

Dear Chairman York and Members of the Loudoun County Board of Supervisors:

Unfortunately I will be out of town on July 31, 2007 and I will be unable to attend your public hearing on ZOAM 2006-0003, Zoning Ordinance Annual Review. Therefore I am submitting the following comments for your review and consideration during your deliberations on the proposed amendments. Due to the fact that the document under review is approximately 840 pages these comments will highlight only the most egregious proposals forwarded for your consideration by the Zoning Ordinance Review Committee (ZORC). I would be more than happy to discuss these comments in greater detail with you as well as the various other issues/comments the Piedmont Environmental Council has not only with the proposed amendments but with the overall failure of the process to adequately engage the general public and not simply to accommodate the development community.

General Comment

Section 1-102 of the Loudoun County Zoning Ordinance, entitled Goals, Purpose and Intent states, "this Ordinance is enacted in order to promote the health, safety and welfare of the residents of Loudoun County and to implement the Loudoun County Comprehensive Plan." However a review of the proposed ZORC amendments indicate that they do nothing to promote the health, safety, and welfare of the residents of Loudoun County nor do they implement the policies and guidelines contained with the Revised General Plan. However, it is my professional opinion that most if not all of these amendments are simply proposals to accommodate the development community and its desires to: (1) maximize unit yield; (2) "hold down its costs"; and (3) expedite the land development review process.

Specific Comments

1. Issue Related to Removing Provisions from the Zoning Ordinance and Placing Them in the Facilities Standards Manual:

The ZORC proposes to remove many of the requirements contained within the Zoning Ordinance and replace them with standards contained within the Facilities Standards Manual. Chapter 1.000 of the Facilities Standards Manual, Section 1.200 Interpretation and Revision, (A)-Interpretation states:

"These standards and guidelines are designed to supplement the provisions of existing Federal and State regulations and County codes and ordinances. Nothing herein shall be deemed to waive or modify other requirements of existing codes. Except as expressly provided otherwise in this document, the Director of Building and Development is the designated official charged with the administration of the standards and requirements contained in this manual and, in administering them, shall treat them as guidelines. The Director may allow for variations of given standards where the effect of such variation is in keeping with established engineering practices and procedures and shall make the final decision on all questions regarding interpretation of this manual, after reviewing recommendations from the designated departments, authorities, boards, and committees. (Emphasis added)

It therefore appears that the guidelines contained within the Facilities Standards Manual may be administratively waived without being subjected to an open public review process. However, modifications to the Zoning Ordinance can only occur through a rezoning process, which requires public hearing by both the Planning Commission and the Board of Supervisors. What public purpose is served by replacing a process open to public review with a purely administrative process? Does this serve to protect the general welfare of the residents of Loudoun County or to simply accommodate the desires of the development community?

2. FOD-Floodplain Overlay District, Section 4-1500, page 4-192:

The ZORC proposes to remove standards for road crossings and alterations in the FOD from the Zoning Ordinance and state that the, "Standards for Floodplain Alterations in the FOD District shall be as set forth in the Facilities Standards Manual". One such existing provision indicates that the, "Relocation or alteration of the natural stream channel shall not be permitted on streams that drain greater than 640 acres." However a similar provision is not to be found in the proposed revisions to the Facilities Standards Manual being proposed by the FSM Public Review Committee, some of whom are on both Committees. Does this change meet the requirements of Section 15.2-2283 of the Code of Virginia which indicates that the purposes of a Zoning Ordinance is to provide for flood protection to protect against the loss of life or property from flooding and to provide for the preservation and protection of the natural environment? Also does this amendment serve to promote the health, safety, and welfare of the residents of Loudoun County or to simply accommodate the desires of the development community?

Also refer to Comment #2, Issue Related to removing Provisions from the Zoning Ordinance and placing them in the Facilities Standards Manual.

3. PD-CC, Commercial Centers, Section 4-206(D), page 4-20:

ZORC proposes to remove the provision that states: "Primary access and through vehicular traffic impacting residential neighborhoods shall be avoided." This will result in increased use of residential streets to access any size commercial center. Does this change meet the requirements of Section 15.2-2283 of the Code of Virginia which indicates that one of the many purposes of a Zoning Ordinance is to reduce or prevent congestion in the public streets or protect against the loss of life or property from danger and congestion in travel and transportation or to facilitate the creation of convenient, attractive and harmonious communities? Also does this amendment serve to promote the health, safety, and welfare of the residents of Loudoun County or to simply accommodate the desires of the development community?

Similar revisions are proposed for the PD-IP, Industrial Park, PD-GI, General Industrial, and the PD-TC, Town Center districts.

4. PD-OP, Office Park, Section 4-300, Page 4-25:

ZORC proposes to increase the FAR to 0.6 by-right and 1.0 with a Special Exception; eliminate site planning criteria which require "park-like" character through building placement, landscaping, visual impacts from streets, etc. This proposal will increase the by-right development potential which will result in the loss of potential transportation proffers. This is being proposed without an appropriate analysis of either the transportation impacts or the fiscal impacts of the proposal. Does this change meet the requirements of Section 15.2-2283 of the Code of Virginia which indicates that one of the many purposes of a Zoning Ordinance is to reduce or prevent congestion in the public streets and to protect loss of life or property from danger and congestion in travel and transportation? Also does this amendment serve to promote the health, safety, and welfare of the residents of Loudoun County or to simply accommodate the desires of the development community?

5. Home Occupations, Section 5-400, page 5-8:

ZORC proposes to increase the floor area that may be devoted to home occupations in an accessory structure from 25% to 49%. This increase may result in larger home-based businesses in residential neighborhoods. This is being proposed without an appropriate analysis of the transportation impacts of the proposal. Does this change meet the requirements of Section 15.2-2283 of the Code of Virginia which indicates that one of the many purposes of a Zoning Ordinance is to protect loss of life or property from danger and congestion in travel and transportation and transportation or to facilitate the creation of convenient, attractive and harmonious communities? Also does this amendment serve to promote the health, safety, and welfare of the residents of Loudoun County or to simply accommodate the desires of the development community?

6. In the R Districts:

ZORC proposes to name just a few:

- Modify the length/width ratio in R-districts from 3.0:1 to 4.0:1 or 5.0:1.
- Increase maximum height for townhouses and multifamily from 35 feet to 45 feet and to 40 feet for single family detached.
- Increase lot coverage from 15% or 20% to 25% in R-1.
- Reduce rear-yard from 25 feet to 15 feet for townhouse and revise yards to allow back-to-back townhouses.
- Increase lot coverage for single family attached from 50% or 60% to 75% in the R-8 and R-16 districts.
- Reduce interior open space requirements.
- Reduce on-site parking requirements
- Reduce buffer-yard and landscaping requirements.

All of these Residential districts changes have been proposed without an adequate analysis of the fiscal or transportation impacts associated with them. Also it appears

that these changes will result in an overall increase in unit yield in our suburban areas. Do these changes meet the requirements of Section 15.2-2283 of the Code of Virginia which indicates that the purposes of a Zoning Ordinance are to facilitate the creation of convenient, attractive and harmonious communities, to provide for adequate light and air, to protect loss of life or property from danger and congestion in travel and transportation and transportation or to reduce or prevent congestion in the public streets? Furthermore, do these changes meet the standards specified in Section 15.2-2200 of the Code of Virginia which state that, "growth be consonant with the efficient and economical use of public funds"? How will this effect those previously approved PD-H rezonings which have indicated that there residential "pods" will be administered pursuant to R-4, R-8, R-16, R-24, etc.? Also do these amendments serve to promote the health, safety, and welfare of the residents of Loudoun County or to simply accommodate the desires of the development community?

7. Rural Commercial (RC) District, Section 2-904 (A) & (B), page 2-61:

ZORC proposes to increase the size of any one use before a Special Exception is required and exempt certain uses from this limitation. This proposal may result in less variety of permitted and special exception uses in the district. Also may result in uses less compatibility with the existing character of the surrounding area and neighborhood scale of the district. Do these changes meet the requirements of Section 15.2-2283 of the Code of Virginia which indicates that the purposes of a Zoning Ordinance are to facilitate the creation of convenient, attractive and harmonious communities, to provide for adequate light and air, to protect loss of life or property from danger and congestion in travel and transportation and transportation or to reduce or prevent congestion in the public streets? Also does this amendment serve to promote the health, safety, and welfare of the residents of Loudoun County or to simply accommodate the desires of the development community?

8. Conservation Design, LOD, Limestone Overlay District, and RSCOD, River and Stream Corridor Overlay District:

Chapter 5, The Green Infrastructure: Environmental, Natural, and Heritage Resources of the Revised General Plan contains policies and guidelines related to Conservation Design, River and Stream Corridors, Limestone and Mountainside areas. However, all references to Conservation Design, LOD, Limestone Overlay District and, RSCOD, River and Stream Corridor Overlay District have been proposed for deletion. Inasmuch as this is a re-write of the entire zoning ordinance why not simply re-advertise the inclusion of these regulations as part of this re-write and re-adopt them? Do these proposed changes comply with Section 15.2-2283 of the Code of Virginia which indicates that the purposes of a Zoning Ordinance is to "provide for flood protection to protect against the loss of life or property from flooding and to provide for the preservation and protection of the natural environment". In addition, to these proposed amendments meet the purpose of the Zoning Ordinance as stated in Section 1-102 of the Loudoun County Zoning Ordinance, entitled Goals, Purpose and Intent which indicates, "this Ordinance is enacted in order to promote the health, safety and welfare of

the residents of Loudoun County and to implement the Loudoun County Comprehensive Plan”?

In conclusion, it is my professional opinion that these amendments fail to comply with the Code of Virginia inasmuch as the proposed ZORC amendments do not conform to the policies and guidelines of the Revised General Plan as has been pointed out on several occasions by the County staff (reference Section 15.2-2224 of the Code of Virginia) because the County has failed to perform the necessary studies required by State statute, specifically transportation, environmental, and fiscal impacts analyses. These amendments also fail to comply with Section 15.2-2283 of the Code of Virginia which indicates that the purposes of a Zoning Ordinance are “to facilitate the creation of convenient, attractive and harmonious communities, to provide for adequate light and air, to protect loss of life or property from danger and congestion in travel and transportation and transportation or to reduce or prevent congestion in the public streets”. The proposed zoning revisions also do not meet the standards specified in Section 15.2-2200 of the Code of Virginia which state that, “growth be consonant with the efficient and economical use of public funds”. Furthermore, portions of the proposed amendments do not comply with Section 15.2-2283 of the Code of Virginia which indicates that the purposes of a Zoning Ordinance is to “provide for flood protection to protect against the loss of life or property from flooding and to provide for the preservation and protection of the natural environment”. In addition, Section 1-102 of the Loudoun County Zoning Ordinance, entitled Goals, Purpose and Intent states, “this Ordinance is enacted in order to promote the health, safety and welfare of the residents of Loudoun County and to implement the Loudoun County Comprehensive Plan”. Based upon my professional review the proposed ZORC amendments do nothing to promote the health, safety, and welfare of the residents of Loudoun County nor do they implement the policies and guidelines contained with the Revised General Plan. They are simply proposals to accommodate the development community and its desires to: (1) maximize unit yield; (2) “hold down its costs”; and (3) expedite the land development review process. The Piedmont Environmental Council therefore strongly urges the Board of Supervisors to reject the massive revisions suggested by the Zoning Ordinance Review Committee which if adopted will be in clear violation of State statute and will be extremely detrimental to the public’s welfare. Instead we recommend that the County reinstitute the public process used by previous Boards to allow staff and members of the general public to propose amendments to address conflicts between the Zoning Ordinance and changes in State Code provisions, other County land use policies, technical application of ordinance provisions, editorial clarifications and which will “promote the health, safety and welfare of the residents of Loudoun County and to implement the Loudoun County Comprehensive Plan.”

Thank you for your time and consideration. Again, I would be more than happy to discuss these comments in greater detail with you as well as the various other issues/comments the Piedmont Environmental Council has with the proposed amendments as well as with the overall review process.

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