

For example, zoning regulations that are inconsistent, unclear, poorly worded, disjointed, disorganized, or confusing can create unnecessary process friction, discourage investment, be indefensible and result in undesirable outcomes. Cumbersome approval and administrative processes can add significant time and expense to property development and redevelopment and discourage investment.

If the regulations and processes are based on the community's vision in the plan, then the public should be comforted in knowing that the regulations are setting the plan in motion. Clear, usable, defensible, and consistent regulations operate to protect the public visioning process while balancing the needs of property owners.

Review and Analysis

Our analysis includes general observations, a review of permitted uses, and an assessment of each provision of the Zoning Code as it relates to the Land Use Goals.

The attached consistency matrix contains the data underlying the conclusions and recommendations in this Report as well as observations that relate to key background documents, including the Town's Zoning Code Review Priority Chart dated June 26, 2017 (the "Priority Chart"), the Maple Avenue Corridor Multimodal Transportation and Land Use Study dated December 20, 2019 (the "Maple Avenue Transportation Study"), the Technical Assistance Panel Report dated September 6-7, 2017 (the "W&OD TAP Report"), and other documents and reports that are cited throughout this Report and the consistency matrix. We note that the Maple Avenue Commercial (MAC) zone was repealed by the Town Council on June 1, 2020. Despite its repeal, we have included a review and analysis of the MAC zone provisions as they relate to the Town's Plans to illuminate those provisions and concepts that the Town may wish to incorporate into its new zoning code.

The consistency matrix includes specific comments and notes related to each provision of the Zoning Code. In completing the consistency matrix, we used our professional judgment and experience to determine whether a section (i) promotes and advances a Land Use Goal (+), (ii) serves as a barrier to a Land Use Goal (-), or (iii) has no effect on or plays a necessary supporting role to a Land Use Goal (=).

It is important to note that those regulations identified as having no effect, or that play a necessary supporting role, should be reviewed and considered just as carefully as the other regulations to determine if there are ways that they may be amended or improved to promote the Land Use Goals.

As we work with the Town on the Zoning Code rewrite project, each new or revised provision should support at least one of the Land Use Goals, including those provisions that are administrative or procedural.

I. Overall User-Friendliness and Simplicity

Before analyzing specific provisions of the Zoning Code, we begin by providing general observations on the format and overall usability of the Zoning Code. In older, piecemeal-updated zoning codes, we often find that the code is disjointed and difficult to navigate. Vienna's Zoning Code is no exception. The following are our observations:

- The overall format of the Zoning Code is a fairly straightforward, modified cumulative code following the *Euclidean* legacy of New York City's 1915 Building Standards (i.e. Applicability, Definitions, Use Districts/Zones, Administration). The only section of the Zoning Code that breaks with the Euclidean zoning style is the Maple Avenue Commercial (MAC) zone (repealed), which was decidedly more form-based in format and style.
- The Zoning Code is wordy and lacks charts and tables to consolidate and more effectively organize information such as uses and development standards.
- The Zoning Code lacks sufficient explanatory graphics. Defined terms related to yards, setbacks, building placement, scale and massing, and other regulatory standards can be more effectively communicated through illustrations and diagrams.
- There are a number of administrative provisions that could be consolidated into a single administration and procedures section in the Zoning Code for ease of navigation and use.
- Navigating the Zoning Code is cumbersome and requires familiarity to know where to find important provisions that to the unfamiliar seem buried, such as parking, signage, and other use and development standards. Chapter and section headings and more pronounced page and section breaks would improve its navigability.

II. Plan Goal Consistency Review and Analysis

The Town has identified the following Land Use Goals in the Town's Plans:

Vienna Land Use Goals

1. Vienna as a complete community;
2. Encourage housing for residents of all age groups;
3. Maintain and strengthen the Central Business District within existing boundaries;
4. Create a more walkable Vienna; and
5. Ensure that Vienna retains its unique single-family residential character and quality of life.

The Zoning Code scores highest relative to **Land Use Goal #5 – “Ensure that Vienna retains its unique single-family residential character quality of life.”** This Land Use Goal is advanced through the existing regulations governing the Town's traditional single-family zoning

districts. These regulations serve as a strong “shield” to protect the Town’s most common development pattern and prevent the introduction of nonresidential and higher-density residential uses.

The Zoning Code scores the lowest relative to **Land Use Goal #2 – “Encourage Housing for Residents of All Age Groups.”** The negative scores under Land Use Goal #2 are attributable to an over-emphasis on retaining single-family detached housing as the predominant housing-type in the Town, and the lack of regulations that permit diverse housing types in the Town’s transitional, multi-family, and townhome districts.

Overall, Zoning Code largely does not consider the Land Use Goals and could be doing much more to advance them. This is not surprising recognizing that much of the Zoning Code was adopted in the late 1960s with a number of piecemeal updates over the subsequent decades well before the Land Use Goals were established. The regulations that are advancing the Land Use Goals should be reviewed to ensure that they are most effectively doing so and work well in conjunction with the new provisions.

1. Vienna as a complete community.

Scoring Summary (out of 461 Zoning Code subsections)

=	+	-
396	26	39

Summary

Land Use Goal #1 provides that “the Town will embrace its independent, active and welcoming character as a unique place to live-work-play-dine-shop in Northern Virginia¹.” To accomplish Land Use Goal #1, the Strategic Plan adopts the strategy of “[e]ncouraging unique placemaking through high-quality development, public art, and enhanced public spaces².” To advance this strategy, the Strategic Plan proposes undertaking the below-listed land use-specific action steps:

- Preserve and restore historical sites where appropriate; and
- Develop a public art master plan.

It is our assessment that the Zoning Code fails to advance Land Use Goal #1 due to its failure to consistently implement placemaking and public art principles throughout the Town. Additionally, it is our assessment that the historic district regulations are deficient and must

¹ Strategic Plan, Page 5

² Strategic Plan, Page 5

be updated to more effectively protect the Town's historic assets while encouraging administrative flexibility where appropriate and desirable.

Advances

One of the requirements of establishing a MAC zoning district (repealed) was the submittal of a public engagement plan that "establishes the principles, processes and milestones for public engagement related to the development proposal . . ." While no longer in effect, the inclusion of this requirement is a best practice for ensuring that new commercial development in the Town reflect the desired vision in Land Use Goal #1. The Town should consider incorporating a similar requirement for commercial projects of a certain size and scale and in certain locations in the Town.

The regulations governing the Windover Heights Historic District are also positive provisions with respect to Land Use Goal #1³. As noted in the 2006 *Town of Vienna, Virginia Comprehensive Plan*, "the Windover Heights Historic District preserves the history, character, and appearance of one of Vienna's oldest residential areas⁴." To this end, Section 18-280.8 of the Zoning Code is a good starting point for preserving the built environment of this historic district as it emphasizes that new construction and renovations maintain the district's historic fabric. Likewise, the regulations governing the Church Street corridor also advance Land Use Goal #1 as they preserve the turn-of-the-century architecture that gives the Town its unique character⁵. In particular, the "General design requirements" codified under Section 18-87.5(4) of the Zoning Code promote positive design principles such as façade continuity and façade proportion.

Ultimately, while these positive examples are a starting point for achieving Land Use Goal #1, for the reasons outlined below, the Zoning Code could be doing more to encourage placemaking and character preservation throughout the Town.

Barriers

While the Strategic Plan envisions "enhanced public spaces," the Zoning Code incorporates few provisions that encourage the utilization of spaces in the public realm for public use. For example, while the incorporation of open space⁶ into new developments is encouraged, these regulations focus on elements such as "outside display," "landscaping," and "lighting," and overlook the underlying purpose of these spaces. To more directly advance Land Use Goal #1, the updated Zoning Code should expressly permit temporary uses and structures to activate the public realm and promote placemaking. For example, regulations governing the installation of parklets and the operation of pop-up food services can help to activate the commercial districts in a manner that is consistent with Land Use Goal #1.

³ See generally, Section 18-258, *et. seq.*, Zoning Code

⁴ 2006 Comprehensive Plan, Page 20

⁵ Section 18-87.5, Zoning Code

⁶ See Zoning Code, Sections, 18-95.13, 18-126.4(E), and 18-126.14

There is also a lack of regulations governing the installation and display of public art and murals throughout the Town. While the Strategic Plan contemplates a forthcoming public art master plan, the Zoning Code rewrite can serve as a first step in this effort. For example, the sign chapter revisions can incorporate “mural” and “public art” categories that provide express guidelines for the incorporation of murals in new development and adaptive reuse projects. Building upon these updates, while there is a prior zoning administrator’s interpretation of the term “mural,” the Zoning Code does not have any standalone definition for this term and the inclusion of a carefully crafted definition would further promote Land Use Goal #1.

2. Encourage housing for residents of all age groups.

Scoring Summary (out of 461 Zoning Code subsections)

=	+	-
397	9	25

Summary

The Plan Update contemplates several alternatives to single-family detached housing to meet the housing needs for a diversity of income levels and age groups⁷. To accomplish this goal, the Plan Update proposes using transitional zones for the development of townhouses, multi-family housing and village housing⁸. Expounding upon these housing types, the Plan Update describes a “village housing” development pattern that would incorporate single-family homes and townhouses located on smaller lots as compared to the Town’s traditional large lot development pattern. To advance Land Use Goal #2, the Plan Update also proposes the use of incentives to encourage the renovation of “existing, older houses⁹.”

Under the Zoning Code the RM-2 Multi-Family zone (the “RM-2 Zone”) and the Residential Townhome zone (the “RTH”) are the primary zones for achieving Land Use Goal #2. To this end, our analysis below examines whether the regulations in these districts advance Land Use Goal #2. Based on our analysis, we conclude that the Zoning Code is a barrier to achieving Land Use Goal #2 as it relates to providing a wider-range of housing options for all age groups.

Advances

The purpose statement for the RTH zone contemplates “provid[ing] for development of closely spaced, high quality, single-family residential buildings with individual design characteristics and appearances . . .” The RM-2 zone incorporates two-family dwellings and multiple-family dwellings as permitted principal uses. As it pertains to Land Use Goal #2, these

⁷ Plan Update, Page 22

⁸ Plan Update, Page 22

⁹ Plan Update, Page 22

regulations directly advance the Town's vision for promoting a diversity of housing-types. These zones allow for higher-density housing without the "cookie-cutter" design.

The inclusion of "cluster townhouse developments" as a permitted principal use in the RTH also advances Land Use Goal #2. Specifically, the minimum lot size of 2,000 square feet per residential unit in this zone promotes a higher-density development pattern of approximately 22 units per acre, which is consistent with the Plan Update. The base zoning regulations for the RTH also promote Land Use Goal #2 through the incorporation of site plan requirements to ensure high quality development.

Barriers

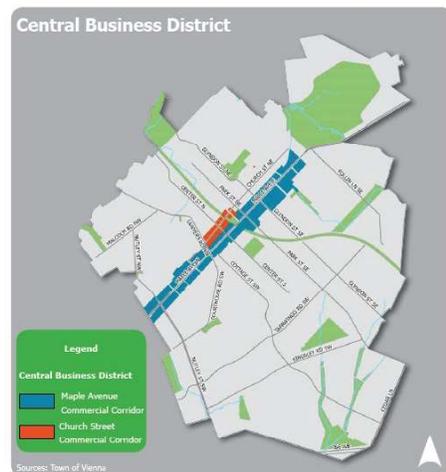
It is our assessment that despite the positive provisions described above, the Zoning Code does not go far enough to promote Land Use Goal #2. To effectively promote a variety of residential housing-types, the updated Zoning Code must increase the range of residential housing-types in the RTH, RM-2 Zone and the Transitional Zone (the "T Zone"). For example, the only forms of residential development permitted in the RTH are cluster townhome developments and group townhome developments. An updated RTH should also incorporate single-family detached housing as well as appropriately-scaled, garden-style, and "missing-middle" scale multi-family housing as permitted principal uses. Moreover, with the repeal of the Maple Avenue Corridor (MAC) regulations, "assisted living" is no longer a permitted principal use in any zoning district. To this end, to ensure housing options for the Town's elderly residents, assisted living should be added as a permitted principal use to the T Zone, the RTH and any other transitional zone that is developed in conjunction with the Zoning Code rewrite. As this use is implemented in the applicable districts, the Town should develop clear standards for the operation of this use consistent with the Town's planning vision.

Further, the regulations governing the Transitional Zone (the "T Zone") do not permit any type of residential development. The lack of residential development options in the T Zone is in direct contradiction of the Planning Updates vision for incorporating a range of housing options in transitional areas. Moreover, including townhomes, multi-family developments and duplexes as permitted principal uses in the T Zone would also allow for a less intense transitional use between the Town's residential neighborhoods and commercial districts.

3. Maintain and strengthen the Central Business District within existing boundaries.

Scoring Summary (out of 461 Zoning Code subsections)

=	+	-
420	6	35



Summary

As it pertains to Land Use Goal #3, the Plan Update contemplates that the zoning regulations governing the Central Business District (the “CBD”) should encourage “improvement and redevelopment” to “ensure that Vienna remains an attractive place to live, work and shop¹⁰.” To accomplish this goal, the Plan Update proposes to “enhance the CBD to provide alternative shopping opportunities¹¹.” The Plan Update also emphasizes the constraints on the geographic size of the CBD so as to avoid the encroachment of the district into the surrounding residential neighborhoods.

Currently, the Zoning Code regulates the CBD through a number of different district regulations, including Local Commercial (C-1), Special Commercial (C-1A), Pedestrian Commercial (C-1B), General Commercial (C-2), Transitional (T), Multi-Family Residential (RM-2), and Maple Avenue Corridor (MAC) (repealed). To this end, our analysis below examines the extent to which these regulations advance Land Use Goal #3 and concludes that the Zoning Code serves as a barrier to achieving Land Use Goal #3.

Positives

It is our assessment that the component parts of the now-repealed MAC regulations are a positive starting point for developing more streamlined and effective regulations to govern the CBD. With this in mind, we also understand that these regulations must be carefully calibrated to address concerns related to transforming the CBD into Tyson’s Corner and other high-intensity commercial and mixed-use districts throughout the region. Vienna is not a one-size-fits-all community and its zoning should not reflect the approaches of other communities that have evolved into large-scale mixed-use centers of activity. The repealed MAC

¹⁰ Plan Update, Page 24

¹¹ Plan Update, Page 24

regulations, while a place to start, require a comprehensive re-calibration and streamlining to reflect and achieve the desired outcomes in the Town's commercial corridors.

The C-1B regulations which govern the Church Street corridor positively advance Land Use Goal #3. More specifically, the C-1B regulations effectively focus on pedestrian-oriented development through well-crafted design guidelines that emphasize the relationship between the built environment and the street. Together, the former MAC regulations and the existing C-1B regulations can serve as a template for expanding character-based regulations to all areas of the CBD and for promoting a more cohesive mixed-use, commercial development pattern that maintains the Town's character.

Barriers

The lack of modern uses as permitted uses in the CBD, and particularly the C-1 Local Commercial Zone, serve as a barrier to achieving Land Use Goal #3. Updating the Zoning Code to include uses such as breweries, distilleries, co-working spaces, and small makerspaces would attract a variety of new business types and help to address concerns related to commercial vacancies by virtue of expanding the portfolio of options in the commercial districts. These updates are consistent with the uses contemplated in the Priority Chart as well¹². Moreover, introducing a mix of modern use-types will help the commercial districts evolve into the dynamic places envisioned in the Plan Update.

Another barrier to achieving Land Use Goal #3 is the Zoning Code's outdated sign regulations. Specifically, the current sign regulations have limited requirements related to materials and design standards. Specifically, Section 18-184 of the Zoning Code provides minimal guidance with respect to the color or composition of signs in commercial districts. Additionally, the sign code also fails to incorporate any provisions governing the incorporation of wayfinding signs throughout commercial districts. While the repealed MAC regulations and the C-1B regulations incorporate more robust, self-contained sign regulations, this organizational structure is not user-friendly and needlessly complicates the effort of identifying which regulations govern a specific property. To this end, a comprehensive sign code update should result in regulations that address all districts. Also, it is important to note that the sign ordinance will be reviewed for content-based sign regulations post *Reed v. Gilbert*, an effort that Town staff has already initiated.

Finally, the minimum off-street parking requirements applicable to the commercial districts serve as a barrier to achieving Land Use Goal #3. In particular, the minimum off-street parking requirements for certain uses may be excessive as compared to peer jurisdictions¹³. For example, at one parking space per 200 square feet of building area, the minimum off-street parking requirement for office and commercial uses is greater than the off-street parking requirements for offices in the City of Fairfax, the Town of Herndon, and Arlington County (**See Appendix**). To permit flexibility where possible, the updated Zoning Code should incorporate provisions to allow the Town Council or Zoning Administrator to approve a shared parking plan

¹² Priority Chart, Page 5

¹³ See Off-Street Parking Requirement Comparison (**Appendix**)

in conjunction with all mixed-use proposals within commercial or transitional districts by special permit in order to reduce off-street parking requirements. Under these provisions, plans should include: (i) eligible uses whose pattern of parking demand do not overlap; (ii) shared parking study results demonstrating feasibility, anticipated peak hours and parking occupancy per land use, anticipated overall parking peak, and anticipated parking turnover; and (iii) a description of active transportation or transit infrastructure alternatives.

4. Create a more walkable Vienna

Scoring Summary (out of 461 Zoning Code subsections)

=	+	-
420	6	35

Summary

With respect to Land Use Goal #4, the Plan Update envisions implementing a number of objectives and corresponding implementation strategies to “create a more walkable Vienna.” The objective under Land Use Goal #4 that is most germane to land use is Objective #2 under the Streets section of the Plan Update’s Transportation Chapter – “Connect streets to their land use and multi-modal function,” which proposes the following implementation strategies: (i) create street typolog[ies] that in addition to functional classification addresses all functions with the transportation and land use of the Town; and (ii) create standard street sections to be used for the street typolog[ies]¹⁴. This objective and the corresponding implementation strategies are complemented by the W&OD TAP Report and the Maple Avenue Transportation Study, which both set forth location-specific visions for pedestrian-oriented development. Also related to Land Use Goal #4 is the Plan Update’s objective of “coordinating land uses with surface transportation facilities, including roadways, mass transit, sidewalks and bike paths¹⁵.”

It is our assessment that the Zoning Code fails to advance Land Use Goal #4 due to the outdated street standards contained under Chapter 17 and the disconnect between the existing street typologies and the corresponding land uses.

Positives

As it pertains to Land Use Goal #4, Section 17-33 of the Zoning Code is a positive provision as it requires that all streets must conform to the comprehensive plan. In principal, this provision should implement the vision of Land Use Goal #4 and Objective #2 as they are derived from the Plan Update and the Comprehensive Plan. Unfortunately, at this time, Section 17-33 is merely an aspirational statement as the balance of the Designs Standards chapter fails to advance the Plan Update’s vision as it pertains to Land Use Goal #4. As the Town undertakes

¹⁴ Plan Update, Page 87

¹⁵ Plan Update, Page 40

the Zoning Code rewrite, emphasis should be placed on calibrating updated street standards to ensure that all provisions advance Land Use Goal #4 and the corresponding objectives.

The regulations governing the C-1B Pedestrian Commercial zoning district incentivize development that results in more walkable, pedestrian oriented development. To this end the C-1B regulations effectively advance Land Use Goal #4 and Object #2 by placing an emphasis on the relationship between the built environment and the street. Furthermore, as it pertains to the construction of new single-family dwellings, Section 17-67.1 requires the installation of new sidewalks adjacent to the new dwellings, thus advancing Land Use Goal #4 by promoting pedestrian connectivity. It is our assessment that these provisions can be expanded upon with respect to the development of all new single family dwellings by requiring the installation of sidewalks of at least 4 feet in width on all new or reconstructed roadways.

Barriers

As noted above, the current street standards included under Article 4, Chapter 17 of the Zoning Code (the “Design Standard Provisions”) serve as a barrier to achieving Land Use Goal #4. Specifically, under the Design Standard Provisions the minimum street width for secondary and local streets is 50 feet, which is an excessive dimension that detracts from the pedestrian-oriented development patterns contemplated under Land Use Goal #4. It appears that this excessive standard with respect to street width is due to inconsistent terminology between the Zoning Code and ancillary transportation regulations. More specifically, the Street Section diagram published by the Town’s Department of Public Works, describes a standard *street* width as 29 feet, and the standard *right of way* width as 50 feet. This discrepancy between the defined terms “street” and “right of way” should be clarified so that the applicable sections under Chapter 17 are in alignment with the Town’s supporting documentation and the Plan Update.

Similarly, under Section 17-57 of the Zoning Code the maximum permitted block length is 1,000 feet which is again a dimension that is contrary to the vision set forth under Land Use Goal #4. When combined, wider streets and longer blocks reduce the walkability of a district or zone by limiting connectivity from one area to another, thus serving as a barrier to Land Use Goal #4.

With respect to pedestrian mobility and Land Use Goal #4, the Plan Update recognizes that “[t]he Town’s pedestrian network not only depends on accessible usable sidewalks; it encourages stronger social connections exercise, and recreation, environmental quality, and economic growth¹⁶.” In contrast to this aspirational statement, the Design Standard Provisions do not impose any requirement for property owners or the Town to install sidewalks when an existing street is reconstructed or widened. To this end, where there are existing deficiencies in the pedestrian network, the Zoning Code perpetuates those deficiencies by not requiring new sidewalks to be installed.

¹⁶ Plan Update, Page 75

Finally, as it pertains Land Use Goal #4 and the effort to correlated street typologies with land uses, the Zoning Code only allows a mix of uses in a handful of zoning districts¹⁷. The result of this single-use, single-story development pattern is a less compact, auto-oriented development pattern that requires individuals to make several trips, thus placing greater strain on the Town's street infrastructure and available parking supply.

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¹⁷ See T Zone, C1-A, C-1B, C-2, and CMP regulations

Additional Transportation Provisions

The Town Ordinances incorporate certain regulations that are not specifically related to land use, yet still require careful consideration in light of the transportation goals set forth in the Plan Update. To this end, below is an abbreviated scoring matrix that specifically addresses these additional transportation provisions and their consistency with Land Use Goal #4.

Barrier		
Neutral		
Advancing		
Chapter	Goal #4 Create a more walkable Vienna	Comments
16-2		This section requires pedestrian traffic and public right-of-way be maintained during all construction or repair work, something that promotes pedestrian activity by reducing disruption of safe paths.
16-4		This section provides that the Town Council will only consider major arterials, inner loop, or secondary roadways for widening at public expense.
16		Reconstruction or widening of a street does not require the addition of sidewalks where they previously did not exist, serving as a barrier to Comprehensive Plan goals.
21		Electric power-assisted bicycles are permitted to be operated in Town limits, which is supportive for encouraging bicycle trips.
21		Bicyclists are required to “ride as near to the right side of the roadway as practicable”, which may reduce safety for some riders and may encourage drivers of motor vehicles to pass bicyclists at higher speeds.
21		The chapter does not designate any roads or paths as bike routes or bike plans.
All Chapters		TDM had been encouraged in the MAC zoning regulations as a mechanism to achieve reduced minimum parking requirements in non-residential or mixed-use developments.
All Chapters		The only reference to TDM is in Section 18-4, the definitions under the zoning regulations.
All Chapters		The only references to traffic impact analysis are in the context of drive-thru restaurant requirements, and in the definitions section 18-4.

5. Ensure that Vienna retains its unique single-family residential character and quality of life.

Scoring Summary (out of 461 Zoning Code subsections)

=	+	-
395	32	34

Summary

The Plan Update contemplates that the Town should maintain its “predominantly single-family detached residential community [through] careful land use planning and targeted redevelopment strategies¹⁸.” With 70.5% of land in the Town dedicated to residential land uses, the Plan Update acknowledges that “single-family detached housing is, and will remain, the predominant land use [in the Town]¹⁹.”

Currently, the RS-10, RS-12.5, and RS-16 zones (collectively, the “Single-Family Residential Districts”) are the Zoning Code’s primary mechanisms for advancing Land Use Goal #5. To this end, our analysis below examines the extent to which the regulations governing the Single-Family Residential Districts advance Land Use Goal #5 and concludes that while the Zoning Code is mostly effective in retaining the single-family residential character of the Town, there are updates that can be incorporated to enhance and maintain the character of these areas of the Town.

Positives

“Single-family detached dwelling” is the only residential use that is a permitted principal use in the Single-Family Residential Districts. This defensive use of the Zoning Code advances Land Use Goal #5 by preventing the encroachment of nonresidential and high-density residential uses into the Town’s traditional single-family detached neighborhoods. The minimum lot sizes of 10,000 square feet, 12,500 square feet, and 16,000 square feet in the RS-10, RS-12.5, and RS-16, respectively, further advances Land Use Goal #5 by maintaining the large minimum lot sizes that are conducive for the construction of single-family detached structures. Together, these provisions are sufficient for advancing Land Use Goal #5 by retaining the low-density development pattern that predominates throughout the Town’s residential neighborhoods.

Barriers

¹⁸ Plan Update, Page 48

¹⁹ Plan Update, Page 20