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[See Commentary]

§8-1-1 TITLE

This Resolution [Ordinance] shall be known and may be cited as the “Rural Cluster” Resolution [Ordinance] of _____ County.

§8-1-2 PURPOSE AND INTENT

The purpose of this Resolution is to provide for small lot residential development in agricultural, forestry, and rural residential districts in a manner which maintains rural character, maintains and conserves larger remainder parcels, protects and/or enhances sensitive environmental and wildlife habitat areas, and minimizes impacts to necessary public services. This Resolution [Ordinance] is intended to help maintain resource lands and rural character by protecting, preserving and conserving existing resource lands, rural landscapes, and viewsheds. These goals are achieved by allowing the placement of homes on a small portion of the property, while maintaining the majority of the site in a remainder parcel which constitutes resource land or open space. These regulations are consistent with, and are designed to implement, the goals and policies of the county’s [city’s] comprehensive plan as they relate to the protection of resource lands, the conservation of open spaces, and the maintenance of rural character.

§8-1-3 DEFINITIONS

Remainder parcel: The remainder parcel of the cluster provision that contains the majority of the land within the development and is devoted to open space, resource land, or other authorized use.

§8-1-4 APPLICABILITY

This Resolution [Ordinance] shall apply to all preliminary plat applications involving property in any area designated as agricultural/forestry in the county's comprehensive plan, or in any area designated for rural residential use in the county's comprehensive plan but which contains significant active agricultural or forestry operations. At its discretion, the Planning Commission may interpret this jurisdiction within a broader context, if the commission finds that public policies adopted by the local governing body support a broader jurisdiction than that stated in this section.

§8-1-5 RURAL CLUSTER MANDATE

§8-1-5.1 Planning Commission Authority. The Land Use Officer may recommend, and the Planning Commission is hereby authorized to require any applicant of a major subdivision in any area designated as agricultural/forestry in the county's comprehensive plan, or in any area designated for rural residential use in the county's comprehensive plan but which contains significant active agricultural or forestry operations, to rearrange land subdivision proposals in a manner that complies with the purpose and intent and the specific provisions of this Resolution [Ordinance]. To this end, the Planning Commission is hereby authorized to deny a preliminary plat for property located in said agricultural/forestry or rural residential areas which does not meet the requirements of this Resolution [Ordinance]. The Planning Commission shall also be authorized to waive the requirements for minimum lot sizes, lot widths, and yards as may be required by the County's [City's] Land Use Intensity District [Zoning] Ordinance, in specific instances and upon application, but only to the minimum extent necessary to permit a cluster subdivision to comply with this Resolution [Ordinance]; provided, however, that the Planning Commission is not authorized to increase an overall gross density of development on a property that is otherwise not permitted by County [City] land use regulations.

§8-1-5.2 Additional Requirements. As part of the preliminary plat review process, the Land Use Officer or Planning Commission may require that the applicant identify agricultural, forestry, and open space land on the property proposed for subdivision. The Planning Commission may encourage efforts by the subdivider to preserve and/or promote agricultural, forest, or open space use and may require the retention of some of the usable agricultural or forest land or open spaces that meet the purpose and intent and specific provisions of this Resolution [Ordinance].

§8-1-5.3 Requirements for Denying a Preliminary Plat. To deny a subdivision plat under the authority of this Resolution [Ordinance], the Planning Commission or Land Use Officer must have informed the applicant of a rural cluster mandate and instructed the applicants on the requirements of this Resolution [Ordinance], and made a finding that the proposed preliminary plat has not been designed in accordance with the provisions of this Resolution [Ordinance] as broadly interpreted by the Land Use Officer and Planning Commission.

§8-1-5.4 Appeal. Any action by the Planning Commission's action to apply the rural cluster mandate or to otherwise invoke its authority pursuant to this chapter as applied to a specific property, upon approval of a preliminary plat requiring such mandate, may be appealed by the property owner to the Board of Appeals as provided for in Section 1.10 of this code.

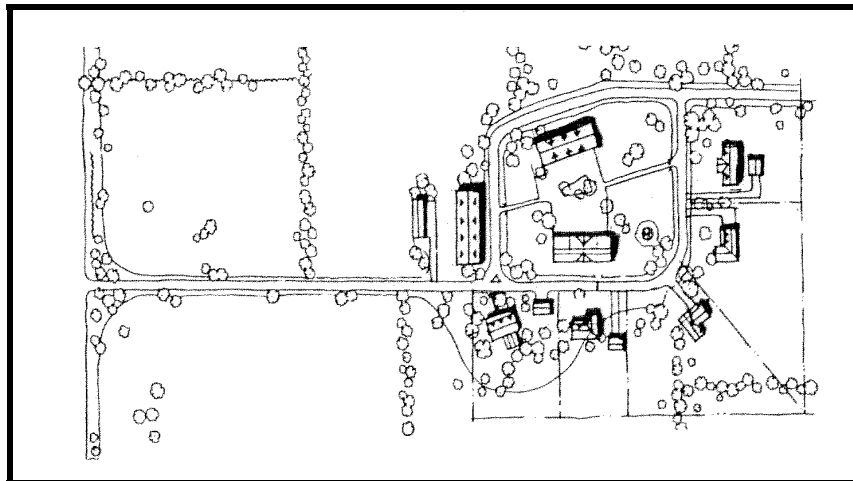
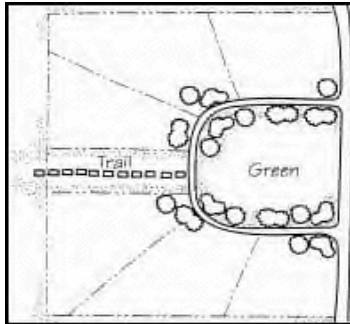
§8-1-6 RELATIONSHIP TO LAND SUBDIVISION REGULATIONS

This Resolution [Ordinance] is intended to work as a special addition to the county's [city's] subdivision and land development regulations codified as Section 4-1 of this code. All requirements of said Code Section shall apply unless the context clearly indicates otherwise or

unless this Resolution [Ordinance] conflicts with said code sections, in which case this Resolution [Ordinance] shall apply.

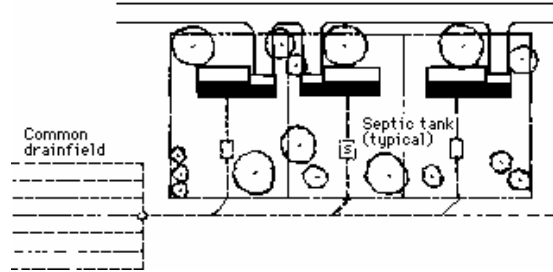
§8-1-7 DESIGN REQUIREMENTS RURAL CLUSTERS AND CLUSTER LOTS

§8-1-7.1 Density Clustering. The permitted residential development density for the property proposed to be subdivided, shall be used within cluster lots (see Figures), and the remainder parcel shall be utilized for agriculture or forest land or for open space.



Source: Arendt 1994.

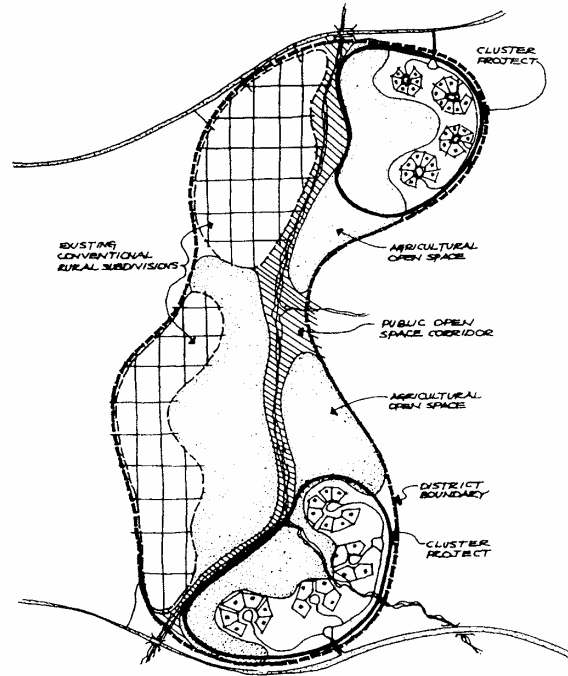
§8-1-7.2 Area of Lots. Cluster lots shall contain a minimum area necessary to meet health department requirements. Where permitted by the county health department, the cluster subdivision may consist of lots smaller than the sizes required for individual on-site sewage management systems (i.e., septic tanks), if adequate provisions are made for common drainfields (see Figure), subject to the approval of the local health department. No cluster lot shall be greater than two acres in size, so as to encourage the maximum amount of land possible preserved for resource use or open space.



Common Drainfield

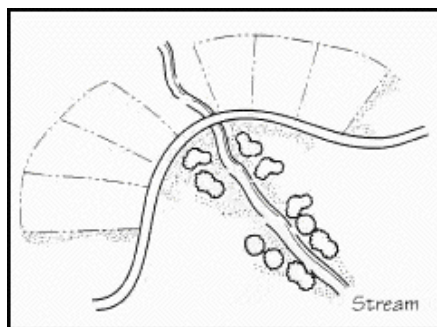
§8-1-7.3 Locations of Clusters.

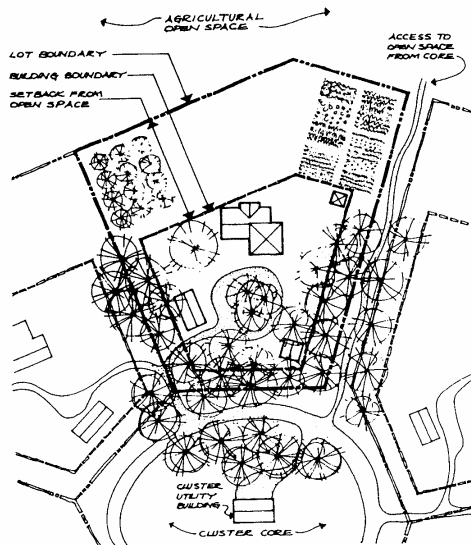
- (a) In areas where usable agricultural land exists, residential development shall be clustered or sited so as to minimize disruption of existing or possible future agricultural uses.
- (b) A rural cluster subdivision may contain one or more residential clusters grouped into compact neighborhoods.
- (c) To the maximum practicable extent, existing historic rural features shall be preserved as part of the cluster development. These features include but are not limited to rock walls, fences, functional and structurally safe farm buildings, monuments, and landscape features.
- (d) Buildings shall be clustered or sited in the most accessible, least visually prominent, and most geologically stable portion or portions of the site.
- (e) Rural clusters shall be limited to locations that minimize the visual impact from adjacent lands and view corridors. Placing buildings so that vegetation, rock outcroppings, depressions in topography, or other natural features will screen them where they exist shall minimize the prominence of construction. In wooded or forested areas, the Land Use Officer may recommend and the Planning Commission may require the scattering of buildings so as to save trees and minimize visual impacts.



Rural Cluster Locations

- (f) Cluster lots shall be sited to minimize conflicts between housing and adjacent agricultural or forest zoned property.
- (g) All cluster lots should be located on the least productive soils, but they should not include environmentally sensitive areas unless no other alternative exists. If no alternative is available, encroachment into prime agricultural soils or environmentally sensitive areas shall be limited to the least amount possible.
- (h) Cluster lots should border on open space on at least one side, and have access to any core open spaces in the rural cluster.
- (i)





Rural Cluster Lot

§8-1-8 DESIGN REQUIREMENTS FOR REMAINDER PARCELS

The cluster development shall result in the establishment of a remainder parcel comprising a minimum of 40 percent of the land area to be subdivided. Any remainder parcel shall be contiguous except in the most unusual circumstances. Any remainder parcel shall not be fragmented by public or private road easements unless no other reasonable alternative exists. To the maximum extent possible, all environmentally sensitive areas on property proposed for subdivision shall be located within the remainder parcel. To retain the rural character, the remainder parcel should contain to the maximum extent possible forested areas, active agriculture, meadows, pastures, and prominent hillsides or ridges if they exist.

§8-1-9 OTHER DESIGN REQUIREMENTS

Subdivision identification monuments shall not be permitted unless approved by the Planning Commission, and only in such cases as the monument retains the rural or resource character of the area. This shall not be construed to prohibit landscaping at the entrance of a rural cluster subdivision.

Sight obscuring fences are not permitted within 50 feet of the public right-of-way, nor along cluster lot lines adjacent to any remainder parcel.

§8-1-10 RESOURCE LAND AND OPEN SPACE RETENTION

Active agricultural or forest land, or agricultural or forest land not presently in use, may be preserved in its current use or proposed to be made available on a lease basis in the future for compatible agricultural or forestry uses. The primary intent shall be to preserve open lands for agricultural or forest use, not to provide open space/recreational land uses which will interfere or be in conflict with agricultural or forestry operations.

The Planning Commission shall require that any such resource lands or open spaces to be preserved be shown on the preliminary and final plat as required by Section 4-1 of this code. Any areas within the subdivision which are designated on the preliminary plat and final plat as being a common, recreation, park, open or other similar non-resource area shall be encumbered in a manner suitable to the Planning Commission to assure that such area will in some manner be beneficial to the owners of the building sites within the proposed subdivision and that said areas will not be available for development in any manner inconsistent with the intent of this Resolution [Ordinance].

§8-1-11 RESOURCE USE MANAGEMENT PLAN

In cases where land is proposed to remain in farm or forest (i.e., resource) use, the Planning Commission shall require a farm or forest management plan for the remainder parcel to be submitted and approved prior to approval of the preliminary plat. The management plan shall describe the nature and intensity of large scale agricultural or forestry uses, permitted uses and management of the parcel so that it maintains its resource other designated functions. The management plan shall identify the responsibility for maintaining the remainder parcel. The plan shall also include any construction activities (trails, fencing, agricultural buildings) and vegetation clearing that may occur on-site. All subsequent activities must be conducted in conformance with the approved management plan.

§8-1-12 OWNERSHIP AND MANAGEMENT OF RESOURCE LAND OR OPEN SPACE

The Planning Commission may require the creation of a homeowner's association or other organization for ownership and maintenance of lands to be preserved for agriculture, forestry, and/or open space use (i.e., remainder parcels). Land to be preserved as open space may be dedicated by fee title to the County [City], subject to the approval of the Board of County Commissioners [Mayor and City Council]. If accepted in fee simple title, the county [city] or other designated public jurisdiction will maintain all open space lands accepted in fee title.

[See References]