Attachment E: Summary of Public-input Concerns

The following items represent common themes and questions regarding the operation of the proposed ordinance found in the RBOD public-input materials. This list is not intended to represent every individual comment received. The focus here in on questions and issues raised, meaning that the list does not address simple statements of support or opposition. For the full text of the received comments, please see Attachment D.

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Concern	Draft Language & Proposed Resolution
1. Development Area buffer widths & exceptions	
A. Buffer widths in Development Areas (DAs) – Some respondents wanted all DA buffers to remain at 100 feet, without the option to reduce the width with approval of a mitigation plan. Others said that being able to reduce the buffer to 50 feet was necessary.	In this draft, staff has not recommended changes to the mitigation-plan options that are currently contained in the Water Protection Ordinance (WPO) and is recommending that the Riparian Buffer Overlay District (RBOD) use the existing standards. If those standards prove to be problematic, changes can be addressed in a later ZTA. 100-ft on perennial streams is consistent with the CBPA.
B. Buffer requirements for intermittent streams in Development Areas – Some respondents supported buffering of intermittent streams in DAs. Others stated that buffering intermittent streams in DAs would remove too much land from potential urban development.	As in the existing WPO, the proposed RBOD would require buffering of intermittent streams in DAs only within reservoir watersheds. Currently, the only DA located within a reservoir watershed is Crozet.
2. Vegetation Management in Buffers	
A. Management of non-forested buffers - What forms of vegetation management would be required/permitted in buffers that are not forested when the ordinance is adopted? For example, could mowed buffers still be mowed? Would owners of non-forested buffers be required to leave them un-managed, or to undertake specific plantings or management?	Staff plans to revise the draft language in 30.8.6 before the first public hearing on the proposed RBOD. These revisions should provide more detailed guidance on permissible forms of vegetation management in the buffers. Staff will also consider potential risks of invasive species spread in the buffers under various management approaches.

B. Buffer re-establishment: Some respondents commented that a pre-2014 Water Protection Ordinance requirement for non-forested buffers to be re-established be added to this draft.	Section 17-317 of the pre-2014 WPO established the "duty to retain or establish stream buffer." The requirements in section 17-317(A) and (B) reading "stream buffers shall be retained if present and established where they do not exist" did not apply to all WPO buffers in the County, but to "developments" being reviewed by the County that included stream buffers. Lands not involved in a development project were not required by the County to establish buffers. The scope of the current project as reviewed by the Board of Supersvisors states that, "Currently, the WPO only requires retention of vegetation and avoidance of impacts within stream buffers during a land disturbing activity (LDA). This proposal aims to reintroduce the requirement that stream buffers be retained irrespective of a LDA and in perpetuity following a LDA, while maintaining the existing exemptions outlined in the WPO for agriculture, forestry, and other limited land uses." Note that this scope addresses retention of existing buffers, rather than mandatory reforestation of non-wooded buffers.
3. Permitted uses & mitigation plans	
A. Access – How would access ways across buffers be permitted? What about large rural parcels that need multiple accesses because of terrain?	See proposed § 30.8.8(E), under which the Riparian Buffer Administrator *may* authorize "Stream crossings for roads, streets, or driveways that would not satisfy the requirements of subsection (D), or stream crossings on a lot where the riparian buffer would prohibit access necessary for reasonable use of the lot as permitted in the underlying zoning district and under the applicable regulations of Chapter 14." This is a continuation of current WPO regulations.
B. Exemptions – Does the draft wording of 30.8.8(C) mean that new lakes or ponds are exempt from buffering requirements?	No. The Riparian Buffer Administrator may simply authorize certain lakes, ponds, or projects that meet certain criteria.

C. Mitigation plans	
C1. Why does 30.8.6(B)(3) say impervious surfaces should be "minimized" rather than prohibiting them?	This standard is consistent with the *Virginia Administrative Code* (9VAC25-830-130(4)).
C2. Section 30.8.9(c)(ii) should require that replantings use only native species	Staff will add this requirement, and identify acceptable species lists, in the next RBOD draft.
D. Lots – why does 30.8.6(B)(vi) require buffers to be located in open space rather than lots?	Limiting buffers to common areas will also enable HOAs to assist with maintaining buffers under their control and eliminate enforcement with individual homeowners.
F. Recreational uses – What recreational and environmental-education uses would be possible in the buffers?	For examples, see proposed § 30.8.7(F): "Passive recreation access and facilities, such as boardwalks, educational signs and kiosks, and trails or paths, in accordance with the Virginia Department of Conservation and Recreation's Riparian Buffers Modification & Mitigation Guidance Manual."
4. Nonconformities & use expansions	
A. Structure and accessory use expansions – Could existing structures and accessory uses that are already in the buffers could be expanded in the buffers?	The draft RBOD would continue the following WPO regulations: • In the current WPO, any structure or accessory use that existed in the buffer prior to 2/11/98 may be expanded in the buffer, but only with an approved mitigation plan (with consideration of minimization and avoidance of impacts). Staff will clarify this in the next draft. • New wells and septic systems serving homes that are built on lots that were of record as of 2/11/98 may also be authorized with a mitigation plan, if there are no available locations outside the buffer and it is approved by the Virginia Department of Health.

B. Redevelopment – Could a buffer with existing structures and infrastructure be redeveloped?	If viable areas are available outside the buffer, then redevelopment within the buffer would not be permitted. For lots of record prior to 2/11/98, redevelopment within the buffer could be permitted with avoidance and minimization, and a mitigation plan, but only if there are no other available building sites outside the RBOD.
5. Exemptions for agriculture and forestry	
A. General applicability - Some respondents stated that exempting agriculture and forestry from buffer requirements was unfair or would reduce the effectiveness of the ordinance.	The project scope approved by the Board of Supervisors for the RBOD (see Attachment A) stated that the existing WPO exemptions for agriculture and forestry would be retained in this amendment. Forestry is currently exempt if conducted in compliance with the Virginia Department of Forestry BMP manual, including streamside management zones. This regulation is proposed with the RBOD [30.8.7-B].
B. Restoring pre-2014 requirements: Some respondents said that the pre-2014 WPO requirement for a 25-foot buffer for row crops should be added to this draft.	The project scope approved by the Board of Supervisors for the RBOD (see Attachment A) stated that the existing WPO exemptions for agriculture and forestry would be retained in this amendment.
6. Stream mapping & stream-type determinations	
Questions regarding how streams designations could be changed, and how the boundaries of the overlay district could be updated.	Proposed section 30.8.4 and the definition of perennial stream identifies how the designations can be changed or updated. Staff will consider any necessary clarifications of this section during preparation of the next draft.
7. Extent of buffers	

A. Designated buffer widths – some respondents called for buffers defined by terrain and slope, or for much wider buffers. Other supported or opposed buffering intermittent streams or wetlands.	The current proposal is to move the existing required buffer widths from the Water Protection Ordinance to the Zoning Ordinance. Increasing buffer widths or defining buffers other than by fixed widths would be beyond the scope of this project, and would require significant additional mapping and outreach. Also, the proposals regarding intermittent streams and wetlands remain consistent with the current WPO buffer requirements, rather than proposing changes.
B. District boundary adjustments – Clarify how RBA would adjust boundaries, including if/how newly permitted ponds within buffers would be buffered.	Only as a result of a reliable, site-specific evaluation. See proposed § 30.8.4(A)(ii).
8. Utilities & Public Uses	
A. Pipelines – Why are gas or sewer lines permitted in the proposed buffers?	This standard is a continuation of existing *County Code* § 17-602.
B. Applicability – Can state agencies or service authorities override local buffer requirements?	The state is generally not subject to local zoning ordinances. However, service authorities would be subject to the buffer requirements for non-exempt activities.
9. Enforcement	
A. Enforcement – Requests for clarifications on how buffer requirements would be enforced, and what penalties would be applied for violations.	See proposed § 30.8.5, especially subsection (4), under which the Riparian Buffer Administrator may "investigate alleged violations, issue notices to comply, notices of violation, or stop work orders, as authorized by law, and require permit holders to take corrective action."
B. How would monitoring and enforcement occur outside of development review?	Outside of under-review development projects, enforcement would be in response to citizen complaints and consistent with other Zoning and WPO enforcement procedures.

C. Changes in use – how would the County monitor and enforce buffer requirements for land that is removed from agricultural use?	Changes in use would typically come to the attention of staff through building or land-development applications, at which time the buffer would be required to be shown on the plan/plat/etc.
10. Other	
A. What is the reason for the differing cutoff dates for existing uses (February 1998, May 2008, etc.)?	These dates reflect when existing Water Protection Ordinance provisions were first adopted. They permit legal nonconformities that pre-date the County's ordinances.
B. Piping – How would the ordinance affect the incremental piping of streams on sites that are too small to require erosion and sediment control plans?	Moving the buffer regulations to the zoning ordinance eliminates the threshold for riparian buffers. Buffers start at the top of stream bank and are regulated by the County. Streams themselves are regulated by the USACE. Permitted uses/activities within a buffer are listed in section 30.8.7.
C. Climate change and floodplains – How would the ordinance cope with increased floodplain widths resulting from climate change?	The ordinance includes FEMA-designated 100-year floodplains by definition. As the FEMA floodplain maps are changed, the mapping for the RBOD buffers would change as well.
D. What non-regulatory approaches has the County considered?	Other recommended projects of the Stream Health Initiative include a voluntary riparian land-conservation program; technical and financial support for riparian conservation projects; an expansion of the Albemarle Conservation Assistance Program; and consideration of incentivizing agricultural "best management practices." These projects would be evaluated by staff and presented to the Board of Supervisors for their consideration over the next few fiscal years, after the RBOD project is completed.