



Memorandum

To:	Zoning Committee of the Planning Commission (ZOCO)	Date:	October 6, 2023
From:	Nick Rogers, AICP, CZA - Principal Planner, CPHD Irena Lasic - Long Range Park Planning Section Supervisor, DPR Walter Gonzalez - Associate Planner, DPR		
Subject:	Use permits for public space design processes		

Executive Summary

The Department of Parks and Recreation (DPR) conducts public space planning and development subject to zoning standards which have gone virtually unchanged since Arlington’s last major zoning ordinance rewrite in 1950. These regulations for setbacks, height, and parking among others were adopted during a time of rural-to-suburban transition for much of the County. Many of the public spaces during this time were single-purpose parks with open fields, often located along stream valleys and other environmentally sensitive areas.

The 2019 Public Spaces Master Plan (PSMP) calls for the review and update of the County’s zoning regulations, identifying topics for study such as setbacks, parking, height, and signs. Staff has examined these regulations through the lens of recently completed public space projects, and recommends introducing authority for the County Board to modify certain zoning standards for public spaces, on a case-by-case basis, through use permit approvals. Such modifications can be approved to implement public space layouts and designs that are informed by community engagement and feedback but unable to be realized due to restrictions stemming from existing zoning requirements.

Introducing measures that allow for greater zoning flexibility would update Arlington County’s Zoning Ordinance (ACZO) to enable multi-purpose uses in public spaces, more creativity for meeting stormwater management requirements, and more opportunities for avoiding environmentally sensitive areas.

To achieve these objectives, staff has developed draft zoning text for the Zoning Committee’s consideration, enclosed as Attachment 1.

Background

The term “public space” references public parks that are operated by DPR. Per the PSMP, public spaces support recreation and leisure, natural resources, casual use, historic and cultural resources and are either publicly owned or have guaranteed public access. They encompass parks, plazas, trails, streets, and recreational facilities¹. In Arlington, public spaces are not

¹ [2019 Public Spaces Master Plan](#), p. 138.

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exempt from the County’s zoning ordinance. All features which are located within public spaces must meet the applicable requirements of the ACZO.

Height: Table 1 lists the maximum height requirements for structures in the S-3A and P-S zoning districts. These districts are the predominant zoning for land which is owned and utilized by both Arlington County and Arlington Public Schools (APS) for public uses. Most public spaces are zoned S-3A, with P-S zoning utilized for more recently developed public space projects such as [Jennie Dean Park](#) and the forthcoming [Arlington Junction Park](#). The maximum height requirements apply to buildings (ex. recreation centers, aquatics facilities) as well as smaller, accessory structures (ex. fencing, play equipment, performance stages, diamond field backstops).

Table 1: Maximum Height for Structures		
Zoning District	Maximum Height (feet)	Maximum Height with +23’ permitted with §3.1.6.B
S-3A	45’	68’
P-S	75’	98’

Section 3.1.6.B of the ACZO permits mechanical penthouses, radio towers, steeples, and other similar structures to exceed the maximum height standards for a given zoning district, so long as the structure’s additional height is neither used as habitable floor space nor exceeds a height of 23 feet. This provision is inclusive of athletic court lighting and athletic field lighting used to illuminate sport courts, diamond fields, and rectangular fields in public spaces.

Setbacks: Setbacks refer to the distance which a structure is required to be “set back” from a lot line or from the nearest structure. Table 2 lists the setback requirements for structures within public spaces.

Table 2: Required Setbacks (§3.2.6.A.3)	
Setbacks from any street	The larger of either: <ul style="list-style-type: none"> • 50 feet from said centerline of any street, or • 25 feet from any street right-of-way line.
Setbacks from side and rear yards	10 feet plus one additional foot for each 2 1/2 feet , or fraction thereof, of building height above 25 feet <ul style="list-style-type: none"> • On interior lots, no structure shall be located closer than 25 feet from a rear lot line.

In addition to these requirements, the ACZO requires visual clearance setbacks that are free of obstructions which could obscure clear sight lines at street intersections (Figure 1). The ACZO prohibits buildings or other obstructions from being located between a distance of 1 foot to 10 feet in height above curb level within the triangle formed by

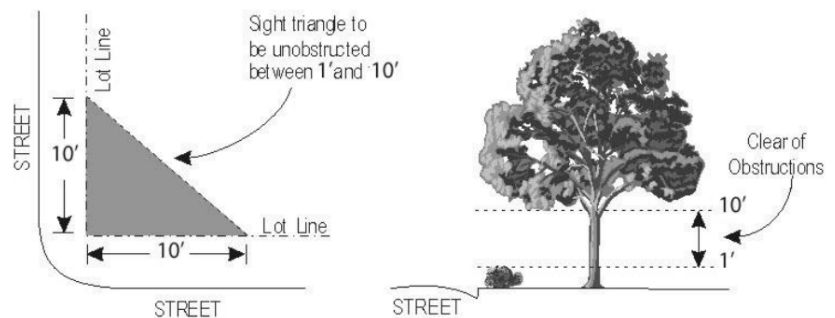


Figure 1: Visual clearance requirement specified in ACZO §3.2.6.A.4

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street right-of-way lines and a line connecting said street lines 10 feet from their intersection.

Parking: Table 3 lists several of the parking requirements identified in the ACZO which would apply to public spaces with certain types of facilities. When new public spaces are being created with these facilities, or when these types of facilities are added to an existing public space, the ACZO requires an amount of parking to be provided to meet these minimums.

Uses	Minimum Parking Requirement (spaces)
Community swimming pools	1 per each 40 sq. ft. of pool area
Athletic or health clubs	1 space per 50 sq. ft. of gross floor area
Indoor or outdoor recreation (as provided in §12.2.5.F) other than those specifically listed in this §14.3.7	1 space per 300 sq. ft. of indoor floor area or outdoor area used for recreation or entertainment purposes
Tennis, racquet and handball courts	3 spaces per court
Community centers	1 space per 3 seats

Public Engagement: Individual public space projects are preceded by engagement with local stakeholders and other members of the public. DPR staff use tailored engagement methods and develop an engagement schedule for each project that scales with its scope and extent. All engagement on public space projects is formulated to conform with Arlington’s [Six-Step Public Engagement Guide](#).

An example of such an engagement would be the conversion of an existing grass field at a public school to a synthetic turf surface. DPR partners with APS on these types of projects based on cost-share formulas that are used for capital improvements planning. These projects benefit from engagement with local residents, representatives from local sports leagues, school officials, parent-teacher organizations and civic associations to keep community members informed on progress and to address issues raised by the community.

Adopted Policy

The review of the ACZO’s standards is rooted in several adopted policies and ongoing County programs. The following sections outline this study’s concurrence with these policies and programs.

Implementation of the Public Spaces Master Plan: As previously discussed, the County Board adopted in 2019 the [Public Spaces Master Plan \(PSMP\)](#), which identifies the major public space needs for Arlington and guides the implementation of public space improvements identified and prioritized in Arlington’s CIP. As part of implementing the PSMP’s recommendations, the [FY22-23 CPHD Planning Division Work Program](#) identifies a multi-phase zoning study which would modernize land use standards, terminology, and processes for a host of different topics related to public space development. This zoning study, in part, addresses the PSMP’s recommendations.

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By evaluating some features found in public spaces into this zoning study, the ACZO can continue to evolve and meet anticipated public spaces needs. Flexibility to allow more types of public space features within required setbacks can be particularly helpful to DPR when evaluating the feasibility of design options for smaller, irregularly-shaped lots and/or lots encumbered by Resource Protection Areas (RPAs) and similar environmental constraints. Moreover, for SWM facilities to be installed in public parks, zoning flexibility would allow for coordinated site layouts which can enable certain types of SWM facilities to also serve as park amenities, incorporating the SWM feature into the park users' experience.

According to the PSMP, approximately 46% of Arlington's public parks are two acres in size or less – requiring increasingly creative solutions to provide natural areas, athletic opportunities, and leisure experiences all within small spaces.

[Appendix III of the PSMP](#) addresses the use of synthetic turf and lighting of athletic fields. This appendix sets forth criteria and standards to guide the decision making for public investments in synthetic turf conversion and lighting upgrades to existing rectangular and diamond athletic fields. Considerations include the field's size, accessibility for persons with mobility disabilities, use for scholastic programs, proximity to existing trees and woodlands, and the location of access gaps to such facilities in Arlington's public space system. The PSMP appendix also includes recommendations for several standards for illuminance levels and other mitigation measures to prevent the potential for adverse impacts on nearby residential neighborhoods.

FY 2023 – FY 2032 Capital Improvement Plan: In July 2022, the County Board adopted a 10 year, \$3.9 billion CIP that funds community infrastructure, public spaces, Metro and other transportation projects, public utilities, SWM, and flood mitigation. The CIP includes [\\$270.6 million dollars](#) devoted to public spaces operated by DPR. These funds cover a diverse array of public investments in park maintenance, park master planning, trail and bridge modernization, land acquisition, and synthetic turf for athletic fields.

The CIP funds specific projects which are referenced in later sections of this memo. These include:

- [Upper Bluemont Park](#): This project involves the replacement of the existing tennis court complex, lighting, restroom/storage, shelter, parking lot, and associated on-site vehicular travelways. New site furnishings, drainage improvements, and landscaping are proposed along with reconstruction of a portion of the Four Mile Run Trail.
- [Kenmore Middle School Athletic Fields](#): This project would involve the conversion of two athletic fields from natural surface grasses to synthetic turf, as well as the replacement and update to existing athletic field lighting.
- [Bailey's Branch Park](#): This project includes eradication of invasive plants and the planting of new vegetation to include native trees and pollinator plants. Staff intends to explore opportunities for updating site furnishings, signs, play equipment, and other improvements to enhance accessibility.

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Scope of Study

This study focuses on zoning changes to address near-term public space master planning and park development needs. However, staff acknowledges that additional work is needed to continue modernizing the ACZO to meet additional public facilities' needs.

The FY22-23 CPHD Work Plan identifies Public district modernization as a first tier study. This study would involve coordination with the Department of Environmental Services (DES) to inventory and prioritize the near- and mid-term needs for various types of public facilities. Although exploratory scoping work has occurred to date, further coordination would be needed to finalize a scope of study and community engagement framework so that recommendations can be developed that adequately address the County's operational needs.

In addition, the PSMP's recommendation which called for an evaluation of the ACZO's standards for public spaces cited numerous areas of consideration beyond setbacks, height and parking. These areas include a dedicated section for regulating athletic field lighting, aligning the PSMP's terminology with that used in the ACZO, and the use permit requirement for public spaces in other residential, commercial and mixed-use zoning districts. Staff anticipates these topics will be addressed as part of subsequent phases of the PSMP implementation work that is already identified on the FY22-23 Work Plan. Staff continues to actively coordinate with DPR on future zoning work, and this coordination will inform the timing and prioritization of future work as part of the FY23-24 CPHD Work Plan.

For this study, staff has analyzed previous actions by the County Board to consider precedents which could be applicable for this zoning study:

- In 2016, the [County Board adopted a zoning ordinance amendment](#) which enabled modifications of height, setback, density, dimensional and parking requirements for elementary, middle, and high schools within the S-3A zoning district through the special exception use permit process. The modifications were structured to be applicable to any school site to account for the wide variety of lot sizes, adjacent land uses, and proximities to public transportation among the APS system.

The Board's amendments excluded zoning flexibility for structures such as athletic field lighting based on feedback received at the time through the public process. The flexibility was not extended to structures so that policy guidance associated with the forthcoming [Williamsburg Fields Evaluation Work Group](#) would not be preempted.

- In 2023, the [County Board amended the ACZO](#) to enable the establishment of stormwater management facilities such as underground detention vaults, detention ponds, and flood walls in public zoning districts (S-3A, P-S, and S-D). Stormwater management facilities were permitted within required setback areas, and fencing standards were updated to enable security and enclosure of generators and pump facilities.

This zoning ordinance amendment also addressed accessory structures that are commonly utilized in public spaces, permitted them to be located within required setback areas. Some examples of such structures include amenities and features like performance stages, seating, bicycle racks, play equipment, and shade structures. Fencing standards were similarly updated to allow taller fences closer to property lines so that sport courts and similar public space features could be more efficiently located on smaller sites.

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Analysis

To enable broader flexibility for facilities that DPR operates in public spaces, staff has developed draft language for several amendments to the ACZO that would enable the County Board to modify selected zoning requirements on a case-by-case basis with its use permit review authority. Similar modifications have been used to permit flexibility for child care centers, social service institutions, and outdoor cafes through the use permit process. As previously discussed, the County Board has used this modification authority to provide reduced parking requirements for several APS construction projects, and increased height for the [Arlington Career Center](#) and [the Heights Building](#). Similar flexibility with use permit modifications could be utilized to implement layouts and designs in public space projects that would benefit from increased height, reduced setbacks, and/or reduced parking requirements.

Flexibility for increased height

As previously discussed, most public spaces are zoned S-3A, which permits structures to be as high as 45 feet. This maximum can be increased to 68 feet to accommodate mechanical penthouses and similar appurtenances; this increase applies to lighting used to illuminate athletic fields and sport courts. Based on the desired programming and activities at a particular location, DPR may choose to explore options for buildings that have additional height beyond these maximums. An example of this would be the Long Bridge Park Aquatics and Fitness Center. The original building would have required a building height above the allowable height in the S-3A zoning district to accommodate necessary interior ceiling heights for diving platforms. This height increase was permitted with a rezoning of the site to the P-S district.

A similar rezoning was approved by the County Board for [Jennie Dean Park](#) in part to enable increased permitted height standards for new athletic field lighting. The lighting is approximately 78' tall, exceeding the maximum height requirement for S-3A. For this project and for other lighting that is typically installed, best practices typically entail installing athletic field lighting up to 80-85' in height to enable directional precision with angled lighting fixtures that avoids light spillover outside of the field of play.

The PSMP recommends including athletic field and other lighting among a list of other zoning topics to review and consider as part of a comprehensive study of the ACZO. This study is anticipated to take place as a separate, subsequent phase of work and is included in CPHD's Work Plan. However, staff will commence work in the coming year in coordination with APS on a synthetic turf conversion project at Kenmore Middle School that would involve the replacement of existing athletic field lighting. As this project has been approved and budgeted for in the 2023-2032 Capital Improvements Plan, an interim, near-term measure is needed to allow for the anticipated athletic field lighting associated with this project.

Staff has developed draft zoning language that would permit the County Board to modify maximum height standards for athletic field and court lighting on school properties, utilizing the section of the S-3A district standards that was adopted by the County Board in 2016. The provision could allow the Board to approve lighting beyond the maximum height of 68 feet, but not for athletic fields that are currently without lights. This limitation acknowledges the need for continued engagement with a broad assemblage of stakeholders to determine how best the County's zoning standards can address the potential impacts on adjacent properties associated with illumination in public spaces located on both County-owned and APS property.

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Flexibility for encroachments into setbacks

In March 2023, the County Board adopted amendments to the ACZO that permitted a variety of accessory structures associated with publicly maintained public spaces to be located within required setbacks². However, buildings still need to meet required setbacks, as well as fencing that would exceed 8’ in height and lighting that exceeds 15’ in height.

The previously mentioned zoning study highlighted a number of needs for zoning flexibility in public spaces, given emerging trends in master planning and development:

- Almost half of the public spaces within the County’s inventory are less than two acres in size. Setback flexibility allows for more usable area to program and install public space amenities and features.
- Greater efficiencies with site layouts can also enable more opportunities for preserving natural vegetation, creating more casual use space³, and protecting environmentally sensitive areas on a public space property such as those within a floodway or RPA.

Upper Bluemont Park Conceptual Design



Concept 2

- ★ New Entrance with Signage
- ① Existing Sign to Remain
- ② Bio-retention Area
- ③ Bicycle Rack/Repair Station
- ④ ADA Access
- ⑤ Casual Open Space
- ⑥ Practice Wall
- ⑦ Emergency Egress
- ⑧ Existing Ballfield (No Changes)
- ⑨ Viewing Terrace
- ⑩ Seating Area
- ⑪ New Auxiliary Building
- ⑫ New Native Plant Material to Stabilize Slopes
- ⑬ Specimen Tree in Excellent Condition
- ⑭ Shade Structure
- ⑮ Maintenance Vehicle Access
- ⑯ RPA Reforestation Area
- ⑰ In-ground Tennis Ball Play Element
- ⑱ Change - Entrance Shifted: Parallel Parking Removed
- ⑲ Change - Hardscape and Play Element Adjusted
- ⑳ Change - Pedestrian Access Shifted: Maintenance Access Added
- ㉑ Change - Pedestrian Access Shifted
- 120'x50' Practice Court (1-2, 6-9)
- 120'x60' Event Court (3-5)
- ⊗ Trees to Be Removed
- Edge of Existing Parking Lot and Tennis Court
- Permeable Paving
- RPA Line
- Changes since 2nd community engagement

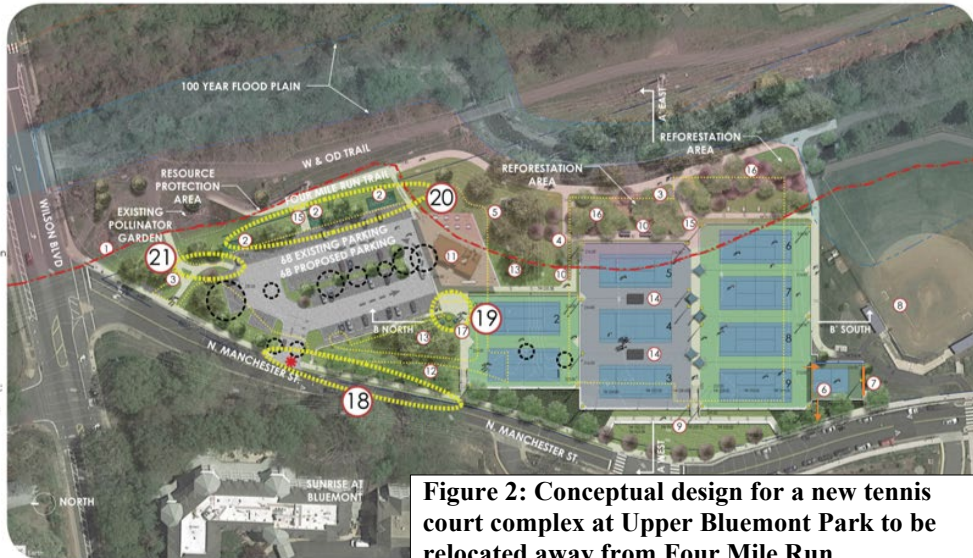


Figure 2: Conceptual design for a new tennis court complex at Upper Bluemont Park to be relocated away from Four Mile Run

Staff recommends authorizing modifications of setback requirements for facilities in public spaces that the County Board can grant with a use permit. The use permit review would complement existing outreach and engagement practices that DPR already utilizes. DPR processes are broadly advertised to make nearby residents aware of projects and their impacts.

Setback flexibility also can enable facilities to be located further away from environmentally sensitive areas as has been discussed as part of the planning process for [Upper Bluemont Park](#) (Figure 2). This project anticipates replacing the existing tennis court complex, lighting,

² Examples of these accessory structures include tables, benches, bicycle racks, trash receptacles, shade structures, athletic or small game courts, and playground equipment.

³ Casual use spaces support impromptu activities such as relaxation, reflection, connection with nature, or other informal activities either at all times or during designated periods of the day.

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restrooms, and associated facilities to improve drainage, add landscaping, and meet accessible design standards. The conceptual design shows facilities, including athletic court lights, located further away from Four Mile Run Creek toward N. Manchester Street. This would shift the park’s facilities away from the existing RPA and mature tree canopy along Four Mile Run into a required street setback along N. Manchester Street.

Parking for public space projects

Staff sees a need for flexibility from adherence to parking requirements for public space facilities at smaller sites. Given increased land acquisition costs and PSMP goals for adding new acreage to the public space system, many of DPR’s future additions to Arlington’s public space inventory will be on sites similar in size, for example, to the 0.9 acre [Arlington Junction Park](#) in Pentagon City. Adding tennis courts and other recreational facilities in public spaces would necessitate using valuable on-site areas for parking and minimizing the areas for natural resources and stormwater management.

Staff recommends permitting the County Board to modify the ACZO’s parking requirements to enable reductions in parking requirements. Such reductions can account for the general availability of on-street parking within the public space’s vicinity, along with access to transit and other non-motorized modes of transportation. Staff also recommends the addition of supplemental findings for the County Board to consider pertaining to the demand for parking at a particular location and the availability of transit and other transportation options to offset the need for space for automobiles.

Signs in parks

Sign standards in Article 13 of the ACZO were identified in the PSMP as one of the review items to identify updates that would better support Arlington’s public space system. DPR staff have highlighted two areas of attention that can be addressed within the scope of this study:

1. Freestanding signs are used in public spaces to identify the space to visitors for purposes of wayfinding and in the event first responders must travel to a public space for a service call. The ACZO requires that freestanding signs be set back at least 10 feet from a sidewalk or 5 feet from a property line. In more urban settings of Arlington where area/sector plans typically recommend wider sidewalks to accommodate increased pedestrian activity, this can reduce a person’s ability to see the sign from anywhere other than the immediately adjacent sidewalk. Public space signs have been used as successful gateway and placemaking features, as see in Figure 3.



Figure 3: A sign identifying the main entrance to Rocky Run Park

Moreover, property boundaries are not always located at the back of the sidewalk and can sometimes be located within sidewalks or roadways, causing complications with determining how to calculate the setback requirement. To address these needs, staff recommends incorporating setback encroachment provisions in §13.10.7 that would allow freestanding

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signs within County owned public spaces to be located closer to the sidewalk, or to the property line in instances where there is no sidewalk.

2. The ACZO classifies flags as *flag signs* and requires that a flagpole be located no further than 30' from the principal entrance of a main building. For public spaces without main buildings, such as a park with athletic fields or casual use spaces, the 30' requirement creates confusion as to whether a flagpole is permitted and where it should be located. Staff cannot discern an essential public benefit for maintaining this standard and recommends removing it from the ACZO. Other standards for flag signs, such as maximum height, maximum flag size, and prohibitions on commercial speech in public spaces would remain in effect.

Additional recommendations

To ensure terminology is used consistently in the ACZO, staff recommends updates to recently amended sections in Article 3 which permitted encroachments of accessory structures in public spaces into required setbacks. After further consultation with DPR, staff sees “publicly owned” as the preferred qualifier for public spaces which should be afforded zoning flexibility as opposed to “publicly operated”. Public ownership is a clearer indication of DPR’s oversight for a public space, as maintenance obligations can be modified over time through partnerships and other user agreements.

Community Engagement

This zoning study’s recommendations would directly implement policies from the PSMP – a 1 County Board-adopted policy. The zoning study’s recommendations would allow for case-by-case considerations of zoning flexibility for a small number of public space projects that DPR manages in a given year. Such flexibility would neither create additional disruptions to area residents or businesses nor interrupt access to a park for any additional time beyond that which would be customarily needed for a public space project.

As previously discussed, the proposed zoning ordinance amendment recommends using the County Board’s use permit authority to enable zoning flexibility for height, setback, and parking standards in public spaces. Nearly all public space projects other than the most basic maintenance and operational needs are preceded by an engagement process where DPR staff convenes nearby property owners, civic association representatives, and other community stakeholders to gather community feedback on public space improvements.

Given these considerations, coupled with the use permit process that involves notification of civic association leadership and availability of all use permit application materials on the County’s website, staff has used tools primarily from the ***Consult*** level of engagement as referenced in the [Six-Step Public Engagement Guide](#).

To date, staff has conducted the following engagement to inform the study’s recommendations:

- Staff has created a [dedicated website](#) for the study, serving as an information clearinghouse for members of the public. The website includes an engagement timeline showing past and future engagement opportunities.

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- Staff is actively soliciting feedback from members of the public using an [online feedback form](#). The form will remain open through October 8, 2023, and the findings from the collected feedback will be summarized and accounted for in future staff reports.
- Staff provided a briefing to the [Park and Recreation Commission](#) on September 19, 2023 ([presentation](#) | [video recording](#)). Commissioners discussed the following topics associated with the zoning study:
 - Alternatives that DPR has used in the past to implement public space designs which did not meet ACZO requirements – these have included rezoning the property to the P-S district, which permits taller height and smaller setbacks, and changing the design or the selected features that were originally intended. In certain circumstances, requests for a variance, which are approved by the Board of Zoning Appeals, could have been considered but are generally disregarded given the strict standards for establishing the presence of hardships and similar aspects with a particular property that would unreasonably restrict the utilization of the property.
 - Bolder recommendations, to be formulated during future phases of PSMP implementation zoning work, that would move beyond the use permit process. The PRC discussed the need for separate zoning standards for athletic field lighting, revisions to the definition of a *structure* in the ACZO to allow more types of features in setbacks, and alternatives that would generally exclude public spaces from compliance with the County’s zoning standards.
- Staff held a virtual information session for members of the public on October 3, 2023. Attendees provided feedback on a variety of subjects related to the study:
 - One attendee expressed concerns about the study’s anticipated schedule, feeling that County Board action in December 2023 would not provide enough time for members of the public to understand and react to the study’s findings. They felt that the zoning changes could have a lasting effect for decades to come, and amounted to a degree of change that was widespread and extraordinary. They also stated that zoning standards can provide safeguard from impacts to Arlington’s residents, and that any changes that would potentially erode those safeguards should be carefully examined and vetted with members of the public.
 - One attendee raised questions about why draft zoning language, a staff report, or similar documentation had not been circulated or provided in advance of the virtual information session. Staff explained that, at the time, zoning language was still under development, but that an initial draft would be available in advance of ZOCO’s October 10th meeting.
 - One attendee expressed uneasiness with a scenario where, after a successful community engagement effort to obtain community consensus for a public space’s design, layout and improvements, the Board’s modification authority would be used as a late hour deviation from the agreed-upon consensus without returning to the community for further consultation to confirm consensus.
 - One attendee asserted that the County does not consistently include civic associations in project deliberations, which undermines the notion that a use permit request that might be placed on the Board’s consent agenda truly reflects

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the voices of the public being heard. Similar comments were provided stating that the use permit process limits public input and gives the County Board the authority to move more quickly on items that raise community concerns.

Staff responded with an explanation of standard outreach practices for use permit reviews, which include email outreach to the president of the proposed location's civic association and [posting all application materials to the County website](#). Use permits are advertised in the Washington Times to meet [public notice requirements in the Code of Virginia](#), and placards are placed at each proposed location with information on how to learn more about the applicant's request. Virtual information sessions are scheduled for members of the public to provide feedback on selected use permit applications when broader community conversations on the merits of the application are needed to surface and resolve key issues with the request.

Any responses provided by civic association presidents and/or members of the public are incorporated into use permit staff reports, along with explanations as to how the community feedback influenced the staff's recommendation. These staff reports are incorporated into the County Board's agenda which is publicly posted eight days in advance of the Board's regular meetings.

- Staff plans to present the study's findings and preliminary recommendations to the [Sports Commission](#) on October 26, 2023 and to the [Public Spaces Master Plan Implementation Advisory Committee \(PSMP-IAC\)](#) on November 2, 2023. A summary of the feedback received at these briefings will be provided in the anticipated staff report for the County Board's November 2023 meeting to review a Request to Advertise (RTA) resolution for this zoning study.

Conclusion

In staff's opinion, a zoning ordinance amendment that enables the County Board the authority to modify certain zoning standards for structures and amenities in public spaces would benefit the design process for near-term public space designs and layouts, while further implementing a priority action item from the 2019 PSMP. Use permit reviews can be integrated into DPR's standard practices for community engagement when new features are being considered in public spaces. Increased zoning flexibility can be particularly useful for public spaces that are less than two acres, contain environmentally sensitive areas, and/or integrating SWM facilities to meet state requirements.

Anticipated Schedule

- October 10, 2023: ZOCO Meeting
- November 11/14, 2023: County Board Request to Advertise
- December 4/6, 2023: Planning Commission final consideration and recommendation
- December 16/19, 2023: County Board final consideration and action

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Attachments

- Attachment 1: Draft Zoning Text

Zoning Ordinance Amendment – Use Permits for Public Spaces Design Processes

Proposed amendments are shown with **bold underline** to denote new text, and **~~bold strikethrough~~** to denote deleted text.

Article 3. Density and Dimensional Standards

S3.2. Bulk, Coverage and Placement Requirements

S3.2.6. Placement

The following regulations shall govern the placement on a lot of any building or structure, or addition thereto, hereafter erected, except as may be allowed by site plan approval or as otherwise specifically provided in this Zoning Ordinance:

A. Setbacks (required yards)

1. ...

...

3. Encroachments allowed into required yards and courts

The following encroachments shall be allowed into required yards and courts.

(a) No building or structure, or addition thereto, other than walls or fences, shall encroach into a required yard or court; except that:

(1) ...

...

(8) The following structures associated with publicly **owned operated** parks and open spaces, **as specified in §12.2.4.F**, may encroach into a required setback from any street:

- i. Accessory structures which serve the users of the park and/or open space, such as but not limited to seating, gateway/entrance features, shade structures, and planters;
- ii. Accessory structures which support athletic or leisure activity, such as but not limited to performance stages, athletic or small game courts, and, play equipment, and;
- iii. Pedestrian and trail lighting, not to exceed 15 feet in height.

(e) Fences and walls are permitted to encroach into required setbacks and yards as follows:

(1) Fences and walls up to 4 feet in height are permitted to encroach into any required street setback, except:

i. ...

ii. On any lot used for publicly **owned operated** parks and open spaces, **as specified in §12.2.4.F**, fences and walls up to 8 feet in height are permitted in any-required street setback.

- 34 (2) Fences and walls up to 7 feet in height are permitted in any required rear or
35 side yard, except:
- 36 i. ...
- 37 ii. On any lot used for publicly ~~owned operated~~ parks and open
38 spaces, **as specified in §12.2.4.F**, fences and walls up to 8 feet in
39 height are permitted in any required rear or side yard.
- 40

Article 4. Public (P) Districts

§4.2. S-3A, Special Districts

§4.2.4. District use standards

Use standards applicable to specific uses in the S-3A district include

A. Elementary, middle and high schools

For schools as described in §12.2.4.I, the County Board may, subject to approval of a use permit as provided in §15.4:

1. ...

...

3. Modify setbacks in §3.2.6.A and the density and dimensional standards in §4.2.3 above for all buildings and accessory buildings, **as well as athletic field lighting or athletic court lighting existing as of [EFFECTIVE DATE]**, provided it finds that:

- (a) The scale and massing of the school development project are compatible with existing and planned development abutting and across the street from the school development project;
- (b) The school development project incorporates a design that facilitates utilization of the range of transportation options available in the vicinity of the school development project;
- (c) The school development project balances opportunities for providing open space and recreational amenities within the school development project in a manner appropriate for the size and location of the development project; and;
- (d) The school development project emphasizes energy conservation and environmental sustainability through architectural design, materials, construction methods, and site design.

Article 12. Use Standards

§12.4. Public and Civic Use Standards

§12.4.10. Parks and open space

Parks and open spaces as specified in §12.2.4.F. shall be allowed subject to the following conditions:

A. Modifications for publicly owned parks and open spaces

1. The County Board may, through use permit approval as specified in §15.4, modify the following regulations for structures located within publicly owned parks and open space:

(a) Maximum height requirements as specified in the district standards for the particular lot; or,

(b) Minimum setback requirements and maximum fence/wall height requirements, as specified in §3.2.6.A.

2. In addition to the required findings specified in §15.4.3, the County Board may modify the regulations specified in §12.4.3.A provided it finds that:

(a) The modification would result in improved recreational amenities appropriate for the size and scale of the lot; or,

(b) The modification would support the protection, restoration, and/or expansion of natural resources; or,

(c) The modification is to the minimum extent necessary to meet the programming needs for the park or open space.

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Article 13. Use Standards

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§13.10. Signs in Public Districts and on Public Property in any District

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§13.10.6 Flags

A. Defined

A piece of cloth or other material affixed to a pole on two corners.

B. General standards

Maximum number of poles	3
Maximum height of pole	45 ft.
Maximum flags per pole	2
Maximum flag size	60 sq. ft.
Maximum total flag area	180 sq. ft.
Permit required?	No
Separate lighting?	Yes
Automatic changeable copy?	No
Commercial messages?	No
Included in aggregate sign area?	No



C. Other standards

~~Flagpoles shall be located as shown on an approved site plan; if there is no approved site plan for the property and no site plan is required, flagpoles shall be located within 30 feet of the principal entrance to the main building.~~

DRAFT

§13.10.7 Freestanding signs

A. Defined

A sign that is affixed to the ground, or to a wall that is not part of a building, or to a fence; freestanding signs include but are not necessarily limited to signs mounted on monument-style foundations, on poles, or on fences or other approved accessory structures.

B. General Standards

Maximum size	60 sq. ft. per side; may be 2-sided
Maximum height	15 ft.
Number allowed	1 for each entrance, except as provided below
Permit required?	Yes
Minimum setback	10 ft. from back of sidewalk 5 ft. from other property lines
Separate lighting?	Yes
Automatic changeable copy?	Yes, subject to standards of §13.12
Commercial messages?	Yes
Included in aggregate sign area?	No

C. Other standards

1. Signs allowed by this subsection §13.10.7 may alternatively be installed as wall, canopy or awning signs with the same total sign area and dimensions.
2. **Notwithstanding the setback requirements in §13.10.7.B, freestanding signs in publicly owned parks and open spaces, as specified in §12.2.4.F., may encroach within a required setback. Visual clearance requirements as specified in §3.2.6.A.4 shall still be in effect.**

D. Additional freestanding signs allowed in addition to signs in B above

1. Signs not legible from any public right-of-way outside of the property and bearing no commercial message;
2. Signs not legible from any public right-of-way outside of the property, may be erected by concessionaires and by sponsors of events for which a permit has been issued by the County and which are inside stadiums or arenas or at or abutting ball fields or other such facilities. Signs within an outdoor facility, if such facility is located 200 feet or more from the nearest right-of-way, shall be deemed not to be legible from such right-of-way even if they may be visible from some locations outside the facility;
3. Signs for each athletic field in schools and parks, with no commercial messages, except as permitted by specific agreement with the County. Notwithstanding the provisions of §13.13, these signs shall be allowed automatic changeable copy elements of up to 25 percent of the sign. A sign as permitted by this subsection 3 shall not be considered a large media screen.
4. See §13.15.3.B for additional freestanding signs.



Article 14. Site Development Standards

§14.3. Parking and Loading

§14.3.7. Required parking and standing space

A. ...

...

C. The County Board may, through Use Permit approval pursuant to §15.4, modify the regulations set forth in §14.3.7, as follows:

1. ...

...

4. Modify the number of required off-street parking spaces and/or permit off-site parking associated with structures and amenities in publicly owned parks and open space, as specified in §12.2.4.F, when the County Board finds that:

(1) The recreational amenities located within the park or open space would not generate a need for the use of the required off-street spaces; or,

(2) The availability of transit or other transportation options, on-street parking, or parking at an off-site location would otherwise meet the parking needs for the park or open space and provide access and connection for non-motorists.