

**Unapproved Minutes of the September 7, 2022
Planning Commission Regular Meeting**

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

Mr. Thomas Wysong, Senior Planner stated that in the fall of 2021, the Board of Supervisors unanimously approved the James City County 2045 Comprehensive Plan: Our County, Our Shared Future. Mr. Wysong stated that this long-term vision for the County includes preserving the County's rural character as a priority, which was an important concern shared by the citizens of the County during the plan update process.

Mr. Wysong stated that in the spring of this year, the Board of Supervisors adopted an Initiating Resolution pertaining to the R-8, Rural Residential and A-1, General Agricultural Districts. Mr. Wysong stated that the resolution contained three specific directives.

Mr. Wysong stated that the first directive was to amend the Zoning and Subdivision Ordinances to revise the R-8 and A-1 Districts to be consistent with the stated Rural Lands Designation Description and Development Standards contained in the adopted 2045 Comprehensive Plan. Mr. Wysong stated that these standards state that "subdivision of lots should occur at a density of no greater than one residence per twenty acres."

Mr. Wysong stated that the second directive is to include language that grandfathers all parcels in existence as of January 1, 2022, that are 25 or fewer acres in size.

Mr. Wysong stated that the third directive is to include language that eliminates the central well requirement for subdivisions that are consistent with the stated Rural Lands designation description and development standards.

Mr. Wysong stated that in response to these directives, staff prepared draft Ordinance language to:

- Increase the minimum lot size in the A-1 and R-8 zoning districts from three acres to 20 acres, with all parcels in existence as of January 1, 2022, that are 25 or fewer acres in size being grandfathered with the existing three-acre minimum lot size.
- Increase the overall density for the A-1 cluster configuration option from one unit per two acres to one unit per 20 acres
- Eliminate the central well requirement for new major subdivisions, meaning these subdivisions are required to have individual wells on each lot.

Mr. Wysong stated that the prepared draft language was reviewed by the Policy Committee at its August 11 and August 22 meetings. Mr. Wysong further stated that the Policy Committee recommended this language proceed to the Planning Commission by a vote of 4-0.

Mr. Wysong stated that staff recommends that the Planning Commission recommend approval of the attached draft Ordinance to the Board of Supervisors.

Ms. Null requested confirmation that the language that is in the adopted Comprehensive Plan is what is in the resolution and noting has been changed.

Mr. Wysong confirmed that the language is identical.

Ms. Null requested confirmation that language in the initiating resolution also matches.

Mr. Wysong stated that it does.

Ms. Null requested confirmation that all meeting related to this matter were open to the public.

Mr. Wysong confirmed that the meetings were open to the public.

Mr. Krapf asked for clarification on the rural cluster. Mr. Krapf stated that his understanding is that the developer would have flexibility with lot size as long as the density of the development maintains the density of one unit per 20 acres of developable land.

Mr. Wysong stated that this is correct.

Mr. O'Connor inquired if that constituted a cap on the number of units.

Mr. Wysong stated that the subdivision could have some smaller lots but overall, no more dwelling units than one per 20 acres.

Mr. Haldeman inquired about the minimum lot size for the cluster.

Mr. Wysong stated that it is one acre as the ordinance is currently drafted.

Mr. Rodgers inquired how it was determined that 25 acre lots should be grandfathered and allowed to develop with the existing three-acre minimum lot size.

Mr. Wysong stated that this was the acreage specified by the Board of Supervisors in the initiating resolution.

Dr. Rose inquired why the date of January 1, 2022, was selected and the impacts on properties that might be in the process of being subdivided.

Mr. Wysong stated that, again, this is the date that the Board of Supervisors specified in the initiating resolution. Mr. Wysong stated that lots created after that date would need to conform with what is adopted in the ordinance.

Mr. Krapf inquired if a property would still be grandfathered if it is sold at any point.

Mr. Wysong stated that the change in ownership would not affect the status.

Mr. O'Connor inquired what other ordinance changes are being considered.

Mr. Wysong stated that the Board adopted initiating resolutions to consider the setbacks off of scenic roads and standards for rural clusters which are different than the density.

Mr. Holt noted that there are several additional initiating resolutions; however, they are unrelated to the A-1 and R-8 districts.

Mr. O'Connor inquired if there is one that deals with developable acreage.

Mr. Holt stated that the one related to developable acreage does allow for consideration to be given for undevelopable acreage, more specifically defined as resource protection area, flood plain, and steep slopes. Mr. Holt stated that while these calculations do not speak directly to minimum lot size, they could factor into overall density of a new development.

Mr. O'Connor inquired about the minimum number of lots to require an HOA.

Mr. Holt stated that it would have to be a major subdivision.

Mr. O'Connor opened the Public Hearing.

Mr. Eric Joss, 3006 Forge Road, Friends of Forge Road, addressed the Commission in support of the Ordinance Amendments.

Mr. C. Michael Apperson, 4950 Fenton Mill Road, addressed the Commission in opposition to the ordinance amendments.

Mr. Bruce Abbott, 4478 Centerville Road, addressed the Commission in opposition to the ordinance amendments.

Mr. Payten Harcum, 3183 Chickahominy Road, addressed the Commission in opposition to the ordinance amendments.

Mr. Donald A. Hazelwood, 9808 Fire Tower Road, addressed the Commission in opposition to the ordinance amendments.

Ms. Sheila Chandler, 7900 Newman Road, addressed the Commission in opposition to the ordinance amendments.

Mr. Ronald Bowmer, 115 Wilderness Lane, addressed the Commission in opposition to the ordinance amendments.

Mr. Randy Taylor, 204 Crescent Drive, addressed the Commission in opposition to the ordinance amendments.

Mr. Louis Condelee, 100 E. Byrd Street, addressed the Commission in opposition to the ordinance amendments.

Mr. Gary Massie, 8644 Merry Oaks Lane, addressed the Commission in opposition to the ordinance amendments.

Mr. David Brown, 1502 Bush Neck Road, addressed the Commission in opposition to the ordinance amendments.

Ms. Mary Aadahl, 2724 Forge Road, addressed the Commission in opposition to the ordinance amendments.

As no one further wished to speak, Mr. O'Connor closed the Public Hearing.

Mr. O'Connor opened the floor for discussion by the Commission.

Mr. Polster stated that this issue has been in the works for two years starting with the public input for the Comprehensive Plan update. Mr. Polster stated that the consultant looked at many other counties to see how their rural lands were zoned. Mr. Polster noted that both Albemarle County and Loudoun County have the one lot per 20 acres ratio. Mr. Polster further stated that during the public meetings, one of the specific questions presented in an activity was the minimum lot size. Mr. Polster stated that, although the majority of the responses did not come from owners of rural lands, the response leaned dramatically toward the one lot per 20 acres. Mr. Polster stated that one of the issues that the Planning Commission wrestled with was the investment that citizens have in these properties that represents their livelihood and a nest egg for the future. Mr. Polster stated that this is the first time that the Commission has been able to hear about the individual impacts of the potential changes. Mr. Polster stated that he encourages the citizens to provide the same feedback at the Board of Supervisors Public Hearing.

Mr. Haldeman stated that one concern he noted was the ability to give a small parcel of land to an immediate family member. Mr. Haldeman stated that this is still available under the ordinance provisions.

Mr. Holt stated that under the current ordinance, it is possible to create a family subdivision parcel less than three acres if an SUP is granted. Mr. Holt further stated that the same provision carries forward under these proposed ordinance amendments.

Mr. Haldeman stated that he voted for the Comprehensive Plan land use changes, and he further voted for the amendments at the Policy Committee level and intends to recommend approval to the Board of Supervisors. Mr. Haldeman stated that the Rural Lands designation description states: "Residential development is not a recommended use and is discouraged outside the Primary Service Area in the Rural Lands." Mr. Haldeman stated that this statement has been in the County's Comprehensive Plans since inception. Mr. Haldeman further stated that all of the residential zoning districts as well as residential Comprehensive Plan designations are within the PSA. Mr. Haldeman stated that the goal of the Community Character chapter in the Comprehensive Plan is: "The County will be a good steward of the land by preserving and

enhancing the scenic, cultural, rural, farm, forestal, natural, architectural, and historic qualities that are essential to the County's distinctive character, economic vitality, and overall health and quality of life of its residents.” Mr. Haldeman stated that 75% of the responses from the community engagement efforts supported this goal. Mr. Haldeman stated that the goal of the Land Use chapter is to “Achieve a pattern of land use and development that reinforces and improves the quality of life for citizens by encouraging infill, redevelopment, and adaptive re-use within the PSA; limiting development on rural and natural lands outside the PSA; and achieving the other eight goals of this Comprehensive Plan.”

Mr. Haldeman stated that guidance from the Comprehensive Plan includes: guide new residential development to areas served by public utilities and that are convenient to public transportation, major thoroughfares, employment centers, schools, recreation facilities, and shopping facilities; foster the development of “complete communities” by locating new housing proximate to transit service, shopping, employment areas, recreational areas, schools, and community facilities; pursue a more compact development pattern within the PSA and reduce the need to develop on rural and environmentally sensitive lands outside the PSA; provide a more compact development pattern within the PSA) and reduce new development in rural lands outside the PSA, as well as potential reductions in the PSA; and the land use statement that “It is intended that most residential, commercial, and industrial development will occur within the PSA.”

Mr. Haldeman stated that there is no ambiguity about county’s intention for the Rural Lands, nor has there been since the first Comprehensive Plan that was adopted in 1975. Mr. Haldeman further stated that the preceding statements did not materialize out of thin air; they are the product of exhaustive periodic Comprehensive Plan reviews and outreaches to county residents.

Mr. Haldeman stated that for the most recent Comprehensive Plan update a survey was conducted by the University of Virginia. Mr. Haldeman stated that some of the findings were:

- Efforts to protect and improve the natural environment including water quality, air quality, and environmentally sensitive areas: 95.2% said that it was very or somewhat important but only 80% were satisfied with county’s efforts.
- Efforts to protect and preserve the County's rural character. 85.2% said it was important, but only 69.5% were satisfied.
- 93.6% felt that the level of residential development in the county was about right or too high.

Mr. Haldeman stated that during the Public Engagement phase 97.4% of responses indicated that it was important (86.1% very important, 11.3% somewhat important) for the County to do more to improve our efforts to protect and preserve our natural environment. Mr. Haldeman further stated that 36.7% chose protecting and preserving natural environment as most important for the County to improve, making it the highest ranked choice. Mr. Haldeman stated that 90% of the responses ranked that it was important (64.8% very important, 25.2% somewhat important) for the County to do more to improve efforts to protect and preserve our rural character; and 71.3% supported protecting as much rural and environmentally sensitive land as possible.

Mr. Haldeman stated that the PSA was established in the first Comprehensive Plan, adopted in 1975 stating that “The PSA should provide for adequate economic growth and County housing needs at all levels of affordability.” Mr. Haldeman stated that it did and it does: The population of the county increased from 17,000 to nearly 80,000 from 1970 until now. Using County data, planning staff estimates that there is capacity for 10,600 additional dwelling units within the PSA, which could increase the county’s population by almost one-third, assuming 2.1 people per dwelling unit. Mr. Haldeman stated that there have been dozens of new businesses located in the County in the past fifty years, and there remains 3,400 acres of land suitable for additional nonresidential development within the PSA. Mr. Haldeman stated that the County’s residential, commercial, and industrial development policies have been and are expansive, but they drew the line – literally – at the Rural Lands; but the line didn’t hold.

Mr. Haldeman stated that the three-acre density restriction and the central well requirement no longer discourage residential development. Mr. Haldeman stated that the Planning Commission Working Group (PCWG) considered the experience of other high-growth Virginia counties and learned that “Experience in growing localities like James City County has shown that it is very hard to achieve long-term successful rural protection without supportive agricultural zoning. Rural zoning with minimum lot sizes of 1-10 acres is generally not conducive to the protection of rural character over the long term as it gradually converts the landscape both visually and functionally into a large lot residential character as land is subdivided into lots. In general, the most successful zoning for rural protection has been achieved in the 20-50 acres per dwelling unit range of density ...”. Mr. Haldeman stated that this has proved to be the case in James City County, as the total number of dwelling units in the County has increased by approximately 5.4% from 2015 to 2019, while the number of dwelling units located in land designated for Rural Lands has increased by approximately 7% during that same time, at an average of 57 units annually”. Mr. Haldeman stated that this growth directly contradicts the goals of the County and the stated wishes of county residents. Mr. Haldeman noted that the County has discouraged residential development in the Rural Lands for decades with sound environmental, economic, fiscal, and quality-of-life reasons for that policy and that the policy is supported by strong majorities of County residents. Mr. Haldeman stated that, unfortunately, the present system has not been working which is why he plans to vote for the amendments.

Mr. Krapf stated that every land use case that comes forward affects individuals and the Commission is cognizant of those impacts. Mr. Krapf stated that throughout the Comprehensive Plan update there were numerous opportunities for public input. Mr. Krapf stated that the one fact that came out of the review, is that if the goal is control development in rural lands, the current practices are not effective. Mr. Krapf further stated that based on other jurisdictions one unit per 20 acres is the bare minimum and that one unit per 50 acres is a better ratio; however, there was no appetite for the larger minimum lot size. Mr. Krapf stated that ultimately the goal is to have a better tool to control residential growth in rural lands. Mr. Krapf stated that development does not occur in a vacuum; there are always associated impacts such as needs for schools, infrastructure, transportation, and emergency service. Mr. Krapf stated that those expenses are born by the citizens of the County. Mr. Krapf further stated that the Commission is charged with making good land use recommendations to the Board of Supervisors and that the Commission’s guiding document is the Comprehensive Plan which is the citizens’ document. Mr. Krapf stated that for the landowners who cannot or do not want to farm their land, he hopes that the County will be

proactive in implementing the recommendations of the Rural Economic Development Committee. Mr. Krapf stated that he intends to support the ordinance amendments.

Mr. Rodgers stated that he does not completely follow how the acreage limit to be grandfathered under the current ordinance regulations was determined and how it works to advance the County's goals.

Mr. Holt stated that the Board of Supervisors discussed the matter as part of the deliberation of the Comprehensive Plan and as part of developing the initiating resolution. Mr. Holt stated that the feedback from the public is what informed those decisions.

Mr. Polster stated that, as he recalled, staff presented information to the Board of Supervisors with a breakdown of the parcels that would be impacted under different scenarios and the decision was based on the number of parcels that would be affected by the one unit per 20 acres.

Mr. Rodgers stated that his question was primarily centered around why the properties under 25 acres were chosen to be grandfathered.

Mr. Holt stated that this came from citizen feedback during the Comprehensive Plan considerations and meeting related to the ordinance amendments.

Dr. Rose stated that he struggles with the need to preserve rural landscapes and the impact on the citizens. Dr. Rose stated this is a large jump in minimum acreage only to correct a problem that others created. Dr. Rose stated that he finds it difficult to balance the desire for the scenic views and community character with the impact of these changes on the landowners. Dr. Rose stated that he would like to see more flexibility and less of an increase in the minimum acreage. Dr. Rose stated that he is inclined not to support the amendments.

Ms. Null stated that there is enough land within the PSA to accommodate future development needs. Ms. Null further stated that she does not want to see the rural lands destroyed by housing developments. Ms. Null further stated that the amendment will allow for economic endeavors while preserving the character of the area.

Mr. O'Connor stated that it is always in the forefront of his mind that these rural lands represent the landowners investment and financial security. Mr. O'Connor stated that he is not comfortable with the impacts of the Comprehensive Plan update being borne by the landowners. Mr. O'Connor stated that he finds that the ordinance amendments are incomplete without more clarity on the cluster requirements and the impacts of other potential ordinance amendments. Mr. O'Connor stated that although he did vote for the Policy Committee to advance the matter to the Planning Commission for the Public Hearing, he is not inclined to support the amendments until the other ordinance amendments are drafted.

Ms. Null inquired if there was an option to defer the matter.

Mr. Holt stated the ordinance amendments have not yet been advertised for a Public Hearing before the Board of Supervisors. Mr. Holt stated that if the Commission wished to defer the matter, it would need to be to a date and time certain to maintain the continuity of the Public Hearing.

Mr. O'Connor stated that he is not an advocate of a deferral.

Mr. Polster stated that he is finding it difficult to consider this ordinance amendment in light of the possible further impacts of the ordinance revisions that are pending.

Mr. Holt stated that what is before the Commission for decision should be fairly clear cut; however, any further ordinance amendments will be publicly advertised and will be the subject of Public Hearings.

Mr. Polster stated that his comments were primarily to ensure that the public understands that there will be more changes to come.

Mr. Polster made a motion to recommend approval of the ordinance amendments.

On a roll call vote, the Commission voted to recommend approval of ORD-22-0002. Amendments for R-8, Rural Residential and A-1, General Agricultural Lot Size and Related Requirements (4-3)