

**ST. MARY'S COUNTY GOVERNMENT
DEPARTMENT OF LAND USE
AND GROWTH MANAGEMENT**

Jessica S.B. Andritz, Director



COMMISSIONERS OF ST. MARY'S COUNTY:

James R. Guy, President
Michael R. Alderson, Jr., Commissioner
Eric S. Colvin, Commissioner
Michael L. Hewitt, Commissioner
Scott R. Ostrow, Commissioner

STAFF REPORT

Planning Commission Meeting of
January 13, 2025

Project Name:	Cusic Properties, LC 25741 Three Notch Rd. ZONE24-0002
Owner:	Cusic Properties, LC
Agent:	Christopher T. Longmore
Property Info:	TM-0020 GRID-0014 PAR-0163 TAX ID-022901 ED-06

PROPERTY DESCRIPTION:

The property is located at 25741 Three Notch Rd., Hollywood, MD (Subject Property). This property consists of 2.15 acres; 1.565 acres of the property is in the Rural Preservation land use and zoning district. The remaining .585 acres is in the Rural Commerce land use and Rural Commercial Limited (RCL) zoning district. There is a 2,625 sq. foot building on the RCL portion of the property. The Rural Preservation District (RPD) portion of the property is vacant, except for a driveway to Lot 2 of the Mary E. Hancock Subdivision. See Attachment 1 and 2.

BACKGROUND:

Prior to June 2010, the Subject Property consisted of two separate parcels. One parcel consisted of .585 acres and was zoned RCL. The other, Lot 1 of the Mary E. Hancock Subdivision, consisting of 1.565 acres was zoned RPD. Upon request by the property owners (Cusic Properties, L.C., Kevin Cusic, and Mary Cusic), the property was consolidated into a single lot (shown as "Adjusted Lot 500-1") (see Attachment 5). It was the recordation of the Boundary Line Adjustment Plat (BLAP) that created the split-zoning of the Subject Property.

The current version of the Comprehensive Plan includes a Land Use map with certain Land Use designations, which are coupled with various guiding principles and concepts. Within the "Rural Area," there are four Land Use Area Concepts: (1) Rural Preservation; (2) Rural Residential; (3) Rural Commerce; and (4) Crossroads Commercial. Due to the Subject Property's uses at the time that the 2010 Comprehensive Plan was adopted, the Subject Property's Land Use designations and its zoning remained unchanged.

A. Undeveloped Portion of the Subject Property:

Land Use Designation:

The undeveloped portion of the Subject Property is located in the “Rural Preservation” Land Use area. As stated on pages 4-24 and 4-25 of the Comprehensive Plan, the primary purpose of the Rural Preservation Land Use area is to “preserve open space and protect land and water resources and to protect the land and water resource base that is necessary to maintain and support the preferred land uses of agriculture, forestry, fisheries activities and aquaculture.” Additionally, the Comprehensive Plan urges that “Growth should also be limited to preserve natural environments, including wetlands, forests, abandoned fields, beaches and shorelines. Within designated rural areas, agricultural activities are the preferred land use, including those that may produce agriculturally related noise and odors at any time. The sale of farm products from the land where they are produced should be supported.”

Zoning Designation:

The regulations of Rural Preservation Districts are generally “intended to foster agricultural, forestry, mineral resource extraction, and aquacultural uses and protect the land base necessary to support these activities. Low-density residential development in this type of district is permitted. The farmer has the right to farm without being restricted by neighboring residential areas. The general intent of the district is to encourage farming without undue burden on the landowner” (see CZO § 31.1).

B. Developed Portion of the Subject Property:

Land Use Designation:

The developed portion of the Subject Property is located in the “Rural Commerce” Land Use area. As stated on page 4-25 of the Comprehensive Plan, the principle of this Land Use designation is to allow “small scale commercial uses outside of growth areas serving a localized market. In some cases, the market served by such remotely located commercial uses is more regional in scope.” The Comprehensive Plan acknowledges that the intensity of existing uses may be “inconsistent with the character of the rural setting” and “where such commercial uses have long existed outside of growth areas, are compatible with the character of the rural area, and are devoted to a local market, their continued operation and opportunity for reasonable expansion is consistent with the principle of the rural preservation district.”

Zoning Designation:

The regulations for the Rural Commercial Limited District are intended to “accommodate existing, small-scale commercial uses serving localized markets in the County that are scattered along the highways and, in some cases, clustered at intersections” and similarly to the language in the Comprehensive Plan, the CZO states, “where such existing uses are compatible in scale with the character of the rural area, and are devoted to a local market, their continued operation and opportunity for reasonable expansion is consistent with the policies of the Comprehensive Plan.

On January 3, 2024, the Zoning Map Amendment together with the required Comprehensive Plan Amendment was submitted for review and distributed to the TEC agencies, which consist of the following: St. Mary’s County Public Schools*, Dept. of Economic Development*, Dept. of Environmental Health*, Soil Conservation District, MD State Highway Administration (SHA), St. Mary’s County Metropolitan Commission, Dept. of Land Use and Growth Management, Washington Gas*, SMECO, Sheriff’s Office*, Dept. of Recreation and Parks*, Maryland Dept. of

Natural Resources (DNR), Maryland Dept. of the Environment (MDE), Maryland Dept. of Planning, Fire Board*, and Patuxent River Naval Air Station*.¹

SUMMARY OF REQUEST:

Citing challenges of split-zoning, the Applicant is seeking to rezone the RPD-zoned portion of the Subject Property to RCL. The requested zoning change is premised upon two arguments: (1) a mistake in the current zoning; and/or (2) a substantial change in the character of the neighborhood since the last comprehensive rezoning (2010). Additionally, because the requested zoning change conflicts with the Land Use map adopted as part of the Comprehensive Plan, the Applicant is also seeking to amend the Comprehensive Plan and the mapping designations in the County's GIS maps.

In support of the argument that the County Commissioners made a mistake in adopting a zoning map with a split-zoned property, the Applicant argues, "Split-zoning is generally disfavored for the very problem that gave rise to this application, split-zoning creates two separate sets of rules for a particular property and makes it difficult for a property to have confidence in what types of uses and development are allowed on a particular piece of property."

In support of the argument that there has been a significant change in the character of the neighborhood since the last comprehensive rezoning, the Applicant has identified the neighborhood as being the properties that are adjacent and close to Maryland Route 235, between Loveville Road and Hollywood Road (see Attachment 13). The Applicant argues that the Subject Property is located on a stretch of Three Notch Road that "has and continues to see expanded commercial development." A substantial portion of the property is being utilized for commercial uses, such as dog grooming and pizza sales.

APPLICABLE LAWS & REGULATIONS:

- Section 4-204(b)(1) of the Land Use Article of the Annotated Code of Maryland requires that changes to the zoning map must be supported by findings of fact that address the following: (i) population change; (ii) the availability of public facilities; (iii) present and future transportation patterns; (iv) compatibility with existing and proposed development for the area; (v) the recommendation of the planning commission; and (vi) the relationship of the proposed amendment to the local jurisdiction's plan.
- Section 4-204(b)(2) of the Land Use Article of the Annotated Code of Maryland allows local jurisdictions to approve a change in zoning in one of two situations: (1) there has been a substantial change in the character of the neighborhood, which renders the current zoning inappropriate; and (2) when the local legislative body has made a "mistake" (invalid reliance upon or erroneous assumption of facts) when it rezoned the property to its current zoning designation.
- CZO § 21.2.2.(a) requires that prior to amending the zoning maps, the Planning Commission and the Board of County Commissioners shall each hold at least one public hearing on an application for an amendment to the Official Zoning Maps. Such hearing may be held jointly at the discretion of the Planning Commission and the Board of County Commissioners.

¹ An asterisk indicates no comments were received; comments received from MDP and MDE are included (see Attachment 14).

ANALYSIS:

A. Mistake in Zoning:

The application includes the assertion that the split zoning of the Subject Property is a mistake. While it is true that generally, split zoning is not ideal, the CZO outlines how such situations are to be addressed.² The application does not appear to account for the fact that the split zoning of the Subject Property was the result of the applicant's Boundary Line Adjustment Plat (BLAP) that was originally prepared in February 2010 on behalf of Cusic Properties, LC. (the applicant), Kevin Cusic, and Mary Cusic.

As the BLAP indicates, one parcel was absorbed/consolidated into a single lot (shown as Lot 500-1). The BLAP depicts the split zoning that would exist if the BLAP was approved and recorded. As the plat indicates, it was approved at the applicant's request on June 25, 2010, and was recorded three days later.

The application asserts that there is "no evident policy reason the Subject Property...should be split-zoned in this fashion."³ However, while there may be a preference for a lot or parcel of land to be located within a single zoning district, the split zoning of the Subject Property was approved at the applicant's request back in 2010. Despite numerous worksessions conducted by the Planning Commission and the County Commissioners between May and August of 2010, the zoning of the Subject Property was not changed from what was approved upon the recordation of the BLAP in June of 2010. In fact, all of the land that surrounds the property owned by the applicant is in the RPD zone (see Attachment 3). Moreover, the RPD-zoned portion of the Subject Property is vacant, except for a driveway that serves an adjacent lot with an existing dwelling.

It is also important to note that the current split zoning of the Subject Property is consistent with the current Land Use designation adopted in the 2010 Comprehensive Plan. The "Land Use" layer within the County's GIS map shows that the RPD-zoned portion of the Subject Property is located within the "Rural Preservation" Land Use area, whereas the RCL-zoned portion of the Subject Property is located within the "Rural Commerce" Land Use area. In fact, all of the property surrounding the Subject Property is located within the "Rural Preservation" Land Use area (see Attachment 2).

Therefore, if the Planning Commission determines that the County Commissioners made a mistake in maintaining the Subject Property's split-zoning designation in 2010, the County's Comprehensive Plan would need to be amended to change the "Land Use" designation from "Rural Preservation" to "Rural Commerce" *before* the change in zoning could occur.⁴

B. Substantial Change in the Character of the Neighborhood:

As stated previously, the Application includes an assertion that the Subject Property is located on a stretch of Three Notch Road (between Loveville Road and Hollywood Road) that has and continues to see expanded commercial development. Because the Application does not include any specific facts to support

² CZO 11.3.6. Where a property is split by a zoning boundary including special districts, the rules of the zone shall apply to that portion of the land located in each district.

³ In Maryland, a local jurisdiction's decision to rezone properties as part of a comprehensive rezoning is given a strong presumption of correctness. Therefore, all applicants seeking a piecemeal rezoning have an "onerous" burden under Maryland law; applicants must demonstrate that the legislative body erred.

⁴ Section 4-202(a)(1) of the Land Use Article requires a local jurisdiction's zoning regulations to be in accordance with the local jurisdiction's plan. In other words, the requested rezoning requires that the County Commissioners first amend the Comprehensive Plan (specifically, the Land Use designations of the Subject Property) *prior* to amending the zoning of the Subject Property.

this claim, LUGM staff has recommended that the Applicant provide this information as part of its case at the public hearing.

NEXT STEPS:

The Applicant has the burden of proving (1) a mistake in the current zoning of the Subject Property and/or (2) a substantial change in the character of the neighborhood since the last comprehensive rezoning. As mentioned above, the Maryland courts have made it clear that an applicant's burden in proving a mistake in a property's zoning classification is an onerous one.

Additionally, prior to the local jurisdiction approving a local zoning map amendment, there are certain findings that must be made (see § 4-204 of the Land Use Article). LUGM staff has suggested that the Applicant be prepared to provide this information during the public hearing.⁵

The following Motion has been drafted:

In the matter of ZONE24-0002, Cusic Property Zoning Map Amendment, having accepted the staff report and having made a finding that the criteria of CZO § 21.2.2.a, and the Annotated Code of Maryland § 4-204(b)(2) have/have not been met, I move the Planning Commission recommend that the application be approved/denied by the Commissioners of St. Mary's County.

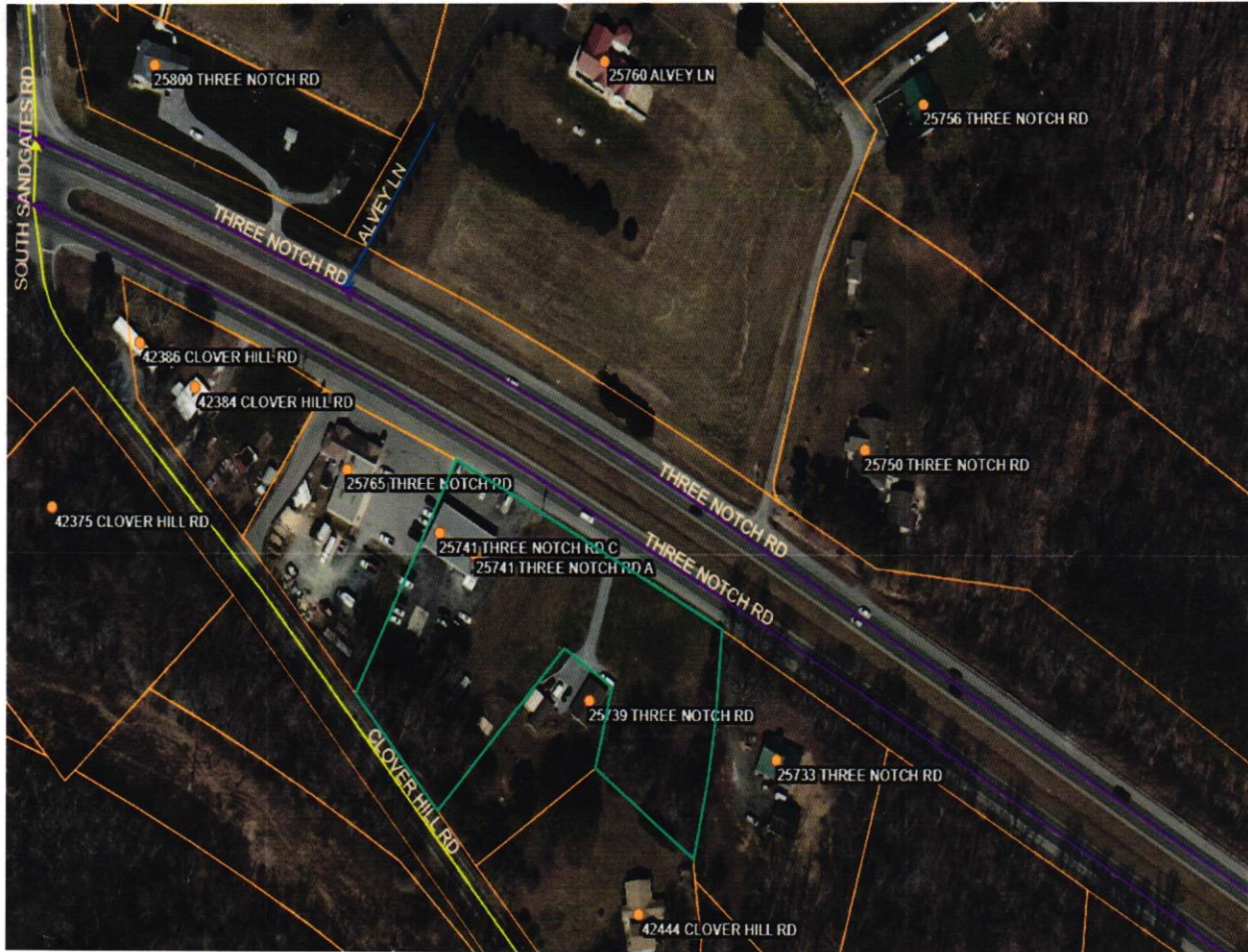
ATTACHMENTS: Attachment 1 – Location Map
Attachment 2 – Land Use Map
Attachment 3 – Zoning Map
Attachment 4 – Applicant's Letter
Attachment 5 – 2010 BLAP
Attachment 6 – SMECO Comments
Attachment 7– Metropolitan Commission Approval
Attachment 8– St. Mary's Soil Conservation District Approval
Attachment 9– DPW&T Approval
Attachment 10- Addressing Approval
Attachment 11- SHA Approval
Attachment 12- DNR Approval
Attachment 13-Neighborhood Map
Attachment 14-MDP Response Letter

cc: Christopher T. Longmore

chris@paxlawyers.com

⁵ The letter from MDP dated December 23, 2024, raises several questions/concerns regarding this Applicant's requested rezoning, including the fact that the Subject Property does not have access to public water and sewer.

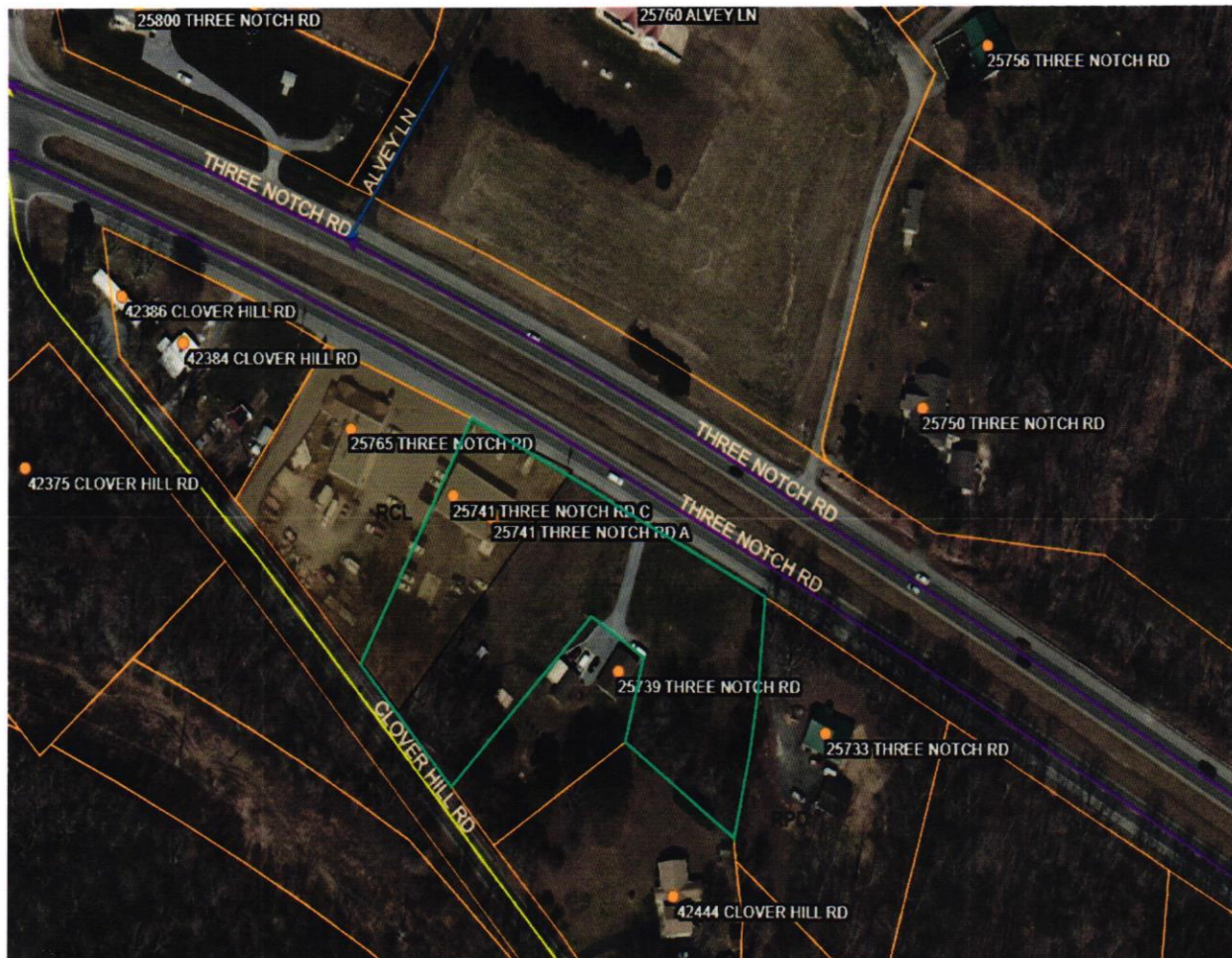
ATTACHMENT 1



ATTACHMENT 2



ATTACHMENT 3





DUGAN, McKISSICK & LONGMORE^{LLC} ATTORNEYS AT LAW

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REBEKKA J. HUTCHINS*
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PARTNER *
OF COUNSEL **
ADMITTED IN DISTRICT OF COLUMBIA †
ADMITTED IN VIRGINIA ‡

December 28, 2023
Final Revision Date: October 23, 2024

Brandy Glenn
Department of Land Use and Growth Management
23150 Leonard Hall Drive
Leonardtown, MD 20650

Re: 25741 Three Notch Road, Hollywood, Maryland 20636

Dear Ms. Glenn:

Please accept this letter as part of the application of Cusic Properties, LLC (the "Applicant") to amend both the Land Use and Zoning Maps for its respective property described below. The Applicant is seeking the amendment to the maps based on two grounds: (1) there has been a significant change in the character of the neighborhood/area where the properties are located and/or (2) there was a mistake in these properties being split-zoned as Rural Preservation District (RPD) and Rural Commercial Limited (RCL) with underlying split Land Use designations of Rural Preservation and Rural Commerce. Copies of the relevant portion of the St. Mary's County Zoning Map and Land Use Map are attached hereto as Exhibits A and B. The Applicant is requesting that the St. Mary's County Zoning Maps be amended to re-zone the property to be fully and completely zoned RCL and to amend the St. Mary's County Land Use Map to re-classify the property's designation fully and completely as Rural Commerce.

The Subject Property

The property is owned by Cusic Properties, LLC, and has a street address of 25741 Three Notch Road, Hollywood, Maryland 20636. This property is located adjacent to Maryland Route 235. A copy of the Maryland State Department of Assessments and Taxation ("SDAT") information sheet for the Subject

ATTACHMENT 4

Property is attached hereto as Exhibits C and the current deed to the property is attached hereto as Exhibit D.

A. General Description of the Subject Property

The subject property does not have significant development existing on the property and the owners are desirous to maximize the best potential to develop the property. The property is currently split-zoned, creating different rules and allowable uses throughout the property. This split-zoning of the property makes it much more difficult to develop and extremely difficult to market the property, because of the fact that there are two different sets of development regulations that apply to the different parts of the property. This is true because the St. Mary's County Zoning Ordinance provides that "where a property is split by a zoning boundary including special districts, the rules of the zone shall apply to that portion of the land located in each district." SMC CZO Section 11.3.6. This does not only include the allowable uses within each zoning category, but also all of the engineering and site plan criteria for each of the two different zoning categories.

Change in Character of the Neighborhood/Area Where the Is are Located

The Subject Property is located immediately adjacent to Three Notch Road on a stretch of Three Notch Road that has seen, and continues to see, expanded commercial development over the past decade and more since the County's zoning maps were last amended as part of the Comprehensive Planning process. A substantial portion of the Subject Property is already being utilized for the commercial operation of a dog grooming salon and Papa Johns Pizza. The neighboring property to the north of the Subject property is also owned by Cusic Properties, LLC and is the location of a liquor store and plumbing and septic company.

The split zoning of this property significantly restricts the current or any future property owners from developing it comprehensively as one project with one set of rules. The zoning of the property as one zoning category and one underlying land use is consistent with the area as it now exists and because of the neighborhood where this property exists, the entire property should be zoned entirely RCL.

The Applicant proposes that the neighborhood to be considered for this request are those properties that are adjacent and close to Maryland Route 235, between Loveville Road and Hollywood Road. The Applicant reserves the right to alter the boundaries of the neighbor based on any evidence and information submitted at the future Planning Commission or Board of County Commissioners meetings regarding this request.

The Applicant reserves the right to submit additional argument and evidence of the change in the neighborhood/area of the Subject Property at or before any public hearings on this application.

Mistake Regarding the Current Zoning and Land Use Designations of the Subject Property

In addition to the significant change of the character of the neighborhood/area, the Subject Property's split-zoning categories and split-underlying land uses should be changed because it is apparent that the current split-zoning categories and split-land uses are mistakes. Split-zoning is generally disfavored for the very problem that gave rise to this application, split-zoning creates two separate sets of rules for

a particular property and makes it difficult for a property to have confidence in what types of uses and development are allowed on a particular piece of property. As to the Subject Property, there is no evident policy reason the Subject Property, and only the Subject Property, should be split-zoned in this fashion.

Requested Action

In light of the above, the Applicant respectfully requests that the Subject Property be re-zoned on the St. Mary's County Zoning map from being split-zoned as Rural Preservation District (RPD) and Rural Commercial Limited (RCL) to being fully zoned RCL. Further, the Applicants request that the Land Use designations for the Subject Property be changed on the County Land Use Map from being split-designated as Rural Preservation and Rural Commerce to being fully designated as Rural Commerce.

The Applicant reserves the right to submit additional argument and evidence of the mistake in the current zoning and land use categories of the Subject Property at or before any public hearings on this application.

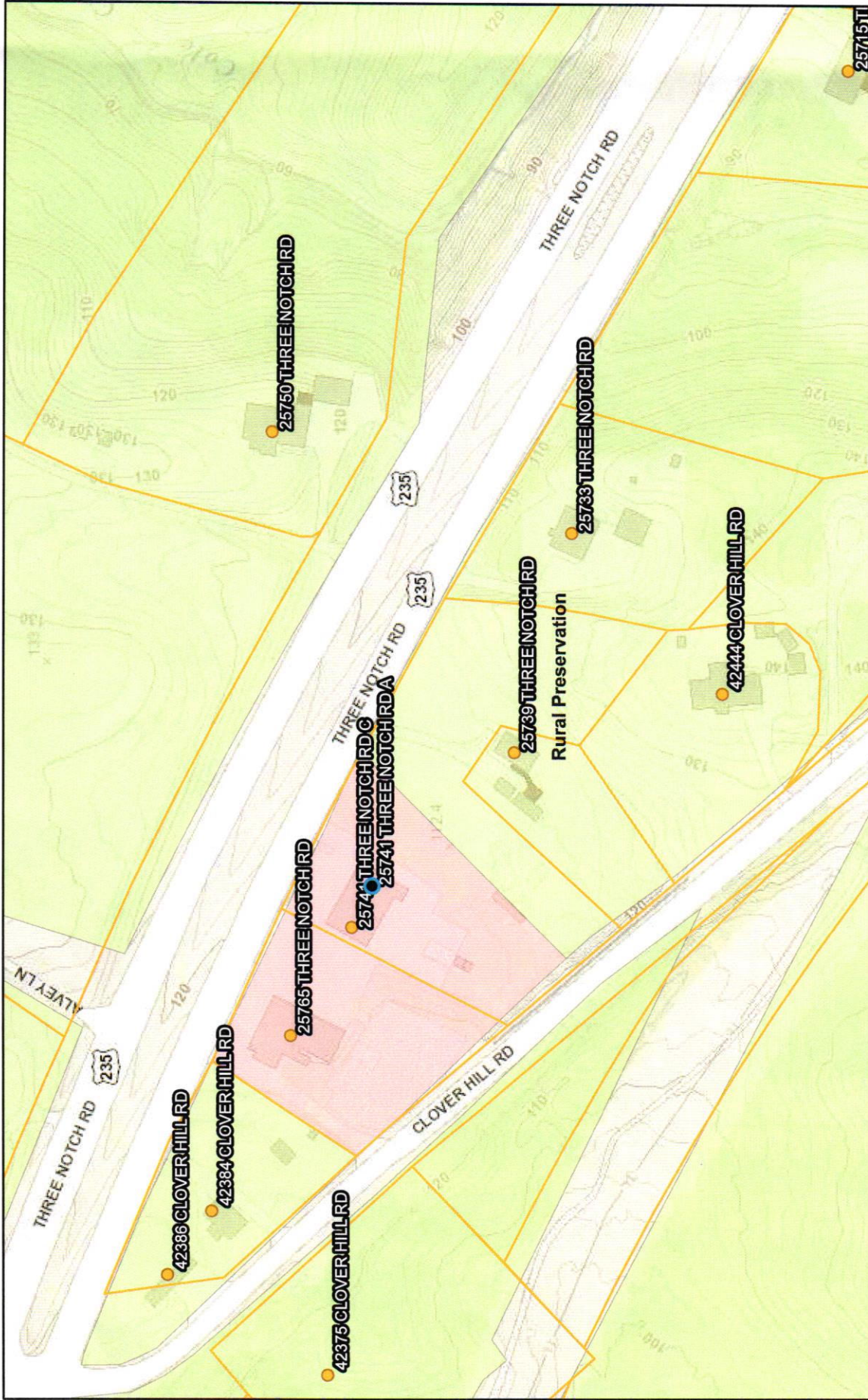
We look forward to working with you on this request and I am happy to answer any questions or provide any additional information needed or that would be helpful with this process.

Respectfully,



Christopher T. Longmore

ArcGIS Web Map



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Address Points

Existing (orange dot)

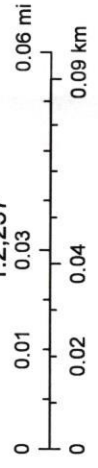
Property Boundaries (orange line)

Land Use (May 2018)

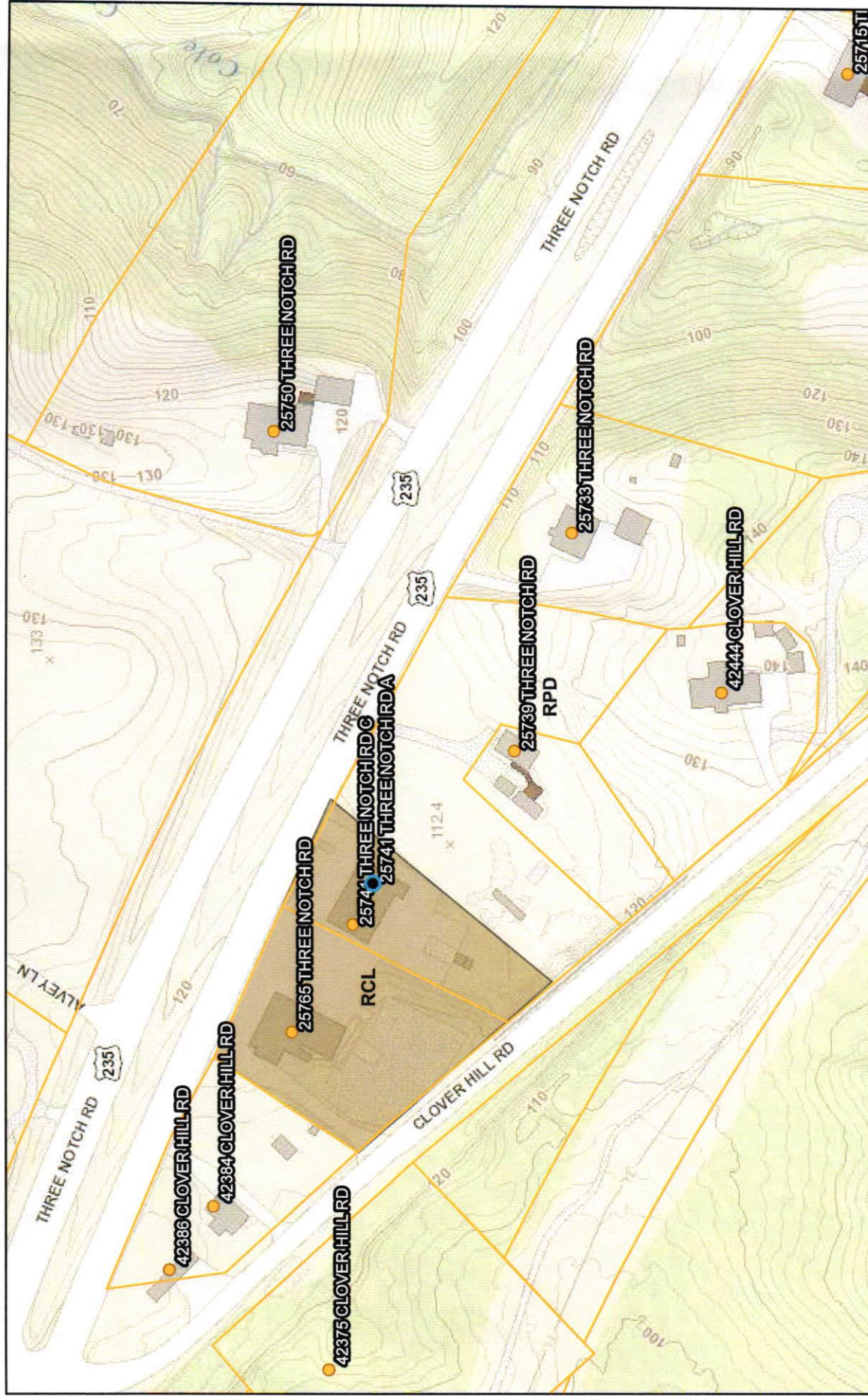
Rural Commerce (pink)

Rural Preservation (light green)

1:2,257



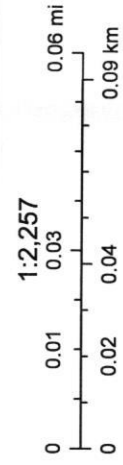
ArcGIS Web Map



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Address Points Property Boundaries Zoning (Sep 2019)

● Existing



Real Property Data Search ()

Search Result for ST MARY'S COUNTY

[View Map](#)[View GroundRent Redemption](#)[View GroundRent Registration](#)**Special Tax Recapture: None****Account Identifier:** District - 06 Account Number - 022901**Owner Information**

Owner Name: CUSIC PROPERTIES LC **Use:** COMMERCIAL
 A MARYLAND LIMITED LIABILITY CO **Principal Residence:** NO
Mailing Address: 42512 CLOVER HILL RD **Deed Reference:** /02690/ 00327
 HOLLYWOOD MD 20636-2255

Location & Structure Information

Premises Address: 25741 THREE NOTCH RD **Legal Description:** PT LOT 500-1 EQ 25,280 SF
 HOLLYWOOD 20636- PLAT 68/49
 MARY E HANCOCK PROP

Map: Grid: Parcel: Neighborhood: Subdivision: Section: Block: Lot: Assessment Year: Plat No:
 0020 0014 0163 16000.19 0000 2023 **Plat Ref:** 68/ 49

Town: None

Primary Structure Built	Above Grade Living Area	Finished Basement Area	Property Land Area	County Use
1989	2,625 SF		2.1500 AC	

Stories Basement Type	Exterior Quality	Full/Half Bath	Garage	Last Notice of Major Improvements
RETAIL STORE /	C3			

Value Information

	Base Value	Value	Phase-in Assessments	
		As of	As of	As of
		01/01/2023	07/01/2023	07/01/2024
Land:	281,300	309,500		
Improvements	103,000	109,500		
Total:	384,300	419,000	395,867	407,433
Preferential Land:	0	0		

Transfer Information

Seller:	Date:	Price:
CUSIC, KEVIN G	12/30/2005	\$0
Type: NON-ARMS LENGTH OTHER	Deed1: EWA /02690/ 00327	Deed2:
Seller: POUNDS, JAMES A	10/04/1988	Price: \$50,000
Type: NON-ARMS LENGTH OTHER	Deed1: MRB /00435/ 00224	Deed2:
Seller: POUNDS, JAMES A	05/02/1988	Price: \$0
Type:	Deed1: MRB /00409/ 00160	Deed2:

Exemption Information

Partial Exempt Assessments:	Class	07/01/2023	07/01/2024
County:	000	0.00	
State:	000	0.00	
Municipal:	000	0.00 0.00	0.00 0.00

Special Tax Recapture: None**Homestead Application Information****Homestead Application Status:** No Application**Homeowners' Tax Credit Application Information****Homeowners' Tax Credit Application Status:** No Application **Date:**

EXEMPT FROM RECORDATION TAX
 PURSUANT TO MD TAX PROPERTY CODE
 ANNOTATED SECTION 12-108(bb) and 13-207(a)(18)
 Tax Identification Nos. 06-014585, 06-061109, 06-022901, 06-007503
 No Title Search Requested or Performed
 DMWL

DEED

This Deed, dated December 28, 2005, from **KEVIN G. CUSIC and MARY C. CUSIC**, parties of the first part, Grantors, to **CUSIC PROPERTIES, LC, A Maryland limited liability company**, party of the second part, Grantee.

Witnesseth, that for no monetary consideration the said Grantors, do grant and convey unto the said Grantee, its successors and assigns in fee simple, all that lots, tracts or parcels of land situate, lying and being in the 6th Election District of St. Mary's County, Maryland, and more particularly described as follows:

OFF TO 28.12	28.00
RECORDING FEE	28.00
TOTAL	56.00

PARCEL 1:

All that property containing 0.38 acres, more or less, consisting of that property shown and described as "William Wilson Higgs MRF 138/493 0.16 Acres" (Premise Address 25373) and "P/O MRB 336/127 BLAP Area 0.22 Acres" (Premise Address 25371) on that plat entitled "Boundary Line Adjustment Plat of 0.22 Acres+ - of Land", prepared by Little Silences Rest, dated May 19, 1997 and recorded among the Plat Records of St. Mary's County, Maryland at Liber E.W.A. No. 44, Folio 28;

OFF TO 28.12	28.00
RECORDING FEE	28.00
TOTAL	56.00

Together with a right-of-way across that private driveway, for ingress and egress to and from Md. State Route 235 across that property shown on the aforesaid Plat as "N/F James R. Higgs CBG 58/464" in the location shown on the aforesaid Plat;

OFF TO 28.12	28.00
RECORDING FEE	28.00
TOTAL	56.00

PARCEL 2:

All that property containing 0.55 acres, more or less, shown and described as "Kevin G. Cusic P/O MRB 336/127 0.55 Acres" (Premise Address 25369) on that plat entitled "Boundary Line Adjustment Plat of 0.22 Acres + - of Land", prepared by Little Silences Rest, dated May 19, 1997 and recorded among the Plat Records of St. Mary's County, Maryland at Liber E.W.A. No. 44, Folio 28;

BEING the same land conveyed unto the Grantors by William Wilson Higgs and Agnes H. Higgs by Deed dated February 14, 1987 and recorded on February 17, 1987, among the Land Records of St. Mary's County, Maryland at Liber MRB No. 336, Folio 127, and by Confirmatory Deed dated August 20, 1997 and recorded among the Land Records of St. Mary's County, Maryland at Liber EWA 1205, Folio 196. Parcel 1 is identified by Tax Account No. 06-014585. Parcel 2 is identified by Tax Account No. 06-061109.

PARCEL 3:

BEGINNING for the same at an iron pipe at the southwest side of Maryland State Route #235 and the dividing point of land herein described and land now or formerly L.H. Adams; thence along and with said road South 54° 00' East a distance of 115.00 feet to an iron pipe; thence leaving said State road and running through the land of Norman H. Hancock and Mary E. Hancock, his wife, South 46° 30' West a distance of 282.46 feet to a point; said point being on the Northeasterly side of Old Three Notch Road; thence along and with said Old Three Notch Road North 33° 30'

West a distance of 60.17 feet to a point; said point being the dividing point of land herein described and the aforesaid Adams land; thence running with said Adams land North 34° 24' East a distance of 256.76 feet to the point of beginning, containing 23,615 square feet as per plat of same recorded among the land records of St. Mary's County, Maryland in Liber CBG No. 122, folio 481.

BEING the same land conveyed unto the Grantors by Walter W. Sawyer, Substitute Trustee, by Trustee's Deed dated October 4, 1988 and recorded among the Land Records of St. Mary's County, Maryland at Liber MRB 435, Folio 224, identified by Tax Account No. 06-022901.

PARCEL 4:

BEGINNING for the same at the railroad tracks and running in a easterly direction for a distance of 210 feet to a post; thence running in a southerly direction for a distance of 210 feet to the old entrance road, thence with the old entrance road in a westerly direction for a distance of 210 feet to the railroad tracks and thence running with the railroad tracks for a distance of 210 feet to the place of beginning, containing one acre of land, more or less.

BEING the same land conveyed unto the Grantors by Deed dated December 9, 2004 and recorded among the Land Records of St. Mary's County, Maryland at Liber EWA No. 2418, Folio 052, and identified by Tax Account No. 06-007503.

TOGETHER WITH all improvements thereon and the rights, alleys, ways, waters, easements, privileges, appurtenances and advantages belonging or appertaining thereto.

SUBJECT TO covenants, restrictions, rights of way, easements and other conditions contained in deeds and instruments forming the chain of title to the captioned property.

To have and to hold the said lot of ground and premises, above described and mentioned, and hereby intended to be conveyed; together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said Grantee, party of the second part, its successors and assigns, in fee simple.

And the said Grantors covenant that the Grantors have not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that the Grantors will warrant specially the property granted and the Grantors will execute such further assurances of the same as may be requisite.

SIGNATURES ON FOLLOWING PAGE

THIS IS TO CERTIFY THAT ALL
TAXES ON THIS PROPERTY HAVE
BEEN PAID THROUGH June 30, 2006
Jannelle P. P. P., TREASURER
ST. MARYS COUNTY, MD
TAX. NO. 06-014585 06022901
06 061109
06 007503 12/29/05

THE GRANTORS AND GRANTEE CERTIFY THAT THIS INSTRUMENT OF WRITING IS NOT SUBJECT TO TRANSFER OR RECORDATION TAX PURSUANT TO MD. TAX PROPERTY CODE ANN. § 12-108(bb) AND § 13-207(18). THE GRANTORS ARE ENGAGED IN A REAL ESTATE ENTERPRISE AND: (I) THE TRANSFER IS FOR NO CONSIDERATION OTHER THAN THE ISSUANCE OF MEMBERSHIP INTERESTS IN THE LIMITED LIABILITY COMPANY GRANTEE; (II) THE MEMBERS OF THE LIMITED LIABILITY COMPANY GRANTEE ARE IDENTICAL TO THE PARTNERS OF THE CONVEYING REAL ESTATE ENTERPRISE; (III) EACH MEMBER'S ALLOCATION OF THE PROFITS AND LOSSES OF THE LIMITED LIABILITY COMPANY IS IDENTICAL TO THAT MEMBER'S ALLOCATION OF THE PROFITS AND LOSSES OF THE CONVEYING REAL ESTATE ENTERPRISE; (IV) THE TRANSFER IS PART OF A DISCONTINUATION OF THE REAL ESTATE ENTERPRISE; AND (V) ALL REAL PROPERTY OWNED BY THE GRANTORS AND USED IN THE CONDUCT OF ANY REAL ESTATE ENTERPRISE IS BEING CONVEYED TO THE LIMITED LIABILITY COMPANY GRANTEE.

WITNESS the hand and seals of the Grantors.

WITNESS:

[Signature]
[Signature]

[Signature] (SEAL)
KEVIN G. CUSIC

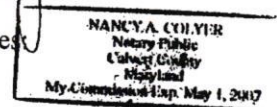
[Signature] (SEAL)
MARY C. CUSIC

STATE OF MARYLAND, *Calvert* St. Mary's County, to wit:

I HEREBY CERTIFY, THAT on this 28th day of December, 2005, before me, the subscriber, a Notary Public of the State of Maryland, in and for St. Mary's County, personally appeared **KEVIN G. CUSIC** known to me or satisfactorily proven to me to be the above named Grantor, and he acknowledged the forgoing Deed to be his act.

As Witness my hand and Notarial Seal.

[Signature]
Notary Public
My Commission expires:

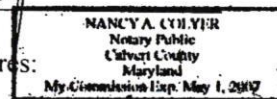


STATE OF MARYLAND, *Calvert* St. Mary's County, to wit:

I HEREBY CERTIFY, THAT on this 28th day of December, 2005, before me, the subscriber, a Notary Public of the State of Maryland, in and for St. Mary's County, personally appeared **MARY C. CUSIC** known to me or satisfactorily proven to me to be the above named Grantor, and she acknowledged the forgoing Deed to be her act.

As Witness my hand and Notarial Seal.

[Signature]
Notary Public
My Commission expires:



THIS IS TO CERTIFY THAT THE WITHIN INSTRUMENT WAS PREPARED BY OR UNDER THE SUPERVISION OF THE UNDERSIGNED, AN ATTORNEY DULY ADMITTED TO PRACTICE BEFORE THE COURT OF APPEALS OF MARYLAND.

[Signature]
Bill D. McKissick, Jr., Esquire

**CERTIFICATION OF EXEMPTION FROM WITHHOLDING UPON
DISPOSITION OF MARYLAND REAL ESTATE**

AFFIDAVIT OF RESIDENCY OR PRINCIPAL RESIDENCE

File Number: _____

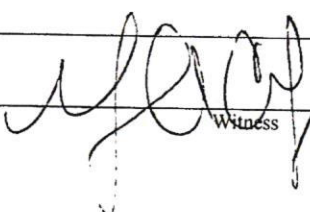
Property: 25369 Three Notch Road, 25741 Three Notch Road, 42450 Clover Hill Road

Based on the certification below, Transferor claims exemption from the tax withholding requirements of § 10-912 of Maryland's Tax General Article. Section 10-912 states that certain tax payments must be withheld when a deed or other instrument that affects a change in ownership of real property is recorded. The requirements of § 10-912 do not apply when a transferor provides a certification of Maryland residency or certification that the transferred property is the transferor's principal residence.

1. Transferor Information	
Name of Transferor:	KEVIN G. CUSIC

2. Reason for Exemption	
Resident Status	<input checked="" type="checkbox"/> I, Transferor, am a resident of the State of Maryland. <input type="checkbox"/> Transferor is a resident entity under § 10-912(A)(4) of Maryland's Tax General Article. I am an agent of Transferor, and I have authority to sign this document on Transferor's behalf.
Principal Residence	<input type="checkbox"/> Although I am no longer a resident of the State of Maryland, the Property is my principal residence as defined in IRC § 121.

Under penalty of perjury, I certify that I have examined this declaration and that, to the best of my knowledge, it is true, correct, and complete.

3a. Individual Transferors	
	KEVIN G. CUSIC
Witness	Name
	Signature
3b. Entity Transferors	
Witness/Attest	Name of Entity
	By:
	Name
	Title

Subscribed and sworn to before me, in my presence, this 28th day of December, 2005, a Notary Public in and for the State of Maryland, County of St. Mary's.

Calvert

NOTARY PUBLIC
My Commission Expires:

NANCY A. CHILVER
Notary Public
Calvert County
Maryland
My Commission Exp. May 1, 2007

**CERTIFICATION OF EXEMPTION FROM WITHHOLDING UPON
DISPOSITION OF MARYLAND REAL ESTATE**

AFFIDAVIT OF RESIDENCY OR PRINCIPAL RESIDENCE

File Number: _____

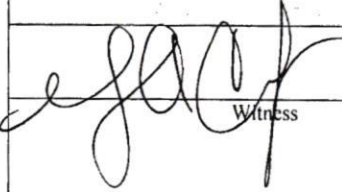
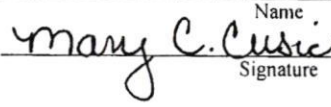
Property: 25369 Three Notch Road, 25741 Three Notch Road, 42450 Clover Hill Road

Based on the certification below, Transferor claims exemption from the tax withholding requirements of § 10-912 of Maryland's Tax General Article. Section 10-912 states that certain tax payments must be withheld when a deed or other instrument that affects a change in ownership of real property is recorded. The requirements of § 10-912 do not apply when a transferor provides a certification of Maryland residency or certification that the transferred property is the transferor's principal residence.

1. Transferor Information	
Name of Transferor: MARY C. CUSIC	

2. Reason for Exemption	
Resident Status	<input checked="" type="checkbox"/> I, Transferor, am a resident of the State of Maryland. <input type="checkbox"/> Transferor is a resident entity under § 10-912(A)(4) of Maryland's Tax General Article. I am an agent of Transferor, and I have authority to sign this document on Transferor's behalf.
Principal Residence	<input type="checkbox"/> Although I am no longer a resident of the State of Maryland, the Property is my principal residence as defined in IRC § 121.

Under penalty of perjury, I certify that I have examined this declaration and that, to the best of my knowledge, it is true, correct, and complete.

3a. Individual Transferors	
 _____ Witness	_____ MARY C. CUSIC Name  Signature
3b. Entity Transferors	
_____ Witness/Attest	_____ Name of Entity By: _____ _____ Name _____ Title

Subscribed and sworn to before me, in my presence, this 28th day of December, 2005, a Notary Public in and for the State of Maryland, County of St. Mary's.

Calvert


 NOTARY PUBLIC
 My Commission Expires: _____

NANCY A. COYER
 Notary Public
 Calvert County
 Maryland
 My Commission Exp. May 1, 2007



Memorandum

Date: January 3, 2024

To: St. Mary's County Government
Department of Land Use and Growth Management
23150 Leonard Hall Drive
Leonardtown, Maryland

Attn: Jessica Burch

From: Keith E. Ulrich – Project Coordinator Engineering
14950 Cooperative Place
Hughesville, MD 20637

Subject: ZONE 24-003 25741 THREE NOTCH RD

Jessica,

Comments submitted on behalf of the Southern Maryland Electric Cooperative (SMECO) to provide comments on the drawings submitted to St. Mary's County Land Use and Growth Management received by SMECO, and currently under review for the above referenced application.

General Comments

1. Additional comments possible with future submittals.

ATTACHMENT 6



St. Mary's County Metropolitan Commission

23121 Camden Way, California, MD 20619

Serving our customers since 1964

www.metcom.org

Potable Water Distribution - Wastewater Collection / Treatment

Phone: 301-737-7400

FAX: 301-737-7459

**TEC AGENCY CONCEPT
APPROVAL TRANSMITTAL**

TO: Department of Land Use and Growth Management

FROM: St. Mary's County Metropolitan Commission

RE: ZONE24-0002 Cusic Properties Zoning Map Amendment – 25741 Three Notch Rd
Control Number and Project Name

DATE: January 10, 2024

The above-referenced project satisfactorily addresses the TEC requirements for concept only and is ready for approval for the Planning Commission, if necessary.

YES ☒

NO ☐

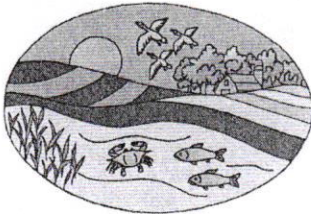
1. Public water and sewer are currently not available, or planned, for the location of this site. On-site systems are acceptable.

SIGNATURE: _____

Anna Wells

Anna Wells, P.E., MetCom Senior Engineer

ATTACHMENT 7



St. Mary's Soil Conservation District

26737 RADIO STATION WAY, SUITE B

LEONARDTOWN, MD 20650

PHONE 301-475-8402 EXT. 3

WWW.STMARYSSCD.COM

MEMO

To: Brandy Glenn, LUGM
From: Bruce Young, St. Mary's Soil Conservation District
Subject: Development Review Application Comments
Date: January 5, 2024


Pursuant to the provisions of St. Mary's County Development Ordinances, the following comments are offered for consideration in review of the project titled: Cusic Properties, LLC zoning number #Zone24-0002.

This submission circulated for review on December 29, 2023 meets the requirements for **Zoning Map Amendment** by this agency as submitted.

YES ☒ NO ☐

Additions and corrections required or recommended by this agency prior to final approval are as follows:

No comments on Zoning Map Amendment. When and if the property owner improves the property, an erosion and sediment control plan may be required.



Bruce Young, District Manager

ATTACHMENT §

ST. MARY'S COUNTY GOVERNMENT
DEPARTMENT OF
PUBLIC WORKS & TRANSPORTATION

James M. Gotsch, P.E.

Director



COMMISSIONERS OF ST. MARY'S COUNTY

James R. Guy, President

Michael R. Alderson, Jr., Commissioner

Eric S. Colvin, Commissioner

Michael L. Hewitt, Commissioner

Scott R. Ostrow, Commissioner

MEMORANDUM

DATE: January 11, 2024

TO: Brandy Glenn, **Planner IV**, Department of Land Use & Growth Management

FROM: Jesse J. Harper, **Engineer III**, Department of Public Works & Transportation


SUBJECT: **Zone24-0002 25741 Three Notch Road (Cusic Property) Zoning Map Amendment**

Agent: Christopher T. Longmore, Dugan, McKissick & Longmore, LLC

Owner/Applicant: Cusic Properties, LLC

This Department has reviewed the application and exhibits submitted for the requested comprehensive plan land use and zoning map amendment changes for the above referenced project.

We have no objection to the comprehensive plan amendment to change the land use from the combined Rural Preservation District and Rural Commercial Limited District to Rural Commercial Limited District or to revising the zoning map to change the zoning districts. If you have any questions regarding these comments, please do not hesitate to contact this Department.


Jesse J. Harper, Engineer III JMG
Jesse.Harper@stmaryscountymd.gov

S:\scanned_images\Site Plans\25741 Three Notch Road Cusic Properties ZONE24-0002\DPW TEC ZONE24-0002 25741 Three Notch Road Cusic Property.doc

ATTACHMENT 9

St. Mary's County Department of
Information Technology

Robert Kelly, CIO



Commissioners of St. Mary's County

James R. Guy, President
Michael R. Alderson, Jr., Commissioner
Eric S. Colvin, Commissioner
Michael L. Hewitt, Commissioner
Scott R. Ostrow, Commissioner

Case No.: ZONE24-0002

ADDRESSING COMMENTS

Review Date: January 3, 2024

DESCRIPTION: ZONING MAP AMENDMENT
25741 THREE NOTCH RD, HOLLYWOOD, MD

OWNER(S): CUSIC PROPERTIES, LC, A MARYLAND LIMITED LIABILITY CO.

AGENT: CHRISTOPHER T. LONGMORE

LOCATION: 25741 THREE NOTCH RD, HOLLYWOOD, MD

Tax ID(S): 06-022901

ACTION: REVIEW OF ZONING MAP AMENDMENT

COMMENTS:

1. Addressing has no comments.

Comment(s) based on the Action Request letter dated 12/28/2023 and received by IT on 01/03/2024 for review. If lot configuration or right of way access is changed, the premise address may need to be re-assigned.

Respectfully,

ATTACHMENT 10

Jackie Green
Addressing Technician
Dept. Information Technology
St. Mary's County Government
Tel: 301-475-4200 Ext. *1544
addressing@stmarysmd.com

From: Jonathan Makhoulf <JMakhoulf2@mdot.maryland.gov>
Sent: Thursday, February 1, 2024 3:44 PM
To: Jessica Burch; Pradip Patel (D5 SHA)
Subject: RE: Zone24-0002

CAUTION: This email originated from OUTSIDE of St. Mary's County Government! Do not click links, open attachments or reply, unless you recognize the sender's Email Address and know the content is safe!

Good afternoon Jessica,

It appears the attachment is for rezoning only and no development proposal is available at this time. As such, we do not have any comments.

Regards,

Jonathan Makhoulf
410.841.1084

From: Jessica Burch <Jessica.Burch@stmaryscountymd.gov>
Sent: Thursday, February 1, 2024 1:51 PM
To: Pradip Patel (D5 SHA) <PPatel10@mdot.maryland.gov>; Jonathan Makhoulf <JMakhoulf2@mdot.maryland.gov>
Subject: Zone24-0002

Good Afternoon,
I am emailing to check on your review status for ZONE24-0002. This was sent over on 1/8/2024. I have attached it again for your reference.

Thank You,
Jessica Burch
Senior Administrative Coordinator
Land Use Growth Management
Department of Development Services
23150 Leonard Hall Drive
P.O. Box 653
Leonardtown, Md 20650
301-475-4200 Ext. 1506

ATTACHMENT 11



Wes Moore, Governor
Aruna Miller, Lt. Governor
Josh Kurtz, Secretary
David Goshorn, Deputy Secretary

January 26, 2024

Ms. Jessica Burch
St. Mary's County DLU&GM
23150 Leonard Hall Drive
P.O. Box 653
Leonardtown, MD 20650

**RE: Environmental Review for ZONE 24-0002 25741 Three Notch Road, Hollywood, Tax Map 20
Parcel 163, St. Mary's County, Maryland**

Dear Ms. Burch:

The Wildlife and Heritage Service has no official records for State or Federal listed, candidate, proposed, or rare plant or animal species within the project area shown on the map provided. As a result, we have no specific concerns regarding potential impacts to such species or recommendations for protection measures at this time. If the project changes in the future such that the limits of proposed disturbance or overall site boundaries are modified, please provide us with revised project maps and we will provide you with an updated evaluation.

If you should have any further general questions regarding this information, please contact me at lori.byrne@maryland.gov or at (410) 260-8573.

Sincerely,

Lori A. Byrne,
Environmental Review Coordinator
Wildlife and Heritage Service
MD Dept. of Natural Resources

ER# 2024.0006.sm

ATTACHMENT 12

ATTACHMENT 13

ATTACHMENT 13

1/6/2025, 11:59:09 AM

Zoning (Sep 2019)

TMX

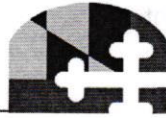


31

3

1:72,224

Printed from the Public GIS Map
Provided by the St Marys County Government



Maryland DEPARTMENT OF PLANNING

December 23, 2024

James Thompson, Chair
Planning Commission
St. Mary's County
P.O. Box 653
41770 Baldrige St.
Leonardtown, MD 20650

Re: Draft St. Mary's County Comprehensive Plan - Land Use Amendments

Dear Chair Thompson,

Thank you for the opportunity to comment on the draft land use map amendments (Plan Amendment) to the St. Mary's County Comprehensive Plan, adopted 2010 (Comprehensive Plan) and Lexington Park Development District Master Plan, adopted 2016 (LPDD Master Plan). The Maryland Department of Planning (MDP) believes good planning is important for efficient and responsible development that addresses resource protection, adequate public facilities, housing, community character, and economic development. Please keep in mind that MDP's comments reflect the department's suggestions for county considerations as the amendment process proceeds.

MDP forwarded a copy of the Plan Amendment to several state agencies for review, including: the Maryland Departments of Transportation, Environment, Natural Resources, Commerce, Environment, and Housing and Community Development. To date, we have received comments from the Maryland Department of the Environment, which are attached to this letter. Any plan review comments received after the date of this letter will be forwarded to you upon receipt.

This Plan Amendment includes proposed land use designation changes for the Cusic Properties, LLC property (Three Notch Rd.), Belden property (Goddard Rd.), and Pax River Village Center properties (FDR Blvd.). As noted in the county's submission materials, all three amendments would require updates to the 2030 Land Use Concept Plan Map on page 4-11 of the Comprehensive Plan. In addition, the Belden Property amendment, if adopted, would require updating the boundary of the Lexington Park Development District in both the Comprehensive Plan and LPDD Master Plan, as well as the property's land use designation in the LPDD Master plan. The Pax River Village Center amendment would similarly require updating the properties' land use designations in the LPDD Master Plan.

MDP notes that the Plan Amendment appears to be driven by property owner applications to both amend the Comprehensive Plan/LPDD Master Plan and rezone the subject properties. Amending the properties' land use designations prior to a rezoning is an appropriate step in the planning process. MDP's comment below do not otherwise address the rezoning requests, which are subject to the decision making and legislative process of St. Mary's County and the requirements of the Land Use Article.

General Comments

- All three proposed land use amendments would increase the economic and residential development potential of the subject properties in areas either already planned for growth, adjacent to existing growth areas, or already containing compatible uses. MDP supports targeted growth planning to enhance economic growth and an increased housing supply.
- As the land use category changes seem to indicate increases in use intensity and development/redevelopment density, has the county conducted an analysis of the impact of the increased intensity/density on future demand and capacity for water and sewer resources? Has the county considered how the increases in intensity/density will impact storm water, nutrient loading, and climate change considerations? MDP's Water Resources Element (WRE) Guidance Update can be used to guide the county regarding best practices for water resources planning.
- The Lexington Park Development District mixed-use land use designation naming appears to be inconsistent across the Comprehensive Plan, LPDD Master Plan, and the St. Mary's County Full GIS Map. For example, the Comprehensive Plan uses the label "Downtown Mixed-Use", while the LPDD Master Plan and GIS Map use "Mixed-Use High Intensity". The county should consider using this amendment process to unify the definitions and labeling of mixed-use categories across all three planning documents.
- If these amendments are adopted, as part of the adoption process the county should also amend the Comprehensive Plan's Distribution by Land Use Table on page 1-6.
- For state roadways, the State Highway Administration's access management policies and processes can guide and support potential developments that may result from the proposed land use/zoning changes.

Cusic Properties, LCC Property - Three Notch Rd. (Tax Map 20, Parcel 163)

This amendment would change the land use designation for a portion of the property from Rural Preservation to Rural Commercial Limited. The property currently has a split designation, with the northwestern portion already designated as Rural Commercial Limited and containing existing small scale commercial uses. The property is not designated as a county growth area nor as a Priority Funding Area and is significantly detached from the Lexington Park and Leonardtown Development Districts.

The Comprehensive Plan describes the Rural Preservation and Rural Commercial Limited Land Use Concepts on page 3-6. The Rural Preservation description acknowledges that nonconforming commercial and residential uses exist in these areas but also states that the designation "limits their expansion and creation". The Rural Commercial Limited description notes that the designation, which this amendment would extend to the entire property, is intended to "not alter the historic character of these areas that are located outside of a development district or town center".

In describing the Rural Commerce Land Use Concept, page 4-25 the Comprehensive Plan states that the expansion of commercial uses in these areas should be "consistent with the principle of the rural preservation district". Finally, page 4-3 of the Comprehensive Plan states that "[n]ew commercial uses must not be scattered along the County's rural roads, but promoted as infill development in and around traditional rural service centers, such as Budd's Creek, Orville, Helen, Avenue, St. James, Dameron and Park Hall". The Cusic Properties, LLC property is not located in one of those rural service centers. MDP acknowledges the practicality and consistency that a unified land designation for this property would

provide, but also suggests that the county consider if the expansion of other small scale commercial uses on this property aligns with the land use descriptions and Comprehensive Plan actions listed above.

Belden Property – Goddard Rd. (Tax Map 51, Parcel 101)

This amendment would change the property's land use designation from Rural Preservation to Mixed-Use Medium Density. The amendment would also extend the Lexington Park Development District boundary to include the property. The property is not designated as a county growth area nor as a Priority Funding Area but is adjacent to the Lexington Park Development District across MD Route 5 and bordered by Mixed-Use Medium Density properties to the west, Industrial and Non-Profit Industrial properties to the north, and other Rural Preservation properties to the east and south.

The county should consider if development in proximity to this property since Comprehensive Plan adoption warrants the amended land use designation. Page 2-1 notes, when describing implementation of the previous 2002 comprehensive plan, that "[b]ecause the Comprehensive Plan reduced the size of the Lexington Park and Leonardtown Development Districts, corresponding areas northwest of Leonardtown and southwest of Lexington Park were down-zoned from Residential Low Density (RL) to Rural Preservation District (RPD)". MDP does not know if the subject property, which is immediately southwest of the Lexington Park Development District, was part of that downzoning, but the reduction in land use intensity/density to support the shrunken growth areas highlights an intentional decision by the county to limit growth southwest of the Lexington Park Development District. Does the county believe that development adjacent to the property, since these down-zonings were enacted, indicates a need to expand the growth area where once it was reduced?

If the county adopts this land use amendment and adds the property into the Lexington Park Development District, it should also consider the impact on the Great Mills Corridor and the county's water and sewer plan (WSP). If added, will the property be included in the Great Mills Corridor Subarea (Subarea and Focus Area Designations Map, Page 1-6 of LPDD Master Plan), to which it is immediately adjacent, and thus be subject to the same strategies described on pages 2-14 and 2-15 of the LPDD Master Plan? The property is also not designated for public and water service in the county's WSP. Does the county intend to amend the WSP to designate the property for service if the amendment is adopted? If so, the county should consider designating the property as Priority Funding Area following adoption of a WSP amendment to plan the property for service.

Pax River Village Center – FDR Blvd. (Tax Maps 43A and 43, Parcels 105, 338, 339, 100)

This amendment would change the properties' land use designations from Limited Commercial/Industrial and Mixed-Use Medium Intensity to Mixed-Use High Intensity. The properties are designated as a Priority Funding Area and included in the Lexington Park Development District's Downtown Subarea. They are bordered by Mixed-Use High-Density properties to the north, Limited Commercial/Industrial properties to the south and east, and parkland to the west.


The proposed land use intensification for the subject properties appears to align with the policies and strategies of the LPDD Master Plan. The "Transforming the Downtown Area" visions on page 1-2 foresee a mix of uses and varied housing options. In describing the Downtown Subarea, the LPDD Master Plan prioritizes two areas for redevelopment, one of which includes the subject properties. The LPDD Master Plan envisions it as a "Downtown Gateway that extends along FDR Boulevard south of Pegg Road. This

area offers easy access to NAS Gate 1 and is envisioned to provide lodging, restaurants, services and activities for tourists and for personnel associated with the NAS" (page 2-2). The Pax River Village Center properties also appear to be labeled as a "Potential redevelopment" area on the Downtown Development Strategy Map on page 2-3. The intensified land use designation would support redevelopment.

The amendment advances compatible use priorities with Naval Air Station PAX River (PAX River) as described in the Comprehensive Plan and LPDD Master Plan. The properties are outside of the Air Installation Compatible Use Zone (AICUZ). The Comprehensive Plan includes a policy to "[e]ncourage building heights that will make mixed use projects economically feasible, except where AICUZ and AE (Airport Environs) zoning districts lower heights" (page 4-7), while the LPPD Master Plan includes recommendations to "[p]romote viable new residential development in and near Downtown outside of the AICUZ" and "[c]ontinue coordination with the Navy to protect the AICUZ for both accident potential zones (APZ) and noise zones pursuant to the latest studies" (page 1-7). MDP encourages the county and property owners to engage PAX River on redevelopment plans for the Pax River Village Center and during the county's comprehensive plan update.

If you have any questions or concerns regarding these comments, please email me at joseph.griffiths@maryland.gov.

Sincerely,



Joseph Griffiths, AICP
Director, Planning Best Practices

Enclosures: Review Comments, Maryland Department of the Environment

cc: Jessica Andritz Esq., Director, St. Mary's County Land Use & Growth Management
Courtney Jenkins, AICP, Deputy Director, St. Mary's County Land Use & Growth Management
Carter Reitman, Lead Housing Planner, MDP
Susan Llareus, Planning Supervisor, MDP



Maryland
Department of
the Environment

Wes Moore, Governor
Aruna Miller, Lt. Governor

Serena McIlwain, Secretary
Suzanne E. Dorsey, Deputy Secretary

St. Mary's County Land Use Map Amendments (60-Day Review)

Maryland Department of the Environment – WSA/WPRPP

REVIEW FINDING: R1 Consistent with Qualifying Comments
(MD20241025-0812)

Water and Sewer:

The properties located at 25741 Three Notch Road, Hollywood, and 20698 Goddard Road, Great Mills are shown as not planned for with water or sewer service in the County's Water and Sewer Plan. If because the change in Landuse would necessitate connection to the service, a Water and Sewer Plan Amendment will be necessary for the properties.

Tier II:

Direct any questions regarding the Antidegradation Review to Angel Valdez via email at angel.valdez@maryland.gov, or by phone at 410-537-3606.

Special protections for high-quality waters in the local vicinity, which are identified pursuant to Maryland's anti-degradation policy.

Anti-degradation of Water Quality: Maryland requires special protections for waters of very high quality (Tier II waters). The policies and procedures that govern these special waters are commonly called "anti-degradation policies." This policy states that "proposed amendments to county plans or discharge permits for discharge to Tier II waters that will result in a new, or an increased, permitted annual discharge of pollutants and a potential impact to water quality, shall evaluate alternatives to eliminate or reduce discharges or impacts." Satisfactory completion of the Tier II Antidegradation Review is required to receive numerous State permits, such as those for wastewater treatment, nontidal wetlands disturbance, waterways construction, and coverage under the general construction permit.

The Tier II review is applicable to all portions of the project within the Tier II watershed of **McIntosh Run 2 & Hillton Run 1**. The Review consists of (1) a no-discharge alternatives analysis which considers if the activity can avoid any impacts to Tier II waters, i.e., an alternative site or strategic design, (2) a minimization alternatives analysis to limit associated water quality degradation, and potentially (3) a mitigation analysis to account for net loss of vital resources such as forest cover. If there is no assimilative capacity within the Tier II watershed identified above, additional social and economic justification for

unavoidable impacts is required. No assimilative capacity means that new water quality data indicates that the Tier II stream segment has degraded below Tier II standards.

To ensure that essential information is provided to MDE when conducting the Tier II Review, MDE has developed forms to assist applicants in completing the no-discharge alternatives analysis, minimization analysis, and mitigation analysis. Adequate completion of these forms and accompanying Tier II report is required to successfully satisfy the Review and is necessary for State permitting and other approvals. A Tier II report template, which uses the information from the completed forms, is also available to help with document formatting and information organization. There are some activities that may require MDE permitting and approval but may not warrant additional Tier II review. Applicants are encouraged to review the Tier II Determination of No Additional Review Form and its applicability to the project before proceeding with the more detailed review analysis explained below.

Determination of No Additional Tier II Review Form V1.1¹

1. Code of Maryland Regulations (COMAR) 26.08.02.04-2 (G(1)) states that "If a Tier II antidegradation review is required, the applicant shall provide an analysis of reasonable alternatives that do not require direct discharge to a Tier II water body (no-discharge alternative). The analysis shall include cost data and estimates to determine the cost effectiveness of the alternatives".
2. This form is for the evaluation of land disturbing activities such as those requiring a nontidal wetlands or waterways construction permit, or a general stormwater construction permit (NOI), to demonstrate that:

- a. the project is exempt from the no-discharge alternatives analysis; and
- b. the project consists of minor, unavoidable impacts to on-site streams, including stream buffers averaging 100'; and
- c. the project will not cause net forest loss in the affected Tier II watershed, or loss will be less than 1 acre; and
- d. all impervious surfaces associated with the project are treated with environmental site design practices, with existing structures with remaining capacity.

Tier II No-Discharge Analysis Form V1.2:²

1. Code of Maryland Regulations (COMAR) 26.08.02.04-2 (G(1)) states that "If a Tier II antidegradation review is required, the applicant shall provide an analysis of reasonable alternatives that do not require direct discharge to a Tier II water body (no-discharge alternative). The analysis shall include cost data and estimates to determine the cost effectiveness of the alternatives".

¹ https://mde.maryland.gov/programs/water/TMDL/WaterQualityStandards/Documents/Tier-II-Forms/TierII_NoAdditionalReview_v1.1.pdf

² https://mde.maryland.gov/programs/water/TMDL/WaterQualityStandards/Documents/Tier-II-Forms/TierII_NoDischargeAnalysis_Form.pdf

2. For land disturbing projects that result in permanent land use change, this 'no discharge' analysis specifically evaluates the reasonability of other sites or alternate routes which could be developed to meet the project purpose, but are located *outside* of the Tier II watershed. Reasonability considerations, as applicable, may take into account property availability, site constraints, natural resource concerns, size, accessibility, and cost to make the property suitable for the project.
3. This analysis shall be performed regardless of whether or not the applicant has ownership or lease agreements to a preferred property or route.

Tier II Minimization Alternative Analysis Form V1.2:³

1. Code of Maryland Regulations (COMAR) 26.08.02.04-2 (G(3)) states that "If the Department determines that the alternatives that do not require direct discharge to a Tier II water body are not cost effective, the applicant shall: (a) Provide the Department with plans to configure or structure the discharge to minimize the use of the assimilative capacity of the water body".
2. This form helps to ensure that water quality impacts due to the proposed project are comprehensively identified and minimized.
3. To demonstrate that appropriate minimization practices have been considered and implemented, applicants must identify any minimization practices used when developing the project, calculate major Tier II resource impacts, consider alternatives for impacts, and adequately justify unavoidable impacts.

Tier II Mitigation Analysis Form V1.0:⁴

1. Code of Maryland Regulations (COMAR) 26.08.02.04-2 (G(3)) states that "If the Department determines that the alternatives that do not require direct discharge to a Tier II water body are not cost effective, the applicant shall: (a) Provide the Department with plans to configure or structure the discharge to minimize the use of the assimilative capacity of the water body".
2. No net change in Tier II water quality is the overarching goal of the Tier II Review, and mitigation is an essential part of the analysis process to reduce cumulative degradation prior to justification of unavoidable impacts.
3. This form helps to ensure that alternatives to mitigate or offset unavoidable impacts to Tier II watersheds and streams are identified and properly implemented.
4. Mitigation and offsets are required before MDE can evaluate any social and economic justifications.

³ https://mde.maryland.gov/programs/water/TMDL/WaterQualityStandards/Documents/Tier-II-Forms/TierII_Minimization_Form.pdf

⁴ https://mde.maryland.gov/programs/water/TMDL/WaterQualityStandards/Documents/Tier-II-Forms/TierII_Mitigation_Form_v1.0.pdf

Construction Stormwater Antidegradation Checklist - Version 1.3⁵

1. To complete the checklist, applicants are required to coordinate with the County or appropriate approval authority when developing construction plans and stormwater management plans.
2. Applicants are required to provide this form when seeking a NOI/DOI for coverage under the General Permit for Stormwater Associated with Construction.
3. Applicants are required to submit a Tier II Letter of Completion before coverage under the General Permit for Stormwater Associated with Construction is granted.

McIntosh Run 2 & Hillton Run 1, which is located within the vicinity of the Project, has been designated as a Tier II stream. The Project is within the Catchment (watershed) of the segment. (See attached map).

Currently, there is assimilative capacity in this watershed; therefore at this time, no detailed social and economic justification is needed.

Planners should be aware of legal obligations related to Tier II waters described in the Code of Maryland Regulations (COMAR) 26.08.02.04 with respect to current and future land use plans. Information on the Antidegradation Policy can be obtained online at:
<https://dsd.maryland.gov/regulations/Pages/26.08.02.04.aspx>
and Tier II Waters are located at
<https://dsd.maryland.gov/regulations/Pages/26.08.02.04-2.aspx>

Planners should also note as described in the Code of Maryland Regulations (COMAR) 26.08.02.04-2(B), "Compilation and Maintenance of the List of High Quality Waters", states that "When the water quality of a water body is better than that required by water quality standards to support the existing and designated uses, the Department shall list the water body as a Tier II water body. *All readily available information may be considered to determine a listing. The Department shall compile and maintain a public list of the waters identified as Tier II waters.*"

Additional Tier II resources are available on the Maryland's High Quality Waters (Tier II) website:
https://mde.maryland.gov/programs/water/tmdl/waterqualitystandards/pages/antidegradation_policy.aspx.

The public list is available in PDF from the following MDE website:
http://mde.maryland.gov/programs/Water/TMDL/WaterQualityStandards/Documents/Tier_II_Updates/Antidegradation-Tier-II-Data-Table.pdf.

⁵ <https://mde.maryland.gov/programs/water/TMDL/WaterQualityStandards/Documents/Tier-II-Forms/Antidegradation-Checklist.pdf>

The interactive Tier II webmap is located at the following website:
(<https://mdewin64.mde.state.md.us/WSA/TierIIWQ/index.html>).

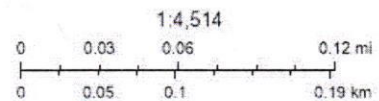
Direct any questions regarding the Antidegradation Review to Angel Valdez via email at angel.valdez@maryland.gov, or by phone at 410-537-3606.

MD20241025-0812 - McIntosh Run 2



11/21/2024, 3:03:30 PM

- MD_ParcelBoundaries - Parcel Boundaries
- Tier II AC Catchments 2022
 - ☐ Assimilative Capacity Remaining
 - ☐ No Assimilative Capacity Remaining
- Tier II Stream Segments 2022
- Tier II Baseline Stations 2022
- ☐ Maryland County Boundaries



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USDA, USFWS, Creator: Maryland Department of the Environment, Water
and Science Administration (MDE WSA), MDE, Maxar

Web AppBuilder for ArcGIS

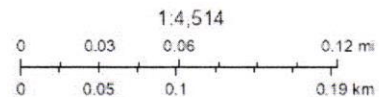
MDE | Creator: Maryland Department of the Environment, Water and Science Administration (MDE WSA) | MD IMAP, MDP, SDAT | Maxar | Esri Community Maps Contributors, Calvert County, St

MD20241025-0812 - Hillton Run 1



11/21/2024, 3:03:24 PM

- MD_ParcelBoundaries - Parcel Boundaries
- Tier II AC Catchments 2022
- Assimilative Capacity Remaining
 - No Assimilative Capacity Remaining
- Tier II Stream Segments 2022
- Tier II Baseline Stations 2022
- Maryland County Boundaries



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**MDE Comments for Environmental Clearinghouse Project
St. Mary's County Land Use Map Amendments
(60-Day Review)**

Response Code: R-1

1. Any above ground or underground petroleum storage tanks, which may be utilized, must be installed and maintained in accordance with applicable State and federal laws and regulations. Underground storage tanks must be registered and the installation must be conducted and performed by a contractor certified to install underground storage tanks by the Land and Materials Administration in accordance with COMAR 26.10. Contact the Oil Control Program at (410) 537-3442 for additional information.
2. If the proposed project involves demolition – Any above ground or underground petroleum storage tanks that may be on site must have contents and tanks along with any contamination removed. Please contact the Oil Control Program at (410) 537-3442 for additional information.
3. Any solid waste including construction, demolition and land clearing debris, generated from the subject project, must be properly disposed of at a permitted solid waste acceptance facility, or recycled if possible. Contact the Solid Waste Program at (410) 537-3315 for additional information regarding solid waste activities and contact the Resource Management Program at (410) 537-3314 for additional information regarding recycling activities.
4. The Solid Waste Program should be contacted directly at (410) 537-3315 by those facilities which generate or propose to generate or handle hazardous wastes to ensure these activities are being conducted in compliance with applicable State and federal laws and regulations. The Program should also be contacted prior to construction activities to ensure that the treatment, storage or disposal of hazardous wastes and low-level radioactive wastes at the facility will be conducted in compliance with applicable State and federal laws and regulations.
5. The proposed project may involve rehabilitation, redevelopment, revitalization, or property acquisition of commercial, industrial property. Accordingly, MDE's Brownfields Site Assessment and Voluntary Cleanup Programs (VCP) may provide valuable assistance to you in this project. These programs involve environmental site assessment in accordance with accepted industry and financial institution standards for property transfer. For specific information about these programs and eligibility, please Land Restoration Program at (410) 537-3437.
6. Borrow areas used to provide clean earth back fill material may require a surface mine permit. Disposal of excess cut material at a surface mine may requires site approval. Contact the Mining Program at (410) 537-3557 for further details.