



DEPARTMENT OF
DEVELOPMENT REVIEW AND PERMITTING

Worcester County

GOVERNMENT CENTER

ONE WEST MARKET STREET, ROOM 1201

SNOW HILL, MARYLAND 21863

TEL: 410-632-1200 / FAX: 410-632-3008

www.co.worcester.md.us/drp/drpindex.htm

ZONING DIVISION
BUILDING DIVISION
DATA RESEARCH DIVISION

ADMINISTRATIVE DIVISION
CUSTOMER SERVICE DIVISION
TECHNICAL SERVICE DIVISION

M E M O

TO: Worcester County Planning Commission
FROM: Jennifer K. Keener, AICP, Zoning Administrator
DATE: September 27, 2019

Please be reminded that the next Planning Commission meeting will be held on **Thursday, October 3, 2019, at 1:00 P.M.** in the **1st Floor Board Room**, of the **Government Office Building, Room 1102**. For your review prior to the meeting, please find enclosed the agenda for that meeting, as well as all site plans, subdivision plats, etc. which are scheduled to be considered and their associated staff reports. **PLEASE BRING THE COPIES OF ALL SITE PLANS, SUBDIVISION PLATS, ETC. IN AN UNMARKED CONDITION TO THE MEETING.** For review at your convenience are the agendas for the forthcoming meetings of the Technical Review Committee and Board of Zoning Appeals.

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
Maureen Howarth, County Attorney
Maryland Department of Planning
Terri Smith, Assessments and Taxation
Blaine Smith, Town of Ocean City
Hal Adkins, Town of Ocean City
Dan Brandewie, 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
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
Jeanne Lynch
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: Gary McCabe Jr./ Ernest Gerardi, Jr./ Joseph Moore

**WORCESTER COUNTY PLANNING COMMISSION
AGENDA**

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

Thursday, October 3, 2019

Est. Time

- | | | |
|-----------|------|---|
| 1:00 P.M. | I. | Call to Order |
| 1:00 P.M. | II. | Administrative Matters |
| | A. | Review and approval of minutes – September 5, 2019 |
| | B. | Board of Zoning Appeals agenda – October 10, 2019 |
| | III. | Text Amendment |
| 1:05 P.M. | A. | § ZS 1-212(c) – Churches, Temples and Mosques in the I-1 Light Industrial District – Gary McCabe, Jr. |
| | IV. | Map Amendment |
| 1:15 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; |
| | V. | Approved Private Road Request |
| 1:25 P.M. | A. | §ZS 1-123 Approved Private Road Request –Pike Lane, Stockton, MD |
| 1:30 P.M. | VI. | Miscellaneous |
| 1:35 P.M. | VII. | Adjourn |

Worcester County Planning Commission Meeting Minutes

Meeting Date: September 5, 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

Rick Wells

Jerry Barbierri

Staff

Maureen Howarth, County Attorney

Ed Tudor, Director

Phyllis Wimbrow, Deputy Director

Jennifer Keener, Zoning Administrator

Jessica Edwards, Customer Service Representative

Bob Mitchell, Director, Environmental Programs

David Bradford, Deputy Director, Env. Programs

I. Call to Order

II. Administrative Matters

- A. Review and approval of minutes, August 1, 2019** — As the first item of business, the Planning Commission reviewed the minutes of the August 1, 2019 meeting. Following the discussion it was moved by Ms. Ott, seconded by Mr. Knerr and carried unanimously to approve the minutes as submitted. Mr. Wells and Mr. Barbierri abstained.
- B. Board of Zoning Appeals agenda, September 12, 2019** — As the next item of business, the Planning Commission reviewed the agenda for the Board of Zoning Appeals meeting scheduled for September 12, 2019. 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. Presentation by The Nature Conservancy

As the next item of business, Joe Fehrer and Mike Dryden with The Nature Conservancy provided the Planning Commission with an update on existing and future restoration projects on the Lower Eastern Shore. Mr. Fehrer also informed the Planning Commission about the newly formed Lower Eastern Shore Climate Action Network (LESCAN), outlining its goals and visions. The goal is to bring nearly \$2.5 million to the Lower Eastern Shore for work on coastal adaptation projects.

IV. §ZS 1-325 Site Plan Review – Ocean Pines Golf Club – Loading Space Waiver

As the next item of business, the Planning Commission reviewed a request to waive the loading space requirement for the Ocean Pines Golf Club. This project is a minor site plan currently scheduled for review with the Technical Review Committee on Wednesday, September 11, 2019. The project consists 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. No representatives for the project were present for the review. Mrs. Keener outlined the request on behalf of the applicant.

Following the discussion, a motion was made by Mr. Barbierri, seconded by Mr. Knerr, and carried unanimously to deny the request for a loading space waiver.

V. §ZS 1-325 Site Plan Review – Manklin Station Revised PCD

As the next item of business, the Planning Commission reviewed a site plan associated with the 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. Steve Engel and Chris Ferger with Vista Design, Inc. were present for the review. They explained that the project would consist of one real estate office building and another cabinet/flooring sales building. There was discussion regarding the loading space waiver request, the ways in which they have designed the project to alleviate stormwater management issues on the site, and how the building design is consistent with the existing overall development.

Following the discussion, a motion was made by Knerr, seconded by Ms. Smith, and carried unanimously to approve the site plan subject to addressing the code requirements and the following items:

1. The Planning Commission found the building elevations to be consistent with the existing overall development.
2. The Planning Commission granted a waiver to the requirement for loading spaces by no more than 50% (two spaces).

VI. Preliminary Plat – Sea Oaks Village RPC

As the next item of business, the Planning Commission reviewed a preliminary plat associated with a 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). Hugh Cropper, IV, Esquire, Bob Hand, land planner, Frank Lynch, Jr., surveyor, Chris McCabe, environmental consultant, and Steve Murphy, owner, were present for the review.

Mr. Cropper stated that they were requesting for Step III preliminary plat approval. He stated that he has a copy of the proposed deed restrictions and will forward a copy to the staff for review. He is asking for consideration of the dead end streets and culs-de-sac that are part of the proposed project. Upon a question from the Planning Commission, Mr. Cropper noted that the EDUs have been allocated to the property, the owner just needs to purchase them prior to

permitting. Mr. Hand stated that he has verbal approval from County Roads regarding the commercial entrances, and will obtain that approval in writing.

Following the discussion, a motion was made by Ms. Ott, seconded by Mr. Barbieri, and carried unanimously to approve the preliminary plat with the use of dead end/cul-de-sac streets, subject to addressing the code requirements letter.

VII. Text Amendment - §ZS 1-318 – Campground Subdivision Occupancy

As the next item of business, the Planning Commission reviewed a revised text amendment request associated with the occupancy regulations for campground subdivisions only. Mr. Hugh Cropper, IV, Esquire and Ms. Susan Naplachowski, applicant, were present for the review. Mr. Cropper made a point to say that he viewed this meeting as a continuation of the prior meeting. As a point of order, he noted that this is not a public hearing and the Planning Commission gave the public a chance to speak at the last meeting. He noted that he is prepared for the Planning Commission to take a vote and make a recommendation on this request. Mr. Cropper stated that the amendment has been modified so that it is essentially a phase-out of full time occupants that were present as of June 2018, which they believe to be approximately 54 units. The amendment will allow them to finish out their stay, and once resolved, there would be no further year round occupancy within White Horse Park.

Upon a request from the Planning Commission, Mr. Tudor noted that staff didn't have anything new to add beyond the comments provided in the staff report. He reiterated that a text amendment was inappropriate, and should be handled as a consent agreement with the County Commissioners. Mr. Diffendal asked Mr. Tudor should the amendment or some form of it were to be approved, did the County have the ability to apply additional standards to the campground such as the EDU or roads requirements? Mr. Tudor stated that this amendment doesn't wipe the slate clean. All items in the July 2019 staff report would still apply. Mr. Cropper asked for a show of hands from the audience regarding those in favor versus those in opposition. Overwhelmingly the audience was in favor, with a few persons present who were in opposition. Mr. Diffendal asked if Mr. Cropper saw the email from the White Horse Park Board of Directors, and he confirmed that he had.

Mrs. Wimbrow asked the audience to raise their hands for those who are in favor of the amendment, how many are property owners in White Horse Park? A significant number of persons were property owners.

Mr. Knerr asked Mr. Cropper about the potential additional costs for the purchase of EDUs, and if the White Horse Park residents were willing to accept that cost. Mr. Cropper said that they are asking for 54 units to stay until tenancy ends. He would want to have discussions with Environmental Programs staff on that matter. Mr. Knerr stated that he hates to see anyone displaced from their home, but given the language as drafted, he finds that it is not enforceable, and is therefore not in support of the amendment.

Following the discussion, a motion was made by Mr. Knerr, seconded by Mr. Barbierri, and carried unanimously to forward an unfavorable recommendation to the Worcester County Commissioners. Mr. Diffendal echoed staff's recommendation that a consent order would be more appropriate.

VIII. Adjourn – The Planning Commission adjourned at 1:38 P.M.

Jerry Barbierri, Secretary

Jennifer K. Keener, AICP

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

AGENDA

THURSDAY, OCTOBER 10, 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. 19-40, on the lands of Mohammad Nasir and Mahe Iqbal requesting a special exception to allow an existing manufactured home to be used for non-residential purposes in the A-1 Agricultural District, pursuant to Zoning Code Sections ZS 1-116(c)(3), ZS 1-201(c)(12), ZS 1-305, ZS 1-314 and ZS 1-339, located at 2832 Betheden Church Road, at the terminus of Klej Grange Road, Tax Map 78, Parcel 99, in the Eighth Tax District of Worcester County, Maryland.

6:35 p.m.

Case No. 19-37, on the application of Charles "Roy" Trageser, on the lands of YK Enterprises, LLC, requesting a variance to the Ordinance prescribed lot width requirement from 200 feet to 182.74 feet (a reduction of 17.26 feet) in the E-1 Estate District, pursuant to Zoning Code Sections ZS 1-116(c)(4), ZS 1-203(b)(4), and ZS 1-305, located at 12046 St. Martins Neck Road, approximately 1,988 feet west of Back Creek Road, Tax Map 10, Parcel 167, in the Fifth Tax District of Worcester County, Maryland.

6:40 p.m.

Case No. 19-32, on the application of Dylan Drew, on the lands of Mary Ange, requesting a variance to the Ordinance prescribed front yard setback from 25 feet to 14.7 feet (an encroachment of 10.3 feet) 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(c)(4), ZS 1-206(b)(2) and ZS 1-305, located at 12121 Salt Point Road on the northwestern corner of the intersection with Cove Landing Road, Tax Map 4, Parcel 26, Block 9, Lot 1, in the Fifth Tax District of Worcester County, Maryland.

6:45 p.m.

Case No. 19-39, on the lands of Vincent & Denise Lynch, requesting a special exception to reconstruct a non-conforming two-story addition to an existing single family dwelling, in the V-1 Village and RP Resource Protection Districts, pursuant to Zoning Code Sections ZS 1-116(c)(3), ZS 1-122(d)(1)B, ZS 1-204(b)(2) and ZS 1-305, located at 10720 St. Martins Neck Road, approximately 507 feet south of Bishopville Road (MD Route 367), Tax Map 9, Parcel 153, in the Fifth Tax District of Worcester County, Maryland.

6:50 p.m.

Case No. 19-36, on the application of Mark S. Cropper, Esquire, on the lands of Hugh F. Jr. and Tonia B. Wilde, requesting a variance to the Atlantic Coastal Bays Critical Area Regulations to allow a pier to extend greater than 100' over state or private wetlands in the R-1 Rural Residential District and the RP Resource Protection District pursuant to Zoning Code Sections ZS 1-116(m), ZS 1-116(n)(2) and Natural Resources Sections § NR 3-125(b)(1) and NR 3-111, located at 10620 Piney Island Drive, approximately 530 feet south of Bunting Road, Tax Map 15, Parcel 218, Lot 7, in the Fifth Tax District of Worcester County, Maryland.

6:55 p.m.

Case No. 19-38, on the application of Mark S. Cropper, Esquire, on the lands of David Dvorchak, requesting a shoreline modification to exceed the allowable channelward extension of 19.4 feet by 7 feet (for a total of 26.4 feet channelward) in conjunction with a proposed boat lift in the R-2 Suburban Residential District, pursuant to Zoning Code Sections ZS 1-116(n)(2) and Natural Resources Sections § NR 2-102(e)(1), located at 10506 Brighton Road, approximately 265 feet north of Rungate Road, Tax Map 21, Parcel 8, Section A, Lot 17, of the Cape Isle of Wight Subdivision, in the Tenth Tax District of Worcester County, Maryland.

7:05 p.m.

Case No. 19-41, on the application of Hugh Cropper, IV, Esquire, on the lands of Michael and Diana Abbaticchio, requesting an after-the-fact variance to the Ordinance prescribed right side yard setback from 9.4 feet to 3.6 feet (an encroachment of 5.8 feet) associated with the construction of a second story on an existing one-story detached garage in the A-1 Agricultural District, pursuant to Zoning Code Sections ZS 1-116(c)(4), ZS 1-201(d)(2), and ZS 1-305, located at 8921 Stephen Decatur Highway, on the northwesterly side of Stephen Decatur Highway, approximately 373 feet south of Dutch Harbor Lane, Tax Map 33, Parcel 9, Lot 6, in the Tenth Tax District of Worcester County, Maryland.

7:10 p.m.

Re-Advertisement of 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.

ADMINISTRATIVE MATTERS

**WORCESTER COUNTY TECHNICAL REVIEW COMMITTEE
AGENDA**

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

Wednesday, October 9, 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 Admin. Building Addition (Ocean Pines Police Building) - Proposed construction of a 3,640 square foot addition to the existing Administration Building to be used as the Ocean Pines Police Department, located at 239 Ocean Parkway, on the westerly side of Ocean Parkway, approximately 509 feet north of St. Martins Lane, in the Ocean Pines subdivision, Tax Map 16, Parcel 10, Lot A1, Tax District 3, R-3 Multi-family Residential District, Ocean Pines Association Inc., owner & applicant/ Davis, Bowen & Friedel, Inc., Engineer; |
| | III. | §ZS 1-315 Residential Planned Communities |
| 1:10 P.M. | A. | The Refuge at Windmill Creek (formerly Evergreen Village) Step II Master Plan Review - Proposed 90 single-family lot subdivision, northwest side of Beauchamp Road, north of Racetrack Road (MD Route 589), Tax Map 15, Parcels 127 and 259, Tax District 3, R-1 Rural Residential and RP Resource Protection Districts, Evergreen, LLC, owner/ R.D. Hand & Associates, Inc., land planner/ Carpenter Engineering, LLC, engineer; |
| 1:20 P.M. | IV. | Adjourn |



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

MEMORANDUM

To: Worcester County Planning Commission
From: Jennifer K. Keener, AICP Zoning Administrator
Date: September 26, 2019
Re: Approved Private Road Request – Pike Lane, Stockton

JKK

The Department has received a request from Hugh Cropper, IV, Esquire on behalf of his client, Harkins Farms, LLC to establish an approved private road over an existing driveway, identified as Pike Lane in Stockton, Maryland (attached). Harkins Farms, LLC currently owns Tax Map 86, Parcel 186 and Parcel 119. The lane is also currently accessed and located over lands owned by Michael Bradford and Norman Bradford, identified as Tax Map 86, Parcel 247. Messrs. Bradford have signed a letter of consent, agreeing to the request.

This request is the result of a meeting that was held with Mr. Cropper and staff to discuss Parcel 186, which was created by virtue of a deed in 1980 and is a land-locked parcel. It is therefore considered an illegal subdivision. The surrounding lands (Parcel 119) are also owned by Mr. Harkins, and are in a conservation easement. Historically, these properties were viewed as one, with a farm building group and dwelling units spanning the property lines.

In order to rectify the matter of the illegal subdivision and to permit a future single-family dwelling on Parcel 186, the simple solution would have been to create a flag stem to Snow Hill Road (MD Route 12) to give this parcel road frontage; however, the terms of the easement will not allow it. Therefore, the applicant has submitted a request for an approved private road and will proceed with a subdivision plat in order to formally establish Parcel 186 as a legal lot. It is not anticipated that there would be any additional road improvements beyond what currently exists on site today. I would also note that due to the easement as well as the Critical Area designation, there are no other subdivision rights that are available to Mr. Harkins, so it is highly unlikely that Pike Lane will be utilized for anything beyond this request.

Before this request is forwarded to the County Commissioners, the Planning Commission must provide a recommendation, either favorable or unfavorable. As always, I will be available to discuss the matter when necessary.

LAW OFFICES

BOOTH CROPPER & MARRINER

A PROFESSIONAL CORPORATION

9923 STEPHEN DECATUR HIGHWAY, D-2

OCEAN CITY, MARYLAND 21842

(410) 213-2681

FAX (410) 213-2685

EMAIL: hcropper@bbcmllaw.com

CURTIS H. BOOTH
HUGH CROPPER IV
THOMAS C. MARRINER*
ELIZABETH ANN EVINS
LYNDESEY J. RYAN

*ADMITTED IN MD & DC

EASTON OFFICE

130 N. WASHINGTON ST.
EASTON, MD 21601
(410) 822-2929
FAX (410) 820-6586

WEBSITE

www.bbcmllaw.com

August 20, 2019

Mr. Harold Higgins CAO
Worcester County Commissioners
One West Market Street
Snow Hill, Maryland 21863

RE: **Proposed Approved Private Road**

Dear Mr. Higgins:

Please accept this correspondence as the Petition or Application on behalf of my client, Harkins Farms, LLC, to establish an approved private road pursuant to Section ZS1-123. I have the authority of Harkins Farms, LLC, my client, to execute and to submit this application.

Harkins Farms, LLC owns Tax Map 86, Parcel 186, 6019 Pike Lane, Stockton, Maryland 21864, which is approximately 8.03 acres of land. The current deed is attached.

The lot was created by virtue of a deed dated November 21, 1980, by Paul Joyner, a copy of which is also attached. The deed includes a plat. The plat was not approved by the Planning Commission, and it is not a legal subdivision. On the other hand, it was recorded back in 1980, and apparently there was a house on the property, among other structures, for many, many years. Mr. Harkins recently pulled a demo permit and tore down the house, and cleaned up extensive old structures on the property, including old poultry houses.

The 8.03 acres is served by a thirty foot right of way out to Route 12.

The right of way is also known as Pike's Lane, which has existed as a private road for many, many years. The property has a 911 address. Pike's Lane was never formally

approved as a private road by the County Commissioners, and therefore I am submitting this request.

The only other property past Parcel 186 is a large farm also owned by Mr. Harkins, and he is in complete agreement with this request.

The road has existed and served the single family dwellings wells, for almost 40 years, and probably more. There are no formal design standards.

Pursuant to Section ZS1-123, several copies of maps are attached. Again, this request is a little unusual because Pike's Lane already exists.

The road has been, and will be, maintained by the Harkins Family.

I believe that this request must be submitted to the Planning Commission, so I have sent copies to Ed, Phyllis, and Jennifer.

Thank you.

Very truly yours,



Hugh Cropper IV

HC/tgb

Enclosures

CC: Ed Tudor

Phyllis Wimbrow

Jennifer Keener

THIS DEED is made this 21st day of October, 2015, by **HAROLD C.**

SCRIMGEOUR, (also known as "HAROLD D. SCRIMGEOUR" and "HAROLD SCRIMGEOUR") hereinafter referred to as "Grantor", witnesseseth:

THAT FOR AND IN CONSIDERATION of the sum of SEVENTY-FIVE THOUSAND AND 00/100 DOLLARS (\$75,000.00) and other good, valuable and sufficient considerations in hand paid, receipt of which is hereby acknowledged, the said Grantor does hereby grant and convey unto **HARKINS FARMS, LLC**, a Maryland limited liability company, hereinafter referred to as "Grantee", its successors and assigns, all the following described property:

ALL that lot or parcel of land lying and being situate in the Eighth Election District of Worcester County, Maryland, on the easterly side of, but not contiguous to the Girdletree to Stockton Road, also known as Maryland Route No. 12, and being more particularly described as follows:

BEGINNING for the same at a concrete monument placed in the ground at a point which marks the northernmost point of the property hereby conveyed, as set forth on a plat entitled "Farm Survey for N. Paul Joyner and Marion H. Joyner and Earl C. Reeder and Frances L. Reeder", dated November 19, 1980, made by Herman Lloyd Purnell, Registered Property Line Surveyor of the State of Maryland, which said plat is attached to a Deed from N. Paul Joyner and Marion H. Joyner, his wife, to Earl C. Reeder and Frances L. Reeder, his wife, dated November 21, 1980, and recorded among the Land Records of Worcester County, Maryland, in Liber F.W.H. No. 735, folio 367, et seq., and from said beginning point by and with the reserve land now or formerly of the said N. Paul Joyner and Marion H. Joyner, his wife, the following eight (8) courses and distances, namely (1) south 54 degrees 24 minutes 08 seconds east 601.71 feet to a concrete monument placed in the ground; (2) north 35 degrees 06 minutes 35 seconds east 224.18 feet to a concrete monument placed in the ground; (3) south 55 degrees 01 minutes 43 seconds east 444.35 feet to a concrete monument placed in the ground; (4) south 35 degrees 18 minutes 27 seconds west 635.02 feet to an iron pipe placed in the ground; (5) north 54 degrees 45 minutes 00 seconds west 143.07 feet to an iron pipe placed in the ground; (6) north 34 degrees 37 minutes 00 seconds east 198.42 feet to an iron pipe placed in the ground; (7) north 55 degrees 04 minutes 30 seconds west 879.69 feet to an iron pipe placed in the ground; and (8) north 30 degrees 03 minutes 08 seconds east

WORCESTER COUNTY CIRCUIT COURT (Land Records) SRB 6661, p. 0247, MSA_CE31_6722. Date available 11/10/2015. Printed 08/20/2019.

Long Badger & Sheller LLP
P.O. Box 259
124 E. Main Street
Salisbury, MD 21803

SUSAN R. BRANECKI
CLK. CT. CT.
WOR. CO.

2015 NOV -2 AM 8:26

LAW OFFICES
LONG BADGER & SHELTER LLP

124 EAST MAIN STREET
P.O. BOX 259
SALISBURY, MARYLAND
21803-0259

(410) 749-2336
FAX (410) 749-6731

219.82 feet to the point of beginning; containing 8.03 acres of land as set forth on said plat;
 AND BEING all the same land conveyed unto Harold Scrimgeour by Johnny L. Hughes,
 United States Marshal for the District of Maryland, by United States Marshal's Deed dated
 May 8, 2012 and recorded among the aforesaid Land Records in Liber S.V.H. No. 5889,
 Folio 1.

Property Address: 6019 Pike Lane, Stockton, MD 21864
 Tax ID# 08-008957

REFERENCE to said deeds, plat and to preceding deeds of the property hereby
 conveyed, and to the references contained therein, is hereby made a part hereof as if herein
 fully set forth.

TOGETHER with the improvements thereon and all the rights, ways, roads, privileges,
 appurtenances and advantages thereto belonging or in any way appertaining.

TO HAVE AND TO HOLD the above granted property unto the said Grantee, its
 successors and assigns, forever in fee simple. TOGETHER WITH the various rights of way
 and easements contained in the following deeds and plats: (1) Deed from N. Paul Joyner and
 Marian H. Joyner to Benjamin F. Merritt, Jr. and Patricia P. Merritt dated September 28, 1977,
 and recorded among the aforesaid Land Records in Liber F.W.H. No. 596, Folio 528, et seq.;
 (2) Deed from N. Paul Joyner and Marian H. Joyner to Earl C. Reeder and Frances L. Reeder
 dated November 21, 1980, and recorded among the aforesaid Land Records in Liber F.W.H.
 No. 735, Folio 367, et seq.; (3) Plat entitled "Part of N. Paul Joyner Farm" by John E. Davis
 and recorded among the aforesaid Land Records in Plat Book F.W.H. No. 58, Folio 11; and (4)
 Plat entitled "Farm Survey for N. Paul Joyner and Marian H. Joyner and Earl C. Reeder and
 Frances L. Reeder", dated November 19, 1980, made by Herman Lloyd Purnell III, and
 recorded among the aforesaid Land Records in Liber F.W.H. No. 735, Folio 371.

AND the Grantor does hereby covenant that he will warrant specially the property hereby
 conveyed and that he will execute such other and further assurances of the land as may be
 requisite and necessary.

AS WITNESS my hand and seal the day and year first above written.

WITNESS:

Michelle M. Long

Harold C. Scrimgeour (SEAL)
Harold C. Scrimgeour (a/k/a "Harold D.
Scrimgeour" and "Harold Scrimgeour")

STATE OF MARYLAND, COUNTY OF WICOMICO:

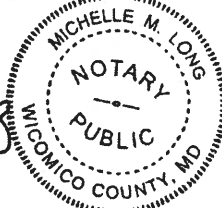
I HEREBY CERTIFY, that on this 21st day of October, 2015, before me, the undersigned officer, personally appeared Harold C. Scrimgeour, (a/k/a "Harold D. Scrimgeour" and "Harold Scrimgeour") known to me to be the person whose name is subscribed unto the within instrument and he acknowledged that he executed the same for the purposes therein contained. AT THE SAME TIME, the said Grantor certified under the penalties of perjury that the actual consideration paid or to be paid for the foregoing conveyance, including the amount of any mortgage or deed of trust assumed by the Grantee is in the sum total of \$75,000.00.

AS WITNESS my hand and Notarial Seal.

My Commission Expires:

8/7/19

Michelle M. Long
Notary Public



The undersigned hereby certifies that this Deed was prepared by or under the supervision of an attorney admitted to practice before the Court of Appeals of Maryland.

Date: 10-21-15

J. Garrett Sheller

Attorney-at-Law

JGS:mmml

F:\Real-Est\9-7414\deed

RECEIVED FOR TRANSFER
State Department of
Assessments & Taxation
for Worcester County

SDA 10-30-15
By AAU & Letter Date
Agricultural Transfer Tax in the
Amount of \$ - 00
SDAT Worcester County

TAXES FOR WHICH ASSESSMENTS
HAVE BEEN RECEIVED HAVE BEEN
PAID AS OF THIS DATE: 10-30-15
Worcester County Finance Officer
By KTL 01001957
EXCEPT PERSONAL PROPERTY

TRANSFER TAX PAID
FINANCE OFFICER
WORCESTER COUNTY MARYLAND
By KTL Date 10-30-15
Tax 375.00

MARYLAND
FORM
WH-ARCertification of Exemption from Withholding Upon
Disposition of Maryland Real Estate Affidavit of
Residence or Principal Residence

2015

Based on the certification below, Transferor claims exemption from the tax withholding requirements of §10-912 of the Tax-General Article, Annotated Code of Maryland. Section 10-912 provides that certain tax payments must be withheld and paid when a deed or other instrument that effects a change

in ownership of real property is presented for recordation. The requirements of §10-912 do not apply when a transferor provides a certification of Maryland residence or certification that the transferred property is the transferor's principal residence.

1. Transferor Information

Name of Transferor Harold C. Scrimgeour

2. Reasons for Exemption

Resident Status ☒

I, Transferor, am a resident of the State of Maryland.

☐

Transferor is a resident entity as defined in Code of Maryland Regulations (COMAR)03.04.12.02B(11), I am an agent of Transferor, and I have authority to sign this document on Transferor's behalf.

Principal Residence ☐

Although I am no longer a resident of the State of Maryland, the Property is my principal residence as defined in IRC 121 and is currently recorded as such with the State Department of Assessments and Taxation.

Under penalty of perjury, I certify that I have examined this declaration and that, to the best of my knowledge, it is true, correct, and complete.

3a. Individual Transferors

Witness

Michelle M. LongName Harold C. Scrimgeour

Signature

Harold C. Scrimgeour

3b. Entity Transferors

Witness/Attest

Name of Entity

LR - Deed (w Taxes)
Recording Fee no CT
20.00

By

Grantor/Grantee Name:
Scrimgeour/Harkins
Farms, LLC

Name

Reference/Control #:
6661/247

Title

LR - Surcharge -
linked 40.00
LR - Recordation Tax -
linked 495.00
LR - State Transfer
Tax - linked 375.00
LR - Non-Resident Tax
- linked 0.00

SubTotal: 930.00

Total: 930.00

11/02/2015 09:17

CC73-LH

#5091708 CC0104 -

Worcester

County/CC01.04.02 -

Register 02

15-49

NOV 02 2015

The foregoing instrument
filed for record and is accordingly recorded
among the land records of Worcester County,
Maryland.

Shirley Proctor Clerk

State of Maryland Land Instrument Intake Sheet
☐ Baltimore City ☒ County, WORCESTER
 Information provided is for the use of the Clerk's Office, State Department of Assessments and Taxation, and County Finance Office Only.
 (Type or Print in Black Ink Only—All Copies Must Be Legible)

1 Type(s) of Instruments
☐ Check Box if addendum Intake Form is Attached.
☒ Deed ☐ Deed of Trust ☐ Mortgage Lease ☐ Other _____ ☐ Other _____

2 Conveyance Type Check Box
☒ Improved Sale Arms-Length [1] ☐ Unimproved Sale Arms-Length [2] ☐ Multiple Accounts Arms-Length [3] ☐ Not an Arms-Length Sale [9]

3 Tax Exemptions (if applicable)
 Recordation _____
 State Transfer _____
 Cite or Explain Authority _____
 County Transfer _____

4 Consideration and Tax Calculations

Consideration Amount		Finance Office Use Only Transfer and Recordation Tax Consideration	
Purchase Price/Consideration	\$ 75,000.00	Transfer Tax Consideration	\$
Any New Mortgage	\$	X () % =	\$
Balance of Existing Mortgage	\$	Less Exemption Amount =	\$
Other:	\$	Total Transfer Tax =	\$
Other:	\$	Recordation Tax Consideration	\$
Full Cash Value:	\$	X () per \$500 =	\$
		TOTAL DUE	\$

5 Fees

Amount of Fees	Doc. 1	Doc. 2	Agent:
Recording Charge	\$ 20.00	\$	
Surcharge	\$ 40.00	\$	
State Recordation Tax	\$ 495.00	\$	
State Transfer Tax	\$ 375.00	\$	
County Transfer Tax	\$ 375.00	\$	
Other	\$	\$	
Other	\$	\$	

6 Description of Property
 SDAT requires submission of all applicable information. A maximum of 40 characters will be indexed in accordance with the priority cited in Real Property Article Section 3-104(g)(3)(i).

District	Property Tax ID No. (1)	Grantor Liber/Folio	Map	Parcel No.	Var. LOG
08	008957	5889/1	0086	0186	<input type="checkbox"/> (5)
Subdivision Name		Lot (3a)	Block (3b)	Sect/AR (3c)	Plat Ref.
					Sq Ft/Acreage (4)
					8.03AC
Location/Address of Property Being Conveyed (2)					
8019 PIKE LANE, STOCKTON, MD 21864					
Other Property Identifiers (If applicable)					
Water Meter Account No.					
Residential <input type="checkbox"/> or Non-Residential <input checked="" type="checkbox"/> Fee Simple <input checked="" type="checkbox"/> or Ground Rent <input type="checkbox"/> Amount:					
Partial Conveyance? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Description/Amt. of Sq Ft/Acreage Transferred:					
If Partial Conveyance, List Improvements Conveyed:					

7 Transferred From

Doc. 1 – Grantor(s) Name(s)	Doc. 2 – Grantor(s) Name(s)
HAROLD C. SCRIMGEOUR	
Doc. 1 – Owner(s) of Record, if Different from Grantor(s)	Doc. 2 – Owner(s) of Record, if Different from Grantor(s)

8 Transferred To

Doc. 1 – Grantee(s) Name(s)	Doc. 2 – Grantee(s) Name(s)
HARKINS FARMS, LLC	
New Owner's (Grantee) Mailing Address	
31400 WINTERPLACE PARKWAY, SUITE 400, SALISBURY, MD 21804	

9 Other Names to Be Indexed

Doc. 1 – Additional Names to be Indexed (Optional)	Doc. 2 – Additional Names to be Indexed (Optional)
AKA HAROLD D. SCRIMGEOUR AND HAROLD SCRIMGEOUR	

10 Contact/Mail Information

Instrument Submitted By or Contact Person		<input checked="" type="checkbox"/> Return to Contact Person
Name: J. GARRETT SELLER / MICHELLE LONG		<input type="checkbox"/> Hold for Pickup
Firm: LONG BADGER & SELLER LLP		<input type="checkbox"/> Return Address Provided
Address: 124 E. MAIN ST., SALISBURY, MD 21801		
Phone: (410) 749-2356		

11 IMPORTANT: BOTH THE ORIGINAL DEED AND A PHOTOCOPY MUST ACCOMPANY EACH TRANSFER

Assessment Information		Assessment Use Only – Do Not Write Below This Line	
Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Will the property being conveyed be the grantee's principal residence?		
Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Does transfer include personal property? If yes, identify:		
Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Was property surveyed? If yes, attach copy of survey (if recorded, no copy required).		
Terminal Verification Agricultural Verification Whole Part Tran. Process Verification			
Transfer Number	Date Received:	Deed Reference:	Assigned Property No.:
Year 20	20	Geo. Map	Sub Block
Land		Zoning Grid	Plat Lot
Buildings		Use Parcel	Section
Total		Town Cd. Ex. St.	Ex. Cd. Occ. Cd.

REMARKS:

Space Reserved for County Validation

Distribution: White – Clerk's Office
 Pink – Office of Finance
 Green – SOAT
 Goldenrod – Preparer
 AOC-CC-300 (5/2007)

LIBER 735 PAGE 367

2000 NOV 20 2000 NOV 20 2000 NOV 20

THIS DEED, made this 21ST day of NOVEMBER, in the year nineteen hundred and eighty by N. Paul Joyner and Marion H. Joyner, his wife of Worcester County, Maryland, hereinafter referred to as "Grantors";

WITNESSETH, that in consideration of the sum of one Hundred Fifteen Thousand Dollars (\$115,000.00) the said N. Paul Joyner and Marion H. Joyner, his wife, do hereby grant and convey unto Earl C. Reeder and Frances L. Reeder, his wife, of P. O. Box 143 Stockton, Maryland 21864, as tenants by the entireties, all that lot or parcel of land lying and being situate in the Eighth Election District of Worcester County, Maryland, on the easterly side of, but not contiguous to the Girdletree to Stockton Road, also known as Maryland Route No. 12, and being more particularly described as follows:

BEGINNING for the same at a concrete monument placed in the ground at a point which marks the northernmost point of the property hereby conveyed, as set forth on a plat entitled "Farm Survey for N. Paul Joyner and Marion H. Joyner and Earl C. Reeder and Frances L. Reeder", dated November 19, 1980, made by Herman Lloyd Funnell, Registered Property Line Surveyor of the State of Maryland, which said plat is attached hereto and made a part hereof, and from said beginning point by and with the reserve land of the said N. Paul Joyner and Marion H. Joyner, his wife, the following eight (8) courses and distances, namely: (1) S 54° 24'08" E 601.71 feet to a concrete monument placed in the ground; (2) N 35° 06'35" E 224.18 feet to a concrete monument placed in the ground; (3) S 55° 01'43" E 444.35 feet to a concrete monument placed in the ground; (4) S 35° 18'27" W 635.02 feet to an iron pipe placed in the

ground; (5) N 54° 45'00" W 143.07 feet to an iron pipe placed in the ground; (6) N 34° 37'00" E 198.42 feet to an iron pipe placed in the ground; (7) N 55° 04'30" W 879.69 feet to an iron pipe placed in the ground; and (8) N 30° 03'08" E 219.82 feet to the point of beginning; containing 8.03 acres of land as set forth on said plat, and being a part of the same property which was conveyed unto the said N. Paul Joyner and Marion H. Joyner, his wife, from Arundel Federal Savings and Loan Association of Baltimore City, a body corporate, by deed dated July 3, 1956, and recorded among the land records of Worcester County, Maryland, in Liber F. W. H. No. 95, folio 200 et seq. to which said deed and plat and the references therein contained, reference is hereby made for a more particular description of the property hereby conveyed.

TOGETHER with the buildings and improvements thereupon being and erected and all rights, ways, waters, privileges, appurtenances and advantages thereunto belonging or in anywise appertaining, and together with a right of way unto the said Earl C. Reeder and Frances L. Reeder, his wife, their personal representatives and assigns, and their agents and servants going lawfully to and from the property hereby conveyed and the said Girdletree to Stockton Road, also known as Maryland Route No. 12, said right of way being thirty (30) feet in width as said right of way extends in a northwesterly direction from the northwesternmost boundary line of the property hereinabove described, to the point where said right of way intersects the northeasternmost property line of the property which was conveyed unto Benjamin F. Merritt, Jr. and Patricia P. Merritt, his wife, from the said N. Paul Joyner and Marion H.

Joyner, his wife, by deed dated September 28, 1977, and recorded among the land records of Worcester County, Maryland, in Liber F. W. H. No. 596, folio 528, et seq. with accompanying plat being recorded among said land records in Plat Book F. W. H. No. 58, folio 11; and from said point of intersection, said right of way shall be sixty (60) feet in width to the point of intersection with the said Girdletree to Stockton Road, also known as Maryland Route No. 12.

TO HAVE AND TO HOLD the property hereinabove described and hereby conveyed unto the said Earl C. Reeder and Frances L. Reeder, his wife, as tenants by the entireties, their personal representatives and assigns, forever, in fee simple; SUBJECT, HOWEVER, to the use by the said N. Paul Joyner and Marion H. Joyner, his wife, their personal representatives and assigns, agents and servants, of the right of way hereinabove described, and SUBJECT, FURTHER, unto the said N. Paul Joyner and Marion H. Joyner, his wife, their personal representatives and assigns, agents and servants, the following three right of ways, namely (1) a right of way thirty (30) feet in width extending in a northeasterly direction from said thirty (30) foot right of way designated on said plat as 30' outlet road over and across the property hereby conveyed to the reserved property of the grantors, known as "The Penitentiary Lot"; (2) a right of way thirty (30) feet in width extending in a northeasterly direction from the southeasterly terminus of said thirty (30) foot right of way road, designated on said plat as 30' outlet road over and across the property hereby conveyed to the reserved property of the grantors; and (3) a right of way thirty (30) feet in

LIBEN 735 PAGE 370

- 4 -

width extending in a southwesterly direction from the said southeasterly terminus of said thirty (30) foot right of way road, designated on said plat as 30' outlet road over and across the property hereby conveyed to the reserved property of the grantors; and SUBJECT, FURTHER, to the right unto the said N. Paul Joyner and Marion H. Joyner, their personal representatives and assigns, to remove from the hereinabove described real property the building known as the N. Paul Joyner Shop and Museum which said building shall remain the property of the said grantors.

AND the said N. Paul Joyner and Marion H. Joyner, his wife, do hereby covenant that they will warrant specially the property hereby conveyed and that they will execute such other and further assurances of the same as may be requisite.

WITNESS the hands and seals of the Grantors hereof the day and year first above written.

WITNESS:

John E. King
John E. King

N. Paul Joyner (SEAL)
Marion H. Joyner (SEAL)

STATE OF MARYLAND, COUNTY OF WORCESTER, TO WIT:

I HEREBY CERTIFY, that on this 21ST day of NOVEMBER, 1980, before me, the subscriber, a Notary Public in and for the County and State aforesaid, personally appeared N. PAUL JOYNER AND MARION H. JOYNER, his wife, the Grantors to the foregoing Deed, and did each acknowledge the foregoing Deed to be his or her respective acts and executed the same in my presence.

AS WITNESS, my hand and Notarial Seal.

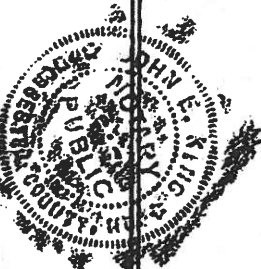
My Commission Expires: 7-1-82

John E. King
Notary Public

Worcester County Circuit Court (Land Records) FWM 730-MSA 1882 Date available 07/30/2003. Printed 07/16/2019.

Transferred by office of Sup.
of Assessments Wm. Co.

TAXES FOR WHICH ASSESSMENTS
HAVE BEEN RECEIVED HAVE BEEN
PAID AS OF THIS DATE 11/1/80
TREASURER OF WORCESTER COUNTY



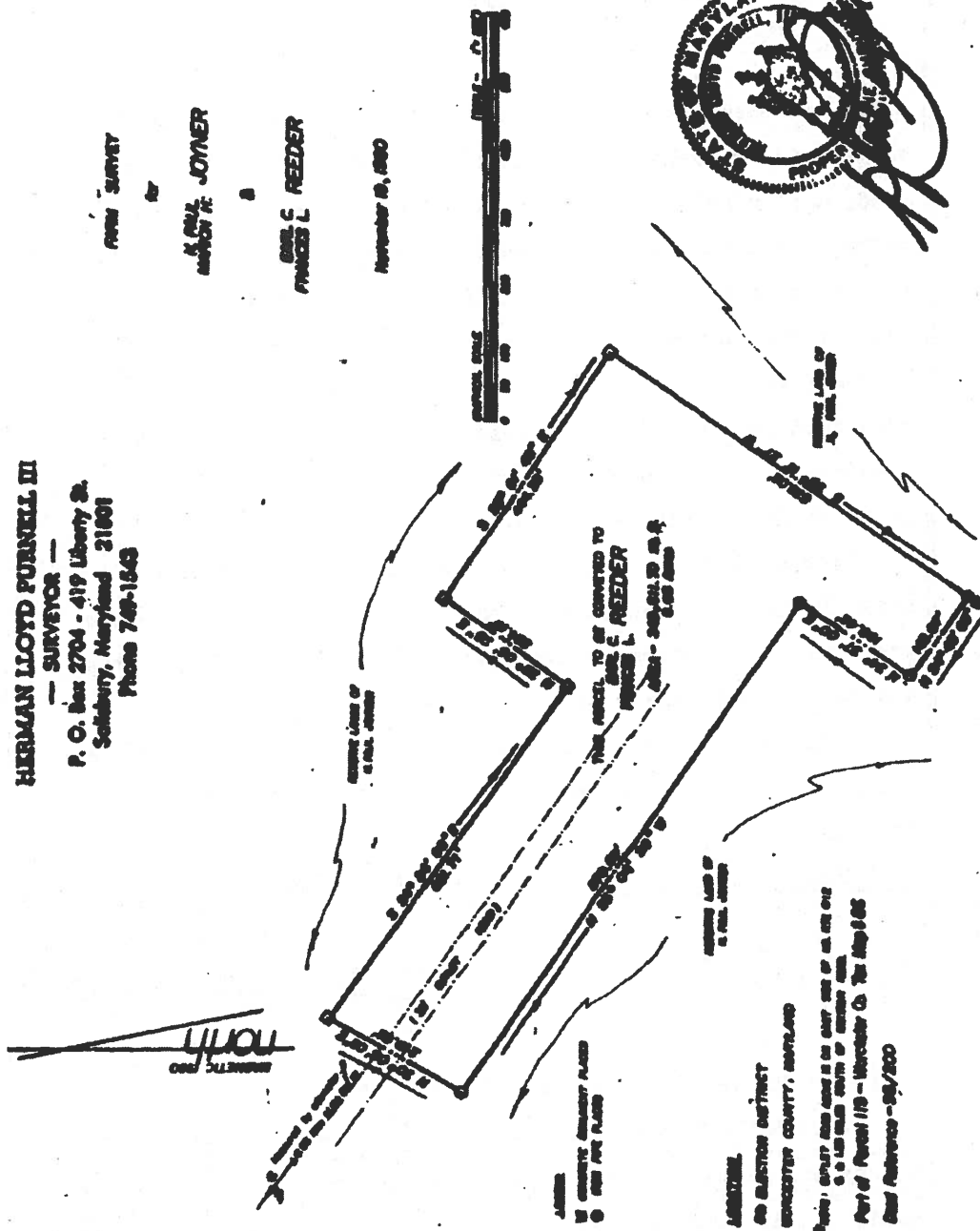
— SURVEYOR —
P. O. Box 2704 - 419 Liberty St.
Solisbury, Maryland 21001
Phone 749-1543

金

K. PAUL JONES

CARL C. REEDER

August 19, 1960

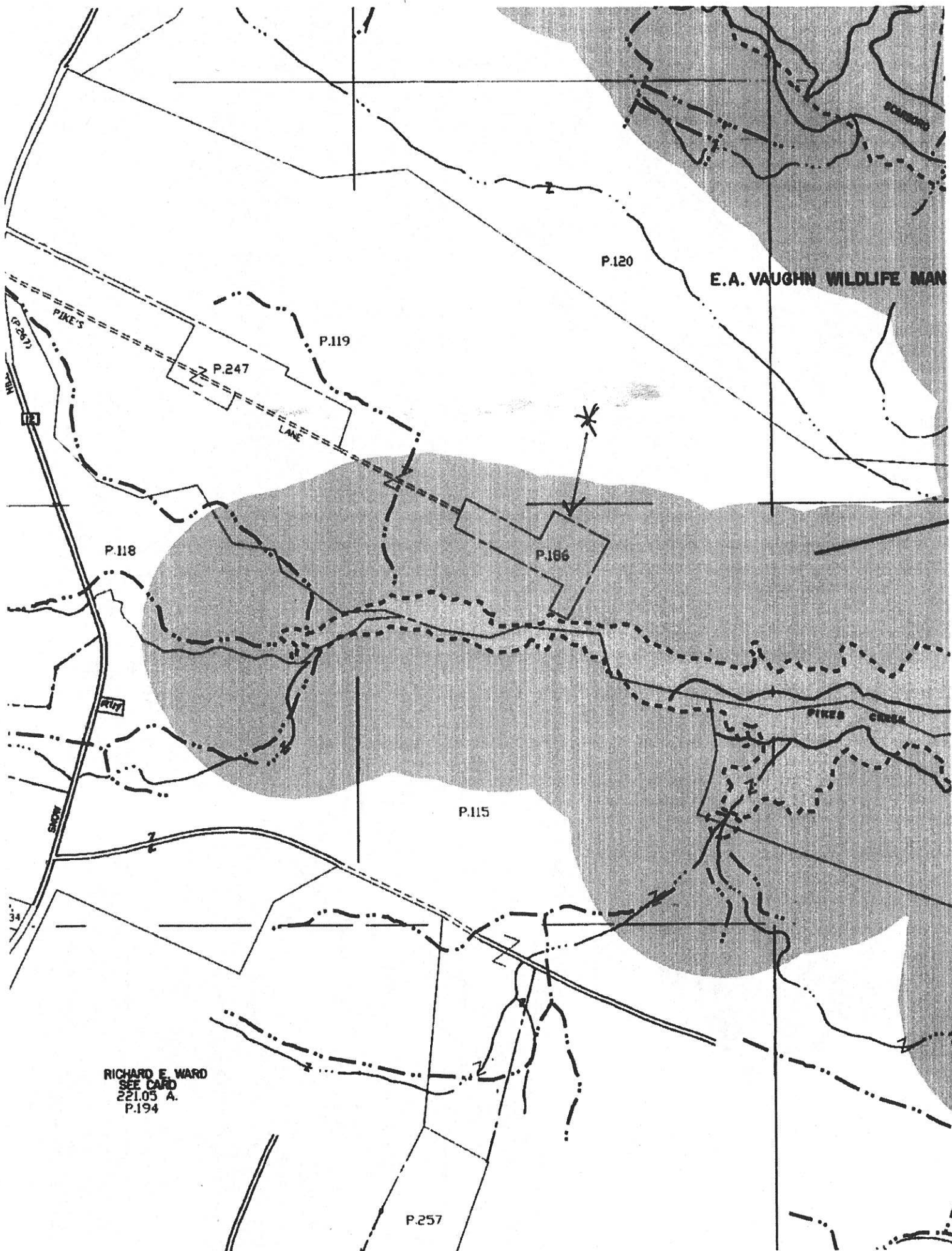


19 80, Nov. 24 The foregoing Deed & Plat and
for record and is accordingly recorded among the land records of Worcester County, Md.,
in Liber F.W.H. No. 735 folio 367 then 371

Frank W. Kaba

Frank W. Hales

...Clerk



51.36

Snow Hill Rd

0015 DANZI

Scarb

P. 0247

Pike Ln

P. 0186

REAGAN STEVEN J & DEE A
M. 0086
P. 0118
AC. 22.5

R PHYLLIS B
E. 0086
P. 0012
C. 38.62

12

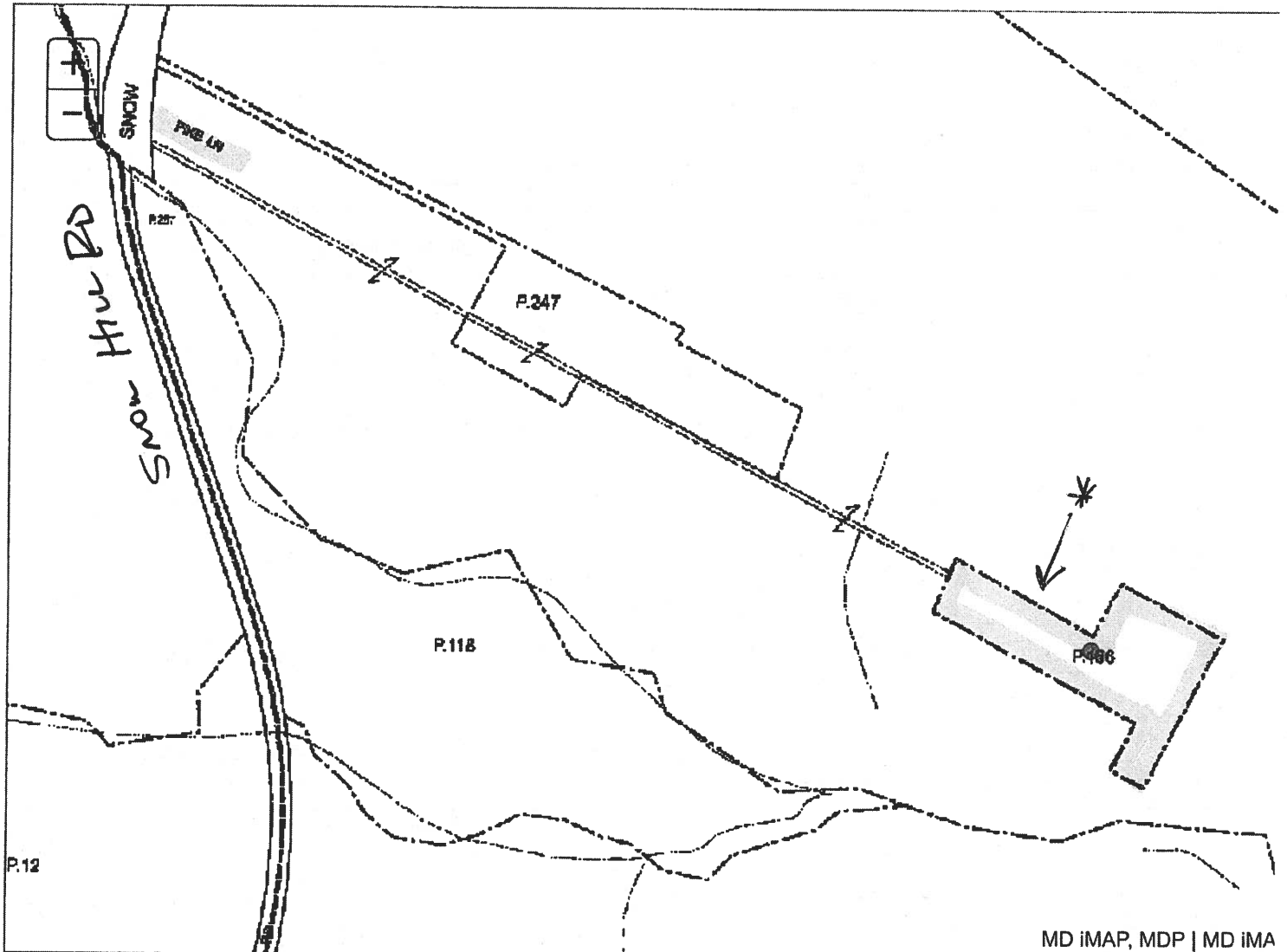
Snow Hill Rd

F

Search Result for WORCESTER COUNTY

<https://sdat.dat.maryland.gov/RealProperty/Pages/default.aspx>

Worcester County

[New Search \(http://sdat.dat.maryland.gov/RealProperty\)](http://sdat.dat.maryland.gov/RealProperty)District: **08** Account Number: **008957**

The information shown on this map has been compiled from deed descriptions and plats and is not a property survey. The map should not be used for legal descriptions. Users noting errors are urged to notify the Maryland Department of Planning Mapping, 301 W. Preston Street, Baltimore MD 21201.

If a plat for a property is needed, contact the local Land Records office where the property is located. Plats are also available online through the Maryland State Archives at www.plats.net (<http://www.plats.net>).

Property maps provided courtesy of the Maryland Department of Planning.

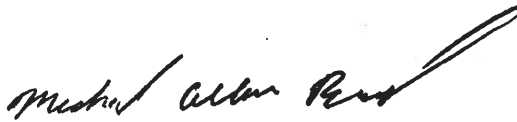
For more information on electronic mapping applications, visit the Maryland Department of Planning web site at <http://planning.maryland.gov/Pages/OurProducts/OurProducts.aspx> (<http://planning.maryland.gov/Pages/OurProducts/OurProducts.aspx>).

RECEIVED
9-23-19
JKK

CONSENT

We, the undersigned, owners of Worcester County Tax Map 86, Parcel 247, do hereby consent to the establishment of Pike Lane located in Girdletree, Worcester County, Maryland, as an approved private road by the Worcester County Commissioners.

Date: 9-1-19


Michael Allen Bradford

Date: 9-1-19


Norman Jeffrey Bradford

RECEIVED



DEPARTMENT OF
DEVELOPMENT REVIEW AND PERMITTING

Worcester County

GOVERNMENT CENTER

ONE WEST MARKET STREET, ROOM 1201

SNOW HILL, MARYLAND 21863

TEL: 410-632-1200 / FAX: 410-632-3008

www.co.worcester.md.us/drp/drpindex.htm

ZONING DIVISION
BUILDING DIVISION
DATA RESEARCH DIVISION

ADMINISTRATIVE DIVISION
CUSTOMER SERVICE DIVISION
TECHNICAL SERVICE DIVISION

MEMORANDUM

TO: Worcester County Planning Commission
FROM: Phyllis H. Wimbrow, Deputy Director *PHW*
DATE: September 18, 2019
RE: Text Amendment Application - § ZS 1-212(c) - Churches,
Temples and Mosques in the I-1 Light Industrial District

The attached text amendment application was submitted by Gary A McCabe, Jr. and seeks to amend the Zoning and Subdivision Control Article to allow churches, temples and mosques in the I-1 Light Industrial District by special exception. Specifically, the text amendment as submitted by Mr. McCabe seeks to renumber existing § ZS 1-212(c)(13) as § ZS 1-212(c)(14) and to enact a new § ZS 1-212(c)(13) to read as follows:

- (13) Churches, temples and mosques. Minimum lot requirements shall be: lot area, twenty thousand square feet; lot width, two hundred feet; front yard setback, thirty-five feet [see § ZS 1-305(b) hereof]; each side yard setback, twenty feet; and rear yard setback, twenty feet.

Following our customary practice, once I received the text amendment application I forwarded it to Ed Tudor, Director, Jennifer Keener, Zoning Administrator, and Maureen Howarth, County Attorney and Planning Commission Attorney, for their review and comment. Mrs. Keener states in her written comments (attached) that churches, temples and mosques are allowed either as a permitted principal use or special exception use in every zoning district except the I-1 Light Industrial District, I-2 Heavy Industrial District, CM Commercial Marine District, and the RP Resource Protection District. She expresses concern that the proposed use does not conform to the purpose and intent of the I-1 Light Industrial District and that it will open up the limited amount of lands that are so zoned to more non-industrial uses, when there is an abundance of properties that are already appropriately zoned for churches, temples and mosques. Mrs. Keener notes that since churches, temples and mosques typically are open weekends and evenings,

these times would generally be "off hours" for nearby industrial activities and thus would lessen the potential for nuisance-related conflicts of use. She also points out that, as a special exception, the applicant for such use would have to demonstrate how it would be in harmony with the general character of the neighborhood, potentially an industrial one. This of course would have to be demonstrated to the satisfaction of the Board of Zoning Appeals. Mr. Tudor shares Mrs. Keener's concerns about the inconsistency of the proposed use, that being churches, temples and mosques, with the purpose and intent of the I-1 Light Industrial District. He questions the compatibility of the proposed use with several of the uses permitted by the zoning district. Mr. Tudor states that given that the proposed use would only be allowed by special exception and is probably an isolated case, his comments may be not much of an issue but he is always concerned that the slow creep of changes to the Zoning Code over time have the ability to erode the basic tenants of Euclidean zoning. He therefore urges caution about these types of proposed text amendments that are very site specific and have a limited basis. Mrs. Howarth responded by e-mail (copy attached) that she had no comments. I share the concerns expressed by Mrs. Keener and Mr. Tudor, particularly regarding the slow erosion of the Zoning Code. I do feel the special exception process would provide some necessary degree of review and testing for incompatibility and also allow for imposition of appropriate conditions such as buffering.

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

cc: Edward A. Tudor
Maureen Howarth
Jennifer Keener



DEPARTMENT OF
DEVELOPMENT REVIEW AND PERMITTING

Worcester County

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

ZONING DIVISION
BUILDING DIVISION
DATA RESEARCH DIVISION

ADMINISTRATIVE DIVISION
CUSTOMER SERVICE DIVISION
TECHNICAL SERVICE DIVISION

MEMORANDUM

To: Phyllis Wimbrow, Deputy Director, DDRP
From: Jennifer Keener, AICP, Zoning Administrator JKK
Date: September 10, 2019
Re: Text Amendment request – Churches, temples and mosques in the I-1 District
.....

The current request is to add churches, temples and mosques as a special exception use in the I-1 Light Industrial District. Currently, churches, temples and mosques are permitted or special exception uses in nearly every zoning district except for the two industrial districts, as well as the CM Commercial Marine and RP Resource Protection Districts.

At first blush, I have some reservations of including this use in the industrial district. The purpose and intent statement of the I-1 District states that it is to provide for business and industry that is “characterized by light manufacturing, fabricating, warehousing and wholesale distribution”. Based on the intent, a church, temple and mosque use does not fit within that description. I would also be concerned that the county would be opening up already limited I-1 lands to more non-industrial activities, when there is an abundance of zoned properties where this use is already considered permitted by right or special exception.

Mr. McCabe does have a point in that the land use activity generally associated with a church, temple or mosque will typically occur during the “off hours” – on weekends and evenings – when the industrial activities that are typically conducted within or adjoining those properties would be less likely to operate. That has the ability to reduce the potential for nuisance-related conflicts of use. In addition, as a proposed special exception, the applicant will have to consider their use and how it will be in harmony with the general character of the neighborhood – which is a potentially industrial one.

I would remind the Planning Commission that while the applicant has listed a specific property in his application, a text amendment cannot be reviewed as a property specific request. They must consider all applicable I-1 Light Industrial zoned lands as a potential for this use.

Phyllis Wimbrow

From: Maureen L. Howarth
Sent: Wednesday, August 28, 2019 12:11 PM
To: Phyllis Wimbrow
Subject: RE: Text Amendment Application - Churches, Temples and Mosques in the I-1 Light Industrial District

No comments.

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

From: Phyllis Wimbrow
Sent: Wednesday, August 28, 2019 10:15 AM
To: Maureen L. Howarth <mhowarth@co.worcester.md.us>; Ed Tudor <etudor@co.worcester.md.us>; Jennifer Keener <jkkeener@co.worcester.md.us>
Subject: Text Amendment Application - Churches, Temples and Mosques in the I-1 Light Industrial District

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]
Sent: Wednesday, August 28, 2019 10:21 AM
To: Phyllis Wimbrow <pwimbrow@co.worcester.md.us>
Subject: Scanned from DRP-XeroxB8065

Please open the attached document. It was sent to you using a Xerox multifunction printer.

Attachment File Type: pdf, Multi-Page

Multifunction Printer Location: Wor Co Development Review and Permitting
Device Name: DRP-XeroxB8065



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

ZONING DIVISION
BUILDING DIVISION
DATA RESEARCH DIVISION

ADMINISTRATIVE DIVISION
CUSTOMER SERVICE DIVISION
TECHNICAL SERVICE DIVISION

MEMORANDUM

TO: Phyllis H. Wimbrow, Deputy Director
FROM: Edward A. Tudor, Director *EAT*
DATE: September 17, 2019
RE: Text Amendment Application - Churches, Temples and Mosques in the I-1 Light Industrial District

This memorandum is in follow-up to your request for comments concerning the test amendment submitted by Mr. Gary McCabe, Jr. seeking to amend the Zoning and Subdivision Control Article to allow churches, temples and mosques in the I-1 Light Industrial District by special exception.

In preparation of these comments, I have read Mr. McCabe's application and, as you know, I had spoken to him prior to his submission of this application. As a result, I find it somewhat difficult to comment on the proposed text amendment. The difficulty arises from the fact that the proposed amendment results from Mr. McCabe's finding a potential site for his church that currently is not zoned appropriately but the proposed text amendment he has submitted, like any similar text amendment, applies to all lands zoned I-1 and not just to the potential site. I realize that most text amendments follow a similar pattern but I feel there is a greater degree of incompatibility of uses in this case. I note that Mr. McCabe feels that this is not an issue since most church activities are on Sundays and evenings on other days. This may very well be true but certainly there are churches where the level of usage has grown to much more than those limited times.

When removing myself from the site-specific aspects of this application I do question the compatibility of the proposed use with things such as biodiesel refining and processing facilities, concrete and asphalt plants, solid waste transfer facilities, and bulk fuel and flammable liquid storage and distribution facilities. I also look at the last sentence of the purpose and intent section of the I-1 district which states "[I]ndustrial parks are encouraged in

this district to provide for industrial uses with common access and infrastructure, as well as the provision of open space and ***adequate buffering to adjacent noncompatible uses.***" (emphasis added) This text amendment would allow the noncompatible use right smack dab in the middle of the light industrial district.

Since this may be an isolated case and since the new use would only be allowed by special exception, the above comments may not be much of an issue. However, I am always concerned over the slow creep of such changes that over time have the ability to erode the basic tenants of Euclidean zoning. I simply caution against looking at these types of proposed text amendments on a very site specific and limited basis.

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



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

MEMORANDUM

ZONING DIVISION
BUILDING DIVISION
DATA RESEARCH DIVISION

ADMINISTRATIVE DIVISION
CUSTOMER SERVICE DIVISION
TECHNICAL SERVICE DIVISION

TO: Edward A. Tudor, Director
Jennifer K. Keener, Zoning Administrator
Maureen Howarth, County Attorney
FROM: Phyllis H. Wimbrow, Deputy Director *PHW*
DATE: August 28, 2019
RE: Text Amendment Application - Churches, Temples
and Mosques in the I-1 Light Industrial District

The attached text amendment application has been submitted by Gary A McCabe, Jr. and seeks to amend the Zoning and Subdivision Control Article to allow churches, temples and mosques in the I-1 Light Industrial District by special exception. Specifically, the text amendment as submitted by Mr. McCabe seeks to renumber existing § ZS 1-212(c)(13) as § ZS 1-212(c)(14) and to enact a new § ZS 1-212(c)(13) to read as follows:

- (13) Churches, temples and mosques. Minimum lot requirements shall be: lot area, twenty thousand square feet; lot width, two hundred feet; front yard setback, thirty-five feet [see § ZS 1-305(b) hereof]; each side yard setback, twenty feet; and rear yard setback, twenty feet.

I anticipate scheduling this text amendment for consideration by the Planning Commission at its October 3, 2019 meeting. So that I may incorporate them into the staff report, please submit your comments to me no later than September 13, 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



Please Type
or
Print in Ink

**Worcester County Commissioners
Worcester County Government Center
1 W. Market St., Room 1103
Snow Hill, Maryland 21863**

**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: 8/21/19

Date Received by Planning Commission: 8/22/19

Date Reviewed by Planning Commission: _____

Planning Commission Recommendation Received by _____

on _____
(Date)

1. **Application** - Proposals for amendments to the text of the Zoning Ordinance may be made by any interested person who is a resident of Worcester County, a taxpayer therein, or by any governmental agencies of the County. Check applicable status below:

A. Resident of Worcester County. ☒

B. Taxpayer of Worcester County. ☒

C. Governmental Agency. ☐ _____
(Name of Agency)

2. **Proposed Change to Zoning Ordinance Text.**

A. Section Number: ZS1-212(c)(13)

B. Page Number: _____

Renumber existing
(13) and enact new
(13)

C. Proposed revised text, addition or deletion:


Churches, temples, and mosques. Minimum lot requirements shall be: lot area, twenty thousand square feet, lot width, (200) two hundred feet; front yard setback, thirty-five feet [see § 25 2-305(b) thru (f)]; each side yard setback, twenty feet; and rear yard setback, twenty feet.

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:

As a lifelong resident of Worcester County, I have been searching for locations to help our church, Salisbury based Oak Ridge Baptist, establish a new location in Worcester County. Finding the right site that allows good visibility, safe access, neighborhood compatibility and appropriate facilities has been a challenge. We are particularly interested in a portion of the concrete plant along Rt 113 just off of Pecker's Road near Bishopville. As an industrially zoned parcel, churches and other religious institutions are prohibited. We hope that the County will consider including this use as permitted by special exception. Churches typically meet on non-business hours (Sundays and evenings).

IV. Signature of Applicant

<u>Signature</u>	<u>Address</u>	<u>Phone</u>	<u>Date</u>
 Gary McGee Jr.	10837 Saint Martin's Rd. Bishopville MD 21013	443-235-3016	8/19/2016

V. General Information Relating to the Text Change Process.

- 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 an 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 will not be considered.**



Administrative Offices
347 Tilghman Road
Salisbury, Maryland 21804

ORBC.net
410.742.4424
410.742.9562~Fax

August 19, 2019

Ed Tudor & Phyllis Wimbrow
1 W. Market St Room 1201
Show Hill, MD 21863

Greetings,

I first want to take a moment to thank you both for the help you have been. I haven't tried to do anything like this before and your quick and clear responses to my questions have been very encouraging to me.

As I may have mentioned previously- I have served as a pastor at Oak Ridge Baptist Church in Salisbury for nearly ten years. During that time, I have seen all the good that a healthy church can do for a community. I am so excited to be given the opportunity to bring a new church with the same strategy and purpose to Worcester County. While Salisbury may not seem so far away- as a lifelong resident of Bishopville- it feels like for the first time I will be able to bring all this goodness home!

I have been looking for a suitable location for a new site, and quite honestly have been coming up dry. Until we found this building that was formerly an office building for the Chaney Concrete Factory. Amazingly, the layout of the building and location are almost exactly what we are looking for. Unfortunately, the area where the building sits is zoned industrial, and, as you know, that precludes churches as an approved use. I am told that both the city of Salisbury and Wicomico County have already changed their zoning rules to allow churches and other religious organizations to use facilities in areas zoned light industrial. This made me hopeful that we might gain the use of this facility.

Please find included here the requested form and check to begin this process as you suggested.

Thanks again for all your help

Gary A McCabe Jr.



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.

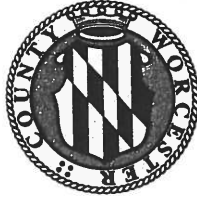
ADDITIONAL COMMENTS RECEIVED: Comments received from various agencies, etc. are attached and are summarized as follows:

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

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

Citizens and Government Working Together

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. 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

\\SERVER1\\User Shares\\kdowling\\Ernie GERARDI\\LtrKellyShannahanAPPLICATIONREZONINGMAP52319.docx



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

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

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

- D. Where the purpose and effect of the proposed amendment is to change the zoning classification of property, the County Commissioners shall make findings of fact in each specific case, including but not limited to the following matters: population change; availability of public facilities; present and future transportation patterns; compatibility with existing and proposed development and existing environmental conditions for the area including 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.

P. \\SERVER1\\User Shares\\dovilling\\ZONING\\ZONING FORM - WORCESTER COUNTY - Girardi52119.docx



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.

Citizens and Government Working Together

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.

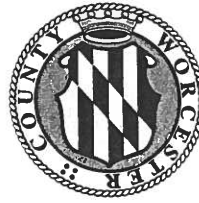
It is clear that without water and sewer services from the Town of Berlin, the property will not be able to achieve the growth area development intensity described in the *Comprehensive Plan*. The owner may achieve a development capacity on these properties with onsite sewer that will be less concentrated 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
\\wcfle2\users\llawrence\Rezoning\Rezoning Case 422.423.doc

Phyllis Wimbrow

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

'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

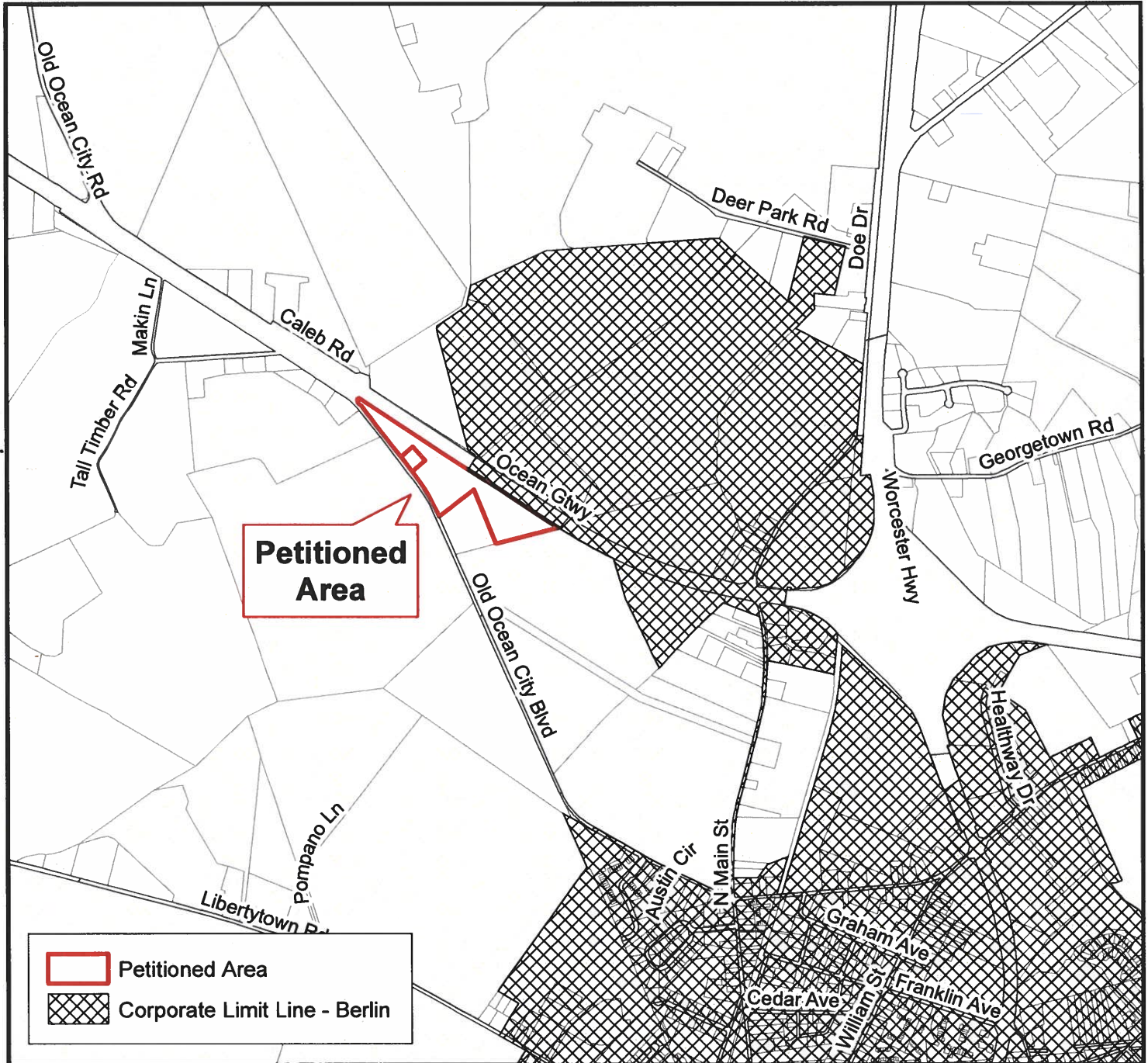


WORCESTER COUNTY, MARYLAND



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

0 1,300 2,600
Feet

Source: Worcester County GIS Data Layers

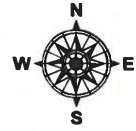
This map is intended to be used for illustrative purposes only and is not to be used for regulatory action.

Drawn By: KLH

Reviewed By: PHW

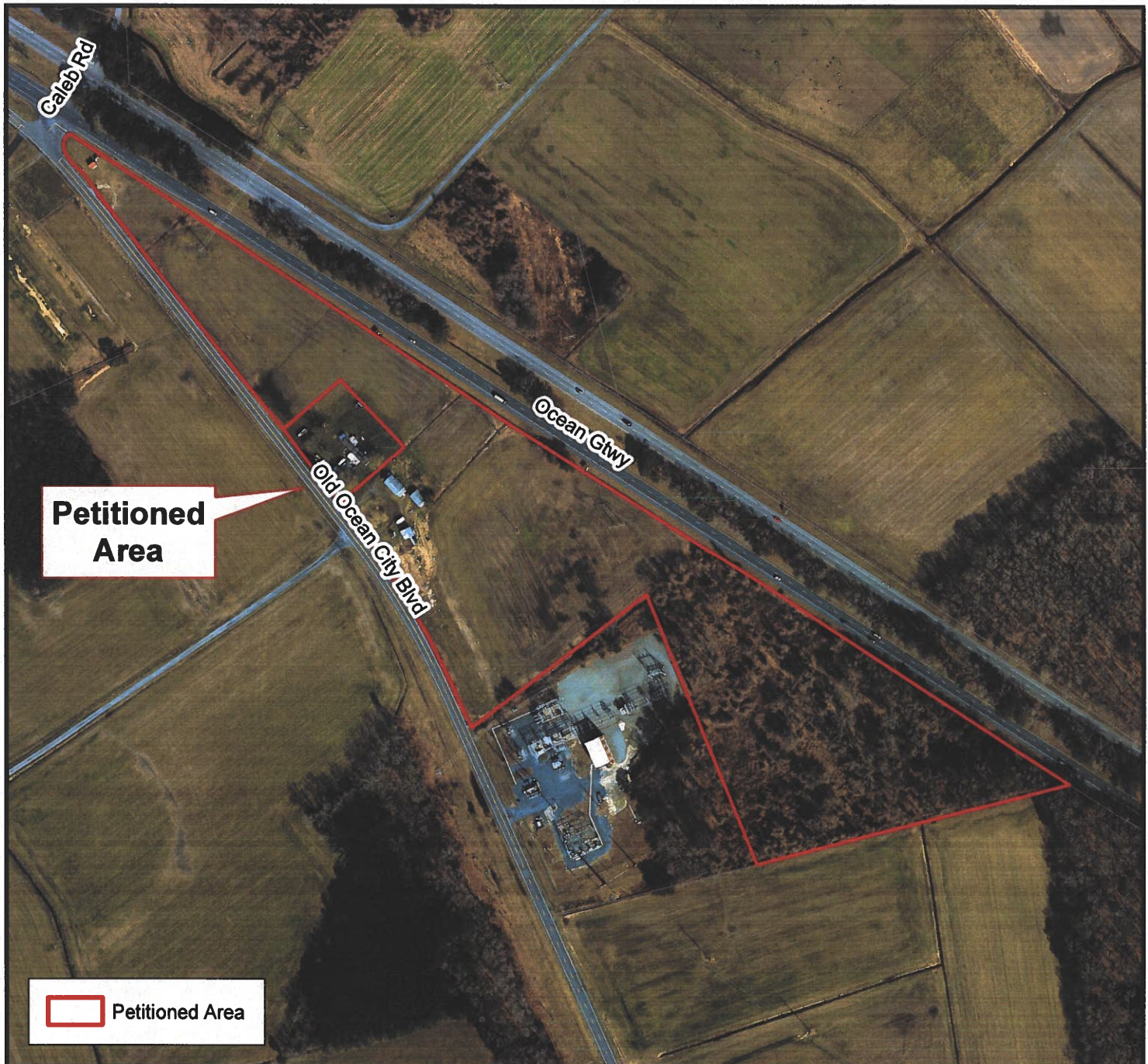


WORCESTER COUNTY, MARYLAND



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

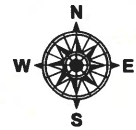
This map is intended to be used for illustrative purposes only and is not to be used for regulatory action.

Drawn By: KLH

Reviewed By: PHW

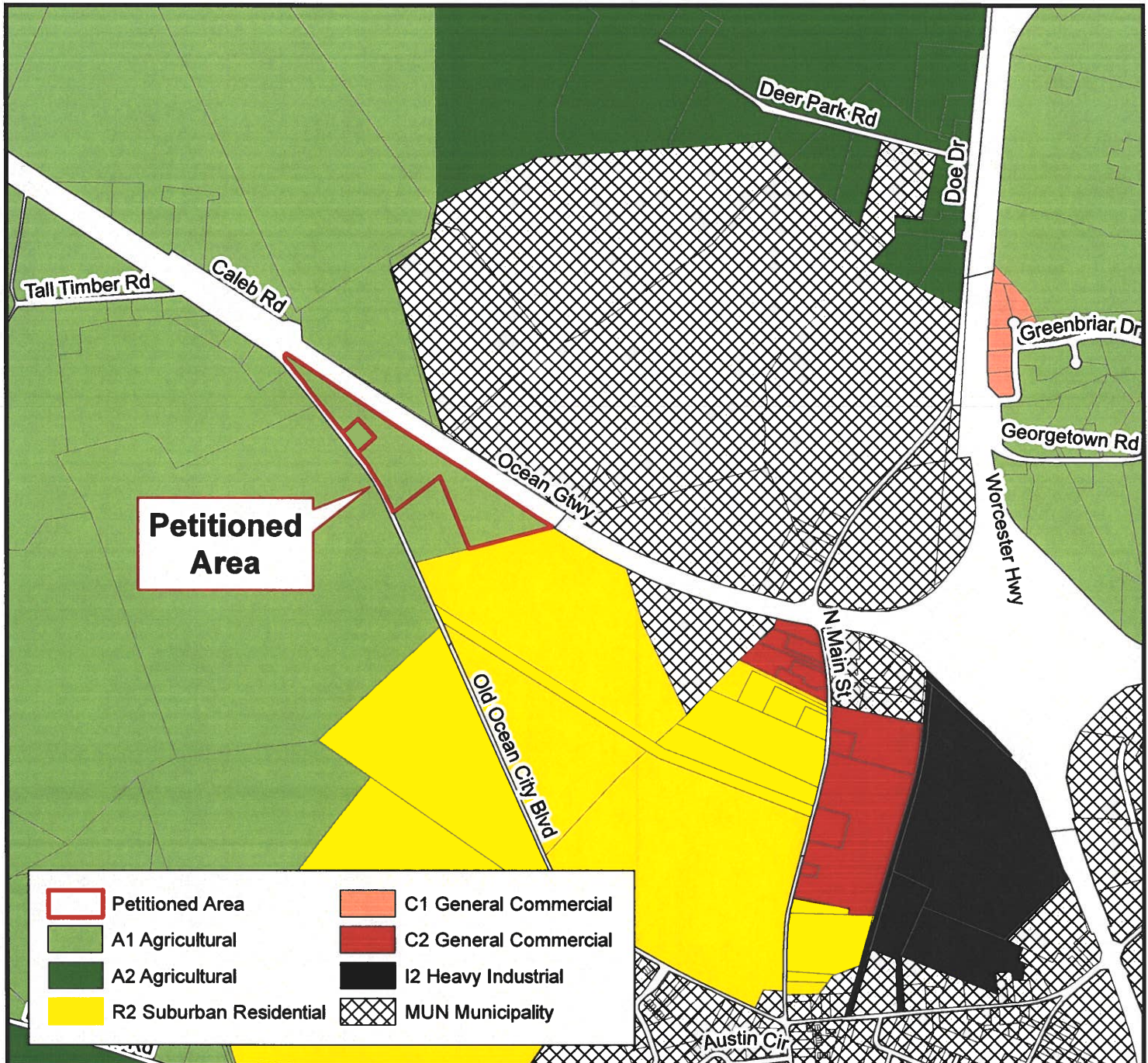


WORCESTER COUNTY, MARYLAND



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)

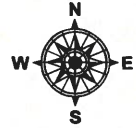
This map is intended to be used for illustrative purposes only and is not to be used for regulatory action.

Drawn By: KLH

Reviewed By: PHW

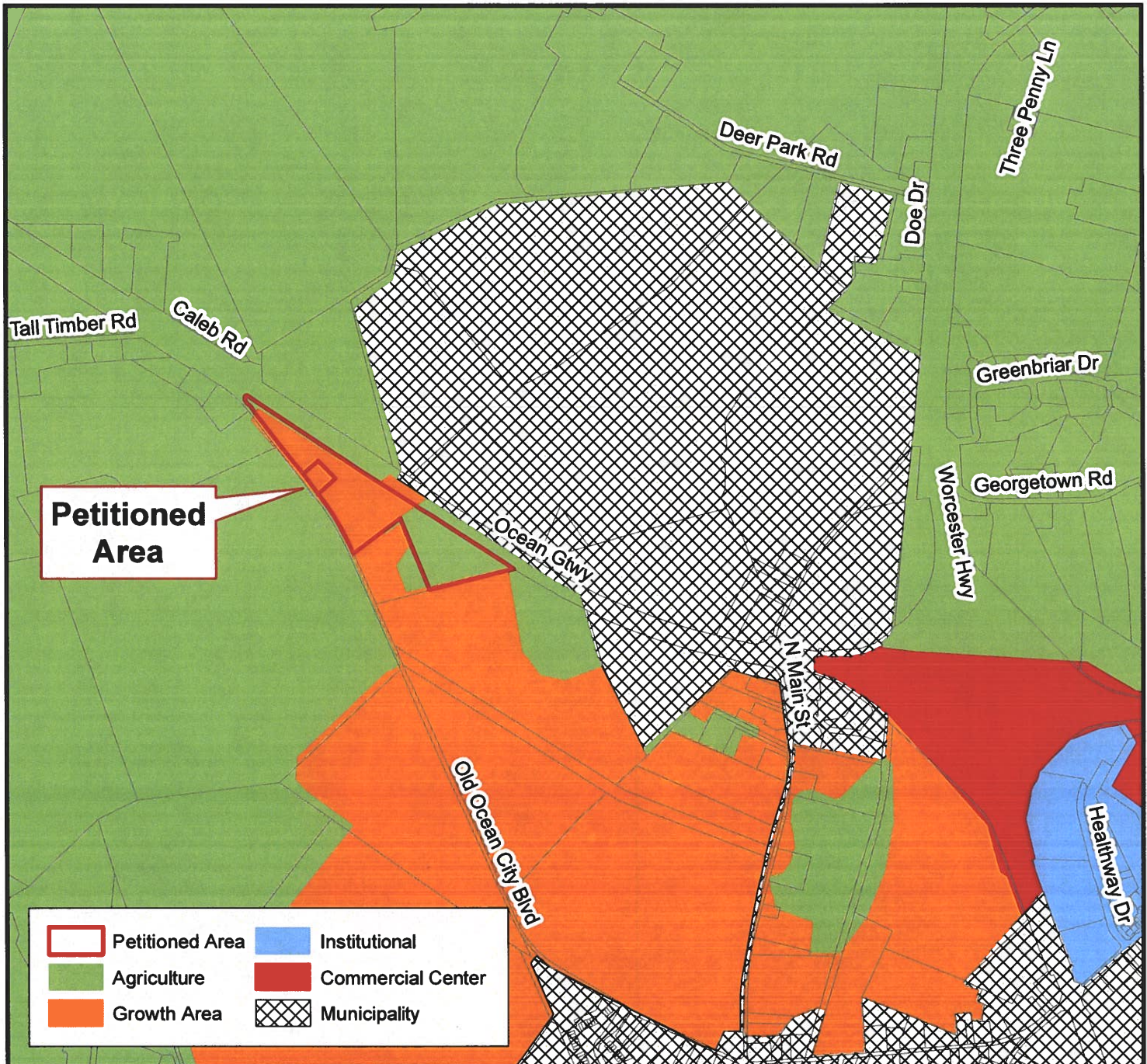


WORCESTER COUNTY, MARYLAND



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

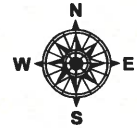
Source: 2006 Land Use Plan

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

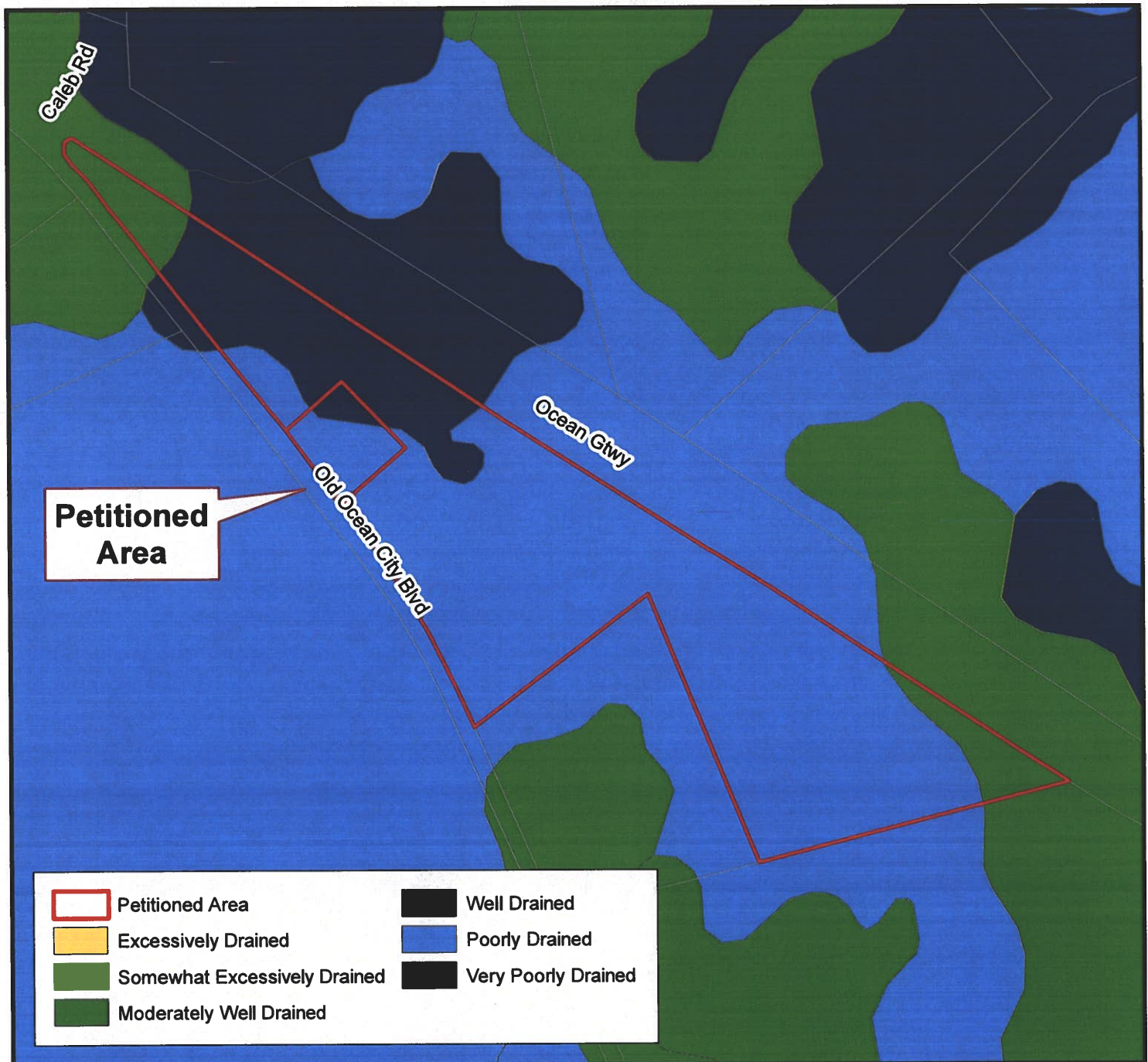


WORCESTER COUNTY, MARYLAND



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

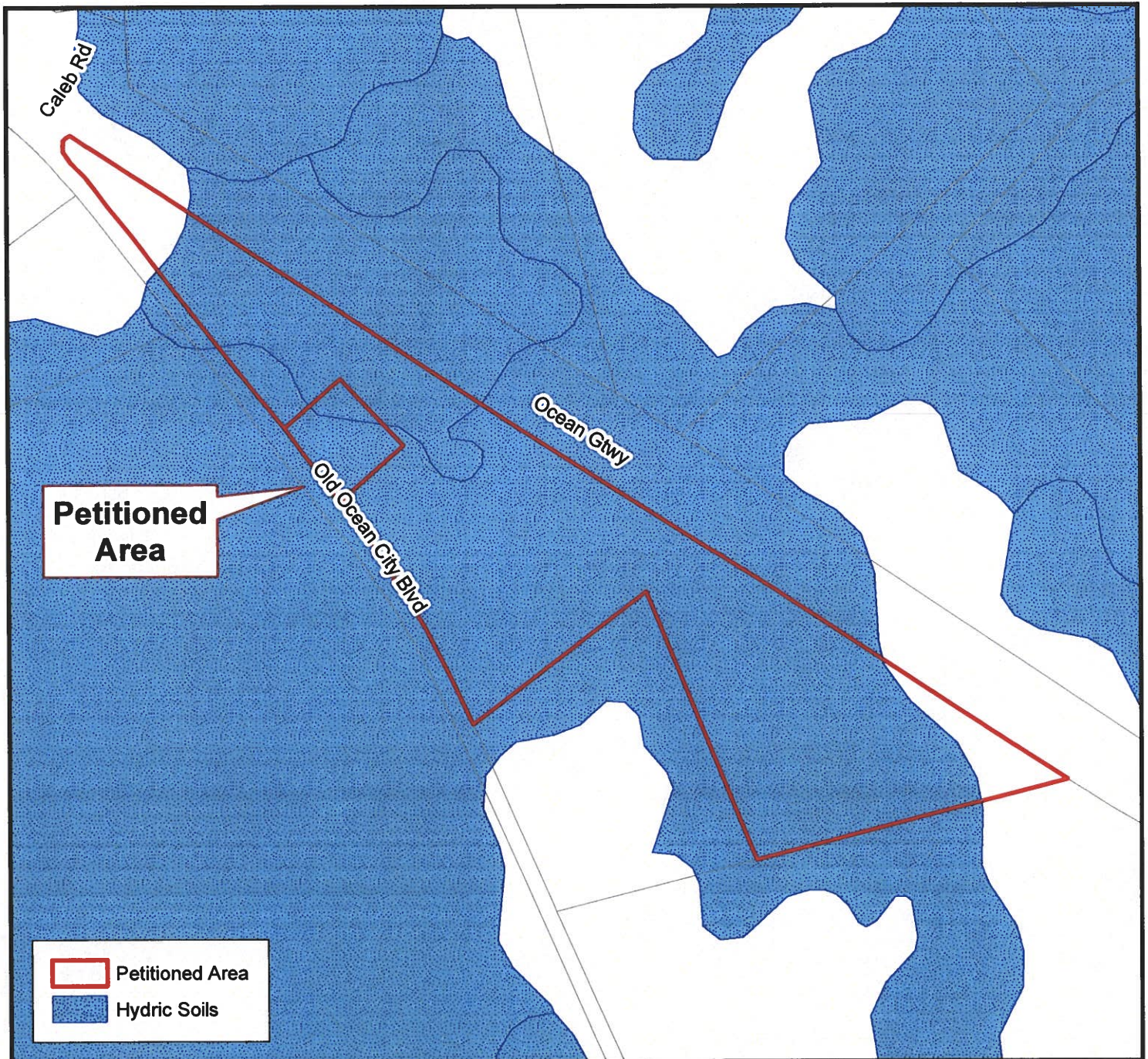


WORCESTER COUNTY, MARYLAND



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'

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



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 18th 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.

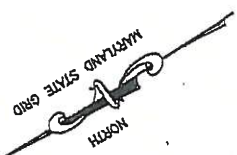
Sincerely,

Wm. Gee Williams, III
Mayor

JOINED IN AND AGREED TO:

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 # 20
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
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

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

BARTON LLC
PARCEL # 20
TAX MAP # 20

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

HARRY CLINTON TAYLOR
PARCEL # 66- LOT 4
TAX MAP # 20

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

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

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

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

TO OCEAN CITY

TO SALISBURY

U.S. ROUTE 50
(KNOWN AS OCEAN GATEWAY)
(SEE S.H.C. PLAT NUMBERS 12651 & 12652)

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
BETHLEHEM, 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

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\img\Emac 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>

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

To: Robert Mitchell <bmitchell@co.worcester.md.us>

Cc: John Salm <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.

3509 Coastal Highway

Ocean City, MD 21842

(410)289-3553 – office

(410)289-4157 – facsimile

LEGAL NOTICE: Unless expressly stated otherwise, this email is intended to be confidential and may be privileged. It is intended for the addressees only. Access to this email by anyone except addressees is unauthorized. If you are not an addressee, any disclosure or copying of the contents of this email or any action taken (or not taken) in reliance on it is unauthorized and may be unlawful. If you are not an addressee, please inform the sender immediately. Email communications may be intercepted or inadvertently misdirected. While the American Bar Association deems email a valid and authorized form of communication between attorneys and clients, absolute secrecy, confidentiality, and security (of this email message and any attachments thereto) cannot be assured. The relationship of attorney/client shall not be, and is not, established solely as a result of the transmission of this email. Absent a written engagement letter signed by Williams, Moore, Shockley & Harrison, L.L.P., no attorney/client relationship shall be deemed to, nor shall, exist and any belief that information or documents provided by this email are privileged is mistaken, unwarranted and incorrect.