

MEMORANDUM

DATE: April 13, 2023

TO: The Policy Committee

FROM: Thomas Wyson, Senior Planner II
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SUBJECT: ORD-22-0001. Amendments for Scenic Roadway Protection

Introduction

At its January 24, 2023, meeting, the Board of Supervisors provided the following guidance to Planning staff and the Policy Committee:

1. Prepare an analysis of the 400-foot setback proposed for Old Stage Road and Forge Road with a proposed setback of 200-foot for the parcels 500 feet deep or less (shallow parcels) to examine the number of non-structures that would become nonconforming.
2. Examine whether a family subdivision could be exempt from the 400-foot or 200-foot proposed setback.
3. Consider the possibility of an overlay district (a County initiated rezoning) instead of or in addition to a zoning text amendment.
4. Proceed with the Policy Committee's recommended approach for buffering requirements along Wooded CCCs.

Staff has provided an analysis of Item Nos. 1-3 detailed above. Following this analysis, the memorandum provides information introducing the attached draft language for the proposed setbacks and buffers for Open/Agricultural CCCs and Wooded CCCs, respectively.

1. Analysis of setbacks for Shallow Parcels

Under the current A-1 Zoning District, the setback requirement for Forge Road is 75 feet from the right-of-way for most structures. Using the County's Geographic Information System (GIS), staff has conducted an analysis for two scenarios to examine the number of structures that would become nonconforming. In Option No. 1, there is a proposed 400-foot setback, with parcels having a lot depth of 500 feet or less adhering to the existing 75-foot setback. In Option No. 2, there is a proposed 400-foot setback, with parcels having a lot depth of 500 feet or less adhering to a 200-foot setback, unless that parcel has a lot depth of 200 feet or less, in which case it would adhere to the existing 75-foot setback. Staff finds that both options fulfill the intent of the Board's Initiating Resolution to protect the character of rural roadways, with Option No. 2 resulting in a small number of additional structures that would be nonconforming. For either option, the same setback is required to be applied for both roadways. Maps showing these parcels are included as Attachment Nos. 8 and 9.

Forge Road Analysis*Option No. 1: 400-foot Setback, 75-foot Setback for Shallow Lots*

	Structures Within 400 Feet	Exempt Parcel Structures	Final
Residences	16	-6	10
Accessory Structures	24	-3	21
Total	40	-9	31

Option No. 2: 400-foot Setback, 200-foot Setback for Non-Exempt Shallow Lots

	Structures Within 400 Feet	Exempt Parcel Structures	Final
Residences	16	-2	14
Accessory Structures	24	-2	22
Total	40	-4	36

Old Stage Road Analysis*Option No. 1: 400-foot Setback, 75-foot Setback for Shallow Lots*

	Structures Within 400 Feet	Exempt Parcel Structures	Final
Residences	33	-15	18
Accessory Structures	39	-14	25
Total	72	-29	43

Option No. 2: 400-foot Setback, 200-foot Setback for Non-Exempt Shallow Lots

	Structures Within 400 Feet	Exempt Parcel Structures	Final
Residences	33	-3	30
Accessory Structures	39	-3	36
Total	72	-6	66

2. Family Subdivision

Based on legal concerns, the County Attorney's Office has recommended against exempting lots created via the family subdivision. This is due to the requirement that zoning regulations should be uniform for each class or kind of buildings and uses throughout each district; and must treat similarly situated property similarly. If the County were to require a 400-foot setback for only some but not all residential lots within a zoning district, the County would be potentially infringing upon this requirement. As such, the proposed draft language does not include an exemption for family subdivisions.

3. Overlay District

An Overlay District is a potential tool that could be utilized to establish unique development standards for a specific corridor within the County. Unlike the proposed setback idea, which requires the same standards be applied to classes of roadway, such as Open/Agricultural or Wooded CCCs, the Overlay District concept could be applied on a corridor-by-corridor basis. An Overlay District created on a corridor basis would allow standards to be created only for Forge Road or for Old Stage Road or any other road selected by the Board. Planning staff reviewed peer localities to determine if there are similar examples of Overlay Districts being established solely for rural preservation on a corridor-by-corridor basis.

This research shows that counties with Large-Lot and Rural Preservation Standards in their Zoning Ordinances tend not to have comparable standards for protecting the viewsheds from rural roads, other than basic front setback requirements. The most pertinent examples from staff's research for rural preservation are the method employed by Albemarle County and Clarke County. Both use the State Code provision (Section 15.2-2306 of the Code of Virginia) that allows for localities to establish an Overlay District(s) with design standards and regulations through a review board for corridors that are included in, or lead to, any historic areas as defined by State Code (within the County or a contiguous locality) or roadways found to be significant routes of tourist access to the County.

In terms of process, the establishment of an Overlay District would require the County to initiate the rezoning of every parcel located within the proposed district, which could be hundreds of parcels, depending on the size of the proposed district. This process would require the typical rezoning process with public hearings. Staff finds that an Overlay District could be a useful tool for a Goals, Strategies and Action (GSA) that focuses on one particular area or corridor for a specific purpose but recommends continuing the setback approach in order to protect a broader set of scenic roads, which is the intent of the GSA.

Draft Language

Staff has proposed draft language that includes the following considerations:

Setbacks along Open/Agricultural Community Character Corridors:

- A proposed setback of 400-foot for A-1 parcels abutting Open/Agricultural CCCs (Forge Road and Old Stage Road) outside of the Primary Service Area (PSA) that have an average lot depth greater than 500 feet. The draft language for this item is included in Attachment No. 2. This concept was discussed and recommended by the Policy Committee at its previous meeting.
- The two options described earlier in this memorandum for proposed setbacks for A-1 parcels abutting Open/Agricultural CCCs (Forge Road and Old Stage Road) outside of the PSA that have an average lot depth 500 feet or less.
 - Option No. 1: A 75-foot setback for parcels that have an average lot depth 500 feet or less. The draft language for this option is included in Attachment No. 2.
 - Option No. 2: A 200-foot setback for parcels that have an average lot depth 500 feet or less except that parcels with an average lot depth of 200 feet or less shall have a 75-foot setback. The draft language for this option is included in Attachment No. 3.
- An exemption permitting nonconforming structures to be expanded, provided the expansion does not further encroach on the setback. The draft language for this item is included in Attachment No. 4. This concept was discussed and recommended by the Policy Committee at its previous meeting.

Buffers along Wooded Community Character Corridors:

- Proposed landscape buffer requirements along Wooded CCCs including a 100-foot-wide buffer average for commercial projects and 200-foot-wide buffer average for major residential developments. The draft language for this item is included in Attachment Nos. 5 and 6.
- A timbering setback of at least 50-foot on properties along Wooded CCCs outside the PSA. The draft language for this item is included in Attachment No. 7.

Staff Recommendation

Staff recommends that the Policy Committee select Option No. 1 or Option No. 2 detailed above, and proceed with the nonconforming structures exemption language. Staff also recommends the Policy Committee proceed with the proposed draft buffer and timbering setback language revisions. Should the Policy Committee wish to proceed with the Overlay District option, staff recommends first requesting further direction from the Board and treating the Overlay District option as a separate potential Ordinance amendment.

TW/JLR/JR/ap

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Attachments:

1. Initiating Resolution
2. Proposed Draft Language: Option 1 Setback Requirement: 400'
3. Proposed Draft Language: Option 2 Setback Requirement: 400', 200' for Shallow Lots

4. Proposed Draft Language: Nonconformities Addition
5. Proposed Draft Language: A-1 Major Subdivision Buffer
6. Proposed Draft Language: Landscape Along ROW Revisions
7. Proposed Draft Language: Timber Buffering and Setback Revisions
8. Forge Road Exempt Parcels Map
9. Old Stage Road Exempt Parcels Map