

Terry L. Baker, *President*
Jeffrey A. Cline, *Vice*
President



John F. Barr
Wayne K. Keefer
LeRoy E. Myers, Jr.

100 West Washington Street, Suite 1101 | Hagerstown, MD 21740-4735 | P: 240.313.2200 | F: 240.313.2201
WWW.WASHCO-MD.NET

BOARD OF COUNTY COMMISSIONERS
January 9, 2018
Agenda

- 10:00 A.M. INVOCATION AND PLEDGE OF ALLEGIANCE
CALL TO ORDER, *President Terry L. Baker*
APPROVAL OF MINUTES – December 19, 2017 and December 29, 2017
- 10:05 A.M. COMMISSIONERS' REPORTS AND COMMENTS
- 10:10 A.M. REPORTS FROM COUNTY STAFF
- 10:15 A.M. CITIZENS PARTICIPATION
- 10:20 A.M. THE MARYLAND THEATRE EXPANSION – *Benito Vattelana and Jessica Green*
- 10:30 A.M. **PUBLIC HEARING** – APPLICATION FOR MAP AMENDMENT RZ-17-004 –
Stephen Goodrich, Director, Division of Planning and Zoning
- 10:50 A.M. EXPRESS APPROVAL – SMITHSBURG ANNEXATION OF CLOVERLY HILL,
LLC – *Stephen Goodrich, Director, Division of Planning and Zoning*
- 11:00 A.M. STATE DEVELOPMENT PLAN MEETING WITH MD DEPARTMENT OF
PLANNING – *Wendi Peters, Special Secretary of Smart Growth, Rob McCord, Acting*
Secretary, MD Dept of Planning and Stephen Goodrich, Director, Planning & Zoning
- 11:20 A.M. CLOSED SESSION
(*To discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom this public body has jurisdiction; or any other personnel matter that affects one or more specific individuals; to consider several matters that concern the proposals for business or industrial organizations to locate, expand, or remain in the State; and to consult with counsel to obtain legal advice on a legal matter.*)
- 12:05 P.M. ADJOURNMENT



Board of County Commissioners of Washington County, Maryland

Agenda Report Form

SUBJECT: The Maryland Theatre Expansion

PRESENTATION DATE: Tuesday January 9, 2018

PRESENTATION BY: Benito Vattelana & Jessica Green

RECOMMENDED MOTION: Support of 3 requests outlined in letter attached

REPORT-IN-BRIEF: Provide leadership of the UIP as it relates to The Maryland Theatre Expansions Project.

DISCUSSION:

FISCAL IMPACT:

CONCURRENCES:

ALTERNATIVES:

ATTACHMENTS: request letter

AUDIO/VISUAL TO BE USED: N/A



THE
MARYLAND
THEATRE CELEBRATING
100
YEARS
A Stage for Every Age

December 17, 2017

Washington County Government
Attn: Board of County Commissioners
100 West Washington Street
Hagerstown, MD 21740

Benito Vattelana
President

Austin Abraham
Vice President

Michael Reyka
Secretary

Deb Murray
Treasurer

Scott Bowen

Taylor Bowen

Ron Bowers

Don Bowman

Beth Dellaposta

Brittney Hamilton

Dave Kline

Al Martin

Valerie Means

Rachel O'Connor

Rob Slocum

Commissioners,

On behalf of The Maryland Theatre, please accept this document as our formal request for your support, in a variety of means, for the Maryland Theatre Expansion Project. The Maryland Theatre is often referred to as our county's "crown jewel". Washington County citizens and local leaders are consistently in awe of the ornate details that are preserved in the venue year after year. Attendance to The Theatre has grown from just 60,000 patrons annually in 2012 to over 100,000 in 2016. Likewise, revenues have doubled from approximately \$600,000 during this same timeframe reaching as high as \$1.2 million annually. The Maryland Theatre Board of Directors, staff and volunteers continue to work to preserve our historic landmark while integrating the latest technology and functionality into our facility to improve the patron experience. A five year plan was introduced late in 2012 of restoring nearly every system and space in the existing historic auditorium. The goal was to complete this plan prior to the expansion project. Over \$2.5 million was invested into the auditorium and The Theatre remained debt-free due to the support of local and state governments, grant funding from local foundations and private sponsorships. After a successful, 100th celebration for The Theatre, the City of Hagerstown, Washington County Government committed to an architectural design contract for the expansion. The expansion is meant to continue the mission of The Maryland Theatre while enhancing existing programming experiences and expanding our programming opportunities.

The current funding structure for The Maryland Theatre Expansion Project:
Overall Project Estimate: \$13.3 million (includes design, fundraising expenses & FF&E)
Design funded by City & County: \$1 million
Estimated Construction: \$11.5 million (including \$500,000 contingency)
Funding Committed by State: \$5.3 million (includes Governor's Funding & State Demo Fund award)
Above Funding leaves a Capital Campaign Goal: \$7 million
Documented pledges to date: \$2.3 million
Remaining Goal: \$4.4 million

Our requests are as follows:



THE
MARYLAND
THEATRE CELEBRATING
100
YEARS
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1. Pursuant to our October 10, 2017 request at the joint meeting of the City of Hagerstown Council and Washington County Board of County Commissioners, The Maryland Theatre requests a grant in the amount of \$3 million as a contribution towards construction expenses for the expansion project. This grant funding may be allocated between City and County as you deem necessary. The County has historically provided Hotel Rental Funds to support the capital needs of the Theatre. Perhaps that would be a source of funding over a five-year period that would be a secure revenue source for a portion of the forward funding request.
2. The Maryland Theatre requests that the County Commissioners forward fund the \$5 million committed to the expansion project by the Governor of the State of Maryland. Foregoing UIP meetings and discussions with County Administrator Slocum included the potential for this forward funding to occur with the following breakdown: \$2.5 million made available to The Theatre in Fiscal Year 2019 and Fiscal Year 2020. Certainly, this funding would facilitate the cash flow requirements needed to move the project forward as a key part of urban revitalization in Hagerstown's City Center.
3. The Maryland Theatre requests that the County Commissioners work in collaboration with the local banks to each forward fund 50% of the private pledges raised by The Maryland Theatre. This amount is currently projected to be \$2 million based on the recent construction estimate and if the above two requests are fulfilled. Private pledges are being paid over a five-year period.

Approval of the above three-pronged request will enable The Maryland Theatre's Expansion to remain on the same time frame of the overall Urban Improvement Project. Please consider all available state funding sources that have been set aside for the UIP, specifically funding which was originally designated to the Washington County Board of Education, which may no longer be needed by them. Currently, The Theatre has blocked off over 6 months of typically scheduled stage performances with the intention of remaining operational during the remaining months of construction. Immediate bookings for these 6 months is necessary should these above requests not be granted. However, booking these 6 months will offer negative effects on the UIP, specifically the BOE project adjacent to The Theatre, as both facilities require the use of the Theatre owned alley. The Maryland Theatre is looking to the Washington County Commissioners, as the lead



THE
MARYLAND
THEATRE
A Stage for Every Age

CELEBRATING
100
YEARS

agency of the Urban Improvement Project, to assist us in maintaining this timeline.

Please know that The Theatre Capital Campaign Committee and staff will continue their efforts in solicitations and currently has out additional requests surpassing \$1.5 million. With current pledges received totally over \$2.3 million, the need for the forward funding of these pledges is being explored with local banks. The goal of securing a low interest line of credit for The Maryland Theatre is in discussions however, preliminary decisions by the banks are showing only an ability to forward fund 50% of the pledges.

Ticket sales remain a critical component of the success of The Maryland Theatre and they also play a vital role in the Downtown Business Community. With the additional space that the expansion project will provide, annual revenues are expected to nearly double which should definitely reduce, if not eliminate, the need for annual requests to local government for financial support to The Theatre. Our goal is to open the new doors of this expansion project remaining debt free. It is estimated that The Theatre Expansion Project will generate an increase of over \$5 million in annual economic expenditures through theatre, dining, shopping and other downtown activities. Any funding provided to The Theatre should be viewed as an investment to our community as The Maryland Theatre is becoming our hub for all things arts, education and business related. Transforming The Theatre into a Performing Arts Complex will not only act as a catalyst for the downtown but will create sustainable revenue streams in order to preserve our crown jewel for a second century.

Please consider this document a formal request for consideration to the Washington County Board of County Commissioners. It is our hope to go out for to bid by February 1, 2018, which will be the final date permitted in order to proceed with a start date of July 1, 2018 but The Maryland Theatre needs to have all the necessary funding commitments in writing before going out to bid. Thank you and please do not hesitate to reach out regarding any further information you may need.

Sincerely,

Benito Vattelana
President

Jessica Green
Executive Director



Agenda Report Form

Open Session Item

SUBJECT: PUBLIC HEARING – Application for Map Amendment – RZ-17-004

PRESENTATION DATE: January 9, 2018; 10:30 a.m.

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

Case	Application	Applicant/Property Owner	Proposed Amendment
RZ-17-004	Map	<p><u>Applicants:</u> Bluegrass Commercial, LLC (Parcels 131 & 174) Michael W. & Kelli S. Scott (Parcel 173)</p> <p><u>Property Owner:</u> Bluegrass Commercial (Parcels 131 & 174) Michael W. & Kelli S. Scott (Parcel 173)</p>	<p>Washington County Zoning Ordinance – Application for Map Amendment:</p> <ul style="list-style-type: none"> ▪ Property location: Northwest side of MD Rt. 60 (Leitersburg Pike), west of Leitersburg ▪ Existing Zoning: RV – Rural Village ▪ Requested Zoning: RB – Rural Business floating zone

Attachments:

Ordinance Amendment Application with Justification Statement and rezoning site maps
Staff Report and Analysis dated August 30, 2017

Planning Commission Report and Recommendation dated October 30, 2017

(All attachments are available with the online version of the Agenda Report Form

at <https://www.washco-md.net/index.php/county-commissioners/bocc-meeting-archive-2017/>.



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

RECEIVED

WASHINGTON COUNTY PLANNING COMMISSION
ZONING ORDINANCE MAP AMENDMENT APPLICATION

JUL 12 2017

Bluegrass Commercial, LLC and Michael

WASHINGTON COUNTY
PLANNING DEPARTMENT

Applicant
21616 Kelso Drive, Hagerstown, MD 21

- Property Owner Contract Purchaser
 Attorney Consultant
 Other: _____

Address
Zachary J. Kieffer, Esq.

301-791-9222

Primary Contact
13424 Pennsylvania Avenue, Suite 302

Phone Number
zkieffer@divelbisslaw.com

Address

E-mail Address

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

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

Current Zoning: RV Requested Zoning: RB

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

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

Kelley Stett

Applicant's Signature

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

My commission expires on 05-23-2017

[Signature]
Notary Public



FOR PLANNING COMMISSION USE ONLY

- Application Form
- Fee Worksheet
- Application Fee
- Ownership Verification
- Boundary Plat (Including Metes & Bounds)
- Names and Addresses of all Adjoining & Confronting Property Owners
- Vicinity Map
- Justification Statement
- 30 copies of complete Application Package

FOR PLANNING COMMISSION USE ONLY

Rezoning No. _____

Date Filed: _____



WASHINGTON COUNTY DEPARTMENT OF
PLANNING & ZONING FEE WORKSHEET

FOR PLANNING COMMISSION USE ONLY
Rezoning No. _____
Date Filed: _____

PLEASE COMPLETE ONLY THE
SECTION THAT APPLIES.

Applicant's Name: Bluegrass Commercial, LLC Date: February 13, 2017

Zoning Ordinance Map Amendment	\$ 2,000.00
Number of Acres * <u>7.15</u> x \$20.00 per acre	\$ <u>143.00</u>
Engineering Review Fee	\$ 150.00
Technology Fee	\$ <u>15.00</u>
TOTAL FEES DUE – MAP AMENDMENT	\$ <u>2308.00</u>

Text Amendment	\$ 2,000.00
Choose One: <input type="checkbox"/> Adequate Public Facilities Ordinance	
<input type="checkbox"/> Forest Conservation Ordinance	
<input type="checkbox"/> Solid Waste Plan	
<input type="checkbox"/> Subdivision Ordinance	
<input type="checkbox"/> Water and Sewer Plan	
<input type="checkbox"/> Zoning Ordinance	
<input type="checkbox"/> Other: _____	
Technology Fee	\$ <u>15.00</u>
TOTAL FEES DUE – TEXT AMENDMENT	\$ <u>2,015.00</u>

Forest Conservation Exemption	\$ 25.00
Technology Fee	\$ <u>15.00</u>
TOTAL FEES DUE – FOREST EXEMPTION . . .	\$ <u>40.00</u>

Please make checks payable to "Washington County Treasurer".

FOR PLANNING COMMISSION USE ONLY

Rezoning No. _____

Date Filed: _____

PARCEL 1

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

Search Result for WASHINGTON COUNTY

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

1. This information is provided for informational purposes only. It is not intended to be used for legal purposes and does not constitute an offer of insurance or any other financial product. While we have confidence in

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

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

– **Witnesseth** –

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

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

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

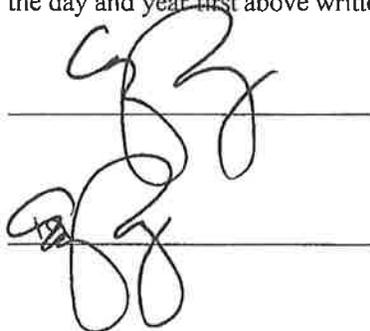
Together with the buildings and improvements thereon erected, made or being; and all and every, the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

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

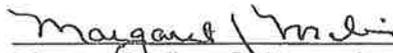
To Have and To Hold the said tract of ground and premises above described and mentioned, and hereby intended to be conveyed, together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said Bluegrass Commercial, LLC,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

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

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



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

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

{NOTARY CONTINUED ON THE FOLLOWING PAGE}

STATE OF MARYLAND
COUNTY OF WASHINGTON

} ss

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

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



[Signature]

Notary Public
My Commission Expires: 02/16/2018

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

[Signature]

Kent N. Oliver, Attorney

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

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

CR

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

MARYLAND FORM WH-AR

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

2016

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

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

1. Transferor Information

Name of Transferor

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

2. Reasons for Exemption

Resident Status

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

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

Principal Residence

Although I am no longer a resident of the State of Maryland, the Property is my principal residence as defined in IRC 121 (principal residence for 2 (two) of the last 5 (five) years) and is currently recorded as such with the State Department of Assessments and Taxation.

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

3a. Individual Transferors

Witness

[Handwritten signature]

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

Name

[Handwritten signature]
Signature

3b. Entity Transferors

Witness/Attest

Name of Entity

By

Name

Title

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

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

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

This page not to be counted in calculating Recording Fee

Clerk of Circuit Court
Washington County, Maryland
 Dennis J. Weaver, Clerk
 24 Summit Avenue
 Hagerstown, MD 21740
 301-790-7991

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

Baltimore City County: Washington

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

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

Space Reserved for Circuit Court Recording Vendors

1 Type(s) of Instruments

2 Conveyance Type Check Box

3 Tax Exemptions (if applicable) Cite or Explain Authority

(Check Box if addendum Intake Form is Attached.)

1	Deed	Mortgage	Other	Other
2	Deed of Trust	Lease		

2 Conveyance Type Check Box

<input checked="" type="checkbox"/>	Improved Sale Arms-Length [1]	<input type="checkbox"/>	Unimproved Sale Arms-Length [2]	<input type="checkbox"/>	Multiple Accounts Arms-Length [3]	<input type="checkbox"/>	Not an Arms-Length Sale [9]
-------------------------------------	-------------------------------	--------------------------	---------------------------------	--------------------------	-----------------------------------	--------------------------	-----------------------------

3 Tax Exemptions (if applicable) Cite or Explain Authority

Recreation	
State Transfer	
County Transfer	

4 Consideration and Tax Calculations

Consideration Amount	
Purchase Price/Consideration	\$ 100,000.00
Any New Mortgage	\$ 80,000.00
Balance of Existing Mortgage	\$
Other:	\$
Other:	\$
Full Cash Value:	\$

Finance Office Use Only Transfer and Recodification Tax Consideration	
Transfer Tax Consideration	\$
X () % =	\$
Less Exemption Amount	- \$
Total Transfer Tax	= \$
Recodification Tax Consideration	\$
X () per \$500 =	\$
TOTAL DUE	\$

5 Fees

Amount of Fees	Doc. 1	Doc. 2
Recording Charge	\$ 20.00	\$ 75.00
Surcharge	\$ 40.00	\$ 40.00
State Recodification Tax	\$ 760.00	\$
State Transfer Tax	\$ 500.00	\$
County Transfer Tax	\$ 250.00	\$
Other	\$	\$
Other	\$	\$

Agent:

Trx Bill:

C.B. Credit:

Ag. Tax/Other:

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

District	Property Tax ID No. (1)	Grantor Liber/Folio	Map	Parcel No.	Var. LOG
09	000828	1608/1014	26	131	<input type="checkbox"/> (5)
Subdivision Name		Lot (3a)	Block (3b)	Sect/AR (3c)	Plat Ref.
					Sq F/Acreage (4)
2.94					
Location/Address of Property Being Conveyed (2)					
21314 Leitersburg Pike, Hagerstown, MD 21742					
Other Property Identifiers (if applicable)				Water Meter Account No.	
Residential <input checked="" type="checkbox"/> or Non-Residential <input type="checkbox"/>		Fee Simple <input checked="" type="checkbox"/> or Ground Rent <input type="checkbox"/>		Amount: N/A	
Partial Conveyance? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Description/Amt. of SqFt/Acreage Transferred: N/A			
If Partial Conveyance, List Improvements Conveyed: N/A					

7 Transferred From

Doc. 1 - Grantor(s) Name(s)	Doc. 2 - Grantor(s) Name(s)
Omer L. Bitner and Margaret J. Miles,	
Co-Personal Representatives of the Estate of Riley Bitner, III	Bluegrass Commercial, LLC
Doc. 1 - Owner(s) of Record, if Different from Grantor(s)	Doc. 2 - Owner(s) of Record, if Different from Grantor(s)

8 Transferred To

Doc. 1 - Grantee(s) Name(s)	Doc. 2 - Grantee(s) Name(s)
Bluegrass Commercial, LLC	CNB Bank, Inc.
New Owner's (Grantee) Mailing Address	
21616 Kelso Drive, Hagerstown, MD 21742	

9 Other Names to Be Indexed

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

10 Contact/Mail Information

Instrument Submitted By or Contact Person		<input type="checkbox"/> Return to Contact Person
Name:	Melanie Donaldson, Settlement Processor	<input type="checkbox"/> Hold for Pickup
Firm:	Lincoln Title and Settlement Services, LLC	
Address:	13424 Pennsylvania Avenue, Suite 302	
	Hagerstown, MD 21742 Phone: (301) 791-9228	<input checked="" type="checkbox"/> Return Address Provided

11 Assessment Information

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

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will the property being conveyed be the grantee's principal residence?
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does transfer include personal property? If yes, identify: _____
X Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Was property surveyed? If yes, attach copy of survey (if recorded, no copy required).

Space Reserved for County Validation

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

REMARKS:

WASHINGTON COUNTY CIRCUIT COURT (Land Records) DJW 5306, p. 0086, MSA_CE18_5258, Date available 08/26/2016, Printed 02/17/2017.

PARCEL 2

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

Search Result for WASHINGTON COUNTY

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

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

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

DEED

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

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

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

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

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

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

WASHINGTON COUNTY CIRCUIT COURT (Land Records) DJW 5210, p. 0156, MSA_GE18_5162. Date available 04/28/2016. Printed 02/17/2017.

1095

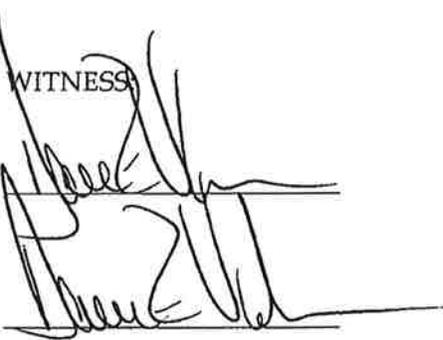
AND the Grantor hereby covenants to warrant specially the property hereby conveyed and to execute such other and further assurances thereof as may be required from time to time.

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

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

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

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

WITNESS


GRANTOR:

 (SEAL)
Michael W. Scott

 (SEAL)
Kelli S. Scott

STATE OF MARYLAND, COUNTY OF WASHINGTON, to wit:

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

WITNESS my hand and Official Notarial Seal.



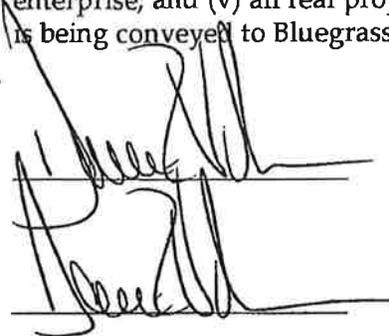
My Commission Expires 12/31/2018


Notary Public

TODD L. HERSHEY, TREASURER
TAXES PAID 426.76

GRANTOR'S CERTIFICATION

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



Michael W. Scott (SEAL)
Michael W. Scott

Kelli S. Scott (SEAL)
Kelli S. Scott

ATTORNEY'S CERTIFICATION

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

Andrew F. Wilkinson
Andrew F. Wilkinson

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

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

Based on the certification below, Transferor claims exemption from the tax withholding requirements of §10-912 of the Tax-General Article, Annotated Code of Maryland. Section 10-912 provides that certain tax payments must be withheld and paid when a deed or other instrument that effects a change in ownership of real property is presented for recordation. The requirements of §10-912 do not apply when a transferor provides a certification of Maryland residence or certification that the transferred property is the transferor's principal residence.

1. Transferor(s) Information

Name of Transferor(s): Michael W. Scott

2. Reasons for Exemption

Resident Status:



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

or

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

or

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

Principal Residence:



Although I am no longer a resident of the State of Maryland, the Property is my principal residence as defined in IRC §121.

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

3a. Individual Transferors

Witness

Michael W. Scott

3b. Entity Transferors

Witness

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

Based on the certification below, Transferor claims exemption from the tax withholding requirements of §10-912 of the Tax-General Article, Annotated Code of Maryland. Section 10-912 provides that certain tax payments must be withheld and paid when a deed or other instrument that effects a change in ownership of real property is presented for recordation. The requirements of §10-912 do not apply when a transferor provides a certification of Maryland residence or certification that the transferred property is the transferor's principal residence.

1. Transferor(s) Information

Name of Transferor(s): Kelli S. Scott

2. Reasons for Exemption

Resident Status:



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

or

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

or

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

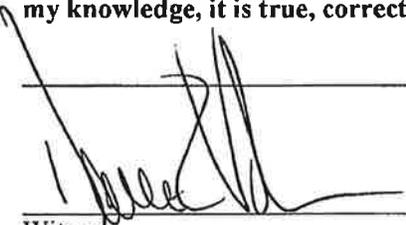
Principal Residence:

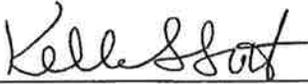


Although I am no longer a resident of the State of Maryland, the Property is my principal residence as defined in IRC §121.

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

3a. Individual Transferors


Witness


Kelli S. Scott

3b. Entity Transferors

Witness

LR - Deed (No-Taxes)
Recording Fee 20.00
Grantor/Grantee Name:
bluegrass
Reference/Control #:
LR - Deed (No-Taxes)
Surcharge 40.00

SubTotal: 60.00

Total: 300.00

04/26/2016 08:41
CC21-TR

#6014550 CC0403 -
Washington
County/CC04.03.04 -
Register 04

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

This page not to be counted in calculating Recording Fee

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

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

For Clerks Use Only

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

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

State of Maryland

Baltimore City County:
Information provided is for the use of the Clerk's Office, State Department of Assessments and Taxation, and County Finance Office Only.
(Type or Print in Black Ink Only--All Copies Must Be Legible)

Space Reserved for Circuit Court Clerk Recording Validation

Form with sections 1-11: Type(s) of Instruments, Conveyance Type, Tax Exemptions, Consideration and Tax Calculations, Fees, Description of Property, Transferred From, Transferred To, Other Names to Be Indexed, Contact/Mail Information, and Assessment Information.

Space Reserved for County Validation

10 of 3

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

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

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

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

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

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

- Witnesseth -

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

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

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

640

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

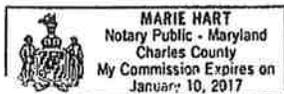
In Witness Whereof, Grantor has caused this Deed to be properly executed and sealed the day and year first above written.

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

STATE OF Maryland } ss
COUNTY OF Prince George's

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

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



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

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

Tiffany A. Reiff
Tiffany A. Reiff, Attorney

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

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

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

State of Maryland

Baltimore City County: Washington
Information provided is for the use of the Clerk's Office, State Department of Assessments and Taxation, and County Finance Office Only.
(Type or Print in Black Ink Only--All Copies Must Be Legible)

Space Reserved for Circuit Court Clerk Recording Valid

1 Type(s) of Instruments
2 Conveyance Type Check Box
3 Tax Exemptions (if applicable)
4 Consideration and Tax Calculations
5 Fees
6 Description of Property
7 Transferred From
8 Transferred To
9 Other Names to Be Indexed
10 Contact/Mail Information
11 Assessment Information
Assessment Use Only - Do Not Write Below This Line

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

Space Reserved for County Validation

Distribution: Clerk's Office Office of Finance

SDAT Preparer

AOC-CC-300 (5/2007)

PT16-231TR

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

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

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

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

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



1"=500'

VICINITY MAP LEGEND

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



DIVELBISS & WILKINSON
ATTORNEYS AT LAW

February 21, 2017

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

REQUEST

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

HISTORY

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

JUSTIFICATION

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

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

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

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

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

CONCLUSION

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

Very truly yours,
DIVELBISS & WILKINSON



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



Vicinity Map
Scale: 1"=1000'

- VICINITY MAP LEGEND
- County Zoned RV - Rural Village
 - County Zoned A(R) - Agricultural (Rural)
 - County Zoning Planning/Overlay RB - Rural Business

LINE BEARING	DISTANCE
N 42°27'24" E	77.00'
S 87°22'50" W	241.00'

CURVE RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	BETA ANGLE
1884.87'	241.00'	241.00'	S 42°22'52" W	172.92°

- LEGEND
- County Zoning Boundary

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

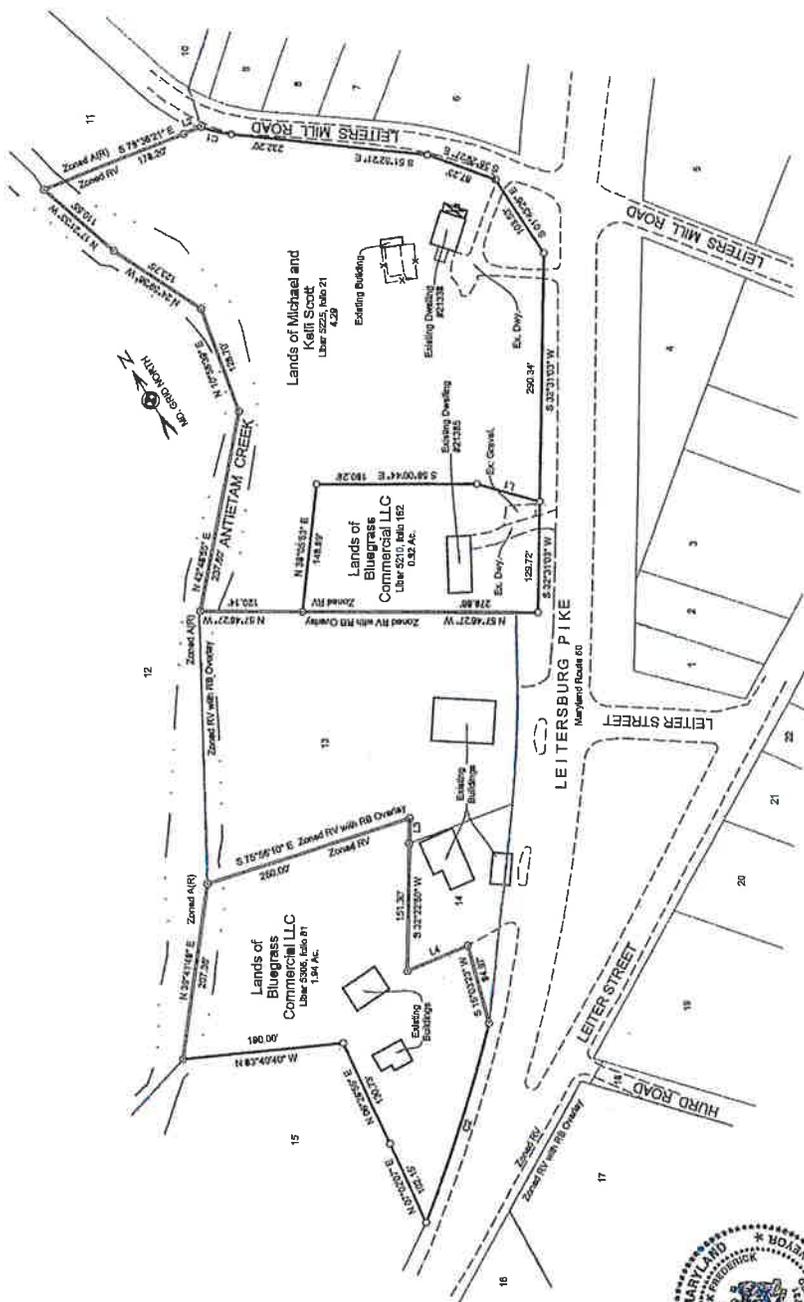
PROFESSIONAL CERTIFICATION
I, the undersigned, being a duly licensed Professional Land Surveyor under the laws of the State of Maryland, do hereby certify that I am a duly licensed Professional Land Surveyor under the laws of the State of Maryland, License No. 10731, expiration on January 15, 2018.

Michael W. Scott
Professional Surveyor
Date: Feb. 3, 2017



- Adjoining Properties
- | Libertello | Premises Address |
|------------|---|
| 328659 | 21312 Lellers Street, Hagerstown, MD 21742 |
| 4765945 | 21314 Lellers Street, Hagerstown, MD 21742 |
| 2007410 | 21316 Lellers Street, Hagerstown, MD 21742 |
| 7865980 | 21318 Lellers Street, Baltimore, MD 21201 |
| 1616688 | 21320 Lellers Mill Road, Hagerstown, MD 21742 |
| 4677703 | 21322 Lellers Mill Road, Hagerstown, MD 21742 |
| 4682385 | 21324 Lellers Mill Road, Hagerstown, MD 21742 |
| 1243400 | 21326 Lellers Mill Road, Hagerstown, MD 21742 |
| 2000592 | 21328 Lellers Mill Road, Hagerstown, MD 21742 |
| 5210114 | 21330 Lellers Mill Road, Hagerstown, MD 21742 |
| 1085457 | 21332 Lellers Mill Road, Hagerstown, MD 21742 |
| 4684568 | 21334 Lellers Mill Road, Hagerstown, MD 21742 |
| 1413683 | 21336 Lellers Mill Road, Hagerstown, MD 21742 |
| 4978121 | 21338 Lellers Mill Road, Hagerstown, MD 21742 |
| 1578945 | 21340 Lellers Mill Road, Hagerstown, MD 21742 |
| 4122951 | 21342 Lellers Mill Road, Hagerstown, MD 21742 |
| 783882 | 21344 Lellers Mill Road, Hagerstown, MD 21742 |
| 558532 | 21346 Lellers Mill Road, Hagerstown, MD 21742 |
| 2088192 | 21348 Lellers Mill Road, Hagerstown, MD 21742 |

- | No. | NF | Owner |
|-----|---|-------|
| 1 | Dorothy E. Overcash | |
| 2 | Bookley, Martin | |
| 3 | Bookley, S. Scott | |
| 4 | Maryland Roads Communities, L. Barnhart | |
| 5 | Gary D. Barnhart and Sherry L. Barnhart | |
| 6 | Charles Matthew Scanlon | |
| 7 | Kenneth L. Morgan, Sr. | |
| 8 | Timothy R. Martin | |
| 9 | John R. Rowler | |
| 10 | Paul Daniel Shurr, Joyce A. Shurr, James Oscar Shurr, and Louise C. Shurr | |
| 11 | William Steven Chain, Sr. and Louise Magill Crain | |
| 12 | Bluegrass Commercial, LLC | |
| 13 | Bluegrass Commercial, LLC | |
| 14 | McTaw Limited Partnership | |
| 15 | Marjory L. Smetzer | |
| 16 | Rik L. Morgan and Susanna M. Morgan | |
| 17 | Anthony D. Odear | |
| 18 | Trustees of the Wayland Baptist Church, Inc. | |
| 19 | Thomas A. Nickay and Cheryl F. Nickay | |
| 20 | St. Evangelical Lutheran Church of Lettersburg | |
| 21 | Frank C. Barnhart and Sherry L. Barnhart | |
| 22 | | |



Zoning Exhibit for
Bluegrass Commercial LLC
and
Michael Scott and Kelli Scott
Sheds along the West side of Lellers Mill Road and the North side of Lettersburg Pike
WASHINGTON COUNTY, MARYLAND

FREDERICK & SEIBERT ASSOCIATES, INC. ©2017
CIVIL ENGINEERS SURVEYORS LANDSCAPE ARCHITECTS LAND PLANNERS
128 SOUTH POTOMAC STREET, HAGERSTOWN, MARYLAND 21740
20 WEST BALTIMORE STREET, GREENCASTLE, PENNSYLVANIA 17225
(410) 783-3388 (410) 783-3389

DRAWING NUMBER: 01 DP 01
DATE: 2.2.17
CHECKED BY: MWP
SCALE: 1" = 100'



1"=500'

VICINITY MAP LEGEND

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

EXHIBIT B



Washington County

M A R Y L A N D

DEPARTMENT OF PLANNING & ZONING

COMPREHENSIVE PLANNING | LAND PRESERVATION | FOREST CONSERVATION | GIS

August 30, 2017

RZ-17-004

APPLICATION FOR MAP AMENDMENT STAFF REPORT AND ANALYSIS

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

LOCATION AND PHYSICAL FEATURES

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

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

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

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

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

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

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

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

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

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

POPULATION ANALYSIS

Table 1

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

Source: US Census Bureau

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

AVAILABILITY OF PUBLIC FACILITIES

Water and Sewerage

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

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

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

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

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

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

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

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

Emergency Services

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

Schools

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

Public Transportation

This area is not served by the Washington County Transit System.

PRESENT AND FUTURE TRANSPORTATION PATTERNS

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

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

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

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

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

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

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

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

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

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

Source: Maryland State Highway Administration

COMPATIBILITY WITH EXISTING AND PROPOSED DEVELOPMENT IN THE AREA:

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

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

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

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

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

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

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

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

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

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

Historic Inventory Sites

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

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

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

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

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

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

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

The purpose statement from the RB district reads as follows:

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

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

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

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

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

Agricultural Policy Area recommendations from the adopted Comprehensive Plan:

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

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

Rural Business Policy Area recommendations from the adopted Comprehensive Plan:

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

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

SUMMARY

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

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

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

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

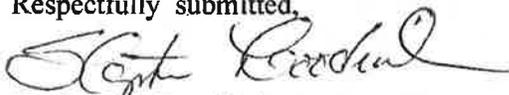
(c) On site issues relating to sewage disposal, water supply, stormwater management, flood plains, etc. can be adequately addressed.

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

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

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

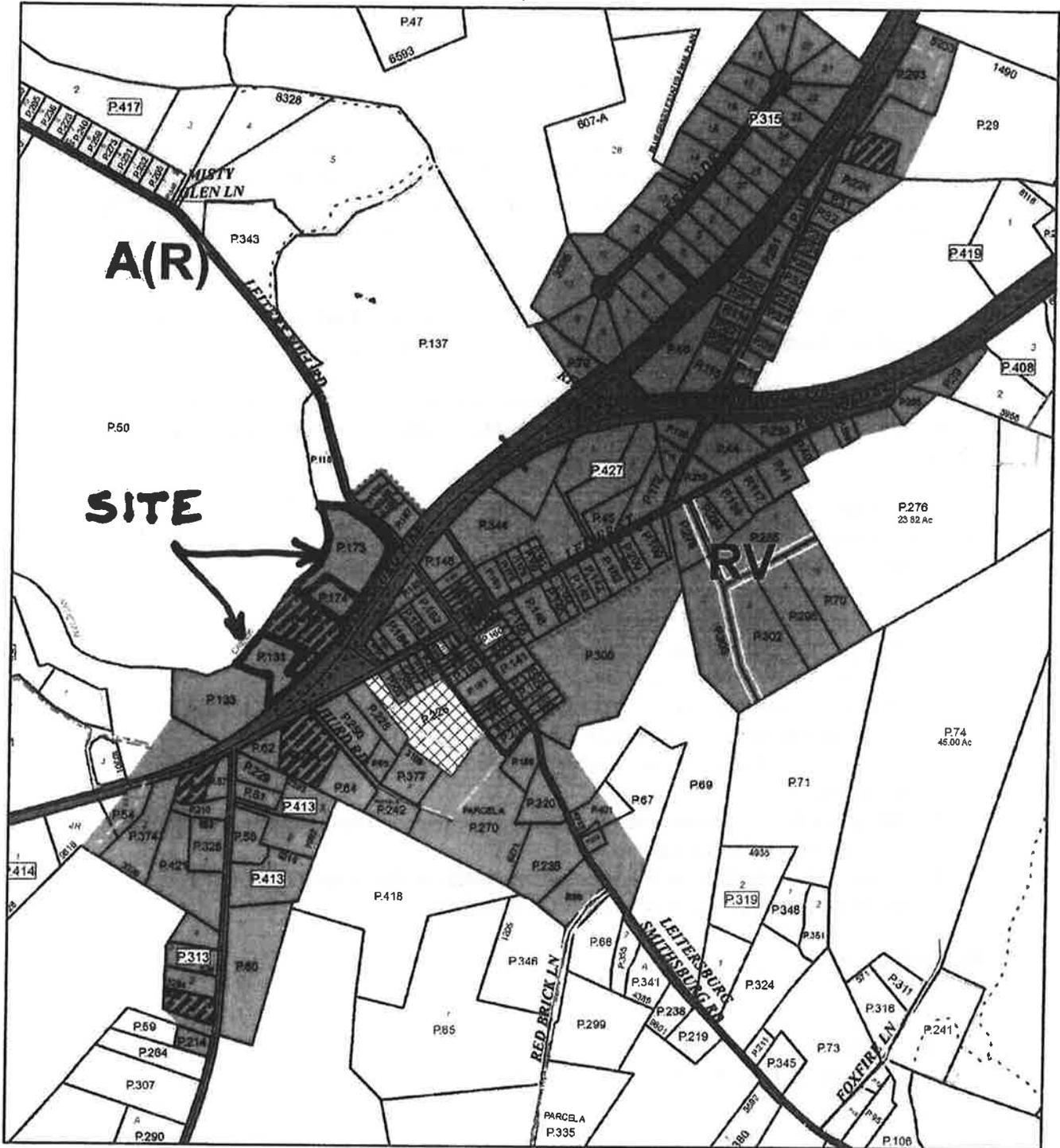
Respectfully submitted,



Stephen T. Goodrich, Director

Washington County Department of Planning and Zoning

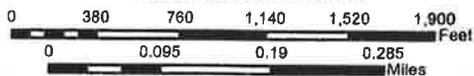
RZ-17-004 - Bluegrass Commercial & Michael W, & Kelli S. Scott



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

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. Success of the data contained hereon are from various public agencies which may have use 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.





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

October 30, 2017

RZ-17-004

**APPLICATION FOR MAP AMENDMENT
PLANNING COMMISSION RECOMMENDATION**

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

RECOMMENDATION

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

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

Respectfully submitted,

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

STG/dse

Attachments

cc: Jason Divelbiss, Divelbiss & Wilkinson
Kirk Downey



Open Session Item

SUBJECT: Express Approval – Smithsburg Annexation of Cloverly Hill LLC

PRESENTATION DATE: January 9, 2018

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

RECOMMENDED MOTION: Move to grant/not grant *express approval* to the Town of Smithsburg to allow development on the annexed Cloverly Hill LLC property in conformance with the Town Residential and General Commercial zoning districts in the acreage amounts and densities proposed which may be substantially different than the uses and densities that would be allowed under the current County zoning districts of Residential Transition and Business Local.

REPORT-IN-BRIEF: During its October 24, 2017 meeting, the County Commissioners decided by consensus to delay a vote on express approval of Smithsburg zoning districts (Town Residential and General Commercial) proposed to be assigned to the Cloverly Hill, LLC annexation until the Town reaches consensus on the annexation petition. The Town of Smithsburg voted to approve the annexation of the Cloverly Hill LLC property during a Mayor and Council meeting on December 5, 2017. The decision to approve the annexation was based in part on a Memorandum of Understanding containing certain conditions agreeable to both parties. It appears to be the proper time for the County Commissioners to consider and act on the express approval matter. The Board received information and discussed the matter previously on September 26, October 10 and October 24.

DISCUSSION: In the annexation process County government is afforded the opportunity to grant *express approval* to the Municipal government to apply zoning which can result in substantially different land uses on the annexed land than uses that would be permitted under County zoning.

This authority is specified in the Local Government Article of Maryland's Annotated Code, §4-416(b) which says:

“Without the express approval of the county commissioners or county council of the county in which the municipality is located, for 5 years after an annexation by a municipality, the municipality may not allow development of the annexed land for land uses substantially different than the authorized use, or at a substantially higher density, not exceeding 50%, than could be granted for the proposed development, in accordance with the zoning classification of the county applicable at the time of the annexation.”

As a refresher and for consistency, the Planning and Zoning staff's comparisons of the Town and County zoning districts that was provided for the initial discussion on September 26, 2017 is provided again. Since preparation of that analysis the State Highway Administration has approved the transfer of approximately 3.5 acres of excess right-of-way along MD Rt 64 to Cloverly Hill LLC. The zoning analysis has not been modified because the additional land will be used for infrastructure requirements.

FISCAL IMPACT: No cost to Washington County

CONCURRENCES: N/A

ALTERNATIVES:

ATTACHMENTS: Town and County zoning analysis, Memorandum of Understanding, Smithsburg Mayor & Council 12/5 minutes (see page 4), Resolution 2017-08

AUDIO/VISUAL NEEDS: N/A

SMITHSBURG ANNEXATION OF CLOVERLY HILL, LLC

ACREAGE AND ZONING COMPARISONS

(Some acreage figures are estimated)

Parcel #	Acreage	Acreage-Wash Co current zoning		Acreage-Smithsburg proposed zoning	
		Business Local BL	Residential Transition RT	General Commercial GC	Town Residential TR
Parcel 29	13.37 ac	.50 ac	12.87 ac	5.95 ac	7.42 ac
Parcel 120	.55 ac	.55 ac	0.00 ac	.55 ac	0.00 ac
Parcel 262	47.53 ac	0.00 ac	47.53 ac	19.20 ac	28.33 ac
TOTAL	61.45 ac	1.05 ac	60.40 ac	25.70 ac	35.75 ac

RESIDENTIAL DEVELOPMENT COMPARISONS

(Some acreage is estimated)

(du = dwelling unit)

(sf = square feet)

Use	Wash Co Residential Transition RT				Smithsburg Town Residential TR			
	Acreage	Min lot size	Max # units	Density du/acre	Acreage	Min lot size	Max # units	Density Du/acre
Single family	60.40	15,000 sf/du	175	2.90 du/ac	35.75	10,000 sf/du	155	4.35 du/ac
Two family (2 du/lot)	60.40	10,000 sf/du	263	4.35 du/ac	35.75	9,000 sf/du	173	4.84 du/ac
Semi- detached (1 du/lot)	60.40	7,500 sf/du	350	5.80 du/ac	35.75	5,000 sf/du	311	8.71 du/ac

RESIDENTIAL DEVELOPMENT COMPARISONS

CHANGE IN MAXIMUM ALLOWABLE DENSITY AND MAXIMUM NUMBER OF UNITS

(Du/ac = dwelling units per acre)

	Washington County		Smithsburg		Change	
	Max # units	Max density	Max # units	Max density	% change # units	% change max density
Single family	175	2.90 du/ac	155	4.35 du/ac	-11.4%	+50.0%
Two family	263	4.35 du/ac	173	4.84 du/ac	-34.2%	+11.3%
Semi - detached	350	5.80 du/ac	311	8.71 du/ac	-11.1%	+50.2%

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (this “**Memorandum**”) is made and entered into this 5th day of December, 2017 by and between the **TOWN OF SMITHSBURG**, a municipal corporation existing under and by virtue of the laws of the State of Maryland (the “**Town**”) and **CLOVERLY HILL, LLC**, a Maryland limited liability company (“**Cloverly Hill**”).

EXPLANATORY STATEMENT

WHEREAS, pursuant to and in accordance with the provisions of Maryland Code, Local Government, §4-404, and as further described, explained and set forth in the Petition for Annexation dated March 29, 2017, as supplemented and amended with additional exhibits at the Public Hearing conducted September 26, 2017 (collectively, the “**Annexation Petition**”) and the Annexation Resolution introduced by the Town’s legislative body on August 8, 2017 (the “**Annexation Resolution**”), Cloverly Hill has petitioned the Town to annex +/- 68.18 acres of real property (the “**Property**”) to the existing corporate boundaries of the Town; and

WHEREAS, the Town has requested and Cloverly Hill has agreed to confirm the applicability of and Cloverly Hill’s intent to comply with certain performance obligations related to the future development of the Property if it were to be annexed by the Town.

NOW THEREFORE, Cloverly Hill and the Town agree that the following terms and conditions are and shall be deemed a material part of the annexation contemplated by the Annexation Petition and Annexation Resolution currently pending before the Town:

1. **Defined Terms.** Unless otherwise specifically defined herein, all capitalized terms used in this Memorandum shall have the same meanings and definitions assigned to them in the Annexation Petition and/or Annexation Resolution.
2. **Water Supply & Distribution System.** Any New Development (defined below) of the Property, shall be served by an adequate water supply and distribution system that provides sufficient water volume, service pressure and fire protection to the New Development. For purposes of this Memorandum, “**New Development**” shall mean any new subdivision or site plan received for review and approval by the Planning Commission of the Town of Smithsburg (the “**Planning Commission**”) after the Effective Date of the Annexation Resolution, if approved by the Town.
 - a. *Adequacy of Existing System.* Prior to any New Development receiving final approval from the Planning Commission, the Town’s existing public water supply and distribution system shall be evaluated, at Cloverly Hill’s sole cost and expense, by a registered professional engineer and the findings of said evaluation shall be presented in a report submitted to the Town and the Planning Commission. Adequacy of the existing system to serve the New Development without having a material and detrimental impact on the existing system or its customers, along with any new system proposed as part of the New Development, shall then be determined by the Planning Commission upon

consideration of the recommendations made by the Hagerstown Water Department, where applicable; the Washington County Department of Water Quality, Division of Environmental Management, where applicable; the Town's Public Works Department, where applicable; and any other properly established agency with the responsibility to construct, maintain, improve or permit hookup to the Town's water supply system.

- b. *System Elements to be Evaluated.* When evaluating the adequacy of the existing and any proposed new water supply and distribution system to serve the New Development without having a material and detrimental impact on the existing system or its customers, all parts of the system affected by the projected water needs of the New Development shall be considered, including but not necessarily limited to the water source, quality, distribution or collection system, treatment system, pumping facilities, and metering devices.
- c. *Evaluation Criteria.* When evaluating the adequacy of the existing and any proposed new water supply and distribution system to serve the New Development without having a material and detrimental impact on the existing system or its customers, the following items shall be considered:
 1. The system's design capacity.
 2. The system's water supply source.
 3. The system's available capacity.
 4. The adopted and applicable guidelines, standards, procedures and policies regarding water service.
 5. The projected water needs of the proposed development, including domestic consumption and fire protection.
 6. Other proposed or expected connections to the system reasonably probable of fruition.
 7. The evaluations and recommendations of the Fire Department that provides fire-protection service in the New Development.
 8. Other variables found to have an effect on the ability of the water system to deliver the projected water needs of the New Development.
 9. The applicable guidelines concerning fire-protection provisions in areas where public water supplies are inaccessible as set forth in the Town's Adequate Public Facilities Ordinance (the "APFO").
 10. Existing storage, treatment, and pumping facilities affected by the proposed development.
- d. *Developer's Responsibility to Correct Deficiencies.* In the event the foregoing analysis and evaluation reasonably determines that the existing water supply and distribution system is inadequate to serve the New Development, then (i) the New Development shall not be approved by the Planning Commission; or (ii) Cloverly Hill shall be responsible for the reasonable costs and expenses of correcting the deficiencies in a manner necessary to make the system adequate to serve the New Development. Cloverly Hill shall not be responsible for the costs or expenses related to any system inadequacy revealed by its evaluation

which is unrelated to the New Development or the service thereof. However, as a condition to final approval of the New Development, Cloverly Hill and the Town shall enter into an agreement identifying any system conditions which may be worsened by the New Development's connection to the system. The agreement shall provide that Cloverly Hill will be responsible for remedying the identified condition(s) if in fact said condition(s) worsen as a direct result of the New Development.

3. **Sewage Disposal System.** Any New Development of the Property, shall be served by sewage disposal systems adequate to accommodate the flow projected to be generated by said New Development.
 - a. *Adequacy of Existing System.* Prior to any New Development receiving final approval from the Planning Commission, the adequacy of the Town's existing sewage disposal system to accommodate the flow projected to be generated by the New Development without having a material and detrimental impact on the existing system or its customers shall be determined by the Planning Commission after receiving a recommendation and evaluation by the agency or municipal government with responsibility to construct, maintain, improve and permit hookup to the existing disposal system. Adequacy shall be evaluated according to the agency's adopted guidelines, standards, policies or procedures and any other applicable county, state, or federal regulation.
 - b. *Adequacy of New System.* The adequacy of any new sewage disposal system to serve the New Development without having a material and detrimental impact on the existing system or its customers shall be determined by the Planning Commission after receiving the recommendation and evaluation by the Town's Public Works Department, the Washington County Department of Water Quality, Division of Environmental Management, and the Maryland Department of the Environment. Adequacy shall be evaluated according to the Town's Public Works Department's Sewer Service Policy, where applicable, and its standard specifications for construction of sanitary sewers. Establishment of any new sewage disposal systems shall be consistent with the Washington County Water and Sewerage Plan and the Comprehensive Plan for the Town.
 - c. *System Elements to be Evaluated.* In evaluating the adequacy of the existing and any proposed new sewage disposal system to serve the New Development without having a material and detrimental impact on the existing system or its customers, all parts of the system affected by the projected flow generated from the New Development shall be considered, including but not limited to laterals, interceptors, pumping stations, force mains, treatment plants, points of discharge, flow meters and rights-of-way.
 - d. *Evaluation Criteria.* In evaluating the adequacy of the existing and any proposed new sewage disposal system, the following items shall be considered:
 1. Design capacity.

2. Available capacity.
3. The agency's adopted standards, guidelines, policies, and procedures.
4. The projected flow to be generated by the New Development.
5. Other proposed or expected connections to the system reasonably probable of fruition.
6. Other variables found to have an effect on the system's ability to accept the projected flow.

e. *Developer's Responsibility to Correct Deficiencies.* In the event the foregoing analysis and evaluation reasonably determines that the existing sewage disposal system is inadequate to serve the New Development, then (i) the New Development shall not be approved by the Planning Commission; or (ii) Cloverly Hill shall be responsible for the reasonable costs and expenses of correcting the deficiencies in a manner necessary to make the system adequate to serve the New Development. Cloverly Hill shall not be responsible for the costs or expenses related to any system inadequacy revealed by its evaluation which is unrelated to the New Development or the service thereof. However, as a condition to final approval of the New Development, Cloverly Hill and the Town shall enter into an agreement identifying any system conditions which may be worsened by the New Development's connection to the system. The agreement shall provide that Cloverly Hill will be responsible for remedying the identified condition(s) if in fact said condition(s) worsen as a direct result of the New Development.

4. **Public Roads.** Existing public roads that serve the New Development shall, at a minimum, meet either applicable Town standards, if a Town road; the standards contained in the Washington County Engineering and Construction Department publication titled "A Policy To Determine Adequacy of Existing Roadway for Additional Development," as amended, if the existing road is a county road; or the Guidelines for Traffic Impact Reports/Studies, as amended, if the existing road is a state highway.

a. *Scope of Analysis - New Roads Proposed.* The portion of existing roads required to be adequate for the proposed New Development shall be from the existing road's intersection with any new road in the New Development, in the direction of traffic flow determined by the Planning Commission after receiving a recommendation from the Town Engineer and/or the State Highway Administration, to the nearest designated intersection with a road determined by the Planning Commission to be adequate to support the projected traffic volume generated by the New Development.

b. *Scope of Analysis – No New Roads Proposed.* The portion of existing roads to be adequate for any proposed New Development that does not include the construction of any new public streets shall be the road frontage of all new or existing lots containing the proposed New Development and the remainder of the roads in the anticipated direction of traffic flow, as determined by the Planning Commission after receiving the recommendation from the Town

Engineer and/or the State Highway Administration, to the nearest designated intersection with a road determined to be adequate to support the projected traffic volume generated by the New Development. The Planning Commission, in its reasonable discretion, may require that roads be adequate in several directions or in any one direction from the location of the proposed New Development.

- c. *Evaluation Criteria.* In evaluating the adequacy of the existing roads or the improvements necessary to make the existing roads adequate, the Planning Commission shall consider the following:
1. Existing traffic.
 2. Traffic projected to be generated by the New Development, including but in no way limited to any proposed commercial or institutional uses such as the new building for Smithsburg Emergency Medical Services (SEMS) currently being discussed by Cloverly Hill, the Town and SEMS.
 3. Traffic projected to be generated by other approved but not constructed development.
 4. Improvements scheduled or approved and funded in the adopted Town or Washington County capital improvements program to take place within two years from the anticipated date of final plat approval.
 5. Improvements with full funding within the six-year schedule in the Maryland Department of Transportations Consolidated Transportation Program.
 6. Traffic studies that may be required by the Town Engineer and/or the State Highway Administration.
 7. Any other information that may reasonably be required by the Town Engineer, State Highway Administration, or the Planning Commission to effectively evaluate the road network or information supplied by the developer.
- d. *Developer's Responsibility to Correct Deficiencies.* In the event the foregoing analysis and evaluation reasonably determines that the existing public roadways are inadequate to serve the New Development, then (i) the New Development shall not be approved by the Planning Commission; or (ii) Cloverly Hill shall be responsible for the reasonable costs and expenses of correcting the deficiencies in a manner necessary to make the roadways adequate to serve the New Development.
- e. *New Public Roads.* New public roads to be built as part of the New Development shall be constructed to the standards adopted by the Town or the design and construction specifications as adopted by the State Highway Administration.
1. The type of road to be built shall be based on the projected volume of traffic determined by the Town Engineer and/or the State Highway Administration that will be generated by the New Development in accordance with the aforementioned standards, as amended.

2. The Town Engineer, the Planning Commission and/or the State Highway Administration may require a traffic impact study for proposed commercial or residential development to be provided by the developer in order to determine which specification set forth above is applicable to the New Development.

5. **Town Real Property Taxes.** Town ad valorem real property taxes (“Town Taxes”) shall not be imposed on the Property until the Property, or any portion thereof, receives final approval for New Development. However, in no event shall Town Taxes be deferred for longer than Ten (10) years after the Effective Date of the Annexation Resolution, if approved by the Town.

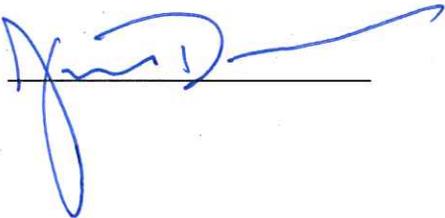
6. **Emergency Services.** Recognizing the need for adequate emergency services to the Property, from and after the Effective Date of the Annexation Resolution, if approved by the Town, Cloverly Hill shall continue to negotiate in good faith with SEMS and the Smithsburg Volunteer Fire Department for the location of a new SEMS and/or joint emergency services facility on the Property.

IN WITNESS WHEREOF, each of the parties hereto has executed or caused this Memorandum to be executed by its duly authorized officer as of the date first above written.

ATTEST:



ATTEST:



TOWN OF SMITHSBURG, a Maryland municipal corporation,

By:  (SEAL)
Mildred Myers, Mayor

CLOVERLY HILL, LLC, a Maryland limited liability company

By:  (SEAL)
Daniel Carroll Cross, Managing Member

Mayor and Council of Smithsburg, MD
Regular Meeting Minutes
Tuesday, December 5, 2017

The regular meeting of the Smithsburg Mayor and Council was held on Tuesday, December 5, 2017 at 7:00 PM with Mayor Mildred Myers, Council Members Richard Hetherington, Craig McCleaf, Donald Souders, Dennis Wenthe and Cassandra Weaver present. Also in attendance were Town Manager Debra Smith, Clerk/Treasurer Justine Keadle, Chief George Knight, Crew Leader Jeff Long, Town Planner Jill Baker and Zoning Administrator Randy Dick. The meeting was opened with the Pledge of Allegiance led by Council Member Weaver.

Agenda Approval: On a motion by Council Member Wenthe, Council unanimously approved the agenda.

On a motion by Council Member Souders, to approve the Executive minutes of November 7, 2017 Mayor and Council Executive Session. Motion carried by a unanimous vote of Council.

Consent Approval of Minutes: On a motion by Council Member Hetherington, to approve the minutes of the November 7, 2017 Mayor and Council meeting and the November 28, 2017 Work Session as submitted. Motion carried by a unanimous vote of Council.

Approval of Treasurers Report: On a motion by Council Member Souders to approve the Treasurer's report as presented Motion passed by a unanimous vote of Council.

MAYOR'S REPORT: Mayor Myers reported on the following: (1) Participated in the annual Veterans Day ceremony held at Veterans Memorial Gardens. Thanks to all who were part of the program and to the Veterans who make it all possible. (2) Attended Washington County Chapter of MD Municipal League hosted by Clear Spring. Our local representatives were present and spoke on their commitment to work on our FY2018 Legislative Priorities: (a) Restoring municipal highway user revenues to pre-recession levels. In the year 2010 State budget was when municipalities lost 96% of total transportation revenues. (b) To provide clear authority to deny MD Public Information Act requests and the procedure for release of email addresses /phone numbers provided by residents for emergency alerts, town newsletters, etc. (c) Protect municipal authority to assert local control over cellular towers within municipal right of way. (3) Met along with Town Manager members of Washington County Chamber of Commerce. A very good sharing of ideas on creating, assisting and building of businesses within our town took place. More information as to moving forward in the area will be forthcoming. (4) Many thanks go out to all the many volunteers and participants in the annual Christmas Tree Lighting and all activities. Special appreciation to the Public Works Department in their placing the decoration. (5) Wish all a Merry Christmas!

TOWN MANAGER'S REPORT: Debra Smith, Town Manager, reported the following: (1) Submitted the State Aid for Police Protection Grant Application. (2) Submitted the Annual Roads Improvement report to SHA. (3) Along with Mayor, met with representatives of the WC Chamber of Commerce. (4) Sent reminder letters to Orndorff Drive properties reminding them of December 31st deadline on sidewalk reimbursements. One property has made no effort to pay and was sent a lien letter notice. (5) Completed the town's portion of the sewer allocations that is being coordinated with W.C. Waiting for their confirmation on available allocations. Will also be working on the same information with Hagerstown of the water allocations. (6) Met with reporter from WDVM (WHAG) on the Veterans Park upgrades. A story appeared on the news channel.

DEPARTMENTAL REPORTS

Police Chief Report: Chief Knight submitted the following report: (1) there were 62 calls for service during the month of November with no arrest. (2) A total of 13 premise checks were conducted. (3) The Department patrolled a total of 1,401 miles this month and did 15 hours of foot patrol. (4) The Department assisted Washington County Sheriff's Dept. 6 times, Maryland State Police 5 times, SEMS 2 times and the Fire Marshall 1 time. There were 71 Park checks.

Public Works Report: Jeff Long submitted the following report: (1) Cleaned and pressure washed the memorial gardens area in Veterans Park and prepared for the Veterans Day Ceremony. (2) Winterized both parks for the season. (3)

Attended an M.R.W.A sponsored and M.D.E approved training class in Boonsboro. (4) Collected quarterly water samples for TTHMS and HAAS and sent out samples to the lab. (5) Liquid Engineering cleaned and inspected the 360,000 gallon above ground storage tank and the 240,000 gallon underground storage tank at the reservoir. (6) Completed water and sewer connections for 66-68 Geiser Way. (7) Sent in MORS to M.D.E (8) Began manhole inspections throughout the town. (9) Installed Christmas lights and decorations in Veteran Park, Town Hall and the square. A Special Thanks to Bonnie Renard for her help and hard work with this. (10) Water usage for the month are still pending (11) Sewer usage for the month are still pending.

Zoning Administrators Report: Randy Dick, Zoning Administrator submitted the following: (1) Next Planning Commission meeting will be held on January 9, 2017. (2) Assisted Public Works with weight limit for E. Fire Company Lane and Geiser Way water and sewer connection. (3) Met with Town Manager about Cloverly Hill LLC Annexation and Mountain Shadows bonding and status.

On a Motion by Council Member Hetherington to approve all departmental reports. Motion carried by a unanimous vote of Council.

COMMISSION REPORTS

Smithsburg Community Activities Commission-Council Member Wenthe stated he attended the Christmas party and there were 183 children under the age of 12 in attendance.

Parks and Improvement Commission- Council Member Weaver in behalf of Kevin Jeter thanked the Public Works Department and John and Bonnie Renard for the work on the Christmas decorations. Extended appreciation to the Mayor and Council for the new lights. Also thanked Debra Smith in advance for planning to attend the upcoming Parks Commission meeting.

Planning Commission –Next meeting scheduled for January 9, 2017.

Library Advisory Board – No minutes were submitted.

On a motion by Council Member Weaver, Council unanimously voted to accept all reports.

COMMUNITY ORGANIZATION REPORTS

Smithsburg Fire Co- No report submitted.

SEMS Report -The following report was submitted by Ward Fleger (1) 125 Calls for November 2017. Of these there were: 27 Sick Person/Diabetic Emergency/Abdominal Pain, 23 Ground level falls and traumatic injuries, 12 Chest Pain/Cardiac events, 16 Motor Vehicle Crashes, 8 Respiratory Distress, 6 Unconscious/Fainting/Syncope, 8 Overdose/Psychiatric, 5 Strokes, 6 Event Standby/Homecoming, 5 Seizure/Convulsions, 5 Cardiac Arrest, 1 save with discharge, 3 Life Line Alarms (2) Of the 125 calls, there were 104 calls in Smithsburg, Leitersburg, Mount Aetna, Hagerstown and Cascade/Pen Mar, 11 calls in Franklin County and 10 calls in Frederick County. (3) Attended the Veterans Day Service at Veterans Park on November 11, 2017, Attended the Christmas Tree Lighting on December 1, 2017 and please remember Abe Williams and keep his family in your thoughts and prayers.

CITIZENS COMMENTS/CONCERNS

- Jack Kesselring – 1A Grove Creek Circle; Questioned what the overall stance of the Mayor and Council where each stood on the proposed annexation. The Mayor stated this time was for comment only.
- Eric Davis – 12525 Bradbury Ave; knows there will be building regardless. Would like Council to consider existing issues such as the water, sewer and traffic problems. Doubling everything is not a good idea with the current situations.
- Richard Freysz – 39 Byron Drive; stated that this decision affects all taxpayers. Feels someone is giving out false information regarding the annexation and knows the land will be developed regardless. Doesn't see any problems bringing commercial business into the Town. Please put his tax dollars to use and annex.
- Joe Lane – 12030 Hippan Hill Road; stated Mr. Cross only wants to annex to get access to water and sewer. Mountain Shadows alone is going to fill up the schools and the roads are already crowded. Read a list of potential business general permitted uses and stated Mr. Cross could put any of those in under the proposed zoning.

- Evan Price – 12539 Bradbury Ave; read a quote from the Town’s website and stated that’s why he moved to this area from Texas. He is opposed to the annexation. Knows the land is going to be developed regardless, but the Town should say no. We already have empty commercial in Town and new development will take away from existing businesses.
- Leigh Zahm – 113 Sherri’s Way; appreciated the time Mayor and Council took to hear what the community had to say. He came here because this is a small town however, he knows if we don’t expand, change is coming regardless, and would rather the Town have an influence in those decisions.
- Liam Corballis – 13741 Kretsinger Road; stated he was unsure of his opinion because he didn’t have all the facts. Questioned if the ten year tax waiver was true and if the developer is applying for light commercial why wasn’t it zoned this way.
- Danielle Hetherington – 131 Colton Court; stated there was a Public Hearing on September 26, 2017 and it was advertised in the paper. This process has been going on for ten years. Everyone has had their chance to ask questions and if you haven’t taken the time to contact Mr. Cross or Town Council it shouldn’t be important now.
- John Coley – 22 Amanda Drive; said the population has tripled in town since 1990 and the schools are crowded and Mr. Cross doesn’t have anything in the new proposal to resolve the school issues that may occur.
- Ward Fleger – 109 Colton Court; whether we like it or not the Town is going to grow and we need to be prepared to service the needs of the community. A new SEMS station would be placed on the annexed property.
- Colleen Corballis – 13069 Wild Geese Lane; agrees with the opposing statements made by previous residents. The problem is not just what the developer is proposing but what comes in afterwards.
- Jason Divelbiss – Cloverly Hill, LLC attorney; they are aware of existing issues in Town stated by Mr. Davis and are going to work directly with the Town throughout the building process. This annexation has been around for over ten years and has had more meetings and participation than any other annexation he has been involved with. The Planning Commissions job is to review and make sure everything meets the town’s requirements and the ten year tax waiver is only if no development occurs.
- Daniel Cross – Owner Cloverly Hill, LLC; stated that his first annexation attempt was in 2007 and the second in 2014. An adult living community and the daycare that are planned will not affect the schools. He will be working with the Planning Commission so there will be the least amount of impact. Asked for support of the annexation and thanked everyone for their time.
- Liam Corballis – 13741 Kretsinger Road; stated if everyone was really concerned we would change the zoning to light commercial.

CONSENT AGENDA: (items reviewed in detail at the previous work session)

(1) FY19 Program Open Space Grant Proposal-*Approval of gazebo for Veterans Park with location to be determined by Parks Commission review.* (2) Recommendation to Sell Small Non-Essential Equipment at Auction-*Proposed sale of small equipment at auction house.* (3) Proposed Town Facebook Page-*Creation of Town Facebook page to share information from the Town with comments disabled.* Consent Agenda Approval: **On a motion** by Council Member Souders, Council unanimously approved the agenda items as proposed.

OLD BUSINESS:

Water Transmission Line Replacement Project Update:

Project Plan Approval- Modifications to original plans were made with the engineer and the Public Works Department along with the Town Manager and presented to the Mayor and Council for approval to proceed with the bidding process. **On a motion** by Council Member Souders, Council unanimously approved the water transmission line project plans to proceed to the bidding phase. Motion carried.

Bond Counsel Engagement Approval for MWQFA Loan for Water Line Replacement Project- Town Manager Smith stated legal bond counsel is required to close on the \$1.17 M Water Transmission Line Replacement project loan with MDE. Funk & Bolton handles most of the MDE loans and has provided the Town Manager with an engagement letter which highlights that once the funding is received from MDE, the Town will need to make a \$50,000 withdrawal on the loan and \$13,000 will be the maximum fee to be paid to the Bond Counsel. **On a motion** by Council Member Souders, Council unanimously approved the Bond Counsel Engagement approval for MWQFA Loan for the Water Line Replacement Project.

NEW BUSINESS

Resolution 2017-06-Adoption of Cloverly Hill Annexation Plan- Town Manager Smith stated that the Annexation Plan was presented at the Public Hearing in September as an exhibit, but the Town Attorney would like to have it approved as a separate document in the form of a Resolution. **On a motion** by Council Member Souders, to approve Resolution 2017-06 Adoption of Cloverly Hill Annexation Plan. All Council Members in favor with the exception of Council Member McCleaf with a vote of no. Motion carried 4-1, with a majority vote of Council.

Agreement between the Town and Cloverly Hill, LLC- Town Manager Smith stated the Memorandum of Understanding agreement was produced by both the Town's attorney and Cloverly Hill LLC's attorney and reviewed with Council outlines the concerns and responsibilities that may become an issue during development. Council Member Souders stated that this agreement addresses the majority of the public's concerns such as the infrastructure. **On a motion** by Council Member Wenthe, to approve the Agreement between the Town and Cloverly Hill, LLC. All Council Members in favor with the exception of Council Member McCleaf with a vote of no. Motion carried 4-1, with a majority vote of Council.

Resolution 2017-05- Petition for the Annexation of Cloverly Hill, LLC-Council Member Souders wanted to give all Council Members an opportunity to share why they are for or against the annexation. Council Member Souders stated he is for the annexation. He empathizes with the out of town residents as the annexation will affect them as well. The Town has only raised taxes once in 50 years but the cost to maintain everything goes up each year. The annexation is part of the strategic growth program. He is in favor of more commercial coming into the Town. By signing a referendum for the annexation you are putting the power in the County's hands.

- Council Member Wenthe stated he agreed with Council Member Souders one hundred percent.
- Council Member Hetherington stated the cost of running the Town goes up every year and we have not raised taxes so our base revenue is not increasing. We can raise taxes or grow the Town to increase our tax base. Mr. Cross will build on the land whether we approve the annexation or not. We would rather have a say in what is done on the property. We can make this a success for the developer and the Town.
- Council Member Weaver stated she has been resident of the Town since 2003 and even though we all have our personal preferences, in her position as Council Member her decision must be made on what is in the best interest of the Town.
- Council Member McCleaf stated he has lived in this Town all of his life and it has always been a small Town. He is concerned about the possible overcrowding of the schools as he feels there are already issues. He is also concerned about the moving of the emergency services and the impact it will have on traffic.
- Council Member Wenthe stated he agreed with all other Council Members on the annexation.
- Mayor Myers stated she believes the current Planning Commission and Town Officials will handle an annexation well at this time. We got all the information out to the public on the annexation and she appreciates everyone's comments.

On a motion by Council Member Souders, to approve Resolution 2017-05-Petition for the Annexation of Cloverly Hills, LLC; Council Member Weaver -yes; Council Member Wenthe -yes; Council Member Hetherington -yes; Council Member McCleaf -no. Motion carried 4-1, with a majority vote of Council.

Town Manager, Debra Smith stated the Town did an excellent job getting out the information to the public by posting agendas on the website as well as in multiple businesses and locations in the past 3-months.

NO DECEMBER WORK SESSION

COUNCIL MEMBER REMARKS:

Council Member Souders-Thanked SCAC, Public Works, Library and the Renard Family for the Christmas decorations and activities. Wished the Town staff and community a Merry Christmas. Welcomed Brian Beall who is currently running for Washington County Commissioners position.

Council Member Weaver-Thanked everyone for the Christmas activities and wished everyone a Merry Christmas.

Council Member Wenthe-Thanked everyone for their participation in the Veterans Day Ceremony. Had the biggest turnout to date at the tree lighting ceremony. Wished everyone a Merry Christmas.

Council Member Hetherington-Wished everyone a Merry Christmas. Thanked Jack Wenthe for the Veterans Day Ceremony. Thanked everyone for the decorations in the park. Congratulations to the high school volleyball team who won another state title.

Councilmember McCleaf-Spent the day with his daughter at the high school for an event. Attended the MML dinner in Clear Spring. Thanked Public Works and the Renard's for doing a great job with the lights in the park. Wished everyone a Merry Christmas and a Happy New Year.

The meeting was adjourned at 8:21 PM

Respectfully submitted,

Justine Keadle
Clerk/Treasurer

RESOLUTION 2017-08

AMENDED RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF SMITHSBURG, MARYLAND TO ENLARGE THE CORPORATE BOUNDARIES AND THEREBY AMEND THE CORPORATE BOUNDARIES AS CONTAINED IN THE APPENDIX OF THE CHARTER OF THE TOWN OF SMITHSBURG AND TO ESTABLISH THE ZONING CLASSIFICATION OF THE AREA TO BE ANNEXED

AMENDED RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF SMITHSBURG, adopted pursuant to the authority of Article XI-E of the Constitution of Maryland and MD Code, Local Government §4-401 to enlarge the corporate boundaries of the TOWN OF SMITHSBURG, a municipal corporation existing under and by virtue of the Laws of the State of Maryland, as defined by the CHARTER OF THE TOWN OF SMITHSBURG, and pursuant to the provisions of Local Gov't §4-401, *et seq.*, by adding or annexing to said corporate boundaries the following areas immediately adjacent and adjoining the present corporate boundary:

ANNEXATION PLAT DATED AUGUST 3, 2017 AND LAST REVISED AUGUST 4, 2017 AND METES AND BOUNDS DESCRIPTION ATTACHED COLLECTIVELY AS EXHIBIT "A"

WHEREAS, the proposal to enlarge the corporate boundaries of the Town of Smithsburg by adding or annexing thereto the above described areas which are immediately adjacent to and adjoining the present corporate boundaries thereof, as contained in the Petition signed by the requisite number of persons as prescribed and set forth in MD Code, Local Govt §4-404(a), as residents, registered voters, and/or owners of the realty contained within the area to be annexed; the same are incorporated herein by reference as if set forth herein and made a part hereof; and

WHEREAS, the "RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF SMITHSBURG, MARYLAND TO ENLARGE THE CORPORATE BOUNDARIES AND THEREBY AMEND THE CORPORATE BOUNDARIES AS CONTAINED IN THE APPENDIX OF THE CHARTER OF THE TOWN OF SMITHSBURG AND TO ESTABLISH THE ZONING CLASSIFICATION OF THE AREA TO BE ANNEXED" (hereinafter referred to as "Resolution Version One") was previously introduced on August 8, 2017, was subject to a Public Hearing on September 26, 2017, and was enacted on December 5, 2017; and

WHEREAS, the Resolution Version One contained references to Exhibits A, B, C, D, and E; and

WHEREAS, the exhibits referenced in Resolution Version One were inadvertently not labeled or attached to the Resolution Version One; and

WHEREAS, the exhibit originally referenced as "Exhibit D," or "Metes and Bounds Description of Town" was not introduced and is not a required exhibit to an annexation resolution, and thus reference to "Metes and Bounds Description of Town" is removed from the subject Amended Resolution and instead reference is made to "Corporate Boundary of Town with Bearings and Distances" said document having been previously introduced, made available

for public viewing, and made available for discussion at the public hearing held on September 26, 2017; and

WHEREAS, with the exception of the exhibit originally referenced as "Exhibit D," all other necessary documents identified as exhibits to Resolution Version One have been introduced, made available for public viewing, and made available for discussion at the public hearing held on September 26, 2017; and

WHEREAS, the Mayor and Council of the Town of Smithsburg are adopting this Amended Resolution as a good faith effort to clarify the record and correct any formal defects that may be found to exist in the Resolution Version One; and

WHEREAS, the Mayor, who is the presiding officer of the legislative body, has caused to be made a verification of the signatures on said Petition, and has ascertained that the requirements of MD Code, Local Gov't. §4-401, *et seq.*, as more fully appears from the certificate of verification subscribed by Justine Keadle, Town Clerk, which certificates were presented at this meeting, are attached hereto and incorporated herein as "Exhibit E" and made part hereof, have been met; and

WHEREAS, the Petition for Annexation meets all the requirements of the law, and pursuant to §4-406 of the Local Government Article of the Annotate Code of Maryland, the Annexation was referred to the appropriate State, Regional and County planning authorities; and

WHEREAS, the proposed zoning of the area to be annexed to the corporate limits was referred to the Planning Commission for the Town of Smithsburg, which said Commission has studied the proposed zoning of the tracts described herein in relation to the Comprehensive Plan, the Zoning Ordinance, and all other applicable ordinances, the needs of the Town and County, and the needs of the particular neighborhoods and vicinities of the areas, and have approved the same and that the rezoning of said tract of land is proper and desirable under all of the circumstances and should be accomplished at this time;

NOW THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Town of Smithsburg, that the boundaries of the Town, pursuant to the provisions of §4-400 MD Code, Local Gov't. be and the same are hereby amended and enlarged so as to annex and include within said Town all that certain area of land together with the persons residing therein, if any and their property, contiguous to the corporate limits of the Town and being more particularly described in Exhibit A.

AND BE IT FURTHER RESOLVED, that the annexation of the said area be made subject to the terms and conditions as set forth in the Petition for Annexation attached hereto as Exhibit "B" and made a part hereof upon final agreement and passage.

AND BE IT FURTHER RESOLVED, by the Mayor and Town Council, that the subject property to be annexed shall have zoning classifications of CG (Commercial General) and TR (Town Residential), as more particularly described on the Zoning Exhibit dated August

3, 2017 and last revised August 4, 2017 and the metes and bounds description, attached hereto and incorporated herein collectively as Exhibit "C".

AND, BE IT FURTHER RESOLVED, that the above mentioned Petition for Annexation and the Certificates of Verification hereinabove referred to, be filed and recorded among the records with the Clerk of the Town of Smithsburg and to be filed with the records of this meeting as part of this resolution by reference.

AND, BE IT FURTHER RESOLVED, that the description of the corporate boundaries of the Town of Smithsburg as referred to and incorporated in the Charter of the Town of Smithsburg, is hereby amended by eliminating from said existing description of the corporate boundaries that part thereof and said new description to be filed in accordance with the provisions of the Annotated Code of Maryland and the Charter of the Town of Smithsburg shall read as follows:

[SEE ATTACHED EXHIBIT "D" FOR CORPORATE BOUNDARY OF TOWN WITH BEARINGS AND DISTANCES]

AND, BE IT FURTHER RESOLVED, that this Resolution shall become effective at the end of forty-five (45) days following its final enactment, unless a proper petition for referendum hereon shall be filed.

AND, BE IT FURTHER RESOLVED, that the Engineer or Acting Engineer of the TOWN OF SMITHSBURG be and he is authorized and directed to amend and change the corporate boundaries of the Zoning Map of the TOWN OF SMITHSBURG as it now exists to henceforth show classification of the aforesaid area described herein as set forth.

AND, BE IT FURTHER RESOLVED, that the aforesaid Resolution relative to zoning shall take effect when and if the aforesaid Resolution regarding annexation shall become effective as above set forth.

WITNESS AND ATTEST
AS TO CORPORATE SEAL:

BY ORDER OF THE MAYOR AND
THE TOWN OF SMITHSBURG,
MARYLAND

Justine Keadle
Town Clerk

By: _____
Mildred Myers
Mayor

Date Introduced: 08/08/2017
Public Hearing: 09/26/2017
Final Enactment: _____
Effective Date: _____

PREPARED BY:
SALVATORE & MORTON, LLC
Town Attorneys

EXHIBIT A

Annexation Plat and Metes and Bounds Description of Area to be Annexed



FREDERICK, SEIBERT & ASSOCIATES, INC.

CIVIL ENGINEERING | SURVEYING | LANDSCAPE ARCHITECTURE

Revised September 11, 2017

Description of lands of Cloverly Hill, LLC to be annexed to the Town of Smithsburg.

Situate along the east side of Smithsburg Pike, MD Route 64 and along the north side of Foxville Road, MD Route 77 in Election District No. 7, Washington County, Maryland and being more particularly described as follows:

Beginning at a point on the southern margin of South Main Street, said point being on the existing corporate boundary for the Town of Smithsburg and being at the end of the line designated as L29 on the plat of the Corporate Boundary of the Town of Smithsburg recorded at Miscellaneous Plat Folios 462 and 463 among the Land Records of Washington County, Maryland, thence with said corporate boundary the following six courses N27°18'57"W 35.25 feet to a point, thence N62°41'04"E 23.00 feet to a point, thence N27°07'25"W 176.08 feet to a point, thence N27°11'37"W 286.17 feet to a point, thence N33°38'00"W 72.23 feet to a point, thence N25°27'00"W 230.21 feet to a point, thence continuing with a portion of the corporate boundary N48°00'00"E 41.36 feet to a point, thence running in the Maryland State Highway right of way S27°15'35"E 774.51 feet to a point, thence S45°49'22"E 237.68 feet to a point, thence continuing in said right of way and along the eastern right of way line for Smithsburg Pike as shown on SRC Plat No. 60616 N29°21'37"E 334.43 feet to a point, thence S59°33'25"E 214.03 feet to a point, thence S31°23'24"W 241.48 feet to a point, thence S59°22'24"E 192.42 feet to a point, thence S59°15'35"E 38.46 feet to a point, thence N51°10'49"E 167.55 feet to a point, thence N51°46'54"E 175.52 feet to a point, thence N59°35'19"W 151.06 feet to a point, thence N30°34'11"E 200.09 feet to a point, thence N59°25'49"W 224.81 feet to a point, thence S30°16'30"W 32.46 feet to a point, thence N59°43'30"W 193.41 feet to a point on the eastern right of way line of Smithsburg Pike as shown on SRC Plat No. 60616, thence with said right of way N29°21'37"E 91.06 feet to a point, thence leaving Smithsburg Pike and running along lands now or formerly of Zemontez Z. Peyton and Bernice S. Duperron (Liber 2360, folio 32) S59°20'26"E 205.99 feet to a point, thence S50°06'49"E 103.65 feet to a point, thence N82°38'32"E 425.85 feet to a point, thence N79°25'35"E 100.83 feet to a point, thence N17°48'58"W 361.41 feet to a point, thence N54°56'27"W 469.74 feet to a point on eastern right of way line of Smithsburg Pike as shown on SRC Plat No. 60041, thence with said right of way N27°35'06"E 162.04 feet to a point, thence N26°14'47"E 636.32 feet to a point, thence N24°03'29"E 126.48 feet to a point, thence leaving Smithsburg Pike and running along lands now or formerly of W. Henry Allenberg (Liber 1569, folio 228) S72°26'23"E 1,279.32 feet to a point, thence along lands now or formerly of William H. Allenberg (Liber 2315, folio 411) S09°35'10"W 708.52 feet to a point, thence along lands now or formerly of Neil and Delores Rosenshein (Liber 3884, folio 1) S08°53'07"W 757.41 feet to a point, thence along lands now or formerly of Joseph and Christine Lane (Liber 3536, folio 416) S47°56'55"W 264.42 feet to a point, thence along lands now or formerly of Elisa S. Moseley (Liber 4120, folio 3) S51°43'01"W 628.03 feet to a point, thence along lands now or formerly of Elisa F. Moseley (Liber 747, folio 1085) S49°08'11"W 121.21 feet to a point, thence along lands now or formerly of Peggy S. Bushey (Liber 4897, folio 411) N40°23'16"W 584.33 feet to a point, thence

fsa-md.com

HAGERSTOWN, MD
128 S. Potomac Street
Hagerstown, MD 21740
301.791.3650

GREENCASTLE, PA
20 W Baltimore Street
Greencastle PA 17226
717.597.1007

CARLISLE,
101 N. Hanover
Carlisle, Pa 17
717.701.811



S49°23'45"W 588.28 feet to a point, thence in the Maryland State Highway right of way
N45°49'22"W 848.81 feet the place of beginning;

Containing 68.18 acres of land more or less;

Said lands being a portion of the lands conveyed by James D. Johnson, Jr. to Cloverly Hill, LLC by deed dated April 14, 2004 and recorded in Liber 2304, folio 696 together with a portion of the lands conveyed by the Housing Authority of Washington County to Cloverly Hill, LLC by deed dated July 6, 2006 and recorded in Liber 3050, folio 328 together with the lands conveyed by the State Highway Administration of Maryland to Cloverly Hill, LLC by deed dated _____ and recorded in Liber _____, folio _____ among the land records of Washington County, Maryland. Also being a portion of the road beds of Foxville Road, Smithsburg Pike and South Main Street (2.84 Ac.).

EXHIBIT B
Annexation Petition

PETITION FOR ANNEXATION

PURSUANT to and in accordance with the provisions of Maryland Code, Local Government, §4-404, the undersigned, CLOVERLY HILL, LLC, a Maryland limited liability company (the "Petitioner") does hereby petition and request, subject to the terms and conditions stated herein, the Town of Smithsburg, Maryland (the "Town") through its governing body, the Mayor and Town Council, to enlarge the corporate boundaries of the Town by annexing +/- 70.0 acres of real property located generally in the northeast quadrant of the intersection of Md. Rte. 64 and Md. Rte. 77 as more particularly shown as the "Annexation Area" on the graphic attached hereto and incorporated herein as Exhibit #1 (the "Property").

Said Property being contiguous and adjoining to the existing corporate limits of the Town and located in unincorporated Washington County, Maryland.

This annexation will not create any unincorporated area which is bounded on all sides by real property presently within the corporate limits of the Town, real property proposed to be within the corporate limits of the Town as a result of the proposed annexation, or any combination of such properties.

In compliance with Md. Code, Local Government, §4-404 and §4-413, Petitioner is the owner of at least 25% of the assessed valuation of the real property located in the area to be annexed. The Petitioner is the owner of all the real property located in the area to be annexed and no registered voters reside therein.

The Property is currently zoned RT (Residential Transition) and BL (Business Local) by the Zoning Ordinance for Washington County, Maryland as shown on the Existing Zoning Map attached hereto and incorporated herein as Exhibit #2. Petitioner requests that the Property be zoned a combination of GC (General Commercial) and TR (Town Residential) when annexed into the Town of Smithsburg, as generally shown on the Preliminary Zoning Exhibit attached hereto and incorporated herein as Exhibit #3. The Petitioner hereby requests the Mayor and Town Council refer this Petition to the Town Planning Commission, whereby the exact location and area of the requested zoning districts on the Property will be finalized. Thereafter, this Petition shall be amended and the requested zoning of the Property will be more particularly identified prior to publication and advertisement of the public hearing for this Petition. The Town of Smithsburg Comprehensive Plan - 2011 prescribes a combination of Commercial; Open Spaces/Parks/PP; Low Density Residential; Mixed Forest; and Orchard use for the Property as shown on the Future Land Use map attached hereto and incorporated herein as Exhibit #4.

Pursuant to Md. Code, Local Government, §4-416, express approval by the Washington County Board of County Commissioners of the requested zoning classifications for a portion of the Property is required because the requested GC (General Commercial)



zoning classification permits development of the Property for land uses substantially different than the use authorized, or at a substantially higher density (greater than 50%) than could be granted in accordance with the RT (Residential Transition) zoning classification of Washington County. Petitioner shall directly request "express approval" of the requested zoning classifications from the Washington County Board of County Commissioners and request the direct support of the Town in this request.

Upon verifying that the requirements of Md. Code, Local Government, §4-404 have been complied with, the presiding officer of the Town's legislative body shall promptly cause to be introduced a resolution proposing to enlarge the Town of Smithsburg's corporate boundaries and to establish the zoning classification of the Property pursuant to the terms and conditions of this Petition. Petitioner agrees that neither the receipt of this Petition nor the presentment of a Resolution to the Mayor and Council is to be considered a waiver of any provisions of the Annotated Code of Maryland, or the common law thereof. Petitioner further agrees that the final determination as to whether or not the Town of Smithsburg shall enlarge its corporate boundaries as requested herein lies exclusively within the discretion of the legislative body.

The Property and any persons residing on the Property shall be generally subject to all acts, ordinances, resolutions and policies of the Town, except as otherwise provided herein, the Annexation Agreement or in the Annexation Resolution.

The specific conditions upon which this Petition is submitted are as follows:

1. Town ad valorem real property taxes ("Town Taxes") shall not be imposed on the Cloverly Hill Property until the first to occur of the following: (i) title to the Property being conveyed from its current owner, Cloverly Hill, LLC, to a subsequent owner; (ii) the Property is redeveloped from its current use to a different use that results in an increase in the assessed value of the respective Property; or (iii) Ten (10) years from the effective date of annexation;
2. The execution of a separate, comprehensive Annexation Agreement between the Petitioner and the Town.

Petitioner reserves the right to withdraw this Petition and to terminate any agreement contained herein, without liability if the conditions of annexation specified in the Annexation Resolution are materially changed from those set forth in this Petition, as determined in the sole and absolute discretion of Petitioner.

Should Petitioner elect to withdraw this Petition and terminate any agreement contained herein, this may be done by Petitioner any time prior to the Town Council's final vote on and the Mayor's execution of the Annexation Resolution.

WITNESS the hand and seal of the Petitioners on the 29th day of MARCH, 2017.

WITNESS:

"PETITIONER"

CLOVERLY HILL, LLC, a Maryland limited liability company

Loise A. Plotner
Loise A. Plotner

BY: [Signature] (SEAL)
Daniel Carroll Cross, Managing Member

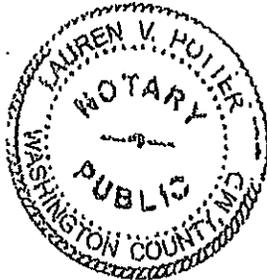
STATE OF MARYLAND, COUNTY OF Washington, to-wit:

I HEREBY CERTIFY, that on this 29 day of March, 2017, before me, a Notary Public in and for the State and County aforesaid, personally appeared Daniel Carroll Cross, who acknowledged himself to be the Managing Member of Cloverly Hill, LLC and that he, as such officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained.

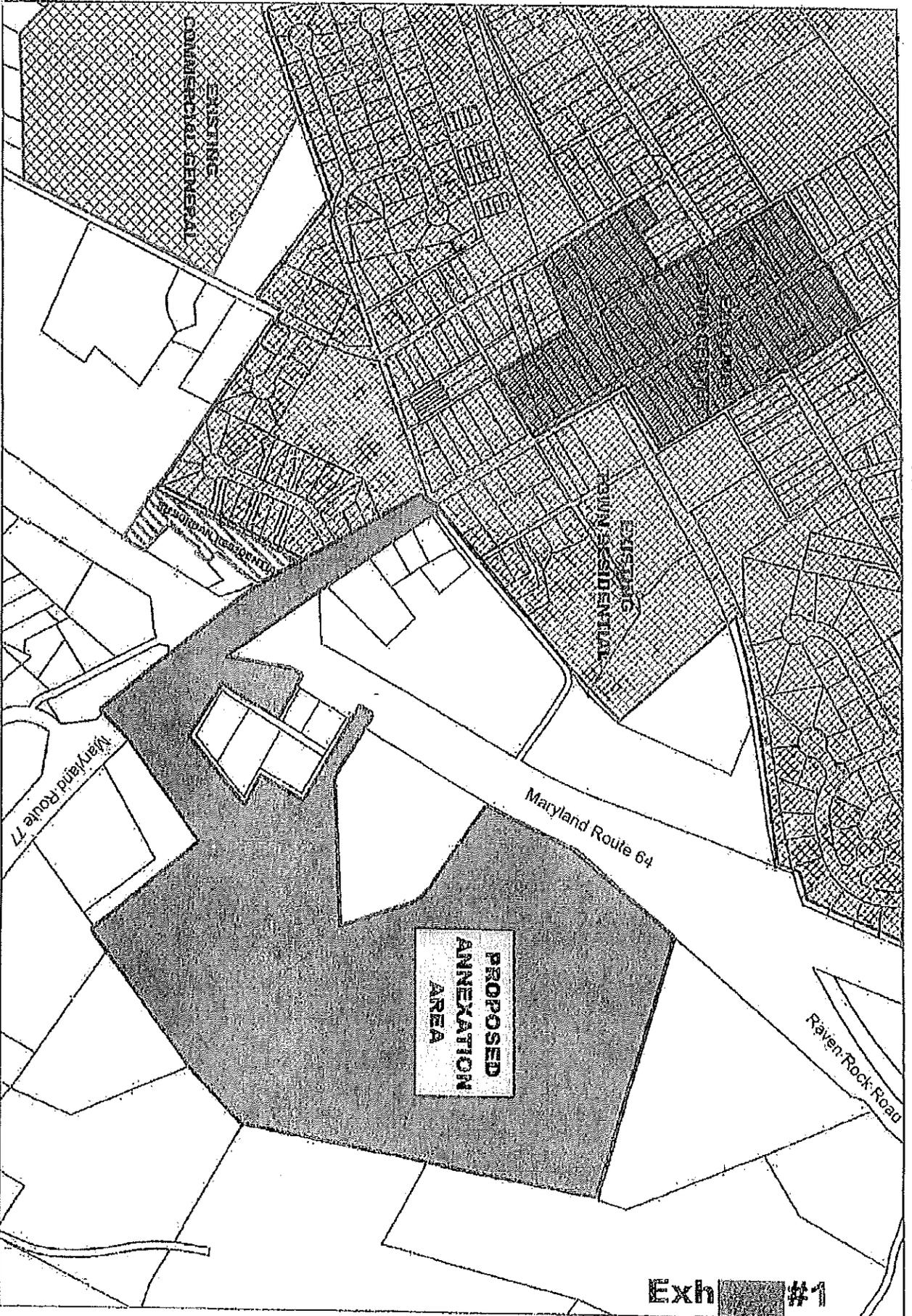
WITNESS my hand and Official Notarial Seal.

[Signature]
Notary Public

My Commission expires:
10/19/19



PROPOSED TOWN ANNEXATION EXHIBIT



Exh #1

Drawn By: BAW
REVISED 3-29-2017 1 Inch = 500 Feet

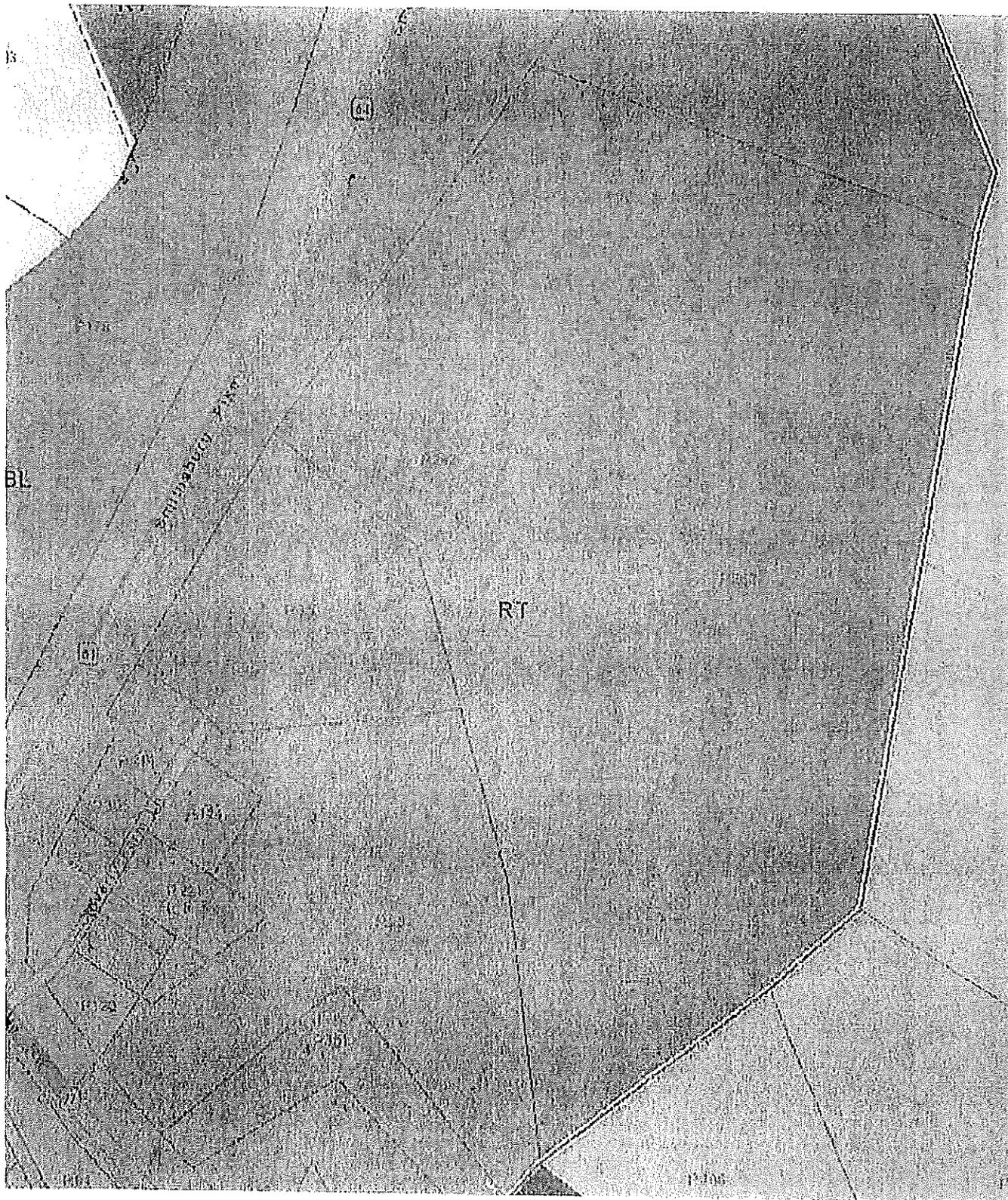
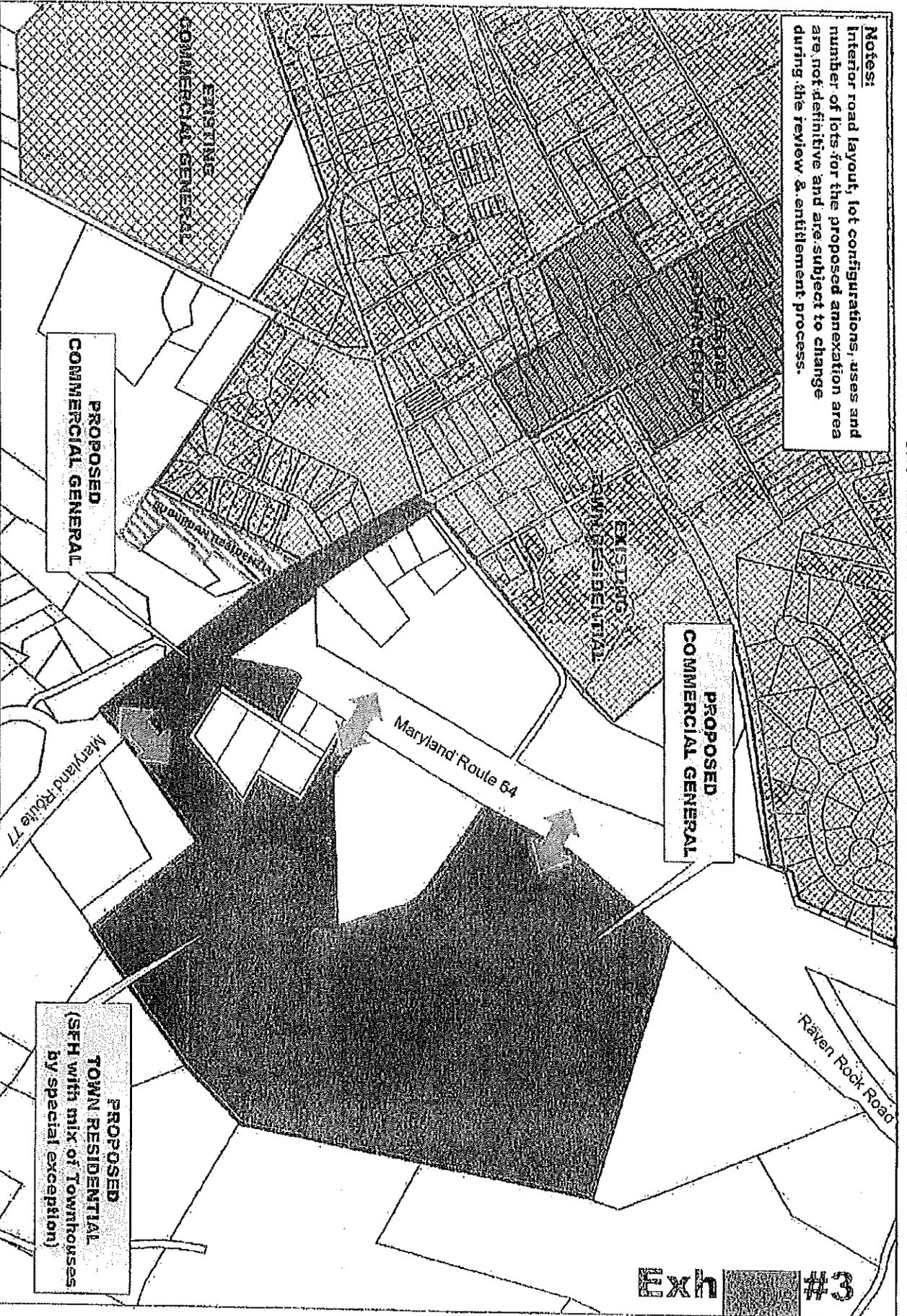


EXHIBIT 2

CLOVERLY PROPOSED TOWN ZONING-EXHIBIT

Notes:
Interior road layout, lot configurations, uses and number of lots for the proposed annexation area are not definitive and are subject to change during the review & entitlement process.



**PROPOSED
TOWN RESIDENTIAL
(SFH with mix of Townhouses
by special exception)**

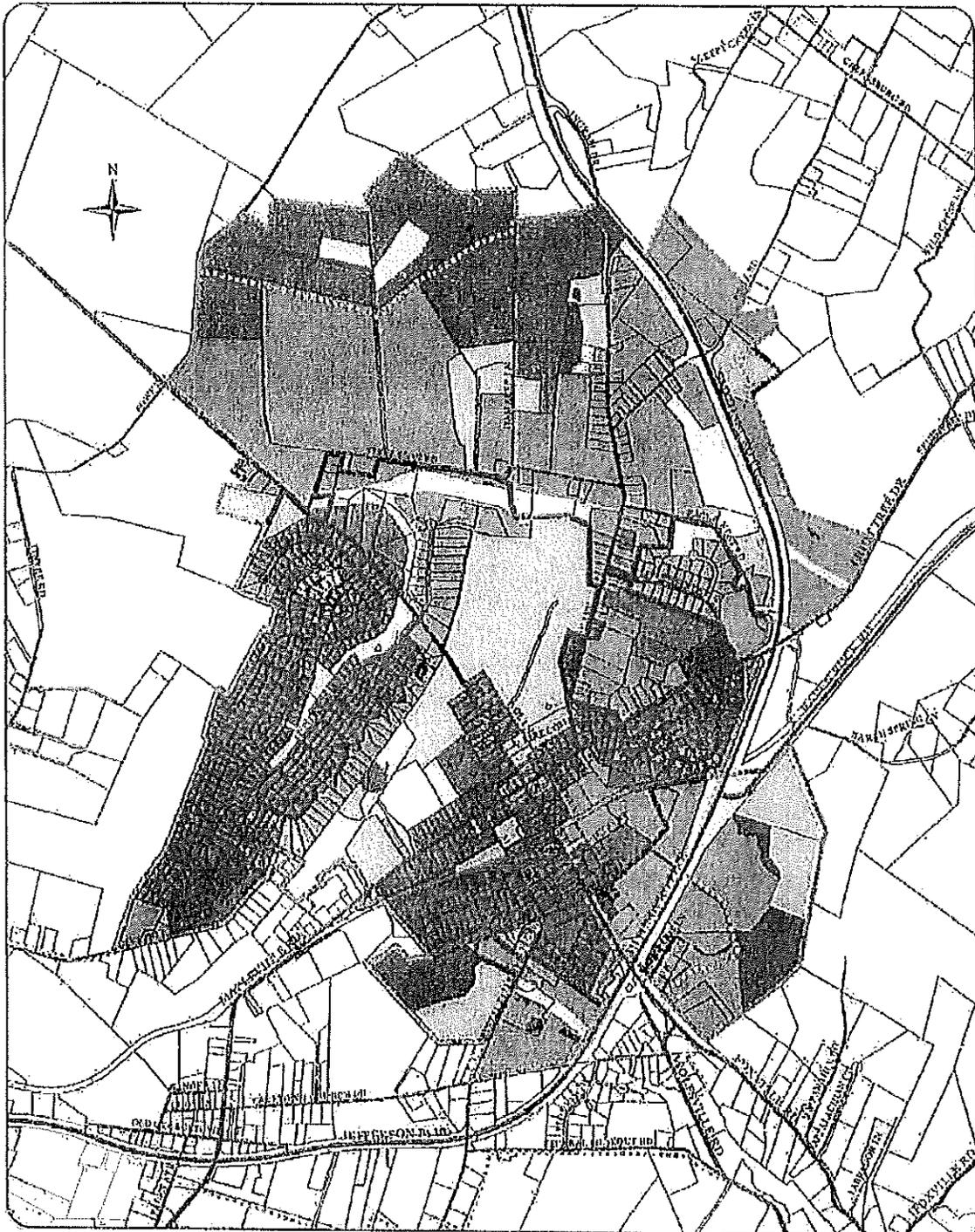
**PROPOSED
COMMERCIAL GENERAL**

**PROPOSED
COMMERCIAL GENERAL**

EXH #3

Drawn by: BAW
REVISED 3-29-2017 4 inch = 500 feet

Future Land Use



Copyright © 2010 by the Board of Commissioners, Smithsburg, Maryland. All rights reserved.

This map was prepared by the Board of Commissioners, Smithsburg, Maryland, and is intended to provide information only. It is not intended to be used as a legal document. The Board of Commissioners, Smithsburg, Maryland, is not responsible for any errors or omissions on this map.

Smithsburg, Maryland, is a town in Washington County, Maryland. It is located on the western shore of the Potomac River, approximately 100 miles northwest of Washington, D.C. The town is known for its historic architecture and scenic views of the river. The future land use map shows the town's growth area and various zones for residential, commercial, and institutional use.

For more information, please contact the Board of Commissioners, Smithsburg, Maryland, at (301) 451-1234.

0 0.1 0.2 0.3 0.4 Miles



- Legend**
- Roads
 - ▭ Smithsburg Town Growth Area
 - ▭ County Growth Area
 - ▭ Town Boundary
 - ▭ Land Use
 - ▭ Agriculture
 - ▭ Commercial
 - ▭ Institutional
 - ▭ High Density Residential
 - ▭ Medium Density Residential
 - ▭ Low Density Residential
 - ▭ Rural Residential
 - ▭ Mixed Forest
 - ▭ Open Spaces/Parks/FP
 - ▭ Orchard
 - ▭ Water

EXHIBIT C

Zoning Exhibit and Metes and Bounds Description of GC and TR Zoning Areas

August 3, 2017

Description for proposed zoning areas.

GC Zone

Parcel 1:

Beginning at the point of beginning of the deed from Arthur Lee Towson, III and Naomi Annette Marie Towson to Zemontez Z. Peyton and Bernice Susan Duperron dated May 28, 2004 and recorded in Liber 2360, folio 32, thence with a portion of the first line thereof with bearings to match the corporate boundary of the Town of Smithsburg N82°38'32"E 117.81 feet to a point thence leaving said line and running through the lands of Cloverly Hill, LLC S04°52'34"W 136.38 feet to a point, thence S59°25'49"E 78.02 feet to a point, thence with a curve to the right having a radius of 475.00 feet, an arc length of 156.08 feet and a chord bearing and distance of S50°01'02"E 155.37 feet to a point, thence S40°36'15"E 88.74 feet to a point, thence S04°25'05"W 35.34 feet to a point, thence S49°23'39"W 665.83 feet to a point on the northern right of way line of Foxville Road, thence with said right of way line with a curve to the right having a radius of 5,654.58 feet, an arc length of 576.05 feet and a chord bearing and distance of N39°46'52"W 575.80 feet to a point, thence N05°20'45"W 37.98 feet to a point, thence with the eastern right of way line of Smithsburg Pike as shown on SRC Plat No. 60616 N29°21'37"E 222.82 feet to a point, thence leaving Smithsburg Pike and running with the corporate boundary of the town of Smithsburg S59°33'25"E 214.03 feet to a point, thence S31°23'24"W 241.48 feet to a point, thence S59°21'16"E 230.87 feet to a point, thence N51°29'17"E 343.07 feet to a point, thence N59°35'19"W 151.06 feet to a point, thence N30°34'11"E 200.09 feet to a point, thence N59°25'49"W 224.81 feet to a point, thence S30°16'30"W 32.46 feet to a point, thence N59°43'30"W 193.41 feet to a point, thence N29°21'37"E 91.06 feet to a point, thence S59°20'26"E 205.99 feet to a point, thence S50°06'49"E 103.65 feet to the place of beginning;

Containing 6.38 acres of land more or less;

Parcel 2:

Beginning at a point in the third or N12°11'50"W 361.41 feet line of the deed from Arthur Lee Towson, III and Naomi Annette Marie Towson to Zemontez Z. Peyton and Bernice Susan Duperron dated May 28, 2004 and recorded in Liber 2360, folio 32, thence with a portion of said third line and with the corporate boundary of the Town of Smithsburg with bearings to match the corporate boundary of the Town of Smithsburg N17°48'58"W 94.28 feet to a point, thence N54°56'27"W 469.74 feet to a point, thence N27°35'06"E 162.04 feet to a point, thence N26°14'47"E 636.32 feet to a point, thence N24°03'29"E 126.48 feet to a point, thence S72°26'23"E 867.65 feet to a point, thence running through the lands of Cloverly Hill, LLC S17°33'37"W 25.00 feet to a point, thence with a curve to the left having a radius of 175.00 feet, an arc length of 245.34 feet and a chord bearing and distance of S67°23'51"W 225.74 feet to a point, thence S27°14'05"W 294.21 feet to a point, thence with a curve to the right having a radius



of 350.05 feet, an arc length of 752.91 feet and a chord bearing and distance of S05°13'40"E 615.95 feet to a point, thence N22°31'37"W 263.51 feet to a point, thence N41°17'59"W 131.08 feet to a point, thence S51°04'29"W 158.11 feet to a point, thence S32°54'33"W 64.02 feet to a point, thence S54°18'16"W 224.29 feet to the place of beginning;

Containing 19.22 acres of land more or less;

TR ZONE

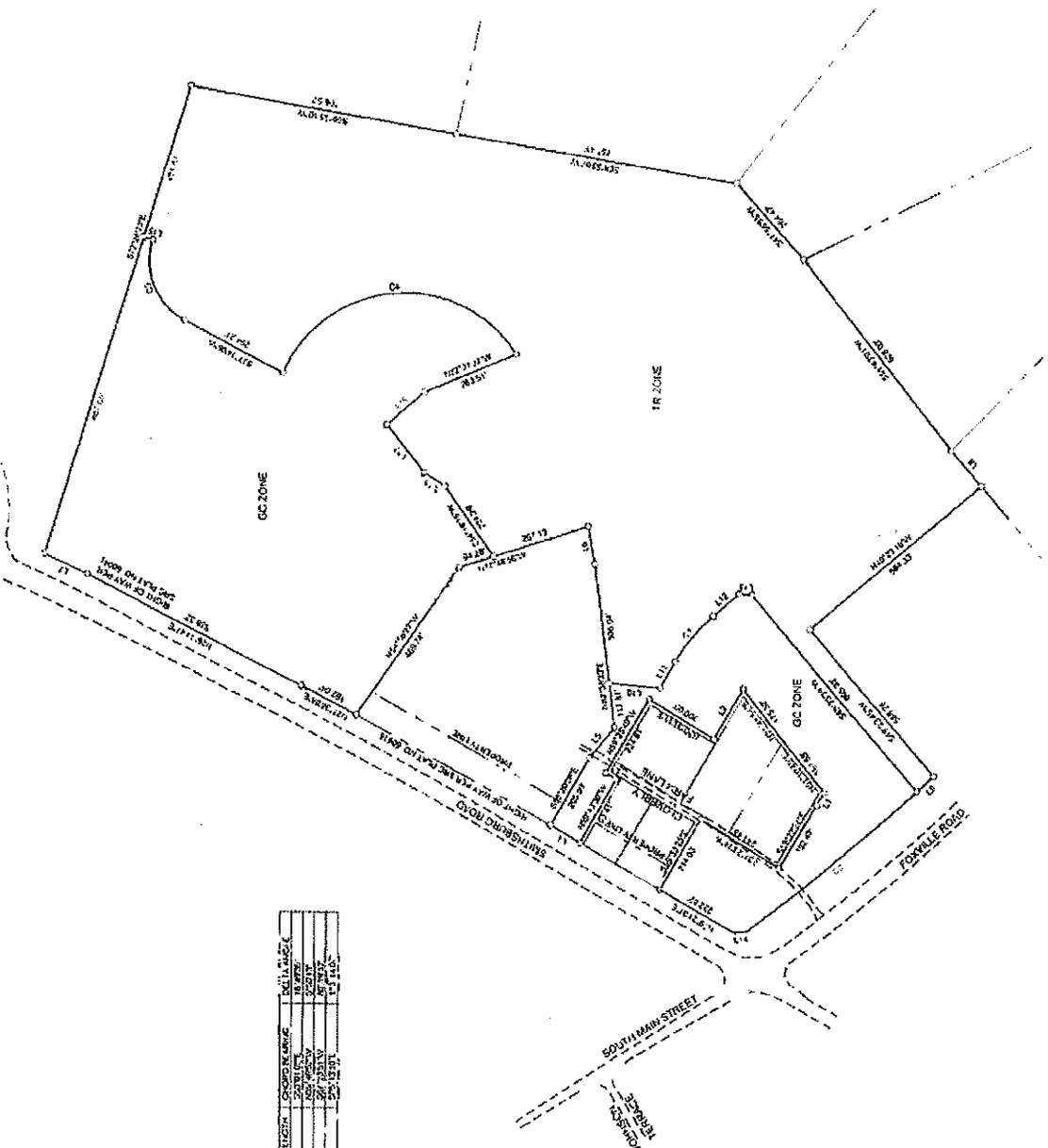
Beginning at a point in the first or N88°36'E 426.03 feet line of the deed from Arthur Lee Towson, III and Naomi Annette Marie Towson to Zemontez Z. Peyton and Bernice Susan Duperron dated May 28, 2004 and recorded in Liber 2360, folio 32, thence with a portion of said first line and with the corporate boundary of the Town of Smithsburg with bearings to match the corporate boundary of the Town of Smithsburg N82°38'32"E 308.04 feet to a point, thence N79°25'35"E 100.83 feet to a point, thence N17°48'58"W 267.13 feet to a point, thence running through the lands of Cloverly Hill, LLC N54°18'16"E 224.29 feet to a point, thence N32°54'33"E 64.02 feet to a point, thence N51°04'29"E 158.11 feet to a point, thence S41°17'59"E 131.08 feet to a point, thence S22°31'37"E 263.51 feet to a point, thence with a curve to the left having a radius of 350.05 feet, an arc length of 752.91 feet and a chord bearing and distance of N05°13'40"W 615.95 feet to a point, thence N27°14'05"E 294.21 feet to a point, thence with a curve to the right having a radius of 175.00 feet, an arc length of 245.34 feet and a chord bearing and distance of N67°23'51"E 225.74 feet to a point, thence N17°33'37"E 25.00 feet to a point on the corporate boundary of the Town of Smithsburg, thence with said boundary S72°26'23"E 411.67 feet to a point, thence S09°35'10"W 708.52 feet to a point, thence S08°53'07"W 757.41 feet to a point, thence S47°56'55"W 264.42 feet to a point, thence S51°43'01"W 628.03 feet to a point, thence S49°08'11"W 121.21 feet to a point, thence N40°23'16"W 584.33 feet to a point, thence S49°23'45"W 497.26 feet to a point on the northern right of way line of Foxville Road, thence with said right of way line N43°00'14"W 60.05 feet to a point, thence leaving Foxville Road and running through the lands of Cloverly Hill, LLC N49°23'39"E 665.83 feet to a point, thence N04°25'05"E 35.34 feet to a point, thence N40°36'15"W 88.74 feet to a point, thence with a curve to the left having a radius of 475.00 feet, an arc length of 156.08 feet and a chord bearing and distance of N50°01'02"W 155.37 feet to a point, thence N59°25'49"W 78.02 feet to a point, thence N04°52'34"E 136.38 feet to the place of beginning;

Containing 39.74 acres of land more or less;

Said lands being a portion of the lands conveyed by James D. Johnson, Jr. to Cloverly Hill, LLC by deed dated April 14, 2004 and recorded in Liber 2304, folio 696 together with a portion of the lands conveyed by the Housing Authority of Washington County to Cloverly Hill, LLC by deed dated July 6, 2006 and recorded in Liber 3050, folio 328 together with the lands conveyed by the State Highway Administration of Maryland to Cloverly Hill, LLC by deed dated _____ and recorded in Liber _____, folio _____ among the land records of Washington County, Maryland.

LINE	BEARING	DISTANCE
1	S 89° 58' 00" W	100.00
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LINE	BEARING	DISTANCE	POINT
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97	S 89° 58' 00" W	100.00	100.00
98	S 89° 58' 00" W	100.00	100.00
99	S 89° 58' 00" W	100.00	100.00
100	S 89° 58' 00" W	100.00	100.00



Zoning Exhibit for
Cloverly Hill, LLC
Shown along the east side of Sennettsburg Road and adjacent north side of Fox Hill Road
WASHINGTON COUNTY, MARYLAND

01110
11/10

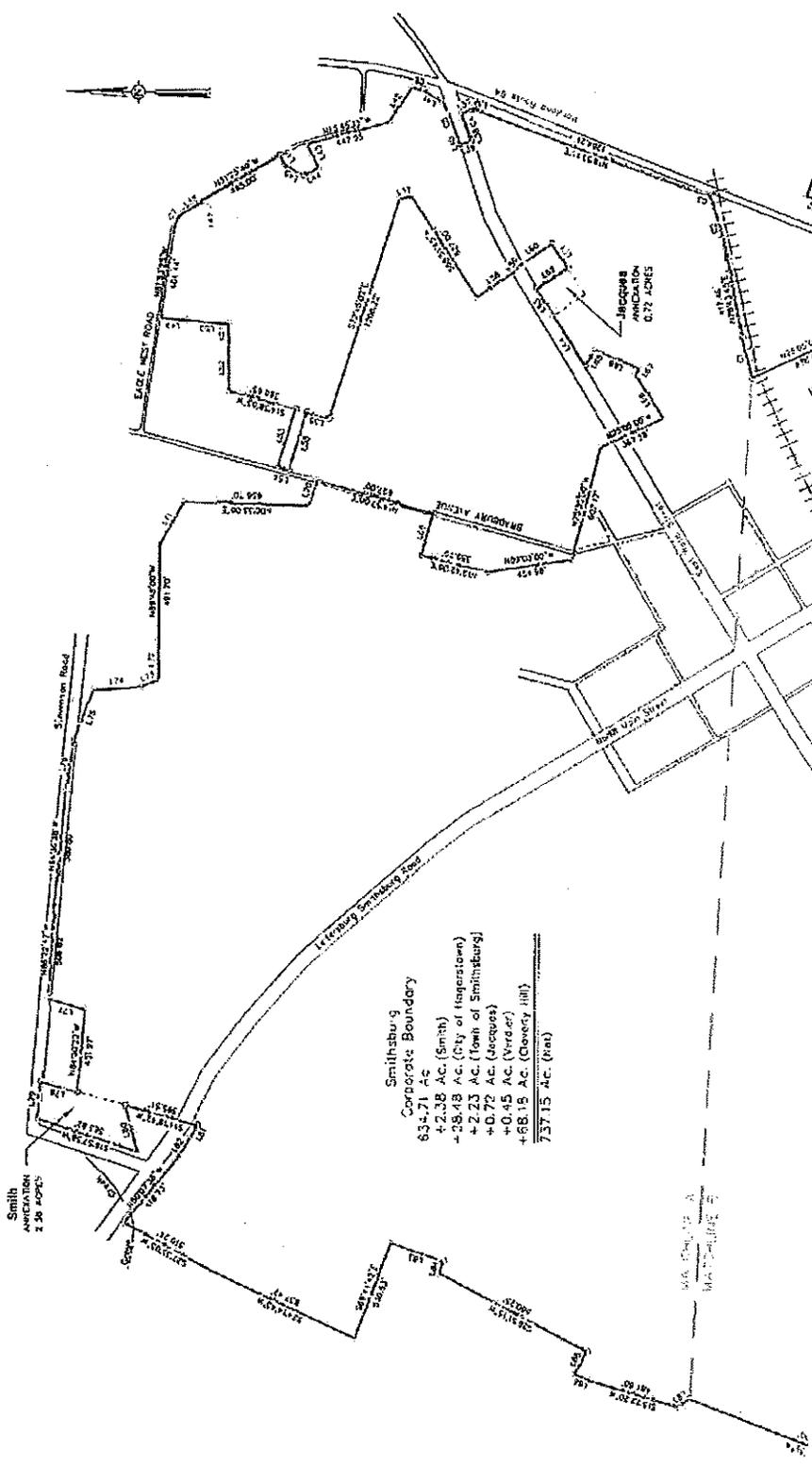
FREDERICK SEIBERT & ASSOCIATES, INC.
100 WEST BALDWIN STREET, CHESTER, PENNSYLVANIA 17320
101 NORTH MARKET STREET, CARLEISLE, PENNSYLVANIA 17013

DRAWING NUMBER 1 OF 1
DATE 11/10/10
CHECKED BY [Signature]
SCALE 1" = 200'

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EXHIBIT D

New Corporate Boundary of Town of Smithsburg with Bearings and Distances



This plot is recorded by the Town of Smithsburg Washington County, Maryland pursuant to the provisions of Article 23 A, Corporation-Municipal, Section 19, Annotation of the Annotated Code of Maryland.

I hereby certify that this plot is recorded for the purpose of registering the Corporate Boundary of the Town of Smithsburg, Maryland, a Municipal Corporation existing under and by virtue of the Laws of the State of Maryland.

The undersigned further certifies that she is the Chief Executive Officer of said Municipal Corporation.

Lot No.	Area (Ac.)	Owner
1	0.15	...
2	0.15	...
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96	0.15	...
97	0.15	...
98	0.15	...
99	0.15	...
100	0.15	...

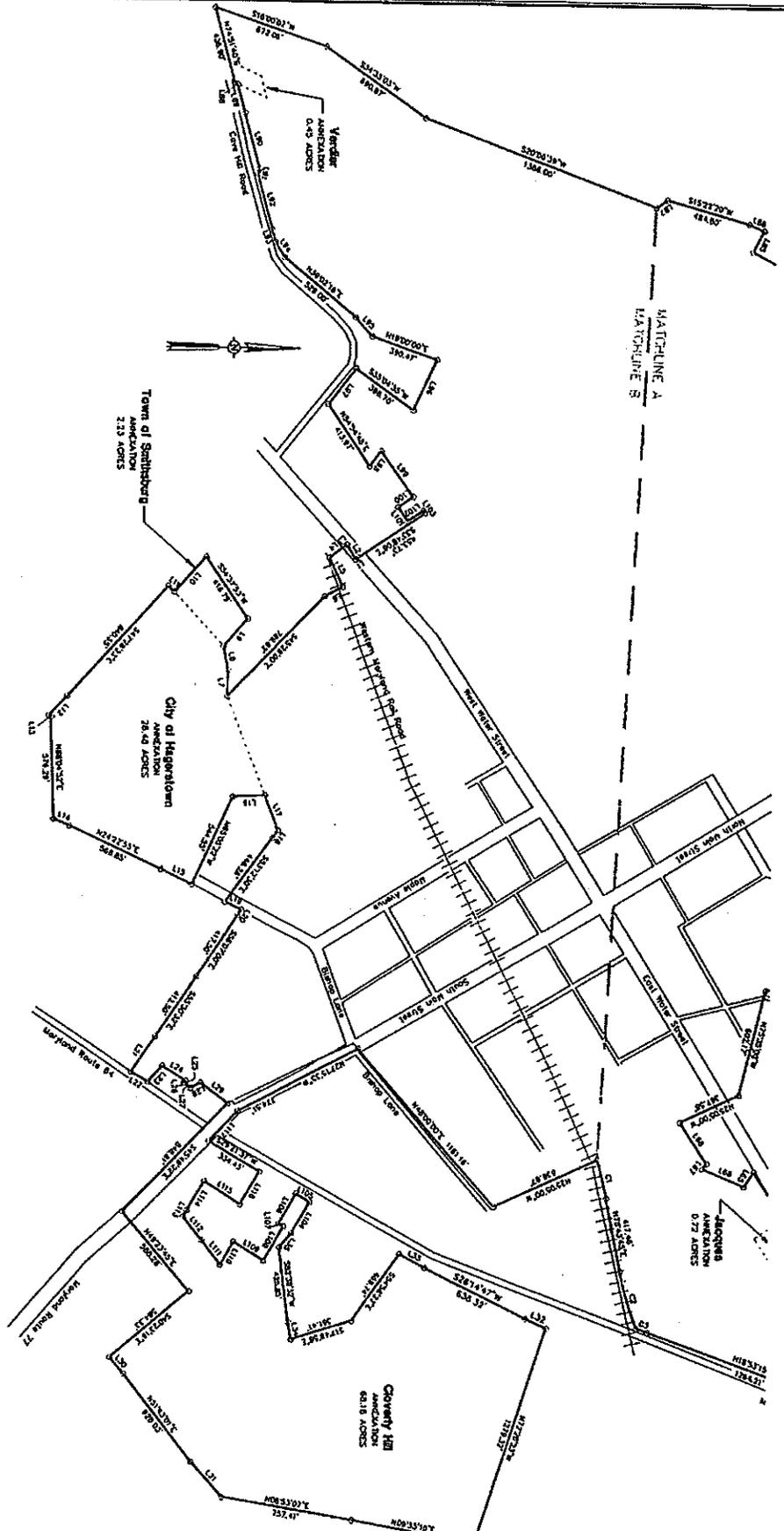


Corporate Boundary
 of the
Town of Smithsburg
 WASHINGTON COUNTY, MARYLAND

FREDERICK SEIBERT & ASSOCIATES, INC.
 CIVIL ENGINEERS SURVEYORS LANDSCAPE ARCHITECTS LAND PLANNERS
 228 SOUTH PRODUCE STREET, HAGERSTOWN, MARYLAND 21740
 310 WEST BALTIMORE STREET, GREENCASTLE, PENNSYLVANIA 17225

DATE: 11/11/11
 SHEET: 1 OF 2
 PROJECT: SMITHSBURG CORPORATE BOUNDARY

Lot No.	Area (Ac.)	Owner
1	0.15	...
2	0.15	...
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95	0.15	...
96	0.15	...
97	0.15	...
98	0.15	...
99	0.15	...
100	0.15	...



- 9/11/17 REVISED TO ADD GOVERN'T REL ASSOCIATION
- 4/14/09 REVISED TO ADD JACOBS & VERDER ASSOCIATIONS
- 10/10/07 REVISED TO ADD TOWN OF SOUTHSUBURG, TOWN OF HAGERSTOWN & SOUTH ASSOCIATIONS
- 9/13/06 REVISED TO ADD CARROLLINGUR & FLEMING ASSOCIATIONS
- 1/18/06 REVISED TO ADD FRET ASSOCIATION
- 5/18/05 REVISED TO ADD JACOBS ASSOCIATION
- 3/10/04 REVISED ROAD MARKS CHALKS NEXT & GROUP

DATE: 04/20/20		SHEET: 2	
DRAWING NUMBER: 2 OF 2			
DESIGNED BY:	DATE:	CHECKED BY:	DATE:
M. Gorman	3/21/17		
CREATED BY:	DATE:	CHECKED BY:	DATE:
SCALE: 1" = 400'			

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 CIVIL ENGINEERING SURVEYING LANDSCAPE ARCHITECTURE LAND PLANNING
 128 SOUTH PORTLAND STREET, WAGGESTOWN, MARYLAND 21740
 308 WEST BALTIMORE STREET, GREENBELT, PENNSYLVANIA 17225
 (301) 341-1100 (301) 341-1101 FAX (301) 341-1102

Corporate Boundary
 of the
Town of Smithsburg
 WASHINGTON COUNTY, MARYLAND

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EXHIBIT E
Certificates of Verification

CERTIFICATES OF VERIFICATION

I, Mildred Myers, Mayor of the Town of Smithsburg, Maryland, hereby CERTIFY that in accordance with §4-404 of the Local Government Article of the Annotated Code of Maryland I have caused to be verified the signatures contained on the Petition for Annexation and Consent thereto, dated the ___ of _____ 2017 (Attached) for the property described and shown in said Petition for Annexation, and I do hereby certify, pursuant to §4-404 of the Local Government Article of the Annotated Code of Maryland, that the Petition, in fact, is signed by not less than twenty-five percent (25%) of the persons who reside in the area requested to be annexed and who are registered voters in the Election District requested to be annexed in Washington County, Maryland, and that said Petition has been signed by the owners of not less than twenty-five percent (25%) of the assessed valuation of the real property located in the area to be annexed.

There are _____ voters residing within the area to be annexed.

The assessed valuation of the real property referred to herein, as of this date is
_____ (\$ _____).

WITNESS my hand and Seal of the Town of Smithsburg, Maryland, this ____ day of _____, 2017.

Mildred Myers, Mayor

(SEAL)

Justine Keadle, Town Clerk





Agenda Report Form

Open Session Item

SUBJECT: State Development Plan Meeting With MD Department of Planning

PRESENTATION DATE: January 9, 2018

PRESENTATION BY: Wendi Peters, Special Secretary of Smart Growth
Rob McCord, Acting Secretary, MD Dept. of Planning
Stephen T. Goodrich, Director, WC Planning & Zoning

RECOMMENDED MOTION: No motion is required. This is a listening session to gather feedback from local governments regarding the new State Development Plan *A Better Maryland*

REPORT-IN-BRIEF: Pursuant to Governor Hogan's Executive Order the MD Department of Planning has begun the task of preparing a revised State Development Plan, *A Better Maryland*. Special Secretary Peters and Acting Secretary McCord will meet with the County Commissioners to initiate a dialogue about the Plan and receive feedback about local issues and concerns. Mayors, Council members and Planning Commission members from Washington County towns have also been invited.

DISCUSSION: Questions that MDP may ask to begin the discussion are attached.

FISCAL IMPACT: Not applicable at this time

CONCURRENCES: Town elected and appointed officials have been invited

ALTERNATIVES: N/A

ATTACHMENTS: *A Better Maryland* information flyer
"Questions Asked to Facilitate Discussion"

AUDIO/VISUAL NEEDS: None



A Better Maryland

The Maryland Department of Planning Invites you to Discuss A Better Maryland!

A Better Maryland will seek input from local governments, state agencies, Maryland residents, and others; enriching the lives of all Marylanders and serving as a valuable resource for years to come.

Developing A Better Maryland will include:

1. Listening
2. Identifying Local Priorities
3. Identify Information Needs

Learn about upcoming listening sessions and how you can get involved at ABetter.Maryland.gov

Chuck Boyd, Director of Planning Coordination
Maryland Department of Planning
410-767-1401, chuck.boyd@maryland.gov

A Better Maryland



Frequently Asked Questions:

1. Why is Planning doing another state development plan?
 - Governor Hogan signed Executive Order 01.01.2017.18, directing Planning to prepare a revised state development plan
 - Since the last plan, economic, physical, and social conditions and trends in the state have changed
2. What are the goals and objectives of **A Better Maryland**?
 - The Executive Order establishes that the plan be organized to: (1) enrich the lives of Marylanders; (2) use smart growth principles; (3) grow responsibly; and (4) protect Maryland's resources
 - The Order also establishes these objectives for growing responsibly and protecting Maryland's resources: (1) support existing communities; (2) create quality places; (3) coordinate State investment; (4) natural resource preservation; and (5) cultural, historical and heritage preservation
 - Additional goals and objectives may be formulated as a result of feedback from outreach
3. When will **A Better Maryland** be completed?
 - Pursuant to the Governor's Executive Order, the new plan is to be prepared on or before July 1, 2019. Who should be involved?
 - The Smart Growth Subcabinet, the Maryland Sustainable Growth Commission, local governments, state agencies, Maryland residents, and other stakeholders
4. Who should be involved?
 - The Smart Growth Subcabinet, the Maryland Sustainable Growth Commission, local governments, state agencies, Maryland residents, and other stakeholders
5. How will engagement in this effort benefit participants and their jurisdictions?
 - An opportunity to be heard, to help identify what should be included, and to improve the content and relevance of **A Better Maryland**
6. How will this effort benefit planning in Maryland?
 - Create a better plan that is relevant to the needs of local government and state agencies and encourage better planning and coordination while growing responsibly and protecting our resources

What We've Heard

The Maryland Department of Planning is conducting community outreach for **A Better Maryland**, the new state development plan. We will hold Listening Session meetings for elected officials, local government staff, and the community in each Maryland County and Baltimore City.

Questions Asked To Facilitate Discussion

- What are some barriers to planning in your communities/jurisdictions?
- What type of planning resources or technical assistance would you like to have to support good planning and a high quality of life in your community?
- How can the State of Maryland improve coordination with local jurisdictions and with other state agencies to support good planning and a high quality of life in your community?
- What should be in a State Development Plan? How should it be organized? How can it maintain its utility over the years?
- What else do you think we should know about your communities/jurisdictions and about how we can do our job better?

We are sharing the remarks and responses that we hear at each of these sessions on this page as they come available.

[Garrett County, November 6, 2017, Listening Sessions](#)

[St. Mary's County, November 28, 2017, Listening Sessions](#)

[Wicomico County, November 29, 2017, Listening Sessions](#)

If you were unable to attend one of these listening sessions and you want to provide input, please take our [online survey](#).