

## SUMMARY OF WORK SESSION 2.

### DRAGON RUN LAND USE POLICY AUDIT

May 13, 2003 – Saluda, Virginia

#### A T T E N D E E S :

Robert Gibson	King and Queen
Frank Herrin	King and Queen
Paul Koll	King and Queen
Rachel Williams	King and Queen
Russell Williams	King and Queen
Dorothy Miller	Essex
Andy Lacatell	The Nature Conservancy
Robert Hudgins	Gloucester
Anne Ducey-Ortiz	Gloucester
Mary Ann Krenzke	Friends of Dragon Run
Lorna Anderberg	Friends of Dragon Run
Mike Anderberg	Friends of Dragon Run
Gordon Page	Friends of Dragon Run
David Milby	VA Dept. of Forestry
Hoyt Wheeland	VA Dept. of Conservation and Recreation
Matt Higgins	Middlesex
Julie Bixby	VA Coastal Program
David Fuss	MPPDC
Vladimir Gavrilovic	Paradigm Design

Prepared by:      Vladimir Gavrilovic      May 28, 2003  
                          PARADIGM DESIGN

NOTE: The following is a summary of comments made at a Work Session for the Dragon Run Land Use Policy Audit facilitated by Vladimir Gavrilovic of Paradigm Design. The comments do not reflect official views of the MPPDC or any of the jurisdictions or agencies represented at the work session.

#### GENERAL DISCUSSION OF TECHNICAL MEMORANDUM

## REGIONAL PLANNING ISSUES

1. The Dragon Run watershed was described as a model of a regional resource that calls for regional cooperation across county boundaries. The suggestion was made that an “overlay” approach to planning for the area would be appropriate.
2. The Dragon Run Memorandum of Agreement was brought up as a regional agreement that is “awaiting a regional plan.”
3. The county comprehensive planning process was considered an appropriate way to initiate some steps toward a regional plan for the Dragon Run area.

## GUIDELINES FOR VOLUNTARY COMPLIANCE

1. There was a positive reaction to the idea that some type of literature is needed to explain the regulations in the Dragon Run and facilitate?) voluntary compliance among landowners.
2. The comment was made that the county ordinances were very difficult to understand and that this was due, in part, to the fact that they were legal documents written to enforce the rules and guard against violations, and not in easy-to-understand language for citizens and landowners. The idea of some type of guidelines or models for good land use practice was encouraged as a way to foster exemplary stewardship.
3. It was also noted that explicit, published guidelines would help ensure consistency in the way that similar policies are interpreted and enforced in the different counties in the Dragon Run area.

## RESIDENTIAL DEVELOPMENT AND DENSITY

1. There was discussion of the restrictions against “Major Subdivisions” in Agricultural zones as highlighted in the Technical Memorandum. A comment was made that this seemed unfair since a large parcel of hundreds of acres would be allowed to subdivide into no more lots than a small parcel of only a few acres. However, it was noted that local governments justified this by the fact that it was the amount and timing of development, and not the parcel or lot size, that had the most impact on public services – i.e. it cost much more to service a major subdivision of many houses than a minor subdivision of a few houses, regardless of the lot size.

2. There was some discussion of the suggestion made in the Technical Memorandum that the restriction on major subdivisions should be strengthened in the county ordinances with corresponding language in their zoning ordinances and comprehensive plans. Some discussion of overall density requirements within the watershed was pursued but no consensus on this topic was reached.
3. Family subdivisions were discussed and some concern was expressed for the potential that these could be used as a "by right" way of circumventing restrictions on more extensive subdivisions of parcels.

### CHESAPEAKE BAY ORDINANCE ISSUES

1. Questions were brought up about the extent of flexibility that localities had in enacting the Chesapeake Bay Act legislation within their jurisdictions. It was clarified that the performance standards and development restrictions in the Act were generally state mandated and consistent across the counties, while the localities had some flexibility in the way that they defined the Resource Management Areas locally.
2. The suggestion from the Technical Memorandum, that Resource Management Areas be extended to cover the entire watershed, was challenged as being of limited effectiveness since there was an "exemption" for agricultural and silvicultural activities within the Chesapeake Bay Ordinances and the RMA's also did not control land uses.
3. In contrast, it was stated that extending the RMA's in the watershed would still be useful, since the agricultural/silvicultural exemption also required that Best Management Practices and Plans be adopted in order to grant the exemptions, and that the exemptions were only partial in fact, and still required some setbacks and protection measures. Furthermore, the RMA requirements also provided some important protection through environmental performance standards for the type of small-scale residential development which has occurred in the watershed.
4. It was suggested that the extension of Chesapeake Bay regulations throughout the watershed could provide an additional level of protection against the conversion of traditional farming and forestry uses in the area.

## OPPORTUNITIES FOR IMPLEMENTATION

1. There was some discussion of opportunities to strengthen the land use policies in the counties and of the best ways to implement some of the recommendations in the Technical Memorandum for revisions to the current plans and ordinances.
2. It was generally agreed that the county comprehensive planning process was a good opportunity for some initial improvements toward making the land use policies more consistent across the watershed.
3. There was discussion of adopting some consistent land use policy language for the Dragon Run in all four counties' comprehensive plans. It was suggested that it would be more easily acceptable for each county to adopt the SAMP plan in its entirety by reference or as an addendum and thereby ensure a consistent source of policies for the watershed within each jurisdiction.

## MISCELLANEOUS OTHER ISSUES

1. A suggestion was made that some sort of "limit of disturbance" be incorporated into all the county's land development regulations for the Dragon Run - some sort of requirement that ensured that for each area that was disturbed for development there was an equal or larger portion that had to be preserved. This was challenged as being not restrictive enough, in that it could lead to as much as half of all the land area in the watershed being disturbed for development.
2. A concern was expressed against adding too much new regulation for minor subdivisions - it was pointed out that most minor subdivisions were typically done by landowners pursuing traditional land uses who needed some income but were trying to hold on to the remainder of the parcel rather than selling out to a developer. For this type of landowner, design guidelines may be helpful but additional layers of regulation would be burdensome.
3. The suggestion was made that the next phase of the Land Use Policy Audit should also address the issue of non-conforming uses. Some of the regulations in the watershed allowed the expansion of existing non-conforming uses that were incompatible with preserving traditional land uses in the watershed.
4. A concern was expressed about existing policies that allowed greatly expanded water access, particularly in the lower Dragon Run. For example, a large subdivision could grant water access rights to potentially hundreds of homes by deeding the access to the Homeowners Association and conferring rights for water access to all residents of the subdivision, even those without any frontage on the water. It was pointed out that these types of "riparian rights" were generally mandated at a State or Federal level and could not generally be

eliminated by a local jurisdiction. Localities, however, do have a right to control the type of access and set standards for design and construction of access facilities.

5. A general discussion was engaged about the opportunities for landowner involvement in the process of making improvements to the land use policies in the watershed. General comments were that any changes would have to go through the full public review and approval process mandated by each county but that there was still a need and an opportunity for greater outreach to the landowners in the Dragon Run who would be the ultimate "stewards" of the area over the long term.

#### NEXT WORKSESSION

- Tuesday, July 8, 7PM-9PM at the MPPDC office in Saluda