

**Loudoun Wildlife Conservancy's Zoning Ordinance Rewrite Recommendations**  
**(full January 24 Planning Commission public hearing list)**

While we appreciate steps taken to consolidate the Zoning Ordinance in order for regulations to be applied equally throughout the ordinance, natural, environmental, and heritage resource protections could be strengthened. We want to thank staff for including language to require that wildlife and habitat resources from the Virginia Wildlife Action Plan be identified on sites within River, Stream Corridor Resource Buffer Areas and Steep Slopes, and activities must demonstrate no disturbance to those resources. However, similar specificity is needed to ensure protection is extended to natural, environmental, and heritage resources located away from stream corridors or steep slopes.

We posit the following questions for consideration, and we have included more specific recommendations as well.

- Chapter 6 Natural & Environmental Resources. (Table 6.03-1) **Why are active recreation uses permitted in the River, and Stream Corridor Resource buffer area?** If the County is going to adequately protect natural, environmental, and heritage resources as outlined in the 2019 General Plan, then environmentally sensitive areas such as RSCR buffer areas should not allow active recreation uses.
- Section 7.02 Open Space Development Standards. **How will the County enforce regulation Section 7.02.B.7 that natural, environmental, and heritage resources (NEHRs) must remain undisturbed and undeveloped except as permitted by the Zoning Ordinance?** Chapter 6 includes language to require that wildlife and habitat in the Northern Virginia Planning Region of the Virginia Wildlife Action Plan must be identified on a site, and activities must have no disturbance or impact as verified by the Virginia Department of Wildlife Resources. Chapter 4 includes language that Conservation Farm Plans must be approved by the Loudoun Soil and Water Conservation District or US Natural Resource Conservation Service. Open space standards to protect natural, environmental, and heritage resources (NEHRs) should include similar language to include site plans that map native plant communities and rank them according to their ecosystem functional value, and applications should note the location of mapped exemplary and high quality wildlife and habitat communities on adjacent parcels to protect areas critical for maintaining connectivity between high value native plant communities in order to prevent habitat fragmentation and preserve contiguous habitats. This could be verified by wildlife biologists, ecologists, and natural resource managers.
- Section 4.06.02 Data Center. Trails for LPAT could occur outside of RSCR or adjacent steep slopes, such as open space areas, parks, or other natural corridors, and language should also be included to address such connectivity potential. Site specific landscaping, buffering, and screening requirements should include use of existing *native* vegetation and supplemented by new *native* vegetation.
- Section 4.08 Agriculture: **How does approval of Conservation Farm Plan by Loudoun Soil and Water Conservation District or US Natural Resource Conservation Service improve inter-agency communication to close loopholes relating to grading, timber harvesting, or enforcement of regulations in the Mountainside Overlay District?** In addition to approval by Loudoun Soil and Water Conservation District or US Natural Resource Conservation Service, Conservation Farm

Plans should include site plans that include native plant communities being mapped and ranked according to their ecosystem functional value, and applications should note the location of mapped exemplary and high quality wildlife and habitat communities on adjacent parcels to protect areas critical for maintaining connectivity between high value native plant communities in order to prevent habitat fragmentation and preserve contiguous habitats.

Here is a detailed list of Loudoun Wildlife Conservancy's comments.

### **Chapter 7.02: Development Standards (Open Space)**

- (7.02.B.7) Open space standards to protect natural, environmental, and heritage resources (NEHRs) should include similar language as in Chapter 4 & 6 to include site plans that map native plant communities and rank them according to their ecosystem functional value, and applications should note the location of mapped exemplary and high quality wildlife and habitat communities on adjacent parcels to protect areas critical for maintaining connectivity between high value native plant communities in order to prevent habitat fragmentation and preserve contiguous habitats. This could be verified by wildlife biologists, ecologists, and natural resource managers.
- (7.02.B.8) The Zoning Ordinance should require the consultation of wildlife biologists, ecologists, and natural resources specialists to ensure conservation and natural resource values are protected by open space easement terms, in addition to being acceptable to the Board of Supervisors.
- (7.02.C & Table 7.02-2) The baseline should be to protect all important environmental and historic features, with subtraction of credit if those elements are not protected. Delete bonus credit section and create a checklist of environmental protections which if complete, allow for a "fast track" review in exchange for full protection of environmental and historic features.
- (7.02.E) Off-site open space exchange by special exception should include priority open space areas being calculated using data from VA DCR's Wildlife Action Plan and expertise from VA DCR, DWR or equivalent wildlife biologists, ecologists, and natural resource specialists to identify, map, and rank native plant communities according to their ecosystem functional value, and they should note the location of mapped exemplary and high quality wildlife and habitat communities to protect areas critical for maintaining connectivity between high value native plant communities in order to prevent habitat fragmentation and preserve contiguous habitats.

### **Chapter 6: Natural and Environmental Resources**

- There should be guidelines and performance standards to protect wetlands and wetland buffers to protect and improve stream and watershed health.
- (Table 6.01) Add the North Fork of Goose Creek to the table to be protected along with Scenic Rivers, the Potomac, and Bull Run.
- (6.02.A.01.a) Exemption for single family dwellings should be removed.
- (6.01.D.1.a ) We appreciate revisions to include a requirement of impermeable surfaces for parking areas and limiting parking within the RSCR buffer area.

- (6.02.C, Table 6.03 & Table 6.04) Communication and enforcement loopholes regarding Forestry Management Plans, grading/clear cutting, and ignoring permits needs ongoing scrutiny to be adequately addressed.
- (Table 6.03-1) Active recreation uses and associated facilities should comprise less than 3% of RSCR on a lot.
- (Table 6.03-1) Active recreation uses should not be permitted in RSCR buffer areas.
- (Table 6.04-1.11) There should be a requirement to obtain baseline water quality information, on-going monitoring during the land disturbance, and a report with a summary of test data from a professional engineer who verifies no negative impact on water quality and erosion has occurred.
- (Table 6.04-1.4) There should be a requirement for periodic maintenance/cleaning of the permeable surfaces with annual reports confirming the maintenance has been completed.
- (6.04.B.2.f.1 /Table 6.04-1.5-6) We appreciate the inclusion of a requirement for nondisturbance of Natural, Environmental, and Heritage Resources including state species of concern as identified in the Virginia Wildlife Action Plan, and requiring verification from VA DCR and VA DWR.
- (6.04.B.2.g) We recommend limiting particle acceleration from blasts to be no more than 2 inches/sec, and that blasting be monitored by use of seismographs to confirm the particle acceleration is not exceeded.

#### **Chapter 4: Specific Use Standards**

- (4.01) Add 'environmental' to the list of items being protected
- (4.02.11.B.2) Placing tenant dwelling on open space should not be a by-right decision.
- (4.03.01.G.5) Uses on rural resort open space should be more limited to protect potential exemplary wildlife habitat and natural communities of high ecological function.
- (4.03.01.G.5) Driveways and parking areas should not be considered part of open space calculations.
- (4.03.03) Campgrounds should not be permitted in MOD, at the least by special exception only.
- (4.03.03.E) Setbacks for Level 1 should be 250 feet, Level II should be 300 feet, Level III should be 400 feet. The activity around a campground is such that these much higher setbacks are required to buffer the neighboring properties.
- (4.05) Use-specific standards draft text deleted 9/15/21 as part of the Zoning Ordinance Committee review should be included and forwarded to the Planning Commission for review.
- (4.05.01) Amphitheater should not be permitted even by Special Exception on land zoned MOD in AR-1 and AR-2.
- (4.05.01) International Dark Sky Association performance standards should be included as part of any SPEX process in MODs, and may preclude appropriateness of any amphitheaters in MODs.
- (4.05.01) Due to acoustics and sound travel on mountains, amphitheaters should not be permitted even by special exception in MODs in AR districts.
- (4.05.02) Agricultural cultural centers should be excluded from MODs.

- (4.05.06.C.7) Due to the size of structures, number of visitors, and amount of parking, conference training facilities should not be permitted in MODs in AR districts.
- (4.05.17) Open space easements for rural retreats should include multi-use public trails to connect with LPAT segments - with at least 300' (500' preferred) linear park buffers.
- (4.05.18.D) Closer consideration should be given for schools to comply with International Dark Sky Association performance standards. Light curfews should be considered in some cases. Definitions should be given for the following terms: light pollution, light glare, light trespass, light glow, light spill over, light noise
- (4.05.18.D.4.f) In residential neighborhoods, the height of light poles should be negotiated with residents through community meetings to eliminate light pollution in the surrounding neighborhood.
- (4.06.02) Trails for LPAT could occur outside of RSCR or adjacent steep slopes, such as open space areas, parks, or other natural corridors, and language should also be included to address such connectivity potential. Data Center site specific landscaping, buffering, and screening requirements should include use of existing *native* vegetation and supplemented by new *native* vegetation.
- (4.07.04) A future zoning amendment should initiate a regulatory path to review whether to allow "solar facility, commercial" in certain rural areas as long as performance standards to protect exemplary and high-quality habitats, and other natural resources, from land disturbance are included.
- (4.07.05) Additional standards should be added to monitor if surface water or groundwater has been contaminated.
- (4.07.05.B) When a stockpile/excessive fill project is located adjacent to a conservation easement, public notice, neighborhood meetings and/or special exception should be required to determine the impact on the easement
- (4.07.05.B.2) When a stockpile/excessive fill project is located adjacent to a conservation easement, public notice, neighborhood meetings and/or special exception should be required to determine the impact on the easement
- (4.07.05.B.2) Stockpiling should not be permitted in areas with exemplary wildlife and natural communities and other high quality habitats with significant ecological functions.
- (4.07.05.D) The County should require "clean earth fill" for agricultural land stockpiling/excessive fill projects. At a minimum, materials clause should include a definition of "uncontaminated dirt" to avoid introduction of invasive species and pathogens.
- (4.07.05.D) Liquid dumping of waste should not be permitted.
- (4.07.06.D.3.p) In MODs, towers must not be permitted within 200' of the ridgeline.
- (4.08) Conservation Farm Plans should include site plans that include native plant communities should be mapped and ranked according to their ecosystem functional value, and applications should note the location of mapped exemplary and high quality wildlife and habitat communities on adjacent parcels to protect areas critical for maintaining connectivity between high value native plant communities.
- (4.08.05) International Dark Sky Association lighting performance standards should be added.

- (4.08.05) Higher intensity/scale uses or operations with multiple uses should receive special exception review in MOD zoned land or else not be permitted.
- (4.08.05) Commercial wineries should not be permitted in MODs
- (4.08.05) All required water, sewer and environmental actions required by the Commonwealth of Virginia for the facility must be completed prior to facilities being approved for operation by the County.

## **Chapter 5: Overlay Districts**

- (5.01) Uses that are NOT permitted in Overlay Districts should be identified. There are too many loopholes for high-intensity operations that would harm the environment, nature, wildlife, and quality of life for neighbors.
- (5.04) Restore the language for the description of MOD as an overlay district overlaid upon other zoning districts.
- (5.04.D.1.a) While we appreciate the retained language disallowing covered activities within the ridgeline, we reassert that setbacks should stay in place, and be 200 feet.
- (5.04.D.1) Perennial Headwaters Setback deleted from latest draft. Should be added back for protection of Catoctin Creek and Goose Creek tributaries that may not be covered by RSCR or spring protections.
- (5.04.E.2, 5.04.F.5) No clearing beyond what is necessary for the drainfield and house itself should be allowed.
- (5.05.C) Support the draft text requiring Geophysical Studies in the Karst Overlay District. Add “vernal pools” to this list and to table 5.05-1 Karst/Sensitive Environmental Feature Setbacks

## **Chapter 13**

- We appreciate new definitions for native plants, perennial streams, Natural Heritage Resources, and trails.
- Definitions should be added for vernal pools, natural open space, environmentally sensitive area/open space, meadow, turf grass, lawn, native grass, native plant, wildlife corridor, linear park, light pollution, light glare, light trespass, light glow, light spill over, light noise.
- "Protected Corridors" should include more natural resources beyond streams or rivers
- Nonprofit organization should be redefined. Nonprofits are not prohibited from making profits (they must be profitable to succeed), however, they are organized for charitable purposes creating public good rather than generating profit for personal benefit. Also, not all nonprofits are tax-exempt organizations, though the County may want to include that restriction for the purposes of the Zoning Ordinance.
- "Nature Preserve" is listed as a use in Chapter 3, but it is not defined. "Nature Study Area" is defined embedded under Botanical Garden under Cultural Facility.