



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

MEMORANDUM

TO: Washington County Planning Commission
FROM: Travis Allen, Comprehensive Planner
DATE: January 10, 2021
RE: Sharpsburg Pike Holdings LLC Rezoning (RZ-21-005)

At the November 30th Public Hearing with the Board of County Commissioners (BOCC), the applicant submitted additional information concerning their plan to address school capacity under the requirements of the County's Adequate Public Facilities Ordinance. This information was not available to the public or to the Planning Commission at the August 30 Public Information Meeting. Therefore, the BOCC remanded this application back to the Planning Commission for additional review and comment upon the new information provided by the applicant. Public comment will again be permitted during the new Public Information Meeting to be held on January 10th at 7 pm, in accordance with the direction provided by the BOCC.

If you have questions or comments regarding this request, please contact me using the information provided below.

Travis Allen
Comprehensive Planner
(240) 313-2432
tallen@washco-md.net

From: Downey, Kirk
Sent: Monday, October 4, 2021 1:50 PM
To: Baker, Jill; Desaulniers, Kendall A.
Cc: Allen, Travis M.
Subject: RE: Sharpsburg Pike Rezoning

Jill,

We have reviewed the *Cremins* case. It is not dispositive of the matter one way or the other. The Planning Commission should look askance at claims that a particular zoning outcome is compelled based on selective quotes from any judicial opinion. Instead, the Planning Commission should weigh the evidence before it in light of the standards and factors that are required to be considered in a rezoning proceeding, as set forth in the Zoning Ordinance.

The APFO is meant to ensure new development is served with adequate public facilities. "It is the purpose of the Board of County Commissioners of Washington County that public facilities and services needed to support new development shall be available concurrently with the impacts of such new developments. In meeting this purpose, public facility and service availability shall be deemed sufficient if the public facilities and services for new development are phased, or the new development is phased, so that the public facilities and those related services which are deemed necessary by the local government to operate the facilities necessitated by that new development, are available concurrently with the impacts of the new development." APFO § 1.2. APFO considerations are part of the site plan approval and development process.

APFO requirements do not need to be satisfied as part of the zoning or rezoning process. *Cremins* recognizes that all APFO issues do not need to be addressed at the rezoning stage unless the issues are "highly unsolvable." Thus, the recognition that there are issues that will need to be addressed to satisfy the APFO does not require that the rezoning be denied. That being said, common sense should also be applied to the rezoning application. If the infrastructure is clearly and wholly insufficient, and is not likely to be able to be improved to a point of adequacy, that is, if the infrastructure issues are "highly unsolvable," then the Planning Commission should recognize that circumstance and take it into consideration when it renders its recommendation on the rezoning. Infrastructure issues should be considered as part of the analysis when reviewing the rezoning application, but all infrastructure issues do not need to be resolved at the rezoning stage.

I hope this is helpful and provides the Planning Commission with some guidance and context. In short, the Commission should conduct its review of the rezoning application in the same manner as it has in the past, applying the applicable standards as set forth in the Zoning Ordinance and Maryland law.

Kirk

October 25, 2021

Washington County Planning Commission
100 West Washington Street
Hagerstown, MD 21740

Re: RZ-21-005: Recommendation to Board of County Commissioners and Addressing APFO

Dear Commissioners,

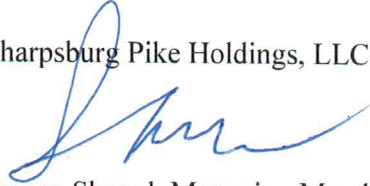
On behalf of Sharpsburg Pike Holdings, LLC (the "Applicant"), record owner of the real property located at 10319 Sharpsburg Pike, Hagerstown, Maryland 21740 (the "Property"), and application in the above referenced application for map amendment (the "Map Amendment"), I submit this letter for your consideration and to address concerns about compliance with the County's Adequate Public Facilities Ordinance ("APFO"), particularly the portion of the APFO pertaining to adequacy of the schools.

During the public meeting before the Planning Commission, County staff expressed concern with the Applicant's plans to comply with the APFO. These sentiments were echoed by the Planning Commission, and as such the Applicant hereby proposes the following options to ensure the forthcoming development, should the Map Amendment receive approval from the Board of County Commissioners, complies with the APFO.

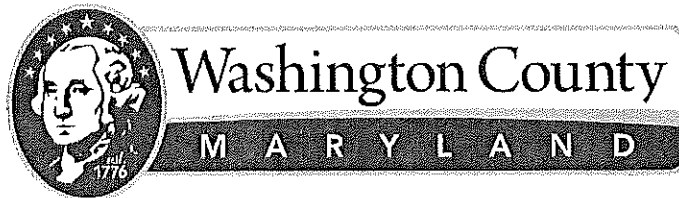
1. Currently, the public schools in the school district (Rockland Woods Elementary, E. Russell Hicks Middle and South Hagerstown High) where the Property is located are over capacity and deemed inadequate. Moreover, the current capacity exceeds the 120% threshold and the project is not eligible to use the Alternate Mitigation Contribution to mitigate school capacity impacts. Nevertheless, the Applicant would engage in negotiations with the Board of County Commissioners in an effort to offer an Alternate Mitigation Contribution, which the Commissioners may vote to accept.
2. Alternatively, the Applicant may choose to place an age-restriction on the final site plan, thus rendering compliance with the APFO, moot.
3. Lastly, as compliance with the APFO is truly a matter to be addressed at the stage of final development plan review and approval, upon approval of the Map Amendment, the Applicant could request extensions of the timelines for approval set forth in the Zoning Ordinance and submit the development plans and/or site plans once the schools are deemed adequate.

Each of the above options provides a viable path forward to addressing APFO concerns. Based on these proposals, the Applicant respectfully requests that the Planning Commission revise its recommendation to the Board of County Commissioners.

Sharpsburg Pike Holdings, LLC

A handwritten signature in blue ink, appearing to read 'Sassan Shaool', is positioned above the printed name.

Sassan Shaool, Managing Member



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

October 12, 2021

RZ-21-005

**APPLICATION FOR MAP AMENDMENT
PLANNING COMMISSION RECOMMENDATION**

Applicant(s) Sharpsburg Pike Holdings, LLC
Location 10319 Sharpsburg Pike
Tax Map/Grid/Parcel 57/10/160

RECOMMENDATION

The Washington County Planning Commission held a public information meeting on August 30, 2021 for the purpose of taking comment on a rezoning application for Sharpsburg Pike Holdings, LLC. The applicant is requesting to establish a new MXC (Mixed Use Residential and Commercial) floating zone atop the existing HI (Highway Interchange) base zoning. The Planning Commission considered the applicant's application and supporting documents, oral and written testimony from approximately 15 residents of the area, and the Staff Report and Analysis.

At its regular meeting on October 4, 2021, the Planning Commission unanimously voted to deny the rezoning request for the following reason:

1. The schools serving this proposed development would not have adequate capacity to serve the projected pupil yield of the new units; and, the applicant did not present information that would indicate the impacts of this development on the school system are highly solvable.

Copies of the application packet and supporting documents, Staff Report and Analysis, written comments, minutes of the August 30, 2021 public information meeting and October 4, 2021 regular meeting are attached.

Respectfully submitted,

Jill L. Baker
Jill L. Baker, AICP *dse*
Director

JLB/TMA/dse

Attachments

cc: Kirk Downey
 Zachary Kieffer, Esq.



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

MEMORANDUM

TO: Planning Commission members
FROM: Debra Eckard, Administrative Assistant
DATE: September 21, 2021
RE: RZ-21-005 – Sharpsburg Pike Holdings LLC

Attached are copies of public comments that we have received since the public information meeting that was held on August 30, 2021 for the map amendment for Sharpsburg Pike Holdings, LLC. All written comments have been made part of the official record, RZ-21-005.

From: John Musselman
To: Planning Email
Subject: RE: RZ-21-005
Date: Monday, August 30, 2021 6:44:28 PM

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Any claims of being a County official or employee should be disregarded.

Hello,

This in reference to RE:RZ-21-005.

I live on Bushwillow Way. My kids are older now but went to a high school (South High) that was extremely crowded. The Middle school was as well. I am Going off of memory of what was sent out a few months ago but I thing there was something like 400 units planned as well as 7 townhouses. It appears that the goal of the developer is to make as high a profit as possible with apartments. The town houses (1 block) looks as though it was thrown in to say there would be single family houses. The concerns I have are mainly for the family's that might end up there. see below

1. Education for kids, the local schools are already beyond overcrowded. Is the county just going to bring in more trailers for the schools ?
2. Safety, potential for a lot of kids to end up out on sharpsburg Pike. The road is already over crowded.
3. Property values, Will there be a negative affect on the people already living here.
4. I cant stress enough about the overcrowding of our schools.

Sincerely,

John Musselman

/

From: [Stan and Sherry Michaleski](#)
To: [Planning Email](#)
Subject: RZ-21-005
Date: Wednesday, August 25, 2021 8:32:57 PM

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Any claims of being a County official or employee should be disregarded.

I am asking that the proposed development off of Sharpsburg Pike be denied. The schools and traffic issues are already out of hand and this development will only exacerbate this; and furthermore it affect property values of Cross Creek.

From: DEBRA EBERSOLE
To: Planning Email
Subject: RZ 21-005
Date: Thursday, August 26, 2021 8:32:37 AM

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Any claims of being a County official or employee should be disregarded.

I am the homeowner and resident of 10527 Bushwillow way.

I received notice of the meeting to discuss, among other things, adding over 100 apartments off Sharpening Pike between our development and the Aldi and Dublin Donuts that have been added within the last few years.

I am 100% opposed to this !!!

There has already been so much added to this area within the last 5 years, not even including the Walmart that was added. Traffic is horrible already in this area of the Sharpsburg Pike. The Aldi and now new Sheetz that just opened has already increased traffic tremendously. It has become very dangerous to travel this area, and there are already additional homes being constructed off of Poffenberger Road, along with the villas by Walmart. The proposal of adding 105 apartments would add possibly an additional 200+ cars traveling daily in an already over-congested area. I have watched my nice area turn into a mess over the years. These builders are trying to use every square foot of property to make as much money as possible, without any concern for the area. You should spend some time observing the traffic in the area, and coming off of interstate 70, and then imagine adding 105 more apartments and their residents and cars to it.

How many of these apartments proposed will end up being subsidized housing? Do we need more apartments for the families of the prison inmates to move here? The area growing and adding apartments isn't attracting good families from other areas. People are living here that came from the larger cities. You see it in the newspaper articles about crimes in our area all the time. And our County just seems to be providing more and more places for those people to live.

Debbie Ebersole

From: [Ron Lutz](#)
To: [Planning Email](#)
Subject: apartments behind Aldi's
Date: Thursday, August 26, 2021 12:10:23 PM

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Any claims of being a County official or employee should be disregarded.

Planning Commission,

We are seventeen year residents in Cross Creek the development behind Aldi's . We are adamantly opposed to the two apartment buildings being considered behind Aldi's. I can only imagine what our neighborhood will be like with the addition of 3-400 new people. People rent apartments when they can't afford houses. Please vote no on this proposal.

Sincerely,

Ron & Mary Lutz

Sent from [Mail](#) for Windows

From: RICKELLE ABBOTT
To: Planning Email
Subject: RZ-21-005
Date: Monday, August 30, 2021 10:31:44 AM

WARNING!! This message originated from an External Source. Please use proper judgment and caution when opening attachments, clicking links, or responding to this email.
Any claims of being a County official or employee should be disregarded.

In regards to the proposed mixed used residential and commercial planning at 10319 Sharpsburg Pike. Please take into consideration that the blasting from the construction sites have compromised the foundation and structures of residents near by. For example but not limited to, cracks in home ceilings, nails popping out of walls and concrete cracks. Us as home owners are responsible for these repairs. This type of property damage has happened with the past construction that was done at the near by location on Sharpsburg pike and will most likely happen again.

Thank you,

Rickelle Abbott
10216 Bear Creek Dr.
Hagerstown, MD 21740

Sent from my iPhone

From: [Shayla Jackson](#)
To: [Planning Email](#)
Subject: RZ-21-005
Date: Thursday, August 19, 2021 8:47:58 PM

WARNING!! This message originated from an **External Source**. Please use proper judgment and caution when opening attachments, clicking links, or responding to this email.

Any claims of being a County official or employee should be disregarded.

I am writing to express my strong opposition to RZ-21-005, the proposed rezoning for Sharpsburg Pike Holdings, LLC. As a resident of the Cross Creek neighborhood, I am completely opposed to the addition of multi-family housing that will cause traffic and safety problems, create even more problems with schools that are already over-capacity, destroy local wildlife habitat, and potentially lower the property values of the existing community.

Traffic and safety of pedestrians are major areas of concern. Traffic jams in this area already span the distance of Sharpsburg Pike and the Sharpsburg Pike/Col Henry K Douglas Drive intersection during rush hour.

Schools in the area are already reported at capacity, and the council should not approve multi-family dwellings that creates or exacerbates a situation that will cause school concurrency to fail for this proposal and/or other approved plans.

Wildlife has been observed in the area, and any development will destroy their habitat. Any planned development of the property should consider the continuing impact to local wildlife habitat.

Property values are likely to go down in the area if multi-family apartments or condominiums are built. Multi family dwellings are inconsistent with the neighborhoods developed in the area.

I urge you to disapprove the proposed rezoning, and from recent meetings and discussions with my neighbors, I know my opinions are shared by many who have not managed to attend meeting or write letters and emails.

Best regards,
Shayla Jackson
Cross Creek Resident

From: [Pat Kay](#)
To: [Planning Email](#)
Subject: Proposed Zoning-MXC-Mixed Use Residential and Commercial Sharpsburg Pike
Date: Monday, August 23, 2021 8:14:59 PM

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Any claims of being a County official or employee should be disregarded.

Patricia Kay

10408 Bear Creek Drive

Hagerstown, MD 21740

8/19/2021

Washington County Planning Commission

100 West Washington Street Suite 2600

Hagerstown, MD 21740

Dear Sir/Maam:

I write this letter to express my opposition to a proposed amendment to change the present zoning of 10319 Sharpsburg Pike from HI to MXC.

I have several concerns about this proposal. My first concern is with the traffic. Traffic has increased significantly with the addition of the Walmart, Sheetz and Dunkin Donut. When the Walmart was built, for example, the residents were assured that traffic flow from Rench road would be redirected to a new road that would connect to Poffenberger Road. That has not happened and the traffic problems that occur at 4pm every workday at the intersection of Rench and Sharpsburg Pike make it almost impossible to make a left-hand turn from Rench Road onto Sharpsburg Pike. Sharpsburg Pike has not been modified to handle an increase in traffic. Even if the builder modifies the pike to add a turn lane, that does nothing to improve the traffic flow further south. The Southern part of the county is experiencing rapid residential growth. The infrastructure, however, needs to be in place before the growth arrives, before more people get here.

Secondly, I am concerned about the capacity limits of the schools that would be serving these residents. Currently, Emma K. Doub Elementary, E. Russell Hicks Middle and South Hagerstown High are all over capacity. The county has been forced to resort to the use of Portables for classrooms. If the property were to be rezoned for residential, and Sharpsburg Pike Holdings, LLC would be permitted to build the 2 apartment buildings with a total of 105 apartments and 6 townhomes, the increase in families using the schools could potentially add 250-300 students to an already overburdened system. It would not be in the best interest of the students or the teachers to make the learning environment even

more stressful by adding more students to overcrowded schools.

Thirdly, as a resident of the Cross Creek neighborhood, I am concerned about the proximity of any new housing to our neighborhood property line. The developers of our neighborhood designed walking paths that border the neighborhood rather than sidewalks that would have been within the neighborhood. The proposed apartment buildings would be feet away from the walking paths and near our homes. I have concerns about increases in foot traffic into our neighborhood, which could invite mischievousness and crime. We have seen increases in destruction of personal property and other attempted break-ins since the addition of the new Walmart. I predict that the addition of 2 multifamily structures in such proximity to our neighborhood would decrease both the quality of life and the real estate value of our homes.

I am thankful for the opportunity to express my opposition to this re-zoning petition. I respectfully ask that you strongly consider denying this petition until adequate support for the infrastructure can be attained and security concerns of the existing residents can be addressed.

Sincerely,
Patricia Kay

Washington County Resident

From: [Hart, Krista](#)
To: [Gary Hawbaker](#)
Subject: RE: New Housing Sharpsburg Pike
Date: Monday, November 29, 2021 8:27:11 AM

Mr. Hawbaker,

Thank you for contacting the Washington County Board of County Commissioners Office.

This response will serve to confirm that your communication has been received and recorded regarding the upcoming public hearing for RZ-21-005.

Thank you,
Krista I. Hart
County Clerk

From: Gary Hawbaker <g.hawbaker@myactv.net>
Sent: Sunday, November 28, 2021 9:57 PM
To: &County Commissioners <contactcommissioners@washco-md.net>
Subject: Fwd: New Housing Sharpsburg Pike

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I don't know all the zoning numbers but my family is deeply opposed to the residential development on the east side of Sharpsburg Pike before Poffenberger Road. I live in the Cross Creek Development and for the last few years you have overwhelmed our area with retail development. Although it has caused many problems it's nothing like what a housing development would cause for our area.

I ask you to look at the area it is planned for and tell me where you see housing in that area off Sharpsburg Pike. You have truly made this a retail and commercial area and although I don't like it, it is better than putting what will end up being low income housing in that space. Our development has recently been subject to break-ins and this would only make it worse. Make it a fast food place but not housing. Thank you!

Gary Hawbaker
10531 Bushwillow Way
Hagerstown, MD

From: [DEBRA EBERSOLE](#)
To: [Planning Email](#)
Subject: Re: RZ 21-005
Date: Sunday, November 28, 2021 10:01:22 PM

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I received a notice of a meeting regarding the same rezoning request meeting I emailed my opposition to back in August. Since I'm not sure if this requires a new email to be part of the record I'm going to state my opposition again.

I am the homeowner and resident of 10527 Bushwillow way.

I received notice of the meeting to discuss, among other things, adding over 100 apartments off Sharpening Pike between our development and the Aldi and Dublin Donuts that have been added within the last few years.

I am 100% opposed to this!

There has already been so much added to this area within the last 5 years, not even including the Walmart that was added. Traffic is horrible already in this area of the Sharpsburg Pike. The Aldi and Sheetz stores have already increased traffic tremendously. It has become very dangerous to travel this area, and there are already additional homes being constructed off of Poffenberger Road, along with the villas by Walmart. The proposal of adding 105 apartments would add possibly an additional 200+ cars traveling daily in an already over-congested area.

I have watched my nice area turn into a mess over the years. These builders are trying to use every square foot of property to make as much money as possible, without any concern for the area, or the citizens who live there.

Debbie Ebersole

> On Aug 30, 2021, at 11:50 AM, Planning Email <askplanning@washco-md.net> wrote:

> Your comments have been received and will be made part of the official record. Thank you.

>

>

>

> Debra S. Eckard

> Administrative Assistant

> Washington County Dept. of Planning & Zoning

> 100 W. Washington Street, Suite 2600

> Hagerstown, MD 21740

> 240-313-2430

>

> **In accordance with direction provided by the Governor's Office related to current COVID-19 events, I am working remotely indefinitely. Email correspondence is encouraged as phone messages may not be returned until our offices are reopened. I apologize for any inconvenience and assure you our Department is working diligently to continue the highest level of service possible during this pandemic event. Thank you**

>

> -----Original Message-----

> From: DEBRA EBERSOLE <djwinst23@aol.com>

> Sent: Thursday, August 26, 2021 8:32 AM

> To: Planning Email <askplanning@washco-md.net>

> Subject: RZ 21-005

>

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>

> I am the homeowner and resident of 10527 Bushwillow way.

> I received notice of the meeting to discuss, among other things, adding over 100 apartments off Sharpening Pike between our development and the Aldi and Dublin Donuts that have been added within the last few years.

> I am 100% opposed to this !!!

> There has already been so much added to this area within the last 5 years, not even including the Walmart that was added. Traffic is horrible already in this area of the Sharpsburg Pike. The Aldi and now new Sheetz that just opened has already increased traffic tremendously. It has become very dangerous to travel this area, and there are already additional homes being constructed off of Poffenberger Road, along with the villas by Walmart. The proposal of adding 105 apartments would add possibly an additional 200+ cars traveling daily in an already over-congested area.

> I have watched my nice area turn into a mess over the years. These builders are trying to use every square foot of property to make as much money as possible, without any concern for the area. You should spend some time observing the traffic in the area, and coming off of interstate 70, and then imagine adding 105 more apartments and their residents and cars to it.

>

> How many of these apartments proposed will end up being subsidized housing? Do we need more apartments for the families of the prison inmates to move here? The area growing and adding apartments isn't attracting good families from other areas. People are living here that came from the larger cities. You see it in the newspaper articles about crimes in our area all the time. And our County just seems to be providing more and more places for those people to live.

>

> Debbie Ebersole

From: [Shayla Jackson](#)
To: [Planning Email](#)
Subject: RZ-21-005
Date: Sunday, November 28, 2021 3:25:00 PM

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I am writing to express my strong opposition to RZ-21-005, the proposed rezoning for Sharpsburg Pike Holdings, LLC. As a resident of the Cross Creek neighborhood, I am completely opposed to the addition of multi-family housing that will cause traffic and safety problems, create even more problems with schools that are already over-capacity, destroy local wildlife habitat, and potentially lower the property values of the existing community.

Traffic and safety of pedestrians are major areas of concern. Traffic jams in this area already span the distance of Sharpsburg Pike and the Sharpsburg Pike/Col Henry K Douglas Drive intersection during rush hour.

Schools in the area are already reported at capacity, and the council should not approve multi-family dwellings that creates or exacerbates a situation that will cause school concurrency to fail for this proposal and/or other approved plans.

Wildlife has been observed in the area, and any development will destroy their habitat.

Any planned development of the property should consider the continuing impact to local wildlife habitat.

Property values are likely to go down in the area if multi-family apartments or condominiums are built. Multi family dwellings are inconsistent with the neighborhoods developed in the area.

I urge you to disapprove the proposed rezoning, and from recent meetings and discussions with my neighbors, I know my opinions are shared by many who have not managed to attend meeting or write letters and emails.

Best regards,
Shayla Jackson
Cross Creek Resident

From: ANNAMARIE WISE
To: [Planning Email](#)
Subject: RZ-21-005
Date: Tuesday, November 30, 2021 10:29:54 AM

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Any claims of being a County official or employee should be disregarded.

As residents of the Cross Creek community, we wish to express our objections to the refining plan before the board today. This proposed development will be detrimental to our quality of life, bringing more traffic, noise/light/air pollution, overload our already maxed-out schools. Please vote "NO" and advise the developer to go elsewhere! Thank you!!

Annamarie Wise
Kevin Wines

Sent from my iPhone

August, 2021

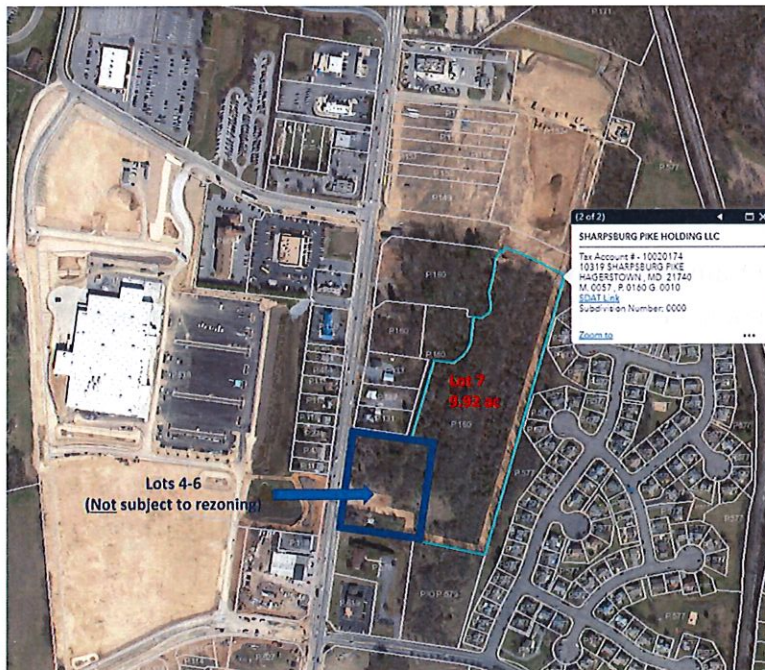
Case #: RZ-21-005

Application for Map Amendment Staff Report and Analysis

Property Owner(s)	:	Sharpsburg Pike Holdings, LLC
Applicant(s)	:	Sharpsburg Pike Holdings, LLC
Location	:	Sharpsburg Pike, 1/3 mile south I-70 interchange
Election District	:	#10 – Funkstown
Comprehensive Plan		
Designation	:	High Density Residential
Zoning Map	:	57
Parcel(s)	:	P. 160
Acreage	:	9.92 acres (Lot 7)
Existing Zoning	:	HI – Highway Interchange
Requested Zoning	:	MXC – Mixed Use Residential & Commercial
Date of Meeting	:	August 30, 2021

I. Background Information:

A. Site and Vicinity Description



The site is located at 10319 Sharpsburg Pike, in between Col. Henry K. Douglas Drive and Poffenberger Road, approximately 1/3 mile south of the Interstate 70 interchange. The total acreage subject to this rezoning case is 9.92 acres. The concept plan included with this application refers to this area as Lot 7. Parcel 160 is presently 12.67 in total. Therefore, the

2.75 acres that have road frontage on Sharpsburg Pike (Lots 4-6 on the concept plan) are not part of this rezoning. All properties are located within the Urban Growth Area (UGA) that surrounds the City of Hagerstown and the Towns of Williamsport and Funkstown.

The parcel itself is currently undeveloped. Significant development has occurred in the immediate vicinity of this property along Sharpsburg Pike in recent years. Primarily this development has been commercial in nature. The new Walmart is directly west of the subject property, on the other side of Sharpsburg Pike. The new Aldi, Dunkin Donuts and other commercial land uses making up The Shops at Sharpsburg Pike development sits at the corner of MD-65 and Col. Henry K. Douglas Drive immediately adjacent to this site.

In addition to the existing residential development that remains along this portion of MD-65, there has been some new residential development in the immediate vicinity as well. The Villas at Gateway is a semi-detached, 24-lot residential development immediately southwest of the subject property. Notable amounts of detached single family housing exist currently or are in the process of being developed along Poffenberger Road less than 1 mile southeast of the site.

There are no sensitive environmental resources found within the proposed rezoning site, as demonstrated by a forest stand delineation approved for the site in 2016.

B. Mixed Use District Purpose and Criteria

The applicant is requesting to augment the property's existing Highway Interchange (HI) zoning classification to establish a new Mixed Use zoning district over top of the HI base zoning. The Mixed Use zoning classification replaced the previous Planned Unit Development (PUD) at the time of the Comprehensive Rezoning of the Urban Growth Area in 2012. The PUD zoning classification remains for all PUDs approved prior to July 1, 2012.

As noted in the Zoning Ordinance, Mixed Use Districts allow for greater flexibility in the design of residential, commercial and employment-focused developments than is possible under conventional zoning standards. Their purpose is:

“.. to provide a compatible and complementary mixture of uses that will create a desirable living and working environment, promote an efficient use of the land, provide for a harmonious variety of housing choices, a more varied level of

community services and amenities, and the promotion of adequate open space and attractiveness.”¹

Three types of Mixed Use Districts comprise the range of choices available under this zoning classification. They include the Mixed Use Residential District (MXR), Mixed Use Commercial and Residential District (MXC), and Mixed Use Residential, Commercial, and Employment District (MXE). As is evident from the name of each District, the mixture of land uses allowed differs slightly in each one.

In this case, the applicant is pursuing the establishment of a new MXC District. The Zoning Ordinance states that:

“The MXC or Mixed Use Commercial District is designed to permit a mixture of residential uses and limited commercial development to provide goods and services necessary to the neighborhood, all according to a preapproved master plan.”

1. General Requirements

Mixed Use Districts are established as “floating zones.” A floating zone is a zoning district that delineates conditions which must be met before that zoning district can be approved for an existing piece of land. Those conditions are primarily outlined in Section 16.4 of the Zoning Ordinance and include the following general requirements:

- ❖ **Ownership:** The tract of land to be approved for development with the Mixed-Use District must be in single ownership with proof of that ownership submitted to the Planning Commission prior to approval of the Final Development Plan.
- ❖ **Location:** All Mixed-Use Districts shall be located within the Urban Growth Area or the Town Growth Areas. All three Mixed Use Districts are permitted to be located in the RT, RS, RU, and RM Districts. The MXC and MXE Districts may also be located in the HI, IR, PI, and ORT Districts. The specific site shall be located adjacent to adequate roadway facilities capable of serving existing traffic and the future traffic generated by the uses in the Mixed-Use District or are able to be improved by the applicant to adequately serve the existing and proposed traffic.
- ❖ **Utilities:** All Mixed-Use Districts shall be served with public water and public sewer facilities approved by the Washington County Health Department.

¹ Washington County Zoning Ordinance, Article 16 “Mixed Use District,” p.115

- ❖ **APFO:** All development in Mixed Use Districts shall comply with the requirements of the Washington County Adequate Public Facilities Ordinance before the site plan or final subdivision approval.

2. Permitted Uses and Densities

Permitted uses and densities for the MXC District are spelled out in Article 16.1 and shown in the table below:

Table 1: MXC Permitted Uses and Densities

District	Minimum Area	Residential Uses	Commercial Uses	Employment Uses	Open Space	Max DU/A
MXC	None	Minimum 2 types of residential units. 15%, or 25 DU must be MF, whichever is less	Maximum 10% or maximum 70% when applied to HI District	Not Permitted	Minimum 5% not including forest conservation area	12 DU/A (24 DU/A permitted in high rise building more than 6 floors)

3. Concept Plan and Zoning Approval Requirements

As noted in Article 16.5, review and approval for a Mixed Use District is a multi-step process. These steps include Concept Plan Review, Zoning Approval, Preliminary Development Plan Review and Approval, and Final Development Plan Review and Approval. During the rezoning process, the Concept Plan Review and Zoning Approval steps come into play.

The required content of the Concept Plan is described in Article 16.6 and summarized below:

- ❖ Vicinity Map
- ❖ Approved Forest Stand Delineation and preliminary Forest Conservation Plan
- ❖ Boundary, acreage and current zoning of the tract
- ❖ Minimum topographic information sufficient to determine surface drainage patterns
- ❖ Adjacent land uses, zoning and location of adjacent dwellings within 100 feet of the common property line

- ❖ Buffer yards required by Section 16.7 and the location of fencing or screen planting
- ❖ Location of various permitted uses; tabulation of the number and density of residential dwelling units; square footage of the area devoted to commercial and employment uses
- ❖ Roads – their alignment within the development including major access points; their relationship to existing adjacent land uses and to planned improvements identified in the Washington County Highway Plan; estimated traffic volumes and circulations patterns from the development onto existing and proposed roads (within a 1 mile radius of the site), and a preliminary proposal for road improvements to mitigate for expected negative effects
- ❖ Estimated average daily water consumption and sewage flow
- ❖ Location of historic resources identified in the Washington County or Maryland Historic Sites Inventory
- ❖ Pre-existing easements or rights-of-way of any kind
- ❖ Method proposed to insure maintenance of common areas (i.e.- HOA)
- ❖ School dedication site (only for developments with 500+ DUs)

Zoning Approval for the application is to be based upon the following considerations:

- ❖ Revisions to the Concept Plan that occurred in the wake of agency comments submitted during the Preliminary Consultation phase of development review
- ❖ Clear indication of the residential density requested
- ❖ Any needed modifications to the lot area, setbacks, or buffers

Zoning approval constitutes tentative approval of density and design features shown on the Concept Plan.

4. Design Standards

Section 16.7 describes Design Standards for Mixed Use Districts, most of which simply provide greater detail on the elements enumerated above that make up the Concept Plan. Section 16.7c however, provides detail on the criteria that should be considered by the Planning Commission and Board of County Commissioners to determine the appropriate mixture of uses for new Mixed Use Districts. The considerations include:

- ❖ Relationship of site to goals and objectives of the Comprehensive Plan and Land Use Plan Map
- ❖ Area of land under consideration

- ❖ Availability and capacities of existing and planned utilities
- ❖ Transportation system - proximity to, current condition, planned improvements and access proposals
- ❖ Site characteristics – physical and environmental constraints
- ❖ Open space – both currently available and proposed within the development and on adjacent lands
- ❖ Compatibility with surrounding land uses
- ❖ Unique needs of the development for public facilities or services

Other Design Standards of note include:

- ❖ **Walkways** – the mixed use development shall contain a comprehensive and cohesive pathway system for pedestrians and other non-motorized forms of transportation providing access to all areas of the development and off-site community facilities (transit, adjacent businesses, schools, etc.) to reduce vehicle dependency
- ❖ **Non-Residential Development** – commercial uses proposed should be primarily (but not exclusively) designed to serve the residents of the development
 - **Mixed Use Buildings and Shared Space**
 - Encourages shared space within buildings to accommodate mixed uses and with adjacent properties to meet parking requirements, among other considerations

II. Staff Analysis

The preceding section described background information which must be satisfied to adequately address the requirements for the establishment of a new Mixed Use District within the scope of the intended development that has been proposed under this application. The analysis that follows does not attempt to exhaustively analyze all of these required elements, but merely to point out notable points of concern that have come up during review of the application, by both the Planner and reviewing agencies, during both the Preliminary Consultation and Rezoning stages of the development review process. Primary concerns of note for the proposed application include the mixture of uses shown on the Concept Plan and the adequacy of various public facilities serving the site (schools, water and sewerage, etc.). Additional points of lesser concern are also described which may warrant further inquiry by the Planning Commission and Board of County Commissioners (BOCC). Further analysis of how this application intends to address other requirements of the Zoning Ordinance for Mixed Use Districts can be found in the applicant's Justification Statement.

A. Mix of Uses

The MXC District, as previously described, is intended to combine a minimum of two residential use types with open space and limited commercial development which primarily serves the development's residents and/or the immediate neighborhood. The Concept Plan provided by the applicant satisfies these requirements to a minimal degree but does not meet the true intent of the of the MXC District.

This assertion can be understood by comparing the percentage of the total land area set aside for commercial or open space uses versus that which is devoted to residential development. The number of each type of residential use provides further evidence of a Concept Plan which focuses heavily on a single housing subtype.

First, regarding the minimum of two types of residential units, the Concept Plan overwhelmingly favors the provision of apartment units in its design. **Of the 111 dwelling units proposed as part of the Concept Plan, 105 (95% of the total), are intended to be apartment units.** Only 6 townhouse units are proposed as part of the design. Therefore, the variety of housing choices provided within the development would be very limited.

Secondly, the amount of space reserved for commercial and open space uses is also very limited in the proposed concept. A total of 6,000 square feet (sf) is shown on the Concept Plan, all of which is found within Building 1. The MXC District permits up to 70% of the district's acreage to be devoted to commercial uses when applied to a property that has an underlying HI zoning classification as this site does. **The 6,000 sq ft proposed for the site, therefore, devotes only 1.4% of the area under review to commercial uses.**

It should also be pointed out that the commercial uses depicted on Lots 4-6 are **not** part of the area subject to the proposed Mixed Use District. Only the 9.92 acres that make up Lot 7 are a part of the proposed map amendment. Based upon the visual depiction of the Concept Plan, it is easy to assume that the commercial development displayed on Lots 4-6 is part of the proposed District's design. The development of Lots 4-6 is, however, not part of this application and should not be considered as contributing to the footprint of commercial portion of the applicant's design and petition to rezone the property.

Finally, **the amount of open space provided appears to be very minimal as well.** MXC Districts require a minimum of 5% devoted to open space. The exact area devoted to open space is not clearly labeled or quantified in the application or on the Concept Plan as is required by the Ordinance. Assuming that the open space is represented by the area shown as including a gazebo and play area south of the 55-unit apartment building, plus

the outdoor patio space surrounding the 50 unit mixed use building, it appears that the open space would not significantly exceed the minimum 5% required by the Ordinance.

The MXC District also requires that the Concept Plan indicate the method proposed to insure maintenance of common areas (such as through the creation of an HOA). That information was not provided in the application materials submitted for review.

In sum, the design which has been proposed by the applicant depicts a Mixed Use District that would be overwhelmingly composed of residential multi-family housing uses. The other essential elements that make up an MXC District, including commercial and open space uses, are provided only to the minimum degree required by the Ordinance. Therefore, the overall purpose and intent of a true Mixed Use District, as defined in the Zoning Ordinance, has not been met by the proposed design.

B. Adequacy of Public Facilities

Another point of concern with the establishment of a new Mixed Use District in this location is the adequacy of various public facilities that are regulated by the County's Adequate Public Facilities Ordinance (APFO). The purpose of the APFO is to ensure "*that public facilities and services needed to support new development shall be available concurrently with the impacts of such new developments.*"² Public facilities regulated under the Ordinance include roads, sewerage disposal systems, schools, water supply and distribution systems, and interim fire protection systems.

The adequacy of schools and the availability of public water constitute the primary public facilities which raise concerns as to whether impacts of the proposed new Mixed Use District could be mitigated concurrently with the development of the parcel.

1. Public Schools

Under the APFO, a public school is deemed inadequate if:

- ❖ It exceeds 90% of the State Rated Capacity at the elementary school level
 - The above standard is known as the Local Rated Capacity (LRC)
- ❖ It exceeds 100% of the State Rated Capacity at the middle or high school levels

School adequacy is measured based upon quarterly enrollment reports pertaining to all Washington County Public Schools issued by the Board of Education (BOE). Both pupils generated by the proposed development and pupils generated from other previously

² Washington County Adequate Public Facilities Ordinance. P.1

approved developments which have not yet been fully built out (including developments within municipalities) are accounted for in the determination of existing school capacity and adequacy.

The proposed development falls within the following school districts: Rockland Woods (Elementary), E. Russell Hicks (Middle) and South Hagerstown (High). The most recent enrollment report available presently is from March 2021. Based upon that enrollment report, the following table shows the current status of the three schools impacted by the proposed development:

Table 2: Current Enrollment Snapshot (March 2021)

School Name	Current Capacity (% of SRC)
Rockland Woods Elementary	97.3%
E. Russell Hicks Middle	114.7%
South Hagerstown High	120.9%

The snapshot provided above demonstrates that all three schools affected by the proposed development currently exceed the SRC and/or the LRC. The capacity shown above does not account for the students that would be generated by the proposed development, which would likely push the schools even further beyond the SRC than they are presently. Additionally, enrollment figures that dropped during the COVID-19 pandemic may also return to, or exceed, pre-Pandemic levels in the coming school year and beyond, putting further strain on existing educational facilities.

Under APFO regulations, new development that occurs with school districts that are inadequate (under the capacity standards described previously) may make an Alternate Mitigation Contribution (AMC) **if** the proposed development does **not** cause the school to exceed **120% of the SRC**. When current capacity exceeds 120% of SRC, the project is not eligible to use the AMC to mitigate for school capacity impacts.

Mitigation for projects that cause the affected school district to exceed 120% of the SRC must be worked out directly with the Board of County Commissioners in consultation with the Board of Education. Various remedies are possible to address capacity issues in school districts that are inadequate including redistricting, school site dedication, developer funding to construct an addition to an existing school or developer funding for new school construction.

The BOCC does also have the authority to limit the number of building permits in any school district. Their decision is to be based on a recommendation from the Planning

Commission and should consider the adequacy of the affected school district as well as the capacity in immediately adjacent schools.³

At present, according to the 2021 Washington County Public Schools Educational Facilities Master Plan, South Hagerstown High School “*is projected to remain over capacity for the foreseeable future.*” The plan also explicitly states that “*WCPS does not currently anticipate the ability to add a comprehensive high school in the next ten years.*”⁴

The document does go on to state that “plans are in process to add additional seat capacity through alternative methods.” Precisely what methods will be used and how soon a plan to create additional seat capacity could be implemented is presently unknown. It also cannot be determined whether this potential relief would specifically address capacity issues in the school districts affected by the proposed Mixed Use District. **Therefore, it can only be assumed that school capacity will continue to exceed the LRC and SRC in the school districts affected by the proposed development for the foreseeable future.**

The applicant’s Justification Statement simply states that in the event of a school exceeding 120% of SRC, it will “*work with County staff and the Board of County Commissioners to obtain final site plan approval while meeting all relevant conditions and obligations as required by the APFO.*” No more is presently known about how the applicant would seek to address school capacity issues if this Mixed Use District were to be approved beyond this statement.

2. Access to Public Water

Access to an adequate supply of public water to serve the proposed Mixed Use District is another point of concern. At first glance, this would not appear to be an issue for this property as it is already connected to the City of Hagerstown’s water system, according to comments made during the Preliminary Consultation phase of this development’s review by the City of Hagerstown’s Department of Utilities.

The site also meets other County and City requirements for access to public water systems. It was given a W-1 Existing Service designation in the County’s 2009 Water and Sewerage Plan, which mandates that the property connect to the public water supply distribution within one year or less if a connection is not already available at the time of the property’s development.

³ Washington County Adequate Public Facilities Ordinance. PP.16-17

⁴ 2021 Washington County Schools Educational Facilities Master Plan. P.4

The area subject to this rezoning also falls within the City of Hagerstown's Medium Range Growth Area (MRGA). The MRGA defines, among other things, the limits of new City water service for a twenty year planning period. Properties that fall outside of the MRGA, therefore, are not allowed to connect to existing water service lines under most circumstances. The property also has already signed a pre-annexation agreement with the City, according to the City of Hagerstown's Department of Utilities, which is another prerequisite for city water service.

The issue with water access therefore lies purely with the increased demand that would result from the rezoning of this property from the current, commercial and light industrial HI zoning classification to a high-density residential and limited commercial MXC district. The ability of the City of Hagerstown to provide water service to this property (as well as all others in the MRGA) is based upon growth assumptions that utilize existing zoning classifications. The rezoning of this property to allow for a more intensive land use in terms of water usage is a variable that was not accounted for when the City developed the growth model that informed the creation of the Water Resources Element in its adopted Comprehensive Plan. Thus, **an increased demand for water at this location would likely necessitate changes to the MRGA boundary elsewhere.**

3. Present and Future Transportation Patterns

a. Roads and Intersections

The impact of a proposed development on traffic and circulation patterns in the area is another required element of this rezoning application, and, is frequently a source of concern of neighboring residents and businesses. Road improvements are another type of public infrastructure governed by the County's APFO. Traffic impacts from the proposed development were analyzed by various entities, at multiple points in time, both immediately before and as part of this rezoning application.

In April 2020, a traffic impact study (TIS) was approved which accounted for this site as a part of a larger investigation of the potential impacts pipeline development occurring in the Sharpsburg Pike Corridor, primarily in the immediate area south of the I-70 interchange. This study recommended the following road improvements in the immediate vicinity of the proposed rezoning:

- *"Access to the project includes a full movement access onto Colonel H K Douglas Drive, a right-in only on MD 65, and a new signalized full movement access on MD 65."*

- *“Road widening and re-striping on MD 65 for the addition of a Two-Way Left Turn Lane on MD 65 at the Rench Road intersection. The design shall be approved by SHA and Washington County.”*
- *“Mitigation/road improvements per SHA requirements including a raised median on MD 65, and a proposed signal and associated turn lanes on MD 65 at the second site access point. It should be noted that construction of a traffic signal at the second access point is not a County requirement for approval of the Traffic Study, rather it is at the preference of the Developer.”*
- *“An internal access connection to Remington Drive is recommended and shall be required if the signalized full movement second access (per item b above) is not constructed.”*
- *“A minimum ROW dedication of 50’ from centerline of MD 65 will be required for Site Plan approval per the County’s requirements for a Minor Arterial roadway. SHA may have additional requirements.”*

The applicant’s decision to seek the establishment of a new Mixed Use District in the subject location was then undertaken after approval of the original TIS. Accordingly, the proposed change in land use, both at this site and at other lots in The Shops at Sharpsburg Pike development, necessitated re-evaluating traffic impacts stemming from the new proposal. This follow up TIS was completed in April 2021. The study concluded that trip generation from the new mix of proposed land uses was **less** than that found in the previous TIS during each of the three time periods surveyed (Weekday AM Peak, Weekday PM Peak, Saturday Midday Peak). The developer is still required to comply with the conditions outlined above in the previous traffic study, but no additional improvements were required with the change in land use.

No additional road improvements are identified in the County’s current Capital Improvement Plan (2022-2031) in the immediate vicinity of the subject property.

The Maryland State Highway Administration’s portion of the state’s Consolidated Transportation Plan does include two major projects of note in the area of the rezoning: replacement of the I-70 bridge over MD-65, as well as improvements at the associated interchange. The Plan summary for the bridge project captures both improvements: *“This project will replace the decks on all four bridges and the superstructure of the two bridges*

on I-70 over MD 65, one of which (eastbound) is rated in poor condition. The project will accommodate a planned future interchange reconstruction at MD 65.”⁵

b. Pedestrian Circulation and Connectivity to Neighboring Properties

Consideration for non-motorized modes of transportation is also an integral part of the design of a mixed use development. The Concept Plan does provide for these needs to some extent, as sidewalks are depicted connecting the two apartment buildings as well as the six townhouses within the proposed Mixed Use District. Though not a part of the area covered by the rezoning application, the design also depicts some sidewalk connections between the subject site and immediately adjacent properties, particularly along Col. Henry K. Douglas Drive.

Beyond sidewalks, inter-parcel connectivity is another important consideration in planning a Mixed Use District that serves the needs of its residents and those utilizing services in the immediate vicinity. Creating connections between parcels, for both motorized and non-motorized users, enables patrons to utilize internal circulation routes to carry out a variety of tasks without adding unnecessary traffic flow onto adjacent collector and arterial transportation routes. Therefore, it is important that a detailed plan for circulation and connectivity which is inclusive of multiple travel modes be submitted in support of the establishment of a new MXC District, perhaps exceeding what is required for a typical site plan.

The Department of Plan Review and Permitting made comments on the proposed application to this effect, when routed a copy for review, which are copied below:

- *“Given the significant traffic generation and mix of land uses proposed in this development, it is recommended that pedestrian safety be carefully considered, and that a pedestrian circulation plan be included in the Development Plan/Site Plan.”*
- *“The application states, ‘The area surrounding the Property has undergone significant development in the recent years, and the concept plan for the MXC creates a compatible and complementary mixture of uses.’ This compatible and complementary use should include joint access with neighboring properties and alignment with other accesses. These elements should be considered in the Development Plan/Site Plan.”*

⁵ Maryland Department of Transportation. *FY 21-26 Consolidated Transportation Plan*. P. SHA-W-2.

III. Additional Considerations

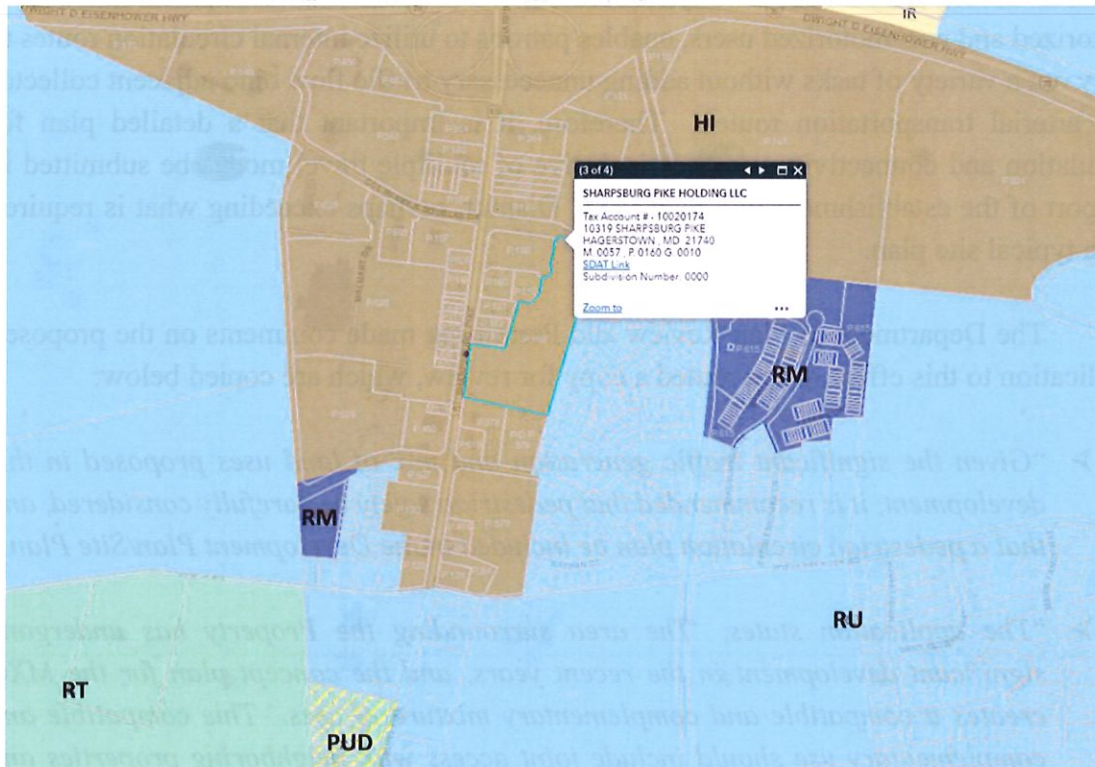
A. Compatibility with Existing and Proposed Development in the Area:

The compatibility of the proposed development with the surrounding neighborhood, in terms of zoning, land use, and historic sites is another important consideration in determining the appropriate mix of uses within the MXC District being sought. The character of the “neighborhood” in the present and immediate future is profiled below through these lenses.

1. Surrounding Zoning

Map 1, below, shows the existing zoning in the area surrounding the proposed rezoning site at 10319 Sharpsburg Pike.

Map 1: Surrounding Zoning Classifications



The corridor from the I-70 interchange south to Poffenberger Road is all currently zoned HI on both sides of MD-65. As one gets further away from this arterial roadway, the zoning transitions to residential classifications at various densities. Much of it is Residential Urban (RU), which allows single family, semi-detached and two-family dwelling units on roughly ½ acre lots, along with limited community service type uses. Claggetts Mill is an example of an actively building subdivision within this zoning class

located less than 1 mile to the southeast. There is also Residential Transition (RT), which is the least dense residential district in the Urban Growth Area, at 2-4 dwelling units per acre. Most of the RT is presently in an agricultural land use.

There is also high-density residential zoning in the immediate vicinity. Two Residential Multi-family (RM) districts are found within 1/3 mile from the subject site, including the Carriage Hills development. Perhaps most relevant is another mixed use district, in this case a PUD whose zoning was approved in 1992, St. James Village North.

In sum, while the commercially focused HI zoning dominates the Sharpsburg Pike corridor, there is a variety of residential zoning classes within a 1 mile radius of the site.

2. Land Use

Commercial land uses predominate the immediate area around the rezoning site. The most notable is the new Walmart directly across MD-65 to the west. Fast food restaurants, retail shops and gas stations occupy most of the other lots already developed north and south of the subject property. Premium Outlets is just past the I-70 interchange to the north. The MVA is just north of the Walmart. As noted previously, an ALDI grocery store anchors the portion of The Shops at Sharpsburg Pike that has been developed so far. It is complemented by other fast food and retail establishments.

In addition to the residential developments of various densities noted in the previous section, others in the immediate vicinity include Cross Creek and the Villas at Gateway (detached single family homes). Somerford, a senior living community, is 1/3 mile southwest on MD-65.

While much of the historic land uses which occupied this part of the Sharpsburg Pike corridor are transitioning to commercial, there are still a fair number of single-family homes along MD-65, and active farms within a 1 mile radius of the rezoning site.

Overall, this transitioning “neighborhood” around the proposed MXC District should be viewed, at this point, as consisting of two major parts – a heavy commercial focus among lots with road frontage along MD-65, and mostly suburban-style, single-family housing developments built or coming online in the immediate vicinity.

3. Historic Sites

Another important component of compatibility is the location of historic structures on and around the parcels being proposed for rezoning. According to the Maryland Historic Trust Inventory, there are 2 existing historic sites located within an approximately

½ mile radius of the proposed rezoning areas. Below is a listing of existing historic resources within a ½ mile radius of the subject parcels.

- WA-I-448: “Brick Farmhouse,” late-19th century, 2-story brick farmhouse. Altered early 20th century.
- WA-I-503: “Frame Bungalow,” early-20th century, 1 ½ story bungalow style home.

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

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

The 9.92 acres subject to this requested zoning map amendment was given the High Density Residential sub-policy area designation in the County’s 2002 Comprehensive Plan. Therefore, the applicant’s proposal for this parcel does not deviate significantly from what was anticipated in the 2002 Plan, as they are proposing roughly 11 dwelling units per acre.

The Comprehensive Plan offers the following definition for this policy area:

“The High Density Residential policy area is primarily associated multi-family type residential development. Principal zoning districts related to the policy area include the Residential - Multi-Family, Highway Interchange Two, and Residential Urban districts. The majority of the types of housing either existing or anticipated to be proposed for the policy areas are apartments, townhouses, and group homes, as well as duplexes and single-family homes on small lots. Typical housing developments would have densities in excess of 8 units per acre for multi-family developments and 6 units per acre for single-family developments.

Existing or proposed development associated with this classification is primarily located around the I-70 & MD 65 Interchange, Robinwood Drive area, Londontowne area, the I-81 & US 11 Interchange, Oak Ridge Drive, and the I-81 & Maugan’s Avenue Interchange.”⁶

⁶ 2002 Washington County, Maryland Comprehensive Plan, Page 245

IV. Recommendation

The applicant is requesting to rezone the property from its existing HI zoning designation, to apply an MXC floating zone atop this base zoning. The MXC Zoning District permits the applicant to pursue what is intended to be a complementary, efficient and attractive mixture of residential, commercial and open spaces uses.

Through their Justification Statement and Concept Plan, the applicant has met the majority of the conditions (as outlined in the report's introduction) required to be met in order to establish a new MXC District. These pre-requisites include primary considerations such as a specified residential density, the inclusion of multiple housing types, the ability to connect to public water and sewer service, cooperation in making necessary road improvements in the vicinity and more.

Speaking generally, a mixed use development makes a great deal of sense for the immediate neighborhood around this property, as it is presently constituted. The Sharpsburg Pike corridor below I-70 is transitioning from historic patterns of agricultural use and single-family homes along the roadway itself, to a higher intensity mix of commercial and more dense housing of various subtypes. Thus, what the applicant is proposing could work well at this location at some point in time in the future.

At present, however, it is difficult to recommend the establishment of the MXC floating zone on this property. Primarily this is because of the APFO concerns that were outlined in detail in this report. The most significant concern is with school capacity in the South Hagerstown High School District. That school already exceeds 120% of State Rated Capacity, which eliminates the ability of the applicant to utilize the Alternate Mitigation Contribution to satisfy their requirement to address this inadequacy. There are also no immediate plans to build a new high school in this district in the next 10 years, according to Washington County Public Schools 2021 Educational Facilities Master Plan. Other potential remedies, such as redistricting, are unknown at present and could not be counted on to address the issue in the near future. Enrollment figures that dropped during the COVID-19 pandemic may also return to, or exceed, pre-Pandemic levels in the coming school year and beyond, putting further strain on existing educational facilities.

Also highlighted in this report, as a major point of concern, is the availability of public water and sewer for a more intensive use than is permitted under the property's existing HI zoning. The City of Hagerstown, the water provider for this property, has established the boundaries of its Medium Range Growth Area based upon the existing zoning throughout the City and County. Therefore, upzoning this property to a more intensive use has the potential to necessitate the retraction of the MRGA by the City

elsewhere within the County's designated Urban Growth Area. The feasibility of accomplishing this modification in a manner that would satisfy all parties is difficult, at best, to predict.

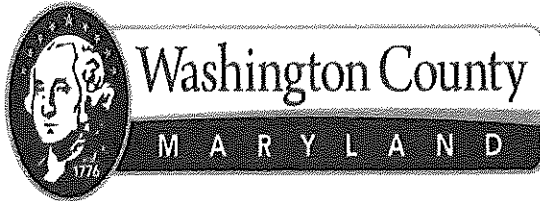
Finally, the staff report has offered evidence that the current design of this MXC District, as shown on the Concept Plan, could be improved to more closely fit the purpose of this zoning classification, as it is defined in the Zoning Ordinance. At present, it focuses heavily on the provision of apartment units, above all other elements required by the Ordinance.

Therefore, it is staff's opinion that a new mixed use district at this location could be more sustainably pursued in the future when the issues outlined above have been fully resolved.

Respectfully Submitted,



Travis Allen
Comprehensive Planner



FOR PLANNING COMMISSION USE ONLY

Rezoning No. RZ-21-005

Date Filed: 5-5-21

WASHINGTON COUNTY PLANNING COMMISSION
ZONING ORDINANCE MAP AMENDMENT APPLICATION

Sharpsburg Pike Holdings, LLC

Applicant

1741 Dual Hwy, Hagerstown, MD

Address

Zachary J. Kieffer, Esq.

Primary Contact

19405 Emerald Sq, St 2100 Ofc 202

Address

☒ Property Owner

☐ Contract Purchaser

☐ Attorney

☐ Consultant

☐ Other: _____

240-513-4332

Phone Number

zach@zkiefferlaw.com

E-mail Address

10319 Sharpsburg Pike, Hagerstown, 21740

Property Location: _____

0057

0010

0160

9.92 ac

Tax Map: _____

Grid: _____

Parcel No.: _____

Acreage: _____

HI-Highway Interchange

MXC Overlay

Current Zoning: _____

Requested Zoning: _____

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.

~~Elizabeth Trotter~~

NOTARY PUBLIC

Washington County

MARYLAND

MY COMMISSION EXPIRES AUG. 01, 2023

Applicant's Signature

Subscribed and sworn before me this 9 day of March, 2021.

My commission expires on Aug 1, 2023

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

4436 0127

CLERK OF THE CIRCUIT COURT
WASHINGTON COUNTY

DEED IN CONTRIBUTION

PREPARED
WITHOUT
TITLE
EXAMINATION

THIS DEED, Made this 13 day of December, 2012, by Mansoor Emral Shaool and Janet Emral Shaool, (hereinafter collectively, the "Grantors") and Sharpsburg Pike Holding, LLC, a Maryland limited liability company (hereinafter "Grantee").

WHEREAS, Grantors presently are owners as tenants by the entireties of the property hereinafter described (the "Property"), said Property having been acquired by that deed hereinafter noted; and

WHEREAS, Grantors are engaged in a real estate enterprise, as that term is defined in Section 12-108(bb)(1) of the *Tax-Property Article*, Annotated Code of Maryland, with respect to the Property; and

WHEREAS, (1) the within transfer is for no consideration other than the issuance of membership interests in Grantee; (2) Grantors are the only members of Grantee; (3) each Grantor's allocation of profits and losses of the Grantee is identical to the profits and losses of the conveying real estate enterprise; and (4) the within transfer constitutes a discontinuation of the real estate enterprise with respect to the Property; and (5) all real property owned by Grantors in the conveying real estate enterprise is being conveyed to a single limited liability company; and

WHEREAS, the within transfer is exempt from recordation tax pursuant to Section 12-108(bb), *Tax-Property Article*, Annotated Code of Maryland, exempt from state transfer tax pursuant to Section 13-207(a)(18) *Tax-Property Article*, Annotated Code of Maryland, and exempt from county transfer tax pursuant to Section 2-702(e)(1)(i) Code of the Public Local Laws of Washington County, Maryland.

NOW THEREFORE WITNESSETH: That in consideration of the foregoing recitals, but for no monetary consideration, the said **MANSOOR EMRAL SHAOOL** and **JANET EMRAL SHAOOL** hereby grant and convey unto **SHARPSBURG PIKE HOLDING, LLC**, a Maryland limited liability company, in fee simple, all the following described real estate, together with the improvements, if any, easements, rights of way, benefits and appurtenances, thereunto belonging or appertaining, situate, lying and being in Washington County, Maryland, and being more particularly described as follows:

All that tract or parcel of land, situate, lying and being in Election District No. 10, Washington County, Maryland comprising 16.66 acres, more or less, as more particularly described in a metes and bounds description dated March 28, 2008 and prepared by Frederick, Seibert & Associates, Inc., attached hereto and incorporated herein as "Exhibit A", and as depicted on a survey entitled "Property Line Survey for Lands of Mansoor and Janet Emral Shaool" bearing Job Number 5563 and prepared by Frederick, Seibert & Associates, Inc., attached hereto and incorporated herein as "Exhibit B".

The above-described Property being the same property which was conveyed unto Mansoor Emral Shaool and Janet Emral Shaool, husband and wife, by that deed dated April 15,

KURTYKA & ASSOCIATES
ATTORNEY AT LAW

33 W. FRANKLIN STREET
SUITE 202
HAGERSTOWN, MD 21740
(301) 714-0889

4436 0128

CLERK OF THE CIRCUIT COURT
WASHINGTON COUNTY

PREPARED
WITHOUT
TITLE
EXAMINATION

2008, and recorded in Liber 3484, folio 505 among the Land Records of Washington County, Maryland.

The Property is conveyed together with and subject to all applicable covenants, conditions, restrictions, limitations, rights-of-way, streets, alleys, reservations and easements of record.

And the said Grantors do hereby covenant that they will warrant specially the Property hereby conveyed, except as to the aforesaid covenants, conditions, restrictions, limitations, rights-of-way, streets, alleys, reservations and easements of record, and do hereby further covenant that they will execute such other and further assurances of the land as may be requisite.

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

Breanne Chang
Witness

Mansoor Emral Shaool (SEAL)
Mansoor Emral Shaool

Breanne Chang
Witness

Janet Emral Shaool (SEAL)
Janet Emral Shaool

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

I HEREBY CERTIFY, That on this 13 day of December, 2012, before me, the undersigned officer, personally appeared Mansoor Emral Shaool, known to me (or satisfactorily proven) to be the person whose name is subscribed to with the instrument, and acknowledged that he executed the foregoing deed for the purposes therein contained, and that the consideration recited therein is true and correct.

WITNESS my hand and official Notarial Seal.

MY COMMISSION EXPIRES:



KURTZYKA & ASSOCIATES
ATTORNEY AT LAW

33 W. FRANKLIN STREET
SUITE 202
HAGERSTOWN, MD 21740
(301) 714-0889

WASHINGTON COUNTY CIRCUIT COURT (Land Records) DJW 4436, p. 0129, MSA_CE18_4361. Date available 01/04/2013. Printed 04/29/2021.

4436 0129

CLERK OF THE CIRCUIT COURT
WASHINGTON COUNTY

PREPARED
WITHOUT
TITLE
EXAMINATION

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

I HEREBY CERTIFY, That on this 13 day of December, 2012, before me, the undersigned officer, personally appeared Janet Emral Shaool, known to me (or satisfactorily proven) to be the person whose name is subscribed to with the instrument, and acknowledged that she executed the foregoing deed for the purposes therein contained, and that the consideration recited therein is true and correct.

WITNESS my hand and official Notarial Seal.

MY COMMISSION EXPIRES:

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

Notary Public

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

Brian M. Kurtyka

IMP FD SURE 4	40.00
RECORDING FEE	20.00
TOTAL	60.00
Reg # HA01	Recpt # 638
DJW HAN	Blk # 1469
Dec 20, 2012	02:33 PM

After recording, mail to:
Kurtyka & Associates, LLC
33 W. Franklin Street, Suite 202
Hagerstown, MD 21740

KURTYKA & ASSOCIATES
ATTORNEY AT LAW

33 W. FRANKLIN STREET
SUITE 202
HAGERSTOWN, MD 21740
(301) 714-0889

TODD L. WERSHEY, TREASURER
TAXES PAID 1228.12

4436 0130

CLERK OF THE CIRCUIT COURT
WASHINGTON COUNTY

**AFFIDAVIT AS TO TOTAL PAYMENT
INCLUDING ALLOCATION FOR COLLECTION AS TO NON-RESIDENT(S)**

The undersigned hereby certifies under the penalties of perjury, that the following is true to the best of my/our knowledge, information and belief, in accordance with Section 10-912(b)(2) of the Tax-General Article of the Annotated Code of Maryland, (the "Withholding Law"):

1. That we are the transferors of that real property described in the accompanying deed.
2. The amount of total payment for the purpose of the Withholding Law is \$0.00.
3. The transferors are not residents of Maryland and are subject to collection of withholding on such transferors' allocated shares of the total payment.
4. There are two (2) transferors, and the total payment divided by two (2) is \$0.00 allocated for each transferor.
5. The portion of the total payment subject to collection is two (2) times \$0.00, which equals \$0.00, as the amount of total payment to which collection of withholding applies.

DATED this 13th day of December, 2012.

WITNESS:

Breanne Chany

Breanne Chany

TRANSFERORS:

Mansoor Emral Shaoor

Janet Emral Shaoor

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

I HEREBY CERTIFY, That on this 13 day of December, 20 12, before me, the subscriber, personally appeared Mansoor Emral Shaoor, known to me (or satisfactorily proven) to be the person whose name is subscribed to within the instrument, and acknowledged that he executed the foregoing affidavit for the purposes therein contained.

WITNESS my hand and Official Notarial Seal.

My Commission Expires:

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

[Signature]
Notary Public

KURYKA & ASSOCIATES
ATTORNEY AT LAW

33 W. FRANKLIN STREET
SUITE 202
HAGERSTOWN, MD 21740
(301) 714-0889

4436 0131

CLERK OF THE CIRCUIT COURT
WASHINGTON COUNTY

PREPARED
WITHOUT
TITLE
EXAMINATION

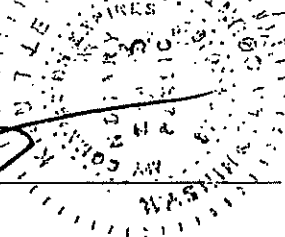
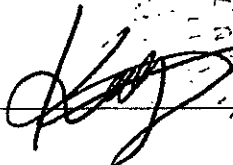
STATE OF Maryland, COUNTY OF Washington, to-wit:

I HEREBY CERTIFY, That on this 12 day of December, 2013,
before me, the subscriber, personally appeared Janet Emral Shaoal, known to me (or
satisfactorily proven) to be the person whose name is subscribed to within the instrument, and
acknowledged that she executed the foregoing affidavit for the purposes therein contained.

WITNESS my hand and Official Notarial Seal.

My Commission Expires:

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



KURTYKA & ASSOCIATES
ATTORNEY AT LAW

33 W. FRANKLIN STREET
SUITE 202
HAGERSTOWN, MD 21740
(301) 714-0889



EXHIBIT A

CIVIL ENGINEERS • SURVEYORS • LANDSCAPE ARCHITECTS • LAND PLANNERS

March 28, 2008

Description of lands being conveyed by Mansoor Emral Shaoal and Janet Emral Shaoal to Mansoor Emral Shaoal and Janet Emral Shaoal

Situate along the east side of the Sharpsburg Pike (also known as Maryland Route 65) and lying approximately 0.5 miles southward from its intersection with Interstate 70 in Election District No. 10, Washington County, Maryland and being more particularly described in accordance with a survey dated February 2008 by Frederick, Seibert and Associates, Inc. as follows:

Beginning at an iron pin and cap found at the most southwestern corner of the herein described property, said iron pin and cap also being along the eastern right-of-way line of Maryland Route 65 and also being located, N 77°39'24" W 266.65 feet from the end of the eighth (or N 8°05' E 72.0 feet) line of the lands conveyed by SPM Associates and Amnuy Srirungrojana et. al., to Mansoor Emral Shaoal and Janet Emral Shaoal, his wife by deed dated July 29, 1998 and recorded at Liber 1429, folio 332 among the Land Records of Washington County, Maryland, thence running in a clockwise direction and along the eastern right-of-way line of Maryland Route 65, N 8°40'35" E 329.10 feet to an iron pin and cap found, thence leaving said right-of-way and running along the southern boundary of lands now or formerly of Donna Bage (Liber 966, folio 1022) S 81°31'59" E 221.40 feet to an iron pipe, thence along the same and also along the lands of others N 16°31'38" E 320.16 feet to a recovered iron pin, thence running along the lands now or formerly of Troy Cunningham (Liber 1011, folio 975), N 81°31'59" W 265.94 feet to a recovered iron pin and cap along the eastern right-of-way line of Maryland Route 65, thence continuing with said eastern right-of-way line of Maryland Route 65, N 7°40'35" E 476.03 feet to an iron pin, thence leaving the eastern right-of-way line of Maryland Route 65 and running along the lands now or formerly of Bowman 2000 LLC (Liber 1799, folio 739 and Liber 1771, folio 30), S 83°30'45" E 427.26 feet to an iron pin, thence along the lands now or formerly of Bowman 2000 LLC (Liber 1799, folio 734 and Liber 1620, folio 280), S 15°20'07" W 63.58 feet to an iron pin, thence continuing along the same S 72°18'31" E 357.85 feet to an iron pin found, thence running along a portion of the western boundary of the Cross Creek Subdivision, S 16°28'13" W 1140.55 feet to a corner fence post, thence along the northern boundary of lands now or formerly of Interstate 70 Partners LLC (Liber 2089, folio 642), N 77°39'24" W 343.82 feet to an iron pin and cap found, thence along lands now or formerly of the Hoffman Family Homestead LLC

4436 0133

CLERK OF THE CIRCUIT COURT
WASHINGTON COUNTY

(Liber 3276, folio 544, N 8°40'35' E 71.82 feet to a point, thence continuing along lands of same N 77°39'24' W 266.65 feet to the place of beginning;

Containing 16.66 acres of land more or less;

Said lands being conveyed subject to and together with any and all conditions, restrictions, easements or rights-of-way of record and applicable thereto.

Said lands being all the lands combined for the purposes of creating one new individual tax parcel and being those lands conveyed to Mansoor Emral Shaool and Janet Emral Shaool by nine different parcels namely being from Amnuey Srirungrojana, et. al. and SPM Associates by deed dated July 29, 1998 and recorded in Liber 1429, folio 332; and from Bessie M. Burns by deed dated July 14, 1998 and recorded in Liber 1425, folio 853; and from Leonard D. Emmert and Gracia R. Emmert by deed dated November 2, 1999 and recorded in Liber 1535, folio 289; and from Bruce M. Cabbage by deed dated June 29, 2000 and recorded in Liber 1583, folio 399; and from Carroll E. Brackett and Naomi R. Brackett by deed dated June 29, 2000 and recorded in Liber 1583, folio 396; and from Thomas R. Schleigh and Vicki Lee Schleigh by deed dated December 3, 2003 and recorded in Liber 2204, folio 202; and from Marjorie M. Seiler by deed dated March 25, 2004 and recorded in Liber 2290, folio 537; and from Michael R. Weller by deed dated April 23, 2004 and recorded in Liber 2312, folio 159; and from Edward P. Hultsch and Susan M. Hultsch by deed dated November 13, 2003 and recorded in Liber 2187, folio 71 all among the Land Records of Washington County, Maryland.

FMF/vab.shaool desc

WASHINGTON COUNTY CIRCUIT COURT (Land Records) DUW 4436, p. 0134, MSA_CE18_4361. Date available 01/04/2013. Printed 04/29/2021.

EXHIBIT B

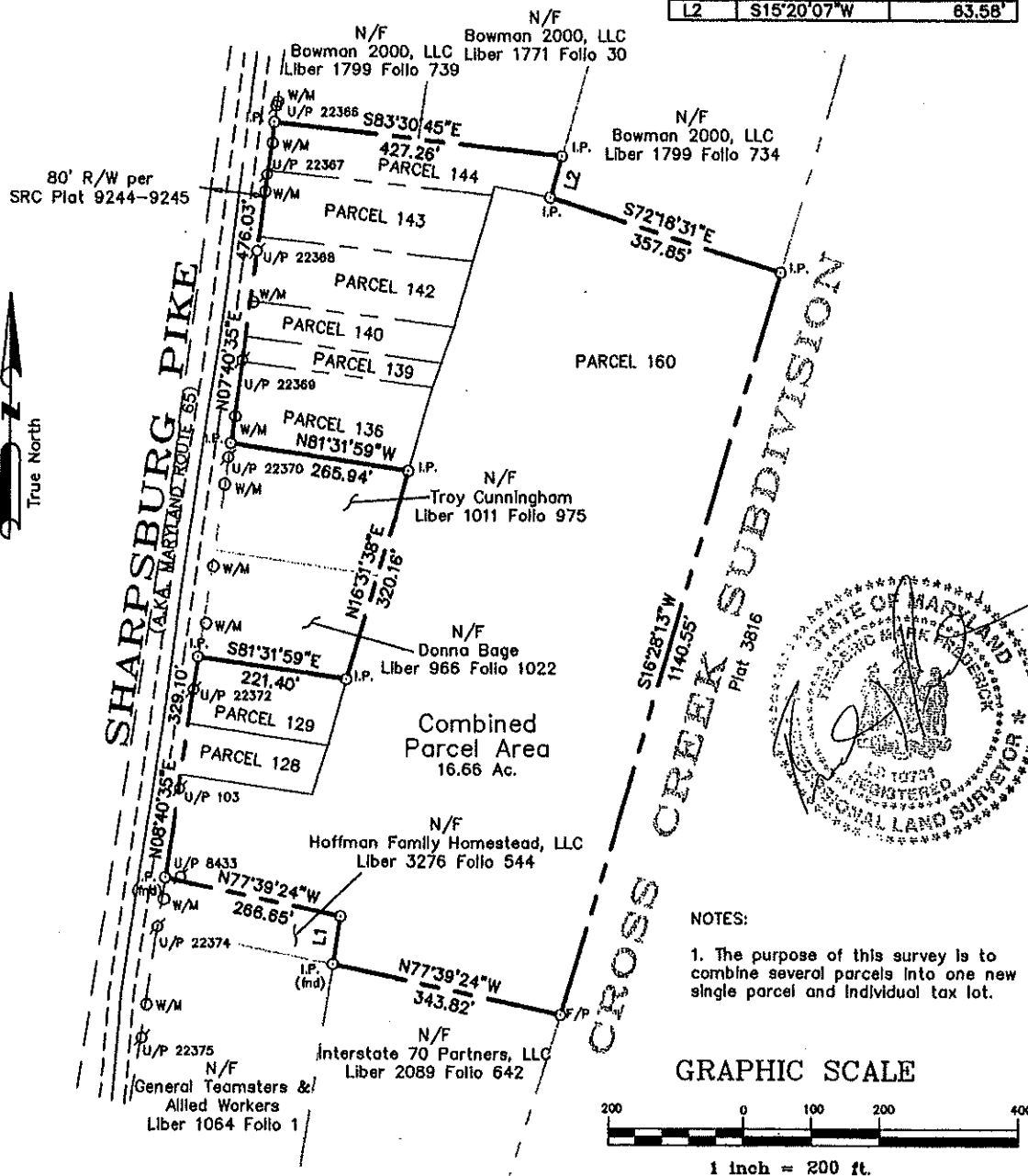
Property Line Survey
for
*Lands of Mansoor and
Janet Emral Shaool*

Situate along the East side of
Sharpsburg Pike
WASHINGTON COUNTY, MARYLAND

4436 0134

CLERK OF THE CIRCUIT COURT
WASHINGTON COUNTY

LINE	BEARING	DISTANCE
L1	N08°40'35"E	71.82'
L2	S15°20'07"W	83.58'



TAX MAP 67	DISTRICT 10
DRAWING NUMBER 1	OF 1
DRAWN BY: DWH	DATE: 4-2-08
CHECKED BY:	DATE: 4-3-08
SCALE: 1" = 200'	

**FREDERICK
SEIBERT &
ASSOCIATES, INC.** ©2008

CIVIL ENGINEERS SURVEYORS LANDSCAPE ARCHITECTS LAND PLANNERS
128 SOUTH POTOMAC STREET, HAGERSTOWN, MARYLAND 21740
10 WEST BALTIMORE STREET, GREENCASTLE, PENNSYLVANIA 17225
(301) 791-3650 (301) 416-7478 (717) 887-1007 FAX (301) 738-4858

JOB NUMBER
5563

CLERK OF THE CIRCUIT COURT

☐ 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 County Validation

Distribution: White - Clerk's Office
Canary - SDAT
Pink - Office of Finance
Goldenrod - Preparer
AOC-CC-300 (6/95)

Olde Towne Title, Inc.
File No. OT-12788CO
Tax ID # 10-009707

This Deed, made this 5th day of October, 2017, by and between Hoffman Family Homestead, LLC, GRANTOR, and Sharpsburg Pike Holding, 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 Grantee, 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 of ground situate in the County of Washington, State of Maryland, and described as follows, that is to say:

All the following lots or parcels of ground being more particularly described as follows:

PARCEL NO. 1:

All the following described lot or parcel of ground, situate on the East side of the Hagerstown-Sharpsburg Road about one and one-half (1 ½) miles South of Hagerstown, in Funkstown Election District No. 10, in Washington County, and more particularly described as follows:

Fronting 72 feet on the East side of said Hagerstown-Sharpsburg Road and extending back therefrom and along the North boundary of the property of Herbert W. McElwee and Kitty I. McElwee, his wife, in an Easterly direction with that uniform width a distance of 250 feet, said lot lying in the Southwest corner of and being a part of the same real property which was conveyed unto Robert R. Baumgardner and M. Elizabeth Baumgardner, his wife, by R. Leon Palmer and wife, by Deed dated February 4, 1933 and of record at Liber 192, Folio 634 among the Washington County Land Records, to which aforementioned Deed reference is hereby made and made a part hereof.

PARCEL NO. 2:

All that portion of a lot of land, being just East of the Sharpsburg Pike near Hagerstown, Washington County, Maryland, and more particularly described as follows:

Beginning at a point, being the Southeast corner of the lot of land owned by Merle Calvert Hoffman and Dorothy Mae Hoffman, his wife, said point being two hundred fifty (250) feet East of the Sharpsburg Pike and extending North seventy two (72) feet along the East boundary of the lot of land owned by Merle Calvert Hoffman and Dorothy Mae Hoffman, his wife; thence East sixty six (66) feet; thence South seventy two (72) feet; thence West sixty six (66) feet to the place of beginning; the said lot of land being bounded on the South by the property of Herbert W. McElwee, on the West by the property of Merle Calvert Hoffman and Dorothy Mae Hoffman, his wife, and on the North and East by the property of Robert R. Baumgardner and wife.

The improvements thereon being known as 10315 Sharpsburg Pike, Hagerstown, Maryland, 21740.

File #OT-12788

Tax ID #10-009707

Being the same property described in Liber 3276 at Folio 544.

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

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

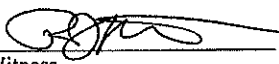
Subject to and together with all restrictions, covenants, conditions, easements and rights of way of record.

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

The undersigned certify that it is resident(s) of the State of Maryland, or that this was their primary residence, and therefore is exempt from the tax withholding requirements of Section 10-912 of the Tax General Article of the Annotated Code of Maryland.

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

HOFFMAN FAMILY HOMESTEAD, LLC


Witness

By:  (SEAL)
Judith Hoffman Bolton

[Corporate Seal]

STATE OF MARYLAND
COUNTY OF WASHINGTON


} ss

I hereby certify that on this 5th day of October, 2017 before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared Judith Hoffman Bolton, and that as such officer, being authorized to do so, executed the foregoing Deed for the purposes therein contained, by signing the name of the limited liability company, by himself/herself as such officer and further, did certify that this conveyance is not part of a transaction in which there is a sale, lease, exchange or other transfer of all, or substantially all, of the property and assets of the limited liability company, giving oath under penalties of perjury that the consideration recited herein is correct.

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



R.J. WITTHAUS
Notary Public, State of Maryland
County of Frederick
My Commission Expires Dec 21, 2019

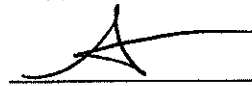

Notary Public
My Commission Expires: _____

AFTER RECORDING, PLEASE RETURN TO:
Sharpsburg Pike Holding, LLC
72 West Washington Street
Hagerstown, MD 21740

TODD L. HERSHEY, TREASURER
TAXES PAID 10/6/17

CR

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.



Allison Fortmann, Attorney

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

Name: Sharpsburg Pike
Holding

Ref:

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 - NR Tax - 1kd 0.00

SubTotal: 1,570.00

Total: 1,570.00

10/06/2017 02:40

CC21-MAH

#9198463 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	250.00
Recordation Tax	760.00
State Transfer Tax	500.00
Non-Resident Tax	
TOTAL	1570.00

Space Reserved for County Validation

**SHOPS AT SHARPSBURG PIKE
SHARPSBURG PIKE HOLDING, LLC
LIST OF ADJOINING AND CONFRONTING PROPERTY OWNERS**

1. Bowman 2000, LLC
 - a. Premises Address: 0 Sharpsburg Pike, Hagerstown, MD 21740
 - b. Tax Account: 10-002842
 - c. Tax Map/Parcel: 0057/0152
 - d. Mailing Address: 10228 Governor Lane Blvd., Suite 3002, Williamsport, MD 21795
2. Bowman 2000, LLC
 - a. Premises Address: 0 Sharpsburg Pike
 - b. Tax Account: 10-0012627
 - c. Tax Map/Parcel: 0057/0149
 - d. Mailing Address: 10228 Governor Lane Blvd., Suite 3002, Williamsport, MD 21795
3. Sharpsburg Pike Holding, LLC (Applicant)
 - a. Premises Address: 10319 Sharpsburg Pike
 - b. Tax Account: 10-020174
 - c. Tax Map/Parcel: 0057/0160
 - d. Mailing Address: 1741 Dual Highway, Suite B, Hagerstown, MD 21740
4. Troy L. Cunningham
 - a. Premises Address: 10409 Sharpsburg Pike
 - b. Tax Account: 10-019311
 - c. Tax Map/Parcel: 0057/0133
 - d. Mailing Address: 17317 Branden Terrace, Hagerstown, MD 21740
5. Sharpsburg Pike Real Estate, LLC
 - a. Premises Address: 10405 Sharpsburg Pike
 - b. Tax Account: 10-020638
 - c. Tax Map/Parcel: 0057/0132
 - d. Mailing Address: 117 W. Patrick Street, Suite 200, Frederick, MD 21701
6. Sharpsburg Pike Real Estate, LLC
 - a. Premises Address: 10401 Sharpsburg Pike
 - b. Tax Account: 10-019591
 - c. Tax Map/Parcel: 0057/0131
 - d. Mailing Address: 117 W. Patrick Street, Suite 200, Frederick, MD 21701
7. Sharpsburg Pike Real Estate, LLC
 - a. Premises Address: 10326 Sharpsburg Pike
 - b. Tax Account: 10-004829
 - c. Tax Map/Parcel: 0057/0271
 - d. Mailing Address: 117 W. Patrick Street, Suite 200, Frederick, MD 21701
8. Sharpsburg Pike Real Estate, LLC
 - a. Premises Address: 10322 Sharpsburg Pike
 - b. Tax Account: 10-015685
 - c. Tax Map/Parcel: 0057/0043
 - d. Mailing Address: 117 W. Patrick Street, Suite 200, Frederick, MD 21701

9. Sharpsburg Pike Real Estate, LLC
 - a. Premises Address: 10320 Sharpsburg Pike
 - b. Tax Account: 10-017726
 - c. Tax Map/Parcel: 0057/0117
 - d. Mailing Address: 117 W. Patrick Street, Suite 200, Frederick, MD 21701
10. Walmart Real Estate Business Trust
 - a. Premises Address: 10420 Walmart Drive
 - b. Tax Account: 10-065523
 - c. Tax Map/Parcel: 0057/0638
 - d. Mailing Address: Attn: Property Tax Dept. PO Box 8050, Bentonville, AR 72712
11. Washco Arnett Farm, LLC
 - a. Premises Address: 10306 Sharpsburg Pike
 - b. Tax Account: 10-010969
 - c. Tax Map/Parcel: 0057/0118
 - d. Mailing Address: 1741 Dual Highway, Suite B, Hagerstown, MD 21740
12. General Teamsters & Allied Workers Local Union No 992
 - a. Premises Address: 10312 Remington Drive
 - b. Tax Account: 10-040248
 - c. Tax Map/Parcel: 0057/0578
 - d. Mailing Address: 10312 Remington Drive, Hagerstown, MD 21740
13. Cross Creek Builders, LLC
 - a. Premises Address: 10303 Remington Drive, Hagerstown, MD 21740
 - b. Tax Account: 10-065727
 - c. Tax Map/Parcel: 0057/0639
 - d. Mailing Address: c/o Hilton C. Smith, Jr., 10306 Remington Drive, Hagerstown, MD 21740
14. Cross Creek Homeowners Association, Inc.
 - a. Premises Address: 0 Bear Creek Drive
 - b. Tax Account: 10-037964
 - c. Tax Map/Parcel: 0057/0577
 - d. Mailing Address: c/o Hilton C. Smith, Jr., 10306 Remington Drive, Hagerstown, MD 21740
15. Interstate 70 Partners, LLC
 - a. Premises Address: 0 Poffenberger Road
 - b. Tax Account: 10-033349
 - c. Tax Map/Parcel: 0057/0161
 - d. Mailing Address: 10306 Remington Drive, Hagerstown, MD 21740

Web AppBuilder for ArcGIS



THE LAW OFFICE OF
ZACHARY J. KIEFFER, LLC

April 29, 2021

Re: Justification Statement: 10319 Sharpsburg Pike, Hagerstown, MD 21740 (the "Property"); Appeal for Map Amendment

REQUEST

Appeal is made by Sharpsburg Pike Holding, LLC (the "**Applicant**") for a Map Amendment to the current Washington County Zoning Map, amending that certain portion of the Property with the MXC District Overlay, containing +/- 9.92 acres and more particularly identified as "**Lot 7**" on the Rezoning Concept Plan for The Shops at Sharpsburg Pike prepared by Frederick Seibert & Associates, Inc., and attached hereto and incorporated herein as "**Exhibit A**".

BACKGROUND

The Property is located at 10319 Sharpsburg Pike. The Property's zoning designation is HI (Highway Interchange). The Applicant is the Owner of the Property by virtue of a Deed from Mansoor Emral Shaoool and Janet Emral Shaoool dated December 13, 2012 and recorded among the Land Records of Washington County at Liber 4436, folio 0127 as well as a Deed from Hoffman Family Homestead, LLC, dated October 5, 2017 and recorded among the Land Records of Washington County, Maryland at Liber 5607, folio 90.

Exhibit A contemplates the subdivision of the Property to create, among other lots, Lot 7. Lot 7, with the MXC District Overlay (the "**MXC**"), will contain a mix of residential and commercial uses, as permitted by Article 16 of the Washington County Zoning Ordinance (the "**Ordinance**").

As shown on Exhibit A, the Applicant intends to construct two (2) buildings of Multi-Family Apartments. The first building ("**Building 1**") contemplates 50 units, along with +/-1,500 sf of retail space and +/- 4,500 sf designated for a restaurant. The second building ("**Building 2**") shows 55 multi-family apartment units. Also included will be six (6) townhouses (the "**Townhouses**").

General Requirements.

19405 Emerald Square, Suite 2100 Office 202, Hagerstown, MD 21742

Office: 240-513-4332

Email: zach@zkiefferlaw.com

www.zkiefferlaw.com

Section 16.4 of the Zoning Ordinance sets forth the general requirements of the MXC District:

- (a) Ownership: This application is for the placement of the MXC over a portion of one (1) lot of record owned by the Applicant. The Applicant has duly signed this application as the owner of the parcel.
- (b) Location: The Property is located within Growth Area for the City of Hagerstown. The Zoning Ordinance permits the location of the MXC District in the Highway Interchange (HI) District. The Property is zoned HI and located adjacent to Sharpsburg Pike/MD Route 65 ("**Sharpsburg Pike**"). The Townhouses, Building 1 and Building 2 will use Colonel Henry K. Douglas Drive as the means for access, ingress and egress to the signalized intersection with Sharpsburg Pike. Moreover, the Applicant has completed or contemplates the construction of the following road improvements in connection to the development of the Property:
 - i. Road widening and re-striping on Sharpsburg Pike for the addition of a two-way left turn lane on Sharpsburg Pike at the Rench Road intersection;
 - ii. Mitigation or improvements per State Highway Administration guidelines on Sharpsburg Pike;
 - iii. Fifty-foot ROW dedication from centerline of Sharpsburg Pike.
- (c) Utilities: The Property is served by public water and sewer facilities which will be connected to serve Building 1, Building 2 and the Townhouses.
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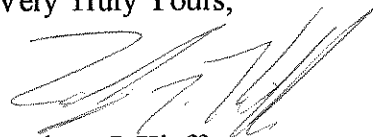
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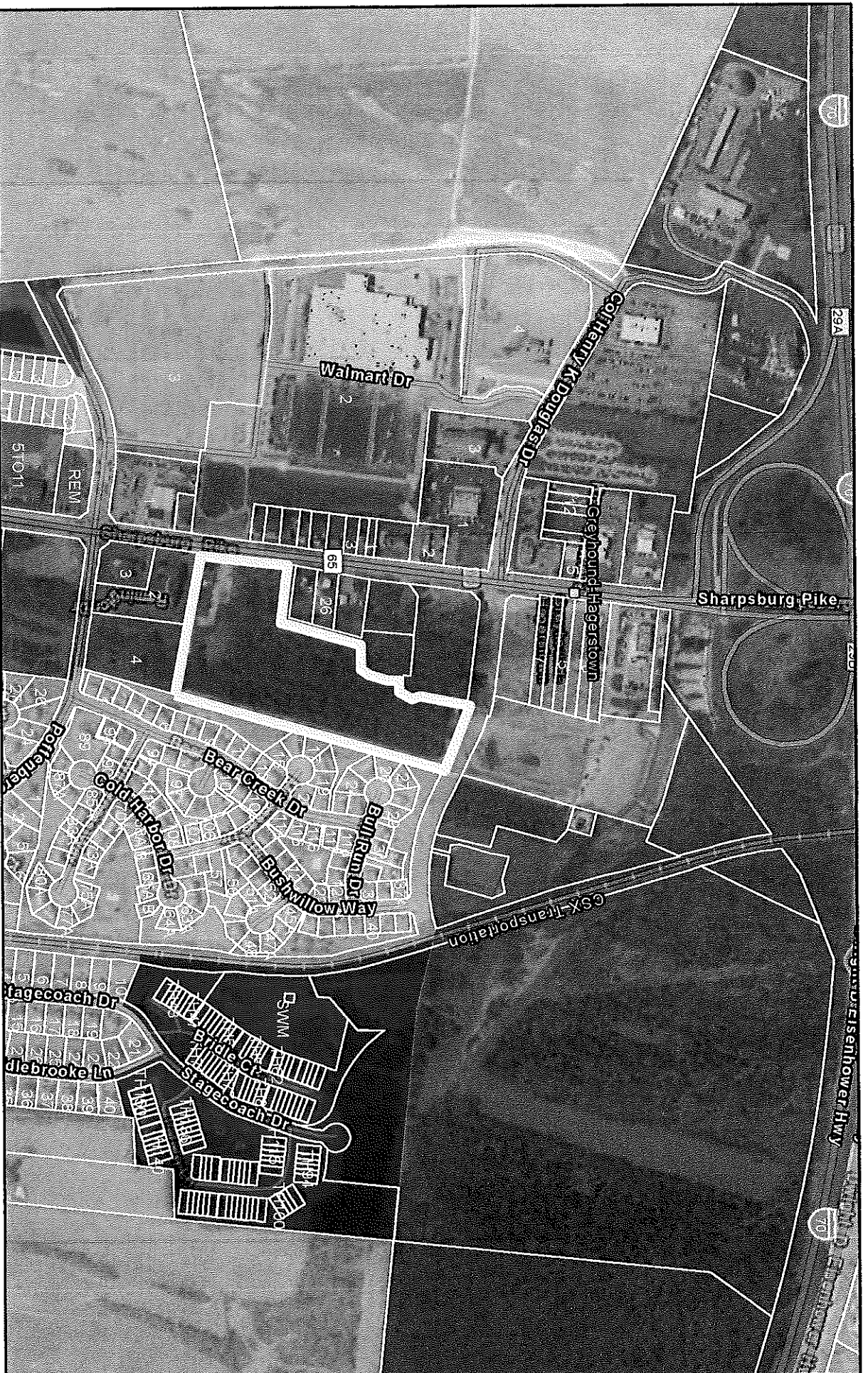
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Very Truly Yours,

A handwritten signature in black ink, appearing to read 'Zachary J. Kieffer', written over a horizontal line.

Zachary J. Kieffer
Attorney at Law

Shops at Sharpsburg Pike Zoning Concept



3/9/2021, 9:00:37 AM

World Transportation

Parcels

MD_SixInchImagery Zoning

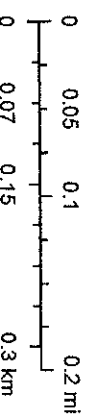
Highway Interchange

Residential Urban

Industrial, Restricted

Residential Multi-Family

1:9,028



Esri Community Maps Contributors, City of Hagerstown, WashCo MD, West

Web AppBuilder for ArcGIS

USDA FSA, Maxar | MD MAP, DoIT | Hagerstown MD | MD MAP, USDA | Esri, HERE, IBC | Esri Community Maps Contributors, City of Hagerstown, WashCo MD, West Virginia GIS, BuildingFootprintsUSA, Esri, HERE, Garmin, SafeGraph, INCREMENT P, METI/



THE LAW OFFICE OF
ZACHARY J. KIEFFER, LLC

April 29, 2021

Re: Justification Statement: 10319 Sharpsburg Pike, Hagerstown, MD 21740 (the "Property"); Appeal for Map Amendment

REQUEST

Appeal is made by Sharpsburg Pike Holding, LLC (the "**Applicant**") for a Map Amendment to the current Washington County Zoning Map, amending that certain portion of the Property with the MXC District Overlay, containing +/- 9.92 acres and more particularly identified as "**Lot 7**" on the Rezoning Concept Plan for The Shops at Sharpsburg Pike prepared by Frederick Seibert & Associates, Inc., and attached hereto and incorporated herein as "**Exhibit A**".

BACKGROUND

The Property is located at 10319 Sharpsburg Pike. The Property's zoning designation is HI (Highway Interchange). The Applicant is the Owner of the Property by virtue of a Deed from Mansoor Emral Shaoool and Janet Emral Shaoool dated December 13, 2012 and recorded among the Land Records of Washington County at Liber 4436, folio 0127 as well as a Deed from Hoffman Family Homestead, LLC, dated October 5, 2017 and recorded among the Land Records of Washington County, Maryland at Liber 5607, folio 90.

Exhibit A contemplates the subdivision of the Property to create, among other lots, Lot 7. Lot 7, with the MXC District Overlay (the "**MXC**"), will contain a mix of residential and commercial uses, as permitted by Article 16 of the Washington County Zoning Ordinance (the "**Ordinance**").

As shown on Exhibit A, the Applicant intends to construct two (2) buildings of Multi-Family Apartments. The first building ("**Building 1**") contemplates 50 units, along with +/-1,500 sf of retail space and +/- 4,500 sf designated for a restaurant. The second building ("**Building 2**") shows 55 multi-family apartment units. Also included will be six (6) townhouses (the "**Townhouses**").

General Requirements.

19405 Emerald Square, Suite 2100 Office 202, Hagerstown, MD 21742

Office: 240-513-4332

Email: zach@zkiefferlaw.com

www.zkiefferlaw.com

Section 16.4 of the Zoning Ordinance sets forth the general requirements of the MXC District:

- (a) Ownership: This application is for the placement of the MXC over a portion of one (1) lot of record owned by the Applicant. The Applicant has duly signed this application as the owner of the parcel.
- (b) Location: The Property is located within Growth Area for the City of Hagerstown. The Zoning Ordinance permits the location of the MXC District in the Highway Interchange (HI) District. The Property is zoned HI and located adjacent to Sharpsburg Pike/MD Route 65 ("**Sharpsburg Pike**"). The Townhouses, Building 1 and Building 2 will use Colonel Henry K. Douglas Drive as the means for access, ingress and egress to the signalized intersection with Sharpsburg Pike. Moreover, the Applicant has completed or contemplates the construction of the following road improvements in connection to the development of the Property:
 - i. Road widening and re-striping on Sharpsburg Pike for the addition of a two-way left turn lane on Sharpsburg Pike at the Rench Road intersection;
 - ii. Mitigation or improvements per State Highway Administration guidelines on Sharpsburg Pike;
 - iii. Fifty-foot ROW dedication from centerline of Sharpsburg Pike.
- (c) Utilities: The Property is served by public water and sewer facilities which will be connected to serve Building 1, Building 2 and the Townhouses.
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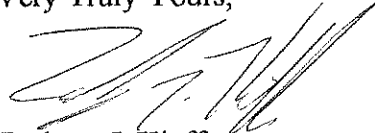
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Very Truly Yours,

A handwritten signature in black ink, appearing to read 'Zachary J. Kieffer', with a stylized flourish extending from the end.

Zachary J. Kieffer
Attorney at Law

ZONING DATA

EXISTING ZONING DISTRICT HI - HIGHWAY INTERCHANGE DISTRICT
PROPOSED ZONING DISTRICT MXC - MIXED USE COMMERCIAL DISTRICT
EXISTING USE VACANT LAND
PROPOSED USE COMMERCIAL, RETAIL

MAXIMUM BUILDING HEIGHT:
HI 75 FT.

MINIMUM YARD SETBACK (MXC):
FRONT 25 FT.
SIDE 10 FT.
REAR 20 FT.
BUFFER YARDS ANY MULTI-FAMILY RESIDENTIAL SHALL PROVIDE A 50' BUFFER ALONG ITS COMMON BOUNDARY WITH ANY LOT ZONED FOR OR OCCUPIED BY A SINGLE FAMILY DWELLING.

MXC DESIGN CRITERIA
RESIDENTIAL USES A MINIMUM OF 2 TYPES OF RESIDENTIAL USES MINIMUM 15% OF D/U MUST BE MULTI-FAMILY OR 25 UNITS (WHICHEVER IS LESS)
COMMERCIAL USES MAXIMUM 10% OR 70% WHEN APPLIED TO HI DISTRICT
EMPLOYMENT USES NOT PERMITTED
OPEN SPACE MINIMUM 5% NOT INCLUDING FOREST CONSERVATION AREA
DENSITY 12 DWELLING UNITS PER ACRE
24 DWELLING UNITS PER ACRE PERMITTED IN HIGH RISE BUILDINGS- MORE THAN 3 FLOORS AND NO MORE THAN 6 FLOORS

SITE DATA

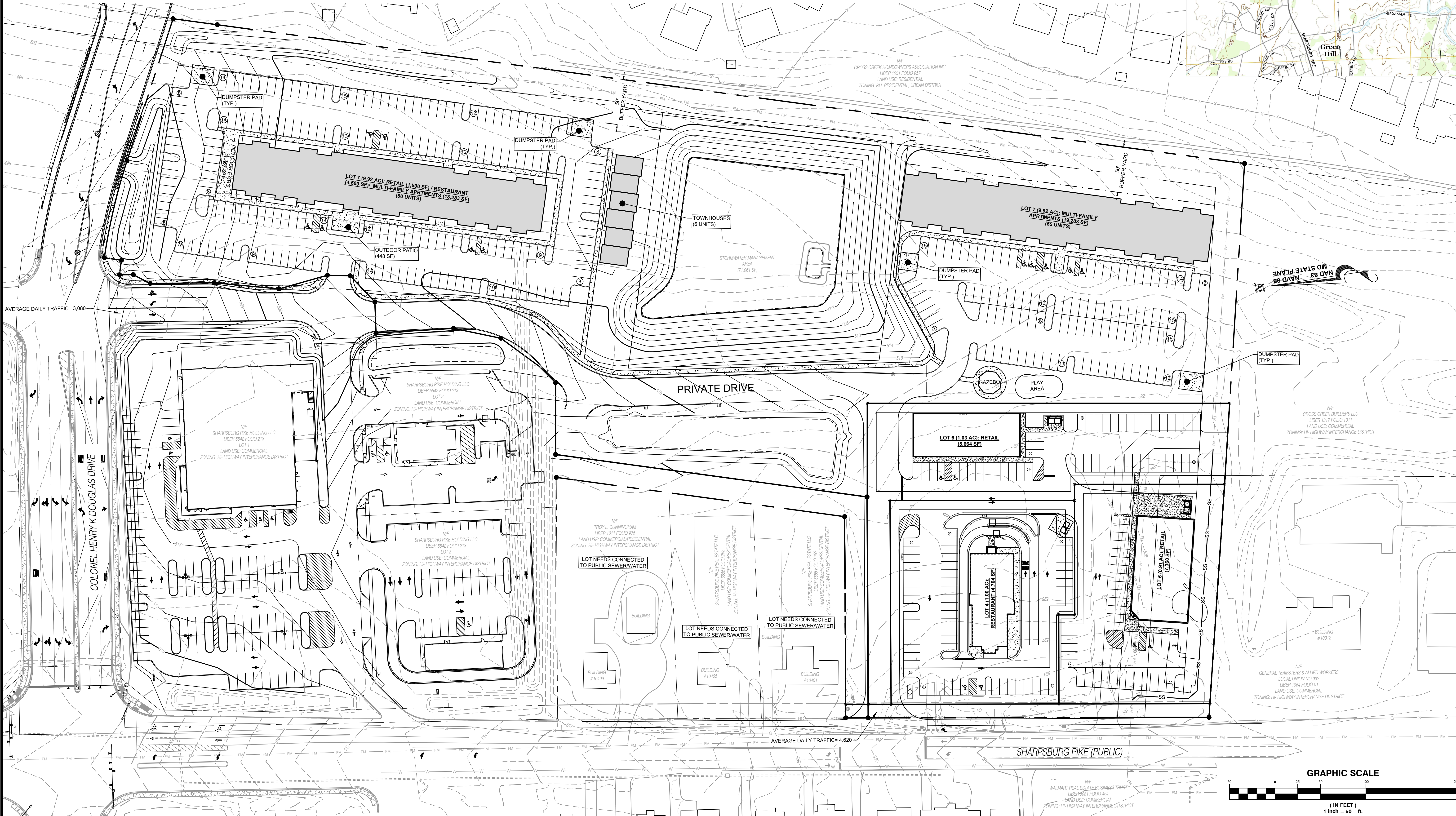
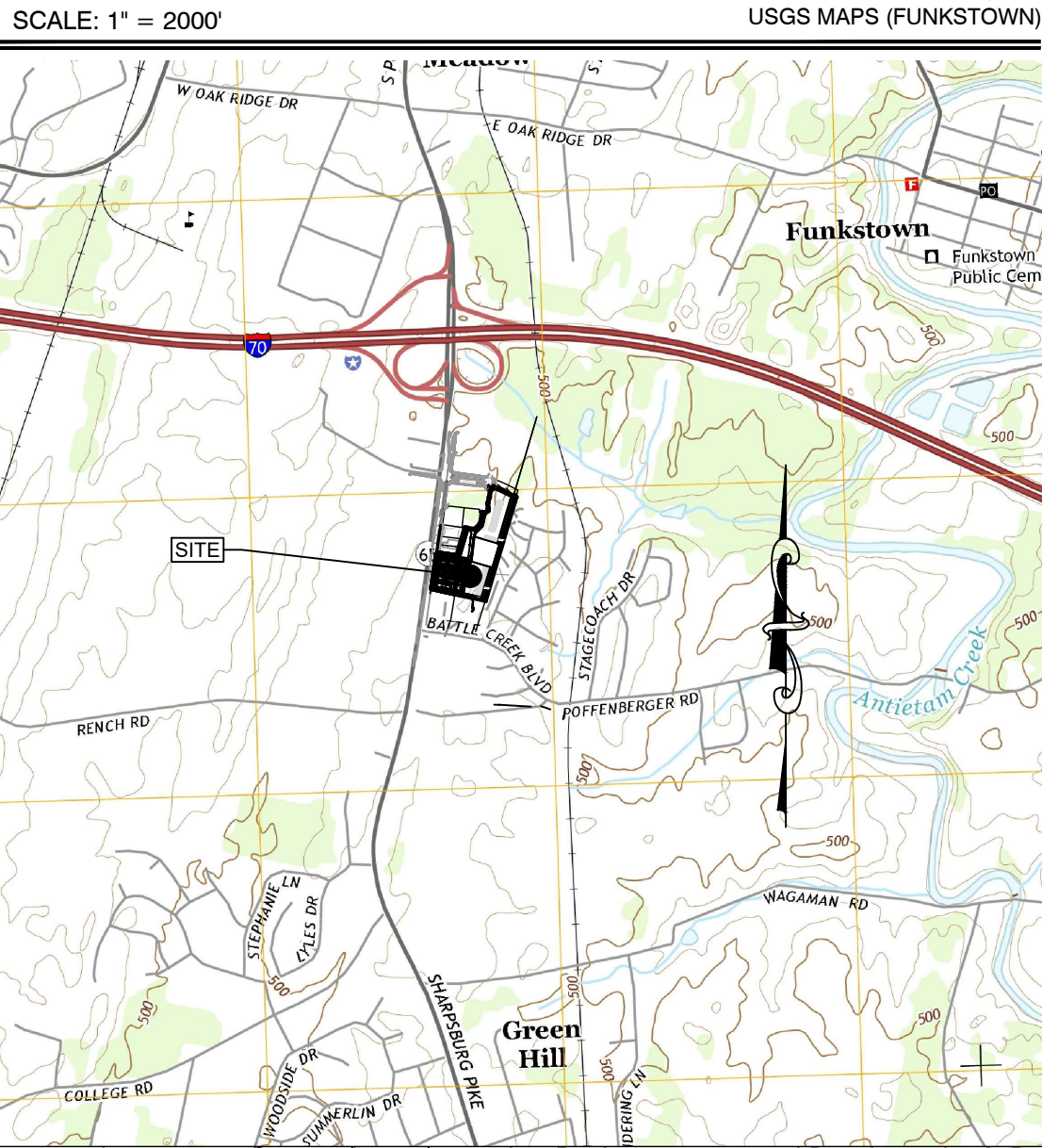
TAX MAP - GRID - PARCEL 0057-0010-0160
ELECTION DISTRICT 10
ACCOUNT NUMBER 020174
LIBER / FOLIO 05542 / 00213
PLAT NUMBER 10893
AREA SUMMARY:
PARCEL 9.92 AC. +/-
WATER & SEWER USAGE:
WATER PROVIDED CITY OF HAGERSTOWN WATER DIVISION
SEWER PROVIDED WASHINGTON COUNTY DEPT. OF WATER QUALITY
EXISTING ALLOCATION 0 GPD
PROPOSED ALLOCATION 24,000 GPD
FOREST CONSERVATION ADDRESSED PER FINAL PLAT #10768
WATERSHED:
NAME ANTEITAM CREEK
NUMBER 02-14-05-02
FEMA PANEL # 24043C0305D EFFECTIVE 08/15/2017
DWELLING UNITS 111 (105 MULTI-FAMILY, 6 TOWNHOUSE)
DENSITY 11.2 DWELLING UNITS/AC.
AVERAGE DAILY TRAFFIC 7700
LOT 4 6725
LOT 5 404
LOT 6 571

PARKING SUMMARY

REQUIRED PARKING:
MULTIFAMILY & TOWNHOUSE
2 SPACES PER DWELLING UNIT PLUS OVERFLOW PARKING
DWELLING UNIT OVERFLOW: 0.3 SPACES PER DWELLING UNIT
2'x11' x 0.3'x11' = 256 SPACES REQUIRED
RETAIL (1500 SF)
5 SPACES PER 1000 SQ. FT. OF GLA
1500'x5 = 8 PARKING SPACES
RESTAURANT (4500 SF)
1 SPACES PER 75 SQ. FT. OF GFA
4500/75 = 60 PARKING SPACES
TOTAL SPACES REQUIRED
324 TOTAL PARKING SPACES REQUIRED
TOTAL SPACES PROPOSED:
306 TOTAL (295 REGULAR, 11 ADA)
***VARIANCE REQUIRED TO REDUCE PARKING FROM 324 TO 306

OWNER:
SHARPSBURG PIKE HOLDINGS LLC
LIBER 5542 FOLIO 213
12.7 +/- AC.
LAND USE: COMMERCIAL
ZONING: HI- HIGHWAY INTERCHANGE DISTRICT

VICINITY MAP



THE SHOPS AT SHARPSBURG PIKE

SITUATE ON THE WEST SIDE OF COLONEL HENRY K DOUGLAS DRIVE AND EAST OF SHARPSBURG PIKE
HAGERSTOWN
WASHINGTON COUNTY, MARYLAND
SHARPSBURG PIKE HOLDINGS LLC
1741 DUAL HIGHWAY SUITE B HAGERSTOWN, MARYLAND 21740
(301) 573-5375

PROJECT NO. 5563 APT
DWN BY: Abram Myers DATE 09-08-2020
PROJECT MANAGER: Trevor Frederick EMAIL trevor@fsa-inc.com
TAX MAP: 0057-0010-0829
SCALE: 1" = 50'
SHEET TITLE: CONCEPT PLAN

C-101
SHEET 01 OF 01

Professional Certification
I hereby certify that these documents were prepared or approved by me, and that I am a duly licensed professional under the laws of the State of Maryland.
Expiration Date: 08/30/2025

FSA
FREDERICK SEIBERT & ASSOCIATES, INC.
CIVIL ENGINEERS • SURVEYORS • LANDSCAPE ARCHITECTS • LAND PLANNERS
108 SOUTH POTOMAC STREET
HAGERSTOWN, MARYLAND 21740
301.791.3830
717.751.6111
717.567.2585