context-appropriateness, we recommend consultation with the HDRC"
11.03. Definitions	General comment	Please consider in the definition of 'historic' any structure, building, or other built resource that is: 1.Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

		<p>2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;</p> <p>3. Listed or contributing to a listing on the Virginia Landmarks Register; or,</p> <p>4. Listed or contributing to a listing on the Loudoun County Heritage Register.</p>
<p>11.03. Definitions</p>	<p>General comment</p>	<p>Please consider adding ‘Cultural Landscape’ – A geographic area, including both cultural and natural resources and the wildlife or domestic animals therein, associated with a historic event, activity, or person, or exhibiting other cultural or aesthetic values, as defined by the National Park Service.</p>

From: noreply@civicplus.com
To: [DEPT-PZ-ZORW](#)
Subject: [EXTERNAL] Online Form Submittal: Zoning Ordinance Rewrite
Date: Monday, July 18, 2022 5:04:57 PM

Zoning Ordinance Rewrite

Project Overview

The Zoning Ordinance is the primary implementation tool for the 2019 Comprehensive Plan. It contains an added level of specificity that is based on the community's vision as expressed in the goals, policies and actions of the 2019 Comprehensive Plan.

Input from the Board of Supervisors, advisory bodies, various departments and community and professional groups is being factored into the final product.

We welcome your feedback, comments and questions through this form.

Beginning April 18, you will be able to review the draft Zoning Ordinance and make comments directly on the draft.

[Visit the project webpage.](#)

First Name	Land Trust of
Last Name	Virginia
Address1	119 The Plains Road
Address2	Suite 200
City	Middleburg
State	Virginia
Zip	20117
Election District	N/A
Please provide general comments on the Zoning Ordinance Rewrite.	The baseline should always be to protect all important environmental, scenic, and historic features of any area, therefore LTV requests that the ZOR staff concentrate on reducing the development and density within rural policy areas, taking special consideration of areas contained within MDOD/FOD lands, and/or land containing steep slopes, wetlands and/or open spaces.

Areas of interest or concern

Uses

What is your question or concern?

Our primary concern involves the proposed permitted land uses depicted in Chapter 3. The Land Trust of Virginia recommends including language consistent with or in reference to the protection against the disturbance of land within the Mountainside Development Overlay District (MDOD), Floodplain Overlay District (FOD) lands, and/or land containing open spaces, steep slopes and/or wetlands. We believe not all of the proposed permitted uses in these districts are appropriate for these sensitive soils, delicate environments and scenic landscapes. Allowing all permitted RN and RS uses may and will result in inappropriate development and over development, the consequences of which would be to risk the degradation of the natural environment and scenic landscape. Additionally, the proposed ordinance provides no mechanism to consider or evaluate areas with more than one primary use in terms of scale (location, total acreage), and density impacts.

Thank you for your participation!

To receive an email confirmation of this form, please check the box below.

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Comments on Draft Zoning Ordinance

Introduction

Loudoun County has long been known as “horse country” and the Comprehensive Plan recognizes this heritage and expresses the desire of its citizens for its preservation as such. The equine industry in Loudoun County has been shown to have an \$180M annual economic impact in the County, and plays a unique role in its rural economy. Horse farms contribute to open space preservation in ways that are comparable to “traditional” agriculture without imposing some of the negative impacts that other segments of the rural economy have the potential to do, such as generating traffic and necessitating infrastructure investments by the state or county. In addition, the equine industry supports many other rural businesses such as farm, feed and tack stores, hay and grain producers, farriers, veterinarians, and builders (structures, fencing, water systems etc). They also directly employ horse trainers, farm managers and support staff.

The Loudoun County Equine Alliance has been engaged in the Zoning Ordinance rewrite process and beyond the specific comments we are submitting, we urge not only consideration of some of the specific requirements of horse businesses, but the impact that broader development patterns will have on the presence of horses in Loudoun.

We are also very interested in ensuring that every effort is made in the new Zoning Ordinance to accommodate the needs of the Linear Parks and Trails System, as its creation will be a significant step toward allowing the horse industry in Loudoun to continue to thrive.

The following are comments on specific items in the Draft Zoning Ordinance.

Chapter 3 – Uses

3.02.02-2: **Equestrian Event Facility**. Currently prohibited in Transition/JLMA-LE. REDC recommends that use be allowed by-right (P) or minor spex (M).

3.06.05.17 **Rural Retreats** and 3.06.06.02 **Data Centers** should incorporate the LPAT system of park space, with multi-use public trails woven into all open space easements.

3.06.08.02 and .03 **Agriculture Support**. Equine livery and event should both be under Agriculture (vs. Ag. Support). LCEA feels that equestrian uses don't easily fit into the agricultural support category for the following reasons:

- 25 acres is excessive for an equine livery and that 10 acres should be a minimum. Pasture stocking rates will dictate how many animals can be present and many existing operations are on smaller acreage and successfully doing best practices. In addition, there should be no cap on the largest allowable acreage for an equestrian operation.
- Hours of operation during equestrian events (6 am to 9 pm and 6 am to 10 pm) should not include *deliveries or preparation and care of animals during an event* outside of those times.
- C: Size of structure: Most Stable Livery and Stable Event uses as well as many Stable Private uses have indoor riding arenas of 100 x 200 which is a larger footprint than allowed for all combined structures on < 25 acres, and within 4,000 sq ft. for all parcels 25-50 acres. Stables, storage areas, pasture sheds and indoor arenas should instead be considered agricultural structures. Additional considerations such as the need for fire walls can be given if an apartment or large meeting room is connected to any of these structures. A coliseum, whether for equestrian only or multi-use will also be in excess of the allowable square footage but may better fit within the agricultural support use if the allowable square footage is increased to accommodate it. LCEA members can assist Staff understand the square foot requirements of equestrian facilities.

Chapter 4 – Overlay Districts

- Overall comments: New guidelines are needed that better reflect the ecological issues that may negatively impact rural business operations in overlay districts. Example:
 - 4.03. Floodplain Overlay District. Fencing, tree planting still needs study for Floodplain Overlay District (FOD).

Chapter 5 – Development Standards

5.04 Open Space Standards:

- *Preserve the County's natural, environmental, and historic resources.*
- *Ensure the availability of open space for active and passive recreation.*

Refer to LPAT for both parks/habitat protection and trails.

- 5.04.03A1b: **Passive Recreation Open Space** is for less organized or less vigorous activities that may only require the space to perform the activity, with minor accommodations. Examples include hiking, biking, picnicking, or fishing. ***This section should refer to LPAT and include equestrian specifically as an allowable passive use.***
- 5.04.03A3: **Natural, Environmental, or Heritage Open Space.** Areas that contain naturally occurring phenomenon or characteristics that are subject to potentially negative effects from man-made alterations. Examples may include surface or groundwater features, floodplain, prime agricultural or erodible soils, contiguous forest, and threatened or endangered species habitat. ***LCEA suggests that this utilizes the Parks component of LPAT.***
- 5.04.03B2 **Public Open Space** and 5.04.04A5 **Bonus Credit:** Pedestrian and bicycle trails or shared use paths that meet the goals or prioritization proposals in the Liner Parks and Trails System (LPAT)

(1.25 x the area). ***This should include equestrian as a potential user including road crossing needs when shared-use paths are used as a component within the LPAT system. Need to define shared-use path as Bike Ped. Multi-use is LPAT system.***

- 5.04.04A6 **Bonus Credit:** Preservation through protective easements of wildlife habitat or corridors connecting fragmented habitat consistent with and as verified by the Virginia Wildlife Action Plan of the Virginia Department of Game and Inland Fisheries (1.25 x area). **LCEA: *Should refer to the LPAT park system.***
- 5.04.06B **Passive Use Design Standards:** Centrally located and accessible by a pedestrian and bicycle network. **LCEA: *Should reference accessibility via LPAT system and question why centrally located?***
- 5.04.07 **Trails:** Hikers, bikers and equestrians should ALL be priority users and have trails developed with them in mind, with work arounds as required to maintain continuity of the trail system throughout the county.
- Bike-ped plan should allow for connectivity to natural surface LPAT trail system

Section 5.05 Parking

- Thank you for increasing this from ¼ stalls to ⅓ stalls!

Section 5.08.04 Performance Standards

- **Noise.** Noise control is problematic for anyone to understand. It requires better distinctions for who responds (Sheriff? Zoning Enforcement?) to what type of complaint, and needs to more clearly state how and from where the noise level is determined. If the complaint is to be handled by an entity other than the sheriff, then it must be staffed at all times during which noise may occur. Otherwise, the sheriff should be instructed on how to respond to any noise complaint at any time of day. In addition, because ARN and ARS does not distinguish between locations for most types of rural businesses in relation to other businesses, farms or homes, it is extremely important to consider the possible impacts of one business on the entire community. Specifically, only bona fide agriculture should be exempt from agriculture noise, not the commercial side of an agricultural business.

Chapter 11- Definitions

- 11.03 :Would an equestrian indoor riding arena/ring be considered an **accessory building** or an **agricultural structure**? The typical arena size is 100x200 for a private or livery type use and may be larger for an event center. The allowable square footage needs adjusting for these uses if these structures will be considered accessory buildings. Refer to previous comments under Agriculture Support: 3.06.08.02 and .03
- Stable, Private: says that no more than one employed instructor engaged for the purpose of educating and training students shall be permitted. This seems arbitrary and unnecessary, and LCEA recommends deleting this requirement. The number of horses should be the most defining criteria.

From: Michael Myers
To: [DEPT-PZ-ZORW](#); [DEPT-PZ-PLANNING ZONING](#)
Subject: [EXTERNAL] Loudoun Wildlife Conservancy Zoning Ordinance Rewrite Public Comments
Date: Monday, July 18, 2022 2:28:23 PM
Attachments: [Natural Resources Performance Standards - MN Pollution Control Agency.pdf](#)

Hi,

I submitted comments directly into EnCodePlus, but I also wanted to send an email with some additional comments from Loudoun Wildlife Conservancy.

Throughout the Zoning Ordinance, but especially in Chapter 5: Development Standards, the language in the Zoning Ordinance should be strengthened in order to adequately codify the policies of Chapter 3 of the 2019 General Plan. In particular, stronger language in regards to protecting native plants, wildlife corridors, contiguous habitats, and dark skies should be included.

I have attached a model ordinance for natural resources performance standards developed for the Minnesota Pollution Control Agency (and here is a link to their website with more sustainable model ordinances: <https://greenstep.pca.state.mn.us/page/ordinances>). This document has some great examples of language that could be included in Loudoun County's ordinance to protect native plants, wildlife, and our natural resources.

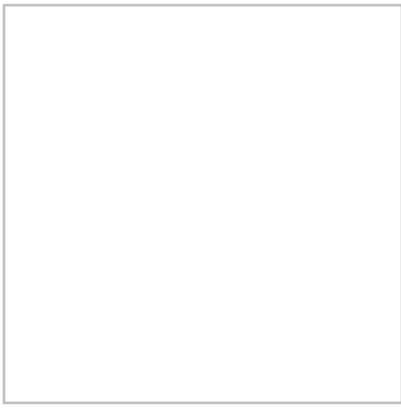
Additionally, more conservation design elements should be incorporated throughout the Zoning Ordinance to help achieve the policies of Chapter 3 in the 2019 General Plan.

Please feel free to follow up with any additional questions or specific language recommendations.

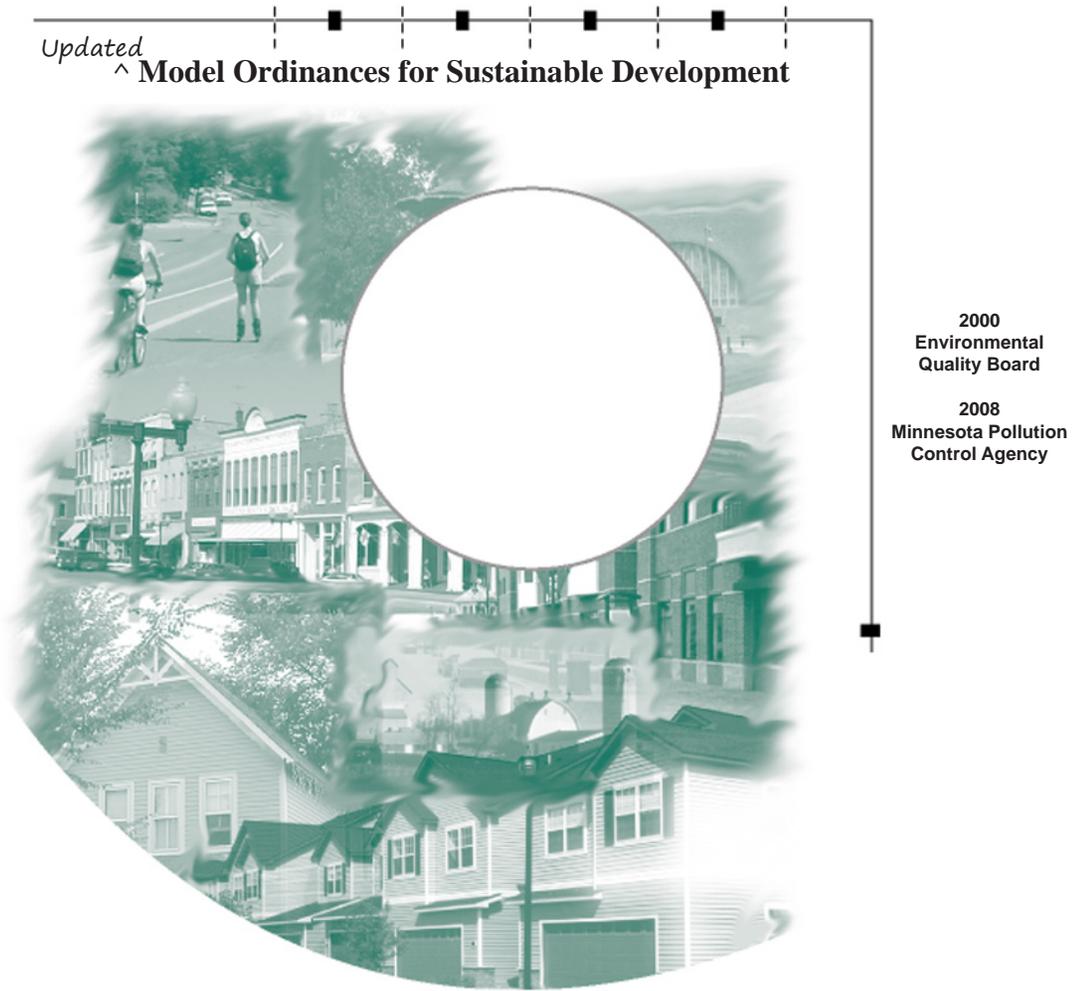
Sincerely,
Michael

Michael Myers, MNM
Executive Director
Loudoun Wildlife Conservancy

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From Policy to Reality



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INTRODUCTION

Communities are frequently defined and sustained by the natural resource systems and natural heritage of their area. Woodlands, steep slopes and bluffs, native plant communities, game and non-game wildlife, wetlands, lakes, streams, and recreation areas in and around communities add substantial value to developed land uses. These natural resources define a positive community character, enhance the quality of life of residents, and support a variety of economic activities. Natural resources conservation provides ecosystem protection and economic sustainability for natural resource-based industries. Sustainable use of natural resources means that resources are protected in the development process for use by both current and future generations of residents and businesses.

This model ordinance provides example language for natural resource design standards. Just as communities adopt design standards for infrastructure and developed land uses, communities can adopt design standards for natural systems and resources. Roads that are built in a new subdivision must meet the minimum standards of the community. Wastewater and water systems similarly must meet standards that are intended to ensure a minimum level of performance. Natural resource design standards are intended to ensure that development results in acceptable performance or functioning of the community's natural systems.

Which natural resources to design for?

In order to create natural resource design standards the community must identify natural resource conservation goals. What natural systems and natural resources are of value to the community? What does the community want to protect? The three general steps to identifying your community's conservation goals are:

1. *Conduct an inventory.* A natural resource inventory (NRI) identifies the type and characteristics of the community's land cover and natural systems.
2. *Conduct an assessment.* A natural resource assessment (NRA) places value on the types and characteristics of the community's natural resources. This process can be conducted during a comprehensive planning effort, when other priorities are also being identified.
3. *Select conservation goals.* Based on the assessment, the community selects actions to address priority systems and resources. As with the NRA, the goal setting can be done as part of the community's comprehensive plan process. Even if done separately, the goals should be incorporated into the comprehensive plan.

Natural Resource Design Standards

These design standards are based on draft design standards written for the City of Shakopee. Shakopee's standards were based on the outcomes of a detailed natural resource inventory (NRI) and a natural resources assessment (NRA) process funded through the Minnesota Department of Natural Resources and the Bush Foundation. The community laid the foundation for creating natural resource design standards by first identifying natural resources and resource quality, then prioritizing natural resource characteristics to define what needed to be protected. The NRI/NRA process was also used in the City of Sartell, which provided the foundation for that city's natural resource protection ordinance.

Natural Resource Inventory/Assessment

*For more detail on the NRI/NRA process in Shakopee, refer to **Using Natural Resource Information in Comprehensive Planning**, which can be downloaded from http://files.dnr.state.mn.us/assistance/nrplanning/community/nrplanning_guide/handbook.pdf. A description of the handbook and a link to the DNR site may be found on the Minnesota Sustainable Communities Network website, www.nextstep.state.mn.us.*

Mapping Green Infrastructure for an Overlay District

Part of the planning process that results in an overlay district includes the community defining its “green infrastructure.” Green infrastructure is a term that refers to the basic elements of the community’s natural systems. Green infrastructure (woodlands, wetlands, native plant communities, parks, open space, etc) is distinguished from “gray” infrastructure (roads, buildings, and sewers). Both gray and green infrastructure are important community investments. Gray infrastructure, however, typically depreciates over time even with ongoing maintenance and ultimately must be rebuilt. Green infrastructure, in contrast, can appreciate in value with proper management (including careful integration of development that sustains or restores the infrastructure). Like gray infrastructure, green infrastructure requires maintenance and investment, but works with nature toward a state of equilibrium. Communities should identify and prioritize green infrastructure in and adjacent to their boundary by completing an inventory of their natural resources, assessing each resource’s functions and values, mapping priority areas, and providing language for the community’s vision, goals, and policies to protect, restore, and sustain their natural resources.

After setting conservation goals, the community must define how to sustain these resources as the community develops and makes infrastructure choices. Defining the sustainable use of a community’s natural resources will depend on several factors:

- The functional values of the resource to the ecological framework,
- The sensitivity of the natural resource to various uses and to different kinds of development,
- The uniqueness of the resource in the community and in the region,
- The economic value of the resource, and
- The natural resource priorities adopted by the community in its natural resource assessment or comprehensive plan.

The inventory/assessment/conservation goal process is identified in far more detail in several publications. The key point is that the community does not start by creating natural resource design standards. The community uses design standards to achieve specific conservation goals.

Use of Design Standards

Communities can use natural resource design standards to address natural resource protection and management in a community’s development regulation in two ways: 1) coupling the standards to an overlay district, or 2) using the standards as general or performance standards. An overlay district identifies the natural resource areas that require protection on a map and sets protection requirements for those areas that lie in the overlay district as with a shoreland district or a historic district. Performance standards, in contrast, are written into the zoning ordinance to set protection requirements for priority natural resources or systems regardless of where the systems lie in the community.

Because Model Community is a generic community, this model ordinance language includes both overlay and community-wide performance standards. Reference is made throughout the standards to inventoried and mapped resources, assuming that an NRI/NRA process has been completed.

Performance Standards

Performance standards provide the design criteria and land use tools required for development in and around a community's natural resources based on Model Community's Comprehensive Plan, NRI and NRA. Performance Standards provide direction for natural resource protection, mitigation of development impacts, and protection of corridor connections necessary to preserve a series of natural features within an ecological framework. The local government references the performance standards in the zoning and/or subdivision ordinance. In addition, the standards may be referred to in other procedures (i.e., variances, conditional use permits, re-zonings, other administrative processes related to development) in order to look to improve other development or land use changes.

Natural Resource Design Standard Examples

The model natural resource design standards are directed at several specific types of resources, including woodlands, native upland plant communities, wildlife, and steep slopes and bluffs. Each performance standard is broken into four sections:

- 1) Purpose and goals,
- 2) Applicability, or areas subject to the performance standards,
- 3) Criteria for the performance standards, and
- 4) Required minimal performance standards.

Woodland Standards

These standards were specifically designed to meet a conservation goal of preventing woodlands from being cleared or partially cleared prior to development. Pre-development removal is thus strictly regulated, while allowing removal during the development process. This community's goal of minimizing fragmentation of remaining wooded areas will not apply to all communities. Some communities will want to focus on tree preservation (rather than woodlands), while others will want to protect wooded areas as habitat or natural heritage areas. Different conservation goals will require the use of different design standards.

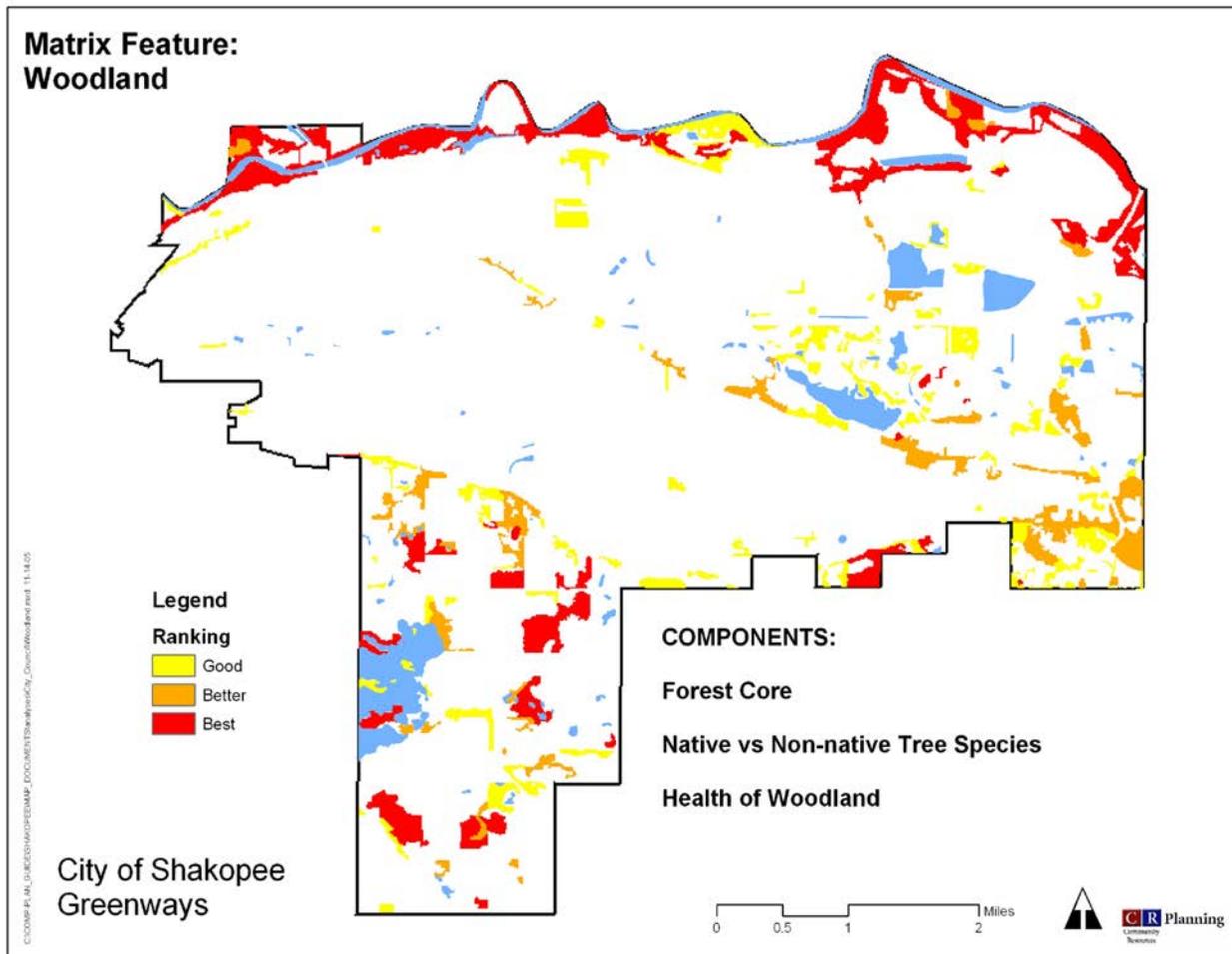
Applicability

The model language assumes that tree removal is a precursor to development; woodland areas are defined as being large wooded undeveloped areas in an urban area with heavy development pressure.

I. Performance Standards for Woodlands

- A. **Purpose and Goals** - The Model Community design standards for woodlands are established to protect Model Community's remaining important wooded areas as defined in the Model Community's Comprehensive Plan, natural resource inventory, and natural resource assessment. The design standards meet the following Comprehensive Plan goals:
 - 1. **Goal** - Integrate development with natural resources to maximize value of both.
 - 2. **Goal** - Minimize fragmentation of natural resource areas in Model Community.
 - 3. **Goal** - Protect and restore water quality in Model community's lakes and streams.
 - 4. **Goal** - Maintain Model Community's unique character, including neighborhoods, natural heritage, and historic buildings.
- B. **Applicability** - The performance standards for woodlands shall apply to all woodland areas identified on Model Community's priority woodland areas and corridors map.
- C. **Criteria for Standards** - The minimum performance standards for woodlands are created to meet one the following criteria:
 - 1. **Large Wooded Areas** - The performance standard protects wooded areas that are large relative to all local tracts of remnant wooded areas; or
 - 2. **Proximity** - The performance standard protects wooded areas that are in relative proximity to other wooded areas.
- D. **Minimum Woodland Performance Standards** - The following minimum performance standards shall apply to woodland areas:
 - 1. **Tree Removal Prior to Development Application is Prohibited** - The removal of any tree on any parcel of land containing a woodland area prior to approval of a Woodland Management Plan (see section D.3.e) is prohibited except for the removal of individual diseased or hazard trees for safety purposes. Failure to comply with this provision shall be considered a violation of this performance standard and shall be punishable by a fine up to an amount equivalent to the full cost of restoration, on or off-site, of woodland area equivalent in ecological function of trees that were removed.
 - 2. **Site Design upon Submittal of Development Application** - Structures, driveways, and parking facilities shall be located in such a manner that the maximum number of trees should be preserved.

Figure 2: Example of the City of Shakopee’s priority woodland areas as identified in the NRI/NRA process.



Ecological Considerations for Woodland Standards

According to Environmental Law Institute 2003, the following should be considered when defining woodland areas.

1. The types of species in your community’s woodland habitats (trees and wildlife) require areas (patches) of varying sizes to thrive. For example, an estimated five (5) acres is needed to sustain a representative tree community type and at least twenty-five (25) acres is needed to conserve an old growth forest if surrounded by secondary forest, or two hundred fifty (250) acres if surrounded by cleared land.
2. The core area of a patch is defined by the ratio of the perimeter of the patch edge to the interior area of the patch. A low ratio of edge to interior indicates more interior habitat available (core area). Certain plant and animal species require larger core areas to survive.
3. Certain species require a level of connect-edness between woodland patches to thrive. The more connected woodland patches are to other habitats and woodlands, the better the chance at maintaining viable habitat. A series of small or medium sized patches may capture a greater diversity of habitat types and biological diversity than the preservation of one large fragment.

Tree Removal Prior to Development Application is Prohibited

The model ordinance language is appropriate for urbanizing communities, but not for rural area or areas where development and working forests overlap. Provisions for timber harvest and would need to be added, a less stringent standard for what constitutes violation.

Woodland Management Plan Required

The community has set a very tight threshold for when a Woodland Management Plan is required. The goal for this community is to protect all remaining woodland areas until a development plan is submitted.

3. **Woodland Management Plan Required** - Any applicant who desires to remove any tree on any parcel of land containing a woodland must submit a Woodland Management Plan prepared by a certified forester or landscape architect to Model Community and must demonstrate that there are no feasible or prudent alternatives to removing any tree. Alternatives such as; decreased setbacks, minimized grading, reduction in the number of proposed dwelling units, reduction in street width or design, or other design modifications shall be considered. Increased costs alone shall not be sufficient proof of lack of feasible or prudent alternatives.
 - a. **Information Required in Woodland Management Plan** - The Woodland Management Plan must consist of a survey or scaled drawing showing the following:
 - i. Topography,
 - ii. Parcel boundaries,
 - iii. Waterbodies,
 - iv. Tree inventory containing species, size at DBH, and condition (i.e. healthy, old growth, diseased, hazard, etc.)
 - v. Proposed trees marked for removal,
 - vi. Tree protection fencing around individual trees and/or woodlands during clearing or construction activities,
 - vii. Existing and proposed streets, driveways, parking lots,
 - viii. Existing and proposed building pads, structures, facilities,
 - ix. Existing and proposed stormwater and wastewater infrastructure,
 - x. Other information requested by Model Community.
 - b. **Tree Removal to be Identified** - The drawing shall clearly illustrate individual trees proposed for removal and the manner by which the applicant intends to replace the removed trees in compliance with subsection 4, below (Tree Replacement Standards).
 - c. **Pre-Development Plan Meeting** - The applicant is encouraged to meet with Model Community staff prior to the creation of a Woodland Management Plan to discuss subdivision design alternatives that meet the requirements of this section.
 - d. **Proof Required for Requesting Tree Removal** - The proof required for an assertion that no feasible or prudent alternative to tree removal exists shall include, at a minimum, information on the following:

- i. A description and site design of alternatives considered prior to the assertion of no feasible or prudent alternative;
 - ii. Cost estimates of alternatives that were considered; and
 - iii. Other information requested by the reviewing authority.
 - e. **Review by Expert** - Model Community may engage one or more experts to assist in the evaluation of an assertion that there are no feasible or prudent alternatives to removing any tree. An expert may be engaged to review biological information, cost estimates that are provided as proof of feasibility or prudence, or other reviews deemed necessary by Model Community to evaluate. Full costs of engaging such experts shall be charged to the applicant.
 - f. **Final Determination of Feasibility or Prudency** - Model Community shall make the final determination of whether or not feasible and prudent alternatives exist to tree removal.
4. **Tree Removal and Replacement Standards** - The following conditions shall apply to an applicant proposing to remove trees from any parcel of land for the purpose of development:
- a. Preserve fifty percent (50%) of the trees on the project site.
 - b. Tree preservation areas must be equal to or greater than five acres.
 - c. No tree replacement will be required if the above two requirements can be completed on site.
5. **Site Inspections Required** - Site inspections to ensure compliance must occur prior to the issuance of any permit for the development. The applicant must survey and stake all platted property lines, streets, parks, open spaces, building pads and install tree protection prior to site inspection. At least two additional site inspections shall occur during site preparation and construction of the development to ensure compliance with the approved Woodland Management Plan. Additional site inspections necessary because the applicants requested revisions to the approved Woodland Management Plan will be completed by Model Community and the costs shall be charged to the applicant and reimbursed from the construction security.
6. **Standards for Tree and Woodland Protection During Grading, Contouring, and Construction**
- a. All development activities, including grading and contouring, must take place in such a manner that the root zone aeration stability of existing trees are not affected and must provide existing trees with a protected watering area. The required protected watering area shall be measured as the distance of the branch that extends horizontally farthest from the trunk multiplied by 1.5.

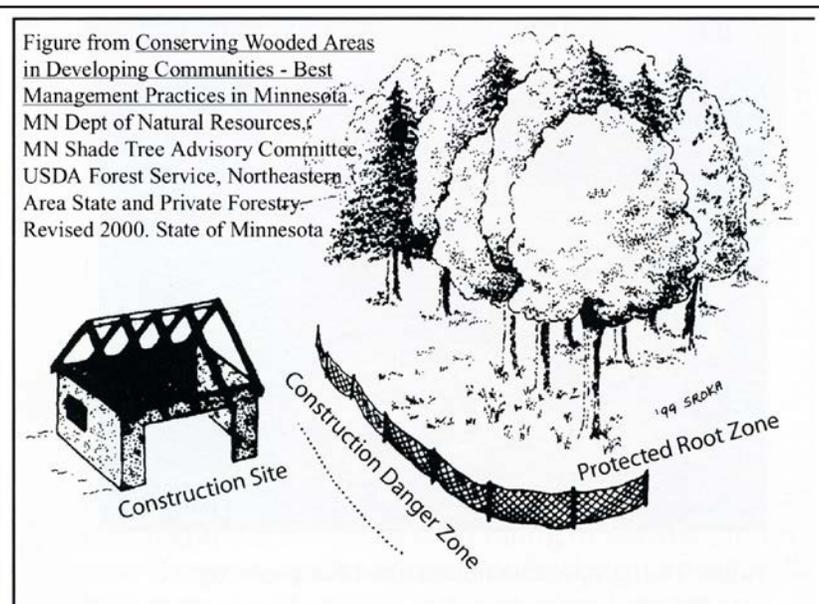
Tree Removal and Replacement Standards

The standard allows for up to 50% removal as part of a development. This ordinance is not intended for permanent protection of habitat areas or working forests, but rather protection of community character and viewsheds.

Best Management Practices

The model ordinance references a best management practices manual appropriate for some communities. Other material is more appropriate for different types of communities, such as: *City Trees: Sustainability Guidelines & Best Practices* (Tree Trust, Bonestroo, 2007); *Tree City USA*, www.arborday.org/programs/treeCityUSA.

Figure 3: Tree protection fence installation



Determining the construction danger zone between the protective fence and the building site assists with final site and building design and selection of equipment to be used. Note that the tree protective fence is placed in front to prevent access and disturbance to the protected root zone.

- b. Installation of snow fencing or polyethylene laminate safety netting shall be placed at the drip line or at the perimeter of the critical root zone, whichever is greater, of trees and woodlands to be preserved. No grade change, construction activity, or storage of materials shall occur within the fenced area.
- c. The applicant and the applicant’s contractors shall take steps to prevent the change in soil chemistry due to concrete washout and leakage or spillage of toxic materials, such as fuels or paints. Washout areas must be identified on site and signage of those areas should be provided in the construction area.
- d. Best management practices shall be followed for tree and woodland protection during site grading and construction. Model Community adopts by reference the best management practices in the most current version of *Conserving Wooded Areas in Developing Communities – Best Management Practices in Minnesota*, Minnesota Department of Natural Resources, Minnesota Shade Tree Advisory Committee, USDA Forest Service, Northeastern Area State and Private Forestry.

- 7. **Diseased Trees** - Trees determined to be diseased by Model Community will be required to be removed and such removals will not require replacement or count towards the approved removal quantity.
- 8. **Woodland Standards in Shoreland Areas** - Tree removal in shoreland areas is subject to the provisions of this section with the following additional requirements:
 - a. A Woodland Management Plan shall not allow tree removal within the shoreland and bluff impact zones and on steep slopes in shoreland areas, except as allowed in c. below.
 - b. Intensive vegetation clearing for conversion of forest land to another use is prohibited.
 - c. In shoreland and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, beach and watercraft access areas, and permitted water-oriented accessory structures of facilities, provided that:

- i. The access path is no more than six feet wide through the buffer, and clearing along the shore is no more than 20 feet wide and 15 feet deep, consistent with shoreland performance standards;
- ii. The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced; and
- iii. Existing shading of water surfaces is preserved to sustain cool water temperatures.

The above provisions (8. c.i – 8. c. iii) are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.

9. **Security Required for Subdivision** - Prior to issuing a subdivision permit, the developer or subdivider of a site shall provide a financial guarantee for compliance with this chapter.
 - a. The financial security shall be part of the standard construction security required for the guarantee of street and utility construction. Such security, which may be in the form of a bond, letter of credit, cash of escrow deposit, or other such instrument approved by Model Community.
 - b. The applicant will be released of any further responsibility for loss of trees when:
 - i. The building permit has been issued.
 - ii. Grading is complete, replacement trees have been planted, and preservation is verified by the Model Community.
10. **Security Required for Builder** - Security shall be provided by builder in any designated woodland area to guarantee compliance with this chapter.
 - a. Prior to the issuance of a building permit, the builder shall provide Model community with a cash escrow of \$1,000 to guarantee compliance with tree preservation and replacement requirements.
 - b. The builder shall be released of any further responsibility for loss of trees following an inspection and verification by Model Community that all such requirements have been met.
 - c. The local government of Model Community shall be exempt from the provisions of this Section.
11. **Penalty for Unauthorized Tree Removal** - Any person, firm, or corporation who causes the loss of trees identified as saved on the approved Woodland Management Plan shall be required to complete one of the following:

Security Required

This model language requires the developer and the builder to put up financial assurance that the design standards will be met as required. By setting separate requirements for the developer and the builder, the ordinance acknowledges the distinct role for each in the development process, and limits responsibility for each.

- a. **Replacement of the Tree Removed According to the Diameter of the Tree** - The replacement ratio shall be two (2) caliper inches for every one (1) caliper inch of the tree removed. Replacement trees shall be planted within the project site. If replacement can not be completed within the project site, a cash amount approved by Model Community shall be provided to Model Community to complete management activities within the development, plant trees on the site at a later time, or plant trees on public owned or managed property.
 - b. **Payment to Model Community from the Construction Security** - The amount of the payment will be \$500 for every one (1) caliper inch of the tree removed.
12. **Plan is a Continuing Requirement** - The Woodland Management Plan shall be a continuing requirement. The survival of replacement trees and continuation of management practices required in the Woodland Management Plan shall be the responsibility of successor owners of the parcel or subdivided lots.
13. **Appeals** - If the applicant disagrees with Model Community staff decision with respect to the interpretation or enforcement of this Subdivision, the applicant may appeal that decision by following the procedure established by Model Community's code.

II. Performance standards for Native Upland Plant Communities

A. Purpose and Goals

1. **Protect Upland Native Plant Communities** - The primary purpose of the native upland plant community performance standards is to protect areas in Model Community with high quality non-woody native upland plant communities where proposed or existing development presents a risk to Model Community’s remaining native habitat. The performance standards are also designed to allow restoration efforts to take place and to provide for connection of isolated exceptional or high value vegetation areas.
2. **Consistency with Comprehensive Plan** - Native upland plant communities identified in Model Community’s NRI/NRA shall be preserved or restored during land development, consistent with the following Comprehensive Plan goals:
 - a. Create appropriate development standards to protect or enhance Model Community’s exceptional and high value ecosystems and rare plant communities.
 - b. Protect areas critical for maintaining connectivity between high value communities that make up Model Community’s natural heritage.
3. **Ecosystem Approach** - These performance standards adopt the goals of ecosystem management; the whole system is greater than the sum of all its parts. Development and protection decisions need to be based on understanding the inter-relationship of components of the ecosystem (i.e., woodlands, endangered species, wetlands, slopes, etc.). Individual components of the ecosystem, also referred to as green infrastructure, must frequently be connected in order to function appropriately, just as the individual components of the water, wastewater, and transportation systems must be connected in order to function.
4. **Integrate Development** - These performance standards are designed to integrate new development with Model Community’s remaining native upland plant communities, and to ensure that these areas continue to function as part of the community’s natural heritage, habitat, and open space into the future.

- B. **Applicability** - The standards apply in the following areas when vegetative clearing is being conducted or an application for a grading or development permit is submitted:

1. **Priority Native Upland Plant Communities** - Native upland plant community areas as mapped and ranked by Model Community according to their functional value.

Protect Upland Native Plant Communities

This standard is written to protect upland plant communities. Unlike wetlands or shorelands, upland native vegetation has no state or federal protection. If the community prioritizes native prairie or oak savanna as an important part of its natural heritage, the community must incorporate protections

Comprehensive Plan Language

Direct reference to comprehensive plan goals helps users understand the reason behind the regulation. Communities should put their own policy or goal language in place of the language provided.

Ecological Facts about Upland Plant Communities

“Tall grass prairies and related oak savannas are now the most decimated and threatened plant communities in the Midwest.”

Source: Wisconsin’s Biodiversity as a Management Issue – Chapter 8 Grassland Communities. Richard Henderson.

2. **Connection Areas** - Areas within the corridors as mapped that connect parcels with exceptional and high quality native upland plant communities.
- C. **Criteria for Standards** - The minimum performance standards for exceptional and high quality native upland plant communities areas include the following :
1. **Protect and Connect High Quality Vegetation** - Protect exceptional and high quality native upland plant community areas, and other vegetated, undeveloped areas that connect to the exceptional and high quality native upland plant communities, within Model Community's corridor system.
 2. **Protect Isolated Areas** - Protect exceptional and high quality vegetation areas outside the corridor system to the maximum extent practicable, requiring delineation of these vegetation areas and retaining 100% of sites smaller than five acres or less than 20% of the development site, plus a minimum of 50% of contiguous vegetation for that portion of the site beyond the five acre/20% threshold.
 3. **Encourage Restoration** - Encourage (working with other organizations and willing landowners) or require (as a condition of subdivision, PUD, rezoning, or conditional use permits) restoration of moderate to low quality native upland plant communities areas consistent with an approved management plan.
- D. **Minimum Performance Standards for Native Upland Plant Community Areas** - Following are the minimum performance standards that shall apply to the designated categories of native upland plant communities.
1. **Native Upland Plant Communities** - Exceptional and high quality native upland plant communities shall be protected and incorporated into new development or infrastructure so as to retain and maintain the integrity of Model Community's native upland plant communities, encourage restoration of those communities as needed, and provide for connections between distinct areas consistent with the needs to sustain the plant community(ies).
 2. **Delineation Required for Exceptional and High Quality Native Upland Plant Community Areas** - Applications for any development, grading, or clearing permit on or adjacent to parcels that include designated quality native upland plant communities must include a delineation of all native upland plant community areas on the development parcel, based on the MLCCS and consistent with the criteria used in Model Community's natural resource and corridor maps. The application shall also note the location of mapped exceptional and high quality native upland plant community areas on adjacent parcels.

Encourage Restoration

Most remaining remnants of savanna flora and fauna are in need of restoration, including tree thinning, brushing, and burning. In the absence of fire or grazing, savanna and brush-prairie communities rapidly succeed to woodland, which does not sustain the same habitat as the savanna and prairie.

Source: Henderson, Grassland Communities, 1995).

Exceptional, High, Moderate, Low Quality

These standards reference "high", "moderate" and "low" quality sites. Such designations must be defined in the community's NRI/NRA or in the Comprehensive Plan.

Alternatively, the community can use the quality standards embedded in the MLCCS inventory, to the extent that the specific resource (e.g. Native Upland Plant Communities) matches the MLCCS cover types. The MLCCS has criteria for assessing qualitative rankings. While judgment always comes into play, these rankings have been demonstrated to be reliable and consistently applied.

3. **Exceptional and High Quality Native Upland Plant Community Areas within the Corridor System** - Development is regulated in the following manner:
 - a. **Development Prohibited** - No development, intensive vegetative clearing, or grading is allowed on any area within the corridor system that is designated as moderate to exceptional quality native upland plant communities except for vegetative restoration under a vegetative management plan approved by Model Community.
 - b. **Edge Habitat Buffers Required** - Within 100 feet of the delineated high quality native upland plant communities sites:
 - i. All buildings and roads are excluded.
 - ii. Vegetative clearing is prohibited except for vegetative restoration that is described in a vegetative management plan approved by Model Community.
 - c. **Restoration** - Restoration may be required, if determined by Model Community to be necessary for sustaining surrounding exceptional and high quality native upland plant community areas.
4. **Other Areas with Native Upland Plant Community Designations** - Development is regulated in the following manner:
 - a. **Protection of Moderate Native Upland Plant Communities** - No more than fifty percent (50%) of the areas rated, on the native upland plant communities map, as moderate native upland plant community areas shall be cleared or graded for development or infrastructure.
 - b. **Exceptions** - Model Community may allow more than fifty percent (50%) of the moderate native upland plant communities to be developed if restoration of remaining areas is completed and connectivity is maintained between exceptional and high quality vegetation areas or to the corridor system.

Delineation Required - MLCCS criteria

The Minnesota Land Cover Classification System (MLCCS) is an established hierarchy for categorizing natural resources. At the most general level, land cover is divided into either “natural/semi-natural” or “cultural” cover types. Within these cover types there are five hierarchical levels with increasing levels of detail about the land cover.

The natural/semi-natural classification system is a hybrid of the National Vegetation Classification System (NVCS) and the Minnesota Natural Heritage plant communities.

The cultural classification system is designed to identify built-up/vegetation patterns and an area’s imperviousness to water infiltration.

The Department of Natural Resources, working with local governments, has completed MLCCS inventories for most of the metropolitan area. Inventories have also been completed for some areas in Greater Minnesota.

*For more information on the MLCCS definitions and process, go to:
<http://www.dnr.state.mn.us/mlccs/index.html>*

Buffers for Small Stands or Remnants

Establishing a minimum buffer prevents build-ings from encroaching into the exceptional and high quality vegetation areas, while allowing some ‘edge’ habitat to help sustain many of the savanna and prairie remnants.

Rating Native Upland Plant Communities

Communities vary in their terminology and rating criteria for these ecological systems. Several Minnesota examples include the City of Shakopee, City of Duluth, Washington County. Ratings tend to be three or four qualitative categories such as low, moderate, high, and exceptional quality, or having good, better, best quality. Each community should determine how best to rate their natural resources and adjust the language accordingly in the performance standards. The ranking language (i.e. exceptional, high, moderate, low) should be consistent across all of the natural resource evaluations.

Conservation Easements Required

Conservation easements are the optimal means of permanent protection. However, an acceptable legal entity must be available to accept and hold conservation easements - homeowners' associations for-profit entities, or individuals cannot hold a conservation easement under state law. Some non-profit organizations will accept such easements but may require a management fee. Government agencies can also accept easements, but need to have staff who can manage the easement over time. Each community needs to consider whether and how to use conservation easements as a protection tool.

5. **Restoration** - Restoration of native upland plant community areas, consistent with the habitat restoration standards of the Minnesota Department of Natural Resources, is highly encouraged in the following areas.
 - a. Low to moderate quality native upland plant community sites, as mapped on Model Community's native upland plant communities map.
 - b. All vegetated areas connecting exceptional and high quality upland, wetland, or shoreland vegetation areas within the corridor system.
 - c. Edge habitat areas and buffer areas around exceptional and high quality native upland plant community areas.
6. **Conservation Easements Required** - Conservation easements shall be placed and signed accordingly on delineated exceptional and high quality native upland plant community areas that are required to be protected under this performance standard.

III. Performance Standards for Wildlife

A. Purpose and Goals

1. **Protect Wildlife Habitat and Corridor Systems** - The primary purpose of the wildlife standards is to protect wildlife habitats and corridors where proposed or existing development presents a risk to areas associated with the survival of wildlife species in the community. The performance standards are also designed to allow restoration efforts to take place and to provide for connection of isolated habitat areas.
2. **Consistency with Comprehensive Plan** - Model Community's natural resources and greenways should provide a diversity of natural communities and associated wildlife, consistent with the following Comprehensive Plan goals:
 - a. Preserve, protect, or restore ecosystems essential to sustain Model Community's native wildlife.
 - b. Create greenways throughout the community for trails, connecting habitat, sustaining wildlife, and providing recreation activities for residents.
3. **Ecosystem Perspective** - These performance standards adopt the perspective of ecosystem management: The whole system is greater than the sum of all its parts. Development and protection decisions need to be based on understanding the inter-relationship of ecosystem components (woodlands, endangered species, wetlands, slopes, etc.). Individual components of the ecosystem, also referred to as green infrastructure, must frequently be connected in order to function appropriately, just as the individual components of the water, wastewater, and transportation systems must be connected in order to function.
4. **Integrate Development** - These performance standards are designed to integrate new development with Model Community's remaining natural wildlife areas, and to ensure that these areas continue to function as wildlife habitat into the future.

Fragmentation

"Habitat fragmentation significantly reduces wildlife populations and diversity. When wildlife is contained to small, isolated patches of habitat, resources required for survival such as food, water, cover and mating opportunities become scarce. Depending on the extent of fragmentation, populations can become unstable and entire species can disappear from a region."

Source: Bond, Monica. 2003. Principles of Wildlife Corridor Design, Center for Biological Diversity.

Corridors and Connections

"Wildlife abundance and diversity within corridors is positively correlated with the width of corridors. Wider corridors provide more interior habitat and greater protection from human disturbances and predators."

"Interconnected networks of corridors allow the fullest range of wildlife movement. Ideally, corridors should extend across a topographical gradient, i.e. from river bottom to ridge top, to connect the widest variety of local microhabitats. This configuration is especially important for wildlife that migrates between different types of habitat throughout their lifecycles."

Source: Lindenmayer, B. and J. Franklin. 2002. Conserving Forest Biodiversity: A Comprehensive Multiscaled Approach.

Applicability - Links to Permits

The applicability of these standards is linked to the issuance of other permits, in this case grading, development permits, or subdivision permit.

Alternatives for communities to consider include:

1) Assessing the permit application and review process already used in the community and limiting the standards to only those permits where the risk to the resource is greatest, and;

2) Not linking the standards to a specific permit but applying them to all management actions where the resource exists. The latter of these is a genuine performance standard approach, but requires a greater enforcement commitment by the community.

Applicability - Mapped Areas

The model ordinance language assumes that the community has identified wildlife areas and conceptual corridor connections (or corridor search areas) prior to adopting the ordinance.

The community can, instead, use county biological survey sites, other DNR wildlife or corridor designations, county assessments, Soil and Water Conservation District priorities, or other agency designations. Designating corridors can be conceptual, leaving the final connection path dependent on development patterns.

- B. **Applicability** - All applications for a grading, development, or subdivision permit must comply with these standards. The geographic areas where the standards apply include the following:
1. **Priority Wildlife Areas** - Wildlife areas as mapped and rated in Model Community's natural resource assessment.
 2. **Connection Areas** - Connections between exceptional or high quality wildlife areas as identified on the green corridor system.
- C. **Criteria for Standards** - The minimum performance standards for exceptional and high quality wildlife areas include the following :
1. **Protect Habitat Function** - Protect the habitat function of areas identified as exceptional or high wildlife areas by Model Community.
 2. **Ensure Barrier-Free Movement** - Ensure barrier free movement between wildlife areas within Model Community's corridor system.
- D. **Minimum Performance Standards for Wildlife Areas** - Following are the minimum performance standards that shall apply to the designated categories of wildlife.
1. **Site Survey Required** - Where the development site includes or abuts an area identified as exceptional or high wildlife habitat by Model Community a habitat site survey shall be conducted. The site survey shall identify the following:
 - a. Species likely to utilize the habitat, and;
 - b. Necessary conditions to maintain the habitat function for species sustainability including protection of core area and edge vegetation or additional configurations (i.e., buffers, corridor widths) and any other functions specific to sustaining the wildlife species' habitat community.
 2. **Protect Functioning of Delineated Areas** - Site configuration, preparation, and development must protect the site as wildlife habitat area as identified in the habitat site survey. In order to protect the habitat functions, site configuration, preparation or clearing, and development shall:
 - a. Maintain a diversity of habitat by preserving the range of existing foliage height including ground covers, shrubs and trees;
 - b. Incorporate habitat buffers to the designated wildlife area, and identify provisions for maintaining the habitat buffer over time. The habitat buffer shall:
 - i. Be a minimum of 40 feet wide, unless otherwise identified in the habitat site survey.
 - ii. Be consistent with the edge habitat conditions identified in the habitat site survey, such as the need for native vegetation of differing heights, including grasses, shrubs and trees.

- c. Minimize the amount of area within the habitat buffer that is converted to lawn from existing vegetation.
- 3. **Barrier-Free Movement Required** - The subdivision of any land with exceptional or high wildlife habitat shall make provisions for barrier-free movement of wildlife across the site and maintain barrier-free movement to Model Community’s corridor system abutting the development site.
 - a. Road and other above ground infrastructure shall not cross corridors unless mitigating steps, meeting the approval of Model Community and consistent with the findings of the habitat site survey, are taken.
 - b. Corridors connecting wildlife habitat areas shall be a minimum of 100 feet wide. Additional width may be necessary if warranted by the species associated with the habitat site survey.
 - c. Corridors shall be marked with signage indicating that the area should not be disturbed and vegetation should not be cut.
- 4. **Lighting** - Artificial lighting shall be fully shielded and directed so as not to shine into the wildlife area or associated connecting corridor.
- 5. **Conservation Easements** - Conservation easements on habitat areas or corridors within the corridor system may, at the discretion of Model Community, be required as a condition of subdivision approval.

Barrier-free Movement Required

Fences and roads are barriers to wildlife movement. Corridors should not be directed across roads, and new roads should not cross corridors or should accommodate wildlife movement. Night lights can also represent a barrier to wildlife movement. Night time yard and street lights shall be directed away from corridors.

IV. Performance Standards for Steep Slopes and Bluffs

A. Purpose and Goals

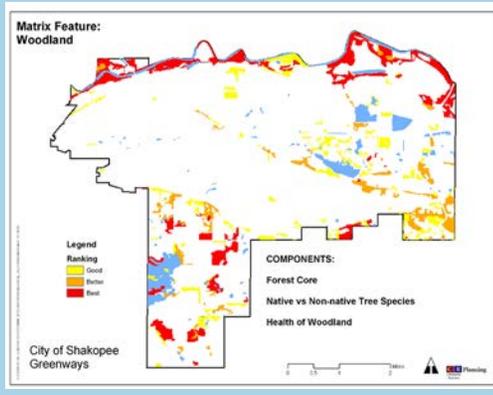
1. **Protect Steep Slopes and Bluffs** - The primary purpose of the steep slope performance standards is to protect areas in Model Community where proposed or existing development near steep slopes present a risk to Model Community’s prominent natural features that not only shape Model Community’s community character, but provide natural resources in or adjacent to bluff and steep slope areas and protect the long-term viability of housing and infrastructure.
2. **Consistent with Comprehensive Plan** - Undeveloped steep slopes and bluffs are visually appealing, very susceptible to erosion when disturbed, and costly to develop. Risks associated with steep slopes and bluff shall be mitigated, consistent with the following Comprehensive Plan goals:
 - a. Establish guidelines to minimize the negative impacts on natural resources, recreational opportunities, and aesthetic views of steep slopes and bluffs within Model Community.
 - b. Limit erosion on steep slopes, bluffs, and in shoreland areas through use of natural buffers and appropriate development setbacks.
3. **Slope and Bluff Priorities** - The primary elements of risk associated with development on bluffs and steep slopes are the visual and character impacts from losing prominent natural features and views, and the physical impacts to the bluff and slopes. Physical impacts include soil erosion, increased velocity and volume from stormwater runoff into adjacent waterways, loss of habitat, and difficulty and increased cost of installing infrastructure and buildings on steep slopes.

Comprehensive Plan Language

Place reference policy or goal language from Model Community’s Comprehensive Plan in place of language provided.

Example of Steep slope areas in the City of Shakopee

A map of steep slopes and bluffs might show the location of steep slopes and bluffs based on contour data, length of slope, and native species as identified by the City or County or State’s inventory (i.e., County Biological Survey), and highly erodible lands as identified by the County’s soils survey. Other functions may also be included. The ranking characteristics using these functions will vary from community to community. Below is an example from the City of Shakopee’s slope rankings map.



- B. **Applicability** - All grading, development, or subdivision permits in the following areas must comply with the performance standards. All vegetative clearing activities on bluffs or bluff impact zones must be consistent with the ordinance.
 - 1. **Steep Slopes Map** - All slope areas identified on Model Community’s map are subject to the standards
 - 2. **Slopes Greater than 10%, Highly Erosive Soils** - All areas with slopes greater than 10% or slopes with highly erosive soils, as identified on the County soils survey are subject to the standards.

- C. **Criteria for Standards** - The minimum performance standards for steep slopes are created to meet the following criteria:
 - 1. **Erosion, Landslides, Sedimentation** - Prevent erosion and landslides, limit increased sedimentation and impacts to water quality.
 - 2. **Aesthetic Integrity** - Maintain the aesthetic integrity of a community by protecting hillsides and ridgelines.
 - 3. **Protect Habitat** - Protect habitat that needs undisturbed slopes to allow for propagation and sustainability of plant or animal communities.
 - 4. **Minimize Maintenance and Replacement Costs** - Ensure that development of infrastructure on slopes minimizes long-term maintenance or replacement costs.

- D. **Minimum Steep Slope Performance Standards** - Following are the minimum performance standards that shall apply to steep slope areas:
 - 1. **Slopes** - In all zones, slopes in excess of 10% shall be protected or incorporated into new development or infrastructure so as to limit erosion, manage stormwater runoff, and protect natural features using best management practices (BMPs).
 - 2. **Bluffs (slopes at or greater than 18%)** - Development is regulated in the following manner:
 - a. **Development Prohibited** - No development or vegetative clearing is allowed on any land with a slope greater than 18%, except for vegetative restoration under a vegetative management plan approved by Model Community
 - b. **Protection of Prominent Natural Features** - Within the bluff impact zone:
 - i. All buildings are excluded.
 - ii. Vegetative clearing is prohibited except for vegetative restoration that is described in a vegetative management plan approved by Model Community.

Slope of the land and buffer effectiveness

The slope of the land on either side of a water body is very significant in determining effectiveness of the buffer in trapping sediment and retaining nutrients. The steeper the slope, the higher the velocity of overland flow and the less time it takes nutrients and other contaminants to pass through the buffer. Slope is a variable in virtually all models of buffer effectiveness and should definitely be included in a formula for buffer width (A Review of the Scientific Literature on Riparian Buffer Width, Extent and Vegetation. Seth Wenger. Institute of Ecology, University of Georgia. Revised March 1999).

Scenic and character protection

Prominent natural features, including bluffs and steep slopes, define the character of adjacent natural areas and neighborhoods. Steep slopes and bluffs are frequently prominent components of the public viewshed. Bluffs and steep slopes abutting and upland of public lands or waters should have a combination of setbacks, screening requirements including protection of native vegetation within the buffer area, and architectural design preferences to address the impact of development on the character of communities and natural areas (Regulating Development on Steep Slopes, Hillsides, and Ridgelines. Lakes Region Planning Commission. 2005. Meredith, NH, www.lakesrpc.org; National Park Service, 1995; City of St. Paul, 2006)

- iii. Conservation easements shall be placed on bluff areas and bluff impact zones, and signage shall identify the edge of the conservation easement.
 - iv. Buildings on slopes greater than 10% that are uphill from the bluff impact zone shall be designed and positioned so as to blend into the slope rather than sit on top of the slope.
3. **Slopes Between 10 and 18%** - Development is regulated in the following manner:
- a. **Highly Erosive Soils** - No development is allowed on any slope equal to or greater than 10% if highly erosive soils are present on the slope.
 - b. **Low to Moderately Erosive Soils** - Where soils are low to moderately erosive, the following standards shall be met:
 - i. Impervious surfaces shall be limited to 20% of the slope area.
 - ii. Non-native vegetation shall be limited to 20% of the slope area,
 - iii. Stormwater from each building lot must be infiltrated on the lot for a half-inch 24-hour rain event.
 - iv. All roads, driveways, and sewer systems shall utilize best management practices consistent with The Minnesota Stormwater Manual (<http://www.pca.state.mn.us/water/stormwater/stormwater-manual.html>).
 - c. **Shoreland and Wetland Areas** - Minimum buffers and setbacks around all waterbodies shall be extended by 25 feet for a slope at least 50 feet in length and greater than 10%. Site stormwater runoff shall be infiltrated or stored to maintain the 1.5 year bankfull flow for perennial and intermittent stream courses.
 - d. **Protection of Prominent Natural Features** - Steep slope areas where slope length is more than one eighth-mile are ridgeline/viewshed protection areas. Ridgeline/viewshed protection areas shall be subject to the following minimum standards:
 - i. All buildings and infrastructure other than driveways must be designed so as to blend into the slope rather than sit on top of the slope, consistent with subsection D.5.
 - ii. All exceptional and high quality native vegetation, as identified in the Minnesota Land Cover Classification System (MLCCS) shall be protected.

***Exceptional, High, Moderate,
Low Quality***

These standards reference “high”, “moderate” and “low” quality sites. Such designations must be defined in the community’s NRI/NRA or in the Comprehensive Plan.

Alternatively, the community can use the quality standards embedded in the MLCCS inventory, to the extent that the specific resource (e.g. Native Upland Plant Communities) matches the MLCCS cover types. The MLCCS has criteria for assessing qualitative rankings.

While judgement always comes into play, these rankings have been demonstrated to be reliable and consistently applied.

4. **Slopes Less than 10%** - Development is regulated in the following manner:
 - a. **Highly Erosive Soils** - Where soils are highly erosive, no more than 50% of the slope area shall be cleared or developed. In addition, all the following provisions should be met:
 - i. BMPs for the installation of roads, driveways, and sewer systems on should be consistent with standards for slopes with highly erosive soils as described in *The Minnesota Stormwater Manual* (<http://www.pca.state.mn.us/water/stormwater/stormwater-manual.html>).
 - ii. Developments that install infrastructure in highly erosive soils must develop management plans and provide for on-going maintenance funding to reduce the potential high cost for public expenditure of infrastructure maintenance.
 - iii. Required buffers around waterbodies will be extended based on slope grade and length of slope area. Developments should infiltrate or provide water storage to maintain the bankfull flow for perennial and intermittent stream courses for a 1.5-year storm.
 - b. **Low to Moderately Erosive Soils** - Where soils are low to moderately erosive, no additional practices are required to the general development requirements described in this ordinance, except as described in other Model Community ordinances (i.e., shoreland overlay, stormwater management).
5. **Building Design Considerations** - Buildings on slopes exceeding 10% and longer than one-eighth of a mile shall be designed to blend into the slope. Design considerations include the following:
 - a. Locate and design buildings so that they do not loom over the bluff
 - b. Break up building mass using methods such as broken planes, varying rooflines, stepping back (from the downhill perspective) of upper stories, minimizing mass near waterbodies, etc.
 - c. Use materials that blend with the setting; avoid the use of reflective materials.
 - d. Use suitable colors; subtle, subdued colors are best as they blend in with the natural surroundings.
 - e. Buildings within 50 feet of the bluff impact zone, and within 100 feet from the top of a steep slope should not exceed 30 feet in height. Buildings higher than 40 feet should be set back from the bluff impact zone an additional 25 feet (see definition for bluff and bluff impact zone).

Linear Parks and Trails (LPAT) subcommittee of the Parks, Recreation, and Open Space advisory board comments on ZOR Draft Text Released 4-18-2022

The Zoning Ordinance Rewrite process gives the public an opportunity to provide input on the Zoning Ordinance as it is updated to comply with the 2019 General Plan. As a new initiative, it is important that the countywide Linear Parks and Trails Framework Plan to protect wildlife corridors while providing responsible recreational access is incorporated into the text of the Zoning Ordinance. Codifying elements of the Framework Plan will have numerous benefits to County staff and the general public.

- While current County staff and stakeholders have a shared vision for the Linear Parks and Trails system, and they are actively working together on the implementation of the Framework Plan, future County staff members and stakeholders may not have the same levels of passion, knowledge, expertise, and background to implement the current shared vision. Since the implementation of this Framework Plan is expected to take 10+ years, codifying elements, especially the design standards, of the Framework Plan in the Zoning Ordinance will help ensure the current vision is implemented beyond current staff and stakeholders.
- As has been noted by staff members, the Zoning Ordinance provides the legal and regulatory means to enable and justify County staff to make more specific requests as part of the development process.
- Having elements of the Framework Plan codified in the Zoning Ordinance will give the general public confidence that the agreed upon vision of the Framework Plan will be instituted throughout the 10+ years of the implementation phase. Having the confidence and support of the general public is vital for successful implementation of the LPAT Framework Plan.

IMPORTANT DEFINITIONS

Linear Parks are elongated open space corridors that are managed for conservation, recreation, and/or multi-modal transportation values. Linear park corridors often follow the alignment of a natural or open space feature in the landscape, such as a riverfront, stream valley, ridgeline, overland along a railroad right-of-way converted to recreational use, scenic road, or other routes. Linear parks provide open-space connections linking parks, nature preserves, cultural features, or historic sites with each other and with urban, suburban, and rural areas. Linear parks are designed to protect wildlife, biodiversity, and scenic beauty, while providing recreation opportunities. The size and design of linear parks varies and depends on its context, function, and location, but will generally consist of a wildlife corridor, continuous multi-use trail, waysides and seating, and other recreation uses. Ideally, corridors should be wide enough (>300') to provide habitat for safe movement, breeding, and privacy for wildlife, while protecting water quality, native trees and vegetation, and sensitive habitat areas. Trails

should be woven within the corridor in an ecologically sensitive manner. Corridor crossings of major roads should be designed to discourage conflicts between motor vehicles and wildlife or trail users.

Trails are paths intended for non-motorized multi-use recreation. Typical trail users include walkers, mountain bikers, equestrians, nature enthusiasts, trail runners, and dog walkers, among others. Preferred trail routing provides connections from origins, such as trailheads with suitable parking and neighborhoods, with walkable access to destinations such as parks, neighborhoods, retail establishments, and natural, historic, and cultural attractions. Trails are generally natural surfaced. Trails are open to the public for their use and enjoyment.

OVERALL NATURAL RESOURCE RECOMMENDATIONS

Utilize existing natural resource corridors as one of the potential resource corridors for linear parks and trail corridors, such as floodplains, riparian corridors, and ridges.

Linear parks and trails serve as green infrastructure corridors that connect beyond the county. These corridors should be as wide as possible to protect environmental integrity and the scenic quality of the corridor, at least 300' wide where possible (500' is ideal) or 100' on either side of the high water level line (whichever is greater), while minimizing disturbance.

For areas whose watershed drains 100 acres or more, the guidance for the cumulative corridor width is:

- The 100-year floodplain, and
- Adjacent steep slopes (>25%) starting within 50 feet of the edge of the 100-year floodplain and extending no greater than 100 horizontal feet beyond the edge of the 100-year floodplain, and
- A 50-foot Management Buffer measured from the edge of the 100-year floodplain, or a minimum stream buffer measured as the area located within 100 feet of both sides of the stream or river, measured as a line extending perpendicularly from the stream bank of the active channel of the stream or river

Align trails away from species of concern for the state of Virginia and sensitive environmental features, such as wetlands, wet soil, steep slopes, stream banks, and rare habitat (threatened habitat as defined by NatureServe and the International Union for the Conservation of Nature—critically endangered, endangered, vulnerable) with at least a 30' buffer. This includes buffers of high quality rivers and streams, and water supply reservoirs such as the Potomac River, Bull Run, Goose Creek, Catoclin Creek and all reservoirs for drinking water.

- Within the watersheds of surface drinking water sources (Hirst Reservoir, Beaverdam Reservoir and Potomac River) take great care to develop a "net zero" water

management strategy for stormwater runoff and water quality and maintain at least a 50 foot buffer from the waters edge/bank full from any soil disturbance, with the exception of creation of non graded 4 foot wide or less soil surface trail tread or invasive plant removal.

Align corridors to connect existing high-integrity ecological patches such as protected land and parks. Limit disturbance within the corridor as much as possible. Tailor design and construction methods to the unique conditions of the site, such as Karst terrain, high shrink swell soils and mountainside development overlay districts.

Align the LPAT system to connect to adjacent counties' trail, park and wildlife corridors to better protect habitat and increase the outdoor experience of user groups.

TRAIL TYPES

Loudoun County Department of Parks, Recreation and Community Services utilizes the U.S. Department of Agriculture Forest Service (USFS) Trail Classifications to describe and categorize the County's linear parks and trails. These classifications – and the Linear Parks and Trails Plan Design Guidelines – apply to recreational trails, as distinguished from the sidewalks and shared-use paths in the Countywide Transportation Plan. The full guidelines and classification matrices can be found in Appendix A. For paved trails – which primarily are used to connect to transportation trails or on regional systems such as the Washington & Old Dominion Trail – the AASHTO Bike and Pedestrian Guides should be followed. The county bike-ped plan should allow for connectivity to the natural surface LPAT trail system.

NATURAL SURFACE TRAILS

The majority of Loudoun County's recreational trails are unpaved and fall within natural or cultural heritage resource corridors, such as stream valleys or protected rural open space. Natural surface trails are well-suited for hiking, mountain biking and horseback riding and support the recreation- and natural resource-oriented goals of the County's linear park and trail system. Trail surfaces should comply with county and state guidelines, including limitations within the floodplain. Trails should utilize the design standard that disturbs the least amount of land and winds around the topography to protect the tree canopy, provide maximal wildlife corridors and reduce speeds so that all users (walkers, bikers and equestrians) can enjoy the outdoor experience.

Natural surface trails include trails with surface materials such as native soil, wood chips, compacted aggregate, resin stabilized aggregate and sand.

Following are the recommendations by the LPAT subcommittee of the Parks, Recreation, and Open Space advisory board for inclusion of linear parks and trails in the zoning ordinance rewrite.

Chapter 3 Uses

- Use-specific standards should incorporate the LPAT system into all current and future open space areas, especially 3.05.05.17 rural retreats and 3.05.06.02 data centers. All open space trail systems should consider connectivity to other trail systems and the Bike ped plan.
- For all zoning districts Use Tables 3.02 should include a new category of Recreation, passive which should be permitted throughout the districts.

Chapter 5 Development Standards

5.03 Natural and Environmental Resources Protection Standards:

- 5.03.03 USE TABLE for Natural and Environmental Resource Standards.

Subcategory INFRASTRUCTURE.

- Paths and Trails...and Raised Public Boardwalks. Additional specific standards should include design standards from the LPAT Framework Plan. Protecting the environment and natural resources should be the primary objective for this section. Additional specific standards to protect buffers for river and stream health and wildlife habitat would ensure there is adequate space for the infrastructure/recreation use while protecting buffers for river and stream health including wildlife habitat.
- Community, neighborhood, or regional park. Section should also include linear park.

5.04 Open Space Standards:

- *Preserve the County's natural, environmental, and historic resources.*
- *Ensure the availability of open space for active and passive recreation.*

LPAT recommends design standards for linear parks and trails be incorporated throughout 5.04 to protect native vegetation, wildlife habitat, and wildlife corridors as part of linear parks and passive recreation uses on linear parks and trails also including habitat and trail connectivity and contiguous habitat with adjacent parcels.

- 5.04.03A1b: Wildlife viewing and equestrian should be added as examples of passive recreation uses.
- 5.04.03A3: Linear parks and trails should be included as types of open space that have naturally occurring phenomena and may include man-made alterations that have gained importance (trails).
- 5.04.03B2 Public Open Space. Linear parks and trails should be mentioned in this section.
- 5.04.04A5 Bonus Credit: This section should also include equestrian trails. There should also be a clarification between shared-use path and multi-use path. The LPAT system includes more than just bicycle and pedestrian users and uses.
- 5.04.04A6 Bonus Credit: The linear park portion of LPAT could also be referenced here.
- 5.04.06B Passive Use Design Standards: Linear parks and trails should be included in this section, especially as a component of connectivity and accessibility.
- 5.04.07 Trails: Hikers, bikers and equestrians should ALL be priority users and have trails developed with them in mind with work arounds as required to maintain continuity of the trail system throughout the county. Linear parks and trails should utilize the design standard that disturbs the least amount of land and winds around the topography to protect the tree canopy, provide maximal wildlife corridors and reduce speeds so that all users (walkers, bikers and equestrians) can enjoy the outdoor experience.

5.05 Parking Standards and 5.05.02 Parking Ratios: LPAT recommends utilizing PRCS parking standards, and, if necessary, new standards and/or categories for passive recreation uses may need to be developed.

5.07 LANDSCAPING BUFFER YARDS, SCREENING AND LANDSCAPE PLANS.

- 5.07.07.C.1 GENERAL LANDSCAPE PROVISIONS. Use of Buffers. Passive recreation trails should include references and/or requirements to comply with the LPAT Framework Plan design standards in regards to trails, linear parks, native vegetation, habitat protection, and connectivity with adjacent parcels. These design standards of the LPAT Framework Plan should be incorporated into buffer requirements.

Chapter 11 Definition

Definition of passive recreational uses: should be edited to: are intended for non-motorized multi-use recreation. Typical trail users include walkers, mountain bikers, equestrians, nature enthusiasts, trail runners, and dog walkers, among others. Preferred trail routing provides connections from origins, such as trailheads with suitable parking and neighborhoods with walkable access, to destinations, such as parks, neighborhoods, retail establishments, and natural, historic, and cultural attractions. Trails are generally natural surfaced. Trails are open to the public for their use and enjoyment.

Path types: Clarification and definition of shared-use and multi-use paths should be included. Shared-use has typically been used for bicycle/pedestrian applications, while multi-use also includes other user groups such as equestrian.

From: **Maura Walsh-Copeland** <Maura@walsh-copelandconsulting.com>
Date: Mon, Jul 18, 2022 at 12:30 PM
Subject: ZOR General Comment Form: County Interdepartmental Coordination/Communication and Enforcement
To: Brewer, Alan <Alan.Brewer@loudoun.gov>, Joe <Joe.Kroboth@loudoun.gov>, Yudd, Charles <Charles.yudd@loudoun.gov>
Cc: <ZOrewrite@loudoun.gov>, <judi.birkett@loudoun.gov>, Mark <Mark.Stultz@loudoun.gov>, Tim <Tim.Hemstreet@loudoun.gov>, Tony <Tony.Buffington@loudoun.gov>, Turner, Mike <mike.turner@loudoun.gov>, Randall, Phyllis <Phyllis.Randall@loudoun.gov>, Leo <Leo.Rogers@loudoun.gov>, Valmarie <Valmarie.Turner@loudoun.gov>, Spells, Monica <monica.spells@loudoun.gov>, Hayes, Forest <forest.hayes@loudoun.gov>

Mr. Brewer,

Thank you for your response on June 23rd, for the facilitation of the posting of documentation to LOLA, and the response from Josh Hepner in the Health Department. This matter has been an example "case study" for communication between Loudoun County departments and VDOT for ongoing (15+ years) unpermitted work at a location with an unpermitted VDOT entrance permit for forestry management or "private roadway standards" (FSM 4.330.5), and preparation for site development. VDOT and the County have been made aware of the activity and violations previously. (Chronology with LEx # 's available upon request.)

For your notification, by separate correspondence VDOT did confirm that there is no valid entrance permit at the location of inquiry (see VDOT email response below).

Mr. Kroboth & Mr. Yudd (with your new ZOR "hats"),

As indicated on June 23rd, this inquiry was intended to also assist County Staff in the completion of chapters 4, 5 and 7 of the Zoning Ordinance Rewrite (ZOR). Delay in response from June was due to waiting to confirm whether any new draft text would be released for *Chapter 7- Procedures* before the end of the 90-day public input (*today*).

As full Chapter 7 draft text has not been made available, review and comment on several specific issues could not be completed. In an ongoing (2017-18) effort to assist senior County Staff determine the requirements to improve processes and procedures for permits, interdepartmental communication/notification and enforcement, the attached public input was entered via the ZOR online general form for formal submission and review by the 90-day input deadline. The attached provides examples per request of Staff Response to ZOC, #4155 dated 9/14/21 stating, "[Staff] would be happy to consider any examples of procedures regulations that cover interdepartmental reviews."

Zoning Enforcement has long stated that enforcement issues often are directly related to the 1) lack of front-end feedback loops, 2) absence of permit filing/review/notifications between departments, and 3) inability to perform proactive enforcement without a "complaint" even with directly known and documented violation notification. These issues should be reviewed and corrected for the Zoning Ordinance Rewrite to improve the ability of Zoning Enforcement to meet the expectations and needs of county residents and businesses with approval of the new Zoning Ordinance in 2023. This is consistent with [comments received from multiple advisory groups and organizations](#).

I would specifically like to thank Judi Birkitt and her team for working so hard to keep ZOR on a steady course in rough seas. I look forward to continuing to assist the county in finalizing the Zoning Ordinance Rewrite, as well as FSM corresponding requirements, through my work with ZOC, REDC ZOR Adhoc, and individual efforts.

Best Regards,

Maura

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Maura Walsh-Copeland



Walsh-Copeland Consulting, LLC

From: **Estafanous, Antonios** <[antonios.estafanous@vdot.virginia.gov](mailto:antonios.estafanous@vdot.virginia.gov)>  
Date: Fri, Jun 24, 2022 at 3:04 PM  
Subject: Re: Update Inquiry -- VDOT Entrance Permit and BLAD Status: Ashbury Church Road  
To: Bigdeli, Farid <[farid.bigdeli@vdot.virginia.gov](mailto:farid.bigdeli@vdot.virginia.gov)>, <[Maura@walsh-copelandconsulting.com](mailto:Maura@walsh-copelandconsulting.com)>, Lu, Yao Q., P.E. (VDOT) <[Yao.Lu@vdot.virginia.gov](mailto:Yao.Lu@vdot.virginia.gov)>, James Betz <[James.Betz@vdot.virginia.gov](mailto:James.Betz@vdot.virginia.gov)>, Leslie Durham <[leslie.durham@vdot.virginia.gov](mailto:leslie.durham@vdot.virginia.gov)>

Mrs. Walsh-Copeland,

Please accept my responses to your email to Mr. Betz below in **red**

Mr. Betz,

As you are currently the contact for the VDOT Leesburg Residency Office, we are requesting an updated status from Mr. Adorno's Oct. 19, 2020 email (attached) **No updates are available since 10/19/2020**. Specifically, is there a current valid VDOT entrance permit for the former Permit number 949-34614 ("Non-Compliant Entrance"), located at PARCEL PIN **518-39-6445 on Route 718 (Ashbury Church Road)**? [Mr. Bigdeli is copied to assist you with any background from 2003-2006, as he was familiar with the property area at that time.] **NO**

Thank you, Tony

**Antonios Estafanous, P.E.**

*NOVA District Loudoun Permits Manager*

Virginia Department of Transportation

703-737-2029 [antonios.estafanous@VDOT.Virginia.gov](mailto:antonios.estafanous@VDOT.Virginia.gov)

----- Forwarded message -----

From: **Hepner, Joshua** <[Joshua.Hepner@loudoun.gov](mailto:Joshua.Hepner@loudoun.gov)>

Date: Mon, Jun 27, 2022 at 12:46 PM

Subject: RE: Update Inquiry -- VDOT Entrance Permit and BLAD Status: Ashbury Church Road

To: Maura Walsh-Copeland <[maura@walsh-copelandconsulting.com](mailto:maura@walsh-copelandconsulting.com)>

Cc: Khan, George <[George.Khan@loudoun.gov](mailto:George.Khan@loudoun.gov)>

Ms. Walsh-Copeland,

In response to your Health Department related question:

2. A March 7, 2022 email from your department indicated that the four parcels for sale applied and received a permit for "SEP CLN-O," which Mr. Harlow stated means "septic clean-out." As there is no information on OnlineRME, can you confirm whether this is the same and does it provide "septic certification?"

On June 6, 2021, the Loudoun County Health Department issued a certification letter (SEP CLN-O) for each of the 4 parcels referenced in your inquiry (PIN: [REDACTED]); applications were received for the 4 certification letters issued. A certification letter identifies a specific site that meets regulatory requirements for the location of an onsite sewage system, but does not authorize the installation or construction of the system. This office has not received an application to construct a system on any of the referenced lots, and construction may not begin until a permit is issued by the Health Department.

Respectfully,

Josh Hepner  
Environmental Health Supervisor  
Onsite Sewage Treatment and Well Water Division  
Loudoun County Health Department  
Ph. 703-771-5814

**From:** Brewer, Alan <[Alan.Brewer@loudoun.gov](mailto:Alan.Brewer@loudoun.gov)>  
**Sent:** Thursday, June 23, 2022 4:02 PM  
**To:** Maura Walsh-Copeland <[maura@walsh-copelandconsulting.com](mailto:maura@walsh-copelandconsulting.com)>  
**Cc:** [Farid.Bigdeli@vdot.virginia.gov](mailto:Farid.Bigdeli@vdot.virginia.gov); Stultz, Mark <[Mark.Stultz@loudoun.gov](mailto:Mark.Stultz@loudoun.gov)>; Kroboth, Joe <[Joe.Kroboth@loudoun.gov](mailto:Joe.Kroboth@loudoun.gov)>; Turner, Valmarie <[Valmarie.Turner@loudoun.gov](mailto:Valmarie.Turner@loudoun.gov)>; Hemstreet, Tim <[Tim.Hemstreet@loudoun.gov](mailto:Tim.Hemstreet@loudoun.gov)>; Buffington, Tony <[Tony.Buffington@loudoun.gov](mailto:Tony.Buffington@loudoun.gov)>; Rogers, Leo <[Leo.Rogers@loudoun.gov](mailto:Leo.Rogers@loudoun.gov)>; Harlow, Evan <[Evan.Harlow@loudoun.gov](mailto:Evan.Harlow@loudoun.gov)>; Hepner, Joshua <[Joshua.Hepner@loudoun.gov](mailto:Joshua.Hepner@loudoun.gov)>; Khan, George <[George.Khan@loudoun.gov](mailto:George.Khan@loudoun.gov)>; Tierney, Anita <[Anita.Tierney@loudoun.gov](mailto:Anita.Tierney@loudoun.gov)>; Ryder, Stephanie <[Stephanie.Ryder@loudoun.gov](mailto:Stephanie.Ryder@loudoun.gov)>; [james.betz@vdot.virginia.gov](mailto:james.betz@vdot.virginia.gov); Berger, Scott <[Scott.Berger@loudoun.gov](mailto:Scott.Berger@loudoun.gov)>; Smith, Betsy <[Betsy.Smith@loudoun.gov](mailto:Betsy.Smith@loudoun.gov)>  
**Subject:** Update Inquiry -- VDOT Entrance Permit and BLAD Status: Ashbury Church Road

Good afternoon Ms. Walsh-Copeland

Responses to the questions addressed to me are in *italics* below:

1. In conjunction with the request to VDOT for entrance permit validation, what is the status of BLAD-2022-0008 that indicated the creation of Ashbury Overlook Lane and Jeff Lane "did not go through the County process" during BLAD-2009-0049? (see attached), and ---Application BLAD-2022-0008 was accepted for review on March 2, 2022 and first submission comments were issued on March 16, 2022. Second submission was received on June 16th and is currently in review. Digital files were just recently received and will be uploaded within the next 24 hours.

2. A March 7, 2022 email from your department indicated that the four parcels for sale applied and received a permit for "SEP CLN-O," which Mr. Harlow stated means "septic clean-out." As there is no information on OnlineRME, can you confirm whether this is the same and does it provide "septic certification?" --- I recommend that you contact George Khan or Josh Hepner with the Loudoun County Health Department (copied above) regarding the status of onsite sewage disposal system approvals on the property.

Best Regards,  
Alan

Alan Brewer  
Director, Department of Building and Development  
703-771-5989  
[Alan.brewer@loudoun.gov](mailto:Alan.brewer@loudoun.gov)

**From:** Maura Walsh-Copeland <[Maura@walsh-copelandconsulting.com](mailto:Maura@walsh-copelandconsulting.com)>  
**Sent:** Wednesday, June 22, 2022 8:00 AM  
**To:** [james.betz@vdot.virginia.gov](mailto:james.betz@vdot.virginia.gov); Brewer, Alan <[Alan.Brewer@loudoun.gov](mailto:Alan.Brewer@loudoun.gov)>  
**Cc:** [Farid.Bigdeli@vdot.virginia.gov](mailto:Farid.Bigdeli@vdot.virginia.gov); Stultz, Mark <[Mark.Stultz@loudoun.gov](mailto:Mark.Stultz@loudoun.gov)>; Kroboth, Joe <[Joe.Kroboth@loudoun.gov](mailto:Joe.Kroboth@loudoun.gov)>; Turner, Valmarie <[Valmarie.Turner@loudoun.gov](mailto:Valmarie.Turner@loudoun.gov)>; Hemstreet, Tim <[Tim.Hemstreet@loudoun.gov](mailto:Tim.Hemstreet@loudoun.gov)>; Buffington, Tony <[Tony.Buffington@loudoun.gov](mailto:Tony.Buffington@loudoun.gov)>; Rogers, Leo <[Leo.Rogers@loudoun.gov](mailto:Leo.Rogers@loudoun.gov)>; Sally Price <[sally@landtrustva.org](mailto:sally@landtrustva.org)>; Alan Rowsome <[arowsome@nvct.org](mailto:arowsome@nvct.org)>;  
**Subject:** [EXTERNAL] Update Inquiry -- VDOT Entrance Permit and BLAD Status

**NOTE: Due to an October 2020 letter received from Mr. James Campbell, this email is in no manner to be interpreted as interference with a property sale. The following questions are warranted as our property is adjacent to the inquired site, and are in conservation easement with the Land Trust of Virginia and Northern Virginia Conservation Trust.**

Mr. Betz,

As you are currently the contact for the VDOT Leesburg Residency Office, we are requesting an updated status from Mr. Adorno's Oct. 19, 2020 email (attached). Specifically, is there a current valid VDOT entrance permit for the former Permit number 949-34614 ("Non-Compliant Entrance"), located at PARCEL PIN 518-39-6445 on Route 718 (Ashbury Church Road)? [Mr. Bigdeli is copied to assist you with any background from 2003-2006, as he was familiar with the property area at that time.]

Mr. Brewer,

As your department has been aware, the properties at this location have been subject to several LEx inquiries for forestry management, land disturbance inspections for grading and erosion control, and stop work orders. The current real estate listing for sale (attached) confirms the activities performed, which according to your department, were done without permits:

- *In consultation with an engineer, the current owner has identified and cleared building envelopes on each of the four lots and installed a construction driveway servicing all lots.*
- *Each lot has a county-approved 4-bedroom septic certification obtained in June 2021.*
- *Future road maintenance shall be the shared responsibility of the lot owners. There is no property owners' association and no architectural review board.*

We are requesting:

1. In conjunction with the request to VDOT for entrance permit validation, what is the status of BLAD-2022-0008 that indicated the creation of Ashbury Overlook Lane and Jett Lane "did not go through the County process" during BLAD-2009-0049? (see attached), and
2. A March 7, 2022 email from your department indicated that the four parcels for sale applied and received a permit for "SEP CLN-O," which Mr. Harlow stated means "septic clean-out." As there is no information on OnlineRME, can you confirm whether this is the same and does it

provide "*septic certification*?" As the properties are on MDOD/Steep slopes uphill from our property and adjacent to an active historic african-american cemetery, this may be important if unpermitted work causes erosion downhill.

This information is important to know as adjacent property owners before potential new owners initiate new activity, and may also assist County Staff in the completion of chapters 4, 5 and 7 of the zoning ordinance rewrite.

Thank you,

Maura Walsh-Copeland

~~~~~

Maura Walsh-Copeland



Walsh-Copeland Consulting, LLC

From: <noreply@civicplus.com>
Date: Sun, Jul 17, 2022 at 5:35 PM
Subject: Online Form Submittal: Zoning Ordinance Rewrite
To: <Maura@walsh-copelandconsulting.com>

Zoning Ordinance Rewrite

Project Overview

The Zoning Ordinance is the primary implementation tool for the 2019 Comprehensive Plan. It contains an added level of specificity that is based on the community's vision as expressed in the goals, policies and actions of the 2019 Comprehensive Plan.

Input from the Board of Supervisors, advisory bodies, various departments and community and professional groups is being factored into the final product.

We welcome your feedback, comments and questions through this form.

Beginning April 18, you will be able to review the draft Zoning Ordinance and make comments directly on the draft.

[Visit the project webpage.](#)

First Name Maura
Last Name Walsh-Copeland
Election District Blue Ridge

Please provide general comments on the Zoning Ordinance Rewrite.
Field not completed.

Areas of interest or concern

Uses, Overlay Districts, Development Standards, Procedures

What is your question or concern?

ZOR ROUND 3 PUBLIC INPUT COMMENTS

Related to Interdepartmental Coordination/Communication and County/State Agency Communication:

SUMMARY

- The following provides consolidated ZOR public comments across multiple Zoning Ordinance Rewrite chapters pertaining to 1) procedures, permits, processes issues, and 2) County interdepartmental, and 3) County/State Agency communication of issues and loopholes.
- Chapter 7- Procedures was not reviewed by the Zoning Ordinance Committee of the Whole or a ZOC Subcommittee, and therefore had no prior review before 4/18/2022.
- As of this date (7/17/2022) Chapter 7 - Procedures does not contain all sections required to review whether the prior issues and comments have been addressed.
- Interdepartmental and County/State agency communication also requires review of the Facilities Standards Manual and State Agency (e.g., VDOT) permits/manuals as an extension of the Zoning Ordinance Rewrite.

ZOR ROUND 3 PUBLIC INPUT COMMENTS:

3.05.07.05. STOCKPILING. H. "A Zoning Permit and grading permit" should require the volume of dirt required prior to the commencement of the Stockpiling. This was added to B&D forms -- should it be referenced in the ZO?

STAFF RESPONSE: Noted. Staff will consider proposing the same thresholds

2022 ROUND 3 PUBLIC INPUT: There is no indication in the current draft if, where, or how this has or will be implemented.

4.04 MOUNTAINSIDE DEVELOPMENT OVERLAY DISTRICT (MDOD). B.2 Activities Not Subject to MDOD Setbacks and Performance Standards.

How will the coordination between applications for Zoning, B&D, Health Dept./ODW, Loudoun County Soil and Water Conservation District (LCSWCD), Natural Resources and Conservation Service (NRCS) be addressed in ZOR to close known loopholes? Examples, case studies, LEx chronologies are available upon request.

STAFF RESPONSE: We would be happy to consider any examples of procedures regulations that cover interdepartmental reviews

2022 Round 3 Input: Examples below. Additional chronologies available upon request.

-- Overview to County Senior Staff and advisory groups: Problems w. Permits UPDATE-3-14-2022 (<https://loudouncoalition.org/wp-content/uploads/2020/04/Problems-w.-Permits-UPDATE-3-14-2022.pdf>)

Case studies:

-- Water-Extraction-Operation-Zoning-Chronology-BCM-4.8.2021 (<https://loudouncoalition.org/wp-content/uploads/2020/04/Water-Extraction-Operation-Zoning-Chronology-BCM-4.8.2021.pdf>)

-- ZOR-Permits-Processes-Procedures-Attachments (<https://loudouncoalition.org/wp-content/uploads/2020/04/ZOR-Permits-Processes-Procedures-Attachments.pdf>)

-- Chronology-GABLE FARM STOCKPILING (<https://loudouncoalition.org/wp-content/uploads/2020/04/LCPCC-Chronology-GABLE-FARM-STOCKPILING.pdf>)

4.04 MOUNTAINSIDE DEVELOPMENT OVERLAY DISTRICT (MDOD). B.2.b Exemptions, Timber Harvesting & Silviculture.

Does the County ensure or monitor the requirement below and ENFORCE when presented with KNOWN violations? (Recent examples indicate the answer may be no and need to be addressed.)

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...

STAFF RESPONSE: The County communicates with and inquires from VDOF when timber operations are reported. The VDOF does not have any notification requirement to the County. If an operation or activity is not covered by the State Forester, then the County pursues zoning enforcement.

2022 ROUND 3 INPUT: This is a known, ongoing communication loophole between State Forester and County B&D when an owner does not abide by Section 10.1-1181.2.H. Communication and enforcement must address and close this loophole, either through additional MDOD, permit processing, LEx notification procedures or initiation of legislative request for coordination procedures between State (VDOF) and Loudoun County.

4.04.G MDOD Supplemental Application Materials. 1. Administrative Applications and Proposed Covered Activities.

This section justifies the earlier request for coordination between departments beyond Building &

Development. The July 2021 change in Code of VA will allow LOCAL county management of the Health Department (vs. as a State agency). Although postponed for the current fiscal year, Loudoun County indicated it will adopt this change, therefore, it would be prudent (required?) to consider the departmental coordination and requirements NOW during the ZO Rewrite to close the known loopholes.

Therefore, will all planning ZOR regulations anticipate this change in the event it is implemented by Loudoun County by formal ZOR adoption?

STAFF RESPONSE: Based on the "Covered Activities" section, all applications, land disturbances, land disturbing activities, and uses are covered by the MDOD regulations.

We agree on the importance of interdepartmental coordination and can consider any additional feedback for references to other departments in this subsection/language. However, a locational clearance is provided by the Department of Building and Development. If you would like to require a review of a locational clearance by other County departments, please advise on the specific department(s).

2022 ROUND 3 INPUT: This request for procedure review between DPZ, B&D, HD and other departments cannot be determined whether it has been addressed as the section reference is still not available for review as of 7/17/2022. "Additional MDOD Specific Procedures. Refer to Section 7.01.F.2.e for additional MDOD specific procedures.

4.04. MDOD. Conflicts/loopholes between B, E and F. What under any other circumstances would require a grading permit is being allowed for a "Forest Management Plan" that has known prior disclosure of SFD development plans. This process loophole is actually even enabled with F.6.b. by not requiring Health Department groundwater (and septic) until the "record plat" stage (for lots after 10/4/95). How will this be addressed?

STAFF RESPONSE: Open for discussion. Staff recognizes the existing performance standards have expressed loopholes as commented, in the past

2022 ROUND 3 INPUT: Procedures, permit requirements and handoffs between departments must be reviewed and "fixed." To create a mechanism for enforcement, the ZO requirements must require the prerequisite information for full development plans be submitted before grading permits are granted. Similarly, grading permits relying on "Forest Management Plan" must include mechanisms for on-site review/inspection to not allow site clearing on mountainside as a loophole for residential or business site preparation without permits.

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 (via LEx/emails), 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?

STAFF RESPONSE: Indeed, staff are aware and have experienced "loopholes" and challenges with enforcement. Staff is working with the CAO to develop strategies, and the existing steep slopes exemptions represents the most contemporary starting point, with revisions adopted 12/2/2015 in effort to align with state code but address challenges realized in the 2000's.

2022 ROUND 3 INPUT: Based on numerous complaints and inquiries, County Staff (including Supervisor Aides) are aware of these loopholes that must be addressed. Adequate review to determine ZOR text changes to address this request and procedure review between DPZ, B&D, HD and other departments cannot be determined as the sections of Chapter 7 – Procedures are not available for review as of 7/17/2022

5.01.03. SITE DEVELOPMENT, USES ON LOTS. REDC INPUT. Evaluating intensity of scale for multiple business uses on a parcel or property needs to include the property topography characteristics, soil conditions, road access and other factors used to assess public health and safety.

If more than one primary use is applied for, the application be reviewed via a site or sketch plan/visit with consideration given to intensity of use (volume of patrons, parking, traffic, noise, lighting, etc.) to confirm acreage for multiple uses.

2022 ROUND 3 PUBLIC INPUT: A site review to confirm actual zoning and/or building permit application veracity would close the loophole of applications submitted for a use or "ag barn," with known plans (as can be verified by State agencies) for a different permitted use than applied for.

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.)

STAFF RESPONSE: The County has an open communication with Virginia Department of Forestry (DOF), and tracks all timber harvests, however, enforcement of Section 10.101181.2.H of the Code of Virginia is DOF's authority, not the County's

NOTE—Chapter 7 was not reviewed by the Zoning Ordinance Committee of the Whole or any ZOC Subcommittee, therefore, no ZOC questions and Staff Responses are included in Round 3 Public Input.

7.03.B.4.d. ZONING PERMIT. Initiation. Applications must include d. Certificate from the Health Department.

2022 Round 3 Input: The REVERSE should be also required, that permits/approvals to the Health Department MUST include the zoning permit information. Zoning permit information must not be "optional" or "not applicable" to obtain HD approval.

7.03.B. ZONING PERMIT. INITIATION. Applications must include feedback loops from more than just the Health Department.

Procedure requirements should include, but not be limited to, confirmation of a valid VDOT entrance permit for any/all activity, whether grading, forestry/silviculture, boundary line adjustment review, zoning and building & development applications.

Zoning Enforcement has long stated that enforcement issues often are directly related to the

- 1) lack of front-end feedback loops,
- 2) absence of permit filing/review between departments, and
- 3) inability to perform proactive enforcement without a "complaint" even with directly known/documented violation notification

These must be reviewed and corrected for the Zoning Ordinance Rewrite to improve the ability of Zoning Enforcement to meet the expectations and needs of county residents and businesses.

7.13.D.1.b. ENFORCEMENT. Civil Violations. Have there been no discussion/efforts to increase the fines and/or decrease the time between charges for violation more than once in any 10-day period? Or is this related to Code of VA?.

Cost of violations as become a general "business expense" due to the limited dollars and frequency.

ZONING ORDINANCE – EXTENDED REVIEW:

FACILITIES STANDARDS MANUAL (FSM)

7.3.04 Forest Management Plan. Contains no reference to requiring or confirming a valid VDOT entrance permit is on file for coordination/communication with VDOT and VDOF.

8.103 Plans for Subdivision

38. Private road or access easement. Is a VDOT entrance permit required? If so, what is the communication loop with VDOT?

8.106 Construction Plans and Profiles (CPAP). "19.c. When a proposed roadway or entrance intersects with an existing roadway, the centerline profile of the existing roadway shall be shown for adequate sight distance, to the right and the left of the proposed connection, per VDOT standards. Dimensions for sight lines and sight distances shall be shown at entrances onto the road system and for intersections on both plan and profiles."

What is the communication loop with VDOT during land disturbance at any stage (forestry, grading, site planning, building/construction plans)?

VDOT PERMITS

LUP-SUTLE Single use temporary logging entrance

LUP-CEI Road construction - Commercial entrance installation or street connection.

“Permit applications must be accompanied by documentation indicating the issuance of all required approvals and permissions from the locality where the activity is to occur and any other state or a federal agency having jurisdictional authority.”

“The permittee assumes full responsibility for any and all (downstream flooding, erosion, siltation, etc.) damages that may occur as a result of the work performed under this permit.

What is the feedback loop to Loudoun County B&D and/or Erosion & Sediment Control for permit application, approval, denial or violation?

Thank you for your participation!

To receive an email confirmation of this form, please check the box below.

From: noreply@civicplus.com
To: [DEPT-PZ-ZORW](#)
Subject: [EXTERNAL] Online Form Submittal: Zoning Ordinance Rewrite
Date: Sunday, July 17, 2022 5:35:16 PM

Zoning Ordinance Rewrite

Project Overview

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Beginning April 18, you will be able to review the draft Zoning Ordinance and make comments directly on the draft.

[Visit the project webpage.](#)

First Name	Maura
Last Name	Walsh-Copeland
Address1	<i>Field not completed.</i>
Address2	<i>Field not completed.</i>
City	<i>Field not completed.</i>
State	<i>Field not completed.</i>
Zip	<i>Field not completed.</i>
Election District	Blue Ridge
Please provide general comments on the Zoning Ordinance Rewrite.	<i>Field not completed.</i>
Areas of interest or concern	Uses, Overlay Districts, Development Standards, Procedures

What is your question or concern?

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Related to Interdepartmental Coordination/Communication and County/State Agency Communication:

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4.04. MDOD. Conflicts/loopholes between B, E and F. What under any other circumstances would require a grading permit is being allowed for a "Forest Management Plan" that has known prior disclosure of SFD development plans. This process loophole is actually even enabled with F.6.b. by not requiring Health Department groundwater (and septic) until the "record plat" stage (for lots after 10/4/95). How will this be addressed?

STAFF RESPONSE: Open for discussion. Staff recognizes the existing performance standards have expressed loopholes as commented, in the past

2022 ROUND 3 INPUT: Procedures, permit requirements and handoffs between departments must be reviewed and "fixed." To create a mechanism for enforcement, the ZO requirements must require the prerequisite information for full development plans be submitted before grading permits are granted. Similarly, grading permits relying on "Forest Management Plan" must include mechanisms for on-site review/inspection to not allow site clearing on mountainside as a loophole for residential or business site preparation without permits.

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 (via LEx/emails), 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?

STAFF RESPONSE: Indeed, staff are aware and have experienced "loopholes" and challenges with enforcement. Staff is working with the CAO to develop strategies, and the existing steep slopes exemptions represents the most contemporary starting point, with revisions adopted 12/2/2015 in effort to align with state code but address challenges realized in the 2000's.

2022 ROUND 3 INPUT: Based on numerous complaints and inquiries, County Staff (including Supervisor Aides) are aware of these loopholes that must be addressed. Adequate review to determine ZOR text changes to address this request and procedure review between DPZ, B&D, HD and other departments cannot be determined as the sections of Chapter 7 – Procedures are not available for review as of 7/17/2022

5.01.03. SITE DEVELOPMENT, USES ON LOTS. REDC INPUT.

Evaluating intensity of scale for multiple business uses on a parcel or property needs to include the property topography characteristics, soil conditions, road access and other factors used to assess public health and safety.

If more than one primary use is applied for, the application be reviewed via a site or sketch plan/visit with consideration given to intensity of use (volume of patrons, parking, traffic, noise, lighting, etc.) to confirm acreage for multiple uses.

2022 ROUND 3 PUBLIC INPUT: A site review to confirm actual zoning and/or building permit application veracity would close the loophole of applications submitted for a use or "ag barn," with known plans (as can be verified by State agencies) for a different permitted use than applied for.

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.)

STAFF RESPONSE: The County has an open communication with Virginia Department of Forestry (DOF), and tracks all timber harvests, however, enforcement of Section 10.101181.2.H of the Code of Virginia is DOF's authority, not the County's

NOTE—Chapter 7 was not reviewed by the Zoning Ordinance Committee of the Whole or any ZOC Subcommittee, therefore, no ZOC questions and Staff Responses are included in Round 3 Public Input.

7.03.B.4.d. ZONING PERMIT. Initiation. Applications must include d. Certificate from the Health Department.
2022 Round 3 Input: The REVERSE should be also required, that permits/approvals to the Health Department MUST include the zoning permit information. Zoning permit information must not be "optional" or "not applicable" to obtain HD approval.

7.03.B. ZONING PERMIT. INITIATION. Applications must include feedback loops from more than just the Health Department.

Procedure requirements should include, but not be limited to, confirmation of a valid VDOT entrance permit for any/all activity, whether grading, forestry/silviculture, boundary line adjustment review, zoning and building & development applications.

Zoning Enforcement has long stated that enforcement issues often are directly related to the

- 1) lack of front-end feedback loops,
- 2) absence of permit filing/review between departments, and
- 3) inability to perform proactive enforcement without a "complaint" even with directly known/documented violation notification.

These must be reviewed and corrected for the Zoning Ordinance Rewrite to improve the ability of Zoning Enforcement to meet the expectations and needs of county residents and businesses.

7.13.D.1.b. ENFORCEMENT. Civil Violations. Have there been no discussion/efforts to increase the fines and/or decrease the time between charges for violation more than once in any 10-day period? Or is this related to Code of VA?.

Cost of violations as become a general "business expense" due to the limited dollars and frequency.

ZONING ORDINANCE – EXTENDED REVIEW:

FACILITIES STANDARDS MANUAL (FSM)

7.3.04 Forest Management Plan. Contains no reference to requiring or confirming a valid VDOT entrance permit is on file for

coordination/communication with VDOT and VDOF.

8.103 Plans for Subdivision

38. Private road or access easement. Is a VDOT entrance permit required? If so, what is the communication loop with VDOT?

8.106 Construction Plans and Profiles (CPAP). "19.c. When a proposed roadway or entrance intersects with an existing roadway, the centerline profile of the existing roadway shall be shown for adequate sight distance, to the right and the left of the proposed connection, per VDOT standards. Dimensions for sight lines and sight distances shall be shown at entrances onto the road system and for intersections on both plan and profiles."

What is the communication loop with VDOT during land disturbance at any stage (forestry, grading, site planning, building/construction plans)?

VDOT PERMITS

LUP-SUTLE Single use temporary logging entrance

LUP-CEI Road construction - Commercial entrance installation or street connection.

"Permit applications must be accompanied by documentation indicating the issuance of all required approvals and permissions from the locality where the activity is to occur and any other state or a federal agency having jurisdictional authority."

"The permittee assumes full responsibility for any and all (downstream flooding, erosion, siltation, etc.) damages that may occur as a result of the work performed under this permit.

What is the feedback loop to Loudoun County B&D and/or Erosion & Sediment Control for permit application, approval, denial or violation?

Thank you for your participation!

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Email not displaying correctly? [View it in your browser.](#)

From: noreply@civicplus.com
To: [DEPT-PZ-ZORW](#)
Subject: [EXTERNAL] Online Form Submittal: Zoning Ordinance Rewrite
Date: Thursday, July 14, 2022 3:18:36 PM

Zoning Ordinance Rewrite

Project Overview

The Zoning Ordinance is the primary implementation tool for the 2019 Comprehensive Plan. It contains an added level of specificity that is based on the community's vision as expressed in the goals, policies and actions of the 2019 Comprehensive Plan.

Input from the Board of Supervisors, advisory bodies, various departments and community and professional groups is being factored into the final product.

We welcome your feedback, comments and questions through this form.

Beginning April 18, you will be able to review the draft Zoning Ordinance and make comments directly on the draft.

[Visit the project webpage.](#)

First Name	NAIOP
Last Name	Northern Virginia
Address1	<i>Field not completed.</i>
Address2	<i>Field not completed.</i>
City	<i>Field not completed.</i>
State	<i>Field not completed.</i>
Zip	<i>Field not completed.</i>
Election District	N/A
Please provide general comments on the Zoning Ordinance Rewrite.	<p>General Comments</p> <p>Purpose/Objectives for each chapter/section Issue: It is not clear how each chapter's purpose/objectives will be used for implementation/interpretation. These are comprehensive plan language references that should not be contained within the zoning ordinance.</p>

Comment: All references to the general plan and/or place types should be removed throughout ordinance, not just in purpose sections. If these types of comp plan language are codified in the ZO, then any approval not exactly consistent with the purpose statement opens the County up to appeals.

Remapping of Properties

Issue: How are properties with by-right uses (but not subject to a legislative approval) protected when re-mapped to new districts?

Comment: How does an existing by-right use expand or change when it may not meet new district criteria adopted after the use was established? What about if a by-right parcel is partially developed? Does the last phase/building need to comply with new district regulations? What if those regulations conflict with design characteristics, setbacks, etc. already established?

Remapping of Properties

Issue: if a property is remapped to a new zoning district and that parcel can be developed under the new district, is a rezoning (with proffers) needed?

Comment: it would appear that a rezoning is only needed for a remapped property if a zoning modification is needed?

All districts

Issue: in each district dimensional standards table - unless specified, are all setbacks listed intended to be for building AND parking? 5.01.07.B.1 says parking not permitted in a yard. In this case, some yards are significantly increased in some districts than what is currently required. What is the purpose of increasing setbacks?

All commercial districts

Issue: new 30% open space requirement, in addition to the previous/current 20% landscaped open space requirement, is too restrictive

Comment: allowable areas to be counted towards to open space has been reduced as well

All commercial districts

Issue: It appears all properties will be remapped to one of the new Zoning Districts. Does that mean developed properties in the current PD-IP, PD-OP, PD-GI and CLI Zoning districts which

do not meet the requirements in the new zones will become nonconforming? If so, this has significant financial impacts on existing properties.

All commercial districts

Issue: Many properties have gone through rezonings and have proffers that say they will develop in accordance with the "Revised 1993 Zoning Ordinance, as may be amended". Will the zoning of these properties continue to be governed by that ordinance?

All commercial and mixed-use districts

Issue: It looks like ZMODs aren't allowed except in PD districts; all other districts are so restrictive that if you don't check all boxes then you are forced into PD

Comment: 2.06 purpose bullet 3 even notes that the other districts are too prescriptive; there is not a clearly defined path as to whether PD is needed; so then how do you prove you need/want to be in PD district

All commercial and mixed-use districts

Issue: The required mixes of uses is too prescriptive for all possible development sizes/scenarios

All commercial and mixed-use districts

Issue: Other than in the Urban Policy Area, max parking and location of parking (setbacks/buffers) is too restrictive

All commercial and mixed-use districts

Issue: Minimum heights don't allow for unique/pedestrian scale buildings

Comment: too restrictive

As long as targeted FAR is being provided, individual building heights shouldn't be regulated

Mixed-use districts

Issue: Vertical mix requirement too high for a mix of buildings to be vertically integrated

Comment: eliminate vertical mix requirement as long as mix of uses meets plan goals; consider pedestrian activation instead

hard to finance and hard to time with markets of multiple uses in a single building.

Definitions / Legacy Zoning districts

Issue: includes PD-TC and they are not allowed to expand beyond current footprints or be modified.

Legacy Zoning Districts

Issue: How can all legacy zoning districts be mandated to follow Chapters 3-11 of the new ZO?

Comment: How does a legacy zoning district evolve if it's not fully built out at the time of adoption of this new ZO?

Areas of interest or concern

Zoning Districts, Uses, Overlay Districts, Nonconformities, Definitions and Rules of Interpretation

What is your question or concern?

Field not completed.

Thank you for your participation!

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Email not displaying correctly? [View it in your browser.](#)

From: noreply@civicplus.com
To: [DEPT-PZ-ZORW](#)
Subject: [EXTERNAL] Online Form Submittal: Zoning Ordinance Rewrite
Date: Thursday, July 14, 2022 2:56:39 PM

Zoning Ordinance Rewrite

Project Overview

The Zoning Ordinance is the primary implementation tool for the 2019 Comprehensive Plan. It contains an added level of specificity that is based on the community's vision as expressed in the goals, policies and actions of the 2019 Comprehensive Plan.

Input from the Board of Supervisors, advisory bodies, various departments and community and professional groups is being factored into the final product.

We welcome your feedback, comments and questions through this form.

Beginning April 18, you will be able to review the draft Zoning Ordinance and make comments directly on the draft.

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First Name	NAIOP
Last Name	Northern Virginia
Address1	<i>Field not completed.</i>
Address2	<i>Field not completed.</i>
City	<i>Field not completed.</i>
State	<i>Field not completed.</i>
Zip	<i>Field not completed.</i>
Election District	N/A
Please provide general comments on the Zoning Ordinance Rewrite.	Chapter 3 Uses generally 1. If a definition of a use permitted in a zoning district includes a use not permitted in that zoning district, it is unclear if that use is still permitted under the permitted use. Example: Flex Building is permitted by-right in SE. Flex building definition includes warehouse. Warehouse is not permitted in SE. It is unclear if a

flex building in SE can or cannot have warehouse.

2. Public school is no longer included as a use, unless we are to assume it's included under Government (general not otherwise listed), in which case, is only permitted in the Urban Transit Center district.

3. Rules of interpretation: does this new ZO allow the zoning administrator the ability to determine that a new use is like a permitted use and rule that it is acceptable in the district?

Areas of interest or concern

Uses

What is your question or concern?

Field not completed.

Thank you for your participation!

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From: [DEPT-PZ-PLANNING_COMMISSION](#)
To: [Birkitt, Judi](#); [Reed, Ryan](#)
Subject: FW: NVBIA 1) Comp. Plan Update General Concerns 2) Comp. Plan Update- Zoning District Concerns
Date: Friday, July 8, 2022 3:53:42 PM
Attachments: [image003.png](#)
[image004.png](#)
[image012.png](#)
[image013.png](#)
[Loudoun County General Concerns Letter.pdf](#)
[Loudoun County Zoning Districts Concerns.pdf](#)

FYI

From: Debbie Rosenstein <drosenstein@nvbia.com>
Sent: Thursday, July 7, 2022 4:30 PM
To: BOS <BOS@loudoun.gov>
Cc: DEPT-PZ-PLANNING_COMMISSION <DEPT-PZ-PLANNING_COMMISSION@loudoun.gov>
Subject: [EXTERNAL] NVBIA 1) Comp. Plan Update General Concerns 2) Comp. Plan Update- Zoning District Concerns

To: The Honorable Phyllis Randall, Chair, Loudoun County Board of Supervisors and Members, Loudoun County Board of Supervisors

Please find attached two separate items. NVBIA and its Loudoun County Chapter appreciate the opportunity to submit its concerns regarding the Comp. Plan Update. The first attachment deals with our General Concerns while the second attachment deals with the more granular concerns of the Update regarding Zoning Districts. We will send additional concerns as we continue reviewing information the week of July 11th.

Again, the opportunity to provide you with these concerns is appreciated. Thank you for your time and effort in reviewing our concerns.

Respectfully Submitted: Deborah Rosenstein for NVBIA and its Loudoun County Chapter. July 7, 0222



Debbie Rosenstein
Chief Executive Officer
Northern Virginia Building Industry
Association

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July 7, 2022

**The Honorable Phyllis Randall, Chair Loudoun County Board of Supervisors
Members, Loudoun County Board of Supervisors**

Re: Loudoun County Zoning Ordinance Rewrite Initiative

Dear Chair Randall and Members of the Board of Supervisors;

The Loudoun Chapter of the Northern Virginia Building Industry Association (NVBIA) is in the process of completing a review of those issues of housing importance in the Zoning Ordinance Rewrite. To provide an Overview of our discovery up to this point, we are sending this letter stating our General Concerns regarding the Zoning Ordinance Rewrite. This letter will be followed by additional correspondence under separate cover that detail the specific concerns we have.

The Building Industry wholeheartedly supports the stated goals of improving the Ordinance with better consolidation, clarity and functionality; but the current process has, instead, resulted in the opposite. The Zoning Ordinance seems more repetitious, subjective, and cumbersome (possibly due to the emphasis on capturing every objective of the General Plan).

Some of the Purpose and Objectives of the General Plan appear to be woven into the new language which gives the appearance that the policy of the General Plan is becoming code. Please review the three areas of concern that are most challenging for the building community.

Clarity:

- . The Zoning Ordinance should facilitate the goals of the General Plan; however, with the introduction of objectives related to Road, Pedestrian and Bike Networks, it seems as if that they may not mesh with, or are directly in conflict with, the standards of VDOT and the FSM;
- . The effort to consolidate districts is a step in the right direction. However, since there are now variations of many similar zones spanning the various policy areas, the amount of simplification or consolidation may not be as significant as could be achieved. For example, there is a Compact Neighborhood zone in both the Suburban and Transition areas. Likewise, there are multiple, similar industrial and commercial districts. Even if the intent is to organize the zones around the policy areas, it seems there is some opportunity to provide some reformatting and consolidation that would make it more user friendly where similar information in similar zones could be consolidated into tables; and
- . NVBIA would request clarity on the definition of open space and civic space as it appears those definitions across place types may be different. Is the intent to change what has been defined as open space?

Consistency:

- . The Zoning Ordinance should facilitate the goals of the General Plan through concise, objective standards rather than dictating its often-subjective guidelines. This approach seems likely to cause

county staff and consultants extreme difficulty in plan preparation and review. We fear the reviewers will be unable to efficiently determine compliance with standards that are not measurable; and

- There are numerous cases where the subjectivity of the ordinance could lead to enforcement issues and reduce the predictability of even a by-right layout.

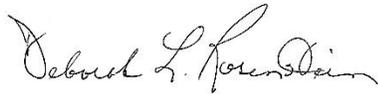
Flexibility:

- Many of the residential zones have very specific restrictive in nature design requirements such as open space, block lengths, and building heights that are counter to allowing flexibility in design to meet the General Plan guidelines. NVBIA does not support design criteria that is so specific that zoning modifications become inevitable; and

- There are concerns for absolute requirements without flexibility to address a variety of unknown situations. There is a concern for adjacent developments dictating requirements across property lines.

We appreciate the opportunity to provide you with these overview statements and will shortly send a more detailed analysis of those items under review.

Respectfully Submitted;



Deborah L. Rosenstein
Chief Executive Officer
The Northern Virginia Building Industry Association (NVBIA)

Cc: Loudoun County Planning Commission



July 7, 2022

The Honorable Phyllis Randall, Chair, Loudoun County Board of Supervisors
Members, Loudoun County Board of Supervisors

RE: Loudoun County Zoning Ordinance Rewrite Initiative

Dear Chair Randall and Members of the Board of Supervisors;

The Loudoun Chapter of The Northern Virginia Building Industry Association (NVBIA) is in the process of completing a review of those issues of housing importance in the Zoning Ordinance Rewrite. NVBIA and its Loudoun Chapter feel that it is important to react to those issues that have been identified in its ongoing review. In prior correspondence, we have provided a General Overview of the process as well as detailed comments that we feel will be counterintuitive to providing clear and concise standards going forward in the zoning ordinance rewrite. At this time, we are also providing detailed technical concerns within the Urban, Suburban and Transition Policy for which we request staff revisit the language and consider concerns.

The NVBIA/Loudoun Chapter reviewers include respected homebuilders, land developers, engineers, and land-use attorneys all active in the Loudoun County building industry. This group has a vast amount of knowledgeable and experience concerning land use and zoning issues within Loudoun County and has taken the time to thoughtfully respond to published information in order to help create a document that is clear, concise and offers flexibility where necessary on zoning cases in Loudoun County.

The following pages detail NVBIA's analysis of the Loudoun County Zoning Ordinance Rewrite Initiative from the viewpoint of Zoning Districts.

Respectfully Submitted;

A handwritten signature in black ink that reads 'Deborah L. Rosenstein'. The signature is written in a cursive style.

Deborah L. Rosenstein
Chief Executive Officer
The Northern Virginia Building Industry Association (NVBIA)

Cc: Loudoun County Planning Commission

Zoning District Concerns:

For purposes of presenting our concerns, we have more specifically identified parts within the Urban, Suburban and Transition Policy for which we request staff revisit the language and consider concerns.

There are many prescriptive district requirements that preclude innovative design and the ability to obtain the recommended place type densities, limiting the replenishment of additional housing that the County needs. A few examples follow:

- Residential unit mix percentages, lot sizes, setbacks, and parking requirements in various place types make density/FAR unattainable;
- Specific requirements for district subareas and road network preclude the use of the land shape, environmental constraints, creative solutions and design flexibility;
- Various Open Space types and calculations are unnecessarily complicated and prohibitive in obtaining other comprehensive plan goals;
- Additional requirements for undergrounding all utilities, making some land cost prohibitive and/or undevelopable;
- Requirements for garage setbacks have significant impacts to architectural floor plans, design and efficiency;
- Mixed use criteria for retail (building design, location, etc.) are not realistic for every site; and
- The inability to apply for a waiver will make it impossible to design projects and address site specific concerns as well as to staff, planning commission and Board concerns during the process.

Urban Districts:

The Urban Place type is a new concept to Loudoun County based upon the growth it has experienced over the past twenty years. There is a large portion of the Urban Policy Area that abuts the Suburban Neighborhood place type. Limiting the building height based on the adjoining property has the potential to surrender approximately ten stories of building height that would otherwise be allowed if it were adjacent to a different place type. Perhaps allowing for some flexibility, perhaps two stories or 30 feet would be a more reasonable transition that would not cause the loss of one of the major opportunities in the Urban Districts.

The open space requirements and subsequent tracking of the total across the place type is difficult to understand or be able to predict when developing a project. The 10% open space requirement within the Urban Districts can be a lot of open space if open space is being defined in the traditional sense of areas not including buildings and parking. Will open air plazas or green roofs count toward the open space requirement? It appears that non-traditional open

space is being considered as there does not appear to be a requirement for landscape open space in the Urban Transit Inner Core, but there is a 10% open space requirement. Additionally, Table 2.01.01-3 seems to suggest that open space is going to be tracked across the entire place type area. How will this tracking mechanism impact the order in which developments are planned? Is it possible the last piece of development within an Urban District could be responsible for maintaining all 10% of the land area?

Suburban Districts:

SN District:

1. The yard dimensions are the same for the SN4 and SN6 districts. It seems that SN6 should allow smaller setbacks and greater lot coverage than SN4.
2. The non-residential requirement (10-15%) (Table 2.02.01-2) would seem to potentially be a problem, especially for SN6 which is more oriented towards infill development where non-residential use opportunities might be limited.
3. The residential unit type mix (Table 2.02.01-3) is something that should be negotiated during a rezoning and not arbitrarily set in the Zoning Ordinance. Likewise, the requirements for variety of lot sizes and dispersion of lot sizes.
4. Multi-family units should be allowed on the edge of a development, potentially with a greater setback, or maybe where the adjacent single family detached development is planned for a higher density.
5. The provisions for "Road Network and Access" and "Pedestrian and Bicycle Network" seem like something that might be better located in the FSM or a separate section of design guidelines since several of the "S" zones contain similar sections. At a minimum, some of these could be reformatted into tabular or matrix format which might be easier to use.

SCN District:

1. In the table of dimensional standards, multi-family requires a larger 25' side yard on corner lots for SCN 16 and SCN 24, whereas SCN 8 only requires 20'. This seems backwards. Higher density multifamily should have the lesser setback.
2. The length width ratios seem odd. Why is SCN 16, 7 to 1 while SCN 8 and SCN 24 are 5 to 1 and 6 to 1 respectively?
3. Like the SN comment #3, the unit type mix requirement should be a negotiated item during a rezoning.
4. Similar comments on "Road Network and Access" and "Pedestrian and Bicycle Network" requirements apply per SN comment #5.
5. SCN-8, SCN-16 and SCN-24:
 - a. Why are there minimum front yards for Multi-Family? Also, the front yards are more intense than those required for single family. This makes no sense and is prohibitive to providing better interior active recreational areas and

more active pedestrian streetscapes. The 2019 General Plan calls for shallow setbacks for Suburban Compact Neighborhood AND Suburban Mixed Use. A 25-foot front yard and rear yard on one acre would lose 23% of buildable area. On smaller sites or infill projects with irregular lot shapes, this could be a definite problem.

- b. Building Requirements – Residential Density is being measured in units per acre. This cannot be allowed.
 - i. Chapter 4 Housing Policy of the 2019 General Plan – Strategy 1.1 C states “Regulate multi-family development by floor area ratio (FAR) instead of by dwelling units per acre.”
 - ii. This density box should make clear that Multi-Family, both attached and stacked will be measured by FAR and not by Units per Acre. A FAR bonus of up to 1.5 should be allowed for those projects that provide a certain percentage as affordable housing units. The Comp. Plan calls for this, and this is not addressed in this chart at all.
6. The SM District Adjusted Base Floor Area Ratio (FAR) calls for allowing applications to increase from 1.5 to 2.0 FAR. The 2019 Comp Plan envisions a 1.5 FAR maximum in suburban mixed use. We assume this is a typo, based on the Table 2.02.03-1 notes FAR maximum as 1.5.
7. Table 2.02.03-1 - It is good to see that front yards are maximums and not minimums.
8. Twelve-foot wide sidewalks within a mixed-use center core seems excessive. This exceeds the CTP width for multimodal paths along major roadways for a sidewalk. Why is this?
9. There appears to be separation between bicycle paths and sidewalks. It is unclear how you would distinguish this and also why bicycle paths are allowed to be narrower than sidewalks. How do you keep pedestrians off bike paths? And vice versa.
10. Block lengths in general seem like a MAJOR headache. This seems like something we would always be modifying. We understand the desire from a design perspective but practically speaking this seems like something you would just constantly be needing to modify and justify.
11. For suburban employment, outside of areas adjacent to suburban neighborhood or compact neighborhood place types -- why would you be so prescriptive on limiting building height. Many suburban employment areas are either near the urban policy area, industrial areas or suburban mixed use where you are presumably allowing buildings over sixty feet without nearly the amount of setback of one foot for every foot over sixty. This seems like this could be more narrowly defined.

Suburban Mixed Use, SM (2.02.03):

1. SMU Mixed Use is supposed to be innovative, but the regs are very specific and rigid. Maybe a set of design guidelines as opposed to such a defined set of rules would be more appropriate.
2. Although all the zones have an introductory “Purpose” section, this one seems a bit too flowery. Some of this language is really Comp. Plan language.
3. The minimum district size is 25 acres, but following that, the text reads “A district may be between 5 and 25 acres when the district is visually and functionally integrated with an existing non-residential development.” Does the text need to be clarified here or are we misunderstanding the definition?
4. The area requirements for the Mixed-Use Center Core subarea seems arbitrary and should be determined on the CDP as is the Mixed-Use Center Fringe.
5. The building height of 60’ in the core should probably be greater than the maximum also allowed in the fringe.
6. Line 11 of the dimensional standards table refers to a FAR of 1.5 pursuant to Section 2.02.03.E, but the reference needs to be to Section to Section 2.02.03.F, which addresses adjusted FARs.
7. The plaza design requirements seem like something should be in a separate manual or design guide that can be applied on a case-by-case basis and not included here where any need for relief would require a ZMOD. The same general comment applies to the sections on Building Orientation, etc.
8. 2.02.03.B – District Subarea definition and requirements are much too specific and consequently, restrictive;
 - a. Provides little flexibility to work with land area and shape, surrounding parcels, environmental features, etc. that may necessitate a core area being smaller, in a different location on site, etc.
9. Table 2.02.03-1:
 - a. Front Yard requirements are listed as a maximum but with an unclear description related to specific uses. Why is there 300’ for sales service to the property line?
 - b. Large yard restrictions between uses for a place type wanting a mix of uses, i.e. “mixed use core”; it would be expected that this area is the densest.
 - c. Single story retail buildings less than 2000 SF are not practical for the type of desired uses. These need to be larger.
10. G.2. With incremental additions to previously approved SM Districts, meeting the same percentages is going to be difficult when adding to an already established fringe area.
11. Table 2.02.03-3 is unclear
 - a. Residential Minimum – all projects must have Multi-Family attached dwelling units? This is implied with a 10% single family minimum.
 - b. Residential Maximum – is this based on square footage or gross land area?
12. There are numerous very specific design requirements in many of the zones. For example, in Suburban Mixed Use (Section 2.02.03) the requirements of Paragraphs H through N (Vertical Mix, Publicly Accessible Gathering Spaces, etc.) are so specific that it

seems that it is creating the situation where numerous ZMODs are almost inevitable. This situation seems to be the case in many of the proposed zones.

13. H. Vertical Mix – 50% of the buildings need to be vertically mixed – this seems significantly high.
14. All drive throughs being incorporated into a mixed-use building seem impractical for retail tenants.
15. #4. Unclear how you exclude SFD, SFA and MR Stacked from calculations. Why is “MF Stacked” in parentheses?
16. J.4. Plaza and Green requirements are very prescriptive requirements for types of buildings that can surround them.
17. Block lengths by linear footage seems problematic. This seems to be many instances where this would need to vary based on land size/shape/site constraints/residential product size/etc.
18. L.1. Text states that *at least 50% of the total of all block frontages.... excluding frontages along alleys, must occupy a building wall*. This is very confusing and there is potential for interpretation issues during the process.
19. M.1 Countywide Transportation Plan specifies where on-street bike facilities are to be programmed. This section sounds as if those need to be incorporated everywhere. We can see this section being interpreted many different ways concerning type, size, and location of all these different types of pedestrian networks
20. M.2 Most Direct Route required. This section may not be applicable in all cases and may make for ineffective design. We would suggest deletion.
21. M.3 Sidewalk widths of 12’ and 9’ sidewalks. Is this a typo? This is larger than a roadway lane.
22. M.3.f. VDOT streets may prohibit some of these treatments – which also add cost and maintenance to subdivisions.

SC District:

1. The dimensional standards allow higher FAR for structured parking (1.0) vs. surface parking (0.6). Does this mean to get to 1.0 FAR - all the parking needs to be structured or only some of the parking as structured? Will there be a sliding scale for FAR depending upon the ratio of surface to structure parking?
2. The section on Land Use Arrangement seems inappropriate. Do shopping centers actually create “blocks” that need to be regulated?
3. Similar comments on “Pedestrian and Bicycle Network” requirements apply per SN comment #5.

SE District:

1. The maximum FAR in PD-RDP of 2.0 with a SPEX is reduced to 1.0 with SPEX. Other than consistency with the other PD zones being consolidated into SE, there is no obvious reason for that 50% reduction in FAR.

2. Similar comments on “Road Network” and “Pedestrian and Bicycle Network” requirements apply per SN comment #5.

SI District:

1. Similar comments on “Pedestrian and Bicycle Network” requirements apply per SN comment #5. Also, do industrial projects actually need to be linked to adjacent communities by shared paths, etc.?

SME District:

1. The district size remains at 600 acres, which is a carry over from the MR-HI district, but there are permitted uses that do not need 600 acres to function in a manner compatible with surrounding properties. Perhaps there could be a mechanism to address this.
2. Similar comments on “Pedestrian and Bicycle Network” requirements apply per SN comment #5. Also, do industrial projects actually need to be linked to adjacent communities by shared paths, etc.?

Transition:

1. In 2.03.01. Purposes includes a requirement to ensure contiguous open space is sufficient in size and soil quality to accommodate and protect agricultural uses. There is no practical way for the staff to enforce this on a by-right development. Who dictates that the open space can or will be used for agriculture?
2. E(b) requires 5% of the TLN lots to be used for Civic! Again, this might be an objective in the plan but cannot be used in a Zoning Ordinance. Why would you have any “lots’ devoted to Civic? May Open Space parcels?
3. The Zoning Ordinance should allow for private roads to be on open space parcels. The language doesn’t actually address this.
4. All of the requirements devoted to Groupings of lots and Sitings to reduce visibility are too subjective for the Zoning Ordinance.
5. The Perimeter Setback is excessive at 100 feet. And, it states that it applies to internal street ROW! This is the same issue (but worse) with the denser TR districts.
6. The entire sections on Road Networks and Pedestrian Networks need to be removed.
7. In 2.03.02, Purposes has similar inappropriate language including a requirement to establish Open Space and natural vegetation that includes public and private trails, recreation uses and buffers. This should only be applied through a Rezoning application. The same issue with variation of lot sizes is noted. Could staff analyze the dispersion and differentiation of lots on a CPAP or SBPL?

Transitional Small Lot Neighborhood, TSL (2.03.02)

1. Table 2.03.02-1

- a. Lot Grouping – Minimum 5, Maximum 25; This requirement has been interpreted in current Zoning Ordinance in so many different ways. We suggest deleting.
 - b. Yards – significantly too large to accommodate goals of layout, density, open space in Comp. Plan Place Type – specifically 30’ front yards, 25’ rear yards and 100’ perimeter setbacks.
2. D.1.b states that *a minimum of 5% of lots created must be used for public or civic uses....* Are these “lots” considered open space parcels?
 3. E.F. Lot groupings. See comment to table. We suggest deleting it.
 4. G.1. A mixture of lots sizes may make a layout significantly inefficient. Streetscape can be accomplished through varying elevations, not necessarily size of homes. This section will be problematic to many home builders.
 5. G.2. With small lot sizes, a 500 square foot difference could be significant. We suggest removing this very specific requirement.
 6. H. Dispersion of Lot Sizes - See comment for G.1.
 7. I.2. This section is adding even more ambiguous restrictions on the distance from the property line; 100’ is already too far to meet Comp. plan objectives.
 8. J. Perimeter setback – see previous comments.
 9. L. Pedestrian and Bicycle Network – This section makes a lot more sense than the SM Pedestrian and Bicycle Network section. Are sidewalks on both sides of the street needed here?

Transition Compact Neighborhood. TCN (2.03.03)

1. Table 2.03.03-1
 - a. Lot width maximum of 18' – Do these unit types of Triplex, Quadruples, ground floor unit or individual lot assume a fee simple structure? Ground floor seems to imply a vertically stacked unit (MF stacked).
 - b. Yards – Significantly too large to accommodate goals of layout, density, open space in Comp. Plan Place Type – specifically 30' front yards, 25' rear yards and 100' perimeter setbacks.
2. D.1.b. *A minimum of 10% of lots created must be used for public or civic uses....* Could you confirm that these “lots” are considered open space parcels.
3. D.2. Variation of Lot Sizes – A mixture of lot sizes may make a layout significantly inefficient. Streetscape can be accomplished through varying elevations, not necessarily size of houses. This section will likely be problematic to many homebuilders.
4. D.2.b.1. With small lot sizes, a 500 square foot difference could be significant. We suggest removing this very specific requirement.
5. E. Dispersion of Lots – See comment to D.2.
6. F.2. This section is adding even more ambiguous restrictions on the distance from the property line. 100' is already too far to meet Comp. Plan objectives.
7. G. Perimeter setback – See previous comments.
8. H.2. Average block length specificity – We suggest deleting to avoid a multitude of mods
9. H.4. Why are cul-de-sacs not permitted?
10. H.6. We suggest allowing for lots to front on private streets. This provides more flexibility in design.
11. H.7. Many units front on mew/open space areas with a rear-load garage. Why restrict access from an alley? We suggest removing this requirement.
12. I. Pedestrian and Bicycle Network – This section makes a lot more sense than the SM Pedestrian and Bicycle Network section. Are sidewalks on both sides of street needed here?

LOUDOUN COUNTY
RURAL ECONOMIC
DEVELOPMENT COUNCIL

July 15, 2022

Joe Kroboth III, Acting Director Planning & Zoning
Judi Birkett, Interim Assistant Director, DPZ

Re: Zoning Ordinance Rewrite – REDC Round 3 Public Input Comments

Mr. Kroboth and Ms. Birkett,

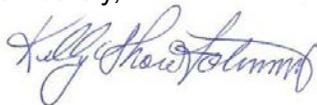
The Rural Economic Development Council (REDC) would like to thank the Zoning Ordinance Rewrite County Staff for your hard work to develop Loudoun County's new zoning ordinance to implement the 2019 General Plan.

In 2019 REDC formed the ZOR Ad hoc Committee per the REDC Bylaws, and has reviewed the Zoning Ordinance Rewrite (ZOR) chapters for continuity, compliance, consistency of similar uses, and alignment of goals with the 2019 General Plan. The committee considered the policies and actions in the General Plan to confirm that zoning ordinances were appropriate for the long-term viability and long-term success of rural Loudoun businesses.

Input from all REDC sector representatives was requested in order to reflect a balanced approach in our review of agricultural, agri-tourism, animal husbandry and other uses in the Rural Policy Area. Although the REDC Chair and Department of Economic Development (DED) Executive Director did not expect there to be a majority view on all topics, the attached report represents a majority view as a whole. For Staff's information, a copy of the survey and in-person votes quantifying the majority and minority views, are included as an attachment to this report.

In some areas you will note that additional information for missing sections and responses to questions are required to complete our review. In addition, REDC welcomes the opportunity to assist staff complete several sections during the development of the second draft text, which may require the specific expertise of our membership.

Sincerely,



Kelly S. Foltman, DVM
REDC Chair

cc: Loudoun County Board of Supervisors
Tim Hemstreet, County Administrator
Valmarie Turner, Assistant County Administrator
Buddy Rizer, Executive Director, DED

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LOUDOUN COUNTY
RURAL ECONOMIC
DEVELOPMENT COUNCIL

**REDC Round 3 Zoning Ordinance Rewrite
Public Input Report
Comments on ZOR Draft Text Released 4-18-2022
(7-15-2022)**

INTRODUCTION

The Rural Economic Development Council (REDC) Zoning Ordinance Rewrite Adhoc Committee was formed per the REDC Bylaws in 2019. The Adhoc Committee has reviewed the Zoning Ordinance Rewrite chapters for continuity, compliance, consistency of similar uses, and alignment of goals with the 2019 General Plan. The committee considered the policies and actions in the General Plan to confirm that zoning ordinances were appropriate for the long-term viability and long-term success of rural Loudoun businesses. Each REDC sector representative reviewed and provided input for a balanced approach regarding specific agricultural, agri-tourism, animal husbandry and other uses in the Rural Policy Area.

REDC HISTORICAL OVERVIEW

Prepared by: *Jeffrey S Browning, President, Browning Equipment, Inc.,
Former REDC Chair, Current REDC ZOR Ad Hoc Committee member,
Current REDC representative to Zoning Ordinance Committee (ZOC)*

The Loudoun County Board of Supervisors in July 1997 created the Rural Economic Development Task Force consisting of Loudoun citizens and charged them as follows:

"Construct a Rural Economic Development Plan that fosters economic growth that is compatible with preservation of natural resources, that strives for a high value of agricultural production that may be different from traditional agriculture, that supports the equine and tourism industries, that maintains high quality farmland, and that recognizes the need for continued low density planned residential growth."

The result of this effort was the November 1998 plan, "*The 200,000 Acre Solution: A Rural Economic Plan by the Rural Task Force.*" Included in this plan were recommendations to help landowners farm with greater profitability, recommendations for new initiatives most likely to result in significant increases in the rural economy, and recommendations to secure the natural resource base of Loudoun's rural land. The organizational recommendation was for the creation of the Loudoun County Rural Economic Development Council (REDC). The then-existing Agricultural Advisory Committee which served the Board of Supervisors was ultimately replaced by the REDC in November of 2000.

Clearly, the REDC has in its name "Economic Development," and we are champions of businesses in rural Loudoun. We do, however, have an obligation to maintain the "Rural" focus which means country, open space, and farming. It is imperative that thought be given to the scale of rural uses. Expanded rural uses were offered by Loudoun County in the past when properties were downzoned and their perceived value in terms of potential development yield was reduced. These uses were ideas to give owners of large parcels options other than residential construction. Some of the uses of such scale that invite large numbers of patrons should be located on these larger parcels, rather than on smaller residential lots. An attempt to keep high intensity uses on larger parcels will also reduce conflicts with neighbors. The Loudoun County 2019 Comprehensive Plan clearly states (Rural Policy Area, Rural Economy Strategy 3.1):

"Ensure compatibility of rural economy uses through the evaluation of the scale, use, intensity, and design (site and building) of development proposals in comparison with the dominant rural character and adjacent uses."

The duty of the Zoning Ordinance is to implement the comprehensive Plan.

RURAL LOUDOUN'S ECO-SYSTEM

Prepared by: *Alta Jones, Former Chair of REDC,
Current REDC ZOR Ad Hoc Committee member.*

Rural Loudoun has a highly desirable combination of scenic beauty, natural resources and cultural heritage rooted with the past and present agriculture community. Nearby proximity to large populations and access to an educated workforce along with the natural resources, cultural heritage, local products and services to create Loudoun's rural ecosystem. Loudoun's rural businesses have embraced the packaging/branding of their local products and services with the added element of sharing our "sense of place." This sense of place is what makes Loudoun stand out and involves the entire ecosystem.

As our rural businesses continue to evolve and adapt their revenue models with new offerings, expand targeted customers and capture the power of collaboration strategies across business sectors, tension sometimes occurs between the different constituents of the ecosystem. Example neighbors (residents & businesses) are concerned about noise, traffic, protection of night skies, preserving cultural/historical assets and impact of business expansion as all constituents share viewsheds, environmental resources, have "rights", and operate with uncertainties. There are concerns such as what happens to our "sense of place" when outside corporations with ownership elsewhere buy up the land and assets or large swaths of relatively affordable housing? Will we lose our sense of community to support our local business, protect our natural resources, preserve our history, and support our neighbors in need?

We must continue to actively protect our natural resources, viewsheds, prime ag soils and historical assets. Our residents and businesses support the sale of our products and services especially during the off season and are an integral part of our ecosystem. Good relations with neighbors and our communities are good for business and our "sense of place."

REDC Round 3 Zoning Ordinance Rewrite Public Input Comments REPORT on ZOR Draft Text Released 4-18-2022

GENERAL COMMENTS

- Overall, the Prime Soils ZOAM should be included within the zoning district and development sections. It is REDC's understanding this will be done when ZOAM-2020-0001 (Zoning Ordinance Rewrite) is completed.
- Additionally, within Uses (Chapter 3) and Development Standards (Chapter 5) there are numerous areas where trails and or passive uses are mentioned. These areas should conform to and specify within the text the Linear Parks and Trails (LPAT) plan.

Chapter 3:

- LPAT references should be included in Use-specific standards for 3.05.05.17 rural retreats and 3.05.06.02 data centers.

Chapter 5:

- 5.04. Purpose: *Ensure the availability of open space for active and passive recreation.*
- 5.03.03.A.1.b. passive recreation (also include equestrian trails).
- 5.04.03.B.2. Public Open Space.
- 5.04.04.A.5. *Bonus credit shared use path should include LPAT trail system.*
- 5.04.06.B Passive Use Design Standards: Centrally located and accessible by a pedestrian and bicycle network. *Should reference accessibility via LPAT system and question why centrally located?*
- 5.04.07 Trails: *Hikers, bikers and equestrians should ALL be priority users and have trails developed with them in mind with work arounds as required to maintain continuity of the trail system throughout the county.*
- Bike-ped plan should allow for connectivity to natural surface LPAT trail system.

CHAPTER 3: USES TABLES AND USE-SPECIFIC STANDARDS

3.02.01 Farm Market (off-site) is currently prohibited in the Urban and Suburban Use Table under Urban Employment. REDC suggests that this be a by-right use to encourage the establishment of off-site farm markets to create demand for Loudoun-grown products.

3.02.02-2 Equestrian Event Facility. This use is currently prohibited (blank) in JLMA-LE. REDC recommends this use be allowed by-right (P) or minor spex (M).

3.05.02.07 & 3.05.02.10 Seasonal Labor Dormitory and Tenant dwellings:

- **3.05.02.07 Seasonal Labor Dormitory.** OSHA regulations require a minimum of 100 sq ft. per laborer. Loudoun County standards should conform to OSHA regulations requiring a minimum of 100sq.ft. versus 200 sq.ft. minimum in the draft text.
- **3.05.02.10 Tenant Dwellings.** The number of tenant dwellings per farm is currently limited to a maximum of 4 per 85 acres and more. Recommendation would be to base the number of allowed seasonal labor dwellings on the number of verifiably payrolled laborers required to farm the acreage, and the availability of adequate sewer, water and electricity to support required housing.
- ZOR County Staff should work closely with REDC contacts with expertise to revise Seasonal Labor Dormitory and Tenant Dwelling calculations to reflect the needs of actual Loudoun County farmers.

3.05.04.14 Farm Markets. If the definition of farm market is for the majority of product to be made on that farm, then these should be allowed on gravel roads, where most farms are located. However, this seems to closely resemble the wayside stand definition. Suggest staff review farm market, farm market off site and wayside stand for overall consistency.

3.05.04.17 Mobile Vendors. REDC requests language to review when completed concerning the permitted use (P/M) of mobile vendors and or mobile vending in ARN, ARS and TLN-10, as this use is an important part of the rural economy.

- **Mobile Vending:** *Defined as the sale, display, solicitation or offer for sale, barter, exchange, gift or otherwise of food prepared within a self-contained vehicle, trailer or cart, should be allowed in ARN, ARS and TLN-10. Mobile vending does not include catering vehicles or ice cream trucks in continuous operation within the public right-of-way. REDC looks forward to reviewing language as it becomes available.*
- **Mobile Vendor:** *Any individual that operates or assists in the operation of a self-contained vehicle, trailer or cart which provides the sale, display, solicitation or offer for sale, barter, exchange, gift or otherwise of prepared food.*

3.05.05.01 Amphitheater. As allowed by Special Exception in the Rural Policy Area, this use should require hours of operation. With up to 2000 seats Road Access standards should require being on a paved road, and intensity should consider location in terms of adjacent properties and other road conditions. The Use Definition for Amphitheater should also differentiate it in size and intensity to a band stand, as is common at many other high-intensity use locations offering “performances” and “concerts” with or without tickets (such as limited breweries and farm wineries).

3.05.06.07 Sawmills. REDC comments with regard to Rural Use Specific Standards: Nurseries, ag processing, sawmills (with three levels), and slaughterhouses all require a special exception. The special exception requirement is excessive to someone looking to offer small scale grain cleaning/milling or animal processing services on their farm or saw milling services and should be further considered.

3.05.08.01 Agriculture/horticulture should not require five acre minimum for horticultural or ag uses not involving livestock. This will make it inadvertently illegal to produce hay, grow fruit trees etc., on small lots.

3.05.08.02 and .03 Agriculture Support Uses - Direct and Standalone. Equine uses:

- Currently there are both definitions and categories with the title of “Agriculture.” The definition can be found in Chapter 11. In Chapter 3 there is both a category of “3.05.08 Agriculture” and subcategories of:

3.05.08.01 Agriculture, Horticulture and Animal Husbandry
3.05.08.02 Agriculture Support Uses (Direct Association with On-Site Ag Activity. Use Standards include Equestrian Event Facility and Stable, Livery
3.05.08.03 Agriculture Support Uses (Standalone). Use Standards include Equestrian event facility and Stable or livery.

REDC comments that Equine Event Facility and Stable livery should both be under 3.05.08.01 Agriculture (versus Ag. Support Uses).

- REDC comments that 25 acres is excessive for an equine livery and that 10 acres should be a minimum. Pasture stocking rates will dictate how many animals can be present and many existing operations are on 15 acres doing best practices.
- For hours of operation on equestrian events (6am to 9pm and 6am to 10pm), this should not include *deliveries or preparation and care of animals during an event* outside of those times.
- C: Size of structure. Most Stable Livery and Stable Event uses as well as many Stable Private uses have indoor riding arenas of 100x200 which is a larger footprint than allowed for all combined structures on <25 acres and within 4,000 sq.ft. for all parcels 25-50 acres. REDC and LCEA members can assist Staff understand the requirements.

3.05.08.03 Agriculture Support Use (Standalone). Ag Education or Research Center requiring 25 acres for 200 attendees is inconsistent and may be high when Banquet Event Facilities can be on 20 acres for 200 attendees. (To make consistent, Banquet Event Facilities may require larger parcels than 20 acres in rural areas.)

3.05.08.05 Wayside stands. What percent of products can be sold that are not made on-site? Can, will or should this be defined?

3.05 Use-Specific Standards and/or 3.04. Temporary Uses REDC comments that *production or bonafide agricultural farms* uses that wish to host educational events be provided criteria similar and consistent to the BnB regulations to bundle applications for annual registration to reduce the time and cost. Similar to 3.05.03.01-1 table for private parties for BnBs, for an annual fee and inspection, bonafide ag farms should be able to apply for x-number of annual events for x-number of patrons based on acreage and on-site parking availability. This should include the ability to have catered food or mobile food vendors. Example is 3.05.03.01-1 table for private parties for BnB.

3.05.08.04 Limited Breweries Use-Specific Standards

- **Hours of operation.** For Limited Breweries and Farm Wineries, REDC comments with regard to Hours of Operation that current guidelines from Code of Virginia and Virginia ABC allow on-premises locations to sell alcohol between the hours of 6 am and 2 am Monday through Sunday. Entertainment and/or educational component activities regulations (e.g., noise, light, outdoor music, events) should be applied for more consistent hours as other rural business uses of similar intensity to better reflect the rural ecosystem.

Reference: Following text applies to both

§ 15.2-2288.3. (Eff. Jan. 1, 2022) Licensed farm wineries,

§ 15.2-2288.3:1. (Eff. Jan. 1, 2022) Limited brewery license.

*Local restriction upon such activities and events of [farm wineries / limited brewery] licensed in accordance with Title 4.1 to market and sell their products **shall be reasonable** and shall take into account the economic impact [on the farm winery/on such licensed brewery] of such restriction, the **agricultural nature** of such activities and events, **and** whether such activities and events are usual and customary.*

- **Attendance.** How is capacity considered for outdoor (licensed) space and vehicular traffic to comply with sketch plan (Chapter 7), parking, and road access standards (5.09.01)? Should a site visit be required for all new establishments?

Reference: Code of VA § 15.2-2288.3:1,

*“Any locality **may** exempt any brewery licensed in accordance with subdivision 2 of § 4.1-208 on land zoned agricultural from any local regulation of minimum parking, road access, or road upgrade requirements.*

The statement “locality may exempt” means that the locality can apply local regulations of minimum parking, road access or road upgrade requirements and subsequently choose whether to make exemptions.

- **Non-conformities.** REDC maintains that changes for existing businesses should not be prohibitive for continued operations. This is to be confirmed by Staff and with REDC review of Chapter 9 Non-conformities and rules/regulations for grandfathering. See grandfathering under Chapter 9 Non-conformities.
- **Agricultural production.** REDC comments that 3.05.08.04 Limited Breweries should be positioned to transition to growing products that can be directly used in the production of their product as Virginia Tech continues to determine agriculture products that can economically and sustainably grow in this region. Methods:
 - A. Determining a ratio of the number of acres in on-site agriculture per acre of brewery to be utilized for agriculture production.
 - B. Business uses allowed on Farms not currently covered by an agricultural production requirement should as best practice have a farm plan identifying what crops would be suitable for the property and acreage assigned as part of their process.

Reference: § 4.1-206.1. (Effective July 1, 2022) Manufacturer licenses.

*4. Limited brewery licenses, to breweries that manufacture no more than 15,000 barrels of beer per calendar year, provided that (i) the brewery is located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such brewery or its owner **and** (ii) agricultural products, including barley, other*

grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown on the farm. . . .

For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited brewery use.

Farm wineries are required to plant vines on the site of their primary establishment. This helps wineries to both reflect the agricultural attributes of the rural area and to create a natural buffer between their business and surrounding properties. This approach would also place breweries in better compliance with state code to have agricultural products produced on site that are used in the manufactured product.

- **Size of Operation.** REDC comments for [3.05.08.04 Limited Breweries](#) and [Farm Wineries](#) that use-specific standards should **apply three or four "Levels" or "tiers" for various size operations**, as is done for a number of other rural economy uses and use-specific standards. This would accommodate small to large operations while managing impacts.

Agricultural Processing: NEW Use-Specific Standards request (for 3.05.06 or 3.05.08)

- REDC requests new use-specific standards under 3.05 Agriculture for the current Agricultural Processing use. The Draft ZOR Text does not allow Agricultural Processing either 1) in the definition of [Agriculture](#) OR 2) in the [rural use table](#) under Agriculture; it is a separate use under the "Industrial/Production" section. The only mention of "Agricultural Processing" in the draft text is as a principal use which would only be allowed by Special Exception, which is cost prohibitive to small ag operations.

REDC comments that:

- Under 3.02 Use Tables and 3.05 Use-Specific Standards: Small scale processing of agricultural products grown within Loudoun should be allowed on farms in ARN and ARS. Small producers often have multiple small parcels that may not be contiguous. The requirements should be amended to allow processing of products from multiple parcels in Loudoun County owned by the same individual on one parcel that is also used for production, instead of, as currently written, to require individual processing centers on each parcel. The requirement for at least 51% of the processing be from products grown or raised in Loudoun County should remain.
- Under 11.03 Definitions: The definition of Agricultural Processing should be part of the definition of: [Agriculture](#), [Horticulture](#), [Animal Husbandry](#), [Feedlot](#), [Farm Co-ops](#) to recognize that agricultural processing is an intrinsic activity in those uses. The definition of "farm" should be amended such that processing by itself does not define a farm. Processing should be eliminated from the "Farm" definition.

CHAPTER 4 – OVERLAY DISTRICTS

Overall comments: New guidelines are needed that better reflect the ecological issues that may negatively impact rural business operations in overlay districts.

Examples:

- **4.03. Floodplain Overlay District.** Fencing, tree planting still needs study for Floodplain Overlay District (FOD).
- **4.04. Mountainside Development Overlay District (MDOD).** Should all uses be permitted the same in ARN/ARS, or should some level of oversight (M? S?) be required in MDOD areas for protection of the business and customers?
- **4.05. Limestone Overlay District (LOD).** The mineral content in Limestone Overlay District (LOD) is beneficial for winery terroir. These areas should have protection against other uses that could negatively impact the LOD. Staff should determine how areas in LOD can not allow some uses to be by-right.

CHAPTER 5 – DEVELOPMENT STANDARDS

Section 5.01: Site Development

5.01.03. Site Development, Uses on Lots. Evaluating intensity of scale for multiple business uses on a parcel or property needs to include the property topography characteristics, soil conditions, road access and other factors used to assess public health and safety.

- Where two or more primary uses are located on one parcel should the required parcel size be evaluated to be the sum of all minimum lot sizes (similar to parking) rather than the current requirement that the acreage meet only the size requirement for the largest use? (*Note: REDC majority vote disagreed with this option.*)
- Alternatively, if more than one primary use is applied for, should the application be reviewed via a site or sketch plan/visit with consideration given to intensity of use (volume of patrons, parking, traffic, noise, lighting, etc.) to confirm acreage for multiple uses?

Section 5.04: Open Space

5.04.08.E.3 Uses in Open Space Agriculture. Description should include equestrian private and livery uses.

5.04.08.B2 and E1. REDC questions allowing sewer facilities in public open space. They should be on the property of the individual homes.

5.04.08.B5. Allowable uses should include “Nursery Production,” not “Nursery, Production” (remove comma “,”).

Section 5.05 Parking

5.05.02.A. Multiple Permitted Uses. For parcels with multiple permitted uses the minimum required parking is calculated cumulatively for each principal use. REDC agrees.

5.05.02.C. Parking Requirements by Use and Policy Area. *Each application for a site plan, zoning permit...shall include location and dimensions of parking and means of ingress and egress.* REDC agrees.

5.05.03-4 Table: Rural Policy Area Parking Ratios

- Text should reflect that accessory dwellings will/could be used as Short Term Residential Rentals (STRR).
- Under Arts, Recreation and Entertainment: How was $\frac{1}{3}$ of permitted capacity plus 1/employee calculated for equestrian event facility?
- Under Agriculture:
 - REDC supports Limited Brewery, winery commercial and farm winery changed to 8/1,000 sq.ft., to be made consistent with amphitheater and outdoor recreation. However, what was the reason for banquet facilities to remain 5/1000 sq.ft.?
 - REDC asks why wineries and limited breweries are not required to have 2 spaces being ADA?
 - Are parking requirements for wineries and breweries calculated based on indoor square feet or outdoor licensed area square feet? If only by indoor square feet, how is parking for licensed area / outdoor activities at breweries and wineries considered for parking (by outdoor square feet)?
 - There should be a parking minimum of 8/1000 sq.ft. of building plus consideration for outdoor patrons. Satellite parking may be allowed for special events as long as transportation to the facility is provided.
 - For standards, REDC requests that parking must be on-site on land contiguous to and owned by the facility and be permitted in fields so as not to require impermeable or permanent gravel parking spaces.

Section 5.08 Performance Standards

5.08.01.C. Performance Standards Purpose, Applicability, Exceptions and Administration states, *“Agricultural Operations. The standards contained in this Chapter do not apply to any lawful agricultural operation.”*

- Include a definition of “Agricultural Operations” in Chapter 11.
- This exception should not apply to the tasting room/tap room or other retail or commercial operations.

- Only the bona fide agricultural operation portion of the business and property should be included in 5.08.01.C. as an exception to noise and lighting standards. Consider change to ***bonafide production agricultural operations*** rather than ***agricultural*** which is too broad a term.

Definition reference:

Agriculture, Bona Fide: Agricultural, horticultural, or animal husbandry uses as defined in this Zoning Ordinance that are located on a parcel that is subject to a farm plan approved by the Loudoun County Soil and Water Conservation District or that is classified by the Office of the County Assessor under the land use tax assessment program as Agriculture.

5.08.04. Noise Performance Standards. Noise control is problematic for anyone to understand. The draft text in 5.08 is clear on how loud the noise can be (55 dBa), and where it is measured. What is NOT clear is

- by whom (other than “Zoning Administrator” for zoning use-related noise/light issues versus other noises in codified ordinance) and
- when (time of incident? Or required to make an appointment?)
- Noise standards need to be better defined for business uses in the rural area including 1) application and consistency of noise standards and outdoor music end time for similar intensity operations and 2) by whom and when are noise issues investigated and measured for complaints received. This should also include better education for the public as well as opportunities for businesses to reduce unwarranted or nuisance complaints.

5.08.05. Light and Glare Performance Standards. Light and Glare standards should be consistent for rural business uses of similar operation and/or intensity. The draft text states

- A. Applicability states regulations apply to “all lighting and sources of glare that are produced from a manufactured lighting device . . . “ without exemptions by district or type of use.
- D. Standards #5. states “all exterior lighting must be extinguished between 11pm and 7am” UNLESS . . .
- #6 permitted hours of operation are specified by a Use Specific Standard in Section 3.05.” Then #8 Standards for Specific Uses states “All exterior lighting must be extinguished from the end of the permitted hours of operation for the specific use” **IF** on a site plan, in Use Specific Standards OR *Between 10pm to 6am if no hours of operation are specified.*

REDC comments that standards should apply consistently and be in line with recommended hours of operation for entertainment and/or educational components of use activities.

CHAPTER 6 - SIGN REGULATIONS

Rural Sign Categories. For multiple locations in Chapter 6 Sign Ordinance why is rural Loudoun only given *one* place type (*rural*) in regards to sign regulations? Consideration should be given to commercial vs residential vs farm sign requirements to be consistent with application of sign regulations by residential versus business in other policy areas.

6.01. Application of Sign Regulations. REDC suggests the purpose of signage is twofold: 1) to direct the public to a road, a community, a business etc., while 2) complementing the character of the locality.

6.03.B. Prohibited Signs. REDC agrees that billboards have no place in Rural Loudoun.

6.04. Freestanding Signs. Sign specifications of square feet and height may be too restrictive for rural operations such as farms.

6.05.D. Attached Signs. REDC is not in favor of regulating murals on buildings in rural areas. Painted signage on barns is a common practice in many areas.

Wayside Stand Signs. Why are wayside stands given more sign options than farms? (freestanding and attached)? Farms should be allowed similar flexibility.

Sign application fees. There should be different fee requirements for commercial, residential and rural uses for farming.

CHAPTER 7 - PROCEDURES

(new in 4/18/22 draft text, not previously reviewed)

Sections still missing 7.01, 7.10, 7.11 and 7.12. REDC reserves comment until completed.

Section 7.03.B.4.a. Applications must include an approved site plan or “plot plan.” Use-Specific Standards indicate requirements for site plan or sketch plan. Therefore, what is the definition of “plot plan,” when is it required, and should terms be made consistent between Zoning Ordinance chapters?

CHAPTER 9 - NON-CONFORMITIES

(new in 4/18/22 draft text, not previously reviewed)

9.A. Applicability. Existing rural businesses are concerned about becoming a non-conforming use after approval of the new Zoning Ordinance.

- Can rules be clarified for REDC / BOS to explain how Chapter 9 may impact rural businesses?
- Is there action that a rural business can take to mitigate becoming a non-conformity? For example, can there be a lower cost special exception for grandfathered rural businesses to apply for investment and or expansion of their businesses?

9.B.2. Discontinuation of Nonconforming Use. Many rural structures may not be considered historical. Such structures may have been vacant for more than two years but may be restorable for a new (adaptive) use. Should there be a longer allowable period of abandonment?

CHAPTER 11- DEFINITIONS AND RULES OF INTERPRETATION

(not previously reviewed)

11.01.B.4. Interpretation of Terms. What is the definition of a “working day” especially as applied to rural uses?

11.03. Definitions

- Definitions are required to clarify uses and use-specific standards: “Farm,” “agricultural operations,” “tasting room/tap room,” “agriculture products,” “agricultural production” and “agricultural manufacturing.”
 - These terms are used in the draft text without clear definitions. Code of Virginia requires limited breweries (and farm wineries) to be *“located on a farm in the Commonwealth on land zoning agricultural.”*
- Would an equestrian indoor riding arena/ring be considered an accessory building or an agricultural structure? The typical arena size is 100 x 200 for a private or livery type use and may be larger for an event center. The allowable square footage needs adjusting for these uses if these structures will be considered accessory buildings.
- BnB Inn or Country Inn definition includes “one or more structures.” REDC comments there should be a limit to the number of structures so that neither use becomes an assembly of “tiny houses.”
- Direct Market Business. This is confusing with Wayside Stands. What is the distinction between them?
- What is the definition of “historic” especially as applied to rural structure and adaptive reuse?” The term is used in 9.C.5. Historic Structure Eligibility and throughout the Zoning Ordinance without definition. REDC will support the definition developed by the Heritage Commission for “historic,” and “cultural landscape.”

ATTACHMENT A**REDC Round 3 ZOR Public Input 7/11/2022
VOTING SUMMARY**

REDC Members Present for vote: 20 out of 23				
Total questions approved on Consent:	36	Yes 85%	No 15%	
Total questions approved by roll call vote	8			
			VOTE	
QUESTIONS	Consent	%Yes	%No	%Ab.
Q.1.A: Introduction content	X			
Q.1.B. Include Historic Narrative	X			
Q.1.C. Include Rural Ecosystem	X			
Q.2. Include LPAT Plan references	X			
Q.3. Seasonal Labor Dormitory and Tenant Dwellings	X			
Q.4. Farm Markets & Wayside stands	X			
Q.5. Farm Markets Off-Site locations	X			
Q.6.A. Amphitheater Hours of Operation		75%	20%	5%
Q.6.B Amphitheater size/intensity levels		90%	10%	0%
Q.7. Special Exception: Nurseries, Ag Processing, Sawmills, Slaughterhouse	X			
Q.8. Ag/Horticulture should not require 5 acres	X			
Q.9.A. Equine under Agriculture vs. Ag Support	X			
Q.9.B. Equine Livery min. 10-15 acres	X			
Q.9.C. Equestrian Event hours of operation	X			
Q.9.D. Stable Livery/Stable Event size of structure	X			
Q.10. Ag Education or Research Center inconsistent w/ Event Facilities	X			
Q.11. Wayside Stands percentage of products sold	X			
Q.12. Farm Educational events allowed with similar levels at B&B Private Parties	X			
Q.13. Event hours for Limited Breweries & Farm Wineries consistency review		60%	35%	5%
Q.14. Site visit for establishments with large volume of visitors or patrons.		55%	45%	0%
Q.15.A. Ratio of ag acres in on-site ag per acre of Limited Brewery		55%	35%	10%
Q.15.B. Should have farm plan for best practices	X			
Q.16. Apply 3-4 "levels" or "tiers" for Limited Brewery & Farm Winery operations		60%	20%	20%
Q.17. Establish new Ag Processing use-specific standards	X			
Q.18. Overlay District guidelines are needed	X			
Q.19.A. Evaluate intensity of scale for multiple business uses on a parcel		20%	75%	5%
Q.19.B Site plan/site visit for applications with multiple uses		75%	15%	10%

Q.20. Sewer facilities should not be allowed in public open space	X			
Q.21. Parking on-site on contiguous land, and permitted in fields	X			
Q.22. 5.08.01.C Exception for Ag Operation should include "bona fide production"	X			
Q.23. Definition of "Agricultural Operation" should be added to Ch. 11	X			
Q.24. Noise standards should be consistent for similar intensity operations	X			
Q.25. Light & Glare standards should be consistent for similar intensity operations	X			
Q.26.A Apply different Sign Regulations for Rural Res vs. Rural Business	X			
Q.26.B. Purpose of signs: direct location while complementing character	X			
Q.26.C Billboards have no place in Rural Loudoun	X			
Q.26.D. Do not regulate murals on buildings in rural areas	X			
Q.26.E. Farm signs allowed similar flexibility as wayside stands	X			
Q.26.F. Apply different Sign application fees for Rural Res vs. Rural Business	X			
Q.27. Clarify rules for non-conformities impacting rural businesses	X			
Q.28. Additional definitions needed in Chapter 11	X			
Q.29. Add definition of "working day" as applied to rural	X			
Q.30. Limit # of structures for B&B or Country Inn		90%	10%	0%
Q.31. Add definition of "Historic" as applied to structures and adaptive reuse.	X	95%	5%	0%

ATTACHMENT B

FULL REDC STRAW POLL SURVEY RESULTS

22 out of 23 members, by 7/8/2022

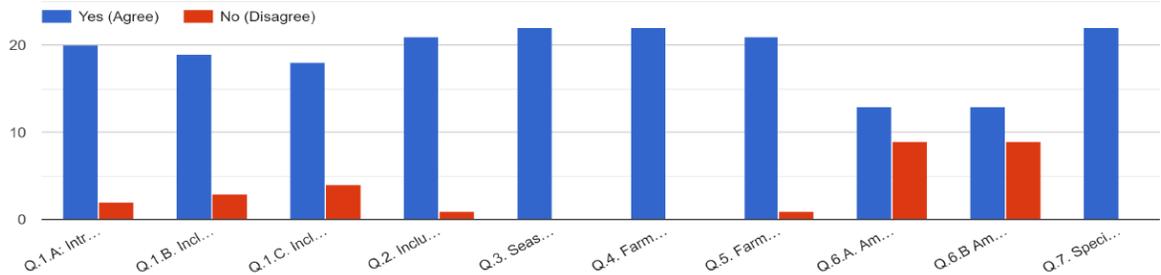
7/10/2022

REDC Zoning Ordinance Rewrite Round 3 Public Input Straw Poll Survey

Page 1 of 5

QUESTIONS:	[Q.1.A: Introduction content]	[Q.1.B. Include Historic Narrative]	[Q.1.C. Include Rural Eco-System]	[Q.2. Include LPAT Plan references]	[Q.3. Seasonal Labor Dormitory and Tenant Dwellings]	[Q.4. Farm Markets & Wayside stands]	[Q.5. Farm Markets Off-Site locations]	[Q.6.A. Amphitheater Hours of Operation]	[Q.6.B. Amphitheater size/intensity levels]	[Q.7. Special Exception: Nurseries, Ag Processing, Sawmills, Slaughter-house]
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Total Yes (Agree)	20	19	18	21	22	22	21	13	13	22
% Yes (Agree)	91%	86%	82%	95%	100%	100%	95%	59%	59%	100%
Total No (Disagree)	2	3	4	1	0	0	1	9	9	0
% No (Disagree)	9%	14%	18%	5%	0%	0%	5%	41%	41%	0%



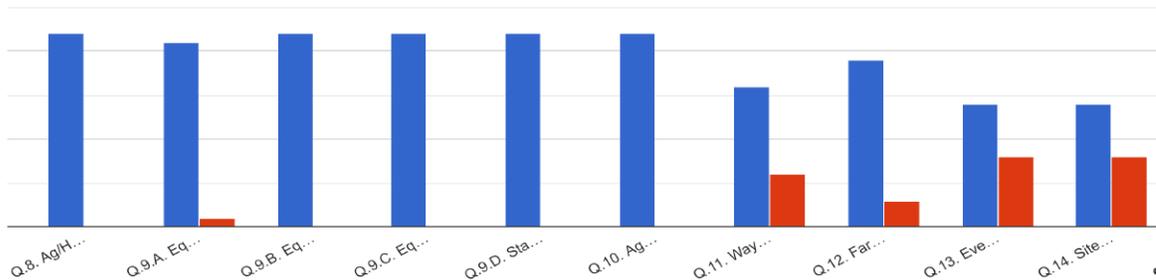
7/10/2022

REDC Zoning Ordinance Rewrite Round 3 Public Input Straw Poll Survey

Page 2 of 5

QUESTIONS:	[Q.8. Ag/Horticulture should not require 5 acres]	[Q.9.A. Equine under Agriculture vs. Ag Support]	[Q.9.B. Equine Livery min. 10-15 acres]	[Q.9.C. Equestrian Event hours of operation]	[Q.9.D. Stable Livery/Stable Event size of structure]	[Q.10. Ag Education or Research Center inconsistent w/ Event Facilities]	[Q.11. Wayside Stands percentage of products sold]	[Q.12. Farm Educational events allowed with similar levels at B&B Private Parties]	[Q.13. Event hours for Limited Breweries & Farm Wineries consistency review]	[Q.14. Site visit for establishments with large volume of visitors or patrons.]
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Total Yes (Agree)	22	21	22	22	22	22	16	19	14	14
% Yes (Agree)	100%	95%	100%	100%	100%	100%	73%	86%	64%	64%
Total No (Disagree)	0	1	0	0	0	0	6	3	8	8
% No (Disagree)	0%	5%	0%	0%	0%	0%	27%	14%	36%	36%

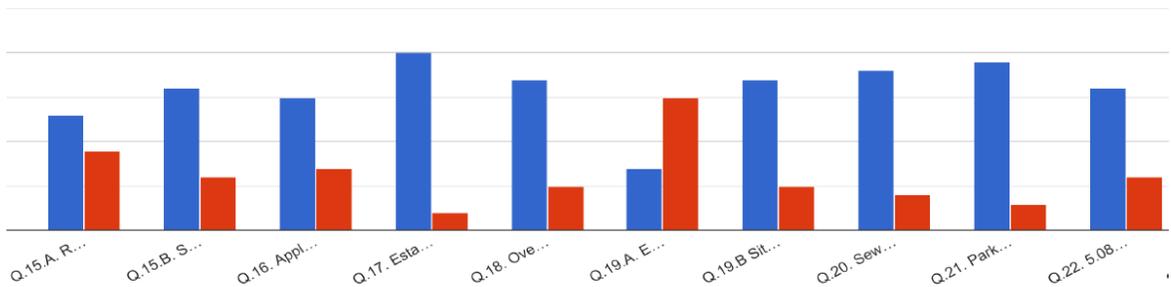


7/10/2022

REDC Zoning Ordinance Rewrite Round 3 Public Input Straw Poll Survey

Page 3 of 5

QUESTIONS:	[Q.15.A. Ratio of ag acres in on-site ag per acre of Limited Brewery]	[Q.15.B. Should have farm plan for best practices]	[Q.16. Apply 3-4 "levels" or "tiers" for Limited Brewery & Farm Winery operations]	[Q.17. Establish new Ag Processing use-specific standards]	[Q.18. Overlay District guidelines are needed]	[Q.19.A. Evaluate intensity of scale for multiple business uses on a parcel]	[Q.19.B Site plan/site visit for applications with multiple uses]	[Q.20. Sewer facilities should not be allowed in public open space]	[Q.21. Parking on-site on contiguous land, and permitted in fields]	[Q.22. 5.08.01.C Exception for Ag Operation should include "bona fide production"]]
Total Yes (Agree)	13	16	15	20	17	7	17	18	19	16
% Yes (Agree)	59%	73%	68%	91%	77%	32%	77%	82%	86%	73%
Total No (Disagree)	9	6	7	2	5	15	5	4	3	6
% No (Disagree)	41%	27%	32%	9%	23%	68%	23%	18%	14%	27%

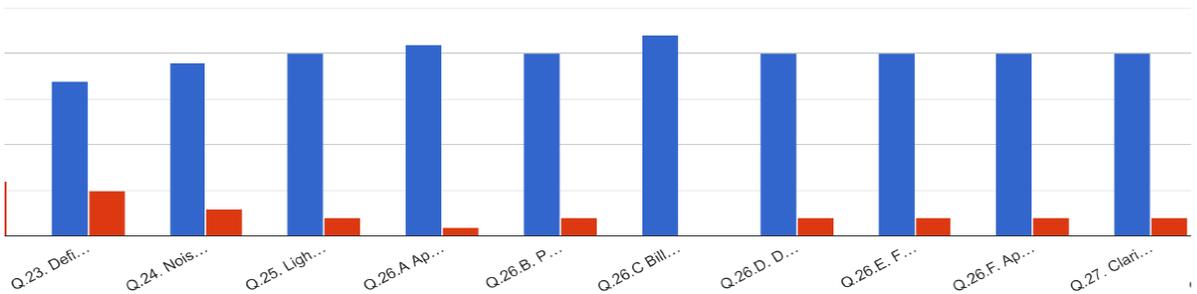


7/10/2022

REDC Zoning Ordinance Rewrite Round 3 Public Input Straw Poll Survey

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QUESTIONS:	[Q.23. Definition of "Agricultural Operation" should be added to Ch. 11]	[Q.24. Noise standards should be consistent for similar intensity operations]	[Q.25. Light & Glare standards should be consistent for similar intensity operations]	[Q.26.A Apply different Sign Regulations for Rural Res vs. Rural Business]	[Q.26.B. Purpose of signs: direct location while complementing character]	[Q.26.C Billboards have no place in Rural Loudoun]	[Q.26.D. Do not regulate murals on buildings in rural areas]	[Q.26.E. Farm signs allowed similar flexibility as wayside stands]	[Q.26.F. Apply different Sign application fees for Rural Res vs. Rural Business]	[Q.27. Clarify rules for non-conformities impacting rural businesses]
Total Yes (Agree)	17	19	20	21	20	22	20	20	20	20
% Yes (Agree)	77%	86%	91%	95%	91%	100%	91%	91%	91%	91%
Total No (Disagree)	5	3	2	1	2	0	2	2	2	2
% No (Disagree)	23%	14%	9%	5%	9%	0%	9%	9%	9%	9%



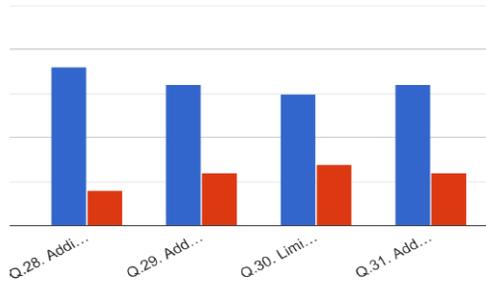
7/10/2022

REDC Zoning Ordinance Rewrite Round 3 Public Input Straw Poll Survey

Page 5 of 5

	[Q.28. Additional definitions needed in Chapter 11]	[Q.29. Add definition of "working day" as applied to rural]	[Q.30. Limit # of structures for B&B or Country Inn]	[Q.31. Add definition of "Historic" as applied to structures and adaptive reuse.]
--	---	---	--	---

Total Yes (Agree)	18	16	15	16
% Yes (Agree)	82%	73%	68%	73%
Total No (Disagree)	4	6	7	6
% No (Disagree)	18%	27%	32%	27%



ATTACHMENT C

Code of Virginia References

§ 4.1-206.1. (Effective July 1, 2022) Manufacturer licenses.

4. Limited brewery licenses, to breweries that manufacture no more than 15,000 barrels of beer per calendar year, provided that (i) the brewery is located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such brewery or its owner and (ii) agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown on the farm. The licensed premises shall be limited to the portion of the farm on which agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown and that is contiguous to the premises of such brewery where the beer is manufactured, exclusive of any residence and the curtilage thereof. However, the Board may, with notice to the local governing body in accordance with the provisions of § 4.1-230, also approve other portions of the farm to be included as part of the licensed premises. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited brewery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority. Limited brewery licensees shall be treated as breweries for all purposes of this title except as otherwise provided in this subdivision.

6. Farm winery licenses, which shall authorize the licensee to manufacture wine containing 21 percent or less of alcohol by volume and to sell, deliver, or ship the wine, in accordance with Board regulations, in closed containers, to (i) the Board, (ii) persons licensed to sell the wine so manufactured at wholesale for the purpose of resale, or (iii) persons outside the Commonwealth. In addition, the licensee may (a) acquire and receive deliveries and shipments of wine and sell and deliver or ship this wine, in accordance with Board regulations, to the Board, persons licensed to sell wine at wholesale for the purpose of resale, or persons outside the Commonwealth; (b) operate a contract winemaking facility on the premises of the licensee in accordance with Board regulations; and (c) store wine in bonded warehouses located on or off the licensed premises upon permits issued by the Board. For the purposes of this title, a farm winery license shall be designated either as a Class A or Class B farm winery license in accordance with the limitations set forth in § 4.1-219. A farm winery may enter into an agreement in accordance with Board regulations with a winery or farm winery licensee operating a contract winemaking facility. Such licenses shall also authorize the licensee to sell wine at retail at the places of business designated in the licenses, which may include no more than five additional retail establishments of the licensee. Wine may be sold at these business places for on-premises consumption and in closed containers for off-premises consumption, provided that any brand of wine not owned by the farm winery licensee is purchased from a wholesale wine licensee. In addition, wine may be pre-mixed by the licensee to be served and sold for on-premises or off-premises consumption at these business places.

§ 15.2-2288.3. (Effective January 1, 2022) Licensed farm wineries; local regulation of certain activities.

A. It is the policy of the Commonwealth to preserve the economic vitality of the Virginia wine industry while maintaining appropriate land use authority to protect the health, safety, and welfare of the citizens of the Commonwealth and to permit the reasonable expectation of uses in specific zoning categories.

Local restriction upon such activities and events of farm wineries licensed in accordance with Title 4.1 to market and sell their products **shall be reasonable** and shall take into account the economic impact on the farm winery of such restriction, the agricultural nature of such activities and events, and whether such activities and events are usual and customary for farm wineries throughout the Commonwealth. Usual and customary activities and events at farm wineries shall be permitted without local regulation unless there is a substantial impact on the health, safety, or welfare of the public.

No local ordinance regulating noise, other than outdoor amplified music, arising from activities and events at farm wineries shall be more restrictive than that in the general noise ordinance. In authorizing outdoor amplified music at a farm winery, the locality shall consider the effect on adjacent property owners and nearby residents.

B, C. [Expired.]

D. No locality may treat private personal gatherings held by the owner of a licensed farm winery who resides at the farm winery or on property adjacent thereto that is owned or controlled by such owner at which gatherings wine is not sold or marketed and for which no consideration is received by the farm winery or its agents differently from private personal gatherings by other citizens.

E. No locality shall regulate any of the following activities of a farm winery licensed in accordance with subdivision 6 of § 4.1-206.1:

1. The production and harvesting of fruit and other agricultural products and the manufacturing of wine;
2. The on-premises sale, tasting, or consumption of wine during regular business hours within the normal course of business of the licensed farm winery;
3. The direct sale and shipment of wine by common carrier to consumers in accordance with Title 4.1 and regulations of the Board of Directors of the Virginia Alcoholic Beverage Control Authority;
4. The sale and shipment of wine to the Virginia Alcoholic Beverage Control Authority, licensed wholesalers, and out-of-state purchasers in accordance with Title 4.1, regulations of the Board of Directors of the Virginia Alcoholic Beverage Control Authority, and federal law;
5. The storage, warehousing, and wholesaling of wine in accordance with Title 4.1, regulations of the Board of Directors of the Virginia Alcoholic Beverage Control Authority, and federal law; or
6. The sale of wine-related items that are incidental to the sale of wine.

§ 15.2-2288.3:1. (Effective January 1, 2022) Limited brewery license; local regulation of certain activities.

A. It is the policy of the Commonwealth to preserve the economic vitality of the Virginia beer industry while maintaining appropriate land use authority to protect the health, safety, and welfare of the citizens of the Commonwealth and to permit the reasonable expectation of uses in specific zoning categories.

Local restriction upon such activities and public events of breweries licensed pursuant to subdivision 4 of § 4.1-206.1 to market and sell their products **shall be reasonable** and shall take into account the economic impact on such licensed brewery of such restriction, the agricultural nature of such activities and events, and whether such activities and events are usual and customary for such licensed breweries. Usual and customary activities and events at such licensed breweries shall be permitted unless there is a substantial impact on the health, safety, or welfare of the public.

No local ordinance regulating noise, other than outdoor amplified music, arising from activities and events at such licensed breweries shall be more restrictive than that in the general noise ordinance. In authorizing outdoor amplified music at such licensed brewery, the locality shall consider the effect on adjacent property owners and nearby residents.

B. No locality shall regulate any of the following activities of a brewery licensed under subdivision 4 of § 4.1-206.1:

1. The production and harvesting of barley, other grains, hops, fruit, or other agricultural products and the manufacturing of beer;
2. The on-premises sale, tasting, or consumption of beer during regular business hours within the normal course of business of such licensed brewery;
3. The direct sale and shipment of beer in accordance with Title 4.1 and regulations of the Board of Directors of the Alcoholic Beverage Control Authority;
4. The sale and shipment of beer to licensed wholesalers and out-of-state purchasers in accordance with Title 4.1, regulations of the Board of Directors of the Alcoholic Beverage Control Authority, and federal law;
5. The storage and warehousing of beer in accordance with Title 4.1, regulations of the Board of Directors of the Alcoholic Beverage Control Authority, and federal law; or
6. The sale of beer-related items that are incidental to the sale of beer.

C. Any locality *may exempt* any brewery licensed in accordance with subdivision 4 of § 4.1-206.1 on land zoned agricultural from any local regulation of minimum parking, road access, or road upgrade requirements.

2014, c. 365; 2015, cc. 38, 730; 2020, cc. 1113, 1114.

Code of VA § 3.2-300. Definitions

"Agricultural operation" means any operation devoted to the bona fide production of crops, or animals, or fowl including the production of fruits and vegetables of all kinds; meat, dairy, and poultry products; nuts, tobacco, nursery, and floral products; and the production and harvest of products from silviculture activity.

"Production agriculture and silviculture" means the bona fide production or harvesting of agricultural or silvicultural products but shall not include the processing of agricultural or silvicultural products or the above ground application or storage of sewage sludge.

From: [Glass, Susan](#)
To: [DEPT-PZ-ZORW](#)
Cc: [Griffin, Kelly](#); [Miller, Deborah](#); [Mosurak, Lou](#)
Subject: Route 28 Landowner Advisory Board comments on the DRAFT new ZO have been submitted
Date: Thursday, July 14, 2022 8:38:35 AM

I just submitted the following comments in Encode:

As staff liaison for the Route 28 Landowners Advisory Board, I asked Loudoun's representatives if they have any comments on this new zoning ordinance. They are pleased that the provision to retain the 1972 zoning ordinance is incorporated.

I note that the first sentence in paragraph L has a typo. It currently reads: Any for commercially or industrially zoned property administered under the 1972 Loudoun County Zoning Ordinance continues.... I believe the 2nd word, for, should be deleted.

Why does the map show the Route 28 tax district as SE? Shouldn't it show the area with their respective 1972 ZO district?

After paragraph L, the next paragraph is O; where is M & N?

There is no mention of ZRTD applications; will property owners be able to convert to the new ZO?

From: [Birkitt, Judi](#)
To: [Terrible, Christina](#)
Cc: [DEPT-PZ-ZORW](#)
Subject: FW: Submittal to Loudoun County - Town of Purcellville
Date: Monday, August 1, 2022 8:57:23 AM

Please add to LMIS.

From: Kroboth, Joe <Joe.Kroboth@loudoun.gov>
Sent: Wednesday, July 27, 2022 3:19 PM
To: Birkitt, Judi <Judi.Birkitt@loudoun.gov>
Cc: Yudd, Charles <Charles.Yudd@loudoun.gov>
Subject: FW: Submittal to Loudoun County

Judi

If you recall, the Town of Purcellville submitted comments for the ZOR, but qualified those statements that the Mayor and Council had not acted on the staff recommended comments.

Please see a summary of the Mayor and Council actions as provided to me by the Town Clerk.

Please handle as appropriate.

Thanks,

Joe

Joe Kroboth, III, PE, Assistant County Administrator | County Administration | Loudoun County, VA
County Administration Building | 1 Harrison Street, SE, Leesburg, VA 20177-7500
Joe.Kroboth@Loudoun.Gov | Office: 703.771.5107 | Mobile: 571.206.2214

From: Hays, Diana <dhays@purcellvilleva.gov>
Sent: Wednesday, July 27, 2022 1:19 PM
To: Kroboth, Joe <Joe.Kroboth@loudoun.gov>
Cc: Mekarski, David <dmekarski@purcellvilleva.gov>
Subject: [EXTERNAL] RE: Submittal to Loudoun County

Joe,

As a follow up to the correspondence below, at last night's Council meeting, the following motion passed:

Council member Milan made the motion that Town Council recommend to the County of Loudoun that the County retain the existing "JLMA" zoning designations and regulations that currently surround the Town of Purcellville's corporate

limits.

AND

further moved that, in order to protect the Town's rural character, the Town Council recommend to the County of Loudoun that the county amend its existing zoning ordinance to prohibit data centers from being located within either the JMLA, or within other zoning designations that may be located near the Town of Purcellville, including the property zoned PD-GI that is currently situated on the Town's northern boundary, north of route 7,

AND

further moved that the County adopt the lesser intense ["TI" zoning] designation for that "PD-GI [property], so that the zoning there is no more intense than it currently is, and preferably less intense.

Council member Stinnette second the motion.

(Carried: 6-0-1 absent, Grewe: Aye, Bertaut: Aye, Stinnette: Aye, Williams: Aye, Milan: Aye, Rayner: Absent, Fraser: Aye)

Diana Hays, CMC
Town Clerk/Executive Assistant
540-751-2334

From: Kroboth, Joe <Joe.Kroboth@loudoun.gov>
Sent: Tuesday, July 12, 2022 5:53 PM
To: Mekarski, David <dmekarski@purcellvilleva.gov>
Subject: RE: Submittal to Loudoun County

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

David

Thank you for your email I am acknowledging receipt and look forward to a follow-up email after the elected body takes action.

Thanks,

Joe

Joe Kroboth, III, PE, Assistant County Administrator | County Administration | Loudoun County, VA
County Administration Building | 1 Harrison Street, SE, Leesburg, VA 20177-7500

From: Mekarski, David <dmekarski@purcellvilleva.gov>

Sent: Tuesday, July 12, 2022 4:48 PM

To: Kroboth, Joe <Joe.Kroboth@loudoun.gov>

Subject: [EXTERNAL] Submittal to Loudoun County

Good afternoon,

At the Purcellville Planning Commission Meeting held on July 7th the following motion was made by Commissioner Ogelman and carried:

“The Planning Commission recommends to the Town Council that, absent any additional compelling information from the County, the Planning Commission does not want any changes in the existing zoning around the Town limits that would permit uses such as data centers and that the present zoning designations should remain in order to protect the rural character consistent with the Town of Purcellville’s Comprehensive Plan on page 25.”

The Director of Planning and Economic Development agreed to have this included on the Town Council agenda for July 12, 2022 Meeting in hopes to meet the County’s deadline of Comment Submissions on July 18th. The agenda had already been set and completed by the time the Clerk’s office received this request to include this item.

The following attachment includes the submitted draft staff report which will be presented to Town Council at their July 26th meeting and we will then submit Town Council comments to you on July 27th. As you know I cannot foretell if the Town Council will accept, amend, or append the recommendation of the Planning Commission, so please be advised while the Commissioner comments were minimal, additional comments or concerns may be deliberated by Town Council and motioned for approval at the said meeting July 26, 2022.

Again thank you for the consideration to allow the Town Council to fully digest the staff report and associated exhibits of over 100 pages. This additional time will also allow citizens to review the staff report when the agenda is normally published the Thursday evening/Friday morning prior to the Tuesday evening Town Council meetings.

Torrible, Christina

From: Birkitt, Judi
Sent: Friday, July 15, 2022 10:21 AM
To: Torrible, Christina
Subject: FW: Submittal to Loudoun County
Attachments: DRAFT Loudoun County Zoning Code Update TC Report 7.12.22 (004).docx; LC Proposed Zone Chg 07.12.22 D Dooley.pdf

From: Kroboth, Joe <Joe.Kroboth@loudoun.gov>
Sent: Tuesday, July 12, 2022 5:52 PM
To: Birkitt, Judi <Judi.Birkitt@loudoun.gov>
Cc: Yudd, Charles <Charles.Yudd@loudoun.gov>
Subject: FW: Submittal to Loudoun County

Judi

Attached are draft comments from the Town of Purcellville. The staff will present these comments to the Mayor & Council on July 26th for endorsement. I discuss this with Charles, and he agreed we should allow the Town to submit updated comments following the action by the elected body. With that in mind, there may be some comments on the attachment that are later removed and possibly new ones added.

Please address as appropriate.

Let Charles or I know if you have any questions.

Thanks,

Joe

Joe Kroboth, III, PE, Assistant County Administrator | County Administration | Loudoun County, VA
County Administration Building | 1 Harrison Street, SE, Leesburg, VA 20177-7500
Joe.Kroboth@Loudoun.Gov | Office: 703.771.5107 | Mobile: 571.206.2214

From: Mekarski, David <dmekarski@purcellvilleva.gov>
Sent: Tuesday, July 12, 2022 4:48 PM
To: Kroboth, Joe <Joe.Kroboth@loudoun.gov>
Subject: [EXTERNAL] Submittal to Loudoun County

Good afternoon,

At the Purcellville Planning Commission Meeting held on July 7th the following motion was made by Commissioner Ogelman and carried:

“The Planning Commission recommends to the Town Council that, absent any additional compelling information from the County, the Planning Commission does not want any changes in the existing zoning around the Town limits that would permit uses such as data centers and that the present zoning designations should remain in order to protect the rural character consistent with the Town of Purcellville’s Comprehensive Plan on page 25.”

The Director of Planning and Economic Development agreed to have this included on the Town Council agenda for July 12, 2022 Meeting in hopes to meet the County's deadline of Comment Submissions on July 18th. The agenda had already been set and completed by the time the Clerk's office received this request to include this item.

The following attachment includes the submitted draft staff report which will be presented to Town Council at their July 26th meeting and we will then submit Town Council comments to you on July 27th. As you know I cannot foretell if the Town Council will accept, amend, or append the recommendation of the Planning Commission, so please be advised while the Commissioner comments were minimal, additional comments or concerns may be deliberated by Town Council and motioned for approval at the said meeting July 26, 2022.

Again thank you for the consideration to allow the Town Council to fully digest the staff report and associated exhibits of over 100 pages. This additional time will also allow citizens to review the staff report when the agenda is normally published the Thursday evening/Friday morning prior to the Tuesday evening Town Council meetings.



STAFF REPORT
ACTION ITEM

SUBJECT: Loudoun County's Proposed Zoning Ordinance and Map Update.

DATE OF MEETING: July 12, 2022

STAFF CONTACTS: Don Dooley, Director of Planning and Economic Development

SUMMARY and RECOMMENDATIONS:

Staff recommends that the Town Council consider adopting the Planning Commission's recommendations concerning Loudoun County's Comprehensive Zoning Ordinance and Map Update.

BACKGROUND:

Loudoun County is in the process of conducting a comprehensive update to the County's zoning ordinance and map. On April 18, 2022, the County sent a memorandum requesting comments from a variety of stakeholders, including the town of Purcellville, requesting their input on the proposed changes to the County's zoning ordinance and map (Attachment No. 1).

In a June 28, 2022, e-mail to staff from Judi McIntyre Birkitt, the Interim Assistant Director of the Loudoun County Department of Planning and Zoning, she wrote, "...it is not the intent of the [Loudoun County] draft Zoning Ordinance to change the permissibility of uses or the allowed density in the JLMAs [surrounding the town of Purcellville]" (see Attachment No. 2). However, Ms. Birkitt did note that the following changes were being considered in the zoning code update:

"5.05.03-5 Parking requirements have changed some. Staff continue[s] to work on the parking chapter and welcome your feedback on parking requirements for JLMAs.

5.09.02 There is a new standard prohibiting private roads to terminate in a cul-de-sac.

5.13 There is a proposed new requirement for variation in residential lot size (at least 1,000 sf of difference). This standard has received a lot of discussion and concern from Zoning Ordinance Committee members.

Regarding the triangular shaped parcel along Route 7, its current zoning district is PD-GI (Planned Development-General Industry). In the draft zoning ordinance, the proposed zoning

district is TI (Transition Industrial). The primary difference between the 2 is the open space requirement. As proposed, TI requires 50% open space. The current PD-GI requires landscaped open space in an amount that is 0.2 times the buildable area of the lot. A proposed change to implement [in the] the General Plan is that in TI is a required 100-foot perimeter setback from roads and dissimilar place types. You also may want to monitor the Transportation and Land Use Committee's work on data centers and where they think data centers should be located in the County. This triangular parcel is among the parcels that are under discussion."

The triangular shaped parcel being referred to in the above paragraph is known as the Stupar property located immediately adjacent to the north side of Route 7 (see Map No. 1). For clarification, the Transportation and Land Use Committee is currently evaluating if the existing or new zoning locations that permit the potential development of data centers are consistent with the County's new Comprehensive Plan according to Kate McConnell, Principal Planner for Loudoun County. She is the project manager for the zoning code update. The Stupar property is the only site adjacent to Purcellville that current permits data centers.

During the Purcellville Planning Commission Meetings of June 30, 2022, and July 7, 2022, the Commission reviewed the information available concerning Loudoun County's proposed changes to their zoning ordinance and map, focusing particularly on the County zoning immediately around Purcellville. The Commission's primary concern was that the County should not allow or create zoning to enable the establishment of data centers immediately around Purcellville and that the JLMA's and zoning immediately around the Town remain, as is. During the July 7, 2022, Planning Commission Meeting, the Commission voted 7-0 to make the following recommendation to the Town Council concerning the County's proposed zoning ordinance and map update,

"The Planning Commission recommends to the Town Council that, absent any additional compelling information from the County, the Planning Commission does not want any changes in the existing zoning around the Town that would permit uses such as data centers and that the present zoning designations should remain in order to protect the rural character consistent with the Town of Purcellville's Comprehensive Plan as stated on page 25."

Since the July 7, 2022, Commission meeting, the County clarified to staff that data centers are already permitted in the PD-GI zone (since 2014) which is shown in Attachment No. 16 (Section 4-600, PD-GI Planned Development – General Industry). However, even though the County is proposing to change the zoning classification for the Stupar property to the new "Transition Industrial (TI) zone designation," this zoning would also permit data centers, as identified in Attachment No. 6 (Proposed County 3.02.02 Transition and JLMA Land-Use

Table). Therefore, the Commission's recommendation is really intended to eliminate the potential for data centers to be developed adjacent to the town of Purcellville, while preserving all other zoning designations and land-uses allowed under the County's current zoning that is contiguous to the town.

Staff has included a motion for the Council's consideration based on the Commission's recommendations. Loudoun County is requesting to receive all public and stakeholder comments no later than July 18, 2022. For the Council's reference, staff has attached all of the documents reviewed by Planning Commission in helping to formula their recommendation to the Council.

BUDGET IMPACT:

There is no budget impact to the town of Purcellville.

MOTION(S):

"I move that Purcellville Town Council adopt the following recommendation:

Absent any additional or compelling information from the County, the Purcellville Town Council does not want any zoning around its Town limits that would permit data centers. Therefore, aside from data centers being a permitted land-use in the current PD-GI zone and in the proposed TI zone, the present zoning designations and associated land-uses should remain the same in order to protect Purcellville's rural character, consistent with page 25 of the town of Purcellville's 2030 Comprehensive Plan."

ATTACHMENT(S):

- 1) County Memorandum on Zoning Ordinance Update and Request for Comments dated April 18, 2022
- 2) E-mail from Judi McIntyre-Birkitt to Don Dooley dated June 28, 2022
- 3) E-mail from Commissioner Nedim Ogelman to the Planning Commission dated June 17, 2022
- 4) Existing Division B: Joint Land Management Area (JLMA Districts)
- 5) Proposed County 2.05 Joint Land Management Area Zoning Districts
- 6) Proposed County 3.02.02 Transition and JLMA Land-Use Table.
- 7) County Zoning Ordinance Rewrite
- 8) Existing Zoning District (Table 1)
- 9) Existing County Zoning Around Purcellville (Map No. 1)

- 10) Existing County Zoning Around Purcellville (Map No. 2)
- 11) Draft County Zoning Map Legend (Table 2)
- 12) Draft New/Proposed Zoning Around Purcellville
- 13) Zoning Ordinance Rewrite – Existing Zoning Districts (map)
- 14) Draft New Zoning Districts
- 15) Loudoun County Virtual Public Engagement Meeting PowerPoint dated May 2, 2022
- 16) Existing Loudoun County Zoning Ordinance Section 4-600 (PD-GI Planned Development – General Industry)
- 17) Proposed Loudoun County Zoning Ordinance 2.03.06 (Transition Industrial – TI)

Dear Town Council:

Loudoun County is in the process of conducting a comprehensive update to the County's zoning ordinance and map. On April 18, 2022, the County sent a memorandum requesting comments from a variety of stakeholders, including the town of Purcellville, requesting their input on the proposed changes to the County's zoning ordinance and map.

In a June 28, 2022, email to staff from Judi McIntyre Birkitt, the Interim Assistant Director of the Loudoun County Department of Planning and Zoning, she wrote, "...it is not the intent of the [Loudoun County] draft Zoning Ordinance to change the permissibility of uses or the allowed density in the JLMAs [surrounding the town of Purcellville]". However, Ms. Birkitt did note that the following changes were being considered in their zoning code:

"5.05.03-5 Parking requirements have changed some. Staff continue[s] to work on the parking chapter and welcome your feedback on parking requirements for JLMAs.

5.09.02 There is a new standard prohibiting private roads to terminate in a cul-de-sac.

5.13 There is a proposed new requirement for variation in residential lot size (at least 1,000 sf of difference). This standard has received a lot of discussion and concern from Zoning Ordinance Committee members.

Regarding the triangular shaped parcel along Route 7, its current zoning district is PD-GI (Planned Development-General Industry). In the draft zoning ordinance, the proposed zoning district is TI (Transition Industrial). The primary difference between the 2 is the open space requirement. As proposed, TI requires 50% open space. The current PD-GI requires landscaped open space in an amount that is 0.2 times the buildable area of the lot. A proposed change to implement [in] the General Plan is that in TI is a required 100-foot perimeter setback from roads and dissimilar place types. You also may want to monitor the Transportation and Land Use Committee's work on data centers and where they think data centers should be located in the County. This triangular parcel is among the parcels that are under discussion."

The triangular shaped parcel being referred to in the above paragraph is the former Stupar property located immediately adjacent to the north side of Route 7 (see Map 1).

During the Purcellville Planning Commission Meetings of June 30, 2022, and July 7, 2022, the Commission reviewed the information available for Loudoun County's proposed changes to their zoning ordinance and map, focusing particularly on the County zoning immediately around Purcellville. The Commission's primary concern was that the County should not allow or create zoning to enable the establishment of data centers immediately around Purcellville and that the JLMA's and zoning immediately around the Town should remain, as is. During the July 7, 2022, Planning Commission Meeting, the Commission voted 7-0 to make the following recommendation to the Council for the purpose of forwarding to the County the Town's official comment(s) to Loudoun County's comprehensive zoning ordinance and map update,

The Planning Commission recommends to the Town Council that, absent any additional compelling information from the County, the Planning Commission does not want any changes in the existing zoning around the Town that would permit uses such as data centers and that the present zoning designations should remain in order to protect the rural character consistent with the Town of Purcellville's Comprehensive Plan as stated on page 25.

Loudoun County is requesting to receive all public and stakeholder comments no later than July 18, 2022. For the Council's reference, staff has attached all of the documents reviewed by the Commission in helping to formula their recommendation to the Council.

Attachments:

- 1) County Memorandum on Zoning Ordinance Update and Request for Comments dated April 18, 2022
- 2) E-mail from Judi McIntyre-Birkitt to Don Dooley dated June 28, 2022
- 3) E-mail from Commissioner Nedim Ogelman to the Planning Commission dated June 17, 2022
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- 12) Draft New/Proposed Zoning Around Purcellville
- 13) Zoning Ordinance Rewrite – Existing Zoning Districts (map)
- 14) Draft New Zoning Districts
- 15) Loudoun County Virtual Public Engagement Meeting PowerPoint dated May 2, 2022

Sincerely,

Don Dooley
Director of Planning and Economic Development
Staff Liaison for Planning Commission

MEMORANDUM

DATE: April 18, 2022

TO: Animal Services
Building and Development
Building and Development
Building and Development
Building and Development
Economic Development

Finance & Budget

Fire, Rescue & Emergency Services

General Services
Health Services, Environmental
Heritage Commission
Housing and Community Development
Information Technology
Leesburg Executive Airport
Loudoun Water
MHSADS
Metropolitan Washington Airports Authority
Parks, Recreation & Community Services
Planning & Zoning, Comprehensive
Planning & Zoning, Preservation
Planning & Zoning, Proffer Review
Planning & Zoning, Zoning Administration
Planning & Zoning, Enforcement
Public School Administration/School Board
Town of Hamilton
Town of Hillsboro
Town of Leesburg
Town of Lovettsville
Town of Middleburg
Town of Purcellville
Town of Round Hill
Transportation & Capital Infrastructure
Virginia Department of Transportation

Nina Stively
Natural Resources Division
Ronald Dunbar
Theresa Stein
Anita Tierney
Katy Lowitz/Alex Gonski
Bobby Klancher
Truman Horwitz/Kathryn Miller
Megan Burke
Maria Taylor/Chris Richardson
Chris Barry/Kevin Federline/Linda Hale
Ernest Brown
Mark Sharrer
Heidi Siebentritt
Rebekah King/Brian Reagan
Dave Friedrich
Scott Coffman
Julie Atwell/Aubrie Richardson
Lisa Snider
Gregg Wollard/Mark Rutyna
Mark Novak/Jefferson Miller
Randall Farren
Steve Thompson
Proffer Referral
Zoning Referral
Keith Fairfax/Amanda Johnson
Ajay Rawat/Sarah Howard O'Brien
Martha Mason Semmes
Mayor Vance
Rich Klusek
Jason Cournoyer
Danny Davis
David Mekarski
Melissa Hynes/Danni Albright
Lou Mosurak
Yao Lu

FROM: Judi Birkitt, AICP, CZA, Interim Assistant Director, Planning and Zoning
Ryan Reed, Deputy Zoning Administrator, Zoning Administration
Kate McConnell, AICP, Principal Planner, Zoning Administration
Chris Blough, Senior Planner, Zoning Administration
Steve Goodrich, AICP, Senior Planner, Zoning Administration
Mark Holland, Senior Planner, Zoning Administration

RE: ZMAP-2020-0001, ZONING ORDINANCE REWRITE

Comment Due Date: July 18, 2022

Background. The Board of Supervisors (Board) endorsed (8-0-1: Meyer absent) the ZO Rewrite project plan on September 19, 2019. The Department of Planning and Zoning (DPZ) began the Zoning Ordinance Rewrite once endorsed. A 90-day public engagement period begins today, April 18, 2022 for the public, community, and business groups, and all stakeholders to review and comment on the staff-recommended, first draft Zoning Ordinance. Next steps include review and recommendations by the Planning Commission in fall 2022, and consideration by the Board of Supervisors in late 2022.

Through this referral request, DPZ staff is also seeking input from County and affiliated agencies on the staff-recommended first draft Zoning Ordinance. This referral request is the primary means of input for all stakeholders, with additional opportunities for input at the Planning Commission and Board Public Hearings starting in the fall of 2022.

During development of the proposed draft Zoning Ordinance, the county's Zoning Ordinance Committee has served as a sounding board for potential ordinance changes. The committee has heard discussions about new and revised land uses, definitions, and performance standards; improvements to parking regulations; renaming of zoning districts; changes to process; and changes that will implement the Loudoun County 2019 Comprehensive Plan.

The Zoning Ordinance is the primary implementation tool for the 2019 Comprehensive Plan. DPZ used the 2019 Comprehensive Plan to update the Zoning Ordinance, providing an added level of specificity to development plans based on the community's vision as expressed in the policies, strategies, and actions of the 2019 Comprehensive Plan.

Focus Areas. The focus areas of the Zoning Ordinance Rewrite include:

- **Implementation of the new comprehensive plan vision**, including the Urban Policy Area, which involves new place types with densities, standards, building forms, and infrastructure that have yet to be realized in Loudoun County.
- **Modernization**: revising land uses and definitions to reflect the current marketplace, reevaluating parking ratios and calculations, update lot and building standards, and aligning how the County administers planned unit developments with modern practice.
- **Consistency audit**: analyzing existing standards and striving for consistency within the document and across zoning districts when feasible.
- **Structure and flow**: improving the document structure, making it user-friendly and clear.
- **Opportunities and challenges**: evaluating input from stakeholders about the current Zoning Ordinance and making improvements where appropriate.
- **Legislation**: incorporating changes based on new or revised provisions of the Code of Virginia, court cases, and best management practices promoted by the Virginia Association of Zoning Officials, Urban Land Institute and American Planning Association.

Instead of emailing comments directly to the project manager in a document, **everyone should enter comments in the County's official online review and comment**

platform, EnCode Plus, here: <https://online.encodeplus.com/regs/loudouncounty-va-crosswalk/doc-viewer.aspx#secid--1>

Information about how to enter comments in EnCode Plus may be found here:
<https://www.loudoun.gov/5720/Comment-on-the-Draft-Zoning-Ordinance>

For more information, please email the Zoning Ordinance Rewrite team at dept-pz-zorw@loudoun.gov or call 703-777-0246.

CC: County Administration, Tim Hemstreet
County Administration, Charles Yudd
County Administration, Valmarie Turner
County Administration, David Street
County Attorney's Office, Leo Rogers
County Attorney's Office, Courtney Sydnor
County Attorney's Office, Jason Hobbie
County Attorney's Office, Hugh Green
Planning and Zoning, James David
Economic Development, Buddy Rizer
Building and Development, Alan Brewer
Building and Development, Gwen Kennedy
Health Department, David Goodfriend
Transportation & Capital Infrastructure, Joe Kroboth
Mapping and Geographic Information, Kristen Brown
Housing and Community Development, Sarah Etro
Parks, Recreation & Community Services, Steve Torpy
Town of Hamilton, Mayor Simpson
Town of Leesburg, Mayor Burk
Town of Lovettsville, Mayor Fontaine
Town of Middleburg, Mayor Littleton
Town of Purcellville, Mayor Frasier
Town of Round Hill, Mayor Ramsey

From: Birkitt, Judi <Judi.Birkitt@loudoun.gov>

Sent: Tuesday, June 28, 2022 2:36 PM

To: Dooley, Don <doooley@purcellvilleva.gov>

Subject: RE: Purcellville Planning Commission Request of County Planning RE: County Zoning Code/Map Update

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Don,

I am emailing to follow up on our recent phone conversation. As we discussed, it is not the intent of the draft Zoning Ordinance to change the permissibility of uses or the allowed density in JLMAs. I checked with staff about changes to development standards that could impact JLMA-1 and JLMA-2. We would like to draw your attention to the following three development standards:

5.05.03-5 Parking requirements have changed some. Staff continue to work on the parking chapter and welcome your feedback on parking requirements for JLMAs.

5.09.02 There is a new standard prohibiting private roads to terminate in a cul-de-sac.

5.13 There is a proposed new requirement for variation in residential lot size (at least 1,000 sf of difference). This standard has received a lot of discussion and concern from Zoning Ordinance Committee members.

Regarding the triangular shaped parcel along Route 7, its current zoning district is PD-GI (Planned Development-General Industry). In the draft zoning ordinance, the proposed zoning district is TI (Transition Industrial). The primary difference between the 2 is the open space requirement. As proposed, TI requires 50% open space. The current PD-GI requires landscaped open space in an amount that is 0.2 times the buildable area of the lot. A proposed change to implement the General Plan is that in TI is a required 100-foot perimeter setback from roads and dissimilar place types. You also may want to monitor the Transportation and Land Use Committee's work on data centers and where they think data centers should be located in the County. This triangular parcel is among the parcels that are under discussion.

Kind regards,

Judi

Judi McIntyre Birkitt, AICP, CZA

Interim Assistant Director | Department of Planning and Zoning | County of Loudoun

1 Harrison Street SE, 3rd Floor | PO Box 7000 | Leesburg VA 20177

Desk: 703-771-5784 | Mobile: 571-223-9489 | Main: 703-777-0246 | Fax: 703-777-0441

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In keeping with the Virginia Freedom of Information Act (FOIA), emails and all attachments may be released to others upon request for inspection and copying without prior notification. This e-mail is not

Dooley, Don

From: Ogelman, Nedim
Sent: Friday, June 17, 2022 1:51 PM
To: Planning Commission
Subject: Per Conversation at PC meeting yesterday here are links for the draft LoCo Zoning Ordinance

Website: [Comment-on-the-Draft-Zoning-Ordinance](#)

Draft Zoning Ordinance: <https://online.encodeplus.com/regs/loudouncounty-va-crosswalk/doc-viewer.aspx#secid-5>

Existing LoCo Zoning Map (you can zoom in on this to see the Purcellville JLMA in detail): [View a map of the Existing Zoning Districts.](#)

Proposed Draft LoCo Zoning Map (as with the above map you can zoom to see Purcellville JLMA in detail):

[View a map of the Draft New Zoning Districts](#)

Best wishes,

Nedim

EXISTING
ORDINANCE
OF COUNTY



DIVISION B: JOINT LAND MANAGEMENT AREA (JLMA) DISTRICTS

Joint Land Management Area-1 District: JLMA-1

Section 2-1000

2-1001

Purpose and Intent. This district is established to accommodate and foster the development of land within the joint land management areas (JLMAs) outside the incorporated towns in Loudoun County to:

- (A) Ensure development in the JLMA-1 district is consistent with the JLMA serving as a gateway to the towns;
- (B) Encourage an appropriate mix of residential and nonresidential land uses;
- (C) Provide a variety of housing types and lot sizes;
- (D) Where appropriate, achieve a pattern of development that generally conforms to the established, traditional pattern of development in the towns;
- (E) Establish the type and scale of development desired for the entranceway of the towns; and
- (F) Implement jointly adopted area plans, where applicable.

2-1002

Size and Location. This district modifies and replaces the Countryside Residential (CR-1) district within the JLMAs. It is the intent of the County that the JLMA-1 boundaries not be extended beyond the existing JLMA boundaries. The limits of this district are as designated on the Zoning Map.

2-1003

Use Regulations. Table 2-1003 summarizes the principal use regulations of the JLMA-1 district.

(A) **Organization of Use Table.** Table 2-1003 organizes the uses in the JLMA-1 district Use Table by Use Classifications, Use Categories and Use Types.

(1) **Use Classifications.** The Use Classifications are: residential uses; agricultural uses; public and institutional uses; commercial uses; and industrial uses. The Use Classifications provide a systematic basis for assigning present and future land uses into broad general classifications (e.g., residential uses and agricultural uses). The Use Classifications then organize land uses and activities into general "Use Categories" and specific "Use Types" based on common functional, product, or physical characteristics, such as the type and amount of activity, the

type of customers or residents, how goods or services are sold or delivered, and site conditions.

- (2) **Use Categories.** The Use Categories describe the major sub-groups of the Use Classifications, based on common characteristics (e.g., the residential Use Classification is divided into two major Use Categories: Household Living and Group Living). Principal uses are identified in defining the Use Category. They are principal uses that most closely share the common characteristics that are key to the Use Category.
- (3) **Use Types.** The Use Categories are then divided into specific Use Types. The specific Use Types are included in the respective Use Category. They identify the specific uses that are considered to fall within characteristics identified in the Use Category.
- (B) **Use Categories and Use Types Defined.** All the Use Categories and Use Types listed in Table 2-1003 are defined in Article 8 (Definitions).
- (C) **Permitted and Special Exception Uses.** A “P” in the column identified “JLMA-1” indicates that a Use Category or specific Use Type is permitted as a matter of right (as a permitted use) in the JLMA-1 district, subject to compliance with all applicable standards and regulations in this Ordinance and all other County ordinances. An “S” indicates that a Use Type is allowed in the JLMA-1 district as a special exception in accordance with the procedures and standards of Section 6-1300. In some instances, and based on the Additional Regulations for Specific Uses (Section 5-600), a Use Type will be permitted under certain conditions, or allowed as a special exception under other conditions. These uses are identified as “P/S”.
- (D) **Reference to General Use Category.** References to “General Use Category” under the Use Type column means all of the uses in the Use Category are allowed. The Use Category is defined in Article 8. Where specific Use Types are listed in the Use Type column, only the listed Use Types in the Use Category are allowed. The Use Types are defined in Article 8.
- (E) **Additional Regulations for Specific Uses.** References to sections in the final column of Table 2-1003 (Additional Regulations for Specific Uses) indicate that the listed use is subject to use-specific

regulations. The numbers provide a cross-reference to the “Additional Regulations for Specific Uses” in Section 5-600.

TABLE 2-1003 JLMA-1 JOINT LAND MANAGEMENT AREA-I DISTRICT USE TABLE			
P = PERMITTED S = SPECIAL EXCEPTION M = MINOR SPECIAL EXCEPTION			
USE CATEGORY	USE TYPE	JLMA-1	ADDITIONAL REGULATIONS FOR SPECIFIC USES
RESIDENTIAL USES			
Household Living	Accessory dwelling (accessory to single family detached dwelling)	P	Section 5-613
	Dwelling, single-family detached, including manufactured housing	P	Manufactured housing subject to Section 5-620
	Guest house (accessory to single family detached dwelling)	P	Section 5-612
Group Living	Congregate housing facility	S	
	Continuing care facility	S	
	Orphanage or similar institution	S	
	Tenant dwelling	S	Section 5-602
AGRICULTURAL USES			
Agriculture	General Use Category	P	Section 5-626
Horticulture	General Use Category	P	Section 5-626
Animal Husbandry	General Use Category	P	Section 5-626
Agriculture Support and Services Directly Related to On-going Agriculture, Horticulture and Animal Husbandry Activity, On-Site	Agricultural processing	P	Section 5-627
	Animal care business	P	Section 5-627
	Custom operators	P	
	Direct market business for sale of products produced on-site-including but not limited to PYO (pick-your-own)	P	

TABLE 2-1003
JLMA-1 JOINT LAND MANAGEMENT AREA-1 DISTRICT USE TABLE

P = PERMITTED S = SPECIAL EXCEPTION M = MINOR SPECIAL EXCEPTION

USE CATEGORY	USE TYPE	JLMA-1	ADDITIONAL REGULATIONS FOR SPECIFIC USES
	Equestrian Event Facility, with frontage on a state maintained road	P	Section 5-627
	Equestrian Event Facility, without frontage on a state maintained road	S	Section 5-627
	Farm based tourism events	P	Section 5-628
	Farm co-ops	P	Section 5-627
	Farm machinery sales, rental, and services	S	Section 5-627
	Farm machinery repair	P	Section 5-627
	Farm markets	P	Section 5-603
	Feed and Farm Supply Center	S	Section 5-627
	Nursery, commercial	S	Section 5-605
	Nursery, production	P	Section 5-605
	Nursery, production, without frontage on a state maintained road	S	Section 5-605
	Pet farms	P	Section 5-627
	Stable, Livery, with frontage on a state maintained road	P	Section 5-627
	Stable, Livery, without frontage on a state maintained road	S	Section 5-627
	Stable, Private	P	Section 5-627
	Virginia Farm Winery	P	Section 5-627
	Wayside stand	P	Section 5-604
	Wetlands mitigation bank	P	Section 5-627
PUBLIC AND INSTITUTIONAL USES			

TABLE 2-1003
JLMA-I JOINT LAND MANAGEMENT AREA-I DISTRICT USE TABLE

P = PERMITTED S = SPECIAL EXCEPTION M = MINOR SPECIAL EXCEPTION

USE CATEGORY	USE TYPE	JLMA-I	ADDITIONAL REGULATIONS FOR SPECIFIC USES
Day Care Facilities	Child care home	P	Section 5-609(A)
	Child or adult day care center	S	Section 5-609(B)
Cultural and Government Facilities	Bus shelter	P	
	Community center	S	
	Community center, HOA facilities only	P	
	Commuter parking lot, with greater than 50 spaces	S	
	Commuter parking lot, with 50 spaces or less	P	
	Library	S	
	Structure or use for federal, state, County, or local governmental purposes, not otherwise listed	S	
Education	Public School (Elementary, Middle, or High)	P	Section 5-666
	Private School (Elementary, Middle, or High) for fifteen (15) or fewer pupils	P	Section 5-655
	Private School (Elementary, Middle, or High) for more than fifteen (15) pupils	M	
	Cemetery	S	Section 5-637
	Mausoleum	S	Section 5-637
Park and Open Space	Crematorium	S	Section 5-637
	Community, neighborhood or regional park, passive recreational uses	P	
	Community, neighborhood or regional park, active recreational uses	S	
	Wetlands mitigation bank	P	

TABLE 2-1003
JLMA-1 JOINT LAND MANAGEMENT AREA-1 DISTRICT USE TABLE

P = PERMITTED S = SPECIAL EXCEPTION M = MINOR SPECIAL EXCEPTION

USE CATEGORY	USE TYPE	JLMA-1	ADDITIONAL REGULATIONS FOR SPECIFIC USES
Public Safety	Fire and/or rescue station	S	Section 5-638
	Police station or substation	S	Section 5-638
Religious Assembly	Church, synagogue or temple, with seating capacity of 300 or less in sanctuary or main area	P	Section 5-639
	Church, synagogue or temple, with seating capacity of more than 300 in sanctuary or main activity area, or with accessory schools, day care centers with more than 50 children, recreational facilities	S	Section 5-639
	Public utility service center and storage yard	S	Section 5-621
Utility	Recycling drop off collection center, public	P	Section 5-607
	Recycling drop off collection center, private	S	Section 5-607
	Sewage and/or water treatment plant	S	Section 5-621
	Utility substation, distribution	S	Section 5-616
	Utility transmission line, overhead (excluding connections of lines from public utility transmission lines to individual development sites)	S	Unless excepted by Section 1-103(D)
	Water and/or sewer pumping station	P	Section 5-621
	Water storage tank	S	Section 5-621
COMMERCIAL USES	Water Well, Municipal	P	Section 5-621
	COMMERCIAL USES		
	Recreation and Entertainment		
	Camp, day and boarding	S	Section 5-645
	Golf course	S	Section 5-648
Retail Sales and Service	Artist studio	S	

TABLE 2-1003
JLMA-1 JOINT LAND MANAGEMENT AREA-1 DISTRICT USE TABLE

P = PERMITTED S = SPECIAL EXCEPTION M = MINOR SPECIAL EXCEPTION

USE CATEGORY	USE TYPE	JLMA-1	ADDITIONAL REGULATIONS FOR SPECIFIC USES
Visitor Accommodation	Small business	P/S	Section 5-614
	Farm Market (off-site production)	S	Section 5-603
	Bed and Breakfast Homestay	P	Section 5-601(A)
	Bed and Breakfast Inn	M	Section 5-601(B)
INDUSTRIAL USES			
Telecommunication Use and/or Structure	Radio and/or television tower	S	Section 5-618
	Telecommunications antenna	P	Section 5-618(A)
	Telecommunications monopole	P	Section 5-618(B)(1)
	Telecommunications monopole	S	Section 5-618(B)(2)
	Telecommunication tower	S	Section 5-618(C)(2)

2-1004

Lot and Building Requirements.

- (A) **Minimum Lot Size.** Twenty thousand (20,000) square feet.
- (B) **Minimum Lot Width.** Fifty (50) feet.
- (C) **Minimum Front Yard.** Thirty-five (35) feet.
- (D) **Minimum Rear Yard.** Twenty-five (25) feet.
- (E) **Minimum Side Yard.** Nine (9) feet.
- (F) **Building Height.** Forty (40) feet maximum.

2-1005

General Development Requirements. The following general development requirements shall apply to all development in the JLMA-1 district.

- (A) **Minimum Open Space.** Thirty (30) percent. Active recreational uses may be located within the open space.

(B) **Maximum Gross Density.** The maximum gross residential density shall be one (1) unit per forty thousand (40,000) square feet, calculated based on the overall parcel, excluding roads. Open space shall be preserved by means of a permanent open space easement acceptable to the Board of Supervisors.

(C) **Utilities.**

(1) Both municipal water and municipal sewer facilities must be provided to every development site, if available as determined by the Zoning Administrator, in consultation with the Town, and if the Town permits the connection. If municipal water and/or municipal sewer facilities are not available, or if the Town does not permit the connection, development may be served by an individual water supply system (private well) and/or an individual sewage disposal system.

(2) Notwithstanding subsection 2-1005(C)(1) above, Town owned or County owned and operated public uses shall be required to connect to municipal water and/or municipal sewer facilities only if the existing municipal water line and/or municipal sewer line is within three hundred (300) feet of the property line of the parcel being developed and if the Town permits such connection, unless the County and Town agree that the presence of other physical or geographical constraints would make the connection unreasonable. Otherwise, such Town or County public uses may use communal systems or an individual water supply system (private well) and/or individual sewage disposal system.

(3) Notwithstanding subsection 2-1005(C)(1) above, any development on a lot existing prior to January 7, 2003, that does not require the approval of any type of subdivision or site plan application in order to be developed may use an individual water supply system (private well) and/or individual sewage disposal system, provided, however, that if such development is required to connect to a public/municipal sewer pursuant to the Codified Ordinances of Loudoun County, then an individual sewage disposal system shall not be permitted. For the purposes of this Section 2-1005(C)(3), and notwithstanding the provisions of Section 1243.03(B) of the Land Subdivision and Development Ordinance, lots established by or resulting from the recordation of a boundary line adjustment (BLAD) after January 7, 2003, where all of

the lots involved in the BLAD existed prior to January 7, 2003, shall be deemed to have existed prior to January 7, 2003.

- (4) All utility distribution lines shall be placed underground. Private wells, septic systems, and communal systems may be located within the open space.

(D) **Neighborhood Development Standards.** To ensure new development in the JLMA-1 district reinforces existing development patterns in the adjacent town to the maximum extent feasible, reduces the need for automobile trips, minimizes the need for additional road improvements, and encourages walking to employment, shopping, and public facilities, development in this district shall meet the following requirements:

(1) **Street System/Connectivity.**

- (a) **Connections to Existing Streets.** Connections to the existing or planned street system shall be made to the maximum extent feasible. All development plans shall incorporate and continue all streets stubbed to or shown as stubbed to the boundary of the development by previously approved development plans/plats or existing development.

- (b) **Provision for Future Connections to Adjoining Land.** All developable land shall provide for future public street connections to adjacent developable parcels by providing a local street connection at least every six hundred sixty (660) feet along each subdivision plat boundary that abuts potentially developable or re-developable land, except that such street connections are not required on steep slopes, MDOD sensitivity areas, or FOD pursuant to Sections 5-1508, 4-1600, and 4-1500.

- (c) **Block Form and Size.** To the maximum extent feasible, blocks within developments shall maintain a rectilinear pattern except where deviation is necessitated by topographic or environmental considerations. Blocks shall measure not less than three hundred (300) nor more than six hundred sixty (660) feet along each side, as measured from the edge of the right-of-way, except where deviation is necessitated by topographic or environmental

considerations, or where deviation is required to comply with regulations concerning steep slopes, MDOOD sensitivity areas, or FOD pursuant to Sections 5-1508, 4-1600 and 4-1500.

- (d) **Avoidance of Certain Street Types.** Cul-de-sacs and "P-loop" streets shall be avoided except where necessitated by topographic or environmental considerations.
- (e) **Provision of "T" Intersections.** "T" intersections are encouraged in locations where views of important civic, public or open space areas can be highlighted.

(2) **Variation of Lot Sizes.**

- (a) **General Rule.** In all new residential subdivisions containing ten (10) or more lots, a mixture of lot sizes and dimensions shall be provided in order to allow for a variety of housing opportunities and avoid monotonous streetscapes. For example, larger and wider lots are encouraged on corners. Smaller lots are encouraged adjacent to parks and open spaces. No more than sixty percent (60%) of all lots shall be similar in total lot area. For purposes of this subsection, "similar" lot areas shall be defined as within 500 square feet of each other.
- (b) **Exception.** Up to seventy percent (70%) of the lots within the subject subdivision may be similar if the Zoning Administrator, pursuant to Section 6-401, makes a finding that, notwithstanding deviation from the sixty percent (60%) standard stated above, lot sizes and dimensions are sufficiently varied, for different housing types, to avoid monotonous streetscapes.
- (c) **Dispersion of Lot Sizes.** Similar lot sizes shall be distributed throughout a subdivision rather than consolidated in one area, unless the Zoning Administrator, pursuant to Section 6-401, makes a finding that the intent of this district and of the Zoning Ordinance will be better served by a design that tends to consolidate lots of similar sizes.

(3)

Sidewalks.

- (a) **Provision of Sidewalks and/or Trails.** Sidewalks and/or trails shall be provided, at a minimum, along one side of all streets to provide pedestrian access to the town or neighborhood center, public buildings, schools, parks, and other destinations, or greater if required by the Facilities Standards Manual.
- (b) **Sidewalk and/or Trail Connections.** Connections to existing or planned sidewalks and/or trails shall be made at the property boundaries of the project by incorporating and continuing all sidewalks and/or trails stubbed to or shown as stubbed to the boundary of the development by previously approved development plans/plats or existing development. All development plans shall provide for future sidewalk and/or trail connections to adjacent developable parcels at planned or current local street connections along each subdivision plat boundary.

(4)

Civic and Open Space.

- (a) **Variety of Spaces to Be Provided.** A variety of greens, parks or natural open spaces shall be located throughout the development, where appropriate, to provide community identity.
- (b) **Access to Civic Spaces.** Direct and convenient pedestrian and bicycle access shall be provided on the site being developed to adjacent residential land uses and to the civic and open space.
- (c) **Configuration of Park Access.** Land dedicated for parks shall be bordered on at least one side by public streets, preferably local or collector streets.

(5)

Other Design Requirements.

- (a) **Street Trees.** Street trees planted pursuant to Section 5-1300 shall be planted at a density of no less than one (1) canopy shade tree per twenty-five (25) feet on average, and shall be placed in arrangements consistent with the existing landscape of the vicinity.

- (b) **Garages.** Garages shall be set back at least four (4) feet behind the plane of the front door of the principal building. Garages shall have vehicular access only from the side or rear of the lot.
- (c) **On-Street Parking.** Parallel parking may be provided on streets in front of residential lots, except for lots fronting on collector or arterial roads.

(E) **Compatibility Standards.**

- (1) A minimum buffer width of twenty-five (25) feet with a Buffer Yard Type A shall be provided between existing agricultural uses and residential development sites.
- (2) On non-residential development sites:
 - (a) Areas for loading, delivery, and waste collection receptacles shall be sited so as to reduce the impact on surrounding properties to the maximum extent feasible, with highest priority given to reducing the impact on residential properties.
 - (b) Outdoor lighting shall be directed towards the interior of the development site and shall be shielded to prevent all direct illumination of other properties.

2-1006

Alternate Neighborhood Development Standards. In lieu of the development requirements specified in Sections 2-1004 and 2-1005 above, either the Board of Supervisors may initiate, or the landowner(s) in a JLMA-1 district may request the adoption of alternate neighborhood development standards as a special exception pursuant to the standards of this Section and Section 6-1300. These alternate development standards may be reviewed for all or a portion of a JLMA-1 district. Once adopted, the alternate neighborhood development standards supersede the requirements of Sections 2-1004 and 2-1005. The following requirements shall be met:

- (A) **Minimum Area.** Alternate neighborhood design standards shall be adopted for all of a JLMA-1 district or a portion of the district consisting of a minimum of twenty-five (25) contiguous acres.
- (B) **Initiation.** A request to have alternate neighborhood development standards adopted for all or a portion of a JLMA-1 district may be initiated by the Board of Supervisors or the landowners in the area for which the request is made by submitting an application to the County for a Special Exception pursuant to Section 6-1300.

(C) **Study/Proposed Standards.** Subsequent to the request, the applicant shall submit a set of proposed alternate neighborhood development standards for consideration that comply with the standards in Section 2-1006(E). The proposed alternate neighborhood development standards shall be in compliance with any overlay district requirements and based on a study of the existing and prevailing patterns of development in the adjoining town in the vicinity of the lands where the alternate neighborhood development standards are proposed to be adopted, as they relate to lot sizes, yards, setbacks, lot coverage, building heights, garages, porches, civic and open spaces, open space areas, block form, street pattern, sidewalks, and street trees.

(D) **Recommendation of Staff and Town Council.** After their receipt, County staff shall forward a copy of the proposed alternate neighborhood development standards to the affected town for review and comment, and prepare a staff report on whether they comply with the standards of Section 2-1006(E).

(E) **Standards.** The Board of Supervisors shall adopt the alternate neighborhood development standards only if the Board finds that:

(1) The standards include requirements addressing lot size, lot width and length, yards, lot coverage, building height, and open space that are consistent with the existing and prevailing patterns of development in the adjoining town in the vicinity of the lands where the alternate neighborhood development standards are to be adopted; and

(2) The standards include specific provisions requiring street system connectivity, variation of lot sizes, the provision of civic and open spaces, the provision of sidewalks, the provision of street trees, a grid street pattern and block sizes in a form that is consistent with the existing and prevailing patterns of development in the adjoining town in the vicinity of the lands where the alternate neighborhood development standards are to be adopted.

(F) **Effect.** The approval of the special exception by the Board of Supervisors for all or a portion of a J/LMA-1 district shall constitute a modification of the development standards for that area, subject to the conditions and terms of the special exception, and recognition by the County that all development within the area subject to alternate neighborhood development standards shall comply with the alternate neighborhood development standards. In the case of conflict between adopted alternate neighborhood development

standards and any other provision of this Ordinance, the alternate neighborhood development standards shall apply.

Section 2-1100

Joint Land Management Area-2 District: JLMA-2

2-1101

Purpose and Intent. This district is established to accommodate and foster the development of land within the joint land management areas (JLMAs) outside the incorporated towns in Loudoun County to:

- (A) Ensure development in the JLMA-2 district is consistent with the JLMA serving as a gateway to the towns;
- (B) Encourage an appropriate mix of residential and nonresidential land uses;
- (C) Provide a variety of housing types and lot sizes;
- (D) Where appropriate, achieve a pattern of development that generally conforms to the established, traditional pattern of development in the towns;
- (E) Establish the type and scale of development desired for the entranceway of the towns; and
- (F) Implement jointly adopted area plans, where applicable.

2-1102

Size and Location. This district modifies and replaces the Countryside Residential (CR-2) district within the JLMAs. It is the intent of the County that the JLMA-2 boundaries not be extended beyond the existing JLMA boundaries.

2-1103

Use Regulations. Table 2-1103 summarizes the principal use regulations of the JLMA-2 district.

(A) **Organization of Use Table.** Table 2-1103 organizes the uses in the JLMA-2 district Use Table by Use Classifications, Use Categories and Use Types.

- (1) **Use Classifications.** The Use Classifications are: residential uses; agricultural uses; public and institutional uses; commercial uses; and industrial uses. The Use Classifications provide a systematic basis for assigning present and future land uses into broad general classifications (e.g., residential uses and agricultural uses). The Use Classifications then organize land uses and activities into general "Use Categories" and specific "Use Types" based on common functional, product, or physical characteristics, such as the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, and site conditions.

(2) **Use Categories.** The Use Categories describe the major sub-groups of the Use Classifications, based on common characteristics (e.g., the residential Use Classification is divided into two major Use Categories: Household Living and Group Living). Principal uses are identified in defining the Use Category. They are principal uses that most closely share the common characteristics that are key to the Use Category.

(3) **Use Types.** The Use Categories are then divided into specific Use Types. The specific Use Types are included in the respective Use Category. They identify the specific uses that are considered to fall within characteristics identified in the Use Category. For example, single family detached dwellings are a Use Type in the Household Living Use Category.

(B) **Use Categories and Use Types Defined.** All the Use Categories and Use Types listed in Table 2-1103 are defined in Article 8 (Definitions).

(C) **Permitted and Special Exception Uses.** A “p” in the column identified “JLMA-2” indicates that a Use Category or specific Use Type is permitted as a matter of right (as a permitted use) in the JLMA-2 district, subject to compliance with all applicable standards and regulations in this Ordinance and all other County ordinances. An “S” indicates that a Use Type is allowed in the JLMA-2 district as a special exception in accordance with the procedures and standards of Section 6-1300. In some instances, and based on the Additional Regulations for Specific Uses (Section 5-600), a Use Type will be permitted under certain conditions, or allowed as a special exception under other conditions. These uses are identified as “P/S”.

(D) **Reference to General Use Category.** References to “General Use Category” under the Use Type column means all of the uses in the Use Category are allowed. The Use Category is defined in Article 8. Where specific Use Types are listed in the Use Type column, only the listed Use Types in the Use Category are allowed. The Use Types are defined in Article 8.

(E) **Additional Regulations for Specific Uses.** References to sections in the final column of Table 2-1103 (Additional Regulations for Specific Uses) indicate that the listed use is subject to use-specific regulations. The numbers provide a cross-reference to the “Additional Regulations for Specific Uses” in Section 5-600.

TABLE 2-1103 JLMA-2 JOINT LAND MANAGEMENT AREA-2 DISTRICT USE TABLE			
P = PERMITTED S = SPECIAL EXCEPTION M = MINOR SPECIAL EXCEPTION		ADDITIONAL REGULATIONS FOR SPECIFIC USES	
USE CATEGORY	USE TYPE	JLMA-2	
RESIDENTIAL USES			
Household Living	Accessory dwelling (accessory to single family detached dwelling)	P	Section 5-613
	Dwelling, single-family detached, including manufactured housing	P	Manufactured housing subject to Section 5-620
	Guest house (accessory to single family detached dwelling)	P	Section 5-612
Group Living	Congregate housing facility	S	
	Continuing care facility	S	
	Orphanage or similar institution	S	
	Tenant dwelling	S	Section 5-602
AGRICULTURAL USES			
Agriculture	General Use Category	P	Section 5-626
	General Use Category	P	Section 5-626
Animal Husbandry	General Use Category	P	Section 5-626
	Agricultural processing	P	Section 5-627
Agriculture Support and Services directly related to on-going agriculture, horticulture and animal husbandry activity, on-site	Animal care business	P	Section 5-627
	Custom operators	P	Section 5-627
	Direct market business for sale of products produced on-site including but not limited to PYO (pick-your-own)	P	Section 5-627

TABLE 2-1103
JLMA-2 JOINT LAND MANAGEMENT AREA-2 DISTRICT USE TABLE

P = PERMITTED S = SPECIAL EXCEPTION M = MINOR SPECIAL EXCEPTION

USE CATEGORY	USE TYPE	JLMA-2	ADDITIONAL REGULATIONS FOR SPECIFIC USES
	Equestrian Event Facility, with frontage on a state maintained road	P	Section 5-627
	Equestrian Event Facility, without frontage on a state maintained road	S	Section 5-627
	Virginia farm winery	P	Section 5-627
	Farm based tourism events	P	Section 5-628
	Farm co-ops	P	Section 5-627
	Farm machinery sales, rental, and services	S	Section 5-627
	Farm machinery repair	P	Section 5-627
	Farm markets	P	Section 5-603
	Feed and Farm Supply Center	S	Section 5-627
	Nursery, commercial	S	Section 5-605
	Nursery, production	P	Section 5-605
	Nursery, production, without frontage on a state maintained road	S	Section 5-605
	Pet farms	P	Section 5-627
	Stable, Livery, with frontage on a state maintained road	P	Section 5-627
	Stable, Livery, without frontage on a state maintained road	S	Section 5-627
	Stable, Private	P	Section 5-627
	Wayside stand	P	Section 5-604
	Wetlands mitigation bank	P	Section 5-627
PUBLIC AND INSTITUTIONAL USES			

TABLE 2-1103
JLMA-2 JOINT LAND MANAGEMENT AREA-2 DISTRICT USE TABLE

P = PERMITTED S = SPECIAL EXCEPTION M = MINOR SPECIAL EXCEPTION

USE CATEGORY	USE TYPE	JLMA-2	ADDITIONAL REGULATIONS FOR SPECIFIC USES
Day Care Facilities	Child care home	P	Section 5-609
	Child or adult day care center	S	Section 5-609
Cultural and Government Facilities	Bus shelter	P	
	Community center	S	
	Community center, HOA facilities only	P	
	Commuter parking lot, with greater than 50 spaces	S	
	Commuter parking lot, with 50 spaces or less	P	
	Library	S	
Education	Structure or use for federal, state, County, or local governmental purposes, not otherwise listed	S	
	Public School (Elementary, Middle, or High)	P	Section 5-666
	Private School (Elementary, Middle, or High) for fifteen (15) or fewer pupils	P	Section 5-655
	Private School (Elementary, Middle, or High) for more than fifteen (15) pupils	M	
	Cemetery	S	Section 5-637
	Mausoleum	S	Section 5-637
Park and Open Space	Crematorium	S	Section 5-637
	Community, neighborhood or regional park, passive recreational uses	P	
	Community, neighborhood or regional park, active recreational uses	S	
Public Safety	Fire and/or rescue station	S	Section 5-638

TABLE 2-1103
JLMA-2 JOINT LAND MANAGEMENT AREA-2 DISTRICT USE TABLE

P = PERMITTED S = SPECIAL EXCEPTION M = MINOR SPECIAL EXCEPTION

USE CATEGORY	USE TYPE	JLMA-2	ADDITIONAL REGULATIONS FOR SPECIFIC USES
	Police station or substation	S	Section 5-638
	Church, synagogue or temple, with seating capacity of 300 or less in sanctuary or main area	P	Section 5-639
Religious Assembly	Church, synagogue or temple, with seating capacity of more than 300 in sanctuary or main activity area, or with accessory schools, day care centers with more than 50 children, recreational facilities	S	Section 5-639
	Public utility service center and storage yard	S	Section 5-621
	Recycling drop off collection center, public	P	Section 5-607
	Recycling drop off collection center, private	S	Section 5-607
	Sewage and/or water treatment plant	S	Section 5-621
	Utility substation, distribution	S	Section 5-616
Utility	Utility transmission line, overhead (excluding connections of lines from public utility transmission lines to individual development sites)	S	Unless excepted by Section 1-103 (D)
	Water and/or sewer pumping station	P	Section 5-621
	Water storage tank	S	Section 5-621
	Water Well, Municipal	P	Section 5-621
COMMERCIAL USES			
Food and Beverage	Restaurant	S	Section 5-643
Recreation and Entertainment	Camp, day and boarding	S	Section 5-645
	Golf course	S	Section 5-648
Retail Sales and Service	Artist studio	S	

TABLE 2-1103
JLMA-2 JOINT LAND MANAGEMENT AREA-2 DISTRICT USE TABLE

P = PERMITTED S = SPECIAL EXCEPTION M = MINOR SPECIAL EXCEPTION

USE CATEGORY	USE TYPE	JLMA-2	ADDITIONAL REGULATIONS FOR SPECIFIC USES
	Small business	P/S	Section 5-614
	Farm market (off-site production)	S	Section 5-603
Visitor Accommodation	Bed and Breakfast Homestay	P	Section 5-601(A)
	Bed and Breakfast Inn	M	Section 5-601(B)
INDUSTRIAL USES			
Telecommunication Use and/or Structure	Radio and/or television tower	S	Section 5-618
	Telecommunications antenna	P	Section 5-618(A)
	Telecommunications monopole	P	Section 5-618(B)(1)
	Telecommunications monopole	S	Section 5-618(B)(2)
	Telecommunication tower	S	Section 5-618(C)(2)

2-1104

Lot and Building Requirements.

- (A) **Minimum Lot Size.** Ten thousand (10,000) square feet.
- (B) **Minimum Lot Width.** Fifty (50) feet.
- (C) **Minimum Front Yard.** Fifteen (15) feet.
- (D) **Minimum Rear Yard.** Twenty-five (25) feet.
- (E) **Minimum Side Yard.** Eight (8) feet
- (F) **Building Height.** Forty (40) feet maximum.

2-1105

General Development Requirements. The following general development requirements shall apply to all development in the JLMA-2 district.

- (A) **Minimum Open Space.** Thirty (30) percent. Active recreational uses may be located within the open space.
- (B) **Maximum Gross Density.** The maximum gross residential density shall be one (1) unit per twenty thousand (20,000) square feet, calculated based on the overall parcel, excluding roads. Open space shall be preserved by means of a permanent open space easement acceptable to the Board of Supervisors.

(C) **Utilities.**

(1) Both municipal water and municipal sewer facilities must be provided to every development site, if available as determined by the Zoning Administrator, in consultation with the Town, and if the Town permits the connection. If municipal water and/or municipal sewer facilities are not available, or if the Town does not permit the connection, development may be served by an individual water supply system (private well) and/or an individual sewage disposal system.

(2) Notwithstanding subsection 2-1105(C)(1) above, Town owned or County owned and operated public uses shall be required to connect to municipal water and/or municipal sewer facilities only if the existing municipal water line and/or municipal sewer line is within three hundred(300) feet of the property line of the parcel being developed and if the Town permits such connection, unless the County and Town agree that the presence of other physical or geographical constraints would make the connection unreasonable. Otherwise, such Town or County public uses may use communal systems or an individual water supply system (private well) and/or individual sewage disposal system.

(3) Notwithstanding subsection 2-1105(C)(1) above, any development on a lot existing prior to January 7, 2003, that does not require the approval of any type of subdivision or site plan application in order to be developed may use an individual water supply system (private well) and/or individual sewage disposal system, provided, however, that if such development is required to connect to a public/municipal sewer pursuant to the Codified Ordinances of Loudoun County, then an individual sewage disposal system shall not be permitted. For the purposes of this Section 2-1105(C)(3), and notwithstanding the provisions of Section 1243.03(B) of the Land Subdivision and Development Ordinance, lots

established by or resulting from the recordation of a boundary line adjustment (BLAD) after January 7, 2003, where all of the lots involved in the BLAD existed prior to January 7, 2003, shall be deemed to have existed prior to January 7, 2003.

(4) All utility distribution lines shall be placed underground. Private wells, septic systems, and communal systems may be located within the open space.

(D) **Neighborhood Development Standards.** To ensure new development in the JLMA-2 district reinforces existing development patterns in the adjacent towns to the maximum extent feasible, reduces the need for automobile trips, minimizes the need for additional road improvements, and encourages walking to employment, shopping, and public facilities, development in this district shall meet the following requirements:

(1) **Street System/Connectivity.**

(a) **Connections to Existing Streets.** Connections to the existing or planned street system shall be made to the maximum extent feasible. All development plans shall incorporate and continue all streets stubbed to or shown as stubbed to the boundary of the development by previously approved development plans/plats or existing development.

(b) **Provision for Future Connections to Adjoining Land.** All developable land shall provide for future public street connections to adjacent developable parcels by providing a local street connection at least every six hundred sixty (660) feet along each subdivision plat boundary that abuts potentially developable or re-developable land, except that such street connections are not required on steep slopes, MDOD sensitivity areas, or FOD pursuant to Sections 5-1508, 4-1600, and 4-1500.

(c) **Block Form and Size.** To the maximum extent feasible, blocks within developments shall maintain a rectilinear pattern except where deviation is necessitated by topographic or environmental considerations. Blocks shall measure not less than three hundred (300) nor more than six hundred sixty (660) feet along each side, as measured from the edge

of the right-of-way, except where deviation is necessitated by topographic or environmental considerations, or where deviation is required to comply with regulations concerning steep slopes, MDOD sensitivity areas, or FOD pursuant to Sections 5-1508, 4-1600 and 4-1500.

- (d) **Avoidance of Certain Street Types.** Cul-de-sacs and "P-loop" streets shall be avoided except where necessitated by topographic or environmental considerations.
- (e) **Provision of "T" Intersections.** "T" intersections are encouraged in locations where views of important civic, public or open space areas can be highlighted.

(2) **Variation of Lot Sizes.**

- (a) **General Rule.** In all new residential subdivisions containing ten (10) or more lots, a mixture of lot sizes and dimensions shall be provided in order to allow for a variety of housing opportunities and avoid monotonous streetscapes. For example, larger and wider lots are encouraged on corners. Smaller lots are encouraged adjacent to parks and open spaces. No more than sixty percent (60%) of all lots shall be similar in total lot area. For purposes of this subsection, "similar" lot areas shall be defined as within 500 square feet of each other.
- (b) **Exception.** Up to seventy percent (70%) of the lots within the subject subdivision may be similar if the Zoning Administrator, pursuant to Section 6-401, makes a finding that, notwithstanding deviation from the sixty percent (60%) standard stated above, lot sizes and dimensions are sufficiently varied, for different housing types, to avoid monotonous streetscapes.
- (c) **Dispersion of Lot Sizes.** Similar lot sizes shall be distributed throughout a subdivision rather than consolidated in one area, unless the Zoning Administrator, pursuant to Section 6-401, makes a finding that the intent of this district and of the

Zoning Ordinance will be better served by a design that tends to consolidate lots of similar sizes.

(3) **Sidewalks.**

- (a) **Provision of Sidewalks and/or Trails.** Sidewalks and/or trails shall be provided, at a minimum, along one side of all streets to provide pedestrian access to the town or neighborhood center, public buildings, schools, parks, and other destinations, or greater if required by the Facilities Standards Manual.
- (b) **Sidewalk and/or trail Connections.** Connections to existing or planned sidewalks and/or trails shall be made at the property boundaries of the project by incorporating and continuing all sidewalks and/or trails stubbed to or shown as stubbed to the boundary of the development by previously approved development plans/plats or existing development. All development plans shall provide for future sidewalk and/or trails connections to adjacent developable parcels at planned or current local street connections along each subdivision plat boundary.

(4) **Civic and Open Space.**

- (a) **Variety of Spaces to Be Provided.** A variety of greens, parks or natural open spaces shall be located throughout the development, where appropriate, to provide community identity.
- (b) **Access to Civic Spaces.** Direct and convenient pedestrian and bicycle access shall be provided adjacent residential land uses and to the civic and open space.
- (c) **Configuration of Park Access.** Land dedicated for parks shall be bordered on at least one side by public streets, preferably local or collector streets.

(5) **Other Design Requirements.**

- (a) **Street Trees.** Street trees planted pursuant to Section 5-1300 shall be planted at a density of no less than one canopy shade tree per twenty-five (25) feet

on average, and shall be placed in arrangements consistent with the existing landscape of the vicinity.

- (b) **Garages.** Garages shall be set back at least four (4) feet behind the plane of the front door of the principal building. Garages shall have vehicular access only from the side or rear of the lot.
- (c) **On-Street Parking.** Parallel parking may be provided on streets in front of residential lots, except for lots fronting on collector or arterial roads.

(E) Compatibility Standards.

- (1) A minimum buffer width of twenty-five (25) feet with a Buffer Yard Type B shall be provided between existing agricultural uses and residential development sites.
- (2) On non-residential development sites:
 - (a) Areas for loading, delivery, and waste collection receptacles shall be sited so as to reduce the impact on surrounding properties to the maximum extent feasible, with highest priority given to reducing the impact on residential properties.
 - (b) Outdoor lighting shall be directed towards the interior of the development site and shall be shielded to prevent all direct illumination of other properties.

Section 2-1200

Joint Land Management Area-3 District: JLMA-3

2-1201

Purpose and Intent. This district is established to accommodate and foster the development of land within the town's joint land management areas (JLMAs) outside the incorporated towns in Loudoun County to:

- (A) Ensure development in the JLMA-3 district is consistent with the JLMA serving as a gateway to the towns;
- (B) Provide for the continued practice of agriculture, farm operations, agriculturally related and home based businesses, low density clustered residential developments and other uses in a predominantly rural environment;
- (C) Encourage an appropriate mix of residential and nonresidential land uses;
- (D) Where appropriate, achieve a pattern of development that generally conforms to the established, traditional pattern of development in the towns; and
- (E) Implement jointly adopted plans where applicable.

2-1202

Size and Location. This district replaces the Agricultural Residential (A-3) district within the JLMAs. It is the intent of the County that the JLMA-3 district boundaries not be extended beyond the existing JLMA boundaries.

2-1203

Use Regulations. Table 2-1203 summarizes the principal use regulations of the JLMA-3 district.

(A) **Organization of Use Table.** Table 2-1203 organizes the uses in the JLMA-3 district use table by Use Classifications, Use Categories and Use Types.

- (1) **Use Classifications.** The Use Classifications are: residential uses; agricultural uses; public and institutional uses; commercial uses; and industrial uses. The Use Classifications provide a systematic basis for assigning present and future land uses into broad general classifications (e.g., residential uses and agricultural uses). The Use Classifications then organize land uses and activities into general "Use Categories" and specific "Use Types" based on common functional, product, or physical characteristics, such as the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, and site conditions.

PROPOSED
ORDINANCE

2.05 Joint Land Management Area Zoning Districts

2.05.01 Joint Land Management Area Neighborhood – JLMA-1, JLMA-2, JLMA-3

Purpose. The purpose of the Joint Land Management Area (JLMA) Neighborhood (JLMA-1, JLMA-2, JLMA-3) Districts is to accommodate and foster the development of land within the JLMAs outside the incorporated towns in Loudoun County to:

- Implement the Western JLMA Neighborhood and Purcellville JLMA Rural Neighborhood Place Types of the General Plan.
 - Encourage an appropriate mix of residential and nonresidential land uses.
 - Reinforce existing development patterns in the adjacent towns to the maximum extent feasible, reduce the need for automobile trips, minimize the need for additional road improvements, and encourage walking to employment, shopping, and public facilities.
 - In the JLMA-1 and JLMA-2 districts, provide a variety of housing types and lot sizes.
 - In the JLMA-3 district, provide for the continued practice of agriculture, farm operations, agriculturally related and home based businesses, low density clustered residential developments and other uses in a predominantly rural environment.
 - Where appropriate, achieve a pattern of development that generally conforms to the established, traditional pattern of development in the towns.
 - Establish the type and scale of development desired for the entranceway of the towns.
 - Implement jointly adopted area plans, where applicable.
- A. **Applicability.** The JLMA Districts are located in areas consistent with the Western JLMA Neighborhood and Purcellville JLMA Rural Neighborhood Place Types of the General Plan.
1. Expansion of the JLMA-1, JLMA-2, and JLMA-3 districts is not permitted after the adoption date of this Ordinance.
- B. **Uses Regulations.** Refer to Table 3.02.02 for uses allowed in the district.
- C. **Dimensional Standards.** Refer to Table 2.05.01-1 for required dimensional standards.

Table 2.05.01-1. JLMA-1, JLMA-2, AND JLMA-3 District Dimensional Standards				
Reference	Standard	JLMA-1	JLMA-2	JLMA-3
Lot Requirements				
1	Lot Size (min.)	20,000 sf.	10,000 sf.	20,000 sf.
2	Lot Width (min.)	50 ft.	50 ft.	60 ft.
Yards				
3	Front Yard Setback (min.) ¹	35 ft.	15 ft.	On arterial road: 35 ft. On collector road: 25 ft. On other roads: 15 ft.
4	Side Yard Setback (min.) ^{1, 2}	9 ft.	8 ft.	10 ft.
	Rear Yard Setback (min.) ^{1, 2}	25 ft.	25 ft.	25 ft.
Building Requirements				
5	Residential Density (max.)	1 dwelling unit per 40,000 sf. 1.2 dwelling units per 40,000 sf. with ADUs ³	1 dwelling unit per 20,000 sf. 1.2 dwelling unit per 20,000 sf. with ADUs ³	1 dwelling unit per 3 acres
(ft. = foot; sf. = square feet; min. = minimum; max. = maximum)				
6	Lot Coverage (max.)	25%	40%	25%, but only 10% may be used for residential or non-residential structures excluding agricultural and horticultural structures not open to the public
7	Building Height (max.)	40 ft.	40 ft.	40 ft.

¹Except where a greater setback is required by Section 5.07.02. Section 5.07.02 does not apply in the JLMA-3 district.

²Except where a greater buffer yard is required by Section 5.07.04.

³ADUs must be provided pursuant to Section 8.01.

⁴Open Space must be provided in accordance with Sections 5.04 and 2.05.01.F. Active recreation space that is provided pursuant to Section 5.04 may be used to meet the minimum Open Space requirement of the district.

Open Space Requirements				
8	Open Space ³	30% of the site	30% of the site	50% of the site
(ft. = foot; sf. = square feet; min. = minimum; max. = maximum)				
¹ Except where a greater setback is required by Section 5.07.02. Section 5.07.02 does not apply in the JLMA-3 district.				
² Except where a greater buffer yard is required by Section 5.07.04.				
³ ADUs must be provided pursuant to Section 8.01.				
⁴ Open Space must be provided in accordance with Sections 5.04 and 2.05.01.F. Active recreation space that is provided pursuant to Section 5.04 may be used to meet the minimum Open Space requirement of the district.				

- D. **Variation of Lot Sizes.** Developments must provide a variety of residential lot sizes in accordance with Section 5.13.
- E. **Open Space.** In addition to the requirements of Section 5.04, a variety of greens, parks, or natural open spaces must be located throughout the development to provide community identity.
- F. **Road Network.** Within the JLMA-1, -2, and -3 Zoning Districts, the road network must be provided pursuant to Section 5.09.02 and as follows:
1. All developable land must provide for future public street connections to adjacent developable parcels by providing a local street connection at least every 660 feet along each subdivision plat boundary that abuts potentially developable or re-developable land,
 - a. *Exception.* Street connections are not required on steep slopes, MDOD sensitivity areas, or FOD pursuant to Sections 5.03.02, 4.04, and 4.03, respectively.
 2. Blocks within developments must maintain a rectilinear pattern to the maximum extent feasible, except where deviation is necessitated by topographic or environmental considerations.
 3. Blocks lengths must be:
 - a. Minimum: 300 feet
 - b. Maximum: 660 feet
- G. **Pedestrian and Bicycle Network.** A pedestrian and bicycle network must be provided in accordance with Section 5.09.03.
- H. **Other Design Requirements.**
1. Garages must be set back at least 4 feet behind the plane of the front door of the principal building. Garages must have vehicular access only from the side or rear of the lot.
 - I. **Transition Standards.** Within the JLMA-1, -2, and -3 Zoning Districts, development transition standards must be provided pursuant to Section 5.11 and as follows:
 1. A minimum buffer width of 25 feet with a Buffer Yard Type B must be provided between existing agricultural uses and residential development sites.
 - J. **Utility Requirements.** Utilities must be provided in accordance with Section 5.02.

2.05.02 Joint Land Management Area – Leesburg JLMA Residential Neighborhood – JLMA-LN

Purpose. The purpose of the Leesburg JLMA Residential Neighborhood (JLMA-LN) District is to:

- Implement the Leesburg JLMA Residential Neighborhood Place Type of the General Plan.
- Provide for predominantly single-family detached and attached residences with limited multifamily residences integrated in a walkable street pattern in areas served by public water and sewer service.
- Support areas of primarily low density residential uses integrated with retail and service uses that serve the routine needs of the immediate neighborhood at significant intersections and along major roads.
- Ensure new JLMA-LN developments are consistent with surrounding neighborhoods with gradual transitions to adjacent uses through building scale and design elements.

- A. **Applicability.** The JLMA-LN District must be in an area consistent with the Leesburg JLMA Residential Neighborhood Place Type of the General Plan.

B. **Use Regulations.** Refer to Table 3.02.01 for uses allowed in the district.

C. **Dimensional Standards.** Refer to Table 2.02.01-1 for required dimensional standards.

Table 2.02.01-1. JLMA-LN District Dimensional Standards		
Reference	Standard	JLMA-LN
Lot Requirements		
1	Residential and Nonresidential Lot Size (min.)	No min.
2	Residential Lot Size (max.)	SFD, or SFA Duplex, Triplex, or Quadruplex Building Lot: 10,000 sf.
		SFA Townhouse or Duplex, Triplex, or Quadruplex Individual Lot: No max.
3	Nonresidential Lot Size (max.)	MF: No max.
		No max.
4	Residential Lot Width (min.)	SFD: 40 ft.
		SFA Duplex, Triplex, Quadruplex Building Lot: 50 ft.
		SFA Townhouse Interior Unit: 14 ft.
		SFA Duplex, Triplex, Quadruplex Ground Floor Unit or Individual Lot: 20 ft.
5	Nonresidential Lot Width (min.)	SFA Townhouse End Unit: 24 ft.
		MF: No min.
5	Nonresidential Lot Width (min.)	No min.
Yards		
6	Residential Front Yard (min.) ^{1, 2}	15 ft.
7	Nonresidential Front Yard (max.) ¹	15 ft.
8	Residential Side Yard (min.) ²	SFD, SFA: 8 ft. (16 ft. min. between units) 0 ft. for common walls
		MF: 10 ft.; 20 ft. on corner lots
9	Nonresidential Side Yard (min.) ³	Adjoining residential use: 25 ft. ⁴ Adjoining nonresidential use: 10 ft. Common walls: 0 ft.
10	Residential Rear Yard (min.) ²	25 ft.
11	Nonresidential Rear Yard (min.) ³	Adjoining residential use: 50 ft. ⁴ Adjoining nonresidential use: 15 ft. Common walls: 0 ft.
Building Requirements		
12	Residential Density (max.)	4 dwelling units per acre
		4.8 dwelling units per acre with ADUs ⁵
13	Nonresidential FAR (max.)	0.40
14	Residential Lot Coverage (max.)	SFD: 35%
		SFA: 50%
		MF: 60%
15	Nonresidential Lot Coverage (max.)	70%
16	Residential Building Height (max.)	SFD, SFA, MF: 40 ft.
17	Nonresidential Building Height (max.)	40 ft.
Open Space Requirements		

(ft. = foot; sf. = square feet; min. = minimum; max. = maximum)

¹Except where a greater setback is required by Section 5.07.02.

²Minimum yard requirements may be reduced by the Board of Supervisors by Special Exception in accordance with the provisions of Section 7.10.

³Except where a greater buffer is required by Section 5.07.04.

⁴The yard separating residential and nonresidential uses may be decreased in accordance with Section 5.11.

⁵ADUs (Affordable Dwelling Units) must be provided pursuant to Section 8.01.

⁶Open Space must be provided in accordance with Section 5.04.

⁷Active recreation space and landscaped open space provided pursuant to Section 5.04 may be used to meet the minimum Open Space requirement of the district.

⁸Only market rate dwelling units are used in the Residential Active Recreation Space calculation. SFA may only be used in the 5,000 sf for 10 SFD dwelling units if there are not 10 SFD dwelling units in the development.

Table 2.02.01-1. JLMA-LN District Dimensional Standards		
Reference	Standard	JLMA-LN
18	Residential and Nonresidential Open Space (min.) ⁶	30%
19	Residential Active Recreation Space (min.) ^{7, 8}	5,000 sf for first 10 SFD or SFA (if no SFD) dwelling units plus 100 sf for each additional SFD dwelling unit 200 sf for each additional SFA or MF dwelling unit
20	Nonresidential Landscaped Open Space (min.) ⁷	0.2 times buildable area of lot

(ft. = foot; sf. = square feet; min. = minimum; max. = maximum)

¹Except where a greater setback is required by Section 5.07.02.

²Minimum yard requirements may be reduced by the Board of Supervisors by Special Exception in accordance with the provisions of Section 7.10.

³Except where a greater buffer is required by Section 5.07.04.

⁴The yard separating residential and nonresidential uses may be decreased in accordance with Section 5.11.

⁵ADUs (Affordable Dwelling Units) must be provided pursuant to Section 8.01.

⁶Open Space must be provided in accordance with Section 5.04.

⁷Active recreation space and landscaped open space provided pursuant to Section 5.04 may be used to meet the minimum Open Space requirement of the district.

⁸Only market rate dwelling units are used in the Residential Active Recreation Space calculation. SFA may only be used in the 5,000 sf for 10 SFD dwelling units if there are not 10 SFD dwelling units in the development.

D. **Mix of Uses.** The land use mix in the JLMA-LN district must be provided within the percentages provided in Table 2.02.01-2.

Table 2.02.01-2. Permitted Mix of Uses		
Reference	Land Use Category	Requirement ^{1, 2}
1	Residential	85% to 100%
2	Nonresidential	0% to 15%
3	Public/Civic ^{3, 4}	0% or more

¹Percent of gross land area.

²Total percentage of land use categories must equal 100%.

³Open space provided pursuant to Section 5.04 and meeting the criteria for community or cultural open space may be used to meet this requirement.

⁴Not required for projects less than 20 acres in size if the effect of the proposed development is to shift the use mix for an area within 1/2 mile of its boundaries closer to the preferred mix for the place type.

E. **Residential Unit Type Mix.** The mix of residential unit types must not exceed the percentages in Table 2.02.01-3.

Table 2.02.01-3. Dwelling Unit Type Mix		
Reference	Dwelling Unit Type	JLMA-LN Percent Allowed (max.) ¹
1	Single-Family Detached	85%
2	SFA Duplex, Triplex, Quadruplex	50%
3	SFA Townhouse	25%
4	Stacked Multifamily	5%

(max. = maximum)

¹Total percentage of dwelling unit types must equal 100%.

F. **Variation of Lot Sizes.** Developments must provide a variety of residential lot sizes in accordance with Section 5.13.

G. **Lot Access.** Access to lots in the JLMA-LME District must be provided in accordance with Section 5.09.01.D.

1. Notwithstanding the access requirements of Section 5.09.01.D, access to single-family detached or

- individual single-family attached dwelling units may be provided by an alley.
2. Single-family detached and single-family attached dwelling units and nonresidential uses must front on a public road, unless the development has received approval for private roads.
- H. **Road Network.** Within the JLMA-LN District, the road network must be provided pursuant to Section 5.09.02 and as follows:
1. Streets must form blocks where possible. Blocks must generally be in a grid pattern, with interconnecting streets and alleys.
 2. Block length or length between intersecting streets must be:
 - a. Minimum: 600 feet
 - b. Maximum: 1,500 feet
- I. **Pedestrian and Bicycle Network.** A pedestrian and bicycle network must be provided in accordance with Section 5.09.03.
- J. **Transition Standards.** Within the JLMA-LN Zoning District, development transition standards must be provided pursuant to Section 5.11.
- K. **Other Design Requirements.**
1. Garages with access from the front must be setback at least 10 feet behind the front line of buildings.
 - a. *Exception.* This does not apply where the architectural front of a single-family detached, or a single-family attached duplex, triplex, or quadruplex dwelling unit is not oriented to a street.
- L. **Utility Requirements.** Utilities must be provided in accordance with Section 5.02.

2.05.03 Joint Land Management Area – Leesburg JLMA Employment – JLMA-LE

Purpose. *The purpose of the Joint Land Management Area - Leesburg JLMA Employment (JLMA-LE) District is to:*

- *Implement the Leesburg Joint Land Management Area Employment Place Type of the General Plan.*
- *Provide opportunities for a range of light and general industry uses consistent with the existing pattern south of Route 7 and around the Leesburg Executive Airport, including flex space, manufacturing, warehousing, contractor services, and other productive uses.*
- *Allow complementary office and data center uses and necessary supporting accessory uses and facilities.*
- *Ensure sites are designed so that light and general industry uses in the district are sufficiently separated from adjacent residential uses.*
- *Establish a park-like atmosphere to complement surrounding land uses by means of appropriate siting of buildings and service areas, attractive architecture, and effective landscape buffering.*
- *Provide and retain opportunities for special activity uses that may necessitate large land areas, often operating and designed in a campus like atmosphere, and which may require functional separation from residential, commercial, or industrial development.*

A. **Applicability, Size, and Location.** The SE District must be:

1. *Place Type.* Located in areas consistent with the JLMA – Leesburg Employment Place Type of the General Plan.
2. *Minimum District Size.* The initial district size must be 5 acres.
3. *Incremental Additions.* The Board of Supervisors may approve a zoning map amendment with incremental additions to increase the size of the district if it finds that they are:
 - a. Abutting or across a road with no more than 2 through lanes from an existing JLMA-LE district;
 - b. Compatible with the existing adjacent JLMA-LE district;
 - c. Consistent with the General Plan policies for the area; and
 - d. Integrated with the existing JLMA-LE district through roadway, pedestrian, and bicycle connections as well as a consistent streetscape.

B. **Use Regulations.** Refer to Table 3.02.02 for uses allowed in the district.

C. Dimensional Standards. Refer to Table 2.05.03-1 for required dimensional standards.

Table 2.05.03-1: JLMA-LE District Dimensional Standards		
Reference	Standard	Requirement
Lot Requirements		
1	Lot Size (min.)	1 acre, exclusive of major floodplain
Yards		
2	Setback Adjacent to Roads (min.) ¹	30 ft.
3	Setback Adjacent to Agricultural and Residential Districts or Residential Uses (min.)	75 ft. Building 35 ft. Parking
4	Setback Adjacent to Other Nonresidential Districts (min.) ²	15 ft.
5	Setback Adjacent to JLMA-LE District (min.)	No requirement.
6	Setback Between Buildings on Individual Lots or Building Sites (min.) ²	30 ft. Driveways, parking, and covered entrances - 5 ft. from lot lines ³
7	Setback Between Buildings on an Individual Lot or Building Site (min.)	25 ft. or greater if required for fire protection ³
Building Requirements		
8	FAR (max.)	0.60 1.0 by SPEX pursuant to Section 7.10
9	Lot Coverage (max.)	0.45 0.60 by SPEX
10	Building Height (max)	50 ft.
Open Space Requirements		
11	Open Space (min.) ⁴	20%
12	Landscaped Open Space (min.) ⁵	20% of the buildable area of the lot
(ft. = foot; min. = minimum; max. = maximum)		
¹ Except when a greater setback is required by Section 5.07.02.		
² Unless a greater buffer yard is required by Section 5.07.04.		
³ Covered walkways connecting buildings or connecting buildings with parking areas are permitted in yards and may traverse the space when buildings are on an individual lot or building site.		
⁴ Open Space must be provided in accordance with Section 5.04.		
⁵ Landscaped open space that is provided pursuant to Section 5.04 may be used to meet the minimum Open Space requirement of the district.		

D. Mix of Uses. The use mix in the JLMA-LE District must be provided in accordance with Table 2.05.03-2.

Table 2.05.03-2. Required Mix of Uses	
Land Use Category	SC District ^{1, 2}
Nonresidential	Up to 100%
Public/Civic	0%+
¹ Percent of gross land area.	
² Total percentage of land use categories must equal 100%.	

E. District Vehicular Access. Access to the JLMA-LE District must be provided in accordance with Section 5.12.

F. Lot Access. Access to lots in the JLMA-LE District must be provided in accordance with Section 5.09.01.D.

G. Road Network. Within the JLMA-LE District, the road network must be provided pursuant to Section 5.09.02 and as follows:

1. Streets must form blocks where feasible.
2. Block length or length between intersecting streets must be:
 - a. Minimum: 300 feet
 - b. Maximum: 1,000 feet
3. So that future street connections to adjacent developable parcels within the Suburban Employment or

Suburban Mixed Use Place Type of the General Plan can be created.

- H. **Pedestrian and Bicycle Network.** A pedestrian and bicycle network must be provided in accordance with Section 5.09.03.
- I. **Transition Standards.** Within the JLMA-LE Zoning District, development transition standards must be provided pursuant to Section 5.11.
- J. **Utility Requirements.** Utilities must be provided in accordance with Section 5.02.

2.05.04 Joint Land Management Area – Leesburg JLMA Industrial/Mineral Extraction – JLMA-LME

Purpose. The purpose of the Joint Land Management Area - Leesburg JLMA Industrial/Mineral Extraction (JLMA-LME) district is to:

- Implement the Joint Land Management Area (JLMA) - Leesburg Industrial/Mineral Extraction Place Type of the General Plan.
- Serve as an interim long-term district, recognizing that areas devoted to resource extraction may and should ultimately be converted to other compatible and beneficial uses consistent with the General Plan.
- Protect the mineral resources, primarily diabase rock, of the County:
 - For possible future economic development.
 - To provide for diabase resource extraction operations at appropriate locations and under controlled conditions.
 - To co-locate with quarries compatible heavy industrial uses.
- Provide a location for industrial and mineral extraction uses that are incompatible with residential uses due to the prevalence of outdoor storage and emissions of noise, odor, and vibrations to operate.
- Ensure mineral extraction and intensive industrial uses with a public nuisance potential and necessary accessory uses and facilities are built in a well-coordinated and attractive manner that is compatible with surrounding land uses.
- Provide for development with limited traffic and aesthetic impacts on surrounding properties and on supporting public facilities and utilities.

A. Applicability, Size, and Location. The following applies to the JLMA-LME District:

1. **Place Type.** Located in areas consistent with the JLMA- Leesburg Industrial/Mineral Extraction Place Type of the Loudoun County General Plan.
2. **Minimum district size.** The initial district size must be a minimum of 600 acres. Notwithstanding the provisions of Section 2.06.C.3, the minimum district size is not modifiable.
3. **Incremental Additions.** The Board of Supervisors may approve a zoning map amendment with incremental additions to increase the size of the district if it finds that they are:
 - a. A minimum of 10 acres in size;
 - b. Abutting or across a road with no more than 2 through lanes from an existing JLMA-LE district;
 - c. Compatible with the existing adjacent JLMA-LME district;
 - d. Consistent with the Loudoun County General Plan policies for the area; and
 - e. Integrated with the existing JLMA-LME district through roadway, pedestrian, and bicycle connections as well as a consistent streetscape.

B. Use Regulations. Refer to Table 3.02.02 for uses allowed in the district.

1. **Prohibited Uses.** Uranium mining is not permitted in the JLMA-LME district.

C. Dimensional Standards. Refer to Table 2.05.04-1 for required dimensional standards.

Table 2.05.04-1. JLMA-LME District Dimensional Standards		
Reference	Standard	Requirement
Lot Requirements		

1	Lot Size (min.) ¹	1 acre, exclusive of major floodplain
Yards		
2	Setback Adjacent to Roads (min.) ²	30 ft.
3	Setback Adjacent to Agricultural and Residential Districts or Residential Uses (min.) ¹	100 ft.
4	Setback Adjacent to Other Nonresidential Districts (min.)	50 ft.
5	Setback Adjacent to Other Industrial or Mineral Extraction Districts ³	15 ft.
6	Setback Between Buildings on Individual Lots or Building Sites (min.) ³	30 ft. Driveways, parking, and covered entrances - 5 ft. from lot lines ⁴
7	Setback Between Buildings on an Individual Lot or Building Site (min.)	25 ft. or greater if required for fire protection ⁴
Building Requirements		
8	FAR (max.)	0.75 1.0 by SPEX pursuant to Section 7.10.01
9	Lot Coverage (max.)	0.50
10	Building Height (max) ⁵	50 ft.
Open Space Requirements		
11	Open Space (min.) ⁶	20%
12	Landscaped Open Space (min.) ⁷	0.2 times buildable area of lot Extractive Industries Use: N/A
<p>(ft. = foot; min. = minimum; max. = maximum)</p> <p>¹Except when greater in Section 3.06 Use Specific Standards</p> <p>²Except when a greater setback is required by Section 5.07.02.</p> <p>³Except when a greater buffer yard is required by Section 5.07.04.</p> <p>⁴Covered walkways connecting buildings or connecting buildings with parking areas are permitted in yards and may traverse the space when buildings are on an individual lot or building site.</p> <p>⁵Except non-habitable structures associated with a quarry operation. Such structures are permitted by right to 120 feet in height provided they are set back from property lines and district boundaries an additional setback of 2 feet for each 1 foot in height above 50 feet. Such structures require special exception approval for heights exceeding 120 feet.</p> <p>⁶Open Space must be provided in accordance with Section 5.04.</p> <p>⁷Landscaped open space that is provided pursuant to Section 5.04 may be used to meet the minimum Open Space requirement of the district.</p>		

D. **Mix of Uses.** The use mix in the JLMA-LME District must be provided in accordance with Table 2.05.04-2.

Land Use Category	SC District ^{1, 2}
Nonresidential	Up to 100%
Public/Civic	0%+

¹ Percent of gross land area.
²Total percentage of land use categories must equal 100%.

- E. **Stone Quarrying Special Exception Requirement.** The establishment of any new stone quarrying operations or the expansion of any existing stone quarrying operations beyond previously granted approvals in the JLMA-LME Special Exception approval is subject to Section [7.09.01](#) and the Stone Quarrying Special Exception application procedures in Section [7.09.07](#).
- F. **District Vehicular Access.** Access to the JLMA-ME District must be provided in accordance with Section [5.09.01.E](#).
- G. **Lot Access.** Access to lots in the JLMA-LME District must be provided in accordance with Section [5.09.02](#).
- H. **Pedestrian and Bicycle Network.** A pedestrian and bicycle network must be provided in accordance with Section [5.09.03](#).
- I. **Transition Standards.** Within the JLMA-LME Zoning District, development transition standards must be

provided pursuant to Section [5.11](#).

J. **Utility Requirements.** Utilities must be provided in accordance with Section [5.02](#).

**PROPOSED COUNTY
LAND-USE
TABLE.**

3.02.02 Transition and JLMA Use Table

Table 3.02.02-2															
Principal Use Table for Transition and Joint Land Management Area (JLMA) Policy Areas															
Note: P = By Right S = Special Exception M = Minor Special Exception blank cell = Prohibited															
	Transition									Joint Land Management					Sp Sta
	TLN-10	TLN-3	TLN-1	TSN	TCN	TCC	TLI	TI	TME	JLMA-1	JLMA-2	JLMA-3	JLMA-LE	JLMA-LME	
Residential															
Household Living:															
Accessory dwelling	P	P	P	P	P						P	P	P		
Caretaker or guard	P	P	P				P	P	P				P	P	
Dwelling, single-family attached					P										3.C
Dwelling, multifamily						P									3.C
Dwelling, single-family detached	P	P	P	P	P					P	P	P			
Live/work dwelling				P		P									3.C
Manufactured home	P	P	P	P	P					P	P	P			
Religious housing	S	S	S	S	P	P				P	P	P			
Tenant dwelling*	P/S	P/S	P/S							S	S	S			
Group Living:															
Rooming and Boarding															
Congregate housing	S	S	S	S	S					S	S	S			
Continuing care facility	S	S	S		S	S				S	S	S	S		
Lodging															
Bed and breakfast homestay	P	P	S							P	P	P			
Bed and breakfast inn	P	P	P							P	P	P			
Campground	S	S					S			S	S	S	S		
Country Inn	M	S										M			
Guest farm or ranch												P			
Hotel / Motel							S						P		
Rural resort	S											S			
Commercial															
Animal Services:															
Animal care business	P	P	P	P						P	P	P			
Animal hospital	S	S				S	P	P	P			S	P	P	
Kennel	P	S						P	P			S		P	
Kennel, indoor	P	P										P			
Veterinary service	P	P	P	S								P			
Day Care:															
Adult day care	S	S	S	P	P	P	P			S	S	S	P		
Child day care	S	S	S	S	S	P	S			S	S	S	S		
Child day home	P	P	P	P	P					S	S	S			
Financial Services:															

See Section 2.03 for a description of Transition Large Lot Neighborhood (TLN-1, TLN-3, TLN-10), Transition Small Lot Neighborhood (TSN), Transition Neighborhood (TCN), Transition Community Center (TCC), Transition Light Industrial (TLI), and Transition Industrial/Mineral Extraction (TIE). See Section 2 description of the Joint Land Management Area districts (JLMA-1, JLMA-2, JLMA-3, and JLMA-20), including Joint Land Management Area – Leesburg Emp (JLMA-LE), and Joint Land Management Area – Leesburg Industrial/Mineral Extraction (JLMA-LI).

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Table 3.02.02-2

Principal Use Table for Transition and Joint Land Management Area (JLMA) Policy Areas

Note: P = By Right | S = Special Exception | M = Minor Special Exception | blank cell = Prohibited

	Transition									Joint Land Management					Special State
	TLN-10	TLN-3	TLN-1	TSN	TCN	TCC	TLI	TI	TME	JLMA-1	JLMA-2	JLMA-3	JLMA-LE	JLMA-LME	
Bank or financial institution				S	S	P	P						P		3.C
Food and Beverage Sales/Service:															
Banquet/Event Facility	M	M													
Craft beverage manufacturing							P	P	P				P	P	
Farm market*	P	P	P	P		P				P	P	P			
Farm market (off-site production)	S	S	S	S	S	S				S	S	S			
Food preparation					S	M			P				P	P	
Food store				S	S	P									
Mobile vendor															
Restaurant, carry-out only				S	S	P	P	P	P				P	P	
Restaurant, sit-down				S	P	P	P	P			S	S	P		
Restaurant, fast-food, excluding drive-through facilities				S	S	S	S	S	P		S	S	P	P	3.C
Snack or beverage bars				S	S	P	P	P	P		S	S	P	P	
Office, Business & Professional:															
Office				S	S	P	S	P	S				P	S	
Small business, agricultural and rural	P/S	P/S	P/S						P/S	P/S	P/S	P/S	P/S	P/S	
Personal/Business services:															
Building maintenance services						P	P	P	P				P	P	
Business support services				S	S	P	P	P	P				P	P	
Dry cleaning plant							P	P	P				P	P	
Farm machinery	S									P	P	P			
Maintenance and repair services					S		P		P				P	P	
Personal services				P	S	P	P	P	S				S	S	
Postal services				S	S	P	P	P	P				P	P	
Retail:															
Auction							P		P				P	P	
Convenience store						P	S						S		
Convenience store (with gasoline sales)						S	S		S					S	
Feed and farm supply center	S								P	S	S	S	P	P	
Machinery and equipment sales and services							P		P				S	P	
Nonstore retailers							P	P	P				P	P	
Nursery, Commercial	S	S	S					P	P	S	S	S		P	3.C

See Section 2.03 for a description of Transition Large Lot Neighborhood (TLN-1, TLN-3, TLN-10), Transition Small Lot Neighborhood (TSN), Transition Neighborhood (TCN), Transition Community Center (TCC), Transition Light Industrial (TLI), and Transition Industrial/Mineral Extraction (TIE). See Section 2 description of the Joint Land Management Area districts (JLMA-1, JLMA-2, JLMA-3, and JLMA-20), including Joint Land Management Area – Leesburg Employment (JLMA-LE), and Joint Land Management Area – Leesburg Industrial/Mineral Extraction (JLMA-LI).

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	Transition									Joint Land Management					St
	TLN-10	TLN-3	TLN-1	TSN	TCN	TCC	TLI	TI	TME	JLMA-1	JLMA-2	JLMA-3	JLMA-LE	JLMA-LME	
Retail, general	S			S	S	P	P	P	P				P	P	3.0
Automotive:															
Car Wash						S	S		S				S	S	
Vehicle repair, heavy							S		S				S	S	
Vehicle repair, light							P		P				P	P	
Vehicle sales							S	P	P				S	P	
Vehicle service station						S	S	S	S				S	S	
Vehicle wholesale auction									P					P	
Public/Civic/Institutional															
Assembly:															
Civic, social, and fraternal meeting place	S	S	S	S	P	P	P		S	S	S	S	P	S	
Community center	S	S	S	S	P	P				S	S	S	P		
Convention or exhibition facility													P		
Religious land use	S	S	S	S	P	P	P		S	P/S	P/S	P/S	P/S	S	
Death Care Services:															
Cemetery	S	S	S	S	P	P	P		S	S	S	S	S	S	
Crematorium	S	S	S	S	S	S	S	S	S	S	S	S	S	S	
Funeral services				S	P	P	P			S	S	S	S		
Mausoleum	S	S	S	S	P	P	P		S	S	S	S	S	S	
Government/Non-Profit:															
Government (general) (not otherwise listed)	S	S	S	S	S	P	S	P		S	S	S	S		
Public safety	S	S	S	S	S	P	S	P	S	S	S	S	S	S	
Public utility service center, with outdoor storage	S	S	S				S	P	S	S	S	S	S	S	
Public utility service center, without outdoor storage	P	P	P	S		S	S		P				P	P	
Education:															
Agricultural education or research	S	S				S	S		S				S	S	
Business/technical school	S	S	S	S		P	P		P				S	P	
Colleges or universities						P	P						S		
Educational institution						P	P						S		
Library				S	S	P	P			S	S	S	S		
Personal instructional services				S	S	P	P						S		
Rural retreat	S											S			
School	P/M	P/M	P/M	P/M	P/M	P/M	P/M	S	S	P/M	P/M	P/M	M	S	
Conference and Training facility						P	P		P				S	P	
Medical:															
Hospital							S					S	S		

See Section 2.03 for a description of Transition Large Lot Neighborhood (TLN-1, TLN-3, TLN-10), Transition Small Lot Neighborhood (TSN), Transition Neighborhood (TCN), Transition Community Center (TCC), Transition Light Industrial (TLI), and Transition Industrial/Mineral Extraction (TIE). See Section 2 description of the Joint Land Management Area districts (JLMA-1, JLMA-2, JLMA-3, and JLMA-20), including Joint Land Management Area – Leesburg Employment (JLMA-LE), and Joint Land Management Area – Leesburg Industrial/Mineral Extraction (JLMA-LI).

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	Transition									Joint Land Management					St
	TLN-10	TLN-3	TLN-1	TSN	TCN	TCC	TLI	TI	TME	JLMA-1	JLMA-2	JLMA-3	JLMA-LE	JLMA-LME	
Medical care facility				P		P	P				S	S	P		
Medical office						P	S				S	P			
Arts, Entertainment, and Recreation:															
Adult entertainment							P		P					P	
Agricultural cultural center	P	P	P			P				P	P	P	S		
Agritainment	P	P	P							P	P	P			
Amphitheater	S	S	S	P	P	S	S						S		
Art Studio	S			S	P	P	S			S	S	S			
Cultural facility	S	S	S	S	P	P	S					S	P		
Cultural tourism	P	P	P	S						P	P	P			
Dinner theater						P							P		
Entertainment facility					S	P									
Equestrian event facility	P	P	P	P		P				P	P	P			
Health and fitness center					S	P	P		P				P	P	
Open space, passive*	P	P	P							P	P	P			
Pet farm*					P					P	P	P			
Recreation, active*	S	S	S							S	S	S			
Recreation, indoor						P	P/S		P/S				P/S	P/S	
Recreation, outdoor or major	S	S	S		S	S	P/S	P/S	S	S	S	S	S	S	
Shooting range, indoor						P	S		P				S	P	
Theater						P	S						P		
Industrial / Production															
Manufacturing and Employment:															
Agricultural processing*	P	P								P	P	P			
Contractor							P		P				P	P	
Data center							P	P	P				P	P	
Extractive industries								P	P					P	
Flex building							P		P				P	P	
Manufacturing, General							S	P	P				P	P	
Manufacturing, Intensive								P	S					S	
Manufacturing, Light							P		P				P	P	
Media Production							P	P	P				P	P	
Research and Development							P	P	P				P	P	
Sawmill								P	P					P	
Wood, metal and stone crafts							P								
Warehousing, Storage and Distribution:															

See Section 2.03 for a description of Transition Large Lot Neighborhood (TLN-1, TLN-3, TLN-10), Transition Small Lot Neighborhood (TSN), Transition Neighborhood (TCN), Transition Community Center (TCC), Transition Light Industrial (TLI), and Transition Industrial/Mineral Extraction (TIE). See Section 2 description of the Joint Land Management Area districts (JLMA-1, JLMA-2, JLMA-3, and JLMA-20), including Joint Land Management Area – Leesburg Emp (JLMA-LE), and Joint Land Management Area – Leesburg Industrial/Mineral Extraction (JLMA-LI).

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	Transition									Joint Land Management					St
	TLN-10	TLN-3	TLN-1	TSN	TCN	TCC	TLI	TI	TME	JLMA-1	JLMA-2	JLMA-3	JLMA-LE	JLMA-LME	
Building and landscaping materials supplier							P	P	P					P	
Energy Storage								S	S					S	
Freight									P					P	
Industrial storage								P	P				S	P	
Mini-warehouse							M	S	S				S	S	
Outdoor storage								P	S					S	
Outdoor storage, vehicles								P	S					S	
Vehicle storage and impoundment								S	S					S	
Wholesale distribution, warehousing, and storage							P	P	P				P	P	
Infrastructure															
Transportation / Parking:															
Airport	S								S				P	S	
Ground passenger transportation (e.g. taxi, charter bus)							P	P	S				P	S	
Heliport or helistop							S		S				S	S	
Parking facility					S	P	S	S	P	S	S	S	P	P	
Transit facilities	S	S	S	S	S	S	S	S	S	S	S	S	P	S	
Utilities:															
Electric generating plant									S					S	
Solar facility, commercial								S	S					S	
Utility, Minor	S	S	S	S	S	S	P	P	S	S	S	S	S	S	
Utility, Major	S	S	S	S	S	S	S	S	S	S	S	S	S	S	
Water well, municipal										P	P	P			
Communications facilities:															
Communications facility	S	S	S	S	S	S	P	S	P	S	S		S	P	
Telecommunications facility	P/S	P/S	P/S	P/S	P/S	P/S	P	P	P	P/S	P/S	P/S	P/S	P	
Waste-related:															
Composting facility	S	S						S	S					S	
Junkyard								S	S					S	
Recycling collection center	S	S	S	S	S	S	P	P	S	S	S	S	S	S	
Remediation Services								P	P					P	
Solid waste facility								S	S					S	
Stockpiling								S	S					S	
Vegetative waste management facility	S	S						S	S					S	
Agriculture															

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	Transition									Joint Land Management					St Sta
	TLN-10	TLN-3	TLN-1	TSN	TCN	TCC	TLI	TI	TME	JLMA-1	JLMA-2	JLMA-3	JLMA-LE	JLMA-LME	
Agriculture*	P	P	P	P					S	P	P	P	S	S	
Animal Husbandry*	P	P	P	P						P	P	P			
Auction facility, livestock									S					S	
Community garden*	P	P	P	P	P	P	P			P	P	P	P		
Custom operators	P	P	P	P						P	P	P			
Farm co-ops*	P	P	P	P	P	P				P	P	P			
Farm distribution hub	S			P											
Feedlot															
Horticulture*	P	P	P	P						P	P	P			
Nursery, Production*	P	P	P	P						P	P	P			
Stable or Livery*	P	P	P	P						P	P	P			
Stable, private*	P	P	P	P						P	P	P			
Wayside stand*	P	P	P	P	P					P	P	P			
Winery, Virginia farm	P	P	P							P	P	P			
Miscellaneous															
Temporary Uses	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P

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ZONING ORDINANCE REWRITE

Learn more and submit your comments or questions at
loudoun.gov/zoningordinancerewrite

NOTE: The draft zoning districts listed in this table are subject to change. Prior to the Planning Commission Public Hearing currently planned for fall 2022, each property owner will receive a letter identifying the existing zoning district and the draft new zoning district.

Current Zoning District(s)	Draft New Zoning District
	<i>Urban Policy Area Zoning Districts</i>
Planned Development-Transit Related Center – PD-TRC	Urban Transit Center/Mixed Use – UT/UM
Planned Development-Transit Related Employment Center – PD-TREC	Urban Employment – UE
	<i>Suburban Policy Area Zoning Districts</i>
Single Family Residential-4 – R-4	Suburban Neighborhood – SN-4
New District	Suburban Neighborhood – SN-6
Single Family Residential-8 – R-8	
Townhouse/Multifamily Residential-16 – R-16	Suburban Compact Neighborhood-8, -16, -24 – SCN-8, SCN-16, SCN-24
Multifamily Residential-24 – R-24	
New District	Suburban Mixed Use – SM
Planned Development-Commercial Center (Neighborhood Center) – PD-CC(NC)	Suburban Commercial – Neighborhood Center – SC-NC
Planned Development-Commercial Center (Community Center) – PD-CC(CC)	Suburban Commercial – Community Center – SC-CC
Planned Development-Office Park – PD-OP	
Planned Development-Industrial Park – PD-IP	Suburban Employment – SE
Planned Development-Research and Development Park – PD-RDP	
General Business – GB	
Commercial Light Industry – CLI (south side of Route 50)	
Planned Development-General Industry – PD-GI	Suburban Industrial – SI
Mineral Resource-Heavy Industry – MR-HI	
GB (north side of Route 50, near Fairfax County line)	Suburban Mineral Extraction – SME
CLI (north side of Route 50)	
	<i>Transition Policy Area Zoning Districts</i>
Transitional Residential-10, -3, -1 – TR-10, TR-3, TR-1	Transition Large Lot Neighborhood-10, -3, -1 – TLN-10, TLN-3, TLN-1

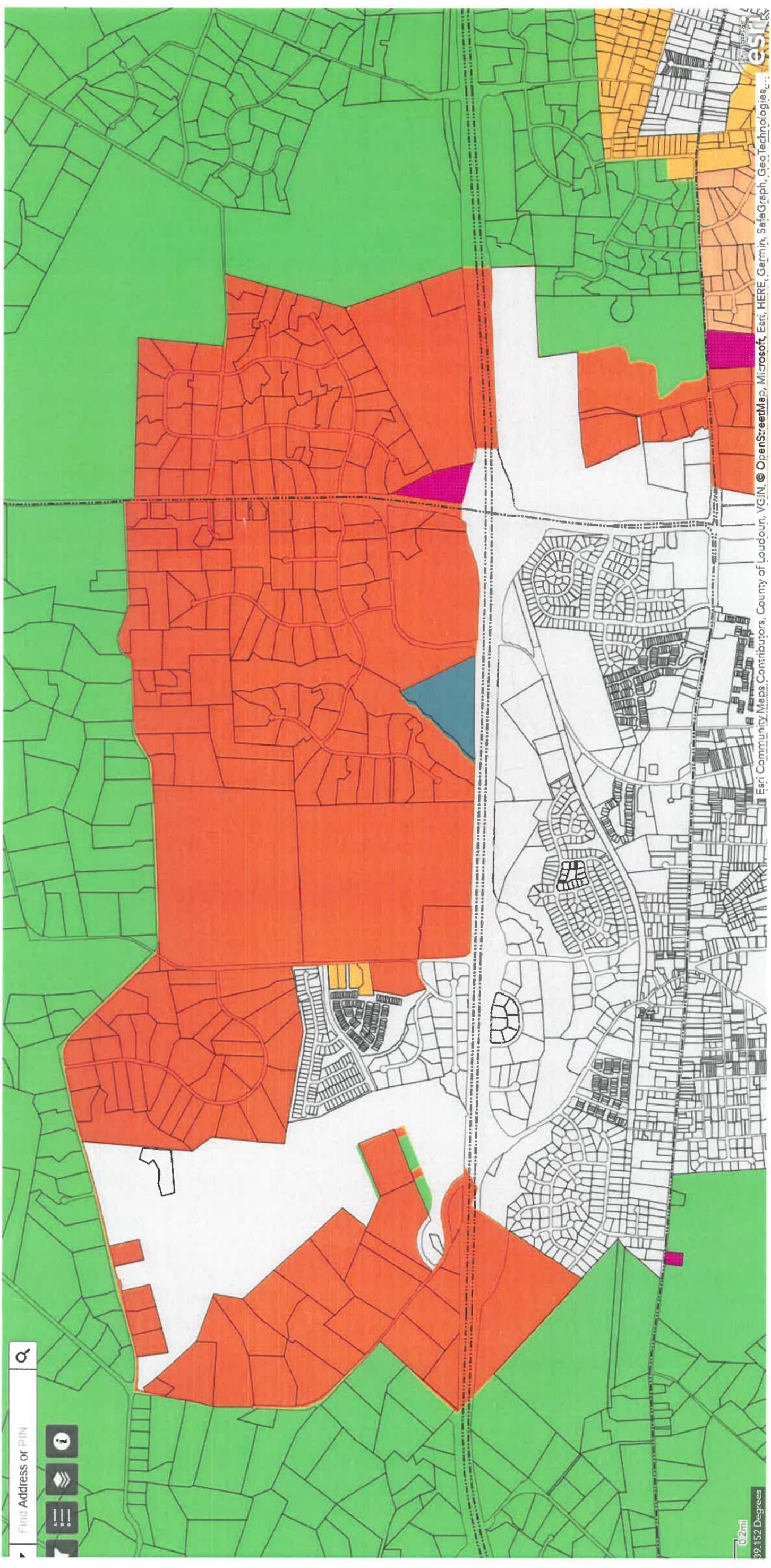
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Current Zoning District(s)	Draft New Zoning District
New District	Transition Small Lot Neighborhood – TSN
New District	Transition Compact Neighborhood – TCN
New District/PD-CC(CC)	Transition Community Center – TCC
PD-IP, PD-OP	Transition Light Industrial – TLI
PD-GI	Transition Industrial – TI
MR-HI	Transition Mineral Extraction – TME
	<i>Rural Policy Area Districts</i>
Agricultural Rural-1 – AR-1	Agricultural Rural North – ARN
Agricultural Rural-2 – AR-2	Agricultural Rural South – ARS
Countryside Residential-1, -2, -3, 4 – CR-1, CR-2, CR-3, CR-4	Village Residential-1, -2, -3, -4 – VR-1, VR-2, VR-3, VR-4
A-3 (district is in a village)	Village Agricultural/Residential – VAR
Rural Commercial – RC (district is in a village)	Village Commercial – VC
	<i>Joint Land Management Area (JLMA) Policy Area Districts</i>
Joint Land Management Area-1, -2, -3 – JLMA, 1, JLMA-2, JLMA-3	JLMA-1, JLMA 2, JLMA 3
R-4	Leesburg JLMA Residential Neighborhood – JLMA-LN
PD-OP, PD-IP	JLMA Leesburg Employment – JLMA-LE
MR-HI	JLMA Leesburg Mineral Extraction – JLMA-LME
	<i>Planned Development District</i>
New District	Planned Development (PD)
	<i>Legacy Districts</i>
Planned Development-Housing – PD-H	Planned Development-Housing – PD-H
Planned Development-Commercial Center (Small Regional Center) – PD-CC(SC)	Planned Development-Commercial Center (Small Regional Center) – PD-CC(SC)
Planned Development-Commercial Center (Regional Center) – PD-CC(RC)	Planned Development-Commercial Center (Regional Center) – PD-CC(RC)
Planned Development-Special Activity – PD-SA	Planned Development-Special Activity – PD-SA
Planned Development-Active Adult/Age Restricted – PD-AAAR	Planned Development-Active Adult/Age Restricted – PD-AAAR
Planned Development-Town Center – PD-TC	Planned Development-Town Center – PD-TC
Planned Development-Mixed Use Business – PD-MUB	Planned Development-Mixed Use Business – PD-MUB
Single Family Residential-1, -2, -3 – R-1, R-2, R-3	Single Family Residential – R-1, R-2, R-3
Countryside Residential-1 – CR-1 (district is not in a village)	Countryside Residential-1 – CR-1

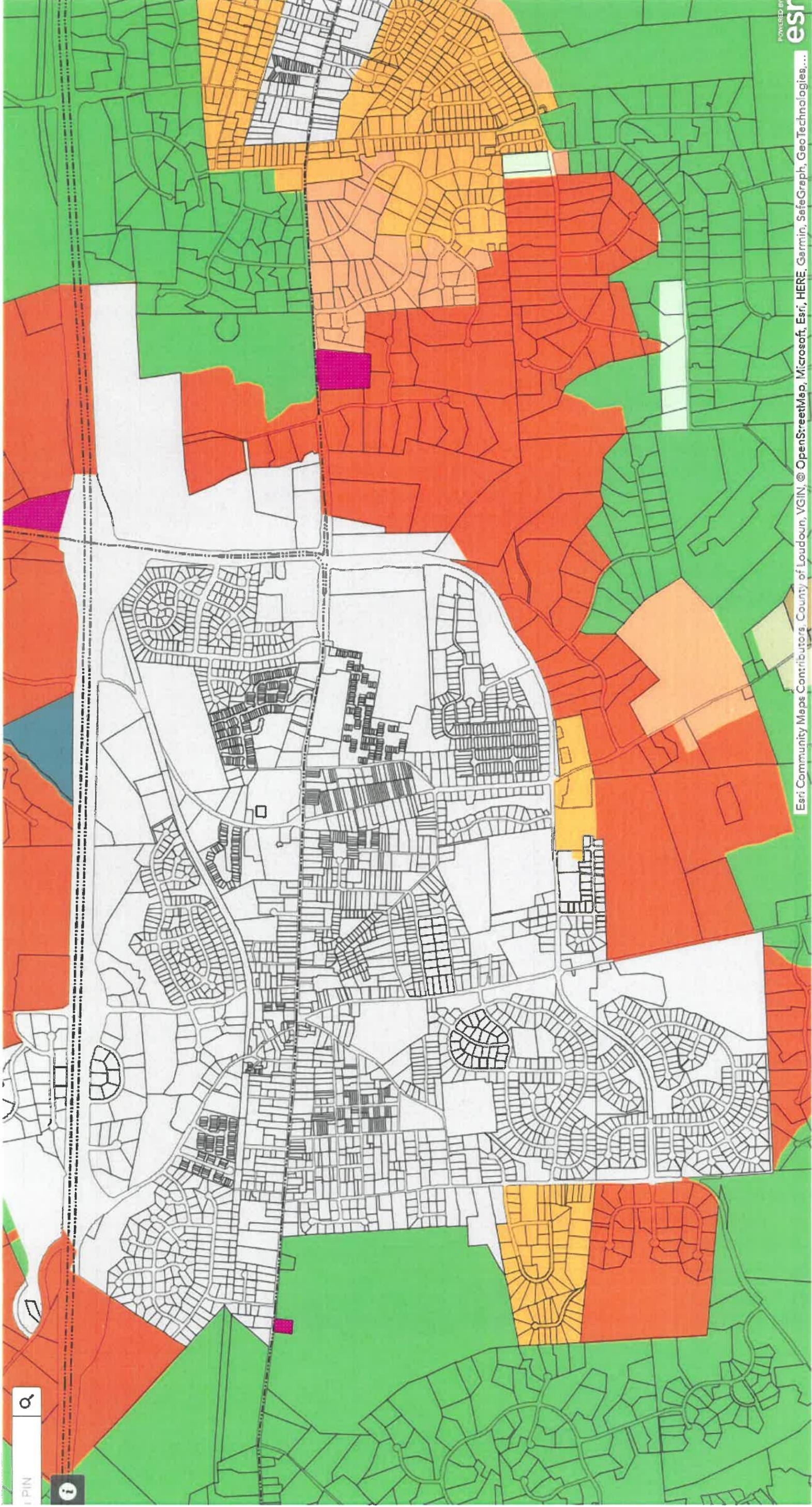


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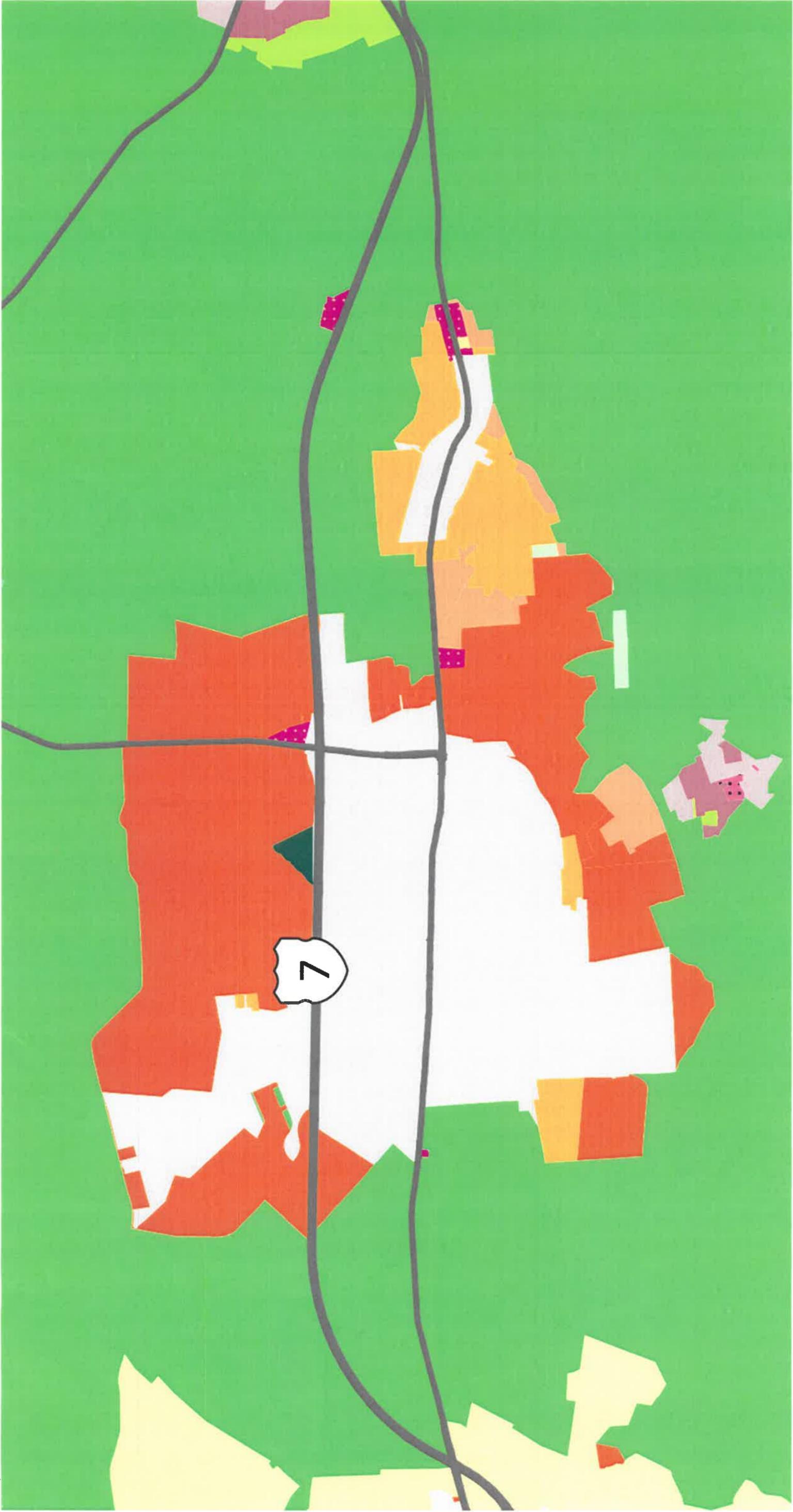
Current Zoning District(s)	Draft New Zoning District
Transitional Residential – TR-2	Transition Residential – TR-2
Joint Land Management Area-20 – JLMA-20	Joint Land Management Area-20 – JLMA-20
Agricultural – A-10 (including Rural Hamlet)	Agricultural – A-10
Agricultural Residential – A-3 (including Rural Hamlet)	Agricultural Residential – A-3
Rural Commercial – RC (district is not in a village)	Rural Commercial – RC
Planned Development-Rural Village – PD-RV	Planned Development-Rural Village – PD-RV



Map No. 1 - Existing County Zoning Around Purcellville



Map No. 2 - Existing County Zoning Around Purcellville



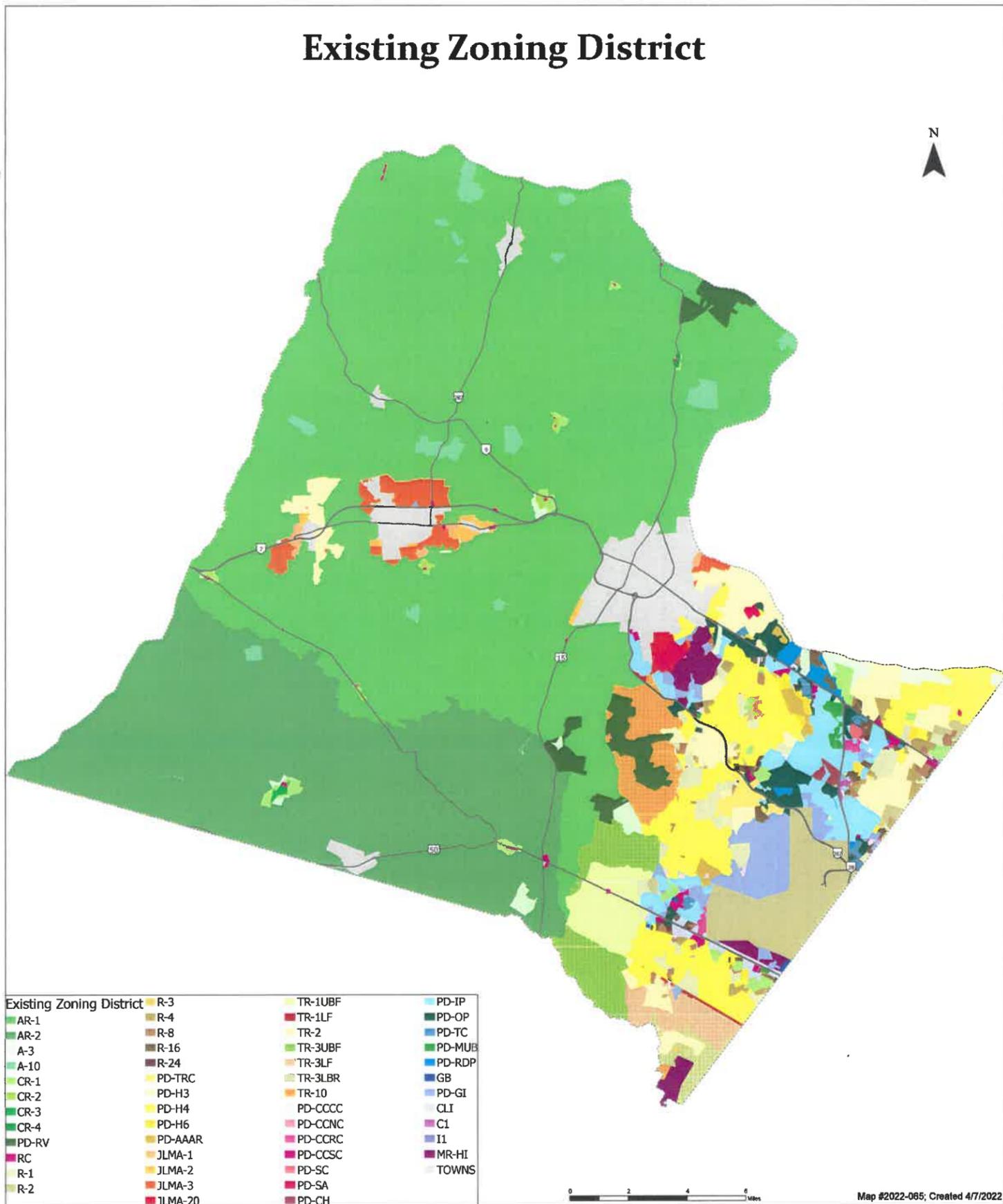
Map 3 -Draft New/Proposed Zoning Around Purcellville

Legacy Zoning District	Draft New Zoning District
A-10	ARN
A-3	ARS
CR-1	JLMA-LE
JLMA-20	JLMA-LME
PD-AAAR	JLMA-LN
PD-CCRC	JLMA-1
PD-CCSC	JLMA-2
PD-H3	JLMA-3
PD-H4	SC-OC
PD-H6	SCN-8
PD-MUB	SCN-16
PD-RV	SCN-24
PD-SA	SC-NC
PD-TC	SE
R-1	SI
R-2	SME
R-3	SN
RC	TOC
TR-2	TCN
TOWNS	TI
	TLJ
	TLN-1
	TLN-3LBR
	TLN-3LF
	TLN-3UBF
	TLN-10
	TME
	UT/UM
	VAR
	VC
	VR-1
	VR-2
	VR-3
	VR-4

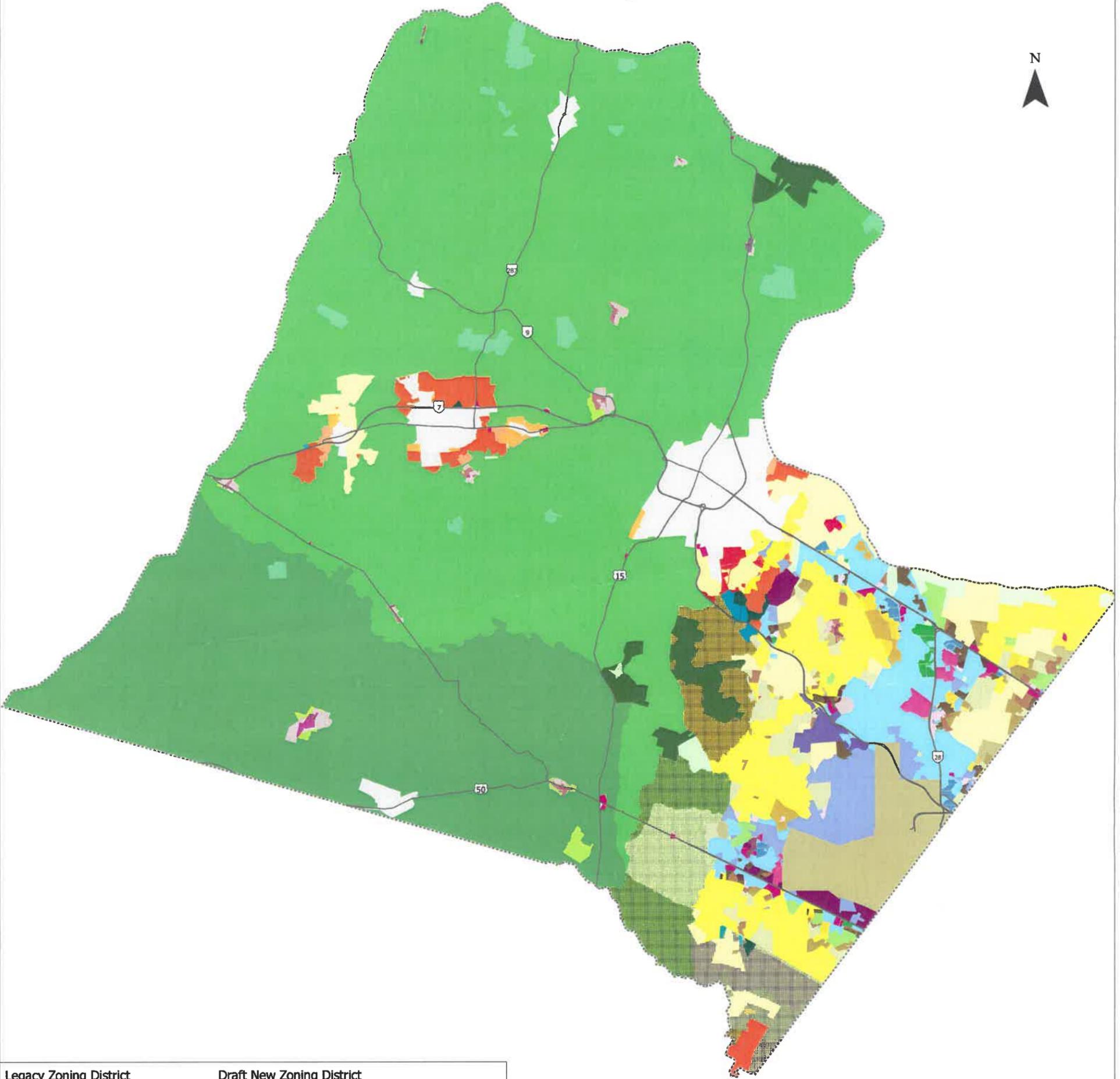
TABLE 2 - DRAFT COUNTY ZONING MAP LEGEND

ZONING ORDINANCE REWRITE

Chapter 2 Zoning Districts | Existing Zoning Districts



Draft New Zoning Districts



Legacy Zoning District		Draft New Zoning District	
A-10	PD-SA	ARN	SC-NC
A-3	PD-TC	ARS	SE
CR-1	R-1	JLMA-LE	SI
JLMA-20	R-2	JLMA-LME	SME
PD-AAAR	R-3	JLMA-LN	SN
PD-CCRC	RC	JLMA-1	TCC
PD-CCSC	TR-2	JLMA-2	TCCN
PD-H3	TOWNS	JLMA-3	TI
PD-H4		SC-CC	TLI
PD-H6		SCN-8	TLN-1
PD-MUB		SCN-16	TLN-3LBR
PD-RV		SCN-24	TLN-3LF
			TLN-3UBF
			TLN-10
			TME
			UT/UM
			VAR
			VC
			VR-1
			VR-2
			VR-3
			VR-4

NOTE
 *The draft zoning district locations depicted on this map are subject to change. Prior to the Planning Commission Public Hearing currently planned for August 2022, each property owner will receive a letter identifying the existing zoning district and the draft new zoning district.





Loudoun County



VIRGINIA

WHERE TRADITION MEETS INNOVATION

Virtual Public Engagement Meeting

Department of Planning and Zoning

Zoning Ordinance Rewrite

May 2, 2022

Introduction

- What is the Zoning Ordinance?
- Zoning Ordinance Rewrite



New Zoning Ordinance Format

Comment Here

How to Comment

Draft New Zoning Ordinance

- Table of Contents
- Loudoun County - Draft New Zoning Ordinance
- Chapter 1: Introduction
- 1.01 Title, Purpose, and Intent
- 1.02 Application of Zoning Ordinance**
- Chapter 2: Zoning Districts
- Chapter 3: Uses
- Chapter 4: Overlay Districts
- Chapter 5: Development Standards
- Chapter 6: Signs
- Chapter 7: Procedures
- Chapter 8: Attainable Housing
- Chapter 9: Nonconformities
- Chapter 10: Officials, Boards and Commissions
- Chapter 11: Definitions and Rules of Interpretation
- Appendix A: Legacy Zoning Districts
- Appendix B: Acronyms
- Appendix C: Fees

NEW ZONING ORDINANCE

Loudoun County - Draft New Zoning Ordinance > Chapter 1: Introduction > 1.02 Application of Zoning Ordinance

LOUDOUN COUNTY - DRAFT NEW ZONING ORDINANCE

CHAPTER 1: INTRODUCTION

1.02 Application of Zoning Ordinance

A. Territorial Application. The regulations and restrictions in this Zoning Ordinance apply to all buildings, structures, land, water, and uses within the unincorporated areas of Loudoun County, Virginia, except those areas determined by law to be under the sovereign control of the United States of America or the Commonwealth of Virginia.

B. General Application. All buildings and structures erected hereafter, all uses of land, water, or buildings established hereafter, all structural alterations or relocations of existing buildings occurring hereafter, and all enlargements of additions to, changes in and relocations of existing uses occurring hereafter are subject to all regulations of this Zoning Ordinance that are applicable to the zoning districts in which such buildings, structures, uses or land are located. Existing buildings, structures and uses that comply with the regulations of this Zoning Ordinance are likewise subject to all regulations of this Zoning Ordinance. Existing buildings, structures, and uses that do not comply with the regulations of this Zoning Ordinance are allowed to continue subject to the provisions of Chapter 9 related to nonconformities.

C. General Prohibition. No building or structure; no use of any building, structure or land; and no lot of record now or hereafter existing can hereafter be established, altered, moved, diminished, divided, eliminated, or maintained in any manner except in conformity with the provisions of this Zoning Ordinance.

D. Private Agreements. This Zoning Ordinance is not intended to abrogate, annul, or otherwise interfere with any easement, covenant, or other private agreement or legal relationship; provided, however, that where the regulations of this Zoning Ordinance are more restrictive or impose higher standards or requirements than such easements, covenants or other private agreements or legal relationships, the regulations of this Zoning Ordinance govern.

E. Existing Special Exceptions and Variances.

- Any special exception lawfully issued prior to June 16, 1993, or any amendment thereof, is deemed to be and continue to be valid, provided that the special exception use is established by June 16, 2003. The period of validity in Section 5-3322 of this Zoning Ordinance does not apply to special exceptions approved prior to June 16, 1993; provided, however, requests for extensions may be submitted in accordance with that section. Any variance previously issued prior to the effective date of this Zoning Ordinance, or any amendment thereof, is deemed to be and continue to be valid after such effective date. Development in accordance with an approved special exception or variance must meet the requirements of this Zoning Ordinance, provided that in the event of any inconsistency between an approved special exception or variance plat and the lot requirements of this Zoning Ordinance, development in accordance with the lot requirements of the special exception or variance plat are permitted.
- Any lawfully existing use that becomes a special exception use in the district in which it is located is deemed to have special exception approval. Extension of such use requires a new special exception approval.

Stand-Alone Zoning Ordinance Amendments

Name	Description
<p>Prime Agricultural Soil and Cluster Subdivision Project Manager: Jacob Hambrick</p>	<p>To amend the cluster residential development standards in the AR-1 and AR-2 zoning districts to prioritize the preservation of prime agricultural soils to support the long-term viability of farming in the Rural Policy Area (RPA). The ZOAM is further intended to improve the overall design of clustered residential development in the RPA.</p>
<p>Short Term Residential Rentals Project Manager: Ethan Strickler</p>	<p>To amend the Zoning Ordinance to allow for short-term rentals. Conceptually, this ZOAM seeks to 1) establish short-term rentals as a new accessory use to residential uses; 2) establish commercial whole house rentals as a new principal use; 3) establish new and/or existing additional use regulations and/or performance standards to address short-term rentals; and 4) establish new and/or revise existing definitions to address short-term rentals.</p>
<p>Airport Impact Overlay Districts Project Manager: Joshua Peters</p> <p>Traffic Impact and Warrant Study Fee Project Manager: Brian Wegener</p>	<p>To amend the requirements of Section 4-1400: Requirements of the Airport Impact Overlay District (AIOD).</p> <p>To determine how the cost of data collection and preparation of warrant studies will be recovered through new legislative fees paid by the applicant.</p>

Loudoun.gov/zoams

Chapter 2 – Zoning Districts

Purpose

- Zoning districts list requirements, such as height, density, lot coverage, yards, and open space, that will shape the pattern and form of new developments and lots.
- Proposed new zoning districts implement the Place Types* in the 2019 General Plan.

**Place Types guide the intent, form, character, and anticipated use in geographic planning policy areas.*



Chapter 2 – Zoning Districts

What’s New?

- Zoning districts are organized by 2019 General Plan Policy Areas:
 - Urban
 - Suburban
 - Transition
 - Rural
 - Joint Land Management Area (JLMA)

Draft New Zoning Ordinance

Table of Contents

Loudoun County - Draft New Zoning Ordinance

Chapter 1: Introduction

Chapter 2: Zoning Districts

2.01 Urban Policy Area Zoning Districts

2.02 Suburban Policy Area Zoning Districts

2.03 Transition Policy Area Zoning Districts

2.04 Rural Policy Area Zoning Districts

2.05 Joint Land Management Area Zoning Districts

2.06 Planned Development Zoning Districts

2.07 Legacy Zoning Districts

Chapter 3: Uses

Chapter 4: Overlay Districts

Chapter 2 – Zoning Districts

What's New?

- New or renamed zoning districts align with 2019 General Plan Place Types, resulting in:
 - Revised height, density, and floor area ratios (FAR) in existing zoning districts.
 - New requirements for open space, use mix, dwelling unit mix, road network, and transition standards.
- Consolidated zoning districts when possible.
- Added new zoning districts to implement the newly envisioned Place Types.

Revised and Renamed Zoning Districts
To align with the 2019 General Plan Place Types

Visualizing Heights, Densities, & FARs



Chapter 2 – Zoning Districts

What is a Legacy District?

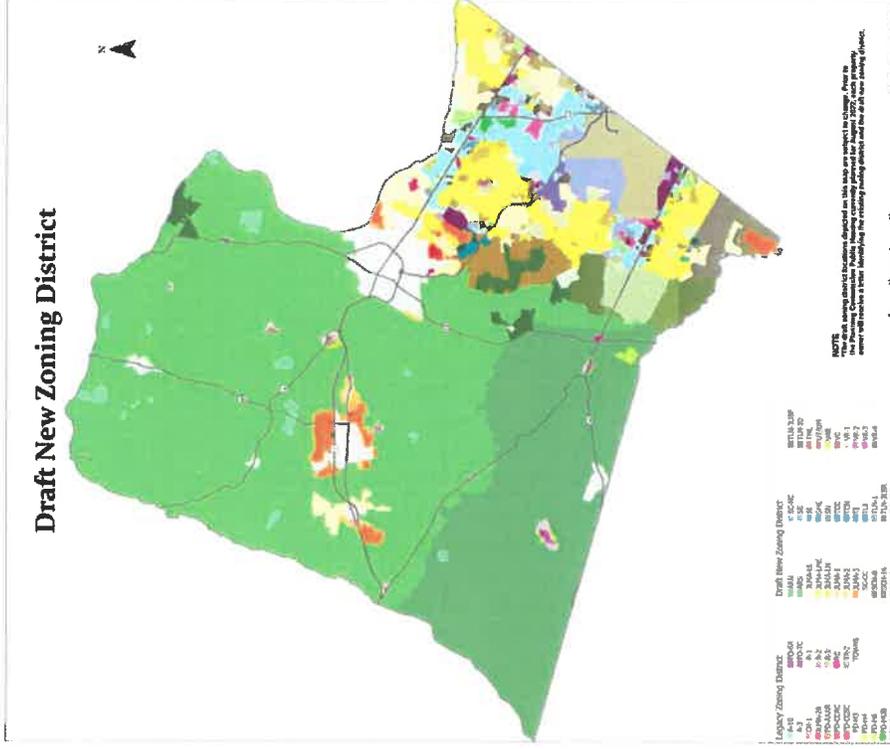
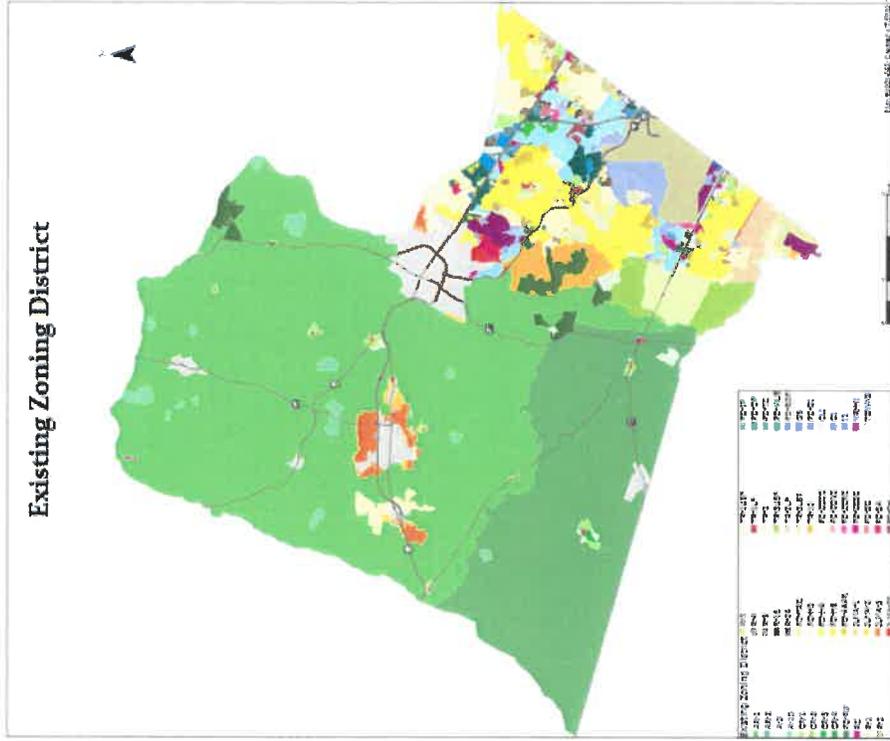
- Zoning districts in the current zoning ordinance that do not align with General Plan Place Types largely due to density.
- Retained in the new zoning ordinance to protect districts that currently allow a higher density or FAR than envisioned by the Place Type.

Chapter 2 – Zoning Districts

What is a Legacy District?

- Intended to phase out over time as property owners may choose to rezone to a new zoning district.
- Will be limited to current boundaries.
- Approved rezonings within legacy districts will be allowed to develop based on previous approvals but will not be permitted to expand or amend previous approvals.
- Legacy districts will appear in Appendix A of the new zoning ordinance to avoid multiple zoning ordinances.

Chapter 2 – Zoning Districts



Q&A: Zoning Districts

The Zoning Ordinance Rewrite team is prepared to answer any questions about **Zoning Districts** that are asked through the Q&A box.

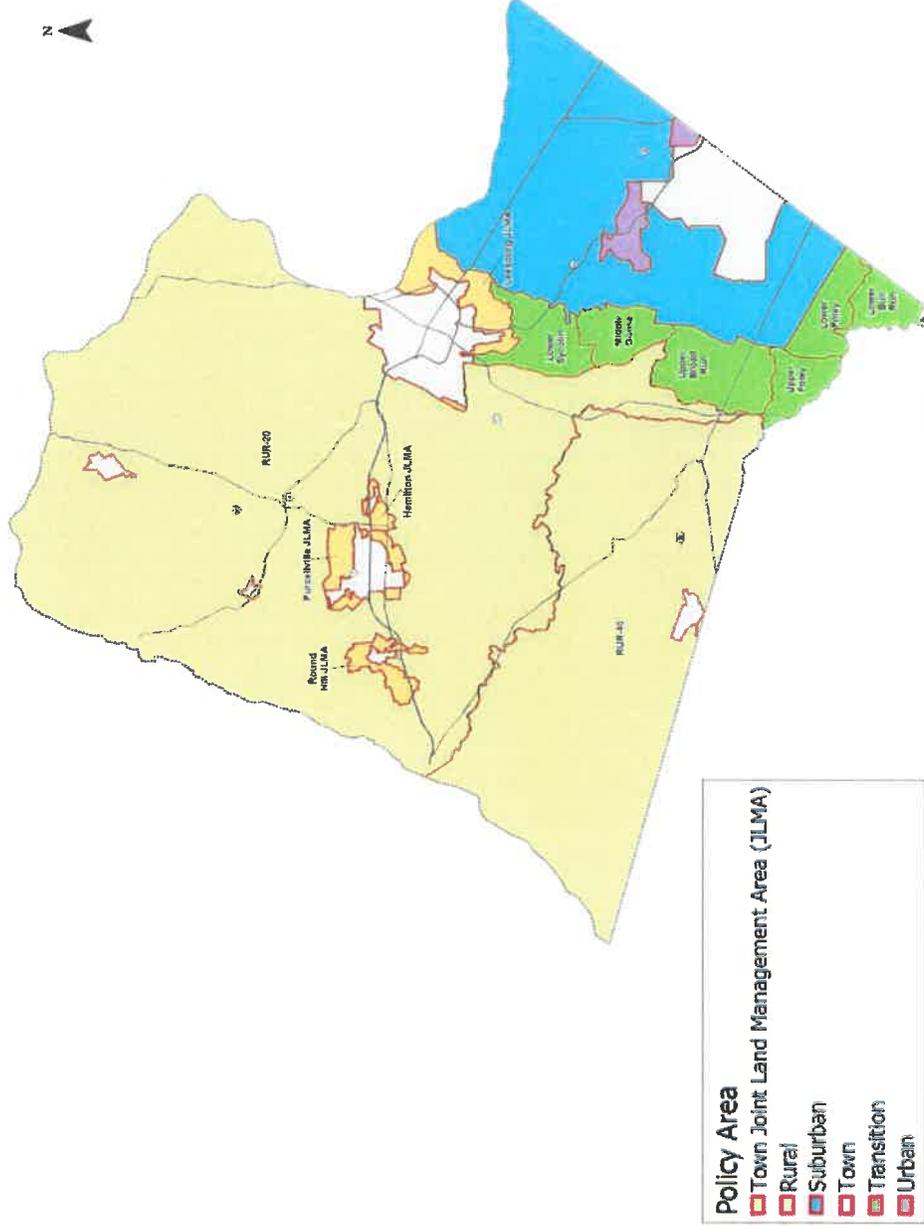
To access the Q&A box and ask a question:

- The Q&A window will appear in the right margin.
- In that window you will see a box to enter your question.
- Type your question in the box and click enter.

Chapter 3 – Uses

Map of General Plan Policy Areas as Identified as in the Use Table

General Plan Policy Area



Chapter 3 – Uses

- List all residential, lodging, commercial, public/civic, industrial, infrastructure, and agriculture land uses in one consolidated matrix or table.
- Show the policy areas and zoning districts where each use is permitted by right, special exception, or minor special exception.
- Define each use based on widely adopted definitions used by industry.

Chapter 3 – Uses

- Establish performance or development standards for some uses.
- Include operational requirements for temporary and accessory uses.

What's New?

- Listing uses in a consolidated matrix improves understanding and enables comparison across zoning districts and policy areas.
- Modernizing use terminology and definitions better reflects the current marketplace.

Chapter 3 – Uses

What's New?

- Some uses have been added or deleted in certain zoning districts based on General Plan policy guidance.
- The permissibility of some uses—whether it is by-right, special exception, or minor special exception—has been revised to implement the General Plan.
- Standards found in the current use definitions have been removed and relocated to a more appropriate section of the Zoning Ordinance.

Q&A: Uses

The Zoning Ordinance Rewrite team is prepared to answer any questions about **Uses** that are asked through the Q&A box.

To access the Q&A box and ask a question:

- The Q&A window will appear in the right margin.
- In that window you will see a box to enter your question.
- Type your question in the box and click enter.

Chapter 4 – Overlay Districts

List of Overlay Districts:

- Airport Impact Overlay District (AIOD)
- Floodplain Overlay District (FOD)
- Mountainside Overlay District (MOD)
- Limestone Overlay District (LOD)
- Quarry Notification Overlay District (QNOD)
- Village Conservation Overlay District (VCOD)
- Historic Overlay District (HOD)
- Suburban Mixed Use Overlay District

Chapter 4 – Overlay Districts

Limestone Overlay District

A



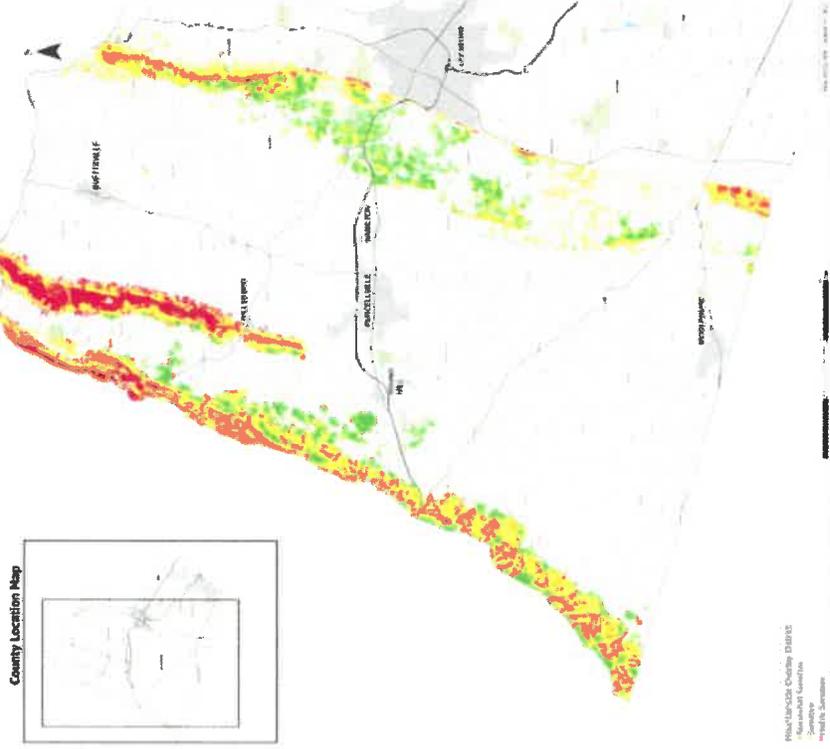
Village Conservation Overlay
& County Historic Overlay Districts

A



Chapter 4 – Overlay Districts

Mountainside Overlay District



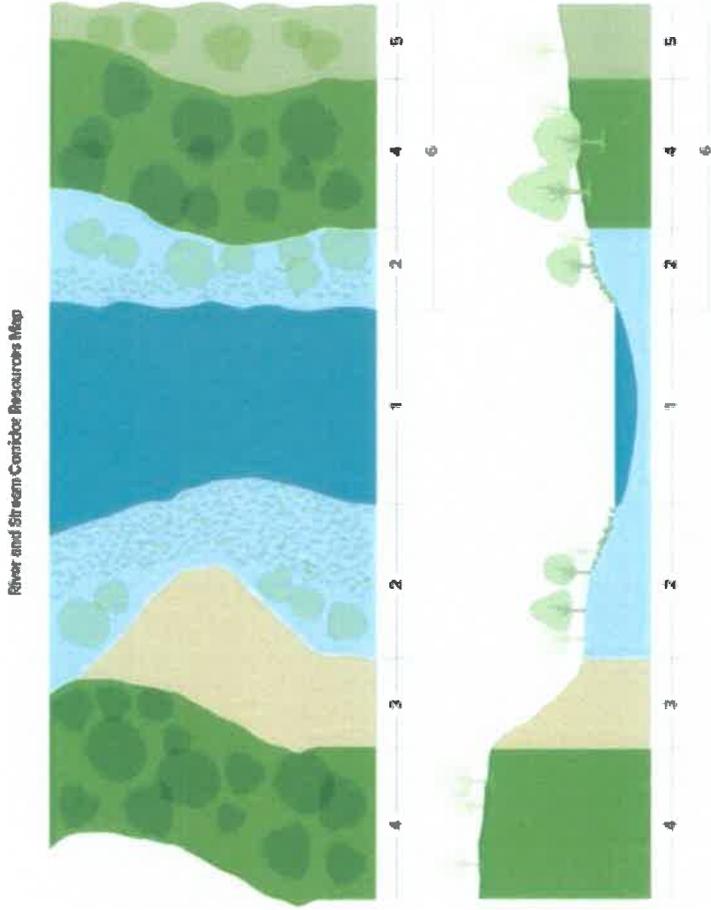
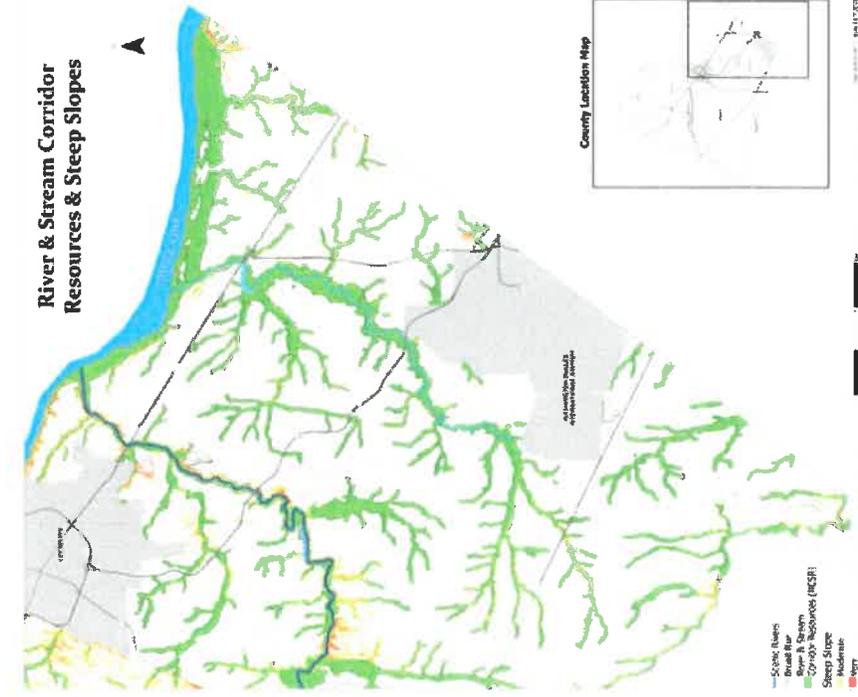
What's New?

- Enhanced protections for defined Crests and Ridgelines, Perennial Headwaters, and Springs added to the MOD.
- Discretionary review of certain subdivision activity in sensitive and highly sensitive areas of the MOD.

Chapter 4 – Overlay Districts

- River and Stream Corridor Resources (RSCR) and Steep Slopes Development Standards
- Not an Overlay District
- Replaces and improves upon existing Scenic Creek Valley Buffer and Steep Slopes protections

Chapter 4 – Overlay Districts



Q&A: Overlay Districts

The Zoning Ordinance Rewrite team is prepared to answer any questions about **Overlay Districts** that are asked through the Q&A box.

To access the Q&A box and ask a question:

- The Q&A window will appear in the right margin.
- In that window you will see a box to enter your question.
- Type your question in the box and click enter.

Chapter 5 – Development Standards

- Development Standards are the specifications for how a parcel of land may be developed – yards and setbacks, parking, landscaping and buffers, the amount and nature of open space, and others.
- Chapter 2, Zoning Districts – Development standards that apply to uses in one district.
- Chapter 5, Development Standards that apply in all or most districts and uses.

Chapter 5 – Development Standards

Purpose

- Compatibility among uses
- Protect natural and cultural resources
- Protect life and property
- Ensure adequate open space and infrastructure
- Implement Policy Area and Place Type goals of the Comprehensive Plan

Chapter 5 – Development Standards

13 subsections

- 5.01 Site Development
- 5.02 Utilities
- 5.03 Natural and Environmental Resources
- 5.04 Open Space
- 5.05 Parking
- 5.06 Tree Planting, Replacement and Preservation
- 5.07 Landscaping, Buffer Yards and Screening
- 5.08 Performance Standards
- 5.09 Transportation
- 5.10 Adaptive Reuse
- 5.11 Transition
- 5.12 Owner's Associations
- 5.13 Variation of Residential Lot Sizes

Chapter 5 – Development Standards

Consolidated existing standards with minor revisions to improve understanding.

- **5.01 Site Development** – Determine and measure yards, setbacks and uses allowed in yards
- **5.02 Utilities** – Public, private or communal water and sewer
- **5.12 Owner's Associations** – Requirements, Rights and Responsibilities

Chapter 5 – Development Standards

Other sections retain existing language with new standards added.

- **5.06 Tree Planting** – New Canopy requirements for subdivisions in rural zoning districts
- **5.07 Landscaping, Buffer Yards and Screening** – Reduced some road corridor buffers.
- **5.08 Performance Standards** – Consolidated light and glare standards, expanded applicability and added standards to limit spill over.

Chapter 5 Development Standards

Existing language with new standards added:

- **5.09 Transportation**
 - Revised road, sidewalk and shared-use path standards requiring connections within and among developments
 - Eliminate mobility limitations.
 - Required pedestrian and bicycle networks.
 - Retained and consolidated access, frontage, visibility, and network connection requirements

Chapter 5 Development Standards

What's New?

- **5.03 Natural and Environmental Resources** – Replaced the Scenic Creek Valley Buffer with River and Stream Corridor (RSCR), included steep slopes, use tables and definitions.
- **5.04 Open Space** – General and type specific standards, incentives, permitted uses, and maintenance and management.

Chapter 5 Development Standards

- **5.05 Parking**
 - Cars, bicycles, motorcycles, scooters, electric vehicles, commercial, oversized, recreational vehicles and loading
 - Updated to modern standards
 - Minimums and maximums
 - Standards vary for policy areas, vehicle types and uses
 - Maximize safety and function
 - Reduce environmental impacts
 - Revised criteria to allow reductions and sharing
 - Separate Village standards to recognize uniqueness and preserve character

Chapter 5 – Development Standards

- 5.10 **Adaptive reuse** – New standards to promote the reuse and preservation of historic structures
- 5.11 **Transition** – New standards to promote compatibility between differing uses and districts
- 5.13 **Variation of Residential Lot Sizes** – New standards to require variety in residential lot sizes and streetscapes

Q&A: Development Standards

The Zoning Ordinance Rewrite team is prepared to answer any questions about **Development Standards** that are asked through the Q&A box.

To access the Q&A box and ask a question:

- The Q&A window will appear in the right margin.
- In that window you will see a box to enter your question.
- Type your question in the box and click enter.

Chapter 6 – Signs

- Content-neutral sign regulations
 - Avoid the sign’s message, purpose, or user
- Focus on physical characteristics
 - Freestanding: ground, pole, and sidewalk
 - Attached: wall and window
 - Incidental: banners, de minimis, and temporary
- Address murals and public art
- Reduced the need for legislative Sign Development Plans

Chapter 6 – Signs

- Treat similar types of signs in similar zoning districts consistently
 - Rural
 - Neighborhood
 - Commercial
 - Employment/Industrial
 - Urban/Mixed Use
- Balance the desires to advertise with protecting community standards and safety

Chapter 7 – Procedures

- One location for all applications and appeals administered by the Zoning Ordinance
- Consistent, easier-to-understand format
- Improve the review process for legislative applications:
 - Zoning Amendments
 - Special Exceptions
 - Others
- Incorporate legal updates:
 - Changes to the Code of Virginia
 - Recent legal cases

Q&A: Signs/Procedures

The Zoning Ordinance Rewrite team is prepared to answer any questions about **Signs or Procedures** that are asked through the Q&A box.

To access the Q&A box and ask a question:

- The Q&A window will appear in the right margin.
- In that window you will see a box to enter your question.
- Type your question in the box and click enter.

Chapter 8 – Attainable Housing

Purpose

- Promote housing choices for households earning from 0 – 100% of the area median income (AMI):

Affordable Dwelling Unit (ADU) Program	Unmet Housing Needs Unit (UHNU) Program
<p>Households with incomes: 30%-50% AMI (rent) 30%-70% AMI (purchase)</p> <p>An applicant is required to provide ADUs for new residential projects that:</p> <ul style="list-style-type: none"> • Have 24 or more units and • Are served by public water and sewer 	<p>Households with incomes: 0%-30% AMI (rent) 70%-100% AMI (purchase)</p> <p>An applicant may voluntarily provide UHNUs to either:</p> <ul style="list-style-type: none"> • Receive a 20% floor area ratio increase in the Urban Mixed Use subarea of the Urban Transit/Urban Mixed Use zoning district or the Suburban Mixed Use zoning district. • Meet the Alternative Location Criteria to use a Suburban Compact Neighborhood zoning district

Chapter 8 – Attainable Housing

What's New?

- Increased the percentage of residential units that must be ADUs.

Unit Type	Existing ZO	New ZO
Single Family Detached and Single Family Attached	12.5%	15%
Multifamily Stacked	6.25%	15%
Multifamily Attached	6.25%	10%

- Formalize methods for ADUs and UHNUs:
 - Calculations
 - Compatibility
 - Interspersion
 - Delivery

Chapter 8 – Attainable Housing

What's New?

- Revised the optional density bonus to 20% for all unit types.

Sample ADU Calculation for 22.5 Acre Parcel in the Suburban Neighborhood District

Permitted Density: 4 Dwelling Units (DU) per Acre

Dwelling Units (DU) Permitted: $22.5 \times 4 = 90$ SFD, SFA, and/or MF Stacked DUs

ADUs Required: 15% of Total DUs

No Optional 20% Density Increase: $90 \times 15\% = 14$ ADUs Required (Rounded Up from 13.5)

Optional 20% Density Increase: $90 + (90 \times 20\%) = 108$ Total DUs

Permitted Density: $108 / 22.5 = 4.8$ DUs per Acre

Total ADUs Required: $108 \times 15\% = 17$ ADUs Required (Rounded Up from 16.2)

Q&A: Attainable Housing

The Zoning Ordinance Rewrite team is prepared to answer any questions about **Attainable Housing** that are asked through the Q&A box.

To access the Q&A box and ask a question:

- The Q&A window will appear in the right margin.
- In that window you will see a box to enter your question.
- Type your question in the box and click enter.

Project Timeline



Speaker Signups

- Speakers will be called upon in the order that sign ups were received.
- Two minutes to speak
- Four minutes for those speaking on behalf of an organization.

Comments

Any member of the public, community groups, business groups, and any stakeholder can view and comment on the draft text during the 90-day comment period that will be open April 18-July 18, 2022.

- [Loudoun.gov/zoningordinancerewrite](https://loudoun.gov/zoningordinancerewrite)
- zorw@loudoun.gov
- 703-777-0246, option 5

Thank you

From: jennifer don
To: [DEPT-PZ-ZORW](#); [DEPT-PZ-PLANNING ZONING](#); [Buffington, Tony](#); [Randall, Phyllis](#)
Subject: [EXTERNAL] ZOR from Unison Preservation Society
Date: Monday, July 18, 2022 3:19:21 PM
Attachments: [UPS - ZOR Comments .docx](#)

Dear Supervisor Buffington, Chair Randall and Department of Planning and Zoning Staff,

I am writing on behalf of the Unison Preservation Society and residents in Unison and environs. As you know by now, many Unison residents and neighbors were very actively engaged in the Zoning Ordinance Rewrite comment process. Like other residents of western Loudoun, we are deeply concerned about the future of Loudoun's beautiful historic landscape. These resources provide cultural and recreational activities for all Loudoun County residents. Also significant, tourism catalyzed by the beauty of rural western Loudoun has an enormous positive fiscal impact on the County. According to 2019 data, Loudoun's tourism revenue is roughly \$2 billion annually and tourism provides more than 17,000 jobs.

Unfortunately, the County has been slow to enact the protections promised in the 2019 Comprehensive Plan and to address inappropriate development in our unique rural, historic areas. We are particularly concerned with: (1) the lack of protected status for Unison and other historic crossroads villages; (2) the permissive granting of special exceptions for uses that may be inappropriate and/or overwhelming in rural landscapes, (3) the failure to enforce existing protections that apply to historic stone walls and country roads, and (4) the granting of exceptions from development standards and the permitting of development projects that threaten agricultural and recreational use.

We believe it is of critical importance to focus broadly on the following matters:

- *Protect Loudoun's historic villages and districts, including during the period prior to completion of Comprehensive Plan mandated criteria to officially designate rural historic villages and complete small area plans.*
- *Expedite completion of small area plans for rural historic villages and designation of historic crossroads villages, like Unison, seeking rural historic village status.*
- *Reduce the ease of approval for uses and use exceptions that compromise the scenic and historic integrity of our landscape.*
- *Respect and enforce limitations on development as set forth in the Zoning Ordinance.*
- *Protect agricultural soils and activities.*

We appreciate the hard work and thought that has gone into the ZOR process. We are close to having something that will serve the long term cultural, recreational, and financial interests of residents and of the County. We look forward to working with you to assure that the outcome of this process is one that Loudoun residents (and others) can look to as an example of responsible stewardship that serves current and future generations.

Attached please find the comments of Unison Preservation Society on several of the provisions in the Zoning Ordinance Rewrite.

Sincerely,

Jennifer Don,
Chairman,
Unison Preservation Society

Chapter 3 Uses

Principal Use Table 3.02.02-3

DISCUSSION

A variety of high intensity commercial uses are authorized with Minor Special Exceptions or Special Exceptions in the ARS Policy Area. Certain of these uses may be incompatible with the purposes of the Village Conservation Overlay Districts (VCODs) and the Historic Overlay Districts (HODs), when implemented within those Districts or within 1,500 feet of the boundary of VCODs or HODs. Such commercial uses include, but are not limited to:

Rural Retreat Center	Death Care Business	Retail, General
Commercial Winery	Farm Machinery Business	Public Safety Facility
Country Inn	Civic Buildings	Sawmill
Banquet/Event Facility	Schools	Slaughterhouse

RECOMMENDATION

- The procedures for obtaining a Special Exception or Minor Special Exception have not yet been made public and available for comment. Such procedures should not be enacted without adequate opportunity for public review and comment.
- The procedures for obtaining a Special Exception or Minor Special Exception within 1,000 feet of a VCOD or HOD should include an application for review by the Historic District Review Committee (HDRC) to determine whether the application for the Special Exception or Minor Special Exception would be consistent with policies establishing VCODs and HODs. The HDRC review process should provide for public notice and a hearing and include providing the Heritage Commission with an opportunity to review and comment. During its review the HDRC may consider mitigations offered by the applicant. Following its review, the HDRC shall transmit its recommendation to the BOS for their consideration and the HDRC recommendation shall be entitled to great weight.
- Breweries within 2,500 feet of a VCOD or HOD should be included in the uses that require a Special Exception.

Chapter 4 Overlay Districts

Section 4.07 Village Conservation Overlay District

“Purpose”

DISCUSSION

The County must take action to prevent the loss of historic and cultural resources in historic crossroads communities pending County review of applications for Rural Historic Village status. Proposed amendments set forth below acknowledge the difficulties created by the COVID-19 pandemic and the multi-year backlog of action items assigned to the Department of Planning and Zoning.

RECOMMENDATION

Add the following new bullet point after the fifth bullet point in the Purpose statement:

- *Protect the character, culture and identity of the historic crossroads communities of Airmont, Bloomfield, Howardsville, Morrisonville, Unison and Willisville pending formal designation of their status as Rural Historic Villages as discussed in the General Plan.*

CURRENT LANGUAGE

"A. Applicability.

The Village Conservation Overlay District (VCOD) is established as an overlay district, meaning that it is a district overlaid upon other districts. Land within the VCOD may be used as permitted in the underlying district, subject to the VCOD Development Standards of this district."

RECOMMENDATION

Addition of the following language is included to assure that Rural Historic Village Small Area Plans developed with resident input, as promised by County staff and leaders, are created, and given official weight through the County Zoning Ordinance.

"Such VCOD Development Standards shall incorporate by reference development criteria and goals included in the Small Area Plan developed for each such Rural Historic Village in consultation with residents when Rural Historic Village Small Plans are available or become available."

CURRENT LANGUAGE

"B. District Boundaries.

The VCOD boundaries are as established on the adopted zoning map and affect the following villages set forth below."

RECOMMENDATION

The following language is recommended to assure the preservation of historic and cultural resources in historic crossroads villages until the County completes the review of the status or historic crossroads villages as promised in the General Plan.

Insert after the period following "set forth below":

"Notwithstanding the foregoing, the historic crossroads villages of Airmont, Bloomfield, Howardsville, Morrisonville, Unison and Willisville referred to in the General Plan and in Section 4.07.C. shall be treated as Rural Historic Villages pending completion of County review of their status."

CURRENT LANGUAGE

"C. Expansion of VCOD Boundaries.

Expansion of the VCOD is only permitted in areas designated as the Rural Historic Village Place Type in the General Plan."

RECOMMENDATION

The following language is recommended to assure the preservation of historic and cultural resources in historic crossroads villages until the County completes the review of the status or historic crossroads villages as promised in the General Plan.

"Notwithstanding the foregoing, until County personnel and the Board of Supervisors have determined that designation of the historic crossroads communities of Airmont, Bloomfield, Howardsville, Morrisonville, Unison and Willisville as Rural Historic Villages is not warranted, new development in such villages shall be subject to the VCOD Development Standards and Rural Historic Villages Design Guidelines established in the General Plan."

Section 4.08 Historic Districts

H. Right to Raze or Demolish.

DISCUSSION

The owner of any historic landmark, building, or structure located within an HOD is, as a matter of right, entitled to raze or demolish such historic landmark, building, or structure provided that certain conditions have been met. The historic roads and stone walls in Unison and other nearby areas are protected by the provisions of the Beaverdam Creek Historic District, but they are often damaged or destroyed, in part because very few people know of the Beaverdam Creek Historic District and the protections provided to these historic assets.

RECOMMENDATION

NEW SECTION: Protection of Stone Walls in Beaverdam Creek Historic District

In order to better protect the stone walls and historic roads that comprise the Beaverdam Creek Historic District, property owners, non-profits, Loudoun County residents, and County government entities shall be entitled to place Beaverdam Creek Historic District signage in the public right-of-way. Such signage shall note the historic and protected status of the area and covered improvements and shall include telephonic and internet resources for obtaining more information and reporting threats to protected Beaverdam Creek Historic District walls and roads appropriate public officials.

I. Hazardous Conditions.

DISCUSSION

Nothing in Section 4.08 prevents razing or demolition without HDRC approval due to unsafe conditions that would endanger life or property as follows...

RECOMMENDATION

Require a notice/cure provision before razing or demolition is possible. Cure period should be substantial if reasonable demonstration can be made that people are reasonably protected from unsafe conditions.

Chapter 5 Adaptive Reuse

B. Eligibility.

RECOMMENDATION

Expand eligibility as follows:

To be eligible for adaptive reuse, a structure must be:

1. Identified as historically significant by being:
 - a. Designated as a National Historic Landmark; or
 - b. Listed or eligible for listing in the National Register of Historic Places or a contributing resource in a historic district listed or eligible for listing in the National Register of Historic Places; or
 - c. Listed or eligible for listing in the Virginia Landmarks Register or a contributing resource in a historic district listed or eligible for listing in the Virginia Landmarks Register; or
 - d. Designated by the Loudoun County Heritage Commission

The bar for information that might be required by the zoning administrator in section c. is quite high and may exceed the resources of some applicants with otherwise worthy reuse plans. Adaptive reuse should not be expensive and burdensome. Maybe the type of supporting documentation required by the Zoning Administrator could be "as determined" by the HDRC.

Section B.3 Delete "... and the prior use or uses in the structure are obsolete or economically nonviable."

Section B.3 Delete a. through c.

Standards and Requirements / Section C We recommended allowing more options when making changes to existing structures and sites as some historic buildings and sites don't lend themselves to traditional zoning set-backs or rear, off-street parking spaces. Where there are questions, we recommend the Zoning Administrator consult with the HDRC.

C In the first sentence, please include "... Adaptive re-use projects must comply with the standards and requirements of this Zoning Ordinance 'or receive an exemption from the HDRC' "

D. Permitted Uses.

Uses are permitted in accordance with Table 5.09-1 in any structure eligible for adaptive reuse pursuant to section 5.09.B., except that no new uses that emit noxious odors or excessive noise will be permitted, unless the applicant demonstrates that the use will not negatively impact nearby dwellings.

Expand list to allow confirmed historic uses that were present for at least 10% of the building's existence.

E. Adaptive Reuse Incentives.

In addition to nonconforming lot or structure allowances pursuant to Chapter 9, projects that are eligible for adaptive reuse under 5.09.A are entitled to the incentives set forth in Table 5.09-2. Incentives with a plus mark (+) in the Existing Floor Area column apply to the existing floor area of the structure. Incentives with a plus mark (+) in New Floor Area column apply to the floor area that is added to a structure.

Expand the various land use requirements to allow confirmed historic patterns. For example, if structures historically had zero front yard setbacks, then, continuing or reestablishing a zero front yard setback would be permissible.

Chapter 9 Nonconformities

B.2 Discontinuation of Nonconforming Use.

PROVISION

If a nonconforming use is discontinued or abandoned for a continuous period of more than 2 years, including any period of discontinuation or abandonment before the effective date of this Zoning Ordinance, then that use must not be renewed or reestablished. Any subsequent use of the lot or Structure must be in conformance with this Zoning Ordinance.

RECOMMENDATION

Strongly recommend that 2-year gap be adjusted as a percentage of the age of buildings > 50 years old. For example, if a 150-year-old building that had retail use for 147 years, but had a 3-year gap, the retail use should be allowed to continue. Maybe the gap can't exceed 25 years of the life of the building.

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July 18th, 2022

To: Loudoun County Department of Planning and Zoning

RE: Loudoun County Zoning Ordinance Rewrite

Dear County ZOR Staff,

The Virginia Piedmont Heritage Area was founded in 1995 and our mission is to educate about and advocate for the preservation of the extraordinary historic landscape, culture, and scenery of our state-designated Heritage Area. We work diligently alongside other preservation organizations to protect the integrity of the surrounding countryside, and we respectfully request that during the zoning ordinance rewrite process, the County take steps to ensure that the new zoning ordinance is in line with the preservation and conservation goals the County has laid out in its 2019 Comprehensive Plan.

Considering the big picture, we implore you to focus on the following priorities:

- 1) *Reduce development and density in the Rural Policy Area*
- 2) *Protect Loudoun's historic villages and districts*
- 3) *Reduce the ease of approval for special exceptions that compromise the scenic and historic integrity of our landscape*
- 4) *Define and install protections for our vast historic resources*

More specifically, we request the following changes in the zoning ordinance:

1. *Section 2.04.01:* It is critical that we limit density and development in the Rural Policy Area. In the table in 2.04.01.D.9, the standards for lot sizes in the Agricultural Rural North district in reference 9 should be: Base Density Division Option – 1 dwelling unit per 25 acres; Principal/ Subordinate Subdivision Option – 1 dwelling unit per 15 acres; Cluster Subdivision Option – 1 dwelling unit per 15 acres.
2. *Section 2.04.02:* It is critical that we limit density and development in the Rural Policy Area. In the table in 2.04.01.D.9, the standards for lot sizes in the Agricultural Rural South district in reference 9 should be: Base Density Division Option – 1 dwelling unit per 50 acres; Principal/ Subordinate Subdivision Option – 1 dwelling unit per 30 acres; Cluster Subdivision Option – 1 dwelling unit per 25 acres.
3. *Section 4.07:* Each of Loudoun County's historic villages is unique, and each needs its own Small Area Plan. It is critical that the County commit to providing support and working with each village to create Small Area Plan, so that the unique character of each village is preserved in accordance with the Loudoun County 2019 Comprehensive Plan.

The mission of the Virginia Piedmont Heritage Area Association is to educate about the history and advocate for the preservation of the extraordinary historic landscape, culture, and scenery in the Northern Virginia Piedmont for future generations to enjoy.

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(continued)

4. *Section 5.07.04:* In order to establish strict standards to protect the historic integrity of the county's historic cemeteries, remove the following text in section 5.07.04.D.5: "The Zoning Administrator may approve a request to waive or modify the preservation buffer in accordance with the requirements of Section 5.07.08 or in conjunction with a Minor Special Exception request pursuant to Section 5.07.04.C.4."
5. *Section 11.03.H:* The zoning ordinance does not define the word "historic." It is absolutely essential that this word be precisely defined in order establish standards to protect our priceless historic sites and resources. We recommend using the criteria for evaluation on the National Register of Historic Places, as found in 36 CFR § 60.4 - Criteria for evaluation.

Along with many other citizens and organizations, we are concerned about the future of Loudoun's beautiful historic landscape, and we strongly urge you to revise the zoning ordinance to appropriately protect our vast and varied historic resources. We sincerely appreciate the hard work you all are doing, and understand you must be inundated with feedback, but we must take this opportunity to safeguard Loudoun's identity which attracts tourists and improves the lives of residents.

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With appreciation for your time and consideration,



Alexander M. Nance
Executive Director, VPHA

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The mission of the Virginia Piedmont Heritage Area Association is to educate about the history and advocate for the preservation of the extraordinary historic landscape, culture, and scenery in the Northern Virginia Piedmont for future generations to enjoy.



Waterford FOUNDATION, INC.

Post Office Box 142 • Waterford, Virginia 20197 • 540-882-3018
www.waterfordfoundation.org • info@waterfordfoundation.org

June 27, 2022

Joe Kroboth, III, PE, Acting Director, Planning and Zoning
1 Harrison Street, SE 3rd Floor
Leesburg, VA 20175

Dear Mr. Kroboth

The Waterford Foundation would like to thank you and the Loudoun Zoning Staff for their help with the Zoning Ordinance Rewrite (ZOR). The Waterford Foundation has long advocated for amenable Adaptive Reuse zoning policies, and we are pleased to see that it is included in the new draft (Chapter 5, Section 10). Keeping old properties in use benefits all of us, the environment, and the property itself. Thank you.

The Waterford Foundation has a few additional comments on the Chapter on Adaptive Reuse, and our recommendations broadly fall under the following headings:

Purpose: We have included reference to widely recognized standards of adaptive reuse to encourage retention of character defining features of historic properties. We also see a natural overlap between re-use of the built environment and the sustainability movement:

On the fifth bullet point please include “Encourage preservation of historic structures through appropriate renovation, *such as the Secretary of Interior Standards and/or ruling by HDRC (see Section C Standards and Requirements.)*”

On the seventh bullet point please add “*Encourage sustainability,*” prolong building lifespans, encourage reuse of existing resources”

Eligibility / Section B We have broadened the scope of eligibility with the intention of allowing more older buildings to qualify, so as to encourage adaptive reuse of the built environment by keeping the process simple. We recommended streamlining the rezoning process to make the process more user-friendly and financially affordable by removing requirements such as market analysis, structural engineers, and verification of obsolescence. Adaptive reuse should not be expensive and burdensome.

Section B Please add ... “To be eligible for adaptive reuse, a structure must be *“one of the following: ...”*”

Section B.1 Please add line item “*B.1.e Designated ‘locally historic’ by the Loudoun County Heritage Commission.*”

Section B.3 Delete “... *and the prior use or uses in the structure are obsolete or economically nonviable.*”

Section B.3 Delete line items *a. through c.*

Standards and Requirements / Section C We recommended allowing more options when making changes as some historic buildings and sites don’t lend themselves to traditional zoning set-backs or rear, off-street parking spaces. When there are questions, we recommend the Zoning Administrator consult with the HDRC.

C In the first sentence, please include “as set forth... *in Sections 5.10.C and 5.10.D below, and must comply with the following design standards unless an alternative design is recommended by the HDRC upon submission of an application following the COA application standards and process. If the property is not located in an HCC overlay district, the HDRC shall be guided by the Secretary of Interior standards in making its recommendations.*”

Table 5.10-1 Uses Permitted as Adaptive Reuse We recommend allowing additional density except in cases with an absentee landlord.

In the second line of the table, under ‘Permitted as Adaptive Reuse,’ please see suggested definition of “*Live /Work*” in the Section, which covers ‘Definitions.’

Again, the Waterford Foundation greatly appreciates your patience and all of the work of Zoning staff with our additional recommendations listed above. The Zoning Rewrite is so important to all of us to ensure correct implementation of the 2019 Comprehensive Plan.

Yours truly,



Susan Manch
President, Waterford Foundation Board of Directors

Cc.: Mr. Caleb Kershner, Supervisor, Catoctin District
Cc.: Mr. Forest Hayes, Chairman, Planning Commission
Cc.: Mr. Mark Miller, Planning Commission, Catoctin District



July 18, 2022

RE: Loudoun County Zoning Rewrite – Parking
Loudoun County, Virginia

1420 Spring Hill Road,
 Suite 610,
 Tysons, VA 22102
 703-917-6620

WellsandAssociates.com

The Urban Policy Area (UPA) envisioned with the Comprehensive Plan is intended to improve viability and cost-effectiveness of transit services along with other elements to reduce traffic congestion. Parking is an essential element of these UPA policies.

The Countywide Transportation Plan (CTP, page 3-16) indicates that transit services are planned and will provide accessibility, convenient, and affordable access within the UPA. Too much parking would effectively negate transit infrastructure policies which includes “car-free” options.

Although a parking study will provide a means to secure parking reductions, it does not provide certainty and a consistent base minimum parking rate that the development community can expect and implement.

Since UPA policies are in place, then too should the residential parking reductions be included to reflect UPA District Subareas of the UT/UM zoning category. In particular the parking reductions within a ½ mile and greater than ½ mile. The reduction of 25% within 1,000 feet of the Metro Station under the Alternative Transportation Requirements is well below the rates of nearby Metro supportive jurisdictions. In addition, the parking reductions requires approval by a parking study after zoning approval which does not provide certainty that is sought. The following Multifamily residential minimum base rate parking recommendations are provided as follows:

Parking Rate Data for Transit Oriented Development

Land Use	Units	Fairfax County								ITE Parking Gen. ³		Urban Policy Area Min Base Rate			
		Loudoun ¹ Rate	TSA ² Rate	Planned Development District - Rates						< 1/2 mile Rate	> 1/2 mile Rate	Min Rate Proposed		Reduction % ⁴	
				< 1/4 mile		> 1/4 - 1/2 mile		> 1/2 mile				< 1/2 mile	> 1/2 mile	< 1/2 mile	> 1/2 mile
				Min	Max	Min	Max	Min	Max						
Multi Family	Studio	1.25	1.3	1.0	1.3	1.1	1.4	1.1	1.4	0.67	0.71	0.95	1.00	24%	20%
	1-Bedroom	1.5	1.3	1.0	1.3	1.1	1.4	1.1	1.4	0.67	0.71	1.13	1.20	25%	20%
	2 Bedroom	2.0	1.5	1.0	1.60	1.35	1.7	1.35	1.7	1.34	1.42	1.50	1.60	25%	20%
	3 Bedroom	2.0	-	-	-	-	-	-	-	2.01	2.13	1.50	1.60	25%	20%
	4+ Bedroom	2.5	1.6	1.0	1.9	1.6	2.0	1.6	2.0	2.68	2.84	1.90	2.00	24%	20%

Notes:

- 1 Rates based on Loudoun County 1993 Revised Zoning Ordinance.
- 2 Minimum Required for Transit Station Areas (TSA).
- 3 Institute of Transportation Engineers (ITE), Parking Generation Manual, 5th Edition.
- 4 Reduction % is based on Loudoun County rates and selected rates for SDW uses.
- 5 Recommended Minimum Base Rate

Also, the replaced PD-TRC zone included up to a 50% parking reduction which should also be permitted in the replacement UT/UM zoning.

Sincerely,

Christopher Turnbull
 Executive Vice President

July 18, 2022

Loudoun County Department of Planning and Zoning
1 Harrison Street, S.E., 3rd Floor
Leesburg, Virginia 20175

RE: Loudoun County Zoning Ordinance Review comments from Loudoun Water

To Zoning Ordinance Rewrite Staff,

Loudoun Water submits this letter to bring attention to several high-level topics in the Draft Zoning Ordinance regarding water and sewer infrastructure. Further discussion would be helpful in providing greater understanding of how the Zoning Ordinance rewrite will be used to implement the 2019 Loudoun County General Plan. As you are aware, Loudoun Water provides water and sanitary sewer service to the unincorporated areas of Loudoun County, and supports County-approved growth within both eastern Loudoun as well as rural western Loudoun and the villages. Loudoun Water staff would welcome the opportunity to work with County staff on the topics listed below as many are unique to Loudoun Water.

General Comments:

The draft ordinance has some consistency issues related to how Loudoun Water is referenced. Throughout the draft, reference is made to 'LCSA', 'Loudoun Water', and 'public' or 'central utilities'. This rewrite seems like a great opportunity to provide consistency and eliminate the various references that may cause confusion. It is recommended that all references be made as 'Loudoun Water'.

Definitions:

The draft ordinance has many definitions that reference various utilities/infrastructure that appear to incorporate Loudoun Water assets such as 'infrastructure', 'public utilities', 'minor' and 'major utilities', 'sewer', 'water', etc. Loudoun Water suggests simplification of the definitions, perhaps being collapsed into just 'major utilities' and 'minor utilities' with a more generic definition of each. 'Major utilities' could include vertical structures such as water tanks and water and sewer treatment plants, while 'minor utilities' could include all water and sewer pipes and pump stations to include all associated infrastructure needed to distribute and convey water and sewer to projects approved by Loudoun County. It is also important to recognize that water and sewer infrastructure often requires supporting infrastructure such as access roads, power, communications, and security fences, and that all of this infrastructure should be understood to be necessary and incorporated.

Loudoun Water also requests clarity on the terms 'municipal' and 'central' and seeks deeper understanding of their use throughout the ordinance.

Use Tables:

It appears that 'major' and 'minor' (please note that 'minor utilities' is defined in Chapters 3 and 11, and are not the same) utilities are meant to capture Loudoun Water assets required to provide service to approved Loudoun County development. The use tables define 'major and minor utilities' as a SPEX in almost all the districts/policy areas requiring service from Loudoun Water. Requiring a SPEX for all



utilities appears to be in direct conflict with permitted uses. Loudoun Water is unclear how this process will work and who will be required to get the SPEX.

Leesburg JLMA:

The 2019 Loudoun County General Plan placed Loudoun Water as the presumed provider of water and sanitary service to the undeveloped land in the Leesburg JLMA. The zoning ordinance draft does not appear to support the General Plan. Major and minor utilities are listed as a SPEX and Loudoun Water is not clearly defined in this section. Loudoun Water is actively investing in large infrastructure extensions into the Leesburg JLMA to support the County's goals with the 2019 General Plan. Clear utility service requirements for development in these areas will be helpful to minimize risk on Loudoun Water's investments and offer clarity to landowners.

Overlays and Communal Systems:

Loudoun Water would like the opportunity to work with County staff on ensuring that approved development can be efficiently supported by Loudoun Water, without unnecessary/redundant permitting. Loudoun Water has previously requested consideration of a streamlined process or mechanism for development in the county overlay districts, as well as development and operation of communal systems once approved by the County. Loudoun Water assets often require placement in the overlays, most often in the Floodplain Overlay District, Scenic Creek Valley Buffer, or Steep Slopes. Loudoun Water has requested the opportunity to work with County staff on a very narrow process that would include performance standards to allow public water and sewer in overlays when approved projects dictate. Also, based on the unique security requirements of a public water and sewer utility, it is important that fencing, access, and other necessary structures be allowed to support County-approved development.

For example, Quarry Storage, Beaverdam Reservoir and Goose Creek Reservoir are critical Loudoun Water assets, located within overlay districts. The development, operation and maintenance, and any expansion of these critical assets needs to be considered in the zoning ordinance in order to support County goals.

Loudoun Water also requests a process be defined that will allow Loudoun Water to provide service to areas of need as identified by Loudoun County. These areas primarily result from public health concerns. As areas of need are identified and approved by the County, it is important that zoning does not prohibit or inhibit these areas from necessary water and sewer service. It is anticipated that the areas with the most potential for public health concerns are historic villages or other areas in rural Loudoun.

Communal systems are referenced in the draft ordinance, but communal wells are not defined. Some reference is made to shared systems, but we are not clear if this is intended to be the same as, or represent, communal systems. Also, as noted, major and minor utilities require a SPEX or are not listed as allowed for most of the rural areas in the County.

Loudoun Water is unclear as to our role in the approval process related to Communal Systems. Loudoun Water would appreciate greater clarity as to the roles and responsibilities during the approval of communal systems.

Landfill Water Service District:

Loudoun Water requests the map be updated to reflect the county approved service area and provide clarity as to the parcels that are included in this district. Further, we request the ordinance provide greater clarity on if/when/where property owners are required to connect to Loudoun Water's central water system in this district versus private wells. Property owners often ask questions related to the requirements in this district.

Loudoun Water appreciates the opportunity to review and comment on the draft Zoning Ordinance rewrite text, and would welcome the opportunity to meet with you to discuss any questions you may have regarding the above topics. If you have any questions or concerns, please do not hesitate to contact me at (571) 291-7746 or abeatty@loudounwater.org.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in blue ink that reads "Andrew Beatty". The signature is written in a cursive, slightly slanted style.

Andrew Beatty,
Planning Engineer,
Loudoun Water





PO Box 395
Philomont, VA 20131

July 18, 2022

Joe Kroboth, Assistant County Administrator
Loudoun County Planning and Zoning
PO Box 7000
Leesburg, VA 20177-7000

Dear Mr. Kroboth:

The *Loudoun Historic Village Alliance* is grateful for the time and dedication county staff have given to updating the County's Zoning Ordinance; this will give much needed direction to the 2019 Comprehensive Plan. We have supported your efforts as you have codified the new Plan to better protect the beautiful spaces that are Loudoun County.

Our focus has been the rural historic villages that help make Loudoun a special place to live and visit. We recognize that change and growth are inevitable, but we do not want that to jeopardize our unique historic places. The villages tell us where we came from and form the basis of many important communities we all enjoy. You heard us and updated one area of concern: to strengthen the Village Conservation Overlay District language that will help to protect our villages.

The Adaptive Reuse Standards (Chapter 5: Development Standards, Section 10) will greatly benefit efforts to preserve these villages and other historic sites by expanding the use of existing historic structures. These older structures have struggled to meet current zoning standards for various uses. Adaptive Reuse will change that and help keep older structures in use which will benefit everyone: the property owner, the community, the building itself, and the environment.

A selection of some of the updates we recommend:

- **Purpose:**

- **Bullet 5** Add a statement about standards that must be met when a property is renovated; "meet Secretary of the Interior Standards for Rehabilitation or apply for a CAPP through HDRC."

- **Eligibility:**

- **5.10 B** To be eligible.... structure must be *one of the following*: so it is clear that structure does not need to meet all 3 criteria.

- **5.10 B.1** add e. *Designated a historic property by the Loudoun County Heritage Commission*

- **5.10 B. 3** *The structure is greater than 50 years old.* **Delete the rest**

- **5.10 B. 3 Delete a. through c.** Adaptive Reuse is meant to promote reuse of old structures. It cannot be cumbersome or expensive for property owners to do so. We need to encourage reuse.

- **Standards and Requirements.**

C we support protecting the site but suggest adding that “owner must comply with the following design standards unless an alternate design is recommended by the HDRC upon submission of an application following COA application standards. If the property is located outside an HCC overlay district, then HDRC shall be guided by the Secretary of Interior Standards when making their recommendation”

- **Table 5.10-1 Uses Permitted as Adaptive Reuse**

2nd box on right: see new live/work definition

A single building or space within a single building (e.g. studio, loft or 1 bedroom) used jointly for commercial/office and residential purposes where the residential use of the space is **occupied by the person(s) operating the commercial/office use.**

Delete: Secondary or accessory to the primary use as a place of work.

4th box on right: Delete kennel indoor

Add at end: **Kennel, indoor may be permitted by special exception if the building to be used was originally constructed for agricultural use (e.g., barn).**

- **Table 5.10-2 Adaptive Reuse Incentives**

All the incentives are very good and will also help protect Loudoun’s old structures.

We also look forward to supporting county efforts to help each village design a Small Area Plan to enhance and preserve the unique character of each one. While our villages have a lot in common, they still very much have their own sense of place.

Again, LHVA appreciates all the hard work that went into this draft and the recognition that preservation of Loudoun’s resources is important to all of us.

Warmly,

Madeline Skinner
Chair, LHVA

Cc: Forest Hayes
Tim Hemstreet
Charles Yudd
Judy Birkitt
Board of Supervisors

From: Ram Venkatachalam
To: DEPT-PZ-ZORW
Cc: [Amy Owen \(amy@communityfoundationlf.org\)](mailto:Amy Owen (amy@communityfoundationlf.org))
Subject: [EXTERNAL] Fwd: ZOAM-2020-0001, ZONING ORDINANCE REWRITE - Referral Request: Advisory Boards, Commissions, and Committees
Date: Wednesday, June 22, 2022 4:58:05 PM
Attachments: [Screen Shot 2021-02-15 at 3.34.08 PM.png](#)

Just submitted Amy's comments below in the Encode Plus platform. Thanks.

Best Regards,
Ram Venkatachalam
202.538.3457 (M)
Chairman, Transit Advisory Board
Loudoun County, Virginia



----- Forwarded message -----

From: Amy Owen <amy@communityfoundationlf.org>
Date: Fri, May 27, 2022 at 4:06 PM
Subject: Re: ZOAM-2020-0001, ZONING ORDINANCE REWRITE - Referral Request: Advisory Boards, Commissions, and Committees
To: Ram Venkatachalam <ram.venki@gmail.com>

Ram,

This was hard! I was deeply out of my element.

The only thing I felt competent to comment on was support for the reduced parking requirements in various buildings, etc. I know that has been problematic for many applications.

I was mildly concerned that they policy had taken into account bike parking/racks, but saw that in an overall policy so think that is covered.

The only other thing I can think of is being intentional whenever possible to build pull-off lanes (not sure how to characterize them) for buses to load/unload in high use areas.

All bst, Amy

On May 23, 2022, at 3:12 PM, Ram Venkatachalam <ram.venki@gmail.com> wrote:

Hi Amy -

Comments are due July 17th to the zoning board. I would say in the middle of June, that gives me time to enter them to the EnCode platform which submits to the zoning board.

Thanks.

Best Regards,
Ram Venkatachalam
202.538.3457 (M)
Chairman, Transit Advisory Board
Loudoun County, Virginia



On Mon, May 23, 2022 at 3:08 PM Amy Owen

<amy@communityfoundationlf.org> wrote:

Ram, do we have an informal deadline to get this back to you?

Thanks! A

On May 23, 2022, at 10:02 AM, Ram Venkatachalam

<ram.venki@gmail.com> wrote:

Fellow Transit Board members -

Kate McConnell from the zoning administration has provided the following areas for us to focus from a transit perspective and considerations as we look into those areas. Please provide any inputs to Sarah or myself and we can enter them in the EnCode Plus comment platform. Thanks.

"

Reviewing the transit-related and mixed use zoning districts in Chapter 2, specifically the Urban Policy Area districts in Section [2.01](#) and the Suburban Mixed Use district in Section [2.02.03](#) would be a great place to start your review. In addition, the use lists in Chapter [3.02](#) and use definitions, which are in both Section [3.03.06](#) and Section [11.03](#), would be important to review, as well as the Use Specific Standards in Section [3.06.07](#). In addition, you may want to consider whether requirements in Chapter 5, Development Standards, such as Section [5.05](#), Parking or Section [5.09](#), Transportation requirements, benefit and support transit access, use, and pedestrian oriented development in the community.

It will be helpful if you identify the positive (show support), as well as the negative (something the Transit Advisory Board would not support), in your comments.

For Chapter 2, Zoning Districts: Consider whether the transit oriented and mixed use districts support the use of transit. Will the densities/intensities and design requirements support a pedestrian-oriented development that will promote walking and the use of/access to transit? Should there be more requirements for street-level design features, such as reduced setbacks, establishing street walls, ensuring windows and visual interest, to encourage walking and accessing the transit stations or bus stops?

For Chapter 3, Uses: Consider whether the zoning districts allow uses that serve the transit needs of the community. These uses are largely listed under Infrastructure, Transportation/Parking. If a use is listed as permitted or allowed by special exception, is it an appropriate location for the use, e.g. is it appropriate in a rural location? An urban location? Do you think the use should be permitted by right, or by special exception? Should there be transit-related uses, such as parking facilities and transit facilities, permitted in certain districts that are not listed? If so, which use and district? Are definitions accurate? Sufficient? Are the Use Specific Standards appropriate? Should there be other considerations to address impacts or guide locations and design of transit-related uses?

In addition, consider the uses allowed in the Urban Policy Area and Suburban Mixed Use Zoning Districts (Chapter [3.02](#)). Do the uses support walkability and compact development. Are they synergistic with proximity to a metro stop? Will they encourage use of transit?

For Chapter 5, Development Standards: Consider how the Parking and Transportation Development Standards support or encourage the use of transit. Do you support the parking reductions allowed due to proximity to transit? Should they be increased or decreased? Are the parking requirements too high when proximate to transit or

in the Urban Policy Area districts (near metros)? Too low? Should there be more structured parking requirements (rather than surface parking) near transit to ensure walkable communities that encourage transit use? Do the Transportation-related development standards encourage walking and use of transit? Are there other standards or requirements that we should consider including that are also the transit needs of the community?

Also, consider whether Transit-related staff in DTCI has ever identified something missing (such as a use) or difficult to deal with (confusing or overly regulatory standards) when trying to complete a project or work with partners in the community on a project. Identify how these issues could be addressed or the ordinance could be improved. If you don't know where to find the regulation in the draft new zoning ordinance, it would be fine to send an email describing the issue. We can either find the draft regulation and revise if needed (it might already be revised) and/or follow up with you if we need more information.

Lastly, you could print to PDF the draft new Zoning Ordinance and then search the PDF for terms such as "transit."

"

Best Regards,
Ram Venkatachalam
202.538.3457 (M)
Chairman, Transit Advisory Board
Loudoun County, Virginia



On Fri, Apr 22, 2022 at 8:25 AM DEPT-TCI-TRANSIT_ADVISORY_BOARD <TAB@loudoun.gov> wrote:

Greetings, TAB Members.

The Department of Planning & Zoning is requesting comment on the draft Zoning Ordinance. You are welcome to comment on

your own. Comments that are intended to represent the position of the Transit Advisory Board should reflect the consensus of the group and either Ram or I will enter them in the EnCode Plus comment platform. We will add discussion on the draft Zoning Ordinance to the TAB's May agenda. Comments are due before the scheduled July meeting.

See details in the message below and attached referral request.

Thank you for your consideration.

Sarah

Sarah Kleckner

Transportation Planner

Department of Transportation & Capital Infrastructure (DTCI)

Loudoun County, Virginia

Mailing Address: P.O. Box 7500, DTCI-MSC #64

Leesburg, VA 20177-7500

Physical Address: 101 Blue Seal Drive, Suite 102

Leesburg, VA 20175

E-mail: Sarah.Kleckner@loudoun.gov

Office: 571-258-3766

From: McConnell, Kate <Kate.McConnell@loudoun.gov>

Sent: Thursday, April 21, 2022 3:54 PM
To: Argen, Wanda <Wanda.Argen@loudoun.gov>; Reagan, Brian <Brian.Reagan@loudoun.gov>; Howser, Terri <Terri.Howser@loudoun.gov>; Friedrich, Dave <Dave.Friedrich@loudoun.gov>; Behboudifar, Sahar <Sahar.Behboudifar@loudoun.gov>; bburroughs@reedsmith.com; DEPT-ECODEV-COMMISSION <DEPT-ECODEV-COMMISSION@loudoun.gov>; DEPT-ECODEV-ECO_DEV_AUTHORITY <DEPT-ECODEV-ECO_DEV_AUTHORITY@loudoun.gov>; Aveni, Marc <Marc.Aveni@loudoun.gov>; Edmonds, Laura <Laura.Edmonds@loudoun.gov>; DEPT-COADMIN-COUNTY_ADMINISTRATION <DEPT-COADMIN-COUNTY_ADMINISTRATION@loudoun.gov>; Siebentritt, Heidi <Heidi.Siebentritt@loudoun.gov>; AirportCommission@leesburgva.gov; DEPT-HEALTH-HEALTH_COUNCIL <DEPT-HEALTH-HEALTH_COUNCIL@loudoun.gov>; executiveoffice@nvrpa.org; Glass, Susan <Susan.Glass@loudoun.gov>; Kardasz, Colleen <Colleen.Kardasz@loudoun.gov>; DEPT-TCI-TRANSIT_ADVISORY_BOARD <TAB@loudoun.gov>
Cc: DEPT-PZ-ZORW <DEPT-PZ-ZORW@loudoun.gov>
Subject: ZOAM-2020-0001, ZONING ORDINANCE REWRITE - Referral Request: Advisory Boards, Commissions, and Committees

Good afternoon representatives of Board-appointed Advisory Boards, Commissions, and Committees,

Attached please find a request for comment on the staff-recommended, first draft Zoning Ordinance. A 90-day public comment period on the draft started on Monday, April 18. You are receiving this request because your advisory board, commission, or committee may have an interest in the draft, new Zoning Ordinance, as it will implement the Board-adopted 2019 Comprehensive Plan and shape the future built environment and development of Loudoun County. You may elect to review and comment on individual sections of the draft, new Zoning Ordinance that pertain to the purpose or mission of your advisory board, commission, or committee, or review the full text. **As advisory boards, commissions, and committees, the comments should reflect consensus of your respective group.** Therefore, we recommend that a staff liaison or the chair of each advisory board, commission, and committee provide comments agreed upon by the group.

Instead of emailing comments directly in a document, **everyone should enter comments in the County's official online review and comment platform, EnCode Plus, here:**

<https://online.encodeplus.com/regs/loudouncounty-va-crosswalk/doc-viewer.aspx#secid--1>. We also request that the staff liaison or chair send an email dept-pz-zorw@loudoun.gov once comments are entered into EnCode Plus.

Additional information about the Zoning Ordinance Rewrite Project and a link to directions for how to enter comments into EnCode Plus are found in the attached memo.

Please provide your comments no later than Monday, July 17, 2022.

Best regards,

Kate

Kate A. McConnell, AICP, CZA

(she/her/hers)

Principal Planner, Zoning Administration

Loudoun County Department of Planning & Zoning

1 Harrison Street, S.E., 3rd Floor

Leesburg, Virginia 20175

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Visit Us on the Web: <https://www.loudoun.gov/planning>

This e-mail is not intended to be and shall not be deemed to be an official order, requirement, decision or determination made by or on behalf of the Zoning Administrator.

In keeping with the Virginia Freedom of Information Act (FOIA), emails and all attachments may be released to others upon request for inspection and copying without prior notification.

<Screen Shot 2021-02-15 at 3.34.08 PM.png>

Amy E. Owen, President



Mailing Addresses

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Physical Offices

714 East Market Street

Leesburg, VA 20176

Phone and Web

(703) 779-3505 Extension 1

CommunityFoundationLF.org

FacesofLoudoun.org

GiveChoose.org



From: Ram Venkatachalam
To: [DEPT-PZ-ZORW](#)
Cc: [Michael Cohen \(michaeldavidcohen@gmail.com\)](mailto:michaeldavidcohen@gmail.com)
Subject: [EXTERNAL] Fwd: ZOAM-2020-0001, ZONING ORDINANCE REWRITE - Referral Request: Advisory Boards, Commissions, and Committees
Date: Wednesday, June 22, 2022 5:03:58 PM

Just submitted Mike's comments below in the Encode Plus platform. Thanks.

Best Regards,
Ram Venkatachalam
202.538.3457 (M)
Chairman, Transit Advisory Board
Loudoun County, Virginia



----- Forwarded message -----

From: **Michael Cohen** <michaeldavidcohen@gmail.com>
Date: Tue, May 24, 2022 at 4:18 PM
Subject: Re: ZOAM-2020-0001, ZONING ORDINANCE REWRITE - Referral Request: Advisory Boards, Commissions, and Committees
To: Ram Venkatachalam <ram.venki@gmail.com>

FWIW, and mind you I am no expert on virtually *any* of these issues ...

On May 23, 2022, at 10:02 AM, Ram Venkatachalam <ram.venki@gmail.com> wrote:

Fellow Transit Board members -

Kate McConnell from the zoning administration has provided the following areas for us to focus from a transit perspective and considerations as we look into those areas. Please provide any inputs to Sarah or myself and we can enter them in the EnCode Plus comment platform. Thanks.

"

Reviewing the transit-related and mixed use zoning districts in Chapter 2, specifically the Urban Policy Area districts in Section [2.01](#) and the Suburban Mixed Use district in Section [2.02.03](#) would be a great place to start your review. In addition, the use lists in Chapter [3.02](#) and use definitions, which are in both Section [3.03.06](#) and Section [11.03](#), would be important to review, as well as the Use Specific Standards in Section [3.06.07](#). In addition, you may want to consider whether requirements in Chapter 5, Development Standards, such as Section [5.05](#),

Parking or Section 5.09, Transportation requirements, benefit and support transit access, use, and pedestrian oriented development in the community.

I clicked on all of the links and have no earthly idea how to evaluate them. I don't know if they're standard or drawn expansively or narrowly for the use cases here.

It will be helpful if you identify the positive (show support), as well as the negative (something the Transit Advisory Board would not support), in your comments.

For Chapter 2, Zoning Districts: Consider whether the transit oriented and mixed use districts support the use of transit. Will the densities/intensities and design requirements support a pedestrian-oriented development that will promote walking and the use of/access to transit? Should there be more requirements for street-level design features, such as reduced setbacks, establishing street walls, ensuring windows and visual interest, to encourage walking and accessing the transit stations or bus stops?

Generally, Loudoun fails almost universally when they develop to ensure visual interest. Every single data center looks like the warehouse that it is and almost never is there an effort to put up trees or paint the buildings in colors that might be less industrial. This is a good place for the county to focus on our issues (transit) as well as broader issues such as business development.

As for Chapter 2, I read through hit and, again, I see nothing there that makes sense to me to weigh in on with any additional insight.

For Chapter 3, Uses: Consider whether the zoning districts allow uses that serve the transit needs of the community. These uses are largely listed under Infrastructure, Transportation/Parking. If a use is listed as permitted or allowed by special exception, is it an appropriate location for the use, e.g. is it appropriate in a rural location? An urban location? Do you think the use should be permitted by right, or by special exception? Should there be transit-related uses, such as parking facilities and transit facilities, permitted in certain districts that are not listed? If so, which use and district? Are definitions accurate? Sufficient? Are the Use Specific Standards appropriate? Should there be other considerations to address impacts or guide locations and design of transit-related uses?

All of these questions are better for staff to answer as they have more background than we have. However, we should strive to make these "special exceptions" so that we limit the ability of other developers to use what are approved here without additional approvals.

In addition, consider the uses allowed in the Urban Policy Area and Suburban

Mixed Use Zoning Districts (Chapter [3.02](#)). Do the uses support walkability and compact development. Are they synergistic with proximity to a metro stop? Will they encourage use of transit?

Essentially, I'm looking at daily use cases. Day care, residential, office space, parking and restaurants are what I'd prioritize to encourage transit.

For Chapter 5, Development Standards: Consider how the Parking and Transportation Development Standards support or encourage the use of transit. Do you support the parking reductions allowed due to proximity to transit? Should they be increased or decreased? Are the parking requirements too high when proximate to transit or in the Urban Policy Area districts (near metros)? Too low? Should there be more structured parking requirements (rather than surface parking) near transit to ensure walkable communities that encourage transit use? Do the Transportation-related development standards encourage walking and use of transit? Are there other standards or requirements that we should consider including that are also the transit needs of the community?

Sadly, my Ph.D. is not in urban development. It's in politics and comms so I'll say this: these places need to look like eastern Loudoun County best places like One Loudoun, etc. If that's what all of this adds up to, it's a win. If not, it's an unexplainable loss politically or comms-wise.

Also, consider whether Transit-related staff in DTCI has ever identified something missing (such as a use) or difficult to deal with (confusing or overly regulatory standards) when trying to complete a project or work with partners in the community on a project. Identify how these issues could be addressed or the ordinance could be improved. If you don't know where to find the regulation in the draft new zoning ordinance, it would be fine to send an email describing the issue. We can either find the draft regulation and revise if needed (it might already be revised) and/or follow up with you if we need more information.

Happily, staff was asked for this and so I'll defer.

Lastly, you could print to PDF the draft new Zoning Ordinance and then search the PDF for terms such as "transit."

To quote Steve Rodgers in *Avengers Endgame*, "No, I don't think I will."

"

Best Regards,
Ram Venkatachalam

202.538.3457 (M)
Chairman, Transit Advisory Board
Loudoun County, Virginia



On Fri, Apr 22, 2022 at 8:25 AM DEPT-TCI-TRANSIT_ADVISORY_BOARD
<TAB@loudoun.gov> wrote:

Greetings, TAB Members.

The Department of Planning & Zoning is requesting comment on the draft Zoning Ordinance. You are welcome to comment on your own. Comments that are intended to represent the position of the Transit Advisory Board should reflect the consensus of the group and either Ram or I will enter them in the EnCode Plus comment platform. We will add discussion on the draft Zoning Ordinance to the TAB's May agenda. Comments are due before the scheduled July meeting.

See details in the message below and attached referral request.

Thank you for your consideration.

Sarah

Sarah Kleckner

Transportation Planner

Department of Transportation & Capital Infrastructure (DTCI)

Loudoun County, Virginia

Mailing Address: P.O. Box 7500, DTCI-MS #64

Leesburg, VA 20177-7500

Physical Address: 101 Blue Seal Drive, Suite 102

Leesburg, VA 20175

E-mail: Sarah.Kleckner@loudoun.gov

Office: 571-258-3766

From: McConnell, Kate <Kate.McConnell@loudoun.gov>
Sent: Thursday, April 21, 2022 3:54 PM
To: Argen, Wanda <Wanda.Argen@loudoun.gov>; Reagan, Brian <Brian.Reagan@loudoun.gov>; Howser, Terri <Terri.Howser@loudoun.gov>; Friedrich, Dave <Dave.Friedrich@loudoun.gov>; Behboudifar, Sahar <Sahar.Behboudifar@loudoun.gov>; bburroughs@reedsmith.com; DEPT-ECODEV-COMMISSION <DEPT-ECODEV-COMMISSION@loudoun.gov>; DEPT-ECODEV-ECO_DEV_AUTHORITY <DEPT-ECODEV-ECO_DEV_AUTHORITY@loudoun.gov>; Aveni, Marc <Marc.Aveni@loudoun.gov>; Edmonds, Laura <Laura.Edmonds@loudoun.gov>; DEPT-COADMIN-COUNTY_ADMINISTRATION <DEPT-COADMIN-COUNTY_ADMINISTRATION@loudoun.gov>; Siebentritt, Heidi <Heidi.Siebentritt@loudoun.gov>; AirportCommission@leesburgva.gov; DEPT-HEALTH-HEALTH_COUNCIL <DEPT-HEALTH-HEALTH_COUNCIL@loudoun.gov>; executiveoffice@nvrpa.org; Glass, Susan <Susan.Glass@loudoun.gov>; Kardasz, Colleen <Colleen.Kardasz@loudoun.gov>; DEPT-TCI-TRANSIT_ADVISORY_BOARD <TAB@loudoun.gov>
Cc: DEPT-PZ-ZORW <DEPT-PZ-ZORW@loudoun.gov>
Subject: ZOAM-2020-0001, ZONING ORDINANCE REWRITE - Referral Request: Advisory Boards, Commissions, and Committees

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Ordinance, as it will implement the Board-adopted 2019 Comprehensive Plan and shape the future built environment and development of Loudoun County. You may elect to review and comment on individual sections of the draft, new Zoning Ordinance that pertain to the purpose or mission of your advisory board, commission, or committee, or review the full text. **As advisory boards, commissions, and committees, the comments should reflect consensus of your respective group.** Therefore, we recommend that a staff liaison or the chair of each advisory board, commission, and committee provide comments agreed upon by the group.

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Additional information about the Zoning Ordinance Rewrite Project and a link to directions for how to enter comments into EnCode Plus are found in the attached memo.

Please provide your comments no later than Monday, July 17, 2022.

Best regards,

Kate

Kate A. McConnell, AICP, CZA

(she/her/hers)

Principal Planner, Zoning Administration

Loudoun County Department of Planning & Zoning

1 Harrison Street, S.E., 3rd Floor

Leesburg, Virginia 20175

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This e-mail is not intended to be and shall not be deemed to be an official order, requirement, decision or determination made by or on behalf of the Zoning Administrator.

In keeping with the Virginia Freedom of Information Act (FOIA), emails and all attachments may be released to others upon request for inspection and copying without prior notification.

From: Susan Manch
To: [DEPT-PZ-ZORW](#)
Subject: [EXTERNAL] Waterford Foundation Comments
Date: Tuesday, June 28, 2022 8:07:57 AM
Attachments: [22_06_28_WFI_Zoning_Rewrite_Comments.docx](#)

Please accept our comments regarding the Zoning Ordinance Rewrite project.

Thank you.

Susan Manch
President, Waterford Foundation Inc. Board of Directors
703.744.0362
smanch@waterfordfoundation.org





Waterford FOUNDATION, INC.

Post Office Box 142 • Waterford, Virginia 20197 • 540-882-3018
www.waterfordfoundation.org • info@waterfordfoundation.org

June 27, 2022

Joe Kroboth, III, PE, Acting Director, Planning and Zoning
1 Harrison Street, SE 3rd Floor
Leesburg, VA 20175

Dear Mr. Kroboth

The Waterford Foundation would like to thank you and the Loudoun Zoning Staff for their help with the Zoning Ordinance Rewrite (ZOR). The Waterford Foundation has long advocated for amenable Adaptive Reuse zoning policies, and we are pleased to see that it is included in the new draft (Chapter 5, Section 10). Keeping old properties in use benefits all of us, the environment, and the property itself. Thank you.

The Waterford Foundation has a few additional comments on the Chapter on Adaptive Reuse, and our recommendations broadly fall under the following headings:

Purpose: We have included reference to widely recognized standards of adaptive reuse to encourage retention of character defining features of historic properties. We also see a natural overlap between re-use of the built environment and the sustainability movement:

On the fifth bullet point please include “Encourage preservation of historic structures through appropriate renovation, *such as the Secretary of Interior Standards and/or ruling by HDRC (see Section C Standards and Requirements.)*”

On the seventh bullet point please add “*Encourage sustainability,*” prolong building lifespans, encourage reuse of existing resources”

Eligibility / Section B We have broadened the scope of eligibility with the intention of allowing more older buildings to qualify, so as to encourage adaptive reuse of the built environment by keeping the process simple. We recommended streamlining the rezoning process to make the process more user-friendly and financially affordable by removing requirements such as market analysis, structural engineers, and verification of obsolescence. Adaptive reuse should not be expensive and burdensome.

Section B Please add ... “To be eligible for adaptive reuse, a structure must be *“one of the following: ...”*”

Section B.1 Please add line item “*B.1.e Designated ‘locally historic’ by the Loudoun County Heritage Commission.*”

Section B.3 Delete “... *and the prior use or uses in the structure are obsolete or economically nonviable.*”

Section B.3 Delete line items *a. through c.*

Standards and Requirements / Section C We recommended allowing more options when making changes as some historic buildings and sites don’t lend themselves to traditional zoning set-backs or rear, off-street parking spaces. When there are questions, we recommend the Zoning Administrator consult with the HDRC.

C In the first sentence, please include “as set forth... *in Sections 5.10.C and 5.10.D below, and must comply with the following design standards unless an alternative design is recommended by the HDRC upon submission of an application following the COA application standards and process. If the property is not located in an HCC overlay district, the HDRC shall be guided by the Secretary of Interior standards in making its recommendations.*”

Table 5.10-1 Uses Permitted as Adaptive Reuse We recommend allowing additional density except in cases with an absentee landlord.

In the second line of the table, under ‘Permitted as Adaptive Reuse,’ please see suggested definition of “*Live /Work*” in the Section, which covers ‘Definitions.’

Again, the Waterford Foundation greatly appreciates your patience and all of the work of Zoning staff with our additional recommendations listed above. The Zoning Rewrite is so important to all of us to ensure correct implementation of the 2019 Comprehensive Plan.

Yours truly,



Susan Manch
President, Waterford Foundation Board of Directors

Cc.: Mr. Caleb Kershner, Supervisor, Catoctin District
Cc.: Mr. Forest Hayes, Chairman, Planning Commission
Cc.: Mr. Mark Miller, Planning Commission, Catoctin District

From: noreply@civicplus.com
To: [DEPT-PZ-ZORW](#)
Subject: [EXTERNAL] Online Form Submittal: Zoning Ordinance Rewrite
Date: Wednesday, July 13, 2022 3:17:02 PM

Zoning Ordinance Rewrite

Project Overview

The Zoning Ordinance is the primary implementation tool for the 2019 Comprehensive Plan. It contains an added level of specificity that is based on the community's vision as expressed in the goals, policies and actions of the 2019 Comprehensive Plan.

Input from the Board of Supervisors, advisory bodies, various departments and community and professional groups is being factored into the final product.

We welcome your feedback, comments and questions through this form.

Beginning April 18, you will be able to review the draft Zoning Ordinance and make comments directly on the draft.

[Visit the project webpage.](#)

First Name	Mark
Last Name	Rutyna
Address1	1 Aviation Circle
Address2	<i>Field not completed.</i>
City	Washington
State	DC
Zip	20001-6000
Election District	N/A
Please provide general comments on the Zoning Ordinance Rewrite.	MWAA requests that the Airport Impact Overlay District Zoning Ordinance Rewrite language reflect document "8a. ZOAM Draft Text_Section 4-1400_REF3_clean.pdf" as distributed by Loudoun County staff during the Airport Impact Overlay District Update's Referral Round 3 process. Thank you.
Areas of interest or concern	Overlay Districts

What is your question or concern? *Field not completed.*

Thank you for your participation!
To receive an email confirmation of this form, please check the box below.

Email not displaying correctly? [View it in your browser.](#)



**WALSH COLUCCI
LUBELEY & WALSH PC**

July 18, 2022

Via Hand Delivery and E-Mail

Charles Yudd, Deputy County Administrator
Office of the County Administrator
Deputy County Administrator
One Harrison Street, S.E., 5th Floor
Leesburg, VA 20177

Re: Zoning Ordinance Rewrite Review and Comments

Dear Mr. Yudd:

On behalf of Walsh, Colucci, Lubeley & Walsh, P.C. we are providing you with this letter as a summary of our review of, and questions and comments on, the Zoning Ordinance Rewrite. During this 90-day referral period, we have undertaken an in-depth review of the proposed Zoning Ordinance Rewrite. Our review and comments are based on our extensive experience working with Loudoun County zoning ordinances over several decades. These comments are intended to provide solutions to avoid expected pitfalls and unintended consequences. This is the beginning of a conversation that we look forward to having with you and your colleagues.

We have identified major overarching issues in this letter, and have included a detailed list of comments in the enclosure. The comments enclosed have also been entered directly into the encode plus system on the Loudoun County website. While we have done a thorough review of the sections of the draft which are available to the public, not all sections are presently available for review. For this reason, we anticipate that we will have additional comments and questions as additional sections are made available for review.

Major Overarching Issues:

- The zoning ordinance should be its own document.
 - Far too much of the proposed zoning ordinance language is taken directly from the 2019 General Plan. A zoning ordinance is a tool used to implement the policies of a comprehensive plan – it should not include requirements that mirror the policies and guidelines referenced in the comprehensive plan. Many policies in the 2019 General Plan are not based in reality. They are based on lofty ideals, which is

ATTORNEYS AT LAW

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admirable, but the implementation of these policies is often times unachievable. A comprehensive plan ideal cannot be regulated into existence through the implementation of unreasonable zoning ordinance standards. Codification of comprehensive plan ideals will only create additional friction between the two documents and will not result in the implementation of the desired vision of the comprehensive plan. For instance, many use regulations throughout the proposed zoning ordinance simply state that conformance with 2019 General Plan policy must be met. This creates ambiguity regarding what is considered County policy as opposed to regulation. Revise these sections to more specifically define what is required to meet ordinance regulations rather than generally referencing Plan policy.

- The zoning ordinance is incomplete and additional review time is necessary.
 - There are far too many sections of this draft zoning ordinance that are incomplete. It is not possible to provide an accurate evaluation of this draft zoning ordinance if large portions of it have yet to be released to the public. The proposed zoning ordinance is a departure from the current zoning ordinance in many ways, and there are several complicated concepts being introduced in the proposed zoning ordinance. A 90-day review period for the public, especially when large portions of the zoning ordinance have yet to be released, is entirely insufficient, and seems to rush the vital public review and comment process. To put this into perspective, individual sections of the current zoning ordinance required years of thoughtful discussion and debate before they were adopted. The proposed zoning ordinance is a wholesale change in the way land use is regulated in Loudoun County, and is set for public hearing before the public has even had a chance to review it in its entirety. An ample amount of time for public review, debate, and revisions should be provided before this zoning ordinance is even considered for adoption. Could the schedule for review be amended in order to provide appropriate time for a full draft to be reviewed by the public?

- List out all regulations within each section.
 - The draft zoning ordinance contains many sections which cross-reference regulations in other sections or chapters. This requires the reader to jump to multiple sections of the zoning ordinance following various cross references to determine what is required for development. Is there a benefit to cross-referencing, rather than listing out all regulations within each section? It seems that if the regulation is written out each time it is applicable, even if the cross reference is listed, the text will be much clearer and easier to navigate, and be more user friendly.

Chapter 1:

- Provide clarity regarding the effect of the rewrite on properties in the Route 28 Tax District.

- The draft zoning ordinance notes that the County is exploring the feasibility of applying the anticipated zoning ordinance to all properties within the County, while maintaining protections for commercial and industrial properties within the Route 28 Highway Transportation Improvement District (“Route 28 Tax District”). Could more information be provided about why this is a consideration, and what the possible solutions are? As the draft notes, property owners within the Route 28 Tax District are entitled to additional protections due to their inclusion in the Route 28 Tax District, and the protection of those rights is vital to the operation of businesses on those properties. It is impossible to determine how properties may be affected by this proposal without having the opportunity to carefully review and comment on proposed regulations governing the consolidation.

Chapter 2:

- Retain the ability to modify zoning districts.
 - The draft ordinance appears to allow zoning modifications only within Planned Development Zoning Districts, and not any other zoning districts. Is this the intention? Under the current zoning ordinance, all zoning districts are modifiable with approval of the Board, provided that there is not an increase in proposed density, the proposed use is permitted within the zoning district, and adequate justification is provided for the proposed modification. The draft ordinance’s proposal to allow zoning modifications only within Planned Development Zoning Districts removes any flexibility within the base zoning districts, which are quite restrictive. If this regulation remains, all future zoning applications will likely become Planned Development rezoning applications. This is very similar to what occurred when the Route 28 Corridor Districts were adopted in 2013. These districts were far too restrictive and offered inconsequential incentives for applicants to utilize them. As a result, none of these Route 28 Corridor Districts were implemented. History appears to be repeating itself with this draft zoning ordinance.
- Classify multi-family stacked units as multi-family.
 - The draft ordinance takes a clear position that multi-family stacked units should be considered more as single family attached units rather than multi-family units. This is a mistake, and one, which causes myriad concerns. Treating multi-family stacked units as single family attached units, in practice, ignores the fact that multi-family stacked units are condominium units, and not fee simple. While multi-family stacked units are clearly different from multi-family attached units, the line has become more blurred with innovations such as two-over-one units, which further integrate families into a shared building, but do not meet the strict interpretation of a multi-family attached unit. Multi-family units are a core component of meeting the housing needs of Loudoun County, both from a market demand standpoint and an affordable housing needs standpoint. Classifying and treating multi-family stacked units in the same manner as single family attached units, ignores the value

that multi-family stacked units provide in addressing missing middle housing needs. It also ignores the high cost of multi-family stacked units, which are not far behind the highest residential development cost burden associated with multi-family attached units. These high costs require considerably higher integration than single family attached units. Thus, treating multi-family stacked units as single family attached units requires applicants to bear the considerably higher costs of multi-family construction without any of the benefits provided with multi-family attached units. Without major revisions that would encapsulate intentional efforts to revise the draft ordinance to regulate multi-family stacked units on par with the regulations for multi-family attached units, it is exceedingly difficult to envision how applicants or the County will be able to achieve the shared goals of providing more diverse housing options.

- Measure multi-family by FAR in all zoning districts.
 - The draft ordinance appears to measure the density of multifamily units through unit per acre calculations. Housing Policy 1 of the 2019 General Plan addresses the dire need to increase the amount and diversity of housing that is available in terms of unit type, size, and price for all income levels. The very first strategy (Strategy 1.1) highlights that the best way to accomplish this is to “use innovative and flexible regulatory approaches to help fulfill the continuum of housing needs in a variety of locations and settings throughout the County.” In summary, the strategy specifically calls out the need for flexible regulatory approaches Countywide. Action C listed under Strategy 1.1 states verbatim, “Regulate multi-family development by floor area ratio (FAR) instead of by dwelling units per acre.” The benefits of measuring multi-family (both attached and stacked) by FAR should be self-evident, but one major advantage is allowing for a much higher unit per acre yield than would otherwise be permitted while utilizing an equal building height and layout, as well as lot coverage. As a specific example, on a two-acre site, consider how two identical square footage projects present when measured in units per acre, instead of FAR when appropriate. The first project is twenty townhomes at 4,032 square feet each, which results in a density of ten units per acre, and twenty-three percent lot coverage (the FAR would be just under 1.0 at 0.93 FAR). The second project is a multi-family building comprised of eighty units, all one-bedroom units, at 800 square feet each, with 16,640 square feet of hallways, stairwells, and lobby/common space. The second project is exactly the same square footage (80,640 square feet) as the townhome project, which means the FAR is the same, and the lot coverage is the same. The eighty unit multi-family project, if measured in units per acre, is forty units per acre! Same square footage, same lot coverage, same setbacks, but one project is ten units per acre, and one is forty units per acre and would not be allowed in almost any zoning district proposed, despite being the same exact size by any reasonable measurement.
- Clarify how proposed regulations will affect existing development.

- The draft ordinance introduces numerous design standard changes within the context of proposed zoning districts and the presumed district being “replaced”. Given that the draft ordinance appears to remap the majority of zoning districts into the new zoning districts, we have considerable concern regarding the impact to non-proffered development. Has the County considered the impact that changes such as limiting single-family detached housing to forty feet might have on an individual homeowner’s ability to rebuild their home in a total loss scenario? There appear to be numerous sections within Chapter 2 that risk unnecessary non-conformity issues. While innovation in design and seeking new development that meets a different standard than existing development is admirable, prioritizing consideration for what exists today is essential. We recommend reviewing and revising many of these types of design regulations to account for existing homes and businesses wherever possible to avoid potential unintended consequences.
- Rename the proposed zoning districts so they do not directly align with the 2019 General Plan place types.
 - Proposing zoning districts with the same names as the 2019 General Plan place types invites unnecessary confusion between the two documents. Inevitably, land use patterns will change and rezonings will need to occur. Unless Loudoun County once again permits applicant-initiated comprehensive plan amendments, a rezoning without a corresponding plan amendment would implement a zone change on a place type that does not bear the same name. This creates confusion where it does not need to occur.

Chapter 3:

- Allow for more permitted and special exception uses.
 - The draft ordinance overly restricts the amount of uses that can be located within certain zoning districts. This creates the need to rezone more properties in order to establish certain uses. If concerns exist regarding certain uses within zoning districts, the special exception or minor special exception process can be identified for these specific uses in order to address any potential unintended consequences. Additionally, there is far too much inconsistency in terms of the uses that are permitted in each zoning district. The enclosed detailed list of comments identifies opportunities where logical uses can be permitted in each zoning district.
- Streamline the special exception approval process.
 - The draft ordinance use lists for individual zoning districts require a special exception or minor special exception for commonly approved uses. Is there a reason that such uses could not be permitted with an administrative approval subject to performance standards? These performance standards could be derived from the conditions of approval that are typically approved with these special exception and minor special exception uses. This approach would free up staff time and would enable applicants to more quickly develop their desired use within the constraints

of the performance standards, and would be consistent with the way many by-right uses are treated under the current zoning ordinance. The legislative minor special exception process should remain available for the modification of all performance standards.

Chapter 4:

- Include all definitions within Chapter 11, and ensure that definitions remain consistent.
 - Many of the overlay district sections contain specific definitions that are particular to the Overlay District in question. Could the reasoning for these section-specific definitions be explained? While having particular definitions contained within the chapter can make the document more readable, these definitions are not all included in Chapter 11 definitions. Further, some of the definitions, such as “structure” are different than the Chapter 11 definition, creating confusion. All definitions should be included in Chapter 11, even if they are located in individual ordinance sections, and the definitions of all terms should apply consistently throughout the ordinance.
- Include all relevant sections for review and comment.
 - As noted above, many sections of the draft ordinance are not available for review, including regulations proposed for the newly-created Suburban Mixed Use Overlay District. This overlay district is likely to impact many properties throughout the County, and it is imperative that the public receive meaningful opportunity to review and comment on it prior to consideration by the County’s legislative bodies. Does the County have an estimated time when this regulation will be available to review?

Chapter 5:

- River and stream corridor buffer widths are excessive.
 - The proposed 300-foot wide buffer along each side of every Scenic River in Loudoun County doubles the existing Scenic Creek Valley Buffer requirements. The 100-foot wide buffer along each side of every stream and river in Loudoun County is unprecedented. Despite a statement to the contrary in the draft ordinance, how likely is it that the 100-foot wide buffer along each side of every stream and river in Loudoun County will result in the creation of several non-conforming uses? If these widths are to be considered, administrative relief of these buffer widths should be available in a manner similar to what's permitted in the current zoning ordinance for the Scenic Creek Valley Buffer. Additionally, these buffer widths are based on a new term, "bankfull bench," as opposed to the previously used term, "channel scar line." It appears that this new terminology would further increase the width of these buffers beyond the currently used method of measurement.
- Open space credits should be reevaluated.

- Open space is determined in a completely different manner than the current zoning ordinance. Additional credit given to certain types of open space is a novel approach, but it should not come at the expense of reducing the open space credit provided for required floodplain, buffer, and setback areas. If only partial credit is provided for these required open space areas, then reductions of these areas should be permitted so more acceptable open space areas, as identified by the proposed zoning ordinance, can be provided. The open space standards proposed in the draft zoning ordinance far exceed the existing requirements and will harm the viability of developable parcels in Loudoun County.
- Parking ratios need additional input.
 - The proposed parking ratios need to be thoroughly vetted before adoption. Experts from various development fields should be consulted on the proposed parking ratios. For example, parking maximums proposed for commercial office buildings may not enable these uses to be properly marketed; affordable dwelling unit parking ratios should be far less than market rate units considering that these residents are far less likely to have access to a vehicle – the affordable dwelling unit parking percentages listed in the proposed zoning ordinance are far too high when compared to actual usage; and required bicycle and electric parking standards are new concepts that should not overly burden specific property types. Has the County consulted with industry experts and/or neighboring jurisdictions with regards to changes in parking ratios? Many jurisdictions across the country are lowering parking ratios, both in a response to increased urbanism and potentially a fundamental, albeit perhaps slow, cultural shift in car usage generally. What empirical evidence has the County seen that shows an increase in parking ratios beyond current ordinance requirements is actually necessary? How does Loudoun County compare to similar jurisdictions in requiring parking and is there any evidence to suggest that Loudoun County has fundamentally different needs when it comes to parking? Has the County weighed the impacts that additional parking will have on the cost of providing housing? Has the County weighed the impacts that additional parking, particularly surface parking, will have on the environment and stormwater quality?

Chapter 6:

- Reconsider sign limitations and Sign Development Plan standards.
 - The draft of Chapter 6 simplifies the sign regulations. While this results in an ordinance which is easier to read, it also results in a reduction of overall signage in certain circumstances, and calls into question whether traditional signs, such as subdivision entrance signs and shared entrance signs shared between parcels will be permitted, and whether the sign area permitted will be sufficient for these uses, if permitted. The regulations in Chapter 6 should be carefully reviewed for practical implications on Loudoun businesses and citizens.

- The draft ordinance limits the circumstances in which alternative sign regulations may be requested or granted, providing that a Sign Development Plan (“SIDP”) may be requested to modify a sign plan that was approved as a condition of a rezoning, or for signs that have “an unusual design or artistic features that require an alternative to the dimensional or design regulations.” How will the determination whether a sign has usual design or artistic features that require alternative regulations, as this is a subjective standard? Under the current zoning ordinance, there is no such requirement. The current standard should be kept in order to allow sign modifications to be considered on a case-by-case basis, without subjective standards related to the design and artistic elements.
- Reconsider regulations related to murals.
 - The proposed regulation of text contained in murals is problematic. While the text of the draft indicates that the message in the text should not be considered by the Zoning Administrator, the regulation suggests regulation of the sign’s content by regulating the amount of text that may be included. This regulation should be revised in order to ensure that the First Amendment rights of Loudoun County residents and businesses are not being violated.

Chapter 7:

- All regulations within Chapter 7 are essential for meaningful public comment.
 - There are many substantive and procedural sections within Chapter 7 which are not available to the public for review and comment. These sections are essential to provide a review of the draft ordinance as a whole, as they will govern the procedures for application processing and review, as well as provide additional regulations that will affect all sections of the draft ordinance. Does the County have an anticipated date that all of Chapter 7 will be available for public review and comment? It is imperative that the public be given adequate opportunity to review and comment on the draft ordinance, and that staff is permitted ample time to absorb and address comments before the draft ordinance is considered for adoption.

Chapter 8:

- Reduce unnecessary prescriptive regulations and revise language for clarity.
 - Chapter 8 Attainable Housing is overly prescriptive as currently drafted and does not provide effective incentives for applicants to meet the affordable housing goals of the County as outlined in the recently adopted Unmet Housing Needs Strategic Plan. For example, ADUs are now required to be provided proportionally for every unit type in a project. There should be some degree of flexibility to allow applicants to propose innovative solutions to work to address affordable housing.
- Create tangible incentives to encourage construction of affordable housing.
 - This section should provide practical incentives that encourage applicants to exceed the minimum regulations for affordable housing. The draft zoning ordinance

provides an option to pursue bonus density, however, this tool is not a realistic incentive that applicants are likely to pursue. Additional input from industry representatives and experts should be sought to determine what tools can be implemented that will allow the County and applicants to enter into a mutually rewarding partnership to meet the affordable housing need.

- Clarify the applicability and purpose of regulating both ADUs and UHNUs.
 - As written, it is uncertain when and how the UHNU Section 8.02 would apply to a development and how this relates to the ADU requirements. Can UHNUs be provided in lieu of ADUs? What is the rationale for why ADUs and UHNUs are treated differently? When do UHNUs apply and why? Applying these two regulatory tools in different contexts without clarification is confusing and prohibits creative approaches to address affordable housing needs in the County.

We look forward to sitting down with you, and your colleagues, to thoroughly discuss these issues in advance of this Zoning Ordinance Rewrite appearing before the Planning Commission and Board of Supervisors. Thank you.

Sincerely,

Walsh, Colucci, Lubeley & Walsh, P.C.

WALSH, COLUCCI, LUBELEY & WALSH, P.C.

Enclosure, as stated

cc: Chair Randall and Members of the Board of Supervisors
Chairman Hayes and Members of the Loudoun County Planning Commission
Tim Hemstreet, County Administrator
Leo Rogers, County Attorney
Joe Kroboth III, PE, LS, Interim Director, Department of Planning and Zoning
Judi Birkitt, AICP, CZA, Interim Assistant Director, Department of Planning and Zoning
Kate McConnell, AICP, CZA, Principal Planner

ZO Section	ZO Section Excerpt	Comment	Recommendation
1.02.E.1.	The period of validity in Section 6-1312 of this Zoning Ordinance does not apply to special exceptions approved prior to June 16, 1993;	This is a Revised 1993 ZO reference	Remove or replace this reference
1.02.G.	The Board of Supervisors may establish grandfathering provisions in a resolution adopting an amendment.	What would staff suggest for a grandfathering provision?	Any active application at the time of adoption of the new zoning ordinance should be grandfathered under the current zoning ordinance
1.02.K.	Notwithstanding the designation shown on the zoning map adopted in conjunction with the adoption of this Ordinance,	Given the dated references in this section, it's unclear if this section is copied from the existing ordinance or if it is referring to the adoption of a new zoning map	The interactive map provided online shows zoning map amendments over previously rezoned parcels - staff should clarify their intent with this proposed remapping and its effects on approved rezonings as well as the vested rights of properties in the Route 28 Transportation Improvement District
1.02.L.	Note: The County is exploring the feasibility of consolidating to one Zoning Ordinance, while maintaining protections for commercial and industrially zoned properties in the Route 28 Taxing District. That effort could result in revisions to the above sub-section in future versions of the draft Zoning Ordinance.	This is simply a placeholder statement for what could be an impactful and broad reaching section of the new zoning ordinance	Provide this proposed section to the public with ample review time with the expectation that the likely significant comments from stakeholders will be properly addressed or do not alter the zoning of the Route 28 Transportation Improvement District

ZO Section	ZO Section Excerpt	Comment	Recommendation
2.01.01	Implement the Urban Transit Center and Urban Mixed Use Place Types of the General Plan.	References to the 2019 General Plan even within the purpose section, hamstringing the Board from being able to interpret the applicability of a zoning district to an area within Loudoun County.	This bullet point should be deleted.
2.01.01.A.1	Each Zoning Map Amendment or Zoning Concept Plan Amendment application must address the requirements of Section 7.09.06, as well as Sections 7.09.02 or 7.09.05 and 7.09.03 and 7.09.04.	This more appropriately belongs in Chapter 7. If it is going to exist here, then all regulations should be provided in full.	Delete or provided full regulations in addition to section references. It is confusing and user-unfriendly to require flipping back and forth between sections.
2.01.01.A.2. a,b	The UT/UM District must: a. For the UT Inner Core Subarea and UT Outer Core Subarea, be in areas consistent with the Urban Transit Center Place Type of the General Plan; b. For the UM Subarea, be in areas consistent with the Urban Mixed Use Place Type of the General Plan;	These district requirements directly reference the 2019 General Plan and are inappropriate in the Zoning Ordinance.	Delete
2.01.01.A.2. d	d. Include an arrangement of land uses that provides safe and convenient opportunities to connect with the Metrorail stop.	This regulation is subjective and requires additional clarity or removal. There is not enough information provided to define either "safe" or "convenient" these are determinations that are more appropriate for the Board to make in legislative applications. Enforcement could be difficult without further definition.	Delete or provided additional clarity.

ZO Section	ZO Section Excerpt	Comment	Recommendation
2.01.01.A.4	<p>4. Incremental Additions. The Board of Supervisors may approve a zoning map amendment for incremental additions to an existing UT/UM district if it finds that they are:</p> <p>a. Abutting or across the road from an existing UT/UM district;</p> <p>b. Compatible with the existing UT/UM district;</p> <p>c. Consistent with the General Plan policies for the area; and</p> <p>d. Integrated with the existing UT/UM district through roadway, pedestrian, and bicycle connections as well as a</p>	<p>The Board should not be hamstrung by the zoning district language in deciding whether to make an incremental addition. The Board should be able to make an incremental addition. Period. It is within the Board's purview to decided whether or not to agree to make an incremental addition. Self referential requirements to policy is inherently undermining the Board's authority in making land use decisions.</p>	<p>Recommend deletion as shown.</p>
2.01.01.B	<p>B. Uses. Refer to Table 3.02.01 for uses allowed in the district.</p>	<p>Internal references should be avoided.</p>	<p>Please list uses here. It can be in both places.</p>
2.01.01.C Reference 4	<p>Section 5.07.02 applies, except for arterial roads where the following applies: Building - 100 ft. unless a component of an Urban Deck Parking - 50 ft.</p>	<p>Internal references should be avoided.</p>	<p>Please list section 5.07.02 here.</p>
2.01.01.C Reference 10	<p>(UM) Maximum number of SFD, SFA, and MF stacked dwelling units must be provided on an approved CDP</p>	<p>Reference to a CDP here seems odd in the context of otherwise by-right development. Also lacking a description of specifically what the maximum density is.</p>	<p>Remove reference to CDP. List specific maxium densities for unit types here.</p>
2.01.01.C Reference 12	<p>(UM) Building Height Maximum: Single-Family Dwelling Unit: 50 ft.</p>	<p>Single-Family Dwelling Unit max heights should be 60 feet in almost all instances. This is the current permitted max by-right height for SFDs County-wide.</p>	<p>Increase to 60 feet.</p>
2.01.01.C Reference 13	<p>(UT Outer Core) Building Height Minimum: 70 ft.</p>	<p>UT Outer Core should allows for MF Stacked. MF Stacked may struggle even over podium parking or one story retail to achieve 70 feet.</p>	<p>Lower minimum height to 65 feet.</p>

ZO Section	ZO Section Excerpt	Comment	Recommendation
2.01.01.E.2	<p>2. When an incremental addition is made to an existing UT/UM District, the tabulation required in Section 2.01.01.G must be revised to incorporate uses proposed for the incremental addition. The revised tabulation must continue to meet minimum use percentages required in Table 2.01.01-3.</p> <p>3. a. Incremental additions permitted pursuant to Section 2.01.01.A.3. of less than 5 acres are not required to meet the Required Mix of Uses in Table 2.01.01-3. provided that:</p> <p>1. The effect of the proposed development is to shift the use mix for the UT/UM district closer to the preferred mix for the Urban Transit and/or the Urban Mixed Use Place Types;</p> <p>2. The proposed development meets the requirements of</p>	<p>Way too many references here. Almost unreadable. References to 2019 General Plan. What is the plan for tracking tabulations across different site plans/properties? When an incremental addition is made this reads as if everyone would need to update their tabulations to reflect the incremental addition.</p>	<p>Provided references to other sections and list them directly here within. Remove references to 2019 General Plan. Clarify intent.</p>
2.01.01.E.3	Table 2.01.01-3. Permitted Mix of Uses	<p>This is a comment for the entire ordinance, but the treatment of multi-family stacked as equivalent to SFA is a mistake and needs to be rectified across the entire ordinance.</p>	<p>Treat Multi-family Stacked as multi-family. Measure all multi-family (Stacked and Attached) by FAR.</p>
2.01.01.E.3	Table 2.01.01-3. Permitted Mix of Uses	<p>(UM) Limits SFA and MF stacked to no more than 50% of land area when they are core uses in terms of policy. Measures residential density by land area and FAR which could be difficult to calculate</p>	<p>Recommend including SFA and MF stacked within the 70-90% and measuring by FAR.</p>

ZO Section	ZO Section Excerpt	Comment	Recommendation
2.01.01.H	<p>H. Road Network. Within the UE District, the road network must be provided pursuant to Section 5.09.02 and as follows:</p> <ol style="list-style-type: none"> 1. The UT/UM District must be arranged in a predominately rectilinear pattern of interconnecting streets and blocks. 2. Block lengths must be provided as follows: <ol style="list-style-type: none"> a. UT Inner Core: 200 feet minimum; 400 feet maximum b. UT Outer Core: 200 feet minimum; 660 feet maximum c. UM: 200 feet minimum; 660 feet maximum 	<p>Refernces internal reference. Block lengths are too specific and not needed. Also incorrectly references UE District, when it should be UT/UM</p>	<p>List out regulations here. Remove block lengths regulations as the provide an arbitrary and unnecessary barrier to otherwise good design.</p>
2.01.01.I.1	<p>I. Land Use Arrangement. Land uses within the UT/UM District must be arranged as follows:</p> <ol style="list-style-type: none"> 1. Adjoining or proximate to each other to ensure a compact development pattern and continuous urban streetscape. 	<p>This seems redundant.</p>	<p>Delete</p>
2.01.01.I.2	<p>I. Land Use Arrangement. Land uses within the UT/UM District must be arranged as follows:</p> <ol style="list-style-type: none"> 2. Bus stops must be located throughout the UT/UM District, as determined by the County, the Washington Metro Area Transit Authority (WMATA), or similar authority. 	<p>Concerned about the County requiring approval for land use issues from outside agencies.</p>	<p>Recommend deleting as shown. The County can still consult with WMATA, but it should not handcuff itself by law to requiring WMATA's sign-off unless otherwise required by state code or federal law.</p>
2.01.01.L.2. a	<p>2. Most Direct Route Required. All pedestrian connections in the UT/UM District must be:</p> <ol style="list-style-type: none"> a. Designed and sited to ensure the shortest and most direct route possible from point to point; 	<p>Use of the phrase "must be" is inappropriate as it allows for no flexibility to account for reality.</p>	<p>Recommend replacing "must be" with "should be where feasible".</p>

ZO Section	ZO Section Excerpt	Comment	Recommendation
2.01.01.L.3	<p>3. Sidewalks and Other On-Site Pedestrian Walkways. All sidewalks and on-site pedestrian walkways must:</p> <ul style="list-style-type: none"> a. Be provided on all 4 sides of a block; b. Be provided parallel to all streets; c. Be at least 12 feet wide within the UT Inner Core and UT Outer Core Subareas and at least 9 feet wide within the UM Subarea; d. Have and maintain a minimum unobstructed pathway at least 5 feet wide; e. Be aligned and connected with those on adjacent properties and public rights-of-way; and f. Have crosswalks when the pedestrian facility crosses a parking area, driveway, or private street. In the UT Inner Core and UT Outer Core Subareas, the crosswalks must be clearly marked through use of change in paving materials, height, or distinctive colors. In the UM Subarea, painted crosswalks may be used. 	<p>A lot of this is way too specific and rigid. For example requiring paths to be parallele to ALL streets, a literal interpretation of this regulation and the existence of even on perpendicular street would render this regulation quite literally impossible to meet.</p>	<p>Recommend refinement and/or general deletion. This regulation also seems to be accounting for dining outdoors under the guise of pedestrian pathways which seem like they should probably be regulated seperately.</p>
2.01.01.L.4	<p>4. Bicycle Paths and Lanes. All bicycle paths and lanes in the UT/UM District must be:</p> <ul style="list-style-type: none"> a. At least 5 feet wide, 10 feet wide if a shared use path; and b. Provided throughout the UT/UM District. 	<p>Use of the phrase "must be" is inappropriate as it allows for no flexiblity to account for reality.</p>	<p>Recommend replacing "must be" with "should be". Also recommend further defining the 5 feet wide is from curb or gaurdrail per FHWA guidelines.</p>
2.01.01.M	<p>M. On-Site Amenities. All buildings in the UT Inner and UT Outer Core Subareas containing 50,000 or more square feet of gross floor area must incorporate at least 2 of the on-site amenities or features listed below that are accessible to all uses within the building.</p>	<p>How are we measuring a "Subarea"?</p>	<p>Maybe I missed it, but this needs to be further clarified. This section is extremely prescriptive and the threshold for requiring meeting these requirements is very specific at 50,000 sqft, so one would need to know exactly what is and isn't a subarea.</p>

ZO Section	ZO Section Excerpt	Comment	Recommendation
2.01.01.N	N. Tree Canopy. Tree canopy requirements of Section 5.06 do not apply to the UT Inner Core Subarea.	Unnecessary.	If there aren't Tree Canopy requirements, then this section should be deleted.
2.01.02	Purpose. The purpose of the Urban Employment (UE) District is to: Implement the Urban Employment Place Type of the General Plan.	References to the 2019 General Plan even within the purpose section, hamstring the Board from being able to interpret the applicability of a zoning district to an area within Loudoun County.	This bullet point should be deleted.
2.01.02.A.1	A. Applicability, Size, and Location. The following applies to the UE district: 1. Each Zoning Map Amendment or Zoning Concept Plan Amendment application must address the requirements of Section 7.09.06, as well as Sections 7.09.02 or 7.09.05 and 7.09.03 and 7.09.04.	This more appropriately belongs in Chapter 7. If it is going to exist here, then all regulations should be provided in full.	Delete or provided full regulations in addition to section references. It is confusing and user-unfriendly to require flipping back and forth between sections.
2.01.02.A.2. a	2. The UE district must: a. Be in an area consistent with the Urban Employment Place Type of the General Plan;	These district requirements directly reference the 2019 General Plan and are inappropriate in the Zoning Ordinance.	Delete
2.01.02.A.2. c	2. The UE district must: c. Include an arrangement of land uses that provides safe and convenient opportunities to connect with the Loudoun Gateway transit stop.	This regulation is subjective and requires additional clarity or removal. There is not enough information provided to define either "safe" or "convenient" these are determinations that are more appropriate for the Board to make in legislative applications. Enforcement could be difficult without further definition.	Delete or provided additional clarity.

ZO Section	ZO Section Excerpt	Comment	Recommendation
2.01.02.A.4	<p>4. Incremental Additions. The Board of Supervisors may approve a zoning map amendment with incremental additions to an existing UE district if it finds that they are:</p> <ul style="list-style-type: none"> a. Abutting or across the street from an existing UE district; b. Compatible with the existing UE district; c. Consistent with the General Plan policies for the area; and d. Integrated with the existing UE district through roadway, pedestrian, and bicycle connections as well as a consistent streetscape. 	<p>The Board should not be hamstrung by the zoning district language in deciding whether to make an incremental addition. The Board should be able to make an incremental addition. Period. It is within the Board's purview to decided whether or not to agree to make an incremental addition. Self referential requirements to policy is inherently undermining the Board's authority in making land use decisions.</p>	<p>Recommend deletion as shown.</p>
2.01.02.B	<p>B. Uses. Refer to Table 3.02.01 for uses allowed in the district.</p>	<p>Internal references should be avoided.</p>	<p>Please list uses here. It can be in both places.</p>
2.01.02.C Reference 4	<p>Section 5.07.02 applies, except for arterial roads where the following applies: Building - 100 ft. unless a component of an Urban Deck Parking - 50 ft.</p>	<p>Internal references should be avoided.</p>	<p>Please list section 5.07.02 here.</p>

ZO Section	ZO Section Excerpt	Comment	Recommendation
2.01.02.E	<p>E. Road Network. Within the UE District, the road network must be provided pursuant to Section 5.09.02 and as follows:</p> <ol style="list-style-type: none"> 1. The UE District must be arranged in a predominately rectilinear pattern of interconnecting streets and blocks. 2. Block lengths must be provided as follows: <ol style="list-style-type: none"> a. Minimum: 300 feet b. Maximum: 800 feet 3. The road network must provide multiple and direct vehicular connections to the transit station. 4. In addition to Section 5.09.02.A.1., future road connections are required to adjacent developable parcels in the Suburban Policy Area and Urban Policy Area 	<p>Refernces internal reference. Block lengths are too specific and not needed. Must provide multiple and direct vehicular connections to transit station, may not be feasible or desiereable but leaves not flexibility for applicants or the County. We should only require future road connections where planned for in the CTP otherwise you end up with a bunch of dead ends to no where. It makes sense to encourage interparcel connectivity, it does not make sense to require it no matter what.</p>	<p>List out regulations here. Remove block lengths regulations as the provide an arbitrary and unecessary barrier to otherwise good design. Replace "must provide" with "if feasible should provide". Need flexibilty within the context of future road connections to adjacent developable parcels.</p>
2.01.02.F.1	<p>F. Land Use Arrangement. Land uses within the UE District must be arranged as follows:</p> <ol style="list-style-type: none"> 1. Adjoining or proximate to each other to ensure a compact development pattern and continuous urban streetscape. 	<p>This seems redundant.</p>	<p>Delete</p>
2.01.01.F.2	<p>F. Land Use Arrangement. Land uses within the UE District must be arranged as follows:</p> <ol style="list-style-type: none"> 3. Bus stops must be located throughout the UE District, as determined by the County, in consultation with the Washington Metro Area Transit Authority (WMATA), or similar authority. 	<p>Concerned about the County requiring approval for land use issues from outside agencies.</p>	<p>Recommend deleting as shown. The County can still consult with WMATA, but it should not handcuff itself by law to requiring WMATA's consultation/sign-off unless otherwise required by state code or federal law.</p>

ZO Section	ZO Section Excerpt	Comment	Recommendation
2.01.02.I	<p>1. Pedestrian and Bicycle Network. Within the UE District, a pedestrian and bicycle network must be provided in accordance with Section 5.09.03 and as follows:</p> <p>1. Pedestrian and bicycle connections must be designed to provide direct access and multiple connections to and between the:</p> <p>a. Primary entrance or entrances to each building;</p> <p>b. The transit station; and</p> <p>c. Bus stops.</p> <p>2. All pedestrian connections in the UE District must be:</p> <p>a. Designed and sited to ensure the shortest and most direct route possible from point to point.</p> <p>b. Connected so that pedestrians do not have to walk across grass or landscaped areas when making connections identified in Subsection 2.01.02.I.1. above.</p> <p>3. Shared use paths must be provided throughout the UE District</p>	<p>This section is too prescriptive to be realistic. The phrase must be provides no flexibility to staff or applicants in addressing what may be a more logical and/or practical or environmentally sensitive design. Shared use paths must be provided throughout is too subjective and too general to be a regulation. Need additional guidance on where shared use paths should be located (such as along certain types of roads or as called for in the CTP, etc).</p>	<p>Recommend deletion of entire section. Otherwise recommend providing flexibility within design requirements, and providing more guidance in terms of required placement of shared use paths.</p>
2.01.02.J	<p>On-site amenities listed in 1, 2, 5, and 8 may be used to satisfy the minimum 10% open space requirement in Table 2.01.02-1.</p>	<p>On-site amenities highlighted as eligible to be used for open space appear to be hardscaped elements. It seems odd to exclude water features (J.6) or swimming pools (J.9) but include patios... similarly its odd that public restrooms are ok as open space (J.8) but athletic facilities such as showers/lockers (J.7) are not.</p>	<p>Recommend allowing all on-site amenities to count towards open space (Would encourage the provision of more desirable amenities).</p>

ZO Section	ZO Section Excerpt	Comment	Recommendation
2.01.02.K	K. Street Trees. Street trees must be provided in accordance with Section 5.07.02.E.	Please list out Section 5.07.02.E here	Avoid internal refernces whenever possible by listing section labels and actual regulation directly within areas where it makes sense to do so. This will vastly increase the usability and user-friendly nature of the document overall.
2.02.01	Purpose. The purpose of the Suburban Neighborhood (SN) Zoning District is to: Implement the Suburban Neighborhood Place Type of the General Plan.	References to the 2019 General Plan even within the purpose section, hamstringing the Board from being able to interpret the applicability of a zoning district to an area within Loudoun County.	This bullet point should be deleted.
2.02.01.A	A. Applicability. The SN-4 and SN-6 Zoning Districts must be in an area consistent with the Suburban Neighborhood Place Type of the General Plan.	These district requirements directly reference the 2019 General Plan and are inappropriate in the Zoning Ordinance.	Delete
2.02.01.B	B. Use Regulations. Refer to Table 3.02.01 for uses allowed in the district.	Internal references should be avoided.	Please list uses here. It can be in both places.
2.02.01.C. Reference 2	Residential Lot Size (max.)	10,000 sf max for SFD is too small and would make a high number of existing SFD lots non-conforming.	Recommend increasing to 40,000 sf
2.02.01.C. Reference 4	Residential Lot Width (min.)	50 ft for a duplex seems aggressive, when two 16 foot wide units, with 8 foot side yards would only be 48 feet. Also this reference doesn't address SFA Townhouse (nor does reference 2 for building lot max btw)	Recommend lowering minimum allowed to at least 48 feet.
2.02.01.C Table	General comment regarding table	The table inconsistently makes references to various unit types, MF is addressed but not MF Stacked, and SFA Townhouse is only addressed sometimes.	Recommend cleaning up unit type references within this table to reflect intent.
2.02.01.C. Reference 15 & 16	Building Height (max.)	Building height is capped at 50 ft, and SFD height is capped at 40 ft. Existing regulations allow up to 60 ft. Risk of non-conformities arise from leaving this as is.	Recommend increasing allowable height to 60 feet.
2.02.01.D Table 2.02.01-2. Footnote 4	4Not required for projects less than 20 acres in size if the effect of the proposed development is to shift the use mix for an area within 1/2 mile of its boundaries closer to the preferred mix for the place type.	These district requirements directly reference the 2019 General Plan and are inappropriate in the Zoning Ordinance.	Delete

ZO Section	ZO Section Excerpt	Comment	Recommendation
2.02.01.E. Table 2.02.01-3	Dwelling Unit Type Mix	Percentages listed are inconsistent with existing residential development in the Suburban Policy Area. Risk of non-conformities arise from leaving this as is.	Recommend revising to allow for 100% of all unit types, and clarifying that multi-family is intended to be multi-family stacked.
2.02.01.H	H. Lot Access. Individual lots in the SN Zoning District must be accessed pursuant to Section 5.09.01 and as follows: 1. Notwithstanding the access requirements of Section 5.09.01, access to single-family detached or individual single-family attached dwelling units may be provided by an alley.	Please list out Section 5.09.01 here	Avoid internal refernces whenever possible by listing section labels and actual regulation directly within areas where it makes sense to do so. This will vastly increase the usability and user-friendly nature of the document overall.
2.02.01.I	I. Road Network. Within the SN District, the road network must be provided in accordance with Section 5.09.02 and as follows: 1. Roads must form blocks where feasible. Culs-de-sac and limited loop roads are also appropriate. 2. Block length or length between intersecting roads must be: a. Minimum: 600 feet b. Maximum: 1,500 feet 3. In addition Section 5.09.02.A.1., future road connections are required to adjoining developable parcels in the Suburban Compact Neighborhood Place Type and the Suburban Mixed Use Place Type	Please list out Section 5.09.02 here, and deleted subsections 2 and 3 as they are overly prescriptive, arbitrary, and problematic given the "must be" phrasing used in the introductory sentence.	Please list out Section 5.09.02 here, and deleted subsections 2 and 3 as they are overly prescriptive, arbitrary, and problematic given the "must be" phrasing used in the introductory sentence.
2.02.01.J	J. Pedestrian and Bicycle Network. Within the SN District, a pedestrian and bicycle network must be provided in accordance with Section 5.09.03.	Please list out Section 5.09.03 here	Avoid internal refernces whenever possible by listing section labels and actual regulation directly within areas where it makes sense to do so. This will vastly increase the usability and user-friendly nature of the document overall.

ZO Section	ZO Section Excerpt	Comment	Recommendation
2.02.01.K	K. Street Trees. Street trees must be provided in accordance with Section 5.07.02.E.	Please list out Section 5.07.02.E here	Avoid internal referneces whenever possible by listing section labels and actual regulation directly within areas where it makes sense to do so. This will vastly increase the usability and user-friendly nature of the document overall.
2.02.02	Purpose. The purpose of the Suburban Compact Neighborhood (SCN) Zoning District is to: Implement the Suburban Compact Neighborhood Place Type of the General Plan.	References to the 2019 General Plan even within the purpose section, hamstringing the Board from being able to interpret the applicability of a zoning district to an area within Loudoun County.	This bullet point should be deleted.
2.02.02.A	A. Applicability. The SCN District must be in an area consistent with the Suburban Compact Neighborhood Place Type of the General Plan. The SCN district may also be applied in limited areas designated as the Suburban Neighborhood and Suburban Mixed Use Place Types of the General Plan if the criteria of Section 2.02.02.J are satisfied.	These district requirements directly reference the 2019 General Plan and are inappropriate in the Zoning Ordinance.	Delete
2.02.02.B	B. Use Regulations. Refer to Table 3.02.01.	Internal references should be avoided.	Please list uses here. It can be in both places.
2.02.02.C. Reference 4	Residential Length Width Ratio (max.)	This belongs in the FSM and not in the zoning ordinance. It also should be better defined. Need guidance on corner lots of how to measure.	Delete. If desired place in FSM, and provide additional information for corner lots.
2.02.02.C. Reference 6	Residential Front Yard Setback (min.)	Having greater front yard setbacks for multifamily does not make any sense. Also requiring a special exception to modify front yards is unnecessary, a zoning modification (ZMOD) is all that should be required.	Lower multifamily front yard setback to be equitable with other unit types. Remove requirement for special exception approval for modification. This is something that occurs in multiple places, a SPEX should not be required for design modifications, that is just more work for everyone and unnecessary. Would be nice to have the Zoning Administrator have authority to approve modifications to these types of regulations within a certain margin. This would take a lot of things off of both staff and the Board/PC's plate.

ZO Section	ZO Section Excerpt	Comment	Recommendation
2.02.02.C. Reference 12	Residential Density (max.)	Multifamily units should be regulated by FAR and not unit per acre density. This is a policy in the adopted 2019 General Plan. The benefits far outweigh any concerns.	Add FAR max regulations for multifamily units and units overall if mixed unit types. This is a major regulation that will hamstring the ability of the County and industry to provide housing in an efficient
2.02.02.C. Reference 16	Building Height (max.)	Maximum height should be 60 feet.	Change maximum height to 60 feet.
2.02.02.D. Requireme nt Footnote 2	Total percentage of land use categories must equal 100%	How could/when would it not?	Redundant; delete.
2.02.02.E. References 4&5	Maximum percentages of Stacked Multifamily and Attached Mutifamily for SCN-8, SCN-16, and SCN-24	These percentages for MFS vs MFA are 15%/0% (SCN-8), 20%/75% (SCN-16), and 25%/100% (SCN-24) respectively.	Treat Multi-family Stacked as multi-family. Allowed percentages should be equitable in each district for MFA & MFS. Recommend rivision to allow 15% for both in SCN-8, 75% for both in SCN-16 and 100% for both in SCN-24. Additionally outside of these rivisions which are necessary, it is also confusing and odd that the initial draft allowed for a greater percentage (40%) of SFA in SCN-16 compared to (20%) for MFS. While the requested revision above stands, worst case scenario should involve increasing MFS to 40% in SCN-16 at a minimum. There is not reason for those to be different if MFS is going to remain categorized as essentially townhomes
2.02.02.E. Footnote 1	Single-family detached dwelling units must meet the requirements of Section 3.05.02.08.C.	Section references should be listed out in place wherever possible for ease of use.	List Section 3.05.02.08.C here
2.02.02.F	F. Variation of Lot Sizes. Developments must provide a variety of lot sizes in accordance with Section 5.13.	Section references should be listed out in place wherever possible for ease of use.	List Section 5.13 here

ZO Section	ZO Section Excerpt	Comment	Recommendation
2.02.02.I	<p>Road Network. Within the SCN District, the road network must be provided pursuant to Section 5.09.02 and as follows:</p> <ol style="list-style-type: none"> 1. Roads must form blocks where feasible. Blocks must generally be in a grid pattern, with interconnecting roads and alleys. 2. Block length or length between intersecting roads must be: <ol style="list-style-type: none"> a. Minimum: 200 feet b. Maximum: 660 feet 3. In addition Section 5.09.02.A.1, future road connections are required to adjoining developable parcels in the Suburban Neighborhood Place Type and the Suburban Mixed Use Place Type 	<p>Please list out Section 5.09.02 here, and deleted subsections 2 and 3 as they are overly prescriptive, arbitrary, and problematic given the "must be" phrasing used in the introductory sentence.</p>	<p>Please list out Section 5.09.02 here, and deleted subsections 2 and 3 as they are overly prescriptive, arbitrary, and problematic given the "must be" phrasing used in the introductory sentence.</p>
2.02.02.J	<p>J. Pedestrian and Bicycle Network. Within the SCN District, a pedestrian and bicycle network must be provided in accordance with Section 5.09.03.</p>	<p>Section references should be listed out in place wherever possible for ease of use.</p>	<p>List Section 5.09.03 here</p>
2.02.02.K	<p>K. Street Trees. Street trees must be provided in accordance with Section 5.07.02.E.</p>	<p>Section references should be listed out in place wherever possible for ease of use.</p>	<p>List Section 5.07.02.E here</p>

ZO Section	ZO Section Excerpt	Comment	Recommendation
2.02.02.L	<p>SCN Alternative Location Criteria. The SCN District may be applied in the Suburban Neighborhood or Suburban Mixed Use Place Types provided the proposal meets each of the following criteria:</p> <ol style="list-style-type: none"> 1. The proposal must include dwelling units that exceed the applicable requirements of Section 8.01 by providing a minimum number of Unmet Housing Needs Units (UHNUs) pursuant to Section 8.02 as follows: <ol style="list-style-type: none"> a. At least 15% of the total number of the single-family detached, single family attached, and multifamily stacked dwelling units; and b. At least 10% of the total number of the multifamily attached dwelling units. <ol style="list-style-type: none"> 1. Notwithstanding Section 8.01.A.4.a, multifamily buildings with 4 or more stories and an elevator are not exempt from the ADU Program when applying the SNC Alternative Location Criteria. 2. The site must be located within 1/2 mile of a mixed use development or along a transit corridor as defined in the 2019 Countywide Transportation Plan (CTP). <ol style="list-style-type: none"> a. When located proximate to a mixed-use development, existing and/or proposed pedestrian and/or vehicular connections to the mixed use development must be provided. 3. 	<p>Copied and pasted 2019 General Plan policy is inappropriate and problematic.</p>	<p>Delete. Would require a ZOAM and CPAM every time this is updated. Already processing a CPAM for some of this language. This language is way too specific with usage of the phrase "must be" allowing for no flexibility for the County or industry to account for logic or reality.</p>

ZO Section	ZO Section Excerpt	Comment	Recommendation
2.02.02.M	<p>M. SCN Alternative Location Request. A request to apply the SCN District in an alternative location must be submitted as part of Zoning Map Amendment application pursuant to Section 7.09.01 and include a detailed description of how the proposal meets the SCN Alternative Location Criteria listed above to include:</p> <ol style="list-style-type: none"> 1. Detailed written description of how the proposal achieves the 8 criteria listed in this Section 2.02.02.J. 2. Demonstration of how the proposal will meet the UHNU requirement of Criteria 1. 3. Map showing location of the proposed project and the distance from the development requirements in Criteria 2, 3, 4, and 5. 4. Depiction of how the proposal achieves Criteria 6, 7, and 8 and a commitment to these transition and design components 	<p>More appropriately placed in Chapter 7. Also needs less rigidity in requirements to be feasible.</p>	<p>Revise for additional flexibility and place in Chapter 7</p>
2.02.03	<p>Title Line - Suburban Mixed Use - SM</p>	<p>See previous comments for UT, UE, SN and SCN regarding similar areas within this subsection when it comes to:</p> <ul style="list-style-type: none"> - usage of 2019 General Plan terms and/or policy language, - the general usage of phrase "must be" where its use may conflict with Board Authority, - concerns about not listing out uses within subsection, - concerns about usage of external section references, and - concerns about feasibility of various design requirements, particularly discrepancies in building height. 	<p>See previous areas for revisions, and/or deletion recommendations.</p>

ZO Section	ZO Section Excerpt	Comment	Recommendation
2.02.03.F Table 2.02.03-3	Permitted Mix of Uses.	Residential max percentages for MFS and MFA are vastly different.	Treat Multifamily Stacked and Multifamily attached as equitable in terms of percentage of land area allowed for both unit types.
2.02.04	Title Line - Suburban Commercial - SC	See previous comments for UT, UE, SN and SCN regarding similar areas within this subsection when it comes to: - usage of 2019 General Plan terms and/or policy language, - the general usage of phrase "must be" where its use may conflict with Board Authority, - concerns about not listing out uses within subsection, - concerns about usage of external section references, and - concerns about feasibility of various design requirements, particularly discrepancies in building height.	See previous areas for revisions, and/or deletion recommendations.
2.02.05	Title Line - Suburban Employment - SE	See previous comments for UT, UE, SN and SCN regarding similar areas within this subsection when it comes to: - usage of 2019 General Plan terms and/or policy language, - the general usage of phrase "must be" where its use may conflict with Board Authority, - concerns about not listing out uses within subsection, - concerns about usage of external section references, and - concerns about feasibility of various design requirements, particularly discrepancies in	See previous areas for revisions, and/or deletion recommendations.

ZO Section	ZO Section Excerpt	Comment	Recommendation
2.02.06	Title Line - Suburban Industrail - SI	<p>See previous comments for UT, UE, SN and SCN regarding similar areas within this sub section when it comes to:</p> <ul style="list-style-type: none"> - usuage of 2019 General Plan terms and/or policy language, - the general usage of phrase "must be" where its use may conflict with Board Authority, - concerns about not listing out uses within subsection, - concerns about usuage of external section references, and - concerns about feasibility of various design requirements, particularly discrepencies in building height. 	See previous areas for revisions, and/or deletion reccomendations.
2.02.07	Title Line - Suburban Mineral Extraction - SME	<p>See previous comments for UT, UE, SN and SCN regarding similar areas within this sub section when it comes to:</p> <ul style="list-style-type: none"> - usage of 2019 General Plan terms and/or policy language, - the general usage of phrase "must be" where its use may conflict with Board Authority, - concerns about not listing out uses within subsection, - concerns about usuage of external section references, and - concerns about feasibility of various design requirements, particularly discrepencies in building height. 	See previous areas for revisions, and/or deletion reccomendations.

ZO Section	ZO Section Excerpt	Comment	Recommendation
2.02.07	Purpose Section: Permit residential and other uses only to the extent that they may be compatible with intensive industrial and mineral extraction uses.	Residential uses are mentioned here. However based on whats written in the use mix table within this section, it would appear that residential is prohibited. Only Household Living use permitted is "Caretake or guard" which as currently defined needs revision to clarify what dwelling unit, the caretakers dwelling is defined as being accessory to a dwelling unit. This doesn't make sense.	Consider how use mix table may unintentionally affect ability to provide caretake or guard accessory unit for approved uses in this zoning district. Consider allowing group housing on site?
2.03.01	Title Line - Transition Large Lot Neighborhood - TLN-10, TLN-3, TLN-1	See previous comments for UT, UE, SN and SCN regarding similar areas within this subsection when it comes to: - usage of 2019 General Plan terms and/or policy language, - the general usage of phrase "must be" where its use may conflict with Board Authority, - concerns about not listing out uses within subsection, - concerns about usage of external section references, and - concerns about feasibility of various design requirements, particularly discrepancies in building height.	See previous areas for revisions, and/or deletion recommendations.
2.03.01.D. Table 2.03.01-2	Permitted Mix of Uses.	Reference 1 - Residential Max percentage is listed at 95%, concerned with conformance in terms of existing development	Increase to 100%
2.03.01.L	L. Exemptions. The development of a lot existing on January 7, 2003, is exempted from the standards and requirements of Sections 2.03.01.D. through 2.03.01.M and Table 2.03.01-1 (TLN District Dimensional Standards). The development of such lot will be subject to the development standards of Table 2.03.01-2.	Why lots existing on January 7, 2003? Why not from adoption of this new ordinance? The way this is written, it exempts the lots from the requirements of D through M which would include L, which is confusing and conflictatory in nature. Also 2.03.01.M doesn't exist.	Revise to exempt lots exiting at adoption of new ordinance to avoid conformance issues. Revise exemption language to not be self referential or referencing non-existent sections.

ZO Section	ZO Section Excerpt	Comment	Recommendation
2.03.02	Title Line - Transition Small Lot Neighborhood - TSN	<p>See previous comments for UT, UE, SN and SCN regarding similar areas within this sub section when it comes to:</p> <ul style="list-style-type: none"> - usage of 2019 General Plan terms and/or policy language, - the general usage of phrase "must be" where its use may conflict with Board Authority, - concerns about not listing out uses within subsection, - concerns about usage of external section references, and - concerns about feasibility of various design requirements, particularly discrepancies in building height (maximum building height 	See previous areas for revisions, and/or deletion recommendations.
2.03.03	Title Line - Transition Compact Neighborhood - TCN	<p>See previous comments for UT, UE, SN and SCN regarding similar areas within this sub section when it comes to:</p> <ul style="list-style-type: none"> - usage of 2019 General Plan terms and/or policy language, - the general usage of phrase "must be" where its use may conflict with Board Authority, - concerns about not listing out uses within subsection, - concerns about usage of external section references, and - concerns about feasibility of various design requirements, particularly discrepancies in building height (maximum building height should be 60 feet). 	See previous areas for revisions, and/or deletion recommendations.

ZO Section	ZO Section Excerpt	Comment	Recommendation
2.03.04	Title Line - Transition Community Center - TCC	<p>See previous comments for UT, UE, SN and SCN regarding similar areas within this sub section when it comes to:</p> <ul style="list-style-type: none"> - usage of 2019 General Plan terms and/or policy language, - the general usage of phrase "must be" where its use may conflict with Board Authority, - concerns about not listing out uses within subsection, - concerns about usage of external section references, and - concerns about feasibility of various design requirements, particularly discrepancies in building height (maximum building height should be 60 feet). 	See previous areas for revisions, and/or deletion recommendations.
2.03.05	Title Line - Transition Light Industrial - TLI	<p>See previous comments for UT, UE, SN and SCN regarding similar areas within this sub section when it comes to:</p> <ul style="list-style-type: none"> - usage of 2019 General Plan terms and/or policy language, - the general usage of phrase "must be" where its use may conflict with Board Authority, - concerns about not listing out uses within subsection, - concerns about usage of external section references, and - concerns about feasibility of various design requirements, particularly discrepancies in building height (maximum building height should be 60 feet). 	See previous areas for revisions, and/or deletion recommendations.

ZO Section	ZO Section Excerpt	Comment	Recommendation
2.03.06	Title Line - Transition Industrial - TI	<p>See previous comments for UT, UE, SN and SCN regarding similar areas within this sub section when it comes to:</p> <ul style="list-style-type: none"> - usage of 2019 General Plan terms and/or policy language, - the general usage of phrase "must be" where its use may conflict with Board Authority, - concerns about not listing out uses within subsection, - concerns about usage of external section references, and - concerns about feasibility of various design requirements, particularly discrepancies in building height (maximum building height should be 60 feet). 	See previous areas for revisions, and/or deletion recommendations.
2.03.07	Title Line - Transition Mineral Extraction - TME	<p>See previous comments for UT, UE, SN and SCN regarding similar areas within this sub section when it comes to:</p> <ul style="list-style-type: none"> - usage of 2019 General Plan terms and/or policy language, - the general usage of phrase "must be" where its use may conflict with Board Authority, - concerns about not listing out uses within subsection, - concerns about usage of external section references, and - concerns about feasibility of various design requirements, particularly discrepancies in building height (maximum building height should be 60 feet). 	See previous areas for revisions, and/or deletion recommendations.

ZO Section	ZO Section Excerpt	Comment	Recommendation
2.03.07	Purpose Section - General Comment	Why is residential contemplated in purpose section of SME but not here? Given allowed use of caretaker housing, similar concerns addressed in comment for SME and use mix table would apply here for Table 2.03.07-2 in terms of percentages allowed and lack of allowed residential.	Consider adding bullet point for residential similar to SME language. Consider allowing group home uses.
2.04.01	Title Line - Agricultural Rural North - ARN	See previous comments for UT, UE, SN and SCN regarding similar areas within this subsection when it comes to: - usage of 2019 General Plan terms and/or policy language, - the general usage of phrase "must be" where its use may conflict with Board Authority, - concerns about not listing out uses within subsection, - concerns about usage of external section references, and - concerns about feasibility of various design requirements, particularly discrepancies in building height (maximum building height should be 60 feet).	See previous areas for revisions, and/or deletion recommendations.

ZO Section	ZO Section Excerpt	Comment	Recommendation
2.04.02	Title Line - Agricultural Rural South - ARS	<p>See previous comments for UT, UE, SN and SCN regarding similar areas within this sub section when it comes to:</p> <ul style="list-style-type: none"> - usage of 2019 General Plan terms and/or policy language, - the general usage of phrase "must be" where its use may conflict with Board Authority, - concerns about not listing out uses within subsection, - concerns about usage of external section references, and - concerns about feasibility of various design requirements, particularly discrepancies in building height (maximum building height should be 60 feet). 	See previous areas for revisions, and/or deletion recommendations.
2.04.03	Title Line - Village Residential - VR	<p>See previous comments for UT, UE, SN and SCN regarding similar areas within this sub section when it comes to:</p> <ul style="list-style-type: none"> - usage of 2019 General Plan terms and/or policy language, - the general usage of phrase "must be" where its use may conflict with Board Authority, - concerns about not listing out uses within subsection, - concerns about usage of external section references, and - concerns about feasibility of various design requirements, particularly discrepancies in building height (maximum building height should be 60 feet). 	See previous areas for revisions, and/or deletion recommendations.

ZO Section	ZO Section Excerpt	Comment	Recommendation
2.04.04	Title Line - Village Agricultural/Residential - VAR	<p>See previous comments for UT, UE, SN and SCN regarding similar areas within this sub section when it comes to:</p> <ul style="list-style-type: none"> - usage of 2019 General Plan terms and/or policy language, - the general usage of phrase "must be" where its use may conflict with Board Authority, - concerns about not listing out uses within subsection, - concerns about usage of external section references, and - concerns about feasibility of various design requirements, particularly discrepancies in building height (maximum building height should be 60 feet). 	See previous areas for revisions, and/or deletion recommendations.
2.04.05	Title Line - Village Commercial - VC	<p>See previous comments for UT, UE, SN and SCN regarding similar areas within this sub section when it comes to:</p> <ul style="list-style-type: none"> - usage of 2019 General Plan terms and/or policy language, - the general usage of phrase "must be" where its use may conflict with Board Authority, - concerns about not listing out uses within subsection, - concerns about usage of external section references, and - concerns about feasibility of various design requirements, particularly discrepancies in building height (maximum building height should be 60 feet). 	See previous areas for revisions, and/or deletion recommendations.

ZO Section	ZO Section Excerpt	Comment	Recommendation
2.05.01	Title Line - Joint Land Management Area Neighborhood - JLMA-1, JLMA-2, JLMA-3	<p>See previous comments for UT, UE, SN and SCN regarding similar areas within this sub section when it comes to:</p> <ul style="list-style-type: none"> - usage of 2019 General Plan terms and/or policy language, - the general usage of phrase "must be" where its use may conflict with Board Authority, - concerns about not listing out uses within subsection, - concerns about usage of external section references, and - concerns about feasibility of various design requirements, particularly discrepancies in building height (maximum building height should be 60 feet). 	See previous areas for revisions, and/or deletion recommendations.
2.05.02	Title Line - Joint Land Management Area - Leesburg JLMA Residential Neighborhood - JLMA-LN	<p>See previous comments for UT, UE, SN and SCN regarding similar areas within this sub section when it comes to:</p> <ul style="list-style-type: none"> - usage of 2019 General Plan terms and/or policy language, - the general usage of phrase "must be" where its use may conflict with Board Authority, - concerns about not listing out uses within subsection, - concerns about usage of external section references, and - concerns about feasibility of various design requirements, particularly discrepancies in building height (maximum building height should be 60 feet). 	See previous areas for revisions, and/or deletion recommendations.

ZO Section	ZO Section Excerpt	Comment	Recommendation
2.05.03	Title Line - Joint Land Management Area - Leesburg JLMA Employment - JLMA-LE	<p>See previous comments for UT, UE, SN and SCN regarding similar areas within this sub section when it comes to:</p> <ul style="list-style-type: none"> - usage of 2019 General Plan terms and/or policy language, - the general usage of phrase "must be" where its use may conflict with Board Authority, - concerns about not listing out uses within subsection, - concerns about usage of external section references, and - concerns about feasibility of various design requirements, particularly discrepancies in building height (maximum building height should be 60 feet). 	See previous areas for revisions, and/or deletion recommendations.
2.05.04	Title Line - Joint Land Management Area - Leesburg JLMA Industrial/Mineral Extraction - JLMA-LME	<p>See previous comments for UT, UE, SN and SCN regarding similar areas within this sub section when it comes to:</p> <ul style="list-style-type: none"> - usage of 2019 General Plan terms and/or policy language, - the general usage of phrase "must be" where its use may conflict with Board Authority, - concerns about not listing out uses within subsection, - concerns about usage of external section references, and - concerns about feasibility of various design requirements, particularly discrepancies in building height (maximum building height should be 60 feet). 	See previous areas for revisions, and/or deletion recommendations.

ZO Section	ZO Section Excerpt	Comment	Recommendation
2.06	Title Line - Planned Development Zoning Districts - PD	<p>See previous comments for UT, UE, SN and SCN regarding similar areas within this sub section when it comes to:</p> <ul style="list-style-type: none"> - usage of 2019 General Plan terms and/or policy language, - the general usage of phrase "must be" where its use may conflict with Board Authority, - concerns about not listing out uses within subsection, - concerns about usage of external section references, and - concerns about feasibility of various design requirements, particularly discrepancies in building height (maximum building height should be 60 feet). 	See previous areas for revisions, and/or deletion recommendations.
2.06.C.2	2. A PD Zoning District may be of any size, unless otherwise stated in the zoning district standards.	Base zoning districts should not regulate the development of another zoning district, even PD. This is conflictatory by its very nature.	Allow PD Zoning Distrctis to be of any size. They have to be approved through a rezoning anyways.
2.06.C.6.a	a. Submission of a project design using the base zoning district standards with no modifications may be required to demonstrate that the proposed PD Zoning District can achieve the same density as proposed for the PD Zoning District.	This sentence doesn't make any sense. That being said it is not only overly onerous but defeating (perhaps impossible?) to require a project to show that the density proposed in the PD-District could somehow be achieved without modification. While understanding the desire to not solely modify for density, it is an academic exercise at best to require this, particularly given the fact that density requirements from the base zoning district are specifically called out as NOT modifiable, which means a project wouldn't be able to exceed the otherwise permitted by-right density anyways. This is a confusing regulation, not well written, and will result in unnecessary costs to industry, and needless time/energy from County staff in reviewing	Delete.

ZO Section	ZO Section Excerpt	Comment	Recommendation
2.07	Legacy Zoning Districts	This section remains undrafted. Unclear how these districts are going to work and have deep concerns about numerous potential regulatory conflicts. Non-conformance within partial and total loss scenarios for non-proffered development is also a major concern. Will reserve comment due to absence of content available for comment.	Need more information.

ZO Section	ZO Section Excerpt	Comment	Recommendation
Chapter 3	All of Chapter 3, as well as other chapters of this draft zoning ordinance	Correct all Section references	There are numerous incorrect section references in this chapter - a few examples of these incorrect references are identified in this spreadsheet, but many more exist in this chapter and they should all be found and corrected accordingly
3.01	N/A	N/A	Add Zoning District Acronyms from Appendix B to this section so they're easily identifiable and a reader doesn't have to search for them in Appendix B
3.01-1	In the Special Exception and Minor Special Exception rows: ...in accordance with the procedures and standards for special exceptions [minor special exceptions] in Section 7.09.	Section 7.09 references zoning map amendments, whereas Section 7.10 references special exceptions and minor special exceptions - neither one of these sections is fully provided within the draft zoning ordinance	Replace the 7.09 section references with 7.10 and release these sections in full for a thorough public review
3.01-1	In the P/S, M/S, or P/M row: In some instances, and based on the Use-Specific Standards (Section 3.06)...	Section 3.06 doesn't exist.	Replace Section 3.06 with Section 3.05
3.01.E.	...(Table 3.03-1 of Section 11.03.23 and Chapter 11)...	The reference to Table 3.03-1 isn't accurate	Remove this reference as it's unnecessary and confusing
3.01.F.2.	...zoning amendment (Section 7.10).	Section 7.10 references special exceptions and minor special exceptions, whereas Section 7.09 references zoning map amendments - neither one of these sections is fully provided within the draft zoning ordinance	Replace Section 7.10 with Section 7.09
3.02.01-1	Use definitions	Many of the uses listed in the use tables are defined in two separate sections, Section 11.03 and Section 11.03.23, which is confusing, repetitive, and unnecessary	Include all use definitions in Section 11.03 and delete Section 11.03.23 - this spreadsheet includes many of the use definition discrepancies, but there are still many additional discrepancies not referenced here

ZO Section	ZO Section Excerpt	Comment	Recommendation
3.02.01-1	Accessory dwelling	This use should be permitted in all districts	Caretakers are permitted to live in an accessory dwelling unit which has previously been permitted in commercial/industrial districts - therefore, this use should be permitted in all residential and commercial/industrial districts
3.02.01-1	Caretaker or guard	This use should be permitted in all commercial/industrial districts	Permit this use in the UE, SM, SC-NC, SC-CC, and SI districts
3.02.01-1	Live/work dwelling	This use is listed as a special exception use in the SN-4 and SN-6 districts	This use should be permitted by-right in all residential zoning districts
3.02.01-1	Live/work dwelling	The Use-Specific Standard of Section 3.06.02.03 doesn't exist	If Use-Specific Standards do exist for Live/work dwellings, provide the standards in an accurate Section reference
3.02.01-1	Live/work dwelling	How does a Live/work dwelling differ from a Home Occupation accessory use?	Clarify exactly what a Live/work dwelling is and how it differs from a Home Occupation accessory use
3.02.01-1	Dwelling, single-family attached	This use should be permitted by special exception in the UT district	Permit this use in the UT district to allow transitional uses in appropriate areas
3.02.01-1	Dwelling, single-family detached	This use should be permitted by special exception in the UT district	Permit this use in the UT district to allow transitional uses in appropriate areas
3.02.01-1	Manufactured Home	It's unclear why this use is only permitted by special exception in the SCN-8, SCN-16, and SCN-24 districts	Permit this use in all suburban residential districts, and possibly some commercial districts, rather than just higher density residential districts
3.02.01-1	Manufactured housing land lease community	It's unclear why this use is separate from the Manufactured Home use and only permitted by special exception in the SCN-8, SCN-16, SCN-24, SC-NC, and SC-CC districts	Permit this use in all of the same districts as the Manufactured Home use
3.02.01-1	Congregate housing	By definition, this use is already permitted as a continuing care facility and should not be its own separate use	Remove this use as it's already permitted as a continuing care facility
3.02.01-1	Rooming and Boarding	This use is not defined in Section 11.03	Provide a definition for this use in Section 11.03 and permit it in all suburban residential districts

ZO Section	ZO Section Excerpt	Comment	Recommendation
3.02.01-1	Hotel/Motel	In addition to the districts this use is proposed in as a permitted use, this use should be permitted in all residential districts, not just the SN-6 district	Permit this use in all residential districts
3.02.01-1	Animal hospital	Why is this use permitted in every district except for the UT district?	Permit this use by-right or by special exception in all districts
3.02.01-1	Kennel	This use should be permitted by special exception in the SC-NC, SC-CC, SM, UM, UE districts	Permit this use by special exception in the SC-NC, SC-CC, SM, UM, and UE districts
3.02.01-1	Kennel, indoor	This use should be permitted in all of the same districts as the animal hospital use	Permit this use by-right or by special exception in all districts
3.02.01-1	Veterinary service	This use should be permitted in all of the same districts as the animal hospital use	Permit this use by-right or by special exception in all districts
3.02.01-1	Child day care	Child day care is not defined in Section 11.03	Change "Child day care" to "Child care center"
3.02.01-1	Child day home	Child day home is not defined in Section 11.03	Change "Child day home" to "Child care home"
3.02.01-1	Child day home	Child day home should be a permitted use in all residential and mixed-use districts	Permit this use by-right in the Urban zoning districts
3.02.01-1	Alternative lending institution	This use is not listed in Section 11.03	This use definition should be added to Section 11.03
3.02.01-1	Banquet/Event Facility	This use should be permitted by-right in the SC-NC and SC-CC districts	Permit this use by-right in the SC-NC and SC-CC districts
3.02.01-1	Craft beverage manufacturing	This use should be permitted by-right in the UE, SE, and SI districts	Permit this use by-right in the UE, SE, and SI districts
3.02.01-1	Farm market	This use should be permitted by-right in all commercial, mixed use, and industrial districts and by minor special exception in all residential districts	Permit this use by-right in all commercial, mixed use, and industrial districts and by minor special exception in all residential districts
3.02.01-1	Farm market	The performance standards for this use are unnecessary and contradictory for suburban and urban districts	Delete the performance standards for this use
3.02.01-1	Farm market (off-site production)	This use is redundant and unnecessary	Delete this use
3.02.01-1	Food preparation	This is not defined in Section 11.03	This use definition should be added to Section 11.03 and it should be added as a permitted use in the UE, SC-NC, and SC-CC districts
3.02.01-1	Food store	This use should be permitted in every district	Permit this use in every district

ZO Section	ZO Section Excerpt	Comment	Recommendation
3.02.01-1	Mobile vendor	This use should be permitted in every district, or at the very least, as a permitted use in every commercial, industrial, and mixed-use district and as a special exception use in every residential district	Permit this use in every district, or at the very least, permit it in every commercial, industrial, and mixed-use district and as a special exception use in every residential district
3.02.01-1	Restaurant, sit down	This use is not defined in Section 11.03	Add this definition to Section 11.03 and permit it in all districts
3.02.01-1	Restaurant, fast food with drive-through facility	This use should be permitted by special exception in the UE, SC-NC, SI, and SME districts	Permit this use by special exception in the UE, SC-NC, SI, and SME districts
3.02.01-1	Snack or beverage bars	This is not a defined use	Remove this use or provide a definition
3.02.01-1	Office	This use should be permitted by special exception in the SI district	Permit this use by special exception in the SI district
3.02.01-1	Dry cleaning plant	This use should be permitted by special exception in the UE district	Permit this use by special exception in the UE district
3.02.01-1	Farm machinery	This use should be permitted in the SI and SME districts	Permit this use in the SI and SME districts
3.02.01-1	Maintenance and repair services	This use is not defined in Section 11.03	Add this definition to Section 11.03 and permit it in the UE, SE, and SI districts
3.02.01-1	Personal services	This use should be permitted by-right in the SE, SI, and SME districts	Permit this use by-right in the SE, SI, and SME districts
3.02.01-1	Auction	This use doesn't match the defined term "Auction house"	Replace the term "Auction" with "Auction house"
3.02.01-1	Auction	This use should be permitted in the SC-NC and SC-CC districts	Permit this use in the SC-NC and SC-CC districts
3.02.01-1	Convenience store (with gasoline sales)	This use should be permitted by special exception in the UT and UE districts	Permit this use by special exception in the UT and UE districts
3.02.01-1	Feed and farm supply center	This use should be permitted in the SE, SC-NC, SC-CC, and UE districts	Permit this use in the SE, SC-NC, SC-CC, and UE districts
3.02.01-1	Machinery and equipment sales	This use is not defined in Section 11.03	Add this definition to Section 11.03 and permit this use in the UE district
3.02.01-1	Nonstore retailers	This use is not defined in Section 11.03	Add this definition to Section 11.03 and permit this use in the UE, SC-NC, and SC-CC districts
3.02.01-1	Nursery, Commercial	This use should be permitted in the SC-NC, SC-CC, and UE districts	Permit this use in the SC-NC, SC-CC, and UE districts
3.02.01-1	Retail, general	This use should be permitted by-right in the SE and SI districts	Permit this use in the SE and SI districts

ZO Section	ZO Section Excerpt	Comment	Recommendation
3.02.01-1	Car wash	This use should be permitted by special exception in the UE and UM districts	Permit this use in the UE and UM districts
3.02.01-1	Vehicle repair, heavy	This use should be permitted by special exception in SC-NC, SC-CC, and UE districts	Permit this use by special exception in the SC-NC, SC-CC, and UE districts
3.02.01-1	Vehicle repair, light	This use should be permitted by special exception in the UM and UE districts	Permit this use by special exception in the UM and UE districts
3.02.01-1	Vehicle service station	This use is not defined in Section 11.03	Add this definition to Section 11.03 and permit this use by special exception in the UT and UE districts
3.02.01-1	Vehicle wholesale auction	This use should be permitted in the SE district	Permit this use in the SE district
3.02.01-1	Civic, social, and fraternal meeting place	This use should be permitted in the SC-NC district	Permit this use in the SC-NC district
3.02.01-1	Community center	This use should be permitted by special exception in the SI and SME districts	Permit this use in the SI and SME districts
3.02.01-1	Convention and exhibition facility	This use should be permitted by special exception in the SI and SME districts	Permit this use in the SI and SME districts
3.02.01-1	Religious land use	This use is not defined in Section 11.03	Define this use in Section 11.03 and clarify if this use is inclusive of the religious assembly use defined in Section 11.03
3.02.01-1	Religious land use	This use is not permitted in the SC-NC and SC-CC districts	Permit this use in the SC-NC and SC-CC districts
3.02.01-1	Cemetery	This use is not permitted in all urban and suburban districts	Permit this use in all urban and suburban districts by special exception
3.02.01-1	Crematorium	This use is not permitted in all urban and suburban districts	Permit this use by special exception in the UM and UE districts
3.02.01-1	Funeral services	This use is not defined in Section 11.03	Add this definition to Section 11.03 and confirm if this use is inclusive of the funeral home use listed in Section 11.03
3.02.01-1	Funeral services	This use is not permitted in the SI and SME districts	Permit this use by special exception in the SI and SME districts
3.02.01-1	Mausoleum	This use is not permitted in all urban and suburban districts	Permit this use in all urban and suburban districts by special exception
3.02.01-1	Government (general) (not otherwise listed)	This use is not defined in Section 11.03	Add this definition to Section 11.03 and permit this use by special exception in the SME district

ZO Section		ZO Section Excerpt	Comment	Recommendation
3.02.01-1	Business/technical school		This use is not defined in Section 11.03	Add this definition to Section 11.03 and permit this use by special exception in the SI district
3.02.01-1	Colleges or universities		This use is not permitted by-right in the UT, UE, SC-NC, SC-CC, and SE districts	Permit this use by-right in the UT, UE, SC-NC, SC-CC, and SE districts and permit this use by special exception in all residential districts
3.02.01-1	Educational institution		This use is not permitted by-right in the UT, UE, SC-NC, SC-CC, and SE districts	Permit this use by-right in the UT, UE, SC-NC, SC-CC, and SE districts and permit this use by special exception in all residential districts
3.02.01-1	Library		This use is not permitted in all urban and suburban districts	Permit this use by-right in all residential districts and in the SC-NC district
3.02.01-1	Hospital		This use is not permitted all commercial and industrial districts	Permit this use in the UE, SC-NC, SC-CC, and SI districts
3.02.01-1	Medical care facility		This use is not permitted in all districts	Permit this use in the SI district
3.02.01-1	Medical office		This use should not be defined separately from the office use	Eliminate this use as a separate use and include it under the definition of office
3.02.01-1	Amphitheater		This use should be permitted by right in the UT, SM, SC-NC, and SC-CC districts	Permit this use by-right in the UT, SM, SC-NC, and SC-CC districts
3.02.01-1	Art studio		This use should be permitted by-right in the SE and SI districts	This use should be permitted by-right in the SE and SI districts
3.02.01-1	Cultural facility		This use should be permitted by-right in all districts	Permit this use by-right in all districts
3.02.01-1	Dinner Theater		This use is not defined in Section 11.03	Define this use in Section 11.03 and permit it by-right in the SC-NC district
3.02.01-1	Dog park		This use should be permitted by-right in all districts	Permit this use by-right in all districts
3.02.01-1	Entertainment facility		This use is not defined in Section 11.03	Define this use in Section 11.03 and permit it by-right in the SM, SC-CC, and SE districts
3.02.01-1	Open space, passive		This use should be permitted by-right in all districts	Permit this use by-right in all districts
3.02.01-1	Recreation, indoor		This use is defined as Recreation Establishment, Indoor in Section 11.03 and it should be permitted by-right in the SI district	Correct the use listing discrepancy by listing Recreation Establishment, Indoor in the use table and permit this use by-right in the SI district

ZO Section	ZO Section Excerpt	Comment	Recommendation
3.02.01-1	Recreation, outdoor or major	This use is defined as Recreation Establishment, Outdoor in Section 11.03 and it should be permitted by-right or by special exception in all districts	Correct the use listing discrepancy by listing Recreation Establishment, Outdoor in the use table and permit this use by-right or by special exception in all districts
3.02.01-1	Theater	This use is not permitted in the SC-NC district	Permit this use in SC-NC district
3.02.01-1	Contractor	This use is defined as Contractor service establishment in Section 11.03	Correct the use listing discrepancy by listing Contractor service establishment in the use table and permit this use by-right in the UE district
3.02.01-1	Data center	This use is permitted in the correct districts	This use should be maintained as a by-right permitted use in the UE, SE, SI, and SME districts
3.02.01-1	Flex building	This use should be permitted by-right in the UE district	Permit this use by-right in the UE district
3.02.01-1	Manufacturing, general; manufacturing, intensive, and manufacturing, light	These uses are defined as Manufacturing and production in Section 11.03 with a broad definition that covers many forms of manufacturing	Combine all three manufacturing uses into one use to simplify the application of this use and permit this use by-right in the UE, SE, SI, and SME districts
3.02.01-1	Wood, metal, and stone crafts	This use should be considered Manufacturing and production and subsumed within this definition	Remove this use as a separate use and include it within the same definition and districts as Manufacturing and production
3.02.01-1	Building and landscaping materials supplier	This use should be permitted in the SE district	Permit this use in the SE district
3.02.01-1	Energy Storage	This use should be permitted in the UE, SM, and SE districts	Permit this use in the UE, SM, and SE districts
3.02.01-1	Freight	This use should be permitted in the UE and SE districts	Permit this use in the UE and SE districts
3.02.01-1	Industrial storage	This use should be permitted in the UE and SE districts	Permit this use in the UE and SE districts
3.02.01-1	Outdoor storage and outdoor storage, vehicles	This use should be permitted by-right in the SI and SME districts and by special exception in the UE and SE districts	Permit this use by-right in the SI and SME districts and by special exception in the UE and SE districts
3.02.01-1	Vehicle storage and impoundment	This use should be permitted by-right in the SME district	Permit this use by-right in the SME district

ZO Section	ZO Section Excerpt	Comment	Recommendation
3.02.01-1	Wholesale distribution, warehousing, and storage	This use should be permitted by-right in the SE district and by special exception in the UE and SM districts	Permit this use by-right in the SE district and by special exception in the UE and SM districts
3.02.01-1	Transit facilities	This use should be permitted by-right in all districts	Permit this use by-right in all districts
3.02.01-1	Electric generating plant	This use should be permitted by special exception in the UE and SE districts	Permit this use by special exception in the UE and SE districts
3.02.01-1	Solar facility, commercial	This use should be permitted by special exception in the UE and SE districts	Permit this use by special exception in the UE and SE districts
3.02.01-1	Composting facility	This use should be permitted by special exception in the SE and SI districts	Permit this use by special exception in the SE and SI districts
3.02.01-1	Recycling collection center	This use should be permitted by-right in all districts	Permit this use by-right in all districts
3.02.02-2	Accessory dwelling	This use should be permitted in all districts	Caretakers are permitted to live in an accessory dwelling unit which has previously been permitted in commercial/industrial districts - therefore, this use should be permitted in all Transition and JLMA districts
3.02.02-2	Caretaker or guard	This use should be permitted in all Transition and JLMA districts	Permit this use in all Transition and JLMA districts
3.02.02-2	Live/work dwelling	This use should be permitted in the TCN district	Permit this use in the TCN district
3.02.02-2	Congregate housing	By definition, this use is already permitted as a continuing care facility and should not be its own separate use	Remove this use as it's already permitted as a continuing care facility
3.02.02-2	Continuing care facility	This use should be permitted by special exception in the TSN district	Permit this use in the TSN district
3.02.02-2	Bed and breakfast homestay, bed and breakfast inn, and country inn	These uses should be permitted by right in the TLN-10, TLN-3, TLN-1, JLMA-1, JLMA-2, and JLMA-3 districts	Permit these uses by right in the TLN-10, TLN-3, TLN-1, JLMA-1, JLMA-2, and JLMA-3 districts
3.02.02-2	Hotel/Motel	This use should be permitted by special exception in the TSN, TCN, and TCC districts	Permit this use by special exception in the TSN, TCN, and TCC districts
3.02.02-2	Kennel, indoor	This use should be permitted in all of the same districts as the animal hospital and kennel uses	Permit this use by-right or by special exception in all of the same districts as the animal hospital and kennel uses
3.02.02-2	Veterinary service	This use should be permitted in all of the same districts as the animal hospital use	Permit this use by-right or by special exception in all of the same districts as the animal hospital use

ZO Section	ZO Section Excerpt	Comment	Recommendation
3.02.02-2	Banquet/Event Facility	This use should be permitted in the TSN, TCN, TCC, TI, and JLMA districts	Permit this use by minor special exception in the TSN, TCN, TCC, TI, and JLMA districts
3.02.02-2	Farm market	This use should be permitted by-right in all Transition and JLMA mixed use, commercial, and industrial districts and by minor special exception in all residential districts	This use should be permitted by-right in all Transition and JLMA mixed use, commercial, and industrial districts and by minor special exception in all residential districts
3.02.02-2	Food preparation	This should be permitted in the TLI and TI districts	Permit this use in the TLI and TI districts
3.02.02-2	Food store	This use should be permitted in the TLI, TI, and JLMA-LE districts	This use should be permitted in the TLI, TI, and JLMA-LE districts
3.02.02-2	Auction	This use should be permitted in the TI district	Permit this use in the TI district
3.02.02-2	Convenience store (with gasoline sales)	This use should be permitted by special exception in the TI district	Permit this use by special exception in the TI district
3.02.02-2	Machinery and equipment sales	This use should be permitted in the TI district	Permit this use in the TI district
3.02.02-2	Nursery, Commercial	This use should be permitted in the TLI and JLMA-LE districts	Permit this use in the TLI and JLMA-LE districts
3.02.02-2	Vehicle repair, heavy	This use should be permitted by special exception in the TI district	Permit this use by special exception in the TI district
3.02.02-2	Vehicle repair, light	This use should be permitted in the TI district	This use should be permitted in the TI district
3.02.02-2	Religious land use	This use is not permitted in the TI district	Permit this use in the TI district
3.02.02-2	Cemetery	This use is not permitted in the TI district	Permit this use in the TI district
3.02.02-2	Mausoleum	This use is not permitted in the TI district	Permit this use in the TI district
3.02.02-2	Business/technical school	This use is not permitted in the TI district	Permit this use in the TI district
3.02.02-2	Colleges or universities, educational institution, and library	These uses should be permitted in the same districts as the School use	Permit these uses in the same districts as the School use
3.02.02-2	Hospital	This use is not permitted in the TI district	Permit this use in the TI district
3.02.02-2	Medical care facility	This use is not permitted in the TCN district	Permit this use in the TCN district
3.02.02-2	Medical office	This use should not be defined separately from the office use	Eliminate this use as a separate use and include it under the definition of office
3.02.02-2	Amphitheater	This use should be permitted by right in the TCC and TLI districts	Permit this use by-right in the TCC and TLI districts

ZO Section	ZO Section Excerpt	Comment	Recommendation
3.02.02-2	Art studio	This use should be permitted by-right in the TLN-10, TLN-3, TLN-1, TSN, TLI, JLMA-1, JLMA-2, JLMA-3, and JLMA-LE districts	This use should be permitted by-right in the TLN-10, TLN-3, TLN-1, TSN, TLI, JLMA-1, JLMA-2, JLMA-3, and JLMA-LE districts
3.02.02-2	Cultural facility	This use should be permitted by-right in the TLN-10, TLN-3, TLN-1, TSN, TLI, TI, JLMA-1, JLMA-2, JLMA-3, and JLMA-LE districts	Permit this use by-right in the TLN-10, TLN-3, TLN-1, TSN, TLI, TI, JLMA-1, JLMA-2, JLMA-3, and JLMA-LE districts
3.02.02-2	Dinner Theater	This use should be permitted by special exception in the TCN district	Permit this use by special exception in the TCN district
3.02.02-2	Dog park	This use is not listed as an available use in the Transition and JLMA district	Add this use to Table 3.02.02-2 and permit it by-right in all districts
3.02.02-2	Open space, passive	This use should be permitted by-right in all districts	Permit this use by-right in all districts
3.02.02-2	Recreation, indoor	This use should be permitted in the TI district	Permit this use in the TI district
3.02.02-2	Recreation, outdoor or major	This use should be permitted in the TSN district	Permit this use in the TSN district
3.02.02-2	Theater	This use should be permitted by special exception in the TCN district	Permit this use by special exception in the TCN district
3.02.02-2	Contractor	This use should be permitted in the TI district	Permit this use in the TI district
3.02.02-2	Data center	This use is permitted in the correct districts	This use should be maintained as a by-right permitted use in the TLI, TI, TME, JLMA-LE, and JLMA-LME districts
3.02.02-2	Flex building	This use should be permitted in the TI district	Permit this use in the TI district
3.02.02-2	Manufacturing, general; manufacturing, intensive, and manufacturing, light	These uses are defined as Manufacturing and production in Section 11.03 with a broad definition that covers many forms of manufacturing	Combine all three manufacturing uses into one use to simplify the application of this use and permit this use by-right in the TLI, TI, TME, JLMA-LE, and JLMA-LME districts
3.02.02-2	Wood, metal, and stone crafts	This use should be considered Manufacturing and production and subsumed within this definition	Remove this use as a separate use and include it within the same definition and districts as Manufacturing and production
3.02.02-2	Building and landscaping materials supplier	This use should be permitted in the JLMA-LE district	Permit this use in the JLMA-LE district
3.02.02-2	Energy Storage	This use should be permitted in the TLI and JLMA-LE districts	Permit this use in the TLI and JLMA-LE districts

ZO Section		ZO Section Excerpt	Comment	Recommendation
3.02.02-2	Freight		This use should be permitted in the TLI, TI, and JLMA-LE districts	Permit this use in the TLI, TI, and JLMA-LE districts
3.02.02-2	Industrial storage		This use should be permitted by special exception in the TLI district	Permit this use by special exception in the TLI district
3.02.02-2	Outdoor storage and outdoor storage, vehicles		This use should be permitted by special exception in the TLI and JLMA-LE districts	Permit this use by special exception in the TLI and JLMA-LE districts
3.02.02-2	Electric generating plant		This use should be permitted by special exception in the TI district	Permit this use by special exception in the TI district
3.02.02-2	Solar facility, commercial		This use should be permitted by special exception in the TLI and JLMA-LE districts	Permit this use by special exception in the TLI and JLMA-LE districts
3.02.03-3	Caretaker or guard		This use should be permitted in the VR, VC, and VAR districts	Permit this use in the VR, VC, and VAR districts
3.02.03-3	Congregate housing		By definition, this use is already permitted as a continuing care facility and should not be its own separate use	Remove this use as it's already permitted as a continuing care facility
3.02.03-3	Kennel, indoor		This use should be permitted by minor special exception in the VR, VC, and VAR districts	Permit this use by minor special exception in the VR, VC, and VAR districts
3.02.03-3	Child day home		This use should be permitted in the VC district	Permit this use in the VC district
3.02.03-3	Farm market		This use should be permitted in the VR district	Permit this use in the VR district
3.02.03-3	Library		This use is not permitted in all rural districts	Permit this use in all rural districts
3.02.03-3	Medical office		This use should not be defined separately from the office use	Eliminate this use as a separate use and include it under the definition of office
3.02.03-3	Recreation, indoor		This use should be permitted by special exception in the ARN and ARS districts	Permit this use by special exception in the ARN and ARS districts
3.03.A.3.	To the extent that a standard in Section 3.06 conflicts with a more general standard in this section, the standard in Section 3.06 controls,		Section 3.06 doesn't exist	Replace the 3.06 references with the correct references
3.03.B.	Permitted accessory uses and structures are limited to those identified in Table 3.04-1		Table 3.04-1 doesn't exist	Replace this reference with Table 3.03-1
3.03.C.	Principal Uses		Clarify that multiple principal uses may be located on any lot	Add a standard stating that multiple principal uses may be located on any lot
3.03.E.	Home Occupations		Clarify how this use is distinct from live/work units	Add a statement that clarifies the difference between a home occupation use and a live/work unit

ZO Section	ZO Section Excerpt	Comment	Recommendation
3.04.D.	Special Events	Permit additional special events	Permit an additional 10 special events per year (up to 20 total) if ample justification is provided for the additional 10 special events
3.05.02.08	Single-Family Dwelling Units	These requirements are entirely too restrictive and unnecessary	Delete these requirements
3.05.02.09	Multifamily Dwlling Units	These requirements are entirely too restrictive and unnecessary	Delete these requirements
3.05.02.09 .C.3.	The total number of multifamily stacked, single-family detached, and single-family attached (see Section 3.05.02.08.C) dwelling units must not exceed 20% of the total number of dwelling units approved for the site.	This Suburban Mixed Use requirement is not based on any policy guidance, it limits the ability of builders to effectively provide a mix of housing types, it is arbitrary, and it is entirely unnecessary.	Due to its limiting effect on builders' ability to provide a mix of housing types, this requirement should be deleted.
3.05.02.09 .C.4.	The land area dedicated to multifamily stacked, single-family detached, and single-family attached (see Section 3.05.02.08.C) dwelling units must not exceed 10% of the land area of the SM District.	This Suburban Mixed Use requirement is not based on any policy guidance, it limits the ability of builders to effectively provide a mix of housing types, it is arbitrary, and it is entirely unnecessary.	Due to its limiting effect on builders' ability to provide a mix of housing types, this requirement should be deleted.

ZO Section	ZO Section Excerpt	Comment	Recommendation
4.01(B)	Establishment of Overlay Districts. Overlay Districts are established and amended by the procedures in Chapter 7 unless otherwise stated by the Overlay District.	It is unclear which part of Chapter 7 would govern, and overlay districts are not necessarily clearly called out	please clarify where in chapter 7 would govern the creation or alteration of overlay districts
4.01.E	Specific Definitions. Terms defined expressly in an Overlay District are provided in Chapter 11 and organized and referenced accordingly.	Not all defined terms are in turn in Chapter 11 of the draft ordinance, which creates confusion when looking for definitions. Some definitions within Chapter 4 are also contrary to the Chapter 11 definition for the term, such as "structure."	All definitions should be consistent across the zoning ordinance and contained in Chapter 11. Suggest removal of specific definitions from individual sections to reduce confusion.
4.02.01	AOD Definitions	These definitions should be placed in Chapter 11, even if they are also listed here, for ease of use of the ordinance. The Zoning Ordinance should have consistent definitions across all chapters.	Include definitions in Chapter 11, so that all definitions are consistent across the Ordinance.
4.03.C	Definitions	Points to the wrong area. Definitions are contained in 4.03.01	Correct the reference
4.03.01	FOD Definitions	Not all defined terms are in turn in Chapter 11 of the draft ordinance, which creates confusion when looking for definitions. Some definitions within Chapter 4 are also contrary to the Chapter 11 definition for the term, such as "structure."	All definitions should be consistent across the zoning ordinance and contained in Chapter 11. Suggest removal of specific definitions from individual sections to reduce confusion.
4.04(D)(1)	Establishes new 100' horizontal setback from ridgelines and crests, 100' horizontal linear feet from portions of the Catocin Creek and Goose Creek that are not subject to RSCR standards, and 100' setback from springs (measured from the vertical source of a spring on flat terrain or from the first emergency of a spring on a steep slope).	unclear what the basis is for these new regulations, as they are not present in the existing ZO, and call for much more restriction related to activities than is presently contemplated by the Revised 1993 ZO, such as requiring 100 ft setbacks from portions of the Goose Creek and Catocin Creek that are not subject to Scenic River buffering, and requiring 100ft setbacks from all springs. This could make certain lots un-buildable within the MOOD that otherwise meet lot and environmental requirements under steep slopes. Do not the steep slope and RSCR requirements adequately protect resources?	Reduce or remove these regulations
	No procedures - are these located in Chapter 7?	These regulations cannot be reviewed without Chapter 7 procedures	Provide chapter 7 procedures

ZO Section	ZO Section Excerpt	Comment	Recommendation
4.04.01	MDOD Definitions	Not all defined terms are in turn in Chapter 11 of the draft ordinance, which creates confusion when looking for definitions. Some definitions within Chapter 4 are also contrary to the Chapter 11 definition for the term, such as "structure."	All definitions should be consistent across the zoning ordinance and contained in Chapter 11. Suggest removal of specific definitions from individual sections to reduce confusion.
4.05.A and C	Authority and Applicability	The numbering jumps straight from A to C, and skips B	Correct numbering
4.05(D)(3)	Table 4.05-1 - 100' setback from the bankfull bench of a perennial sinking stream	While this section appears to retain the 100' setback from a perennial sinking stream, it changes the measurement of that setback to begin from a point beyond the banks of said stream, rather than the scar. What is the basis for this tighter restriction?	Re-establish the measurement of this setback from the channel scar
4.05.E.3.1	Publicly accessible trails and other passive facilities are permitted within Karst/Sensitive Environmental Setbacks subject to utilizing permeable materials, and a 25' minimum setback	This provision adds that trails must be publicly accessible, which is an excellent goal. However, given the location of the LOD in the County, it covers a large area of rural northern Loudoun County, where more rural subdivisions or trails may be established on private property without public access easements. What is the functional difference for life and safety whether said trails are public or not?	Allow all trails and passive facilities to have the same treatment under the regulation.
4.05(E)(3)(2)	Except for Prohibited Pollution Sources of Section 4.05.E.1, all uses and structures permitted by special exception in any underlying zoning district(s) and any applicable overlay zoning district may be permitted by Special Exception approval pursuant to Section 7.09 if located outside of the Karst/Sensitive Environmental Feature Setback	Section 7.09 is not drafted and available for review. Therefore, review of this regulation is not able to be completed as the procedures under which special exception uses will be evaluated are not available.	Provide Section 7 regulations for review and comment.
4.05.E.4.d	If expansion away from a Karst/Sensitive Environmental Feature is not feasible, then such expansion may get closer to the Karst/Sensitive Environmental Feature if such expansion is in conformance with Section 4.05.E.1.b.1.	4.05.E.1.b.1 appears to be the wrong section reference for conformance. Perhaps this is meant to be 4.05.E.2.a?	Correct the reference
4.05.H.	Refer to Section 7.01.F.2.d for additional LOD specific Procedures	This provision is not available for review and therefore the LOD regulation review cannot be completed, as all relevant sections are not available for review	Provide Section 7 regulations for review and comment.

ZO Section	ZO Section Excerpt	Comment	Recommendation
4.05.01	Structure. For the purposes of Sections 4.04 and 4.05, the term "structure" includes, but is not limited to, all buildings, water/dam embankments, retaining walls, field/tile drainage, road construction, and cut or fill operations.	This is a totally different different definition of "structure" than appears in the definitions section, and creates confusion for interpretation.	Utilize fidelity of definitions across zoning ordinance sections and definitions sections
4.05.01	Definitions	Not all defined terms are in turn in Chapter 11 of the draft ordinance, which creates confusion when looking for definitions.	Provide all definitions in Chapter 11 and not in individual sections. Specific interpretation definitions in the zoning ordinance sections are a source of confusion, and in the case of "structure" change the definition used elsewhere in the draft ordinance, creating interpretation confusion

ZO Section	ZO Section Excerpt	Comment	Recommendation
4.07	<p>Purpose: The purpose of this overlay district is to:</p> <p>Implement the Rural Historic Village Place Type of the General Plan.</p> <p>Recognize that each Rural Historic Village has a unique character linked to its historic development pattern, spatial organization, and location within the County and sense of place that should be preserved and enhanced.</p> <p>Support the retention and reinforcement of historic development patterns, character, and visual identity of individual villages.</p> <p>Protect the small, compact, pedestrian-scale, rural communities characterized by low-density residential development situated on smaller lots interspersed with limited commercial uses and encourage extension of this development pattern when new construction occurs.</p> <p>Protect and reinforce the commercial core of villages that provides for the daily needs of village residents, surrounding rural residents, and visitors.</p> <p>Ensure new commercial and residential; construction is designed to complement surrounding properties and maintain the existing development pattern within each Village by:</p> <p>Respecting each village's historic precedents for lot size, building setbacks, spacing, and orientation to the street.</p> <p>Considering the context of each village's historic buildings by designing new buildings that are compatible in siting, size, scale, massing, materials, design details, and roof forms.</p> <p>Maintain areas of open space and natural areas on the perimeter of the villages to retain a hard edge and visual separation of the Rural Historic Villages from the surrounding agricultural landscape.</p>	<p>This purpose is extremely specific and copies word-for-word the Plan. This creates a lack of flexibility between the Zoning Ordinance and the Plan, and is an unnecessary level of regulation which is already better accomplished through County policy (such as the Plan).</p>	<p>Remove the purpose section, as it is unnecessary. If purpose sections are deemed necessary, simplify, such as the purpose section in the current ordinance which reads: The overlay is established to recognize the development patterns existing in traditional villages, considered to be valuable heritage resources, and to encourage the retention and reinforcement of the pattern, character and visual identity of the individual village.</p>

ZO Section	ZO Section Excerpt	Comment	Recommendation
4.07.D.1	Building Height. Proposed buildings must have a building height that does not exceed 25% of the average height of principal buildings on the same side of the street within 150 feet of both sides of the lot or lots being developed.	The allowable building height in relation to the surrounding buildings has been reduced from 50% to 25%. This regulation will decrease vertical development within the rural villages, which could lead to additional horizontal development and therefore reduce open and preserved space.	Allow current regulation of height that does not exceed 25% of the average height of principal buildings on the same side of the street within 150 feet, subject to the maximum permitted height within the zoning district.
4.07.D.2	Building Features. Proposed buildings should be consistent with the following building design elements of existing buildings within 300 feet of the lot or lots being developed: a. Building stories; b. Roof type; c. Front or side (if visible from the street) porch type and location; d. Building orientation; and e. Attached or detached garage.	This new regulation sets forth subjective requirements that are not appropriate for a zoning ordinance, and mirror the comprehensive plan language. Adequate protection currently exists in the comprehensive plan for these suggestions. Allowing subjective standards in the zoning ordinance creates the possibility for selective enforcement at site plan, leading to legal challenges.	Remove this regulation
4.07.D.3	Building Area. The gross square footage of proposed buildings must be within 50% of the average gross square footage of principal buildings on the same side of the street within 150 feet of both sides of the lot or lots being developed.		
4.07.D.4	Average Front Yard. Proposed buildings or additions to existing buildings must have front yards that are within 25% of the average front yard of principal buildings on the same side of the street within 150 feet of both sides of the lot or lots being developed.		
4.07.D.5	Average Side Yard. Proposed buildings or additions to existing buildings must have side yards that are within 50% of the average side yard of principal buildings on the same side of the street within 150 feet of both sides of the lot or lots being developed. a. Side yards are not permitted to be less than the minimum side yard permitted in the underlying zoning district.	This is inconsistent with the requirement for varied lots and not allowing them to be of similar size. Similarly, what about developments that are not adjacent to buildings with lots? This also seems overly prescriptive and would not permit for varied development generally.	Remove regulation

ZO Section	ZO Section Excerpt	Comment	Recommendation
4.07.D.6	Rear Yard Encroachment. Additions to existing buildings on nonconforming lots may encroach into a required rear yard by up to 25% or to within 15 feet of the rear property line, whichever is greater. The encroachment may happen only once.	This is inconsentent with the desire to maintain the historic nature of the overlay district, as it would potentially result in the razing of older structures if additions or repairs are needed.	Remove the one-time regulation in order to provide for a regulation which would allow for more flexiblity for preservation of structures. Perhaps a lot coverage maximum?
4.07.D.7	Lot Coverage. The required lot coverage for existing nonconforming lots may be exceeded by up to 25% of the maximum lot coverage permitted in the underlying zoning district. a. Exceeding the maximum lot coverage is permitted for the purposes of constructing an addition or an accessory building. b. Exceeding the maximum lot coverage is permitted to occur 1 time after the adoption date of this Ordinance.	This is inconsentent with the desire to maintain the historic nature of the overlay district, as it would potentially result in the razing of older structures if additions or repairs are needed.	Remove the one time regulation in favor of an overall lot coverage maximum, regardless of the number of addition(s).
4.07.D.8	Maximum Lot Size. Any new lot created after the adoption date of this ordinance is not permitted to be greater than the largest existing lot that fronts the same road as and is within 100 feet of the subject parcel.	What about lots that are non-conforming, or in different zoning districts? This could create impossibility for creation of lots within villages.	Remove - regulations regarding variation of lots and consistency otherwise contained in the ordinance provide sufficient protections.
4.07.D.10	Garage Locations. Front-loaded garages must meet the following requirements: a. Setback at least 20 feet behind the front line of all principal buildings. 1. Exception. When a lot on the same side of the street within 150 feet of both sides of the subject lot has a garage setback less than 20 feet from the front lot line of all principal buildings on such lot, the minimum garage setback may be equal to or greater than the garage setback on such lot. b. Detached from the principal structure; and c. The garage door opening(s) are not permitted to be wider than the width needed to accommodate two automobiles.	Subsection C is unclear and open to interpretation, making it difficult to know the whether a garage complies. What kind of vehcile is used for this measurement? Is this regulations necessary?	Remove subsection C.

ZO Section	ZO Section Excerpt	Comment	Recommendation
4.07.D.11	<p>connections to existing streets. Within the VCOD, the connections to the existing road network for any new development must be provided as follows:</p> <p>a. If feasible, the new road must be designed in a way that does not dead end and required a cul-de-sac, e.g. the road must connect to another road at each end.</p> <p>b. When an existing street is extended, connections to the existing or planned street system so that future street connections to adjacent developable parcels within the VCOD can be created must be made to the maximum extent feasible.</p> <p>1. Exception. Such street connections are not required on unavoidable steep slopes (Section 5.03.02) or in the Floodplain Overlay District (FOD) (Section 4.03). Unless they are impossible to avoid, developments must be designed so road connections avoid regulated natural resources.</p> <p>c. When the new development creates 6 or more lots, the new road network must connect to existing streets where feasible and continue the predominate street pattern in the village.</p> <p>1. When blocks are the predominate street pattern, the length of new blocks must be within 30% of the average block length in the existing village; and</p> <p>2. Blocks designed to include a mid-block through-alley allowing secondary vehicle access to land uses on the block may be a maximum of 2 times the length of the average block length in the village, half of which will be used in the calculation of</p>	<p>"Where feasible" language is difficult to interpret and enforce. These regulations seem more like strategies and guidelines than regulations. How will anyone know what is "feasible"? Who decides?</p>	<p>Remove these regulations from the draft and, if desired, find policy objective documents in which to incorporate them. Strict conformance with these regulations is impossible and subjective.</p>

ZO Section	ZO Section Excerpt	Comment	Recommendation
4.08	<p>Purpose. The purpose of this overlay district is to:</p> <p>Protect the historic character and resources of established HODs in the County.</p> <p>Foster civic pride and preserve an appreciation for the historic values on which the County and the Nation were founded.</p> <p>Maintain and improve property values.</p> <p>Protect and enhance the County's attraction to tourists and visitors.</p> <p>Provide for the education and general welfare of the people of the County.</p> <p>Protect against destruction of or encroachment upon historic areas.</p> <p>Otherwise accomplish the general purposes of this Zoning Ordinance, the General Plan, and the provisions of Chapter 22, Title 15.2, Code of Virginia of 1950, as amended.</p>	<p>The purpose section is not necessary, and creates unneeded confusion when interpreting the Ordinance regulations.</p>	<p>Remove purpose section.</p>

ZO Section	ZO Section Excerpt	Comment	Recommendation
4.08.C	<p>Certificate of Appropriateness – Administrative for Minor Actions (CAPA). The Zoning Administrator has the authority to review the following minor actions.</p> <ol style="list-style-type: none"> 1. Minor amendments to a previously approved CAPP where the work authorized by the previously approved CAPP has not been completed and the proposed modification is in substantial conformance with the previously approved CAPP. 2. Installation, removal, or replacement of fences and gates. 3. Installation, removal, or replacement of signs, pursuant to Chapter 6. 4. Removal of non-contributing material. 5. Minor alteration of a non-contributing structures or structures. 6. Construction of accessory structures of that are 250 square feet or less. 7. Replacement of windows and doors replacement. 8. Installation or replacement of storm windows and storm doors . 9. Replacement of siding. 10. Replacement of roofs. 11. Minor alteration to small architectural details, to include 	<p>Does not give the Zoning Administrator the ability to permit the destruction of non-contributing accessory structures as in the present ordinance. If the structures are actually non-contributing, it would be efficient to have the Zoning Administrator approve these permits.</p>	<p>Include authority for non-contributing accessory structure destruction.</p>

ZO Section	ZO Section Excerpt	Comment	Recommendation
4.08.D.3	<p>Minimum Yard and Setback Reductions in HODs. No reduction in the minimum yard or setback for a building or structure in an HOD is permitted unless and until the following criteria are met. Upon meeting the criteria, the Zoning Administrator will grant a reduction of minimum yard and setback requirement for the building or structure located within HOD.</p> <p>a.The HDRC must approve a CAPP that includes the reduction of the minimum yard and/or setback requirements and make a finding that the yard and/or setback reduction is consistent with the existing streetscape and adopted Historic District Guidelines for said HOD, and</p> <p>b.The reduction of the yard and/or setback requirement does not violate sight distance regulations of Section 5.09.04 and of the Virginia Department of Transportation.</p>	<p>This process is unclear - is this essentially an administrative ZMOD within the historic districts? What about the underlying zoning district requirements? This is also inconsistent with the way other zoning districts are treated under the draft ordinance, as modifications are not permitted outside a PD district.</p>	<p>Provide clarification on the procedure for these modifications. Allow for similar modifications in non-historic districts as well, that are not PD Districts.</p>
4.08.E	<p>CAPP and CAPA Application and Procedures. All CAPP and CAPA requests must follow the application and procedures requirements of Section 7.12.</p>	<p>Section 7.12 is not provided or written. Meaningful review of the overlay district regulations cannot be done without the procedures being available.</p>	<p>Produce Section 7.12 and allow time for meaningful citizen comment on the same prior to any public hearing.</p>
4.08.H.1	<p>Right to Raze or Demolish. The owner of any historic landmark, building, or structure located within an HOD is, as a matter of right, entitled to raze or demolish such historic landmark, building, or structure provided that the following conditions are met.</p> <p>1. The owner has submitted an application for a CAPP to raze or demolish such historic landmark, building, or structure in accordance with Section 7.12;</p>	<p>Section 7.12 is not provided or written. Meaningful review of the overlay district regulations cannot be done without the procedures being available.</p>	<p>Provide Section 7 regulations for review and comment prior to any public hearing.</p>
4.09	<p>Suburban Mixed Use Overlay District</p>	<p>This section is not provided. It is therefore impossible to provide comment.</p>	<p>Provide 4.09 and allow time for meaningful public review and comment prior to any public hearing in order to meet noticing requirements.</p>

ZO Section	ZO Section Excerpt	Comment	Recommendation
Chapter 5	All of Chapter 5, as well as other chapters of this draft zoning ordinance	Correct all Section references	There are numerous incorrect section references in this chapter - a few examples of these incorrect references are identified in this spreadsheet, but many more exist in this chapter and they should all be found and corrected accordingly
5.01.02.D.	The minimum dedicated right-of-way permitted for VDOT acceptance of the right-of-way for maintenance.	Should be listed as 5.01.02.C.3.	Change to 5.01.02.C.3.
5.01.03.D.	Uses on Lots	Clarify that multiple principal uses may be located on any lot	Add a standard stating that multiple principal uses may be located on any lot
5.01.04.A.	All yards must be provided with the minimum depth specified in the zoning district or as required by Use-Specific Standards in Section 3.06.	Section 3.06 doesn't exist	Replace the 3.06 reference with the correct reference
5.01.09.A.	...or within the Use-Specific Standards of Section 3.06 of this Zoning Ordinance.	Section 3.06 doesn't exist	Replace the 3.06 reference with the correct reference
5.01.09.B.	Wherever a FAR requirement is specified in this Zoning Ordinance, such requirement does not apply to residential uses unless such requirement specifically states that it applies to residential uses.	Is this statement even necessary considering that FAR applies to residential uses in multiple zoning districts within this zoning ordinance?	Possibly delete this statement since there are residential uses in multiple zoning districts whose density is calculated by FAR
5.01.11.A.2.	The lot lies within or adjacent to an established highway transportation improvement district.	This reference is included in the existing zoning ordinance, but is removed from the proposed zoning ordinance	Add this reference to the new zoning ordinance to maintain consistency with the existing zoning ordinance
5.01.11.A.	N/A	This section does not include references to density credit for the dedication of public uses such as open space, public space, or other dedication areas that benefit the general welfare	Add a standard stating that property owners will gain density credit for the dedication of open space, public space, or other dedication areas that benefit the general welfare
5.02.B.1.a.	All utilities must be located underground on the development site except as exempted by this section.	Clarify that this section only refers to "new" utilities	State that this section only refers to "new" utilities being placed underground on a development site
5.02.B.1.b.	Each utility must be located, to the extent practicable, in a manner that conforms to the natural topography, minimizes the disturbance of steep slopes and natural drainage areas, and allows vehicular and pedestrian interconnections within the site and existing or future development on adjoining lands.	This requirement is overly prescriptive and restrictive for a broad based ideal that will negatively harm site development	Delete this requirement
5.02.C.2.e.	In the JLMA-20...	This zoning district won't exist in the new zoning ordinance	Insert the correct zoning ordinance reference or delete this standard

ZO Section	ZO Section Excerpt	Comment	Recommendation
5.02.E. and F.	Suburban and Urban Area zoning districts must be served by public central water and sewer systems	An exemption should be provided in these two sections that allows for the temporary establishment of uses if they're a certain distance from any existing public central and water sewer systems	Include an exemption that allows for the temporary establishment of uses if they're a certain distance from any existing public central and water sewer systems
5.03.01.2.b.	Existing buildings and structures within the RSCR are not considered nonconforming, i.e., they can be added to, subject to the standards of 5.03.04 and provided that such addition does not increase the total floor area of the structure, as existed on [adoption date], by more than 25%, and, if destroyed by fire or casualty, they can be rebuilt to the same or an equivalent footprint, subject to other county, state, and federal agency regulations and approval.	Despite this statement, how likely is it that the 100-foot wide buffer along each side of every stream and river in Loudoun County will result in the creation of several non-conforming uses?	Reduce the RSCR minimum widths to the standards listed in the current zoning ordinance to avoid the creation of non-conforming uses and the imposition of unreasonable standards
5.03.01.D.1.	As a minimum 300 foot wide buffer measured from the bankfull bench along each side of Scenic Rivers, the Potomac River, and Bull Run;	The proposed 300-foot wide buffer along each side of every Scenic River in Loudoun County doubles the existing Scenic Creek Valley Buffer requirements. If these widths are to be considered, administrative relief of these buffer widths should be available in a manner similar to what's permitted in the current zoning ordinance for the Scenic Creek Valley Buffer. Additionally, this buffer width is based on a new term, "bankfull bench," as opposed to the previously used term, "channel scar line." It appears that this new terminology would further increase the width of these buffers beyond the <u>currently used method of measurement.</u>	Reduce the RSCR minimum widths to the standards listed in the current zoning ordinance to avoid the creation of non-conforming uses and the imposition of unreasonable standards
5.03.01.D.2.	As a minimum 100 foot wide buffer measured from the bankfull bench along each side of all other rivers and streams;	The 100-foot wide buffer along each side of every stream and river in Loudoun County is excessive. Additionally, this buffer width is based on a new term, "bankfull bench," as opposed to the previously used term, "channel scar line." It appears that this new terminology would further increase the width of these buffers beyond the currently used method of measurement.	Reduce the RSCR minimum widths to the standards listed in the current zoning ordinance to avoid the creation of non-conforming uses and the imposition of unreasonable standards

ZO Section	ZO Section Excerpt	Comment	Recommendation
5.03.05	NERS Definitions	Why are these definitions separate from the definitions included in Section 11.03?	Include these defintions in Section 11.03
5.03.05	Bankfull and Bankfull Bench	How do these definitions differ from the definition of channel scar line?	Confirm how these definitions differ from the definition of channel scar line
5.04.01.B.	The requirement to provide open space according to the standards in the Dimensional Standards tables in Chapter 2...	The applicability of open space standards greatly expands based on this section. This expansion will place additional burdens on administrative and legislative applications.	Reduce the impact of these proposed open space standards by reducing the applicability of these proposed open space standards
5.04.01.B.7.	...as described in 5.04.10	The COSP is not described in Section 5.04.10	Replace the 5.04.10 reference with 5.04.09
5.04.01.B.7. a.	The COSP must show the location of the area subject to the development application and its relationship to all of the open space approved for the development.	How is a "relationship to all of the open space" shown on a plan?	This is a subjective statement that should be removed.
5.04.02.A.	Open Space is calculated by multiplying the required percentage as provided in the district requirements specified in Chapter 2, Zoning Districts, by the gross acreage of the area proposed for development, which may be:	The limits of a legislative application is not listed in this section	This section should be revised to include the limits of a legislative application
5.04.02.C.	Any part of the parcel or parcels that will be subtracted or separated from the gross land area specified above before approval of the application and that sets the final amount of open space required.	This statement would disincentivize an applicant from dedicating open space to the county or another entity	This statement should be revised to account for open space areas that are planned to be dedicated to the county or another entity
5.04.02.D.	When specified by district requirements, the amount of open space to be provided must be determined at the earliest plan review opportunity and maintained throughout the development review process until the development is completed unless modified according to Section 5.04.12.	What is the purpose of this requirement? If open space is added later in a development review process, will it not be valid?	Delete this requirement as it places an unnecessary burden on a development review process that is often fluid and subject to change as the application progresses
5.04.02.E.2.	No more than 30% of the total required open space may be located within an easement or right-of-way.	This is an unnecessary provision based on an arbitrary percentage	This requirement will likely result in unintended negative consequences and should be removed

ZO Section	ZO Section Excerpt	Comment	Recommendation
5.04.04.	Credits for Inclusion in Open Space	Additional credit given to certain types of open space is a novel approach, but it should not come at the expense of reducing the open space credit provided for required floodplain, buffer, and setback areas. If only partial credit is provided for these required open space areas, then reductions of these areas should be permitted so more acceptable open space areas, as identified by the proposed zoning ordinance, can be provided.	Revise this section to provide full credit for open space for the items referenced in Section 5.04.04.C.
5.04.05.B.	Open Space Design Standards - Limitations	This section contains numerous restrictions that are overbearing and unnecessary. If applicants are permitted only partial credit for items such as parking area landscaped islands and floodplain, then the requirements to commit to these features should be equally reduced. These limitations would greatly reduce an applicant's ability to develop a property in a reasonable manner.	Delete this section as it does not give any credit for open space that is required by other sections of the zoning ordinance
5.04.06	Type-Specific Open Space Design Standards	This section is entirely too prescriptive, overly burdensome, and will eliminate almost all open space design freedom when creating projects	Delete or completely revise this section based on input from applicants and landscape designers
5.04.07	Trails	This section includes requirements that are unnecessary for the inclusion of a trail as part of a development - additionally, trails are typically referred to as shared use paths	Revise this section to account for reasonable considerations for trails and confirm if the trails referenced in this section are actually shared use paths
5.04.07.A.3.	The trail must be provided in an easement that ensures its availability and use to all patrons at all times if it is not included within the boundary of a parcel owned and managed by an OA or dedicated to the County for public use.	Trails can be located in the right-of-way and not just within easements	Revise this section to account for trails that are located within the right-of-way

ZO Section	ZO Section Excerpt	Comment	Recommendation
5.04.09.A.3.	<p>With each submission for approval of a new development plan for a portion of the approved development, an updated COSP must be included and demonstrate the following:</p> <p>a. The location, area, and method of protection for open space approved on earlier development plans;</p> <p>b. The location, area, and method of protection for open space remaining and to be provided in the future; and</p> <p>c. The COSP must show and describe all modifications to the originally approved open space including the method used to approve the modification and the date that it was approved.</p>	These requirements are more of a development process approach rather than an open space approach	Delete this section as it proposes a development process that is unnecessary and cumbersome
5.05.02	Parking Ratios	The proposed parking ratios need to be thoroughly vetted before adoption - experts from various development fields should be consulted on the proposed parking ratios	Fully review and vet the proposed parking ratios to ensure that proposed minimum and maximum parking requirement don't create adverse impacts on users
5.05.03 and 5.05.04	Bicycle Parking and Electric Vehicle Parking	The proposed bicycle and electric vehicle parking standards are new concepts that should not overly burden specific property types. Has the County consulted with industry experts and/or neighboring jurisdictions in regard to these new concepts?	Fully review and vet the proposed bicycle parking an electric vehicle parking ratios to ensure that they don't create adverse impacts on users
5.05.05	Motorcycle/Scooter Parking	This concept should not be a requirement, but rather an incentive to reduce parking	Replace this requirement with an incentive to reduce parking under the parking adjustments section
5.05.06	Car-Share Parking	This concept should not be a requirement, but rather an incentive to reduce parking	Replace this requirement with an incentive to reduce parking under the parking adjustments section
5.05.08.I.	Affordable Housing Reductions	The proposed 5%, 10%, and 15% reductions based on AMI levels does not match with reality	Revise this section to reflect the true parking demand of affordable housing projects

ZO Section	ZO Section Excerpt	Comment	Recommendation
5.05.10.E.	Parking Structure Design Requirements	This section creates a broad stroke of design standards for parking structures that doesn't make sense for most parking structures	Delete or completely revise this section based on input from applicants, architects, and engineers
5.05.10.F.	Use Specific Design Requirements	This section identifies a number of design standards based on arbitrary distances, requirements, and assumptions	Delete or complete revise this section based on input from applicants and engineers
5.05.13.D.	Specific Residential Design Type Parking Arrangement	The layout arrangement illustrations do not accurately reflect how parking is provided in the various dwelling units	Update the layout arrangement illustrations to more accurately reflect how parking is designed for these types of dwelling units
5.06.A.1.	All trees to be planted must meet the specifications of AmericanHort.	Is AmericanHort referenced in the FSM? If not, this reference should be deleted	All tree planting, replacement, and preservation standards should match the FSM
5.07	Landscaping, Buffer Yards, Screening	The existing zoning ordinance standards should be carried forward to the new zoning ordinance given the amount of time and effort it took to review and implement these standards	Maintain the existing landscaping, buffer yards, and screening standards from the current zoning ordinance - one exception would be to reduce the setback distance from Collector Roads from 75 feet structures and 35 feet for parking to 35 feet for structures and 25 feet for parking
5.08.05.C.4. and 5.08.05.C.5.	Lighting for recreational and athletic fields and facilities at publicly owned facilities utilized for athletic competition except public schools, which are subject to the standards provided in 5.08.05 D. Lighting of recreational and athletic fields and facilities at public schools which are subject to the Use Specific Standards for Schools, Public (Elementary, Middle or High) in 3.06.05.18.	Why does a double standard for lighting exist for publicly owned facilities and recreational and athletic fields and facilities at public schools?	Create one lighting standard for private facilities and public facilities.
5.09.04	Visibility at Intersections	Has this section been reviewed and commented on by engineers?	Input from engineers should be provided to ensure that these requirements are appropriate
5.11	Transition	These requirements are far too prescriptive and will undoubtedly create problems for developable parcels	Delete this section or revise it to create reasonable transition standards
5.12	Owner's Association	Is this section necessary? This section may conflict with earlier references with the maintenance of common open space	Ensure that this section does not conflict with existing approvals as well as other proposed sections of the new zoning ordinance.

ZO Section	ZO Section Excerpt	Comment	Recommendation
5.13	Variation of Residential Lot Sizes	This section will create development problems and should be deleted	Delete this section

ZO Section	ZO Section Excerpt	Comment	Recommendation
6.01	purpose of regulation is to implement and complement the character of the Plan, among other things	Intent is not a necessary section of the ZO, and creates potential confusion by linking the Plan	Remove
6.03(B)	Off premises signs signs are prohibited	Presently off-premises signs can be part of an SIDP if they are signs shared among parcels. It is unclear if this would still be permitted.	Allow adjacent parcels to share signs in order to maximize efficiency.
6.03(F)	Attention-Getting Devices: Balloons, banners, pennants, feather signs, or inflated devices are not permitted unless expressly mentioned	Based on later tables, it appears that these items are only permitted in commercial/urban districts. This could affect short term use of balloons, etc. for birthday parties or decoration of holidays within residential districts.	Allow for balloons, pennants, and other similar devices in residential and rural districts
6.04	Table 6.04-1 and 6.04-2	Both pole signs and ground signs are freestanding signs, and the total limits are the same. Is it possible to combine these tables in order to make calculations easier/the requirements more readily apparent without having to refer to two tables?	Combine Tables 6.04-1 and 6.042
6.04-1	Ground signs are only permitted for non-residential uses in neighborhood zoning districts, and a maximum of 2, with a total aggregate area of 20 sq. ft.	This seems like it would prohibit entrance signs to residential developments, since those are for residential uses. 20sqft is also quite a small area for such signs, considering that background elements count for such area. Current regs allow 1 ground mounted sign per vehicular entrance for a residential development. Each sign may be a max 40sq. ft., and there is no max square footage for this type, because it is entrance-driven. Current regs also permit 20sq. ft for HOA signs, ground mounted.	Permit ground signs for entrances to residential subdivisions; consider an increase in aggregate square footage for such signs/HOA signs to be more consistent with present regulations.

ZO Section	ZO Section Excerpt	Comment	Recommendation
6.04-1	Ground signs are permitted differently based on acreage of lots in the rural areas. Maximum height is 4'.	It is unclear whether rural subdivision signs would be permitted, or whether they would be subject to the lot requirements (20sq. Ft for <5 acres). Given the measurement of signs including background elements, the limits of 20sq. Ft. and 60 sq. ft aggregate seem low when considering entrance signs for rural subdivisions, as does a 4' sign height.	Clarify to expressly permit entrance signs for residential subdivisions and consider allowing more square footage for those uses. Consider allowing slightly more height for these signs, as background materials seem to be considered in height and area. Further consider more square footage, as background materials are proposed as part of the sign measurement under proposed regs.
6.04-1	Commercial freestanding signs are limited to 4 per parcel, 120sq. Ft. aggregate, and 15' in height	If commercial developments are not subdivided, the number of signs (ground and pole) may be insufficient, as well as the square footage. In addition, current sign regs make exceptions for the drive through menus, and proposed regs do not.	Exempt drive through menus from sign area, and consider more square footage allowance, as background materials count for sign area under new regs.
6.04-1	Industrial/Urban Mixed Use	Same comments as commercial - it is more likely that urban mixed use will be condominiumized, creating larger lots with multiple uses.	Consider more square footge, as background materials count for sign area under new proposed regs.
6.04-2	Rual signs	See comments above regarding ground signs.	Further consider more square footage, as background materials are proposed as part of the sign measurement under proposed regs.
6.05-1	Rual wall signs	Cumulative area and number of signs do not take into account rural businesses with multiple buildings which may need attached directional signs	consider permitting additional wall signs and aggregate area for rual wall signs
6.05-1	Industrial wall signs	4 per buidling seems like it could be quite low, as mutiple tenants are often contained in one building	Permit a certain number of signs + 1 per entrance/tenant, as in the commerical and urban mixed use districts
6.05-1	Sign area for comercial, employment and urban/mixed use sign area - 20% per façade, 1% or 0.5% of façade, up to 200sf or 100sf	This seems like it would be low, if murals are also considered in wall signs	20% of a façade would prevent meantiful murals
6.05-2	Window signs in commerical, employment, urban/mixed use	25% of a window, with a max of 10sf seems low, and would prevent artistic painting work and signs that would be visible and readable in many situations	consider additional sf allowances

ZO Section	ZO Section Excerpt	Comment	Recommendation
6.05(D)(1)	Murals count toward wall signs, and are subject to the same sq. footage requirements	This is insufficient for artistic murals	Consider making murals their own category with their own SF requirements
6.05(D)(2)(a)	The Zoning Administrator must review and approve any mural that has over 20% text, logos, emblems, or trademarks, and may refer the application to the Arts Council	This is suspect under first amendment protections. While the ZA is not to consider the content of the text/emblems, etc, calling out text as its own regulated category is suspect. Further, the ZA is empowered to interpret the ZO, not the Arts Council	Remove regulation of text that is separate from regulation of other aspects of the mural
6.05(D)(4)	Sign permits for murals - sets forth requirements including a scale drawing, colored drawing, commission value, and life expectancy and maintenance plan	These are not required for other signs, and seem to amount to the County wishing to regulate the content of the sign, which is suspect under the first amendment. Further, value, renderings of the sign, and maintenance of the sign are not included with other types of signs in the ordinance.	Remove regulations which are suspect for regulation of content of the message within the sign area, as well as value and maintenance plan/longevity requirements.
6.05(D)(5)	Requires that murals be designed and constructed under the supervision of an artist who has demonstrated murals expertise	This is a subjective standard, and is one that is not required for approval of other signs	Remove this standard
6.06-1	Banners are not permitted in rural or neighborhood districts	This would prevent the use of banners for holiday decorations or parties.	Allow in residential and rural areas
6.06-3	Temporary signs require a permit	This is worrisome, as this would require a permit for individuals to put up political signs or real estate for sale signs or garage sale signs	Do not require permits for temporary signs

ZO Section	ZO Section Excerpt	Comment	Recommendation
6.06-4	Incidental sign regulations - size restrictions and permitting	From the definitions, incidental signs and temporary signs appear to be the same, or temporary signs appear to be a subset of incidental signs. The comparison between the two is confusing, and appears to also set a limit on temporary signs? Real estate signs, for instance, are mentioned in both definitions. It is also unclear if temporary signs are "freestanding signs" under the new regulations, given the contents of Table 6.06-4, which adds another layer to determine whether signs are permitted/the proposed area is permitted. Calling temporary or incidental signs "freestanding" is confusing, and the stated limits on sign area between the different categories are not consistent.	Clarify between incidental and temporary signs, and provide clear limits on the two types, if applicable. Further clarify that temporary signs stuck into the ground are not "freestanding" signs and subject to those regulations.
6.09.C	Can request an SIDP for signs that have an unusual design or artistic features that require alternate dimensions or regulations	This sets up a more subjective standard than the current standard, and imposes a higher burden.	Remove the requirement for "artistic or unusual" that is not in the present ordinance.
6.10(B)	Background area of the sign is included in sign area	This is a codification that is not present in the current ordinance.	Remove
6.09	Sign permit regulations are not available in Chapter 7	Cannot review meaningfully without the regulations	provide the regulations.

ZO Section	ZO Section Excerpt	Comment	Recommendation
7.01, 7.09.01, 7.09.02, 7.10.01	Note: Staff is actively drafting this section as directed by the Board of Supervisors in the Resolution of Intent to Amend the Zoning Ordinance in Regard to the Legislative Application Review Process. See Board Business Meeting December 4, 2018.	This is simply a placeholder statement	Provide this proposed section to the public with ample review time with the expectation that all comments will be properly addressed
7.02.A.1	Determinations for enforcement of performance standards must be made in accordance with Section 7.16.E.	There is no Section 7.16.E	Provided this proposed section to the public with ample review time with the expectation that all comments will be properly addressed
7.03.A.2	Applicability. Construction or occupancy of any building or structure, including: Residential accessory uses and structures, such as:	Unclear whether these lists are examples or exhaustive	Clarify whether these lists are examples or exhaustive lists
7.03.A.4	Except for agricultural uses as provided in the definition of Agriculture.	Unclear whether this is the only exception	Clarify whether this is the sole exception
7.03.A.5	Except that a conditional grading permit may be obtained prior to construction plans and profiles or Site Plan approval in accord with the Facilities Standards Manual (FSM).	Unclear whether this is the only exception	Clarify whether this is the sole exception
7.03.C.3.d	The Zoning Administrator may require the posting of a bond to ensure timely	Missing colon	Add colon
7.03.D.2.e.	The proposed special events does not violate	"special events" should be singular	Revise accordingly
7.04	Note: Regulations are forthcoming, see Section 6.09.A.	This is simply a placeholder statement	Provide this proposed section to the public with ample review time with the expectation that all comments will be properly addressed
7.05	Purpose: The purpose of the Site Plan application is to verify the physical aspects of development and use comply with the this and other ordinances.	There is a typo in this sentence ("the this and other ordinances")	Revise accordingly (remove the extraneous "the")
7.06.B.2.g.2	Such plat or survey must clearly depict	Missing colon	Add colon
7.10.02.A.2.	As directed by the Board of Supervisors during pre-review [Section 7.01.D].	Even though Section 7.01.D. does not exist in this document, a General Process Administration section (Section 7.01) appears to have already been drafted, but has not yet been released to the public.	Release the General Process Administration section to the public for review. Also, a "pre-review" by the Board referenced in Section 7.01.D. would undermine the objective reviews by county staff and the planning commission and should not be included in a new legislative application review process.

ZO Section	ZO Section Excerpt	Comment	Recommendation
7.10.03	Note: Regulations are forthcoming. See Section 6.09.C.	This is simply a placeholder statement	Provide this proposed section to the public with ample review time with the expectation that all comments will be properly addressed

ZO Section	ZO Section Excerpt	Comment	Recommendation
8.01.A.1.b	The subject of a development application for rezoning, special exception, site plan, subdivision, or preliminary subdivision that yields, as submitted by the applicant, 24 or more dwelling units.	The phrase "as submitted by the applicant" is unnecessary to understand this section.	Delete the phrase "as submitted by the applicant".
8.01.A.1.c	For the purposes of these ADU Program requirements, an application meeting criterion 8.01.A.1.a. and 8.01.A.1.b. above is a "development application" or a "development."	Unclear why this is listed as a criteria for applicability of the ADU Program when it this subsection is providing a definition.	Clarify that there are two criteria that trigger applicability of the ADU Program and move this subsection to avoid confusion. Consider revising the term of art to be more precise rather than the generic "development application" or "development".

ZO Section	ZO Section Excerpt	Comment	Recommendation
8.01.A.2	<p>Site, or portion thereof, at one location includes all adjacent undeveloped land of the property owner and/or applicant, under common ownership and/or control of the owner and/or applicant, including, but not limited to land owned and/or controlled by separate partnerships, land trusts, trusts, or corporations and other such forms of business entities in which the owner and/or applicant is an owner of 1% or more of the stock, partnership, membership, or is the trustee or beneficiary.</p> <p>a. "Owner and/or applicant" includes members of the owner's and/or applicant's immediate family.</p> <p>b. "Immediate family members" include the owner's and/or applicant's spouse, children, parents, and siblings.</p> <p>c. Exception. Adjacent parcels of undeveloped land owned by immediate family members are exempt from the provisions of this section when the separate ownership has existed for a period of 5 or more years.</p> <p>d. The acquisition of a fee interest by a lending institution, such as pension fund, bank, savings and loan, insurance company, or similar entity due to foreclosure or project participation is considered as ownership in determining applicability.</p> <p>e. The acquisition of an equity interest by a lending institution, such as a pension fund, bank, savings and loan, insurance company, or similar entity solely by virtue of its agreement to provide financing does not</p>	<p>Unclear and confusing language here makes it difficult to understand without more precise language and titles to guide the reader.</p>	<p>Provide a section title here for ease of reference. Revise language for clarity such as removing the multiple "and/or" references throughout.</p>

ZO Section	ZO Section Excerpt	Comment	Recommendation
8.01.A.2.a, 8.01.A.2.b, 8.01.A.2.c	<p>a. "Owner and/or applicant" includes members of the owner's and/or applicant's immediate family.</p> <p>b. "Immediate family members" include the owner's and/or applicant's spouse, children, parents, and siblings.</p> <p>c. Exception. Adjacent parcels of undeveloped land owned by immediate family members are exempt from the provisions of this section when the separate ownership has existed for a period of 5 or more years.</p>	Unclear and confusing language here makes it difficult to understand without more precise language and titles to guide the reader.	Provide a subsection title here such as "Immediate Family Members". Revise language for clarity such as removing multiple and/or references throughout. List the exception as a subsection.
GENERAL COMMENT (EXAMPLES: 8.01.A, 8.01.A.2.c, 8.01.A.3)	<p>Applicability. The requirements of the ADU Program apply as follows: Exception. Adjacent parcels of undeveloped land owned by immediate family members are exempt from the provisions of this section when the separate ownership has existed for a period of 5 or more years. An owner and/or applicant will not be exempt from the requirements of this Ordinance by submitting phased development applications for a site, or portion thereof, at one location for rezoning, special exception, site plan, subdivision, or preliminary subdivision for less than 24 dwelling units at any one time.</p>	There are conflicting references to this chapter throughout such as "ADU Program", "this section" and "this Ordinance".	Revise conflicting references to this chapter with one consistent reference. Also consider revising the chapter number 8 to avoid confusion with Section 8 of The Housing Act of 1937.
8.01.A.2.d, 8.01.A.2.e	<p>The acquisition of a fee interest by a lending institution, such as pension fund, bank, savings and loan, insurance company, or similar entity due to foreclosure or project participation is considered as ownership in determining applicability.</p> <p>e. The acquisition of an equity interest by a lending institution, such as a pension fund, bank, savings and loan, insurance company, or similar entity solely by virtue of its agreement to provide financing does not constitute ownership in determining applicability.</p>	Unclear and confusing language here.	Revise language for 8.01.A.2.d to add the word "a" before pension fund. Provide these two subsections as a separate paragraph with a title for ease of reference. Consider revising language to be more precise/easier to understand such as removing passive voice. Add to the end of both subsections the phrase "...in determining applicability of this ADU Program."

ZO Section	ZO Section Excerpt	Comment	Recommendation
8.01.A.3	<p>An owner and/or applicant will not be exempt from the requirements of this Ordinance by submitting phased development applications for a site, or portion thereof, at one location for rezoning, special exception, site plan, subdivision, or preliminary subdivision for less than 24 dwelling units at any one time.</p> <p>a. Exception. An owner and/or applicant may apply for a rezoning, special exception, site plan, subdivision, or preliminary subdivision of a site, or portion thereof, at one location for less than 24 dwelling units if the owner and/or applicant agrees, in writing, that any following development application for the site, or portion thereof, at one location must meet the requirements of the ADU Program when the total number of dwelling units in the development application and/or site, or portion thereof, at one location meets or exceeds 24 dwelling units.</p> <p>b. The agreement referenced in Section 8.01.A.3.a must be:</p> <ol style="list-style-type: none"> 1. Included on the approved CDP, rezoning plat, special exception, site plan, subdivision or preliminary subdivision plat for the development; and 2. Recorded among the Loudoun County Land Records and must be indexed in the names of all owners of the site, or portion thereof, at one location. 	Unclear and confusing language here.	Provide a section title here to guide the reader. Consider revising language for 8.01A.3.a to be more precise/easier to understand. Add a comma in subsection 8.01.A.3.b.1 after the word "subdivision".

ZO Section	ZO Section Excerpt	Comment	Recommendation
8.01.A.4	<p>Exemptions. The requirements of the ADU Program do not apply to the following:</p> <p>a.</p> <p>Any multistory structure of which a minimum of 4 stories are composed entirely of multifamily dwellings and/or facilities (excluding parking) restricted for the exclusive use and enjoyment of the residents of such multifamily dwellings, and has an elevator(s) that serves 2 or more dwelling units in the structure. Note: The County directed staff to commence a study to determine the feasibility of deleting the ADU Program exemption for multifamily (MF) dwelling structures and develop new regulations for MF dwelling structures under the ADU Program as a priority of the Zoning Ordinance Rewrite. Findings of that study could result in changes to this exemption. See June 2, 2020 Board Business Item - TLUC Report: ZOAM-2017-0001 Housing Affordability ZOAM.</p>	This is simply a placeholder statement.	Provide an update on whether this exemption will be removed or remain to the public with ample review time with the expectation that all comments will be properly addressed. Provide a comprehensive list of all exemptions as subparagraphs to 8.01A.4, such as developments proposing less than 24 units.

ZO Section	ZO Section Excerpt	Comment	Recommendation
8.01.A.5	<p>At the applicant's discretion, the provisions of the ADU Program may be applied to developments that are exempt from these provisions as stated in Section 8.01.A.4. If an applicant proposes to provide ADUs in a development that is otherwise exempt, the County will:</p> <p>a. Waive any application fee associated with a CDP amendment proposing to revise the CDP only to provide ADUs; and</p> <p>b. Provide review of CDP amendment applications not to exceed 180 days if the following criteria are met:</p> <p>1. The CDP amendment only includes committing to the provision of ADUs and/or an increase in the number of dwelling units proposed based on the optional density increase permitted pursuant to Section 8.01.D.8.</p> <p>2. The CDP amendment does not include revisions to the approved site design, such as but not limited to the relocation of roads, buildings, building envelopes, or site entrances to accommodate the requirements of or optional density increase allowed by the ADU Program.</p> <p>c. The calculation of the review period includes only that time the CDP amendment is under County review and will not include time that may be necessary for revisions by the applicant</p>	Unclear why this incentive to provide ADUs only applies to CDP amendments.	Clarify why this incentive only applies to CDP amendments. Consider including additional incentives to encourage applicants to voluntarily provide ADUs.
8.01.A.6	An applicant may provide affordable housing units (AHU) in lieu of the ADUs required by this Ordinance in accordance with Section 8.01.K.	Unclear why this is not classified as an exemption under 8.01.A.4.	Clarify why this is not listed as an exemption from the ADU Program under 8.01.A.4. Define the term "AHU".
8.01.D	ADU Requirements and Optional Increases in Density. The ADU requirements and optional increases in density apply as follows:	Unclear whether the following criteria are "ADU Program requirements" or only apply if the applicant is pursuing the optional increase in density	Revise the language to clarify the applicability of the requirements found in 8.01.D and whether they apply to all applications or only applications that are pursuing the optional increase in density. Consider moving general applicability requirements to 8.01.A.1

ZO Section	ZO Section Excerpt	Comment	Recommendation
8.01.D.1	To active rezoning applications that have not complied with Section 7.09.01.I as of the adoption date of this Ordinance.	Section 7.09.01 has not been released for the public to review.	Provide this proposed section to the public with ample review time with the expectation that all comments will be properly addressed
8.01.D.5	When 15% of the total number of SFD, SFA, and/or MF stacked dwelling units and/or 10% of the MF attached dwelling units approved for the development application are provided as ADUs, the development is permitted an optional 20% maximum density increase as provided in Table 8.01-2.	Unclear language.	Revise the language to clarify that the optional increase in density applies to any application that meets the ADU Program requirements.
8.01.D.6	<p>Voluntary Provision of ADUs for an Exempt Site or Application. In the case where ADUs are provided pursuant to Section 8.01.A.5 above, the following provisions apply:</p> <p>a.</p> <p>The ADU to density increase ratio required by Sections 8.01.D.3 and 4 does not apply. The density increase ratio is as follows:</p> <p>1.</p> <p>The density of a development application subject to voluntary provision of ADUs which is otherwise exempt may be increased between 10% to 20%.</p> <p>2.</p> <p>Of any units approved pursuant to the 10% to 20% density increase, not less than a percentage equal to the density increase percentage must be ADUs.</p> <p>b.</p> <p>The applicant is not permitted to request cash in lieu of SFD ADUs pursuant to Section 8.01.J.</p>	Unclear language here since this section references 8.01.A.5 which seems to be the ADU Program requirement and not applicable to voluntary/exempt applications for ADUs.	Revise this language to clearly state that an applicant providing voluntary ADUs meeting the ADU Program requirements. Clarify the density increase ratio and how it applies to voluntary/exempt ADU applications.
8.01.D.7	If the optional density increase exceeds the maximum residential density set forth in the General Plan, then the maximum residential density set forth in the General Plan applicable to the development application and/or development will be increased up to 20% pursuant to Table 8.01-2 for the purposes of calculating the potential density that may be approved by the Board of Supervisors.	It is unnecessary and confusing to reference General Plan place type density recommendations and state in the ZO that the General Plan will be modified if the optional density exceeds the maximum recommended in the General Plan.	Remove references to modifying the General Plan within the Zoning Ordinance. The General Plan is a guiding document and the Zoning Ordinance should not refer to General Plan recommendations as regulations.

ZO Section	ZO Section Excerpt	Comment	Recommendation
8.01.E	Standards for ADU Calculations. Each development application subject to the ADU Program must calculate required ADUs and optional density increase, as well as demonstrate the calculations, as follows:	Section 8.01.A.1.c defines "development application" so it is unnecessary to include the phrase "subject to the ADU Program".	Revise to remove the phrase "subject to the ADU Program".
8.01.F.1	When a development application includes a mix of dwelling unit types, the required ADUs must be provided proportionately to the types of market rate dwelling units proposed in the development application or project.	Why are ADUs required to be provided proportionally by specific unit types? Allowing for flexibility ADU requirements for unit types would allow for innovative proposals to address affordable housing.	Clarify why ADUs are required to be provided proportionally to the market rate dwelling unit types. Consider removing/revising this requirement to allow for more flexibility for applicants to creatively address the need for affordable housing in the County.
8.01.F.2.a, 8.01.J.1.2	When a development application for a MF stacked building or a MF attached building includes a mix of dwelling unit sizes, the required ADUs must be provided proportionately to the sizes of market rate dwelling units proposed in the development application or project. The dwelling unit size will be determined by bedroom count. a. "Dwelling unit type" as used in this section also includes "dwelling unit size."	Unclear what the purpose of subsection 8.01.F.2.a is since "dwelling unit type is not referenced in 8.01.F.2.	Clarify the purpose of subsection 8.01.F.2.a.
8.01.F.3	ADUs are not permitted to be provided in a dwelling unit type that is not also provided as a market rate unit in the development application or project.	The wording "or project" is unnecessary.	Remove the wording "or project"
8.01.H.2.d	Deviations of the interspersion requirement may be permitted on a case-by-case basis when the development is reviewed as a whole, and where creative design is determined to meet the intent of the ADU Program by the Zoning Administrator.	Unclear how an applicant would request to modify or be exempt from the interspersion requirement	Remove the word "deviation" and make clear that the interspersion requirement can be modified if an applicant provides sufficient justification.
8.01.J.1	Notwithstanding modifications permitted in Section 2.06, only modifications to the requirements of Sections 8.01.D.3 and 4 and 8.01.I.1 through 3 of the ADU Program are allowed.	Why not provide more flexibility for modifications to the ADU Program? Unclear what the applicant is allowed to modify.	Clarify this section to list out all ADU Program requirements that may be modified rather than simply providing a cross-reference. Consider providing more flexibility for applicants to modify the requirements of the ADU Program to allow for creative proposals to address the need for affordable housing in the County.

ZO Section	ZO Section Excerpt	Comment	Recommendation
8.01. J.2	Requests for modifications as applied to a specific development application or project must be submitted in conjunction with the specific development application for Zoning Map Amendment, Special Exception, Site Plan, or Preliminary Subdivision.	The list of potential development applications that may request modifications is not consistent with previous application lists.	Revise the list of development applications to be consistent with previous application lists in this chapter.
8.01.J.6.c	Notwithstanding Sections 8.01.J.6.a and b. above, any request for rezoning, special exception, site plan, subdivision, or preliminary subdivision that contains only SFD dwelling units, a modification may be requested to provide developable land within the development or cash in lieu of the ADUs. If an applicant requests a modification to make such cash payment or land dedication, the following criteria applies:	Unclear and confusing language. Why not also allow other applicants/unit types to modify these requirements? This would allow for creative approaches to address affordable housing in the County.	Clarify the intent of this section. As drafted, it is unclear how this would apply. Provide developable land to whom? Provide an explanation for why only SFD developments can dedicate land or provide cash in lieu.
8.01.J.6.c.1	Cash provided in lieu of SFD ADUs pursuant to Section 8.01.D.3 must be a per unit cash contribution of 100% of the construction cost of a prototypical SFD ADU.	Unclear who determines the construction cost of a prototypical SFD ADU.	Clarify who determines the construction cost of a prototypical SFD ADU.
8.01.J.6.c.4	Notwithstanding Section 8.01.J.6.c.2, documentation demonstrating that the required number of ADUs can be built on the land dedicated in lieu must be provided with the request to dedicate land in lieu of providing ADUs.	It is confusing to start sections with the phrase "Notwithstanding" and reference a previous subsection.	Clearly state the requirement and minimize unnecessary and confusing language.
8.01.J.6.c.5	The request to dedicate land or provide cash in lieu of ADUs must be made at the time of approval of rezoning, special exception, subdivision, preliminary subdivision, whichever is required first.	Confusing why this request must be made "at the time of approval of rezoning, special exception, subdivision, preliminary subdivision". Shouldn't this request be made when the application is submitted?	Revise to clarify when this request/modification must be made.
8.01.J.6.c.8	The applicant must provide a justification that addresses Section 8.01.J.9.	Does this need to be a "written" justification?	Clarify whether this needs to be a written justification and when it should be provided.
8.01.J.6.c.9. a	Public facilities and services already developed for the overall development capacity to accommodate the maximum density increase permitted for provision of ADUs.	Unclear and confusing language	Revise to clarify the meaning of this criteria.
8.01.J.7	If a modification to Section 8.01.J.1 through 3 is requested:	Shouldn't this reference modifications to Sections 8.01.I.1 through 3?	Revise to clarify which sections are modifiable. Is the reference supposed to be to Sections 8.01.I.1 through 3?
8.01.J.7.b	The applicant must provide a justification that addresses the criteria listed under Section 8.01.J.7.c..	Does this need to be a "written" justification?	Clarify whether this needs to be a written justification and when it should be provided.

ZO Section	ZO Section Excerpt	Comment	Recommendation
8.01.J.7.c	<p>The ADUAB, Planning Commission, and Board of Supervisors must consider the following criteria in reviewing a request for modification to Section 8.01.J:</p> <ol style="list-style-type: none"> 1. The modified timing of construction and availability of ADUs compared to market rate dwelling units. 2. Existing unique or unusual site constraints, including but not limited to the availability of utilities or infrastructure that require a modified development schedule. 3. Unusual costs associated with development of the subject property due to the development schedule required by Section 8.01.J. 	Shouldn't this reference modifications to Sections 8.01.I?	Revise throughout to reference the correct section regarding ADU timing of construction requirements.
8.02.A	<p>Applicability. The requirements of the UHNU Program apply as follows:</p> <ol style="list-style-type: none"> 1. This section applies to UHNUs provided as part of a development application for rezoning, special exception, site plan, subdivision, or preliminary subdivision, as submitted by the applicant: <ol style="list-style-type: none"> a. To achieve an adjusted FAR in the UM Subarea of the UT/UM District pursuant to Section 2.01.01.E. b. To achieve an adjusted FAR in the SM District pursuant to and Section 2.02.03.F. c. To meet the Alternative Location Criteria for locating the SCN District in the Suburban Neighborhood or Suburban Mixed Use Place Types of the General Plan pursuant to Section 2.02.02.K.1. d. As a permitted adaptive reuse of a building or structure pursuant to Section 5.10.C. 2. An applicant may provide affordable housing units (AHU) in lieu of the UHNUs required by this Ordinance in accordance with Section 8.01.I. 	Unclear how the ADU and UNHU program requirements interact.	Provide more explanation regarding the purpose of the UNHU Program and how it relates to the ADU Program requirements.

ZO Section	ZO Section Excerpt	Comment	Recommendation
8.02.D	<p>Standards for UHNU Calculations. Each development application subject to the UHNU Program must calculate required UHNUs, as well as demonstrate the calculations, as follows:</p> <ol style="list-style-type: none"> 1. To achieve an Adjusted FAR, calculate the UHNUs required by multiplying the applicable UHNU percentage requirement in Section 2.02.01.E, Table 2.02.01-2 or 2.02.03.F, Table 2.02.03-2 by the total number of dwelling units proposed. 2. To meet the Alternative Locational Criteria in Section 2.02.02.L.1: <ol style="list-style-type: none"> a. Calculate the UHNUs required pursuant to the percentage required in Section 2.02.02.L.1, using the total number of dwelling units proposed. b. Determine the maximum number of dwelling units proposed, including any dwelling units permitted by the optional density increase for providing ADUs pursuant to Section 8.01. 3. When the calculation of required UHNUs results in a requirement of a fractional UHNU, any fraction is interpreted as 1 whole UHNU. 4. Demonstrate the total number of dwelling units proposed and total number of UHNUs required on each zoning, special exception, site plan, subdivision, and/or 	<p>Unclear how the requirements for UNHUs and ADUs interact. It is difficult to understand this section when the tables referenced are in different chapters.</p>	<p>Clarify how the requirements for UNHUs versus ADUs relate to each other. Provide the tables referenced in this section so the reader can calculate UNHUs without having to flip back and forth between chapters.</p>
8.02.F.2.c	<p>UHNUs may be located directly across a road or travelway from each other or may back directly to each other across rear yards or common areas as long as the UHNUs meet the requirements in Section 8.01.H.1.</p>	<p>Shouldn't the section reference here be found within Section 8.02?</p>	<p>Revise the reference here to the correct 8.02 section.</p>

ZO Section	ZO Section Excerpt	Comment	Recommendation
9.B.4	<p>Nonconforming Conversion Condominium. Pursuant to Code of Virginia 55.1-1905.E, the declarant of a proposed conversion condominium that does not conform to zoning, land use, and site plan regulations must obtain special exception approval pursuant to the procedures under Section 7.09 prior to such property becoming a conversion condominium. The Board of Supervisors must grant approval of such request if the applicant demonstrates to the reasonable satisfaction of the Board of Supervisors that the nonconformities are not likely to be adversely affected by the proposed conversion.</p>	<p>Certainly this is permitted by VA Code, but has been for quite some time and has never been part of the ZO. Why now? This could be especially onerous as the proposed draft could create many such non-conformities, and would this additional regulation would further burden property owners.</p>	<p>Remove this requirement, or phase it in over time.</p>
9.C.1.a	<p>A replacement Structure must occupy the same footprint of the damaged or destroyed nonconforming Structure unless it is proposed in a location that complies with the current yard and setback requirements.</p> <p>Regardless of location, a replacement of the nonconforming Structure can not include increased floor area either through an expanded footprint or additional height or stories.</p>	<p>Currently, the ordinance does not allow greater land area to be disturbed or greater floor area to be utilized. Why must the replacement building occupy the exact same building footprint, if the area disturbed and floor area are not increased? The state goal of the section is to prevent extensive investment in non-conformities, and the present regulations sufficiently do so.</p>	<p>Remove the requirement that repaired or replaced structures must occupy the exact footprint, so long as the height or area are not increased.</p>

ZO Section	ZO Section Excerpt	Comment	Recommendation
9.4.e-g	<p>e. When the use changes to a different use permitted in the zoning district and that use requires a buffer width greater than the previously existing use, the owner has the option to provide new or additional plantings in the existing reduced width if the Zoning Administer determines that the resulting buffer will provide equivalent buffering effect to one that would be required according to zoning district standards, except for the reduced width.</p> <p>f. In the event that the existing buffer has been reduced by 50% or more the owner has the option to provide a buffer in an alternate location of choice if the Zoning Administrator determines it will achieve the intended buffering effect.</p> <p>g. When the Zoning Administrator determines that the buffers proposed in accordance with 9.01(E)(b) or (c) do not provide adequate buffering, the owner must seek approval of a minor Special Exception according to the procedures outlined in 7.10.02.</p>	<p>F and G do not appear to have the same trigger as E, which is triggered only when a change in use on the non-conforming lot.</p> <p>Are F and G meant to be read to impose a requirement on the landowner to replace buffers that are removed or reduced by the action of the Government, or to seek a special exception if not, even with no change in use? If so, this is in conflict with subsection c, and imposes a cost and hardship upon an owner based upon the actions of the State.</p> <p>If the requirements are meant to apply only to change in use, then this should be clarified in the regulations.</p>	<p>Remove requirements which state that owners must undertake modifications to their lots or buffers based upon condemnation proceedings affecting a portion of their lots.</p>

ZO Section	ZO Section Excerpt	Comment	Recommendation
10.01.A.e	Adds certificate of appropriateness to list of ZA duties		
10.1.B	60-Day Limit for Good Faith Reliance. In no event is a written order, requirement, decision, or determination made by the Zoning Administrator subject to change, alteration, or reversal by any Zoning Administrator after 60 days have elapsed from the date of the written order, requirement, decision or determination where the person aggrieved has materially changed his position in good faith reliance on the action of the Zoning Administrator unless it is proven that such written order, requirement, decision, or determination was obtained through malfeasance of the Zoning Administrator or through fraud. The 60-day limitation period does not apply in any case where, with the concurrence of the County Attorney, change is required to correct clerical errors.	This is a new provision, but aside from the time period appears to reflect settled Virginia law on reliance on determinations. Why is this time period 60 days, when the appeal period is 30 days? This inconsistency permits the Zoning Administrator to change his or her opinion after the appeal period has run for the person requesting the determination, and is fundamentally unfair.	If this provision remains, the time period must be reduced to 30 days, to reflect the appeal period.
10.02.D	Removes the power of the Planning Commission to prepare and recommend ZOAMs, and amendments to the Land Subdivision and Development Ordinance, and the Capital Improvement Program	Why can the Planning Commission not recommend amendments to the Zoning Ordinance? Why has the power of the Planning Commission to review and comment on the CIP been removed?	
10.3.B.1.b.3	<p>1. Qualifications.</p> <p>a. All BZA members must be Loudoun County residents.</p> <p>b. Members must hold no other public office in Loudoun County, except:</p> <p>1. One member may be a Planning Commission member;</p> <p>2. Any member may be appointed to serve as an officer of election; and</p> <p>3. Any elected official of an incorporated town.</p>	Why are Town officials permitted to sit on the BZA? This regulation opens up the possibility that all members of the BZA could be Town officials, and nullifies the requirement that no BZA member shall be a public official.	Remove 10.3.B.1.b.3

ZO Section	ZO Section Excerpt	Comment	Recommendation
10.04.B.1.c and d	<p>B. Membership. The HDRC is composed of a minimum of 5 and a maximum of 7 voting members who must be residents, at least 3 of whom must be freeholders, of the County with a demonstrated knowledge of and interest in the preservation of historical and architectural landmarks.</p> <p>1. Qualifications. Members are appointed by the Board of Supervisors and should include the following:</p> <p>a. An architect with experience dealing with historic Structures;</p> <p>b. An architectural historian;</p> <p>c. An owner of property listed on either the state or national register of historic landmarks; or</p> <p>d. Owners of property within an historic district established pursuant to Section 7.09.08 of this Zoning Ordinance.</p>	<p>These are new qualification requirements. IT makes sense als owning a historic home meant to indicate a "demonstrated knowledge and interest in the preservation of historical and acrchitectural landmarks?"</p> <p>What happens if the Board cannot find an appropriate architect or architectural historian?</p>	

ZO Section	ZO Section Excerpt	Comment	Recommendation
	All definitions should be included in Chapter 11, regardless of whether they are located in individual chapters or sub-chapters of the draft ordinance.		

ZO Section	ZO Section Excerpt	Comment	Recommendation
Appendix A	Note: Regulations for Legacy Zoning Districts will appear here in future versions of the draft Zoning Ordinance.	This is simply a placeholder statement	Provide this proposed section to the public with ample review time with the expectation that all comments will be properly addressed

ZO Section	ZO Section Excerpt	Comment	Recommendation
Appendix B. Table B-1	Suburban Mixed Use - SM	A three word zoning district should be identified with a three letter acronym	Replace "SM" with "SMU"
Appendix B. Table B-1	Urban Mixed Use - UM	A three word zoning district should be identified with a three letter acronym	Replace "UM" with "UMU"
Appendix B. Table B-1	Urban Transit Center - UT	A three word zoning district should be identified with a three letter acronym	Replace "UT" with "UTC"
Appendix B. Table B-1	N/A	Suburban Commercial - Neighborhood Center (SC-NC) isn't listed in this table	Add Suburban Commercial - Neighborhood Center (SC-NC)
Appendix B. Table B-1	N/A	Suburban Commercial - Community Center (SC-CC) isn't listed in this table	Add Suburban Commercial - Community Center (SC-CC)

ZO Section	ZO Section Excerpt	Comment	Recommendation
	<p>Note: The Board of Supervisors is expected to consider a zoning ordinance amendment, ZOAM-2021-0003, Traffic Impact and Warrant Study Fees, in May 2022. If approved, this new Appendix C will include fees related to a County managed traffic program, as detailed in ZOAM-2021-0003 documents. Additionally, this appendix will include existing land development application fees that are administered by the Zoning Ordinance. The existing fees are not changing as part of the Zoning Ordinance Rewrite project. They are being added to the Zoning Ordinance to create the framework for a future comprehensive fee study planned for after the Board adopts the Zoning Ordinance.</p>	<p>Adding the fee schedule to the zoning ordinance is unnecessary and redundant. The existing fee structure is not included in the zoning ordinance and therefore it does not require a zoning ordinance amendment when revisions are implemented to update the fee amounts.</p>	<p>Delete this appendix and do not add a fee schedule to the zoning ordinance</p>