

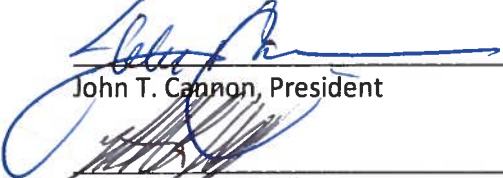
**Open Work Session
Comprehensive Plan, Chapter 6
September 20, 2016**

Mr. Jack Lenox, Director of Planning, Zoning and Community Development and Mr. Keith Hall, Long Range and Transportation Planner, came before Council. Mr. Hall said, as a recap, the last time he went over the basic structure of the chapter, the type of information in it, which includes information about preservation programs as well as farming assistance programs and existing legislation that is directed in preserving farming operations and trying to reduce capability with that, and other land covers and uses. He said as they went forward from that discussion, he talked about another main component of the chapter and why this chapter is important. Mr. Hall said the chapter highlights many things in agriculture as far as the economy, such as characteristics, job creation, the importance to sustain the industry and what type of policies the County can look at in the future to help preserve the industry. The other component of this chapter, which is equally important, is regarding the priority preservation area, which he will refer to as the preservation area moving forward. Mr. Hall said what this really comes down to is the state enacted certain planning laws back in 2006 regarding the County's Ag Certified Program, which is a state certified program. In order to have a state certified County Land Preservation program, the County has to have certain requirements met in its Comprehensive Plan. One of the requirements is called the Priority Preservation Area Assessment Analysis. Mr. Hall said that is the second component Council will see in the chapter that is very important. Mr. Hall said someone may ask why is it important. He said, the County had a state certified County Land Preservation Program up until 2008, which, at that time, the state felt that the County's Ag zoning was too permissive or not restrictive enough, and the County did not receive recertification. At this point, as the Comprehensive Plan has been reviewed by the Planning Commission and forwarded to Council for its review and consideration, it was the intention of the Planning Commission, which staff recommended, is to incorporate a priority preservation area component into this chapter, so they could entertain the thought if the County should seek recertification of the County Land Preservation Program. Mr. Hall said the first step is to get the discussion going with the state. The priority area is a very simple assessment as it is based on state requirements. The County identifies an area of interest that it wants its preservation to be prioritized. Mr. Hall said, for the purpose of this discussion, maps have been handed out to Council as to what is in the draft 2016 Comprehensive Plan. He said the area in yellow is what is being proposed as the priority preservation area element. It contains almost the entirety of the A-1 Zoning District, except for a little slice of the A-1 Zoning District that is inside the Metro Core over by West Road. He said the other areas are not designated for the preservation program. Mr. Hall said the County needs to be careful moving forward as discussed last time in how does it define what to do with the growth areas, especially with the conversations that have recently taken place with poultry. He said Ag is permitted in designated growth areas, which are also shown on the map. At the last discussion, there was some uncertainties they needed clarification from the Maryland Department of Planning as to how this preservation area map interacts with the proposed growth tier map as well as the expressed interest to go out and talk to the stakeholders to get their input or at least find out what their thoughts are on how to proceed on whether or not to include the designated growth areas, which are also being referred to as transition areas. Mr. Dodd asked, in looking at the map, at the growth areas, in looking at areas such as Powellville and down Nanticoke Road that do not have a municipality, how were those areas picked to be designated growth areas. Mr. Hall said that is based off of zoning and the current land use plan. They are known as the rural villages. Mr. Dodd then clarified that is because there are developments already

there, to which Mr. Hall responded, absolutely, there are historic development patterns, and the same applies when you look at rural villages such as Allen, Whitehaven, and Nanticoke. Mr. Dodd asked, in looking at the map, if Whitehaven is near the water. He then showed Mr. Keith Hall the area on the map that he is referring to. Mr. Hall responded, no, that area is the Jesterville, Nanticoke, Bivalve area. Mr. Hall said rural villages are where you have seen historic growth and existing development. Mr. Hall continued he said they went out and worked with the community and got their input and the question in hand is do we include the designated growth areas or transitional areas into the preservation areas. He said the overwhelming consensus was that they NOT be included because of the unintended consequences. He said it is great to give rural property owners or farmers every opportunity for the flexibility to do whatever they want with the properties as they see fit. However, by designating the area, for example, between Willards and Pittsville, which is known as a designated growth area, you have the relationship with the tier map and, inadvertently, the County has created a restriction on a residential subdivision that the property owners did not have prior to that action. Mr. Cannon said he does not think Council was talking about eliminating residential growth areas, but was thinking about if the designated growth areas need to be reduced and whether they are somewhat arbitrary placed. He said he is assuming the designated growth areas were established when the County was in a boom era. Mr. Hall said that last time the designated growth areas were revised was part of the 2004 rezoning. Mr. Cannon said now that things have settled down a bit, it is important to recognize that and to consider reducing the size of the designated growth areas. Mr. Hall said that is a consideration that can be discussed when he discusses the land use chapter. Mr. Hall said that will be up to Council to decide if it wants to discuss the change of use to a more restrictive use which will lend itself to a downzoning as it got implemented through the zoning code. Mr. Hall said that is one area of the Comprehensive Plan that was drafted by the Planning Commission, and they were very sensitive not to even go after the thought process of looking at downzoning as a potential option. Mr. Cannon asked, if you have a piece of property in the designated growth area, and the County reduced the designated growth area and said you are now in a preservation area, what are the pros and cons of doing that. Mr. Hall said the first action is to downzone the property from town transition to Ag. Mr. Cannon then asked what are the pros now of being in the designated growth area, to which Mr. Hall said the pros are it gives the rural property owners the availability to develop, if they wish, at a higher density of residential development than if they were in the County. It also offers some limited commercial activity that they would not have in the industrial zone unless it was Ag related. He said it does give the property owners an expanded set of uses that they would not have if they went to a more restricted zoning district. Mr. Cannon asked, if the County made it a priority preservation area, what happens. Mr. Hall explained that if he took the area between Willards and Pittsville that is zoned town transition and put it in a priority preservation area element, the adverse effect is the relationship to the tier map. Mr. Hall said he is sorry that all these documents are getting comingled, but that is the connection they are looking at under the planning environment or framework. He said you are going to have property that is designated for growth or limited commercial growth, and they are being capped out for not being able to ask for any more than seven residential lots as a function of a subdivision. Mr. Hall said, if they have more than say, hypothetically, four to six acres, and they can meet other applicable rules, regulations and policies, in certain circumstances, they would be able to achieve a lot more than that, so the County is putting on more restrictions. Mr. Cannon asked if there is a positive side, to which Mr. Hall said the positive side is that it is removing flexibility. It is really putting rural property owners in a corner where they do not have as many alternatives as they would like to have. He said the only downside in not being included in the

priority preservation area, is that as you get evaluated on the checklist for the state easement, that is one checkbox that will not be checked, but that is not the end all. It has been confirmed that the State Agriculture Land Preservation Foundation does purchase easements inside designated growth areas, so it does not automatically preclude a property owner from having the same option as if they were in the area. Essentially, it comes down to two core questions that staff is seeking direction from Council. First, is there a consensus to go about endorsing a priority preservation area within the Comprehensive Plan? Second, does Council concur with the assessment as proposed that the priority preservation area would be overwhelming the majority of the A-1 zoning district? He said once they have direction on those questions, that gives them a good indication on how to proceed forward in having the state review the growth tier map because then Council will find all the consistency it is looking for. Mr. Cannon said the last time Council met with him, he talked about the flexibility that would also be incorporated. Mr. Cannon said it is not a hard and fast decision. Mr. Matt Holloway asked, if there is piece of property in Tier 4 and in the priority preservation area, and you exercise your ability to transfer from a Tier 4 to a Tier 3, by proving you can develop more than seven lots by the Health Department, does that automatically take you out of the priority preservation area, to which Mr. Hall responded, yes. The reason is being it goes back to the legislation of the septic bill. If you are in a preservation area, the law states you must be a Tier 4. So, if you move from a Tier 4 to a Tier 3, based on the caveats discussed, then the next administrative modification to the Comprehensive Plan would be to remove you from the priority preservation area, and that would be handled administratively. Mr. Cannon clarified that when Mr. Hall said handled administratively that someone could just make the request at Planning and Zoning. Mr. Hall said, as they work through the process, the one recommendation for consideration is that the action to move from a Tier 4 to a Tier 3 occurs, which is a function of the Planning Commission and Health Department, concurrently upon the approval of that action, the property owner would be removed from the priority preservation area. Mr. Cannon then clarified that the request has to go through a formal process, to which Mr. Lenox responded, preliminary Planning Commission approval is required. Mr. Cannon then asked does it have to be contiguous, to which Mr. Hall responded, ideally the preservation area should be contiguous, but there is nothing that states in the law that it has to be contiguous. Mr. Hall said it ultimately goes back to what the program criteria is at the state level. To afford the most flexibility as possible to the rural property owners, everyone almost in the A-1 District has been included in the preservation area. However, there are going to be some properties based off of soil types and conditions and size that will not be eligible. He said instead of having a buckshot looking map, they tried to have something with some type of continuity to it, especially as you start overlaying all the other pieces, such as the zoning and growth tier map. Mr. Cannon said, in the section of land use management with agriculture zoning, it makes the comment the density reflects the 1998 amendment referencing 1 unit per 15 and 1 per 3 with a cluster provision. He then asked if those numbers contradict what was mentioned in the introduction about minor subdivisions being seven lots. Mr. Hall said there is no contradiction as it is the new planning framework since 2006. Mr. Hall said they are seeking some type of direction moving forward. He said, if there are considerations in amending this chapter, right now is a good time to have those conversations, prior to reviewing the next chapter. Mr. Joe Holloway said there have been some concerns from some of the property owners and some from the towns about poultry houses being close to towns. He asked if this chapter is the proper place to address those concerns, to which Mr. Lenox responded, not particularly. He said nothing Mr. Keith Hall has described constrains Council either way. He said he knows that discussions will take place moving forward.


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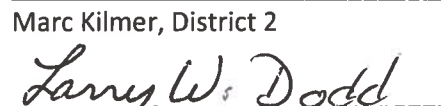
John T. Cannon, President



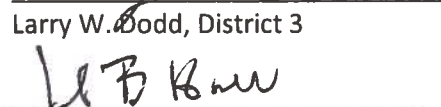
Matt Holloway, Vice President



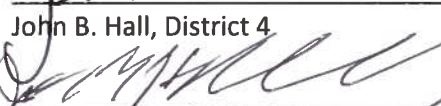
Ernest F. Davis, District 1



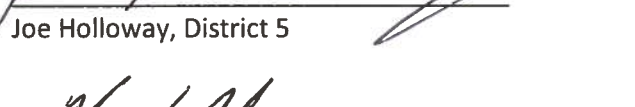
Marc Kilmer, District 2



Larry W. Dodd, District 3



John B. Hall, District 4



Joe Holloway, District 5



Matthew E. Creamer, Council Administrator