Anne Arundel County Peninsula Coalition

Peninsula Principles

2019

DRAFT v6

(Note to community associations on AA County peninsulas. This document is the result of conversations and collaboration with community associations on peninsulas in AACo. We ask that you bring this to your community association members and boards for discussion and consideration. If you endorse these principles, please say so via email to neighborsofmayo@gmail.com by Friday, March 8th. At that time, we will design and launch a coordinated campaign across all of our associations to discuss these Principles with our council reps, county staff, and the Executive's office.)

Purpose: To change the development review and building process in Anne Arundel County to better support the quality of the environment and quality of life on its peninsulas. These include but are not necessarily limited to Annapolis Neck, Broadneck, Hog Neck/Mountain Road, Mayo, Marley Neck, and Shadyside. This document has been created by a coalition of organizations based on several of the county's peninsulas.

Summary

Peninsulas are fundamentally defined by their topography: nearly surrounded by waterbodies, they are wrapped by sensitive shorelines and are confined by limited road access to most neighborhoods, parks, and businesses. Our aim is to work with the county to develop a "peninsula overlay" — concepts, criteria, zoning, building codes, etc., that are specific to peninsulas, given their unique nature and geography and the outsized impact that development on peninsulas has on traffic and infrastructure, the surrounding rivers, and the Chesapeake Bay. Specifically, we have a three-point request to the County Executive and County Council, as follows:

1. To conduct detailed, citizen-driven land use to support the quality of the environment and quality of life on the county's peninsulas
2. To define an overlay of rules, criteria, zoning and building codes tailored to the unique environment and infrastructure limitations on peninsulas
3. To define and enforce short-term criteria for development on peninsulas to ensure that the pace of development does not outstrip our ability to achieve the first two goals

We would like to work with the county to outline a timeframe and specific actions to work toward these goals.

The rules and criteria for peninsula development should:

- Prioritize comprehensive planning focused on the cumulative impacts of current and potential development.
- Provide a more inclusive, transparent, and proactive process for meaningful public outreach and input.
- Contain criteria that are more appropriate for peninsulas than the existing Adequate Public Facilities Ordinances (APFOs), which are intended to balance and, if necessary, limit development due to the impact on and capacity of roads, schools, emergency services, and wastewater treatment capacity, as described herein.
- Better address concerns for the impact of development on water quality, shoreline forest buffers, forest conservation, land preservation, wetlands and stream health, impact fees, aquifer health (quantity and quality of the water supply) than the APFOs and other county rules and guidance currently achieve.
- Better ensure that the full impacts of new development on existing residents are accounted for in the impact fees charged to developers.

The maintenance of forested buffer areas, wetlands, seasonal streams, and the natural topography of our peninsulas is essential to the long-term health and welfare of the surrounding waterways and residents. In addition, there is a large body of science demonstrating that the maintenance and restoration of natural bio-retention areas could save county taxpayers millions of dollars annually.

Also, the county has a legal obligation to meet pollution reduction goals for the regional Bay clean-up effort known as the Total Maximum Daily Load (TMDL) or the Bay's "pollution diet." Actions to achieve the goals must be in place by 2025, and then the county (and region as a whole) will be tasked with holding the line — which means capping and offsetting the impacts of new growth. Among Maryland counties, Anne Arundel has one of the greatest amounts of shoreline on the Bay and its rivers, and the peninsulas are on the front line. ***We must live sustainably on our peninsulas.*** Establishing appropriate and effective policies makes sense for our neighborhoods now and for these long-term goals and federal requirements.

Background

The six major peninsulas in Anne Arundel County are defined by sensitive three-sided shoreline environment, confined by limited road access, and confronted with significant potential for environmental and quality of life degradation from development. Peninsula and community organizations are increasingly vigilant on these issues due to observance of the degradation of our waterways and neighborhoods by development, additional impervious surface, overly strained infrastructure, the removal of trees and forests, and disturbance of wetlands.

Our greatest concern is the lack of a vision for how to live sustainably on the county's peninsulas, backed by proactive land use plannning and enforced by meaningful rules, ordinances, and building codes that are vigilantly enforced, to effectively manage the combined impact of commercial and residential development on traffic, essential services, groundwater supplies, and our environment. Citizens are calling on the county to address these concerns countywide. However, solving these problems on peninsulas requires consideration of their unique geography. Much of the existing code for guiding development is designed for larger projects, while our peninsulas — already well developed — have less land for development and are increasingly impacted by the cumulative effects of smaller projects, which often escapes attention and control.

The impact of development on peninsulas is substantially amplified because it is concentrated in settings with less physical space for offsets and other solutions. For example, development that could be considered small at inland locations combine for greater impact on peninsulas: the associated effects of mass clearing of forest, adding septic and/or sewer capacity, increasing traffic, and adding impervious surface that generates stormwater runoff often impacts a peninsula to a much greater degree than on inland areas. The environmental impacts are greater partly because the shorelines of streams, rivers and the Bay are closer to the developed land. And while these areas are usually within the state-designated Critical Area, exemptions to the protections usually afforded to the Critical Area have permitted continued growth with detrimental effects on peninsulas. Inland areas have more capacity to filter the runoff, manage the traffic through alternate routes, and they can rely on county water and sewer to handle the increased capacity.

Most of the recommendations here echo concerns raised in the 2002 Small Area Plans — and reaffirmed by County Executive Steuart Pittman's recent listening sessions — thus the problems are well-documented. The solutions we propose are also advanced by various smart growth/environmental organizations.

PRINCIPAL #1

Make long-term comprehensive land use planning on peninsulas a priority in order to set sustainable goals and procedures. Piecemeal development and its unintended consequences is no longer an option for geographically constrained peninsulas facing ever greater demands to support both human communities and ecosystem services. Long-range planning that considers cumulative impacts from multiple uses is critical. Action areas would include:

- Providing a public outreach process that is inclusive, transparent, pro-active, and meaningful.
- Identifying/mapping high priority resources (woods, wetlands, shoreline buffers, etc.).

- Consulting, updating and acting on the Small Area Plans. Citizens contributed an enormous amount of time and insight to help create these plans; many of the recommendations are still relevant but have not been acted on, and residents throughout the county have called for a renewed effort.
- Creating a framework through which multiple projects and related APFOs could be considered at a single point in time to accurately represent the peninsula's capability to absorb the cumulative impacts.
- Consider vulnerability to sea-level rise and large storms and salt-water intrusion.
- Evaluate soils for their ability to support proposed development.
- Eliminate the grandfathering of subdivisions (and, thusly, building construction codes).

PRINCIPLE #2

Make <u>existing</u> access road capacity a fundamental criterion for authorizing and approving an proposed development and density changes on the county's peninsulas. This is critical for quality of life as well as the health and safety of peninsula residents and visitors. This should be a priority for the state and county, and be completed in advance of anticipated development with community input to improve vehicle and pedestrian safety and alleviate traffic congestion. Appropriate upgrades should be addressed <u>in advance</u> of anticipated development. Action areas would include:

- A public outreach process that is inclusive, transparent, pro-active, and meaningful.
- Regular, accurate traffic studies
- Methods for considering the cumulative impact of multiple proposed development projects
- Consideration of single points of failure in the road system due to limited rights of way, flooding, lack of shoulders, inadequate access for fire and EMS, power lines, emergency evacuation plans
- Consideration of safety for cyclists and pedestrians

Why the concern? *Peninsulas are served by one main access road. The smaller peninsulas are served by just one two-lane road, areas of which have no shoulders, leaving thousands of residents vulnerable to isolation and without access to fire and EMS services when there are accidents, emergencies, fallen trees, or flooding. In addition, power outages and the heavy rains of 2018 have left access roads closed for several hours at a time. Emergency response times on several peninsulas are longer than the recommended national average and in some cases (such as a barricade situation) have blocked inbound and outbound access for hours.*

PRINCIPLE #3

Adhere to federal, state, and county requirements for protecting the environment on peninsulas; improve county standards as needed; and vigorously enforce them. The protection of trees, forests, headwater streams, wetlands, and shoreline buffers is critical on peninsulas. The county should create zoning, runoff, and remediation rules that protect the natural topography of peninsulas. It should also increase its capacity to enforce existing rules and regulations and enhance protections on peninsulas; develop new tools to help homeowners and developers protect sensitive lands and resources; and capitalize on existing federal and state incentive programs for land conservation. (One example is the transfer of development rights to encourage development in less environmentally sensitive areas). Action areas would include:

- Ensure adequate inspection capacity for county offices (see the 2018 South River Federation report on enforcement gaps and opportunities.)
- Reduce the number of approved variances in the Critical Area on peninsulas. (See the 2017 University of Maryland report that found Anne Arundel County granting 89% of the variance requests for the Critical Area.)
- Review adequacy of environmental protections during the development process.
- Require comprehensive land use planning on peninsulas to set and enforce appropriate density.
- Enforce state regulations for forest conservation and reforestation, and increase protections found to be are appropriate for for peninsulas. The county needs to strengthen its protection of existing forests which are currently reducing runoff and pollution. Again, the effect must be local. Reforestation lost on the peninsula must be replanted on that same peninsula if there is to be a balance in environmental and life qualities.
- Deforestation of multiple acres in a single operation should not be permitted on peninsulas or under a single grading permit. Trees should be removed only to accommodate the building footprint and a reasonable work area surrounding it.
- Builders will need to remediate against greater rainfalls in a 24-hour period. The county needs to step up its inspection and oversight of construction sites when heavy rains are forecast. Extend the length of the Adequate Storm Drain Facilities test (17-5-701) from the subdivision's year of completion to three to five years after completion to allow for testing under several climate cycles.
- The county should implement and enforce a no net stormwater runoff provision in the code during subdivision design review and inspection. In older non-compliant communities DPW has a responsibility to remediate as these stormwater systems or lack thereof were tacitly accepted by the county at the time of subdivision.

Why the concern? *With every development and building permit issued, the natural environment loses trees and undisturbed ground cover, which causes immediate adverse environmental impact. Development accelerates the loss of forests and wetlands and often*

provides inadequate mitigation. Trees absorb carbon dioxide and release oxygen into the atmosphere. They stabilize the ground, screen unwanted pollutants, regulate the flow of water by intercepting rain, and release it slowly to the ground where it can gradually run off into rivers or enter the groundwater. Currently, builders are required to mitigate against rains of 2" per 24-hour period. By the end of 2018, there had been 7 rain events exceeding 2", including three in July, 2018. The number of large rain events experienced this year indicates the 24-hour rainfall expectation ceiling needs to be increased. At the same time, efforts to accelerate development and increase density on peninsulas are detrimental to environmental quality and quality of life. Several developments on peninsulas that are under discussion with county officials -- some in or adjacent to critical areas -- will ultimately increase the density of development, reduce the tree canopy, increase runoff, add oxygen-depleting nutrients to waterways, tax strained aquifer and septic capacity, and increase traffic beyond levels that already exceed the state definition of roadway capacity. Even with recent laws increasing the notice areas, communities are still poorly informed about plans, often gaining information only after county staff have approved sketch plans and issued permits. Even when a parcel's zoning is correctly applied, variances are routinely granted allowing for larger and more dense development. Individual decisions about upzoning are made by a simple majority of the County Council, often without debate or contest.

PRINCIPLE #4

Recalculate the real cost of development to infrastructure, services and natural resources and set peninsula impact fees at 100%. Consider adding bio-retention/environmental costs to APFOs. Where impact fees and fees-in-lieu are collected, require the use of those fees on the peninsula where the related development occurs. Factor into reforestation fees the probable cost of purchasing the land for reforestation. The county should require that impact fees cover 100% of the potential costs that taxpayers would otherwise assume to account for the developments' impact on roads, schools, and the environment. The county should require that all remediation begin before subdivision construction begins and be completed before occupancy permits are issued. Impact fees collected in a particular district should be used in that district; otherwise, the impact to a peninsula could be completely unmitigated. Action areas would include:

- The county should rescind the sunset clause on bill 92-17, which allows builders to build a development of any size if the school district is at 95% capacity starting on January 1st, 2020 or at the adoption of the General Development Plan whichever comes first.
- New residential development should not be allowed in any school district that is closed. Sketch plans could be reviewed in closed school districts, but no building should be allowed until the school overcrowding is addressed either by the county or the developer and the school district is then open. This should occur before additional

permits are issued or variances granted and be done with full transparency and with the participation of interested parties, including citizen groups.

Why the concern? *For the past decade, the county has charged impact fees to developers that are only 60-80% of the actual costs to the county of bringing roads, schools, and other public facilities up to par; county tax payers have been subsidizing the remaining fees. Impact fees are collected by the county into a general development fund, with no obligation to provide mitigation to the communities or schools directly impacted by the development. Building codes fail to account for the environmental fragility and limited emergency ingress/egress on peninsulas. The county revised its impact fee structure in the summer of 2018, but without comment about whether or how well these new fees might or might not cover the full costs of development.*

The interpretation of the county's School Utilization Chart, which determines whether a school's capacity makes it "closed" is ambiguous, leaves too much discretion to county staff, and we frequently find that school staff is not fully informed of proposed or approved developments. Developers are absolved from building restrictions if a school is still closed after 6 years of the approval of the development, regardless of the size of the development or the number of children affecting the still un-expanded schools that remain closed.