



**ST. MARY'S COUNTY  
COMMISSION ON THE ENVIRONMENT**  
*Nancy P. Smith, Chairman*

August 18, 2005

Board of County Commissioners for St. Mary's County  
P.O. Box 653, Governmental Center  
Leonardtown, MD 20650

Dear Commissioners:

In May, Commissioner McKay requested that the Commission on the Environment take a look at the issues surrounding the county TDR program. We have done individual research, consulted with members of the community and also relied on DLUGM staff to explain the complexities of the present system and the possible changes that have been considered. As we began our own investigation and discussions of TDR issues, we were aware that the Chamber of Commerce was working on the issue and a TDR program proposal which they brought before you last month.

Given our general review of TDR programs, review of issues raised concerning the county's specific program provisions, and apparent consensus surrounding the Chamber's proposal, the members of the Commission on the Environment feel it will be useful to provide our comments on the Chamber of Commerce proposal rather than on TDR programs generally. The Chamber has proposed specific revisions to the Ordinance which we agree appear necessary and capable of streamlining the administration of the county TDR program, that will begin to address the proliferation of rural area development in the county, and can enhance rural land protection through use of TDR's.

We have the following comments related to the Chamber's proposal, to the TDR program generally, and additional related observations which we hope will be useful to the Board of County Commissioners as you discuss managing development in the county and consider adoption of revisions to the TDR program.

- 1) We believe that there is a need to look further at targeting an area of the county specifically for agricultural preservation and to enhance use of TDR's in those areas to curtail the proliferation of large developments which negatively impact farm activities.
  - We support the concept of an Agricultural Preservation Focus Area as recommended in the draft Land Preservation, Parks and Recreation Plan, and request that the Board favorably consider adoption of the LPPRP and implement the focus area recommendations of that plan.
  - We suggest that the Board consider a possible revision to the TDR program to provide bonus TDR's for preserved land in the established Agricultural Preservation Focus Area (e.g. 1 extra TDR for each 20 acres protected or allow transfer from the focus area at the current 1: 3 rate rather than 1: 5 as proposed by the Chamber)
  - We suggest that the Board consider a possible revision to the ordinance to limit the ability to use TDR's to increase density above 1 dwelling per 5 acres everywhere in the Agricultural Preservation Focus Area and also limit increases for major subdivisions placed on parcels that adjoin properties in MALPF or county agricultural preservation districts.
- 2) We believe that affordable housing incentives must be built into the TDR program and other aspects of the zoning ordinance as a means to promote sustainable development patterns which are essential to environmental protection and efficient planning. People need to live where they work to reduce pollution, transit costs, etc. We concur with Commissioner McKay's stated

concern that, given the existing difficulty experienced by many average wage earners working to afford a house in St. Mary's County, the TDR requirements of the ordinance should not further drive up the cost of housing. We believe the TDR program and the zoning ordinance can be used to encourage the development of affordable housing. We strongly support the Chamber's recommendation that the county retain an affordable housing density incentive in the ordinance but request the Board consider whether there are other options for providing affordable housing that also promote use of TDR's and help direct growth.

- First, we believe the Board needs to establish affordable dwelling standards that assure that dwellings are truly affordable. The recent housing studies indicated that smaller houses and dwelling types other than single family homes are needed to offer more options to home buyers and renters. To meet that need, we suggest the Board consider both the factors related to the floor area and/or footprint of the dwelling unit as well as factors related to the price of the unit :
    - Link the affordability standard to the floor area of the structure. Homes with small footprints are not only likely to be more affordable, they have an added benefit that have they smaller environmental impacts. Total floor area of homes could also be linked to the impact fee so that small floor area or small footprint homes pay less than large floor area or large footprint homes. This may encourage smaller development footprints that can result in reduced negative impacts to water quality and habitat associated with excessive stormwater runoff and removal of extensive areas forest and farm.
    - In the ordinance update for the OBP, consider linking TDR's to floor area ratio for structures containing the dwellings rather than to unit count. This might encourage builders to create more small affordable units rather than fewer large less-affordable units. (e.g. if a TDR is required for each 2,000 square feet and a developer builds a 80,000 square foot residential building he could have sixty-six 1,200 square foot apartments or twenty-six 3,000 square foot houses but both development would cost 40 TDR's)
    - Establish clear affordability standards designed to meet median to lower income levels. We believe it will be a disservice to our community to call a unit "affordable" when its cost is equal to or above the current average home price for the county (which at the end of 2003 was nearly \$290,000 dollars).
  - Once affordable standards are determined, the Board might consider reducing the number of TDR's required for affordable units placed in the rural area and further reduce or eliminate TDR requirements for affordable units placed in growth areas.
  - The Board might also consider a requirement that all major residential developments include one affordable housing unit for every ten constructed.
- 3) We believe there is significant value in streamlining the TDR administration process and support allowing calculation of TDR's from sensitive areas provided there is an offsetting increase in the acres required per TDR. However, we are concerned that the revision of the ordinance to allow calculation of development rights on sensitive areas also needs to be balanced with added measures to discourage landowners in rural areas from primarily selling TDRs from land that is currently protected from development. While we fully appreciate that formal protection of these lands is important to protection of our environment, we request the Board solicit ideas to encourage preservation of developable farm and forest land. We offer the following two ideas that we have discussed.
- Require that any major development requiring TDR's obtain a minimum percentage of those TDR's from otherwise developable land.

- Increase the sending rate for TDR's from land that is managed under an implemented "Soil Conservation and Water Quality Plan" approved by the Soil Conservation District, a "Nutrient Management Plan" approved by the Maryland Department of Agriculture or a "Forest Management Plan" approved by the Maryland Forest Service. This could provide incentives for landowners who are actively managing their land for agriculture, livestock and forest income to sell TDR's (e.g. retain the 1: 3 rate if the land is managed under such a plan and 1:5 if it is not). This may have an added benefit of encouraging more owners to implement BMP's and other land management practices that reduce sediment and nutrient pollution and protect water quality.
- 4) We support the Chamber's recommendation that TDR's and provision of affordable housing become the only means to increase residential density in the growth areas (although the proffer and construction of critical Infrastructure may be a third means). However, we reiterate our recommendation contained in a prior correspondence regarding the OBP and DMX zones that the methods formerly included in Schedule 32.2 that allowed density increase should become formal requirements for development under the general standards of Chapter 52 of the zoning ordinance. The St. Mary's River Watershed Association and the Commission on the Environment had provided suggested text to implement this recommendation.
  - 5) We believe the Board should consider requiring minor subdivisions be reviewed for the adequacy of all public facilities in rural areas but continuing to allow minor development without APF in growth areas. This could provide added incentive to provide infill development in the growth areas and would allow small builders the opportunity to continue development but to focus their efforts in growth areas.

While we ask you to consider the above comments, we want to urge you to move forward on the Chamber's proposal. The well-reasoned approach and the clear consensus support for the proposed revisions is very valuable and should not be overlooked. In our opinion the proposal represents significant first steps to streamline and enhance the TDR program and can result in better rural area protection.

While we hope you will move forward, we also feel there are additional areas related to receiving areas that need to be considered; areas upon which the Chamber could not reach consensus. The Commission on the Environment intends to continue soliciting information and input about additional enhancements to the TDR program and ordinances, primarily focusing our efforts on enhancements that address use of TDRs in receiving areas.

Thank you for considering this letter and report on our review of the county's TDR program and current proposals for revisions to the program. The Commission on the Environment will continue to comment on ordinance revisions and will bring to your attention those ideas and proposals which we feel can enhance the quality of life and environment for all citizens of St. Mary's County and that we believe will be worthwhile for the Board of County Commissioners to consider.

Yours truly:

Nancy P. Smith, Chairman

c: Denis D. Canavan  
COE members