

Terry L. Baker, *President*
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John F. Barr
Wayne K. Keefer
LeRoy E. Myers, Jr.

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BOARD OF COUNTY COMMISSIONERS

February 27, 2018

Agenda

- 10:00 A.M. INVOCATION AND PLEDGE OF ALLEGIANCE
CALL TO ORDER, *President Terry L. Baker*
APPROVAL OF MINUTES – February 13, 2018
- 10:05 A.M. COMMISSIONERS’ REPORTS AND COMMENTS
- 10:10 A.M. REPORTS FROM COUNTY STAFF
- 10:15 A.M. CITIZENS PARTICIPATION
- 10:20 A.M. YOUTH MERITORIOUS AWARD PRESENTATION – *Tiffany Miller and the Board of County Commissioners*
- 10:30 A.M. GENERAL FUND CONTINGENCY GRANT REQUEST, CHARACTER COUNTS!, WASHINGTON COUNTY, MD – *Susan Buchanan, Director, Office of Community Grant Management and Carolyn Brooks, Director, Character Counts! Wash Co., MD*
- 10:40 A.M. *CONVENE AS BOARD OF HEALTH* – AWARD OF THE CHILLER REPLACEMENT FOR THE WASH CO HEALTH DEPARTMENT #PUR2017-04 - *Earl Stone, Health Officer and Dan Triplett, Administrator*

RECONVENE AS BOARD OF COUNTY COMMISSIONERS

- 10:50 A.M. DELIBERATION / CONSENSUS DECISION ON APPLICATION FOR ZONING MAP AMENDMENT RZ-17-004, BLUEGRASS COMMERCIAL LLC AND MICHAEL W. AND KELLI S. SCOTT – *Stephen Goodrich, Director, Department of Planning and Zoning*
- 11:00 A.M. DELIBERATION / CONSENSUS DECISION ON APPLICATION FOR ZONING MAP AMENDMENTS RZ-17-003, DOWNSVILLE PIKE LAND LLC – *Travis Allen, Comprehensive Planner, Department of Planning and Zoning*
- 11:10 A.M. PRESENTATION OF THE 2019-2028 CAPITAL BUDGET – DRAFT 1 – *Sara Greaves, Chief Financial Officer, Budget and Finance Department*
- 11:40 A.M. LUNCHEON / QUARTERLY JOINT MEETING WITH ECONOMIC DEVELOPMENT COMMISSION MEMBERS
Location: 100 West Washington Street, Suite 2100

RETURN TO SUITE 1113

01:30 P.M. BOARD OF EDUCATION JOINT MEETING – WASHINGTON COUNTY PUBLIC SCHOOLS CAPITAL IMPROVEMENT PLAN

02:30 P.M. CLOSED SESSION

(To discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom this public body has jurisdiction; or any other personnel matter that affects one or more specific individuals; and to consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State.)

03:45 P.M. ADJOURNMENT



Agenda Report Form

Open Session Item

SUBJECT: Youth Meritorious Award Presentation

PRESENTATION DATE: Tuesday, February 27, 2018

PRESENTATION BY: Tiffany Miller & Board of County Commissioners

RECOMMENDED MOTION: No motion or action is requested or recommended.

REPORT-IN-BRIEF: The following individuals have been selected for the Youth Meritorious Award for the month of February. They were selected based on their scholastic achievement, leadership qualities, community service performed or other positive contributions to their school or community.

February 2018 – Daniel Kelbaugh – 12th Grade – Job Development Program
Parent(s) – Randy Kelbaugh
Hometown – Hagerstown, MD
Nominated by Sheila & Paul Moore and Newman

FISCAL IMPACT: N/A

CONCURRENCES: N/A

ALTERNATIVES: N/A

ATTACHMENTS: Student Summaries

AUDIO/VISUAL NEEDS: N/A

Youth Meritorious Award Summary for

Daniel Kelbaugh

12th Grade Student

Job Development Program

Nominated By: Sheila & Paul Moore and Newman

Parent(s) – Randy Kelbaugh

Sheila & Paul Moore and Newman endorsed the following:

I nominate Daniel Kelbaugh for the Youth Meritorious Award. Daniel is an outstanding student who participates in the Campus Connection Program of the Job Development Center. He has volunteered at Brookdale Assisted Living, Smithsburg Library, The Learning Center at HCC, the HCC Valley Eatery/Hilltop Grill, and the HCC Grounds keeping crew. Daniel completed a Transition Skills Program at Washington County Technical School. He has consistently earned outstanding work and school evaluations throughout his academic career. Daniel is a friendly, caring, motivated, optimistic, and flexible student. He is well respected and is truly a class leader.



Agenda Report Form

Open Session Item

SUBJECT: General Fund Contingency Grant Request, Character Counts! Wash. County, MD

PRESENTATION DATE: February 27, 2017

PRESENTATION BY: Susan Buchanan, Director, Office of Grant Management, Carolyn Brooks, Director, Character Counts! Washington County, MD

RECOMMENDED MOTION: Move to approve the request for General Fund Contingency funding from Character Counts! Washington County, MD in the amount of \$_____, for direct expenses associated with the Year End Character Counts! Student Recognition Luncheon.

REPORT-IN-BRIEF: Character Counts! Washington County, MD has submitted a request for General Fund Contingency funding to support the Year End Character Counts! Student Recognition Luncheon to be held on May 16, 2018. The amount of funding requested for this event is \$3,000.

DISCUSSION: In 1999, the Character Counts! strategy was brought to Washington County through the CSAFE program. The Board of County Commissioners provided funding to provide 35 local citizens training to become certified Character Count! trainers. Since then, Character Counts! has been a part of the Washington County Public Schools (WCPS) "Code of Conduct" and students are recognized for demonstrating the Six Pillars of Character Counts!.

The Character Counts! Coalition, in partnership with the County Commissioners, sponsored an annual recognition luncheon for students attending WCPS for approximately ten years, however in 2011 due to funding issues the program ended.

The Coalition plans to revive the end of the year event to celebrate students, along with their families, that demonstrate the Six Pillars of Character Counts! - trustworthiness, respect, responsibility, fairness, caring, and citizenship. The program's budget for the General Fund Contingency funding includes \$420 for books and \$270 for t-shirts for the students, and \$2,310 towards the costs of the catered luncheon.

The Office of Grant Management has reviewed this request and the organization and event is eligible for General Funding Contingency grant funding.

FISCAL IMPACT: General Fund Contingency fund will be reduced by the amount of this award.

CONCURRENCES: N/A

ALTERNATIVES: Deny the request for General Fund Contingency funding.

ATTACHMENTS: General Fund Contingency Funding Application

AUDIO/VISUAL NEEDS: N/A

Washington County, Maryland
General Fund Contingency
Grant Application

100 West Washington Street
Room 2200
Hagerstown, Maryland 21740
240-313-2040

Organization/Agency: E-mail Address:

Address:

Contact Person: Title:

Phone Number: Fax:

Tax ID/Federal ID#: Capital Request Operating Request

Pre-Event / Project Request Post-Event / Project Request

Project Name:

Project Start Date: Project End Date:

Narrative Description of Project: Include description, purpose, goals, expected attendance or participation, and any other information that may be useful in the consideration of your request.

In 1999, the Character Counts! strategy was brought to Washington County through the HotSpot (later known as C SAFE). The County Commissioners provided \$15,000 for a national training where 35 local citizens became certified Character Counts! trainers. Since then, Character Counts! has been a part of the WCPS "Code of Conduct". Students are recognized in schools for demonstrating the Six Pillars of Character Counts!.

The Character Counts! Coalition, in partnership with the County Commissioners, sponsored an annual recognition of students attending Washington County schools for approximately ten years. In 2011, because of budget cuts, the recognition program ended.

The Coalition plans to revive the end of the year event that will celebrate students and their parents. Monthly each elementary school recognizes students in various ways for demonstrating the Six Pillars of Character Counts!: Trustworthiness, Respect, Responsibility, Fairness, Caring and Citizenship. Each school will select and nominate one student to represent their school at the year end celebration to be held at Elgin Station Community Building. The student, their parents and a school representative will be invited to the "Red Carpet" celebration. There will be approximately 150 in attendance, including elected officials and special guests. A short program will include comments from representatives of elected officials and WCPS. The book "Oh The Places You Will Go" and a Character Counts! tee shirt will be presented to each student. There will be a catered lunch.

This event was always well received by the parents and students. It also was an opportunity to showcase students doing positive things in their schools and communities.

A. Amount of Contingency Funding Requested \$3,000.00

B. List other sources of funding to be provided by applicant below :

Hagerstown Housing Authority (In kind Use of facility at Elgin Station)	
C. Total Project/Event Funding (A + B)	

Total Project Budget (indicate how grant funds will be used)

D. Personnel Costs:	
E. Operating:	
F. Equipment Purchases/Rental:	
G. Other:	
Purchase books "Oh How Far You Will Go"	\$420.00
Purchase Tee shirts	\$270.00
Partial for catered lunch	\$2,310.00
Total Project Budget (This line should agree to to line C)	\$3,000.00

Certification:

I/We certify the information contained in this application is complete, accurate, and fully discloses the scope and intent of our request for funding from the General Fund Contingency. We agree to comply with the County's requests for information regarding the use of awarded funds and to provide access to accounting records related to these funds.

We acknowledge that if expenditures of funds is approved, such approval will be for line-item-by-line-item expenditures, which must be adhered to within the maximum 10% line item deviation.

We further acknowledge that any deviations beyond 10% of the allowable amount will require us to submit a program amendment which will have to be approved in writing by the Office of Community Grant Management prior to any further expenditures.

By signing this application, I/we accept and agree to be bound by the terms and conditions of General Fund Contingency Regulations/Procedures as administered by the Washington County Commissioners in compliance with current State laws.

Applicant: Catalyn N. Brooks
Title/Position: Director

Date: 02-02-18

Recommended by: _____
Director, Office of Community Grant Management

Date: _____

- Approve
- Deny

Recommended Award: _____

Comments: _____

Approved by: _____
County Administrator

Date: _____

- Approved
- Denied

Approved Award: _____

Return Application To:
Washington County Office of Community Grant Management
100 West Washington Street
Room 2200
Hagerstown, Maryland 21740
240-313-2040



Open Session Item

NOTE: The Board will need to convene as the *Board of Health* when considering this request.

SUBJECT: Award of the Chiller Replacement for the Washington County Health Department - #PUR-2017-04

PRESENTATION DATE: Tuesday, February 27, 2018

PRESENTATION BY: Earl Stoner, Health Officer; Dan Triplett, Administrator

RECOMMENDED MOTION: Move to award the Replacement Chiller project, #PUR-2017-04 to ANS-General Contracting, Inc. for the amount of \$144,800.00.

REPORT-IN-BRIEF: The RFP was advertised in the Herald Mail newspaper for three consecutive days, published on eMaryland website and available on the Washington County Health Department website. The RFP was issued on Monday, December 18, 2017 for the removal of an existing Trane chiller and replace with a chiller as specified in BRM#17051 documents provided by Bushey Feight Morin Architects and consulting Engineer CJL Engineering.

Pre-Bid was held on Thursday, January 4, 2018 with one individual attending that was an Account Manager for Trane. Architect and CJL Engineering in attendance along with Washington County Health Department staff.

Bid opening held on Wednesday, January 31, 2018 with three (3) contractors in attendance and three bids submitted; M & E Sales \$ 219,217.00; ASN-General Contracting, Inc. \$144,800.00 and Denver-Elek, Inc. \$266,450.00.

DISCUSSION: None

FISCAL IMPACT: The funds for this contract would be 100% County funds for FY2018.

CONCURRENCES: Earl Stoner, Health Officer and Daniel Triplett, Administrator

ALTERNATIVES: N/A

ATTACHMENTS:

AUDIO/VISUAL NEEDS:



Agenda Report Form

Open Session Item

SUBJECT: Deliberation/Consensus Decision on Application for Zoning Map Amendment RZ-17-004, Bluegrass Commercial LLC and Michael W. and Kelli S. Scott

PRESENTATION DATE: February 27, 2018

PRESENTATION BY: Stephen T. Goodrich, Director, Washington County Department of Planning and Zoning

RECOMMENDED MOTION: Discussion to reach consensus to **approve or deny** zoning map amendment request.

REPORT-IN-BRIEF: RZ-17-004 is an application from property owners Bluegrass Commercial LLC and Michael W. and Kelli S. Scott to rezone 3 parcels of land totaling 7.15 acres from Rural Village to Rural Business. Two of the three parcels are located along the northwest side of MD Rt. 60 (Leitersburg Pike), opposite the village of Leitersburg. The third parcel is located at the intersection of the Leitersburg Pike and Leiter's Mill Road, adjacent to the other two. The Planning Commission held a public information meeting on September 18, 2017 and made a recommendation for approval on October 2, 2017. The Planning Commission noted its opinion that the change in zoning could meet the Rural Business rezoning criteria stated in the zoning ordinance and the applicant's statement that it is intended for all three parcels to be used for office space for the existing New Direction Utilities business also owned by the applicants and on adjacent parcels or for general unrelated office space if the rezoning is approved. Business and professional offices are a permitted use in the Rural Business district. The County Commissioners held a public hearing on January 9, 2018.

DISCUSSION: Refer to enclosed application, staff report, Planning Commission minutes and recommendation for detailed discussion of the proposed amendment. This application is not governed by the requirement that there must have been a change in the character of the neighborhood or that a mistake was made in the assignment of the current zone. The application is judged by criteria specified in the Washington County Zoning Ordinance for approval of the Rural Business District and presented in detail in the Staff Report and Analysis.

FISCAL IMPACT: None.

ATTACHMENTS: Ordinance amendment application with justification statement and rezoning site maps.

Staff Report and Analysis dated August 30, 2017

Planning Commission report and recommendation

AUDIO/VISUAL NEEDS: N/A



FOR PLANNING COMMISSION USE ONLY
 Rezoning No. RZ-17-004
 Date Filed: _____

WASHINGTON COUNTY PLANNING COMMISSION
 ZONING ORDINANCE MAP AMENDMENT APPLICATION

Bluegrass Commercial, LLC and Michael

Applicant
 21616 Kelso Drive, Hagerstown, MD 21

Address
 Zachary J. Kieffer, Esq.

Primary Contact
 13424 Pennsylvania Avenue, Suite 302
 Address

Property Owner Contract Purchaser
 Attorney Consultant
 Other: _____

301-791-9222
 Phone Number
 zkieffer@divelbisslaw.com
 E-mail Address

Property Location: 21314 Leitersburg Pike, 21338 Leitersburg Pike & 21385 Leiters Mi

Tax Map: 26 Grid: 14/14/8 Parcel No.: 131/174/ Acreage: 7.15 AC.

Current Zoning: RV Requested Zoning: RB

Reason for the Request: Change in the character of the neighborhood
 Mistake in original zoning

PLEASE NOTE: A Justification Statement is required for either reason.

Kelley Sutt
 Applicant's Signature

Subscribed and sworn before me this 15th day of February, 2017.

My commission expires on 05-23-2017
 Notary Public



FOR PLANNING COMMISSION USE ONLY

<input type="checkbox"/> Application Form	<input type="checkbox"/> Names and Addresses of all Adjoining & Confronting Property Owners
<input type="checkbox"/> Fee Worksheet	<input type="checkbox"/> Vicinity Map
<input type="checkbox"/> Application Fee	<input type="checkbox"/> Justification Statement
<input type="checkbox"/> Ownership Verification	<input type="checkbox"/> 30 copies of complete Application Package
<input type="checkbox"/> Boundary Plat (Including Metes & Bounds)	

EXHIBIT A

PARCEL 1

Real Property Data Search (with) Guide to searching the database

Search Result for WASHINGTON COUNTY

View Map		View GroundRent Redemption			View GroundRent Registration				
Account Identifier:		District - 09 Account Number - 000828							
Owner Information									
Owner Name:		BLUEGRASS COMMERCIAL LLC			Use:		RESIDENTIAL NO		
Mailing Address:		21616 KELSO DR HAGERSTOWN MD 21742-0000			Principal Residence:		Deed Reference: /05306/ 00081		
Location & Structure Information									
Premises Address:		21314 LEITERSBURG PIKE HAGERSTOWN 21742-0000			Legal Description:		2.94 ACRES 21314 LEITERSBURG PIKE		
Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:
0026	0014	0131		0000				2016	Plat Ref:
Special Tax Areas:				Town:		NONE			
				Ad Valorem:					
				Tax Class:					
Primary Structure Built		Above Grade Enclosed Area		Finished Basement Area		Property Land Area		County Use	
1900		2,201 SF				2.9400 AC			
Stories	Basement	Type	Exterior	Full/Half Bath	Garage	Last Major Renovation			
2	YES	STANDARD UNIT	FRAME	1 full	2 Detached				
Value Information									
		Base Value		Value		Phase-in Assessments			
				As of		As of		As of	
				01/01/2016		07/01/2016		07/01/2017	
Land:		89,500		89,500					
Improvements		46,600		46,700					
Total:		136,100		136,200		136,133		136,167	
Preferential Land:		0						0	
Transfer Information									
Seller: BITNER RILEY III			Date: 08/23/2016			Price: \$100,000			
Type: NON-ARMS LENGTH OTHER			Deed1: /05306/ 00081			Deed2:			
Seller: BITNER MARTHA			Date: 11/06/2000			Price: \$0			
Type: NON-ARMS LENGTH OTHER			Deed1: /01608/ 01014			Deed2:			
Seller:			Date:			Price:			
Type:			Deed1:			Deed2:			
Exemption Information									
Partial Exempt Assessments:		Class		07/01/2016		07/01/2017			
County:		000		0.00					
State:		000		0.00					
Municipal:		000		0.00 0.00		0.00 0.00			
Tax Exempt:			Special Tax Recapture:						
Exempt Class:			NONE						
Homestead Application Information									
Homestead Application Status: No Application									

2. The data on this page is for informational purposes only. It is not intended to be used for legal purposes. While we have confidence in

EXHIBIT *p10 B*

Lincoln Title & Settlement Services
 13424 Pennsylvania Avenue, Suite 302
 Hagerstown, MD 21742
 File No. LT16-0909
 Tax ID No. 09-000828

This Deed, made this 19th day of August, 2016, by and between **Omer L. Bitner and Margaret J. Miles, Co-Personal Representatives of the Estate of Riley Bitner, III, GRANTOR**, and **Bluegrass Commercial, LLC, GRANTEE**.

— **Witnesseth** —

That in consideration of the sum of *One Hundred Thousand and 00/100 Dollars (\$100,000.00)*, which includes the amount of any outstanding Mortgage or Deed of Trust, if any, the receipt of which is hereby acknowledged, the said Grantor does hereby grant and convey to the said Grantees, as sole owner, in fee simple, all that lot of ground situate in the County of Washington, State of Maryland and described as follows, that is to say:

All that lot or parcel of ground, together with the improvements thereon, situate on and along the Northwestern side of the State Road leading from Hagerstown to Waynesboro, just West of the Village of Leitersburg, as said road has been relocated. In Election District No. 9, Washington County, Maryland and more particularly described as follows: BEGINNING for the same at a point marked by a stake on the Northwestern side of said State Road, said point being in the Southern corner of the tract which was conveyed by David W. Milburn and wife to Michael O. Fuller and wife by deed dated June 28, 1956 and recorded in Liber No. 312, folio 210, one of the Land Records of Washington County, and running thence with the fifth and sixth lines of said deed the following courses and distances: North 75 degrees 7 minutes West 131 feet to a stake, and running thence with said sixty line and with the extension thereof North 37 degrees 36 minutes East 179.3 feet to a stake, thence along the lands owned by David W. Milburn and wife by a line passing through a stake on the Southern bank of the West Branch of the Antietam Creek North 70 degrees 43 minutes West 250 feet, more or less, to a point in or near the thread of said Creek, thence Westwardly with the thread of said Creek 200 feet, more or less, thence by a line passing through a stake on the Southern bank of said Creek South 60 degrees 50 minutes East 190 feet, more or less, to a stake, thence South 12 degrees 54 minutes West 223 feet to a stake in the Northwestern right-of-way line of the aforesaid State Road, thence with said right-of-way line North 53 degrees 59 minutes East 202.2 feet to a stake, thence continuing along the Northern right-of-way line North 49 degrees East 141 feet, more or less, to the place of beginning, containing 3 acres or land, more or less; SAVING AND EXCEPTING therefrom all that tract or parcel of land containing 0.06 acres which was conveyed by Harry M. Clark and Lillian Clark, his wife, to Michael O. Fuller and wife by deed dated October 22, 1957 and recorded in Liber No. 329, folio 160, another of the aforesaid Land Records.

1268

EXHIBIT p/10.B

BEING the fee simple property which, by Deed dated September 25, 2000, and recorded in the Land Records of the County of Washington, Maryland, in Liber 1608, Folio 1014, was granted and conveyed by Riley Bitner, III and Martha Bitner unto Riley Bitner, III.

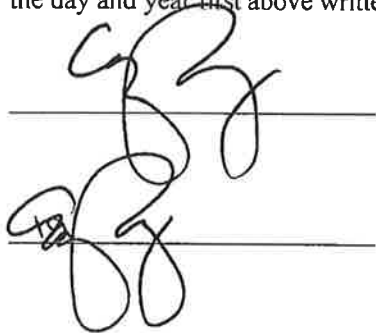
Together with the buildings and improvements thereon erected, made or being; and all and every, the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

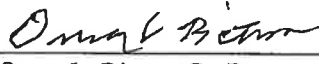
Subject to all of the conditions, restrictions, streets, reservations, easements, covenants and rights-of-way of record.

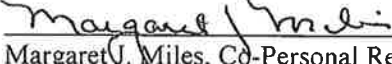
To Have and To Hold the said tract of ground and premises above described and mentioned, and hereby intended to be conveyed, together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said Bluegrass Commercial, LLC, as sole owner, in fee simple.

And the Grantor hereby covenants that he has not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that he will warrant Specially the property hereby granted; and that he will execute such further assurances of the same as may be requisite.

In Witness Whereof, Grantor has caused this Deed to be properly executed and sealed the day and year first above written.



 (SEAL)
Omer L. Bitner, Co-Personal Representative of
the Estate of Riley Bitner, III

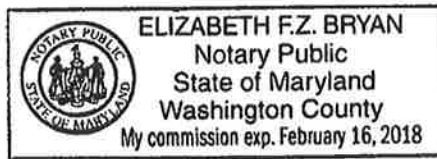
 (SEAL)
Margaret J. Miles, Co-Personal Representative
of the Estate of Riley Bitner, III

{NOTARY CONTINUED ON THE FOLLOWING PAGE}

STATE OF MARYLAND }
COUNTY OF WASHINGTON } ss

I hereby certify that on this 19th day of August, 2016 before me, the undersigned officer, a Notary Public in and for the State aforesaid, personally appeared **Omer L. Bitner and Margaret J. Miles, Co-Personal Representatives of the Estate of Riley Bitner, III**, known to me or satisfactorily proven to be the person whose names are subscribed to the within instrument, and acknowledged themselves to be the Co-Personal Representatives of the Estate of Riley Bitner, III and who, in my presence, signed and sealed the foregoing Deed and acknowledged it to be their act and deed as Co-Personal Representatives of the foregoing Estate, giving oath under penalties of perjury that the consideration recited herein is correct.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



[Handwritten Signature]

Notary Public

My Commission Expires: 02/16/2018

THIS IS TO CERTIFY that the within Deed was prepared by, or under the supervision of the undersigned, an Attorney duly admitted to practice before the Court of Appeals of Maryland.

[Handwritten Signature]

Kent N. Oliver, Attorney

AFTER RECORDING, PLEASE RETURN TO:
Bluegrass Commercial, LLC
21616 Kelso Drive
Hagerstown, MD 21742

TODD L. HERSHEY, TREASURER
TAXES PAID 8/23/16

EXHIBIT CR
D/O B

WASHINGTON COUNTY CIRCUIT COURT (Land Records) DJW 5306, p. 0083, MSA_CE18_5258. Date available 08/26/2016. Printed 02/17/2017.

MARYLAND FORM WH-AR

Certification of Exemption from Withholding Upon Disposition of Maryland Real Estate Affidavit of Residence or Principal Residence

2016

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

Omer L. Bitner and Margaret J. Miles, Co-Personal Representatives of the Estate of Riley Bitner, III

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 (principal residence for 2 (two) of the last 5 (five) years) 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

[Handwritten signature]

Omer L. Bitner and Margaret J. Miles, Co-Personal Representatives of the Estate of Riley Bitner, III

Name

Omer L. Bitner, Margaret J. Miles
Signature

3b. Entity Transferors

Witness/Attest

Name of Entity

By

Name

Title

EXHIBIT p10 B

WASHINGTON COUNTY CIRCUIT COURT (Land Records) DJW 5306, p. 0084, MSA_CE18_5258. Date available 08/26/2016. Printed 02/17/2017.

WASHINGTON COUNTY CIRCUIT COURT (Land Records) DJW 5306, p. 0085, MSA_CE18_5258. Date available 08/26/2016. Printed 02/17/2017.

LR - Deed (w Taxes)
 Recording Fee - ALL 20.00
 Grantor/Grantee Name: bluegrass
 Reference/Control #: LR - County Transfer Tax - linked 250.00
 LR - Surcharge - linked 40.00
 LR - Recordation Tax - linked 760.00
 LR - State Transfer Tax - linked 500.00
 LR - Non-Resident Tax - linked 0.00
 =====
 SubTotal: 1,570.00
 =====
 Total: 1,800.00
 08/23/2016 11:04
 CC21-MAW
 #6782245 CC0403 - Washington County/CC04.03.01 - Register 01

This page not to be counted in calculating Recording Fee

**Clerk of Circuit Court
Washington County, Maryland**

Dennis J. Weaver, Clerk
24 Summit Avenue
Hagerstown, MD 21740
301-790-7991

<u>For Clerks Use Only</u>	
Improvement Fee	40.00
Recording Fee	20.00
County Transfer Tax	250
Recordation Tax	760
State Transfer Tax	500
Non-Resident Tax	
TOTAL	1570

Baltimore City and County: Washington
Information provided is for the use of the Clerk's Office, State Department of Assessments and Taxation, and County Finance Office Only.

Space Reserved for Circuit Court Clerk Recording Validation

1 Type(s) of Instruments
2 Conveyance Type Check Box
3 Tax Exemptions (if applicable)

4 Consideration and Tax Calculations
Consideration Amount
Finance Office Use Only

5 Fees
Amount of Fees
Recording Charge
Surcharge
State Recordation Tax

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).

7 Transferred From
Doc. 1 - Grantor(s) Name(s)
Doc. 2 - Grantor(s) Name(s)

8 Transferred To
Doc. 1 - Grantee(s) Name(s)
Doc. 2 - Grantee(s) Name(s)

9 Other Names to Be Indexed
Doc. 1 - Additional Names to be Indexed (Optional)
Doc. 2 - Additional Names to be Indexed (Optional)

10 Contact/Mail Information
Instrument Submitted By or Contact Person
Name: Melanie Donaldson, Settlement Processor
Firm: Lincoln Title and Settlement Services, LLC
Address: 13424 Pennsylvania Avenue, Suite 302
Hagerstown, MD 21742 Phone: (301) 791-9228

11 Assessment Information
IMPORTANT: BOTH THE ORIGINAL DEED AND A PHOTOCOPY MUST ACCOMPANY EACH TRANSFER
Assessment Information
Will the property being conveyed be the grantee's principal residence?
Does transfer include personal property? If yes, identify:
Was property surveyed? If yes, attach copy of survey (if recorded, no copy required).

Assessment Use Only - Do Not Write Below This Line
Terminal Verification
Agricultural Verification
Whole Part
Tran. Process Verification
Transfer Number
Date Received:
Deed Reference:
Assigned Property No.:

WASHINGTON COUNTY CIRCUIT COURT (Land Records) DJW 5306, p. 0086, MSA, CE18_5258, Date available 08/26/2016. Printed 02/17/2017.

Space Reserved for County Validation

EXHIBIT p10 B

PARCEL 2

Real Property Data Search (w/1) Guide to searching the database

Search Result for WASHINGTON COUNTY

View Map		View GroundRent Redemption			View GroundRent Registration				
Account Identifier:		District - 09 Account Number - 011234							
Owner Information									
Owner Name:		BLUEGRASS COMMERCIAL LLC			Use:		RESIDENTIAL NO		
Mailing Address:		21616 KELSO DR HAGERSTOWN MD 21742-9317			Principal Residence:				
					Deed Reference:		/05210/ 00156		
Location & Structure Information									
Premises Address:		21338 LEITERSBURG PIKE HAGERSTOWN 21742-0000			Legal Description:		LOT A .92 ACRE 21338 LEITERSBURG PIKE		
Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:
0026	0014	0174		0000				2016	Plat Ref:
Special Tax Areas:				Town:		NONE			
				Ad Valorem:					
				Tax Class:					
Primary Structure Built		Above Grade Enclosed Area		Finished Basement Area		Property Land Area		County Use	
1977		1,400 SF		598 SF		40,075 SF			
Stories	Basement	Type	Exterior	Full/Half Bath	Garage	Last Major Renovation			
1	YES	STANDARD UNIT	BRICK	2 full	1 Carport				
Value Information									
		Base Value		Value		Phase-in Assessments			
				As of		As of		As of	
				01/01/2016		07/01/2016		07/01/2017	
Land:		74,000		74,000					
Improvements		105,100		114,700					
Total:		179,100		188,700		182,300		185,500	
Preferential Land:		0						0	
Transfer Information									
Seller: SCOTT MICHAEL &			Date: 04/26/2016			Price: \$0			
Type: NON-ARMS LENGTH OTHER			Deed1: /05210/ 00156			Deed2:			
Seller: SABATH NICHOLAS S			Date: 02/19/2008			Price: \$210,000			
Type: NON-ARMS LENGTH OTHER			Deed1: /03450/ 00133			Deed2:			
Seller: WISHARD L DOUGLAS			Date: 06/26/2001			Price: \$146,000			
Type: ARMS LENGTH IMPROVED			Deed1: /01669/ 00606			Deed2:			
Exemption Information									
Partial Exempt Assessments:		Class		07/01/2016		07/01/2017			
County:		000		0.00					
State:		000		0.00					
Municipal:		000		0.00 0.00		0.00 0.00			
Tax Exempt:		Special Tax Recapture:							
Exempt Class:		NONE							
Homestead Application Information									
Homestead Application Status: No Application									

3. The undersigned hereby certifies that the information provided herein is true and correct to the best of their knowledge and belief, and that they have confidence in the accuracy of the information provided.

EXHIBIT Plat B

Tax Identification No.: 09-011234
Deed Prepared without title examination.

DEED

THIS DEED, is made this 15th day of April, 2016, by **Michael W. Scott and Kelli S. Scott**, hereinafter referred to as "Grantor", to **Bluegrass Commercial, LLC**, a Maryland limited liability company, hereinafter referred to as "Grantee".

WITNESSETH: That for NO MONETARY CONSIDERATION (\$0.00), but for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, **Michael Scott and Kelli Scott**, his wife, Grantors, do hereby grant and convey unto **Bluegrass Commercial, LLC**, Grantee, in fee simple absolute, all of its right, title and interest in and to all that lot or parcel of land situate, together with the improvements thereon, and all rights, ways, privileges and appurtenances thereunto belonging on in anywise appertaining, lying and being in Washington County, Maryland and being more particularly described as follows:

All that lot or parcel of land, and all the rights, ways, privileges and appurtenances thereunto belonging or in anywise appertaining, lying contiguous in Leitersburg, in Washington County, Maryland and more particularly described as follows: Situate along the North side of Maryland State Route 60, approximately 50 feet, more or less, Southwest of the intersection of State Route 60 with Leitersburg State Lien Road, in Leitersburg Election District and being more particularly described in accordance with a recent survey by J.B. Ferguson Engineering, Inc. as follows: Beginning at an iron pipe in the Third or North 53 degrees 15 minutes West, 400.00 foot line and being 120.13 feet from the beginning of said line of the adjoining tract of land from Violet T. Gilbert to Charles Hurd as recorded in Liber 365, Folio 418 among the Washington County Land Records and running thence with new lines of division across the lands of Harry Rogers, Jr., the following courses and distances: North 46 degrees 42 minutes 10 seconds East 150.00 feet to an iron pipe, thence South 49 degrees 24 minutes 27 seconds East 190.28 feet to an iron pipe, thence South 34 degrees 01 minutes 07 seconds East 77.59 feet to a concrete monument set, thence with the North Marginal line of State Route 60 South 41 degrees 07 minutes 20 seconds West 129.72 feet to a concrete monument set, thence with the boundary line or third line of the tract of land recorded in Liber 365, Folio 418 North 49 degrees 10 minutes 10 seconds West 279.87 feet to a point of beginning, containing 0.92 acres, more or less.

BEING the same property which was conveyed from Stephanie Sabath, Personal Representative of the Estate of Nicholas S. Sabath to Grantors Michael Scott and Kelli Scott, his wife by Deed dated February 14, 2008 and recorded among the Land Records of Washington County, Maryland in Liber 3450, folio 00133.

SUBJECT TO all applicable covenants, conditions, restrictions, limitations, rights of way, streets, alleys, reservations and easements of record.

TO HAVE AND TO HOLD the property hereby conveyed unto the Grantee, its successors and assigns, in fee simple forever.

WASHINGTON COUNTY CIRCUIT COURT (Land Records) DJW 5210, p. 0156, MSA_CE18_5162. Date available 04/28/2016. Printed 02/17/2017.

1095

EXHIBIT p10 B

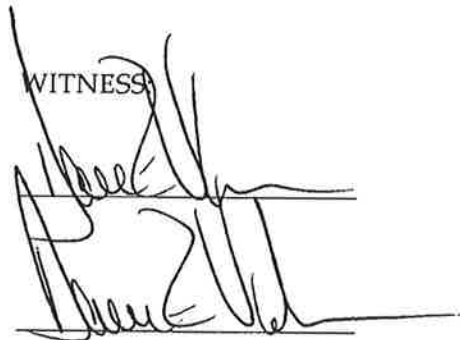
AND the Grantor hereby covenants to warrant specially the property hereby conveyed and to execute such other and further assurances thereof as may be required from time to time.

AND the Grantor hereby acknowledges that the actual consideration payable paid or to be paid, including the amount of any mortgage or deed of trust outstanding, is as hereinbefore set forth.

AND Grantor hereby certifies that, as a transfer of real property from individuals conducting a real estate enterprise to a limited liability company, it is exempt from recordation tax and transfer tax pursuant to §12-108(bb) and §13-207(a)(18) of the Tax-Property Article of the Annotated Code of Maryland.

AND Grantor hereby certifies that each is a resident of the State of Maryland under §10-912 of the Tax General Article of the Annotated Code of Maryland and Grantor claims exemption under §10-912(d) from the tax withholding requirements set forth therein.

IN WITNESS WHEREOF, witness the hand and seal of the Grantor.

WITNESS


GRANTOR:

 (SEAL)
Michael W. Scott

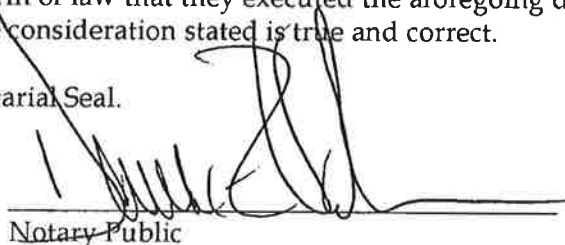
 (SEAL)
Kelli S. Scott

STATE OF MARYLAND, COUNTY OF WASHINGTON, to wit:

I HEREBY CERTIFY, that on this 15th day of April, 2016, before me, the subscriber, a Notary Public, in and for the State and County aforesaid, personally appeared Michael W. Scott and Kelli S. Scott who made oath in due form of law that they executed the foregoing deed for the purposes therein contained and that the consideration stated is true and correct.

WITNESS my hand and Official Notarial Seal.




Notary Public

TODD L. HERSHEY, TREASURER
TAXES PAID 426.76

CERTIFICATION OF EXEMPTION FROM WITHHOLDING UPON DISPOSITION OF MARYLAND REAL ESTATE
AFFIDAVIT OF RESIDENCE OR PRINCIPAL RESIDENCE

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(s) Information

Name of Transferor(s): Michael W. Scott

2. Reasons for Exemption

Resident Status:



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

or

We, Transferors, are residents of the State of Maryland.

or

Transferor is a resident entity under §10-912(A)(4) of the Tax General Article of the Annotated Code of Maryland, 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.

Under the penalties 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

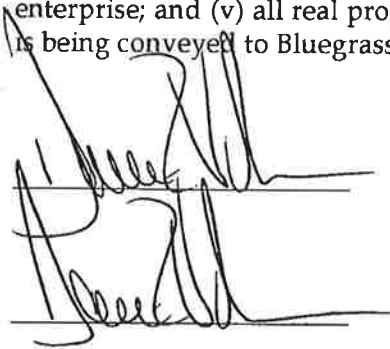
Michael W. Scott

3b. Entity Transferors

Witness

GRANTOR'S CERTIFICATION

We, Michael W. Scott and Kelli S. Scott, upon our personal knowledge, do hereby swear and affirm under the penalties of perjury that the foregoing transfer is for no monetary consideration and the consideration stated in the foregoing Deed is true and correct. We further swear and affirm that pursuant to §12-108(bb) and §13-207(a)(18) of the Tax-Property Article of the Annotated Code of Maryland, that: (i) the transfer is for no consideration other than membership in Bluegrass Commercial, LLC; (ii) we are the sole members of Bluegrass Commercial, LLC and membership is identical to our previous real estate enterprise; (iii) the allocation of profit and loss in Bluegrass Commercial, LLC is the same as our previous real estate enterprise; (iv) this transfer is part of a discontinuation of our previous real estate enterprise; and (v) all real property owned by us as part of our residential real estate enterprise is being conveyed to Bluegrass Commercial, LLC.



Michael W. Scott (SEAL)
Michael W. Scott

Kelli S. Scott (SEAL)
Kelli S. Scott

ATTORNEY'S CERTIFICATION

I hereby certify that the foregoing instrument was prepared by, or under the supervision of, the undersigned, an attorney duly admitted to practice before the Court of Appeals of the State of Maryland.

Andrew F. Wilkinson
Andrew F. Wilkinson

AFTER RECORDING RETURN TO:
DIVELBISS & WILKINSON
13424 Pennsylvania Avenue; Suite 302
Hagerstown, Maryland 21742

WASHINGTON COUNTY CIRCUIT COURT (Land Records) DJW 5210, p. 0158, MSA_CE18_5162. Date available 04/28/2016. Printed 02/17/2017.

CERTIFICATION OF EXEMPTION FROM WITHHOLDING UPON DISPOSITION OF MARYLAND REAL ESTATE
AFFIDAVIT OF RESIDENCE OR PRINCIPAL RESIDENCE

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(s) Information

Name of Transferor(s): Kelli S. Scott

2. Reasons for Exemption

Resident Status:



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

or

We, Transferors, are residents of the State of Maryland.

or

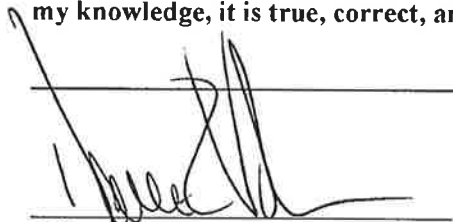
Transferor is a resident entity under §10-912(A)(4) of the Tax General Article of the Annotated Code of Maryland, I am an agent of Transferor, and I have authority to sign this document on Transferor's behalf.

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.

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


Witness

3a. Individual Transferors


Kelli S. Scott

3b. Entity Transferors

Witness

WASHINGTON COUNTY CIRCUIT COURT (Land Records) DJW 5210, p. 0160, MSA_CE18_5162. Date available 04/28/2016. Printed 02/17/2017.

LR - Deed (No-Taxes)
 Recording Fee 20.00
 Grantor/Grantee Name:
 bluegrass
 Reference/Control #:
 LR - Deed (No-Taxes)
 Surcharge 40.00
 =====
 SubTotal: 60.00
 =====
 Total: 300.00
 04/26/2016 08:41
 CC21-TR
 #6014550 CC0403 -
 Washington
 County/CC04.03.04 -
 Register 04

WASHINGTON COUNTY CIRCUIT COURT (Land Records) DJW 5210, p. 0161, MSA_CE18_5162. Date available 04/28/2016. Printed 02/17/2017.

This page not to be counted in calculating Recording Fee

**Clerk of Circuit Court
 Washington County, Maryland**

Dennis J. Weaver, Clerk
 24 Summit Avenue
 Hagerstown, MD 21740
 301-790-7991

For Clerks Use Only

Improvement Fee 40.00
 Recording Fee 20.00
 County Transfer Tax _____
 Recordation Tax _____
 State Transfer Tax _____
 Non-Resident Tax _____
TOTAL 60.00

State of Maryland

Baltimore City County:
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)

Space Reserved for Circuit Court Clerk Recording Validation

1 Type(s) of Instruments
2 Conveyance Type Check Box
3 Tax Exemptions (if applicable)
4 Consideration and Tax Calculations
5 Fees
6 Description of Property
7 Transferred From
8 Transferred To
9 Other Names to Be Indexed
10 Contact/Mail Information
11 Assessment Information

Space Reserved for County Validation

Distribution: White - Clerk's Office, Pink - Office of Finance

Canary - SDAT, Goldenrod - Preparer

AOC-CC-300 (5/2007)

EXHIBIT p10B

WASHINGTON COUNTY CIRCUIT COURT (Land Records) DJW 5210, p. 0162, MSA_CE18_5162. Date available 04/28/2016. Printed 02/17/2017.

PARCEL 3

Real Property Data Search (w/1) Guide to searching the database

Search Result for WASHINGTON COUNTY

View Map		View GroundRent Redemption				View GroundRent Registration			
Account Identifier:		District - 09 Account Number - 008586							
Owner Information									
Owner Name:		SCOTT MICHAEL W & SCOTT KELLI S			Use: Principal Residence:		RESIDENTIAL NO		
Mailing Address:		21616 KELSO DR HAGERSTOWN MD 21742-0000			Deed Reference:		/05225/ 00021		
Location & Structure Information									
Premises Address:		21385 LEITERS MILL RD HAGERSTOWN 21742-0000			Legal Description:		4.08 ACRES 21385 LEITERS MILL RD		
Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:
0026	0008	0173		0000				2016	Plat Ref:
Special Tax Areas:				Town:		NONE			
				Ad Valorem:					
				Tax Class:					
Primary Structure Built		Above Grade Enclosed Area		Finished Basement Area		Property Land Area		County Use	
1910		2,176 SF				4.0800 AC			
Stories	Basement	Type	Exterior	Full/Half Bath	Garage	Last Major Renovation			
2	YES	STANDARD UNIT	STONE	2 full/ 1 half					
Value Information									
		Base Value		Value		Phase-in Assessments			
				As of		As of		As of	
				01/01/2016		07/01/2016		07/01/2017	
Land:		98,100		98,100					
Improvements		200,300		175,100					
Total:		298,400		273,200		273,200		273,200	
Preferential Land:		0						0	
Transfer Information									
Seller: BICKFORD WARREN JR & Type: NON-ARMS LENGTH OTHER				Date: 05/12/2016 Deed1: /05225/ 00021		Price: \$131,277 Deed2:			
Seller: ROGERS HARRY B JR & EMMA L Type: ARMS LENGTH IMPROVED				Date: 10/31/2002 Deed1: /01857/ 00212		Price: \$222,000 Deed2:			
Seller:				Date:		Price:			
Type:				Deed1:		Deed2:			
Exemption Information									
Partial Exempt Assessments:		Class		07/01/2016		07/01/2017			
County:		000		0.00					
State:		000		0.00					
Municipal:		000		0.00 0.00		0.00 0.00			
Tax Exempt:				Special Tax Recapture:					
Exempt Class:				NONE					
Homestead Application Information									
Homestead Application Status: No Application									

1. The data on this page was generated by the Real Property Data Search System. The data is for informational purposes only and does not constitute a legal document. While we have confidence in

EXHIBIT p10 B

1063
 Passport Title Services, LLC
 File No. PT16-231TR
 Tax ID # 09-008586

This Deed, made this 10th day of May, 2016, by and between **Jeffrey B. Fisher, Doreen A. Strothman, Virginia S. Inzer, William K. Smart or Kris M. Terrill, Substitute Trustees, any one of whom may act, GRANTOR, and Michael W. Scott and Kelli S. Scott, husband and wife, GRANTEES.**

Whereas, default having occurred under the terms of a certain Deed of Trust from Warren E. Bickford, Jr. and Kelly Lynn Bickford to David F. Skaff, Trustee, dated October 2, 2002, and recorded in Liber 1857, folio 217, among the Land Records of Washington County, Maryland; and

Whereas, the Grantor herein was substituted as trustee by Deed of Appointment recorded among the aforesaid Land Records in Liber 5012, folio 458; and

Whereas, the Grantor herein, as Trustee, in the exercise of the power of sale conferred in said Deed of Trust and in the Deed of Appointment, did, at the direction of the party secured thereby, and after first having complied with all the prerequisites of law, sell the property described in said Deed of Trust at a public sale on **March 3, 2016**, to Michael W. Scott and Kelli S. Scott, who was then and there the highest and best bidder therefore.

And Whereas said sale has been duly reported to and ratified by the Circuit Court for the County of Washington, State of Maryland, in Case No. **21C15-054455**, and the purchase money has been paid in full.

- Witnesseth -

That in consideration of the sum of One Hundred Thirty-One Thousand Two Hundred Seventy-Seven and 50/100 Dollars (\$131,277.50), which includes the amount of any outstanding Mortgage or Deed of Trust, if any, the receipt of which is hereby acknowledged, the said Grantor does hereby grant and convey to the said Grantees, all the right, title and interest of Kelly Lynn Bickford and Warren E. Bickford, Jr. and those holding by, through or under him/her/them, as tenants by the entirety, their heirs and assigns, in fee simple, all that lot of ground situate in the County of Washington, State of Maryland and described as follows, that is to say:

All that parcel of land situate, lying and being in Election District No. 9, Washington County, Maryland, lying on the north side of Maryland State Route 60, approximately 500 feet, more or less, southwester of the interesection of State Route 60 with Leitersburg State Line Road (also known as Leiters Mill Road), and just west of the Village of Leitersburg; beginning at a concrete monument at the beginning of the third or North 53 degrees 15 minutest West 400.00 foot line of the adjoining tract of land from Violet T. Gilbert to Charles Hurd as recorded in Liber 385, folio 418 among the Washington County Land Records and running thence with said line North 53 degrees 15 minutes West 400 feet more or less, to the middle of the Antietam Creek, to the adjoining tract of land form George S. Eshleman and Amanda E. Eshleman, his wife, dated January 4, 1956 and recorded among the aforesaid land records in Liber 306, folio 239, and running thence along the center of said creek in a Northeasterly direction 237.60 feet, more or less, continuing in a Northeasterly direction 128.70 feet, more or less, thence Northeasterly 123.75 feet, more or less, thence Northwesterly 110.55 feet, more or less, to a point at the end of the second North 74 degrees West line of a deed recorded among the aforesaid land records in Liber 1046, folio 127, and thence reversing said line South 74 degrees East 10.8 perches to a point on the Southwest side of the Leitersburg State Line Road, which easement was conveyed to the State Roads Commission by deed dated January 19, 1955, and recorded in Liber 294, folio 34, also shown on SRC Plat No. 12526 and running thence along the aforesaid public road southeasterly to intersect with the Maryland State Route 60, thence continuing Southwesterly along Maryland State Rroot 60 to the place of beginning. SAVING AND EXCEPTING therefrom all that parcel of land contining 0.92 acres more or less, described in a deed from Josephine C. Rogers, widow and Harry B. Rogers, Jr. and Emma L. rogers, his wife to L. Douglas Wishard and Linda S. Wishard, his wife, dated September 17, 1976 and recorded in Liber 622, folio 415 among the aforesaid Land Records. Also known as 21385 Leiters Mill Road, Hagerstown, MD 21742. Tax ID#09-008586.

WASHINGTON COUNTY CIRCUIT COURT (Land Records) DJW 5225, p. 0021, MSA_CE18_5177. Date available 05/16/2016. Printed 02/17/2017.

640

EXHIBIT p/lob

To Have and To Hold the said tract of ground and premises unto, and to the proper use and benefit of, the said Michael W. Scott and Kelli S. Scott, as tenants by the entirety, their heirs and assigns, in fee simple.

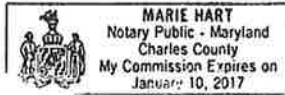
In Witness Whereof, Grantor has caused this Deed to be properly executed and sealed the day and year first above written.

William K. Smart
William K. Smart Sole Acting Substitute Trustee

STATE OF Maryland } ss
COUNTY OF Prince George's

I hereby certify that on this 10th day of May, 2016, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared William K. Smart, Sole Acting Substitute Trustee, known to me (or satisfactorily proven) to be the persons whose name is subscribed to the within instrument, and acknowledged the same for the purposes therein contained, and further acknowledged the foregoing Deed to be their act, and in my presence signed and sealed the same, giving oath under penalties of perjury that the consideration recited herein is correct.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



Marie Hart
Notary Public
My Commission Expires: 1/10/17

THIS IS TO CERTIFY that the within Deed was prepared by, or under the supervision of the undersigned, an Attorney duly admitted to practice before the Court of Appeals of Maryland.

Tiffany A. Reiff
Tiffany A. Reiff, Attorney

AFTER RECORDING, PLEASE RETURN TO:
Mr. and Mrs. Michael Scott
21616 Kelso Drive
Hagerstown, MD 21742

TODD L. HERSHEY, TREASURER
TAXES PAID May 12, 2016
mm

WASHINGTON COUNTY CIRCUIT COURT (Land Records) DJW 5225, p. 0022, MSA_CE18_5177. Date available 05/16/2016. Printed 02/17/2017.

LR - Deed (w Taxes)
 Recording Fee - ALL 20.00
 Grantor/Grantee Name: SCOTT
 Reference/Control #:
 LR - County Transfer Tax - linked 406.39
 LR - Surcharge - linked 40.00
 LR - Recordation Tax - linked 999.40
 LR - State Transfer Tax - linked 656.39
 LR - Non-Resident Tax - linked 0.00
 =====
 SubTotal: 2,122.18
 =====
 Total: 2,352.18
 05/12/2016 11:31
 CC21-MAW
 #6128319 CC0403 -
 Washington
 County/CC04.03.01 -
 Register 01

WASHINGTON COUNTY CIRCUIT COURT (Land Records) DJW 5225, p. 0023, MSA_CE18_5177. Date available 05/16/2016. Printed 02/17/2017.

This page not to be counted in calculating Recording Fee

**Clerk of Circuit Court
Washington County, Maryland**

Dennis J. Weaver, Clerk
24 Summit Avenue
Hagerstown, MD 21740
301-790-7991

For Clerks Use Only

Improvement Fee	40.00
Recording Fee	20.00
County Transfer Tax	406.39
Recordation Tax	999.40
State Transfer Tax	656.39
Non-Resident Tax	0
TOTAL	2,122.18

State of Maryland

Baltimore City County: Washington

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)

Space Reserved for Circuit Court Clerk Recording Valid

1 Type(s) of Instruments Check Box if addendum Intake Form is Attached

1 Deed	Mortgage	3 Other Asgmt	Other
2 Deed of Trust	Lease		

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) Cite or Explain Authority

Recordation
State Transfer
County Transfer

4 Consideration and Tax Calculations

Consideration Amount		Finance Office Use Only	
		Transfer and Recordation Tax Consideration	
Purchase Price/Consideration	\$ 131,277.50	Transfer Tax Consideration	\$
Any New Mortgage	\$ 100,000.00	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	\$ 20.00	
Surcharge	\$ 40.00	\$ 95.00	Tax Bill:
State Recordation Tax	\$ 999.40	\$	C.B. Credit:
State Transfer Tax	\$ 656.39	\$	Ag. Tax/Other:
County Transfer Tax	\$ 406.39	\$	
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
09	09-008586				<input type="checkbox"/> (5)
Subdivision Name		Lot (3n)	Block (3b)	Sect/AR (3c)	Plat Ref. Sq Ft/Acreage (4)
Location/Address of Property Being Conveyed (2)					
21385 Leiters Mill Road, Hagerstown, MD 21742					
Other Property Identifiers (if applicable)				Water Meter Account No.	
Residential <input checked="" type="checkbox"/> or Non-Residential <input type="checkbox"/> Fee Simple <input checked="" type="checkbox"/> or Ground Rent <input type="checkbox"/> Amount: N/A					
Partial Conveyance? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Description/Amt. of Sq Ft/Acreage Transferred: N/A					
If Partial Conveyance, List Improvements Conveyed: N/A					

7 Transferred From

Doc. 1 - Grantor(s) Name(s)	Doc. 2 - Grantor(s) Name(s)
Jeffrey B. Fisher, et. al. Substitute Trustee	Michael W. Scott
	Kelli S. Scott
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)
Michael W. Scott	CNB Bank, Inc.
Kelli S. Scott	
New Owner's (Grantee) Mailing Address	
21616 Kelso Drive, Hagerstown, MD 21742	

9 Other Names to Be Indexed

Doc. 1 - Additional Names to be Indexed (Optional)	Doc. 2 - Additional Names to be Indexed (Optional)
	Charles S. Trump, IV, Trustee
	George I. McVey, Trustee

10 Contact/Mail Information

Instrument Submitted By or Contact Person		<input type="checkbox"/> Return to Contact Person
Name: Teresa Shank		<input type="checkbox"/> Hold for Pickup
Firm: Passport Title Services, LLC		<input checked="" type="checkbox"/> Return Address Provided
Address: 118 E. Oak Ridge Drive, Suite 1000		
Hagerstown, MD 21740	Phone: (301) 766-4966	

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

Assessment Information	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).

Assessment Use Only - Do Not Write Below This Line

Terminal Verification	Agricultural Verification	Whole	Part	Tran. Process Verification
Transfer Number	Date Received:	Deed Reference:	Assigned Property No.:	
Year 20	20	Geo.	Map	Sub
Land		Zoning	Grid	Block
Buildings		Use	Parcel	Plat
Total		Town Cd.	Ex. St.	Section
				Occ. Cd.

REMARKS:

WASHINGTON COUNTY CIRCUIT COURT (Land Records) DJW 5225, p. 0024, MSA_CE18_5177, Date available 05/16/2016, Printed 02/17/2017.

Space Reserved for County Validation

Distribution: Clerk's Office Office of Finance

SDAT Preparer

AOC-CC-300 (5/2007)

PT16-231TR

EXHIBIT

plob

**Addendum
State of Maryland Land Instrument Intake Sheet
County: Washington**

*The addendum form should be used when one transaction involves more than two instruments.
Each instrument should be itemized in accordance with Section No. 1 of the Intake Sheet.*

2 (Continued) Consideration and Fees	Consideration Amount/Recordation Fees		Doc. 3	Doc. 4	Doc. 5	Doc. 6
	Consideration, Including Assumed Indebtedness	\$		\$	\$	\$
	Recording Charge	\$	20.00	\$	\$	\$
	Surcharge	\$	95.00	\$	\$	\$
	State Recordation Tax	\$		\$	\$	\$
	State Transfer Tax	\$		\$	\$	\$
	County Transfer Tax (if Applicable)	\$		\$	\$	\$
	Other	\$		\$	\$	\$
	Total Fees	\$	115.00	\$	0.00	\$
6 (Continued) Transferred From	Doc. 3 - Grantor(s) Name(s)			Doc. 4 - Grantor(s) Name(s)		
	Michael W. Scott					
	Kelli S. Scott					
	Doc. 5 - Grantor(s) Name(s)			Doc. 6 - Grantor(s) Name(s)		
	Doc. 3 - Owner(s) of Record, if Different from Grantor(s)			Doc. 4 - Owner(s) of Record, if Different from Grantor(s)		
	CNB Bank, Inc.					
Doc. 5 - Owner(s) of Record, if Different from Grantor(s)			Doc. 6 - Owner(s) of Record, if Different from Grantor(s)			
7 (Continued) Transferred To	Doc. 3 - Grantee(s) Name(s)			Doc. 4 - Grantee(s) Name(s)		
	Doc. 5 - Grantee(s) Name(s)			Doc. 6 - Grantee(s) Name(s)		
8 (Continued) Other Names To Be Indexed	Doc. 3 - Additional Names to be Indexed (Optional)			Doc. 4 - Additional Names to be Indexed (Optional)		
	Doc. 5 - Additional Names to be Indexed (Optional)			Doc. 6 - Additional Names to be Indexed (Optional)		
9 (Continued) Special Instructions	Special Recording Instructions (if any)					

WASHINGTON COUNTY CIRCUIT COURT (Land Records) DJW 5225, p. 0025, MSA_CE18_5177. Date available 05/16/2016, Printed 02/17/2017.



Vicinity Map
Scale: 1" = 100'

VICINITY MAP LEGEND

- County Zoned RV - Rural Village
- County Zoned A(R) - Agriculture (Rural)
- County Zoning Overlay/Rural Business

LINE	BEARING	DISTANCE
1	S 42° 07' 21" E	71.22'
2	S 82° 25' 07" W	28.00'
3	S 87° 23' 27" E	78.80'

LEGEND

- County Zoning Boundary
- NOTES:**
The purpose of this drawing is to show the boundary, zoning, and existing zoning of the lands owned by Bluegrass Commercial, LLC and Michael W. Scott & Kelli Scott. Proposed zoning is RV - Rural Village, with RV - Rural Business overlay.

Professional Certification:
I, the undersigned, being a duly qualified professional land surveyor and being duly sworn, certify that I am the author of this survey and that I am a duly qualified professional land surveyor under the laws of the State of Maryland. I am duly sworn under the laws of the State of Maryland, License No. 10721, Expiration on January 15, 2018.

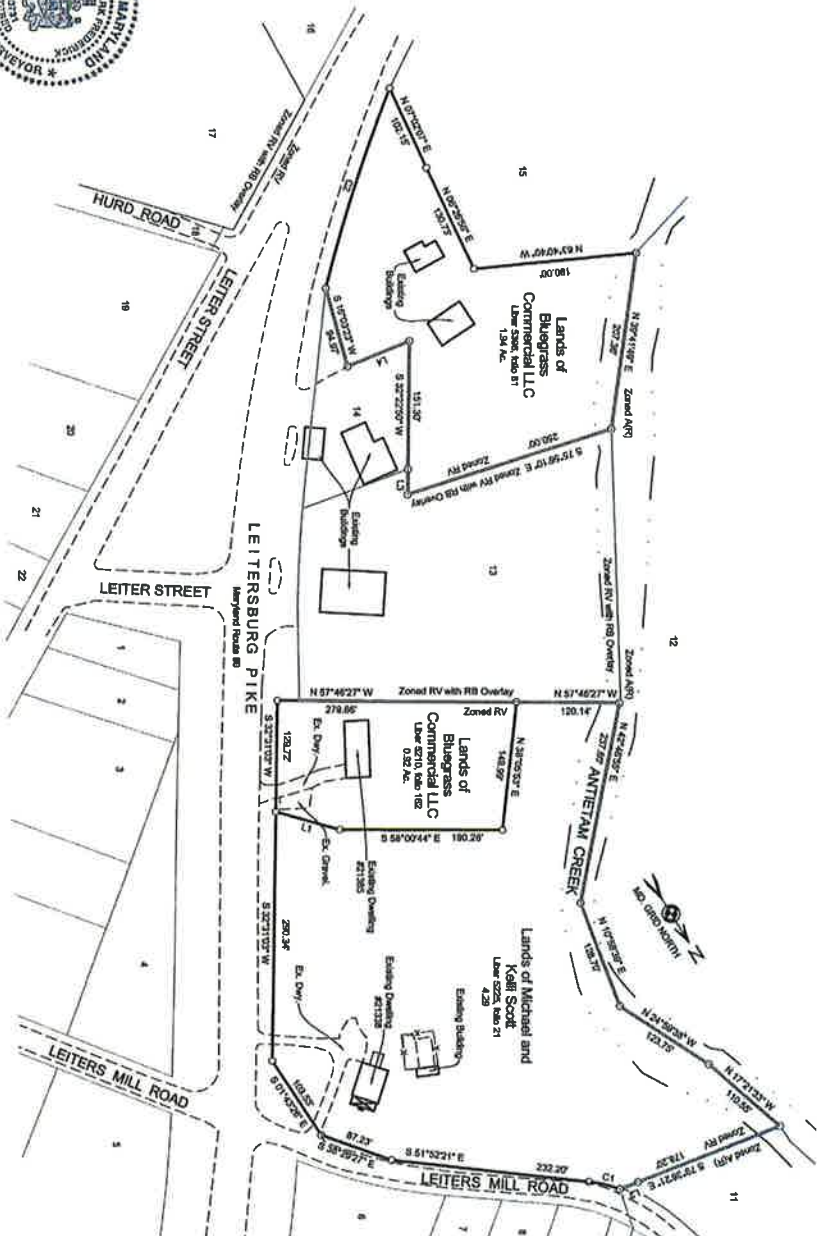
[Signature]
Professional Surveyor
DATE: 12/3/2017



- No. N/E**
- 1 Dorothy E. Overcash
 - 2 Bobbie L. Martin
 - 3 Scott L. Schabel and Heidi-Sueh Chang
 - 4 Maryland Roads Commission
 - 5 Gary D. Bernhart and Sherry L. Bernhart
 - 6 Charles Matthew Stearns
 - 7 Kerriann L. Morgan, Sr.
 - 8 Tracy R. Morgan
 - 9 Paul Daniel Sturt, Jr., James Oscar Sturt, and Louise C. Sturt
 - 10 William Steven Crain, Sr. and Louise Margit Crain
 - 11 Ash E. Oiler and Esther Oiler
 - 12 Bluegrass Commercial, LLC
 - 13 McNeal Limited Partnership
 - 14 Marilyn L. Smetzer
 - 15 Anthony D. Ocker
 - 16 Consensus Maps and Aeronautical
 - 17 Robert A. Miley and Cheryl E. Miley
 - 18 Richard A. Miley and Cheryl E. Miley
 - 19 St. Paul's Evangelical Lutheran Church of Labensburg
 - 20 Tracie C. Bernhart and Sherry L. Bernhart
 - 21
 - 22

- Adjoining Properties**
- | Landlot | Permittee Address |
|----------|----------------------------|
| 529/656 | 21312 Laber Street |
| 479/455 | 21314 Laber Street |
| 323/110 | 21316 Laber Street |
| 294/33 | Ringsdorf Road |
| 798/390 | 21408 Labers Mill Road |
| 1619/889 | 21380 Labers Mill Road |
| 460/703 | 21378 Labers Mill Road |
| 462/205 | 21376 Labers Mill Road |
| 1330/522 | 21364 Labers Mill Road |
| 2000/522 | 21362 Labers Mill Road |
| 1884/714 | 21332 Labensburg Pike |
| 5210/141 | 21322 Labensburg Pike |
| 1085/457 | 21300 Labensburg Pike |
| 498/459 | 21300 Labensburg Pike |
| 141/988 | 21315 Labensburg Pike |
| 491/9121 | 13178 Hurd Road |
| 179/346 | 21305 Labensburg Road |
| 479/31 | 21301 Laber Street |
| 793/82 | Labensburg Sinterburg Road |
| 538/522 | 21315 Laber Street |
| 258/192 | 21315 Laber Street |

- Mailing Address**
- 21312 Laber Street, Hagerstown, MD 21742
 - 21314 Laber Street, Hagerstown, MD 21742
 - 21316 Laber Street, Hagerstown, MD 21742
 - 301 West Preston Street, Baltimore, MD 21201
 - 21408 Labers Mill Road, Hagerstown, MD 21742
 - 21380 Labers Mill Road, Hagerstown, MD 21742
 - 21378 Labers Mill Road, Hagerstown, MD 21742
 - 21376 Labers Mill Road, Hagerstown, MD 21742
 - 21364 Labers Mill Road, Hagerstown, MD 21742
 - 21362 Labers Mill Road, Hagerstown, MD 21742
 - 21332 Labers Mill Road, Hagerstown, MD 21742
 - 21322 Labensburg Pike, Hagerstown, MD 21742
 - 21300 Labensburg Pike, Hagerstown, MD 21742
 - 21300 Labensburg Pike, Hagerstown, MD 21742
 - 13178 Hurd Road, Hagerstown, MD 21757
 - 21305 Labensburg Road, Hagerstown, MD 21742
 - 21301 Laber Street, Hagerstown, MD 21742
 - Labensburg Sinterburg Road, Hagerstown, MD 21742
 - 21315 Laber Street, Hagerstown, MD 21742
 - 21315 Laber Street, Hagerstown, MD 21742



Plot Map No. 20-04-178/208/714 submitted

DEVIATING NUMBERS OF DPOI	DATE
12/3	12/17
CHANGED 20	NONE

SCALE: 1" = 100'

FREDERICK SEBERT & ASSOCIATES, INC.
120 SOUTH POTOMAC STREET, HAGERSTOWN, MARYLAND 21740
20 WEST BALTIMORE STREET, GREENCASTLE, PENNSYLVANIA 17225
PH: 410-326-1100
FAX: 410-326-1101

Bluegrass Commercial LLC
for
Michael Scott and Kelli Scott
Shades along the West side of Labers Mill Road and the North side of Labensburg Pike
WASHINGTON COUNTY, MARYLAND

EXHIBIT C



Vicinity Map
Scale: 1"=100'

VICINITY MAP LEGEND

- County Zoned RV - Rural Village
- County Zoned AR - Agricultural (Rural)
- County Zoning Overlay/Overlay RB - Rural Business

LINE	BEARING	DISTANCE	CHORD BEARING	CHORD LENGTH	CHORD BEARING	INTERNAL ANGLE
1	S 82°37'14" E	77.52'	S 82°37'14" E	77.52'	S 82°37'14" E	178°37'14"
2	S 17°22'46" W	22.62'	S 17°22'46" W	22.62'	S 17°22'46" W	101°22'46"
3	S 82°37'14" E	77.52'	S 82°37'14" E	77.52'	S 82°37'14" E	178°37'14"
4	S 80°02'27" E	78.97'	S 80°02'27" E	78.97'	S 80°02'27" E	178°02'27"

LEGEND

- County Zoning Boundary

NOTES:

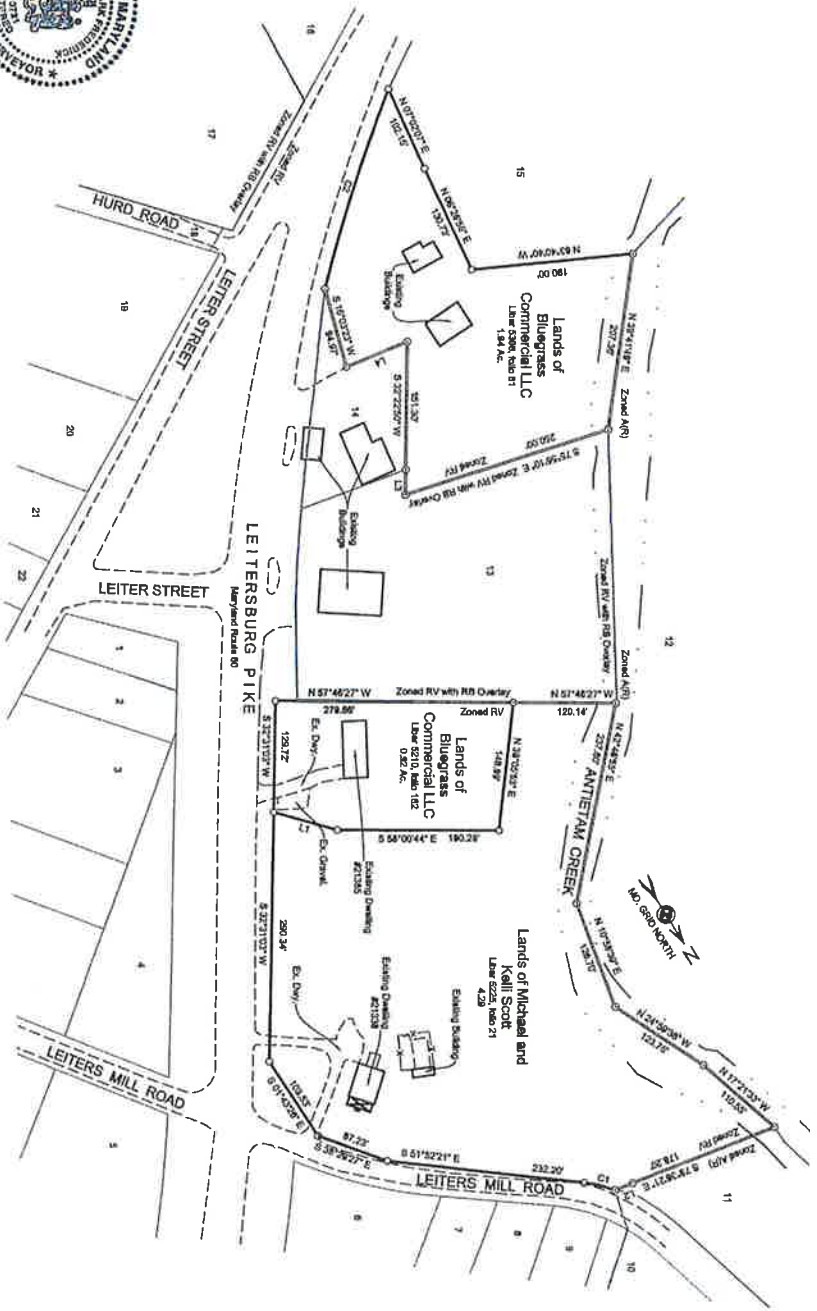
The purpose of this drawing is to show the boundary, zoning, and adjoining zoning of the lands owned by Bluegrass Commercial, LLC and Kelli Scott & Michael Scott. The drawing is based on the proposed zoning of the lands shown on the attached zoning map. The drawing is based on the proposed zoning of the lands shown on the attached zoning map.

Surveyor's Certification:
I, the undersigned, being a duly qualified and licensed land surveyor, have examined the above described plat and the field notes and other data thereon, and certify that the same are correct and true to the best of my knowledge and belief, and that the same conform to the provisions of the laws of this State relating to the practice of the profession of land surveying. My commission expires on January 15, 2018.

[Signature]
Professional Land Surveyor



- | No. | NP | Adjoining Properties |
|-----|--|-------------------------|
| 1 | Dorothy E. Overcash | 3202/588 |
| 2 | Scottie L. Martin | 4729/435 |
| 3 | Merlynn R. Martin | 2524/310 |
| 4 | Merlynn R. Martin and Hsu-Shuan Cheng | 2524/310 |
| 5 | Gerry D. Barnhart and Sherry L. Barnhart | 7869/890 |
| 6 | Charles Matthew Seaman | 1618/888 |
| 7 | Kenneth L. Morgan, Sr. | 4827/703 |
| 8 | Timothy R. Martin | 21378 Lettens Mill Road |
| 9 | John R. Roarer | 1243/400 |
| 10 | Paul Daniel Stur, Joyce A. Stur, James Oscar Stur, and Ludke C. Stur | 2000/382 |
| 11 | William Steven Dean, Sr. and Lodie Magill Dean | 2000/382 |
| 12 | Bluegrass Commercial, LLC | 21302 Lettensburg Pike |
| 13 | McIntire Limited Partnership | 1085/457 |
| 14 | McIntire L. Smitzer | 489/458 |
| 15 | Kirk L. Morgan and Susanna M. Morgan | 1419/83 |
| 16 | Anthony D. Ocker | 4978/121 |
| 17 | Constance Marie Michael and Aaron Michael | 1579/845 |
| 18 | Trudine of the Waynes Baptist Church, Inc. | 412/291 |
| 19 | Richard A. Nisley and Cheryl P. Nisley | 179/302 |
| 20 | St. Stephen's Episcopal Church of Lettensburg | 553/212 |
| 21 | Timothy R. Martin | 2080/192 |
| 22 | Tim C. Barnhart and Sherry L. Barnhart | 21315 Lettensburg Road |



DATE: MAY 28 - 8/14-17/15 AM/ 874 SURVEYORS	DRAWING NUMBER: 0701
DRAWN BY: [Name]	DATE: 2.2.17
CHECKED BY: [Name]	DATE: 2.2.17
SCALE: 1" = 100'	

FREDERICK SEIBERT & ASSOCIATES, INC. • 2017

CIVIL ENGINEERS SURVEYORS LANDSCAPE ARCHITECTS LAND PLANNERS
128 SOUTH POTOMAC STREET, HAGERSTOWN, MARYLAND 21740
20 WEST BALTIMORE STREET, GREENCASTLE, PENNSYLVANIA 17225
(410) 318-1100 (717) 835-1100

Zoning Exhibit
for
Bluegrass Commercial LLC
and
Michael Scott and Kelli Scott
Situated along the West side of Leifers Mill Road
and the North side of Lettensburg Pike
WASHINGTON COUNTY, MARYLAND

ADJACENT PROPERTY OWNERS					
	<u>NAME</u>	<u>PREMISES ADDRESS</u>	<u>LIBER/FOLIO</u>	<u>MAILING ADDRESS</u>	<u>TAX MAP/PARCEL</u>
1	Dorothy Overcash	21312 Leiter Street	0328/0656	21312 Leiter Street Hagerstown, MD 21742	Map: 26/Parcel: 152
2	Bobbie Martin	21314 Leiter Street	4765/0455	21314 Leiter Street Hagerstown, MD 21742	Map: 26/Parcel: 185
3	Scott Schubel and Hsiu-Shueh Chiang	21318 Leiter Street	3258/0110	21318 Leiter Street Hagerstown, MD 21742	Map: 26/Parcel: 184
4	MD Roads Commission	0 Ringgold Road	0294/0033	301 W. Preston Street Baltimore, MD 21201	Map: 26/Parcel: 195
5	Garry & Sherry Barnhart	21406 Leiters Mill Road	0768/0380	21406 Leiters Mill Road Hagerstown, MD 21742	Map: 26/Parcel: 148
6	Charles Scanlon	21380 Leiters Mill Road	1618/0688	21380 Leiters Mill Road Hagerstown, MD 21742	Map: 26/Parcel: 167
7	Kenneth Mongan, Sr.	21378 Leiters Mill Road	0467/0703	21378 Leiters Mill Road Hagerstown, MD 21742	Map: 26/Parcel: 168
8	Timothy Martin	21376 Leiters Mill Road	4652/0395	20814 Lehmans Mill Road Hagerstown, MD 21742	Map: 26/Parcel: 169
9	John Rosier	21374 Leiters Mill Road	1243/0400	21374 Leiters Mill Road Hagerstown, MD 21742	Map: 26/Parcel: 170
10	Paul Snurr, Joyce Snurr, James Snurr & Louise Snurr	21346 Leiters Mill Road	1530/0572	21506 Leiter Street Hagerstown, MD 21742	Map: 26/Parcel: 137
11	William S. Crain, Sr. & Louise Magill Crane	21365 Leiters Mill Road	2000/0382	21365 Leiters Mill Road Hagerstown, MD 21742	Map: 26/Parcel: 118
12	Arlin and Esther Diller	21347 Leiters Mill Road	1684/0714	21347 Leiters Mill Road Hagerstown, MD 21742	Map: 26/Parcel: 50
13	Bluegrass Commercial, LLC	21332 Leitersburg Pike	5210/141	21616 Kelso Drive Hagerstown, MD 21742	Map: 26/Parcel 196
14	McTaws Limited Partnership	21322 Leitersburg Pike	1095/0457	11949 Robinwood Drive Hagerstown, MD 21742	Map: 26/Parcel: 110
15	Marilyn Smetzer	21300 Leitersburg Pike	0498/0458	21300 Leitersburg Pike Hagerstown, MD 21742	Map: 26/Parcel: 133
16	Kirk & Sueanne Mongan	21307 Leitersburg Pike	1419/0083	21307 Leitersburg Pike Hagerstown, MD 21742	Map: 26/Parcel: 62
17	Anthony Ocker	21315 Leitersburg Pike	4978/0121	13730 Village Mill Dr. PO Box 91, Maugansville, MD 21757	Map: 26/Parcel: 234
18	Constance & Aaron Michael	13716 Hurd Road	1579/645	13716 Hurd Road Hagerstown, MD 21742	Map: 26/Parcel: 242
19	Trustees of the Wayside Baptist Church, Inc.	21301, 21303, 21305 Leitersburg Pike	0412/0291	21303 Leiter Street Hagerstown, MD 21742	Map: 26/Parcel: 250
20	Richard & Cheryl Nicley	21309 Leiter Street	0793/0082	21309 Leiter Street Hagerstown, MD 21742	Map: 26/Parcel: 228
21	St. Paul's Evangelical Lutheran Church of Leitersburg	Leitersburg Smithsburg Road	0535/0532	21513 Leitersburg Smithsburg Road Hagerstown, MD 21742	Map: 26/Parcel: 226
22	Travis & Sherry Barnhart	21315 Leiter Street	2588/0192	13316 Little Antietam Road Hagerstown, MD 21742	Map: 26/Parcel: 203

EXHIBIT D



1"=500'

VICINITY MAP LEGEND

- = County Zoned RV - Rural Village
- = County Zoned A(R) - Agricultural (Rural)
- = County Zoning Floating/Overlay RB - Rural Business

EXHIBIT E



1"=500'

VICINITY MAP LEGEND

- = County Zoned RV - Rural Village
- = County Zoned A(R) - Agricultural (Rural)
- = County Zoning Floating/Overlay RB - Rural Business

EXHIBIT B



DIVELBISS & WILKINSON
ATTORNEYS AT LAW

February 21, 2017

Re: Justification Statement: 21314 Leitersburg Pike, 21338 Leitersburg Pike & 21385 Leiters Mill Road, Hagerstown, MD 21742 (the "Property"); Rural Business (RB) District Floating Zone Application

REQUEST

Application is made by Bluegrass Commercial, LLC ("Bluegrass") and Michael and Kelli Scott (the "Scotts") (collectively, the "Applicants") for a Map Amendment to the current Washington County Zoning Map amending the Property with the RB District floating/overlay zone (the "RB District"). The RB District overlay will allow the owners of the Property to develop the Property in accordance with the permitted uses of the RB District, more particularly set forth in Article 3, Table 3.3(1) of the Washington County Zoning Ordinance as amended by Ordinance No. ORD-2015-20 (herein collectively, the "Ordinance").

HISTORY

The Property is made up of three separate parcels. 21314 Leitersburg Pike (Tax Map 0026, Parcel 0131) contains +/- 2.94 acres ("Parcel 1") and 21338 Leitersburg Pike (Tax Map 0026, Parcel 0174), contains +/- 0.92 acres ("Parcel 2"). Bluegrass is the record owner of Parcel 1 and Parcel 2. 21385 Leiters Mill Road (Tax Map 0026, Parcel 0173) containing +/- 4.08 acres ("Parcel 3"), is owned by the Scotts. Parcels 1, 2 and 3 are collectively referred to as the Property and contain +/- 7.15 acres in the aggregate. The Property is currently zoned "RV"-Rural Village. A site plan prepared by Frederick Seibert & Associates, dated February 2, 2017 and entitled "Zoning Exhibit for Bluegrass Commercial LLC and Michael Scott and Kelli Scott", is attached hereto and incorporated herein as Exhibit A.

JUSTIFICATION

The purpose of the RB District is "...to permit the continuation and development of businesses that support the agricultural industry and farming community, serve the needs of the rural residential population, provide for recreation and tourism opportunities and to establish locations for businesses and facilities not otherwise permitted in the rural areas of the County." (Ordinance, Article 5E-"RB" Rural Business District) With the stated purpose of the RB District in mind, the Applicants assert that placing the RB District overlay on the Property

would indeed satisfy the purposes of the RB District. The Applicants anticipate developing Parcel 1 to accommodate Mixed Use Buildings-warehouse, retail, wholesale. The existing contractor's equipment storage yard located on Parcel 196 on Tax Map 26, also owned by Bluegrass and overlaid with the RB District, would be expanded onto Parcel 2 and further support the business operations of New Direction Utilities, Inc., owned by Kelli Scott and Michael Scott. The Applicant intends to renovate the existing structure on Parcel 3 into Offices (Business, Professional). These proposed uses are principal permitted uses in the RB District and in no other zoning district in the rural areas. The Mixed-Use buildings facilitate the continuation and development of any number of warehouse, wholesale and retail businesses supporting the agricultural industry and farming community and otherwise serving the rural residential population. The expansion of the New Direction Utilities storage yard promotes the business's growth and potential forthcoming employment opportunities to rural residents as a result of New Direction Utilities' expansion. The proposed offices on Parcel 3 would provide professional services proximate to residents of the rural area and establish businesses and facilities not otherwise permitted in the rural areas. Further, the Property satisfies the following Bulk Regulations in Section 5E.5 as well as the additional criteria set forth in the Ordinance for newly established RB floating zones.

1. The proposed Map Amendment sought by the Applicants satisfies the Bulk Regulations required by the Ordinance for an RB District overlay:
 - a. Lot Size: Minimum 40,000 sf - the area of the Property is +/- 7.15 acres
 - b. Front Yard Building Setback: 40 feet from a Minor Collector or Local Public Road Right of Way; 50 feet from a Major Collector or Arterial Public Road Right of way-All development and uses of the Property will comply with the Front Yard Building Setback.
 - c. Side and Rear Yard Building Setbacks: 50 feet from a property zoned for or occupied by a Residential Land Use; 25 feet from a property zoned for or occupied by a Non-Residential Land Use-All development and uses of the Property will comply with the Side and Rear Yard Building Setbacks.
 - d. Height: No proposed or existing structure is or shall be greater than 35 feet.
 - e. Lot Coverage: Maximum 65%. The Proposed RB Zone would overlay the entire Property, but impervious surface coverage will not exceed 65% of the Property.
 - f. Parking: Article 22, Division I of the Ordinance is applicable (a) "...for any new structure built or any new use established" (b) "Existing structures or uses that increase in size by 35% or more..." or (c) upon a change in the principle use of a structure or site requiring a greater number of parking or loading spaces. The proposed use and forthcoming development on the Property shall comply with Article 22, Division I of the Ordinance and the required number of parking spaces will be set forth and more particularly shown on the site plan submitted at the time Applicants initiate development of the Property.

- g. Signage: Beyond the signs currently situated on the New Direction Parcel, no additional signage is anticipated, any subsequent signage shall conform to the requirements set forth in Section 22.23 of the Ordinance.
 - h. Lighting: All building mounted or freestanding lighting, if any, shall be constructed so that light and glare are directed toward the ground.
 - i. Outdoor storage is not intended on the Property, beyond that permitted on the contractor's equipment storage yard intended for Parcel 2.
 - j. Screening: Trash, refuse or recycling receptacles shall be screened from public view.
- 2. The Proposed RB Zone is not within any designated growth area identified in the Washington County Comprehensive Plan.
- 3. The Property fronts Leitersburg Pike and Leiters Mill Road and the Applicants intend to continue using the existing means of ingress and egress to the Property with the exception of the access to Leitersburg Pike from Parcel 3, which will be abandoned. The Applicants do not anticipate the proposed uses on the Property to generate 25 or more peak hour trips, nor do they anticipate more than 40% of estimated vehicle trips to be comprised of commercial truck traffic.
- 4. With regard to sewage disposal, water supply, and stormwater management:
 - a. The Property is serviced by septic facilities situated on the Property. The minimal number of daily trips to the Property anticipated to be generated as a result of the RB overlay is not expected to create significant additional stress on the septic system.
 - b. As with the septic system, the Property's water source is a well located thereon and the placement of the RB overlay on the Property is not anticipated to generate additional water needs.
 - c. The Property will continue to use the current stormwater management systems that are currently situated on the Property.
 - d. Applicant will ensure the adequacy of all septic, water and stormwater management systems during the site plan approval process.
- 5. The location of the Proposed RB Zone would not be incompatible with existing land uses cultural or historic resources or agricultural preservation efforts in the vicinity of the Property. An 18th century dwelling is located on Parcel 1 and listed in the local inventory of historical places maintained by the Maryland Historical Trust. The Applicant, intends for the dwelling to be moved to an alternate location in Washington County whereby the dwelling may be further restored and properly maintained. In addition to the parcels adjacent to the Property zoned RB, five parcels located within 1,000 feet of the Property are overlaid with the RB District, as shown on the vicinity map attached hereto and incorporated herein as Exhibit B.

The other parcels zoned RB include the former Milmar Plastics parcel at 21315 Leitersburg Pike, an office building at 21257 Leitersburg Pike, a mixed residential retail establishment at 21500 Leitersburg Smithsburg Road and the Leitersburg Tavern at 21400 Leiter Street. Of the parcels within 1,000 feet of the Property the above mentioned residential retail parcel is overlaid with the Historical Preservation District. The Property is located along Maryland Route 60-Leitersburg Pike, an arterial road and situated between the terminus of both Maryland Route 62-Little Antietam Road and Smithsburg-Leitersburg Road which are classified as collector roads. These transportation factors support the Applicant's assertion that the Property is a logical location for the RB District and a desirable choice for commercial uses outside the established growth areas within the County.

CONCLUSION

The Applicants respectfully request that the Washington County Planning Commission recommend approval of their application for Map Amendment for the RB District and the Board of Commissioners for Washington County grant their application for Map Amendment.

Very truly yours,
DIVEBISS & WILKINSON



Zachary J. Kieffer
Attorney at Law
Email: zkieffer@divelbisslaw.com



DEPARTMENT OF PLANNING & ZONING
COMPREHENSIVE PLANNING | LAND PRESERVATION | FOREST CONSERVATION | GIS

DATE : July 24, 2017

RECEIVED

AUG 07 2017

TO: Washington County Health Department
Washington County Plan Review – Land Development
Washington County Dept. of Environmental Management
Washington County Soil Conservation District
State Highway Administration
Washington County Board of Education
Washington County Emergency Services
Historic District Commission
Maryland Dept. of Planning
Leitersburg Volunteer Fire Company
Smithsburg E.M.S.

WASHINGTON COUNTY
PLANNING DEPARTMENT

RECEIVED

JUL 26 2017

State Highway Administration
PROJECT DEVELOPMENT

FROM: Steve Goodrich

SUBJECT: RZ-17-004 – Map Amendment

Attached is a proposed map amendment to the Washington County Zoning Ordinance filed with the Washington County Planning Commission. The application was submitted by Bluegrass Commercial, LLC and Michael Scott for property located at 21314 and 21338 Leitersburg Pike and 21385 Leiters Mill Road.

Please review the attached materials and return your comments to me by no later than August 11, 2017. Comments may be returned via e-mail to sgoodric@washco-md.net or by mail to the address indicated below.

If you have any questions, please contact me via e-mail at the above address or by phone at 240-313-2438.

No Comment!
Mark P. McKeigie
7/31/17




DIVISION OF
ENGINEERING & CONSTRUCTION MANAGEMENT
PLAN REVIEW & PERMITTING | ENGINEERING | CONSTRUCTION

RECEIVED

AUG 10 2017

WASHINGTON COUNTY
PLANNING DEPARTMENT

TO: Stephen Goodrich, Director – Planning & Zoning

From: Tim Lung, Director – Plan Review & Permitting/Zoning Administrator 

Subject: RZ-17-004 – Map Amendment for Bluegrass Commercial LLC and Michael Scott

DATE: August 4, 2017

The Plan Review Department has the following comments regarding the potential rezoning of the subject 7.15 acres of combined parcels located at 21314 and 21338 Leitersburg Pike and 21385 Leiters Mill Road, Hagerstown, MD from Rural Village (RV) to the Rural Business District (RB).

1. Engineering Plan Review has reviewed the proposed map amendment from RV to RB zoning and has the following comments. Any proposed development that has the potential to generate a significant amount of new traffic may require a traffic impact study as part of the site plan review. Of special concern is the close proximity (only 65 feet) of Parcel 173's entrance on Leiters Mill Road to the intersection with Leitersburg Pike. This issue may need to be addressed during the site plan review process.
2. Any proposed development will require a site plan prepared in accordance with Zoning Ordinance Article 4, Section 4.11 to be submitted, reviewed, and approved by the Washington County Plan Review Department.
3. New development will have to meet the requirements of the Rural Business District found in Article 5F of the Washington County Zoning Ordinance. In particular, additional buffer yards with solid fencing and vegetative screening will be required between the RB zoned property and adjacent residential land uses.
4. A preliminary site plan as referenced in Section 5F.5 (a) 3 should be submitted with this rezoning application.

Please do not hesitate to contact this office should you have further questions.

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EXHIBIT I-13

Goodrich, Stephen

From: Bradshaw, Mark
Sent: Thursday, July 27, 2017 11:54 AM
To: Goodrich, Stephen
Subject: RZ-17-004

Steve,

I have reviewed the above map amendment request and have no comments.

Mark



DEPARTMENT OF PLANNING & ZONING
COMPREHENSIVE PLANNING | LAND PRESERVATION | FOREST CONSERVATION | GIS

October 30, 2017

RZ-17-004

**APPLICATION FOR MAP AMENDMENT
PLANNING COMMISSION RECOMMENDATION**

Property owner(s):	Bluegrass Commercial, LLC (parcels 131 & 174) and Michael W. & Kelli S. Scott (parcel 173)
Applicant(s):	Bluegrass Commercial, LLC (parcels 131 & 174) and Michael W. & Kelli S. Scott (parcel 173)
Location:	Northwest side of MD Route 60 (Leitersburg Pike), west of Leitersburg
Election District:	#9 - Leitersburg
Comprehensive Plan Designation:	Rural Village
Zoning Map:	26
Parcel(s):	Parcels 131, 173 and 174
Acreage:	7.15 acres (P. 131 – 2.94 ac., P. 173 – 4.08 ac., P. 174 – 0.92 ac.)
Existing Zoning:	RV – Rural Village
Requested Zoning:	RB - Rural Business floating zone
Date of Public Meeting:	September 18, 2017

RECOMMENDATION

The Washington County Planning Commission took action at its regular meeting held on Monday, October 2, 2017 to recommend approval of Map Amendment RZ-17-004 to the Board of County Commissioners. The Commission considered the application, the supporting documentation submitted with the application, and the applicant's presentation during the public rezoning information meeting. The Commission also considered the Staff Report and Analysis, comments of interested parties provided during the public rezoning information meeting and the specific items for consideration of Section 5E.6.c in the Zoning Ordinance. It is the Planning Commission's opinion that the application can meet criteria set forth in Section 5E4.b of the County's Zoning Ordinance to establish the RB district in this location.

Copies of the application, Staff Report and Analysis, minutes of the September 18, 2017 public rezoning meeting and the October 2, 2017 regular meeting are attached.

Respectfully submitted,

Stephen T. Goodrich, Director
Washington County Department of
Planning & Zoning

STG/dse
Attachments
cc: Jason Divelbiss, Divelbiss & Wilkinson
Kirk Downey



DEPARTMENT OF PLANNING & ZONING

COMPREHENSIVE PLANNING | LAND PRESERVATION | FOREST CONSERVATION | GIS

August 30, 2017

RZ-17-004

**APPLICATION FOR MAP AMENDMENT
STAFF REPORT AND ANALYSIS**

Property Owner(s)	Bluegrass Commercial, LLC (parcels 131 & 174) Michael W. & Kelli S. Scott (parcel 173)
Applicant(s)	Bluegrass Commercial, LLC (parcels 131 & 174) Michael W. & Kelli S. Scott (parcel 173)
Location	Northwest side of MD Rt. 60 (Leitersburg Pike), west of Leitersburg
Election District	#9 - Leitersburg
Comprehensive Plan	
Designation	Rural Village
Zoning Map	26
Parcel(s)	Parcels 131, 173 and 174
Acreage	7.15 acres (P. 131-2.94 ac., P. 173- 4.08 ac., P.174- 0.92 ac.)
Existing Zoning	RV - Rural Village
Requested Zoning	RB - Rural Business floating zone
Date of Hearing	September 18, 2017

LOCATION AND PHYSICAL FEATURES

The rezoning site is located north and west of the village of Leitersburg, fronting on the northwest side of MD Rt. 60 (Leitersburg Pike) and its intersection with Leiter's Mill Road. There are three parcels proposed for rezoning in this application. The applicant that is the owner of two of the three parcels, Bluegrass Commercial LLC, also owns a parcel that is already zoned Rural Business and is surrounded by the rezoning parcels. There is one additional parcel along this side of Leitersburg Pike (#21322) that is also zoned Rural Business and is the location of a Liberty fuel station. It is owned by others not related to the applicants in this case. At this writing the acreage figures of the individual parcels and the total acreage of the area proposed for rezoning is under additional review and may be adjusted. Reference to maps included in this staff report is recommended to get a clearer picture of the parcels that are proposed for rezoning and the relationship of other RB parcels in the immediate area.

Parcel 131, owned by Bluegrass Commercial LLC, is the westernmost of the three rezoning parcels. It has approximately 245 feet of frontage on Leitersburg Pike and the rear property line is 200+ feet along the Antietam Creek. The site contains the remnants

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of a log dwelling and an additional concrete block out-building. In the recent past there were other out-buildings and attachments to the log structure that have since been demolished. The topography slopes quickly up from Antietam Creek in the rear to a high point behind the log building near the middle of the parcel and then slopes down again to the road frontage on the south and west. This parcel is wooded to the rear on the steeper slopes with widely scattered trees and scrub vegetation on the front portion. This parcel also has an existing driveway onto Leitersburg Pike.

Moving to the east along Leitersburg Pike, the next parcel sits in a corner of and in front of Parcel 131. It contains a Liberty fuel station, is zoned RB, is not owned by the applicants and is **not** requesting rezoning in this application.

Next in line to the east is a 2+ acre parcel owned by Bluegrass Commercial LLC (#21332). It is also **not** a subject of this rezoning request because it is already zoned RB. This property contains a contractor's equipment storage yard with a building that is approximately 4,500 square feet in size. The parcel has paved and gravel surfaces where a large number of trucks and various pieces of construction equipment are parked.

The next parcel to the east, #174, **is** a subject of this rezoning application. It has 130 feet of frontage on Leitersburg Pike, is about 280 feet deep and contains a dwelling. The frontage has a tree line buffer along its entire length with an opening for an existing driveway to the highway. Portions of the yard surrounding the dwelling have had a gravel surface applied and there is a connecting driveway to the parcel to the west where the contractor's equipment storage yard is located. The rear portion of the lot is partially wooded.

The highest elevation of the three parcels involved in this application is located on Parcel 174 in front of the dwelling. Drainage in the area is generally to the west and eventually to Antietam Creek. Very small portions of the site drain toward Leitersburg Pike into a roadside swale and eventually also to the creek. This parcel is also contiguous to the final parcel in this rezoning application, #173, which is owned by Michael and Kelli Scott.

Parcel 173 sits at the corner of Leitersburg Pike and Leiter's Mill Road. It has over 450 feet of frontage on Leitersburg Pike and over 400 feet of frontage on Leiter's Mill Road. It's the largest of the 3 parcels proposed for rezoning, containing approximately 4 acres (still to be verified). There is a dwelling on the property that faces Leiter's Mill Road. There is a buffering tree line along Leitersburg Pike with an opening for a driveway that also connects to Leiter's Mill Road. The Leiter's Mill Road frontage has a deep concrete swale that carries drainage to the west eventually to the Antietam Creek which forms the western boundary of this parcel. Vegetation on the parcel transitions from moderately dense tree cover on the west side near the creek to less dense trees and lawn closer to the dwelling. There are several outbuildings scattered about the site including a residential garage.

A majority of the soils on all three parcels are of the Hagerstown soil series, derived from the underlying Conococheague limestone geologic formation and have limited agricultural capacity (Class 6) due to slope and rockiness. There is also a small band of soils of the Combs variety along the length of the Antietam Creek that forms the rear boundary of parcel 131 and 173. These soils were developed from alluvium and are often associated with floodplains. In fact, a similar area of parcels 131 and 174 are included in the mapped floodplain of Antietam Creek (Panel #240070-0085).

POPULATION ANALYSIS

Table 1

Population Trends 1980 - 2010			
Year	Area	Population	% change from previous decade
1980	District	3070	
	County	113086	
1990	District	2814	-8.3%
	County	121393	7.3%
2000	District	2896	2.9%
	County	131932	8.7%
2010	District	2918	0.8%
	County	147430	11.7%

Source: US Census Bureau

Population trends are evident in the chart above. Leitersburg Election District (#9) has seen a 4.9 % decrease in its population between 1980 and 2010. Washington County has experienced a 30% increase in population in the same 30 year time period. The district continues to hold about 2% of the total County population over the time period shown.

AVAILABILITY OF PUBLIC FACILITIES

Water and Sewerage

The adopted Water and Sewerage Plan for Washington County establishes the policies and recommendations for public water and sewer infrastructure to help guide development in a manner that promotes healthy and adequate service to citizens and to implement the adopted growth and preservation policies of the Comprehensive Plan. The stated purpose of the Plan is "... to provide for the continued health and well-being of Washington Countians and our downstream neighbors." This is achieved through implementing recommendations in the Comprehensive Plan and the Water and Sewerage Plan to provide for services in a timely and efficient manner and in locations where needs exist or where growth is encouraged . The Water and Sewer Plan is also an inventory of existing and programmed services.

The parcels that are the subject of this rezoning request are not served by any public water or sewer facilities nor are they located in any area programmed for public water or sewer service in the Water and Sewerage Plan. They have a W-7 and S-7 service priority designations for water and sewer service in the Water and Sewerage Plan, indicative and expected for their location in the rural area outside of any designated urban or town growth area in the adopted Comprehensive Plan. These designations indicate that no public facilities exist or are planned in the future. Expenditures by the County to provide public water and sewer facilities in rural areas are discouraged by the Water and Sewerage Plan except to resolve existing health issues.

The rezoning application indicates that "The Property is serviced by septic facilities situated on the Property." It doesn't elaborate to say that there is one system to serve all parcels or if there is one system on each of the three separate parcels. This staff report will conclude that there is or was one system on each of the three parcels since each contains a dwelling and would need a working septic system for the dwelling to be occupied. The dwelling on parcel 131 is known to be unoccupied for an extended period. The rezoning application further states that "The minimal number of daily trips to the Property anticipated to be generated as a result of the RB overlay is not expected to create significant additional stress on the septic system."

Consideration should be given to the difference between the residential and commercial needs of an on-site septic system, the age of the systems in place and any regulatory changes in the minimum requirements since installation. It must also be noted that individual wells or septic systems that serve only the parcel they are located on is the expectation in the rural areas of the County where public facilities are unavailable. A private septic or water facility that serves multiple parcels triggers a different set of design and operational guidelines. These types of systems are usually only permitted as a solution to failing systems or to address health issues and are not encouraged to allow new or intense development in rural areas. Since more specific information is not yet available on the status of existing systems or future users, applicants and decision makers need to consider that some form of joint use systems may or may not be permitted and there will certainly be advanced design review if proposed.

Concerns are generally the same for wells and potable water. The site is classified as W-7 in the Water and Sewerage Plan indicating the use of private on-site wells and no plans for public service in the area. The application states " ... the Property's water source is a well located thereon and the placement of the RB overlay on the Property is not anticipated to generate additional water needs." A similar assumption is made that each parcel that contained a dwelling also contained a source of water but that is not confirmed. Similar rules and concerns about a private well that serves multiple parcels may apply.

The supposition that existing on-site wells and septic systems will be adequate to serve Rural Business uses in their current state should be considered with extreme caution. The statement in the application that it is not anticipated that the RB overlay will generate

additional water or sewer needs is inconsistent with other statements in the application that there is an intention to develop new mixed use buildings, expand the contractors equipment storage yard and convert an existing dwelling to business and professional offices. It is easy to conclude that there will be an intensification of use on the site, more people on site and therefore an increased burden on existing health facilities and the need to consider expansion or installation of a more robust system(s).

At a minimum, the Washington County Health Department will require an evaluation of the existing health facilities and definitive information on the future uses of the site before an approval to proceed with development would be granted. This would likely come at a time when a site plan is submitted although it would be recommended that determinations be made prior to that. Testing for suitability of new on-site wells and septic systems may also be required.

Emergency Services

The rezoning site is located less than ½ mile from the Leitersburg Volunteer Fire Company in the adjacent village of Leitersburg. The Smithsburg EMS serves this site and is located 3.8 miles to the southeast.

Schools

The rezoning site is located within the attendance districts of Old Forge Elementary School and Smithsburg Middle and High schools. With a zoning of Rural Village that allows single family residential development on 40,000 square foot lots and an estimated total parcel area of 7 acres, a maximum of 7 single family dwelling units could be used to evaluate the future impact on schools if the property were developed under its current zoning designation. Seven dwelling units could produce 3 elementary students, 1 middle school student and 1 high school student. If the requested Rural Business district was approved, no residential development would be permitted and there would be no pupil yield from the development.

Public Transportation

This area is not served by the Washington County Transit

System. PRESENT AND FUTURE TRANSPORTATION

PATTERNS

The rezoning site is located on the northwest side of MD Rt. 60 also known as Leitersburg Pike. It is a 2 lane highway with wide shoulders. The speed limit in the area is 50 mph. The Maryland State Highway Administration has jurisdiction over the permission and design of current and future points of access to the highway. Each parcel that is the subject of this rezoning request has an access point onto the highway. They are all residential access points. Each would have to be reevaluated and possibly be redesigned if uses on the parcels would change to business activities. Consolidation of

Staff Report and Analysis

RZ-17-004 Bluegrass Commercial and MW & KS Scott

Page6

the parcels with other adjacent business occupied parcels owned by the applicant may



allow or require that access to the highway also be consolidated into one and likely require a redesign. The parcel that Bluegrass Commercial owns that already has RB zoning and is the site of the contractor's equipment storage yard also has a commercial access to the highway with two curbed entrance/exit points. Leiter Street creates a street intersection on the east side of the highway opposite from this access. The Liberty fuel station, adjacent on the west also has two curbed entrance/exit points on to the highway. The MD SHA has commented on the application that it has no comment at this time in part because there is no specific development proposal at this time. A preliminary site plan should have been submitted with the application that would identify uses on the properties and show the layout of buildings, parking, health facilities, buffers, access points, etc. A plan was not available at the time this report was prepared.

Washington County Plan Review Department also commented on transportation concerns. It noted that a traffic impact study may be necessary if a significant amount of new traffic will be generated from new development if the site is rezoned to RB. That determination will be made when a site plan is submitted. A traffic impact study would be reviewed jointly by the County and the State. Its conclusions will determine any needed modifications to current access points, the design and location of new ones, if permitted, and may also dictate a need for turning and bypass lanes to maintain safety on the highway. The Department also noted concern for the close proximity of an existing driveway on parcel 173 to the intersection of Leiter's Mill Road and Leitersburg Pike.

The Functional Road Classification map in the Washington County Comprehensive Plan indicates MD Rt. 60 is a Minor Arterial highway. It is intended to provide intra-regional connectivity. In this case MD Rt. 60 is a direct link between Hagerstown and Waynesboro, PA and the small communities in between, such as Leitersburg. The highway would be expected to experience an Average Daily Traffic (ADT) of 2,000 to 5,000 in rural areas and between 5,000 and 25,000 in an urban setting. Design specifications include a minimum 500 foot separation between new access points.

Leiter's Mill Road is a Minor Collector and under County jurisdiction for maintenance and access evaluation and design. This classification provides connection and facilitates travel among communities. It's intended to accommodate an ADT of 500 to 1500 in rural areas and 1000 to 3000 in urban areas. It has access separation requirements of 100 feet. As noted earlier, parcel 173 has an existing residential driveway onto this road as well as an access onto MD Rt. 60. There is an additional driveway into this parcel about 150 feet further down Leiter's Mill Road but its penetration into the parcel is limited by an extreme change in elevation. The speed limit on this road is 35 mph and there is a one lane bridge approximately 1200 feet north of the MD Rt. 60 intersection. The road is sufficiently wide for the current traffic. There are four single family dwellings located on the opposite side of the road from the rezoning site. Those dwellings use portions of the variable width road shoulders at their frontage for parking but there are little or no shoulders on the rest of the road.

Traffic Counts are available for two locations along MD Rt. 60 that may have a bearing on analysis in this case. A ten year period is represented in the table below. There

doesn't appear to be a strong trend up or down. ADT at the western location shows an increase of 6% over the 10 year period but many year to year decreases in that period may detract from making conclusions about the validity of that increase. The count location at the PA state line shows a 10% decrease over the same period. When the percentage changes are converted to the actual number of vehicles, it is equivalent to a little more than 600 vehicles, either increased or decreased.

There is only one traffic count for Leiter's Mill Road which was 1196 in 2016.

Table 2: Traffic Volumes on MD Rt. 60, 2006-2016

Year	MD 60, w/o rezoning site	MD 60, s/o PA state line
2016	11,070	5,370
2015	9,485	4,505
2014	9,254	4,394
2013	9,263	4,393
2012	9,302	4,412
2011	9,281	4,407
2010	9,460	4,480
2009	9,902	5,542
2008	9,701	5,431
2007	10,210	5,710
2006	10,452	5,992

Source: Maryland State Highway Administration

COMPATIBILITY WITH EXISTING AND PROPOSED DEVELOPMENT IN THE AREA:

At this time the parcels that are the subject of this rezoning request each contain a dwelling. The unit on Parcel 131 is clearly unoccupied and uninhabitable. It is listed in the County's historic sites inventory (WA-1-202) and it is the applicant's intent that it will be removed from the site and reconstructed and restored in a new location. The unoccupied structure does not currently present a use conflict with surrounding parcels although it does have an unsightly appearance due to the exposed and deteriorated structure and the untended vegetation. It is unclear whether the dwelling on Parcel 174 is still occupied as a dwelling. There are no apparent past or pending applications for use or structural changes that indicate that commercial or non-residential activities are occurring in the building. Occupied or not, it also doesn't appear to present a current conflict with adjacent properties. The parcel surrounding the structure is clearly supportive of the adjacent contractor's equipment storage yard. The existing dwelling on Parcel 173 also appears to be compatible with adjacent uses. There are four single family dwellings directly across the street, a dwelling on the parcel immediately to the north and a large

farm parcel with the expected complex of farm buildings adjacent and across Antietam Creek to the west. The adjacent contractor's equipment storage yard may spill over onto the western edge of the parcel but for the most part the property appears to be in residential use.

There are dwellings on adjacent parcels to the southwest. On the opposite of Leitersburg Pike there are residential properties, a church and a small commercial operation below the intersection with MD Rt. 62.

All three parcels are in close proximity to the rural village of Leitersburg which is across MD Rt. 60 to the south and east. Leitersburg has a historic core and a clearly defined central square and street pattern that survives from its 18th century establishment. There is more modern development, including the rezoning parcels, that is all included in the rural village zoning that has been applied to the village. It would be safe to conclude that the vicinity of the rezoning parcels is considered part of the village.

Under certain circumstances uses that may result after a change to Rural Business zoning should be expected to be compatible with rural village uses. The RB district establishment guidelines specify compatibility as one of the evaluation factors. The district is also approved for the site based in part on a clear understanding of what the actual use will be and not on a broader assumption that **any** of the uses permitted in the district may be established. The applicant states that uses proposed for the sites include "Mixed Use Buildings-warehouse, retail, wholesale... " and business and professional offices. These uses are listed in the Table of Land Use Regulations in Article 3 of the Zoning Ordinance as permitted in the RB district. However, it cannot be concluded that all of these uses will always be compatible in all locations. The specific use, its specific size and location on the parcel, the nature and intensity of the use including its hours of operation, potential for noise and the effects of a predicted amount of traffic all contribute to a determination of compatibility. At this point in the review only the generic use categories have been provided and there is no preliminary site plan available. There will clearly be differences in compatibility between a 5,000 square foot dry goods warehouse that may receive and deploy 10 trucks per day during "normal" business hours and a 50,000 square foot warehouse that generates 100 truck trips per day and has a 3 shift work schedule. Either use would clearly provide employment opportunities for a rural or village population but that may not mitigate the negative effects of an intense or non-rural use. It also does not address the desired intention to provide goods or services for the rural population if those warehouse products are not or cannot be consumed in the community. This kind of detailed information about the proposed use on the site has not been made available. That is not to say that the proposed uses cannot be compatible, it cannot be determined with the limited information provided.

Commercial development routinely contains parking provisions and larger than normal buildings. These necessitate stormwater management facilities. The applicant has stated it will continue to use current stormwater management systems that are on site. Those facilities were not readily apparent, either their existence or location, from a field visit.

Fortunately the application acknowledges that they will be a necessity to gain site plan approval and will comply with current standards.

It is acknowledged that a portion of the property that is requested to be rezoned to Rural Business is to accommodate the expansion of the current owner Bluegrass Commercial, and user New Directions Utilities, Inc. The further intensification of the current use on the adjacent parcel must be balanced with maintenance of compatibility with other adjacent uses. The existing contractor's equipment storage yard was originally approved as a special exception in the Business, General district in 2004. The Rural Area comprehensive rezoning changed the zoning on the parcel to Rural Business and the use is considered permitted.

It was noted earlier that the rural village of Leitersburg has Rural Village zoning that includes these rezoning requests. The historic core of the village and the later more modern development is overwhelmingly residential. There are a few commercial entities scattered widely in the village such as a tavern and landscaping business. The village also includes a church and a volunteer fire company and station. The village also has a scenic/historic overlook at its northeastern end. There is the already noted Rural Business zoning and uses on properties adjacent to the rezoning parcels. The village of Leitersburg exists at this location due in part to the convergence of several transportation routes, MD Rt. 60, MD Rt. 418 and MD Rt. 62. This reinforces its continued focal point as a location for more recent development and business uses to serve the village and surrounding rural population.

Beyond the Rural Village and scattered Rural Business zoning, the zoning in the surrounding area is exclusively Agricultural. It contains a mixture of scattered residential development on small and moderate sized parcels and large farm properties. The agricultural zoning implements the County's intent to protect the area from intense development.

Historic Inventory Sites

There are three Historic Inventory sites of interest and nearby to this rezoning request. WA-I-202 is the identification number for the log structure that is located on Parcel 131 that is a subject of this application. It is described as an 18th century log house and its construction is tentatively attributed to Jacob Leiter whose family is the namesake of the village. The construction date is estimated in the 1760's. Since then the original construction has been modified, added on to and covered with layers of more modern materials. Following an application for a demolition permit in 2016, the property owner agreed to follow the Historic District Commissions recommendation to uncover and investigate further the nature of the building. The structure proved to be of significant historic value but is inconsistent with the owner's intentions for future business uses on the parcel which lead to the intent to move and reconstruct it.

The second inventoried historic site is the historic portion of the village of Leitersburg. Its inventory site number is WA-I-174. In addition to being inventoried the village of

Leitersburg has been further evaluated and was listed in the National Register of Historic Places, a federal designation in 2003. The village is listed because it is an intact example of an early 19th century rural Washington County village with a comprehensive variety of vernacular buildings as well as examples of Georgian, Federal, Greek Revival, Victorian and Four Square architectural styles. There are over 140 contributing structures within the boundary of the listed district. The designation does not carry additional regulatory control unless an undertaking utilizes federal or state dollars or requires a federal or State license or permit. Parcels 131 and 173 are included in the boundaries of the National Register district and the buildings on them are considered contributing structures. Parcel 174 included in this rezoning application, and the adjacent parcel where the equipment storage yard is located (but not part of this application) are not included within the National Register district boundary. The log building described as site WA-1-202 on Parcel 131 is also described on a separate form.

It cannot be determined at this time if new development on these parcels would require a traffic study whose results would dictate highway or access improvements. However, this is an example of a permit (for access location/reconstruction or highway lane reconfiguration) that could trigger additional review for the effects of those activities on a National Register site.

The farm mentioned previously in this report as being contiguous on the rear of parcels 131 and 173 across the Antietam Creek is identified as the Diller Farm in the historic inventory. It is a mid-19th century farm complex that contains a farm house representative of three distinct construction periods and materials, a stone and brick barn and a private cemetery. It is site WA-1-179.

Finally, site WA-1-174, a mid-19th century brick farm house is also in the vicinity of this rezoning site. It is located on the parcel contiguous on the south and west of Parcel 131.

The Rural Business district proposed for the subject parcels cannot be evaluated for compatibility without consideration of the proposed use. Unlike traditional Euclidean zoning designations where all of the permitted uses listed in the Zoning Ordinance must be considered as possible on the site after rezoning, the Rural Business district is evaluated in conjunction with a specific proposed use. Even though there is a defined list of permitted uses in the Zoning Ordinance for the RB zone and in theory any one could be permitted, the initial application of the RB district is accompanied by a specific proposal, in a way as a commitment to develop the site as proposed in the application if the RB zone is approved. A change in that use after a Rural Business district is approved must be evaluated again by the Planning Commission to determine if the new use will still be compatible. If determined necessary by the Planning Commission a public review process can be implemented before allowing or denying a change to a more intense use in the RB district. If the RB district is approved for this site based on a particular use, a change in that use would include a re-evaluation. Even though another review of a new use may be comforting and encourage approval of the current proposal, once the RB is established it may prove difficult to evaluate other uses objectively even if there could be conflict with adjacent parcels.

The purpose statement from the RB district reads as follows:

"The "RB" Rural Business District is established to permit the continuation and development of businesses that support the agricultural industry and farming community, serve the needs of the rural residential population, provide for recreation and tourism opportunities and to establish locations for businesses and facilities not otherwise permitted in the rural areas of the County. The Rural Business District is established as a "floating zone" which may be located on any parcel in an Agricultural, Environmental Conservation, Preservation or Rural Village Zoning District."

RELATIONSHIP OF THE PROPOSED CHANGE TO THE ADOPTED PLAN FOR THE COUNTY:

The purpose of the Comprehensive Plan is to evaluate the needs of the community and balance the different types of growth and preservation to create a harmony between different land uses. This is accomplished through evaluation of existing conditions, projections of future conditions and creation of a long term plan that promotes compatibility while maintaining the health, safety and welfare of the citizenry. The plan devises a strategy for meeting citizen's needs while making the best use of available resources.

The Washington County Comprehensive Plan identifies two general areas for growth and development or preservation policy implementation: Urban or Town Growth areas and the Rural Agricultural Area. Growth and development are encouraged in areas where infrastructure is available or can be extended efficiently, the designated growth areas. Large scale or intense development is not promoted in the rural policy area so that preservation of productive agricultural land, the agricultural industry, historic, cultural and open space resources can be the priority. Within the Rural Agricultural Area there are also Rural Villages. This designation identifies areas of existing population concentrations and the intent to preserve and support them but without encouragement for any significant additional growth or infrastructure. The properties that are the subject of this rezoning application are located in the Rural Village and Rural Agricultural area.

The requested Rural Business floating zone designation is specifically recommended by the current Comprehensive Plan, adopted in 2002. Implementation of that recommendation occurred with the approval of the Comprehensive Rural Area rezoning approved in 2005. It included a completely new article in the Zoning Ordinance text for the RB district and was established on the zoning map on several hundred existing rural businesses. The RB district was created specifically for this purpose as recommended by the Comprehensive Plan. The text has been revised to function more efficiently and effectively but the intent and purpose discussed in this report remain the same.

Agricultural Policy Area recommendations from the adopted Comprehensive Plan:

"This policy area is primarily associated with sections of the County in the Great Hagerstown Valley. The Agricultural Policy Area has been purposely drawn to enclose large blocks of the best soils for intensive agricultural production as well as gently rolling topography for farming. Most operating farms as well as the largest block of farmland preserved through the Agricultural Preservation Program are located in this area. " (page 250)

Later amendments to the Comprehensive Plan to address changes in State requirements for rural preservation programs resulted in designation of Priority Preservation Area. These are target area for local agricultural and rural preservation programs and enable Washington County to secure additional preservation funding. The Plan maps these Priority Preservation Areas and uses them as a guide in permitting or disallowing certain uses in the rural area. The Priority Preservation Area covers a large portion of agricultural land to the north and west of the rezoning site, including the farm mentioned several times in this report as adjacent to the rear of the rezoning site.

Rural Business Policy Area recommendations from the adopted Comprehensive Plan:

"No specific policy area is recommended to be created to address rural business development. It is recommended that few businesses be allowed, by right, in the rural policy areas. Most of the businesses that should be allowed by right would be associated with or support the agricultural industry. A new zoning classification called Rural Business is recommended to address business development in the rural policy area. This classification is recommended as an overlay district and not a Euclidean zone. The Rural Business Overlay District would be permitted to be located anywhere in the Rural District not prohibited by other constraints in the Zoning Ordinance. Uses should be limited to those supporting tourism development or needed to provide services to the residential population. Procedures for implementation of a Rural Business overlay would include participation in a public hearing process as a rezoning request. " (Page 254)

This request for the Rural Business zoning designation is appropriate for this location in the rural area and Rural Village vicinity. The specific site and the specific use must be evaluated for their individual and unique characteristics and how they may or may not be appropriate and compatible with existing uses on surrounding parcels. Some of this information to perform this evaluation has not been provided.

SUMMARY

When evaluating this request for the Rural Business floating zone the Planning Commission is advised to consider the following criteria from Section 5E.4.b of the Zoning Ordinance:

"The RB District may be established at a particular location if the following criteria are met:

(a) The proposed RB District is not within any designated growth area identified in the Washington County Comprehensive Plan.

(b) The proposed RB District has safe and usable road access on a road that meets the standards under the "Policy for Determining Adequacy of Existing Roads." In addition, a traffic study may be required where the proposed business, activity or facility generates 25 or more peak hour trips or where 40% of the estimated vehicle trips are anticipated to be commercial truck traffic.

(c) On site issues relating to sewage disposal, water supply, stormwater management, flood plains, etc. can be adequately addressed.

(d) The location of an RB District would not be incompatible with existing land uses, cultural or historic resources, or agricultural preservation efforts in the vicinity of the site."

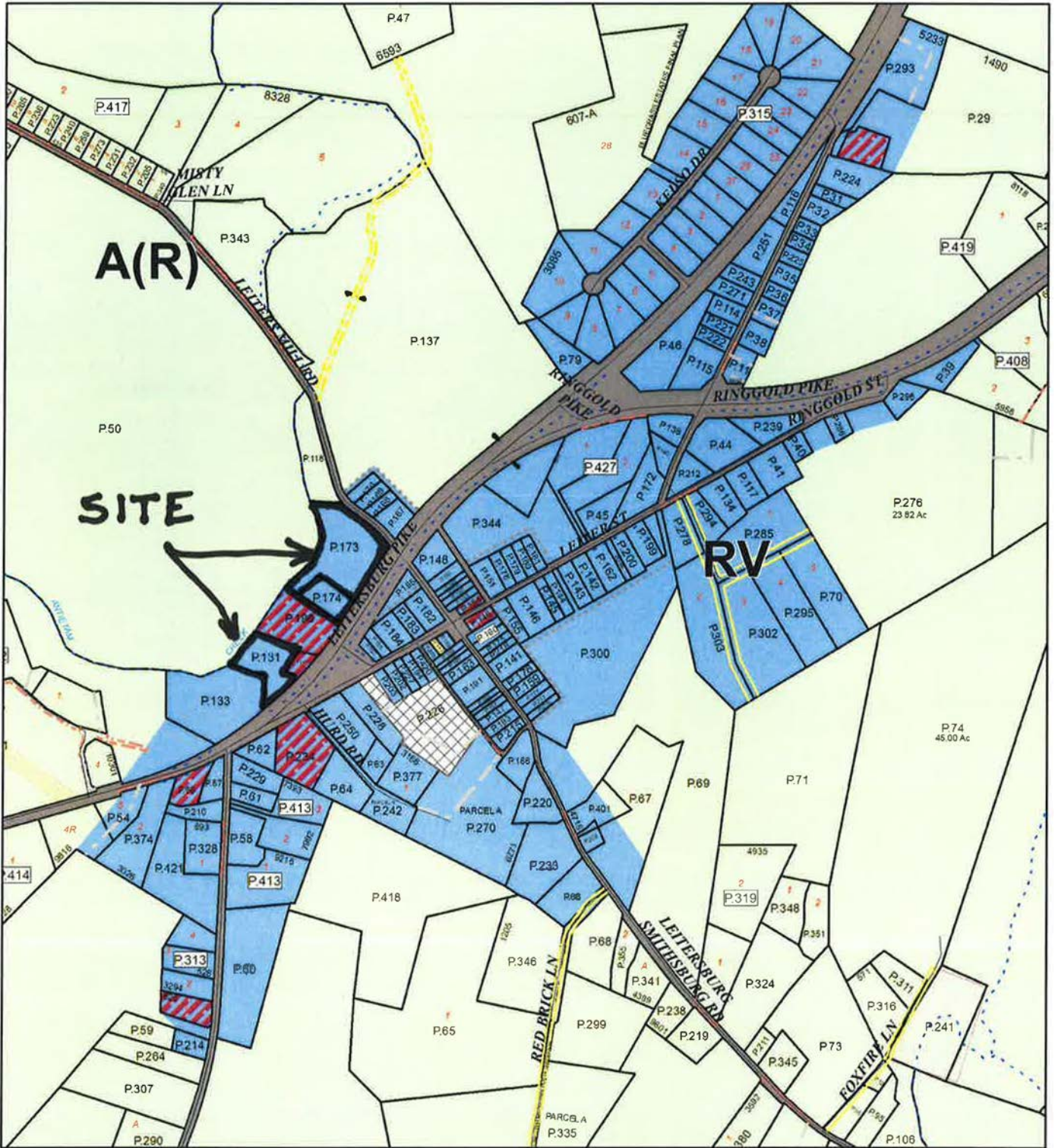
After the Public Information meeting, the Planning Commission is charged with making a recommendation to the Board of County Commissioners in consideration of the following from Section 5E.6.c of the Zoning Ordinance:

1. The proposed district will accomplish the purpose of the RB district
2. The proposed site development meets criteria identified in Section 5E.4 of the RB Article. (See criteria a-d above)
3. The roads providing access to the site are appropriate for serving the business traffic generated by the proposed RB land use.
4. Adequate site distance along roads can be provided at proposed points of access to the site.
5. The proposed landscape areas can provide adequate buffering of the proposed RB land use from existing land uses in the vicinity
6. The proposed land use is not of a scale, intensity or character that would be incompatible with adjacent land uses or structures

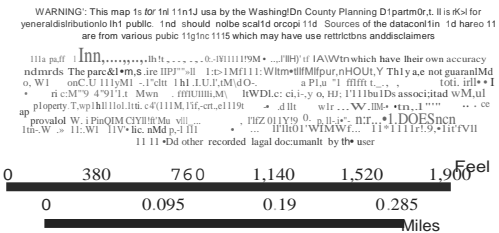
Respectfully submitted,

Stephen T. Goodrich, Director
Washington County Department of Planning and Zoning

RZ-17-004 - Bluegrass Commercial & Michael W. & Kelli S. Scott



- Legend**
Zoning Floating/Overlay Zones
Overlay Type
 IZ Rural Business
 Historic Preservation Overlay
- A(R)
 - RV
 - Exempt Property
 - =Account Unknown
 - c:::Tax Parcel
 - =Road





Agenda Report Form

Open Session Item

SUBJECT: Deliberation/Consensus Decision on Application for Zoning Map Amendment RZ-17-003, Downsville Pike Land LLC

PRESENTATION DATE: February 27, 2018

PRESENTATION BY: Travis Allen, Comprehensive Planner, Wash Co Department of Planning and Zoning

RECOMMENDED MOTION: Discussion to reach consensus to **approve or deny** zoning map amendment request.

REPORT-IN-BRIEF: RZ-17-003 is an application from property owners Downsville Pike Land LLC to rezone 2 parcels of land totaling 1.6 acres from Residential Suburban to Highway Interchange. The property is located in the southwest quadrant of the intersection of Downsville Pike (MD Rt. 632) and Halfway Boulevard. The Planning Commission held a public information meeting on September 25, 2017 and made a recommendation for approval on October 2, 2017. The County Commissioners held a public hearing on December 12, 2017. The Commissioners discussed the application on January 30, 2018 and deferred additional discussion and action to a future meeting.

DISCUSSION: Refer to enclosed application, staff report, Planning Commission minutes and recommendation for detailed discussion of the proposed amendment.

FISCAL IMPACT: None.

ATTACHMENTS: Ordinance amendment application with justification statement and rezoning site maps.

Staff Report and Analysis dated September 8, 2017

Planning Commission report and recommendation

AUDIO/VISUAL NEEDS:



DEPARTMENT OF PLANNING & ZONING
COMPREHENSIVE PLANNING | LAND PRESERVATION | FOREST CONSERVATION | GIS

October 30, 2017

RZ-17-003

**APPLICATION FOR MAP AMENDMENT
PLANNING COMMISSION RECOMMENDATION**

Property owner(s):	Downsville Pike Land, LLC
Applicant(s):	Christopher R. Smith
Location:	Northwest side of Downsville Pike, ¼ mile north of I-70
Election District:	#26 - Halfway
Comprehensive Plan Designation:	Low Density Residential
Zoning Map:	57
Parcel(s):	Parcel 210 and Parcel 408
Acreage:	1.60 acres (P. 210 – 1.10 ac.; P. 408 - .50 ac.)
Existing Zoning:	RS – Residential Suburban
Requested Zoning:	HI – Highway Interchange
Date of Public Meeting:	September 25, 2017

RECOMMENDATION

The Washington County Planning Commission took action at its regular meeting held on Monday, October 2, 2017 to recommend approval of Map Amendment RZ-17-003 to the Board of County Commissioners. The Commission considered the applicant’s claim that there was a mistake in the zoning of the property during the 2012 Comprehensive Urban Growth Area Rezoning and that there has been a change in the character of the neighborhood since the 2012 Comprehensive UGA rezoning. The Commission evaluated the supporting documentation submitted with the application and the applicant’s presentation during the public rezoning information meeting. The Commission also considered the Staff Report and Analysis, verbal comments of interested parties provided during the public rezoning information meeting and written comments received by the Department of Planning & Zoning.

The Commission evaluated supporting documents submitted with the application that cited the location near the interchange, other Highway Interchange rezonings, traffic impacts, and the recent abandonment of the parcels for residential purposes as support for the mistake claim. Further, the Planning Commission considered the applicant’s proposition that other zoning changes have occurred in the neighborhood along the Downsville Pike and continued commercial development along with traffic impacts have caused change in the character of the neighborhood. The Planning Commission recognized that continued residential use may be difficult in light of intersection expansions that will further complicate residential access and, that in the future, commercial uses may be more suitable and able to accommodate access restrictions.

120 West Washington Street, 2nd Floor | Hagerstown, MD 21740 | P: 240.313.2430 | F: 240.313.2431 | TDD: 7-1-1

Copies of the application, Staff Report and Analysis, written comments, minutes of the September 18, 2017 public rezoning information meeting, and the unapproved minutes of the October 2, 2017 regular meeting are attached.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Stephen T. Goodrich". The signature is fluid and cursive, with the first name being the most prominent.

Stephen T. Goodrich, Director
Washington County Department of
Planning & Zoning

TA/STG/dse
Attachments

cc: Bruce Dean, Linowes & Blocher
file



FOR PLANNING COMMISSION USE ONLY
Rezoning No. RZ-17-003
Date Filed: 7-12-17

RECEIVED

WASHINGTON COUNTY PLANNING COMMISSION
ZONING ORDINANCE MAP AMENDMENT APPLICATION

JUL 12 2017

Downsville Pike Land, LLC

Applicant

10306 Remington Drive

Address

Hagerstown, MD 21740

Primary Contact

Christopher R. Smith

Address

- Property Owner
- Attorney
- Other: _____
- Contract Purchaser
- Consultant

WASHINGTON COUNTY
PLANNING DEPARTMENT

301-733-4365 EXT 203

Phone Number

crsmith@myactv.net

E-mail Address

Property Location: 10662 Downsville Pike and 10656 Downsville Pike, Hagerstown, MD

Tax Map: 0057 Grid: 0002 Parcel No.: 210&408 Acreage: 1.6

Current Zoning: RS-Residential Suburban Requested Zoning: HI-Highway Interchange

- Reason for the Request:
- Change in the character of the neighborhood
 - Mistake in original zoning

PLEASE NOTE: A Justification Statement is required for either reason.

Chris Smith

Applicant's Signature

Subscribed and sworn before me this 11 day of July, 2017.

My commission expires on May 23, 2021 Anne M. Tralcy
Notary Public

FOR PLANNING COMMISSION USE ONLY

<input type="checkbox"/> Application Form	<input type="checkbox"/> Names and Addresses of all Adjoining & Confronting Property Owners
<input type="checkbox"/> Fee Worksheet	<input type="checkbox"/> Vicinity Map
<input type="checkbox"/> Application Fee	<input type="checkbox"/> Justification Statement
<input type="checkbox"/> Ownership Verification	<input type="checkbox"/> 30 copies of complete Application Package
<input type="checkbox"/> Boundary Plat (Including Metes & Bounds)	

EXHIBIT A

Real Property Data Search w3

Search Result for WASHINGTON COUNTY

View Map		View GroundRent Redemption			View GroundRent Registration		
Account Identifier:		District - 26 Account Number - 023114					
Owner Information							
Owner Name:		DOWNSVILLE PIKE LAND LLC			Use:		RESIDENTIAL
Mailing Address:		10306 REMINGTON DR 2ND FLR HAGERSTOWN MD 21740-0000			Principal Residence:		NO
					Deed Reference:		/05486/ 00190
Location & Structure Information							
Premises Address:		10656 DOWNSVILLE PIKE HAGERSTOWN 21740-0000			Legal Description:		0.50 ACRES 10656 DOWNSVILLE PIKE
Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:
0057	0002	0408		0000			
						Assessment Year:	Plat No:
						2017	
							Plat Ref:
Special Tax Areas:				Town:		NONE	
				Ad Valorem:			
				Tax Class:			
Primary Structure Built		Above Grade Living Area		Finished Basement Area		Property Land Area	County Use
1928		900 SF				21,780 SF	
Stories	Basement	Type	Exterior	Full/Half Bath	Garage	Last Major Renovation	
2	YES	STANDARD UNIT	FRAME	1 full			
Value Information							
		Base Value		Value		Phase-in Assessments	
				As of		As of	
				01/01/2017		07/01/2016	
				As of		As of	
				07/01/2017			
Land:		8,700		8,700			
Improvements		10,200		10,200			
Total:		18,900		18,900	18,900		18,900
Preferential Land:		0					0
Transfer Information							
Seller: CARBAUGH BONNIE L ET AL		Date: 04/24/2017		Price: \$50,000			
Type: ARMS LENGTH IMPROVED		Deed1: /05486/ 00190		Deed2:			
Seller: RICE ANITA V		Date: 12/07/2015		Price: \$0			
Type: NON-ARMS LENGTH OTHER		Deed1: /05119/ 00426		Deed2:			
Seller:		Date:		Price:			
Type:		Deed1:		Deed2:			
Exemption Information							
Partial Exempt Assessments:		Class		07/01/2016		07/01/2017	
County:		000		0.00			
State:		000		0.00			
Municipal:		000		0.00 0.00		0.00 0.00	
Tax Exempt:				Special Tax Recapture:			
Exempt Class:				NONE			
Homestead Application Information							
Homestead Application Status: No Application							
Homeowners' Tax Credit Application Information							
Homeowners' Tax Credit Application Status: No Application				Date:			

EXHIBIT p10 B

Tri-State Signature Settlements, LLC
 File No. TE-10107M
 Tax ID # 26-023114

This Deed, made this 21st day of April, 2017, by and between Connie Proctor, Bonnie L. Carbaugh, Ronald G. Rice and Donald W. Rice, GRANTORS, and Downsville Pike Land, LLC, a Maryland Limited Liability Company, GRANTEE.

- Witnesseth -

That for and in consideration of the sum of Fifty Thousand And 00/100 Dollars (\$50,000.00), which includes the amount of any outstanding Mortgage or Deed of Trust, if any, the receipt whereof is hereby acknowledged, the said Grantors do grant and convey to the said Downsville Pike Land, LLC, in fee simple, all that lot of ground situate in the County of Washington, State of Maryland and described as follows, that is to say:

All the following described lot of land, together with any improvements thereon situate in Washington County, Maryland, on the Northwest side of the Downsville Hagerstown Turnpike, about two miles South of Hagerstown, and being more particularly described as follows:

Beginning at a stone standing near the west or northwest side of the Hagerstown and Downsville Turnpike and at the end of the 17th or South 79 ¼ degrees East 89 ½ perch line of a deed from Edward A. Shaffer, Executor, to John H. Eldridge, dated July 13, 1892, and running thence reversing said 17th line North 79 ½ degrees West 181 feet, then leaving the outlines of the aforesaid deed 2 degrees East 185 feet, passing a stone on the North side of the aforesaid turnpike to the middle of said turnpike, then with the turnpike North 63 degrees East 252 feet to the place of beginning; containing approximately 0.50 acres of land, more or less.

Subject to and together with the covenants, restrictions, rights of way and easements of record applicable thereto.

Being the same property described and conveyed in the deed from Bonnie L. Carbaugh, Personal Representative of the Estate of Arthur T. Samuels unto Bonnie L. Carbaugh, Ronald G. Rice, Connie Proctor and Donald W. Rice dated July 17, 2015, and recorded December 7, 2015 in Liber 5119 at folio 0426 among the Land records of Washington County, Maryland.

Together with the buildings and improvements thereon erected, made or being; and all and every, the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

To Have and To Hold the said tract of ground and premises above described and mentioned, and hereby intended to be conveyed, together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said Downsville Pike Land, LLC, in fee simple.

And the Grantors hereby covenant that they have not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that they will warrant specially the property hereby granted; and that they will execute such further assurances of the same as may be requisite.

MARYLAND FORM WH-AR

Certification of Exemption from Withholding Upon Disposition of Maryland Real Estate Affidavit of Residence or Principal Residence

2017

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 Bonnie L. Carbaugh

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 (principal residence for 2 (two) of the last 5 (five) years) 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

Bonnie L. Carbaugh

Name

Bonnie L. Carbaugh

Signature

3b. Entity Transferors

Witness/Attest

Name of Entity

By

Name

Title

MARYLAND
FORM
WH-AR

**Certification of Exemption Upon
Disposition of Maryland Real Estate Affidavit of
Residence or Principal Residence**

2017

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 Connie Proctor

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 (principal residence for 2 (two) of the last 5 (five) years) 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

Connie Proctor

Name

Connie Proctor

Signature

3b. Entity Transferors

Witness/Attest

Name of Entity

By

Name

Title

LR - Deed (w Taxes)
Recording Fee - ALL
20.00

Name: Rice
Ref:
LR - County Transfer
Tax - linked 0.00
LR - Surcharge - linked
40.00

LR - Recordation Tax -
linked 380.00
LR - State Transfer Tax
- linked 250.00
LR - NR Tax - kd 0.00

SubTotal: 690.00

Total: 710.00

04/24/2017 04:09

CC21-RZ

#8241708 CC0403 -
Washington
County/CC04.03.03 -
Register 03

WASHINGTON COUNTY CIRCUIT COURT (Land Records) DJW 5486, p. 0196, MSA_CE18_5438, Date available 04/27/2017, Printed 07/11/2017.

This page not to be counted in calculating Recording Fee

**Clerk of Circuit Court
Washington County, Maryland**

Dennis J. Weaver, Clerk
24 Summit Avenue
Hagerstown, MD 21740
301-790-7991

For Clerks Use Only

Improvement Fee	40.00
Recording Fee	20.00
County Transfer Tax	
Recordation Tax	380.00
State Transfer Tax	250.00
Non-Resident Tax	
TOTAL	690.00

Real Property Data Search w3

Search Result for WASHINGTON COUNTY

View Map		View GroundRent Redemption			View GroundRent Registration		
Account Identifier:		District - 26 Account Number - 023173					
Owner Information							
Owner Name:		DOWNSVILLE PIKE LAND LLC			Use:		RESIDENTIAL
Mailing Address:		10306 REMINGTON DR 2ND FLR HAGERSTOWN MD 21740-0000			Principal Residence:		NO
					Deed Reference:		/05488/ 00165
Location & Structure Information							
Premises Address:		10662 DOWNSVILLE PIKE HAGERSTOWN 21740-0000			Legal Description:		1.10 ACRES 10662 DOWNSVILLE PIKE
Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:
0057	0002	0210		0000			
Assessment Year:						2017	
Plat No:						Plat Ref:	
Special Tax Areas:				Town:			
				NONE			
Ad Valorem:							
Tax Class:							
Primary Structure Built		Above Grade Living Area		Finished Basement Area		Property Land Area	
1950		1,196 SF				1.1000 AC	
County Use							
Stories	Basement	Type	Exterior	Full/Half Bath	Garage	Last Major Renovation	
1 1/2	YES	STANDARD UNIT	BRICK	1 full			
Value Information							
		Base Value		Value		Phase-in Assessments	
				As of		As of	
				01/01/2017		07/01/2016	
				As of		As of	
				07/01/2017		07/01/2017	
Land:		61,000		61,000			
Improvements		65,600		65,600			
Total:		126,600		126,600	126,600		126,600
Preferential Land:		0					0
Transfer Information							
Seller: RICE ANITA VIRGINIA		Date: 04/26/2017		Price: \$175,000			
Type: NON-ARMS LENGTH OTHER		Deed1: /05488/ 00165		Deed2:			
Seller:		Date:		Price: \$0			
Type:		Deed1: /01770/ 00701		Deed2:			
Seller:		Date:		Price:			
Type:		Deed1:		Deed2:			
Exemption Information							
Partial Exempt Assessments:		Class		07/01/2016		07/01/2017	
County:		000		0.00			
State:		000		0.00			
Municipal:		000		0.00 0.00		0.00 0.00	
Tax Exempt:				Special Tax Recapture:			
Exempt Class:				NONE			
Homestead Application Information							
Homestead Application Status: No Application							
Homeowners' Tax Credit Application Information							
Homeowners' Tax Credit Application Status: No Application				Date:			

Tri-State Signature Settlements, LLC
File No. TE-10106M
Tax ID# 26023173

This Deed, made this 21st day of April, 2017, by and between **The Estate of Anita Virginia Rice, Estate No. 69124**, Grantor; and **Downsville Pike Land, LLC**, a Maryland Limited Liability Company, party of the second part, GRANTEE.

Whereas, on February 12, 2014, the Orphans' Court of Washington County, State of Maryland (the "Court") granted administration of the Estate of the Decedent to Connie J. Proctor as Personal Representative of the Estate of the Decedent in Estate No. 69124.

Whereas, Grantor in the capacity as Personal Representative in the Estate of the Decedent has complete and full power and authority by law, to grant and convey the entire fee simple interest in the hereinafter described property; and

Whereas, as part of the administration of the Estate of the Decedent, Grantor desires to convey the entire fee simple estate in the hereinafter described property to the Grantee.

- **Witnesseth** -

That in consideration of the sum of **One Hundred Seventy-Five Thousand And 00/100 Dollars (\$175,000.00)**, which includes the amount of any outstanding Mortgage or Deed of Trust, if any, the receipt whereof is hereby acknowledged, the said GRANTOR as Personal Representative as the Estate of the Decedent, does hereby grant and convey to **Downsville Pike Land, LLC**, in fee simple, all that lot of ground situate in the County of Washington, State of Maryland and described as follows, that is to say:

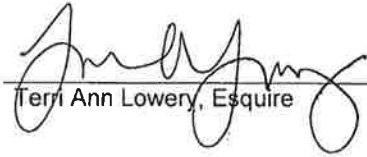
All that lot or parcel of land situate along the Northwest side of the Hagerstown Downsville Road approximately one and six tenths (1.6) miles from the Corporate Limits of the City of Hagerstown, in District No. 26, Washington County, Maryland and being more particularly described as follows:

Beginning at a stone planted at the end of the South 78 degrees 30 minutes west 89 and 5/10 perch line of the deed from Mary E. Stockslager, widow, to Albert L. Stockslager and wife, dated August 6, 1927, and recorded in Liber No. 178, folio 94, one of the land records of Washington County, Maryland, said stone being in or near the Northwest margin of the aforesaid Hagerstown-Downsville Road and at the North east corner of the parcel of land conveyed by the Downsville and Hagerstown Turnpike Company of Washington County to Arthur T. Samuels and Edna M. Samuels, his wife, by deed dated May 3, 1919 and recorded in Liber No. 155, folio 185, another of the Land Records of Washington County and running thence with the closing line of the first mentioned deed North 62 degrees 45 minutes East 133 feet to a point in said Road, thence crossing a portion of the Road North 27 degrees 15 minutes West 24 feet to an iron pipe in the Northwest margin thereof, thence leaving the Road and running North 59 degrees 50 minutes West 337 feet to an iron pipe, thence South 22 degrees 36 minutes West 212 feet to an iron pipe in the boundary of the entire tract conveyed to Stockslager as aforesaid, thence with said boundary line South 78 degrees 15 minutes East 88 feet, more or less, to the Northwest corner of the aforesaid parcel of land conveyed to Arthur T. Samuels and wife, thence binding on said parcel South 78 degrees 15 minutes East 181 feet, more or less, to the place of beginning, containing one and one tenth acres of land, more or less.

SAVING AND EXCEPTING all that property located along the northwest side of the Downsville Pike in the Twenty Sixth Election District of Washington County, Maryland, as shown on State Highway Administration Plat No. 54605 (Rev. 7/15/97); together with any and all right of vehicular ingress and egress across those portions of the right of

WASHINGTON COUNTY CIRCUIT COURT (Land Records) DJW 5488, p. 0165, MSA_CE 18_5440, Date available 04/28/2017, Printed 07/11/2017.

THIS IS TO CERTIFY that the within Deed was prepared by, or under the supervision of the undersigned, an Attorney duly admitted to practice before the Court of Appeals of Maryland.


Terri Ann Lowery, Esquire

AFTER RECORDING, PLEASE RETURN TO:
Tri-State Signature Settlements, LLC
1185 Mount Aetna Road
Hagerstown, MD 21740

LR - Deed (w Taxes)
 Recording Fee - ALL 20.00
 Name: downsville pike
 Ref:
 LR - County Transfer
 Tax - linked 625.00
 LR - Surcharge -
 linked 40.00
 LR - Recordation Tax -
 linked 1,330.00
 LR - State Transfer
 Tax - linked 875.00
 LR - NR Tax - lkd 0.00
 =====
 SubTotal: 2,890.00
 =====
 Total: 3,423.00
 04/26/2017 10:52
 CC21-TR
 #0254008 CC0403 -
 Washington
 County/CC04.03.04 -
 Register 04

WASHINGTON COUNTY CIRCUIT COURT (Land Records) DJW 5488, p. 0169, MSA_CE18_5440. Date available 04/28/2017. Printed 07/11/2017.

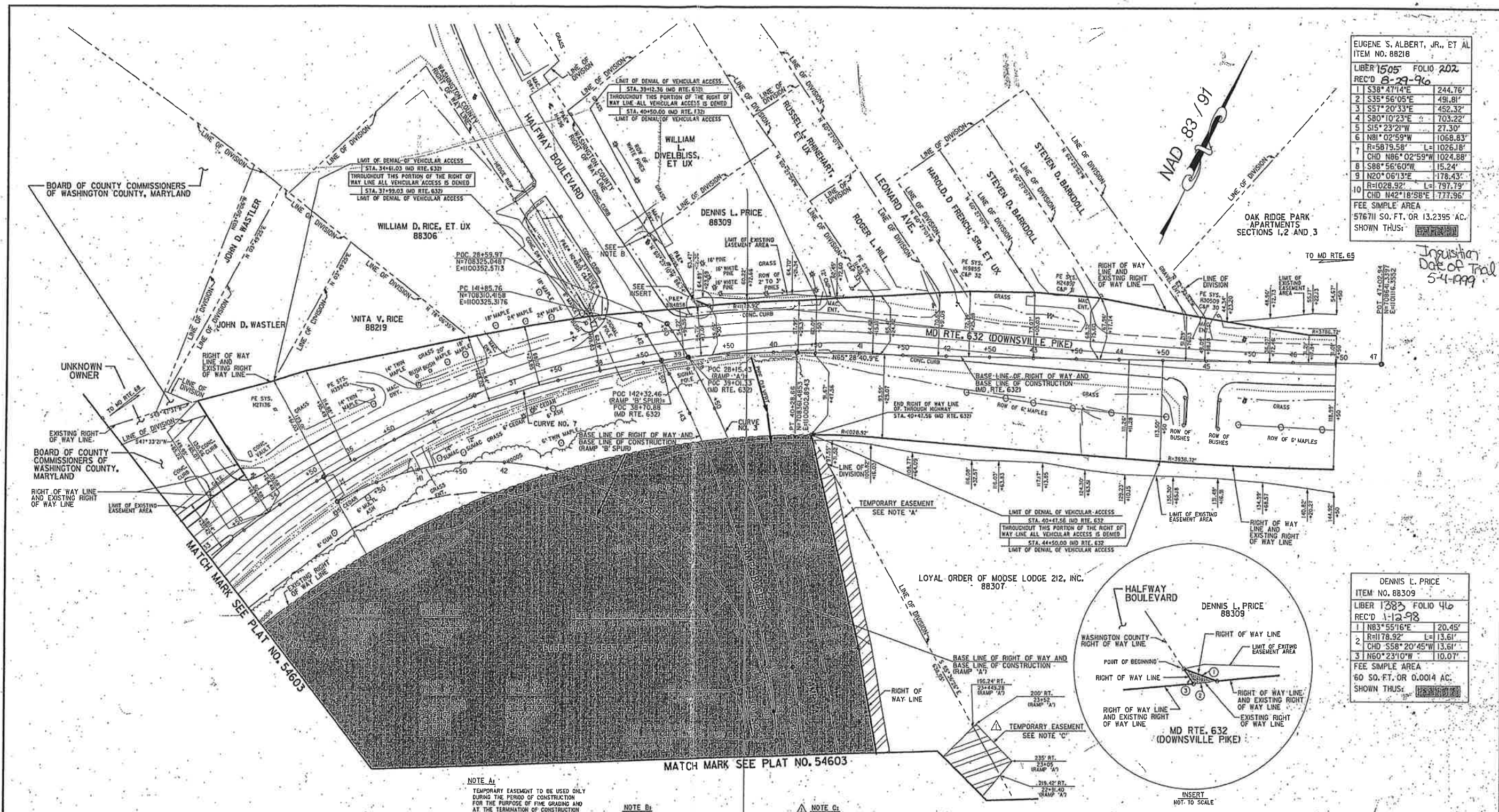
This page not to be counted in calculating Recording Fee

**Clerk of Circuit Court
Washington County, Maryland**

Dennis J. Weaver, Clerk
24 Summit Avenue
Hagerstown, MD 21740
301-790-7991

For Clerks Use Only

Improvement Fee	<u>40.00</u>
Recording Fee	<u>20.00</u>
County Transfer Tax	<u>625.00</u>
Recordation Tax	<u>1330.00</u>
State Transfer Tax	<u>875.00</u>
Non-Resident Tax	<u> </u>
TOTAL	<u>2890.00</u>



EUGENE S. ALBERT, JR., ET AL
ITEM NO. 88218

LIBER 1505 FOLIO 202
REC'D 8-29-96

1	S38°47'14"E	244.76'
2	S35°56'05"E	491.81'
3	S57°20'33"E	452.32'
4	S80°10'23"E	703.22'
5	S15°23'21"W	27.30'
6	N81°02'59"W	1068.83'
7	R=5879.58' L=1026.18'	
8	S88°56'60"W	15.24'
9	N20°06'13"E	178.43'
10	R=1028.92' L=797.79'	
	CHD N42°18'58"E	177.96'

FEE SIMPLE AREA
576711 SQ. FT. OR 13.2395 AC.
SHOWN THUS: [Symbol]

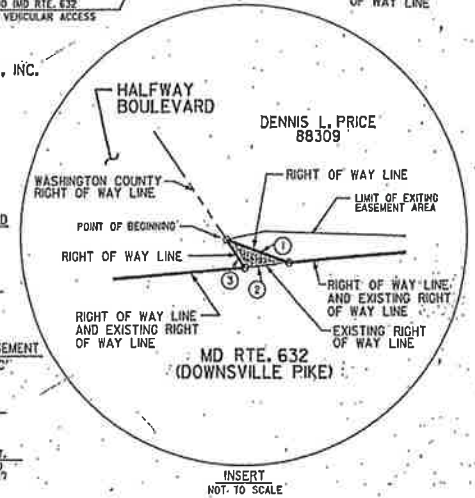
INVESTIGATION
DATE OF TRAIL
5-4-1999

DENNIS L. PRICE
ITEM NO. 88309

LIBER 1383 FOLIO 416
REC'D 1-12-98

1	N83°55'16"E	20.45'
2	R=178.92' L=13.61'	
3	N60°23'10"W	10.07'

FEE SIMPLE AREA
60 SQ. FT. OR 0.0014 AC.
SHOWN THUS: [Symbol]



NOTE A:
TEMPORARY EASEMENT TO BE USED ONLY DURING THE PERIOD OF CONSTRUCTION FOR THE PURPOSE OF FINE GRADING AND AT THE TERMINATION OF CONSTRUCTION ALL RIGHTS HEREBY ACQUIRED BY THE STATE HIGHWAY ADMINISTRATION - STATE ROADS COMMISSION SHALL THEN TERMINATE AND REVERT TO THE PROPERTY OWNERS.

NOTE B:
END OF THE 8TH OR NORTH 61/2" WEST BY 1/2 FEET LINE OF A DEED FROM VINCE K. PRICE TO DENNIS L. PRICE RECORDED AUGUST 27, 1991 IN LIBER 120, FOLIO 816.

NOTE C:
TEMPORARY EASEMENT TO BE USED ONLY DURING THE PERIOD OF CONSTRUCTION FOR THE PURPOSE OF SHOULDER REPAIR AND AT THE TERMINATION OF CONSTRUCTION, ALL RIGHTS HEREBY ACQUIRED BY THE STATE HIGHWAY ADMINISTRATION - STATE ROADS COMMISSION SHALL THEN TERMINATE AND REVERT TO THE PROPERTY OWNERS.

I HEREBY CERTIFY TO THE MARYLAND DEPARTMENT OF TRANSPORTATION, STATE HIGHWAY ADMINISTRATION THAT THE PROPERTY LINES SHOWN HEREON ARE CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF BASED ON THE FIELD SURVEY PERFORMED UNDER MY SUPERVISION AND THE RECORD DESCRIPTIONS THEREOF, AND THAT THIS PLAT MEETS THE REQUIREMENTS AS CONTRACTED FOR BY THE MARYLAND DEPARTMENT OF TRANSPORTATION, STATE HIGHWAY ADMINISTRATION.

DATE: 5/8/97
SIGNATURE: [Signature]
ROBERT L. GREEN, JR. MD. REG. NO. 471



LEGEND

- REVERTIBLE EASEMENT FOR SUPPORTING SLOPES.
- REVERTIBLE EASEMENT OR RIGHT FOR SPECIAL PURPOSE AS INDICATED BY NOTATION ON THIS PLAT.
- PERPETUAL EASEMENT FOR SPECIAL PURPOSE AS INDICATED BY NOTATION ON THIS PLAT.
- ARROW INDICATES GENERAL DRAINAGE PATTERN.
- PERPETUAL EASEMENT TO DISCHARGE FLOW OF WATER FROM OR INTO EXISTING WATERWAY OR NATURAL DRAINAGE COURSE.
- PERPETUAL EASEMENT TO DISCHARGE FLOW OF WATER UPON EXISTING GROUND.
- APPROXIMATE GENERAL DRAINAGE FLOW PATTERN (NOT TO SCALE-FOR EXPLANATORY PURPOSE ONLY).

A PORTION OF THIS RIGHT OF WAY IS FOR AN EXPRESSWAY AND NO ACCESS EITHER VEHICULAR, PEDESTRIAN, AND/OR ANIMAL WILL BE PERMITTED ACROSS THE LINES DESIGNATED 'RIGHT OF WAY LINE OF THROUGH HIGHWAY' EXCEPT BY MEANS OF SUCH PUBLIC ROAD CONNECTIONS AS ARE AUTHORIZED BY LAW.

SENT TO RECORD OFFICE: FEBRUARY 9, 1998
APPROVED BY CHAIRMAN: JANUARY 7, 1998

BOOKS: 13590 M&B, 20385 TRAV, 24990 TRAY
REVISIONS: T-15-97, 13405, 13406
PART OF PLATS: 13405, 13406

LOCATED IN WASHINGTON COUNTY
PREPARED BY THE WILSON T. BALLARD COMPANY
PROJECT ENGINEER: Kenneth R. Evans
CONSTRUCTION PROJECT: I-70 / MD632 INTERCHANGE
CONSTRUCTION PROJECT NO: WA9335172

STATE OF MARYLAND
DEPARTMENT OF TRANSPORTATION
STATE HIGHWAY ADMINISTRATION
STATE ROADS COMMISSION

RIGHT OF WAY PROJECT: I-70 / MD 632 INTERCHANGE
RIGHT OF WAY PROJECT NO: WA9335172
FEDERAL AID PROJECT NO: NH-70-1 (214)N
SCALE: 1" = 50'
PLAT No. 54605

EXHIBIT C

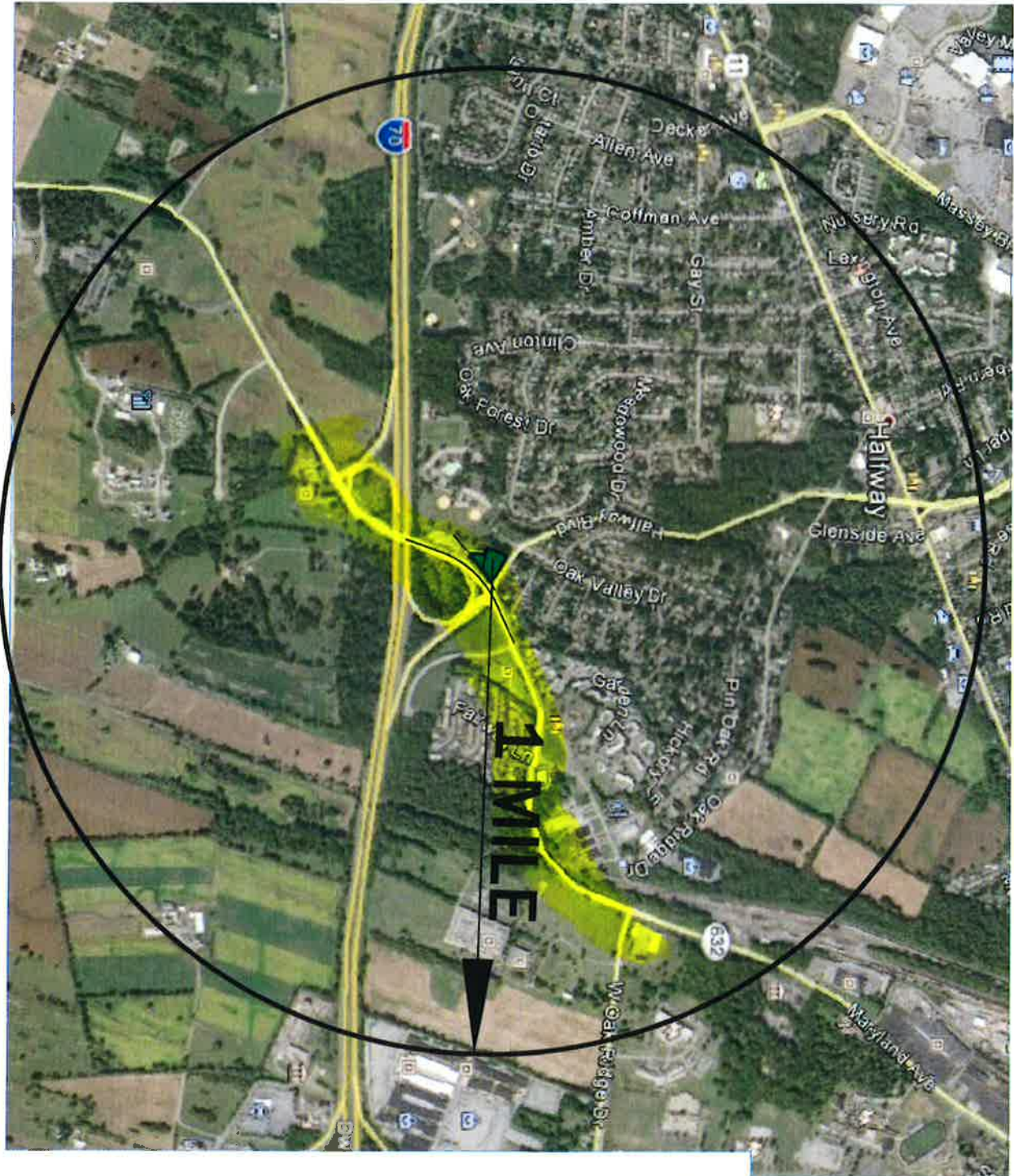
ADJOINING PROPERTY OWNER LIST

<p>TAX MAP 0057 PARCEL 0495 TAX ID#26-038308</p> <p>Washington Co. Commissioners Court House Hagerstown, Maryland 21740</p>	<p>TAX MAP 0057 PARCEL 0565 TAX ID#10-031478</p> <p>632 Joint Venture LLP P.O. Box 889 Hagerstown, Maryland 21741-0889</p>
<p>TAX MAP 0057 PARCEL 0208 TAX ID#26-023017</p> <p>Karen J. Funk Eric F. Funk 17906 Halfway Boulevard Hagerstown, Maryland 21740-1332</p>	<p>TAX MAP 0057 PARCEL 0375 TAX ID#10-014263</p> <p>Washington Co. Commissioners Court House Annex Hagerstown, Maryland 21740</p>
<p>TAX MAP 0057 PARCEL 0432 TAX ID#26-006821</p> <p>William Lee Divelbliss 17910 Halfway Boulevard Hagerstown, Maryland 21740</p>	<p>TAX MAP 0057 PARCEL 0329 TAX ID#26-018862</p> <p>John D. Wastler 10650 Downsville Pike Hagerstown, Maryland 21740-1734</p>
<p>TAX MAP 0057 PARCEL 0311 TAX ID#26-022134</p> <p>Dennis L. Price Diane C. Price 10702 Downsville Pike Hagerstown, Maryland 21740-1774</p>	<p>INTERSTATE 70 (I-70) Highway</p> <p>State Highway Administration Box 717 Baltimore, Maryland 21203</p>
<p>TAX MAP 0049 PARCEL 0270 TAX ID#26-033306</p> <p>Glenn S. Rea, Jr. 10801 Oak Valley Drive Hagerstown, Maryland 21740-7868</p>	

**L&B 6436201v1/13291.0001

EXHIBIT D

EXHIBIT B



SHEET 1 OF 1

PROJECT NO. 17-21200
 DATE: 08/20/17
 DRAWN BY: [Name]
 CHECKED BY: [Name]
 APPROVED BY: [Name]
 PROFESSIONAL CERTIFICATION

REZONING EXHIBIT B
 DOWNSVILLE PIKE LAND LLC

SITUATE NORTH OF DOWNSVILLE PIKE & EAST OF HALFWAY BLVD.
 ELECTION DISTRICT 28
 WASHINGTON COUNTY, MARYLAND

DATE	REVISION	DRAWN BY

FOX & ASSOCIATES, INC.
 ENGINEERS • SURVEYORS • PLANNERS
 951 MI. AETNA ROAD SUITE 102
 HAGERSTOWN, MD. 21740 FREDERICK, MD. 21701
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EXHIBIT B

JUSTIFICATION STATEMENT
DOWNSVILLE PIKE LAND, LLC, APPLICANT

The Map Amendment sought is based upon the following:

1. DESCRIPTION OF THE SITE.

Downsville Pike Land, LLC (the “Applicant”) is the owner of two parcels of land, located at 10656 and 10662 Downsville Pike, totaling 1.60 acres and situated along the northwest side of Maryland Route 632 (Downsville Pike), immediately south of its intersection with Halfway Boulevard (the “Site”). A copy of the rezoning vicinity map is included with this application as Exhibit A. The Site is located adjacent to the Maryland Rte. 632/I70 Interchange, and is currently developed with 2 aged single-family residences. Land uses within the Site’s 1-mile zoning neighborhood (the “Rezoning Neighborhood”) contain a mix of commercial and residential developments. Immediately to the south of the Site is one residence and the Marty L. Snook Regional Park as well as a State Highway Administration Park and Ride. To the north are primarily residential neighborhoods. To the south are I70 and the interchange (south of I70 is the Callas Contractors property), and to the east are the site of a coming new Sheetz store, several other commercial uses including the Health at Work site, and a mix of other commercial and residential uses. An aerial photograph of the Site showing the Rezoning Neighborhood and the various residential and commercial developments in the vicinity of the Site is attached as Exhibit B.

The official zoning classification of the Site, pursuant to the Washington County Zoning Ordinance (the “Zoning Ordinance”), is Residential, Suburban District (RS)¹. (Exhibit A). As shown on Exhibit A, the Site adjoins the Downsville Pike/I70 interchange, a public park, and the coming new Sheetz convenience store. Other than the home immediately to the south of the Site,

¹ The purpose of the RS zoning district is “to provide appropriate locations in the Urban and Town Growth Areas for single and two-family residential dwellings on moderately sized lots and limited community service type uses.”

all other residences nearby are either north of Halfway Boulevard or west of the parks from the Site. While there are residential neighborhoods nearby, the Site's location at the exit from I70 next to a Park and Ride (which attracts numerous commuters) and across from the proposed Sheetz store make it singularly inappropriate for continued residential use. The Applicant is requesting a map amendment to change the zoning classification of the Site from RS to Highway Interchange (HI) due to its immediate adjacency to the I70/Downsville Pike interchange and the proliferation of commercial uses along Downsville Pike.

Prior to 2012, the Site was zoned RS, but the interchange land located across Downsville Pike (hereinafter, the "Interchange Parcel") was zoned RM. As explained in greater detail below, the Washington County Board of County Commissioners (the "Board") in 2012 rezoned the Interchange Parcel from its prior RM zoning to the HI classification during the comprehensive rezoning of the Urban Growth Area that became effective on July 1, 2012 (*See* Ordinance No. ORD-2012-08) (the "Comprehensive Rezoning"), but the Site retained its RS zoning. Similarly, parcels 262 and 464 on Tax Map 56 and parcel 258 on Tax Map 57, south of I70 and within the rezoning neighborhood, were rezoned to HI in 2012. (see Exhibits C and D to show change in zoning during the Comprehensive Rezoning)

For the reasons set forth below the Applicant submits that the decision of the Board during the Comprehensive Rezoning to rezone the Interchange Parcel to the HI district, but NOT further deciding to rezone the Site to the same HI district, resulted from legal mistake, in that the Board did not take into account that the HI zoning district was significantly more appropriate for the Site as well as for the Interchange Parcel.

The Applicant further submits that there has been a substantial change in the character of the Rezoning Neighborhood sufficient to justify the rezoning request. Based on both mistake in zoning and change in the character of the neighborhood, the Applicant requests that the Site be reclassified to the HI zoning district.

THE PURPOSE OF THE HI DISTRICT IS TO "PROVIDE SUITABLE LOCATIONS FOR COMMERCIAL ACTIVITIES OR LIGHT INDUSTRIAL LAND USES

THAT SERVE HIGHWAY TRAVELERS, PROVIDE GOODS AND SERVICES TO A REGIONAL POPULATION, OR USES THAT HAVE A NEED TO BE LOCATED NEAR THE INTERSTATE HIGHWAY SYSTEM TO FACILITATE ACCESS BY A LARGE NUMBER OF EMPLOYEES, OR THE RECEIPT OR SHIPMENT OF GOODS BY HIGHWAY VEHICLES. IN ADDITION TO PROVIDING ACCESSIBLE LOCATIONS, THE HIGHWAY INTERCHANGE DISTRICT IS INTENDED TO PROTECT THE SAFE AND EFFICIENT OPERATION OF THE INTERCHANGE AND TO PROMOTE ITS VISUAL ATTRACTIVENESS.

2. ZONING HISTORY OF THE SITE

The Site, being located within the Urban Growth Area boundary around the City of Hagerstown, was among those “17,000 parcels and 38,000 acres of land” rezoned as part of the Comprehensive Rezoning of the Urban Growth Area in 2012. *See* Ordinance No. ORD-2012-08, p. 1. In adopting the Comprehensive Rezoning, the Board’s goal was to “promote compatibility amongst varied uses while providing the range of land uses needed to accommodate the needs of a growing community.” *See* Ordinance No. ORD-2012-08, p. 6. During the Comprehensive Rezoning process, the Board eliminated the agriculture zone in the Urban Growth Area which “resulted in the assignment of different zoning classification to 8,861 acres of land ... [and] all of the reclassifications result in ... ***decreases in land area devoted to residential and commercial*** uses.” *See* Ordinance No. ORD-2012-08, p. 5 (emphasis added). To that end, the Comprehensive Rezoning of the Urban Growth Area was aimed to “positively reflect the general planning principles of providing for increased diversity, density, and intensity of uses as proximity increases towards the urban core of the County.” *See* Ordinance No. ORD-2012-08, pp. 5-6. Given the Site’s location adjacent to the I70 interchange, near extensive commercial development existing and occurring to the east and with the less intense single-family residential development separated from the Site to the west and north, divided by roads (Halfway Boulevard) and parks, the HI district should have been deemed as appropriate for the Site as it

was for the Interchange Parcel, which was comprehensively rezoned to HI zone from its prior residential RM zoning under the goals of the 2012 comprehensive rezoning.

The Comprehensive Rezoning was guided by the principles and recommendations contained in the 2002 comprehensive plan for the County (the “Comprehensive Plan”) which identifies, as major goals, the objective of promoting “the retention and expansion of existing businesses and industry while encouraging the development of new manufacturing and hi-tech industries to broaden the employment base” and providing “locations for new industry that encourage the use of existing infrastructure facilities and that take advantage of the interstate transportation system” *See Comprehensive Plan, p. 13.*

The Site, being located within the urban core of the County and adjacent to a highway interchange, is clearly appropriate for the HI zoning district, and designation of the HI zoning classification is compatible with the adjoining and nearby properties. At the time of the comprehensive rezoning of the Urban Growth Area was adopted, the Planning Department advised the Board that “at least 75% of those specific [zoning modification] requests received from property owners were approved,” and that the Board would have opportunities in the future to address certain areas of the Urban Growth Area if it elected to do so. *See Board of County Commissioners Meeting Minutes from April 17, 2012, p. 3.* Therefore, the Applicant submits that if the Board were today to apply the very same policy criteria that it did during the 2012 Comprehensive Rezoning, it would not designate the Site in the RS district but rather would re-classify the Site to the HI district.

3. CHANGES TO THE NEIGHBORHOOD.

While the Site has been used for residential purposes long before the enactment of the Ordinance, changes to the neighborhood have occurred since the original and last Comprehensive Rezoning. During the Comprehensive Rezoning, several of the parcels within the Rezoning

Neighborhood were zoned to more intensive uses. As stated above, the Interchange Parcel was rezoned HI from RM-Residential Multi-Family, and the above referenced Parcels 262, 464 and 258, located south of I70 were rezoned from ORT-Office Research and Technology to HI. Similarly, the Marty Snook Park parcel was also rezoned from A-Agricultural to RS. Finally, the approval of the new Sheetz convenience store immediately across Downsville Pike from the Site will greatly influence changes to the Rezoning Neighborhood.

In addition, traffic travelling through the Rezoning Neighborhood has significantly increased since the Comprehensive Rezoning. As shown on the Maryland Department of Transportation, State Highway Administration Annual Average Daily Traffic 2009-2015 chart, (Exhibit E), traffic on that portion of Downsville Pike from Halfway Boulevard to Downsville Pike increased from 10,960 daily trips in 2012 to 12,361 daily trips in 2015. Notably, average daily trips have increased each year since 2012.

4. LEGAL ARGUMENT.

A. The Law.

A local legislative body (in Washington County, the Board of County Commissioners) may approve a piecemeal zoning map amendment, which changes the zoning classification of a property outside of the comprehensive planning process, upon finding that either there was a mistake in the existing zoning classification or that there has been a substantial change in the character of the neighborhood where the property is located. Md. Ann. Code Lane Use, §4-204(b)(2).

B. Mistake In Zoning.

Mistake in zoning, as defined by the Maryland Court of Appeals in numerous opinions related over the years, is proved by introducing evidence that shows either that the approving body failed to take into account factors at the time of comprehensive zoning which would (or should) have justified a different zoning classification, or that events have occurred subsequent to the comprehensive rezoning which show that the approving body's assumptions and premises have

since proved to be invalid. Howard County v. Dorsey, 292 Md. 351, 438 A.2d 1339 (1982). Specifically, “when the assumption upon which a particular use is predicated proves, with the passage of time, to be erroneous, this is sufficient to authorize a rezoning.” Mayor of Rockville v. Stone, 271 Md. 655, 319 A.2d 536 (1974); see also Anne Arundel County v. A-Pac Ltd., 67 Md. App. 122, 506 S. 2d 671 (1986) (stating, “when subsequent events demonstrate that any significant assumption made by the Council at the time of the comprehensive rezoning was invalid, the presumption of validity accorded to the comprehensive rezoning is overcome.”). In addition, the “evidentiary burden [of proving error in existing zoning] can be accomplished ... by producing evidence that the Council failed to make any provision to accommodate a project, trend or need which it, itself, recognized as existing at the time of the comprehensive rezoning.” Boyce v. Sembly, 25 Md. App. 43, 334 A.2d 137 (1975), citing also Jobar Corp. v. Rodgers Forge Community Ass'n., 236 Md. 106, 202 A.2d 612 (1964) and Rohde v. County Board of Appeals 234 Md. 259, 199 A.2d 216 (1964).

In the case at hand, evidence exists and is presented herein which specifically and unequivocally shows that:

(1) In adopting the Comprehensive Rezoning of the Urban Growth Area, the Board intended to “positively reflect the general planning principles of providing for increased diversity, density, and intensity of uses as proximity increases towards the urban core of the County.” See Ordinance No. ORD-2012-08, pp. 5-6. The Board mistakenly retained the RS zoning on the Site while rezoning the neighboring Interchange Parcel to the HI district instead of accounting for the Site’s ideal location for HI uses and its unsuitability as an ongoing residential area due to the I70 interchange substantially similar to the situation facing the Interchange Parcel;

(2) At the time the Board maintained the RS zoning district on the Site, it also reclassified the adjoining Interchange Parcel from the RM district to the HI district despite the fact that the Interchange Parcel is undevelopable and the same facts and circumstances which justified the change in zoning for the Interchange Parcel apply to the Site. The Board did not account for the fact that designating this Site as HI would be compatible and consistent with its reclassification for the Interchange Parcel. The Board made a legal mistake by failing to recognize that the adjoining Interchange Parcel, like the Site, fronts on Downsville Pike and is significantly impacted by the traffic leaving I70, such that future development of both properties should be oriented toward highway uses and not residential uses.

This evidence is sufficient to allow the Board to grant the requested rezoning on the basis of a mistake in the existing zoning.

C. *Change in the Character of the Neighborhood.*

In determining if there has been a substantial change in character of the neighborhood, one must first determine what constitutes the neighborhood. Montgomery v. Board of County Commissioners for Prince George's County, Maryland, et al. 263 Md. 1, 280 A.2d 901 (1971). The concept of a neighborhood is a flexible one, and will vary according to the geographical location involved. Montgomery, at 5. The Applicant asserts that while adjoining properties located along Halfway Boulevard to the west are similarly zoned RS, the "neighborhood" should more properly include those commercially zoned and/or utilized properties adjoining the Site along the east side of Downsville Pike, including the coming Sheetz convenience store immediately across from the Site, zoned HI and further including the land zoned HI and ORI south of I70. The neighborhood that faces the same situation as the Site, in reality, is not the nearby residential neighborhoods along Halfway Boulevard but more appropriately is the commercial corridor along Downsville Pike and near or adjacent to its interchange with I70. The Downsville Pike commercial corridor is highlighted in yellow on Exhibit B.

While the Site has been used for residential purposes for many years, it is currently uninhabited and is, frankly, uninhabitable. Changes to the neighborhood have occurred since the both original comprehensive zoning and the 2012 Comprehensive Rezoning. During the Comprehensive Rezoning, several parcels within Applicant's defined neighborhood were zoned to more intensive uses. As stated above, the Interchange Parcel was rezoned HI from RM, and the above referenced Parcels 262, 464 and 258, located south of I70 were rezoned HI from ORT. The adjacent Marty Snook Park land was also rezoned from A to RS.

In addition, as stated above, traffic within the neighborhood has also increased significantly. As shown on Exhibit C, traffic on that portion of Downsville Pike from Halfway Boulevard to Downsville Pike increased from 10,960 daily trips in 2012 to 12,361 daily trips in 2015. Notably, average daily trips have increased each year since 2012.

When considering the issue of "substantial change in a neighborhood, the County should consider 'all changes and pertinent facts' together in totality." The Bowman Group v. Dawson Moser, 112 Md.App. 694, 686 A.2d 643 (1996). In Bowman case, the Court upheld the rezoning of appellant's property by taking into consideration the following factors: 1) previous rezonings; 2) upgrades made to roads; and 3) new water and sewer lines. Id. Considering that multiple parcels in the neighborhood have been rezoned to HI, there has been a significant increase in traffic along Halfway Boulevard and Downsville Pike, improvements made to Halfway Boulevard, and the recently approved and coming Sheetz convenience store, these facts in totality clearly establish that there has been a substantial change in the neighborhood sufficient to justify the proposed map amendment, and that the requested HI zoning for the Site is more appropriate than the existing RS zoning.

In addition, the County anticipated and provided for the future development of the Site when including the Property in the Urban Grown Area. The commercial corridor along Downsville Pike and rezoning of parcels in the neighborhood have transformed the neighborhood significantly and will continue to do so in the future. As stated, the Site would be better suited for a commercial use permitted by the HI District, given its location along Halfway Boulevard, Downsville Pike and the

I70 interchange and the impact of the interchange and the adjacent Park and Ride property on the continuing ability to use the Site for residential purposes, as well as its proximity and access to I70.

In conclusion, the Applicant avers that it is conclusive that a substantial change in the character of the neighborhood has occurred which legally justifies a decision to approve the requested rezoning.

5. AVAILABILITY OF PUBLIC FACILITIES.

- a. Public Water and Sewer. Public water and sewer are currently available to serve the Site.
- c. Protective Services. The Site will be served by the Halfway Fire Company. Police protection will be provided by the Washington County Sheriff's Department.

6. PRESENT AND FUTURE TRANSPORTATION PATTERNS.

The Site is bounded by Halfway Boulevard and Downsville Pike and could potentially be serviced by entrances on either or both roads. Highway access to the Site is via the Downsville Pike/I70 Interchange, making access for both regional and local travelers convenient and safe. These roads and this interchange are ideal for the requested HI zoning. Both Downsville Pike and Halfway Boulevard are classified as Arterial Roads.

7. COMPATIBILITY WITH EXISTING AND PROPOSED DEVELOPMENT FOR THE AREA.

As stated above, the Site is surrounded by a mix of residential and commercial uses, and the adjacent properties to the east along Downsville Pike are all is classified in the HI district, and compatible with the requested zoning classification for the Site. A new Sheetz convenience store will be located immediately across Downsville Pike from the Site. The Site's proximity to

the I70 interchange and the adjacent Park and Ride make continued residential use clearly unsuitable. The Site is well suited to serving the travelling public, however, due to this proximity, and thus the requested HI zoning makes much more sense from a land use perspective than the existing residential zoning.

8. POPULATION CHANGE.

The Site is currently unoccupied and this is unlikely to change in any circumstance. Rezoning the Site to HI will have no effect on the population of the Rezoning Neighborhood. The population of the Rezoning Neighborhood is, however, growing.

9. COMPREHENSIVE PLAN.

The Comprehensive Plan identifies, as major goals, the objective of promoting “the retention and expansion of existing businesses and industry while encouraging the development of new manufacturing and hi-tech industries to broaden the employment base” and providing “locations for new industry that encourage the use of existing infrastructure facilities and that take advantage of the interstate transportation system” *See Comprehensive Plan, p. 13*. In addition, the Comprehensive Plan discusses the need to sustain and expand existing businesses. *See Comprehensive Plan, p. 60*. The proposed rezoning of the Site to HI will allow for the redevelopment of the Site from a decrepit and aging single family residence to a much more appropriate retail operation serving the neighborhood and the travelling public along Downsville Pike and I70. Given the Site’s location at the intersection of Halfway Boulevard and Downsville Pike (both Arterial Roads) and being at the end of the off-ramp from I70, such a commercial use is much more suitable for the Site and in keeping with the Comprehensive Plan. The Comprehensive Plan also identifies that appropriate commercial site locations should reflect the need to be located where the market can best be served. *See Comprehensive Plan, p. 61*. The Applicant avers that a commercial site located at the intersection of Halfway Boulevard and

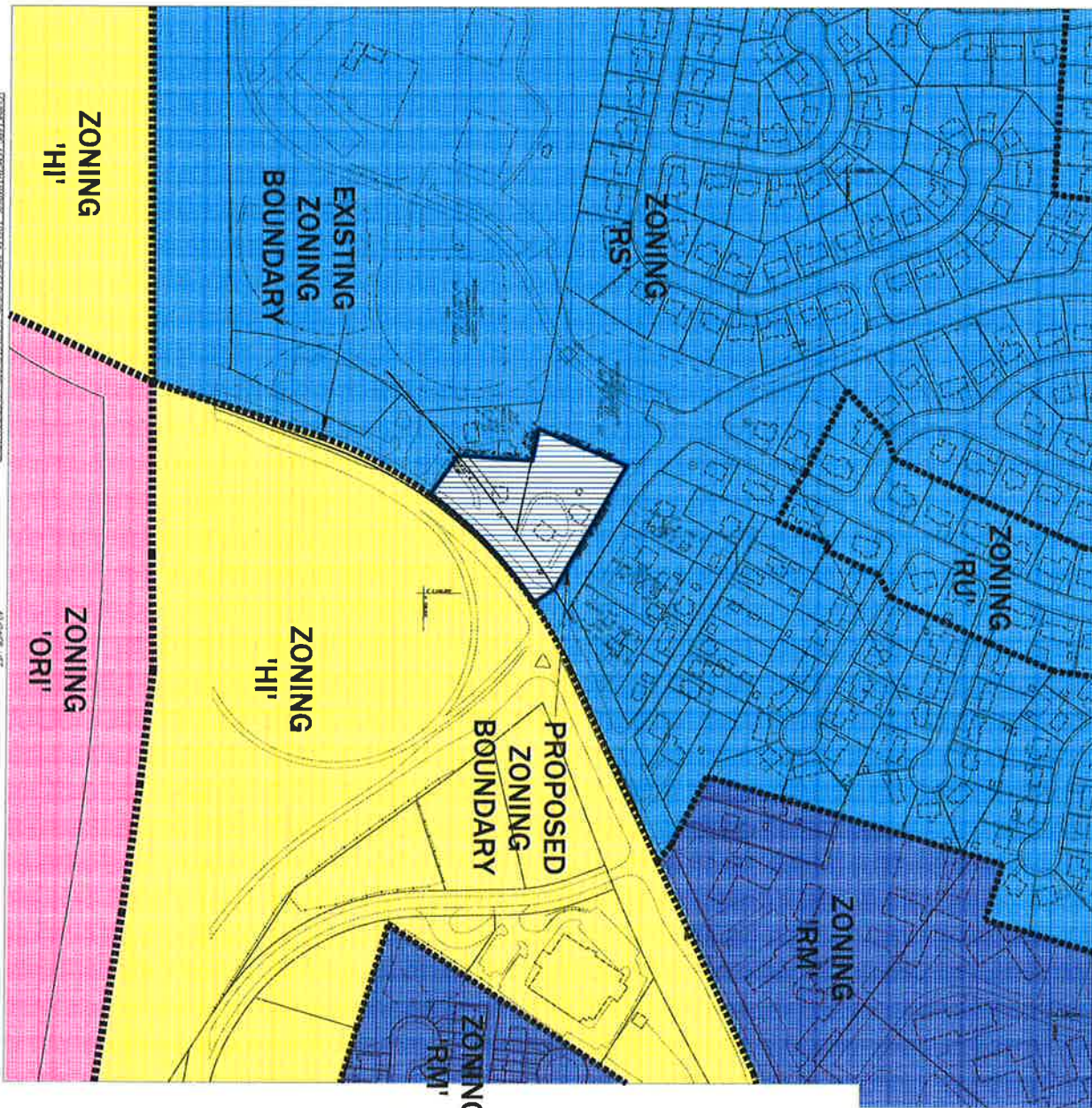
Downsville Pike and directly across from the I70 off-ramp and adjacent to the Park and Ride is an ideal location for a commercial use to serve the Halfway and South Hagerstown markets as well as interstate travelers.

8. CONCLUSION.

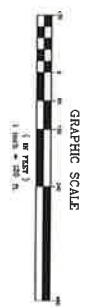
The Applicant requests that the Board approve this rezoning application as the request meets all of the legal requirements for map amendments under the Washington County Zoning Ordinance and under Maryland law to be approved. The Applicant's requested zoning map amendment will remedy the Board's failure to designate the Site for HI use. Moreover, the requested zoning map amendment will correct the Board's failure to take into account various factors related to the Site at the time of comprehensive rezoning which would have justified the HI zoning classification, and will properly reflect the substantial changes to the Rezoning Neighborhood outlined in this statement.

**L&B 6445218v1/13291.0001

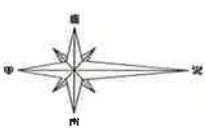
EXHIBIT A



DATE: 11/15/2017
 TIME: 10:00 AM
 PROJECT: DOWNSVILLE PIKE LAND LLC
 SHEET: 1 OF 1
 DRAWN BY: J. B. BROWN
 CHECKED BY: J. B. BROWN
 APPROVED BY: J. B. BROWN
 DATE: 11/15/2017
 TIME: 10:00 AM
 PROJECT: DOWNSVILLE PIKE LAND LLC
 SHEET: 1 OF 1
 DRAWN BY: J. B. BROWN
 CHECKED BY: J. B. BROWN
 APPROVED BY: J. B. BROWN



LEGEND
 AREA TO BE REZONED FROM RS TO HI (1.60 AC.)
 EXISTING ZONING BOUNDARY



PROJECT NO. 17-028
 DATE: 11/15/2017
 SHEET: 1 OF 1
 DRAWN BY: J. B. BROWN
 CHECKED BY: J. B. BROWN
 APPROVED BY: J. B. BROWN

REZONING EXHIBIT
DOWNSVILLE PIKE LAND LLC
 SITUATE NORTH OF DOWNSVILLE PIKE & EAST OF HALFWAY BLVD.
 ELECTION DISTRICT 26
 WASHINGTON COUNTY, MARYLAND

FOX & ASSOCIATES, INC.
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 FAX: (301)955-6009
 www.foxandassociates.com Email: foxand@foxandassociates.com

EXHIBIT 10-G



▼	10662 downsville pike	✕	🔍
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Show search results for 10662...



2012 ZONING

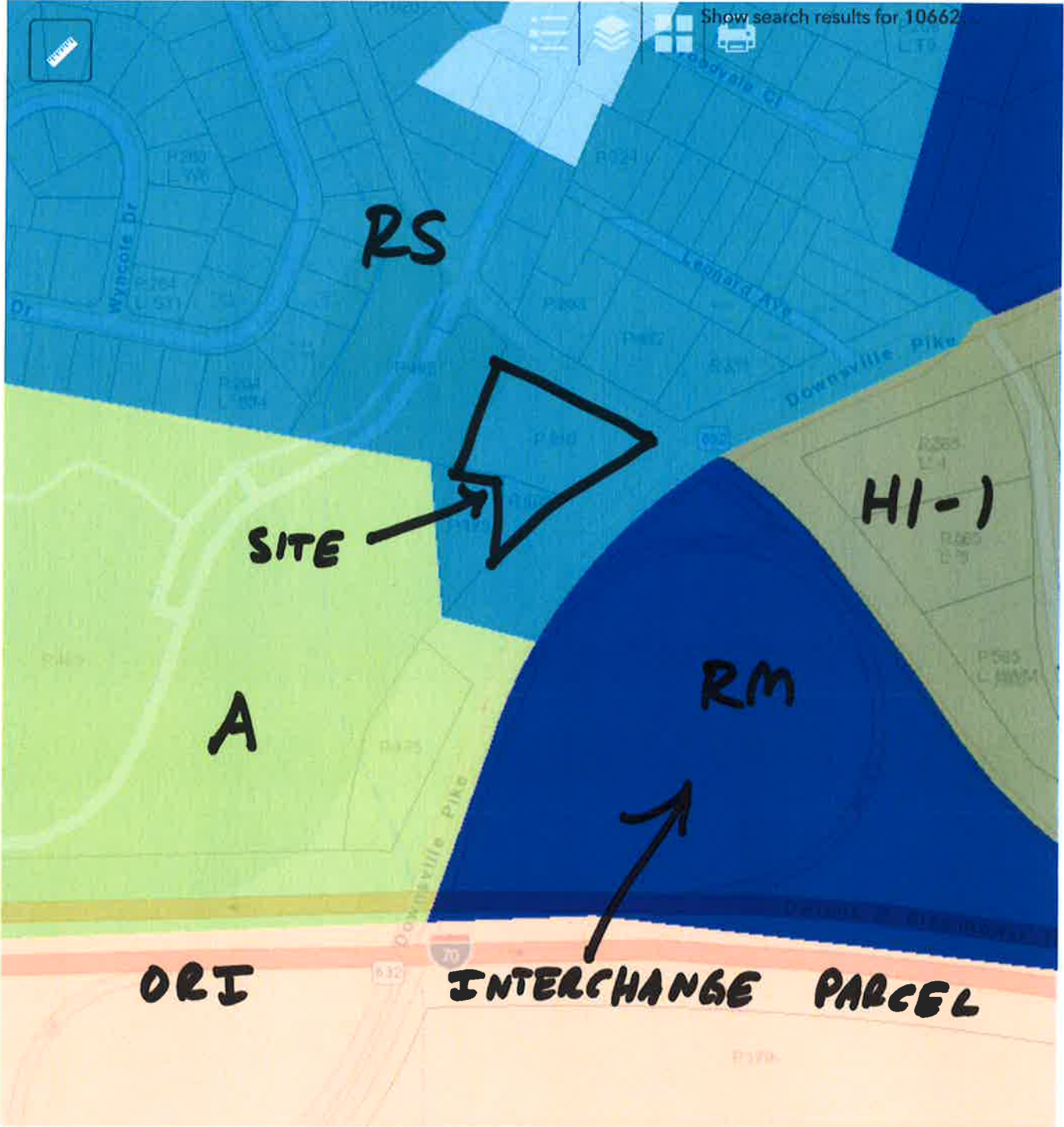


-77.750 39.611 Degrees

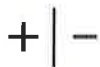
EXHIBIT 120 G



10662 downsville pike



2005 ZONING



300ft

-77.750 39.611 Degrees

EXHIBIT p10 G

**MARYLAND DEPARTMENT OF TRANSPORTATION
STATE HIGHWAY ADMINISTRATION
OFFICE OF PLANNING AND PRELIMINARY ENGINEERING
DATA SERVICES ENGINEERING DIVISION**

AADT'S OF STATIONS FOR THE YEARS 2009 - 2015

This report reflects the Annual Average Daily Traffic (AADT) in Maryland for the last seven years (2009 through 2015). It contains the county, route, mile point, location ID, location description (description of the road segment for which the AADT applies) and the historic AADT for each station. The report is sorted by county, route, and mile point in ascending order.

Stations denoted by a "P" followed by a four-digit number, contain data collected from Automatic Traffic Recorders (ATR's). These ATR's collect length, volume and/or classification data, which is then downloaded, loaded into a database and validated on a daily basis. Stations denoted by a "T" followed by a four-digit number, contain data provided by Maryland Toll Authority.

Stations denoted by a "B" or "S" followed by a multiple-digit number, contain data from Maryland's portable count program. The portable count program only collects volume and/or classification data, which is manually validated and loaded. The data for these stations is collected on a three or six year cycle depending on the roadway. Growth Factors are applied to counts which were not taken during the current year.

The AADT data contained in this report is estimated. The AADT estimates are derived by taking 48-hour machine count data and applying factors from permanent count stations.

A special numeric code was added to the AADT numbers, starting in 2006, to identify the years when the count was actually taken. The last digit represents the number of years prior to the actual count. Where "0" represents the current year when data was collected (in 2015), "1" represents the count taken in 2014, "2" represents the count taken in 2013, "3" represents the count taken in 2012 and so forth.

MARYLAND DEPARTMENT OF TRANSPORTATION
STATE HIGHWAY ADMINISTRATION
DATA SERVICES ENGINEERING DIVISION
ANNUAL AVERAGE DAILY TRAFFIC (AADT) 2009-2015
As of: 06/21/2016



ROUTE	ROADNAME	LOCATION	BEGIN MP	END MP	LOCATION DESCRIPTION	AADT										
						2009	2010	2011	2012	2013	2014	2015				
MD 67	ROHRERSVILLE RD	B3982	2.80	5.10	YARROWSBURG RD TO GAPLAND RD	4,402	4,270	4,191	4,202	4,320	4,321	4,432				
MD 67	ROHRERSVILLE RD	B3983	5.10	12.20	GAPLAND RD TO US 40AL	5,422	5,420	5,321	5,332	5,130	5,131	5,252				
MD 68	CLEARSPRING RD	B4022	0.00	2.74	US 40 TO MD 66	2,482	2,580	2,531	2,542	2,533	2,534	2,505				
MD 68	CLEARSPRING RD	B3984	2.74	3.92	MD 66 TO CEDAR RIDGE RD	1,922	2,050	2,011	2,022	2,120	2,121	2,172				
MD 68	CLEARSPRING RD	B3985	3.92	7.31	CEDAR RIDGE RD TO US 11	4,532	4,510	4,421	4,432	4,040	4,041	4,142				
MD 68	CONOCOCHIEGUE ST	B3986	7.31	8.29	US 11 TO IS 81	3,162	3,310	3,321	3,292	3,050	3,041	3,122				
MD 68	LAPPANS RD	B3967	8.29	10.48	IS 81 TO MD 632	9,602	10,170	9,981	10,002	10,960	10,951	11,212				
MD 68	LAPPANS RD	B3969	10.48	13.35	MD 632 TO MD 65	4,662	4,740	4,651	4,662	4,643	4,644	4,765				
MD 68	LAPPANS RD	B3970	13.35	16.58	MD 65 TO BARNES RD	2,592	2,670	2,581	2,562	2,573	2,574	2,645				
MD 68	LAPPANS RD	B3971	16.58	18.50	BARNES RD TO US 40AL	2,202	2,140	2,101	2,112	2,101	2,112	2,182				
MD 77	FOXVILLE RD	B3980	0.00	0.17	MD 64 TO WOLFVILLE RD	4,511	4,552	4,220	4,231	4,231	4,213	4,314				
MD 77	FOXVILLE RD	B3981	0.17	2.51	WOLFVILLE RD TO PLEASANT VALLEY RD	3,821	3,852	3,500	3,511	3,492	3,493	3,584				
MD 77	FOXVILLE RD	B3983	2.51	3.02	PLEASANT VALLEY RD TO FREDERICK COIL	3,381	3,412	3,130	3,141	3,141	3,132	3,214				
MD 144	WASHINGTON ST	B3994	0.00	1.47	US 40 TO WESTERN MARYLAND PKWY	4,502	4,640	4,661	4,622	4,622	4,990	4,981	5,112			
MD 144	WB WESTERN PIKE	B3991	0.00	2.77	RAMP NORTH OF IS 68 TO LOCHER RD	972	983	964	975	960	961	982				
MD 144	WB WESTERN PIKE	B3992	2.77	3.67	LOCHER RD TO MD 894	4,051	4,082	4,003	4,014	3,995	2,650	2,711				
MD 144	WB MAIN ST	B3993	3.67	5.91	MD 894 TO IS 70	8,201	8,272	8,123	8,144	8,105	6,770	6,931				
MD 418	RINGGOLD PIKE	B3995	0.00	2.77	MD 60 TO MD 64	4,060	4,091	4,012	4,023	4,004	4,005	4,190				
MD 418	RINGGOLD PIKE	B3997	2.77	4.62	MD 64 TO PENNSYLVANIA STL	5,880	5,931	5,822	5,833	5,804	5,805	6,320				
MD 491	RAVEN ROCK RD	B3999	0.00	4.69	MD 64 TO FREDERICK COIL	2,130	2,151	2,112	2,123	2,114	2,115	2,200				
MD 491	RAVEN ROCK RD	B3999	6.40	6.78	FREDERICK COIL TO MD 560	2,130	2,151	2,112	2,123	2,114	2,115	2,200				
MD 494	FAIRVIEW RD	B4000	0.00	0.84	PENNSYLVANIA STL TO MD 57	2,701	2,722	2,680	2,691	2,682	2,663	2,754				
MD 494	FAIRVIEW RD	B4036	0.84	6.00	MD 57 TO BLACKBERRY LA	1,641	1,652	1,580	1,581	1,572	1,573	1,614				
MD 494	FAIRVIEW RD	B4001	6.00	6.83	BLACKBERRY LA TO MD 63	3,451	3,482	3,170	3,181	3,172	3,173	3,254				
MD 550	FORT RITCHIE RD	B4003	0.00	1.81	FREDERICK COIL TO PENNERSVILLE RD	1,871	1,882	1,893	1,884	1,895	1,895	1,945				
MD 550	PEN MAR RD	S2011210333	1.81	2.01	PENNERSVILLE RD TO PEN MAR RD	1,210	1,210	1,201	1,201	1,202	1,203	1,234				
MD 615	HEAVENLY ACRES RIDGE	B4004	0.00	4.35	IS 70 RAMP TO PENNSYLVANIA STL	581	592	583	584	585	580	500				
MD 632	DOWNSVILLE PIKE	B4005	0.00	2.24	MD 63 TO MD 68	2,521	2,542	2,493	2,504	2,495	2,420	2,481				
MD 632	DOWNSVILLE PIKE	B4006	2.24	5.12	MD 68 TO HALFWAY BLVD	5,601	5,652	5,553	5,564	5,545	5,640	5,781				
MD 632	DOWNSVILLE PIKE	B4026	5.12	6.71	HALFWAY BLVD TO DOWNSVILLE PIKE	12,081	12,152	10,960	10,871	10,892	12,050	12,361				
MD 845 A	S MAIN ST	B210043	0.00	1.23	MD 34 TO MD 34	490	491	482	483	484	485	480				
MD 903	MOUNTAIN RD	B210074	0.25	1.16	MOUNTAIN RD (BACK) TO NATIONAL PIKE (AHEAD)	80	81	82	83	84	85	100				
CO 6	MOUNTAIN RD	B210074	0.00	0.25	PENNSYLVANIA STL TO MD 903 (AHEAD)	80	81	82	83	84	85	100				
CO 23	WOODMONT RD	B210063	0.00	6.33	PEARRE RD TO MD 144	174	185	185	195	195	195	70				
CO 3	PENNSYLVANIA AVE	S2011210321	0.81	1.79	IS 68 TO PENNSYLVANIA AVE	4,240	4,251	4,232	4,233	4,344	4,344					

Note: AADTs that are bold and italicized are counted that year



DEPARTMENT OF PLANNING & ZONING
COMPREHENSIVE PLANNING | LAND PRESERVATION | FOREST CONSERVATION | GIS

September 8, 2017

Case #: RZ-17-003

**Application for Map Amendment
Staff Report and Analysis**

Property Owner(s)	:	Downsville Pike Land, LLC
Applicant(s)	:	Christopher R. Smith
Location	:	NW side of Downsville Pike, ¼ mile North of I-70
Election District :		#26 – Halfway
Comprehensive Plan Designation	:	Low Density Residential
Zoning Map	:	57
Parcel(s)	:	P. 210 & P. 408
Acreage	:	1.60 acres (P. 210: 1.10 ac; P. 408: .50 ac)
Existing Zoning	:	RS – Residential, Suburban
Requested Zoning	:	HI – Highway Interchange
Date of Hearing :		September 25, 2017

I. Background and Findings Analysis:

1. Site Description

The subject parcels are located along the northwest side of Downsville Pike, approximately .25 miles north of Interstate 70. The total acreage of the two parcels that are the subject of this rezoning case is 1.60 acres. Each is described below:

Subject Parcel #1: Tax Map 57; Grid 002; Parcel 210 – The parcel has a regular rectangular shape consisting of 1.10 acres. A single family detached residence and a dilapidated accessory structure sit currently on the parcel, accessed from Halfway Boulevard. The property sits atop a small hill which slopes moderately to the southwest towards Marty Snook Park. Mature trees and brush cover much of the parcel. There are no environmentally sensitive areas on the property.



Subject Parcel #2: Tax Map 57; Grid 002; Parcel 408 – The triangular shaped parcel comprises .50 acres. The **Anita Rice House** (historic site WA-I-692) is located on the parcel, and is currently in poor condition. Mature trees and brush surround the house, which sits mid-slope between Parcel 210 and Parcel 329. There are no environmentally sensitive areas on the property.

Both properties are located within the Urban Growth Area that surrounds the City of Hagerstown and the Towns of Williamsport and Funkstown. An intermittent stream, Saint James Run, separates adjacent parcel 329 from the Park at the base of the hill, just offsite.

2. Population Analysis

To evaluate the change in population, information was compiled from the US Census Bureau over a thirty-year time frame. A thirty year horizon was chosen to show long term population trends both in the election district of the proposed rezoning, as well as the overall trends of the County.

The two parcels subject to this rezoning are located within the Halfway Election District (#26). As shown in the table below, the population in this district has grown more slowly than the County has over the thirty year time frame between 1980 and 2010. District 26 has grown 13.54% over the thirty year period (.45%) per year while the County as a whole has increased in population by 30.36% (1.01% per year) during the same period. Both jurisdictions experienced their greatest population increase between 2000 and 2010, within the time period in question.

Table 1: Halfway Election District Population Trends

Population Trends 1980 - 2010			
Year	Area	Population	% change from previous decade
1980	District	9489	
	County	113086	
1990	District	9418	-0.7%
	County	121393	7.3%
2000	District	9854	4.6%
	County	131932	8.7%
2010	District	10774	9.3%
	County	147430	11.7%

Source: US Census Bureau

3. Availability of Public Facilities

A. Water and Sewerage

The adopted Water and Sewerage Plan for the County establishes the policies and recommendations for public water and sewer infrastructure to help guide development in a manner that helps promote healthy and adequate service to citizens. By its own decree, the purpose of the Washington County Water and Sewerage Plan is "...to provide for the continued health and well-being of Washington Countians and our downstream neighbors..."¹ This is achieved through implementing recommendations within the County Comprehensive Plan and the Water and Sewerage Plan to provide for services in a timely and efficient manner and by establishing an inventory of existing and programmed services.

Water:

W1-Existing Service (County Line – City Treatment)

¹ Washington County, Maryland Water and Sewerage Plan 2009 Update, Page I-2

Both parcels are served by existing (W-1) public water facilities as they are located within the Urban Growth Area. Water distribution lines in this area are owned by the County while treatment is provided by the City of Hagerstown. Areas immediately adjacent to the subject properties, along Downsville Pike are designated as W-3, programmed service (City), in the County's 2009 Water and Sewerage Plan. The City of Hagerstown Water Division offered no comment on the proposed development when sent the application for review.

Wastewater:

W1-Existing Service (County)

The subject parcels are served by existing (W-1) public sewerage facilities within the Urban Growth Area. The County provides wastewater service for this area at the Conococheague Wastewater Treatment Plant. Adjacent areas along Downsville Pike are also programmed for service (W-3) by the County within its Water and Sewerage Plan.

The Department of Water Quality is the wastewater provider for this area and, therefore, the application was sent to the Department of Water Quality for review and comment. The Department had no comments for this application.

B. Emergency Services

Fire and Emergency Services:

Volunteer Fire Company of Halfway (1114 Lincoln Avenue) – 1 mile away

Parcels 210 and 408 are located within the service area of the Volunteer Fire Company of Halfway. This same entity also provides the nearest emergency rescue services. Their station is located approximately 1 mile away from the properties subject to the rezoning.

A copy of this application was sent to the Halfway Fire Company as well as to the Washington County Division of Emergency Services. No comments were received.

Schools

The subject site is within the districts of Lincolnshire Elementary, Springfield Middle and Williamsport High schools. The requested zoning classification, Highway Interchange (HI), does not allow for residential development. Therefore, there would be **no school capacity mitigation requirements** for pupil generation under the County's Adequate Public Facilities Ordinance.

4. Present and Future Transportation Patterns

Highways – Access and Traffic Volume

Halfway Boulevard (which borders parcel 210 to the north) and MD 632/Downsville Pike (borders both subject parcels to the east) are both classified as minor arterial in the Transportation Element of the County's 2002 Comprehensive Plan. This classification accounts for mobility and access characteristics of the roadway in its categorization. **Minor Arterial** roads are designed to carry between 5,000 – 25,000 Average Daily Traffic in urban areas. The County's road classification system is based upon the Federal Highway Functional Classification System, but modified to reflect local road conditions.

Parcel 210 has approximately 300 feet of road frontage on Halfway Boulevard, extending from the intersection of Halfway Boulevard and Downsville Pike to the northwest. The two parcels combined have approximately 500 feet of road frontage on Downsville Pike, extending south from this same intersection.

The southbound and northbound travel lanes on Downsville Pike are divided by a median. This median extends north of the Halfway Boulevard intersection for approximately 500 feet until ending near Ventura Drive. It runs south of this intersection for approximately ½ mile until ending at the I-70E off-ramp. The median then extends briefly again for approximately another 600 feet as Downsville Pike turns southwest.

At present, **no new major roadway projects** affecting capacity or traffic flow realignment are currently slated to occur in the immediate vicinity of the subject parcels on County, State or Federal roads, according to a review of short and long term transportation planning documents.

Of roads in the vicinity of this rezoning application, the Hagerstown/Eastern Panhandle MPO's current Long Range Transportation Plan (Direction 2040) proposes the widening of I-70 to six lanes throughout the County, including the segment that runs just south of the subject parcels. These proposed improvements have not yet obtained funding or approval at this time. The County's 2002 Comprehensive Plan also calls for widening of I-70 between the Frederick County Line and the MD 63 interchange within its Transportation Element.

In addition to evaluating public access of a parcel for rezoning purposes, it is also important to evaluate traffic generation and existing traffic volumes. This is commonly accomplished through analysis of historic and existing traffic counts as well as any existing traffic impact studies. The intersection of Halfway Boulevard and Downsville Pike, located immediately adjacent to the two parcels to the northeast, offers a proximate location which has had recorded traffic counts from the Maryland State Highway Administration (SHA) throughout the time period shown below. The traffic volume data shown in the chart is expressed in annual average daily traffic volumes.

Table 2: Traffic Volumes 1980-2015

Year	Downsville Pike @ Halfway Blvd
2015	12,361
2010	12,152
2005	13,175
2000	6,900
1995	6,250
1990	14,600
1985	11,000

Source: Maryland State Highway Administration

As shown in the table above, traffic volumes have remained relatively consistent during the last ten years. Traffic volumes have grown 1.7% between 2010 and 2015. The significant dip in traffic volumes at this location between 1995 and 2000 is likely explained by I-70 interchange construction during that same period, causing traffic to divert onto other roads. Accordingly, the sharp increase in traffic volume in 2005 at this location coincides with the project's completion.

The State Highway Administration had no comment after receiving a copy of the rezoning application.

The zoning application was also sent to the Division of Plan Review and Permitting and they have supplied the following comment regarding traffic impacts:

1. Engineering Plan Review: *"Any development of the area to be rezoned that generates a large amount of traffic may require a **new access location onto Halfway Boulevard**. Any access location onto Halfway Boulevard will necessarily be in close proximity to the intersection with MD 632, which may result in traffic flow issues. A **traffic study** may be required to determine, among other things, the impact on MD 632/Halfway Blvd intersection. In addition, Halfway Boulevard is classified as a minor arterial which requires a **minimum 500 feet spacing requirement between access locations**. Any new access onto Halfway Blvd would have to meet that requirement."*

2. "Any proposed development will require a site plan prepared in accordance with Zoning Ordinance Article 4, Section 4.11 to be submitted, reviewed, and approved by the Washington County Plan Review Department."
3. "New development will have to meet the requirements of the Highway Interchange District found in Article 19 of the Washington County Zoning Ordinance. In particular, additional buffer yards with solid fencing and vegetative screening will be required between the HI zoned property and the adjacent Residential Suburban zoned properties."

Public Transportation

This area is not served by public transportation. Routes 111 and 112 (Valley Mall Via Rosehill/Summit) of the Washington County Commuter both travel south along Downsville Pike to its intersection with Oak Ridge Drive, roughly ½ mile north of the subject parcels, but the routes then continue to the northwest along Oak Ridge Drive.

5. Compatibility with Existing and Proposed Development in the Area:

Both of the subject parcels are currently zoned Residential Suburban (RS) and both are requesting a change to Highway Interchange (HI). The purpose of the HI zoning district is:

"...to provide suitable locations for commercial activities or light industrial land uses that serve highway travelers, provide goods and services to a regional population, or uses that have a need to be located near the interstate highway system to facilitate access by a large number of employees, or the receipt or shipment of goods by highway vehicles..."².

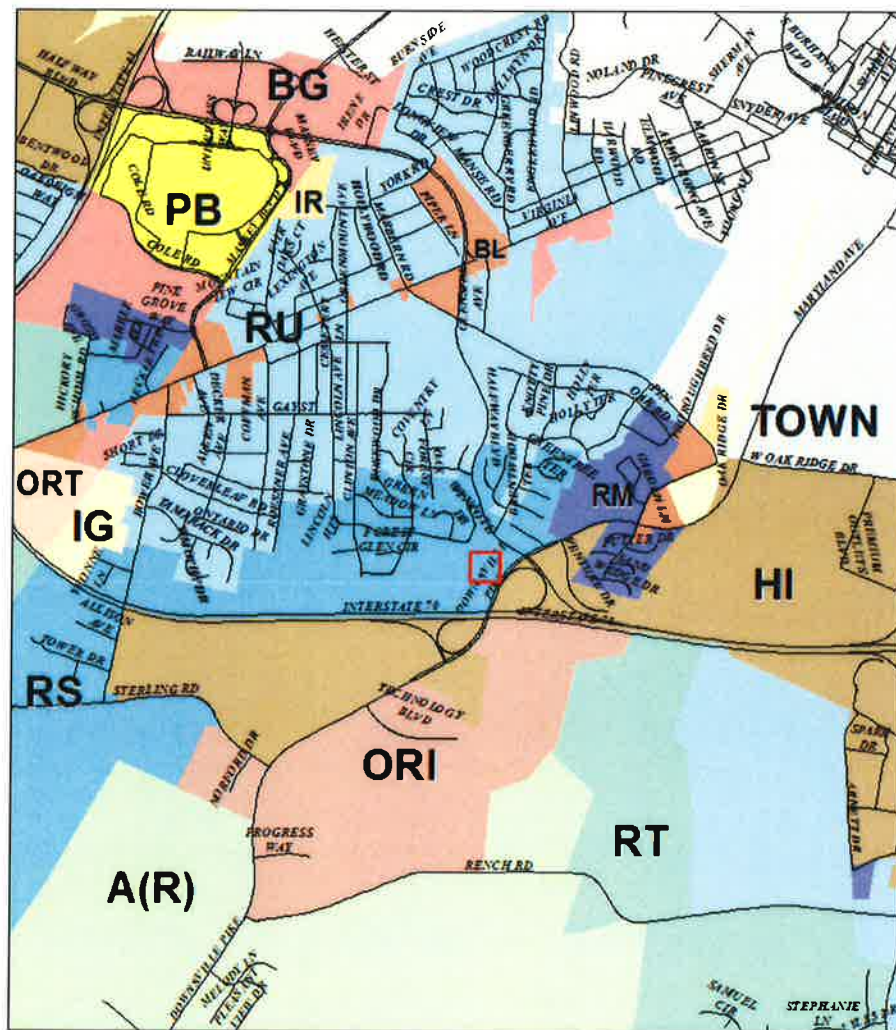
Select principal permitted uses within this zoning district include retail trades, businesses and services, including but not limited to the following and any use permitted in the BL District, **drive-in restaurants, hotels, animal hospitals, auto sales and service establishments** and more. New development in a BG zoning district must be served by public water and sewer facilities.

There is a mix of zoning classes in the immediate vicinity of the two parcels (red box) in question, as shown in Map 1 on the next page. Residential Suburban surrounds the properties to the north and west above Interstate 70. The RS block gives way to Residential Urban just beyond that, in those same directions. To the northeast is a Residential Multifamily (RM) district, while Highway Interchange (HI) lies due east across Downsville Pike above I-70. Below I-70, one finds HI to the southwest; Office, Research and Industry (ORI) to the south and Residential Transition (RT) to the southeast.

In terms of land use in the area surrounding the rezoning, residential and parkland dominate north of I-70. Marty Snook Memorial Park borders the subject parcels to the west. A park and ride lot is immediately south of adjacent parcel 329. Health at Work, a health care facility in the Meritus system, is just northeast of Halfway Boulevard. Callas Contractors, a construction firm, is found just after the I-70 underpass on Downsville Pike to the south. A small cluster of mostly retail businesses is found at the intersection of Downsville Pike and Oak Ridge Drive roughly ½ mile northeast.

² Washington County Zoning Ordinance, Section 19.1, Purpose

Map 1: Surrounding Zoning Classifications



A. Historic Sites

Another important component of compatibility is the location of historic structures on and around the parcels being proposed for rezoning. According to the Washington County Historic Sites Survey there are approximately 6 historic sites located within a 0.5 mile radius of the proposed rezoning areas. One of the six historic sites, the Anita Rice House, is located within the boundary of parcel 408, which is subject to this rezoning. Below is a listing of existing historic resources left within a 0.5 mile radius of the subject parcels.

Existing historic sites onsite:

- WA-I-692: “**Anita Rice House**” ca. 1900-1910, vernacular, 2-story wood frame dwelling located within Parcel 408.

Existing historic sites within ½ mile: (Marsh Head land grant)

- WA-I-691: “Eldridge Tenant House,” ca. 1900 vernacular , 2-story wood frame dwelling constructed as employee housing for adjoining Shafer Farm (.25 miles away).

- WA-I-264: "Shafer Farm," mid-19th agricultural complex encompassing five buildings including a 2-story brick farmhouse, two barns, smokehouse and stone springhouse associated with prominent early residents of Washington County (1/3 mile away).
- WA-I-388: "David's Friendship," 18th century, 2-story stone farmhouse associated with prominent early residents of Washington County (1/2 mile away).
- WA-I-389: "Thomas-Adams House," late 19th century 2-story brick farmhouse and wash house outbuilding associated with prominent early residents of Hagerstown (1/2 mile).
- WA-I-376: "Stockslager Farm," mid-19th century 2-story brick cased log house now converted to commercial through property adaptive reuse (1/2 mile).

6. Relationship of the Proposed Change to the Adopted Plan for the County:

The purpose of a Comprehensive Plan is to evaluate the needs of the community and balance the different types of growth to create a harmony between different land uses. In general, this is accomplished through evaluation of existing conditions, projections of future conditions, and creation of a generalized land use plan that promotes compatibility while maintaining the health, safety, and welfare of the general public.

Each of the properties is located in the sub-policy area Low Density Residential. The Comprehensive Plan offers the following definition for this policy area:

*"This policy area designation would be primarily associated with single-family and to a lesser degree two-family or duplex development. It is the largest policy area proposed for the Urban Growth Area and becomes the main transitional classification from the urban to rural areas."*³

7. "Change or Mistake" Rule

When rezonings are not part of a comprehensive rezoning by the governing body, individual map amendments (also known as piecemeal rezonings) are under an obligation to meet the test of the "Change or Mistake" Rule. The "Change or Mistake" Rule requires proof by the applicant that there has been either: a substantial change in the character in of the neighborhood since the last comprehensive zoning plan, or a mistake in designating the existing zoning classification.

As part of the evaluation to determine whether the applicant has proven whether there has been either a change or mistake in the zoning of a parcel, the Maryland Annotated Code Land Use Article and the Washington County Zoning Ordinance state that the local legislative body is required to make findings of fact on at least six different criteria in order to ensure that a consistent evaluation of each case is provided. Those criteria include: 1) *population change*; 2) *the availability of public facilities*; 3) *present and future transportation patterns*; 4) *compatibility with existing and proposed development for the area*; 5) *the recommendation of the planning commission*; and 6) *the relationship of the proposed amendment to the local jurisdiction's Comprehensive Plan*.

Even when change or mistake has been sufficiently sustained, it merely allows the local governing body the authority to change the zoning; it *does not require* the change. When conditions are right for a change the new zone must be shown to be appropriate and logical for the location and consistent with the County's Comprehensive Plan.

II. Staff Analysis:

The analysis of a rezoning request begins with a strong presumption that the current zoning is correct. It is assumed that the governing body performed sufficient analysis, exercised care, and gave

³ 2002 Washington County, Maryland Comprehensive Plan, Page 243

adequate consideration to all known concerns when zoning was applied to a parcel of land. However, there are instances by which a case can be established to show that the governing body either erred in establishment of the proper zoning of a property or that enough change has occurred within the neighborhood surrounding the property since the governing body's last assessment to require a new evaluation of the established zoning designation.

The applicant of this case has indicated in their justification statement that they believe that there has been both a **mistake** in the current zoning **and** a **substantial change in the character of the neighborhood** since the last comprehensive rezoning in 2012. As noted in the prior section describing the "Change or Mistake" Rule, the Washington County's Zoning Ordinance requires data to be presented to the local legislative body on factors such as population change, present and future traffic patterns, the availability of public facilities, the relationship of the proposed change to the Comprehensive Plan and its compatibility with existing and proposed development in order to determine how the area subject to rezoning has evolved over time.

A. Evidence for Mistake in the Current Zoning

In order to demonstrate that a mistake was made by the regulatory body in applying the existing zoning classification to the parcel, the applicant must establish error occurred as a result of factors such as:

- 1. A failure to take into account projects or trends probable of fruition;**
- 2. Decisions based on erroneous information;**
- 3. Facts that later prove to be incorrect;**
- 4. Events that have occurred since the current zoning; or**
- 5. Ignoring facts in evidence at the time of zoning application.**

The last Comprehensive Rezoning in Washington County was completed in 2012, affecting the Urban Growth Area that surrounds the City of Hagerstown and the towns of Williamsport and Funkstown. The Rezoning affected approximately 17,000 parcels and 38,000 acres of land.⁴ Information such as population projections, growth trends, transportation and infrastructure data, and the recommendations of the Comprehensive Plan were considered as a part of this effort. The input of property owners, local officials, County staff and the general public was also solicited and considered in the assignment of each parcel affected by the Comprehensive Rezoning.

The applicant's primary assertion in offering proof that a mistake was made in the designation of the current zoning classification is to question whether the location and characteristics of parcels 210 and 408 make them more representative of adjacent residential or commercially zoned areas. The applicant contends that the Board of County Commissioner's erred in their decision during the 2012 UGA Comprehensive Rezoning to rezone the land radiating northeast and southwest from the I-70 interchange to HI, but not the adjacent parcels which are the focus of this rezoning.

The applicant claims that factors such as the following were not fully considered by the Board in their decision:

- The separation of parcels 210 and 408 from adjacent residential areas to the north and west by Halfway Blvd and Marty Snook Park;
- The proximity of other commercial development to the east, and
- The proximity of the I-70 interchange (both for its development potential and traffic impacts on a residential use)

⁴ Washington County Ordinance No. ORD-2012-08

For these reasons, the applicant feels that the subject parcels should have been considered similarly situated to those located adjacent to the I-70 interchange which were rezoned to HI in 2012 by the Board.

Given the Board's decision in 2012 was to retain the RS zoning classification for these parcels, we can only conclude that the governing body judged that the site more closely fit the character of the nearby residential neighborhoods than it did adjacent areas that either had or were given a commercial zoning class.

We can surmise that there are good reasons for such a conclusion. As noted by the applicant on multiple occasions within his justification statement, the parcel has a **long history of residential usage**. Residential use on parcel 408 goes back more than 100 years, for example.

In addition to the established residential history of these properties, there are also **challenges with the existing transportation patterns**. The location of the two parcels at the intersection of Halfway Blvd and MD 632 presents a challenge in terms of access, as noted by SHA in their comments on page 5 of this report. There is a concrete median running north and south along MD 632 from approximately 500 feet south of the intersection with I-70 eastbound off ramp north to Venture Drive, with the only interrupted area being at Halfway Blvd in the vicinity of the site.

It is evident from this configuration that the State Highway Administration is attempting to limit the number of left hand turn movements in this vicinity due to its proximity with Interstate off ramps and high volumes of traffic. While the developer may not be asking for an additional break in the median, creating a retail destination area on these properties could increase the amount of U-turn traffic at the intersection with Halfway Boulevard and create additional traffic issues at this intersection. Furthermore, there is very limited road access to Halfway Boulevard. Almost the entire road frontage along Halfway Boulevard has dual left turn lanes meaning that traffic entering the site will need to cross two lanes of on-coming traffic. The alternative to access on the subject parcel would be to divert access to the entrance of Marty Snook Regional Park. This presents a safer access point but then has an impact on the traffic related to the park.

For these reasons, it is reasonable to assume that the local legislative body took in the relevant factors and concluded that the continuation of the RS zoning class was a good fit at this particular location.

B. Evidence for Substantial Change in the Character of the Neighborhood

In addition to the claim that the Board made a mistake in the application of the current zoning, the applicant also argues that there has been a substantial **change** in the character of the neighborhood since the time of the last comprehensive zoning plan. In order to demonstrate that a substantial change has occurred in the character of the neighborhood since the passage of the last Comprehensive Zoning Plan, the applicant must establish:

1. *What area reasonably constitutes the "neighborhood" of the subject property;*
2. *The changes that have occurred in the neighborhood since the comprehensive rezoning;*
3. *Proof that these changes resulted in a change in the character of the neighborhood.*

Maryland case law has consistently established that these factors must be considered cumulatively, not individually, if the applicant is to demonstrate proof that a substantial change in the character of the neighborhood has occurred. Correspondingly, a substantial change in any one individual factor doesn't necessarily illustrate that substantial change has occurred in the neighborhood overall.

C. Neighborhood Definition

In determining what reasonably constitutes the neighborhood surrounding parcels 210 and 408, we again confront the challenge of answering the question presented within the prior “mistake” section: is this site more similarly situated to nearby residential or commercial areas? The Applicant’s Exhibit B presents their interpretation of the boundaries of the neighborhood. While this Exhibit displays an aerial photo utilizing a 1 mile radius around the site to encompass the “neighborhood,” the applicant narrows down its borders considerably by saying:

“The neighborhood that faces the same situation as the Site, in reality, is not the nearby residential neighborhoods along Halfway Boulevard but more appropriately the commercial corridor along Downsville Pike and near or adjacent to its interchange with I-70.”⁵

While the concept of a neighborhood is flexible according to its geographical context, as the applicant notes citing *Montgomery v. Board of County Commissioners for Prince George’s County (1971)*, subsequent Maryland case law demonstrates that the neighborhood must be reasonable, not “unduly restrictive” and include the “immediate environs of the subject property.”⁶

The neighborhood defined by the applicant in the aerial photograph meets this test, appropriately encompassing the influence of the commercial and residential areas that are immediately adjacent. The applicant’s above written statement however fails the “immediate environs” and “unduly restrictive” tests that would render their interpretation of the neighborhood’s boundaries fairly debatable by marginalizing all of the surrounding property zoned for residential uses (zoning classes RS and RM) in the immediate vicinity of the property to the west, north and northeast as being immaterial to the site. By extension, Marty Snook Park, which is also zoned RS, and directly abuts the property on two sides, would also be excluded by this narrow neighborhood definition. The applicant reinforced this narrowed interpretation by highlighting the Downsville Pike commercial corridor in the application package provided to the planner.

D. Changes that have occurred in the Neighborhood

The applicant contends in their Justification Statement that a substantial change has occurred in the character of the neighborhood since the 2012 Comprehensive Rezoning of the UGA. As evidence they offer:

1. *The rezoning of several adjacent parcels as a part of the 2012 Urban Growth Area Rezoning to all for more intensive uses*
2. *An increase in annual average daily traffic at the intersection of Halfway Boulevard and Downsville Pike from 2012 to 2015*
3. *The approval of a new Sheetz across Downsville Pike from the site*

i. Zoning Changes in the Vicinity

Typically, piecemeal rezoning cases seeking to establish a claim that there has been a change in the character of the neighborhood should use the last comprehensive rezoning of the area as their starting point to illustrate substantial change. **“Changes contemplated prior to the last comprehensive are usually not relevant in determining whether a substantial change has occurred to support rezoning of the property”⁷.**

⁵ Applicant’s Justification Statement, P.7

⁶ *Sedney v. Lloyd*, 44 Md. App. 633, 410 A.2d 616 (1980)

⁷ Guide to Maryland Zoning Decisions, 5th Edition, Stanley Abrams referencing Maryland Court of Appeals Case *Buckel v. Board of County Commissioners of Frederick County*, 80 Md. App. 305, 562 A.2d 1297 (1989)

Staff Report and Analysis
RZ-17-003 Downsville Pike Land LLC

Though not typical, there have been cases whereby the Maryland Court system has provided leeway for applicants to use zoning and other changes that occurred prior to the last comprehensive rezoning to be used as evidence of a substantial change; however, they must be coupled with evidence showing substantial change after the fact.

*"Changes which may have occurred prior to the last comprehensive rezoning need not be wholly disregarded when a change from that zoning is under consideration. It may be, as was the case here, that it was a rather close question in the minds of the officials concerned whether a change in the zoning of the land involved should not have been made at the time of the last comprehensive zoning, and additional changes thereafter may bring the zoning status of the land as to which action is sought over the line dividing different zones."*⁸

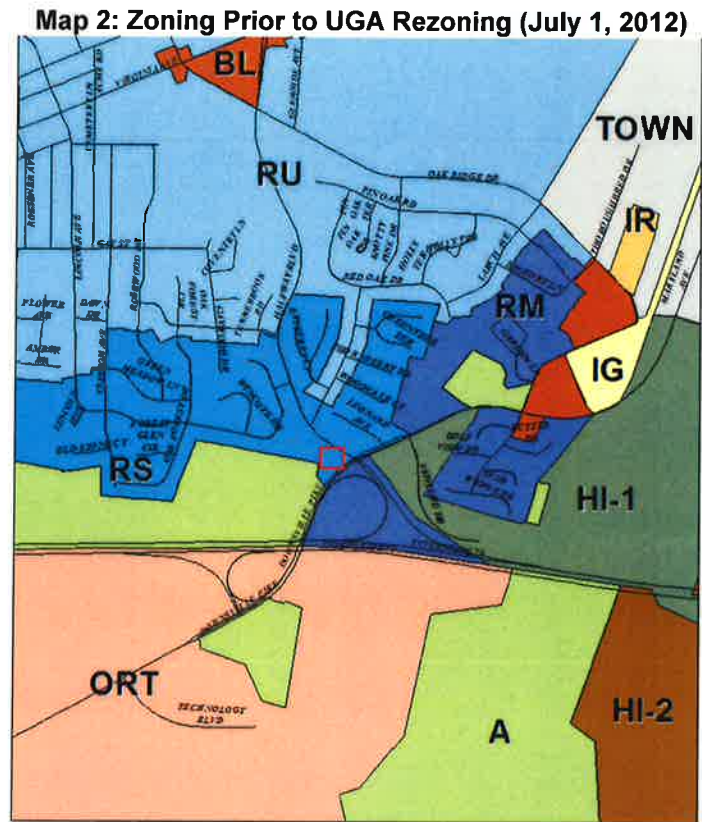
In this case the applicant does not call out specific rezoning cases that occurred previous to the last comprehensive rezoning adopted in 2012. Rather the applicant simply states that the comprehensive rezoning in and of itself constitutes a substantial change. This argument has repeatedly been struck down in the court system due to the fact that the point of a comprehensive rezoning is to analyze historic changes and future growth projections to establish the appropriate zoning on parcels in their jurisdiction. If the property owner felt aggrieved by the decision they had the option to appeal the rezoning of the property at that time.

For the sake of argument, Staff has reviewed the zoning of the area prior to the 2012 Urban Area Comprehensive Rezoning. Map 2 shows the zoning in the vicinity just before the Comprehensive Rezoning of the UGA. This image provides a baseline image from which to detect how the area's zoning has changed in the time since 2012.

In Map 2 we can see that both before and after the adoption of the Comprehensive UGA Rezoning in 2012, the subject parcels were zoned Residential Suburban (RS). At that time, the properties were bounded on the north and northwest by RS zoning; Agricultural (A) zoning to the south and west; Highway Interchange (HI-1) to the east, and Residential Multi-family to the south, east and northeast. South of Interstate 70 Office, Research and Technology (ORT), Agricultural and Highway Interchange (HI-2) zoning could be found within the immediate vicinity of the site.

The HI-2 zoning district, which was a predominantly high density residential zoning district that also allowed some light industrial uses, was located roughly ½ mile southeast of the subject parcels. These prior zoning classifications can be seen in Map 2 below, which approximates the site location in a red box.

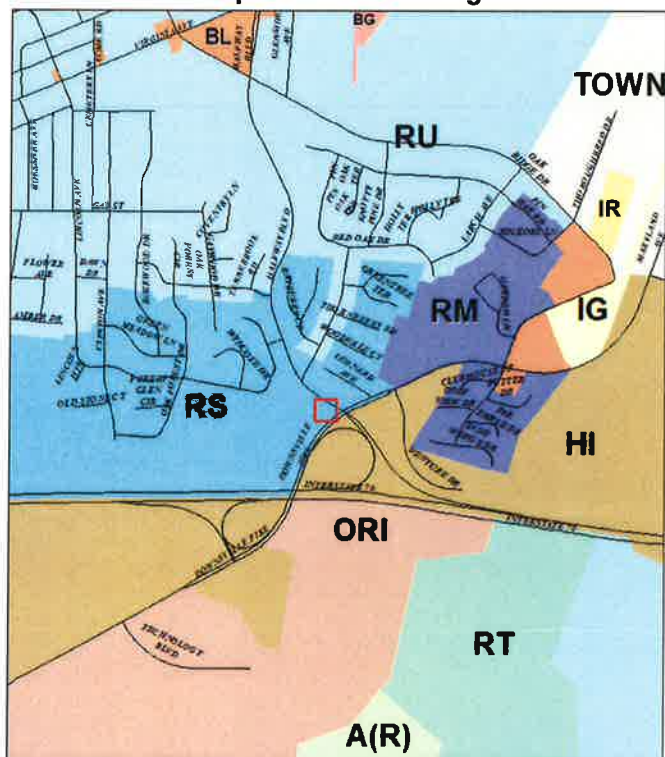
⁸ Town of Somerset v. County, 229 Md. 42 (1962) & Runyon v. Glackin, 45 Md. App. 457, 413 A.2d 291 (1980)



The current zoning, shown below, demonstrates the effects of Urban Area Comprehensive Rezoning. The old Agricultural zoning classification that applied to several adjacent parcels in the vicinity was eliminated, necessitating their reassignment to new zoning classes. By and large, most of these parcels were assigned to varying residential classes that are fitting of the gradually decreasing density that signals the transition from the core to the fringes inside of the Urban Growth Area. Notably, Marty Snook Park was assigned to the RS zoning class as it was determined that this designation most closely fit its most immediate neighborhood, in addition to allowing the park as a principal permitted use. The HI-2 district has also been replaced by the similar Residential Urban (RU) zoning class with the repeal of the HI-2 classification in 2012.

The RM zoning district adjacent to the parcels subject to this rezoning also was changed to HI during the 2012 UGA Comprehensive Rezoning. It's important to understand that the RM zoning for this parcel was in place prior to the completion of the I-70 interchange that significantly transformed immediate portions of the neighborhood following its completion in 1999. Thus, in 2012 when the UGA Comprehensive Rezoning occurred, the rezoning of the Interchange Parcel reflected administrative recognition that the site conditions on the parcel had been transformed by the construction and reflected that in the zoning. The same could not be said of parcels 210 and 408, where the onsite and surrounding neighborhood conditions remained largely the same as they were in the past. Accordingly, the site conditions of the Interchange Parcel (which encompasses the recently approved Sheetz) were qualitatively different than those found on parcel's 210 and 408, to significant degree, when the decision was made by the Board to rezone the former to HI, but keep the latter parcels as RS.

Map 3: Current Zoning



Aside from the interchange parcel, additional expanded areas of Highway Interchange (HI) also appear on Map 3. These new areas demonstrate administrative recognition with stakeholder input, during the Comprehensive Urban Growth Area Rezoning, of the land use changes that had occurred in the area as a result of the completion of the I-70 interchange at Downsville Pike in 1999. The HI wedges shown below radiate outward from the boundaries of this interchange, replacing notable portions of the former ORT immediately south of I-70. ORT became ORI (Office, Research and Industry) in the remaining portion, which allowed for a greater range of uses within a similar zoning class.

These comprehensive rezoning changes encompass parcels 258, 262, and 264, which are specifically noted by the applicant in their Justification Statement as being indicative of substantial neighborhood change. As stated above in discussing the interchange parcel, these properties are qualitatively different sites than parcels 210 and 408. They are located distant to any dense residential neighborhoods and have long been planned for either commercial industrial use. Their location directly on I-70 makes their use unsuitable for anything but these types of uses, in contrast to the subject parcels, which clearly are influenced by the adjacent park and residential neighborhoods. It is debatable whether these particular parcels should be considered part of the “neighborhood” given these characteristics, and their distant location to the parcels in question.

The rezoning of the block of parcels to the east of the subject site from HI-1 to HI represents administrative recognition that existing uses on those properties, such as Premium Outlets on parcel 176, serve a regional population in keeping with the definition of the present HI zoning district. Given the location of the subject site; bordered by a park and substantial residential neighborhoods, a zoning classification that serves primarily a local, not regional population, would seem more logical for the site.

The last approved piecemeal rezoning in the immediate vicinity of the site occurred in 2000 (RZ-00-002), lending further credence to the stable character of the neighborhood.

Summarily, from a zoning standpoint, the changes which occurred in the neighborhood resulting from the construction of the I-70 interchange at Downsville Pike were considered and responded to by the implementation of the Comprehensive Rezoning of UGA the 2012. Since that time, there hasn't been significant activity that suggests substantial change has occurred in the neighborhood, as evidenced by the lack of requests for piecemeal rezoning.

Note: Applicant's Exhibit D is labeled "2012 Zoning" but actually shows the Current Zoning just after the UGA Rezoning took place in that year.

ii. Changes in Average Annual Daily Traffic

While the applicant presents accurate data on the on Annual Average Daily Traffic from the State Highway Administration between 2012 and 2015, it is important to understand the caveats to the Applicant's conclusion that traffic is increasing to a considerable degree in the neighborhood.

First, traffic count data was considered by the Board as a part the Urban Area Comprehensive Rezoning in 2012, and was factored into the ultimate decisions about the appropriate zoning classification for the subject parcels, and the surrounding area. Second, traffic data can vary considerably from year to year at any given location, due to factors that may not necessarily be locally derived. If, for example, construction work on a nearby arterial road necessitates closure or diversion of traffic to alternate routes, neighboring roads can see short-term upticks in traffic that may not necessarily be indicative of long-term traffic increases.

Long-term traffic data tells a different story about area traffic volume than the short term data presented by the Applicant at the Halfway Boulevard/Downsville Pike intersection. The applicant's Exhibit E makes this clear, as does Table 2 of this report on page 2.

Exhibit E shows that traffic did increase from 2012 to 2015 (10,871 to 12,361 ADT) as the Applicant contends. This trend obscures the fact that the 2012 traffic count also represented a slight **decrease** in traffic volume from 2011 (10,960 in 2011 to 10,871 ADT in 2012).

- Traffic also **decreased** in the three years prior to 2012 (12,152 in 2010 to 10,871 in 2012).
- Further, the 2015 traffic count represents a 15.33% **decrease** from the peak traffic count at this location, which occurred in 1990, as shown in Table 2 (14,600 in 1990 to 12,361 in 2015 ADT).

In effect, the traffic at this intersection has yet to regain the volume that it reached prior to the construction of the interchange at I-70 and Downsville Pike. Thus, while traffic has marginally increased in the last few years at this intersection, the increase has not increased traffic volume to past its historic levels.

A traffic impact analysis was also conducted in February 2017 as a part of the development review process for the Sheetz gas station and convenience store recently approved by the Planning Commission and noted by the applicant for this proposed rezoning. The study concluded that traffic volume has remained largely flat at the Downsville Pike/Halfway Blvd intersection in the time since the interchange was constructed in 1999.⁹

iii. Relationship to 2002 Washington County Comprehensive Plan

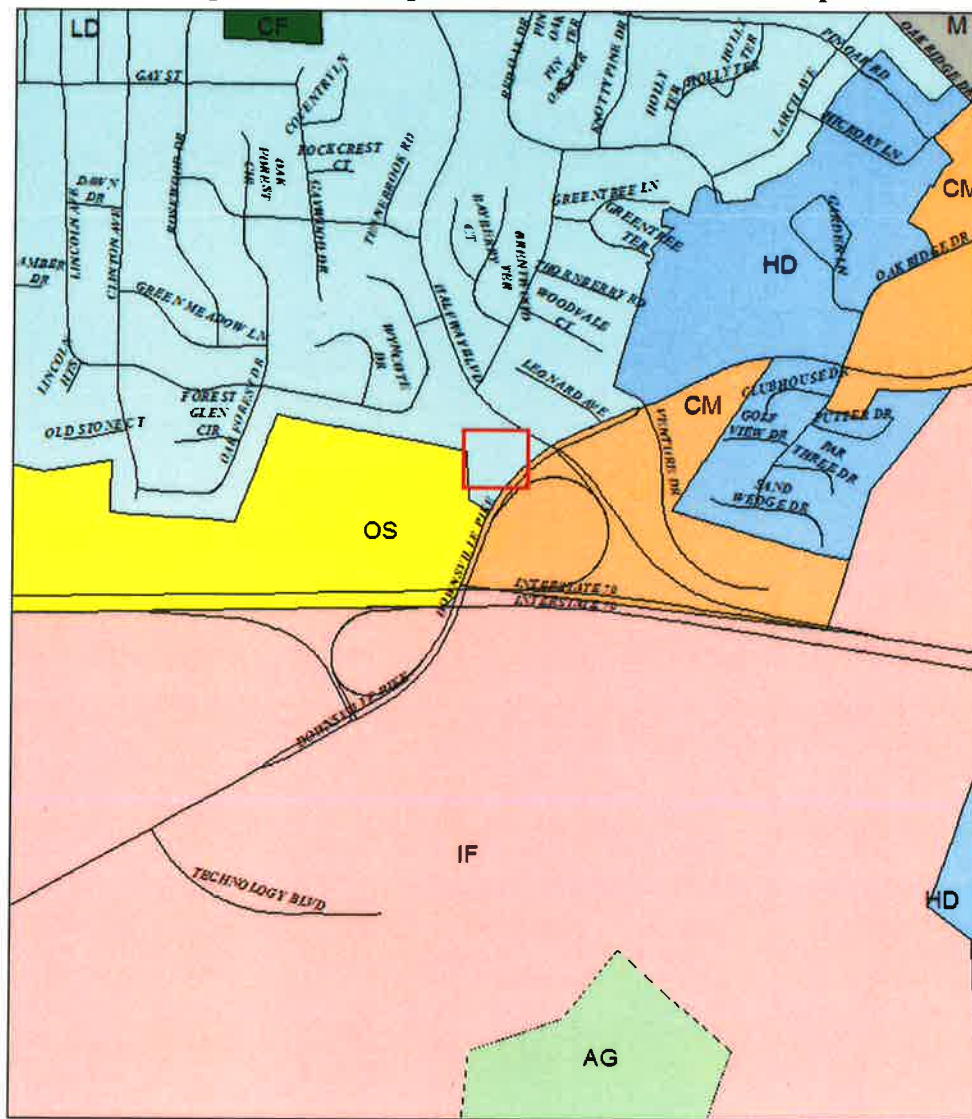
In 2002 the Washington County Comprehensive Plan was updated. As part of that update an evaluation of existing and projected land uses were evaluated to develop a guide for future land use

⁹ Traffic Impact Analysis (TIS-17-001) conducted February 13, 2017 by Street Traffic Studies, Ltd.

decisions in the County; the Land Use Map. This map provides a generalized analysis and projection of land uses in various regions of the County. The Land Use Map was heavily consulted as part of the Urban Growth Area Rezoning.

As shown in the map below, cropped from the adopted Land Use Map in Chapter 12 of that Plan, the County projected that land within and surrounding the subject parcels to develop in the manner eventually realized in the 2012 Comprehensive Rezoning: Industrial Flex (IF) south of I-70 and east of Downsville Pike; Low and High Density Residential (LD, HD) to the north, Commercial (CM) surrounding the northern Interchange Parcel and Open Space (OS) for Marty Snook Park. By and large, what was projected in this map has been borne out on the ground over the last 14 years. Thus, projected changes in the neighborhood were largely accounted for in prior long range planning and comprehensive rezoning efforts by the County. The 2002 Comprehensive Land Use Map can be seen below.

Map 4: 2002 Comprehensive Plan Land Use Map



iv. Recommendation:

The applicant claims that both a mistake in the designation of the existing zoning and a substantial change in the character of the neighborhood have or did occur since the time of the last comprehensive rezoning, thereby warranting their petition to rezone the property from RS to HI.

The burden of the applicant in a "Mistake" case is to provide evidence that the Board:

1. Failed to take into account projects or trends probable of fruition,
2. Made decisions based on erroneous information,
3. Used facts that later prove to be incorrect,
4. Couldn't have foreseen events that have occurred since the current zoning,
5. Ignored facts in evidence at the time of zoning application.

The burden of the applicant in a "Change" case is to illustrate three points:

1. Defining the boundaries of the neighborhood,
2. Demonstrating that substantial changes have occurred since the last Comprehensive Rezoning Plan, and
3. Showing that those changes resulted in the altered character of the neighborhood.

Regarding the charge of mistake, this analysis has revealed that the Board very likely did consider the facts presented by the applicant during the UGA Comprehensive Rezoning (such as the challenges and unique characteristics of the site's location noted on page 9), and concluded in 2012 that the site more closely fit with the residential neighborhoods to the north and west, than it did the commercial neighborhoods located to the east and south for reasons such as those provided on that same page.

The analysis has also revealed that the applicant has not met the burdens in proving that a substantial change has occurred in the neighborhood since the 2012 UGA Rezoning. First, the applicant fails to reasonably define the neighborhood boundaries by marginalizing the adjacent residential neighborhoods and parkland that immediately abut the property to the north and west in favor of those parcels in the vicinity that are zoned commercial. Second, the changes cited by the applicant which have occurred in the neighborhood; in terms of zoning changes in the vicinity, traffic counts, and road improvements, were all considered and accounted for in full during the Comprehensive Rezoning of the Urban Growth Area in 2012. Accordingly, the building of a new Sheetz store nearby should be recognized as an example of planned growth, not as evidence of neighborhood change.

Finally, as stated on page 10, "***Changes contemplated prior to the last comprehensive are usually not relevant in determining whether a substantial change has occurred to support rezoning of the property.***"¹⁰ Insufficient evidence beyond the intentional changes resulting from the UGA Rezoning itself have been offered by the applicant demonstrating recent substantial change in the character of the neighborhood since 2012.

When paired with the background information cited at the beginning of this Staff Report, such as the Halfway District population growing more slowly than the County as a whole and modest growth in traffic volume, a picture emerges that substantial change in the character of the neighborhood has not occurred in the past five years.

¹⁰ Guide to Maryland Zoning Decisions, 5th Edition, Stanley Abrams referencing Maryland Court of Appeals Case Buckel v. Board of County Commissioners of Frederick County, 80 Md. App. 305, 562 A.2d 1297 (1989)

Staff Report and Analysis
RZ-17-003 Downsville Pike Land LLC

Consequently, the staff analysis has concluded that convincing proof has not been offered by the applicant demonstrating either a mistake in the current zoning, or a substantial change in the character of the neighborhood since the 2012 UGA Rezoning in their petition to rezone the property from RS to HI.

Respectfully Submitted,



Travis Allen
Comprehensive Planner

RZ-17-003

10811 Wyncote Drive
Hagerstown, Maryland 21740

September 18, 2017

Dear Mr. Goodrich and the members of the planning commission,

I write today in opposition of the proposed rezoning of 10662 and 10656 Downsville Pike from RS – Residential Suburban to HI – Highway Interchange. Due to a work commitment calling me to Cumberland, Maryland, it is unlikely that I will get to speak in person at the hearing.

I have read the applicant's comments and the planner's response and recommendation. I am compelled to share my thoughts on the application.

The applicant has made several references to the Sheetz that is under construction and the Board's error in not zoning the site HI – Highway Interchange. The changing neighborhood was also cited. Granting the Sheetz was an error, given the neighboring homes, park, and intersections. That is "water under the bridge," and further negatively impacting the neighborhood with another site for "commercial activities or light industrial land uses that serve highway travelers" is not in the neighborhood's best interests.

The applicant also cites the poor condition of the homes on the property. Prior to the recent decay of one of the properties, it was inhabited. The fact that the current and previous landowners have allowed the properties to fall into disrepair is not a valid argument for a zoning change. If the properties had been maintained, they'd be occupied by owners or tenants, not victims of owners hoping to sell to a buyer who wants to build a gas station or convenience store.

Mine is not an argument based on "not in my backyard." Had the home I purchased 17 years ago not been built on a farm nearly 40 years ago, I would not have a home. I am fortunate that a developer invested in a plan to build affordable homes near quality schools. He paid his taxes and impact fees to prepare the school system for the influx of students. Mine is an argument that counters the applicant's theory that the changing neighborhood calls for a change to HI. There are hundreds of homes within yards of the property in question. Additionally, there is a county park that serves thousands of children and adults each year through its pool, fields, and playgrounds. The park houses hundreds of school-aged children each summer as part of the county's summer programs, as it has for decades. Marty Snook Park and these homes have not changed in decades, countering the applicant's argument that the neighborhood is changing.

The traffic count has also been cited by the applicant as a reason to change the zoning to HI. The count increased greatly following the state's construction of access ramps to Interstate 70. Prior to the construction, counts had been stable, and since the construction, though higher, counts have been stable. The cited data hints at a drop. With the addition of a new Sheetz, it is likely that the intersection will see increased traffic counts, but those increases will not be due solely to Washington County residents. Highway travelers with no concern for the safety and living conditions of local residents will hop off the interstate, purchase fuel and convenience items, and hop back on the interstate. The increased tax revenues will be minimal, but in increased traffic, litter, noise, and light pollution will not

be minimal. Adding another convenience-style property to the corner opposite of the planned Sheetz will not benefit the community or the neighborhood.

The construction of a gas station or other convenience style business negatively impacts the environment. Just feet from the applicant's property is a small stream/run that is part of the Potomac and Chesapeake watershed. The increased litter and pollution that will negatively impact the neighborhood and park will also negatively impact the watershed. It is the responsibility of every citizen, elected official, and appointee to preserve and protect the environment. Changing the property's zoning to HI opens the door for unnecessary pollutants entering the watershed.

Finally, the oddly engineered intersection of Halfway Boulevard and MD 632 (Downsville Pike) should not be further negatively impacted by a commercial (HI) zoning. Both Downsville Pike and Halfway Boulevard lack sidewalks and crosswalks for pedestrians to safely walk along and cross the roads. The planned Sheetz already calls for a new traffic light and re-engineering. Drivers, especially those unfamiliar with the intersection routinely drive through the red turn arrow from Halfway Boulevard to northbound Downsville Pike. Drivers exiting westbound Interstate 70 routinely run the red light at Halfway Boulevard to avoid waiting two-three minutes for a green light. Accidents and near-misses at the current intersection and at the entrance of Marty Snook Park already should be evidence enough that adding a gas station or other business on the site is inappropriate.

I respectfully speak against the planned rezoning of the properties. The rezoning of the properties will negatively impact those living nearby, those using the park, and those traveling the roadways.

Respectfully submitted,

Neil Becker
10811 Wyncote Drive
Hagerstown, MD 21740

Eckard, Debra S.

RZ-17-003

From: char.guessford <char.guessford@myactv.net>
Sent: Wednesday, September 20, 2017 6:15 PM
To: Eckard, Debra S.
Subject: Rezoning rz 17 003

Please do not rezone 10662 -10656 Downsville Pike to hi way interchange. This corner is already a busy intersection that in the future will have a Sheetz on the opposite corner. This property is close to ball parks and a county park.

Thank you, C Guessford
16724 Sterling Road Williamsport Md

Sent from my Galaxy Tab@ A

Zoning Board Hearing

Good evening and thank you for allowing me to speak tonight. My name is Loma Bock, and I live at 10811 Brentwood Terrace in new section of Oak Ridge. I have owned this property for 35 years and grew up living with my family on Red Oak Drive in the old section of Oak Ridge. I guess you could say I'm an Oak Ridge native girl.

I'm here tonight to speak in opposition to the proposed rezoning of parcels P-210 and P-408 from RS to HI. My concerns are centered around the traffic flow on Halfway Blvd and the safety of residents of Oak Ridge and Woodmore developments, the many visitors to Marty Snook County Park and anyone traveling on Halfway Blvd.

Over the years, the traffic on Halfway Blvd has gradually increased. It used be easy to enter and exit both development and the park. Pedestrians could safely use the crosswalk on Halfway Blvd to enjoy the Marty Snook Park. After the construction of the I-70 interchange for the Downsville Pike, traffic flow and safety became major concerns.

Currently, the traffic flow of cars exiting west bound I-70 continuing on to Halfway Blvd and merging with cars turning on red traveling south on Downsville Pike creates a steady stream of traffic making it almost impossible to enter the Blvd from Oak Ridge, Woodmore or the Park. During certain times of the day, it is also difficult to enter these areas if you have to cross oncoming traffic. Speed of the traffic has also increased to the point that the county constructed two parking pads on Halfway Blvd for police to station themselves for traffic control. And if you want a thrill, you should sit in the left turn lane on Halfway Blvd trying

to turn onto Oak Valley Drive and watch the cars speedy come toward you from the Downsville Pike during evening rush hours. You sit and pray that they see you sitting there. If traffic is like this now, I can only imagine what it will be like if the zoning is changed from RS to HI and another commercial property is constructed on the this site.

To support my position of opposition, I would like to point out the following from the public documents provided for this meeting:

From the "Justification Statement" by the Applicant –

- On page 2, PP 2 & 3 the Applicant states that a "legal mistake" was made to not rezone to HI previously and that the character of the neighborhood has significantly changed.
- On page 7, last two sentences state that the neighborhood being considered should not be along Halfway Blvd but the Downsville Pike
- On page 8, PP 2 the Applicant uses data from the Maryland Department of Transportation traffic studies conducted from 2009 through 2015. However, the Applicant only quotes data for 2012 to 2015.
- On page 9, section #6 I question the validity of the statement that having access to this property from both Halfway Blvd and the Downsville Pike will be, "making access for both regional and local travelers convenient and safe."

Application

632 Exchange Construction

- Pages 10 & 11, section 9 – the Applicant states that this location. “is an ideal location for a commercial use to serve the Halfway and South Hagerstown markets as well as interstate travelers.” Do we really need another gas mart here?

From the Department of Planning & Zoning’s Staff Report and Analysis

Findings
I’m sure everyone has read this report and recognizes that most of my concerns are supported by the Department’s report. Please pay special attention to these sections:

- Present and Future Transportation Patterns on page 3
- Engineering Plan Review on pages 4 & 5
- Historic site on page 6
- Change or Mistake Rule on pages 7-13
- Change in Average Annual Daily Traffic page 14
- 2002 Washington County Comprehensive Plan pages 14 & 15
- Recommendation of Department on pages 16 & 17

In closing I would like to read the last sentence from Department’s report:

“Consequently, the staff analysis has concluded that convincing proof has not been offered by the applicant demonstrating either a mistake in the current zoning, or a substantial change in the character of the neighborhood since the 2012 UGA Rezoning in their petition to rezone the property from RS to HI.”

Thank you.

Goodrich, Stephen

From: juliebecker@myactv.net
Sent: Sunday, September 24, 2017 8:43 PM
To: Goodrich, Stephen; Eckard, Debra S.
Subject: zoning hearing Sept.25

10811 Wyncote Drive
Hagerstown, Maryland 21740

September 18, 2017

Dear Mr. Goodrich and the members of the planning commission,

I write today in opposition of the proposed rezoning of 10662 and 10656 Downsville Pike from RS – Residential Suburban to HI – Highway Interchange. The applicant has made several references to the Sheetz that is under construction and the Board’s error in not zoning the site HI – Highway Interchange. The changing neighborhood was also cited. The addition of another site for “commercial activities or light industrial land uses that serve highway travelers” is not in the neighborhood’s best interests and is unnecessary in this area. Highway travelers in this area have numerous opportunities to access food, fuel, and other shopping needs. The intersection at Downsville Pike and Halfway Boulevard is surrounded by hundreds of homes and one of the county’s biggest and most beautiful parks, Marty Snook Memorial Park. The rezoning of the adjacent properties would be detrimental to the surrounding neighborhoods and the park.

Marty Snook Park provides individuals and sports teams access to softball and little league fields, football and soccer fields, tennis courts, a pool, picnic pavilions, multiple playground areas that include accessible playground equipment, and a walking and biking trail. It also hosts summer camp through Washington County Parks and Recreation. The entrance to Marty Snook Park is only feet away from the intersection of Downsville Pike and Halfway Boulevard. Exiting the park is already difficult with the traffic that currently travels on Halfway Boulevard. Pedestrians, and adults and children on bikes cross Halfway Boulevard from the Oak Ridge neighborhood to access the park’s many recreational opportunities. Although a crosswalk is painted on the road, no crossing signal exists there, creating an already dangerous crossing. The addition of businesses at the intersection of Downsville Pike and Halfway Boulevard would further complicate the access to this park and make entering and exiting the park exponentially dangerous. This park is a well –maintained and heavily used recreational area that should be protected. The park is dedicated to County Commissioner Martin “Marty” Snook who stated, “The Parks of Washington County are one of our greatest assets.”

The traffic count has also been cited by the applicant as a reason to change the zoning to HI. The count increased greatly following the state’s construction of access ramps to Interstate 70. Prior to the construction, counts had been stable, and since the construction, though higher, counts have been stable. The cited data hints at a drop. With the addition of a new Sheetz, it is likely that the intersection will see increased traffic counts, but those increases will not be due solely to Washington County residents. Highway travelers with no concern for the safety and living conditions of local residents will hop off the interstate, purchase fuel and convenience items, and hop back on the interstate. The increased tax revenues will be minimal, but the increased traffic, litter, noise, and light pollution will not be minimal. Adding another convenience-style property to the corner opposite of the planned Sheetz will not benefit the community or the neighborhood. Travelers on Interstate 70 have several exits in the Hagerstown area with opportunities to refuel and grab a

meal. Even at the exit for Downsville Pike/Halfway Boulevard, drivers have a wide variety of choices for eating, shopping, and refueling. A change of zoning at this site is unnecessary.

The applicant also refers to the "changing neighborhood" as a reason to change the zoning. The surrounding neighborhoods consist of hundreds of single family homes, townhomes, and apartments that were built in the 1950s, 1960s, and 1970s. The neighborhoods have remained well-maintained and unchanged for decades. One only has to drive through the neighborhoods to see the clean streets and meticulously maintained homes. Lincolnshire Elementary School, located in one of the neighborhoods adjacent to the intersection of Downsville Pike and Halfway Boulevard, was built in 1954 and continues to serve the surrounding community. Marty Snook Memorial Park, formerly Halfway Park, was dedicated in 1989 and has provided a safe and beautiful place to play and exercise for more than 30 years. This neighborhood is not changing; it is thriving, as it has been for decades.

The applicant also cites the poor condition of the homes on the property. Prior to the recent decay of one of the properties, it was inhabited. The fact that the current and previous landowners have allowed the properties to fall into disrepair is not a valid argument for a zoning change. Certainly the owners of these properties should be held accountable for the deteriorating conditions of these properties. Rezoning the properties is not the appropriate action to take to remedy these conditions.

I respectfully request that the applicant's request to rezone the properties of 10662 and 10656 Downsville Pike from Residential Suburban to Highway Interchange be denied. A vote against this change will ensure that this area remains a safe and healthy community.

Sincerely,

Julie Becker
10811 Wyncote Drive
Hagerstown, MD 21740

Goodrich, Stephen

From: Aline Novak <alinenovak@outlook.com>
Sent: Sunday, September 24, 2017 8:43 PM
To: Goodrich, Stephen
Subject: Zoning Hearing Sept. 25, 2017

17724 Stone Valley Drive
Hagerstown, Maryland 21740

September 24, 2017

Dear Mr. Goodrich and the members of the planning commission,

I write today in opposition of the proposed rezoning of 10662 and 10656 Downsville Pike from RS – Residential Suburban to HI – Highway Interchange. Unfortunately it is unlikely that I will get to speak in person at the hearing.

I have read the applicant's comments and the planner's response and recommendation. The applicant has made several references to the Sheetz that is under construction and the Board's error in not zoning the site HI – Highway Interchange. The changing neighborhood was also cited. Granting the Sheetz was an enormous error, given the neighboring homes, park, and intersections. However, further negatively impacting the neighborhood with another site for "commercial activities or light industrial land uses that serve highway travelers" is not in the neighborhood's best interests. Making the change to HI does nothing to improve the neighborhood and only adds to its degradation.

The poor condition of the homes on the property is no reason to change the zoning. Prior to the recent decay of one of the properties, it was inhabited. The fact that the decay was allowed to occur is a misstep by the county for not addressing the decaying structures issue. The fact that the current and previous landowners have allowed the properties to fall into disrepair is not a valid argument for a zoning change. The property owners should be made to fix it not rezone it!

My argument counters the applicant's hypothesis that the changing neighborhood calls for a change to HI. There are hundreds of homes within yards of the property in question. There is a county park that serves thousands of children and adults each year that abuts this property. This park is a gem to the community and is a well thought out green space that adds a viable safe place for both adults and children. For decades the park housed hundreds of school-aged children each summer as part of the county's summer programs. The houses that adjoin the park are not changing. They house many families with children through retirees. Marty Snook Park and these homes have not changed in decades, plain and simple.

According to the data there is no increase in traffic count. In actuality there is no increase in traffic counts. So why would this be a viable argument to change to HI zoning. The cited data suggests a drop. With the addition of a new Sheetz, it is likely that the intersection will see increased traffic counts, but those increases will not be due solely to Washington County residents. Highway travelers with no concern for the safety and living conditions of local residents will hop off the interstate, purchase fuel and convenience items, and hop back on the interstate. The increased tax revenues will be minimal, but traffic, litter, noise, and light pollution will likely increase. Adding another convenience-style property will not benefit the community or the neighborhood.

Let me address the environmental issues. The construction of a gas station or other convenience style business negatively impacts the environment. We have a beautiful green space in the Marty Snook Park. Just feet from the property in question is a small intermittent stream. This is part of the Potomac and Chesapeake watersheds. The fact that there is going to be a Sheetz with numerous gas pumps is bad enough. There is a chance of spills from gas pumps, and tanker trucks. Now you want to put in another convenience store with gas pumps. Run off from the impermeable

surfaces onto the surrounding roads adds to water pollutions as it has little time for percolation and rainwater goes directly into to storm drains and streams carrying the pollutants . The increased litter and pollution that will negatively impact the neighborhood and park will also negatively impact the watershed. Not only are we looking at water pollution but there will be an increase in air pollution from idling cars and trucks, and vaporization of volatile petroleum products. It is the responsibility of every citizen and elected official, to preserve and protect the environment. Changing the property's zoning to HI opens the door for unnecessary pollutants entering the watershed.

The intersection of Downsville Pike and Halfway Blvd. is currently a dangerous intersection. I have been witness to an accident there by a careless driver trying to "beat the light." Drivers, routinely drive through the red turn arrow from Halfway Boulevard to northbound Downsville Pike routinely run the red light at Halfway Boulevard to avoid waiting two-three minutes for a green light. Accidents and near-misses at the current intersection and at the entrance of Marty Snook Park already should be evidence enough that adding a gas station or other business on the site is unsuitable.

I politely speak against the planned rezoning of the properties. The rezoning of the properties will negatively impact those living nearby, those using the park, and those traveling the roadways.

Respectfully,

Aline Novak
17724 Stone Valley Drive
Hagerstown, MD 21740



Open Session Item

SUBJECT: Presentation of the 2019-2028 Capital Budget – Draft 1

PRESENTATION DATE: February 27, 2018

PRESENTATION BY: Sara Greaves, Chief Financial Officer

RECOMMENDED MOTION: The presentation is for informational purpose.

REPORT-IN-BRIEF: The CFO will discuss changes between the “2018 Approved” and “2019 – Draft 1” Ten-year Capital Budget. A brief discussion on the Operating budget will occur to review revenue projections and expenditure requests.

DISCUSSION: General discussion by CFO on projects included in the Capital 10-Year Plan – Draft 1. This will include changes over last years’ plan as well as major cuts to current year project requests. Projected funding sources, including bond proceeds will also be a topic of discussion.

FISCAL IMPACT: The Capital Improvement Budget – Draft 1 includes a budget of \$46,957,000 for Fiscal Year 2019.

CONCURRENCES: Not applicable

ALTERNATIVES: Not applicable

ATTACHMENTS: 10 Year Capital Plan – Draft 1

AUDIO/VISUAL NEEDS: Not applicable

Washington County, Maryland
Capital Improvement 10yr Detail - Draft 1
Fiscal Year 2019 - 2028

	Total	Prior Appr.	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028
Airport												
Passenger Terminal Hold Room Expansion	2,425,000	814,000	882,000	729,000	0	0	0	0	0	0	0	0
Air Traffic Control Tower Replacement	256,000	219,000	0	37,000	0	0	0	0	0	0	0	0
T-Hangar 1,2, & 3 Replacement	405,000	72,000	31,000	32,000	32,000	33,000	28,000	34,000	35,000	35,000	36,000	37,000
Airport Roof Replacement Project	377,000	82,000	55,000	15,000	15,000	15,000	45,000	35,000	55,000	25,000	15,000	20,000
Airport Security System	1,114,000	491,000	130,000	145,000	98,000	100,000	150,000	0	0	0	0	0
Capital Equipment - Airport	3,706,059	1,316,059	250,000	0	20,000	180,000	290,000	120,000	290,000	30,000	900,000	310,000
Land Acquisition-Airport	6,675,000	2,507,000	0	0	0	0	0	1,140,000	1,228,000	590,000	600,000	610,000
Environmental Assessment	1,835,000	835,000	0	0	0	0	1,000,000	0	0	0	0	0
Proposed Taxiway S	1,180,000	0	0	0	0	0	0	0	0	1,180,000	0	0
Runway 9/27 Rehabilitation	6,000,000	0	500,000	2,500,000	3,000,000	0	0	0	0	0	0	0
Runway 9 MALSR	244,000	0	0	0	0	0	0	0	0	0	0	244,000
Snow Removal Equipment Storage Building Expansion	1,950,000	0	0	0	0	0	250,000	1,700,000	0	0	0	0
Taxiway B and H Rehabilitation	2,900,000	0	0	0	250,000	1,650,000	1,000,000	0	0	0	0	0
Taxiway G Rehabilitation	1,920,000	0	0	0	0	0	0	0	0	0	1,920,000	0
Taxiway T Construction	915,000	0	0	159,000	756,000	0	0	0	0	0	0	0
Airport	31,902,059	6,336,059	1,848,000	3,617,000	4,171,000	1,978,000	2,763,000	3,029,000	1,608,000	1,860,000	3,471,000	1,221,000
Bridges												
Inspection and Inventory	727,000	170,000	0	165,000	0	22,000	0	171,000	0	24,000	0	175,000
Old Roxbury Road W5372	3,144,077	2,068,077	546,000	530,000	0	0	0	0	0	0	0	0
Spur Road Culvert 07/16	412,000	287,000	125,000	0	0	0	0	0	0	0	0	0
Mousetown Road Culvert 06/02	376,300	251,300	125,000	0	0	0	0	0	0	0	0	0
Bridge Scour Repairs	528,000	296,000	0	0	0	0	0	0	232,000	0	0	0
Halfway Blvd Bridges W0912	2,112,000	115,000	0	1,007,000	990,000	0	0	0	0	0	0	0
Appletown Road Bridge W2184	479,000	0	0	0	0	0	0	0	0	0	479,000	0
Ashton Road Culvert 04/06	399,000	0	0	0	0	0	0	0	0	0	30,000	369,000
Back Road Culvert 11/03	295,000	0	0	0	0	32,000	263,000	0	0	0	0	0
Bowie Road Culvert	305,000	0	0	0	0	0	0	0	35,000	270,000	0	0
Broadfording Road Culvert 04/03	30,000	0	0	0	0	0	0	0	0	0	0	30,000
Burnside Bridge Road Culvert 01/03	329,000	0	0	0	0	0	114,000	215,000	0	0	0	0
Draper Road Culvert 04/07	36,000	0	0	0	0	0	0	0	0	0	0	36,000
Draper Road Culvert 04/08	36,000	0	0	0	0	0	0	0	0	0	0	36,000
Frog Eye Road Culvert 11/06	652,000	0	0	0	0	266,000	386,000	0	0	0	0	0
Greenspring Furnace Road Culvert 15/15	398,000	0	0	0	87,000	311,000	0	0	0	0	0	0
Gruber Road Bridge 04/10	10,000	0	0	0	0	0	0	0	0	0	0	10,000
Harpers Ferry Road Culvert 11/02	541,000	0	0	0	0	0	33,000	508,000	0	0	0	0
Henline Road Culvert 05/05	465,000	0	0	0	0	0	0	34,000	431,000	0	0	0
Hoffman's Inn Road Culvert 05/06	313,000	0	0	0	0	0	0	165,000	148,000	0	0	0
Keefer Road Bridge 15/20	231,000	0	85,000	146,000	0	0	0	0	0	0	0	0
Kretsinger Road Culvert 14/01	316,000	0	0	31,000	285,000	0	0	0	0	0	0	0
Lanes Road Culvert 15/12	317,000	0	0	32,000	285,000	0	0	0	0	0	0	0
Long Hollow Road Culvert 05/07	316,000	0	0	0	0	0	0	66,000	250,000	0	0	0
Mercersburg Road Culvert 04/16	384,000	0	0	0	0	0	0	0	0	0	16,000	368,000
Mooreville Road Culvert 15/21	355,000	0	0	0	0	0	0	0	0	355,000	0	0
Remsburg Road Culvert	287,000	0	0	0	0	0	0	0	189,000	98,000	0	0
Rinehart Road Culvert 14/03	332,000	0	0	31,000	301,000	0	0	0	0	0	0	0
Slabtown Road Bridge	3,800,000	0	0	0	200,000	1,000,000	2,600,000	0	0	0	0	0

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Stone Masonry Bridge Repairs	270,000	0	0	0	0	0	0	0	0	0	270,000	0
Taylors Landing Road Bridge W7101	1,179,000	0	0	0	0	0	0	0	35,000	510,000	634,000	0
Willow Road Culvert 05/10	323,000	0	0	0	0	0	0	0	151,000	172,000	0	0
Yarrowsburg Road Bridge W6191	124,000	0	0	0	0	0	0	0	0	0	124,000	0
Bridges Total	19,821,377	3,187,377	881,000	1,942,000	2,148,000	1,631,000	3,396,000	1,159,000	1,471,000	1,429,000	1,553,000	1,024,000
Drainage												
Stream Restoration Various Locations	2,143,000	647,000	0	42,000	426,000	0	45,000	456,000	0	47,000	480,000	0
Stormwater Retrofits	11,554,000	2,404,000	678,000	894,000	586,000	1,084,000	945,000	962,000	979,000	996,000	1,013,000	1,013,000
Hoffmaster and Harpers Ferry Rd	870,000	428,000	442,000	0	0	0	0	0	0	0	0	0
Broadfording Church Road Culvert	231,000	0	0	0	231,000	0	0	0	0	0	0	0
Chestnut Grove Road Drainage	84,000	0	0	84,000	0	0	0	0	0	0	0	0
Draper Road Drainage Improvements	584,000	0	0	0	0	0	0	0	334,000	250,000	0	0
Harpers Ferry Road Drainage, 3600 Block	376,000	0	0	0	75,000	301,000	0	0	0	0	0	0
Shank Road Drainage	153,000	0	0	0	153,000	0	0	0	0	0	0	0
Trego Mountain Road Drainage	315,000	0	0	0	0	0	0	0	0	0	0	315,000
University Road Culvert	203,000	0	0	0	0	0	203,000	0	0	0	0	0
Drainage Total	16,513,000	3,479,000	1,120,000	1,020,000	1,471,000	1,385,000	1,193,000	1,418,000	1,313,000	1,293,000	1,493,000	1,328,000
Education												
Board of Education												
Capital Maintenance - BOE	16,500,000	1,500,000	1,500,000	1,500,000	1,500,000	1,500,000	1,500,000	1,500,000	1,500,000	1,500,000	1,500,000	1,500,000
Sharpsburg Elem School Replacement	26,786,000	645,000	10,076,000	10,076,000	5,989,000	0	0	0	0	0	0	0
Springfield Middle School Modernization	31,157,000	0	0	0	0	0	0	0	0	10,561,000	10,526,000	10,070,000
Urban Education Campus-BOE Component	22,144,000	4,000,000	9,836,000	6,462,000	1,846,000	0	0	0	0	0	0	0
Western Heights Middle School Modernization	39,038,000	0	0	0	0	9,129,000	9,963,000	10,141,000	9,805,000	0	0	0
Board of Education	135,625,000	6,145,000	21,412,000	18,038,000	9,335,000	10,629,000	11,463,000	11,641,000	11,305,000	12,061,000	12,026,000	11,570,000
Hagerstown Community College												
Learning Resource Center Renovations	2,031,000	1,085,000	946,000	0	0	0	0	0	0	0	0	0
Student Center Parking Lot	696,000	35,000	448,000	213,000	0	0	0	0	0	0	0	0
Aquisition of Warehousing Instructional Facility	2,000,000	0	0	0	0	2,000,000	0	0	0	0	0	0
Campus Road & Parking Lot Overlays	2,000,000	0	0	0	0	0	0	0	0	0	0	2,000,000
Campus Road Project	150,000	0	150,000	0	0	0	0	0	0	0	0	0
Center for Business and Entrepreneurial Studies	7,951,000	0	0	361,000	7,590,000	0	0	0	0	0	0	0
Central Receiving Building	4,000,000	0	0	0	0	0	0	0	486,000	1,707,000	1,807,000	0
Commercial Transportation Instructional Facility	2,500,000	0	0	0	0	0	0	1,420,000	1,080,000	0	0	0
LRC Exterior Metal Panel System and Roof Replacement	1,693,000	0	0	0	0	119,000	1,574,000	0	0	0	0	0
Robinwood Center Renovation to Facilities Management and Operations Building	280,000	0	280,000	0	0	0	0	0	0	0	0	0
SMART/Alternative Energy House/Training Center	1,681,000	1,300,000	381,000	0	0	0	0	0	0	0	0	0
Hagerstown Community College	24,982,000	2,420,000	2,205,000	574,000	7,590,000	2,119,000	1,574,000	1,420,000	1,566,000	1,707,000	1,807,000	2,000,000
Public Libraries												
Systemic Projects - Library	135,300	36,300	10,000	10,000	10,000	10,000	10,000	10,000	10,000	9,000	10,000	10,000
Hancock Public Library Replacement	2,826,000	112,000	10,000	10,000	78,000	2,616,000	0	0	0	0	0	0
Public Libraries	2,961,300	148,300	20,000	20,000	88,000	2,626,000	10,000	10,000	10,000	9,000	10,000	10,000
Education Total	163,568,300	8,713,300	23,637,000	18,632,000	17,013,000	15,374,000	13,047,000	13,071,000	12,881,000	13,777,000	13,843,000	13,580,000

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General Government												
Cost of Bond Issuance	1,143,600	136,600	98,000	99,000	98,000	98,000	99,000	98,000	99,000	98,000	98,000	122,000
Contingency - General Fund	974,305	224,305	75,000	75,000	75,000	75,000	75,000	75,000	75,000	75,000	75,000	75,000
Systemic Improvements Building	2,349,828	379,828	197,000	196,000	197,000	197,000	196,000	196,000	196,000	197,000	199,000	199,000
County Admin Bldg Exterior	1,014,000	714,000	300,000	0	0	0	0	0	0	0	0	0
Information Systems Replacment Program	1,211,285	155,285	166,000	180,000	50,000	70,000	90,000	100,000	100,000	100,000	100,000	100,000
Financial Sys Manage/Upgrade	1,213,796	698,796	208,000	32,000	32,000	33,000	34,000	34,000	35,000	35,000	36,000	36,000
County Wireless Infrastructure	183,856	151,856	10,000	11,000	11,000	0	0	0	0	0	0	0
GIS Planimetric Update	150,000	74,000	76,000	0	0	0	0	0	0	0	0	0
Tree Forestation	173,548	49,548	21,000	0	22,000	0	22,000	0	29,000	0	30,000	0
General - Eqpt and Vehicle Replacement Program	4,599,489	599,489	400,000	400,000	400,000	400,000	400,000	400,000	400,000	400,000	400,000	400,000
Multi-Purpose Facility	7,638,000	0	400,000	1,000,000	1,881,000	2,439,000	1,918,000	0	0	0	0	0
General Government Total	20,651,707	3,183,707	1,951,000	1,993,000	2,766,000	3,312,000	2,834,000	903,000	934,000	905,000	938,000	932,000
Parks and Recreation												
BR Capital Equipment Program	441,000	51,000	40,000	40,000	40,000	40,000	40,000	40,000	40,000	40,000	40,000	30,000
Ag Center Drainage Asphalt Imp	45,000	20,000	25,000	0	0	0	0	0	0	0	0	0
Doubs Woods Building/Restrooms	65,000	40,000	25,000	0	0	0	0	0	0	0	0	0
Tennis Court Resurfacing	94,300	52,300	21,000	21,000	0	0	0	0	0	0	0	0
Ag Center Land Development	156,000	51,000	52,000	53,000	0	0	0	0	0	0	0	0
Park Equipment/Surfacing Replacement, Various Locations	192,000	92,000	0	100,000	0	0	0	0	0	0	0	0
Doubs Woods Equipment Storage Building	150,000	0	0	150,000	0	0	0	0	0	0	0	0
Garis Shop Boat Access Parking Lot	50,000	0	50,000	0	0	0	0	0	0	0	0	0
North Central County Park	814,000	0	0	0	0	0	0	0	46,000	47,000	0	721,000
Parking Lot Repair/Overlay, Various Locations	192,000	0	192,000	0	0	0	0	0	0	0	0	0
Parks and Recreation	2,199,300	306,300	405,000	364,000	40,000	40,000	40,000	40,000	86,000	87,000	40,000	751,000
Public Safety												
Detention Center - Systemic Projects	3,201,000	601,000	260,000	260,000	260,000	260,000	260,000	260,000	260,000	260,000	260,000	260,000
Police & EMS Training Facility	11,500,000	3,940,000	1,860,000	2,100,000	600,000	600,000	600,000	600,000	600,000	600,000	0	0
Communication Tower(s) Various	876,000	306,000	0	106,000	0	110,000	0	114,000	0	118,000	0	122,000
Motorola Portable Radio Replacement Program	1,231,000	103,000	104,000	106,000	108,000	110,000	112,000	114,000	116,000	118,000	120,000	120,000
Law Enforcement - Vhcl and Equip Replacement Program	7,741,000	616,000	600,000	625,000	650,000	675,000	700,000	725,000	750,000	775,000	800,000	825,000
Emergency Services Equipment & Vehicle Program	1,882,183	832,183	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	150,000
Volunteer Fire Services Apparatus Reserve Fleet	204,000	204,000	0	0	0	0	0	0	0	0	0	0
County Rescue Fleet Replacement	8,500,000	0	800,000	800,000	800,000	800,000	800,000	800,000	900,000	900,000	900,000	1,000,000
Public Safety	35,135,183	6,602,183	3,724,000	4,097,000	2,518,000	2,655,000	2,572,000	2,713,000	2,726,000	2,871,000	2,180,000	2,477,000
Railroad												
Railroad Study & Improvements	1,672,837	390,837	279,000	0	0	295,000	0	0	348,000	0	360,000	0
Railroad	1,672,837	390,837	279,000	0	0	295,000	0	0	348,000	0	360,000	0
Road Improvement												
Transportation ADA	1,193,450	351,450	83,000	83,000	82,000	83,000	84,000	86,000	87,000	84,000	85,000	85,000
Pavement Maintenance and Rehab Program	58,248,000	9,041,000	4,750,000	4,500,000	4,500,000	4,501,000	5,000,000	5,001,000	5,031,000	5,000,000	5,210,000	5,714,000
Longmeadow Road	1,730,000	0	0	0	0	0	0	0	0	388,000	1,080,000	262,000
Eastern Boulevard Extended	7,700,000	0	0	0	0	0	938,000	2,512,000	2,975,000	1,275,000	0	0
Eastern Blvd Widening Phase II	5,672,300	1,836,300	855,000	1,741,000	1,240,000	0	0	0	0	0	0	0

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Professional Boulevard Bridge Phase I	8,857,000	7,090,000	1,767,000	0	0	0	0	0	0	0	0	0
Professional Boulevard Extended Phase II	4,884,200	2,614,200	250,000	1,928,000	92,000	0	0	0	0	0	0	0
Valley Mall Area Road Improvements Phase II	992,000	0	0	0	0	825,000	167,000	0	0	0	0	0
Professional Boulevard Extended Phase III	1,103,000	0	0	0	0	203,000	900,000	0	0	0	0	0
Crayton Boulevard Extended	3,165,000	2,965,000	150,000	0	0	50,000	0	0	0	0	0	0
Colonel Henry K. Douglas Drive Extended Phase I	3,770,000	3,220,000	550,000	0	0	0	0	0	0	0	0	0
Showalter Road Extended East	1,242,000	510,000	0	0	0	0	0	0	0	0	0	732,000
Halfway Boulevard Extended Phase 1	2,349,000	900,000	1,000,000	449,000	0	0	0	0	0	0	0	0
Bucky Avenue	355,000	0	0	0	0	0	0	0	0	355,000	0	0
Burnside Bridge Road Spot Improvements	544,000	0	0	0	0	0	0	0	0	544,000	0	0
Colonel Henry Douglas Drive Extended Phase II	140,000	0	0	0	0	0	0	0	0	0	0	140,000
E. Oak Ridge Drive/South Pointe Signal	461,000	0	0	111,000	0	350,000	0	0	0	0	0	0
Halfway Boulevard Extended Bridge / Phase II	3,200,000	0	0	0	1,300,000	0	0	1,900,000	0	0	0	0
Mt Aetna Road Spot Improvements	2,399,000	0	0	0	0	0	0	0	0	758,000	1,641,000	0
Professional Boulevard Extended - Phase IV	800,000	0	0	0	0	0	0	800,000	0	0	0	0
Road Improvement	108,804,950	28,527,950	9,405,000	8,812,000	7,214,000	6,012,000	7,089,000	10,299,000	8,093,000	8,404,000	8,016,000	6,933,000
Highways												
Highway - Equipment Replacement Program	11,246,000	1,046,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,100,000	1,100,000
HWY Western Section - Fuel Tank Replacement	847,000	294,000	192,000	193,000	168,000	0	0	0	0	0	0	0
Highways	12,093,000	1,340,000	1,192,000	1,193,000	1,168,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,100,000	1,100,000
Solid Waste												
Contingency - Solid Waste	337,000	87,000	0	0	0	0	30,000	30,000	35,000	35,000	60,000	60,000
40 West Truck Loading Facility	500,000	0	0	500,000	0	0	0	0	0	0	0	0
Close Out Cap - Rubblefill	2,092,000	0	0	0	0	100,000	1,992,000	0	0	0	0	0
SW Equip/Vehicle Replacement	312,668	28,668	26,000	27,000	27,000	28,000	28,000	29,000	29,000	30,000	30,000	30,000
40 West Landfill - Cell 5 Construction	4,083,000	0	0	0	0	0	0	440,000	3,472,000	171,000	0	0
40 West Partial Capping	3,051,000	0	0	0	3,051,000	0	0	0	0	0	0	0
City/County Groundwater Investigation	156,000	0	0	0	156,000	0	0	0	0	0	0	0
Kaetzel Transfer Station Retaining Wall Replacement	257,000	0	257,000	0	0	0	0	0	0	0	0	0
Resh Road Pavement Rehabilitation	1,060,000	0	0	1,060,000	0	0	0	0	0	0	0	0
Transfer Station Upgrades	232,000	0	0	0	0	0	0	0	232,000	0	0	0
Solid Waste	12,080,668	115,668	283,000	1,587,000	3,234,000	128,000	2,050,000	499,000	3,768,000	236,000	90,000	90,000
Transit												
Vehicle Preventive Maintenance	4,128,402	378,402	375,000	375,000	375,000	375,000	375,000	375,000	375,000	375,000	375,000	375,000
Fixed Route Bus Replacement Program	7,558,000	2,994,000	0	978,000	0	652,000	0	0	0	0	0	2,934,000
ADA Bus Replacement	512,915	137,915	0	0	75,000	0	75,000	75,000	0	75,000	0	75,000
Transit	12,199,317	3,510,317	375,000	1,353,000	450,000	1,027,000	450,000	450,000	375,000	450,000	375,000	3,384,000
Water Quality												
Utility Administration												
Contingency - Utility Admin	409,677	135,677	25,000	25,000	26,000	27,000	27,000	28,000	28,000	29,000	29,000	30,000
General Building Improvements	1,215,000	101,000	520,000	594,000	0	0	0	0	0	0	0	0
Lab Equipment Replacement	310,000	73,000	31,000	21,000	22,000	22,000	22,000	23,000	23,000	24,000	24,000	25,000
WQ Equip/Vehicle Replacement Program	1,036,625	226,625	70,000	75,000	75,000	80,000	80,000	80,000	85,000	85,000	90,000	90,000
	2,971,302	536,302	646,000	715,000	123,000	129,000	129,000	131,000	136,000	138,000	143,000	145,000

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<u>Sewer</u>												
Contingency - Sewer	536,939	36,939	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000
Replace Grinder Pumps	742,000	26,000	26,000	40,000	60,000	80,000	80,000	80,000	80,000	90,000	90,000	90,000
Pump Station Upgrades - Various Stations	2,967,183	899,183	280,000	0	0	0	153,000	0	0	885,000	0	750,000
Collection System Rehabilitation Project	3,475,087	370,087	0	500,000	0	275,000	560,000	0	870,000	0	900,000	0
Capacity Management Project	9,723,000	1,683,000	520,000	3,180,000	3,240,000	1,100,000	0	0	0	0	0	0
Smithsburg WWTP ENR Upgrade	12,694,387	1,903,387	0	5,391,000	5,400,000	0	0	0	0	0	0	0
Heavy Sewer EQP and VEH Replacement	896,400	347,400	95,000	74,000	39,000	39,000	40,000	41,000	42,000	43,000	96,000	40,000
Potomac Edison Pump Station & Force Main	1,632,000	0	0	0	0	0	1,632,000	0	0	0	0	0
Pen Mar/Highfield/Cascade Septic Tank Replace	105,000	0	35,000	35,000	35,000	0	0	0	0	0	0	0
General WwTP Improvements	4,076,000	0	0	0	0	986,000	0	1,160,000	1,180,000	0	0	750,000
	36,847,996	5,265,996	1,006,000	9,270,000	8,824,000	2,530,000	2,515,000	1,331,000	2,222,000	1,068,000	1,136,000	1,680,000
<u>Water</u>												
Contingency - Water	276,800	26,800	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000
Water Meter Replacement	499,465	118,465	50,000	50,000	50,000	32,000	32,000	33,000	32,000	33,000	34,000	35,000
Sharpsburg Water Treatment Plant	794,000	204,000	0	0	0	0	0	0	0	590,000	0	0
General WTP Improvements	884,325	62,325	0	0	242,000	0	0	0	580,000	0	0	0
Highfield/Sharpsburg Water Storage Tank	336,000	0	0	0	0	336,000	0	0	0	0	0	0
Mt Aetna Water System Improvements	729,000	0	130,000	0	599,000	0	0	0	0	0	0	0
Sharpsburg Water Meter Cradle Replacement	1,000,000	0	0	250,000	250,000	250,000	250,000	0	0	0	0	0
WQ Main Replacement	4,090,000	0	0	0	0	0	566,000	522,000	2,502,000	0	0	500,000
Water Fund	8,609,590	411,590	205,000	325,000	1,166,000	643,000	873,000	580,000	3,139,000	648,000	59,000	560,000
Water Quality	48,428,888	6,213,888	1,857,000	10,310,000	10,113,000	3,302,000	3,517,000	2,042,000	5,497,000	1,854,000	1,338,000	2,385,000
TOTAL	485,070,586	71,906,586	46,957,000	54,920,000	52,306,000	38,139,000	39,951,000	36,623,000	40,100,000	34,166,000	34,797,000	35,205,000



Agenda Report Form

Open Session Item

SUBJECT: Joint Meeting between the Washington County Board of County Commissioners and the Washington County Board of Education for the purpose of sharing and discussing the Washington County Public Schools Capital Improvement Plan (CIP).

PRESENTATION DATE: February 27, 2018

PRESENTATION BY: Washington County Board of Education Members
Dr. Boyd Michael, Superintendent of Schools
Mr. Jeffrey Proulx, Chief Operating Officer
Mr. Robert Rollins, Director Facilities Planning & Development
Mr. Mark Mills, Director of Maintenance and Operations

RECOMMENDED MOTION:

REPORT-IN-BRIEF: The superintendent and staff will share and discuss the Washington County Board of Education's FY2019 - FY2029 CIP. The CIP is the annual request to the State of Maryland and Washington County Government for planning and funding approval for construction, renovation, addition, and systemic maintenance projects.

FISCAL IMPACT: \$236,378,000 (\$141,411,000 request of the State of Maryland & \$94,967,000 request of Washington County Government)

CONCURRENCES: Approved by the Board of Education on September 12, 2017, and revised on December 5, 2017. Concurs with the Educational Facility Master Plan approved by the Board of Education on June 6, 2017.

ALTERNATIVES: N/A

ATTACHMENTS: PowerPoint presentation

AUDIO/VISUAL NEEDS: Video screen and projector for PowerPoint presentation and a room with tables and chairs arranged in a manner to facilitate discussion.