

# Talbot County Zoning Code and Subdivision Regulations Update

## *Issues and Options Paper – Direction Matrix*

A summary of the options in the Talbot County Zoning Code and Subdivision Regulations Update Issues and Options Paper.

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**Table 1 Issues and Options Paper Direction Matrix – Phase 1**

<i>Issue</i>	<i>Options</i>	<i>Direction</i>	
		<i>Planning Commission</i>	<i>County Council</i>
<b>A. Land Preservation and Cluster Provisions</b>			
<p>1. Review RAC cluster development standards, including lot size, open space and density bonus.</p> <p>2. Continue to use maximum lot size requirements, but provide guidelines so that the Planning Commission can require lots smaller than the maximum where desirable.</p> <p>3. Can use of shared septic systems be encouraged to support clustering and to preserve farmland?</p> <p>4. Provide more flexibility (especially in average lot size requirements) to allow design that makes sense.</p>	<p><b>EITHER</b></p> <p>Leave the current cluster subdivision provisions unchanged.</p> <p><b>OR</b></p> <p>a. Reduce the density bonus provision for cluster subdivisions.</p> <p>i. 3 dus plus one du per 15 acres versus the current 3 plus one per 10, or</p> <p>ii. 3 dus plus a cap of one du per 10 acres up to say 10 additional dus. That is, cap the size of subdivisions in the agricultural district.</p> <p>These options would be strengthen county policy with respect to preservation priorities, but would reduce landowners’ equity.</p> <p><b>OR</b></p> <p>b. Require lot size averaging for non-cluster subdivisions in the RAC district.</p> <p>This option would strengthen county policy with respect to preservation priorities, but would likely be perceived as reducing landowners’ equity.</p> <p><b>OR, with options a or b, could also use option c:</b></p> <p>c. Require mandatory clustering of lots in subdivisions in the RAC district.</p> <p>This option would effectively eliminate the rural subdivision option. It would strengthen county policy with respect to preservation priorities, but would likely be perceived as reducing landowners’ equity.</p>		

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	<p>d. Allow the Planning Commission flexibility to reduce the minimum OS requirements in subdivisions to achieve alternative designs (for example, allowing a lesser open space requirement if this would make subdivision design more supportive of agriculture).</p> <hr/> <p>The following options would help support clustering but do not constitute “choices” between options.</p> <p>e. Allow the Planning Commission flexibility to reduce the minimum OS requirements in subdivisions to achieve alternative designs (for example, allowing a lesser open space requirement if this would make subdivision design more supportive of agriculture).</p> <p>f. Facilitate the use of shared sewer facilities. This is not a zoning issue since the zoning permits it. If desired it is an issue for the Health Dept., MDE, and the County.</p>		
5. Re-examine the transfer of development rights option.	<p>a. Come to agreement over an inter-jurisdictional tdr program.</p> <p>b. Create new receiving areas for tdrs. The only option appears to be the VC districts – <i>an option, however, that is not recommended or discussed in the Comprehensive Plan</i>, though the Plan does call for a planning program for village centers</p>		
<b>B. New Zoning Districts</b>			
1. Western Rural Conservation District	See Table on page 13		
2. Future Town District	See Table on page 16		

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		<i>Planning Commission</i>	<i>County Council</i>
3. Countryside Preservation District	See Table on page 19		

*Table 2 Issues and Options Paper Direction Matrix – Phase 2*

<i>Issue</i>	<i>Options</i>	<i>Direction</i>	
		<i>Planning Commission</i>	<i>County Council</i>
<b>C. Process and Administration</b>			<i>1</i>
1. Community input in the planning and design process	<p><b>EITHER</b></p> <p>a. Leave current community input process intact.</p> <p><b>OR</b></p> <p>b. Require applicants to advertise and conduct a community information meeting prior to submission of a sketch plan for a major subdivision.</p> <p>c. Require applicants to advertise and conduct a community information meeting prior to submission of a general site plan, if:</p> <ul style="list-style-type: none"> <li>• the plan proposes construction of a primary commercial or industrial structure, and</li> <li>• the site is adjacent to or within a defined distance of residentially-zoned property.</li> </ul> <p><b>OR</b></p> <p>d. Provide procedures for community meetings within the subdivision and site plan process, but make this an option rather than a requirement.</p>		
2. Waivers for site plans and subdivision plans	<p>The following options are mostly procedural changes and adjustments in authority without “choices” between options:</p> <p>a. Provide a process for waivers from design or technical requirements for site plans similar to the waiver process in the subdivision regulations.</p> <p>b. Provide that the approval authority and appeal process for waiver petitions is the same as the approval authority and appeal process for the particular type of subdivision or site plan.</p> <p>c. As one exception to the above option, authorize the Planning Officer to waive submission requirements for site plans or subdivision plans without a Planning Commission recommendation.</p> <p>d. Clarify which requirements can be waived as part of the site plan approval</p>		

**Table 2 Issues and Options Paper Direction Matrix – Phase 2**

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	<p>process.</p> <ul style="list-style-type: none"> <li>e. Expand the waivers that can be granted in connection with a subdivision plan to include subdivision design requirements that are currently found in the Zoning Regulations.</li> <li>f. Consider allowing the open space requirement to be a subdivision requirement subject to waiver by the Planning Commission.</li> <li>g. Revise the criteria for waivers of subdivision regulations to be more design-oriented and less similar to the criteria for zoning variances. Require that design goals be considered in considering waivers. Allow positive consideration to be given to waivers that allow design alternatives which would further the goals of the development regulations. Apply the same criteria to waivers for site plans.</li> </ul>		
<p>3. Clarity and specificity of development review procedures.</p>	<p>These options are mostly procedural changes and adjustments without “choices” between options.</p> <ul style="list-style-type: none"> <li>a. Revise the County Code to reflect the Charter requirement that major subdivision plans and commercial/industrial site plans be approved by the Planning Commission.</li> <li>b. Add stages of plan review outlined in the Talbot County Plat/Site Plan Review and Approval Process to the County Code procedures for site plan and subdivision plan review.</li> </ul> <p>Include authority to send plans back through the process for due cause (incompleteness, unresponsiveness to prior comments).</p> <ul style="list-style-type: none"> <li>c. In the Code, authorize the Planning Officer to set reasonable limits on the volume of plans to be considered monthly on the TAC agenda.</li> </ul>		

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4. Consider a faster process for minor plan review	<p><b>EITHER:</b></p> <p>a. Retain the current code requirement that a decision be made by the Planning Officer on minor subdivision plans within 30 days, and revise current procedures to achieve this;</p> <p><b>OR</b></p> <p>b. Revise the Subdivision Regulations to provide a more realistic time within which decisions must be made on minor subdivisions. Revised regulations should reflect the TAC schedule and could require that a decision be transmitted to the applicant within several working days after the TAC meeting?</p>		
5. Procedure for a concept plan review prior to sketch plan	<p><b>EITHER:</b></p> <p>a. Expand the goals of the required pre-submission conference 168.17A to allow discussion of design concepts and planning goals for the site.</p> <p><b>OR</b></p> <p>b. Provide an option for submission of a “concept plan” for major subdivisions. Concept plans would receive advisory comments from the Planning Officer and the Planning Commission, after a public meeting with the Planning Commission.</p>		
6. Ability to create multiple minor subdivisions on a single parcel	<p>Revise the definition of a minor subdivision to clarify the intent that the first three lots divided off a parcel after the effective date of the regulations constitute a minor subdivision.</p>		
7. Increased role for the Historic Preservation Commission in subdivision and site plan review	<p><b>EITHER:</b></p> <p>a. Require that all subdivisions or site plans for properties that contain historic resources identified in the Comprehensive Plan (Map 12-1) be reviewed by the Historic Preservation Commission, who would provide advisory comments to the Planning Officer.</p> <p><b>OR</b></p>		

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	b. Require that the review be provided by the planner who provides staff support to the Historic Preservation Commission.  <b>IF OPTION A OR B IS IMPLEMENTED</b>  c. Provide guidelines and limits in the zoning and subdivision regulations to guide the review of site plans and subdivision plans for their impact on the setting of a historic resource.		
<b>D. Natural Resources</b>	No Issues with options		
<b>E. Design</b>			
1. Provide more flexibility (especially in average lot size requirements) to allow design that makes sense	<b>EITHER</b>  a. Eliminate the average lot size requirements in the VC district.  <b>OR</b>  b. Revise the maximum average lot size requirements in the VC district to be two acres or the minimum size permitted by the Office of Environmental Health.		
2. To encourage affordable housing and better use of land consider permitting a duplex building to be built on a single lot	a. Permit accessory apartments in Talbot County’s residential districts subject to approval by the Planning Officer. Add appropriate size limits. Specifically exclude such units from the development density calculations.  b. Allow two family dwellings (larger than accessory apartments) by special exception, subject to a finding of compatibility by the Board of Appeals.		
<b>F. Issues relating to Growth Allocation and Intra-Family Transfers</b>			
1. Consider using growth allocation as	These options are mostly procedural changes and adjustments without “choices”		

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<p>an incentive requiring recipients to fulfill some public purpose in exchange for the benefit bestowed.</p>	<p>between options.</p> <p>a. Add a criterion to 190-109.D.(4) (b), specifying that the Council consider economic benefits when considering growth allocation. The eight current criteria are somewhat duplicative and could be combined and reduced in number.</p> <p>b. Add a statement to 190-109.D. that the Council may impose conditions on the use of growth allocation.</p>		
<p>2. Review and clarify the conditions that apply to a parent parcel after an intra-family lot is created under an intra-family transfer (§ 190-58.G)</p>	<p><b>EITHER</b></p> <p>a. Revise Section 190-58.G to clarify that the restrictions on out-of-family transfers apply to all of the lots in the subdivision, including the remainder of the original parcel;</p> <p><b>OR</b></p> <p>b. Revise Section 190-58.G to clarify that the restrictions on out-of-family transfers do not apply to the remainder of the original parcel.</p>		
<p><b>G. Nonconforming Uses, Lots, Parcels and Structures</b></p>			
<p>1. Nonconforming use section needs to be completely rewritten</p> <p>2. Allow minimal expansions of nonconforming uses</p>	<p><b>1. Nonconforming structures or buildings</b></p> <p>a. Continue to allow Planning Officer approval for any expansion of a nonconforming structure, including “administrative variances,” but eliminate the required Planning Commission recommendation.</p> <p>a.i. As a more limited option, define limited expansions of nonconforming structures which do not require Planning Commission recommendations, such</p>		

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<p>to be decided by the Planning Officer</p> <p>3. Eliminate Planning Commission recommendation for routine administrative variances</p>	<p>as vertical expansions and other expansions that do not increase building footprint by more than a defined limit.</p> <p><b>OR</b></p> <p>b. Establish a procedure for the Planning Officer to post property and conduct a public meeting before making a decision on expansion of a nonconforming structure, so that public input is possible if Planning Commission recommendation is eliminated.</p>		
	<p><b>2. Nonconforming uses</b></p> <p>These options are mostly procedural changes and adjustments without “choices” between options.</p> <p>a. Authorize the Planning Officer, based on facts of record and documentation submitted by the property owner, to determine whether a legal nonconforming use exists. Planning Officer’s written determination may be appealed to Board of Appeals.</p> <p>b. Require that the Planning Officer’s or Board’s determination that a nonconforming use exists also establish the extent of the legal nonconforming use, such as floor area and site area used.</p> <p>c. Allow small expansions – no more than 10% of structure or site area, with Planning Officer approval and no public hearing. Appeals of Planning Officer decisions would be made to the Board of Appeals.</p> <p>d. Allow larger expansions, up to 50% of the nonconforming building or site area, with Planning Commission recommendation and Board of Appeals approval.</p> <p>e. For any expansion of a nonconforming use, require evaluation of criteria similar to those used for special exceptions.</p>		

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	<p><b>3. Definitions and vesting</b>                      These options are mostly procedural changes and adjustments without “choices” between options.</p> <ul style="list-style-type: none"> <li>a. Delete the definitions of “nonconforming project” and “nonconformity, dimensional.”</li> <li>b. If needed at the time of drafting, refine Section 168-6 to address the vesting of in-process subdivision approvals that would not conform to the revised zoning or subdivision regulations.</li> </ul>		
<b>H. List of uses</b>			
<p>1. Review the treatment of incidental retail sales in the LI (Limited Industrial) District</p>	<p>These options would make adjustments without “choices” between options.</p> <ul style="list-style-type: none"> <li>a. Add “accessory retail sales” as a use under “Retail Sales” in the General Table of Land Use Regulations.</li> <li>b. Require that the accessory retail use be limited to incidental sale of items manufactured, distributed or used in a primary use listed under the “Industrial” land uses.</li> <li>c. Limit the area devoted to an accessory retail use and open to the public to 10 percent of the building area.</li> <li>d. Add appropriate parking provisions.</li> </ul>		
<p>2. Consider allowing agricultural retail uses, larger scale than farm produce stands, year round as a special exception or an accessory use to farms</p>	<p>These options are mostly procedural changes and adjustments to accommodate the proposed use without “choices” between options.</p> <ul style="list-style-type: none"> <li>a. Allow value-added agricultural processing as a permitted accessory use on farms, subject to a County permit, with limits on the size of the facility and setbacks. The primary product being processed would need to be grown on the farm where the processing occurs.</li> <li>b. Retain the current regulations for farm produce stands as an accessory use in RAC and RC. Add a special exception for farm markets that have a larger sales</li> </ul>		

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	<p>area and year round operation, without the required annual permit renewal. Continue to require that the produce sold be primarily grown on the Delmarva Peninsula, and to allow incidental sale and display of processed goods.</p> <p>c. Allow pick-your-own produce operations and cut-your-own Christmas tree or flower operations as accessory uses to farms, subject to a County permit, setbacks from property boundaries, parking and access requirements.</p>		
<b>I. Accessory Structures, Fences</b>			
<p>1. Review rules for allowing accessory structures on a parcel before a principal structure; temporary uses</p>	<p><b>Options</b></p> <p>These options are mostly procedural changes and adjustments in use provisions without “choices” between options.</p> <p>a. Revise Section 190-21.C to require the following:</p> <ul style="list-style-type: none"> <li>• The application for an accessory structure prior to a principal structure must show the plans for a principal use or structure on the site and explain the need for establishing the accessory structure first.</li> <li>• The Board of Appeals must place a 6-month or one year time limit within which the principal use or structure must be established or the temporary structure must be removed. The applicant may reapply to the Board of Appeals for one extension of the time limit.</li> </ul> <p>b. Expand Section 190-22, Temporary Uses. Allow some uses by right, such as garage sales or yard sales (up to 15 days in a calendar year). Allow use of property for up to five days by a nonprofit, educational, cultural, or civic organization for a carnival, street fair, or similar activity including the erection of a tent or other temporary structure. The operator must obtain all permits required by law.</p> <p>Allow the following uses with approval of the Planning Officer:</p>		

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	<ul style="list-style-type: none"> <li>• Temporary sales or field offices on sites for which a final plat has been recorded or a site development plan approved.</li> <li>• Mobile homes for use as a residence for up to one year on a lot where a home was destroyed by fire or natural calamity.</li> </ul> <p>c. Allow other temporary uses not specifically listed, for a period up to 3 months with possible time extensions not to exceed one year. Require a finding that the temporary use would not have adverse impacts on neighboring properties and would not significantly alter the site’s vegetation and topography. Because these uses would not be specifically listed or defined, require Board of Appeals approval. (Alternatively, establish the possibility of the Planning Officer conducting a public hearing and rendering a decision, with an appeal to the Board of Appeals.)</p>		
<p>2. Accessory structure limits may be too permissive, allowing large structures</p>	<p>a. Limit the height of accessory residential structures to 25 feet. (An exemption may be needed for horse stables?) Do not apply this height limit to accessory agricultural structures.</p> <p>b. Limit the floor area of accessory residential structures, with an exemption for horse stables. The limit should be more lenient for larger lots. Consider a cumulative limit of 1,200 square feet for all accessory structures on lots of 2 acres or less; a 1,600 square foot cumulative limit for lots of 2-5 acres, and a limit of 1,600 square feet per accessory building, with no cumulative limit, for lots of 5 acres or larger.</p>		
<p>3. Excessive construction of long solid fences could mar rural character</p>	<p>The following options are adjustments without “choices” between options:</p> <ul style="list-style-type: none"> <li>a. Clarify in 190-84 that the intent of the code is to allow solid fences up to six feet and to allow <i>open</i> fences around commercial, industrial or agricultural uses to exceed this height.</li> <li>b. Clean up the regulations pertaining to fences (consolidate the regulations in one place and remove regulations from the definitions section.</li> <li>c. It may also be useful to define open versus solid fence, e.g. an open fence would be one in which, say, more than 50 percent of the fence area is left open.</li> </ul>		

