



County of Albemarle
Community Development Department - Planning Division

MEMORANDUM

To: Agricultural-Forestal Districts Advisory Committee
From: Scott Clark, Conservation Program Manager
Re: District Review Policy and Parcel Removals
Date: April 22, 2024

Background:

Agricultural-Forestal Districts are a voluntary rural land conservation program in which landowners can limit the development potential of their land to help protect the rural landscape. While there are several limitations to uses within the Districts, the restrictions on subdivision are the most notable. In Albemarle County, District parcels may not use “development rights” to subdivide off lots smaller than 21 acres (except in the case of land transfers to immediate family members). Subdivision of District properties into 21-acre or larger parcels is not restricted by the AFD ordinance. However, while the Districts impose development limitations, they do not confer any automatic tax benefits. Parcels in the Districts are taxed in a variety of categories and include many properties that are taxed at the full market value.

Use-value taxation, commonly known as “land use,” is a tax program that lowers the tax burden on land that is involved in uses that are important to the community, but that often do not generate enough income to make “full value” taxation affordable. These uses include agriculture, forestry, horticulture, and conservation.

The only point connecting these two separate programs lies in the state-mandated qualification standards for the “open space” category of use-value taxation. Any parcel that has the necessary acreage (in Albemarle, that is at least 20 acres outside the home site) and is included in a District will qualify for this taxation category, if the property owner applies for the land use program. No other factors can be considered by the County.

A problem arises when parcels that have no small-lot development rights join the Districts. While the District regulations have little or no conservation impact on these parcels, they can still qualify for the “open space” tax category. This confers a private tax benefit with no corresponding public conservation benefit.

Responding to Committee and staff concerns about this issue, the Board of Supervisors clarified that parcels without small-lot development rights should no longer be accepted into the Districts. This change was included in the 2017 recodification of Chapter 3 of the County Code, which sets out how the Districts function. No such parcels have been added to the Districts since that time.

In 2018, the Board of Supervisors directed that staff should go beyond this change to the acceptance policy and identify parcels already in the Districts that had no development rights and that were in the “open space” tax category. Any district including these parcels was to be reviewed on a 5-year cycle (rather than the usual ten years), and owners of these parcels were to be immediately notified of their potential removal at the next review (5 years later).

Discussion:

As Districts affected by this policy change have come up for review, discussions between staff in Community Development (which administers land-conservation programs) and Finance (which administers taxation programs) led to a need for clarification of the Board of Supervisors’ 2018 direction.

Finance staff noted that any District parcel without development rights (but with the necessary acreage) could move into the “open space” tax category after the District review and not be identified for removal for up to ten years. State law does not allow counties to deny this tax qualification based on lack of development potential or other concerns, so Finance could not legally deny landowners’ requests for this change. So, only removing District parcels that are currently using the “open space” category will not fully address the issue.

Given this concern, staff will ask the Board of Supervisors for clarification of their direction at a work session on May 15th, 2024. This work session will provide the Board with two options to consider:

- Option One: Remove parcels that have no development rights and that are in the “open space” tax category from the Districts during reviews.
- Option Two: Remove all parcels without development rights from the Districts during reviews.

The purpose of the April 29th meeting of this Committee is to give the Committee an opportunity to provide input to the Board of Supervisors on this issue to consider during the May 15th work session.

The following table summarizes the positives and negatives of each option:

	Option One	Option Two
Summary	Remove parcels without development rights that are currently in the “open space” tax category.	Remove all parcels without development rights that are currently in the “open space” tax category, or that could move into that category later.
Positive	Eliminates current instances of inappropriate taxation.	Eliminates current instances of inappropriate taxation, and prevents future instances. Parcels in this category that are not in open-space taxation would not be subject to roll-back taxes upon removal, and so do not need a five-year delay before removal.
Negative	Also removes other District protections on these parcels (e.g., additional review on special use permit requests; prohibition on sub-30-day rentals.)	

Overall, the reduction in conservation impact caused by implementing Option Two rather Option One is fairly limited, as these parcels are already unaffected by the major restrictions of the Districts (those on subdivision). At the same time, Option Two pre-emptively addresses future inappropriate tax qualifications.

Recommendation:

Staff requests that the Committee review the options listed above and select a preferred option to be communicated to the Board of Supervisors. Staff's recommendation is that the Committee choose Option Two.