



Save Rural Loudoun

Comments on draft ZOAM-2020-0002 (draft dated Dec. 30, 2021) Preservation of Prime Soils and Design of Rural Cluster Subdivisions

Summary

The following comments are organized as follows:

1. Aspects of the draft that we support.
2. A summary of our principal concerns.
3. A summary of our recommendations relating to those concerns.
4. Detailed comments in tabular format.

Acronyms:

RCL – Residential Cluster Lot
PFL – Preservation Farm Lot
REL – Rural Economy Lot
OSL – Open Space Lot
RPA – Rural Policy Area

1. We Support:

2. Incorporation of 2019 Comprehensive Plan language under “Purpose and Intent.”
3. Re-organization of the Permitted Uses Table (Section 2-102) and inclusion of a column for Open Space Lots.
4. Establishment of Preservation Farm Lots (PFLs)
5. Permitted uses on PFLs tightly limited to farming and related activities (although we believe a few additional agriculture-related uses should be permitted, see below).
6. Explicit mapping and planning requirements to identify and preserve prime soils.
7. Explicit requirements for preserving prime soils on PFLs.
8. Prohibiting HOAs from restricting uses permitted by the Ordinance.
9. Requiring a pre-submission meeting.
10. Including advisory siting and design guidance.

2. Our Concerns:

1. Unlike the current ZO, the draft does not require that cluster subdivision developers preserve a specified percentage of rural land.
2. The draft allows contiguous areas of prime soils to be broken up in small lots.

3. The draft sets no limit on the amount of land that can be occupied by stormwater management, septic drain fields, and other residential development infrastructure.
4. The draft does not permit some important farming uses on PFLs, including direct marketing, central farm distribution hubs, agricultural processing, and equine facilities.
5. Unlike in other zoning districts, the draft does not require that cluster subdivisions in the RPA include trails or passive recreation opportunities.
6. The draft continues to allow for over 10,000 more residences to be built in the RPA, which would generate over 100,000 more vehicle trips per day from western Loudoun.

3. Our Recommendations:

1. The ZO should require that, when rural properties are subdivided to create clustered residential subdivisions, 80% of the land must be preserved from development.
 - a. In Section 2-103(C)(2)(h), the ZO must require that a specified percentage of land be preserved from residential development.

The current ZO requires that a specific percentage of a cluster subdivision property be preserved. Replacing “shall” with “may” would make preservation of rural land optional, subject only to the presence of prime soils. This would be a major step back for rural preservation.

The fundamental rationale for the cluster subdivision option is that it is intended to ensure that the majority of rural land will be preserved for agriculture and other rural economy uses.

- b. In draft Section 2-103(C)(2)(h), require that only PFLs and RELs may be counted as part of the portion of the tract to be preserved.

Both the draft ZOAM and the current ZO allow OSLs to be considered as part of the land conserved, while allowing stormwater management, RCL septic systems, and other residential infrastructure to be located on OSLs and setting no maximum acreage for OSLs. This means that the amount of land actually preserved for agriculture and other rural economy uses may be significantly less than the percentage stated in this sub-section.

- c. In draft Section 2-103(C)(2)(h), increase the amount of land to be preserved from 70% to 80%.

By reducing the size of RCLs and promoting the use of alternative sewage management systems, the County may realistically preserve 80% of the land in rural cluster subdivision properties without reducing properties’ development potential. See Recommendations #4 and #5, below.

2. The ZO should prioritize the concentration and preservation of large, contiguous tracts of prime soils within PFLs. To avoid fragmentation of prime soils and other farmland, it should:

- a. limit the number of PFLs that may be created to one lot on each tract, covering a minimum of 50% of the gross acreage.

Versus allowing an unlimited number of potentially small and fragmented PFLs: sections 2-103(C)(2) and 2-103(C)(4) of the draft.

- b. establish a 20-acre minimum lot size for PFLs.

Versus 10 acres or the smallest area of contiguous prime soils: Section 2-103(C)(4) of the draft.

- c. Require that any contiguous area of prime soils of 5 acres or more be fully preserved on a PFL, unless it can be shown that it is not physically possible to locate all such areas of prime soils on a single PFL covering 50% of the gross acreage of the tract being subdivided.

Draft Section 2-103(C)(4) would allow large, contiguous areas of prime soils to be broken up among multiple PFLs and would allow RCLs and OSLs to be created on any area of prime soils exceeding 50% of the gross acreage of the tract.

3. Include direct market businesses, central farm distribution hubs, agricultural processing, and equestrian event facilities as permitted, by right uses (P) on PFLs.

Versus not permitting these uses on PFLs in Section 2-102 of the draft.

4. In draft Sections 2-103(C)(2) and 2-103(C)(3), establish a maximum lot size of 1 acre for RCLs and limit the acreage used by RCLs and OSLs used for residential infrastructure to no more than 20% of the gross acreage of the tract.

Versus a proposed maximum RCL lot size of 3 acres and an unspecified maximum proportion of the tract that may be occupied by OSLs containing infrastructure to support the RCLs.

5. The cluster subdivision regulations relating to OSLs should be consistent with the ZO's general Open Space Standards, addressed in Section 5.04 of the draft performance standards provided to the ZOC, with the dimensional standards tables for the ARN and ARS districts in Chapter 2 of the draft ZO, and with the definitions currently provided in Article 8 of the ZO.

In particular, the priorities identified in draft Section 5.04.E should be reflected in the cluster subdivision regulations. This would help implement the Quality Development chapter of the GP.

We recommend the following:

- a. OSLs containing sewage management, stormwater management, and other residential infrastructure as part of the land used for residential development should not be counted as part of the land preserved in Section 2-103(C)(2)(h).

Alternatively: In the table in Section 2-102, exclude stormwater management systems, septic systems serving RCLs, and other residential infrastructure from the permitted uses on OSLs.

- b. In draft Section 2-102 and Section 2-103(C)(10), require that all privately-owned, individual sewage management systems be located on the lots they serve (RCLs, RELs and PFLs).

Versus allowing private, individual systems to be located on OSLs. Chapter 8 defines a private, individual system as one that is located on the lot served – the current ZO and draft ZOAM contradict this definition.

Individual systems were defined as being on the lots served because systems outside an individual landowner's property are less likely to be properly monitored and maintained and more likely to become a public health hazard.

- c. Require that all cluster subdivisions include a minimum amount of land on OSLs that is devoted to passive recreation.

This would make the regulations on rural cluster subdivisions more consistent with the general Open Space Standards in Section 5.04 and the requirements in other zoning districts.

- d. Require that all rural cluster subdivisions include a pedestrian and bicycle trail network.

Ditto. See SRL's comments on draft Section 5.04.G.5 of Staff's draft Open Space Standards.

- e. Require that any lot adjoining the County's planned system of linear parks and trails include an easement for the potential development of interconnecting public-access trails.

To maximize the benefit of rural preservation to all County citizens, cluster subdivision zoning should facilitate the development of the planned linear parks and trails system.

- 6. (For future reference) Reduce the maximum permitted lot yield in cluster subdivisions to one residence per 15 acres.

Versus one residence per 5 acres: Section 2-103(C)(1) of the draft. We continue to be concerned that the cumulative impact of the currently permitted lot yields (density) in cluster subdivisions in the Rural North will overwhelm planned public infrastructure, destroy rural characteristics the County wishes to preserve, and impose large, new fiscal burdens on taxpayers.

We recognize that the Board of Supervisors has excluded this from consideration under the current ZOAM.

4. Detailed Comments in Tabular Form

| Section (1993 Ordinance) | Draft Revision | Comments |
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| 2-101. "Purpose and Intent" | Adds para on importance of prime soils. | Support |
| | Modifies paras to reflect Comp Plan language, including County policy of "limiting residential development." | Support |
| 2-102. Permitted Uses Table (general organization) | Adds columns for "base density/principal subordinate" option lots (BDO/PSO), preservation farm lots (PFM), and "open space lots" (OSL). Retain columns for "residential cluster lots" (RCL) and "rural economy lots" (REL). | Support. Table clearly shows permitted uses in each type of rural lot. Current ZO doesn't have a column for OSLs. |
| 2-102. Preservation Farm Lots – permitted uses | Very few non-ag permitted uses. | Support. |
| | Does not include a few important agricultural uses | Slightly expand. Include direct market businesses, central farm distribution hubs, agricultural processing, and equestrian event facilities as permitted, by right uses (P) on PFLs. |
| | Permits (by right) "portable dwelling/trailer construction" | Question. Is this a reasonable use of a "farm lot?" Could it affect preservation of prime soils? If permitted, should it only be by special exception? |
| | Permits B&Bs but not "inns" or event centers. | Support. |
| 2-102. Open Space Lots – permitted uses | Does not list communal or individual sewage management systems as a permitted use in OSLs. | Likely an oversight. If drainfields are permitted on OSLs, then OSLs should not be counted as part of the land intended for preservation. |
| | Allows stormwater management facilities "For the proposed development or for a larger area in compliance with a watershed stormwater management plan." | Oppose. This is a potentially large reduction in the area reserved for PFLs, RELs and prime soils. |
| | Continues to allow sewer and water pumping stations | Ok, provided that such OSLs are not counted as part of the land intended for preservation. |

| Section (1993 Ordinance) | Draft Revision | Comments |
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| | Adds "Easements and improvements for drainage, access, sewer or water lines, or other public purposes." | Ok, provided that such OSLs are not counted as part of the land intended for preservation. Add reference to multi-purpose trails? |
| | Does not allow any non-ag commercial uses in OSLs. | Support. |
| 2-102. Rural Economy Lots – permitted uses | Maintains most permitted uses in current ZO. | Ok |
| | Drops some uses that are inappropriate for RPA: airport/landing strip, child/adult day care, fairground, cemetery, mausoleum, crematorium, fire/police stations, church etc., sewage/water treatment, conference centers, event centers, country club, dirt stockpiling | Support |
| | Drops some permitted uses that may be worth keeping, e.g.: art gallery, craft shop, restaurants (if limited to size of wineries). | Question. Do these businesses make important contributions to the rural economy? |
| 2-102. Use category: "Limited Brewery" | Continues to include this in the category "Agriculture Support and Services Directly Related to On-going Agriculture, Horticulture and Animal Husbandry Activity, On-Site." | Question. Limited breweries are not required to be directly related to ongoing agriculture. Most existing operations do not use local inputs and some rely on off-site production. Unless standards for "Limited Brewery" are strengthened to require operations to be directly related to on-site agriculture, this use should be moved to the "Food and Beverage" category |
| 2-102, 2-103 and Chapter 8. Use categories: "Sewer System, Communal," "Sewage Disposal System, Individual" and various other similar terms | The uses "Sewer System, Communal" and "Sewage Disposal System, Individual" are defined in Ch. 8 but not included in the permitted uses table (both current ZO and draft rewrite). The draft revision retains "sewage treatment plant" and "sewer pumping station" as permitted uses (by right) in RCLs, OSLs, and RELs, although "sewer pumping station" is not defined in Ch. 8. | Oppose. Only "Sewage Disposal System, Individual" (as currently defined in Ch. 8) should be permitted on RCLs, PFLs, and RELs. Locating septic systems outside the lots of the users increases health risks which could affect local water systems and farming on adjacent lots. The lack of consistency between the Uses Table (2-102), the cluster subdivision regulations (2-103), the Definitions chapter (Ch. 8), and the |

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| | <p>Section 2-103(C)(3)(d) refers to on-site and off-site “water and wastewater,” which also are not defined in Ch. 8.</p> <p>Section 2-103(C)(10) allows individual septic systems to be located on OSLs, which contradicts the definition of individual septic systems in Ch. 8 (defined as being on the lot served).</p> | <p>general Open Space Standards (Section 5.04) may create confusion and potential legal disputes about which types of sewage systems are permitted on which types of rural lots. We recommended that the terminology be harmonized across all these sections of the Ordinance.</p> |
| <p>2-103(C)(1). Cluster Subdivision Option, General Requirements</p> | <p>Maintains the minimum lot size of 20 acres.</p> | <p>Ok. If our recommendations are adopted, a 20-acre cluster subdivision would consist of one PFL and a cluster of three houses.</p> |
| | <p>Maintains the maximum lot yield (density) of one lot per 5 acres.</p> | <p>Oppose (recognizing the BOS decided not to address this issue in the current ZOAM).</p> <p>The maximum lot yield in all rural cluster subdivision should be one residence per 15 acres, as is the current standard in the ARS district and all of Loudoun’s neighboring counties.</p> |
| <p>2-103(C)(2). Characteristics of Cluster Subdivision Option</p> | <p>Adds possibility of subsequent boundary line adjustments as long as other requirements continue to be met.</p> | <p>Ok.</p> |
| | <p>Replaces the current requirement that 70% of the tract be preserved by making the preservation standard optional (replaces “shall” with “may”)</p> | <p>Strongly Oppose. The fundamental rationale for the cluster subdivision option is that it requires development to be concentrated so as to preserve rural land. Making the percentage of land to be preserved optional would be a major step back for the County.</p> |
| | <p>Retains the rule that 70% of the property consist of PFLs, RELs, and OSLs. Does not establish a limit on how much of this portion may be occupied by OSLs.</p> | <p>Oppose. <u>The portion of land to be preserved should be increased to 80% of the gross acreage of the tract, and this portion should consist entirely of PFLs and RELs.</u> OSLs containing residential infrastructure should be located on the remaining 20%.</p> <p>This section should establish a maximum proportion of the gross acreage that may be occupied by</p> |

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| | | <p>OSLs containing residential infrastructure.</p> <p>The draft rule would allow stormwater management and septic systems on OSLs to occupy an unlimited portion of the property outside the housing cluster, reducing the land available for farming and other rural economy uses below 70%. The division of the entire tract should be: 80% for PFLs and RELs, 15% for CSLs, and 5% for OSLs (see annexed model cluster subdivision dimension standards).</p> |
| 2-103(C)(3). Residential Cluster Lots | Heading of this and other subsections changed from “Lot standards” to “Requirements.” | Support. Makes it clear that these are legal requirements and are different from the advisory standards in the LSDO. |
| | Reduces the maximum size of a cluster from 25 to 15 houses. | Question. Larger clusters may have a greater impact, but a greater number of smaller clusters may contribute to fragmentation of farmland and wildlife habitat. |
| | Retains the minimum number of houses per cluster (5), but allows for fewer than 5 if that allows for more contiguous farmland or less disturbance of MDOD and FOD. | Ok |
| | Increases the minimum distance between clusters from 50 to 250 feet. | Ok |
| | Reduces the maximum size of RCLs from 4 to 3 acres and increases the maximum “lot coverage” the proportion of the land that may be covered by buildings. | Question. Is it necessary to specify the size of RCLs or restrict the proportion of RCLs that may be occupied by buildings? |
| 2-103(C)(4). Preservation Farm Lots | Requires PFLs only when tract contains more than 5 acres of prime soils. | <p>Oppose. The draft appears to be based on the premise that prime soils are the only type of land that is valuable for farming. Livestock can be raised on non-prime soils. Forestry and vineyards are also possible.</p> <p>PFLs should be required on all cluster subdivisions unless the developer can</p> |

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| | | demonstrate that the land is useless for any kind of farming. |
| | Requires developer to map prime soils. | Support. |
| | Subsection (a) does not require the developer to map contiguous sections of prime soils. (However, subsection (d) assumes this has been done.) | Oppose. Section (a) should require developers to identify contiguous sections of prime soils. Contiguous sections are more valuable for farming than isolated pockets. This is necessary for the calculation required in subsection (d) – minimum lot size. |
| | Establishes a minimum amount of prime soils to be protected as the lesser of: 50% of the entire tract or the actual amount of prime soils (when less than 50% of the tract). | Oppose. As we understand it, this formula preserves small pockets of prime soils while allowing for development on large, contiguous areas of prime soils when those soils exceed 50% of the entire tract. The latter are much more valuable for farm preservation. The actual impact depends on the characteristics of each tract. Rather, the regulations should require that all contiguous areas of prime soils of 5 acres or more must be located on a PFL. |
| | Establishes a minimum lot size for PFLs that is the lesser of: 10 acres, OR, the smallest area of non-contiguous prime soils. | Oppose. Effectively, this may mean that there is no minimum lot size for PFLs (if there are very small pockets of prime soils). The minimum lot size for a single PFL should be the base density (20 acres) and PFLs should occupy a minimum of 50% of the tract. |
| | Requires PFLs to be contiguous if the areas of prime soils are contiguous. | Support. |
| | Establishes a maximum lot coverage of 15% (this is the portion of the lot that can be occupied by permanent structures). | Question. Is this too much? It means that permanent structures could cover up to 3 acres on a 20-acre PFL. But does it matter if the permitted uses are limited to farming? |
| Prohibits HOAs from restricting farming on PFLs. | Support! | |
| 2-103(C)(5). Rural Economy Lots | Retains the minimum lot size of 15 acres. | Oppose. A minimum lot size of 10 acres would be reasonable and would create more flexibility to |

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| | | include both a PFL and one or more RELs. |
| | Establishes a maximum lot coverage of 8%. | Question. It's unclear why the County would allow much greater lot coverage on PFLs (see above) than on RELs. Since many more uses are permitted on RELs, perhaps there should be more flexibility on REL lot coverage. |
| | Prohibits HOAs from restricting uses permitted by the Ordinance. | Support. |
| 2-103(C)(6). Open Space Lots | Confusing terminology retained. | The heading of the section refers to "Open Space" rather than "Open Space Lots." For clarity and consistency with the Permitted Uses Table, the heading should refer to OSLs. The following text refers to "building lots," a term that isn't used anywhere else in the draft. For clarity and consistency, this should be replaced with "cluster subdivision lot." |
| | Does not establish any maximum area for OSLs. | Oppose. This means that stormwater retention, drainfields and other residential infrastructure could occupy an unlimited portion of the tract beyond the minimum lot sizes for PFLs and RELs. The Ordinance should establish a maximum lot size for OSLs that is reasonable and sufficient for the permitted uses. A maximum of 5 acres or 5% of the tract would be reasonable. The division of the entire tract should be: 70% for PFLs and RELs, 25% for CSLs, and 5% for OSLs. |
| | Deletes the sub-sections listing permitted uses in OSLs and refers to the Permitted Uses Table. | Support! |
| 2-103(C)(10). Utility Requirements | Continues to permit individual and communal sewage disposal systems to be located in Open Space Lots, which are counted as part of the 70% of the land to be preserved. | Oppose. This section should be revised to require that sewage disposal systems serving individual RCLs (and residences on PFLs and RELs) must be located on the lots they serve. The draft retains an internal consistency in the Ordinance. Ch. 8 (definitions) defines |

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| | | <p>a "Sewage Disposal System, Individual" as a system that is located on the lot it serves. That definition was adopted to ensure that private sewage disposal systems are properly monitored by their owners and do not become a health hazard.</p> <p>This section contradicts that approach by allowing individual systems to be located outside the lots served, creating room for confusion and legal dispute. It also creates a health hazard, since homeowners are less likely to carefully monitor septic systems located outside their own lots.</p> |
| 2-103(C)(14). Pre-Submission Meeting | Establishes a new requirement that developers have a pre-submission meeting with County staff before submitting a cluster subdivision application. | Support! |
| 2-103(C)(15). Advisory Site and Design Guidance | Adds guidelines for siting and design of cluster subdivisions. | Support! This adopts the approach used in the Hamlet zoning regulations (have not yet done a direct comparison). |
| 2-104. HOAs | Adds language prohibiting HOAs from restricting farming activities on PFLs and OSL. | Support (with caveat)! This provision should apply to RELs as well. |