

## Timbering Ordinance

**Overview.** Approximately a year ago, a presentation was made to the Board of Supervisors that Lancaster County adopt a Timbering Ordinance similar to that of James City County. The impetus for this was clear cutting operations on Weems Road, especially those in the vicinity of Historic Christ Church and Sharon Baptist Church. Considerable wood debris was left, all of which was visible from adjoining roads. Timing of this issue also coincided with the public input sessions for the update to the Comprehensive Plan where there was considerable support for such an ordinance. Because of the timing of the presentation, the Board of Supervisors directed that the Planning Commission consider whether or not recommendation for the development of a Timbering Ordinance be part of the update.

**Discussion.** The thrust of the proposed timbering ordinance was that it would require a wooded buffer to be left around any portion of the parcel being timbered such that the residue from timbering operations would not be visible. In other words, the argument for a timbering ordinance is aesthetics, or the oft stated but never substantiated negative impact on property values. County staff, specifically that of the Planning and Land Use Director, would be tasked with monitoring, enforcement, and arbitration where there was a difference of opinion as to whether or not a buffer was required or, if required, the amount of buffer. As proposed, the ordinance would apply to residentially zoned property only. Arguments for not regulating the cutting of wooded properties are as follows:

- 1) Leaving buffers is not the best forestry practice to ensure healthy viable forests;
- 2) Virginia Department of Transportation does not allow buffers along state roads. This is in recognition of the potential for wind getting behind the buffers during high wind events and toppling a greater number of trees into the roadway than would occur otherwise (impact on ability of emergency services providers to function during these events could also be significant);
- 3) Very little history as to the effectiveness of such an ordinance (James City County is the only other county in the state that has such an ordinance);
- 4) Unanswered questions as to “when”, “on who”, and “how” enforcement would be conducted
  - would this apply to a homeowner who simply wanted to “open up” a forested area and left debris on the ground?—whether such an ordinance provided for this or not, there would be a considerable number of situations in which a neighbor or concerned citizen would feel that it should.
  - if the timbering ordinance applied to residentially zoned property only, would it also include the many areas of residentially zoned forested land in the County where the only use of the property and that in the surrounding area is agricultural or silvicultural?

- if the only element of the timbering ordinance were notification, what would be the penalty for failure to comply? what if there was an error in notification—would that call for a stop work order until complete notification would occur? would only adjoining property owners be notified, or would notification requirements be expanded to all those who “might be affected? where would the line be drawn? would advertisement in a local paper be the next step?
- 5) Overall cost and difficulty in the implementation of such an ordinance;
  - 6) Loss of economic value to the property owner;

While it is believed that any one of the six stated arguments is greater than that of aesthetics, the last two bear further discussion. Given the sizeable forested area in the County (50,000 acres by one estimate) and the many property owners who possess it, the amount of potential staff time required to implement a timbering ordinance can be expected to be substantial. This cannot be absorbed by present staff whose duties have expanded substantially in the last five years in terms of both scope and level of activity. Enactment of any timbering ordinance would require a corresponding commitment to more staff. Even this pales in comparison to the last argument. *Individual property owners would be required to forfeit some level of the economic value of a cash crop. Unlike all other ordinances that apply equally to all citizens, this would unfairly target a specific group of citizens, owners of forested property.*

**Recommendation.** That no mention be made of a timbering ordinance in the update to the comprehensive plan and that the Planning Commission advise the Board of Supervisors that such action was by intent based on an analysis of the arguments both for and against.