

**RE: Comments on Draft 2 of the Calvert County Zoning Ordinance**

Dear President Hance, members of the BOCC, Chairman Toohey and members of the Planning Commission,

KCC expressed support for many of the changes proposed in Draft 1 of the Calvert County Zoning Ordinance but identified six issues that raised our concern. We have reviewed Draft 2 with respect to these six issues and offer the following comments:

**I. Rezoning land in proximity to North Beach, Chesapeake Beach and Prince Frederick**

Draft 1 proposes rezoning land in proximity to North Beach, Chesapeake Beach and Prince Frederick from Rural Community District (RCD) to Residential District (RD) and substantially increasing residential development. Townhouses, triplexes and quadruplexes are to be allowed.

Draft 2 still proposes rezoning to Residential District but reduces the maximum density from 4 dwelling units per acre (without TDRs) to 1 dwelling unit per acre (with TDRs). Draft 2 also only allows single family detached dwellings and duplexes.

1<sup>st</sup> draft: 1 du/4 acres (without TDRS); 4 du/acre with TDRs

2<sup>nd</sup> draft: 1 du/4 acres (without TDRS); 1 du/ acre with TDRS

Current ZO: 1 du/20 acres (without TDRS); approximately 1 du/10 acres (with TDRS)

**KCC Comments:** Please do not increase the amount of residential development that is allowed under current zoning unless or until a thorough analysis of potential impacts on roads, schools, aquifers, waterways and county finances is completed and presented to the public for open discussion and debate. Our roads, both state and local, are reaching or have already exceeded capacity and there is no money to pay for improvements. We support continuing to allow 1 du/20 acres (without TDRS) and allowing 1 du/10 acres (with TDRS).

**II. Rezoning land in proximity to Dunkirk, Owings, Huntingtown and St. Leonard**

Draft 1 proposes rezoning land in proximity to Dunkirk, Owings, Huntingtown and St. Leonard from Rural Community District (RCD) and Residential District (RD) to a new category called Rural Neighborhood District (RND), substantially increasing residential development.

1st draft: 1 du/4 acres (without TDRs); 1 du/acre with TDRS

2<sup>nd</sup> draft: No change from draft 1

Current ZO: In most cases 1 du/10 with TDRS

**KCC Comments:** For the same reasons stated above, please continue the current policy of allowing 1/du/20 acres (without TDRS) and allow 1 du/10 acres (with TDRS).

### III. Rezoning certain I-1 Districts to I-MU Districts

Draft 1 proposes rezoning five existing Industrial Districts (I-1) in scattered locations throughout the county to a new zoning category called Industrial Mixed Use District (I-MU). With few if any exceptions, retail commercial uses and fast-food drive-throughs that are currently only allowed in Town Centers are proposed to be allowed in these scattered locations.

Draft 2 only proposes one change from Draft 1: Adult entertainment enterprises are no longer listed as permitted uses in this or any other zoning district.

**KCC Comments** : Allowing additional retail commercial locations and uses, including fast food drive-throughs, outside town centers will hurt businesses that are already located in town centers, particularly local stores and restaurants. It will also further contribute to traffic safety issues – the more turning movements along a highway, the greater the chance for accidents and traffic congestion.

For more than 40 years, the county has pursued a policy of directing commercial growth to town centers in order to a) promote economic development and b) maintain the rural character of the county. It has worked remarkably well on both fronts. Businesses benefit greatly from proximity to other businesses and strip commercial development is kept to a minimum.

Few, if any, reasons have been given in favor of these proposed changes and there has been no analysis of the potential downsides. Two sites are of particular concern: 1) the Industrial Park on MD 231 and 2) the SE corner of Cove Point Road and MD 2/4, next to the Golf Course. KCC supports deleting adult entertainment enterprises.

Please do not increase the amount, location or type of retail commercial uses outside town centers.

Also note:

Home Improvement Center is listed as a Conditional ( C ) use but no conditions are shown (Section 18 F).

The only conditions for General Retail are a floor area ratio of 0.2 and maximum size of 60,000 sf. Many shopping centers are in that size range.

Eating Establishments, with and without drive-through facilities, are listed as permitted uses with no conditions.

#### **IV. Allowing further expansion of Rural Commercial (RC) Districts**

Draft 1 allows expansions up to 50% of site coverage as of the date of adoption of this ordinance and does not prohibit additional Rural Commercial Districts. The current zoning ordinance limits expansion to no more than 50% of the site coverage as of 1984 and specifically prohibits any additional Rural Commercial Districts. **Draft 2- no change.**

**KCC Comments:** Our comments related to the proposed I-MU district (above) pertain equally to RC districts. These proposed changes have the potential to take us right back to where we were prior to the 1983 Comprehensive Plan.

Please put back wording that specifically prohibits additional RC districts and limits expansion to 50% of the site coverage as of 1984. Also, we note that a change was made to the current zoning in 2013 that allows commercial uses up to 60,000 sf in the RC district. Many shopping centers are this size. Please delete wording that allows up to 60,000 sf of retail space in the RC district.

#### **V. Rezoning three sites from I-1 (light industrial) to I-2 (Heavy industrial). These sites are: Calvert Cliffs Nuclear Power plant property, the LNG property (including Cove Point Park) and property on the west side of MD 2/4 across from Lusby Town Center). All three sites are also proposed to be enlarged.**

**Draft 1 (June, 2024)** only proposes rezoning Calvert Cliffs and LNG to I-2. Asphalt plants and heavy manufacturing and assembly are listed as permitted uses.

Draft 2 eliminates asphalt plants and heavy manufacturing and assembly from the proposed I-2 District. It does, however, add data centers as a Special Exception with conditions: The conditions are:

“The Data Center shall be set back 200 feet from all property lines and 500 feet from any lot or parcel with a residential building or active residential building permit, except for adjacent properties under common ownership.”

**Comments:** KCC strongly supports eliminating asphalt plants and heavy manufacturing and assembly uses from the proposed new Heavy Industrial (I-2) District. We recognize that data centers are needed throughout the United States and that data center companies view Calvert County as a very desirable location. However, there are known negative impacts that need to be thoroughly addressed to the satisfaction of residents (particularly those who would live closest to these facilities) before data centers are permitted. They must comply with state and local sound ordinances and meet all the requirements of an Environmental Impact Study. KCC recommends that a citizens advisory committee be appointed and included as part of the County’s negotiation team with full recognition that Calvert County is in a position of strength.

**VI. Minimum size of lots on septic tanks**

**Draft 1 allows lots on septic tanks to be a minimum of 30,000 sf.**

**Draft 2 requires a minimum of 1 acre.**

**Comments: KCC supports the change in draft 2, i.e., requiring a minimum of one acre on lots on septic tanks.**

Dear President Hance and members of the Board of County Commissioners and Chairman Toohey and members of the Planning Commission,

We would like to express our appreciation for the many changes you have made to the draft Calvert County Zoning Ordinance. They will positively improve outcomes related to traffic congestion, traffic safety, the cost of providing public facilities and services and the health and productivity of our farms, forests, wetlands and waterways.

An important step in your decision-making was directing staff to prepare a residential capacity analysis, the first since 2016. This analysis demonstrated that several recommendations in the 2040 Comprehensive Plan would have greatly increased the amount of permitted residential development over what is currently allowed. It also demonstrated that some of the county's existing zoning would potentially allow more residential development than our road system and financial resources can accommodate.

With most of our issues resolved, the following are still of significant concern:

#### **1. RD Residential District**

One of KCC's major concerns, which we've expressed to you in several letters, was the proposal to allow up to 4 dwellings units per acre (with TDRs) within the proposed RD (Residential District) outside Prince Frederick, North Beach and Chesapeake Beach.

Reducing the maximum density in this area to 1 dwelling unit per acre (with TDRs) is a marked improvement. However, we believe this density is still too high, particularly since the proposed ordinance will allow many more conventional lots before the need for TDR lots kicks in, making development much more likely. For example, under the current zoning ordinance, a 100 net acre parcel can create 5 lots before having to purchase TDRs for a maximum of 100 lots. That same parcel, under the proposed zoning ordinance can create 25 lots before having to purchase TDRs for a maximum of 100 lots.

These proposed changes will:

- a) increase traffic on Stoakley Road and German Chapel Road, both of which are narrow, winding roads with no shoulders;
- b) create more road entrances onto MD 2/4 north of Prince Frederick Town Center and onto Dares Beach Road east of the town center, creating still more friction points along these major corridors;
- c) negatively impact environmentally sensitive land outside Prince Frederick, North Beach and Chesapeake Beach.
- d) increase traffic and hazards on Route 260 west of E. Mt. Harmony Road where it narrows to two lanes. This is a busy, high speed commuter route during rush hour with numerous streets and driveways directly accessing it.

We question what possible positive impacts these proposed changes can create. Please defer action on rezoning the Rural Community District (RCD) to Residential District (RD) until a more thorough analysis of potential impacts has been completed.

## **2. Expansion of Rural Commercial Districts**

Thank you for removing General Retail and Drive-thru's Accessory to Eating Establishments in the I-MU (Industrial- Mixed-Use District) and for removing Drive-Thru's Accessory to Eating Establishments in the RC (Rural Commercial District). However, we still have concerns about potential development in the RC (Rural Commercial District). The current ordinance only allows 50% expansion of uses existing as of adoption of the 1984 zoning ordinance. The current draft allows up to a 50% expansion of existing uses as of the date of adoption of this update. We oppose this increase.

Also, the draft wording, intended or not, seems to leave open the door for additional Rural Commercial districts. Article 30-13.G. currently reads: "Any map amendments which result in an expansion of the RC District shall not be permitted". Please ask staff to revise the wording to make it absolutely clear that additional Rural Commercial districts will not be permitted.

## **3. Article 25 – Community Benefit Agreements (CBA)**

This article was added since the August 2024 draft. In fact, it was not introduced to the general public until October 8, 2024, at the BOCC meeting. However, watching the video of the Planning and Zoning's Draft Zoning Ord. presentation, it became very obvious that considerable attention and thought had already gone into this renamed PUD concept. According to the 10/8 discussion, Calvert County is proposing to allow the relaxation of rules governing specific development projects in exchange for "benefits" proffered by a developer. While we are pleased to see it does not include residential development, it is completely unacceptable to introduce such a new concept at this late date.

It was our understanding that if the County does move forward with two Data Centers, to be located in Lusby, citizens were told that the county won't need to worry about tax increases. However, the strong argument for, as Commissioner Hart stated, the need for "circumventing the process", to favor commercial, industrial and institutional developments in the name of supposed tax revenue, contradicts the reasoning for the Data Centers. Any process such as the proposed CBA process which circumvents existing processes in the revised zoning ordinance could be abused in ways not currently understood and which would not respect the will of the people.

Therefore, KCC respectfully request that the Planning Commission defer action on whether to include CBA's into the new Zoning Ordinance until the public has a better understanding of the implications for the County. The CBA language was a late addition after the period for public and State and Local Agency comment had ended. We are particularly concerned with language that allows zoning and other County regulations to be overridden with Planning Commission and County Commissioner approval. Instead of hasty approval, we urge that CBAs go through the normal coordination process that includes public discussion and formal State and Local agency consideration of what CBA's in Calvert would look like and why there would be any need to override County regulations. If this coordination process concludes that CBA's are a good idea, then the Planning Commission can always approve a text amendment for inclusion in the Zoning Ordinance at that time. Please vote to defer inclusion of CBAs until everyone knows a lot more about the implications.

Considering many of the Commissioners' comments at the 10/8 BOCC meeting emphasizing the need for transparency with the citizens, there's no time like the present to prove to the citizens they meant what they said.

**4. Proposed Heavy Industrial (I-2) Districts**

Our initial concerns about the proposed I-2 District have been addressed. We support your efforts to ensure that if data centers are to be located in the County that they be designed so as to address the concerns of residents living in the area and that all environmental concerns be addressed.

Thank you again for the opportunity to comment and for listening.

Susan E. Dzurec

Representative for Keep Calvert Country

**From:** David Bury <burydav@gmail.com>  
**Sent:** Tuesday, November 19, 2024 2:56 PM  
**To:** Planning and Zoning; Zone Ordinance Update  
**Subject:** Comments on Zoning Ordinance Update for November 20 Planning Commission Hearing

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Dear Sirs

County staff has done a great job in producing a Zoning Ordinance draft that more closely takes into account County infrastructure constraints and environmental concerns. I had a chance to meet with Planning and Zone staff last week, who put to rest several of my prior concerns. I do have one remaining concern that I want to raise for the Planning Commission:

**Please Defer Action on Including CBAs.** I respectfully request that the Planning Commission defer action on whether to include Community Benefit Agreements (CBAs) into the new Zoning Ordinance until the public has a much better understanding of the implications for the County.

- The CBA language was a late addition after the period for public and State and Local Agency comment had ended. The Planning and Zoning Department, the Planning Commission and the public do not have the benefit of being informed by these comments prior to tonight's hearing.
- I am particularly concerned with including language that allows zoning and other County regulations to be overridden with Planning Commission and County Commissioner concurrence, especially without understanding what kind of overrides a developer might request.
- Instead of hastily approving the addition of CBAs, I'd urge that CBAs go through the normal coordination process. This would include adequate public discussion and formal State and Local agency evaluation of what CBA's in Calvert would look like and what needs would arise to override County regulations.
- If this coordination process concludes that CBA's are a good idea, then the Planning Commission can always approve a text amendment for inclusion in the Zoning Ordinance at that time. Right now there are too many unknowns.

Please vote this evening to defer inclusion of CBAs in the Zoning Ordinance until everyone understands much more about the implications.

Thank you and best regards

David Bury

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November 18, 2024

**Via Electronic Mail**

Department of Planning and Zoning  
Attn: ZO Update  
205 Main Street  
Prince Frederick, MD 20678  
ZOupdate@calvertcountymd.gov

Re: *Public Comments to the November 2024 Draft Updates to the Calvert County Zoning Ordinance ("CCZO")*

To Whom It May Concern:

This firm represents Running Hare Vineyard, Inc. ("RHV"), a business located in Calvert County at 150 Adelina Road, Prince Frederick, Maryland 20678. RHV's property is located in an Agricultural Preservation District ("APD"). Consequently, RHV will be directly impacted by many of the proposed revisions to the CCZO. Accordingly, on behalf of our client, please accept the following comments to the November 2024 Draft Updates to the CCZO.

- 1) Article 4. Agricultural District, Section 4-2(C) – Uses
  - a. The proposed provision should include language in accordance with COMAR § 15.15.07.04. *See* COMAR § 15.15.07.04 attached hereto as **Exhibit A**. COMAR § 15.15.07.04 sets forth an additional limitation for properties within State and County preservation programs. Specifically, before the Maryland Agricultural Land Preservation Foundation ("MALPF") may approve a request for any use or activity provided in Md. Code Regs. Title 15, Subtitle 15, the County must submit, on behalf of the applicant/landowner, a "written statement from the local planning and zoning office, or the county program administrator, indicating that the proposed use or activity is permitted as of right or by special exception under local zoning." COMAR §c5.15.07.04(c). Related language should be included in the CCZO to advise landowners falling within the purview of both State and County preservation programs of their requirement to meet the County conditions for APD land uses prior to receiving approval from MALPF for State preservation land uses.
- 2) Article 18. Table 18-1 Outside Town Center Uses
  - a. The following proposed revisions to Table 18-1 should be reconsidered:
    - i. Bed & Breakfast Facilities (with up to 2 or 3 to 5 Bedrooms in Use) –

1. Landowners with property in the APD are currently permitted to use their property, so long as they meet the conditions set forth in 3-1.03.(3a) and (3b), as a Bed & Breakfast Facility. For whatever reason, the drafters have removed this use from the CCZO solely with respect to APD landowners. This revision will negatively impact landowners in the APD that currently use their land to operate Bed & Breakfast Facilities. The drafters should reconsider this revision and permit APD landowners to continue to use their land as Bed & Breakfast Facilities so long as they meet the conditions currently prescribed in the CCZO 3-1.03.(3a) and (3b).
- ii. Market, Farmers' –
  1. As drafted, the CCZO would prohibit APD landowners from using their land to host farmers' markets. The drafters should reconsider this decision and allow APD landowners, who own preserved farmland and produce agricultural products on their land, to host farmers' markets where vendors may sell locally produced agricultural products. Permitting APD landowners to host farmers' markets on their farms corresponds with the intent of the APD program, the ideals and goals of the Agricultural Preservation Advisory Board ("APAB", and the mission of Calvert County's Comprehensive Plan.
- iii. Sawmill, Commercial –
  1. As drafted, the CCZO would prohibit APD landowners from using their land to process their own lumber. Forestry and timber operations are prevalent on many APD properties. The drafters should reconsider this decision and allow APD landowners to cut logs that are present on their property into lumber.
- iv. Solar Energy Generating Systems (major and minor) –
  1. As drafted, the CCZO would prohibit APD landowners from using their land to generate their own power. The drafters should reconsider this decision and allow APD landowners to generate their own power and offset their carbon footprint – which corresponds with the intent of the APD program, the ideals and goals of the APAB, and the mission of Calvert County's Comprehensive Plan.
  2. Additionally, the drafters should establish a land use in the APD for Hydropower Generation. APD landowners should be permitted to use their land to generate hydropower.
- v. Food Truck –
  1. As drafted, the CCZO would prohibit APD landowners from using their land on a temporary basis to host food trucks. The drafters should reconsider this decision and allow APD landowners to continue hosting food trucks on their properties to facilitate food service to patrons of farm businesses.
- vi. Rental Facilities on Farmland –
  1. The drafters have modified the Rental Facilities on Farmland use from an Agritourism, Ecotourism and Heritage Tourism Use to a

Temporary Use. This revision will negatively impact landowners previously permitted to use their land as Rental Facilities. Certain landowners generate significant income from utilizing their properties as Rental Facilities and these landowners should not be limited to using their properties as Rental Facilities solely on a temporary basis. Consequently, the drafters should keep the Rental Facilities on Farmland use within the Agritourism, Ecotourism and Heritage Tourism uses.

- 3) Article 18. Uses, Section 18-2(B)(2)
  - a. The proposed provision is misleading. Specifically, the following language should be revised, “[t]he uses listed in this Article apply to APDs in the County Agricultural Preservation Program only. If a property is in a State agricultural preservation program, the uses are required to be permitted by the Maryland Agricultural Land Preservation Foundation.” Because COMAR § 15.15.07.04 requires local planning and zoning to submit a written statement to MALPF indicating that any request for approval of any use or activity made by a landowner in a State agricultural preservation program is permitted as of right or by special exception under local zoning rules and regulations, it cannot always be that the uses listed in this article only apply to APDs in the County Agricultural Preservation Program. Based on the plain reading of COMAR § 15.15.07.04, property in both State and County agricultural preservation programs will ultimately be regulated by both the County APD provisions and the State preservation program codes, as MALPF cannot consider a request for approval of any use before the local planning and zoning office submits a written statement indicating that the proposed use or activity is permitted pursuant to the CCZO.
- 4) Article 18. Uses, Sections 18-3(A)(1) and (B) and (B)(6) – Agritourism, Ecotourism and Heritage Tourism
  - a. The language of Section 18-3(A)(1) – Agritourism Enterprise – is vague and confusing. Specifically, the following language should be revised and/or defined, “such activities shall relate to on premises agriculture and the activities shall be incidental to the agricultural operation.” As drafted, this section will lead to interpretation issues and disputes between businesses, landowners and County agencies. We suggest the drafters include specific examples of those permitted activities, as well as definitions for “relate to” and “incidental to.”
  - b. The language of Section 18-3(B) – Campground, Farm – is vague and confusing. As drafted, it is unclear whether Section 18-3(B) additionally applies to permitted Public Events and/or Agritourism Enterprise activities that incorporate camping on a limited basis – as opposed to being part of the landowner’s day-to-day business operations. Accordingly, we suggest including within the Public Events and/or Agritourism Enterprise land use sections of the CCZO examples of limited camping events/activities that would be permitted land uses separate and distinct from the Campground, Farm land use. Further, the limitations of Section 18-3(B) (i.e., limits on the number of camp sites and excluding RV/Camper camping) should not apply to camping events/activities hosted by landowners in accordance with the Public Events and/or Agritourism Enterprise land uses.

- 5) Article 18. Uses, Sections 18-4(I), 18-4(I)(1)(b), 18-4(I)(4)(a) and 18-4(I)(5) – Farm Alcohol Production Facility
- a. The proposed Section 18-4(I) is unnecessarily limiting. Specifically, the following language should be revised, “[f]acilities include a tasting room and may include retail areas for the purchase of beverages manufactured on-site and items related to beverages manufactured on-site.” This provision conflicts with MD. AL. BEV. § 2-206. *See* MD. AL. BEV. § 2-206 attached hereto as **Exhibit B**. Pursuant to MD. AL. BEV. § 2-206, holders of Class 4 limited winery licenses are not required to manufacture their Maryland-grown agricultural products on-site and therefore landowners using their land as Farm Alcohol Production Facilities, under Class 4 limited winery licenses, should not be limited to the retail sale of beverages manufactured solely on-site. As drafted, this would limit a landowner’s ability to sell beverages they legally manufacture off-site. This limitation does not further the mission of Calvert County’s Comprehensive Plan and is arbitrary. We suggest the drafters revise this provision as follows, “[f]acilities include a tasting room and may include retail areas for the purchase of locally produced beverages and items related to beverages manufactured by the facility.”
  - b. For the same reasons set forth in paragraph (4)(a) above, the language of Section 18-4(I)(1)(b) is unnecessarily limiting and conflicts with MD. AL. BEV. § 2-206. Specifically, the following language should be revised, “[a]t least one of the primary ingredients shall be produced on the farm where the facility is located.” MD. AL. BEV. § 2-206 does not require holders of Class 4 limited winery licenses to manufacture their Maryland-grown agricultural products on-site. Consequently, holders of Class 4 limited winery licenses operating Farm Alcohol Production Facilities should not be required to grow at least one of the primary ingredients for their Maryland-grown agricultural products on-site. We suggest the drafters revise this provision as follows, “[a]t least one of the primary ingredients shall be produced by the facility.”
  - c. The proposed Section 18-4(I)(4)(a) is unnecessarily limiting. Specifically, the following language should be revised, “[t]he items sold are primarily associated with the farm alcohol production facility (e.g., glassware and souvenirs) or are locally produced goods which would be permitted to be sold at an artisan's and crafter's market or farmers' market, as defined by this Ordinance.” This provision conflicts with MD. AL. BEV. § 2-206. Pursuant to MD. AL. BEV. § 2-206, holders of Class 4 limited winery licenses are permitted to sell certain food products. *See* Md. Al. Bev. § 2-206(c)(5)(iii). Consequently, the County should not limit Farm Alcohol Production Facility’s retail sales by excluding items enumerated in the State code. We suggest the drafters revise this provision as follows, “[t]he items sold are primarily associated with the farm alcohol production facility (e.g., glassware and souvenirs) or are permitted items pursuant to MD. AL. BEV. § 2-206(c)(5)(iii) or are locally produced goods which would be permitted to be sold at an artisan's and crafter's market or farmers' market, as defined by this Ordinance.”
  - d. The proposed Section 18-4(I)(5) is misleading. The provision acts to mandate APAB approval of Farm Alcohol Production Facility land use. However, the APAB Rules and Regulations do not grant the APAB the proposed authority. *See* APAB Rules and Regulations attached hereto as **Exhibit C**. Accordingly, we suggest the

drafters remove the following language from the CCZO, “If located in an Agricultural Preservation District, approval of the Agricultural Preservation Advisory Board is required.”

- 6) Article 18. Uses, Sections 18-13(F)(2) – Temporary Uses/Temporary Entertainment
  - a. The language of Section 18-13(F)(2) – Public Events/Public Assemblies on Farmland – is vague and confusing. Specifically, the following language should be revised and/or defined, “[a]n event held on a farm not related to farm activities.” As drafted, this section will lead to interpretation issues and disputes between businesses, landowners and County agencies. We suggest the drafters include specific examples of those activities considered unrelated to farming – examples beyond “performing arts and concerts.”
  - b. The proposed revision to Section 18-13(F)(2), limiting a landowner’s ability to host more than 12 events per year, is detrimental to Calvert County farm businesses. Surrounding counties do not impose similar restrictions on their farm businesses, making it impossible for Calvert County farm businesses to compete with the surrounding counties’ farm businesses. Accordingly, we suggest the drafters remove the limitation on Public Events/Public Assemblies on Farmland, or in the alternative, increase the amount of permitted public events to 50 events per year.
- 7) Article 33. Enforcement, Section 33-2(A)(3) – Zoning Violation Defined
  - a. The proposed revision indicating that a violation of the CCZO has occurred prior to the violative act occurring is troublesome. Specifically, the provision states that “[a]ny advertising or marketing of any use of a property which is impermissible pursuant to this Ordinance” is a violation of the CCZO. The proposed language will ultimately lead to numerous Notices of Violations for what would be pre-violative acts. The CCZO should not authorize violations based on purported events that have not yet occurred. Accordingly, we suggest removing the entirety of Section 33-2(A)(3).

Sincerely,

*Ramsay Whitworth*

Ramsay Whitworth

cc: Meredith McKinnon  
mmckinnon@silvermanthompson.com

Running Hare Vineyard, Inc.  
c/o Matthew Scarborough  
mattscarborough14@gmail.com

John Mattingly, County Attorney  
John.Mattingly@calvertcountymd.gov

# **EXHIBIT A**

LII > State Regulations > Maryland Code of Regulations  
> Title 15 - MARYLAND DEPARTMENT OF AGRICULTURE  
> Subtitle 15 - MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION  
> Md. Code Regs. tit. 15, subtit. 15, ch. 15.15.07 - Approval for Uses of or Activities on Farmland Subject to an Agricultural Land Preservation District or Easement  
> **Md. Code Regs. 15.15.07.04 - Application Procedure**

## Md. Code Regs. 15.15.07.04 - Application Procedure

State Regulations    Compare

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Before the Foundation may consider a request for approval of any use or activity provided by this chapter, all of the following information shall be submitted by the county on behalf of the landowner:

- A. An application for approval that has been completed and signed by all titled landowners that fully and completely describes the proposed use or activity on the farm;
- B. A letter of recommendation from the local agricultural land preservation advisory board or program administrator;
- C. A written statement from the local planning and zoning office, or the county program administrator, indicating that the proposed use or activity is permitted as of right or by special exception under local zoning; and
- D. A written statement from the local soil conservation district that the use or activity does not:

- (1) Interfere in the implementation or maintenance of a best management practice for the farm provided in its soil conservation and water quality plan; or
- (2) Adversely impact sensitive natural resources on the farm, if this statement is requested by the Foundation.

## Notes

Md. Code Regs. 15.15.07.04

### State Regulations Toolbox

- [about](#)

# **EXHIBIT B**

West's Annotated Code of Maryland

Alcoholic Beverages and Cannabis (Refs & Annos)

Division I. General Provisions Affecting Multiple Jurisdictions [Titles 1-8] (Refs & Annos)

Title 2. State-Issued Permits and Licenses (Refs & Annos)

Subtitle 2. Manufacturer's Licenses (Refs & Annos)

MD Code, Alcoholic Beverages, § 2-206

Formerly cited as MD CODE, Art. 2B, § 1-102; MD CODE Art. 2B, § 2-201; MD CODE Art. 2B, § 2-205

## § 2-206. Class 4 limited winery license

Effective: July 1, 2024

Currentness

### **Maryland-grown agricultural product defined**

(a)(1) In this section, “Maryland-grown agricultural product” means any product produced or cultivated on a farm or vineyard in the State.

(2) “Maryland-grown agricultural product” does not include:

(i) cannabis; or

(ii) any other product containing tetrahydrocannabinol as defined in § 36-1102 of this article.

### **Established**

(b) There is a Class 4 limited winery license.

### **Scope of authorization**

(c)(1) A license holder may:

(i) subject to paragraph (2) of this subsection, from available Maryland agricultural products:

1. ferment and bottle wine; and

2. distill and bottle pomace brandy; and

(ii) sell and deliver the wine and pomace brandy to:

1. a holder of a wholesaler's license;
2. a holder of a permit that is authorized to acquire wine or pomace brandy; or
3. a person outside the State that is authorized to acquire wine or pomace brandy.

(2) A license holder:

(i) shall own or have under contract at least 20 acres of Maryland-grown agricultural products in cultivation for use in the production of wine; or

(ii) except as provided in paragraph (3) of this subsection, if less than 20 acres are owned or under contract, shall ensure that at least 51% of the ingredients used in the annual production of the license holder's wine are Maryland-grown agricultural products.

(3)(i) The Secretary of Agriculture each year may grant a 1-year exemption to an applicant from the percentage requirement under paragraph (2)(ii) of this subsection.

(ii) The Secretary shall adopt regulations governing the granting of an exemption under subparagraph (i) of this paragraph, after consultation with the Advisory Commission on Maryland Alcohol Manufacturing, the Maryland Grape Growers Association, the Maryland Wineries Association, and other interested parties.

(4) Except as provided in Subtitle 3 of this title, a license holder need not obtain any other license to possess, manufacture, sell, or transport wine or pomace brandy.

(5) A license holder may:

(i) sell wine and pomace brandy produced by the license holder for on- and off-premises consumption;

(ii) in an amount not exceeding 2 fluid ounces per brand, provide samples of wine and pomace brandy that the license holder produces to a consumer:

1. at no charge; or
2. for a fee; and

(iii) subject to paragraphs (6) and (7) of this subsection, prepare, sell, or serve only:

1. bread and other baked goods;
2. chili;
3. chocolate;
4. crackers;
5. cured meat;
6. fruits (whole and cut);
7. hard and soft cheese (whole and cut);
8. salads and vegetables (whole and cut);
9. the following items made with Maryland wine:
  - A. ice cream;
  - B. jam;
  - C. jelly; and
  - D. vinegar;
10. pizza;
11. sandwiches and other light fare;
12. soup; and
13. condiments.

(6)(i) A caterer is not limited to preparing, selling, or serving only the foods specified in paragraph (5)(iii) of this subsection.

(ii) A license holder or entity in which the license holder has a pecuniary interest may not act as a caterer of food.

(7) Subject to paragraph (8) of this subsection, a license holder may conduct the activities specified in paragraph (5) of this subsection from 10 a.m. to 10 p.m. each day.

(8) Except as provided in Division II of this article, the license allows the license holder to operate 7 days a week.

(9) Nothing in this subsection limits the application of relevant provisions of Title 21 of the Health--General Article, and regulations adopted under that title, to a license holder.

#### **Place listed on license to be in compliance**

(d) The place listed on the license shall be in compliance with § 1-405(b) of this article.

#### **Scope of license**

(e) A license holder may:

(1) store on its licensed premises, in a segregated area approved by the Executive Director, the product of other Class 4 limited wineries to be used at Maryland Wineries Association promotional activities, provided records are maintained and reports filed regarding the storage under this item as may be required by the Executive Director;

(2) distill and bottle not more than 1,900 gallons of pomace brandy made from available Maryland agricultural products;

(3) purchase bulk wine made entirely of Maryland-grown agricultural products fermented by a manufacturer licensed under this article and blend the wine with the license holder's wine and pomace brandy if the aggregate purchase does not exceed 75% of the license holder's annual wine and pomace brandy production;

(4) purchase pomace brandy only for blending with wine;

(5) import, export, and transport its wine and pomace brandy in accordance with this section; and

(6) produce wine and pomace brandy at a warehouse for which the license holder has been issued an individual storage permit, if:

(i) the license holder does not serve or sell wine or pomace brandy at a warehouse to the public; and

(ii) the Executive Director has full access at all times to the warehouse to enforce this article.

**Location**

(f) A Class 4 limited winery may be located only at the place stated on the license.

**Acts allowed with proper records and reports**

(g) If a license holder maintains the records and files the reports that the Comptroller and the Executive Director require, the license holder may:

(1) in the State, conduct winemaking and packaging activities at another federally bonded winery or limited winery; or

(2) outside the State, conduct winemaking and packaging activities, other than fermentation, at another federally bonded winery.

**Additional duties of license holder**

(h) Throughout the winemaking process, the license holder shall:

(1) maintain ownership of the wine or pomace brandy; and

(2) ensure that the wine or pomace brandy returns to the location of the limited winery.

**Annual reports**

(i) The license holder shall report to the Executive Director annually on a form provided by the Executive Director on:

(1) the amount of alcoholic beverages produced under the license;

(2) the amount of alcoholic beverages sold for off-premises consumption; and

(3) the amount of alcoholic beverages served for on-premises consumption.

**Intent to resell**

(j) Except as otherwise provided by law, the license holder may not sell alcoholic beverages for off-premises consumption to a person who intends to resell the alcoholic beverages.

**Fee**

(k) The annual license fee:

(1) shall be determined by the Executive Director; and

(2) may not exceed \$200.

**Credits**

Added by Acts 2016, c. 41, § 2, eff. July 1, 2016. Amended by Acts 2016, c. 8, § 5; Acts 2016, c. 627, § 1, eff. July 1, 2016; Acts 2018, c. 542, § 1, eff. July 1, 2018; Acts 2021, c. 359, § 2, eff. May 18, 2021; Acts 2021, c. 360, § 2, eff. May 18, 2021; Acts 2021, c. 359, § 3, eff. May 18, 2021; Acts 2021, c. 360, § 3, eff. May 18, 2021; Acts 2023, c. 450, § 1, eff. July 1, 2023; Acts 2023, c. 452, § 1, eff. July 1, 2023; Acts 2024, c. 824, § 1, eff. July 1, 2024; Acts 2024, c. 825, § 1, eff. July 1, 2024; Acts 2024, c. 918, § 1, eff. July 1, 2024.

MD Code, Alcoholic Beverages, § 2-206, MD AL BEV § 2-206

Current through all legislation from the 2024 Regular Session of the General Assembly. Some statute sections may be more current, see credits for details.

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End of Document

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# **EXHIBIT C**

# Calvert County Agricultural Preservation Rules and Regulations



Adopted by the Calvert County Board of County Commissioners:  
January 9, 2007  
Amended:  
January 20, 2017  
April 17, 2018

Calvert County, Department of Planning & Zoning  
150 Main Street, Prince Frederick, MD 20678  
410-535-1600 x 2339  
Available on the county's website at:  
[www.co.cal.md.us](http://www.co.cal.md.us)

April 17, 2018

## AGRICULTURAL PRESERVATION RULES AND REGULATIONS

The following Rules and Regulations are adopted for implementation of the Calvert County Agricultural Land Preservation Program under provisions of Article 12, Agricultural Land Preservation Program, Public Local Laws of Calvert County, Maryland.

### I. PURPOSE OF THE PROGRAM.

- A. To offer an incentive for preservation of prime agricultural and forestry land.
- B. To provide reimbursement to the landowner who voluntarily agrees to place agricultural and forestry use covenants on his land.
- C. To utilize the free market system for financing agricultural and forestry preservation, thus avoiding direct cost to the taxpayers.
- D. To guide development away from prime agricultural and forestry lands on which viable farming and forestry endeavors are practical.
- E. To promote and preserve the identity of intact rural agricultural communities where working farms and managed woodlands predominate. (11/4/91)
- F. To minimize potential conflicts between agricultural and non-agricultural land use by providing for a functional separation of the two. (11/4/91)
- G. The purpose of the PAR Fund shall be to purchase, retire and permanently remove TDRs from the development rights market, thereby protecting additional farm land acres from development. (6/1/92)

### II. DEFINITIONS USED IN THESE REGULATIONS.

- A. Agricultural Preservation Advisory Board of Calvert County: A five (5) member Board appointed by the County Commissioners with duties and responsibilities as specified in Public Local Laws and these Regulations.
- B. Agricultural Preservation District: An area of prime agricultural or forestry land voluntarily placed in this Program by the owner with approval of the Board.
- C. Designated Agricultural Area: An area of the County identified by the Board as having the greatest potential for maintaining a viable level of agricultural or forest production.

- D. Development Option: The right of a landowner in an Agricultural Preservation District to convey the privilege that permits a person to increase the density of residential use of land in a designated Transfer Zone.
- E. Development Right: The right an agricultural land owner conveys to a person that permits a person to increase the density of residential use of land in a designated Transfer Zone. A development right comes into existence only after a development option has been conveyed by an owner in an Agricultural Preservation District.
- F. Program: The Calvert County Agricultural Land Preservation Program.
- G. Transfer Zone: An area in Calvert County designated by the County Commissioners as an area where development rights may be used to increase the density of residential use. No Transfer Zone shall be created within a Designated Agricultural Area. (11/4/91)
- H. Development Option Agreement: A recorded instrument which sets forth the provisions of the conveyance of the development options. The format and minimum contents shall be established by the County Commissioners.
- I. Parcel: Any area of land described within a deed recorded prior to APD designation. (7/1/96)

### III. ORGANIZATION AND MEETINGS OF THE BOARD.

- A. The Board shall hold one regular meeting each calendar month, and special meetings as called by the Chairman or Vice-Chairman.
- B. At the regular meeting in January or February, the members of the Board shall elect a Chairman, Vice-Chairman and Secretary to serve for a period of one (1) year. Duties of the officers shall be as described for such positions in Robert's Rules of Order as are appropriate for the Board.
- C. All meetings of the Board shall be open to the public, and notice shall be given of the time, date and place of such meetings.
- D. Business of the Board shall be conducted in accordance with the procedures outlined in Robert's Rules of Order, Article IX.
- E. Order of Business for Regular Meetings shall be:

- Call to Order
- Approval of Agenda
- Reading of Minutes of previous meeting(s) and their approval
- Review of Board Correspondence
- Report of Committees
- Unfinished Business
- New Business
- Adjournment

#### IV. DUTIES OF THE BOARD

- A. Promulgate rules and regulations, and develop procedures for formation of Agricultural Preservation Districts and Designated Agricultural Areas.
- B. Hold a public hearing to present the proposed Program prior to implementation of the Program.
- C. Accept, and approve or reject all applications for Agricultural Preservation Districts and Designated Agricultural Areas.
- D. Promote an open enrollment program annually to attract new landowners to join existing or new Agricultural Preservation Districts.
- E. Record with the Clerk of the Circuit Court in appropriate map of plat form, or by metes and bounds descriptions, all identifications of Designated Agricultural Areas and all designations of Agricultural Preservation Districts.
- F. Record and maintain in the form of an annual summary, all sales of development rights in order to monitor the success and progress of the Agricultural Preservation Program. The identities of individual buyers and sellers of development rights shall not be specified in this summary. (11/4/91)
- G. Conduct a comprehensive review of the Agricultural Preservation Program on the tenth anniversary of the program, or as soon thereafter as is reasonably possible, and to repeat such a comprehensive review at the end of each succeeding five-year period. (11/4/91)
- H. Develop rules, regulations, and procedures for the creation and operation of a Purchase and Retirement Fund for Development Rights. (6/1/92)
- I. Accept, review, and approve or reject all applications for sale of TDRs to the Purchase and Retirement Fund and otherwise administer the operation of the Fund. (6/1/92)

#### V. PROCEDURES OF THE BOARD.

- A. Designated Agricultural Areas.
  - 1. The Board, with assistance of its staff support, and with the aid of appointed committees and County, State and Federal agencies, shall make an inventory of those lands of the County having the greatest potential for maintaining a viable level of agricultural or forestry production.
  - 2. The board shall accept, and shall approve or reject applications from landowners for identification of land as Designated Agricultural Areas. Applications shall be submitted by landowners on forms prescribed by the Board.

3. The Board shall accept, and shall approve or reject applications from farmer organizations and citizen groups or associations for the identification of land as Designated Agricultural Areas.
  4. When an application for a Designated Agricultural Area is approved, notice of the approval shall be furnished to the Department of Planning and Zoning, the Soil Conservation District, the County Commissioners' Office, and the Assessors' Office.
- B. Agricultural Preservation Districts.
1. The Board shall at any time accept, and either approve or reject, applications from landowners for designation of land as new APDs or additions to existing APDs. Applications shall be submitted by landowners on forms prescribed by the Board.
  2. When an application for an Agricultural Preservation District is approved, notice of the approval shall be furnished to the Department of Planning & Zoning, the Soil Conservation District, the County Commissioners' Office, and the Assessors' Office.
- C. Purchase and Retirement Fund
1. The Board shall determine and announce the schedule to be followed for the annual PAR Fund cycle of TDR purchases.
  2. The Board shall determine and announce, on an annual basis, the amount of funding available for the purchase and retirement of TDRs.
  3. The Board shall recommend, for the approval of the Board of County Commissioners, the price to be offered for the annual purchase of TDRs by the PAR Fund. The Board shall consider the value of TDR sales and transfer during the prior year in recommending the offering price.
  4. The Board shall recommend, for the approval of the Board of County Commissioners, the number of TDRs to be sold per application per PAR Fund cycle. The Board shall consider the number of applications received during the prior year and the amount of funding available.  
(4/17/18)
  5. The Board shall review and rank applications according to established criteria in order to determine which applications are to be accepted.
  6. The investment of PAR Fund monies shall be administered by the Board of County Commissioners.  
(6/1/92)

VI. GUIDELINES FOR ACCEPTANCE OF APPLICATION  
DESIGNATED AGRICULTURAL AREA - (DAA)

- A. Present land use must be of a type which will permit continuation or initiation of viable agricultural or forestry production.
- B. At least fifty (50) percent of the total acreage in a proposed area shall be suitable for cropland and/or managed forest land. (11/4/91)
- C. Suitability of soils. Using the USDA Soil Survey of Calvert County as a guide, at least fifty (50) percent of the proposed area shall be in Capability Classes I, II, III and IV, or Woodland Suitability Group I or II. (11/4/91)
- D. Amount of contiguous farmland. The proposed area shall be sufficient to comprise a viable agricultural unit. (11/4/91)
- E. Boundaries of Designated Agricultural Areas should follow, as closely as possible, existing physical separations, such as streams, valleys, roads, etc. (11/4/91).

VII. CRITERIA FOR ACCEPTANCE OF APPLICATION -  
AGRICULTURAL PRESERVATION DISTRICT (APD)

- A. General Requirements
  - 1. The process of creating or joining an Agricultural Preservation District is entirely voluntary. The determination of eligibility and designation of an APD by the Board shall be based on a written application signed by the owner(s) of the property involved. (11/4/91)
  - 2. An Agricultural Preservation District shall remain in effect for a minimum of five years, unless terminated as provided in these Rules and Regulations. (1/20/17)
  - 3. Owners of parcels of land enrolled in districts from which no development options have been used or conveyed, may withdraw their land within five years from the date of enrollment in the program by giving the Board a written notice of such intent at least one (1) year prior to withdrawal. (1/20/17)
  - 4. Owners of parcels of land enrolled in districts from which no development options have been used or conveyed may withdraw their land after five or more years in the program by giving the Board a written notice of such intent at least thirty (30) days prior to withdrawal. (1/20/17)
  - 5. In the event of individual parcels being withdrawn from an APD, any remaining parcels may retain designation as a District, provided they continue to meet all criteria specified in these Rules and Regulations. If the criteria cannot be met by the remaining parcels, then the entire District shall be terminated upon the withdrawal creating noncompliance.

- (11/4/91)  
(9/1/92)  
(1/20/17)
6. After meeting the applicable notice period, the release of an APD shall be executed and recorded in Calvert County Land Records to complete the withdraw process. (1/20/17)
  7. The owner(s) of property designated an Agricultural Preservation District shall voluntarily agree to limit subdivision of their property as indicated in Section IX. of these Rules and Regulations. (11/4/91)  
(1/20/17)
  8. In determining eligibility of a proposed APD, the Board shall consider the present land use, the amount of contiguous farmland, and the uses of adjoining properties as may affect or be affected by the designation. (11/4/91)
  9. A current Soil Conservation Plan, and/or a current Forest Resource Management Plan shall be in effect on all parcels designated as Agricultural Preservation Districts. Compliance with these plans shall be maintained as long as the Agricultural Preservation District remains in effect. (6/1/92)
  10. Once a development right is removed from the District, all parcels within that District are bound by the covenants set forth in the Agreement in perpetuity. (7/1/96)

B. Initial Requirements for APD Designation

The initial minimum requirement to form an Agricultural Preservation District was 300 acres of contiguous land or 500 acres of noncontiguous land. This requirement has been met and no longer pertains to new applications. (11/4/91)

C. Current Requirements for APD Designation

1. Land proposed as an Agricultural Preservation District shall be located within a Designated Agricultural Area (DAA), Farm Community District (FCD), and Resource Preservation District (RPD) or shall consist of fifty (50) or more contiguous acres meeting the criteria for the Agricultural Preservation District, as described below. Exception can only be made for working farms (with Agricultural Use Assessment) along Routes 2, 4, 231, and 260. (7/7/03)  
(12/13/04)
2. For approval as an APD, present land use must be of a type which will permit continuation or initiation of viable agricultural or forestry production.
3. At least seventy-five (75) percent of the total acreage of a proposed APD shall be suitable for cropland and/or managed forest land. (11/4/91)

4. Using the USDA Soil Survey of Calvert County as a guide, land proposed as an Agricultural Preservation District must meet one of the following criteria:
  - a. At least fifty (50) percent of the proposed area shall be in Soil Capability Classes I or II, or Woodland Suitability Group 1 or 2.
  - b. If the property is located within the DAA, or if the application consists of at least 300 contiguous acres (which may be under several different ownerships), at least fifty (50) percent of the proposed area shall be in Soil Capability Classes I,II or III, or Woodland Suitability Group 1 or 2.
  - c. Exceptions may include land areas of lower general capabilities or areas of existing, extensive, specialized production, including but not limited to dairying, livestock, poultry, fruit, tobacco and vegetables.  
(5/1/00)
  - d. If topsoil has been removed from land proposed as an APD, then the Board may require that a new soil survey be conducted by the owner, in order to determine current eligibility under these regulations.  
(9/1/92)
  - e. The Board may approve APD designation for properties in the DAA where an applicant can demonstrate that, through good management and operational practices; his land meets or exceeds the productivity normally associated with the above-mentioned soils.
  - f. In assessing any of the criteria specified in sub-paragraphs (a) through (e) above, the Board may request crop reports in order to verify the viability of the farming operation. Site indices may be needed to determine woodland suitability.  
(11/4/91)
5. No more than fifty (50) percent of an APD may be comprised of floodplain soils having the soils series classification "My" (mixed alluvial).  
(5/3/04)
6. If there is an application for a new APD involving part or all of an existing APD, then the following shall apply:
  - a. If the application pertains to only a portion of an APD:
    - i. The act of creating the new APD shall effectively remove and terminate that portion from the existing district.
    - ii. The remainder of the original district shall meet the requirements for an APD.
    - iii. The time period for which the remainder of the original district is in an APD shall run independently of the new APD, and shall run from the original recording date.
    - iv. The development rights shall be certified and sold as separate tracts.
  - b. If the application pertains to the entire APD, the time period the property must remain in an APD shall be five years from the new date, except in cases where the APD is being re-recorded merely to

correct an error. In that case, the APD time period will run from the original recording date. (4/4/94)

D. Requirements for Joining an Existing APD

1. If a property is located outside a DAA, FCD, or RPD, and adjoins an existing preserved APD, then the minimum acreage to apply for an APD is 25 acres that are actively devoted to Agricultural or Forestry use. However, parcels of less than twenty-five (25) acres may be approved by the Board if the parcel is contiguous with an established Agricultural Preservation District, and located within the DAA, FCD or RPD. (11/4/91)  
(12/13/04)
2. The proposed addition to an existing APD shall meet all other requirements of a new APD as specified in Section C above. (11/4/91)

VIII. CRITERIA FOR ACCEPTANCE OF PAR FUND APPLICATIONS

- A. The Board shall accept applications for the sale of TDRs from the owner of any recorded Agricultural Preservation District. (4/17/18)
- B. TDRs shall be certified before applications to sell to the PAR Fund will be accepted by the Board.
- C. No individual, group of individuals, partnership, corporation, or other legal entity shall have any vested interest in more than one TDR sale to the PAR Fund per cycle. This provision shall not limit the number of PAR Fund applications that may be made by any such entity. (5/1/00)  
(4/17/18)
- D. PAR Fund applications shall be ranked according to the following formula, with those applications receiving the highest ranking being first considered for PAR Fund purchases.

1. LAND USE 33 pts

Active working farm	
60% Tillable	33 pts
40% Tillable	25 pts
20% Tillable	17 pts
Active Tree Farm	13 pts
Undesignated Land	0 pts

Note: An "Active Working Farm" shall be defined as a farm which has been entitled to the Agricultural Use Assessment at least

once in the previous five tax years.

"Tillable" shall be defined as that land which is given the Tillable Class A, B, and C, and Class D Land Valuation by the State Department of Assessments and Taxation.

2. LOCATION (a. plus b.) 25 pts

- |    |                             |        |
|----|-----------------------------|--------|
| a. | In DAA                      | 15 pts |
|    | Not in DAA                  | 0 pts  |
| b. | Adjacent to preserved APD   | 10 pts |
|    | Adjacent to Unprotected APD | 5 pts  |
|    | Not adjacent to an APD      | 0 pts  |

3. SIZE 25 pts

- |            |        |
|------------|--------|
| 100+ acres | 25 pts |
| 75+ acres  | 20 pts |
| 50+ acres  | 15 pts |
| 25+ acres  | 10 pts |
| 10+ acres  | 5 pts  |
| -10 acres  | 0 pts  |

4. SOILS 17 pts

- |                      |        |
|----------------------|--------|
| 50% Class I          | 17 pts |
| 50% Class I and II   | 11 pts |
| 50% Class I, II, III | 5 pts  |
| 50% Class I, II, III | 0 pts  |

5. BONUS POINTS

Ten bonus points shall be given to any property that has not sold any development rights to any purchaser.

- E. In the event that two or more PAR Fund Applications are tied in rank, first priority will be given to the application which has least recently conveyed TDRs to the PAR Fund and second priority will be given to property enrolled in an APD for the longest time. (6/1/92)

IX. CREATION OF RESIDENTIAL AND NON-RESIDENTIAL LOTS/PARCELS,  
COMMERCIAL AND INDUSTRIAL USES, AND WETLAND MITIGATION SITES IN  
APDS.

(10/6/81)  
(2/1/89)  
(4/4/05)  
(1/9/07)

A. Creation of Residential Lots and Non-Residential Lots/Parcels in APDS.

(4/4/05)

With the exception of the following provisions, no major or minor subdivision, as defined by the Calvert County Zoning Regulations, may be created within an existing Agricultural Preservation District.

(6/1/92)

1. Within an approved district, parcels that meet all the criteria for district establishment shall be allowed no more than a given number of residential lots based on the parcel size.

(7/1/96)

a. Parcels having 75 acres or more - 3 lots in addition to the existing house.

b. Parcels having less than 75 acres and at least 50 acres - 2 lots in addition to the existing house.

c. Parcels having less than 50 acres and at least 25 acres - 1 lot in addition to the existing house.

d. Parcels having less than 25 acres - no additional lots or houses are allowed.

(7/1/96)

(12/13/04)

2. All platted lots, whether developed or not, which are included in the application, are counted against the number of lots permitted in "1" above.

3. Tenant houses are not considered as residential lots; however, a tenant house can be used as one of the lots.

(7/1/96)

4. All subdivision of land must comply with the County Zoning Ordinance. As a guideline (to reduce the impact of lot creation on farming and forestry), residential lots are to be less than or equal to three (3) acres in size or twenty-five (25) acres or greater.

(12/13/04)

(4/4/05)

5. A property recorded as a County Agricultural Preservation District may not be subdivided without the specific and written approval of the Agricultural Preservation Advisory Board. All parcels of a district are bound by the district agreement and/or recorded covenants. Board approval is required prior to a lot being designated as a residential building lot. Non-residential parcels/lots are not for residential building purposes.

(7/1/96)

(4/4/05)

6. If a person who owns land within an Agricultural Preservation District has sold all the development rights from the property, but desires to create a lot

for which he is entitled under the above provisions, the owner shall acquire 5 development rights for each lot created. (7/1/96)

B. Commercial and Industrial Uses. (2/1/89)

1. No commercial or industrial use which would require commercial zoning and/or a special exception, other than those directly related to farming or forestry, are allowed in Agricultural Preservation Districts. However, minerals may be extracted from the property provided that the property owner obtains prior approval from the Agricultural Preservation Advisory Board. The Board may apply restrictions on the approval to minimize impact on the farming operation and surrounding properties.
2. No topsoil may be removed from an APD without approval from the Agricultural Preservation Advisory Board. (9/1/92)
3. The operation of a land-clearing debris landfill is allowed on an APD, as long as it meets the following:
  - a. the conditions for a land-clearing debris landfill as set forth in the Calvert County Zoning Ordinance;
  - b. unless debris originates on the site, the landfill must be approved by the Agricultural Preservation Advisory Board;
  - c. the landfill covers no more than five percent of the Agricultural Preservation District;
  - d. the landfill will not be within sight of a public road. (5/1/95)
4. A Commercial Tower with Antennas are allowed on an APD, as long as the tower location receives APAB approval, with the intent that the location will not affect farming or forestry operations and that the access to the tower follows existing farm roads or field edges. (7/7/03)

C. Application for Non-conforming Uses of APD Land.

While an Agricultural Preservation District is in effect, the owners of property enrolled in that District may not make application to any State or County agency for any current or future use of that property which is prohibited by these Rules and Regulations. (6/1/92)

D. Wetland Mitigation Sites in APDs (1/9/07)

Wetland mitigation sites are a permitted use in Agricultural Preservation Districts provided that the property owner obtains prior approval from the Agricultural Preservation Advisory Board. A mitigation site must meet County, State, and Federal regulations. The proposed wetland mitigation site:

1. Must receive prior approval by the Soil Conservation District and must address a water quality issue and have a water control benefit for the Agricultural Preservation District, and
2. Up to 10% of an APD may be included in a wetland mitigation site. For wetland mitigation sites greater than 10% of an APD, the Agricultural Preservation Board may approve the additional percentage if the Soil Conservation District recommends that the additional acreage is needed to adequately address a water quality issue and provided that not more than 5% of the soils in the District having a capability subclass that is not w\* are included in the additional area.
3. If the mitigation site is approved by the Agricultural Preservation Advisory Board, then the practice must be included in the land owner's soil conservation and water quality plan for that parcel.

\*Capability subclass "w shows that water in or on the soil interferes with plant growth or cultivation", Calvert County, Maryland Soil Survey, July 1971, Page 23.

X. DEVELOPMENT OPTIONS (RIGHTS) (10/6/80)

- A. The owner of property designated as an APD is entitled to convey Development Options (rights) for use in a Transfer Zone or in an Agricultural Preservation District for construction of a family or tenant house under provision of paragraph 285, Article 5, Public Local Laws of Calvert County.
- B. An owner of APD designated land may apply to the County Commissioners' Office for certification of Development Options.
- C. One development option shall be allocated per acre of land in an Agricultural Preservation District, except that:
  1. Five (5) development options shall be subtracted for each residence located on a parcel in an Agricultural Preservation District.
  2. Five (5) development options shall be allocated for each one-acre lot authorized in the Rural District under the provisions of the County Zoning Ordinance and not previously used. Five (5) development options shall be allocated for each recorded buildable lot in a district provided that this lot is then subject to all other density criteria under these rules and regulations. (7/1/96)
  3. No development options shall be granted on land which previously has been subjected to recorded restrictive development covenants (indentures) which preclude the subdivision and/or residential development of the land. However, the Board, with the approval of the County Commissioners, may grant development options in those cases where a property can only be preserved through the combined action of state and local land preservation programs, and where such restrictive development covenants (indentures) are

recorded contemporaneously with the Agricultural Preservation documents.  
(8/31/99)

D. Development Options may be conveyed only by use of a Development Option Agreement with format and minimum contents established by the County Commissioners. A title search shall be conducted immediately prior to transfer of Development Rights. (11/2/81)

E. Any sale of Development Rights must entail prior written consent of the owners of all parcels within the Agricultural Preservation District. The recording of covenants and the conveyance of Development Options for any parcel within an Agricultural Preservation District shall encumber all parcels within that District. (11/4/91)

Development Options may not be conveyed unless all owners of each parcel within the Agricultural Preservation District have signed the "Certification of Development Options" and the "Recording of Covenants" forms.

#### XI. PROCESSING OF APPLICATIONS.

- A. In each case of an application for Designated Agricultural Area or Agricultural Preservation District, a staff report shall be prepared for consideration by the Board.
- B. Each applicant shall be notified of the meeting at which his case will be considered, and the applicant will have an opportunity to appear before the Board at that time.
- C. The Board shall consider each case on its own merits, and in conjunction with contiguous or nearby areas previously accepted.
- D. All actions of the Board to approve or reject applications shall be by majority (3) vote, and a resolution shall be adopted for all actions on applications.
- E. Notification of approval or rejection of an application shall be furnished the following:
  - 1. Applicant
  - 2. County Commissioners
  - 3. County Department of Planning & Zoning
  - 4. County Department of Inspections & Permits
  - 5. County Assessor
- F. An official County "Agricultural Land Preservation Program" map, scale 1" = 600', shall be maintained by the Staff Support Office, with copies recorded periodically in the Office of the Clerk of the Circuit Court.

#### XII. APPEAL PROCEDURE.

Any person or persons, jointly or severally aggrieved by a decision of the Board, may appeal the decision to the County Circuit Court in a manner as set forth in Chapter 1100, Subtitle B of the Maryland Rules. The decision of the Circuit Court may be appealed to the Maryland Court of Appeals.