



Department of Planning and Development


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**To:** Board of Supervisors' Rural Areas Subcommittee

**CC:** Board of Supervisors and Planning Commissioners  
John R. Riley, Jr. County Administrator

**From:** Eric R. Lawrence, AICP, Planning Director 

**Subject:** September 4, 2008 Meeting and Agenda

**Date:** September 2, 2008

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The Board of Supervisors Rural Areas Subcommittee (RA Subcommittee) will be meeting on **Thursday, September 4, 2008 at 7:30 p.m.** in the first floor conference room (purple room) of the County Administration Building, 107 North Kent Street, Winchester, Virginia. The RA Subcommittee will discuss the following agenda items:

**AGENDA**

- 1. Review of Comments and Ideas received to date.**
  - a. Comments have been culminated and organized
  - b. Organized by ideas for change and/or leave alone
- 2. Table Summarizing Comments and Ideas**
  - a. Subcommittee to offer thoughts on prioritization
- 3. Next Meeting Topic, Date, and Time**
  - a. Potential Guest Speakers
  - b. Potential Public Meeting Formats
  - c. First and Third Thursday of the month @ 7:30 P.M.
  - d. Next meeting: September 18, 2008
- 4. Adjourn by 9 P.M.**

Please contact this office if you will not be able to attend the meeting. Thank you.

*Access to this building is limited during the evening hours. Therefore, it will be necessary to enter the building through the rear door of the four-story wing. I would encourage Committee members and interested citizens to park in the County parking lot located behind the new addition or in the joint Judicial Center parking lot and follow the sidewalk to the back door of the four-story wing. The door will be locked, but staff will be on station to provide access to the building.*

ERL/bhd

## **2008 Rural Areas Review Effort**

### **“IDEAS” List**

Below is a comprehensive listing of concerns and suggestions (collectively deemed “IDEAS”) offered by the community starting in July 2008. This list will continue to be expanded as new Ideas are submitted and voiced to the Board of Supervisors Rural Areas Subcommittee. To assist in the digestion of the Ideas, categories for significant topics have been established.

### **Please submitted additional “Ideas” to the effort.**

e-mail us at [RAIdeas@co.frederick.va.us](mailto:RAIdeas@co.frederick.va.us)

telephone us at 540-665-5651

visit the Rural Areas review webpage at [www.co.frederick.va.us](http://www.co.frederick.va.us)

### **Promotion of Agricultural Economy**

- Maintain the spirit of the Frederick County Comprehensive Policy Plan by continuing to preserve large open parcels of land, tree cover, scenic views, sensitive environmental areas, and prime agriculture and locally significant soils.
- Farmers need the flexibility of using land as a financial tool because most farmers invest their money in land. The proposed amendment (regarding an increase in lot size and decrease in density) will only cripple what farmers can do in the future with the land they have, if they have to make a major decision to sell.
- There is no better quality of life than life on a farm.
- Support initiatives that will help maintain the rural character of Frederick County in the short run.
- The County is also at risk for losing our local base for agriculture and other resources that will become increasingly important as transportation costs continue to rise.
- Farmers count on their land as their biggest asset; they don't have a lot of money in the bank.
- Farmers are not seeking to subdivide their land, but do rely on selling a five-acre portion during poor economic times to help pay bills and continue farming.
- Lot size for residential uses impacts adjacent farms. There was added cost and time to the farmer for the chemicals, fertilizers, and pesticides necessary to fight the neighbor's weedy field problem.
- Not in favor of changing the rural preservation homestead lot from 40% to 60%.

- Definition of rural character was countryside full of small and large farms and maybe some communities; he wanted to see it preserved the way it has been for the last 50-100 years.
- Addressing Land Use tax breaks. Perhaps using a 'scale' based on acreage FARMED would be a small part of the 'incentive' to continue farming in this county. There IS a difference between 'farming' and a plat of open land with a few cattle on it. A clear definition of 'farming' vs 'open space', linked with an increased tax break (land use) based on acreage farmed (the more land you farm the higher the land use breaks) would help promote better relations (appreciation shown to those who continue to farm) between the county as a whole and the agricultural community.
- Promote family farms. Create policy to encourage farming of the preservation lots. Possibly enable family lots on the preservation parcel that must be held for at least 10 years. This would enable families to farm the preservation parcel, and construct homes for their children, so long as the lots remain in the family.
- In planning for future, should recognize that family based farming opportunities are the future farms of the County.
- Recognize that the use of the preservation parcel as a promotion of FC future's - family farming and horse operations
- If any subdivision limitations are established, the county should enable people to cut off one lot that is small (2 acres) to keep afloat
- Should it be farmer v. landowner, you can't look for "false farmers". You need to look at the financial issues of landowners. Look at a system that is linked to time owned to number of lots (history of ownership) in allowing subdivision or tax reductions.
- if we give land owners a better tax increase, the County is still saving money and it might encourage land owners to keep on farming because they're not paying a lot of taxes
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### **Expansion of the use of the Land Use Program**

- if we give land owners a better tax increase, the County is still saving money and it might encourage land owners to keep on farming because they're not paying a lot of taxes
- Addressing Land Use tax breaks. Perhaps using a 'scale' based on acreage FARMED would be a small part of the 'incentive' to continue farming in this county. There IS a difference between 'farming' and a plat of open land with a few cattle on it. A clear definition of 'farming' vs 'open space', linked with an increased tax break (land use) based on acreage farmed (the more land you farm the higher the land use breaks)

would help promote better relations (appreciation shown to those who continue to farm) between the county as a whole and the agricultural community.

- Should it be farmer v. landowner, you can't look for "false farmers". You need to look at the financial issues of landowners. Look at a system that is linked to time owned to number of lots (history of ownership) in allowing subdivision or tax reductions.
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**By-Right Development. Should the County continue to enable rural area development (subdivision activity) as a by-right, non-legislative activity?**

- Recommended against rezoning in the rural areas; development in the rural areas should be a by-right style of development and not a zoning style of development.
- Like to know that he could subdivide, if for unforeseen health issues he needed to sell his land for financial security.
- Farmers are not seeking to subdivide their land, but do rely on selling a five-acre portion during poor economic times to help pay bills and continue farming.
- Protected two five-acre areas for a retirement nest egg. The cost of medication and the expense of keeping his property maintained, he was going to need the nest egg.
- Create an incentive to discourage mass platting of lots. Possibly utilize a bonus lot incentive. If a property creates less than 5 lots per year, after 5 years they could receive a bonus lot.
- Establish guidelines to discourage large scale projects and mass production of new homes on a particular development/farm land.
- Advise a client not to do the ten-acre subdivision, but if they qualify, he would recommend a rural preservation subdivision and only cut off a two-acre lot, not ten acres.
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**Development with a Rezoning action. Should subdivision activity require a legislative action – i.e. rezoning?**

- Recommend against rezoning in the rural areas; development in the rural areas should be a by-right style of development and not a zoning style of development.
- Like to know that he could subdivide, if for unforeseen health issues he needed to sell his land for financial security.

- Farmers are not seeking to subdivide their land, but do rely on selling a five-acre portion during poor economic times to help pay bills and continue farming.
- Creates an opportunity to address capital and transportation impacts on the community which result from home construction
- agreed that when we (rural landowner) develop land in the RA (Rural Areas), he causes impacts and he should pay his way as developers – rezoning enables the farmer/land developer to addresses impacts on the community.
- Development creates impacts; rezoning is only way to capture mitigation of the impacts.
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**Recognition of Fiscal Impacts on the County. Should rural area development activity off-set the resulting fiscal impacts on the County’s capital and operational expenses/services?**

- Realizes that when a property owner decides to develop his property, there are affects on the County’s infrastructure. This is why the property owner needs to pay some type of fee for the impacts the development will have on the system.
- Recognition that one of the issues the County faces is the maintenance cost of infrastructure, such as roads, and going from five acres to ten acres will create sprawl and the need for additional roads.
- Recognize the traffic impacts on existing roadways....example provided: if the land feeding into Apple Pie Ridge Road is fully developed, vehicle trips per day (VTD) would be greater than the traffic currently utilizing Rt. 11 today.
- Rezoning offers a method by which developments may mitigate their impacts
- agreed that when we develop land in the RA (Rural Areas), we cause impacts and we should pay our way as developers, but if we choose to do this development then we should not be expected to pay nearly as much as land in the UDA.
- Most people aren’t aware that a farm subdivision/home construction creates an unmet impact on the county.
- Development creates impacts; rezoning is only way to capture mitigation of the impacts.
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**Lot Size. What are the targeted minimum and maximum lot sizes for the rural areas?**

- This proposal (regarding an increase in lot size and decrease in density) could be considered discriminatory against landowners who don't live in the Urban Development Areas of Frederick County
- Belief that the proposed amendment (regarding an increase in lot size and decrease in density) would cause many small farming operations to fail.
- The five-acre lot should continue, along with the 60% open space.
- Encourage the clustering of lots and community sewer systems.
- Prescribe alternative wastewater treatment systems that would allow clustering of homes on less than two acres.
- Don't let lots get created smaller than 2 acres. Most people that live in the rural areas want a garden, pool, garage, etc. If the lots are less than 2 acres, then we will be living on top of each other. Let the people that want smaller lots go to the UDA. Don't let Gainesboro turn into Senseny Road.
- A better job can be accomplished towards view shed preservation with smaller lot sizes and community septic systems.
- Support for larger open space, which can be done with five-acre lots by reducing the lot size, using alternative septic systems approved by the Health Department, or by allowing easements on the parent tract for the septic systems.
- Lot size for residential uses impacts adjacent farms. There was added cost and time to the farmer for the chemicals, fertilizers, and pesticides necessary to fight the neighbor's weedy field problem.
- Concern that if ten acres became the minimum lot size, the number of families that could afford to both work and live here will be reduced.
- Belief that the single, ten-acre lot size was a waste of land; minimum lot size of two acres or more is better.
- Was in favor of raising lot sizes in rural areas to five acres (previously, it was one to three acres); thought it would really slow down development in the rural areas. Time shows it didn't, but ate up more land, faster.
- Within the rural areas, it was much better to cluster development on smaller lots instead of spreading it out on five acres
- Believe the ten-acre lot is a waste of the County's most valuable natural resource—land.

- Recognition that one of the issues the County faces is the maintenance cost of infrastructure, such as roads, and going from five acres to ten acres will create sprawl and the need for additional roads.
- Doubling the lot size from five to ten acres certainly reduces the opportunity for making some profit on land.
- Not in favor of changing the rural preservation homestead lot from 40% to 60%.
- Has been more rural subdivisions with the 40% rural preservation lot, is because of the bonus lot.
- Advise a client not to do the ten-acre subdivision, but if they qualify, he would recommend a rural preservation subdivision and only cut off a two-acre lot, not ten acres.
- In favor of the 60% set aside with the smaller lot size.
- Suggested clustering and reducing the lot size as small as possible, perhaps ¾ to one acre in size; there is sufficient technology available for septic systems to handle this.
- opposed to the ordinance change as presented, especially the ten-acre minimum lot; he thought the five-acre minimum lot was too large
- Concern about the increase in minimum lot size from five acres to ten acres; he said it seemed like a waste of land.
- The beautiful, bucolic pastoral scenery is rapidly disappearing. I strongly advise against lowering the 10 acre lot size.
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**Housing Density. How many homes per acre are appropriate to maintain the future vision and identity of the County's rural areas?**

- This proposal (regarding an increase in lot size and decrease in density) could be considered discriminatory against landowners who don't live in the Urban Development Areas of Frederick County.
- Belief that the proposed amendment (regarding an increase in lot size and decrease in density) would cause many small farming operations to fail.
- Proposed amendment change (regarding an increase in lot size and decrease in density) will cripple the farm economy; without equity, most farmers can't get their loans; they can't get operating lines of credit and maintain their operations.

- Decreasing lot density in rural areas supports the concept of growth in UDAs and decreases the need for services, police, fire and rescue services, schools, and water, etc., in outlying areas.
- Would like to see the proposed amendment passed by reducing the number in half.
- Recognize potential economic concerns, but believe that over time, if the supply of land is available, at some point in time the demand will bring the economics back into align with where they should be to make it appropriate for everyone.
- Concern that proposed change would devalue the land owned by farmers.
- Does not support the by-right density change from five to ten acres.
- The reduction in density takes affordability out of the equation for the majority of potential home buyers and folks just wanting to live in a rural setting.
- Proposal before the Commission (July 16 proposal regarding increase in lot size and decrease in density) amounts to a downzoning of all of the land in Frederick County zoned RA (Rural Areas).
- It will be harder to garner open space easements to protect property in perpetuity from development if density is decreased. Part of the dynamic of open space easements for many potential donors is the value of the tax deduction and the tax credits. When the value of property is decreased, the value of those deductions and credits will go down.
- Decrease in density may impact ability to implement conservation easements. If a density decrease is implemented, a property will be worth 40% less. If the property owner implements a conservation easement, he said the landowner is provided with 70-75% of the appraised value; he estimated tax credits at about 72 cents per dollar, which further reduces the property value to less than half of what it was originally valued.
- Create a density bonus for farms that utilize TDRs as opposed to lot platting of the farm
- Change to a one-to-ten density will not allow a subdivision unless a property owner has at least ten acres.
- Density decrease - Belief this could do more financial damage to farmers than a freeze or a hailstorm.
- Create bonus incentives for subdivision layouts that place all residential lots at least 500 feet from an existing road – assist in reducing visual impacts that homes create on the landscape
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## **Rural Preservation (cluster) Subdivision set aside parcels**

- In favor of the 60% set aside with the smaller lot size.
- Not in favor of changing the rural preservation homestead lot from 40% to 60%.
- Need to make sure the preservation parcel (40 or 60 percent set-aside parcel ) has a dwelling right
- Recognize the use of the preservation parcel as a promotion of Frederick County's future - family farming and horse operations
- People don't put the best area in the preservation tract, the tracts are the junk of the property. It does nothing to preserve farm land because the preservation tracts winds up with the rocks, steep slopes, wet areas. This needs to be addressed or just call it open space.
- People have used rural preservation to get more lots by using up the good areas and not to meet the intent of the subdivision when it was created
- Why are we giving someone a bonus lot to develop their property, it needs to be eliminated
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## **Health Systems. Should the County review and establish guidelines regarding the various available health systems? Prohibit experimental systems? Establish greater well-head setbacks and/or larger reserve drain field requirements?**

- Encourage the clustering of lots and community sewer systems.
- Prescribe alternative wastewater treatment systems that would allow clustering of homes on less than two acres.
- A better job can be accomplished towards view shed preservation with smaller lot sizes and community septic systems.
- Support for larger open space, which can be done with five-acre lots by reducing the lot size, using alternative septic systems approved by the Health Department, or by allowing easements on the parent tract for the septic systems.
- Suggested clustering and reducing the lot size as small as possible, perhaps  $\frac{3}{4}$  to one acre in size; there is sufficient technology available for septic systems to handle this.
- We hear about fiscal impacts from development, what about environmental impacts – septic, water?

- Jefferson County WVA had issues with their wells and the health inspectors stated that certain systems should not be allowed – select alternative systems – and others required maintenance contracts. Frederick County might also consider requiring maintenance contracts.
- Why aren't you using perk sites to determine lots? Instead of changing the lot density and upsetting everyone, take a smarter and more environmentally friendly approach. You should consider making all new drainfields, whether they are conventional or alternative, have pretreatment. Also, the County can increase the requirements for drainfields. I think a blanket policy that:
  - 1) all mound system should be outlawed. They seldom work and when they do, fail not long after installation.
  - 2) require a minimum of 24" of soil for any system. This would probably decrease the number of lots more than 1:10 will.
  - 3) require the Health Dept to inspect every application. Soil Scientists are approving sites left and right that are way below par.
  - 4) outlaw drainfield easements for all new lots.
  - 5) require 100% reserves sites.
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### **Implement a Transfer of Development Rights (TDR) Program?**

- Problem is the imbalance between the rural areas and the UDA (Urban Development Areas). Suggested having both areas under the five-acre rule and if a developer in the UDA wants five houses per acre, they should purchase that right from the rural areas property owners.
- Decrease in density may impact ability to implement conservation easements. If a density decrease is implemented, a property will be worth 40% less. If the property owner implements a conservation easement, he said the landowner is provided with 70-75% of the appraised value; he estimated tax credits at about 72 cents per dollar, which further reduces the property value to less than half of what it was originally valued.
- Implement a TDR program
- Create a density bonus for farms that utilize TDRs as opposed to lot platting of the farm
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### **Strengthen a Purchase of Development Rights (PDR) Program?**

- Advocate for permanent protection of agriculture, wildlife, forestry, and waterways through conservation easements, purchase of development rights (PDRs), or other legislative means.
- Decrease in density may impact ability to implement conservation easements. If a density decrease is implemented, a property will be worth 40% less. If the property owner implements a conservation easement, he said the landowner is provided with 70-75% of the appraised value; he estimated tax credits at about 72 cents per dollar, which further reduces the property value to less than half of what it was originally valued.
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### **Suggestions/Ideas that are Not Enabled by the General Assembly**

- Suggestion to use impact fees for rural area development to assist with costs of infrastructure improvements.
  - SB 768 was introduced in 2008; failed to succeed. Expected to be discussed during the 2009 legislative session
    - SB768 would have eliminated cash proffers (county-wide) in lieu of an impact fee applicable to home construction outside of the UDA. As presented it would significantly impact the County's ability to address fiscal impacts resulting from growth in the UDA

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### **General thoughts that don't fit clearly into other categories**

- Land is the rural area property owners' investment for their future.
- This proposal (regarding an increase in lot size and decrease in density) could be considered discriminatory against landowners who don't live in the Urban Development Areas of Frederick County.
- Home and property is a most significant investment and many families purchased homes and land in the rural areas with the intention of living off their land.
- Belief that the proposed amendment (regarding an increase in lot size and decrease in density) would cause many small farming operations to fail.

- Impact to services from these five-acre subdivisions is minimal, compared to the development within the UDA.
- Proposal (regarding an increase in lot size and decrease in density) was a gross injustice to the people who cost Frederick County the least amount in services.
- Support initiatives that will help maintain the rural character of Frederick County in the short run.
- Would love to see development slowed down in Frederick County.
- Own land with no intention of selling; however, they would like to retain the right to sell in the future, if it was necessary.
- “I purchased property to build a house and for a financial investment; the overabundance of homes in Frederick County has caused everyone’s home and land values to decrease.”
- Concerned about the speed in which this ordinance change was taking place.
- When an issue of this magnitude comes before a community, there is a period of gathering stake holders, land planners, and building consensus, studying rational ideas and alternatives of the proposed ordinance amendment.
- Purchased land and built their home because they wanted to live in a rural, agricultural and forest area; have already seen a significant deterioration in the quality of life as development has taken place.
- More of their money invested in their land than they do in other investments such as IRAs, etc. Proposed change would financially impact him.
- Should provide adequate notice prior to implementing any ordinance changes so that people in the process of subdividing their property might complete the process. Avoid inadequate notice to enable the completion of the subdivision approval process.
- The proposal (regarding an increase in lot size and decrease in density) being considered would essentially be like cutting farmers’ 401K in half.
- Don’t force agriculture to suffer the financial setback because the County wants to keep everything open and make a nice, pretty county for everyone else.
- It takes from nine months to a year to get a road ordinance approved and plans drawn by an engineering company and approved by VDOT. (take into consideration when enacting any ordinance changes)
- Predicted the proposed change (regarding an increase in lot size and decrease in density) would cause widespread concern over liquidity, equity, and cause dire financial hardships.

- Questioned the impact this proposed ordinance amendment (regarding an increase in lot size and decrease in density) would have on young people in Frederick County; it was hard enough for young people just starting out to get the money together to build or buy a house without having to buy five acres of land with it.
- Definition of rural character was countryside full of small and large farms and maybe some communities; he wanted to see it preserved the way it has been for the last 50-100 years.
- County should be looking/planning for the future. Plan now for 20, 30, 50 years from now. How do we preserve future rural character, whether it's the agricultural industry or simply view shed.
- One shouldn't have to protect your land by subdividing to protect it against future Boards.
- Avoid incentives that merely delay lot creation.
- Maintain family lot option. Consider increasing the 'holding period' from 5 to 10 years.
- people need to have input and work through this
- Felt this issue was being piecemealed; he said the focus is singular- on density and not on roads, septic, or any other issues.
- Urge the Board to consider that previous effort before they take any action on this. He said it would mean going back and revisiting the analysis of the rural areas, what was discovered by the study, what was discovered by the Ad-Hoc group through its deliberations and communications with the community, and from there, policies developed and adopted with input from the community, and finally, adopt the ordinance.
- Some people would like to have the ability to sell property (1-2 lots per year) so they wouldn't have to sell their entire property.
- Most people aren't aware that a farm subdivision/home construction creates an unmet impact on the county.
- Some of the issues regarding rural area development are fiscal, some are the look and feel of the county's growth trends
- famers/investors (is there a difference). Stated that you can't buy land anymore to farm so should the goal really be to preserve farm land because who is going to actually farm.
- This effort needs to move along and not stop like the RA study which had major opposition to pieces of the study
- Goal is (should be) to preserve rural land

- People should be able to cut off one lot that is small (2 acres) to keep afloat
- Should it be farmer v. landowner, you can't look for "false farmers". You need to look at the financial issues of landowners. Look at a system that is linked to the time land is owned determines the number of by-right lots enabled.
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Board of Supervisors' Rural Areas Subcommittee  
September 2, 2008 Meeting Agenda

***Agenda Item 2: Table Summarizing Comments and Ideas***

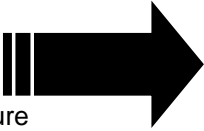
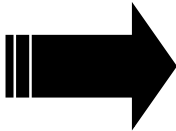
Staff has assembled the attached Table to illustrate the Comments and Ideas that have been provided to date. The various Ideas have been categorized into three broader groups: Vision, Choices, and Implementation.

The Vision column represents Ideas that promote the future vision for the community's future: Sustain and promote the continuation of the agricultural economy in the rural areas; preserve the rural viewshed; protect the environment; and acknowledge and mitigate the fiscal impacts development places on the overall county budget.

The Choices column represents Ideas that are available to assist in achieving the Vision.

The Implementation column represents the actions necessary to accomplish the Visions, and incorporate the voiced Choices.

The RA Subcommittee will discuss the Table and potential prioritization of the Implementation column.

<b>VISION</b> for the community's future 	<b>CHOICES</b> available to achieve the Vision 	<b>IMPLEMENTATION</b> of Choices
<b>Promotion of :</b> Agricultural Economy Viewshed Preservation	Rural Preservation (clustering of lots) Transfer of Development Rights (TDRs) Purchase of Development Rights (PDRs) Land Use tax Program Lot Size	Clustering with 40, 50, 60% set-aside parcels Clustering on smaller lots Create TDR program Fed, state, or local PDR funding Sliding scale Land Use program 2, 5 ,or 10 acre max lot size 3/4, 2, 5, or 10 acre min lot size
<b>Acknowledgement of :</b>  Fiscal Impacts to the County's Capital Facilities, such as Schools, Public Safety (Fire and Rescue, Sherriff), Parks and Recreation, Libraries  Fiscal Impacts to Transportation System, such as road construction, improvement, hard surfacing, and maintenance  Environmental Impacts	Rezoning By-Right Development Housing Density Regulation of Health Systems	Enable rezoning in rural areas to implement subdivisions greater than 1 unit per ? acres  Maintain By-Right development Establish housing densities of 1 unit per 5, 10 or 20 acres  Regulate health systems: establish limitations on experimental and provisions systems; evaluate drain field reserve areas, wellhead protection, and system maintenance