

X. LAND USE AND ZONING

1. Synopsis of Existing Land Use and Zoning

a) Description of Deale / Shady Side

The Deale / Shady Side area has been throughout history, intimately linked to the fortunes of the land and water. Early Native Americans camped, hunted and fished in our fertile fields and waters. Colonial settlers established the coastal fishing and trading communities of Deale, Galesville and Shady Side, each area offering ready access to the abundance of the Chesapeake Bay. In the mid 1900's, the area's proximity to Baltimore and Washington inspired the development of beachside vacation and weekend cottage communities such as Avalon Shores, Snug Harbor, Cederhurst, Franklin Manor, and Mason's Beach.

In the 1960's and 1970's, a profound change began to occur that would forever alter the future of the community. Coincident with a general decline in the oystering and fishing industries, more weekend cottages were being converted to full time homes, and new residents moved into the area, eager to escape the congestion and hustle and bustle of the cities and suburbs. Since 1960, the population of the community has increased from 4,737 people to 10,929 people (131%). It wasn't long before overtaxed septic systems, coupled with a high water table led to a serious public health hazard in many communities. The Broadwater sewage treatment plant was constructed to resolve the problem, and additional capacity was provided to support a significant increase in the local population. During this time, when local attitudes were more favorable to increased residential development, large parcels of land throughout our community were zoned for residential uses.

The community let it be known in recent public forums that there is no desire to accept the results of unbridled and ill-planned growth or development. The accelerated growth in recent years has brought an awareness of the negative impacts that can occur to the community's culture, sustainability, ecological integrity and quality of life. It has become obvious that the qualities that attracted people to the area need to be preserved. Therefore, it is time for a reappraisal of the future direction of Deale /Shady Side Area.

The land use and zoning recommendations contained herein reflect the desire of the committee and the community to preserve a sense of belonging, a sense of place, a sense of safety, and a sense of connection with nature, and to provide a business climate which meet peoples' needs and lifestyles and respects the scale and rustic ambiance of our community.

b) Special Considerations

- **Peninsula Configuration**

The geography of the Deale / Shady Side area typifies that of a low-lying alluvial plain. The highest elevation noted is ten feet with the average nearer to seven. Thousands of

years of deposition have created a series of peninsulas fanning out from the higher elevations in the west. Many coastal villages are located on peninsulas and are served by single access roads emanating from a larger arterial road. This configuration presents special problems for land management. The prospect of large numbers of people relying on a single route into and out of their communities creates a number of safety issues, which are explored more fully in the Transportation section of this Plan. Land use and zoning decisions must be cognizant of this limiting factor, and population and housing densities must be appropriately constrained to the level able to be supported by peninsula roads.

- **Low Altitude – High Water Table**

The low-lying nature of the Deale / Shady Side area presents difficulties when designing adequate stormwater management (SWM) facilities. The preferred method of constructing “retention ponds” and percolating water into the ground is precluded by the low permeability of the soils and the fact that any SWM pond will immediately fill with ground water. As a result, new subdivisions are constructed with “detention ponds”, designed only to hold water for a short period and release water to the creeks and rivers at low velocities. Unfortunately, this method is rarely successful because the flatness of our terrain doesn’t support moving water at even modest velocities. During rainy periods it is routine to see drainage swales full of standing water and large areas of seasonal ponds. When new rains occur, water rushes directly to our streams and creeks. Little or no quality or quantity management occurs and pollutants are quickly transported to the Bay. Land use and zoning must recognize these inherent restrictions to good stormwater management, and plan new development with caution, sensitive site design, and recognition of the fundamental limits to the carrying capacity of the land and soils.

- **Extensive tidal and non-tidal wetlands**

Deale /Shady Side contains an abundance of both tidal and non-tidal wetlands. Among other known benefits to the community (more completely discussed in the Environmental Section of this Plan), these areas provide stormwater buffering to ameliorate the problems noted above. There are a number of factors that have contributed to the general decline of these important resources. To ensure the future existence and viability of these critical resources, land use and zoning must regard them as extremely important, and disallow their disturbance except under the most extraordinary circumstances.

- **Antiquated lots**

Many of the villages in the planning area were designed fifty to seventy years ago to be primarily vacation and weekend get-a-ways. They tend to be small lot, densely spaced, water privileged communities. There are approximately seven hundred vacant lots of this type scattered throughout the Deale / Shady Side area. Taken individually, construction of houses on these lots could not occur under present day zoning standards. However, building is usually permitted through grandfathering and variances to buffers. While there are legitimate “takings” issues to assess, it is clear that some reasonable modifications to these rules are necessary. In order to protect the general health and welfare of the

community, construction on these small parcels should be held to the highest standards possible under the circumstances.

• **Private well water**

The Deale / Shady Side area is not served by any municipal water supply. All potable water is privately drawn by well from a series of underground aquifers. Water levels in these aquifers have been dropping over one foot per year for at least the past twenty years¹. This situation cannot be sustained indefinitely, yet there is no comprehensive County and State plan to deal with the ultimate depletion of this important resource. Since no population can exist without a reliable supply of drinking water, it is crucial that a comprehensive water management plan be developed.

2. General Recommendations

A) Population Growth

Uncontrolled population and housing growth is the fundamental threat to the welfare and quality of life of the Deale / Shady Side area. This issue is clearly recognized by the residents of the area and was reported most often as the number one concern during the public forum. Although the issues of over development and sprawl are gaining widespread attention at every level of public and private consciousness, as a practical matter little has been accomplished to effectively address the problem. The General Development Plan, and the State’s “Smart Growth” initiative bear witness to the recognition that action must be taken.

Existing Demographics and Projections of Deale / Shady Side

Population	1960	-	4,737
	2000	-	10,929 (+ 131%, [County Overall +133%])
	2020	-	13,488 (+ 23%, [County Overall + 11%])
Housing Units	2000	-	4,748 (Based on 1990 Census 2.785 people/house)
	In-Fill Potential ²		681 (Provided by OPZ)
	Vacant Land Pot. ³		3,538 (Provided by OPZ)
	Potential Total=		8,967 Housing Units

Limited and Managed Growth – grow at a managed rate towards specific targets for capping housing. There are many specific reasons included in this plan for managing land use and zoning. For example, in order to ensure the health of the local waterways, restrictions on development along the waterfront and regulation of storm water runoff are both appropriate and desirable. However, in a larger sense limiting the total potential

¹ From observation well AA Fe 48, “Hydrographs of measured and simulated hydraulic heads in wells screened in the Aquia aquifer, 1965-1990”.

² In-Fill Potential is difficult to accurately assess. Many lots may never be built upon for a variety of reasons. This represents a worst case scenario.

³ Vacant Land Potential is determined by calculating a complete build out of all existing vacant land under the residential density allowable by current zoning classifications.

buildout and managing the rate of growth must have more generalized objectives. The obvious question is, what are the appropriate caps and rates of growth? Within the context of answering this question, we must take care to ensure the following:

- Recognize the linkage between economic vitality, environmental protection and the community's social fabric. Create opportunities for satisfying livelihoods, and a safe, healthy, high quality life for current and future generations.
- Rehabilitate inadequate infrastructures – schools, roads, transportation, recreational facilities, storm water management, etc.
- Require sensitive site design and efficient development patterns, i. e. compact, contiguous open space, transit-oriented, pedestrian friendly, and ecologically sound.
- Identify critical areas, habitat and natural resources which need protection, then create habitat corridors, green spaces, land and water trails, to enhance linkages to the Bay watershed.

Capping Housing:

- **Issue:** It is clear that the population and housing stock cannot continue to grow indefinitely without at some point, transforming Deale / Shady Side into an entirely different community than what is seen today. There are many other areas where this may be a laudable goal. However, it is also clear that the majority view expressed by the citizenry is to maintain the scale and rustic nature of the community in its current form. The difficulty lies in determining the threshold point for future development, beyond which everyone agrees is excessive. However, it is necessary to attempt to define targets if we are to express legitimate concerns in this regard.

RECOMMENDATIONS:

1. In-Fill Development

- Most in-fill potential lies in the older, clustered communities near the Bay. Public sewer now serves most of these communities and it can be expected that in-fill development will continue. However, an unknown number of these lots will never be developed for a variety of reasons, e.g. they may be second and third lot ownership of a primary lot owner, or be part of a remaining “developer’s interest”. **It is recommended that the County undertake a study program to review and evaluate these lots as either buildable or not buildable.** Some of the contiguous parcels may be candidates for land purchase by the government or private trusts. Others in close proximity to the water, could serve as wetland bank lots, or be candidates in a transferable development rights program.

2. Vacant Land Potential

It is clear from the statistics noted on page 77 that a complete buildout of the remaining vacant land would adversely affect both the natural environment and the quality of life in the community. **In order to lower the potential residential housing development, it is recommended that large parcels of vacant property currently zoned R1, where no sewer is present, and the soils are environmentally sensitive be down zoned to Residential Low Density (RLD).** This is in accordance with the GDP, which states that *in low-density residential zoning (R2 or less) sewer is generally not planned and that new residential growth will be discouraged in these areas.* In addition, the County Code lists the following description for the RLD zone.

“The purposes of an RLD-Residential Low Density District are:

- (1) To serve as a buffer or transitional area between designated development areas;
- (2) To foster environmentally sound development in areas of environmental concern; and
- (3) To provide for low density residential development in areas that are rural in character and where farming is not the predominant land use activity.”

Managing the Rate of Growth:

Issue:

The rate of new residential development in the community over the past forty years has essentially stripped the capacity of the entire public infrastructure with the exception of sewer. There has been a measured and noticeable decline in the quality of local waterways, particularly at the headwaters of our streams and rivers. The West River now seriously lags other Bay tributaries in measured water quality. Less than judicious use of waivers and variances has permitted development to go forward without proper supporting infrastructure and adequate storm water management. The following are some of the tools and techniques that can be used to manage growth rates in both economic and environmental terms, so that its impacts do not diminish the quality of life in the community.

Recommendations:

- **Adequate Facilities Ordinances** - The chief mechanisms for managing the rate of development are the Adequate Facilities Ordinance (AFO) in the Anne Arundel County Code. At the time of their creation, the AFO’s were widely popular and had the support of most politicians. However, as they are currently drafted the AFO’s have had mixed success in preventing the overcrowding of local schools and roads and ensuring the adequacy of storm

drainage. Yet in principle the AFO's provide an excellent method to control development. Properly drawn and applied, they can ensure that new development will not overwhelm the public and natural infrastructure. **It is recommended that, as part of the planned general revision to the subdivision regulations, the County revise the statute to provide clear, concise and predictable regulatory language.**

Issue:

The Deale / Shady Side area draws all its potable water from a system of underground aquifers. Most residential users draw from the relatively shallow Aquia Aquifer. Test well monitoring has revealed that the water level in the Aquia has been dropping over one foot per year over the past 20 years. Every estimate indicates that this rate will continue or increase in the future.

Recommendations:

- **Community Wells** All new commercial and major subdivision developments should be required to construct wells into the Magothy or below aquifers, thus preserving the Aquia for existing well replacement and new single lot construction.
- **Agricultural Wells** All wells currently used for agricultural irrigation that are utilizing the Aquia Aquifer should be removed. All new wells for this purpose should utilize the Magothy or below aquifers. Financial assistance necessary to re-drill deeper wells, and construct any necessary treatment facilities could be borne by a number of Federal, State and County agricultural preservation program funds.
- **Aquifer Recharge Areas** Recharge areas for the most widely used Aquia and Magothy aquifers should be inventoried and mapped onto County planning and zoning documents. Land use in these areas should be of a type that stresses low impervious surface usage, such as open space and parkland. Special concerns should be noted for usage's that might involve toxic chemical handling and use, and quality treatment of stormwater runoff should be held to tighter standards.
- **Quality and Quantity Monitoring** The State and County should immediately undertake a joint comprehensive monitoring program to provide baseline data to support future land use decisions and to inform and assure citizens of the quality and non-toxicity of their drinking water.

B) Environmental Protection

It is without question that the single most defining characteristic of the Deale / Shady Side area is the proximity to the Chesapeake Bay and its tributaries. Every facet of life in the community is ultimately linked to the fortunes of the Bay. It is more than just a moral imperative to protect its viability and integrity, the Bay is so deeply woven into the community's social fabric that it is fundamental to the economic and cultural existence. Even considering the use of the most technologically advanced and zealously enforced pollution controls each additional resident constitutes a net draft against the finite resources of the Bay. Ironically, public environmental policy towards the Bay reveals that while we hold its waters and their creatures to be a public trust, to be held in stewardship for future generations, the surrounding land remains a free market commodity, its best use determined by the short-term economics of individual gain.

Issue:

Given the current state of the art in stormwater management and the uneven application and enforcement of anti-pollution and Critical Area regulations, it is impossible for the Deale / Shady Side area to support dramatic increases to the population and housing stock within the community, without serious and intolerable degradation to the surrounding wetlands, waterways and the Chesapeake Bay itself.

Recommendations:

- As indicated in the General Development Plan, sensitive natural features in the community should be inventoried and accurately mapped. Any proposed major development within the Critical Area or any other area containing known or suspected sensitive environmental features should have an “**Environmental Assessment**”. This should be a comprehensive report that describes:
 - (a) The natural features and characteristics of a proposed development site;
 - (b) The changes that will occur as a result of the proposed development activities on the site;
 - (c) The anticipated environmental impacts and consequences of the proposed development; and
 - (d) Mitigation measures required to avoid impacts to any environmental features.
- To protect the integrity of wetlands the Office of Planning and Zoning is recommending that a review of current practices be evaluated regarding the subdivision of parcels containing non-tidal wetlands and the platting of private lots in the non-tidal wetlands and their buffer zones. Consideration will be given to future lot layout and how that may impact wetlands and whether or not full density should be allowed for a parcel that contains wetlands.
- Consideration will also be given to developing regulations that would link wetlands together and possibly plat them as part of open space within the subdivision, and protected by a conservation easement.

- As long as the Chesapeake Bay Water and Habitat Quality Monitoring Program (MD DNR) continues to rate water quality in the West River and Herring Bay watershed as “poor”, developers should be required to meet County standards for water quality. Subdivision waivers for stormwater quality should be disallowed in these watersheds.
- Problems continue to exist with the maintenance of vegetated buffers around tidal wetlands and shoreline in the Critical Area. Current law requires these buffers to remain undisturbed; however, numerous instances of clearing routinely take place. P & Z’s position is that enforcement is difficult considering the miles of shoreline that must be monitored and the limited availability of enforcement personnel. The following is recommended as a positive adjunct to enforcement monitoring and penalties:

Since it is clear that a “water view” on waterfront property is a positive value (and accounts for most clearing activities) the maintenance of a vegetated buffer of 100 ft. or 150 ft. that would obstruct this view reduces the intrinsic value of a property. The County should provide a suitable adjustment of the property tax levied on waterfront property if a fully vegetated buffer is maintained. This could easily be monitored by the State tax assessor during his/her three-year visit, with a small amount of training. Such a tax incentive may actually encourage the creation of new buffer where none currently exists.

State programs of technical assistance, mandated requirements, increased enforcement, and reforestation programs should also be used in these cases.

- Agricultural activities that take place in the Critical Area should be more closely monitored to ensure that the use of fertilizers, pesticides and herbicides are not entering local waterways. In particular, the use of treated sludge and other sewage byproducts, which might contain various amounts of toxic material, should be of heightened concern. Waterways adjacent to these operations should be periodically monitored for quality and farming practices should be routinely inspected and evaluated. The Soil Conservation District Office should survey the Critical Area for these activities and initiate such a monitoring program where appropriate.

C) Commercial Zoning

The location and extent of commercially zoned properties in the Deale / Shady Side community has been the subject of much debate. There is an expressed interest by the citizens to restrict commercial development to an extent that is appropriate to the small-scale nature of the community. In addition, it is recognized that a viable and dynamic business community is essential to the long-term health and sustainability of the area. Treading the line between these sometimes disparate goals often proves to

be an elusive endeavor. The following general considerations have guided the specific community recommendations in this regard:

Recommendations:

Existing commercial areas in the Deale/Shady Side Planning Area should be confined to their current extent and not permitted to “sprawl” together along major arteries.

- The existing commercially zoned areas in the Deale/Shady Side Planning Area should be confined to their current extent, beyond which, further commercial zoning will not be permitted to sprawl along major arteries. These boundaries are those as currently shown as commercial zoning for Deale, Shady Side, Churchton and Galesville.
- Except for the Village Commercial Centers of Deale and Churchton, commercial development should be restricted in type and scale to that permitted in the “Local Commercial Zone” – C1 zone.

D) Non-Conforming Uses

The subcommittee studied each of the 20 non-conforming uses that are indicated in the County provided data. Non-conforming uses generally occur when an area is zoned or rezoned to a particular zoning district and one or more parcels in the area have a predominant use that is not permitted in the new zoning classification. The use of the parcel is allowed to continue although the zoning of the surrounding neighborhood is substantially different. A typical example of this situation is the Shady Oaks Marina, which is located in a R2 zoned community. The current land uses of these properties are not representative of the surrounding neighborhoods. To rezone these parcels could be interpreted as a change in character of their neighborhoods, and possibly give rise to the formulation of criteria for rezoning adjacent properties. **No changes to the zoning on any of the non-conforming properties is recommended.**

3) Specific Community Recommendations

A) Galesville

Overview: The community of Galesville was founded in the 17th century and today represents a classic example of a small rural waterside village. The mix of businesses runs the gamut from heavy industrial pier and bulk-heading enterprises to quaint tourist oriented boutiques. Galesville is a favorite boating destination and caters to a wide variety of marine interests. Beyond a few remaining residential infill parcels and the usual turnover of shops and restaurants, there is little land use activity or potential in Galesville. It is the expressed desire of the residents and business owners in this community to maintain the small-scale, boating oriented nature of this wonderfully quaint waterside village.

Issue:

A number of possibilities exist for the use of the Carrie Weedon property. It is currently being used as a science center for educational purposes, however there are a number of other ideas under consideration, such as reopening it as an elementary school in the County system, or creating an adult education extension service.

Recommendation:

The SAP Committee recommended that the parcel be rezoned to open space, however it is county policy that public uses, schools etc. be zoned compatible with surrounding residentially zoned property.

Issue:

The approved land use map in the General Development Plan designates the farm property located at the entrance to Galesville as “Rural Agricultural”. However, the current zoning stipulates residential development at one house per acre density (R1).

Recommendation:

Correct the GDP Land Use map for the farm property located at the entrance to Galesville to indicate the classification of “Residential Low Density instead of “Rural Agricultural”.

B) West River

Overview: The West River portion of Deale/Shady Side is located roughly south of Galesville along Muddy Creek Road and around the headwaters of the West River to Churchton. The area is mostly sod farms and open space, punctuated by the communities of Shady Oaks, West River Estates, Back Bay Beach and Cederlea. A major concern for this area is stormwater flows into the headwaters of the West River from the surrounding communities, the sod farms, and higher elevation farms to the west of Muddy Creek Road. In addition, the portion of Muddy Creek Road that transits the area is one of the most accident-prone stretches in the area.

Issue:

A considerable amount of actively farmed property located east of Muddy Creek Road and south of Galesville is currently zoned for residential density at one house per five acres (RLD).

Recommendation:

All but a small portion of this property is located in the Resource Conservation Area of the State Critical Area Program. This restricts the allowable housing density to no greater than one house per twenty acres, regardless of the underlying zoning classification. Therefore, no land use changes are indicated.

C) Deale

Overview: Located on the upper reaches of Rockhold Creek, the village of Deale has seen better days. In the past, “Downtown Deale” was the commercial center of the local community. The usual service businesses of gas stations, pharmacy, food stores, etc. made up the center of town. As the populations in the surrounding communities shifted to more commuter oriented people, the retail business sector shifted towards the major arteries and Deale became, “off the beaten path.” Today, “Downtown Deale” is an excellent candidate for revitalization. Because of the proximity of several large and growing marinas, future commercial development in Deale should emphasize and support the boating industry and public, and portray itself as a destination town in a fashion similar to other successful waterside villages.

Issue:

Pending a final version of the County’s mixed use zoning proposal, Deale appears to be a good candidate for a “Community Mixed Use” category as referenced in the General Development Plan (GDP). As of this date, Rhodeside and Harwell Incorporated is studying Deale, and has submitted a draft report that is currently being evaluated by our committee.

Recommendations:

- Several vacant parcels within the Deale village area could be candidates for a town community center and public water access. The County should aggressively pursue these possibilities.
- As a function of any comprehensive plan for the Deale village, a commercial growth boundary should be delineated around the town to eliminate future sprawl beyond the study area.

Issue:

The parcels of land located on the southwest corner of the intersection of Deale Churchton Road (MD 256) and Bayfront Road (MD 258) and bounded by Swamp Circle Road are currently zoned C3 and R5. These parcels are extremely sensitive in nature and contain heavily forested non-tidal wetlands. They are located at the headwaters of Rockhold Creek and Herring Bay, waterways currently under close scrutiny for pollution control by a number of agencies. These properties are clearly not appropriate for “regional” large-scale commercial development.

Recommendations:

Any development of the commercial parcels be held to the highest standards under the law. In addition no waivers, variances, or special exceptions should be

granted that would compromise the environmental integrity of this site and the surrounding waterways.

- The C3 zoning of this commercial district is particularly inappropriate and not in keeping with the desire to maintain this area in a small-scale rural village context. It is recommended that the commercial properties in the vicinity of this intersection currently zoned C3 be rezoned to C1.

D) Shady Side

Overview: The community of Shady Side is an insular residential village with ingress and egress by a single road, MD 468. The present population is estimated at 5,000 residents. Geographically, the area is characterized by low lying and poorly draining soils and was once known as “the Great Swamp.” Preserving rural vistas and open space and protecting water quality were among the highest priority concerns of residents, as expressed in the first public forum of the Small Area Planning process. Similarly, residents resoundingly voiced an appreciation of the small-scale nature of businesses and support for marine-related activities. The Shady Side peninsula has finite resources. Only so much growth in human population can take place to maintain the quality of life that residents value for themselves and for the area’s wildlife resources and the Chesapeake Bay.

Issue:

The unsafe condition of Shady Side Road east of Churchton has reached alarming proportions. To allow significant increases in traffic volume, without meaningful improvements to this dangerous road would place the lives and well being of the community’s citizens in grave jeopardy.

Recommendation:

Additional large-scale development that would feed traffic volume onto this road will have negative effects. The SAP committee recommends that all major subdivision and project proposals that would create additional traffic volumes on Shady Side Road should be denied requests for waivers for the adequacy of roads until such time as significant road improvements are made, as described in the transportation section of this plan.

Issue:

Residents of Shady Side are happy with its small scale. Informal polling and the Small Area forum support this conclusion. Shady Side is serviced by two small grocery stores, a gas station, several restaurants, churches, a post office, etc., making it generally self-sufficient.

Recommendation:

Recommend that any new commercial development in Shady Side be limited to land that is already zoned commercial and that the small-scale nature of its businesses be retained.

Issue:

There is a 6.5-acre waterfront parcel (formally owned by John Hopkins) that is located on Parish Creek off of the West River. This tract should be considered as a prime site for purchase by the county to provide a range of recreational and community services. A community center, continuing education classes, fishing pier and boat slips for watermen were activities that could have been provided at this location.

Recommendation:

Recommend that the county negotiate with the new owner to develop a range of compatible recreational and community uses, which would compliment the new industrial activities that may occur on the property. The owner has indicated an interest in pursuing joint activities that would benefit his operation and the community.

Issue:

The Sewer Service Map currently depicts sewer to be brought into the RCA of the Critical Area on the property located at the headwaters of South Creek.

Recommendation:

This designation (as a planned sewer service area) should be removed.

E) Churchton (Oakland)

Overview: The intersection of Muddy Creek Road (MD 468) and Deale Churchton Road (MD 256) is dominated by the Smith LumberYard. Otherwise, this area is a rather nondescript road intersection with commercial enterprises catering mostly to commuter traffic (gas stations, banking, convenience stores, etc). The redevelopment of the Smith tract is the predominant land use subject at this location, and may stimulate pressure for further commercial land use. Residents of Shady Side have voiced concerns that their only road off the peninsula can become blocked or congested at this point. The area has notable drainage problems during storm events (contributing to the upper West River SWM runoff problems) and is generally surrounded by non-tidal wetlands.

Issue:

Muddy Creek Road north of this intersection is the *only* road into and out of the Shady Side peninsula. Traffic disruption at this intersection, due to either road blocking accidents or traffic congestion, is an important safety issue for the 5,000 plus residents of Shady Side.

Recommendation:

Redevelopment of the Smith property at the intersection of MD 468 and 256 should include a bypass roadway connecting Muddy Creek Road with Deale Churchton Road around the existing intersection.

Issue:

Part of the property located on the southwest corner of this intersection, across from Smith's is currently zoned C-3, for commercial development. Although there may be significant wetlands on the site it is felt that the commercial area should be rounded out in this location and be compatible with immediately adjoining zones.

Recommendation:

Rezone a portion of this already split-zoned property to the following: Leave the currently zoned C-3 portion in place and rezone the RA piece adjacent and between another C-3 piece to C-1. In addition rezone the RA piece on the southern boundary adjacent to MD 256 to R-1.

F) Comprehensive Zoning

The plan makes the following recommendations with respect to the individual applications for zoning that have been submitted during the comprehensive application period.

- ❑ The plan opposes all requests for residential zonings that would increase the allowable housing density.
- ❑ The plan opposes all requests to convert residentially zoned property to commercial, industrial, or marine uses that are outside of the established commercial area boundaries, except for those noted in that SAP Plan.
- ❑ The plan recommends that individual commercial and industrial rezoning requests that are within the established commercial area boundaries be judged fairly on their own merits.

4) Anne Arundel County Land Use Regulations

Issues and Recommendations:

1) Clustering

Issue:

Article 26 and 28 of the Anne Arundel County Code specifies the requirement under which subdivisions may be created using a technique called “clustering”. Clustering is a form of development where buildings in a project are grouped together into compact arrangements, or clusters, while portions of the site are preserved as permanent open space. Instead of subdividing an entire site (or most of it) into large, uniformly sized residential lots, the lots are permitted to be much smaller in clustering. The County Code states that clustering can, “provide home buyers a choice of lot sizes according to their needs and preserving open space, tree cover, scenic vistas, natural drainage ways, and outstanding natural topography.”⁴ Properly administered, the clustering technique can be a win-win proposition for both developers and conservationists. Developers can offer a wider range of lot and house sizes to suit individual tastes, eliminate the visual monotony of “cookie cutter” parceling, and reduce construction costs by requiring less ground clearing, less paving, and shorter utility lines.⁵ For conservationists and others interested in maintaining the integrity of existing rural communities, clustering can incorporate the protection of existing farmland, forests, wetlands and floodplains, recharge and wellhead areas, prime soils, and vegetated areas important to the protection of the Chesapeake Bay water quality.

Clustering regulations can be used as an important tool for protecting rural lands and minimizing impacts on public services and natural resources. It is questionable whether otherwise unbuildable land should be counted in the density calculations for clustering.

The plan recognizes that this issue needs to be reviewed and if appropriate draft revisions to existing regulations to make them more clear and definitive. A study of this issue will include whether or not to allow the acreage in wetlands to be used toward density at all.

2) Grandfathering

Issue:

This term is applied to situations where lots or parcels, which were recorded in the land records of the County, were approved for development even though they do not conform to today's regulations. Grandfathering is appropriate in some cases, for example where applying today's regulations would make the lot or parcel useless,

⁴ Anne Arundel County Code Article 26, Title 4, sub. 1, paragraph 4-101

⁵ The National Association of Homebuilders 1976 Report, “Cost Effective Site Planning in Single Family Development”

thus constituting a constitutional "taking." However, the language covering this question has been loose enough to have allowed some inappropriate development.

Recommendation:

The confusion over this language is unnecessary and should be remedied during the re-drafting of the regulations.

Issue:

In 1992 the State of Maryland created a "Smart Growth" vision as part of the 1992 Growth Act legislation. "A centerpiece of this legislative package is the Priority Funding Areas legislation, which limits most State infrastructure funding and economic development, housing and other program monies to Smart Growth Areas which local governments designate for growth."⁶ State funding for projects in Maryland municipalities, other existing communities, industrial areas, and planned growth areas designated by counties will receive priority funding over other projects. "Priority Funding Areas are locations where the State and local governments want to target their efforts to encourage and support economic development and new growth.

Recommendations:

The Plan recognizes that the designation of the Deale-Shady Side Small Planning Area as a Priority Funding Area is for the purpose of seeking State of Maryland assistance to fund public capital projects and redevelopment initiatives to meet the adopted goals of the Deale-Shady Side Small Area Plan.

The Priority Funding Area designation does not mean the area is targeted for residential and commercial development and growth beyond that envisioned in the GDP (23 percent population growth over 20 years).

Issue:

The County Code contains a number of instances where a performance bond is required to ensure the proper adherence to appropriate building regulations. In addition, the violation of regulations can in some circumstances invoke the issuance of a monetary fine on the lawbreaker. In many instances the posting of bonds and the levying of fines are considered the price of doing business and are not providing the necessary inducements to following the appropriate regulations.

⁶ Taken from the State of Maryland web site.

Recommendation:

A number of county regulations are under review for comprehensive revision. Regulations related to performance bonds and penalties for violations should be reviewed with the objective of creating greater public incentive to follow the intent and letter of the law.

MAP

SAP Proposed LAND USE

INSERT MAP

OPZ PROPOSED LAND USE

INSERT MAP

EXSISTING ZONING

INSERT MAP

Deale/Shady Side Zoning Applications

Reference Number	Property Owner's Last	Property Street Address	Tax Map	Tax Parcel	Acres	Property Use	Existing Zoning
DSS059	Crandell	Muddy Creek Road	68	226	2.84	Pasture	RLD
DSS058	Crandell	4949 Muddy Creek Road	68	199	1	Sod Farm	RLD
DSS060	Crandell	Muddy Creek Road	68	75	8.6	Investment	RLD
DSS061	Crandell	4941 Muddy Creek Rd. – Sudley	68	115	15	Sod Farm	RLD
DSS062	Crandell	Muddy Creek Road	68	249	2.5	Pasture	RLD
DSS063	Moreland	Owensville Road	68	52	0.3	Agriculture	C1
DSS031	Crandell, Inc.	733 Crandell Road	68	216	2.6	Commercial	RLD, C4
DSS031	Crandell	733 Crandell Road	68	216	2.6	Commercial	RLD/C4
DSS032	Crandell	Crandell Road off Muddy Creek Rd.	68	181	2.6	Commercial	RLD
DSS057	Crandell	Muddy Creek Rd-West River	68	261	11	Agricultural	RLD
DSS027	Crandell	1014 Benning Road	69	407	2	Industrial/Marina	W2/R2
DSS019	Holder	Holder Property/W. River Rd.	69	592	112	Farmed	R1
DSS013	Steinfeld	6131 Shady Side Road	69	68	.5	Physician's office	C1B
DSS033	Crandell, Inc.	Crandell Road	69	977	4	Vacant	RLD
DSS054	Lowe	6146 Shady Side Rd.	69	210	1	Day Care Ctr.	R1
DSS075	GoGarte, LLC	6285 & 6303 Shady Side Road	69	110	0.5	Commercial	R1
DSS005	Sheckells	4853 Woods Wharf Road	69	122	4	Marina	W2

Reference Number	Property Owner's Last	Property Street Address	Tax Map	Tax Parcel	Acres	Property Use	Existing Zoning
DSS006	Holder	West River Rd.-Holder Property	69	592	N/A	Farmed	R1
DSS038	Wagner Steamboat Landing	4835 Riverside Drive	69	568	0.3	Restaurant	R2
DSS025	Mallicote	Crn Franklin Manor/Deale Churchton	74	319	1	Unimproved	R2
DSS010	Fischel	5558 Muddy Creek Road	74	0527	.5	Animal Hospital	C3
DSS024	Mallicote	5850 Deale Churchton Rd.	74	180	3.11	Rental Hse/Garage	R5
DSS023	Hecht	5761 Deale Churchton Road	74	324	3	Under Development	C3
DSS022	Crandell	968 Franklin Manor Road	74	154	25	Agricultural	R1/OS
DSS018	Moore	5839 Swamp Circle Rd.	74	234	10	Agricultural	R1
DSS015	Tucker	5841 Deale-Churchton Rd.	74	270	3.5	Residential	R1
DSS014	Safeway, Inc.	E. Bay Front Rd/Swamp Cr Rd.	74	179	11	Unimproved	C3/R5
DSS011	Schwartz/Hein	5801 Deale Churchton Rd.	74	325	1.13	Office Bldg.	C3
DSS009	King	5558 Muddy Creek Road	74	0522	N/A	Grocery Store	C 3
DSS008	Saini	Swamp Circle Road	74	311	3	Residential	R1
DSS007	Cifizzari	5482 Muddy Creek Road	74	281	1	Apartments	R1
DSS076	Miller	5500-5600 Shady Side Road	74	14 & 15	30	Auto Repair, Gas Sales, Convenience	C3/R1
DSS003	Hospice of Chesapeake	560 E. Bayfront Road	74	117	111	Vacant	R1
DSS012	Weinberg	530 E. Bay Front Road	74	506	23	Vacant	R1

Reference Number	Property Owner's Last	Property Street Address	Tax Map	Tax Parcel	Acres	Property Use	Existing Zoning
DSS071	Fraser	5416 Deale Churchton Road	74	307	37	Residential	R1
DSS069	Churchton Farms, Inc	5472 Deale Churchton Road	74	188	14	Vacant	R1
DSS036	Griffith	5724 Deale Churchton Road	74	0186	6	Commercial	C3
DSS074	Knessi	Deale Beach Road	74	472	1	Commercial	C3
DSS034	Gott	5805 Deale Churchton Road	74	340	1.2	Bulk Fuel Storage	C3
DSS072	Wheatley/ VanAlstine	5737 Swamp Circle Road	74	363	10	Residential	R1
DSS040	Churchton Center, Inc	5419 Deale Churchton Road	74	81	1	Commercial/ Multi-Use	R1 Non Conformir C1
DSS039	Green	5807 Swamp Circle Road	74	310	1	Residential	R1
DSS037	Tucker	5849 Deale Churchton Rd.	74	411	1.7	Metal Refinishing	W2
DSS035	Wellons	5819-5823 Deale-Churchton Rd.	74	194	0.7	Pkg Goods/Deli	C3
DSS004	Moore	6101 Drum Point Road	77	238	.5	Tavern/Resid	R5
DSS001	Dickerson	5949 Rockhold Creek Road	77	158	2	Marina	RA
DSS002	Dickerson	5945 Rockhold Creek Road	77	291	2	Marina	RA
DSS070	Deale Marine Center	5923 Deale Churchton Road	78	130	5.5	Marine Repair	MC,C3, & R5
DSS056	Deale Marine Center	5918 Deale Churchton Road	78	7	8	Marina	R5/MC
DSS048	Magenau	776 Mimosa Cove Road	78	217	1.4	Residential	R2
DSS047	Magenau	Deale Beach Road	78	75	N/A	Vacant	R2 & R5

Reference Number	Property Owner's Last	Property Street Address	Tax Map	Tax Parcel	Acres	Property Use	Existing Zoning
DSS051	JWL Associates	Mimosa Cove Road	78	235	1	Vacant	W2
DSS053	Magenau	Fronts on 5863 Deale Churchton Rd	74	235	N/A	Commercial	W2
DSS052	CMI Associates	Fronts on 5871 Deale Churchton Rd.	74	235	N/A	Commercial	W2
DSS050	JWL Associates	Mimosa Cove Road	74	235	N/A	Vacant	W2
DSS044	Lowe ++	5541 Muddy Creek Road	74	393	1	Vacant	C3/RA
DSS043	Churchton Properties Inc. ++	SW Corner Rt. 468 & Rt. 258	74	17	13	Vacant	C3/RA
DSS042	Magenau ++	Interior Property off Muddy Creek Road	74	103	3.5	Vacant	C3/RA
DSS041	Churchton Forest Conservation Venture	5561 Muddy Creek Road	74	351	20	Vacant	C3 & RA
DSS046	FDA Partnership ++	5511 Muddy Creek Road	74	21	1	Vacant	C3
DSS073	Churchton Properties, Inc. ++	5521 Muddy Creek Road	74	17	13	Undeveloped	RA
DSS045	FDA Partnership ++	5517 Muddy Creek Road	74	20	11	Vacant	C3/RA

DEALE/SHADY SIDE SMALL AREA PLAN
COMPREHENSIVE LAND USE & ZONING RECOMMENDATIONS

<i>AREA</i>	<u>PARCEL</u> #	<i>CURRENT</i> ZONING	<u>SAP</u> REC
On the North & South Sides of Galesville Road, Near the Entrance to Galesville from Muddy Creek Road.	521	R1	RA
East of Muddy Creek Road between Galesville and Churchton	Many	RLD	RA
Norman’s Retreat	278	R1	RA
Carrie Weedon Center		R-2	OS
Churchton			
“across from Swamp Circle Saloon	524,525	R1	
“vacant land across from Paceway (owned by T. Magenau)	351	Split C3 and RA	C1/R1
Properties North of 258, West of 256	Many	R1	RA
Commercial properties at intersection of 256 & 258	Many	C3	C1
South of 258, and on both sides of Swamp Circle Road, Just east of Rockhold Creek	Many	R1	RLD
South of West River Road	592	R1	RLD
West of Shady Side Road, near the mouth of the West River	92,793, 89, 780,784, 69	R1	RLD
Franklin Point		R1, RA	OS

INSERT MAP

PROPOSED ZONING