



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

AGENDA

WASHINGTON COUNTY PLANNING COMMISSION
PUBLIC REZONING MEETING
April 18, 2016, 7:00 PM
WASHINGTON COUNTY COURT HOUSE
24 Summit Avenue
Court Room #1

CALL TO ORDER

RZ-16-002

Applicant:	Zachary J. Kieffer, Esq.
Property Owner:	Carlin D. and Cheryl L. Martin
Location:	14204 Daley Road, Hagerstown
Present Zoning:	A(R) – Agricultural Rural
Proposed Zoning:	RB – Rural Business floating zone with underlying A(R) on 1.3 acres of parcel
Acreage:	2.74 acres
Map/Grid/Parcel:	Map 24, Grid 1, Parcel 489

RZ-16-001

Applicant:	WASHCO Arnett Farms LLC
Property Owner:	Arnett Properties LLC and Phillip Arnett
Location:	Southside of Arnett Drive, west of Sharpsburg Pike
Present Zoning:	RU – Residential, Urban
Proposed Zoning:	RM – Residential, Multi-family
Acreage:	5.18 acres
Map/Grid/Parcel:	Map 57, Grid 110, Parcel 589 (2.11 acres) Map 57, Grid 10, Parcel 114 (3.07 acres)

The Planning Commission reserves the right to vary the order in which the cases are called.
Individuals requiring special accommodations are requested to contact the Washington County Planning Department at 240-313-2435 Voice/TDD, to make arrangements no later than ten (10) days prior to the meeting. Notice is given that the Planning Commission agenda may be amended at any time up to and including the Planning Commission meeting.

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

WWW.WASHCO-MD.NET



DEPARTMENT OF PLANNING & ZONING

COMPREHENSIVE PLANNING | LAND PRESERVATION | FOREST CONSERVATION | GIS

April 1, 2016

RZ-16-002

APPLICATION FOR MAP AMENDMENT STAFF REPORT AND ANALYSIS

Property Owner(s) : Carlin D. and Cheryl L. Martin
Applicant(s) : Zachary J. Kieffer, Esq.
Location : 14204 Daley Road, Hagerstown, MD 21740
Election District : 13 – Maugansville
Comprehensive Plan
Land Use Designation: Rural Agricultural Area
Zoning Map : Map 24
Parcel Number : 489
Acreage : 2.74 acre
Existing Zoning : Agricultural (Rural)
Requested Zoning : RB - Rural Business floating zone with underlying
Agricultural (Rural) (on only 1.3 acres of parcel)
Date of Public
Information Meeting : April 18, 2016

LOCATION AND PHYSICAL FEATURES

The 2.74 acre parcel that is the subject of this rezoning request is identified as 14204 Daley Road and is located on the west side of Daley Road where it intersects with Reiff Church Road. This location is approximately 1 mile west of the community of Maugansville and 1 mile west of the Hagerstown Regional Airport. The applicant is requesting the Rural Business floating zone designation on only 1.30 acres of the parcel.

The Martin parcel was originally 1.18 acres in size and had a rectangular shape with the longer axis oriented to the north and south and parallel to Daley Road. After a property exchange with an adjacent property owner, the current parcel is more square in shape (approximately 375 x 320 feet) and now contains 2.74 acres. It now has less frontage on Daley Road but a greater depth. The property exchange occurred in 2010.

Improvements on the parcel include a 2 story dwelling, the Martin's residence, and a detached 3 bay residential garage constructed of concrete block. The dwelling sits approximately 25 feet from the edge of the road. There is a large expanse of gravel area between the house and garage

STAFF REPORT AND ANALYSIS

RZ-16-002 – Carlin and Cheryl Martin

Page 2

for parking and a driveway access to Daley Road. The remainder of the parcel is grass covered and maintained as a residential yard. There are several large trees on the parcel that shade the southern and eastern sides of the dwelling. The dwelling sits on a slight rise on the east side of the parcel near the road and the rest of the property is generally flat with only a slight slope downward towards the northwest.

The soils on this small parcel are of the Hagerstown and Swanpond varieties. Both types are derived from limestone and known to be productive for agriculture although they may be limited due to erosion or the presence of water. There is no floodplain on the parcel but there is floodplain located on the parcel adjacent on the north, approximately 120 feet wide and on an east/west axis. There is no identifiable stream associated with the mapped floodplain.

The Martin parcel is currently zoned Agricultural (Rural) as are a majority of the parcels in the immediate vicinity. The Urban Growth Area Boundary is only 600-700 feet away to the east of the parcel where urban type zoning categories can be found. Planned Industrial, Industrial Restricted, Highway Interchange and a small amount of Airport zoning districts are located between the Norfolk Southern Railroad tracks and Interstate 81. The parcel is also located in the Airport Overlay zone that disallows mixed use districts in the Urban Growth Area and limits residential density to 1 dwelling unit per 50 acres. At a distance of 2500 feet + and to the southeast is a cluster of Residential Multi-family, Residential Suburban and Residential Transition zoning districts representing the mixture of residential uses in the village of Maugansville. There are small pockets of existing Rural Business zoning districts scattered across the rural area nearby and also in the Rural Village zoning associated with the Cearfoss rural village approximately 4000 feet to the west of this site (refer to the attached zoning map).

POPULATION ANALYSIS

The Martin parcel is located in the Maugansville Election District, #13. Population data for the district and Washington County are provided in the chart below.

POPULATION TRENDS 1980-2010

	1980	+ % change	1990	+ % change	2000	+ % change	2010	1980- 2010
County	113,086	7.3%	121,393	8.68%	131,932	11.74%	147,430	30.4%
E.D. 13 Maugansville	5030	6.4%	5351	6.5%	5698	8.0%	6154	22.3%

The election district has shown increases over the 30 year period, but all district increases have been a smaller percentage change than the growth in the County over the same period. Approximately 45% of Election District 13 is located in the Urban Growth Area and a large portion of the population growth represented in the table should be expected to have occurred there. The Martin property is located in the portion of the election district that is not in the growth area where population increases have been more modest.

PUBLIC FACILITIES

Water and Sewerage Facilities

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. 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 by establishing an inventory of existing and programmed services.

The Martin parcel that is the subject of this rezoning request is not served by any public water or sewer facilities nor is it located in any area programmed for public service in the Water and Sewerage Plan. It has S-7 and W-7 service priority designations for sewer and water service in

the Water and Sewerage Plan. These designations indicate that no public facilities exist or are planned in the future. These designations are consistent with the property location in the Rural Agricultural area of the County where expenditures by the County to provide public water and sewer facilities are discouraged except to resolve health issues. There is public water service to the subdivision known as Kent Estates which is approximately 1200 feet to the north of the proposed rezoning site. Public water service to that area was established in the 1980's to resolve a public health and groundwater quality issues. The area served takes a linear form as it extends to the south along MD Rt. 63. The dwelling on the Martin parcel utilizes an on-site well located south of the house. The septic system is located to the north of the building, under the area covered with gravel used for parking. The rezoning application indicates the intention to use the existing well and septic system to serve any additional customer traffic generated from the business use of the parcel after rezoning.

Emergency Services

The volunteer fire company of Maugansville provides fire protection services for the subject parcel. The fire station is located in Maugansville approximately 1.5 miles to the south and east. The Community Rescue Service substation #75 that provides emergency response is also located in Maugansville in the same building as the volunteer fire company. Comments have not been received from emergency service providers.

Schools

The Martin parcel is located in the attendance districts of Maugansville Elementary, Western Heights Middle and North Hagerstown High Schools. The request for application of the Rural Business floating zone will not generate residential development and therefore no additional school students should be expected. The requested rezoning will not have an effect on school enrollments or capacities.

PRESENT AND FUTURE TRANSPORTATION PATTERNS

The subject 2.74 acre parcel is located on the west side of Daley Road at its intersection with Reiff Church Road. Daley Road is classified as a local road in the County highway classification system. It extends about 1.2 miles from this point due north to Mason Dixon Road which is a link to I81. Reiff Church Road is classified as a Major Collector and connects the village of Cearfoss, where several other Major Collector Roads converge, to Maugansville Road and the urbanized area around Hagerstown. It has a total length of about 2 miles and Daley Road intersects it about in the middle.

Local roads provide access from individual parcels to higher order roads and intra-community destinations. In a rural setting, local roads like Daley Road can expect traffic below 1000 ADT (Average Daily Traffic). The most recent traffic count available for Daley Road is from 2008 when the ADT was 348. The Martin property has a gravel driveway connection to Daley Road just north of the intersection with Reiff Church Road. If the Rural Business zoning is approved the Martins intend to establish an additional access onto Daley Road north of the current residential driveway to serve the planned pre-owned vehicle sales display/parking lot.

A major collector such as Reiff Church Road would provide linkage between communities and in a rural setting, can expect an ADT of between 1000 and 3000 vehicles. The more intense use and the broader service area also requires separation of new access points by 300 feet for safety reasons. The Martins do not propose any additional access onto Reiff Church Road. 2008 traffic counts are also available and show an ADT of 1044 near the intersection with Maugansville Road on the east end. On the western end near the intersection with MD Rt. 63 (Greencastle Pike) the 2008 ADT was 525. The County Commuter does not provide service to the site.

COMPATIBILITY WITH EXISTING AND PROPOSED DEVELOPMENT IN THE AREA

The subject property is a 2.74 acre parcel with a dwelling and residential garage on it. It is used for residential purposes. The area surrounding this rezoning site is a mixture of scattered rural residential development on small parcels, a small residential subdivision, large cultivated agricultural fields or meadows and their related farm complexes including dwellings and agricultural support buildings. Within approximately 1 mile there are 9 Rural Business districts accommodating such uses as a sheet metal shop specializing in agricultural work, a shoe repair shop, an appliance repair and sales establishment, a convenience store, an awning shop, storage building construction and sales and an auction venue. As mentioned earlier, the Urban Growth Area is as close as 600 feet away to the east where a variety of urban zoning categories and land uses exist. With the exception of the Rural Village zoning around the village of Cearfoss and the scattered Rural Business districts, all of the rest of the surrounding area is zoned Agriculture (Rural). The actual land use reflects a similar mixture.

If the application of the Rural Business zone is approved the applicant indicates the intention to establish an Auto Sales and Services business in this “convenient and proximate location” to serve the needs of the rural population. It will be located on the northern 1.3 acres of the parcel as depicted in a preliminary site plan included with the rezoning application. The existing garage will be included in the area to receive the Rural Business designation. Proposed to be added to the site will be a 1200 square foot office building, 30 paved parking/display spaces

and an interior driveway that will traverse through the site and connect a new entrance from Daley Road to the existing garage and gravel driveway. The existing dwelling will not be included in the area to receive the RB zoning. The remaining 1.44 acres with the dwelling will remain zoned Agricultural (Rural).

The proposed use is referred to at least twice in the application as an Auto Sales and Service establishment but there aren't any details provided about the "service" aspect of the business. It is assumed that there is a need to have an area to "service" or prepare vehicles for sale, possibly including mechanical repairs, but it is not clear if this will occur in some portion of the proposed 1200 square foot "office building" or in the existing 3 bay garage that is proposed to be included in the area of the Rural Business zoning. This should be clarified before a recommendation is made.

There is no reason to believe that the Martins would intentionally create or operate a rural business use that would negatively impact neighboring properties. Many other rural business uses exist in the area and apparently coexist and prosper peacefully. The areas inclusion in the Airport overlay zoning district indicates that it is overflown routinely by aircraft arriving and departing Hagerstown Regional Airport. This zoning district seeks to limit residential development in this area to reduce the opportunities for complaints about airplane noise and increase safety. There are also height limitations imposed by the Airport Clear Zone that also hovers over the site but the proposed new structures will not exceed those limits. There are 7 residences within 1000 feet of the proposed Rural Business district and there is also a 500 foot long poultry barn within that area.

The purpose of the Rural, Business District is to permit the development of business that support the agricultural industry and farming community, serve the needs of the rural residential population, provide for recreation and tourism opportunities as well as establishing locations for businesses and facilities not otherwise permitted in rural areas of the County. The Rural Business district is targeted to be established as a floating zone in an Agricultural (Rural), Environmental Conservation or Preservation zone.

As a location to sell pre-owned vehicles from and presumably to perform some repair and preparation of these vehicles before display it is not expected that this activity will be incompatible with adjacent uses. One employee and even several customers looking at cars on the site is not expected to generate objectionable activities noticeable beyond the boundaries of the parcel. The most affected property will be the Martins who will reside in the adjacent dwelling. There will be additional traffic on the nearby road network for customers to visit the site but per the applicant's information, vehicles to be sold will be brought to the site one at a

time rather than deliveries by trucks or in bulk.

The dwelling on the Martin property is identified in the Maryland Inventory of Historic Properties as site #WA-I-700, a late 19th century 2 story brick “duplex”. The building is not proposed to be included in the Rural Business zoning district.

The following historic inventory sites are located within a ½ mile radius of the Martin property.

- WA-I-260 – Reiff’s Mennonite Church, 1840 1 ½ story brick church and cemetery
- WA-I-261 – Farm complex known as Diamond Square Farm including 1790 2 ½ story duplex
- WA-I-262 – Farm complex including 2 story brick duplex, 1855
- WA-I-266 - Late 19th century 2 story frame and log farmhouse with siding
- WA-I-701 - Mid 19th century farm complex including 2 ½ story brick dwelling
- WA-I-702 – 19th century 2 story sided dwelling of undetermined construction

RELATIONSHIP OF THE PROPOSED CHANGE TO THE ADOPTED COMPREHENSIVE 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, development and preservation policy implementation: Urban and 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 can be the priority. The Martin parcel is located in the 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 implementation 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 text of the district was modified in 2015. The original intent and purpose of the district was retained but the procedures were clarified and simplified. The improved process is used in the current application review. The RB district was created specifically for this purpose as recommended by the Comprehensive Plan

ANALYSIS

Section 5E.4 of the Zoning Ordinance contains the following evaluation criteria to be met in order to establish the Rural Business floating zone. Applicable information follows each criteria.

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

(2) The proposed RB district has safe and useable road access 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. To date the applicant has not provided an estimate of expected additional traffic to or from the proposed use. It has been stated that vehicles to be displayed will be brought to the site one by one and not delivered by truck.

(3) On site issues relating to sewage disposal, water supply, storm water management, floodplains, etc., can be adequately addressed. A change in use or intensity would trigger additional review of the adequacy of the existing water and sewer facilities. The existing well and sewage disposal system on the site are planned and expected to be adequate to handle additional use generated by the proposed business and will need approval the Washington County Health Department. Stormwater is proposed to be addressed by water quality devices planned for construction at the time new parking areas are installed. They will be reviewed and must be approved by the County’s Engineering and Construction Management Division before site development begins. There are no floodplains on the site.

(4) 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 proposed district. Using the information supplied with the application, it does not appear that there will be a conflict between the proposed use and existing surrounding land uses. There is separation between the proposed use and other land uses in the surrounding area. It has yet to be determined if peripheral buffer planting is necessary. The Planning Commission can require this

during the formal site plan review and approval. The Planning Commission can include this requirement in its recommendation to the County Commissioners for action on this application. The RB district was created specifically to establish limited commercial activities in rural areas to serve the needs of the rural population which seems to be the intent of the proposal under consideration.

It should be noted here that the Rural Business district will be approved based upon the intention to establish the use proposed in the application, an Auto Sales and Service business. If the application is approved, then only the Auto Sales and Service business would be permitted, pending formal site plan approval by the Planning Commission, without any additional land use analysis. All of the other permitted uses in the RB district listed in the Zoning Ordinance can be allowed but there must be an additional review by the Planning Commission to determine if the change in use intensity is so great that an additional public hearing is necessary before the use is permitted.

Criteria from Section 5E.6(c) 1-6 for the Planning Commission to consider in making a recommendation to the Board of County Commissioners are noted below with applicable information.

(1) The proposed district will accomplish the purpose of the RB District. A portion of the stated purpose of the Rural Business District is to provide locations for uses needed by the rural population and to provide recreation opportunities. That appears to be the desire of the applicant

(2) The proposed site development meets the criteria identified in Section 5E4 of this Article. Discussed previously in this staff report.

(3) The roads providing access to the site are appropriate for serving business related traffic generated by the proposed RB land use. The roads serve other RB districts in the vicinity adequately. The applicant indicates there will be no commercial truck traffic making deliveries to or from the site. There have been no negative comments regarding the effects of traffic from the Department of Engineering and Construction.

(4) Adequate sight distance along roads can be provided at proposed points of access to the site. A new access point is proposed onto Daley Road north of the existing residential driveway. Sight Distance will be checked and determined adequate at the time of formal site plan submission. A site Plan will not be approved without adequate sight distance.

(5) The proposed landscape areas can provide adequate buffering of the proposed RB land use from existing land uses in the vicinity. Setbacks and buffer area appear to be adequate on the preliminary site plan submitted with the application.

(6) The proposed land use is not of a scale, intensity or character that would be incompatible with the adjacent land uses or structures. The proposed land use appears to be compatible but that statement has been made without the benefit of public review and comment. The Planning Commission will have the opportunity to hear, evaluate and determine if the statement is correct after the public comment period. The Commission should also consider that there will be a formal site plan approval which allows an opportunity to address additional concerns for compatibility. Furthermore if a change of use in the future will also afford an opportunity for additional review and public input if the change in use intensity to be significant.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Stephen T. Goodrich", written in a cursive style.

Stephen T. Goodrich, Director
Department of Planning and Zoning

STG/me
attachments

WASHINGTON COUNTY PLANNING COMMISSION
WASHINGTON COUNTY, MARYLAND

RECEIVED

JAN 12 2016

ORDINANCE AMENDMENT APPLICATION

WASHINGTON COUNTY
PLANNING DEPARTMENT

PLEASE BE SURE TO COMPLETE THE
APPROPRIATE SECTIONS AND SIGN
THE APPLICATION.

THE APPLICATION MUST BE ACCOMPANIED
BY THE APPROPRIATE FEES. (PLEASE MAKE
CHECKS PAYABLE TO: "WASHINGTON
COUNTY TREASURER".)

To be completed by the Planning Commission

Case No. AZ-10-002

Date Filed: _____

Fee Paid: _____

Hearing Date: _____

ZACHARY J. KIEFFER, ESQ
APPLICANT

13424 Pennsylvania Ave., Ste. 302 HAGERSTOWN MD 217
ADDRESS

CARLIN D. AND CHERYL L. MARTIN
PROPERTY OWNER

14204 DALEY RD. HAGERSTOWN, MD 21740
ADDRESS

Type of Amendment requested:

MAP AMENDMENT

1) Zoning Ordinance:

The applicant hereby petitions for the reclassification of land

Located at 14204 DALEY ROAD
Street Name and Number or N S E W side of road, distance N S E W from nearest
Intersecting road

Consisting of 2.74 ACRES
Area in square feet if less than one (1) acre, or in acres if one (1) acre or more

From the AGRICULTURAL RURAL (AR) District to the RURAL BUSINESS FLOATING ZONE DISTRICT (RB)
Present classification Requested Classification

Tax Map: 0024 Grid: 0001 Parcel No.: 0489

Explanation (As described in the "Administrative Procedures for Rezoning Applications"): _____

SEE ENCLOSED JUSTIFICATION STATEMENT

If additional space is needed, please attach a separate sheet of paper)

REASON FOR THE REQUEST: (Please check one)

- ☐ Change in the character of the neighborhood
- ☐ Mistake in Original Zoning

TEXT AMENDMENT

Please check one:

Adequate Public Facilities Ordinance	_____
Comprehensive Plan	_____
Forest Conservation Ordinance	_____
Solid Waste Plan	_____
Subdivision Ordinance	_____
Water and Sewer Plan	_____
Zoning Ordinance	_____

Proposed Text: Deletions should be in brackets, unchanged wording in lower case, and new wording in caps.

Section No. _____

ZACHARY J. KIEFFER, ESQ.
Attorney or Agent

13424 PENNSYLVANIA AVENUE SUITE 302
Address

HAGERSTOWN, MARYLAND 21742
Address

[Signature]
Applicant's Signature

Subscribed and sworn before me this 11th day of January, 2016. My commission expires on June 21, 2016.

[Signature]
Notary Public



JENNIFER LYNN SHIFER
NOTARY PUBLIC
Washington County
State of Maryland
My Commission Expires
June 21, 2016

OWNER'S REPRESENTATIVES AFFIDAVIT FOR REZONING APPLICATIONS

This is to certify that ZACHARY J. KIEFFER is authorized to file an application for
(applicant's name)
an application for the rezoning of lands located at 14204 DALEY ROAD, HAGERSTOWN, MD 21740,
(location)
containing 2.74 from AGRICULTURAL RURAL (AR) to RURAL BUSINESS (RB),
(acres) (existing classification) (requested classification)
and that said application is authorized by CARLIN D. AND CHERYL L. MARTIN, the property owner in fee.
(owner's name)

PROPERTY OWNER

Carlin D. Martin
Name

14204 Daley Road Hagerstown MD 21740
Address

Carlin D. Martin
Signature

Subscribed and sworn before me this 11th
day of January of 20 16.

[Signature]
Notary Public

My Commission expires: June 21, 2016

AUTHORIZED REPRESENTATIVE

Zachary J. Kieffer
Name

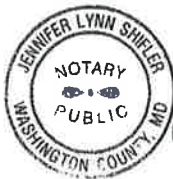
13424 Pennsylvania Ave. Ste 302 Hagerstown MD 21742
Address

[Signature]
Signature

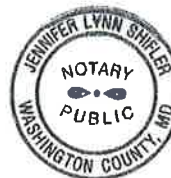
Subscribed and sworn before me this 11th day of
January of 20 16.

[Signature]
Notary Public

My Commission expires: June 21, 2016



Jennifer Lynn Shifler
NOTARY PUBLIC
Washington County
State of Maryland
My Commission Expires
June 21, 2016



Jennifer Lynn Shifler
NOTARY PUBLIC
Washington County
State of Maryland
My Commission Expires
June 21, 2016

Real Property Data Search (w1)

Guide to searching the database

Search Result for WASHINGTON COUNTY

View Map		View GroundRent Redemption		View GroundRent Registration	
Account Identifier:		District - 13 Account Number - 011206			
Owner Information					
Owner Name:		MARTIN CARLIN D & MARTIN CHERYL L		Use:	RESIDENTIAL
Mailing Address:		14204 DALEY RD HAGERSTOWN MD 21740-1645		Principal Residence:	YES
				Deed Reference:	/03995/ 00500
Location & Structure Information					
Premises Address:		14204 DALEY RD HAGERSTOWN 21740-0000		Legal Description:	2.74 ACRES 14204 DALEY ROAD
Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section: Block: Lot: Assessment Year: Plat No: Plat Ref:
0024	0001	0489		0000	2014 9919
Special Tax Areas:			Town: NONE		
			Ad Valorem:		
			Tax Class:		
Primary Structure Built		Above Grade Enclosed Area		Finished Basement Area	Property Land Area
1900		2,960 SF			2.7400 AC
Stories	Basement	Type	Exterior	Full/Half Bath	Garage
2	YES	STANDARD UNIT	BRICK	2 full	1 Detached
Last Major Renovation					
Value Information					
		Base Value	Value As of 01/01/2014	Phase-in Assessments As of 07/01/2015 As of 07/01/2016	
Land:		92,400	92,400		
Improvements		164,900	169,200		
Total:		257,300	261,600	260,167	261,600
Preferential Land:		0			0
Transfer Information					
Seller: MARTIN JAMES L		Date: 08/03/2005		Price: \$265,000	
Type: ARMS LENGTH IMPROVED		Deed1: /03995/ 00500		Deed2:	
Seller:		Date:		Price:	
Type:		Deed1:		Deed2:	
Seller:		Date:		Price:	
Type:		Deed1:		Deed2:	
Exemption Information					
Partial Exempt Assessments:	Class	07/01/2015		07/01/2016	
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					



Parcel ID No.	FY	Customer No.	Bill No.
13-011206	2016	221589	26286

Property Description

2.74 ACRES
14204 DALEY ROAD
PRINCIPAL RESIDENCE

Map: 0024
Parcel: 0489
Liber: 3995
Folio: 500
Jurisdiction: 000

Charges	Assessment	Rate	Amount
RE STATE TAX	260,167	.112000	291.39
RE COUNTY TAX	260,167	.948000	2,466.38
BAY RESTORATION FEE			60.00
	TOTAL TAX		2,817.77
	TOTAL DUE		2,817.77

See below for actual payment amount due.

MARTIN CARLIN D &
MARTIN CHERYL L
14204 DALEY RD
HAGERSTOWN, MD 21740-1645

Interest applies Oct 1st rate of 1% per month.
Amount based on per \$100 of Assessment.
Constant Yield Rate =.952

Keep this copy for your records.

Return this coupon with your payment



Parcel ID No.	FY	Customer No.	Bill No.
13-011206	2016	221589	26286

Your cancelled check is your receipt.
Enclose self-addressed stamped envelope for copy of receipt.

2nd Semiannual Payment Due	
SERVICE CHARGE .0065	8.97
Dec	1,387.85

Use this coupon when paying second
Semiannual installment in December.

☐ Check here if requesting address correction.
Please make changes on address below.

Make checks payable to: Washington County Treasurer, and mail to address below.

MARTIN CARLIN D &
MARTIN CHERYL L
14204 DALEY RD
HAGERSTOWN, MD 21740-1645

Washington County Treasurer's Office
35 West Washington Street, Suite 102
Hagerstown, MD 21740-4868

2082016400026286500002817773000000000000

Return this coupon with your payment



Parcel ID No.	FY	Customer No.	Bill No.
13-011206	2016	221589	26286

Your cancelled check is your receipt.
Enclose self-addressed stamped envelope for copy of receipt.

Use this coupon when
paying Annual or First
Semiannual installment

Annual Payment Amount Due		1st Semiannual Payment Amount Due	
Remit this amount if paid in:		Remit this amount if paid in:	
Jul	2,805.43	Jul	1,432.72
Aug	2,817.77	Aug	1,438.89
Sep	2,817.77	Sep	1,438.89
Oct	2,834.56	Oct	1,452.68
Nov	2,851.31	Nov	1,466.46
Dec	2,868.11	Dec	1,480.26

☐ Check here if requesting address correction.
Please make changes on address below.

Make checks payable to: Washington County Treasurer, and mail to address below.

MARTIN CARLIN D &
MARTIN CHERYL L
14204 DALEY RD
HAGERSTOWN, MD 21740-1645

Washington County Treasurer's Office
35 West Washington Street, Suite 102
Hagerstown, MD 21740-4868

2082016400026286500002817773000000000000

3995 0500

CLERK OF CIRCUIT COURT
WASHINGTON COUNTY

NO TITLE EXAMINATION

THIS DEED, Made this 10th day of November, 2010, by **CARLTON R. MARTIN** and **LORRAINE M. MARTIN**, his wife, of Washington County, Maryland.

WITNESSETH: That for and in consideration of the sum of **TWENTY-FOUR THOUSAND (\$24,000.00) DOLLARS**, the receipt of which is hereby acknowledged, the said **CARLTON R. MARTIN and LORRAINE M. MARTIN, his wife**, do hereby grant and convey unto **CARLIN D. MARTIN and CHERYL L. MARTIN, his wife**, all that lot of ground, together with the improvements thereon, if any, situate along the west side of Reiff Church Road, in Washington County, Maryland, and shown and designated as Parcel A on the "Simplified Plat of Subdivision of Parcels A & B for Carlton & Lorraine Martin and Carlin and Cheryl Martin" said plat being recorded at folio 9919 among the Plat Records of Washington County, Maryland; **CONTAINING** approximately 1.94 acres of land, more or less.

BEING a part of the same parcel which was conveyed unto Carlton R. Martin and Lorraine M. Martin, his wife, by deed from Sarah C. Spickler dated August 5, 1994, and recorded among the Land Records of Washington County, Maryland, in Liber 1172, folio 322.

The above described property is hereby conveyed subject to and together with any and all notes as set forth on Plat No. 9919, and to any and all other, restrictions, notes, easements, rights of way and other limitations of record.

And the Grantor herein does hereby covenant that, except as to the aforesaid, conditions, restrictions, notes, easements, and rights of way, they will warrant specially the property hereby conveyed and that they will execute such other and further assurances of title as may be legally requisite.

WITNESS my hand and official Notarial Seal

WITNESS:

Carlton R. Martin (SEAL)
Carlton R. Martin

Lorraine M. Martin (SEAL)
Lorraine M. Martin

Carlin D. Martin


3995 0501

CLERK OF CIRCUIT COURT
WASHINGTON COUNTY

STATE OF MARYLAND, WASHINGTON COUNTY, to-wit:


I HEREBY CERTIFY, that on this 10th day of November, 2010, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared Carlton M. Martin and Lorraine M. Martin, his wife, known to me to be the persons whose names are subscribed to the foregoing instrument, who did each acknowledge that they executed the same for the purposes therein contained; and at the same time they also acknowledged that the consideration set forth in said deed is correct.

WITNESS my hand and official Notarial Seal.


Notary Public

My Commission Expires: 3-1-2011

THIS IS TO CERTIFY that the within instrument was prepared by or under the supervision of the undersigned, an Attorney, or by a Party to this instrument.


Robert B. Stone, Attorney

MAIL TO:

Mr. and Mrs. Carlin D. Martin
14204 Daley Road
Hagerstown, MD 21740

TODD L. HERSHEY, TREASURER
TAXES PAID December 2 2010
CR

IMP FD SURE 2	20.00
RECORDING FEE	20.00
RECORDATION T	182.40
TR TAX STATE	120.00
TOTAL	342.40
Reg # WA02	Rcft # 52489
DJW TLR	Blk # 150
Dec 02, 2010	12:42 PM

ker/deeds/Martin Plat 9919 Parcel A

AGRICULTURE TAX \$ 960.00
ACREAGE 1.94 Ac.
CLERK L. Ross

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

By L. Ross Date 12/2/2010

3995 0502

CLERK OF CIRCUIT COURT
WASHINGTON COUNTY

1. Transferor Information

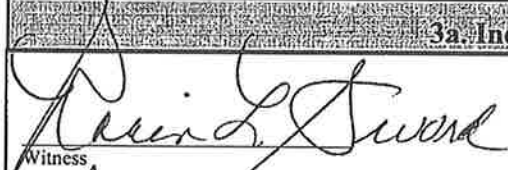


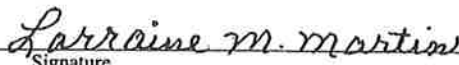
Name of Transferor Carlton R. Martin and Lorraine M. Martin, his wife

2. Reason For Exemption

Resident Status	<input checked="" type="checkbox"/> I, Transferor, am a resident of the State of Maryland. <input type="checkbox"/> Transferor is a resident entity under § 10-012(A)(4) of Maryland's Tax General Article, I am an agent of Transferor, and I have authority to sign this document on Transferor's behalf.
Principal Residence	<input type="checkbox"/> Although I am no longer a resident of the State of Maryland, the Property is my principal residence as defined in IRC § 121.

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	Carlton R. Martin Name  Signature
 Witness	Lorraine M. Martin Name  Signature

3b. Entity Transferors

Witness/Attest	Name of Entity
	By
	Name
	Title

DENNIS J. WEAVER
CLERK OF THE CIRCUIT COURT
FOR WASHINGTON COUNTY
IMPROVEMENT FEE 20 -
RECORDING FEE 20 -
RECORDING TAX 183.40
COUNTY TRANSFER TAX 120 -
TRANSFER TAX 342.40
TOTAL

Ag Tax Due

State of Maryland Land Instrument Intake Form
Washington County
WASHINGTON 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)

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

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

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

4 Consideration and Tax Calculations

Consideration Amount		Finance Office Use Only	
Purchase Price/Consideration	\$ 20,000.00 <u>24000.00</u>	Transfer and Recordation Tax Consideration	
Any New Mortgage	\$	Transfer Tax Consideration	\$
Balance of Existing Mortgage	\$	X () % =	\$
Other:	\$	Less Exemption Amount	\$
Other:	\$	Total Transfer Tax	\$
Full Cash Value:	\$	Recordation Tax Consideration	\$
		X () per \$500 =	\$
		TOTAL DUE	\$

5 Fees

Amount of Fees	Doc. 1	Doc. 2	Agent:
Recording Charge	\$ 20.00	\$	
Surcharge	\$ 20.00	\$	
State Recordation Tax	\$ 400.00 <u>182.40</u>	\$	
State Transfer Tax	\$ 452.00 <u>130.00</u>	\$	
County Transfer Tax	\$	\$	
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
13	017646	1172/322	24		<input type="checkbox"/> (S)
Subdivision Name				Lot (3a)	Block (3b)
Location/Address of Property Being Conveyed (2)				Sect/AR (3c)	Plat Ref.
17558 Reiff Church Road, Hagerstown, MD 21740					SqFt/Acreage (4)
Other Property Identifiers (if applicable)					1.94
Residential <input checked="" type="checkbox"/> or Non-Residential <input type="checkbox"/> Fee Simple <input checked="" type="checkbox"/> or Ground Rent <input type="checkbox"/> Amount:					
Partial Conveyance? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Description/Amt. of SqFt/Acreage Transferred:					
If Partial Conveyance, List Improvements Conveyed:					
Doc. 1 – Grantor(s) Name(s)			Doc. 2 – Grantor(s) Name(s)		
Carlton R. Martin					
Lorraine M. Martin					
Doc. 1 – Owner(s) of Record, if Different from Grantor(s)			Doc. 2 – Owner(s) of Record, if Different from Grantor(s)		
Doc. 1 – Grantee(s) Name(s)			Doc. 2 – Grantee(s) Name(s)		
Carl D. Martin					
Cheryl L. Martin					
New Owner's (Grantee) Mailing Address					
14204 Daley Road, Hagerstown, MD 21740					
Doc. 1 – Additional Names to be Indexed (Optional)			Doc. 2 – Additional Names to be Indexed (Optional)		
Instrument Submitted By or Contact Person					
Name: Robert B. Stone					
Firm: Miller and Stone					
Address: 120 North Potomac Street					
Hagerstown, MD 21740 Phone: (301) 739-4700					
<input type="checkbox"/> Return to Contact Person					
<input type="checkbox"/> Hold for Pickup					
<input checked="" type="checkbox"/> Return Address Provided					
11 IMPORTANT: BOTH THE ORIGINAL DEED AND A PHOTOCOPY MUST ACCOMPANY EACH TRANSFER					
Assessment Information					
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Will the property being conveyed be the grantee's principal residence?					
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Does transfer include personal property? If yes, identify:					
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No 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 3995, p. 0503, MSA_CE18_3945. Date available 12/03/2010. Printed 11/25/2015.

Space Reserved for County Validation.

2736. 0383

CLERK OF CIRCUIT COURT
WASHINGTON COUNTY

THIS DEED

MADE this 29th day of July, 2005,

BY

James Lowell Martin and Mary Jane Martin, husband and wife,
of Hagerstown, Washington County, Maryland
GRANTORS.

WITNESSETH, that for and in consideration of Two Hundred Sixty Five Thousand (\$265,000.00) Dollars, in hand paid, the receipt whereof is hereby acknowledged, the said Grantors do hereby grant and convey to the said *Carlin D. Martin and Cheryl L. Martin, husband and wife, as tenants by the entirety, GRANTEES.*

ALL the following described real estate, *locally known as 14204 Daley Road*, situate along the Mason-Dixon Road and the Reiffs Church Road, in Election District #13, Washington County, Maryland, bounded and described as follows:

BEGINNING at a point on the West margin of the Mason-Dixon Road at the division line between the properties now or formerly of George Downin and M.N. Ebersole, and running thence with the lands now or formerly of M.N. Ebersole, South 11 degrees 44 minutes West 566.3 feet to a stone in the North margin of the Reiffs Church Road, thence crossing said Reiffs Church Road, North 83 degrees 55 minutes East 107.3 feet to a stone in the South margin of Reiffs Church Road, thence with the center line of said Reiffs Church Road, North 10 degrees 22 minutes East 224.1 feet to a point in the middle of the intersection of Reiffs Church Road and the Mason-Dixon Road, North 10 seconds East 200 feet, thence continuing with the center line aforesaid North 12 degrees West 137-1/2 feet to the stone on the West margin of said Mason-Dixon Road and the place of beginning.

2736 0384

CLERK OF CIRCUIT COURT
WASHINGTON COUNTY

Being the same real estate conveyed to James Lowell Martin and Mary Jane Martin, his wife, the Grantors herein, by deed of Lester E. Eby and Lorraine F. Eby, his wife, dated January 10, 1979, and recorded in Liber 674, Folio 732, among the land records of Washington County, Maryland.

UNDER AND SUBJECT TO all conditions, restrictions, general notes and matters of record and as more particularly set forth in the above-mentioned plat.

AND the said Grantors herein do hereby covenant that, except as to the aforesaid general notes, conditions, restrictions, easements, and rights-of-way, they will warrant specially the property hereby conveyed and that they will execute such other and further assurances of title as may be legally requisite.

IN WITNESS WHEREOF, the said Grantors have hereunto set their hands and seals the day and year first above written.

Witness:

James Lowell Martin (Seal)
James Lowell Martin

Mary Jane Martin (Seal)
Mary Jane Martin

. 2736 0385

CLERK OF CIRCUIT COURT
WASHINGTON COUNTY

STATE OF PENNSYLVANIA

COUNTY OF FRANKLIN

On this 29th day of July, 2005, before me, the undersigned officer, personally appeared *James Lowell Martin and Mary Jane Martin*, known to me (or satisfactorily proven), to be the persons whose names are subscribed to the within instrument, and acknowledged the foregoing deed to be their act and deed, and desired the same to be recorded as such.

Witness my hand and official seal, the day and year aforesaid.

Notary Public

Notarial Seal
Kathy P. Pryor, Notary Public
Waynesboro, Boro, Franklin County
My Commission Expires Oct. 19, 2008
Member, Pennsylvania Asso. of Notaries

My Commission Expires:

After recording, mail to:

Kornerstone Property Settlements, Inc.
11855 North Landis Avenue
Waynesboro, PA 17268

IMP FD SURE 2	20.00
RECORDING FEE	20.00
RECORDATION 1	2,014.00
TR TAX COUNTY	1,075.00
TR TAX STATE	662.50
TOTAL	3,791.50
Rest WAB2	Rcpt # 51934
DJW KB	Blk # 713
AUG 03, 2005	12:47 PM

WASHINGTON COUNTY CIRCUIT COURT (Land Records) DJW 2736, p. 0386, MSA_CE18_2686. Date available 08/05/2005. Printed 11/25/2015.

2736 0386

CLERK OF CIRCUIT COURT
WASHINGTON COUNTY

**AFFIDAVIT OF GRANTEE (S) AS
FIRST-TIME MARYLAND HOME BUYER(S)**

The undersigned each state under oath as follows:

1. Each of the undersigned is a Grantee of residentially improved real property being more particularly described as 14204 Daley Road, Hagerstown, Washington County, Maryland.
2. Each of the undersigned is:
 - (a) a first-time Maryland home buyer, defined as an individual who has never owned in the State residential real property that has been the individual's principal place of residence, who will occupy the property as Grantee's principal residence.

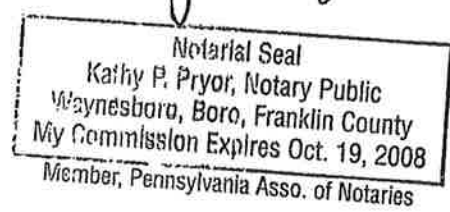
Carl D. Martin
Carl D. Martin

Cheryl L. Martin
Cheryl L. Martin

SUBSCRIBED AND SWORN to before me, a Notary Public in and for the State of Pennsylvania, County of Franklin, this 29th day of July, 2005.

Kathy Pryor
Notary Public

My Commission Expires:



TODD L. HERSHEY, TREASURER
TAXES PAID August 3, 2005
Ce

2736 0387

CLERK OF CIRCUIT COURT
WASHINGTON COUNTY

**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 Information	
Name of Transferor	

2. Reasons for Exemption	
Resident Status	<input checked="" type="checkbox"/> I, Transferor, am a resident of the State of Maryland. <input type="checkbox"/> 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	<input type="checkbox"/> Although I am no longer a resident of the State of Maryland, the Property is my principal residence as defined in IRC §121 and is 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 <u><i>Daniel Reese</i></u>	Name <u><i>James L. Martin</i></u> Signature <u><i>Mary Jane Martin</i></u>
3b. Entity Transferors	
Witness/Attest _____	Name of Entity _____ By _____ Name _____ Title _____

2736 0388

CLERK OF CIRCUIT COURT
WASHINGTON COUNTY
State of Maryland Land Instrument Intake Sheet
☐ Baltimore City ☒ County: Washington

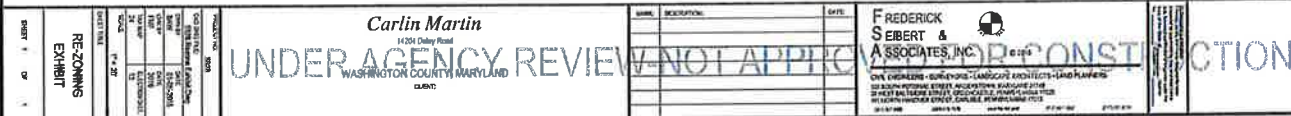
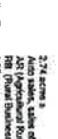
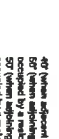
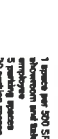
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(Type or Print in Black Ink Only—All Copies Must Be Legible)

1	Type(s) of Instruments	<input checked="" type="checkbox"/> Deed <input type="checkbox"/> Deed of Trust <input checked="" type="checkbox"/> Mortgage <input type="checkbox"/> Lease <input type="checkbox"/> Other _____ <input type="checkbox"/> Other _____																																																																																																																																																																																																																																	
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WASHINGTON COUNTY CIRCUIT COURT (Land Records) DW 2736, p. 0388, MSA_CE18_2686, Date available 08/05/2005, Printed 11/25/2015.

Space Reserved for Circuit Court Clerk Recording Validation



**LIST OF NAMES AND ADDRESSES OF ALL ADJOINING AND CONFRONTING
PROPERTY OWNERS**

1. R. Richard Martin
 - a. Premises Address: 17405 Cindy Lane, Hagerstown, MD 21740
 - b. Mailing Address: See Above
 - c. Map: 0024
 - d. Parcel: 0490
 - e. Account ID: 13-004773

2. Kenneth E. & Fannie H. Eby
 - a. Premises Address: 14438 Daley Road, Hagerstown, MD 21740
 - b. Mailing Address: 17806 Reiff Church Road, Hagerstown, MD 21740
 - c. Map: 0010
 - d. Parcel: 0074
 - e. Account ID: 13-004773

3. Ethan & Annette Eby
 - a. Premises Address: 17601 Reiff Church Road, Hagerstown, MD 21740
 - b. Mailing Address: 14612 Maugansville Road, Hagerstown, MD 21740
 - c. Map: 0024
 - d. Parcel: 0494
 - e. Account ID: 13-012695

4. Paul W. & Jessica L. Veen
 - a. Premises Address: 17558 Reiff Church Road, Hagerstown, MD 21740
 - b. Mailing Address: See Above
 - c. Map: 0024
 - d. Parcel: 0491
 - e. Account ID: 13-017646

5. Lowell R. & Luella M. Eby
 - a. Premises Address: Reiff Church Road, Hagerstown, MD 21740
 - b. Mailing Address: 14611 Greencastle Pike, Hagerstown, MD 21740
 - c. Map: 0024
 - d. Parcel: 1204
 - e. Account ID: 13-065021

ZONING
EXHIBIT
FOR

CARLIN MARTIN

LR

A(R)

REIFF CHURCH RD

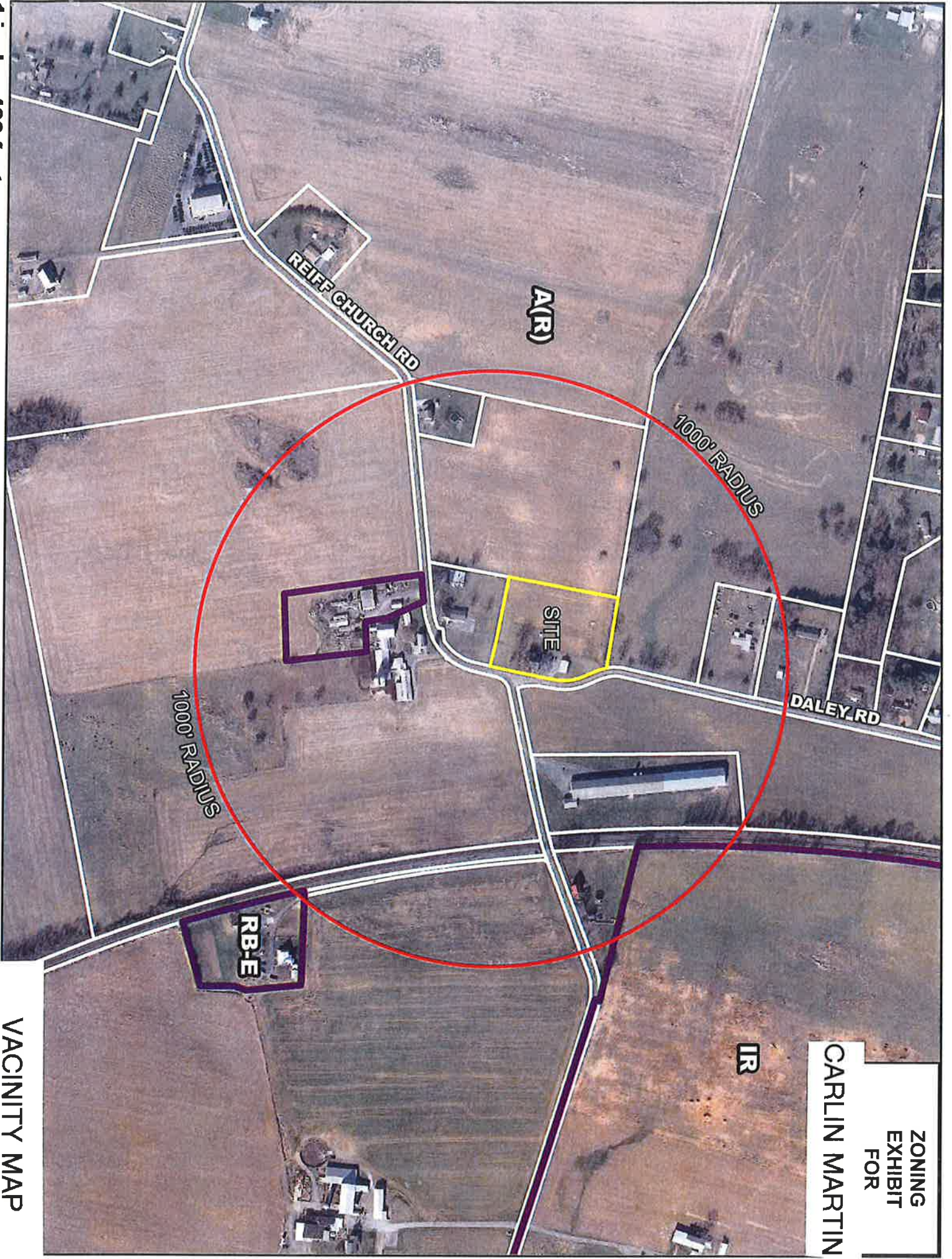
1000' RADIUS

DALEY RD

SITE

1000' RADIUS

RB-E



1 inch = 400 feet

VACINITY MAP



DIVELBISS & WILKINSON
ATTORNEYS AT LAW

January 12, 2016

Re: Justification Statement: 14204 Daley Road, Hagerstown, Maryland 21740 (the "Property"); Rural Business (RB) District Floating Zone Application

REQUEST

Application is made for a Map Amendment to the current Washington County Zoning Map amending a portion of the Property with the RB District floating zone. The RB District overlay will allow the owners of the property to operate an Auto-Sales and Services business as a permitted use in the RB District as indicated 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 located at 14204 Daley Road, Hagerstown, Maryland. Carlin and Cheryl Martin (the "Martins" or the "Applicants") have owned the Property since 2005. The Property consists of 2.74 acres and is currently zoned Agricultural Rural A(R). The Martins reside on the Property.

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 Martins assert that placing the RB District overlay on a +/- 1.30 acre portion of the Property (the "Proposed RB Zone") as shown on the concept plan created by Frederick Seibert & Associates, dated January 5, 2016, and attached hereto and incorporated herein as "Exhibit A", allows for development and operation of a business that serves the needs of the rural residential population by providing a convenient and proximate location at which rural residents are able to purchase a reliable pre-owned vehicle at a reasonable price. The

auto-sales and services business operated within the Proposed RB District further follows the letter and spirit of the Ordinance in the following ways:

1. The proposed Map Amendment sought by the Martins satisfies the Bulk Regulations required by the Ordinance for an RB District overlay as more specifically shown on Exhibit A:
 - a. Lot Size: Minimum 40,000 sf – the area of the Proposed RB Zone would contain +/- 56,628 sf.
 - b. Front Yard Building Setback: 40 feet from a Minor Collector or Local Public Road Right of Way- as shown on Exhibit A.
 - c. Side and Rear Yard Building Setbacks: 50 feet from a property zoned for or occupied by a Residential Land Use-as shown on Exhibit A.
 - 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 cover +/- 56,628 sf of the total +/- 119,354 sf area of the Property which equates to approximately 48% of the total area of the Property.
 - f. Parking: As shown on Exhibit A, area for Thirty (30) parking spaces is provided. All off-street parking facilities shall be provided in accordance with Article 22, Division I of the Ordinance.
 - g. Signage: Though no signage is proposed at this time, any subsequent signage shall conform to the requirements set forth in Section 22.23 of the Ordinance.
 - h. Lighting: The Applicants do not intend to conduct sales or otherwise operate the auto-sales business during nighttime hours. Nevertheless, all building mounted or freestanding lighting shall be constructed so that light and glare are directed toward the ground.
 - i. With the exception of the automobiles situated on the Proposed RB Zone and displayed for sale, the Applicants do not intend on any outside storage of materials.
 - 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 has frontage on Daley Road and the proposed auto-sales business would be accessed by potential customers from Daley Road. The auto-sales business would have one employee, the Applicant, Carlin Martin. Mr. Martin's intention is to maintain an inventory of vehicles not to exceed the number of available parking spaces in the Proposed RB Zone (i.e. less than 30). He plans to obtain the vehicles piecemeal, whether by purchasing them at auction or from the vehicle's then owner. He will not be receiving bulk shipments of vehicles at the Property and thus does not

anticipate the proposed business to generate any commercial truck traffic through deliveries of inventory or otherwise.

4. With regard to sewage disposal, water supply, and stormwater management:
 - a. The existing septic system is located under the existing driveway on the Property. The minimal number of daily trips to the Property by potential customers is not expected to create significant additional stress on the septic system.
 - b. As with the septic system, the water supplied by the well on the Property will adequately supply the auto sales business. The Applicants also intend to secure a water cooler and bottled water delivery service to be delivered to the proposed 1,200 sf office as shown on Exhibit A.
 - c. As shown on Exhibit A, two (2) stormwater management ponds will be constructed on the Property to accommodate stormwater runoff from the parking lots.
 - d. The Property does not reside in the 100 year floodplain.
5. The location of the Proposed RB Zone would not be incompatible with existing land uses. As shown on the "Zoning Exhibit for Carlin Martin" attached hereto and incorporated herein as "Exhibit B", also prepared by Frederick Seibert & Associates, there are two (2) RB Districts within 1,000 feet of the Proposed RB District, each providing a unique service to the surrounding rural community. Additionally, a chicken barn used by Martin's Poultry and owned by the Applicants is also located within 1,000 feet of the Proposed RB Zone. None of the parcels within 1,000 feet of the Property have a Preservation or Conservation zoning distinction. Nor are the Martins seeking this rezoning in order to undertake a use which will negatively affect any of the other uses in the area.

CONCLUSION

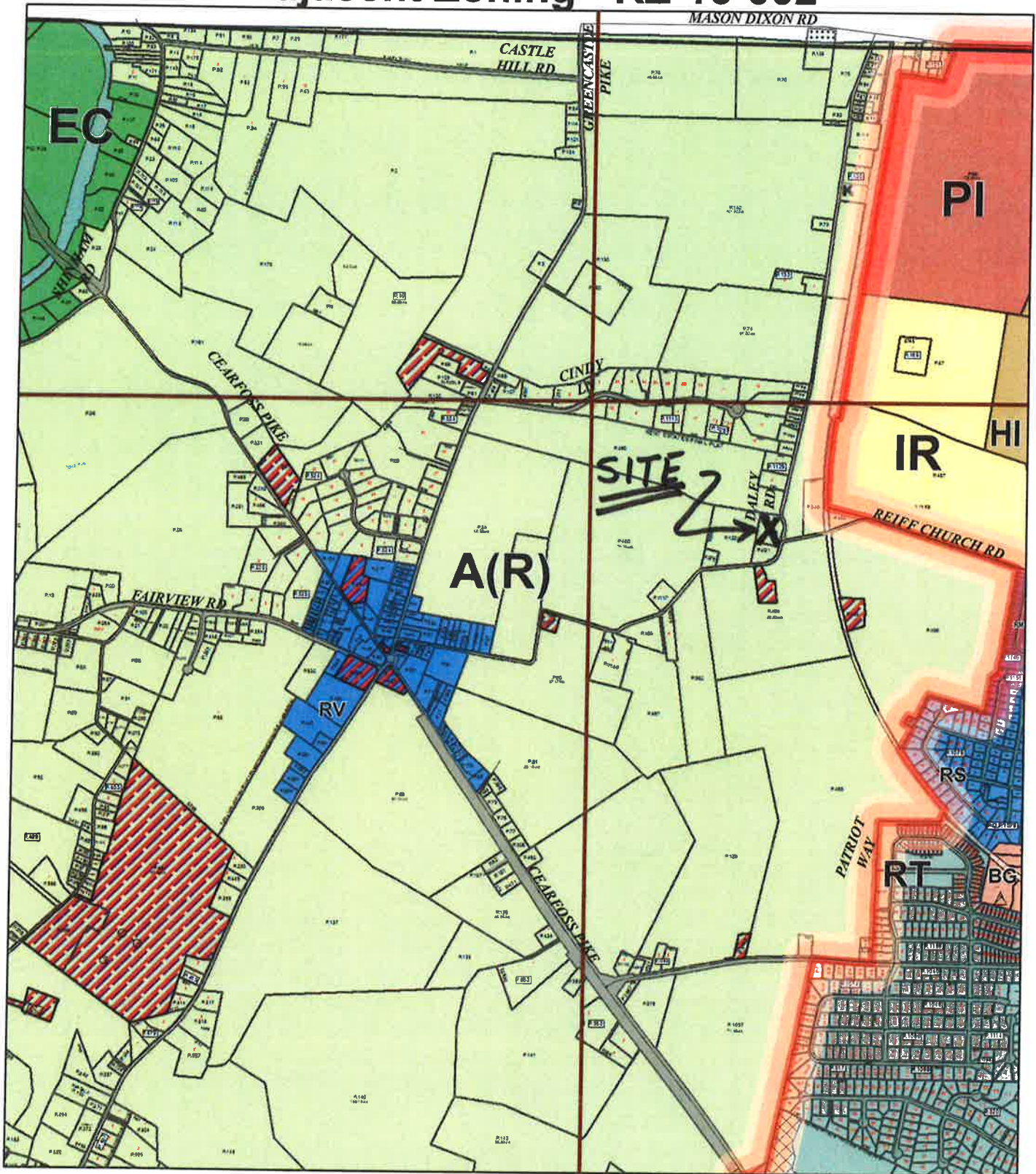
The Martins respectfully request that the Washington County Planning Commission recommend approval of their application for Map Amendment for the RB District and the Board of Commissioners for Washington County grant their application for Map Amendment.

Very truly yours,
DIVEBBISS & WILKINSON



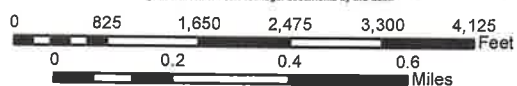
Zachary J. Kieffer
Attorney at Law
Email: zkieffer@divelbisslaw.com

Adjacent Zoning - RZ-16-002



WARNING: This map is for internal use by the Washington County Planning Department. It is not for general distribution to the public, and should not be scaled or copied. Sources of the data contained herein are from various public agencies which may have restrictions and disclaimers.

The parcel lines shown on this map are derived from a variety of sources which have their own accuracy standards. The parcel lines are approximate and for informational purposes ONLY. They are not guaranteed by Washington County Maryland or the Maryland Department of Assessments and Taxation to be free of errors including errors of omission, commission, positional accuracy or any attributes associated with real property. They shall not be copied, reproduced or scaled in any way without the express prior written approval of Washington County Maryland Planning and Zoning Department. This data DOES NOT replace an accurate survey by a licensed professional and information shall be verified using the relevant deeds, plats and other recorded legal documents by the user.



- Legend**
- Non-Land Division Tax Accounts (Pseudo Parcels)
 - PI
 - RM
 - RS
 - RT
 - RV
 - Assessment Division
 - Zoning Floating/Overlay Zones
 - Overlay Type
 - Rural Business
 - A(R)
 - BG
 - EC
 - HI
 - IR
 - Growth Area Boundaries
 - Account Unknown
 - Out Of County
 - Tax Parcel
 - Railroad
 - Road
 - Water



Washington County

M A R Y L A N D

DEPARTMENT OF PLANNING & ZONING

COMPREHENSIVE PLANNING | LAND PRESERVATION | FOREST CONSERVATION | GIS

April, 2016

Case #: RZ-16-001

Application for Map Amendment Staff Report and Analysis

Property Owner(s)	:	Arnett Properties LLC and Phillip Arnett
Applicant(s)	:	WASHCO Arnett Farms LLC
Location	:	Southside of Arnett Drive, West of Sharpsburg Pike
Election District	:	#10 – Funkstown
Comprehensive Plan		
Designation	:	Commercial
Zoning Map	:	57
Parcel(s)	:	P. 114 & p/o 589
Acreage	:	5.18 acres (P. 589: 2.11 ac; P. 114: 3.07 ac)
Existing Zoning	:	RU – Residential, Urban
Requested Zoning	:	RM – Residential, Multi-Family
Date of Hearing	:	April 18, 2016

Background and Findings Analysis:

Location and Description of Subject Properties

The subject parcels are located along the Southside of a newly platted road Arnett Drive and west of Sharpsburg Pike. The total acreage of the two parcels that are the subject of this rezoning case is 5.18 acres and are further described as follows:

Subject Parcel #1: Tax Map 57; Grid 110; Parcel 589 – The parcel has a regular rectangular shape consisting of 2.85 acres and is currently improved with a single family detached residence. There is currently a subdivision plan under review to separate the house and approximately 0.74 acres leaving approximately 2.11 acres. The property is generally flat and has a few trees as limited landscaping. There are no environmentally sensitive areas on the property.

Subject Parcel #2: Tax Map 57; Grid 10; Parcel 114 – This parcel has an L-shape configuration consisting of 3.07 acres and is currently unimproved. The topography is primarily flat. There are no environmentally sensitive areas on the property.

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

WWW.WASHCO-MD.NET

Both properties are located within the Urban Growth Area that surrounds the City of Hagerstown and the Towns of Williamsport and Funkstown.



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 picked to show long term population trends both in the election district of the proposed rezoning, as well as the overall trends of the County.

Both of the properties that are the subject of this rezoning are located in the Funkstown Election District, # 10. The Funkstown Election District is approximately 924.8 acres in size and has a population of approximately 12,175 people according to the US Census Bureau. This averages to a population density of 1 person per 13.17 acres.

As shown in the table below, this district has shown large increases in population over the thirty year time frame between 1980 and 2010. Population increases within this election district have far outpaced the average growth rate in the County as a whole of this 30 year time period. This district has increased approximately 56.07% (1.87% per year) while the County has increased in population by 30.37% (1.01% per year) during the same period.

Population Trends 1980 - 2010			
Year	Area	Population	% change from previous decade
1980	District	7801	
	County	113086	
1990	District	9330	19.6%
	County	121393	7.3%
2000	District	11390	22.1%
	County	131932	8.7%
2010	District	12175	6.9%
	County	147430	11.7%

Source: US Census Bureau

Availability of Public Facilities

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.

Both properties are located within the County designated Urban Growth Area that surrounds the City of Hagerstown as well as the Towns of Funkstown and Williamsport.

Water:

Neither of the subject parcels currently has existing public water service. However, both are delineated as a W-3 Programmed Water Service area in the 2009 Water and Sewerage Plan and are immediately adjacent to parcels on the east that have existing water service. It is anticipated that water service will be available to these parcels in the near future due to current development on the north side of Arnett Drive (i.e. Walmart Supercenter).

The City of Hagerstown is the water service provider for this area and therefore the application was sent to the City of Hagerstown Water Department for review and comment. Mr. Ed Norman from the City of Hagerstown Water Department reviewed the application and commented as follows:

"Having reviewed the referenced rezoning case we have the following comment: On page 13 of the Justification Statement, Section 4b. Public Water and Sewer, states that public water is currently available to serve the site is incorrect. At the time of this review there are no public water facilities within any public way or easement contiguous with this parcel."

Wastewater:

Neither of the subject parcels currently has existing public wastewater service. However, both parcels are located within an S-3 Programmed Wastewater Service Area as delineated in the 2009 Water and Sewerage Plan. It is anticipated that wastewater service will be available to these parcels in the near future due to current development on the north side of Arnett Drive (i.e. Walmart Supercenter).

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

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.

Emergency Services

Fire:

Both parcels are located within the service area of the Funkstown Volunteer Fire Company (Company #10). They are located approximately 2.5 miles away from the fire company.

Emergency Rescue:

Emergency Rescue services are provided to both parcels by Community Rescue Service (Company #75). The properties are approximately 6 miles away from the station.

A copy of this application was sent to each of the volunteer companies as well as to the Washington County Division of Emergency Services. The Department responded that they have no comments for this application.

Schools

The subject site is within the districts of Rockland Woods Elementary, E. Russell Hicks Middle and South Hagerstown High schools. Both of the subject properties are currently zoned RU (Residential, Urban) which does permit single family and two-family residential uses on 6,500 and 5,000 square foot lots respectively, provided they have public water and sewer service.

The requested change for the subject properties to be rezoned to RM (Residential, Multi-Family) could permit a higher residential density than the existing zoning. Permitted residential uses in the RM district include single family, two-family, townhouses, apartments, and condominiums. Permitted density ranges from 7,500 (5.8 units per acre) square foot lots for single family homes to 12 dwelling units per acre for apartments and condominium units.

The table below delineates an accounting of current school enrollments and available capacity in accordance with the Adequate Public Facilities Ordinance. The enrollment and capacity data is provided by the Washington County Board of Education and is current through December, 2015.

School Capacity Analysis				
School	State Rated Capacity	APFO Capacity	Current Enrollment	Available Capacity
Rockland Woods Elementary	745	671	593	78
E. Russell Hicks Middle	797	797	779	18
South Hagerstown High	1209	1209	1237	-28

Based upon the residential densities stated above for single family and two family homes in the RU and RM districts, Staff assumes that the purpose of this rezoning is for the construction of either townhouses, apartment buildings, or a combination of both. Based upon this assumption Staff can roughly estimate the potential impacts on school capacity should this rezoning be approved.

Pupil Generation Rate (per unit)			
	Elementary	Middle	High
Single Family	0.41	0.17	0.23
Two Family	0.41	0.17	0.23
Townhouse	0.3	0.09	0.13
Multi-Family	0.33	0.14	0.17

Comparison of Pupil Generation between RU and RM Zoning ¹						
Residential Type	RU Zoning		RM Zoning			
	SF	2F	SF	2F	TH	MF
Density	6.7	8.7	5.8	8.7	12	12
Acreage	5.18	5.18	5.18	5.18	5.18	5.18
Potential Units	35	45	30	45	62	62
Elementary	14.2	18.5	12.3	18.5	18.6	20.5
Middle	5.9	7.7	5.1	7.7	5.6	8.7
High	8.0	10.4	6.9	10.4	8.1	10.6
Total	28.1	36.5	24.3	36.5	32.3	39.8

¹ This chart is for illustrative purposes only. These figures are based on gross acreage figures and are not adjusted for developmental limitations. Actual pupil generation calculations will be performed during the development review process.

As shown in the charts above if the developer were to maximize the residential capacity under the parameters of the existing RU zoning districts the pupil generation yield would be approximately 36.5 new students between the three levels of educational facilities. In comparison, if the property were rezoned to RM and the developer maximized the residential capacity of the subject parcels, the pupil generation yield would be approximately 40 new students between the three levels of educational facilities. This would increase potential pupil yield by 3 to 4 students mostly affecting the elementary and middle school facilities.

When evaluated against existing student enrollment, the calculated pupil yield appears that it could be absorbed in the elementary and middle school facilities whether zoned RU or RM. However, capacity is not available at the high school level for either zoning districts. While capacity at the high school level is not currently available it is worth noting that rezoning the subject parcels to RM does not appear to have much more impact than if the parcels were developed to their maximum potential under the current RU zoning.

Present and Future Transportation Patterns

Highways

Both of the subject parcels in this case will have road frontage along Arnett Drive once construction of the new roadway is complete. Currently, Arnett Drive is being constructed to service new development (Walmart) in the area. It is anticipated that at some point in the future Arnett Drive will be extended to the west and connect to existing Rench Road. The purpose of this project is to ultimately relocate Rench Road so that a safer intersection can be developed with the recently re-aligned Poffenberger Road.

A new traffic light at the intersection of Arnett Drive and Sharpsburg Pike (MD 65) is expected to be installed in the near future once volumes reach the point of warrant. Walmart has agreed to install the below grade work for the signal as part of their agreed upon road improvements for the new development. The County has earmarked \$250,000 in the FY 2016-2025 Capital Improvement Program for this project.

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. Since Arnett Drive has not been constructed yet, Staff has chosen to evaluate traffic volume data along the next major corridor, Sharpsburg Pike. Traffic volume data was retrieved from MD SHA. The data shown in the chart is expressed in annual average daily traffic volumes.

Table 2: Traffic Volumes 1980-2014

Year	MD 65 @ EB on-ramp I-70
2014	21714
2010	20530
2005	16550
2000	17550
1995	12725
1990	13825
1985	9500
1980	9750

Source: Maryland State Highway Administration

As shown in the table above, traffic volumes have more than doubled over the last three decades. Because the figures are expressed in annual average daily traffic there are some inconsistencies in year to year data but there has been an obvious increase in traffic.

A copy of this rezoning application was sent to SHA for comment, however, there has been no comment received in response to this request.

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

- 1. It is agreed that the Site should access Arnett Drive rather than Rench Road.*
- 2. A traffic study would likely be required for any residential development that generates 7 or more peak hour trips.*
- 3. Since Arnett Drive is classified as a Minor Collector Road, any future Site Plans for the property should provide at least 100' separation distance between new access points.*

Public Transportation

This area is currently not served by public transportation.

Compatibility with Existing and Proposed Development in the Area:

Both of the subject parcels are currently zoned Residential Urban and are requesting a change to Residential Multi-family. The purpose of the RM zoning district is "...to provide appropriate locations for apartments, condominiums, and townhouses and other types of multi-family buildings in the urban area of the County..."². Both properties are bounded on the north and east by Highway Interchange zoned properties. They are bounded on the south by properties zoned Residential Urban and on the west by a property zoned Residential Multi-family.

The area surrounding the subject parcels contain a mixture of residential and commercial uses. The majority of the property is bordered by commercial type uses such as Keplinger's Automotive, Arnett's LLC, Bulldog Federal Credit Union, and construction has begun on the new Walmart Supercenter. There are also a scattering of residential uses in the vicinity.

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 13 historic sites located within a 0.5 mile radius of the proposed rezoning areas. While there are a few historic resources still in existence, many of the sites located north of the subject sites have been

² Washington County Zoning Ordinance, Section 10.0, Purpose

demolished. Below is a listing of existing historic resources left within a 0.5 mile radius of the subject parcels.

WA-I-448 – Late 19th Century Brick Farmhouse dated 1864, located on an adjacent property, located in the Cross Creek Subdivision approximately 1500' from the subject parcels.

WA-I-410 – Late 19th Century Brick house built in 1881, located approximately ½ mile south of the subject parcels.

WA-I-503 – Early 20th Century Frame Bungalow, located approximately 2000' south of the subject parcels.

WA-I-504 – Early 20th Century frame farmhouse, located approximately 1400' south of the subject parcels.

WA-I-506 – Foursquare House, early 20th Century stucco house, approximately 600' southeast of the subject parcels.

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.

Both of the properties are located in the sub-policy area Commercial. The Comprehensive Plan offers the following recommendations for this policy area:

Commercial Policy Area recommendations:

“This classification encompasses all types of commercial uses. The areas zoned Business Local, Business General and the Highway Interchange One areas primarily devoted to commercial land uses make up this policy area. Existing and anticipated land uses include retail shopping from malls down to neighborhood shopping centers, as well as restaurants, specialty stores and offices.”³

Change in the Character of the Neighborhood or Mistake in Original Zoning 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. 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)

³ 2002 Washington County, Maryland Comprehensive Plan, Page 243

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.

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 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 was a mistake made by the governing body in the last comprehensive rezoning of the properties in 2012. There can be many reasons provided by an applicant to prove that the governing body erred in its application of zoning. However, previous MD case law has consistently found that in order for an applicant to prove that the governing body erred in its application of zoning on a property, evidence must be provided that clearly shows that the body failed to consider certain facts and conditions existing at the time of the rezoning.

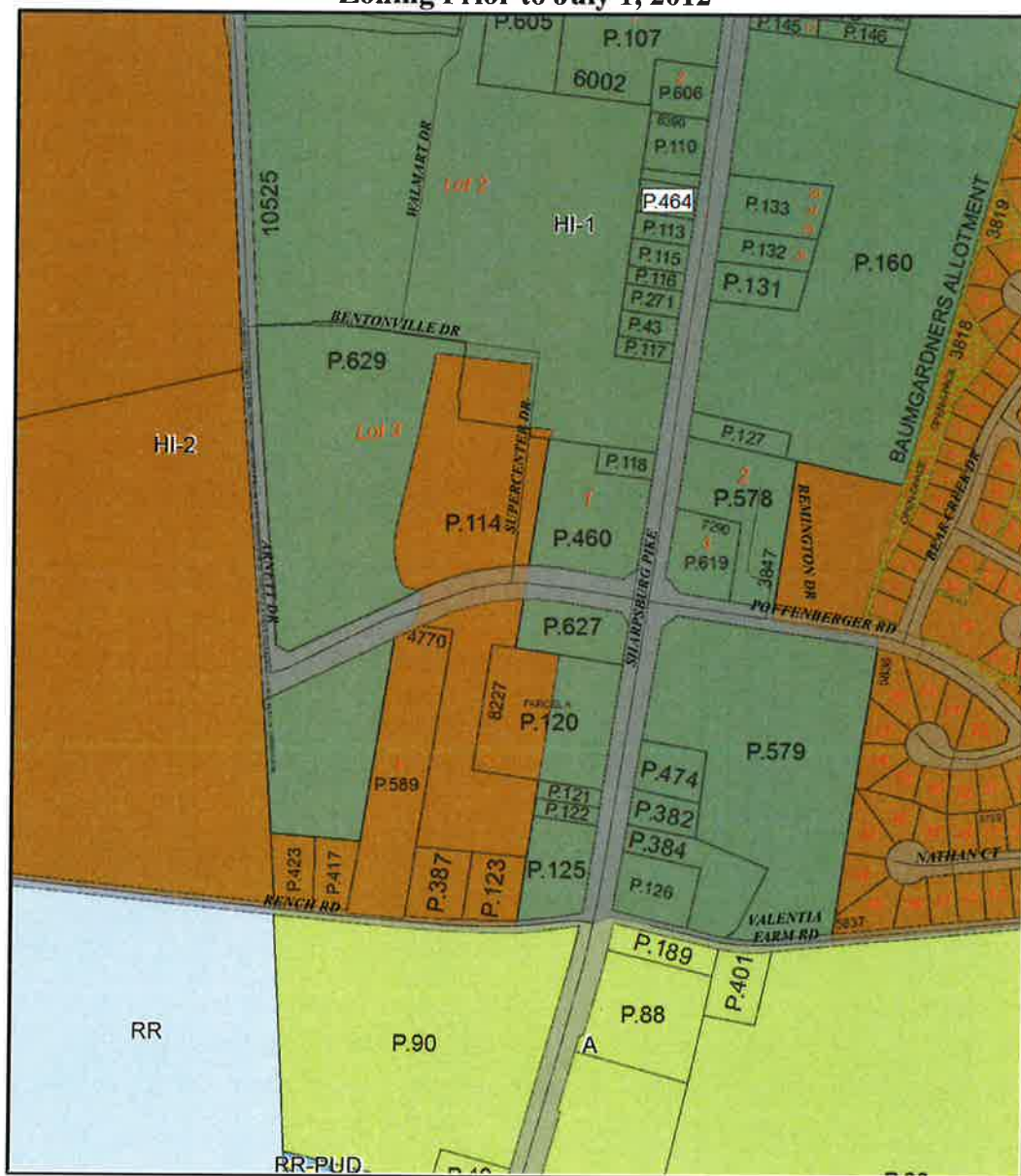
There are five general points made by the applicant to show the legislative body erred in their judgement of zoning on this property in 2012:

1. In downzoning the subject parcels from HI-2 to RU the Board failed to adhere to general planning principles of providing for diversity, density, and intensity of residential uses in proximity to the urban core.
 2. In downzoning the subject parcels from HI-2 to RU the Board failed to follow its own stated purpose to decrease land area in the UGA but not decrease housing opportunities by increasing density allowances in residential zoning districts.
 3. The Board failed to consider if the site was appropriate for RM zoning based on the identification in the Comprehensive Plan that the HI-2 district is most similar to the RM zoning district.
 4. The Board failed to recognize that the adjoining 3.16 acre parcel to the west has many similar qualities to the subject parcels yet RM zoning was applied to that parcel and not the subject parcels.
-

5. The piecemeal zoning amendment of nearby Carriage Hills subdivision in 2013 illustrates that the Board did not consider whether some properties close to the site were appropriate and logical for the RM zoning district.

Before the adoption of the Urban Growth Area Rezoning, the subject parcels were zoned Highway Interchange – 2 (HI-2). They were bounded on the east and west by HI-1 zoning, on the south by Agricultural zoning and on the north by a mixture of HI-1 and HI-2 zoning. This created a slightly awkward ‘finger’ of HI-2 zoning jutting northward from Ranch Road (see map below). The awkward zoning boundary lines were a result of piecemeal rezoning requests and subdivision activity in the area.

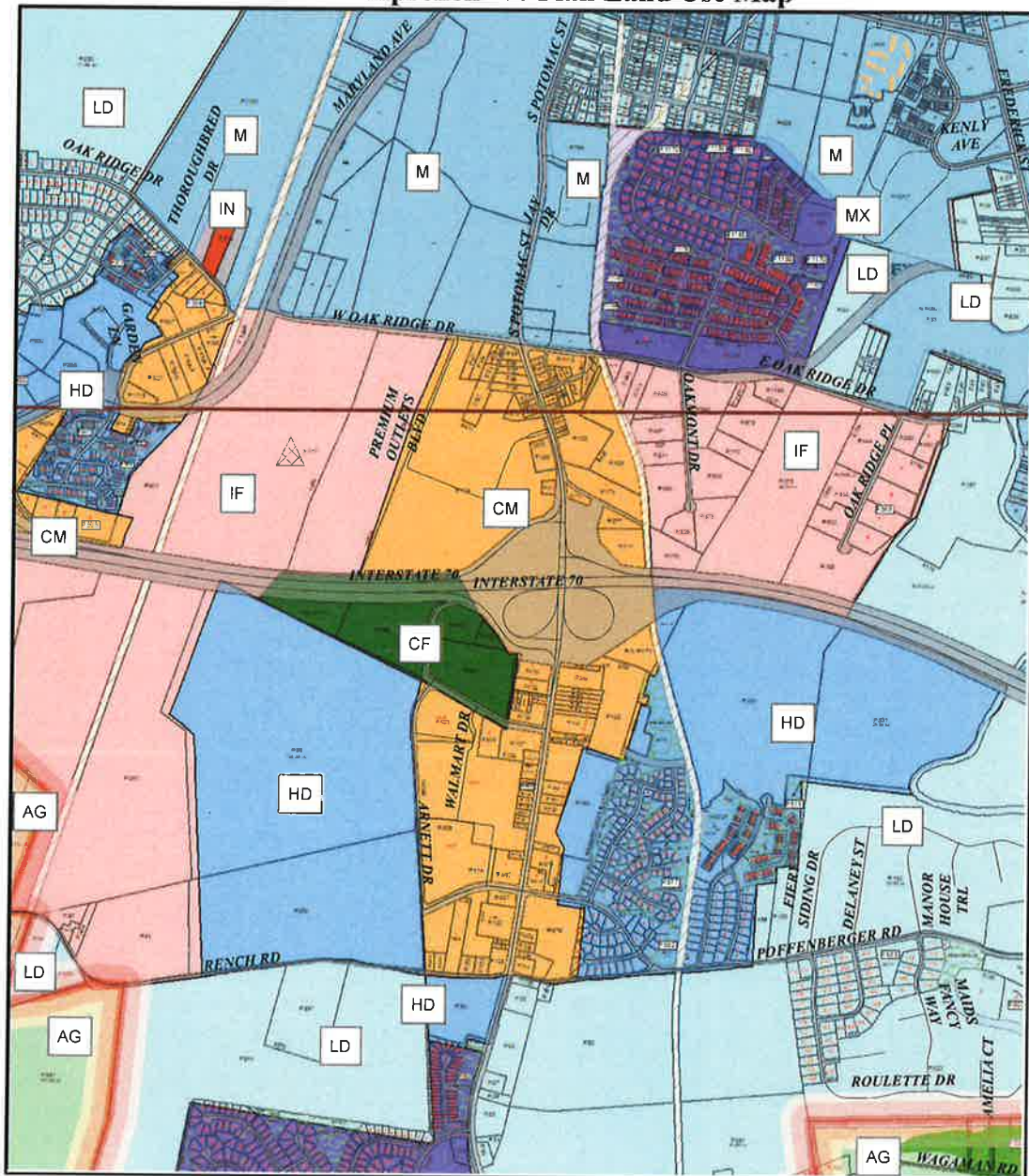
Zoning Prior to July 1, 2012



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 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 the adopted Land Use Map for the County projected that land on both sides of Sharpsburg Pike from the boundary with the City of Hagerstown (north of I-70) to the intersection with Rensch Road would develop commercially (see map below).

2002 Comprehensive Plan Land Use Map



Each of the applicant's points have some validity and merit, but when looked at cumulatively they build a reasonable case that there may have been an error in the zoning of the subject parcels. The applicant makes the point that the County has clearly defined plan use planning goals that have been well established over the years. Applicable to this case is the application of residential zoning based on density and diversity as it relates to proximity with the urban core. The County has consistently provided guidance for that higher density residential uses should have a closer proximity to the urban core so that existing infrastructure can be used in a more efficient manner. While these properties are not in direct proximity to the urban core, they are located in a rapidly developing area south of the City of Hagerstown that has transitioned into a more urbanized area over the last several decades.

The applicant also points out that the County has had a consistent goal of providing a variety of housing options for its citizens. They accurately point out that zoning the parcels RU rather than RM reduces the diversity of the types of residential uses available, however, in the context of the size of this parcel it does not have a dramatic impact on the density. Therefore, it could be interpreted that the intent of the zoning density is still being maintained, the applicant is seeking to fulfill the County's goal for diversified housing options.

Recommendation:

Historic judicial proceeding dealing with cases of mistake in zoning state that it is up to the legislative body to determine if a mistake has occurred and if so, is the rezoning warranted? When evaluated cumulatively, the five points made in the applicant's justification statement build a reasonable case for a mistake in the zoning of the subject parcels.

Staff believes this rezoning follows the overall intent of its original zoning of RU since the change will result in a very limited increase in overall residential density. Furthermore, Staff believes that the applicant has provided adequate justification that the County erred in this zoning as referenced in the above analysis.

Respectfully Submitted,



Jill Baker
Chief Planner

WASHINGTON COUNTY PLANNING COMMISSION
WASHINGTON COUNTY, MARYLAND

RECEIVED

JAN 11 2016

ORDINANCE AMENDMENT APPLICATION

WASHINGTON COUNTY
PLANNING DEPARTMENT

PLEASE BE SURE TO COMPLETE THE
APPROPRIATE SECTIONS AND SIGN
THE APPLICATION.

THE APPLICATION MUST BE ACCOMPANIED
BY THE APPROPRIATE FEES. (PLEASE MAKE
CHECKS PAYABLE TO: "WASHINGTON
COUNTY TREASURER".)

To be completed by the Planning Commission

Case No. B2-16-001

Date Filed: _____

Fee Paid: _____

Hearing Date: _____

WASHCO Arnett Farms LLC c/o Sassan Shaool

APPLICANT

72 West Washington Street, Hagerstown, MD 21740

ADDRESS

Arnett Properties LLC and Philip Arnett

PROPERTY OWNER

18312 Rench Road, Hagerstown, MD 21740

ADDRESS

Type of Amendment requested:

MAP AMENDMENT

1) Zoning Ordinance:

The applicant hereby petitions for the reclassification of land

Located at 10300 Sharpsburg Pike and 18312 Rench Road

Street Name and Number or N S E W side of road, distance N S E W from nearest
Intersecting road

Consisting of 5.18 Acres

Area in square feet if less than one (1) acre, or in acres if one (1) acre or more

From the Residential Urban (RU) District to the Residential Multifamily (RM)
Present classification Requested Classification

Tax Map: 0057 Grid: 0010 Parcel No.: 0114 and 0589

Explanation (As described in the "Administrative Procedures for Rezoning Applications"): _____

See Justification Statement and accompanying materials attached.

If additional space is needed, please attach a separate sheet of paper)

REASON FOR THE REQUEST: (Please check one)

- ☐ Change in the character of the neighborhood
- ☐ Mistake in Original Zoning

TEXT AMENDMENT

Please check one:

Adequate Public Facilities Ordinance	_____
Comprehensive Plan	_____
Forest Conservation Ordinance	_____
Solid Waste Plan	_____
Subdivision Ordinance	_____
Water and Sewer Plan	_____
Zoning Ordinance	_____

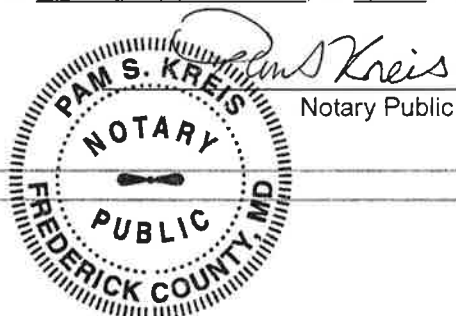
Proposed Text: Deletions should be in brackets, unchanged wording in lower case, and new wording in caps.

Section No. _____

_____ Bruce N. Dean, Esq. _____ Attorney or Agent	_____ Linowes and Blocher LLP _____ Address 8 West Third Street, Frederick, MD 21701 _____ Address WASHCO Apple Farms LLC By: _____ Applicant's Signature Sassan Shaoal, Managing Member
--	--

Subscribed and sworn before me this 11th day of January, 2016. My commission expires on _____.

Pam S. Kreis
Notary Public, Frederick County, MD
My Commission Expires 12/15/2018



OWNER'S REPRESENTATIVES AFFIDAVIT FOR REZONING APPLICATIONS


This is to certify that WASHCO Arnett Farms LLC is authorized to file an application for
(applicant's name)
an application for the rezoning of lands located at 10300 Sharpsburg Pike and 18312 Rench Road, Hagerstown
(location)
containing 5.16 +/- from Residential Urban (RU) to Residential Multifamily (RM)
(acres) (existing classification) (requested classification)
and that said application is authorized by Philip Arnett, the property owner in fee.
(owner's name)

PROPERTY OWNERPhilip Arnett


Name

18312 Rench Road, Hagerstown MD 21740

Address


Signature

Subscribed and sworn before me this 7th
day of January of 20 16.


Notary Public

My Commission expires:

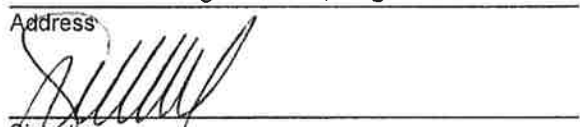
KIEU T LE
Notary Public-Maryland
Washington County
My Commission Expires
July 24, 2016

AUTHORIZED REPRESENTATIVEWASHCO Arnett Farms LLC, c/o Sassan Shaool

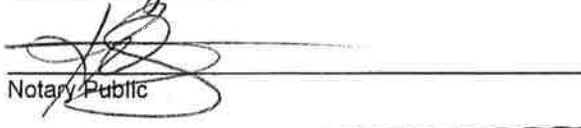
Name

72 West Washington Street, Hagerstown MD 21740

Address


Signature

Subscribed and sworn before me this 7th day of
January of 20 16.


Notary Public

My Commission expires:

KIEU T LE
Notary Public-Maryland
Washington County
My Commission Expires
July 24, 2016

OWNER'S REPRESENTATIVES AFFIDAVIT FOR REZONING APPLICATIONS

This is to certify that WASHCO Arnett Farms LLC is authorized to file an application for
(applicant's name)
an application for the rezoning of lands located at 10300 Sharpsburg Pike and 18312 Rench Road, Hagerstown
(location)
containing 5.16 +/- from Residential Urban (RU) to Residential Multifamily (RM)
(acres) (existing classification) (requested classification)
and that said application is authorized by Arnett Properties LLC, the property owner in fee.
(owner's name)

PROPERTY OWNER

Arnett Properties LLC
Name

10300 Sharpsburg Pike, Hagerstown MD 21740
Address


Signature

Subscribed and sworn before me this 7th
day of January of 20 16.


Notary Public

My Commission expires: **KIEU T LE**
Notary Public-Maryland
Washington County
My Commission Expires
July 24, 2016

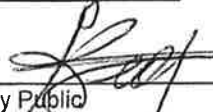
AUTHORIZED REPRESENTATIVE

WASHCO Arnett Farms LLC, c/o Sassan Shaool
Name

72 West Washington Street, Hagerstown MD 21740
Address


Signature

Subscribed and sworn before me this 7th day of
January of 20 16.


Notary Public

My Commission expires: **KIEU T LE**
Notary Public-Maryland
Washington County
My Commission Expires
July 24, 2016

3114 0418

CLERK OF CIRCUIT COURT
WASHINGTON COUNTY

THIS DEED HAS BEEN PREPARED WITHOUT BENEFIT OF TITLE EXAMINATION

NO CONSIDERATION DEED

(Filed in Connection with Conversion of a Real Estate Enterprise
into a Maryland Limited Liability Company)

THIS DEED, made this 21st day of August, 2006, by PHILIP L. ARNETT
("Grantor"), unto ARNETT PROPERTIES LLC, a Maryland limited liability company ("Grantee").

WHEREAS, Grantor owns one hundred percent (100%) of a Maryland Real Estate
Enterprise consisting of the herein described real estate; and

WHEREAS, Grantor is the Member of a sole-member limited liability company known as
Arnett Properties LLC, the Articles of which were approved by the MDAT on June 28, 2005; and

WHEREAS, this Deed is made for the purpose of capitalizing Arnett Properties LLC with
the Property described herein with such transfer intended to bring about the discontinuance of the
Real Estate Enterprise.

NOW, THEREFORE, THIS DEED, WITNESSETH: That for no consideration except for
the membership interests in the Grantee received by the Grantor, the receipt and sufficiency of
which is hereby acknowledged prior to the delivery of these presents, the said PHILIP L. ARNETT
does hereby grant and convey unto ARNETT PROPERTIES LLC, a Maryland limited liability
company, its successors and assigns, in fee simple, all of his right, title and interest in and to those
parcels of land situate, lying and being in Washington County, Maryland, which are described as
follows:

REAL PROPERTY DESCRIPTION

All that farm, together with improvements thereon, situate on the Northwest corner of the
Hagerstown-Sharpsburg Highway and Rench Road, in Election District No. 10, Washington
County, Maryland, and being more particularly described as follows:

BEGINNING at a planted stone at the beginning of the deed from William A. Keyser and wife to
Grover M. Sprecher and Mabel Wolfe Sprecher, his wife, dated April 1, 1921, and recorded in
Liber No. 159, folio 619, one of the Land Records of Washington County, and running thence
with a portion of the first line of said deed South 3° 30' East 1293.45 feet, more or less, to a point,
thence parallel with Rench Road South 86° 00' East 227.77 feet to a point, thence South 4° 00'
'West 200.0 feet into said Road and to intersect the second line of the aforementioned deed, thence
along said Road South 86° 00' East 160.0 feet to a point, thence leaving Rench Road and running
North 86° 00' East 200.0 feet to a point, thence again parallel with Rench Road South 86° 00' East
313.92 feet to a point, thence North 8° 15' East 211.76 feet to a point, thence South 81° 53' East 3.0
feet to a point, thence North 8° 15' East 350.0 feet to a stake, thence North 51° 53' West 122.32

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WASHINGTON COUNTY

feet to a point, thence North 8° 36' East ~83.45 feet to a point, thence South 83° 35' East 325.1 feet to a point on the margin of the original location of the Hagerstown-Sharpsburg Highway, thence along said Highway North 8° 15' East 89.3 feet, more or less, to a point, thence South 77° 30' East 16.0 feet into the center of said original Highway, thence with it North 8° 31' East 162.4 feet, more or less, to a point, thence leaving the Highway and running North 83° 35' West 200.0 feet to a point, thence North 8° 25' East 50.0 feet to a point, thence North 7° 45' East 650.0 feet to a point, thence South 83° 35' East 200.0 feet into the Highway, thence along it North 7° 45' East 20.5 feet, more or less, thence leaving the Highway and running North 83° 00' West 435.0 feet to a point, thence North 6° 45' East 1139.7 feet, more or less, to intersect the eighth line of the first mentioned deed, thence continuing with the lines of said deed North 80° 45' West 900.6 feet, more or less, to a post, thence South 12° 22' West 440.0 feet to a post, thence South 120° 22' West 450.0 feet to a point, thence South 3° 30' East 294.0 feet to the North margin of the roadway conveyed by Barbara E. Stouffer to Mary L. Stouffer by deed dated June 25, 1901, and recorded in Liber No. 114, folio 465, another of said Land Records, thence along the North margin of said roadway South 83° 00' East 1370 feet to the West margin of the Old Highway, thence along it South 7° 00' West 20.5 feet to a point, thence leaving the road and running North 83° 00' West 1365.0 feet to a stump, thence South 3° 30' East 878.0 feet to the place of beginning; containing 69.88 acres of land, more or less; and being a portion of the property conveyed by William A. Keyser and Etta L. Keyser, his wife, to Grover M. Sprecher and Mabel Wolfe Sprecher, his wife, by deed dated April 1, 1921, recorded among the Land Records of Washington County, Maryland, in Liber 159, folio 619, the said Grover M. Sprecher having predeceased the said Mabel Wolfe Sprecher upon his death on March 23, 1972, being that same real estate described and conveyed in a deed from Elizabeth Sprecher Arnett, Personal Representative of the Estate of Mabel Wolfe Sprecher, dated February 3, 1975 and recorded at Liber 591, folio 693, one of the Washington County Land Records.

TOGETHER with the buildings and improvements thereupon, erected, made or being, and all the rights, alleys, ways, waters, privileges, easements, appurtenances, and advantages, to the same belonging or in anywise appertaining.

SAVING AND EXCEPTING THEREOUT AND THEREFROM all of the following real estate along with any and all grants of easements or other rights, off-conveyances and assignments of interest that may have been granted during such time as Elizabeth S. Arnett, and her estate owned the property, which conveyances may be unknown or otherwise not hereinafter shown because this deed is prepared without benefit of a search of title.

1. Deed from Elizabeth Sprecher Arnett to State of Maryland for the use of the Motor Vehicle Administration of the Department of Transportation, dated September 17, 1986 and recorded at Liber 821, folio 186, containing 13.375 acres more or less.
2. Deed from Elizabeth Sprecher Arnett to Earl R. Wassen and Armelda B. Wassen, his wife, dated October 23, 1995 and recorded at Liber 1236, folio 320 per Plat Folio 4770, containing 0.04 acre more or less.
3. Deed from Elizabeth Sprecher Arnett to Philip L. Arnett and Brenda J. Arnett, his wife, dated October 23, 1995 and recorded at Liber 1236, folio 323, being Lot 1 on a plat of

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WASHINGTON COUNTY

subdivision for Lot 1 and Parcel A for Waldo Arnett recorded at Plat Folio 4770, containing 2.87 acres more or less.

4. Deed from Elizabeth Sprecher Arnett to Sharpsburg Pike Inn, LLC, dated August 12, 1998 and recorded at Liber 1432, folio 885, per Plat Folio 5678 containing 2.152 acres more or less.
5. Deed from Elizabeth Sprecher Arnett by Philip L. Arnett, her attorney-in-fact, to Keplinger Properties, LLC, dated May 19, 2005 and recorded at Liber 2660, folio 171, per Plat Folio 8227 containing 1.5 acres more or less.
6. Deed from Philip L. Arnett, personal representative of the Estate of Elizabeth S. Arnett, a.k.a. Elizabeth Sprecher Arnett, Estate No. 58129 in the Orphans' Court for Washington County, Maryland, dated March 31, 2006 and recorded at Liber 2966, folio 122, per Plat Folios 8659 and 6002, containing 42.81 acres more or less.

LEAVING 8.47 Acres, more or less being conveyed herein.

BEING all that same real estate described and conveyed in a deed from Philip L. Arnett, Personal Representative of the Estate of Elizabeth S. Arnett, to Philip L. Arnett, dated August 21, 2006 and recorded at Liber 3107, folio 479, one of the Land Records of Washington County.

TO HAVE AND TO HOLD the above described real estate unto the aforesaid Arnett Properties LLC, its successors and assigns, in fee simple, forever.

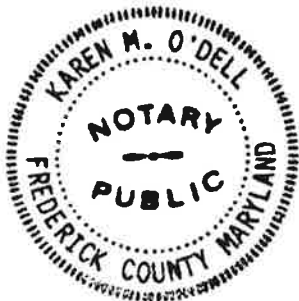
WITNESS the hand and seal of the Grantor the day and year first above written.

William E. Arnett * Philip L. Arnett (SEAL)
PHILIP L. ARNETT, Grantor

STATE OF MARYLAND, COUNTY OF FREDERICK, TO WIT:

I HEREBY CERTIFY that on this 21st day of August, 2006, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared PHILIP L. ARNETT, and he acknowledged the foregoing Deed to be his act and deed.

WITNESS my hand and Notarial Seal.



Karen M. O'Dell
NOTARY PUBLIC
My Commission Expires: 07/01/2009

3114 0421

CLERK OF CIRCUIT COURT
WASHINGTON COUNTY

STATE OF MARYLAND

FREDERICK COUNTY

AFFIDAVIT

The undersigned makes oath, in due form of law and under the penalties of perjury, that the following is true to the best of my knowledge, information and belief:

1. I am the transferor of that real property described in this deed (the "property");
2. I am the sole owner of the herein property, which property is a Maryland Real Estate Enterprise;
3. I am the sole owner of the Arnett Properties LLC;
4. This conveyance is exempt from tax under Section 12-108(bb) and Section 13-207(a)(18), Tax-Property Articles, Annotated Code of Maryland.
5. That I am exempt from the withholding requirement under Section 10-912 of the Tax-General Article of the Annotated Code of Maryland (the "Withholding Law") because I am a resident of the State of Maryland.

WITNESSED this 21st day of August, 2006.

William E. Arnett

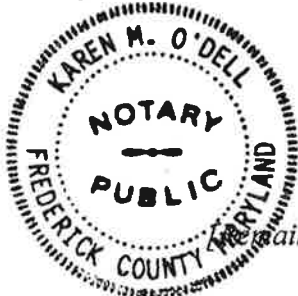
Philip L. Arnett (SEAL)

PHILIP L. ARNETT

Address: 18312 Rench Road
Hagerstown, Md. 21740

STATE OF MARYLAND, COUNTY OF FREDERICK; TO WIT:

Sworn and subscribed to before the undersigned this 21st day of August, 2006.
AS WITNESS my hand and notarial Seal.



Karen M. O'Dell

NOTARY PUBLIC

My Commission Expires: 07/01/2009

[Remainder of page left intentionally blank]

3114 0422

CLERK OF CIRCUIT COURT
WASHINGTON COUNTY
CERTIFICATION

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

William E. Sauser
William E. Sauser, Attorney

RETURN TO:
Miles & Stockbridge P.C.
30 West Patrick Street, Suite 600
Frederick, MD 21701
Ph: 301.698.2302

AGRICULTURE TAX \$ 0
ACREAGE 10
CLERK Debra L. Ross

RECEIVED FOR TRANSFER
State Department of
Assessments & Taxation
for Washington County
By Debra L. Ross Date 9/27/2006

IMP FD SURE 2	20.00
RECORDING FEE	20.00
TOTAL	40.00
Res# WA02	Rcpt # 84168
DJW TLA	Blk # 4571
Sep 27, 2006	10:31 am

TODD L. HERSHEY, TREASURER
TAXES PAID 92706 pa

3114 0423

CLERK OF CIRCUIT COURT
WASHINGTON COUNTY

State of Maryland Land Instrument Intake Sheet

[] City [X] County: WASHINGTON

Information provided is for the use of the Clerk's Office and State Department of
Assessments and Taxation, and the County Finance Office only.
(Type or Print in Black Ink Only All Copies Must Be Legible)No #0
No Ag Tax Due

1	Type(s) of Instruments	<input checked="" type="checkbox"/> Deed <input type="checkbox"/> Deed of Trust <input type="checkbox"/> Improved Sale <input type="checkbox"/> Arms-Length [1] <input type="checkbox"/> Mortgage <input type="checkbox"/> Lease <input type="checkbox"/> Unimproved Sale <input type="checkbox"/> Arms-Length [2] <input type="checkbox"/> Other <input type="checkbox"/> Multiple <input type="checkbox"/> Arms Length [3] <input type="checkbox"/> Not an Arms-Length Sale [9]																																																																	
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DESCRIPTION OF PROPERTY

FOX & ASSOCIATES, INC.

ENGINEERS•SURVEYORS•PLANNERS

981 Mount Aetna Road
Hagerstown, MD 21740

Properties of Philip Arnett & Arnett Properties LLC
To Be Rezoned to RMM

Location: Hagerstown, Washington County, Maryland

Prepared By: Russell E. Townsley Date: January 5, 2016 Page 1 of 2

Situate north of Rench Road and west of the Sharpsburg Pike along the south side of a future street (Arnett Drive) in Election District 10, Washington County, Maryland and being more particularly described as follows:

Beginning at a fence post being at the southeast corner of the lands of Arnett Properties LLC, thence with lands of Christopher Omps (L. 3207 F. 122) and Roy H. Petre (L. 1793 F. 605)

- 1) N 85° 08' 42" W 309.87' to a rebar and cap, thence binding on lands of Philip Arnett
- 2) N 09° 11' 17" E 4.46' to a point, thence crossing lands of Philip Arnett with a line of division now made
- 3) N 85° 08' 04" W 153.07' to a point, thence binding on lands of WASHCO Arnett Farm LLC (L. 5081 F. 417)
- 4) N 09° 07' 31" E 564.25' to a point in the south right-of-way line of proposed Arnett Drive, thence with said right-of-way, the three (3) following courses
- 5) N 64° 18' 20" E 89.20' to a point, thence with a curve to the right having a radius of 605.05', an arc length of 288.95' and a chord bearing and distance of
- 6) N 75° 21' 24" E 286.21' to a point, thence with a curve to the right having a radius of 605.05', an arc length of 0.97 and a chord bearing and distance of
- 7) N 89° 05' 01" E 0.97' to a point, thence leaving the street and binding on lands of Arnetts, Inc. (L. 1214 F. 988)
- 8) S 08° 37' 07" W 137.30' to an iron pipe, thence with lands of Keplinger Properties LLC (L. 2660 F. 171) the three (3) following courses
- 9) N 81° 31' 40" W 65.55' to a point, thence
- 10) S 08° 32' 11" W 350.00' to a rebar and cap, thence

11) S 81° 27' 46" E 186.66' to a rebar and cap, thence binding on lands of Misty Moats (L. 4488 F. 13), Robert Richards (L. 4354 F. 75), and Thomas D. Barbar (L. 827 F. 1002)

12) S 09° 13' 35" W 214.61' to the point of beginning.

Containing 225,641 Sq. Ft. or 5.18 Acres of land more or less.

Being part of the lands conveyed by Philip L. Arnett and Brenda J. Arnett, to Philip L. Arnett by deed dated March 4, 2005 and recorded at Liber 2594 Folio 166; also being all of the lands conveyed by Philip L. Arnett to Arnett Properties LLC by deed dated August 21, 2006 and recorded at Liber 3114 Folio 418; both of which are recorded among the land records of Washington County, Maryland.

Said lands being subject to water and sewer easements as shown on Washington County Plat No. 10533. Also being subject to any and/or all other rights-of-way, easements or restrictions of record if any.



Russell E. Townsley

1-6-16

CURVE ARC LENGTH RADIUS DELTA ANGLE CHORD BEARING CHORD LENGTH			
C1	288.95'	272.143°	N 252.124° E 286.21'
C2	0.97'	605.05'	N 89.0501° E 10.97'

ARNETT'S, INC.
T.M. 57 P. 460
L.1214 F.968
USE: COMMERCIAL

WASHCO ARNETT FARM LLC
LOT 3 PLAT NO. 10525
COLLECTOR ROAD
PLAT NO. 10527

ZONING
"HI"

PROPOSED ARNETT DRIVE
COLLECTOR ROAD
PLAT NO. 10527

ZONING
"RU"

ZONING
"RM"

ZONING
"HI"

SHARPSBURG PIKE
(MD. RT. 65)

VICINITY MAP
SCALE: 1" = 2000'
TAX MAP 57 PARCEL 114 GRID 10
COPYRIGHT 2006 THE MAP PEOPLE PERMIT USE NUMBER 21004221



LEGEND



AREA TO BE REZONED
FROM RU TO RM
(5.18 AC.)

EXISTING ZONING
BOUNDARY

WASHCO ARNETT FARM LLC
T.M. 57 P. 629
L.5081 F.417
LOT 3
PLAT NO. 10525
USE: COMMERCIAL

SALLY ARTZ ET AL.
T.M. 57 P. 598
L.4845 F.288
USE: RESIDENTIAL

KEPLINGER PROPERTIES, LLC
T.M. 57 P. 120
L.2660 F.171
PLAT 8227
USE: COMMERCIAL

MISTY MOATS
T.M. 57 P. 121
L.4488 F.13
USE: COMMERCIAL/RESIDENTIAL

ROBERT RICHARDS
T.M. 57 P. 122 L.4354 F.75
USE: COMMERCIAL/RESIDENTIAL

THOMAS D. BARBER
T.M. 57 P. 125
L.827 F.1002
L.1037 F.825
USE: COMMERCIAL/RESIDENTIAL

ARNETT PROPERTIES, LLC
T.M. 57 P. 123
L.3114 F.416
USE: RESIDENTIAL

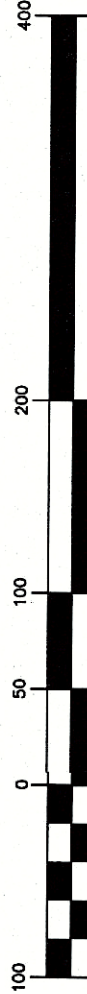
ROY H. PETRE
T.M. 57 P. 587
L.1793 F.805
USE: RESIDENTIAL

EARL R. WASSSEN
T.M. 57 P. 417
L.3840 F.451
USE: RESIDENTIAL

SANDRA RIDENOUR
T.M. 57 P. 423
L.1416 F.293
USE: RESIDENTIAL

REMAINING LANDS
LANDS OF PHILIP L. ARNETT
P/O L.2594 F.166
0.74 ACRES
18132 RENCH ROAD

GRAPHIC SCALE
(IN FEET)
1 inch = 100 ft.



OWNER
PHILIP ARNETT
18132 RENCH ROAD
HAGERSTOWN, MD 21742

REZONING EXHIBIT
LANDS OF
PHILIP ARNETT

SITUATE NORTH OF RENCH ROAD
WASHINGTON COUNTY, MARYLAND

FOX & ASSOCIATES, INC.
ENGINEERS • SURVEYORS • PLANNERS
82 NORMAN'S MILL CIRCLE, STE. 'G'
HAGERSTOWN, MARYLAND 21740
PHONE: (301)733-8563
FAX: (301)733-1853

DRAWN BY: DATE: 12-11-15
R.E.T.
CHECKED BY: DATE: 12-11-15
R.E.T.
SCALE: 1"=100'

SHEET No. 1 OF 1

DISTRICT 10
TAX MAP No. 57
DWG. No. C - 2917



2594 0166

CLERK OF CIRCUIT COURT
WASHINGTON COUNTYNo Monetary Consideration
No Title Search

Property Tax ID: 10-042003

DEED

THIS DEED, made this 4th day of March, 2005, from PHILIP L. ARNETT and BRENDA J. ARNETT, his wife, Grantors, to PHILIP L. ARNETT, Grantee.

WHEREAS, the Grantors acquired the hereinafter described real property as tenants by the entireties; and

WHEREAS, Grantors have agreed to separate and be divorced and incident thereto to convey the property hereinafter described to the Grantee as tenant in severalty.

NOW, THEREFORE, THIS DEED WITNESSETH, that in consideration of Zero Dollars (\$0.00) and in fulfillment of the terms and conditions of the separation agreement between the Grantors dated February 2, 2005, the Grantors grant, convey and assign to the Grantee, as tenant in severalty, his personal representatives, heirs and assigns, in fee simple, all that lot or parcel of ground situate along the North side of Rench Road approximately 600 feet Westward from its intersection with Maryland Route 65 in Election district No. 10, Washington County, Maryland and being more particularly described in accordance with a survey dated June 1995 by Frederick, Seibert and Associates, Inc. as follows:

Beginning at a point along the Northern marginal line of Rench Road, said point also being the most Southeastern corner of lands now or formerly of Earl R. Wassen and recorded in Liber 866, folio 1023 among the Land Records of Washington County, Maryland, thence leaving said road and running North 10 degrees 02 minutes 55 seconds East 200.87 feet to an iron pin and cap set, thence running with an existing fence line and along the remaining lands of Elizabeth Sprecher Arnett (Liber 591, folio 693) North 9 degrees 00 minutes 25 seconds East 616.40 feet to an existing corner fence post, thence continuing with a fence line and an extension thereof South 81 degrees 02 minutes 45 seconds East 153.25 feet to an iron pin and cap set, thence South 9 degrees 00 minutes 25 seconds West 605.01 feet to an iron pin and cap set, thence along the Western boundary of lands now or formerly of John S. Knepp (Liber 531, folio 170) South 8 degrees 15 minutes 00 seconds West 200.38 feet to a point along the Northern marginal line of Rench Road, Thence with said marginal line North 85 degrees 18 minutes 00 seconds West 160.00 feet to the place of beginning: Containing 2.87 acres of land more or less;

Said lands being all of Lot 1 on a plat of subdivision for Lot 1 and Parcel A for Waldo Arnett and recorded in Washington County Plat 4770. Said lands are conveyed subject to and together with any conditions, restrictions, easements or rights-of-way of record and applicable thereto.

Being the same property which by Deed dated October 23, 1995, and recorded among

**POOLE &
KANE, P.A.**
ATTORNEYS AT LAW

2594 0167

CLERK OF CIRCUIT COURT
WASHINGTON COUNTY

the Land Records of Washington County, Maryland, in Liber 1236, folio 323 was granted and conveyed by Elizabeth Sprecher Arnett to the Grantors.

Together with the buildings and improvements thereupon; and the rights, alleys, ways, waters, privileges, appurtenances and advantages to the same belonging or appertaining.

To have and to hold the said described lot of ground and premises, upon and to the use of the Grantee, as tenant in severalty, his personal representatives, heirs and assigns, in fee simple, forever.

WITNESS the hands and seals of the Grantors.

WITNESS:

M Lynn Williams
(SEAL)

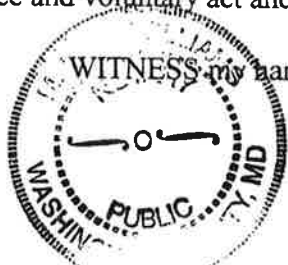
Philip L. Arnett
PHILIP L. ARNETT

Danere H. Bryeman
(SEAL)

Brenda J. Arnett
BRENDA J. ARNETT

STATE OF MARYLAND
COUNTY OF WASHINGTON, to-wit:

I HEREBY CERTIFY, that on the 1st day of MARCH, 2005, before me, a Notary Public of the State of Maryland, personally appeared, PHILIP J. ARNETT, Grantor, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within Deed, who acknowledged that he executed the same for the purposes therein contained as his free and voluntary act and affirmed the consideration recited therein is true and correct.



WITNESS my hand and Notarial Seal.

My Commission Expires: 12/01/06

M Lynn Williams
Notary Public

STATE OF MARYLAND
COUNTY OF WASHINGTON, to-wit:

2594 0168

CLERK OF CIRCUIT COURT
WASHINGTON COUNTY

I HEREBY CERTIFY, that on the 8th day of March, 2005, before me, a Notary Public of the State of Maryland, personally appeared, BRENDA K. ARNETT, Grantor, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within Deed, who acknowledged that she executed the same for the purposes therein contained as her free and voluntary act and affirmed the consideration recited therein is true and correct.

WITNESS my hand and Notarial Seal.

My Commission Expires: 12/12/07

Jennifer Rowale
Notary Public

This instrument has been prepared by D. Bruce Poole, Esq., an attorney, under such attorney's supervision, or by one of the parties named in this instrument.

D. Bruce Poole, Esq.

Please Mail to:

D. Bruce Poole, Esq.
Poole & Kane, P.A.
29 West Franklin Street
Hagerstown, Maryland 21740

F:\2003 Client Files\Arnett, Brenda\2-16-05 Deed.wpd

TODD L. HERSHEY, TREASURER
TAXES PAID 31005 pul

IMP FD SURE 2	20.00
RECORDING FEE	20.00
TOTAL	40.00
Rest NAB1	Ref # 19365
DJW SB	SLK # 972
Mar 10, 2005	02:36 PM

2594 0169

State of Maryland Land Instrument Intake Sheet
☐ Baltimore City ☒ County: WASHINGTON 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)

1	Type(s) of Instruments	<input type="checkbox"/> Check Box if addendum Intake Form is Attached. <input checked="" type="checkbox"/> Deed <input type="checkbox"/> Mortgage <input type="checkbox"/> Other _____ <input type="checkbox"/> Deed of Trust <input type="checkbox"/> Lease <input type="checkbox"/> _____ <input type="checkbox"/> Improved Sale <input type="checkbox"/> Unimproved Sale <input type="checkbox"/> Multiple Accounts <input type="checkbox"/> Not an Arms-Length Sale [9/] <input type="checkbox"/> Arms-Length [1/] <input type="checkbox"/> Arms-Length [2/] <input type="checkbox"/> Arms-Length [3/]					
2	Conveyance Type Check Box						
3	Tax Exemptions (if Applicable)	Recordation State Transfer County Transfer					
Cite or Explain Authority							
4	Consideration and Tax Calculations	Consideration Amount		Finance Office Use Only			
Purchase Price/Consideration		\$	0.00	Transfer and Recordation Tax Consideration			
Any New Mortgage		\$		Transfer Tax Consideration	\$		
Balance of Existing Mortgage		\$		X () % =	\$		
Other:		\$		Less Exemption Amount -	\$		
Other:		\$		Total Transfer Tax =	\$		
			Recordation Tax Consideration	\$			
			X () per \$500 =	\$			
			TOTAL DUE	\$			
5	Fees	Amount of Fees		Doc. 1			
Recording Charge		\$	40.00	Doc. 2			
Surcharge		\$		Agent:			
State Recordation Tax		\$		Tax Bill:			
State Transfer Tax		\$		C.B. Credit:			
County Transfer Tax		\$		Ag. Tax/Other:			
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
Subdivision Name		Lot (3a)	Block (3b)	Sec/AR (3c)	Plat Ref.	SqFt/Acreage (4)	
Location/Address of Property Being Conveyed (2)							
Other Property Identifiers (if applicable)						Water Meter Account No.	
Residential <input checked="" type="checkbox"/> or Non-Residential <input type="checkbox"/> Fee Simple <input type="checkbox"/> or Ground Rent <input type="checkbox"/> Amount: _____ Partial Conveyance? <input type="checkbox"/> Yes <input type="checkbox"/> No Description/Amt. of SqFt/Acreage Transferred: _____							
If Partial Conveyance, List Improvements Conveyed:							
Doc. 1 - Grantor(s) Name(s)			Doc. 2 - Grantor(s) Name(s)				
Doc. 1 - Owner(s) of Record, if Different from Grantor(s)			Doc. 2 - Owner(s) of Record, if Different from Grantor(s)				
Doc. 1 - Grantee(s) Name(s)			Doc. 2 - Grantee(s) Name(s)				
New Owner's (Grantee) Mailing Address							
7	Transferred From	Doc. 1 - Grantor(s) Name(s)					
8		Doc. 2 - Grantor(s) Name(s)					
9	Transferred To	Doc. 1 - Grantee(s) Name(s)					
10		Doc. 2 - Grantee(s) Name(s)					
9	Other Names to Be Indexed	Doc. 1 - Additional Names to be Indexed (Optional)					
10		Doc. 2 - Additional Names to be Indexed (Optional)					
10	Contact/Mail Information	Instrument Submitted By or Contact Person					
Name:		D. Bruce Poole, Esq.					
Firm:		Poole & Kane					
Address:		29 W. Franklin St. Hagerstown MD 21740					
		Phone: (301) 790-7400					
11	IMPORTANT: BOTH THE ORIGINAL DEED AND A PHOTOCOPY MUST ACCOMPANY EACH TRANSFER Assessment Information <input type="checkbox"/> Yes <input type="checkbox"/> No Will the property being conveyed be the grantee's principal residence? <input type="checkbox"/> Yes <input type="checkbox"/> No Does transfer include personal property? If yes, identify: _____ <input type="checkbox"/> Yes <input type="checkbox"/> No Was property surveyed? If yes, attach copy of survey (if recorded, no copy required).						
Assessment Use Only - Do Not Write Below This Line							
<input type="checkbox"/> Terminal Verification		<input type="checkbox"/> Agricultural Verification		<input type="checkbox"/> Whole		<input type="checkbox"/> Part	
Transfer Number:		Date Received:		Deed Reference:		Assigned Property No.:	
Year	20	20	Geo.	Map	Sub	Block	
Land			Zoning	Grid	Plat	Lot	
Buildings			Use	Parcel	Section	Occ. Cd.	
Total			Town Cd.	Ex. St.	Ex. Cd.		
REMARKS:							
Distribution: White - Clerk's Office Canary - SDAT Pink - Office of Finance Goldenrod - Preparer AOC-CC-300 (6/95)							

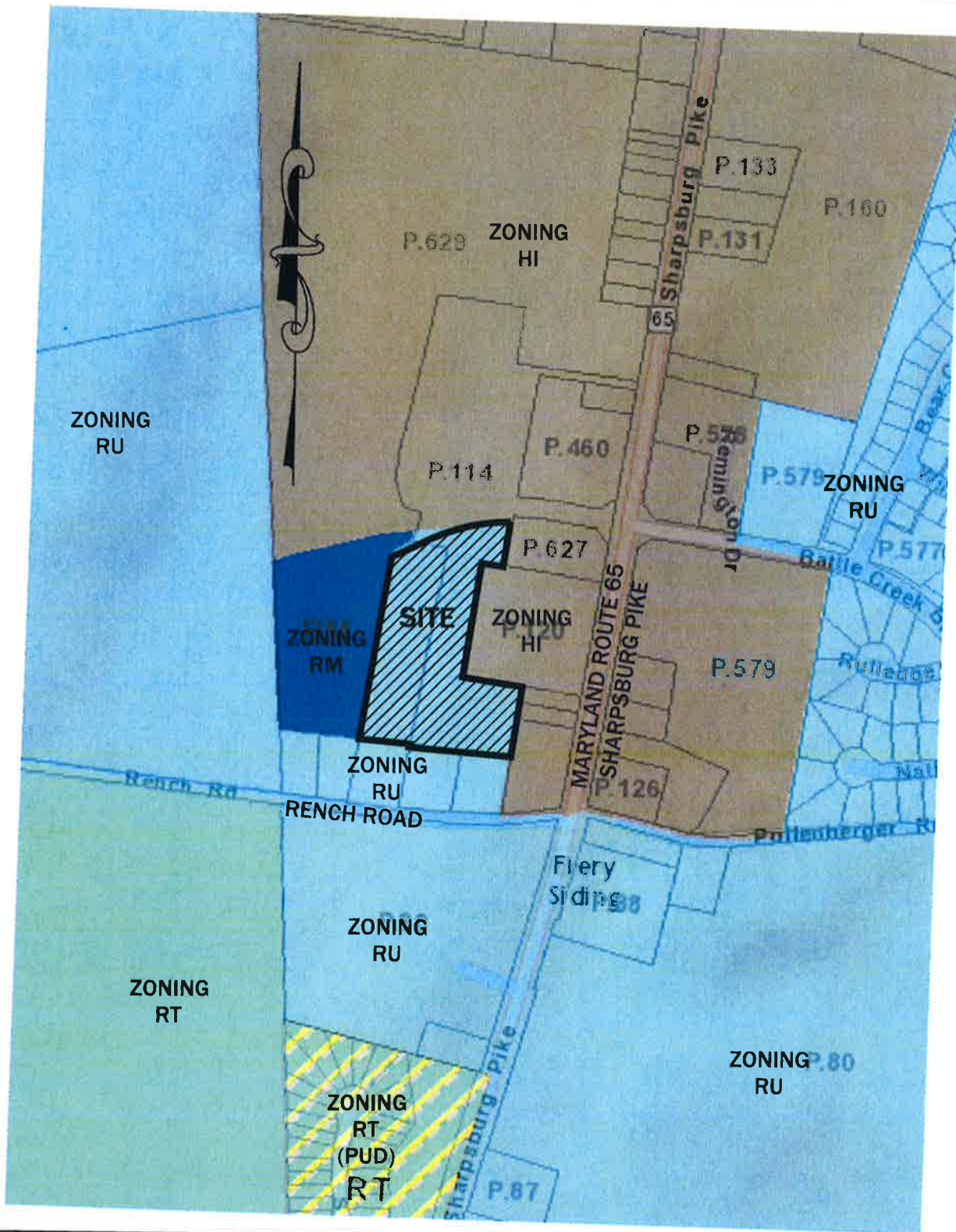
WASHINGTON COUNTY CIRCUIT COURT (Land Records) DJW 2594, p. 0169, MSA_CE18_2544, Date available 03/14/2005, Printed 01/11/2016.

Space Reserved for Circuit Court Clerk Recording Validation

LIST OF ADJOINING AND CONFRONTING PROPERTY OWNERS

(Updated January 6, 2016)

Tax Account No.	Name	Address	Lot/Parcel	Block
Subject Property				
10-000335	Arnett Properties, LLC	18312 Rench Road Hagerstown, MD 21740	0114	
10-042003	Arnett, Philip L.	18312 Rench Road Hagerstown, MD 21740	0589/1	
Adjoining and Confronting Properties				
10-059267 10-000343	Arnetts, Inc.	10304 Sharpsburg Pike Hagerstown, MD 21740-1408	0627/REM 0460/1	
10-001684	Keplinger Properties, LLC	10218 Sharpsburg Pike Hagerstown, MD 21740-1408	0120/5TO11	
10-001544	Omps, Christopher & Karen	18326 Rench Road Hagerstown, MD 21740-1306	0123	
10-009707	Hoffman Family Homestead, LLC	P.O. Box 386 Smithsburg, MD 21783-0386	0127	
10-002648	Richards, Robert S. & Grove Ruth	10208 Sharpsburg Pike Hagerstown, MD 21740-1480	0122/3	
10-013992	SNH Somerford Properties Trust	c/o Prop. Tax Counselors P.O. Bo 3075 McKinney, TX 75070	0090	
10-011833	Petre, Roy H. & Martha E.	18248 Col. Henry K. Douglas Dr. Hagerstown, MD 21740-1562	0387	
10-010969	Pascal Enterprises, Inc.	P.O. Box 653 Stevensville, MD 21666-0653	0118	
10-024056	Wassen, Earl R. & Armelda B.	18306 Rench Rd. Hagerstown, MD 21740-1306	0417	
10-022665	Barber Thomas Dale Loretta Ann Palmer	10206 Sharpsburg Pike Hagerstown, MD 21740-1480	0125/1	
10-020174	Sharpsburg Pike Holding LLC	72 W. Washington St. Hagerstown, MD 21740-4804	0160	
10-016282	Cross Creek Builders LLC	c/o Hilton C. Smith, Jr. 10306 Remington Dr. Hagerstown, MD 21740-1483	0579	
10-059283	WASHCO Arnett Farm, LLC	72 W. Washington St. Hagerstown, MD 21740-0000	0629/3	
10-055156	Battle Creek Land Co., LLC	10306 Remington Dr. Hagerstown, MD 21740-1483	0619/3	
10-040248	General Teamsters & Allied Workers	Local Union No. 992 10312 Remington Drive Hagerstown, MD 21740	0578/2	
Municipalities/Public Entities				
Interested Parties				
	Bruce N. Dean, Esq.	Linowes and Blocher LLP 8 West Third Street Frederick, MD 21701-5331		
	Gordon Poffenberger, P.E.	Fox & Associates, Inc. 981 Mt. Aetna Road Hagerstown, MD 21740		



H:\OTHER\Arnett\15-50757 Townhomes\Rezoning\EXHIBIT 2.dwg Jan 08, 2016 - 10:27am User: rburman

DRAWN BY:	DATE:
RLB	1/8/16
CHECKED BY:	DATE:
GSP	1/8/16
SCALE: 1" = 400'	

FOX & ASSOCIATES, INC.

ENGINEERS • SURVEYORS • PLANNERS

981 MT. AETNA ROAD, HAGERSTOWN, MD. 21740
PHONE: (301)733-8503

DISTRICT	10
TAX MAP No.	57
DWG. No.	

JUSTIFICATION STATEMENT
WASHCO ARNETT FARM, LLC, APPLICANT

The Map Amendment sought is based upon the following:

1. DESCRIPTION OF THE SITE.

Wascho Arnett Farm, LLC (the “Applicant”) is the authorized representative of Philip Arnett and Arnett Properties LLC, the owners of two parcels of land totaling 5.18 acres situated along the west side of Maryland Route 65 (Sharpsburg Pike), between Rench Road and Colonel Henry K. Douglas Drive, known as “Lot 1” and “Remaining Lands Arnett Farm” – a part of the “Arnett Farm” (the “Site”). A copy of the rezoning plat is included with this application as Exhibit A. The Site is located within a 1 mile radius of the Maryland Rte. 65/I-70 Interchange, and is currently undeveloped. Land uses within the Site’s 1-mile zoning neighborhood contain a mix of commercial and residential developments. Immediately to the south of the Site are several single-family residences that front along the north side of Rench Road (all zoned RU), and south of Rench Road is the Somerford House assisted living facility. Adjoining the Site to the east are several additional single-family residences, while the property adjoining the Site to the west is an undeveloped parcel zoned Residential, Multifamily District (RM)¹. More residential development is located east of the Site across Sharpsburg Pike (Maryland Rte. 65) in the Cross Creek subdivision, and the Carriage Hill townhouse development (zoned RM) is approximately 1 mile to the east of the Site along Poffenberger Road and Stagecoach Drive. The Site is bounded immediately to the northeast by Keplinger’s Automotive Center and an outdoor furniture store, and there is an approved site plan for a Walmart to the northwest of the Site which is in the early stages of development. Further to the north is a car wash facility, approximately ten single family homes, a credit union branch office, and a local teamster’s facility on the opposite site of

¹ The purpose of the RM zone is “to provide appropriate locations for apartments, condominiums, and town houses, and other types of multi-family buildings in the urban areas of the County at a maximum density of twelve (12) dwelling units per acre.”

Maryland Rte. 65. Slightly further to the northeast along Col. Henry K. Douglas Drive are several restaurants – the Cracker Barrel, Waffle House, and Wendy’s – as well as the Sleep Inn Motel. A large Department of Motor Vehicles Administration Building and the Maryland State Police Barracks are situated further to the north of the Site, and numerous high traffic commercial establishments are located approximately 1.5 miles north of the Site, the most significant being the Prime Outlet retail center. An aerial photograph of the Site showing 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, Urban District (RU)². (Exhibit A). As shown on Exhibit A, the Site adjoins a 3.16 acre parcel of land to the west that was recently rezoned to the RM district in 2012 and also owned by the Applicant. The Walmart with site plan approval will be constructed just to the north of this 3.16 acre parcel of land zoned RM. The rezoning plat also illustrates the proposed Arnett Drive to the north of the Site that will ultimately connect to Poffenberger Road across Sharpsburg Pike and serve as the access road serving the Site upon its development. Therefore, future residential development of the Site will front on and access the proposed Arnett Drive as opposed to the existing Rench Road that contains single-family homes.

Prior to 2012, the Site was zoned Highway Interchange, District 2 (HI-2) which authorized development of all “Principal Permitted uses in the BT, **RM**, PUD ... and RU districts.” See Zoning Ordinance, Section 19B.2(a) (Revision 16, dated March 11, 2010) (emphasis added). The RM zone permitted and continues to permit the development of “Dwellings, multi-family, apartments or condominiums ... [and] Dwellings, town house” See *Zoning Ordinance, Section 10.1*. As explained in greater detail below, the Site was downzoned

² The purpose of the RU zoning district is “to provide appropriate locations in the Urban and Town Growth Areas for residential development at greater densities and limited community service type uses.”

by the Washington County Board of County Commissioners (the “Board”) to the RU³ 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 of the Urban Growth Area eliminated the HI-2 zoning district altogether. *See* Ordinance No. ORD-2012-07.

For the reasons set forth below the Applicant submits that the decision of the Board to rezone the Site to the RU district resulted from legal mistake, in that the Board did not take into account that the RM district was more appropriate for the Site as a “transition zone” from the heavy commercial development existing and occurring to the north and the lower density single-family development to the south. When the Board downzoned the Site to the RU district, it did not accomplish its intended goal of balancing the decrease in land available for residential uses in the County’s Urban Growth Area “with greater density allowances, generally, on parcels that provide for residential uses in the UGA.” *See* Ordinance No. ORD-2012-08, p. 5. Moreover, the Board did not consider the potential for assemblage of the Site with the adjoining 3.16 acre parcel of land to the west that was rezoned to the RM district at the time of the comprehensive rezoning. On these bases, the Applicant requests that the entire Site be reclassified to the RM zoning district.

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

³ As opposed to the prior HI-2 zoning district, the RU zoning district does not permit development of multi-family or townhouse dwelling units; therefore, it is appropriately characterized as a “downzoning”.

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). However, the Board intended to balance this reclassification “at least in the *residential arena, with greater density allowances*, generally, on parcels that provide for residential uses in the UGA.” 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 between the extensive commercial development existing and occurring to the north and the less intense single-family residential development to the south, the RM district was appropriate for the Site as a “transition zone” under the goals of the 2012 comprehensive rezoning.

This comprehensive rezoning was guided by the principles and recommendations contained in the comprehensive plan for the County, 2002 (the “Comprehensive Plan”) which provided that the “High density Residential policy area is primarily associated [with] *multi-family residential development* ... [and] principal zoning districts related to this policy area include the Residential – Multi-Family, *Highway Interchange Two*, and Residential Urban Districts.” See Comprehensive Plan, p. 245 (emphasis added). Similarly, the 2002 Comprehensive Plan stated that “given the similarity *between the Highway Interchange Two zoning district and the Residential Multi-family zoning district*, it is recommended that consideration be given to eliminating the HI-2 zoning district and replacing the zoning with either the Residential Multi-family or Residential Urban zoning classifications” See Comprehensive Plan, p. 245 (emphasis added). The Comprehensive Plan identifies, as a major goal, the objective of establishing “a variety of residential housing types, densities and locations.” See Comprehensive Plan, p. 13.

In accordance with these recommendations of the 2002 Comprehensive Plan, the Board eliminated the HI-2 zoning classification during the comprehensive rezoning process in 2012. Although the Board failed to make any specific findings when it reclassified the Site from the HI-2 zoning classification to the RU zoning classification, the comprehensive rezoning process did specifically address the adjoining 3.16 acre parcel of land to the west of the Site. The comprehensive rezoning reclassified this adjoining property from Highway Interchange, District 1 (HI-1)⁴ to the RM zoning classification. During a Urban Growth Area comprehensive rezoning workshop on October 25, 2010, the Washington County Planning Commission (the "Planning Commission") recommended that the HI-1 zoning designation be retained for "the area of Maryland Route 65 (north/south) with Downsview Pike to the left ... with two exceptions." See Planning Commission Workshop Meeting Minutes from October 25, 2010. In analyzing this 3.16 acre parcel of land that adjoins the Site to the west, the Planning Commission stated that there "is a small area currently zoned HI-1, which is located north of Rensch Road and south of the proposed relocation of Rensch Road⁵ ... [and] a proposal from the property owner has been received for an apartment complex ... [such that] staff is recommending the RM zoning district." Therefore, the Board rezoned this adjoining property to the west of the Site to the RM zoning classification. The 3.16 acre parcel of land to the west, like the Site, fronts on the to be constructed Arnett Drive ensuring that both properties will be oriented toward the existing and occurring commercial development to the north as opposed to the low density residential area located to the south. The Applicant notes that while the HI-2 zoning classification was most similar to the RM zoning classification, the HI-1 zoning classification does not permit any

⁴ The purposes of the HI-1 zoning district is to "provide for those uses allowed in the BL, BG, PB and IR districts. The HI-1 District is intended to include those lands closest to the seventeen interchanges of the interstate highway system traversing Washington County. All business and light industrial uses permitted in this Ordinance should be encouraged to utilize those lands immediately surrounding the interchanges where there is ready access to the interstate system."

⁵ The proposed relocation of Rensch Road is depicted as proposed Arnett Drive on the rezoning plat attached as Exhibit A.

residential development, let alone high density residential uses (e.g. multi-family and townhouse dwellings).

The Board has approved a notable rezoning case in the nearby vicinity of this Site since the 2012 comprehensive rezoning. On February 26, 2013, the Board approved Rezoning Case No. RZ-12-005, in which the 28.5 acre Carriage Hill townhouse development was rezoned from the RU district to the RM district to correct a mistake during the comprehensive rezoning. *See* Ordinance No. ORD-2013-004. In reviewing this zoning map amendment, the Board found that the Carriage Hill townhouse development was approved for 110 townhouse lots with 79 existing townhouse units under the HI-2 zone prior to the comprehensive rezoning process in 2012. *See* Case No. RZ-12-005 Staff Report and Analysis, p. 1. The Washington County Department of Planning and Zoning (the “Planning Department”) stated that “since HI-2 [zone] would no longer be available, a new district assignment was necessary,” and that “among the many guidelines followed during the UGA rezoning was an *intent and attempt to assign new zoning districts that were compatible with existing development and allowed those uses to continue* with a minimum of conflict.” *See* Case No. RZ-12-005 Staff Report and Analysis, p. 2 (emphasis added). The Planning Department concluded that despite the fact that the RM zoning classification was the only available district that would be consistent with these guidelines and the existing townhouse development, the Board mistakenly designated the RU zone for the Carriage Hill townhouse development through the comprehensive rezoning process. *Id.* The Board approved the zoning map amendment, and concluded that “there was no intention or desire to further limit townhouse development on the subject property ... [and] that the townhouses are an integral part of the neighborhood and a zoning classification that prohibits them was clearly a mistake.” *See* Ordinance No. ORD-2013-004, p. 4.

The Site, being located within the urban core of the County is appropriate for high density residential development, and designation of the RM zoning classification is compatible with the adjoining and nearby properties. The Site’s location is logical and appropriate for the RM district as a “transition zone” between the existing and ongoing commercial development to the north and the lower density single-family residential development to the south because the Board

intended to provide “increased diversity, density and intensity of uses as *proximity increases towards the urban core of the County*” when it comprehensively rezoned the Urban Growth Area in 2012. *See* Ordinance No. ORD-2012-08, pp. 5-6 (emphasis added). Additionally, since the Board opined that the HI-2 zoning classification was similar to the RM district, and that the comprehensive rezoning of the Urban Growth Area was intended to balance the decrease of land available for residential uses by allowing “greater density allowances, generally, on parcels that provide for residential uses in the UGA,” this Site logically should have been rezoned to the RM district in 2012. *See* Ordinance No. ORD-2012-08, p. 5. 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 RU district but rather would classify the Site to the RM district.

3. 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) (2012).

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).

Moreover, courts apply a more liberal standard of review to rezonings which merely seek to reclassify property from one zoning subcategory to another within the same zoning use category, i.e. from one residential subcategory to another such as the Applicant is requesting in this zoning map amendment. Chatham Corp v. Beltram, 243 Md. 138 (1966); Chapman v. Montgomery County Council, 259 Md. 641 (1970); Tennison v. Shomette, 38 Md. App. 1 (1977). This application would, therefore, be reviewed according to this more liberal standard of review, as the Applicant is merely seeking a rezoning from one Residential zoning subcategory to another.

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 downzoned the Site to the RU district instead of accounting for the Site’s ideal location as a “transition zone” for high density residential uses between the existing and ongoing commercial development to the north and the lower density single-family residential development to the south;

(2) The Board made a policy decision that in adopting the comprehensive rezoning of the Urban Growth Area it would balance the “decrease in land area devoted to residential and commercial uses ... at least in the residential arena, with greater density allowances, generally, on parcels that provide for residential uses in the UGA.” See Ordinance No. ORD-2012-08, p. 5. Despite the fact that the Site’s HI-2 zoning classification provided for a variety of high density residential uses, the Board erred in decreasing the Site’s density allowance too far by designating it in the RU district, which does not provide for multi-family or townhouse dwellings;

(3) In accordance with the 2002 Comprehensive Plan, the Board made a policy decision to eliminate the HI-2 zoning district altogether through the comprehensive rezoning of the Urban Growth Area. Although the Comprehensive Plan identified the HI-2 district as a high density residential district that is similar to the RM district, the Board failed to consider whether the Site was appropriate for the RM district;

(4) At the time the Board designated the Site in the RU district, it also reclassified the adjoining 3.16 acre parcel to the west from the HI-1 district to the RM district despite the fact that the HI-1 district did not permit any residential uses. The Board did not account for the fact that designating this Site as RM would be compatible and consistent with its reclassification for the adjoining 3.16 acre property to the west. The Board made a legal mistake by failing to recognize that the adjoining 3.16 acre parcel of land to the west, like the Site, fronts on the planned Arnett Drive such that future development of both properties will be oriented toward the existing and occurring intense commercial development to the north as opposed to the low density residential area located to the south; and

(5) The piecemeal zoning map amendment for the nearby Carriage Hill townhouse development approved by the Board since the 2012 comprehensive rezoning illustrates that the Board did not consider whether some properties in close proximity to the Site, including the Site, were appropriate and logical for the RM district.

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

B. *The 2002 Comprehensive Plan.*

The existing Comprehensive Plan acknowledges the need for further revisions to the zoning classifications of properties located in and around the County's major highway interchanges. The opening paragraph of the zoning section of the Comprehensive Plan, states:

"The most significant recent map amendment was the comprehensive rezoning of the 17 interstate highway interchanges that took nearly 4 years to complete. The volume of amendments over the years as well as the need to maintain a document consistent with current land use principles and technology will generate a need for a major rewrite of the document. ***In addition, map revisions to support this version of the Comprehensive Plan will be needed.***" See Comprehensive Plan at pp. 31. (emphasis added).

In accordance with the direction of the Comprehensive Plan, the Board comprehensively rezoned the rural areas of the County in 2005, and later comprehensively rezoned the Urban Growth Area in 2012. Although the Comprehensive Plan designated the Site within a commercial policy area, it classified the HI-2 district as a high density residential policy area. See Comprehensive Plan, Map 51. While the Comprehensive Plan recommended elimination of the HI-2 zoning district, the land use recommendations specifically highlighted the similarity between the HI-2 and RM zoning classifications. See Comprehensive Plan, pp. 245 and 289. The Comprehensive Plan identifies four major goals, with Goal 1 being to "provide opportunities for individual choice and self-fulfillment." See Comprehensive Plan, p.13. In order to achieve this goal, the Comprehensive Plan recommends

establishing “a variety of residential housing types, densities and locations.” *See* Comprehensive Plan, p.13

Reclassification of the Site to the RM zoning district is consistent with the policy guidelines set forth above. The Site was previously classified as HI-2, which is a high density residential policy area most similar to the RM zoning classification. Given that a primary goal of the Comprehensive Plan was to establish a variety of residential housing types, densities and locations, approval of this zoning map amendment application would satisfy Goal 1 of the Comprehensive Plan. More specifically, changing the Site’s classification from the RU district to the RM district would permit a more diverse mix of housing types (e.g. multi-family and townhouse dwellings) at different locations in the surrounding neighborhood. For these reasons, reclassification of the Site to the RM zoning district furthers the goals and policies of the Comprehensive Plan.

In contrast, the existing RU classification adopted in 2012, which only permits single-family, two-family and semi-detached dwellings, is not as compatible with these goals and policies. In accordance with the Comprehensive Plan, the Board comprehensively rezoned the Urban Growth Area with the intent of striking a balance between the “decrease in land area devoted to residential and commercial uses ... at least in the residential arena, with greater density allowances, generally, on parcels that provide for residential uses in the UGA.” *See* Ordinance No. ORD-2012-08, p. 5. The Site’s existing RU zoning defeats this goal by reducing the densities and mix of residential dwelling types allowed on parcels that provide for residential uses within the urban core of the County. Thus, RU zoning, which permits as of right, single-family, two-family, and semi-detached residential dwellings at reduced densities, is inappropriate on a property whose prior zoning was intended for high density residential uses, and adjoins another property that was classified in the RM district through the same comprehensive rezoning process; RU zoning on the Site is inconsistent with the Comprehensive Plan.

C. Conclusion of Legal Argument

In summation, the Board made a legal mistake in 2012 with respect to the Site in that it failed to accommodate a trend or need that it expressly recognized as existing at the time of the comprehensive rezoning. The Board expressly acknowledged the goal of providing “greater density allowances, generally, on parcels that provide for residential uses in the UGA” to account for the decrease in the total land devoted to residential uses in the Urban Growth Area. Additionally, the Board recognized that the comprehensive rezoning 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, p. 6. The Board also intended to implement the comprehensive rezoning in accordance with the Comprehensive Plan which recommended establishing “a variety of residential housing types, densities and locations.” See Comprehensive Plan, p. 13. The Board understood that the Site’s prior HI-2 zoning provided for high density residential uses and was most similar to the RM district. Last, the Board reclassified a 3.16 acre parcel of land that adjoins the Site to the west in the RM district, which signals that this Site is compatible and appropriate for the RM district because the characteristics of this 3.16 acre parcel of land are most similar to the Applicant’s 5.18 acre site. For these reasons, the Applicant submits that the current RU zoning resulted from legal mistake, and reclassification of the Site to the RM zoning district would correct the Board’s failure to provide for a trend or need which it previously recognized as well as its failure to account for factors which would have justified RM zoning for the Site, and is consistent with the policies and objectives which originally guided the Board during the 2012 comprehensive rezoning, and those embodied in the 2002 Comprehensive Plan.

4. AVAILABILITY OF PUBLIC FACILITIES.

a. Schools.

Since semi-detached and two-family

dwelling units are permitted under the existing RU district at approximately 8.7 dwelling units per acre, and the maximum density permitted in the RM district is 12 dwelling units per acre, minimal impact on the schools will occur as a result of the reclassification of the Site to RM.

- b. 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 Funkstown Volunteer Fire Department. Police protection will be provided by the Washington County Sheriff's Department.

5. PRESENT AND FUTURE TRANSPORTATION PATTERNS.

Future development of the site will require that the Site front and use the proposed Arnett Drive for access, which will relocate the Rench Road/MD Rt. 65 intersection, greatly increasing traffic safety in the neighborhood. Highway access to the Site is via the Md. Rte. 65/I-70 Interchange, making access for both regional and local travelers convenient and safe. These roads and this interchange are ideal for the requested RM zoning.

6. 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 property to the west is classified in the RM district, and compatible with the requested zoning classification for the Site. Additionally, the Carriage Hill townhouse development is located nearby in the Urban Growth Area, and was recently reclassified from the RU district to the RM district to allow high density residential uses. Construction of the Walmart with site plan approval is anticipated to be completed in the next year, which will create additional compatibility and suitability for high density residential uses at the Site.

Reclassification of the Site from the RU zoning district to the RM zoning district would be consistent with the existing and proposed development for the area.

7. POPULATION CHANGE.

If rezoned, the proposed development would add minimal residents to this neighborhood. The existing RU zoning district would allow for a maximum of 44 semi-attached or two-family dwellings; whereas, reclassification of the Site to the RM district would allow for up to 61 townhouse or multi-family dwellings. Accordingly, this zoning map amendment application would add a maximum of 17 additional dwellings to the neighborhood.

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 as a "transition zone" for high density residential uses since it is located between the heavy commercial development existing and occurring to the north and the less intense single-family residential development to the south. The requested zoning change will also correct the Board's failure to account for a trend or need which it previously recognized, which is the need to allow greater density allowances on parcels that provide for residential uses in the County's Urban Growth Area. 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 RM zoning classification.

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