

PRESERVATION AND PROGRESS IN THE DRAGON RUN

TECHNICAL MEMORANDUM: Implementation Recommendations

For Essex County, Virginia

September 20, 2005



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BACKGROUND

The following Technical Memorandum summarizes key implementation issues for adopting the recommendations contained in the Preservation and Progress in the Dragon Run report for Essex County. This memorandum is intended as a companion document to the “Preservation and Progress” report, and should only be understood in conjunction with the larger report.

The recommendations in this memorandum and the larger report are both intended to respond to each county’s long-range goal of conserving the important natural resources and traditional rural economy and small businesses of the Dragon Run area.

There are four basic parts to this memorandum:

1. The Dragon Run as addressed in the Current County Comprehensive Plan (and Zoning Ordinance)
2. Key recommendations from the Preservation and Progress report
3. Compatibility issues with the existing County Comprehensive Plan (and Zoning Ordinance)
4. Considerations for implementing the recommendations

This basic outline will be applied to both the County Comprehensive Plan and Zoning Ordinance, as described below.

I. THE MODEL COMPREHENSIVE PLAN DISTRICT

A. The Dragon Run in the Current Comprehensive Plan (Essex County Comprehensive Plan, dated April 1998 and adopted June 16, 1998, updated through April 2003)

The text of the Essex County Comprehensive Plan does not specifically address the Dragon Run Swamp except to identify it as one of several tidal marshes in the County. The future land use policies included in the plan designate approximately 98% of the Dragon Run Watershed within the County as being in the Countryside District and the remaining area, located at the very northern tip of the watershed,

near Route 684, is designated Rural Residential. The planned land uses in these districts can be summarized as follows:

- **Countryside District:** This area is planned for rural residential development with a minimum one-acre lot size. However, development intensity is limited to one unit per 5 acres of land owned. The text of the Comprehensive Plan also references clustering new residential development to preserve open space.
- **Rural Residential:** This designation generally recognizes existing development patterns and is planned for one acre lots. As noted above, the Rural Residential area of the Dragon Run Watershed is very small.

It is interesting to note that the County's Comprehensive Plan includes an Agricultural Preservation District which limits development to one unit per 20 acres with a minimum lot size of one acre. None of the land in the Dragon Run watershed is included in this district.

The Essex County Comprehensive Plan does include goals, objectives and policies that emphasize the County's desire to protect natural resources and open space, while allowing for moderate growth. Although there are specific policies that address the Chesapeake Bay Preservation Area, and an objective that states that the County should "Protect important tidal and non-tidal wetland resources within the County," there is no specific guidance to accomplish this goal relative to the Dragon Run.

In addition, the following points are important, relative to the Dragon Run in the Essex County Comprehensive Plan:

- The comprehensive plan does not map or identify the Dragon Run drainage area as a distinct geographic planning area subject to a separate set of planning policies.
- There is minimal discussion of the Dragon Run in the current comprehensive plan and very little specific policy guidance for the Dragon Run.
- The adopted comprehensive plan does not place particular emphasis on the Dragon Run as a regional resource.

In general, the existing Comprehensive Plan policies and maps for Essex County do not give significant mention of the Dragon Run and its drainage system, nor do they give adequate policy direction for conservation efforts to preserve the future character and quality of the Dragon Run area as a unique environmental resource.

In addition, it should be noted that the Essex County Board of Supervisors adopted, in 2005, the Dragon Run Watershed Management Plan as an addendum to its Comprehensive Plan. The Model Comprehensive Plan district, as recommended for adoption herein, would serve to fully implement the land use recommendations in the adopted Watershed Management Plan.

B. Key Recommendations from the “Preservation and Progress” Report

The recommendations in the “Preservation and Progress” report are intended to conserve the important natural resources and traditional rural economy and small businesses of the Dragon Run area, as described in the Dragon Run Memorandum of Agreement of 2002.

The “Preservation and Progress” report describes a model Comprehensive Plan district that is summarized below:

- The overall intent of **Dragon Run Compatible Economic Development and Preservation District** is for the area to remain largely rural, with low intensity uses, and to preserve its key natural areas and its water quality. Specifically, to:
 - maintain the health and quality of the Dragon Run stream system and associated natural areas,
 - achieve the objectives of the Memorandum of Agreement and reinforce the existing shared values for preserving the Dragon Run,
 - support the traditional economic base of the Dragon Run area and its rural industries such as farming and forestry that are compatible with preserving the natural health of the stream system, and
 - support new rural economic development and industries that are compatible with the traditional pattern of rural land uses in the Dragon Run area
- The boundaries of the district are generally defined as the boundaries of the drainage area or watershed – it is not necessary that these be mapped in order to establish the district.
- The intent of the policies for the District is not to prevent development of those areas, but, through policies and standards, to ensure that they are developed in ways that are compatible with the basic intent of preserving the Dragon Run’s natural resources and low intensity rural character. Specific policies include:

- **Rural Character**
 - The Dragon Run District should maintain its rural character into the future.
 - It should continue to adapt to changing times, but new development in the District should integrate harmoniously with the existing rural economy and settlement patterns.

- **Land Use**
 - Low intensity rural land uses, that are consistent with the preservation of the area's natural resources should be the dominant land uses in the District.
 - New residential development in the District should generally be of a very low intensity rural character, incorporating standards to ensure compatibility with the natural resources and rural surroundings.
 - New non-residential development in the District should also be low intensity, compatible with surrounding rural areas and incorporate development standards and management practices that ensure preservation of the area's natural resources.

- **Water and Wastewater**
 - The extension of central sewer and water is not considered consistent with preserving the area's rural character and land uses

- **Compatible Economic Development**
 - Support the cornerstone rural industries of the area, such as farming and forestry, and enact policies and ordinances that help protect the long-term viability of these industries, while ensuring that they are practiced in ways that are compatible with the health of the natural resources on which they depend.
 - Encourage compatible new supportive industries such as value-added farming and timber products, local specialties and handicrafts and small-scale workshops and craft industries, and others that integrate well with the existing rural economy.

- **Natural Resource Protection**
 - Protect the key natural resources in the District, including the ground and surface water quality, wetlands and sensitive environmental features, native plant and animal species and their natural habitats and the productive soils that support farming and forestry uses.

- **Recreation and Tourism**
 - Discourage the extensive use and exploitation of the area for public recreation and large-scale tourism.

It is important to note that this is generally in concert with Essex County's existing policies for most of the area around the Dragon Run already.

C. Compatibility of Recommendations with the Existing County Comprehensive Plan

The Future Land Use Map in the Essex County Comprehensive Plan designates the overwhelming majority of the Dragon Run drainage system as Countryside. The plan's goals and objectives seek preservation of important natural resources, farm and forestry lands and overall rural character. The plan text also promotes clustering as a means of preserving

The recommended policies in the proposed **Dragon Run Compatible Economic Development and Preservation District** are in concert with these policies and the overall intent of the Comprehensive Plan for its rural areas. The proposed model District does not discourage residential development, but urges that it be done with densities and development patterns that serve to protect the overall rural character of the area. Thus the proposed District is compatible with the intent of the current County Comprehensive Plan.

D. Proposed Strategy for Implementing the Comprehensive Plan Recommendations

In general, the **Dragon Run Compatible Economic Development and Preservation District** can be adopted by the County as an amendment to its current Comprehensive Plan without any major change in policy direction from the current Comprehensive Plan. One measure that would strengthen measures to protect the Dragon Run would be to consider designating the watershed as an Agricultural Preservation Area on the County's future land use map. However, that action is not required to implement the **Dragon Run Compatible Economic Development and Preservation District**.

II. ADOPTION OF THE ZONING RECOMMENDATIONS

A. The Dragon Run in the Current County Zoning Ordinance

The County Zoning Ordinance is very relevant to the recommendations in the Preservation and Progress report. The current Zoning Ordinance standards, as pertains to the Dragon Run watershed Essex County, are as follows:

- The vast majority of the watershed is zoned A-2, Limited Agricultural. There are also negligible amounts of R-2, Limited Residential, and MH-1, Mobile Home Park, zoning in the watershed area.
- The purpose of the A-2 district is to protect existing and future farming operations and at the same time allow for low density residential uses. This district generally corresponds to areas of the County represented as the Countryside District and Rural Residential District in the County Comprehensive Plan. Generally, this district covers certain portions of the County now devoted entirely or predominantly to various open uses, such as farms, forests, parks or lakes, into which residential or other types of development could reasonably be expected to expand in the foreseeable future.
- The Essex County Zoning Ordinance includes a Chesapeake Bay Preservation Overlay District that is applicable to the immediate shoreline of the Dragon Run. While this district provides "streamside" protection measures, it does not address protection of the Dragon Run Watershed.

B. Key Recommendations from the "Preservation and Progress" Report

In general, the Zoning Recommendations are intended as options for Essex County to adopt in whole or in part, as is, or customized for the county policy and zoning framework.

There are three basic types of recommendations contained in the report:

1. Watershed-based (Drainage Area Zone)
2. Streamside (Stream Buffer Zone)
3. Conservation Subdivision Option

Drainage Area Zone:

- The proposed district is an Overlay Zone (it modifies, but doesn't eliminate the base zoning)

- The proposed District extends over the whole Drainage Area or watershed of the Dragon Run
- The District includes a Table of Uses to modify some uses in the Base Zone. This provision is intended to protect traditional rural industries in the area and can be customized to best fit with the County's existing zoning provisions.

Stream Buffer Zone:

- The proposed district is an Overlay Zone (it modifies, but doesn't eliminate the base zoning)
- It extends 200' landward from the Chesapeake Bay Resource Protection Area
- It allows only certain conservation & passive recreational uses as specified
- The District is primarily intended to protect stream ecology
- It generally permits Farming & Forestry with BMP's

Conservation Subdivision Option:

- The Conservation Subdivision Option is a voluntary (optional) development type with a built-in incentive for conserving natural areas and prime forest or farmland.
- The general incentive mechanism is Ministerial Approval for 10 lot subdivisions
- Development is permitted as a conservation-based cluster option with permanent easement over 75% of a tract
- There is no common ownership of the open space required and all the land can remain in individual private ownership
- Required easements for the open space may be held by the County or a qualified Conservation Organization

C. Compatibility of Recommendations with the Existing County Zoning Framework

Specific issues of compatibility between the proposed zoning recommendations and the County's zoning framework are as follows:

- A number of uses that are listed as permitted in the A-2 Agricultural Zoning District may be incompatible with the purpose of the Drainage Area Zone. Among Permitted Uses these include Public Landfills and Public Airports. Conditional Uses that may be incompatible include Auto Graveyards, Sand and Gravel Mining.
- The proposed Conservation Subdivision Option is generally compatible with the current County zoning and subdivision ordinances. Currently, the A-2 District allows up to five lots to be developed as a Minor Subdivision, with ministerial (non-legislative) approval. The Conservation Subdivision option would increase this type of approval to 10 lots, in exchange for clustering lots and permanent protection of open space.

D. Proposed Strategy for Implementing the Zoning Recommendations

In general, the zoning recommendations can be adopted by the County as amendments to its current zoning and subdivision ordinances without major disruption to the structure or intent of either ordinance. It is recommended, however, that the following issues be addressed at the time that the actual ordinance amendments are drafted:

Drainage Area Zone:

The list of permitted and conditional uses currently in the Dragon Run area should be carefully reviewed and only those uses that are clearly incompatible with the intent of the proposed Drainage Area Zone should be eliminated as part of a new Use Table.

Specific permitted or conditional uses that should be considered for prohibition in the Drainage Area Zone include the following. Note that, since this is an overlay zone, it would only modify the uses in those underlying zoning districts in which these uses are already permitted:

- Airport, public
- Auto Graveyard

- Auto/Truck Sales (new and used)
- Auto Racetrack
- Communication Facility/Tower/TV Station
- Hospital
- Landfill, public (county)
- Marina

Specific Permitted uses that should be considered for change to a conditional use include the following. Note that, since this is an overlay zone, it would only modify the uses in those underlying zoning districts in which these uses are already permitted:

- Country/General Store
- Church/Place of Worship
- Child Care Center
- Intensive Livestock
- Kennel, commercial
- Manufacturing
- Mining, Sand and Gravel
- Post Office
- Public Utilities
- Travel Trailer

Stream Buffer Zone:

The proposed Stream Buffer Zone supplements and extends the range of protection of the current Chesapeake Bay Protection Ordinance. It extends protection to an additional 200 feet beyond the current Resource Protection Area. It is compatible with the county's Chesapeake Bay provisions and could be adopted as an overlay zone within the watershed of the Dragon Run.

Conservation Subdivision Zone:

In general, the Conservation Subdivision Ordinance can be adopted as an option within a new Dragon Run overlay zone in the County code. However, the Conservation Subdivision Ordinance, as well as all the new zoning provisions, should have a thorough legal review by county staff or outside legal experts to ensure that they conform fully to the State Code and they are not in conflict with any of the other provisions of the County Code.