

**Open Work Session  
Comprehensive Plan, Transition Areas  
October 4, 2016**

Mr. Jack Lenox, Director of Planning, Zoning and Community Development, came before Council. Mr. Lenox said, in regards to town transition areas, he would like to have an open discussion with Council, but he would like to prompt a couple of questions to start. He said he always defers to the zoning map, which he then distributed a copy to all council members. He said Council is very familiar with the zoning map. There is always an issue with terminology and, having come through the poultry discussion, it was interesting that we were using planning terminology and then, ultimately, it was planning and zoning terminology. He said it is important to keep this in mind because when you have idea in the community, and you are trying balance issues, somewhere in the back we have to think about regulation. He said, up until just a few years ago, by virtual of Planning and Zoning, Council did the plan and then it followed up with regulation. He said they have examples of other communities on the Eastern Shore where they have gone through the extensive planning process and then could not adopt zoning to put the plan into effect. He said we need to try to keep those two things in mind constantly but understand you are going from a more general plan down to a more specific plan as you get down to the nitty gritty details, with poultry being a great example. He said what has become more complicated over time is that the implementation measures for the Comprehensive Plan are not just zoning anymore, and it is not just subdivision. He said that is a different section of the County Code, but that is how you implement your Comprehensive Plan. The state has gifted the County with a couple of other things such as tier maps, Priority Preservation Areas, and it is all interconnected. They try to keep those considerations on the table all at once. Mr. Lenox said the County does not start from scratch when it does the Comprehensive Plan as it builds upon its experience. The County has been doing this for almost 70 years in terms of adopting Comprehensive Plans. There are commitments made to property owners, both on how they can use their property and certain things that will not happen next to their property. The County constantly builds on that and respects the past. Mr. Lenox said it is important for Council to understand in talking about town transition areas, that each of our communities, of which we have eight municipalities, and we have eight rural villages. Over time town transitional areas has meant different things. Today it is more of a generic term on how the towns grow or how development happens around the transition areas out to the rural areas. He said both of those perceptions are valid, and we have to regularly break that discussion down a bit. One of the things that has happened over the years, as recent as 1998, which is the last adopted Comprehensive Plan, with the exception of some changes in the interim. The municipalities did not have defined growth plans of their own. He said at one time the state forced the cities and towns to look at their own growth, not just on a land use standpoint, but on a supply and demand in relative to the provision of services and facilities. When the municipalities went through that process, they used to say, draw a nice shape around the town or go to a physical boundary, but when they went back and calculated what that meant, they often said they do not want that many people, commercial activity, traffic and other impacts that come with it. He said they found, since 1998, when the Land Use Plan was done, which started to define town transition areas, some of the towns came back later, if not all the towns, and said they do not want to go that far. Their own growth plans do not reach out into the entirety of the areas that show on the County's zoning map as town transitional. Those areas are show in green on the zoning map. Mr. Joe Holloway asked who identified the town transition areas, the towns or County, to which Mr. Lenox responded, the County. It was in cooperation with the towns, but there was a gentleman by the name of Pete Johnson who did a number of

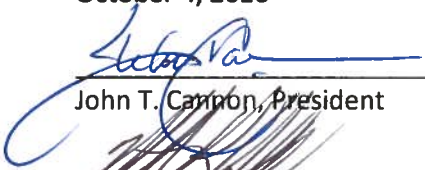
Comprehensive Plans back in the 1990s. Mr. Lenox said this was before his time, so he is just repeating history as it has been told to him. There was some state money available. They did a contract with the communities and actually worked on the County's Comprehensive Plan as well, which, at that time, it was largely a Land Use Plan. He said those growth areas around Mardela Springs, around Hebron, those are ones that the community participated in, but they were not done with the detail they are today. They were not related to water and sewer or related to population growth. Mr. Lenox said, fast-forward a decade, the communities then, because of the state mandate, did the calculations, and their growth areas are smaller. Mr. Lenox said what the County is left with is the question, does that mean that the town transition areas should be smaller. He said, if the only goal is to have folks live in municipalities, then, yes, just follow the local plan. The County does not want to contradict the local plans, and it has incorporated those individual growth areas into the County's Comprehensive Plan, but the town transition areas remain larger. If you do not go with premise that only growth should occur in cities and towns, then we have County growth areas in addition to the areas the cities and towns are committed to grow into over the next 25 to 30 years. We are left with the town transition areas that are larger. Mr. Lenox said the Planning Commission in doing their recommendation to Council defaulted to the plan, referencing the zoning map, with a couple of deviations. He said their default was not to go through down zoning. Not to present a plan to Council that will take away significant development rights from property owners. They defaulted to the adopted zoning from 2004. The Comprehensive Plan was adopted in 1998 and immediately following were changes in the Ag District, because that was the big issue and Council got the 1 per 15 acres, 1 per 3 cluster, that came in right of way. The general rewrite of the zoning code and zoning map, because zoning is the map and the text, took place over the next few years. He said, in 2004, there was a brand new zoning code and zoning map. The zoning map follows pretty closely to the Comprehensive Plan from 1998, but the process did get a little bit adventurous. State mandates were not as specific and a community consisting of citizens and agencies made some changes. The one you hear about the most is between Willards and Pittsville. What had been a town transition area for each town grew together. That is a significant difference, but it is not the only town transition area. Delmar, east and west, has a rather significant area. Delmar's Comprehensive Plan does not show them growing into the those areas. Again, growth areas, outside of the town plans. Mr. Joe Holloway asked if Willards and Pittsville's plans show them growing, to which Mr. Lenox responded, no. Mr. Lenox said Willards's plan does not and Pittsville does not have a plan. Pittsville has chosen not to participate. The state has worked with them in terms of updating the Comprehensive Plan. He said we are just short of 10 years that this mandate has been on the table. Mr. Lenox said Pittsville is prohibited from annexation, and he thinks from zoning changes outside of what they have on the table all ready, but there may be some modifications. Mr. Joe Holloway asked if there is a good reason why the Town of Pittsville does not have a plan, to which Mr. Lenox responded, not that he is aware of. He said it is also an issue with water and sewer as how do you amend the Water and Sewer Plan if you do not have a Comprehensive Plan. He said that has been an issue. Mr. Lenox said when Council discusses town transition areas, you have properties that the towns have put a claim in and said this is where we want to go, and Council will see that as well in the Water and Sewer Plan. You have areas outside of the municipalities, and one last factor is the rural villages. The rural villages are not town transition areas. It was determined that the Ag areas should be Ag. The County allows Ag related uses out in the Ag area, which are shown on the zoning map as the white areas. He said we know there will be a need for convenience/traditional services. Whitehaven and Quantico are two historic districts. He said there is zoning called village districts, which allows for an Inn, convenience commercial, office space, sort of low

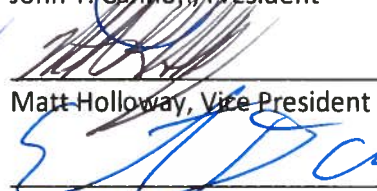
intensity of uses of convenience for the rural areas. Mr. Lenox said Powellville is one of their largest, which is ironic in that it is the least populated. Mr. Joe Holloway said, in looking at the green areas, there is a good section of the area that could never have anything built because it is swamp. Mr. Lenox said an area like that would require package treatment plants. Mr. Joe Holloway said, yes, plus he thinks that someone, at some point in time, almost drew a circle around it. Mr. Lenox said there was considerable input from a landowner. Mr. Lenox said, frankly, there were compromises made on both sides. He said he remembers going into the public hearing thinking everyone was in agreement and everyone was in agreement. The public hearing was held in the Flanders Room at the Civic Center. He said he was shocked as when they got to the public hearing there was hardly a peep. Everyone was in the room to keep an eye on each other. Mr. Joe Holloway asked Mr. Lenox if he is suggesting that Council reduce the town transition areas, to which Mr. Lenox responded, no, he is not recommending that. He said Mr. Keith Hall will walk through the land use elements with Council and, if there are areas that they should look at in particular, they will do that. The line can change. There were some changes out in the Mardela Springs area. There was an issue a few years ago where a subdivision was proposed and it involved critical area and it just got to be a mess, and everyone said it should not be in there. If we know certain property should not be in the town transition area, we should take it out. If property owners do not want to be in the town transition area, Council should consider taking them out. He said other than that, if the County wants to allow for growth outside the cities and towns, the County should stick to the deal that was made. Mr. Cannon said there are times that the County wants autonomy from the state, and he thinks the municipalities and town would want autonomy from the County. Mr. Lenox said the question may be asked if the municipalities have a Comprehensive Plans to establish their growth areas, is the County obligated to incorporate that into the County's Comprehensive Plan. Mr. Lenox said the County has been respectful of their desired growth areas and have incorporated those. He said he is saying there are growth areas beyond what has been identified by the municipalities that remain. Mr. Cannon said there are individuals in the area that would scream if the County took their property out of the town transition area. Mr. Lenox said there are people who bought property in the town transition area and pay taxes accordingly with the understanding that they could use their property in the future for more than what is allowed in the Ag District. Mr. Cannon asked what is the gain or loss for someone who is in the town transitional and taken out or vice-versa. Mr. Lenox said a town transition is simply a growth area, but town transition is not a commercial growth area, as it is largely residential. You are looking a higher density residential, if they are in the growth area. In the alternative, by taking them out would put them in the Ag District. When you are in the Ag District, you have the benefit of a lower assessment based on the fewer uses you can do. He said Council has gone back and forth on the poultry houses. The growth areas around Salisbury have been defined over the years. Those are the areas for future commercial, future industrial, future residential. The ones east and west and north are much less defined. The town transition is pretty much a residential district. They function as an R-20, 20,000 square foot lots. It is similar to a homestead. Mr. Cannon said we are kind of caught between a rock in a hard place in reference to what was touched on in poultry houses because there was a request to eliminate poultry houses from the town transition areas but, of course, the first response from a lot of people was those are huge areas. Mr. Lenox said the other thing that complicated the discussion, is that the County always had the understanding from the state is that if you are in a Designated Growth Area, you cannot apply for MALPF funds. The County has seen a change, in that the state is saying, that does not preclude you from getting MALPF funds. He said whatever the ranking system that the commission uses, which varies from time to time, is still on a competitive basis.

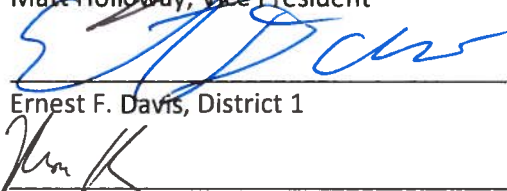
How this falls in a Priority Preservation Area, or not, probably matters and will matter in their ranking. If the County wrote a letter very specific to MALPF right now and asked if I am precluded from getting a MALPF easement because I am in a Designated Growth Area, the answer would be no. Mr. Lenox said that puts those property owners back in a quandary again. The farmers want to be able to sell an easement when money is available and when they want to sell, and when the economy is better and prices go back up and we see development again, they may want to be in a different position. He said the plan that he and Mr. Hall will come back with is to hold to the lines shown on the zoning map and the priority preservation map will match with the Ag areas. They are providing some flexibility for folks who change their minds, adjust to future changes, and provide a process to make changes. Mr. Joe Holloway said some of the towns will come along and have an issue with the poultry houses being allowed in the town transition areas. Mr. Joe Holloway said it may not be the town transition area that they have an issue with as he thinks it is more the distance from the city line. He does not think that Delmar is going come in and say they do not want poultry houses on Connelly Mill Road. He said, at some point in time, they will be faced with the small towns saying they do not want the poultry houses but only so close. Mr. Joe Holloway then asked does the County need to create another boundary as far as a footage type of boundary around the town. Mr. Lenox said Council can look at this situation a couple of different ways. It can be based on the district itself. He agrees with Mr. Joe Holloway as people do not know what the districts are or what that means, it would normally be a distance. Mr. Lenox said Council has allowed, under the current poultry house provisions, to have poultry houses in the white areas (Ag District) showing on the map. Mr. Joe Holloway asked if Council should leave that open to the towns, to which Mr. Lenox responded, no, it is the County's zoning. The County should respect their opinions, but this idea of restricting poultry houses in the town transition area came up was at the end of the process and if Council were to consider that idea, it will need a very public process. They will need to evaluate that if Council picked a certain distance how much land is involved and how do those folks feel about that. He said people in the Ag District using their property for Ag purposes or do you do allow poultry houses by special exception and protect the town transition areas like Council did with the residential areas. Mr. Kilmer said Mr. Lenox mentioned the towns plan for growth are not the same as the town transition areas identified by the County as they are smaller. He said it would be interesting to see what the towns plan for growth look like on a map. If the County goes down this road, we should see the areas the towns have chosen and not just this broad area. He said that may be a narrower way to look at this. Mr. Lenox said they can compare the two and see how they match up. Mr. Lenox said they are not explicit. Mr. Matt Holloway said Hebron would be an exception because Hebron's growth area is larger than what the County shows. Mr. Lenox said the old airport has been brought into the municipality. Mr. Cannon said if you look at Mardela Springs, it is twice the size. Mr. Lenox said they have no water and sewer system, and they have environmentally the most sensitive lands. Mr. Cannon said what Mr. Kilmer was touching on is that the municipalities and towns have their Designated Growth Areas, which should be reflected overall. He thinks the quandary they are in now is that the County has established town transition areas and for the County to say it is going to reduce them to this size and, in concert with the municipalities, we have people who have already made substantial decisions based on the current zoning. The County would be down zoning, and it has to be very careful when it down zones anybody because it is talking about the property values of citizens. Mr. Lenox said that was the commissions' thoughts in their recommendations to Council. Mr. Joe Holloway said that does not only apply to residential areas as it also applies to farmers trying to do something in their district; it works both ways. Mr. Lenox said when they come back to Council with the Land Use


Plan that they will be presenting, they will identify those areas so Council can see where the differences are. Mr. Joe Holloway asked if there is a chance that the County can speak to Pittsville and try to get them to nail down something. Mr. Cannon said the state was sending people down to write the Comprehensive Plans. Mr. Lenox said he knows that if Tracy Gordy is watching this meeting tonight, she is speaking very loudly to her TV set. They have reached out to Pittsville. The communities allocated money in their budget and they retained professionals. Mr. Joe Holloway then asked if the Town of Pittsville can identify the growth areas without doing a Comprehensive Plan. Can they, basically, adopt a resolution identifying what they want their growth area to be? Mr. Lenox said the Town of Pittsville could adopt a resolution identifying growth areas as an advisory to Council, but it would not meet the requirements of the State of Maryland. It is a Comprehensive Plan change that has a process and there are certain calculations that they have to do. It really is important because some day that illusive Food Lion is going to show up on Route 50 outside of Pittsville, and everyone is going to want it, but they will not be able to come in, so they should be ready for that.

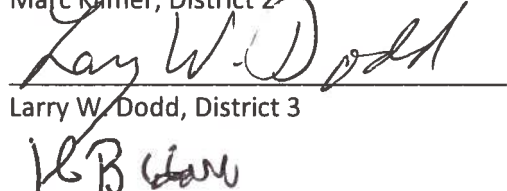
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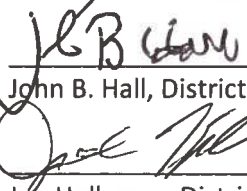
  
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John T. Cannon, President

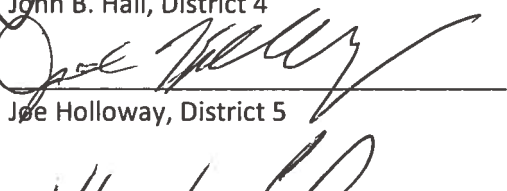
  
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Matt Holloway, Vice President

  
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Ernest F. Davis, District 1

  
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Marc Kilmer, District 2

  
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Larry W. Dodd, District 3

  
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John B. Hall, District 4

  
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Joe Holloway, District 5

  
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Matthew E. Creamer, Council Administrator