



BOARD OF ZONING APPEALS

Business Meeting: Tuesday, September 17, 2024, 7:00pm
Council Chamber, Town Hall, 25 West Market Street,
Leesburg, VA 20176

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Board Members

Peter Vanderloo, Chair
Susan Moffett, Vice Chair
Gregory Gutierrez
Martha Mason Semmes
Thomas Marshall

Support Staff

Michael Watkins, Zoning Administrator
Shelby Miller, Planner-Zoning Administration
Ashleigh Goedeke, Planner

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- I. Call to Order and Roll Call
 - II. Determination of Quorum
 - III. Approval of Meeting Minutes:
 - a. April 16, 2024 Meeting Minutes
 - IV. Unfinished Business
 - V. New Business
 - a. Brief Zoning Ordinance Update
 - b. Membership
 - VI. Adjournment

NEXT SCHEDULED BUSINESS MEETING: January 21, 2025*

ANTICIPATED MEETING: October 15, 2024

* The BZA holds regular business meetings in January and September of each year. Other meetings of the Board are held on an as needed basis.

Assisted Listening System devices are available at this meeting. If you require any type of reasonable accommodation to attend and/or participate in this meeting, please contact Shelby Miller at samiller@leesburgva.gov or 703-737-7183.

Three days advance notice is requested.



MINUTES OF THE BOARD OF ZONING APPEALS
Tuesday, April 16, 2023
25 West Market Street
Council Chamber

MEMBERS PRESENT: Chairman Peter Vanderloo, Vice Chair Susan Moffett, Martha Mason Semmes, and Gregory Gutierrez

MEMBERS ABSENT: Tom Marshall

STAFF: Senior Management Analyst Betsy Arnett, Zoning Administrator Michael Watkins, Planner Shelby Miller

Call to Order and Roll Call

Chairman Vanderloo called the meeting to order at 7:01pm. Attendance was noted by roll call and a quorum of four voting members was deemed present.

Approval of Meeting Minutes

January 16, 2024, Board of Zoning Appeals Meeting

On Motion by Vice Chair Moffett, seconded by Ms. Mason Semmes, the minutes of January 16, 2024 were approved by a 4-0-1 (Mr. Marshall absent).

BZA Disclosures

None

Public Hearings

None

Zoning Ordinance Rewrite Presentation

Ms. Arnett provided an update of the Zoning Ordinance rewrite process, commenting on the status of the project and projected timelines for further updates with the Board. Further, she discussed the timeline for this rewrite, noting the tentative goal of having an adopted Zoning Ordinance by the end of fiscal year 2025.

Members of the Board asked questions regarding the updates and the current status of the project. It was again noted that the Board is very interested in being engaged throughout the review process.

Unfinished Business

None

New Business

None

Adjournment

On a motion by Mr. Gutierrez, seconded by Vice Chair Marshall, the meeting was adjourned at 7:35pm by a 4-0-1 vote (Chairman Vanderloo absent).

Peter Vanderloo, Chairman

Shelby Miller, Planner

Due to technical difficulties the recording did not start until the Zoning Ordinance Rewrite Presentation.

Ms. Arnett: There we go. It's okay. Well, thank you for having me this evening. My name is Betsey Arnett. I'm a senior management analyst in the town manager's office. I am the project manager on the zoning ordinance rewrite. What I tell people that means is I am not the subject matter expert on this. I am not a planner, but I'm the logistical person. I make sure that meetings get scheduled and reports get written and reviewed and that sort of thing. I'm just the chief cat herder here. I'm here to give you a presentation.

A couple of months ago, our consultants on this project were in town, and they made a presentation. They made a version of this presentation I'm about to give to you to the Planning Commission. Subsequently, staff made this same presentation to the town council as an update to them, and now we're here to talk to you to keep you up to date on how the rewrite is going and get your feedback on some of those big picture issues that we're facing in the first four articles, and then give you a look ahead and an idea of when you'll be able to actually dig into the ordinance, if you so choose, and really get into the issues.

What we have received so far from the consultants is articles one through four. These are the topics of those articles. We are condensing our articles. We currently have 18 articles in the zoning ordinance. We're going down to nine. We have about half of the ordinance here. It's actually a little more than half because these are the really content-heavy articles. We are in the process of going through those, the staff is. I mentioned as we were chatting before the meeting, we're actually having some philosophical issues about what's the purpose of this and how does it actually work here in Leesburg?

Clearly, our consultants have the breadth of experience across the country. We have the depth of experience of what actually goes on here in Leesburg. What we have received to date are articles one through four, and staff has taken a first pass. The extended subject matter experts have taken a first pass, and we've gotten their comments, like the Historic Preservation team and engineering and so forth. Now, what we're doing, the core team, we're actually very, very lucky here in Leesburg that not only do we have our current zoning administrator, but we actually have two previous zoning administrators still on staff that represent about 30 years' worth of institutional knowledge here.

Now what we're doing is the core team is going through and really looking at the text and making sure that it makes sense, and we understand how it would be applied. Draft articles so far, general provisions, our districts, our use regulations and development standards. The direction that the consultant has been given is these four things. One, to be as simple as possible. We want this to be a user-friendly document. We want to use a lot of graphics. We want to use plain English. We want to create flexibility, yet certainty. I know those two things are sometimes in conflict, but we want to make sure that it's easy to understand for the layperson.

We also want to balance town policies with actual market reality. A lot of times, what we're coming up against is that we have these policies, and the developers are telling us the market doesn't allow them to make that work. We also want to create value. We want to make this an easier process, we want to incorporate best practices, and we also want to, and this was something that was clearly heard, very loud and clear, during the town plan process, we want to conserve

the quality, the character of Leesburg today. Finally, we want to make sure that there's flexibility that we know that one size doesn't fit all, that there are going to be variations within the application.

Goals. The adoption of Legacy Leesburg Town Plan was really precipitating event for rewriting the zoning ordinance, in order to ensure that our zoning ordinance allows us to implement the policies that are outlined in that. There is a process underway to revise the Crescent District master plan and once that is completed, then we will incorporate those policies because that's a master plan, its policies not regulation. Will incorporate those policies then into the regulatory document here in terms of zoning for the Crescent District. We want to clean up, modernize, streamline the document as a whole, make sure that there's only one place that you find certain things that are not like, it's not hidden in eight different places in the document.

Also, we want to engage the public. When the consultants were here, back in February, we held three public open houses where we had essentially storyboards and stations where people could come talk to staff or the consultants about various aspects of these first four articles. We're going to be doing that again in July, with the next five articles with articles five through nine. The consultants will be back then. We'll be holding another series of Open Door meetings.

One of the major aspects of this rewrite is that the zoning ordinance will not be in a binder, and it won't be a PDF. It will be native content on the internet. It will be a website that is fully searchable, it's easy to use, has graphics, has links to different things so that there's a definition that you don't, "What does this word mean?" you click on it, you get a definition. Links to if one section references another, there's a link to it. In fact, so this is a mock-up of another community's site. This is the splash page of our site. Actually, this is not just going to be the zoning ordinance, but this will be our full library of land development regulations.

The town plan will be here, the zoning ordinance will be on this site, the subdivision and land development regulations will be on this site, and the design and construction standards manual will be on this site. They will all be linked back and forth. It should make things much more streamlined to make sure that people know everything that they need to know about land development, that they're not going down a path, and like "Oh, yes, you need to check this." It should be much, much more streamlined for folks.

Into the meat of what they presented to us. Is there a way that I can drag this? Yes. There we go. General provisions, there's not a whole lot of changes here other than

we're cleaning up a lot of the language. We're making it more plain English. We're consolidating measurements and allowances from other sections of the ordinance here. That was sweet and simple. Article 2. Sorry, did you have a question?

Chairman Vanderloo: Can I interrupt you with questions or do you want me to wait until the presentation is completed?

Ms. Arnett: Oh, please.

Chairman Vanderloo: A couple of quick questions for you. Are the definitions in Article 1 then?

Ms. Arnett: No. Definitions are Article 9.

Chairman Vanderloo: Okay, so they're not quite baked yet.

Ms. Arnett: No, no, no.

Chairman Vanderloo: I was just going to ask that. I see several 3D renderings here, and also you showed us a page from a different organization that's using this. Will there be 3D renderings in the ordinance or on the online version?

Ms. Arnett: Yes. That is one big change in this. There will be a lot of illustrations. One of the things that we're actually discussing as we're going through, we are looking at illustrations going, "Well, that doesn't really reflect Leesburg or what we want." We want to make sure that the illustrations really do make sense and really do represent if you're looking at the illustrations for what's allowed in a particular district that it really does represent that to make it clear. Other questions?

Chairman Vanderloo: Thank you. No. That's good for now. Thank you.

Ms. Arnett: Article 2 is zoning districts and dimensional standards.

This is probably going to be the largest article in the-- We are slogging our way through each of them. Essentially, what the consultant has done is that-- The directions that we gave the consultant were to marry up the character areas in the town plan with our zoning districts. They have recommended some changes, they've recommended some consolidation, they've recommended some new districts, but as they are going through, they want to make sure that each section is very consistent the way it's laid out so that you have this expectation that you'll see the same information in the same format in each section.

We're also adding community amenity and open space requirements, so things like tot lots and plazas and so forth to that. These are the key changes. This isn't set in stone, we're still hashing this out, but this is basically the idea. At the top line are existing districts and we're looking at consolidating some of our residential districts into-- and using rather than-- You all know this, but members of the public may not. The R1, R2, R6, that's units per acre, right?

Rather than having that sort of designation, we're going more with a descriptive. RS is residential suburban. RM is residential mixed. A mix of housing unit types. RHD will remain the same. Residential urban is then the more dense urban districts. Then you can see we're consolidating some of the business districts. They're actually recommending some new districts for innovation center.

Mr. Gutierrez: Quick question. These proposed new districts, are these standardized across the country with other planning departments or is it unique to Leesburg or is it unique to the East Coast? How is that--

Ms. Arnett: They're certainly not standardized across the country.

Mr. Gutierrez: I'm familiar with R1, R2. I'm familiar with all those zonings, even in California.

Ms. Arnett: They're not standardized. They are to some extent unique to Leesburg, but they're based on what other communities have done in an attempt to simplify things and make them rather broader rather than very specific to density. Yes, sir.

Chairman Vanderloo: I may have just missed this. The special purpose is now becoming two separate districts. What are those two?

Ms. Arnett: That's medical center and government center.

Chairman Vanderloo: Okay, thank you.

Vice Chair Moffet: I guess another question in mixing the density a little bit more. Are you going to get into what Arlington's been doing and dealing with and the missing middle in a way and getting more of a mix?

Ms. Arnett: That's the intention, is to try to allow more variety of housing types, but we understand that here in Leesburg, of course, a majority of our residential property or residential neighborhoods are planned districts that are proffered rezonings. There's not going to be a whole lot of change there. I know that certainly that was one of the concerns that we heard at the public meetings back in February about mixing housing types within existing neighborhoods and how would that work. The town plan lays out that goal. How we actually implement it is another challenge. Yes, sir.

Chairman Vanderloo: Data centers fall under which?

Ms. Arnett: Innovation center.

Chairman Vanderloo: Innovation center, thank you.

Ms. Arnett: One of the first divisions within Article 2 are our residential zoning districts. We'll be using tables. This is an example of a table that shows that this is a residential suburban, single family homes. There'll be links

to the various other standards and provisions and definitions. Each district will include what community amenities are allowed, maximum density, average lot area per unit, average lot width, and back in Article 1, we explain how to measure those things. Building setbacks, heights, accessory buildings, heights and setbacks, as well as fences and freestanding walls. You can see this image down in the bottom right corner, there are these letters on there, and those then relate to the table above as to what that is and what you're measuring.

Community amenities. This is a change where we're trying to encourage these sorts of amenities, greenways, and community gardens, and parks, and playgrounds, and pocket parks, and those sorts of things. This is a new requirement, these community amenities. Here's an expansion of that table. You can see some examples here of what those amenities might be for whether it's an infield development that's already been developed or if it's greenfield, which we really don't have much left. I really only talked in that presentation about the residential districts. Obviously, there will be the same sorts of things for the commercial districts and the mixed-use districts.

Article 3 is use regulations. This is where we have created one table. We're creating one table for all of the uses. It's not a table for each district or anything. It's one table. Then it uses use categories. The thought process behind this is if you think about five years ago, all of the uses that exist today, and how were they listed in the zoning ordinance. Mr. Watkins had to make a determination as to whether it's allowed or not. Use categories help with that process. What is it like? Then also the table will include a Company Use Standards for Limited Uses, Special Exceptions, Accessory, and Temporary.

Here's an example of a consolidated use table. It does reduce the potential for confusion if it's in multiple places within the ordinance. Use categories, as I say, is a change from the existing ordinance. It's organized around the impacts, right? What is it like? If it's similar to this kind of use, then it's in that use category, and here's an example of that. Offices, for example. These are different types of offices. You can have a bank with a drive-through facility, and then you can have all other office uses. Then this table over here on the right with the categories lists all of those different types of office uses, and then all other uses meeting the same characteristics.

Limited uses. This is a big change that we are proposing, and that is to reduce the number of special exceptions that are needed. In other words, we're going to create standards within the ordinance that if all of those standards are met, then it's administratively reviewed for specific uses. Of course, the standards are intended to mitigate the impact of that use on neighboring properties. The next level is a special exception. You have to go through a legislative process to do that.

Then also, accessory use standards were some changes clarifying, making supplements. The accessory uses, those standards are based on a key to the primary use rather than the district.

Chairman Vanderloo: I was just making an observation. These limited uses might be something that end up coming to the Board of Zoning Appeals perhaps if there's [inaudible 00:20:08]

Ms. Arnett: Right. Well, essentially what we're looking at are those uses that now require a special exception, but pretty much always get approved. As long as they meet the standards, they just always get approved.

Vice Chair Moffet: Some communities just call it a conditional use permit. If it met the conditions that got it administrative permit, didn't have to go through the legislative process.

Ms. Arnett: Yes. It's exactly the same thing.

Vice Chair Moffet: Unfortunately, the state code gets us all messed up, because it throws terms around all over the place where there's conditional, especially exception special use permits. The idea is, yes, you have a set of standards or performance standards that that use has to meet. Would there be a special permit for that that would be administratively provided or it just be on the zoning permit for that use or occupancy permit? Would just be additional review.

Mr. Watkins: It's really not a new concept. I think what we were trying to emphasize is the reduction in legislative actions. We already have baked-in use standards. We wanted to coin different terms so that it was more recognizable. If I'm looking for something that is unique, that has unique characteristics, performance standards, things that may not necessarily be inherently compatible, so we're going to insert additional use standards. Those are what we're hoping to call limited uses. Would the board of zoning appeals hear this? No, not necessarily. If there was a perceived misapplication or misinterpretation of the ordinance, obviously, that would come to you, but these essentially would, like Betty said, reduce the number of special exceptions. You go in there, find your use standards, "Oh, I can do this, this, and this." You're good to go.

Chairman Vanderloo: Yes. If you have a disagreement between the landowner and staff over whether or not the provision has been met, we might be hearing that. That goes to subject.

Ms. Arnett: Right. Then Article 4 is development standards. Key changes include consolidating all of these into one table. We're adding some new things. We are looking at some mixed-use building standards outside of the Crescent district, that's still in discussion, establishing bicycle parking ratios and standards, simplifying buffer yard provisions. Landscaping considerations in downtown and incorporating a sustainability Index, which is still under consideration. We're still feeling our way with that one.

Here's that consolidated table as to what-- down the left side, that's the type of development that's being proposed, and then what divisions of the development standard apply to that development as an example. We're separating joint uses and

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mixed uses, simplifying the regulations, adding requirements for multiple ownership and shared parking. Bicycle parking, we're adding new parking standards for bicycles.

Landscaping and buffer yards. This, again, is intended to reduce the regulatory or increase administrative approval for items to simplify and add more flexibility in that. Here's an example of illustration. Here's an example of the buffer yard classifications, the types, and then some illustrations.

Here's our Sustainability Index. I'll be honest, we're getting a lot, there's a lot of confusion and a little bit of pushback on this as to how it would really work. The idea is that we want to incentivize developers to do things to provide incorporate sustainable practices and sustainable buildings into their developments, and the idea is that if you do certain things, then you get points that can be translated into increased height or increased density or something like that.

Signs. I'm sorry you

can't really see this very well, this image, but it's using a lot of graphics to show exactly what is a canopy sign, what's a freestanding sign and monument signs and so forth, and really outlines the standards based on the signed type.

That's a very brief overview. We've had a lot of questions as from both the planning commission and the councils to when are we going to get the text, when are we going to have that? We're actually still going through that very, really with a fine tooth comb and really hashing out how we think these things are going to work here. We're also one of the clear directions that we've gotten from the town manager is to simplify this.

We're looking at a lot-- not a lot, but some sections that maybe we're created to solve one specific problem in one part of town and do we need to keep it in the ordinance. The goal is, as I mentioned, the consultants will be back in July. They are delivering to us later this month Articles 5 through 9, and then they'll be here in July to make another overview presentation like this to the planning commission. We'll have another round of open meetings, public meetings, and then at some point, a couple months after that, we'll be back here to tell you what they said. The goal is in September to release a draft of the full ordinance to the public. At that point, it'll be released on that online platform, and then you will have the opportunity to go in and you can comment.

Mr. Gutierrez: All nine Articles by that time in September?

Ms. Arnett: Right.

Mr. Gutierrez: Okay.

Ms. Arnett: Yes, Articles 5 through 9 are a lot more cut and dried, and so the review of those should go much faster than the review of these first ones. Just an overview

recap of what I've gone over key changes from the existing ordinance that we're trying to streamline, we're reconfiguring the districts, we're incentivizing certain types of amenities. We will be addressing our affordable dwelling unit, ordinance with this rewrite, but it's still in under consideration and we're still working on that.

Accessory uses, as I'm mentioning, are associated with the primary uses rather than the district, adding bicycle parking, sustainability index. We're still working through a lot of other issues as we go along. Here's an opportunity for you to tell us what you think and if you see any particular issues or concerns that you have related to these four articles.

Vice Chair Moffet: I like the idea of grouping the use regulations by group, like office or whatever, the devil's in the details. Having had some experience at the county level as a consultant in a couple cases, it's so hard. Just I really admire you all and I really appreciate what you're going through, because it is so difficult to write a good zoning ordinance, because as soon as you put something down, it's like somebody's going to say, "No. It means that," which is why we're here, of course.

[laughter]

You've been doing a pretty good job, because we don't have to meet very often, but that would just be my one. Just really be careful of how you describe those groupings. Make sure that they hang together pretty well and they're not ambiguous. I guess that would be the best way to put it. Other than that, I think all of the ideas I hear are good. I know the big use table's great, but I hate flipping back and forth myself using a zoning ordinance, but it'll be online, so I'm not-- The fact is you can flip back and having those hyperlinks will be great.

Ms. Arnett: You can search.

Vice Chair Moffet: Right.

Ms. Arnett: Yes, by keywords, so you're not having to scan through text. You can actually just type in a word and search on that.

Vice Chair Moffet: Well, that could be dangerous too, though, [laughter] depending on what you put in there.

Ms. Arnett: Yes, so the existing ordinance, our existing ordinance is already uploaded into Encode Plus. If you all are interested, we can certainly send you that link.

Chairman Vanderloo: I definitely embrace the KISS principle, Keeping It Simple. That's fantastic. One of the things that we always struggle with is when you have inconsistent provisions, right? Obviously, you're going to be looking at that and harmonizing that and you still potentially have that. Again, when you've got visuals, the visuals should be clearly stated, like this is, for example, purposes only because

you don't want someone pulling up the image and go, "Well, look, the image shows me this, the text shows me this."

That's the situation we get in, so to the extent we can harmonize, harmonize, harmonize, that's great. Of course, I'd love to have a chance to look at it. If there's any way you all could share it with the Board of Zoning Appeals early as well, I certainly would love to take a look at it personally just to get a sense of it. Obviously, you covered quite a bit tonight and you seem to have scratched the surface to be quite honest.

Ms. Arnett: Yes. This was just a very broad brush overview. Absolutely.

Chairman Vanderloo: Well, congratulations, because this looks like it's already a dramatic improvement.

Ms. Arnett: Well, thank you. I actually have already covered this. This is our next steps. We're in the midst of ordinance drafting. The consultants will be back in July and then in September, the intention is to release the draft for public hearing review and comment for a 60-day public review and comment period. Of course, we will be holding a series of work sessions with the planning commission through that time to hear their comments and concerns and so forth. We would be happy to come back and talk to you all again once you've had time to dig into it and get your feedback.

Vice Chair Moffet: Just a request to give us plenty of time to look at it, if you want us to be of some service to you-

Ms. Arnett: Understood.

Vice Chair Moffet: -from our position.

Chairman Vanderloo: If you don't want our feedback.

Vice Chair Moffet: Forget it.

[laughter]

Just give it to us for the day.

Chairman Vanderloo: What's the old saying, too many cooks in the kitchen?

Vice Chair Moffet: Yes.

Chairman Vanderloo: Any further questions for Ms. Arnett?

Ms. Arnett: Well, thank you very much. I appreciate your time.

Vice Chair Moffett: Thank you.

Chairman Vanderloo: Thank you [crosstalk]

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Vice Chair Moffett: Thank you. It's hard enough doing your ordinance by committee just with the staff people, and then adding the council planning commission.

Chairman Vanderloo: Wonderful. Our next item of business would be, do we have any unfinished-- If I could say it, do we have any unfinished business to come before the Board of Zoning Appeals tonight?

Vice Chair Moffett: Yes, none that I'm aware of.

Chairman Vanderloo: All right. Is there any new business?

[00:33:01] [END OF AUDIO] Due to technical difficulties the meeting continued.