



Calvert County Zoning Ordinance Update: Articles 20 & 21

Public Forum

March 14, 2024

Introduction

- Staff prepared a draft ordinance to bring the Zoning Ordinance into compliance with the current Comprehensive Plan.
- Draft Zoning Ordinance (CCZO) was made available to the public May 2023.
- Joint work sessions and public forums have been held monthly to review articles of the draft ordinance and will continue through May 2024.
- [Calvertcountymd.gov/ZoningOrdinanceUpdate](https://calvertcountymd.gov/ZoningOrdinanceUpdate) to access links to draft articles, draft zoning map, where to send public comment, and other supplemental materials.
- The focus of this public forum will be draft Articles 20 and 21; Forest Conservation and Natural Resources

Forest Conservation

- The May 2023 draft of the Forest Conservation article will need to be re-written to bring it in line with updates to the Forest Conservation Act required by the passage of SB526/HB723 in the 2023 Maryland Legislative Session
- The Maryland Department of Natural Resources has been tasked with interpreting this legislation and developing guidance for counties on how to implement these changes
- Because this article will need to be significantly re-written to bring it in line with updates to the Forest Conservation Act, a full review of this draft article is impractical at this time

Forest Conservation Act Update

- Highlights of new provisions in the updated Forest Conservation Act include:
 - Forest cleared must be replaced at 1:1 ratio unless in a Priority Funding Area (not also in priority retention area), in which case there will be a 0.5:1 ratio
 - Restores mitigation banking as a creditworthy practice, up to 50% in priority retention areas
 - Provides exemptions for transit-oriented development, multi-family housing, solar photovoltaic facilities
- Updated provisions take effect July 1, 2024

Natural Resources

- In the current Zoning Ordinance, regulations protecting sensitive environmental features outside of the Critical Area are found in Section 8-2.04 (Erodible Soils Adjoining Streams and Slopes 25 Percent or Greater Adjoining Streams), Section 8-2.05 (Wetlands), and Section 8-2.06 (Development Adjacent to Perennial and Intermittent Streams)
- In the draft Zoning Ordinance, the regulations protecting these sensitive environmental features, including streams, wetlands, steep slopes, highly erodible soils and buffer areas, have been consolidated and are included within what is called the Natural Resource Protection Area (NRPA)

Natural Resources

- The purpose section of Article 21 states as follows, *“The purpose of the Natural Resource Protection Area (NRPA) is to serve as a buffer that will minimize disturbance to sensitive environmental features from future development. The intent of the NRPA is to protect water quality and quantity in streams, water courses, and wetlands; protect steep slopes and minimize erosion and siltation; protect native and non-invasive vegetation; and to protect persons and property from environmental hazards such as erosion, siltation, and floodwaters.”*

NRPA

- In the draft, how the NRPA is delineated is dependent on whether the parcel fits the criteria of the NRPA-1 or the NRPA-2
 - **NRPA-1**: Applies to parcels, lots, outlots, residue, and open space created during the subdivision process after the adoption of the updated Zoning Ordinance outside of town centers
 - **NRPA-2**: Applies to parcels, lots, outlots, residue, and open space created prior to the adoption of the updated Zoning Ordinance outside of town centers and to all parcels within town centers
 - May also be applied on lots if the lot was created through the combination of smaller lots or parcels which existed prior to the adoption of the updated Zoning Ordinance

NRPA-1

- On parcels where the NRPA-1 would apply a minimum 100-foot buffer from both sides of perennial and intermittent streams would be required
 - Under current regulations, the minimum buffer from perennial and intermitted streams is 50 feet
- On parcels where the NRPA-1 would apply, in the case of contiguous steep slopes of 25% or greater, the stream buffer shall be expanded to the top of the slope plus 20 feet
 - Under current regulations, the stream buffer is expanded four feet for every one percent of slope or to the top of contiguous steep slopes of 25% or greater, whichever is nearer to the stream

NRPA-1

- On parcels where the NRPA-1 would apply, in the case of highly erodible soils, the buffer shall be expanded to the landward edge of the highly erodible soil or 150 feet, whichever is less. If the area of the 100-year floodplain is greater than the buffer or expanded buffer as described in this section, than this area shall be included within the NRPA-1
 - Under current regulations, for lots created after 05/01/06 (except in the EC & TC Districts) no structure, grading or clearing is permitted on SrE and ErE soils within 100 feet of a perennial or intermittent stream.

NRPA-1

- On parcels where the NRPA-1 would apply a minimum 100-foot buffer from wetlands is required
 - Under current regulations, the minimum buffer from non-tidal wetlands is 50 feet
- On parcels where the NRPA-1 would apply, in the case of contiguous steep slopes of 25% or greater, the wetland buffer shall be expanded to the top of the slope plus 20 feet. In the case of highly erodible soils, the buffer shall be expanded to the landward edge of the highly erodible soil or 150 feet, whichever is less.
 - There are no equivalent requirements under current regulations specific to non-tidal wetland buffers

NRPA-1

- On parcels where the NRPA-1 would apply, any land area exceeding 5,000 square feet with a slope in excess of 25% and a buffer of 20 feet from the edge of the steep slope would be included within the NRPA
 - There are no equivalent requirements under current regulations in regard to steep slopes non-contiguous with streams

NRPA-2

- On parcels where the NRPA-2 would apply, the stream buffer in the case of contiguous steep slopes of 25% or greater would be expanded to the top of the slope, or to 100 feet, whichever is less.
 - Under current regulations, the stream buffer is expanded four feet for every one percent of slope or to the top of contiguous steep slopes of 25% or greater, whichever is nearer to the stream.

NRPA-2

- Except within Town Centers and the Employment Center District, on parcels where the NRPA-2 would apply, if the lot or parcel was created between 05/01/2006 and the adoption of the updated Ordinance, the stream buffer would be expanded for contiguous highly erodible soils to the landward edge of the highly erodible soils, or to 100 feet, whichever is less.
 - In the current Zoning Ordinance, for lots created after 05/01/2006 (except in the Employment Center and Town Center Districts), no structure, grading or clearing is be permitted on SrE and ErE soils within 100 feet of a perennial or intermittent stream.

Lots and Setbacks

- The following has been added to the draft Zoning Ordinance,
“No portion of the NRPA-1, or the required setback from the NRPA-1, shall be allowed within lots one acre or less in size. On lots greater than one acre in size, sufficient contiguous land for the construction of a building or dwelling with amenities on the lot shall be demonstrated. Minimum sufficient contiguous suitable land area shall be exclusive of Natural Resource Protection Areas, Forest Retention Areas, septic recovery areas, and required setbacks. Minimum sufficient suitable land area shall be 20,000 square feet for lots having individual septic systems and 10,000 square feet for lots or parcels served by a public sewer or a community septic system. All lots below this minimum shall be considered having marginal amounts of suitable land for building purposes and may be required to provide detailed plot plans to prove suitability.”

Permitted Uses and Activities

- Agriculture is permitted with an approved Soil Conservation Plan and minimum 25-foot-wide buffer bordering streams and wetlands
- Forestry is permitted with an approved Timber Harvest Plan
- Basic maintenance, including removal of trees that are a threat to structures or invasive species is permitted
- Non-permanent disturbance for emergency fixes of existing stormwater management devices is permitted
- Passive recreation and foot and walking trails are permitted
- Utility transmission facilities may be permitted after it is established that there are no alternatives

Roads and Driveways

- *“Road and driveway crossings may be permitted after it is established, and the Department of Planning & Zoning agrees, that all options have been exhausted and there are no alternatives, or when stream or wetland crossings are necessary to comply with town center master plans. The developer shall be required to provide a written justification. The number of road and driveway crossings shall be minimized. If a road or driveway crossing is necessary, it shall cross a stream at a 90-degree angle whenever possible. If the affected area is designated a "conservation area" on a record plat or requires the grading of steep slopes or highly erodible soils, then the disturbance and construction shall require approval of the Planning Commission. If the Planning Commission approves, slopes may be graded out to less than 25% for construction of roads to provide access to lots.”*

Stormwater Management

- In the draft Zoning Ordinance, new stormwater management devices would not be permitted in areas designated as Natural Resource Protection Areas (non-permanent disturbance of the NRPA for emergency fixes of existing stormwater management devices would be permitted)
 - In the current Zoning Ordinance, when stormwater management cannot be located outside of the stream buffer, stormwater management devices may be placed in the buffer with approval of the Planning Commission for site plans and subdivisions and approval by the Zoning Officer in all other cases.

Mitigation Plantings

- In the draft Zoning Ordinance, mitigation plantings are required for removal of vegetation for permitted activities and development in the NRPA on a 1:1 basis.
 - In the current Zoning Ordinance, mitigation plantings are required for removal of vegetation for permitted activities and development within stream and wetland buffers, but required mitigation plantings are on a 2:1 basis.

Variations

- In the draft Zoning Ordinance:
 - Variations from the regulations of Article 21 are permitted in the NRPA-2 but are not permitted in the NRPA-1
 - At environmental planning staff recommendation, the Zoning Officer or its designee is authorized to grant administrative variations for disturbance to steep slopes for the purposes of slope stabilization in the NRPA-2
 - If a variance is granted, mitigation is required by planting on the site at a rate of 1:1 per square foot of the disturbance.
- In the current Zoning Ordinance, variations within stream or wetland buffers require mitigation at a rate of 2:1 per square foot of disturbance

Proposed Revision Highlights

- **Article 20 (Forest Conservation)**
 - The state Forest Conservation Act was updated in 2023; forest cleared will be required to be replaced at 1:1 ratio unless in a Priority Funding Area; the draft Forest Conservation article will need to be re-written to bring it in line with changes made at state level
- **Article 21 (Natural Resources)**
 - Stronger protections of sensitive environmental features on lots, residue, open space created during the subdivision process after the adoption of the updated Zoning Ordinance outside of Town Centers

Public Forum Wrap-Up

- Public comment period for Articles 20 and 21 closes April 5th
- The next public forum is scheduled for April 11, 2024
- Members of the public can submit comments to ZOupdate@calvertcountymd.gov
- Questions – Contact:
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