

MEMORANDUM

DATE: October 11, 2022

TO: The Board of Supervisors

FROM: Thomas Wysong, Senior Planner II
John Risinger, Planner

SUBJECT: ORD-22-0002. Amendments for R-8, Rural Residential and A-1, General Agricultural Lot Size and Related Requirements

Introduction

At its meeting on March 8, 2022, the Board of Supervisors adopted an Initiating Resolution pertaining to the R-8, Rural Residential and A-1, General Agricultural Districts (Attachment No. 1). The Initiating Resolution contains three specific Board directives. The first is to consider possible amendments to the Zoning and Subdivision Ordinances to revise the R-8 and A-1 Districts to set lot sizes to be consistent with the stated Rural Lands Designation Description and Development Standards contained in the adopted 2045 Comprehensive Plan. The second is a directive to include language that grandfathers all parcels in existence as of January 1, 2022, that are 25 or fewer acres in size. The third is a directive to include language that eliminates the central well requirement for subdivisions that are consistent with the stated Rural Lands designation description and development standards.

Regarding the first directive, lot size information contained in the Comprehensive Plan Rural Lands Designation Description states “subdivision of lots should occur at a density of no greater than one residence per twenty acres,” and within the rural cluster section “densities should be no higher than the maximum permitted density in the underlying zoning district.” The full text of the Rural Lands Designation Description is included as Attachment No. 2, and the Rural portion of the County’s Character Design Guidelines is included in this attachment as well.

In response to these directives, staff has prepared draft Ordinance language to address a portion of the first directive, as well as the second and third directive in their entirety. The portion of the first directive that is addressed in the draft Ordinance language is the standard minimum lot size, and the overall density for the cluster configuration option (listed in the existing Ordinance as “subdivisions with approved special use permits”). The specific changes to the Ordinance language are included as Attachment Nos. 3-8 and discussed below. Staff has begun research to address the other portion of the first directive, which are the remaining standards for the cluster configuration option, and which will be addressed separately through additional work associated with Case No. ORD-22-0006 Amendments for A-1 Cluster Configuration Subdivision.

Discussion of Issues

1. Lot Size

Within the R-8 District, the existing regulations in Section 24-350 contain only one minimum lot size, which is three acres. The draft Ordinance revises the minimum lot size to 20 acres and adds a provision to allow parcels of 25 acres or less recorded or legally in existence as of January 1, 2022, to have a minimum lot size of three acres, pursuant to the Initiating Resolution.

Within the A-1 District, the existing regulations in Section 24-214 contain several minimum lot sizes, depending on the intended use and other factors. The draft Ordinance addresses the language as described below. Note that the section references are from the existing Ordinance text and that the draft revised Ordinance text has been reorganized.

- The nonresidential use lot size has not been changed, and the provision for family subdivision special use permits for lot sizes less than the minimum residential lot size is retained, based on initial feedback from the Board at the Joint Work Session in May.
- The minimum lot size for single-family dwellings and two-family dwellings have been revised to 20 acres within a combined category of “residential uses.”
- Per the Initiating Resolution, a grandfathering provision has been added allowing parcels of 25 acres or less recorded or legally in existence as of January 1, 2022, to be subdivided as long as no lot size is less than three acres.
- The lot size related to the number of livestock has been moved into a new section (Section 24-221) for better organization of the district. The language shown in this section has not been revised. However, per one of the actions in the 2045 Comprehensive Plan Environment Chapter, staff anticipates revisiting and revising this language in a future Ordinance update effort that focuses on agricultural stocking rates.
- The language establishing the grandfathering of certain lots in existence as of May 1, 1989, which allows for parcels of less than six acres to be subdivided into two lots provided no lot size was less than two acres, has been maintained, but relocated within the Ordinance for clarity.
- The language specifying that no lot created after the new adoption date shall be used for any residential dwelling (unless created pursuant to certain sections) has been retained and updated to reflect the new adoption date and 20-acre minimum requirement. This provision is intended to prevent the creation of lots for nonresidential uses being converted to residential use in the future.
- The lot size for the cluster configuration option (listed in the existing Ordinance as “subdivisions with approved special use permits”) has been revised to specify an overall density of no greater than one dwelling unit per 20 acres. The Ordinance is also revised to move the additional requirements for this configuration (minimum lot size, access, design, open space, etc.) into a new section (Section 24-222) for better organization of the district.
- The language providing for lots in existence prior to adoption of the revised minimum lot sizes to be used for a single-family residential use has been updated from three acres to 20 acres.

2. Minor/Major Subdivision Classification and Related Improvements

Section 19-21 of the Subdivision Ordinance classifies subdivisions as either minor or major based on the number of lots proposed. Parcels of land existing as of January 1, 1989 are “parent parcels.” Minor and major subdivisions are delineated as follows:

Minor. Subdivision of a parent parcel into not more than five lots abutting an existing public road. Limited subsequent internal subdivision of these lots is permitted, as long as no parent parcel is subdivided into greater than nine lots total. Family subdivisions do not count toward the nine-lot total.

Major. Subdivision of a parent parcel into six or more parcels or any division which creates a new street.

No changes to Section 19-21 are proposed. This information is included to provide context that if a parent parcel has been subdivided or has reached the nine-lot limit, the number of future subdivisions would be limited or prohibited accordingly. This is a separate consideration than the revised minimum lot sizes and grandfathered lot provisions in the R-8 and A-1 Districts.

Another aspect of the minor or major subdivision classification is that various Ordinance regulations in the Subdivision and Zoning Ordinances apply depending on the classification type. For example, a new road is required to be constructed for major subdivisions, whereas lots in minor subdivisions can front on existing roadways. Another example is that in the R-8 District, landscape buffers are required for major subdivisions but not minor subdivisions. Other than utilities (as covered below), no changes to Section 19-21 or other requirements linked to this classification are proposed in relation to the R-8/A-1 lot size revisions.

3. Utilities

Water. Sections 19-59 and 19-60 contain water regulations. The existing regulations state that major subdivisions inside the Primary Service Area (PSA) must connect to the James City Service Authority or Newport News Waterworks water system and the public sewer system. The subdivider of any major subdivision outside the PSA is required to construct a central water system including distribution lines, storage, treatment, and supply facilities within the subdivision. The proposed revised language maintains this requirement for subdivisions submitted prior to the date of Ordinance adoption but requires subdivisions submitted after Ordinance adoption to utilize individual well lots.

For minor subdivisions inside the PSA, newly created lots are required to be served by public water, if available. If public water is not available, each lot is required to be served by an individual well reviewed and approved by the Virginia Department of Health.

Sewer. Sections 19-61 and 19-62 contain sewer regulations. Typically, areas inside the PSA within connection distance must connect to public sewer. Areas outside the PSA are served by individual on-site sewage disposal systems (also known as septic systems). These sections have been revised to make the language structure more similar to the water requirements sections, but there are no substantive changes.

4. Other Requirements (Setbacks, etc.)

A summary of the current requirements in R-8 and A-1 is included in Attachment No. 9, and the full text of each district is included in Attachment No. 10. These requirements include front, side, and rear setbacks, and minimum lot widths. No changes are proposed to these requirements for standard configuration lots.

5. Primary Service Area

The R-8 and A-1 Districts are located inside and outside the PSA. The existing regulations do not make a distinction in minimum lot size or other requirements (except utilities as discussed in Item No. 3) based on PSA location. No changes to the Ordinance language are proposed based on location relative to the PSA. Lots inside the PSA have Comprehensive Plan Land Use Designations other than Rural Lands, and the applicable Land Use Designations would be used to determine Comprehensive Plan consistency for future legislative applications for development or redevelopment of these lots.

Recommendation

As discussed in the Introduction to this memorandum, staff has worked to address the Board's directives in the Initiating Resolution and developed draft Ordinance language for a portion of the first directive (lot size for both standard and cluster configurations) and the second and third directives in their entirety (utilities, new grandfathering provision). This draft language is provided in Attachment Nos. 3-8.

At its August 11 meeting, the Policy Committee discussed the proposed draft Ordinance amendment language. No changes to the draft text were proposed at this meeting. At its August 22 meeting, the Policy Committee continued discussion of the proposed draft Ordinance language and voted 4-0 to recommend this draft Ordinance language to the Planning Commission. Since the August 22 meeting, a minor revision to the text [subsection (a)(2)(iii)] has been proposed. This revision is to clarify that family subdivision lot requirements for parcels 25 acres or fewer are not being changed in accordance with the intent of the grandfathering provision.

Staff presented the proposed Ordinance at the September 7, 2022, meeting of the Planning Commission. The Planning Commission recommended approval of the Ordinance to the Board of Supervisors by a vote of 4-3.

There have been no proposed changes since the September Planning Commission meeting.

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Attachments:

1. Proposed A-1 Ordinance
2. Proposed A-1 Ordinance Clean Copy
3. Proposed R-8 Ordinance
4. Proposed R-8 Ordinance Clean Copy
5. Proposed Subdivision Ordinance
6. Proposed Subdivision Ordinance Clean Copy
7. Initiating Resolution
8. 2045 Comprehensive Plan Land Use Designation Description for Rural Lands and Character Design Guidelines - Rural Excerpt
9. Existing Ordinance Summary (R-8, A-1, Subdivision Ordinance)
10. Existing Ordinance Full Text (R-8, A-1, Subdivision Ordinance)
11. Unapproved Minutes from the August 11, 2022, Policy Committee Meeting
12. Unapproved Minutes from the August 22, 2022, Policy Committee Meeting
13. Unapproved Minutes from the September 7, 2022, Planning Commission Meeting
14. Citizen Comments