

# Minority Report of the Rural Preservation Advisory Group

by

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The Rural Preservation Advisory Group (RPAG) prepared a report for the Planning Commission. I do not believe that the meetings were designed to encourage discussion of all the issues we considered. To the extent we had discussions, they were not complete, comprehensive, and robust.

As a member of the RPAG, I agree with some parts of the report (hereafter referred to as the Majority Report) but believe that some parts of the report are unnecessary, based on information not fully vetted, and omitted important information.

## **The Part of the Report with which I Agree**

*Our Advisory Group would like to be included in the revision and drafting of Zoning and subdivision ordinances after the Comprehensive Plan is adopted.*

After fully reviewing the submitted Majority Report, I agree with the Goals outlined in bullet detail for Infrastructure and Business Development. A Master **Landscape Plan and Tree Protection Plan** were recommended in **Reducing Runoff from New Development**.<sup>1</sup> It appears to have been written to preserve existing trees, to alleviate runoff, and to ensure buffering around new development maintains full, thick cover that retains the most nature in which it sits. **Rural Character Objectives 3 and 4** were highlighted for possible deletion in the final Majority Report. I recommend these objectives be retained. Should the final Majority Report delete the two objectives, ensure that they are put back into the Draft Majority Report as follows:

1. Develop scenic corridor regulations to preserve the scenic views along the gateways to Fluvanna County (2015 Comprehensive Plan, page 63).
4. Protect the county's scenic roadways by designating them as State Scenic Byways and by adopting a local scenic byways ordinance (Compare this to 2015 Comprehensive Plan, page 159, A(1)).

The writers of that document did not go far enough to address other equally important objectives that would make the future Fluvanna County a place that invites new residents and visitors alike. Without consideration and execution of all the obtainable and sustainable objectives, the County will move forward with shortsightedness. This will

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<sup>1</sup> **Reducing Runoff from New Development, Recommendations for Fluvanna County, February 2010, Rivanna Conservation Society and UVA Environmental Law and Conservation Clinic**

result in the potential loss of natural resources, its unique identity, and rural character, all of which deserve consideration as economic development tools.

### **The Part of the Report with which I Don't Agree**

I don't agree with **Objectives 3, 4, and 9 in the Land Use and Preservation Objectives**. These objectives concern very specific Land Use issues that should be addressed separately.

- Cluster Development: Re-evaluate cluster development issues and compliance in meeting Rural Preservation Area restrictions. If these problems continue, take action to rescind the Cluster Development Ordinance.
- Dense Development in Rural Preservation Areas: Deny **dense** development in Rural Preservation Areas. The goal of retaining the County's Rural Character is substantially degraded by **any dense** development in an RPA,
- Solar Facilities: Building these arrays appears to be contrary to the preservation of rural land and character of Fluvanna County. Strict limitations should be written into County ordinances. **Pause** acceptance of any pending or future zoning applications for solar facilities until proper Ordinances are written.

I do not agree with **Objective 2 in the Rural Character Objectives** because it states the **Landscape Plan and Tree Protection Plan** should be followed "when possible". However, it is imperative that the **Landscape Plan and Tree Protection Plan** be followed whenever a developer's Master Concept Plan is submitted with an application. The Objective may be corrected by replacing "when possible" with "that preserve and protect existing trees through ordinances.

### **Objective**

The Rural Preservation Advisory Group's objective is to include community input while assisting planners and elected officials in ensuring that Fluvanna County's rural character, positive quality of life, agricultural and forestal production, water quality and quantity, natural resources and scenic vistas are protected and improved through good planning and clear, strong zoning ordinances driven by the revised 2040 Comprehensive Plan.

To achieve this guiding Objective, the following policy strategies illustrate the interconnected, comprehensive nature of the varied elements involved in the preservation of Fluvanna County's unique identity and rural character.

### **Recommended Strategies to be Included**

The recommendations included in the RPAG Report should help the Planning Commission and Staff to start writing viable ordinances easily understood by applicants.

Many ordinances need updating and to be written in strong, clear language and enforced. The Subdivision Ordinances should be tailored to Fluvanna County and, in some cases, necessitate closer individual study based on incompatible uses of adjacent property, traffic and infrastructure concerns, and fiscal impact to taxpayers.

According to the 2015 Comprehensive Plan, it should be recognized that every request for zoning is not an automatic “Yes”

In the Majority Report, four Goals were identified as areas requiring Objectives to be identified in support of the 2040 Comprehensive Plan. Approved and adopted goals and objectives may become part of the 2040 Comprehensive Plan, as a revision of the 2015 Comprehensive Plan.

I identified 64 strategies that should be considered by the final decision makers of the 2040 Comprehensive Plan, the Planning Commission, and Staff when drafting ordinances. Of those 64 Strategies I wrote, 16 were similar to and included within the Objectives reported under the four Goals outlined in the Majority Report. The following 16 strategies are enhancements that are cross-referenced to the 4 Goals to which each applies and are identified as follows:

I = Infrastructure  
LU = Land Use and Preservation  
RC = Rural Character  
B = Business of Development

1. Discourage extension of public utilities and other growth-inducing public facilities into the rural preservation area. Limit denser developments in the rural preservation area to those areas served by public utilities. Direct growth to Fork Union and Zion Crossroads where public water will be available. **(Ref I-1, LU-2, LU-4)**
2. Make land use decisions and plans that are consistent with the overall goal of preserving open space and approve rezoning of farmland to nonfarm use only if an overriding public need exists and the designated growth areas cannot accommodate the new use. **(Ref LU-1)**
3. Encourage and facilitate landowners to place their land under conservation easements or in ag/forestal districts. Assist local nonprofits in making the advantages of these programs known to residents. We applaud the county's conservation easement program. **(Ref LU-6)**
4. Recognize conditions and restrictions in deeds and other legal documents and require developers to resolve all disputes involving all parties before any rezoning is considered. **(Ref B2)**
5. Continue to support land use taxation and other fiscal programs that help alleviate economic burdens on owners of land used for agriculture, horticulture, forestry, or open space purposes and use land use planning to protect agricultural land from escalating assessments because of development pressures. **(Ref LU-7)**
6. Mandate larger buffers (of at least 100 feet) between incompatible land uses and along our roads and the gateways to our county. Preserve, protect, and retain

mature trees along our roads to retain our rural character and tree canopies. Any new commercial or housing developments must be behind green buffers or berms where trees do not already exist to retain the views along our rural roads. **(Ref Partial RC-2)**

7. Develop scenic corridor regulations to preserve the scenic views along the gateways to Fluvanna County. (2015 Comprehensive Plan, page 63) **(Ref RC-3)**
8. Protect the county's scenic roadways by designating them as State Scenic Byways and by adopting a local scenic byways ordinance. (Compare this to 2015 Comprehensive Plan, page 159, A (1)) **(Ref RC-4)**
9. Develop a Greenway Plan for Fluvanna County for increased recreational and tourism opportunities, provide connections to key destination points and attractions. This plan would include parks, significant trails, local wineries and orchards, historic sites, scenic rivers, and unique local businesses. **(Ref RC-5)**
10. Protect scenic views and vistas by encouraging the siting of new buildings in conformance with the existing topography and into the existing landscape and vegetation. **(Ref RC-3)**
11. Design public utility corridors to fit the topography. **(Ref RC-4)**
12. Manage and protect the county's groundwater and surface water resources. Recently, the Commonwealth of Virginia has questioned the amount of environmental damage created by installing and maintaining solar facilities, specifically about runoff affecting the Chesapeake Bay. **(Ref I-4)**
13. Seek the expertise of the full-time extension agent in Fluvanna to work with our rural landowners to use farmland optimally. **(Ref LU-8)**
14. Mandate developers to minimize the visual impact by retaining natural features such as mature trees and plants, avoiding excessive grading, minimizing impervious surfaces, preserving wildlife habitats, and limiting light and noise pollution. **(Ref Partial RC-1)**
15. Avoid spot zoning and rezoning of A-1 land until each is studied individually for all monetary and opportunity costs. **(Ref LU-5, B-1)**
16. Bear in mind that the Commonwealth of Virginia, the other five Bay states, and the District of Columbia have signed an agreement with the Environmental Protection Agency entitled the "Chesapeake Bay Clean Water Blueprint." Among other things, it mandates serious reductions in the amount of phosphorous, nitrogen and silt in all the Bay's tributaries with a goal of meeting these goals by 2025. Development in our rural areas would not only have a serious detrimental impact on the ability of Fluvanna County and the Commonwealth of Virginia to meet the Total Maximum Daily Load Standards (TMDLS) contained in the Blueprint but also potentially result in loss of groundwater and the purity of our streams. **(Ref I-5)**

In the 2015 Comprehensive Plan, there are 12 chapters that are being **revised** in the ongoing process to update it. The strategies to meet the main objective of the Rural Preservation section of the 2040 Comprehensive Plan were developed using these 12 chapters covering:

Natural Environment  
Land Use and Community Design Environment  
Infrastructure  
Transportation  
Economic Development  
Historic Preservation  
Parks and Recreation  
Housing  
Human Resources  
Education  
Public Safety  
Financial Sustainability

Their integral relationships were considered in developing the strategies to meet the main objective in the Minority Report. I believe they are as equally important as those in the Majority Report and include concerns that arose from thorough study of the 2015 Comprehensive Plan, attendance of County meetings, and numerous interactions with citizens and inquiries over approximately two years. The other RPAG members never participated in those meetings.

New strategies are included to address new ventures that have come into the County such as solar facilities and unbuffered metal storage facilities.

The advocacy and implementation of the policy strategies in the Minority Report, hopefully, will be given thoughtful consideration when constructing the 2040 Comprehensive Plan and in drafting, revising, and enforcing ordinances. This care is essential in ensuring all aspects relative to preserving Fluvanna County's unique identity and rural character have been exhausted.

In Appendix 1 of the **Minority Report for the 2040 Comprehensive Plan, Vision, Objectives and Strategies**, I have listed relative statements in the 2015 Comprehensive Plan which need to be remembered and acknowledged when drafting, implementing, and enforcing ordinances. The 64 Strategies include the following 48 Strategies proposed for the 2040 Comprehensive Plan in addition to those in the Majority Report and 16 Enhancements listed Pages 3 and 4.

1. Ensure the rezoning and subdivision ordinances adopted are clear, strong, and reflect the vision of the Rural Preservation Advisory Group so that growth takes place in a controlled manner without spreading into a sprawling pattern; have the Rural Preservation Advisory Group continue to work in a collaborative status with the Planning Commission and the Board of Supervisors.
2. Balance zoning and subdivision ordinances to give equal or greater protection of property rights of resident property owners as opposed to off-site, non-resident property owners and developers. The county needs to protect and recognize the landowners who have chosen to stay and reside in Fluvanna County as their permanent residence.

3. Adapt development to the existing topography and natural setting. Excessive grading, cutting, and filling is to be discouraged.
4. Strictly regulate the number, size, and scope of smaller solar generation facilities in the county. Prohibit Industrial/Commercial scale solar power facilities as they appear to be contrary to the preservation of rural character in Fluvanna County.
5. Focus planning efforts on key parcels which have potentially serious effects on adjacent properties such as the 155-acre parcel opposite Pleasant Grove.
6. Keep river and stream corridors, especially floodplain and wetlands, undeveloped.
7. Limit development densities to ensure future development stays within the capacities of water and sewer systems.
8. Conduct water and wastewater studies as new development is requested and before that development is approved.
9. Create an Advisory Group to prepare architectural standards and to evaluate proposed new commercial and residential developments regarding styles and materials. Styles, materials, and structure height must protect the aesthetics of the land and reduce the environmental footprint of any new development.
10. Prohibit strip development and mandate limited access and internal access management in large scale commercial and industrial uses.
11. Support and promote specialty and niche farming such as equestrian uses.
12. Support local farmers markets with an emphasis on local products.
13. Encourage businesses and industries that support and strengthen the county's agricultural economy.
14. Promote farming as a productive way of life.
15. Hold developers accountable for the commitments made when property is rezoned or when developments are approved.
16. Ensure developers complete all parts of their applications.
17. Slow the constant rezoning of A-1 land (9 to 12 months).
18. Require larger lot sizes in rural areas and in developments on rezoned A1 land, especially adjacent to incompatible uses.
19. Encourage the protection of farmland and forests from development that would reduce its long-term viability as a part of the agricultural economy.
20. Mandate unobtrusive signage in commercial and industrial uses to protect primary roadways.
21. Support adequate setbacks, vegetative buffering, and dark sky lighting.
22. Draft design guidelines for all commercial and industrial development.
23. Revisit and revise cluster development ordinances and evaluate the results of all those developments built under the revised ordinances to include any impact on A-1 land.
24. Manage By-Right better by implementing rezoning where the developer specifically proffers the uses that they plan to pursue.
25. Develop and implement a system of cash proffers, impact fees, level of service standards. (Explain what level of service standards is).
26. Review and acknowledge the numerous statements in the 2015 Comprehensive Plan that illustrate why an automatic "YES" is not appropriate in all rezoning

- requests and approval of all developments. Draft ordinances to support these statements.
27. Identify the potential tax impact for each proposed development or rezoning (new schools, social services, public safety, traffic, water and sewer, adjacent incompatible uses). This information must be available to the Planning Commission and Board of Supervisors prior to their vote.
  28. Encourage the use of the county's rail lines for the movement of commercial and industrial goods and for passenger service, including tourists. (Buckingham County does this).
  29. Promote reuse of historic structures that support agricultural and forestal uses in the Rural Area.
  30. Identify the geographic limits of a crossroads community by meeting with Rural Area residents.
  31. Continue to discourage the proliferation of permanent and temporary advertising signs.
  32. Limit development on critical slopes to maintain the balance between slope, soils, geology, and vegetation.
  33. Reimagine and restore major celebrations of Fluvanna County related to history including oral history, music, and other related facets. Attempts should be made to include all areas and citizens, with outreach to youth groups and students.
  34. Hold developers responsible for failure to comply with ordinances and/or proffers through implementation of monetary penalties.
  35. Mandate low-impact development (LID) as an approach to site development and storm water management designed to mitigate development impacts to land, water, and air. LID begins with the site planning process and is more sustainable than traditional development practices. (See 2015 Comprehensive Plan, page 23).
  36. Enhance and aggressively market a Fluvanna County brand aimed at attracting tourists and visitors through good planning and design.
  37. Consider partnering with neighboring counties (i.e., Buckingham, Louisa) by exploring opportunities to attract new compatible economic enterprises.
  38. Encourage development of a "country store" at Pleasant Grove which highlights Fluvanna's artists, photographers, crafters, and writers where residents and tourists can enjoy the showcases in a comfortable setting along with the purchase of light refreshments including local artisanal foods.
  39. Pursue marketing efforts, using digital technology to target the tourist/visitor market with the attractions this area has to offer, including tubing, hiking, biking, horseback riding, fishing, arts and crafts festivals, historic tours, and vineyards.
  40. Continue to promote voluntary efforts by citizens and citizen groups to protect scenic resources (river clean up, trash pick-up, and recycling).
  41. Maintain the rural character and ensure the protection of current and future agricultural and forestal land as essential to preserving the heritage and unique character of Fluvanna County.

42. Require developers to commit to specific material types and styles as part of a project's approval through legally binding proffers.
43. Work to increase alternative transportation options such as Rideshare, park-and-ride locations, and a more flexible schedule for Jaunt to accommodate workers, the elderly, and the disabled to mitigate the effects of vehicle emissions.
44. Improve connectivity between Palmyra and Pleasant Grove and within CPAs to enable residents to travel safely without the need to use a vehicle.
45. Complete a Master Water and Sewer Plan. Identify sources for County long-term water needs, particularly for each of its CPAs.
46. Continue to review and pursue opportunities and options for Palmyra Village streetscapes projects to improve safety, parking, walkability, and overall appearance as it continues to be a viable, functioning Village. Do the same for Fork Union.
47. Continue Colombia area renewal efforts.
48. Investigate and pursue with State offices the installation of select boat ramps along the Rivanna and James Rivers to support additional recreation and tourism opportunities. The water treatment plant could have a shared access for a boat ramp.

### **The Parts of the Report I Believe to be Unnecessary**

I believe the following selections from the referenced RPAG submission are unnecessary for the report. The RPAG report should address the research, findings, goals, recent citizens' concerns, and recommendations of the Group.

***“If Fluvanna were a ship, then its heritage should be the compass by which it sets course from now through the future. No stronger message could be sent by the citizens participating in the Forum: overwhelming consensus that the community and its government must work together to control and direct growth so that Fluvanna’s heritage – in its broadest meaning – continues to be a meaningful and living legacy that shapes future changes in the county and defines and unites the community.” From the 1999 Citizen Heritage Forum.*** We have used these words as the inspiration for our deliberations and recommendations.

Although this statement was written over 20 years ago, we feel it is still a relevant statement of the importance of our rural areas. Subsequent county-wide surveys and citizen engagement have strongly endorsed Fluvanna’s needs to maintain its rural character and direct economic and residential growth to our Planning Areas.



### **Introduction**

The Rural Preservation Task Force, appointed to advise the Planning Commission and the Board of Supervisors on updating Fluvanna's Comprehensive Plan, consisted of 5 citizens from many backgrounds and areas of the county. It included: Overton McGehee, Suzy Morris, Kathy Swenson Miller, Gibson Worsham and Marvin Moss. Mr. Moss withdrew his participation in the group but we'd like to acknowledge the significant contribution he made to the early work of this group. The group attended the Department of Community Development's planned public meetings held at the library. We also met on our own to begin discussing our priorities and to outline our ideas and suggestions for amending the Comprehensive Plan. Some members have attended Board of Supervisors and Planning Commission meetings as well as had discussions with citizens throughout Fluvanna regarding direction of development in the county.

### **The Parts of the Report I Believe were Based on Information Not Fully Vetted**

#### **Majority Report, *Solar Farms in Fluvanna County, Virginia – Getting it Right the First Time***

This report on the Solar Farms was not discussed in any detail. In fact, that document was not provided to the RPAG in sufficient time to foster any detailed discussion. Without those discussions, additional research from a variety of resources and Virginia state reports, no valid recommendations can be made concerning zoning codes that will preserve rural lands. The following discussion points are important to be read when the County is considering an application to build a solar facility.

Solar Facilities are already being built in Fluvanna County. The intent of this section is to identify things that should be considered in current or new ordinances that will provide the best benefits to the County, preserve the land, and protect the health, safety, and general welfare of Fluvanna citizens.

However, it must be recognized that, because of the National emphasis on building renewable energy sources, the open land in Fluvanna County is prey to solar developers. The benefits of these power facilities must be weighed carefully. Of particular importance to this County is the decision as to what megawattage will be allowable when the zoning codes are developed and written. An inherent part of writing effective ordinances is evaluation of current power grids to determine what energy loads can be supported. Solar developers are incentivized to push to beat the expiration of tax credits in 2025 and get solar arrays approved. Fluvanna, like many other jurisdictions, has no ordinances to protect its rural land.

The Virginia Department of Environmental Quality has been tasked, in concert with other State departments, to develop regulations governing criteria to determine the potential adverse impacts on prime agricultural soils and forest lands. This process is expected to extend well into 2023.

Given that the State requirements are not completed, it would be advisable for the County to **pause** its solar facility approvals and write coherent, viable ordinances/articles to ensure anything built is safe for the environment and does not adversely affect the economic stability of the County and the quality of life of its resident property owners.

Until that process is completed, I recommend further applications for building solar facilities in the County be placed on hold and that the Planning Commission, Board of Supervisors, and County Staff become better educated regarding this entire subject,

Appendix 1, *Madison County Ordinance for Solar Facilities Development*, is provided as an example of the ordinances/articles that should be written by Fluvanna County. Ideally, that would have been done before **any** solar facilities were approved by the Board of Supervisors. It is highly recommended that all solar facility applications be paused until proper ordinances are written and approved.

**Cluster Development** has become, in rural areas, the workaround for approval to build high density developments. The current zoning code needs to be revisited and re-evaluated for what should be viable limitations to ensure these smaller projects do not adversely affect rural preservation. I recommend that the Planning Commission and Staff revise them to ensure rural and historical preservation goals are not ignored. **Consider rescinding** cluster development ordinances if revamping does not work.