

## **WORCESTER COUNTY PLANNING COMMISSION AGENDA**

Worcester County Government Center, Room 1102, One West Market Street, Snow Hill, Maryland 21863

**Thursday, September 5, 2019**

Est. Time

- |           |      |   |
|-----------|------|---|
| 1:00 P.M. | I.   | Call to Order   |
| 1:00 P.M. | II.  | Administrative Matters  |
|           | A.   | Review and approval of minutes – August 1, 2019   |
|           | B.   | Board of Zoning Appeals agenda – September 12, 2019   |
| 1:00 P.M. | III. | Presentation by The Nature Conservancy  |
|           | IV.  | §ZS 1-325 Site Plan Review  |
| 1:20 P.M. | A.   | Loading Space Waiver Request for Ocean Pines Golf Club – Proposed construction of a 9,479 square foot clubhouse with restaurant, outdoor seating, pro shop and meeting room, located at the southerly terminus of Clubhouse Drive, Tax Map 16, Parcel 56, Tax District 3, R-2 Suburban Residential District, Ocean Pines Association Inc., owner & applicant/ Davis, Bowen & Friedel, Inc., Engineer;   |
| 1:30 P.M. | B.   | Manklin Station Planned Commercial Development – Proposed construction of Buildings D and E, each consisting of 6,000 square feet of mixed retail/office space within the Manklin Greens PUD and PCD, located on the southerly side of Manklin Creek Road, east of Ocean Parkway, Tax Map 21, Parcel 306, Lot 2, Tax District 3, C-2 General Commercial District, The Holland Island, LLC, owner/ Vista Design, Inc, land planner;  |
|           | V.   | Preliminary Plat  |
| 1:40 P.M. | A.   | Sea Oaks Village Residential Planned Community Step III – Proposed 60 lot subdivision consisting of 59 townhouse lots and 1 commercial lot, on the West side of Stephen Decatur Highway (MD Route 611) North of Sinepuxent Road, Tax Map 26, Parcel 274, Lot 3A, Tax District 10, R-3 Multi-family Residential District and C-1 Neighborhood Commercial District (RPC Overlay Zone), Sea Oaks Village LLC, owner/R.D. Hand and Associates, Inc, land planner/ Frank Lynch, Jr., surveyor/ Ron Carpenter, engineer/ Hugh Cropper, IV, legal counsel; |

VI. Text Amendment

- 1:50 P.M.            A.     §ZS 1-318 – Campground Subdivision Occupancy - Sally Connolly & Susan Naplachowski, applicants/ Hugh Cropper, IV, Esquire, legal counsel;

VII. Map Amendment

- 2:20 P.M.            A.     Rezoning Case No. 422 – Ernest Gerardi, Jr., applicant/ Joseph Moore, attorney – Southerly Side of US Route 50 and Northerly Side of MD Route 346, West of Berlin – 18.65 Acres – A-1 Agricultural District to C-2 General Commercial District;

2:50 P.M.        VIII. Miscellaneous

2:55 P.M.        IX.     Adjourn

**\*\*All site plans and plats are available for review during normal business hours, 8 A.M. to 4:30 P.M. in the Department of Development, Review and Permitting, One West Market Street, Room 1201, Snow Hill, MD 21863.\*\***

## **Worcester County Planning Commission Meeting Minutes**

**Meeting Date:** August 1, 2019

**Time:** 1:00 P.M.

**Location:** Worcester County Government Office Building, Room 1102

### **Attendance:**

#### **Planning Commission**

Mike Diffendal, Chair

Jay Knerr, Vice Chair

Marlene Ott

Brooks Clayville

Betty Smith

#### **Staff**

Maureen Howarth, County Attorney

Ed Tudor, Director

Phyllis Wimbrow, Deputy Director

Jennifer Keener, Zoning Administrator

Jessica Edwards, Customer Service Representative

### **I. Call to Order**

### **II. Administrative Matters**

- A. Review and approval of minutes, July 3, 2019** — As the first item of business, the Planning Commission reviewed the minutes of the July 3, 2019 meeting. Following the discussion it was moved by Ms. Ott, seconded by Ms. Smith and carried unanimously to approve the minutes as submitted.

### **III. §ZS 1-325 Site Plan Review – Duffie Boatworks – Request to remove condition**

As the next item of business, the Planning Commission reviewed revised building elevations associated with a request to modify a condition of the site plan approval for Duffie Boatworks, Proposed construction of a 23,392 foot boat construction and maintenance facility and 4,600 square feet of self-storage units, Tax Map 27, Parcels 628, 464, & 251, Lots 11, 13 & 16, Tax District 10, C-2 General Commercial District, located on the westerly side of Stephen Decatur Highway (MD Route 611), south of Old Bridge Road (MD Route 707). Mark Cropper, Esquire, and Chris Ferger, Architect, Vista Design, Inc., were present for the review. Mr. Cropper stated that the buildings are pre-fabricated and delivered to the site as kits. To enhance the buildings from the original kit to include the stone façade and overhangs requires on-site modifications that invalidates the warranty. In addition, Mr. Cropper stated that the users of these buildings were going to be boat captains that would back their large vehicles and box trucks into the 12' space between buildings to load and unload heavy equipment, engines, and supplies, which would likely damage the façade and the overhangs. Mr. Ferger stated that they are requesting to keep the same color scheme as the main building, but not the materials. He described the main building design and provided an elevation for the Planning Commission to review, noting that the first of the buildings is over 100' from the front property line. Mr. Cropper also noted that the property would be surrounded with a fence that would have black slats on all but the easterly (front) side. That portion will be fenced and gated, but the site will be secured, so the gate shall remain closed at all times. Overall, this means that the only façade that will be visible will be the front façade on one of the five buildings. Mr. Knerr inquired about the height of the roll-up doors, which are proposed at 8'. He was concerned that reducing the design features would

cheapen the look of the buildings. Mr. Cropper and Mr. Feger reiterated their concerns about the likelihood of the building elements being damaged, and how that would look.

Following the discussion, a motion was made by Ms. Ott, seconded by Mr. Clayville, and carried unanimously to approve the revised building elevations as submitted.

#### **IV. Text Amendment - Boarding and Lodging Rentals**

As the next item of business, the Planning Commission reviewed a proposed text amendment that was prepared by staff on behalf of the Worcester County Commissioners. The proposed amendment will eliminate inconsistencies in the existing codes with respect to boarding and lodging rentals, revise definitions and establish new regulations for short term rentals of dwelling units as a proposed Section ZS 1-351. Three additional bills have been provided to the Planning Commission that address similar inconsistencies as well as the establishment of a rental license process, however those bills do not require a recommendation from the Planning Commission. Mr. Tudor was present for the review and discussion. He explained the background on the bills and how the changes to the definitions essentially cleans up the existing law. He referred the Planning Commission to the document provided that identifies the changes made in a section by section format, and asked if they had any questions. Ms. Smith asked for clarification on the lodger/boarder/roomer definitions. Mr. Clayville asked if we saw people purchasing property or existing homes to accommodate for short term rentals as their main use. Mr. Tudor and Ms. Ott agreed that there were. Ms. Ott said her clients were excited to post their new homes on AirBnB and other platforms.

Mr. Tudor reiterated that the rental license bill is the crux of the program. If you rent the dwelling, no matter the timeframe, you must obtain a license. He noted that the Planning Commission only had to provide a recommendation on the boarding and lodging bill, which includes short-term rentals. Mr. Tudor also stated that one of the County Commissioners requested that we modify the number of parking spaces provided for a short-term rental to include one additional space (for a total of three parking spaces per dwelling), and asked that staff consider changing the minimum requirement for single-family dwellings in general from two spaces to three spaces as a standard in the future. Mr. Diffendal noted that this would make a significant number of dwellings non-conforming with respect to parking, and Mr. Tudor agreed that it would be difficult, if not impossible in many cases to go back and add one additional parking space.

Following the discussion, a motion was made by Ms. Ott, seconded by Mr. Knerr, and carried unanimously to forward a favorable recommendation to the Worcester County Commissioners.

#### **V. Adjourn – The Planning Commission adjourned at 1:25 P.M.**

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Mike Diffendal, Secretary pro tem

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Jennifer K. Keener, AICP

**NOTICE OF PUBLIC HEARING  
WORCESTER COUNTY  
BOARD OF ZONING APPEALS**

**AGENDA**

*THURSDAY, SEPTEMBER 12, 2019*

Pursuant to the provisions of the Worcester County Zoning Ordinance, notice is hereby given that a public hearing will be held before the Board of Zoning Appeals for Worcester County, in the Board Room (Room 1102) on the first floor of the Worcester County Government Center, One West Market Street, Snow Hill, Maryland.

**6:30 p.m.**

**Case No. 19-30**, on the application of Richard Lynch, on the lands of Lavara Paal & Bob Moore, Trustees, requesting a special exception to expand an existing surface mine in the A-1 Agricultural District, pursuant to Zoning Code Sections ZS 1-116(c)(3), ZS 1-201(c)(16), and ZS 1-330, located on Cedartown Road, approximately 0.4 miles east of Taylor Road, Tax Map 57, Parcel 36, in the Fourth Tax District of Worcester County, Maryland.

**6:35 p.m.**

**Re-Advertisement of Case No. 19-25**, on the application of Mark Spencer Cropper, on the lands of Chet Rohrbach and Janet Yilmaz, requesting a variance to the Atlantic Coastal Bay Critical Area setback associated with the proposed construction of a single family dwelling in the R-2 Suburban Residential District pursuant to Zoning Code Sections ZS 1-116(m)(1), ZS 1-206(b)(2), ZS 1-305 and Natural Resources Sections NR 3-104(c)(4) and NR 3-111, located on the northerly side of Croppers Creek Lane, approximately 477 feet from Waterview Drive, Tax Map 26, Parcel 392, Lot 16B, in the Tenth Tax District of Worcester County, Maryland.

**6:40 p.m.**

**Case No. 19-33**, on the application of Mark Spencer Cropper, Esquire, on the lands of Andrew and Susan Baxter, requesting an after-the-fact variance to the Ordinance prescribed front yard setback from 50 feet to 40.7 feet (an encroachment of 9.3 feet), an after-the-fact variance to the Ordinance prescribed rear yard setback from 30 feet to 29.8 feet (an encroachment of 0.2 feet), and a variance to the Ordinance prescribed left and right side yard setbacks from 6 feet to 5.8 feet (an encroachment of 0.2 feet), all of which are associated with a single-family dwelling in the R-3 Multi-Family Residential District pursuant to Zoning Code Sections ZS 1-116(c)(4), ZS 1-207(b)(2) and ZS 1-305, located on the northerly side of Old Bridge Road, approximately 350 feet east of Marthas Landing Road, Tax Map 27, Parcel 493, Lot 5, in the Tenth Tax District of Worcester County, Maryland.

**6:45 p.m.**

**Case No. 19-24**, on the application of Hugh Cropper, IV, Esquire, on the lands of Stephen Cook, requesting a variance to the Atlantic Coastal Bay Critical Area setback associated with the proposed construction of a single family dwelling in the R-3 Multi-Family Residential District pursuant to Zoning Code Sections ZS 1-116(m)(1), ZS 1-207(b)(2) and ZS 1-305 and Natural Resources Sections NR 3-104(c)(4) and NR 3-111 located on the northerly side of Old Bridge Road, approximately 2,104 feet west of Golf Course Road, Tax Map 27, Parcel 234, Lot 16, in the Tenth Tax District of Worcester County, Maryland.

**6:50 p.m.**

**Case No. 19-34**, on the application of Hugh Cropper, IV, on the lands of Brooklyn's Estate, LLC, requesting a special exception to allow weddings and special events (transient use) in the A-2 Agricultural District, pursuant to Zoning Code Sections ZS 1-105(c)(5), ZS 1-116(c)(3), and ZS 1-337, located on the southerly side of Flower Street, approximately 1,244 feet east of Honeysuckle Road, Tax Map 25, Parcel 256, in the Third Tax District of Worcester County, Maryland.

**6:55 p.m.**

**Case No. 19-35**, on the application of Hugh Cropper, IV, on the lands of Brooklyn's Estate, LLC, requesting a special exception to allow weddings and special events (transient use) in the A-2 Agricultural District, pursuant to Zoning Code Sections ZS 1-105(c)(5), ZS 1-116(c)(3), and ZS 1-337, located on the southerly side of Flower Street, approximately 1,124 feet east of Honeysuckle Road, Tax Map 25, Parcel 255, in the Third Tax District of Worcester County, Maryland.

#### **ADMINISTRATIVE MATTERS**



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/drpd/index.htm](http://www.co.worcester.md.us/drpd/index.htm)

ZONING DIVISION  
BUILDING DIVISION  
DATA RESEARCH DIVISION

ADMINISTRATIVE DIVISION  
CUSTOMER SERVICE DIVISION  
TECHNICAL SERVICE DIVISION

### MEMO

**TO:** Worcester County Technical Review Committee  
**FROM:** Department of Development Review and Permitting  
**DATE:** August 21, 2019

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Please be reminded that the next regular Technical Review Committee meeting will be held on **Wednesday, September 11, 2019 at 1:00 P.M.** in the 1st Floor Board Room, of the Government Office Building, Room 1102. The attached agenda outlines those projects which are to be reviewed and commented upon at that meeting. **Please provide all clearly legible, prepared comments no later than 12:00 P.M. on Friday, September 6, 2019.** Please bring all sets of plans to the TRC meeting as well as any additional written comments beyond those which you have already provided. It is important to be on time and have thorough written comments, as time for oral comments will be limited.

#### CC:

Development, Review and Permitting  
Fire Marshal's Office  
Department of Emergency Services  
Department of Environmental Programs  
Department of Public Works  
County Roads Division, DPW  
Department of Economic Development  
Worcester County Planning Commission  
Maureen Howarth, County Attorney  
Maryland Department of Planning  
Terri Smith, Assessments and Taxation  
Bill Neville, Town of Ocean City  
Hal Adkins, Town of Ocean City  
Carol Sullivan, City of Pocomoke  
Kelly Pruitt, Town of Snow Hill  
David Engelhart, Town of Berlin  
Ocean Pines Association, Inc.  
Dan Wilson, SHA  
Ace Adkins, MDE  
Joe Kincaid, MDE  
Paul Ferreri, MDE  
Edward Watson, MDE  
David Dorr/Verizon-MD Inc  
Jim Smith/ Delmarva Power

Patrick Dubinski/ Delmarva Power  
Edwin Cade, Delmarva Power  
Thomas Brady, Delmarva Power  
John Willey, II/ Peninsula Propane  
Steve Ashcraft/Eastern Shore Gas  
Jerod Shelton/ Chesapeake Utilities  
Woody Francis/US ACOE  
Joe Price /Board of Education  
Ocean City Volunteer Fire Company  
Ocean Pines Volunteer Fire Dept, Inc.  
Pat Hynes/ Comcast Cablevision  
Greg Denston /Chesapeake Utilities  
John Shermer/Choptank Electric  
Joe Sise/Choptank Electric  
Greg Fentress/ Sharp Energy  
Assateague Coastkeeper  
Ayres, Jenkins, Gordy & Almand, PA  
Bayside Gazette  
Becker Morgan Group  
Betty Tustin, The Traffic Group  
Booth, Booth, Cropper & Marriner, PC  
Burbage Properties  
Coastal Compliance Solutions, LLC  
Coastal Realtors

Coates, Coates & Coates, PA  
Davis, Bowen & Friedel, Inc.  
Delmarva Veteran Builders  
Fox Theatres  
Gregory P. Wilkins Surveyor, Inc.  
Hampshire, Hampshire & Andrews, Inc.  
J.W. Salm Engineering, Inc.  
Lower Shore Land Trust  
Monogram Building and Design  
Ocean City Today  
R.D. Hand & Associates, Inc.  
Vista Design Inc.  
Whispering Woods HOA  
Worcester County Times  
Carol Ann Beres  
Charles Nichols  
Darl Kolar  
Duverese Scarlett  
Jim Keitt  
Mark Wagner  
Mitch Parker  
Rota Knott  
Tom Stauss  
Troy Purnell

Copies to applicants - It is required that the applicant(s) and/or their representative be in attendance at this meeting.

cc: Ocean Pines Association, Inc./ Davis, Bowen & Friedel, Inc/ Sun TRS Frontier, LLC/ Hugh Cropper, IV, Esquire/ Atwell, LLC/ Don & Linda Lou Finch/ Core Acquisitions, LLC/ Bohler Engineering

**WORCESTER COUNTY TECHNICAL REVIEW COMMITTEE  
AGENDA**

Worcester County Government Center, Room 1102, One West Market Street, Snow Hill, Maryland 21863

**Wednesday, September 11, 2019**

Est. Time

1:00 P.M.

I. Call to Order

II. §ZS 1-325 Site Plan Review

1:00 P.M.

A. Ocean Pines Golf Club - Proposed construction of a 9,479 square foot clubhouse with restaurant, outdoor seating, pro shop and meeting room, located at the southerly terminus of Clubhouse Drive, Tax Map 16, Parcel 56, Tax District 3, R-2 Suburban Residential District, Ocean Pines Association Inc., owner & applicant/ Davis, Bowen & Friedel, Inc., Engineer;

1:10 P.M.

B. Frontier Town Water Park: Splash Pad - Proposed construction of a 4,752 square foot splash pad and 912 square foot associated mechanical building, located on the easterly side of Stephen Decatur Highway (MD Route 611), approximately 705 feet south of Assateague Way, Tax Map 33, Parcel 94, Tax District 10, A-2 Agricultural and C-2 General Commercial Districts, Sun TRS Frontier, LLC, owner/ Hugh Cropper, IV, Esquire, legal counsel/ Atwell, LLC, engineer;

1:20 P.M.

C. 7-Eleven – Proposed construction of a 4,070 square foot convenience store with associated gas canopy and car wash, located on the southerly side of Ocean Gateway (MD Route 50), at the intersection with Samuel Bowen Boulevard, Tax Map 26, Parcel 258, Tax District 10, C-2 General Commercial District, Don & Linda Lou Finch, owner/ Core Acquisitions, LLC/ applicant, Bohler Engineering/ engineer;

1:30 P.M.

III. Adjourn



## **WORCESTER COUNTY PLANNING COMMISSION**

**MEETING DATE:** September 5, 2019

**PURPOSE:** Request to waive the loading space requirement

**DEVELOPMENT:** Ocean Pines Golf Club

**PROJECT:** Proposed construction of a 9,479 square foot clubhouse with restaurant, outdoor seating, pro shop and meeting room, Tax Map 16, Parcel 56, Tax District 3, R-2 Suburban Residential District

**LOCATION:** Southerly terminus of Clubhouse Drive

**PROJECT HISTORY:** Ocean Pines Association, Inc. is proposing to reconstruct the previously demolished Golf Club with a new building of similar size. This project is considered a minor site plan and is scheduled to be reviewed by the Technical Review Committee at their Wednesday, September 11, 2019 meeting. Approval shall be by the Technical Review Committee, subject to addressing their code requirements.

**WAIVER REQUEST:** The project will require a minimum of one (1) loading space based upon the gross floor area of the building. A loading space is required to be a minimum of 10' wide by 65' in length, with a 14' clear height. The architect has shown a proposed 11' wide by 28' long loading area to the northeast side of the proposed building.

Under the provisions of §ZS 1-322(d), the Planning Commission may grant a waiver to the requirement for a loading space (but not to the size) where it is deemed that strict compliance would cause undue hardship on the applicant.

If the waiver for the loading space is approved, Staff would recommend that the approval be conditioned upon retaining the proposed 11' by 28' loading area as shown on the proposed site plan.

**OWNER/ APPLICANT:** Ocean Pines Association, Inc., 239 Ocean Parkway, Berlin, MD 21811

**CONSULTANT:** Davis, Bowen & Friedel, Inc., c/o Tim Metzner, 601 E. Main Street, Suite 100, Salisbury, MD 21804

**PREPARED BY:** Jennifer K. Keener, AICP, Zoning Administrator

August 20, 2019

*Michael R. Wigley, AIA, LEED AP  
W. Zachary Crouch, P.E.  
Michael E. Wheedleton, AIA  
Jason P. Loar, P.E.  
Ring W. Lardner, P.E.  
Jamie L. Sechler, P.E.*

Worcester County Government Center  
Technical Review Committee  
One West Market Street, Room 1201  
Snow Hill, Maryland 21863

Attn: Ms. Jennifer K. Keener  
Zoning Administrator

Re: Ocean Pines Clubhouse  
Loading Dock Variance  
Tax Map: 0016; Parcel 0056  
DBF #0353A009

Dear Ms. Keener:

On behalf of our client Whayland Company, Davis, Bowen & Friedel, Inc. respectfully requests a variance for section ZS 1-321 (b) of the Worcester County Code. Specifically, the Code states, "Loading space size. Each loading space shall be not less than ten feet in width, sixty-five feet in length and fourteen feet in clear height." Due to the current and future delivery trucks that service this facility, the proposed length of 28' is sufficient length for the trucks to access the building safely with the extending into the drive aisle. Therefore, we hereby request a variance from the total length of 65' for off-street loading space to 28'.

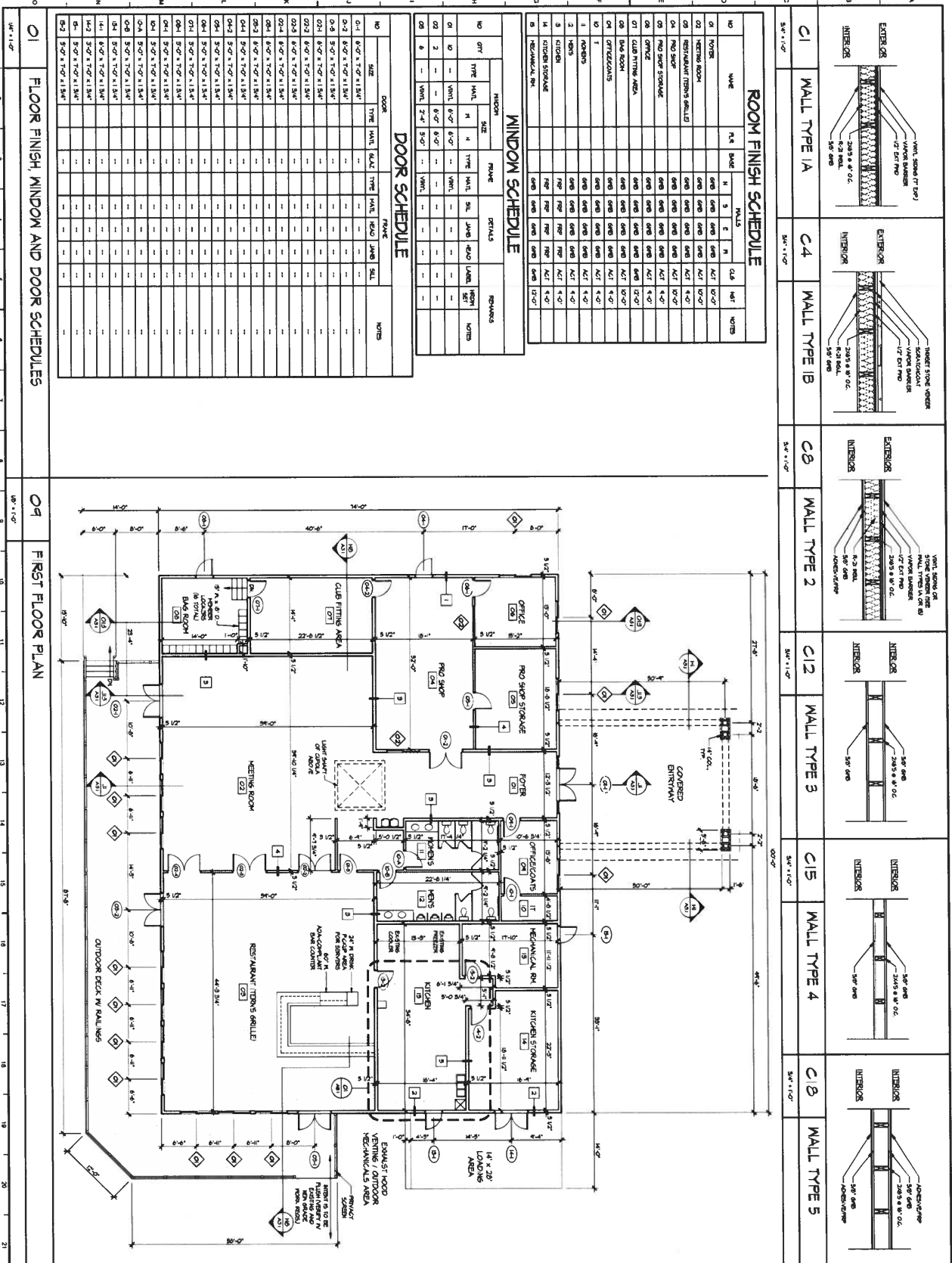
Please submit this letter to be considered as part of the TRC Site Plan and Planning Commission submission. If you should have any questions or require additional information, please let me know.

Sincerely,  
DAVIS, BOWEN & FRIEDEL, INC.



Timothy M. Metzner, RLA, LEED AP ND  
Associate

P:\0353\0353A009\current working folder\docs\2019-08-20 Worcester Co Loading Dock Modification.docx

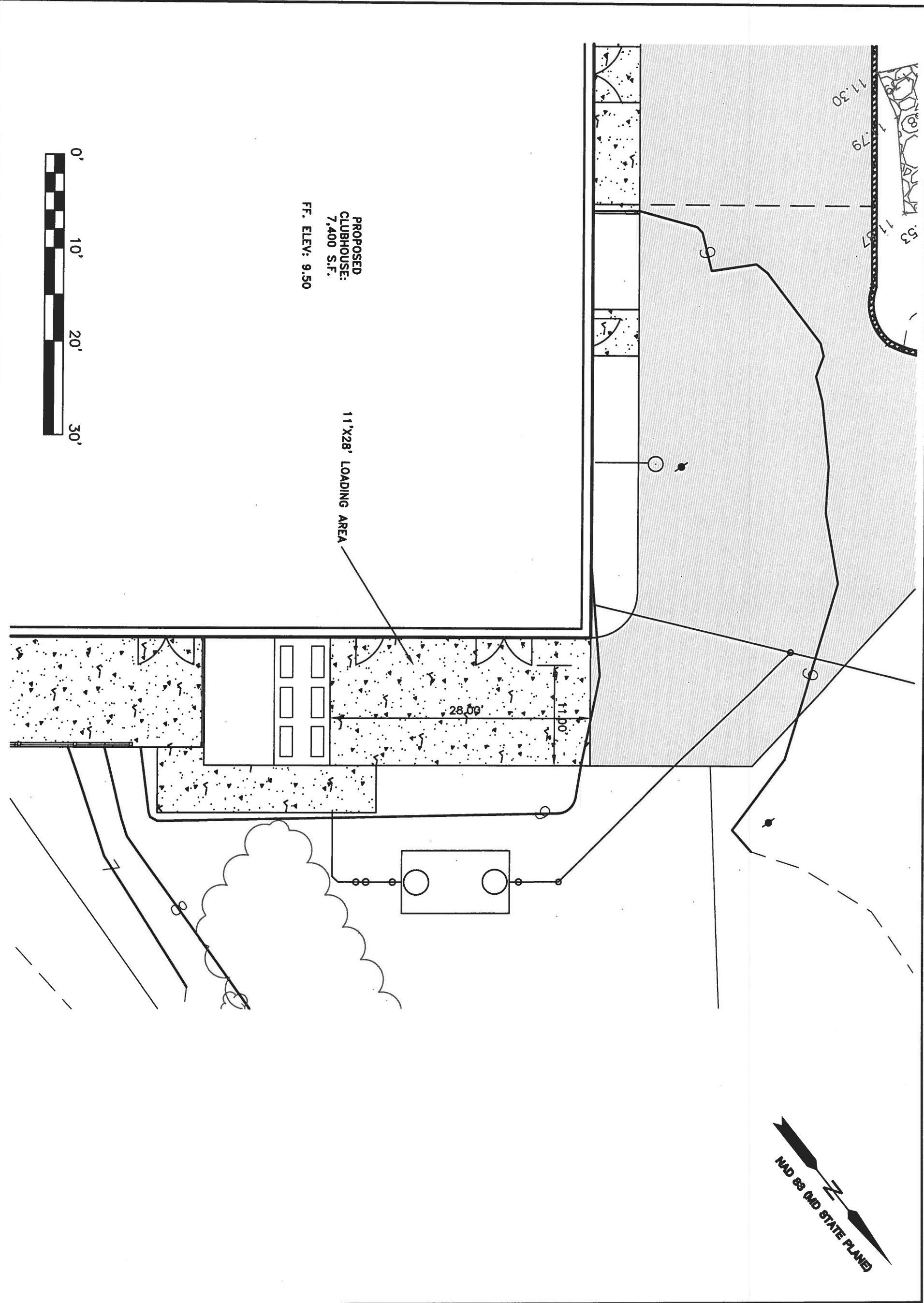


**DAVIS BOWEN & FRIEDEL, INC.**  
ARCHITECTS, ENGINEERS & SURVEYORS  
1100 N. JEFFERSON AVE., SUITE 200  
ANN ARBOR, MI 48106-1500  
TEL: 734.769.1000 FAX: 734.769.1001

**OCEAN PINES GOLF CLUBHOUSE DRIVE**  
OCEAN PINES, FLORIDA 32181

**17A REVIEW SET**  
17A REVIEW SET  
17A REVIEW SET  
17A REVIEW SET

**FIRST FLOOR PLAN**  
A1.1



DAVIS,  
BOWEN &  
FRIEDEL, INC. ARCHITECTS ENGINEERS SURVEYORS

SALISBURY, MARYLAND (410) 543-9091  
MILFORD, DELAWARE (302) 424-1441  
EASTON, MARYLAND (410) 770-4744

# OCEAN PINES CLUBHOUSE OCEAN PINES COMMUNITY WORCESTER COUNTY, MARYLAND

Date: AUG. 2019 Scale: 1" = 10' Proj.No.: 0353A009

## **WORCESTER COUNTY PLANNING COMMISSION**

**MEETING DATE:** September 5, 2019

**PURPOSE:** Site Plan Review

**DEVELOPMENT:** Manklin Station Planned Commercial Development

**PROJECT:** Proposed construction of Buildings D and E, each consisting of 6,000 square feet of mixed retail/office space within the Manklin Greens PUD and PCD

**LOCATION:** Southerly side of Manklin Creek Road, east of Ocean Parkway, Tax Map 21, Parcel 306, Lot 2, Tax District 3, C-2 General Commercial District

**NOTE:** This project is part of the 1996 Manklin Greens Planned Unit Development, and the 1998 Manklin Station Planned Commercial Development (revised in 2004), both of which were reviewed and approved under the 1992 Zoning and Subdivision Control Article. Therefore, this revision to the site plan for the two remaining buildings illustrated on those plans shall also be reviewed under those standards. Attached you will find a copy of the 2004 approved plan as a reference.

**SIGNS:** With respect to on-building signage, the Zoning Code bases the allowance of copy area on the building frontage where the principal entrance is located for each tenant. The square footage is then allocated to the building as a whole. At the permitting stage for the buildings when the final entrance locations are determined, the Department will maintain a spreadsheet of the total copy area allowed, and what has been permitted. However, the developer is responsible for determining what amount of copy area each tenant is allowed to permit, and consideration should be given early on so that the final few tenants are not left with little or no signage allowance.

No additional freestanding signage shall be permitted for this development.

**PARKING:** As a Planned Commercial Development, the parking calculations are based on a standard calculation regardless of use. Therefore, a minimum of 170 parking spaces are required, and are proposed/ provided. This development is allowed to provide a maximum of 40% of the parking spaces in a compact design (i.e. 9' by 18'). This requirement is being met. The proposed surface treatment for the main parking areas and travelways is bituminous asphalt and parking spaces shall be demarcated with striping or parking bumpers as shown on the site plan.

Handicap accessible parking has been shown. Signage indicating "Reserved", "Van Accessible" and "No Parking in Access Aisle" with arrow have been noted on the site plan. Depressed curbing shall be provided along the sidewalks at the discharge aisle meeting the minimum ADA slope requirements.

**LOADING SPACES:** The original PCD approval illustrated one loading space proposed for Building D, and two proposed for Building E (see attached 2004 approved plan – number of loading spaces identified and circled). There is one existing loading space to the rear of Building C. The current proposal is to eliminate all three proposed loading spaces, and provide one compliant loading space to the north of Building D, as well as a 9' by 18' loading area to the front (rear) of Building D. The loading space that is shown on the side of Building A is not compliant as it will block the required travelway for access. Please remove this loading space from the plans.

Under §ZS 1-326(f)(3) of the 1992 Zoning Code, the Planning Commission has the ability to reduce the required loading space requirements by not more than 50% where it is deemed that such a reduced capacity will still meet the needs of the development and the general public. Since four loading spaces had been shown on the original approved plan, a maximum of two spaces are required if a waiver is granted (two code compliant spaces have been provided). The Planning Commission can grant the full waiver, and may also choose whether to require the 9' by 18' loading area adjacent to Building D to remain (i.e. it could not be converted to another parking space in the future).

**TRAFFIC CIRCULATION:** The development will be accessed via existing commercial entrances off of Ocean Parkway and Manklin Creek Road. Written confirmation that the entrances as shown on the plan meet the requirements of the County Roads Division shall be provided prior to signature approval being granted.

**LIGHTING:** General Note No. 16 on the cover sheet states that no additional freestanding lighting is proposed. Any on-building lighting to be provided shall comply with the lighting provisions of the zoning code. Specific lighting information has not been provided, but can be verified at permit stage.

**REFUSE REMOVAL:** The current development has two dumpster pad locations. There is room for one dumpster to the south of Building F, the coffee shop. There is a second location with room for several dumpsters adjacent to the rear of Buildings A and B. The applicant is proposing to redevelop the dumpster pad area to the rear of Buildings A and B, so that it can accommodate four dumpsters. Additional pads are being added to the north of Building A to also accommodate four dumpsters. New concrete pads will be poured, and new 6' tall stockade fencing with gates are proposed as well.

**LANDSCAPING:** A landscape plan has been provided. The existing conditions plan illustrates the existing plantings that will be removed in order to accommodate the site redevelopment. The plantings will be maintained by existing and proposed hose bibs. Landscaping has been provided within the parking area that meets the code requirements for quantity and location.

A maintenance and replacement bond for required landscaping is mandatory for a period not to exceed two years in an amount not to exceed one hundred and twenty-five percent of the installation cost. A landscape estimate from a nursery will be required to be provided at the time of permitting to accurately determine the bond amount.

**FOREST CONSERVATION LAW:** This project is exempt from the Forest Conservation Law.

**STORMWATER MANAGEMENT/ SEDIMENT EROSION CONTROL:** This project has received site development plan approval. Written confirmation that final approval has been obtained will be required from the Department of Environmental Programs prior to signature approval.

**WATER SUPPLY AND WASTEWATER SERVICES:** According to the comments provided by the Department of Environmental Programs at the Technical Review Committee meeting, this development overall has been assigned a total of eighty-one (81) EDUs from the Ocean Pines Sanitary Service Area. An additional three (3) EDUs are estimated to be required for this project. The applicant's response letter states that they are working on the EDU chart and need to update it based upon the existing tenants/ uses in the buildings to provide an accurate count. They are aware that the EDU chart shown on the plan needs to be updated.

Please provide written confirmation from the Department of Environmental Programs that the appropriate EDU calculations are provided on any future submissions, and that the necessary approvals and quantity of EDUs have been obtained prior to granting signature approval.

**ARCHITECTURAL JUSTIFICATION:** Since this project is a revision to a PUD and PCD under the 1992 Zoning Code, it is not subject to the *Design Guidelines and Standards for Commercial Uses*. However, the Planning Commission shall review and approve the building elevation design features for consistency with the existing development. Overall, staff finds that the design is consistent with the existing architecture, reflecting the same forest green standing seam metal roofing; cobblestone colored hardie plank siding; and a maroon water table sill below the proposed windows.

**OWNER:** The Holland Island, LLC, 8938 Worcester Highway, Berlin, MD 21811

**SURVEYOR/ ARCHITECT:** Vista Design, Inc., 11634 Worcester Highway, Showell, MD 21862

**PREPARED BY:** Jennifer K. Keener, AICP, Zoning Administrator

## PLANNING COMMISSION CONSIDERATIONS:

1. The original PCD approval illustrated one loading space proposed for Building D, and two proposed for Building E (see attached 2004 approved plan – number of loading spaces identified and circled). There is one existing loading space to the rear of Building C. The current proposal is to eliminate all three proposed loading spaces, and provide one compliant loading space to the north of Building D, as well as a 9' by 18' loading area to the front (rear) of Building D. The loading space that is shown on the side of Building A is not compliant as it will block the required travelway for access.
  - a. Under §ZS 1-326(f)(3) of the 1992 Zoning Code, the Planning Commission has the ability to reduce the required loading space requirements by not more than 50% where it is deemed that such a reduced capacity will still meet the needs of the development and the general public. Since four loading spaces had been shown on the original approved plan, a maximum of two spaces are required if a waiver is granted (two code compliant spaces have been provided). The Planning Commission can grant the full waiver, and may also choose whether to require the 9' by 18' loading area adjacent to Building D to remain (i.e. it could not be converted to another parking space in the future).
2. Since this project is a revision to a PUD and PCD under the 1992 Zoning Code, it is not subject to the *Design Guidelines and Standards for Commercial Uses*. However, the Planning Commission shall review and approve the building elevation design features for consistency with the existing development. Overall, staff finds that the design is consistent with the existing architecture, reflecting the same forest green standing seam metal roofing; cobblestone colored hardie plank siding; and a maroon water table sill below the proposed windows.





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

<http://www.co.worcester.md.us/departments/drp>

ZONING DIVISION  
BUILDING DIVISION  
DATA RESEARCH DIVISION

ADMINISTRATIVE DIVISION  
CUSTOMER SERVICE DIVISION  
TECHNICAL SERVICES DIVISION

August 30, 2019

Vista Design, Inc.  
11634 Worcester Highway  
Showell, MD 21862

Re: Manklin Station Planned Commercial Development - Proposed construction of Buildings D and E, each consisting of 6,000 square feet of mixed retail/office space within the Manklin Greens PUD and PCD, Tax Map 21, Parcel 306, Lot 2, Tax District 3, C-2 General Commercial District

Dear Mr. Engel:

This is to advise you that the Department has completed a review of the site plan, submitted on August 21, 2019, associated with the above referenced project. The plan has been reviewed in accordance with the pertinent sections of the 1992 Worcester County *Zoning and Subdivision Control Article*. The following code requirements have yet to be addressed:


1. The loading space that is shown on the side of Building A is not compliant as it will block the required travelway for access. Please remove this loading space from the plans;
2. Please revise the dimension of the travelway where it is adjacent to the newly proposed loading space near Building D. It appears that it is of sufficient width (minimum of 20');
- 3.
4. Please provide written confirmation from the Department of Environmental Programs that the Stormwater Management/ Sediment Erosion Control requirements have been addressed prior to signature approval;
5. Please provide written confirmation from the Department of Environmental Programs that the appropriate EDU calculations are provided on any future submissions, and that the necessary approvals and quantity of EDUs have been obtained prior to granting signature approval;
6. Please provide written confirmation from the Department of Public Works, Water and Wastewater Division that the appropriate utilities and easements are shown on the plan prior to signature approval;
7. Written confirmation that the entrances off of the existing roads shall be provided by County Roads prior to signature approval being granted;
8. While not required, staff would request that once the project is ready to receive signature approval, please submit the plans in an electronic format in accordance with §ZS 1-325(e)(1)F.;

Items to be addressed at the time of permitting include:

9. A maintenance and replacement bond for required landscaping is mandatory for a period not to exceed two years in an amount not to exceed one hundred and twenty-five percent of the installation cost. A landscape estimate from a nursery will be required to be provided to accurately determine the bond amount;
10. Any signage shall meet the requirements of §ZS 1-324 and shall be reviewed at permitting stage for compliance;

A copy of the Staff Report associated with this project is attached for your reference. Please do not hesitate to contact me at 410-632-1200 ext. 1123 with any questions or comments you may have concerning this matter.

Sincerely,



Jennifer K. Keener, AICP  
Zoning Administrator

Enclosure

cc: The Holland Island, LLC, owner  
file

## **WORCESTER COUNTY PLANNING COMMISSION**

**MEETING DATE:** September 5, 2019

**PURPOSE:** Preliminary Plat

**DEVELOPMENT:** Sea Oaks Village

**PROJECT:** Residential Planned Community; 59 Townhouse lots, 11 Outlots, 2 Commercial Parcels and a Residue Parcel of 17.413 Acres

**LOCATION:** Westerly side of MD Route 611 (Stephen Decatur Highway), north of Sinepuxent Road, Tax Map 26, Parcel 274, Lot 3A, Tax District 10, R-3 Multi-Family Residential District and C-1 Neighborhood Commercial district (RPC Overlay Zone)

**OPEN SPACE: Minimum requirement of 30% for common use open space and recreational areas:** Given the project's acreage of 40 acres, a total of 12 acres is required to be provided for open space. A total of 31.95 acres of the site's acreage is proposed to be set aside in open space and reserved lands of the developer. It will consist of 13.89 acres of uplands and 18.06 acres of non-tidal wetlands. Open space is required to have a certain amount of active and passive recreational features, as well as lands preserved in their natural state. The breakdown is required as follows:

- **Minimum of 50% of required open space shall be retained in its natural state:** The project is proposing to provide 28.35 acres of the total open space/ reserved lands of the developer in a natural state. A minimum of 6 acres is required; therefore this requirement has been exceeded.
- **Minimum of 10% of required open space shall be for active recreation:** The project is proposing to provide 1.2 acres (10%) of the total required open space in active recreation. Active recreation is defined as uses, areas or activities that are oriented towards potential competition and involving special equipment. The project includes features such as a community swimming pool and a playground as active recreation.
- **Minimum of 20% of required open space shall be for passive recreation:** The project is proposing to provide 6.0 acres (50%) of the total open space in passive recreation. Passive recreation is defined as uses, areas or activities oriented to noncompetitive activities which typically require no special equipment. Walking and bird watching trails will be provided as passive recreation.

**ZONING DISTRICT/LOT REQUIREMENTS:** In the R-3 District, a maximum of six units per one acre of the total gross lot area are allowed, exclusive of lands in the C-1 District. A total of 35.78 acres of land are in the R-3 District, and 4.22 acres are in the C-1 District. The total permitted density is 214 units, and the applicant is proposing 59 units. Thus, the proposed density is approximately 1.65 units per acre.

The minimum lot requirements that were approved by the Planning Commission as part of the Step II review are as follows:

<b>Residential Requirements</b>	
Minimum Lot Area	2,325 square feet
Minimum Lot Width	24'
Minimum Buildable Area	1,485 square feet
Minimum Road Frontage	24'
Front Yard Setback	20' for all lots
Side Yard Setback	0' for all lots
Rear Yard Setback	15' for all lots
<b>Commercial Requirements</b>	
Minimum Lot Area	6,000 square feet (consistent with the C-2 District regulations)
Minimum Lot Width	60 feet
Minimum Road Frontage	As shown to both MD Route 611 and the preliminarily labeled Sea Oaks Drive
Commercial Front Yard Setback	50' along MD Route 611, 10' to the preliminarily labeled Sea Oaks Drive
Commercial Side Yard Setback	6'
Commercial Rear Yard Setback	15'

**FOREST CONSERVATION LAW:** This property is not subject to the Forest Conservation Law, as the area of forested non-tidal wetlands, including the buffer, is greater than or equal to the area of reforestation or afforestation required. A voluntary easement is recommended by staff of the Department of Environmental Programs, Natural Resources Division. Confirmation that the appropriate Forestry Calculation sheet has been provided on the preliminary plat per the TRC comments shall be required from the Department of Environmental Programs prior to signature approval.

**STORMWATER MANAGEMENT/ SEDIMENT EROSION CONTROL:** This project has received site development plan approval.

**WATER SUPPLY AND WASTEWATER SERVICES:** According to the notes on the preliminary plat, the project has been assigned a total of sixty three (63) EDUs from the Mystic Harbour Sanitary Service Area. Please provide written confirmation from the Department of Environmental Programs that the appropriate EDU calculations are provided on the plat, and that the necessary approvals have been obtained prior to granting signature approval.

The water and sewer infrastructure, design report and easements must be reviewed and approved by the Department of Public Works, Water and Wastewater Division. These items will be reviewed at construction plan stage.

**FIRE PROTECTION:** This project has received preliminary comment from the Fire Marshal's Office. Additional comments will be provided at construction plan stage.

**ROAD DESIGN/CONSTRUCTION:** The plan shows 2 proposed private approved roads. Sea Oaks Drive (1,887 L.F.) and Oak Leaf Drive (619 L.F.). Written confirmation from SHA and Public works the entrance and roadway standards have been met will be required prior to signature approval.

**OWNER:** Sea Oaks Village, LLC, 841 East Fort Ave Unit 152, Baltimore, MD 21230

**ENGINEER:** RD Hand and Associates, Inc, 12302 Collins Road, Bishopville, MD 21813

**SURVEYOR:** Frank G. Lynch, Jr. & Associates, Inc., 10535 Racetrack Road, Berlin, MD 21811

**PREPARED BY:** Cathy Zirkle, DRP Specialist II

**PLANNING COMMISSION CONSIDERATIONS:**

1. §ZS 2-502(c)(7)A requires the use of cul-de-sac and dead-end streets be approved by the Planning Commission. The Department has no objection to such an approval.
2. The Department is recommending that the Planning Commission approve the preliminary plat subject to the code requirements letter and written confirmation from all departments that their requirements have been met.



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ZONING DIVISION  
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ADMINISTRATIVE DIVISION  
CUSTOMER SERVICE DIVISION  
TECHNICAL SERVICE DIVISION

August 30, 2019

R.D. Hand & Associates, Inc.  
12302 Collins Road  
Bishopville, MD 21813

Re: Sea Oaks Village Preliminary Plat - Proposed 61 lot subdivision consisting of 59 townhouse lots and 2 commercial lots, on the West side of Stephen Decatur Highway (MD Route 611) North of Sinepuxent Road, Tax Map 26, Parcel 274, Lot 3A, Tax District 10, R-3 Multi-family Residential District and C-1 Neighborhood Commercial District (RPC Overlay Zone)

Dear Mr. Hand:

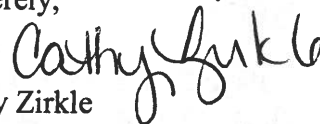
This is to advise you that the Department has completed a review of the preliminary plat, submitted on August 21, 2019, associated with the above referenced project. The plat has been reviewed in accordance with the pertinent sections of the Worcester County *Zoning and Subdivision Control Article*. The following code requirements have yet to be addressed:

1. Provide a draft of deeds restrictions, covenants and homeowners documents for review by the County Attorney-any requested changes must be made prior to signature approval per § ZS 2-403(b)(2)D.12 and § ZS2-502(m)(6)D;
2. Road names shall be reviewed and approved by the Department of Emergency Services and the applicant should consider starting the Approved Private Road process per § ZS 1-123 as it must be complete prior to construction plan approval;
3. Dead-end streets and culs-de-sac approval will be needed from the Planning Commission during their review of the preliminary plat per § ZS 2-502(c)(7)A;
4. Please work with the Ocean City Airport to complete the Aviation Easement and have it recorded prior to the Department signing any permits for the development;
5. Please provide written confirmation from the Department of Environmental Programs that the Stormwater Management/ Sediment Erosion Control requirements and Forest Conservation Law requirements have been addressed prior to signature approval;
6. Please provide written confirmation from the Department of Environmental Programs that the necessary approvals and quantity of EDUs have been obtained prior to granting signature approval;

7. Please provide written confirmation from the Department of Public Works, Water and Wastewater Division that the appropriate utilities and easements are shown on the plan prior to signature approval;
8. Written confirmation that the entrance onto Stephen Decatur Highway (MD Route 611) as shown on the plan meets the requirements of the State Highway Administration shall be provided prior to signature approval being granted;
9. Written confirmation that the entrances off of the proposed approved private road shall be provided by County Roads prior to signature approval being granted;

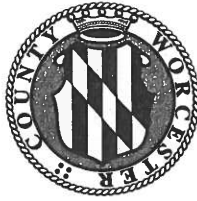
A copy of the Staff Report associated with this project is attached for your reference. Please do not hesitate to contact me at 410-632-1200 ext. 1136 with any questions or comments you may have concerning this matter.

Sincerely,

  
Cathy Zirkle  
DRP Specialist II

Enclosure

cc: Sea Oaks Village, LLC, owner  
Hugh Cropper, IV, Esquire  
file



DEPARTMENT OF  
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### MEMORANDUM

TO: Worcester County Planning Commission  
FROM: Phyllis H. Wimbrow, Deputy Director *Phw*  
DATE: August 22, 2019  
RE: Text Amendment Application - § ZS 1-318 -  
Campground Subdivisions - Occupancy

\*\*\*\*\*

As you are aware, on behalf of Sally Connolly and Susan Naplachowski Hugh Cropper, IV submitted a text amendment application seeking to amend the Zoning and Subdivision Control Article to permit by special exception year-round occupancy of no more than 25 percent of the units within a campground subdivision by persons at least 55 years of age. This text amendment as originally submitted by Mr. Cropper sought to renumber existing § ZS 1-318(d)(1)K through § ZS 1-318(d)(1)Q as § ZS 1-318(d)(1)L through § ZS 1-318(d)(1)R and to insert a new § ZS 1-318(d)(1)K to read as follows:

- K. The Board of Zoning Appeals may authorize, by special exception, year round occupancy of individual units or sites in a campground subdivision as a retirement residence, where the youngest person occupying the residence shall be a minimum of fifty-five years of age, provided such permitted units or sites shall not exceed twenty-five percent of the total.

While the Planning Commission has reviewed the text amendment, no action has been taken in formulating a recommendation to the County Commissioners. Mr. Cropper has now submitted a **REVISED** text amendment application relative to occupancy in the White Horse Park campground subdivision. Mr. Cropper's transmittal of the revised text amendment language does not specifically state which section he seeks to be amended but I assume he is still seeking to renumber existing § ZS 1-318(d)(1)K through § ZS 1-318(d)(1)Q as § ZS 1-318(d)(1)L through § ZS 1-318(d)(1)R and to insert a new § ZS 1-318(d)(1)K. The revised text amendment language reads as follows:



Property owners in White Horse Park who have resided there full time (continuously) since June of 2018 shall be considered grandfathered (i.e., legally existing nonconformities) and shall be permitted to continue their full time occupancy until the earlier to occur: (1) the property owners discontinue their full time residency; (2) the property owners pass away; or 3) the unit is sold.

In order to garner comments from appropriate staff persons, I forwarded the revised text amendment application to Ed Tudor, Director; Jennifer Keener, Zoning Administrator; Maureen Howarth, County Attorney and Planning Commission Attorney; Robert Mitchell, Environmental Programs Director; John Tustin, Public Works Director; John Ross, Public Works Deputy Director; Frank Adkins, Roads Supervisor; and Jeff McMahon, Fire Marshall, for their review and comment. Mr. Tudor, Mrs. Keener, Mr. Mitchell and Mr. Adkins responded and their comments are attached.

As noted by Mrs. Keener, the proposed text amendment seeks to allow the phasing out of the currently unlawful existing year-round occupancy of units within the White Horse Park campground subdivision. She states that, in essence, the proposed amendment acknowledges that violations to the limitations on seasonal use of the campground property have occurred and requests that those persons in violation be allowed to remain as full time residents until the earliest of one of three circumstances occurs: 1) discontinuance of full time residency; 2) death of the property owner; or 3) sale of the unit. Mrs. Keener expresses concern that the terms "full-time" and "continuously" are not defined in the amendment nor are they established by definitions in § ZS 1-103(b) of the Zoning Code. She asserts that the proposed amendment should instead refer to use of the property as the primary dwelling/residence. Mr. Tudor also is concerned about the vagueness of these terms. Mrs. Keener notes that the term "grandfathered" is defined by the Zoning Code and only applies to plan approvals per § ZS 1-126; thus occupancy is not a provision that can be grandfathered. Mr. Tudor makes the same assertions in his comments and states that the year-round occupancy of units in White Horse Park was illegal all along and never constituted an approval of any sort. He states that such occupancy is not "grandfathered" nor can it be. The DRP staff all agree that because the current permanent occupancy of units in White Horse Park is unlawful and was unlawful at the time they were occupied on a permanent basis, their permanent occupancy therefore cannot be considered a "legally existing nonconformity" as suggested by Mr. Cropper. As stated by Mr. Tudor and Mrs. Keener, only "uses of structures....which were lawful when established but which are prohibited or restricted under the terms of this Title" as established by § ZS 1-122(a) can be considered a legally existing nonconformity. Mr. Tudor puts it succinctly by saying that in order for something to be a nonconformity, it must have been legal at some point in the first place and year-round occupancy of units in White Horse Park has never been a legal use. As for the three qualifying conditions, Mr. Tudor maintains that "discontinuance of full-time residency" is undefined and difficult to track, as is death of the property owners. He also notes that year-round residents are not necessarily property owners. He asserts that sale of properties is not something that the DRP staff regularly concerns itself with and is another qualifier that is difficult to track. Mrs. Keener also expresses concerns about whether there is a complete and currently maintained list of full-time residents as of June 2018 that can be utilized as a baseline for this amendment and whether the proposed amendment would also be applicable to.

full-time resident renters. Mrs. Keener states that she has the same concerns with respect to tracking and enforcement actions relative to this proposed revised text amendment as she did the original request, noting that the staff would be relying heavily upon the White Horse Park Board of Directors to enforce these provisions, as DRP does not have the staff available to regularly check the Maryland Department of Assessments and Taxation records for principal residency status, the Land Records for property transfers, or the newspapers for obituaries. Mrs. Keener states that rather than process a text amendment in an attempt to legitimize the occupancy violation and to phase out the full-time residents, there is perhaps another mechanism that could be considered to achieve the same result. Mr. Tudor agrees that the Zoning Code is not the place to try to fix the compliance problems at White Horse Park and suggests that if there is any desire at all for accommodating some type of phase-out provision for the full-time residents, it should be done through a formal consent agreement with the County Commissioners and not as a part of the Zoning Code where it could set a dangerous precedent for other similar uses. Mr. Tudor notes that such a formal consent agreement would be at the sole discretion of the County Commissioners.

I concur wholeheartedly with the comments of both Mr. Tudor and Mrs. Keener. I myself am particularly concerned about setting undesirable precedents by changing the Zoning Code. Once made, those changes can too easily be extended to other projects, if only because once put into the Zoning Code, the change then has the appearance of legitimacy. I also am very concerned about controlling full-time occupancy of additional units in White Horse Park. I received a call earlier this week from a property owner in the development, questioning when the Planning Commission would act on the text amendment application. This gentleman told me that when he retires in Spring 2020, he intends to move to his unit in White Horse Park full-time. When I questioned him as to whether he would do so even though it was illegal, he stated yes and implied that nothing could be done about it. My concern is, how many more people intend to do so? While I have some empathy for full-time residents who find themselves in a bind, I cannot endorse changing the zoning regulations in any way to permit full-time residency. Campground subdivisions were never designed for or intended for full-time residency and it was and is the property owners' responsibility to educate themselves about what the County's regulations are before they bought units with intentions of residing there full-time. While it was and is inappropriate for any realtor, campground subdivision staff person, etc. to have told any prospective or existing property owner that full-time residency was okay, the burden for actually determining whether it was legal falls upon the property owner. It is my opinion that all campgrounds should be shut down for a certain segment of the year to ensure that there is no full-time residency. As White Horse Park has demonstrated, the County cannot otherwise rely upon the campgrounds to police themselves and enforce the pertinent regulations.

Robert Mitchell, Environmental Programs Director, submitted comments and they are attached. Mr. Mitchell's comments are quite lengthy and detailed and should be thoroughly reviewed but they can be summarized as follows:

1. Approved Equivalent Dwelling Unit (EDUs) flows contained in the Master Water and Sewerage Plan for White Horse Park are based on the seasonal nature of the

community. Year-round occupancy would necessitate acquisition of additional sanitary capacity by the White Horse Park community (or the applicants), as the capacity increase was not contemplated in the original and succeeding water and sewer service commitments by the utility providers.

2. Acquisition of additional capacity from the Ocean Pines Service Area for White Horse Park would be problematic and would need to be taken from other properties in the planning area that have existing well and/or septic systems that need connection to the public system. The additional capacity demands on plants that are at capacity risks existing sanitary infrastructure and poses a risk to public safety and the environment with potential sewer overflows and plant overloads.
3. White Horse Park has a master meter and is billed as a group unit. Installation of additional meters, monitoring, and acquiring additional sanitary capacity are issues that must be addressed.
4. In order to protect a service area's existing ratepayers from costs unrelated to provision of service to them, the County has a ratepayer protection policy which stipulates that parties conducting expansions of an existing service areas shall bear responsibility for all costs associated with sanitary system expansion. The task of assigning responsibility for costs involved in acquiring additional capacity, metering and monitoring will fall to the utility provider (Ocean Pines Sanitary Service Area) and the County staff. In accordance with the ratepayer protection policy, accountability for the costs of expansion could be placed on the text amendment applicants and persons living year-round in White Horse Park, as they are the parties responsible for the expansion, not the Homeowners Association.
5. Approximately 54 EDUs for water and sewer at a cost of \$15,218 per EDU would be required to permit approximately 80 units in White Horse Park to be occupied year-round, for a total cost of \$821,772. Quarterly rates would be assessed at \$195 per quarter (\$780 yearly) plus consumption for those year-round units.
6. The Ocean Pines Sanitary Service Area does not have the sanitary capacity to serve an application of this quantity at this time. Capacity would need to be taken from other properties in the planning area that have existing well and/or septic systems for which capacity has been reserved for future connection to the public system.

Frank Adkins, County Roads Superintendent, commented via e-mail (copy attached) that he had no comment at this time.

Please note that Mr. Tudor states that it is imperative that the Planning Commission promptly reach and transmit a recommendation to the County Commissioners on the proposed amendment, as the application has been under review for several months and postponed at least once. He notes that a new season of limited occupancy begins on September 30th.

Should you have any questions or require additional information, please do not hesitate to contact me.

cc: Edward A. Tudor  
Maureen Howarth  
Jennifer Keener  
Robert Mitchell  
John Tustin  
John Ross  
Frank Adkins  
Jeff McMahon



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## MEMORANDUM

TO: Phyllis H. Wimbrow, Deputy Director  
FROM: Edward A. Tudor, Director *EAT.*  
DATE: August 12, 2019  
RE: Revised White Horse Park Text Amendment Application

\*\*\*\*\*

This memorandum is in follow-up to your request for comments on the above referenced text amendment. The revised language submitted by Hugh Cropper, IV, attempts to legalize and then phase out the year-round or full-time occupancy of units in White Horse Park. While I fully understand the intent of the revised language, I still have a number of comments and concerns, just as I did with the prior version.

First and foremost, I do not know how you can propose to simply declare an illegal use "grandfathered" and then consider it as a "legally existing nonconformity." One only needs to look at the definition of "grandfathering" in the Zoning Ordinance to see the disconnect. "Grandfathering" is defined as follows: "A provision whereby certain types of **approvals** remain valid despite changes to regulations which would negate or limit those approvals. See § ZS 1-126." (Emphasis added) In this case, the year-round occupancy of units in the park was never approved, much less legal. In fact, the year-round occupancy was **illegal** all along and never constituted an approval of any sort. Clearly, the occupancy is not "grandfathered" nor can it be. Furthermore, the year-round occupancy is not a nonconformity either. The meaning of the term "nonconformity" is clearly stated in § ZS 1-122 where it states in part: "Unless otherwise specifically provided in this Title, within the districts and under the provisions established by this Title and amendments hereto, **there may exist lots, structures, uses of land and uses of structures and land in combination which were lawful when established but which are prohibited or restricted under the terms of this Title or future amendment.**" (Emphasis added) In order for something to be a nonconformity, it must have been legal at some point in the first place. Full-time occupancy of units was never a legal use. Therefore, the full-time occupancy of units in White Horse Park cannot be a "legally existing nonconformity" but rather is a violation of the Zoning Ordinance.

Secondly, the revised language refers to full-time occupancy in order to qualify who can remain in the park year-round and for how long but never defines what "full-time" even means. It also reaches back a year to some unknown day in June 2018 as the starting point of

"full-time occupancy." Does full-time occupancy means every day since June 2018, one day a week, one day a month or some other period? If this is an attempt to assist those folks who claim to be longtime residents of the park, why are we going back only a little over a year and not ten or twenty years as some have claimed? Regardless of how far back we reach, how does one prove they were a full-time resident on that day? Again, just what does full-time mean?

Third, the revised language proposes that certain qualifying properties can continue to be occupied full-time until certain conditions are met. Again, while I understand the intent, as worded I believe it is fraught with problems. For example, the first qualifier is that the property owners "discontinue" their full-time residency. What constitutes "discontinuing" full-time residency? If you do not stay on the property for some unknown and undefined period of time? Who could ever keep track of such a provision? It obviously has not worked to date. The second qualifier is the death of the "property owner." How is the staff supposed to monitor and track this? Such a provision is totally outside the realm of what information is available to the staff. Additionally, this condition presupposes that all of the full-time residents are property owners. What if none of the full-time residents in a unit are the actual property owners? It is entirely possible that a property could be titled in the name of a trust or in the name of a relative or even an single spouse. Take, for example, a property titled in the name of a son or daughter and the parents reside there full-time with lifetime rights. Does that mean the parents do not even qualify to be covered by this proposed amendment? If they do qualify and the child predeceases the parents, do we kick the parents off the property? Likewise, do we kick the surviving spouse off the property if the spouse to whom the property is titled dies? What about any long-term renters? As worded, they are not covered and would have to leave immediately. One may argue that these types of situations do not exist or would never happen but the opportunities for problems are present. The third and last qualifier is the sale of the unit. Again, this creates another difficult situation to track and administer. The staff has no easy way to check who may have sold a unit at any one time other than to check the Assessments and Taxation records on a regular basis. Typically, zoning regulations do not concern themselves with ownership of a property for that very reason. Zoning regulations are concerned with land and its use, not who owns it. The park management has demonstrated that they are not able to enforce such residency limitations in the past. Clearly, we would not want to put them in charge of such a responsibility going forward. In addition, it appears that at least in some cases the occupancy limitation was not clearly conveyed to a buyer or it was and the buyer chose to ignore the information.

It is painfully obvious that we have a compliance problem at White Horse Park with full-time occupancy. In my opinion, the Zoning Ordinance is not the place to try to fix it. We just cannot "declare" a violation a "legal nonconformity" when it is not. If there is any taste at all for accommodating some type of phase-out provision of the full-time residents, it should be done through a formal consent agreement with the County Commissioners and not as part of the Zoning Ordinance, where it could set a dangerous precedent for other similar uses. The conditions of such a formal consent agreement would be at the sole discretion of the County Commissioners and they are certainly not obliged to even consider such a suggestion. In any event, I believe it is imperative that the Planning Commission promptly reach and transmit a recommendation to the County Commissioners on this proposed amendment. I do not believe it is fair to the large crowds of interested parties that have attended the two Planning Commission meetings relative to this matter for this to drag on any longer. Continual postponements are only making a bad situation worse, especially as we rapidly approach September 30<sup>th</sup>, which starts another season of limited occupancy.

As always, I will be available to discuss the matter in greater depth if need be when it is reviewed by the Planning Commission.



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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](http://www.co.worcester.md.us/drp/drpindex.htm)

ZONING DIVISION  
BUILDING DIVISION  
ADMINISTRATIVE DIVISION

DATA RESEARCH DIVISION  
CUSTOMER SERVICE DIVISION  
TECHNICAL SERVICES DIVISION

MEMORANDUM

To: Phyllis Wimbrow, Deputy Director  
From: Jennifer K. Keener, AICP, Zoning Administrator *JKK*  
Date: August 8, 2019  
Re: Campground subdivisions – occupancy request - REVISED

\*\*\*\*\*

I have reviewed the proposed text amendment which is proposed in order to allow the phasing out of the currently unlawful existing year round occupancy of the White Horse Park campground subdivision. The proposed language states the following:

“Property owners in White Horse Park who have resided there full time (continuously) since June of 2018 shall be considered grandfathered (i.e., legally existing nonconformities) and shall be permitted to continue their full time occupancy until the earlier to occur: (1) the property owners discontinue their full time residency; (2) the property owners pass away; or (3), the unit is sold.”

In essence, the proposed amendment acknowledges that violations have occurred to the limitations on seasonal use of the campground property, and requests that those persons in violation be allowed to remain as full time residents until one of three circumstances occur.

I have concerns with respect to the language that is utilized within the amendment. They are as follows:

1. The terms “full-time” and “continuously” have not been defined in the amendment, nor are they established in the definitions of the Zoning Code in §ZS 1-103(b). Rather, the amendment should refer to the use of the property as a primary dwelling/ residence.
2. The term “grandfathered” is a defined term, which only applies to plan approvals per §ZS 1-126. Occupancy is not a provision that can be grandfathered.

3. As the current permanent occupancy of these units is currently unlawful, and was unlawful at the time that they were occupied on a permanent basis, it cannot therefore be considered a legally existing nonconformity. Only “uses of structures...which were lawful when established but which are prohibited or restricted under the terms of this Title” as established by §ZS 1-122(a) can be considered a legally existing nonconformity.
4. Is there a currently maintained list of full-time residents as of June of 2018 that can be utilized as a baseline for this amendment?
5. The amendment refers only to property owners who are full time occupants as being subject to this bill. Are any of the currently active full-time residents renters?

Overall, I still have the same concerns with respect to the tracking and enforcement actions as I did with the previous request. We would be relying heavily upon the Board of Directors to enforce these provisions, as we do not have the staff to regularly check the Maryland Department of Assessments and Taxation records for principal residency status, the Land Records for property transfers, or the newspapers for obituaries. Rather than process a text amendment in an attempt to legitimize the occupancy violation and to phase out the full-time residents, perhaps there is another mechanism that could be considered to achieve the same result?






# Worcester County

Department of Environmental Programs

## Memorandum

---

**To:** Phyllis Wimbrow, Deputy Director, Development, Review and Permitting

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

**Subject:** Zoning Text Amendment Application  
Campground Subdivisions – Occupancy  
Comments on Revised Text Amendment

**Date:** 8/21/19

---

Thank you for providing the above referenced text amendment package for my review and comment. The revised zoning text amendment would permit year round occupancy for White Horse Park residents who have resided there full time (continuously) since June of 2018 shall be considered grandfathered (i.e legally existing non-conformities), and shall be permitted to continue their full time occupancy until the earlier to occur: (1) the property owners discontinue their full time residency; (2) the property owners pass away; or (3) the unit is sold.

This proposal comes from an expressed need of some of the current park residents to live in the park year-round due to an extreme hardship to temporarily relocate in the winter months. As new campground subdivisions are prohibited, this revised amendment would only apply to the parks existing at the time that provision was added to the Worcester County Zoning Ordinance and this specific revision includes only the While Horse Park campground subdivision.

While I do believe it is the right of such residents to request such an amendment, there are justifiable reasons for us to note why this proposed occupancy extension could create other issues that would be detrimental to the community residents and their utility provider.

The park was originally provided service from Maryland Marine Utilities, which was succeeded by the Worcester County Sanitary Commission. Ultimately, Worcester County took over service when the County abolished the Sanitary Commission in 1993 and assumed all operational and contractual obligations. Our current water and sewer budget and rates resolution (Resolution No. 18-14) has White Horse Park billed at a quarterly water and sewer flat rate of \$138 per lot for 465 lots. By comparison, the Ocean Pines minimum quarterly charge is

**Citizens and Government Working Together**

\$170/quarter plus \$20 debt service with additional charges for consumption based on metered water usage.

The original Master Water and Sewerage Plan (The Plan) amendment for the community was in 1974 and it was for 350 campsites at 140 gpd/site with contract service from Maryland Marine Utilities for water and sewer. Through the years this office has reviewed the sanitary adequacy components of various development proposals from the park's owners, including the last expansion to the current configuration. During the review of those expansion and development proposals, allowances were made on flows per campsite that took into account the seasonal nature of the community. Those allowances, while not fully agreeing with the original request, did reduce the flow per campsite to enable the expansion for additions above 350 sites. An additional determination related to flow arrangements and commitments of service to developments like this was included under Bill No. 94-16, which authorizes charges less than a full Equivalent Dwelling Unit (EDU) per lot and contract service charges under the Public Works Article.

Applicants for this proposed text amendment that would permit an extension of occupancy for existing, year-round residents within the White Horse Park community should contemplate the following items:

1. The White Horse Park community (or the applicants) would be responsible for acquiring additional sanitary capacity to cover this year-round occupancy for those specific residents. This capacity increase was not contemplated in the original and succeeding water and sewer service commitments by the utility providers.
2. Acquiring additional capacity from the Ocean Pines Service Area for White Horse Park community would be problematic. The Ocean Pines capacity would need to be taken from other properties in the planning area that have existing well and/or septic systems that need connection to the public system. These additional capacity demands on plants that are at capacity risks existing sanitary infrastructure and presents a risk to public safety and the environment with potential sewer overflows and plant overloads.
3. The park has a master meter and is billed as a group unit. Installation of additional meters, monitoring, and acquiring additional sanitary capacity would be issues that do not appear to be addressed in the amendment text or reasoning provided by the applicant.
4. We do have a ratepayer protection policy included in The Plan where parties conducting expansions of an existing service area shall bear responsibility for all costs associated with sanitary system expansion to accommodate such development. The purpose of this policy is to protect the service area's existing ratepayers from costs unrelated to provision of service to them. The task of assigning responsibility for costs involved in acquiring additional capacity, metering, and monitoring would fall to the utility provider (Ocean Pines Sanitary Service Area) and the County staff. Following this policy could place accountability on the applicants as they are the parties responsible for expansions, not the HOA's for these communities.

### **Citizens and Government Working Together**

5. While a number was not officially provided, it is assumed that eighty (80) properties could potentially fit in this category based on discussions on this amendment. While this is not a number provided by the applicant, it is a figure that we are using to estimate the financial implications of this text amendment for the applicants. Assuming that this or a similar number of year-round (continuous) residents can be tracked and monitored with an additional assumption that there could be a change in billing accomplished to reflect this intensified occupancy, would require the following:

- a. One (1) EDU per full-time dwelling for the estimated eighty (80) dwellings that would fit this category.
- b. This would require the purchase of 54 EDU for water and sewer at a cost of \$15,218 per EDU for a total of \$821,772.
- c. Quarterly rates will be assessed at \$195/quarter (\$780 yearly cost) plus consumption for those dwellings in that category.
- d. Ocean Pines Sanitary Service Area does not have the sanitary capacity to serve an application of this quantity at this time. Capacity would need to be taken from other properties in the planning area that have existing well and/or septic systems that we have reserved capacity for future connection to the public system.

Many, if not all of the items discussed above would be included in our comments to the Board of Zoning Appeals in deciding whether special exemptions should be granted if this text amendment were approved. I would refer to the findings required for a special exception under § ZS 1-116 (c)(3)A, specifically determinations made by the Board on an application's potential for a detrimental impact on ground or surface water quality and the potential to overburden public services and facilities. An argument could additionally be made that an overburden of public services could also extended to financial burdens on the service area as well. By approving this amendment as presented, we would be forced to request the Board examine these items in any future applications for special exception. As of this date, there are no changes with respect to the above items that would alleviate any potential capacity determinations for extended occupancy.

As always, I will be available to discuss the proposed amendment further with the Planning Commission when it is scheduled for discussion.

cc: David Bradford, Deputy Director  
John Tustin, Director, Public Works  
John Ross, Deputy Director, Public Works  
Jessica Wilson, Enterprise Fund Controller  
PC Comments File

## Phyllis Wimbrow

---

**From:** Frank Adkins  
**Sent:** Wednesday, August 07, 2019 6:59 AM  
**To:** Phyllis Wimbrow; Ed Tudor; Jennifer Keener; Maureen L. Howarth; Robert Mitchell; John Tustin; John Ross; Jeff McMahon  
**Subject:** RE: REVISED Text Amendment Application - Campground Subdivision Occupancy - White Horse Park

No comments at this time.

Frank J. Adkins  
Roads Superintendent  
Worcester County DPW - Roads Division  
5764 Worchester Highway  
Snow Hill, MD 21863  
Phone: 410-632-2244  
Fax: 410-632-0020  
Email: [fadkins@co.worcester.md.us](mailto:fadkins@co.worcester.md.us)

-----Original Message-----

From: Phyllis Wimbrow <[pwimbrow@co.worcester.md.us](mailto:pwimbrow@co.worcester.md.us)>  
Sent: Wednesday, July 31, 2019 10:08 AM  
To: Ed Tudor <[etudor@co.worcester.md.us](mailto:etudor@co.worcester.md.us)>; Jennifer Keener <[jkkeener@co.worcester.md.us](mailto:jkkeener@co.worcester.md.us)>; Maureen L. Howarth <[mhowarth@co.worcester.md.us](mailto:mhowarth@co.worcester.md.us)>; Robert Mitchell <[bmitchell@co.worcester.md.us](mailto:bmitchell@co.worcester.md.us)>; John Tustin <[jtustin@co.worcester.md.us](mailto:jtustin@co.worcester.md.us)>; John Ross <[jross@co.worcester.md.us](mailto:jross@co.worcester.md.us)>; Frank Adkins <[fadkins@co.worcester.md.us](mailto:fadkins@co.worcester.md.us)>; Jeff McMahon <[jmcmahon@co.worcester.md.us](mailto:jmcmahon@co.worcester.md.us)>  
Subject: REVISED Text Amendment Application - Campground Subdivision Occupancy - White Horse Park

Good morning everyone,

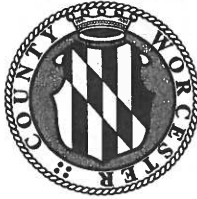
Hugh Cropper has submitted revised text amendment language with regard to the occupancy of units in campground subdivisions. Please review the revised language and provide me with your written comments no later than August 21, 2019. I anticipate scheduling this application for review by the Planning Commission at either its September 5th or October 3rd meeting.

Thank you for your anticipated cooperation.

Phyllis H. Wimbrow  
Deputy Director  
Worcester County Development  
Review and Permitting  
1 West Market Street, Room 1201  
Snow Hill, Maryland 21863  
(410) 632-1200, ext. 1110

-----Original Message-----

From: [wcg-xerox@co.worcester.md.us](mailto:wcg-xerox@co.worcester.md.us) [<mailto:wcg-xerox@co.worcester.md.us>]



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](http://www.co.worcester.md.us/drp/drpindex.htm)

ZONING DIVISION  
BUILDING DIVISION  
DATA RESEARCH DIVISION

ADMINISTRATIVE DIVISION  
CUSTOMER SERVICE DIVISION  
TECHNICAL SERVICE DIVISION

## MEMORANDUM

TO: Edward A. Tudor, Director  
Jennifer K. Keener, Zoning Administrator  
Maureen Howarth, County Attorney  
Robert Mitchell, Environmental Programs Director  
John Tustin, Public Works Director  
John Ross, Public Works Deputy Director  
Frank Adkins, Roads Supervisor  
Jeff McMahon, Fire Marshal

FROM: Phyllis H. Wimbrow, Deputy Director

DATE: July 31, 2019

RE: **REVISED** Text Amendment Application - Campground Subdivisions - Occupancy

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As you are aware, a text amendment application was submitted by Hugh Cropper, IV on behalf of Sally Connolly and Susan Naplachowski seeking to amend the Zoning and Subdivision Control Article to permit by special exception year-round occupancy of no more than 25 percent of the units within a campground subdivision by persons at least 55 years of age. Specifically, the text amendment as originally submitted by Mr. Cropper sought to renumber existing § ZS 1-318(d)(1)K through § ZS 1-318(d)(1)Q as § ZS 1-318(d)(1)L through § ZS 1-318(d)(1)R and to insert a new § ZS 1-318(d)(1)K to read as follows:

- K. The Board of Zoning Appeals may authorize, by special exception, year round occupancy of individual units or sites in a campground subdivision as a retirement residence, where the youngest person occupying the residence shall be a minimum of fifty-five years of age, provided such permitted units or sites shall not exceed twenty-five percent of the total.

While the Planning Commission has reviewed the text amendment, no action has been taken in formulating a recommendation to the County Commissioners. Mr. Cropper has now submitted a REVISED text amendment application relative to occupancy in the White Horse Park campground subdivision. Mr. Cropper's transmittal of the revised text amendment language does not specifically state which section he seeks to be amended but I assume he is still seeking to renumber existing § ZS 1-318(d)(1)K through § ZS 1-318(d)(1)Q as § ZS 1-318(d)(1)L through § ZS 1-318(d)(1)R and to insert a new § ZS 1-318(d)(1)K. The revised text amendment language reads as follows:

Property owners in White Horse Park who have resided there full time (continuously) since June of 2018 shall be considered grandfathered (i.e., legally existing nonconformities) and shall be permitted to continue their full time occupancy until the earlier to occur: (1) the property owners discontinue their full time residency; (2) the property owners pass away; or 3) the unit is sold.

I anticipate scheduling this text amendment for consideration by the Planning Commission at either its September or October 2019 meeting. So that I may incorporate them into the staff report, please submit your comments to me **no later than August 21, 2019.**

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

attachment

## Phyllis Wimbrow

---

**From:** Hugh Cropper [hcropper@bbcmmlaw.com]  
**Sent:** Tuesday, July 30, 2019 3:02 PM  
**To:** Phyllis Wimbrow  
**Cc:** Susan Naplachowski; sconolly12000@yahoo.com; Ed Tudor; Jennifer Keener  
**Subject:** White Horse Park  
**Attachments:** MX-3550N\_20190730\_150729.pdf

Phyllis:

Good afternoon. On behalf of my clients Susan Naplachowski and Sally Connolly, residents of White Horse Park, I would like to revise my Text Amendment application. I would like to substitute the attached language, instead of my prior version.

I think this language represents an excellent compromise. Nothing will be approved permanently. I do not believe that it will require any additional EDU's. Everything will remain the same as it is now, except as the current residents leave, the number of year round residents will be reduced.

Eventually, all of the year round residents will be phased out.

I think this protects the intent of the Code, while protecting the current residents who have demonstrated a substantial hardship.

I hope the Staff will give this proposal its usual kind consideration. Thank you.

I am prepared to proceed to the Planning Commission in either September or October, whatever is most convenient for you and the Staff.

Thanks again.

Hugh Cropper IV  
Booth Cropper & Marriner, P.C.  
9923 Stephen Decatur Highway, D-2  
Ocean City, Maryland 21842  
410-213-2681-Telephone  
[www.bbcmmlaw.com](http://www.bbcmmlaw.com)

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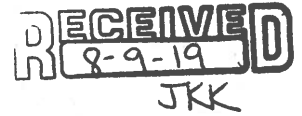
### **PROPOSED TEXT AMENDMENT**

Property owners in White Horse Park who have resided there full time (continuously) since June of 2018 shall be considered grandfathered (i.e. legally existing non-conformities), and shall be permitted to continue their full time occupancy until the earlier to occur: (1) the property owners discontinue their full time residency; (2) the property owners pass away; or (3) the unit is sold.



<b>Comments Received After July 3, 2019 Postponement</b>			
<b>In Opposition</b>			
<b>Exhibit Number:</b>	<b>Name:</b>	<b>White Horse Park Address:</b>	<b>Dated:</b>
6-1	Anonymous	unidentified	8/4/2019
6-2	Anonymous	unidentified	8/26/2019
<b>In Favor</b>			
<b>Exhibit Number:</b>	<b>Name:</b>	<b>White Horse Park Address:</b>	<b>Dated:</b>
6-3	Tom Molyneaux et al.	multiple	8/23/2019
6-4	Lynn Martin, concerned citizen	n/a	8/28/2019

Item 6-1



Office of The Commissioners,  
Worcester County  
Government Center  
One West Market St. Rm 1103  
Snow Hill, MD 21863-1195

August 4, 2019

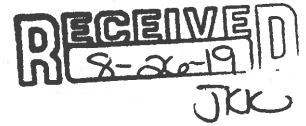
Attn: Diana Purnell, President

Re: White Horse Park Full Time Residency Issue

I recently went through the documents in your June 6, 2019 meeting. I am appalled by what I have learned.

1. Going through the list of so called full-timers that was in that packet, a lot of the people on the list are not living here full time but put their name in the mix for "when" they decide to live here full time.
2. Many of the people bought in 2015-2019 and they think they should be able to live here full time? I have owned here for over 30 years and have paid a substantial amount for the up-keep and improvement of White Horse Park properties and taxes to Worcester County. If approved, the opportunity should be offered to the owners based on seniority.
3. Quite a few people (29) have applied for and received the Homestead Act status. How is that fair to the rest of us?
4. There are 6 people on that list that are also receiving the Homeowners Tax Credit. Some that only paid around \$100 when others had to pay over \$1100. How is that FAIR?
5. People have been crying they didn't know, I'm handicapped, I can't afford to move, I'm a Veteran, I fought for this Country. PLEASE..... these are all excuses as to why they think you should approve their request. This park is not handicapped compliant when it comes to the pool or the marina. These same people "own" their homes so they can find another place to live, it's called sell your home and look into low income housing - not turn our community into low income housing. Some have even stated "I've lived here for 35 years - I don't think so. They may have owned for 35 years, but I don't think they have lived here full time, that many years.
6. Why is nobody looking at the violations for article 3.1 wherein it states "no primary and principal residence". Many people in the community have the park as their permanent address. This is how they are receiving the Homestead Act and Homeowners Tax Credit which is unfair to the majority.

Item 6-2



Office of The Commissioners,  
Worcester County  
Government Center  
One West Market St. Rm 1103  
Snow Hill, MD 21863-1195

August 21, 2019

Attn: Diana Purnell, President

Re: White Horse Park Full Time Residency Issue

The latest word is that the Full Time group is now going to propose that the ones that are here be grandfathered, and no other homeowners would be allowed to go full time. If someone moves, dies, etc., that unit would return to the regular regulations of the park. My question is, how is that FAIR to any of the homeowners who are not getting the benefits that some of these people are getting, like the Homestead Act and the Homeowners Tax Credit. Let's face it, every one of these people lived somewhere before they came to White Horse Park. The majority of us have worked our butts off to have this "summer home" and deserve to continue to enjoy our properties as we bought them. Some of these people have sold their main home, banked the money, and are living like kings and queens paying only \$135 mo, plus taxes, electric and propane. I don't believe too many people would want to live full time at White Horse Park, BUT, if their personal situations were to change and they needed a cheaper way to live, then they too should be able to move to their summer home full time. Therefore, I am against the Text Amendment and the Grandfathering schemes they are trying to use to get "their way". I like using my unit year-round and don't want to see the Park closed for the winter, however, if it comes down to it, if I can't have the option to live their full time, then I don't want them to either.

I hope you come to a conclusion soon. Things are so bad at the Park that the President of the BOD and another BOD member have resigned, leaving us with only 3 BOD members (who are brand new) and none of them qualify to be President.

Copy to:  
Mr. Diffendal, Planning Commissioner

Item 6-3

**Jennifer Keener**

---

**From:** Tom Molyneaux <molyneaux@yahoo.com>  
**Sent:** Friday, August 23, 2019 7:12 AM  
**To:** Jennifer Keener; commissioners; pat.schrawder@gmail.com;  
marybeth.carozza@senate.state.md.us  
**Subject:** White Horse Park  
**Attachments:** Grandfather Amendment.docx

Dear Worcester County Commissioners, Worcester County Planning Commission, Senator Carozza, District Representative Pat Schrawder

Please accept the attached letter in support of the text amendment submitted by Mr Hugh Cropper concerning full time residency at White Horse Park, Berlin, Maryland.

Best regards,

Tom Molyneaux

23 Aug 2019

Dear Worcester County Commissioners, Worcester County Planning Commission, Senator Carozza, District Representative Pat Schrawder

We, being former members of the Board of Directors of White Horse Park Community Association, fully support the following text amendment that will be in front of the planning commission in September submitted by Mr Hugh Cropper.

**Property Owners of White Horse Park who have resided their full-time (continuously) since June of 2018 shall be considered grandfathered (i.e. legally existing Non- conformities), shall be permitted to continue their full time occupancy until the earlier to occur: (1) the property owners discontinue their full time residency: (2) the property owner passes away; or (3) the unit is sold.**

Respectfully,

Tom Molyneaux, 2017 - 2019, President (2019)

Brian Fenstermacher, 2016 - 2019, President (2018-2019)

Ed Webb, Served 3 different times on the Board of Directors

**Jennifer Keener**

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**From:** Maureen L. Howarth  
**Sent:** Thursday, August 29, 2019 8:14 AM  
**To:** Jennifer Keener  
**Subject:** FW: White Horse Park

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**From:** LYNN MARTIN [mailto:lynntmartin@comcast.net]  
**Sent:** Wednesday, August 28, 2019 4:28 PM  
**To:** commissioners <commissioners@co.worcester.md.us>  
**Subject:** White Horse Park

To whom it may concern,

I am a Physical Therapist Assistant in Worcester County. We have a few patients at our clinic that reside in White Horse Park. They have made me aware of the occupancy situation and how stressful it has become, as of late. I hope that the issue at hand is resolved soon and that they are allowed to reside in their homes without disruption. From what I can see and from what I hear, a number of owners are either elderly, or widowed, or even handicapped, which would make it an even more challenging situation for them to handle. Please consider this when making your decision.

Thank you for your time,

Lynn Martin

**STAFF REPORT**

**REZONING CASE NO. 422**

**PROPERTY OWNER:** Ernest A. Gerardi, Jr., Manager  
M & G Route 50 Land, LLC  
9 Bay Street  
Berlin, Maryland 21811

**ATTORNEY:** Joseph E. Moore, Esquire  
3509 Coastal Highway  
Ocean City, Maryland 21842

**TAX MAP/PARCEL INFO:** Tax Map 20 - Parcels 47 and 318 - Tax District 3

**SIZE:** The petitioned area is comprised of two parcels which total 18.65 acres. Parcel 47 is 0.92 acres while Parcel 318 is 17.73 acres. A survey plat provided by the applicant indicates that there is an existing 150 foot wide easement for overhead power lines on Parcel 47 that totals 0.978 acres in size. It appears it is to be replaced with a new right-of-way totaling 0.41 acres.

**LOCATION:** The petitioned area is located on the northerly side of Old Ocean City Road and the southerly side of US Route 50, west of Berlin. The petitioned area is within one mile of the corporate limits of Berlin.

**CURRENT USE OF PETITIONED AREA:** Tilled land

**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 mistake in existing zoning.

**ZONING HISTORY:** At the time zoning was first established in the 1960s the petitioned area was given an A-1 Agricultural District classification. That designation has been retained through both the 1992 and 2009 comprehensive rezonings.

**SURROUNDING ZONING:** Adjoining and nearby properties to the west and southwest are also zoned A-1 Agricultural District. Properties to the east along both sides of Old Ocean Road are zoned R-2 Suburban Residential 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 Growth Area and Agricultural Land Use Categories. All of Parcel 318 and most of Parcel 47 are within the Growth Area category while the most easterly portion of Parcel 47 is within the Agricultural Land Use category. With regard to the Growth Area category, the Comprehensive Plan states the following:

This category designates areas outside incorporated areas that are suitable and desirable for future planned growth. These areas include new and existing locations which meet the following criteria:

1. Contain limited wetlands, hydric soils, floodplains and contiguous forests.
2. Comprised of generally larger parcels (100 or more acres).
3. Located outside of aquifer recharge, source water protection and other critical areas.
4. Situated to be cost-effectively served with adequate public sanitary and other services.
5. Located near employment, retailing and other services.
6. Served by adequate existing roadways (Level of Service C or better) or can be readily served.

Growth areas identify generalized locations for planned new development and will accommodate most new growth. Densities of up to ten dwelling units per acre should be provided to reduce consumption of currently undeveloped sites. Such density will require public water and sewer service. Adequate transportation and other public facilities must be in place at the time of development. (Page 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. 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.
7. Work with municipalities to develop annexation guidance policies that encourage infill within a municipality and then provide for logical community extensions.
8. Regulate development to minimize consumption of land, while continuing the county's rural and coastal character.
9. Minimize conflicts among land uses due to noise, smoke, dust, odors, lighting, and heavy traffic.
10. Locate employment centers close to the potential labor force.
11. Set high environmental standards for new development, especially in designated growth areas.
- .....
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.
20. Direct new development in growth areas to planned communities.
21. Promote mixed use development.
- .....

(Pages 12, 13)

Also in Chapter 2, Land Use, the Comprehensive Plan states that in order to promote orderly growth and foster a cooperative relationship between the towns and the County, development in growth areas, which are located adjacent to or in close proximity to the corporate limits of a municipality shall be contingent upon all of the following conditions:

1. Annexation by the municipality.
2. Water, sewer and other services shall be provided to the development by the municipality.
3. The developer shall be responsible for all impact fees, excise taxes, adequate public facilities fees and other impositions including those payable to the County.
4. The annexation shall be subject to an annexation agreement to which the County shall be a party.

The Comprehensive Plan goes on to say that it is the intent of the County Commissioners and the Comprehensive Plan that development in such growth areas only occur if the four conditions are satisfied but the Commissioners recognize that in some cases the conditions

may not be applicable, rational or in the interest of good planning. In such cases, the Commissioners may permit development in such growth areas without the conditions being met. Therefore, in the event a municipality refuses to annex the property under terms satisfactory to the County Commissioners, then development in the growth area may proceed in the County outside of the town's corporate limits if approved by the County Commissioners in accordance with and governed by all legal requirements and procedures without satisfying the contingencies in this provision. (Pages 11 and 12)

In Chapter 4, Economy, pertinent objectives under the heading Commercial Services 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 population centers.
  3. Encourage mixed-use commercial, office and residential development.
  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 roadway access and are designed to be visually and functionally integrated into the community.
- ....." (Page 60)

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.
- ....." (Page 70)

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)

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:** According to the response memo dated July 16, 2019 from Robert J. Mitchell, Director of the Department of Environmental Programs (copy attached), the subject properties have designations of Sewer and Water Service Categories S-3 and W-3 (Service within a 6 to 10 year timeframe) in the Master Water and Sewerage Plan. He states that sewer and water could not be extended to the petitioned area until S-1 and W-1 designations are approved. He further states that those designations would come with annexation and that where a property must be annexed in order to be connected to a water or sewer system, that system would not be considered directly available until that annexation is substantially completed. He notes that the property is not being considered for annexation by the Town of Berlin at this time. Mr. Mitchell states that his department’s well and septic records show the properties were improved with existing individual well and septic before abandonment. He states that that capacity would have to be reestablished and that would include seasonal testing to explore what proposed commercial uses could be supported by approved interim onsite sewage systems. Neither John H. Tustin, P. E., Director of Public Works, or John Ross, Deputy Director of Public Works, submitted any comments.

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

Ke - Kentuck silt loam - severe limitations to on-site wastewater disposal  
Ot - Othello silt loam - severe limitations to on-site wastewater disposal  
WdB - Woodstown sandy loam - severe limitations to on-site wastewater disposal

**EMERGENCY SERVICES:** Fire and ambulance service will be available from the Berlin Volunteer Fire Company’s main facility on Main Street or the substation on US Route 50, both approximately five minutes away. No comments were received from the fire company with regard to this review. Police protection will be available from the Maryland State Police Barracks in Berlin, approximately two 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 or from the Sheriff's Department.

**ROADWAYS AND TRANSPORTATION:** The petitioned area is a part fronts on and currently has access to MD Route 346 (Old Ocean City Road), a State-owned and -maintained roadway. The petitioned area also has frontage on US Route 50, also state-owned and -maintained, but this segment is denied access. Thus, all access to the petitioned area must be from MD Route 346. The Comprehensive Plan does not make any statements or recommendations with regard to MD Route 346 specifically but § ZS 1-326© of the Zoning Code classifies it as a minor collector highway. The Comprehensive Plan classifies US Route 50 as a multi-lane divided primary highway/arterial highway and recommends that development be limited until capacity is no longer impacted and that the amount of commercial zoning along US Route 50 should be reduced to maintain its capacity. No comments were received from the State Highway Administration District 1 with regard to this application. Frank J. Adkins, Worcester County Roads Superintendent, responded by memo (copy attached) that he had no comment at this time.

**SCHOOLS:** The petitioned area is within the area served by the following schools: Buckingham Elementary School, Berlin Intermediate School, Stephen Decatur Middle School, and Stephen Decatur High School. No comments were received from the Worcester County Board of Education (WCBOE).

**CHESAPEAKE/ATLANTIC COASTAL BAYS CRITICAL AREAS:** According to Mr. Mitchell's response memo, the petitioned area is not located within the Atlantic Coastal Bays Critical Area (ACBCA).

**FLOOD ZONE:** The FIRM map indicates that the petitioned area is primarily 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 within one mile of the corporate limits of Berlin. Discussions between the applicant and the town with regard to annexation have discontinued. A letter dated June 18, 2019 from Wm. Gee Williams, III, Mayor of Berlin, is attached for your review.

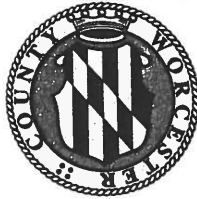
**ADDITIONAL COMMENTS RECEIVED:** Comments received from various agencies, etc. are attached and are summarized as follows:

Kathryn Gordon, Deputy Director, Economic Development: No objection to the proposed rezoning.

!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!! **IMPORTANT** !!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!

**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?



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](http://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  
William Birch, Director, Worcester County Emergency Services  
Matthew Crisafulli, 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  
Kathryn Gordon, Director, Economic Development  
Louis H. Taylor, Superintendent, Worcester County Board of Education  
James Meredith, District Engineer, Maryland State Highway Administration  
Lt. Earl W. Starnes, Commander, Barracks V, Maryland State Police  
Rebecca L. Jones, Health Officer, Worcester County Health Department  
Rob Clarke, State Forester, Maryland Forest Services  
Nelson D. Brice, District Conservationist, Worcester County Natural Resources Conservation Service  
Jim Corron, Fire Chief, Berlin Volunteer Fire Department  
Mayor & Council of Berlin, Maryland

FROM: Phyllis H. Wimbrow, Deputy Director

DATE: June 11, 2019

RE: Rezoning Case No. 422- Ernest Gerardi, Jr., Applicant/ Joseph Moore, Attorney  
Location-South Side of US Rt. 50 and North side of MD Rt. 346, West of Berlin

\*\*\*\*\*

The Worcester County Planning Commission is tentatively scheduled to review the above referenced rezoning application at its meeting on August 1, 2019. This application seeks to rezone approximately 18.65 acres of land from A-1 Agricultural District to C-2 General Commercial District. Uses allowed in the district include, but are not limited to, motels/ hotels, retail and service

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establishments, contractor shops, wholesale establishments, warehousing, storage, vehicle sales and service establishments, outdoor commercial recreation establishments, etc..

For your reference I have attached a copy of the rezoning application and location and zoning maps showing the property petitioned for rezoning.

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 plans, facilities, or services for which **your** agency is responsible. ***If no response is received by JULY 17, 2019, 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 I have not received your response by that date I will note same in the staff report I prepare for the Planning Commission's review.***

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](mailto:pwimbrow@co.worcester.md.us). On behalf of the Planning Commission, thank you for your attention to this matter.

Attachments

LAW OFFICES

WILLIAMS, MOORE, SHOCKLEY & HARRISON, L.L.P.

3509 COASTAL HIGHWAY  
OCEAN CITY, MARYLAND 21842

JOSEPH E. MOORE  
RAYMOND C. SHOCKLEY  
J. RICHARD COLLINS  
REGAN J.R. SMITH  
CHRISTOPHER T. WOODLEY  
CHRIS S. MASON

(410) 289-3553  
TELEFAX (410) 289-4157

MARCUS J. WILLIAMS (1923-1995)  
EDWARD H. HAMMOND, JR. (1942-2011)

OF COUNSEL  
JOSEPH G. HARRISON, JR.

May 23, 2019

Worcester County Commissioners  
Attn: Mr. Kelly Shannahan, Assistant Chief Administrative Officer  
Worcester County Government Center  
One West Market Street, Room 1103  
Snow Hill, MD 21863

**RE: Application for Rezoning – M&G Route 50 Land, LLC west of Berlin**

Dear Kelly:

I enclose herewith the Application for Amendment of the Official Zoning Map related to the above noted properties together with three copies of the plat of survey performed by LE Bunting Surveys, and a check payable to Worcester County in the amount of \$935.00 representing the Application fee.

As noted therein, the request for rezoning is based on a mistake in zoning due to the indicated presumption of the Worcester County Planning Department that the property would be the subject of annexation into the Town of Berlin. The reasons set forth in the application, I hope, are self-explanatory, and, this will advise that an ongoing analysis of the on-site waste water disposal capacity is being undertaken by John Salm Engineering.

This will further certify that Ernest Gerardi, Jr. is the sole member of M&G Route 50 Land, LLC and its manager.

If you need any further information from me please advise.

Kind regards.

Sincerely,

Joseph E. Moore

JEM/kd

cc: Mr. Ernest Gerardi, Jr.

Phyllis Wimbrow, Deputy Director, Dept.  
Of Development, Review and Permitting

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

## APPLICATION FOR AMENDMENT OF THE OFFICIAL ZONING MAP

(For Office Use Only – Please Do Not Write in this

Space) Rezoning Case No. 422

Date Received by Office of the County Commissioners 5/24/19

Date Received by Development Review and Permitting 5/24/19

Date Reviewed by the Planning Commission \_\_\_\_\_

- I. Application: Proposals for amendments to the Official Zoning Maps may be made only by the property owner, contract purchaser, option holder, lease, 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: X  
C. Contract Purchaser: \_\_\_\_\_  
D. Option Holder: \_\_\_\_\_  
E. Leasee: \_\_\_\_\_  
F. Attorney for B (insert A, B, C, D or E) Property Owner  
G. Agent for \_\_\_\_\_ (insert A, B, C, D or E) \_\_\_\_\_

II. Legal Description of Property

A. Tax Map/Zoning Map Number(s): 20  
B. Parcel Number(s): 47 & 318  
C. Lot Number(s), if applicable: N/A  
D. Tax District Number: 03-008800/03-117243

III. Physical Description of Property

- A. Located on South side of U.S. Route 50, approximately 0 feet/miles to the North side of Old Ocean City Boulevard, west of Berlin.  
B. Consisting of a total of 18.65 acres of land.  
C. Other descriptive physical features or characteristics necessary to accurately locate the petitioned area:

The parcel of land is located at the south side of U.S. Route 50, at its intersection with Maryland Route 346 (Old Ocean City Boulevard) approximately 2 miles west of the corporate limits of the Town of Berlin.

- D. Petitions for map amendments shall be accompanied by a plat drawn to scale showing property lines, the existing and proposed district boundaries and other such 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: 18.65 acres
- C. Requested zoning classification(s): C-2 General Commercial District  
(name and zoning district)
- D. Acreage of zoning classification(s) in "C" above: 18.65 acres

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 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 zoning 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:

1.

The requested change is based on a mistake in zoning as set forth as follows: The subject property is located at the intersection of the east bound lanes of U.S. Route 50 (an arterial highway in Worcester County) with the westerly portion of Maryland Route 346 (Old Ocean City Boulevard), the western "gateway" to the Town of Berlin and the first east bound exit from U.S. Route 50 into the Town. The subject property is located in a Growth Area on the Land Use Plan Map of the duly adopted Worcester County Comprehensive Plan. "Growth Areas" are established by the county as appropriate areas to be annexed into municipalities within the town and, it is submitted that the Growth Area inclusion of the subject property was a prelude to the potential orderly growth of the Town of Berlin by virtue of annexation. Indeed, on October 9, 2018 the Mayor and Council of Berlin, after the required public hearing, included the subject property in Growth Area Number 3 contained within the Comprehensive Plan of the Town of Berlin, which is a required prelude to the annexation of any property within the municipal corporate limits. Subsequently, application was made by the property owner for annexation into the town. Notwithstanding the previous affirmative action of the

Town of Berlin, at a meeting on Friday, April 5, with the property owner, the Mayor of Berlin, the Administrative Director of Berlin and the Planning Director of the Town, the property owner was advised that the recommendation would not be made to go forward on an annexation into the Berlin Corporate Limits. As a result, notwithstanding the extensive period of time expended by the property owner toward the inclusion of the property in the town's Growth Area, and the subsequent annexation and development of the property within the town and subject to its zoning and planning authority, the town withdrew its consideration for annexation declining to proceed to a public hearing.

2.

The property owner submits that the present circumstance in the potential development of the property comports with the Comprehensive Development Plan for Worcester County, as revised on March 14, 2006, with respect to such circumstances related to properties within Growth Areas.

3.

In the "Land Use" Chapter of the Worcester County Comprehensive Plan the following statement is made: "It is the goal of the Commissioners in adopting this Plan and in the creation of Growth Areas immediately adjacent to or in close proximity to incorporated towns to foster a solid and constructive working relationship between the county and each of the individual towns. The county and the towns should work together on future growth plans using a cooperative planning approach." Further, the statement is made that with the intent of fostering a cooperative relationship between the towns and the county development in Growth Areas should be contingent on the following conditions: "1. Annexation by the municipality. 2. Water, sewer, and other services shall be provided to the development by the municipality. 3. The developer shall be responsible for all impact fees, [etc.] including those payable to the county. 4. The annexation shall be subject to an Annexation Agreement to which the county shall be a party."

"It is the intent of the County Commissioners and this plan that development in such Growth Areas only occur if the four conditions are satisfied but the Commissioners recognize that in some cases the conditions may not be applicable, rational, or in the interest of good planning. In such cases, the Commissioners may permit development in such Growth Areas without the conditions being met. Therefore, in the event a municipality refuses to annex the property under terms satisfactory to the County Commissioners, then development in the Growth Area may proceed in the county outside of the town's corporate limits if approved by the County Commissioners ... " (emphasis added).

4.

In addition to the fact that the subject property is within such circumstances the mistake in maintaining the property in A-1 Agricultural Use Classification are as follows: (1). The purpose and intent of the C-2 General Commercial District set forth in Section ZS1-210(a) is to provide for commercial development serving populations of 3,000 or more within an approximate 10-20 minute travel time (the Town of Berlin) the C2 Commercial Centers generally have a higher parking

demand and greater visibility (the U.S. Route 50 corridor)

5.

The Worcester County Comprehensive Plan in determining appropriate siting of the commercial areas in the Land Use Chapter have the following comments:

(a) locate new development in or near existing population centers and within planned Growth Areas.

(b) balance the supply of commercially zoned land within anticipated demand of year-round residents and seasonal visitors

(c) locate major commercial and all industrial development in areas having adequate arterial road access or near such roads

(d) promote mixed use development

(e) Growth Areas should comply with the following: "Growth Areas (GA) – this category designates areas outside incorporated areas that are suitable and desirable for future plan growth. These areas include new and existing locations, which meet the following criteria: ...

Located near employment, retailing and other services

Served by adequate existing roadways (Level of Service C or better) or can be readily served.

6.

The Comprehensive Plan also provides that zoning should "place nodal centers at intersections of minor roadways for improved accessibility."

The property location is also significant for the appropriate determination of a change in zone. While the Comprehensive Plan indicates that the commercial zoning along U.S. Route 50 should be carefully monitored, when an examination of the Worcester County Land Use Map is made, it is readily evident that all of the commercial zoning which is referred to, is located east of Maryland Route 818 (North Main Street extended) along Route 50 and the significant majority of the commercial zoning located along Route 50 is located east of Seahawk Road at Stephen Decatur High School extending into West Ocean City. There is no commercial zoning within a significant distance from the subject property even though the subject property is the first and western entrance to Berlin Town Center.

7.

It is, therefore, submitted that the provisions of the Worcester County Comprehensive Plan with regard to development within county Growth Areas, appropriate commercial development along arterial roads providing easy access to commercial areas, the public benefit of locating commercial areas close to population centers, and all other applicable provisions related to the appropriate zoning for the site location enjoyed by the subject property are met and that by virtue of the Town of Berlin's refusal to consider annexation constitutes a mistake in maintaining the subject property in the A-1 Agricultural District and that a change in zoning to C-2 Commercial District is a more logical and desirable pattern for the land use of the subject property.

VI. 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 for 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 in 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 Applicants in Accordance with VI.A. above.

Signature(s): Ernest A. Gerardi, Jr. manager  
Printed Name(s): Ernest A. Gerardi, Jr., Manager M&G Route 50 Land, LLC  
Mailing Address: 9 Bay Street, Berlin, MD 21811  
Phone Number: 410-422-6223 Email: eag36jr@yahoo.com  
Date: 5/22/19

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

Signature(s): Ernest A. Gerardi, Jr. manager  
Printed Name(s): M&G Route 50 Land, LLC  
Mailing Address: 9 Bay Street, Berlin, MD 21811  
Phone Number: 410-422-6223 Email: eag36jr@yahoo.com  
Date: 5/22/19

D. Signature of Attorney in Accordance with VI.A. above.

Signature(s): [Signature]  
Printed Name(s): Joseph E. Moore, Esquire  
Mailing Address: 3509 Coastal Highway, Ocean City, MD 21842  
Phone Number: 410-289-3553 Email: jmoore@whmsh.com  
Date: 5/23/19

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

VII. General Information Relating to the Rezoning Process

- A. Applications shall only be accepted from January 1<sup>st</sup> to January 31<sup>st</sup>, May 1<sup>st</sup> to May 31<sup>st</sup>, and September 1<sup>st</sup> to September 30<sup>th</sup> 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 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 (a) there was 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 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 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 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 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.

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## Worcester County

Department of Environmental Programs

### Memorandum

**To:** Phyllis Wimbrow, Deputy Director, DDRP

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

**Subject:** EP Staff Comments on Rezoning Case No. 422  
Worcester County Tax Map 20, Parcels ~~44~~, 318 + 47  
18.65 Acres A-1 Agricultural to C-2 General Commercial District

**Date:** 7/16/19

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. 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 properties have a Growth Area land use designation in the Land Use Map in the Worcester County Comprehensive Plan (*Comprehensive Plan*). This category designates areas outside incorporated areas that are suitable and desirable for future planned growth.
2. The agricultural designation covers Parcel 4 in its entirety and extends through most of Parcel 304 and into the upper part of 171. *Erroneous/Incorrect Info*
3. The subject properties have a designation of a Sewer and Water Service Category of S-3 and W-3 (Service within a 6-10 year timeframe) in the *Master Water and Sewerage Plan*. Water and sewer could not be extended to the property until an S-1/W-1 designation was approved. That designation would come with annexation. Where a property must be annexed in order to be connected to a water or sewer system, that system would not be considered directly available until that annexation is substantially completed. The property is not being considered for annexation by the Town of Berlin at this time.

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4. Our well and septic records show the properties were improved with existing individual well and septic before abandonment. That capacity would have to be re-established and that would include seasonal testing to explore what proposed commercial uses could be supported by approved interim onsite sewage system(s).
  5. The property is within Berlin's Urban Grown Boundary line. Even though the Greenbelt area has not been formalized by the Town, the potential area does not include this property. As noted by the applicant, the Town of Berlin has changed the property's designation in their comprehensive plan from Potential Development Area to Growth Area #3.
- 
6. Chapter 2 (Land Use) of the *Comprehensive Plan* presents four conditions in which growth should occur within these designated areas (p11). They include:
    - a. Annexation by the municipality.
    - b. Water, sewer and other services provided by the municipality.
    - c. The developer shall be responsible for all impact fees, excise taxes, adequate public facilities fees, and other impositions including those payable to the County.
    - d. The annexation shall be subject to an annexation agreement to which the county shall be a party

We clearly do not have annexation in this case, but the *Comprehensive Plan* does present a recognition that in some cases, "the conditions may not be applicable, rational, or in the interest of good planning (p12)." The applicant even presents this argument in their submittal.

It is clear that without water and sewer services from the Town of Berlin, the property will not be able to achieve the growth area development intensity described in the *Comprehensive Plan*. The owner may achieve a development capacity on these properties with onsite sewer that will be less concentrated than what was envisioned for a growth area. If these properties are approved for a zoning reclassification, perhaps the development will exist for a time at that level, only intensifying with additional infill when annexation and public services are offered in the future.

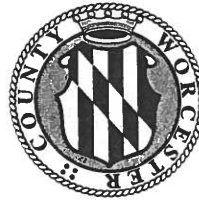
7. This rezoning is located outside of the Atlantic Coastal Bays Critical Area (ACBCA) and will be subject to the Forest Conservation Act (FCA). Since the FCA requirements are based upon applicable zoning, this conversion will result in a different requirement when compared to the present zoning. An agricultural zoning designation requires an afforestation threshold of 20 percent and reforestation threshold of 50 percent while a commercial zoning designation requires an afforestation of threshold of 15 percent and reforestation threshold of 15 percent. Proposed future site plans will need to meet the requirements of the FCA that are in place at the time of development.

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

Attachment

**Citizens and Government Working Together**





**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

**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

**TO: Phyllis H. Wimbrow, Deputy Director**  
**FROM: Frank J. Adkins, Roads Superintendent** (FA)  
**DATE: June 26, 2019**  
**RE: Rezoning Case No. 422 and 423**

.....

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

**Rezoning Case 422:** No comments at this time.

**Rezoning Case 423:** Rezoning to a C-2 General Commercial District may cause more congestion with traffic and pedestrians in an area that has full-time residential homeowners depending on what the property is used for. The road was not built for commercial traffic and may cause pre-mature road failure. Elm Street does not drain well and may cause more drainage issues in the future.

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

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

FJA/ll  
\\wcf1e2\users\llawrence\Rezoning\Rezoning Case 422.423.doc

## Phyllis Wimbrow

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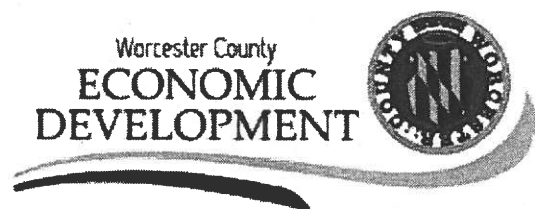
**From:** Kathryn Gordon  
**Sent:** Tuesday, June 25, 2019 11:55 AM  
**To:** Phyllis Wimbrow  
**Subject:** Rezoning Cases 422 & 423

Good Afternoon Phyllis,

I looked through both rezoning cases mentioned above. These proposed rezoning will not have an effect on my department's responsibility.

---

Thank you,  
Kathryn



Kathryn Gordon  
Director  
Worcester County Economic Development  
100 Pearl Street, Suite B  
Snow Hill, Maryland 21863

P: 410.632.3112  
F: 410.632.5631  
C: 410.430.8776



# Mayor & Council of Berlin

10 William Street, Berlin, Maryland 21811

Phone 410-641-2770 Fax 410-641-2316

[www.berlinmd.gov](http://www.berlinmd.gov)

*'America's Coolest Small Town'*



**Mayor**

Wm. Gee Williams, III

**Vice President**

Elroy Brittingham, Sr.

**Council Members**

Dean Burrell, Sr.

Troy Purnell

Thomas L. Gulyas

Zackery Tyndall

**Town Attorney**

David Gaskill

**Town Administrator**

Laura Allen



June 18, 2019

Phyllis Wimbrow

Deputy Director

Department of Development Review and Permitting

Worcester County

One West Market St., Room 1201

Snow Hill, MD 21863

Re: Rezoning Case No. 422 – Ernest Gerardi Jr. – Applicant

Dear Ms. Wimbrow,

Thank you for sending the Town of Berlin a copy of the above referenced rezoning application.

I'm writing to correct several inaccuracies in the application regarding the Town's handling of Mr. Gerardi's annexation petition. It is incorrect to say the Town "withdrew its consideration for annexation" as noted on page 3 and "refused to consider annexation," as indicated on page 4.

The Town and Mr. Gerardi were not able to reach an agreement regarding the cost of extending water and sewer to his property. Mr. Gerardi would not pay for this critical part of the project and that decision by Mr. Gerardi terminated our negotiations.

Sincerely,

Wm. Gee Williams, III

Mayor

Cc: Town Administrator Laura Allen

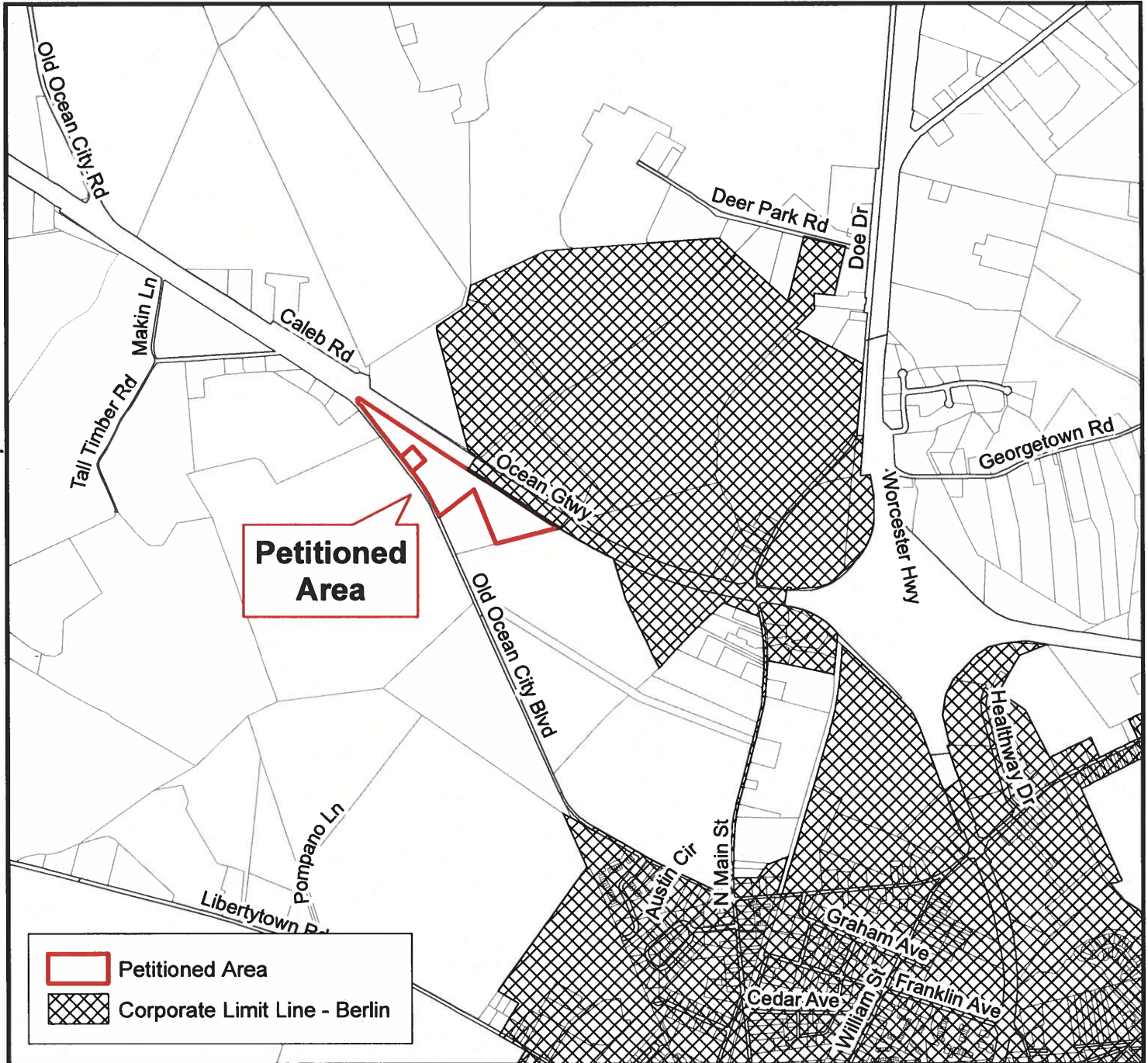


# WORCESTER COUNTY, MARYLAND



**REZONING CASE NO. 422**  
**A-1 Agricultural District to C-2 General Commercial District**  
**Tax Map: 20, Parcel 47 and 318**

## LOCATION MAP



**DEPARTMENT OF DEVELOPMENT REVIEW AND PERMITTING**  
**Technical Services Division - Prepared June 2019**

Source: Worcester County GIS Data Layers

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



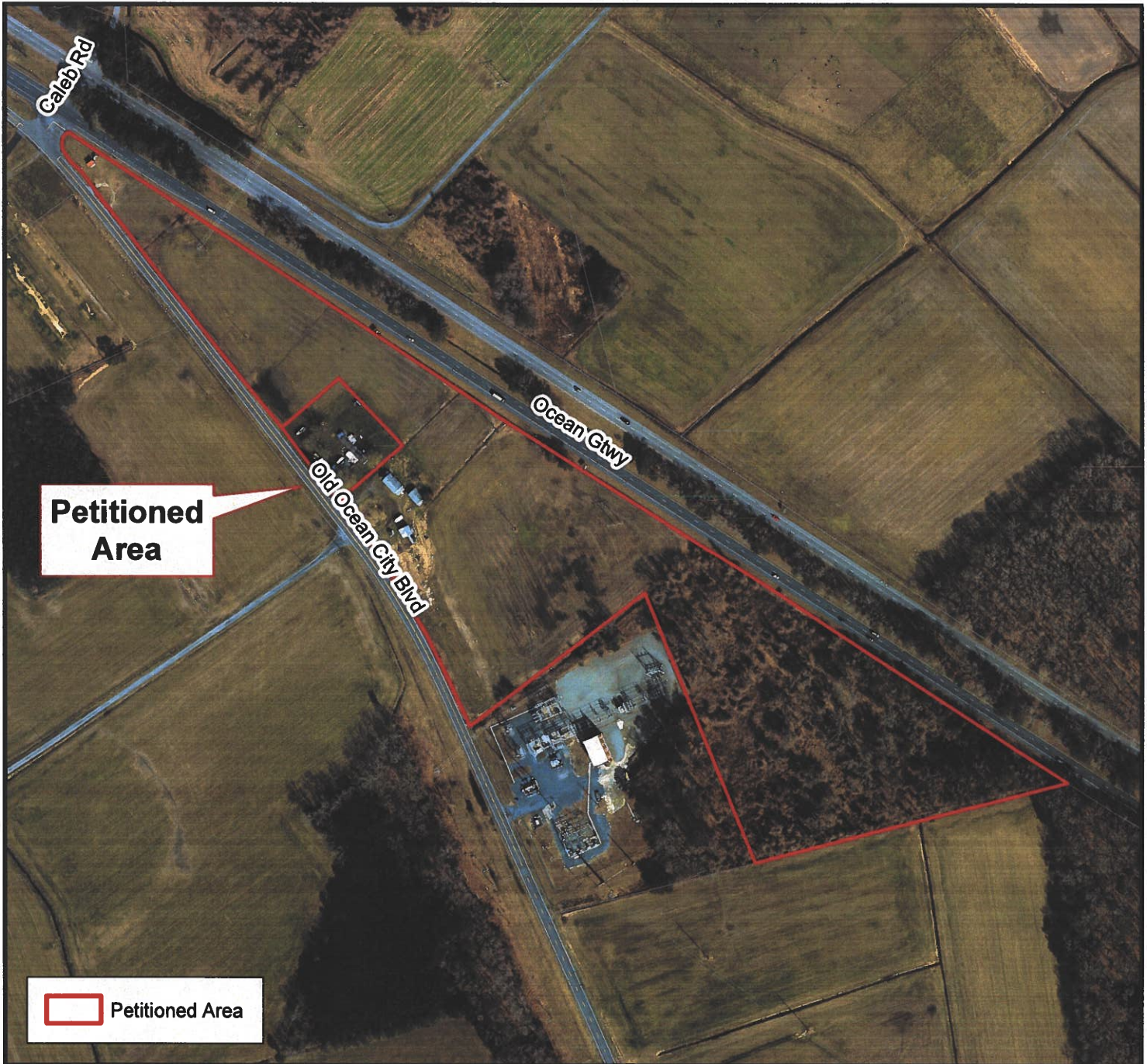


# WORCESTER COUNTY, MARYLAND



REZONING CASE NO. 422  
A-1 Agricultural District to C-2 General Commercial District  
Tax Map: 20, Parcel 47 and 318

## AERIAL MAP



DEPARTMENT OF DEVELOPMENT REVIEW AND PERMITTING  
Technical Services Division - Prepared June 2019

0 250 500  
Feet

Source: 2016 Aerial Imagery

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

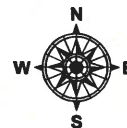
Drawn By: KLH

Reviewed By: PHW



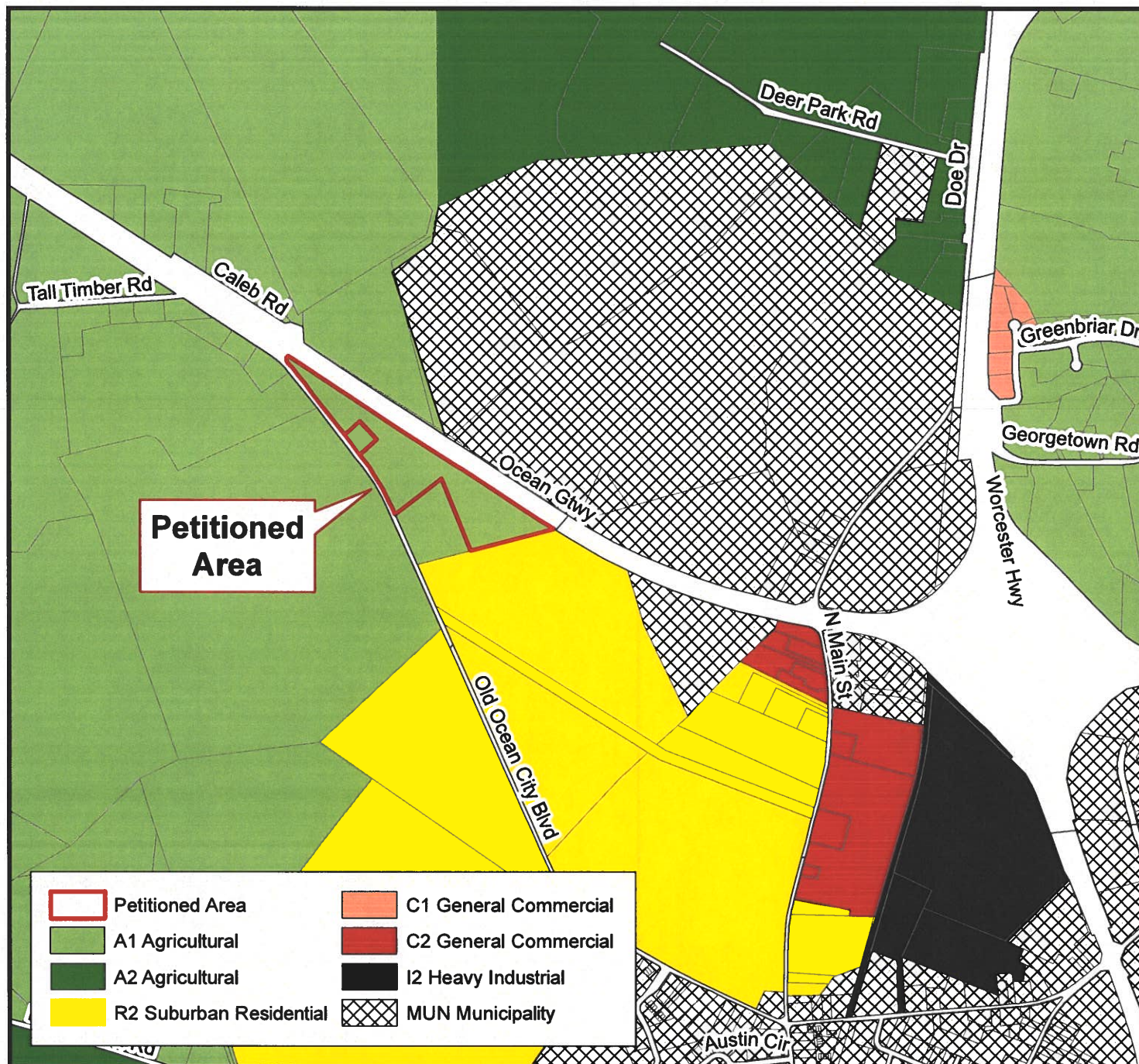


# WORCESTER COUNTY, MARYLAND



**REZONING CASE NO. 422**  
**A-1 Agricultural District to C-2 General Commercial District**  
**Tax Map: 20, Parcel 47 and 318**

## ZONING MAP



DEPARTMENT OF DEVELOPMENT REVIEW AND PERMITTING  
Technical Services Division - Prepared June 2019

0 1,000 2,000  
Feet

Source: 2009 Zoning District Map (current)

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

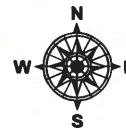
Drawn By: KLH

Reviewed By: PHW



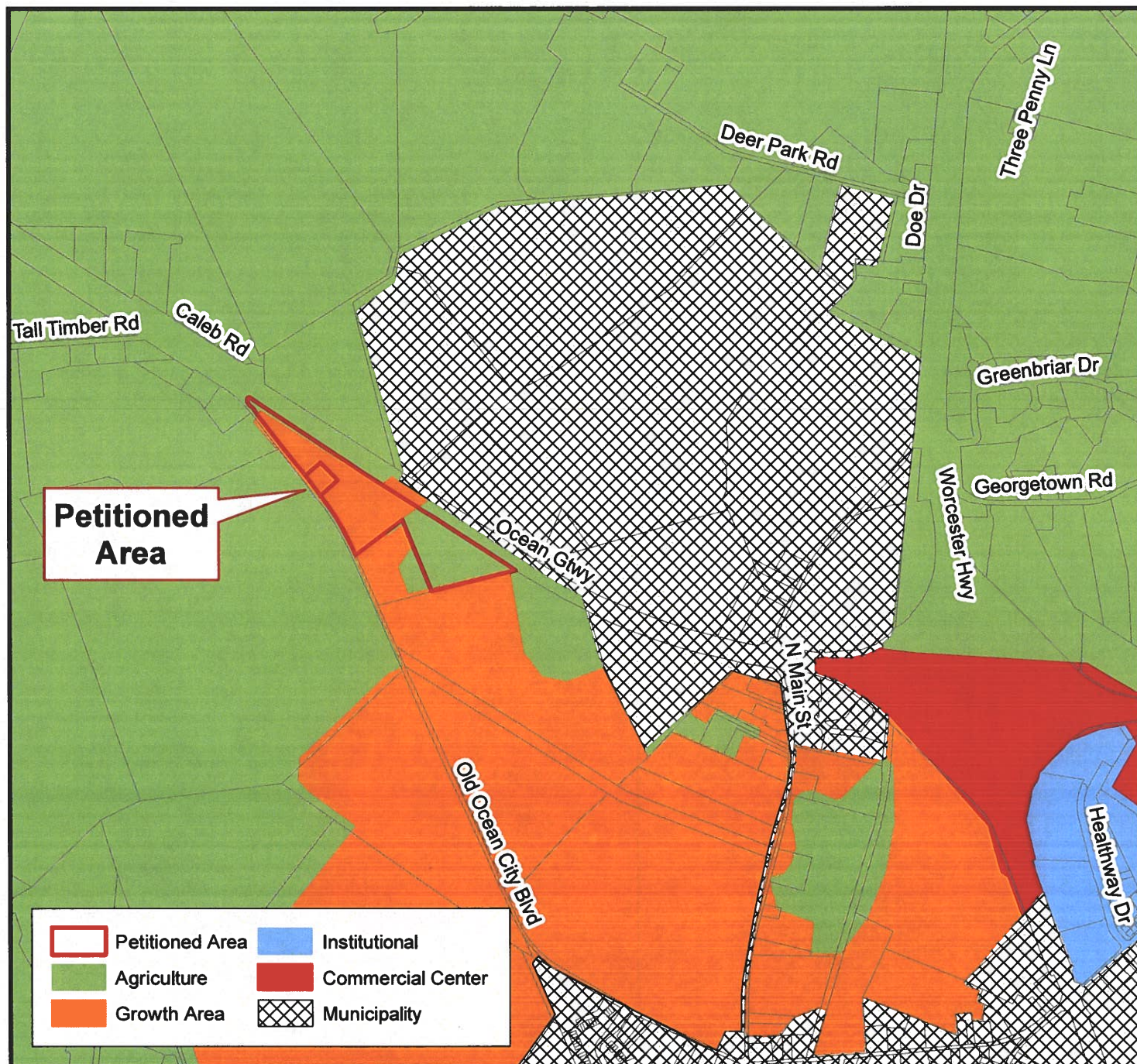


# WORCESTER COUNTY, MARYLAND



REZONING CASE NO. 422  
A-1 Agricultural District to C-2 General Commercial District  
Tax Map: 20, Parcel 47 and 318

## LAND USE PLAN MAP



DEPARTMENT OF DEVELOPMENT REVIEW AND PERMITTING  
Technical Services Division - Prepared June 2019

0 900 1,800  
Feet

Source: 2006 Land Use Plan

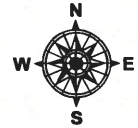
This map is intended to be used for illustrative purposes only and is not to be used for regulatory action.

Drawn By: KLH Reviewed By: PHW



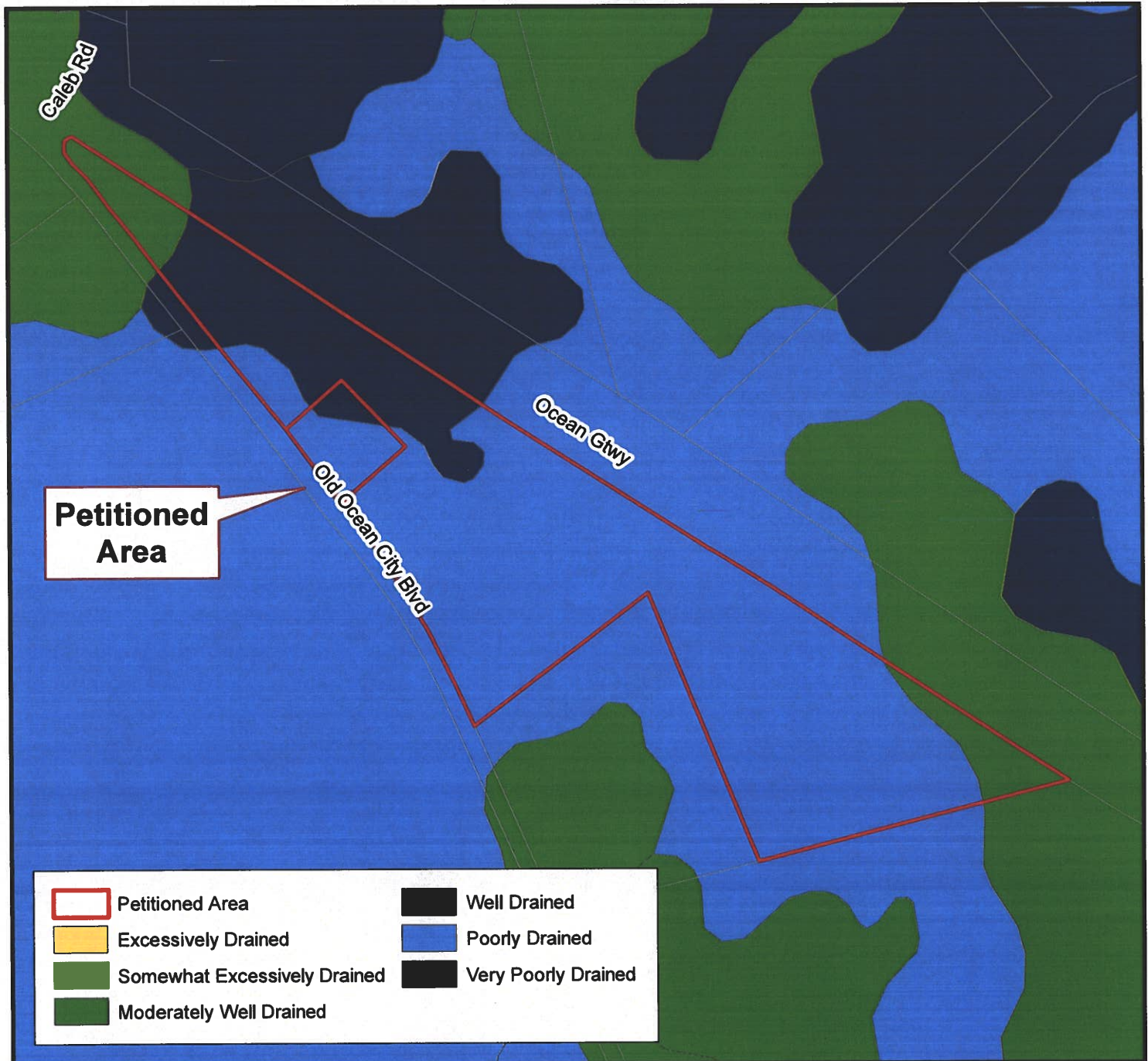


# WORCESTER COUNTY, MARYLAND



REZONING CASE NO. 422  
A-1 Agricultural District to C-2 General Commercial District  
Tax Map: 20, Parcel 47 and 318

## SOILS MAP



DEPARTMENT OF DEVELOPMENT REVIEW AND PERMITTING  
Technical Services Division - Prepared June 2019

0 250 500  
Feet

Source: 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



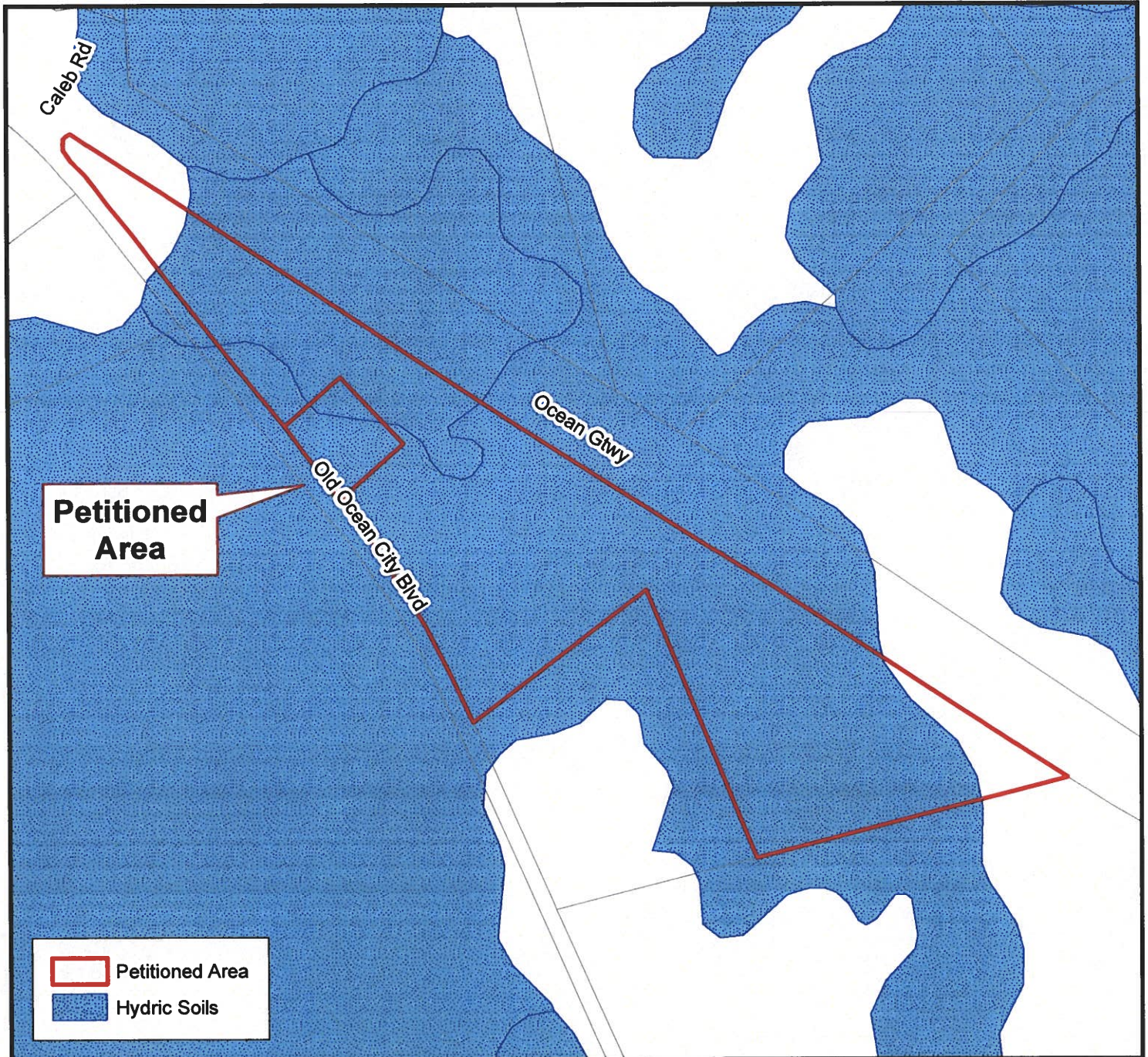


# WORCESTER COUNTY, MARYLAND



REZONING CASE NO. 422  
A-1 Agricultural District to C-2 General Commercial District  
Tax Map: 20, Parcel 47 and 318

## HYDRIC SOILS MAP



DEPARTMENT OF DEVELOPMENT REVIEW AND PERMITTING  
Technical Services Division - Prepared June 2019

0 250 500  
Feet

Source: 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





# Mayor & Council of Berlin

10 William Street, Berlin, Maryland 21811  
Phone 410-641-2770 Fax 410-641-2316  
www.berlinmd.gov



*'America's Coolest Small Town'*

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**Vice President**

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**Council Members**

Dean Burrell, Sr.

Troy Purnell

Thomas L. Gulyas

Zackery Tyndall

**Town Attorney**

David Gaskill

**Town Administrator**

Laura Allen



August 28, 2019

Phyllis Wimbrow, Deputy Director

Department of Development Review and Permitting

Worcester County

One West Market St., Room 1201

Snow Hill, MD 21863

Re: Rezoning Case No. 422 – Ernest Gerardi, Jr. – Applicant

Dear Mrs. Wimbrow,

You had previously sent to the Town of Berlin a copy of the Rezoning Application filed on behalf of Ernest Gerardi, Jr., Rezoning Case No. 422. On June 19, I sent you a response and subsequent to that, Mr. Gerardi's attorney, Joseph E. Moore and I have had communication with respect to alterations of the statement in application to I referred and my response.

The application's reference to the refusal of the Town to consider annexation, noted on pages 3 and 4 of the application are withdrawn in accordance with the notation below signed by Mr. Moore, and my letter dated June 18<sup>th</sup> is also amended as follows:

The Local Government Article of the Annotated Code of Maryland, requires that upon an annexation petition, the petitioner and the municipality reach an agreement regarding the conditions of annexation. In this matter, although there were negotiations about all conditions of annexation, the petitioner and the Town were unable to reach a mutually satisfactory Annexation Agreement as required by Maryland Law. Therefore, annexation considerations were abandoned by the applicant. The Town of Berlin understood at that time that Mr. Gerardi would file a subsequent application for rezoning in the county, to which the Town of Berlin has no objections.

This letter is joined in by the applicant to be submitted in the above noted Rezoning Case No. 422.

Sincerely,

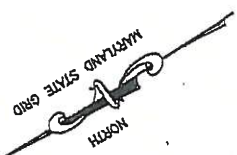
*W. G. Williams, III*

Wm. Gee Williams, III  
Mayor

JOINED IN AND AGREED TO:

*Joseph E. Moore*  
Joseph E. Moore, Attorney for  
Applicant

Cc: Laura Allen, Town Administrator  
David Gaskill, Town Attorney  
Dave Engelhart, Town Planning Director



N / F  
JOHN ALVIN TAYLOR, JR.  
HARRY CLINTON TAYLOR  
NANCY D. TAYLOR  
BRD 1728 / 284  
PARCEL # 66-1  
TAX MAP # 20

LINE	BEARING	DISTANCE
A-B	N 24°15'00" E	118.10
B-C	N 24°15'00" E	118.10
C-D	N 24°15'00" E	118.10
D-E	N 24°15'00" E	118.10
E-F	N 24°15'00" E	118.10
F-G	N 24°15'00" E	118.10
G-H	N 24°15'00" E	118.10
H-I	N 24°15'00" E	118.10
I-J	N 24°15'00" E	118.10
J-K	N 24°15'00" E	118.10
K-L	N 24°15'00" E	118.10
L-M	N 24°15'00" E	118.10
M-N	N 24°15'00" E	118.10
N-O	N 24°15'00" E	118.10
O-P	N 24°15'00" E	118.10
P-Q	N 24°15'00" E	118.10
Q-R	N 24°15'00" E	118.10
R-S	N 24°15'00" E	118.10
S-T	N 24°15'00" E	118.10
T-U	N 24°15'00" E	118.10
U-V	N 24°15'00" E	118.10
V-W	N 24°15'00" E	118.10
W-X	N 24°15'00" E	118.10
X-Y	N 24°15'00" E	118.10
Y-Z	N 24°15'00" E	118.10
Z-A	N 24°15'00" E	118.10

LINE	BEARING	DISTANCE
A-B	N 24°15'00" E	118.10
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D-E	N 24°15'00" E	118.10
E-F	N 24°15'00" E	118.10
F-G	N 24°15'00" E	118.10
G-H	N 24°15'00" E	118.10
H-I	N 24°15'00" E	118.10
I-J	N 24°15'00" E	118.10
J-K	N 24°15'00" E	118.10
K-L	N 24°15'00" E	118.10
L-M	N 24°15'00" E	118.10
M-N	N 24°15'00" E	118.10
N-O	N 24°15'00" E	118.10
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Q-R	N 24°15'00" E	118.10
R-S	N 24°15'00" E	118.10
S-T	N 24°15'00" E	118.10
T-U	N 24°15'00" E	118.10
U-V	N 24°15'00" E	118.10
V-W	N 24°15'00" E	118.10
W-X	N 24°15'00" E	118.10
X-Y	N 24°15'00" E	118.10
Y-Z	N 24°15'00" E	118.10
Z-A	N 24°15'00" E	118.10

BAHRIE LLC  
PARCEL # 600  
TAX MAP # 20

DELMARVA POWER & LIGHT CO.  
PARCEL # 600  
TAX MAP # 20

M & G ROUTE 50 LAND LLC  
PARCEL # 318  
TAX MAP # 20

M & G ROUTE 50 LAND LLC  
PARCEL # 318  
TAX MAP # 20

M & G ROUTE 50 LAND LLC  
PARCEL # 318  
TAX MAP # 20

N / F  
DANIEL B. CHILDS  
ANNE H. CHILDS  
PARCEL # 45  
TAX MAP # 20

HARRY CLINTON TAYLOR  
PARCEL # 66-1  
TAX MAP # 20

TO OCEAN CITY

TO SALISBURY

U.S. ROUTE 50  
(KNOWN AS OCEAN GATEWAY)  
(SEE S.H.C. PLAT NUMBERS 12461 & 12462)

Existing zoning: A-1 Agricultural

Proposed zoning: C-2 General Commercial

EXISTING 150' WIDE EASEMENT  
(PER RIGHT OF WAY AGREEMENT  
RECORDED IN LIBER 519/259)

AREA = 442,673 SQ. FT.

NEW RIGHT OF WAY

LINE	BEARING	DISTANCE
A-B	S 53°14'58" W	209.27
B-C	N 36°55'01" W	40.00
C-D	N 33°14'58" E	198.76
D-E	N 14°21'58" W	376.53
E-F	S 35°58'48" E	382.50
F-G	S 14°13'55" E	382.50

AREA = ±17,645 SQ. FT.

TOTAL AREA OF SURVEY = ±18.65 ACRES

PLAT OF SURVEY  
OF LANDS OF  
M & G ROUTE 50 LAND LLC  
TAX MAP #20, PARCEL 47 & 318  
THIRD TAX DISTRICT  
WORCESTER COUNTY, MARYLAND

DATE 12/28/2016  
REV. 02/24/2017  
SCALE: 1" = 100'



GRAPHIC SCALE

L. E. BUNTING SURVEYS, INC.  
HURLAND & VIRGINIA  
LAND SURVEYING  
24 BROAD STREET  
BETHLIE, MARYLAND 21811  
(410) 641-5313

L. E. BUNTING, JR.  
DATE

LAW OFFICES  
WILLIAMS, MOORE, SHOCKLEY & HARRISON, L.L.P.  
3509 COASTAL HIGHWAY  
OCEAN CITY, MARYLAND 21842

JOSEPH E. MOORE  
RAYMOND C. SHOCKLEY  
J. RICHARD COLLINS  
REGAN J.R. SMITH  
CHRISTOPHER T. WOODLEY  
CHRIS S. MASON  
PETER S. BUAS

(410) 289-3553  
TELEFAX (410) 289-4157

MARCUS J. WILLIAMS (1923-1995)  
EDWARD H. HAMMOND, JR. (1942-2011)

OF COUNSEL  
JOSEPH G. HARRISON, JR.

August 21, 2019

Mr. Robert J. Mitchell  
Director, Environmental Services  
Worcester County Department of  
Environmental Programs  
1 West Market Street, Room 1306  
Snow Hill, MD 21863  
*Via email: [bmitchell@co.worcester.md.us](mailto:bmitchell@co.worcester.md.us)*

Dear Bob:

I have your environmental program staff comments on Rezoning Case No. 422, which is scheduled for the Planning Commission Meeting of September 5. At that time, I intend to offer the Affidavit of John W. Salm III, copy of which is attached hereto, which provides that his analysis with respect to actual replacement capacity and potential additional capacity is set forth in Paragraphs 4 and 5 thereof.

I would appreciate your review of John's affidavit to make sure that you do not have a problem with John's opinion, even though you are not in a position to say with certainty that his analysis is correct.

Thank you in advance for your consideration of this request.

Sincerely,

Joseph E. Moore

JEM/kd  
Attachment

\\SERVER11\User\Shared\down\IngtEmac GERARDN.LrBobMitchell82019.docx

### AFFIDAVIT OF JOHN W. SALM III

THIS will certify by the undersigned, JOHN W. SALM III as follows: I am a professional engineer licensed in the State of Maryland and am the principal in J. W. Salm Engineering, Inc.

1. I am over the age of 18 and am competent to testify; and have personal knowledge of the matters and facts set forth herein.
2. I have done an analysis of the property owned by M & G Route 50 Land, LLC, located at the intersection of Maryland Route 346 and U.S. Route 50, west of the Town of Berlin.
3. I met with Robert Mitchell, Director of Environmental Programs in my office on May 15, 2019, at which time we discussed the two existing on-site systems, and I made an analysis (subject to actual environmental site work, which must await the required analysis season), and reached the final professional opinion with respect to both the actual replacement capacity of the previously existing on-site systems, and, further set forth, my professional estimate of potential additional capacity for on-site waste water disposal.
4. Based on my opinion and analysis, the present replacement systems for the two parcels of land (Parcel 47 and Parcel 318) have a replacement capacity of 1,200 GPD. That actual rated capacity would support the following commercial uses:
  - a. Contractor Shops/Warehouses up to: 40,000 SF, or  
Self-Storage up to: 40,000 SF, or  
Retail up to: 24,000 SF, or  
Office up to: 13,333 SF, or  
Convenience Store: 5,000 SF +  
(take-out food only)
5. Possible additional on-site capacity; limited to the Woodstown soils area of the site (0.69 +/- acre) indicates, in my professional opinion, based on setbacks and other likely siting requirements, an estimate of additional capacity of 1,200 gallons per day. The replacement plus additional capacity, in my professional opinion, could support the following extended commercial uses:
  - a. Contractor Shops/Warehouses up to: 80,000 SF, or  
Self-Storage up to: 40,000 SF, or  
Retail up to: 48,000 SF, or  
Office up to: 26,666 SF, or  
Convenience Store: 5,000 SF + (+80 inside seats)  
(take-out food + 80 inside seats)



7/25/19

6. These estimates are my opinion only from a preliminary analysis. Exact field conditions and coordination with Worcester County Environmental Programs will determine the actual approvable on-site wastewater disposal capacity but is, in my opinion, a fair estimate of potential capacity on-site of the subject property.

I have reviewed the above stated Affidavit and, it does express my opinion to the best of my professional knowledge and belief, based upon the analysis that I have made.



7/25/19

John W. Salm III, P.E.,  
President J.W. Salm Engineering, Inc., Berlin, MD

## Jennifer Keener

---

**From:** Maureen L. Howarth  
**Sent:** Friday, August 30, 2019 8:54 AM  
**To:** Jennifer Keener  
**Subject:** FW: M&G Route 50 Land LLC-soils analysis  
**Attachments:** Joe Moore Corresp.pdf

For PC package.

### Maureen F.L. Howarth

County Attorney for Worcester County, Maryland  
Worcester County Government Center  
One W. Market Street, Room 1103  
Snow Hill, Maryland 21863  
# 410-632-1194

### CONFIDENTIAL ATTORNEY-CLIENT PRIVILEGED INFORMATION

This email message from the Office of the County Attorney for Worcester County, Maryland is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply email and destroy all copies of the original message.

---

**From:** Robert Mitchell  
**Sent:** Thursday, August 29, 2019 5:52 PM  
**To:** Maureen L. Howarth <mhowarth@co.worcester.md.us>  
**Subject:** FW: M&G Route 50 Land LLC-soils analysis

FYi – I did provide the following to Joe Moore as we discussed.

Robert J. Mitchell, LEHS, REHS  
Director

Worcester County  
Department of Environmental Programs  
1 West Market Street, Room 1306  
Snow Hill, MD 21863  
Phone (410) 632-1220 x 1601  
Fax (410) 632-2012



---

**From:** Robert Mitchell  
**Sent:** Thursday, August 29, 2019 5:54 PM  
**To:** 'Joe Moore' <jmoore@whmsh.com>  
**Cc:** John Salm <jsalm@jwse.com>  
**Subject:** RE: M&G Route 50 Land LLC-soils analysis

Joe-

My exact comments with respect to septic capacity on the proposed rezoning are listed below and they are contained within my comment memo:

1. Our well and septic records show the properties were improved with existing individual well and septic before abandonment. That capacity would have to be re-established and that would include seasonal testing to explore what proposed commercial uses could be supported by approved interim onsite sewage system(s).
2. The owner may achieve a development capacity on these properties with onsite sewer that will be less concentrated than what was envisioned for a growth area. If these properties are approved for a zoning reclassification, perhaps the development will exist for a time at that level, only intensifying with additional infill when annexation and public services are offered in the future.

I did meet with John Salm, and the future capacity estimates and prognostications on the potential for additional onsite sewage disposal are his alone. I confirmed the existence of the two septic systems serving those two properties and that we could potentially honor them at a max of 600 gpd each if they are not damaged and if they were protected and preserved within the site plan (if not paved over or located within setbacks to storm water infrastructure). That would be my definition of "re-established". The intent was that the existing septic reserve areas on each of the lots would not be rendered useless by placing structures or project features overtop them, by cut-and-fill construction activities, or by placing stormwater features within their setbacks.

John's forecast of additional approved sewage reserve areas is his estimate. While the potential is there with the soils, they would need to achieve minimum water tables and pass seasonal testing for additional flow on those properties. Again, they need to pass those tests and the developer needs to be able to protect and preserve these areas within the site plan without setback or building conflicts with the construction of the project's structures and related infrastructure.

So there is an onsite capacity of 1,200 gpd with the two existing areas, provided that they can be protected so they can be re-established. Additional future onsite capacity is unknown at this point without confirmed seasonal testing.

Hope this provides additional clarification you need. Please let me know if you need anything else.

Bob Mitchell

Robert J. Mitchell, LEHS, REHS

Director

Worcester County

Department of Environmental Programs

1 West Market Street, Room 1306

Snow Hill, MD 21863

Phone (410) 632-1220 x 1601

Fax (410) 632-2012



---

From: Joe Moore <[jmoore@whmsh.com](mailto:jmoore@whmsh.com)>

Sent: Thursday, August 29, 2019 12:13 PM



**To:** Robert Mitchell <[bmitchell@co.worcester.md.us](mailto:bmitchell@co.worcester.md.us)>

**Cc:** John Salm <[jsalm@jwse.com](mailto:jsalm@jwse.com)>

**Subject:** M&G Route 50 Land LLC-soils analysis

Bob; I delivered to you a letter last week requesting that we be advised whether you will authorize us to use the pre-existing analysis as the on-site capability of the site to be utilized for the present capacity, as noted by John Salm's affidavit, with the property owner doing an additional analysis to determine potential additional capacity.

We believe it is important to be able to make the representation to the Planning Commission as to actual existing capacity, with potential additional capacity subject to testing. Are you OK with our allegation that due to the previous permits, we can represent that as actual existing capacity?

I have also left you a voice mail message asking that you call me at 410-289-3553.

Joe

**Joseph E. Moore, Esq.**

Williams, Moore, Shockley & Harrison, L.L.P.

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