

County of Albemarle

Agricultural and Forestal Districts Advisory Committee

MEMORANDUM

To: Albemarle County Board of Supervisors
From: Agricultural and Forestal Districts Advisory Committee
Date: February 17, 2025
Subject: District Review Policy for Parcel Removal

This memo relates to the review of Agricultural and Forestal Districts (Ag-For Districts) and recommendations to the Board of Supervisors for how to approach the removal of parcels from a district.

The Committee seeks to provide our expert advice on County staff's proposed criteria for removing parcels from Ag-For Districts. We believe County staff's approach conflicts with the purpose and policies of Virginia State and Albemarle County, and serves to erode Ag-For Districts. In fact, County staff's recommendation results in the immediate removal of 153 parcels totaling 2,503 acres (or 0-63% of parcels in a district, median 29%). Their proposal would also remove parcels of conscientious landowners who are directly contributing to Ag-For purposes and paying full market-value taxes. We find the minimal incremental tax revenue to the County (less than \$30K upfront and \$6K/year thereafter) does not sufficiently offset the detrimental impact this approach has on Ag-For Districts, the potential exposure it creates to costly lawsuits, or the unintended consequences it would have on the County in the future.

The Board of Supervisors deciding to remove parcels from Ag-For Districts is the first in the program's 40+ year history. The Committee's position is that such an unprecedented and significant decision should be guided by a policy that adheres to the spirit and intent of Ag-For Districts. The Committee recommends an alternative District Review Policy aligned to the purpose of Ag-For Districts. The Committee additionally recommends the renewal of the 15 districts currently under review as well as minor revisions to County Code to reconcile the conflict between the County's development rights policy and the purpose and policies of Ag-For Districts set by the State of Virginia and Albemarle County.

Background

In Nov 2018, County Code [§3-204](#) was revised to direct the Ag-For Committee, Planning Commission, and Board of Supervisors to consider "the criteria in County Code [§ 3-201](#)(F)(2), (3), (4), (5), and (7), and any other relevant factors when it reviews a district". Including reference to [§3-201](#)(F)(7) and its development rights policy did not decide how parcels with no development rights would be evaluated during a district review. The intention was only to leave the door open for it to be considered a factor.

At the time of codification, it was not known what effect the development rights policy stated in [§3-201](#)(F)(7) would have on Ag-For Districts if also applied to district reviews. 15 of the County's 28 districts are currently under review and we now have data to inform the decision.

County Staff's Current Recommendation and Unintended Consequences

County staff's current recommendation is based on strict adherence to the development rights policy in [§3-201\(F\)\(7\)](#) regardless of other factors, effectively applying the policy as the sole criteria to determine inclusion (or implied exclusion) of a parcel in the district during a review.

For the 15 districts, applying staff's recommendation results in:

- Removal of 153 parcels totaling 2,503 acres,
- Removal of 0-63% of the parcels in a district (median 29%),
- Treating conscientious landowners the same as so-called "bad actors", and
- Estimated incremental tax revenue to the County of less than \$30,000 upfront and \$6,000 per year going forward.

The Committee finds that implementing County staff's current recommendation significantly reduces the size of Ag-For Districts, fragments the land, and threatens the long-term viability of Ag-For Districts.

Additionally, the Committee finds significant flaws with the justification for implementing County staff's recommendation. For example, County staff recommends removing parcels from Ag-For Districts because landowners "might" convert the use of their land while continuing to benefit from the protections of the Ag-For District program. The Committee strongly disagrees with preemptively taking negative action against a landowner based on a suspicion of what they "might" do in the future.

In addition to the immediate effects of implementing County staff's recommendation and concerns over the underlying reasons for the recommendation, the Committee foresees additional unintended consequences including but not limited to:

- Potential legal action against the County, which would be an unnecessary drain on County resources,
- Further irreversible loss of agricultural and forestal lands, and other natural and ecological resources,
- Potential negative public opinion of the Board for taking actions in direct conflict with Albemarle County citizens' commitment to the preservation of natural resources and protection of rural area character.

Both the short-term and long-term outcomes of County staff's recommendation are inconsistent with the purpose and policies of Ag-For Districts set by both the State and the County.

Committee's Recommended District Review Policy

The Committee recommends an alternative District Review Policy based on the position that the [§3-201\(F\)\(7\)](#) policy applies as one of many factors to consider during a district review and, when evaluated on the whole, may or may not apply. The Committee recommends applying criteria based on consistency with the purpose of Ag-For Districts to determine whether a parcel remains in the district or is removed from the district. All other District Review Policy proposals, including staff's original recommendation, apply this interpretation of County Code.

The Committee details its recommended District Review Policy, including its recommended procedure to apply the policy, in Slides 4-8 of the attached presentation.

For the 15 districts, applying the Committee's recommendation results in:

- Potential removal of up to 1 parcel totaling 21 acres,
- Potential removal of 0-2% of the parcels in a district,
- A more targeted approach to identifying so-called "bad actors", and
- Estimated incremental tax revenue to the County of less than \$15,000 upfront and \$3,000 per year going forward.

Side-by-side comparisons between County staff and Committee proposed District Review Policies and parcel removal recommendations are detailed in Slides 9-10 of the attached presentation.

Additional Committee Recommendations to the Board

In addition to an alternative District Review Policy, the Committee recommends renewal of the 15 districts currently under review as well as minor revisions to County Code.

The review periods for the 15 districts have expired and landowners of parcels identified for removal were notified of this potential action *after* their district's review expiration date. The Committee recommends the Board of Supervisors continue each district for the staff-recommended time period without the staff-recommended removals. The Committee details its specific recommendation for each district in Slide 11 of the attached presentation.

Strict adherence to the development rights policy in [§3-201\(F\)\(7\)](#) serves to erode Ag-For Districts and threatens their long-term viability. The Committee advises the Board to reconcile the conflict between the development rights policy in [§3-201\(F\)\(7\)](#) with the purpose and policies of Ag-For Districts stated in County Code [§3-100 & §3-101](#) and State Code [§15.2-4301](#) by making minor revisions to County Code. The Committee recommends the Board of Supervisors remove specific references to the development rights policy from County Code and instead adopt the policy as a tool to guide but not necessarily dictate district reviews. The Committee details its recommended revisions in Slides 12-13 of the attached presentation.

Conclusion

In summary, the Committee finds that County staff's recommended District Review Policy results in outcomes that undermine the purpose and policies of Virginia State and Albemarle County and erode the Ag-For Districts.

The Committee recommends the alternative District Review Policy, described above, that is aligned to the purpose of Ag-For Districts. The Committee additionally recommends the renewal of the 15 districts currently under review as well as minor revisions to County Code to reconcile the conflict between the County's development rights policy and the purpose and policies of Ag-For Districts set by the State of Virginia and Albemarle County.

Attachment: District Review Policy for Parcel Removal.pptx