

**MINUTES OF THE ST. MARY'S COUNTY BOARD OF APPEALS  
ROOM 14 \* GOVERNMENTAL CENTER \* LEONARDTOWN, MARYLAND  
Thursday, April 12, 2007**

Members present were George Allan Hayden, Chair; Greg Callaway, Vice Chair; Ronald Delahay; Wayne Miedzinski; and Gertrude Scriber. Department of Land Use and Growth Management (LUGM) staff present were Denis Canavan, Director; Yvonne Chaillet, Zoning Administrator; and Amanda Sivak, Recording Secretary. George Edmonds, Board of Appeals First Alternate and Christy Holt Chesser, County Attorney was also present. Joe Densford was in for the St. Andrew Landfill Case as acting attorney.

A sign-in sheet is on file at LUGM. All participants in all cases were sworn in. The Chair called the meeting to order at 6:30 p.m.

**PUBLIC HEARINGS**

**VAAP #05-110-071 – Dixon Subdivision**

The Applicant is requesting a variance from Section 26.2.2.b of the Comprehensive Zoning Ordinance to increase the density in the Rural Legacy Area. The property contains 13.68 acres; is zoned Rural Preservation District (RPD); and is located at 20600 Hermanville Road, Lexington Park, Maryland; Tax Map 51, Block 23 Parcel 382.

Owner: Rory Feicht, Alamo Properties, LLC  
Present: Jackie Meiser, Attorney for Alamo Properties.

This case was advertised in *The Enterprise* on 03/28/07 and 04/4/07. The property was posted and certified mail receipts were submitted to staff for the files.

Ms. Meiser explained they are requesting a variance from the resolution signed in July 2006 regarding the Rural Legacy Area. At the time the resolution was adopted the properties became part of that program and zoned RPD were no longer able to increase their density beyond 1:5 acres. Before that the resolution was adopted properties with the use of Transfer Development Rights, could increase their density to 1:3 acres. In November 2005, Alamo Properties submitted a preliminary plan subdivision of a 2 to 4 lot subdivision with TDRs. In October of 2005, TDRs were lifted from the sending property and in October 2006, an application was placed to have them on the receiving property. In January 2007, the application went before the BOCC and was discovered the property could not have the TDRs applied because of the July 2006 resolution for Rural Legacy Area.

Ms. Chaillet explained that variance request is to increase the density in the Rural Legacy Area to 1:3 from 1:5. The property is located in the Mattapan Rural Legacy Area. The subdivision is a minor subdivision consisting of 2 lots on 13.68 acres. The subdivision has gone through preliminary approval and received TEC comments and was ready for approval subject to the Department of Public Works and Transportation and the Health Department signing off. LUGM was satisfied with the subdivision. The Applicant was in the process negotiating the transfer of TDRs but was caught in the July Rural Legacy Area Resolution. At the time the amendment was adopted, staff did not realize the Dixon subdivision was still in the process of transferring TDRs. If this was brought to the attention of the Board of County Commissioners they most likely would have grandfathered this one subdivision. If the board does grant this variance the applicant still has to go before the BOCC to have the TDRs approved.

Mr. Miedzinski questioned what the definition of a Rural Legacy area is. Mr. Canavan explained the Rural Legacy area is a mapped area for purposes of applying to the state requesting funds to purchase easements on individual properties to preclude further development. Mr. Canavan testified before the state that he would draft a Text Amendment to prohibit the transfer of TDRs into the Rural Legacy Area. The State acted favorably to this and

granted the application. Mr. Hayden questioned if the program was a voluntary program for the residents in this area. Mr. Canavan explained they are in the geographical area for the legacy area. But it didn't necessarily have full support of all the property owners in the area. Mr. Hayden questioned if the Dixon Subdivision was an applicant of this legacy area. Mr. Canavan explained they are pursuing the subdivision. Mr. Hayden questioned if the legacy area would extend across the road from this property. Mr. Canavan explained yes it does. Mr. Hayden asked about the legal notice across the street from this subdivision and what it was meant for. Mr. Canavan explained development can still take place in the Rural Legacy Area but the lots have to be 1:5. Mr. Hayden asked if this was the only subdivision that would be before the Board. Mr. Canavan explained yes it is the only pending subdivision that met all the requirements when the law changed.

Mr. Hayden questioned how the TDRs, if this application was approved, would be maintained and recorded. Ms. Chaillet explained LUGM would be tracking where the TDRs were lifted, what property they were lifted from and what property they were placed on if they are accepted by the BOCC. Mr. Hayden questioned if they could be transferred to another Alamo property. Ms. Chaillet explained they could be and asked Ms. Meiser what has been done on this. Ms. Meiser explained TDRs were removed from a property in Scotland Beach that Alamo owns and a portion of those TDRs are requested to be applied to the subject property. Mr. Hayden questioned if the TDRs would be recorded and tracked by LUGM. Ms. Chaillet explained they would be recorded in the Office of Land Records. Mr. Hayden questioned if it was going to be added to the deed. Mr. Canavan explained there would be an easement placed on the property that the TDRs were lifted from. On this plat the Liber folio number would be recorded and the serial number of the TDR would be placed on the record plat.

**Ms. Scriber moved that having accepted the staff report, the Board adopt the findings of fact contained therein as their findings in this matter. The motion was seconded by Mr. Callaway and passed by a 5-0 vote.**

The Chair opened the Hearing to Public Testimony.

Mr. Karl Bryan explained he lives on the back end of this lot. He is not opposed to the development of this lot but would like the board to take in consideration his concerns if they approve the variance. He is concerned how the houses are configured on the lots and the runoff from those houses. The back part of the parcel has a stream bed. He questioned if there would be any improvements to the road because of the increased traffic that will be on the road not only from this development, but from the one across Hermanville Road that is proposed. He believes there needs to be a turn lane for safety. Mr. Hayden asked Mr. Bryan where the stream on his property was at. Mr. Bryan explained it runs across the back end of the Raley lot and across the front of his to the wet lands area. Mr. Hayden questioned if he knows where the subdivision across from the Dixon property is. Mr. Bryan explained there is no entrance right now.

Mr. Donald Strickland explained that he is against any proposed development in the Rural Legacy area that the law doesn't allow. He believes the applicant should be compensated for his TDRs and what he would have made on the property considering his situation, however, if the Board allows the variance in the RPD, there won't be anything left to protect.

Mr. Frank Allen explained the Patuxent Tidewater Land Trust is concerned that the state may take away funding for Rural Preservation if the development was allowed to continue. Mr. Delahay questioned if there concern was if it would affect the money already given. Mr. Allen explained it wouldn't affect that money, but it may affect the future of the program. Mr. Hayden asked how much Mr. Allen believes this variance would affect the funding. Mr. Allen explained he has no way of knowing how this will affect the funding.

Mr. Jim Spence explained he is a member of the St. Mary's Agricultural Land Preservation Advisory Board. He believes Mr. Strickland's idea is good. Granting the variance

would set a precedent for others to be granted variances in the Rural Legacy Area. Mr. Spence wondered if the Maryland Rural Legacy Commission would make an exception to the Board allowing variances in the Rural Legacy Area.

The Chair closed the hearing to Public Testimony.

Ms. Meiser explained the proposed site of the houses will be up close to the front of Hermanville Road. She does not anticipate any issues with regard to the stream bed. The comments raised by Mr. Allen, Spence and Strickland about a granting of this variance would set the precedent for allowing future variances in this area. Mr. Meiser explained the property had gone through all of the TEC processes and was ready for final approval until the TDR Amendment was passed. Staff has stated they would recommend future similar requests not be approved. Mr. Miedzinski questioned if the owners of Alamo Properties knew about this Rural Legacy program. Mr. Feicht explained he did not know about the Rural Legacy Program. Mr. Hayden questioned if during the application process they knew that the Rural Legacy Program was approved. Mr. Feicht explained they didn't know it was approved until the TDRs were awaiting transfer. Mr. Hayden questioned what the intentions were for the properties. Are they for family or to sell? Mr. Feicht explained they will probably keep one a piece, and sell the others. Mr. Miedzinski asked if Alamo was familiar with the road frontage. Ms. Meiser explained the project did make it through the TEC process and DPWT did not raise any issue with the road or any type of improvements that would need to be done.

Mr. Delahay asked Mr. Bryan if the number of houses would make a difference with the stream. Mr. Bryan explained different factors contribute to the amount of run off that is produced. Mr. Hayden questioned if Alamo develops properties throughout the County. Ms. Meiser explained he was a developer with some properties in the County. Mr. Hayden expressed his concerns about the Rural Legacy Program and the affect this application would have on it. Mr. Hayden asked Mr. Canavan what the intent was by the state for the Rural Legacy Area. Mr. Canavan explained there is indication by the state along with the County to protect the Mattapany area for future preservation. State funds can be used to help the County to put easements on properties. Mr. Hayden asked if the state specified the 1:5 ratios or was this legislation initiated by the County. Mr. Canavan explained the 1:5 densities preceded the Legacy area.

Mr. Hayden explained the state gave the county 3 million dollars for both the North and South Legacy areas. For two lots to be bought with TDRs, the state may conclude the County isn't committed to preserving rural legacy. Mr. Callaway agrees there could be some backlash. Mr. Hayden will support the variance, but there was a large amount of time between the original filing and when the amendment was added to the Rural Legacy program. Ms. Meiser explained the applicant is a developer, but they are not a high volume developer and only has one other property in the County. Mr. Hayden explained they are taking into consideration the TDRs on other properties owned by Alamo; they could have another building opportunity on that property. Ms. Meiser explained the TDRs are already removed from the sending properties and cannot be reattached to the sending properties, the sending property is not longer owned by Alamo. Mr. Hayden asked Ms. Chesser if they can't transfer the TDRs back. Ms. Chesser explained if they have already been removed, they are possibly pass the point where you can transfer them back, but the TDRs can be used on other properties or buyers.

Ms. Scriber agrees the builder wasn't aware, was caught in the middle and is entitled to the variance. Mr. Miedzinski explained the wording in motion even points out the state doesn't want this to happen.

**Mr. Miedzinski moved that having accepted the staff report, dated March 23, 2007, and having made a finding that the standards for variance pursuant to Section 24.3 of the St. Mary's County Comprehensive Zoning Ordinance have not been met, the Board deny approval of the variance to increase the density in a Rural Legacy Area with the use of**

**TDRs. The motion was seconded by Mr. Delahay and passed by a 3-2 vote with Ms. Scriber and Mr. Callaway objecting.**

The called a recess at 7:37 p.m.  
The meeting was called to order at 7:45 p.m.

**CUAP #06-132-030 – ST. ANDREW’S LANDFILL TRANSFER STATION  
(Continued from February 8, 2007)**

The Applicant is requesting modification to an approved conditional use pursuant to Chapter 25 of the St. Mary’s Comprehensive Zoning Ordinance to construct and operate a processing facility and transfer station. The property contains 210.70 acres; is zoned Rural Preservation District (RPD); and is located at 44825 St. Andrew’s Church Road, California, Maryland; Tax Map 42, Block 4, Parcel 104.

Owner: St. Mary’s County Commissioners  
Present: George Erichsen, Director; Richard Tarr; and Gary Whipple; all from the Department of Public Works and Transportation (DPW&T)

This case was advertised in the *St. Mary’s Today* on 10/22/06 and 10/29/06. The property was posted and certified mail receipts were submitted to staff for the files.

**VAAP #06-132-030 – ST. ANDREW’S LANDFILL TRANSFER STATION  
(Continued from February 8, 2007)**

The Applicant is requesting a variance from Section 51.3.93 of the St. Mary’s Comprehensive Zoning Ordinance to reduce the required setback from the nearest home or institutional building and to reduce the required setback from a potable water supply or wellhead. The property contains 210.70 acres; is zoned Rural Preservation District (RPD); and is located at 44825 St. Andrew’s Church Road, California, Maryland; Tax Map 42, Block 4, Parcel 104.

This case was advertised in the *St. Mary’s Today* on 11/26/06 and 12/3/06 and in the *Enterprise* on 12/3/06 and 12/6/06. The property was posted and certified mail receipts were submitted to staff for the files.

Mr. Hayden explained Mr. Joe Densford is sitting in for the county attorney on this case. The Board heard testimony from Mr. George Erichsen, Mr. Gary Whipple and Mr. Richard Tarr for the St. Andrews Transfer Station. The Meeting was open for public testimony. Mr. John Norris Jr. testified on behalf of St. Andrews LLC, Mr. Dudley Lindsey from the Solid Waste Advisory Committee, John Norris III who rents property adjacent to the Landfill and Kim Reynolds from the Center Court Partnership. Ms. Chaillet presented the staff Report. After this Mr. Miedzinski motioned to continue until February and in February DPWT asked for a continuance to put together more answers for the Board.

Mr. Erichsen explained they are coming before the Board for two variances. One is for a reduced setback of 1500 feet from occupied dwelling units and the second is for a reduction to the 2500 foot setback from potable water supplies. Mr. Erichsen explained Mr. Tarr will be going through a presentation explaining some of the background and plans for the new transfer station.

Mr. Tarr explained their first tour was at the Calvert County Transfer Station located at the Appeal Landfill. This is essentially the regional Transfer station. It serves Calvert, St. Mary’s and parts of Charles County. It’s a metal shed with no doors. When it was built it was sufficient. But the tonnage has increased since it was built. There is a tarping station for the truck to prevent trash from flying out of the trucks during transport and a litter fence to catch trash that has escaped the shed. The next facility visited was the Prince Georges County recycling facility. In the past St. Mary’s has sent their recycling to PG. This is a presorted facility. The next site is the King George Landfill. They process 4,000 tons of trash a day. Half come from Annapolis by rail

the other half come by Tractor Trailer. The next visit was to the Howard County Transfer Station. This is the station DPWT will be modeling the St. Andrews Landfill after. The Howard County Facility has four doors; DPWT will have three for a wider door and separation between the doors for the vehicles backing in. Operational areas have open doors and unused areas will have the doors closed. All work performed is done inside the facility. The facility has scales for the entire truck and individual axles so there will be no exceeding the Department of Transportation limits. The back side of the facility is the entrance for the transporting tractor trailers. There is also a door for windy conditions. There is space in the loading area to facilitate cleaning the space. There is a tarping station with two catwalks to help drivers cover their trucks so they do not have to climb through the waste to cover the vehicle. The last visit was to the Elkridge single stream recycling center. The County has recently converted to this type of recycling. This facility is able to sort through combined recycling automatically.

Mr. Miedzinski questioned why DPWT switched to Elkridge for the recycling. Mr. Tarr explained Elkridge is a single stream facility. Mr. Erichsen explained the best way to encourage recycling is to make it as easy as possible. Mr. Hayden questioned if they were planning to create the Howard County Facility here. Mr. Erichsen explained they were modeling the St. Andrews after the Howard County transfer station. St. Andrew's doors will roll up on the inside of the facility to prevent problems due to inclement weather. Mr. Hayden asked if it will eliminate much of the debris that was seen at the Calvert County Transfer Station. Mr. Erichsen explained it will help keep debris from escaping. Mr. Hayden asked what will prevent escaped debris. Mr. Tarr explained they have proposed a litter fence for the facility. Mr. Hayden questioned if they are paid for the material they take to Waste Management for recycling. Mr. Erichsen explained the revenue would come from the recycling. It only costs 28 dollars a ton to recycle rather than 65 dollars a ton to dispose of.

Mr. Erichsen explained Area 'A' where the transfer station is proposed has been sitting since 1980 and is ready to have a building placed on it. DPWT has already performed the soil borings and blow counts and have found they only need to go 2-3 feet deep for any foundation. Mr. Erichsen explained the landfill has environmental and ground water monitoring. All of the remediation and testing is in accordance with state regulations and protocols. In addition, DPWT is completing the gas remediation measures that are becoming active now. In response to comments made about DPWT using the EPA's handbook on Transfer Stations, the department provided a copy of the 2006 approved budget that states DPWT did utilize that handbook. There is a partial excerpt of a report prepared by the Maryland Department of Environmental Services that states there is no evidence the landfill has contaminated any well within a half mile of the site. There are 272 wells in the area and none of them have been found tap into the top aquifer. They all go down to a deeper aquifer. The surface water contamination did not exceed the accepted levels as set in the regulations. Mr. Erichsen explained there is a 65 decibel noise level at the landfill property line. They also did noise tests at two sites in the landfill. They had acceptable levels of noise around the noon peak time for the testing.

Mr. Hayden explained all people that spoke the last time for these cases are still under oath. Mr. Hayden asked what the decibel levels on the back up alarms on the equipment are. Mr. Erichsen explained they read nothing higher than 72.7 at the site. Mr. Hayden explained they could be adjusted. Mr. Erichsen explained they can be adjusted, but the alarms will need to be heard in the back of the facility. The DPWT study concurs with the insurance company's study that happened this year as well.

Mr. Whipple explained that DPWT obtained the final approved site plan for First Colony and St. Mary's Crossing, the Board can see the impact of the different locations of the transfer station. Mr. Hayden asked if the place that Mr. Whipple is showing are the sites built out. Mr. Whipple explained they are the proposed build outs. Mr. Hayden asked Mr. Whipple to explain what is around the site that has been identified. Mr. Whipple explained the locations of the St. Andrews Convenience Center location, St. Mary's Lake property, Route 4, Holly Acres, FDR Boulevard, and Wildewood Entrance. DPWT created an overlay for the map they brought having

a 500 foot, 1500 foot, and 2500 foot ring of setbacks. The reason for the variance is because there are dwellings within 1500 foot range of the site and wells associated with the properties within the 2500 foot line. If the site is moved from its proposed location to area 'B', it would overlap the wetlands. If they moved to area 'C', they will still have the same need for a variance along Route 4. If they move further down area 'C', there is in conflict with residences and wells. If they go to area 'D', they go further into St. Mary's Crossing. Sliding further along the south property line, they run into the barrow area for the landfill and there are also steep slopes and the other side has the SMECO transmission lines. Also to get to this point, there would have to be wetlands crossing using the existing entrance.

Mr. Hayden asked if site 'B' that was just closed have to be closed for a certain period of time before it can be built on. Mr. Whipple explained it does because the material has to consolidate. Mr. Miedzinski asked if they had mentioned before they would have to excavate all of that and haul it away. Mr. Whipple explained they would. Mr. Erichsen explained about 70,000 tons would have to be relocated. Mr. Hayden explained in preparation for the meeting, he could not find where the footages came from for the setbacks from water supplies and residences. Mr. Erichsen explained when the 2000 Solid Waste was updated, there were no regulations written. There was no idea that St. Mary's was going to be building a transfer station, the focus was on landfills. The 1500 foot buffer is something between 3 and 4 times more than what is normally required. DPWT also received a letter from DNR that stated there are no state or federal records for rare, threatened, and endangered species in the area.

Ms. Chaillet explained she needs to clarify part of the minutes from December 14, 2006. Mr. Erichsen asked that a sentence be removed and the follow be added in:

Mr. Tarr replied the County has an environmental monitoring plan in place to test groundwater for contamination and the County is required to report to MDE every six months, and the MDE has not stated there is a problem with the groundwater and that the County needs to clean it up. Mr. Tarr also advised Mr. Hayden that the County has sampled for the presence of landfill gas on the property and properties surrounding the landfill where access was granted. Mr. Tarr indicated that based upon the presence of landfill gas beyond the property, the County has initiated the construction and operation of a landfill gas extraction system to address the issue.

The following sentence "there has been no problems to date" is being requested to taken out. Mr. Hayden asked Ms. Chaillet if she would like a motion on those changes now. Ms. Chaillet explained she did.

**Mr. Callaway moved that changes tot eh minutes of December 14, 2006 be approved. The motion was seconded by Mr. Miedzinski and passed by a 5-0 vote.**

Ms. Chaillet explained Dugan, McKissick and Longmore sent a letter that Ms. Chaillet passed out to the Board. Mr. Hayden explained DPWT had a representative at the meeting to explain the packet they had brought and he wanted to know if Dugan had anyone there to explain it. Ms. Chaillet explained the letter was a complaint filed in Circuit Court about the civil suit that was filed. Mr. Hayden explained they will accept it into the record.

**Ms. Scriber moved that having accepted the staff reports in addition to the information the Ms. Chaillet has presented tonight, the Board adopt the findings of fact contained therein as their findings in this matter. The motion was seconded by Mr. Callaway and passed by a 5-0 vote.**

The Chair opened the hearing to Public Testimony.

Mr. John Norris is representing St. Andrew's LLC. He wants the record to reflect that the LLC was not a part of the tours that DPWT did. He also wanted to point out the information that was brought tonight no one had the opportunity to review or comment on. Mr. Hayden explained the tours were for viewing only; no information was given by the Board. Mr. Norris explained the St. Andrew's LLC is piece of property that abuts the landfill. He explained the DPWT activity continues to grow. Mr. Norris explained that the back up alarms on the landfill equipment has interrupted work at his building. The piece of property Mr. Norris owns will have two buildings placed on it. There is an auto body shop next door to Mr. Norris and he stated there has been no noise impact from those buildings. Mr. Norris explained he reviewed the DPWT map and visited other sites on the property to put the transfer station. Mr. Norris pointed out a remote part of the property that could work if the slopes were filled in.

Mr. Norris explained the State Highway only sees a 12% increase in traffic on the road. He explained this 12% increase in traffic would all be trucks. St. Andrew's Road is no longer adequate. Mr. Norris handed out a traffic study that reviewed Indian Bridge Road, St. Andrews Estates and Wildewood Parkway intersections with Route 4. Depending on the time of day, some of these intersections are failing. Mr. Hayden asked Mr. Norris to explain the letters and the numbers on the traffic study. Mr. Norris explained the letters are level of service. 'F' is a failing level of service and anything with a 'B' or higher passes. He explained having the trucks come to St. Andrew's will only exasperate the problems on the road.

Mr. Callaway explained no matter where the Transfer station is placed according to Mr. Norris, the problems on Route 4 will be the same. Mr. Norris explained that the Standards General doesn't allow the Board to pass this variance. Mr. Callaway questioned how long how long Mr. Norris has owned that piece of property. Mr. Norris explained he bought the property in 1990. Mr. Callaway asked Mr. Norris if when he was performing the original study for the landfill was there thoughts to having other facilities there. Mr. Norris explained the landfill was only meant to be a landfill. The DPWT building was put on the site because the Town of Leonardtown wouldn't allow them to build in town. The County then bought the current DPWT site. Mr. Hayden asked if Mr. Norris was still in the County Government when the other things were added to the Property. Mr. Norris explained things have been added since he left.

Mr. Canavan explained Mr. Norris engineered the landfill as it stands today and then asked if he bought the property that the DPWT building is on. Mr. Norris answered yes he did and put the building on it. Mr. Canavan asked if Mr. Norris purchased the land that is his office building after the landfill operations had started. Mr. Norris explained he did. Mr. Canavan asked if after he purchased the property, was he aware that the landfill was in full operation. Mr. Norris explained he was fully aware of this and Recreation and Parks was on the property. Mr. Norris pointed out that he wrote the Solid Waste Ordinance that opened up the transfer stations in the County. He did not think that there would ever be a transfer station or trash trucks on the landfill property. Mr. Canavan asked where Mr. Norris pulled the numbers from in the traffic study he passed out. Mr. Norris explained the study was current background information. It was not done for any project.

Mr. Canavan asked if Mr. Norris was aware of any projects on Route 4 and is any of the projects nearby his property. Mr. Norris explained he was familiar with some projects and a project nearby is St. Mary's Crossing. Mr. Canavan questioned what type of development it was and how many units are going in. Mr. Norris explained it was a residential development and they are proposing 700 units. Mr. Canavan explained it's going through the processes for a subdivision and it's fair to say it's going to add traffic to Route 4. Mr. Norris explained yes it will add traffic to the road. Mr. Canavan asked if anything that is going through the subdivision process is judged on Adequate Public Facilities. Mr. Norris answered yes. Mr. Canavan explained the Board's role was to consider the Conditional Use and Variance applications; he wanted to know who was to judge APF standards. Mr. Norris explained he thought it was the BOA trying to merge the Standards General with the requests. Mr. Canavan asked if it was the

Planning Commissions role to judge APF at the time of final site plans. Mr. Norris explained it was only after the BOA has granted the approval of the requests if it met the requirements of the Standards General. Mr. Canavan explained truck traffic will be on Route 4 no matter if they are going to the landfill or just moving through the county. He wanted to know if Mr. Norris agreed with that statement. Mr. Norris explained there is annual growth that is to be expected. This project will only be adding truck traffic to the road.

Mr. Canavan in response to Mr. Norris stating there was no information given to be reviewed, wanted to know from staff if every effort was taken on part of staff to contact Mr. Norris or any individual that wishes to see materials. Ms. Chaillet explained Mr. Erichsen submitted materials today that he was going to present to the Board tonight. Mr. Erichsen gave a copy of this report to Ms. Chaillet specifically for John Norris III and she contacted his office. The person that answered the phone at the office explained that Mr. Norris III was in a meeting. Ms. Chaillet informed the person that she has a packet for Mr. Norris III and if he would like the packet he needed to call Ms. Chaillet. Ms. Chaillet explained she never received a response from the office. Mr. Norris asked Ms. Chaillet if she didn't contact him. Ms. Chaillet explained she did not contact Mr. Norris because there is a letter from Mr. Norris III to Mr. Erichsen stating that any materials relating to the case should be provided to him.

Mr. Erichsen explained that Ms. Chaillet did present DPWT's attempts to contact John Norris III correctly. Mr. Erichsen explained that Mr. Norris had stated that he had issues with the location of the transfer station on the site. DPWT had gone through the Standards General before and addressed the location of the transfer station adequately. In regard to the decibel issue, the 72 decibel level was 100 feet away from the station site not on the site. Mr. Erichsen read a section of Title 26 Department of the Environment Industrial, Occupational, and Residential Hazards; it is Comar 26-02-03-00 regarding the control of noise pollution. One of the exemptions is that devices that are used to warn the public. Warning alarms are fall under this because they are not continuous. The noise that Mr. Norris hears is from the County's salt barn, this is significantly closer to his current office. Mr. Erichsen explained that the transfer station and Mr. Norris' new buildings will be at about the same elevation. There is a buffer of trees on the property. DPWT has tried to make the building as aesthetically pleasing as possible, but if the Board wishes to put a berm in they are certainly entitled to do so.

The landfill was opened to commercial haulers until 2000. They are trying to get them back. The County is having the waste hauled to King George. The commercial sector is going to Calvert County. DPWT is trying to stop them from going through the Route 4 and Route 235 intersection. Mr. Erichsen explained they are not trying to make money. If money was the issue, then Mr. Erichsen would have brought up the millions of dollars that it would take to move the transfer station to area 'B'. DPWT is trying to take care of the solid waste that is generated in the County. The goal is trying to keep the commercial sector from having to go over the Thomas Johnson Bridge. Mr. Erichsen asked Mr. Norris if St. Mary's Crossing is going to be on a septic and potable water supply or are they going to have to go through the easement that is on the landfill property. Mr. Norris explained that is the public sewer line. Mr. Erichsen explained that Mr. Norris said he was not aware of the future expansion of the landfill. Mr. Erichsen asked if it was true that Mr. Norris was the original source of the purchase of the piece of land in area 'C'. Mr. Norris explained he believes that they purchased all of the land at the same time from the McCloud family and then they bought the land that the DPWT building sits on. Mr. Erichsen referred the Board to previous testimony that Mr. Norris testified they purchased the property that was for an expansion of the landfill that sits immediately behind his current building. Mr. Erichsen explained they have chosen not to keep running an open landfill and have kept the area as a contingency plan to reduce the noise and odor that would come from such a facility. Mr. Erichsen explained they are not allowed to nor do they burn anything on the landfill.

The Chair closed the hearing to public testimony.

Ms. Scriber explained they BOA needs approve both cases to get started on the transfer station. Mr. Delahay agrees with Ms. Scriber. Mr. Callaway explained this is something that is needed in the County and he does not want to be near an open landfill. The transfer will generate funds for the County which is needed. Mr. Callaway suggested a decorative berm that would enhance the site. Mr. Miedzinski is in agreement that the transfer station is needed and he can't think of a better place currently. The berm would have to be raised but the berm should be considered. Mr. Hayden suggested that they create a raised berm and place some nice fast growing trees on top. Mr. Miedzinski asked Mr. Erichsen if this was something that is feasible. Mr. Erichsen explained they offered at pervious meetings they suggested some larger established trees, but some kind of screening on top the berm.

Mr. Hayden believes a good number of questions that were delivered to the Board were adequately answered by the DPWT. Mr. Hayden thinks those who have property near the landfill think that putting on a transfer station will reduce the property value more than what the landfill has already done are mistaken. The Solid Waste Committee is behind this project. The MDE has approved the revised plan. Mr. Hayden believes the transfer station will help keep needs local. The Comprehensive Plan supports redevelopment on existing properties. Going to a large capacity transfer truck make economic sense. Mr. Hayden explained there are concerns with the water testing and they have to be maintained. METCOM does already and have no reason to stop. First Colony knew what was there when it was being designed and the developments knew the landfill was there.

Mr. Hayden asked how tall the building was going to be. Mr. Erichsen explained that it was going to be 38 feet high. Mr. Hayden explained the Board should make that a consideration for something at least that high. Mr. Erichsen explained they will be looking at lines of sight when making the final plans and that in respect to berming and buffering the Board leave the berm open to natural or a fence of some type. Mr. Hayden asked if this still has to go to the Planning Commission. Ms. Chaillet explained it does this is only the conditional use and the variance. All matters related to APF will be addressed there.

#### **CUAP #06-132-030 – St. Andrews Transfer Station**

**Mr. Callaway moved that having accepted the staff report, dated December 5, 2006, made a finding that the Conditional Use Standards of Section 25.6 of the St. Mary's County Comprehensive Zoning Ordinance have been met, the Conditional Use to construct and operate a processing facility and transfer station pursuant to Chapter 25 of the Ordinance is approved, subject to the following conditions:**

- 1. Compliance with the conditions established for the County Landfill under CUAP #86-1651, modified to eliminate the condition prohibiting any buildings other than the attendant's station; and,**
- 2. Approval of a variance request to reduce the required setbacks from a home or institutional building and from a potable water supply or wellhead. (Granted February 8, 2007)**
- 3. A natural or mechanical berm is to be planted.**

**The motion was seconded by Ms. Scriber and passed by a 5-0 vote.**

#### **VAAP #06-132-030 – St. Andrews Transfer Station**

**Mr. Callaway having accepted the staff report, dated December 5, 2006, made a finding that the standards for variance in Section 51.3.93 of the St. Mary's Comprehensive Zoning Ordinance have been met, the variance to reduce the required setback from the nearest home or institutional building and to reduce the required setback from a potable water supply or wellhead is approved. The motion was seconded by Mr. Miedzinski and passed by a 5-0 vote.**

**MINUTES AND ORDERS APPROVED**

The minutes of March 29, 2007 were approved as recorded.

The Board authorized the Chair to review and sign the following orders:

**VAAP #06-2966 - Jones**  
**CUAP #06-132-007 - Winstead Property Surface Mine**  
**VAAP #06-132-007 - Winstead Property Surface Mine**  
**CUAP #06-132-026 - Hertzler Pit**

**ADJOURNMENT**

The meeting was adjourned at 10:05 p.m.

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Amanda Sivak, Recording Secretary

Approved in open session:

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George Allan Hayden  
Chairman