

ZONING RECLASSIFICATION APPLICATION

**Harford County
Board of Appeals**

Bel Air, Maryland 21014

JUL - 2 2008

Shaded Area For Office Use Only

Case No. 177

Date Filed 6/30/08

Hearing Date _____

Pre-Conf. _____

Receipt _____

Fees \$840.00

Note

1. It is required that the applicant have a pre-filing conference with the Department of Planning and Zoning to determine the necessary additional information that will be required.
2. The burden of proof in any rezoning case shall be upon the Petitioner.
3. Any application in a zoning case and any amendment thereto shall contain specific allegations setting forth the basis for granting of the request.
4. Petition must contain names and addresses of all persons having legal or equitable interest in the property, including shareholders owning more than five percent (5%) of the stock in a corporation having any interest in the property, except those corporations listed and traded on a recognized stock exchange.
5. Application will be reviewed for completeness within ten (10) working days of submittal. Applicant will be notified by mail of completeness of application.

Petitioner

Name Claire's Meadow, L.L.C. Phone Number 410-893-3700

Address 1237 Baldwin Mill Rd. Jarrettsville MD 21084
Street Number Street State Zip Code

Property Owner Same Phone Number _____

Address _____
Street Number Street State Zip Code

Contract Purchaser None Phone Number _____

Address _____
Street Number Street State Zip Code

Attorney/Representative Kevin J. Mahoney, Esquire Phone Number 410-893-7500

Address 11 South Main Street, Bel Air, MD 21014
Street Number Street State Zip Code

Land Description

Address and Location of Property (with nearest intersecting road) 1237 Baldwin Mill Road, Jarrettsville, MD
(nearest intersecting road - Jarrettsville Rd.)

Subdivision _____ Lot Number _____ Acreage/Lot Size 23.86 Election District 04

Existing Zoning AG Proposed Zoning RR Acreage to be Rezoned 23.86 ac

Tax Map No. 32 Grid No. 2B Parcel 118 Deed Reference 4314/330

Critical Area Designation None Land Use Plan Designation RR

Present Use and ALL improvements: single family home plus four outbuildings

Proposed Use (If for subdivision development, proposed number of lots, type of dwellings, and type of development.

Example: Conventional, Conventional with Open Space, Planned Residential Development) _____

Eleven (11) single family lots

Is the property designated a historic site, or does the property contain any designated or registered historic structures?

No If yes, describe: _____

Estimated Time Requested to Present Case: Two hours

Required Information To Be Attached

(Submit three (3) copies of each):

(a) The names and addresses of all persons, organizations, corporations, or groups owning land, any part of which lies within five hundred (500) feet of the property proposed to be reclassified as shown on the current assessment records of the State Department of Assessments and Taxation.

(b) A statement of the grounds for the application including:

(1) A statement as to whether there is an allegation of mistake as to the existing zoning, and if so, the nature of the mistake and facts relied upon to support this allegation.

(2) A statement as to whether there is an

allegation of substantial change in the character of the neighborhood, and if so, a precise description of such alleged substantial change.

(c) A statement as to whether, in the applicant's opinion, the proposed classification is in conformance with the Master Plan and the reasons for the opinion.

(d) A Concept Plan shall be submitted by the applicant at the time the application is filed. The Concept Plan shall illustrate the following:

(1) Location of site.

(2) Proposed nature and distribution of land uses, not including engineering drawings.

(3) Neighborhood (as defined by the Applicant).

Additional Information as Required by the Department of Planning and Zoning

- (4) All surrounding zoning.
- (5) Proposed public or private capital improvements.
- (e) Previous individual rezonings and recommendation since the effective date of the Comprehensive Rezoning, within the neighborhood of the petitioned area, their case numbers, dates, and decisions.
- (f) Environmental features map indicating woods, fields, streams, floodplains, non-tidal wetlands, etc.
- (g) Property deed and a boundary survey prepared and sealed by a registered surveyor, including dimension of area requested to be rezoned if only a portion of the property.
- (h) Private restrictions or covenants, if any, applicable to subject parcel.
- (i) Any agreements with individuals or associations in the neighborhood related to the proposed zoning shall be submitted.
- (j) Availability of public water and sewer.

- (a) Existing and proposed libraries, parks, schools, fire and police departments.
- (b) Demonstration of compatibility of the proposed use with existing and proposed development for the area.
- (c) Traffic impact study.
- (d) Economic and Environmental impact studies.
- (e) Estimated population for existing and proposed petitioned area and neighborhood, as defined.
- (f) Soils analysis.
- (g) Aerial photograph.

CASE 177 MAP 32 TYPE Rezoning
ELECTION DISTRICT 04 LOCATION 1237 Baldwin Mill Rd, Jarrettsville 21084
BY Claire's Meadow, LLC
Appealed because a rezoning pursuant to Section 267-12A of the Harford County Code
to rezone 23.86 acres from a AG District to a RR District requires approval by the Board.

I/We do solemnly declare and affirm under the penalties of perjury that the contents of the foregoing affidavit are true and correct to the best of my/our knowledge, information, and belief.

CLAIRE'S MEADOW, L.L.C.

By: [Signature] 6/27/08
 Signature of Applicant/Owner Date
 Robert R. Wilson, Sole Member

[Signature] 6/27/08
 Witness Date

Signature of Contract Purchaser/Owner Date

Witness Date

[Signature] 6/27/08
 Signature of Attorney/Representative Date

[Signature] 6/27/08
 Witness Date

[Signature] 6/27/08
 Director of Planning and Zoning Date

[Signature] 6/27/08
 Zoning Staff Date

SPG

3 : 6/30/08
13 : 4200
300123

ATTACHMENT A-1
FOR ZONING RECLASSIFICATION PETITION
CLAIRE'S MEADOW, L.L.C., PETITIONER

The Zoning Reclassification Application, in Part IV, requests the following information. Petitioner's submission is as follows:

"(a) The names and addresses of all persons, organizations, corporations, or groups owning land, any part of which lies within five (500) feet of the property proposed to be reclassified as shown on the current assessment records of the State Department of Assessments and Taxation."

Petitioner: See Attachment A-2.

"(b) A statement of the grounds for the application including:

(1) A statement as to whether there is an allegation of mistake as to the existing zoning and, if so, the nature of the mistake and facts relied upon to support this allegation."

Petitioner: The subject property consists of that property owned by Petitioner designated as Tax Map 32, Parcel 118 (the "Subject Property") as shown among the records of the State Department of Assessments and Taxation ("SDAT"). The Petitioner is requesting that the Subject Property be rezoned from its current AG, Agricultural classification to the RR, Rural Residential Classification. Petitioner alleges that a mistake was made as to the existing zoning of the Subject Property for the following reasons.

1. At the time of the last comprehensive rezoning, the County Council assumed that the Subject Property was still a viable farming operation. Since that time, impacts from surrounding residential development have made the Subject Property no longer viable for farming.
2. At the time of the last comprehensive rezoning, the increased need for residentially zoned land to accommodate impacts from the "BRAC"

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process were unknown. Since that time the need for residentially zoned land as a result of the BRAC process is now known.

3. The Subject Property is shown as RR infill on the Harford County Master Land Use Plan. The requested zoning is consistent with the Master Land Use Plan.

The County Council did not or could not have known of these facts at the time of the last comprehensive rezoning. If the County Council had known of these facts it would not have retained the AG zoning on the Subject Property. The County Council made a mistake in the legal sense when the Subject Property was zoned AG in the last comprehensive rezoning.

"(2) A statement as to whether there is an allegation of substantial change in the character of the neighborhood, and if so, a precise description of such alleged substantial change."

Petitioner: Petitioner alleges that there has been a substantial change in the character of the neighborhood. The neighborhood is shown on the map entitled "Claire's Meadow Neighborhood", see Attachment A-3. The neighborhood has changed from agricultural to residential.

"(c) A statement as to whether, in the applicant's opinion, the proposed classification is in conformance with the Master Plan and the reasons for the opinion."

Petitioner: The Subject Property is classified as "Rural Residential" on the 2004 Master Plan. The proposed RR, Rural Residential Zoning is consistent with that classification.

"(d) A Concept Plan shall be submitted by the applicant at the time the application is filed. The Concept Plan shall illustrate the following:

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(1) Location of Site.

(2) Proposed nature and distribution of land uses, not including engineering drawings.

(3) Neighborhood (as defined by the Applicant).

(4) All surrounding zoning.

(5) Proposed public or private capital improvements.

Petitioner: See Attachment A-4, entitled "Concept Plan Claire's Meadow" dated June, 2008, prepared by Wilson Deegan & Associates, Inc.

"(e) Previous individual rezonings and recommendations since the effective date of the Comprehensive Rezoning, within the neighborhood of the petitioned area, their case numbers, dates, and decisions."

Petitioner: None

"(f) Environmental features map indicating woods, fields, streams, floodplains, non-tidal wetlands, etc."

Petitioner: See Attachment A-4, entitled "Concept Plan Claire's Meadow" dated June, 2008, prepared by Wilson Deegan & Associates, Inc.

"(g) Property deed and a boundary survey prepared and sealed by a registered surveyor, including dimension of area requested to be rezoned if only a portion of the property."

Petitioner: See Title Deed (Attachment A-5) and see the plat entitled "Revised Boundary Plat Remaining Lands Claire's Meadow, LLC" as recorded in the Plat Records of Harford County, Maryland in Plat Book Liber J.J.R. No. 128, folio 96 (Attachment A-6).

3 : 6/30/08

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"(h) Private restrictions or covenants, if any, applicable to subject parcel."

Petitioner: None

"(i) Any agreements with individuals or associations in the neighborhood related to the proposed zoning shall be submitted."

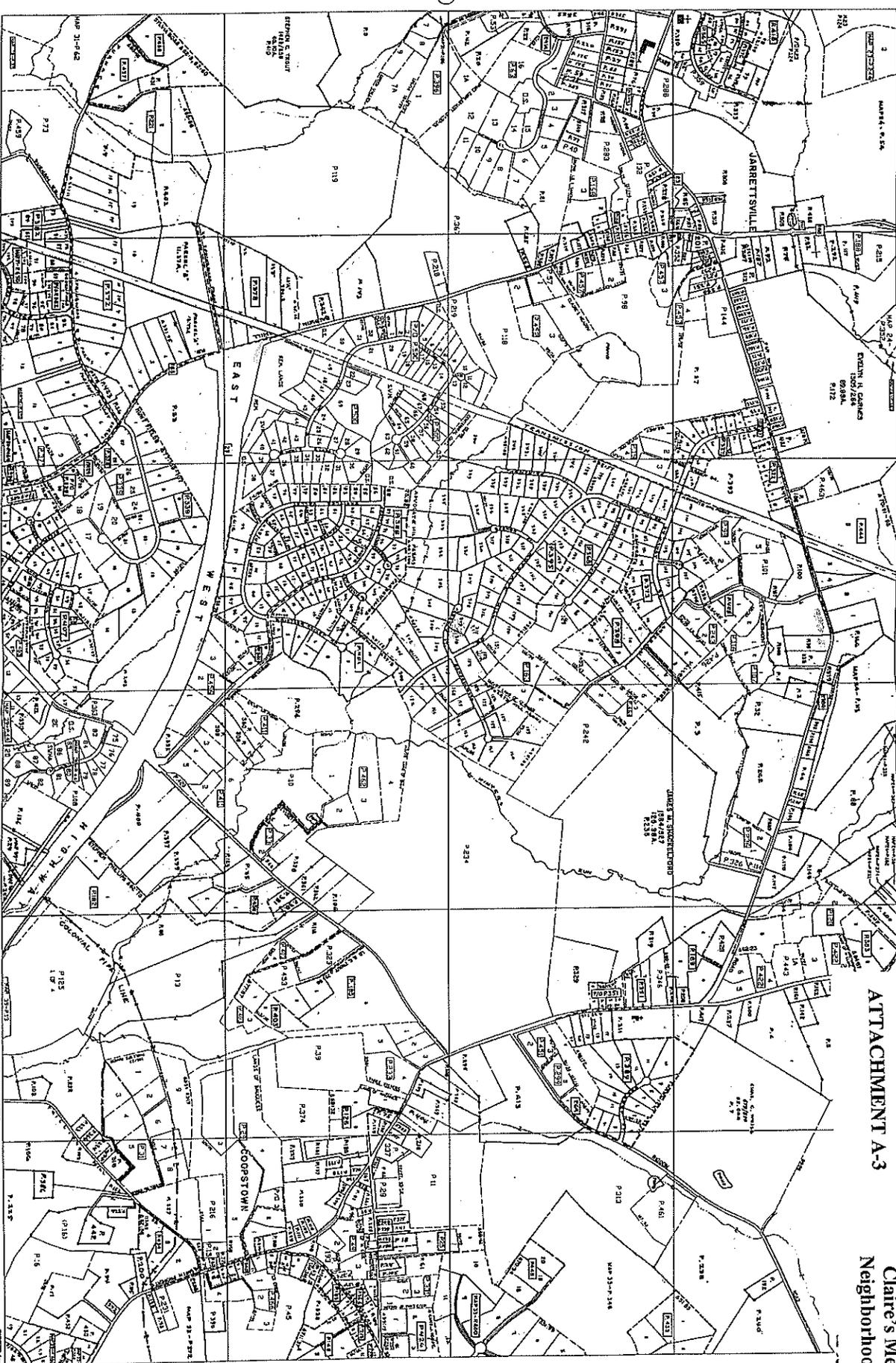
Petitioner: None.

"(j) Availability of public water and sewer."

Petitioner: None

ATTACHMENT A-3

Claire's Meadow Neighborhood Map



23092730N
4439350E

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THESE MAPS ARE PROTECTED BY COPYRIGHT. THEY MAY NOT BE COPIED
OR REPRODUCED IN ANY FORM INCLUDING ELECTRONIC AND MEANS SUCH AS
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WRITING FROM THE MARYLAND DEPARTMENT OF PLANNING.



MARYLAND DEPARTMENT OF PLANNING
PLANNING AND ZONING DIVISION
1000 EAST BALTIMORE AVENUE
BALTIMORE, MARYLAND 21202
TELEPHONE: (410) 535-7300
FACSIMILE: (410) 535-7301
WWW.DEP.MD.GOV



HARFORD COUNTY,
MARYLAND

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MAP NO.
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DAVID R. CRAIG
HARFORD COUNTY EXECUTIVE

LORRAINE COSTELLO
DIRECTOR OF ADMINISTRATION



C. PETE GUTWALD
DIRECTOR OF PLANNING & ZONING

HARFORD COUNTY GOVERNMENT

Department of Planning and Zoning

September 17, 2008

STAFF REPORT

BOARD OF APPEALS CASE NO. 177

APPLICANT/OWNER: Claire's Meadow, LLC
1237 Baldwin Mill Road, Jarrettsville, MD 21084

REPRESENTATIVE: Kevin J. Mahoney, Esquire
Gessner, Snee, Mahoney & Lutche
11 South Main Street, Bel Air, MD 21014

LOCATION: Tax Map: 32 / Grid: 2B / Parcel: 118
Election District: Three (3)

ACREAGE: 23.86+/- acres

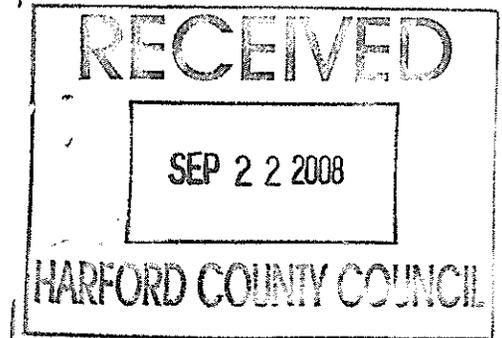
ACREAGE TO BE REZONED: 23.86+/- acres

EXISTING ZONING: AG/Agricultural District

PROPOSED ZONING: RR/Rural Residential District

DATE FILED: June 30, 2008

HEARING DATE: October 15, 2008



APPLICANT'S REQUEST and JUSTIFICATION:

Request:

The Applicant is requesting to rezone 23.86+/- acres from AG/Agricultural District to RR/Rural Residential District.

~ Preserving Harford's past; promoting Harford's future ~

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Claire's Meadows LLC

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Justification:

See ATTACHMENT 1.

LAND USE AND ZONING ANALYSIS:

Location and Description of Neighborhood:

The subject property is located south of the Rural Village of Jarrettsville. It is situated on the east side of Baldwin Mill Road (MD Route 165) and approximately 3,400-feet north of MD Route 23 (East-West Highway). A location map and a copy of the Applicant's site plan are enclosed with the report (Attachments 2 and 3).

The Department agrees that the neighborhood defined by the Applicant is a reasonable description of the neighborhood. However, the Department would include those properties fronting on the west side of MD 165 between MD 23 and Jarrettsville Road. Enclosed with the report is a copy of a map showing the neighborhood defined by the Applicant (Attachment 4).

Land Use – Master Plan:

The subject property is located outside of the Development Envelope. The predominant land use designations in this area of the County are Rural Residential and Agricultural. The Rural Village of Jarrettsville is located north of the site at the intersection of Jarrettsville Road, MD Route 165 and MD Route 23 (Norrisville Road). The Natural Features Map reflects Stream Systems and Sensitive Species Project Review Areas (SSPRA). The subject property is designated as Rural Residential, which is defined by the 1996 Master Plan as:

Rural Residential – Areas of focused rural development within the agricultural area, which allow low intensity residential opportunities while maintaining the character of the surrounding countryside. Water and sewer services are not planned for these areas. Residential density is limited to 1.0 dwelling unit per 2 acres.

Enclosed with the report are copies of the 2004 Land Use Map and the Natural Features Map (Attachments 5 and 6).

Land Use – Existing:

The existing land uses generally conform to the intent of the Master Plan. The area predominately contains single-family residential dwellings and agricultural uses. Commercial uses are generally located within the Rural Village of Jarrettsville and include a gas station, convenience stores, restaurants, a car dealership, specialty retail and banks. Institutional uses in the area include churches and schools.

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The subject property is irregularly shaped, is approximately 23.86+/- acres in size and has approximately 435-feet of frontage along MD Route 165. The subject property is improved with a single-family dwelling and several agricultural accessory structures. The topography within the area ranges from rolling to steep; especially along the stream valleys. The slopes within the property range from moderate to steeply sloping. There are areas of slope in excess of 40% along the banks of two tributaries of the East Branch which traverse portions of the property. There are approximately 9.0+/- acres of mature forest located on the eastern portion of the subject property. Enclosed with the report are copies of the topography map and the aerial photograph (Attachments 7 and 8).

The subject property is bordered to the south by the Centennial Oaks single-family residential subdivision. Lots 2 and 3 of the Claire's Meadows subdivision abut the subject property to the north. The subject property is the remaining lands of a 45± acre parcel subdivided in 1998 to create 4 lots and remaining lands. There are also two large agricultural parcels that abut the subject property to the north. The subject property abuts a parcel to the east that is owned by the Baltimore Gas & Electric Company. A large parcel that is actively farmed is located across from the subject property on the west side of MD Route 165. Enclosed with the report are site photographs (Attachment 9).

Zoning and Zoning History:

Zoning:

The zoning classifications in the area are generally consistent with the 2004 Master Plan as well as the existing land uses. Residential zoning includes RR/Rural Residential District and VR/Village Residential District. Commercial zoning includes VB/Village Business District within the Rural Village of Jarrettsville. There are also several parcels that are zoned AG/Agricultural within the neighborhood. The subject property is zoned AG/Agricultural District as shown on the enclosed copy of the Zoning Map (Attachment 10).

Zoning History:

The subject property has remained zoned AG/Agricultural District since 1957 (Attachments 11 - 14). The subject property was not an issue during the 2004 Comprehensive Zoning Review.

BASIS FOR INDIVIDUAL REZONING REQUEST:

Under Maryland case law, the burden of proof lies with the Applicant to provide information that there has been a substantial change in the overall character of the neighborhood or that the County made a mistake during the last comprehensive zoning review process. It should be noted that the Courts have stated that any argument for change cannot be based on existing changes that were anticipated during the last comprehensive review.

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Claire's Meadows LLC

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Substantial Change Argument:

The Applicants states that, "Petitioner alleges that there has been a substantial change in the character of the neighborhood. The neighborhood is shown on the map entitled "Claire's Meadow Neighborhood", see Attachment A-3. The neighborhood has changed from agricultural to residential."

The Department of Planning and Zoning disagrees with the Applicant that a substantial change has occurred in the subject neighborhood. The land use in the area predominately consists of single-family dwellings. The surrounding residential communities within the neighborhood that have been developed since the 1997 Comprehensive Rezoning were developed in accordance with existing zoning. There are numerous parcels within the neighborhood that continue to be actively farmed, including the subject property. It is important to note that the adjacent Centennial Oaks subdivision was developed utilizing the Conservation Development Standards (CDS). The remaining lands within that subdivision continue to be actively farmed.

As stated above, the development which has occurred in the area is consistent with the existing zoning and Land Use Plan. Therefore, the Department finds that there has not been a substantial change in the neighborhood.

Mistake:

The Applicant states that, "The subject property consists of that property owned by Petitioner designated as Tax Map 32, Parcel 118 (the "Subject Property") as shown among the records of the State Department of Assessments and Taxation ("SDAT"). The Petitioner is requesting that the Subject Property be rezoned from its current AG, Agricultural classification to the RR, Rural Residential Classification. Petitioner alleges that a mistake was made as to the existing zoning of the Subject Property for the following reasons.

1. At the time of the last comprehensive rezoning, the County Council assumed that the Subject Property was still a viable farming operation. Since that time, impacts from surrounding residential development have made the Subject Property no longer viable for farming.
2. At the time of the last comprehensive rezoning, the increased need for residentially zoned land to accommodate impacts from the "BRAC" process were unknown. Since that time the need for residentially zoned land as a result of the BRAC process is now known.
3. The Subject Property is shown as RR infill on the Harford County Master Land Use Plan. The requested zoning is consistent with the Master Land Use Plan.

The County Council did not or could not have known of these facts at the time of the last comprehensive rezoning. If the County Council had known of these facts it would not have

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Claire's Meadows LLC

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retained the AG zoning on the Subject Property. The County Council made a mistake in the legal sense when the Subject Property was zoned AG in the last comprehensive rezoning."

The Applicant's statement that the subject property is "no longer viable for farming" is unfounded. The subject property has been actively farmed since at least before 1957. The subject property continues to be actively farmed. It is also important to note that single family residential dwellings are also a permitted use in the AG/Agricultural District. The subject property is currently improved with a single-family dwelling.

The Department disagrees with the Applicant that the County is not prepared for growth that will result from BRAC. The Department has been monitoring BRAC and is continuing to update and revise the County's housing projections based on current inventory and trends in building permits for new construction.

This property is located within the Rural Residential Designation on the 2004 Land Use Plan and the 1996 Land Use Plan. There are numerous properties within the Rural Residential designation zoned AG/Agricultural.

Therefore, the Department disagrees that a mistake occurred in the zoning of the subject property during the 1997 Comprehensive Zoning review.

ANALYSIS OF INDIVIDUAL ZONING REQUEST:

Conformance with the Master Plan and Land Use Element Plan:

The proposed rezoning is in conformance with the 2004 Master Plan. The Land Use Plan shows the area designated as Rural Residential.

Impact on the neighborhood:

The requested rezoning would not adversely impact the neighborhood.

COMMENTS FROM ADVISORY GROUPS:

History Preservation Commission:

This property is not in a historic district and there are no historic sites on the property.

Planning Advisory Board:

The Planning Advisory Board (PAB) reviewed the request at their meeting on September 10, 2008. The PAB voted 4-0 to recommend that the requested change in zoning be denied (Attachment 15).

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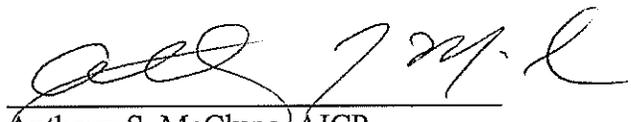
RECOMMENDATION and or SUGGESTED CONDITIONS:

The Department of Planning and Zoning recommends that the request to rezone the subject property from AG/Agricultural District to RR/Rural Residential District be denied.



Shane Grimm, AICP
Chief, Site Plans & Permits Review

SPG/ASM/jf



Anthony S. McClune, AICP
Deputy Director, Planning and Zoning