

**MINUTES OF THE ST. MARY'S COUNTY PLANNING COMMISSION
CENTRAL HALL * SOUTHERN MARYLAND HIGHER EDUCATION CENTER
44219 AIRPORT ROAD * CALIFORNIA, MARYLAND
Monday, May 22, 2006**

Members present were Joseph St. Clair, Chair; Steve Reeves, Vice Chair; Lawrence Chase; Merl Evans; Brandon Hayden; Susan McNeill; and Howard Thompson. Department of Land Use and Growth Management (LUGM) staff present was Denis Canavan, Director; Jeff Jackman, Senior Planner IV; Yvonne Chaillet, Zoning Administrator; Sue Veith, Planner IV; Bob Bowles, Planner II; Dave Berry, Planner I; 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 p.m.

APPROVAL OF THE MINUTES - The minutes of May 8, 2006 were approved.

DEVELOPMENT REVIEW

CCSP #06-132-001 – ALL STATE INSURANCE BUILDING

The applicant is requesting review and approval of a concept site plan for a 12,270 square foot office building. The property contains 0.553 acres; is zoned Corridor Mixed Use District (CMX), Airport Environs (AE) Overlay; and is located at 23077 Three Notch Road in California, Maryland; Tax Map 34, Grid 23, Parcel 62.

Owner: Duncan & Kathleen May
Present: Robin Guyther, Land Use Consultant

Mr. Bowles explained that the concept site plan was reviewed by all Technical Evaluation Committee (TEC) agencies during their February 2006 review cycle, following a pre-application meeting held on May 25, 2005. The office building is proposed in the Lexington Park Development District (LPDD), and public water and sewer service is available to the site. There are no outstanding issues with the request.

Mr. Thompson moved that having accepted the staff report, dated May 22, 2006, and having made a finding that the objectives of Section 60.5.3 of the St. Mary's County Comprehensive Zoning Ordinance have been met, and having noted that the referenced project has met all requirements for concept approval, the Planning Commission grant concept site plan approval. The motion was seconded by Mr. Reeves and passed by a 7-0 vote.

CWSP #05-131-006 – TOWN CREEK MANOR, PARCEL B

The applicant is requesting review of a concept development plan for a 5,200 square foot office building in order to proceed with an amendment to the Comprehensive Water and Sewerage Plan. The property contains 0.675 acres; is zoned Residential Mixed Use District (RMX), Airport Environs (AE) Overlay; and is located at 22926 Three Notch Road in California, Maryland; Tax Map 35A; Parcel 1.

Owner: Neal Zabiegalski
Present: Billy Mehaffey, Mehaffey & Associates, PC

Mr. Berry explained that the concept site plan was reviewed by all TEC agencies during the March 2006 review cycle. There are no outstanding issues with the request. Mr. Mehaffey explained that there is an existing private well on the site, but that the Applicant plans to connect to public water. He said that only the sewer category needs to be changed.

Mr. Reeves moved that having accepted the staff report, dated May 15, 2006, and having made a finding that the referenced project meets concept plan requirements to proceed with a Comprehensive Water and Sewerage Plan amendment to change the sewer categories from S-6 to S-3D, the Planning Commission approve the concept plan. The motion was seconded by Mr. Thompson and passed by a 7-0 vote.

PUBLIC HEARING DECISION

Public Hearings were held on May 8, 2006 for the purpose of receiving public testimony and to consider amendments to the text of the St. Mary's County Comprehensive Zoning Ordinance (Z-02-01), as amended, (the "Zoning Ordinance"). The record was left open for ten (10) days to receive written comments. Amendments proposed for consideration are as follows:

Text Amendments to Zoning Ordinance:

1. In Chapter 51, "Use Regulations and Standards," Section 51.3.112, "Home Occupation," amend language to allow off-site advertising for directional purposes only.
2. In Chapter 65, "Signs," Section 65.2.4, "Temporary and Miscellaneous Signs," amend language to allow off-site advertising of special events and the civic or non-profit organizations sponsoring such events.
3. In Chapter 65, "Signs," Section 65.4, "Regulations for Off-Site Advertising Signs," amend language to allow civic and non-profit organizations to place one permanent freestanding sign on private property only.

Mr. Canavan explained that staff received correspondence in support of the proposed text amendment to allow off-site advertising for home occupations during the open record period, and suggested that the Chair allow the correspondent to give comments. The Chair agreed.

Denise King, a local resident, explained that she is the owner of King Kreations, a small business located in Valley Lee, Maryland. She said that she sells a variety of items that are indicative of the County. She explained that without an off-site sign to advertise her business, it is hard to let the public know that the business exists. She said that she wants to place a sign on a busy road where it can be seen. Ms. King asked that the Planning Commission approve the proposed text amendment.

Mr. Canavan explained that although he understands Ms. King's intent, he is still concerned about the legal issues involved with posting off-site signs and recommends denial of the text amendment. He said that there needs to be a comprehensive review of the sign provisions of the Ordinance to help address the various issues.

Mr. Reeves asked Mr. Canavan if the proposed text amendment were approved, if a permit would be required for the signs and if the permit would need to be renewed. Mr. Canavan explained that a permit would be required, but that it would not have to be renewed as long as the sign met all of the legal requirements.

Thomas Mattingly, a local resident, explained that our County's community has been built on small businesses and that some of these businesses have grown into larger businesses. By allowing small businesses an opportunity to advertise, they may have more of an opportunity to grow and expand their services. He explained that the County needs to take advantage of the economic contributions of small businesses. Mr. Mattingly explained that he understands staff's concerns about the legal issues involved; however, he feels that any issues can be addressed during a comprehensive review of the sign provisions.

Ms. McNeill asked Mr. Canavan if there is any way to address the legal concerns involved with this matter. Mr. Canavan explained that if the Planning Commission wants to consider sign provisions that will be uniformly applied and that will not favor certain businesses, he suggests considering a sunset provision as part of the proposed text amendment. When Ms.

McNeill asked how long of a sunset provision should be considered, Mr. Canavan recommended 30 days.

Ms. King asked if she received a sign permit now, if she would have to remove the sign if it was later decided that off-site signs should not be permitted. Mr. Canavan explained that after the permit is issued for the sign, the sign would be considered permanent and would not have to be removed.

Daniel Raley, a local resident, explained that signs for home occupations are intended to be small and directional in nature. He stressed that he does not feel that there are any constitutional problems relating to off-site signs for home occupations. He said that the Board feels that the proposed text amendment will be helpful to those businesses that wish to have an off-site sign. Regarding a sunset provision, Mr. Raley explained that there are already enough problems overseeing grandfather provisions and other sunset provisions. He stated that any potential problems regarding this matter should be addressed during a comprehensive review of the sign provisions. Regarding concerns about providing a special privilege to certain businesses in the County, Mr. Raley explained that real estate agencies are allowed to post signs over the weekends.

Ms. McNeill asked how a sunset provision will make this matter less of a legal problem. Mr. Canavan explained that a sunset provision may reduce the number of sign permits that are issued for home occupations during the specified time period, and may in turn reduce the legal concerns. Ms. McNeill asked Mr. Canavan to explain the difference in the sign provisions for temporary signs and permanent signs and to address how this relates to real estate agencies. Mr. Canavan explained that the sign provisions allow for temporary and permanent signs. He explained that real estate agencies are allowed to post one temporary sign for directional purposes over the weekends.

Ms. McNeill asked Ms. Chesser for her thoughts regarding this matter. Ms. Chesser explained that if the Planning Commission decides to consider a sunset provision, then they should also consider a comprehensive review of the sign provisions. Regarding concerns about the content of signs and the First Amendment, Ms. Chesser explained that the County must take care to regulate where signs are located without influencing the content of signs.

Mr. Canavan reviewed the proposed text amendment as presented in the memorandum dated 5/16/06. Regarding a formal decision in this matter, Mr. Canavan explained that if the Planning Commission decides to consider a sunset provision as a part of the proposed text amendment, then staff recommends a sunset provision of 30 days from the adoption date of the proposed text amendment. He explained that this provision will allow home occupations an opportunity to apply for a sign permit within the 30 day time period, and the provision will no longer be applicable after the specified time. He said that staff recommends that the Planning Commission also consider a recommendation to the Board to move forward with a comprehensive review of the sign provisions.

The Planning Commission directed staff to continue the public hearing decision until the June 12, 2006 meeting. At that time, the Planning Commission will review the revised text amendment to Chapters 51 and 65 of the St. Mary's County Comprehensive Zoning Ordinance to allow off-site advertising for home occupations that includes a date specific sunset provision and recommendation to move forward with a comprehensive review of the sign provisions of the Ordinance, make their final motion, and authorize the Chairman to sign a resolution to convey their recommendation to the Board of County Commissioners.

Mr. Canavan explained that staff received correspondence in support of the proposed text amendment to allow off-site advertising for nonprofit and civic organizations during the open

record period, and suggested that the Chair allow the correspondent to give comments. The Chair agreed.

Mr. Mattingly explained that that these organizations give back to the community, and are not in operation to make a profit. He said that nearly every other optimist club in the County has an off-site sign except for the Third District Optimist Club of Leonardtown, Maryland. He explained that they need a sign in order to advertise upcoming events and the location of the events. Mr. Mattingly noted that last year they donated approximately \$18,000 to the County. He suggested that the Planning Commission consider limiting off-site signs to nonprofit and civic organizations that have an IRS Section 501(c)(3) exemption in order to lessen the number of signs in the County. He added that real estate agencies are receiving their fair share of advertisement using off-site signs.

Jimmy Long, a local resident and a representative of the Third District Optimist Club, explained that the organization wants to post one permanent off-site sign to advertise upcoming events and to display their logo. He said that the letters on the sign will change to announce each event.

Mr. Canavan explained that staff recommends that the Planning Commission consider a sunset provision as part of the proposed text amendment. He said that although he does not think that these organizations will require as many signs as home occupations in the County, he still has concerns about the legal issues involved. Mr. Canavan said that the language on the signs can be changed to announce each event, and it is the structure of the sign that must be permanent.

Mr. St. Clair asked Ms. Chesser if there are any potential problems in limiting signs for these organizations to those that have an IRS Section 501(c)(3) exemption. Ms. Chesser explained that this would not present a legal issue, and that it may help address concerns about the number of signs in the County.

Mr. Thompson noted that the proposed text amendment will limit the total number of temporary or miscellaneous signs to three on one property. He asked if the total number of signs can be increased, considering that some properties may be larger and able to accommodate more signs. Mr. Canavan explained that the total number of signs on one property should not be determined by the size of the property. The length of road frontage should be the determining factor.

Mr. Reeves explained that he feels that the proposed text amendment to Section 65.4 of the Ordinance seems more like a billboard than a sign and will result in a larger volume of signs due to the fact that there are various chapters of organizations. He said that this is an issue that should be investigated further during the comprehensive review of the sign provisions.

Ms. McNeill explained that if the proposed text amendment to Section 65.4 was eliminated, she feels that temporary signs could still satisfy the needs of those organizations that require a sign to advertise upcoming events. She said that the proposed text amendment may be more suitable in the future if billboard-type signs are considered then. Ms. McNeill stated that all businesses and organizations in the County should receive the same fair treatment by using a temporary sign. Ms. McNeill explained that she is not sure if smaller organizations or religious organizations have IRS Section 501(c)(3) status, and that this restriction may exclude some of the largest category of organizations in the County.

Cindy Long, a local resident and member of the Third District Optimist Club, explained that the organization has been active for over 20 years and that they have done a considerable amount of charitable work in the County. She stressed that they simply want an off-site sign so that they can advertise upcoming events to the general public. Ms. McNeill asked Ms. Long if the organization would be willing to consider a temporary sign to announce their events. Ms. Long

explained that it would be too expensive to post a temporary sign for each event, considering that they have numerous events per month. This added expense would also take away money that they use for the community. Mr. Long explained that the organization wants a permanent sign because temporary signs have a tendency to fall down, get blown away, or become weathered.

The Planning Commission members discussed whether or not the proposed text amendment should include Mr. Mattingly's recommendation. Mr. Canavan explained that if the Planning Commission decides to consider the IRS Section 501(c)(3) exemption provision, it would apply to both temporary and permanent signs. Ms. McNeill stressed that this may be exclusionary to organizations that do not have this exemption. Ms. Chaillet explained that the Planning Commission may want to consider this for permanent signs only.

Mr. Thompson moved that the Planning Commission approve the proposed text amendments to Chapter 65 of the St. Mary's County Comprehensive Zoning Ordinance to allow off-site advertising for nonprofit and civic organizations; and to authorize the Chairman to sign a resolution to convey this recommendation to the Board as follows:

Amend Section 65.2.4, Temporary and Miscellaneous Signs to read as follows:

- a. **Temporary signs, banners, flags, and other advertising devices may be placed on a site or building to announce civic events, the non-profit organizations sponsoring a civic event, the opening of a new business, a special event, a public service, or a political campaign headquarters or to introduce a new product or service. Such temporary signs may be placed for a maximum of 60 days each calendar year provided the total temporary and permanent sign area shall not exceed 150 percent of permitted permanent sign area, and provided that temporary devices do not create safety hazards or block signs identifying adjoining establishments.**

Change paragraph 'b' to 'c' and add a new paragraph 'b' to read as follows:

- b. **In addition to the requirements specified in paragraph 'a' of this Section, civic and nonprofit organizations may advertise off-site those special events sponsored by said organizations, in accordance with the following standards:**
 1. **Signs shall be subject to a minimum setback of five feet from the road right-of-way.**
 2. **Signs shall be posted on private property only with the permission of the property owner. The cumulative number of signs shall be limited to three on any one property.**
 3. **Signs shall be limited to 12 square feet and shall be no more than 18 feet high.**
 4. **Signs shall be posted no more than 30 days prior to the event and shall be removed no more than seven days after the event.**
 5. **Signs shall be removed by the sponsoring organization within seven calendar days following the close of the event.**

Amend Section 65.4, Regulations for Off-Site Advertising Signs by adding a new paragraph 3 to read as follows:

Nonprofit and civic organizations using an IRS Section 501(c)(3) exemption may place one permanent freestanding sign in the County, on private property only, which may identify the organization, provide contact information, and note upcoming meetings or events. The size of the sign shall comply with Section 65.3.1.a and Section 65.3.1.b of the Ordinance. Each Chapter of a nonprofit or civic organization may have one sign in accordance with this section.

The motion was seconded by Mr. Chase and passed by a 6-1 vote. Mr. Reeves was opposed.

PUBLIC HEARING

For the purpose of receiving public testimony to consider amendments to the St. Mary's County Comprehensive Zoning Ordinance (Ordinance No. Z-02-01). Amendments to said Ordinance are proposed for Chapter 26, Transferable Development Rights (TDR); Chapter 32, Property Development Regulations; Schedule 32.1, Development Standards; and Schedule 32.2, Modifications to Development Standards. The proposed amendments are intended to do the following: 1) allow for calculating the number of TDRs on a sending property using gross acreage rather than first deducting from the gross acreage all acreage associated with sensitive areas; 2) require use of a TDR for each dwelling after the initial dwelling on a property in the RPD zone; 3) for receiving areas in the RPD, increase the number of TDRs required for each anticipated dwelling as shown on a submitted subdivision plan, with the number of required TDRs varying as density increases from 1 dwelling per 5 acres up to a maximum of 1 dwellings per 3 acres; 4) prohibit the use of TDRs for a greater density than 1 dwelling unit per 5 acres in Rural Legacy Areas; 6) clarify the certification provisions for documenting transferred rights; 7) clarify the language covering instruments of transfer; 8) add grandfathering provisions; and 9) limit the means of increasing residential density to using TDRs and providing affordable housing.

Legal advertisements were published in *St. Mary's Today* on 5/7/06 and 5/14/06 and in the *Enterprise* on 5/3/06 and 5/10/06.

Mr. Jarboe's Exhibit 1: Letter dated 5/22/06 regarding TDR Public Hearing

Mr. Jackman explained that staff received comments from the TDR Task Force regarding their recommended changes to the draft amendments that were presented at the 4/10/06 public hearing. Mr. Canavan explained that staff agrees with the Task Force's changes and recommends moving forward with the proposed amendments.

Mr. Reeves asked Mr. Canavan about the uses that are allowed on farms after TDRs have been severed, such as cottage industries. Mr. Canavan explained that the proposed amendments allow for agricultural uses. Mr. Reeves expressed concern about severing TDRs and how it may affect agricultural profits. Mr. Canavan explained that the intent is not to restrict agricultural uses; however, non-agricultural uses need to be investigated because they may be sizeable in terms of the acreage required to support the use. He said that a future text amendment may be necessary to address this.

The Chair opened the hearing to public comment.

Bill McKissick, Chairman of the Board of Directors of the Chamber of Commerce, explained that he recommends that the Planning Commission adopt the text amendments as proposed by the TDR Task Force, so that they can move forward to the Board of County Commissioners (BOCC). He expressed content in the fact that the TDR Program was developed by the County's residents.

George Baroniak, a member of the Agricultural Preservation Advisory Board, explained that he recommends moving forward with the text amendments as proposed by the TDR Task Force. He explained that the Agricultural Preservation Advisory Board has worked with many other organizations to help revise the TDR Program. He said that the proposal is a consensus of the County's residents. Mr. Baroniak explained that the TDR Program is a tool that can help to protect rural lands and make sure that development occurs in the proper places. He said that he does not recommend making any changes to the TDR Task Force's proposal, but that if changes are necessary they should be worked out with the TDR Task Force and incorporated by text amendments. Mr. Baroniak explained that the Board was advised by Calvert County to consider all of the land included in the property owner's tax record. He explained that the Board has worked with the Maryland Agricultural Land Preservation Foundation (MALPF) to make sure that

farmers have an opportunity to make an income using their property. He recommended that the Planning Commission consider changes that are coming forward from MALPF, and incorporate those into the TDR Program. Mr. Baroniak explained that other work needs to be done with the Rural Legacy Area Program because it restricts the rights of property owners in these areas, and that changes can be made with a text amendment. He stressed that the uses permitted under the TDR Program should be similar to those permitted under the Rural Legacy Area Program and MALPF.

Joe Densford, a member of the TDR Task Force, explained that he disagrees with staff on some of their recommendations. Mr. Densford explained that the property owner should be able to use the acreage remaining after TDRs have been severed for non-agricultural purposes as permitted by the Ordinance. Mr. Densford explained that the TDR Task Force disagrees with requiring a land survey when only a portion of the TDRs from a sending parcel are being removed because surveys are expensive. He explained that by excluding tidal wetlands from TDR calculations, a survey of the entire property will be required to determine if they are part of the legal description of the property. A Planning Commission member asked Mr. Densford to define tidal wetlands. Mr. Densford explained that tidal wetlands are tidal waters owned by the State, which are below mean high tide water. Mr. Reeves asked Mr. Densford if tidal wetlands are marshlands. Mr. Densford said that if high tide waters encroach into the tidal wetlands then they are considered marshlands. Mr. Densford said that he feels that deeds and tax assessment records should not include tidal wetlands because they are owned by the State. He added that he feels that requiring land surveys will discourage property owners from severing TDRs in the Critical Areas.

Ms. Veith explained that tidal wetlands are mapped by the State, and that staff uses these maps to determine the acreage to be deducted when a property owner does not want to get a survey. Staff also uses the GIS system to determine property lines. She said that she does not think that it is necessary for staff to require a survey of these lands to determine the acreage to be deducted for the use of TDRs if there are tidal wetlands on the property. Ms. Veith explained that staff sometimes encounters older deeds, where the property lines run into the middle of creeks, and provisions need to be made for those deeds. She explained that the acreage for TDRs must be deducted from the land that a property owner decides to keep when a portion of land is kept and a portion is severed.

Mr. Densford explained that he feels that the County Attorney needs to review the certificate of title and instrument of original transfer for legal sufficiency at the beginning of the application process. Mr. Canavan explained that the original instrument of transfer and the final instrument of transfer will be reviewed by the County Attorney. Mr. Densford suggested that the certificate of transfer include a signature line for the County Attorney, stating that the document was approved as to legal sufficiency. Mr. Canavan agreed with this suggestion.

Jerry Nokleby, a local resident and surveyor, explained that many County residents do not understand the TDR Program; however, the proposed text amendments have the potential to affect the growth and appearance of the County. He said that the proposed text amendments need to be modified because they will result in the downzoning of many properties in the County and in the RPD. He said that the only way for a property owner to maintain their current development rights in the RPD is to sell TDRs. Mr. Nokleby explained that the proposed text amendments to Schedule 32.2 of the Ordinance will cause property owners to lose at least two to three TDRs. He said that the Residential Low-Density (RL), Residential Mixed Use (RMX), Village Center Mixed Use (VMX), Town Center Mixed Use (TMX), Downtown Mixed Use (DMX), and Corridor Mixed Use (CMX) zones are currently incentives for clustering and create a variety of designs in development districts. In order to encourage growth in development districts and provide a market for TDRs, Mr. Nokleby explained that the current provisions should be unchanged for these zones and the density of the RPD zone should be left at one dwelling unit per five acres. He said that if the density is increased to one dwelling unit per four acres, then

this should require the purchase of two TDRs; if the density is increased to one dwelling unit per three acres, then this should require the purchase of three TDRs; and so on.

Mr. Canavan explained that the proposed text amendments will not result in downzoning of properties. The density of one dwelling unit per five acres will remain, and in order to achieve this density the purchase of TDRs or payment of a fee in lieu may be required. Mr. Canavan explained that the proposed text amendments to Schedule 32.2 suggest deletion of guidelines and design enhancements that have not been used. He explained that increased density in the RL, RMX, VMX, TMX, DMX, and CMX zones is achievable by the purchase of TDRs and by providing affordable housing. The proposed text amendments to Schedule 32.2 will allow the base density of one unit per acre to remain, and will allow the purchase of TDRs for a maximum of four additional dwelling units per acre. Mr. Canavan explained that the density for affordable housing and workforce housing can be increased by one dwelling unit per acre.

Rocky Rowland, a local resident, explained that he agrees with the TDR Task Force in eliminating sensitive areas from the determination of TDRs because it is land that is valuable to the environment and it should not be developed. He explained that he did not agree to give up the uses of his property when he sold TDRs and that by maintaining only agricultural use of the property he feels that he is giving up many uses that are permitted in the RPD. Mr. Rowland stressed that the TDR Program should not duplicate the efforts of MALPF. Mr. Rowland recommended the deletion of all revisions to Section 26.3.4, and suggested that the wording of Section 26.3.2 be revised as follows: "Each parcel of land or portion thereof that is not encumbered by existing TDRs..." He stressed that he does not agree with eliminating non-agricultural uses on properties when TDRs have been severed.

Mr. Canavan explained that there is no intent to restrict uses in the RPD, and that non-agricultural uses will be evaluated further as a future text amendment. Ms. McNeill asked if a conditional use approach will be used at that time. Ms. Veith explained that a future text amendment will help broaden the permitted uses.

Robert Jarboe, a local resident, explained that the TDR Program should be considered a living, working document that should be reviewed and improved as needed in the future. He said that the TDR Program is one more tool that farmers or other landowners can use to preserve their land for future generations. Mr. Jarboe stated that he supports the TDR Task Force's proposal to calculate the number of TDRs available to a landowner at a rate of one TDR per five acres, based on gross acreage from their deed, tax bill, or a survey of the property at the owner's option. He suggested that, as an addition to the grandfathering provisions, when calculating the TDRs on a sending property, existing occupied homes on the sending property should be calculated at the zoning density that was in place at the time the dwelling was built. The dwelling must be in a livable condition or occupied at the time of calculation of TDRs. He expressed concern about the way in which a landowner's acreage will be reduced by the TDR Program.

Linda Vallandingham, Donald Strickland, and Bubby Norris, local residents, stated that they support the TDR Task Force's proposed text amendments. Ms. Vallandingham said that she feels that the TDR Program will be another program available to landowners if they choose to participate in it.

Kenneth Boothe, a local resident and farmer, explained that he is opposed to the proposed text amendments and feels that they are too aggressive and extreme. He said that the proposed text amendments are not beneficial to farmers who want to maintain their property for future generations and that there needs to be a solution.

Joseph Wood, a local resident and President of the Farm Bureau, explained that the Farm Bureau has worked with the TDR Task Force on the proposed text amendments and they were approved by Board of Directors. He said that they feel that development can not be stopped in the RPD; however, developers can help preserve land elsewhere in the County. Mr.

Wood explained that they want to preserve the rural character of the RPD and feel that development should be in the development districts; however, development is occurring in the RPD now because it is cheaper to develop there than in development districts. He said that the TDR Program will help property owners to be able to preserve their own land.

Pat Mudd, a local resident, explained that until the 50 percent open space requirement is eliminated in the development district the County will not generate as many TDRs as expected. He said that a density of five dwelling units per acre in the RL zone can not be achieved by single family residential development with a 50 percent open space requirement. He suggested a text amendment that will reduce the 50 percent open space requirement to 10-20 percent in any development district zone. He also suggested that commercial developers pay a fee to the transportation program to assist with impact costs instead of purchasing TDRs, and said that he feels that this will not impact the TDR market.

Mr. Canavan explained that the intent is to create an incentive to use TDRs in development districts. He said that he agrees with Mr. Mudd's suggestions regarding the open space requirement and the RL zone, and that a text amendment will be necessary to address this. He explained that there is already a text amendment regarding cluster provisions, which will reduce the minimum lot size for a single family dwelling to 6,000 square feet. He said that there is no minimum lot size for the use of TDRs for townhomes or multi-family units in the RL zone. Mr. Canavan explained that he does not recommend eliminating the use of TDRs to acquire additional industrial or commercial square footage because there is proof that they are being used for this purpose. He explained that he does not feel that the payment of a fee in lieu by commercial developers should have to go toward road infrastructure costs.

The Chair closed the public hearing.

Several Planning Commission members stated that the proposed text amendments need to move forward and that any further concerns can be addressed at the BOCC's public hearing. Ms. McNeill asked if she can submit questions or comments to staff, prior to the BOCC's public hearing. Mr. Canavan explained that staff will answer any questions in writing and in advance of the next public hearing.

Mr. Thompson moved that having accepted the staff report and having held public hearings on April 10, 2006 and May 22, 2006, and having made findings of consistency with the St. Mary's County Comprehensive Plan, the Planning Commission grant approval of the proposed text amendments; and recommend to the Board of County Commissioners to amend Chapters 26 and 32 of the St. Mary's County Comprehensive Zoning Ordinance as presented; and to authorize the Chairman to sign a resolution to convey to the Board that the St. Mary's County Comprehensive Zoning Ordinance (Z-02-01) be so amended. The motion was seconded by Mr. Evans and passed by a 7-0 vote.

ADJOURNMENT

The meeting was adjourned at 10:27 p.m.

Keona L. Courtney
Recording Secretary

Approved in open session: June 12, 2006

Joseph St. Clair

Chairman