

AGENDA

WORCESTER COUNTY COMMISSIONERS

February 2, 2016

Item #

- 9:00 AM - Meet in Commissioners' Conference Room - Room 1103 Government Center, One West Market Street, Snow Hill, Maryland - Vote to Meet In Closed Session
- 9:01 - Closed Session: Discussion regarding hiring one Accounting Clerk I and posting to fill a vacancy for a part-time Document Imager II in the Treasurer's Office; posting to fill a vacancy for Plumbing and Gas Inspector II in Environmental Programs; acknowledging hiring of a part-time School Security Deputy in the Sheriff's Office; considering appointments to fill vacancies on County Boards and Commissions for terms commencing on January 1, 2016; receiving legal advice from Counsel; and performing administrative functions
- 10:00 - Call to Order, Prayer, Pledge of Allegiance
- 10:01 - Report on Closed Session; Review and Approval of Minutes
- 10:05 - Presentation of Proclamation recognizing February as Black History Month 1
- 10:10 - Chief Administrative Officer: Administrative Matters 2-7, 9
(Considering Rural Legacy Grant Applications - FY17; Approval of Bid Specifications for Newtown Park Pavilion Project, and Health Center and Recreation Center in Snow Hill Replacement of Condenser Coils in HVAC Rooftop Units; Choptank Electric Cooperative Tree Trimming in Berlin, West Ocean City, Snow Hill and Mt. Olive Area; Scheduling Public Hearings on Rezoning Map Amendment Applications on property located on the east side of MD Route 589-Racetrack Road, north of Gum Point Road from A-1 Agricultural to C-2 General Commercial District, and on property located east of MD Route 611-Stephen Decatur Highway, north of MD Route 376-Assateague Road from C-2 General Commercial to A-2 Agricultural District; Ocean Pines Wastewater Treatment Plant Exempt from Bay Restoration Fund; and potentially other administrative matters)
- 10:30 - Chief Administrative Officer: Administrative Matters 2-7
- 10:20 -
- 10:30 - M. Franklin - Atlantic General Hospital: 2016 Hospital & Health System Update 8
- 10:40 -
- 10:50 -
- 11:00 - Chief Administrative Officer: Administrative Matters 2-7, 9 continued
- 11:10 -
- 11:20 -
- 11:30 -
- 11:40 -
- 11:50 -
- 12:00 - Questions from the Press
- Lunch
- 1:30 PM - Chief Administrative Officer: Administrative Matters (If Necessary) 2-7, 9 continued
- 1:40 -
- 1:50 -
- 2:00 -

AGENDAS ARE SUBJECT TO CHANGE UNTIL THE TIME OF CONVENING

Hearing Assistance Units Available - see Kelly Shannahan, Asst. CAO.

Please be thoughtful and considerate of others.

Turn off your cell phones & pagers during the meeting!

TEL: 410-632-1194
FAX: 410-632-3131
E-MAIL: admin@co.worcester.md.us
WEB: www.co.worcester.md.us



1

HAROLD L. HIGGINS, CPA
CHIEF ADMINISTRATIVE OFFICER
MAUREEN F.L. HOWARTH
COUNTY ATTORNEY

COMMISSIONERS
MADISON J. BUNTING, JR., PRESIDENT
MERRILL W. LOCKFAW, JR., VICE PRESIDENT
ANTHONY W. BERTINO, JR.
JAMES C. CHURCH
THEODORE J. ELDER
JOSEPH M. MITRECIC
DIANA PURNELL

OFFICE OF THE
COUNTY COMMISSIONERS

Worcester County

GOVERNMENT CENTER
ONE WEST MARKET STREET • ROOM 1103

SNOW HILL, MARYLAND

21863-1195

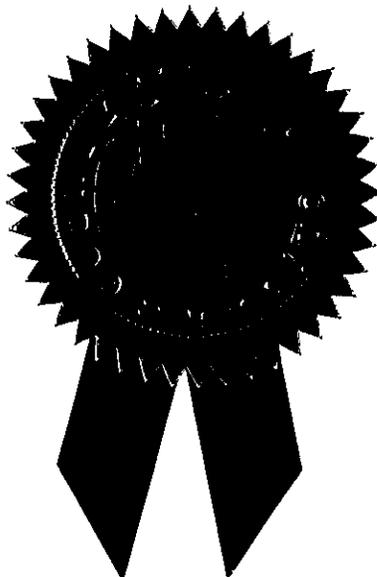
PROCLAMATION

WHEREAS, February is Black History Month and marks the 52nd Anniversary of the Civil Rights Act, which banned discrimination in public facilities - including private businesses offering public services, such as lunch counters, hotels and theaters, ended racial segregation in schools, made employment discrimination illegal and guaranteed all citizens equal protection under the law. The law laid the foundation for the Voting Rights Act of 1965; and

WHEREAS, Black History Month, first recognized nationally in 1976, assures the indelible accomplishments of African Americans within every facet of society are captured in the annals of United States history, thus assuring these contributions can never be altered or forgotten.

NOW, THEREFORE, we the County Commissioners of Worcester County, Maryland, celebrate February as **Black History Month** and invite the public to tour the Government Center where decorative panels highlight the contributions of African Americans who helped shape the Eastern Shore.

Executed under the Seal of the County of Worcester, State of Maryland, this 2nd day of February, in the Year of Our Lord Two Thousand and Sixteen.



Madison J. Bunting, Jr., President

Merrill W. Lockfaw, Jr., Vice President

Anthony W. Bertino, Jr.

James C. Church

Theodore J. Elder

Joseph M. Mitrecic

Diana Purnell

Citizens and Government Working Together

2

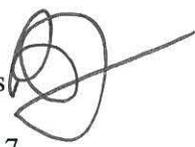
RECEIVED
JAN 27 2016
Worcester County Admin



Worcester County
Department of Environmental Programs

Memorandum

To: Harold L. Higgins, CPA, Chief Administrative Officer
From: Robert J. Mitchell, LEHS, REHS
Director, Environmental Programs
Subject: Rural Legacy Applications – FY 17
Date: January 27, 2016



	<u>Page</u>
Coastal Bays RLA	5
Dividing Creek RLA	11

Attached you will find a memorandum from Katherine Munson, of my staff with applications for requested funding for both the Coastal Bays and Dividing Creek Rural Legacy (RLAs) for approval by the Commissioners. They total \$3,076,000 and the funding will be used to purchase voluntary conservation easements in these areas and also funds incidental and administrative costs. No county funding is required or is offered as match in these applications. The Coastal Bays RLA was approved by the Board of Public Works in 1998 and the Dividing Creek RLA was approved in 2008.

As Mrs. Munson has detailed, we are a County with two RLA's and would need to indicate our preference for funding. In the past we have alternated between the two areas and this year it is the Coastal Bays RLA, which is reflected in the enclosed draft preference endorsement letter. Total funding last fiscal year was \$550,000 for Dividing Creek. We did not receive funding for Coastal Bays RLA last year. This year we are specifically asking for \$1,000,000 in funding for the Coastal Bays RLA. The funding request for Dividing Creek is \$2,076,000. Due to limited state funding, full funding of these requests is not guaranteed.

We request approval to submit these applications with the enclosed endorsement for these two RLAs with a stated preference for the Coastal Bays RLA for this application year. If you have any questions or need additional information please let me know.

Enclosures

1. Memo from Katherine Munson dated 1-27-16
2. The Rural Legacy Applications
3. Maps of the RLAs for FY 17
4. Cover Letter for Application and Preference Letter

cc: Katherine Munson
Maureen Howarth

Citizens and Government Working Together



DEPARTMENT OF
ENVIRONMENTAL PROGRAMS

Worcester County

GOVERNMENT CENTER
ONE WEST MARKET STREET, ROOM 1306
SNOW HILL, MARYLAND 21863
TEL: 410.632.1220 / FAX: 410.632.2012

AGRICULTURAL PRESERVATION
CONSERVATION PROGRAM
WATER & SEWER PLANNING
SHORELINE CONSTRUCTION

WELL & SEPTIC
NATURAL RESOURCES
PLUMBING & GAS
COMMUNITY HYGIENE

Memorandum

TO: Robert Mitchell, Director

FROM: Katherine Munson, Planner IV *KM*

SUBJECT: FY17 Rural Legacy Grant Applications

DATE: January 27, 2016

Please find attached applications for funding for both the Coastal Bays and the Dividing Creek Rural Legacy Areas for a total of \$3,076,000.00 for approval by the County Commissioners.

The purpose of the program is to purchase voluntary conservation easements that protect contiguous farm and forest land in these sensitive areas. No county funding is required or is offered as match by these applications. State funding of the Rural Legacy Program is of course at this time uncertain. Funding has been limited for years and it is highly unlikely that either request will be fully funded.

Counties with two Rural Legacy Areas are required to indicate which Area is preferred for funding. We have alternated preference, each application cycle, between the two Areas. The attached letter indicates preference for Coastal Bays Rural Legacy Area for FY17.

Please note that there is continued strong landowner interest in both Rural Legacy Areas.

Please contact me with any questions.

Attachments

TEL: 410-632-1194
FAX: 410-632-3131
E-MAIL: admin@co.worcester.md.us
WEB: www.co.worcester.md.us



OFFICE OF THE
COUNTY COMMISSIONERS

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CHIEF ADMINISTRATIVE OFFICER
MAUREEN F.L. HOWARTH
COUNTY ATTORNEY

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Worcester County

GOVERNMENT CENTER
ONE WEST MARKET STREET • ROOM 1103

SNOW HILL, MARYLAND

21863-1195

DRAFT

February 2, 2016

Rural Legacy Board
c/o Rural Legacy Program
Land Acquisition and Planning Unit
Maryland Department of Natural Resources
580 Taylor Ave., E-4
Annapolis, MD 21401

RE: Coastal Bays Rural Legacy Area

Dear Members of the Rural Legacy Board:

The Worcester County Commissioners are pleased to present Worcester County's FY17 Coastal Bays Rural Legacy Application for \$1 million.

Worcester County is committed to effective policies and programs to protect our agricultural heartland. The Rural Legacy Program is an important tool for meeting our land protection goals. The cost of land protection in Worcester County is more of a bargain than ever. With \$11 million in Rural Legacy Program funding, we have protected 8,460 acres in the Coastal Bays Rural Legacy Area (RLA) to date.

We look forward to being able to continue to build on past successes protecting some of Maryland's finest farmland in perpetuity.

Thank you for considering our FY17 application.

Sincerely,

Madison J. Bunting, Jr.
President

cc: Bob Mitchell, Director, Environmental Programs (EP)
David Bradford, Deputy Director, EP
Katherine Munson, Planner IV, EP

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DRAFT

February 2, 2016

Rural Legacy Board
c/o Rural Legacy Program
Land Acquisition and Planning Unit
Maryland Department of Natural Resources
580 Taylor Ave., E-4
Annapolis, MD 21401

RE: Coastal Bays and Dividing Creek Rural Legacy Areas, FY17 Applications

Dear Members of the Rural Legacy Board:

The Worcester County Commissioners are pleased to submit requests for funding for both the Coastal Bays Rural Legacy Area (RLA) and the Dividing Creek RLA. Since we are requesting funding for more than one RLA, we are asked to indicate which application we favor for funding in FY17. We place higher priority on the Coastal Bays RLA application this year.

Thank you for considering our FY17 applications. We look forward to continuing to work with the Rural Legacy Program on our shared land protection goals in FY17.

Sincerely,

Madison J. Bunting, Jr.
President

cc: Bob Mitchell, Director, Environmental Programs (EP)
David Bradford, Deputy Director, EP
Katherine Munson, Planner IV, EP

Cover Sheet Rural Legacy Application

Please complete this Cover Sheet and submit it with all Attachments.

Rural Legacy Area Name: Coastal Bays	
Name of Sponsor: Worcester County	
County or Counties Where Eligible Properties Located: Worcester County	
Name of Sponsor's Lead Contact: Katherine Munson	
Contact's Title: Planner IV	
Daytime Phone Number: 410-632-1220 ext 1302	Fax #: 410-632-2012
E-Mail Address: kmunson@co.worcester.md.us	
Address: Department of Environmental Programs; 1 West Market St., # 1306	
Worcester Co. Govt Center; Snow Hill, MD 21863	

As authorized representative of the above referenced Sponsoring organization, I hereby certify that the information in this application is accurate and complete to the best of my knowledge.

Signature:

Date: January 26, 2016

RURAL LEGACY PROGRAM – FISCAL YEAR 2017

**RENEWAL AND AREA EXPANSION
GRANT APPLICATION**

SECTION I: RLA Statistical Information

1. What is the total acreage of the Rural Legacy Area (RLA)? 29,285
2. With this Application, is a RLA boundary expansion being requested? No
If so, how many additional acres are in the expansion area? _____
Please describe in detail the adjustments to the boundaries of the approved RLA.
3. How much of the acreage within the RLA (in acres), is:

Unprotected land 14,600 acres
Protected land (all sources) 14,229 acres
Developed land 450 acres +/-
4. How many acres do you propose to protect with the funds requested in this Application?
300-400 acres
5. What is the projected total cost per acre for land acquisition proposed in this Application?
(Include land and transactional costs, i.e. administrative, indirect and compliance costs.)

Easement \$1,700 to \$2,800
Fee Simple N/A
6. What is the total amount of Rural Legacy Program (RLP) grant funds being requested in this Application? \$1,000,000.00
7. How many acres, including the acres proposed in this Application, do you plan to protect with RLP funds over the next 10 years of the Program? 2,500 to 3,500
8. Estimate the amount of additional RLP funds that will be needed to preserve the RLA goal acreages (based on current easement prices and the acreages currently preserved in the RLA).
\$5 million

SECTION II: Leveraging RLP Funds

1. Describe ways the Sponsor utilized their own funds in the past 12 months to match RLP grant funds. No County matching funds were provided.

2. Detail all sources that were utilized in the past 12 months to leverage RLP funds with other funding programs for land conservation in the RLA (i.e., MALPF, County, Federal, Private, etc.). None.

SECTION III: Bonus Points

1. What was the average width of riparian buffers for RLA properties acquired in the past 12 months? 100 feet
2. Describe any form of public access that has been permitted on properties during the past 12 months, i.e., hunting, educational school trips, trail access? Many RL properties are leased for hunting; one property is used for the annual Worcester County Herp Search in May; another property is used by Delmarva Birding Weekend for a walking tour and for landowner educational outreach conducted by Lower Shore Land Trust annually.
3. Describe any social benefits that resulted because of RLA properties preserved during the past 12 months, i.e., support for local food supply, farm-to-schools, benefits to underserved communities, innovative partnerships, linking children to nature? None.

SECTION IV: Special Circumstances

Describe any unique circumstances or specific projects that should be considered for potential RLP funding. Please limit your response (if any) to one (1) page.

SECTION V: Multiple County Priority Designation

For Sponsors of more than one RLA in the same County, please submit a letter of RLA funding preference. See Attached.

SECTION VI: Proposed Property Acquisitions

Complete the Proposed Acquisition List Form for the top five (5) proposed acquisitions in the RLA for Fiscal Year 2017 funding (submit Form with Application).

SECTION VII: FOR EXPANDED AREAS ONLY

1. Submit digital geographic information (GIS data) for the boundary of the RLA. This should be on a CD or emailed to the Rural Legacy Program as an ArcView shapefile in state plane 83 meters projection. This information must be submitted with the Application or the Application will be considered incomplete.
2. 10 Color Maps of the proposed RLA (8 ½" x 11").

Please submit an electronic copy (in Word or PDF format) of the Application and all Attachments.

SUBMIT COMPLETED RURAL LEGACY PROGRAM GRANT APPLICATIONS TO:

**Rural Legacy Program
Land Acquisition and Planning Unit
Nina M. White, Rural Legacy Program Administrator
ninam.white@maryland.gov**

Fiscal Year 2016 Grant Application submission deadline: Tuesday, February 10, 2015 by 5:00 p.m..

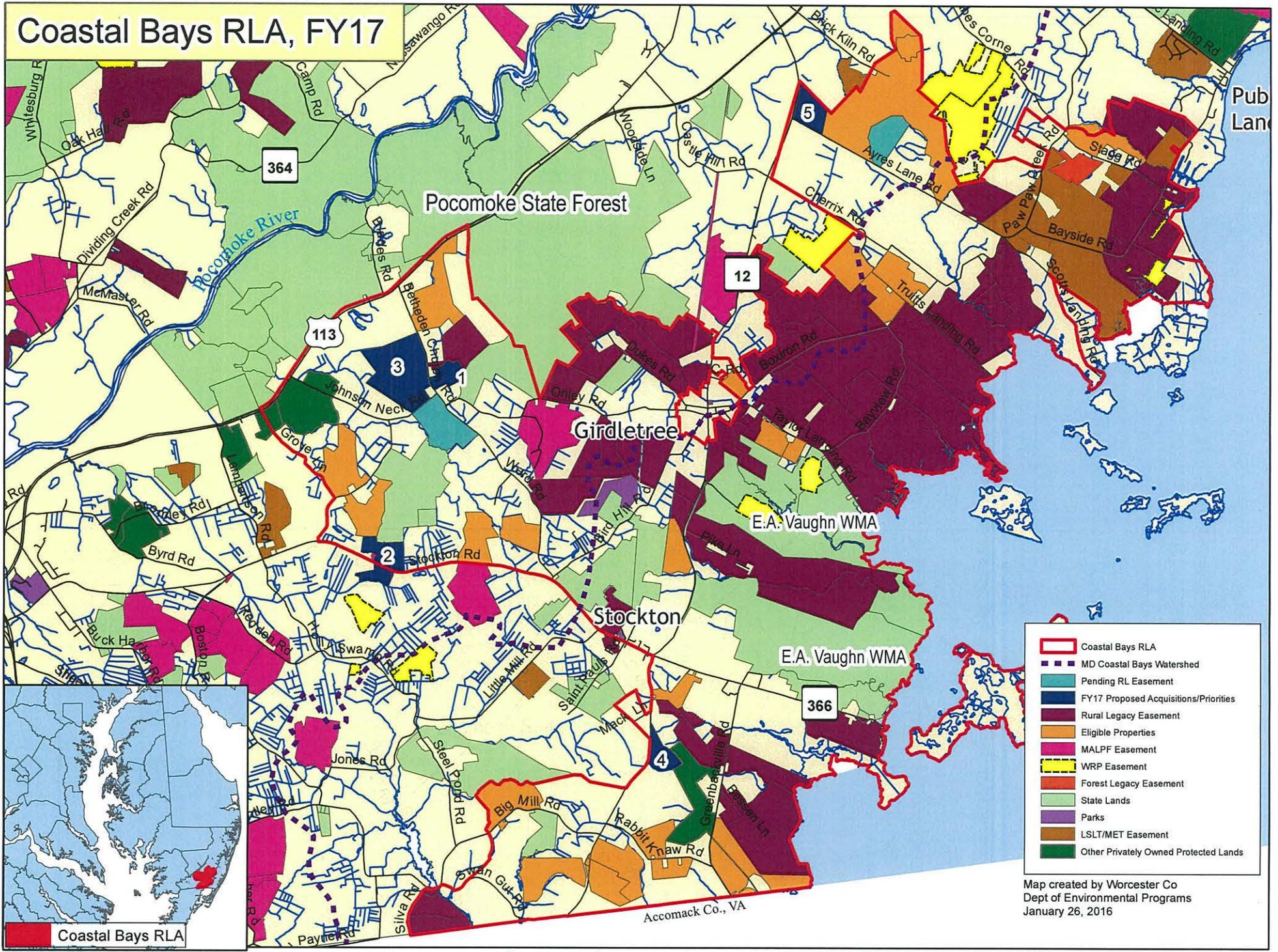
State of Maryland Department of Natural Resources
Rural Legacy Program Application

Proposed Acquisitions – Fiscal Year 2017

Rural Legacy Area Name Coastal Bays

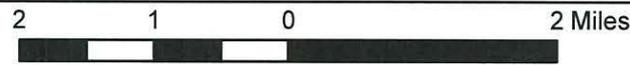
PROPERTY	Owner's Name	Property Address	Estimated Cost	Acres	Tax Map Information					Easement or Fee (E or F)	Buffer Width	Public Access (Y or N)	Social Benefits (Y or N)
					Tax Map	Account ID #	Grid	Parcel	Lot				
1	Porter Mill Properties, LLC	3002 Betheden Church Road	\$150,000 to \$170,000	52.45	78	2408000794	17	12		E	N/A	N	N
2	Willis and Kathryn Redden	North and South side of Stockton Road	\$275,000 to \$300,000	118.27	85	2401007122	10	54		E	100	N	N
3	Shirley Pilchard	3203 Betheden Church Road	\$675,000 to \$750,000	319	78	2408000743	10	41		E	100	N	N
4	Porter Mill Properties, LLC	1108 Snow Hill Road	\$150,000 to \$180,000	63.32	94	2408008094	15	175		E	N/A	N	N
5	Dale Holland	East Side of Route 12	\$230,000 to \$260,000	78.54	71	2402011735	6	5		E	N/A	N	N

Coastal Bays RLA, FY17



- Coastal Bays RLA
- MD Coastal Bays Watershed
- Pending RL Easement
- FY17 Proposed Acquisitions/Priorities
- Rural Legacy Easement
- Eligible Properties
- MALPF Easement
- WRP Easement
- Forest Legacy Easement
- State Lands
- Parks
- LSLT/MET Easement
- Other Privately Owned Protected Lands

Map created by Worcester Co
 Dept of Environmental Programs
 January 26, 2016



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Cover Sheet Rural Legacy Application

Please complete this Cover Sheet and submit it with all Attachments.

Rural Legacy Area Name: Dividing Creek	
Name of Sponsor: Somerset and Worcester Counties, The Nature Conservancy	
County or Counties Where Eligible Properties Located: Somerset and Worcester	
Name of Sponsor's Lead Contact: Elizabeth (Liz) Zucker, The Nature Conservancy	
Contact's Title: Eastern Shore Project Director	
Daytime Phone Number: 410-829-3695	Fax #: N/A
E-Mail Address: ezucker@tnc.org	
Address: 114 South Washington St. Suite 102 Easton, MD 21601	

As authorized representative of the above referenced Sponsoring organization, I hereby certify that the information in this application is accurate and complete to the best of my knowledge.

Signature:

Date:

**RURAL LEGACY PROGRAM – FISCAL YEAR 2017
RENEWAL AND AREA EXPANSION
GRANT APPLICATION**

SECTION I: RLA Statistical Information

1. What is the total acreage of the Rural Legacy Area (RLA)? 27,650
2. With this Application, is a RLA boundary expansion being requested? No
If so, how many additional acres are in the expansion area? N/A
Please describe in detail the adjustments to the boundaries of the approved RLA.
3. How much of the acreage within the RLA (in acres), is: (as of December 31, 2015) expansion area)

Unprotected land	18,693
Protected land (all sources)	8,657
Developed land	300
4. How many acres do you propose to protect with the funds requested in this Application?
1055
5. What is the projected total cost per acre for land acquisition proposed in this Application?
(Include land and transactional costs, i.e. administrative, indirect and compliance costs.)

Easement	<u>\$2200/acre</u>	farmland	<u>\$1500/acre</u>	woodland	<u> </u>
Fee Simple	<u>N/A</u>				
6. What is the total amount of Rural Legacy Program (RLP) grant funds being requested in this Application? \$2,076,000
7. How many acres, including the acres proposed in this Application, do you plan to protect with RLP funds over the next 10 years of the Program? We have a goal to protect 50% of DCRLA (13,525 acres - 300 acres of developed lands not included). 8657 acres are already protected so we have 4868 acres to protect in 10 years to reach the 50% goal.
8. Estimate the amount of additional RLP funds that will be needed to preserve the RLA goal acreages (based on current easement prices and the acreages currently preserved in the RLA). \$9,736,000 to protect 4868 acres to reach a 50% goal in 10 years with an easement price of \$2000/acre.

SECTION II: Leveraging RLP Funds

1. Describe ways the Sponsor utilized their own funds in the past 12 months to match RLP grant funds. N/A

2. Detail all sources that were utilized in the past 12 months to leverage RLP funds with other funding programs for land conservation in the RLA (i.e., MALPF, County, Federal, Private, etc.). \$128,829 to purchase a Wetlands Reserve Enhancement Program (WREP) easement on 57 acres of the 100-acre Rural Integrity property in Somerset County. RL funds used on remaining 47 acres.

SECTION III: Bonus Points

1. What was the average width of riparian buffers for RLA properties acquired in the past 12 months? 100 feet _____
2. Describe any form of public access that has been permitted on properties during the past 12 months, i.e., hunting, educational school trips, trail access? Hunting is permitted on all properties.
3. Describe any social benefits that resulted because of RLA properties preserved during the past 12 months, i.e., support for local food supply, farm-to-schools, benefits to underserved communities, innovative partnerships, linking children to nature? N/A

SECTION IV: Special Circumstances

Describe any unique circumstances or specific projects that should be considered for potential RLP funding. Please limit your response (if any) to one (1) page. Special Circumstances attached.

SECTION V: Multiple County Priority Designation

For Sponsors of more than one RLA in the same County, please submit a letter of RLA funding preference. Letter attached

SECTION VI: Proposed Property Acquisitions

Complete the Proposed Acquisition List Form for the top five (5) proposed acquisitions in the RLA for Fiscal Year 2016 funding (submit Form with Application).

SECTION VII: FOR EXPANDED AREAS ONLY

1. Submit digital geographic information (GIS data) for the boundary of the RLA. This should be on a CD or emailed to the Rural Legacy Program as an ArcView shapefile in state plane 83 meters projection. This information must be submitted with the Application or the Application will be considered incomplete.
2. 10 Color Maps of the proposed RLA (8 ½" x 11").

Please submit an electronic copy (in Word or PDF format) of the Application and all Attachments.

SUBMIT COMPLETED RURAL LEGACY PROGRAM GRANT APPLICATIONS TO:

Rural Legacy Program

Land Acquisition and Planning Unit
Nina M. White, Rural Legacy Program Administrator
ninam.white@maryland.gov

Fiscal Year 2017 Grant Application submission deadline: Tuesday, February 9, 2016 by 5:00 p.m..

State of Maryland Department of Natural Resources
Rural Legacy Program Application

Proposed Acquisitions – Fiscal Year 2017

Rural Legacy Area Name Dividing Creek

PROPERTY	Owner's Name	Property Address	Estimated Cost	Acres	Tax Map Information					Easement or Fee (E or F)	Buffer Width	Public Access (Y or N)	Social Benefits (Y or N)
					Tax Map	Account ID #	Grid	Parcel	Lot				
1	Royer, Regina and Jeffrey Parcel #48 on list	Nassawango Road	\$300,000	122.25	WO 63	07768514	13	167		E	100	N	Y
2	Frederick Carey et al. Parcel #6 on list	East of Courthouse Hill RD	\$250,000	95	SO 42	04061136	6	36		E	100	N	Y
3	Boyer Family LLC Parcel #49 on list	Nassawango RD	\$560,000	256	WO 62	07005040	24	24		E	100	N	Y
4	Quirk, Darrell Parcel #16 on list	South of Perryhawkins Hill RD	\$250,000	90	SO 25	04067010	24	40		E	100	N	Y
5	E.S. Adkins Parcel #22 on list	South of Whitesburg RD	\$700,000	492	WO 16	07006829	15	8		E	100	N	Y

Section IV Dividing Creek Rural Legacy Area ---Special Circumstances-- FY 2017 Renewal Application

The Sponsors of the Dividing Creek Rural Legacy Area (RLA) ---Somerset County, Worcester County and The Nature Conservancy (TNC) --- are pleased to be presenting an FY17 renewal proposal. We have been working with our partner organizations, the Lower Shore Land Trust (LSLT) and Natural Resources Conservation Service (NRCS) to leverage RLA funding for our current and future projects. Over 31% of the RLA is now permanently protected. We thank the Rural Legacy Board, Advisory Committee and staff for their continued support.

Leveraged Funding and Other Programs for Conservation Actions—

Wetland Reserve Program Protection

The USDA WRP has been active in Somerset and Worcester Counties. One of our current projects is leveraged with WRP funds (see below). We appreciate the opportunity to work with NRCS but the process has extended the time of our project closing.

Easement projects currently in progress

Somerset	Rural Integrity	100 acres	57 acres protected with WREP	\$128,829	
			46 acres RL		\$ 83,593 closing estimate Feb 2016
Worcester	Rebecca Wise	147 acres	\$373,177	BPW in Feb.	closing estimate April 2016
Somerset	Arthur Long	287 acres	est. value \$698,558	under contract	closing estimate August 2016

Easement Buffers and Limitations on Impervious Surfaces

All Dividing Creek RLA easements require a minimum 100 foot buffer from Dividing Creek, the Pocomoke River and major tributaries. Our Easement Valuation System (EVS) provides incentives for expanded buffers, quality farmland, protection of important natural resources and social benefits.

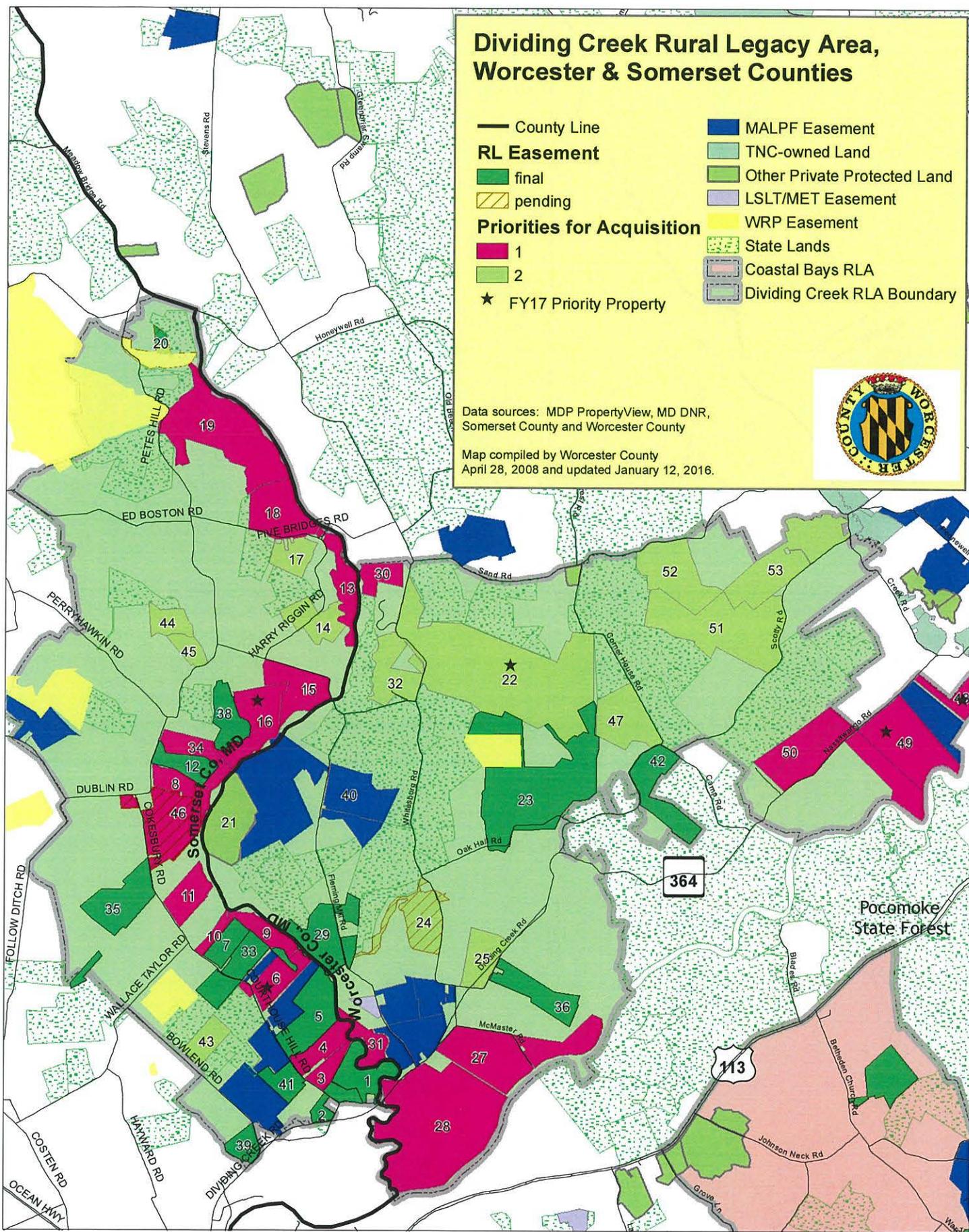
Easements limit the amount of impervious surface of all structures (including ag structures) to 2 to 4% of protected area. In addition, an option to restrict CAFO's on protected property has been introduced to landowners.

Dividing Creek Rural Legacy Area, Worcester & Somerset Counties

- County Line
- RL Easement**
 - final
 - pending
- Priorities for Acquisition**
 - 1
 - 2
- ★ FY17 Priority Property
- MALPF Easement
- TNC-owned Land
- Other Private Protected Land
- LSLT/MET Easement
- WRP Easement
- State Lands
- Coastal Bays RLA
- Dividing Creek RLA Boundary

Data sources: MDP PropertyView, MD DNR, Somerset County and Worcester County

Map compiled by Worcester County
April 28, 2008 and updated January 12, 2016.





3

MEMORANDUM

TO: Harold L. Higgins, Chief Administrative Officer
FROM: Paige A. Hurley, Director *PAH*
DATE: January 19, 2016
SUBJECT: Newtown Park Pavilion Repair Project
Bid Documents

Attached for your review and approval are bid documents for replacement of the structural posts on the pavilion at Newtown Park so located in Pocomoke, MD. Included in this packet is the Notice to Bidders, Conflict of Interest Disclosure Form, Specifications, Bid Form and Bidders List. Once the Commissioners have had the opportunity to review the packet, it is requested that authorization is provided to solicit bids for the repairs.

Program Open Space approved \$17,000 for this project. The project number is POS#6443-23-242

Should you have any questions, please do not hesitate to call me.

Attachments

cc: William Rodriguez
Ken Whited

DRAFT

NOTICE TO BIDDERS

Newtown Park Pavilion Repair Project

The County Commissioners of Worcester County Maryland are currently accepting bids for replacement of structural posts at one pavilion located at Newtown Park, 2001 Groton Road, Pocomoke, MD 21851. Bid specification packages and bid forms are available from the County Commissioners Office, One West Market Street, Government Center – Room 1103, Snow Hill, Maryland 21863-1072. A Pre-Bid Meeting and work site inspection will be held on **Tuesday February 16th 2016** at 10:00 a.m., at the Newtown Park Pavilion located at 2001 Groton Road, Pocomoke, MD 21851. It is highly recommended that all interested bidders attend this meeting to obtain clarifications. During the Pre-Bid Meeting the project scope and Bid Documents will be discussed in depth to answer any questions that Bidders may have. Sealed bids will be accepted until **1:00 p.m., Monday February 22nd 2016** in the Office of the County Commissioners, at the above address, at which time they will be opened and publicly read aloud. Envelopes shall be marked **“Newtown Park Pavilion Repair Project”** in the lower left-hand corner. After opening, bids will be forwarded to the Department of Recreation and Parks for tabulation, review and recommendation to the County Commissioners for their consideration at a future meeting. In awarding the bid, the Commissioners reserve the right to reject any and all bids, waive formalities, informalities and technicalities herein, and to take whatever bid they determine to be in the best interest of the County considering lowest or best bid, quality of goods and work, time of delivery or completion, responsibility of bidders being considered, previous experience of bidders with county contracts, or any other factors they deem appropriate. All inquiries will be directed to William Rodriguez, Parks Superintendent, at his office (410) 632-3173, cell (443) 614-2152, wrodriguez@co.worcester.md.us or by facsimile (410) 632-3273. Email correspondence is encouraged and will be binding.

BID SPECIFICATIONS

Newtown Park Pavilion Repair Project

1. Bids

- A. Bids should be submitted in sealed envelopes clearly marked in lower left-hand corner.

“Newtown Park Pavilion Repair Project”

2. Late Bids

- A. Bids should be mailed or hand-carried to be received in the Office of the County Commissioners by or before **1:00 p.m. on Monday February 22, 2016**. Bids received after the appointed time will not be considered.

3. Taxes

- A. The County is **NOT** exempt from federal and state taxes on this project. Your prices should reflect included taxes.
- B. To clarify the County’s tax status, the County is exempt from all Federal and States taxes for direct purchase of supplies and materials. However, the County’s tax exemption does not extend to the bidder for supplies and materials, which bidder must purchase to complete the job. Therefore, bidders’ prices should reflect the inclusion of Federal and State taxes on purchased supplies and materials for this project.

4. Scope of Work

- A. Supply and install new qty. 14 structural posts, concrete footings, all fasteners, siding and concrete for pavilion pad to replace the existing deteriorated posts at the recreational pavilion located at Newtown Park, 2001 Groton Road, Pocomoke, MD 21851. All fasteners and fastening methods shall be in accordance of all guidelines for this type of repair.
- B. Work Included:
1. Contractor shall provide all permits, post & footing details, supervision, labor, materials, standard manufacturer’s warranty, tools and equipment to supply and install new structural posts to include but not limited to posts, concrete for footings & pad, replacement fasteners and siding where required per the Bid Documents to the satisfaction of the County, governing inspection agencies and manufacturers.
 2. Contractor shall notify the County in writing of any potential conflicts observed with performance of the work.
 3. Contractor shall provide daily clean-up and removal off-site of all trash and debris generated by the work.

4. Contractor shall be required to locate stored materials in an area(s) designated by the County. Contractor further acknowledges the need to store some of the product off site. This may be at the Contractor's facilities or at the manufacturer's factory warehouse and if the Contractor is invoicing for stored materials then the Contractor shall provide insurance for the stored materials.
5. Contractor shall provide all vertical hoisting and horizontal transportation required by this scope.
6. Contractor to provide protective barriers, barricades and traffic control as required protecting the staff and patrons near the facility from any harm arising from performance of the work.
7. Contractor shall provide all electrical power, compressed air, water, sanitary facilities for crew, safety equipment, dumpster(s), removal of all debris generated by the work, tipping fees, temporary heat, temporary enclosures, lighting and all other equipment and services as may be required to perform the Work.
8. Contractor shall secure, block, shore and tie down the existing structure through the duration of the repair so as to prevent loss of the structure from inclement weather and to protect patrons of the park. Loss will be determined on a case by case basis and is solely dependent on the type of weather event that may occur.
9. Contractor shall repair at its own expense any and all damage associated with the performance of this work.
10. Contractor to coordinate all required inspections with the Owner and all governing agencies to include the Worcester County Department of Development Review and Permitting and the Town of Snow Hill.

5. Specifications

The following specific items shall be included as a part of the repair being provided:

- i. General
 - All work is to be in full compliance with Worcester County Building Code's latest revision. Design shall meet hurricane exposure "C" requirements. All unsuitable soils and the mitigation methods and materials to correct said conditions shall be considered extra work to be negotiated as a Change Order with the Owner.

ii. Permits

- Contractor shall provide all building repair details including but not limited to floor plan, post layout, cross section detail, and elevations to be used for obtaining the required building permit from the Worcester County Department of Development Review and Permitting, the Town of Pocomoke and all other agencies that govern this work.
- A site plan will be provided by the Worcester County Department of Public Works to the Contractor to accompany the building drawings for obtaining the building permit.

iii. Repair/Construction:

- Supply and install complete qty. 14 - 6" x 6" x 12' min. pressure treated structural posts, ACQ ground contact, to be held 6" from the bottom of the excavated hole drilled and pinned two opposing directions with #4 deformed bar. Post protectors to be supplied and installed. See this link for material information <http://www.postprotector.com/grade-guard/>
- Installation of the new posts will require cutting of the existing pad and removal of the existing footings. Footings for the vertical posts shall be constructed with 18" diameter x 36" deep bored holes filled with 3,500 PSI concrete. All subgrade soils will be treated for termites prior to the installation of the concrete. The Owner will procure the services of a certified contractor to treat the soils as is required. The post repair contractor shall coordinate the construction schedule to allow the required treatment. Reconstruction/casting/placement of the pad at excavation sites will require installation of isolation felt to separate the new concrete from adjacent structural posts. Newly installed concrete at pad excavation areas shall be drilled and pinned/doweled to the existing concrete pad. Pins/dowels shall be deformed bar and installed at drilled holes using two part epoxy.
- All work shall meet the following guideline as a minimum. See informational internet link...<http://www.awc.org/publications/DCA/DCA6/DCA6-12.pdf>
- Fasteners for securing posts to headers will require use of hot-dipped galvanized or stainless steel bolts, nuts and washers. Bidder shall specify type of material being used listing shall accompany the Bid Form.

iv. Submittals

- Contractor to provide submittals for all building components including the following:
 - Posts – ACQ ground contact rated
 - Post Protectors – Grade Guard or equivalent
 - Fasteners – Hot Dipped Galvanized or Stainless Steel

BID FORM

Newtown Park Pavilion Repair Project

I/We have reviewed the specifications and provisions for replacing the structural posts at the Newtown Park Pavilion located at 2001 Groton Road, Pocomoke, MD 21851. I/We hereby propose to furnish and install the "Work" as specified in the Bid Documents.

Total Bid Price \$ _____,

BID MUST BE SIGNED TO BE VALID.

Date: _____ Signature: _____

Typed Name: _____

Title: _____

Firm: _____

Address: _____

Phone: _____

BIDDERS LIST

J & G Maint.& Repair, Inc.
10446 Dinges Road
Berlin, MD 21811

Park Row Builders
310 Park Row
Snow Hill, MD 21863

Shoreman Construction
606 East Pine Street
Delmar, MD 21875

Beauchamp Construction
900 Clarke Avenue, P.O. Box 389
Pocomoke City, MD 21851-1438

KB Coldiron Inc.
36546 Dupont Blvd.
Selbyville, DE 19975-3006

J & L Services, Inc.
5670 Galestown Reliance Road
Seaford, Delaware 19973

RECEIVED
JAN 27 2016
Worcester County Admin



4

Worcester County
DEPARTMENT OF PUBLIC WORKS
6113 TIMMONS ROAD
SNOW HILL, MARYLAND 21863

JOHN H. TUSTIN, P.E.
DIRECTOR

JOHN S. ROSS, P.E.
DEPUTY DIRECTOR

TEL: 410-632-5623
FAX: 410-632-1753

MEMORANDUM

TO: Harold L. Higgins, Chief Administrative Officer
FROM: John H. Tustin, P.E., Director *JHT*
DATE: January 26, 2016
SUBJ: Snow Hill Health & Recreation Center
Replacement Condenser Coils - Bid Documents

DIVISIONS

MAINTENANCE
TEL: 410-632-3766
FAX: 410-632-1753

ROADS
TEL: 410-632-2244
FAX: 410-632-0020

SOLID WASTE
TEL: 410-632-3177
FAX: 410-632-3000

**FLEET
MANAGEMENT**
TEL: 410-632-5675
FAX: 410-632-1753

**WATER AND
WASTEWATER**
TEL: 410-641-5251
FAX: 410-641-5185

Attached for your review and approval are the bid specifications for replacing the condenser coils in the roof top units at the Snow Hill Health & Recreation Center facilities. Included are the Notice to Bidders, Bid Form and Bidders List for this project. Funds to replace the coils are be available in the Unassigned Fund balance.

If you have any questions, please feel free to contact me.

Attachments

cc: Kenneth J. Whited, Maintenance Superintendent
Maintenance File:

DRAFT

NOTICE TO BIDDERS

Snow Hill Health & Recreation Center Facilities Roof Top Unit Condenser Coil Replacement Project

The County Commissioners of Worcester County Maryland are currently accepting bids for replacing the existing HVAC roof top unit condenser coils at the Worcester County Health facility and Recreation Center so located in Snow Hill, Maryland. Bid Documents are available from the County Commissioners Office, One West Market Street, Government Center – Room 1103, Snow Hill, Maryland 21863-1072. Sealed bids will be accepted until **1:00 p.m., Monday February 22, 2016** in the Office of the County Commissioners, at the above address, at which time they will be opened and publicly read aloud. Envelopes will be marked “**Snow Hill Health & Recreation Center– Condenser Coil Replacement Project**” in the lower left-hand corner. After opening, bids will be forwarded to the Worcester County Public Works for tabulation, review and recommendation to the County Commissioners for their consideration at a future meeting. A pre-bid meeting will be held at 10:00 AM on Tuesday February 16, 2016 starting at the Health facility and Bidders are encouraged to attend. The Worcester County Health Facility and Recreation Center are located in one complex at 6030 & 6040 Public Landing Road, Snow Hill, MD 21863 In awarding the bid, the Commissioners reserve the right to reject any and all bids, waive formalities, informalities and technicalities herein, and to take whatever bid they determine to be in the best interest of the County considering lowest or best bid, quality of goods and work, time of delivery or completion, responsibility of bidders being considered, previous experience of bidders with county contracts, or any other factors they deem appropriate. All inquiries will be directed to Kenneth J. Whited, Maintenance Superintendent at kenwhited@co.worcester.md.us or office (410) 632-3766.

INSTRUCTIONS TO BIDDERS

1. **BIDS**

Bids should be submitted in sealed envelopes clearly marked in the lower left-hand corner **“Snow Hill Health & Recreation Center– Condenser Coil Replacement Project”**

2. **LATE BIDS**

Bids should be mailed or hand carried to be received in the Office of the County Commissioners by or before **1:00 p.m., Monday February 22, 2016**. Bids received after the appointed time will not be considered.

3. **TAXES**

- A. The County is **NOT** exempt from federal and state taxes on this project. Your prices should reflect included taxes.
- B. To clarify the County’s tax status, the County is exempt from all Federal and States taxes for direct purchase of supplies and materials. However, the County’s tax exemption does not extend to the bidder for supplies and materials, which bidder must purchase to complete the job. Therefore, bidders’ prices should reflect the inclusion of Federal and State taxes on purchased supplies and materials for this project.

4. **PRE-BID INSPECTION**

A pre-bid meeting will be held at 10:00 AM on Tuesday February 16, 2016 starting at the Health facility and Bidders are encouraged to attend. Verification of equipment nameplate data shall be available at that time for all Bidders to obtain for their equipment pricing. The Worcester County Health Facility and Recreation Center are located in one complex at 6030 & 6040 Public Landing Road, Snow Hill, MD 21863. Further inquires will be directed to Ken Whited during normal work days between the hours of 7:30 a.m. and 4:00 p.m. at (410) 632-3766 or by electronic mail to kenwhited@co.worcester.md.us.

5. **SCOPE OF SUPPLY**

Remove and replace existing condenser coils with direct replacement products that meet the original performance as specified by the manufacturer. Equipment manufacturer and model numbers are included below.

SNOW HILL HEALTH DEPARTMENT

EQUIPMENT MODELS:

YORK	RTU-1	RTU-2	RTU-3
SUBMITTAL MODEL NO.	Z22AC02Q1KDOB E	Z22AC02Q1KDOB E	Z24AC02Q4KDDB E
FIELD VERIFICATION	Z22AC02Q1KDOB E	Z22AC02Q1KDOB E	Z24AC02Q4KDDB E



RECREATION CENTER

EQUIPMENT MODELS:

AAON
RTU-1
MODEL NO. - FIELD VERIFICATION
55942
RN-050-3-0-AB04-7A2: HBFFM0BGF0BARG0BDN0000A000000B

AAON
RTU-2
MODEL NO. - FIELD VERIFICATION
55940
RN-040-3-0-AB04-7A2: HBFFM0BGEH0BARG0BDN0000A000000B

NOTE: The above equipment information is for reference only and shall not be the basis for Bidders to provide a Bid Price. All Bidders shall confirm/verify all equipment nameplate data and RTU designation as it exists in the facility locations. The County will not be responsible for any errors made by the Bidder or Contractor that hasn't verified the equipment designations.

- Work Included:

- .1 Contractor shall provide all supervision, labor, materials, tools and equipment to remove and replace the existing condenser coils in their entirety as described in the Bid Documents to the satisfaction of the County, governing inspection agencies and manufacturer. Contractor is responsible to lock out and tag out the equipment as required to perform the work and to provide all electrical and controls technicians to perform the shutdown and startup of the equipment. Contractor shall return the equipment to a fully functional status at the completion of the work. Contractor will be responsible for adjusting refrigerant gas pressures (adding or removing) after the initial re-charge of the refrigerant circuits. This may require multiple trips to the site as the ambient temperatures rise and building loads increase following completion of the work. The Contractor shall provide 24 hours of advance notice to the Owner or their designee prior to making the gas pressure adjustments. Adjustments shall not be made without the Owner or their representatives present to witness and assist as needed with any changes to the operational condition of the RTU's.
- .2 Contractor shall verify current operating conditions of the equipment and note any and all abnormalities that may affect the performance of the new coils. The County will provide ATC assistance for this verification. This verification shall be presented to the Owner or his/her representative in writing and shall be written in a technical format. Contractor shall notify the County in writing of any potential conflicts observed with performance of the work.
- .3 Contractor shall provide daily clean-up and removal, plus disposal off-site (in an approved licensed waste disposal site) of all trash and debris generated by the work. Furthermore, Contractor shall recover all refrigerants, oils, solvents used to complete the work and in accordance of all regulatory agency rules, laws and codes that govern recovery and disposal of this type of equipment.
- .4 Contractor shall be required to locate stored materials in an area(s) designated by the County. Contractor further acknowledges the need to store some of the product off site. This may be at the Contractor's facilities or at the manufacturer's factory warehouse and if the Contractor is invoicing for stored materials then the Contractor shall provide insurance for the stored materials.
- .5 Contractor shall provide any vertical hoisting and horizontal transportation required by this scope.
- .6 Contractor to provide protective barriers and barricades as required protecting the staff and patrons of the building from any harm arising from performance of the work.
- .7 Contractor shall repair at its own expense any and all damage associated with the performance of this work.

6. **SPECIFICATIONS**

- A. All products shall be new.
- B. The Bidder/Contractor shall verify all equipment nameplate data prior to ordering replacement components. Replacement components shall only be ordered upon receipt of an approved product submittal.
- C. The Contractor and Manufacturer shall certify that all materials intended to be used in the work are acceptable and compatible for their intended end use.
- D. The supplied products shall be installed only by a qualified contraction firm, which has been installing the specified product for not less than 5 years and is approved (licensed where applicable) by the material/equipment manufacturer.
- E. All material/equipment selections, installation methods and fastening systems shall meet all applicable codes by the agency having jurisdiction for the work.
- F. Bidders shall include all fees, taxes, permits, electrical power for the work, compressed air for pneumatic tools, debris removal, clean up and inspections.
- G. Bidders/Contractors shall furnish all manufacturers warranties and include manufacturer's statements as applicable.
- H. Bidder shall provide full product submittals to accompany the Bid Form.
- I. The Contractor shall provide a project schedule that includes duration for the repairs and the project schedule shall be approved by the County prior to performance of the work. All work shall be performed in an expeditious manner to return the equipment to operational status without delay and any delays shall be reported to the County representative immediately for consideration. This project may require multiple mobilizations with some evening, weekend or holiday work. All pricing shall reflect work that cannot be performed while the buildings are occupied.
- J. The Bidder shall provide copies of their current State of Maryland – DLLR HVACR license and business license. All licenses shall accompany the Bid Form.

BID FORM

**County Commissioners of Worcester County Maryland
"Snow Hill Health & Recreation Center-- Condenser Coil Replacement Project"**

We the undersigned have received all of the Bid Documents, Addenda and reviewed the referenced work site as related to this project and fully understand the documents and requirements in their entirety.

HEALTH FACILITY TOTAL BID PRICE: \$ _____, _____ .00

RECREATION CENTER TOTAL BID PRICE: \$ _____, _____ .00

The Owner may request additional work or the Contractor may identify work that is required to complete the project but was not included in the Scope of Supply in the Bid Documents. All Bidders shall list their rates for additional work below.

INFORMATIONAL PRICING

Supervision...Additional Labor...per man hour.....ADD	\$ _____ . _____
Journeyman/Tech/Mechanic...Additional Labor...per man hour...ADD	\$ _____ . _____
Apprentice/Laborer...Additional Labor...per man hour.....ADD	\$ _____ . _____
Material Mark Up.....% ADD	

BID MUST BE SIGNED TO BE CONSIDERED

Date: _____ Signature: _____

Name: _____

Company: _____

Address: _____

Telephone: _____

BIDDERS

Eastern Shore Heating & Air, Inc.
PO Box 1735
Salisbury, MD 21802
Attn: Mike Bartemy (443) 210-2816 Fax (443) 210-2819
Email: mbartemy@precise-comfort.com

Joseph M. Zimmer, Inc.
Attn: Jeff White
2225 Northwood Drive
Salisbury, MD 21801-7806
Te. (410) 546-5700 Fax (410) 546-1329
Email: don_reynolds@jnzinc.com

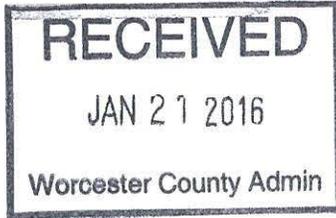
Sens Mechanical, Inc.
Attn: Steve Kolarik
10135 Pin Oak Ln.
Berlin, MD 21811
Te. (410) 629-0777 Fax (410) 629-0778
Email: stevek@sensinc.com

T.E. Smith & Son, Inc.
Attn: William Vollmer
2043 Northwood Drive
Salisbury, MD 21801
Te. (410) 749-4232 Fax (410) 548-5419
Email: bill@te-smith.com

Wilfre Company, Inc.
Attn: Bill Harrison Jr.
8161 Memory Gardens Lane
Hebron, MD 21830
Te. (410) 749-0496 Fax (410) 548-7974
Email: billjr@wilfre.net

CHOPTANK ELECTRIC COOPERATIVE

OWNED BY THOSE WE SERVE



January 19, 2016

Harold Higgins, Chief Administrative Officer
Worcester County Government
1 W Market Street
Snow Hill, 21863



Copy: John Tustin ✓

Dear Mr. Higgins:

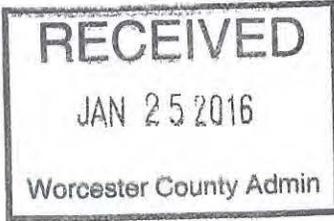
In accordance with State regulations; COMAR 20.50.12.09, electric utilities are required to contact counties and municipalities within their service territory at least two months before commencing any cyclical tree trimming for energized line clearance. I am writing to inform you that over the next year Choptank Electric Cooperative will be performing cyclical tree trimming in the following areas / communities within your county:

Berlin, Greater West Ocean City Area, Greater Snow Hill Area, Mt. Olive

If you have any questions I can be reached at (410) 310-2916 or my email address is bryanh@choptankelectric.coop. If you would rather not receive this notice please return your request in writing and you will be removed from the mailing list.

Sincerely,

Bryan Hall, CA, AICP
Vegetation Management Program Coordinator



6

DEPARTMENT OF
DEVELOPMENT REVIEW AND PERMITTING

Worcester County

GOVERNMENT CENTER
ONE WEST MARKET STREET, ROOM 1201
SNOW HILL, MARYLAND 21863
TEL: 410-632-1200 / FAX: 410-632-3008
www.co.worcester.md.us/drp/drpindex.htm

ZONING DIVISION
BUILDING DIVISION
DATA RESEARCH DIVISION

ADMINISTRATIVE DIVISION
CUSTOMER SERVICE DIVISION
TECHNICAL SERVICE DIVISION

Propose to Schedule Public
Hearing on March 1, 2016

MEMORANDUM

TO: Harold L. Higgins, Chief Administrative Officer
FROM: Edward A. Tudor, Director *EAT*
DATE: January 22, 2016
RE: Planning Commission Findings of Fact and Recommendation
Rezoning Case No. 396
(The Estate of Mildred L. Parsons/Margaret P. Bunting, Personal
Representative, Applicant, and Hugh Cropper, IV, Attorney for the Applicant)



Attached herewith please find the Planning Commission's written Findings of Fact and Recommendation relative to Rezoning Case No. 396, seeking to rezone approximately 11.5 acres of land located on the east side of MD Rt. 589 north of Gum Point Road from A-1 Agricultural District to C-2 General Commercial District. It was reviewed by the Planning Commission at its meeting on December 3, 2015 and given a favorable recommendation.

Also attached for your use is a draft public notice for the required public hearing that must be held by the County Commissioners. An electronic copy has already been forwarded to Kelly Shannahan. Please advise our department at your earliest convenience as to the public hearing date so that our department can ensure that the mandatory public notice of 15 days is met via posting on the site and mailings to adjoining property owners.

Thank you for your attention to this matter. Should you have any questions or require additional information, please do not hesitate to contact me.

EAT/phw

§ ZS 1-113. Amendments.

(a) Generally. The regulations, restrictions, definitions, districts, classifications and boundaries set forth in this Title may, from time to time, be amended, supplanted, modified or repealed by the County Commissioners. Amendments to the text of this Title shall be passed as Public Local Laws by the County Commissioners. The reclassification of any property or the relocation of any district boundary shall be by resolution of the County Commissioners.

(b) Text amendments.

(1) Proposals for amendments to the text of this Title may be made by any interested person who is a resident of the County, a taxpayer therein or by any governmental agencies of the County. Such proposals for text amendments shall be in the form as prescribed by the Planning Commission and shall be addressed to and filed with the County Commissioners.

(2) Text amendments shall be passed by the County Commissioners as Public Local Laws according to legally required procedures, with the following additional requirements: Any proposed amendment shall first be referred to the Planning Commission for recommendation. The Planning Commission shall make a recommendation to the County Commissioners within a reasonable time after receipt of the proposed amendment. If, after receipt of the recommendation of the Planning Commission, no County Commissioner is willing to introduce the proposed amendment as a bill, it need not be considered. If one or more County Commissioners does introduce the proposed amendment as a bill, the County Commissioners shall hold at least one public hearing in relation to the proposed amendment, at which parties and interested citizens shall have an opportunity to be heard. At least fifteen days' notice of the time and place of such hearing and the nature of the proposed amendment shall be published in an official paper or a paper of general circulation in the County in accordance with the provisions of § ZS 1-114 hereof.

(c) Map amendments.

(1) Application.

A. Proposals for amendment of the Official Zoning Maps may be made only by a governmental agency or by the current property owner, contract purchaser, option holder, lessee, his attorney or the agent of the property to be directly affected by the proposed amendment. Applications filed by persons other than the current property owner must be cosigned by the property owner or the property owner's attorney at law or in fact. Such proposals for map amendments shall be in the form as prescribed by the Planning Commission and shall be accompanied by a plat drawn to scale showing property lines, the existing and proposed district boundaries and such other information as the Planning Commission may need in order to locate and plot the amendment on the Official Zoning Maps. Such plat shall not be required for sectional or comprehensive reclassification. Applications for map amendments shall be addressed to and filed with the office of the County

Commissioners. Applications shall be considered thrice annually in order to consider the collective effect of such applications. Application shall only be accepted from January 1 to January 31, May 1 to May 31, and September 1 to September 30 of any calendar year. Every such application shall contain the following information:

1. If the applicant is a corporation, the names and residences of the officers, directors and all stockholders owning more than twenty percent of the capital stock of the corporation.
 2. If the applicant is a partnership, whether a general or limited partnership, the names and residences of all partners who own more than twenty percent of the interest of the partnership.
 3. If the applicant is an individual, his name and residence.
 4. If the applicant is a joint venture, unincorporated association, real estate investment trust or other business trust, the names and residences of all persons holding an interest of more than twenty percent in the joint venture, unincorporated association, real estate investment trust or other business trust.
- (2) Any officially filed amendment or other change shall first be referred by the County Commissioners to the Planning Commission for an investigation and recommendation. The Planning Commission may make such investigations as it deems appropriate or necessary and, for the purpose of its review, may require the submission of pertinent information by any person concerned and may hold such public hearings as are appropriate in its judgement. The Planning Commission shall formulate its recommendation on such amendment or change and shall submit its recommendation and pertinent supporting information to the County Commissioners within ninety days after the Planning Commission's decision of recommendation, unless an extension of time is granted by the County Commissioners. After receiving the recommendation of the Planning Commission concerning any such amendment to this Title and before adopting or denying the same, the County Commissioners shall hold a public hearing in reference thereto in order that parties of interest and citizens shall have an opportunity to be heard. The County Commissioners shall give public notice of such hearing in accordance with the provisions of § ZS 1-114 hereof. Two legible full and complete copies of all exhibits, including electronic media, to be introduced by the applicant at any rezoning hearing as well as any proposed conditions of any rezoning shall be delivered to the Department at least thirty days prior to any rezoning hearing. The exhibits delivered shall be introduced by the applicant into evidence at the public hearing. No other exhibits other than rebuttal shall be permitted to be introduced by the applicant without specific permission of the County Commissioners given at the public hearing. The entire file and record of the staff and Planning Commission shall be incorporated in the record of the hearing and considered by the County Commissioners. Except as hereinafter provided, a simple majority vote of the entire Board of County Commissioners shall be required to pass any map amendment to this Title. However, a five-sevenths majority vote of the entire

Board of County Commissioners shall be required to pass any map amendment to this Title which represents a substantial change in or departure, as determined by a majority of the County Commissioners, from a proposed map amendment as favorably recommended by the Planning Commission or to pass a proposed map amendment which has received an unfavorable recommendation from the Planning Commission. Failure to obtain the aforesaid required majority shall constitute a denial. For the purposes of this section, the "entire Board" shall mean all members eligible to vote on any proposed amendment. A complete record shall be kept of the public hearing and the votes of all members of the County Commissioners in deciding all questions relating to the proposed map amendment.

- (3) Where the purpose and effect of the proposed amendment is to change the zoning classification of the property, the County Commissioners shall make findings of fact in each specific case, including but not limited to the following matters: population change, availability of public facilities, present and future transportation patterns, compatibility with existing and proposed development and existing environmental conditions for the area, including having no adverse impact on waters included on the State's impaired waters list or having an established total maximum daily load requirement, the recommendation of the Planning Commission and compatibility with the County's Comprehensive Plan. The County Commissioners may grant the map amendment based upon a finding that there was a substantial change in the character of the neighborhood where the property is located since the last zoning of the property or that there is a mistake in the existing zoning classification and that a change in zoning would be more desirable in terms of the objectives of the Comprehensive Plan. The County Commissioners may adopt the findings or portions of the findings of the Planning Commission as the findings of the County Commissioners. Individual County Commissioners may make separate findings, but such separate findings considered as a whole must support the action taken. The findings may include reasonably drawn conclusions. The fact that an application for a map amendment complies with all of the specific requirements and purposes set forth in this Title shall not be deemed to create a presumption that the proposed reclassification and resulting development would in fact be compatible with the surrounding land uses and is not, in itself, sufficient to require the granting of the application.
- (4) No application for a map amendment shall be accepted for filing by the office of the County Commissioners if the application is for the reclassification of the whole or any part of land for which the County Commissioners have denied reclassification within the previous twelve months as measured from the date of the County Commissioners vote for denial. However, the County Commissioners may grant reasonable continuances for good cause. In addition, the County Commissioners may allow an applicant to withdraw an application for a map amendment at any time, provided that, if the request for withdrawal is made after publication of the notice of public hearing, no application for reclassification of all or any part of the land which is the subject of the application shall be allowed within twelve months following the date of such withdrawal, unless the Commissioners specify by formal resolution that the time limitation shall not apply.

- (5) The County Commissioners, upon the rezoning of any land or lands, may impose such restrictions, conditions or limitations as may be deemed by them to be appropriate to preserve, improve or protect the general character and design of the lands and improvements being zoned or rezoned or of the surrounding or adjacent lands and improvements and may, upon the zoning or rezoning of any land or lands, retain or reserve the power and authority to approve or disapprove the design of buildings, construction, landscaping or other improvements, alterations and changes made or to be made on the subject land or lands. In the event of a conditional map amendment, the restrictions, conditions and limitations shall be reduced to the form of an agreement signed by the owner and all lien holders and recorded among the land records at the expense of the owner. Restrictions, conditions or limitations may be recommended by the Planning Commission and shall be advertised verbatim or in summary form in the notice of the public hearing on the map amendment. Such recommended restrictions, conditions or limitations shall be considered a part of the Planning Commission's recommendation and subject to the five-sevenths majority vote provisions hereof. If there are no proposed restrictions, conditions or limitations at the time of the advertisement prior to the rezoning hearing, the Commissioners may state in the notice that restrictions, conditions or limitations will be considered at the hearing and may, subsequent to the hearing, without additional advertisement or hearing, impose any such restrictions. A restriction, condition or limitation imposed on an amendment, supplement or change in this Title shall become a part of this Title, and violation thereof shall be deemed to be a violation of this Title.
- (6) Comprehensive (sectional) reclassification map amendments.
- A. Comprehensive (sectional) reclassifications may only be initiated by the Planning Commission or the County Commissioners.
- B. The Planning Commission shall review the proposed comprehensive reclassification and make a recommendation to the County Commissioners. In the case of a comprehensive (sectional) reclassification initiated by the County Commissioners, the Planning Commission shall make a recommendation to the County Commissioners within one hundred twenty days after its first review by the Planning Commission, unless an extension of time is granted by the County Commissioners. The Planning Commission may make such studies as it deems necessary and appropriate.
- C. After receiving the recommendation of the Planning Commission, the County Commissioners may require further studies and shall hold a public hearing in reference thereto in order that parties of interest and citizens shall have an opportunity to be heard. Public notice of such hearing shall be given in accordance with the provisions of § ZS 1-114 hereof.
- D. Comprehensive (sectional) reclassifications shall be by resolution of the County Commissioners.
- E. Notification of property owners and neighboring property owners and the posting of the property, as required in piecemeal rezonings, shall not be

required when the property is the subject of the comprehensive (sectional) reclassification.

- F. Findings of fact as required in piecemeal rezonings shall not be required for comprehensive (sectional) reclassifications.
- G. In the case of a comprehensive (sectional) rezoning, conditions placed upon a property by virtue of a prior conditional rezoning shall be null and void unless specifically carried forward by the County Commissioners upon a finding that the reasons for which the conditions were originally imposed are still valid.

§ ZS 1-114. Requirements for public notice.

- (a) Generally. Unless otherwise expressly provided by law, all notices to the general public required by the terms of this Title shall be made as follows:
 - (1) By the posting of a reasonably sized sign upon the property which is the subject of the proceedings as follows:
 - A. The sign shall be of sufficient size to reasonably advise the public of the fact of the public hearing and shall be posted not less than fifteen days prior to the public hearing. The sign shall be posted (to the extent possible) within a reasonable distance of a public road serving or near the property so as (to the extent possible) to be reasonably visible to the public. Posting requirements shall be subject to the following modifications and provisions:
 - 1. Except in the case of the fifteen-day requirement, reasonable, good-faith compliance with the above requirements, as determined by the hearing agency, shall be sufficient.
 - 2. Where the property lines are difficult to ascertain, posting on an adjacent property may be found to be sufficient.
 - 3. Evidence of posting shall be provided at the public hearing, but no evidence that the sign remained standing during the period of posting shall be required. When a posted sign is destroyed or removed, the property shall be reposted but the date of posting shall be the date of original posting.
 - 4. The hearing agency shall have the authority to determine whether or not a good-faith effort to comply with the posting requirements is sufficient to satisfy the intent of such requirements so as to reasonably advise the public of the pending proceeding.
 - B. Any applicant and/or owner of the property subject to the proceedings shall be deemed to have consented to the entry upon the property by any County staff or board members to examine the property with respect to the specific request and by the public for the purpose of viewing any sign.

C. Posting shall not be required for proposed sectional or comprehensive map amendment procedures or for proposed amendments to the text of this Title.

(2) All proceedings under the terms of this Title requiring a public hearing shall be advertised at least once in one newspaper of general circulation in the County not less than fifteen days prior to the date such proceeding is scheduled for hearing, which advertisement shall state the following:

- A. The date, time and place of such hearing.
- B. A summary of the purpose of the proceeding in sufficient detail to inform the public of the nature of the proceeding and the relief sought by the initiator of the proceeding.
- C. The location of the property involved, if any, the name of the owner and the file or case number of the proceeding and the name of the governmental body before which such proceeding is to be conducted.
- D. Any other information deemed necessary to adequately inform the public of the proceeding.

(3) Whenever the application of this Title requires the holding of a public hearing, a notice of the time and place of such hearing shall be mailed to the initiator of the proceeding, to each incorporated municipality within one mile of the property affected by the proposed change, to the owners of all property contiguous to the property with which the hearing is concerned and to all properties opposite the property with which the hearing is concerned. Opposite properties are measured at right angles to the center line of any intervening roads. Such mailed notices shall be sufficient if directed to such qualifying property owners as shown on the tax records of the County, at the address to which the real estate tax bill on the property is sent, and as shown on the current property tax records for the County. Such notice shall contain the same information as the published notice required by this subsection and shall be mailed not less than fifteen days prior to the date of the hearing. An affidavit of compliance with this section shall be made a part of the record. Posting or notification of property owners shall not be required for proposed sectional or comprehensive map amendment procedures or for proposed amendments to the text of this Title.

(b) Responsibility for public notice. It shall be the responsibility of the Department to ensure that the provisions of Subsections (a)(1) and (a)(3) hereof are fully complied with for all matters that come before the Board of Zoning Appeals, the Planning Commission or the County Commissioners relative to matters regulated by this section.

§ ZS 1-115. Permits and zoning/occupancy certificates.

(a) Permit. It shall be unlawful to:

- (1) Erect or locate or begin the construction, reconstruction, extension, renovation, demolition or alteration, including the excavation thereof, of any building or structure until a permit for such work has been issued by the Department; or

NOTICE
OF
PROPOSED CHANGE
IN ZONING

EAST SIDE OF MD RT. 589
NORTH OF GUM POINT ROAD

THIRD TAX DISTRICT
WORCESTER COUNTY, MARYLAND

Pursuant to Section 1-113 of the Worcester County Zoning Ordinance, Rezoning Case No. 396 has been filed by Hugh Cropper, IV, attorney, on behalf of The Estate of Mildred L. Parsons, Margaret P. Bunting, Personal Representative, property owners, for an amendment to the Official Zoning Maps to change approximately 11.5 acres of land located to the east side of MD Rt. 589, north of Gum Point Road, in the Third Tax District of Worcester County, Maryland, from A-1 Agricultural District to C-2 General Commercial District. The Planning Commission has given a favorable recommendation to the rezoning application.

Pursuant to Sections 1-113 and 1-114 of the Worcester County Zoning Ordinance, the County Commissioners will hold a

PUBLIC HEARING

on

TUESDAY,
at

in the

COUNTY COMMISSIONERS' MEETING ROOM
ROOM 1101
WORCESTER COUNTY GOVERNMENT CENTER
ONE WEST MARKET STREET
SNOW HILL, MARYLAND 21863-1072

At said public hearing, the Commissioners will consider the rezoning application, the staff file on Rezoning Case No. 396 and the recommendation of the Planning Commission, any proposed restrictions on the rezoning, other appropriate restrictions, conditions or limitations as may be deemed by them to be appropriate to preserve, improve or protect the general character and design of the lands and improvements being zoned or rezoned or of the surrounding or adjacent lands and improvements, and the advisability of reserving the power and authority to approve or disapprove the design of buildings, construction, landscaping or other improvements, alterations and changes made or to be made on the subject land or lands to assure conformity with the intent and purpose of applicable State laws and regulations and the County Zoning Ordinance.

Maps of the petitioned area, the staff file on Rezoning Case No. 396 and the Planning Commission's recommendation which will be entered into the record of the public hearing are on file and are available for inspection at the Department of Development Review and Permitting, Worcester County Government Center, One West Market Street, Room 1201, Snow Hill, Maryland 21863-1070.

Madison J. Bunting, Jr., President

lh

**PLANNING COMMISSION
FINDINGS OF FACT
AND
RECOMMENDATION**

REZONING CASE NO. 396

APPLICANT:

**The Estate of Mildred L. Parsons
Margaret P. Bunting, Personal Representative
10805 St. Martins Neck Road
Bishopville, Maryland 21813**

ATTORNEY FOR THE APPLICANT:

**Hugh Cropper, IV
9923 Stephen Decatur Highway, D-2
Ocean City, Maryland 21842**

December 3, 2015

WORCESTER COUNTY PLANNING COMMISSION

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I. INTRODUCTORY DATA

- A. CASE NUMBER: Rezoning Case No. 396, originally filed on September 30, 2015.
- B. APPLICANT: The Estate of Mildred L. Parsons
Margaret P. Bunting, Personal Representative
10805 St. Martins Neck Road
Bishopville, Maryland 21813

ATTORNEY FOR THE APPLICANT: Hugh Cropper, IV
9923 Stephen Decatur Highway, D-2
Ocean City, Maryland 21842
- C. TAX MAP/PARCEL: Tax Map 21 - Parcel 72 - Tax District 3
- D. SIZE: The petitioned area is approximately 11.5 acres in size.
- E. LOCATION: The petitioned area is located on the easterly side of MD Route 589 to the north of the junction with Gum Point Road.
- F. CURRENT USE OF PETITIONED AREA: The petitioned area is tilled cropland.
- G. CURRENT ZONING CLASSIFICATION: A-1 Agricultural District.
- H. REQUESTED ZONING CLASSIFICATION: C-2 General Commercial District.
- I. ZONING HISTORY: The petitioned area was given an A-1 Agricultural District zoning classification at the time zoning was first established in the mid-1960s and that classification was retained in both the 1992 and 2009 comprehensive rezonings.
- J. SURROUNDING ZONING: The property immediately to the north of the petitioned area is zoned C-2 General Commercial District. It was rezoned to that classification from A-1 Agricultural District by virtue of Rezoning Case No. 392 effective September 4, 2012. The properties to the south are also zoned C-2 General Commercial District as are two properties on the opposite (westerly) side of MD Route 589. Properties to the east, along Gum Point Road, are zoned R-1 Rural Residential District. Properties on the westerly side of MD Route 589, with the exception of the two commercially zoned sites, are zoned A-2 Agricultural District.

- K. COMPREHENSIVE PLAN: According to the 2006 Comprehensive Plan and associated land use map, the petitioned area is within the Commercial Center and Existing Developed Area Land Use Categories.
- L. WATER AND WASTEWATER: As it pertains to wastewater disposal and the provision of potable water, the petitioned area is not within an area which receives public sewer or water service at the present time. According to the response memo from Robert J. Mitchell, Director of the Department of Environmental Programs (copy attached), the petitioned area has a designation of Sewer Service Category S-6 (No Planned Service).
- M. ROAD ACCESS: The petitioned area fronts on and currently has access to MD Route 589. That roadway is state-owned and -maintained and connects to US Rt. 50, US Route 113 and MD Route 90. The Comprehensive Plan classifies MD Route 589 as a two-lane secondary highway/major collector highway.

II. APPLICANT'S TESTIMONY BEFORE THE PLANNING COMMISSION

- A. As the basis for the rezoning request from A-1 Agricultural District to C-2 General Commercial District Mr. Cropper, attorney for the Applicant, contended that there has been a substantial change in the character of the neighborhood since the last comprehensive rezoning, adopted by the County Commissioners on November 3, 2009.

Mr. Cropper introduced Applicant's Exhibit No. 1, a large format zoning map of the area, showing the MD Route 589 corridor, generally extending from US Route 50 on the south to Beauchamp Road on the north. Mr. Cropper pointed out the petitioned area on this map, identified as a hatched area, and defined the neighborhood as that area bound on the north by MD Route 90, on the east by the Isle of Wight Bay, on the south by US Route 50, and on the west by those properties on the westerly side of MD Route 589. Mr. Cropper noted that he had previously represented Silver Fox LLC as the Applicant in Rezoning Case No. 392 in which the property immediately to the north of the now petitioned area was rezoned from A-1 Agricultural District to C-2 General Commercial District in 2012. The same definition of the neighborhood was utilized in that case. Although the rezoning was appealed to the Circuit Court following its approval by the County Commissioners on September 4, 2012, it was appealed again by the property owner to the Court of Special Appeals of Maryland and subsequently affirmed by that Court.

Mr. Cropper contended that if the Silver Fox property immediately to the north is commercially zoned, then the petitioned area should be as well. He asserted that the same changes to the character of the neighborhood that were pertinent in the Silver Fox rezoning (Case No. 392) are pertinent in this case as well. As he did in

that case relative to changes since the 2009 comprehensive rezoning, Mr. Cropper cited the opening of the Casino at Ocean Downs and amendments to the Master Water and Sewerage Plan and extension of public sewer service to the Casino. He also cited the proposed development of the adjacent property to the east into a 17 lot residential subdivision as a change, due in large part to the granting of Atlantic Coastal Bays Critical Area growth allocation by the Worcester County Commissioners and the Critical Area Commission which have enabled the subdivision to occur. Mr. Cropper maintained that although the Casino is located on an agriculturally zoned property, it is not truly an agricultural use and is in fact commercial in nature, given its size of approximately 10,000 square feet and the extensive expanse of parking lots associated with the use. He stated that the most important change in the neighborhood's character, however, is the rezoning of the adjacent Silver Fox property from A-1 Agricultural District to C-2 General Commercial District. That rezoning has left the petitioned area as an island of A-1 Agricultural District zoning which, be it legal or illegal, represents spot zoning. He maintained that the petitioned area's zoning is the only such zoning for at least a half mile along the MD Route 589 corridor.

Mr. Cropper called R. D. Hand, landscape architect, of R. D. Hand and Associates as the first witness. Mr. Hand stated that the definition of the neighborhood is appropriate, as it is the same used in the Silver Fox rezoning of the adjacent property immediately to the north which was accepted by the Planning Commission, the County Commissioners and the Courts. He asserted that the aforementioned rezoning is the primary change in the character of the neighborhood that has occurred since the comprehensive rezoning. He also cited the extension of public sewer service to the Casino at Ocean Downs via a force main bored under Turville Creek and the associated Master Water and Sewerage Plan amendments that enabled that to happen. Furthermore, a residential planned community of 17 lots has been approved by the County Commissioners for the Steen property adjacent to the petitioned area, which was preceded by the granting of necessary Critical Area growth allocation by the County Commissioners and the State's Critical Area Commission. He maintained that the clubhouse enlargement at the Casino represents a substantial change in the character of the neighborhood as well. Mr. Hand stated that he believes the proposed rezoning of the petitioned area from A-1 Agricultural District to C-2 General Commercial District is consistent with the Comprehensive Plan. He testified that approximately three-quarters of the petitioned area is within the Comprehensive Plan's Commercial Center Land Use Category, with the remainder being in the Existing Developed Area Land Use Category. He asserted that only a corner of the previously rezoned Silver Fox property immediately to the north is designated as being within the Commercial Center Land Use Category whereas the petitioned area is predominantly within that category and abuts commercially zoned property on three sides. Mr. Hand contended that the petitioned area is consequently more appropriately zoned C-2 General Commercial District than A-1 Agricultural

District.

Mr. Cropper called Edward Launay, professional wetlands scientist, of Environmental Resources, Inc. as the next witness. Mr. Launay stated that he had examined the petitioned area and concluded the proposed rezoning is consistent with existing and proposed development and existing environmental conditions. He stated that he had also analyzed the Silver Fox site immediately to the north and concluded that there would be no impact from either. Mr. Cropper entered Applicant's Exhibit No. 2 into the record, which consists of two items, the first being a black and white hillshade elevation map of the petitioned area and surrounding lands and a color aerial photo/site resource map of the petitioned area showing the soil types and nontidal wetlands. Mr. Launay stated that these two items demonstrate that the petitioned area is well-elevated and there are no tidal or nontidal wetlands on the petitioned area. He said soil borings were used to evaluate the actual site conditions and that the petitioned area has a high sandy ridge. A soil resources report prepared by Environmental Resources, Inc. for the petitioned area was entered as Applicant's Exhibit No. 3. The site is well drained, has good depth to groundwater and its soils are suitable for on-site septic disposal if need be. He contended that the soils and elevation of the petitioned area make it well suited to commercial development, more so than the Silver Fox property to the north and better than most sites on the MD Route 589 corridor. Mr. Launay maintained that the proposed rezoning of the petitioned area to C-2 General Commercial District would not have an adverse impact on impaired waters of the State and that no trees, archeological sites or endangered species are known to be on the site.

Mr. Cropper recalled Mr. Hand as a witness. Mr. Hand contended that there had been a general, though not substantial, change to the population of the neighborhood as vacant lots in subdivisions such as Baypoint Plantation have been constructed upon. As it pertained to availability of public facilities, Mr. Hand stated that public sewer service has been made available to some sites in the neighborhood and that the preferred method of wastewater disposal on the petitioned area if rezoned is via connection to the public system in Ocean Pines. However, the petitioned area's soils are capable of providing adequate on-site septic disposal. Relative to present and future transportation patterns, Mr. Hand stated that even though no traffic study had been prepared relative to the impact of this particular rezoning application, he believes that the proposed rezoning of the petitioned area and subsequent commercial development will not have a significant impact on MD Route 589 given the site's 11.5 acre size. He noted that the traffic study prepared for Rezoning Case No. 392 (Silver Fox) indicated that a Level of Service (LOS) C would be maintained even after that 33 acre site was rezoned and developed commercially. He anticipated that the impact from the current rezoning request would be much less. Regarding compatibility with existing and proposed development, Mr. Hand noted that the area is developed

with offices, retail facilities and restaurants to the south and west and with numerous existing commercial uses to the north and asserted that the proposed C-2 General Commercial District would be compatible with those uses. As it pertained to compatibility with the Comprehensive Plan, Mr. Hand reiterated that the petitioned area is within the Commercial Center and Existing Developed Area Land Use Categories of the Comprehensive Plan and is surrounded by commercial and residential zoning. He maintained that the petitioned area is an isolated spot of A-1 Agricultural District zoning and that that is inappropriate. He acknowledged that the Comprehensive Plan recommends against taking any zoning action which could adversely impact MD Route 589 but contended that this is a broad brush statement which should be viewed in light of the particulars of an application.

Mr. Cropper asserted that as a matter of equity the petitioned area should have been given a C-2 General Commercial District classification at the same time as the Silver Fox property immediately to the north and that to have left it in an A-1 Agricultural District classification resulted in spot zoning. He maintained that the petitioned area is too small and too sandy to farm profitably, particularly once the Silver Fox property is developed commercially.

Mr. Cropper summed up his arguments, stating that there has been a change in the character of the neighborhood as evidenced by the approval of Rezoning Case No. 392 which reclassified the adjacent property to the north from A-1 Agricultural District to C-2 General Commercial District. Other changes to the character of the neighborhood include the significant expansion of the Casino at Ocean Downs, its connection to public sewer service, and the expansion of the Ocean Pines wastewater and water service areas. Mr. Cropper acknowledged that a C-2 General Commercial District classification on the petitioned area would result in a greater traffic impact than does the existing A-1 Agricultural District but the traffic study done for the Silver Fox rezoning (Case No. 392) indicated that traffic resulting from that commercial rezoning would still be at Level of Service C, an acceptable level, and contended that because that rezoning was upheld in court it is only equitable to give the petitioned area the same zoning. He asserted that the existing A-1 Agricultural District zoning is inconsistent with the Comprehensive Plan, particularly in regards to the Land Use Categories placed on the petitioned area, and with existing zoning and development in the area. He closed by stating that the proposed rezoning of the petitioned area from A-1 Agricultural District to C-2 General Commercial District is more desirable in terms of the objectives of the Comprehensive Plan and that it is compatible with the Commercial Center and Existing Developed Area Land Use Categories.

III. PLANNING COMMISSION'S FINDINGS AND CONCLUSIONS

- A. Regarding the definition of the neighborhood: The neighborhood was defined by

the Applicant as being that area bound on the north by MD Route 90, on the east by the Isle of Wight Bay, on the south by US Route 50, and on the west by those properties on the westerly side of MD Route 589. The Planning Commission concurred that this is an appropriate definition of the neighborhood because it contains similar uses and zoning. Furthermore, in that this same definition of the neighborhood was accepted by the Planning Commission, the County Commissioners and the Courts in Rezoning Case No. 392 which pertained to the Silver Fox property immediately to the north, the Planning Commission concludes that it is only appropriate to accept the same definition in this extant case.

- B. Regarding population change: The Planning Commission concluded that there has a general increase, though not a substantial one, in the population of the neighborhood since the comprehensive rezoning of 2009 as vacant lots in residential subdivisions in the neighborhood have been constructed upon, leading to infill development. Additionally, the Planning Commission found that the population of visitors to the neighborhood has escalated as patrons at the Casino at Ocean Downs and at commercial facilities in the neighborhood have increased.
- C. Regarding availability of public facilities: The Planning Commission found that as it pertains to wastewater disposal and the provision of potable water, the petitioned area itself is not within an area which receives public sewer or water service at the present time. According to the response memo from Robert J. Mitchell, Director of the Department of Environmental Programs (copy attached), the petitioned area has a designation of Sewer Service Category S-6 (No Planned Service). He noted that the property did carry a designation of S-3 (six to ten year time frame) in the original deliberations concerning the Greater Ocean Pines Sanitary Planning Area but it was removed according to the findings of the Planning Commission that the proposed amendment would be consistent with the Comprehensive Plan if the proposed S-3 areas were deleted from the amendment. This was done according to Worcester County Resolution 05-09, dated April 5, 2005, and approved by the Maryland Department of the Environment on June 29, 2005. Mr. Mitchell also stated that his department has no well or septic records or soil evaluation records in the property file indicating any onsite capacity exists to support construction that would require water and sewerage be supplied. If the owner wants to support any future construction with onsite sewer, they would have to apply to complete a soil evaluation to see if the sanitary needs of the project could be supported with onsite sewer. If a successful soil evaluation is obtained, the future system would have to be installed with a pretreatment unit. Mr. Mitchell further noted that if the Applicant is intending to utilize public water and sewer for the development of this property, there are currently 24 excess sewer Equivalent Dwelling Units (EDUs) remaining as of the date of his memo (November 17, 2015) in the Ocean Pines Sanitary Service Area. He cautioned that this total will change with the impending development of the medical office complex at the North Gate of the community and any subsequent purchases by

existing customers or property owners in the sanitary area. He then stated that if the owner cannot acquire any of the excess capacity in the existing service area, there are excess sewer EDUs in the Pines Plaza Commercial Sub-Area but they will have to pay any outstanding construction cost-share funds to purchase that capacity. Mr. Mitchell further elaborated that there is a third and final option for sewer capacity for the subject property, should the rezoning application be approved. He stated that the Applicant can facilitate connection of properties in the *approved* Greater Ocean Pines Amendment (attached) for a nutrient offset. This could be a combination of factors, such as retiring existing septic capacity (do not have on the subject property), facilitating construction of sewer mains past properties in the approved sanitary area or facilitating connection of properties in the approved sanitary area. He stated that these steps are a negotiated process but need to be taken to provide a nutrient offset to allow additional connection not anticipated in the Greater Ocean Pines Amendment to be realized and that it was done this way for the Ocean Downs and Crabs to Go amendment approvals. Mr. Mitchell also commented that prior to being able to apply for public sanitary capacity, the owner would need to amend the *Master Water and Sewerage Plan* to include the subject property in the sewer and water planning areas for the Ocean Pines Sanitary Area. He noted that there is an inconsistent land use, agriculture, that has been recently found incompatible with the provision of public services. In the amendments noted above, difficulties were encountered in proposing the provision of public services to properties designated agriculture in the Comprehensive Plan. They were only overcome with the retirement of a large amount of septic capacity in the Critical Area and provision of infrastructure to facilitate connections of even more septic capacity from that proposed sanitary area addition that had a singular and peculiar use in our jurisdiction. The other was an existing set of small commercial properties carrying the distinction of being the only properties not carrying over between the prior and existing Comprehensive Plans a designation of commercial center or more intensive land use in the Comprehensive Plan for the US Route 50 corridor between Berlin and Ocean City. Mr. Mitchell went on to say that any future amendments including this subject property will force state agencies to recall the unique nature of these two prior amendment applications in their comments. He stated that the land use designation in the current Comprehensive Plan has to be addressed in any future amendment to the *Master Water and Sewerage Plan* through either an amendment to the Comprehensive Plan itself or some other means and that that should be considered by the Applicant should they be successful in this endeavor. No comments were received from John H. Tustin, P. E., Director of Public Works. The Planning Commission finds that the Applicant's representative, Edward Launay, had conducted a site evaluation of the petitioned area and performed soil borings. Mr. Launay testified that based upon his evaluation he had determined that the site is well drained, has good depth to groundwater and its soils are suitable for on-site septic disposal if need be. Based upon the comments of Mr. Mitchell and the testimony of Mr. Launay, the Planning Commission found that

adequate wastewater disposal facilities of some type, be they on-site or public wastewater, should be available to serve the petitioned area if rezoned. The Planning Commission determined that fire and ambulance service will be available from the Ocean Pines and Berlin Volunteer Fire Company, located approximately five and ten minutes away respectively. No comments were received from either fire company with regard to this particular review. Police protection will be available from the Maryland State Police Barracks in Berlin, approximately ten minutes away, and the Worcester County Sheriff's Department in Snow Hill, approximately thirty minutes away. No comments were received directly from the Maryland State Police Barracks. Chief Deputy J. Dale Smack 3rd of the Worcester County Sheriff's Office by memo stated that he had reviewed the application and spoken with Sheriff Mason and with Lt. Starner of the State Police relative to the rezoning case and they saw no issues with the propose rezoning and concluded that it will not interfere with law enforcement activities. The petitioned area is within the area served by the following schools: Ocean City Elementary School, Berlin Intermediate School, Stephen Decatur Middle School, and Stephen Decatur High School. Joe Price, Facilities Planner for the Worcester County Board of Education (WCBOE), by memo (copy attached) stated that the WCBOE does not anticipate an impact to the projected school enrollment for any of the schools serving the area by the proposed rezoning. The Planning Commission concurred with this conclusion. In consideration of its review, the Planning Commission found that there will be no negative impacts to public facilities and services resulting from the proposed rezoning.

- D. Regarding present and future transportation patterns: The Planning Commission found that the petitioned area fronts on and currently has access to MD Route 589. That roadway is state-owned and -maintained and connects to US Rt. 50, US Route 113 and MD Route 90. The Comprehensive Plan classifies MD Route 589 as a two-lane secondary highway/major collector highway and recommends that development be limited in the corridor until capacity increases, that scenic and transportation corridor planning be conducted, that the roadway be dualized after the US Route 113 project is completed, that US Route 113 traffic continue to be deflected to MD Route 90 rather than MD Route 589, and interparcel connectors and service roads be introduced where feasible. Donnie L. Drewer, District Engineer for State Highway Administration District 1, stated in his response memo (copy attached) that MD Route 589 is identified in the State Highway Administration's current or long range planning documents for SHA's future needs in the area(s) noted in the application. He stated that, specifically, the SHA Highway Needs Inventory (HNI) identified the need for 4.6 miles of a multi-lane reconstruct from US Route 50 to US Route 113 and is noted as a County priority. He also commented that this section of roadway is also identified in the SHA Consolidated Transportation Plan (CTP) for potential improvements to the existing MD Route 589 corridor to relieve traffic congestion and improve traffic

safety and accommodate bicycle and pedestrian safety. Mr. Drewer further stated that rezoning is a land use issue, which is not under the jurisdiction of the State Highway Administration. He expressed that all future development of a site along this corridor will require the review and approval by his office and all access and entrance construction from a property onto the State highway shall be subject to the terms and conditions of an access permit to be issued by his office. Frank J. Adkins, Worcester County Roads Superintendent, responded by memo (copy attached) that he had no comments relative to this rezoning application. The Applicant's representatives testified that although there will be traffic impacts to MD Route 589 if the petitioned area is rezoned to C-2 General Commercial District from A-1 Agricultural District, they will be significantly less than those anticipated to arise from the rezoning to commercial of the much larger Silver Fox parcel immediately to the north, in which the traffic study showed that a Level of Service C would be maintained if that property were rezoned to commercial. Based upon its review, the Planning Commission found that although there will impacts to the present and future transportation patterns arising from the proposed rezoning of the 11.5 acre petitioned area, they will not be as substantial as those arising from the previously approved rezoning (Case No. 392) of 33 acres and will have to be dealt with at some future point.

- E. Regarding compatibility with existing and proposed development and existing environmental conditions in the area, including having no adverse impact to waters included on the State's impaired waters list or having an established total maximum daily load requirement: The Planning Commission concluded that the neighborhood displays a mixture of land uses, with residential subdivisions and commercial uses being the predominant ones. The Casino at Ocean Downs is a predominant feature. Although the petitioned area and the adjoining property to the north are currently tilled cropland, there is virtually no other agricultural use in the neighborhood. It is essentially the agricultural use that is the blatant anomaly in the neighborhood, not commercial or residential use. The Planning Commission noted that Edward Launay testified that his examination of the petitioned area showed that there are no wetlands on the site, it is well-drained and has no archeological sites or endangered species. He also asserted that the proposed rezoning and anticipated development of the site will not have an adverse impact on impaired waters or increase the Total Maximum Daily Loads (TMDLs). Based upon its review the Planning Commission found that the proposed rezoning of the petitioned area from A-1 Agricultural District to C-2 General Commercial District is compatible with existing and proposed development and existing environmental conditions in the area.
- F. Regarding compatibility with the Comprehensive Plan: The Planning Commission found that according to the Comprehensive Plan and associated land use plan map, the petitioned area lies within the Commercial Center and Existing Developed Area Land Use Categories. With regard to the Commercial Center

Land Use Category, the Comprehensive Plan states that this category designates sufficient area to provide for anticipated needs for business, light industry, and other compatible uses. Retail, offices, cultural/entertainment, services, mixed uses, warehouses, civic, light manufacturing and wholesaling would locate in commercial centers. The Comprehensive Plan also states that commercial areas by their nature locate on prominent sites and can visually dominate a community. For this reason, special attention must be given to the volume, location and design of these uses. The Comprehensive Plan states that the first step is to balance supply with demand and that strip commercial centers are discouraged. Commercial areas provide important services but they should be developed to enhance community character, according to the Comprehensive Plan. With regard to the Existing Developed Area category, the Comprehensive Plan states that this category identifies existing residential and other concentrations of development in unincorporated areas and provides for their current development character to be maintained, that recognizing existing development and neighborhood character is the purpose of this designation, and that appropriate zoning providing for densities and uses consistent with this character should be instituted. The Plan furthermore states that the EDAs are anticipated to remain as mapped at least until the next plan review period and that this will provide for orderly infill development within EDAs and new community-scale growth in the growth areas. The Plan also states that, not designated as growth areas, these areas should be limited to infill development and that density, height, bulk and site design standards should also be consistent with the EDA's existing character. Furthermore, the Planning Commission noted that certain pertinent objectives were also cited in the Land Use chapter of the Comprehensive Plan and state that the character of the County's existing population centers should be maintained, that the County should provide for appropriate residential, commercial, institutional, and industrial uses, that new development should be located in or near existing population centers and within planned growth centers, and that existing population centers should be infilled without overwhelming their existing character. Other objectives state that development should be regulated to minimize consumption of land, while continuing the County's rural and coastal character, that the supply of commercially zoned land should be balanced with anticipated demand of year-round residents and seasonal visitors, that major commercial and all industrial development should be located in areas having adequate arterial road access or near such roads, and that highway strip development should be discouraged to maintain roadway capacity, safety, and character. The Planning Commission found that the Transportation chapter of the Comprehensive Plan states that Worcester's roadways experience morning and evening commuter peaks; however, they are dwarfed by summer resort traffic and that resort traffic causes the most noticeable congestion on US 50, US 113, US 13, MD 528, MD 589, MD 611, and MD 90. The Plan further states that of special note is the fact that the MD Route 589 corridor has experienced significant development, has reached an unsatisfactory level-of-service and congestion has

become a daily occurrence regardless of season. The Plan asserts that for this reason, MD Route 589 is considered impacted from a traffic standpoint. The Comprehensive Plan states that this implies that land use should not intensify in this area, that infill development of existing platted lots should be the extent of new development, and that this policy shall remain until road capacity is suitably improved. This chapter also states that commercial development will have a significant impact on future congestion levels and that commercial uses generate significant traffic, so planning for the proper amount, location and design will be critical to maintain road capacity. The Planning Commission also noted that the Comprehensive Plan states that it is the Plan's policy that the minimal acceptable Level of Service (LOS) for all roadways be LOS C and that developers shall be responsible for maintaining this standard. The Planning Commission found that the Applicant's representatives testified that as part of the previous rezoning of the adjacent Silver Fox property in Case No. 392, at 33 acres approximately three times the size of the now petitioned area, a traffic study was submitted into evidence and upheld which indicated that although traffic impacts would arise after development of that site with commercial uses, a Level of Service C would still be maintained on MD Route 589, a level which the Comprehensive Plan considers acceptable. The Planning Commission concluded that although there will most likely be adverse impacts to MD Route 589 arising from commercial development of the 11.5 acre petitioned area, they will be much less significant than those anticipated to arise from the previous rezoning and will have to be dealt with at the time of development. Based upon its review the Planning Commission found that the proposed rezoning is compatible with the Comprehensive Plan and in keeping with its goals and objectives.

IV. PLANNING COMMISSION RECOMMENDATION

- A. In consideration of its findings and testimony provided to the Commission, the Planning Commission concluded that there has been a change in the character of the neighborhood since the 2009 comprehensive rezoning. The Planning Commission concurs with the Applicant's assertion that the most predominant change is the approval of Rezoning Case No. 392 which reclassified the adjacent property to the north from A-1 Agricultural District to C-2 General Commercial District. That rezoning has left the petitioned area as an island of A-1 Agricultural District zoning. Other changes to the character of the neighborhood include the significant expansion of the Casino at Ocean Downs, its connection to public sewer service, and the expansion of the Ocean Pines wastewater and water service areas. Furthermore, the Planning Commission concluded that the proposed development of the adjacent property to the east into a 17 lot residential subdivision constitutes a change to the character of the neighborhood because the granting of Atlantic Coastal Bays Critical Area growth allocation by the Worcester County Commissioners and the Critical Area Commission was necessary to allow the subdivision to occur. Additionally, the Planning

Commission agreed with Mr. Cropper's argument that although the Casino is located on an agriculturally zoned property, it is truly not an agricultural use and is in fact commercial in nature, given its size of approximately 10,000 square feet and the extensive expanse of parking lots associated with the use. The Planning Commission agrees with the Applicant's contention that because Rezoning Case No. 392 was upheld in court it is only equitable to give the petitioned area the same zoning. The Planning Commission finds that the existing A-1 Agricultural District zoning is inconsistent with the Comprehensive Plan, particularly in regards to the Land Use Categories placed on the petitioned area, and with existing zoning and development in the area and that the proposed rezoning of the petitioned area from A-1 Agricultural District to C-2 General Commercial District is more desirable in terms of the Comprehensive Plan. Based upon its review, the Planning Commission gave a favorable recommendation to Rezoning Case No. 396, seeking a rezoning of the petitioned area from A-1 Agricultural District to C-2 General Commercial District.

V. RELATED MATERIALS AND ATTACHMENTS

STAFF REPORT

REZONING CASE NO. 396

PROPERTY OWNER: The Estate of Mildred L. Parsons
Margaret P. Bunting, Personal Representative
c/o Hugh Cropper, IV

ATTORNEY: Hugh Cropper, IV
9923 Stephen Decatur Highway, D-2
Ocean City, Maryland 21842

TAX MAP/PARCEL INFO: Tax Map 21 - Parcel 72 - Tax District 3

SIZE: The petitioned area is 11.5 acres in size.

LOCATION: The petitioned area is located on the easterly side of MD Route 589 to the north of the junction with Gum Point Road.

CURRENT USE OF PETITIONED AREA: The petitioned area is tilled cropland.

CURRENT ZONING CLASSIFICATION: A-1 Agricultural District

REQUESTED ZONING CLASSIFICATION: C-2 General Commercial District

APPLICANT'S BASIS FOR REZONING: According to the application, the request for rezoning is based on a substantial change in the character of the neighborhood since the last comprehensive rezoning (November 3, 2009) and a mistake in the existing zoning classification.

ZONING HISTORY: The petitioned area was given an A-1 Agricultural District zoning classification at the time zoning was first established in the 1960s and it was retained in both the 1992 and 2009 comprehensive rezonings.

SURROUNDING ZONING: The property immediately to the north of the petitioned area is zoned C-2 General Commercial District. It was rezoned to that classification from A-1 Agricultural District by virtue of Rezoning Case No. 392 effective September 4, 2012. The properties to the south are also zoned C-2 General Commercial District as are two properties on the opposite (westerly) side of MD Route 589. Properties to the east, along Gum Point Road, are zoned R-1 Rural Residential District. Properties on the westerly side of MD Route 589, with the exception of the two commercially zoned sites, are zoned A-2 Agricultural District.

COMPREHENSIVE PLAN:

According to Chapter 2 - Land Use of the Comprehensive Plan and associated land use plan map, the petitioned area lies within the Existing Developed Area Land Use Category and the Commercial Center Land Use Category. With regard to the Existing Developed Area category, the Comprehensive Plan states the following:

“This category identifies existing residential and other concentrations of development in unincorporated areas and provides for their current development character to be maintained. Recognizing existing development and neighborhood character is the purpose of this designation. Appropriate zoning providing for densities and uses consistent with this character should be instituted.

Surrounding areas have been mapped with one of the other land use designations as appropriate and should not be considered for rezonings by virtue of their proximity to an EDA. Further, the EDAs are anticipated to remain as mapped at least until the next plan review period. This will provide for orderly infill development within EDAs and new community-scale growth in the growth areas.

Not designated as growth areas, these areas should be limited to infill development. Density, height, bulk and site design standards should also be consistent with the EDA’s existing character.” (Pages 13, 14)

With regard to the Commercial Center Land Use Category, the Comprehensive Plan states the following:

“This category designates sufficient area to provide for anticipates needs for business, light industry, and other compatible uses. Retail, offices, cultural/entertainment, services, mixed uses, warehouses, civic, light manufacturing and wholesaling would locate in commercial centers.

Commercial areas by their nature locate on prominent sites and can visually dominate a community. For this reason, special attention must be given to the volume, location and design of these uses. The first step is to balance supply with demand.

Strip commercial centers are discouraged.

Commercial areas provide important services but they should be developed to enhance community character. (Pages 16, 17)

Pertinent objectives cited in Chapter 2 - Land Use state the following:

-
- 2. Continue the dominance of agriculture and forestry uses throughout the county’s less developed regions.
- 3. Maintain the character of the county’s existing population centers.

4. Provide for appropriate residential, commercial, institutional, and industrial uses.
 5. Locate new development in or near existing population centers and within planned growth centers.
 6. Infill existing population centers without overwhelming their existing character.
 -
 8. Regulate development to minimize consumption of land, while continuing the county's rural and coastal character.
 -
 10. Locate employment centers close to the potential labor force.
 -
 15. Balance the supply of commercially zoned land with anticipated demand of year-round residents and seasonal visitors.
 16. Locate major commercial and all industrial development in areas having adequate arterial road access or near such roads.
 17. Discourage highway strip development to maintain roadway capacity, safety, and character.
 -
 19. Limit rural development to uses compatible with agriculture and forestry.
 -
- (Pages 12, 13)

Also in Chapter 2 - Land Use, under the heading Commercial Land Supply, the Comprehensive Plan states:

"Based on industry standards for the relationship of commercial land to market size, an excessive amount of commercial zoning exists in Worcester County. Discounting half the vacant land in this category as unbuildable, the remaining land if developed would have the capacity to serve a population of over 2 million people; the County's peak seasonal population is less than 25 percent of this number." (Page 24)

In Chapter 3 - Natural Resources, under the heading Farmland Conservation, the Comprehensive Plan cites the following as its objective relative to this matter:

"The county's farmland conservation objective is to avoid the loss of large contiguous working farming areas and to ensure that prime farmland is given the highest protection priority." (Page 50)

In Chapter 4 - Economy, the Comprehensive Plan provides a number of general objectives, including the following:

- "1. Raise the county's median income to the state's level by increasing higher paying year-round employment; low-wage jobs are not considered appropriate economic development.

2. Diversify the economic base by extending the tourist season and by encouraging growth of existing and new employers.
..... (Page 58)

This chapter also includes objectives related to Agriculture and Forestry. Included among these are the following:

- “1. Work to preserve farming and increase its economic viability.
2. Provide for sufficient agricultural support services.
3. Reduce farm area fragmentation through agricultural zoning permitting only minor subdivisions, the state’s agricultural preservation program, the Rural Legacy program and explore the use of a transfer of development rights and other preservation mechanisms.
..... (Page 60)

This chapter also includes objectives related to Commercial Services. Certain of these state the following:

- “1. Locate commercial and service centers in major communities; existing towns should serve as commercial and service centers.
2. Provide for suitable locations for commercial centers able to meet the retailing and service needs of the population centers.
.....
4. Bring into balance the amount of zoned commercial locations with the anticipated need with sufficient surplus to prevent undue land price escalation.
5. Locate commercial uses so they have arterial road access and are designed to be visually and functionally integrated into the community.
.....” (Page 60)

In the same chapter, under the heading Commercial Facilities, the Comprehensive Plan states:

“Retailing is one of the largest employers in the County and is a significant contributor to the economy. Currently, designated commercial lands far outstrip the potential demand for such lands. When half of these lands are assumed to be undevelopable (wetlands and other constraints), the potential commercial uses can serve an additional population of over two million persons. The supply of commercial land should be brought more in line with potential demand. Otherwise, underutilized sites/facilities and unnecessary traffic congestion will result.” (Page 62)

In the same chapter, under the heading Agriculture, the Comprehensive Plan states:

“For the future, agriculture will remain an important component of the economy.
.....

Local support for agricultural infrastructure and encouragement of “value added” and

alternative crops, along with development of agricultural tourism could help improve farming's economics.

Preservation of farm is a key to the county's rural character. Therefore, it is important to continue the "right to farm" policies and work to develop alternative income sources for farmers." (Page 64)

In Chapter Six - Public Infrastructure, the Comprehensive Plan includes several objectives, including the following:

- "1. Meet existing public facility and service needs as a first priority. Health and safety shall take precedence.
 2. Permit development to occur only as rapidly as services can be provided.
 3. Ensure adequate public facilities are available to new development.
 4. Require new development to "pay its way" by providing adequate public facilities to meet the infrastructure demand it creates.
-" (Page70)

Chapter Seven - Transportation of the Comprehensive Plan states that "Worcester's roadways experience morning and evening commuter peaks; however, they are dwarfed by summer resort traffic.Resort traffic causes the most noticeable congestion on US 50, US 113, US 13, MD 528, MD 589, MD 611, and MD 90." (Page 79)

Of special note is the fact that the MD Route 589 corridor has experienced significant development and has reached an unsatisfactory level-of-service.and congestion has become a daily occurrence regardless of season. For this reason, MD Route 589 is considered impacted from a traffic standpoint. This implies that land use should not intensify in this area. Infill development of existing platted lots should be the extent of new development. This policy shall remain until road capacity is suitably improved." (Page 80)

This chapter also states that "c(C)ommercial development will have a significant impact on future congestion levels. Commercial uses generate significant traffic, so planning for the proper amount, location and design will be critical to maintain road capacity. The current amount and location of commercial zoned land poses problems for the road system, particularly for US 50." (Page 82)

With regard to MD Route 589 specifically, this chapter notes that this roadway is classified as a two-lane secondary highway/major collector highway and cites the following policies, projects and recommendations:

- "• Limit development in the corridor until capacity increases.
- Conduct scenic and transportation corridor planning.
- Dualize after the US Route 113 project is completed.
- Continue to deflect US Route 113 traffic to MD Route 90 rather than MD Route

589.

- Introduce interparcel connectors and service roads where feasible.” (Page 85)

In this same chapter, under the heading General Recommendations - Roadways, it states the following:

- “1. Acceptable Levels of Service -- It is this plan’s policy that the minimal acceptable level of service for all roadways be LOS C. Developers shall be responsible for maintaining this standard.
.....
3. Traffic studies -- Developers should provide traffic studies to assess the effect of each major development on the LOS of nearby roadways.
4. Impacted Roads -- Roads that regularly have LOS D or below during weekly peaks are considered “impacted.” Areas surrounding impacted roads should be planned for minimal development (infill existing lots). Plans and funding for improving such roads should be developed.
5. Impacted Intersections -- Upgrade intersections that have fallen below a LOS C.
..... (Page 87)

WATER AND WASTEWATER: As it pertains to wastewater disposal and the provision of potable water, the petitioned area itself is not within an area which receives public sewer or water service at the present time. According to the response memo from Robert J. Mitchell, Director of the Department of Environmental Programs (copy attached), the petitioned area has a designation of Sewer Service Category S-6 (No Planned Service). The property did carry a designation of S-3 (six to ten year timeframe) in the original deliberations concerning the Greater Ocean Pines Sanitary Planning Area but it was removed according to the findings of the Planning Commission that the proposed amendment would be consistent with the Comprehensive Plan if the proposed S-3 areas were deleted from the amendment. This was done according to Worcester County Resolution 05-09, dated 4-5-05, and approved by the Maryland Department of the Environment on 6-29-05. Mr. Mitchell also states that his department has no well or septic records or soil evaluation records in the property file indicating any onsite capacity exists to support construction that would require water and sewerage be supplied. If the owner wants to support any future construction with onsite sewer, they would have to apply to complete a soil evaluation to see if the sanitary needs of the project could be supported with onsite sewer. If a successful soil evaluation is obtained, the future system would have to be installed with a pretreatment unit. Mr. Mitchell further notes that if the applicant is intending to utilize public water and sewer for the development of this property, there are currently 24 excess sewer EDUs remaining as of the date of his memo (11-17-15) in the Ocean Pines Sanitary Service Area. He cautions that this total will change with the impending development of the medical office complex at the North Gate of the community and any subsequent purchases by existing customers or property owners in the sanitary area. He then states that if the owner cannot acquire any of the excess capacity in the existing service area, there are excess sewer EDUs in the Pines Plaza Commercial Sub-Area, but they will have to pay any outstanding construction cost-share funds to purchase that capacity.

Mr. Mitchell further elaborates that there is a third and final option for sewer capacity for the subject property, should the rezoning application be approved. He states that the applicants can facilitate connection of properties in the *approved* Greater Ocean Pines Amendment (attached) for a nutrient offset. This could be a combination of factors - retiring existing septic capacity (do not have on the subject property), facilitating construction of sewer mains past properties in the approved sanitary area or facilitating connection of properties in the approved sanitary area. He states that these steps are a negotiated process, but need to be taken to provide a nutrient offset to allow additional connection not anticipated in the Greater Ocean Pines Amendment to be realized and that it was done this way for the Ocean Downs and Crabs to Go amendment approvals. Mr. Mitchell also comments that prior to being able to apply for public sanitary capacity, the owner would need to amend the *Master Water and Sewerage Plan* to include the subject property in the sewer and water planning areas for the Ocean Pines Sanitary Area. He notes that there is an inconsistent land use, agriculture, that has been recently found incompatible with the provision of public services. In the amendments noted above, difficulties were encountered in proposing the provision of public services to properties designated agriculture in the Comprehensive Plan. They were only overcome with the retirement of a large amount of septic capacity in the Critical Area and provision of infrastructure to facilitate connections of even more septic capacity from that proposed sanitary area addition that had a singular and peculiar use in our jurisdiction. The other was an existing set of small commercial properties carrying the distinction of being the only properties not carrying over between the prior and existing Comprehensive Plans a designation of commercial center or more intensive land use in the Comprehensive Plan for the US Route 50 corridor between Berlin and Ocean City. Mr. Mitchell goes on to say that any future amendments including this subject property will force state agencies to recall the unique nature of these two prior amendment applications in their comments. The land use designation in the current Comprehensive Plan has to be addressed in any future amendment to the *Master Water and Sewerage Plan* through either an amendment to the Comprehensive Plan itself or some other means. He states that that should be considered by the applicants should they be successful in this endeavor. No comments were received from John H. Tustin, P. E., Director of Public Works.

The primary soil types on the petitioned area according to the Worcester County Soil Survey are as follows:

- GaB - Galestown Loamy Sand - severe limitations to on-site wastewater disposal
- RoB - Rosedale Loamy Sand - severe limitations to on-site wastewater disposal
- RoA - Rosedale Loamy Sand - severe limitations to on-site wastewater disposal
- HmA - Hampton Loamy Sand - severe limitations to on-site wastewater disposal
- HBA - Hambrook Sandy Loam - severe limitations to on-site wastewater disposal
- Fa - Fallsington Sandy Loam - severe limitations to on-site wastewater disposal

EMERGENCY SERVICES: Fire and ambulance service will be available from the Ocean Pines Volunteer Fire Department and Berlin Volunteer Fire Company. The OPVFD facilities are located approximately five minutes away while the BVFC is located approximately ten minutes

away. No comments were received from either fire company with regard to this particular review. Police protection will be available from the Maryland State Police Barracks in Berlin, approximately ten minutes away, and the Worcester County Sheriff's Department in Snow Hill, approximately thirty minutes away. No comments were received from the Maryland State Police Barracks. Chief Deputy J. Dale Smack 3rd of the Worcester County Sheriff's Office by memo stated that he had reviewed the application and spoken with Sheriff Mason and Lt. Starner relative to the rezoning case and they saw no issues with the propose rezoning and concluded that it will not interfere with law enforcement activities.

ROADWAYS AND TRANSPORTATION: The petitioned area fronts on and currently has access to MD Route 589. That roadway is state-owned and -maintained and connects to US Rt. 50, US Route 113 and MD Route 90. The Comprehensive Plan classifies MD Route 589 as a two-lane secondary highway/major collector highway and recommends that development be limited in the corridor until capacity increases, that scenic and transportation corridor planning be conducted, that the roadway be dualized after the US Route 113 project is completed, that US Route 113 traffic continue to be deflected to MD Route 90 rather than MD Route 589, and interparcel connectors and service roads be introduced where feasible. Donnie L. Drewer, District Engineer, for State Highway Administration District 1, states in his response memo (copy attached) that MD Route 589 is identified in the State Highway Administration's current or long range planning documents for SHA's future needs in the area(s) noted in the application. He states that, specifically, the SHA Highway Needs Inventory (HNI) identified the need for 4.6 miles of a multi-lane reconstruct from US Route 50 to US Route 113 and is noted as a county priority. He also notes that this section of roadway is also identified in the SHA Consolidated Transportation Plan (CTP) for potential improvements to the existing MD Route 589 corridor to relieve traffic congestion and improve traffic safety and accommodate bicycle and pedestrian safety. Mr. Drewer further states that rezoning is a land use issue, which is not under the jurisdiction of the State Highway Administration. He also states that all future development of a site along this corridor will require the review and approval by his office and all access and entrance construction from a property onto the State highway shall be subject to the terms and conditions of an access permit to be issued by his office. Frank J. Adkins, Worcester County Roads Superintendent, responded by memo (copy attached) that he had no comments relative to this rezoning application.

SCHOOLS: The petitioned area is within the area served by the following schools: Ocean City Elementary School, Berlin Intermediate School, Stephen Decatur Middle School, and Stephen Decatur High School. Joe Price, Facilities Planner for the Worcester County Board of Education (WCBOE), by memo (copy attached) stated that the WCBOE does not anticipate an impact to the projected school enrollment for any of the schools serving the area by the proposed rezoning. According to Mr. Price's response enrollment figures at the aforementioned schools as of September 2015 are as follows:

<u>School Name</u>	<u>State Rated Capacity</u>	<u>Current Enrollment</u>	<u>Projected 10 Year High Enrollment</u>
--------------------	-----------------------------	---------------------------	--

Ocean City Elementary	790	639	657
Berlin Intermediate	798	750	831
Stephen Decatur Middle	677	616	740
Stephen Decatur High	1,518	1,347	1,537

CHESAPEAKE/ATLANTIC COASTAL BAYS CRITICAL AREAS: The petitioned area is not within either the Atlantic Coastal Bays Critical Area or the Chesapeake Bay Critical Areas.

FLOOD ZONE: The FIRM map indicates that the petitioned area is within Zone X (area of minimal flooding).

PRIORITY FUNDING AREA: The petitioned area is not within a designated Priority Funding Area.

INCORPORATED TOWNS: The site is not within one mile of the corporate limits of any town.

ADDITIONAL COMMENTS RECEIVED: Comments received from various agencies, etc. are attached and are summarized as follows:

Edward Potetz, Director, Environmental Health, Health Department: No objection to the proposed rezoning.

THE PLANNING COMMISSION MUST MAKE FINDINGS OF FACT IN EACH SPECIFIC CASE, INCLUDING BUT NOT LIMITED TO THE FOLLOWING MATTERS:

- 1) What is the applicant's definition of the neighborhood in which the subject property is located? (Not applicable if request is based solely on a claim of mistake in existing zoning.)
- 2) Does the Planning Commission concur with the applicant's definition of the neighborhood? If not, how does the Planning Commission define the neighborhood?
- 3) Relating to population change.
- 4) Relating to availability of public facilities.
- 5) Relating to present and future transportation patterns.
- 6) Relating to compatibility with existing and proposed development and existing environmental conditions in the area, including having no adverse impact on waters included on the State's impaired waters list or having an established total maximum daily load requirement.
- 7) Relating to compatibility with the Comprehensive Plan.

- 8) Has there been a substantial change in the character of the neighborhood where the property is located since the last zoning of the property (November 3, 2009) or is there a mistake in the existing zoning of the property?
- 9) Would a change in zoning be more desirable in terms of the objectives of the Comprehensive Plan?

Worcester County Commissioners
Worcester County Government Center
One W. Market Street, Room 1103
Snow Hill, Maryland 21863

PLEASE TYPE
OR PRINT IN
INK

APPLICATION FOR AMENDMENT OF OFFICIAL ZONING MAP

(Office Use One - Please Do Not Write In This Space)

Rezoning Case No. 396

Date Received by Office of County Commissioners: _____

Date Received by Development, Review and Permitting: 9/30/15

Date Reviewed by Planning Commission: 12/3/15

I. Application

Proposals for amendment of the Official Zoning Maps may be made only by a governmental agency or by the property owner, contract purchaser, option holder, leasee, or their attorney or agent of the property to be directly affected by the proposed amendment. Check applicable status below:

- A. _____ Governmental Agency
- B. _____ Property Owner
- C. _____ Contract Purchaser
- D. _____ Option Holder
- E. _____ Leasee
- F. XXX Attorney for B (Insert A, B, C, D, or E)
- G. _____ Agent of _____ (Insert A, B, C, D, or E)

II. Legal Description of Property

- A. Tax Map/Zoning Map Number(s): 21
- B. Parcel Number(s): 72
- C. Lot Number(s), if applicable: _____
- D. Tax District Number: 03

III. Physical Description of Property

- A. Located on the east side of Maryland Route 589/Racetrack Road, approximately _____ to the _____ of _____.
- B. Consisting of a total of 11.5 acres of land.

- C. Other descriptive physical features or characteristics necessary to accurately locate the petitioned area:
-

- D. Petitions for map amendments shall be accompanied by a plat drawn to scale showing property lines, the existing and proposed district boundaries and such other information as the Planning Commission may need in order to locate and plot the amendment on the Official Zoning Maps.

IV. Requested Change to Zoning Classification(s)

- A. Existing zoning classification(s): A-1, Agricultural
(Name and Zoning District)

- B. Acreage of zoning classification(s) in "A" above: 11.5

- C. Requested zoning classification(s): C-2, General Business Commercial
(Name and Zoning District)

- D. Acreage of zoning classification(s) in "C" above: 11.5

V. Reasons for Requested Change

The County Commissioners may grant a map amendment based upon a finding that there: (a) has been a substantial change in the character of the neighborhood where the property is located since the last zoning of the property, or (b) is a mistake in the existing zoning classification and that a change in zoning would be more desirable in terms of the objectives of the Comprehensive Plan.

- A. Please list reasons or other information as to why the rezoning change is requested, including whether the request is based upon a claim of change in the character of the neighborhood or a mistake in existing zoning:

The basis of this rezoning application is a mistake in the original Comprehensive rezoning, and a substantial change in The character of the neighborhood.

IV. Filing Information and Required Signatures

- A. Every application shall contain the following information:

1. If the application is made by a person other than the property

owner, the application shall be co-signed by the property owner or the property owner's attorney.

2. If the applicant is a corporation, the names and mailing addresses of the officers, directors and all stockholders owning more than 20 percent of the capital stock of the corporation.
3. If the applicant is a partnership, whether a general or limited partnership, the names and mailing addresses of all partners who own more than 20 percent of the interest of the partnership.
4. If the applicant is an individual, his/her name and mailing address.
5. If the applicant is a joint venture, unincorporated association, real estate investment trust or other business trust, the names and mailing addresses of all persons holding an interest of more than 20 percent in the joint venture, unincorporated association, real estate investment trust or other business trust.

B. Signature of Applicant in Accordance with VI.A. above.

Signature: 

Printed Name of Applicant:

Hugh Cropper, IV, Attorney for The Estate of Mildred L. Parsons, Margaret P. Bunting, Personal Representative

Mailing Address: 9923 Stephen Decatur Hwy., D-2, Ocean City, MD 21842 Phone Number: 410-213-2681

E-Mail: hcropper@bbcmlaw.com

Date: _____

C. Signature of Property Owner in Accordance with VI.A. above

Mailing Address: _____

Phone Number: _____

E-Mail: _____

Date: _____

(Please use additional pages and attach to application if more space is required.)

VII. General Information Relating to the Rezoning Process

- A. Applications shall only be accepted from January 1st to January 31st, May 1st to May 31st, and September 1st to September 30th of any calendar year.
- B. Applications for map amendments shall be addressed to and filed with the Office of the County Commissioners. The required filing fee must accompany the application.
- C. Any officially filed amendment or other change shall first be referred by the County Commissioners to the Planning Commission for an investigation and recommendation. The Planning Commission may make such investigations as it deems appropriate or necessary and for the purpose may require the submission of pertinent information by any person concerned and may hold such public hearings as are appropriate in its judgment.

The Planning Commission shall formulate its recommendation on said amendment or change and shall submit its recommendation and pertinent supporting information to the County Commissioners within 90 days after the Planning Commission's decision of recommendation, unless an extension of time is granted by the County Commissioners.

After receiving the recommendation of the Planning Commission concerning any such amendment, and before adopting or denying same, the County Commissioners shall hold a public hearing in reference thereto in order that parties of interest and citizens shall have an opportunity to be heard. The County Commissioners shall give public notice of such hearing.

- D. Where the purpose and effect of the proposed amendment is to change the zoning classification of property, the County Commissioners shall make findings of fact in each specific case including but not limited to the following matters:

population change, availability of public facilities, present and future transportation patterns, compatibility with existing and proposed development and existing environmental conditions for the area, including no adverse impact on waters included on the State's Impaired Waters List or having an established total maximum daily load requirement, the recommendation of the Planning Commission, and compatibility with the County's Comprehensive Plan. The County Commissioners may grant the map amendment based upon a finding that (a) there a substantial change in the character of the neighborhood where the property is located since the last zoning of the property, or (b) there is a mistake in the

existing zoning classification and that a change in zoning would be more desirable in terms of the objectives of the Comprehensive Plan.

The fact that an application for a map amendment complies with all of the specific requirements and purposes set forth above shall not be deemed to create a presumption that the proposed reclassification and resulting development would in fact be compatible with the surrounding land uses and is not, in itself, sufficient to require the granting of the application.

- E. No application for map amendment shall be accepted for filing by the office of the County Commissioners if the application is for the reclassification of the whole or any part of the land for which the County Commissioners have denied reclassification within the previous 12 months as measured from the date of the County Commissioners' vote of denial. However, the County Commissioners may grant reasonable continuance for good cause or may allow the applicant to withdraw an application for map amendment at any time, provided that if the request for withdrawal is made after publication of the notice of public hearing, no application for reclassification of all or any part of the land which is the subject of the application shall be allowed within 12 months following the date of such withdrawal, unless the County Commissioners specify by formal resolution that the time limitation shall not apply.

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 0144

September Term, 2013

SILVER FOX, LLC, ET AL.

v.

WALTER M. STANSELL, JR., ET AL.

Meredith,
Zarnoch,
Eyler, James R.
(Retired, Specially Assigned),

JJ.

Opinion by Zarnoch, J.

Filed: July 22, 2014

In this zoning case, appellants Silver Fox, LLC and Burbage/Melson, Inc. (collectively, "Silver Fox") petitioned the Worcester County Commissioners ("County Commissioners") to rezone/reclassify Silver Fox's property from A-1 Agricultural District to C-2 General Commercial District under the Worcester County Zoning Code. The County Commissioners granted this petition. Appellees in this case are nearby property owners ("the Residents")¹ who protested the rezoning/reclassification and petitioned the Circuit Court for Worcester County for judicial review. The circuit court reversed the decision of the County Commissioners. We now reverse the judgment of the circuit court, leaving intact the County Commissioners' decision to grant the rezoning.

FACTS AND LEGAL PROCEEDINGS

Silver Fox owns the property at issue in this case, which consists of two parcels totaling about thirty-one acres ("the Property"). The Property is located in Worcester County, on the east side of Maryland Route 589 ("Rt. 589"), also known as Race Track Road, and on the south side of Manklin Creek Road. The Property is adjacent to the southwesterly side of the Ocean Pines subdivision, and contiguous to the westerly side of R-1 Single-Family Residential District zoned land, which is currently undeveloped. Turville Creek separates the Ocean Pines neighborhood and the Property from the Ocean Downs Racetrack and what is now called the Casino at Ocean Downs ("the Casino").

¹As identified in Silver Fox's brief, the appellees are Walter and Pamela Stansell, Jeanne R. Lynch, Carol J. Chauer, and Paul R. Bredehorst.

The Property currently consists of cropland and woodland, with a seasonally-operated produce stand. It has been zoned A-1 Agricultural District since 1965, and is the only A-1 Agricultural District property south of Route 90, though some property is zoned as an A-2 Agricultural District on the opposite side of Rt. 589.

In 2006, the Worcester County Comprehensive Land Use Plan ("Comprehensive Plan") designated the Property as a combination of "Existing Developed Area" and "Commercial Center." The Comprehensive Plan stated that its policy would be to limit development of the Rt. 589 corridor until road capacity improved.

In September 2009, the Video Lottery Facility Location Commission awarded a slots license to the owner of the Ocean Downs Racetrack, land zoned A-2 Agricultural. The Casino is about 2,000 feet south of the Property, on the same side of Rt. 589. On November 3, 2009, Worcester County adopted a Comprehensive Rezoning Plan ("2009 Rezoning Plan"), which found an adequate supply of commercial zoning in the area and discouraged additional development along Rt. 589 until the roadway improved.

Since the 2009 Rezoning Plan, the 35,000 square foot Casino has been constructed on the site, along with a 10,000 square foot clubhouse. The Casino presently has 800 video lottery terminals, though the Maryland General Assembly has approved a total of 2,500 video lottery terminals for this location.² Rt. 589 now has more traffic signals and turn lanes.

²The Casino did not open until January of 2011, some fourteen months after adoption of the Rezoning Plan. Although advertised as a "casino" (perhaps with an eye toward
(continued...))

Additionally, the owners of the Casino received "site plan approval" for the construction of a movie theater and bowling alley, which have not yet been constructed.

Also, since the 2009 Rezoning Plan, an adjacent seventy-acre property ("the Steen Property") received approval from Worcester County to reclassify from a Resource Conservation Area, which permitted one dwelling unit per twenty acres, to a Limited Development Area, which would allow a total of sixty residential units on the Steen Property. The Steen Property shares at least "a few hundred feet" of common property line with the Property.

On May 28, 2010, Silver Fox submitted a petition to Worcester County to rezone the Property, requesting a change from A-1 Agricultural District to C-2 General Commercial District. It set forth two grounds for rezoning in its petition: a substantial change in the character of the neighborhood since the 2009 Rezoning Plan, and a mistake in the existing zoning classification. On April 12, 2012, the Worcester County Planning Commission ("Planning Commission") held a public hearing on the application. Silver Fox presented evidence, including a witness from Atlantic General Hospital, who testified that the Property is an ideal site for a medical campus facility. Ocean Pines residents stated that traffic congestion is a serious health and safety issue. On May 3, the Planning Commission held a

²(...continued)

expansion), the facility at that time was more appropriately characterized as a "racino," *i.e.*, a slots parlor at a racetrack. See http://en.wikipedia.org/wiki/Ocean_Downs (last visited July 10, 2014).

work session to discuss the character of the neighborhood, and then forwarded its Findings of Fact and Recommendation to the Worcester County Commissioners (“County Commissioners”).

On August 7, the County Commissioners held an advertised public hearing.³ Silver Fox presented testimony from three professional engineers, including a traffic engineer, a land planner, and a surveyor. On September 4, the County Commissioners granted the rezoning request. They adopted the Planning Commission’s Findings of Fact and Recommendation. The County Commissioners concluded that the neighborhood had substantially changed since the 2009 Rezoning Plan, based on the opening of the Casino,⁴

³Commissioner Church was asked to recuse himself because of an affiliation with the Atlantic General Hospital and with Mr. Burbage, a principal of Silver Fox. The County Attorney determined that this was not a conflict of interest.

⁴The Commission granted the rezoning request some two weeks after the Governor signed legislation that would result in a significant expansion of gambling at Ocean Downs and the other casino sites. *See* Chapter 1, *Laws of 2012*, (2d Spec. Sess.). Although the legislation could not take effect until a November, 2012 referendum, among other things, it authorized a licensee: 1) to offer table games; 2) to operate 24 hours per day; and 3) to offer live entertainment.

The legislation contemplated that Ocean Downs would generate additional revenue from table games, *see* Revised Fiscal & Policy Note on SB 1 (2012 2d Spec. Sess.), dated September 19, 2012, and provided for an increase in revenues for Ocean Downs as long as it spent a percentage of the proceeds on capital improvements to the facility. *Id.* Not surprisingly, as a result of these changes in the law, Ocean Downs, in September, 2013 announced a 50,000 square foot expansion to include table games and a new restaurant. *See* http://en.wikipedia.org/wiki/Ocean_Downs (last visited July 10, 2014). When this expansion takes place, Ocean Downs will no longer be a racino, but will be a genuine casino.

the approval for the movie theater and bowling alley, and the anticipated subdivision on the Steen Property.

On October 4, the Residents filed a petition for judicial review of the County Commissioners' decision. Silver Fox filed a cross-petition for the County Commissioners' failure to find there had been a mistake in the 2009 Rezoning Plan. On March 18, 2013, the circuit court held a hearing on the petition. The court denied Silver Fox's motion challenging the Residents' standing, and held that no mistake occurred in the 2009 Rezoning Plan, and that Silver Fox had not demonstrated a substantial change since that date. Judge Beck explained his denial of the rezoning:

So the Commissioners rely primarily on three points for the change: the . . . casino gambling at the racecourse. On that point, the site location commission approved the one mile area in September of 2009 prior to this rezoning and I believe that what happened at the racecourse with regard to casino gambling was known to the Commissioners at the time that they adopted their comprehensive rezoning. The Steen property has always been R-1. Some changes were made with regard to the density, but also [known] to the Commissioners at the time that they granted comprehensive rezoning in November of 2009. The movie theater and the bowling alley are extensions of nonconforming use and certainly could be within the contemplation of the Commissioners at the time they granted the comprehensive rezoning. The Atlantic Hospital interest in perhaps someday putting a medical facility on the subject property was speculative or remote at best. I read somewhere that soils are suitable for this kind of development which clearly does not fall within the realm of substantial change.

So there's been a number of changes. The appellate courts are clear that mere changes are not enough, it must be a substantial change to affect the character of the neighborhood and even

cumulatively I can't find that that occurred in the facts that before the Court.

On April 12, the court issued a written order reversing the decision of the County Commissioners. On May 7, Silver Fox filed a notice of appeal. The issue of mistake was not raised in this appeal. Additional facts will be provided as necessary in our discussion of the issues.

QUESTION PRESENTED

Silver Fox presents the following question for our review:

Was the decision to rezone/reclassify the [Silver Fox's] Property from the A-1 Agricultural Zoning District to the C-2 General Commercial District, fairly debatable and supported by substantial evidence, considering the aggregate, cumulative changes in the neighborhood since the last rezoning?

We answer in the affirmative, and reverse the decision of the circuit court.

DISCUSSION

I. Standard of Review

When a decision of an administrative agency like the County Commissioners comes to us from the circuit court, we review the decision of the agency itself, not the decision of the circuit court. *Long Green Valley Ass'n v. Prigel Family Creamery*, 206 Md. App. 264, 273 (2012). We will review the agency's decision in the light most favorable to the agency because its decisions are prima facie correct, though we are "under no constraint to affirm an agency decision premised solely upon an erroneous conclusion of law." *Catonsville Nursing Home, Inc. v. Loveman*, 349 Md. 560, 569 (1998) (Citations omitted).

We “will not disturb an administrative decision on appeal if substantial evidence supports factual findings and no error of law exists.” *Long Green Valley Ass’n*, 206 Md. App. at 274. Substantial evidence means “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” *Catonsville Nursing Home, Inc.*, 349 Md. at 569. Thus, “[i]t is only where there is no room for reasonable debate, or where the record is devoid of supporting facts, that the court is justified in declaring the legislative action of the board arbitrary or discriminatory.” *Offutt v. Bd. of Zoning Appeals of Baltimore Cnty.*, 204 Md. 551, 562 (1954). We appraise and evaluate the agency’s fact finding, but do not make an independent decision on the evidence. *Catonsville Nursing Home, Inc.*, 349 Md. at 569.

II. Substantial Change in Character

Zoning authorities in Maryland, like the County Commissioners, “implement their plans and determinations regarding appropriate land use zoning categories” through original zoning, comprehensive rezoning, and piecemeal rezoning. *Mayor & Council of Rockville v. Rylyns Enterprises, Inc.*, 372 Md. 514, 532 (2002). The zoning regulations and boundaries may be amended or repealed. Md. Rule 4-204(a). The zoning authority may grant a change in a zoning classification based on a finding that there was a substantial change in the character of the neighborhood where the property is located or a mistake in the existing zoning classification. Md. Rule 4-204(b)(2). *See also Rylyns Enterprises, Inc.*, 372 Md. at 535-36.

To change the zoning of a property based on change of character in a neighborhood, the petitioner must establish:

(a) what area reasonably constitutes the neighborhood of the subject property, (b) the changes which have occurred in that neighborhood since the comprehensive rezoning and (c) that those changes resulted in a change in the character of the neighborhood.

Montgomery v. Board of Cnty. Comm'rs for Prince George's Cnty., 256 Md. 597, 602 (1970). The changes in the character of the neighborhood must be evaluated cumulatively, in order to determine "whether the aggregate changes in the character of the neighborhood since the last zoning were such as to make the question fairly debatable." *Bowman Grp. v. Moser*, 112 Md. App. 694, 700 (1996).

A. Definition of Neighborhood

The first step in determining a change in a neighborhood is to define the neighborhood. *Montgomery*, 256 Md. at 602. Silver Fox contends that the issue is not preserved. It argues that the circuit court rejected the Residents' argument that the County Commissioners' definition was incorrect, and the Residents did not file a cross-appeal. The Residents contend that because this Court evaluates the decision of the administrative agency and not the circuit court, the Residents were not required to file a cross-appeal on the issue of the neighborhood.

We agree with the Residents that they did not need to file a cross-appeal to preserve this issue. However, we find that the neighborhood was sufficiently defined by the County

Commissioners. The Planning Commission clearly considered the definition, shown by their alterations to the definition originally presented by Silver Fox. The Planning Commission excluded the commercial property on the south side of U.S. Route 50. At the public hearing, the County Commissioners heard testimony concerning the neighborhood from Steven Soule, an engineer, and from an Robert Hand, a lander planner. Hand explained that when he was asked to define the neighborhood as an expert witness, he included areas that were a five to ten minute drive from the population centers as described in the Comprehensive Plan. Based on this evidence, the County Commissioners accepted the definition of the Planning Commission. Judge Beck explained that “there was no mistake in the appropriateness of the neighborhood and I’m not going to put my judgment in place of the Commissioners on the appropriateness of the neighborhood. I think that is fairly debatable” On this point, we agree with the circuit court.

B. Changes in the Character of the Neighborhood

Silver Fox contends that the County Commissioners’ determination concerning the changes in the neighborhood was based upon substantial evidence. It looks to the construction of the Casino, the approval of the bowling alley and movie theater, the authorization of a subdivision at the Steen Property, and other changes. We will address each factor in turn.

1. Casino

Silver Fox contends that the County Commissioners were correct to find that the addition of the Casino was a significant change in the character of the neighborhood. Silver Fox argues that the County Commissioners found a change due to the Casino's \$45,000,000 complex, adjacent 10,000 square foot clubhouse, and related road improvements like traffic signals and turning lanes. It points to evidence such as testimony from an engineer representing the Casino, and testimony from the County Attorney, John Bloxom, who described how the Casino went from a "simple venue that's open two or three months during the summer, evening time for racing, now to a casino that's open 24/7 with all of the traffic that comes and goes every day of the year, 24 hours a day." Silver Fox also argues that the slot machines were an unanticipated change after the 2009 Rezoning.

Residents contend that the County Commissioners knew prior to the 2009 Rezoning that the Casino had been approved. They argue that prior to the Casino, there was more than harness racing because the center was open for more than 320 days for off-track betting.

In our view, it is at least fairly debatable for the Commissioners to conclude that the opening and operation of the casino represented a substantial change in the neighborhood. What they knew at the time of the 2009 Rezoning was that a slots license had been issued to the owner of Ocean Downs. By 2012, racino interests were more than poised at the gate. A large and unique facility was in place and in operation. Moreover, by the time the Commissioners granted the rezoning request, the General Assembly had enacted legislation

that contemplated that Ocean Downs and the other sites would become genuine 24-hour casinos with table games and entertainment. It is hard to think of a more substantial change in a neighborhood.

2. Bowling Alley and Movie Theater

Silver Fox contends that the County Commissioners were correct to find a cumulative change in the character of the neighborhood because of the design waivers granted for the bowling alley and movie theater. It notes that the County Commissioners stated that the grant of the waivers was a discretionary decision after the 2009 Rezoning Plan. The Residents argue that the County Attorney said these would not constitute a change in the character of the neighborhood.

We find the County Commissioners were correct to find that the granting of the waivers for the bowling alley and movie theater was a substantial change. Zoning authorities are entitled to consider projects that are “reasonably probable of fruition in the foreseeable future.” *Jobar Corp. v. Rodgers Forge Cnty. Ass’n*, 236 Md. 106, 112 (1964). It is fairly debatable that the granting of these waivers and the future projects were unforeseeable at the time of the 2009 Rezoning Plan and that they represented a substantial change for a neighborhood that previously offered only off-track betting and harness racing.

3. Steen Property Subdivision

Silver Fox contends that the County Commissioners also found a change in the character of the neighborhood since the 2009 Rezoning Plan due to the rezoning of the Steen

Property. It argues that the County Commissioners heard testimony that the development was not a planned change for the neighborhood.

The Residents contend that the Steen Property was classified as a Residential District in the 2009 Rezoning Plan, and though now it may develop at a greater density, there was no evidence that any actual development has occurred or would be a change from the plan.

A change in residential density can constitute a substantial change. *Bosley v. Hosp. for Consumptives of Md.*, 246 Md. 197, 204 (1967), and again the County Commissioners are entitled to consider probable future changes. *Jobar Corp.*, 236 Md. at 112. We find when considered cumulatively with the opening and operation of the Casino and the design waivers for the bowling alley and movie theater, the change in the zoning of Steen Property contributed to a fairly debatable change in the neighborhood.

In light of our conclusion that the Commissioners did not err in finding a substantial change in the neighborhood, we need not consider additional factors addressed by the parties.

III. Worcester County Zoning Ordinance Criteria

In addition to the issue of a substantial change in the character of the neighborhood, the parties disagree over the Commissioners' application of some of the other criteria specified in the County zoning laws. To change the zoning classification of a property, the Worcester County Code, Zoning and Subdivision Control Article ("ZS"), § 1-113(c)(3)(2009) requires the County Commissioners to make certain findings of fact. These findings shall include:

- (a) population change,
- (b) availability of public facilities,
- (c) present and future transportation patterns,
- (d) compatibility with existing and proposed development and existing environmental conditions for the area, including having no adverse impact on waters included on the State's impaired waters list or having an established total maximum daily load requirement,
- (e) the recommendation of the Planning Commission, and
- (f) compatibility with the County's Comprehensive Plan.

The County Commissioners are permitted to adopt the findings of the Planning Commission, *id.*, and they did so in this case, in addition to making findings of their own. For reasons set forth below, we find that the County Commissioners did make appropriate findings on the required factors.

A. Population Change

The Residents did not challenge that the County Commissioners made a sufficient finding on population change.

B. Availability of Public Facilities

The Residents have not contested the issue of whether the County Commissioners made an appropriate finding on the availability of public facilities.

C. Present and Future Transportation Patterns

Silver Fox contends that the County Commissioners made findings on traffic patterns when it stated that “with minor configuration changes at one intersection all the intersections in the defined neighborhood would operate at a minimum Level of Service “C” which is acceptable under the Comprehensive Plan and the State High Administration Guidelines.⁵

The Residents argue that the County Commissioners did not base their traffic findings on the evidence. They state that there was no testimony about a plan for road improvements or funding. They also contend that there was no evidence to support the County Commissioners’ assumption that the increased traffic would be mitigated by the potential jobs created by the rezoning. The Residents argue that the County Commissioners ignored findings from the Comprehensive Plan that Rt. 589 is impacted by traffic congestion.

A zoning board “is entitled to consider . . . proposed improvements to existing highways in determining the proper classification of property” if the improvements are reasonably probable to occur in the foreseeable future. *Cnty. Comm’rs of Howard Cnty. v. Merryman*, 222 Md. 314, 323 (1960). Here, the County Commissioners based their finding on testimony from Betty Tustin, a traffic engineer,⁶ which is sufficient evidence to consider

⁵Under the State Highway Administration guidelines, the Level of Service standard that should be achieved at State intersections is “D.” Intersections are graded from A through F, with A being the best and F being the worst. The grades take in to account vehicle length, traffic light cycle times, and queue times. *See* Maryland Dep’t of Transp, State Highway Access Manual, *Guidelines for Traffic Impact Reports/Studies, Appendix E*, <http://www.roads.maryland.gov/Index.aspx?PageId=461>.

⁶Tustin explained that to conduct traffic counts her firm will:

(continued...)

an issue “at least fairly debatable.” *Montgomery*, 263 Md. at 6-7. We conclude that the County Commissioners made a sufficient finding on the issue of traffic patterns.

D. Compatibility with Development and Environmental Conditions

Silver Fox contends that the County Commissioners made sufficient findings of fact on the rezoning’s compatibility with development and environmental conditions: that the Property is not within any environmentally critical areas; that the property was too small to be productively farmed and residential use was not desirable; and that the majority of the mixed uses within the neighborhood were commercial or residential in nature that were not compatible with agricultural uses.

The Residents contend that the County Commissioners’ finding regarding the compatibility with development and environmental conditions was not supported by the evidence. They argue that the County Commissioners rezoned the Property in the A-1 Agricultural District within the last three years, making a change inappropriate.

⁶(...continued)

analyze what the worst case scenario would be. For example, we study the worst hour of the day, and then we actually take the worst 15 minutes within that hour and add a factor to our setting. So that we are assuming— we’re adding the safety factor in, if you will, so to make sure that we are analyzing what the worst hour of the whole week, and in this case since we did summer, of the whole year would be. If we can provide for that traffic, then we can provide for traffic for the other 23 hours of the day.

We find that the County Commissioners made sufficient findings of fact on this issue. They cited evidence such as a staff report included in the Planning Commission's findings of fact,⁷ exhibits on the record, and their judgment that the present area consists of tilled cropland, a produce stand, and wooded areas.

E. Recommendation of the Planning Commission

The parties do not disagree on whether the County Commissioners made findings on the Planning Commission's recommendations. The Commissioners stated: "[We] find that the Planning Commission gave a favorable recommendation to the rezoning of the petitioned area from A-1 Agricultural District to C-2 General Commercial District. Having made the above findings of fact, the County Commissioners concur with the recommendation of the Planning Commission."

F. Compatibility with County's Comprehensive Plan

Silver Fox contends that the County Commissioners made findings on compatibility and desirability with the Comprehensive Plan: an environmental consultant testified that the soil was suitable for development; a land planner stated that the property is designated as "Existing Developed Area" on the land use plan, which encompasses many commercial uses,

⁷This staff report addresses the Chesapeake/Atlantic Coastal Bays Critical Areas by stating, "According to an email received from Roby Hurley, Natural Resources Planner for the Critical Area Commission, the petitioned area is not within either the Atlantic Coastal Bays Critical Area or the Chesapeake Bay Critical Area."

and that commercial zoning was more desirable; and the Property was unlikely to be utilized for viable and profitable agricultural purposes.

The Residents contend that the County Commissioners' finding disregards statements in the Comprehensive Plan about the development of Rt. 589. The Residents argue that purpose of C-2 zoning is to provide for more intense commercial development, which is contrary to the provisions of the Comprehensive Plan.

Generally, comprehensive plans are

advisory in nature and have no force of law absent statutes or local ordinances linking planning and zoning. Where the latter exist, however, they serve to elevate the status of comprehensive plans to the level of true regulatory device. In those instances where such a statute or ordinance exists, its effect is usually that of requiring that zoning or other land use decisions be consistent with a plan's recommendations regarding land use and density or intensity.

Rylins Enterprises, Inc., 372 Md. at 530-31. Here, the Worcester County Zoning Code does not require consistency. Instead, it requires the County Commissioners to consider the Comprehensive Plan by making findings on the issue of compatibility, and it directs the Commissioners to make a finding "that a change in zoning would be more desirable in terms of the objectives of the Comprehensive Plan." ZS § 1-113(c)(3).

The County Commissioners' decision stated that they

recognize[d] that the Comprehensive Plan state[d] that development along the MD Rt. 589 corridor should be limited until capacity increased but note[d] that the traffic study provided by the applicant indicates that MD Rt. 589 will still operate at least a Level of Service C or greater, the threshold

called for by both the County's Comprehensive Plan and State Highway guidelines, if the petitioned area is rezoned and developed commercially.

They also noted that a portion of the Commercial Center Land Use Category already extends on to the Property. The County Commissioners explained that rezoning would lead to a more profitable use of the land and would likely create more jobs in the neighborhood. We conclude that the County Commissioners sufficiently considered the compatibility of the zoning change with the Comprehensive Plan.

Viewing the record as a whole, we believe the County Commissioners' findings were consistent with the requirements of ZS § 1-113(c)(3). We cannot say that the County Commissioners acted arbitrarily in granting Silver Fox's request to rezone the property.

For all of these reasons we reverse the judgment of the circuit court and uphold the decision of the County Commissioners.

**JUDGMENT OF THE CIRCUIT COURT
FOR WORCESTER COUNTY REVERSED.
COSTS TO BE PAID BY APPELLEES.**



Worcester County
Department of Environmental Programs

Memorandum

To: Phyllis Wimbrow, Deputy Director, DDRP

From: Robert J. Mitchell, LEHS, REHS
Director, Environmental Programs 

Subject: Comments on Rezoning Case No. 396
Worcester County Tax Map 21, Parcel 72

Date: 11/17/15

This response to your request for comments is prepared for the map amendment application associated with the above referenced property. The Worcester County *Zoning and Subdivision Control Article*, Section ZS1-113(c)(3), states that the applicant must affirmatively demonstrate that there has been a substantial change in the character of the neighborhood since the last zoning of the property or that a mistake has been made in the existing zoning classification. The application argues that there was a mistake in the Comprehensive Rezoning that was approved by the County Commissioners on November 3, 2009 and argues a substantial change in the character of the neighborhood has occurred as well. The Code requires that the Commissioners find that the proposed "change in zoning" would be more desirable in terms of the objectives of the *Comprehensive Plan*.

The Department of Environmental Programs has the following comments:

1. The subject property has a designation of Sewer Service Category S-6 (*no Planned Service*). The property did carry a designation of S-3 (*six to ten year timeframe*) in the original deliberations concerning the Greater Ocean Pines Sanitary Planning Area, but it was removed according to the findings of the Planning Commission that the proposed amendment would be consistent with the *Comprehensive Plan* if the proposed S-3 areas were deleted from the amendment. This was done according to Worcester County Commissioner Resolution 05-09, dated 4-5-05, and approved by the Maryland Department of the Environment on 6-29-05.
2. We have no well or septic records or soil evaluation records in the property file indicating any onsite capacity exists to support construction that would require water and sewerage be supplied.

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Citizens and Government Working Together

3. If the owner wants to support any future construction with onsite sewer, they would have to apply to complete a soil evaluation to see if the sanitary needs of the project could be supported with onsite sewer. If a successful soil evaluation is obtained, the future system would have to be installed with a pretreatment unit.
4. If the applicant is intending to utilize public water and sewer for the development of this property, there are currently twenty-four (24) excess sewer EDU's remaining as of this date, in the Ocean Pines Sanitary Service Area. That total will change with the impending development of the medical office complex at the north gate of the community and any subsequent purchases by existing customers or property owners in the sanitary area.
5. If the owner cannot acquire any of the excess capacity in the existing service area, there are excess sewer EDUs in the Pines Plaza Commercial Sub-Area, but they will have to pay any outstanding construction cost-share funds to purchase that capacity.
6. There is a third and final option for sewer capacity for the subject property, should they be approved for a rezoning on this application. They can facilitate connection of properties in the *approved* Greater Ocean Pines Amendment (attached) for a nutrient offset. This could be a combination of factors – retiring existing septic capacity (do not have on the subject property), facilitating construction of sewer mains past properties in the approved sanitary area or facilitating connection of properties in the approved sanitary area. These steps are a negotiated process, but need to be taken to provide a nutrient offset to allow additional connections not anticipated in the Greater Ocean Pines Amendment to be realized. It was done this way for the Ocean Downs and Crabs to Go amendment approvals.
7. Prior to being able to apply for public sanitary capacity, the owner would need to amend the *Master Water and Sewerage Plan* to include the subject property in the sewer and water planning areas for the Ocean Pines Sanitary Area. I would note that we do have an inconsistent land use, agriculture, that has been recently found incompatible with the provision of public services. In the amendments noted above, we have encountered difficulties in proposing the provision of public services to properties designated agriculture in the *Comprehensive Plan*. They were only overcome with the retirement of a large amount of septic capacity in the critical area and provision of infrastructure to facilitate connections of even more septic capacity from that proposed sanitary area addition that had a singular and peculiar use in our jurisdiction. The other was an existing set of small commercial properties carrying the distinction of being the only properties not carrying over between the prior and existing *Plans* a designation of commercial center or more intensive land use in the *Comprehensive Plan* for the US Route 50 Corridor between Berlin and Ocean City. Any future amendments including this subject property will force state agencies to recall the unique nature of these two prior amendment applications in their comments. The land use designation in the current *Comprehensive Plan* has to be addressed in any future amendment to the *Master Water and Sewerage Plan* through either an amendment to the *Comprehensive Plan* itself or some other means. That should be considered by the applicants should they be successful in this endeavor.

-50-

Citizens and Government Working Together

8. On Page 80, in the *Comprehensive Plan*, the *Plan* notes traffic concerns on Rt 589 with the following :” For this reason, MD 589 is impacted from a traffic standpoint. This implies that land use should not intensify in this area.” The applicant should be prepared to address this item before the Planning Commission.

If you have any questions on these comments, please do not hesitate to contact me.

Attachment

-59-



Worcester County, Maryland

GREATER OCEAN PINES SANITARY SERVICE AREA

 S-1 (Present to 2 Years) GOPSSA
Greater Ocean Pines Sanitary Service Area

Boundary approved by the County
Commissioners of Worcester County,
Resolution No. 05-09 on April 5, 2005

Department of Development
Review and Permitting
Technical Services Division

Drawn By:
KLH

Reviewed By:
RM



0 0.25 0.5 1 Miles

Map prepared on April 26, 2011

Phyllis Wimbrow

From: Dale Smack
Sent: Tuesday, October 20, 2015 3:37 PM
To: Phyllis Wimbrow
Cc: Reggie Mason; earl.starner@maryland.gov
Subject: Rezone case 359,397,396

Importance: High

Phyllis,

After reviewing and speaking with Sheriff Mason and Lt. Starner of the provided documents pertaining to rezone cases 395,396 and 397, we see no issues, nor will it interfere with law enforcement activities. If you have any questions, please feel free to contact me.

Thank you.

**J. Dale Smack 3rd, Chief Deputy
S.T.A.R Team Commander Retired
Worcester County Sheriff's Office
Rm 1001 #1 West Market Street
Snow Hill, Maryland 21863
410-632-1111-work
410-632-3070-fax
443-783-0395-cell
dsmack@co.worcester.md.us e mail**

CONFIDENTIALITY NOTICE: This message may contain confidential information intended only for the use of the person named above and may contain communication protected by law. If you have received this message in error, you are hereby notified that any dissemination, distribution, copying or other use of this message may be prohibited and you are requested to delete and destroy all copies of the email, and to notify the sender immediately at his/her electronic mail.



Larry Hogan, *Governor*
Boyd K. Rutherford, *Lt. Governor*

Pete K. Rahn, *Secretary*
Gregory C. Johnson, P.E., *Administrator*

October 22, 2015

Ms. Phyllis H. Wimbrow, Deputy Director
Department of Development Review and Permitting
Worcester County Government Center
One West Market Street, Room 1201
Snow Hill, MD 21863

RE: Worcester County
Rezoning Application Case No: 396
The Estate of Mildred L. Parsons,
Margaret P. Bunting, Personal Representative
Tax Map 21; Parcel 72

Dear Ms. Wimbrow:

Thank you for the opportunity to review the Rezoning Application for Case No: 396 in Worcester County. The State Highway Administration (SHA) has reviewed the application and associated documents. We are pleased to respond.

MD 589 (Racetrack Road) is identified in the State Highway Administrations current or long range planning documents for SHA's future needs in the area(s) noted in the subject application. Specifically, the SHA Highway Needs Inventory (HNI) identified the need for 4.6 miles of a multi-lane reconstruct from US 50 to US 113 and is noted as a county priority. This section of roadway is also identified in the SHA Consolidated Transportation Plan (CTP) for potential improvements to the existing MD 589 corridor to relieve traffic congestion and improve traffic safety and accommodate bicycle and pedestrian safety.

Rezoning is a land use issue, which is not under the jurisdiction of the SHA. However, please be aware all future development of a site along this corridor will require the review and approval by this office. All access and entrance construction from a property onto the state highway shall be subject to the terms and conditions of an access permit to be issued by this office.

Thank you again for the opportunity to provide our response. If you have any questions regarding our comments, please feel free to contact Ms. Rochelle Outten, District 1 Regional

My telephone number/toll-free number is 1-800-825-4742
Maryland Relay Service for Impaired Hearing or Speech 1.800.735.2258 Statewide Toll Free

Street Address: 660 West Road, P. O. Box 2679 • Salisbury, Maryland 21802 • Phone: 410-677-4000 • FAX: 410-543-6598
www.roads.maryland.gov

- 54 -

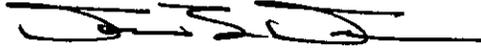
Ms. Phyllis H. Wimbrow

Page 2

October 22, 2015

Engineer for Access Management via email routten@sha.state.md.us or by calling her directly 410-677-4098.

Very truly yours,



Donnie L. Drewer,
District Engineer

Cc: Ms. Rochelle Outten, Regional Engineer- SHA



Worcester County
DEPARTMENT OF PUBLIC WORKS
6113 TIMMONS ROAD
SNOW HILL, MARYLAND 21863

MEMORANDUM

JOHN H. TUSTIN, P.E.
DIRECTOR

JOHN S. ROSS, P.E.
DEPUTY DIRECTOR

TEL: 410-632-5623
FAX: 410-632-1753

TO: Phyllis H. Wimbrow, Deputy Director
FROM: Frank J. Adkins, Roads Superintendent (FA)
DATE: October 20, 2015
RE: Rezoning Case No. 395, 396, and 397

.....
Upon review of the above referenced rezoning cases, I offer the following comments:

DIVISIONS

MAINTENANCE
TEL: 410-632-3766
FAX: 410-632-1753

Rezoning Case 395: No comments

Rezoning Case 396: No comments

ROADS
TEL: 410-632-2244
FAX: 410-632-0020

Rezoning Case 397:

- 1) Entrance to project needs to be a minimum of a standard commercial entrance according to Worcester County standards if there is ingress/egress to or from a County road.
- 2) Due to the nature of the area and existing parking issues there needs to be sufficient amount of parking available so that vehicles are not parking and impeding traffic along the County road.
- 3) There needs to be a widening strip dedicated to Worcester County with improvements along the County road for future expansion as deemed necessary by the Worcester County Commissioners.
- 4) Project cannot impede drainage to or from the County road which may affect residents in neighboring areas who depend on maximum drainage solutions since this area is prone to flooding.

SOLID WASTE
TEL: 410-632-3177
FAX: 410-632-3000

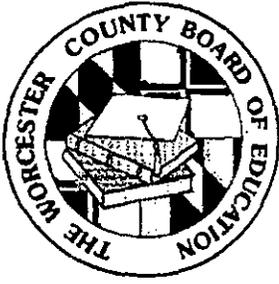
FLEET
MANAGEMENT
TEL: 410-632-5675
FAX: 410-632-1753

WATER AND
WASTEWATER
TEL: 410-641-5251
FAX: 410-641-5185

Should you have any questions, please do not hesitate to contact me.

cc: John H. Tustin, P.E., Director

FJA/l
H:\Rezoning\Rezoning Case 395.396.397.doc



**THE BOARD
OF EDUCATION
OF WORCESTER
COUNTY**

6270 WORCESTER HIGHWAY
NEWARK, MD 21841-9746
TELEPHONE: (410) 632-5000
FAX: (410) 632-0364
www.worcesterk12.com

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Superintendent of Schools
JOHN R. QUINN, Ed.D.
Chief Academic Officer
LOUIS H. TAYLOR
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October 28, 2015

Ms. Phyllis H. Wimbrow
Deputy Director
Department of Development Review and Permitting
One West Market Street
Room 1201
Snow Hill, Maryland 21863

Dear Ms. Wimbrow,

Enclosed are Worcester County Board of Education comments to Rezoning Cases No. 395, 396 and 397.

We do not anticipate an impact to the projected school enrollments for any of the schools within the zoning areas included in the three rezoning applications.

Please contact me at (410) 632-5010 if you have any questions.


Joe Price
Facilities Planner
Worcester County Public Schools

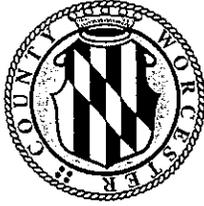
Encl.

-57-



**Worcester County Board of Education
Project / Rezoning Review Comments
Department of Development Review and Permitting**

Project / Rezoning Application Number:	Rezoning Case No. 396			
Project / Rezoning Location:	East side of Maryland Route 589/Racetrack Road			
Project / Rezoning Description:	11.5 acres from A-1 Agricultural to C-2 General Business			
Projected impact on existing schools	None			
School Name	State Rated Capacity	Current Enrollment (9/15)	Projected 10-Year High Enrollment	
Ocean City Elementary School	790	639	657	
Berlin Intermediate School	798	750	831	
Stephen Decatur Middle School	677	616	740	
Stephen Decatur High School	1,518	1,347	1,537	
Other Comments:				
<p>1. No anticipated impact to school enrollments by Rezoning Case No. 396.</p> <p>2. Projected enrollments are based upon Maryland Office of Planning estimates.</p>				
<hr/> <p>Worcester County Board of Education Representative: Joe Price, Facilities Planner</p> <p>Signature / Date: <i>Joe Price</i> 10/28/15</p>				



Worcester County

HEALTH DEPARTMENT

P.O. Box 249 • Snow Hill, Maryland 21863-0249
www.worcesterhealth.org

Snow Hill (Main Office)
410-632-1100
Fax 410-632-0906

Deborah Goeller, R.N., M.S.
Health Officer

MEMORANDUM

To: Phyllis H. Wimbrow, Deputy Director

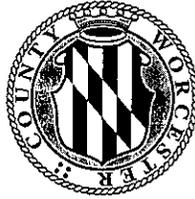
From: Edward Potetz, Director 
Environmental Health

Date: October 21, 2015

Re: Rezoning Case No. 395, No. 396 and No. 397

This office has no objection to the proposed above-referenced rezoning cases.

-59-



DEPARTMENT OF
DEVELOPMENT REVIEW AND PERMITTING

Worcester County

GOVERNMENT CENTER
ONE WEST MARKET STREET, ROOM 1201
SNOW HILL, MARYLAND 21863
TEL: 410-632-1200 / FAX: 410-632-3008
www.co.worcester.md.us/drp/drpindex.htm

ZONING DIVISION
BUILDING DIVISION
DATA RESEARCH DIVISION

ADMINISTRATIVE DIVISION
CUSTOMER SERVICE DIVISION
TECHNICAL SERVICE DIVISION

MEMO

TO: Robert Mitchell, Director, Worcester County Environmental Programs
Fred Webster, Director, Worcester County Emergency Services
Reggie Mason, Sheriff, Worcester County Sheriff's Office
John H. Tustin, P. E., Director, Worcester County Public Works Department
John Ross, P. E., Deputy Director, Worcester County Public Works Department
Frank Adkins, Roads Superintendent, Worcester County Public Works
Department
Jeff McMahan, Fire Marshal, Worcester County Fire Marshal's Office
Dr. Jerry Wilson, Superintendent, Worcester County Board of Education
Donnie L. Drewer, District Engineer, Maryland State Highway Administration
Lt. Earl W. Starnes, Commander, Barracks V, Maryland State Police
Debbie Goeller, Health Officer, Worcester County Health Department
Rob Clarke, State Forester, Maryland Forest Services
Nelson D. Brice, District Conservationist, Worcester County Natural Resources
Conservation Service
Steve Grunewald, Fire Chief, Ocean Pines Volunteer Fire Department
Phil Simpson, Fire Chief, Berlin Fire Department

FROM: Phyllis H. Wimbrow, Deputy Director *PHW*

DATE: October 14, 2015

RE: Rezoning Case No. 396

The Worcester County Planning Commission is tentatively scheduled to review the above referenced rezoning application at its meeting on December 3, 2015. This application seeks to rezone approximately 11.5 acres of land from A-1 Agricultural District to C-2 General Business District. Uses allowed in the proposed zoning district include, but are not limited to,

motels/hotels, retail or service establishments, restaurants, contractors' shops, vehicle, watercraft and equipment sales and service establishments, outdoor commercial recreation establishments, and doctors' offices. With regard to residential uses, dormitories, single-family and multi-family dwellings contained in a commercial structure, and on-site housing for the owner, caretaker or employees, including their immediate families, are permitted. Permitted densities of such residential uses vary. Please note that other considerations such as sewage disposal, placement of roads serving the development, and open space requirements affect maximum permitted density to some degree.

For your reference I have attached a copy of the rezoning application and associated documents and a series of maps showing the property petitioned for rezoning. These maps include an aerial photo as well as maps showing the floodplain, hydric soils, Comprehensive Plan Land Use Classifications, the location, soils, and zoning.

The Planning Commission would appreciate any comments you or your designee might offer with regard to the effect that this application and potential subsequent development of the site may have on the plans, facilities or services for which your agency is responsible. If no response is received by **November 16, 2015**, the Planning Commission will have to assume that the proposed rezoning, in your opinion, will have no effect on your agency, that the application is compatible with your agency's plans, that your agency has or will have adequate facilities and resources to serve the proposed rezoning and its subsequent land uses and that you have no objection to the Planning Commission stating this information in its report to the Worcester County Commissioners.

If you have any questions or require further information, please do not hesitate to call this office or email me at pwimbrow@co.worcester.md.us. On behalf of the Planning Commission, thank you for your attention to this matter.

Attachments



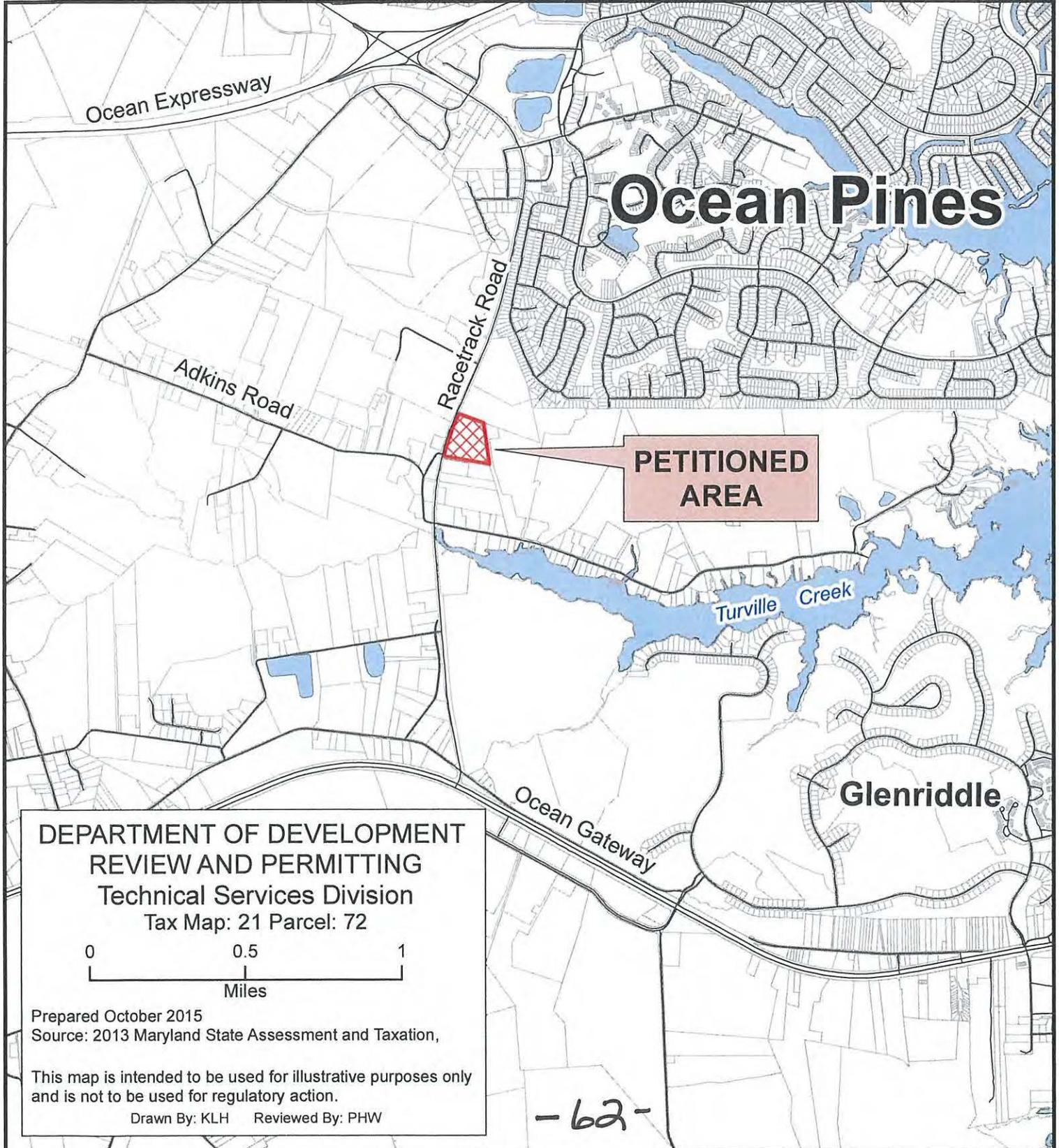
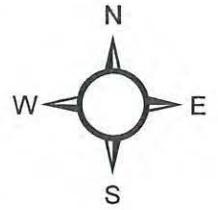
WORCESTER COUNTY, MARYLAND

REZONING CASE NO. 396

MAP AMENDMENT REQUEST

A-1 Agricultural District to C-2 General Commercial District

LOCATION MAP





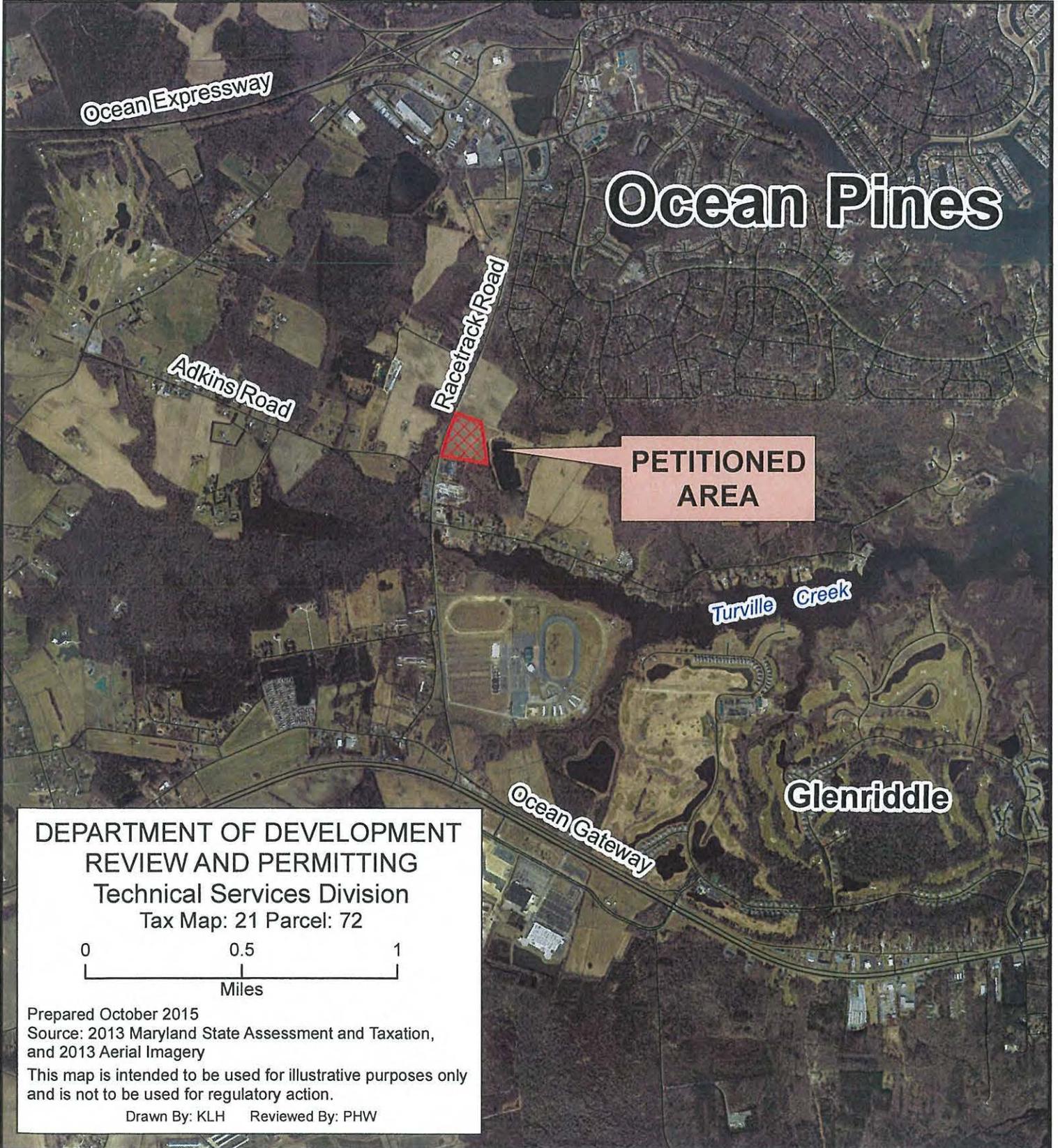
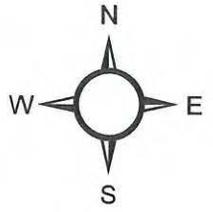
WORCESTER COUNTY, MARYLAND

REZONING CASE NO. 396

MAP AMENDMENT REQUEST

A-1 Agricultural District to C-2 General Commercial District

AERIAL MAP





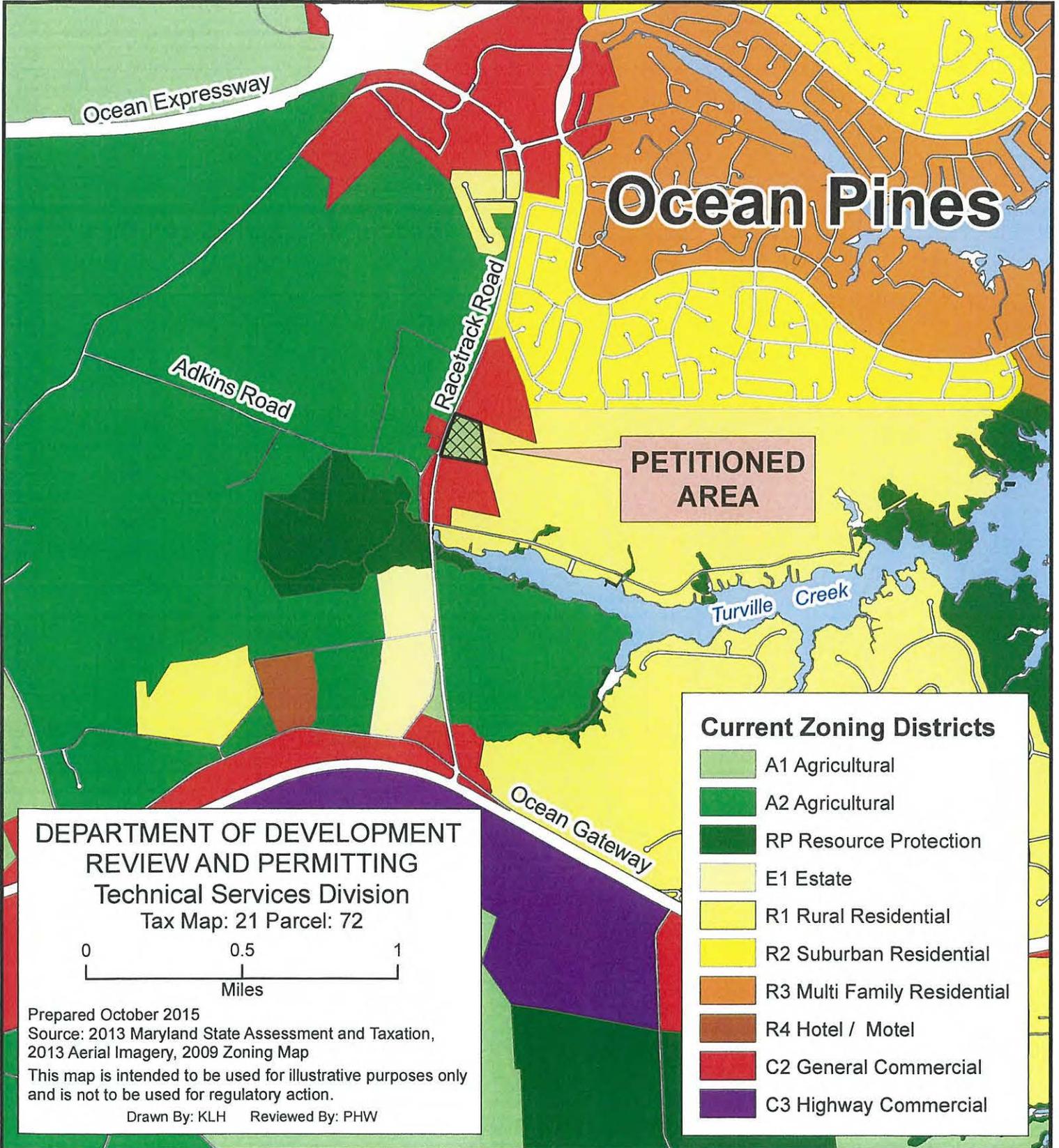
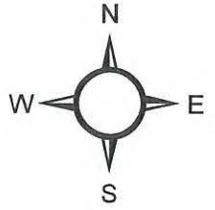
WORCESTER COUNTY, MARYLAND

REZONING CASE NO. 396

MAP AMENDMENT REQUEST

A-1 Agricultural District to C-2 General Commercial District

ZONING DISTRICT MAP





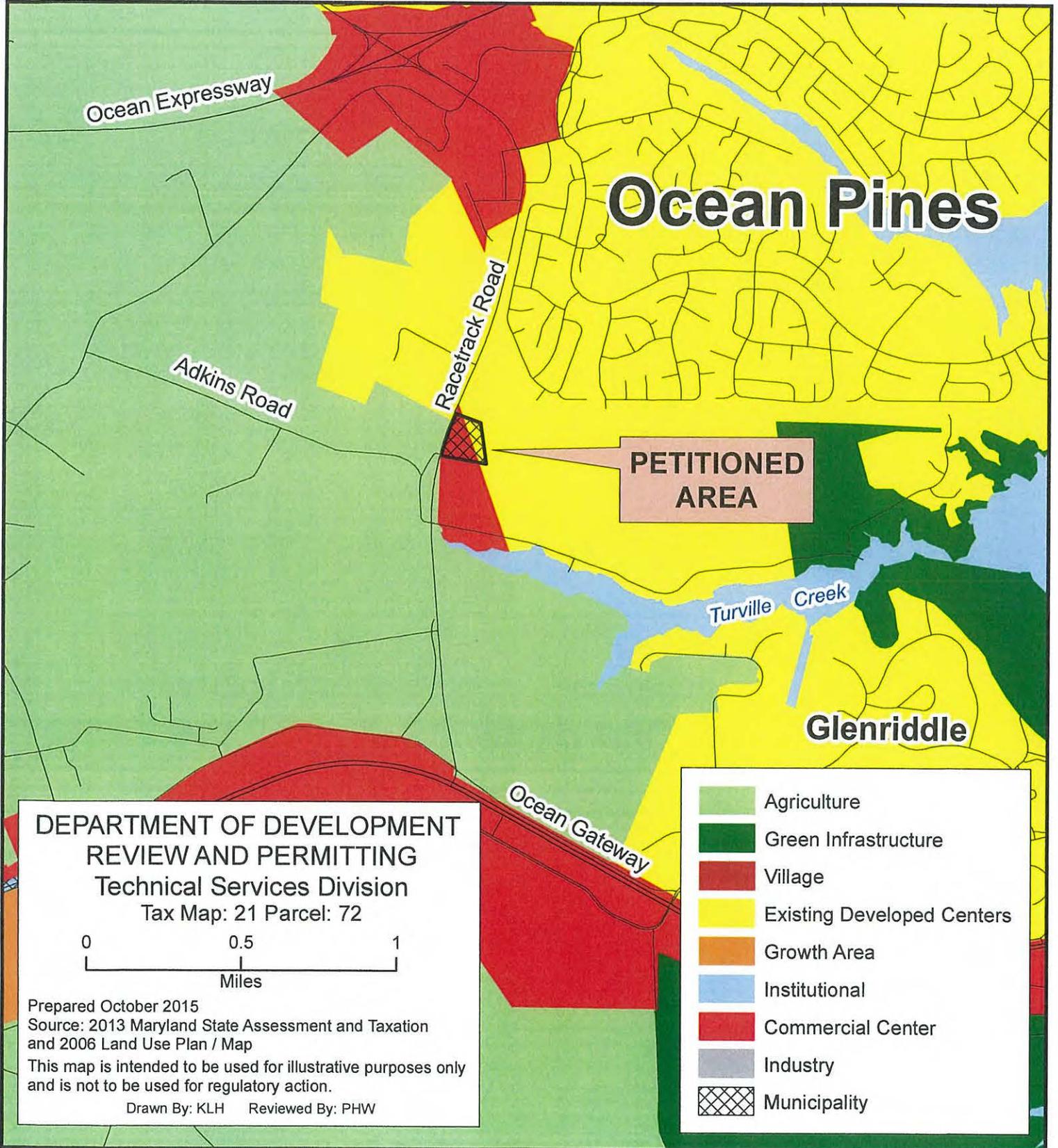
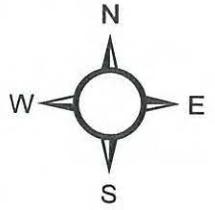
WORCESTER COUNTY, MARYLAND

REZONING CASE NO. 396

MAP AMENDMENT REQUEST

A-1 Agricultural District to C-2 General Commercial District

LAND USE MAP



DEPARTMENT OF DEVELOPMENT
 REVIEW AND PERMITTING
 Technical Services Division
 Tax Map: 21 Parcel: 72

0 0.5 1
 Miles

Prepared October 2015
 Source: 2013 Maryland State Assessment and Taxation
 and 2006 Land Use Plan / Map
 This map is intended to be used for illustrative purposes only
 and is not to be used for regulatory action.
 Drawn By: KLH Reviewed By: PHW



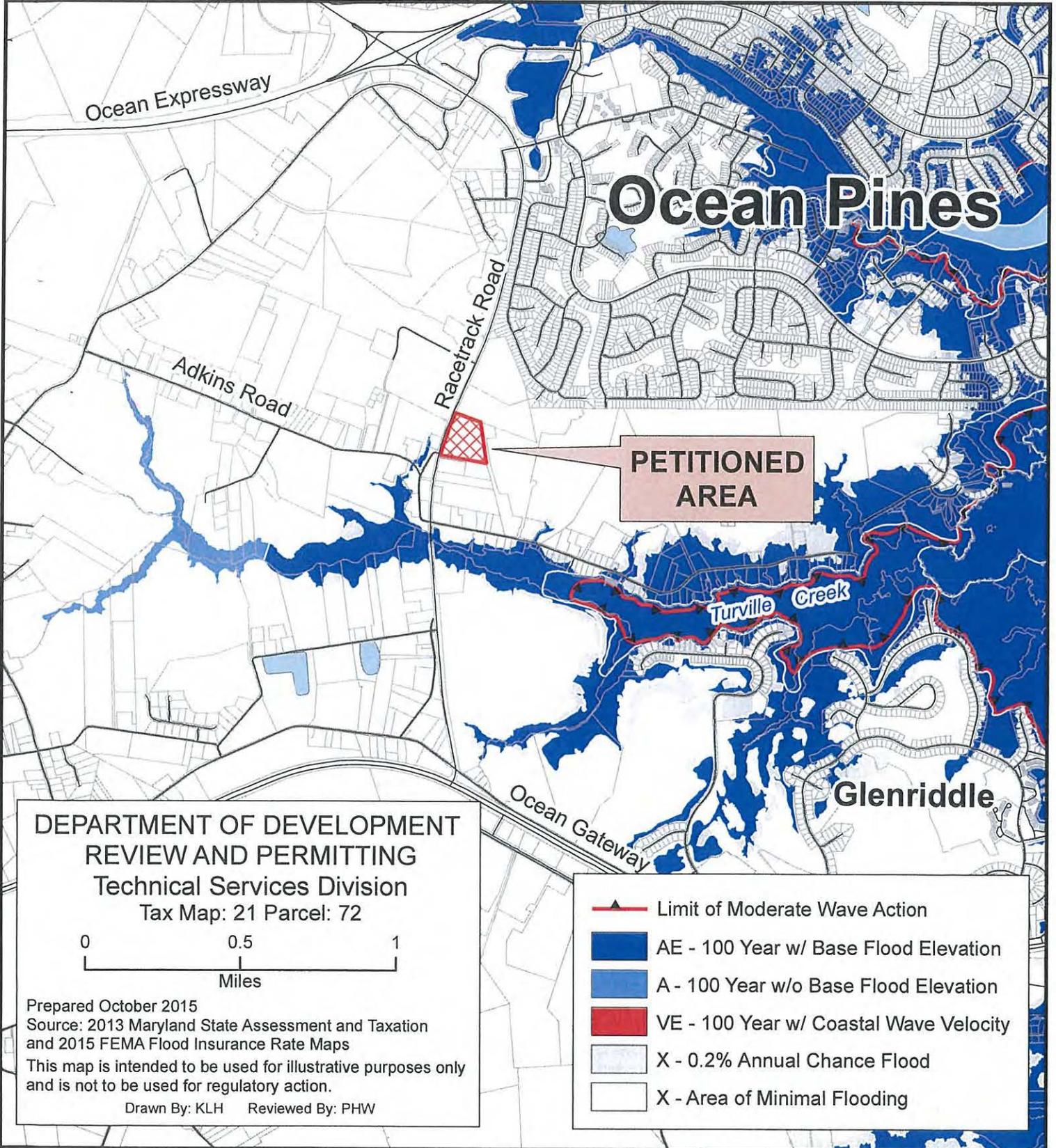
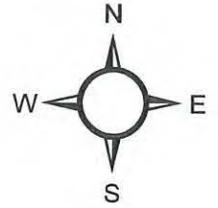
WORCESTER COUNTY, MARYLAND

REZONING CASE NO. 396

MAP AMENDMENT REQUEST

A-1 Agricultural District to C-2 General Commercial District

FLOOD ZONE MAP





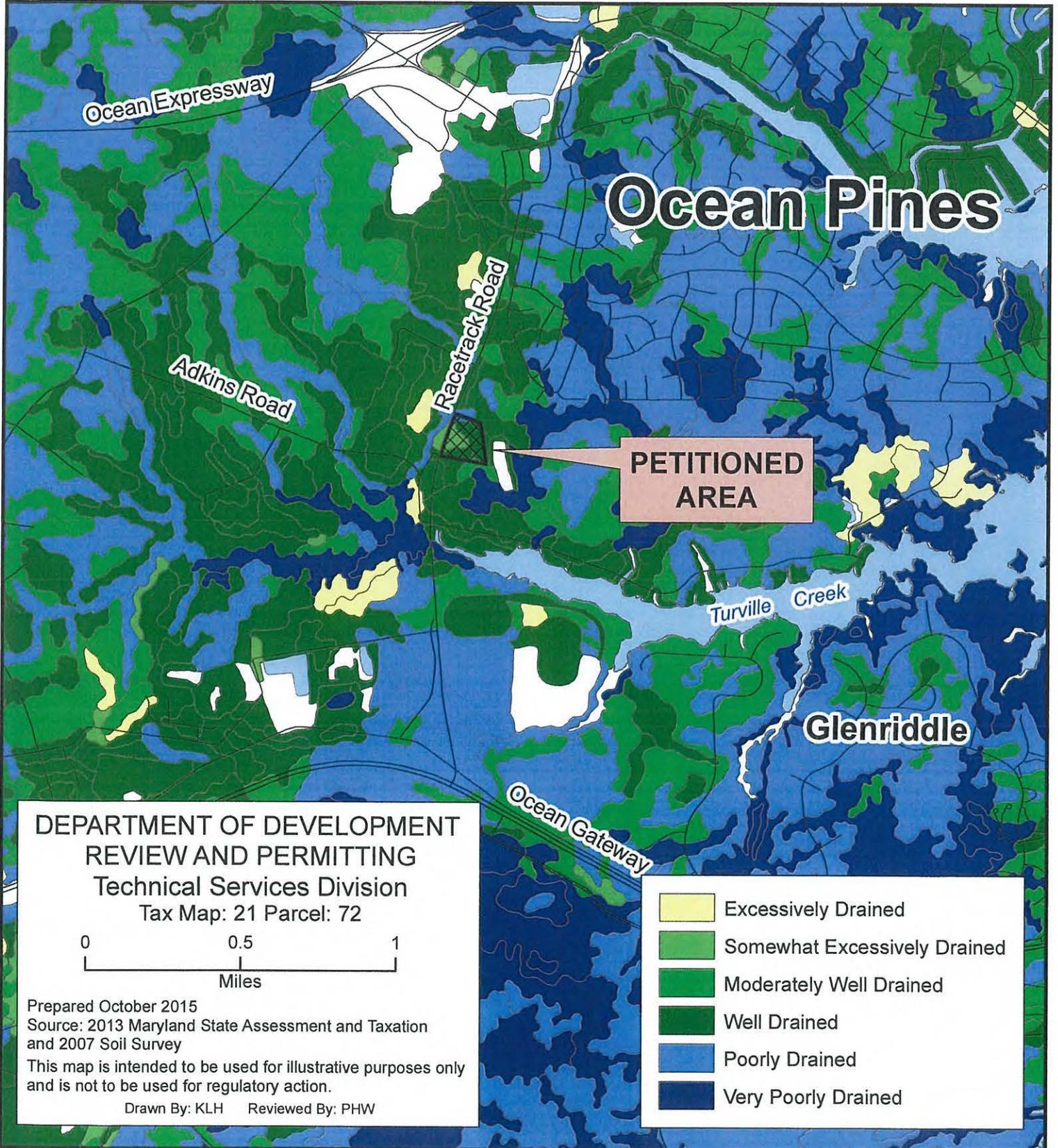
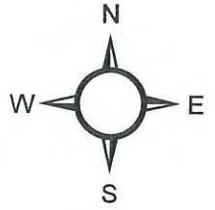
WORCESTER COUNTY, MARYLAND

REZONING CASE NO. 396

MAP AMENDMENT REQUEST

A-1 Agricultural District to C-2 General Commercial District

SOILS MAP





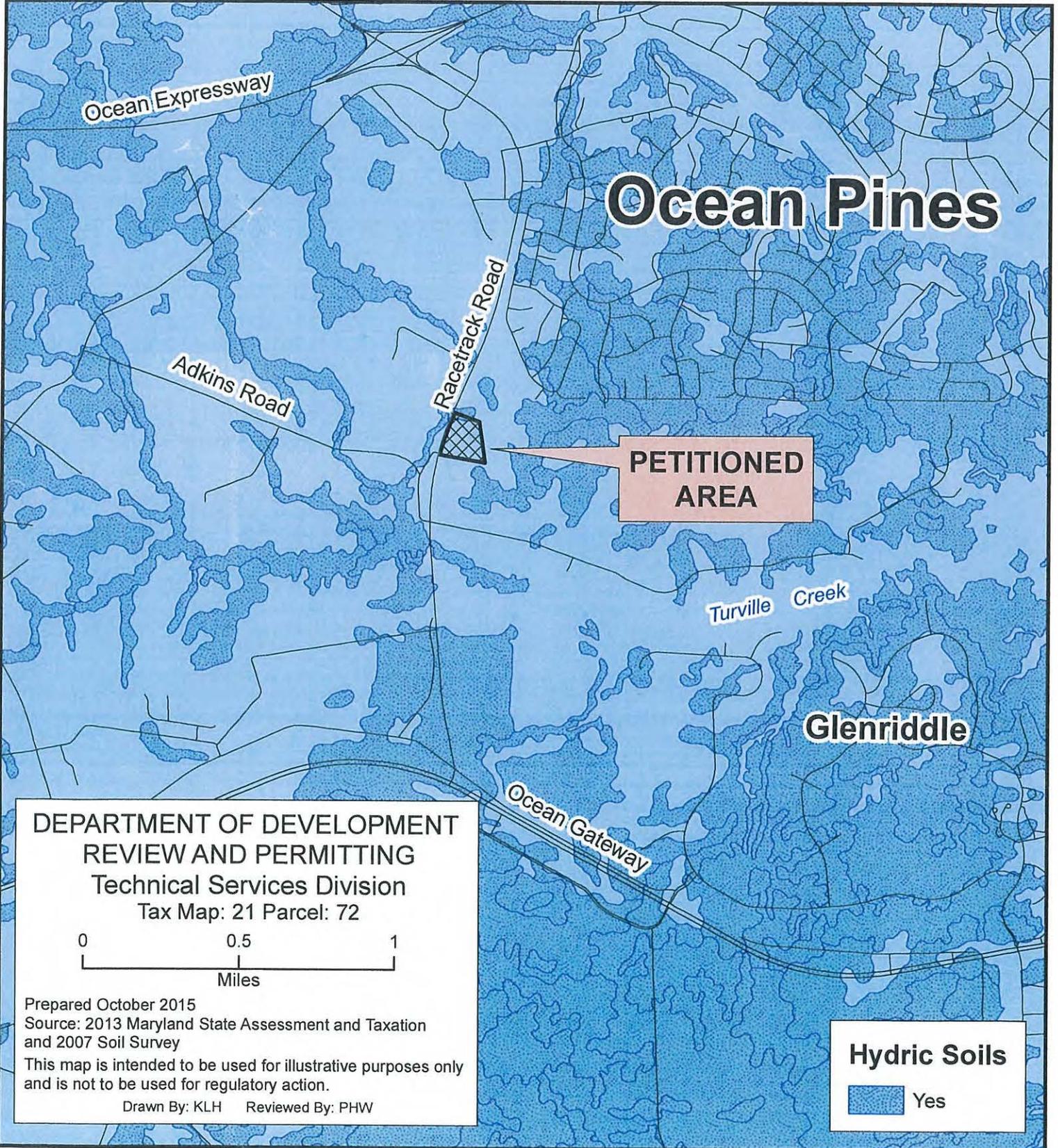
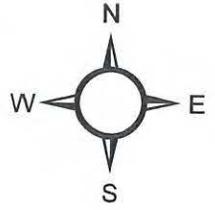
WORCESTER COUNTY, MARYLAND

REZONING CASE NO. 396

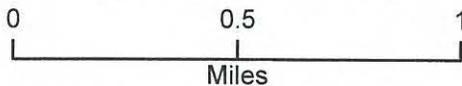
MAP AMENDMENT REQUEST

A-1 Agricultural District to C-2 General Commercial District

HYDRIC SOILS MAP



DEPARTMENT OF DEVELOPMENT
 REVIEW AND PERMITTING
 Technical Services Division
 Tax Map: 21 Parcel: 72



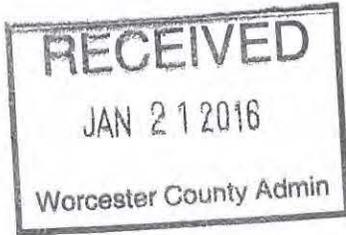
Prepared October 2015
 Source: 2013 Maryland State Assessment and Taxation
 and 2007 Soil Survey

This map is intended to be used for illustrative purposes only
 and is not to be used for regulatory action.

Drawn By: KLH Reviewed By: PHW

Hydric Soils

Yes



7

DEPARTMENT OF
DEVELOPMENT REVIEW AND PERMITTING

Worcester County

GOVERNMENT CENTER
ONE WEST MARKET STREET, ROOM 1201
SNOW HILL, MARYLAND 21863
TEL: 410-632-1200 / FAX: 410-632-3008
www.co.worcester.md.us/drp/drpindex.htm

ZONING DIVISION
BUILDING DIVISION
DATA RESEARCH DIVISION

ADMINISTRATIVE DIVISION
CUSTOMER SERVICE DIVISION
TECHNICAL SERVICE DIVISION

Propose to Schedule Public
Hearing on March 1, 2016

MEMORANDUM

TO: Harold L. Higgins, Chief Administrative Officer
FROM: Edward A. Tudor, Director *EAT*
DATE: January 20, 2016
RE: Planning Commission Findings of Fact and Recommendation
Rezoning Case No. 395
(Sun TRS Frontier, LLC, Applicant, and Hugh Cropper, IV,
Attorney for the Applicant)



Attached herewith please find the Planning Commission's written Findings of Fact and Recommendation relative to Rezoning Case No. 395, seeking to rezone approximately 36 acres of land located to the east of MD Rt. 611 north of MD Rt. 376 from C-2 General Commercial District to A-2 Agricultural District. It was reviewed by the Planning Commission at its meeting on December 3, 2015 and given a favorable recommendation.

Also attached for your use is a draft public notice for the required public hearing that must be held by the County Commissioners. An electronic copy has already been forwarded to Kelly Shannahan. Please advise our department at your earliest convenience as to the public hearing date so that our department can ensure that the mandatory public notice of 15 days is met via posting on the site and mailings to adjoining property owners.

Thank you for your attention to this matter. Should you have any questions or require additional information, please do not hesitate to contact me.

EAT/phw

NOTICE
OF
PROPOSED CHANGE
IN ZONING

EAST OF MD RT. 611
NORTH OF MD RT. 376

TENTH TAX DISTRICT
WORCESTER COUNTY, MARYLAND

Pursuant to Section 1-113 of the Worcester County Zoning Ordinance, Rezoning Case No. 395 has been filed by Hugh Cropper, IV, attorney, on behalf of Sun TRS Frontier, LLC, property owners, for an amendment to the Official Zoning Maps to change approximately 36 acres of land located to the east of MD Rt. 611, north of MD Rt. 376, in the Tenth Tax District of Worcester County, Maryland, from C-2 General Commercial District to A-2 Agricultural District. The Planning Commission has given a favorable recommendation to the rezoning application.

Pursuant to Sections 1-113 and 1-114 of the Worcester County Zoning Ordinance, the County Commissioners will hold a

PUBLIC HEARING
on

TUESDAY,
at

in the
COUNTY COMMISSIONERS' MEETING ROOM
ROOM 1101
WORCESTER COUNTY GOVERNMENT CENTER
ONE WEST MARKET STREET
SNOW HILL, MARYLAND 21863-1072

At said public hearing, the Commissioners will consider the rezoning application, the staff file on Rezoning Case No. 395 and the recommendation of the Planning Commission, any proposed restrictions on the rezoning, other appropriate restrictions, conditions or limitations as may be deemed by them to be appropriate to preserve, improve or protect the general character and design of the lands and improvements being zoned or rezoned or of the surrounding or adjacent lands and improvements, and the advisability of reserving the power and authority to approve or disapprove the design of buildings, construction, landscaping or other improvements, alterations and changes made or to be made on the subject land or lands to assure conformity with the intent and purpose of applicable State laws and regulations and the County Zoning Ordinance.

Maps of the petitioned area, the staff file on Rezoning Case No. 395 and the Planning Commission's recommendation which will be entered into the record of the public hearing are on file and are available for inspection at the Department of Development Review and Permitting, Worcester County Government Center, One West Market Street, Room 1201, Snow Hill, Maryland 21863-1070.

Madison J. Bunting, Jr., President

**PLANNING COMMISSION
FINDINGS OF FACT
AND
RECOMMENDATION**

REZONING CASE NO. 395

APPLICANT:

**Sun TRS Frontier, LLC
27777 Franklin Road, Suite 200
Southfield, Michigan 48034**

ATTORNEY FOR THE APPLICANT:

**Hugh Cropper, IV
9923 Stephen Decatur Highway, D-2
Ocean City, Maryland 21842**

December 3, 2015

WORCESTER COUNTY PLANNING COMMISSION

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B.	Attachments to the Staff Report:	
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2.	Attachment in Support of Rezoning Application, Sun TRS Frontier LLC, submitted by Hugh Cropper, IV, including Board of Zoning Appeals' Opinion	Pages 27 - 32
3.	Comments of Robert J. Mitchell, Worcester County Environmental Programs Director, including map	Pages 33 - 35
4.	Comments of Chief Deputy J. Dale Smack, 3rd, Worcester County Sheriff's Office	Page 36
5.	Comments of Donnie L. Drewer, District Engineer, Maryland State Highway Administration	Page 37
6.	Comments of Frank J. Adkins, Worcester County Roads Superintendent	Page 38
7.	Comments of Joe Price, Facilities Planner, Worcester County Board of Education	Pages 39 - 40
8.	Comments of Edward Potetz, Environmental Health Director, Worcester County Health Department	Page 41
9.	Memo requesting comments	Pages 42 - 43
10.	Maps of Petitioned Area	Pages 43 - 50

I. INTRODUCTORY DATA

A. CASE NUMBER: Rezoning Case No. 395, originally filed on September 30, 2015.

B. APPLICANT: Sun TRS Frontier, LLC
27777 Franklin Road, Suite 200
Southfield, Michigan 48034

APPLICANT'S ATTORNEY: Hugh Cropper, IV
9923 Stephen Decatur Highway, D-2
Ocean City, Maryland 21842

C. TAX MAP/PARCEL: Tax Map 33 - Part of Parcel 94 - Tax District 10

D. SIZE: The petitioned area is approximately 36 acres in size. It is part of a larger parcel identified as Parcel 94 on Tax Map 33. Parcel 94 in its entirety totals 209 acres in size.

E. LOCATION: The petitioned area is located to the east of MD Route 611 approximately 600 feet to the north of the junction with MD Route 376.

F. CURRENT USE OF PETITIONED AREA: The petitioned area is the portion of the property currently developed with the stables, etc. for the Frontier Town western theme village and a forested area. (It does not include the actual western theme village, the existing water park or other commercial facilities. That area is proposed to retain its existing commercial zoning classification.) The easterly portion of the subject property is developed as the Frontier Town campground.

G. CURRENT ZONING CLASSIFICATION: C-2 General Commercial District

H. REQUESTED ZONING CLASSIFICATION: A-2 Agricultural District.

I. ZONING HISTORY: The petitioned area has been zoned C-2 General Commercial District since the 2009 comprehensive rezoning of the County. It was given a B-2 General Business District zoning classification at the time zoning was first established in the mid-1960s and that classification was retained in the 1992 comprehensive rezoning.

J. SURROUNDING ZONING: The westerly portion of Parcel 94, extending from the MD Route 611 frontage and including the petitioned area, is zoned C-2 General Commercial District. The remainder of Parcel 94 is primarily zoned A-2 Agricultural District, as are properties to the north and on the westerly side of MD Route 611. Sensitive areas of Parcel 94 are zoned RP Resource Protection

District. The adjacent property immediately to the south of the petitioned area is zoned E-1 Estate District and RP Resource Protection District. The properties on the westerly side of MD Route 611 are zoned A-2 Agricultural District. Several properties on the westerly side of MD Route 611 immediately to the north and south of the junction with MD Route 376 are zoned C-2 General Commercial District.

- K. **COMPREHENSIVE PLAN:** According to the 2006 Comprehensive Plan and associated land use map, the petitioned area is within the Existing Developed Area and Agricultural Land Use Categories.
- L. **WATER AND WASTEWATER:** With regards to wastewater disposal and the provision of potable water, the petitioned area is not within an area which presently receives public sewer or water service. According to the response memo from Robert J. Mitchell, Director of the Department of Environmental Programs (copy attached), the commercially developed portion of the subject property of which the petitioned area is a portion is currently served by public sewer from the Assateague Point Sanitary Service Area while the remainder, including the petitioned area and the existing campground, are serviced by individual onsite septic and well.
- M. **ROAD ACCESS:** The subject property of which the petitioned area is a part fronts on and currently has access to MD Route 611. That roadway is state-owned and -maintained and connects to both US Rt. 50 and MD Route 376. The Comprehensive Plan classifies MD Route 611 as a two-lane secondary highway/major collector highway.

II. APPLICANT'S TESTIMONY BEFORE THE PLANNING COMMISSION

- A. As the basis for the rezoning request from C-2 General Commercial District to A-2 Agricultural District Mr. Cropper, attorney for the applicant, contended that there is a mistake in the existing zoning classification of the petitioned area, albeit one made in good faith, and that there has been a substantial change in the character of the neighborhood since the last comprehensive rezoning, adopted by the County Commissioners on November 3, 2009.

Mr. Cropper noted that the Frontier Town property in its entirety is 209 acres, of which approximately 60 acres are zoned C-2 General Commercial District. The applicant is seeking to rezone approximately 36 acres of this commercially zoned portion to A-2 Agricultural District.

Mr. Cropper introduced Applicant's Exhibit No. 1, a large format zoning map of the area, showing the MD Route 611 corridor generally extending from US Route 50 on the north to MD Route 376 on the south. Mr. Cropper pointed out the

petitioned area on this map, identified as a hatched area, and noted that the parcel of which the petitioned area is a part has frontage on MD Route 611. He introduced Applicant's Exhibit No. 2, a large format aerial photograph of the subject property, again identifying the petitioned area by hatched markings. Mr. Cropper stated that the westerly portion of the subject property is improved along the MD Route 611 frontage with various commercial areas, including a western theme park, a water park, a retail facility and others. The petitioned area is largely wooded but also has horse paddocks and similar agriculturally related uses. The remainder of the subject property, extending east to the Sinepuxent Bay, has been developed as a campground for many years. Mr. Cropper stated that the applicant desires to enlarge the existing campground into the petitioned area, thus necessitating the rezoning to A-2 Agricultural District. He introduced the staff report prepared by the Department of Development Review and Permitting as Applicant's Exhibit No. 3.

Mr. Cropper stated that the petitioned area has been zoned commercially since zoning was first established in Worcester County in the mid-1960s and that zoning has been carried through during both the 1992 and 2009 comprehensive rezonings of the County. He asserted that the zoning boundary between the C-2 General Commercial District and the A-2 Agricultural District has remained substantially unchanged throughout the years and that the boundary's placement is rather arbitrary and does not seem to be based upon any physical traits or other logical features. Mr. Cropper contended that the commercial zoning was placed on the petitioned area and on other properties in this segment of the MD Route 611 corridor in an attempt to commercially develop this corridor in conjunction with planned residential and resort development of Assateague Island prior to its inclusion in the State and National park systems. Much of this commercial and higher intensity zoning has been removed through the years, particularly in the more southern segment of the corridor, but quite a bit remains in the area of the MD Route 611/MD Route 376 junction. Mr. Cropper maintained that the abundance of commercial zoning in this portion of the MD Route 611 corridor is no longer needed and is in fact antiquated, given Assateague Island's status as a preserved area. He claimed that there is therefore a mistake in the existing zoning of the petitioned area, albeit one made in good faith many years ago. Mr. Cropper noted that the commercially zoned portions of the subject property could theoretically be developed with shopping centers, restaurants, motels, convenience stores, gas stations and other such uses that are not particularly appropriate on this property. He contended that commercial use of this much of the subject property is inappropriate for the area. Mr. Cropper stated that if the petitioned area were rezoned to A-2 Agricultural District the applicant will seek a special exception to expand the existing Frontier Town campground and are currently in negotiations to connect to the Mystic Harbour wastewater treatment and disposal facilities. He asserted that this expansion of the existing campground constitutes smart growth, taking advantage of public sewer to provide infill development. Noting that the

Comprehensive Plan places the petitioned area within the Existing Developed Area land use category, Mr. Cropper contended that the requested A-2 Agricultural District is more desirable in terms of the objectives of the Comprehensive Plan than is the existing C-2 General Commercial District zoning because it would allow the expansion of the existing campground and be compatible with that use.

Mr. Cropper called R. D. Hand, landscape architect, of R. D. Hand and Associates as the first witness. Using Applicant's Exhibit No. 1 to illustrate, Mr. Hand defined the neighborhood as being bound on the north by South Harbor Road and Sunset Avenue, on the west by MD Route 611, on the south by the southerly property line of Parcel 94, the subject property, and on the east by the Sinepuxent Bay. Mr. Hand explained that the definition of the neighborhood was not extended any further south because that area is generally zoned E-1 Estate District, a much different zoning classification than those classifications found within the neighborhood as defined by the applicant. He cited other campgrounds in the neighborhood, including Castaways and Assateague Point, as well as the residential subdivisions of Snug Harbor, Bayside, and Mystic Harbor. He also noted that several businesses are located in the vicinity of the MD Route 611/MD Route 376 junction and further north, along Sunset Avenue and MD Route 611. Contending that a mistake in existing zoning is specific to a particular property, Mr. Hand stated that the existing commercial zoning on the petitioned area dates back to the inception of zoning in Worcester County during the mid-1960s, a time when a much different and more intense form of growth was anticipated for the MD Route 611 corridor and Assateague Island. He stated that the commercially zoned portion of the subject property which is along the roadway frontage is appropriately developed with the western theme park, an ice cream shop, water park, etc. Mr. Hand contended, however, that the C-2 General Commercial District zoning on the petitioned area is inappropriate and a mistake because it is too far removed from the main corridor for a successful commercial venture. He asserted that the petitioned area would be much more appropriately utilized as a natural and logical expansion of the adjacent Frontier Town campground and that this infill development constitutes smart growth. Mr. Hand stated that he believes the proposed rezoning of the petitioned area from C-2 General Commercial District to A-2 Agricultural District is consistent with the Comprehensive Plan which shows the petitioned area as being within the Existing Developed Area land use category, an area where the Comprehensive Plan calls for orderly infill development consistent with the existing character of the area. Relative to the population of the neighborhood, Mr. Hand testified that it has not changed to a significant degree since 2009 but that there is more interest in camping. He noted that the Castaways campground recently added 22 campsites to its total, demonstrating the increased need for camping facilities in the area. Mr. Hand maintained that the proposed rezoning of the petitioned area would have less of a traffic impact on the neighborhood than if the site were developed commercially

because campers tend to come to the campground, park their vehicles and stay for the week.

Mr. Cropper asserted that the proposed campground extension is classic infill and that placing a campground somewhere else rather than expanding an existing one would be sprawl. He stated that the petitioned area is within the Atlantic Coastal Bays Critical Area and is designated as being within the Intensely Developed Area, while nearby properties are designated as Resource Conservation Area. Campgrounds are permitted within the Intensely Developed Area but not within the Resource Conservation Area. He argued that the proposed rezoning to permit the expansion of an existing campground is thus consistent with the Atlantic Coastal Bays Critical Area regulations and intent. He noted that amenities such as a crabbing pier and fishing facilities are located within the existing campground and will be available to the proposed campground expansion. Mr. Cropper reiterated his belief that the current zoning boundary between the C-2 General Commercial District and the A-2 Agricultural District as shown on Exhibit No. 2 is arbitrary and is not aligned with any particular use or environmental feature whereas the proposed zoning boundary follows existing features, including water courses behind the theme park and ticket office and has been identified by a metes and bounds description. Mr. Cropper stated that the petitioned area is designated as being within the S-1 Immediate Service sewer classification in the *Master Water and Sewerage Plan* and slated to be connected to the public wastewater system at Mystic Harbor. He continued that 160 Equivalent Dwelling Units (EDUs) of sewer service have been allocated to the subject property. He asserted that the proposed rezoning and campground extension is consistent with the campground use existing on the property and that the soils on the petitioned area, being similar to those in the existing campground, are conducive to a campground use.

Mr. Cropper contended that in addition to a mistake in existing zoning there has also been a change in the character of the neighborhood. He asserted that camping has become much more popular in the last decade or so and that the type of camping has changed as well. Large recreational vehicles are more popular nowadays rather than the "mom and pop" tent and pop-up camper operations of the past. He stated that camping is expanding locally as well as nationally. He pointed out that the Castaways campground recently expanded, placing 22 additional campsites on what used to be their wastewater disposal field. The campground's connection to public sewer and subsequent abandonment of the onsite wastewater disposal field enabled this expansion. Additional campsites at facilities on Assateague Island have also been created. Mr. Cropper maintained that expansion of public sewer within the area is also a change in the character of the neighborhood. Expansion and upgrading of the Mystic Harbor wastewater treatment and disposal facilities and the running of new lines down the MD Route 611 corridor to serve other areas is an example of this change and will enable

development of other properties. Additionally, the Town of Ocean City is in negotiations with Worcester County to spray wastewater effluent on the Eagle's Landing golf course which will open up more opportunities for development of the area.

Mr. Cropper agreed with Mr. Hand's prior testimony that there has not been a substantial change in the population of the neighborhood since the 2009 comprehensive rezoning but noted that increases in camping and campsites as well as infill development of vacant lots within existing subdivisions has led to somewhat of an increase in population. Relative to the availability of public facilities, he stated that this had been covered in the staff report and the services are adequate. With regard to present and future transportation patterns, Mr. Cropper contended that development of the petitioned area as a campground in accordance with the proposed A-2 Agricultural District zoning would have much less of a traffic impact than the potential impact arising from development under the existing C-2 General Commercial District.

Mr. Cropper presented Alex G. Dolgus, a retired US Army Corps of Engineers employee responsible for enforcement of tidal and nontidal wetland regulations, as the next witness. Mr. Dolgus testified that he had thoroughly examined the petitioned area and it was his opinion that the proposed rezoning of the petitioned area and its subsequent use as a campground expansion is compatible with existing environmental conditions in the area. He noted that there are small pockets of wetlands on the site but substantial areas of uplands so there will be little to no impact if the property were rezoned. He further maintained that no archeological sites or endangered species were found on the site and that the proposed campground would not adversely impact any impaired waters or increase the Total Maximum Daily Loads (TMDLs).

Mitch Parker was called as the next witness by Mr. Cropper. Mr. Parker, along with his cousin Eugene Parker, is the prior owner of the Frontier Town campground and associated commercial facilities and has been associated with it for forty years. He stated that he feels the rezoning to A-2 Agricultural District to permit expansion of the campground is appropriate because while camping in Worcester County has seen steady growth, in the last few years it has exploded. He noted that, in comparison, Cape May, New Jersey has over fifty private campgrounds while Worcester County has four private campgrounds. Mr. Parker contended that there is an unmet need for camping facilities here and the petitioned area is a natural site for expansion of an existing campground. He agreed with Mr. Cropper's assertion that the existing C-2 General Commercial District zoning on the petitioned area is a good faith mistake and that the vicinity did not develop as anticipated in the mid 1960s and the zoning is somewhat of a relic that should have been addressed. He asserted that the petitioned area is not appropriate for commercial development because it is too far back from MD

Route 611 and that there would be no visibility for any commercial venture that far from the road. He stated that a campground is a low impact use with mostly pervious surfaces whereas commercial development would entail roads, parking, stormwater management and other more severe impacts. Access to the bay would be provided by existing facilities.

Mr. Cropper summed up his arguments, stating that while there has been a change in the character of the neighborhood and there is a mistake in the existing zoning, he feels that the latter factor is by far the most significant. Noting that the petitioned area is within the Existing Developed Area land use category according to the Comprehensive Plan and that infill development is called for in such areas, he contended that the proposed rezoning to permit expansion of an existing campground is compatible with the Comprehensive Plan. He maintained that the mistake in the existing zoning has been in place for many years but was not recognized during the 2009 comprehensive rezoning because so much focus was placed on other areas. He closed by stating that the proposed rezoning of the petitioned area from C-2 General Commercial District to A-2 Agricultural District is more desirable in terms of the Comprehensive Plan and that it is compatible with the Existing Developed Area land use classification.

III. PLANNING COMMISSION'S FINDINGS AND CONCLUSIONS

- A. Regarding the definition of the neighborhood: The neighborhood was defined by the applicant as being bound on the north by South Harbor Road and Sunset Avenue, on the west by MD Route 611, on the south by the southerly property line of Parcel 94, the subject property, and on the east by the Sinepuxent Bay. The Planning Commission concurred that this is an appropriate definition of the neighborhood because it contains similar uses, including other campgrounds, and while containing some residential subdivisions and other residential uses, it is also agrarian in nature. The Planning Commission also agreed that the definition of the neighborhood should not extend any further south because that area is generally zoned E-1 Estate District, a much different zoning classification than those within the defined neighborhood.
- B. Regarding population change: The Planning Commission concluded that there has not been a significant increase in the population of the neighborhood since the comprehensive rezoning of 2009. There has been infill development of single-family dwellings on existing lots within nearby residential subdivisions and the Castaways campground was recently expanded by the addition of 22 campsites.
- C. Regarding availability of public facilities: The Planning Commission found that the petitioned area itself (or the existing campground) is not within an area which receives public sewer or water service at the present time. According to the response memo from Robert J. Mitchell, Director of the Department of

Environmental Programs, included in the staff report (copy attached), the commercially developed portion of the subject property of which the petitioned area is a portion is currently served by public sewer from the Assateague Point Sanitary Service Area while the remainder, including the petitioned area and the existing campground, are serviced by individual onsite septic and well. He stated that a recent sewer planning area designation to S-1 for the remainder of the campground to be included in the Mystic Harbour sewer planning area, including the petitioned area, has been approved and is part of the *Master Water and Sewerage Plan* and attached a map illustrating the Frontier Town property currently carrying a S-1 designation. Mr. Mitchell also stated that the connection process will commence once engineering and permitting have been completed. He noted that the Frontier Town Campground will make their connection to a Mystic Harbour force main that exits Eagles Nest Road, north of the subject property on MD Route 611. The Frontier Town Campground will abandon all onsite septic systems during the connection process. Mr. Mitchell additionally commented that he expects that there will be excess capacity for additional commercial expansion or intensification on the front portion of the campground and the owner can make application, as was done for the Castaways Campground, for additional sanitary capacity to serve additional campsites should the rezoning of the petitioned area be approved. Based upon the comments of Mr. Mitchell and the testimony of the applicant's representatives, the Planning Commission found that wastewater facilities currently being designed will be adequate to serve the petitioned area if rezoned. The Planning Commission determined that fire and ambulance service will be available from the Berlin Volunteer Fire Company. A substation is located on the opposite side of MD Route 611 from the subject property, located within five minutes of the petitioned area. No comments were received from the BVFC with regard to this particular review. Police protection will be available from the Maryland State Police Barracks in Berlin, approximately fifteen minutes away, and the Worcester County Sheriff's Department in Snow Hill, approximately thirty minutes away. No comments were received from the Maryland State Police Barracks. Chief Deputy J. Dale Smack 3rd of the Worcester County Sheriff's Office by memo stated that he had reviewed the application and spoken with Sheriff Mason and Lt. Starnier relative to the rezoning case and they saw no issues with the propose rezoning and concluded that it will not interfere with law enforcement activities. The petitioned area is within the area served by the following schools: Ocean City Elementary School, Berlin Intermediate School, Stephen Decatur Middle School, and Stephen Decatur High School. Joe Price, Facilities Planner for the Worcester County Board of Education (WCBOE), by memo (copy attached) stated that the WCBOE does not anticipate an impact to the projected school enrollment for any of the schools serving the area by the proposed rezoning. The Planning Commission concurred with this conclusion. In consideration of its review, the Planning Commission found that there will be no negative impacts to public facilities and services resulting from the proposed rezoning.

- D. Regarding present and future transportation patterns: The Planning Commission found that the subject property of which the petitioned area is a part fronts on and currently has access to MD Route 611. That roadway is state-owned and - maintained and connects to both US Rt. 50 and MD Route 376. The Comprehensive Plan classifies MD Route 611 as a two-lane secondary highway/major collector highway and recommends that scenic and transportation corridor planning be conducted to continue this road's rural and coastal character, particularly from MD Route 376 to Assateague Island, that capacity improvements from MD Route 376 to US Route 50 need to be studied and implemented, that interparcel connectors, service roads and other access controls need to be provided, that growth along the mid and southern portion of the corridor should be limited due to sensitivity of nearby lands and the limited capacity of the area's road system, and that widening and intersection improvements of the corridor's northern end needs to be planned. Donnie L. Drewer, District Engineer, for State Highway Administration District 1, stated in his response memo (copy included in the attached staff report) that MD Route 611 is not identified in the State Highway Administration's current or long range planning documents for SHA's future needs in the area(s) noted in the application. He further stated that rezoning is a land use issue, which is not under the jurisdiction of the State Highway Administration. He also commented that all future development of a site along this corridor will require the review and approval by his office and all access and entrance construction from a property onto the State highway shall be subject to the terms and conditions of an access permit to be issued by his office. Frank J. Adkins, Worcester County Roads Superintendent, responded by memo (copy attached) that he had no comments relative to this rezoning application. The applicant's representatives testified that traffic impacts would be significantly less under the proposed A-2 Agricultural District than they would be if the petitioned area were to be developed in accordance with its existing C-2 General Commercial District zoning classification. Based upon its review, the Planning Commission found that there will be no negative impact to the transportation patterns arising from the proposed rezoning of the petitioned area.
- E. Regarding compatibility with existing and proposed development and existing environmental conditions in the area, including having no adverse impact to waters included on the State's impaired waters list or having an established total maximum daily load requirement: The Planning Commission concluded that the neighborhood displays a mixture of land uses, with residential subdivisions and other stand-alone single-family dwellings, two campgrounds, the Ocean City Airport, a golf course, and the more suburban commercial and residential development of the northern portion of the MD Route 611 corridor at Sunset Avenue and at the MD Route 611/MD Route 376 junction. There are also areas of agricultural uses as well. The Planning Commission noted that Alex Dolgus testified that his examination of the petitioned area showed that while there are

small pockets of hydric soils, most of the site is uplands and there are no archeological sites or endangered species on the site. He also asserted that the proposed rezoning and anticipated development of the site as a campground expansion will not have an adverse impact on impaired waters or increase the Total Maximum Daily Loads (TMDLs). Based upon its review the Planning Commission found that the proposed rezoning of the petitioned area from C-2 General Commercial District to A-2 Agricultural District is compatible with existing and proposed development and existing environmental conditions in the area.

- F. Regarding compatibility with the Comprehensive Plan: The Planning Commission found that according to the Comprehensive Plan and associated land use plan map, the petitioned area lies within the Existing Developed Area Land Use Category and the Agricultural Land Use Category. With regard to the Existing Developed Area category, the Comprehensive Plan states that this category identifies existing residential and other concentrations of development in unincorporated areas and provides for their current development character to be maintained, that recognizing existing development and neighborhood character is the purpose of this designation, and that appropriate zoning providing for densities and uses consistent with this character should be instituted. The Plan furthermore states that the EDAs are anticipated to remain as mapped at least until the next plan review period and that this will provide for orderly infill development within EDAs and new community-scale growth in the growth areas. The Plan also states that, not designated as growth areas, these areas should be limited to infill development and that density, height, bulk and site design standards should also be consistent with the EDA's existing character. With regard to the Agricultural Land Use Category, the Comprehensive Plan states that the importance of agriculture to the County cannot be overstated, that its significance is economic, cultural, environmental, and aesthetic, and that agriculture is simply the bedrock of the County's way of life. The Plan goes on to say that the County must do all it can do to preserve farming as a viable industry, that this category is reserved for farming, forestry and related industries with minimal residential and other incompatible uses permitted, that large contiguous areas of productive farms and forest shall be maintained for agricultural uses, and that residential and other conflicting land uses, although permitted, are discouraged. Furthermore, the Planning Commission noted that certain pertinent objectives were also cited in the Land Use chapter of the Comprehensive Plan and state that the dominance of agriculture and forestry uses should be continued through the County's less developed regions, that the character of the County's existing population centers should be maintained, that new development should be located in or near existing population centers and within planned growth centers, and that existing population centers should be infilled without overwhelming their existing character. Other objectives state that development should be regulated to minimize consumption of land, while continuing the County's rural and coastal character, that the supply of

commercially zoned land should be balanced with anticipated demand of year-round residents and seasonal visitors, that major commercial and all industrial development should be located in areas having adequate arterial road access or near such roads, and that rural development should be limited to uses compatible with agriculture and forestry. Finally, the Planning Commission noted that relative to commercial land supply, the Comprehensive Plan states that based on industry standards for the relationship of commercial land to market size, an excessive amount of commercial zoning exists in Worcester County. Based upon its review the Planning Commission found that the proposed rezoning is compatible with the Comprehensive Plan and in keeping with its goals and objectives.

IV. PLANNING COMMISSION RECOMMENDATION

- A. In consideration of its findings and testimony provided to the Commission, the Planning Commission concluded that there is a mistake in the existing zoning of the petitioned area. The Planning Commission found that at the time zoning was initially established in the mid 1960s, it was anticipated that Assateague Island would be developed in much the same fashion as Ocean City, as would the South Point area, and that nearby commercial areas were necessary to provide services to those resort and residential areas. Thus a large portion of the subject property, including the petitioned area, was given a commercial classification at the time zoning was established, as were other areas along the MD Route 611 corridor. However, Assateague Island instead was protected as both a national and state park and the expected residential growth of the island and the nearby mainland did not occur. The extent of commercial zoning was thus rendered largely unnecessary and in fact excessive. Yet the commercial zoning of the subject property remained throughout the 1992 and 2009 comprehensive rezonings. Additionally, the applicant's representatives testified that camping has become much more popular in the last few years and the type of camping has evolved from one primarily characterized by tents and small pop up campers and recreational vehicles to one seeing much larger recreational vehicles as a norm. The Planning Commission recognized that, if rezoned, the petitioned area could be put to any use permitted by the proposed A-2 Agricultural District but concluded that the proposed rezoning would permit what is essentially infill development by allowing the expansion of an existing campground and that this would be an appropriate form of smart growth for the area. Based upon its review, the Planning Commission concluded that a change in zoning would be more desirable in terms of the objectives of the Comprehensive Plan and gave a favorable recommendation to Rezoning Case No. 395, seeking a rezoning of the petitioned area from C-2 General Commercial District to A-2 Agricultural District.

V. RELATED MATERIALS AND ATTACHMENTS

Applicants' Ex. # 3
Rezoning Case No. 395
12/3/15 Planning
Commission Meeting

STAFF REPORT

REZONING CASE NO. 395

PROPERTY OWNER: Sun TRS Frontier, LLC
27777 Franklin Road, Suite 200
Southfield, MI 48034

ATTORNEY: Hugh Cropper, IV
9923 Stephen Decatur Highway, D-2
Ocean City, Maryland 21842

TAX MAP/PARCEL INFO: Tax Map 33 - Part of Parcel 94 - Tax District 10

SIZE: The petitioned area is approximately 36 acres in size. It is part of a larger parcel identified as Parcel 94. Parcel 94 in its entirety totals 209 acres in size.

LOCATION: The petitioned area is located to the east of MD Route 611 approximately 600 feet to the north of the junction with MD Route 376.

CURRENT USE OF PETITIONED AREA: The petitioned area is the portion of the property currently developed with the stables, etc. for the Frontier Town western theme village and a forested area. (It does not include the actual western theme village, the existing water park or other commercial facilities. That area is proposed to retain its existing commercial zoning classification.)

CURRENT ZONING CLASSIFICATION: C-2 General Commercial District

REQUESTED ZONING CLASSIFICATION: A-2 Agricultural District

APPLICANT'S BASIS FOR REZONING: According to the application, the request for rezoning is based on a substantial change in the character of the neighborhood since the last comprehensive rezoning (November 3, 2009) and a mistake in the existing zoning classification.

ZONING HISTORY: The petitioned area has been zoned C-2 General Commercial District since the 2009 comprehensive rezoning of the County. It was given a B-2 General Business District zoning classification at the time zoning was first established in the 1960s and that was retained in the 1992 comprehensive rezoning.

SURROUNDING ZONING: The remainder of Parcel 94 is primarily zoned A-2 Agricultural District, as are properties to the north and on the westerly side of MD Route 611. Sensitive areas of Parcel 94 are zoned RP Resource Protection District. The adjacent property immediately to the south of the petitioned area is zoned E-1 Estate District and RP Resource Protection District. The properties on the westerly side of ~~Racetrack Road~~

MD Rt. 611

Agricultural District. Several properties on the westerly side of MD Route 611 immediately to the north and south of the junction with MD Route 376 are zoned C-2 General Commercial District.

COMPREHENSIVE PLAN:

According to Chapter 2 - Land Use of the Comprehensive Plan and associated land use plan map, the petitioned area lies within the Existing Developed Area Land Use Category and the Agricultural Land Use Category. With regard to the Existing Developed Area category, the Comprehensive Plan states the following:

“This category identifies existing residential and other concentrations of development in unincorporated areas and provides for their current development character to be maintained. Recognizing existing development and neighborhood character is the purpose of this designation. Appropriate zoning providing for densities and uses consistent with this character should be instituted.

Surrounding areas have been mapped with one of the other land use designations as appropriate and should not be considered for rezonings by virtue of their proximity to an EDA. Further, the EDAs are anticipated to remain as mapped at least until the next plan review period. This will provide for orderly infill development within EDAs and new community-scale growth in the growth areas.

Not designated as growth areas, these areas should be limited to infill development. Density, height, bulk and site design standards should also be consistent with the EDA’s existing character.” (Pages 13, 14)

With regard to the Agricultural Land Use Category, the Comprehensive Plan states the following:

“The importance of agriculture to the county cannot be overstated. Its significance is economic, cultural, environmental, and aesthetic. Agriculture is simply the bedrock of the county’s way of life. The county must do all it can do to preserve farming as a viable industry. This category is reserved for farming, forestry and related industries with minimal residential and other incompatible uses permitted. Large contiguous areas of productive farms and forest shall be maintained for agricultural uses and residential and other conflicting land uses, although permitted, are discouraged. ” (Page 18)

Pertinent objectives cited in Chapter 2 - Land Use state the following:

-
- 2. Continue the dominance of agriculture and forestry uses through the county’s less developed regions.
- 3. Maintain the character of the county’s existing population centers.

4. Locate new development in or near existing population centers and within planned growth centers.
-
6. Infill existing population centers without overwhelming their existing character.
-
8. Regulate development to minimize consumption of land, while continuing the county's rural and coastal character.
-
15. Balance the supply of commercially zoned land with anticipated demand of year-round residents and seasonal visitors.
16. Locate major commercial and all industrial development in areas having adequate arterial road access or near such roads.
-
19. Limit rural development to uses compatible with agriculture and forestry.
-

(Pages 12, 13)

Also in Chapter 2 - Land Use, under the heading Commercial Land Supply, the Comprehensive Plan states:

“Based on industry standards for the relationship of commercial land to market size, an excessive amount of commercial zoning exists in Worcester County. Discounting half the vacant land in this category as unbuildable, the remaining land if developed would have the capacity to serve a population of over 2 million people; the County's peak seasonal population is less than 25 percent of this number.” (Page 24)

In Chapter 4 - Economy, the Comprehensive Plan provides a number of objectives related to Tourism. Certain of these state the following:

- “1. Support the traditional resort industry while diversifying this offering with a broader range of high caliber recreational/cultural facilities.
2. Encourage the development of sports, cultural or other large attractions to reinforce the county's traditional attractions.
-
4. Work with the towns to support their tourism efforts.
5. Expand eco-tourism opportunities through environmental, heritage and cultural attractions.
6. Accommodate the location of year-round recreational and resort oriented land uses.
7. Develop facilities and attractions that continue full operation in the non-peak seasons.
8. Recognize and provide for the needs of the hunting, fishing, and boating sectors.” (Pages 58, 59)

This chapter also includes objectives related to Commercial Services. Certain of these state the following:

- “1. Locate commercial and service centers in major communities; existing towns should serve as commercial and service centers.
2. Provide for suitable locations for commercial centers able to meet the retailing and service needs of the population centers.
-
4. Bring into balance the amount of zoned commercial locations with the anticipated need with sufficient surplus to prevent undue land price escalation.
5. Locate commercial uses so they have arterial road access and are designed to be visually and functionally integrated into the community.
-” (Page 60)

In the same chapter, under the heading Commercial Facilities, the Comprehensive Plan states:

“Retailing is one of the largest employers in the County and is a significant contributor to the economy. Currently, designated commercial lands far outstrip the potential demand for such lands. When half of these lands are assumed to be undevelopable (wetlands and other constraints), the potential commercial uses can serve an additional population of over two million persons. The supply of commercial land should be brought more in line with potential demand. Otherwise, underutilized sites/facilities and unnecessary traffic congestion will result.” (Page 62)

In Chapter Five - Housing, the Comprehensive Plan addresses campgrounds. The Plan states the following:

“Campgrounds provide temporary recreational housing and they have been part of the county’s resort tradition. The county has enacted a variety of site, design, and occupancy standards for campgrounds and should continue to monitor their development, operation, and use for compliance. While suitable for temporary accommodations, these uses should not be permitted to evolve into permanent housing due to health and safety issues.” (Page 69)

In Chapter Six - Public Infrastructure, the Comprehensive Plan includes several objectives, including the following:

- “1. Meet existing public facility and service needs as a first priority. Health and safety shall take precedence.
2. Permit development to occur only as rapidly as services can be provided.
3. Ensure adequate public facilities are available to new development.
4. Require new development to “pay its way” by providing adequate public facilities to meet the infrastructure demand it creates.
-” (Page70)

Chapter Seven - Transportation of the Comprehensive Plan states that "Worcester's roadways experience morning and evening commuter peaks; however, they are dwarfed by summer resort traffic.Resort traffic causes the most noticeable congestion on US 50, US 113, US 13, MD 528, MD 589, MD 611, and MD 90." (Page 79)

This chapter also states that "c(C)ommercial development will have a significant impact on future congestion levels. Commercial uses generate significant traffic, so planning for the proper amount, location and design will be critical to maintain road capacity. The current amount and location of commercial zoned land poses problems for the road system, particularly for US 50." (Page 82)

With regard to MD Route 611 specifically, this chapter notes that this roadway is classified as a two-lane secondary highway/major collector highway and cites the following policies, projects and recommendations:

- Conduct scenic and transportation corridor planning to continue this road's rural and coastal character particularly from MD Route 376 to Assateague Island.
- Study need for and implement capacity improvements from MD Route 376 to US Route 50.
- Provide for interparcel connectors, service roads and other access controls.
- Growth along the mid and southern portion of the corridor should be limited due to the sensitivity of nearby lands and the limited capacity of the area's road system.
- Plan for widening and intersection improvements of the corridor's northern end."

(Page 85)

In this same chapter, under the heading General Recommendations - Roadways, it states the following:

- "1. Acceptable Levels of Service -- It is this plan's policy that the minimal acceptable level of service for all roadways be LOS C. Developers shall be responsible for maintaining this standard.
-
3. Traffic studies -- Developers should provide traffic studies to assess the effect of each major development on the LOS of nearby roadways.
4. Impacted Roads -- Roads that regularly have LOS D or below during weekly peaks are considered "impacted." Areas surrounding impacted roads should be planned for minimal development (infill existing lots). Plans and funding for improving such roads should be developed.
5. Impacted Intersections -- Upgrade intersections that have fallen below a LOS C.
- (Page 87)

WATER AND WASTEWATER: As it pertains to wastewater disposal and the provision of

potable water, the petitioned area itself (nor the existing campground) is not within an area which receives public sewer or water service at the present time. According to the response memo from Robert J. Mitchell, Director of the Department of Environmental Programs (copy attached), the commercially developed portion of the subject property of which the petitioned area is a portion is currently served by public sewer from the Assateague Point Sanitary Service Area while the remainder, including the petitioned area and the existing campground, are serviced by individual onsite septic and well. He states that a recent sewer planning area designation to S-1 for the remainder of the campground to be included in the Mystic Harbour sewer planning area including the petitioned area has been approved and is part of the *Master Water and Sewerage Plan* and attached a map illustrating the Frontiertown property currently carrying a S-1 designation. Mr. Mitchell also states that the connection process will commence once engineering and permitting have been completed. He notes that the Frontiertown Campground will make their connection to a Mystic Harbour force main that exits Eagles Nest Road, north of the subject property on MD Route 611. The Frontiertown Campground will abandon all onsite septic systems during the connection process. Mr. Mitchell additionally comments that he expects that there will be excess capacity for additional commercial expansion or intensification on the front portion of the campground and the owner can make application, as was done for the Castaways Campground, for additional sanitary capacity to serve additional campsites should the rezoning of the petitioned area be approved. No comments were received from John H. Tustin, P. E., Director of Public Works.

The primary soil types on the petitioned area according to the Worcester County Soil Survey are as follows:

NnA - Nassawango Fine Sandy Loam - severe limitations to on-site wastewater disposal
HdB - Hambrook Sandy Loam - severe limitations to on-site wastewater disposal
MpA - Mattapex Fine Sandy Loam - severe limitations to on-site wastewater disposal
Fa - Fallsington Sandy Loam - severe limitations to on-site wastewater disposal

EMERGENCY SERVICES: Fire and ambulance service will be available from the Berlin Volunteer Fire Company. A substation is located on the opposite side of MD Route 611 from the subject property, located within five minutes of the petitioned area. No comments were received from the BVFC with regard to this particular review. Police protection will be available from the Maryland State Police Barracks in Berlin, approximately fifteen minutes away, and the Worcester County Sheriff's Department in Snow Hill, approximately thirty minutes away. No comments were received from the Maryland State Police Barracks. Chief Deputy J. Dale Smack 3rd of the Worcester County Sheriff's Office by memo stated that he had reviewed the application and spoken with Sheriff Mason and Lt. Starner relative to the rezoning case and they saw no issues with the propose rezoning and concluded that it will not interfere with law enforcement activities.

ROADWAYS AND TRANSPORTATION: The subject property of which the petitioned area is a part fronts on and currently has access to MD Route 611. That roadway is state-owned and - maintained and connects to both US Rt. 50 and MD Route 376. The Comprehensive Plan

classifies MD Route 611 as a two-lane secondary highway/major collector highway and recommends that scenic and transportation corridor planning be conducted to continue this road's rural and coastal character, particularly from MD Route 376 to Assateague Island, that capacity improvements from MD Route 376 to US Route 50 need to be studied and implemented, that interparcel connectors, service roads and other access controls need to be provided, that growth along the mid and southern portion of the corridor should be limited due to sensitivity of nearby lands and the limited capacity of the area's road system, and that widening and intersection improvements of the corridor's northern end needs to be planned. Donnie L. Drewer, District Engineer, for State Highway Administration District 1, states in his response memo (copy attached) that MD Route 611 is not identified in the State Highway Administration's current or long range planning documents for SHA's future needs in the area(s) noted in the application. He further states that rezoning is a land use issue, which is not under the jurisdiction of the State Highway Administration. He also states that all future development of a site along this corridor will require the review and approval by his office and all access and entrance construction from a property onto the State highway shall be subject to the terms and conditions of an access permit to be issued by his office. Frank J. Adkins, Worcester County Roads Superintendent, responded by memo (copy attached) that he had no comments relative to this rezoning application.

SCHOOLS: The petitioned area is within the area served by the following schools: Ocean City Elementary School, Berlin Intermediate School, Stephen Decatur Middle School, and Stephen Decatur High School. Joe Price, Facilities Planner for the Worcester County Board of Education (WCBOE), by memo (copy attached) stated that the WCBOE does not anticipate an impact to the projected school enrollment for any of the schools serving the area by the proposed rezoning. According to Mr. Price's response enrollment figures at the aforementioned schools as of September 2015 are as follows:

<u>School Name</u>	<u>State Rated Capacity</u>	<u>Current Enrollment</u>	<u>Projected 10 Year High Enrollment</u>
Ocean City Elementary	790	639	657
Berlin Intermediate	798	750	831
Stephen Decatur Middle	677	616	740
Stephen Decatur High	1,518	1,347	1,537

CHESAPEAKE/ATLANTIC COASTAL BAYS CRITICAL AREAS: According to Mr. Mitchell's memo, the petitioned area is within the Atlantic Coastal Bays Critical Area (copy attached). He states that any and all proposed development activities must meet the requirements of Title 3 (Land and Water Resources), Subtitle I (Atlantic Coastal Bays Critical Area) of the Worcester County Code of Public Local Laws, as from time to time amended, in effect at the time of the proposed development activities.

FLOOD ZONE: The FIRM map indicates that the petitioned area is primarily within Zone X (area of minimal flooding) and Zone X500 (500 year floodplain). A small portion of the petitioned

area seems to be with Zone AE, which requires a Base Flood Elevation of 5 feet.

PRIORITY FUNDING AREA: The petitioned area is not within a designated Priority Funding Area.

INCORPORATED TOWNS: The site is not within one mile of the corporate limits of any town.

ADDITIONAL COMMENTS RECEIVED: Comments received from various agencies, etc. are attached and are summarized as follows:

Edward Potetz, Director, Environmental Health, Health Department: No objection to the proposed rezoning.

THE PLANNING COMMISSION MUST MAKE FINDINGS OF FACT IN EACH SPECIFIC CASE, INCLUDING BUT NOT LIMITED TO THE FOLLOWING MATTERS:

- 1) What is the applicant's definition of the neighborhood in which the subject property is located? (Not applicable if request is based solely on a claim of mistake in existing zoning.)
- 2) Does the Planning Commission concur with the applicant's definition of the neighborhood? If not, how does the Planning Commission define the neighborhood?
- 3) Relating to population change.
- 4) Relating to availability of public facilities.
- 5) Relating to present and future transportation patterns.
- 6) Relating to compatibility with existing and proposed development and existing environmental conditions in the area, including having no adverse impact on waters included on the State's impaired waters list or having an established total maximum daily load requirement.
- 7) Relating to compatibility with the Comprehensive Plan.
- 8) Has there been a substantial change in the character of the neighborhood where the property is located since the last zoning of the property (November 3, 2009) or is there a mistake in the existing zoning of the property?
- 9) Would a change in zoning be more desirable in terms of the objectives of the Comprehensive Plan?

Worcester County Commissioners
Worcester County Government Center
One W. Market Street, Room 1103
Snow Hill, Maryland 21863

PLEASE TYPE
OR PRINT IN
INK

APPLICATION FOR AMENDMENT OF OFFICIAL ZONING MAP

(Office Use One - Please Do Not Write In This Space)

Rezoning Case No. 395

Date Received by Office of County Commissioners: _____

Date Received by Development, Review and Permitting: 9/30/15

Date Reviewed by Planning Commission: 12/3/15

I. Application

Proposals for amendment of the Official Zoning Maps may be made only by a governmental agency or by the property owner, contract purchaser, option holder, leasee, or their attorney or agent of the property to be directly affected by the proposed amendment. Check applicable status below:

- A. _____ Governmental Agency
- B. _____ Property Owner
- C. _____ Contract Purchaser
- D. _____ Option Holder
- E. _____ Leasee
- F. XXX Attorney for B (Insert A, B, C, D, or E)
- G. _____ Agent of _____ (Insert A, B, C, D, or E)

II. Legal Description of Property

- A. Tax Map/Zoning Map Number(s): 33
- B. Parcel Number(s): ~~336~~ Part of Parcel 94
- C. Lot Number(s), if applicable: _____
- D. Tax District Number: 10

III. Physical Description of Property

- A. Located on the East side of Maryland Route 611, approximately 600 feet to the north of Maryland Route 376.
- B. Consisting of a total of 209 acres of land.
- C. Other descriptive physical features or characteristics

necessary to accurately locate the petitioned area:

Frontier Town Campground.

- D. Petitions for map amendments shall be accompanied by a plat drawn to scale showing property lines, the existing and proposed district boundaries and such other information as the Planning Commission may need in order to locate and plot the amendment on the Official Zoning Maps.

IV. Requested Change to Zoning Classification(s)

- A. Existing zoning classification(s): **C-2, General Business Commercial**
(Name and Zoning District)
- B. Acreage of zoning classification(s) in "A" above: 36
- C. Requested zoning classification(s): **A-2, Agricultural**
(Name and Zoning District)
- D. Acreage of zoning classification(s) in "C" above: 36

V. Reasons for Requested Change

The County Commissioners may grant a map amendment based upon a finding that there: (a) has been a substantial change in the character of the neighborhood where the property is located since the last zoning of the property, or (b) is a mistake in the existing zoning classification and that a change in zoning would be more desirable in terms of the objectives of the Comprehensive Plan.

- A. Please list reasons or other information as to why the rezoning change is requested, including whether the request is based upon a claim of change in the character of the neighborhood or a mistake in existing zoning:

Please see Attachment

IV. Filing Information and Required Signatures

- A. Every application shall contain the following information:
1. If the application is made by a person other than the property owner, the application shall be co-signed by the property owner or the property owner's attorney.

2. If the applicant is a corporation, the names and mailing addresses of the officers, directors and all stockholders owning more than 20 percent of the capital stock of the corporation.
3. If the applicant is a partnership, whether a general or limited partnership, the names and mailing addresses of all partners who own more than 20 percent of the interest of the partnership.
4. If the applicant is an individual, his/her name and mailing address.
5. If the applicant is a joint venture, unincorporated association, real estate investment trust or other business trust, the names and mailing addresses of all persons holding an interest of more than 20 percent in the joint venture, unincorporated association, real estate investment trust or other business trust.

B. Signature of Applicant in Accordance with VI.A. above.

Signature: 

Printed Name of Applicant:

Hugh Cropper, IV, Attorney for Sun TRS Frontier, LLC

Mailing Address: 9923 Stephen Decatur Hwy., D-2, Ocean City, MD 21842 Phone Number: 410-213-2681

E-Mail: hcropper@bbcmlaw.com

Date: _____

C. Signature of Property Owner in Accordance with VI.A. above

Mailing Address: _____

Phone Number: _____

E-Mail: _____

Date: _____

(Please use additional pages and attach to application if more space is required.)

VII. General Information Relating to the Rezoning Process

- A. Applications shall only be accepted from January 1st to January 31st, May 1st to May 31st, and September 1st to September 30th of any calendar year.

- B. Applications for map amendments shall be addressed to and filed with the Office of the County Commissioners. The required filing fee must accompany the application.
- C. Any officially filed amendment or other change shall first be referred by the County Commissioners to the Planning Commission for an investigation and recommendation. The Planning Commission may make such investigations as it deems appropriate or necessary and for the purpose may require the submission of pertinent information by any person concerned and may hold such public hearings as are appropriate in its judgment.

The Planning Commission shall formulate its recommendation on said amendment or change and shall submit its recommendation and pertinent supporting information to the County Commissioners within 90 days after the Planning Commission's decision of recommendation, unless an extension of time is granted by the County Commissioners.

After receiving the recommendation of the Planning Commission concerning any such amendment, and before adopting or denying same, the County Commissioners shall hold a public hearing in reference thereto in order that parties of interest and citizens shall have an opportunity to be heard. The County Commissioners shall give public notice of such hearing.

- D. Where the purpose and effect of the proposed amendment is to change the zoning classification of property, the County Commissioners shall make findings of fact in each specific case including but not limited to the following matters:

population change, availability of public facilities, present and future transportation patterns, compatibility with existing and proposed development and existing environmental conditions for the area, including no adverse impact on waters included on the State's Impaired Waters List or having an established total maximum daily load requirement, the recommendation of the Planning Commission, and compatibility with the County's Comprehensive Plan. The County Commissioners may grant the map amendment based upon a finding that (a) there a substantial change in the character of the neighborhood where the property is located since the last zoning of the property, or (b) there is a mistake in the existing zoning classification and that a change in zoning would be more desirable in terms of the objectives of the Comprehensive Plan.

The fact that an application for a map amendment complies with all of the specific requirements and purposes set forth above shall not be deemed to create a presumption that the proposed reclassification and resulting development would in fact be compatible with the surrounding land uses and is not, in itself, sufficient to require the granting of the application.

- E. No application for map amendment shall be accepted for filing by the office of the County Commissioners if the application is for the reclassification of the whole or any part of the land for which the County Commissioners have denied reclassification within the previous 12 months as measured from the date of the County Commissioners' vote of denial. However, the County Commissioners may grant reasonable continuance for good cause or may allow the applicant to withdraw an application for map amendment at any time, provided that if the request for withdrawal is made after publication of the notice of public hearing, no application for reclassification of all or any part of the land which is the subject of the application shall be allowed within 12 months following the date of such withdrawal, unless the County Commissioners specify by formal resolution that the time limitation shall not apply.

**ATTACHMENT IN SUPPORT OF REZONING APPLICATION,
SUN TRS FRONTIER, LLC**

INTRODUCTION

Sun TRS Frontier, LLC, by its attorney, Hugh Cropper IV, respectfully submits the following in support of its rezoning application:

This is an application for a Map Amendment to rezone approximately 36 acres located within the Frontier Town facility, on the east side of Maryland Route 611, from C-2, General Business District, to A-2, Agricultural District.

DEFINITION OF THE NEIGHBORHOOD

The applicant proposes the following definition of the neighborhood: All that property located south of South Harbor Road along the West Ocean City Commercial Fishing Harbor, all that property located south of Sunset Avenue, all that property located east of Maryland Route 611, and all that property located north of a line which is an easterly extension of Maryland Route 376 from Maryland Route 611 to the Sinepuxent Bay, as shown on the Plat "Frontier Town, Neighborhood Rezoning Exhibit."

**SUBSTANTIAL CHANGE IN THE CHARACTER OF THE NEIGHBORHOOD
SINCE THE LAST COMPREHENSIVE REZONING.**

Two (2) nationally recognized campground facilities are located in the proposed neighborhood; namely, Castaways Campground and Frontier Town Campground. Since the last Comprehensive Rezoning on November 3, 2009, the popularity of both of these campground facilities has increased dramatically.

Although not located within the proposed neighborhood, Assateague Island National Seashore also provides large campgrounds, the popularity of which have increased dramatically since November 3, 2009.

The West Ocean City area, and in particular the proposed neighborhood, has become (and continues to become) a very campground oriented neighborhood. Commercial businesses on the periphery of the neighborhood such as Buck's Place, Birch's Produce, Decatur Diner, and The Shrimp Boat continue to increase in popularity, thriving upon the expansion and increase in popularity of these campgrounds.

In particular, the Worcester County Commissioners, acting in their capacity as the governing body of the Mystic Harbor Service Area, recently upgraded/expanded the Mystic Harbor Wastewater Treatment Facilities. As a result of this expansion, the Castaways Campground was able to decommission its on-site wastewater treatment facility, which previously served 370 camp sites, among other amenities, and was rated for approximately 40,000 gallons of effluent, per day. The owners of the Castaways Campground installed a forced main from the Mystic Harbor Wastewater Facilities in a southerly direction down Maryland Route 611, easterly down Eagles Nest Road, to connect the entire Castaways Campground to the Mystic Harbor Wastewater Treatment Facility.

As a result of this connection, the Castaways Campground is eligible for expanded service.

Castaways Campground decommissioned its 2 acre disposal area, and converted it to 22 additional camp sites. This required a discretionary approval from the Board of

Zoning Appeals, which was granted in BZA Case Number 14-40, a copy of which is attached.

MISTAKE

The applicant contends there was a mistake, albeit a good faith mistake, as a result of the March 3, 2009 Comprehensive Rezoning.

Frontier Town Campground and Western Theme Park is located on a large parcel of property located east of Maryland Route 611. The easterly portion of the property is zoned A-2, Agricultural District, and the majority of that property is improved with an existing campground.

The road frontage on Maryland Route 611 is zoned C-2, General Business District, and is improved by amenities such as an ice cream shop, water slide, lazy river, etc. There are substantial undeveloped lands located in between, which are currently zoned C-2, General Business District. The applicant contents that the A-2, Agricultural District, is a more appropriate zone for these areas.

Referring to the Plat entitled "Frontier Town – Aerial" which shows the 36 acre area to be rezoned, the southerly portion, which makes up the majority of that area, is undeveloped. The highest and best use of this area would be an expansion of the existing campground. Those areas remote from Maryland Route 611 are particularly ill-suited for intense commercial uses, and in fact the southeast portion for the property to be rezoned is located within the Atlantic Coastal Bays Critical Area.

There are some improvements/buildings in the area to be rezoned, but these are mostly paddocks for horses, goats, pastures, and other uses which are clearly agricultural in nature.

The County Commissioners, relying upon the information available to them at the time of the Comprehensive Rezoning, approved a large area, probably in excess of 60 acres, of C-2, General Business District. This large tract of commercial zoning is inappropriate for this neighborhood. The rezoning of approximately 36 acres, as proposed by the applicant, presents a much better mix, is more consistent with the goals and objectives of the Comprehensive Plan, and is more appropriate.

The current zoning boundary is drawn in a somewhat arbitrary fashion in a north/south direction across the property. By contrast, the zoning boundary proposed by the applicant, for the most part, follows topographical features (such as a ditch on the southerly side), a road, and a woods line, so it can be much more easily located in the field.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Hugh Cropper IV", with a horizontal line extending to the right and a small arrowhead pointing left at the end.

Hugh Cropper IV

IN THE MATTER OF HUGH CROPPER, IV, ESQ.

*

BEFORE THE BOARD OF ZONING

*

*

APPEALS FOR WORCESTER COUNTY,

*

Case No. 14-40

MARYLAND

*

* * * * *

OPINION

A hearing was held before the Board of Zoning Appeals for Worcester County, Maryland on Thursday, September 11, 2014, upon the application of Hugh Cropper, IV, Esquire, on the lands of Sun Castaways RV, LLC, requesting a special exception to expand an existing rental campground in the A-2 Agricultural District, pursuant to Zoning Code Sections ZS 1-202(c)(19), ZS 1-305, ZS 1-318 and ZS 1-116(c)(3). The property is located at 12612 Eagle's Nest Road, approximately 3,300 feet east of Bald Eagle Road, Tax Map 33, Parcel 33, in the Tenth Tax District of Worcester County, Maryland.

Jennifer Burke, Zoning Administrator, presented the application to the Board.

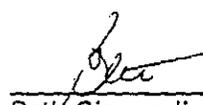
Robert Hand testified before the Board along with Jamie Giandomenico. There were no protestants to the application.

After duly considering the application and the testimony and other evidence offered and presented in connection therewith, the Board concluded that the applicant had met the burden of proof imposed upon him by Section ZS 1-116(c)(3). Accordingly, upon a Motion made by Mr. Dypsky, which was seconded by Mr. Green, the Board unanimously passed the following resolution:

BE IT RESOLVED, that the requested special exception be GRANTED.

10/9/14

Date



Beth Gismondi
Chairperson

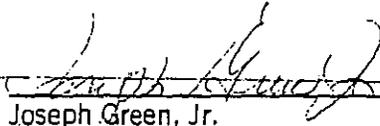
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Rodney Belmont

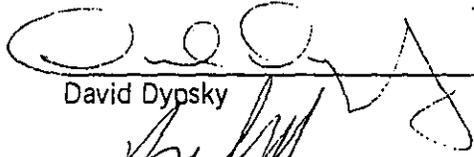
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10/15/14

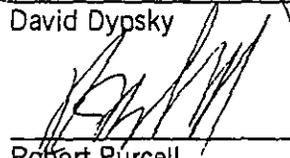
10-9-14
Date


Joseph Green, Jr.

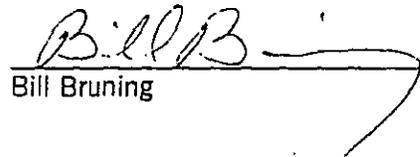
10-9-14
Date


David Dypsky

10/5/14
Date


Robert Purcell

10-9-14
Date


Bill Bruning

** Any special exception shall be implemented within 12 months from its approval. If not so implemented, it shall be considered abandoned and shall terminate.



Worcester County
Department of Environmental Programs

Memorandum

To: Phyllis Wimbrow, Deputy Director, DDRP

From: Robert J. Mitchell, LEHS, REHS
Director, Environmental Programs 

Subject: Comments on Rezoning Case No. 395
Worcester County Tax Map 33, Part of Parcel 74

Date: 11/16/15

This response to your request for comments is prepared for the map amendment application associated with the above referenced property. The Worcester County *Zoning and Subdivision Control Article*, Section ZS1-113(c)(3), states that the applicant must affirmatively demonstrate that there has been a substantial change in the character of the neighborhood since the last zoning of the property or that a mistake has been made in the existing zoning classification. The application argues that there was an honest mistake in the Comprehensive Rezoning that was approved by the County Commissioners on November 3, 2009. The Code requires that the Commissioners find that the proposed "change in zoning" would be more desirable in terms of the objectives of the *Comprehensive Plan*.

Referring to the *Comprehensive Plan*, there are two land use designations for the area of the subject property included in this rezoning request. The majority of the area is designated Existing Developed Centers, which are defined as existing residential and other concentrations of development unincorporated areas and provides for their current development character to be maintained. While these areas are not designated as growth areas, the *Plan's* limitation on infill development should allow for this to occur should it be in keeping with the character and density of the surrounding properties. A small remainder of the area on the southern portion of the subject area is designated Agriculture in the *Plan*. This district is reserved for farming, forestry and related industries with minimal residential and other incompatible uses permitted. It is expected that residential and other conflicting land uses although permitted, are discouraged within this district. The areas adjacent to this property are all in either the Agricultural or Existing Developed land use districts, with the exception of a small portion of land at the rear of an adjacent historic estate to the southeast of the campground and the shoreline portion of the campground itself that border the Sinepuxent Bay and are designated Green Infrastructure.

The property is similarly surrounded by different zoning designations of estate, agricultural and resource protection. The surrounding zoning and uses are compatible with their corresponding land use designations in the *Comprehensive Plan*. Those adjacent properties north of the MD Rt. 376 (Assateague Road) intersection with MD Rt 611 are either in the Mystic Harbour Sanitary Service Area, the Landings Sanitary Service Area or Assateague Pointe Sanitary Service Area and served by public sewer.

The Department of Environmental Programs has the following comments:

1. The subject property is located within the boundaries of the Frontier Town rental campground. The front (commercial) portion of the campground has a commercial water park, restaurants, and other retail shops open to the public and the campground guests. The front portion is currently served by public sewer from the Assateague Point Sanitary Service area while the remainder, including the subject area, are serviced by individual onsite septic and well. A recent sewer planning area designation to S-1 for the remainder of the campground to be included in the Mystic Harbour sewer planning area including the subject area has been approved and is a part of the *Master Water and Sewerage Plan*. I have enclosed the approved map showing the subject area currently carries an S-1 designation. We plan on commencing with the connection process once engineering and permitting have been completed. The Frontier Town campground will make their connection to a Mystic Harbour force main that exits Eagles Nest Road, north of this campground on MD Route 611. The Frontier Town Campground will abandon all onsite septic systems during the connection process.
2. We expect that there will be excess capacity for additional commercial expansion or intensification on the front portion of the campground and the owner can make application, as was done for Castaways Campground, for additional sanitary capacity to serve additional campsites should this rezoning be approved.
3. This property lies within the Worcester County Atlantic Coastal Bays Critical Area. Any and all proposed development activities must meet the requirements of Title 3 (Land and Water Resources), Subtitle I (Atlantic Coastal Bays Bay Critical Area) of the Worcester County Code of Public Local Laws, as from time to time amended, in effect at the time of the proposed development activities.
4. The dominant zoning categories in this portion of the Rt 611 corridor are estate, agricultural, and resource protection. It would appear that the zoning classification requested by the applicant is in character with respect to the surrounding properties and their land use designations in the *Comprehensive Plan*.

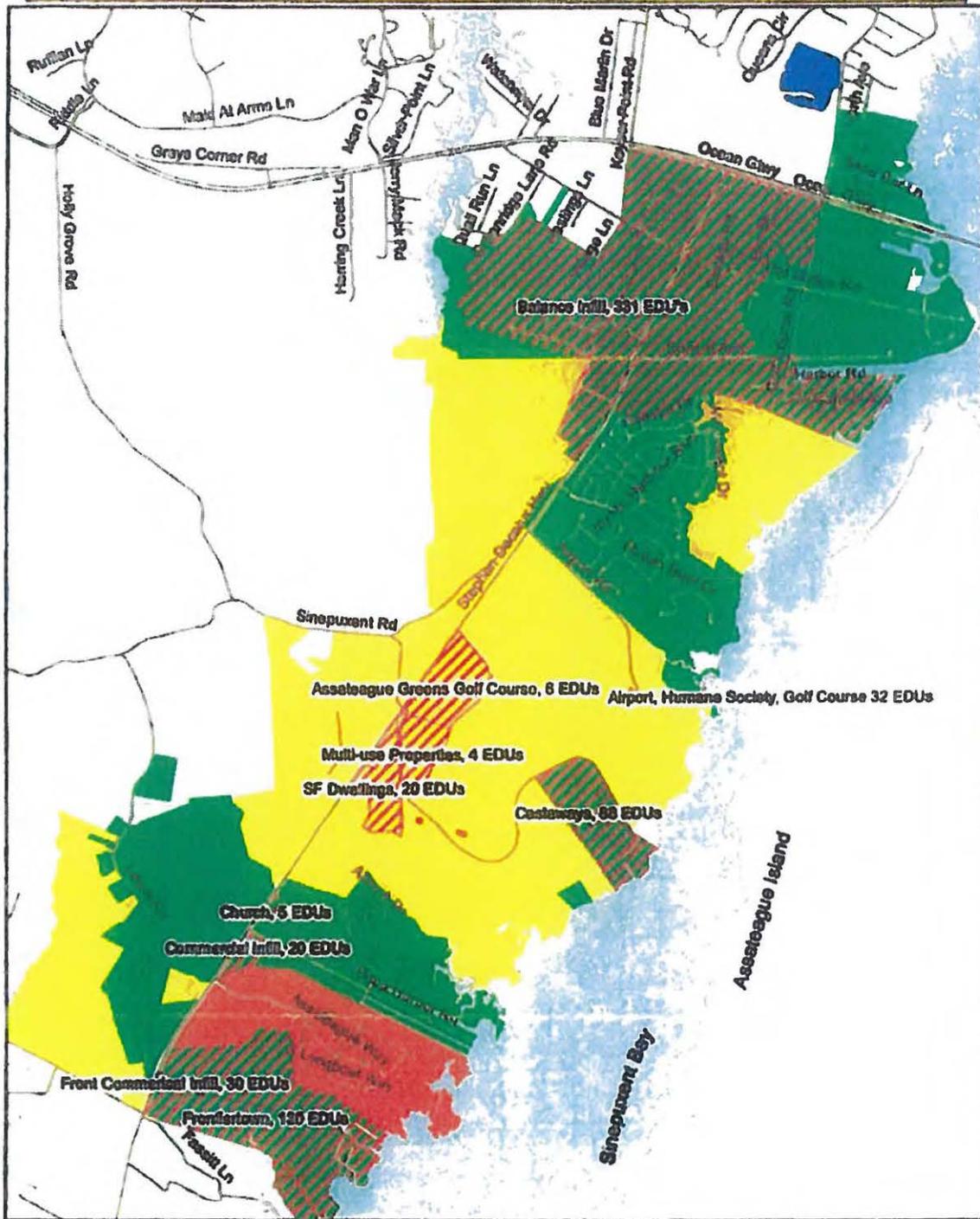
If you have any questions on these comments, please do not hesitate to contact me.

Attachment

-34-

Citizens and Government Working Together

MDE Modification to the Frontier Town Sewer Amendment
Amendment Modification effective October 29, 2015



0.55 0.275 0 0.55 Miles

- New Capacity-666 EDU's
- Asseleaugue Pointe Service Area
- Mystic Harbour Service Area S1
- Mystic Harbour Service Area S3

Figure M
Mystic Harbour Sewer Planning Area
Proposed Mystic Capacity-666 EDU's
 Prepared by the Worcester County
 Department of Environmental Programs
 June 2015

Phyllis Wimbrow

From: Dale Smack
Sent: Tuesday, October 20, 2015 3:37 PM
To: Phyllis Wimbrow
Cc: Reggie Mason; earl.stamer@maryland.gov
Subject: Rezone case 359,397,398

Importance: High

Phyllis,

After reviewing and speaking with Sheriff Mason and Lt. Stamer of the provided documents pertaining to rezone cases 395,396 and 397, we see no issues, nor will it interfere with law enforcement activities. If you have any questions, please feel free to contact me.

Thank you.

**J. Dale Smack 3rd, Chief Deputy
S.T.A.R Team Commander Retired
Worcester County Sheriff's Office
Rm 1001 #1 West Market Street
Snow Hill, Maryland 21863
410-632-1111-work
410-632-3070-fax
443-783-0395-cell
dsmack@co.worcester.md.us e mail**

CONFIDENTIALITY NOTICE: This message may contain confidential information intended only for the use of the person named above and may contain communication protected by law. If you have received this message in error, you are hereby notified that any dissemination, distribution, copying or other use of this message may be prohibited and you are requested to delete and destroy all copies of the email, and to notify the sender immediately at his/her electronic mail.

Larry Hogan, Governor
Boyd K. Rutherford, Lt. Governor



Pete K. Rahn, Secretary
Gregory C. Johnson, P.E., Administrator

October 22, 2015

Ms. Phyllis H. Wimbrow, Deputy Director
Department of Development Review and Permitting
Worcester County Government Center
One West Market Street, Room 1201
Snow Hill, MD 21863

RE: Worcester County
Rezoning Application Case No: 395
Sun TRS Frontier, LLC
Tax Map 33; Part Parcel 94

Dear Ms. Wimbrow:

Thank you for the opportunity to review the Rezoning Application for Case No: 395 in Worcester County. The State Highway Administration (SHA) has reviewed the application and associated documents. We are pleased to respond.

MD 611 is not identified in the State Highway Administrations current or long range planning documents for SHA's future needs in the area(s) noted in the subject application. Rezoning is a land use issue, which is not under the jurisdiction of the SHA. However, please be aware all future development of a site along this corridor will require the review and approval by this office. All access and entrance construction from a property onto the State highway shall be subject to the terms and conditions of an access permit to be issued by this office.

Thank you again for the opportunity to provide our response. If you have any questions regarding our comments, please feel free to contact Ms. Rochelle Outten, District 1 Regional Engineer for Access Management via email roudden@sha.state.md.us or by calling her directly 410-677-4098.

Very truly yours,

A handwritten signature in black ink, appearing to read "Donnie L. Drewer", written over a horizontal line.

Donnie L. Drewer,
District Engineer

Cc: Ms. Rochelle Outten, Regional Engineer- SHA

My telephone number/toll-free number is 1-800-825-4742
Maryland Relay Service for Impaired Hearing or Speech 1.800.735.2258 Statewide Toll Free

Street Address: 660 West Road, P. O. Box 2679 • Sallsbury, Maryland 21802 • Phone: 410-677-4000 • FAX: 410-543-6598
www.roads.maryland.gov



Worcester County
DEPARTMENT OF PUBLIC WORKS
6113 TIMMONS ROAD
SNOW HILL, MARYLAND 21863

MEMORANDUM

JOHN H. TUSTIN, P.E.
DIRECTOR

JOHN S. ROSS, P.E.
DEPUTY DIRECTOR

TEL: 410-632-5623
FAX: 410-632-1753

TO: Phyllis H. Wimbrow, Deputy Director
FROM: Frank J. Adkins, Roads Superintendent (FA)
DATE: October 20, 2015
RE: Rezoning Case No. 395, 396, and 397

.....
Upon review of the above referenced rezoning cases, I offer the following comments:

DIVISIONS

MAINTENANCE
TEL: 410-632-3766
FAX: 410-632-1753

Rezoning Case 395: No comments

ROADS
TEL: 410-632-2244
FAX: 410-632-0020

Rezoning Case 396: No comments

SOLID WASTE
TEL: 410-632-3177
FAX: 410-632-3000

Rezoning Case 397:

- 1) Entrance to project needs to be a minimum of a standard commercial entrance according to Worcester County standards if there is ingress/egress to or from a County road.
- 2) Due to the nature of the area and existing parking issues there needs to be sufficient amount of parking available so that vehicles are not parking and impeding traffic along the County road.
- 3) There needs to be a widening strip dedicated to Worcester County with improvements along the County road for future expansion as deemed necessary by the Worcester County Commissioners.
- 4) Project cannot impede drainage to or from the County road which may affect residents in neighboring areas who depend on maximum drainage solutions since this area is prone to flooding.

FLEET MANAGEMENT
TEL: 410-632-5675
FAX: 410-632-1753

WATER AND WASTEWATER
TEL: 410-641-5251
FAX: 410-641-5185

Should you have any questions, please do not hesitate to contact me.

cc: John H. Tustin, P.E., Director

FJA/ll
H:\Rezoning\Rezoning Case 395.396.397.doc



**THE BOARD
OF EDUCATION
OF WORCESTER
COUNTY**

6270 WORCESTER HIGHWAY
NEWARK, MD 21841-9746
TELEPHONE (410) 632-5000
FAX: (410) 632-0364
www.worcesterk12.com

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WILLIAM L. GORDY

October 28, 2015

Ms. Phyllis H. Wimbrow
Deputy Director
Department of Development Review and Permitting
One West Market Street
Room 1201
Snow Hill, Maryland 21863

Dear Ms. Wimbrow,

Enclosed are Worcester County Board of Education comments to Rezoning Cases No. 395, 396 and 397.

We do not anticipate an impact to the projected school enrollments for any of the schools within the zoning areas included in the three rezoning applications.

Please contact me at (410) 632-5010 if you have any questions.


Joe Price
Facilities Planner
Worcester County Public Schools

Encl.

- 39 -

**Worcester County Board of Education
Project / Rezoning Review Comments
Department of Development Review and Permitting**

Project / Rezoning Application Number:	Rezoning Case No. 395			
Project / Rezoning Location:	East side of Maryland Route 611 north of Md. Route 376			
Project / Rezoning Description:	36 acres from C-2 General Business to A-2 Agricultural			
Projected impact on existing schools	None			
School Name	State Rated Capacity	Current Enrollment (9/15)	Projected 10-Year High Enrollment	
Ocean City Elementary School	790	639	657	
Berlin Intermediate School	798	750	831	
Stephen Decatur Middle School	677	616	740	
Stephen Decatur High School	1,518	1,347	1,537	

Other Comments:

- 1. No anticipated impact to school enrollments by Rezoning Case No. 395.**
- 2. Projected enrollments are based upon Maryland Office of Planning estimates.**

Worcester County Board of Education Representative:

Joe Price, Facilities Planner

Signature / Date:

Joe Price 10/28/15

10/28/2015



Snow Hill (Main Office)
410-632-1100
Fax 410-632-0906

Worcester County

HEALTH DEPARTMENT

P.O. Box 249 • Snow Hill, Maryland 21863-0249
www.worcesterhealth.org

Deborah Goeller, R.N., M.S.
Health Officer

MEMORANDUM

To: Phyllis H. Wimbrow, Deputy Director

From: Edward Potetz, Director *EP*
Environmental Health

Date: October 21, 2015

Re: Rezoning Case No. 395, No. 396 and No. 397

This office has no objection to the proposed above-referenced rezoning cases.



DEPARTMENT OF
DEVELOPMENT REVIEW AND PERMITTING

Worcester County

GOVERNMENT CENTER
ONE WEST MARKET STREET, ROOM 1201
SNOW HILL, MARYLAND 21863
TEL: 410-832-1200 / FAX: 410-832-3008
www.co.worcester.md.us/dr/p/drindex.htm

ZONING DIVISION
BUILDING DIVISION
DATA RESEARCH DIVISION

ADMINISTRATIVE DIVISION
CUSTOMER SERVICE DIVISION
TECHNICAL SERVICE DIVISION

MEMO

TO: Robert Mitchell, Director, Worcester County Environmental Programs
 Fred Webster, Director, Worcester County Emergency Services
 Reggie Mason, Sheriff, Worcester County Sheriff's Office
 John H. Tustin, P. E., Director, Worcester County Public Works Department
 John Ross, P. E., Deputy Director, Worcester County Public Works Department
 Frank Adkins, Roads Superintendent, Worcester County Public Works
 Department
 Jeff McMahon, Fire Marshal, Worcester County Fire Marshal's Office
 Dr. Jerry Wilson, Superintendent, Worcester County Board of Education
 Donnie L. Drewer, District Engineer, Maryland State Highway Administration
 Lt. Earl W. Starnier, Commander, Barracks V, Maryland State Police
 Debbie Goeller, Health Officer, Worcester County Health Department
 Rob Clarke, State Forester, Maryland Forest Services
 Nelson D. Brice, District Conservationist, Worcester County Natural Resources
 Conservation Service
 Phil Simpson, Fire Chief, Berlin Fire Department
 Robert Duke, Fire Chief, Ocean City Volunteer Fire Company

FROM: Phyllis H. Wimbrow, Deputy Director *PHW*

DATE: October 14, 2015

RE: Rezoning Case No. 395

The Worcester County Planning Commission is tentatively scheduled to review the above referenced rezoning application at its meeting on December 3, 2015. This application seeks to rezone approximately 36 acres of land from C-2 General Business District to A-2 Agricultural District. Uses allowed in the proposed zoning district include, but are not limited to, agriculture,

single-family dwellings, rural cluster subdivisions, telecommunication towers, small and medium wind energy conversion systems, spray irrigation fields and storage lagoons, large solar energy systems, agricultural processing plants, agritainment facilities, wineries, golf courses, and campgrounds. With regard to residential uses, only minor subdivisions consisting of a maximum of five lots out of what was one parcel in 1967 are permitted. An additional lot may be feasible if clustering is utilized. In campgrounds, the density ranges from one tent site per 2,000 square feet of lot area to one recreational vehicle site per 3,000 square feet of lot area. Please note that other considerations such as sewage disposal, placement of roads serving the development, and open space requirements affect maximum permitted density to some degree.

For your reference I have attached a copy of the rezoning application and associated documents and a series of maps showing the property petitioned for rezoning. These maps include an aerial photo as well as maps showing the floodplain, hydric soils, Comprehensive Plan Land Use Classifications, the location, soils, and zoning.

The Planning Commission would appreciate any comments you or your designee might offer with regard to the effect that this application and potential subsequent development of the site may have on the plans, facilities or services for which your agency is responsible. If no response is received by *November 16, 2015*, the Planning Commission will have to assume that the proposed rezoning, in your opinion, will have no effect on your agency, that the application is compatible with your agency's plans, that your agency has or will have adequate facilities and resources to serve the proposed rezoning and its subsequent land uses and that you have no objection to the Planning Commission stating this information in its report to the Worcester County Commissioners.

If you have any questions or require further information, please do not hesitate to call this office or email me at pwimbrow@co.worcester.md.us. On behalf of the Planning Commission, thank you for your attention to this matter.

Attachments



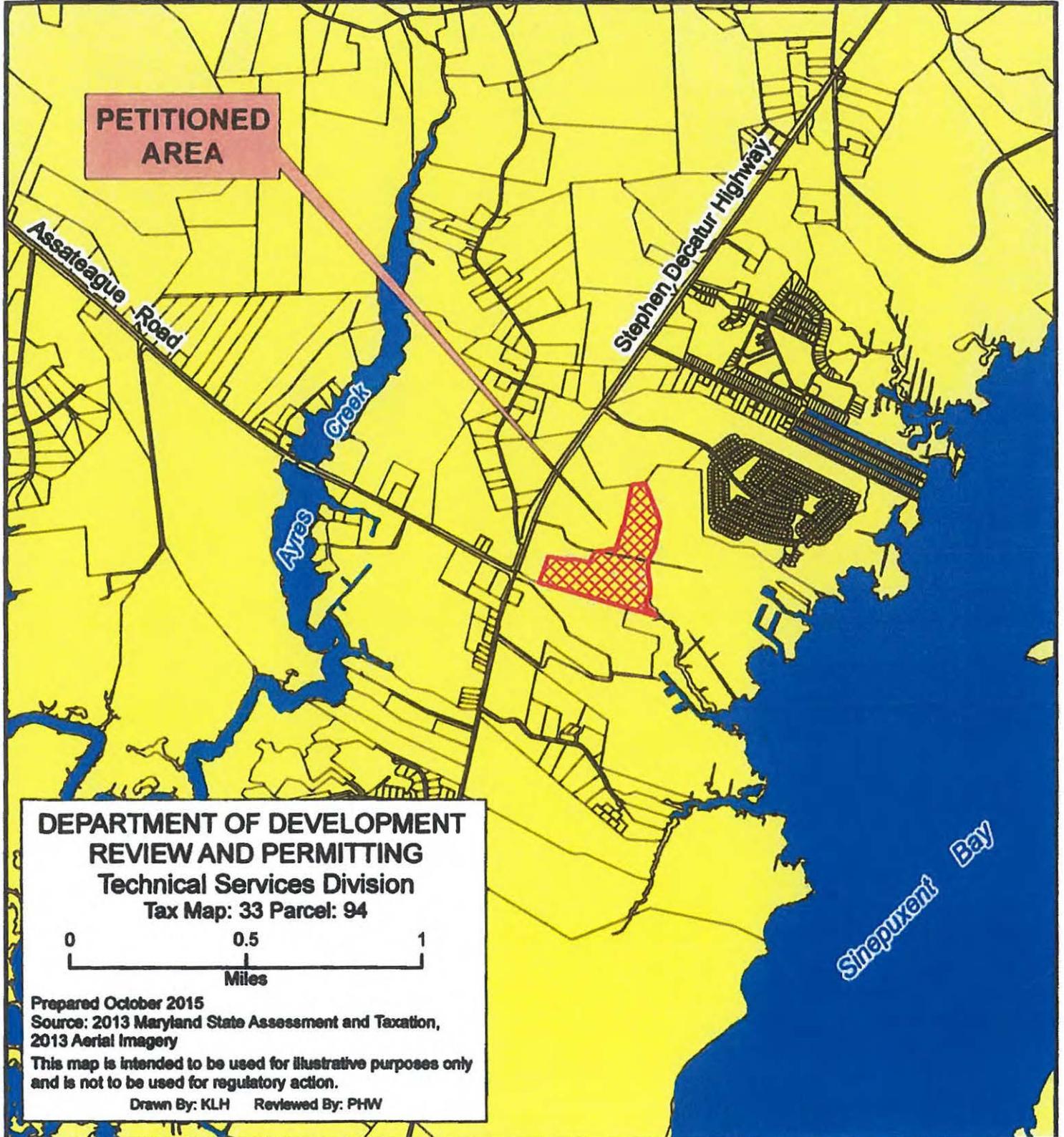
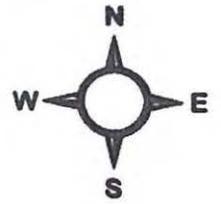
WORCESTER COUNTY, MARYLAND

REZONING CASE NO. 395

MAP AMENDMENT REQUEST

C-2 General Commercial District to A-2 Agricultural District

LOCATION MAP





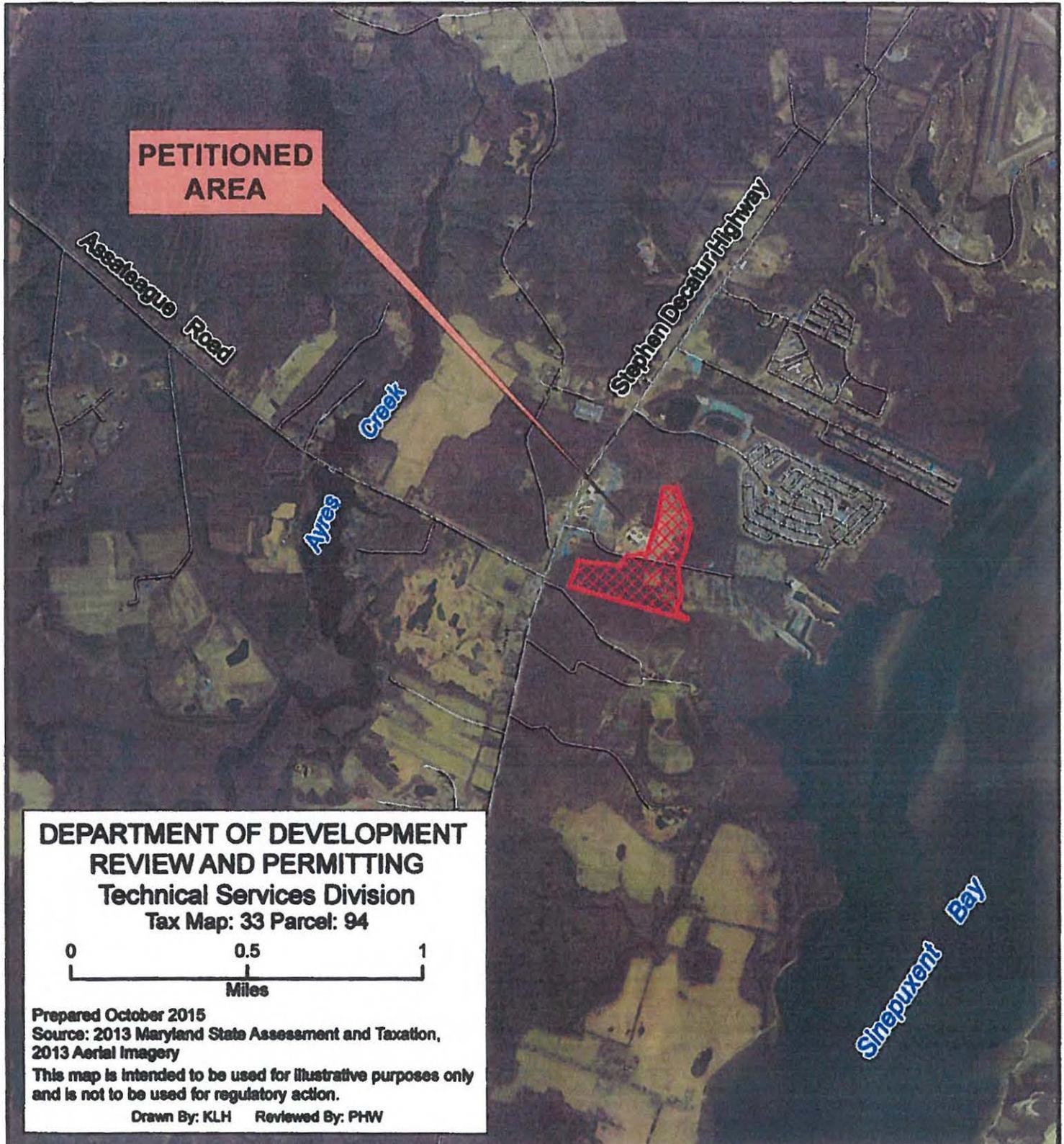
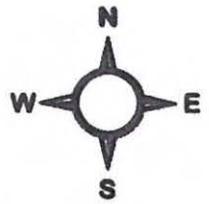
WORCESTER COUNTY, MARYLAND

REZONING CASE NO. 395

MAP AMENDMENT REQUEST

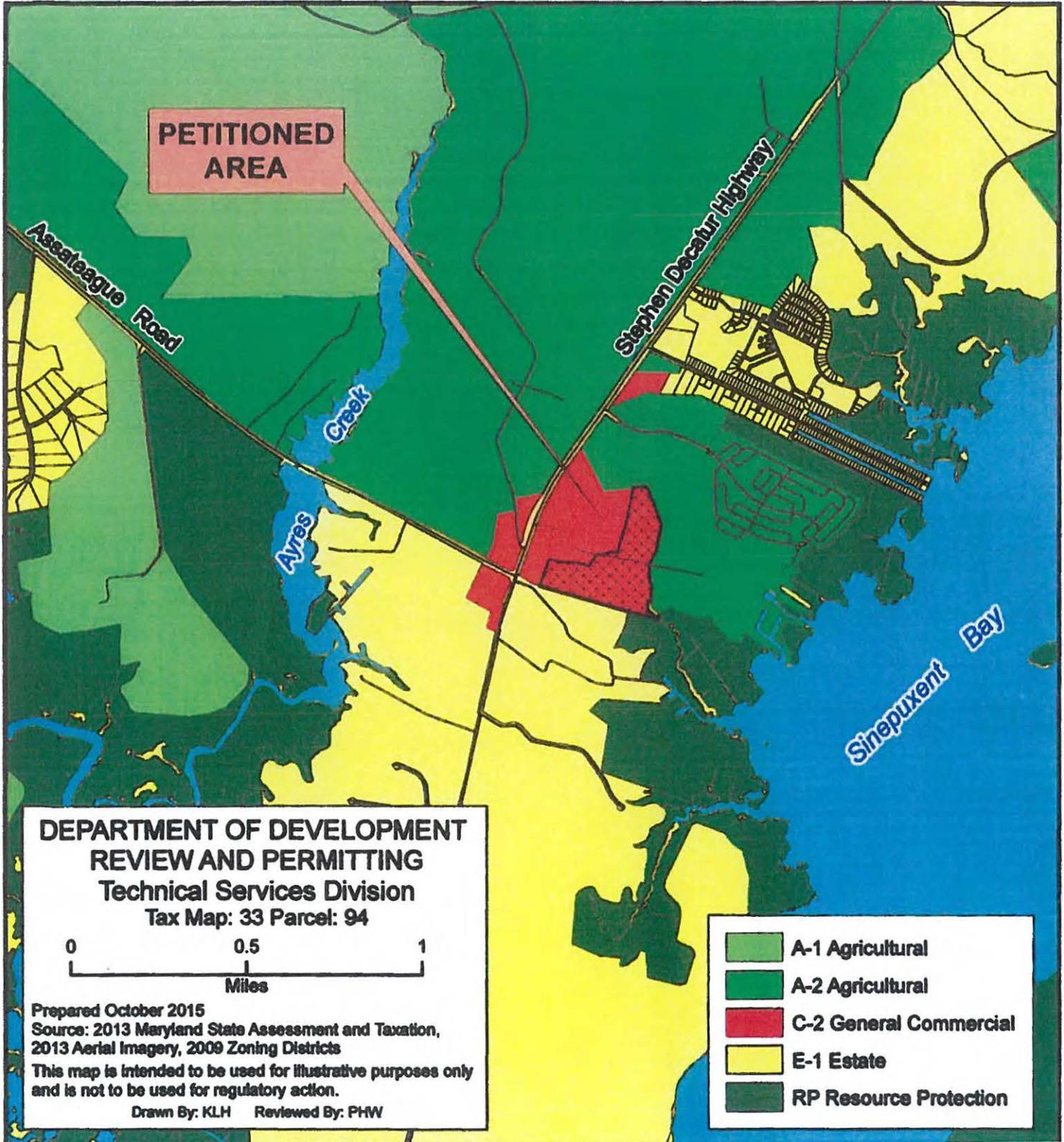
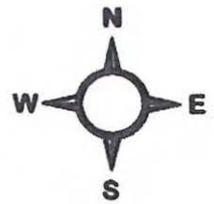
C-2 General Commercial District to A-2 Agricultural District

AERIAL VIEW





WORCESTER COUNTY, MARYLAND
REZONING CASE NO. 395
MAP AMENDMENT REQUEST
C-2 General Commercial District to A-2 Agricultural District
ZONING DISTRICT MAP





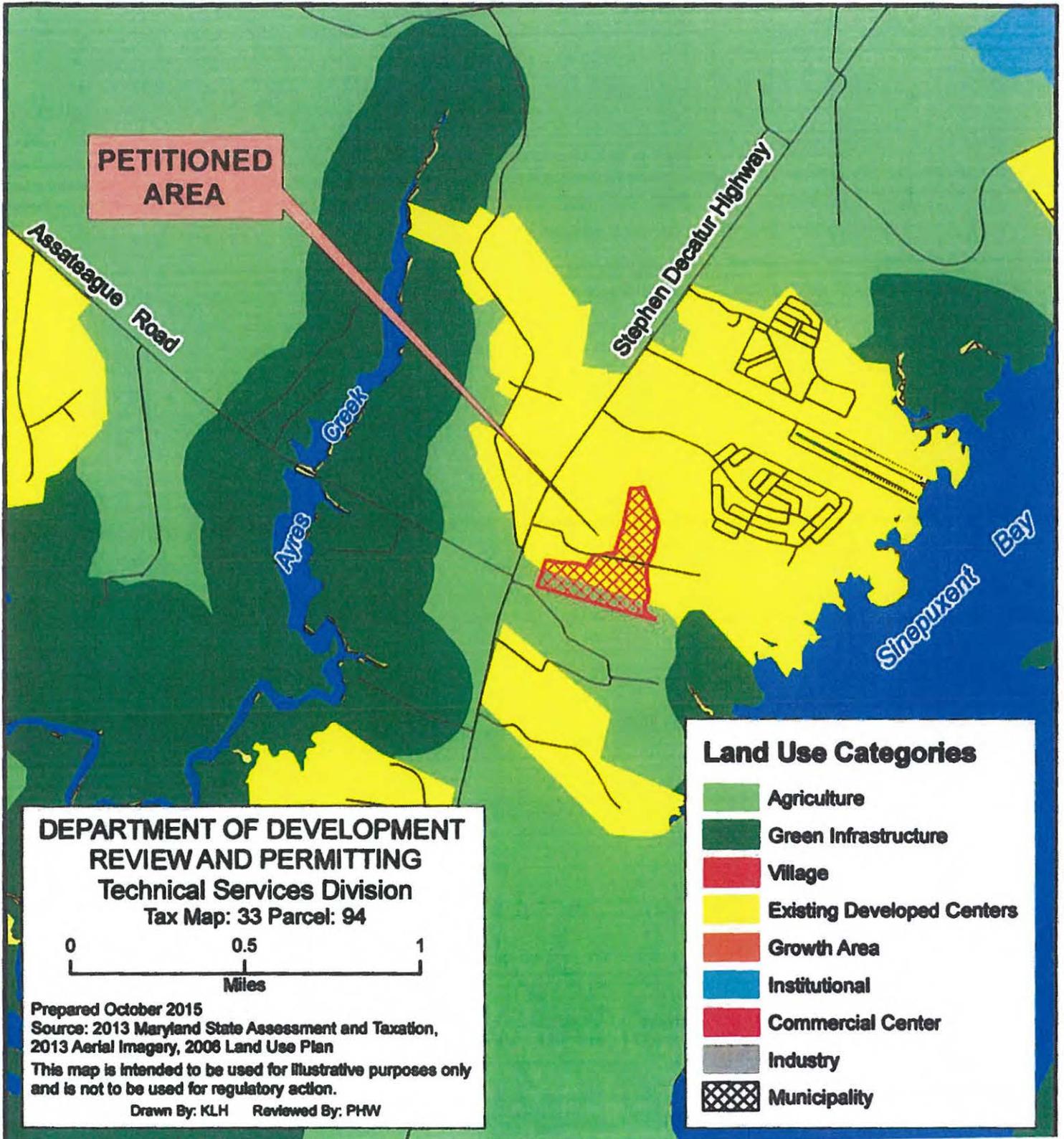
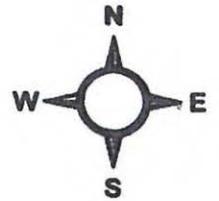
WORCESTER COUNTY, MARYLAND

REZONING CASE NO. 395

MAP AMENDMENT REQUEST

C-2 General Commercial District to A-2 Agricultural District

LAND USE MAP





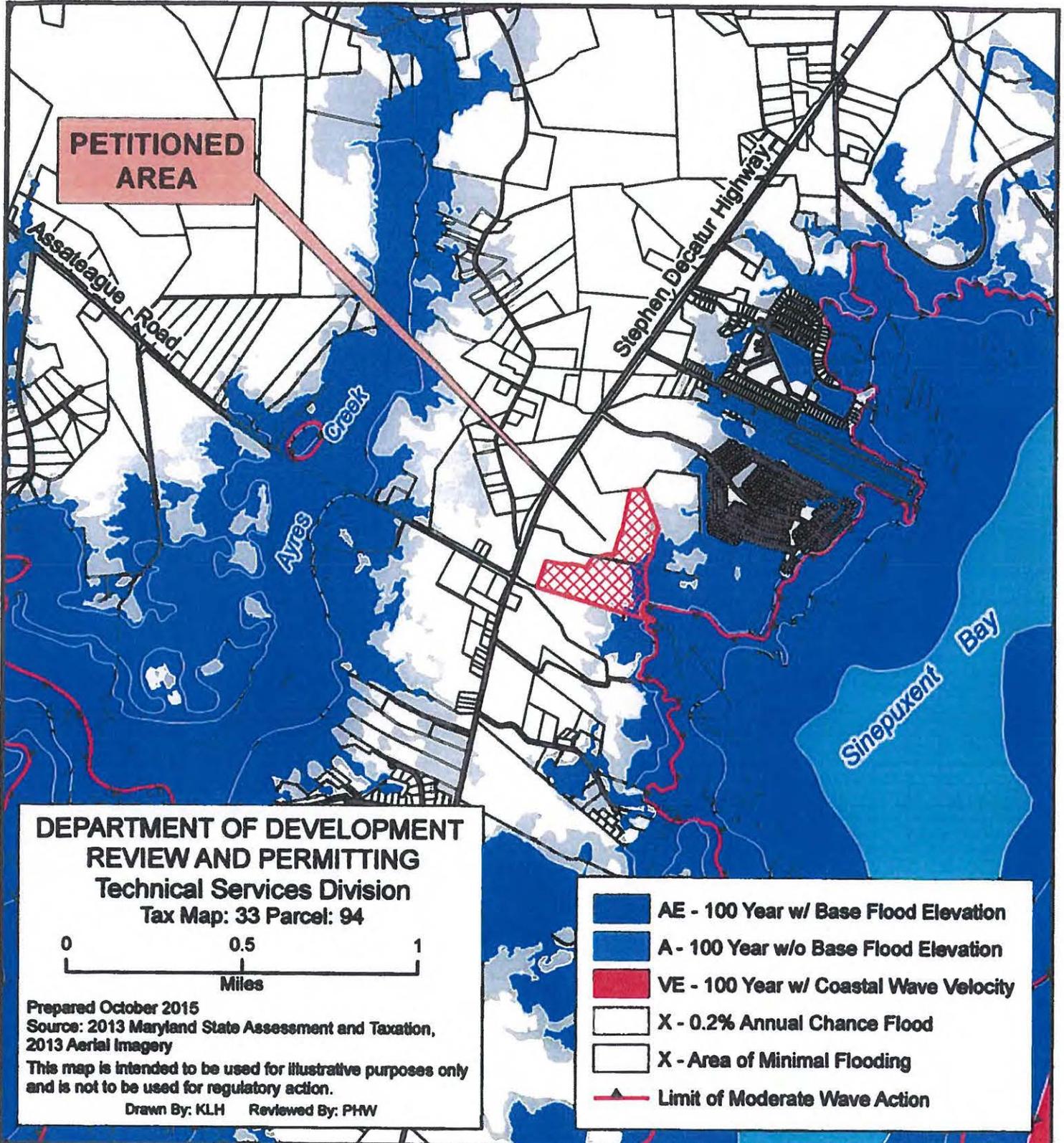
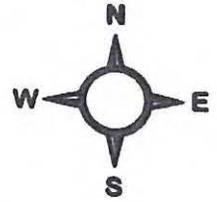
WORCESTER COUNTY, MARYLAND

REZONING CASE NO. 395

MAP AMENDMENT REQUEST

C-2 General Commercial District to A-2 Agricultural District

FLOODPLAIN MAP





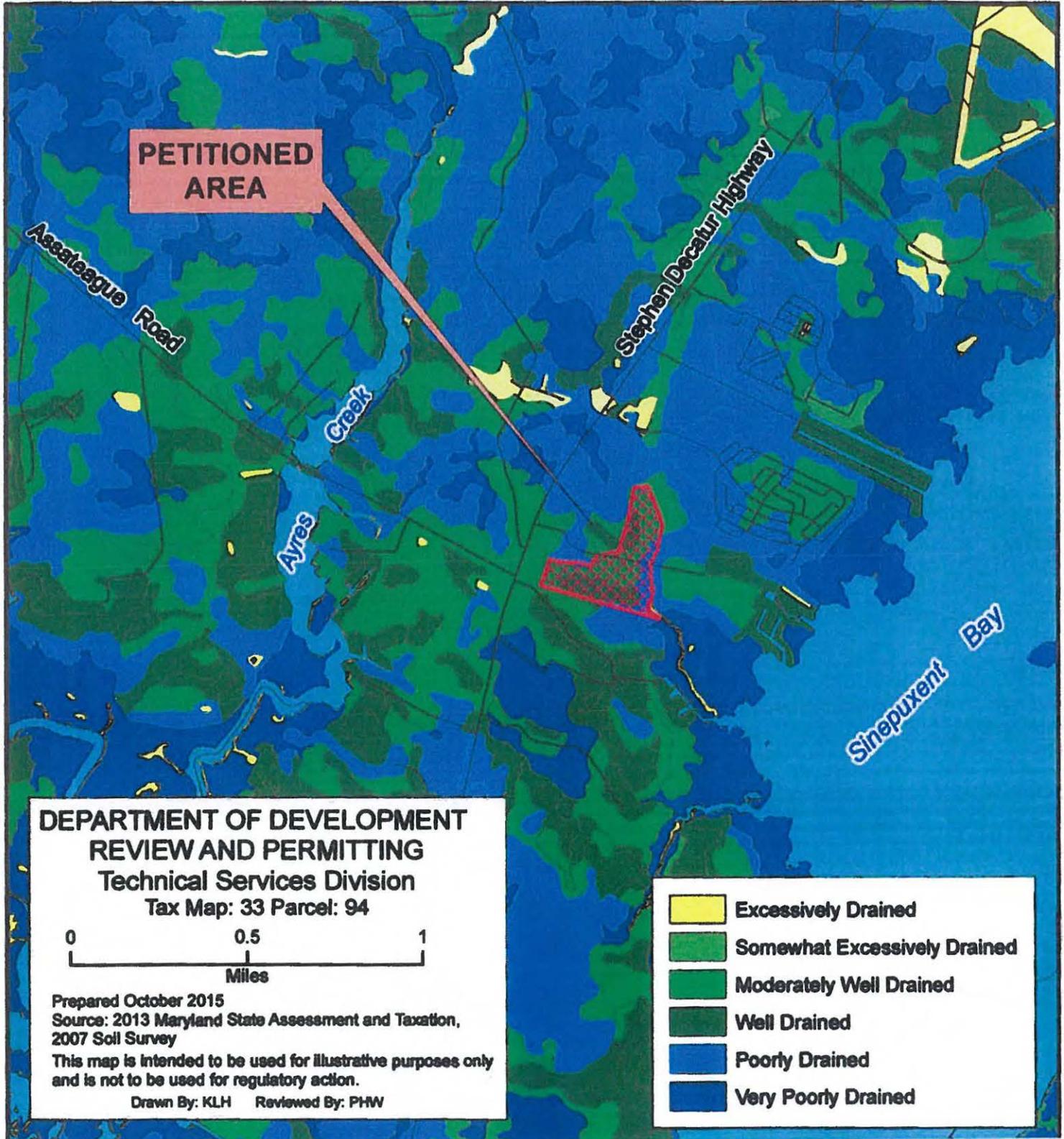
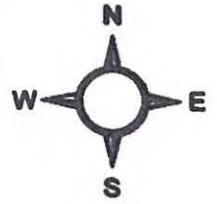
WORCESTER COUNTY, MARYLAND

REZONING CASE NO. 395

MAP AMENDMENT REQUEST

C-2 General Commercial District to A-2 Agricultural District

SOILS MAP





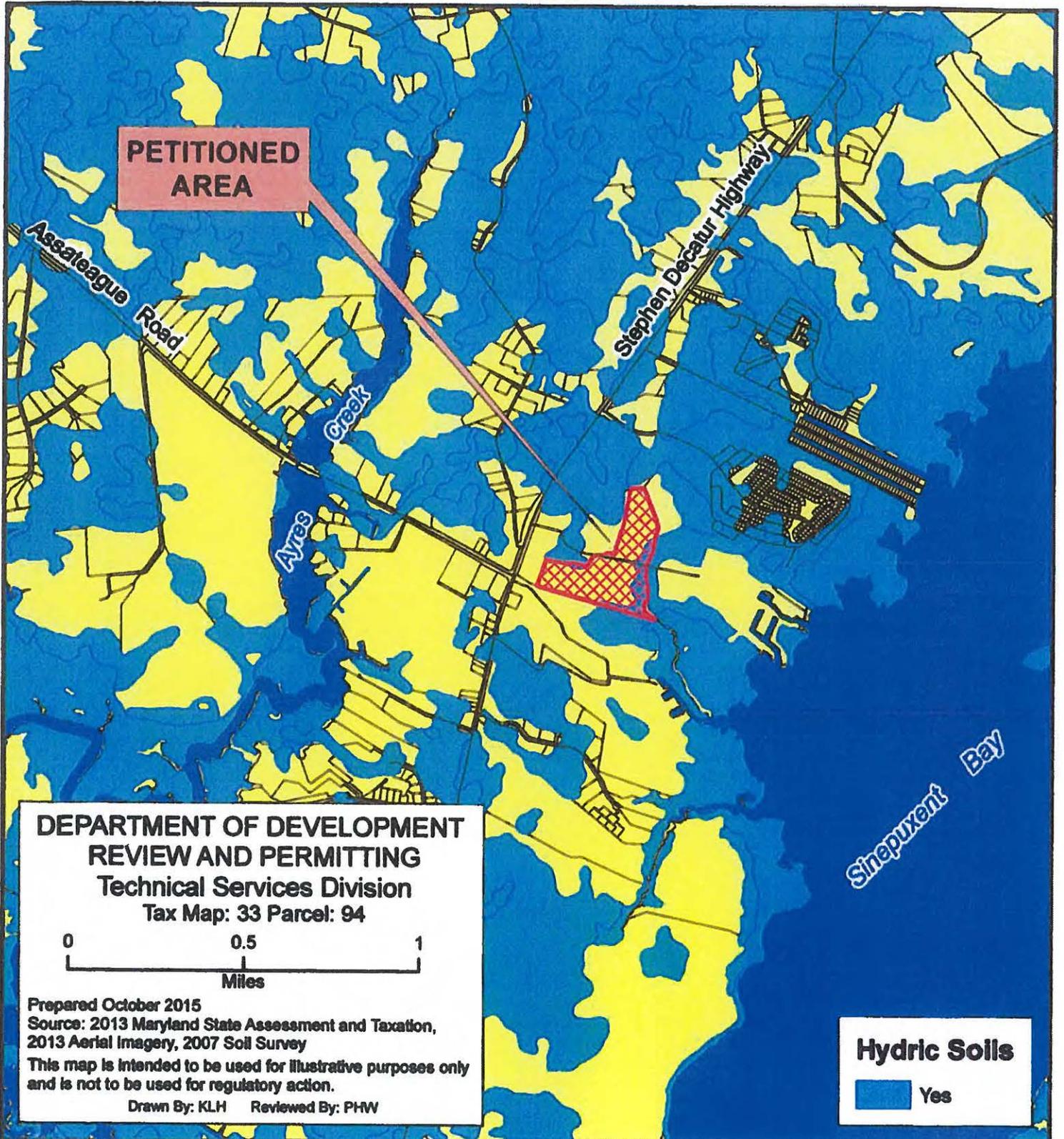
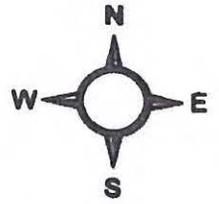
WORCESTER COUNTY, MARYLAND

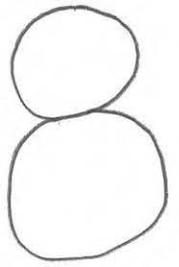
REZONING CASE NO. 395

MAP AMENDMENT REQUEST

C-2 General Commercial District to A-2 Agricultural District

HYDRIC SOILS MAP





Atlantic General Hospital & Health System

2016 Hospital Update



Atlantic General Hospital & Health System

Our Mission:

To create a coordinated care delivery system that will provide access to quality care, personalized service and education to improve individual and community health.





ATLANTIC GENERAL 2020 VISION

care.coordination

VISION

To be the leader in caring for people and advancing health for the residents of and visitors to our community.

MISSION

To create a coordinated care delivery system that will provide access to quality care, personalized service and education to improve individual and community health.

Coordinated Quality Care

- RIGHT HOSPITAL: Primary Care, Inpatient & Emergency Care, Community Education & Health Literacy
- RIGHT CARE: Specialty Care, Health Department, Convenient Same Day Care
- RIGHT PEOPLE: Behavioral Health
- RIGHT PLACE: Patient Centered Medical Home, Home Health, Rehabilitation & Long Term Care, Supportive Care & Hospice

Health and Health Care in Maryland

The Driving Forces for Change



Reducing Potentially Avoidable Hospital Utilization (PAUs) Improves Care

PAUs are “Hospital care that is unplanned and can be prevented through improved care, coordination, effective primary care and improved population health.”

PAU examples:

- Readmissions/Re-hospitalizations (includes ER Visits)
- Preventable admissions and ER visits (Access?)
- Avoidable admissions for skilled nursing facility (SNF) and assisted living residents (Overuse of Institutions?)
- Potentially preventable complications (Errors)

“Admissions and ER visits for high need patients can be moderated with better chronic care and care coordination.”

- Healthcare Financial Management Association



Medicare Waiver – Year 1 Results

• Where Maryland stands (financial results)

		Maryland Performance	Annual Target	PERIOD Jan-Dec 2014 vs. Jan-Dec 2013 DATA HSCRC monthly financial data
ALL-PAYER HOSPITAL SPENDING GROWTH PER CAPITA <small>(compared to prior year Maryland)</small>	✓	1.47% <small>spending growth</small>	3.58% <small>spending growth or below</small>	
MEDICARE HOSPITAL SPENDING GROWTH PER BENEFICIARY <small>(compared to national)</small>	✓	-1.12% <small>spending decrease</small>	0.50% <small>spending growth or below</small>	PERIOD Jan-Dec 2014 vs. Jan-Dec 2013 DATA HSCRC monthly financial data <small>(used as proxy)</small>
MEDICARE ALL PROVIDER SPENDING GROWTH PER BENEFICIARY <small>(compared to national)</small>	?	COMING SOON	no more than 1% <small>above national growth</small>	PERIOD Coming soon DATA Coming soon

- \$100 million savings to Medicare
- Inpatient use rates and admissions down 4%
- Potentially avoidable utilization down 6%



Medicare Waiver – Year 1 Results

• Where Maryland stands (quality results)

MEDICARE READMISSION RATE <small>(compared to national)</small>	!	-0.80% <small>decrease</small>	-1.86% <small>decrease or more</small>	PERIOD Jan-Oct 2014 vs. Jan-Oct 2013 DATA CMMI data
MARYLAND HOSPITAL ACQUIRED CONDITIONS RATE <small>(compared to prior year Maryland)</small>	✓	-25.97% <small>decrease</small>	-6.89% <small>decrease or more</small>	PERIOD Jan-Dec 2014 vs. Jan-Dec 2013 DATA HSCRC inpatient case-mix data, final

- Readmissions rate declining faster than nation
- 5,000 fewer readmissions than previous year
- Statewide, uniform HAC (errors) diagnosis codes developed; sharing of best practices



Medicare Waiver and AGH Goals

Focused on the "Triple Aim"

- Improving the health of the population
- Enhancing patient experience and patient outcomes
- Reducing the healthcare costs of the population

AGH Goals and Strategic Planning

- Developed by considering how we can improve caring for our community in a more patient/community centered model of care to meet the "triple aim".

- Right Care
- Right People
- Right Place
- Right Partners
- Right Hospital



Living Our Principles and Our Goals

**Right Partners/ Right People/
Right Care...**



Accountable Care Organization



ACO goal: to provide high quality care in a more effective and cost-efficient manner.

- Shared savings will help further efforts in preventive care and health literacy improvement
- Will slow increase in healthcare costs



Atlantic General Hospital Telehealth Project

A collaborative effort between Atlantic General Hospital and Berlin Nursing & Rehabilitation Center with the focus of implementing telehealth services to prevent avoidable transfers, admissions and readmissions.



Telemedicine at BNRC



Live Summer 2015

Partnership with Berlin Nursing and Rehabilitation Center & Five Star Physician Services and the Hospitalist Team at AGH

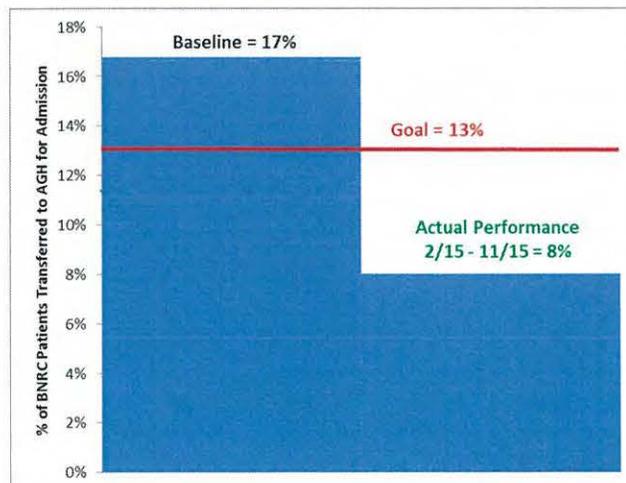
Benefits:

- Increased Patient Convenience
- Improved Outcomes
- Quicker Rehabilitation
- Reduction in Re-admissions



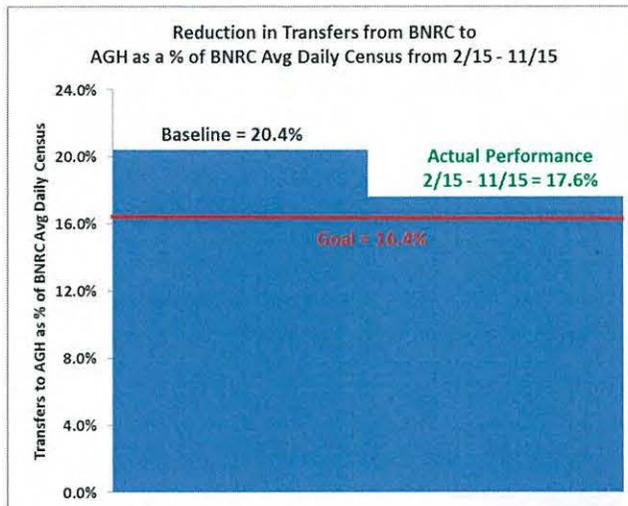
Telemedicine Results/Outcomes

%BNRC Patients Admitted to AGH



Telemedicine Results/Outcomes

Reduction in Total Transfers from BNRC to AGH

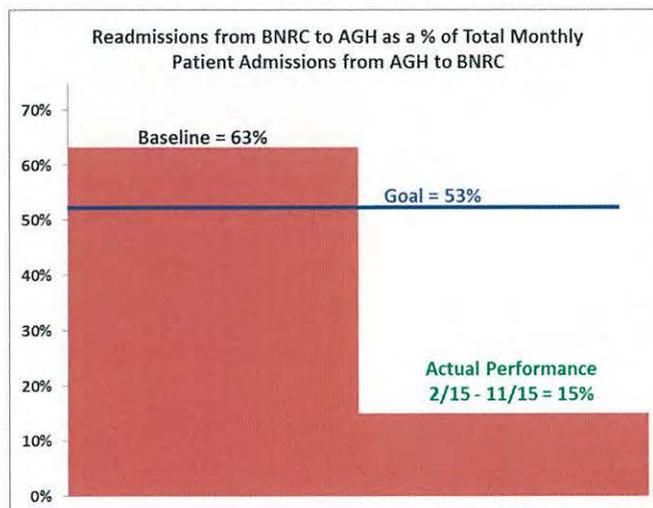


Reasons for Transfers include: ER Visits, Hospital Observation, Acute Care Admission, etc...



Telemedicine Results/Outcomes

Re-Admissions to the Acute Care Hospital



Access to Primary & Specialty Care

Pediatrics
 Laura Stokes, DO
 West Ocean City, MD



Women's Health

Liezl Irisari, MD
 Ocean Pines, MD



Brandi Musselman, MD
 Selbyville, DE



Family Practice
 Andrea Matthews, MD
 West Fenwick, DE



Primary Care

Amanda Wainwright, CRNP
 Ocean View, DE

Michelle Farlow, CRNP
 Snow Hill, MD




Pain Management
 Wadid Zaky, MD
 Berlin, MD





care.givers

Access to Primary & Specialty Care

Additional providers recruited for

- Ocean View
- Ocean City
- West Fenwick
- Snow Hill

Urology
 James P. Cherry, MD
 Berlin, MD



Dermatology

Curtis D. Asbury, MD

Sara Moghaddam, MD
 Selbyville, DE




Medical Oncology

Rabindra Paul, MD

Rupa Gupta, MD
 Berlin, MD



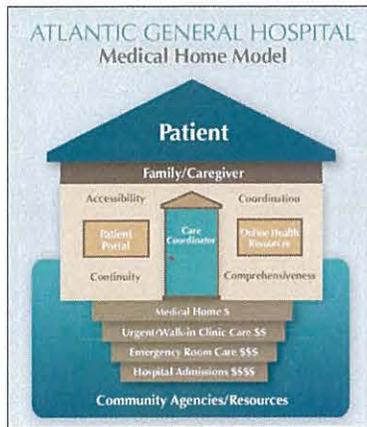

Bariatrics
 Alae Zarif, MD
 Berlin, MD & West Fenwick, DE





care.givers

2011-2015 Patient Centered Medical Home



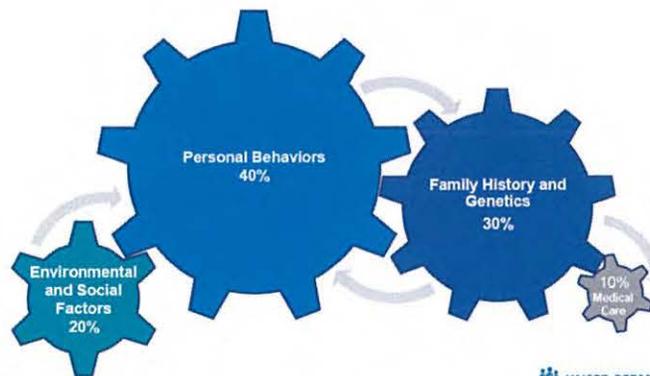
Recipient of the Maryland Rural Health Association's 2013 Outstanding Rural Health Program

- PCMH has provided services to more than 1,150 patients since program launch in January 2013.
- Readmission rates for program patients is <4% (Maryland overall readmission rate is 12.94%)



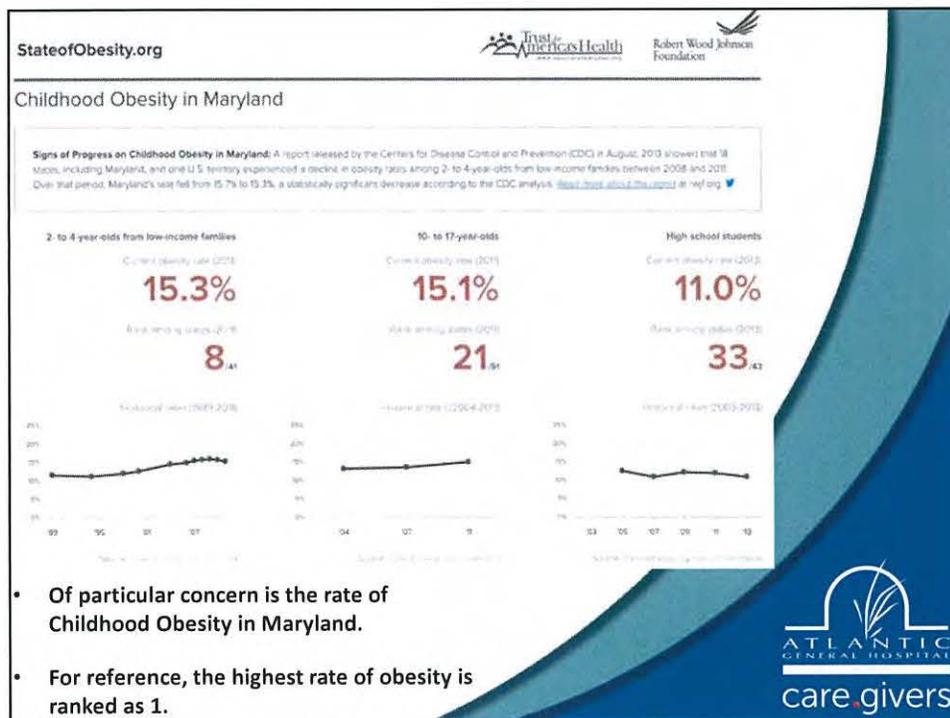
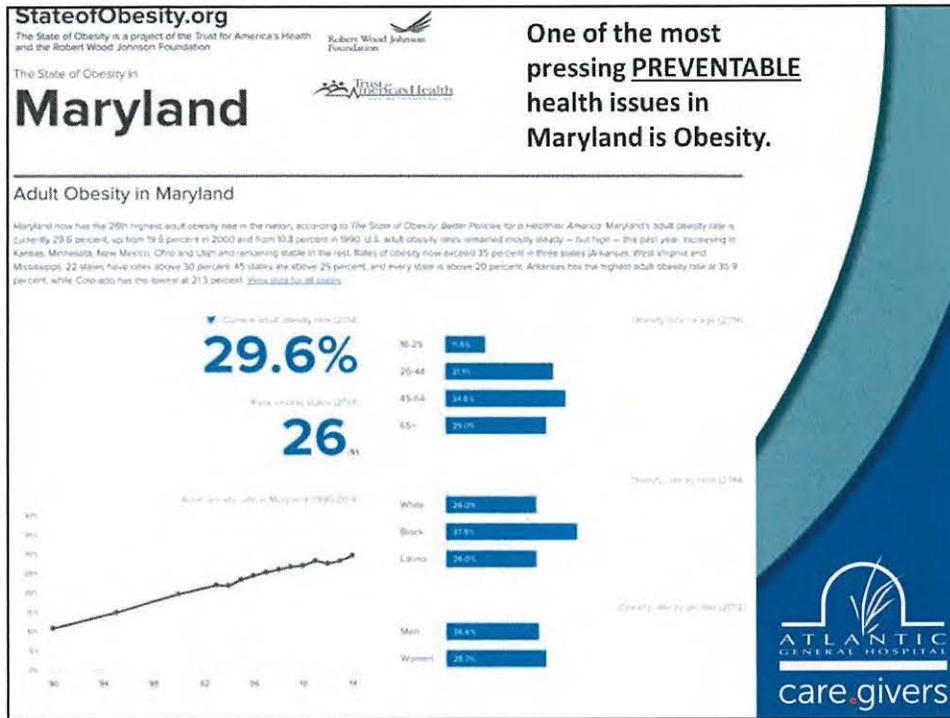
Health is About More Than Clinical Care

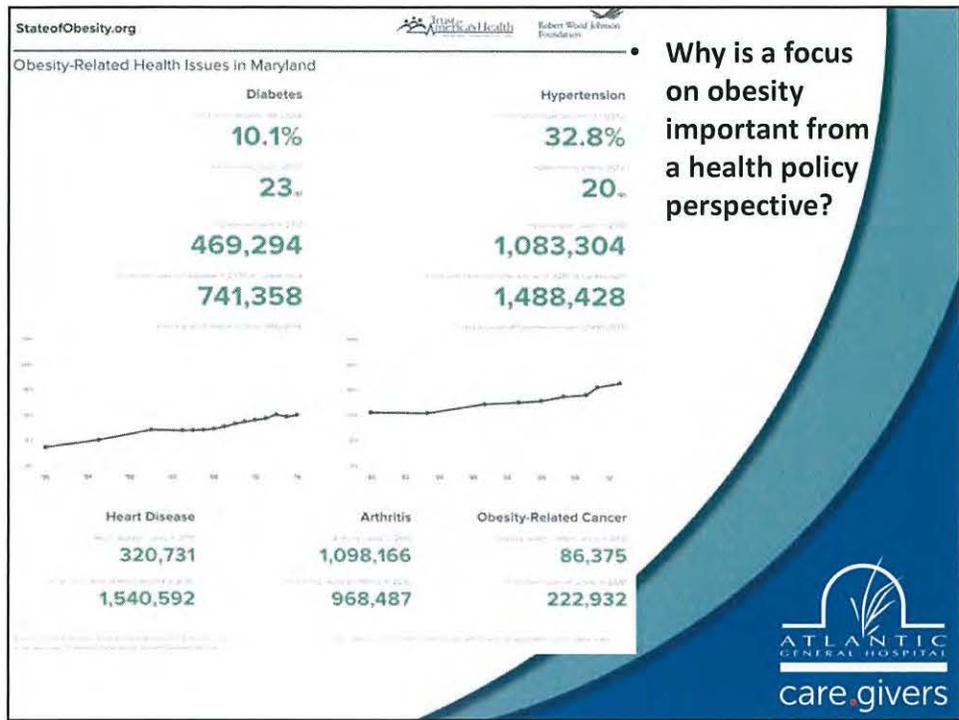
Health is driven by multiple factors that are intricately linked – of which medical care is one component.



Page 16
Source: Determinants of Health and Their Contribution to Premature Death, JAMA 1993







Pioneers in Health Literacy Improvement

Health concepts should no longer be confined to health and biology classes.



Health Literacy Integration: Weaving health concepts into existing math, science, reading and social studies lessons to increase students' exposure to this information, thus increasing their understanding.

- Successful pilot with 2nd graders at Ocean City Elementary led to expansion to all 2nd graders in Worcester County
- Principles also extended to 3rd, 4th and 5th grade pilot classrooms
- As of the 2015-2016 school year, the IHLP now serves more than 2400 students.
- During the 2016-2017 school year, the goal of the IHLP team is to begin pilot programs in grades seven and eight.





Electronic health records are revolutionizing the way patients, physicians and other healthcare service providers interact for better delivery of healthcare services.



Our Patient Portal allows our patients a single access point for their inpatient & outpatient health information where ever they are.



Supportive Care Services

Services Provided Include:

- Spiritual and pastoral care and counseling
- Emotional support & crisis intervention
- Advocacy for patients and staff
- Collaboration with all members of the health care team
- Complementary therapies like massage & music therapy
- Consultations on advance directives, end-of-life decisions, and ethical issues
- Partnering with Community Worship Centers through the Faith Partnership to increase health literacy and wellness
- Facilitating grief support groups and mental health support groups



Strategic Investment In Our Community

Program Initiatives and Master Facility Planning



FY16 Strategic Investments

Pulmonary Clinic

Goals: Provide Right Care in the Right Place
Reduce Re-admissions

- Comprehensive disease education
- Diagnostics and treatment
- Care coordination for our patients with chronic pulmonary diseases

Program initiated: Fall 2015



FY16 Strategic Investments

Home Sleep Studies

Goals: Provide Care in the Right Place & the Right Time
Improve patient convenience
Reduce Costs

- Made possible with a simple device the patient takes home and wears to bed. The device records heart rhythms, breathing, sleep patterns and movements.
- Patient returns device next day
- The recorded data is evaluated by a physician board-certified in sleep disorders.

Program initiated: Fall 2015



FY16 Strategic Investments

Supportive Care Services Expansion

Goals: Provide Care in the Right Place with the Right People
Improve patient experience and quality of care

- Provide comprehensive palliative care to Regional Cancer Care Center patients
- Expand supportive care services offered to inpatients to outpatient setting
 - After hours home visits
 - Advanced care planning
 - Palliative services

Program go live: FY17 (planning only in FY16)



2020 Master Facilities Plan

- **Regional Cancer Care Center**
- **Women's Health**
- **Patient Care Area Redesign**
- **Surgical Services & Clinical Decision Unit**
- **Emergency Department**



2020 Master Facilities Plan

Regional Cancer Care Center

- Program began July 2010 - significant growth in both physician visits and the total patient encounters for outpatient infusion services.
- Medical Oncology and Hematology office visits increased from 961 in fiscal year 2013 to 1,527 in fiscal year 2014 (59% increase).
- 2014 Cancer Registry data: Melanoma, Breast, Lung, Prostate and Colorectal.
- Future: Construct center to include radiation oncology, advanced imaging diagnostics & complementary services



2020 Master Facilities Plan Women's Health

- Relocate all women's health services to a single center
- Minor procedure rooms
- Complementary services (aesthetics, physical therapy)
- Education
- Relaxed, comfortable surroundings
- Women's imaging, including 3D Mammography



2020 Master Facilities Plan Patient Care Area Redesign

- More patient and family-centered design
 - Additional family space, with access to refreshments, phone charging stations and educational materials/programs
- Centralized Services
 - Reduce noise
 - Improve patient safety



2020 Master Facilities Plan

Surgical Services Renovation & Clinical Decision Unit

- Expanded size of surgical suites to accommodate latest laparoscopic and orthopedic procedures
- Improved surgery environment
 - Negative pressure room access and humidity/temperature control to reduce potential infection
- Dedicated Clinical Decision Unit
 - Improve care and reduce confusion for patients under observation care



2020 Master Facilities Plan

Emergency Department

- Expanded number of treatment spaces to accommodate increased volumes
- Increased security
 - Limited access and lockdown potential for improved safety
- Dedicated space for ensuring continuum of care
 - Area to assist patients with scheduling appointments for follow up visits & provide financial counseling



Atlantic General Hospital/Health System

Financing the Future



Year over Year Comparison

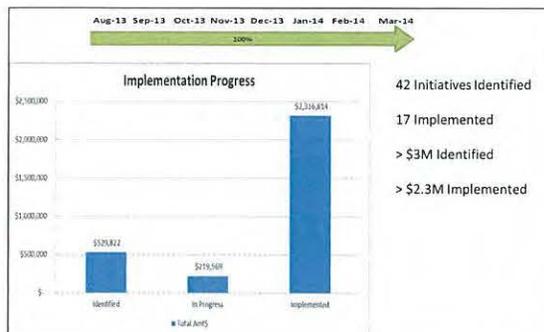
FY14		FY15	
We Billed:	\$128,115,076	We Billed:	\$144,928,084
We Received:	\$99,938,625	We Received:	\$106,117,345
Cost of Care:	\$101,574,098	Cost of Care:	\$108,255,887
Operating Margin:	(\$1,635,474)	Operating Margin:	\$749,216
Community Support:	\$2,611,619	Community Support:	\$1,696,436
Total Margin:	\$976,145	Total Margin:	\$2,445,652
(State Assessment: \$4,636,388)		(State Assessment: \$4,142,460)	

Admissions	3,337
Ave. Length of Stay (days)	3.7
Patient Days of Care	12,244
Emergency Visits	36,876
Laboratory Visits (outpatient)	31,563
Radiology Visits (outpatient)	27,256
Surgeries (inpatient/outpatient)	7,777
Physician Visits (AGHS)	82,999
Cardiology, Pulmonary, EKG, EEG visits (outpatient)	4,138

Admissions	3,348
Ave. Length of Stay (days)	3.8
Patient Days of Care	12,568
Emergency Visits	39,124
Laboratory Visits (outpatient)	30,876
Radiology Visits (outpatient)	26,727
Surgeries (inpatient/outpatient)	7,776
Physician Visits (AGHS)	96,674
Cardiology/Pulmonary EKG/EEG visits (outpatient)	4,022



Efficiency & Innovation



Premier Savings Opportunities

- 42 Initiatives Identified
- 17 Implemented
- > \$3M Identified
- > \$2.3M Implemented

Saved more than **\$2.3 million**, more than double the goal.

Shared
REWARDS
incentive program



Cost Reduction/Saving through Telemedicine Partnership

- The reduction in admissions resulted in a decrease of 11 admissions per month. An estimated cost of \$14,313 per admission results in a savings \$157,400 per month savings or 1.9 million over the 12 month period.
- The 42% reduction in re-admissions translates to a decrease of 4 re-admissions per / month at a savings of \$57,300 or \$687,000 over the 12 month period.
- The 9% reduction translates into a reduction of 30 transfers over the 12 month period.



Community Impact

AGH/HS

The Economy & Quality of Life

Maintains more than 850 positions for local residents.

Total payroll of \$46 million, which is spent in the Eastern Shore communities of Maryland, Virginia and Delaware.

Medical Staff of 227 includes:

Anesthesiologists/Pain Management Cardiologists Dermatologists Emergency Medicine Physicians Family Practitioners Gastroenterologists General Surgeons Gynecologists Hospitalists Intensivists Internists	Nephrologist Neurodevelopmental Disabilities Specialists Neurologists Nurse Practitioners Oncologists/Hematologists Ophthalmologists Orthopedic Surgeons Pediatricians Physician Assistants Psychiatrists Pulmonologists Radiologists Rheumatologist Urologist
---	---



ATLANTIC
GENERAL HOSPITAL

care.givers

Community Impact

FY 15 Community Benefits

\$11,887,196

Category	Percentage
Community Needs Services (Health Fairs, Free Flu Shot Clinics, Speakers Bureau, Free Health Screenings, etc.)	46%
Financial Assistance/Charity Care	25%
Medical Education	8%
Community Health Services	9%
Medicaid Assessments	3%
Other	5%
Community Benefit Operations	4%

Mission-driven health education and services provided to the community free of charge, or at reduced cost, from July 2014 through June 2015.

At a value of nearly \$12 million, our associates had 63,417 encounters with the community.



ATLANTIC
GENERAL HOSPITAL

care.givers

Atlantic General Hospital & Health System

Our Vision:

To be the leader in caring for people and advancing health for the residents of and visitors to our community.



care.coordination





MARYLAND DEPARTMENT OF THE ENVIRONMENT
 1800 Washington Boulevard • Baltimore MD 21230
 410-537-3000 • 1-800-633-6101 • www.mde.maryland.gov

Larry Hogan
 Governor
 Boyd Rutherford
 Lieutenant Governor

Ben Grumbles
 Secretary

9

January 28, 2016

Ms. Jessica M. Ramsay, CPA
 Enterprise Fund Controller
 Worcester County Treasurer's Office
 One West Market Street, Room 1105
 Snow Hill, MD 21863

FYI

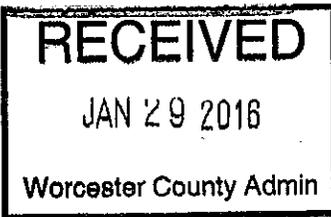
Re: Discharge Permit MD0023477
 Ocean Pines WWTP
 Bay Restoration Fund

Dear Ms. Ramsay:

Based on our review of your facility's Discharge Monitoring Reports for the calendar year 2015, and other submitted documents, your facility is exempt from paying into the Bay Restoration Fund (BRF) during the calendar year 2016. *

Exemptions under this category are valid for up to one year. Your exemption will expire on February 1, 2017, after which the BRF fee will resume for your facility unless an exemption renewal is requested prior to this date.

Should you have any questions, please contact me at (410) 537-3757 or walid.saffouri@maryland.gov.



Sincerely,

Walid Saffouri

Walid Saffouri, P.E., Program Administrator
 Engineering and Capital Projects Program
 Office of Budget and Infrastructure Financing

cc: Jag Khuman - MDE



TEL: 410-632-1194
FAX: 410-632-3131
E-MAIL: admin@co.worcester.md.us
WEB: www.co.worcester.md.us



10

COMMISSIONERS
MADISON J. BUNTING, JR., PRESIDENT
MERRILL W. LOCKFAW, JR., VICE PRESIDENT
ANTHONY W. BERTINO, JR.
JAMES C. CHURCH
THEODORE J. ELDER
JOSEPH M. MITRECIC
DIANA PURNELL

OFFICE OF THE
COUNTY COMMISSIONERS

HAROLD L. HIGGINS, CPA
CHIEF ADMINISTRATIVE OFFICER
MAUREEN F.L. HOWARTH
COUNTY ATTORNEY

Worcester County

GOVERNMENT CENTER
ONE WEST MARKET STREET • ROOM 1103

SNOW HILL, MARYLAND

21863-1195

To: Harold Higgins, Chief Administrative Officer
From: Maureen Howarth, County Attorney *MH*
Re: Letter of Support- SB 131- Recycling at Special Events
Date: February 1, 2016

At your request, I have reviewed SB 131. SB 131 was submitted by our local delegation to exempt Worcester County from the requirements of recycling at special events as detailed in section 9-1712 of the Environment Article. I have suggested one amendment to SB 131. Please have the Commissioners review the attached letter and if approved, the letter can be executed showing the County's support for SB 131 subject to one amendment.



11

HAROLD L. HIGGINS, CPA
CHIEF ADMINISTRATIVE OFFICER
MAUREEN F.L. HOWARTH
COUNTY ATTORNEY

COMMISSIONERS
MADISON J. BUNTING, JR., PRESIDENT
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OFFICE OF THE
COUNTY COMMISSIONERS

Worcester County

GOVERNMENT CENTER
ONE WEST MARKET STREET • ROOM 1103

SNOW HILL, MARYLAND

21863-1195

January 26, 2016

TO: Worcester County Commissioners
FROM: Kelly Shannahan, Assistant Chief Administrative Officer *KL*
SUBJECT: Current Board Appointments - Terms Beginning January 1, 2016

Attached, please find copies of the Board Summary sheets for all County Boards or Commissions (11) which have members whose terms have expired and either need to be reappointed or replaced (17 total). They are as follows: Commission on Aging Board (2), Agricultural Preservation Advisory Board (1), Drug & Alcohol Abuse Council (1), Housing Review Board (1), Local Management Board/Initiative to Preserve Families (1), Local Development Council for Ocean Downs Video Lottery Facility (3), Lower Shore Workforce Investment Board (2), Recreation Advisory Board (1), Water and Sewer Advisory Councils - Ocean Pines (1) and West Ocean City (2), and Commission for Women (2). I have circled the members whose terms have expired on each of these boards.

Most of these Boards and Commissions specify that current members' terms expired on December 31st. Current members will continue to serve beyond their term until they are either reappointed or a replacement is named. Please consider these reappointments or new appointments at your next meeting so I can notify the board members and staff contacts as soon as possible to restore full appointed membership on each of these boards.

Please also note that I was in touch with the Lower Shore Workforce Alliance (LSWA) last week and they advised that John Ostrander does not wish to be reappointed and that Craig Davis had also resigned back in March 2015 (although we never received notice). Therefore, there are now two Worcester County vacancies on the Lower Shore Workforce Investment Board and the LSWA has requested representatives be appointed from the following industries: Logistics (Sysco), Trades (small independent contractors), Hospitality (hotel, motel, restaurant), Health Care (AGH, Assisted Living, Coastal Hospice), or Manufacturing (wineries, breweries). If you are having difficulty identifying good candidates, we could reach out to the Chambers of Commerce like we did last year which resulted in the appointment of Geoffrey Failla who I understand has been an outstanding addition to their board. In fact, **Jason Cunha** from Pocomoke City had also expressed interest last year, so perhaps he would be a good candidate. ** ← see p. 15*

If you have any questions or concerns, please don't hesitate to contact me. Thank You!

Pending Board Appointments - By Commissioner

District 1 - Lockfaw p. 10 - Local Development Council for Ocean Downs Casino (Ron Taylor) - 4-year
p. 20 - Commission for Women (Laura McDermott - **resigned-replace** - for remainder of term through 2016) - 3-year

District 2 - Purnell All District Appointments received. Thank You!
Please consider nominations for At-Large positions listed below - "All Commissioners"

District 3 - Church p. 20 - Commission for Women (Michelle Bankert) - 3-year

District 4 - Elder p. 17 - Recreation Advisory Board (Burton Anderson) - 4-year

District 5 - Bertino All District Appointments received. Thank You!
Please consider nominations for At-Large positions listed below - "All Commissioners"

District 6 - Bunting All District Appointments received. Thank You!
Please consider nominations for At-Large positions listed below - "All Commissioners"

District 7 - Mitrecie p. 8 - Housing Review Board (Ruth Waters) - 3-year
p. 10 - Local Development Council for Ocean Downs Casino (Todd Ferrante) - 4-year

All Commissioners

- p. 5 - (1) Agricultural Preservation Advisory Board (Donnie Powell) - 4-year
p. 9 - (1) Local Management Board - Initiative to Preserve Families (Mark Frostrom) - 3-year
p. 10 - (1) Local Development Council for Ocean Downs Casino (Linda Dearing - At-Large - business or institution representative in immediate proximity to Ocean Downs) - 4-year
p. 11 - (2) Lower Shore Workforce Investment Board (Replace John Ostrander - full term through 2019 - and Craig Davis - remainder of term through 2017 - Business Representatives) - 4-year
p. 12 - LSWA requests appointment of representatives from the following industries: Logistics (Sysco), Trades (small independent contractors), Hospitality (hotel, motel, restaurant), Health Care (AGH, Assisted Living, Coastal Hospice), or Manufacturing (wineries, breweries).
P. 15 - Consider appointing **Jason Cunha** - Transamerica Agency Network in Pocomoke - who volunteered to serve last year; and/or request volunteers from Chambers of Commerce again
p. 18 - (1) Water and Sewer Advisory Council - Ocean Pines (Gail Blazer) - 4-year
p. 19 - (2) Water and Sewer Advisory Council - West Ocean City (Deborah Maphis and Gail Fowler) - 4-year

All Commissioners - (Awaiting Nominations)

- p. 3 - (2) Commission on Aging Board (Replace Gloria Blake - resigned - for remainder of terms through 2016)
- Commission on Aging is searching for two female members from Northern Worcester to replace Gloria Blake (remainder of term through 2016) and new member (for full 3-year term through 2018).
- **Any suggestions or recommendations?**
p. 6 - (1) Drug and Alcohol Abuse Council (Marty Pusey - Substance Abuse Prevention Provider)
- Awaiting nomination of Marty Pusey's replacement by Health Officer Debbie Goeller

COMMISSION ON AGING BOARD

Reference: By Laws of Worcester County Commission on Aging
- As amended March 2008

Appointed by: Self-Appointing/Confirmed by County Commissioners

Function: Supervisory/Policy Making

Number/Term: Not less than 12; 3 year terms, may be reappointed
Terms Expire September 30

Compensation: None

Meetings: Monthly except July, August, December

Special Provisions: At least 50% of members to be consumers or volunteers of services provided by Commission on Aging, with a representative of minorities and from each of the senior centers; one County Commissioner; and Representatives of Health Department, Social Services and Board of Education as Ex-Officio members

Staff Contact: Worcester County Commission on Aging, Inc. - Snow Hill
Rob Hart, Executive Director (410-632-1277)

Current Members:

<u>Member's Name</u>	<u>Resides/Represents</u>	<u>Years of Term(s)</u>
Gloria Blake	Bishopville	*05-07-10-13, 13-16
Fred Grant	Snow Hill	*15-16
Cynthia Malament	Berlin	07-10-13, 13-16
George "Tad" Pruitt	Snow Hill	05-08-11-14, 14-17
Lloyd Parks	Girdletree	08-11-14, 14-17
Larry Walton	Ocean Pines	*13-14, 14-17
Bonnie C. Caudell	Snow Hill	*09-11-14, 14-17
Clifford Gannett	Pocomoke	*12-14, 14-17
Tommy Tucker	Snow Hill	09-12-15, 15-18
Tommy Mason	Pocomoke	15-18
Rebecca Cathell	Agency - Maryland Job Service	
Dr. Jerry Wilson	Agency - Worcester County Board of Education	
Peter Buesgens	Agency - Worcester County Department of Social Services	
Deborah Goeller	Agency - Worcester County Health Department	
Madison J. Bunting, Jr.	Worcester County Commissioners' Representative	

← Resigned/
Replace
- propose two
Women from
north county

* = Appointed to fill an unexpired term

Prior Members:

Since 1972

Virginia Harmon
 Maude Love
 Dr. Donald Harting
 John C. Quillen
 Violet Chesser
 William Briddell
 Harrison Matthews
 John McDowell
 Mildred Brittingham
 Maurice Peacock
 Father S. Connell
 Rev. Dr. T. McKelvey
 Samuel Henry
 Rev. Richard Hughs
 Dorothy Hall
 Charlotte Pilchard
 Edgar Davis
 Margaret Quillen
 Lenore Robbins
 Mary L. Krabill
 Leon Robbins
 Claire Waters
 Thelma Linz
 Oliver Williams
 Michael Delano
 Father Gardiner
 Iva Baker
 Minnie Blank
 Thomas Groton III
 Jere Hilbourne
 Sandy Facinoli
 Leon McClafin
 Mabel Scott
 Wilford Showell
 Rev. T. Wall
 Jeaninne Aydelotte
 Richard Kasabian
 Dr. Fred Bruner
 Edward Phillips
 Dorothy Elliott
 John Sauer
 Margaret Kerbin
 Carolyn Dorman
 Marion Marshall
 Dr. Francis Ruffo
 Dr. Douglas Moore
 Hibernia Carey
 Charlotte Gladding
 Josephine Anderson
 Rev. R. Howe
 Rev. John Zellman
 Jesse Fassett
 Delores Waters
 Dr. Terrance A. Greenwood
 Baine Yates
 Wallace T. Garrett
 William Kuhn (86-93)
 Mary Ellen Elwell (90-93)
 Faye Thornes

Mary Leister (89-95)
 William Talton (89-95)
 Sunder Henry (89-95)
 Josephine Anderson
 Saunders Marshall (90-96)
 Louise Jackson (93-96)
 Carolyn Dorman (93-98)
 Constance Sturgis (95-98)
 Connie Morris (95-99)
 Jerry Wells (93-99)
 Robert Robertson (93-99)
 Margaret Davis (93-99)
 Dr. Robert Jackson (93-99)
 Patricia Dennis (95-00)
 Rev. C. Richard Edmund (96-00)
 Viola Rodgers (99-00)
 Baine Yates (97-00)
 James Shreeve (99-00)
 Tad Pruitt (95-01)
 Rev. Walter Reuschling (01-02)
 Armond Merrill, Sr. (96-03)
 Gene Theroux
 Blake Fohl (98-05)
 Constance Harmon (98-05)
 Catherine Whaley (98-05)
 Wayne Moulder (01-05)
 Barbara Henderson (99-05)
 Gus Payne (99-05)
 James Moeller (01-05)
 Rev Stephen Laffey (03-05)
 Anne Taylor (01-07)
 Jane Carmean (01-07)
 Alex Bell (05-07)
 Inez Somers (03-08)
 Joanne Williams (05-08)
 Ann Horth (05-08)
 Helen Richards (05-08)
 Peter Karras (00-09)
 Vivian Pruitt (06-09)
 Doris Hart (08-11)
 Helen Heneghan (08-10)
 Jack Uram (07-10)
 Robert Hawkins (05-11)
 Dr. Jon Andes
 Lloyd Pullen (11-13)
 John T. Payne (08-15)
 Sylvia Sturgis (07-15)

* = Appointed to fill an unexpired term

AGRICULTURAL PRESERVATION ADVISORY BOARD

Reference: PGL Agriculture 2-504.1, Annotated Code of Maryland

Appointed by: County Commissioners

Functions: Advisory
Advise the County Commissioners and State Agricultural Preservation Foundation on establishment of agricultural districts and priorities for purchase of easements; promote preservation of agriculture in the County.

Number/Term: 7/4 years***
Terms expire December 31st

Compensation: \$50 per meeting (policy)

Meetings: As Needed

Special Provisions: 4 members to be owner-operators of commercial farms
Membership limited to two consecutive full terms

Staff Contact: Katherine Munson, Dept. of Environmental Programs (410-632-1220)

Current Members: (O-O = Commercial Farm Owner-Operator)

<u>Member's Name</u>	<u>Nominated By</u>	<u>Resides</u>	<u>Terms (Year)</u>
Donnie Powell	Shockley	D-4, Snow Hill	** 06-07-11, 11-15
Kelley Gravenor	Elder	D-4, Snow Hill	*14-16
Kathy Drew	Bunting	D-6, Bishopville	** 06-09-13, 13-17
Glen Holland (O-O)	Lockfaw	D-1, Pocomoke	13-17
Ed Phillips (O-O)	Elder	D-4, Whaleyville	05-10-14, 14-18
Alan Hudson (O-O)	Elder	D-4, Berlin	14-18
Bill Bruning (O-O)	Elder	D-2, Snow Hill	11-15, 15-19

Prior Members:

Norman Ellis	Ed Anderson (98-03)
Richard Bradford	Robert Gray (00-05)
Charles Fulton	Orlando Bishop (01-06)
Elmer Hastings	Roger Richardson (96-07)
David Stevens	Anne Hastings (06-11)
Curtis Shockley	Earl Ludey (07-13)
Gerald Redden	George Lee Clayville (00-14)
William Sirman, Jr.	Sandra Frazier (03-14)
Harold Purnell	
Chauncy Henry (96-97)	
Lieselotte Pennewell (93-98)	
Carlton Magee (90-00)	
Harry Mitchell (90-00)	
Frank Baker (98-01)	

* = Appointed to fill an unexpired term

** = Appointed to partial term to create proper staggering of terms

***=Membership expanded from 5 to 7 members and terms reduced from 5 to 4-years each in 2006

DRUG AND ALCOHOL ABUSE COUNCIL

Reference: PGL Health-General, Section 8-1001

Appointed by: County Commissioners

Functions: Advisory
Develop and implement a plan for meeting the needs of the general public and the criminal justice system for alcohol and drug abuse evaluation, prevention and treatment services.

Number/Term: At least 18 - At least 7 At-Large, and 11 ex-officio (also several non-voting members)
At-Large members serve 4-year terms; Terms expire December 31

Compensation: None

Meetings: As Necessary

Special Provisions: Former Alcohol and Other Drugs Task Force was converted to Drug and Alcohol Abuse Council on October 5, 2004.

Staff Contact: David Baker, Council Secretary, Health Department (410-632-1100, ext. 1106)
Doug Dods, Council Chair, Sheriff's Office (410-632-1111)

Current Members:

<u>Name</u>	<u>Representing</u> <u>At-Large Members</u>	<u>Years of Term(s)</u>
Marty Pusey	Substance Abuse Prevention Provider	04-11, 11-15
Kim Moses	Knowledgeable on Substance Abuse Issues	08-12, 12-16
Karen Johnson	Knowledgeable on Substance Abuse Issues	*14-16
Colleen Wareing	Knowledge of Substance Abuse Treatment	*06-09-13, 13-17
Rev. Bill Sterling	Knowledge of Substance Abuse Issues	13-17
Eric Gray (Christina Purcell)	Substance Abuse Treatment Provider	*15-18
Sue Abell-Rodden	Recipient of Addictions Treatment Services	10-14, 14-18
Colonel Doug Dods	Knowledgeable on Substance Abuse Issues	04-10 (advisory), 10-14, 14-18
Jim Freeman, Jr.	Knowledgeable on Substance Abuse Issues	04-11-15, 15-19
Jennifer LaMade	Knowledgeable on Substance Abuse Issues	*12-15, 15-19

*Retired - replace
Debbie Goeller &
propose*

Ex-Officio Members

Debbie Goeller	Health Officer	Ex-Officio, Indefinite
Peter Buesgens (Roberta Baldwin)	Social Services Director	Ex-Officio, Indefinite
Spencer Lee Tracy, Jr.	Juvenile Services, Regional Director	Ex-Officio, Indefinite
Trudy Brown	Parole & Probation, Regional Director	Ex-Officio, Indefinite
Beau Oglesby	State's Attorney	Ex-Officio, Indefinite
Burton Anderson	District Public Defender	Ex-Officio, Indefinite
Sheriff Reggie Mason (Doug Dods)	County Sheriff	Ex-Officio, Indefinite
Bob Rothermel (Aaron Dale)	Board of Education President	Ex-Officio, Indefinite
Diana Purnell	County Commissioners	Ex-Officio, Indefinite
Judge Thomas Groton (Jen Bauman)	Circuit Court Administrative Judge	Ex-Officio, Indefinite
Judge Gerald Purnell (Tracy Simpson)	District Court Administrative Judge	Ex-Officio, Indefinite
Garry Mumford	Warden, Worcester County Jail	Ex-Officio, Indefinite

* Appointed to a partial term for proper staggering

Advisory Members

Sharon Smith	Stephen Decatur H.S. - SADD Advisor	Since 2004
Lt. Earl W. Starner	Maryland State Police	Since 2004
Jennifer Standish	Recreation & Parks Department	
Charles "Buddy" Jenkins	Business Community - Jolly Roger Amusements	
Chief Ross Buzzuro (Lt. Rick Moreck)	Ocean City Police Dept.	
Leslie Brown	Hudson Health Services, Inc.	
(Vacant)	Student Rep - Stephen Decatur HS - appointed by Principal	
(Vacant)	Student Rep - Snow Hill HS - appointed by Principal	
(Vacant)	Student Rep - Pocomoke HS - appointed by Principal	
(Vacant)	Student Rep - Worcester Preparatory - appointed by Principal	

Prior Members:

Vince Gisriel
Michael McDermott
Marion Butler, Jr.
Judge Richard Bloxom
Paula Erdie
Tom Cetola
Gary James (04-08)
Vickie Wrenn
Deborah Winder
Garry Mumford
Judge Theodore Eschenburg
Andrea Hamilton
Fannie Birckhead
Sharon DeMar Reilly
Lisa Gebhardt
Jenna Miller
Dick Stegmaier
Paul Ford
Megan Griffiths
Ed Barber
Eloise Henry-Gordy
Lt. Lee Brumley
Ptl. Noal Waters
Ptl. Vicki Fisher
Chief John Groncki
Chief Arnold Downing
Frank Pappas
Captain William Harden
Linda Busick (06-10)
Sheriff Chuck Martin
Joel Todd
Diane Anderson (07-10)
Joyce Baum (04-10)
James Yost (08-10)
Ira "Buck" Shockley (04-13)
Teresa Fields (08-13)
Frederick Grant (04-13)
Doris Moxley (04-14)
Commissioner Merrill Lockfaw
Kelly Green (08-14)
Sheila Warner - Juvenile Services

Since 2004

Chief Bernadette DiPino - OCPD
Chief Kirk Daugherty - SHPD
Mike Shamburek - Hudson Health
Shirleen Church - BOE
Tracy Tilghman (14-15)

HOUSING REVIEW BOARD

Reference: Public Local Law §BR 3-104

Appointed by: County Commissioners

Function: Regulatory/Advisory
 To decide on appeals of code official's actions regarding the Rental Housing Code. Decide on variances to the Rental Housing Code.
 Review Housing Assistance Programs.

Number/Term: 7/3 year terms
 Terms expire December 31st

Compensation: \$50 per meeting (policy)

Meetings: As Needed

Special Provisions: Immediate removal by Commissioners for failure to attend meetings.

Staff Support: Development Review & Permitting Department
 Jo Ellen Bynum, Housing Program Administrator - 410-632-1200, x 1171

Current Members:

<u>Member's Name</u>	<u>Nominated By</u>	<u>Resides</u>	<u>Years of Terms(s)</u>
Ruth Waters	D-7, Gulyas	Berlin	12-15
C. D. Hall	D-1, Lockfaw	Pocomoke	10-13, 13-16
Debbie Hileman	D-6, Bunting	Ocean Pines	10-13, 13-16
John Glorioso	D-3, Church	Ocean Pines	*06-11-14, 14-17
Scott Tingle	D-4, Elder	Snow Hill	14-17
Donna Dillon	D-5, Bertino	Ocean Pines	08-11-14, 14-17
Sharon Teagle	D-2, Purnell	Ocean Pines	00-12-15, 15-18

Prior Members:

Phyllis Mitchell	Albert Bogdon (02-06)
William Lynch	Jamie Rice (03-07)
Art Rutter	Howard Martin (08)
William Buchanan	Marlene Ott (02-08)
Christina Alphonsi	Mark Frostrom, Jr. (01-10)
Elsie Purnell	Joseph McDonald (08-10)
William Freeman	Sherwood Brooks (03-12)
Jack Dill	Otho Mariner (95-13)
Elbert Davis	Becky Flater (13-14)
J. D. Quillin, III (90-96)	
Ted Ward (94-00)	
Larry Duffy (90-00)	
Patricia McMullen (00-02)	
William Merrill (90-01)	
Debbie Rogers (92-02)	
Wardie Jarvis, Jr. (96-03)	

* = Appointed to fill an unexpired term

WORCESTER COUNTY'S INITIATIVE TO PRESERVE FAMILIES BOARD

Previously - Local Management Board; and Children, Youth and Family Services Planning Board

Reference: Commissioners' Resolution No. 09-3, adopted on January 6, 2009

Appointed by: County Commissioners

Functions: Advisory/Policy Implementation/Assessment and Planning
 - Implementation of a local, interagency service delivery system for children, youth and families;
 - Goal of returning children to care and establishment of family preservation within Worcester County;
 - Authority to contract with and employ a service agency to administer the State Service Reform Initiative Program

Compensation: \$50 Per Meeting for Private Sector Members

Number/Term: 9 members/5 Public Sector, 4 Private Sector with 3-year terms
 51% of members must be public sector
 Terms expire December 31st

Meetings: Monthly

Staff Contact: Jessica Sexauer, Acting Director, Local Management Board - (410) 632-3648
 Jennifer LaMade - Local Management Board - (410) 632-3648
 Pete Buesgens, Chair - (410) 677-6807; Eloise Henry-Gordy, Vice-Chair

Current Members:

<u>Member's Name</u>	<u>Nominated By</u>	<u>Resides/Representing</u>	<u>Years of Term(s)</u>
Mark Frostrom	At-Large - Lockfaw	Pocomoke City	*99-09, 09-12, 12-15
Ira "Buck" Shockley	At-Large - D. Purnell	Snow Hill	03-09-12, 13-16
Eloise Henry Gordy	At-Large - J. Purnell	Snow Hill	*07-08-11-14, 14-17
Andrea Watkins	At-Large - Bertino	Ocean Pines	*13-14, 14-17
Jennifer LaMade	<i>Ex officio</i>	Core Service Agency	Indefinite
Deborah Goeller	<i>Ex officio</i>	Health Department	Indefinite
Sheila Warner	<i>Ex officio</i>	Juvenile Justice	Indefinite
Dr. Jerry Wilson	<i>Ex officio</i>	Board of Education	Indefinite
Peter Buesgens	<i>Ex officio</i>	Department of Social Services	Indefinite

Prior Members (since 1994):

Tim King (97)	Jeannette Tresler (02-05)	Judy Baumgartner (07-10)
Sandra Oliver (94-97)	Lou Taylor (02-05)	Claudia Nagle (09-10)
Velmar Collins (94-97)	Paula Erdie	Megan O'Donnell (10)
Catherine Barbierr (95-97)	Rev. Pearl Johnson (05-07)	Kiana Smith (10)
Ruth Geddie (95-98)	Peter Fox (05-07)	Christopher Bunting (10)
Rev. Arthur George (94-99)	Lou Etta McClaffin (04-07)	Simi Chawla (10)
Kathey Danna (94-99)	Bruce Spangler (04-07)	Jerry Redden
Sharon Teagle (97-99)	Sharon DeMar Reilly	Jennifer Standish
Jeanne Lynch (98-00)	Kathy Simon	Anne C. Turner
Jamie Albright (99-01)	Vickie Stoner Wrenn	Marty Pusey
Patricia Selig (97-01)	Robin Travers	Virgil L. Shockley
Rev. Lehman Tomlin (99-02)	Jordan Taylor (09)	Dr. Jon Andes (96-12)
Sharon Doss	Aaron Marshall (09)	Dr. Ethel M. Hines (07-13)
Rick Lambertson	Allen Bunting (09)	
Cyndy B. Howell	LaTrele Crawford (09)	
Sandra Lanier (94-04)	Sheriff Charles T. Martin	
Dr. James Roberts (98-04)	Joel Todd, State's Attorney	
Dawn Townsend (01-04)	Ed Montgomery (05-10)	
Pat Boykin (01-05)	Edward S. Lee (07-10)	
	Toni Keiser (07-10)	

* = Appointed to fill an unexpired term

**LOCAL DEVELOPMENT COUNCIL
FOR THE OCEAN DOWNS CASINO**

Reference: Subsection 9-1A-31(c) - State Government Article, Annotated Code of Maryland

Appointed by: County Commissioners

Function: Advisory
Review and comment on the multi-year plan for the expenditure of the local impact grant funds from video lottery facility proceeds for specified public services and improvements; Advise the County on the impact of the video lottery facility on the communities and the needs and priorities of the communities in the immediate proximity to the facility.

Number/Term: 15/4 year terms; Terms Expire December 31

Compensation: None

Meetings: At least semi-annually

Special Provisions: Membership to include State Delegation (or their designee); one representative of the Ocean Downs Video Lottery Facility, seven residents of communities in immediate proximity to Ocean Downs, and four business or institution representatives located in immediate proximity to Ocean Downs.

Staff Contacts: Kim Moses, Public Information Officer, 410-632-1194
John E. "Sonny" Bloxom/Maureen Howarth, County Attorney, 410-632-1194

Current Members:

<u>Member's Name</u>	<u>Nominated By</u>	<u>Represents/Resides</u>	<u>Years of Term(s)</u>
Ron Taylor °	Dist. 1 - Lockfaw	Resident - Pocomoke	*09-10, 10-14
Todd Ferrante °	Dist. 7 - Gulyas	Resident - Ocean City	*09-11, 11-15
Linda Dearing	At-Large	Business - Ocean Pines	11-15
Mayor Charlie Dorman	Dist. 4 - Shockley	Resident - Snow Hill	12-16
Rod Murray °	Dist. 6 - Bunting	Resident - Ocean Pines	*09-12, 12-16
Mayor Rick Meehan °	At-Large	Business - Ocean City	*09-12, 12-16
Mayor Gee Williams °	Dist. 3 - Church	Resident - Berlin	09-13, 13-17
Jim Rosenberg °	Dist. 5 - Boggs	Resident - Ocean Pines	09-13, 13-17
David Massey °	At-Large	Business - Ocean Pines	09-13, 13-17
Cam Bunting °	At-Large	Business - Berlin	*09-10-14, 14-18
James N. Mathias, Jr. °		Maryland Senator	09-10-14, 14-18
Mary Beth Carozza		Maryland Delegate	14-18
Charles Otto		Maryland Delegate	14-18
Roxane Rounds	Dist. 2 - Purnell	Resident - Berlin	*14-15, 15-19
Joe Cavilla	Ocean Downs Casino	Ocean Downs Casino	12-indefinite

Prior Members:

Since 2009

J. Lowell Stoltzfus ° (09-10)
 Mark Wittmyer ° (09-11)
 John Salm ° (09-12)
 Mike Pruitt ° (09-12)
 Norman H. Conway ° (09-14)
 Michael McDermott (10-14)
 Diana Purnell ° (09-14)

* = Appointed to fill an unexpired term/initial terms staggered
 ° = Charter Member

LOWER SHORE WORKFORCE INVESTMENT BOARD
(Previously Private Industry Council Board - PIC)

Reference: Workforce Investment Act of 1998, Section 117

Appointed by: County Commissioners

Functions: Advisory/Regulatory
Provide education and job training opportunities to eligible adults, youth and dislocated workers who are residents of Somerset, Wicomico and Worcester counties.

Number/Term: 24 - 5 Worcester County, 7 At-Large (by Tri-County Council), 12 Other
2, 3 or 4-year terms; Terms expire September 30

Compensation: None

Meetings: Quarterly (January, April, July, October) on the 2nd Wednesday

Special Provisions: Board must be at least 51% business membership.
Chair must be a businessperson

Staff Contact: Lower Shore Workforce Alliance
Milton Morris, Workforce Director (410-341-3835, ext 6)
One-Stop Job Market, 31901 Tri-County Way, Suite 215, Salisbury, MD 21804

Current Members (Worcester County - also members from Wicomico, Somerset and Tri-County Council):

<u>Name</u>	<u>Resides/Agency</u>	<u>Term</u>	<u>Representing</u>
John Ostrander	Ocean Pines	07-11, 11-15	Business Rep.
Walter Maizel	Bishopville	*12, 12-16	Private Business Rep.
Craig Davis	Berlin	13-17	Business Rep.
Donna Weaver	Berlin	*08-09-13, 13-17	Business Rep.
Geoffrey Failla	Whaleyville	*15-18	Business Rep.

Resigned/
Replace

Prior Members: Since

- | | |
|---------------------------|-------------------------|
| Baine Yates | Heidi Kelley (07-08) |
| Charles Nicholson (98-00) | Bruce Morrison (05-08) |
| Gene Theroux (97-00) | Margaret Dennis (08-12) |
| Jackie Gordon (98-00) | Ted Doukas (03-13) |
| Caren French (97-01) | Diana Nolte (06-14) |
| Jack Smith (97-01) | |
| Linda Busick (98-02) | |
| Edward Lee (97-03) | |
| Joe Mangini (97-03) | |
| Linda Wright (99-04) | |
| Kaye Holloway (95-04) | |
| Joanne Lusby (00-05) | |
| William Greenwood (97-06) | |
| Gabriel Purnell (04-07) | |
| Walter Kissel (03-07) | |

* See attached →

Request Rep. from

- Health Care
- Hospitality
- Manufacturing
- Trades
- Logistics/Systems

Kelly Shannahan

From: Dione Shaw <dshaw@tcclesmd.org>
Sent: Wednesday, January 20, 2016 3:55 PM
To: Kelly Shannahan
Cc: Maria Waller; Walter Maizel
Subject: Lower Shore Workforce Alliance - Workforce Development Board Members
Attachments: WDB Resignations.pdf

Hello Kelly,

It was great talking with you today. Copies of the resignation letters for Craig Davis and John Ostrander are attached.

We currently have two Worcester County vacancies and are seeking individuals from these industries:

Logistics - Sysco
Trades – Small Independent Contractors
Hospitality – Hotel/Motels and Restaurant
Healthcare – AGH, Assistant Living, Coastal Hospice
Manufacturing -- Wineries/Breweries, Dunkin Donuts

X

We look forward to hearing from you in the near future.

Thank you for all you do to help us keep our Workforce Development Board in compliance.

Di

DIONE SHAW
OPERATIONS COORDINATOR
LOWER SHORE WORKFORCE ALLIANCE
31901 TRI-COUNTY WAY
SALISBURY, MARYLAND 21804
PHONE: 410-341-3835
FAX: 410-341-3735
EMAIL: DSHAW@LSWA.ORG
WEB: WWW.LOWERSHORE.ORG

 Please consider the environment before printing this email
LEGAL DISCLAIMER: [ELECTRONICCOMMUNICATIONS](#)

This email has been scanned by the Symantec Email Security.cloud service.
For more information please visit <http://www.symanteccloud.com>

**Received
10/8/15**

John Ostrander
11009 Manklin Meadows Ln
Ocean Pines, MD21811

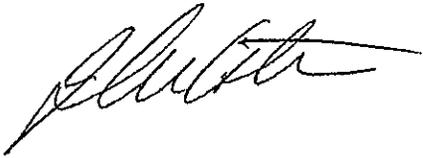
9/9/15

Mr Milton Morris
Workforce Investment Board
One-stop Job Market
31901 Tri-County Way
Salisbury, MD 21804

Dear Milton,

As my term ends, I find that I must resign my position on the Board.

Sincerely,



John Ostrander

Received
3/4/15

TAYLOR'S NEIGHBORHOOD RESTAURANT

11021 Nicholas Lane, Suite 1, Ocean Pines, MD 21811

(410) 208-4260

March 4, 2015

To: Mr. Jim Bunting

Cc: Milton Morris

I am writing this letter to inform you that I must resign from my position on the Lower Shore Workforce Investment Board. Thank you for your understanding with this matter.

Sincerely,

Craig Davis

Craig Davis

Owner

Taylor's Neighborhood Restaurant

443-235-4601 cell

Jason Cunha
Transamerica Agency Network
1532 Ocean Highway Suite 104
Pocomoke, MD 21851
jason.cunha@transamericanetwork.com
(410) 726-9229

Objective:

To utilize the management skills I have developed in the insurance business as well as the newspaper industry. I truly enjoy helping people develop the skills needed to be successful in the business world. Both careers I have been involved in, I have been the primary hiring manager. During this time, I have seen first hand what skills and abilities need development in our local communities. In both positions I have also had the pleasure of working with other business owners and managers. I believe my management experience coupled with my desire to make a difference, would make me an ideal candidate for this board.

Experience:

Transamerica Agency Network, Pocomoke, MD

Managing Director, 2009-present

I manage a staff of 23 full time insurance agents as well as 40 independent agents. My primary function in this position encompasses everything from initial interviewing all the way through the hiring and appointment process. After the completion of state licensing, my team and I train and manage these agents in the art of educational sales. Our office in Pocomoke, has 6.4 Million of annualized premium in force. The office's service area starts in Cape Charles, Va through Salisbury, MD and includes the entire Worcester County area. The office in 2014, ranked 4th in year over year growth out of 137 other Transamerica offices nationwide. This feat was accomplished through the development of our sales force that we make a priority in our office. I am responsible annually for submitting a detailed business plan that includes our vision, mission, core values and business projections/ objectives.

The Daily Times, Salisbury, MD

Director of Circulation/Operations, 1995-2008

I served on the senior operating committee and was involved in all major decisions for our newspaper group. One of my primary functions in this position was to lead and develop key personnel. As the department head, I managed the day to day operation from budgeting and meeting an expense budget of \$1.5 million per year. In addition, I also budgeted and met a revenue budget of \$2.5 million per year. I managed a staff of 28 full-time employees as well as 125 independent contractors. I was responsible for the management of all payroll and accounts payable functions. I also developed an annual operation plan yearly that detailed priorities, new strategies

and outlined obstacles that needed to be corrected. My responsibilities included marketing the newspaper. I successfully developed sales techniques to market our products to increase readership. As the director, I managed the operation and maintained customer satisfaction to over 200,000 customers. I developed cost saving measures that improved our products and ultimately improved the bottom line. I reviewed and adjusted contracts with independent contractors and outside vendors annually.

Monumental Life Insurance, Pocomoke, MD

Insurance Agent, 1992-1995

Primarily provided sales and service to customers in the Delmarva area. I completed personal needs evaluations to assist customers with the financial protection.

Education:

University Of Maryland Eastern Shore 1990-1992

Graduate of Pocomoke High School 1990

Specialized Training:

Management Development courses in both the Insurance and Newspaper industry

RECREATION ADVISORY BOARD

Reference: County Commissioners' Action 6/13/72 and Resolution of 12/27/83 and Resolution 97-51 of 12/23/97 and Resolution 03-6 of 2/18/03

Appointed by: County Commissioners

Function: Advisory
Provide the County with advice and suggestions concerning the recreation needs of the County and recommendations regarding current programs and activities offered.
Review and comment on proposed annual Recreation Department budget.

Number/Term: 7/4-year term
Terms expire December 31st

Compensation: \$50 per meeting expense allowance, subject to funding

Meetings: At least quarterly, more frequently as necessary

Special Provisions: One member nominated by each County Commissioner

Staff Support: Recreation Department - Mr. Paige Hurley (410) 632-2144, ext. 105

Current Members:

<u>Member's Name</u>	<u>Nominated By</u>	<u>Resides</u>	<u>Years of Term(s)</u>
Burton Anderson	D-4, Shockley	Newark	*05-07-11, 11-15
Mike Hooks	D-1, Lockfaw	Pocomoke	12-16
Missy Denault	D-5, Bertino	Berlin	*15-16
William Regan	D-3, Church	West Ocean City	*02-05-09-13, 13-17
Chris Klebe	D-6, Bunting	Bishopville	*11-13, 13-17
Alvin Handy	D-2, Purnell	Ocean City	06-10-14, 14-18
John Gehrig	D-7, Mitrecic	Ocean City	14-18

Prior Members: Since 1972

Howard Taylor	Cyrus Teter	Gregory Purnell (83-96)	Sonya Bounds (12-15)
Arthur Shockley	Warren Mitchell	Vernon Redden, Jr. (83-98)	
Rev. Ray Holsey	Edith Barnes	Richard Ramsay (93-98)	
William Tingle	Glen Phillips	Mike Daisy (98-99)	
Mace Foxwell	Gerald Long	Cam Bunting (95-00)	
Nelson Townsend	Lou Ann Garton	Charlie Jones (98-03)	
J.D. Townsend	Milton Warren	Rick Morris (03-05)	
Robert Miller	Ann Hale	Gregory Purnell (97-06)	
Jon Stripling	Claude Hall, Jr.	George "Eddie" Young (99-08)	
Hinson Finney	Vernon Davis	Barbara Kissel (00-09)	
John D. Smack, Sr.	Rick Morris	Alfred Harrison (92-10)	
Richard Street	Joe Lieb	Janet Rosensteel (09-10)	
Ben Nelson	Donald Shockley	Tim Cadotte (02-12)	
Shirley Truitt	Fulton Holland (93-95)	Craig Glovier (08-12)	
		Joe Mitrecic (10-14)	

* = Appointed to fill an unexpired term

**WATER AND SEWER ADVISORY COUNCIL
OCEAN PINES SERVICE AREA**

Reference: County Commissioners' Resolution of November 19, 1993

Appointed by: County Commissioners

Function: Advisory
Advise Commissioners on water and sewer needs of the Service Area; review amendments to Water and Sewer Plan; make recommendations on policies and procedures; review and recommend charges and fees; review annual budget for the service area.

Number/Term: 5/4-year terms
Terms Expire December 31

Compensation: Expense allowance for meeting attendance as authorized in the budget.

Meetings: Monthly

Special Provisions: Must be residents of Ocean Pines Service Area

Staff Support: Department of Public Works - Water and Wastewater Division
John Ross - (410-641-5251)

Current Members:

<u>Name</u>	<u>Resides</u>	<u>Years of Term(s)</u>
Gail Blazer	Ocean Pines	07-11, 11-15
Frederick Stiehl	Ocean Pines	*06-08-12, 12-16
Mike Hegarty	Ocean Pines	*08-09-13, 13-17
Michael Reilly	Ocean Pines	*14-17
James Spicknall	Ocean Pines	07-10-14, 14-18

Prior Members: (Since 1993)

Andrew Bosco (93-95)
Richard Brady (96-96, 03-04)
Michael Robbins (93-99)
Alfred Lotz (93-03)
Ernest Armstrong (93-04)
Jack Reed (93-06)
Fred Henderson (04-06)
E. A. "Bud" Rogner (96-07)
David Walter (06-07)
Darwin "Dart" Way, Jr. (99-08)
Aris Spengos (04-14)

* = Appointed to fill an unexpired term

**WATER AND SEWER ADVISORY COUNCIL
WEST OCEAN CITY SERVICE AREA**

Reference: County Commissioners' Resolution of November 19, 1993

Appointed by: County Commissioners

Function: Advisory
Advise Commissioners on water and sewer needs of the Service Area; review amendments to Water and Sewer Plan; make recommendations on policies and procedures; review and recommend charges and fees; review annual budget for the service area.

Number/Term: 5/4-year terms
Terms Expire December 31

Compensation: Expense allowance for meeting attendance as authorized in the budget

Meetings: Monthly

Special Provisions: Must be residents/ratepayers of West Ocean City Service Area

Staff Support: Department of Public Works - Water and Wastewater Division
John Ross - (410-641-5251)

Current Members:

<u>Member's Name</u>	<u>Resides/Ratepayer of</u>	<u>Terms (Years)</u>
Deborah Maphis	West Ocean City	95-11, 11-15
Gail Fowler	West Ocean City	99-11, 11-15
Andrew Delcorro	West Ocean City	*14-16
Todd Ferrante	West Ocean City	13-17
Keith Swanton	West Ocean City	13-17

Prior Members: (Since 1993)

- Eleanor Kelly^c (93-96)
- John Mick^c (93-95)
- Frank Gunion^c (93-96)
- Carolyn Cummins (95-99)
- Roger Horth (96-04)
- Whaley Brittingham^c (93-13)
- Ralph Giove^c (93-14)
- Chris Smack (04-14)

* = Appointed to fill an unexpired term
c = Charter member

COMMISSION FOR WOMEN

Reference: Public Local Law CG 6-101

Appointed by: County Commissioners

Function: Advisory

Number/Term: 11/3-year terms; Terms Expire December 31

Compensation: None

Meetings: At least monthly (3rd Tuesday at 5:30 PM - alternating between Berlin and Snow Hill)

Special Provisions: 7 district members, one from each Commissioner District
 4 At-large members, nominations from women's organizations & citizens
 4 Ex-Officio members, one each from the following departments: Social Services, Health & Mental Hygiene, Board of Education, Public Safety
 No member shall serve more than six consecutive years

Contact: Eloise Henry-Gordy, Chair
 Worcester County Commission for Women - P.O. Box 1712, Berlin, MD 21811

Current Members:

<u>Member's Name</u>	<u>Nominated By</u>	<u>Resides</u>	<u>Years of Term(s)</u>
Michelle Bankert	D-3, Church	West Ocean City	*14-15
Laura McDermott	D-1, Lockfaw	Pocomoke City	*11-13, 13-16
Hope Carmean	D-4, Elder	Snow Hill	*15-16
Dawn Cordrey Hodge	At-Large	Ocean City	13-16
Mary Beth Quillen	Dept of Social Services		13-16
Julie Phillips	Board of Education		13-16
Charlotte Cathell	D-5, Bertino	Ocean Pines	*09-11-14, 14-17
Alice Jean Ennis	At-Large	Pocomoke	14-17
Eloise Henry-Gordy	At-Large	Snow Hill	08-11-14, 14-17
Corporal Lisa Maurer	Public Safety - Sheriff's Office		*13-14, 14-17
Debbie Farlow	Health Department		*13-14, 14-17
Shirley Dale	D-2, Purnell	Ocean Pines	12-15, 15-18
Bess Cropper	D-6, Bunting	Berlin	15-18
Nancy Fortney	D-7, Mitrecic	Ocean City	12-15, 15-18
Carol Rose	At-Large	Berlin	*14-15, 15-18

*- Resigned/
Replace*

Prior Members: Since 1995

Ellen Pilchard ^c (95-97)	Carole P. Voss (98-00)	Gloria Bassich (98-03)
Helen Henson ^c (95-97)	Martha Bennett (97-00)	Carolyn Porter (01-04)
Barbara Beaubien ^c (95-97)	Patricia Ilczuk-Lavanceau (98-99)	Martha Pusey (97-03)
Sandy Wilkinson ^c (95-97)	Lil Wilkinson (00-01)	Teole Brittingham (97-04)
Helen Fisher ^c (95-98)	Diana Purnell ^c (95-01)	Catherine W. Stevens (02-04)
Bernard Bond ^c (95-98)	Colleen McGuire (99-01)	Hattie Beckwith (00-04)
Jo Campbell ^c (95-98)	Wendy Boggs McGill (00-02)	Mary Ann Bennett (98-04)
Karen Holck ^c (95-98)	Lynne Boyd (98-01)	Rita Vaeth (03-04)
Judy Boggs ^c (95-98)	Barbara Trader ^c (95-02)	Sharyn O'Hare (97-04)
Mary Elizabeth Fears ^c (95-98)	Heather Cook (01-02)	Patricia Layman (04-05)
Pamela McCabe ^c (95-98)	Vyolletus Ayres (98-03)	Mary M. Walker (03-05)
Teresa Hammerbacher ^c (95-98)	Terri Taylor (01-03)	Norma Polk Miles (03-05)
Bonnie Platter (98-00)	Christine Selzer (03)	Roseann Bridgman (03-06)
Marie Velong ^c (95-99)	Linda C. Busick (00-03)	Sharon Landis (03-06)

* = Appointed to fill an unexpired term
 c = Charter member

Prior Members: Since 1995 (continued)

Dr. Mary Dale Craig (02-06)
Dee Shorts (04-07)
Ellen Payne (01-07)
Mary Beth Quillen (05-08)
Marge SeBour (06-08)
Meg Gerety (04-07)
Linda Dearing (02-08)
Angela Hayes (08)
Susan Schwarten (04-08)
Marilyn James (06-08)
Merilee Horvat (06-09)
Jody Falter (06-09)
Kathy Muncy (08-09)
Germaine Smith Garner (03-09)
Nancy Howard (09-10)
Barbara Witherow (07-10)
Doris Moxley (04-10)
Evelyne Tyndall (07-10)
Sharone Grant (03-10)
Lorraine Fasciocco (07-10)
Kay Cardinale (08-10)
Rita Lawson (05-11)
Cindi McQuay (10-11)
Linda Skidmore (05-11)
Kutresa Lankford-Purnell (10-11)
Monna Van Ess (08-11)
Barbara Passwater (09-12)
Cassandra Rox (11-12)
Diane McGraw (08-12)
Dawn Jones (09-12)
Cheryl K. Jacobs (11)
Doris Moxley (10-13)
Kutresa Lankford-Purnell (10-12)
Terry Edwards (10-13)
Dr. Donna Main (10-13)
Beverly Thomas (10-13)
Caroline Bloxom (14)
Tracy Tilghman (11-14)
Joan Gentile (12-14)
Carolyn Dorman (13-16)
Arlene Page (12-15)

DRAFT

February 2, 2016

The Honorable James N. Mathias, Jr.
11941 Industrial Park Drive, Unit #8
Bishopville, Maryland 21813

The Honorable Mary Beth Carozza
Post Office Box 428
Ocean City, Maryland 21843

The Honorable Charles J. Otto
Post Office Box 38
Princess Anne, Maryland 21853

RE: Support for Senate Bill 131 and House Bill 126 with Clarifying Amendment
Worcester County - Recycling at Special Events - Exemptions

Dear Senator Mathias and Delegates Carozza and Otto:

On September 15, 2015, the Worcester County Commissioners requested that you introduce and support legislation whereby Worcester County will either be exempted from the provisions of Section 9-1712 of the Environment Article requiring special event organizers to provide for recycling at special events that occur on publicly-owned sites, streets or parks, which serve food or drink, and expect 200 or more people to attend; or as an alternative, that special events for non-profit organizations be exempt from these requirements. The Worcester County Commissioners have grave concern regarding the impact of this law on the many non-profit organizations which rely on special events in Worcester County to fund their annual programs. These non-profit organizations provide significant benefits to the residents and visitors of Worcester County, often reducing expenses which might otherwise be borne by local, State, and Federal Government for providing critical public services to those in need in our communities.

The Worcester County Commissioners thank you for drafting and introducing Senate Bill 131 and House Bill 126 exempting Worcester County from the requirements of Section 9-1712 of the Environment Article. As requested, we have reviewed the proposed bill. We support Senate Bill 131/House Bill 126, however, we would like to suggest one clarifying amendment. We suggest section 9-1703 (H) of the Environment Article reads as follows, "**Subsections**

The Honorable James N. Mathias, Jr., Mary Beth Carozza and Charles J. Otto
Page Two
February 2, 2016

(B)(14) and **(G)(3)** of this section do not apply to Worcester County.”

Thank you for your consideration of our request and we appreciate your efforts on our behalf. If you have any questions, please feel free to contact either me or County Attorney, Maureen Howarth, at this office.

Sincerely,

Madison J. Bunting, Jr.
President

SENATE BILL 131

M3

6lr1564

By: **Senator Mathias**

Introduced and read first time: January 15, 2016

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Worcester County – Recycling at Special Events – Exemptions**

3 FOR the purpose of exempting Worcester County from a requirement to revise its recycling
4 plan by a certain date to address recycling at special events; exempting Worcester
5 County from certain requirements regarding recycling at special events; and
6 generally relating to recycling at special events in Worcester County.

7 BY repealing and reenacting, without amendments,

8 Article – Environment

9 Section 9–1703(a) and (b)(14)

10 Annotated Code of Maryland

11 (2014 Replacement Volume and 2015 Supplement)

12 BY repealing and reenacting, with amendments,

13 Article – Environment

14 Section 9–1703(g) and 9–1712

15 Annotated Code of Maryland

16 (2014 Replacement Volume and 2015 Supplement)

17 BY adding to

18 Article – Environment

19 Section 9–1703(h)

20 Annotated Code of Maryland

21 (2014 Replacement Volume and 2015 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

23 That the Laws of Maryland read as follows:

24 **Article – Environment**

25 9–1703.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) Each county shall submit a recycling plan to the Secretary for approval when
 2 the county submits its county plan to the Secretary in accordance with the provisions of §
 3 9-505 of this title.

4 (b) In preparing the recycling plan as required in § 9-505 of this title, the county
 5 shall address:

6 (14) The collection and recycling of recyclable materials from special events;
 7 and

8 (g) **[A] EXCEPT AS PROVIDED IN SUBSECTION (H) OF THIS SECTION, A county**
 9 shall revise its recycling plan by:

10 (1) October 1, 2010, to address the requirements of subsection (b)(10) of
 11 this section;

12 (2) October 1, 2011, to address the requirements of subsection (b)(11) of
 13 this section; and

14 (3) October 1, 2015, to address the requirements of subsection (b)(14) of
 15 this section.

16 **(H) SUBSECTION (G)(3) OF THIS SECTION DOES NOT APPLY TO WORCESTER**
 17 **COUNTY.**

18 9-1712.

19 (a) (1) **[This] EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS**
 20 **SUBSECTION, THIS** section applies to any special event that:

21 (i) Includes temporary or periodic use of a public street, publicly
 22 owned site or facility, or public park;

23 (ii) Serves food or drink; and

24 (iii) Is expected to have 200 or more persons in attendance.

25 (2) This section does not affect the authority of a county, a municipality, or
 26 any other local government to enact and enforce recycling requirements, including
 27 establishing civil penalties, for a special event that are more stringent than the
 28 requirements of this section.

29 **(3) THIS SECTION DOES NOT APPLY IN WORCESTER COUNTY.**

1 (b) (1) In addition to any other conditions required as part of a special events
2 or other permit, the organizer of a special event shall:

3 (i) Provide a recycling receptacle immediately adjacent to each
4 trash receptacle at the special event;

5 (ii) Ensure that all recycling receptacles are clearly distinguished
6 from trash receptacles by color or signage; and

7 (iii) Ensure that all recyclable materials deposited into recycling
8 receptacles at the special event are collected for recycling.

9 (2) A county may require the organizer of a special event that provides for
10 recycling to report to the county on recycling activities in a manner determined by the
11 county.

12 (c) The recycling required under subsection (b) of this section shall be carried out
13 in accordance with the recycling plan required under § 9-1703 of this subtitle for the county
14 in which the special event takes place.

15 (d) A person that violates subsection (b) or (c) of this section is subject to a civil
16 penalty not exceeding \$50 for each day on which the violation exists.

17 (e) An enforcement unit, officer, or official of a county, a municipality, or any
18 other local government may conduct inspections of a special event location to enforce
19 subsection (b) of this section.

20 (f) Any penalties collected under subsection (d) of this section shall be paid to the
21 county, municipality, or other local government that brought the enforcement action.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 2016.

SB0131

2016 Regular Session

Entitled: Worcester County - Recycling at Special Events - Exemptions

Sponsored by: Senator Mathias

Status: In the Senate - Hearing 2/02 at 1:00 p.m.

Synopsis:	Exempting Worcester County from a requirement to revise its recycling plan by a specified date to address recycling at special events and exempting Worcester County from specified requirements regarding recycling at special events.
Analysis:	Fiscal and Policy Note
All Sponsors:	Senator Mathias
Additional Facts:	Cross-filed with: HB0126 Bill File Type: Regular Effective Date(s): October 1, 2016
Committee(s):	Education, Health, and Environmental Affairs
Broad Subject(s):	Environment
Narrow Subject(s):	Environmental Matters -see also- Conserv; Nat Resrce; Pollut Fairs Forests and Parks -see also- Program Open Space; Trees Inspections -see also- Motor Vehicle Inspection Labeling Penalties and Sentences -see also- Death Penalty Recycling Reports Worcester County
Statutes:	Article - Environment (9-1703, 9-1712)

January 27, 2016 4:57 P.M.

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 131 (Senator Mathias)
Education, Health, and Environmental Affairs

Worcester County - Recycling at Special Events - Exemptions

This bill exempts Worcester County from (1) the requirement to revise its recycling plan to address the collection and recycling of recyclable materials from special events by October 1, 2015, and (2) provisions that require recycling at specified special events.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State operations or finances.

Local Effect: Local expenditures in Worcester County decrease minimally, as the county no longer needs to revise its county recycling plan and local governments within the county no longer need to procure additional recycling bins for special events organized by the local governments or conduct any additional enforcement or inspection activities. Potential minimal decrease in local revenues in Worcester County from any penalties that otherwise would have been assessed and from the sale of any recyclable materials that otherwise would have been collected.

Small Business Effect: Potential meaningful impact in Worcester County.

Analysis

Bill Summary: The bill exempts Worcester County from provisions of law enacted by Chapter 338 of 2014. Chapter 338 required counties to revise their recycling plans by October 1, 2015, to address recycling at special events. The Act also requires the organizer of a special event to (1) provide a recycling receptacle immediately adjacent to each trash receptacle at the special event; (2) ensure that all recycling receptacles are clearly distinguished from trash receptacles by color or signage; and (3) ensure that all recyclable

materials deposited into recycling receptacles at the special event are collected for recycling. These requirements apply to any special event that includes temporary or periodic use of a public street, publicly owned site or facility, or public park; serves food or drink; and is expected to have 200 or more persons in attendance.

Chapter 338 also established a civil penalty for a violation of the statutory recycling requirements at special events of \$50 per day. This may be enforced by inspections conducted by an enforcement unit, officer, or official of a county, a municipality, or any other local government. Any civil penalty collected must be paid to the local jurisdiction that brought the enforcement action.

Current Law/Background: The Maryland Department of the Environment (MDE) promotes and encourages waste diversion across the State. Waste diversion combines both recycling and source reduction activities. The Maryland Recycling Act, as amended by Chapter 692 of 2012, requires all counties and Baltimore City to recycle percentages of their waste generated, depending on population.

Counties have flexibility to determine the best way to reach the required recycling rates. The county recycling plan, revised on a triennial basis, must address specified issues such as the feasibility of composting mixed solid waste, methods for the separate collection and composting of yard waste, and methods of financing county recycling efforts, among other issues. Chapters 264 and 265 of 2009 added to this list a strategy for collecting, processing, marketing, and disposing of recyclable materials from county public schools, and Chapter 430 of 2010 added to this list a strategy for the collection and recycling of fluorescent lights containing mercury. As noted above, Chapter 338 of 2014 required counties to revise their recycling plans to address the collection and recycling of recyclable materials from special events by October 1, 2015. The recycling required for special events must be carried out in accordance with the revised county recycling plans.

MDE advises that it reviewed and provided preliminary approval of a proposed revision of Worcester County's recycling plan to address special events recycling pursuant to Chapter 338. However, MDE reports that in September 2015, the county commissioners voted not to adopt the proposed plan amendment and, as a result, the county failed to comply with the requirement under Chapter 338 to amend its recycling plan by October 1, 2015.

MDE advises that all counties except two (Dorchester and Worcester) have amended their recycling plans to address special events recycling.

Small Business Effect: Small businesses engaged in organizing special events in Worcester County no longer incur costs to comply with recycling requirements under

Chapter 338. Any savings may be partially offset to the extent that businesses continue to pay tipping fees for the disposal of materials in landfills instead of recycling.

Additional Information

Prior Introductions: None.

Cross File: HB 126 (Delegates Carozza and Otto) - Environment and Transportation.

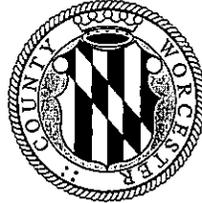
Information Source(s): Worcester County, Maryland Department of the Environment, Department of Natural Resources, Department of Legislative Services

Fiscal Note History: First Reader - January 27, 2016
min/lgc

Analysis by: Kathleen P. Kennedy

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OFFICE OF THE
COUNTY COMMISSIONERS

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Worcester County

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ONE WEST MARKET STREET • ROOM 1103

SNOW HILL, MARYLAND
21863-1195

September 15, 2015

The Honorable James N. Mathias, Jr.
11941 Industrial Park Drive, Unit #8
Bishopville, Maryland 21813

The Honorable Mary Beth Carozza
Post Office Box 428
Ocean City, Maryland 21843

The Honorable Charles J. Otto
Post Office Box 38
Princess Anne, Maryland 21853

RE: Request for Amendments to Special Event Recycling Law

Dear Senator Mathias and Delegates Carozza and Otto:

At our meeting on September 15, 2015, the Worcester County Commissioners held a public hearing to consider proposed amendments to the Worcester County Comprehensive Solid Waste Management Plan to add provisions for special event recycling in accordance with Section 9-1712 of the Environment Article of the Annotated Code of Maryland. We understand that this new law was adopted in April 2014 by Senate Bill 781 - Environment - Recycling - Special Events and became effective on October 1, 2014. In accordance with this new law, we understand that special event organizers are required to provide for recycling at special events that occur on publicly-owned sites, streets or parks, which serve food or drink, and expect 200 or more people to attend. Upon our discussion of this new law, the Worcester County Commissioners expressed grave concern regarding the impact of this new law on the many non-profit organizations which rely on special events in Worcester County to fund their annual programs. These non-profit organizations provide significant benefits to the residents and visitors of Worcester County, often reducing expenses which might otherwise be borne by local, State, and Federal Government for providing critical public services to those in need in our communities. The added expense to provide recycling receptacles, collection and disposal of recyclable materials at these special events will certainly reduce, and may eliminate the funds which can be raised at these events in support of the many non-profit organizations in our

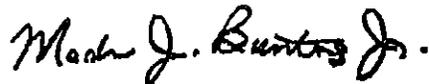
The Honorable James N. Mathias, Jr., Mary Beth Carozza and Charles J. Otto
Page Two
September 15, 2015

County. As a result, the Worcester County Commissioners respectfully request that you introduce and support legislation whereby Worcester County will either be exempted from the provisions of Section 9-1712 of the Environment Article, or as an alternative, that special events for non-profit organizations be exempt from these requirements.

We further understand that the Town of Ocean City has already requested to be exempt from this law as well due to their unique recycling program involving incineration. Please be advised that we fully support their exemption request.

Thank you for your consideration of our request. If we can be of any assistance in providing language for such State legislation, please feel free to contact County Attorney Sonny Bloxom, at this office.

Sincerely,



Madison J. Bunting, Jr.
President

MJBjr/KS:dd

cf: John H. Tustin, Director of Public Works
Ron Taylor, Recycling Manager - DPW
Mike Mitchell, Solid Waste Manager - DPW
David Mrgich, Chief Waste Diversion Division - MDE
Ben Grumbles, Secretary - MDE
John E. "Sonny" Bloxom, County Attorney
CC101/Local Delegation.Recycling Law

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Minutes of the County Commissioners of Worcester County, Maryland

January 19, 2016

Madison J. Bunting, Jr., President
Madison J. Bunting, Jr., President (Absent)
Merrill W. Lockfaw, Jr., Vice President
Anthony W. Bertino, Jr.
James C. Church
Theodore J. Elder
Joseph M. Mitrecic
Diana Purnell

Following a motion by Commissioner Bertino, seconded by Commissioner Church, with Commissioner Bunting absent, the Commissioners unanimously voted to meet in closed session at 9:00 a.m. in the Commissioners' Conference Room to discuss legal and personnel matters permitted under the provisions of Section 3-305(b)(1), (7) and (10) of the General Provisions Article of the Annotated Code of Maryland and to perform administrative functions. Also present at the closed session were Harold L. Higgins, Chief Administrative Officer; Kelly Shannahan, Assistant Chief Administrative Officer; Maureen Howarth, County Attorney; Kim Moses, Public Information Officer; Stacey Norton, Human Resources Director; Dale Smack, Chief Deputy; and Doug Dodds, Colonel within the Sheriff's Office. Topics discussed and actions taken included: hiring Wayne Taylor and Stephen Beauchamp as Plant Operator Trainees for the Water and Wastewater Division, and agreeing to advertise to fill one vacant Landfill Operator III position for the Solid Waste Division of Public Works; appointing Bill Paul to the Building Code Appeals Board; reappointing Nancy B. Fortney to the Commission for Women, and Bob Huntt to the Water and Sewer Advisory Council for the Mystic Harbour Service Area; discussing public security related to recent bomb threats at public schools; receiving legal advice from counsel; and performing administrative functions.

Commissioner Bunting was absent from the meeting.

After the closed session, the Commissioners reconvened in open session. Commissioner Lockfaw called the meeting to order and announced the topics discussed during the morning closed session.

The Commissioners reviewed and approved the minutes of their January 5, 2016 meeting as presented.

The Commissioners presented a commendation recognizing Pocomoke High School (PHS) Girls' Field Hockey team, the Warriors, for standing *PuseyStrong* and bringing home the 2015 Maryland Class 1A Field Hockey Championship title to Pocomoke City, earning the Warriors their 19th state championship title. They further commended Head Coach Brandi Castaneda who was named the 2015 Maryland State Coach of the Year. PHS Athletic Director

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David Byrd expressed his pride in their team and their inspirational story to turn tragedy into triumph. Coach Castaneda recognized each of the team members and advised those in attendance that the team dedicated their winning season to the memory of former Head Coach Susan Pusey who passed away in summer 2015 following complications from knee surgery.

Commissioner Lockfaw announced that a bomb threat had been called in to Stephen Decatur High School (SDHS) that morning by way of robotic phone messaging, along with similar threats made to Salisbury Middle School in Salisbury.

The Commissioners recessed for five minutes.

Environmental Programs Director Bob Mitchell and Katherine Munson, Planner IV within Environmental Programs, met with the Commissioners to explain the Maryland Agricultural Land Preservation Foundation (MALPF) program and other conservation programs, including Rural Legacy and the Conservation Reserve Enhancement Program (CREP), as requested by the Commissioners at their December 15, 2015 meeting, to help them better understand the intent of the various programs and how they impact the County. Mr. Mitchell stated that the County has had a long history of protecting and conserving the County's agricultural heritage and demonstrating a solid commitment to agricultural and natural resource protection and management through various land conservation programs. He stated that specific goals are outlined in the County's 2010 Comprehensive Plan as follows: permanently preserve agricultural land capable of supporting agricultural production; protect natural, forestry and historic resources and the rural character of the landscape associated with farmland; and to the greatest degree possible, concentrate preserved land in large contiguous blocks to effectively support long-term protection of resources and resource-based industries. He further stated that the latest Comprehensive Plan identifies a Priority Preservation Area (PPA) of 195,000 acres, with a long-term goal to protect 100,000 acres within this area for agriculture and forestry. He pointed out that agricultural land preservation and natural resource protection are also addressed in the 2012 Worcester County Land Preservation, Parks and Recreation Plan. He advised that Worcester County has a 3 to 1 ratio of protected to developed land, while the State minimum required ratio is 1-1. He concluded by recognizing the efforts of Ms. Munson and the Lower Shore Land Trust (LSLT) in administering local land preservation programs on behalf of the County.

Ms. Munson reviewed a PowerPoint that outlined land preservation options for Worcester County property owners, including donated easements, Conservation Reserve Enhancement Program (CREP); CREP Permanent Easement Program; Wildlife Habitat Incentive Program (WHIP); Wetland Reserve Program; Rural Legacy Area (RLA); MALPF; and National Coastal Wetlands Conservation Grant Program. Ms. Munson stated that the success of tourism, the County's largest industry, depends on a lack of traffic congestion and a scenic countryside, and protected lands also help the County maintain a low tax rate. She advised that Worcester County strives to protect 1,000 acres of land a year, 800 of which are in the PPA, and has the fourth highest agricultural market value of products sold in the State. She pointed out that 70% of all land within Worcester County is zoned for agricultural use. Ms. Munson reviewed a video entitled "Conserving Rural Heritage on Maryland's Lower Eastern Shore," with interviews from

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landowners stating that they choose to participate in land conservation programs to conserve their land for future generations of farmers.

LSLT Executive Director Kate Patton stated that the LSLT, which just celebrated its 25th anniversary, has worked with more than 100 farmers to preserve their farms, which allows these properties to remain in private hands while providing important conservation benefits for all residents and visitors, such as clean water. She stated that the LSLT is committed to working with Worcester County and other local partners to complete a recreational hiking and biking trail between Assateague Island and Berlin, which will be a true economic engine and protect scenic resources.

Commissioner Elder requested information outlining the number of acres of land that have been converted from farmland to conserved land through CREP. In response to questions by Commissioner Elder, Ms. Patton stated that CREP is designed to take marginal farmland out of production. In response to a question by Commissioner Bertino, Ms. Munson advised that the land protection requirements are reviewed and revised by the County Commissioners every six to 10 years when amending the Comprehensive Plan. Commissioner Elder stated that he would prefer County land to be protected through Maryland Department of Natural Resources (DNR) Program Open Space (POS), which provides taxpayers with physical access to protected lands. Mr. Mitchell advised that, while private protected lands offer many tangible benefits to all, some private owners open their properties to the public for birding and other conservation related events, but they are not generally available for public access. For example, he advised that the Golden Quarter Farm, located on Assateague Road and abutting Ayers Creek is open to the public during birding events. As a side note, Ms. Patton advised that the public benefits from scenic property views when on the water, and wetland enhancements help preserve the creek's water quality. In response to additional questions by Commissioner Elder, Mr. Mitchell advised that many of the protected properties are forested for timber rather than traditional agricultural production. Following much discussion, the Commissioners thanked staff for the update.

The Commissioners met in legislative session.

The Commissioners conducted a public hearing to obtain comments on Bill 15-13 (Public Safety - Public Safety Radio Coverage Code), which was introduced by Commissioners Bertino, Bunting, Church, Elder, Lockfaw, Mitrecic and Purnell on December 15, 2015. Emergency Services Director Fred Webster reviewed the draft bill, which would amend Subtitle II - Public Safety Emergency Radio Coverage of the Public Safety Article of the Code of Public Local Laws of Worcester County, Maryland to assure the Code reflects requirements for in-building radio coverage as required by both the International Building Code (IBC) and National Fire Protection Association (NFPA) Code and also ensures that new construction will not interfere with the County's new wireless communications network and will provide adequate public safety radio coverage. In response to a question by Commissioner Bertino, Mr. Webster advised that existing coverage shortcomings will be resolved with the actual build out of the radio system.

Commissioner Lockfaw opened the floor to receive public comment.

There being no public comment, Commissioner Lockfaw closed the public hearing.

Upon a motion by Commissioner Mitrecic, the Commissioners unanimously adopted Bill 15-13 as presented.

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The Commissioners conducted a public hearing to obtain comments on Bill 15-14 (Zoning - Nonprofit Environmental Organization Offices in E-1 Estate District), which was introduced by Commissioners Bertino, Bunting, Church, Elder, Lockfaw, Mitrecic and Purnell on December 15, 2015. Development Review and Permitting Director Ed Tudor reviewed the bill, which would allow nonprofit environmental conservation and land preservation organization offices by special exception in the E-1 Estate District. Mr. Tudor stated that staff formulated the draft language after discussions with Attorney Hugh Cropper on behalf of the Maryland Coastal Bays Program (MCBP), which has occupied the former clubhouse of the Pine Shore South Golf Course under a special exception for transient use that will expire in May 2016 and cannot be renewed. He advised that the Planning Commission gave the proposal a favorable recommendation, as members felt that it adequately protected neighboring properties in the E-1 Estate District. In response to a question by Commissioner Bertino, Mr. Tudor advised that the majority of E-1 zoning is principally located in and around South Point, St. Martin's Neck Road and Assateague Road.

Commissioner Lockfaw opened the floor to receive public comment.

Attorney Hugh Cropper thanked staff for their help developing the draft bill and asked the Commissioners to adopt the legislation as presented, noting that this is a fitting use for properties zoned E-1 throughout the County.

There being no further public comment, Commissioner Lockfaw closed the hearing.

Upon a motion by Commissioner Church, the Commissioners unanimously adopted Bill 15-14 as presented.

Commissioner Lockfaw closed the legislative session.

Pursuant to the recommendation of Mr. Webster and upon a motion by Commissioner Mitrecic, the Commissioners unanimously awarded the sole bid to Eastern Communications, Ltd. of Long Island City, New York at a total price of \$110,984 for furnishing and installing a microwave communications link between the Mystic Harbour Water Tower and Central Site Lane Communications Tower using an Alcatel Lucent 9500 MPre System. In response to a question by Commissioner Bertino, Mr. Webster advised that the Town of Ocean City is currently working with this vendor, and the County has worked with them previously on other projects.

Pursuant to the recommendation of Mr. Webster and upon a motion by Commissioner Mitrecic, the Commissioners unanimously awarded the best bid for the provision of the EXACOM Model Hindsight-G2 911 Digital Voice Recorder for use with the 911 telephone system and radio technology used by Emergency Services to EXACOM, Inc. of Concord, New Hampshire at a total installed cost of \$161,546. Mr. Webster explained that the low bid in the amount of \$112,824 from DSS Corporation of Southfield, MI does not have the certification and testing necessary to meet County requirements. Mr. Webster further explained that the proposed bill was determined to be the best bid due to their use of commercial off the shelf server hardware and redundant recording of telephone and radio traffic. The Commissioners concurred.

Pursuant to the recommendation of Mr. Webster and upon a motion by Commissioner Mitrecic, the Commissioners unanimously agreed to accept a Local Government Insurance Trust

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(LGIT) Grant in the amount of \$3,686 to cover all expenses associated with sending two Emergency Services staff members to the National Hurricane Conference from March 20-25, 2016 in Orlando, Florida.

In a related matter and upon a motion by Commissioner Elder, the Commissioners voted 5-0-1, with Commissioner Mitrecic abstaining from the vote, to have Commissioner Mitrecic represent the County Commissioners at the National Hurricane Conference and agreed to pay his related registration and travel expenses.

Mr. Webster advised that the bomb threat called in to Stephen Decatur High School earlier that morning has been resolved. No credible threat was found; and, therefore, students have returned to the school, and classes have resumed.

Pursuant to the request of Housing Program Administrator Jo Ellen Bynum and upon a motion by Commissioner Church, the Commissioners unanimously authorized Commission Vice President Lockfaw to sign a letter of intent agreeing to continue participating in the Maryland Housing Rehabilitation Program, which includes funding of \$46,852 for Worcester County in 2016. This program is offered through the State Special Loans Program and targeted to Maryland residents with acceptable credit whose income is below 80% of the State median income of \$65,680 for a family of four.

Pursuant to the request of Economic Development Director Merry Mears and upon a motion by Commissioner Mitrecic, the Commissioners voted 5-1, with Commissioner Bertino voting in opposition, to adopt Resolution No. 16-3 endorsing a grant agreement between the County and the Department of Commerce, and the County and the Maryland Stadium Authority (MSA) for the purpose of conducting a study to determine the feasibility of a Sports Arena in Worcester County, which would include an indoor and outdoor sports complex that may serve as home to a minor hockey league team and accommodate between 5,000 and 8,000 spectators.

Pursuant to the recommendation of Finance Officer Phil Thompson and Budget Officer Kathy Whited and upon a motion by Commissioner Mitrecic, the Commissioners unanimously accepted the best proposal for a Tax Differential Study for Worcester County, Maryland to be performed by Tischler Bise of Bethesda, Maryland at an hourly, not to exceed cost of \$29,960, including travel and expenses.

Enterprise Fund Controller Jessica Ramsay met with the Commissioners to request an amendment to Resolution No. 15-15, adopted June 16, 2015, to amend the Ocean Pines Sanitary Service Area (SSA) assessments to discontinue the South Ocean Pines Sub-Area User Rate for debt service. Ms. Ramsay advised that the South Ocean Pines sub-area equivalent dwelling unit (EDU) for debt service of \$30.00 per quarter was anticipated to end in FY17; however, upon further analysis it was determined that the Ocean Pines SSA has collected sufficient revenue through the December 31, 2015 quarterly billing to end the EDU charge. She stated that this was possible because the County refinanced the 2004 bond and set a conservative EDU rate with an added cushion in the quarterly rate amount. Commissioner Bertino thanked Ms. Ramsay for saving residents \$120 annually in EDU charges. Upon a motion by Commissioner Bertino, the

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Commissioners unanimously adopted Resolution No. 16-4 amending the Ocean Pines SSA assessments and charges for July 1, 2015 through June 30, 2016 as presented to remove the South Ocean Pines Sub-Area user rate for debt service effective December 31, 2015.

Pursuant to the request of Public Works Director John Tustin and upon a motion by Commissioner Purnell, the Commissioners unanimously accepted the proposal for Phase 4 of the Water Service Line Replacement Project in Ocean Pines to WM Water & Sewer, LLC of Ocean View, Delaware, which includes the replacement of 26 short, side-service lines at a cost of \$550 each for a total cost of \$14,300 and 23 long, side-service lines at a total cost of \$900 each at a total cost of \$20,700 for a combined total cost of \$35,000. In response to a question by Commissioner Bertino, Mr. Tustin confirmed that WM Water & Sewer completed Phases 1, 2 and 3, which included installing lines along Ocean Parkway, with little disruption to residents. He advised that residents could expect that same level of service with this portion of the project as well.

Pursuant to the request of Mr. Tustin and upon a motion by Commissioner Mitrecic, the Commissioners unanimously authorized Commission Vice President Lockfaw to sign an application for financial assistance in the amount of \$2,040,000 from the Maryland Department of the Environment (MDE) under the Maryland Water Quality Financing Administration to transition the Newark Wastewater Treatment Plant (WWTP) from surface discharge to spray irrigation. Mr. Tustin advised that the funds would cover permitting and construction of all facilities related to the spray site, piping to connect the site to the WWTP, improvements to the WWTP, and reimbursement of the cost for purchasing the property to be used as a spray site. He concluded that the County would be making a similar application concurrently with the United States Department of Agriculture (USDA) Rural Utility Service, as they have indicated that this project could be jointly funded between these two programs to minimize the impact on Newark customers.

Pursuant to the request of Mr. Tustin and upon a motion by Commissioner Mitrecic, the Commissioners unanimously awarded the low bid for groundwater sampling, analysis and reporting for three closed Landfills in Berlin, Snow Hill and Pocomoke to EA Engineering, Science and Technology, Inc. of Hunt Valley, Maryland at a total two-year cost of \$50,806.17 through December 31, 2017, with the possibility of five, two-year extensions thereafter based on continued fair pricing.

Mr. Tustin provided the Commissioners with a six-month update on the County's metal recycling relationship with Westover Scrap Metal, Inc. of Westover, Maryland for the collection, transportation and recycling of mixed metals collected in Worcester County. Mr. Tustin advised that, since awarding the bid to Westover Scrap Metal on June 2, 2015, the company has collected 306.81 tons of scrap metal; paid Worcester County \$30,144, an average of \$98.25 per ton; and hauled 52 loads from the Central Landfill in Newark and 21 loads from Homeowner Convenience Centers. He stated that the company's diligence in picking up these loads each time they are called is commendable, and he looks forward to continuing to do business with them.

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Pursuant to the request of Mr. Tustin and upon a motion by Commissioner Mitrecic, the Commissioners unanimously approved bid specifications for the following Public Works Roads Division road paving projects: provision and installation of bituminous concrete to resurface approximately 4.10 miles of County roadway; chip seal to resurface approximately 27.86 miles of County roadway; and slurry seal to resurface approximately 3.45 miles of County roadway within the Mystic Harbour subdivision and the parking area at the Snow Hill Roads Shop. Mr. Tustin stated that bidding the slurry seal work was preferable to piggybacking on the State bid, as costs for these materials have dropped since the State bid was awarded. He further advised that FY16 funding of \$1 million is available to complete these road paving projects. In response to a question by Commissioner Lockfaw, Mr. Tustin stated that Wicomico County recently began using slurry seal, which seals roadways for eight to 10 years, and reported satisfaction with the product. Commissioner Lockfaw commended Mr. Tustin for his efforts to obtain the best pricing and products available to repair and protect County roads into the future.

The Commissioners answered questions from the press, after which they adjourned to meet again on February 2, 2016.