



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

**WASHINGTON COUNTY PLANNING COMMISSION  
REGULAR MEETING  
November 7, 2016, 7:00 PM  
WASHINGTON COUNTY ADMINISTRATION BUILDING  
100 WEST WASHINGTON STREET  
2<sup>ND</sup> FLOOR, ROOM 255**

**CALL TO ORDER AND ROLL CALL**

**MINUTES**

1. September 19, 2016 Planning Commission Workshop meeting \*
2. October 3, 2016 Planning Commission regular meeting \*

**OLD BUSINESS**

1. **Emerald Pointe Development Plan Revision** (DP-14-001) Revision to the Emerald Pointe Final Development Plan; Applicant seeking determination by Planning Commission that the revision is a "minor" change; Property located along the east side of Marsh Pike; Zoning: RT(PUD) – Residential Transition Planned Unit Development; Planner: Lisa Kelly\*
2. **RZ-16-003 VA Avenue LLC** – Recommendation for Map Amendment for property (32.78 acres) located along the south side of Virginia Avenue east of and adjacent to I-70; Current Zoning: ORT – Office/Research/Technology; Proposed Zoning: IR – Industrial Restricted; Planner: Steve Goodrich
3. **RZ-16-004 ACH, LLC** – Recommendation for Map Amendment for property (21.43 acres) located along the south side of Western Maryland Parkway and adjacent to MD 144; Current Zoning: ORT – Office/Research/Technology; Proposed Zoning: HI – Highway Interchange; Planner: Steve Goodrich
4. **RZ-16-007 Pennsylvania Avenue 2003 LLC** - Recommendation for Map Amendment for property located at 13520 Pennsylvania Avenue (0.33 acre) and 13522 Pennsylvania Avenue (0.33 acre); Current Zoning: RS – Residential Suburban; Proposed Zoning: BG – Business General; Planner: Jill Baker
5. **RZ-16-005** – Recommendation for Text Amendment for various sections of the Washington County Zoning Ordinance; Planner: Jill Baker
6. **RZ-16-006** – Recommendation for Text Amendment for Article 19 of the Washington County Zoning Ordinance; Planner: Jill Baker

**NEW BUSINESS**

**SITE PLANS**

1. **Sunnyview, Inc.** (SP-16-001) – Site plan for a proposed towing company located along the northeast side of Clear Spring Road on 0.27 acres; Zoning: IG (Industrial General); Planner: Lisa Kelly \*
2. **Barn at the View Coffee Shoppe** (SP-16-032) – Site plan for a proposed coffee shoppe at Barn at the View located along the west side of Pennsylvania Avenue; Zoning: BL (Business Local); Planner: Cody Shaw \*

**OTHER BUSINESS**

1. **Update of Staff Approvals** – Tim Lung

**WORKSHOP**

1. Review of Mineral Resources Element for the Comprehensive Plan; Planner: Jill Baker (materials were sent via e-mail on October 4, 2016)

## **ADJOURNMENT**

## **UPCOMING MEETINGS**

1. Monday, December 5, 2016, 7:00 p.m., Washington County Planning Commission regular meeting, Washington County Administration Building, 100 W. Washington Street, Room 255, Hagerstown, Maryland

### ***\*a t t a c h m e n t s***

The Planning Commission reserves the right to vary the order in which the cases are called.

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

**WASHINGTON COUNTY PLANNING COMMISSION  
WORKSHOP MEETING  
September 19, 2016**

The Washington County Planning Commission held a workshop meeting on Monday, September 19, 2016 at 7:00 p.m. at the Washington County Administration Building, 100 West Washington Street, Room 255, 2nd Floor, Hagerstown, Maryland.

Commission members present were: Chairman Terry Reiber, Clint Wiley, Jeremiah Weddle, Dennis Reeder and David Kline. Staff members present were: Washington County Department of Planning & Zoning - Stephen Goodrich, Director and Jill Baker, Senior Planner.

**CALL TO ORDER**

The Chairman called the meeting to order at 7:00 p.m.

**WORKSHOP**

**Comprehensive Plan Update**

Ms. Baker presented the Sensitive Areas element of the Comp Plan. She noted this chapter includes more information than the current Plan, which was based upon regulations set in 1992. At that time there were four major areas designated as "sensitive areas": floodplains, streams and their buffers, threatened and endangered species' habitats, and steep slopes. These same areas will be included in the update; however, there will be a more in-depth analysis of these issues.

Watershed planning is one of the most critical elements discussed in the Plan and will serve as part of the background data for the Water Resources element. Maps and graphs will be incorporated for further clarification of data included in this chapter. Mr. Goodrich noted that the State of Maryland requires specific elements to be included in the Plan; this is one of those elements.

Mr. Kline began a discussion regarding vernal pools with mosquitoes and their protection. He expressed his concern that by mentioning this issue in the Plan someone may want to protect a rare type of species. Ms. Baker noted that this issue is being acknowledged but the topic focuses more on education and no further regulation for protection is being recommended in the Plan.

There was a brief discussion regarding sinkholes and the appropriate methods for dealing with them. Staff noted that the Plan tries to focus on sensitive areas that should be protected and the appropriate process for protecting them. Special planning areas, such as the Appalachian Trail corridor, the Smithsburg/Edgemont reservoir, and the Beaver Creek watershed are particularly unique to Washington County and identified as needing protection.

There was a brief discussion regarding the regulation of on-site sewage disposal systems by the State of Maryland Department of the Environment. Rules of perc testing, slopes, and the type of septic systems permitted are governed by the State of Maryland; these rules have been adopted by local government. However, the State also regulates the number of septic systems permitted on a lot of record. There was a brief discussion regarding minimum lot sizes, setbacks, etc. which are regulated by local government.

Members discussed the large area covered by the Chesapeake Bay watershed and efforts to improve water quality within the area. They also discussed nutrient management regulations, the Watershed Implementation Plan and its effects on farmers in Maryland. Discussions focused on land related uses to help farmers and value added uses.

By consensus, the Planning Commission approved the Sensitive Areas element as presented. Ms. Baker stated that the Goals and Objectives for this element will be presented at the next workshop meeting for review and approval.

**ADJOURNMENT**

The Chairman adjourned the meeting at 8:20 p.m.

Respectfully submitted,

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Terry Reiber, Chairman

DRAFT



**WASHINGTON COUNTY PLANNING COMMISSION  
REGULAR MEETING  
October 3, 2016**

The Washington County Planning Commission held a regular meeting and a workshop meeting on Monday, October 3, 2016 at 7:00 p.m. at the Washington County Administration Building, 100 West Washington Street, Room 255, 2nd Floor, Hagerstown, Maryland.

Commission members present were: Chairman Terry Reiber, Clint Wiley, Dennis Reeder, Drew Bowen, and David Kline. Staff members present were: Washington County Department of Planning & Zoning - Stephen Goodrich, Director; Jill Baker, Chief Planner; Travis Allen, Comprehensive Planner; and Debra Eckard, Administrative Assistant; Washington County Department of Plan Review – Tim Lung, Deputy Director, and Lisa Kelly, Senior Planner.

**CALL TO ORDER**

The Chairman called the meeting to order at 7:00 p.m.

**MINUTES**

**Motion and Vote:** Mr. Reeder made a motion to approve the minutes of the September 12, 2016 meeting as presented. The motion was seconded by Mr. Kline and unanimously approved.

**NEW BUSINESS**

**-DEVELOPMENT PLANS**

**Emerald Pointe PUD (DP-14-001)**

Mr. Lung gave a brief update on the Emerald Pointe development plan being presented. This revised plan is a result of an appeal submitted to and acted upon by the Circuit Court, which overturned the County Commissioners' prior approval of a revision to the concept plan for Emerald Pointe. The Court also determined that sufficient language was missing from the County's Zoning Ordinance to address changes to previously established PUDs. Changes have been made to the Zoning Ordinance and adopted by the County Commissioners. Also, a revised concept plan was taken back and subsequently approved by the County Commissioners. This revised development plan reflects the plan that was most recently approved by the County Commissioners.

Ms. Kelly further explained that the initial request by the developer for this section of Emerald Pointe proposed an internal commercial area with small retail shops and an assisted living complex at the intersection of Marsh Pike and Leitersburg Pike. Since that time, the open space and community center with retail component was added next to the existing house and the assisted living area has been changed and the developer is proposing two commercial use buildings and a 2-story bank building.

**Motion and Vote:** Mr. Kline made a motion to approve the final development plan as presented. The motion was seconded by Mr. Bowen and unanimously approved.

**SITE PLANS**

**Emerald Pointe PUD Community Center (PSP-16-001)**

Ms. Kelly presented for review and approval a preliminary plat/site plan for the Emerald Pointe PUD Community Center located along the east side of Marsh Pike. The property is currently zoned RT (PUD) – Residential Transition Planned Unit Development. The developer is proposing to construct a 12,000 square foot community building on a 3.0 acre parcel. There will be two access points off of Emerald Pointe Drive. The existing farmhouse will be on this parcel as well and will be used as a residence for the caretaker. Public water and public sewer will serve this site. The hours of operation will be 8 a.m. to 10

p.m., 7 days per week. The facility will be for the use of Emerald Pointe residents only. Thirty-one parking spaces are required and 65 parking spaces will be provided. Freight and delivery will be two trucks per week. One screened dumpster will be provided on-site. Lighting will be building and pole mounted. There will be a building mounted sign and one free-standing sign at the entrance. A 50 foot buffer between the residences and the community center will be required. Leyland Cypress will be planted in the 50 foot buffer; other trees and shrubs will be planted throughout the parking lot. A 12 foot, asphalt golf cart path will be constructed on the site and will interconnect with paths on adjacent properties. Forestation has been addressed by a previously approved easement for planting in the flood plain. All reviewing agency approvals have been received.

**Discussion and Comments:** Mr. Kline made an inquiry as to the capacity of the community center and its layout. Mr. Paul Crampton, developer, stated there is one large meeting room in the center with a capacity of 150 to 200 people, as well as smaller rooms for a card room, billiards room, a swimming pool and a gym. The community center will be open to the Emerald Pointe community.

**Motion and Vote:** Mr. Bowen made a motion to approve the preliminary plat/site plan for the Emerald Pointe PUD Community Center as presented. The motion was seconded by Mr. Wiley and unanimously approved.

**Discussion:** Mr. Jason Divelbiss, legal counsel for the developer, presented a proposed change to the development plan, which was approved this evening, and asked the members to determine if the proposed change is a minor or a major change to the plan. He explained that the developer is proposing to construct a 2,500 square foot coffee shop on the first floor of the bank building. There is no proposed change to the foot print of the building or to the traffic patterns. The proposed use (coffee shop) is a permitted use in this zoning district.

**Comments:** Mr. Bowen expressed his opinion that a change of use for a portion of the building is not an issue. However, if there are changes proposed to the ingress and egress of the site, he believes this would be a problem for members of the Commission. Mr. Divelbiss stated that the developer is not proposing changes to any landmark items. There was a brief discussion with regard to other changes that could occur on the site if the proposed use is changed. Mr. Reiber expressed his opinion that there could be an increase in traffic or issues with traffic flow patterns with the addition of a second drive-thru window for the proposed coffee shop. He would like to see how traffic flow will be handled on the site when the revised plan is submitted.

Mr. Divelbiss requested that the Planning Commission consent to the following schedule of events: 1) the developer will submit a revised development plan; 2) staff will review and present the revised plan to the Planning Commission to make its determination if the proposed change is a minor or a major change; 3) if the change is determined to be minor, the Planning Commission would continue with its review and approval of the revised development plan. The Planning Commission agreed to this time line.

## **OTHER BUSINESS**

### **-Staff Approval Update**

Mr. Lung reported the following for the month of September: 47 new submittals were received including 14 entrance permits, 3 flood plain permits, 2 utility permits and 13 grading permits; 4 new site specific grading plans; a town plan for a re-development project in the Town of Hancock; 1 storm water concept plan; a preliminary consultation for a proposed pharmacy/drug store at Cavetown; 3 site plans including a coffee shop off of Pennsylvania Avenue, the Mennonite Home in Maugansville and a car sales lot on Daly Road; 2 simplified plats, 2 minor subdivision plats and 1 Forest Stand Delineation. Approvals were granted for 9 minor subdivisions and 6 site plans.

The regular meeting ended at 7:50 p.m.

## **WORKSHOP**

### **-Comprehensive Plan Update**

Ms. Baker presented the Goals and Objectives for the Sensitive Areas element based on the background information and analysis previously completed. She briefly reviewed the goals and the recommendations with members. There was a brief discussion regarding educational programs already in place throughout the County to update citizens and make them aware of sensitive areas in the County. One of the recommendations in the Comp Plan would be to consolidate existing data and establish a Natural Resources Inventory, which could be used as a priority ranking system to help protect the highest priority of resources.

There was a discussion regarding the use of existing programs to incentivize individuals to protect our sensitive areas. Mr. Goodrich noted that the County has adopted regulations to implement recommendations outlined in the 2002 Comprehensive Plan. It was noted that the County has done a good job to date in protecting the sensitive areas.

As part of the Watershed Implementation Plan (WIP), staff will evaluate the contribution of sensitive area protections and meeting water quality standards set by TMDLs (total maximum daily loads). Watershed planning and water quality and sensitive area protection will factor into the ultimate plans for the Chesapeake TMDL and the local watershed implementation plan.

**Consensus:** The Planning Commission accepted the Goals and Recommendations for the Sensitive Areas element as presented by staff.

Staff will distribute the Mineral Resources element via e-mail or hard copy (members' preference).

### **UPCOMING MEETINGS**

1. Monday, October 17, 2016, 7:00 p.m., Washington County Planning Commission public rezoning information meeting, Washington County Circuit Court House, 24 Summit Avenue, Court Room #1, Hagerstown, Maryland
2. Monday, November 7, 2016, 7:00 p.m., Washington County Planning Commission regular meeting, Washington County Administration Building, Room 255, 100 W. Washington Street, Hagerstown, Maryland

### **ADJOURNMENT**

Mr. Bowen made a motion to adjourn the meeting at 8:25 p.m. The motion was seconded by Mr. Kline and so ordered by the Chairman.

Respectfully submitted,

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Terry Reiber, Chairman



ENGINEERS  
SURVEYORS  
PLANNERS  
LANDSCAPE ARCHITECTS

981 Mt Aetna Rd  
Hagerstown, MD 21740  
Phone: 301-733-8503  
Fax: 301-733-1853

October 13, 2016

Washington County Plan Review & Permitting  
80 West Baltimore Street  
Hagerstown, MD 21740

**RECEIVED**

OCT 13 2016

Attention: Tim Lung, Deputy Director

Re: Emerald Pointe PUD Revised Final Development Plan, DP-14-001

**WASHINGTON COUNTY  
PLAN REVIEW DEPARTMENT**

Dear Tim,

Attached please find eight (8) copies of the referenced plan. As you know, the Emerald Pointe PUD Final Development Plan was approved at the Planning Commission meeting on Monday, Oct 3<sup>rd</sup>. The attached plan reflects a couple small revisions to the approved plan. Here are the specific revisions:

1. A 2,520 s.f. +/- coffee shop has been added to Building C. This required the building to be made slightly smaller to accommodate a drive-through on the north side of the building. The parking has been revised accordingly.
2. A 5,100 s.f. +/- portion of Building A closest to the Leitersburg Pike and Marsh Pike intersection has been labeled as restaurant space.

As per Section 16A.5(a) of the Zoning Ordinance, "the Planning Commission shall determine if the requested change is a major or minor change to the Concept Plan reviewed by the Board of County Commissioners" which "is considered a tentative approval of density and design features...."

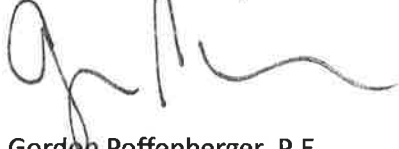
The only guidance provided by the Zoning Ordinance regarding the criteria upon which the Planning Commission should determine minor vs. major change is also found in Section 16A.5(a) which states: "The Planning Commission shall make the determination that a change is major or minor through evaluation of whether or not the change is in accordance with the latest Concept Plan on file as reviewed by the Board of County Commissioners."

Neither of the submitted changes to the Final Development Plan have any material effect on either the density or design features of the Concept Plan; building sizes and square footage remain nearly identical, internal traffic patterns, site access points, and other primary design features also remain the same. Therefore, the Developer respectfully asserts that the revised Final Development Plan constitutes a "minor" change which may be reviewed and approved by the Planning Commission.

If the Planning Commission has concerns regarding the substance of the revised Final Development Plan, the Developer and I welcome further discussion in order to allay those concerns. However, the pre-requisite issue of minor vs. major change should be decided first by the Planning Commission.

Sincerely,

FOX & ASSOCIATES, INC.

A handwritten signature in dark ink, appearing to read 'G. Poffenberger', with a long horizontal flourish extending to the right.

Gordon Poffenberger, P.E.  
Director of Engineering

C: Paul Crampton via email  
Jason Divelbiss via email  
file









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

MEMORANDUM TO: Washington County Planning Commission  
FROM: Stephen T. Goodrich, Director *STG*  
Department of Planning and Zoning  
DATE: October 27, 2016  
SUBJECT: Public Notice for rezoning

On several occasions during the rezoning public information meeting on October 17, 2016, speakers voiced their opinion that the notification to surrounding property owners was inadequate. For the record it is important to clarify the legal requirements for notification and the procedure that the Planning and Zoning Department actually follows.

The Land Use Article of the Maryland Annotated Code specifies the public notice requirements for zoning amendments in Section 4-203(b). These requirements are restated in the Washington County Zoning Ordinance as follows:

**"Section 27.2 Public Hearings**

The Board of County Commissioners shall hold at least one public hearing in accordance with Section 4.04 of Article 66B of the Annotated Code of Maryland or its subsequent amendments. Notice of the time and place of the public hearing, together with a summary of the proposed regulation, restriction, or boundary, shall be published in at least one (1) newspaper of general circulation in the jurisdiction once each week for two (2) successive weeks, with the first such publication of notice appearing at least 14 days prior to the hearing. Neither a text amendment nor map amendment may become effective until 10 days after the hearing. The public hearing shall be conducted pursuant to rules and procedures as promulgated by the Board of County Commissioners."

The publication of a legal ad in the Herald Mail newspaper is the only requirement for notification but Planning and Zoning's routine procedures go much further. In addition to the required legal notice in the local newspaper (and on the newspapers web page), the entire information package and notice are posted on the Planning and Zoning web page and the County's Public Relations and Community Affairs Department issues a press release. Signs provided and prepared by Planning and Zoning include information about the zoning change and the date and location of the public information meeting or public hearing. These are put up by the applicant and they provide us with pictures of the signs as posted. In addition, the Planning and Zoning Department identifies adjacent property owners (always more than the list required to be submitted by the applicant) and sends each one a notice of the

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

WWW.WASHCO-MD.NET

MEMORANDUM TO: Washington County Planning Commission

October 27, 2016

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meeting or hearing that includes information to identify the site, the current and requested zoning and an invitation to comment in writing or during the meeting. This notice also contains information about where the entire information package is available either from our web page or in our offices. These notices always go to owners beyond those immediately adjacent.

For the map amendment applications presented during the October 17 meeting, the statistics describing the public notice are listed below.

APPLICANT	CASE #	# NOTICES TO ADJACENT PROPERTY OWNERS
VA AVE, LLC	RZ-16-003	247
ACH LLC	RZ-16-004	124
Pennsylvania Ave 2003 LLC	RZ-16-007	544
TOTAL		915





Washington County

M A R Y L A N D

DEPARTMENT OF PLANNING & ZONING

COMPREHENSIVE PLANNING | LAND PRESERVATION | FOREST CONSERVATION | GIS

NOTICE TO NEIGHBORING AND AFFECTED PROPERTY OWNERS

September 30, 2016

Re: Rezoning Case No. RZ-16-004

SAMPLE

Dear Property Owner:

Notice is hereby given that a petition has been filed with the Washington County Planning Commission requesting a zoning reclassification as follows:

<b>Applicant:</b>	<b>ACH LLC</b>
<b>Location:</b>	<b>South side of Western Maryland Parkway, Adjacent to Maryland Route 144</b>
<b>Present Zoning:</b>	<b>ORT – Office/Research/Technology</b>
<b>Proposed Zoning:</b>	<b>HI – Highway Interchange</b>
<b>Acreage:</b>	<b>21.43 acres</b>
<b>Map/Grid/Parcel/Lot:</b>	<b>Map 37, Grid 20, Parcel Number 821</b>

For the purpose of considering the effects of such an amendment, the Washington County Planning Commission will hold a public meeting on **October 17, 2016 at 7:00 p.m.** in Court Room No. 1, Washington County Court House, 24 Summit Avenue, Hagerstown, Maryland. All parties in interest and citizens, either in support of or in opposition to the proposed amendment, shall have the opportunity to be heard at said time and place.

This public meeting is not limited to those receiving copies of this notice and if you know of any neighboring or affected property owners who have not received notice, it would be appreciated if you would inform them of this public meeting.

Sincerely,

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

STG/dse

cc: file

EXHIBIT K

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

WWW.WASHCO-MD.NET

EXHIBIT 1181142



**DIVISION OF ENGINEERING & CONSTRUCTION MANAGEMENT  
PLAN REVIEW DEPARTMENT**

Washington County Administrative Annex  
80 West Baltimore Street  
Hagerstown, Maryland 21740-6003  
Telephone/TDD 240-313-2460  
Fax: 240-313-2461

Hearing Impaired CALL 7-1-1 for Maryland Relay

**S I T E   P L A N   S T A F F   R E P O R T**

**BASE INFORMATION**

SITE NAME...: SUNNYVIEW, INC.  
NUMBER.....: SP-16-001

OWNER.....: HAMMOND JOHN & JULIE  
LOCATION....: NORTHEAST SIDE OF CLEAR SPRING ROAD  
DESCRIPTION.: SITE PLAN FOR TOWING COMPANY REV 2

ZONING.....: IG INDUSTRIAL GENERAL  
COMP PLAN...: IN Industrial  
PARCEL.....: 05601000200000  
SECTOR.....: 1  
DISTRICT....: 2

TYPE.....: CM  
GROSS ACRES.: 0.27  
DWEL UNITS..: 0  
TOTAL LOTS..: 1  
DENSITY.....: 0 UNITS PER ACRE

PLANNER.....: LISA KELLY  
SURVEYOR....: FREDERICK SEIBERT & ASSOCIATES  
RECEIVED....: 02/08/2016

FOREST REVIEW FEE.....:\$0.00  
DEVELOPMENT REVIEW FEE..:\$500.00

**SITE ENGINEERING**

	WATER	SEWER
METHOD.....:	PUBLIC	PRIVATE
SERVICE AREA.....:	HN	
PRIORITY.....:	1	5
NEW HYDRANTS.....:	0	
GALLONS PER DAY SEWAGE...:	0	
SEWER PLANT.....:	Conococheague	

STORM WATER MANAGMT TYPE.:  
DRAIN DIRECTION.....:  
FLOOD ZONE.....: C  
WETLANDS.....: N  
TOPOGRAPHY.....:  
BEDROCK.....:  
VEGETATION.....:

**SITE DESIGN**

IMPERVIOUS SURFACE PLANNED...: 55%      BUFFER DESIGN MEETS REQUIREMENTS.: Y  
 IMPERVIOUS MAXIMUM ALLOWED...: 0%      LANDSCAPING MEETS REQUIREMENTS...: Y  
 LIGHTING PLAN MEETS REQUIREMENTS.: Y  
 OPEN SPACE AREA PLANNED-AC...: 0      PEDESTRIAN ACCESS IS ADEQUATE....: Y  
 OPEN SPACE MINIMUM ALLOWED...: 0      BUS ROUTE WITHIN WALKING DIST....: N  
 TOTAL PARKING SPACES PLANNED.: 1      LOADING AREAS MEET REQUIREMENTS...: Y  
 PARKING SPACES-MINIMUM REQD.: 5  
 PARKING SPACES/DWELLING UNIT.: 0  
 RECREATIONAL VEHICLE PARKING.: N

RESIDENTIAL AMENITY PLANS.....: N/A

SOLID WASTE DISPOSAL PLANS...: INSIDE TRASH CAN  
 MATERIALS STORED ON SITE.....: CARS AND BUSES IN FENCED AREA

**COMMUNITY FACILITIES**

	ELEM	MID	HI
SCHOOL NUMBER CODE	0	0	0
PUPIL YIELD	0	0	0
CURRENT ENROLLMENT	0	0	0
MAXIMUM CAPACITY	0	0	0

## PROPOSED NEW ROAD NAMES

1  
 2  
 3  
 4  
 5  
 6  
 7  
 8  
 9  
 10

NUMBER OF ACCESS POINTS:0  
 COUNTY HISTORIC INVENTORY SITE #: NOT HIST  
 ON NATIONAL HISTORIC REGISTER : N

FIRE DISTRICT: 2      MILES TO STATION: 0  
 AMBULANCE DIST: 29      MILES TO STATION: 0

COMMENTS:  
 SITE PLAN FOR TOWING COMPANY REV 2

ON MAY 16, 2014 APPEAL2014-010 WAS GRANTED BY THE BOARD OF  
 APPEALS. THIS APPEAL WAS FOR A SPECIAL EXCEPTION TO  
 ESTABLISH SUNNYVIEW AND FOR THE FOLLOWING VARIANCES:  
 (1) FROM THE MINIMUM 50 FEET FRONT YARD SETBACK TO 10 FEET  
 FROM AN EXISTING STRUCTURE; (2) FROM THE MINIMUM 25 LEFT  
 AND RIGHT SIDE YARD SETBACKS TO 0 FEET TO CREATE AN OUTSIDE  
 IMPOUND/STORAGE AREA; AND (3) FROM THE MINIMUM 25 FEET FROM  
 THE STREET RIGHT OF WAY TO 5 FEET FOR THE PLACEMENT OF A  
 FREESTANDING SIGN.

**BEFORE THE BOARD OF APPEALS  
FOR WASHINGTON COUNTY, MARYLAND**

**JOHN D. AND JULIE HAMMOND  
Appellants**

**Appeal No. AP2014-010**

**OPINION**

This action is an appeal for a special exception to establish Sunnyview, Inc., a business functionally similar to a contractor's equipment storage yard, and for the following variances: (1) from the minimum 50' front yard setback to 10' from an existing structure; (2) from the minimum 25' left and right side yard setbacks to 0' to create an outside impound/storage area; and (3) from the minimum 25' from the street right-of-way to 5' for the placement of a freestanding sign. The subject property is known as 15706 Clear Spring Road, Williamsport, Maryland, is owned by the Appellants, and is zoned Industrial General. A public hearing was held before the Board on April 16, 2014.

**Findings of Fact**

The following findings of fact are made by the Board, based upon the testimony given and all data and other evidence presented, and upon a study of the specific property involved, as well as the neighborhood:

1. The subject 0.28-acre property is located at the edge of the Urban Growth Area amongst other industrial uses.
2. The tannery is located across the street, and Redland Brick is to the rear.
3. The property was purchased by Appellants to use as an office and storage yard for their business, Sunnyview, Inc.
4. When purchased, the property was zoned Agricultural. It has since been rezoned to Industrial General.
5. The lot was originally platted in 1902, well before the institution of zoning and subdivision regulation in the county.

6. Sunnyview, Inc. is a multi-faceted transportation company with school busing, trucking, towing, storage, and courier activities.
7. An existing structure will be used as business's office.
8. A vehicle storage and impound lot will be situated on the rear of the property.
9. For its redevelopment to be feasible, the entirety of the lot must be used.
10. Two sides of the property are bordered by railroad tracks.
11. A fence will enclose the impoundment and storage area.
12. The fence will be located on the property line along the railroad right-of-way. The fence will be 30' from the tracks.
13. Hours of operation of the office will be from 8 a.m. to 5 p.m. Monday through Friday, with storage yard activities occurring sporadically at any hour of any day.
14. The nearest residential use is over a tenth of a mile from the property.
15. The proposal conforms to the Comprehensive Plan.
16. The proposed use will be compatible with the existing industrial character of the neighborhood.
17. The State Highway Administration offered no response to this proposal.
18. No one testified in opposition to this appeal, nor did anyone send in any correspondence opposing the requested relief.

### **Rationale**

The Board has authority to grant a special exception pursuant to

§ 25.2(b) of the Zoning Ordinance for Washington County, Maryland. A special exception is defined as “a grant of a specific use that would not be appropriate generally or without restriction; and shall be based upon a finding that the use conforms to the plan and is compatible with the existing neighborhood.” Article 28A. This Board has authority to grant a variance upon a showing by the Appellant of practical difficulty or undue hardship. §§ 25.2(c) and 25.56. “Practical Difficulty” may be found by the Board when: (1) strict compliance would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome; and (2) denying the variances would do substantial injustice to the applicant and a lesser relaxation than that applied for would not give substantial relief; and (3) granting the variance would observe the spirit of the Ordinance and secure public safety and welfare. § 25.56(A).

The Appellants have satisfied their burden for a special exception. The proposed use is an appropriate adaptive reuse of the property. The office is unremarkable and will create no adverse effects. The remainder of the property is well suited to the storage yard component of the use. It is bounded by railroad properties and will be fenced. The storage yard activities, even if they occur on a sporadic 24-hour basis, will not disrupt any neighboring property uses. The immediate neighborhood is industrial in character, and Sunnyview’s activities will be compatible with those surrounding uses. Considering all of the evidence, we conclude that the proposed use at the subject property will have no greater “adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone.” *Schultz v. Pritts*, 291 Md. 1, 15 (1981).

The grant of the requested variances is also appropriate. The use is permitted. The property’s age, size, and shape make it unique and eligible for variance relief. Likewise, it is shoehorned between two intersecting rail lines. The railroad right-of-way acts as a 30’ buffer for the storage yard, more than would be achieved if strict compliance with the Ordinance was possible. There was no evidence that the grant of the variances would, in any way, have any negative impact on any surrounding property uses or

on the neighborhood in general. Accordingly, the grant of the variances upholds the spirit of the Ordinance.

No evidence was presented that would indicate that this proposal was incompatible with the neighborhood; disruptive of neighbors' quiet enjoyment of their properties; detrimental to surrounding property values; generative of excessive odors, dust, gas, smoke, fumes, vibrations, or glare; generative of traffic that would exceed the capacity of existing infrastructure; or that the proposal was an inappropriate use of land or structure. Based upon all of the testimony and evidence presented, this Board finds that the subject request does not adversely affect the public health, safety, security, morals, or general welfare, nor does it result in dangerous traffic conditions, or jeopardize the life and property of neighborhood residents. Therefore, for the reasons set forth herein, this appeal is hereby GRANTED by a vote of 5-0.

BOARD OF APPEALS

By: Matt Harsh, Chair

Date Issued: May 16, 2014









**DIVISION OF ENGINEERING & CONSTRUCTION MANAGEMENT  
PLAN REVIEW DEPARTMENT**

Washington County Administrative Annex  
80 West Baltimore Street  
Hagerstown, Maryland 21740-6003  
Telephone/TDD 240-313-2460  
Fax: 240-313-2461

Hearing Impaired CALL 7-1-1 for Maryland Relay

**S I T E   P L A N   S T A F F   R E P O R T**

**BASE INFORMATION**

SITE NAME....: BARN AT THE VIEW - COFFEE SHOPPE  
NUMBER.....: SP-16-032  
  
OWNER.....: THE BARN AT THE VIEW, LLC C/O JILL MILLER  
LOCATION.....: PENNSYLVANIA AVE W/S  
DESCRIPTION..: SITE PLAN FOR BARN AT THE VIEW - COFFEE SHOPPE  
  
ZONING.....: BL BUSINESS LOCAL  
COMP PLAN...: CM Commercial  
PARCEL.....: 02411106400000  
SECTOR.....: 1  
DISTRICT....: 27  
  
TYPE.....: CM  
GROSS ACRES.: 0  
DWEL UNITS..: 0  
TOTAL LOTS..: 0  
DENSITY.....: 0 UNITS PER ACRE  
  
PLANNER.....: CODY SHAW  
SURVEYOR....: FREDERICK SEIBERT & ASSOCIATES  
RECEIVED....: 09/19/2016  
  
FOREST REVIEW FEE.....:\$0.00  
DEVELOPMENT REVIEW FEE...:\$800.00

**SITE ENGINEERING**

	WATER	SEWER
METHOD.....:	PUBLIC	PUBLIC
SERVICE AREA.....:	HN	HN
PRIORITY.....:	1	1
NEW HYDRANTS.....:	0	
GALLONS PER DAY SEWAGE...:	200	
SEWER PLANT.....:	Hagerstown	

STORM WATER MANAGMT TYPE.: EXEMPT  
DRAIN DIRECTION.....:  
FLOOD ZONE.....: C  
WETLANDS.....: N  
TOPOGRAPHY.....: —  
BEDROCK.....: —  
VEGETATION.....: Landscaping/grass

**SITE DESIGN**

IMPERVIOUS SURFACE PLANNED....: 50%      BUFFER DESIGN MEETS REQUIREMENTS.: Y  
 IMPERVIOUS MAXIMUM ALLOWED....: **70%**      LANDSCAPING MEETS REQUIREMENTS....: Y  
 LIGHTING PLAN MEETS REQUIREMENTS.: Y  
 OPEN SPACE AREA PLANNED-AC....: 0      PEDESTRIAN ACCESS IS ADEQUATE....: Y  
 OPEN SPACE MINIMUM ALLOWED....: 0      BUS ROUTE WITHIN WALKING DIST....: N  
 TOTAL PARKING SPACES PLANNED.: 21      LOADING AREAS MEET REQUIREMENTS.: Y  
 PARKING SPACES-MINIMUM REQD.: 20  
 PARKING SPACES/DWELLING UNIT.: 0  
 RECREATIONAL VEHICLE PARKING.: N

RESIDENTIAL AMENITY PLANS.....: N/A

SOLID WASTE DISPOSAL PLANS....: TRASH CAN/PRIVATE HAULER  
 MATERIALS STORED ON SITE.....: NO OUTSIDE STORAGE OF MATERIALS

**COMMUNITY FACILITIES**

	ELEM	MID	HI
SCHOOL NUMBER CODE	4	3	3
PUPIL YIELD	0	0	0
CURRENT ENROLLMENT	0	0	0
MAXIMUM CAPACITY	0	0	0

PROPOSED NEW ROAD NAMES

1 **N/A**  
 2  
 3  
 4  
 5  
 6  
 7  
 8  
 9  
 10



NUMBER OF ACCESS POINTS: 2  
 COUNTY HISTORIC INVENTORY SITE #: NOT HIST  
 ON NATIONAL HISTORIC REGISTER : N

FIRE DISTRICT: 13      MILES TO STATION: **0.6**  
 AMBULANCE DIST: M7      MILES TO STATION: **1.3**

COMMENTS:  
 SITE PLAN FOR BARN AT THE VIEW - COFFEE SHOPPE

FUNCTIONAL DESCRIPTION IS FOR A COFFEE SHOP THAT WILL BE LOCATED INSIDE A DWELLING

HOURS OF OPERATION WILL BE 6 AM - 4 PM MONDAY TO SATURDAY

NUMBER OF EMPLOYEES FOR THE SITE WILL BE A MAXIMUM OF 6

SITE IS EXEMPT FROM FOREST CONSERVATION DUE TO BE LESS THAN 20,000 SQ FT OF DISTURBANCE

SITE IS EXEMPT FROM STORMWATER MANAGEMENT DUE TO BE LESS

THAN 5,000 SQ FT OF DISTURBANCE

AN APPEAL WAS TAKEN TO THE BZA ON 10-5-16 TO GRANT THE REDUCTION OF THE REQUIRED 25 FOOT MINIMUM SETBACK FROM A STREET RIGHT OF WAY TO 5 FEET FOR THE PLACEMENT OF A FREE STANDING SIGN FOR A COMMERCIAL BUSINESS. APPEAL WAS GRANTED PENDING THE WRITTEN OPINION BY THE BOARD OF ZONING APPEALS.

A SHARED PARKING FACILITY IS BEING PROPOSED WITH THIS PLAN THAT WILL REQUIRE PLANNING COMMISSION APPROVAL. IF GRANTED, A PERPETUAL JOINT USE PARKING EASEMENT MUST BE SIGNED AND RECORDED AND A COPY PROVIDED TO PLAN REVIEW DEPARTMENT PRIOR TO FINAL SITE PLAN APPROVAL.



