

Lancaster County, Virginia



MEMORANDUM

Date: February 13, 2009

To: Lancaster County Planning Commission

From: Don G. Gill, Director of Planning/Land Use

Subject: Revision to the Subdivision Ordinance Section 5-26

Docket: February 19, 2009, Consideration Item #2

Issue: Revision to the Subdivision Ordinance Section 5-26 "Open Space and Recreation Area" to allow conservation/cluster subdivision to preserve open space in the A-1, Agricultural Limited, A-2, Agricultural General, R-1, Residential General and R-3, Residential Medium General zoning districts.

Recommendation: Forward to the Board of Supervisors recommending approval.

Discussion: The attached revised draft addresses the items determined by the Planning Commission to need clarification and/or correction as discussed at last month's public hearing. Specifically, the subdivision size triggering the required open space percentages was changed in Sections 5-26A and B, "overlay districts" was added in Section 5-26B(1), "tidal wetlands" was added in Section 5-26B(6), and the percentage of open space which can be comprised of wetlands and floodplains was revised along with adding a clearer definition of open space in Section 5-26C. These changes have been bolded and italicized.

Staff suggests that required open space not be comprised of more than 50 percent of wetlands, floodplains, above ground utilities (including stormwater management facilities or steep slopes in excess of 25% grades as recommended by the American Planning Association. This restriction also meets and exceeds the recommendation that at least 25% of open space should be buildable land, as stated in Rural by Design by Randall Arendt.

One additional area the Planning Commission may want to discuss is how much, if any, of a golf course could be used as open space. While much of a golf course could be viewed as an intensively managed lawn, most golf courses also contain forested

perimeters and alleys. Staff research since the last meeting indicates that some localities group golf courses with wetlands and floodplains and allow no more than 50% of the open space to be comprised of those areas.

Also attached is a letter from Ben Burton of Bay Design Group promoting the use of conservation/cluster subdivision within the Waterfront Residential Overlay. Mr. Burton accurately describes measures that are already "built in" to the ordinance to prohibit an increase in waterfront density, however the **perception** of increased density would be obvious. Many subdivisions approved under the old R-2 District also had an obvious perception of increased density, which ultimately led to its repeal. His comments also do not take into account any waterfront parcels created prior to the enactment of the Waterfront Residential Overlay, which could be developed under R-1 provisions and would result in an **actual** increase in waterfront density. Staff does not recommend allowing conservation/cluster subdivision within 800' of tidal shores and tidal wetlands.

February 12, 2009

Mr. Don Gill
Director of Planning/Land Use
Lancaster County
8311 Mary Ball Road
Lancaster, VA 22523

RE: Subdivision Ordinance Section 5-26 Revision

Don;

As you recall, I formally presented comments and suggestions made in my January 6 letter about the proposed Section 5-26 revision at the January 15 Planning Commission meeting. One of my suggestions was about 5-26(B)6 which is currently written to exclude clustering within 800' of tidal shore. I suggested that it not be restricted from any district. Several members of the Commission asked (and I paraphrase here) "how can we be sure massive numbers of small lots won't happen on the Lancaster County shoreline?"

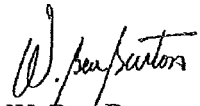
After giving it more thought, as I had promised, I believe there are several layers of protection to this issue already embedded in the proposed ordinance language and County policy as follows:

- **Protection #1- number of lots:** 5-26(B)1 currently says the total number of clustered units shall not exceed that allowed by conventional methods. The waterfront overlay district has been identified as a separate "base zoning district," so a maximum number of lots is already defined. As a rough example, an 8 acre R-1 parcel completely in the W-1 district could only have 4 - 2 acre lots, thus the clustered version could only have 4 lots. As another example, if an 8 acre R-1 parcel was halfway covered by a W-1 overlay, it could have 2 - 2 acre and 5 - 30,000 SF conventional lots. The clustered version could only have 2 smaller lots in the W-1 portion and 5 small lots in the R-1 portion, but the two clusters could abut each other at the 800' demarcation line.
- **Protection #2 - lot size:** 5-26(B)3 currently states that lot size may be reduced, but shall not be smaller than 10,000 SF. This minimum lot size would apply to a cluster in W-1 overlay situations, but if the lots were made that small, dramatic amounts of preserved open space will result. Using the example cited above, a clustered 8 ac parcel with a total W-1 overlay could potentially have 4-10,000 SF lots, leaving 7 acres of open space! In the 8 acre parcel with a 50% W-1 coverage, there potentially could be 2-10,000 SF lots in the W-1 area (leaving 3.5 acres open space) and 5-10,000 SF lots in the clear R-1 portion (leaving 2.75 acres of open space) with a potential total open space of 5.75 acres!

- **Protection #3 - lot geometry:** The 50% lot width and setback reduction stated in 5-26(B)4 would allow a clustered W-1 lot to be a minimum 90' wide at the setback line, to average a 100' "shoreline," and to have no less than a 90' "shoreline." This language does not increase the allowable number of lots or reduce the allowable lot size, but only allows lot shapes that are compatible with terrain. This is a recognized goal of low impact development principles. And again, the remaining space is preserved as open space.
- **Protection #4 - 100' RPA buffer requirement:** nothing in the proposed 5-26 ordinance changes negates this basic Chesapeake Bay Preservation Act requirement and restriction on lot use.
- **Protection #5 - non-circumvention of regulations:** Subdivision Ordinance Article 3-8 states "No plan shall be approvedwhere the principal effect of the design is to subvert the purpose of the regulations by inclusion of excessively unbalanced distribution of land among lots...." The County has stated the intent of the 5-26 ordinance change is to be density neutral and that is specifically supported by requirements in 5-26(B)1, thus subdivision approvals circumventing this intent would not be allowed.
- **Protection #6 - increased Board of Supervisors oversight:** proposed Sec.5-26(A) and Subdivision Ordinance Article 3-7 require Board of Supervisors review of a subdivision with 6 or more lots. Thus, oversight of owner, consultant and staff compliance with the open space and "clustering" regulations has been provided.

Thank you for consideration of these additional comments. I hope that you, the Planning Commission and the Board of Supervisors will positively consider allowing cluster subdivision in waterfront areas. It is truly a beneficial planning, preservation, and development tool whose use should not be restricted from major areas of the County.

Sincerely,



W. Ben Burton, P.E.