

MINUTES OF THE ST. MARY'S COUNTY PLANNING COMMISSION MEETING

ROOM 14 * GOVERNMENTAL CENTER * LEONARDTOWN, MARYLAND

Monday, April 24, 2006

Members present were Joseph St. Clair, Chair; Steve Reeves, Vice Chair; Lawrence Chase; Merl Evans; Susan McNeill; and Howard Thompson. Brandon Hayden was excused. Department of Land Use and Growth Management (LUGM) staff present was Denis Canavan, Director; Jeff Jackman, Senior Planner IV; Bob Bowles, Planner II; and Keona Courtney, Recording Secretary. County Attorney, Christy Holt Chesser, and Deputy County Attorney, Colin Keohan, were also present.

The Chair called the meeting to order at 6:30 pm.

DEVELOPMENT REVIEW

ALPD #06-150-001 – NANCY WOLFE, MALPF DISTRICT

The Applicant is requesting recommendation to the Board of County Commissioners for approval on proposed Agricultural Land Preservation District (ALPD) establishment. The property contains 46.5 acres; is zoned Rural Preservation District (RPD); and is located at 36611 Notely Hall Road in Chaptico, Maryland; Tax Map 30, Grid 7, Parcel 298.

Owner: Nancy D. Wolfe

Present: Donna Sasscer, Agriculture/Seafood Development Manager

Ms. Sasscer explained that the Maryland Agricultural Land Preservation Foundation (MALPF) officially grants permission for property owners to establish their property as an ALPD, with the understanding that it is a five year commitment. The property must also meet certain qualifying criteria such as: 1) has a minimum size of 50 contiguous acres, 2) 50 percent of the land is class I, II, and III soils or, if wooded, 50 percent of the land has woodland group I or II soils or, a combination of the two exceed 60 percent, and 3) the land is located outside of the County's 10 year water and sewerage service area. All of the following properties meet these qualifying criteria. The County currently has 15,000 acres of preserved land, and some land has been preserved through the use of Transferable Development Rights (TDR). Property owners can also apply to sell their easements to the State, which is a two year process.

Mr. Evans moved that having made the finding that the property meets the Maryland Agricultural Land Preservation Foundation criteria the Planning Commission recommend that the property be forwarded to the Maryland Agricultural Land Preservation Foundation. The motion was seconded by Mr. Reeves and passed by a 6-0 vote.

ALPD #06-150-002 – GERALD D'WYNTER, MALPF DISTRICT

The Applicant is requesting recommendation to the Board of County Commissioners for approval on proposed Agricultural Land Preservation District (ALPD) establishment. The property contains 65.75 acres; is zoned Rural Preservation District (RPD); and is located at 21939 Mossely Lea Lane in Avenue, Maryland; Tax Map 38, Grid 24, Parcel 33.

Owner: Gerald & Caroline D'Wynter

Present: Donna Sasscer, Agriculture/Seafood Development Manager

Mr. Thompson moved that having made the finding that the property meets the Maryland Agricultural Land Preservation Foundation criteria the Planning Commission recommend that the property be forwarded to the Maryland Agricultural Land Preservation Foundation. The motion was seconded by Mr. Chase and passed by a 6-0 vote.

ALPD #06-150-003 – WILLIAM LYON, MALPF DISTRICT

The Applicant is requesting recommendation to the Board of County Commissioners for approval on proposed Agricultural Land Preservation District (ALPD) establishment. The property contains 63.457 acres; is zoned Rural Preservation District (RPD); and is located at 44655 Clarks Mill Road in Hollywood, Maryland; Tax Map 34, Grid 3, Parcel 307.

Owner: William Vernon Lyon Sr., Rose M. Lyon, & William V. Lyon Jr.

Present: Donna Sasscer, Agriculture/Seafood Development Manager

Mr. Reeves moved that having made the finding that the property meets the Maryland Agricultural Land Preservation Foundation criteria the Planning Commission recommend that the property be forwarded to the Maryland Agricultural Land Preservation Foundation. The motion was seconded by Ms. McNeill and passed by a 6-0 vote.

ALPD #06-150-004 – WILLIAM LYON-2, MALPF DISTRICT

The Applicant is requesting recommendation to the Board of County Commissioners for approval on proposed Agricultural Land Preservation District (ALPD) establishment. The property contains 55.62 acres; is zoned Rural Preservation District (RPD); and is located at 40470 Parsons Mill Road in Loveville, Maryland; Tax Map 19, Grid 20, Parcel 146.

Owner: William Vernon Lyon Sr. & William Vernon Lyon Jr.

Present: Donna Sasscer, Agriculture/Seafood Development Manager

Mr. Chase moved that having made the finding that the property meets the Maryland Agricultural Land Preservation Foundation criteria the Planning Commission recommend that the property be forwarded to the Maryland Agricultural Land Preservation Foundation. The motion was seconded by Mr. Thompson and passed by a 6-0 vote.

ALPD #06-150-005 – JOHN LACEY, MALPF DISTRICT

The Applicant is requesting recommendation to the Board of County Commissioners for approval on proposed Agricultural Land Preservation District (ALPD) establishment. The property contains 16.12 acres; is zoned Rural Preservation District (RPD); and is located at 38656 Gilberts Lane in Avenue, Maryland; Tax Map 39, Grid 7, Parcel 54.

Owner: John G. & Agnes A. Lacey

Present: Donna Sasscer, Agriculture/Seafood Development Manager

Ms. McNeill moved that having made the finding that the property meets the Maryland Agricultural Land Preservation Foundation criteria the Planning Commission recommend that the property be forwarded to the Maryland Agricultural Land Preservation Foundation. The motion was seconded by Mr. Thompson and passed by a 6-0 vote.

ALPD #06-150-006 – JOHN LACEY-2, MALPF DISTRICT

The Applicant is requesting recommendation to the Board of County Commissioners for approval on proposed Agricultural Land Preservation District (ALPD) establishment. The property contains 37.28 acres; is zoned Rural Preservation District (RPD); and is located on Oakley Road and Cobrums Wharf Road in Avenue, Maryland; Tax Map 39, Grid 7, Parcel 223.

Owner: John G. & Agnes A. Lacey

Present: Donna Sasscer, Agriculture/Seafood Development Manager

Mr. Reeves moved that having made the finding that the property meets the Maryland Agricultural Land Preservation Foundation criteria the Planning Commission recommend that the property be forwarded to the Maryland Agricultural Land Preservation Foundation. The motion was seconded by Mr. Evans and passed by a 6-0 vote.

ALPD #06-150-007 – PATRICK LASHER, MALPF DISTRICT

The Applicant is requesting recommendation to the Board of County Commissioners for approval on proposed Agricultural Land Preservation District (ALPD) establishment. The property contains 25.63 acres; is zoned Rural Preservation District (RPD); and is located at 25400 Maidenside Lane in Loveville, Maryland; Tax Map 19, Grid 20, Parcel 147.

Owner: Patrick & Sarah Lasher

Present: Donna Sasscer, Agriculture/Seafood Development Manager

Mr. Chase moved that having made the finding that the property meets the Maryland Agricultural Land Preservation Foundation criteria the Planning Commission recommend that the property be forwarded to the Maryland Agricultural Land Preservation Foundation. The motion was seconded by Mr. Thompson and passed by a 6-0 vote.

ALPD #06-150-008 – JOHN HALL, MALPF DISTRICT

The Applicant is requesting recommendation to the Board of County Commissioners for approval on proposed Agricultural Land Preservation District (ALPD) establishment. The property contains 111.63 acres; is zoned Rural Preservation District (RPD); and is located at 23881 Fancy Discovery Lane in Chaptico, Maryland; Tax Map 30, Grid 4, Parcel 19.

Owner: John E. & Annie Marie Hall

Present: Donna Sasscer, Agriculture/Seafood Development Manager

Ms. McNeill moved that having made the finding that the property meets the Maryland Agricultural Land Preservation Foundation criteria the Planning Commission recommend that the property be forwarded to the Maryland Agricultural Land Preservation Foundation. The motion was seconded by Mr. Reeves and passed by a 6-0 vote.

ALPD #06-150-009 – CLARENCE GODDARD, MALPF DISTRICT

The Applicant is requesting recommendation to the Board of County Commissioners for approval on proposed Agricultural Land Preservation District (ALPD) establishment. The property contains 40 acres; is zoned Rural Preservation District (RPD); and is located at 22945 Bayside Road in Compton, Maryland; Tax Map 31, Grid 23, Parcel 13.

Owner: Clarence A. Goddard III & Elizabeth A. Goddard

Present: Donna Sasscer, Agriculture/Seafood Development Manager

Mr. Thompson moved that having made the finding that the property meets the Maryland Agricultural Land Preservation Foundation criteria the Planning Commission recommend that the property be forwarded to the Maryland Agricultural Land Preservation Foundation. The motion was seconded by Mr. Chase and passed by a 6-0 vote.

ALPD #06-150-010 – WILLIAM MULFORD, MALPF DISTRICT

The Applicant is requesting recommendation to the Board of County Commissioners for approval on proposed Agricultural Land Preservation District (ALPD) establishment. The property contains 84.74 acres; is zoned Rural Preservation District (RPD); and is located at 21818 Oakley Road in Avenue, Maryland; Tax Map 39, Grid 19, Parcel 67.

Owner: William C. & Claire B. Mulford

Present: Donna Sasscer, Agriculture/Seafood Development Manager

Mr. Reeves moved that having made the finding that the property meets the Maryland Agricultural Land Preservation Foundation criteria the Planning Commission recommend that the property be forwarded to the Maryland Agricultural Land Preservation Foundation. The motion was seconded by Mr. Thompson and passed by a 6-0 vote.

ALPD #06-150-011 – REEVES WIGGINGTON, MALPF DISTRICT

The Applicant is requesting recommendation to the Board of County Commissioners for approval on proposed Agricultural Land Preservation District (ALPD) establishment. The property contains 115 acres; is zoned Rural Preservation District (RPD); and is located at 21540 White's Neck Road in Bushwood, Maryland; Tax Map 46, Grid 1, Parcel 2.

Owner: Elizabeth Reeves & George Peter Wiggington

Present: Donna Sasscer, Agriculture/Seafood Development Manager

Mr. Evans moved that having made the finding that the property meets the Maryland Agricultural Land Preservation Foundation criteria the Planning Commission recommend

that the property be forwarded to the Maryland Agricultural Land Preservation Foundation. The motion was seconded by Mr. Thompson and passed by a 6-0 vote.

ALPD #06-150-012 – ROBERT MOREHOUSE, MALPF DISTRICT

The Applicant is requesting recommendation to the Board of County Commissioners for approval on proposed Agricultural Land Preservation District (ALPD) establishment. The property contains 50.04 acres; is zoned Rural Preservation District (RPD); and is located at 48640 Spring Ridge Road in Dameron, Maryland; Tax Map 59, Parcels 409, 194, 402 & 2.

Present: Donna Sasscer, Agriculture/Seafood Development Manager

Mr. Chase moved that having made the finding that the property meets the Maryland Agricultural Land Preservation Foundation criteria the Planning Commission recommend that the property be forwarded to the Maryland Agricultural Land Preservation Foundation. The motion was seconded by Mr. Thompson and passed by a 6-0 vote.

ALPD #06-150-013 – JOHN HALL, MALPF DISTRICT

The Applicant is requesting recommendation to the Board of County Commissioners for approval on proposed Agricultural Land Preservation District (ALPD) establishment. The property contains 72.5 acres; is zoned Rural Preservation District (RPD); and is located at 24139 Hurry Road in Chaptico, Maryland; Tax Map 30, Grid 4, Parcel 95.

Owner: John & Susan Hall

Present: Donna Sasscer, Agriculture/Seafood Development Manager

Mr. Thompson moved that having made the finding that the property meets the Maryland Agricultural Land Preservation Foundation criteria the Planning Commission recommend that the property be forwarded to the Maryland Agricultural Land Preservation Foundation. The motion was seconded by Mr. Chase and passed by a 6-0 vote.

ALPD #06-150-014 – EVERETT DEMENT, MALPF DISTRICT

The Applicant is requesting recommendation to the Board of County Commissioners for approval on proposed Agricultural Land Preservation District (ALPD) establishment. The property contains 153.5 acres; is zoned Rural Preservation District (RPD); and is located at 42990 Lattimore Lane in Leonardtown, Maryland; Tax Map 49, Grid 3, Parcel 41.

Owner: Everett L. Dement

Present: Donna Sasscer, Agriculture/Seafood Development Manager

Mr. Evans moved that having made the finding that the property meets the Maryland Agricultural Land Preservation Foundation criteria the Planning Commission recommend that the property be forwarded to the Maryland Agricultural Land Preservation Foundation. The motion was seconded by Mr. Reeves and passed by a 6-0 vote.

ALPD #06-150-015 – EVERETT DEMENT-2, MALPF DISTRICT

The Applicant is requesting recommendation to the Board of County Commissioners for approval on proposed Agricultural Land Preservation District (ALPD) establishment. The property contains 46.3 acres; is zoned Rural Preservation District (RPD); and is located on Three Notch Road in Lexington Park, Maryland; Tax Map 63, Grid 23, Parcel 72.

Owner: Everett L. Dement

Present: Donna Sasscer, Agriculture/Seafood Development Manager

Ms. McNeill moved that having made the finding that the property meets the Maryland Agricultural Land Preservation Foundation criteria the Planning Commission recommend that the property be forwarded to the Maryland Agricultural Land Preservation Foundation. The motion was seconded by Mr. Thompson and passed by a 6-0 vote.

ALPD #06-150-016 – CHARLES KNOTT, MALPF DISTRICT

The Applicant is requesting recommendation to the Board of County Commissioners for approval on proposed Agricultural Land Preservation District (ALPD) establishment. The property contains 67.36 acres; is zoned Rural Preservation District (RPD); and is located at 20648 Old Saw Mill Lane in Leonardtown, Maryland; Tax Map 49, Grid 20, Parcel 197.

Owner: Charles D. & Donna M. Knott

Present: Donna Sasscer, Agriculture/Seafood Development Manager

Mr. Chase moved that having made the finding that the property meets the Maryland Agricultural Land Preservation Foundation criteria the Planning Commission recommend that the property be forwarded to the Maryland Agricultural Land Preservation Foundation. The motion was seconded by Mr. Thompson and passed by a 6-0 vote.

ALPD #06-150-017 – BRYAN SIEBERT, MALPF DISTRICT

The Applicant is requesting recommendation to the Board of County Commissioners for approval on proposed Agricultural Land Preservation District (ALPD) establishment. The property contains 57.6 acres; is zoned Rural Preservation District (RPD); and is located at 50447 Hays Beach Road in Scotland, Maryland; Tax Map 73, Grid 4, Parcel 220.

Owner: A. Bryan & Carolyn Siebert

Present: Donna Sasscer, Agriculture/Seafood Development Manager

Mr. Reeves moved that having made the finding that the property meets the Maryland Agricultural Land Preservation Foundation criteria the Planning Commission recommend that the property be forwarded to the Maryland Agricultural Land Preservation Foundation. The motion was seconded by Mr. Thompson and passed by a 6-0 vote.

ALPD #06-150-018 – JAMES WILT, MALPF DISTRICT

The Applicant is requesting recommendation to the Board of County Commissioners for approval on proposed Agricultural Land Preservation District

(ALPD) establishment. The property contains 79.02 acres; is zoned Rural Preservation District (RPD); and is located at 26815 Baptist Church Road in Mechanicsville, Maryland; Tax Map 13, Grid 13, Parcel 219.

Owner: James K. & M. Meta Wilt

Present: Donna Sasscer, Agriculture/Seafood Development Manager

Mr. Thompson moved that having made the finding that the property meets the Maryland Agricultural Land Preservation Foundation criteria the Planning Commission recommend that the property be forwarded to the Maryland Agricultural Land Preservation Foundation. The motion was seconded by Mr. Reeves and passed by a 6-0 vote.

ALPD #06-150-019 – JOHN DORSEY-1, MALPF DISTRICT

The Applicant is requesting recommendation to the Board of County Commissioners for approval on proposed Agricultural Land Preservation District (ALPD) establishment. The property contains 124 acres; is zoned Rural Preservation District (RPD); and is located on Colton Point Road in Church Swamp in Avenue, Maryland; Tax Map 38, Grid 5, Parcel 19.

Owner: John Rule Dorsey Revocable Trust

Present: Donna Sasscer, Agriculture/Seafood Development Manager

Mr. Reeves moved that having made the finding that the property meets the Maryland Agricultural Land Preservation Foundation criteria the Planning Commission recommend that the property be forwarded to the Maryland Agricultural Land Preservation Foundation. The motion was seconded by Mr. Evans and passed by a 6-0 vote.

ALPD #06-150-020 – JOHN DORSEY-2, MALPF DISTRICT

The Applicant is requesting recommendation to the Board of County Commissioners for approval on proposed Agricultural Land Preservation District (ALPD) establishment. The property contains 68 acres; is zoned Rural Preservation District (RPD); and is located on Colton Point Road, Church Swamp in Avenue, Maryland; Tax Map 38, Grid 12, Parcel 138.

Owner: John Rule Dorsey Revocable Trust

Present: Donna Sasscer, Agriculture/Seafood Development Manager

Mr. Reeves moved that having made the finding that the property meets the Maryland Agricultural Land Preservation Foundation criteria the Planning Commission recommend that the property be forwarded to the Maryland Agricultural Land Preservation Foundation. The motion was seconded by Mr. Thompson and passed by a 6-0 vote.

ALPD #06-150-021 – JOHN DORSEY-3, MALPF DISTRICT

The Applicant is requesting recommendation to the Board of County Commissioners for approval on proposed Agricultural Land Preservation District (ALPD) establishment. The property contains 51 acres; is zoned Rural

Preservation District (RPD); and is located on Colton Point Road in Church Swamp in Avenue, Maryland; Tax Map 38, Grid 17, Parcel 139.

Owner: John Rule Dorsey Revocable Trust

Present: Donna Sasscer, Agriculture/Seafood Development Manager

Mr. Reeves moved that having made the finding that the property meets the Maryland Agricultural Land Preservation Foundation criteria the Planning Commission recommend that the property be forwarded to the Maryland Agricultural Land Preservation Foundation. The motion was seconded by Mr. Chase and passed by a 6-0 vote.

ALPD #06-150-022 – JOHN DORSEY-4, MALPF DISTRICT

The Applicant is requesting recommendation to the Board of County Commissioners for approval on proposed Agricultural Land Preservation District (ALPD) establishment. The property contains 51 acres; is zoned Rural Preservation District (RPD); and is located on Colton Point Road, Church Swamp in Avenue, Maryland; Tax Map 38, Grid 12, Parcel 140.

Owner: John Rule Dorsey Revocable Trust

Present: Donna Sasscer, Agriculture/Seafood Development Manager

Mr. Evans moved that having made the finding that the property meets the Maryland Agricultural Land Preservation Foundation criteria the Planning Commission recommend that the property be forwarded to the Maryland Agricultural Land Preservation Foundation. The motion was seconded by Ms. McNeill and passed by a 6-0 vote.

PUBLIC HEARING

To consider amendments to the Comprehensive Plan, "Quality of Life in St. Mary's County a Strategy for the 21st Century, amended November 1, 2005 to incorporate the Lexington Park Development District Master Plan, adopted under the authority of Article 66B of the Annotated Code of Maryland. Amendments to be so considered are as follows: Amend Figures 2-1 through 2-5 of the Lexington Park Development District Master Plan to change the boundary of the Lexington Park Development District to include therein the 55-acre Wildewood school site (described in Deed EWA/2688/246) and to exclude from the Development District the 192.5 acres that are Myrtle Point Park (described as Parcel 18 of Tax Map 26); and Amend Figures 2-1 through 2-5 of the Lexington Park Development District Master Plan to change the boundary of the Lexington Park Development District to include therein the following:

- A. Tax Map 42, Parcel 119
- B. Tax Map 42, p/o Parcel 24, Parcels A and B
- C. Tax Map 34, Parcel 689 and
- D. Tax Map 34, Parcels 116 and 136

Legal advertisements were published in *St. Mary's Today* on 4/9/06 and 4/16/06.

Mr. Jackman's
Exhibit 1:
Locator maps
(2) of subject
properties

Mr. Jackman's
Exhibit 2: Draft
replacement
pages for
Figures 2-1
through 2-5 of
the Lexington
Park Master
Plan

Mr. Jackman's
Exhibit 3:
Memorandum
from Deputy
County Attorney

Mr. Jackman's
Exhibit 4: Draft
PC Resolution

Ms.
Vallandingham's
Exhibit 1:
Letter to
Planning
Commission,
dated 4/24/06,
regarding
amendment of
the LPDD
Master Plan to
include four
properties

Ms.
Vallandingham's
Exhibit 2:
Letter to
Planning
Commission,
dated 4/24/06,
regarding
amendment of
the LPDD
Master Plan to
include
Wildewood
school site and

exclude Myrtle
Point Park

Ms. Norris'
Exhibit 1: Letter
to Planning
Commission,
dated 4/24/06.
regarding
Public Hearing

Mr. Norris'
Exhibit 1: Letter
to Planning
Commission,
dated 4/24/06,
regarding LPDD
– Beavan
Property – File
No. 2006-0025

Mr. Norris'
Exhibit 2:
Letters (72)
supporting the
inclusion of Mr.
Beavan's
property in the
LPDD

Mr. Norris'
Exhibit 3: Lower
Western Shore
Tributary Basin
– FY99 Project
Summaries;
Current Water
Quality
Conditions and
Government
Programs to
Protect Water
Quality

Mr. Jackman explained that the Planning Commission held a public hearing in December 2005 on text amendments to the Comprehensive Water and Sewerage Plan (CWSP), to extend water and sewer service to school sites that abut Development Districts. The BOCC amended the CWSP and requested that the Planning Commission initiate amendments to the Lexington Park Development District (LPDD) Master Plan to extend its boundary to include the Wildewood school, remove Myrtle Point Park, and reconcile discrepancies between the CWSP, the St. Mary's County Zoning Ordinance, and the St. Mary's County Comprehensive Plan as they relate to the four properties listed. A change in the LPDD boundary will also require the adoption and replacement of Figures 2-1 through 2-5 of the LPDD Master Plan.

Mr. Reeves asked about Chancellor's Run Regional Park and adjoining properties. Mr. Jackman explained that there are properties that adjoin the park and there are some facilities here that cross over the LPDD boundary. He said that a park is a permitted use in the RPD, but if plumbing facilities were installed then it would be a benefit for it to be included in the LPDD. Mr. Reeves mentioned the fact that facilities are not desired at Myrtle Point Park, even though it is a much larger property than Chancellor's Run Regional Park.

Ms. McNeill asked if there was any consideration given to having a portion of Myrtle Point Park inside of the LPDD and a portion of the park outside of the District to satisfy the need for facilities. Mr. Jackman explained that the BOCC desire to have the entire park removed from the LPDD. Ms. McNeill asked Mr. Jackman to explain the separate master plan for the park. Mr. Jackman explained that the BOCC adopted the plan in September 2005 which includes an amphitheater, visitor's center, pavilion, and restrooms. Ms. McNeill asked if locating the park outside of the LPDD will impact water and sewer service to it. Mr. Jackman explained that the CWSP provides that these services will not be extended outside of the Development District. He said that an alternative to this could be to have a sewage disposal system on-site at the park. Mr. St. Clair asked about the possible sewage disposal system. Mr. Jackman explained that it would be similar to a regular septic system or land allocation. Mr. Reeves asked if the soils can support a system, and if this will work at this location. Mr. Jackman explained that there is nothing indicating that an on-site sewage system can not work at this location. The boundary change to exclude the park has been discussed with Recreation Parks and Community Services, and they do not foresee it having an adverse impact on the separate master plan.

Ms. McNeill asked if there is a requirement for maintaining balance when acreage is removed and added to the LPDD. Mr. Jackman explained that the BOCC has heard concerns from the Maryland Department of Planning about the size of the LPDD, has considered these concerns, and are willing to offer a balance. He said that it is ultimately the County's responsibility to plan for this area. Ms. McNeill asked if the purpose for removing the Park from the LPDD is to preserve the character of the land, and Mr. Jackman agreed that it was.

Ms. McNeill requested that each of the four properties be heard and commented on individually so that there will be less confusion and Mr. St. Clair agreed.

The Chair opened the hearing to public comment.

Bernard Beavan, owner of Parcel 119, requested that the Planning Commission recommend to the BOCC that his property be returned to the LPDD since it was previously a part of the development district before being removed in February 2002. He said that this occurred without his knowledge, and that he was not notified; although staff informed him that the boundary change was advertised as required by State Law. He explained that he became aware of the County's plan to downzone the property from RL to RPD zoning in May 2002. At that time he made an appeal to the BOCC to maintain the RL zoning of the property and they agreed. He was unaware at that time that the property had already been removed from the LPDD, and believes that the BOCC was also unaware of this. He explained that during the same time period the neighboring WMDM-WPTX radio station was allowed to upgrade to Planned Unit Development (PUD) zoning, and later added a storage facility. He explained that the entrance to this property only 500 feet from his property and the Arrowhead Subdivision is only 1,150 feet from his property. In a memorandum dated October 4, 2004 from LUGM, staff recommended returning his property to the LPDD, and the Planning Commission recommended to the BOCC in February 2005 that his property be returned to the LPDD. Mr. Beavan explained that his property needs sewer service because there are perc problems with the land and he has a signed contract to sell the property. He explained that returning his property to the LPDD will correct what he feels has been a wrongdoing, and will restore the property's value. Ms. McNeill asked if there are any buildings on the property. Mr. Beavan explained that there are not and that the property is entirely wooded and is a tree farm. Ms. McNeill asked if he applied for rezoning of his property during the

time that the neighboring property applied for theirs. Mr. Beavan explained that he did not apply at that time. Ms. McNeill asked if he received notification about the upgrading. Mr. Beavan said that he received notice of this by certified mail, but noted that when your own property is going to be downzoned, that you do not receive any notification other than a newspaper advertisement.

Mr. St. Clair expressed concern about the notification process and asked Mr. Jackman if property owners are notified, other than by a newspaper advertisement, that their property is going to be downzoned. Mr. Jackman explained that certified mail is not sent to each property owner when this occurs, and that it is not a requirement. He said that there are public meetings and discussions, and normally people are very active in these. He explained that there are two separate phases, a comprehensive planning phase and a rezoning phase. Properties that may be affected by provisions of the Comprehensive Plan receive notification by legal advertisements in the newspaper and properties that are to be rezoned will be notified during that phase. Mr. Jackman explained that the BOCC is expected to consider a text amendment on the notification requirement that will provide for notification to property owners of upgrading and downgrading of their properties.

Mr. Evans asked Mr. Jackman how many other property owners were affected by the rezoning that took place. Mr. Jackman explained that he is not sure but estimates that approximately 100 other properties were rezoned. Mr. Evans asked if Mr. Beavan is the only property owner that has asked for rezoning of his property. Mr. Jackman said that he has been the only property owner to make a request for rezoning.

Mr. St. Clair compared zoning and development activities at the Arrowhead Subdivision to Mr. Beavan's property and his need for public facilities, explaining that he does not understand why so many RL zoned properties were downzoned because it causes a considerable impact to the properties. He said that downzoning properties can be an economic disaster in terms of the difference in allowable density and water and sewer services. Mr. Canavan explained that the Arrowhead Subdivision was recorded and therefore able to be developed. Mr. St. Clair asked Mr. Canavan to clarify the CWSP regulations regarding water and sewer service to properties in the RL zone. Mr. Canavan explained that if a property is located in the RL zone and the property owner desires water and sewer services, then it must be located in the LPDD. He stressed that the issue with Mr. Beavan's property is that it has RL zoning, is located outside of the LPDD, and needs water and sewer service; which conflicts with the CWSP regulations. Mr. Canavan reiterated that it is necessary to reconcile mapping issues.

Ms. McNeill explained that she is concerned that in addition to these four properties, there may be other property owners that will want their properties rezoned. Mr. Canavan explained that only these four properties will be considered at this time. He explained that he would like to complete the LPDD Master Plan before moving forward to the comprehensive rezoning phase, and during this time additional property owners may request to have their properties rezoned. He said that these requests will be reviewed by LUGM, and will be brought to the Planning Commission for review at a later date.

Kennedy Abell, a local resident, asked the Planning Commission to consider that Mr. Beavan was not notified that his property was going to be downzoned, and explained that he feels that his property should be returned to the LPDD.

James Raley, a local resident and former member of the Planning Commission, explained that Mr. Beavan's property was previously located in the LPDD and should be returned there. He explained that Indian Bridge Road is currently used as a boundary road and he does not feel that this is the best road to be used for that purpose. Mr. Raley also explained that granting Mr. Beavan's water and sewer services would be a start to extending these services to properties on Indian Bridge Road.

Linda Vallandingham, a local resident who also spoke on behalf of Robert Jarboe, explained that they are opposed to any changes to the CWSP that would increase the size of the LPDD. She explained that these four properties are outside of the LPDD and should be RPD zoning like the other properties that are outside of the LPDD. She noted the LPDD boundary in Exhibit 1 as defined in the March 2003 amended Comprehensive Plan as follows: "The St. Mary's watershed natural area and land westward thereof are excluded from the LPDD." Ms. Vallandingham said that they also question the accuracy of the CWSP maps and the location of the four properties as shown on locator map #2 provided by staff. She explained that State Law requires that the Comprehensive Plan be reviewed by the Planning Commission every six years and the CWSP be reviewed and updated every three years by the BOCC, and that there would be less of a need for so many text amendments if this was done. Having considered this, Ms. Vallandingham explained that no action should be taken regarding the four properties until a current CWSP is adopted and these properties should be No Planned Service (NPS). She noted that the Planning Commission and BOCC each have had public hearings on the CWSP; however, the BOCC has not adopted a new CWSP yet. In closing, Ms. Vallandingham stated that if Mr. Beavan's property is returned to the LPDD, then all properties west of Indian Bridge Road should be returned. Approximately seven individuals in the audience raised their hands in support of her comments.

Lorena Stiefel, a local resident, explained that she feels there should not be an exception to the Comprehensive Plan provisions, and that neither Mr. Beavan's property nor any other properties should be returned to the LPDD.

Wanda Norris, a local resident who also spoke for Francis and Gloria Bean, explained that they feel that returning Mr. Beavan's property to the LPDD would be unfair to other property owners on Indian Bridge Road that were in the LPDD prior to the adoption of the 2002 Comprehensive Plan. She said that her property and other properties were downzoned to RPD and taken out of the LPDD, without formal notification. She explained that she does not understand why you can receive junk mail at your home and not receive notification that your property is going to be downzoned. Mr. St. Clair agreed. Ms. Norris stressed that there needs to be an updated CWSP and that the March 2003 CWSP proposal, had it been adopted by the BOCC, would have shown all properties on the west side of Indian Bridge Road as NPS. She explained that the LPDD should not be expanded to include Mr. Beavan's property because his land will not perc, because there are other properties in the County with this same problem. Ms. Norris explained that his property should be changed from RL zoning to RPD, and that the water and sewer category should be changed to NPS.

Bubby Norris, a local resident, explained that he thought that the expansion of the LPDD boundary was simply to include the Wildewood school site and not these four properties. He explained that he is opposed to schools in the RPD zone, but since the property is abutting the LPDD he agrees with its location. He expressed concern about other property owners who may request rezoning.

John Norris, a local resident and former County Attorney, explained that he is representing Mr. Beavan in this matter. Ms. McNeill expressed concern about the fact that Mr. Norris recently served as the County Attorney, and that this may be a conflict of interest for him. Mr. Norris explained that he is no longer employed by the St. Mary's County Government. Ms. McNeill explained that Mr. Norris may have information on this matter from his previous work. Mr. Norris assured the Planning Commission that he does not have a conflict of interest and is not in violation of the Ethics Ordinance by representing Mr. Beavan. He added that the memorandum dated 1/13/06 provided to the Planning Commission by staff was from former Deputy County Attorney Heidi Dudderar, and that she has not been involved with the case since her departure from St. Mary's County Government.

Mr. Norris explained that Mr. Beavan's property is in a tree farm. Mr. Beavan has not been able to harvest any trees in the last 25 years, and the land is not in a productive agricultural use. He

explained that Mr. Beavan's property is located in a neighborhood that is not rural, with an upgraded State highway and neighboring radio station and storage facility. Mr. Norris referenced Figure 2-1, explaining that Mr. Beavan's request to be included in the LPDD is not an irregularity and the boundary is expanded to include both sides of intersections. Regarding sewage disposal outside of the LPDD, he explained that property owners normally use a septic system and there have been studies, as cited in Exhibit 1, that describe the effect of septic systems on surface waters. Considering this, Mr. Norris explained that Mr. Beavan needs water and sewer services. He explained that the United States Department of Agriculture (USDA) found that septic systems are causing nitrogen to infiltrate surface waters. Nitrogen from septic tanks can not be absorbed by plants because septic systems discharge into ground waters below the roots of most plants, and plants remove nitrogen naturally from wastewater. Mr. Norris explained that this is a significant finding considering the St. Mary's River, the drinking water reservoir, and the 1990 Pfiesteria incidence, which was later linked to the presence of nitrogen in surface waters. He also explained that by returning this property to the LPDD, the County will not be losing any agricultural land. By allowing the property to connect to water and sewer services; this will help protect surface waters.

Mr. St. Clair asked Bruce Young, of the Soil Conservation District (SCD), to address the soil types that make up Mr. Beavan's land. Mr. Young explained that the major soil types on this property are Beltsville and Elkton soils. One classification of Beltsville soil is BLA, which is a flat soil with zero to two percent slopes. Another is BLB-2, which has two to five percent slopes. The BLA soil typically has hydric inclusions, and is also known for a perched water table at different times of the year, with a hard layer that does not allow water to percolate. Mr. Young explained that this is one reason why Beltsville soils require wet season percs for septic systems. This soil type also has many gravel deposits, and collects iron. Mr. Young explained that Elkton soils are wetland soils and would be protected, along with a portion of the stream that runs through the property, if development occurred. Any hydric inclusions would also have to be mapped. Considering the fact that Beltsville soils are the main soil type in the County, Mr. Reeves asked if they are commonly found in agricultural land. Mr. Bruce said that they are. Mr. Reeves asked Mr. Young if forestry is considered an agricultural use. Mr. Young explained that this is considered an agricultural use, and agricultural assessments can be on properties that are located in forest lands; however, property owners are required to have a forestry management plan prepared by a private forester or by the Department of Natural Resources (DNR) Forestry Service.

Mr. Norris explained that taxes do not indicate zoning, and that he does not know if Mr. Beavan has received any tax credits for his land. He explained that Mr. Beavan has not had the land timbered in 25 years because there are not enough trees to timber, and that the land is not growing trees. The property is not in an agricultural use. He stated that Mr. Beavan has been put on hold with his property since 2002 when it was removed from the LPDD and reminded the Planning Commission of their prior recommendation to include the property in the LPDD. Ms. McNeill asked if there are other properties near Mr. Beavan's property that have W-6 and S-6 service categories. Mr. Jackman explained that Mr. Beavan's side of Indian Bridge Road has this service category, and that the 1993 CWSP is still in effect today. Mr. Canavan stressed to the Planning Commission that they need to lead with the Comprehensive Plan, not with the CWSP. He explained that the BOCC has not adopted a new CWSP and he does not recommend that they do so until the Comprehensive Plan is updated.

Donald Strickland, a local resident, explained that he wishes that there was a way to compensate Mr. Beavan for what has happened. He recommended that tax maps include the zoning of your property. Mr. Jackman explained that tax records once indicated zoning and now property owners are referred to the Planning Board for this. Mr. Canavan explained that property owners are taxed based on land use, and not necessarily the zoning. He said that it may be a drawback for Tax Assessment office to include the zoning of the property because this may not reflect the use of the land. Mr. Strickland also explained that if septic systems are causing problems with our waters, then sewer lines need to be extended throughout the County. He said that the approval of

Mr. Beavan's property to be returned to the LPDD may open the door to many other property owners who want rezoning, and that he is opposed to extending the boundary to the other side of St. Andrews Church Road.

Joe Beavan, a local resident, explained that he supports his father's request. He explained that he thinks that the property has the appropriate zoning and water and sewer categories and should be returned to the LPDD.

Ruth Houser, a local resident, asked where the sewage flows when a property has public sewer service, and if there are a certain number of sewage facilities. Mr. Canavan explained that if Mr. Beavan's property were included in the LPDD and connected to public sewer service, then the sewage would flow to the Marley-Taylor treatment facility, which is the largest treatment facility in the County, and is owned and operated by the St. Mary's County Metropolitan Commission (MetCom). Ms. Houser asked about the capacity of the sewer lines, what happens when there is a lot of rain, and if this ends up in the Chesapeake Bay. Mr. Canavan explained that infrastructure issues have to be addressed, and that stormwater management is a separate operation. He explained that the capacity of any sewage treatment facility should take infiltration into consideration. Ms. Houser stressed that she is not sure that the County's infrastructure is able to handle the County's development, or if it will be able to handle the addition of these properties, noting that this is also expensive. She also stated that there should not be exceptions to the Plans for certain individuals.

The Planning Commission voted to leave the record open for ten (10) days for written comments.

GENERAL DISCUSSION – TDR PUBLIC HEARING UPDATE

Ms. McNeill asked for the status on the continuation of this public hearing. Mr. Canavan explained that he met with the Farm Bureau a week ago and they made considerable progress. He explained that he will move forward with their agreed upon text amendment at the public hearing. He said that he will determine an appropriate time to advertise the public hearing and provide this to the Planning Commission. Mr. Canavan explained that he shared his recommendations from the April 10th public hearing with the Farm Bureau and the Chamber of Commerce, and explained that these recommendations will be placed in a separate bill. He stated that he will have a report and staff analysis on the text amendment and it will be advertised. Ms. McNeill asked if Chapter 32 of the Ordinance will be considered separately. Mr. Canavan said that it will be. Mr. Evans asked for an estimated timeframe for the public hearing. Mr. Canavan explained that it may be held on May 22nd.

ADJOURNMENT

The meeting was adjourned at 9:04 pm.

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Approved in open session: May 8, 2006

Joseph St. Clair

Chairman