

DEPARTMENT OF COMMUNITY PLANNING AND BUILDING  
INTEROFFICE MEMORANDUM

**TO:** Board of County Commissioners and Planning Commission  
**VIA:** Terry Shannon, County Administrator *TL5*  
J. Mark Willis, Director, Community Planning & Building Department *UCC for JMW*  
Carolyn Sunderland, Planning Commission Administrator *Op for CS.*  
**FROM:** Jenny Plummer-Welker, Long Range Planner *JPW*  
**DATE:** October 11, 2016  
**SUBJECT:** October 25, 2016, Joint Public Hearing – Proposed Adoption of a Calvert County Growth Tier Map

**Background**

In 2012, the State of Maryland adopted the Sustainable Growth and Agricultural Preservation Act (the “Act”) to limit creation of new residential subdivisions served by on-site sewage disposal systems (private septic systems). The Act, also known as the “Septics Law,” was adopted to meet U.S. Environmental Protection Agency limits on Chesapeake Bay nutrient and sediment pollution. The Act establishes four levels, or tiers, to identify the type and intensity of residential subdivision that may occur (minor or major), and the type of sewage disposal system to serve them. For Calvert County, a minor subdivision is seven lots or less; a major subdivision is eight lots or more.

The purpose of the public hearing is to provide an opportunity for the public to provide comments on the proposed adoption of a Calvert County Growth Tier Map.

**Discussion**

Local jurisdictions, like Calvert County, are prohibited from approving any major residential subdivision served by on-site sewage disposal systems, community sewerage systems or shared systems until they have adopted Growth Tiers consistent with the Act. Until the Calvert County Government adopts the Growth Tiers, the County cannot approve the creation of major subdivisions which are not served by public sewer. The County can, however, approve major subdivisions served by public sewer and minor subdivisions served by public sewer or private systems.

The attached Staff Report includes additional background information.

**Recommendation/Conclusion**

Recommend that the BOCC and the Planning Commission hold the public hearing, decide whether to keep record open to receive additional public comment or to close it, and once the record is closed, take action to adopt the Calvert County Growth Tier Map.

Attachments: Legal Notice

Proposed Calvert County Growth Tier Map (Draft, dated May 10, 2016)

Staff Report, dated October 11, 2016

Presentation Slides

Maryland's  
Sustainable Growth and  
Agricultural Preservation Act:  
Proposed Adoption of a Calvert  
County Growth Tier Map

Joint Public Hearing of the Board of  
County Commissioners and Planning Commission

October 25, 2016



# Purpose

- State law authorizes local governments to adopt Growth Tiers.
- State law controls the creation of minor and major residential subdivisions based upon Growth Tier categories.
- Public Hearing on proposed adoption of Calvert County Growth Tier Map provides the public the opportunity to comment.

2011: State Task Force on  
Sustainable Growth and  
Wastewater Disposal made  
recommendations

2012: State passed new law,  
Sustainable Growth and  
Agricultural Preservation Act,  
a.k.a. “Septics Law”



Act's Goal:  
Limit impact of  
large residential  
subdivisions  
on farm and forest  
land, streams, rivers  
and Chesapeake and  
coastal bays



How?

By restricting the spread of residential subdivisions on septic systems, based upon an area's "growth tier" category



# Growth Tiers

## *4 Categories*

Tier I – Served by sewer

Tier II – Proposed to be served by sewer or locally designated growth area

# Growth Tiers

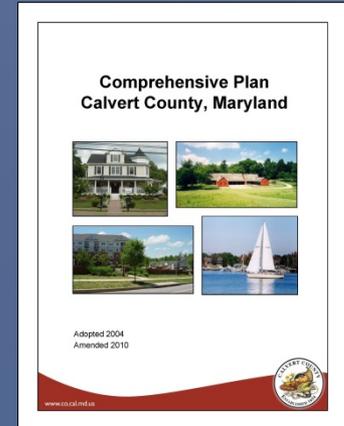
Tier III – Planned/zoned for large lot or rural development, not planned for sewer service

# Growth Tiers

Tier IV – Areas not planned for sewer service and are areas: planned/zoned for land, agricultural, or resource protection; “areas dominated by agricultural lands, forest lands, or other natural areas”; or Rural Legacy Areas, Priority Preservation Areas, or areas subject to covenants, restrictions, conditions, or conservation easements.

# Adoption: 2-Step Process

1. Adopt Administratively – letter from Planning Director or Chief Elected Official
2. Include in next Comprehensive Plan update – requires approval by Planning Commission & adoption by County Commissioners

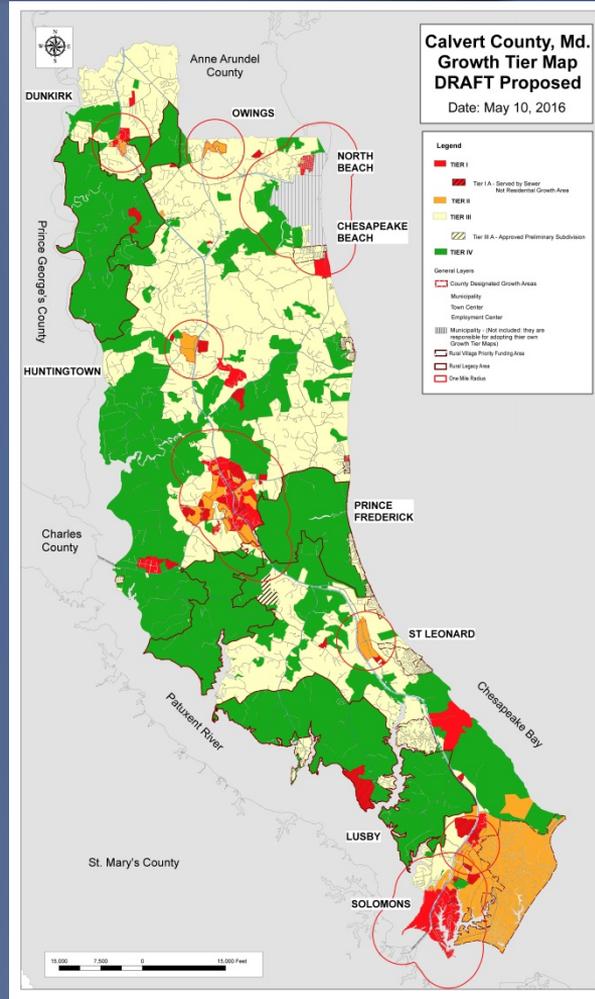


# Without Adoption

County authority to approve residential subdivisions is limited.

Subdivision Type	On Public Sewer	Not On Public Sewer
MINOR	YES	YES
MAJOR	YES	NO

# Draft Proposed Map of Growth Tiers



# Recommendations



1. Hold the Public Hearing on the Proposed Growth Tier Map.
2. Decide whether to keep the record open or close it.
3. Take action to adopt the Calvert County Growth tier Map.

**LEGAL NOTICE  
JOINT PUBLIC HEARING**

**CALVERT COUNTY BOARD OF COUNTY COMMISSIONERS & PLANNING COMMISSION RE:  
PROPOSED TEXT AMENDMENTS TO THE CALVERT COUNTY ZONING ORDINANCE,  
PROPOSED ADOPTION OF THE CALVERT COUNTY GROWTH TIER MAP, PROPOSED TEXT  
AMENDMENTS FOR DUNKIRK, HUNTINGTOWN, LUSBY, OWINGS, PRINCE FREDERICK,  
SOLOMONS, ST. LEONARD AND CALVERT COUNTY ZONING ORDINANCE AND/OR MASTER  
PLAN SECTIONS, PROPOSED ADOPTION OF THE UPDATED CALVERT COUNTY CRITICAL  
AREA MAPS, AND PROPOSED BROOMES ISLAND FLOOD MITIGATION PLAN**

The Calvert County Board of County Commissioners and Planning Commission will hold a Joint Public Hearing on **Tuesday, October 25, 2016 at 7:00 PM** at the Calvert Pines Senior Center, 450 West Dares Beach Road, Prince Frederick, Maryland to consider:

**Hearing #1:**

<b>PROPOSED TEXT AMENDMENTS</b>		
<b>Case No.</b>	<b>Z.O. Section(s)</b>	<b>Summary of Proposed Text Amendments</b>
16-01	CCZO - Article 3 Land Use Charts; Section 3-1.04, Commercial Retail Uses and Definitions, Use #5 Boat Dealership	The amendments propose to permit boat dealerships in the Light Industrial (I-1) zoning district.
16-02	CCZO - Article 3 Land Use Charts; Section 3-1.05, Business and Personal Services Uses; Uses #14a.1, #14a.2 & #14b, Home Occupation – Class I, Class II & Class III; Uses # 18a, #18b & #18c, Non-Farm Brewery, Non-Farm Distillery & Non-Farm Winery; and Article 12, Definitions	The amendments propose to permit Non-Farm Breweries, Non-Farm Distilleries and Non-Farm Wineries, as a Home Occupation and to create new uses on the Use Charts for Non-Farm Breweries, Non-Farm Distilleries and Non-Farm Wineries.
16-03	CCZO - Article 3 Land Use Charts; Section 3-1.02, Agricultural Uses, Use #13a "Veterinary Hospital or Clinic, Livestock", Use #13b "Veterinary Hospital or Clinic, Small Animals and Household Pets" and Article 12, Definitions	The amendments propose to expand the definition of veterinary hospital or clinic to include Animal Shelters. The use for livestock is being proposed as a permitted use in the Light Industrial (I-1) zoning district. The use for small animals and household pets is proposed to be conditionally permitted in the I-1.
16-05	CCZO - Article 7 Subdivision Regulations; Section 7-1.03, Controls and Applications; and Article 12, Definitions	The amendments propose to exempt a governmental or quasi-governmental agency from the Subdivision Regulations when the agency is conveyed land that is intended for public use.

The description of cases provided in this legal notice is intended to give a fair summary of the changes to be considered at the public hearing. Because the changes are comprehensive and numerous, it is not practical to list them all in this notice. Interested persons are urged to view the proposed amendments in their entirety by either contacting the Department of Community Planning & Building at 410-535-1600 ext. 2334, [cookmb@co.cal.md.us](mailto:cookmb@co.cal.md.us) or viewing the changes on the Calvert County website at: <http://www.co.cal.md.us/index.aspx>. The proposed changes may be substantively modified, revised, amended or otherwise changed based upon comments received at the public hearing.

**Hearing #2: Consider and receive comments on the adoption of a Calvert County Growth Tier Map.**

The Maryland State General Assembly enacted the Sustainable Growth and Agricultural Preservation act of 2012 (Senate Bill 236), which was signed into law by the Governor. The law authorizes a local jurisdiction to adopt certain growth tier designations and establishes certain mandatory and discretionary provisions relating to the adoption of certain tiers. The law controls the creation of residential subdivisions through the use of a system of growth tiers and what type of sewerage system will serve them. The law prohibits the creation of major subdivisions in certain growth tiers. Growth tiers must be based on criteria outlined in the law. While the adoption of a growth tier map is considered discretionary, approval authority for certain residential subdivision applications is restricted if the local jurisdiction has not adopted a tier map. The purpose of the public hearing is to provide an opportunity for the public to provide comments on the proposed adoption of a Calvert County Growth Tier Map.

Interested persons are urged to view the proposal in its entirety by either contacting the Department of Community Planning & Building at 410-535-1600, ext. 2356, [px@co.cal.md.us](mailto:px@co.cal.md.us) or by viewing the proposed map on the County website at: [www.co.cal.md.us/index.aspx?nid=1340](http://www.co.cal.md.us/index.aspx?nid=1340). The proposed provisions may be substantively modified, revised, amended or otherwise changed based upon comments received at the public hearing or the recommendation of the Planning Commission.

**Hearing #3:**

<b>PROPOSED TEXT AMENDMENTS</b>		
<b>Case No.</b>	<b>Z.O. Section(s)</b>	<b>Summary of Proposed Text Amendments</b>
15-10a	Dunkirk Zoning Ordinance -Sections V.E1, E2, E4, E5, and VI.D	The text amendment proposes to dissolve the Architectural Review Committee and restructure the architectural review process.
15-10b	Huntingtown Zoning Ordinance – Sections 6-1, 6-1.1, 6-1.2, 6-1.3, 6-1.4, and 8-0, and Huntingtown Master Plan Section IV.E3	The text amendment proposes to dissolve the Architectural Review Committee and restructure the architectural review process
15-10c	Lusby Town Center Zoning Ordinance – Sections 6-4.01, 4.02.C, 4.04, and 6-5	The text amendment proposes to dissolve the Architectural Review Committee and restructure the architectural review process
15-10d	Owings Town Center Zoning ordinance – Sections 6-4.01, 4.02, 4.04 and 6-5	The text amendment proposes to dissolve the Architectural Review Committee and restructure the architectural review process
15-10e	Prince Frederick Zoning Ordinance – Chapter VIII and Prince Frederick Master Plan Section VI.C.4	The text amendment proposes to dissolve the Architectural Review Committee and restructure the architectural review process
15-10f	Solomons Town Center Zoning Ordinance – Section 6-7 and Solomons Master Plan Section I.F	The text amendment proposes to dissolve the Architectural Review Committee and restructure the architectural review process
15-10.g	St. Leonard Town Center Zoning Ordinance – Section 6-5 and St. Leonard Master Plan Goal and Objective 2.D and Chapter I.F	The text amendment proposes to dissolve the Architectural Review Committee and restructure the architectural review process
15-10.h	Calvert County Zoning Ordinance – Section 6-7.01.B and 6-8.05.G.3.d	The text amendment proposes to dissolve the Architectural Review Committee and restructure the architectural review process

The description of cases provided in this legal notice is intended to give a fair summary of the changes to be considered at the public hearing. Because the changes are comprehensive and numerous, it is not practical to list them all in this notice. Interested persons are urged to view the proposed amendments in their entirety by either contacting the Department of Community Planning & Building at 410-535-1600 ext. 2727, [selmanwl@co.cal.md.us](mailto:selmanwl@co.cal.md.us) or viewing the changes on the Calvert County website at: <http://www.co.cal.md.us/index.aspx>. The proposed changes may be substantively modified, revised, amended or otherwise changed based upon comments received at the public hearing

**Hearing #4: Consider and make a recommendation regarding the Calvert County updated Critical Area Maps.**

The 2008 Laws of Maryland, Chapter 119 requires that the Critical Area Line on the Critical Area Maps, originally delineated from the 1972 Tidal Wetlands Maps, be revised to be consistent with the Critical Area Commission delineated Critical Area Line on Statewide Base Maps. The new tidal wetland line on the base maps is based on aerial photography (2007-2008), topography, color infrared imagery, the original wetland maps and field verification of questionable sites. The updated Critical Area Line is 1,000 feet landward from the new tidal wetland line.

The Maps presented for adoption will be discussed at the public hearing. It is not practical to include the maps in this notice. Interested persons are urged to view the Maps in the Department of Community Planning and Building, 150 Main Street, Prince Frederick, MD, 20678 during normal working hours (8:30 AM-4:30 PM, Monday through Friday) or by viewing the changes on the County website at [www.co.cal.md.us/criticalarea](http://www.co.cal.md.us/criticalarea).

If you have any questions about the Maps you may contact Dr. David Brownlee by phone (410-535-1600 ext. 2338) or email ([brownldc@co.cal.md.us](mailto:brownldc@co.cal.md.us)). The Maps may be substantively modified, revised, amended or otherwise changed prior to adoption based upon comments received at the public hearing or the recommendation of the Planning Commission.

**Hearing #5: Consider the Broomes Island Flood Mitigation Plan.** The purpose of the Broomes Island Flood Mitigation Plan (hereinafter, the "Plan") is to develop a flood mitigation plan to improve the Broomes Island community's resistance to floods by identifying actions to reduce the impact of floods to County residents and structures.

The Plan will be discussed at the public hearing. Because of the length of the Plan, it is not practical to include it in this notice. Interested persons are urged to view the Plan by either contacting the Department of Community Planning & Building at (410)535-1600 ext. 2338, [brownldc@co.cal.md.us](mailto:brownldc@co.cal.md.us) or viewing the changes on the Calvert County government website at: [www.co.cal.md.us/publichearings](http://www.co.cal.md.us/publichearings). The Plan may be substantively modified, revised, amended or otherwise changed prior to adoption based upon comments received at the public hearing or the recommendation of the Planning Commission.

The Calvert County Planning Commission and Board of County Commissioners do not discriminate on the basis of race, color, national origin, genetic information, sex (including pregnancy), sexual orientation, marital status, religion, age, actual or perceived disability or gender-related identify or expression. Any reasonable accommodation for persons with disabilities or linguistic barriers should be requested by contacting the Board of County Commissioners office at (410) 535-1600 ext. 2202 or TTY: 1-800-735-2258.



# Calvert County, Md. Growth Tier Map DRAFT Proposed

Date: May 10, 2016

**Legend**

- TIER I**
  - Tier I A - Served by Sewer Not Residential Growth Area
- TIER II**
- TIER III**
  - Tier III A - Approved Preliminary Subdivision
- TIER IV**

**General Layers**

- County Designated Growth Areas
- Municipality
- Town Center
- Employment Center
- Municipality - (Not included: they are responsible for adopting their own Growth Tier Maps)
- Rural Village Priority Funding Area
- Rural Legacy Area
- One Mile Radius

Prince George's County

Anne Arundel County

DUNKIRK

OWINGS

NORTH BEACH

CHESAPEAKE BEACH

HUNTINGTOWN

Charles County

PRINCE FREDERICK

ST LEONARD

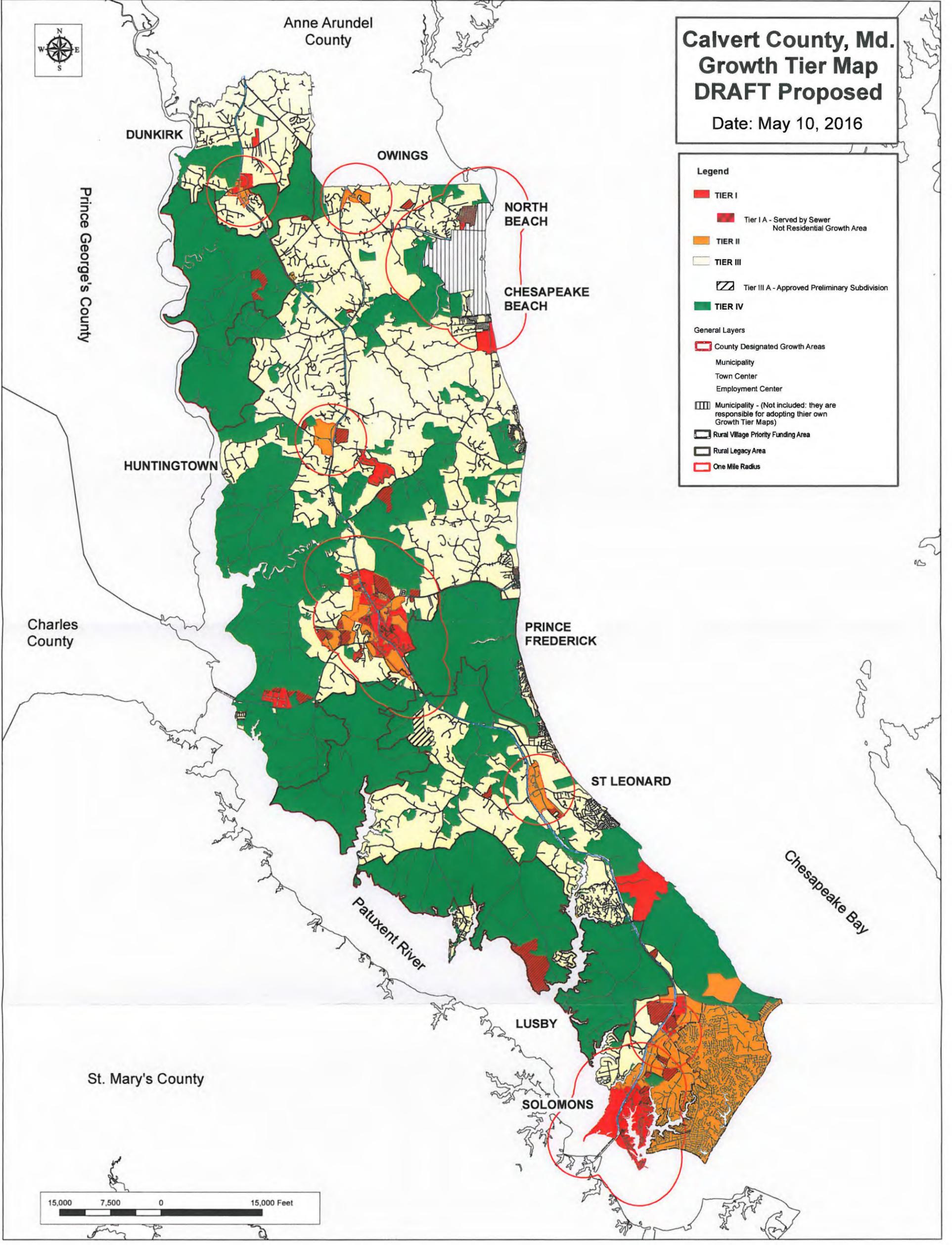
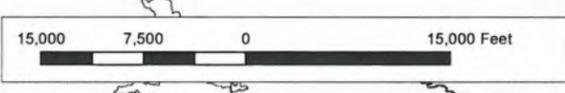
Patuxent River

Chesapeake Bay

St. Mary's County

LUSBY

SOLOMONS



**STAFF REPORT**  
**PUBLIC HEARING ON THE**  
**PROPOSED ADOPTION OF A CALVERT COUNTY GROWTH TIER MAP**

**DATE PREPARED:**

October 11, 2016

**WORK SESSION DATES:**

May 18, 2016 – Planning Commission (PC)

May 24, 2016 – Board of County Commissioners (BOCC)

October 25, 2016 – BOCC

**PUBLIC HEARING DATE(S):**

October 25, 2016 – Joint Public Hearing (BOCC & PC)

**PURPOSE OF PUBLIC HEARING:**

The purpose of the public hearing is to provide an opportunity for the public to provide comments on the proposed adoption of a Calvert County Growth Tier Map.

**BACKGROUND:**

In 2012, the State of Maryland adopted the Sustainable Growth and Agricultural Preservation Act (the “Act”) to limit creation of new residential subdivisions served by on-site sewage disposal systems (private septic systems). The Act, also known as the “Septics Law,” was adopted to meet U.S. Environmental Protection Agency limits on Chesapeake Bay nutrient and sediment pollution. The Act establishes four levels, or tiers, to identify the type and intensity of residential subdivision that may occur (minor or major), and the type of sewage disposal system to serve them.

Local jurisdictions, like Calvert County, are prohibited from approving any major residential subdivision served by on-site sewage disposal systems, community sewerage systems or shared systems until they have adopted Growth Tiers consistent with the Act. Until the Calvert County Government adopts the Growth Tiers, the County cannot approve the creation of major subdivisions which are not served by public sewer. The County can, however, approve major subdivisions served by public sewer and minor subdivisions served by public sewer or private systems.

Adoption of the Growth Tiers is a two-step process. Tiers may be initially adopted administratively by a letter from the jurisdiction’s planning director or chief elected official. Tiers must be incorporated into the local jurisdiction’s comprehensive plan during its next update, which will require approval by the Calvert County PC and adoption by the BOCC. Several Maryland counties’ boards of commissioners/councils formally adopted their Growth Tier maps by resolution or bill.

The Maryland Department of Planning (MDP) reviews local jurisdictions’ Growth Tiers; MDP does not have approval authority of a local jurisdiction’s Growth Tiers. Under the Act, MDP may comment on the Growth Tiers adopted by a local jurisdiction. If MDP comments on any of the Tiers or an area within one of the Tiers, the local legislative body or planning commission shall hold at least one public hearing on MDP’s comments. If the planning commission holds the

hearing, the planning commission shall recommend to the local legislative body that either the Tiers or an area within the Tiers be changed or that the adopted Tiers remain unchanged.

MDP staff confirmed with the Maryland Department of the Environment earlier this year that major subdivisions on individual wells and individual on-site septic systems are permitted in Tier III (email correspondence from MDP staff, April 4, 2016).

### **Description of Growth Tiers**

- **Tier I:** Areas already served by public sewerage systems.
- **Tier II:** Areas proposed to be served by public sewerage systems or mapped as locally designated growth areas.
- **Tier III:** Areas planned and zoned for large lot or rural development. They are not planned for sewerage service and are not dominated by agricultural or forest land. They are also not planned or zoned for land, agricultural or resource protection.
- **Tier IV:** Areas not planned for sewerage service and which are planned or zoned for protection. These are “areas dominated by agricultural, forest lands or other natural areas;” Rural Legacy Areas, Priority Preservation Areas or areas subject to preservation easements.

Tier IV is the most restrictive tier and creation of a major subdivision (eight lots or more) is not allowed within Tier IV.

### **Definition of Tier IV from the State Act**

TIER IV AREAS ARE AREAS THAT ARE NOT PLANNED FOR SEWERAGE SERVICE AND ARE:

(I) AREAS PLANNED OR ZONED BY A LOCAL JURISDICTION FOR LAND, AGRICULTURAL, OR RESOURCE PROTECTION, PRESERVATION, OR CONSERVATION;

(II) AREAS DOMINATED BY AGRICULTURAL LANDS, FOREST LANDS, OR OTHER NATURAL AREAS; OR

(III) RURAL LEGACY AREAS, PRIORITY PRESERVATION AREAS, OR AREAS SUBJECT TO COVENANTS, RESTRICTIONS, CONDITIONS, OR CONSERVATION EASEMENTS FOR THE BENEFIT OF, OR HELD BY A STATE AGENCY, AS DEFINED IN § 9-206 OF THE ENVIRONMENT ARTICLE, OR A LOCAL JURISDICTION FOR THE PURPOSE OF CONSERVING NATURAL RESOURCES OR AGRICULTURAL LAND.

### **Calvert County’s Proposed Tier IV Areas Corresponding to the State Act’s Description of Tier IV Areas**

- (I) a) Areas zoned Farm and Forest District (FFD).  
b) Areas zoned as Tidal Wetlands (WL).
- (II) Areas zoned FFD. Calvert County government adopted the Resource Conservation District Overlay in 1988 and the Farm Community District Overlay in 1993. These conservation overlay zones were forerunners of and encompass almost the same area now covered by the FFD zone. Calvert County considers the Tier IV “dominated” areas to be the areas zoned FFD. See additional details below\*.

- (III) a) Rural Legacy Areas, excluding Rural Villages located within Rural Legacy Areas. Rural Villages are designated under the State's Priority Funding Area Program.
- b) Calvert County's Priority Preservation Areas. The Priority Preservations Areas are the same areas zoned FFD.
- c) Areas protected by covenants, restrictions, conditions, or conservation easements for the purpose of conserving natural resources or agricultural land. These areas, for example, include Agricultural Preservation Districts (APDs) permanently preserved through Calvert County's Agricultural Preservation Program and properties preserved through Maryland Agricultural Land Preservation Foundation (MALPF) easements.

Some areas can be located within two or more of the Tier IV categories. For example a parcel may be located within the Farm and Forest District zone and preserved through the County's Agricultural Preservation Program or by a state MALPF easement.

\* Additional details about the Resource Conservation District and Farm Community District Overlays (Calvert County Zoning Ordinance, Adopted May 8, 1984, revised Nov. 4, 1994, pages 85 and 88-89):

*Resource Conservation District Overlay*

Purpose: "This district is chiefly designated for agriculture, forestry, fisheries activities, other resource utilization activities and for habitat protection. Development is limited in the Resource Conservation District."

*Farm Community District Overlay*

Purpose: "A. Encourage the preservation of farmland, forestland and the rural character of the County; B. Preserve farming and forestry which remain important industries in the County; and C. Direct growth away from areas which may lack adequate roads or access to businesses and services."

District Boundaries: "In identifying the Farm Communities, the Board of County Commissioners shall consider the presence of Class I, II, and III soils and Group 1 and 2 soils. The Board shall also consider the presence of Agricultural Preservation Districts and actively farmed areas."

**CONSISTENCY WITH COMPREHENSIVE PLAN (Adopted 2004, Amended 2010):**

One of the Calvert County 10 Visions:

"Our landscape is dominated by forests and fields." (Page iv)

Chapter I: Land and Water: Land Use & Growth Management: Energy

Objectives: (Page 1)

- "Preserve the rural character of the County, its prime farmland, contiguous forests, historic resources, and environmentally sensitive areas."
- "Direct residential growth to appropriate locations; ...."

Actions:

"I-1 Continue to support policies that link the amount, location and rate of residential growth to County land use objectives, including highway, school, and aquifer capacities." (Page 4)

“I-4 Reserve the Farm and Forest District (Priority Preservation Areas) for farming and natural resource-related uses and direct residential growth away from these areas.” (Page 6)

**CONCLUSION/STAFF RECOMMENDATIONS:**

The BOCC and PC held a joint public hearing on the adoption of a proposed Growth Tier Map on January 29, 2013. The record was kept open until April 30, 2013, so that the public could comment. No written comments were received during that time period. The map proposed in 2013 was not adopted.

Since the public hearing in 2013, County staff has held numerous discussions and met with MDP staff several times about proposed Growth Tier areas. The main point of discussions between the County and State staffs was what land to designate as Tier III and what land to designate as Tier IV.

Staff recommends that the BOCC and the PC hold the public hearing, decide whether to keep record open to receive public comment or to close it, and once the record is closed, take action to adopt the Calvert County Growth Tier Map.