A SPECIAL MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE FIRST DAY OF SEPTEMBER, TWO-THOUSAND AND TEN, AT 4:30 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101-F MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

ROLL CALL

Planning Commissioners Staff Present:

Present:Allen Murphy, Director of Planning/Reese PeckAssistant Development ManagerJoe PooleTammy Rosario, Principal Planner

Jack Fraley Brian Elmore, Development Management Asst.

Mike Maddocks

Rich Krapf Al Woods Tim O'Connor

Mr. Reese Peck called the meeting to order at 4:30 p.m.

Mr. Peck welcomed the public to the second speaker's forum dedicated to public input for the upcoming Zoning and Subdivision Ordinance updates. He stated this public forum is being held early in the ordinance update process to identify issues and concerns. At tonight's meeting, citizen input will be solicited on residential and cluster overlay districts, rural lands districts, the subdivision ordinance and green building standards.

RESIDENTIAL AND CLUSTER OVERLAY DISTRICTS

Mr. Peck opened the public hearing for residential and cluster overlay districts.

Mr. Robert Duckett, Public Affairs Director of the Peninsula Housing & Builders Association, spoke regarding his submitted comments to change the ordinances to allow more mixed use zoning. (See Attachment #1)

Mr. William Haldeman, 109 Randolph's Green, spoke regarding his submitted comments on removing incentives that encourage smaller, by-right wireless towers. (See Attachment #2)

Mr. Bob Spencer, 9123 Three Bushel Lane, representing James City County Citizens Coalition (J4C), spoke regarding his submitted comments on the consolidation of residential zoning districts by similar uses and densities. (See Attachment #3)

Mr. Dick Schreiber, President of the Greater Williamsburg Chamber and Tourism Alliance, spoke regarding his submitted comments on increased workforce housing options. (See Attachment #4)

Mr. Jack Fraley asked if the Chamber supports inclusionary zoning, such as in Virginia Beach, where each housing development is required to supply a certain percentage of affordable

housing.

Mr. Schreiber stated his group would like to review the issue and discuss it further with the Commission. He stated Virginia Beach has several initiatives on that issue, many of which are positive.

Mr. Peck closed the public forum on residential and overlay districts.

RURAL LANDS DISTRICTS

Mr. Peck opened the public forum on rural lands districts.

Mr. Greg Davis, representing the owners of Gatehouse Farms, Cedar Valley Farm, the Claybank Landing Tract, the Stonehouse Taylor properties, Hill Pleasant Farm, and the Nayses Bay farm owners, stated his clients were concerned the ordinance update could harm their property values. He stated potential additional rural lands regulations could reduce farm and acreage values even further. To protect the farms, the County could purchase rural lands, create a conservation tax credit, implement a fair transfer of development rights (TDR) ordinance, and concentrate development inside of the Primary Service Area (PSA).

Mr. Fraley stated he was seeking to change the ways rural lands are developed to deal with sprawl. He stated that he would like Mr. Davis to discuss various rural lands initiatives with his clients, including reduced base density, current densities in cluster developments, open space requirements, a linked open space network, and transfer of development rights to receiving areas in Economic Opportunity, Low Density Residential, and Moderate Density Residential areas.

Mr. Davis stated he would be willing to discuss those initiatives with his clients.

Mr. Robert Duckett, Public Affairs Director of the Peninsula Housing & Builders Association, spoke regarding his submitted comments on protecting rural lands property owners from reduced density. (See Attachment #5)

Mr. Peck closed the public forum on rural lands districts.

SUBDIVISION ORDINANCE AND GREEN BUILDING STANDARDS

Mr. Peck opened the public forum for the subdivision ordinance and green building standards.

Mr. Robert Duckett, Public Affairs Director of the Peninsula Housing & Builders Association, spoke regarding his submitted comments on model development principles recommended by the Builders for the Bay report. (See Attachment #6)

Mr. Fraley stated that the Commission would review the study recommendations from the Builders for the Bay Final Report during the ordinance update process. He stated he was surprised the study not had been previously submitted to the Commission or Board.

- Mr. Craig Metcalf, 4435 Landfall Drive, representing J4C, stated the ordinances should be consolidated to eliminate conflicting language. He stated a simplified ordinance would facilitate public review and ease the application process. Exceptions and variances should only be granted under very strict circumstances. Reducing ambiguity in the ordinance would also allow the public to make more informed opinions on development cases.
 - Mr. Peck closed the public forum for subdivision ordinance and green building standards.

RURAL LANDS DISTRICTS

- Mr. Peck reopened the rural lands discussion to allow late arriving citizens to speak.
- Mr. Tom Tingle, Chair of the Economic Development Authority, spoke regarding his submitted comments on increased workforce housing options and implementation of a TDR program. (See Attachment #7)
- Mr. Fraley asked the Economic Development Authority to review mandates versus incentives for workforce housing. He asked whether the Economic Development Authority supported integrated workforce housing or designated workforce housing areas.
 - Mr. Tingle stated the Economic Development Authority will review those initiatives.
- Ms. Leanne DuBois, Chair of the Economic Development Authority's Rural Economic Development Committee, spoke regarding her submitted comments on preservation of rural lands through increased agribusinesses. (See Attachment #8)
- Mr. Fraley asked if the Rural Economic Development Committee would consider developing a community food network linking local agribusinesses with their consumers.
- Ms. DuBois stated that implementing a food network would require additional committee staffing. She stated the Rural Economic Development Committee often likes to serve as a conduit between farmers and processors. A catalogue of local agribusiness would be useful.
- Mr. Rich Krapf asked if the Rural Economic Development Committee could produce a report of recommendations for the Commission during the ordinance update process.
- Ms. DuBois stated that although there are no written recommendations planned, the Rural Economic Development Committee could work on producing a report.
- Mr. Richard Costello, President of AES Consulting Engineers, stated a TDR program would allow the County to control sprawl while preserving rural landowners' rights and property values. He stated growth will occur, and must be managed by moving rural land densities elsewhere in the County.

OPEN COMMENTS

Mr. Peck opened the open comments period.

Mr. Fraley stated that Montgomery County, Maryland had an effective TDR program. He asked if the J4C had planned a forum with Montgomery County officials.

Ms. Sarah Kadec, representing James City County Citizens Coalition, stated the Montgomery County TDR forum would be held September 14th in the Building C Board Room of the James City County Government Center.

Mr. Peck closed the open comments period.

ADJOURNMENT

Mr. Peck continued the public meeting until September 1, 2010 at 7:00 p. m.

Reese Peck. Chairman

Allen J. Murphy, Secretary

JAMES CITY COUNTY PLANNING COMMISSION PUBLIC FORUM / ZONING & SUBDIVISION September 1, 2010

Residential Districts:

- ✓ Good afternoon, Chairman Peck and Planning Commission members. I'm Robert Duckett, Public Affairs Director for the Peninsula Housing & Builders Association, and our membership appreciates this opportunity to comment on the county's zoning & subdivision updates.
- ✓ I have some brief comments on residential districts. Our members encourage the County to make zoning changes to residential districts so that, where suitable, the zoning allows more efficient use of the land inside the PSA so that the zoning follows principles of Smart Growth, so that we see more mixed use and mixed residential zoning. We believe that a more efficient use of the land inside the PSA would follow a pattern of more up and less out -- a more vertical use of the land and obviously, we're not advocating skyscrapers. But this type of land use results in less sprawl and reduces growth pressure on lands outside the PSA.

Mr. Chairman, my name is William Halteman, I live at 109 Randolph's Green in Kingsmill.

My presentation this evening will be very brief.

There are six (6) residential zoning districts in James City County. Camouflaged Wireless Communication Facilities, commonly called cell towers, are "permitted uses" in each of these residential zoning districts. Tower height is limited to 120 feet.

During the February 10, 2009 Board of Supervisors meeting County Attorney Rogers stated: "...to stem the tide of 200 foot towers we came up with an ordinance scheme where we could allow some towers **By Right** to provide an incentive for tower companies to go with lower towers which were less intrusive..." It is this **By Right** "incentive" which needs to be removed from each residential zoning district (R-1,2,4,5,6 & 8) ordinance. WCF applications in residential zoning districts should be reviewed under a Special Use Permit (SUP) **ONLY**. Many adjoining jurisdictions use SUPs.

By Right cell tower applications, used primarily to expedite administrative handling, have caused controversy, strained relations between residents and the planning staff, and cost both the county and citizens needless legal expenses.

Thank You!

RESIDENTIAL DISTRICTS STATEMENT – J4C

9/1/2010

I am Bob Spencer, tonight representing the J4C.

We find it difficult to cover this extensive area of public interest tonight. Thus, J4C will simply raise some major concerns and provide the detail of our recommendations to the Policy Committee and the staff at a later date.

It is interesting for us to note that at some point and for some reasons, R-3 was removed from the set of ordinances relating to residential development. This raised some interest in attempting, during this rewrite, to consider removing all or parts of a number of other ordinances that may duplicate or conflict with the Comprehensive Plan or other ordinances such as "Subdivisions", "Mixed Uses, etc. For example: Many of the same permitted uses appear in both Mixed Use and in R-5 (laundries, retail shops, golf courses, hospitals and rest homes, Bed and breakfasts, single family, town houses, and 2, 3, or 4 family dwellings that I assume are duplexes or even apartment buildings.) Mixed Use and R-5's intent is moderate to high density residential areas with adequate public facilities, open space and recreational areas, buffered adjoining property, and implemented policies and designations of the Comprehensive Plan.

In R-4, not more than 20 percent of the total area shall be <u>devoted to commercial</u> uses in the residential planned community and these uses must be limited to the areas designated on the master plan. R-4 permits development of large, planned cluster-type communities of 400 acres or more in a manner to protect natural resources, trees, watersheds, contours, and topographic features of the land. It may include a variety of residential accommodations and light commercial activity, but no industrial development is permitted. Retail and other establishments make residential planned community largely self-sufficient. Again this sound like it fits better in the MU ordinance than in R-4.

R-1's intent is to <u>prohibit all activities of a commercial</u> nature and limit development to <u>low-density</u> residential. It's permitted uses are limited to single family dwellings, recreation facilities and off street parking, as well as cell towers. As stated in a number of public hearings, the J4C believes that all wireless communications facilities in residential areas should require an SUP, available to residents through public hearings.

R-2 covers <u>low--density residential</u> areas plus certain open areas; promotes and encourages clustering developments to maximize shared open space, protects natural environment and promotes a sense of community

Requirements under R-1 and 2 are very similar and should be considered for consolidation or at least some built in difference in uses. The J4C supports clustering in certain applications, especially when a large amount of open space is proffered within the area to be developed.

We have pointed to conflicting or confusing aspects of the existing residential ordinances. The J4C believes these ordinances need to be examined and to the extent

possible consolidated in the general zoning ordinance or within the R-1 – R-6 designations. Where conditions are prohibited in one, they should be prohibited in other similar developments. Environmental requirements for buffers should follow the requirements in R-2 where wet ponds, dry detention basins, and other structural BMPs shall not generally be permitted in the buffers. The J4C believes that one of the weak points in the current ordinances is the list of exceptions and variances permitted and frequently used. We feel strongly that the original requirements were made for a reason and that only under the most dire circumstances should they be ignored.

Over the past 4 years, the J4C has often spoken to the definition of maximum gross density. In calculating densities, we do not believe that the current ruling is sufficient to protect our environmental resources. The developable area shall consist of the total land area of the site minus stream beds, areas subject to flooding, marsh and areas with slopes exceeding a 25 percent gradient. (page 24-5-5-5). We believe that the definition finally agreed upon belongs in all zoning ordinances and must be enforced.

J4C stands ready to support this rewrite effort.

The Chamber & Tourism Alliance has long been concerned with the shortage of affordable, or workforce housing, in the Historic Triangle. James City County has been active in addressing this need and has implemented a number of very positive programs that have demonstrated that workforce housing programs can be effective and that workforce housing can be part of a community, rather than a community unto itself. We applaud these efforts. A study commissioned by the Alliance in 2006 was clear in concluding that we suffer from a shortage of housing for many of those who work in this area. Specifically, and recognizing that recent economic conditions have no doubt altered the specific figures, this research, conducted by Chmura Economic & Analytics, revealed that 40% of James City County workers did not live in the Historic Triangle. In fact, the research stated "Home prices ... are most likely out of reach for many of its workers in the retail and hospitality sectors." We concur entirely with a statement in the Comprehensive Plan that "diversity in...housing stock, both in unit type and price, is needed for sustainability of a community." Because of our concern, we created a task force to develop ideas for addressing this need. The group was chaired by architect Roger Guernsey, who has been involved with this subject for many years. We were pleased to note that a number of these were accepted as part of the updated comprehensive plan.

We detailed six primary recommendations:

- 1. Create a Workforce Housing Overlay District for optional use in any zoning district with density bonuses for inclusion of workforce housing (referencing the state enabling legislation for an affordable dwelling unit ordinance) with flexibility in design standards.
- 2. Create (or transform a current workforce funding program to) a Housing Trust Fund to increase funding sources and uses.
- 3. Change or create a Cluster Overlay District for "by right" use in any zoning district when including workforce housing. Increase bonuses for affordable dwellings.
- 4. Fast track review of proposals that include a 'to be determined' percent of "affordable housing" integrated evenly into a mixed price/type and/or use development.

5. Encourage employers to assist workers to obtain affordable housing with local lender financing and business support of non-profit housing activities.6. Incorporate opportunities for rental as well as owner-occupied in the mix of workforce housing.

Obviously, not all of these thoughts are part of an ordinance development process. Nonetheless, together they form the basis for a complete program and, so, we continue urge those interested in this subject to consider the entire package.

Our task force developed workforce housing affordability comparisons for use in guiding considerations. Additionally, it identified and presented graphically those development types, including photographic examples from here and other parts of the country. Our regulatory sub-group studied current regulations, identified obstacles represented by those regulations and developed proposals to make the process more effective. Our funding and finance sub-group likewise studied the current situation and made appropriate recommendations. I am including a copy of those materials for your use in considering development of ordinances that can help solve this problem. We thank you for allowing us to address this issue. We would be pleased to assist you in any way you feel appropriate.

Rural Lands Districts:

- ✓ Chairman Peck and Planning Commission members: Our members participated in number of previous county reviews of rural land use over the course of several years. There seem to be two common threads from all of those discussions:
- ✓ One, there certainly appears to be a countywide interest in maintaining the rural character of these areas although the definition of rural character can be somewhat vague, depending on who you talk to. There is interest in maintaining rural view sheds along the county's back roads. But clearly there doesn't seem to be a desire to have land use in the rural lands follow the same development pattern as land use inside the PSA has done.
- ✓ Two, there is recognition that rural landowners property rights should be protected and that reducing density in the rural lands can drastically affect their property values. In many cases, rural landowners have owned their land for many years, in some cases generations, and that their property has become their "bank."
- ✓ Our members believe there's a way to tie together these two threads. If the County chooses to reduce density in the rural lands to maintain rural character, then we believe that density should not be lowered beyond 1 du per 5 acres for conventional development. But in order to protect landowner values, that change should be tied with a by-right cluster ordinance that is at existing density levels − 1 du per 3 acres.
- ✓ A by-right cluster sets aside meaningful parcels of open space, not just piecemeal open space. It can be used to protect view sheds. It also saves infrastructure costs for developers by having shorter streets and utilities.
- ✓ Our members also greatly encourage the increased use of Transfer of Development Rights (TDRs) from the rural lands to inside the PSA. We encourage the county to create better incentives to spur the use of TDRs, and perhaps the County should even look at promoting TDRs from the rural lands at higher densities than the existing 1 du per 3 acres.

Subdivision Ordinance, Green Matters

- ✓ Good afternoon again, Chairman Peck and Planning Commission members. Thank you for this opportunity to speak to you on behalf of our membership regarding the county's subdivision ordinance and green matters.
- ✓ Here is the final report from the Builders for the Bay project, and allow me to point out some information from this report. First, let's look at who collaborated on this effort: Center for Watershed Protection, the Alliance for the Chesapeake Bay, James City County, and our association, the Peninsula Housing & Builders Association. Roundtable participants also included local developers and builders, the Friends of the Powhatan Creek, the James River Association, and state agencies, including VDOT and DCR.
- ✓ How often do you see those types of organizations reaching common ground?
- ✓ Next, let me point out that these organizations reached consensus on a number of recommended model development principles for the County principles affecting lot development, streets and parking lots, and natural areas and stormwater management. "Consensus" in this case meant that we all gave each of the 22 different recommended principles a 'thumbs up."
- ✓ But let me also point out this detail on the report's front cover: "November 2004." Since 2004, these consensus recommendations have not been acted upon by the County. The County did form a Better Site Design committee, made up of Builders for the Bay participants and then Planning Commission members, which reviewed the recommendations and then came up with ways to implement those recommendations in the County.
- ✓ Yet, still, nothing has been done. Let's get this finished. This zoning & subdivision update is the perfect time to complete the work.

The Economic Development Authority supports your efforts to update the Zoning and Subdivision Ordinances to reflect the adopted Comprehensive Plan. This Plan contains some of the most innovative strategies that we have seen in James City County, and we recognize that incorporation of these recommendations into the ordinances will be a challenging process. Many will be controversial and politically charged, and the safe approach will be to delay adoption until future Comp Plans or future zoning ordinance updates, or simply not act at all. However, this Planning Comission has the opportunity to make significant impacts on the future of JCC, and we urge you to secure that opportunity.

There are several areas that we ask you to focus on as you move through the update process: Workforce housing, Transfer of Development Rights, and Economic uses of Rural Lands. I will be addressing the first 2 items, and ask Leanne DuBois, EDA Director and Chair of the EDA's Rural Economic Development Committe, to address the third.

1. Workforce Housing

There are probably no other initiatives in the Comp Plan that have received such broad support from diverse interest groups and citizens as workforce housing. The EDA has recognized the relationship between available housing and economic development for years, and the 2008 Business Climate Task Force report describes the need clearly:

"Supplying an adequate amount of local workforce housing is not only critical to sustaining our working professionals and maintaining our service, retail, and public service jobs, it is also key to attracting new industries." The BCTF goes on to state, "The County will have to commit to...zoning ordinances and...codes that promote affordable housing, offering density bonuses and expedited review processes. The County needs to re-examine regulations that drive up housing costs, and then seek ways to reduce or eliminate those barriers, including proffers."

These words sound like recommendations that may have come from our local homebuilders, but I remind you that the BCTF was not a residential advocacy group; it consisted of 4 senior County staffers, 6 citizens selected because of their involvement in economic development, and 2 Supervisors.

The unfortunate reality of workforce housing is a political one – supporting the <u>concept</u> of workforce housing is not difficult; but voting for a specific workforce housing project is unpopular. Ordinance reforms and incentives must be put in place, or we'll continue to have a well-intended workforce housing plan with no housing built.

2. Transfer of Development Rights

The Comp Plan Steering Committee probably heard from more citizens at the far ends of the spectrum on the issue of residential growth in rural lands; from well intended slow

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and no-growth advocates that want to eliminate all development in rural lands, to large landowners who want their investment protected and their property rights preserved. The Comprehensive Plan recommends a balanced approach that preserves the rural character while protecting the rural economy. Without this balance, you will continue to have dissatisfied citizens at odds on this issue. The plan recommends several tools to protect the rural economy, including ongoing taxing incentive programs (such as the AFD districts) and funding incentive programs (such as Purchase of Development Rights). However, the county can't afford to buy up all the development rights in rural lands. We must look to innovative programs such as Transfer of Development Rights (TDR's).

The key to a successful TDR program, and the most challenging for planners, is establishing sending areas and receiving areas for development density. The development rights must have a real value to the rural landowners (the sending areas), and be marketable to developers, builders and landowners in targeted sites inside the PSA (the receiving areas).

If we are able to achieve a solid TDR program in the County, we have the opportunity to significantly reduce density in rural lands, and curb large-lot suburban sprawl that is the market response to the current ordinance. And we have the opportunity to designate and encourage some specific areas for mixed density housing, mixed income housing, transit-oriented development and other smart, sustainable growth models.

Thank you for your work on the ordinance update process, and please let the EDA know if we can help in any way. As I said, Leanne DuBois will now address the economic use of rural lands.

The Rural Economic Development Committee working through the Economic Development Authority supports efforts to maintain the Rural Lands as a tool to preserve the County's unique sense of place while diversifying and enhancing the local economy. Our mission is to identify, encourage and promote viable rural economic business opportunities that protect and enhance working landscapes by providing both farm and non-farm profitability in support of rural preservation. Encouraging viable rural economic development uses that are generally compatible with existing rural land use patterns will limit the amount and impact of residential development.

Agriculture is the largest industry in the state. The industries of agriculture and forestry together have a total economic impact of \$79 billion and provide more than 501,000 jobs in the Commonwealth. Costs of services studies have concluded that open land in agricultural production benefits the tax base and the community benefits are undeniable

Maintaining rural character is a common theme throughout James City County's 2009 Comprehensive Plan but often overlooks agriculture as the primary component. These roadmaps designate areas where agriculture should be encouraged, and help identify investment and infrastructure needs for increased profitability. Farm enterprises are often hybrids of several different uses; ordinances and regulations should allow flexibility for farm and other rural businesses including eco-tourism, heritage tourism and a variety of other enterprises.

Economic Development strategies encourage land banking to set aside land for promoting economic opportunity areas. In the same vein; rural land designations identify areas for rural economic opportunity. Rural economies often utilize strategies consistent with their community character by maintaining the scenic and pastoral view sheds creating a visually appealing balance to residential and commercial development.

Agriculture businesses are frequently undervalued in terms of their effect on the local economy. Most of the economic activity generated by farms stays within the community. Public and private economic development efforts can look toward adding value to farm products, agritourism promotion, transportation and handling sites and providing infrastructure for the farm economy. Rural business development can assist in diversifying the tax base, generating revenue and jobs for James City County while providing viable economic alternatives to suburban development land conversion.

Supporting farm profitability through farmers' markets, farm to school and institution programs, selling to restaurants and other high value direct marketing opportunity sales supports family farming by increasing demand for their product. By minimizing travel and connecting with the local community, local product sales contribute to the bottom line and strengthen relationships between farmers and the general public.

Emerging movements throughout the country are focusing on creating local living economies through independent retail, building local food systems, renewable energy and green building design. Food, the way we produce it, distribute it and consume it was taken for granted until recently. There is truly a new food economy taking hold that is evident in our community. A few examples of this shift include:

- The William and Mary Farm Internship program. This summer utilizing a three acre garden at the Williamsburg Winery, interns grew fresh seasonal produce and flowers for local restaurants. They also grew specialty peppers for sale through La Tienda, a Spanish specialty store. Previously the peppers were grown on a farm in Hanover County. La Tienda operates three sites in James City County, a retail store, a catalog warehouse and is in the process of opening a food processing operation in the Toano Business Center to process and package meats and repackage specialty foods. The farm interns have expressed interest in continuing to farm in the County.
- The Williamsburg Winery, also a rural based business, is a featured destination
 for tourists and one of the most respected wineries in the state. It maintains over
 50 acres in grape production. They also hold a conservation easement through the
 Williamsburg Land Conservancy to reaffirm their commitment to the future of
 their rural business.
- This past summer Dozier Farm on Forge Road took ten acres out of traditional agriculture production to rent to producers operating as D&M farm. D&M Farm grows seasonal vegetables for direct markets and hopes to expand in the future.
- Farmers' markets and farm stands are on the rise throughout the County and serve as small business incubators, testing their products and market potential for future expansion.
- Forestry is another industry highlighting the rural land economy. James City
 County has 64,973 acres of timberland or roughly 64% of the land area, according
 to statistics from the Virginia Department of Forestry. It is estimated that in 2009
 timber sale values in the County amounted to roughly \$500,000. During the last
 10 years an estimated 5,000 acres of harvested timber land has been reforested
 with a commercially valuable timber crop.

The rural economy can be strengthened by recognizing the interrelationship between rural preservation and suburban growth areas and concentrating development in areas with existing or planned services. Transferring residential development rights from the rural lands to designated receiving areas, while preserving the opportunity for viable rural enterprises on the sending properties, will allow the County to optimize its scarce land resources.

Making agriculture and forestry visible to the general public helps establish the economic, cultural and resource stewardship value of rural lands in the County.

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Ordinance rewrites should encourage and offer incentives for rural land uses that promote the rural economy, recognizing they often hold unique characteristics. The Rural Economic Development Committee helps give agriculture a voice and is available to assist decision makers in keeping a broad perspective in maintaining designated rural lands.