

# ORANGE COUNTY

## PLANNING COMMISSION

**JASON CAPELLE**, DISTRICT 1  
**GEORGE YANCEY**, DISTRICT 2  
**DONALD BROOKS**, DISTRICT 3  
**CRYSTAL HALE**, DISTRICT 4  
**NIGEL GOODWIN**, DISTRICT 5



**JOSH FREDERICK**  
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**Division Policies Subcommittee Meeting**  
**Gordon Building Meeting Room**  
**112 W. Main St, Orange, VA, 22960**  
**Thursday, April 7<sup>th</sup>, 2016**  
**AGENDA**

**7:30 pm**

1. Call to order
2. Approval of minutes:
  - A. March 3<sup>rd</sup>, 2016 Division Policies Subcommittee meeting
3. Continued discussion on and formulation of final draft recommendations to align the county's subdivision policies with the Comprehensive Plan.
4. Adjourn

**Orange County Planning Commission  
Division Policies Subcommittee Meeting  
Gordon Building Meeting Room  
112 W. Main St, Orange, VA, 22960  
Thursday, March 3, 2016**

**Present:** Crystal Hale; Jason Capelle

**Absent:** Donald Brooks

**Staff Present:** Josh Frederick, Planning Director; Thomas Wysong, Planner; Susan Crosby, Senior Administrative Assistant

*All discussion and comment made during this meeting was captured via digital audio recording. The minutes as written below are intended to be a summary of this discussion and comment. Anyone desiring detailed information about comment or discussion made during the meeting is referred to the recording.*

**1. Call to order**

The meeting was called to order at 8:28 p.m.

**2. Completion of final draft recommendations to align the county's subdivision policies with the Comprehensive Plan (for presentation to the Planning Commission at their April 7<sup>th</sup>, 2016 regular meeting)**

Ms. Hale, acting Chair, stated she has concerns over moving so quickly as she does not yet have a full understanding of the whole picture yet. She wants to better understand the history, including the court case that invalidated the county's previous division policy.

Ms. Hale also stated she doesn't know how they went from getting something put on paper to start them on a working document to needing to have it ready for the Planning Commission at the next meeting. She feels they need to take their time and she needs to understand it more and once she understands it she will be able to better formulate her stance on the numbers.

Mr. Capelle stated he also felt Ms. Hale would not be ready to move forward just yet, and he totally agrees. Mr. Capelle went on to explain the court case to Ms. Hale and how it was not a matter of content, but rather because the policies were placed in the Subdivision Ordinance, which is not permitted by state code. He stated that everything they are proposing is to be put in the Zoning Ordinance.

Ms. Hale asked Mr. Frederick for a brief synopsis of the county's old policies and how they were administered. Mr. Frederick provided verbally what was in the old ordinance and how the lawsuit came about, as well as the findings of the court. Discussion ensued.

Mr. Capelle stated it is not about restricting growth as he has said many times before. It is about mitigating the impact to the county that arises from unlimited by-right subdivision

activity. He reiterated that his driving force behind pursuing new subdivision policies was that the county is at risk by not having anything in place.

Ms. Hale stated she didn't want to be pushed and to rush through anything. She wants them to take their time and make sure they get it right so they can adequately represent the needs of the citizens Discussion ensued.

Mr. Capelle stated that since they were not going to be going through the recommendations at the night's meeting, for the next meeting he would like to talk about how to come to an agreement rather than go over the things they have already moved past.

### **3. Adjourn**

The meeting was adjourned at 9:01.

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Crystal Hale, Vice Chair

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Josh Frederick, Secretary

ORANGE COUNTY  
DEPARTMENT OF PLANNING AND ZONING

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**MEMORANDUM**

**TO:** Orange County Planning Commission – Division Policies Subcommittee  
**FROM:** Josh Frederick, Director of Planning & Zoning  
**DATE:** April 1<sup>st</sup>, 2016  
**RE:** Draft subcommittee recommendations for subdivision policies

In accordance with the guidance provided by the Division Policies Subcommittee members, planning staff have compiled the Subcommittee's recommendations in the draft attached memo.

This memo is intended to be a working document for your edits and refinement, with the ultimate goal of forming a cohesive set of policy recommendations. The intent, once finalized, is to present these recommendations to the Planning Commission for their ultimate passage to the Board for their consideration.

Since no work was completed at the March 3<sup>rd</sup> Subcommittee meeting, the draft memo has not changed since that meeting.

**Cc:** Board of Supervisors  
R. Bryan David, County Administrator  
Tom Lacheney, County Attorney  
Alyson Simpson, Chief Deputy Clerk to the Board  
File

**Att:** Draft recommendations memo, dated 2/8/16 (5 pages)

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**JOSH FREDERICK**  
DIRECTOR OF PLANNING & ZONING

### MEMORANDUM

**TO:** Orange County Planning Commission  
**THROUGH:** Josh Frederick, Director of Planning & Zoning  
**FROM:** Division Policies Subcommittee  
**DATE:** February 8<sup>th</sup>, 2016  
**RE:** Proposed course of action for new subdivision regulations for agriculturally-zoned lands

#### SUMMARY

A subcommittee was appointed by the Planning Commission chairman in mid-2015 to begin researching an appropriate method of reinstating some sort of subdivision regulations for agriculturally-zoned lands in the county. If you will recall, the county had such regulations for decades prior to the Circuit Court declaring them invalid in 2012. The proposed course of action outlined in this memo would reestablish limitations on subdivisions in the agriculturally-zoned parts of the county.

These recommendations are primarily meant to address the lack of consistency between the current subdivision regulations and the 2013 Comprehensive Plan, particularly the vision statement and Goal 1, Objective B (page 15). They are also to: 1. Help limit the financial impacts incurred upon the county through unlimited and unmitigated by-right subdivision activity, and 2. Encourage growth in areas which can support it rather than allowing additional sprawl across the county.

#### RECOMMENDATION #1 (NEAR-TERM)

**Policy:** Restrict major subdivisions from occurring by-right in the Agricultural zoning district unless they are in accordance with the Cluster Housing Development regulations of the Zoning Ordinance.

**Rationale:** Agriculturally-zoned land represents 90%+ of the county, so land use regulations have far-reaching effects on the overall character of the county. Similarly, allowing unrestricted subdivision activity in these areas is not consistent with vision of the Comprehensive Plan to “Sustain the rural character of Orange County...”, nor does it support the goal (page 15) which states: “The rural areas of the County should remain agricultural and forestal in character and density. Development of rural areas should preserve agricultural areas for agricultural use, as well as other accessory and residential uses in direct support of these uses.”

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Once agricultural land and open space is converted to a more intensive use, it rarely, if ever, is reverted to its original state. That agricultural land and open space is commonly lost forever. Limiting non-cluster major subdivisions in the Agricultural zoning district would be effective at protecting against this consequence of uncontrolled residential development. It would also be effective at directing residential growth to occur in areas identified for such intensity in the Comprehensive Plan. Furthermore, it would encourage conditional rezonings to any of the residential districts, which would further allow the county the shape growth in accordance with the Comprehensive Plan.

Establishing a reasonable limit on the number of times an agriculturally-zoned property can be divided allows flexibility for property owners to realize some return on their land investment, while protecting the financial interests of the county.

### **Suggested code changes for Comprehensive Plan consistency:**

1. *Zoning Ordinance, Article IV, Division 2 (Agricultural district regulations)*: Identify a future date certain and state that each parcel existing as of that date may be further divided no more than 5 times. Alternatively, the number of allowable divisions may be determined based on the size of the parent parcel. Family divisions and agricultural divisions would be exempt from this requirement in order to provide some flexibility. However, lots created via agricultural divisions are not permitted to be further subdivided.
2. *Zoning Ordinance, Article VI (Cluster Housing Development)*: Reduce the minimum total acreage requirements for cluster subdivisions as well as the individual lot acreage and dimension requirements for clustered lots. Cluster development needs to be an attractive development option compared to by-right development, which it is not under the current ordinance.

### **RECOMMENDATION #2 (NEAR-TERM)**

**Policy:** Raise the minimum lot size in the Agricultural zoning district to align with established standards for the necessary acreage for agricultural production. Reduce the minimum lot size for family divisions and establish a minimum lot size for agricultural divisions. Increase the frontage requirement along state roads.

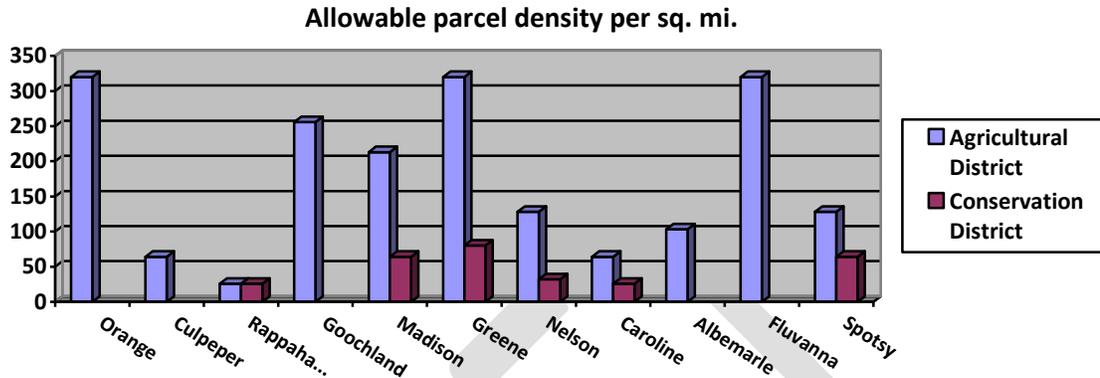
**Rationale:** Lot size is the most easily-administered method for a rural locality to control density. However, the current 2-acre minimum lot size in the Agricultural zoning district is not indicative of the nature of the zoning district, nor is it consistent with any commonly-accepted standard for defining “agricultural land”. The State Land Evaluation and Advisory Council (SLEAC), as well as the county, have long-established that a minimum of 5 acres (plus a 1-acre “home site”) is needed to be a legitimately productive agricultural property and thus qualify for the Use Value Taxation Program (20 acres is the minimum requirement for forest use). From another perspective, the American Farmland Trust maintains that 20 acres is a reasonable minimum lot size for rural lots so as to avoid rural sprawl. Minimum agricultural lot sizes should ideally be coordinated with these established standards rather than arbitrarily chosen, as is the case with the current 2-acre minimum.

The majority of localities permit 1 principal dwelling per lot, so this is a point of comparison for allowable density. As a basic illustration, in its Agricultural zoning district Orange County

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allows a parcel density of up to 320 parcels within a square mile. Other localities are illustrated in the chart below. Benchmarking against other localities is useful to see that Orange permits a residential density in its agricultural zoning district that is much greater than the majority of its neighbors.



Reducing the allowable density of the rural areas (i.e. the majority of the county) is specifically encouraged by the Comprehensive Plan (page 15): *“The rural areas of the County should remain agricultural and forestal in character and density. Development of rural areas should preserve agricultural areas for agricultural use, as well as other accessory and residential uses in direct support of these uses.”*

**Suggested code changes for Comprehensive Plan consistency:**

1. *Zoning Ordinance, Article IV, Division 2 (Agricultural district regulations):* Raise the minimum lot size to at least 6 acres. Reduce the lot size for family divisions to 1 acre (provided it does not reduce the size of the parent parcel to less than 2 acres), and establish a 20-acre minimum for agricultural divisions. State that property divided as an agricultural division may not be further subdivided except if done as a family division. Alternatively, establish a scale that determines lot size based on the size of the parent parcel.
2. *Zoning Ordinance, Article IV, Division 2 (Agricultural district regulations):* Raise the frontage requirement for lots fronting on a state road to reduce the frequency of driveway cuts.

**RECOMMENDATION #3 (NEAR-TERM)**

**Policy:** Add regulatory infrastructure, such as bonding requirements, for all new private roads and existing private road extensions to ensure compliance with the private road standards adopted in 2014.

**Rationale:** A road is an essential component of any subdivision, regardless of size, because of the legal requirement to have access to a state road. Most subdivisions are approved with the use of private roads, typically because they’re cheaper to install (i.e. gravel and minimal land clearing) compared to a road built to VDOT Secondary Street Acceptance Requirements. These rural roads can present access issues for first responders if they’re not constructed and maintained accordingly. As of 2014, the county began requiring road maintenance agreements for all new subdivisions regardless of size, which places the onus of road maintenance on the

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property owners. However, the county still lacks any enforcement mechanism to ensure private roads are being built to the adopted standards, or upgraded to these standards. The Comprehensive Plan supports these concepts on page 22: “Ensure future developments incorporate on-site transportation improvements required by VDOT and Orange County.”

### **Suggested code changes for Comprehensive Plan consistency:**

1. *Subdivision Ordinance, Sec. 54-167 (Private Road Standards)*: Add a section requiring bonding for all new private roads and private road extensions. Specify that any such road must be completed in its entirety before any building may occur.

### **RECOMMENDATION #4 (MID-TERM)**

**Policy:** Reinforce the nationally-designated Madison-Barbour Rural Historic District by adopting a zoning overlay for the district, which would protect historic assets, viewsheds, and promote a conservation level of density.

**Rationale:** The Madison-Barbour Rural Historic District comprises approximately 33,900 acres (15% of the county) of land in the western portion of the county. This district was delineated and designated as a National Historic Place because it “is one of the state’s [Virginia’s] best-preserved cultural landscapes” and “offers expansive views of unspoiled pastoral scenery and early landscape features” (quoted from the National Park Service website). This district is one of the largest in the state, as well as the country, and its relatively undeveloped nature contributes significantly to the character of the county and its tourism efforts.

An overlay is specifically called for in the Comprehensive Plan in Goal 1, Objective A (page 14) which declares: “Promote and preserve our unique historic and environmental resources.” Overlays are also specifically called for in the implementation strategies: “Promote the development of historic and environmental overlays.”

### **Suggested code changes for Comprehensive Plan consistency:**

1. *Zoning Ordinance*: Create a Madison-Barbour Rural Historic Overlay District and adopt it as part of the Zoning Ordinance.

### **RECOMMENDATION #5 (LONG-TERM)**

**Policy:** Create a conservation zoning district for implementation in parts of the county in a manner consistent with the Agricultural A1 and A2 future land use classifications in the 2013 Comprehensive Plan.

**Rationale:** Orange County has consistently identified conservation areas in its Comprehensive Plan for over 30 years, but has yet to implement such a concept. Many other counties, for example, have created and successfully implemented conservation zoning districts to preserve unique and important areas from development.

Creating a conservation zoning district would further allow the county to shape where growth occurs, protect agriculturally-important and historically-important areas from future development, encourage the dedication of conservation easements where appropriate, and enhance tourism efforts.

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Approximately 40% of the county was designated as Agricultural A1 on the future land use map with the stated purpose (page 25): *“Protect the rural, agricultural, historic and conservation areas of the County by preserving open space, limiting population and allowing little or no development other than agricultural and forestal enterprises, farm markets, homesteads and larger estates.”* The Comprehensive Plan further states (page 27): *“As a general rule, development in the A1 areas will be discouraged as significant changes could alter the prevailing characteristics and therefore would be incompatible with the County’s vision and the state principles in this Plan.”*

**Suggested code changes for Comprehensive Plan consistency:**

1. *Zoning Ordinance:* Create a conservation zoning district and adopt it as part of the Zoning Ordinance.

DRAFT