

A. Summary List of Issues with the Draft Zoning Ordinance/Comprehensive Plan

You may want to refer to relevant VA Code – from our perspective, these are being violated.:

<https://law.lis.virginia.gov/vacode/title15.2/chapter22/section15.2-2283/>

<https://law.lis.virginia.gov/vacode/title15.2/chapter22/section15.2-2284/>

<https://law.lis.virginia.gov/vacode/15.2-2200/>

I. Problems with the Draft Zoning Ordinance

A. **Density** - Coverage of lots and sizes of possible buildings would cause crowding and leave little room for gardens or for children to play.

- 1- Cramming in buildings on one lot by allowing subdivision.
- 2- Front setbacks (i.e., distance from the front property line) will not support ample shade trees, causing “heat islands”.
- 3- Inadequate rear and side setbacks likewise prevent planting trees, gardens, and community gardens.

B. **Commercial in Residential** was an issue for most/all of us at the meeting.

1. Unpredictable what businesses will be approved--at the discretion of whomever is in power when a proposal comes up.
2. IF HOUSING IS PRIORITY, then why are we putting commercial into residential neighborhoods that take away housing? We have already seen in Belmont where an affordable apartment house in Belmont Center was bought by a developer and turned into another unnecessary restaurant. In all of that there was a destruction of a century old wood that was replaced by concrete in the entire yard with the addition of a 6 foot cement wall around the entire property. We lost affordable housing and added a problematic neighbor who breaks the law (he was fined due to neighbors reporting him)
3. 2- 4,000 sq. ft. would overwhelm houses--more than 10% larger than Bodo's on Preston! (3,564sf). Commercial buildings of this size also bring traffic, delivery trucks, dumpsters, lighting, etc.

C. **No Parking Minimums or Off-Street Parking Required**--unrealistic in already crowded residential areas.

1. Such schemes may work in large cities where people do not need cars because of ample public transportation. That's not true here!
- 2- Where is parking for all of the new residents? 3- Where is the parking needed by those with physical issues and families?

D. **Scale** - the Comprehensive Plan called for house-sized buildings, but ...

1. Tall buildings (6-12 stories) are permitted even in areas adjoining residential neighborhoods.
2. Such buildings would endanger historic neighborhoods that are part of what makes Charlottesville beautiful and what draws tourism to our area.
3. Do 6-12 story buildings belong in Cville's Historic areas at all?
4. "Step-backs" of upper stories don't really change the scale, just the initial impression.

E. Environmental - Don't allow the City to make Cville a "heat island". We already have issues due to the destruction of trees over the years or lack of trees in various neighborhoods.

1. Setbacks from front will not support robust shade trees.
2. Low tree coverage (10%-20%) will be permitted in new development and private property. We had 50% coverage in 2004, now it's about 35%.

F. Sensitive Areas - The protected Sensitive Areas, a key feature of earlier drafts of the zoning ordinance,* have been removed*. These neighborhoods are under threat of development due to their location and cost.

G. Infrastructure - unplanned

1. No real "planning" possible, as the City has ceded control over the scale and pace of development. It's also not clear who will pay (the City or developers) for infrastructure improvements. Costs to taxpayers could be enormous.
2. (see #8 of the CRP List Below) The City failed to complete a Traffic Impact Analysis as required by state law governing comprehensive plans. This makes the plan illegal as it stands. **(MARY WHITTLE DID AN EXTENSIVE STUDY ON THIS AND HAS WRITTEN ABOUT IT. See other document.)**

H. Process - Many citizens have indicated concerns with the process! From cost and selection of consultants to poor communications. There are still a majority of residents who have no idea about the details of what has been going on.

I. Bait and Switch - from promises made during the FLUM conversations, to the goals of Comp Plan, and now to the delivery in DZO. Behind the scenes changes have been made.

1. From the beginning, the City has sold this radical plan as a promise for affordable housing - we have heard the City Admin state this repeatedly and even seen TV ads with this promise. However, while the Comp Plan touted affordable housing as a primary goal, the *DZO doesn't ensure or encourage it*. Instead, the DZO permits large-scale experimentation with Cville's neighborhoods and housing market.
2. Dimensional criteria of current neighborhoods have been ignored. Suggested development in/adjacent to residential properties is not "house-sized", as continually promised and even though that was a stated goal of the Comp Plan.
3. Changes to the DZO and the Future Land Use Map (FLUM) were not communicated to residents.

4. Zoning decisions have been driven by hope and ideology, not economic realities or data

J. Misclassifications, ERRORS IN THE MAP/PLAN

1. Many examples of density to be allowed on properties are located on narrow streets, steep slopes, flood plains, dangerous intersections, etc.
2. CX-5 abuts homes in R-A behind Preston Ave, East Market St, East High St K.
3. The Hinton Ave Methodist Church has been classified as RX-3 Mixed Use; however, the LEGAL proffers that are in effect for that lot forbid both the residential designation as well as the commercial uses stated in the zoning.

K. Unintended Consequences - little or no attention paid to this serious issue!

1. Certain provisions can be employed to sidestep the density intentions. The DZO can easily be exploited to sidestep the weak affordability requirements. For example, a developer could subdivide a large lot and develop two or three lots rather than provide affordable units on the one larger lot.
2. Streets and sidewalks will be continually torn up to accommodate unpredictable infrastructure changes. SIDEWALKS COSTS MILLIONS as we have already seen. TAXPAYERS will be FORCED to PAY the COST.
4. School capacity issues - not enough room for children, lack of teachers, and cannot even find enough school bus drivers. Some years ago, a representative from Clark Elementary came to a Belmont Meeting regarding the development behind Douglas Ave. She stated outright and clearly that Clark was at capacity and did not have the space or the teachers for more students.

II. Some Suggested Remedies - the following provisions should be included before the DZO is adopted.

- A. Using a laser-focused methodology carry out development tests throughout the city on sites that are currently unused or under-utilized commercial sites that already exist - parking lots, the empty store across from Tonsler Park, the closed down/deserted City Pool facility at Crow's Recreation, etc. The CRP has published an extensive document on these sites and NDS itself published a similar document a few years back. Do development tests in these unused/under-utilized commercial areas FIRST before splaying open the residential neighborhoods to developer interests. Then, Phase the roll-out for zoning changes based on what is learned and on development of cost-effective infrastructure plans.
- B. Reinstate Parking Minimums and/or Institute Parking Permits for already tight areas (e.g. Belmont).
- C. Families moved into neighborhoods for the quieter areas that have greenspace and trees. Respect that choice of families who prefer a quieter, less congested lifestyle by removing commercial from all R-A neighborhoods.

[I would not include this: Develop Clear Guidelines for commercial establishments in residential neighborhoods before adopting the DZO.]

- D. Eliminate the unintended consequences by more carefully reviewing the DZO.

E. Improve Communication of ongoing changes with the community. A summary of changes on the website could help residents understand what's happening.

F. Consider making the whole city a "sensitive area" with protections.

B. Citizens For Responsible Planning Commentary: The Planning Commission will hold a public hearing on the Draft Zoning Ordinance on Tuesday, September 14th. In order to help citizens who want to comment make an impact, we have prepared a series of talking points. We believe that the audience for comments is not so much the Planning Commission – dominated as it is by committed ideologues – but rather the City Councilmembers in attendance. The Council will have the scope to modify the PC's draft and pass an ordinance that meets its preferences and goals. We believe the Council has shown some openness to entertaining changes to the DZO, though also an intent to pass a new ordinance. With that in mind, we recommend that citizens focus their comments on suggested changes to the DZO rather than denunciations of the entire project or process, valid as those criticisms may be. We have some talking points related to the process and the underlying theory of rezoning, but we will put those at the end of the document, as we would rather commenters focus on the specific amendments and changes that Council might entertain.

1. Please remove commercial uses from residential zones (R-A/B/C).

- a. It is positive that the extreme position on commercial uses in residential zones in the earlier draft has been tightened by the imposition of a Special Use Permit requirement
- b. Still, we don't think these uses are appropriate, permit or not.
- c. The DZO massively expands the area in the city available for commercial use (roughly doubling it) and introduces mixed use corridors and nodes.
- d. The expanded commercial areas assure that nearly every parcel in Cville is in close proximity to an area with by-right commercial uses, so there is little need to allow commercial uses in R-A/B/C
- e. The availability of more commercial areas in turn makes commercial uses in residential areas economically untenable – the competition from better situated commercial areas *also* in close proximity will render commercial in R-A/B/C even more uneconomical.

2. Consider putting all purely residential areas under R-A rules

- a. Upzoning is supposed to help with housing affordability by adding supply. However, it can also change the demographics of the city in a way that actually reduces affordability if all that gets built is luxury housing. Research --- such as a recently released report from Harvard's Joint Center on Housing – shows that most multifamily housing production is at the highest end of the market, risking gentrification
- b. Allowing duplexes and ADUs introduces supply with much less risk of gentrification. ADUs are not a "top-of-the-market" product and are likely to be comparatively affordable. No heavy-hitter from NoVA is coming here to live in an ADU. Duplexes are also among the

least expensive category in Charlottesville. 8 and 12 unit buildings are likely to be luxury product.

c. R-A rules, representing a more modest increase in density and bulk, are much less likely to dramatically change the character of the neighborhood, incent teardowns and loss of tree canopy, or overtax infrastructure.

3. Please consider putting in a “development speed brake.”

a. The consultants and NDS have said repeatedly that they do not think loosened zoning will lead to a massive increase in housing production. However, we residents fear that if this analysis is wrong, runaway development could cause unacceptable infrastructural and environmental impacts.

b. If the city’s own analysis shows limited production, why not humor those of us who are worried that this analysis may be wrong by implanting some kind of quantitative limit on production of units in new higher-density forms? It should make no difference, if the assurances staff and the consultant are giving are to be relied upon.

c. This is precisely what Arlington, VA did in its own new zoning ordinance.

d. For example, why not say that for all R-A/B/C areas, there should be a limit on projects of greater than 3 units per parcel, say 15 projects per year, with no more than 5 in any one neighborhood. That will make sure projects are spread around the city fairly and ensure that the city as a whole does not get overwhelmed in case it turns out there is a strong desire on the part of developers to build denser forms.

4. Make sure the DZO is not simply a writ for luxury student housing to steamroller UVA-adjacent neighborhoods

a. Please recall that the 1990s downzoning of Cville was in response to the threat of student housing encroachment.

b. Student housing is an economic juggernaut. According to one study, the typical 3-bedroom student apartment in Cville rents for almost 60% more than non-student-occupied 3-bedroom apartments. Student housing is one of the most lucrative and prolific forms of development today.

c. If developers generate lots of new student housing, it will take any pressure off UVA to finally follow up on its commitment to house more of its students. New units will simply make it easier for UVA to expand enrollment.

d. It is galling to me to see the City asking me to risk my neighborhood, its character, its tree canopy, its traffic situation, while UVA gobbles up more scarce land in and around the city for two new giant hotel/conference centers; while UVA lets University Gardens fall into disrepair, get demolished and turn into event parking.

e. Ban per-bedroom leases for any new construction

f. Assure that Supported Affordable Units cannot go to full-time students – in line with the Federal LIHTC program – nearly all student will meet income thresholds, because they depend on loans or parental income – mostly the latter, because UVA has a meager 12% Pell Grant participation – it is a school of kids from very wealthy families, with the average UVA family having a household income close to double Cville’s.

5. Affordability requirements are too lax.

- a. The affordable unit requirement is pathetically low.
- b. The combination of increased subdivision potential and the absence of any affordable unit requirement for developments under 10 units means that very, very few affordable units will be produced. A developer will aggressively subdivide and build 9 unit structures on postage-stamp subdivided lots.
- c. Even the 10% requirement for larger projects is not nearly aggressive enough. If zoning is truly a barrier to production here, then increased density and bulk entitlements should be worth a *lot* of money. But then the consultant tells us that anything more demanding than the joke requirements in the DZO mean that developments won't pencil. This is self-contradiction. And, besides, the goal of the DZO is not to give guaranteed profitability to developers
- d. The income limits and rent limits are too high. In fact, the rent limits are in some cases *above* HUD's Fair Market Rent for our area for apartments of a particular size. The tie to AMI will not protect against gentrification. Gentrification leads to higher AMI not through higher wages, but through the replacement of lower-income residents with higher-income residents. AMI limits go up with AMI, and AMI goes up with displacement. The Affordability requirement is therefore set up to let developers profit from gentrification.

6. Reconsider dimensional criteria

- a. Even if Council ultimately decides to go ahead with increased limits on units per parcel in residential areas, it should reconsider the dimensional limits in the DZO.
- b. They are far too aggressive and generally unnecessarily so, even to accommodate more units.
- c. Consider increasing side and rear setbacks to levels that are more reflective of existing neighborhood forms.
- d. Make sure front setbacks are large enough to accommodate street-side trees. Zero or low setbacks with just a narrow strip of curtilage for street trees is not enough.
- e. 2500 square foot minimum lot sizes are ridiculously small for Charlottesville, and generally not going to meet the minimum lot width requirements anyhow.
- f. It is positive that the latest Draft contains footprint limits in Residential Zones. Still, multiplying those footprints by allowable heights leads to structures far beyond the promised "house-sized" form. Consider adding one more limit, a limit on Gross Floor Area in Residential zones. Something like 6000sf for R-A and 7500sf for R-B seems more reasonable.

7. Elimination of Parking Minimums requires the creation of a market for onstreet parking.

- a. The DZO calls for elimination of parking minimums as a way to make construction cheaper.
- b. Most people are still going to need a car, even if they don't use it all the time. Only 13% of Cville households are entirely carless and many of these are student households. This is not a city that is in any way ready for mass car-free households, not in its public transit system, not in its pike/ped infrastructure
- c. It is fine to leave parking to the market, but only if the street is part of the market. Otherwise, developers will skimp on parking and tenants will be led to believe they can simply park on the street. That will be an environment, traffic and aesthetic nightmare.
- d. The answer – and it is not like this is in any way innovative – is to bring street parking into the market. Don Shoup of UCLA has written extensively on this, and while NDS has cited Prof Shoup late in the game, they show very little awareness of his insistence on creating a market for street parking.
- e. Do not eliminate parking minimums until a resident permit parking system is rolled out to every neighborhood that sees substantial upzoning. Reserve a fixed number of permits for free *per lot* per unit of street frontage, regardless of the number of units on site. Auction off remaining permit capacity. Incomplete markets are not functional markets.

8. Do Not Proceed Until a Traffic Impact Analysis Has Been Done (SEE TRAFFIC Analysis Point in first list)

- a. The city has flouted the requirement of doing transportation and traffic impact analysis for the Comp Plan and the Zoning Ordinance
- b. The city sneakily got a sign-off from VDOT only days before the CP passed, by hiding the fact that a major change in land use regulations was contemplated
- c. The city has continued to flout this requirement, even when reminded by VDOT.
- d. Quite apart from checking regulatory boxes, the city ought to do this sort of analysis because it is *crucial* and citizens deserve zoning and land use planning that is harmonized with good transportation planning.
- e. Excuses like “we anticipate that change will come slowly” are both legally irrelevant – state code requires a jurisdiction to assume the maximum density permissible under its land use rules – and practically unwise. The city has not shown particularly perspicacious forecasting ability, even of trends that, unlike density under a completely new zoning dispensation, ought to be easy to extrapolate.

9. Extent and quality of analysis does not match the ambition and aggressiveness of the DZO.

- a. Dramatic policy initiative ought to be supported by extensive data and deep, careful analysis.

- b. The analysis underlying the CP and DZO is incredibly sloppy. There is almost zero comparative work to place Charlottesville into the national context, no quality analysis of the impact of student house, no elasticity analysis.
- c. The analysis that was done was of laughably poor quality.
- d. This is reflected in obvious errors, even late in the game, like Code Studio proposing a maximum R-A building width that was narrower than nearly 70% of houses in current R-A zones, and a rapid flip-flop from a total ban on STRs to punting the STR issue out of the Zoning rewrite.
- e. Dramatic change without supporting analysis might be justified in an acute crisis, but data shows that Charlottesville's housing market is actually less distorted than most. It is simply tracking – though doing slightly better – the changes in the national housing market, themselves a product of pandemic shifts in household formation, supply chain issues causing transitory disruption in housing production, and swings in interest rates.
- f. In the absence of a uniquely acute crisis and without the requisite fundamental analysis to inform dramatic policy changes, the right approach is to, as the Chinese saying goes, “cross the river by feeling the stones” . Please consider taking an incremental approach, applying the change least likely to have unintended consequences first (for example, allowing duplexes and triplexes everywhere, liberalizing ADU rules). Pilot more dramatic changes in smaller areas. When the road is twisty and shrouded in fog, the wise driver goes slowly. We don't want to end up wrapped around a tree.