


**MEMORANDUM**

To: Mayor and Town Council

From: Jessica Plowgian, Chairwoman Planning Commission 

Date: August 24, 2023

Re: Planning Commission Recommendation on draft Chapter 18 – Zoning and Subdivision Ordinance

OVERVIEW

On June 12, 2023, the Town Council referred the draft Chapter 18 – Zoning and Subdivision ordinance to the Planning Commission for our review and recommendation(s) pursuant to State and Town requirements for changes to zoning. On July 10th and 12th, the Town Council and Planning Commission held a joint public hearing. The Town Council and Planning Commission left the public record open for written comments on the draft from June 12th to July 26th. The Planning Commission held discussions on the draft Chapter 18 on June 14th, June 28th, July 12th, August 2nd, and August 23rd.

Overall, Planning Commissioners believe the draft Chapter 18 represents a significant improvement over the existing code. It is easier to navigate and understand, it clarifies policies and procedures, and it provides many much-needed updates. While the Planning Commission asks Town Council to consider the revisions proposed below prior to adopting the draft Chapter 18, the Planning Commission voted 7-0 to forward this letter that recommends approval of the draft ordinance, along with the recommended revisions and considerations.

ITEMS NEEDING ADDITIONAL REVIEW AFTER POSSIBLE ADOPTION OF CHAPTER 18

In addition to the proposed revisions discussed below, Planning Commissioners identified the following issues that will necessitate further review as soon as practicable:

1. **Parking:** Parking is a significant concern for Planning Commissioners. The draft Chapter 18 contains minimal changes to the existing parking requirements as the parking study commissioned by Town Council is currently being conducted. Planning Commissioners requested that parking requirements be reevaluated and Chapter 18 be amended as soon as possible after completion of the parking study. A Planning Commissioner also asked

that the Town evaluate the appropriate use of drive-throughs in different zones when reviewing the parking study results and related traffic issues.

2. Lighting: The Town received numerous comments pertaining to residential and commercial lighting, lighting spillover on Mill Street, Dark Sky Initiative recommendations, and the lighting of signs. Many of these comments and proposals contain precise technical recommendations Planning Commissioners did not feel adequately prepared to evaluate in the time allotted to us in this process. In addition, some of the comments pertain to issues that might be better addressed in the Comprehensive Plan. Planning Commissioners were strongly in favor of conducting further review of these issues in order to revise the lighting requirements in Chapter 18, however, they requested that the Town consider engaging a lighting consultant to assist with the review of these issues. Planning Commissioners would like to have a better understanding of the impact of these matters before proposing any detailed changes to Chapter 18 or the Comprehensive Plan.
3. Section 18-462 Minimum Tree Canopy Coverage: Planning Commissioners supported taking actions to address tree canopy loss in Town, including revising the Code to encourage the preservation of trees, where practicable, during development. Several Planning Commissioners also supported revising the Code, where permitted by Virginia law, to increase tree planting requirements for residential and commercial properties. We understand that at your August 28th meeting, the Town Council is reviewing possible revisions to the Code that would address tree canopy and related issues. We look forward to reviewing Town Council's proposals.

The Planning Commission notes that there are other provisions of Chapter 18 that merit additional consideration, including those raised in public comments. There should be periodic reviews of Chapter 18 in order to make any necessary amendments in the future.

SUGGESTED REVISIONS TO DRAFT CHAPTER 18

The Planning Commission respectfully requests that the Town Council consider the following changes to the draft Chapter 18:

Article 2:

- Section 18-220 Residential – Multi-Unit Zone: A majority of the Planning Commissioners would like to revise this Section to increase the required percentage of Open Space (instead of the currently proposed 30%). Planning Commissioners voiced concerns about whether 30% is sufficient Open Space for this zone and would like to see a larger requirement as a baseline. Two Planning Commissioners are neutral on this issue. One Planning Commissioner believes the new 30% requirement in the current draft Chapter 18 is adequate.
- Section 18-226 Gateway South District (GS): Planning Commissioners voiced concerns about whether the proposed height, setbacks and building dimensions for Gateway South are appropriately tailored for that site. The provisions in the draft Chapter 18 were

developed for Avenue Central and later extended to Gateway South. Gateway South has very different characteristics than Avenue Central, including the orientation of the site and volume of cars on surrounding roads. Planning Commissioners supported additional consideration of modified setbacks and building heights for this site in the future, but until such evaluation is done, Planning Commissioners recommended that the height, setbacks and building dimensions for Gateway South be reverted to what was contained in prior drafts.

Article 3:

- Section 18-304 Principal Use Table: Planning Commissioners supported the following changes to the Use Table:
 - Change from Permitted Use to Conditional Use: Planning Commissioners suggested changing Hotel to Conditional Use for AC.
 - Change from Conditional Use to Permitted Use: Planning Commissioners suggested changing Upper Story Residential from Conditional to Permitted Use in AW and AE.
 - Change from not allowed to Conditional Use: In the Transition Zone, Planning Commissioners suggested adding the following uses as Conditional Uses: General Services, Services, Personal and Child Care Center. The majority of Planning Commissioners also recommended Shared Kitchen as a Conditional Use in the Transition Zone.
- Section 18-307 Adult Business: Revise subsection 1(B) to state that an Adult Business will be prohibited from receiving a use permit if: “[t]he use is located closer than 1,000 feet to the property of any church, school or Child Care Center”.
- Section 18-335 Outdoor Dining: Planning Commissioners discussed modifications to the outdoor dining provisions based on feedback received in public comments. A majority of the Planning Commissioners recommended removing the 8-seat limitation in Section 18-335.1(H). Removing this restriction would permit a business located between 60-75 feet from a residential area to obtain a Conditional Use Permit for permanent outdoor dining or a seasonal dining permit. It would still prohibit such business from serving alcohol outside, having servers outside and operating after 7:00 p.m. Two Planning Commissioners were not in favor of the change and expressed concern about how such changes might be implemented by restaurants in the future. They raised concerns about an increase in the number of tables resulting in noise complaints.
- Section 18-350 Upper-Story Residential: Planning Commissioners wanted to address concerns that mixed-use buildings contain meaningful commercial space open to the public on the ground floor. Planning Commissioners recommended revising Upper Story Residential to state “More than half of the ground floor occupiable space shall be used solely for nonresidential uses, which may not include nonresidential functions related to the upper story residential units. The remaining ground floor may be used for residential uses such as entry lobbies and amenities available only to residents.” Several Planning Commissioners also indicated an interest in requiring 75% of the ground floor to be used solely for nonresidential uses.

Article 4:

- Section 18-419 Driveways: Revise this Section to also require a five (5) foot minimum radius for driveways.
- Section 18-482, 18-534 and 18-583 Bicycle Parking Requirements: Per the recommendation of members of the Transportation Safety Committee, revise Paragraph 3(A) to state “...shall include inverted “U” bicycle racks and circular bicycle racks or acceptable variations as determined by the Zoning Administrator”. Revise Paragraph 4(C) to require a minimum of 7’ of opening clearance for bicycle lockers (instead of the currently proposed 5’).
- Sections 18-484, 18-536 and 18-585 Mechanical and Utility Equipment: Revise each Section as follows: “[m]echanical equipment located on the ground floor should be screened, whenever possible, with fencing, walls, mural wraps and/or landscaping. Such equipment shall not be permitted in Open Space required pursuant to this Article.” Planning Commissioners believed this additional language would help prevent the installation of transformers or other utilities in Open Space required by the Code.

Article 5:

The Board of Architectural Review (BAR) submitted detailed proposals in the public comment process. Planning Commissioners voiced concerns that we did not have sufficient time or expertise to evaluate the BAR proposals in the time allotted, especially as several of the comments relate to the scope of BAR’s review as well as provisions in Chapter 4 of the Code. Where indicated below, the Planning Commission made recommendations pertaining to the BAR proposals we felt capable of addressing.

- Section 18-503 Architectural Review: Per the recommendation of the BAR, revise to add the following sentence at the end of subsection (2): “[i]t shall also include any alterations of a building using lights that are placed in a configuration to outline the architectural features of the building, including, but not limited to, windows, doors, parapets and fascia and should be submitted as an exterior modification.”
- Section 18-511 Parking Lot Landscaping: Revise section 3 to require “at least one (1) tree per 150 square feet of parking island area” instead of requiring “at least one (1) tree and at least four (4) large shrubs” in interior landscaping islands. Planning Commissioners noted that shrubs can often become overgrown and indicated that this change could help increase the Town’s tree canopy.
- Section 18-512 Buffer Between Zones: Revise to state “architectural masonry (no grey block)” instead of “no CMU”. Planning Commissioners believed this increased flexibility would not be detrimental to the appearance or durability of such walls.
- Section 18-519.1 General Outdoor Lighting Standards: Revise to state “Exterior lighting must consist of full cut-off or directionally shielded lighting fixtures that are aimed and controlled so that the directed light is substantially confined to the object intended to be illuminated and not to exceed the boundary of the property lot.” This proposal was

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provided by the public and Planning Commissioners believed it would be a beneficial change to address light spillage.

- Section 18-519.5(A) General Outdoor Lighting Standards: Planning Commissioners noted the comments received about this Section and did not feel qualified to assess the impact of these requirements. Planning Commissioners therefore requested that subsection 5(A) be revised or removed until these provisions of the draft Chapter 18 can be reviewed by a lighting expert.
- Section 18-538 Applicability: Per the recommendation of the BAR, revise to add the following as a new subsection: “[a] sign found by the zoning administrator or their designees to show clear evidence of deterioration, including rust, faded colors, discoloration, holes and missing parts or information items, may be deemed a public nuisance, subject to removal.” Planning Commissioners noted that the BAR requested additional language pertaining to the safety and security of signs, but such provisions seem to be included in Section 18-854.6.
- Section 18-581 Minimum Required Off-Street Parking for Vehicles: Revise the School, Elementary, Middle or High section of the chart to include the following in the Notes/Additional Requirements: “[a]dequate space shall be provided for drop-off and pickup of children in a manner that does not interfere with traffic circulation in the neighborhood. Drop-offs and pick-ups shall be staggered as necessary to address potential traffic issues on the neighborhood streets.” This revision relates to a comment received from the public. Parking and traffic requirements are applied to Family Day Homes (Section 18-324) and Child Care Centers (Section 18-314) in the draft Chapter 18, however there is no similar requirement for schools. This proposed revision would address the inconsistency.

Article 6:

- Section 18-627 Street Design: Planning Commissioners proposed adding administrative review of street names to Section 18-627.7. Planning Commissioners acknowledged evolving considerations locally and in neighboring jurisdictions with respect to street names.

Article 8:

- Section 18-854 Other Violations and Penalties: Planning Commissioners questioned whether the penalties in this Section should be updated. Planning Commissioners asked that this Section be reviewed to confirm that dollar amounts are commensurate with surrounding jurisdictions.

OTHER ITEMS CONSIDERED BY THE PLANNING COMMISSION

Article 2:

- Section 18-202 Map of Zones and Districts: A few Planning Commissioners supported the expansion of Avenue Central to Beulah, as requested by several of the public comments, while others supported keeping the proposed zoning map as currently shown and examining the effects of the changes in the future.
- Section 18-212 Structure Dimensions: The Planning Commission considered changes to this provision to address the public comments submitted requesting the ability to add pergolas in excess of the building height restrictions on the rooftop decks of townhomes. Planning Commissioners were very concerned about the possible unintended consequences of such a change to the Code and did not recommend any changes at this time. Any such changes would be applicable to all existing and future buildings and merit further evaluation and an opportunity for additional public input.

PC Action

The Planning Commission made a motion to approve this recommendation letter to the Town Council.

Motion: Stephen Kenney

2nd: David Miller

Roll Call Vote: 7-0

Jessica Plowgian, Chair	Aye
Keith Aimone, Vice Chair	Aye
Deepa Chakrapani	Aye
Matthew Glassman	Aye
Stephen Kenney	Aye
David Miller	Aye
Jessica Ramakis	Aye

Cc: Planning Commissioners
Mercury Payton, Town Manager
Steven D. Briglia, Town Attorney
Melanie J. Clark, Town Clerk
David Levy, Director of Planning and Zoning
Kelly O'Brien, Deputy Director of Planning and Zoning
Jennifer Murphy, Clerk to the Planning Commission