

**WORCESTER COUNTY PLANNING COMMISSION
AGENDA**

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

Although the Government Center remains closed to the public, this meeting will be held in-person. Masks will be required for all in attendance and social distancing regulations will be enforced.

Thursday, October 1, 2020

Est. Time

- | | | |
|-----------|------|--|
| 1:00 P.M. | I. | Call to Order |
| 1:00 P.M. | II. | Administrative Matters |
| | A. | Review and approval of minutes –September 3, 2020 |
| | B. | Board of Zoning Appeals agendas –October 8, 2020 |
| 1:05 P.M. | III. | Text Amendment |
| | A. | ZS 1-338(b)(2) Accessory apartments - Hugh Cropper, IV, applicant, on behalf of Kathy Clark |
| 1:10 P.M. | IV. | Water and Waste Water Amendment |
| | A. | Amendment of the Worcester County Comprehensive Plan for Water and Sewerage Systems—Text amendment request to amend Section 1.2.2.D regarding point source discharge limitations. Mr. Joe Moore is the applicant. SW 2020 -01. |
| 1:15 P.M. | V. | Miscellaneous |
| 1:15 P.M. | VI. | Adjourn |

**Worcester County Planning Commission
Meeting Minutes**

Meeting Date: September 3, 2020

Time: 1:00 P.M.

Location: Worcester County Government Office Building, Room 1102

Attendance:

Planning Commission

Jay Knerr, Chair

Marlene Ott

Rick Wells, Vice Chair

Brooks Clayville

Jerry Barbierri, Secretary

Mike Diffendal

Staff

Roscoe Leslie, County Attorney

Ed Tudor, Director

Phyllis Wimbrow, Deputy Director

Jennifer Keener, Deputy Director Emeritus

Jessica Edwards, Customer Service Representative

Robert Mitchell, Director of Environmental Programs

I. Call to Order

II. Administrative Matters

A. Review and approval of minutes, August 6, 2020 — As the first item of business, the Planning Commission reviewed the minutes of the August 6, 2020, meeting. Following the discussion, it was moved by Mr. Diffendal and seconded by Ms. Ott and carried unanimously to approve the minutes as submitted.

B. Board of Zoning Appeals agenda, September 10, 2020 — As the next item of business, the Planning Commission reviewed the agenda for the Board of Zoning Appeals hearing scheduled for September 10, 2020. Mrs. Keener was present for the review to answer questions and address concerns of the Planning Commission. No comments were forwarded to the Board.

III. Proposed Access Gate on Approved Private Road

As the next item of business, the Planning Commission reviewed a request for a proposed access gate on Inlet Isle Lane, an approved private road providing access to the Estates at Inlet Isle, Tax Map 27, Parcels 227 and 573, District 10, C-2 General Commercial District. Mark S. Cropper, Esquire, Brian Tingle, on behalf of the developer, and Steve Engel, landscape architect, were present for the review.

Mr. Cropper testified that the approved private road is owned and maintained by the Homeowner's Association, on lands previously known as Shantytown Island. This road extends from US Route 50 on the westerly end to the cul-de-sac within the community. This gate would limit access to the residential lots within this area.

Mr. Cropper also explained that a permit application was submitted addressing all the items required by Resolution No. 10-3. Mr. Cropper proceeded to review the staff report indicating he agrees with staff findings.

Applicants Exhibit No. 1 was a site plan, completed by Mr. Engel, illustrating the proposed gate location, call box and the bail-out route through the parking lot. Mr. Engel explained that if guests are unable to get through the gate, the bail-out route will be through the parking lot shared by the Mickey Fins restaurant and the Ocean City Fishing Center. He further explained that this is the only functional layout for the project. Mr. Tingle testified that the bail-out route was approved by over 80% of the Estate's residence and all support the project and bail-out route.

An enlarged image of the gate layout and callbox were submitted as the Applicant's Exhibit No. 2. Mr. Cropper again referenced the staff comments regarding the concerns for winter boat storage (Item 4 of the staff comments). Mr. Tingle testified if the gate was approved, all boat storage would be arranged so as not to interfere with the bail-out route. Since there are existing fuel tanks in the bail-out area, the gates would be left open when those tanks are being filled.

Mr. Barbierri referenced Number 9 of the Staff Findings, mentioning that 16 transmitters were proposed. He suggested that one knox box be installed with one transmitter. Mr. Tingle agreed to provide the knox box as requested.

Mr. Knerr questioned if there will be a service contract for testing and maintenance. Mr. Tingle indicated that they have not yet entered into a contract pending the outcome of this meeting; however, they will pursue an arrangement upon approval from the Planning Commission. Mr. Knerr also asked how the residents will gain access through the gate; Mr. Tingle indicated that their access would be automatic; however, the method, whether by transmitter, license plate identifier or other method, has not yet been decided.

Mr. Cropper testified that the original plans for the community included a gate, but it was never constructed. He also reiterated that they gate would have one knox box.

Following the discussion, a motion was made by Mr. Diffendal, seconded by Mr. Barbierri and carried five to one, with Mr. Clayville in opposition, to approve the gate request.

IV. Map Amendment – Case No. 426

As the next item of business, the Planning Commission reviewed Rezoning Case No. 426, a request to rezone Tax Map 33, Parcel 347 from A-2 Agricultural District to C-2 General Commercial District. This property consists of 1.74 acres on the westerly side of MD Route 611 (Stephen Decatur Highway), south of Snug Harbor Road, in Berlin. Mark S. Cropper, Esquire, David Lane and Susun Lane, property owners, and Steve Engel, landscape architect, were present for the review.

Mr. Cropper indicated the property owners own and operate Sun Signs, a sign manufacturing business, on the subject property. Mr. Lane testified that he purchased the property in 1988 and that the land was rezoned to a commercial designation as a condition of the purchase.

Applicant's Exhibit No. 1 was a copy of the property deed from Mr. Lane's purchase. Mr. Lane explained that Sun Signs has been in operation for 32 years in this location and that he was unaware the land was rezoned in the 2009 comprehensive rezoning. This has caused his business to be considered a non-conforming use.

Mr. Cropper testified that the rezoning request is being made based upon both a change in the character of the neighborhood and a mistake in the assigned zoning district. Since the parcel retained a commercial zoning from 1988 through 2009, and had active commercial activity occurring on the lands that entire time, it should not have been rezoned during the 2009 comprehensive rezoning. This change has caused a burden on the owner as they must now comply with regulations for nonconforming uses, when the use was previously allowed by right.

Submitted as Applicant's Exhibit No. 2 was a copy of the Technical Review Committee agenda for September 9, 2020, referencing a proposed commercial use, Salt Grass Point Mini Storage, on commercially zoned lands located directly across MD Route 611 (Stephen Decatur Highway), on Tax Map 33, Parcel 136.

Submitted as Applicant's Exhibit No. 3 were chain deeds of the property reflecting that this parcel was previously part of Parcel 136 and separated when the creation of MD Route 611 split the lands. Both the subject parcel and Parcel 136 were commercially zoned prior to 2009. In 2009, Parcel 136 was vacant while this parcel, which contained an active business, was changed to an agricultural zone. Mr. Lane confirmed these events.

Mr. Cropper explained that the petitioned area is 1.74 acres in size and is not large enough for a farming operation. Mr. Lane explained that has no intention of stopping the current commercial activity or beginning a farming operation. Mr. Engel confirmed Mr. Lane's testimony.

Mr. Cropper further indicated the purpose of the Comprehensive Plan is to minimize nonconforming land uses. The Land Use map also identifies this parcel as Existing Developed Area (EDA) making a commercial zoning more compatible than an agricultural zoning.

Mr. Cropper submitted the Findings of Fact from Rezoning Case Number 395 as Applicant's Exhibit No. 4. This case rezoned 36 acres in the current Frontier Town campground from C-2 General Commercial District to A-2 Agricultural District. Mr. Cropper read the third paragraph on page one of the aforementioned Findings, indicating that he would like to adopt the definition of the neighborhood as read with one exception. Mr. Cropper noted the lands on the west side of MD Route 611 should be included in the definition of the neighborhood. He then submitted a copy of the Zoning Map reflecting the properties fronting on the west side of MD Route 611 as Applicant's Exhibit No. 5.

Submitted as Applicant's Exhibit No. 6 was a map of the Mystic Harbor Sewer Service Planning Area. Mr. Cropper explained that the lands on both the easterly and westerly sides of MD Route 611 are included in this sewer service area. These lands contain a mixture of uses and zones; additionally, there is a vast amount of traffic on MD Route 611 that affects properties on both sides of that road. Mr. Cropper explained the neighborhood is defined more holistically in this

document as it includes the lands on the westerly side of MD Route 611 as part of the aforementioned neighborhood. Mr. Engel indicated that he agreed with this observation.

Mr. Cropper then reviewed the staff report for this case, first indicating that he agreed with the contents on pages one and two. He further explained that the intent is not to rezone the property for further development, but to allow the current activity to remain and be in conformance with the Comprehensive Plan.

Mr. Cropper referenced the commercial land supply noted on Page 3 of the staff report. He testified that since 36 acres of previously commercial land was downzoned through Rezoning Case No. 396, there is an overall reduction in available commercial land in this defined neighborhood.

Mr. Cropper continued to discuss the staff report, first indicating that the rezoning will not affect traffic flow on MD Route 611 at this time. Mr. Cropper also explained that he agreed with comments provided by Mr. Mitchell relative to water and wastewater facilities. He also agreed with the comments provided relative to emergency services, roads, schools and critical area regulations. Mr. Cropper reiterated that he agreed with the vast majority of staff's analysis.

Submitted as Applicant's Exhibit No. 7 was an email from Mr. Mitchell with a chart of the Mystic Harbor Sewer Service Area to accompany the previously submitted service area map. This chart reflects that there has been an increase in the number of EDUs allocated due to the expansion of the service area, thus constituting a change in the character of the neighborhood.

Mr. Cropper returned to discussing the Findings of Fact from Rezoning Case Number 395. He explained that since that rezoning case in 2016, the Mystic Harbor Sewer Service area expansion extended the availability of public facilities.

Mr. Cropper further expressed that there would be no change in transportation patterns, or additional threats to endangered species. This rezoning would make the land more compatible with the comprehensive plan and that the land is designated EDA on the Comprehensive Land Use Map.

Mr. Lane explained that he was displeased to learn that his property was rezoned in 2009 without this knowledge or consent after going through the rezoning process in 1988. He has operated a commercial business from the location since his purchase and the use is now no longer conforming to the zoning regulations. He believes this has diminished his property values.

In response to a question from Mr. Knerr, Mr. Lane explained that he was unaware of the rezoning until approximately three months ago. Upon learning of this, he contacted Mr. Cropper in regards to filing a rezoning application.

The Planning Commission discussed each one of the findings to determine whether they had a consensus. They were as follows:

1. With respect to the definition of the neighborhood, they found that while Mr. Cropper's definition of the neighborhood is appropriate, there has been no change in the character of the neighborhood, and therefore this request should only be considered on the merits of a mistake in the existing zoning.
2. Relating to population change, the Planning Commission finds there has been no change since the last comprehensive rezoning.
3. Relating to the availability of public facilities, the Planning Commission finds that sewer availability has increased by virtue of the Mystic Harbour wastewater treatment plant expansion. In addition, the Planning Commission noted that public services such as fire, police and schools were not impacted by this request.
4. Relating to present and future transportation patterns, the Planning Commission finds that present transportation patterns are sufficient as no significant changes to the property are anticipated.
5. Relating to compatibility with existing and proposed development, and environmental conditions in the area, the Planning Commission finds that there would be no adverse impact to existing environmental conditions, and that the property had been previously designated with a commercial zoning classification, and was consistent with the existing development in the area at that time. Therefore, the Planning Commission found that the proposed rezoning would be compatible.
6. Relating to compatibility with the Comprehensive Plan, the Planning Commission finds that the rezoning of this parcel would be compatible with the Comprehensive Plan. The property is in the EDA Land Use designation, and 36 acres at Frontier Town campground was downzoned from C-2 District to A-2 District, therefore reducing the amount of commercially zoned lands within the applicant's defined neighborhood.
7. Relative to the consideration of whether there has been a substantial change in the character of the neighborhood since the last Comprehensive Rezoning, the Planning Commission determined that there has not been a substantial change. The Planning Commission found that the rezoning should be granted due to a mistake in the zoning designation rather than a change in the character of the neighborhood.
8. Relative to whether the change would be more desirable in terms of the Comprehensive Plan, the Planning Commission found that it would.

Following the discussion, a motion was made by Mr. Diffendal, seconded by Ms. Ott and carried unanimously, to find the map amendment for C-2 General Commercial District zoning of the parcel consistent with the Comprehensive Plan based on a mistake in the zoning of the property. A favorable recommendation will be forwarded to the Worcester County Commissioners based on the findings as outlined above.

V. Map Amendment – Case No. 428

As the next item of business, the Planning Commission reviewed Rezoning Case No. 428, a request to rezone Tax Map 10, Parcel 167 from E-1 Estate District to A-2 Agricultural District.

This property consists of 2.88 acres on the southerly side of Saint Martin's Neck Road, east of Aramis Lane, in Bishopville. Mark S. Cropper, Esquire and applicant, and Steve Engel, landscape architect, were present for the review. Mr. Cropper testified that the request is being made based upon a mistake in the assigned zoning district.

Mr. Cropper began by confirming the previous zoning referenced in the staff report. He explained that almost all of the lands to the south of this property are within the E-1 Estate District or A-2 Agricultural District; to the north there are agriculturally zoned properties and some industrially zoned lands.

Mr. Cropper continued to reference the staff report indicating that he agreed with the staff comments, bringing special attention to page 2, where the elimination of the E-1 District is discussed in the Comprehensive Plan. Mr. Cropper explained that this portion of the staff report reiterates the removal of large lot zoning as noted in the Comprehensive Plan. He continued to explain that the E-1 district should have been eliminated during the 2009 comprehensive rezoning but was not. If that district had been eliminated, this property would have likely been assigned an agricultural designation.

Mr. Cropper expressed that this would be considered a downzoning of the lands and it would be more consistent with the Comprehensive Plan. Mr. Engel confirmed these observations.

The Planning Commission discussed each one of the findings to determine whether they had a consensus. They were as follows:

1. With respect to the definition of the neighborhood, they noted that defining the neighborhood was not necessary as the request is based upon a mistake in the current zoning.
2. With respect to the Planning Commission's concurrence with the definition of the neighborhood, they noted that this was not applicable as Mr. Cropper had asserted that there is a mistake in the existing zoning rather than a change in the character of the neighborhood.
3. Relating to population change, the Planning Commission finds that there has been no change.
4. Relating to the availability of public facilities, the Planning Commission finds that there has been no change, and that the property is currently served by private water and septic.
5. Relating to present and future transportation patterns, the Planning Commission finds that present transportation patterns by means of MD Route 90 and US Route 113 are sufficient.
6. Relating to compatibility with existing and proposed development, and environmental conditions in the area, the Planning Commission finds that the downzoning would be more consistent.
7. Relating to compatibility with the Comprehensive Plan, the Planning Commission finds that the Land Use Map within the Comprehensive Plan reflects that this parcel should have been rezoned during the 2009 comprehensive rezoning. The rezoning of this property would be more compatible with the Comprehensive Plan.

8. Relative to the consideration of whether there has been a substantial change in the character of the neighborhood since the last Comprehensive Rezoning, the Planning Commission determined that this is not applicable as the basis for the rezoning is a mistake in the assigned zoning.
9. Relative to whether the change would be more desirable in terms of the Comprehensive Plan, the Planning Commission found that it would be more desirable as the E-1 district should have been eliminated in 2009.

Following the discussion, a motion was made by Mr. Barbierri, seconded by Mr. Wells, and carried five to one, with Mr. Diffendal in opposition, to find the map amendment for an A-2 Agricultural District zoning of the parcel consistent with the Comprehensive Plan, and to forward a favorable recommendation to the Worcester County Commissioners based on the findings as outlined above.

VI. Adjourn – The Planning Commission adjourned at 2:00 P.M.

Jerry Barbierri, Secretary

Jessica Edwards

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

AGENDA

THURSDAY, OCTOBER 8, 2020

Pursuant to the provisions of the Worcester County Zoning Ordinance, notice is hereby given that a public hearing will be held in-person 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. Masks and social distancing will be required.

6:30 p.m.

Case No. 20-45, on the application of Donald Littleton, on the lands of John Kokkinos, requesting a variance to the Ordinance prescribed rear yard setback from 25 feet to 19 feet (an encroachment of 6 feet) associated with a proposed deck and screen porch addition in the R-1 Rural Residential District, pursuant to Zoning Code Sections ZS 1-116(c)(4), ZS 1-205(b)(2) and ZS 1-305, located at 11712 Maid At Arms Lane, approximately 373 feet east of Man O War Lane , Tax Map 26, Parcel 1, Lot 132, of the Riddle Farm Subdivision, in the Tenth Tax District of Worcester County, Maryland.

6:35 p.m.

Case No. 20-46, on the application of Mark Cropper, Esq., on the lands of Steve Hershey, requesting a special exception to allow the reconstruction/reconfiguration of a non-conforming hotel/motel use to include the expansion of the use not to exceed 50% of the original gross floor area; requesting a variance to the Ordinance prescribed rear yard setback from 50 feet to 33 feet (an encroachment of 17 feet) associated with a proposed single family dwelling and a variance to the Ordinance prescribed rear yard setback from 47 feet to 26 feet (an encroachment of 21 feet) associated with the reconstruction and relocation of proposed Building A, in the R-1 Rural Residential District, pursuant to Zoning Code Sections ZS 1-116(c)(3), ZS 1-116(c)(4), ZS 1-122(d), ZS 1-205(b)(2) and ZS 1-305, located at the easterly terminus of Gum Point Road, Tax Map 21, Parcel 75, in the Third Tax District of Worcester County, Maryland.

6:40 p.m.

Case No. 20-47, on the application of Worcester County DDRP, on the lands of Erin Dunworth, requesting an after-the-fact variance to the Ordinance prescribed lot width of 200 feet to 127.2 feet (a reduction of 72.8 feet) associated with an existing detached garage in the A-1 Agricultural District, pursuant to Zoning Code Sections ZS 1-116(c)(4), 1-201(b)(5) and ZS 1-305, located at 11201 St. Martins Neck Road, approximately 165 feet east of N. Piney Point Road, Tax Map 10, Parcel 262, Lot 1, in the Fifth 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/drp/drpindex.htm

DATA RESEARCH DIVISION
CUSTOMER SERVICE DIVISION
TECHNICAL SERVICES DIVISION

PLANNING DIVISION
ZONING DIVISION
ADMINISTRATIVE DIVISION

MEMORANDUM

To: Worcester County Planning Commission
From: Jennifer Keener, AICP, Deputy Director *JKK*
Date: September 24, 2020
Re: Text Amendment Application – §ZS 1-338(b)(2) Accessory apartments

The attached text amendment application has been submitted by Hugh Cropper, IV, Esquire, on behalf of his client, Kathy Clark. It seeks to amend §ZS 1-338 Accessory apartments by eliminating the requirement that either the main dwelling or the accessory apartment be owner occupied. Following our customary practice, once the text amendment application was received, it was reviewed by Ed Tudor, Director, and Roscoe Leslie, County Attorney and Planning Commission Attorney, as well as myself for comment.

Overall, accessory apartments are restricted with respect to the maximum gross floor area of the dwelling unit, number of bedrooms, and the location of the apartment relative to the main single-family dwelling. The intention of these limits is to prevent the doubling of density on a lot or parcel of land that would otherwise not support it (i.e. two dwellings on a single parcel), while providing for more affordable housing options in the County. These regulations were first established in the 1992 Zoning and Subdivision Control Article. The regulations (then as now) require that a property owner reside in one of the units; they cannot rent both the house and the apartment to two separate family or housekeeping units. The applicant is requesting to strike this language from the code. A copy of §ZS 1-338 with the stricken language is attached for your consideration.

Under the new rental regulations which were effective January 1, 2020, any property owner that rents their dwelling would be required to obtain a rental license through the department. There are numerous standards that are set forth in §TR 2-106 Rental licenses, one of which is that the owner is responsible for providing contact information for the owner, manager or resident agent with availability twenty-four hours a day should there be any issues with respect to the property or rental activity (for both short-term and long-term rentals). A short-term rental in accordance with §ZS 1-351 is limited to a maximum of one rental contract for any overnight period, regardless of whether they rent the dwelling or the accessory apartment (or both combined). This amendment would not change those provisions. With respect to long-term rentals (29 or more consecutive days), a property owner is limited to one rental contract by virtue of the section that the applicant is now proposing to eliminate

from the code. If this amendment is approved, it would allow a property owner to rent both units separately on a long-term basis.

Given the standards associated with the various rental license provisions, the staff gives a favorable recommendation to the text amendment application as requested. A draft bill is attached for your reference.

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

Attachments

cc: Edward A. Tudor, Director
Roscoe Leslie, County Attorney
Hugh Cropper, IV, Esquire

§ ZS 1-338. Accessory apartments.

(a) Purpose and intent. It is the specific purpose and intent to allow no more than one accessory apartment per lot of record through conversion of existing residential structures or construction of new residential facilities so as to provide the opportunity and encouragement to meet the special housing needs of persons of low and moderate income as well as relatives of families currently residing in the County. It is furthermore the intent and purpose of this provision to allow the more efficient use of the County's existing housing stock in a manner consistent with land use objectives identified in the Worcester County Comprehensive Plan and to provide economic support for present resident families of limited income, while protecting and preserving property values and community character.

(b) Standards. The following specific standards are set forth as conditions for such accessory uses:

(1) Accessory apartments shall only be permitted where adequate wastewater disposal capacity has been determined to be available by the Environmental Programs Division but, as accessory residential uses, shall not be counted against permitted density on any parcel with respect to the requirements of this Article. However, other regulations may stipulate that such accessory residential uses be considered when calculating permitted density.

~~(2) The owner of the residential dwelling unit in which the accessory apartment is to be located shall occupy at least one of the dwelling units on the premises.~~

(3) An accessory apartment may be located either in the principal dwelling unit or in an accessory building. Manufactured or mobile homes shall not be construed as an accessory apartment.

(4) When located within an accessory building, the building shall be located so that its entire perimeter is within one hundred feet of the principal building on the property.

A. A separation distance greater than one hundred feet may be permitted in accordance with the provisions of § ZS 1-117(e)(5) provided that the property upon which the accessory apartment is located is not located within the Chesapeake or Atlantic Coastal Bays Critical Area.

(5) The minimum floor area for an accessory apartment within the principal building shall be five hundred square feet, but in no case shall it exceed thirty-five percent of the gross floor area, exclusive of any garage, of the dwelling in which it is located or nine hundred square feet, whichever is less. For accessory apartments located in an accessory building, the minimum floor area shall also be five hundred square feet, but in no case shall it exceed thirty-five percent of the gross floor area of the principal dwelling or nine hundred square feet, whichever is less. No accessory apartment shall contain more than two bedrooms.

(6) There shall be no more than one accessory apartment permitted per existing single-family dwelling.

(7) If an accessory apartment is located in the principal dwelling unit on the property, entry to the accessory apartment shall be designed such that the appearance of the building remains as a single-family dwelling. However, nothing herein shall be construed to require any entry to the accessory apartment to be confined to the side or rear of the structure.

(8) Off-street parking for the accessory apartment shall be in accordance with § ZS 1-320 hereof and shall be in addition to any other parking required for other uses on the site.

COUNTY COMMISSIONERS OF WORCESTER COUNTY, MARYLAND

BILL 20-

BY:

INTRODUCED:

A BILL ENTITLED

AN ACT Concerning

Zoning – Accessory apartments

For the purpose of amending the Zoning and Subdivision Control Article to eliminate the requirement that a property owner occupy either the primary dwelling or accessory apartment on the premises.

Section 1. BE IT ENACTED BY THE COUNTY COMMISSIONERS OF WORCESTER COUNTY, MARYLAND, that existing Subsection § ZS 1-338(b)(2) of the Zoning and Subdivision Control Article of the Code of Public Local Laws of Worcester County, Maryland be repealed.

Section 2. BE IT FURTHER ENACTED BY THE COUNTY COMMISSIONERS OF WORCESTER COUNTY, MARYLAND, that existing Subsections §§ ZS 1-338(b)(3) through ZS 1-338(b)(8) of the Zoning and Subdivision Control Article of the Code of Public Local Laws of Worcester County, Maryland be renumbered as §§ ZS 1-338(b)(2) through ZS 1-338(b)(7) respectively.

Section 3. BE IT FURTHER ENACTED BY THE COUNTY COMMISSIONERS OF WORCESTER COUNTY, MARYLAND, that this Bill shall take effect forty-five (45) days from the date of its passage.

PASSED this _____ day of _____, 2020.

ATTEST:

COUNTY COMMISSIONERS OF
WORCESTER COUNTY, MARYLAND



DEPARTMENT OF
DEVELOPMENT REVIEW AND PERMITTING

Worcester County

GOVERNMENT CENTER
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ZONING DIVISION
BUILDING DIVISION
ADMINISTRATIVE DIVISION

DATA RESEARCH DIVISION
CUSTOMER SERVICE DIVISION
TECHNICAL SERVICES DIVISION

MEMORANDUM

To: Edward A. Tudor, Director
Roscoe Leslie, County Attorney
From: Jennifer K. Keener, AICP, Deputy Director *JKK*
Date: September 15, 2020
Re: Text Amendment Application – §ZS 1-338(b)(2) Accessory apartments

The attached text amendment application has been submitted by Hugh Cropper, IV, Esquire, on behalf of his client, Kathy Clark. It seeks to amend §ZS 1-338 Accessory apartments by eliminating the requirement that one of the dwelling units on the premises be owner occupied. Currently, the department would be unable to permit an accessory apartment if the owner of the property was not residing in or, in the event of a dwelling under construction, intending to reside in one of the units (either the primary dwelling or the accessory apartment).

Also attached is the draft bill form of the request. I anticipate scheduling this text amendment for consideration by the Planning Commission at a forthcoming meeting. So that I may incorporate them into the staff report, please submit your comments to me no later than September 24, 2020.

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

Attachment

Worcester County Commissioners
Government Office Building
One West Market Street, Room 1103
Snow Hill, Maryland 21863

Please Type or
Print in Ink

PETITION FOR AMENDMENT OF OFFICIAL TEXT
OF THE ZONING AND SUBDIVISION CONTROL ARTICLE

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

Date Received by Office of the County Commissioners: _____

Date Received by Development Review and Permitting: 9/14/2020

Date Reviewed by Planning Commission: 10/1/2020

I. Application - Proposals for amendments to the text of the Zoning and Subdivision Control Article may be made by any interested person who is a resident of Worcester County, a taxpayer therein, or by any governmental agency of the County. Check applicable status below:

A. Resident of Worcester County. XXX

B. Taxpayer of Worcester County. XXX

C. Governmental Agency _____

(Name of Agency)

II. Proposed Change to Text of the Zoning and Subdivision Control Article.

A. Section Number: ZS 1-338(b)(2)

B. Page Number: 262

C. Proposed revised text, addition or deletion:


Delete Section ZS 1-338(b)(2), and re-number subsequent subsections

III. Reasons for Requesting Text Change:

- A. Please list reasons or other information as to why the proposed text change is necessary and therefore requested:

Please See Attached

IV. Signature of Applicants

Signature:  _____

Printed Name of Applicant: Sovereign, II, LLC

Mailing Address: C/O Kathleen M. Clark, Resident Agent

12319-304 Ocean Gateway, Ocean City, MD 21842

Phone Number: 410-213-1633 E-Mail: kclark@monogrambuilders.com

Date: September 9, 2020

Signature of Attorney:  _____

Printed Name of Attorney: Hugh Cropper IV

Mailing Address: 9923 Stephen Decatur Hwy., D-2, Ocean City, Maryland 21842

Phone Number: 410-213-2681 E-Mail: hcropper@bbcmlaw.com

Date: September 9, 2020

V. General Information Relating to the Text Change Request.

- A. Applications for text amendments shall be addressed to and filed with the Office of the County Commissioners. The required filing fee must accompany the application.
- B. Procedure for Text Amendments - Text amendments shall be passed by the County Commissioners of Worcester County as Public Local Laws according to legally required procedures, with the following additional requirements. Any

proposed amendment shall first be referred to the Planning Commission for recommendation. The Planning Commission shall make a recommendation within a reasonable time after receipt of the proposed amendment. After receipt of the recommendation of the Planning Commission, the County Commissioners shall hold at least one public hearing in relation to the proposed amendment, at which parties and interested citizens shall have any opportunity to be heard. At least fifteen (15) days' notice of the time and place of such hearing and the nature of the proposed amendment shall be published in an official paper or a paper of general circulation in Worcester County. In the event no County Commissioner is willing to introduce the proposed amendment as a bill, it need not be considered.

REASONS FOR REQUESTING TEXT CHANGE

There are several arguments in support of this Text Amendment:

Section ZS1-338 permits accessory apartments. Section 1-338(b) provides standards for accessory apartments. Specifically, Section 1-338(b)(2) states that the owner of the primary dwelling unit shall occupy at least one of the dwelling units on the premises.

Since the enactment of this subsection, Worcester County held extensive public hearings, and developed standards for rental licenses. Therefore, rental units are now governed by Worcester County.

Additionally, many properties are owned by a corporation or LLC, even if it is the owner's primary residence. It is difficult, if not impossible, to determine what individual person is the owner, when the unit is owned by either a corporation or an LLC.

Respectfully submitted,



Hugh Cropper IV
Attorney for Sovereign II, LLC

purpose (i.e., death, relocation or recovery), the special exception shall immediately become null and void, and any buildings or structures shall be removed within three months of the change in conditions. Where removal of the buildings or structures within the specified three-month period would cause a hardship on the applicant, the Board of Zoning Appeals may grant an extension of up to twelve months for such removal.

- (3) Transient use of manufactured or mobile homes for residential purposes originally approved by the Board of Zoning Appeals prior to March 10, 1992. The Department may authorize additional one-year extensions of a special exception approval for a transient use manufactured or mobile home for residential purposes which was valid as of March 10, 1992, and which has not otherwise expired. Such extension may be granted upon formal application to the Department and such extension shall be subject to such conditions and limitations as originally imposed by the Board of Zoning Appeals.
- (c) Exemption for residential sales offices. Sales offices, including sales trailers and model homes used exclusively for the sale of improved or unimproved lots or units within the subdivision or other residential development in which the offices are located, shall be exempt from this Section; however, such offices shall be subject to the provisions of § ZS 1-325 hereof. In granting site plan approval, the Department, Technical Review Committee or Planning Commission shall place restrictions on its approval regarding the length of time which the sales office shall be considered valid.
- (d) Exemption for conservation ponds. Ponds of one acre or less in surface area for fish, wildlife, fire control, irrigation, scenic amenity, stock watering, recreation or other conservation use shall be exempt from the provisions of this Section, provided that a conservation plan has been approved by the Worcester County Soil Conservation District in accordance with pertinent review criteria and that no more than two such exemptions per property are permitted. A minimum setback of fifty feet from property lines is required, unless the pond is a cooperative effort between adjacent property owners and is to cross the mutual property line. In such cases no setback shall be required, provided that the mutual rights of access and maintenance responsibilities of such shared pond shall be described in properly witnessed and recorded cross-easements.

§ ZS 1-338. Accessory apartments.

- (a) Purpose and intent. It is the specific purpose and intent to allow no more than one accessory apartment per lot of record through conversion of existing residential structures or construction of new residential facilities so as to provide the opportunity and encouragement to meet the special housing needs of persons of low and moderate income as well as relatives of families currently residing in the County. It is furthermore the intent and purpose of this provision to allow the more efficient use of the County's existing housing stock in a manner consistent with land use objectives identified in the Worcester County Comprehensive Plan and to provide economic support for present resident families of limited income, while protecting and preserving property values and community character.
- (b) Standards. The following specific standards are set forth as conditions for such accessory uses:
 - (1) Accessory apartments shall only be permitted where adequate wastewater disposal capacity has been determined to be available by the County Department of Environmental Programs but, as accessory residential uses, shall not be counted against permitted density on any parcel with respect to the requirements of this Article. However, other regulations may stipulate that such accessory residential uses be considered when calculating permitted density.

- ~~(2) The owner of the residential dwelling unit in which the accessory apartment is to be located shall occupy at least one of the dwelling units on the premises.~~
- 2 ~~(3)~~ An accessory apartment may be located either in the principal dwelling unit or in an accessory building. Manufactured or mobile homes shall not be construed as an accessory apartment.
- 3 ~~(4)~~ When located within an accessory building, the building shall be located so that its entire perimeter is within one hundred feet of the principal building on the property.
- 4 ~~(5)~~ The minimum floor area for an accessory apartment within the principal building shall be five hundred square feet, but in no case shall it exceed thirty-five percent of the gross floor area, exclusive of any garage, of the dwelling in which it is located or nine hundred square feet, whichever is less. For accessory apartments located in an accessory building, the minimum floor area shall also be five hundred square feet, but in no case shall it exceed thirty-five percent of the gross floor area of the principal dwelling or nine hundred square feet, whichever is less. No accessory apartment shall contain more than two bedrooms.
- 5 ~~(6)~~ There shall be no more than one accessory apartment permitted per existing single-family dwelling.
- 6 ~~(7)~~ If an accessory apartment is located in the principal dwelling unit on the property, entry to the accessory apartment shall be designed such that the appearance of the building remains as a single-family dwelling. However, nothing herein shall be construed to require any entry to the accessory apartment to be confined to the side or rear of the structure.
- 7 ~~(8)~~ Off-street parking for the accessory apartment shall be in accordance with § ZS 1-320 hereof and shall be in addition to any other parking required for other uses on the site.

§ ZS 1-339. Home occupations.

- (a) Provisions governing home occupations. All home occupations shall be in accordance with the following provisions:
- (1) A home occupation may be conducted in a dwelling unit provided that such occupation shall be clearly incidental and subordinate to its use for residential purposes and not more than twenty-five percent of the gross floor area of the dwelling unit shall be used for such occupation. Alternatively, a home occupation not exceeding six hundred square feet in gross floor area may be conducted in a single accessory building except as provided in (a)(9) hereof. Any outdoor storage, including storage of equipment or vehicles, shall not exceed ~~shall not exceed~~ three hundred square feet and shall be screened in accordance with § ZS 1-322 hereof.
 - (2) All persons engaged in such occupation, except for one outside employee, shall reside on the premises.
 - (3) Nothing, other than parts or supplies used in the occupation, shall be sold or stocked on the premises except what is produced on the premises or as permitted by special exception by the Board of Appeals.
 - (4) There shall be no visible change in the outside appearance of the building or premises, except for one sign as provided in § ZS 1-324 hereof.
 - (5) The occupation shall not create noise, vibration, glare, LIGHT TRESPASS, fumes,



DEPARTMENT OF
ENVIRONMENTAL PROGRAMS

Worcester County

GOVERNMENT CENTER
ONE WEST MARKET STREET, ROOM 1308
SNOW HILL, MARYLAND 21863
TEL: 410-632-1220 / FAX: 410-632-2012

LAND PRESERVATION PROGRAMS
STORMWATER MANAGEMENT
SEDIMENT & EROSION CONTROL
SHORELINE CONSTRUCTION
AGRICULTURAL PRESERVATION
ADVISORY BOARD

WELL & SEPTIC
WATER & SEWER PLANNING
PLUMBING & GAS
CRITICAL AREAS
FOREST CONSERVATION
COMMUNITY HYGIENE

September 23, 2020

Worcester County Planning Commission
Worcester County Courthouse
1 West Market Street, Room 1201
Snow Hill, MD 21863

RE: *Comprehensive Water and Sewerage Plan
Amendment – Text Amendment – Section 1.2.2 D
(SW-2020-01)*

Dear Commissioners:

We are writing to forward the proposed *Worcester County Comprehensive Water and Sewerage Plan (The Plan)* amendment to expand the sewer planning area for the Mystic Harbour Sanitary Area in *The Plan*, for your review and comment to the County Commissioners. According to Chapter One, Section 1.4.2 of *The Plan* (“Application for Amendments”), the applicant submitted a complete application for a text amendment and we have attached it.

The amendment, requested by Joseph Moore, on behalf of the owner of Riverview Mobile Home Park, Jim Latchum, would modify Section 1.2.2 D (Protection of the Environment) of *The Plan*. The amended language would make it possible for existing multi-use systems

The Riverview park, located in Bishopville, is in *The Plan* as a multi-use septic system serving the residents of the park. Maximum number of trailers was capped at 66, and they have run between 58-63 units in our historical records and have the ability to add the last system connections. The septic is a single system, with a low pressure-dosed drain field that has the old system as a backup. They have conventional (zero) treatment at the present, and the system and drain field is an innovative system repair located entirely in the critical area. There is no guaranteed state funding for pre-treatment (a package plant) that would be required with a system replacement should the existing system fail. This is the only large multi-use septic systems (over 5,000 gpd) that does not have groundwater discharge permit, is located within the critical area, and is not adjacent to any sewer planning area, and does not have a state funding source for the addition of treatment (systems located in our state parks).

The park currently contributes 1,214 pounds of nitrogen annually to the Coastal Bays using Maryland Department of the Environment’s (MDE’s) nitrogen delivery ratio for systems located within the 1,000

Citizens and Government Working Together

September 23, 2020

ft critical area (attached). A treatment plant would dramatically reduce this loading to the watershed with the advanced treatment technologies available today. Grants for a system of this size would be very hard to secure. The water quality funding scoring in Maryland is geared towards larger community systems, systems that have failed or need significant repair, or systems under a consent order. This park does not A replacement of the system with treatment would be an immense debt burden imposed on the rental rates for the existing park residents. The owner believes that getting additional units for the park within the existing property would assist in spreading the cost of the upgrade to treatment to an affordable price point that would provide a stable future for the park's residents and perhaps add to the park's ability to provide affordable housing for additional individuals. They have explored additional onsite testing to expand the septic capability and explored adjacent properties for spray irrigation and have not been able to find or secure these outlets for additional land application of treated effluent.

Amendment Recommendation

The proposed amendment text change is attached. After an investigation by staff that included multiple conversations with MDE staff, we have made the following edits of the submitted amendment to *The Plan* to implement this amendment:

Under: 1.2 WATER AND SEWER SERVICE GOALS

Existing language:

- Section 1.2.2 D Protection of the Environment

D. To the greatest possible extent, effluent should be discharged through ocean outfalls or treated/disposed on land (but not discharged into coastal bays, regardless of the level of treatment). Long-term discharges into the coastal bays should be prohibited.

Revised (in bold italics):

D. To the greatest possible extent, effluent should be discharged through ocean outfalls or treated/disposed on land (but not discharged into coastal bays, regardless of the level of treatment). Long-term discharges into the coastal bays should be prohibited. ***Surface water discharge to the bays may be considered for existing large multi-use systems that do not have a groundwater discharge permit, and are located in the critical area that are not adjacent to or within approved sewer planning areas, subject to the following conditions:***

- An enhanced level of treatment will be required resulting in a net reduction in nutrient loading to the receiving waterbody.***
- The discharge cannot contribute to a degradation of the level of impairment on the receiving waterbody.***

The Planning Commission is tasked by Section 1.4 of *The Plan* ("Procedures for Plan Amendments") to make a finding as to whether this amendment would be consistent with *The Comprehensive Plan*. The Planning Commission may also submit its project comments and recommendations. The findings

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and comments will be submitted to the County Commissioners. The County Commissioners will hold a public hearing and then take action on the proposal.

Comprehensive Plan Policies

The *Comprehensive Plan* has the following relevant excerpts for this proposed text amendment:

Chapter One, "Introduction" states:

- Provide for adequate public services to facilitate the desired amount and pattern of growth (p.8).

Chapter Three, "Natural Resources" states:

- Provides a goal that Worcester County recognizes the value of and is committed to conservation and protection of the following natural resources (...) clean surface and ground water (p.33).
- Worcester County recognizes the value of and is committed to conservation and protection of the following natural resources...clean surface and ground water (p. 33).
- Improve water bodies on the "Impaired Water Bodies (303d) List" to the point of their removal from this list (p. 33).

Chapter Three, "TMDLs" states:

- "all reasonable opportunities to improve water quality should be undertaken as a part of good faith efforts to meet the TMDL standards." (p.36)

Chapter Five, "Housing" states:

- A goal that "Worcester County residents should be able to live in comfortable, safe, and affordable housing." (p.67)
- Mobile homes should be recognized as an affordable housing alternative and additional park locations should be designated. (p. 67)

Chapter Six, "Public Infrastructure" states:

- Consistent with the development philosophy, facilities and services necessary for the health, safety, and general welfare shall be cost effectively provided (p.70).
- Plan for efficient operation, maintenance, and upgrades to existing sanitary systems as appropriate (p. 73).
- Provide for the safe and environmentally sound water supply and disposal of wastewater generated in Worcester County (p.73).
- Sewer systems should be sized to serve their service areas' planned for land uses (p. 74).

Public Works

The Department declined to comment on this text amendment.

Staff's Comments

Staff comments are submitted below for your consideration.

1. This proposal seeks to meet existing housing needs and demand generated by providing a stable future for an existing mobile home park.

September 23, 2020

2. The subject properties are mapped as an IDA (Intensely Developed Area) for the Atlantic Coastal Bays Critical Area.
3. If successful with this amendment, the owner will need to submit another amendment to permit the treatment plant and will need to comply with MDE's procedures and state law in the investigation and ultimate approval of a surface water discharge permit.
4. Any new development will need to occur in the manner and character of the surrounding neighborhood in existing developed areas. Compliance with local zoning, critical area, storm water and other local and state regulations will be required.
5. Staff has structured *the Plan* amendment to not cause an exacerbation of any existing impairments to the receiving waterbody. This particular waterbody, the Bishopville Prong, is impaired for nutrients and the issuance of any future surface water discharge permit cannot contribute to worsening that impairment.

If you need further information, please contact us.

Sincerely,

A handwritten signature in blue ink, appearing to read 'R. Mitchell', is written over a rectangular box. The signature is stylized and somewhat illegible.

Robert J. Mitchell, LEHS
Director

Attachments

cc: WS Amendment File (SW 2020-01)

Attachment 1

Amendment Application

LAW OFFICES

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

3509 COASTAL HIGHWAY
OCEAN CITY, MARYLAND 21842

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

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

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

OF COUNSEL
JOSEPH G. HARRISON, JR.

January 13, 2020

Mr. Robert Mitchell
Director of Environmental Programs
Worcester County Government Center
1 West Market Street Room 1306
Snow Hill, MD 21863

Re: Text Amendment Worcester County Comprehensive
Water and Sewer Plan

Dear Mr. Mitchell:

In accordance with your instructions, please allow this letter to represent a petition for a text amendment to the Worcester County Comprehensive Water and Sewer Plan, with respect to Plan Section 1.2.2 "Protection of the Environment". The provisions of Section 1.2.2 as presently in effect are attached hereto, with the proposed amendment requested by this petition, indicated by the italicized bold text which amends Section 1.2.2 D related to discharge of effluent into coastal bays for the limited and specific purpose of considering surface water point discharge providing an enhanced level of treatment resulting in nutrient loading reduction, for existing properties served by large on-site septic systems.

In those limited circumstances, the Commissioners would be allowed to consider the environmental benefits of providing an enhanced level of treatment other than that which the present septic system can provide.

I also enclose a check for \$100.00, payable to "Worcester County" for the text amendment application fee.

I believe it is fair to assert that the requested amendment is a minor one, allows for specific consideration shown to be beneficial, and is undertaken on a case-by-case basis.

In the event you require additional information from me, please advise. Otherwise, I shall await the date of a meeting with the Worcester County Planning Commission for the purpose of their consideration of a recommendation for the change.

Sincerely,


Joseph E. Moore

JEM/pd
Enclosures

**WORCESTER COUNTY COMPREHENSIVE WATER AND SEWER PLAN
TEXT AND MAP AMENDMENTS**

Proposed amendment indicated by italicized or strikethrough text

AMEND SECTION 1.2.2.

1.2.2 Protection of the Environment

Water and sewer facilities should be planned and constructed in such a manner as to insure and protect the environment and natural resources of Worcester County. This includes the following goals:

A. Protection and improvement of the water quality of the inland bays, Chesapeake Bay and its tributaries, and other surface waters.

B. Preservation and protection of groundwater aquifers which are used for drinking water supplies.

C. Preservation and protection of agricultural lands, natural resource and conservation areas, and sensitive areas. While encouraging economic growth, development is to be concentrated in suitable areas, with growth in rural areas to be directed to existing population centers.

D. To the greatest possible extent, effluent should be discharged through ocean outfalls or treated/disposed on land (but not discharged into coastal bays, regardless of the level of treatment). Long-term discharges into the coastal bays should be prohibited from serving as the method of wastewater disposal for any new projects. *Surface water point discharge to the coastal bays may be considered for new wastewater collection and treatment systems to serve existing communities with large on-site septic systems which do not currently have advanced treatment, where the enhanced level of treatment will result in a net reduction in nutrient loading to the receiving waters.*

E. Identification and categorization of sources of pollution from urban areas, agricultural areas, industrial wastes and soil erosion.

F. Development of the problem area inventory for individual and community water and/or sewer systems and identification of the planned corrections for these areas.

G. Resource conservation is to be practiced, including a reduction in resource consumption.

Attachment 2

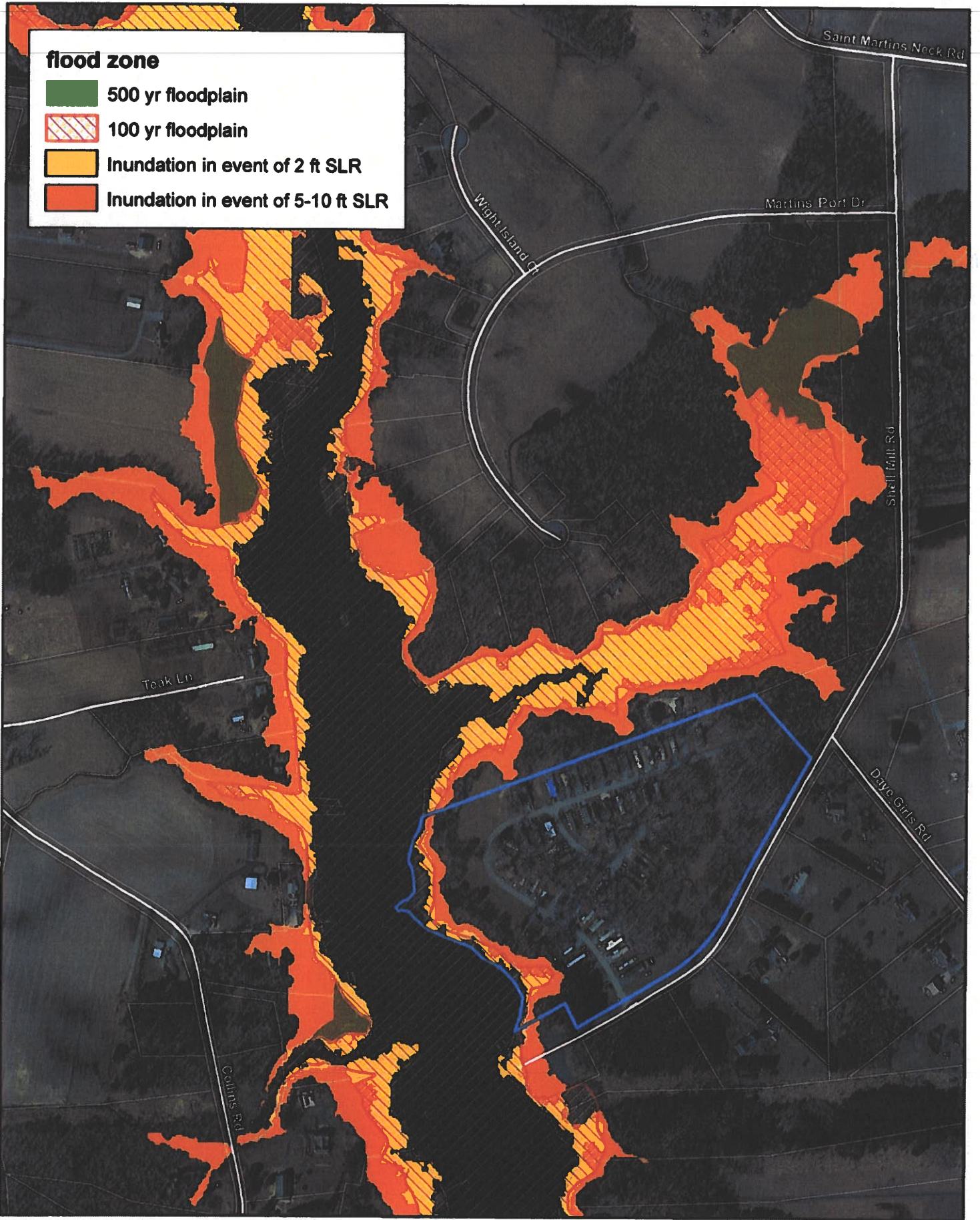
Maps – General Location and Flooding Nitrogen Delivery Rate



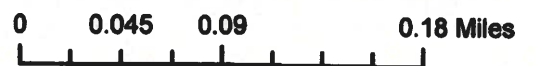
Riverview Mobile Home Park

2019 aerial image





Riverview Mobile Home Park



Riverview Mobile Home Park
Nitrogen Loading Examination

Nitrogen Delivery Rates assumed by MDE

- A) Septic system located within the 1000' CA Assumes 80% of Household Nit. will enter the Bay
- B) Septic system located within 1000' of per. Stream Assumes 50% of Household Nit. will enter the Bay
- C) Septic system located outside CA and >1000' stream Assumes 30% of Household Nit. will enter the Bay

MDE reported nitrogen contribution per household per year Approx. 23 pounds

Calculations utilizing MDE's 30%, 50%, 80% Nitrogen delivery ratios

- A) $(23 \text{ lbs/hh/yr})(.80) = 18.4 \text{ lbs enters bay without BAT}$ $(18.4 \text{ lbs})(.50 \text{ BAT min. reduction rate}) = 9.2 \text{ lbs Nit to Bay after BAT treatment}$
- B) $(23 \text{ lbs/hh/yr})(.50) = 11.5 \text{ lbs enters bay without BAT}$ $(11.5 \text{ lbs})(.50 \text{ BAT min. reduction rate}) = 5.75 \text{ lbs Nit to Bay after BAT treatment}$
- C) $(23 \text{ lbs/hh/yr})(.30) = 6.9 \text{ lbs enters bay without BAT}$ $(6.9 \text{ lbs})(.50 \text{ BAT min. reduction rate}) = 3.45 \text{ lbs Nit to Bay after BAT treatment}$

Total Nitrogen Load entering Coastal Bays from the Riverview Park (66EDUs)

Analysis: $(66 \text{ homes})(23 \text{ lbs. N}) = 1,518 \text{ lbs. x } (0.80 \text{ delivery ratio}) = 1,214 \text{ lbs. is the current Nitrogen load to the Coastal Bays}$