

PRESERVATION AND PROGRESS IN THE DRAGON RUN

TECHNICAL MEMORANDUM: Implementation Recommendations

For King & Queen County, Virginia

September 20, 2005



This report was funded, in part, by the Virginia Coastal Resources Management Program at the Department of Environmental Quality through Grants #NA17OZ2355 and #NA04NOS4190060 of the National Oceanic and Atmospheric Administration, Office of Ocean and Coastal Resource Management, under the Coastal Zone Management Act of 1972, as amended. The views expressed herein are those of the author(s) and do not necessarily reflect the views of NOAA or any of its subagencies.

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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 King and Queen 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 (Adopted June 13, 1994; Planning Commission Review, July 2, 2001)

It should be noted that the King and Queen County Planning Commission is working on a new update of the current Comprehensive Plan. A draft of the update has not yet been released, so the following comments refer to the current adopted version of the Plan.

The text of the King and Queen County Comprehensive Plan addresses the “Dragon Run Swamp Preservation Area” as a component of its Middle and Lower

County Planning Districts, but the plan does not provide a map to identify the extent of the watershed within these planning districts or describe how the preservation area designation is applied. Approximately two-thirds of the drainage area of the Dragon Run in King & Queen County is located in the County's Lower County Planning Area. The remaining third is part of the Middle County Planning Area, but is also deemed subject to the Lower County Planning Area policies. Therefore, the drainage area is planned as follows:

- **Rural Development Area:**

The land use designation applies to both the land in the Dragon Run watershed and property adjacent to the watershed. Rural Development Areas are planned for forestry, agricultural and rural residential subdivision uses (pp. 4:9). An existing landfill is indicated in the watershed area on Route 614.

- **Dragon Run Swamp Preservation Area:**

This area is not mapped but the plan's description suggests that it borders the Dragon Run Swamp. The Comprehensive Plan text acknowledges that the area will continue to require protection as wetlands because of its unique characteristics, but also states that "because of the Chesapeake Bay Protection Area, there should be no need for additional land use policies covering this feature" (p. 4:11, f.).

While it is true that the environmental regulations that have been put into place as part of the Chesapeake Bay Protection Act do apply to the Dragon Run, the protections afforded by these regulations focus on the role of the Dragon Run as a tributary to the Chesapeake Bay. These regulations were not designed to address the unique characteristics of the Dragon Run as an economic, cultural, recreational and environmental resource. The following points are also important, relative to the Dragon Run in the King & Queen 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 summary, the existing Comprehensive Plan policies and maps for King & Queen County do not give significant attention to 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.

In addition, it should be noted that the King and Queen 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 King and Queen 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 King & Queen County Comprehensive Plan designates all of the land surrounding the Dragon Run drainage system for rural land uses. In addition, numerous policies throughout the Comprehensive Plan urge the preservation of important natural resources, farm and forestry lands and overall rural character.

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 occur 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.

There is a conflict, however, with the existing landfill located on Route 614 in the Dragon Run Watershed. The presence of the landfill within the Dragon Run watershed raises concerns about the potential for non-point source pollution to infiltrate the clean waters of the Dragon Run Swamp. Careful management of the existing landfill will be imperative and any future expansion should be discouraged. Therefore it is recommended that the Model district language address future landfill expansion and maintenance prior to its adoption. Additionally, language in the existing Comprehensive Plan that states that no additional land use policies are required because the Dragon Run is subject to the Chesapeake Bay Protection Area is also inconsistent with the Model District language and should be deleted.

D. Considerations for Implementing the 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. It is recommended, however, that Policy f, p. 4:11 and the language pertaining the Dragon Run Swam Area, p. 4:13 be revised to reflect the addition of the new Model district.

To address the issue of compatibility with the existing landfill, an addition to Section 4.0 would be advisable. Such an addition might read as follows:

Recommended additional language for Section 4.0, POLICIES:

Solid Waste Management

1. The existing landfill shall be carefully monitored to ensure that negative impacts to the Dragon Run are minimized.
2. Future expansions of the existing landfill will be strongly discouraged. In the event an expansion is necessary to address an urgent public need, such expansion will only be permitted if it can be demonstrated that there will be no adverse impact on the Dragon Run.

II. 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 pertain to the Dragon Run watershed, are as follows:

- Only two zoning categories, Agricultural (A) and Industrial (I), are present in the Dragon Run Watershed in King & Queen County; both allow a wide range of uses by-right and through conditional approval.
- Several of the uses permitted in the Industrial District are incompatible with the goals of maintaining the rural character of the Dragon Run area. Approximately 411 acres are zoned industrial in King & Queen County in the Dragon Run watershed; this is the landfill property.

- King & Queen County has a Dragon Run Conservation District (DRCD) overlay zone to protect the natural resources along the Dragon Run watercourse. Permitted uses are strictly limited to recreation, maintenance and agriculture and forestry using Best Management Practices. No residential or other private buildings are permitted to be constructed in the District. The DRCD has not been mapped in King & Queen County, however, it is defined by soil type.
- The DRCD addresses "streamside" protection measures but does not address protection of the Dragon Run Watershed.
- The Chesapeake Bay Protection Ordinance generally supercedes the provisions of the Dragon Run Conservation District.

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

In general, the Zoning Recommendations are intended as options for King & Queen 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 farm land.
- 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 current Table of Uses for the Industrial District and Agricultural District may be incompatible with the purpose of the Drainage Area Zone. These include golf courses, manufacturing uses, airport, dirt dragways and several others, primarily in the Industrial Zoning District.

- The current Dragon Run Conservation District (DRCD) is generally superceded by the existing Chesapeake Bay ordinance and the proposed Stream Buffer Zone. The DRCD is based on soil types, and is both more complicated to administer, and provides less overall protection than the 200 foot buffer of the Stream Buffer Zone. If the new zoning recommendations are adopted, it may be advisable to repeal the existing DRCD.
- The proposed Conservation Subdivision Option is generally compatible with the current County zoning and subdivision ordinances. Currently, the Agricultural zone allows up to 5 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/Truck Sales (new)
- Auto/Truck Sales (used)
- 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:

- Auto/Truck Service, Repair
- Animal Raising, Poultry
- Boat Docks, private
- Contractor's Storage Yard, Office
- Livestock, Intensive
- Lumber & Building Supply
- Manufacturing
- Office
- Public Utilities
- Repair Service Establishment
- Sawmill
- Service Business
- Veterinary Clinic/Hospital

Stream Buffer Zone:

The Stream Buffer Zone should be adopted in concert with the repeal of the current Dragon Run Conservation District, since the new district replaces the former one.

Conservation Subdivision Zone:

In general, the Conservation Subdivision Ordinance can be adopted in 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.