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Subject: APRIL 10, 2023 PC SUBCOMMITTEE MEETING -- ZOR Work Group INPUT

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### **Planning Commissioners & ZOR Planning & Zoning Staff,**

On behalf of the ZOR Uses Work Group, we first would like to sincerely thank Staff for including Use-Specific Standards for VaABC licensed uses in the 4-10-2023 PC Uses Subcommittee draft text packet. Inclusion of these Use-Specific Standards is in line with input from ZOC, REDC and 3 rounds of ZOR public input, and is an important step to achieve the “balance” between a strong rural economy and quality of life for residents as outlined in Supervisor Buffington’s 2016 letter to REDC (attached). This text also works to provide a “balanced” focus on use standards for rural residents in proximity to high-intensity uses, in line with the County’s efforts to implement mitigation use standards for suburban residents near data centers.

We also continue to thank Planning Commissioners for your thorough review and consideration of ZOR draft text. Due to the complex topics included in this packet and related responding information, all Planning Commissioners are receiving the information for the April 10<sup>th</sup> and future PC meetings.

This packet contains:

- Explanation why Staff’s “Zoning Violation Complaint Themes” and quantities are flawed, to avoid the Planning Commission making erroneous conclusions due to “McNamara’s Fallacy.”
- Additions to complaint “themes” based on case study review (2017), and public input case chronologies, submitted through ZOR Round 1 2020 Public Input and [posted on LOLA](#).
- Comparison of Staff’s 2023 proposed Use-specific Standards to Staff’s 2014 and 2021 text, and example regulations in other counties.
- Questions regarding Outdoor Music Regulations – when they are applied.
- Question regarding Multiple Uses on a lot (staff comments 3-30-2023 vs. staff draft text).
- Summary of Key Issues and Recommendations for review of Staff’s 4-10-2023 draft text for use-specific standards for VaABC licensed uses.

Thank you for your time and attention,

Maura Walsh-Copeland  
on behalf of  
ZOR Uses Work Group

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Walsh-Copeland Consulting, LLC

## **ZONING VIOLATION COMPLAINTS – Accuracy and Assistance**

In the 4-10-2023 PC Uses Subcommittee packet regarding “complaint themes” Staff stated:

*“Since January 2018, the following zoning violation complaint themes can be derived from data available to the Zoning Enforcement Division of Planning and Zoning. Note the Loudoun County Sheriff’s Office (LCSO) may have more information on noise complaints unavailable to Planning and Zoning.”*

### **For Planning Commissioner awareness -- Staff’s “complaint theme” findings are incomplete and flawed for the following reasons:**

- Collecting “complaints” since 2018 excludes those from 2006 (Farm winery introduction) and 2014 (Limited Brewery introduction) through 2017.
- Review of public complaints was initiated by [Supervisor Buffington’s 10-17-2016 Letter to REDC](#) requesting recommendations for how to “improve the balance between maintaining a strong rural economy and ensuring a high quality of life for residents.”
- This letter led to a [Case Study review](#) in 2017 of resident and business concerns regarding zoning use standards, and included interviews conducted with County Planning & Zoning, and Zoning Admin. and Enforcement staff.

### **CASE STUDY FINDINGS INCLUDED**

- Loudoun Express Request (LEx) is a trouble/complaint distribution system, not a trouble *reporting* system. Per interviews, complaints are counted manually and tallied on an external excel file. The system ONLY tracks “complaints” submitted, not requests for “information” regarding zoning and use issues.
- LEx does NOT track complaints via letters, emails or phone calls submitted to:
  - Board of Supervisors, BOS aides, Planning Commission, State elected officials, State agencies (e.g., VaABC, ODW, VDACS), federal elected officials, federal agencies (e.g., TTB, EPA), social media, news outlets or letters to the editor. Calls/emails to Staff may not be logged in all cases.
- LEx also does not log or include (nor is representative of) comments made at Planning Commission or Board of Supervisor Public Hearings.
- LEx tickets understate total volume as complaints submitted by multiple people on the same topic are/have been combined and closed out as “duplicate” tickets.
- LEx does not fully track or correlate complaints to the Sheriff Department.
  - The Sheriff’s Department does not log “zoning uses” complaints, combines multiple complaints on the same subject into one “complaint,” and excludes complaints via discretion and plea bargaining incident reporting.
- Also confirmed was the significant public confusion regarding the two noise ordinances (zoning vs. codified) for whom to call (zoning enforcement or sheriff), for what type of noise, which and how tests are performed, and enforcement.

### **CONCLUSIONS:**

- The County has no consolidated complaint tracking, no consolidated complaint reporting, and no means to obtain accurate total complaints across sources and agencies.
- The above findings were presented to the County Administrator and Deputy County Administrator (4-11-2018) and County Administration Senior Staff (5-14-2018) including Zoning Enforcement ([May 2018 handouts attached](#)). Facts presented were not questioned or disputed at either meeting by County Administration or senior staff.
- LEx only reports a subset of complaints, therefore the complaint quantities included in Staff’s report for 4-10-2023 under-report complaints and will lead to incomplete “theme” identification.

- Reliance on incomplete complaint tracking will lead to a “McNamara (Quantitative) Fallacy”<sup>1</sup> conclusion. The fallacy occurs when decisions are made based only on what you can quantitatively measure while ignoring other factors and input.

OFFER OF ASSISTANCE: Due to the limited quantified complaints available via LEx, the ZOR Uses Work Group will endeavor to reach out to the community to obtain additional zoning use-related complaint information as offered to the (former) Dir. of Planning and Zoning in October 2021, if the Planning Commission believes it would be helpful.

For the 4-10-2023 PC meeting, below summarizes the “Themes” obtained through case study and public input review.

**ZONING VIOLATION COMPLAINT “THEMES”**

| Themes Identified in Staff Report                                                                                                               | Additional “themes” found through the initial <a href="#">2017 Case Study</a> and subsequent public input also includes ( <a href="#">RuralUses-Chronologies</a> ) (Included in ZOR Round 1 2020 Public Input and posted on LOLA): |
|-------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Light and glare, illegal signage, noise, permanent food truck/illegal restaurant, parking, illegal restaurant use, and accessory building size. | Hours of operation, yard setbacks, road access, permitting loopholes, enforcement, confusion between zoning and codified noise ordinances, quantity of venues in proximity.                                                        |

**VaABC ALLOWED REGULATIONS**

To assist Staff’s summary and PC Uses Subcommittee review of Virginia ABC allowed regulations, the following **Comparison of Regulations** table is provided based on the following documents:

- [ZOAM-2014-0003 Staff Draft Text for 10/1/2014 PC Work Session.](#)
- [2021 09-15 ZOR Draft Text Deleted](#) – Events Management
- [ZOR-2021-Virginia Counties Ordinance Comparison](#) – submitted via ZOR public input and posted on LOLA page for ZOAM-2020-0001
  - [Albemarle County webpage summary](#) of zoning for “Agricultural Operations & Farm Wineries, Breweries and Distilleries”

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<sup>1</sup> McNamara Fallacy: 1. Measure whatever can be easily measured. 2. Disregard that which cannot be measured easily. 3. Presume that whatever cannot be measured either does not exist or is not important.

**PROPOSED USE-SPECIFIC STANDARDS (STAFF REPORT) – COMPARISON TO 2014, 2021 AND OTHER COUNTIES**

| COUNTY ALLOWED TO REGULATE:                                                                               | ZOAM-2014-0003 Staff Text                                     | 2021 ZOR Staff Draft Text (Deleted)                      | Other County Regulations Example: Albemarle County                                             | 2023 PC Work Session Staff Draft Text                                                                                                                                                                                                                                                                                                                                                                 |
|-----------------------------------------------------------------------------------------------------------|---------------------------------------------------------------|----------------------------------------------------------|------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Parking                                                                                                   | Comply w/ § 5-1102                                            |                                                          | One parking space required for 2.5 customers, 1 per employee                                   | 8 spaces/1000 Sqft (structure)<br><b>NOTE: parking reqmts do not account for outside licensed areas for tastings &amp; activities.</b>                                                                                                                                                                                                                                                                |
| Road/Access<br>Road Upgrade                                                                               | Comply w/ § 5-654, max 2 points of access & access location   | Private access easement – must show permission           |                                                                                                | Private access easement – must show permission                                                                                                                                                                                                                                                                                                                                                        |
| Applicability                                                                                             |                                                               |                                                          |                                                                                                | Show ag which & where ag products grown on Zoning Permit                                                                                                                                                                                                                                                                                                                                              |
| Location                                                                                                  |                                                               |                                                          |                                                                                                | Ag products on farm must be used in manufacture of products                                                                                                                                                                                                                                                                                                                                           |
| Intensity/character<br>- Yard Standards/set backs-- Tasting rms or outdoor activity<br>- Food preparation | 60 ft from all lot lines.<br>40' for parking                  | 50 ft from all lot lines of ag or residential properties | Front: 75'<br>Tents 125'<br>Portable Toilets 125'                                              | 50 ft from all lot lines of ag or residential properties<br>Sell pre-packaged food. Food prepared/cooked onsite require restaurant principal use.<br><b>COMPARISONS:</b><br>- <b>Banquet/Event facility: Min. 20 acre/200 attendees = 100' for use &amp; parking, 200' for parties adj to residential (100' adj. commercial)</b><br>- <b>Data Center stds: 100' yard setbacks with 200' setbacks.</b> |
| Lighting                                                                                                  | Comply w/ §5-652.A.1.3<br>12' max height parking lot lighting |                                                          |                                                                                                | <b>CONFIRM:</b><br>- <b>Comply w/ 7.05.01.A?</b><br>- <b>NOT exempt per 7.05.01.A.3.</b><br>- <b>7.05.01.C.2 WILL apply with Use-Specific Standards.</b>                                                                                                                                                                                                                                              |
| Noise<br><br>Amplified Music                                                                              | Comply w/ §5-652.B                                            |                                                          | Not exceed 60 dBA day, 55 dBA night<br>Prohibited 10pm-7am Sun. to Thur., 11pm to 7am Fri/Sat. | <b>CONFIRM: (See below)</b><br>- <b>7.05.01.A.3 Exemption for “Agricultural Operations” does not apply to non-farming agricultural uses,</b><br><b>7.05.03.F.3 Hours for outdoor music applies ONLY to uses WITH Use-Specific Standards that refer to this section.</b>                                                                                                                               |

| COUNTY ALLOWED TO REGULATE:                    | ZOAM-2014-0003 Staff Text                                     | 2021 ZOR Staff Draft Text (Deleted)                                                                                                                                                                                                              | Other County Regulations Example: Albemarle County                                                                                                                                                                                                                                                                                                                                                                                                                  | 2023 PC Work Session Staff Draft Text             |
|------------------------------------------------|---------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------|
| Size of Use- Structures<br>Storage yards       | 12,000 sqft<br>5,000 sq ft                                    |                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | None                                              |
| Landscaping, buffering, screening              | Outdoor event areas:<br>§5-653A<br>Parking & Storage: §5-653B |                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | None (Ag exemption?)                              |
| <b>EVENT REGULATIONS</b>                       |                                                               |                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                   |
| EVENTS/<br>Agricultural Operations<br>Events   |                                                               |                                                                                                                                                                                                                                                  | After 5/15/2019 –<br>“must have 5 acres of land devoted to agricultural production” to hold events.                                                                                                                                                                                                                                                                                                                                                                 | <i>No min. acres of ag production</i>             |
| Events--By Right<br>(No zoning clearance)      |                                                               | Allowed if no more than 250 in attendance at any time and related to agritourism or sales                                                                                                                                                        | Sites larger than 21 acres and fewer than 50 vehicle trips (25 in & out).                                                                                                                                                                                                                                                                                                                                                                                           | <i>No min acres or vehicle trips requirements</i> |
| Events--By Right<br>(Require zoning clearance) |                                                               |                                                                                                                                                                                                                                                  | Sites smaller than 21 acres or more than 50 vehicle trips (25 in & out).                                                                                                                                                                                                                                                                                                                                                                                            |                                                   |
| Events--Parking                                |                                                               | Must be provided on site & meet §5.05.03                                                                                                                                                                                                         | Well-drained, graded area adjacent to required parking area.                                                                                                                                                                                                                                                                                                                                                                                                        | <i>No requirements</i>                            |
| EVENTS                                         |                                                               | Agritourism, receptions, beer club, tasting educational seminars, luncheons, business meetings, promoting sales to trade (restaurants, distributors, chamber activities), brewmaster dinners, fundraisers, charity events or similar activities. | <b>Agritourism:</b> educational programs, workshops, demonstrations, farm tours, direct sales (excluding harvest-your-own activities).<br><b>Agricultural operation events:</b> farm-to-table dinners, agricultural festivals, livestock auctions, livestock or agricultural product shows, events promoting sale of agricultural or silvicultural products, events promoting sale of food products related to agricultural operation, fundraisers, charity events. |                                                   |

| COUNTY ALLOWED TO REGULATE: | ZOAM-2014-0003 Staff Text | 2021 ZOR Staff Draft Text (Deleted)                                                                                                   | Other County Regulations Example: Albemarle County                                                                                                                                                                                                | 2023 PC Work Session Staff Draft Text                                               |
|-----------------------------|---------------------------|---------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|
| SPECIAL EVENT               |                           | One or more days, agritourism or sales, festivals, more than 250 in attendance at any time.                                           | More than 200 attendees (require special use permit) for weddings, receptions other event-space rental activities.                                                                                                                                | Require Temp special event permit or banquet/event facility approval principal use. |
| Special Event-Frequency     |                           | No more than 10 per calendar year w/ Temporary use permit. 14 days between special events, 2K' from prior event location.             |                                                                                                                                                                                                                                                   |                                                                                     |
| Special Event-parking       |                           | Provided on site (off public right of way) or off site with shuttle                                                                   |                                                                                                                                                                                                                                                   |                                                                                     |
| Prohibited Uses             |                           | Helicopter rides, grocery stores, go kart/motorized bikes etc. amusement park rides, flea markets, other similar in nature or impact. | Restaurants, helicopter rides, events w/ > 200 attendees w/out special use permit, less than 21 acres w/out clearance, > 50 vehicle trips, no events w/out 5 acres land devoted to producing ag products used in wine, beer or distilled spirits. |                                                                                     |

| <i>§ 4.1-206.1.4 Limited breweries &amp; § 4.1-206.1.2 Limited distilleries</i>                                                                                                                                                                                                                                         | RECOMMENDATIONS                                                                                                                                                                                |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>(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 <b>and</b></i><br><i>(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.</i> | NOTE: Code of VA requirement for location “on a farm” <b>AND</b> products used in manufacture are grown on the “farm.”<br>Code of VA requirement justifies the need for a definition of “farm” |
| <i>§ 4.1-206.1.4 Limited breweries</i><br><i>Licensed premises is “exclusive of any residence and curtilage thereof.”</i>                                                                                                                                                                                               | 10 Acre requirement should exclude area of residence and curtilage.                                                                                                                            |

## OUTDOOR MUSIC REGULATIONS – WHEN APPLIED

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 7.05.01 Light, Noise, Vibration -- Purpose & Applicability                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 7.05.01 Light, Noise, Vibration -- Purpose & Applicability Text                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | A. <b>Applicability.</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | 1. All permitted and Special Exception uses as set forth in 3.02, whether such uses are permitted as a principle use or an accessory use, must operate in conformance with the standards set forth in Section 7.05.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <p><b>CONFIRM:</b><br/> <b>7.05.01.A.3 Exemption for “Agricultural Operations” does <u>not</u> apply to non-farming VaABC licensed uses</b> (e.g., Farm Winery, Limited Brewery, Limited Distillery, Farm Based Tourism, etc.)</p>                                                                                                                                                                                                                                                                                                                             | 3. <b>Agricultural Operations.</b> The standards contained in Section 7.05 do not apply to any legally established agricultural operation as defined by the Code of Virginia.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| Code of VA Definition of “Agricultural Operation:”                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <p><i>§ 3.2-300. Definitions. As used in this chapter, unless the context requires a different meaning: "Agricultural operation" means any operation devoted to the bona fide production of crops, 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. "Agricultural operation" also includes any operation devoted to the housing of livestock as defined in § 3.2-6500</i></p>                                                                                                                                                                                                      |
| 7.05.03 Noise                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | 7.05.03 Noise                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <p><b>NOTE: Table 7.05.03-1 (applied to all permitted and SPEX uses) identifies the Maximum sound levels, <u>but NOT the hours of outdoor amplified music.</u></b></p>                                                                                                                                                                                                                                                                                                                                                                                         | <p>A. <b>Applicability.</b></p> <p>1. No use is permitted to be operated in such a manner as to create noise that exceeds sound measured as A-weighted decibels or dB(A), set forth in Table 7.05.03.-1. Examples of such noise include, but are not limited to, <b>amplified music</b> or voice and barking dogs at kennels.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <p><b>ISSUE: 7.05.03.F.3 Hours of outdoor music applies ONLY to uses WITH Use-Specific Standards that refer to this section.</b></p> <p><b>CONFIRM (ask Staff):</b></p> <ul style="list-style-type: none"> <li>- <b><u>IF Use-Specific Standards do not exist or are not implemented</u></b> (e.g., for Farm Winery) <b><u>or do not refer to this section</u></b> (e.g., Ch 4. for Limited Brewery, Limited Distillery),</li> <li>- <b><u>THEN 7.05.03.F.3. outdoor music ending at 11:00 PM would NOT be applied or enforceable. Correct?</u></b></li> </ul> | <p>F. <b>Use-Specific Noise Standards.</b> <b>The following noise standards <u>apply to specific uses when expressly referenced by the standards</u> for the Use-Specific Standards of Chapter 4.</b></p> <ul style="list-style-type: none"> <li>1. <b>Location in Relation to Residential Use.</b> No loading/unloading activities or other noise-producing activities are permitted within 250 feet of an existing principal dwelling.</li> <li>2. <b>Maximum Noise.</b> The maximum allowable impulsive sound emitted from the specific use, as measured at the lot line of any adjacent lot that permits a single-family dwelling as a principal use, is 55 dB(A).</li> <li>3. <b>Outdoor Music.</b> <b>Outdoor music is not permitted after 11:00 PM.</b></li> </ul> |

## MULTIPLE USES ON A PARCEL

| Statement made by Staff at 3/30/2023 PC Uses Work Session:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Conflicts with Staff Draft text provided in the PC 2/22/2023 packet:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><i>“Each use must meet the minimum or the use specific standards. . . . If there’s an acreage requirement (for let’s say Limited Brewery, 10 acres) and want to add a Limited Distillery then require another 10 acres . . . can’t combine them together; each use must stand on its own and meet the use-specific standards . . . two uses, twenty acres, meeting the minimum for both.”</i></p>                                                                                                                                                                                                                                                          | <p><b>3.01.F. Multiple Uses on Lots.</b></p> <ol style="list-style-type: none"> <li>1. Only 1 of the same principal permitted use is permitted on a lot. For example, 2 Kennels are not permitted on a lot, but 2 different principal permitted uses, such as a Kennel and an Animal Hospital, are permitted on a lot.</li> <li>2. Each different principal permitted use must meet the minimum acreage requirement for each use <b>when 1 or more of the uses has a minimum lot size specified in Chapter 4, Use-Specific Standards.</b></li> <li>3. <b>Where 2 or more different principal uses are located on 1 parcel, the parcel size must be the larger of the 2 or more use requirements and not the sum of all the minimum lot sizes.</b></li> </ol> |
| <p><b><u>ISSUES/QUESTIONS</u></b></p> <ul style="list-style-type: none"> <li>• No Use specific Standards or minimum acres currently exist for Farm Winery, therefore there is no way to apply these requirements to a combination of Farm Winery and any other use.</li> <li>• How can/will 3.01.F.2 &amp; 3 requirements be applied when use specific standards are absent/omitted for at least 1 of the multiple uses applied for?</li> </ul> <p><b>CONFIRM:</b></p> <ul style="list-style-type: none"> <li>• <b>The requirements of this section will ONLY apply to Farm Winery IF new Use-Specific Standards are implemented for this use.</b></li> </ul> | <ul style="list-style-type: none"> <li>• 3.01.F.2 references the relationship of minimum lot size to use-specific standards and</li> <li>• 3.01.F.3 Indicates the parcel is the “larger of the 2” (not sum) of minimum lot sizes, which conflicts with statement from Staff.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |



## STAFF 4-10-2023 DRAFT TEXT – ISSUES AND RECOMMENDATIONS

| KEY ISSUES                                                                                                                                                                               | RECOMMENDATION                                                                                                                                                                                                                                                                                                                                                                 |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>• Code of VA requirement to be “located on a farm” – lack of definition of “farm.”</li> </ul>                                                     | <ul style="list-style-type: none"> <li>• Use Staff’s August 2022 definition of “farm” without reference to “processing.”</li> </ul>                                                                                                                                                                                                                                            |
| <ul style="list-style-type: none"> <li>• Code of VA requirement “exclusive of curtilage” – 10 acre minimums should exclude residence and curtilage</li> </ul>                            | <ul style="list-style-type: none"> <li>• Add “exclusive of curtilage” in the definition and use standards 10 acre requirement for Limited Brewery consistent with Code of VA.</li> </ul>                                                                                                                                                                                       |
| <ul style="list-style-type: none"> <li>• Parking requirements – do not include outdoor licensed area in 8 spaces/1000 sqft parking requirement for VaABC licensed uses.</li> </ul>       | <ul style="list-style-type: none"> <li>• Parking requirements should be sufficient for full VaABC licensed area, not only structure/tasting room sq footage.</li> <li>• Parking would determine volume of attendees for “levels” or “tiers” for scalable intensity as applied with other current rural uses.</li> </ul>                                                        |
| <ul style="list-style-type: none"> <li>• Yard standards – not in line with other counties or similar intense uses with similar events</li> </ul>                                         | <ul style="list-style-type: none"> <li>• For smaller levels/tiers apply yard standards consistent with other counties or 2014 text (minimum. 75’).</li> <li>• For larger levels/tiers (based on parking and events) apply standards consistent with banquet/event facility (100’ to 200’) or Data Center high-intensity suburban yard setbacks and height setbacks.</li> </ul> |
| <ul style="list-style-type: none"> <li>• Lighting standards, 7.05 – confirm uses are not exempt and use-specific standards requirements will apply.</li> </ul>                           | <ul style="list-style-type: none"> <li>• Reference lighting standards in Use-Specific Standards to ensure all Section 7.05.02 regulations apply equitably to all uses.</li> </ul>                                                                                                                                                                                              |
| <ul style="list-style-type: none"> <li>• Noise standards, 7.05 – confirm uses are not exempt and outdoor amplified music requirements will apply with use-specific standards.</li> </ul> | <ul style="list-style-type: none"> <li>• Reference noise standards in Use-Specific Standards to ensure all Section 7.05.03 regulations apply equitably to all uses.</li> </ul>                                                                                                                                                                                                 |
| <ul style="list-style-type: none"> <li>• Events &amp; Special Events –</li> </ul>                                                                                                        | <ul style="list-style-type: none"> <li>• Establish event and special event standards in line with Staff’s 2021 draft text and other county regulations.</li> </ul>                                                                                                                                                                                                             |
| <ul style="list-style-type: none"> <li>○ no acreage of production minimum applied in line with other counties.</li> </ul>                                                                | <ul style="list-style-type: none"> <li>• Include 5 acre production minimum applied in line with other counties.</li> </ul>                                                                                                                                                                                                                                                     |
| <ul style="list-style-type: none"> <li>○ no minimum acres (parcel) levels applied in line with other counties.</li> </ul>                                                                | <ul style="list-style-type: none"> <li>• Include “less than 20” and “21 and over” minimum acres (parcel) levels applied in line with other counties.</li> </ul>                                                                                                                                                                                                                |
| <ul style="list-style-type: none"> <li>○ no quantity of attendee levels applied in line with other counties and 2021 deleted staff text.</li> </ul>                                      | <ul style="list-style-type: none"> <li>• Include threshold of 200 or 250 attendee levels applied in line with other counties and 2021 deleted staff text.</li> </ul>                                                                                                                                                                                                           |
| <ul style="list-style-type: none"> <li>○ no vehicle trip requirement levels applied in line with other counties.</li> </ul>                                                              | <ul style="list-style-type: none"> <li>• Include threshold of 50 vehicle trips (25 in * out) requirement to define levels/tiers as applied in line with other counties.</li> </ul>                                                                                                                                                                                             |
| <ul style="list-style-type: none"> <li>○ no events parking requirements applied in line with 2021 deleted staff text</li> </ul>                                                          | <ul style="list-style-type: none"> <li>• Include events parking on-site requirements in well-drained, graded area adjacent to required parking area, in line with 2021 deleted staff text and other counties.</li> </ul>                                                                                                                                                       |



## Loudoun County, Virginia

[www.loudoun.gov](http://www.loudoun.gov)

Office of Supervisor Tony Buffington, Blue Ridge District

Loudoun County Board of Supervisors

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October 17, 2016

Dear Rural Economic Development Committee,

Protecting western Loudoun's rural, historic and scenic character for future generations is one of my top priorities and I believe a strong rural economy is one of the most effective means for doing so. That said, it is critically important that we strike an appropriate balance between having a strong rural economy and ensuring a high quality of life for residents.

Over the past year it has become evident to me that many western Loudoun residents are uncomfortable with the current balance. This has proven to be the case on issues such as maintenance and improvement of our rural roads, location and conditions of approval for breweries and banquet/event facilities, and even the mere definition of the types of businesses that should comprise our rural economy.

As such, I believe it would be in the best interest of the future of western Loudoun County for the REDC to lead a collaborative effort resulting in the submission of mutually agreed upon recommendations designed to:

- Define the types of businesses that should comprise our rural economy.
- Improve the balance between maintaining a strong rural economy and ensuring a high quality of life for residents.

I believe this collaborative effort should be inclusive of western Loudoun residents, Visit Loudoun, current business owners, and other groups, organizations and stakeholders interested in the future of western Loudoun County.

I am aware that there has been some level of informal discussion regarding such an effort. Please accept this letter as formal notification of my support and encouragement for the REDC to actively lead and engage in such an effort forthwith, as the County is currently in the process of updating its Comprehensive Plan.

As always, I thank you for your dedication to western Loudoun County. Please do not hesitate to contact me with any questions or concerns.

All my best,

Tony R. Buffington, Jr.

Blue Ridge District Supervisor



# ***“Problems with Permits” Primer***

***Executive Committee Briefing: April 11, 2018***

***County Senior Staff Presentation: May 14, 2018***

***Enforcement/Inter-departmental Communications: April 14, 2021***



**This effort began as a consulting case study\* in 2017, which included primary research of county documents, interviews with County Staff and consultations with residents and businesses. The case study was focused on the Rural Policy Area, however, a number of findings apply to all areas of the County.**

**The findings were first presented to County Administrator Hemstreet and Deputy Administrator Yudd and the Zoning Ordinance Action Group (ZOAG) in March/April 2018, with a request to review with County Senior Staff the following month.**

**The case overview was updated in 2021, with a revised discussion with senior county administration and new assistance county administrators.**

\* Walsh-Copeland Consulting, LLC

## ZOR 2020 Round 1 Public Input

### What are the weaknesses and threats with the current Zoning Ordinance?



### What are the challenges/threats involving the USES and PERFORMANCE STANDARDS in the current Zoning Ordinance?



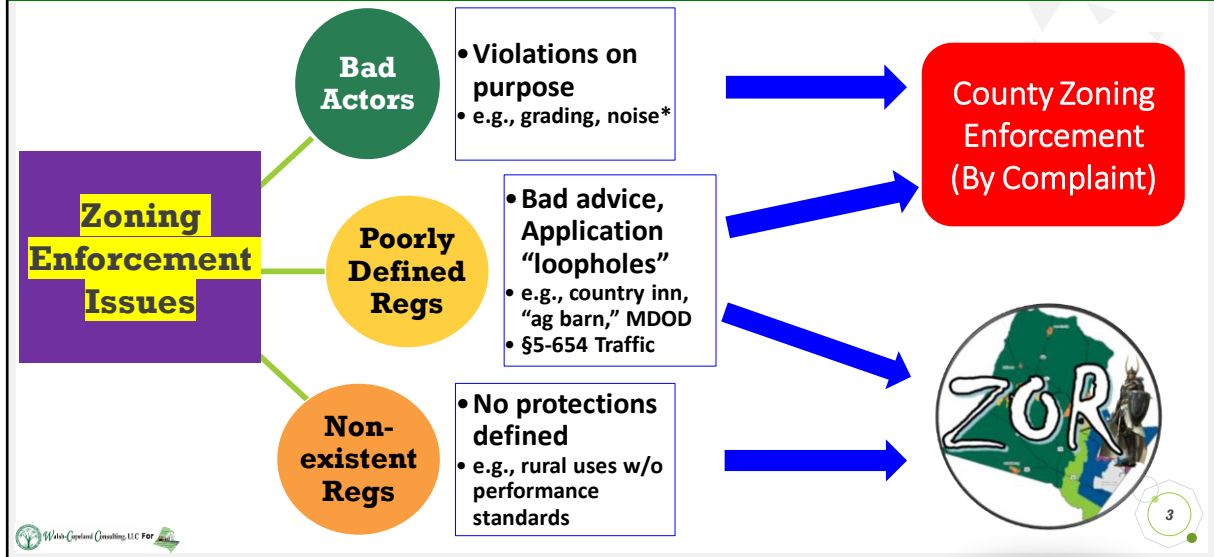
### What are the challenges/threats involving current Zoning Ordinance PROCESSES?



By far, the most often referenced comment made during Zoning Ordinance Rewrite (ZOR) Public Input Round 1 (2020) and Round 2 (2021) was “Enforcement by complaint.”

Enforcement by complaint was referenced by residents/individuals, organizations and businesses.

# ZONING: Enforcement vs. ZOR



## Types of Zoning Enforcement Issues:

Not all zoning enforcement issues are the same. It is important to understand the difference between types of enforcement issues and how they can be managed or addressed.

## Categories:

- "Bad actors" ignoring or violating zoning, requiring county zoning enforcement action.
- Poorly Defined Regulations can enable "loopholes" and/or poor monitoring or protection. The latter may require clarification or strengthening in the Zoning Ordinance Rewrite (ZOR).
- Non-existent and/or inconsistent regulations and lack of performance standards also cause complaints, which can be addressed via the ZOR.

# WSP Code Audit – ZOC Input

| CHAPTER    | WHO            | COMMENT/QUESTION                                                                                                                                                                                                                                                 | STAFF/CONSULTANT RESPONSE                                                                                                                                                                                              |
|------------|----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Procedures | Walsh-Copeland | Favorite quotations: <b>"A zoning ordinance is not just a document – it is a process,"</b> and "The zoning ordinance should make the right things easy." They may be the best justifications to update internal processes (e.g., checklists) where possible NOW. | Noted.                                                                                                                                                                                                                 |
| Procedures | Walsh-Copeland | Fix the zoning performance standards, checklists, process and procedures during ZOR and it's predicted Zoning Enforcement complaints will be significantly less.                                                                                                 | Noted.                                                                                                                                                                                                                 |
| Procedures | Walsh-Copeland | The County is working to <b>improve trouble ticket entry</b> , tracking, notification and reporting via enerGov. What is the timeframe for implementation? Will there be any interface with enCodePlus?                                                          | enCodePlus will codify the Zoning Ordinance, but is not an enforcement tracking application. The latest timeframe for completion of <b>EnerGov is August 2022</b> , subject to change.                                 |
| Procedures | Walsh-Copeland | Did the Consultant's project scope include reviewing the <b>ZOR Round One Public Input</b> from LCPC, REDC, FRBM, SRL and a number of other sources that provide requests for design changes and more input rather than by-right, administrative approval?       | Yes, these were reviewed. Design changes and public input can occur through the application of new zoning districts and special exceptions, along with neighborhood meeting processes.                                 |
| Procedures | Walsh-Copeland | <b>Learn from zoning complaints/tickets</b> that document instances of taking advantage of poorly defined regulations and non-existent/inconsistent/missing regulations, processes or procedures.                                                                | Zoning Enforcement staff are participating on the internal team of ZO Rewrite drafters to offer insight along these lines. We are also open to reviewing other specific instances community members want to point out. |
| Procedures | Walsh-Copeland | Support for the ZO requiring <b>neighborhood meetings</b> , integrating flowcharts identifying decision-making authority and notice requirements, <b>workflows on general procedures, and stronger checklists.</b>                                               | Noted.                                                                                                                                                                                                                 |



The ZOR consultants (WSP) Code Audit confirmed the need to **LEARN** from zoning complaints and review community input to determine how to mitigate and/or prevent zoning complaints.

County ZOR Staff indicated there were/are *“open to reviewing other specific instances community members want to point out.”*



## WSP/Staff Code Audit

### Proposed ZO Chapters

1. Introduction
2. Zoning Districts
3. Uses
4. Overlay Districts
5. Development Standards
6. Signs
7. Procedures
8. Affordable Dwelling Units
9. Nonconformities
10. Officials, Boards and Commissions
11. Definitions and Rules of Interpretation

Review of the poorly defined and missing/inconsistent performance standards will be needed to complete

Chapter 3: USES and

Chapter 7: PROCEDURES that outlines the enforcement procedures and penalties.



# ***“Problems with Permits” Primer***

***County Senior Staff Presentation***

***May 14, 2018***



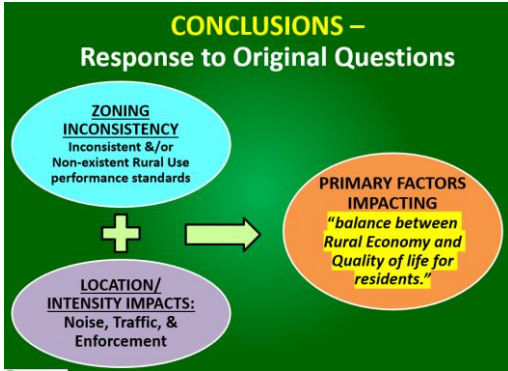
**The original case study review with County Senior Staff was conducted before Assistant County Administrator Turner’s and Spell’s time.**

**A brief synopsis follows.**



# 2015-2017--Zoning Case Study Comparisons: Inconsistencies

**TOLD: "Wait for new Zoning Ordinance"**



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Loudoun County Rural Use Zoning Comparison\*

3/15/2017

|                                  | R&B Homesite / Section 5-405 | R&B Site / Section 5-406 | County Use / Section 5-407 | Rural Residential / Section 5-408 | Rural Cottage Community / Section 5-409 | Residential/Office / Section 5-410 | Residential/AR / Section 5-411 | Unincorporated / Section 5-412 |
|----------------------------------|------------------------------|--------------------------|----------------------------|-----------------------------------|-----------------------------------------|------------------------------------|--------------------------------|--------------------------------|
| Use of Growth Resources          | 100 Acres                    | 20 Acres                 | 20 Acres                   | 20 Acres                          | 20 Acres                                | 20 Acres                           | 20 Acres                       | 20 Acres                       |
| Density/Use of Use (Per Acre)    | 100 Units/100 Acres          | 100 Units/100 Acres      | 100 Units/100 Acres        | 100 Units/100 Acres               | 100 Units/100 Acres                     | 100 Units/100 Acres                | 100 Units/100 Acres            | 100 Units/100 Acres            |
| Hours of Operation               | Hours: 24 hours              | Hours: 24 hours          | Hours: 24 hours            | Hours: 24 hours                   | Hours: 24 hours                         | Hours: 24 hours                    | Hours: 24 hours                | Hours: 24 hours                |
| Daily/Weekly Parking/Performance | 100 Spaces/100 Acres         | 100 Spaces/100 Acres     | 100 Spaces/100 Acres       | 100 Spaces/100 Acres              | 100 Spaces/100 Acres                    | 100 Spaces/100 Acres               | 100 Spaces/100 Acres           | 100 Spaces/100 Acres           |
| Notes                            |                              |                          |                            |                                   |                                         |                                    |                                |                                |

loudoncounty.com

Loudoun County Rural Use Zoning Comparison\*

3/15/2017

|                                  | County Use / Section 5-413 | Agri-Support/Office/Res / Section 5-414 | Agri-Support/Office/Res / Section 5-415 | Agri-Support/Office/Res / Section 5-416 | Agri-Support/Office/Res / Section 5-417 | Virginia Farm Winery / Section 5-418 | Other Rural Uses / Section 5-419 |
|----------------------------------|----------------------------|-----------------------------------------|-----------------------------------------|-----------------------------------------|-----------------------------------------|--------------------------------------|----------------------------------|
| Use of Growth Resources          | 20 Acres                   | 20 Acres                                | 20 Acres                                | 20 Acres                                | 20 Acres                                | 20 Acres                             | 20 Acres                         |
| Density/Use of Use (Per Acre)    | 100 Units/100 Acres        | 100 Units/100 Acres                     | 100 Units/100 Acres                     | 100 Units/100 Acres                     | 100 Units/100 Acres                     | 100 Units/100 Acres                  | 100 Units/100 Acres              |
| Hours of Operation               | Hours: 24 hours            | Hours: 24 hours                         | Hours: 24 hours                         | Hours: 24 hours                         | Hours: 24 hours                         | Hours: 24 hours                      | Hours: 24 hours                  |
| Daily/Weekly Parking/Performance | 100 Spaces/100 Acres       | 100 Spaces/100 Acres                    | 100 Spaces/100 Acres                    | 100 Spaces/100 Acres                    | 100 Spaces/100 Acres                    | 100 Spaces/100 Acres                 | 100 Spaces/100 Acres             |
| Notes                            |                            |                                         |                                         |                                         |                                         |                                      |                                  |

\* Update to Loudoun County Land Use Commission\* Draft prepared by CD Staff for SOAM 2018-2030

A key conclusion of the case study was that both Zoning Inconsistency (inconsistent performance standards between similar uses &/or Non-existent performance standards) Plus Location/Intensity impacts (noise, traffic & enforcement) were the primary factors impacting quality of life.

In 2018 a Comparison Analysis of Uses was done -- Each empty red box shows where there is a lack of zoning consistency between uses.

Instruction from County Staff in 2018: "Wait for the new Zoning Ordinance" to address.





County Senior Staff and ZOAG learned the TYPES OF IMPACTS that caused complaints.

Issues were framed according to the ZONING REGULATIONS and performance standards applied to Uses (not directed to any specific “high-intensity” use).


Examples of noise and lighting to be addressed in ZOR Chapter 5.08, Performance Standards.

Yard standards are part of Chapter 6 – Use specific standards – *WHEN THEY EXIST* for a use.


(If no Use Specific Standards are defined, then Zoning Enforcement cannot take action.)

# PARKING & ROAD ACCESS IMPACTS

**ADEQUATE PARKING**  
Paved Road      Good Screening




**VS. INADEQUATE PARKING - IMPACTS**




**ROAD ACCESS**

**SUFFICIENT WIDTH**



**INSUFFICIENT WIDTH**

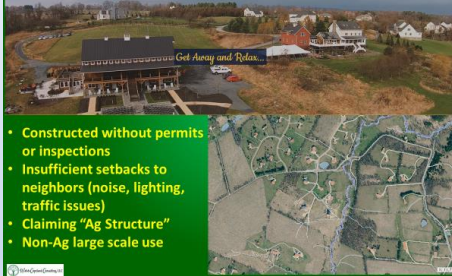


Wald-Cleveland Consulting, LLC

Examples of parking issues (to be addressed in ZOR Chapter 5)

## “Ag Barn” – New construction (2017)

### COMPARISON: B&B/Wedding Venue



- Constructed without permits or inspections
- Insufficient setbacks to neighbors (noise, lighting, traffic issues)
- Claiming “Ag Structure”
- Non-Ag large scale use



Non-Ag large scale use in residential area



Example of an unintended abuse and impacts of permit applications for an “*ag barn*” that was subsequently changed to a high-intensity use in a residential neighborhood.

## AG STRUCTURE REUSE & PUBLIC SAFETY

### Ag Structure – Reuse

BEFORE



AFTER



- Added 3 bathrooms and catering kitchen



- No interior bathrooms
- Livestock on lower level
- Sufficient yard setbacks

### “Ag Barns”



- No building code permits;
- No electrical inspections;
- No plumbing inspections;
- No fire safety inspections;
- No Health Dept./Office of Drinking Water (ODW) permits, unless bathroom, sink or catering kitchen disclosed to Health Department & ODW.

**RESULT: Concern of adjacent property owners/patrons**

Adaptive reuse can help monetize an existing structure.

However, other “*ag barn*” use – without requirements for building code permits, electrical inspections, plumbing inspections, fire safety inspections, water and septic compliance – may be a public safety issue for both adjacent property owners and patrons of the use.

## TRILLIUM GATHERING BUILDING


LOCATION: Purcellville, VA

DESCRIPTION: TMC provided all civil, building, interiors and systems construction for this new 7,400 SF timber-framed community facility located on a 50-acre farm and nature center in Loudoun County. The community building features a performance hall with a curved stage, large projection screen, and separate audiovisual control room; large reception hall with double-sided fireplace; commercial kitchen; and conference facilities on the lower level.


The facility was completed with a stone and heavy timber facade, cedar shake siding and standing seam metal roof to blend with other facilities on the campus. The interiors were designed to be welcoming and to seamlessly connect with the surrounding landscape. This was accomplished through the use of natural and organic finishes such as the exposed timber framing and wood details, stone fireplace, windows that provide expansive views of the pond and surrounding nature, and multiple doors that open onto a large stone terrace.


The site also includes lighted basketball and tennis courts with separate restroom and shower facilities and a riding ring for the

REVIEWED with County Senior Staff May 2018



7,400 sq ft  
Performance hall/stage  
Commercial kitchen  
Conference facilities  
Sports courts,  
Riding ring





12

**Enforcement complaints have also been raised related to whether a property is in compliance with a conservation easement.**

## NOISE COMPLAINTS/ENFORCEMENT

**NOISES**

- Music
- Shouting
- Truck delivery
- Car horns
- Drones
- Motorcycle revving
- Gun Shots



Mr./Ms. Loudoun  
County Resident

**WHO YA  
GONNA CALL?**

- Zoning Dept. ?
- Zoning Enforcement ?
- Sheriff ?
- VaABC ?

## NOISE COMPLAINTS: ZONING vs. LAW ENFORCEMENT?

### NOISE IMPACTS: *Who Ya Gonna Call?*

**ZONING:**

**Zoning Ordinance Section  
5-652 – B**

Excessive Sound: Residential, Commercial Industrial Uses. Measured by Sound Level Meter (SLM)  
(1) Location in Relation to Residential Use.  
No loading/unloading activities or other noise-producing activities shall be allowed within 250 feet of an existing single-family residential use.  
(2) Maximum dBA.  
• Measured at property line of adjacent single-family residential lot, shall not exceed 55 dBA(A).  
• Outdoor music not allowed after 11:00 PM.


**LAW ENFORCEMENT:**

**Codified Ordinance--Offenses  
Against Public Peace Ch. 654.02**

Excessive Sound in Residential Areas & Dwellings  
• "Audible and Discernible" – not measured  
• Vehicle noises, horn 20 seconds, Construction, demolition and/or maintenance activities between hours of 9:00 p.m. and 7:00 a.m.  
• Operation of any instrument, machine or device between the hours of 11:00 pm and 7:00 am, in such a manner as to be plainly audible at a distance of 100 feet from the source of the sound.

**ANSWER:**

**Zoning Enforcement\***  
703-777-0103  
\*But not available on weekends unless scheduled



**ANSWER:**

**Sheriff's Department\***  
703-777-1021  
\*But measurement criteria / methods new

Clear?

There is significant confusion regarding two Noise Ordinances:

- Zoning noise ordinance and performance standards (Section 5-652-B)
- Versus*
- Codified ordinance - offenses against public peace (Ch. 654.02)

It is not clear to residents how to address types of noise complaints

- Whom they should call (Sheriff? County Zoning Enforcement?)
- Which organization performs enforcement for what noise type (Sheriff or Zoning Enforcement)?
- How and what is used to performs noise measurements?
- When enforcement will come out (Sheriff when called, Zoning with an appointment)?

Clarification for noise complaints should be addressed in the Zoning Ordinance Rewrite.

# TRAFFIC / VENUE DENSITY IMPACTS

## PUBLIC SAFETY

### QUANTITY OF EVENTS: EXAMPLE



- 125 acres
- EXIT RIGHT: ~4 Residences, Tar & Chip – sufficient width
- EXIT LEFT: ~40 Residences, Gravel/tar & chip – insufficient width



VDOT 2016 AADT\* ~ 1200 trips/week

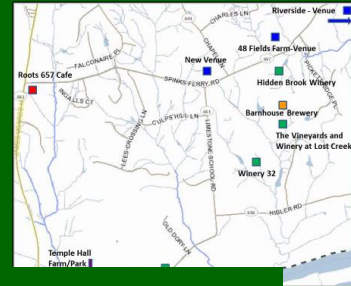
Peak Season  
Tasting rooms est. ~ 7000+ trips/week & weddings

**% Inc. for residents = est. 400-500+%**

\* Annual Average Daily Traffic Volume



### VENUE DENSITY EXAMPLE



### VENUES IN PROXIMITY IMPACT: EXAMPLE

| Spinks Ferry Rd   | M   | T   | W   | Th  | Fri | Sat | Sun  |
|-------------------|-----|-----|-----|-----|-----|-----|------|
| 2016 VDOT AADT    | 300 | 300 | 300 | 300 | 300 | 100 | 700  |
| Winery 1          |     |     |     |     |     | 150 | 800  |
| Winery 2          | 60  | 60  | 60  | 60  | 150 | 800 | 1790 |
| Winery 3          |     |     |     |     |     |     |      |
| Brewery 1         | 0   | 0   | 0   | 0   | 150 | 500 | 300  |
| Wedding Venue 1   |     |     |     |     |     |     | 900  |
| Wedding Venue 2   | 0   | 0   | 0   | 0   | 0   | 500 | 400  |
| Wedding Venue 3   |     |     |     |     |     |     |      |
| TOTAL             |     |     |     |     |     |     | 4340 |
| % Increase        |     |     |     |     |     |     | 620% |
| Limestone School: |     |     |     |     |     |     |      |
| Winery 4          | 30  | 30  | 30  | 30  | 50  | 300 | 930  |
| Farm Tourism      | 50  | 50  | 50  | 50  | 30  | 200 | 650  |
| TOTAL             |     |     |     |     |     |     | 1580 |
| % Increase        |     |     |     |     |     |     | 592% |
| % Increase        |     |     |     |     |     |     | 846% |

#### RURAL TOURISM VIEW:

Venues in close proximity benefit tourists/limo companies

#### RESIDENT/NEIGHBOR VIEW:

Venues in close proximity cause peak traffic increase in excess of 600%

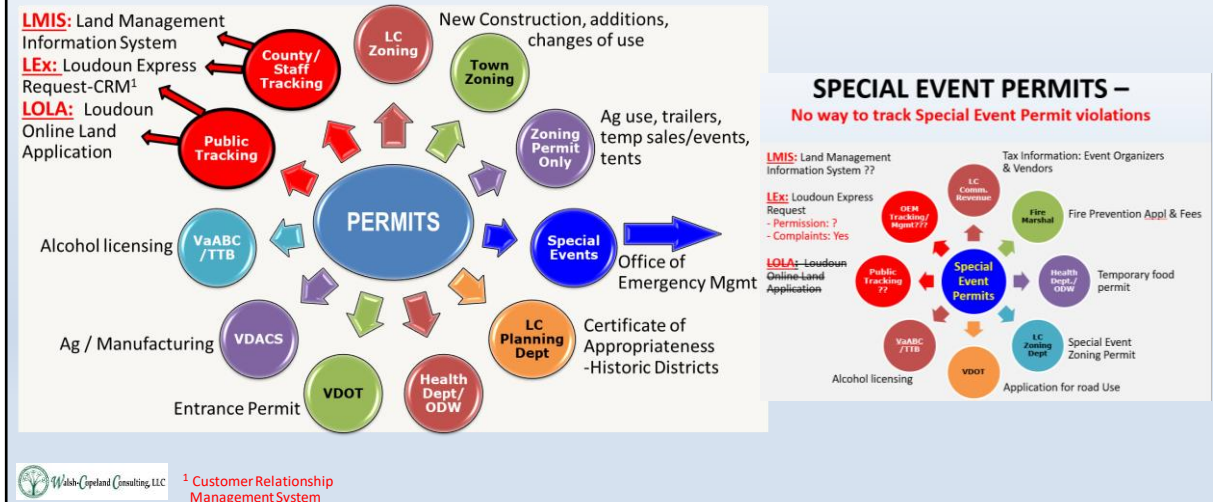
The original 2017 case study demonstrated how to quantify the traffic impacts of multiple uses/venues on a property and in proximity to one another.

The quantification shows that review of uses one parcel at a time does not take into consideration the overall traffic impacts to area residents and businesses.



# PERMITS – Primer:

**No Consolidated way to track Permit violations**



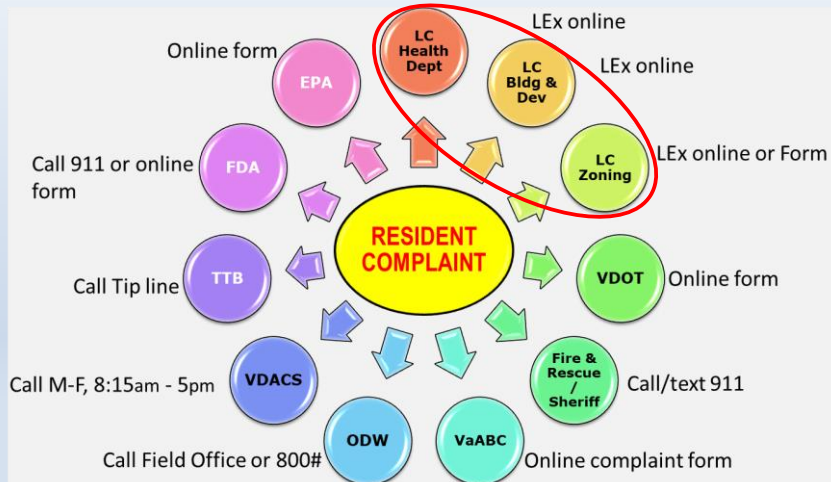
What many residents and businesses don't know is the volume of Permit applications that are left up to the business/requestor.

Many residents and businesses file permits appropriately, others do not file permits because they are unaware of which are required.

What is also known by County Staff are the "permit side-steppers" who intentionally avoid the "roulette."

## COMPLAINTS:

**No Consolidated Tracking outside  
County LEx system**



Similarly, Residents must figure out whom to call to log a complaint.

Only a small subset of all complaints are entered into Loudoun Express Request (LEx) for tracking & resolution.

## COMPLAINTS: 2021 UPDATE

### STILL Not Tracked; STILL Discretionary Reporting

#### NOT TRACKED:

##### Letters/emails to

- BOS
- Planning Commission
- State elected officials
- State Agencies
- Federal elected officials
- Federal Agencies
- Social Media/News

#### INCOMPLETE TRACKING\*

- Calls to Sheriff
- Virginia ABC

\* Not all complaints reported on public reports. Discretion and plea bargaining impact incident reports.


**RESULT: TOTAL COMPLAINTS UNDER REPORTED**



Complaints logged via social media, calls, letters or emails to a federal, state or county elected official or agency are NOT added to LEx unless requested.

There is:

- No consolidated complaint tracking
- No consolidated complaint reporting
- Therefore, total complaints are under reported.



## LEX: Loudoun Express Request

**PROS**

- “Efficient way to connect with county staff”
- “24/7. Question or concern after business hours “


**CONS**

- Who knows about it?
- Limited / insufficient back-end reporting of complaints by type/source
- Does not consolidate all complaints sources

**LEX does have benefits as a trouble/complaint ticket communication vehicle for citizens to document and send requests to Staff and allow Staff to respond.**

**However, LEX may still be underutilized, has back-end reporting issues, and does not consolidate all complaint sources.**

**Therefore, Zoning Enforcement action does not equal the actual quantity of complaints.**



**LEX: Loudoun Express Request**

**LEX Ticket Consolidation**  
*“Due to the previously received inquiries and complaints, your LEX request will be closed as a duplicate to Enforcement Case: 9263XXX.”*  
 Zoning Enforcement response to Citizen, 4/12/2021

**ACTION/ Enforcement**  $\neq$  **Actual Qty of Complaints**  
 → Inductive/McNamara Fallacy

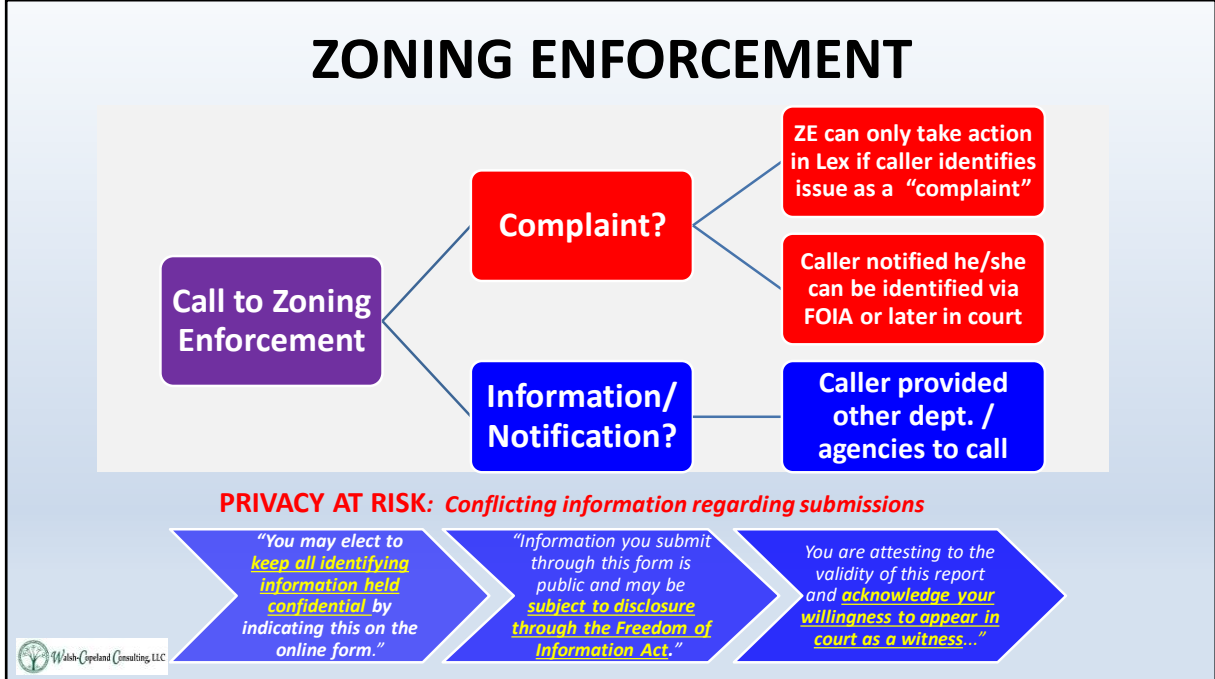
Wish Cleveland Consulting, LLC

**LEX trouble tickets also understate total volume as complaints submitted by multiple people on the same topic may/will be combined and closed out as “duplicate” tickets.**

*McNamara fallacy involves making a decision based solely on quantitative observations and ignoring all others. The reason given is often that these other observations (in this case, tickets not entered in Lex) cannot be proven.*

*Fallacy steps:*

- Measure whatever can be easily measured.
- Disregard (do not count) what can't be easily measured
- Presume what can't be measured easily is not an important metric.
- Presume what can't be easily measured doesn't exist.



The Zoning Complaint procedure may be an obstacle for residents concerned about privacy or retaliation:

**1. Residents who use LEx are also required to acknowledge privacy limitations when selecting online complaints/tickets to be private:**

- “You may elect to **keep all identifying information held confidential** by indicating this on the online form.”
- “Information you submit through this form is public and may be **subject to disclosure through the Freedom of Information Act.**”
- “You are attesting to the validity of this report and **acknowledge your willingness to appear in court as a witness...**”

**2. Callers to Zoning Enforcement must identify their issue as a COMPLAINT for Zoning Enforcement to take action. (Callers who request “information” are provided numbers to other departments to call directly.)**

**WHY?**

## ZONING ENFORCEMENT POLICY\*

Since 1992 BOS direction is for Zoning Enforcement Staff to investigate:



As of June, 2010:

- Zoning Enforcement approved for **Proactive Enforcement in Sterling Area (only)**. Mon-Fri workweek, weekend inspections as necessary.

\*BOS Action #11, June 15, 2010  
BOS Action #11, Nov. 17, 2009  
BOS Action #13.b April 19, 2005



### **WHY** is Zoning Enforcement by Complaint ONLY?

Not well known is that since 1992 the Board of Supervisors has instituted and renewed the **Policy of reactive vs. proactive enforcement.**

#### **BOS/County Policy Documents:**

[2010\\_06-15-Item\\_11-Sterling\\_proactiveEnforcement-finalPDF](#)

[2009\\_11-17-Saturday Proactive Zoning Enforcement BMI](#)

[2005\\_04-19-Item\\_13b-Proactive Zoning Enforcement within Rt 50](#)

***Zoning Enforcement IS doing the job they are legally allowed and have been directed to do by the Board of Supervisors.***

***Zoning Enforcement Staff just cannot do their job proactively (except in Sterling).***

## FY 2019 BUDGET - SUMMARY

|                     |                                     | FY2017<br>Actual | FY2018<br>EST | FY2019<br>Projected | FY2020<br>Projected | % Inc       |
|---------------------|-------------------------------------|------------------|---------------|---------------------|---------------------|-------------|
| EXECUTIVE MGMT      | FOIA requests                       | 159              | 180           | 190                 | 200                 | 11%         |
|                     | % Departments using LEx             | 70%              | 75%           | 75%                 | 75%                 |             |
|                     | No. LEx requests                    | 11,070           | 12,000        | 12,000              | 12,000              | 0%          |
| COUNTY ATTORNEY     | Pending Reg. Enforcement            | 45               | 48            | 49                  | 50                  | 4%          |
| SPECIAL EVENTS MGMT | No. Special Events                  | 419              | 400           | 425                 | 425                 | 6%          |
|                     | No. Sp. Events Staff Hrs            | 691              | 1850          | 1900                | 1900                | 3%          |
| HEALTH DEPARTMENT   | Permits/inspections                 | 2233             | 2345          | 2462                | 2585                | 10%         |
| BUILDING & DEV      | Counter Assistance                  | 7120             | 6000          | 5500                | 5000                | -17%        |
|                     | LEx Requests                        | 3450             | 3500          | 3600                | 3700                | 6%          |
|                     | B&D Permit Issuance                 | 59,939           | 59,670        | 60,860              | 62,000              | 4%          |
| PLANNING & ZONING   | <b>Counter/phone/email requests</b> | <b>3568</b>      | <b>6215</b>   | <b>7045</b>         | <b>8573</b>         | <b>38%</b>  |
|                     | <b>LEx requests completed</b>       | <b>n/a</b>       | <b>213</b>    | <b>457</b>          | <b>751</b>          | <b>253%</b> |
|                     | FOIA Requests                       | 68               | 65            | 65                  | 65                  | 0%          |
|                     | ZOAMs reviewed                      | 8                | 6             | 5                   | 2                   | -67%        |
| P&Z - FTE           | Leg. Review & Mgmt                  | 12               | 15            | 15                  | 15                  | 0%          |
|                     | Community Planning                  | 8                | 6.47          | 6.47                | 6.47                | 0%          |
|                     | P&Z Service Center                  | 9                | 11            | 11                  | 11                  | 0%          |
|                     | Zoning Admin                        | 30               | 28            | 28                  | 28                  | 0%          |

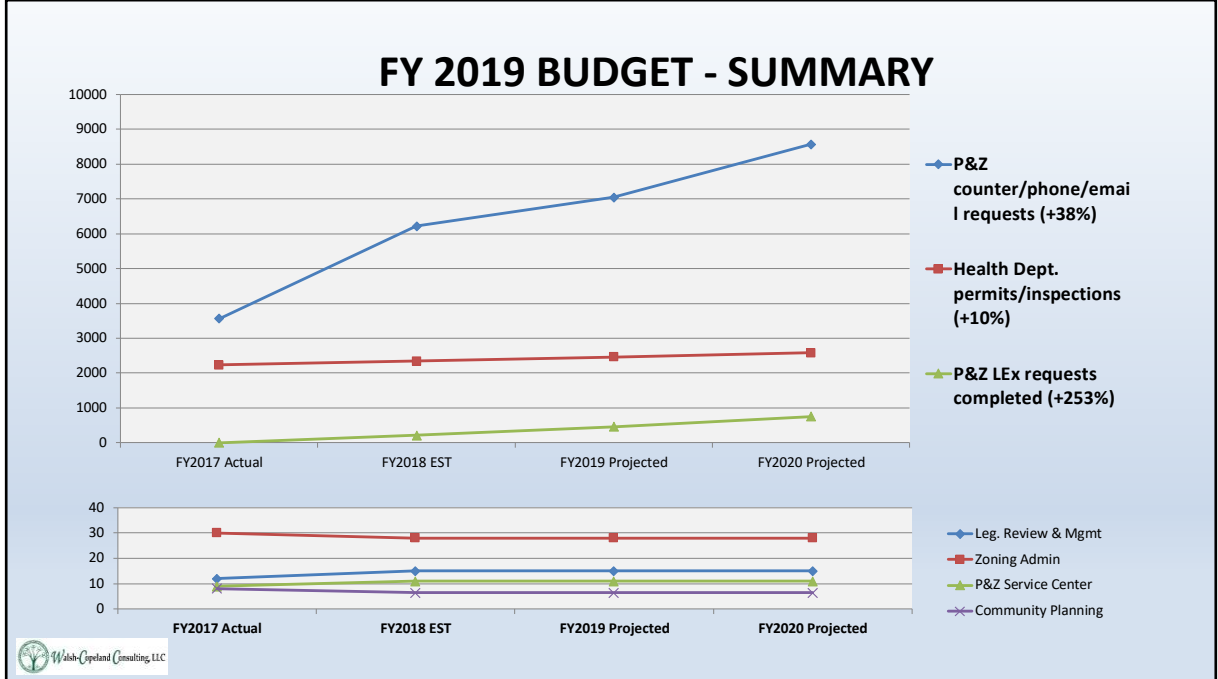


### FY 2019 Budget REVIEW:

**38% increase was forecasted in Planning & Zoning customer service counter/phone/email requests**

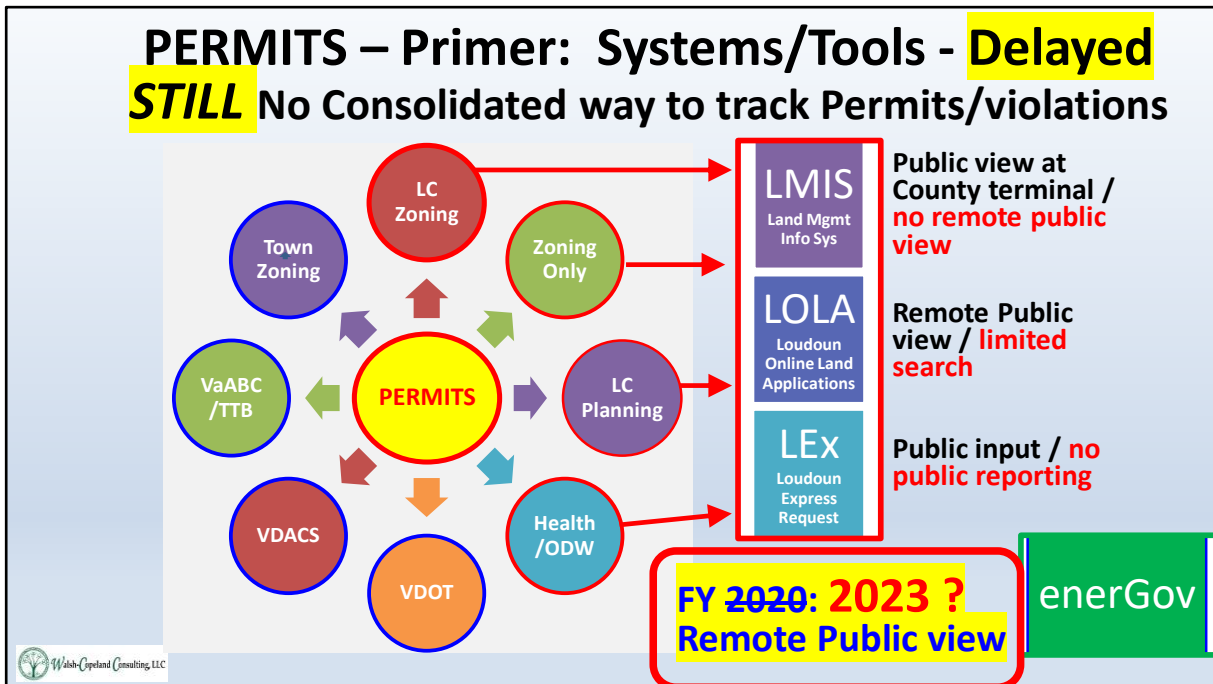
**253% increase forecasted in LEx requests (*Likely does not include all issues entered in LEx by residents*)**





**FY2019 Budget assumed Increasing use of LEx (14% inc. by residents per year)**

**But -- No FTE personnel change requested/forecasted in P&Z/Enforcement staff to work the issues.**



**Other county information systems have constraints:**

**LMIS: Land Management Information Systems**

- Internal Staff system
- Two public terminals – county building access only
- No public remote view/access

**LOLA: Loudoun Online Land Applications**

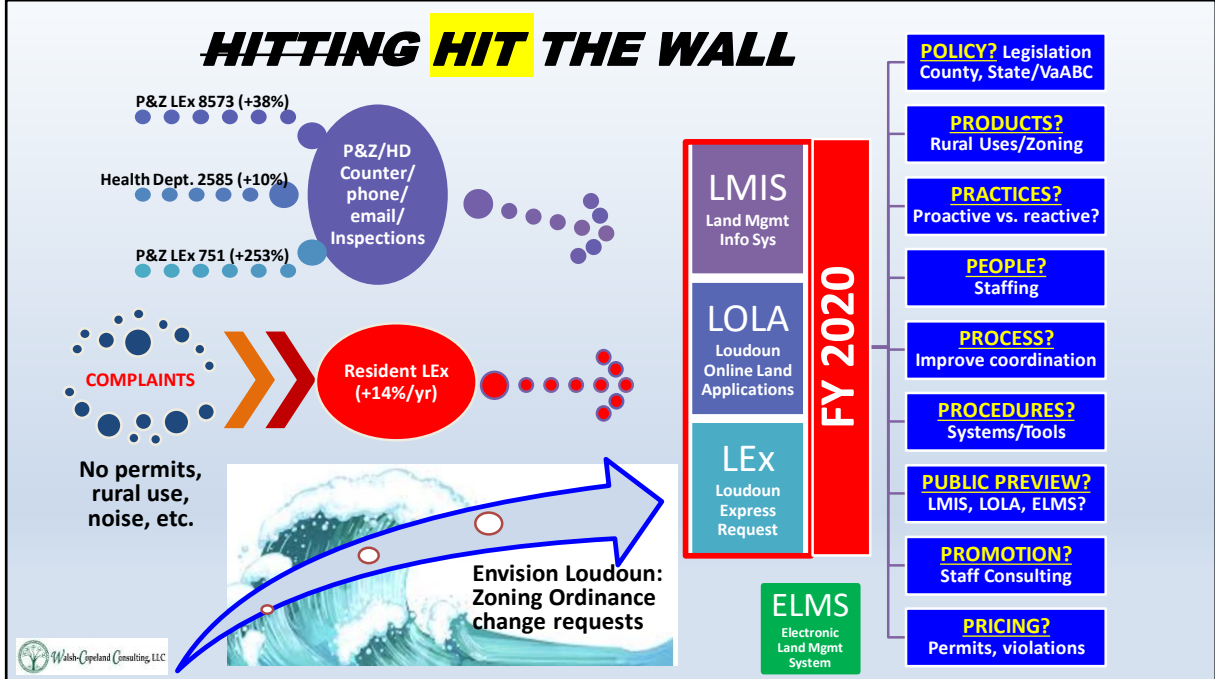
- Public remote access available
- Limited search capability (Application Name or Number only, not address, or parcel pin)

**LEx: Loudoun Express Request**

- Public remote access available
- Primarily a ticket tracking/distribution system
- No back-end reporting capability (complaints categorized & tallied manually; transferred to excel spreadsheet)
- No public reporting
- Total quantity of complaints from LEx for FOIA not possible

**Requirements for LMIS replacement [enerGOV] completed; implementation status unknown.**

- Originally scheduled for 2020 release.
- Delayed release until 2023
- Remote public access functionality not confirmed.

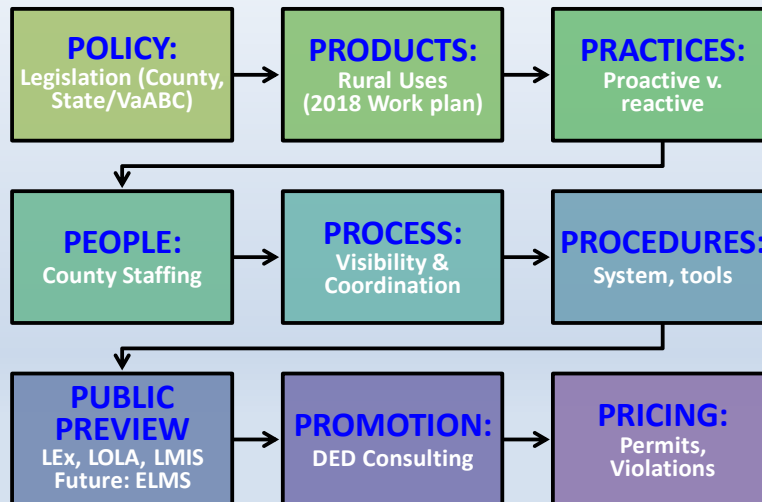


CONCEPTUAL DIAGRAM originally presented in 2018 as a future. Updated in 2021 as current.

Actual volume of complaints has increased as evidenced by case study documentation and stakeholder input for Zoning Ordinance Rewrite Round 1 and 2 public input received.

## WHAT CAN BE DONE?

### Work with Staff & Committees:



The case study outlined the numerous factors impacting issues and enforcement by complaint:

- **POLICY**: Legislation at the County and State (Office of Drinking Water, Virginia ABC, Department of Agriculture, etc.)
- **PRODUCTS**: What uses are permitted by right, or by minor or full special exception.
- **PRACTICES**: Proactive versus reactive enforcement
- **PEOPLE**: Staff for Zoning Enforcement
- **PROCESS**: Amount of departmental coordination and visibility to complaints
- **PROCEDURES**: What systems or tools are available for Staff to resolve issues
- **PUBLIC PREVIEW**: What systems are available to the public; what are the reporting capabilities?
- **PROMOTION**: County focus on business needs that may not balance with residential quality of life
- **PRICING (or PENALTIES)**: Cost of permits, cost of violations, cost of civil court enforcement

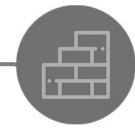
## PERMITS & OTHER PROBLEMS: PROPOSALS & POSSIBILITIES

|                       | PERMITS & PROBLEMS                                                                                      | PROPOSALS                                                                                                                                                                                                                                                                   |
|-----------------------|---------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>POLICY</b>         | Legislation (VaABC, State, County)                                                                      | <ul style="list-style-type: none"> <li>• Definition of "farm" and crops for Ag or "farm" use</li> </ul>                                                                                                                                                                     |
| <b>PRODUCTS</b>       | Rural uses, ag uses, residential area uses (SPA/TPA)                                                    | <ul style="list-style-type: none"> <li>• Continue review of Performance standards (Wait for ZOR?)</li> </ul>                                                                                                                                                                |
| <b>PRACTICES</b>      | BOS Policy of Proactive vs. reactive<br>Allowing permits after the fact w/o repercussions               | <ul style="list-style-type: none"> <li>• Revise policies (BOS) / Proactive investigations</li> <li>• Sustainable Community focus to balance residential, business and environmental perspectives.</li> </ul>                                                                |
| <b>PEOPLE</b>         | County staffing (Zoning Enforcement & other Departments)                                                | <ul style="list-style-type: none"> <li>• Justification for people increase? County budget impacts?</li> </ul>                                                                                                                                                               |
| <b>PROCESS</b>        | Improve visibility/ coordination across depts.<br>Improve communication across organizations            | <ul style="list-style-type: none"> <li>• For: Applications, Permits, Inspections</li> <li>• Planning/Zoning, Erosion/Sediment Cntrl, Health/ODW, VDOT (entrance/traffic), VaABC</li> </ul>                                                                                  |
| <b>PROCEDURES</b>     | Systems/Tools – updates, new releases required for Staff AND citizen access.                            | <ul style="list-style-type: none"> <li>• Prepare procedures overview for public</li> <li>• LOLA: "Citizen Comments" "No Public Comments Available" is misleading.</li> <li>• LEX: User input options, Improve reporting (fields, sorting), public access vs FOIA</li> </ul> |
| <b>PUBLIC PREVIEW</b> | LEx, LOLA – citizen ticket and information systems<br>LMIS / ELMS (EnerGov) – Staff information systems | <ul style="list-style-type: none"> <li>• Add new search criteria in LOLA (owner/ submitter name, property address, date sort)</li> <li>• LMIS: REMOTE public access?</li> </ul>                                                                                             |
| <b>PROMOTION</b>      | Promotion (DED "consulting")                                                                            | Location education: Sustainable COMMUNITY vs. only economy. (Commission?)                                                                                                                                                                                                   |
| <b>PRICING</b>        | <ul style="list-style-type: none"> <li>• Permit costs, violation thresholds and timing</li> </ul>       | Raise violations \$                                                                                                                                                                                                                                                         |



**Summary of permit and other issues was presented to Senior County Staff in 2018.**

**Proposals and other mitigation proposals discussed during update meeting in 2021, submitted through the Zoning Ordinance Committee, and should be reinforced via Public Input Round 3 in 2022.**



## Planning and Zoning

### Department Programs

#### Department Financial and FTE Summary by Program<sup>1</sup>

|                                  | FY 2020<br>Actual  | FY 2021<br>Actual  | FY 2022<br>Adopted  | FY 2023<br>Proposed | FY 2024<br>Projected |
|----------------------------------|--------------------|--------------------|---------------------|---------------------|----------------------|
| <b>Expenditures</b>              |                    |                    |                     |                     |                      |
| Land Use Review                  | \$1,773,910        | \$1,420,355        | \$2,130,539         | \$2,119,955         | \$2,182,045          |
| Community Planning               | 1,046,740          | 1,238,377          | 1,532,543           | 1,732,147           | 1,782,933            |
| Administration                   | 1,111,073          | 1,116,305          | 1,704,269           | 1,716,857           | 1,761,792            |
| Zoning Administration            | 2,656,671          | 3,063,469          | 3,155,827           | 3,794,385           | 3,906,881            |
| <b>Zoning Enforcement</b>        | <b>1,097,220</b>   | <b>1,135,203</b>   | <b>1,257,401</b>    | <b>1,269,120</b>    | <b>1,306,591</b>     |
| Customer Service Center          | 627,305            | 895,437            | 863,878             | 866,253             | 891,994              |
| <b>Total - Expenditures</b>      | <b>\$8,312,919</b> | <b>\$8,869,146</b> | <b>\$10,644,457</b> | <b>\$11,498,717</b> | <b>\$11,832,236</b>  |
| <b>Revenues</b>                  |                    |                    |                     |                     |                      |
| Land Use Review                  | \$391,120          | \$395,582          | \$460,090           | \$376,504           | \$376,504            |
| Community Planning               | 55                 | 0                  | 0                   | 0                   | 0                    |
| Administration                   | 2,829              | 4,159              | 4,665               | 3,726               | 3,726                |
| Zoning Administration            | 331,514            | 352,790            | 341,580             | 431,019             | 431,019              |
| <b>Zoning Enforcement</b>        | <b>457,999</b>     | <b>277,176</b>     | <b>354,055</b>      | <b>80,650</b>       | <b>80,650</b>        |
| Customer Service Center          | 0                  | 0                  | 0                   | 0                   | 0                    |
| <b>Total - Revenues</b>          | <b>\$1,002,695</b> | <b>\$988,100</b>   | <b>\$886,985</b>    | <b>\$1,191,899</b>  | <b>\$1,191,899</b>   |
| <b>Local Tax Funding</b>         |                    |                    |                     |                     |                      |
| Land Use Review                  | \$1,382,790        | \$1,024,773        | \$1,670,449         | \$1,743,451         | \$1,805,541          |
| Community Planning               | 1,046,684          | 1,238,377          | 1,532,543           | 1,732,147           | 1,782,933            |
| Administration                   | 1,108,244          | 1,112,146          | 1,699,604           | 1,713,131           | 1,758,066            |
| Zoning Administration            | 2,325,157          | 2,710,679          | 2,814,247           | 3,363,366           | 3,475,862            |
| <b>Zoning Enforcement</b>        | <b>820,044</b>     | <b>899,633</b>     | <b>1,176,751</b>    | <b>888,470</b>      | <b>925,941</b>       |
| Customer Service Center          | 627,305            | 895,437            | 863,878             | 866,253             | 891,994              |
| <b>Total – Local Tax Funding</b> | <b>\$7,310,224</b> | <b>\$7,881,046</b> | <b>\$9,757,472</b>  | <b>\$10,306,818</b> | <b>\$10,640,337</b>  |
| <b>FTE<sup>2</sup></b>           |                    |                    |                     |                     |                      |
| Land Use Review                  | 17.00              | 11.00              | 12.00               | 12.00               | 12.00                |
| Community Planning               | 7.00               | 9.00               | 9.00                | 11.00               | 11.00                |
| Administration                   | 10.00              | 9.00               | 9.00                | 9.00                | 9.00                 |
| Zoning Administration            | 20.00              | 20.00              | 22.00               | 27.00               | 27.00                |
| <b>Zoning Enforcement</b>        | <b>12.00</b>       | <b>12.00</b>       | <b>12.00</b>        | <b>12.00</b>        | <b>12.00</b>         |
| Customer Service Center          | 0.00               | 8.00               | 8.00                | 8.00                | 8.00                 |
| <b>Total – FTE</b>               | <b>66.00</b>       | <b>69.00</b>       | <b>72.00</b>        | <b>79.00</b>        | <b>79.00</b>         |

<sup>1</sup> Sums may not equal due to rounding.

<sup>2</sup> Planning and Zoning has two positions (3.00 FTE) included in the FY 2023 Proposed Budget within Board of Supervisors' Priorities included in the Board of Supervisors' narrative in the section for the Unmet Housing Needs Strategic Plan.