

APPENDIX 6

Greenway Overlay

I. Introduction.

The South County Small Area Planning Committee has conducted numerous forums to determine the wants and needs of the residents of the planning area. The single most mentioned request was to “*keep South County rural!*” Among the specifics regarding this request was the desire to create a greenway along the Patuxent River. The residents of South County want the greenway to provide an environmentally friendly buffer along the river from more intensive land uses -- including agriculture, residential development, and various commercial activities. They also expressed a strong desire to have public access to areas along the river for a variety of recreational purposes. To comply with this request the Land Use and Zoning sub-committee proposed to create a *Greenway Overlay* along the shore of the Patuxent. Included in the following report are specific zoning ordinance recommendations that if adopted would control inappropriate uses within the proposed greenway.

II. The Greenway Concept.

A greenway is a continuous system of open spaces such as parks and privately owned natural areas that are connected in some way. In the case of the Patuxent River Greenway, this connection includes the Patuxent River and associated land adjacent to it that functions as a buffer. A greenway can serve any of several purposes: preservation of historically or culturally significant areas, protection of wildlife habitat, public recreation and education, or simply conservation of an exemplary natural area. The primary purpose of the Patuxent River Greenway is protection of the river and its natural resources, including wildlife, wildlife habitat, wetlands, and water quality. Although certain areas of the river are open to the public, the majority of the area is under the stewardship of private landowners. Therefore, the greenway will serve the purpose of recreation and education in public areas and recognition of and assistance to landowners in privately owned areas.

III. The purpose of the Patuxent Greenway

The purpose of the Patuxent River Greenway is to protect the river for use by present and future generations by:

- 1) Recognizing landowners for their past stewardship of the natural environment along the Patuxent River.
- 2) Offering management information and services landowners might need to continue or improve their effective management of this unique and valuable resource.
- 3) Building a community of landowners and other community members interested in the

continued protection of the Patuxent River's natural resources.

- 4) Protecting and improving wildlife habitat by maintaining the natural state of the river corridor.
- 5) Determining the sources of pollution impacting the river and ways to reduce this impact.
- 6) Monitoring the health of the river at public access areas and on private property if requested.
- 7) Educating the community about water quality and the importance of wetlands.

IV. Delineation of the greenway area.

The Patuxent River Greenway is bordered by the river on its western boundary, and roughly by Patuxent River Road, Queen Anne Bridge Road, Harwood Road, Sands Road, Plummer Lane, Pindell Road, and Mallard Lane on its eastern boundary.

V. Zoning classifications within the greenway.

Residential Agricultural (RA) and Open Space (OS) is the predominant zoning classification within the greenway. There are several pockets of more intensive zoning -- R5 residential (Riverwood and Wayson's), C3 and C4 commercial (Wayson's Corner), and one small area of W3 heavy industrial (Concrete Structures) -- these areas need to be examined on a case by case basis and appropriately buffered from the greenway wherever possible. Except for the R5 at Wayson's, none of the aforementioned parcels abut the river.

VI. Land use in the greenway.

a) OS (Open Space) zoning.

The current permitted uses for OS districts as detailed in Article 28, Title 6, Subtitle 2 are consistent with the greenway concept and need little or no modification.

b) RA (Residential Agricultural) zoning.

Article 28, Title 2, Subtitle 2 RA Districts

The following represents recommended changes to RA zoning for the greenway overlay -- those uses preceded by an **X** not permitted (neither by right nor special exception).

§ 2-204. Permitted uses; conditional uses.

- (a) The following uses are permitted as permitted uses in an RA-Agricultural Residential District:

- (1) accessory buildings and uses;
- (2) alcoholic beverage uses as ancillary to permitted uses in accordance with the provisions of § 10-118 of this article;
- X (3) animal husbandry;
- X (4) churches and ancillary uses, on a minimum site of two acres, if no more than 100,000 square feet of the site is covered by off-street parking;
- X (5) cluster developments, in accordance with the provisions of Subtitle 6 of this title;
(MOVE TO CONDITIONAL)
- X (6) community swimming pools;
- X (7) dairies;
- (8) [repealed;]
- X (9) farming;
- (10) fish hatcheries and game preserves;
- (11) forestry;
- X (12) fur farming, if located at least 50 feet from any lot line;
- (13) golf courses; ***(MOVE TO CONDITIONAL)***
- X (14) group homes in classifications one and two;
- (15) home occupations;
- (16) off-street parking, in accordance with Title 7 of this article;
- (16A) outside storage accessory and incidental to uses permitted under this article in accordance with § 10-108 of this article, not to exceed 10% of the permitted lot coverage area or 500 square feet, whichever is less; ; ***(MOVE TO CONDITIONAL)***
- (17) private camps for seasonal residence only;
- (18) private residential piers and boathouses, only as an accessory use to a dwelling unit located on a lot and in accordance with § 10-111 of this article;
- (19) private swimming pools, in accordance with § 10-104(e)(12) of this article;

- (20) public parks, playgrounds, and other recreational areas;
- (21) roadside stands consisting of temporary seasonal structures that sell only produce;
- (22) sale of Christmas trees between December 5 and December 25, both inclusive;
- (23) signs, in accordance with Title 8 of this article;
- (24) single-family detached dwellings; (*MOVE TO CONDITIONAL*)
- (25) wildlife preserves; and

X(26) unenclosed storage of manure or odor- or dust-producing substances or uses, on a minimum site of 10 acres.

(b)The following uses are permitted as conditional uses in an RA-Agricultural Residential District:

- (1)country clubs, private clubs, service organizations, and nonprofit charitable and philanthropic organizations or institutions, if:

- (i)each building is set back at least 100 feet from any lot line;

- (ii)the coverage for all buildings, including off-street parking, located on the site is 60% or less, and no more than 50,000 square feet of the lot is covered by off-street parking; and

- (iii)the required off-street parking is not located in a required setback area;

- (1A) farm tenant houses, provided:

- (i) the house is part of a bona fide farming operation;

- (ii) the site is at least 20 acres excluding the principal dwelling; and

- (iii) there is not more than one tenant house for each 50 acres of each farming operation;

X (2) hospitals:

X(3)legitimate theaters, outdoor or sheltered, if they are temporary and without permanent improvements;

- (3A)nursery farms, provided:

- (i)the nursery farm is on a site of at least two acres;

(ii)the nursery farm is on an arterial or major collector roadway;

(iii)ancillary retail or wholesale uses comprise no more than one percent of the site area, excluding:

1.required buffer areas; and

2.growing areas and plant display areas, including greenhouses;

(iv)landscaping operations conducted only as an ancillary use comprise no more than 15% of the site area, excluding required buffer areas;

(v)the nursery farm, including all storage areas, is screened and buffered in accordance with the requirements of the Landscape Manual;

(vi)repealed by Bill No. 70-96, § 1;

(vii)there is a screening and buffer area of:

1.50 feet where the abutting property is zoned residential or is in residential or institutional use; or

2.25 feet where the abutting property is a public right-of-way or is zoned commercial or industrial or is in commercial or industrial use;

(viii)--(xi)repealed by Bill No. 70-96, § 1;

(3B) recreational piers, if:

(i) the recreational pier has a minimum width of six feet;

(ii) the landward walk leading to the recreational pier has a minimum width of six feet;

(iii) the recreational pier is located at least 50 feet from any existing pier, buoy, or piling;

(iv) the recreational pier is placed on property that is at least 60 feet wide at the road and 80 feet wide at the shoreline, the widths measured as provided in § 5-122 of this article;

(v)the recreational pier meets setback requirements in accordance with § 10-111 of this article;

(vi)any walk structure or impervious walk is set back at least 15 feet from any side yard lot line and may not unduly obstruct, increase, or redirect the natural flow of water;

(vii)the recreational pier and the development of the community property from which it extends is designed with the orientation of serving both persons within the community

and their guests and to encourage walking access so as to avoid the necessity of providing automobile parking spaces or sanitary facilities;

(viii)the property on which or from which the recreational pier is placed is the platted open space or recreational area of a subdivision that has a community association;

(ix)notice is given by the community association of the date, time, and location of a meeting of the association to discuss the intent to construct a recreational pier:

1.by first class mail to all property owners based on the last information in the community association files or by hand-delivery to every unit within the subdivision at least two weeks but not more than four weeks before the meeting; and

2.by certified mail, return receipt requested, to all property owners within 175 feet of the proposed pier as listed on the tax rolls of the County; and

3.by the posting of a sign of at least nine square feet in a conspicuous place in the community at least two weeks but not more than four weeks before the meeting; and

4.if the community association has a regularly published community flyer or newsletter, by the placement of notice in the flyer or newsletter at least two weeks before the meeting; and

(x)the construction of the recreational pier is approved by the community association in accordance with its requirements for the approval of a capital budget item for the association;

(4)stables, commercial or community, and riding clubs, if:

(i)they are on a site of at least two acres plus one additional acre for each horse kept in excess of two horses but less than 16 horses and an additional one-quarter acre for each horse over 15 horses;

(ii)any structure enclosing a horse is located at least:

1.50 feet from any nonresidential property line; and

2.200 feet from any residential property line.

(iii)all manure is stored at least 50 feet from any property line and at least 100 feet from any dwelling located on adjacent property;

X (5)group homes in classification three, if:

X(6)private educational institutions, if:

(7) bed and breakfast homes, provided:

- (i) exterior alterations are not made to any building for the purpose of providing a bed and breakfast home other than those necessary to ensure the safety of the structure;
- (ii) one parking space is provided for each guest room in addition to the parking normally required for the dwelling;
- (iii) parking is located in a side or rear yard and screened in accordance with Title 9 of this article;
- (iv) on waterfront property, one boat slip may be provided for each guest room for guests of the bed and breakfast home;
- (v) each application for a zoning certificate of use is accompanied by a flood plan of the dwelling showing the guest rooms and the food service area and a site plan showing the location of the off-street parking and screening, if necessary;
- (vi) guest rooms do not contain any cooking facilities;
- (vii) food service is limited to room guests;
- (viii) one information sign not to exceed two square feet in area may be placed on the dwelling;
- (ix) only guests who have made reservations in advance of their arrival are permitted; and
- (X) the owner maintains a reservation log showing the arrival and departing dates of all guests that is open for inspection by the Office of Planning and Zoning; and

(8) commercial telecommunication facilities:

- (i) on land owned by a governmental entity or a volunteer fire company, in accordance with the provisions of § 12-215A of this article; or
- (ii) located within a transmission line right-of-way or within 100 feet of a transmission line right-of-way if the facility:
 1. is set back at least 500 feet from any offsite dwelling;
 2. does not exceed 199 feet in height; and
 3. is a monopole, provided that, if the connecting transmission line structures are lattice-type, the facility may be lattice-type. (Code 1967, § 13-303.1; Bill No. 16-86, § 2; Bill No. 19-86, § 1; Bill No. 36-86, § 2; Bill No. 7-89, § 1; Bill No. 68-90; § 1; Bill No. 91-91, § 1; Bill No. 72-92, § 1; Bill No. 86-92, § 2; Bill No. 23-93, § 2; Bill No. 48-95, § 1; Bill No. 69-95, § 2; Bill No. 87-95, § 1; Bill No. 70-96, § 1; Bill No. 72-96, §§ 1--3; Bill No. 93-96, § 1; Bill No. 3-98, § 1)

§ 2-205.Special exceptions.

The following uses are permitted in an RA-Agricultural Residential District as special exceptions:

- X (1)abattoirs;
- X(2)airports and airfields;
- X (3)alternate density residential developments;
- X (4)animal hospitals;
- X(4A)bed and breakfast homes;
- X (5)bulk storage for agricultural products;
- X(6)cemeteries;
- X(7)child care centers;
- X (7A)churches and ancillary uses with more than 100,000 square feet of site area covered by off-street parking;
- X (8)clay and borrow pits or sand and gravel operations;
- (9)commercial recreational campgrounds;
- (10)commercial recreational facilities;
- X(10A)commercial telecommunication facilities;
- (11)community piers and water-oriented recreational uses;
- X(11A)country clubs, private clubs, service organizations, and nonprofit charitable and philanthropic organizations or institutions with more than 50,000 square feet of lot area covered by off-street parking;
- X(12)heliports and helipads;
- (13)horses and ponies on sites of less than 40,000 square feet;
- X(13A)hospitals with more than 50,000 square feet of lot area covered by off-street parking;
- X (14)kennels;

X (15) medical clinics and dental clinics;

X (16) mobile manufactured home parks;

X (17) planned unit developments;

X (17A) private educational institutions with more than 50,000 square feet of lot area covered by off-street parking;

(18) public utilities and public utility uses;

(19) rifle, pistol, skeet, or archery ranges;

X(20) sanitary landfills; and

X (21) sanatoriums and nursing homes.

(Code 1967, § 13-303.2; Bill No. 23-93, § 2; Bill No. 69-95, § 2; Bill No. 72-96, § 1; Bill No. 93-96, § 1; Bill No. 3-98, § 1)

§ 2-206. Area requirements.

(a) Except as provided in § 2-211 of this subtitle, in an RA-Agricultural Residential District each principal structure and its accessory structures and uses shall be located on a lot having a net area of at least 40,000 square feet.

(b) No more than 25% of the net area of the lot may be covered by structures, including accessory structures.

(Code 1967, § 13-303.3; Bill No. 70-89, § 2)

§ 2-207. Yards and setbacks.

(a) Each lot in an RA-Agricultural Residential District shall have:

(1) a front building line measuring at least 40 feet from and parallel to the front lot line of a street right-of-way;

(2) side yards at least 15 feet wide and with the total width of side yards at least 40 feet, except that a corner lot shall have a side building line that is at least 40 feet from and parallel to the side street line or right-of-way;

(3) a rear yard at least 35 feet deep.

(b)The side or rear building line of each lot shall be at least 50 feet from any abutting major arterial roadway.

(Code 1967, § 13-303.4)

§ 2-208. Accessory structures; livestock.

(a) Accessory structures in an RA-Agricultural Residential District shall:

- (1) be located only in a rear yard or, if screened from the road, in a side yard;
- (2) occupy no more than 25% of the yard;
- (3) be located at least 50 feet from the front lot line or street right-of-way;
- (4) be located at least 15 feet from each side lot line; and
- (5) be located at least 10 feet from the rear lot line.

(b) An accessory structure may not be constructed without a principal structure.

(c) Except as otherwise provided in this subsection, an accessory structure located on a corner lot shall be located at least 40 feet from the side street line. Where a corner lot abuts a side street that does not have existing or proposed lots fronting on the same side of the block as the corner lot, an accessory structure may be located as close as 25 feet:

- (1) from the side street line; or
- (2) from the side street line proposed on a recorded plat, in an approved capital improvement project, or in the transportation element of the General Development Plan.

(d) (1) An accessory structure, enclosure, coop, or run used to house, shelter, or sell fowl or an animal other than a horse, pony, or dog shall be located at least:

- (i) 50 feet from each rear or side lot line; and
- (ii) 75 feet from any dwelling on an adjoining lot.

(2) An accessory structure, enclosure, coop, or run used to house, shelter, or sell a horse, pony, or dog shall be located at least:

- (i) 25 feet from the nearest property line; and
- (ii) 50 feet from any dwelling on an adjoining lot.

(3) Livestock, including horses, ponies, cattle, swine, and fowl, may not be located on a lot with an area of less than one acre.

(4) A horse, pony, cattle, or swine may not be kept on a lot smaller than 20,000 square feet times the number of horses, ponies, cattle, and swine kept on the lot.

(5) For each increment of 25 rabbits, chickens, or other similar fowls or small animals above 50, the accessory building or use setback requirements shall be increased by 10 feet for all yards.

(6) Manure shall be stored at least:

(i) 50 feet from each lot line; and

(ii) 100 feet from any dwelling.

(7) All livestock shall be fenced. The fence shall be located at least three feet from the property line.

(e) An accessory use or structure that is attached to the principal structure is subject to the yard requirements specified in § 2-207 of this subtitle.

(Code 1967, § 13-303.5)

§ 2-209. Minimum lot frontage at building line.

The width at the front building line of a lot in an RA-Agricultural Residential District shall be at least 150 feet. The frontage for access along any existing County street or street proposed on a recorded plat, in an approved capital improvement project, or in the transportation element of the General Development Plan shall be at least 18 feet.

(Code 1967, § 13-303.6)

§ 2-210. Building height limits.

(a) A principal structure in an RA-Agricultural Residential District may not exceed 45 feet or three stories in height. An accessory structure may not exceed 25 feet in height.

(b) A tower, antenna, or monopole for a commercial telecommunication facility is not subject to the height limitations of this section.

(Code 1967, § 13-303.7; Bill No. 69-95, § 2)

§ 2-211. Restrictions on subdivision of land.

(a) In this section, "property" means a lot, parcel, or tract of land, or an accumulation of lots, parcels, or tracts of land.

(b) A subdivision of property in an RA-Agricultural Residential District shall have a maximum density of one lot per 20 acres, plus one additional lot for any remainder of 10 acres or more.

(c) In addition to the lots that are created through subdivision in accordance with the provisions of subsection (b) of this section, lots for a family conveyance subdivision as defined in Article 26, § 1-101(20) of this Code may be created. A family conveyance lot shall be subject to a density of not more than one dwelling unit for each two acres of land for up to and including the first 10 acres of land and not more than one dwelling unit for each five acres of land for the remaining acreage of the subdivision. Each family conveyance lot shall have a minimum lot size of 40,000 square feet. In a subdivision to be developed at the density provided for in subsection (b) of this section, the acreage of a family conveyance lot shall be subtracted from the acreage of the total parcel for purposes of determining permitted density under subsection (b) of this section.

(d) For each lot, parcel, or tract of land legally existing as of February 9, 1981, and in addition to lots that may be created through subdivision in accordance with the provisions of subsection (a) of this section, one additional lot may be created without restriction as to conveyance and without regard to the overall density restrictions imposed by subsection (a) of this section. This additional lot shall be subject to a density of not more than one dwelling unit for each two acres.

(e) (1) On subdivision of a property, the owner shall designate on the subdivision plat:

(i) each lot or parcel that may be further subdivided;

(ii) the total number of lots that may be permitted with further subdivision subject to the total number of lots permitted in accordance with the density formula established in subsection (b) of this section; and

(iii) any lot that may be subdivided in accordance with the provisions of subsection (c) of this section.

(2) The subdivision plat shall also indicate the lots or parcels that may not be further subdivided.

(Code 1967, § 13-303.8; Bill No. 70-89, § 2)

§ 2-212. Public service structure; public utility structure.

A lot subdivided for use for a public service structure referred to in § 10-114 of this article or a structure for an essential service, public utility, or a public utility electric power substation may be created even through the lot, tract, or parcel from which it is to be subdivided has previously been subdivided to its maximum extent permitted by § 2-211 of this subtitle. The subdivision potential of a lot, tract, or parcel under § 2-211 of this subtitle immediately before the subdivision of a lot for a public service structure or a public utility structure may not be diminished by the creation of that lot.

VII. Non conforming uses.

Uses removed from the greenway, which are currently active, may continue under current non conforming use code.

VIII. Land use incentives.

It is not the intent of the creation of the greenway overlay to promote land acquisition by the county. Instead, the county should provide incentives to landowners to use best management practices, provide for public access, provide land for forest and wetland mitigation, and other related practices. These incentives should take the form of easement purchases (similar to the Ag./Forest preservation program), tax rebates, grants, liability insurance (for lands open to public use -- as is done by the State for certain forestry educational activities), cleanup and maintenance assistance in areas open to the public, etc.

IX. Special issues

Surface Mining.

Certain areas within the greenway have been, and currently are, actively being used for the extraction of aggregates (sand and gravel). While this activity is considered objectionable by many residents (truck traffic, noise, dust, etc.) this commodity exists only in certain areas -- namely river banks. The State Department of Natural Resources considers the material valuable, and promotes its extraction. Within the greenway, those parcels held by mining companies -- and those deemed sufficiently valuable for current or future extraction activity -- should be so designated in the overlay. As the mining process concludes, these parcels should be remediated in an environmentally friendly manner consistent with land use objectives outlined above.