

EXHIBIT A: DRAFT OF PROPOSED POLICIES & TEXT CHANGES TO THE COMPREHENSIVE PLAN (underlined areas are shown as proposed draft additions to the Comprehensive Plan)

Comprehensive Plan Amendment – Proposed Draft Language for the Environmental Restoration & Recovery Area (ERRA)

Draft Amendments to Chapter 3: Growth Management and Land Use

Page 3-2, 3-3: Growth Management Land Use Planning Policies

Add the following:

viii. As a means to solve environmental problems associated with water quality in the Port Tobacco River watershed, establish an Environmental Restoration and Recovery Area (ERRA) on the future land use map and associated objectives and policies for private sector incentives to help solve such environmental problems;

Page 3-7: Land use plan concept and implementation strategies. This section of the Comprehensive Plan lists 12 general land use areas or districts and describes the intent of each one. If a new ERRA land use is desired, then an additional #13 would be needed as noted below.

Page 3-12: This section discusses mixed use areas and would need to be amended to recognize ERRA's as potential mixed use areas.

Add the following under Mixed Use Districts:

Environmental Restoration and Recovery Areas (ERRA's) may be considered as mixed use development projects only if consistent with the objectives, policies and criteria as outlined in section 13 of this Chapter, under Environmental Restoration and Recovery Areas (ERRA)

Add the following:

13. Environmental Restoration and Recovery Area (ERRA)

Page 3-18. This section of the Comprehensive Plan describes the details for the land use category. Specific objectives and policies have been added to serve as criteria to be used for any specific development proposal.

Add the following:

13. Environmental Restoration and Recovery Area (ERRA)

In 2010 a proposal for a Waterfront Zoning District and associated development was presented to the Planning Commission by private sector interests. There were numerous concerns raised

about the potential impact from the proposal, associated costs and the extent of development it would potentially allow. It was eventually dropped. Later that year, the applicant requested that the Planning Commission study the issue further with the intent of narrowing the focus to consider proposals which would have benefits. It was also the intent to provide a funding source for improving or solving environmental problems and in particular those within the Port Tobacco River watershed which has water pollution problems.

The Planning Commission appointed a sub-committee of its members, as well as members of the public, to further study the issue and make recommendations for an Environmental Restoration and Recovery Area (ERRA). The goal of establishing an ERRA is to provide a mechanism that will result in “significant” environmental restoration or improvements to documented problems or issues. In conjunction with this, the Planning Commission will consider development proposals outside of the development district and only within the Port Tobacco River watershed. These development projects could potentially receive density bonuses in exchange for providing such environmental improvements.

Nothing in this plan requires approval of such projects, but it is the intent to provide a mechanism for consideration of such proposals based on their merits. It is also the intent to have the burden of proof on developers that would propose projects whose design and environmental benefits (such as improvements to the Port Tobacco River water quality) would outweigh any potential impacts from proposed developments. Therefore, the subcommittee presented the following objectives and policies associated with such a land use to be used in consideration of any such development project requests:

Objective 1: Define and designate an Environmental Restoration and Recovery area which would provide incentives for developers in relation to proposals which make significant environmental improvements.

Policy 1-1: The Environmental Restoration and Recovery Area (ERRA) is defined as that area which encompasses the Port Tobacco River Valley watershed area as defined by the Water Resources Element of the Comprehensive Plan, and excludes any designated Priority Preservation Areas as further defined in the Comprehensive Plan.

Policy 1-2: Development projects may be considered which exceed density limits designated for lands outside of the development district within the ERRA designated area and zoned as Agricultural Conservation (AC), Resource Conservation (RC) and Rural Residential (RR) provided that significant environmental improvements and benefits are proposed and made concurrently with the project and that a rezoning as described in these policies is submitted for review and consideration. A maximum density limit for ERRA projects is set at a gross density of 3.5 units per acre;

Policy 1-3: Significant Environmental Improvement must be a generally recognized environmental problem as identified in the Port Tobacco Watershed Restoration Action Plan (WRAS), the County Capital Improvement Plan (CIP), the Watershed Implementation Plan

(WIP), the Charles County Health Department, or some other official inventory of environmental problems. The proposed environmental improvement must either completely resolve the problem (such as providing stormwater management where none currently exists), or provide a measurable benefit of at least a 50% improvement over existing conditions. In addition, the implementation of such improvements may include agreement by the county to enter into a public-private partnership with the applicant to implement the environmental improvement actions required to mitigate the environmental problem.

Objective 2: Establish specific environmental protection criteria to be used in evaluation of projects that propose to use the provisions of an environmental restoration and recovery zone project.

Policy 2-1: Criteria for consideration shall include:

- a) A description of the extent of the environmental problem including a map that defines the location and limits of concern.
- b) A project site of at least 100 acres in size is required to qualify as an ERRA project application;
- c) A description of the public health, safety and welfare issues to be remedied by the proposed project;
- d) A description of the proposed recovery solution and remedies;
- e) A cost analysis of the proposed recovery solution to include ongoing operation and maintenance;
- f) A description of the responsible entity for payment and implementation of the solutions;
- g) A schedule and time limit to fulfill and complete the environmental restoration;
- h) To further enhance and protect Priority Preservation Areas (PPA's), any proposed ERRA project shall be required to utilize Transfer of Development Rights (TDR's) from within PPA areas to the project site for the proposed units that exceeds the existing base zoning of 1 unit per 3 acres.
- i) Environmental restoration and recovery improvement costs must be at a minimum of at least 15% of the total required TDR costs.
- j) Environmental restoration and recovery improvement costs that exceed 25% of the costs of the total required TDR's may be considered as credit towards the total required TDR's for the project.
- k) To meet a growing demand for affordable housing, at least 10% of the proposed housing units in any proposed project shall be affordable housing and targeted to those of 80% or less of median family income per the definitions of affordable housing as adopted by Charles County Commissioners by Resolution No. 2009-92. Affordable housing can be either owner or rental units;
- l) Include extensive protective buffering adjacent to the Port Tobacco River and its tributaries;
- m) A detailed stormwater analysis of the proposed project and associated improvement plans;

- n) An environmental analysis report which documents: i) impacts from development per the existing allowable land uses; ii) impacts from the proposed development and change in density and/or intensity of uses; and iii) the environmental benefits from the proposed development which demonstrates a net improvement to the environment;

Policy 2-2: Any project approved under the policies and criteria as an Environmental Restoration and Recovery Area (ERRA) shall be reviewed by the Planning Commission for progress of implementation within 5 years by the demonstration of approved plans, planned or built infrastructure and progress towards completion of environmental recovery and restoration. If it is determined that no project plans has been proposed and the project has not moved forward to implementation, the Planning Commission may terminate the project's Mixed Use Planned Development Zoning and associated master plan.

Objective 3: Designate a project review process and any other applicable design and development criteria to be used for proposed Environmental Restoration and Recovery Area (ERRA) projects.

Policy 3-1: A pre-application meeting between the applicant and county staff is required prior to the submittal of the application of an ERRA project in order to review and discuss the proposal and significant environmental improvements and benefits;

Policy 3-2: Proposed ERRA projects shall include design and development criteria as follows:

- a) Be proposed only as a Mixed Use (MX) Floating Zone application and include a Conceptual Master Plan and development and preservation locations, all mitigation and design criteria as established in the Charles County Zoning Ordinance for floating zones, including the required mix of uses and environmental protection measures;
- b) The percentage of mixed land uses in a MX project as established in Section 297-106F of the Charles County Zoning Ordinance may be adjusted in the proposed ERRA project provided it can be demonstrated that such uses exist within a 5 mile distance of the center of the project. However, some mixture of uses are required within the project boundary.
- c) A proposed description of the increase in density desired by the proposed project;
- d) Be designed as a Village with a defined center and which utilizes the superior design criteria as established in the Charles County Zoning Ordinance;
- e) Include as part of the Planned Development MX zoning process a ERRA Restoration Document which outlines the criteria established in Policy 2-1 above;

Policy 3-3: In order to incorporate public participation and awareness of the proposed project, prior to submittal of the zoning proposal for a MX project which is reviewed under the criteria for an ERRA project, the applicant shall hold at least 2 public outreach project meetings to review the proposed MX master plan and solicit ideas and comments from the public. An advertisement is required and shall include a quarter page public notice in the local newspaper and letters of notification sent to all property owners within 500' of the boundary of the subject

property as well as to property owners potentially affected by the proposed environmental improvements. Copies of such notification as well as a list of public comments, responses and changes made to the project as a result of such comments shall be submitted with the application for MX zoning.

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