

OPEN SPACE IMPACT FEE

Introduction: Chapter 18:3, Development Impact Fees, recognizes that new development should contribute its fair share toward expenditures for “public facilities” needed to accommodate new development. “Public facilities” are expressly defined to include “open space”: see § 18:3-1. Definitions. (“Open space” is in turn defined to mean land on which only certain restricted uses are permitted: see §18App-1.)

At present, unlike schools, fire/EMS and parks & rec, public facilities expenditures on open space are not funded by a development impact fee. The legislative process in connection with 08-25 provides a particularly appropriate opportunity to consider an open space impact fee. If NCD and CDB are repealed, some owners of farmland would welcome the alternative of being able to sell their development rights to the County – which would be able to purchase them from the Open Space Impact Fee Account.

Concept: (1) An Open Space Impact Fee is imposed on residential new development in the amount of (up to) \$2.00 per square foot. (2) Appropriations from the Open Space Impact Fee Account enable the County to purchase perpetual deed restrictions on AG zone property, at a price of (up to) \$15,000 per development right (=8-acre parcel under the existing NCD criteria: §18:1-98).

Discussion: An average-sized new house of 2500 square feet is now paying a little over \$10,000 in impact fees. A new open space impact fee of \$2 per square foot would raise the total impact fees by \$5,000, to a little over \$15,000.

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In a year in which 200 residential units were built, open space impact fees @ \$2/sq. ft. would generate \$1 million for the purchase of farmland development rights – which is estimated to be the upper limit of the average annual NCD purchases 1997-2007.

If one projects more residential units per year, or does not try to make up the entire NCD shortfall at its high estimate, the Open Space Impact Fee could be substantially reduced. For example, at 300 units per year, a fee of \$1.00 per square foot (adding only \$2500 to the fees imposed on an average new house) would generate \$750,000 annually, enough to purchase 50 development rights at the top-dollar \$15K NCD price, or 75 rights at a more modest \$10K per right. (Estimated average volume of NCD transactions was some 60-65 development rights per year.)

Conclusion: Re 08-25, impact fees for development rights purchases are a simple, effective way to accomplish the same goals as a (far more complex) TDR program.