



Maryland DEPARTMENT OF PLANNING

October 15, 2021

Wayne G. Magoon, Chair
Charles County Planning Commission
200 Baltimore Street
La Plata, MD 20646

Dear Mr. Magoon:

Thank you for the opportunity to comment on the draft 2021 Charles County comprehensive plan amendment (CPA) of the Newburg Community, and for your participation in the state agency plan review process. The Maryland Department of Planning (Planning) believes that good planning is important for efficient and responsible development that successfully addresses resource protection, adequate public facilities, community character, and economic development.

The CPA proposes a tier map and land use change for 901 acres situated between US 301 and the Potomac River. Planning is providing the county with specific comments regarding this amendment to assist the county as it moves forward with consideration and adoption of the CPA. To date, we have not received additional comments from other state agencies. Any plan review comments received after the date of this letter will be forwarded upon receipt.

Please consider that Planning's attached review comments reflect the agency's recommendations and observations on ways to strengthen the CPA, as well as satisfy the requirements and intent of the Land Use Article. Planning respectfully requests that this letter and accompanying review comments be made part of the county's public hearing record. Upon adoption of any plan amendments, please submit an electronic copy of the updated Charles County Comprehensive Plan to Planning.

If you have any questions, please feel free to contact Sarah Lipkin Sularz, CC-P, Regional Planner, at Sarah.LipkinSularz@maryland.gov.

Sincerely,

Charles W. Boyd, AICP
Director, Planning Coordination

Enclosures: Comments on the draft 2021 CPA, 2014 Planning Tier Map Letter to Charles BOCC, 2014
Planning Analysis of Charles County Adopted Tier Map

cc: James B Campbell, Director, Charles County Planning & Growth Management
Joseph Griffiths, AICP, Local Assistance and Training Manager
Sarah Lipkin Sularz, CC-P, Planning



Maryland DEPARTMENT OF PLANNING

Maryland Department of Planning Review Comments October 15, 2021 Draft 2021 Charles County Comprehensive Plan Amendment

The Maryland Department of Planning (Planning) has reviewed the Draft 2021 Charles County Comprehensive Plan Amendment (CPA) and offers the following comments for your consideration. These comments are offered as suggestions to improve the draft CPA as it relates to the Charles County Comprehensive Plan, “Quality Places, Natural Spaces” (Adopted: July 12, 2016) (Plan) and better address the statutory requirements of the Land Use Article. Planning received the submission package from Charles County for the Newburg Area land use and tier map designation amendments on August 21, 2021.

Internal Planning divisions and other state agencies have been sent the formal 60-day review notice to review this draft. To date, Planning has not received any comments from other state agencies. If comments from other agencies are subsequently received by Planning, they will be forwarded to the county in a timely manner.

Summary of the Draft Amendment

This is a limited amendment of the tier map and land use plan in the Plan. The Septic Tiers Map was adopted in 2014 under Title 1, Subtitle 5 of the Land Use (LU) Article of the Annotated Code of Maryland.

Newburg is an unincorporated area located in the southeastern portion of Charles County. The 901 acres of land in question is located between US 301 and the Potomac River, south of Pope’s Creek Road. These acres are a part of the Potomac River Watershed. While no text changes to the Plan are proposed, the following map changes are included in the amendment:

1. Amend the tier map designation for the unincorporated Newburg Community from Tier II to Tier IV.
2. Amend the land use plan for approximately 901 acres of land around the unincorporated community of Newburg from Rural Residential to Agricultural Conservation District.

Minimum State Law Requirements for Charter Counties

Maryland’s Land Use Article sections § 1-406 through § 1-412 set forth the required components of a local comprehensive plan for Charter Counties (also applicable to Code Home Rule Counties) but does not mandate a specific format. As such, local governments have addressed these required elements in a manner that fits the needs of their community and the resources available to respond to the issues explored during the planning process. This amendment includes land use map amendments as guided by the Land Use Article sections above and septic tier map amendments as guided by Land Use Article Title 1, Subtitle 5 and § 5-104.

Consistency Findings:

Planning commends the county on the desire to preserve land. The proposed land use change is consistent with the existing zoning designation of Rural Conservation. The area is not within a Development District nor is it designated as Priority Funding Area (PFA). There are a few sites within the 901 acres which are identified with Maryland Inventory of Historic Places on the Charles County GIS interactive map online. Minor instances of wetlands are also identified on this land. Planning's sewer service area GIS dataset shows no existing or planned sewer service for this area, and the proposed septic growth tier IV designation does not conflict with any municipal tier maps.

According to Planning's review records from 2014, the department recommended that Charles County reexamine its quantity and location of Tier II lands. According to Planning's 2014 letter and "MDP Analysis of Charles County's Adopted Tier Map" (attached), over 50% of Tier II land was designated as conservation land use. According to Planning's [SB236 Guidance Document](#), the definition of a Tier IV area can have a primary public intent articulated in local comprehensive plans and/or zoning ordinances for protection, preservation, or conservation of agricultural, forestry, natural and/or cultural resources. The creation of new residential major subdivisions may not be authorized ([SB236, p.13](#)). The amendment addresses that specific issue, turning conservation lands back as designated Tier IV land with conservation land use and zoning.

Planning requests that Charles County inform the department when this amendment has been adopted and confirm that the areas proposed for redesignation to Tier IV have not changed from this submission. If available, Planning also requests the transmission of shapefiles of the new Tier IV areas so we can update our mapping resources. Please send confirmation and shapefiles to Deb Sward, Assistant Manager, Geospatial Services, at deborah.sward@maryland.gov.

General Comments:

- Planning encourages early and ongoing public participation in the development and review of planning documents. Has this proposal been vetted to the community of Newburg?
- Planning recommends additional modifications to the comprehensive plan text to support the tier map and land use map changes. Planning has discussed the future need to address the proposed amendment in the text of the Plan. The changes will eventually influence the Newburg community, and the Plan should address how this change of development intensity impacts the area.
- The proposed amendment to the tier map designation and the land use plan map for the 901-acre area in the vicinity of Newburg will likely reduce the low-density residential development potential in the area, thus reducing the need to provide and improve future infrastructure including roadways in the area as well.
- The adopted Plan discusses and illustrates the Newburg Village Area design concept plan, in which the county proposes to expand the current Newburg village to include residential development and roadway extension in the proposed amendment area (p.

10-17 to 10-22). The county should reassess the design concept plan for the Newburg Village to determine if the proposed Newburg Village design concept plan is consistent with this proposed amendment. The land use change may not help to effectuate the concept plan.

- Planning recommends text edits to the following portions/sections of the Plan:
 - P. 3-11. Table 3-1 “Village Classification”: Consider how the change in 901 acres of land to a rural conservation land use may impact the Village Classification status of Mixed Residential / Commercial within the table.
 - P. 3-11. Footnote 2: Clarify this sentence with a specific zoning designation for the Newburg Town Center. P. 3-12.: The language in the text currently references the future development of the Newburg Community. *“The county will examine opportunities to eliminate the Priority Funding Area (PFA) designations for the small sites located within the Cobb Neck Area which are not in use and transfer those designations to the larger Newburg-Cliffton Aqualand Sub-Area Plan as needed once the plan has been adopted. Chapter 10, Community Development, contains additional discussion of development in villages including design concept plans for Bel Alton and Newburg”*. How do the changes within this amendment affect this statement?
 - P.10-9. B. “Village Roles and Functions”: Consider the statement, “Newburg, if combined with Aqualand, could also be considered a water-oriented village; however, the primary role for Newburg should be as a commercial and quasigovernmental center serving the southern Charles County area as well as a visitor gateway destination for travelers entering Charles County from the south.” Does the county still consider this a valid action item and goal for the area?
 - P. 10-18. “Newburg”: Planning advises the county to add text here that describes this 901-acre land use change. In the third paragraph on this page, the Plan states that, “The overall village area size is initially recommended to be approximately 330 acres to accommodate a sustainable mix of commercial, residential, institutional and employment uses, including the existing travel center and transfer facility. The exact size and location will be determined during the planning process.” Without further detail of future land uses associated with the new land use proposed and its constraints, this seems conflicting to the purpose and potential of this amendment.
 - Planning recommends adding text throughout Chapter 10 of the Plan that demonstrates the intent of the land use change on previously envisioned development within Newburg Village. This could include existing policies and goals such as small scale business infill, contextual infill, residences, and institutional uses along the dedicated main street area of Newburg on US 301 and Rock Point Road. This additional text may or may not be consistent with the visuals provided on p. 10-19 and 10-20, so further adjustments in graphics may also be needed.
 - P. 12-1. Table Implementation Schedule, Land Use Action Items: Update the medium-term goals related to the Newburg Community for consistency with and appropriate relationship to the land use changes in this amendment.

END MARYLAND DEPARTMENT OF PLANNING COMMENTS



Maryland Department of Planning

Sustainable _____ Attainable

March 27, 2014

Commissioner Candice Quinn Kelly
President
Charles County Board of County Commissioners
200 Baltimore Street
La Plata, MD 20646

Re: Comments on Adopted Septic Tier Map

Dear Commissioner Kelly:

I am writing to comment on the Charles County Septic Tier Map (Tier Map) adopted by the Board of County Commissioners (BoCC) on March 11, 2014 under Title 1, Subtitle 5 of the Land Use (LU) Article of the Annotated Code of Maryland. Overall the map is a significant improvement from the one adopted by the Planning Commission (AKA the BGI Map) on November 5, 2012, however, we have some concerns about the additional 9,000 acres of Tier 2 added to the map at the time of adoption by the BoCC. This letter and its attachments provide our comments on the map and are also notice of the need for the BoCC to hold a public hearing on our comments.

As you know this map was the subject of much discussion and analysis. This included meetings of the Septic Tier Workgroup, of which I was a member. After weeks of work, members of the workgroup coalesced around a consensus map and draft additions to the comprehensive plan that strengthened local agricultural, forestry and fishery industries. That map was presented to the County Commissioners on March 4, 2014. At that meeting the Commissioners directed state and county staff to work with the workgroup to tweak and bring it back the following week. That was done and a new map was presented to the County Commissioners on March 11. At that meeting the County Commissioners voted to add 9,000 acres of Tier 2 area to the map and then adopted it.

The law provides that Tier 2 areas are planned for public sewer and mapped as locally designated growth areas, and also be designed to satisfy development demand consistent with long-term growth policies after consideration of the capacity of land areas available for development, including infill and redevelopment, within the county (see *Implementation Guidance for The Sustainable Growth and Agricultural Preservation Act of 2012*, p. 11).

The map raises concerns about the oversupply of land needed to accommodate future growth in the county. In fact, there is almost twice as much land designated for growth than what is needed to

Martin O'Malley, Governor
Anthony G. Brown, Lt. Governor

Richard Eberhart Hall, AICP, Secretary
Amanda Stakem Conn, Esq., Deputy Secretary

satisfy countywide demand to 2040. In total, 62,037 acres of land has been mapped within Tiers 1 and 2 on the County's adopted map. By comparison, Baltimore City and Washington, D.C. are both comprised of less land and more than four times the population. Baltimore City is 51,802 acres in size and has 621,342 residents; Washington, D.C. is 43,712 acres and has 633,427 residents; Charles County has 150,592 residents (U. S. Census Bureau 2012 Population Estimates).

We recommend the county revisit the Tier 2 area they added to the map on the night of adoption. This option was not considered by the Workgroup and is not needed to meet projected growth demand.

This additional Tier 2 area also constitutes approximately 50 percent of the RC(D) zoning district (8,997 acres) that was changed from Tier 4 to Tier 2 on the county's adopted map (see attached map). The remaining 9,000 acres of RC(D) is mostly undevelopable land that is mapped as Tier 4. Almost all (93 percent) of this added Tier 2 area is located within the Mattawoman Creek Watershed. The Maryland Department of Natural Resources (DNR) has significant concerns that extensive development within the Mattawoman Creek Watershed will irreparably harm this water body, which supports a diverse, high quality aquatic ecosystem. According to DNR, the Mattawoman Creek Watershed is ranked eighth of Maryland's 137 watersheds for freshwater stream biodiversity, is one of the most productive spawning areas for shad and herring and is prized for its largemouth bass fishery, drawing high-profile tournaments and anglers from all over the country throughout the year.

There are also several Tier II Stream watersheds (not to be confused with Tier 2 on the septic map) within the RC(D) area. These watersheds are identified by the Maryland Department of the Environment as high-quality streams that must be given extra consideration for preservation. Any new or expanded discharge into these streams would require an anti-degradation review. Approximately 30 percent of the portion of the RC(D) zoning district mapped as Tier 2 on the adopted septic Tier Map is within the watersheds of Tier II Streams.

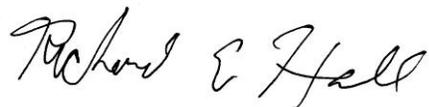
The above concerns as well as the attached analysis constitute MDP's official comments on Charles County's adopted Tier Map. In accordance with LU §1-505, when MDP comments on a tier or an area within a tier, the local legislative body or planning board must hold at least one public hearing on MDP's comments and review the adopted tier map in light of the department's comments. After the hearing and consideration of MDP's comments, a recommendation must be made whether the tier or area within a tier should be changed. The recommendation is to be forwarded to the jurisdiction's decision making body for a final decision (LU §1-507).

MDP recommends that Charles County complete this process no later than 60 days after the date of this letter. We are happy to meet with you in advance and discuss our comments with you and your staff.

Please be advised that LU §1-509 requires the growth tiers to be incorporated into the county's comprehensive plan or an element of the plan when the county conducts its review of the plan. If the growth tiers are not incorporated into the comprehensive plan or an element of the plan during that six-year review, this section provides that the growth tiers may not be considered as adopted and the restrictions on major subdivisions outside sewer service areas shall apply. It should be noted that the Tier Map adopted by the Board on March 11 or any subsequent changes to the adopted Tier Map will require significant changes to the County's Comprehensive Plan, Water and Sewer Plan and Zoning Map.

As always, MDP is available to work with Charles County to resolve these remaining issues with the tier map.

Sincerely,

A handwritten signature in cursive script that reads "Richard E. Hall".

Richard E. Hall
Secretary

Attachments

cc: Charles County Board of County Commissioners
Mark Belton, County Administrator
Peter Aluotto, Director, Planning and Growth Management
Steven Ball, Planning Director
Charles Rice, Natural Resources Planner

MDP Analysis of Charles County's Adopted Tier Map

MDP has completed an extensive analysis of Charles County's adopted tier map. The following summary outlines our specific findings.

MDP staff worked closely with the County's Work Group in February to look in detail at Tiers III and IV. Staff provided information and analysis to support the Work Group in their efforts to develop a map that recognized existing land use as well as potential changes from an updated comprehensive plan. During the Work Group process, it was generally agreed that the Rural Conservation Deferred Development District - RC(D) would be mapped as a Tier IV. Below are several reasons why MDP believes this area should be mapped as a Tier IV.

Description of the Rural Conservation Deferred Development District - RC(D)

The Charles County zoning code defines the Rural Conservation Deferred Development District - RC(D) as a zone that:

“maintains low-density residential development, preserves the rural environment and natural features and established character of the area. It also maintains existing agricultural and aquaculture activities and the land base necessary to support these activities. . . The County Commissioners will reconsider all RC(D) zoning on a not less than 5 year basis as part of, and concurrent with, the update of the Comprehensive Plan, or sooner if deemed appropriate by the County Commissioners.”

The RC(D) district's density of 1 unit per 10 acres serves to strengthen the purposes of the district as noted above - to preserve the rural environment, natural features and established character of the area and to maintain low-density residential development. A provision of the county's Ordinance Number 00-93 is for the County Commissioners to reconsider all RC(D) zoning on a not less than five-year basis as part of, or concurrent with, the update of the Comprehensive Plan. According to the latest draft Comprehensive Plan, this reconsideration has taken place with a recommendation that no changes be made to the Deferred Development District boundaries.

Supply/Demand

LU §1-508 states that:

“(2) Tier II areas are areas that are:

(i) 1. planned to be served by public sewerage systems and in the municipal growth element; or

2. mapped locally designated growth areas; and

(ii) needed to satisfy demand for development at densities consistent with the long-term development policy after consideration of the capacity of land areas available for development, including in-fill and redevelopment, within the local jurisdiction;”

While the Rural Conservation Deferred Development District - RC(D) is within a mapped locally designated growth area and is planned for future sewer service, MDP’s findings indicate that there is an oversupply of land within areas identified as Tiers I and II that significantly exceeds the countywide demand for development through 2040. The County should understand the importance of providing an appropriate balance between land supply and population demand. If too much land is provided for development, inefficient land development patterns may develop, the ability for redevelopment projects to compete with greenfield development is diminished, and infrastructure expansion is less cost-effective. In addition, plans and growth controls will be marginalized because there is an abundance of locational options for each new development.

According to the County subdivision activity dataset, 10,037 residential lots have already been identified within preliminary and pending residential subdivisions within Tiers I and II. These approved lots represent enough supply to accommodate Charles County’s projected residential growth through 2020.

Between 2010 and 2040, Charles County is projected to grow by 32,000 new households. Within Tiers I and II there is enough land supply to accommodate an additional 51,442 residential lots; these are lots outside those already identified in preliminary and pending residential subdivisions. The total supply of residential lots exceeds the 30 year projection of household growth by 92%. Following projected growth rates, it would take nearly 58 years to absorb this amount of residential supply. Nearly 42% of this capacity exists within the Rural Conservation Deferred Development District - RC(D) zoning district, assuming that development in that area would be served by sewer and have a density yield of 3 dwelling units per acre. The current allowable density in the RC(D) is 1 dwelling unit per 10 acres.