

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

BOARD OF COUNTY COMMISSIONERS

November 2, 2021

OPEN SESSION AGENDA

- 2:30 PM MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE
CALL TO ORDER, *President Jeffrey A. Cline*
APPROVAL OF MINUTES: October 19, 2021, and October 26, 2021
- 2:35 PM COMMISSIONERS' REPORTS AND COMMENTS
- 2:40 PM STAFF COMMENTS
- 2:45 PM CITIZEN PARTICIPATION
- 2:50 PM AGRICULTURE - FACES OF FARMING PRESENTATION
Leslie Hart, Agricultural Business Development Specialist; Susan Grimes, Director, Department of Business Development
- 2:55 PM PROPOSED PILOT AGREEMENT FOR SGC POWER, LLC
Zachary J. Kieffer, Esq.
- 3:05 PM UPDATE ON PREMIUM PAY
Sara Greaves, Chief Financial Officer; R. David Hays, Director of Emergency Services; John Martirano, County Administrator
- 3:10 PM PROPOSED SALARY SCALES FOR THE SHERIFF'S OFFICE
Sheriff Doug Mullendore
- 3:25 PM QUIRAUK RADIO TOWER SHELTER - APPROVAL OF TRANSFER OF INSURANCE REIMBURSEMENT FUNDS TO THE ORIGINAL WIRELESS COMMUNICATIONS ACCOUNT
Thomas Weber, Deputy Director, Wireless Communications
- 3:30 PM OFFER OF DONATION
Todd Moser, Real Property Administrator, Division of Engineering; Andrew Eshleman, Director, Division of Public Works
- 3:35 PM CONTRACT FOR BIKES FOR THE WORLD
David Mason, Deputy Director, Department of Solid Waste

- 3:40 PM BID REJECTION (PUR-1485) - OAKRIDGE PUMP STATION UPGRADE
Brandi Naugle, Buyer, Purchasing Department; Mark Bradshaw, Division Director, Environmental Management
- 3:45 PM BID AWARD (PUR-1485) - OAKRIDGE PUMP STATION UPGRADE
Brandi Naugle, Buyer, Purchasing Department; Mark Bradshaw, Division Director, Environmental Management
- 3:50 PM POTENTIAL LEGISLATIVE ITEMS
Kirk C. Downey, County Attorney
- 3:55 PM CLOSED SESSION (To discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom this public body has jurisdiction; or any other personnel matter that affects one or more specific individuals.)
- 4:25 PM RECONVENE IN OPEN SESSION
- 4:30 PM RECESS
- 6:00 PM PUBLIC HEARING: APPLICATION FOR ZONING MAP AMENDMENT RZ-21-003
BLACK ROCK PUD - MAJOR REVISION TO APPROVED DEVELOPMENT PLAN
Jill Baker, Director, Department of Planning and Zoning
Location: Kepler Theatre, 11400 Robinwood Drive, Hagerstown
- 7:30 PM ADJOURNMENT



Agenda Report Form

Open Session Item

SUBJECT: Agriculture – Faces of Farming Presentation

PRESENTATION DATE: Tuesday, November 2, 2021

PRESENTATION BY: Leslie Hart, Agricultural Business Development Specialist and Susan Grimes, Director, Department of Business Development

RECOMMENDED MOTION: N/A

REPORT-IN-BRIEF: “Faces of Farming” is an agricultural-focused video marketing campaign that will showcase two local Washington County farms every month, for one year. The “Faces of Farming” marketing videos will be showcased on the County’s website, as well as Facebook and other social media platforms, and will target a new industry and highlight a local farmer from that specific agricultural industry.

DISCUSSION: Washington County’s agricultural business represents the backbone of the County’s landscape. With over 900 operating family farms and \$153,725,000 in market value of products sold, agriculture is the largest economic driver in Washington County. The “Faces of Farming” marketing campaign will aim to educate residents in Washington County, along with the surrounding States and Counties, about the economic impact of the Ag industry. Additionally, these videos will be used for agricultural education to numerous streams around Washington County, such as, 4-H and FFA (Future Farmers of America) meetings, Ag Expo and Fair, and they will be available on the Washington County Ag App and website. Light refreshments have been provided to the County Commissioners during the presentation showcasing apples grown in Washington County, Maryland.

FISCAL IMPACT: N/A

CONCURRENCES: N/A

ALTERNATIVES: N/A

ATTACHMENTS: N/A

AUDIO/VISUAL NEEDS: Yes - Faces of Farming Videos: Lewis Orchards and Farm Market and Litton’s Produce and Berries.



Agenda Report Form

Open Session Item

SUBJECT: Proposed PILOT Agreement for SGC Power, LLC

PRESENTATION DATE: November 2, 2021

PRESENTATION BY: Zachary J. Kieffer, Esq.

RECOMMENDED MOTION: Move to accept the proposal for PILOT Agreement with SGC Power, LLC

REPORT-IN-BRIEF: On December 2, 2020, the Board of Zoning Appeals approved a two (2) megawatt SEGS on +/- 10 acres of land located at 14455 Weller Road, Hancock (the "Property"). Due to the intensity of the start-up capital costs of a Solar Energy Generating System ("SEGS" or "Facility"), the Legislature enacted Md. Code, Tax-Property § 7-514(a)(1-2) which allows the County to "enter into an agreement with the owner of a facility for the generation of electricity that is located or locates in the county for a negotiated payment by the owner in lieu of taxes on the facility." SGC Power, LLC (the "Company") requests a payment in lieu of taxes as permitted by the Maryland Code.

DISCUSSION: The Maryland Renewable Portfolio Standard Law ("RPS Law") mandates that Fifty Percent (50%) of Maryland's electricity is to be generated from renewable sources by 2030 (up from 25%), with at least Fourteen and One-Half Percent (14.5%) of the electricity coming from solar power (up from 2.5%). The mandated proportions are increases from the previous iteration of the RPS Law.

The Property is a 202-acre farm owned by Austin McKee and located at. The Facility will be centrally located on the Property with ample forest and tree lines providing a natural buffer. Nearest residential dwellings are over 1000 feet away. The Property is currently zoned Environmental Conservation EC. A layout of the proposed Facility, is attached hereto and incorporated herein.

The initial capital investment for the SEGS is considerable. The Company expects an initial outlay of \$2,305,800.00 for the equipment and solar modules. As a result of the start-up costs, the business personal property taxes are comparatively more significant for a SEGS project than other businesses for which only a portion of the start-up costs are taxable as business personal property. In order to soften the immediate financial impact to the Company and to meet the RPS Law requirements, the County may and the Company respectfully requests approval to enter into an agreement for a negotiated payment by the Company in lieu of taxes on the Facility.

The County has previously entered into the following PILOT agreements:

Pinesburg Solar: \$6,000.00/MW for 40 years
Rockdale Solar: \$6,500.00/MW for 25 years
Hostetter Solar: \$6,500.00/MW for 30 years
Pittman Solar One: \$6,500.00/MW for 30 years

FISCAL IMPACT: Real Property taxes on the Property amount to \$1,888.50 per year according to County Records, setting the tax rate at approximately \$9.34/acre. Under the contemplated PILOT agreement, The Company would pay \$13,000.00 per year, totaling \$260,000.00 over the 20-year term of the lease for the real property between SGC Power, LLC and the landowner. In the event the lease were to be renewed, the Company's payments to the County would equal \$390,000.00 over 30 years and \$520,000.00 the full 40-year term of the lease.

ATTACHMENTS: PILOT request letter, Excel Spreadsheet, Draft site plan



THE LAW OFFICE OF
ZACHARY J. KIEFFER, LLC

July 2, 2021

Sara L. Greaves
Chief Financial Officer
100 W. Washington Street, Suite 3100
Hagerstown, Maryland 21740

Re: Request for Payment in Lieu of Taxes (PILOT) for Solar Energy Generating System facility ("SEGS" or the "Facility") to be situated on +/- 10 acres at 14455 Weller Road, Hancock (the "Property")

Dear Sara,

On behalf of my client, SGC Power, LLC (the "Company"), I respectfully submit this request for a negotiated payment by the Company in lieu of taxes on the Facility (the "PILOT Agreement") between the Company and the Board of County Commissioners.

The Maryland Renewable Portfolio Standard Law ("RPS Law") mandates that Fifty Percent (50%) of Maryland's electricity is to be generated from renewable sources by 2030 (up from 25%), with at least Fourteen and One-Half Percent (14.5%) of the electricity coming from solar power (up from 2.5%). The mandated proportions are increases from the previous iteration of the RPS Law.

In light of the changes to the RPS Law and generally, the high initial capital costs involved in the construction of a solar farm, the Legislature enacted Md. Code, Tax-Property § 7-514(a)(1-2) which allows the County to "enter into an agreement with the owner of a facility for the generation of electricity that is located or locates in the county for a negotiated payment by the owner in lieu of taxes on the facility."

On December 2, 2020, the Board of Zoning Appeals approved a two (2) megawatt SEGS on +/- 10 acres of land located on the Property. The Property is a 202-acre farm owned by Austin McKee and located at 14455 Weller Road, Hancock. The Facility will be centrally located on the Property with ample forest and tree lines providing a natural buffer. Nearest residential dwellings are over 1000 feet away. The Property is currently zoned Environmental Conservation EC. A layout of the proposed Facility, as presented to the Washington County Board of Zoning Appeals is attached hereto and incorporated herein.

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

Office: 240-513-4332

Email: zach@zkiefferlaw.com

www.zkiefferlaw.com

The Facility will consist of 6,240 440-watt solar modules, ground mounted and not to exceed a height of 9 feet. Sixteen 125-kilowatt inverters will convert the panels' direct current power to alternating current. The SEGS will be enclosed with a 9-foot agricultural fence with access via a 16-foot wide gate with emergency/utility access. The Company leased the portion of the Property for the Facility from Mr. McKee for a twenty-year term with two ten-year renewal options. The Property (Tax ID: 15-003871; Tax Map: 0005, Parcel 0014) has a total assessed value of \$172,500.00 (\$98,900.00 attributed to the land with improvements valued at \$73,600.00).

The initial capital investment for the SEGS is considerable. The Company expects an initial outlay of \$2,305,800.00 for the equipment and solar modules. As a result of the start-up costs, the business personal property taxes are comparatively more significant for a SEGS project than other businesses for which only a portion of the start-up costs are taxable as business personal property. In order to soften the immediate financial impact to the Company and to meet the RPS Law requirements, the County may and the Company respectfully requests approval to enter into an agreement for a negotiated payment by the Company in lieu of taxes on the Facility.

The Company requests the approval to enter a PILOT Agreement as permitted by the Maryland Code, setting up an annual payment of Six Thousand Five Hundred and 00/100 Dollars (\$6,500.00) per MW of installed capacity for 20 years.

Real Property taxes on the Property amount to \$1,888.50 per year according to County Records, setting the tax rate at approximately \$9.34/acre. Under the contemplated PILOT agreement, The Company would pay \$13,000.00 per year, totaling \$260,000.00 over the 20-year term of the lease. In the event the lease with Mr. McKee were to be renewed, the Company's payments to the County would equal \$390,000.00 over 30 years and \$520,000.00 the full 40-year term of the lease. A spreadsheet showing the Company's calculations of the payments and a comparison to the personal property tax rate for Washington County, is attached hereto and incorporated herein. It is important to note that it may appear that the County is giving up revenue, the actual cost benefit analysis should compare the net gain generated by the PILOT compared to Zero Dollars the County would receive from the Company if the Facility was not constructed at all. Thereafter the County would be left to collect only the Real Property Tax levied on the Property.

The Company believes the nature and details of the project address concerns with the loss of productive farmland in the County. The SEGS is not a fixture of the Property and is thus removeable and indeed shall be removed from the Property upon the termination of the lease agreement with Mr. McKee. A plan for the decommissioning of the SEGS is attached hereto and incorporated herein. The Company will also obtain a decommissioning bond to guarantee the proper removal of the Facility in the future. It is important to note, also that the Facility is contemplated to take up only +/- 10 acres of the Property, leaving approximately, 192 acres of wooded areas and fields still under cultivation. Moreover, the Company is paying Mr. McKee an annual rental for the use of his ground, allowing Mr. McKee to diversify his income streams and provide some insulation from the volatility and unpredictability of crop prices.

Construction of the Facility will also provide work and jobs for local firms. The

Company has a list of local companies that will be sent a request for quote. The Facility will need to contract for excavation, electrical system installation, fencing and landscaping, to name a few.

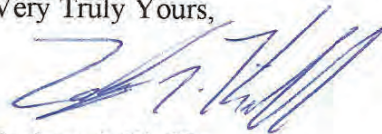
The Company is anticipating construction to commence on or about January 2022 with the anticipated commercial operation date set for mid-August 2022, providing work for local businesses in the near term as the County continues its post-Covid recovery and growth. The County has previously entered into the following PILOT agreements:

Pinesburg Solar: \$6,000.00/MW for 40 years
Rockdale Solar: \$6,500.00/MW for 25 years
Hostetter Solar: \$6,500.00/MW for 30 years
Pittman Solar One: \$6,500.00/MW for 30 years

The Company is confident that this requested PILOT will be a net benefit to the landowner, community members, Washington County and the State of Maryland.

Attachments are provided, I and the Company are available to address any questions or concerns from County staff.

Very Truly Yours,



Zachary J. Kieffer
Attorney at Law

FACILITY LAYOUT





<i>SOL TYPES ON SITE</i>	
<i>SIGNAL</i>	<i>DESCRIPTION</i>
<i>Red</i>	<i>HEAVY CHAMBER SELF LOAD A TO B PRESENT SIGNALS</i>
<i>Pink</i>	<i>HEAVY CHAMBER SELF LOAD B TO C PRESENT SIGNALS</i>
<i>Cyan</i>	<i>MILD CHAMBER SELF LOAD D TO E PRESENT SIGNALS</i>
<i>Green</i>	<i>CHAMBER SELF LOAD F TO G PRESENT SIGNALS</i>
<i>Blue</i>	<i>NO SIGNALS</i>

SHEET 1 OF 1


 PROJECT NO. 20-11658
 DRAWING NO. D-6674
 DATE: APRIL 2021
 DRAWN BY: NJB
 CHECKED BY: GSP

SHEET 3 OF 7

SCALE: 1" = 50'

OVERALL SITE PLAN

PROPOSED SOLAR FARM

McKEE PROPERTY

SITUATE ALONG THE NORTH SIDE OF HOLLOW ROAD
ELSTON DISTRICT 15

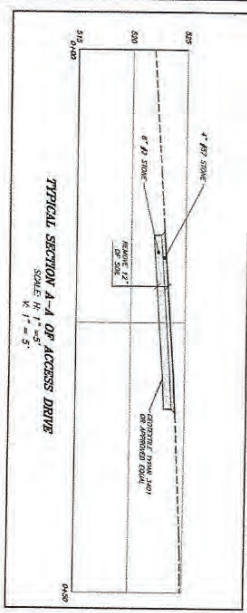
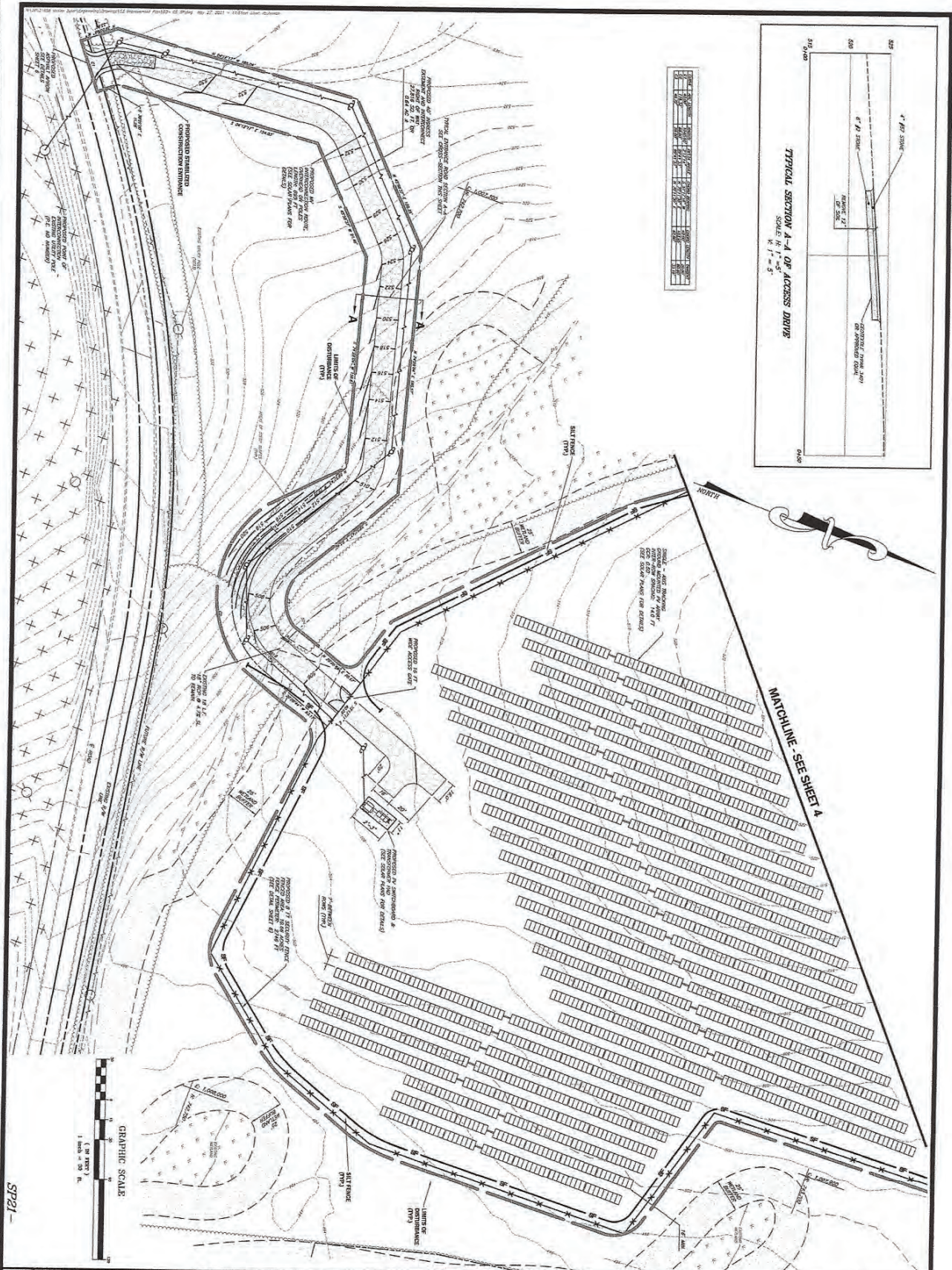
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FOX & ASSOCIATES, INC.
ENGINEERS • SURVEYORS • PLANNERS

581 MT. AETNA ROAD
HAGERSTOWN, MD. 21740
PHONE: (301)733-8503
or (301)416-7250
FAX: (301)733-1853

82 WORMANS MILL COURT
SUITE 'C'
FREDERICK, MD. 21701
PHONE: (301)595-0880
FAX: (301)283-8009

FOX
A ASSOCIATES INC.
EST. 1966
Copyright © 2001



1" = 50'	1" = 100'	1" = 200'	1" = 400'	1" = 800'	1" = 1600'
0	50	100	200	400	800



SP21-

SEAL

Professional Engineer
No. 12345
State of Maryland

PROJECT NO. 20-11000
DRAWING NO. D-6024
DATE: APRIL 2001
CHECKED BY: [Signature]

SHEET 4 OF 7

SITE PLAN & SEDIMENT CONTROL PLAN

PROPOSED SOLAR FARM

McKEE PROPERTY

SITUATE ALONG THE NORTH SIDE OF HOLLOW ROAD
ELECTION DISTRICT 15
WASHINGTON COUNTY, MARYLAND

SCALE: 1" = 50'

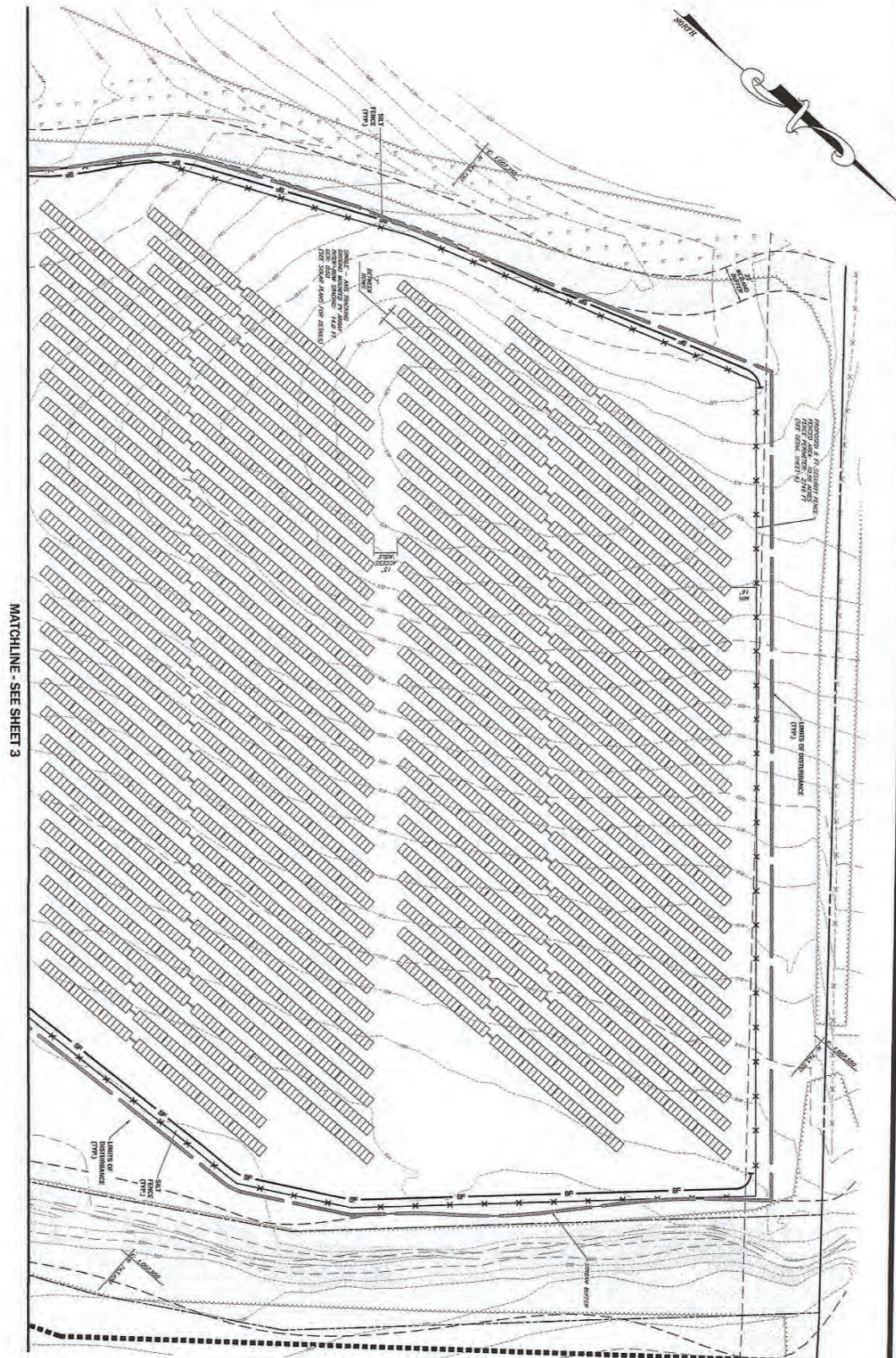
DATE	REVISION	DRAWN BY

FOX & ASSOCIATES, INC.

ENGINEERS • SURVEYORS • PLANNERS

881 MT. AETHA ROAD HAGERSTOWN, MD. 21740 PHONE: (301)733-6503 FAX: (301)733-1653	82 WORMANS MILL COURT SUITE 10 FREDERICK, MD. 21701 PHONE: (301)695-0800 FAX: (301)293-6008
---	---

www.foxandassociates.com Email: foxand@foxandassociates.com



I HEREBY CERTIFY THAT THE ABOVE DOCUMENTS
 HAVE BEEN EXAMINED AND FOUND TO BE TRUE AND
 CORRECT AND THAT I AM A duly LICENSED
 PROFESSIONAL ENGINEER IN THE STATE OF MARYLAND
 OF THE STATE OF MARYLAND.
 DATE: 5/10/12
 PROJECT NO. 20-11659
 DRAWING NO. D-6124
 DATE: APRIL 2021
 DRAWN BY: RAB
 CHECKED BY: GSP

STATE OF MARYLAND
 PROFESSIONAL ENGINEER
 JAMES W. STUBBS
 LICENSE NO. 10000

SHEET 5 OF 7

SITE PLAN & SEDIMENT CONTROL PLAN
PROPOSED SOLAR FARM
McKEE PROPERTY

SITUATE ALONG THE NORTH SIDE OF HOLLOW ROAD
ELECTION DISTRICT 15
WASHINGTON COUNTY, MARYLAND

SCALE: 1" = 30'

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ENGINEERS • SURVEYORS • PLANNERS

581 MT. AETNA ROAD
HAGERSTOWN, MD. 21740
PHONE: (301)733-8503
or (301)416-7250
FAX: (301)733-1853

82 WORMANS MILL COURT
SUITE "G"
FREDERICK, MD. 21701
PHONE: (301)695-0880
FAX: (301)283-6009

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& ASSOCIATES INC.
 Est. 1966
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1. ALL EROSION/SETBACK CONTROL MEASURES SHALL COMPLY WITH THE 2011 WISCONSIN STANDARDS FOR EROSION CONTROL.

11. AS REQUIRED BY SECTION 2. OF THE MORTGAGE STANDARDS AND SPECIFICATIONS FOR SFR, ENDOX AND SODIUM CHLORIDE ARE REQUIRED TO BE USED IN THE SIMULATING, IS EITHER AS 35 PERCENT GRAIN COARER, THE MORTGAGE COUNTY SFR COUNTY, OR AS A DIRECT ADJUSTER TO THE SFR, FOR SCHEDULING OF THE SFR, SFR CLOSURE NUMBER, AND/OR THE RELEASE OF THE SFR FOR SFR ENDOX AND SODIUM CHLORIDE.

5070 WILSON DRUMMOND 2006 2011

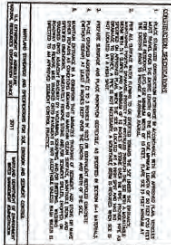
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1. CONTRACTOR TO ONLY OPEN 12' LENGTH OF TRENCH CAN BE CONSTRUCTED AND BACKFILLED

- ### SEQUENCE OF CONSTRUCTION

1. CONTACT WASHINGTON COUNTY DPW DIRECTOR

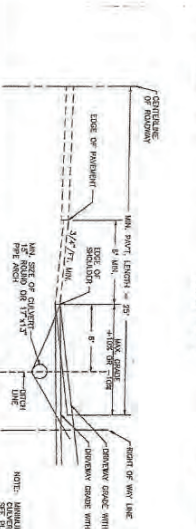
- PREVENT EROSION, CONTROL MEASURES AND STABILIZE AREAS DISTURBED BY THEIR REMOVAL.



AS REASONABLY PRACTICABLE BUT IN NO EVENT LATER THAN SIX (6) MONTHS FOLLOWING THE EXPANSION OR EARLIER TERMINATION OF THIS

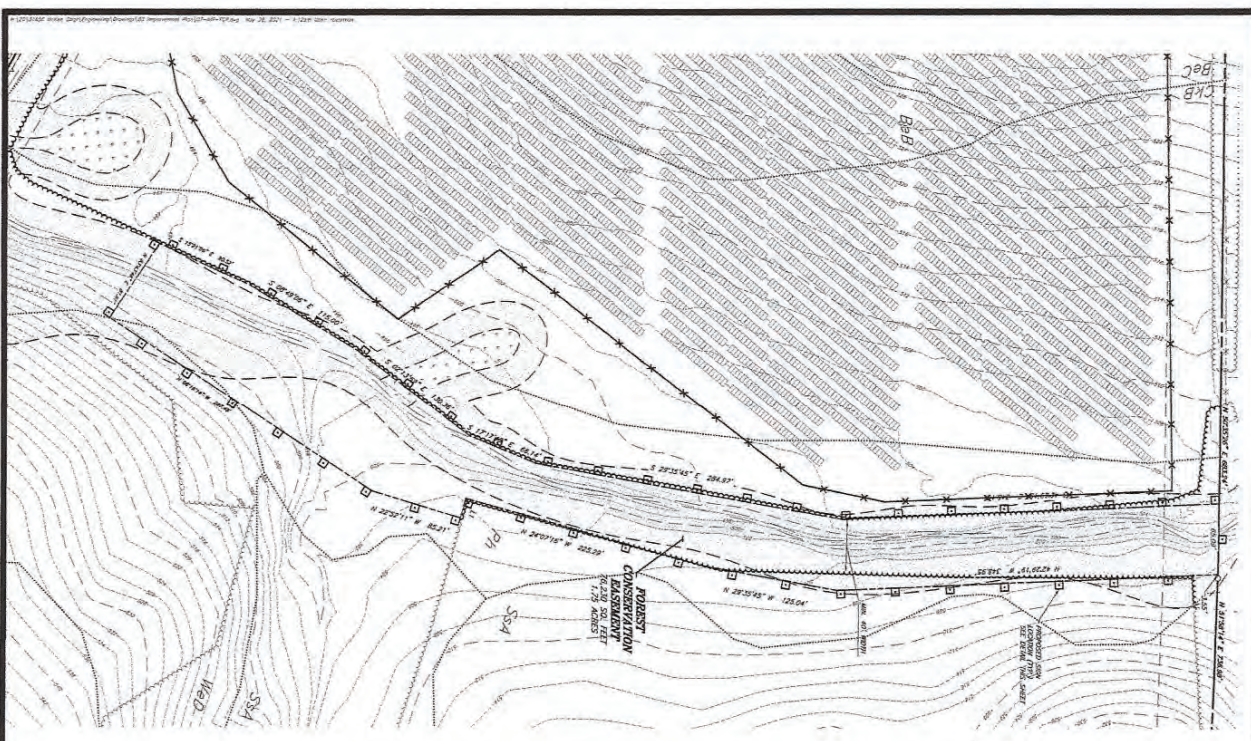
- B' SECURITY / DEER FENCE*

DUP RIBED KNOT FENCE ALSO KNOWN AS A :
IS THE STRONGEST FENCE AVAILABLE ON TOD

WEIGHT: 202 LBS
SERIAL: 114024

9

SP21-



LONG TERM FOREST MANAGEMENT PLAN

The purpose of this plan is to provide a framework for the long-term management of the forested land within the project area. This plan is intended to guide the development and implementation of a forest management plan that is consistent with the goals and objectives of the project.

FOREST CONSERVATION AREA

The forest conservation area is defined as the area within the project area that is designated for the long-term conservation of the forest. This area is to be managed in accordance with the principles of sustainable forest management.

SEQUENCE OF CONSTRUCTION

1. THE FOREST CONSERVATION AREA SHALL BE IDENTIFIED AND BOUNDARIES SHALL BE ESTABLISHED.
2. THE FOREST CONSERVATION AREA SHALL BE MANAGED IN ACCORDANCE WITH THE PRINCIPLES OF SUSTAINABLE FOREST MANAGEMENT.
3. THE FOREST CONSERVATION AREA SHALL BE MONITORED AND MAINTAINED IN ACCORDANCE WITH THE PRINCIPLES OF SUSTAINABLE FOREST MANAGEMENT.
4. THE FOREST CONSERVATION AREA SHALL BE RESTORED TO ITS ORIGINAL STATE IN ACCORDANCE WITH THE PRINCIPLES OF SUSTAINABLE FOREST MANAGEMENT.

LEGEND

- PROPERTY LINE
- MINIMUM BUILDING SETBACK LINE (MSBL)
- EXISTING 2X CONTOUR
- EXISTING FOX CONTOUR
- EXISTING FOREST
- EXISTING TREE COVER NOT MEETING THE DEFINITION OF FOREST OR OUTSIDE OUR DELINEATION AREA
- SOIL TYPE & BOUNDARY
- EXISTING FENCELINE
- ADJACENT TO STATE HIGHWAY
- ADJACENT TO STATE HIGHWAY
- ADJACENT TO STATE HIGHWAY

GRAPHIC SCALE

1 inch = 100 feet

NOTES

1. THE FOREST CONSERVATION AREA SHALL BE IDENTIFIED AND BOUNDARIES SHALL BE ESTABLISHED.
2. THE FOREST CONSERVATION AREA SHALL BE MANAGED IN ACCORDANCE WITH THE PRINCIPLES OF SUSTAINABLE FOREST MANAGEMENT.
3. THE FOREST CONSERVATION AREA SHALL BE MONITORED AND MAINTAINED IN ACCORDANCE WITH THE PRINCIPLES OF SUSTAINABLE FOREST MANAGEMENT.
4. THE FOREST CONSERVATION AREA SHALL BE RESTORED TO ITS ORIGINAL STATE IN ACCORDANCE WITH THE PRINCIPLES OF SUSTAINABLE FOREST MANAGEMENT.

SITE DATA

DATE: 10/1/2011
 PROJECT: PROPOSED SOLAR FARM
 CLIENT: MCKEE PROPERTY
 ADDRESS: 10000 MCKEE ROAD, WASHINGTON, MD 20781
 PHONE: (202) 733-8503
 FAX: (202) 733-8504
 EMAIL: info@foxandassociates.com

NO.	DESCRIPTION	QUANTITY	UNIT	PRICE	TOTAL
1	FOREST CONSERVATION AREA	1.00	ACRE	100.00	100.00
2	FOREST CONSERVATION AREA	1.00	ACRE	100.00	100.00
3	FOREST CONSERVATION AREA	1.00	ACRE	100.00	100.00
4	FOREST CONSERVATION AREA	1.00	ACRE	100.00	100.00
5	FOREST CONSERVATION AREA	1.00	ACRE	100.00	100.00
6	FOREST CONSERVATION AREA	1.00	ACRE	100.00	100.00
7	FOREST CONSERVATION AREA	1.00	ACRE	100.00	100.00
8	FOREST CONSERVATION AREA	1.00	ACRE	100.00	100.00
9	FOREST CONSERVATION AREA	1.00	ACRE	100.00	100.00
10	FOREST CONSERVATION AREA	1.00	ACRE	100.00	100.00

PRELIMINARY / FINAL FOREST CONSERVATION PLAN

PROPOSED SOLAR FARM

MCKEE PROPERTY

SITUATE ALONG THE NORTH SIDE OF HOLLOW ROAD
 ELECTION DISTRICT 15
 WASHINGTON COUNTY, MARYLAND

FOX & ASSOCIATES, INC.
 ENGINEERS • SURVEYORS • PLANNERS

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 EMAIL: info@foxandassociates.com

62 WORMANS MILL COURT
 FREDERICK, MD 21701
 PHONE: (301) 989-0885
 FAX: (301) 989-0886
 EMAIL: info@foxandassociates.com

OWNER
 MCKEE PROPERTY
 10000 MCKEE ROAD
 WASHINGTON, MD 20781
 PHONE: (202) 733-8503
 FAX: (202) 733-8504
 EMAIL: info@foxandassociates.com

DATE: 10/1/2011
SCALE: 1" = 50'

SHEET 12 OF 17

PROPERTY TAX RATE COMPARISON

Washington County, MD - Weller Road- Personal Property Tax Analysis - 2 MW

Year	0	1	2	3	4	5	6	7	8	9	10
Equipment Value - Depreciation Ratio	2,305,800	0.9667	0.9334	0.9001	0.8668	0.8335	0.8002	0.7669	0.7336	0.7003	0.6670
Depreciated Value		2,229,017	2,152,234	2,075,451	1,998,667	1,921,884	1,845,101	1,768,318	1,691,535	1,614,752	1,537,969
Taxable Value (MD 50% abatement)		1,114,508	1,076,117	1,037,725	999,334	960,942	922,551	884,159	845,767	807,376	768,984
Washington County Personal Property Tax	2.37%	26,414	25,504	24,594	23,684	22,774	21,864	20,955	20,045	19,135	18,225
Solar PILOT (2 MW @ \$6,500/MW)		13,000	13,000	13,000	13,000	13,000	13,000	13,000	13,000	13,000	13,000

Year	11	12	13	14	15	16	17	18	19	20
Equipment Value - Depreciation Ratio	0.6337	0.6004	0.5671	0.5338	0.5005	0.4672	0.4339	0.4006	0.3673	0.334
Depreciated Value	1,461,185	1,384,402	1,307,619	1,230,836	1,154,053	1,077,270	1,000,487	923,703	846,920	770,137
Taxable Value (MD 50% abatement)	730,593	692,201	653,810	615,418	577,026	538,635	500,243	461,852	423,460	385,069
Washington County Personal Property Tax	17,315	16,405	15,495	14,585	13,676	12,766	11,856	10,946	10,036	9,126
Solar PILOT (2 MW @ \$6,500/MW)	13,000	13,000	13,000	13,000	13,000	13,000	13,000	13,000	13,000	13,000

Year	21	22	23	24	25	26	27	28	29	30
Equipment Value - Depreciation Ratio	0.3007	0.2674	0.2500	0.2500	0.2500	0.2500	0.2500	0.2500	0.2500	0.250
Depreciated Value	693,354	616,571	576,450	576,450	576,450	576,450	576,450	576,450	576,450	576,450
Taxable Value (MD 50% abatement)	346,677	308,285	288,225	288,225	288,225	288,225	288,225	288,225	288,225	288,225
Washington County Personal Property Tax	8,216	7,306	6,831	6,831	6,831	6,831	6,831	6,831	6,831	6,831
Solar PILOT (2 MW @ \$6,500/MW)	13,000	13,000	13,000	13,000	13,000	13,000	13,000	13,000	13,000	13,000

Sum of payments (20 years)

Baseline
PILOT

391,415
260,000

Sum of payments (30 years)

Baseline
PILOT

425,570
390,000

Sum of payments (40 years)

Baseline
PILOT

493,879
520,000

Notes

1. Personal property generally cannot be depreciated below 25% of its value.
2. Equipment of non-utility entities that generate electricity for sale is depreciated at 3.33% per year.

DECOMMISSIONING PLAN

Element	Method
PV Modules	Hand Removal. Modules placed face down on pallets, tape wire ends, tie down and transport to staging location.
Inverters	Disassemble and remove by hand.
Transformers	No disassembly. Oil removal at scrap facility.
Racking Frames	Machine stabilize. Cut lets and lower. Cut cross beams and transport via dump truck.
Racking Posts	Remove with post-puller and transport by dump truck.
Racking Wiring	Disconnect PV connectors, cut cable ties and remove wires from cable tray. Transport via dump truck.
Underground Cables	Excavate to cable depth at one end of trench. Use backhoe and tractor to remove all cables in common trench. Transport via dump truck.
Fence	Roll fencing material. Remove post with post-puller and transport via dump truck.
Concrete	Remove with excavator and jack hammer. Transport via dump truck. Offsite disposal
Gravel	Remove with skid steer sweeper. Transport via dump truck. Offsite disposal.
Re-Seeding	Re-seed with native grasses.



ENGINEERS
SURVEYORS
PLANNERS
LANDSCAPE ARCHITECTS

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August 20, 2021

Lisa A. Kelly, Senior Planner
Washington County Plan Review and Permitting
80 West Baltimore Street
Hagerstown, MD 21740

RE: McKee Solar Decommissioning Plan, Wash. Co. File # SP-21-012

Lisa,

This opinion of probable costs is based on the engineer's experience in the design and construction of energy facilities and is subject to final engineering. Costs have been split between plant disassembly, site restoration, and salvage which reflect the overall decommissioning process. This opinion assumes a third-party contractor, experienced in the construction and decommissioning of PV facilities will lead the effort. The reported costs include labor, materials, taxes, insurance, transport costs, equipment rental, contractor's overhead, and contractor's profit. Labor costs have been estimated using regional labor rates and labor efficiencies from the Bureau of Labor Statistics along with previous decommission plan estimates completed for other similar projects.

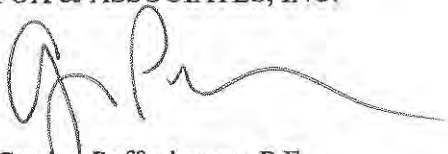
The PV plant will first be disassembled, with all above and below grade components removed. This includes all buried cables. Concrete can be removed by machine to increase efficiency. It is expected that the entire site will be re-seeded with native grasses and vegetation. Planting trees, shrubs, and other woody vegetation (re-forestation) or other beautification is not included in the costs.

Salvage values have been estimated using publicly available data from <https://rockawayrecycling.com/>, <http://www.scrapmonster.com> as well as industry provided actual salvage values and previous experience with similar solar projects.

Inflation is included in this estimate. A 2.5% annual increase in labor costs and a 1% annual increase in salvage value were assumed

Item	Removal Method
PV Modules	Hand Removal. Place modules face down on pallets, tape wire ends, tied down and transport via skid-steer to staging location.
Inverters	Inverters weigh approximately 176lbs and will be disassembled and removed by hand. Assumed salvage value.
Transformers	Assume no disassembly. Oil removal performed by scrap facility. Assumed salvage value.
Racking Frames	Stabilize with machine. Cut legs and lower to ground level. Cut cross beams to appropriate size and transport via dump truck to staging location. Assumed salvage value.
Racking Posts	Remove via post-puller and transport by dump truck to staging area. Assumed salvage value.
Racking Wiring	Disconnect PV connectors, cut cable ties and remove wires from cable tray. Transport via dump truck to staging area. Assume salvage value.
Underground Cables	Excavate to cable depth at one end of trench. Use tractor or backhoe to remove all cables in common trench. Transport via dump truck to staging area. Assumed salvage value.
Fence	Machine roll fence fabric. Remove post via post-puller and transport via dump truck to staging location. Assumed salvage value.
Concrete	Remove with excavator and jack hammer. Transport via dump truck to staging area. Assumed offsite disposal.
Gravel	Remove with skid steer with sweeper. Transport via dump truck to staging area. Assumed offsite disposal.
Re-Seeding	Re-seed using an ATV-pulled drill seeder or hydroseeding, with native grasses.

FOX & ASSOCIATES, INC.



Gordon Poffenberger, P.E.
Director of Engineering

C: Steve Nelson, SGC Power
file

DECOMMISSIONING COST ANALYSIS
McKEE SOLAR

	Description of Item	Quantity	Unit	Unit Cost	Total Cost (2019)	Total Cost (After 25 Years)**	Logic
I. DISASSEMBLY & DISPOSAL							
1.0	PV Modules	5,184	EA.	\$ 6.10	\$ 31,622.40	58,626.16	* Use Crew A-5 (2 Laborers; .25 Truck Driver; .25 Flatbed Truck) = \$1,222/day. Assume crews can remove 200 panels/day.
2.0	Inverter(s)	16	EA.	\$ 306.00	\$ 4,896.00	9,076.91	* Use Crew A-5 (2 Laborers; .25 Truck Driver; .25 Flatbed Truck) = \$1,222/day. Assume crews can remove 4/day.
3.0	Transformer(s)	1	EA.	\$ 306.00	\$ 306.00	567.31	* Use Crew A-5 (2 Laborers; .25 Truck Driver; .25 Flatbed Truck) = \$1,222/day. Assume crews can remove 4/day.
4.0	Racking Frame (Tracker)	192	EA.	\$ 27.00	\$ 5,184.00	9,610.85	* Use Crew A-5 (2 Laborers; .25 Truck Driver; .25 Flatbed Truck) = \$1,222/day. Assume crews can remove 45/day.
5.0	Racking Posts	774	EA.	\$ 20.00	\$ 15,480.00	28,699.05	* Use Crew A-5 (2 Laborers; .25 Truck Driver; .25 Flatbed Truck) = \$1,222/day. Assume crews can remove 60/day.
6.0	LV Wiring	37,415	LF	\$ 0.81	\$ 30,306.15	56,185.91	* Use Crew A-5 (2 Laborers; .25 Truck Driver; .25 Flatbed Truck) = \$1,222/day. Assume crews can remove 1500 LF/day
7.0	Fiber Optic Cable	672	LF	\$ 0.81	\$ 544.32	1,009.14	* Use Crew A-5 (2 Laborers; .25 Truck Driver; .25 Flatbed Truck) = \$1,222/day. Assume crews can remove 1500 LF/day
8.0	MV Wiring	841	LF	\$ 0.41	\$ 344.81	639.26	* Use Crew A-5 (2 Laborers; .25 Truck Driver; .25 Flatbed Truck) = \$1,222/day. Assume crews can remove 3000 LF/day
9.0	Ag Fence	2,746	LF	\$ 4.50	\$ 12,357.00	22,909.19	* Use Crew A-5 (2 Laborers; .25 Truck Driver; .25 Flatbed Truck) = \$1,222/day. Assume crews can remove 500 LF/day
10.0	Concrete	7	CY	\$ 71.00	\$ 497.00	921.41	* Use Crew B-3B (2 Laborers; 1 Equip Oper; 1 Truck Driver; 1 Backhoe; 1 Dump Trk) = \$3,534/day. Assume crew can remove 50 CY/day
11.0	Gravel (Access Road)	322	CY	\$ 71.00	\$ 22,862.00	42,384.87	* Use Crew B-3B (2 Laborers; 1 Equip Oper; 1 Truck Driver; 1 Backhoe; 1 Dump Trk) = \$3,534/day. Assume crew can remove 50 CY/day
12.0	Removal of utility poles	8	EA.	\$ 2,000.00	\$ 16,000.00	29,663.11	Estimate includes labor and all required tools and vehicles
				Subtotal	\$ 140,399.68	260,293.16	
II. Site Restoration							
13.0	Re-Seeding (Includes seed)	11	AC	\$ 2,400.00	\$ 26,400.00	48,944.12	* Cost includes: (Seed: 4-7 species (native types) Also with estimate is labor: Spraying; Disking; Planting; Mulch; One man & machine
14.0	Re-Grading	329	CY	\$ 11.00	\$ 3,619.00	6,709.42	* (2 Laborers; 1 Equip Oper; 1 Truck Driver; 1 Backhoe; 1 Dump Trk) = \$3,448/day. Assume crews can grade 300 CY/day.
				Subtotal	\$ 30,019.00	55,653.55	
III. SALVAGE							
15.0	PV Modules	4,925	EA.	\$ 5.00	\$ 24,624.00	31,578.61	Assumed 95% salvage
16.0	Inverters	16	EA.	\$ 16.00	\$ 256.00	328.30	
17.0	Transformer(s)	1,000	LBS	\$ 0.18	\$ 180.00	230.84	Rockaway
18.0	Racking Frame (Tracker)	249,600	LBS	\$ 0.09	\$ 22,464.00	28,808.55	Scrapmonster
19.0	Racking Posts	58,514	LBS	\$ 0.18	\$ 10,532.59	13,507.33	Scrapmonster
20.0	LV Wiring	59,864	LBS	\$ 2.29	\$ 137,088.56	175,806.76	Rockaway
21.0	MV Wiring	841	LBS	\$ 0.72	\$ 605.52	776.54	Scrapmonster
22.0	Ag Fence	2,348	LBS	\$ 0.50	\$ 1,173.92	1,505.47	Rockaway and others 3.6 lbs per linear foot. \$0.50 per lb. (x 3.6 x 0.5)
				Subtotal	\$ 196,924.59	252,542.39	
							Legend
				DEMOLITION COST	\$ -170,418.68	-315,946.71	* = Costs derived from RS Means Heavy Site estimating manual
				SALVAGE VALUE CREDIT	\$ 196,924.59	252,542.39	** = Assumes 2.5% annual increase in labor costs and 1% annual increase in salvage value
				NET DECOMMISSIONING COST	\$ 26,505.91	-63,404.32	



Agenda Report Form

Open Session Item

SUBJECT: Update on Premium Pay

PRESENTATION DATE: November 2, 2021

PRESENTATION BY: John Martirano, County Administrator
Sara Greaves, Chief Financial Officer
R. David Hays, Director of Emergency Services

RECOMMENDED MOTION: TBD

REPORT-IN-BRIEF: The Board of County Commissioners (BOCC) have asked that county staff provide an update on the process for distributing premium pay to DES and volunteer corporation employees.

DISCUSSION: On August 31, 2021, the BOCC directed County Staff to provide premium pay to the fire and EMS employees of the County volunteer fire and EMS corporations in Washington County. First responders (volunteer and career) in Washington County were at the front of the COVID19 pandemic providing emergency medical care/transport, rescue and fire suppression services to all residents throughout the County.

The August 31st presentation recommended that the “maximum” COVID premium payment (any combination of corporation and/or County payments) to any one individual would be \$5,500.00 for full-time, or \$4,125.00 for part-time employee’s; regardless of any multiple role employments. The cost to implement the plan as previously presented is approximately \$593,541.53.

County staff have drafted an initial plan to distribute this funding based on these parameters. County staff have also drafted a plan that could consider (if directed) premium pay that would not take consideration of any prior premium payments regardless of where or who the employer was. The cost to implement the premium pay to the affected employees under this scenario is approximately \$644,998.42, or an increase of \$51,456.89. Under this payment formula, there are a number of staff who would receive in excess of \$10,000.00 of total premium pay for services

provided to the citizens of Washington County. The mean premium pay distribution in Washington County across the entire distribution group (217 employees) would be \$4,503.45.

FISCAL IMPACT: TBD

CONCURRENCES: N/A

ALTERNATIVES: N/A

ATTACHMENTS: None

AUDIO/VISUAL NEEDS: N/A



Open Session Item

SUBJECT: Proposed Salary Scales for the Sheriff's Office

PRESENTATION DATE: November 2, 2021

PRESENTATION BY: Sheriff Doug Mullendore

RECOMMENDED MOTION: Approve the Salary Scales and reclassifications as Presented

REPORT-IN-BRIEF: While presenting actions to the County Commissioners to hire and retain staff on August 31, 2021 the County Commissioners asked to have the Sheriff review all Sheriff's Office deputy salaries and come back within 60 days to present the results.

DISCUSSION: After a careful review of the existing salary structure, it has been determined the Washington County Sheriff's Office salaries are not competitive which has hindered the ability to hire new deputies and to retain existing deputies. We are now at approximately 15% vacancies in Sworn and Corrections Deputy positions which has severely hampered operations.

The proposed salary scales would bring the Washington County Sheriff's Office salaries to a competitive range to include the upper ranks. In addition, we reviewed disparities in current individual salaries and made adjustments accordingly. This means that some employees steps or grades may have changed.

We are requesting County Commissioners approval of the proposed salary scales to take affect no later than four weeks from the date of this agenda item.

FISCAL IMPACT: The new salary scales and disparity pay issues have an estimated total cost of \$1.9 million. This includes the future expected costs of approximately \$500K to implement the Master Deputy testing previously approved by the County Commissioners on August 31, 2021. These amounts include wages and benefits.

CONCURRENCES: N/A

ALTERNATIVES: Do nothing and continue with the salary scales that are currently in place.

ATTACHMENTS: FY22 Salary Scale, Proposed Salary Scale, Adjustments, 8/31/2021 ARF, Salary Proposal Guidelines

AUDIO/VISUAL NEEDS: None

Washington County Government
FY22 Sheriff Patrol/Judiciary Salary Scale
7/1/2021

GRADE	POSITION	CODE	STEP																				
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21
		Base	+ 2.5%	+ 2.5%	+ 2.5%	+ 2.5%	+ 2.5%	+ 2.5%	+ 2.5%	+ 2.5%	+ 2.5%	+ 2.5%	+ 2.5%	+ 2.5%	+ 2.5%	+ 2.5%	+ 2.5%	+ 2.5%	+ 2.5%	+ 2.5%	+ 2.5%	+ 2.5%	+ 2.5%
11	COLONEL	0013	106,496	109,158	111,883	114,670	117,541	120,474	123,490	126,568	129,730	132,974	136,302	139,714	143,208	146,786	150,446	154,211	158,059	162,011	166,067	170,227	174,491
		51.20	52.48	53.79	55.13	56.51	57.92	59.37	60.85	62.37	63.93	65.53	67.17	68.85	70.57	72.33	74.14	75.99	77.89	79.84	81.84	83.89	
10	MAJOR	0321	96,075	98,487	100,922	103,438	106,018	108,659	111,384	114,171	117,021	119,954	122,949	126,027	129,168	132,392	135,699	139,090	142,563	146,120	149,781	153,525	157,373
		46.19	47.34	48.52	49.73	50.97	52.24	53.55	54.89	56.26	57.67	59.11	60.59	62.10	63.65	65.24	66.87	68.54	70.25	72.01	73.81	75.66	
9	CAPTAIN	0322	86,632	88,795	91,021	93,288	95,618	98,010	100,464	102,981	105,560	108,202	110,906	113,672	116,522	119,434	122,429	125,486	128,627	131,851	135,138	138,507	141,960
		41.65	42.69	43.76	44.85	45.97	47.12	48.30	49.51	50.75	52.02	53.32	54.65	56.02	57.42	58.86	60.33	61.84	63.39	64.97	66.59	68.25	
8	LIEUTENANT	0323	78,146	80,101	82,098	84,157	86,258	88,421	90,626	92,893	95,222	97,594	100,027	102,523	105,082	107,702	110,386	113,152	115,981	118,872	121,846	124,883	128,003
		37.57	38.51	39.47	40.46	41.47	42.51	43.57	44.66	45.78	46.92	48.09	49.29	50.52	51.78	53.07	54.40	55.76	57.15	58.58	60.04	61.54	
7	SERGEANT	0324	70,491	72,259	74,069	75,920	77,813	79,768	81,765	83,803	85,904	88,046	90,251	92,498	94,806	97,178	99,611	102,107	104,666	107,286	109,970	112,715	115,523
		33.89	34.74	35.61	36.50	37.41	38.35	39.31	40.29	41.30	42.33	43.39	44.47	45.58	46.72	47.89	49.09	50.32	51.58	52.87	54.19	55.54	
6	SGT./TRAINING	0087	70,491	72,259	74,069	75,920	77,813	79,768	81,765	83,803	85,904	88,046	90,251	92,498	94,806	97,178	99,611	102,107	104,666	107,286	109,970	112,715	115,523
		33.89	34.74	35.61	36.50	37.41	38.35	39.31	40.29	41.30	42.33	43.39	44.47	45.58	46.72	47.89	49.09	50.32	51.58	52.87	54.19	55.54	
5	CORPORAL	0396	63,565	65,146	66,768	68,432	70,138	71,885	73,674	75,525	77,418	79,352	81,328	83,366	85,446	87,589	89,773	92,019	94,328	96,678	99,091	101,566	104,104
		30.56	31.32	32.10	32.90	33.72	34.56	35.42	36.31	37.22	38.15	39.10	40.08	41.08	42.11	43.16	44.24	45.35	46.48	47.64	48.83	50.05	
4	DEPUTY 1ST CL.	0325	53,498	54,829	56,202	57,616	59,051	60,528	62,046	63,606	65,187	66,810	68,474	70,179	71,926	73,715	75,566	77,459	79,394	81,370	83,408	85,488	87,630
		25.72	26.36	27.02	27.70	28.39	29.10	29.83	30.58	31.34	32.12	32.92	33.74	34.58	35.44	36.33	37.24	38.17	39.12	40.10	41.10	42.13	
3	DEPUTY*	0326	45,053	46,176	47,341	48,526	49,733	50,981	52,250														
		21.66	22.20	22.76	23.33	23.91	24.51	25.12															
2	DFC (SECURITY)	0403	46,717	47,882	49,088	50,315	51,563	52,853	54,184	55,536	56,930	58,344	59,800	61,298	62,837	64,418	66,019	67,662	69,347	71,074	72,842	74,672	76,544
		22.46	23.02	23.60	24.19	24.79	25.41	26.05	26.70	27.37	28.05	28.75	29.47	30.21	30.97	31.74	32.53	33.34	34.17	35.02	35.90	36.80	
1	DEPUTY (SECURITY)	0385	39,333	40,310	41,309	42,349	43,410	44,491	45,594	46,738	47,902	49,109	50,336	51,605	52,894	54,226	55,578	56,971	58,386	59,842	61,339	62,878	64,459
		18.91	19.38	19.86	20.36	20.87	21.39	21.92	22.47	23.03	23.61	24.20	24.81	25.43	26.07	26.72	27.39	28.07	28.77	29.49	30.23	30.99	

*1. Lateral Salary for an officer with two (2) or more years of experience

Washington County Government
FY22 Sheriff Detention Salary Scale
7/1/2021

|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|

*Lateral Salary for a correctional officer with two (2) or more years of experience \$42,349

Washington County Government
FY22 Sheriff Patrol/Judiciary UPDATED Salary Scale
11/13/2021

GRADE	POSITION	CODE	STEP																			
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
11	COLONEL	0013	Base	+ 2.5%	+ 2.5%	+ 2.5%	+ 2.5%	+ 2.5%	+ 2.5%	+ 2.5%	+ 2.5%	+ 2.5%	+ 2.5%	+ 2.5%	+ 2.5%	+ 2.5%	+ 2.5%	+ 2.5%	+ 2.5%	+ 2.5%	+ 2.5%	+ 2.5%
			111,134	113,922	116,771	119,683	122,678	125,736	128,877	132,101	135,408	138,798	142,272	145,829	149,469	153,213	157,040	160,971	164,986	169,104	173,326	177,653
			53.43	54.77	56.14	57.54	58.98	60.45	61.96	63.51	65.10	66.73	68.40	70.11	71.86	73.66	75.50	77.39	79.32	81.30	83.33	85.41
10	MAJOR	0321	103,189	105,768	108,410	111,114	113,901	116,750	119,662	122,658	125,715	128,856	132,080	135,387	138,778	142,251	145,808	149,448	153,192	157,019	160,950	164,965
			49.61	50.85	52.12	53.42	54.76	56.13	57.53	58.97	60.44	61.95	63.50	65.09	66.72	68.39	70.10	71.85	73.65	75.49	77.38	79.31
9	CAPTAIN	0322	93,662	96,013	98,405	100,859	103,376	105,955	108,597	111,322	114,109	116,968	119,891	122,886	125,965	129,106	132,330	135,637	139,027	142,501	146,068	149,718
			45.03	46.16	47.31	48.49	49.70	50.94	52.21	53.52	54.86	56.23	57.64	59.08	60.56	62.07	63.62	65.21	66.84	68.51	70.22	71.98
8	LIEUTENANT	0323	84,989	87,110	89,294	91,520	93,808	96,158	98,571	101,026	103,542	106,122	108,784	111,509	114,296	117,146	120,078	123,074	126,152	129,314	132,538	135,845
			40.86	41.88	42.93	44.00	45.10	46.23	47.39	48.57	49.78	51.02	52.30	53.61	54.95	56.32	57.73	59.17	60.65	62.17	63.72	65.31
7	SERGEANT	0324	77,126	79,061	81,037	83,054	85,134	87,256	89,440	91,686	93,974	96,325	98,738	101,213	103,750	106,350	109,013	111,738	114,525	117,395	120,328	123,344
			37.08	38.01	38.96	39.93	40.93	41.95	43.00	44.08	45.18	46.31	47.47	48.66	49.88	51.13	52.41	53.72	55.06	56.44	57.85	59.30
6	CORPORAL	0396	70,013	71,760	73,549	75,379	77,272	79,206	81,182	83,221	85,301	87,443	89,627	91,874	94,162	96,512	98,925	101,400	103,938	106,538	109,200	111,925
			33.66	34.50	35.36	36.24	37.15	38.08	39.03	40.01	41.01	42.04	43.09	44.17	45.27	46.40	47.56	48.75	49.97	51.22	52.50	53.81
5	MASTER DEPUTY		61,984	63,544	65,125	66,747	68,411	70,117	71,864	73,653	75,504	77,397	79,331	81,307	83,346	85,426	87,568	89,752	91,998	94,307	96,658	99,070
			29.80	30.55	31.31	32.09	32.89	33.71	34.55	35.41	36.30	37.21	38.14	39.09	40.07	41.07	42.10	43.15	44.23	45.34	46.47	47.63
4	DEPUTY 1ST CL.	0325	54,870	56,243	57,658	59,093	60,570	62,088	63,648	65,250	66,872	68,536	70,242	71,989	73,798	75,650	77,542	79,477	81,474	83,512	85,592	87,734
			26.38	27.04	27.72	28.41	29.12	29.85	30.60	31.37	32.15	32.95	33.77	34.61	35.48	36.37	37.28	38.21	39.17	40.15	41.15	42.18
3	DEPUTY*	0326	48,589	49,795	51,043	52,312	53,622	54,954	56,326													
			23.36	23.94	24.54	25.15	25.78	26.42	27.08													
2	DFC (SECURITY)	0403	48,547	49,754	51,002	52,270	53,581	54,912	56,285	57,699	59,134	60,611	62,130	63,690	65,291	66,914	68,578	70,283	72,030	73,840	75,691	77,584
			23.34	23.92	24.52	25.13	25.76	26.40	27.06	27.74	28.43	29.14	29.87	30.62	31.39	32.17	32.97	33.79	34.63	35.50	36.39	37.30
1	DEPUTY (SECURITY)	0385	41,621	42,661	43,722	44,824	45,947	47,091	48,277	49,483	50,710	51,979	53,269	54,600	55,973	57,366	58,802	60,278	61,776	63,315	64,896	66,518
			20.01	20.51	21.02	21.55	22.09	22.64	23.21	23.79	24.38	24.99	25.61	26.25	26.91	27.58	28.27	28.98	29.70	30.44	31.20	31.98

*Lateral Salary for an officer with two (2) or more years of experience

51,043

Washington County Government
FY22 Sheriff Detention UPDATED Salary Scale
11/13/2021

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*Lateral Salary for a correctional officer with two (2) or more years of experience **\$43,722**

Washington County Sheriff's Office

Patrol Division

<u>ID Number</u>	<u>Grade</u>	<u>Step</u>	<u>Current Salary</u>	<u>Proposed Salary</u>	<u>Increase</u>	<u>Previous Grade</u>	<u>Previous Step</u>
8294	4	2	\$ 54,829	\$ 56,252	\$ 1,423		
7601	7	3	\$ 74,069	\$ 81,041	\$ 6,972		
8112	4	3	\$ 56,202	\$ 57,658	\$ 1,456		
6933	4	9	\$ 65,187	\$ 66,866	\$ 1,679		
6177	4	11	\$ 68,474	\$ 70,251	\$ 1,777		
8293	4	2	\$ 54,829	\$ 56,252	\$ 1,423		
8003	4	4	\$ 57,616	\$ 59,100	\$ 1,484		
9751	3	3	\$ 47,341	\$ 51,051	\$ 3,710		
9206	4	2	\$ 54,829	\$ 56,252	\$ 1,423		
7220	3	4	\$ 48,526	\$ 54,880	\$ 6,354		
7175	4	4	\$ 57,616	\$ 59,100	\$ 1,484		
8084	4	3	\$ 56,202	\$ 57,658	\$ 1,456		
10231	4	2	\$ 50,981	\$ 56,282	\$ 5,301	3	6
6317	8	6	\$ 88,421	\$ 96,163	\$ 7,742		
5314	7	6	\$ 79,768	\$ 87,272	\$ 7,504		
10016	3	3	\$ 47,341	\$ 51,051	\$ 3,710		
10020	3	3	\$ 47,341	\$ 51,051	\$ 3,710		
6516	7	4	\$ 74,069	\$ 83,067	\$ 8,998	7	3
4559	8	12	\$ 100,027	\$ 111,519	\$ 11,492	8	11
8080	4	3	\$ 56,202	\$ 57,658	\$ 1,456		
7116	8	4	\$ 84,157	\$ 91,529	\$ 7,372		
4560	8	11	\$ 102,523	\$ 108,800	\$ 6,277	8	12
6871	7	4	\$ 75,920	\$ 83,067	\$ 7,147		
6298	7	4	\$ 75,920	\$ 83,067	\$ 7,147		
6482	7	4	\$ 75,920	\$ 83,067	\$ 7,147		
4562	9	10	\$ 108,202	\$ 116,960	\$ 8,758		
7900	4	4	\$ 56,202	\$ 59,100	\$ 2,898	4	4
7096	4	5	\$ 57,616	\$ 60,577	\$ 2,961	4	4
3875	9	14	\$ 119,434	\$ 129,102	\$ 9,668		
9119	4	3	\$ 56,202	\$ 57,658	\$ 1,456		
9752	4	2	\$ 54,829	\$ 56,252	\$ 1,423		
9066	4	3	\$ 56,202	\$ 57,658	\$ 1,456		
4391	10	11	\$ 122,949	\$ 132,097	\$ 9,148		
6934	4	9	\$ 65,187	\$ 66,866	\$ 1,679		
6297	4	9	\$ 65,187	\$ 66,866	\$ 1,679		
7018	4	8	\$ 62,046	\$ 65,235	\$ 3,189	4	7
7286	4	4	\$ 57,616	\$ 59,100	\$ 1,484		
4564	7	13	\$ 94,806	\$ 103,739	\$ 8,933		
9143	3	3	\$ 48,526	\$ 51,051	\$ 2,525	3	4
6404	7	4	\$ 75,920	\$ 83,067	\$ 7,147		
7326	3	7	\$ 52,250	\$ 53,635	\$ 1,385		
6406	4	9	\$ 65,187	\$ 66,866	\$ 1,679		
6489	8	4	\$ 84,157	\$ 91,529	\$ 7,372		
10024	3	3	\$ 47,341	\$ 51,051	\$ 3,710		
10029	4	2	\$ 50,981	\$ 56,252	\$ 5,271	3	6
5748	4	13	\$ 71,926	\$ 73,807	\$ 1,881		
5000	4	13	\$ 71,926	\$ 73,807	\$ 1,881		
7767	7	3	\$ 74,069	\$ 81,041	\$ 6,972		
9679	3	3	\$ 48,526	\$ 51,051	\$ 2,525	3	4
9754	3	3	\$ 47,341	\$ 51,051	\$ 3,710		
7851	4	4	\$ 57,161	\$ 59,100	\$ 1,939		
4251	4	19	\$ 83,408	\$ 85,594	\$ 2,186		
5211	8	7	\$ 90,626	\$ 98,567	\$ 7,941		
10585	4	1	\$ 48,526	\$ 54,282	\$ 5,756	3	4
6930	4	9	\$ 65,187	\$ 66,866	\$ 1,679		
10392	4	1	\$ 49,733	\$ 54,282	\$ 4,549	3	5

9145	3	4	\$	48,526	\$	54,880	\$	6,354		
6931	7	4	\$	75,920	\$	83,067	\$	7,147		
9612	3	3	\$	47,341	\$	51,051	\$	3,710		
9753	3	3	\$	47,341	\$	51,051	\$	3,710		
5290	4	13	\$	71,926	\$	73,807	\$	1,881		
7729	4	4	\$	57,616	\$	59,100	\$	1,484		
6248	7	6	\$	79,768	\$	87,272	\$	7,504		
8497	3	4	\$	48,527	\$	54,880	\$	6,353		
8041	4	4	\$	57,616	\$	59,100	\$	1,484		
6820	4	9	\$	65,187	\$	66,866	\$	1,679		
7848	7	3	\$	74,069	\$	81,041	\$	6,972		
6972	4	9	\$	65,187	\$	66,866	\$	1,679		
6938	5	3	\$	70,138	\$	73,548	\$	3,410	5	5
8005	4	2	\$	48,526	\$	56,252	\$	7,726	3	4
8285	4	4	\$	56,202	\$	59,100	\$	2,898	4	3
7281	7	4	\$	75,920	\$	83,067	\$	7,147		
8081	4	3	\$	56,202	\$	57,658	\$	1,456		
4481	7	14	\$	90,251	\$	106,333	\$	16,082	7	11
7852	4	4	\$	57,616	\$	59,100	\$	1,484		
7708	4	4	\$	57,616	\$	59,100	\$	1,484		
4567	7	14	\$	94,806	\$	106,333	\$	11,527	7	13
3284	11	13	\$	143,208	\$	149,453	\$	6,245		
6465	7	4	\$	79,768	\$	83,067	\$	3,299	7	6
				\$	5,332,853	\$	5,686,055	\$	353,202	

* Proposed salary shown may not match proposed scale (by a few dollars) due to scale rounding. Proposed scale supersedes these amounts.

Washington County Sheriff's Office

Detention Division

Detention Division							Previous	Previous
ID Number	Grade	Step	Current Salary	Proposed Salary	Increase		Grade	Step
5836	2	13	\$ 62,837	\$ 65,293	\$ 2,456			
10541	1	1	\$ 39,333	\$ 41,630	\$ 2,297			
5747	2	13	\$ 62,837	\$ 65,293	\$ 2,456			
7318	2	6	\$ 52,853	\$ 54,929	\$ 2,076			
6180	2	13	\$ 59,800	\$ 65,293	\$ 5,493	2	11	
8383	1	4	\$ 42,349	\$ 48,549	\$ 6,200			
7505	2	4	\$ 50,315	\$ 52,282	\$ 1,967			
9426	1	4	\$ 42,349	\$ 48,549	\$ 6,200			
7098	2	7	\$ 54,184	\$ 56,302	\$ 2,118			
4574	2	18	\$ 71,074	\$ 73,873	\$ 2,799			
4088	2	21	\$ 76,544	\$ 79,553	\$ 3,009			
6016	2	13	\$ 62,837	\$ 65,293	\$ 2,456			
5046	2	14	\$ 64,418	\$ 66,925	\$ 2,507			
90317	1	3	\$ 41,309	\$ 43,738	\$ 2,429			
4833	2	17	\$ 69,347	\$ 72,071	\$ 2,724			
9953	1	3	\$ 41,309	\$ 43,738	\$ 2,429			
8355	1	4	\$ 42,349	\$ 48,549	\$ 6,200			
7880	2	3	\$ 49,088	\$ 51,007	\$ 1,919			
10022	1	2	\$ 40,310	\$ 42,671	\$ 2,361			
6979	4	6	\$ 69,618	\$ 77,204	\$ 7,586			
5300	2	14	\$ 64,418	\$ 66,925	\$ 2,507			
9932	1	3	\$ 41,309	\$ 43,738	\$ 2,429			
6237	2	11	\$ 59,800	\$ 62,147	\$ 2,347			
8079	2	3	\$ 49,088	\$ 51,007	\$ 1,919			
6818	2	9	\$ 56,930	\$ 59,152	\$ 2,222			
9952	1	6	\$ 44,491	\$ 49,763	\$ 5,272			
5941	2	13	\$ 62,837	\$ 65,293	\$ 2,456			
6978	5	5	\$ 75,234	\$ 82,995	\$ 7,761			
9256	1	4	\$ 42,349	\$ 48,549	\$ 6,200			
6653	2	9	\$ 56,930	\$ 59,152	\$ 2,222			
9298	2	3	\$ 49,088	\$ 51,007	\$ 1,919			
9485	1	4	\$ 42,348	\$ 48,549	\$ 6,201			
6490	2	10	\$ 58,344	\$ 60,631	\$ 2,287			
7384	2	5	\$ 50,315	\$ 53,589	\$ 3,274	2	4	
4849	5	13	\$ 91,645	\$ 101,121	\$ 9,476			
10426	1	1	\$ 39,333	\$ 41,630	\$ 2,297			
6130	4	7	\$ 71,365	\$ 79,134	\$ 7,769			
7482	2	4	\$ 50,315	\$ 52,282	\$ 1,967			
9427	1	4	\$ 42,349	\$ 48,549	\$ 6,200			
9911	1	3	\$ 41,309	\$ 43,738	\$ 2,429			
5147	5	9	\$ 83,034	\$ 91,610	\$ 8,576			
6774	2	9	\$ 56,930	\$ 59,152	\$ 2,222			
3410	6	19	\$ 117,874	\$ 129,216	\$ 11,342			
7327	2	6	\$ 52,853	\$ 54,929	\$ 2,076			
5146	2	14	\$ 64,418	\$ 66,925	\$ 2,507			
6780	2	9	\$ 56,930	\$ 59,152	\$ 2,222			

6239	2	11	\$	59,800	\$	62,147	\$	2,347		
10425	1	1	\$	39,333	\$	41,620	\$	2,287		
7180	4	4	\$	66,248	\$	73,484	\$	7,236		
8342	1	4	\$	42,349	\$	48,549	\$	6,200		
6307	2	11	\$	59,800	\$	62,147	\$	2,347		
4913	4	10	\$	76,856	\$	85,219	\$	8,363		
3685	6	18	\$	115,003	\$	126,065	\$	11,062		
7214	1	4	\$	42,349	\$	48,549	\$	6,200		
9990	1	3	\$	41,309	\$	43,738	\$	2,429		
10082	1	3	\$	41,309	\$	43,738	\$	2,429		
7198	2	7	\$	54,184	\$	56,302	\$	2,118		
4028	4	18	\$	93,642	\$	103,831	\$	10,189		
6086	2	13	\$	62,837	\$	65,293	\$	2,456		
7222	4	2	\$	63,045	\$	69,943	\$	6,898		
6651	2	9	\$	56,930	\$	59,152	\$	2,222		
4181	4	16	\$	89,128	\$	98,828	\$	9,700		
4573	5	14	\$	91,645	\$	103,649	\$	12,004	5	13
6191	2	11	\$	59,800	\$	62,147	\$	2,347		
6299	2	11	\$	59,800	\$	62,147	\$	2,347		
7881	2	4	\$	50,315	\$	52,282	\$	1,967		
7360	4	4	\$	66,248	\$	73,484	\$	7,236		
10591	1	1	\$	39,333	\$	41,630	\$	2,297		
7176	2	7	\$	54,184	\$	56,302	\$	2,118		
4811	7	10	\$	104,070	\$	114,007	\$	9,937		
10417	1	1	\$	39,333	\$	41,630	\$	2,297		
4025	4	17	\$	91,354	\$	101,298	\$	9,944		
6238	5	7	\$	79,040	\$	87,196	\$	8,156		
7821	2	4	\$	50,315	\$	52,282	\$	1,967		
9974	1	3	\$	41,309	\$	43,738	\$	2,429		
7239	2	7	\$	54,184	\$	56,302	\$	2,118		
5304	2	14	\$	64,418	\$	66,925	\$	2,507		
7391	2	5	\$	50,315	\$	53,589	\$	3,274	2	4
7810	2	4	\$	50,315	\$	52,282	\$	1,967		
7026	2	7	\$	54,184	\$	56,302	\$	2,118		
4179	4	16	\$	89,128	\$	98,828	\$	9,700		
7949	2	4	\$	50,315	\$	52,282	\$	1,967		
7951	2	3	\$	49,088	\$	51,007	\$	1,919		
8191	2	2	\$	47,882	\$	49,763	\$	1,881		
5948	4	7	\$	71,365	\$	79,134	\$	7,769		
6663	2	9	\$	56,930	\$	59,152	\$	2,222		
8403	1	4	\$	42,349	\$	48,549	\$	6,200		
7199	2	7	\$	54,184	\$	56,302	\$	2,118		
7588	4	3	\$	64,626	\$	71,691	\$	7,065		
4757	2	16	\$	67,662	\$	70,313	\$	2,651		
92415	1	3	\$	41,309	\$	43,738	\$	2,429		
6488	2	10	\$	58,344	\$	60,631	\$	2,287		
7453	2	4	\$	50,315	\$	52,282	\$	1,967		
6957	4	4	\$	66,248	\$	73,484	\$	7,236		
			\$	5,530,914	\$	5,969,368	\$	394,716		

* Proposed salary shown may not match proposed scale (by a few dollars) due to scale rounding.
Proposed scale supercedes these amounts.

Washington County Sheriff's Office

Judicial Division

Judicial Division							Previous	Previous
ID Number	Grade	Step	Current Salary	Proposed Salary	Increase		Grade	Step
5343	4	9	\$ 65,187	\$ 66,866	\$ 1,679			
5773	4	12	\$ 68,473	\$ 72,007	\$ 3,534		4	11
4827	8	6	\$ 88,421	\$ 96,163	\$ 7,742			
3977	8	11	\$ 100,027	\$ 108,800	\$ 8,773			
5058	7	7	\$ 81,765	\$ 89,454	\$ 7,689			
6613	2	10	\$ 58,344	\$ 60,631	\$ 2,287			
4558	4	16	\$ 77,459	\$ 79,483	\$ 2,024			
4563	4	14	\$ 73,715	\$ 75,653	\$ 1,938			
9949	4	2	\$ 50,981	\$ 56,252	\$ 5,271		3	6
6178	4	11	\$ 68,474	\$ 70,251	\$ 1,777			
6652	2	11	\$ 59,800	\$ 62,147	\$ 2,347			
7104	4	7	\$ 62,046	\$ 63,644	\$ 1,598			
5048	4	13	\$ 71,926	\$ 73,807	\$ 1,881			
9449	4	2	\$ 54,829	\$ 56,252	\$ 1,423			
6432	2	10	\$ 58,344	\$ 60,631	\$ 2,287			
4912	9	6	\$ 98,010	\$ 105,960	\$ 7,950			
5599	4	11	\$ 68,474	\$ 70,251	\$ 1,777			
10030	4	2	\$ 50,981	\$ 56,252	\$ 5,271		3	6
7888	2	4	\$ 50,315	\$ 52,282	\$ 1,967			
			\$ 1,307,570	\$ 1,376,786	\$ 69,216			

* Proposed salary shown may not match proposed scale (by a few dollars) due to scale rounding.
Proposed scale supersedes these amounts.

Washington County Sheriff's Office

Central Booking Division

<u>ID Number</u>	<u>Grade</u>	<u>Step</u>	<u>Current Salary</u>	<u>Proposed Salary</u>	<u>Increase</u>	<u>Previous Grade</u>	<u>Previous Step</u>
4572	5	14	\$ 93,933	\$ 103,649	\$ 9,716		
8055	2	3	\$ 49,088	\$ 51,007	\$ 1,919		
6980	2	10	\$ 58,344	\$ 60,631	\$ 2,287		
7170	2	7	\$ 54,184	\$ 56,302	\$ 2,118		
7871	2	4	\$ 50,315	\$ 52,282	\$ 1,967		
6150	2	13	\$ 62,837	\$ 65,293	\$ 2,456		
4056	2	21	\$ 76,544	\$ 79,553	\$ 3,009		
7536	2	4	\$ 50,315	\$ 52,282	\$ 1,967		
7570	4	3	\$ 64,626	\$ 71,691	\$ 7,065		
6066	2	13	\$ 62,837	\$ 65,293	\$ 2,456		
			\$ 623,022	\$ 657,983	\$ 34,961		

NOTE: No Changes to grades/steps

* Proposed salary shown may not match proposed scale (by a few dollars) due to scale rounding.
Proposed scale supercedes these amounts.

Washington County Sheriff's Office

DRC Booking Division

<u>ID Number</u>	<u>Grade</u>	<u>Step</u>	<u>Current Salary</u>	<u>Proposed Salary</u>	<u>Increase</u>	<u>Previous Grade</u>	<u>Previous Step</u>
9749	3	5	\$ 50,981	\$ 56,252	\$ 5,271	3	6
			\$ 50,981	\$ 56,252	\$ 5,271		

NOTE: Reclassifying Step.

* Proposed salary shown may not match proposed scale (by a few dollars) due to scale rounding.
Proposed scale supercedes these amounts.

Agenda Report Form

Open Session Item

SUBJECT: Establishing a Master Deputy Rank for the Sheriff's Office; increase the starting deputy salary; enhance promotion opportunity

PRESENTATION DATE: August 31, 2021

PRESENTATION BY: Sheriff Doug Mullendore

RECOMMENDED MOTION: Motion to Approve Master Deputy Rank and Change Order

REPORT-IN-BRIEF: Creation of a Master Deputy rank will allow us to slightly increase our starting pay and retain deputies. Implementation of the \$5,000 recruitment incentive for corrections.

DISCUSSION: The Washington County Sheriff's Office has been losing both sworn and correctional deputies for some time. It has been very difficult to attract new applicants as other Counties to our east are paying much higher pay rates. The situation has become critical in the Detention Center and is becoming a significant problem for Patrol and Judicial. Creating the Master Deputy rank will provide an opportunity to those deputies who qualify through testing to increase their salary by effectively two steps. Master Deputies would then be eligible to test and be promoted to Corporal in the future. This will raise our starting salary (approximately 5%) for corrections and sworn deputies and hopefully attract new applicants as well as retaining the deputies we have spent so much time and money to train. It takes about 12 months to train a patrol deputy before they can serve the County. This is a significant investment on behalf of the County.

We believe the creation of the Master Deputy rank will provide an opportunity for deputies to be promoted earlier in their career which will help to retain the trained staff we currently have. It will also raise the starting salary slightly, about 5%, helping to attract new recruits.

The other agencies are also using recruitment bonuses to attract new applicants. Therefore, I would like to implement the \$5,000 recruitment incentive for Corrections as well. We did this about a year ago for Sworn Deputies.

FISCAL IMPACT: The immediate impact would be \$100,000 raising three-year deputies to Deputy First Class. After testing and the promotional process, the impact would grow up to an additional \$350,000 depending on how many Deputy First Class pass the testing and promotional process to Master Deputy. Total of \$450,000.

CONCURRENCES: John Martirano, County Administrator; Sara Greaves, Chief Financial Officer; Larry Etchison, Human Resource Director; Doug Mullendore, Sheriff

ALTERNATIVES: Stay the status quo and accept responsibility for lack of hiring and the safety issues as a result.

ATTACHMENTS: Current salary scales for Sworn and Correctional Deputies, Proposed Salary Scale for Sworn and Correctional Deputies; Change Order

Washington County Sheriff's Office Salary Proposal

The promotion from Deputy to DFC and from DFC to Master Deputy will move to the appropriate Grade and back two Steps.

All other promotions will move to the appropriate Grade and back one Step.

A Deputy, who is not a lateral, will automatically be promoted to DFC after three years of employment.

A Deputy, who is hired as a lateral, will automatically be promoted to DFC after one year of employment.

A Deputy First Class must be in that rank for 18 months before being eligible to test for Master Deputy.

A Master Deputy must be in that rank for 18 months to be eligible to test for Corporal. Master Deputy testing will occur twice a year; July 15th and January 15th.

A Corporal must be in that rank for 18 months before automatically being promoted to Sergeant.

It is understood that the Sheriff may promote Master Deputies to Corporal under different guidelines for the first 18 months after the first test because there will not be a pool of Master Deputies eligible to test.



Agenda Report Form

Open Session Item

SUBJECT: Quirauk radio tower shelter. Approval of transfer of insurance reimbursement funds to original Wireless Communications account.

PRESENTATION DATE: November 2, 2021

PRESENTATION BY: Thomas Weber, Deputy Director of Wireless Communications

RECOMMENDATION: Approve transfer of insurance reimbursement funds to Wireless Communications account that emergency repairs for Quirauk radio tower site were funded from.

REPORT-IN-BRIEF: Request approval to transfer \$48,081.98 in funds paid to the County by our insurance carrier (LGIT) to Wireless Communications account that funded emergency repairs due to a power surge at Quirauk Communications Tower shelter on May 25, 2021. Kube Electric invoiced the county \$49,081.98 for a new Eaton UPS unit, labor, and misc. installation material, which was paid on August 27, 2021. After \$1,000 deductible, LGIT Insurance sent the county a reimbursement check in the amount of \$48,081.98. This check will replenish funds used from Wireless Communications maintenance service contracts account.

DISCUSSION: None

FISCAL IMPACT: None

CONCURRENCES: Sara Greaves, Chief Financial Officer, Laurence Etchison, SPHR, Director, Human Resources, Joshua O'Neal, Division Director of Information Systems

ALTERNATIVES:

ATTACHMENTS: Budget adjustment



Washington County, Maryland Budget Adjustment Form

Print Form

- ☒ Budget Amendment - Increases or decrease the total spending authority of an accounting fund or department
- ☐ Budget Transfer - Moves revenues or expenditures from one account to another or between budgets or funds.

Department Head Authorization

Laurence Etchison

Digitally signed by Laurence Etchison
Date: 2021.10.11 13:14:34 -04'00'

Division Director / Elected Official Authorization

Joshua ONeal

Digitally signed by Joshua ONeal
Date: 2021.10.11 13:41:08 -04'00'

Budget & Finance Director Approval

County Administrator Approval

County Commissioners Approval

Transaction/Post -Finance

Deputy Director - Finance

Preparer, if applicable

Tracy McCammon
Digitally signed by Tracy
McCammmon
Date: 2021.09.24 10:53:07 -0400

Required approval with date

If applicable with date

Required approval with date

Required approval with date

Required > \$ 25,000 with date

Expenditure / Account Number	Fund Number	Department Number	Project Number	Grant Number	Activity Code	Department and Account Description	Increase (Decrease) + / -
515270	10	11540				Wireless Communications - Mtnce Contract Services	48,080
490005	10	11540				Wireless Communications - Insurance Recovery	48,080

Explain
Budget Adjustment

Insurance payment for claim 0049247

Required Action by
County Commissioners

☐ No Approval Required



Approval Required

Approval Date if
Known



Agenda Report Form

Open Session Item

SUBJECT: Offer of Donation

PRESENTATION DATE: November 2, 2021

PRESENTATION BY: Todd Moser, Real Property Administrator, Division of Engineering, Andrew Eshleman, Director, Division of Public Works

RECOMMENDED MOTION: Move to approve the donation of property located at 24701 Oak Avenue in Cascade and approve an ordinance approving said donation and to authorize the execution of the necessary documentation to finalize the acquisition.

REPORT-IN-BRIEF: Ms. Keenan has offered to donate a vacant parcel consisting of 0.255 acres that adjoins Pen Mar Park to be used as park land.

DISCUSSION: The property and Pen Mar Park were very important to Ms. Keenan's late husband James Keenan, Jr. Mr. Keenan spent his childhood happily exploring the mountain side in the 1930's and 1940's. Mr. Keenan's first job was walking horses for the children's pony rides in the park, and for many years he helped organize the annual reunion of the Pen Mar Park workers.

FISCAL IMPACT: Title fees

CONCURRENCES: County Attorney's Office (ordinance)

ALTERNATIVES: Decline the offer

ATTACHMENTS: Aerial Map, Ordinance

AUDIO/VISUAL NEEDS: Aerial Map

24701 Oak Avenue, Cascade 21719



ORDINANCE NO. ORD-2021-__

AN ORDINANCE TO APPROVE THE DONATION OF REAL PROPERTY

(24701 Oak Avenue)

RECITALS

1. The Board of County Commissioners of Washington County, Maryland (the "County"), believes that it is in the best interest of the citizens of Washington County to accept the donation of certain real property identified on the attached Schedule A (the "Property") to be used for public purposes.

2. The County approved the donation of the Property on November 2, 2021.

3. A public hearing was not required by Section 1-301, Code of the Public Local Laws of Washington County, Maryland, as no County funds will be utilized to acquire the Property.

4. The Property adjoins Pen Mar Park and will be used as parkland.

THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Washington County, Maryland, that the donation of the Property be and is hereby approved and that the President of the Board and the County Clerk be and are hereby authorized and directed to execute and attest, respectively, all such documents for and on behalf of the County relating to the donation of the Property.

ADOPTED this ____ day of _____, 2021.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF WASHINGTON COUNTY, MARYLAND

Krista L. Hart, Clerk

BY: _____
Jeffrey A. Cline, President

Approved as to legal sufficiency:

Kirk C. Downey
County Attorney

Mail to:
Office of the County Attorney
100 W. Washington Street, Suite 1101
Hagerstown, MD 21740

SCHEDULE A--DESCRIPTION OF PROPERTY

All those lots of ground known and designated as Lots 1 and 2 on the Plat of Lots known as "Rockey Grove" and laid out for C.H. Rocky by survey of D.C. Weller and of record in Record Books of Washington County, Maryland, in Plat Record 1, folio 16, together with all rights, ways, privileges, waters, and alleys pertaining thereto and being more particularly described as:

BEGINNING at a stone or point at the southwest corner of Oak Street and the lands of the Western Maryland Railway Company; and running thence along the lines of said Oak Street South 57 Degrees 30 Minutes East 76 ½ feet to a stone or a point at the corner of the lot of William H. Brown and Malinda C. Brown; thence along the line of the lot of the said Browns South 57 Degrees 30 Minutes West 152 ½ feet to a stone or point at Pine Street or its lands of Lewis Kohler; thence along the line of the Kohler lands North 42 Degrees West 81 ½ feet to a stone or corner at the Kohler lands and the lands of the Western Maryland Railway Company; thence along the lands of the Western Maryland Railway Company North 32 Degrees 30 Minutes East 129 feet to a stone or corner and place of beginning.

SAVING AND EXCEPTING THEREFROM, all of that parcel of land which is more particularly described in a deed from Charles A. Rocky and wife to William H. Brown, et al, said deed dated February 7, 1903, and recorded in Liber 121, folio 421, of the aforesaid Land Records.

Being the same property conveyed to James I. Keenan, Jr., and Catherine M. Keenan, his wife, by deed dated September 21, 1983, and recorded in Liber 751, folio 653, among said Land Records of Washington County, Maryland.

SUBJECT to all easements, rights-of-way, covenants, conditions, and restrictions of record applicable thereto.



Agenda Report Form

Open Session Item

SUBJECT: **Contract for Bikes for the World**

PRESENTATION DATE: November 2, 2021

PRESENTATION BY: David A. Mason, P. E., Deputy Director – Department of Solid Waste

RECOMMENDED MOTION: Motion to approve the Contract with Bikes for the World

REPORT-IN-BRIEF: The Department of Solid Waste is proposing to enter into an agreement with the MS Johnston, the local representative for Bikes for the World, to provide discarded bikes from the Landfill.

DISCUSSION: The 40 West Landfill receives 100 or more bicycles on the scrap metal pile each year. Most of the bicycles received are generally in good condition but in need of some repairs. Bikes for the world will take the bicycles make all necessary repairs and ship them to nations in need. This program will be at no cost to the County, all expenses will be paid by the Bikes for the World Program.

FISCAL IMPACT: Minimal loss of profit from the sale of scrap metal.

CONCURRENCES: N/A

ALTERNATIVES: N/A

ATTACHMENTS: N/A

AUDIO/VISUAL NEEDS: N/A



Agenda Report Form

Open Session Item

SUBJECT: Bid Rejection (PUR-1485) – Oakridge Pump Station Upgrade

PRESENTATION DATE: November 2, 2021

PRESENTATION BY: Brandi Naugle, CPPB, Buyer, Purchasing Department and Mark Bradshaw, P.E., Division Director, Environmental Management

RECOMMENDED MOTION: Move to reject the bid received from Johnston Construction Company of Dover, PA without prejudices for the Oakridge Pump Station Upgrade due to a misinterpretation when submitting the bid.

REPORT-IN-BRIEF: The project includes but is not limit to: clearing, grubbing, excavation, backfill, surface restoration, electrical work, install of submersible pumps, install generator with concrete slab, install temporary wet well and install aeration diffusers, comminutor manhole with frame & cover, bypass connection and pumping system, structural modification, select demolition of existing pump station, seeding disturbed areas, and placing salvages topsoil and fence as shown and described in the contract documents. The project is to be substantially completed within one hundred eighty (180) consecutive calendar days of the Notice to Proceed. The County can assess liquidated damages in the sum of Five Hundred dollars (\$500) dollars for each consecutive day that the project is not completed.

On August 18, 2021 the County issued an Invitation to Bid (ITB) for the Oakridge Pump Station Upgrade. The Invitation to Bid was published in the local newspaper, on the County web site, and on the State of Maryland's eMMA "*eMaryland Marketplace Advantage*" web site. Forty-Six (46) persons/companies registered/downloaded the bid document on-line. On September 29, 2021 a total of seven (7) bids were received.

FISCAL IMPACT: N/A

CONCURRENCES: N/A

ALTERNATIVES: N/A

ATTACHMENTS: The complete Bid Tabulation may be viewed on-line at: <https://www.washco-md.net/wp-content/uploads/purch-pur-1485-bidtab.pdf>

AUDIO/VISUAL NEEDS: None



Agenda Report Form

Open Session Item

SUBJECT: Bid Award (PUR-1485) – Oakridge Pump Station Upgrade

PRESENTATION DATE: November 2, 2021

PRESENTATION BY: Brandi Naugle, CPPB, Buyer, Purchasing Department and Mark Bradshaw, P.E., Division Director, Environmental Management

RECOMMENDED MOTION: Move to award the contract for the Oakridge Pump Station Upgrade to the responsible, responsive bidder, PSI Pumping Solutions, Inc. of York Springs, PA who submitted the total lump sum bid of \$1,782,950 (For Items No. 1, Plus Contingent Items C-1 through C-4) and to approve a Budget Transfer Request of \$200,000 from 515000 32-42010-LIN040 to account 515000-32-42010-LIN034.

REPORT-IN-BRIEF: The project includes but is not limit to: clearing, grubbing, excavation, backfill, surface restoration, electrical work, install of submersible pumps, install generator with concrete slab, install temporary wet well and install aeration diffusers, comminutor manhole with frame & cover, bypass connection and pumping system, structural modification, select demolition of existing pump station, seeding disturbed areas, and placing salvages topsoil and fence as shown and described in the contract documents. The project is to be substantially completed within one hundred eighty (180) consecutive calendar days of the Notice to Proceed. The County can assess liquidated damages in the sum of Five Hundred dollars (\$500) dollars for each consecutive day that the project is not completed.

On August 18, 2021 the County issued an Invitation to Bid (ITB) for the Oakridge Pump Station Upgrade. The Invitation to Bid was published in the local newspaper, on the County web site, and on the State of Maryland's eMMA "*eMaryland Marketplace Advantage*" web site. Forty-Six (46) persons/companies registered/downloaded the bid document on-line. On September 29, 2021 a total of seven (7) bids were received, one of which was rejected due to a misinterpretation when the bid was submitted.

DISCUSSION: N/A

FISCAL IMPACT: Funding is available in the department's CIP budget account 515000-32-42010-LIN034.

CONCURRENCES: N/A

ALTERNATIVES: N/A

ATTACHMENTS: The complete Bid Tabulation may be viewed on-line at:
<https://www.washco-md.net/wp-content/uploads/purch-pur-1485-bidtab.pdf>



Washington County, Maryland Budget Adjustment Form

Print Form

- ☐ Budget Amendment - Increases or decrease the total spending authority of an accounting fund or department
- ☒ Budget Transfer - Moves revenues or expenditures from one account to another or between budgets or funds.

Transaction/Post - Finance

Deputy Director - Finance

Preparer, if applicable

Mark D Bradshaw
Digitally signed by Mark D
Date: 2021.10.07 07:36:27 -0400

Department Head Authorization

Division Director / Elected Official Authorization

Budget & Finance Director Approval

County Administrator Approval

County Commissioners Approval

Mark D Bradshaw
Digitally signed by Mark D Bradshaw
Date: 2021.10.07 07:36:00 -0400

Mark D Bradshaw
Digitally signed by Mark D Bradshaw
Date: 2021.10.07 07:36:16 -0400

Mark D Bradshaw
Digitally signed by Mark D
Date: 2021.10.07 07:36:27 -0400

Oct 7, 2021

Oct 7, 2021

Required approval with date

If applicable with date

Required approval with date

Required approval with date

Required > \$ 25,000 with date

Expenditure / Account Number	Fund Number	Department Number	Project Number	Grant Number	Activity Code	Department and Account Description	Increase (Decrease) + / -
	32	42010	LIN040		00000	Capital Transfer - Sewer	-200,000
	32	42010	LIN040		CNST	WQ - Collection Sys Rehab	-200,000
	32	42010	LIN034		00000	Capital Transfer - Sewer	200,000
	32	42010	LIN034		CNST	WQ - Pump Station Upgrades Various Locations	200,000

Explain
Budget Adjustment

The bids for Oak Ridge Pump Station came in higher then expected and the transfer is required for the project to move forward.

Required Action by
County Commissioners

☒ No Approval Required

☐ Approval Required

Approval Date if
Known



Agenda Report Form

Open Session Item

SUBJECT: Potential Legislative Items

PRESENTATION DATE: November 2, 2021

PRESENTATION BY: Kirk C. Downey, County Attorney

RECOMMENDED MOTION: N/A. Discussion only.

REPORT-IN-BRIEF: This is a preliminary discussion about potential issues the County may like to see addressed during the next session of the General Assembly.

DISCUSSION: The following have been identified from as being items of potential interest:

1. Removal of statutory language requiring mobile homes to be assessed as real property;
2. Requirement for a zoning certification prior to issuance of a business license; and
3. Request for funding for burn buildings: City of Hagerstown and Washington County Public Safety Training Center;

FISCAL IMPACT: N/A

CONCURRENCES: N/A

ALTERNATIVES: N/A

ATTACHMENTS: N/A

AUDIO/VISUAL NEEDS: N/A

Agenda Report Form

Open Session Item

SUBJECT: PUBLIC HEARING: Application for Zoning Map Amendment RZ-21-003 Black Rock PUD – Major Revision to approved Development Plan

PRESENTATION DATE: November 2, 2021

PRESENTATION BY: Jill Baker, Director, Department of Planning and Zoning

RECOMMENDED MOTION: The purpose of this public hearing is to take public comment on the rezoning application. The Commissioners have the option to take action to reach a consensus on the request after the public hearing closes or deliberate on the issue at a later date. No formal motion is recommended.

REPORT-IN-BRIEF: Application has been made by Morris & Ritchey Associates to revise the approved development plan for Black Rock PUD from 595 residential dwelling units to 1,148 units thereby increasing the approved residential density from 2.7 dwelling units per acre to 5.2 dwelling units per acre. The two subject parcels of this rezoning request are located approximately 1.5 miles east of the intersection of Robinwood Drive and Edgewood Drive and contains approximately 220.11 acres.

DISCUSSION: In this particular case, the property has already been assigned a PUD floating zone and approved for a total of 595 units (or 2.7 units per acre density). The applicant is requesting a major change in the approved number of units and must therefore comply to the standards of Section 16A.5 of the zoning ordinance.

When evaluating the request for a major change from a previously approved PUD development plan, both the Planning Commission and Board of County Commissioners are required to consider the following criteria:

1. The purpose of the PUD District;
2. The applicable policies of the adopted Comprehensive Plan;
3. The compatibility of the proposed changes of the PUD with neighboring properties;
4. The effect of the proposed changes to the PUD on community infrastructure;
5. Consistency with the intent and purpose for the establishment of the PUD.

This application was presented to the Washington County Planning Commission at a Public Information Meeting held on June 14, 2021. Numerous written and verbal comments were received as part of this meeting. The issue was then deliberated by the Planning Commission at their regular meeting on July 19, 2021 where the members unanimously recommended denial of the proposed map amendment.

FISCAL IMPACT: n/a

CONCURRENCES: Washington County Planning Commission

ALTERNATIVES: n/a

ATTACHMENTS: Rezoning application, Staff report, Planning Commission minutes, Planning Commission recommendation, Applicant's Memorandum in Support of Major Amendment, Public written comments



Washington County

M A R Y L A N D

WASHINGTON COUNTY PLANNING COMMISSION
ZONING ORDINANCE MAP AMENDMENT APPLICATION

FOR PLANNING COMMISSION USE ONLY

Rezoning No. RZ-21-003

Date Filed: 02-16-21

RECEIVED

FEB 16 2021

Morris & Ritchie Assoc.

Applicant

1414 Key Highway

Address

Baltimore, MD 21230

Primary Contact

Sean Davis, RLA

Address

☐ Property Owner

☐ Attorney

☐ Other: _____

☐ Washington County
Contract Purchaser
Dept. of Planning & Zoning
☒ Consultant

410-935-5050

Phone Number

sdavis@mragta.com

E-mail Address

Property Location: **East side of Hagerstown Growth Area Boundary**

Tax Map: **50** Grid: **0017/0023** Parcel No.: **309/321** Acreage: **220.11**

Current Zoning: **PUD** Requested Zoning: **PUD**

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.

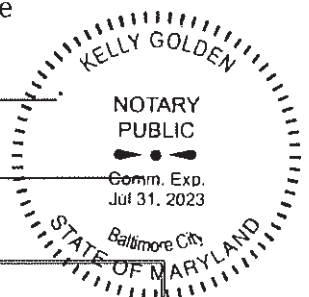
[Signature]

Applicant's Signature

Subscribed and sworn before me this **16** day of **February**, 20**21**

My commission expires on **7-31-23**

Kelly Golden
Notary Public
Kelly Golden



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



WASHINGTON COUNTY PLANNING COMMISSION
ZONING ORDINANCE MAP AMENDMENT

REQUIRED APPLICATION MATERIALS CHECKLIST

All materials must be clearly labeled
(Original plus 30 copies of all materials are required)

- X 1. **Application Form**: A completed and signed application form.
- X 2. **Fee Worksheet and Application Fee**: A completed Fee Worksheet and the Application Fee must be submitted at the time application is made. Checks must be made payable to the "Washington County Treasurer".
- X 3. **Ownership Verification**: Proof of ownership interest in the subject property, including a copy of the current deed to the property; OR, if the application is made by a contract purchaser, a copy of the fully-executed Contract of Sale.
- X 4. **Boundary Plat**: A boundary description, including metes and bounds, prepared and sealed by a land surveyor registered in the State of Maryland.
- X 5. **List of the Names and Addresses for all Adjoining and Confronting Property Owners**: A list of the names and addresses, obtained from the latest property tax assessment record, of owners of adjoining or confronting properties, improved or unimproved, including properties separated by streets, railroads, or other rights-of-ways. (Must have house numbers or P.O. box numbers.)
- X 6. **Vicinity Map**: An 8 ½" x 11" page size map showing the zoning of all property within 1,000 feet of the site.
- X 7. **Justification Statement**: A written explanation of the reasons why the map amendment is being sought, setting forth in sufficient detail to properly advise County officials as to the justifications for the rezoning change. Applications for floating zones shall include such information as required by the respective Articles of the Ordinance. Other applications must address the following information:
 - a. A statement as to whether or not there is evidence of mistake in the current zoning, and, if so, the nature of the mistake and the facts to support the allegation.
 - b. A statement as to whether or not there is evidence of a substantial change to the character of the neighborhood subsequent to the most recent comprehensive rezoning including the nature of the change, all facts to support the allegations, and a description of the neighborhood.

MORRIS & RITCHIE ASSOCIATES, INC.

Architects | Planners | Urban Designers | Landscape Architects | Engineers | Surveyors



February 16, 2021

Ms. Jill Baker
Director, Planning & Zoning Department
Washington County, Maryland
100 West Washington Street
Hagerstown, Maryland 21740

RECEIVED

FEB 17 2021

Washington County
Dept. of Planning & Zoning

RE: Black Rock Planned Unit Development – Major Change Request

Dear Ms. Baker:

Thank you for all of your assistance in helping our team prepare this request for a Major Change to the current Black Rock Planned Unit Development. Attached please find our completed Application form, list of adjacent property owners (I will also email the Excel file to you for easier use), and 33 copies of the PUD plan set (a total of four pages each). Outlined below is our Justification Statement, as requested in the application requirements. We hope this completes our submission and that we will be placed on the agenda for the May 3, 2021 Planning Commission meeting. Please let us know so we can plan accordingly.

There are several important reasons for this Major Change request. These include:

1. Market demand. The previous PUD had home types that were not indicative of current market demands. The revised PUD provides a variety of homes types for new buyers.
2. Regulatory Compliance. The previous PUD did not take into account certain regulatory requirements that pertain today, mainly stormwater management. The new PUD does.
3. Community Design. We believe the new PUD creates a much stronger overall community design by having a major spine road that services each individual neighborhood.
4. Increased density. The current plan increases the overall density based on the preferred home types and site plan. This increased density is necessary to offset increased costs for regulatory compliance and anticipated amenities.

We look forward to expanding on these justifications during our presentation/discussion with the Commission. If there is anything else you need during your review of our application please call on me at 410-935-5050. Thank you!

Respectfully
Morris & Ritchie Associates, Inc.

A handwritten signature in black ink, appearing to read "Sean D. Davis". The signature is stylized with a large, bold "S" and "D".

Sean D. Davis
Principal

Attachments

Cc: The Black Rock Development Team

Adjacent Parcels Table				
Tax Map	Parcel	Owner Name	Owner Address 1	Owner Address 2
50	1690	ARNOLD JODIE C & VICKI L	20525 MOUNT AETNA RD	
50	3	HARVEY CHARLES W & RYAN JANICE IRENE	10941 SASHA BLVD	
50	1343	AKMAL MOHAMMAD	10947 SASHA BLVD	
50	307	TOOTHMAN RONALD G & TOOTHMAN COLLEEN M	PO BOX 185	
50	1343	KENNEDY MICHAEL D & KENNEDY SHERYL K	20513 MT AETNA RD	
50	1727	TARIQ MOHAMMAD	11003 SASHA BLVD	
50	1659	PRYOR JONATHAN W	20617 MOUNT AETNA RD	
50	1577	POTOMAC EDISON CO	TAX DEPT	800 CABIN HILL DR
50	1636	VALLEY VIEW LMTD PARTNERSHIP	C/O DANIEL M SHEEDY	P O BOX 68
50	1727	AKMAL ALI M & RAZI AKMAL RABAIL R	20510 TEHRANI LA	
50	1686	HARR ANN M & HARR TINA L	11403 SUNNY HILL CT	
50	1648	EL MOHANDES ALI EL MOHANDES LAURA	11248 EASTWOOD DR	
50	1731	ATCHLEY BETHANY	11113 SHALOM LN	
50	1727	KURAPATY SAMUEL M & MERCY S	10907 SASSAN LN	
50	1709	GARNER JAMES GREGORY	20541 MT AETNA RD	
50	1727	STIANSEN STEVEN C STIANSEN JENNIFER S	10904 SASSAN LANE	
50	319	LIAO WEIDONG & CHEN MEI	11121 SHALOM LN	
50	1648	MCCLAIN JOSHUA TRAVIS MCCLAIN KEELY	6702 92ND ST CT NW	
50	1731	CRIST CANDACE R & CRIST BRAD W	11133 SHALOM LANE	
50	1686	SHAOOL WOODBRIDGE DEVELOPMENT LLC	1730 EDGEWOOD HILL CIRCLE #101	
50	1686	SHAOOL WOODBRIDGE DEVELOPMENT LLC	1730 EDGEWOOD HILL CIRCLE #101	
50	1727	BOYER JONATHAN L BOYER KASI B	10900 SASSAN LN	
50	1731	STEED LINCOLN E & STEED ROSA DELIA	20415 CHUCK LN	
50	2	STRYKER WILLIAM L STRYKER LISA M	20533 MT AETNA RD	
50	1686	FRANK ROBERT & KATIE	11302 DAY BREAK CT	
50	1674	PRYOR DAVID P & DARLENE F TRUSTEES	20615 MOUNT AETNA RD	
50	1688	SHAOOL BEN & SHAOOL KATHY	1201 DUAL HWY STE 203	
50	1686	STAGG MARY ANNE	11405 SUNNY HILL CT	
50	1686	SOLIMANI IRAJ	7145 BROOKS RD	
50	1686	SHAOOL WOODBRIDGE DEVELOPMENT LLC	1730 EDGEWOOD HILL CIRCLE #101	
50	319	MASOOD SAQIB	11211 SHALOM LN	
50	1648	PARKS STEVEN M PARKS BECKY A	11306 EASTWOOD DR	
50	1727	BONATTI HUGO & BONATTI JANANI KARUNARATNE	20509 SHAHEEN LN	
50	1727	DURELLI ANDREW B & DURELLI MARIA P	20514 TEHRANI LN	
50	319	MARTIN DAVID R & BAILEY JENNIFER G	11125 SHALOM LN	
50	1727	HULL STEVEN G & HULL ARLENE B	20506 SHAHEEN LN	
50	1	PRYOR DAVID ET AL PRYOR KENNETH	20615 MT AETNA RD	
50	1648	REGINATO ANDREW REGINATO FLOYCE	11314 EASTWOOD DR	
50	1686	REED NICOLE WINTER	11303 DAY BREAK CT	
50	1701	SAGBA YAO A	20537 MT AETNA RD	
50	689	STONECROFT ASSOCIATES LP	C/O INTERSTATE REALTY MGMT	3 E STOW ROAD STE 100
50	1648	MIRDAMADI REZA MIRDAMADI DEBORAH	11300 EASTWOOD DR	
50	1727	SPESSARD LORETTA IRENE & SPESSARD NED L	664 TRAFALGAR DR	
50	1731	JOHNSON THEODORE E & JOHNSON SANDRA M	11117 SHALOM LN	
50	1652	EAGLES NEST	C/O VALENTINE ELECTRIC CO	110 WESTERN MARYLAND PKWY
50	322	MILLER JAMES H & MILLER ELAINE K	12290 SCOTT RD	
50	1751	EMRALSHAOOL MANSOOR	72 W WASHINGTON ST	
50	1675	PRYOR STEVEN	20605 MOUNT AETNA RD	
50	1686	LEITER CHRISTOPHER A & LEITER NICOLE	11304 DAY BREAK CT	
50	1686	WASH CO COMMISSIONERS BOARD OF	100 W WASHINGTON ST	
50	1648	BRODY JOHN WILLIAM BRODY KATHLEEN A	11252 EASTWOOD DR	
50	1727	AKHMEDOV IZMIR & FEYZULOVA SABINA	10977 SASSAN LANE	
50	1218	MEADOW VIEW ASSOCIATES LIMITED PARTNERSHIP	1 WATERFORD PROFESSIONAL CTR	
50	1727	UDDIN ZIA & ABID FARAH	10973 SASSAN LN	
50	1688	SHAOOL BEN & SHAOOL KATHY	1201 DUAL HWY STE 203	
50	1727	PETERSON ERIC JONATHAN & PETERSON SHANNON CHRISTINE MARSHAL	20510 SHAHEEN LN	
50	1727	HUNGRIA CARLOS R & HUNGRIA ANA ROSA V CO TRUSTEES	10969 SASSAN LN	
50	1667	KINGS CREST	C/O VALENTINE ELECTRIC CO	110 WESTERN MARYLAND PKWY
50	308	HESSONG EDWARD L	13082 WILLIAMSPORT PIKE	
50	1727	TARIQ MOHAMMAD	11003 SASHA BLVD	
50	1751	EMRALSHAOOL MANSOOR	72 W WASHINGTON ST	
50	1751	EMRALSHAOOL MANSOOR	72 W WASHINGTON ST	
50	1751	EMRALSHAOOL MANSOOR	72 W WASHINGTON ST	
50	1751	EMRALSHAOOL MANSOOR	72 W WASHINGTON ST	



SITE INVENTORY & ANALYSIS

The subject property is located 10 minutes outside of Hagerstown in Washington County, Maryland, near Hagerstown Community College and across Mt. Aetna Road from Black Rock Golf Course. The eastern portion is surrounded by a mix of residential housing (documented in the photographs below), while the northeast is wrapped by agricultural fields and farms. The property has a large overhead powerline and a new retaining disjuncted farm structures on-site. It is the ridge of the area, draining to the tributaries of Alderson Creek.



NEIGHBORING PROPERTY FOR RENT TOWNHOUSES



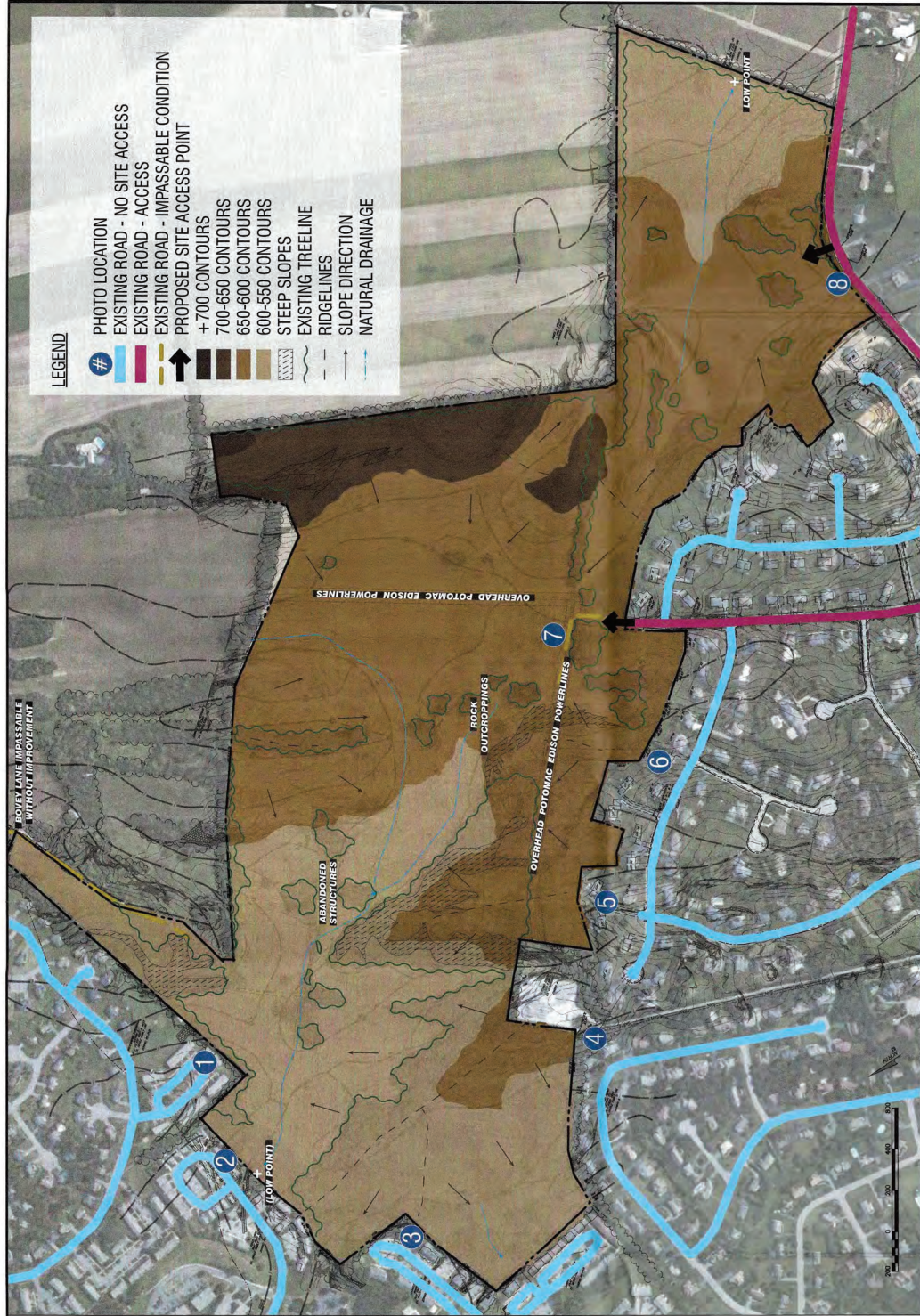
NEIGHBORING PROPERTY: SINGLE-FAMILY DETACHED HOMES



NEIGHBORING PROPERTY FOR RENT APARTMENTS



ADJOINING SUBDIVISION BETWEEN RESIDENTIAL AND SUBJECT PROPERTY



LEGEND

- # PHOTO LOCATION
- EXISTING ROAD - NO SITE ACCESS
- EXISTING ROAD - ACCESS
- EXISTING ROAD - IMPASSABLE CONDITION
- PROPOSED SITE ACCESS POINT
- 700-850 CONTOURS
- 650-600 CONTOURS
- 600-550 CONTOURS
- STEEP SLOPES
- EXISTING TREELINE
- RIDGELINES
- SLOPE DIRECTION
- NATURAL DRAINAGE

MIRA
 MORRIS & RITCHIE
 ASSOCIATES, INC.
 ARCHITECTS, PLANNERS, URBAN
 DESIGNERS, ENVIRONMENTAL
 ENGINEERS, AND CONSULTANTS
 1111 N. WASHINGTON
 SUITE 200
 HAGERSTOWN, MD 21750-5000
 410.326.1111
 miramira.com

DRB
 DRB GROUP
Washco
 MANAGEMENT

BLACK ROCK
 PUD CONCEPT PLAN
 HAGERSTOWN, WASHINGTON COUNTY, MARYLAND

NO.	DATE	REVISION	BY	CHKD
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PUD
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ADJOINING SUBDIVISION BETWEEN RESIDENTIAL AND SUBJECT PROPERTY

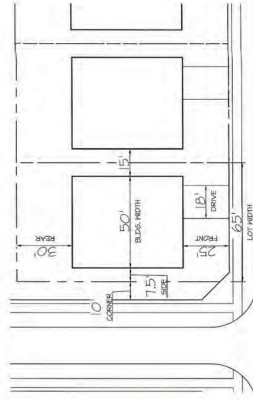
ADJACENT NEIGHBORHOOD OPEN ROAD SECTION WITH NO PUBLIC ACCESS

NEIGHBORING HOMES WITH HEAR TO SUBJECT PROPERTY, NO PUBLIC ACCESS

OVERHEAD ELECTRIC EASEMENT TO SUBSTATION, ROCK OUTCROPPINGS

PUBLIC ACCESS ON EXISTING MT. AETNA ROAD

SINGLE-FAMILY DETACHED HOME



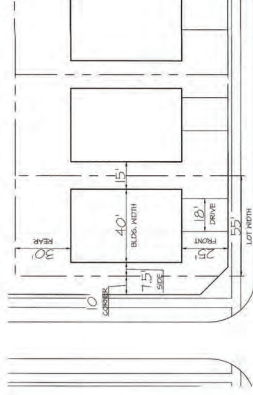
PROPOSED LOT CONFIGURATION (PLAN VIEW)



DAN RYAN COLUMBIA HOME ELEVATION RENDERING



DAN RYAN MARION HOME ELEVATION RENDERING



LOT CONFIGURATION (PLAN VIEW)



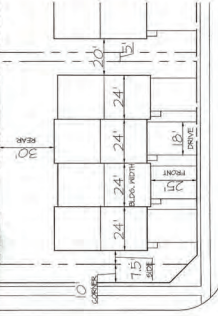
DAN RYAN CABERNET HOME ELEVATION RENDERING



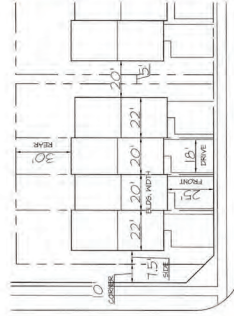
DAN RYAN BRICH HOME ELEVATION RENDERING

LOT SIZE: 65' x 115'
50' WIDE x 60' DEEP BUILDING
25' MINIMUM FRONT YARD
7.5' MINIMUM SIDE YARD (15' COMBINED)
30' MINIMUM REAR YARD (30' PROVIDED)
115' MINIMUM LOT DEPTH (120' PROVIDED)

SINGLE-FAMILY ATTACHED HOME



LOT CONFIGURATION (PLAN VIEW)



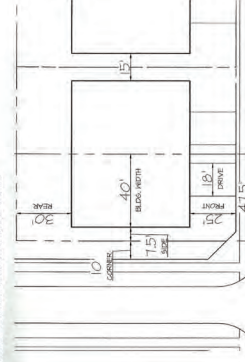
LOT CONFIGURATION (PLAN VIEW)

LOT SIZES: 24' x 107' CENTERS, 31.5' x 107' ENDS
24' WIDE x 50' DEEP BUILDING
2-CAR FRONT GARAGE
25' MINIMUM FRONT YARD
2' STAGGER ALONG FRONTS
7.5' MINIMUM SIDE YARD (15' COMBINED)
ADDITIONAL 10' SIDE ON CORNER LOTS
20' BUILDING-TO-BUILDING (5' BETWEEN PROPERTY LINES)
30' REAR YARD (35' PROVIDED)
107' MINIMUM LOT DEPTH (112' PROVIDED)

LOT SIZES: 20' x 107' CENTERS, 29.5' x 107' ENDS
20' WIDE x 50' DEEP BUILDING
1-CAR FRONT GARAGE
25' MINIMUM FRONT YARD
2' STAGGER ALONG FRONTS
7.5' MINIMUM SIDE YARD (15' COMBINED)
ADDITIONAL 10' SIDE ON CORNER LOTS
20' BUILDING-TO-BUILDING (5' BETWEEN PROPERTY LINES)
30' REAR YARD (35' PROVIDED)
107' MINIMUM LOT DEPTH (112' PROVIDED)



DAN RYAN KENWOOD HOME ELEVATION RENDERING



LOT CONFIGURATION (PLAN VIEW)



DAN RYAN LONGSTREET HOME ELEVATION RENDERING

LOT SIZES: 41.5' x 119' (95' x 119' FOR TWO)
40' WIDE x 64' DEEP BUILDING
2-CAR FRONT GARAGE, 18' x 25' DRIVEWAYS
25' MINIMUM FRONT YARD
7.5' MINIMUM SIDE YARD (15' COMBINED)
ADDITIONAL 10' SIDE ON CORNER LOTS
30' MINIMUM REAR YARD (31' PROVIDED)
119' MINIMUM LOT DEPTH (120' PROVIDED)

BLACK ROCK

PUD CONCEPT PLAN

HAGERSTOWN, WASHINGTON COUNTY, MARYLAND

DRB
DBB GROUP
WashCo
MANAGEMENT

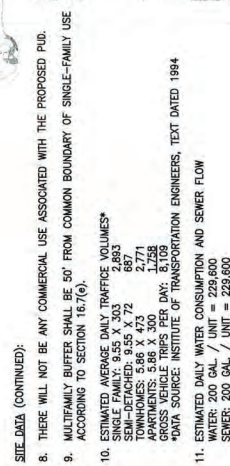
MORRIS & RITCHIE
ASSOCIATES, INC.
ARCHITECTS PLANNERS ENGINEERS
DESIGNERS AND CONSTRUCTORS
1501 EIGHTH AVENUE
SUITE 200
HAGERSTOWN, MD 20638
(410) 326-7775 FAX (410) 326-5505
www.mra-inc.com



PUD
3

PROPOSED BULK
REGULATIONS

NO.	REVISION	DATE
1	ISSUED	10/29/21
2	REVISED	
3	REVISED	
4	REVISED	
5	REVISED	
6	REVISED	
7	REVISED	
8	REVISED	
9	REVISED	
10	REVISED	





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

April 2021

Case #: RZ-21-003

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

Property Owner(s)	:	Mansoor & Janet Shaool
Applicant(s)	:	Morris & Ritchie Associates Inc.
Location	:	N/S of Mt. Aetna Road; approximately 1.5 miles east of Robinwood Drive/Edgewood Drive
Election District	:	#18 – Chewsville
Comprehensive Plan		
Designation	:	Low Density Residential
Zoning Map	:	50
Parcel(s)	:	309 & 321
Acreage	:	220.11 acres
Existing Zoning	:	RT-PUD (Residential Transition w/ Planned Unit Development Overlay) approved for up to 595 residential dwelling units
Requested Zoning	:	RT-PUD w/proposed 1,148 residential dwelling units
Date of Meeting	:	May 3, 2021

Background and Findings Analysis:

Location and Description of Subject Properties

The subject parcels are located along the north side of Mt. Aetna Road approximately 1.5 miles east of Robinwood Drive and Edgewood Drive. The total acreage of the two parcels that are the subject of this rezoning case is 220.11 acres and is further described as follows:

Subject Parcel #1: Tax Map 50; Parcel 309 – The parcel has an irregular shape consisting of approximately 160 acres and is currently unimproved. The property has a slightly rolling topography with a high point in the northeast corner of the property that slopes downward travelling west along the property. There are a few areas of steep slope on the property, however there are no identified streams, wetlands, floodplains, or threatened or endangered species habitats. The property consists of mostly farmed cropland and heavily forested areas to the west of the property.

Subject Parcel #2: Tax Map 50; Parcel 321 – This parcel also has an irregular shape and consists of approximately 60 and is currently unimproved. The topography is generally flat with a gentle downward slope moving from west to east. There is one small area of steep slope located on the property as well as an intermittent stream. There does not appear to be wetlands or floodplain associated with the stream. There are no threatened or endangered species habitats identified on the property. It is generally flat and consists of primarily farmed cropland with sporadic islands of forest.

Both properties are located within the Urban Growth Area that surrounds the City of Hagerstown and the Towns of Williamsport and Funkstown. These properties form the easternmost boundary of the UGA.

Population Analysis

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

Both of the properties that are the subject of this rezoning are located in the Chewsville Election District, # 18. As shown in Table 1 below, this district has shown large increases in population over the thirty-year time frame between 1980 and 2010. Population increases within this election district have far outpaced the average growth rate compared to the County as a whole during this 30-year time period. This district has increased approximately 122.1% (4.1% per year) while the County has increased in population by 30.37% (1.01% per year) during the same period.

Table 1: Population Trends 1980 - 2010

Year	Area	Population	% change from previous decade
1980	District	5,532	
	County	113,086	
1990	District	6,712	21.3%
	County	121,393	7.3%
2000	District	9,098	35.5%
	County	131,932	8.7%
2010	District	12,287	35.1%
	County	147,430	11.7%

Source: US Census Bureau

Availability of Public Facilities

Water and Sewerage

The adopted Water and Sewerage Plan for the County establishes the policies and recommendations for public water and sewer infrastructure to help guide development in a manner

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

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

Water:

Both parcels are delineated as a W-3 Programmed Water Service area in the 2009 Water and Sewerage Plan and service is provided by the City of Hagerstown. In accordance with the City of Hagerstown Water and Wastewater (CHWW) policy, "...the City of Hagerstown will only provide new or expanded water and wastewater service outside of Hagerstown's corporate boundaries to properties that annex into the City or that enter into pre-annexation agreements with the City...". In addition, the CHWW also states, "...the City will not extend water or wastewater services beyond the Hagerstown Medium-Range Growth Areas as defined in the City's Annexation Policy...".

This application was sent to the City of Hagerstown Water Department for review and comment. The following comments have been offered:

"The future water usage within this PUD will be approximately 229,600 gallons (1148 units x 200 gpd/unit). This PUD is located within the City of Hagerstown's Water System Zone 5. Water Zone 5 has limitations in distribution system pressure and fire flow ability even without the addition of this PUD. These limitations are detailed in the Hagerstown Fire Department comments to this PUD. The existing average water demand within Zone 5, per the 2008 City of Hagerstown Water System Master Plan, was 0.48 MGD. The 2008 Master Plan incorporated a future planning year of 2025 and an average water usage of 0.61 MGD. This PUD will increase the average water demand within this Zone to a rate that exceeds the planned future average water usage. Per the Master Plan, upgrades to the water infrastructure are required when this future flow is approached. The required upgrades are detailed in the 2008 Master Plan but generally the upgrades include improvements to the water pump station #6, the addition of a water storage tank within Zone 5 and water distribution system improvements. The City and their Consultant Engineer will work with the Developer and their Engineer on the final design of these necessary upgrades and additions to the water system infrastructure."

Both properties are currently located with the City designated Medium Range Growth Area (MRGA) boundary. They also have an executed pre-annexation agreement

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

with the City. While this statement alludes to the availability of water resources currently, it is not a guarantee of allocation. Allocation is received on a first come-first served basis until capacity is exhausted.

Furthermore, the City maintains a growth model for the areas within the MRGA in accordance with their adopted Water Resources Element of the City Comprehensive Plan. This model analyzes existing development and estimates new growth based on assumptions derived from existing zoning. Therefore, adjustments to zoning within the MRGA are also evaluated for their impacts upon the City water resources. It has been confirmed by the City that these properties have been included within their water resource model based on the development plan approved by the County for 595 new residential units. The City has confirmed that an increase of units to 1,148 will create an imbalance in the model that will need to be accounted for in another location namely through retraction of the MRGA in other locations.

Wastewater:

Both parcels are located within an S-3 Programmed Wastewater Service Area as delineated in the 2009 Water and Sewerage Plan and service is provided by the City of Hagerstown. In accordance with the City of Hagerstown Water and Wastewater (CHWW) policy, “...the City of Hagerstown will only provide new or expanded water and wastewater service outside of Hagerstown’s corporate boundaries to properties that annex into the City or that enter into pre-annexation agreements with the City...”. In addition, the CHWW also states, “...the City will not extend water or wastewater services beyond the Hagerstown Medium-Range Growth Areas as defined in the City’s Annexation Policy...”.

This application was sent to the City of Hagerstown Wastewater Division for review and comment. The following comments have been offered:

“In regards to the City wastewater collection system infrastructure, the wastewater generated within this PUD would travel through the City owned gravity collection system as well as multiple wastewater pump stations. Depending on the final site grading and proposed sewer collection system layout within this development, upgrades to City Wastewater pump station 19 and possibly the discharge force main will most likely be required. Currently, this pump station was designed for the development in which it is located with limited excess capacity. Pump Station 19 is located near the intersection of Sani Lane and Ayoub Lane. The layout of wastewater collection/conveyance infrastructure within this PUD that avoids wastewater conveyance through Pump Station 19 would be acceptable and can be evaluated as the project progresses.

The remaining City wastewater pump stations affected by this PUD appear to have sufficient hydraulic capacity for the anticipated wastewater flow generated within this PUD.

The City owned gravity sewers between this PUD and Wastewater Pump Station 8 appear to have sufficient hydraulic capacity however the City reserves the right to require sewer collection system upgrades depending on the final sewer collection system layout within the PUD. City Wastewater Pump Station 8 is located along Robinwood Drive in front of Hagerstown Community College."

Both properties are currently located within the City designated Medium Range Growth Area (MRGA) boundary. They also have an executed pre-annexation agreement with the City. While this statement alludes to the availability of wastewater resources currently, it is not a guarantee of allocation. Allocation is received on a first come-first served basis until capacity is exhausted.

Emergency Services

Fire:

Subject Parcel #1 is located within the service area of the Smithsburg Volunteer Fire Company (Company #11) and is approximately 5 miles away from the fire station. Subject Parcel #2 is located within the service area of the Funkstown Fire Company (Company #10) and is located approximately 3 miles away from the fire station.

A copy of this application was sent to each volunteer fire company and also forwarded to the City of Hagerstown Fire Department for review and comment. There was no response received from the County volunteer companies, however the City Fire Chief had the following comments to offer:

"The HFD has had the opportunity to review the revised PUD for the Black Rock development off of Mt Aetna Rd and offer the following comments unique to fire protection in that area of Washington County. Be advised that even though HFD units typically are included on responses in this area, it is the first due area of the Funkstown Volunteer Fire Company to provide comments for this portion of the county. If you have not already done so, I recommend that you reach out to them for their input and guidance.

HFD comments and concerns:

1. This development is located within Hagerstown Water Zone 5 which historically has struggled to meet both domestic and fire protection water flows within the entire zone. These struggles are known issues and well documented over time. This is exasperated by the geography (high elevation, lack of a storage tank or standpipe, and undersized water transmission / distribution lines supplying zone-5). After several large fires in that area of the county in recent years including Doey's House, Woodbridge Dr., and others where fire protection water is limited to successfully deploy large caliber streams, the Funkstown VFD has added multiple tankers (water on wheels) to the assignments to partially compensate for the lack of needed fire flow (NFF).

2. The city has recently added an automatic swing check valve in the vicinity of the Elk's club on Robinwood Dr. to provide some interim relief by increasing the available water from the main zone 1 when demand exceeds supply. This however is limited.

3. The proposed development and existing construction in zone-5 is primarily comprised of very large single-family homes, townhomes and some extended residence buildings that are of Type-5 light-weight, wood-frame construction that are a challenge for FD's everywhere. The need for additional FF-ing water streams is essential to stopping well advanced fires in these buildings.

4. To achieve effective FF streams, the correct combination of pressure and volume is needed to adequately protect structures like those proposed. I will defer to the technical expertise of the Water Department to recommend a permanent solution(s).

5. In the interim, and without an adequate size storage tank for fire protection water located within zone-5, the HFD strongly recommends that further development does not occur as proposed. There simply is inadequate water necessary to flow two or more large caliber streams necessary to stop fires in well involved attic spaces of the type and size of buildings proposed.

By our understanding, the revised proposal nearly doubles the number of units initially reviewed in 2004. Specifically, the large number of apartments and townhomes clustered together present a real challenge for any FD. This is particularly true in the unsprinklered attic spaces of these buildings with peaked roofs.

Finally, and by the copy of the draft drawings we reviewed, there appears to be a single entrance only off of Mt. Aetna Rd. to the development. This seems problematic for such a large number of dwelling units (1, 148) without some redundancy and access from another point."

These comments were forwarded to the applicant who requested a subsequent meeting with Staff to discuss these concerns. After some discussion, the applicant believes that they will be able to mitigate these concerns either through water line improvements (i.e. looping of lines to create additional pressure) or via a water tower or other facility. The issue of access redundancy will be addressed by the applicant as part of their presentation at the input meeting.

Emergency Rescue:

Emergency Rescue services are provided by Community Rescue Service (Company #75). The properties are approximately 3 miles away from the station. A copy

of this application was sent to each of the volunteer companies as well as to the Washington County Division of Emergency Services. No comments have been received.

Schools

The two properties that comprise this proposed development currently acts as the dividing point between two different school district feeder systems. Subject parcel #1 (P. 309) is in the property is located within Ruth Ann Monroe/Eastern Elementary/Smithsburg Middle/Smithsburg High districts. Subject parcel #2 (P. 321) is in the Greenbrier Elementary/Boonsboro Middle/Boonsboro High school districts. The requested increase of dwelling units would impact both school districts.

To evaluate the impacts of development on public school system resources we first look at existing conditions. In accordance with the adopted Adequate Public Facilities Ordinance (APFO), adequacy is determined based upon the State Rated Capacity (SRC) of each school district. The threshold for adequacy (stated as the Local Rated Capacity) at the elementary school level is 90% of the SRC. Middle and high school thresholds are 100% of the SRC. The tables below show the existing capacity and enrollment figures for each school district affected by this proposed rezoning. It should be noted that enrollment figures are significantly lower in the elementary school levels than in previous years due to impacts from the COVID-19 pandemic. These numbers are expected to rise again as schools return to normal in person operations.

School	State Rated Capacity	Local Rated Capacity	Current Enrollment (Dec 2020)
Ruth Ann Monroe/Eastern Elem.	1264	1138	993
Smithsburg Middle	839	839	566
Smithsburg High	897	897	725

School	State Rated Capacity	Local Rated Capacity	Current Enrollment (Dec 2020)
Greenbrier Elementary	274	247	222
Boonsboro Middle	870	870	623
Boonsboro High	1098	1098	872

In addition to current enrollment figures, the APFO outlines a specific formula that accounts for several variables that can influence changes in school enrollment. These factors include pipeline and background enrollment. Pipeline development equates to approved subdivision lots that have not yet been built upon while background enrollment is an average of enrollment changes within a given district over a 3-year period. The table below shows the adjusted enrollment for the school districts that serve the subject property.

School	Current Enrollment (Dec 2020)	Pipeline Enrollment	Background Enrollment	Adjusted Enrollment
Ruth Ann Monroe/Eastern Elem.	993	110.98	11.7	1115.68
Smithsburg Middle	566	34.98	6.8	607.78
Smithsburg High	725	34.98	-7.5	752.48

School	Current Enrollment (Dec 2020)	Pipeline Enrollment	Background Enrollment	Adjusted Enrollment
Greenbrier Elementary	222	17.63	0.8	240.43
Boonsboro Middle	623	52.36	0.4	675.76
Boonsboro High	872	52.36	9.8	934.16

To determine the impacts of the specific development, the Board of Education has provided the County with pupil generation rates for each level of a school district. These generation rates are used to calculate the potential number of students that may be produced by the development. Generation rates are based on the level of the school and the type of housing unit that may be produced. The table below shows current pupil generations rates.

Pupil Generation Rates			
Type	Elem	Mid	High
Single Family	0.43	0.22	0.22
Townhouse	0.32	0.11	0.14
Multi-Family	0.31	0.12	0.16

Using the number of proposed units multiplied by the pupil generation rate, the estimated number of students that may be generated from this development is summarized in the table below. The figures are estimated based upon the development plan submitted in February 2021. Enrollments can and will vary depending upon the final layout of the development.

Subject Parcel #1 (P.309) Ruth Ann Monroe/Eastern/Smithsburg/Smithsburg								
Unit Type	Number of lots	Pupil Gen Rates			Pupils Generated			
		Elem	Mid	High	Elem	Mid	High	Total
Single Family	182	0.43	0.22	0.22	78.26	40.04	40.04	158.34
Townhouse	447	0.32	0.11	0.14	143.04	49.17	62.58	254.79
Multi-family	300	0.31	0.12	0.16	93.00	36.00	48.00	177.00
Totals	929				314.3	125.21	150.62	590.13

Subject Parcel #2 (P.321) Greenbrier/ Boonsboro/Boonsboro								
Unit Type	Number of lots	Pupil Gen Rates			Pupils Generated			
		Elem	Mid	High	Elem	Mid	High	Total
Single Family	193	0.43	0.22	0.22	82.99	42.46	42.46	167.91
Townhouse	26	0.32	0.11	0.14	8.32	2.86	3.64	14.82
Multi-family	0	0.31	0.12	0.16	0.00	0.00	0.00	0.00
Totals	219				91.31	45.32	46.1	182.73

When added together, the current adjusted enrollment and new pupils generated from the proposed development shows an inadequacy at the elementary school level in both the receiving districts. While the exceedance in the Ruth Ann Monroe/Eastern district is within a mitigatable range, the exceedance in the Greenbrier district far exceeds typical mitigation methods within the County. There are currently no redistricting plans, capital projects or other reasonable mitigation efforts proposed for this district that could offset the magnitude of the exceedance.

Reviewing the middle and high school capacities it appears that the development occurring within the Smithsburg feeder systems will be pushed slightly over Local and State Rated Capacities but well within a mitigatable range. Development within the Boonsboro feeder systems appears to have no negative impact on school capacity. Because the two districts abut one another at this location it may be in the best interest of all parties to investigate the possibility of redistricting middle and high school students from Smithsburg to Boonsboro to help balance student enrollment in each feeder system.

Subject Parcel # 1 (P. 309)					
School	Adjusted Enrollment	New Pupils Generated	Total Impact	Local Rated Capacity	% of LRC
Ruth Ann Monroe/Eastern Elem.	1115.68	158.34	1274.02	1138	112.0%
Smithsburg Middle	607.78	254.79	862.57	839	102.8%
Smithsburg High	752.48	177	929.48	897	103.6%

Subject Parcel #2 (P. 321)					
School	Adjusted Enrollment	New Pupils Generated	Total Impact	Local Rated Capacity	% of LRC
Greenbrier Elementary	240.43	167.91	408.34	247	165.3%
Boonsboro Middle	675.76	14.82	690.58	870	79.4%
Boonsboro High	934.16	0	934.16	1098	85.1%

****Disclaimer** – School enrollment calculations are estimated as a snapshot of existing conditions. These figures can and will change over time and are only included as illustrations of potential outcomes based on information available at the time of writing this document.

Present and Future Transportation Patterns

Highways

While subject parcel # 1 is technically land locked and absent direct access to a public road, the application is being viewed as a whole so that both parcels will construct new road infrastructure that will use Mt. Aetna Road as the developments access point.

In addition to evaluating public access of a parcel for rezoning purposes, it is also important to evaluate traffic generation and existing traffic volumes. This is commonly accomplished through analysis of historic and existing traffic counts as well as any existing traffic impact studies. Mt. Aetna Road is a County owned and maintained highway segment. There is little data available related to County traffic counts due to limited resources. The most recent traffic count data collected in this area was in 2016 and is shown in the chart below. The data shown in the chart is expressed in annual average daily traffic volumes.

Table 2: Traffic Volumes at Select Locations

Mt. Aetna Rd. @ Sasha Blvd.	557
Mt. Aetna Rd. @ White Hall Rd.	1622
Mt. Aetna Rd. @ Edgewood Dr.	5553

Source: Washington County Division of Engineering and Construction

A traffic impact analysis was completed by the property owner in 2002 to evaluate the impacts of applying a Planned Unit Development overlay on the property with a density of 595 units (2.7 units per acre). It was estimated that the gross number of vehicle trips per day would 4,592 trips. Conclusions of the analysis indicated that the additional traffic generated from the development would increase delays to the signalized intersections along US Route 40 and Robinwood Drive. Furthermore, the development would add increase traffic volumes along White Hall Road through to its intersection with MD 66. It was noted in the study that several road improvements would need to be completed to offset the traffic generation of the development.

An updated traffic impact study has not been completed but is recommended as part of the development plan phase should the rezoning be approved. While a complete study has not been conducted the developer is estimating that the gross number of vehicle trips per day generated by the proposed increase in density would be approximately 8,109 trips.

A copy of this application was sent to the Division of Plan Review and Permitting and their comments are as follows:

- 1. There have been significant changes to the road networks in the Robinwood corridor since the initial traffic study for Black Rock PUD was prepared. Updated analysis will be necessary at the Development Plan stage to evaluate any possible impact the increased density would have on the adequacy of the roads serving the development.*
- 2. A second connection to another major roadway should be provided.*
- 3. Given the entrance design and the trip generation (8109 ADT) the road near the entrance will resemble a "Major Collector" which would carry a 300-foot access separation requirement under the highway plan. However, the concept includes single family dwellings with direct access through this section. Consideration should be given to limiting*

access along the main throughfare and/or provide traffic calming to increase safety for vehicles and pedestrians.

4. The proposed access to Mount Aetna Road has been consolidated from the previous development plan. The design of this connection will need to be evaluated should the project proceed to confirm adequate intersection sight distance, as well as the need for any accessory lanes.

5. Several roads in the conceptual development appear to not meet Washington County geometric criteria (horizontal curve radii too small, cul-de-sac configurations). The design criteria will need to be demonstrated in subsequent review phases should the project move forward.

Public Transportation

This specific property is not currently served by public transportation. However, the Washington County Transit Department does have a fixed route in the Robinwood area that passes within 1.5 miles of the site.

Compatibility with Existing and Proposed Development in the Area:

The area surrounding the subject parcels contain a mixture of residential and farmland uses. Development bordering the west of the property is comprised of moderate to high residential density uses including a mixture of single family, townhouses, and apartment units. Bordering the property to the south is an existing single-family subdivision known as Black Rock Estates. The northern and eastern boundaries of the property abut large areas of active agriculture and forms the westernmost boundary of the Urban Growth Area.

Another important component of compatibility is the location of historic structures on and around the parcels being proposed for rezoning. The following historic sites listed on the Washington County Historic Sites Survey are located within a 0.5 mile radius of the proposed rezoning areas.

WA-I-063 – Snavelly (Warvel) Farm, early 19th Century stone house, located on subject parcel #1; structure has been demolished.

WA-I-075 – Snavelly Farm (Michael Hamilton Farm), late 18th century log & brick house, located on subject parcel #1; structure has been demolished.

WA-I-032 – Melrose Manor (Samuel McCauley Farm), constructed in 1850, located approximately 0.75 miles west of subject parcel #2 along Mt. Aetna Rd.

WA-I-441 – Melrose Manor secondary dwelling; Early 20th century brick house, located approximately 800' from the subject property; structure has been demolished.

WA-II-137 – Price Farm; Early 20th century wood frame & stone house, located approximately 450' west of subject parcel #2.

WA-I-184 – 19th century stone house, located approximately 1200' from the subject parcel #2.

WA-I-033 – Par of Carr's Quesy (Query, White Hall); Early 19th century stone house covered in stucco, located approximately 1700' from subject parcel #2.

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

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

Both properties are located in the sub-policy area Low Density Residential. The Comprehensive Plan offers the following policy statements for this policy area:

Low Density Residential:

"This policy area designation would be primarily associated with single-family and to a lesser degree two-family or duplex development."

"Typical densities in the policy area range from two to four units per acre unless the property is approved for a planned residential or mixed-use development. If the property is approved for high density development the maximum density should be 12 units per acre."²

Change to the approval of an existing Planned Unit Development

Application of floating zones such as a Planned Unit Development (PUD) do not follow the same legal statutes of review and analysis as those used in a piecemeal rezoning of a Euclidian district. Instead of meeting the legal standard of the change or mistake rule, floating zones are analyzed using criteria specified with the zoning ordinance referring to the requested floating zone.

In this particular case, the property has already been assigned a PUD floating zone and approved for total of 595 units (or 2.7 units per acre density). The applicant is requesting a major change in the approved number of units and must therefore comply to the standards of Section 16A.5 of the zoning ordinance.

When evaluating the request for a major change from a previously approved PUD development plan, both the Planning Commission and Board of County Commissioners are required to consider the following criteria:

1. The purpose of the PUD District;
2. The applicable policies of the adopted Comprehensive Plan;
3. The compatibility of the proposed changes of the PUD with neighboring properties;
4. The effect of the proposed changes to the PUD on community infrastructure;
5. Consistency with the intent and purpose for the establishment of the PUD.

² 2002 Washington County, Maryland Comprehensive Plan, Pages 245 and 246

Staff Analysis:

As stated in the previous section, there are 5 stated criteria in the zoning ordinance that are to be evaluated as part of the decision-making process for applying a PUD floating zone. These criteria have been analyzed by Staff below.

1. The purpose of the PUD District

According to the zoning ordinance, the intent of the PUD Article is, “to manage the implementation of regulations for existing approved PUD Developments within the framework of the Urban Growth Area Rezoning of 2012.” As part of the 2012 UGA rezoning the PUD district was effectively replaced by a new district known as the Mixed Use (MX) district. Therefore, any requests to implement a new mixed-use development must follow the guidance and regulation of the MX district. Existing PUDs were not rezoned or converted to the new MX district therefore Section 16A was left in the ordinance to regulate those existing uses. The applicant has submitted this request in accordance with Article 16A.

2. The applicable policies of the adopted Comprehensive Plan

There are numerous policies within the adopted Comprehensive Plan that can apply to any given application in very specific ways. However, Staff believes that the intent of this requirement is to evaluate applications in a broader sense of Countywide land use policies.

The primary goal of the Comprehensive Plan is to manage growth in a way that is safe, reasonable, and efficient for our community. To that end the County promotes an overarching land use policy that directs new development to occur in areas where existing resources and infrastructure are available. These areas are delineated in the Plan as ‘growth areas’. Growth areas contain the existing infrastructure, utilities, and services needed for our citizens. This property’s location within the defined Urban Growth Area meets this overarching policy.

To further refine the policy of directing growth into these areas, the Comprehensive Plan defines sub-policy areas that delineate generalized land use categories based on existing and projected land uses. The purpose of these sub-policy areas is to define broad land use categories such as residential, commercial, industrial, institutional, etc that guide future growth and development decisions such as rezonings and functional plan amendments.

As noted in a previous section, these properties are located within the Low-Density Residential Policy area. While this policy area is usually associated with a lower density of 2-4 units per acre, there is specific reference to increased density being allowable with the application of a PUD floating zone. The requested change is to increase the density within the existing PUD, it is still in accordance with policies outlined in the Comprehensive Plan is therefore compatible with the Plan.

3. The compatibility of the proposed changes of the PUD with neighboring properties

As stated in a previous section the subject properties are surrounded on the south and west by existing residential development while the north and east boundaries are adjacent to active agricultural land. Evident in both the proposed design and subsequent discussion with the developer is the desire to mix the residential development in a manner that is as compatible as possible with existing development in the area.

Single family homes are located along the southern boundary of the development to provide a buffer of similar uses adjacent to the existing Black Rock Estates subdivision. Additional single-family homes are located on the northern edge of the property to provide a transitional area into the more rural land uses. Townhouses are located along the western boundary of the property to be compatible with existing townhouse and multifamily developments along Robinwood Drive (i.e. Kings Crest, Stonecroft Apartments, and Youngstown Apartments & Townhouses). The apartment portion of the development is centralized to contain and surround the multifamily units internal to the new construction and away from existing non-compatible development.

Additional sections of townhouses are proposed for the eastern boundary of the property which is not compatible with the adjacent farmland uses and low residential density zoning. In addition, slightly higher density uses in the form of duplexes are also located on the eastern boarder adjacent to rural farmland. While these uses may not be wholly compatible with adjacent uses in these two primary areas the developer has provided reasonable support for the layout. The location of the additional townhouse sections on the eastern portion of the property was sited to keep traffic closer to the two primary entrances to the development rather than put higher count uses deeper into the development and impacting a larger portion of the overall development. Furthermore, it is the desire of the developer to distribute the different residential types throughout the development to provide a more integrated neighborhood. The location of the duplexes was intended to be slightly separated from the higher density areas with the anticipation that they may be marketed as age-restricted units.

4. The effect of the proposed changes to the PUD on community infrastructure

This topic has been evaluated in previous sections as well. According to the City of Hagerstown Water Department, there are issues involving water quantity and pressure in this service zone that impacts daily usage as well as fire suppression efforts. This comment was echoed by the City Fire Chief. In subsequent meetings with the developer (and in their response letter dated April 16, 2021), these concerns have been acknowledged and deliberated as part of the plan application. The developer has stated that they are aware that significant upgrades will be needed to the existing water distribution system in this area to serve their proposal.

Concerns regarding water capacity have also been discussed in a comprehensive context as it impacts the availability of water resources within the City MRGA. Per the

City model the additional allocation that will be needed by increasing the density in this development will create a deficit in the overall MRGA allocation indicating a need to likely retract some other area to balance the model.

There will be some impacts upon the transportation network, however, the full effects are unknown at this time due the absence of an updated traffic impact study. The applicant has addressed some of the concerns related to traffic counts and access points for the proposed development in their response letter. They have also indicated that they will provide additional information at the public input meeting detailing additional traffic analysis.

Finally, a snapshot analysis of current school enrollments coupled with additional impacts from this proposal indicate a severe deficiency in capacity of the elementary schools serving this area. It is difficult to predict if these projections will totally come to fruition but there is a high probability that some impact will occur. The developer will be required to act in accordance with adopted Adequate Public Facilities Ordinance in effect at the time of subdivision plat approvals.

5. Consistency with the intent and purpose for the establishment of the PUD which is to permit flexibility and creativity in the design of residential areas, promote economical and efficient use of the land, provide for a harmonious variety of housing choices, a varied level of community amenities and the promotion of adequate recreation, open space and scenic attractiveness.

Based upon the analysis already provided in previous section it appears that this plan is consistent with the intent and purpose of establishing a PUD. Once area of weakness in this plan is the discussion of community amenities and the promotion of adequate recreation facilities. This issue can likely be addressed with the existing design; however, specific plans should be provided to ensure the proper type and distribution of said uses.

Recommendation:

This request for a major change to an approved development plan for the Black Rock PUD development conforms to the policies and guidance in the adopted Comprehensive Plan and County Zoning Ordinance. While the proposal is consistent with these policies, evaluation of existing infrastructure has shown several deficiencies including water supply and pressure, traffic impacts, lack of recreational areas, and school capacity issues. The developer has acknowledged and provided responses to the majority of these issues and will provide further information as part of their presentation at the public meeting.

The variables of this request make it difficult to render a conclusive recommendation. When weighing the contributions of this new development against its potential impacts, it highlights areas of competing interests. For example, the issue of water resource provision in the area already exists so if the new development is permitted, the upgrades that will be made to the water system could provide a net gain for the overall water zone and its users. This action would meet the goals of both the City and County by providing a better water and fire suppression service

to citizens. Conversely, the increase of density in this development will have a heavy impact to school capacities in an area that doesn't seem to have a definitive solution either from a developer perspective or from a governmental capital perspective. This goes against the goals of the local jurisdictions to provide adequate public educational facilities.

Therefore, Staff's recommendation is not a finding in favor of, or against the proposal. Instead, it is Staff's recommendation that careful consideration of resource deficiencies be evaluated, and appropriate conditions be applied to potential development plan approvals that adequately address/resolve the deficiencies. These conditions should provide direction to the developer that will assist in their deliberation of project feasibility.

Respectfully Submitted,

A handwritten signature in dark ink, appearing to read "Jill Baker", written in a cursive style.

Jill Baker
Director

**WASHINGTON COUNTY PLANNING COMMISSION
PUBLIC INFORMATION MEETING
June 14, 2021**

Due to current social meeting restrictions put in place by the Governor of Maryland because of the COVID-19 pandemic, the Washington County Planning Commission held a public information meeting on Monday, June 14, 2021 at 6:30 p.m. virtually using Zoom software. No physical meeting took place.

Planning Commission members present were: Clint Wiley, Robert Goetz, Denny Reeder, Jeff Semler, David Kline, Jeremiah Weddle and Ex-officio County Commissioner Randall Wagner. Staff members present were: Washington County Department of Planning & Zoning: Jill Baker, Director; Jennifer Kinzer, Deputy Director; Meghan Jenkins, GIS Coordinator; Wyatt Stitely, Comprehensive Planner; and Debra Eckard, Administrative Assistant; Washington County Department of Plan Review & Permitting: Ashley Holloway, Director; Rebecca Calimer, Chief of Plan Review; and Scott Stotelmyer, Planner.

Also present were: Sean Davis, Brittany Sink, Mickey Cornelieus and John Erickson, Morris & Ritchie Associates, the applicant; Matthew Powell, DRB Group; William Erskine, Offit Kurman, legal counsel for the applicant; and Sassan and Adam Shaool of Washco Development.

CALL TO ORDER

The Chairman called the public information meeting to order at 6:45 p.m.

PUBLIC INFORMATION MEETING

RZ-21-003 – Morris & Ritchie Associates

Staff Presentation

Ms. Baker presented a major change request to the Black Rock PUD located on the north side of Mt. Aetna Road. The requested amendment to the existing development plan is to increase the overall number of residential units from 595 dwelling units to 1,148 units, thereby increasing residential density from 2.7 dwelling units per acre to 5.2 units per acre. The property is made up of two parcels, one is 160 acres in size and the second parcel is 60 acres in size. Both parcels are located in the Growth Area that surrounds the City of Hagerstown and the Towns of Williamsport and Funkstown and form the easternmost boundary of the Urban Growth Area.

Ms. Baker addressed the following findings as analyzed by staff and reported in the Staff Report and Analysis prepared for this case:

- **Population:** Population over the last 30 years has increased significantly in this area, more than in the County.
- **Public Water:** Comments were received from the City of Hagerstown regarding water capacity issues for the property. While there is currently capacity available, it is on a first-come, first-serve basis; therefore, allocation is not guaranteed. The property is located within the Medium Range Growth Area (MRGA) boundary. However, in growth models that the City maintains for allocation, this development is only approved for 595 units. Increasing the number of units to 1,148 would require the County to retract the MRGA boundary in another area to serve this development in the long-term. Also of concern in this area is fire suppression and water pressure issues.
- **Wastewater:** The City of Hagerstown would provide public sewer services to this area. Upgrades would be required to the wastewater collection system infrastructure if this major change in development is approved.
- **Emergency Services:** These parcels are served by the Smithsburg and Funkstown Volunteer Fire companies; however, the City of Hagerstown may be called as well. The fire companies made comments regarding the lack of water pressure and fire suppression efforts in the area. Also of concern is the proposal for only one access point off Mt. Aetna Road without access from another point.
- **Schools:** Projections from the estimated capacity that this change in the development would create would greatly affect both elementary schools (Ruth Ann Monroe Elementary and Greenbriar Elementary). The middle and high schools (Smithsburg Middle and High and Boonsboro Middle and High schools) would also be affected; however, this would be a more manageable situation. No mitigation efforts have been discussed by the developer or capital improvements proposed by local government.
- **Highways:** One parcel is technically landlocked; however, staff is reviewing this property as a whole. Two access points are proposed from Mt. Aetna Road. A traffic study was completed in

2002 when the PUD overlay was first initiated based on 595 units which would produce about 4600 trips per day. Conclusions of that study indicated that additional traffic generated from the development would increase delays to signalized intersections along US Route 40 and Robinwood Drive. The development would also increase traffic along White Hall Road through its intersections to Maryland Route 66. Due to development along the Robinwood corridor since the study was completed, many road improvements have been completed. However, a new traffic analysis would be necessary to evaluate the impact the increased density would have on the adequacy of roads.

- Relationship to the adopted Comprehensive Plan: The property is located in the Low Density Residential area, which allows planned unit developments.
- Change to the approval of an existing Planned Unit Development: There are five criteria that must be considered when evaluating a request for a major change from a previously approved PUD development plan. These are:
 - 1) the purpose of the PUD district;
 - 2) the applicable policies of the adopted Comprehensive Plan;
 - 3) the compatibility of the proposed changes of the PUD with neighboring properties;
 - 4) the effect of the proposed changes to the PUD on community infra-structure; and
 - 5) consistency with the intent and purpose for the establishment of the PUD.

Each of these criteria were evaluated in the Staff Report and Analysis.

Applicant's Presentation

Mr. Matt Powell began the applicant's presentation with a brief history and introduction of DRB Group. He noted that market demands and home buyers' needs have changed since the original approval of the PUD. He expressed his opinion that people want smaller lots with less yard to maintain, more community amenities, more product type and price points that attract buyers of all ages, and more walkable communities with gathering places for social interaction and a sense of community. The existing approved PUD does not provide what today's market or buyers want or desire; the design is antiquated and outdated. Mr. Powell believes that although the proposed change contains more density, the plan gives more consideration to existing topography, adjoining uses, market demands, and buyer's lifestyles. He noted that the higher density being requested would afford the developer the ability to contribute to the cost of pre-existing and created infrastructure obstacles and mitigation efforts. He believes that a development of this type is essential to attract new employers and their employees to the County.

Mr. Sean Davis began his presentation by noting that this is the first step in the approval process which will take at least two years to complete. Total build out of the proposed development will take 10 to 15 years. He gave a description of the topography and layout of the property. He noted that a majority of the property is currently farm crop land with a significant forest stand in the southwest corner. There are no perennial streams, wetlands, floodplains or rare or endangered species on the property. Mr. Davis stated that the major access for this development will be off Mt. Aetna Road with a secondary access off Sasha Boulevard.

Mr. Davis believes that the proposed development meets the recommendations of the County's 2002 adopted Comprehensive Plan. First, the property is within the County's growth area as well as the City of Hagerstown's Medium Range Growth Area boundary which is a sub-policy area for low density residential development which allows 2 to 4 dwelling units per acre unless it is a PUD. The PUD allows for a density of 12 dwellings units per acre which, in this case, would total 2,640 dwelling units as permitted by the current zoning. The developer is proposing a total of 1,148 dwelling units. Secondly, the Comprehensive Plan directs new development in areas where existing residential infrastructure exists.

Mr. Davis provided examples of the product types that would be available in the proposed development. He noted there will be open space areas throughout the development totaling 55 acres, a community clubhouse that will have a fitness center and pool, tot lots and pocket parks scattered throughout the various neighborhoods, walking and hiking trails, dog parks, and community gardens to promote social interaction. He discussed the overarching goals of this development: to maximize the preservation of existing forest; to respect and buffer the neighbors to the south; to provide a strong community presence and identity off Mt. Aetna Road; to provide interconnected neighborhoods with a strong amenity program; to provide diversity of product throughout the community; to minimize traffic on Sasha Boulevard; and, to provide future road connections for neighbors to the north and east.

Mr. Davis provided a timeline for each phase of construction and a breakdown of product types to be constructed in each phase.

- Phase 1 – construction begins in 2023 – includes age targeted duplexes in neighborhood A, single-family homes in neighborhoods B and O, and townhomes in neighborhood C
- Phase 2 – construction begins in 2025 or 2026 – includes single-family homes in neighborhood N and townhomes in neighborhoods D and M
- Phase 3 – construction begins in 2028 or 2029 – includes single-family homes in neighborhoods E, F and K
- Phase 4 – construction begins in 2031 or 2031 – includes single-family homes in neighborhoods G and I and townhomes in neighborhoods J and H
- Phase 5 – construction begins in 2033 or 2034 – multi-family units in neighborhood L will be inside the proposed development and will not be visible from neighboring communities
- The community center will be constructed when permits for 50% of the dwelling units have been issued.

Mr. William Erskine discussed the five criteria needed to make a major change to an existing PUD as follows:

- 1) Consider the purpose of a PUD: *The purpose of a PUD is to manage the implementation of the existing PUD needed for the flexibility to respond to changing conditions and markets.*
- 2) Applicable policies of the adopted General Plan (Land Use Plan): *The purpose of the General Plan is to manage growth in areas of the county where there is existing infrastructure. This property is located in the County's Urban Growth Area and City's Medium Range Growth Area. It is designated by the Comp Plan as a Low-Density Residential sub-policy area with a PUD overlay. The proposed development at 5.2 dwelling units per acre is well within the guidelines of the Low-Density Residential rate for a PUD.*
- 3) Compatibility of proposed changes with neighboring properties: *Great thought and consideration was placed in arranging the residential products taking advantage of topography so they are all well buffered from neighboring properties and uses. This has resulted in a well-integrated community with a wide variety of product types and price points.*
- 4) Effect of the proposed changes on community infrastructure: *Consideration needs to be given to determine if any of the infrastructure elements are highly unsolvable. The Adequate Public Facilities Ordinance (APFO) would address these issues which the developer would need to satisfy at each step in the process. It is not whether the current infrastructure can handle the proposed development, but can improvements be made to adequately address the needs.*
- 5) Consistency with the intent and purpose of a PUD: *This is to have the flexibility and creativity in the design of residential areas to promote economical and efficient use of the land.*

Public Comment

- Black Rock Estates HOA (represented by Andrew Hoffman), 20341 Ayoub Lane – Residents of Black Rock Estates have several concerns as follows:
 - Lack of water and volume of water pressure (residents are concerned that their homes are not adequately protected in case of fire – several instances were cited where homes or businesses were lost due to lack of water and water pressure in the area)
 - traffic volume and road improvements (road improvements should include accel/decel lanes, improved intersections, sidewalks, street lighting, etc.)
 - buffering between existing homes and the proposed new development is not adequately addressed on the current plans
 - school capacity is inadequate to serve the additional homes
 - additional access to the development (there should be an outlet onto Robinwood Drive going through King's Crest or Woodbridge development)
 - decrease in existing home values.

Mr. Hoffman expressed his opinion that these issues need to be addressed now instead of waiting until the development starts.

- David Kirkman, 13010 Sani Lane – Mr. Kirkman expressed his concern regarding the increase in the volume of traffic in areas where there are no sidewalks or streetlights. He believes a road should be constructed to connect traffic to Robinwood Drive. He cited the low water volume and water pressure as a danger to property and people's lives. Mr. Kirkman questioned if the PUD is still valid. His research indicates that the Zoning Ordinance required a timeline of progress for plans, approvals and construction to begin on PUDs. He stated that the Ordinance required an extension to be submitted and voted on by the Planning Commission if a PUD is to remain active and valid. Mr. Kirkman cannot find any evidence that an extension has been filed or voted on by

the Commission since this development was originally approved in 2004. He asked that someone check on this requirement.

- Erin Walsh-Kirkman, 11010 Sani Lane – Ms. Kirkman expressed her opinion that noise and the increase in population and traffic will have a negative impact on the character of the area. She believes the roads are not adequate to handle the increased volume of traffic and poses a safety concern. She also believes this development would reduce property values in the area.
- Tricia Churchey, 659 Tudor Drive – Ms. Churchey is one of the developers of Greenwich Park, which was originally proposed as a PUD. She noted that during the public meeting process for the proposed PUD, Mr. Manny Shaool was opposed to the PUD concept because it would negatively impact Black Rock Estates. The developers of Greenwich Park were told by the local governing body that a PUD was not acceptable for this corridor and were asked to revise their plans. Ms. Churchey also expressed concerns for traffic issues in the area. She is opposed to the proposed PUD because it will adversely affect Greenwich Park and the value of homes in the area.
- Kenneth Archer, 20502 Tehrani Lane – Mr. Archer expressed his concerns regarding traffic and the proposal of the developer to route traffic through the residential areas of Black Rock Estates onto Sasha Boulevard or on a spine road through the PUD and then to Mt. Aetna Road. He is also concerned about traffic trying to access I-70 using Mt. Aetna and White Hall Roads, which are two-lane, narrow, winding roads. Mr. Archer noted that Sasha Boulevard and Mt. Aetna Road have no sidewalks or lights and are used by joggers, walkers, and bicyclists. He believes this proposal will adversely impact the quality of life, safety and environment of the area.
- Anita Thomas, 20310 Ayoub Lane – Ms. Thomas expressed concerns for traffic issues in the area and the safety of pedestrians and cyclists. She believes that a gate should be placed at the end of Sasha Boulevard to keep vehicular traffic from the PUD out of Black Rock Estates.
- Joe Coleman, 467 Thames Street – Mr. Coleman is opposed to the proposed change due to incompatibility with the neighborhood, the impacts on existing infrastructure, and the adverse effects on the quality of life in the area. He stated that Fair Meadows Boulevard is being used as a shortcut from Mt. Aetna Road to Dual Highway and he believes this would only get worse if the change is approved. He cited speeding and safety concerns and the lack of speed enforcement on this roadway.
- Hugo Bonatti, 20509 Shaheen Lane – Mr. Bonatti stated that there are beautiful homes in this area with large yards which provide an excellent quality of life. He believes the developer is just trying to maximize his profits by increasing the number of homes in the PUD. He cited concerns regarding traffic and its effects on the neighborhood.
- Martha Sullivan, 10902 Sasha Boulevard – Ms. Sullivan expressed her concerns regarding traffic issues on Sasha Boulevard and Mt. Aetna Road, inadequate buffering between the two developments, an increase in crime, and the lack of water pressure in the area. She is opposed to the major change request and believes that the density of the original proposal should also be re-evaluated.
- Mark Jameson, 1800 Londontowne Circle – Mr. Jameson is opposed to the major change request. He believes the proposed development is not compatible with other developments in the area due to the density proposed. He expressed his concern regarding the inadequacy of existing infrastructure for roads, water, wastewater and schools. Mr. Jameson believes that changing the PUD after its original approval negates the purpose of the PUD.
- Kandace Carpenter, 11042 Sani Lane – Ms. Carpenter stated that the original PUD was approved in 2004. According to the Zoning Ordinance, PUDs are required to submit and meet specific timelines; and if not met, extensions are to be requested. Her research indicates that no extensions have been received from the Planning Commission for this PUD. There was a minor change approved in March of 2020; however, from a legal standpoint, she believes that this PUD is invalid. Ms. Carpenter noted that Section 16.a.4.j of the Zoning Ordinance requires that each phase of a PUD must comply with density standards; however, the developer's Phase 5 proposal for the apartment complex would not meet that regulation. Ms. Carpenter expressed her opinion that the eastern bounds of the major change for this PUD would be at the end of the Urban Growth Area and would not be compatible with the neighboring property. She also noted that the developer has cited profitability as its justification for this major change and in accordance with court decisions in the State of Maryland, change cannot be based on profitability.
- John Hoover, 1733 Meridian Drive – Mr. Hoover explained that he is currently a resident of Greenwich Park, was previously a resident of Black Rock Estates, and still owns a building lot there which abuts the proposed development. He is opposed to the proposal and believes consideration should be given to those residents who have lived in the area for 30+ years and contribute to the County's tax base. Mr. Hoover expressed his opinion that the influx of more than 1,000 homes will overburden the schools, decrease the value of homes, and contribute to traffic issues making the roadways dangerous. He believes that there will need to be additional traffic signals installed along Mt. Aetna Road intersections. Mr. Hoover is also concerned about the water pressure and fire suppression in the area. He noted that an eco-system pond is located on Shaheen Lane which

is frequented by herons, redtail hawks and bald eagles. The proposed development would impact the habitat of these birds.

- William Stryker, 20533 Mt. Aetna Road – Mr. Stryker believes the proposed 1,100 homes would total more than all of the developments combined along Mt. Aetna Road. He noted that Mt. Aetna Road is a winding, narrow, two-lane road with no room for widening. He stated that he has limited sight distance from his driveway and by adding the additional traffic (estimated 8,000+ trips per day) will exacerbate an already dangerous situation.
- Dan Grove, 20502 Shaheen Lane – Mr. Grove expressed his opinion that traffic has already increased significantly in the area due to the numerous developments like Black Rock Estates, the Hamptons, Brightwood Acres East, etc. that have occurred over time. The roads in this area cannot handle the additional 8,000+ trips per day that would be generated by this proposed change. He expressed concern regarding the impact to schools, the decrease in the value of existing homes, and the lack of water pressure in the area. Mr. Grove stated that although the developer says they will contribute to the cost of infrastructure upgrades, he believes the taxpayers will be paying for the improvements by an increase in property taxes.
- Edward Strawther, 10912 Sassan Lane – Mr. Strawther expressed his concern about water pressure for both domestic and fire suppression uses. He believes these issues are exacerbated by geography, lack of a storage tank, and undersized water transmission lines. He noted that in response to staff comments, the applicant has eluded to “potential consideration” of comments but has not established a plan to ensure public safety or to mitigate for infrastructure improvements. Mr. Strawther expressed his opinion that recommendations should not be deferred for “potential” consideration. He believes the PUD should not be allowed to move forward prior to implementation of the recommendations for improvements.
- Patrice Wallace, 10933 Sasha Boulevard – Ms. Wallace expressed her concerns regarding water pressure, traffic-related issues, and the safety of the children in the neighborhood.
- Susan Wood, 454 Fair Meadows Boulevard – Ms. Wood shared her concerns for lack of water pressure and fire suppression, limited access for fire equipment into the neighborhood, overcrowding of schools, lower property values, an increase in taxes, additional traffic and the potential for dangerous situations.
- Shannon Peterson, 20510 Shaheen Lane – Ms. Peterson expressed her opinion that this area is not ready for an additional 1,100 homes. She cited poor water pressure, increased school capacities which would lower the standards of education, and safety concerns for her children and pets that additional traffic would bring to the area.
- Jeff Snowden, 11507 Rambling Pines Place – Mr. Snowden discussed the water pressure issue by citing the fire at the Woodbridge Apartments several years. He believes the PUD has expired and should not be considered. He expressed his opinion that people want larger homes on larger lots, unlike what the developer is proposing. Other concerns he addressed were: wildlife in the area, increased traffic, and the decrease in property values which will also decrease revenue from property taxes.
- Martin Brubaker, 10725 Hartle Drive – Mr. Brubaker expressed his opinion that this is not an appropriate location for increased density because the supporting external road network is very inadequate. Mt. Aetna Road and White Hall Road are both narrow roads with no berms and many driveways. He believes that local government expenditures to support housing development usually exceeds the total revenues generated, thus creating a negative budget impact. Mr. Brubaker expressed his opinion that this is not a well-planned development or an appropriate location.
- Matthew Stupp, 11013 Shalom Lane – Mr. Stupp is opposed to the proposed change and agreed with all the comments and concerns raised by other speakers this evening. He expressed his concern regarding the water pressure issues and the need for a resolution to this problem before any further construction begins in this area.
- Robert Carpenter, 11042 Sani Lane – Mr. Carpenter is opposed to the proposed change and believes this proposal is not compatible with the existing neighborhood. He noted that the developer is planning to buffer the apartment complex from Black Rock Estates using high density housing; but there are no buffers for the residents of Black Rock Estates from the high density housing being proposed.
- Christine Ohi-Gigliotti, 11041 Sani Lane – Ms. Ohi-Gigliotti is opposed to the proposed request for additional density. She expressed her opinion that the area has not been subject to congested urban sprawl and has a strong sense of community. She is concerned about increased traffic in the area and the increased demand on infrastructure. Ms. Ohi-Gigliotti believes that Sasha Boulevard should be used only for emergency services and not as a minor access road for the PUD.
- Brian Stolarz, 11006 Shalom Lane – Mr. Stolarz expressed his concern regarding the volume of water and water pressure in the area. He concurs with comments about traffic, schools, etc. previously made.

- Kristy Pottol, 20310 Ayoub Lane – Ms. Pottol is opposed to the proposed change and she echoes the comments of the other speakers.
- Carlo Cutler, 10909 Sasha Boulevard – Mr. Cutler expressed his concerns regarding safety of the children who walk and bike in the area. He is also concerned about the water pressure and believes this needs to be addressed immediately.
- Thomas Henderson, 11020 Sani Lane – Mr. Henderson stated he is opposed to the proposed development for all the reasons previously stated. He also questioned the validity of the PUD.
- Dan Scally, 11003 Palmwood Circle – Mr. Scally stated he is not opposed to well-planned development; however, he is opposed to the proposal to increase the density in the PUD. He believes the high density would have a negative impact on property values and the quality of life in this area. He cited overall safety concerns related to traffic issues including speeding on Mt. Aetna Road and residents who do not stop at intersections.
- Eric Peterson, 20510 Shaheen Lane – Mr. Peterson is opposed to the proposed PUD. He does not agree with the developer's point of view that people do not want large yards to maintain; he does not believe that is true. He stated that his concerns have been addressed by others who spoke previously.
- Mary Camposano, 20509 Tehrani Lane – Ms. Camposano is opposed to the proposed development and agrees with the concerns and comments previously stated. She believes that while a problem may be solvable, it does not translate to the problem actually and adequately being resolved.
- Shyam Mysore, 20327 Ayoub Lane – Mr. Mysore is opposed to the current PUD and the proposed change.
- Christina Martinkosky, 20206 Mahogany Circle – Ms. Martinkosky stated that the Staff Report provides a wide variety of concerns from both the County and City staff. She has heard and agrees with the previous comments made regarding water, traffic, access, schools, etc. Ms. Martinkosky is very concerned about the negative impact on schools in the area and the lack of plans to address the student population generated by this proposal. She noted there are no redistricting plans, no capital projects or other mitigation efforts to offset this burden.
- George Butler, 11105 Shalom Lane – Mr. Butler expressed his concern with regard to safety, security and traffic and he agrees with the concerns and comments previously stated.

Applicant's Rebuttal

Mr. Erskine first addressed concerns that the PUD is no longer active. He noted that the deadlines are tracked from the date of any approved changes to the concept plan. He stated that the developer has never received notice from the County that they are out of conformance with any regulations.

Secondly, Mr. Erskine addressed traffic concerns that were mentioned. He stated that Sasha Boulevard has an 80-foot wide right-of-way that would allow for improvements. He believes this issue is highly solvable and reiterated that APFO requirements would be addressed at the appropriate time throughout the process.

Mr. Erskine expressed his opinion that the water pressure issue would be resolved by the approval of this change because there could be a water tower (as proposed) on site and the opportunity for the developer to contribute to a portion of upgrades to the water system. Mr. Erskine noted that 100 homes and a community center have already been approved in the PUD and the final plat is ready for recordation. These homes would directly access Sasha Boulevard and would not require any improvements to help with the water pressure issue. He believes the fastest way to remedy any safety concerns would be to facilitate the development of this property.

ADJOURNMENT

Mr. Reeder made a motion to adjourn the meeting at 9:10 p.m. The motion was seconded by Mr. Weddle and so ordered by the Chairman.

Respectfully submitted,


Clint Wiley, Chairman

**WASHINGTON COUNTY PLANNING COMMISSION
PUBLIC REZONING INFORMATION MEETING AND REGULAR MEETING
July 19, 2021**

Due to current social meeting restrictions put in place by the Governor of Maryland because of the COVID-19 pandemic, the Washington County Planning Commission held its public rezoning information meeting and regular monthly meeting on Monday, July 19, 2021 at 7:00 p.m. virtually using Zoom software. No physical meeting took place.

Planning Commission members present were: Clint Wiley, Robert Goetz, Denny Reeder, Jeff Semler, David Kline, and Ex-officio County Commissioner Randall Wagner. Staff members present were: Washington County Department of Planning & Zoning: Jill Baker, Director; Jennifer Kinzer, Deputy Director; Travis Allen, Comprehensive Planner; Meghan Jenkins, GIS Coordinator; and Debra Eckard, Administrative Assistant; Washington County Department of Plan Review & Permitting: Ashley Holloway, Director; Rebecca Calimer, Chief of Plan Review; Lisa Kelly, Senior Planner; and Scott Stotemyer, Planner.

Also present were: William Erskine, Offit Kurman, legal counsel; Sean Davis, Brittany Sink, Mickey Cornelieus, Todd Heck, and Jon Erickson with Morris & Ritchie Associates; and Adam Shaoof of Washco Development [RZ-21-003]; Trevor Frederick of Frederick, Seibert & Associates, consultant; David Salinas, Dan Dababneh and Kareema Keshta of Northpoint Dickinson; Jonathan Horowitz, Washington County Department of Business Development [PC-21-001]; and Gordon Poffenberger of Fox & Associates, Inc. [PP-20-001].

CALL TO ORDER

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

PUBLIC REZONING INFORMATION MEETING

Town of Hancock [WS-21-001]

Ms. Baker presented a text amendment application submitted by the Town of Hancock. The proposed amendment to the County's Water & Sewerage Plan would support the proposed upgrade and expansion of the Town's wastewater treatment plant. The Town is in the process of applying for grants and loans to upgrade its treatment facility. Currently, the Town has a lagoon system which does not meet water quality standards set forth by the Maryland Department of the Environment (MDE) for effluent specifically related to nitrogen and ammonium. The Town is proposing to upgrade the system to an enhanced nutrient removal standard.

In addition, there have been numerous discussions with property owners on the north end of Warfordsburg Road including the Lanco cheese facility. Recently, land north of the Town was annexed; the Town is also proposing to annex the area of the cheese facility. The proposed wastewater treatment facility expansion would be able to accommodate the effluent from the cheese factory as well as future development for the next 20 years.

Ms. Baker noted that the current Water & Sewerage Plan recognizes the need for the upgrade of the treatment facility; however, the expansion is not included in the current Plan. This amendment proposes language to acknowledge the upgrade to current standards as well as the expansion of service from 380,000 gallons per day to 530,000 gallons per day. The application was sent to MDE; their comments were received and have been addressed. Staff is recommending approval of the proposed amendment.

Discussion and Comments: Mr. Reeder asked if Washington County helps to fund any of these proposed changes. Ms. Baker explained that Washington County does not help fund these projects; this is a Town utility and therefore the Town's responsibility. The Town is currently seeking grants through the US Department of Agriculture and MDE.

Mr. Semler asked if there is Appalachian Regional Commission money available for this project. Ms. Baker stated she does not believe there would be at this time. She explained it is easier to find grant money for upgrades than for expansions because the State and Federal government do not want to fund growth.

Public Comment

There were no public comments received prior to the meeting and nobody was present to speak during the meeting.

The public meeting ended at 7:13 p.m.

REGULAR MEETING

MINUTES

Motion and Vote: Mr. Goetz made a motion to approve the minutes of the June 7, 2021 and June 14, 2021 Planning Commission meetings as presented. The motion was seconded by Mr. Semler and unanimously approved.

OLD BUSINESS

RZ-21-004 – Washington County Planning Commission – Recommendation

Ms. Baker reminded Commission members that a public information meeting was held on June 7, 2021 to consider a proposed text amendment to Section 4.26 of the Washington County Zoning Ordinance. The proposed amendment is to deter the placement of solar arrays on productive agricultural land in rural areas. The proposed amendment is being supported by the Washington County Farm Bureau; no other public comments have been received.

Discussion and Comments: Mr. Semler asked if this amendment includes language proposed by Calvert Energy LLC, the applicant for another solar energy text amendment. Ms. Baker clarified it does not include that language.

Motion and Vote: Mr. Semler made a motion to recommend approval of the proposed text amendment, as presented, to the Board of County Commissioners. The motion was seconded by Mr. Kline and unanimously approved with Commissioner Wagner abstaining from the vote.

RZ-21-003 – Morris & Ritchie Associates – Recommendation

Ms. Baker noted that a public information meeting was held on June 14, 2021 for a major change request to the Black Rock PUD located on the north side of Mt. Aetna Road. The requested amendment to the existing development plan is to increase the overall number of residential units from 595 dwelling units to 1,148 dwelling units, thereby increasing the residential density from 2.7 dwelling units per acre to 5.2 dwelling units per acre. A petition in opposition of the proposed change was recently received by the Department of Planning & Zoning and was forwarded to the Planning Commission members.

Discussion and Comments: Mr. Kline stated that he is adamantly opposed to the proposed change. He agrees with the issues, concerns, and comments made by area residents during the public information meeting. His biggest concern is traffic-related issues on Mt. Aetna Road (a winding, hilly, narrow road) between White Hall Road and MD Route 66. Mr. Kline noted that the developer, during his presentation, stated that all these problems (including water issues, traffic issues, etc.) could be fixed; however, there were no solutions offered or anyone willing to take responsibility and pay for fixing these problems. He expressed his opinion that the developer would leave these problems for the County and City to fix at the expense of the taxpayer. Mr. Kline expressed his opinion that this is the wrong area to consider adding an additional 1,200 homes; he also does not support the 595 units that were previously approved by the Board of County Commissioners in 2005. He expressed his opinion that too much growth has already taken place in this area.

Mr. Reeder, Mr. Goetz and Mr. Semler are also opposed to this request and agreed with Mr. Kline's comments, especially those related to traffic issues and problems. Mr. Semler expressed his concern regarding the water problems in the area. He believes the water tower should be the first structure to be built to help alleviate some of the water issues.

Mr. Kline raised his concern regarding the validity of the PUD, which was a question raised several times during the public information meeting. Mr. Goetz expressed his opinion that the validity of the PUD is not being put before the Planning Commission. He believes that is an issue that needs to be decided by the courts.

Motion and Vote: Mr. Kline made a motion to recommend denial of the request [to change the plan from 595 dwelling units to 1,148 dwelling units] to the Board of County Commissioners. The motion was seconded by Mr. Semler. Members voted as follows: Mr. Kline – aye, Mr. Reeder – aye, Mr. Goetz – aye, Mr. Semler – aye, and Commissioner Wagner abstained from the vote.

NEW BUSINESS

PRELIMINARY CONSULTATIONS

PC-21-001 – Northpoint Dickinson

Mr. Holloway presented a preliminary consultation for the proposed construction of two warehouse/office buildings to be located at 16910 National Pike. The property is currently zoned PI (Planned Industrial). Building 1 will be 652,080 square feet in size and Building 2 will be 1 million square feet in size; both buildings will be 50' high. The site will be served by public water from the City of Hagerstown and public sewer will be provided by Washington County. Mr. Holloway stated that if this plan moves forward, the developer will be seeking a variance from parking requirements. Parking spaces required will be 1,102 spaces and parking spaces provided will be 1,002 spaces.

Mr. David Salinas of North Point Development, the developer, gave a brief presentation beginning with a history of the company and an overview of the developer's current project on Wesel Boulevard. He noted that the project on Wesel Boulevard is currently ahead of schedule and showed examples of the buildings being constructed. Mr. Salinas stated there is a potential tenant for one of the buildings on National Pike. This project would be an investment of over \$109 million dollars and the businesses would employ more than 920 full-time employees.

Discussion and Comments: Mr. Reeder asked if the developer has considered installing solar panels on the roofs of the buildings. Mr. Salinas stated that North Point has shifted to a sustainable approach both on new buildings as well as existing buildings. He noted that each tenant is unique and may have specific requirements for rooftop units or ventilation requirements. These requirements would be considered before placement of the solar panels.

PRELIMINARY PLATS

Elmwood Farms, Sections 4 and 5

Ms. Kelly presented a preliminary plat for Elmwood Farms, Sections 4 and 5, Lots 43-55, 124 and 134-189. The developer is proposing a 70 single-family residential lot addition to an existing subdivision located at 16301 Kendle Road. The property is currently zoned RS (Residential Suburban). A preliminary plat for these two sections was previously approved in 2004. The new plat is showing a redesign of the road layout, storm water management areas and forest conservation easement locations as well as fewer lots than originally approved. The total acreage for these two sections is 55.90 acres with lot sizes ranging from .29 acres to .54 acres. All lots will be served by public water and public sewer and will have access to newly constructed public streets. Forest conservation requirements will be met by planting 25.41 acres of forest on-site. A final easement plat for these areas has been submitted for approval. All agency approvals have been received.

Motion and Vote: Mr. Kline made a motion to approve the preliminary plat as presented. The motion was seconded by Mr. Semler and unanimously approved.

FOREST CONSERVATION

GP-21-007 – 55 West Oak Ridge Drive Distribution Center

Mr. Allen presented a variance request for the removal of three specimen trees on property located at 55 West Oak Ridge Drive. The developer is requesting the removal of a Silver Maple tree approximately 38" in diameter at breast height (DBH) in good condition, a Red Oak approximately 30" DBH in good condition, and a split trunk White Ash (exceeding 40" at the base in poor condition. This is a two phase commercial/industrial development exceeding 1.8 million square feet leaving a very small area which will not be disturbed on the site. Justification for the removal of these trees was provided by a licensed professional, Mr. Clint Rock from Fox & Associates, Inc. He believes that due to the topography of the site, the most suitable entrance is the driveway to the existing house and barn. There is an active demolition permit for these structures to be removed. Mr. Rock stated that the location of the Red Oak is within a major internal intersection. The relocation of this intersection would require the removal of required parking spaces and landscaping. Any relocation of the parking would lead to more disturbance of on-site forest easements. There is currently no stormwater management on the site; however, the removal of these trees would provide for the development of stormwater management facilities.

Motion and Vote: Mr. Semler made a motion to approve the request as presented. The motion was seconded by Mr. Kline and unanimously approved.

OTHER BUSINESS

Update of Staff Approvals

Mr. Holloway presented the following information for the month of June for Plan Review – Land Use: 6 site plans, 4 site-specific grading plans, and 4 standard grading plans; Permitting: 10 entrance permits and 13 grading permits.

2022-2031 Solid Waste Management & Recycling Plan

Ms. Baker reminded members that the Planning Commission previously reviewed the Solid Waste Management & Recycling Plan, which was subsequently submitted to MDE for review. The Plan was reviewed by MDE; comments were received and have been addressed by staff. If the Planning Commission finds the Plan consistent with the Comprehensive Plan, the next step is to take it to public hearing with the Board of County Commissioners.

Motion and Vote: Mr. Reeder made a motion that the 2022-2031 Solid Waste Management & Recycling Plan is consistent with the County's adopted Comprehensive Plan. The motion was seconded by Mr. Kline and unanimously approved with Commissioner Wagner abstaining from the vote.

Comprehensive Plan Update

Ms. Baker presented the draft of Chapters 1 thru 4 for review and comment. These chapters include the goals and objectives of the Plan, accomplishments since the last update, background data, statistics and demographics. Final comments for these chapters will be taken on or before the August 2nd meeting.

Land Preservation, Parks & Recreation Plan Update

Ms. Baker explained that the Land Preservation, Parks & Recreation Plan update is due to be completed in FY 2022. Mr. Allen will be spearheading this project; he is the staff liaison to the Parks Advisory Board. There is currently a parks survey on-line for the public to complete. The information gathered from this survey will assist in developing and updating the Plan.


UPCOMING MEETINGS

1. Monday, August 2, 2021, 7:00 p.m. – Washington County Planning Commission regular meeting
[This meeting will be held in person at the Washington County Administrative Complex, 100 W. Washington Street, Room 2000.]

ADJOURNMENT

Mr. Kline made a motion to adjourn the meeting at 8:15 p.m. The motion was seconded by Mr. Semler and so ordered by the Chairman.

Respectfully submitted,



Clint Wiley, Chairman



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

July 23, 2021

RZ-21-003

APPLICATION FOR AMENDMENT OF DEVELOPMENT PLAN
PLANNING COMMISSION RECOMMENDATION

RECOMMENDATION

The Washington County Planning Commission held a public information meeting on June 14, 2021 for the purpose of taking public comment on an application for a major change to the existing development plan for the Black Rock PUD. The proposed amendment would increase the overall number of residential units from 595 dwelling units to 1,148 units, thereby increasing the residential density from 2.7 dwelling units per acre to 5.2 dwelling units per acre. The Planning Commission considered the applicant's application and supporting documents, oral testimony from more than 30 residents of the area, written comments including a petition signed by nearly 400 residents of the area, and the Staff Report and Analysis.

At their regular meeting on July 19, 2021, the Planning Commission unanimously voted to deny the requested major change for the following reasons:

1. The transportation network serving the area (specifically Mt. Aetna Road between White Hall Road and MD 66) is not adequate to handle the additional traffic from additional units.
2. The water system does not appear to be adequate to properly serve the additional units as it relates to water pressure and availability of sufficient capacity for public fire suppression efforts.
3. The school system would not have adequate capacity to serve the new pupil yield of the proposed new units.

Copies of the application packet and supporting documents, Staff Report and Analysis, written comments, petition, and minutes of the June 14, 2021 public information meeting and July 19, 2021 regular meeting are attached.

Respectfully submitted,

Jill Baker, AICP
Director, Washington County Dept. of
Planning & Zoning

JLB/dse

Attachments

cc: Kirk Downey
Morris & Ritchie Associates

**IN THE MATTER OF
MORRIS & RITCHIE
ASSOCIATES, INC.**

Applicant

* * * * *

*** BEFORE THE WASHINGTON COUNTY
* BOARD OF COUNTY COMMISSIONERS**

Case No. RZ-21-003

* * * * *

**APPLICANT’S MEMORANDUM IN SUPPORT OF
MAJOR CHANGE TO APPROVED BLACK ROCK PUD**

Introduction

The Applicant offers the following memorandum in support of its proposed major change to the approved Black Rock PUD. The purpose of this memorandum is to assist the Board of County Commissioners (“BOCC”) with its evaluation of the zoning application in accordance with the statutorily prescribed criteria set forth in Article 16A of the Washington County Zoning Ordinance. In addition, the Applicant wishes to advise the BOCC that it will require no less than 1 hour to present its zoning application. Recent experience before the Washington County Planning Commission (“Planning Commission”) has demonstrated that procedural due process will not be afforded to the Applicant if an unreasonable time constraint is imposed upon the Applicant’s presentation by the BOCC. When this zoning application was presented to the Planning Commission, the Applicant was afforded only 30 minutes to present its application. This time constraint proved to be inadequate and did not afford the Applicant a reasonable opportunity to present testimony from its traffic consultant or civil engineer. The Applicant is requesting that the BOCC afford the Applicant due process by allowing the Applicant a minimum of 1 hour to present its zoning application.

Preliminary Matter – Validity of the Black Rock PUD

At the Planning Commission meeting to consider this zoning application several protestants suggested that the Black Rock PUD was no longer a valid PUD. Therefore, as a preliminary matter the Applicant would like to affirmatively address this issue by introducing into the record a copy of the approved Revised Final Development Plan for the Black Rock PUD (attached as **Exhibit A**). It should be noted that the Revised Final Development Plan was approved by the Planning Commission on March 2, 2020 as evidenced by the signature of its Executive Director dated on May 29, 2020. The accompanying letter from the Planning Commission (also dated May 29, 2020) clearly states, “The development plan approval is effective for a period of two (2) years.” Accordingly, the current Black Rock PUD will remain valid until at least March 2, 2022.

Proposed Major Amendment to the Approved Black Rock PUD

On November 19, 2002, this Board approved a zoning map amendment (RZ-02-006) for the subject property, thereby assigning a PUD floating zone to the site. The approved map amendment tentatively approved up to 595 units residential dwelling units (or 2.7 units per acre). The Applicant is requesting a major change in the approved number of units. The Applicant now seeks tentative approval for up to 1,148 residential dwelling units (5.2 units per acre) and therefore must comply with the provisions of Section 16A.5 of the zoning ordinance.

When evaluating a request for a major change to a previously approved PUD development plan, this Board is required to consider the following criteria:

1. The purpose of the PUD District;
2. The applicable policies of the adopted Comprehensive Plan;

3. The compatibility of the proposed changes of the PUD with neighboring properties;
4. The effect of the proposed changes to the PUD on community infrastructure;
5. Consistency with the intent and purpose for the establishment of the PUD.

For the reasons set forth below, the Applicant's requested major change to the approved Black Rock PUD fully satisfies all of the criteria under Article 16A.5.

Evaluation of Criteria Under Article 16A.5(a)3.

1. The purpose of the PUD District.

The purpose of the PUD District is set forth in Section 16A.0 of the zoning ordinance which provides:

The intent of this Article is to manage the implementation of regulations for existing approved PUD Developments within the framework of the Urban Growth Area Rezoning of 2012. All PUD Floating Zones approved by the Board of County Commissioners prior to July 1, 2012 shall maintain their validity in accordance with this Article. This Zoning District is not available for new application on any property within the jurisdiction of Washington County.

The Applicant's major change to the approved Black Rock PUD clearly satisfies this criterion because the Black Rock PUD is an existing approved PUD approved by the BOCC prior to July 1, 2012 and this major change request has been submitted by the Applicant in accordance with the provisions of Article 16A.

2. The applicable policies of the adopted Comprehensive Plan.

Chapter 12 of the adopted Comprehensive Plan sets for the county's Land Use Plan. The subject property is located in an area of the county designated as the Urban Growth Area. It is further located within a sub-policy area designated as Low Density Residential. Chapter 12 of

the Comprehensive Plan describes the purpose of establishing Urban Growth Areas and Boundaries. Chapter 12, Section C.1 provides:

The purpose for establishing growth areas is to identify areas within the County where development is to be encouraged. These areas surround urban locations where the required infrastructure to support intensive development is in existence or planned. They contain the centers of gravity for human activity with future investments in public utilities, facilities and transportation linkages being the most cost effective in these areas.

Chapter 12 of the Comprehensive Plan also describes eight (8) sub policy areas within the Urban Growth Area. Chapter 12, Section C.2(f) describes the Low Density Residential sub-policy area.

This policy area designation would be primarily associated with single-family and to a lesser degree two-family or duplex development. It is the largest policy area proposed for the Urban Growth Area and becomes the main transitional classification from the urban to rural areas. Major existing residential development in Fountainhead, Halfway, St. James, Van Lear/ Tammany, Maugansville, and along Mt. Aetna Road would be included in the Low Density policy area. The two zoning classifications most associated with this policy area are Rural Residential and Residential Suburban. A considerable amount of land in this policy area is also currently zoned Agricultural. Typical densities in this policy area range from two to four units per acre unless the property is approved for a planned residential or mixed use development. If the property is approved for a high density development the maximum density should be 12 units per acre.

The Applicant's proposed major change to the approved PUD satisfies the above criterion for approval because the requested increase in density to 5.2 dwelling units is well within the density parameters recommended in Chapter 12 of the Comprehensive Plan. At 5.2 units per acre, the proposed increase in approved density would only amount to approximately one (1) dwelling unit per acre more than what is typical for a non-PUD or Mixed-Use development within the Low Density Residential sub-policy area. More importantly, the requested density is nearly seven (7) units per acre less than the density limits recommended for the Low Density

Residential sub-policy area when higher density developments are approved under a PUD or Mixed-Use zone. The Applicant's requested density of 5.2 units per acre is barely 43% of the Comprehensive Plan's recommended density limit for PUD development in the Low Density Residential sub-policy area. In comparison with other PUD zoned properties in the vicinity, the residential density proposed under this application is 35% less dense than the residential density approved for the Rosewood PUD, the later having an approved residential density of 8.2 units per acres. In addition, 29.3% (22.8 acres) of the Rosewood PUD site has been zoned for commercial development.

3. The compatibility of the proposed changes of the PUD with neighboring properties.

The southern and western boundaries of the Black Rock PUD are surrounded by existing residential development. The northern and eastern boundaries of the site adjoin agricultural land. The revised Black Rock PUD is designed to locate a mixture of residential dwelling types throughout the community. The multi-family component of the revised Black Rock PUD is centrally located within the interior of the site and is therefore well-buffered from off-site adjacent properties. A mixture of residential dwelling types are proposed to be located along the perimeter boundaries of the site. These dwelling units are located to take advantage of the existing site characteristics and topography to ensure compatibility with neighboring properties. Accordingly, single-family detached dwellings are proposed to be located along the southern perimeter of the site. These units will serve as an appropriate buffer to the neighboring Black Rock Estates subdivision. Similarly, single-family detached dwellings are proposed to be located along the northern site boundary and will provide an appropriate buffer to the adjacent rural land uses. Townhouses are proposed to be located along the western boundary of the site and are compatible with the neighboring townhouse and multifamily neighborhoods. Several sections of

townhouses are proposed along the eastern boundary of the site. To ensure compatibility with the adjacent farmland uses the rear yards of these units will be located below the eastern ridge line thereby using topography to ensure appropriate buffering from adjacent off-site uses. In addition, 55+ age-targeted duplex dwelling units are also proposed along a portion of the eastern perimeter of the site. These dwelling units will be buffered from adjacent off-site uses by enhanced landscaping and berms. The proposed distribution of the residential dwelling products throughout the community will create a well-integrated multi-generational neighborhood. As a result of this careful design and layout of the community, the proposed changes to the Black Rock PUD will remain fully compatible with neighboring properties.

4. The effect of the proposed changes to the PUD on community infrastructure.

Proper evaluation of the above criterion is of course forward looking to a time when the proposed changes to the PUD are approved for development, as opposed to this early stage in the process when they are *tentatively* approved for zoning purposes. With all due respect, the Planning Commission did not understand how to properly evaluate this criterion. In its one page recommendation dated July 23, 2021, the Planning Commission recommended denial of this proposed major change to the Black Rock PUD. (See, Planning Commission Recommendation attached as **Exhibit B**). In doing so, the Planning Commission misapplied the legal standard for evaluating the above criterion by failing to properly apply the regulatory scheme created by the interrelationship between the Zoning Ordinance and the Adequate Public Facilities Ordinance (APFO). This regulatory scheme is discussed in detail by the Maryland Court of Appeals in Cremins v. County Commissioners of Washington County, 164 Md.App 426 (2005). Attached as **Exhibit C**. This regulatory scheme is also described in detail in the *Brief of Appellee County Commissioners of Washington County, Maryland* as filed in Cremins. Attached as **Exhibit D**.

The Applicant hereby adopts as its own the legal analysis set forth in the Cremins decision and the brief filed by the County Commissioners of Washington County in that case. The Cremins decision and the County's legal brief filed in that action correctly describe the legal standard that the Planning Commission should have, but failed, to apply when evaluating the above community infrastructure criterion.

As has been previously stated, the revised Black Rock PUD is not anticipated to be completed for 10 to 15 years. The pace of development is anticipated to be approximately 70 to 100 dwelling units per year on average. It is legal error to evaluate the above criterion by comparing the proposed future demand for community infrastructure against the presently available infrastructure capacity without regard for the APFO. A proper evaluation of this criterion must recognize the purpose and role of the APFO vis-à-vis ensuring the concurrency of adequate community infrastructure and New Development. In its legal brief, the County Commissioners described this as the "concurrency principal." Brief at p. 15.

This Board properly applied this analysis on November 19, 2002 when it first considered and subsequently approved the creation of the original Black Rock PUD (RZ-02-006). In its decision, this Board correctly evaluated the effect of the PUD on community infrastructure and stated:

The Adequate Public Facilities Ordinance (APFO) has taken on a supportive role that was previously the sole responsibility of this item in the Zoning Ordinance during the rezoning stage when considering the deliberation of PUD cases. Due to this change, it would appear that now the Planning Commission and the County Commissioners would only have to address infrastructure issues at the zoning stage that would appear to be highly unsolvable. The applicant has indicated that he is fully aware of the APFO implications and is willing to assume the burden placed upon him. The Chief Engineer did not take exception to the rezoning and responded to the application by stating that road adequacy and stormwater

management requirement "can be adequately addressed through our normal site plan and subdivision processes."

See, Board of County Commissioner' minutes from November 19, 2002 attached as **Exhibit E**.

With respect to the impact on community infrastructure, the analysis to be undertaken by the Board as it considers the currently proposed changes to the Black Rock PUD is identical to the analysis it undertook when it reviewed and approved the original PUD request. Accordingly, this Board must once again recognize the role that APFO continues to play in controlling the pace of development while ensuring that adequate infrastructure is in place concurrently with New Development.

Considering the evidence before this Board and applying the proper legal analysis, this Board must find the above criterion to have been satisfied. While this Board cannot help but to acknowledge the fact that several elements of community infrastructure (traffic, schools, water pressure) are currently inadequate, there is no credible evidence that these existing infrastructure inadequacies are "highly unsolvable" and cannot be rectified. Rather, the evidence is that all of the existing infrastructure inadequacies are capable of being solved. For example, excessive traffic congestion in the area of the Black Rock PUD can be mitigated in a number of ways. This can include, for example, the widening of local roadways, the addition of new road access points into the community; the addition of new lanes on local roads, the use of roundabouts, the synchronization of traffic signals, and the improvement and expansion of transit services. Inadequate water pressure is readily solved by upgrading existing water pump stations and the addition of new water towers and larger diameter pipes in the segments of the system where water pressure is constrained. Similarly, inadequate school capacity can be readily solved by the

modification of school attendance areas; the construction of new schools; or expansions of existing schools.

Based upon the Applicant's community outreach and the public testimony before the Planning Commissions, it is evident that members of the community are concerned with the potential for the revised PUD to increase traffic on Mt. Aetna Road. The Applicant is confident that this potential traffic congestion can be appropriately mitigated using the techniques described above. Regardless, were the Board to approve this request for a major change to the approved Black Rock PUD, it does have the authority to impose as a condition of approval that additional road access be afforded to the northern portion of the site in order to further reduce traffic demand on Mt. Aetna Road. With the addition of an access point along the northern boundary of the site, the Black Rock PUD would be exceedingly well served with a total of three (3) points of ingress/egress.

The Applicant recognizes the existing infrastructure inadequacies and the challenges they create. The Applicant also recognizes and understands that all infrastructure inadequacies must be rectified in accordance with APFO concurrently with the construction of each phase of the proposed Black Rock PUD. The Applicant understands and agrees that the infrastructure must be provided concurrently with New Development. As explained in Cremins, it is not however a requirement that all community infrastructure be adequate and in place at this early zoning stage of the approval process.

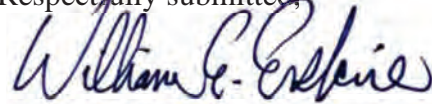
5. Consistency with the intent and purpose for the establishment of the PUD which is to permit flexibility and creativity in the design of residential areas, promote economical and efficient use of the land, provide for a harmonious variety of housing choices, a varied level of community amenities and the promotion of adequate recreation, open space and scenic attractiveness.

The proposed major changes to the Black Rock PUD are consistent with the intent and purpose for the establishment of the PUD. By employing the flexibility provided by the PUD zoning district, the revised Black Rock PUD provides an integrated, multi-generational residential community. The modest increase in residential density from 2.7 units per acres to 5.2 units per acre promotes the economical and efficient use of the land because the substantial cost of providing public infrastructure is able to be divided over a greater number of dwelling units. The net result is that public infrastructure can be provided at a lower cost when viewed on a per unit basis. A lower per unit infrastructure cost translates into a lower housing cost to the ultimate homeowner. In addition, the revised Black Rock PUD provides a variety of housing choices including single family detached; single family semi-detached; and multi-family apartments with a variety of community amenities and recreational opportunities. The revised Black Rock PUD preserves an abundance of open space which contributes to its ability to maintain its scenic attractiveness.

Conclusion

The evidence before the Board clearly demonstrates that the Applicant has satisfied the criteria for approval of its request for a major change to the approved Black Rock PUD. The Applicant respectfully requests approval of this application subject to any reasonable conditions imposed by the Board.

Respectfully submitted,

A handwritten signature in blue ink that reads "William E. Erskine". The signature is fluid and cursive, with the first name "William" and last name "Erskine" clearly legible.

William E. Erskine, Esq.

Offit Kurman, P.A.

8850 Stanford Boulevard, Suite 2900

Columbia, Maryland 21043

(301) 575-0363

werskine.offitkurman.com

Counsel for Petitioner

EXHIBIT A



WASHINGTON COUNTY PLANNING COMMISSION

100 West Washington Street, Suite 2600 Hagerstown, MD 21740-4710 | F: 240.313.2430 | F: 240.313.2431 | Hearing Impaired: 7-1-1

Date: 05-29-2020

EMRALSHAOOL MANSOOR
72 W WASHINGTON ST
HAGERSTOWN, MD 21740

Received 6/1/20

DEVELOPMENT PLAN NAME
ENGINEER
APPLICATION NUMBER
LOCATION

: Black Rock PUD
: FOX & ASSOCIATES INC
: DP-20-001
: 10954 SASHA BLVD
HAGERSTOWN, MD 21742

Dear Owner:

This is to inform you that the Development Plan referenced above was acted on by the Washington County Planning Commission on March 02, 2020 and was approved with the conditions stated at the bottom of this letter.

The Development Plan approval is effective for a period of two (2) years.

Sincerely,

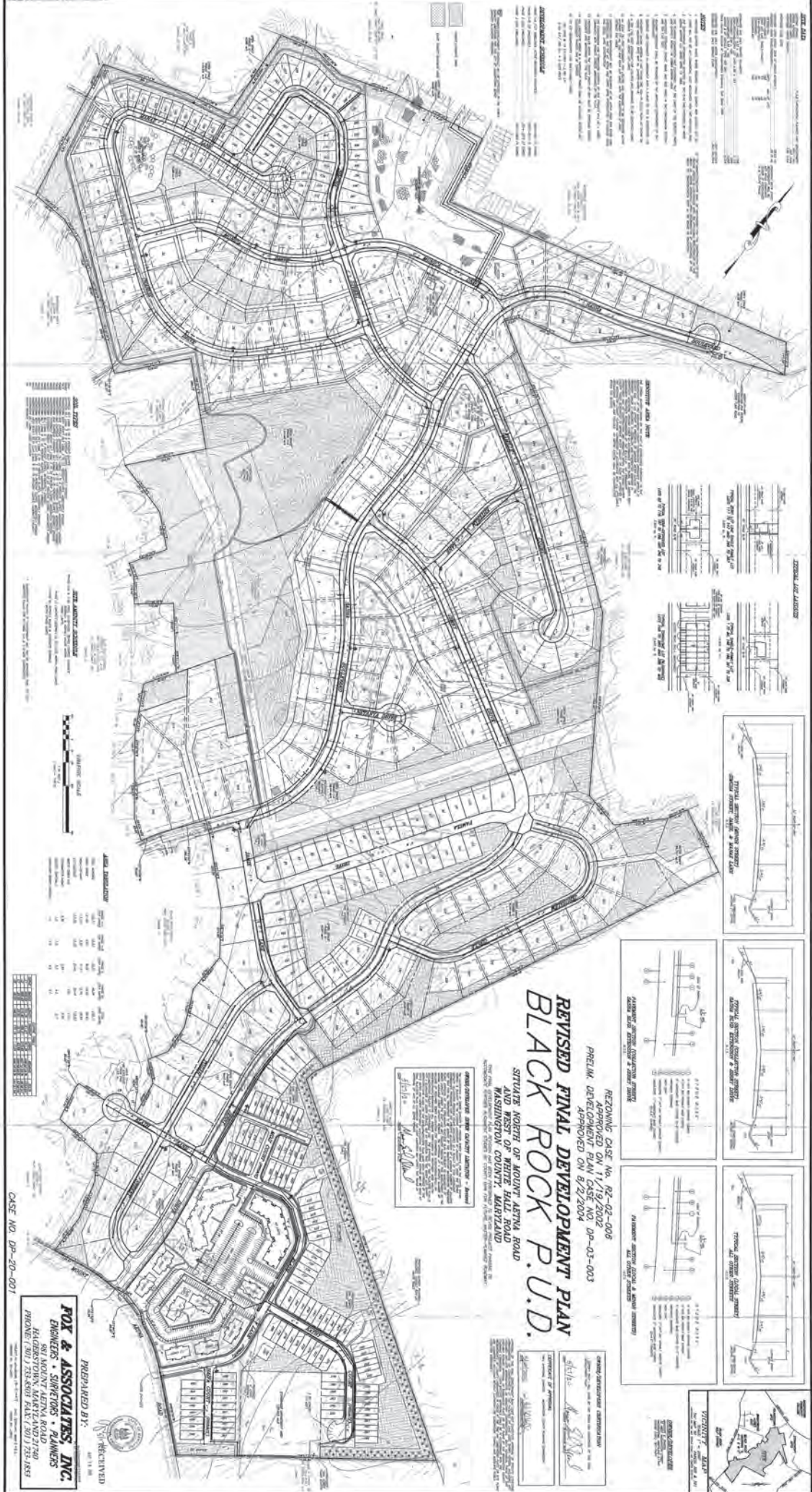
(For) Clint Wiley

Washington County Planning Commission

CC: FOX & ASSOCIATES INC
LAK/MSG

CONDITIONS:

Not Applicable



LEGEND

1. ALL LOT LINES SHALL BE 1/4" = 1' SCALE

2. ALL LOT LINES SHALL BE 1/4" = 1' SCALE

3. ALL LOT LINES SHALL BE 1/4" = 1' SCALE

4. ALL LOT LINES SHALL BE 1/4" = 1' SCALE

5. ALL LOT LINES SHALL BE 1/4" = 1' SCALE

6. ALL LOT LINES SHALL BE 1/4" = 1' SCALE

7. ALL LOT LINES SHALL BE 1/4" = 1' SCALE

8. ALL LOT LINES SHALL BE 1/4" = 1' SCALE

9. ALL LOT LINES SHALL BE 1/4" = 1' SCALE

10. ALL LOT LINES SHALL BE 1/4" = 1' SCALE

GENERAL NOTES

1. ALL LOT LINES SHALL BE 1/4" = 1' SCALE

2. ALL LOT LINES SHALL BE 1/4" = 1' SCALE

3. ALL LOT LINES SHALL BE 1/4" = 1' SCALE

4. ALL LOT LINES SHALL BE 1/4" = 1' SCALE

5. ALL LOT LINES SHALL BE 1/4" = 1' SCALE

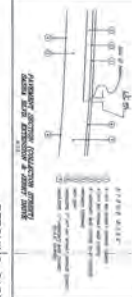
6. ALL LOT LINES SHALL BE 1/4" = 1' SCALE

7. ALL LOT LINES SHALL BE 1/4" = 1' SCALE

8. ALL LOT LINES SHALL BE 1/4" = 1' SCALE

9. ALL LOT LINES SHALL BE 1/4" = 1' SCALE

10. ALL LOT LINES SHALL BE 1/4" = 1' SCALE



REVISED FINAL DEVELOPMENT PLAN **BLACK ROCK P.U.D.** SITUATE NORTH OF MOUNT APTA ROAD AND WEST OF WHITE HALL ROAD WASHINGTON COUNTY, MARYLAND

PRELIM. DEVELOPMENT PLAN CASE NO. DP-01-003 APPROVED ON 8/2/2004

REZONING CASE NO. RZ-03-006 APPROVED ON 11/19/2002

PRELIM. DEVELOPMENT PLAN CASE NO. DP-01-003 APPROVED ON 8/2/2004

PREPARED BY:

FOX & ASSOCIATES, INC.

ENGINEERS, SURVEYORS, PLANNERS

HAGERSTOWN, MARYLAND 21401

PHONE (301) 733-6001 FAX (301) 733-1851

CASE NO. DP-20-001

RECEIVED

PREPARED BY:

FOX & ASSOCIATES, INC.

ENGINEERS, SURVEYORS, PLANNERS

HAGERSTOWN, MARYLAND 21401

PHONE (301) 733-6001 FAX (301) 733-1851

EXHIBIT B



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

July 23, 2021

RZ-21-003

APPLICATION FOR AMENDMENT OF DEVELOPMENT PLAN
PLANNING COMMISSION RECOMMENDATION

RECOMMENDATION

The Washington County Planning Commission held a public information meeting on June 14, 2021 for the purpose of taking public comment on an application for a major change to the existing development plan for the Black Rock PUD. The proposed amendment would increase the overall number of residential units from 595 dwelling units to 1,148 units, thereby increasing the residential density from 2.7 dwelling units per acre to 5.2 dwelling units per acre. The Planning Commission considered the applicant's application and supporting documents, oral testimony from more than 30 residents of the area, written comments including a petition signed by nearly 400 residents of the area, and the Staff Report and Analysis.

At their regular meeting on July 19, 2021, the Planning Commission unanimously voted to deny the requested major change for the following reasons:

1. The transportation network serving the area (specifically Mt. Aetna Road between White Hall Road and MD 66) is not adequate to handle the additional traffic from additional units.
2. The water system does not appear to be adequate to properly serve the additional units as it relates to water pressure and availability of sufficient capacity for public fire suppression efforts.
3. The school system would not have adequate capacity to serve the new pupil yield of the proposed new units.

Copies of the application packet and supporting documents, Staff Report and Analysis, written comments, petition, and minutes of the June 14, 2021 public information meeting and July 19, 2021 regular meeting are attached.

Respectfully submitted,

Jill Baker, AICP

Director, Washington County Dept. of
Planning & Zoning

JLB/dse

Attachments

cc: Kirk Downey
Morris & Ritchie Associates

EXHIBIT C

164 Md.App. 426
Court of Special Appeals of Maryland.

James CREMINS, et al.

v.

COUNTY COMMISSIONERS OF
WASHINGTON COUNTY, Maryland, et al.

No. 2200, Sept. Term, 2003.

|
Sept. 29, 2005.

Synopsis

Background: Adjacent property owners to proposed development sought review of county commissioners' decision to rezone a parcel of property to a planned unit development (PUD). The Circuit Court, Washington County, Frederick C. Wright, III, J., affirmed. Adjacent owners appealed.

Holdings: The Court of Special Appeals, Barbera, J., held that:

[1] substantial evidence supported commissioners' zoning decision;

[2] ordinance did not require that commissioners find that adjacent roadway was currently adequate for proposed development; and

[3] commissioners were not required to determine whether proposed development had necessary infrastructure.

Affirmed.

Procedural Posture(s): On Appeal.

West Headnotes (17)

[1] **Administrative Law and Procedure** 🔑 Review using standard applied below

When the Court of Special Appeals reviews the decision of an administrative agency, its role is the same as that of the circuit court.

[2] **Administrative Law and Procedure** 🔑 Wisdom, judgment, or opinion in general

A reviewing court may not substitute its judgment for that of the agency.

[3] **Zoning and Planning** 🔑 Legislative, administrative, judicial, or quasi-judicial power
Zoning and Planning 🔑 Arbitrary, Capricious, or Unreasonable Action
Zoning and Planning 🔑 Presumptions and Burdens

Zoning and Planning 🔑 Substantial evidence in general

Zoning matters are, first of all, legislative functions and, absent arbitrary and capricious actions, are presumptively correct, if based upon substantial evidence, even if substantial evidence to the contrary exists.

[4] **Zoning and Planning** 🔑 Substantial evidence in general

There is substantial evidence to support the zoning agency's conclusion if reasoning minds could reasonably reach the conclusion from facts in the record; evidence is substantial if there is a little more than a scintilla of evidence.

[4 Cases that cite this headnote](#)

[5] **Administrative Law and Procedure** 🔑 Construction, interpretation, or application of law in general

The standard for judicial review of an administrative agency's legal rulings requires the reviewing court to determine if the administrative decision is premised upon an erroneous conclusion of law.

[2 Cases that cite this headnote](#)

- [6] **Administrative Law and Procedure** 🔑 Presumptions and Burdens on Review

Administrative Law and

Procedure 🔑 Correctness or error

A reviewing court must review the agency's decision in the light most favorable to it, and the decision of the agency is deemed prima facie correct and presumed valid.

- [7] **Administrative Law and Procedure** 🔑 Agency expertise in general

Administrative Law and

Procedure 🔑 Relationship of agency with statute in general

Administrative Law and

Procedure 🔑 Competence, expertise, and knowledge of agency

Administrative Law and

Procedure 🔑 Competence, expertise, and knowledge of agency

In reviewing an agency decision, the agency's interpretations and applications of the statutory or regulatory provisions that it administers should be afforded considerable weight, and the expertise of the agency in its own field should be respected.

1 Cases that cite this headnote

- [8] **Zoning and Planning** 🔑 Preservation before board or officer of grounds of review

Property owners waived on appeal their argument that testimony at public hearing before the county commissioners regarding rezoning issues could not be considered due to the fact that the testimony presented in favor of the rezoning was unsworn, where the owners failed to object to the unsworn testimony during the administrative proceedings.

1 Cases that cite this headnote

- [9] **Administrative Law and Procedure** 🔑 In general; necessity

A party who knows or should have known that an administrative agency has committed an error and who, despite an opportunity to do so, fails to object in any way or at any time during the course of the administrative proceedings, may not thereafter complain about the error at a judicial proceeding.

3 Cases that cite this headnote

- [10] **Administrative Law and Procedure** 🔑 Witnesses

It is important that the presiding officer of the administrative agency proceedings be certain that witnesses are properly sworn and identified and that the record does not contain unsworn comments by unidentified persons.

- [11] **Administrative Law and Procedure** 🔑 Documentary evidence

It is important that all documents and other exhibits presented during administrative agency proceedings be carefully identified and cataloged in the record.

- [12] **Zoning and Planning** 🔑 Particular Uses or Restrictions

Zoning and Planning 🔑 Agricultural uses, woodlands and rural zoning

County commissioners' decision to rezone property to a planned unit development (PUD) was supported by substantial evidence, where commissioners had before them numerous documents concerning rezoning, including minutes of the planning commission meeting, zoning maps, a plat of the property, a deed to the property, letters from individuals opposed to rezoning, and recommendation reports from several agencies.

- [13] **Zoning and Planning** 🔑 Hearing or meeting in general

County commissioners were entitled to consider documentary evidence presented at hearing

in deciding rezoning issue, even though the documents were not placed before the commissioners by sworn witnesses who were subject to cross-examination; the commissioners were not bound by the technical rules of evidence.

[1 Cases that cite this headnote](#)

[14] Zoning and Planning 🔑 Evidence

A zoning board, along with other administrative agencies, is generally not bound by the technical rules of evidence although it must observe fundamental fairness in dealing with the parties who appear before it.

[1 Cases that cite this headnote](#)

[15] Zoning and Planning 🔑 Applicability of general statutory construction principles

The interpretation of a local zoning regulation is made under the same canons of construction that apply to the interpretation of statutes.

[1 Cases that cite this headnote](#)

[16] Zoning and Planning 🔑 Particular Uses or Restrictions

County zoning ordinance regarding planned unit developments (PUD) did not require the county commissioners to find, before approving rezoning of land to a PUD, that an adjacent roadway was currently adequate to handle both existing and future traffic; instead, the zoning scheme as a whole mandated that the planning commission monitor the adequacy of roadway facilities throughout the PUD review and approval process, and throughout the period of development.

[17] Zoning and Planning 🔑 Particular Uses or Restrictions

Rezoning scheme contained in county zoning ordinance regarding planned unit developments (PUD) was more flexible and more effective than the reasonably probable of fruition in the foreseeable future test that was used to determine

whether a proposed development had necessary infrastructure to support it, and thus, the county commissioners were not required to address infrastructure issues at the rezoning approval stage of the PUD review and approval process, unless those infrastructure issues appeared to be highly unsolvable, where under the ordinance, development of a PUD, or any phase of a PUD, could not begin until the planning commission was satisfied that the required improvements to public facilities were made.

Attorneys and Law Firms

****968** William C. Wantz of Hagerstown, for appellant.

William J. Chen, Jr. of Rockville, E. Kenneth Grove (Mark D. Thomas on the brief), Hagerstown, for appellee.

JAMES R. EYLER, ADKINS, BARBERA, JJ.

Opinion

BARBERA, J.

***429** In Washington County, an application to rezone a parcel of property to a “Planned Unit Development,” or “PUD,” must pass through a five-step review and approval process. *See* Washington County Zoning Ordinance § 16.5.¹ This appeal ***430** involves step two of that process, “Zoning Approval.” At that step, a party seeking re-zoning of his or her property to a PUD must obtain approval of the re-zoning from the County Commissioners of Washington County (“County Commissioners”), after a joint public hearing before the Washington County Planning Commission (“Planning Commission”) and the County Commissioners.

****969** Appellants, James Cremins, *et al.*,² reside in Foxleigh Meadows, a single-family residential subdivision located adjacent to the property that is the subject of this appeal. They appeal from a judgment in the Circuit Court for Washington County, rendered in favor of the County Commissioners and Paul N. Crampton, Jr. (collectively, “appellees”). That judgment affirmed the County Commissioners' decision to re-zone certain property to the PUD zoning classification.

Appellants present four questions for our review, which we have re-ordered:

- I. In a piecemeal rezoning hearing, may facts presented by unsworn witnesses be considered in determining whether the applicant's case is supported by substantial evidence?
- II. Is remand inappropriate in the absence of substantial evidence of adequacy of the adjacent roadway and of general compatibility?
- III. In Washington County, may a planned unit development floating zone be established in the absence of an affirmative finding by the rezoning authority that the proposed site is located adjacent to an adequate roadway, as required by the applicable zoning ordinance?
- IV. In Washington County, should the reasonably probable of fruition requirement or a concurrency standard be applied in the floating zone compatibility analysis?

For the reasons that follow, we affirm.

***431 FACTS AND LEGAL PROCEEDINGS**

On November 7, 2002, Mr. Crampton filed an "Ordinance Amendment Application" ("the application") with the Planning Commission. Mr. Crampton proposed to reclassify a 97.27 acre parcel of land ("the property") from its "A" Agricultural zoning designation to the "A" Agricultural Planned Unit Development ("PUD") zone.³ The property, also referred to as "Emerald Pointe PUD," is bounded on the west by Marsh Pike and on the east by a large parcel of private property that is used for agricultural purposes. To the north is Longmeadow Road and on the property's southern border is Maryland Route 60.

During the Concept Plan Review step of the PUD rezoning process, *see* § 16.5(a)(1), several local administrative agencies submitted reports and recommendations to the Planning Commission concerning the application. None of these agencies had objections to the application at that stage of the review and approval process.⁴ The Planning Commission also received letters from neighboring property owners in support of and opposed to the application.

On January 13, 2003, a joint public hearing on the application was held before the Planning Commission and the County **970 Commissioners. *See* § 16.5(a)(2). At the outset of the hearing, at which no oaths were administered, a staff member of the Planning Commission discussed the "Staff Report and Analysis" (the "Report") that was conducted in response to the application. The Report included enrollment figures for the public schools serving the property, and a statement that the *432 Maryland State Highway Administration ("MSHA") had requested that access to the property be limited to Marsh Pike.

Attached to the Report was a "Preliminary Consultation" ("the Consultation"), prepared by the Planning Commission. The Consultation reflected that Mr. Crampton and several officials, including members of the Washington County Engineering Department (the "Engineering Department") and the Washington County Planning Department, had met to discuss, among other things, the traffic conditions along Marsh Pike. The Consultation noted that the Engineering Department had decided that Mr. Crampton and the Washington County officials would have to reach an agreement on "the liability and maintenance of [a] proposed median" at any entrance to the property on Marsh Pike. The Engineering Department also stated that the "Traffic Impact Study" would have to be revised.

The Planning Commission staff member stated at the joint hearing that Mr. Crampton proposed that the property be developed to include 89 semi-detached or duplex lots, 88 single family lots, 92 townhouse lots, a residential retirement center, a community center, and 9,000 square feet of commercial development. The staff member also stated that the Engineering Department and MSHA had requested updated traffic impact studies.

Mr. Crampton appeared at the joint hearing. He discussed the application and the development proposal in detail, noting in his statement that 35 to 40 units would be added to the development each year, and that the entire project would take 10 to 15 years to complete.

An engineer with Fox & Associates also appeared in support of the application. He discussed the application and stated that a company called "Street Traffic Group" had prepared a traffic study for the property. He reported that the traffic study indicates "that the existing system could be supported by the surrounding area network and the critical intersections will continue to operate at acceptable levels of service with

the full development of the PUD provided that ***433** some improvements are made.”⁵ The Engineering Department and MSHA had a copy of the study and were reviewing it, and had several preliminary comments regarding traffic along Marsh Pike, including that Marsh Pike needed “widening” and other improvements at intersections along Marsh Pike. The engineer did not know whether the Engineering Department and MSHA had made formal comments on the traffic study as of the date of the hearing. The engineer also stated that the property would “have a minimal impact on [public] schools.”

More than 25 members of the public, several of whom are appellants, spoke in opposition to the application. The protestants generally asserted that the existing public schools did not have the capacity to handle the influx of children the development of the PUD would produce, the PUD was not compatible with neighboring properties, and the development would adversely affect traffic along Marsh Pike.

****971** The chairperson of the Planning Commission stated that the “file” would remain open for 10 days to allow additional comments to be submitted to the County Commissioners before they decided whether to approve the application.

On March 3, 2003, the Planning Commission voted three-to-one to recommend that the County Commissioners deny the application. In a letter dated the following day, the Planning Commission informed the County Commissioners of its recommendation. The Planning Commission stated that it “based this recommendation on” the traffic study submitted at the January 23, 2003 hearing, and on “concerns that the residential development density proposed for the [property] was not consistent with the residential density in adjacent developments.” The Planning Commission also stated its “opinion that the road infrastructure in the immediate vicinity of the [property] was defici[ent.]”

***434** On March 13, 2003, the County Commissioners held a regular meeting to consider and vote on the application. The County Commissioners voted unanimously to accept “the findings of fact as set forth in the report from the County Attorney.”⁶ The County Commissioners also voted three-to-one to approve the rezoning of the property to PUD. Pertinent to this appeal, the County Commissioners made the following findings of fact:

The proposed residential uses within the PUD are single-family, semi-detached units, and townhouses. The single-family and semi-detached units would be exempt from the Article V School section of the Adequate Public Facilities Ordinance because this property is situated within the Urban Growth Area. Townhouses, however, would not be exempt. The subject property is located within the school districts of Paramount Elementary, Northern Middle, and North Hagerstown High School.

* * *

Present and future transportation patterns in the area.

The subject property ... has approximately 3,080 feet of frontage along Marsh Pike. The Washington County Highway Plan classifies this section of Marsh Pike as a Major Collector, which requires a minimum distance of 300 feet between all new access points and 40 feet of future dedicated right of way from centerline. This classification's major function is to provide for intra-county travel.... The property has approximately 1,082 feet of frontage along Leitersburg Pike, an Intermediate Arterial.... One access point onto Leitersburg Pike from Emerald Pointe has been proposed, however, the [MSHA] has requested that all access points to the development be limited to Marsh Pike.

***435** The ... Engineering Department and the [MSHA] made numerous comments regarding the subject property's impact on surrounding roadways and internal street design....

* * *

The Planning Commission opined that the road infrastructure in the immediate vicinity of the subject property was deficient based upon a traffic study submitted by [Mr. Crampton] and that the ****972** residential development density proposed for the subject property was not consistent with the residential density in adjacent developments.

For the reasons set forth elsewhere in these findings of fact, [the County Commissioners] respectfully decline[] to adopt this opinion.

* * *

Education Facilities

Effect of the PUD on community infrastructure.

The adoption of the Adequate Public Facilities Ordinance (APFO) in 1990 has taken on a supportive role that was previously the sole responsibility of this item in the zoning ordinance during the rezoning stage when considering the deliberation of PUD cases. Due to this change, it would appear that now the Planning Commission and the [County Commissioners] would only have to address infrastructure issues at the zoning stage that would appear to be highly unsolvable.

A major concern of neighborhood residents who testified at the public hearing and who sent in correspondence during the comment period dealt with the PUD's effect on the area road network as a result of increased traffic. Terrence McGee, Chief Engineer, County Engineering Department, did not take exception to the rezoning and responded to this application by stating, "all issues under our jurisdiction associated with this request can be adequately addressed through the site plan approval process." One of the major comments is that the existing Traffic Impact *436 Study will need to be revised to reflect the new plan. To date, the [] Engineering Department has no final comments with regard to the updated traffic study....

Another item that generated a significant amount of testimony at the public hearing was the issue of the PUD's impact on the neighborhood schools of Northern Middle, North Hagerstown High and, in particular, Paramount Elementary....

[Data pertaining to school capacity and projected student population is omitted.]

.... Discarding the units proposed for the retirement center, there would be 267 units subjected to APFO testing under the new policies. This would equate to 54 students or a total of 108 students projected from this development or in the pipeline. Since the PUD is projected for a build out over ten years, it is reasonable to assume that not all 54 students would come on line in the same year. With an available capacity of 81 students, it would seem that projected student population from this PUD as well as approved developments would not generate an inadequate condition in the near future....

The PUD article of the zoning ordinance was adopted prior to the adoption of the APFO. Within the context of the PUD article ..., references are made regarding impact on infrastructure (sections 16.0 and 16.7(a)). Neither of

these references says that public school capacity must be adequate in order for a PUD zoning to be approved. However, the impact on the public schools must be given consideration when determining the appropriateness of the PUD and the proposed density. The APFO, on the other hand, allows the [County Commissioners] and the Planning Commission to take control of school adequacy issues associated with new development....

.... During the Development Plan review stages, [Mr. Crampton] should be investigating the adequacy of the schools and prepare a course of action if an adequacy problem is anticipated. The **973 Planning Commission shall determine if the schools are adequate during the Final *437 Development Plan review stage. As specified under [] section 16.6(d)2ii, agreements for responsibility between County and developer for providing on-site and off-site improvements[] shall be developed as part of the Final Development Plan. This would include addressing the developer's responsibility for school adequacy if he intends to continue with the project. If any of the schools are determined to be inadequate, and the developer does not wish to make them so, the final plat or site plan cannot be approved. If approval of the plat does not occur within six months, the PUD zoning designation would be lost and the property would revert back to its original, underlying classification.

(Emphasis added.)

Appellants filed a petition for judicial review of the County Commissioners' decision, in the Circuit Court for Washington County. Appellees participated in the petition. After a hearing, the court issued an opinion and order affirming the County Commissioners' decision.⁷


Appellants noted this timely appeal. We shall add facts as they become pertinent to our discussion.



STANDARD OF REVIEW

[1] [2] When we review the decision of an administrative agency, our role is the same as that of the circuit court. *Capital Commercial Props., Inc. v. Montgomery County Planning Bd.*, 158 Md.App. 88, 95, 854 A.2d 283 (2004). We may not substitute our judgment for that of the agency. *Id.* We have said that, "[i]n zoning matters, the zoning agency is considered to be the expert in the assessment of the evidence,



not the court.” *Bowman Group v. Moser*, 112 Md.App. 694, 699, 686 A.2d 643 (1996), *cert. denied*, 344 Md. 568, 688 A.2d 446 (1997). *See also White v. Spring*, 109 Md.App. 692, 699, 675 A.2d 1023, *cert. denied*, 343 Md. 680, 684 A.2d 455 (1996).


***438 [3]** We have said that, in all zoning cases, including floating zone cases, the reviewing court should not “ ‘zone or rezone, or [] substitute its judgment for that of the zoning authority if the action of the zoning authority is based on substantial evidence and the issue is thus fairly debatable.’ ”

”  *Montgomery County v. Greater Colesville Citizens' Ass'n*, 70 Md.App. 374, 381, 521 A.2d 770 (1987) (quoting


 *Northampton Corp. v. Prince George's County*, 273 Md. 93, 101, 327 A.2d 774 (1974)). *See also*  *Stansbury v. Jones*, 372 Md. 172, 182, 812 A.2d 312 (2002). “The basic reason for the fairly debatable standard is that zoning matters are, first of all, legislative functions and, absent arbitrary and capricious actions, are presumptively correct, if based upon substantial evidence, even if substantial evidence to the contrary exists.” *White*, 109 Md.App. at 699, 675 A.2d 1023.

[4] There is substantial evidence to support the zoning agency's conclusion if “reasoning minds could reasonably reach [the] conclusion from facts in the record[.]”

 *Stansbury*, 372 Md. at 182–83, 812 A.2d 312. Evidence is “substantial” “if there is ‘a little more than a “scintilla of evidence.” ’ ”  *Greater Colesville*, 70 Md.App. at 382, 521

A.2d 770 (citation omitted). *See also*  *Lucas v. People's Counsel for Baltimore County*, 147 Md.App. 209, 225, 807 A.2d 1176 (2002).

[5] [6] [7] The standard for judicial review of an administrative agency's legal rulings ****974** requires the reviewing court to “ ‘determine if the administrative decision is premised upon an erroneous conclusion of law.’ ”

 *Maryland Aviation Admin. v. Noland*, 386 Md. 556, 573–74 n. 3, 873 A.2d 1145 (2005) (citations omitted). In making this determination, the reviewing court “ ‘must review the agency's decision in the light most favorable to it,’ ” and the decision of the agency is deemed “ ‘prima facie correct and presumed valid [.]’ ” *Id.* (citations omitted.) In addition, “the agency's interpretations and applications of [the] statutory or regulatory provisions” that it administers should be afforded considerable weight, and “ ‘the expertise of the agency in its own field should be respected.’ ” *Id.* (citations omitted.)

*439 DISCUSSION

The PUD re-zoning process in Washington County

We are asked in this appeal to decide whether the County Commissioners properly interpreted the Zoning Ordinance for Washington County and the APFO. We begin with a discussion of the County Commissioners' authority to re-zone property to the PUD classification, and the process through which an application for re-zoning must pass.

The authority of the County Commissioners to reclassify the zoning of property in Washington County is derived from Maryland Code (1957, 2003 Repl.Vol.), Article 66B (“Article 66B”). *See Bd. of County Comm'rs of Washington County v. H. Manny Holtz, Inc.*, 60 Md.App. 133, 135 n. 1, 481 A.2d 513 (1984) (noting that Article 66B authorizes Washington County to create a Board of Zoning Appeals with limited authority, and recognizing that “[a]pplications for reclassification [of land] must be made directly to the Board of County Commissioners, which alone is authorized to approve them”). Article 66B, § 10.01(a) specifically authorizes the County Commissioners “to enact [] ordinances or laws providing for or requiring,” *inter alia*, PUDs and floating zones.

Section 27.1 of the zoning ordinance authorizes an individual to petition the County Commissioners for a re-zoning of property. The provisions specifically governing the rezoning of land in Washington County to a PUD or floating zone are located in Article 16 of the zoning ordinance. Section 16.0, entitled “Purpose,” provides:

The intent of these PUD regulations is to permit a greater degree of flexibility and more creativity in the design and development of residential areas than is possible under conventional zoning standards. The purpose is also to promote a more economical and efficient use of the land while providing for a harmonious variety of housing choices, a more varied level of community amenities, and the promotion of adequate open space and scenic attractiveness.

The PUD is a floating zone that may be established in any of the Districts specified in Section 16.4. The change or ***440** mistake rule does not apply to the PUD process, but the Planning Commission and the Board

of County Commissioners, in the deliberation of a PUD application, shall establish findings of fact that consider, at a minimum, the purpose of the PUD District, the applicable policies of the adopted Comprehensive Plan for the County, the compatibility of the proposed PUD with neighboring properties, and the effect of the PUD on community infrastructure.

Section 16.5 outlines a “multi-step” review and approval process for a PUD re-zoning application. Subsection (a) of that section provides, in pertinent part:

****975** Design and Development Schedule: It is the intent of this Ordinance that the PUD not be a speculative device. The Concept Plan as submitted by the applicant shall reflect the actual development to be designed and constructed within a reasonable time frame. Each phase of the design and development review process must occur within specified periods. If the applicant fails to submit his plans, or if construction does not commence, as specified by this Ordinance, the zoning of the site shall automatically revert to its previous classification.

If the applicant abandons the plans for the PUD at any time prior to the start of construction before the automatic reversion date and desires to proceed with development permitted under the previous zoning, he may do so by submitting notification to the Planning Commission. Such notification shall constitute official withdrawal of the applicant's plans for the PUD and shall permit reversion of the previous zoning classification without the necessity of the rezoning process.

1. Concept Plan Review: The purpose of the Concept Plan Review is to provide an exchange of information between the developer and the Planning Commission. The intent is that the developer provide the [Planning] Commission with general information for the layout, density, specific uses and the like. The [Planning] ***441** Commission, in turn, will provide the developer with corresponding response.
2. Zoning Approval: Following the Concept Plan Review, a joint public hearing with the Board of County Commissioners and the Planning Commission will be scheduled. Within 120 days after the public hearing, the Board of County Commissioners, after receiving a recommendation from the Planning Commission, shall render a decision on the PUD application. Zoning approval constitutes tentative approval of density

and design features as shown on the Concept Plan. Minor changes in concept design may subsequently be approved by the Planning Commission without an additional public hearing.

(Footnote omitted.)

The remaining three steps of the review and approval process require approval of the Planning Commission. *See* § 16.5(a)3. through 5.

Two other provisions of the zoning ordinance concern traffic. Section 16.4(b), which is one of the provisions we are asked to interpret in this appeal, provides that, as a general requirement, a PUD “shall be located ... adjacent to adequate roadway facilities capable of serving existing traffic and the future traffic generated by the uses in the PUD.” Section 16.7(i), titled “Traffic Circulation and Parking,” provides:

1. Existing and planned streets and highways shall be of sufficient capacity to serve existing traffic and all new traffic when fully developed.
2. The capacity of existing streets and highways serving a PUD shall be considered by the [Planning] Commission in determining density. Density resulting in traffic capacity being exceeded on streets and highways shall not be permitted.

In 1990, Washington County approved an APFO pursuant to the authority granted it by Article 66B, § 10.01. *See* APFO Article XII. Section 1.2 of the APFO provides:

442** It is the purpose of the [County Commissioners] that public facilities and services needed to support new development shall be available concurrently *976** 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.

Article 66B, § 4.04(b)(1) provides that a decision of the County Commissioners to rezone a portion of land “may not become effective until 10 days after at least one public hearing on the matter, at which parties in interest and citizens shall have an opportunity to be heard.”

Section 27.2 of the zoning ordinance requires, *inter alia*, that the County Commissioners “hold at least one public hearing” before making a “map amendment.” Following the public hearing, the County Commissioners must “make findings of fact in each specific case” involving an application for rezoning approval to a PUD. § 27.3. Section 27.3 requires that the County Commissioners make findings of fact involving, *inter alia*, “the following matters”:

- (a) The report and recommendations of the [Planning Commission].
- (b) Population change in the area of the proposed change.
- (c) Availability of public facilities in the area.
- (d) Present and future transportation patterns in the area.
- (e) Compatibility with existing and proposed development of the area including indication of neighboring sites identified by the Washington County Historic Sites Survey and subsequent revisions or updates.
- (f) The relationship of the proposed change to the Adopted Plan For the County, Development Analysis Plan Map and Policies.

* * *

***443** (i) Whether there has been a convincing demonstration that the proposed rezoning would be appropriate and logical for the subject property.


Issues 1 and 2: The joint public hearing in this case and the appropriateness of a remand


Appellants contend that the County Commissioners' decision cannot properly be sustained because, at the January 13, 2003 joint public hearing, all of the “testimony” presented



in favor of the application was “unsworn.” It follows, appellants argue, that the evidence presented at the joint public hearing “may not be considered” in determining whether the County Commissioners' decision is supported by substantial, competent evidence.

Appellees counter that appellants did not object to the lack of an oath given at the joint public hearing; therefore, the argument is waived. Appellees further assert that, should we reach the merits of the argument, there is no requirement in statute, the County Code, or case law that “testimony” at a public hearing like the one in this case be given under oath.

[8] Appellees are correct that appellants, many of whom spoke at the joint public hearing without having taken an oath, did not object or otherwise raise the issue at the hearing. Appellants, moreover, remained silent on this subject during the 10-day period in which the “file” remained open for the County Commissioners to receive written materials.

****977 [9]** “A party who knows or should have known that an administrative agency has committed an error and who, despite an opportunity to do so, fails to object in any way or at any time during the course of the administrative proceedings,” may not thereafter complain about the error at a judicial proceeding.  *Cicala v. Disability Review Bd. for Prince George's County*, 288 Md. 254, 261–62, 418 A.2d 205 (1980).

See also  *id.* at 262–63, 418 A.2d 205 (stating that failure of appellant's attorney to object at a hearing before the Disability ***444** Review Board that the Board did not have a report that it was required to obtain and consider, cannot thereafter properly raise the issue at the judicial review proceeding and therefore cannot properly raise the issue before the appellate court); *Capital Commercial*, 158 Md.App. at 102, 854 A.2d 283 (holding that because the appellant did not present to the administrative agency the argument it raised before this Court, the issue was not preserved, and holding that, even if preserved, the argument failed); *Brzowski v. Maryland Home Improvement Comm'n*, 114 Md.App. 615, 691 A.2d 699 (holding that, despite the merits of the argument the appellant raised on appeal, the issue was not preserved for judicial review because it was not raised before the administrative agency), *cert. denied*, 346 Md. 238, 695 A.2d 1227 (1997);

 *Templeton v. County Council of Prince George's County*, 21 Md.App. 636, 645, 321 A.2d 778 (1974) (holding that, because the appellant did not present a question before a hearing examiner or District Council, the question was “not properly before this Court”); *cf.*  *Anne Arundel County*

v. Nes, 163 Md.App. 515, 535–36, 881 A.2d 1161 (2005), (holding that the appellees' argument was waived because they had “expressly abandoned” the argument before the administrative agency).

We have previously addressed the question of waiver of a challenge to the use of unsworn statements by a witness, albeit in the context of a contested custody case. See *Schaefer v. Cusack*, 124 Md.App. 288, 722 A.2d 73 (1998). In that case, the complaint was raised on appeal that the chancellor had erroneously relied in its custody decision on the testimony of the child's headmistress, after having decided that it was not necessary to have her put under oath. *Id.* at 312–13, 722 A.2d 73. We said, in response to the claim:

The attorney for [the cross-appellant] did not insist [that the witness be sworn]. She testified. There was no objection to her testimony. The attorney for [the cross-appellant] did not move to strike the testimony. [The cross-appellant]'s attorney had the opportunity to cross-examine Ms. Gentry. Rule 2–517 states in pertinent part:

*445 An objection to the admission of evidence shall be made at the time the evidence is offered or as soon thereafter as a grounds for objection become apparent. Otherwise, the objection is waived.

Professor Lynn McLain in her excellent work on *Maryland Evidence*, Section 603.1 at 26 (1987) states:

“Objection to a witness' testifying who has not made an oath or affirmation will be considered waived unless made before the testimony or, if the witness is not on the stand as soon as it should be apparent that the witness is testifying.”

We deem the point waived.


Id. at 313, 722 A.2d 73.

[10] [11] We can conceive of no reason why the same waiver rule ought not apply to the present case. The failure of appellants to object to the witnesses' not being sworn at the joint hearing constitutes a **978 waiver of appellants' right to complain now.⁸

[12] Even if we discount the unsworn witness testimony, however, there was substantial evidence before the County Commissioners to make the issues raised in this appeal fairly debatable. Indeed, the only ground upon which appellants rely in their argument that the County Commissioners lacked *446 substantial evidence to support their findings is that “[r]emoving unsworn commentary and argument of counsel from the body of evidence before the [County Commissioners] leaves the decision of the [County Commissioners] unsupported.” We disagree.

The County Commissioners had before them numerous documents. Included among those documents were Mr. Crampton's application; the minutes of the Planning Commission's meeting during which the Planning Commission voted against approving the application; numerous letters from individuals opposed to the re-zoning application; zoning maps; a plat of the property; the Report of the Planning Commission's staff; a deed to the property; and recommendation reports of several agencies including the Engineering Department, Health Department, MSHA, and the Washington County Water & Sewer Department.

[13] Appellants make no argument that those documents do not constitute substantial evidence upon which the County Commissioners could render their decision. Appellants argue only that the documentary evidence came from Mr. Crampton, the Planning Commission, and appellants, yet the County Commissioners did not require any of them to face cross-examination before submitting those documents. Appellants maintain that all of this documentary evidence should have been placed before the County Commissioners by sworn witnesses who faced cross-examination, and, therefore, it should not have been considered by them.

[14] We disagree. “A zoning board, along with other administrative agencies, is generally not bound by the technical rules of evidence although it must observe fundamental fairness in dealing with the parties who appear before it.” *Ginn v. Farley*, 43 Md.App. 229, 236, 403 A.2d 858, cert. denied, sub nom. *Engel v. Farley*, 286 Md. 747 (1979). See also  *Entzian v. Prince George's County*, 32 Md.App. 256, 262, 360 A.2d 6 (1976) (recognizing that “zoning agency bodies [] are not bound by strict rules of evidence”). The documents properly could be considered by the County Commissioners.

*447 We have reviewed the documents and conclude that they make fairly debatable the appropriateness of rezoning the property to the PUD zone. In other words, the County Commissioners' decision, even **979 without the unsworn witness statements, was supported by substantial evidence.

Because we hold that there was substantial evidence in the record to support the County Commissioners' decision, we need not discuss appellants' contention that we should reverse that decision without remand.

Issue 3: Interpretation of § 16.4

Appellants assert that § 16.4(b) requires the County Commissioners to make a specific factual finding concerning whether the site for a proposed PUD is “capable of serving existing traffic and the future traffic generated by the uses in the PUD.” Appellants argue that nothing in the zoning ordinance authorizes the County Commissioners to defer a finding of roadway adequacy. Appellants insist that the finding must be made at the time the County Commissioners decide whether to re-zone a property to PUD, *i.e.*, after the joint public hearing that occurs at the second step of the PUD review and approval process.

Appellees respond that § 16.4(b) should not be read in isolation. They contend that re-zoning land to the PUD zone is a multi-step process under § 16.5, and that the County Commissioners properly determined that § 16.4(b) should be read in conjunction with the rest of the zoning ordinance and the APFO.

Whether the County Commissioners properly construed the zoning ordinance is a question of law. See *Capital Commercial*, 158 Md.App. at 96, 854 A.2d 283 (noting that “[a] challenge as to a regulatory interpretation is, of course, a legal issue”) (citation omitted). Our task, therefore, is to determine whether the County Commissioners “ ‘interpreted and applied the correct principles of law

governing the case[.]” ’ ’ *Lucas v. People's Counsel for Baltimore County*, 147 Md.App. 209, 225, 807 A.2d 1176

(2002) (quoting *Eastern Outdoor* *448 *Adver. Co. v. Mayor & City Council of Baltimore*, 128 Md.App. 494, 514, 739 A.2d 854 (1999), *cert. denied*, 358 Md. 163, 747 A.2d 644 (2000)). We nevertheless keep in mind our obligation to give considerable weight to “an administrative agency's

interpretation and application of the statute which the agency administers[.]” *Noland*, 386 Md. at 572, 873 A.2d 1145.



[15] When we review the interpretation of a local zoning regulation, we do so “under the same canons of construction that apply to the interpretation of statutes.” *O'Connor v. Baltimore County*, 382 Md. 102, 113, 854 A.2d 1191 (2004). “ ‘The cardinal rule of statutory interpretation is to ascertain and effectuate the intention of the legislature.’ ” *Motor Vehicle Admin. v. Jones*, 380 Md. 164, 175, 844 A.2d 388 (2004) (quoting *Holbrook v. State*, 364 Md. 354, 364, 772 A.2d 1240 (2001)). We assign words in a statute or, as here, an ordinance, their ordinary and natural meaning. *O'Connor*, 382 Md. at 113, 854 A.2d 1191. When the plain language of the provision “is clear and unambiguous, our inquiry ordinarily ends[.]” *Christopher v. Montgomery County Dep't of Health & Human Servs.*, 381 Md. 188, 209, 849 A.2d 46 (2004) (quotation marks and citation omitted). Only when the language is ambiguous do we look beyond the provision's plain language to discern the legislative intent. *Jones*, 380 Md. at 176, 844 A.2d 388.

Moreover, when we “constru[e] two statutes that involve the same subject matter, a harmonious interpretation of the statutes is ‘strongly favor [ed].’ ” *Dep't. of Public Safety & Corr. Servs. v. Beard*, 142 Md.App. 283, 302, 790 A.2d 57, *cert. denied*, 369 Md. 180, 798 A.2d 552 (2002) (citation omitted). When “two enactments—one general, the other specific—appear to cover **980 the same subject, the specific enactment applies.” *Id.*

[16] Section 16.4(b) provides, in pertinent part: “The specific site [of the PUD] shall be located adjacent to adequate roadway facilities capable of serving existing traffic and the future traffic generated by the uses in the PUD.” Appellants *449 argue that the plain language of the ordinance mandates that, when the County Commissioners decide to re-zone property to a PUD, *i.e.*, step two of the re-zoning process, the property must be located adjacent to roadway facilities that are at that time “capable of serving existing traffic and the future traffic generated by the uses in the PUD.” We disagree.

Section 16.4(b) plainly and simply states the County Commissioners' intention that a specific piece of property, re-zoned as a PUD, be located adjacent to roadway facilities that can adequately support the uses generated by the PUD. Contrary to appellant's argument, the statute does not state,

or even imply, that the County Commissioners must assure themselves, at the time of re-zoning, that roadways adjacent to the property are able at that time to accommodate future traffic generated by the uses of the PUD.

A statute that “ ‘is part of a statutory scheme’ ” must not be read in isolation; instead, the statute must be read together with the rest of the statutory scheme to ascertain the true intention of the Legislature.  *Mayor & Council of Rockville v. Rylyns Enters., Inc.*, 372 Md. 514, 551, 814 A.2d 469 (2002) (citation omitted). *See also*  *Marsheck v. Bd. of Trustees*, 358 Md. 393, 403, 749 A.2d 774 (2000) (stating that the appellate court's “interpretation of [a] statute and the legislature's intent must be examined by looking to the statutory scheme in its entirety rather than segmenting the statute and analyzing only its individual parts”).

Subsection (b) of § 16.4, read in the context of the entire section, advances the County Commissioners' interpretation of the subsection. Section 16.4 is entitled, “General Requirements,” and reads in its entirety:

(a) Ownership: The tract of land to be approved for development as a PUD must be in single ownership with proof of that ownership submitted to the Planning Commission by no later than review and approval of the Final Development Plan. Application for a PUD may be filed either by the owner or by a person having a substantial contractual interest in the land.

***450** (b) Location: PUDs shall be located within the Urban Growth Area or the Town Growth Areas in the A, RR, RS, RU, RM and HI-2 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 PUD.

(c) Utilities: All PUDs shall be served with public water and public sewer.

(d) Concept plans previously approved by the Planning Commission for planned residential development under the PR Article of this Ordinance shall be considered valid and shall not be constrained by time periods as specified in subsequent paragraphs. A public hearing is not required unless a major change is made by the developer to the Concept Plan; minor changes may be approved by the Planning Commission. Where there is a question about the degree of change being major or minor, the

Planning Commission shall make that determination. All other provisions of Sections 16.5(a)3, 4 and 5 shall apply.

(Footnote omitted).

Nothing in § 16.4 places an affirmative duty on the County Commissioners to ****981** make specific findings concerning the adequacy of adjacent roads or water and sewer facilities during the re-zoning stage of the PUD review and approval process. Subsection (c), for example, simply declares that all PUD zones must be served by public water and public sewer facilities. Consistent with the title of the section, the requirements that a PUD be located next to adequate roadway facilities and be serviced by public water and sewer facilities are merely “general requirements.”

We have also examined § 16.7, entitled, “Design Standards.” That section provides a series of standards that “are intended to ensure that the PUD is compatible with neighboring properties and ... provides a quality living environment for its residents.” Subsection (i) of that section is titled, “Traffic Circulation and Parking,” and provides, in pertinent part, that “[e]xisting and planned streets and highways shall ***451** be of sufficient capacity to serve existing traffic and all new traffic *when fully developed*.” (Emphasis added). Section 16.7, read together with § 16.4(b), confirms the County Commissioners' conclusion that the latter provision does *not* require their determination, at the re-zoning stage, that adjacent roads are currently capable of handling both existing traffic and the predicted future needs of the PUD.

This construction of § 16.4(b) also makes sense in light of § 1.2 of the APFO. Section 1.2 of the APFO provides that the purpose of the ordinance is to ensure “that public facilities and services needed to support new development shall be available *concurrently with* the impacts of such new developments.” (Emphasis added).⁹ It follows from the use of the word “concurrently,” that public facilities, including roads, need not be available *in advance* of “the impacts of such new developments.”

The County Commissioners recognized that appellants were understandably concerned with increased traffic resulting from the PUD. The County Commissioners also recognized, correctly, that such concerns can be and must be addressed by the Planning Commission at later stages of the PUD review and approval process. APFO § 3.4 provides:

New development not meeting the requirements for adequate public facilities contained within this Ordinance shall not be approved by the Planning Commission unless the developer reaches an agreement with the Board of County Commissioners for the purpose of ensuring the adequacy of public facilities[.]

And, APFO § 4.4 provides, in pertinent part:

Except as otherwise provided in this Ordinance, if an existing road is determined by the Planning Commission to be inadequate to accommodate the traffic flow projected to *452 be generated from the new development when combined with existing traffic flow, the new development shall not be approved.

These provisions ensure that the Planning Commission does not approve new development if it will cause an existing road to be inadequate to handle traffic generated by that development, unless the developer first reaches an agreement with the County Commissioners to ensure the adequacy of the roadway facilities.

Appellants argue that, under *Annapolis Mkt. Place, LLC v. Parker*, 369 Md. 689, 802 A.2d 1029 (2002), “the benchmark of **982 adequacy [is] defined such that, in order to be adequate, the facilities must be in existence or programmed for construction.” From that premise, appellants argue that, in this case, adequacy of facilities must be resolved at the time of re-zoning, and not deferred.


In *Parker*, the Court of Appeals interpreted specific provisions of the Anne Arundel County Code (“AACC”), provisions that are significantly different from the provisions of the zoning ordinance and APFO at issue in this case. The AACC mandated that “ ‘a rezoning may not be granted except on the basis of an affirmative finding that ... transportation

facilities ... are either in existence or programmed for construction.’ ” *Id.* at 693, 802 A.2d 1029. Annapolis Market Place, LLC (“AMP”), the property owner, filed an application with Anne Arundel County to rezone its property from residential classifications to a commercial classification.

Id. at 697, 802 A.2d 1029. An Administrative Hearing Officer denied the application. *Id.* at 698, 802 A.2d 1029. AMP appealed the hearing officer's decision to the Anne Arundel County Board of Appeals (“Board of Appeals”). *Id.* The Board of Appeals granted the application, reasoning, *inter alia*, that public facilities were adequate to accommodate the uses permitted by the commercial zoning classification. *Id.* at 699, 802 A.2d 1029. With regard to transportation concerns, the Board of Appeals determined “that the accomplishment of [] proposed traffic *453 improvements is reasonably probable of fruition.” *Id.* at 700, 802 A.2d 1029.

Neighboring property owners sought judicial review in the Circuit Court for Anne Arundel County. The circuit court reversed the Board of Appeals' decision. One of the grounds upon which the circuit court ruled was “that a developer's ‘promises to make [traffic] improvements’ did not satisfy the requirement of being either ‘in existence or programmed for construction.’ ” *Id.* at 701–702, 802 A.2d 1029. AMP appealed the circuit court's decision to this Court. We affirmed, in an unreported opinion, and held, *inter alia*, that “ ‘the Board [of Appeals] erred, as a matter of law, in disregarding the plain language of the statute that requires that adequate facilities be “in existence or programmed for construction,” ’ ” the latter of which [we] found did not include a developer's promise.” *Id.* at 702, 802 A.2d 1029.


The Court of Appeals affirmed. The Court interpreted AACC, Art. 3, § 2–105(a)(3), *id.* at 705, 802 A.2d 1029, focusing on the meaning of the phrase “programmed for construction,” *id.* at 709, 802 A.2d 1029. As for the Board of Appeals' “consideration of the adequacy of roads,” the Court held that the Board of Appeals should not have relied on *Greater Colesville, supra*, to determine that improvements to transportation facilities were reasonably probable of fruition in the foreseeable future. *Id.* at 717, 802 A.2d 1029. The Court declared that the Board of Appeals erred in noting “that ‘improvements to transportation facilities w[ould] be required prior to approval of any subdivision of th[e] Property,’ ”

because the Board of Appeals should have determined, as required by the AACC, “that adequate access roads ... were either in existence or programmed for construction.”  *Id.* at 718, 802 A.2d 1029. The Court held that, “[b]y its own terms, ... § 2–105(a)(3) excludes from consideration at zoning as an acceptable level of commitment facilities that are characterized merely as ‘reasonably probable of fruition’ and/or those the provision of which at the time of subdivision may be proffered by the developer.” *Id.*

*454 *Parker* is inapposite for the simple, yet dispositive reason that the AACC provisions **983 at issue in *Parker* are different in material respect from § 16.4(b). The applicable Code provisions addressed in *Parker* mandated that the Anne Arundel County Board of Appeals determine that roadway improvements are “either in existence or programmed for construction,” and therefore the “reasonably probable of fruition in the foreseeable future” test should not have applied. Section 16.4(b) does not mandate that, at the time of PUD re-zoning consideration, the County Commissioners must determine that improvements to adjacent roadways be “either in existence or programmed for construction.”




We hold that the zoning ordinance and APFO, read together, do not require that the County Commissioners find, before approving the re-zoning of land to a PUD, that an adjacent roadway is currently adequate to handle both existing and future traffic. Instead, the statutory scheme as a whole mandates that the Planning Commission monitor adequacy of roadway facilities throughout the PUD review and approval process, and throughout the period of development.




Issue 4: Applicability of the “reasonably probable of fruition in the foreseeable future” test



Appellants argue that the County Commissioners erred because they did not “require that infrastructure necessary to support the development contemplated in the proposed [PUD] be existing or reasonably probable of fruition in the foreseeable future.” Referring to school facilities in particular, they argue that the County Commissioners should have employed “the reasonably probable of fruition in the foreseeable future” test, applied in, e.g.,  *Montgomery County v. Greater Colesville Citizens' Ass'n*, 70 Md.App. 374, 521 A.2d 770 (1987), before determining whether such facilities are adequate to support development of the PUD.¹⁰


*455 Appellees respond that the PUD review and approval process outlined in § 16.5 “is much more time sensitive and definite than the ‘reasonably probable of fruition in the foreseeable future’ test,” and that, together, the zoning ordinance and APFO take the place of that test.


Greater Colesville, *supra*, guides our analysis of these arguments. We therefore discuss the case in some detail.


In *Greater Colesville*, we reviewed a decision of the County Council for Montgomery County, sitting as the District Council (“the Council”), to re-zone land to a floating zone.  70 Md.App. at 376, 380–81, 521 A.2d 770. Of primary concern in the decision to re-zone was the capacity of an intersection near the property to handle traffic generated by the development.  *Id.* at 377, 521 A.2d 770. A hearing examiner concluded that the applicant's proposed improvements to the intersection “would render the intersection adequate” to support traffic generated by the project, and that those “improvements were reasonably probable of accomplishment within the foreseeable future[.]”  *Id.* at 379, 521 A.2d 770.

The Council agreed with the hearing examiner and approved the re-zoning.  *Id.* at 380, 521 A.2d 770. The circuit court reversed the Council's decision.  **984 *Id.* at 380, 521 A.2d 770. We reversed the circuit court.  *Id.* at 391, 521 A.2d 770.

The issue we decided was whether the Council's findings on the traffic issue were “fairly debatable.”  *Id.* at 384, 521 A.2d 770. We recognized that resolution of that issue was determined by “whether the improvements proposed to be made in the traffic system are reasonably probable of fruition in the foreseeable future.”  *Id.* at 384, 521 A.2d 770.

We reviewed the zoning scheme in Montgomery County. That scheme required an applicant to submit a development plan to a planning board. The planning board, a hearing *456 examiner, and the Council were required to review the plan. Then, if re-zoning is granted, no construction could occur until the planning board, after a public hearing, approved a site plan.  *Id.* at 386–87, 521 A.2d 770.

We said that “[t]he ‘reasonably probable of fruition in the foreseeable future’ test is functionally a mechanism for gauging the likelihood of premature development and, thereby, to avoid it.”  *Id.* at 387, 521 A.2d 770. That test, therefore, “necessarily involves assessing the probability that actions required to be done in the future will, in fact, occur.” *Id.*

We concluded in *Greater Colesville* that the zoning ordinance at issue, like the “reasonable probable of fruition in the foreseeable future” test, is “a mechanism for controlling premature development.”  *Id.* at 389, 521 A.2d 770. We took into account the requirement in the zoning ordinance “of development in compliance with an approved development plan and its post zoning controls,” which permits the development to be phased in conformance “with the accomplishment of required improvements or services.” *Id.* Indeed, the zoning ordinance at issue in *Greater Colesville* is “more flexible, as well as more effective than the ‘reasonably probable of fruition’ test.” *Id.* Therefore, “[w]hen that test is applied in the context of this ordinance not only is the timing of required improvements controlled, but because no development may be undertaken unless and until the required improvements have been made, the order of their completion vis-vis commencement of the approved development is controlled as well.” *Id.* As a result, “under this zoning scheme, improvements that are reasonably probable of fruition in the foreseeable future become reasonably certain of fruition.” *Id.*

[17] We turn now to ascertain whether the Washington County zoning scheme, provided by the zoning ordinance and APFO, like the Montgomery County scheme, is more flexible, as well as more effective, than the “reasonably probable of fruition in the foreseeable future” test.

In order to obtain PUD rezoning approval in Washington County, a developer is required to submit a “Concept Plan” to ***457** the County Commissioners and the Planning Commission. *See* § 16.5(a). The concept plan must “reflect the actual development to be designed and constructed within a reasonable time frame.” *Id.* If the developer does not submit the concept plan or does not commence construction in accordance with the timing provisions of the zoning ordinance, the zoning classification of the PUD will automatically revert to the original zoning classification. *Id.*

During the review process, the Planning Commission and the developer exchange information concerning, *inter alia*, the density and layout of the PUD development. *See* § 16.5(a)1. At this stage, the Planning Commission must consider, and “make findings of fact concerning, at a minimum, the impact of the proposed development on adjacent properties, the availability of public facilities, the impact of the proposed development on public ****985** roadways, the impact on public schools, fire and police protection, and the availability of adequate open space.” § 16.7(a).

Next, a joint public hearing is held before the County Commissioners and the Planning Commission. The Planning Commission must submit to the County Commissioners its recommendation concerning whether to re-zone the property. If the County Commissioners approve the re-zoning to PUD, such “[z]oning approval constitutes tentative approval of density and design features as shown on the Concept Plan.” § 16.5(a)2.

Even after zoning approval is obtained, the developer is required to submit a “Preliminary Development Plan” to the Planning Commission within six months of the zoning approval, with an extension of time allowed only for a good cause finding by the Planning Commission. At this stage, the Planning Commission may either approve or disapprove the Preliminary Development Plan. *See* § 16.5(a)3.

If the Planning Commission approves the Preliminary Development Plan, the developer must then submit a “Final Development Plan” for approval. If the Planning Commission approves the Final Development Plan, *see* § 16.5(a)4., the ***458** developer must then “submit a Site Plan ... for the entire PUD or for any phase for [Planning] Commission review” § 16.5(a)5. The Planning Commission must approve or disapprove the Site Plan. *Id.* ¹¹

Each of these steps requires the Planning Commission to make decisions that involve administration of the APFO. *See* APFO § 3.1 (providing, in part, that the APFO “shall be administered by the Planning Commission”). The APFO provides that the Planning Commission may not approve any new development that does not meet the requirements of the APFO, “unless the developer reaches an agreement with the [County Commissioners] for the purpose of advancing the adequacy of public facilities[.]” *See* § 3.4.

Section 1.2 of the APFO is titled “Purpose,” and provides that the APFO's purpose is to ensure

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.

The zoning ordinance and APFO, in conjunction, require that development of a PUD comply with an approved site plan, together with post re-zoning approvals administered by the Planning Commission. The zoning ordinance and APFO permit such development to be phased commensurate with establishment of adequate public facilities, for the purpose of controlling premature development.

***459** We conclude that the PUD rezoning scheme in Washington County, like the scheme at issue in *Greater Colesville*, is more flexible and more effective than the

reasonably probable of fruition in the foreseeable future test. Indeed, in Washington County, development of a PUD, or any phase of a PUD, may not begin until the ****986** Planning Commission is satisfied that the required improvements to public facilities are made. We conclude, as we did in *Greater Colesville*, that under the zoning scheme we consider, “improvements that are reasonably probable of fruition in the foreseeable future become reasonably certain of fruition.” See *id.*

Given the zoning scheme, the County Commissioners did not err when they decided that they did not “have to address infrastructure issues” at the re-zoning approval stage of the PUD review and approval process, unless those infrastructure issues “appear to be highly unsolvable.” The County Commissioners correctly recognized that development controls are in place in the zoning ordinance and APFO that permit the County Commissioners to make findings regarding adequacy of public facilities at the zoning approval stage, but leave to the Planning Commission the duty of handling the details related to the adequacy of those facilities, in accordance with the zoning ordinance and APFO.¹²

***460 JUDGMENT AFFIRMED.**

COSTS TO BE PAID BY APPELLANTS.

All Citations

164 Md.App. 426, 883 A.2d 966

Footnotes

- ¹ Hereinafter, unless otherwise indicated, all citations are to the Washington County Zoning Ordinance.
- ² The other appellants include: Karen Cremins, Michael G. Marschner, Angela K. Marschner, Joseph W. Kinter, Patricia A. Kinter, Merih O'Donoghue, Renee L. Scott, Joseph M. Sebrosky, Kathleen A. Sebrosky, Catherine Skaggs, and Kelly Bennet–Unger.
- ³ The land is owned by Rokane, LLC. Rokane authorized Mr. Crampton to file the rezoning application.
- ⁴ For example, the Washington County Engineering Department had no objections to the application and noted that any of its concerns could “be adequately addressed through [the remaining steps of] the site plan approval process.” The Washington County Health Department stated that its approval would be “contingent on the availability of public water and sewer” services for the property. The Washington County Water & Sewer Department determined that the property is “eligible for public [sewer] service.”
- ⁵ The traffic study was submitted to the County Commissioners and Planning Commission, but was not made part of the record before the circuit court and is not before us.

- 6 The report of the County Attorney was not made part of the record that was transmitted to us. We granted a motion by the County Commissioners to supplement the record with the County Attorney's report.
- 7 Because we ordinarily do not review the circuit court's decision, see *Days Cove Reclamation Co. v. Queen Anne's County*, 146 Md.App. 469, 484, 807 A.2d 156, cert. denied, 372 Md. 431, 813 A.2d 258 (2002), we do not summarize it here.
- 8 In *Heard v. Foxshire Assocs.*, 145 Md.App. 695, 806 A.2d 348 (2002), we discussed, in *dicta*, the general nature of proceedings before administrative agencies. We said that, because judicial review of the decision of an administrative agency at both the circuit court and appellate levels is based on the record made before the agency, it is essential that the record of the administrative proceedings be orderly and accurate. *Id.* at 710, 806 A.2d 348. Therefore, "it is important that the presiding officer [of the administrative agency proceedings] be certain that witnesses are properly sworn and identified and that the record does not contain unsworn comments by unidentified persons." *Id.* at 709–10, 806 A.2d 348. In addition, "[i]t is equally important that [all] documents and other exhibits be carefully identified and cataloged in the record." *Id.* at 710, 806 A.2d 348. Although appellants have waived their right to complain that the witnesses at the joint public hearing were not placed under oath, we reaffirm the importance of having witnesses sworn at such proceedings.
- 9 A "new development" under the APFO "consists of new subdivisions and site plans for new construction received for approval by the [Planning Commission] after [December 1, 1990]...." § 2.3.13. Appellants present no argument that Mr. Crampton's development plans would not constitute a "new development."
- 10 Appellants also assert, without citation to authority and without developing the argument, that the County Commissioners "impermissibly delegated an essential zoning function to" the Planning Commission when they left to the Planning Commission the determination of the PUD's "compatibility" with the surrounding neighborhood. We shall not make the argument for them, and decline to address the issue. See *Honeycutt v. Honeycutt*, 150 Md.App. 604, 618, 822 A.2d 551, cert. denied, 376 Md. 544, 831 A.2d 4 (2003).
- 11 We note that § 25.4 provides that "[a]n appeal to the [Washington County] Board [of Appeals] may be taken by any person aggrieved ... by any decision of the [Planning Commission.]"
- 12 In a footnote, appellants bring to our attention the County Commissioners' findings concerning adequacy of public school facilities to handle any increased enrollment brought about by the uses in the PUD. At the time the County Commissioners made their decision, the APFO provided that student enrollment at public schools not exceed 105% of the state-rated student enrollment capacity of the school. Also at that time, the County Commissioners used data from a June, 2002 enrollment report concerning the number of students enrolled at the public schools that would be effected by development of the PUD. Since that time, the APFO has been amended. It now provides, with regard to public elementary schools in Washington County, that enrollment may not exceed 85% of the state-rated student enrollment capacity. See APFO § 5.4.1(a). Relying on the proposition that we apply the law in effect at the time we make our decision, appellants ask us to hold that the increased number of students that is projected to be caused by development of the PUD would violate the 85% provision of APFO § 5.4.1(a). This we cannot do. The effect of the change in capacity contemplated by the APFO is a matter for the administrative agency to decide in the first instance. The Planning Commission, therefore, should consider the revised APFO when it considers whether to approve subsequent plans during the PUD plan and approval process.

EXHIBIT D

2004 WL 1958852 (Md.App.) (Appellate Brief)
Maryland Court of Special Appeals.

James CREMINS, et al., Appellants,
v.
COUNTY COMMISSIONERS OF WASHINGTON COUNTY, Maryland Appellees.

No. 2200.
September Term, 2003.
August 2, 2004.

On Appeal from the Circuit Court for Washington County, Maryland,
(Hon. Frederick C. Wright, III).

Brief of Appellee County Commissioners of Washington County, Maryland

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TABLE OF CONTENTS

TABLE OF CONTENTS	i
TABLE OF CITATIONS	iii
CASES	iii
STATUTES, ORDINANCES, AND CONSTITUTIONAL PROVISIONS	vii
COURT RULES	viii
TREATISES.....	viii
APPENDIX, Table of Contents.....	ix
STATEMENT OF THE CASE	1
QUESTION PRESENTED	1
STATUTES, ORDINANCES, AND CONSTITUTIONAL PROVISIONS	1
STATEMENT OF FACTS	2
ARGUMENT	7
Standard of Review.....	7
The Washington County Ordinance Scheme	11

a. State Law	11
b. Zoning Ordinance.....	13
c. Adequate Public Facilities Ordinance.....	17
Response to Appellants' Arguments.....	22
a. Unsworn Testimony.....	22
b. Adjacent Roadway Adequacy	25
*ii c. "Reasonably Probable of Fruition in the Foreseeable Future" Test.....	29
d. Remand	34
CONCLUSION	34
STATEMENT AS TO FONTS USED	35

*iii TABLE OF CITATIONS

Cases:



 Annapolis Market v. Parker, 369 Md. 689 (2002)	20, 28, 31, 32
 Board of Physician v. Banks, 354 Md. 59 (1999)	9
Bernstein v. Bd. of Education, 245 Md. 464 (1967)	23
Bigenho v. Montgomery County, 248 Md. 386 (1968)	31
 Blitz v. Beth Isaac, 352 Md. 31 (1998)	21, 27
 Board of County Comm'rs v. Gaster, 285 Md. 233 (1979)	32
Brzowski v. Md. Home Improvement, 114 Md. App. 614 (1997), reconsid, denied, cert. denied, 346 Md. 238 (1997)	23
B&S v. Consumer Protection, 153 Md.App. 130 (2003), cert. denied 380 Md. 231 (2004)	7
 Bulluck v. Pelham Wood Apts., 283 Md. 505 (1978)	9
Cadem v. Nanna, 243 Md. 536 (1966)	7
 Cicala v. Disability Review Bd., 288 Md. 254 (1980)	23
Citizens for Rewastico v. Comm'rs of Hebron, 67 Md. App. 466 (1986), cert. denied 307 Md. 260 (1986)	8
Co. Council v. Carl M. Freeman Assoc., 281 Md. 70 (1977)	17, 33


 Colao v. Prince George's County, 109 Md.App. 431 (1996) ...	10
Comptroller v. Fairland, 136 Md.App. 452 (2001)	21, 27
 Cromwell v. Ward, 102 Md.App. 691 (1995)	8
 Dal Maso v. Bd. of Co. Comm'rs, 264 Md. 691 (1972)	17, 33
*iv Department of Economics v. Lilley, 106 Md.App. 744 (1995)	9
Dept. of Public Safety v. PHP, 151 Md.App. 182 (2003), cert. denied 376 Md. 545 (2003)	7
 Eastern Outdoor v. Baltimore, 146 Md.App. 283 (2002)	8
Eger v. Stone, 253 Md. 533 (1969)	8, 10
F&B Dev. Corp. v. County Council, 22 Md.App. 488 (1974)	18, 33
Floyd v. County Council of P.G. Co., 55 Md.App. 246 (1983)	10, 28
Giant v. Dept. of Labor, 356 Md. 180 (1999)	8
Gigious v. ECI, 363 Md. 481 (2001)	9
Heard v. Foxshire, 145 Md.App. 695 (2002)	24
Hourie v. State, 53 Md.App. 62 (1982)	25
 Insurance Commissioner v. Equitable, 339 Md. 596 (1995)	23
Kram v. Maryland Military, 374 Md. 651 (2003)	7
 Marsheck v. Board of Trustees, 358 Md. 393 (2000)	9, 21, 27
 Meadows v. Foxleigh, 133 Md.App. 510 (2000)	7
Montgomery v. Bd. of Co. Comm'rs, 263 Md. 1 (1971)	26
 Montgomery Co. v. Gr. Colesville Ass'n, 70 Md.App. 374 (1987)	28, 29, 30, 32
*v  Montgomery County v. Shiental, 249 Md. 194 (1968)	26
Mortimer v. Howard Research, 83 Md.App. 432 (1990)	31
 Moseman v. County Council, 99 Md.App. 258 (1994)	8
Motor Vehicle Admin. v. Gaddy 335 Md. 342 (1994)	21, 27

MVA v. McDorman, 364 Md. 253 (2001)	24
 MVA v. Karwacki, 340 Md. 271 (1995)	8
 North v. St. Mary's County, 99 Md.App. 502 (1994)	8
 Powell v. Calvert County, 368 Md. 400 (2002)	17, 33
Red Roof Inns v. People's Counsel, 96 Md.App. 219 (1993)	8
Rockville v. Woodmont C. C., 348 Md. 572 (1998)	23
 Richmarr v. American PCS, 117 Md.App. 607 (1997)	10, 32
 Rogers v. Radio Shack, 271 Md. 126 (1974)	23, 25
Rouse-Fairwood v. Supervisor, 138 Md.App. 589 (2001), cert. denied 365 Md. 475 (2001)	2, 29
Shapiro v. Montgomery Co. Council, 269 Md. 380 (1973)	32
Smack v. Dept. of Health, 134 Md.App. 412 (2000), aff'd 378 Md. 298 (2003)	21, 27
Steel v. Cape Corp., 111 Md.App. 1 (1996)	20, 31, 33
Total AV v. Dept. of Labor, 360 Md. 387 (2000)	7
*vi Travers v. Baltimore Police Dept., 115 Md.App. 395 (1997)	24
 Trustees v. Baltimore County, 221 Md. 550 (1960)	31
 United Parcel v. People's Counsel, 336 Md. 569 (1994)	8
 Watkins v. Dept. of Safety, 377 Md. 34 (2003)	9
Widomski v. Chief of Police, 41 Md.App. 361 (1979)	24
Yewell v. Board of Co. Comm'rs, 260 Md. 42 (1970)	26
 Yorkdale v. Powell, 237 Md. 121 (1964)	18, 33

*vii STATUTES, ORDINANCES AND CONSTITUTIONAL PROVISIONS

Annotated Code of Maryland:

 Section 4.01(c), Article 66B, Annotated Code of Maryland as amended (1957, 2003 Repl. Vol).....	1, 12, 17, 28
 Section 10.01(a), Article 66B, Annotated Code of Maryland,	1, 11, 12, 17, 21

as amended (1957, 2003 Repl. Vol).....	
Chapter 406, Laws of Maryland, 2004 Regular Session	1, 12
( Section 14.08, Article 66B)	
Washington County Zoning Ordinance, Article 16 “PUD” Plan Unit Development:	
Section 16.0.....	13
Section 16.4(b)	25, 26, 27, 28
Section 16.5.....	13, 14
Section 16.5(a).....	15
Section 16.5(a) 1.....	14
Section 16.5(a) 2.....	14, 15, 17
Section 16.5(a) 3.....	15, 30
Section 16.5(a) 4.....	15, 30
Section 16.5(a) 5.....	15, 16, 19, 30
Section 16.6(d)	15
Section 16.6(d) 2.....	15
Section 16.6(d) 2.ii.....	6, 28
Section 16.7(i)	27
Washington County Zoning Ordinance, Article 27, Amendments:	
Section 27.4.....	1, 16, 28
Washington County Adequate Public Facilities Ordinance	
Section 1.2	18, 20
Section 2.3.13	18, 19, 20
Section 2.3.21	19, 20
Section 3.3	16, 19, 20
Section 5.3.1.....	33
Montgomery County Code 1994, Chapter 59	
Section 59-C-7.12.....	26
Section 59-C-7.121.....	26

Section 59-C-7.122	26
Section 59-D-3.4(a)	32

*viii COURT RULES

Maryland Rules:



Maryland Rule 8-414	6
Maryland Rule 8-502	1
Maryland Rule 8-504 (a)(2)	1


TREATISES

13 Halsbury's Laws of England (2d ed. 1934) § 797	25
6 Wigmore, Evidence in Trials at Common Law (Chadbourn, ed., 1976) § 1816	25
Ziegler, Rathkopf's The Law of Zoning and Planning (4th Ed, Rev. 1994)	2

*ix APPENDIX

TABLE OF CONTENTS

 Section 4.01, Article 66B, Annotated Code of Maryland, as amended (1957, 2003 Repl. Vol)	Apx. 1.
 Section 10.01 (a), Article 66B, Annotated Code of Maryland as amended (1957, 2003 Repl. Vol)	Apx.1
Article 16 "PUD" Planned Unit Development, Zoning Ordinance of Washington County, Maryland.....	Apx. 2
Section 27.4, entitled "Additional Conditions," Zoning Ordinance of Washington County, Maryland.....	Apx. 10
Adequate Public Facilities Ordinance of Washington County, Maryland.....	Apx. 11
Washington County Engineering Department memorandum dated December 13, 2002, from Terrence P. McGee, P.E., Chief Engineer to Lisa Kelly Pietro, Senior Planner, Washington County Planning & Community Development	Apx. 31
Washington County Health Department memorandum dated December 9, 2002, from Edward A. Fogtman, Registered Sanitarian, to Lisa Kelly Pietro, Senior Planner, Washington County Planning & Community Development	Apx. 32
Washington County Water & Sewer Department memorandum dated December 5, 2002, from Ernest J. Bishop, Jr. Deputy Director, to Robert C. Arch, Director,	Apx. 33

Washington County Planning Commission.....	
Maryland State Highway Administration email dated December 9, 2002, from John Wolford to Lisa Pietro	Apx. 34
Public Hearing Transcript excerpt	Apx. 35
Resolution of March 30, 2004, County Commissioners of Washington County, Maryland	Apx. 36
Chapter 406, Laws of Maryland, 2004 Regular Session ( Section 14.08, Article 66B, Annotated Code of Maryland , as amended)	Apx. 38
House Bill 1210, Fiscal and Policy Note, Department of Legislative Services, Maryland General Assembly, 2004, Session.....	Apx. 40

*1 The Appellee, County Commissioners of Washington County, Maryland (hereafter “County Commissioners”), by their attorneys, Richard W. Douglas and William J. Chen, Jr., hereby files its Appellee’s Brief pursuant to [Maryland Rule 8-502](#) and the stipulation of counsel.

STATEMENT OF THE CASE

Pursuant to [Maryland Rule 8-504\(a\)\(2\)](#), the County Commissioners of Washington County accept the “Statement of the Case” contained in the Brief of Appellants.

QUESTION PRESENTED

I. IS THE DECISION OF THE COUNTY COMMISSIONERS SUPPORTED BY SUBSTANTIAL EVIDENCE OF RECORD WHICH IS FAIRLY DEBATABLE AND PREMISED UPON A CORRECT APPLICATION OF LAW?


The County.Commissioners submit that the question should be answered in the affirmative.

STATUTES, ORDINANCES, AND CONSTITUTIONAL PROVISIONS

Included in the Appendix to this Brief:

Section 4.0 l(c), Article 66B, Annotated Code of Maryland, as amended (1957, 2003 Repl. Vol.). (Apx. 1)

 [Section 10.01 \(a\), Article 66B, Annotated Code of Maryland](#), as amended (1957, 2003 Repl. Vol.). (Apx. 1)

Chapter 406, Laws of Maryland, 2004 Regular Session ( [Section 14.08, Article 66B](#)). (Apx. 38 - Apx. 39)

Article 16, entitled “‘PUD’ Planned Unit Development,” Zoning Ordinance of Washington County, Maryland. (Apx. 2 - Apx. 9)

Article 27, entitled “Amendments”, Section 27.4, entitled “Additional *2 Conditions,” Zoning Ordinance of Washington County, Maryland. (Apx. 10)

Adequate Public Facilities Ordinance of Washington County, Maryland (Revision 6, May 25, 2004). (Apx. 11 - Apx. 30)

STATEMENT OF FACTS

On November 7, 2002, Paul M. Crampton, Jr. (hereinafter “Applicant”), filed an application with the Washington County Planning Commission to rezone an area of land consisting of 97.27 acres from the “A” Agricultural Zone to the “PUD” Planned Unit Development Zone.¹ (E.10-E.12) The real property in question was owned by Rokane, LLC, and the Applicant was authorized to file the application. (E.12) The application was designated as Case No. RZ-02-008. The real property is located on the east side of Marsh Pike, the north side of Maryland Route 60, and on the south side of Long Meadow Road in Washington County, Maryland. (E.10). The proposed PUD is known as “Emerald Pointe.” (E.70)

Upon completion, the PUD would have 88 single-family detached dwellings, 92 townhouses, 87 semi-detached or duplexes, and a retirement center with approximately 126 units. (E.33, E.91) The retirement center will be two and a half to three stories in height, and the units would be one and two bedroom apartments. (E.44) An historic farmhouse on the property will be adapted to retain the structure for office use. (E.50) *3 There also will be a community center that will contain small businesses to serve the PUD community such as a coffee shop, a tailor. (E.42) The businesses also could be a deli, dry cleaner or accountant. (E.42, E.55) The community center would also house a gym, a workout facility, and a computer lab in its main building. Id.

Various comments about the application were submitted to the County’s Planning Department from mandatory referral agencies. The City of Hagerstown Water Pollution Control reported that as to sanitary sewer service it had no objection to the proposed development although there was limited capacity that was allocated on a “first come, first serve” basis. (E.14) The Washington County Engineering Department reported “We have completed our review of the subject request and take no exception to it. All issues under our jurisdiction associated with this can be adequately addressed through the site plan approval process.” (Apx. 31) The Washington County Health Department reported “Approval will be contingent on the availability of public water and sewer.” (Apx. 32) The Washington County Water & Sewer Department reported “The Department has completed its review of the reference rezoning request and has determined that the subject property is within an existing County Sewer Service area (SD-150 as amended) and is, therefore, eligible for public service. Allocation is available in accordance with the County’s rules, policies and regulations, subject to approval by the City of Hagerstown.” (Apx. 33) Additionally, the Washington County Planning Commission’s staff issued a report on the application dated December 17, 2002 (E.16-E.21)

The State Highway Administration reported: “We have reviewed the re-zoning case for Rokane, LLC (formerly Emerald Point) and have no objection to approval with the stipulation that access be denied to MD 60. Access can be gained via Marsh Pike.” (Apx. 34)

On January 13, 2003, the application was presented before a joint public hearing *4 of the County Commissioners and the Planning Commission.² At the public hearing, testimony and information in support of the rezoning application was given by the Applicant (E.41), his attorney, Kenneth Grove (E.40), and his engineer, Russ Townsley of Fox & Associates. (E.50-E.60) In particular as to the affected road system, Mr. Townsley testified:

On the traffic study, Street Traffic Group has prepared a traffic study. They prepared one on the original concept plan that had the commercial in there. When we did a new lay-out, that study was revised, new counts were taken. The County Engineer and State Highway both had quite a few comments that had to be addressed. Those comments were addressed. There are some improvements that are going to be made such as widening of Marsh Pike. There’s some improvements up at the Longmeadow Road/Marsh Pike intersection that Mr. Crampton will have to do as part of his work that has to be done. The study states that the existing system could be supported by the surrounding area network and the critical intersections will continue to operate at acceptable levels of service with the full development of the PUD provided that some improvements are made. Mr. Grove has the study. It has been submitted to the County Engineer and State Highway. They have done an initial review of it. I don’t know if they’ve gotten back to the Traffic Engineer for the formal comments yet, but the County is reviewing it. (E.52)³

Additionally, at the hearing (E.40) the Applicant’s attorney submitted a report, with attachments, for consideration by the County Commissioners and the Planning Commission. (E.67-E.89) The report addressed zoning requirements and as to the

affected road system it stated:

d. Emerald Pointe will have no adverse impact on public roadways. Street Traffic Studies, Ltd., a highly-respected firm that studies the impact of development on public highways throughout Maryland, has *5 concluded that the approval of Emerald Pointe would not adversely affect traffic on the Marsh Pike. (See the “Traffic Impact Analysis Emerald Pointe PUD” revised December 13, 2002, the “Study”) previously provided to the Commission. Note that the Study states that the existing system “...could be supported by the surrounding area road network” and that the “critical intersections will continue to operate at acceptable levels of service with the full development of the PUD provided some improvements are made.” Since PUDs are constructed over a number of years, the County has the right to require the Applicant to conduct additional traffic studies to determine to what extent, if at all, the development and changes in traffic flows either are or will adversely affect the public roadways that serve this area. This requirement insures that the impact of the development on public roadways is monitored on a periodic basis and protects the public interest. (E.75)⁴

Several individuals testified at the hearing in opposition to the requested rezoning.

After the public hearing the technical staff of the Washington County Planning Department issued its post-hearing report and analysis. (E.90-E.96) As to traffic, the report, in part, states as follow:

The adoption of the Adequate Public Facilities Ordinance (APFO) in 1990 has taken on a supportive role that was previously the sole responsibility of the Zoning Ordinance during the rezoning stage when considering the deliberation of PUD cases. Due to this change, it would appear that the Planning Commission and the County Commissioners would only have to address infrastructure issues at the zoning stage that would appear to be highly unsolvable. Terrence McGee, Chief Engineer, County Engineering Department, did not take exception to the rezoning and responded to this application by stating “all issues under our jurisdiction associated with this request can be adequately addressed *through the site plan approval process.*” (Emphasis added) (E.95)

Subsequently, by a split decision, the Planning Commission voted to recommend that the rezoning application be denied. That recommendation was transmitted to the Commissioners by letter dated March 4, 2003. (E.99)

Thereafter, on March 13, 2003, at a regular meeting the County Commissioners *6 considered the application, and voted to approve it. (E.103-E.105) The official decision of the County Commissioners consists of the section of their minutes of March 13, 2003, when it considered and voted on the application (E.103-E.105) and their adopted Findings of Fact. (E.103)⁵ Pertinent to the issues raised in this appeal, the County Commissioners addressed the adequacy of public facilities and as to traffic they found:

The adoption of the Adequate Public Facilities Ordinance (APFO) in 1990 has taken on a supportive role that was previously the sole responsibility of this item in the Zoning Ordinance during the rezoning stage when considering the deliberation of PUD cases. Due to this change, it would appear that now the Planning Commission and the County Commissioners would only have to address infrastructure issues at the zoning stage that would appear to be highly unsolvable.

Increased traffic was a major concern of neighborhood residents who testified at the public hearing. Terrence McGee, Chief Engineer, did not take exception to the rezoning. He responded “all issues can be adequately addressed through the site plan approval process,” The existing Traffic Impact Study will need to be revised to reflect the new plan. The Engineering Department has no final comments on the updated traffic study. State Highway Administration has no objection to approval stipulation that access be denied to Leitersburg Pike. A revised traffic study would be required. (Emphasis added) (E.104-E.105)


Further, the County Commissioners’ decision expressly requires that the Applicant enter into development agreements as required by Section 16.6(d)2.ii. (Apx. 7) of the Zoning Ordinance. (E.105)⁶

*7 Appellants James Cremins, et al., noted an appeal to the Circuit Court for Washington County, Maryland. After oral argument held on November 7, 2003, the lower court issued an opinion and order dated November 21, 2003, which affirmed the decision of the County Commissioners. (E.106-E.118) This appeal followed.


ARGUMENT


I. THE DECISION OF THE COUNTY COMMISSIONERS IS SUPPORTED BY SUBSTANTIAL EVIDENCE OF RECORD WHICH IS FAIRLY DEBATABLE AND PREMISED UPON A CORRECT APPLICATION OF LAW.

Standard of Review

This appeal involves the decision of a local legislative body that granted an application to rezone⁷ real property to a “floating zone.” In this situation, this Court reviews the decision of the local legislative body, and not the decision of the circuit court. Cf.  [Watkins v. Dept. of Safety](#), 377 Md. 34, 45-46 (2003); [Kram v. Maryland Military](#), 374 Md. 651, 656 (2003); [B&S v. Consumer Protection](#), 153 Md.App. 130, 150-51 (2003), cert. denied 380 Md. 231, 844 A.2d 427 (2004); [Dept. of Public Safety v. PHP](#), 151 Md.App. 182, 194 (2003), cert. denied 376 Md. 545 (2003).⁸




The following propositions of law apply to this Court’s review of the decision of the County Commissioners.



Judicial review of a rezoning decision is limited. [Total AVv. Dept. of Labor](#), 360 Md. 387, 394 (2000);  [Meadows v. Foxleigh](#), 133 Md.App. 510, 514 (2000). The *8 decision is considered prima facie correct, and an appellate court must review the decision in the light most favorable to the zoning authority. Cf., [Giant v. Dept. of Labor](#), 356 Md. 180, 185 (1999). Such deference is afforded to the decisions of zoning authorities because courts recognize and defer to expertise, and the decisions “therefore [carry] a presumption of correctness.” [Citizens for Rewatlico v. Comm’s of Hebron](#), 67 Md.App. 466, 470, cert. denied 306 Md. 260 (1968).

The zoning authority’s factual findings are binding upon a reviewing court so long as they are supported by substantial evidence in the record. Cf.,  [United Parcel v. People’s Counsel](#), 336 Md. 569, 576-77 (1994). “Substantial evidence” has been defined as:

“...such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” It means “more than a ‘scintilla of evidence,’ such that a reasonable person could come to more than one conclusion.” In other words, the reviewing court must ask whether “reasoning minds could reach the same conclusion from the facts relied upon by the [agency].”



 [Eastern Outdoor v. Baltimore](#), 146 Md.App. 283, 301 (2002) (citations omitted).


The court cannot substitute its judgment for that of the zoning authority.  [Moseman v. County Council](#), 99 Md.App. 258 (1994); [Eger v. Stone](#), 253 Md. 533 (1969). The decision of a zoning authority must be affirmed by the reviewing court if the findings are “fairly debatable” in light of the evidence adduced.  [Cromwell v Ward](#), 102 Md.App. 691 (1995); [Red Roof Inns v. People’s Counsel](#), 96 Md.App. 219 (1993). A decision by a zoning authority is fairly debatable if it is based upon substantial evidence, even if substantial evidence to the contrary exists.  [North v. St. Mary’s County](#), 99 Md.App. 502, 509(1994).


Moreover, the duty of drawing inferences from the evidence and resolving conflicts in the evidence is exclusively within the province of the fact-finding role of the zoning authority.  [Eastern Outdoor](#), 146 Md.App. at 301; see  [MVA v. Kanvacki](#), 340 Md. 271, 283 (1995). And, “where inconsistent inferences from the same evidence can be *9 drawn, it is for the [zoning authority] to draw the inferences.” [Department of Economics v. Lilley](#), 106 Md.App. 744, 754-55 (1995); quoting, [Bulluckv. Pelham Wood Apts.](#), 283 Md. 505,513(1978).

A court will “refrain from making [its] own independent findings of fact or substituting [its] judgment for that of the agency when the record contains substantial evidence supporting the agency’s determination.”  [Marsheck](#), 358 Md. at 402.

Although it is said that courts do not normally defer to an agency’s legal conclusions, the court in [Gigeous v. ECI](#), 363 Md. 481, 496 (2001), held “[e]ven with regard to some legal issues, a degree of deference should often be accorded the position of

the administrative agency.”  [Board of Physician v. Banks](#), 354 Md. 59, 69 (1999). In particular, “an administrative agency’s interpretation and application of the statute which the agency administers should ordinarily be given considerable weight by reviewing courts.” *Id.* More recently, the Court of Appeals has stated: “We must respect the expertise of the agency and accord deference to its interpretation of a statute that it administers.”  [Watkins v. Dept. of Safety](#), 377 Md. 34, 46 (2003).

As noted, this appeal involves the decision of a local legislative body and the County ordinances which were applied and interpreted in making the rezoning decision were enacted by the local legislative body. In other words, in making the decision which is the subject of this appeal, the decision-maker was applying and interpreting laws which it, itself, had enacted. Consequently, this situation is significantly different than that which occurs when a different governmental entity, i.e., a zoning board of appeals, renders a zoning decision implementing and interpreting an ordinance which has been enacted by the local legislative body. When the decision-maker is also the legislative body which enacted the local laws being administered, the role of the court is to defer to the interpretation of the legislative body unless its action is violative of constitutional rights. Cf.  [Watkins Dept. of Safety](#), *supra*, 377 Md. at 46 (“Moreover, in cases that involve determining whether a constitutional right has been infringed, we make an *10 independent constitutional appraisal.”).


With specific regard to floating zones, in  [Richmarr v. American PCS](#), 117 Md.App. 607 (1997), this Court explained:In reviewing floating zones, the courts have specifically applied the fairly debatable standard to actions taken by the legislative body. Reviewing courts must not substitute their judgment for that of the zoning agency and must affirm any decision which is supported by substantial evidence and therefore fairly debatable. In [Prince George’s County v. Meinenger \[Meininger\]](#), 264 Md. 148, 152, 285 A.2d 649, 651 (1972), it was explained that “substantial evidence” means a little more than a “scintilla of evidence,” and in [Eger v. Stone](#), 253 Md. 533, 542, 253 A.2d 372, 377 (1969), the “fairly debatable” standard was defined as follows:

We have made it quite clear that if the issue before the administrative body is “fairly debatable,” that is, that its determination involved testimony from which a reasonable man could come to different conclusions, the courts will not substitute their judgment for that of the administrative body....

Courts in Maryland tend to defer to zoning agencies because of their presumed “expertise,” and because it is thought best to allow the agency, rather than the reviewing court, to exercise the “discretion” to grant or deny an application.

This floating zone case is to be judged by the same “substantial evidence” and “fairly debatable” standards as apply in zoning cases generally.

 117 Md.App. at 639-40.


The ultimate rule is that “[a]ppellate courts, therefore, defer to zoning agencies because of their presumed expertise, and because zoning agencies - and not the courts -are better situated to exercise the discretion to grant or deny rezoning applications.”  [Colao v. Prince George’s County](#), 109 Md.App. 431, 458 (1996), citing [Floyd v. County Council of P.G. Co.](#), 55 Md.App. 246, 258 (1983).




In this case, the decision of the County Commissioners is supported by substantial *11 evidence of record which is fairly debatable and premised upon a correct application of law.

The Washington County Ordinance Scheme

a. State Law

The instant appeal involves the interrelationship between a floating zone, a planned unit development, and an adequate public

facilities ordinance duly enacted by a local government. That local government is the County Commissioners of Washington County, Maryland, and its authority to enact legislation for floating zones, including a planned unit development, and an adequate public facilities ordinance is expressly provided in  [Section 10.01\(a\)\(1\),\(6\), and \(8\), Article 66B, Annotated Code of Maryland](#), as amended (1957, 2003 Repl. Vol.). (Apx. 1) The state statute, in pertinent part, states “[t]o encourage the preservation of natural resources or the provision of affordable housing and to facilitate orderly development and growth, a local jurisdiction that exercises authority granted by this article may enact, and is encouraged to enact, ordinances or laws providing for or requiring...(1) The planning, staging, or provision of adequate public facilities and affordable housing...(6) Planned unit developments... (8) Floating zones...” Id. (Id.)

In enacting  [Section 10.01](#) the General Assembly explicitly recognized that local governments regulated under  [Article 66B](#) could utilize an adequate public facilities ordinance, planned unit developments, and floating zones among their regulatory tools “[t]o encourage the preservation of natural resources...and to facilitate orderly development and growth.”  [Section 10.01 \(a\), Article 66B, Annotated Code of Maryland](#), as amended (1957, 2003 Repl. Vol.). (Apx. 1) Indeed, the General Assembly legislated that local governments were “encouraged to enact, ordinances or laws providing for” *12 adequate public facilities ordinances, planned unit developments, and floating zones. Id.⁹

Additionally,  [Section 4.01\(c\)\(1\), Article 66B, Annotated Code of Maryland](#), as amended (1957, 2003 Repl. Vol.), states as follow:

(c) Construction of powers. - (1) On the zoning or rezoning of any land under this article, *a local legislative body may impose any additional restrictions, conditions, or limitations* that the local legislative body considers appropriate to preserve, improve, or protect the general character and design of:

(i) The lands and improvements being zoned or rezoned; or

(ii) *The surrounding or adjacent lands and improvements.*

 [Section 4.01\(c\)\(1\), Article 66B](#) (Emphasis added). (Apx. 1)

In accordance with the State law, the County Commissioners of Washington County amended its Zoning Ordinance (hereafter “ZO”) to provide for the floating zone involved in this appeal, a Planned Unit Development Zone (hereinafter “PUD”), enacted an Adequate Public Facilities Ordinance (hereinafter “APFO”), and provided for the imposition of restrictions, conditions, or limitations at the time of zoning or rezoning.

*13 b. Zoning Ordinance

The ordinance regulatory scheme by which Washington County has chosen to provide the type of floating zone involved in this case, the PUD Zone, is found in Article 16 of the Washington County Zoning Ordinance. (Apx. 2 -Apx. 9) Article 16 is entitled “‘PUD’ Planned Unit Development,” and Section 16.0, entitled “Purpose,” of Article 16, ZO, states as follow: The intent of these PUD regulations is to permit a greater degree of flexibility and more creativity in the design and development of residential areas than is possible under conventional zoning standards. The purpose is also to promote a more economical and efficient use of the land while providing for a harmonious variety of housing choices, a more varied level of community amenities, and the promotion of adequate open space and scenic attractiveness.

The PUD is a floating zone that may be established in any of the Districts specified in Section 16.4. The change or mistake rule does not apply to the PUD process, but the Planning Commission and the Board of County Commissioners, in the deliberation of a PUD application, shall establish findings of fact that consider, at a minimum, the purpose of the PUD District, the applicable policies of the adopted Comprehensive Plan for the County, the compatibility of the proposed PUD with neighboring properties, and the effect of the PUD on community infrastructure. (Apx. 2)

Article 16 contains a detailed process for the review and approval of applications to rezone real property to the PUD Zone and to permit its development under development requirements set forth in that Article. That process is set forth in Section 16.5, entitled “Review and Approval Process.” The two introductory paragraphs to Section 16.5, ZO, state:

Flexibility and site design is inherent in the PUD process. The Planning Commission may modify specific requirements and may establish other requirements deemed necessary to satisfy the purpose of this Article.

The review and approval of PUDs is a multi-step process. Those *14 steps are: *Concept Plan Review, Zoning Approval, Preliminary Development Plan Review and Approval, and Final Development Plan Review and Approval*. Following zoning approval, the review and approval of the development plans may be combined when appropriate for smaller developments. (Emphasis added) (Apx. 3)

After the introductory paragraphs of Section 16.5, the Zoning Ordinance contains a subsection (a), entitled “Design and Development Schedule,” which states:

It is the intent of this Ordinance that the PUD not be a speculative device. The Concept Plan as submitted by the applicant shall reflect the actual development to be designed and constructed within a reasonable time frame. *Each phase of the design and development review process must occur within specified periods. If the applicant fails to submit his plans, or if construction does not commence, as specified by this Ordinance, the zoning of the site shall automatically revert to its previous classification.*

If the applicant abandons the plans for the PUD at any time prior to the start of construction before the automatic reversion date and desires to proceed with development permitted under the previous zoning, he may do so by submitting notification to the Planning Commission. Such notification shall constitute official withdrawal of the applicant’s plans for the PUD and shall permit reversion of the previous zoning classification without the necessity of the rezoning process. (Emphasis added) (Apx. 3 -Apx. 4)

The “multi-step process” is then laid out in five subsections in the “Design and Development Schedule” which itemize five successive different required approvals; four of which are plan approvals. The multi-step review and approval process begins with a “Concept Plan Review,” Section 16.5(a) 1., ZO¹⁰ (Apx. 4), followed by “Zoning Approval,” which “constitutes *tentative approval* of density and design features as shown on the Concept Plan,” Section 16.5(a) 2., ZO (emphasis added). (Id.) Subsequently, within six months of the Zoning Approval, the “applicant” must submit a *15 “Preliminary Development Plan” which is subject to approval or disapproval by the Planning Commission within sixty days although the Commission may grant an extension of time “for good cause.” Section 16.5(a) 3., ZO. (Id.) Thereafter, within six months of approval of the Preliminary Development Plan the “applicant” must submit for approval or disapproval by the Planning Commission a “Final Development Plan.” Section 16.5(a) 4, ZO. (Id.) The Planning Commission may grant an extension of time to file the Final Development Plan “for good cause.” Id. Finally, within six months of approval of the Final Development Plan the “applicant” must file a “Site Plan” for the entire PUD, or any phase, for Planning Commission review. Section 16.5(a) 5, ZO. (Id.) The Planning Commission has authority to grant an extension of time to file the Site Plan. Id. The Zoning Ordinance states: “Each phase of the design and development review process must occur within specified periods. If the applicant fails to submit his plans, or if construction does not commence, as specified by this Ordinance, the zoning of the site shall automatically revert to its previous classification.” Section 16.5(a), ZO. (Apx. 4)

Under the PUD Zone “[z]oning approval constitutes tentative approval of density and design features as shown on the Concept Plan.” Section 16.5(a) 2, ZO. (Apx. 4) The “Final Development Plan” serves “as the master plan for all subsequent site plans and subdivision plats and is the official record of agreement between the developer, and Planning Commission for development of the tract.” Section 16.6(d), ZO. (Apx. 6 Apx. 7) Subsection 16.6(d)2. requires that the Final Development Plan include, inter alia, “[s]pecific terms and conditions agreed to by the developer” which may include “[a]greements for responsibilities between County and developer for providing on-site and off-site improvements.”¹¹ (Apx. 7) As noted, within six months of approval of the *16 Final Development Plan the applicant must submit a Site Plan for the entire PUD, or a phase, and construction must begin within one year of Site Plan approval. Section 16.5(a) 5, ZO. (Apx. 4 - Apx. 5) In other words, development of the PUD cannot commence unless, and until, a Site Plan for the PUD, or a phase of it, has been approved by the Planning Commission.


Further, as explained *infra*, the express language of the County's APFO dovetails into the PUD Zone's multi-step plan review and approval process. The APFO ties into the PUD's Site Plan in that the requirements of the APFO for adequate public facilities must be met at the time the PUD Site Plan is approved. See Section 3.3, APFO. (Apx. 18)

The provisions of Article 16 of the Zoning Ordinance are specific to the PUD Zone. The County's Zoning Ordinance, however, has certain general provisions in Article 27, entitled "Amendments," which apply to all rezoning applications. In particular, Section 27.4, entitled "Additional Conditions," states as follow:

The Board of County Commissioners upon the zoning or rezoning of any land or lands pursuant to the provisions of this Article, *may impose such additional restrictions, conditions, or limitations as may be deemed appropriate to preserve, improve, or protect the general character and design of the lands and improvements being zoned and rezoned, or of the surrounding or adjacent lands and improvements, and may, upon the zoning or rezoning of any land or lands, retain or reserve the power and authority to approve or disapprove the design of buildings, construction, landscaping, or other improvements, alterations, and changes made or to be made on the subject land or lands to assure conformity with the intent and purpose of the Ordinance.*

The Planning and Zoning Commission shall be responsible for administering and enforcing any such conditions imposed by the Board of County Commissioners. Any violation of conditions imposed by the Board of County Commissioners shall be deemed a violation of this Ordinance.


(Emphasis added) (Apx. 10)

The provision in Section 27.4, ZO, to impose restrictions, conditions, or *17 limitations on the grant of a requested rezoning is very significant. This authority has been conferred on the County Commissioners by  [Section 4.01\(c\)\(1\), Article 66B, Annotated Code of Maryland](#), as amended (1957, 2003 Repl. Vol.). (Apx. 1)

The power of the County Commissioners to impose restrictions, conditions, or limitations upon rezoning is part of the County's land use regulatory process and double bolts the ability of the local government to tie-in the requirements of the APFO. Aside from the clear relationship between the PUD Zone and the APFO, the power to impose restrictions, conditions, or limitations upon rezoning is a component of the regulatory process of the local government's authority and ability to coordinate development with the adequacy of public facilities.

And, it is recalled that Zoning Approval in the PUD Zone "constitutes tentative approval of density and design features [for the PUD] as shown on the Concept Plan." Section 16.5(a) 2., ZO. (Apx. 4)

c. Adequate Public Facilities Ordinance

In accordance with the General Assembly's proviso in  [Section 10.01 of Article 66B](#) to "encourage the preservation of natural resources...and to facilitate orderly development and growth" the County Commissioners of Washington County first enacted the Washington County APFO in 1990. It has amended that law on several occasions¹² A fair reading of the APFO makes clear that it is intended to be read with, *18 and administered in conjunction with, the Zoning Ordinance. Section 1.2, entitled "Purpose," of the APFO states:

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.* (Emphasis added). (Apx. 14)

The "Purpose" section of the APFO is explicit in legislating a land use regulatory process by which public facilities and services must be "*available concurrently*" with the impact of "new development." Section 1.2, APFO. (Apx. 14)

Undeniably, when the County Commissioners enacted the APFO the concurrency principle was a fundamental component of the land use regulatory process.

The term “*new development*” as used in the APFO is important. It is a technical term with a defined meaning. Section 2.3.13 of the APFO defines “New Development” as follow:

*New development consists of new subdivisions and site plans for *19 new construction received for approval by the Washington County Planning Commission after the effective date of this Ordinance as set forth in Article XII. New development also consists of construction activity requiring a building and/or zoning permit but does not consist of construction activity for agricultural purposes provided that, after said development, the parcel does not lose the “Agricultural Use Assessment” classification as determined by the Department of Assessments and Taxation. (Emphasis added) (Apx. 16)*

The term “*siteplan*” is another important technical term with a defined meaning. Section 2.3.21 of the APFO defines a “Site Plan” as follow:

A drawing which shows all of the existing conditions of a specified area (the site) and all of the improvements and changes proposed to be made on the site. A site plan is the drawing required by the Zoning Ordinance for all new development and certain additions and must contain all applicable information as specified in the Zoning Ordinance. (Emphasis added) (Apx. 17)

The references to “zoning permit” in Section 2.3.13 and “Zoning Ordinance” in Section 2.3.21 of the APFO undeniably establish the interrelationship between the APFO and the Zoning Ordinance. When the APFO defines “new development” by reference to “new...site plans” and “construction activity requiring a...zoning permit,” Section 2.3.13, and when it defines a “site plan” as the “site plan... required by the Zoning Ordinance for all new development,” Section 2.3.21, the APFO ties itself to the multi-step process in the Zoning Ordinance. The fact that the Zoning Ordinance may have been enacted first is of no legal consequence.

As noted, a *site plan* is the final plan in the “multi-step process” in the PUD Zone. Section 16.5(a) 5. of Article 16 of the Zoning Ordinance provides: “Site Plan Review and Approval: Following approval of the Final Development Plan, the applicant shall submit a Site Plan within 6 months for the entire PUD or for any phase for Commission review and construction shall begin within 1 year of Site Plan Approval.” (Apx. 4 - Apx. 5) Article III of the APFO is entitled “Administration,” and Section 3.3, entitled “New *20 Development,” of that article states:

This Ordinance applies to all new subdivisions and site plans for new construction received for preliminary approval, not to include preliminary consultations under the Subdivision Ordinance or Zoning Ordinance, by the Planning Commission after the effective date of this Ordinance, as set forth in Article XII. Except as provided in this Section or Section 3.5¹³ of this Ordinance, all new development shall meet the requirements set forth in this Ordinance prior to final approval. Nothing in this Ordinance shall prevent the Planning Commission from approving portions of subdivisions or site plans of new development if the portions of the subdivision or site plan comply with the provisions of this Ordinance. If the Planning Director of the Washington County Planning Department determines that a site plan contains minor additions to existing development, the site plan is not subject to the requirements of this Ordinance. (Emphasis added) (Apx. 18)

Section 3.3 of the APFO deals with the application of the APFO to “New Development.” As seen, the definition of “New Development” includes “site plans,” Section 2.3.13, which are defined in the APFO to be the “site plan... required by the Zoning Ordinance.” Section 2.3.21., APFO Administration of the APFO “applies to all new...site plans” and “all new development shall meet the requirements set forth in this Ordinance prior to final approval.” Section 3.3, APFO. Accordingly, the express language of the APFO plugs the adequacy of public facilities into the “multi-step process” of the PUD Zone. Pursuant to Section 3.3, APFO, at the time of the PUD Zone Site Plan approval the new development must comply with the requirements of the APFO. In other words, the Washington County ordinance scheme requires *concurrent availability* of adequate public facilities. See Section 1.2, APFO. (Apx. 14)

The multi-step regulatory process created by the PUD Zone and the APFO dovetail and are intricately intertwined. This is a legally permissible relationship. [Annapolis Market v. Parker](#), 369 Md. 689 (2002); *21 [Steel v. Cape Corp.](#), 111 Md.App. 1, 31-32 (1996). Given the County's ordinance scheme, at the time of Zoning Approval for the PUD the County Commissioners knew that adequate public facilities had to be available at the time of Site Plan approval for the PUD, and it could take that knowledge into consideration when it approved the application for the PUD Zone. Indeed, the County Commissioners was not merely the body that granted the controverted zoning application, it was also the legislative body that enacted the ordinance scheme by which the PUD Zone and APFO regulate the land use process. As noted, the County Commissioners were fully authorized to enact both of those ordinances pursuant to express State law. [Section 10.01\(a\)\(1\), \(6\), and \(8\), Article 66B, Annotated Code of Maryland](#), as amended (1957, 2003 Repl. Vol.). (Apex. 1) The two ordinances must be read together. [Marsheck v. Board of Trustees](#), *supra*, 358 Md. at 403 ("...we bear in mind that our interpretation of the statute and the legislature's intent must be examined by looking to the statutory scheme in its entirety rather than segmenting the statute and analyzing only its individual parties."); [Blitz v. Beth Isaac](#), 352 Md. 31, 40 (1998) ("Moreover, neither the words in the statute nor any portion of the statutory scheme should be read 'so as to render the other, or any portion of it, meaningless, surplusage, superfluous, or nugatory.'"); [Motor Vehicle Admin. v. Gaddy](#), 335 Md. 342, 346 (1994) ("...when a particular statute is part of a statutory scheme, the legislative intent must be discerned from the entire statute, and not from a single part in isolation."); [Comptroller v. Fairland](#), 136 Md.App. 452, 456 (2001) (Statutory "language must be read in congruence with the statutory scheme so that no part of the statute is rendered 'meaningless, surplusage, superfluous, or nugatory.'"); [Smack v. Dept. of Health](#), 134 Md.App. 412, 421(2000), *aff'd* 378 Md. 298 (2003) ("an appellate court attempts to divine legislative intent from the entire statutory scheme, as opposed to scrutinizing parts of the statute in isolation.").

The language used in the ordinance scheme is logical, and creates a multi-step process to regulate land use development. Quite simply, at the time of Zoning Approval *22 the County Commissioners could take into consideration the fact that under the County's concurrent regulatory process, adequate public facilities for the PUD would be available.



Response to Appellants' Arguments

The Appellants have raised four issues on appeal which are: (a) unsworn testimony was impermissibly received by the County Commissioners at its hearing, (b) the PUD rezoning should not have been approved because it was at a location which was adjacent to a roadway which was not adequate to support the proposed development, (c) the County Commissioners erred in failing to apply the "reasonably probable of fruition in the foreseeable future" test for considering public facilities, and (d) a remand of the rezoning application to the County Commissioners is not appropriate in the absence of substantial evidence of the adequacy of the adjacent roadway and compatibility.¹⁴ None of these arguments has any merit. Each of the foregoing issues are addressed as follow.


a. Unsworn Testimony

The first argument raised by the Appellants is that testimony presented by witnesses at the hearing conducted by the County Commissioners and Planning Commission should have been under oath. Brief of Appellants, pp. 4-9. They state that "[t]his appeal raises the question of whether witnesses should be sworn in piecemeal rezoning proceedings." *Id.*, p.4. In support of this argument the Appellants present certain propositions of law which have application to certain types of quasi-judicial proceedings and cite court decisions in support of those propositions. *Id.*, pp.4-9. However, they have not cited a single case for the proposition that the legislative body with express zoning authority must hear only testimony under oath. The County Commissioners submit that the Appellants' contention is not the law.

*23 Significantly, in their brief the Appellants do not refer the Court to any part of the record in which the Appellants, or anyone else, objected at the hearing that unsworn testimony was being received.¹⁵ There is no such reference because no objection to the receipt of unsworn testimony or other evidence was raised by the Appellants, or anyone else, at the hearing. In this situation, the Appellants cannot be heard to complain about the proceeding. A party who knows, or should have known, that an administrative agency has committed error, and who, despite an opportunity to do so, fails to object in any


way, or at any time, during the course of the administrative proceeding, may not raise an objection for the first time upon judicial review.  [Cicala v. Disability Review Bd.](#), 288 Md. 254, 261-62 (1980). Indeed, if no objection has been raised in the proceeding before the agency, such will not be considered by the court upon judicial review. [Brzowski v. Md. Home Improvement](#), 114 Md. App. 614, 637 (1997), reconsideration denied, cert. denied, 346 Md. 238 (1997). The law of Maryland establishes that upon judicial review of an administrative decision, the issues that may be raised are limited to those that were raised before the agency. [Rockville v. Woodmont C.C.](#), 348 Md. 572, 582 n.3 (1998), citing,  [Insurance Commissioner v. Equitable](#), 339 Md. 596, 634 (1995).

Because no objection was raised before the County Commissioners to the receipt of unsworn testimony, the Appellants are barred from raising that issue on appeal.

Beyond the foregoing, the law of Maryland has long held that the touchstone of a government hearing is that the hearing be fair with notice and an opportunity to be heard. E.g., [Bernstein v. Bd. of Education.](#), 245 Md. 464, 473 (1967). Such hearings are “not bound by common law rules of evidence.”  [Rogers v. Radio Shack](#), 271 Md. 126, 129 (1974). Hearsay evidence is admissible, even in a contested case, and hearsay, if credible *24 and sufficiently probative, maybe the basis for the agency decision. [MVA v. McDorman](#), 364 Md. 253, 262 (2001); [Trovers v. Baltimore Police Dept.](#), 115 Md.App. 395, 412 (1997). In [Travers](#) this Court stated that “administrative agencies are not constrained by technical rules of evidence,” 115 Md.App. at 411, and “the Court countenances the relaxation of evidentiary rules so long as they are not applied in an arbitrary or oppressive manner that deprives a party of his or her right to a fair hearing.” *Id.*, at 412. In [Widomski v. Chief of Police](#), 41 Md.App. 361, 378-79 (1979), this Court observed: “Yet, it is just as clearly established in Maryland that administrative bodies are not ordinarily bound by the strict rules of evidence of a law court.....Procedural due process in administrative law is recognized to be a matter of greater flexibility than that of strictly judicial proceedings, (citation) The concept of due process requires that we examine ‘the totality of the procedures afforded rather than the absence or presence of particularized factors.’”

In light of the foregoing, the County Commissioners asserts that there was no legal requirement that testimony, or any other evidence, be presented under oath at its hearing.

The Appellants rely upon this Court’s recent decision in [Heard v. Foxshire](#), 145 Md.App. 695 (2002), in which it is stated: “It is imperative that evidence given before an adjudicator/ body be under oath, whether from an attorney or lay person, a lay witness or an expert witness.” *Id.*, at 707. First, the aforesaid statement from [Heard](#) has no application to the County Commissioners who are the legislative body empowered by the General Assembly to grant rezonings. Second, [Heard](#) does not correctly state the law of Maryland.

The requirement for an oath appears to be a common law requirement applicable solely to judicial proceedings. See, 6 Wigmore, *Evidence in Trials at Common Law* (Chadbourn, ed., 1976) § 1816 (“The theory of the oath, in modern common law, may be termed a subjective one, in contrast to the earlier one, which may be termed *25 objective.”); 13 Halsbury’s *Laws of England* (2d ed., 1934) § 797, footnote (b) (“At common law there were various classes of persons who were incompetent as witnesses, e.g., parties to an action or their husbands and wives, persons interested in an action, infamous persons, and persons who had no religious belief...or had conscientious objectives to taking an oath.”). See also, [Hourie v. State](#), 53 Md.App. 62, 64 (1982) (“Common law perjury was and is the giving of a false oath in a judicial proceeding in regard to a material matter.”). The hearing of the County Commissioners, however, was “not bound by common law rules of evidence,”  [Rogers v. Radio Shack](#), *supra*, 271 Md. at 129, and testimony, as well as all evidence, was not required to be under oath.

b. Adjacent Roadway Adequacy

The second argument raised by the Appellants is that Section 16.4(b) of the PUD Zone creates a “threshold consideration”, Brief of Appellants, p.9, which requires that a PUD’s adjacent roadway facilities be capable of serving the traffic to be generated by the PUD development at the time of rezoning. The Appellants also assert that the Applicant’s case presentation did not address the requirement of Section 16.4(b). *Id.*, p.10.

The evidence of record clearly demonstrates that consideration of the adequacy of adjacent roadway facilities as contemplated by Section 16.4(b).02., ZO, was addressed by both County staff and the Applicant. Those facilities are the two public roads which border the PUD site, Maryland Route 60 (Leitersburg Pike) and Marsh Pike. The comments of the State Highway Administration were: "We have reviewed the re-zoning case for Rokane, LLC (formerly Emerald Point) and have no objection to approval with the stipulation that access be denied to MD 60. Access can be gained via Marsh Pike." (Apx. 34) The restriction on access to Maryland Route 60 was acceptable for the PUD, and, as the State Highway Administration noted, access could be provided via Marsh Pike.

Contrary to the Appellants' assertion, the Applicant's evidence addressed Section *26 16.4(b) of the PUD Zone and made this issue a fairly debatable one. Among other points, the Applicant's engineer, Russ Townsley, explained that a traffic study that had been submitted to both the "County Engineer and State Highway" in support of the rezoning application. (E.52) Mr. Townsley reported: "The study states that the existing system could be supported by the surrounding area network and the critical intersections will continue to operate at acceptable levels of service with the full development of the PUD provided that some improvements are made." (*Id.*)

Additionally, the report submitted at the public hearing by the Applicant also demonstrated that there would be no adverse impact on the public road system. (E.75)

The Court of Appeals has repeatedly held that reports of technical staff in connection with rezonings can be sufficient to make the facts of record "fairly debatable." [Montgomery v. Ed, of Co. Comm'rs](#), 263 Md. 1, 8 (1971); [Yewell v. Board of Co. Comm'rs](#), 260 Md. 42, 49 (1970); [Montgomery County v. Shiental](#), 249 Md. 194,199 (1968). The factual evidence before the County Commissioners as to the adequacy of the adjacent roadway facilities and the PUD was fairly debatable, and this Court should not substitute its judgment on that debatable issue.



The Appellants argue that Section 16.4(b) is a *locational* requirement that *at the time of rezoning requires that* the affected real property must be "located adjacent to adequate roadway facilities capable of serving existing traffic and the future traffic generated by the uses in the PUD." Section 16.4(b), ZO. (Apx 3) The argument is erroneous. A zoning ordinance could require that at the time of applying for rezoning or at the time of rezoning the affected real property had to meet a locational requirement.¹⁶ *27 Such a requirement, however, is not contained in the Washington County Zoning Ordinance. On this point, it must be remembered that the PUD Zone uses a multi-step plan approval process, and Section 16.4(b), ZO, cannot be read in isolation. The language of Section 16.4(b) contemplates the development of the PUD in the future. It expressly refers to "the future traffic." (Apx. 3) Indeed, at the time the rezoning application is decided the ultimate development has not been determined and will not be determined until after the development plan approval process. This aspect of the multi-step process in the PUD Zone is readily apparent when its Section 16.7(i), titled "Traffic Circulation and Parking," is taken into account. That section states:

1. Existing and planned streets and highways shall be of sufficient capacity to serve existing traffic and all new traffic when fully developed.
2. The capacity of existing streets and highways serving a PUD shall be considered by the Commission in determining density. Density resulting in traffic capacity being exceeded on streets and highways shall not be permitted.

Section 16.7(i), ZO. (Apx. 9)

Section 16.7(i) makes clear that "existing and planned streets and highways" and "existing streets and highways serving a PUD" must be considered in determining the PUD density. Section 16.4(b), ZO, cannot be read in isolation, and must be read in conjunction with Section 16.7(i), ZO. [Marsheck v. Board of Trustee](#), *supra*; [Blitz v. Beth Isaac](#), *supra*; [Motor Vehicle Admin, v. Gaddy](#), *supra*; [Comptroller v. Fairland](#), *supra*; [Smack v. Dept. of Health](#), *supra*. When read in context, Section 16.4(b) does not require a demonstration that at the time of rezoning the adjacent roadway facilities must be *28 capable of serving "the future traffic generated by the uses in the PUD."¹⁷ Appellants' myopic construction of Section 16.4(b) ignores the ordinance scheme. Their position is contorted and strained in a fashion not supported by a reading of the Zoning Ordinance as a whole. It also fails to read the APFO in a consistent manner with the PUD Zone.¹⁸

In actuality, the process used in the Washington County PUD Zone is similar to that which this Court upheld in

 [Montgomery Co. v. Gr. Colesville Ass'n](#), 70 Md.App. 374 (1987). In *Gr. Colesville Ass'n v. the County Council for Montgomery County*, sitting as a District Council, approved a rezoning to the P-D (“Planned development”) Zone. The critical issue involved needed improvements to the off-site intersection of two major roads.  70 Md.App. at 378. The Montgomery County P-D Zone utilized a development plan process and the applicant amended its development plan to provide for making the intersection improvements which the applicant, apparently, would fund through the *29 County’s CIP. *Id.*, pp. 378-79. On this issue, this Court described the recommendation of the County’s hearing examiner thusly:

The hearing examiner extensively reviewed the history of the application and found the project to be compatible with the PD zone. He, therefore, recommended its approval of the rezoning. *Concerning capacity of the critical intersection to accommodate the traffic to be generated by the project*, the hearing examiner concluded that the proposed improvements, when completed would render the intersection adequate. He further found that the improvements were reasonably probable of accomplishment within the foreseeable future....

Id., at 379 (Emphasis added). After the foregoing statement this Court quoted from the hearing examiner’s report and recommendation which, in pertinent part, stated: “Moreover, before any development can take place under an approved P-D Zone, the Planning Board must approve a site plan and will review extensively the impact of the proposed development on the community.” *Id.* (Emphasis added). See also [Rouse-Fainwood v. Supervisor](#), *supra*, 138 Md. App. at 625-27 (Prince George’s County M-X-C (“Mixed Use Community”) Zone, multistep plan review process, actual development could not begin until planning commission approved post-rezoning final development plan).

The Montgomery County P-D Zone process and the Prince George’s County M-X-C Zone process are very similar to the multi-step process used in Washington County. All require approval of a site plan or final development plan before any actual development. The Appellants’ argument on this point misses the mark.

c. “Reasonably Probable of Fruition in the Foreseeable Future” Test



Appellants’ third argument is that the County Commissioners erred in failing to require that the infrastructure necessary to support the PUD be existing or reasonably probable of fruition in the foreseeable future. See Brief of Appellants, p. 18. Relying on *Montgomery Co. v. Gr. Colesville Ass’n*, *supra*, the Appellants argue that the Commissioners were required to apply the “reasonably probable of fruition in the *30 foreseeable future” test to evaluate the availability of adequate public facilities and compatibility for the requested PUD. *Id.*, pp. 19-21. The Appellants criticize the Commissioners, asserting that by “leaving the determination of compatibility for subsequent evaluation by the Planning Commission under the provisions of an adequate public facilities ordinance, the County Commissioners impermissibly delegated an essential rezoning function to an administrative body.” *Id.*, p. 19. They also argue that the County Commissioners “does not have discretion to permit even the most willing developer to construct school facilities” and “[i]t is beyond the power of the Appellee to cause the necessary schools to be planned, funded, sequenced or constructed.” *Id.*, p.20.

The error in the Appellants’ argument is that the ordinance scheme in Washington County contains a multi-step process in the PUD Zone which involves progressive review and approval of development plans. Indeed, given the time deadlines by which a Preliminary Development Plan, Final Development Plan, and Site Plan must be filed, see, Section 16.5(a) 3., 4., and 5., (Apx. 4), the Washington County process is much more time sensitive and definite than the “reasonably probable of fruition in the foreseeable future” test.¹⁹ Under the Washington County ordinance scheme the applicant, the public, and local authorities know when development plans must be filed for review and approval. In the absence of a comprehensive ordinance scheme such as that employed in Washington County the “reasonably probable of fruition in the foreseeable future” test *31 might be applicable.²⁰ However, where the local legislative body has created an ordinance scheme by which a different test is utilized, the legislated test is applicable and controlling. Accordingly, the “reasonably probable of fruition in the foreseeable future” test does not apply to an application to rezone property to the Washington County PUD Zone. In effect, the Appellants seek to impose their own view of how PUDs are to be approved and developed. In fact and law, the



County Commissioners have adopted a development process in Article 16 that does not mandate the scheme argued by the Appellants.

The argument that the County Commissioners have “impermissibly delegated an essential rezoning function to an administrative body,” Brief of Appellants, p. 19, is not meritorious. This argument refers to the role of the Planning Commission in approving development plans under the Zoning Ordinance and, presumably, the tie-in of the APFO at the time of Site Plan review and approval. That ordinance scheme has been lawfully enacted by the local legislative body. *Annapolis Market v. Parker*, supra; *Steel v. Cape Corp.*, supra. Further, with floating zones the Court of Appeals has long held that a zoning ordinance that provided for site plan approval by an administrative agency at which compatibility factors could be considered and decided was permissible. *Bigenho v. Montgomery Comity*, 248 Md. 386, 396 (1968) (At site plan approval a “building that would be detrimental to the surrounding area” - a compatibility factor - could be denied). The “site plan approval” considered in *Bigenho* was a planning board approval, not the zoning authority. In *Bigenho* the Court of Appeals expressly recognized that “special precautions” to ensure compatibility included the “requirement that a site plan be approved, and a provision for revocation of the classification if the specified restrictions are not complied with.” 248 Md. at 391. In *32 *Mortimer v. Howard Research*, 83 Md.App. 432, 436 (1990), this Court noted that under the Howard County New Town Zone no land could be developed unless a “Final Development Plan” “for the specific area is approved by the Planning Board.” Additionally, this Court’s review and analysis of the development plan approval process for the Montgomery County P-D Zone in Gr. Colesville Ass’n should lay to rest any question about plan approvals, particularly site plans, by a planning board/commission. The Montgomery County zoning ordinance provides that “[t]he Planning Board must approve, approve subject to modifications, or disapprove” site plans. Section 59-D-3.4(a), Chapter 59, Montgomery County Code 1994, as amended.

There are three integral parts of adequate land planning which are: the master plan, zoning, and subdivision regulation.

 *Board of County Comm’rs v. Caster*, 285 Md. 233, 246 (1979);  *Richmarr v. American PCS*, supra, 117 Md.App. at 645. Further, “the terms planning and zoning...are not synonymous. Zoning is concerned with the use of property but planning is broader in its concept.” *Caster*, id. The review and approval of development plans is part of the zoning process, and review and approval of such plans by an administrative agency, such as a planning board or commission, after rezoning approval is lawful. In the instant case, the multi-step process for plan approvals in the PUD Zone is proper and lawful.

The Appellants’ argument that the County Commissioners did “not have discretion to permit even the most willing developer to construct school facilities” and that it was “beyond the power of the Appellee to cause the necessary schools to be planned, funded, sequenced or constructed”, Brief of Appellants, p.20, is without merit. A zoning authority such as the County Commissioners may consider the impact on public schools when considering an application to rezone property. E.g., *Shapiro v. Montgomery Co. Council*, 269 Md. 380, 387-88 (1973). Further, as previously noted, consideration of the adequacy of public facilities, through an adequate public facilities ordinance, at the time of rezoning is legally permissible. *Annapolis Market v. Parker*, *33 supra; *Steel v. Cape Corp.*, supra.

At footnote 7 on page 20 of their brief the Appellants state that the APFO has been amended since the decision of the lower court and that the amendment changes the APFO provision for analyzing the adequacy of school facilities. Brief of Appellants, p.20. It then is asserted that “[t]he applicant’s development proposal did not comply with the previous standard, and fails to meet the more rigorous standard recently enacted.” Id. Citing *Co. Council v. Carl M. Freeman Assoc.*, 281 Md. 70 (1977); *DalMaso v. Bd. of Co. Comm’rs*, 264 Md. 691 (1972);  *Yorkdale v. Powell*, 237 Md. 121 (1964); and *F&B Dev. Corp. v. County Council*, 22 Md.App. 488 (1974), the Appellants state “[t]he law in effect at the time of judicial review governs the outcome of this appeal.” Id. See,  *Powell v. Calvert County*, 368 Md. 400 (2002). The APFO was amended after the lower court’s decision to, inter alia, change the analysis by which a PUD’s projected pupil enrollment and school capacity is measured. As explained in Footnote 12, ante, after the lower court’s decision the Washington County APFO was amended twice with Revision 6, effective May 25, 2004, being the current version of that ordinance. As noted, on March 30, 2004, the County Commissioners adopted a Resolution which establishes a Transition Policy for the amendments to its APFO. (Apx. 36 - Apx. 37) The Resolution provides that amendments to the APFO do not apply to preliminary plats formally approved prior to July 1, 2003, and final plats formally approved prior to January 1, 2004, and that the Resolution applies retroactively to new development or proposed development on or after December 1, 1990. (Apx. 36). The amendments do, therefore, apply to all other new development.

As to school facilities under the current APFO, there is a “preliminary consultation”, then “a preliminary plat review”, and,

ultimately, it is formally applied at the time of “final plat approval.” Section 5.3.1, APFO. (Apx. 23) The consultations and application of the pupil enrollment and school capacity measurement occur after rezoning. Accordingly, the issue raised by the Appellants in their footnote is premature and not germane to this appeal.

*34 d. Remand

Finally, the Appellants argue that “[a] review of the record establishes that the applicant failed to adduce testimony and evidence, whether or not under oath, meeting the requirements for establishment of a floating zone. For that reason, remand is inappropriate.” Brief of Appellants, p.22. The Appellants further assert “[b]ecause the applicant failed to meet its burdens of production and persuasion, the decision of the Board [sic] of [sic] County Commissioners should be reversed without remand.” *Id.* Their contention is not an argument that addresses the legality of the County Commissioners’ rezoning action. Rather, it is a contention addressed to a remedy should this Court invalidate the rezoning decision under review. That contention is meritless.

For the reasons previously stated, the decision of the County Commissioners is supported by substantial evidence of record which is fairly debatable and premised upon a correct application of law. Accordingly, the Commissioners’ decision should be affirmed. In this situation remand is not a relevant consideration.

CONCLUSION

For all of the foregoing reasons, the arguments presented by the Appellants are not meritorious in any respect. The decision of the County Commissioners to approve rezoning application Case No. RZ-02-008 is supported by substantial evidence of record which is fairly debatable and premised upon a correct application of law. Accordingly, the rezoning decision of the County Commissioners of Washington County, Maryland, should be affirmed.

*35 STATEMENT AS TO FONTS USED

Pursuant to [Rule 8-504\(a\)\(8\)](#), this is to certify that we have used Times New Roman and CG Times fonts in this brief in various font sizes, and are 13 point or greater.

Footnotes

¹ This Court recently described planned unit development zoning, in part quoting from Ziegler, Rathkopf ‘s *The Law of Zoning and Planning* (4th Ed.Rev. 1994), as follow: “Modern zoning ordinances...strive to meet society’s current development needs by providing greater flexibility in zoning patterns....A PUD is a particular type of zoning technique used to obtain the level of flexibility needed to meet changing community needs.... In contrast to Euclidean zoning, which divides a community into districts, and explicitly mandates certain uses...the PUD is an instrument of land use control which... permits a mixture of land uses on the same tract.... Generally, it is a zoning technique that encompasses a variety of residential uses, and ancillary commercial, and...industrial uses.” [Rouse-Fainwood v. Supervisor](#), 138 Md.App. 589, 623 (2001) (internal quotes and citations omitted), cert denied 365 Md. 475 (2001).

² An excerpt from the transcript of the Commissioners’ hearing is reproduced in the Record Extract. (E.29-E.66)


³ The traffic study was part of the record before the County Commissioners although it apparently was not included in the record transmitted to the lower court.

⁴ Internal footnote deleted.


- 5 The adopted Findings of Fact were inadvertently not included in the Record, and are the subject of a motion to supplement the record which has been filed with this Court pursuant to [Maryland Rule 8-414](#).
- 6 The adopted Findings of Fact are more expansive than the minutes in expressing the reasons for the decision to approve the requested rezoning. However, because the Findings of Fact are not reproduced in the Record Extract nor is a copy in the Record, this brief does not quote from the Findings of Fact. See footnote 5.
- 7 The terms “rezone” or “rezoning” and “reclassification” are synonymous, and refer to “a change in the existing zoning law itself, so far as the subject property is concerned.” [Cadem v. Nanna](#), 243 Md. 536, 543 (1966). (Emphasis not added)
- 8 Although this Court’s review is that of the zoning authority, the lower court, after due consideration of the arguments put forward by the Appellants, affirmed the rezoning action. (E.106-E.118) The lower court’s decision is correct, deserves serious consideration by this Court, and should be affirmed.
- 9 During its 2004 Regular Session the General Assembly enacted Chapter 406 (Apx. 38 - Apx. 39), effective July 1, 2004. This legislation enacted a [Section 14.08 to Article 66B of the Annotated Code of Maryland](#) which clarifies the authority conferred by [Section 10.01 of Article 66B](#) on local legislatures to enact adequate public facilities laws. The new [Section 14.08\(D\)\(7\) and \(8\)](#) authorize the County Commissioners to determine the adequacy of public facilities in areas affected by new development in the development plan review process and to enter into agreements with developers for the payment of monetary compensation to address inadequacies in public facilities as part of the development plan process. (Id.) This legislation merely clarifies the authority conferred by [Section 10.01](#), particularly as to the role of the adequate public facilities law in a local government’s development plan review process. (Apx. 40 - Apx. 41)
- 10 The Applicant’s proposed PUD had undergone Concept Plan Review prior to the Zoning Approval which is the subject of this appeal. (E.17)
- 11 The County Commissioners required these agreements in its decision approving the Applicant’s requested rezoning. (E.105)
- 12 The decision of the County Commissioners to approve the rezoning in this case occurred on March 13, 2003. (E.103) At that time the operative version of the APFO was Revision 4, effective November 26, 2002. The lower court’s hearing occurred on November 7, 2003, and its opinion and order was rendered on November 21, 2003. (E. 118) At that time the operative version of the APFO still was Revision 4. Subsequently, the APFO was amended twice pursuant to Revision 5, effective January 1, 2004, and Revision 6, effective May 25, 2004. The current version of the APFO, Revision 6, is applicable to this appeal, [Powell v. Calvert County](#), 368 Md. 400 (2002), [Co. Council v. Carl M. Freeman Assoc.](#), 281 Md. 70 (1977); [Dal Maso v. Bd. of Co. Comm’rs](#), 264 Md. 691 (1972); [Yorkdale v. Powell](#), 237 Md. 121 (1964); [F&B Dev. Corp. v. County Council](#), 22 Md.App. 488 (1974), and it is reproduced in the Appendix to this Brief. (Apx. 11 - Apx. 30). On March 30, 2004, the County Commissioners adopted a Resolution (Apx. 36 - Apx. 37) which establishes a Transition Policy for amendments to its APFO because “certain procedural issues have arisen concerning its enactment and implementation”. (Apx. 36) The Resolution states that amendments to the APFO do not apply to a preliminary plat which was formally approved prior to July 1, 2003 and final plats formally approved prior to July 1, 2004, and that it applies retroactively to new development or proposed development commencing on or after December 1, 1990. (Apx. 36 - Apx. 37)
- 13 Section 3.5 of the APFO has no relevance to this appeal.
- 14 The Appellant’s final argument does not set forth a meritorious basis for overturning the zoning decision of the County Commissioners. Rather, it contends that remand is not a proper disposition of this case, and that this court should reverse the rezoning approval. As explained infra., the Appellants’ contention is erroneous.
- 15 The speakers in opposition to the requested rezoning included a John Uerner who addressed the County

Commissioners and Planning Commission stating “...many of you know in my profession as an attorney, I work with the Zoning Ordinance all the time. I have since 1973.” (Apx. 35)

¹⁶ For example, the Montgomery County P-D (“Planned Development”) Zone contains a true locational requirement. See, Section 59-C-7.12, Chapter 59, Montgomery County Code 1994, as amended. Subsection 59-C-7.121 is a master plan requirement that states that “[n]o land can be classified in the planned development zone unless such land is....”, and subsection 59-C-7.122 contains a minimum area requirement which states “[n]o land can be classified in the planned development zone unless the district council finds that the proposed development meets at least one of the following criteria....”

¹⁷ In this case the zoning authority also is the local legislative body which enacted the Zoning Ordinance and the APFO. Further, the regulatory control exercised by the County Commissioners includes the ability to condition its rezoning approvals. See,  Section 4.01(c)(1), Article 66B, Annotated Code of Maryland, as amended (1957, 2003 Repl. Vol.) and Section 27.4, Washington County Zoning Ordinance. The Commissioners have exercised their authority to condition rezoning in this case in that its decision requires that: “As specified under Zoning Ordinance section 16.6(d)(2)ii, agreements for responsibility between County and developer for providing on-site and off-site improvements shall be developed as part of the Final Development Plan.” (E.105) See, [Floyd v. County Council of P.G. Co.](#), 55 Md.App. at 260 (“Where...the district council’s [rezoning] approval was granted subject to ten conditions, which addressed every substantial concern revealed in the record, this Court cannot hold that the council’s approval of...rezoning was arbitrary or unlawful.”).

¹⁸ In support of their argument the Appellants heavily rely upon Annapolis Market v. Parker, supra. That reliance is misplaced. The Annapolis Market case was decided upon the specific language contained in the Anne Arundel County code pertaining to rezonings and the adequacy of public facilities. Washington County has a different ordinance scheme, and, therefore, the court’s analysis of the Anne Arundel County code in Annapolis Market is not instructive in this case.

¹⁹ In Gr. Colesville Ass’n this Court quoted from the county’s hearing examiner who stated: “the present Development Plan [is] a much more stringent control over premature development than any test that attempts to measure whether the improvements are ‘reasonably probable of fruition in the foreseeable future.’ The plan makes the improvements definite, explicit, and an essential prerequisite to development. Under the ‘reasonably probable’ test, a bad guess about future events could still lead to premature development. However, this situation cannot occur under the current Development Plan because any uncertainty has been eliminated.”  70 Md.App. at 380.


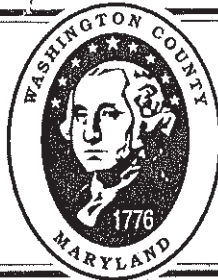
²⁰ It is suggested that the “reasonably probable of fruition in the foreseeable future” test was judicially created, and  [Trustees v. Baltimore County](#), 221 Md. 550, 570-71 (1960), may be an early explication of the test to use those words.

EXHIBIT E



**BOARD OF COUNTY COMMISSIONERS
OF WASHINGTON COUNTY, MARYLAND**

Washington County Administration Building
100 West Washington Street, Room 226
Hagerstown, Maryland 21740-4727
Telephone: 240-313-2200
FAX: 240-313-2201
Deaf and Hard of Hearing call 7-1-1 for Maryland Relay

Gregory I. Snook, *President*
Paul L. Swartz, *Vice-President*
Bertrand L. Iseminger
John L. Schnebly
William J. Wivell

November 26, 2002

Mr. Mansoor Shaool
72 West Washington Street
Hagerstown, MD 21742

RECEIVED

NOV 27 2002

WASHINGTON COUNTY
PLANNING COMMISSION

Dear Mr. Shaool:

RE: Rezoning Cases RZ-02-006

At the regular meeting of the Board of County Commissioners of Washington County on November 19, 2002, the referenced rezoning map amendment, RZ-02-006, was approved. A copy of the County Commissioners' minutes for that meeting are attached for your information.

Sincerely,

Joni L. Bittner, County Clerk

BOARD OF COUNTY COMMISSIONERS
OF WASHINGTON COUNTY, MARYLAND

jb

cc: Robert Arch, Director, Planning & Community Development
Timothy O'Rourke, Supervisor of Assessments
Fox & Associates, Inc.

attachment

EXHIBIT A



NOVEMBER 19, 2002
PAGE SIX

Motion made by Commissioner Iseminger, seconded by Schnebly, that there has been a convincing demonstration that the proposed rezoning from Agriculture (A) to Residential Rural (RR) would be appropriate and logical for the subject property based on the staff report and recommendation of the Planning Commission, the fact that it is consistent with the development and development patterns that have occurred in the area, the availability of water and sewer to the site, the fact that there are sufficient options available for road access; and the property lies within the Urban Growth Area boundary. Unanimously approved.

Motion made by Commissioner Iseminger, seconded by Schnebly, based upon the previous motions for rezoning case RZ-00-007 that the proposed rezoning from Agriculture (A) to Residential Rural (RR) is granted. Unanimously approved.

REZONING MAP AMENDMENT - RZ-02-006 - MANNY SHAOOL

Richard Douglas, County Attorney, reviewed map amendment RZ-02-003, submitted by Fox & Associates, Inc. on behalf of Manny Shaool to rezone the subject property from Agriculture (A) to Agricultural/Planned Unit Development (A/PUD). Mr. Douglas stated that the Planning Commission has recommended that the rezoning be denied.

Motion made by Commissioner Iseminger, seconded by Swartz, to adopt the findings of fact set forth in the report of the County Attorney, a copy of which is attached to these minutes. Unanimously approved.

Purpose of PUD District

The purpose of the PUD district "is to permit a greater degree of flexibility and more creativity in the design and development of residential areas than is possible under conventional zoning standards..."

The applicant's plan provides more efficient use of the land as well as the provision of open space, pedestrian facilities, and substantial amenities such as a swimming pool, a community building, golf practice area, and tennis courts to address the purpose of the PUD.

Applicable policies of the Comprehensive Plan for the County

The Plan encourages growth to occur within the Urban Growth Area where adequate public facilities exist or are planned, and development will offer a wide variety of housing types and costs.

The use of PUD zoning in this area is consistent with both the 1981 and 2002 Comprehensive Plans. This is illustrated by the fact that the largest concentration of Planned Unit Developments in the County are located near the subject property. The new Comprehensive Plan establishes "Policy Areas" in which certain uses and zoning designations are recommended. The subject property is located within the Urban Growth Area - Low Density Residential policy area. In addressing development within the Low Density Residential policy area, the Plan states, "typical densities in this policy area range from two to four units per acre unless the property is approved for a planned residential or mixed use development. If property is approved for a high density development, the maximum density should be 12 units per acre." The density of the proposed PUD is 2.7 dwelling units per acre.

The compatibility of the PUD with neighboring properties

The Robinwood Drive corridor near Hagerstown Community College has developed with apartments, townhouses, and other forms of higher density housing that would be consistent with some of the elements of the proposed PUD. The revised concept plan for the proposed 595-unit PUD includes some modifications by reducing the number of townhouse units and concentrating them in the southeast corner of the property. The revised plan also increased the buffer to fifty feet between the townhouse units and the adjacent farmland. The amount of higher density housing adjacent to the Growth Area boundary has been reduced from the original proposal.

The effect of the PUD on community infrastructure.

The Adequate Public Facilities Ordinance (APFO) has taken on a supportive role that was previously the sole responsibility of this item in the Zoning Ordinance during the rezoning stage when considering the deliberation of PUD cases. Due to this change, it would appear that now the Planning Commission and the County Commissioners would only have to access infrastructure issues at the zoning stage that would appear to be highly unsolvable. The applicant has indicated that he is fully aware of the APFO implications and is willing to assume the burden placed upon him. The Chief Engineer did not take exception to the rezoning and responded to the application by stating that road adequacy and stormwater management requirement "can be adequately addressed through our normal site plan and subdivision processes."

Motion made by Commissioner Iseminger, seconded by Swartz, that there has been a convincing demonstration that the proposed rezoning from Agriculture (A) to Agricultural/Planned Unit Development (A/PUD) would be appropriate and logical for the subject property based on the uses that have been provided, the measures that have been taken to provide buffers between this property, adjacent single-family uses, and adjacent agricultural uses, and the fact that the Adequate Public Facilities Ordinance will play a role in infrastructure needs at final development plat approval. Motion carried with Commissioners Iseminger, Schnebly, and Swartz voting "AYE" and Commissioners Wivell and Snook voting "NO."

Motion made by Commissioner Iseminger, seconded by Swartz, based upon the previous motions for rezoning case RZ-02-006 that the proposed rezoning from Agriculture (A) to Agricultural/Planned Unit Development (A/PUD) is granted, contingent upon all buffers being in place and at the revised densities. Motion carried with Commissioners Iseminger, Swartz, and Schnebly voting "AYE" and Commissioners Wivell and Snook voting "NO."

YOUTH OF THE MONTH AWARDS - OCTOBER 2002

Commissioner Iseminger presented a Certificate of Merit to Scott Stevens in recognition of his selection as the October 2002 Youth of the Month by the Washington County Community Partnership for Children & Families (WCCP). The Commissioners commended Scott for his leadership, academic and extra-curricular activities. Commissioner Iseminger stated that Scott would also receive a \$50 savings bond from the WCCP.

PROCLAMATION - NAPA RAYLOC DIVISION OF GENUINE PARTS COMPANY

Commissioner Schnebly presented a proclamation to Dave Waters, General Manager, and Wayne Younkers, HR Director, at NAPA Rayloc Division of Genuine Parts Company in recognition of their contribution and dedication to the Hancock Volunteer Fire Company, the Hancock Volunteer Rescue Squad, and the citizens of Hancock and their fine example of caring and community involvement.

Jason Baer, President of the WCVFRA, stated that he was impressed with NAPA Rayloc Division of Genuine Parts Company and its commitment to the Hancock community by allowing their employees to respond to fire and rescue calls during daytime employment. Mr. Baer presented a plaque to Mr. Waters and Mr. Younker from the WCVFRA. Members of the Hancock Volunteer Fire Company and Hancock Emergency Services were also present to support the recognition. Mr. Baer thanked the Board of County Commissioners for their work with the Association over the past four years.

EMPLOY ECONOMIC DEVELOPMENT DIRECTOR

Motion made by Commissioner Schnebly, seconded by Iseminger, to employ Timothy Troxell as Director of the Economic Development Director (Grade 17) at the salary of \$68,500 to fill an existing vacancy. Unanimously approved.

ADJOURNMENT

Motion made by Commissioner Schnebly, seconded by Iseminger, to adjourn at 3:06 p.m. Unanimously approved.

RECEIVED

April 22, 2021

APR 26 2021

William and Joyce Allen
11019 Shalom Lane
Hagerstown, MD 21742

Washington County
Dept. of Planning & Zoning

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

Re: Proposed PUD Development Plan Adjacent to Black Rock Estates

Ladies and Gentlemen of the Commission;

As original residents of Black Rock Estates, we want to register our complaint concerning the revised PUD proposed by WashCo Development and Dan Ryan Builders. When we purchased our property and built our home in 1998-1999, we were given a number of assurances by Mansour Shaool/WashCo Homes, the developer. Those included the original preliminary PUD that was ultimately approved in 2004. We understood the nature of the plan and had no objections at that time. The original concept of Black Rock Estates was to be an upscale residential development, with all-brick homes of over 2500 sq. ft. The original PUD allowed for additional designs of approximately 550 single family homes and condos. We knew that from the start and never complained.

This new PUD calls for almost double the number of residential units that include much smaller and cheaper design that would drastically overpopulate the area. We strenuously object to the expansion of the PUD to more than 1100 new units, as this will create a high-density housing development that directly contradicts the original development plan. This will result in an enormous increase in traffic and congestion, and will drastically impact the valuation of the existing development. It is obvious that the new plan includes many small condos, apartments and homes, in direct conflict with the original home design concepts of Black Rock.

We also object to the change in the location of the community area behind Shalom Lane in the original PUD. The original plan would have provided a green buffer zone between the original housing and the new development. That was one of the assurances we were given when we purchased our property. The revised plan removes that buffer and places the new, lower value homes directly adjacent to the original homes.

There has been a long-standing issue with the water supply to Black Rock, resulting in low pressure and reduced flow. Any new development must ensure that this condition is corrected.

We object to any new development by Marsh Realty/Shaool until the original Black Rock roads are completed. The roads in the original phase have never been completed with a finish layer of asphalt. Mansour Shaool personally assured us when we purchased our lot in 1998 that the roads would be finished after the first phase was complete. That was never done. Those roads are now severely

deteriorated and getting worse. (See attached photo.) No new development should be allowed until the original commitment for existing roads is fulfilled.

The new PUD will have a major impact on mature trees in several areas. Shaoools have placed signs in the green area behind Shalom Lane warning against any disturbance to trees in the area. (See attached photo.) This restriction should be applied to any new development in the property. The proposed street behind Shalom will require removal of dozens of mature trees, causing drastic harm to the ecology of the area. All mature trees should be protected and preserved for the sake of the environment.

Please consider our complaint along with that of our homeowner's association. The drastic expansion of the residential plan will severely impact the lives and property of all Black Rock Estates residents. As long-standing residents and taxpayers, we respectfully request that the new PUD be rejected and the original one left intact.

Respectfully,

William Allen



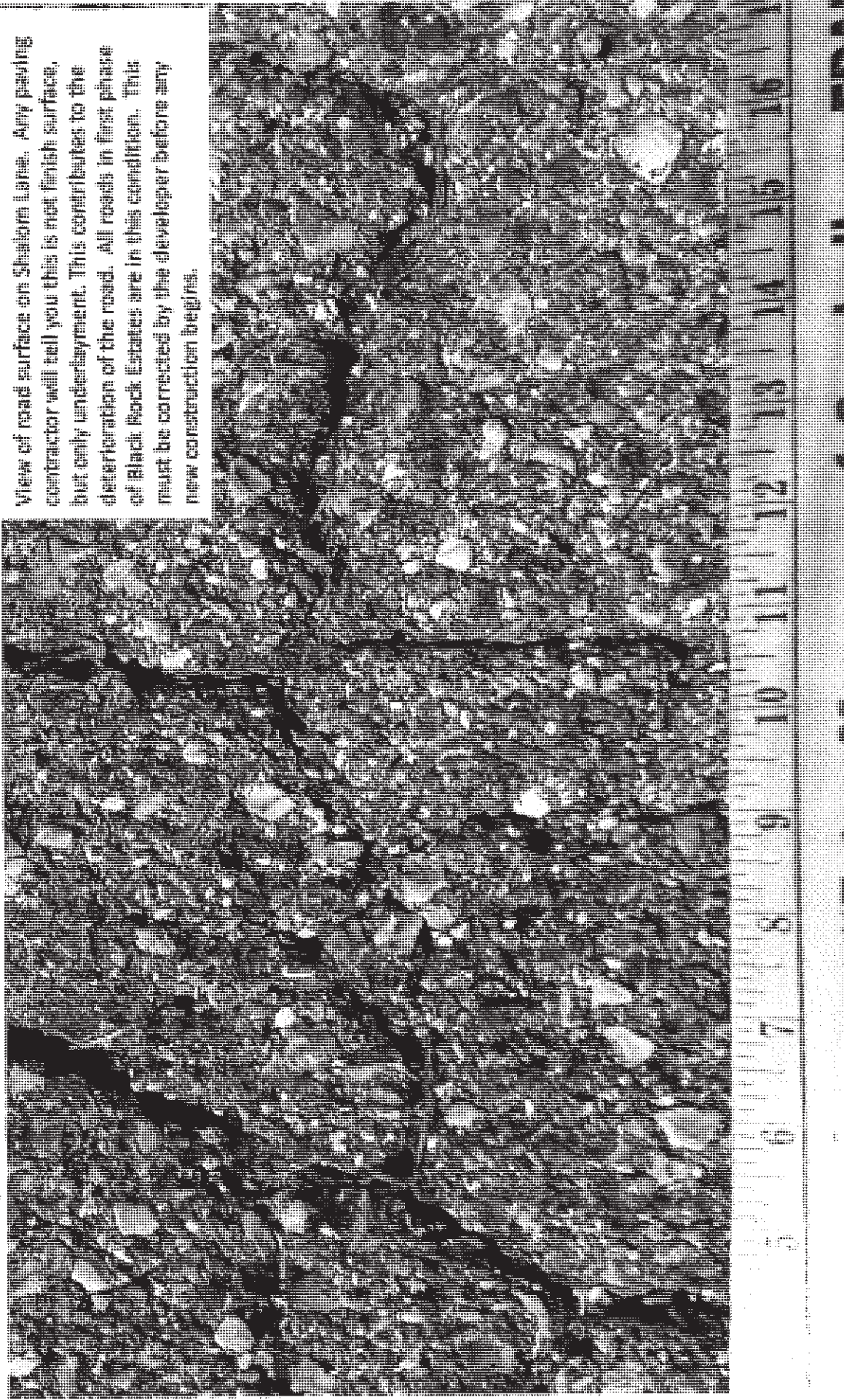
Joyce Allen



Att 1: Photo of Existing Road Surface

Att 2: Photo of Reforestation Project

View of road surface on Shalom Lane. Any paving contractor will tell you this is not finish surface, but only underlayment. This contributes to the deterioration of the road. All roads in first phase of Black Rock Estates are in this condition. This must be corrected by the developer before any new construction begins.





View of area behind Shalom Lane.
Shaoois have placed these signs
declaring area a reforestation project.
Developers should not be allowed to
disturb mature trees in this area.

Kenneth and Angelita Archer
20502 Tehrani Lane
Hagerstown, MD. 21742

Washington County Planning Commission
100 W. Washington St., Suite 2600
Hagerstown, MD 21740

RE: Black Rock Planned Unit Development – Rezoning No. RZ-21-003

Dear Sirs:

I wish to object to the proposed Planned Unit Development (PUD) Rezoning No. RZ-21-003.

I have many objections, including traffic issues, water supply issues, quality of life issues, and others. However, I would like to focus on traffic.

When residents leave the proposed PUD each day, I believe that the destination for the majority of the residents of the PUD will be in the direction of Hagerstown, which would be west of the PUD. The shortest distance between two points is a straight line, thus the shortest trip toward their destination would be west straight to the major roadway of Robinwood Drive.

However, the developer states in its proposal that there is no way to route traffic out of the PUD west to Robinwood Drive because of private property in the path.

The developer's solution is to instead route the traffic east through the PUD itself to either (1) Sasha Blvd., through the Black Rock Estates residential neighborhood, and onto Mt Aetna Rd.; or (2) east through the PUD itself using a yet to be developed internal "spine" road to the eastern-most end of the PUD and onto Mt. Aetna Rd.

Thus, instead of traffic from the PUD flowing west out of the PUD, traffic will flow in the opposite direction east and then double back west.

Is this good urban planning? I say no!!!

This solution is not acceptable for quality-of-life reasons and for environmental reasons.

Routing traffic through the existing neighborhood of Black Rock Estates using Sasha Blvd. will disrupt the lives of the residents and lower their property values. Additional traffic on Mt. Aetna Rd. will disrupt the lives and lower the property values for the people who live along it and the communities of Brightwood, Hamptons, Greenwich, and others. Mt. Aetna Rd. is a two lane, 35 mph road, used by bicyclists, joggers, walkers. There are bound to be fatalities.

This development is not eco-friendly. The amount of additional carbon generated from the additional miles traveled by vehicles each day east through the PUD and then straight back west to their destinations in Hagerstown will be enormous.

The developer estimates 8,000 vehicle trips per day. Let's say 6,000 of those are making the trip east then back west toward Hagerstown. That is an average distance of maybe 4 miles. Then, the vehicles must make the reverse trip home. So, 4 miles per trip x 6,000 trips x 2 trips per day = 48,000 miles per day. If each vehicle averages 20 miles per gallon that would be 2,400 gallons per day, or 876,000 gallons of gasoline per year. That equates to a tremendous volume of carbon dioxide released into our atmosphere. This doesn't even include the carbon released from all the service vehicles that will have to drive additional miles to get in and out of the PUD.

In conclusion, I maintain that an efficient and eco-friendly traffic management solution must be found or the PUD should not go forward. The developer's solution to have vehicles driving in circles is not acceptable. I say the PUD proposal is not smart urban or environmental planning. The development should not be built.

A handwritten signature in cursive script that reads "Kenneth & Angelita Archer". The ink is dark and the handwriting is fluid.

Kenneth and Angelita Archer

Date: 4/23/2021

RE: Rezoning Request RZ-21-003

From: Richard & Caren Babst
1886 Meridian Dr
Hagerstown, MD 21742
240-818-1100
r.babst@myactv.net

We oppose the proposed rezoning proposal RZ-21-003.

First, such multi-family units and high density is out of character with the surrounding area along Mt Aetna Road. The existing surrounding area consists of single and semi-detached family units, a golf course, community park and farmland. We believe the quiet and peaceful atmosphere of this area would be degraded if multi-family and high-density residential buildings were allowed in this area.

Second, we believe the 2-lane Mt Aetna road is not capable of adequately supporting the vehicle volume that the proposed number of units would create. According to the application for rezoning, Mt Aetna Road would be the main access to/from this development.

On the 2.1 mile portion of Mt Aetna Road between Edgewood/Robinwood Dr and Whitehall Road, there are 11 residential neighborhood entrances/exits, the golf course, Elks club, community park, and about 35 driveways to individual houses. The intersection at Fair Meadows Blvd is located on a curve near the top of a hill with limited visibility. None of the current residential neighborhoods have controlled intersections with Mt Aetna road, and there are too many of these entrances/exits to make controlled intersections practical.

If the number of units allowed by the proposed rezoning request were built, egress in and out of the existing residential neighborhoods, golf course, Elks club, community park, and many of the 35 individual driveways into the resulting heavy traffic would become extremely difficult and dangerous, especially crossing traffic to make left turns. On occasions especially during rush hour, it is already somewhat difficult to make a left turn onto Mt Aetna road from our neighborhood. We have frequently observed pedestrians crossing Mt Aetna Road at several locations. Additional vehicle traffic would add to the danger for these pedestrians.

Further, many of the people that would reside in the new community would likely use Mt Aetna Road eastbound to get to (and from) I-70 east, Rt 40 east, Smithsburg and Boonsboro via Rt 66. It is the most direct route east, but east of Whitehall Road it is very narrow and curvy and hilly with many individual driveways and two small community entrances/exits and stretches with limited visibility at or near driveways. It is not designed for heavy traffic. While planners may designate alternative routes as their preferred routes for eastbound vehicles from the proposed new community, many people in the new neighborhood will likely opt for the most direct route. Any new residential units in the new community would likely add to the traffic on Mt Aetna Rd eastbound. Doubling the number of units as proposed would likely double that additional traffic on Mt Aetna Rd eastbound.

From: r.babst@myactv.net
To: [Planning Email](#)
Subject: Comments to Rezoning Request RZ-21-003
Date: Friday, April 23, 2021 1:15:51 PM
Attachments: [Ltr to WCPC re New Development.docx](#)

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.

Comments are in the attachment

Richard & Caren Babst
1886 Meridian Dr
Hagerstown, MD 21742
240-818-1100
r.babst@myactv.net

From: [Linda](#)
To: [Planning Email](#)
Subject: Development Black Rock
Date: Tuesday, May 4, 2021 11:57:56 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.

Good morning,

I would like to express concern for the potential new development at Black Rock area. I am a home owner off of Mount Aetna Rd and enjoy the quiet and solace outside the city. This development will make home values sink for those of us who have lived here a while and will cause a traffic nightmare in addition to taking away space for walking and biking.

Please reconsider and reject this plan.

Rene and Linda Coto
11034 Parkwood Dr, Hagerstown, MD 21742

From: [Baker, Jill](#)
To: [fjgeorge96@gmail.com](#)
Cc: [Eckardt, Debra](#)
Subject: RE: 114 unit development
Date: Tuesday, May 11, 2021 : 1:14 AM

Thank you for your comments. They will be included in the official record of the case and forwarded to the Planning Commission for their review and deliberation.

-----Original Message-----

From: fjgeorge96@gmail.com
Sent: Tuesday, May 11, 2021 4:17 AM
To: Baker, Jill
Subject: 1148 unit development

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

Good Morning Mr Baker,

I am a concerned resident of the Hamptons on Mt Aetna Road. An addition of units of that magnitude will increase the volume of traffic and traffic accidents.

Please bear in mind that Mt Aetna road does not have the infrastructure to handle such traffic. Mt Aetna is a Country two-lane road which will be tremendously impacted by such an increase of approximately 8000 cars. The residents of the Hamptons will have difficulty leaving the Community to get on Mt Aetna especially with no traffic lights amid the increase.

Please reconsider the size of such a development. The initially proposed 570 units would be the best option though it might increase traffic.

Thanks for considering my input.

Sent from my iPhone

From: [Baker, Jill](#)
To: [John Day](#)
Cc: [Eckardt, Debra](#)
Subject: RE: e Development on Mt Aetna Rd
Date: Monday, May 10, 2021 10:55:15 AM

Thank you for your comments. They will be entered into the official record of the case and will be forwarded to the Planning Commission for their review and deliberation.

-----Original Message-----

From: John Day <john.f.dayiii@gmail.com>
Sent: Saturday, May 8, 2021 3:05 PM
To: Baker, Jill <JBaker@washco-md.net>
Subject: New Development on Mt Aetna Rd

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To whom it may concern,

I am adamantly opposed to the rezoning of these properties. The impact on the rural nature of this side of Washington County will be devastating. Our local schools in these districts are already full during normal years and cannot handle the additional load. Our county is a rural county and we should protect our green spaces as much as possible. Increasing the housing in this area will lead to far more traffic congestion than this area can handle to include especially the intersection of Dual Highway and Robinwood Drive.

Instead of developing these green spaces, maybe the county should look at refurbishing or replacing the already vacant structures that are in the county. Like The old Sears building that has been vacant for more than 30 years.

Sincerely,

John F Day III

Beaver Creek, MD

Sent from my iPhone

From: [Baker, Jill](#)
To: [terry.cantner](#)
Cc: [Eckardt, Debra](#)
Subject: RE: Rock Planned Unit Development Re-zoning of RZ-21-003
Date: Monday, May 10, 2021 10:54:27 AM

Thank you for your comments. They will be entered into the official records and will be forwarded to the Planning Commission for their review and deliberation.

From: terry.cantner <terry.cantner@myactv.net>
Sent: Saturday, May 8, 2021 6:14 PM
To: Baker, Jill <JBaker@washco-md.net>
Subject: Rock Planned Unit Development -Rezoning No. RZ-21-003.

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

My name is Terry Cantner, I live on Parkwood Dr Off Mt Aetna road. I am writing in opposition to the above identified development zoning change. Adding that amount of traffic(8,000 vehicles daily) to Mt Aetna Rd is a terrible idea. Access to the county park on the opposite side of the road would become almost impossible from our development. Many residents walk their dogs in the park & children cross to use ball field. Additionally water pressure has declined since I moved here, I can't imagine the effect that many people would have. Our property values for these neighborhoods would certainly drop with the rental units. The intersection at Mt Aetna & Robinwood is not adequate for the traffic & access to i-70 in the opposite direction involves an unimproved stretch of Mt Aetna to the traffic roundabout of Md-66, hardly acceptable. I haven't even mentioned schools, emergency services, open space, etc.

Please deny this rezoning request.

Sent from my T-Mobile 5G Device

From: [oe coleman](#)
To: [Planning Email](#)
Subject: Re e nce t e inc ease esidential density in t e Black Rock P D
Date: Tuesday, May 25, 2021 4:41: PM

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

Good Afternoon

I am opposed to the rezoning of Black Rock Residential Planned Unit Development.

I am a 20 year resident of Washington County, I am a home owner and I vote.

The rezoning is not compatible with the existing neighborhood and will greatly impact the existing infrastructure.

Many drivers use a short cut from Mt Aetna to Dual highway by using Fair Meadows Rd. It has become a speed way and would be even worse with this proposed rezoning. The posted limits of 25 MPH are not enforced with traffic zipping by at well over 35 MPH and young children playing in the front yards.

Mt Aetna is not much better with posted limits of 35 MPH and cars and trucks going over 50. Enforcement is lax and with this proposed huge increase of traffic, I cannot see any better outcome.

As far as the intersection between Mt Aetna road and White Hall road, only one of the four branches can handle any kind of traffic.

That part of the county is a wonderful rural setting with either large farms or houses which are on multi acre plots of land. Packing hundreds and hundreds of homes suggested by the rezoning will totally change the character of that part of the county and I am opposed to it.

Thanks for your time and consideration of my comments.

Joe Coleman

467 Thames St

Hagerstown MD 21740

From: [a y Batey](#)
To: [Planning Email](#)
Subject: Re oning ase o R 21 00
Date: Monday, April 26, 2021 12: 7:2 PM

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

We strongly object to the proposed Re zoning ase No. R 21 003. The current zoning limit of 2.7 units per acre is already too dense. To increase this density would have a negative impact on neighboring property owners.

Thank you

Garate
20809 Mt. Etna Rd
Agreston 21742

From: [carol_kundrat](mailto:carol_kundrat@blackrock.org)
To: [Planning Email](#)
Subject: Black Rock
Date: Wednesday, April 21, 2021 12:05: 2 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.

Hello. I am currently a resident of BAE next to black rock. We are totally opposed to the new rezoning request for the huge area by us. Mount Aetna simply cannot handle the traffic, which is already hellacious most days, and such a danger as people fly up and down the road. Emergency vehicles would be even longer to respond in that area, especially in our already taxed emergency response system. The water company cannot provide access to enough water to fight fires already in this area and the hydrants are mostly useless. Imagine a huge fire that isn't controlled, could easily take out a large area of homes.

The hospital itself is already pushed to the limits most days without another 40k residents. The local school system would have trouble. The residents that currently live here would likely face rezoning and be forced to either pay for private or homeschool our children, as we moved here to avoid south and north.

We all know the sewage in this area is broken, as evidenced by the large amount of crews out weekly for the sewer pumps. Can they really handle even more volume of waste water?

Please say NO

Carol Kundrat

Sent from my iPhone

From: [Mirdamadi, Deborah Ann](#)
To: [Planning Email](#)
Subject: Dan Ryan Re: oning near Black Rock Rd 21 00
Date: Wednesday, April 21, 2021 1: 7:40 AM

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Dear Planning and Zoning Commission,

I would also like to add to the concerns of the Black Rock Community since this will impact all of us off of Mount Aetna Road East, Edgewood and Robinwood Drives.

It has always been my opinion that developers should pay for the additional toll on infrastructure and such that will be used. For years, Frederick County imposed an impact fee on every new home built that of course the builder passed onto the buyer. This was recommended to Washington County 20 years ago.

In anticipation of any developments off of Mount Aetna Road East, Mount Aetna Road and the section of Edgewood Drive between Mt Aetna and Rt 40 should be upgraded to accommodate the extra traffic BEFORE there are twice as many cars using it to be blocked off to single lane while fixing it. This not only affects those already living in neighborhoods off Mount Aetna Road, those that will be moving in, access to Regional Park, access to Black Rock Golf, but also will delay traffic to Meritus, Urgent care and HCC.

Utilities need to be extended and upgraded to handle the extra load IN anticipation of the need not after the fact. (Currently we cannot even get decent Internet out here due to Antietam's monopoly and we are not in city limits.)

The impact fee would also go towards schools and other services in preparation.

After living here for 30 years, could we finally plan ahead for smooth transitions?

Sincerely concerned,

Deborah Mirdamadi

11300 Eastwood Drive

Hagerstown, MD 21742

240-313-0880

Get [Outlook](#) for iOS

From: [Baker, Jill](#)
To: [Eckardt, Debra](#)
Subject: : RZ-21-003 Black Rock PUD Map Comments
Date: Monday, May 3, 2021 :17:25 AM

Please add these to the existing comments for Black Rock. Thanks.

-----Original Message-----

From: Hart, Krista khart@washco-md.net
Sent: Monday, May 3, 2021 8:07 AM
To: Michelle Lane mleggieri.lane@gmail.com
Subject: RE: RZ-21-003 Black Rock PUD Map Comments

Thank you for contacting the Board of County Commissioners; this response will serve as confirmation that your message has been received.

Thank You,
Krista L. Hart
County Clerk
100 West Washington Street
Suite 1101
Hagerstown, MD 21740
240.313.2204
www.washco-md.net

-----Original Message-----

From: Michelle Lane mleggieri.lane@gmail.com
Sent: Friday, April 30, 2021 6:43 PM
To: &County Commissioners contactcommissioners@washco-md.net
Subject: RZ-21-003 Black Rock PUD Map Comments

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.

Good evening,

My husband and I are writing with vehement opposition to the proposed change in zoning for the two parcels off of Mt. Aetna near Black Rock. There are numerous red flags that clearly indicate that this significant increase in proposed density and unit type is unacceptable for this area.

The analysis of the school capacity, which is already very concerning, doesn't take into account the planned development that is already occurring in Smithsburg (i.e., Cloverly and Mountain Shadows). We moved from the town of Smithsburg to the Mt. Aetna area last year because we were unhappy with the growth in the town of Smithsburg, but we wanted to remain in the school district. Adding 1150 units will surely result in redistricting that will negatively impact the existing communities.

The roads in this area are absolutely not intended to support such high volume. Mt. Aetna from Whitehall to Rt. 66 is a narrow, winding farm road that already sees a lot of traffic and speeding vehicles that cut through from 70 to

Robinwood. The active farm at the corner of Mt. Aetna and Whitehall Rd. routinely herds their cattle across Mt. Aetna.

Townhouses and apartments are not the least bit in line with existing communities in this area. Comparing these parcels to the communities further down Robinwood that are surrounded by commercial properties is an apples to oranges comparison. The homes in this area are almost entirely single family homes and are on decent to fairly large sized lots. Building high density, cheap housing will significantly decrease the property values of the surrounding area and will do nothing to improve the Hagerstown area, which already struggles with poverty and drugs.

We moved to Washington County from Frederick County eight years ago because the rural area appealed to us. Yet, Washington County seems to have an interest in developing every square inch of land available to the maximum extent possible. If this continues, there will be no reason to choose Washington County over Frederick County.

As officials elected to represent for our best interests, we implore you and the planning/zoning commission to seriously consider the negative impact that this dramatic change in zoning would have on our schools, roads, utilities, emergency services, environment, and quality of life. Denying this unreasonable request is a no-brainer.

Sincerely,

Michelle and Adam Lane
Hartle Dr.
Hagerstown, MD

20341 Ayoub Lane
Hagerstown, MD 21742

Washington County Department of Planning & Community Development
100 West Washington Street
Hagerstown, MD 21740

April 25, 2021

RE: PUD revision for Shaool Property on Mt. Aetna Road

Dear Sirs:

As a resident of Black Rock Estates who could be adversely impacted by the doubling of the number of housing units proposed for the PUD on the Shaool property adjacent to Black Rock Estates, I offer the following concerns and observations.

1. The underlying zoning for this property is Residential Transition and described in the Zoning Ordinance as providing a "less dense" residential zone between urban and rural zoning designations. A PUD overlay for this property was approved in 2002. The zoning ordinance states that among other things a PUD should provide "open space and scenic attractiveness" and have "substantial amenities such as a swimming pool, community building, golf practice range, tennis courts". To comply with the intent of the underlying and overlay zoning shouldn't this proposal have?
 - a. Buffering between the PUD and the abutting agriculture zoned farm land and the low density Black Rock Estates ? Note the 23 lots proposed where the Planning Department spot approved 7 pipe stem lots in Feb. of 2019 which in-turn replaced the "Active Recreation Area (Community Center, pool, tennis courts)" in the 2002 concept plan. This action removed the buffer afforded by the "Active Recreation Area" and removed the sole substantial amenity offered by the 2002 PUD.
 - b. Amenities ? As noted above an "Active Recreation Area" is not in the submitted plan and the 4 "Tot Lots" in the 2002 PUD have also been deleted. It appears that this PUD will offer no amenities other than a field that is ½ the size of the original "Active Recreation Area" (with twice to population to be served).
 - c. Scenic Attractiveness? All of the housing in this plan is continuous with few open areas between units or housing types. The design is linear and wooded area is concentrated with minimal impact on the layout of the housing units. To me there is no effort at scenic attractiveness and the layout looks like the definition of urban sprawl.
2. It is my understanding that good planning will provide multiple access options to support emergency services to the residences. The 2002 PUD approval noted that there would be no access to Robinwood Drive via a by-pass of the Robinwood neighborhood as that road had been dropped from consideration by the County. It appears that past piece-meal development approvals have cut this property off from any access to Robinwood through

the neighboring developments to the east. It also appears that the Bovey Lane access to Kiefer Funk Road in the 2002 PUD has been eliminated as there is no access point in the submitted design. It is also noted that there are 4 single access points (choke points – one street with no alternatives) in the submitted design resulting in 536 residential units with one choke point, 350 units with 2 choke points, 332 units with 3 choke points and 249 units with 4 choke points.

3. I note that the proposal defines Sasha Blvd as a minor connector not adding both it and the other proposed access street connect to Mt. Aetna Road also a minor connector. I would point out that Sasha Blvd. as it exists in Black Rock Estates has no sidewalks and the storm water feature on the east side of the roadway is not protected by a guard rail. Further, the intersection with Mt. Aetna has no deceleration or bypass lanes to support traffic turning off of Mt. Aetna Road.
4. It is concerning to read the 2002 file and the current submittals and see the references to solving adequacy concerns at some future date after substantial development has occurred (2002 PUD envisioned 3 phases with evaluations of adequacy prior to the start of the second and third phases). The piece meal approach to development in the past has diminished the developmental potential of this property limiting access points and not resolving issues with the regional water system (like looping the Robinwood line with the lines supporting the hospital). There is no reason that the conditions for developing the entire property can not be better defined prior to any development being authorized. The approval of the 7 lots in 2019 (with no public input) seems to be a prime example of the piece meal approach to development.

It is my admittedly biased opinion that this plan does not meet the spirit of the zoning ordinances and that property will not support the proposed density of development due to road access and the inability of traffic to be funneled onto a major connector.

Sincerely

A handwritten signature in black ink, appearing to read "Andrew Hoffman". The signature is fluid and cursive, with a large initial "A" and "H".

Andrew Hoffman

Clint Wiley
Chairman
Washington County Planning Commission
100 West Washington St.
Hagerstown, MD 21740

April 30, 2021
1800 Londontowne Circle
Hagerstown, MD 21740

RE: RZ-21-003 Black Rock PUD

Dear Chairman Wiley,

Best wishes to you and your colleagues on the Washington County Planning Commission.

I am writing to oppose the major change to the PUD for two reasons.

First, the proposed change is NOT compatible with the existing neighborhood, much of which is farm land and single family residential neighborhoods.

Second, the proposed change would adversely impact community infrastructure by:

- a) Overcrowding schools
- b) Exceeding current road capacities
- c) Constraining capacity of the current public water supply and pressure

Thank you for your consideration.

Sincerely,



Mark Jameson

Copies to: Jill Baker, Robert Goetz, David Kline, Dennis Reeder, Jeff Semler, Jeremiah Weddle

From: [Baker, Jill](#)
To: [William McGovern](#)
Cc: [Eckard, Debra](#)
Subject: RE: Mount Aetna Rd Development
Date: Monday, May 10, 2021 5:26 AM

Thank you for your comments. They will be included in the official record of the case and forwarded to the Planning Commission for their review and deliberation.

-----Original Message-----

From: William McGovern <bgmcgovern@icloud.com>
Sent: Sunday, May 9, 2021 1:34 PM
To: Baker, Jill <JBaker@washco-md.net>
Subject: Mount Aetna Rd Development

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

I stand strongly in opposition to the proposed PUD off Mount Aetna Rd. The proposal doubles the density of the original approval. The roads, water and sewer infrastructure, and schools are not capable of handling this additional load. We already have water pressure problems in the area and this PUD, if approved, will only make it much worse

I support the original proposal of 595 units.

William L McGovern
20001 Boxwood Cir (Brightwood Acres East) Hagerstown, MD 21742

A Coronavirus-free message sent from my iPhone

From: [Mirdamadi, Deborah Ann](#)
To: [Planning Email](#)
Subject: R 21 00 Black Rock PUD
Date: Wednesday, April 21, 2021 2:54:46 PM

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Dear Planning Commission,

I would like to put in formal request that the developer must upgrade all infrastructure and such prior to building new homes in the undeveloped land of Black Rock and nearby off of Mount Aetna Road East.

Few years back a home caught fire in Black Rock community and when the fire company went to use the hydrant there was not water to use properly. As result the home completely burned. Fortunately all the residents escaped safely. But this could have been much worse. If utilities, road widening and rebuilding (to handle construction equipment in only one lane), access that does not go thru Sasha Lane, fund to help with load on schools and other services are required for developer to help with the burden, it will be smoother transition for everyone (including new residents of PUD) and less expense to you all.

Impact fees in place like in Frederick would help with these such issues for future.

Sincerely,

Deborah Mirdamadi
11300 Eastwood Drive
Hagerstown MD 21742
240-313-0880

Get [Outlook](#) for iOS

From: [Chris Leite](#)
To: [Planning Email](#)
Subject: R 21 00
Date: Tuesday, April 20, 2021 5:2 : PM

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

My home is a border property - 11304 Day Break Court - with this planned development. They are looking to place multiple tenant dwellings - townhomes specifically - directly behind my home. This development is going to drastically lower our water pressure and availability in the Robinwood / Mt Aetna area. It will increase traffic DRASTICALLY (this is about akin to adding 1 of the entire county population in a very small space, accessible only by two small roads, onto Mt. Aetna road? And I am incredibly concerned that this will lower the resale value of my home as an immediate result of the development being approved.

The developers have been processing the property already as if they've already been approved. There are heavy machines, tractors and trucks behind my home daily for 12 hours straight. They were illegally burning (I called emergency services to ask if they'd notified of a burn multiple times), and they are more than doubling the initially expected units with this request.

I'm not alone in my concerns. And approving this development is a bad idea for our community.

Chris Leiter

From: [Patrice Wallace](#)
To: [Planning Email](#)
Cc: [Dave Liskman](#)
Subject: Black Rock Estates P D Divide Ip
Date: Tuesday, April 27, 2021 10:50: 1 AM

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Good day,

Attached please find where a Hagerstown emergency access through street was blocked off to separate the individual homes from the private development. This street is Altantic Drive in Hagerstown, MD, evidence that this problem is not unique. Thanks.

Patrice Wallace
BRE Homeowner

From: [p.yo...ot.es](#)
To: [Planning Email](#)
Subject: Black Rock P D R 21 00
Date: Tuesday, April 2, 2021 : 1:54 PM

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

I am a farmer at 20653 Mt. Aetna Road. We have a pasture on the other side of the road. Everyday we have our cattle cross over the road to this pasture. With this many people living next door to us, we would never be able to have this pasture in use. I would like to see more single family homes built next to us not condominiums as planned. I attended the other meeting about this years ago, when condominiums were planned. I opposed it then and I oppose it now. Condominiums do not go with the landscape. Up and down Mt. Aetna Road are only single family homes. YOU need to keep it that way.

From: [Baker, Jill](#)
To: [Eckardt, Debra](#)
Subject: : Rezoning off Mt Aetna Reference RZ-21-003
Date: Monday, May 3, 2021 1:12 PM

Another Black Rock comment. Thanks.

From: Laura Elmohandes <eastbvgirl@gmail.com>
Sent: Monday, May 3, 2021 10:34 AM
To: Baker, Jill <JBaker@washco-md.net>
Subject: Fwd: Rezoning off Mt Aetna Reference RZ-21-003

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May 2, 2021

To: Planning and Zoning Department of Washington County

Dear Ms Baker et al;

We are writing concerning the Dan Ryan development currently zoned for 595 units. They are vying to increase the approved amount of units to nearly double that. As a neighbor to that development we would like to present why it is ill-advised.

We live in the back of Brightwood Acres East, a long-established neighborhood with a green-space behind. Not only is it currently undeveloped but it is the home to deer, wild turkeys, rabbits, and many birds. The underbrush & many trees there are a safe haven for these creatures that frequently amble into our yard. The birds, whose population has already decreased to a 1/3 of what it was in our country due to development just like this— they have no habitat in which to flourish.

Furthermore, while we have had 20 years of sitting on our deck to enjoy the flora & fauna, the construction & then occupation of such a huge development will forever alter our peace & privacy. There will be noise of many occupants and light pollution from the many lights in their parking areas.

While we understand the need for growth and development, we plead with you to keep the zoning as is to protect the natural state of our county to a degree. Even larger cities allow for natural spaces. Having this “wild area” behind us is one reason we settled in this house & this city. Please consider our plea & tell Dan Ryan they need to preserve the land so the natural denizens can also have their space.

Thank you for your time. We write this in good faith in your judgement.

Sincerely;

Ali & Laura El-Mohandes

<https://science.sciencemag.org/content/366/6461/120>

<https://www.cbsnews.com/news/nature-up-close-the-massive-decline-of-bird-populations/>

From: [Reede 61](#)
To: [Planning Email](#)
Subject: P oposed Development o Mt Aetna
Date: ednesday, Ap il 2 , 2021 :24:00 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.

This email is to notify you of our concerns AGAINST the proposed development off Mt Aetna Rd beyond Black Rock Estates. This proposed development of 1,148 units would greatly impact the amount of traffic by nearly 8,000 additional cars. The intersection at Mt Aetna and Robinwood can be atrocious in the morning with the current amount of housing units we already have off this road. Traffic backs up from the light at Robinwood medical center for the people going to work and the people attending Hagerstown community college. Many many accidents happen daily because of the congestion at that intersection.

Another major factor is that this stretch of road consists of hills and blind spots for someone to pull in or out of the proposed development onto Mt Aetna.

Many people in surrounding areas of this proposed development already have very low water pressure issues. One family living In Black Rock Estates has already had to purchased a tank for in the basement to help with the low water pressure issues.

All of the Legitimate concerns listed above should be enough for the zoning board to say "NO" to the proposed development of 1,148 units.

Sandy and Ted Reeder
502 Fair Meadows Blvd
Hag Md 21740

From: [Scott Olson](#)
To: [Eckard, Debra](#)
Subject: Re: Black Rock Estates P.D.
Date: Tuesday, April 27, 2021 10:16:01 AM
Attachment: [image001.png](#)

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Once other build is that most likely the addition of the proposed homes would necessitate redistricting as Greenbrier Elementary and Boonsboro MS/HS could not handle the additional students.

The families living in Brightwood Acres may be forced to switch schools which would not be desirable.

[Sent from Yahoo Mail for iPhone](#)

On Tuesday, April 27, 2021, 10:11 AM, Scott Olson <sltkolson@yahoo.com> wrote:

Thank you

[Sent from Yahoo Mail for iPhone](#)

On Tuesday, April 27, 2021, 10:08 AM, Debra S. Eckard <dekar@ashco.net> wrote:

Thank you for your prompt response. I will make sure that our comments are made a part of the record.



Debra S. Eckard
Administrative Assistant
Washington County Department of Planning and Zoning
100 W. Washington Street Suite 2600
agerstown 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**

From: Scott Ison sltkolson@yahoo.com
Sent: Tuesday, April 27, 2021 10:05
To: ckar@e-ra.com S. eckar@ashco.com .net
Subject: Re: Lack Rock states U

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do not wish to speak. As stated that as against the Lack Rock states ration extension.

The increase traffic on the etna and Ro in too would be horrific as Ro in too is already tremendously especially during rush hours.

With the recent hospital extension our area cannot handle the additional demands that a community of the rose side could handle.

Make sure the additional water and fire services needed would be taken care of the additional demands.

Best Regards

Scott Ison
11203 Arkwood

[Sent from yahoo mail or iPhone](#)

on Tuesday, April 27, 2021 9:57 AM, ckar@e-ra.com wrote

We have received your request to participate in the re-opening public information meeting for Lack Rock states Union on April 30, 2021. We will be sending you room meeting details the afternoon of April 30th. To clarify the meeting participation form you filled out is our request to speak during the public meeting. You do **not** wish to speak during the public meeting **PLEASE** let us know by 9:00 a.m. on April 30th. This meeting will be streamed on the county commissioner's YouTube channel.

<https://www.outside.com/channel/UT-850W-voice> 6
n_g and a link will be posted prior to the start of the
meeting on the commissioner's Facebook as well
<https://www.facebook.com/WashingtonCounty>.
Social media comments are not monitored during the
meeting nor are the formal record comments. The
record will remain open after the meeting if you wish to
make formal comments via mail or email.

Due to the number of people that have signed up to
articulate speak during the meeting we are asking
that each person **PLEASE** limit our comments to
no more than 3 minutes. Previous written
comments sent by letter or email are provided to
planning commission members prior to the meeting
are already included in the record for this meeting. The
record will remain open and written comments will
continue to be accepted via mail to Washington
County c/o Planning Commission 100 W.
Washington Street Suite 2600agerston
21740 or via email to ask.lanning@ashco.mn.net
following the public meeting.



Debra S. Clark
Administrative Assistant
Washington County c/o Planning Commission
100 W. Washington Street Suite 2600
agerston 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****

From: [William T. Yke](#)
To: [Planning Email](#)
Subject: Re: oning ase o R 21 00
Date: Friday, April 2, 2021 4:01:14 PM

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

Mrs. Baker,

I writing in regards to the case above, as a resident living directly across from this proposed development. I am sure you will have dozens of neighbors complaining that their property values will significantly drop with a development this large going in nearby, so I won't even bother with that comment. My 3 main concerns over this development are as follows:

1. Safety/Traffic - 1148 units is more than the entire number of homes on or off of Mount Aetna Road. That is more homes than the developments of Black Rock, Brightwood East, Greenwich Park, and The Hamptons COMBINED. With the average home having 2 cars, that will mean close to 2500 ADDITIONAL cars on Mount Aetna Road every day. When you consider most of these residents will likely be working east of Hagerstown, in Baltimore, Washington or Frederick, that means half of that traffic will be going east on Mount Aetna Road towards Rt. 66 to catch Interstate 70 east. The section of Mount Aetna Road between Whitehall Road and Rt. 66 is very narrow, has no shoulder and contains one "S" turn and two blind hills. Is the county ready for the lawsuits that will follow due to that road not being widened?
2. Over a decade ago, a large development was proposed on this parcel and it was determined that the water pressure was already too low in Black Rock Estates to provide fire fighters the ability to safely address fires in that area. No upgrades to the water lines have been done, so there is still not adequate pressure to handle another 1148 units.
3. At my home at 20533 Mount Aetna Road, we have a blind hill just west of our driveway. At least once a week, we have a close call with a car speeding over that hill. If 2500 additional cars are added to that road per day, it's only a matter of time before we are hit pulling out of the driveway. If the county is not prepared to cut the road down, to eliminate this blind hill, they would be liable if an accident occurs.

Thank you for your time.

Bill Stryker
ultrastryk@yahoo.com

11009 Arkwood Drive
Agerston 21742

May 11, 2021

Ms. Bill Baker, Director
Washington County Planning Commission
100 W Washington Street, Suite 2600
Agerston 21740

Re: Rezoning R-21-003

Dear Ms. Baker:

Thank you for the opportunity for Agerston homeowners to speak out against an R-21-003 rezoning request to double the density of their planned Unit Development from 505 residences to 1,148. Those of us who care about how Washington County handles its growth are counting on you and the planning commission to make decisions based on what is best for **current and future** residents.

- The most visually obvious concern is that Mt. Retna Road, Sasha Lane, and even Rockwood Drive are not able to accommodate the tremendous increase in traffic that will take place with this development.
- With the volume and type of housing RG is planning, will undoubtedly increase local crime rate in a county that already struggles with drug use and crime.
- The already stretched county school system will be challenged in a manner that will further decrease the caliber of education students receive, making Washington County a less desirable place for families to reside.
- The water and sewer services which are currently overtaxed by the growth that has happened in this area will not be able to keep up with the additional demand of 1,000 more residents.

An R-21-003 says they are trying to make housing affordable. The problem with this is that as many homes that the county can sell in a given area that are difficult and expensive for the homeowners to maintain.

It would be irresponsible for the Washington County Planning Commission and the county commissioners to allow RG to move forward with this development. Growth is inevitable, but how it is managed needs to be thought out with care and deliberation, thinking of the future of the people who call Washington County their home.

Sincerely,

Laine Sikes



From: [Baker, Jill](#)
To: [Scott Powell](#)
Cc: [Eckard, Debra S.](#)
Subject: RE: Dan Ryan building by Black Rock and Brightwood
Date: Thursday, June 10, 2021 9:36:01 AM
Attachments: [image001.png](#)
[image003.png](#)

Thank you for your comments. They will be included in the official record of the case and forwarded to the Planning commission for their review and deliberation.

From: Scott Powell <scott.powell.vablyu@statefarm.com>
Sent: Thursday, June 10, 2021 8:56 AM
To: Baker, Jill <JBaker@washco-md.net>
Subject: Dan Ryan building by Black Rock and Brightwood

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Good morning

I would like to express my concern of the proposed development by Dan Ryan as I am a resident of Black Rock Estates and will unfortunately be out of town during the hearing. The current area will have a an extreme issue with over population and traffic, our roads can't handle it and it is hard enough to travel dual highway, Robinwood, etc. We currently have utility issues with water pressure, it would drastically get worse with the proposed development. I do not have children but many people move to these neighborhoods because they are Boonsboro school district and makes our neighborhoods that much more desirable. Having an influx of children based on the proposed plans would create a definite redistricting and could potentially remove us from those school districts thus lowering the desirability of our homes. Lastly, many people move to the area on Mt. Aetna in a neighborhood like Black Rock and Brightwood because we do not want to be in an area with apartments and townhouses, we move to that area for the peace and quiet of a smaller less traveled and dense population. Many of the current residence whom are quite happy with where they live currently will move if this expansion happens I feel, I am probably one of them and I have only been a resident of Black Rock for 2 years.

Thank you for the consideration

Para su conveniencia, ofrecemos los servicios de una traductora de español, pero con una cita, típicamente después de las 4 de la tarde.

*Did I meet your expectations? **Please leave us a review on** [google](#)*



Scott Powell
Agent



Bus: 240-420-2886
816 Virginia Avenue
Hagerstown, MD 21740-6256

[Get a Quote](#) [Visit Agent's Page](#) [My Account](#) [Maps & Directions](#)



Scott Powell, Agent

The greatest compliment you can give is a referral.

From: [Baker, Jill](#)
To: [Randy Rachor](#)
Cc: [Rachel Stoops](#); [Eckard, Debra S.](#)
Subject: RE: Proposed housing
Date: Thursday, June 3, 2021 1:06:40 PM

Thank you for your comments. They will be added to the official record of the case and forwarded to the Planning Commission for review and deliberation.

From: Randy Rachor <rrachor@albrightcpa.com>
Sent: Thursday, June 3, 2021 12:55 PM
To: Baker, Jill <JBaker@washco-md.net>
Cc: Rachel Stoops <r.stoops@oe-md.com>
Subject: FW: Proposed housing

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Having recently purchased a home at 11116 Parkwood Drive, I concur with Rachel and strongly urge Washington County consider the effects of this very large development, especially with the apartments and townhouses. Many adverse effects include increased traffic, congestion, school requirements, sewer infrastructure, and the potential increase in crime as a result of rental units and the impact that will have on our police force (unfortunately this is a reality). As you proceed with Washington County's planned growth, please consider these results, and the consequence if many homeowners decide to move outside of Washington County to avoid such congestion and issues. I personally would much rather see single family homes than apartments and townhouses. Black Rock and Brightwood has always been a wonderful area and it will be a shame to see it change for the worst.

Respectfully,

Randy

Randy A. Rachor, CPA, CFP®
Partner
Albright Crumbacker Moul & Itell, LLC
1110 Professional Court, Suite 300
Hagerstown, MD 21740
301.739.5300 x1122
301.739.5332 office fax
240-500-3863 Randy's fax
rrachor@albrightcpa.com

From: Rachel Stoops <r.stoops@oe-md.com>
Date: June 3, 2021 at 11:35:58 AM EDT
To: jbaker@washco-md.net
Subject: Proposed housing

Good morning, I live at 20315 Parkwood Court in Hagerstown. I am extremely concerned and would like to protest the proposal for the Dan Ryan community that would be located behind Black Rock. There are multiple reasons why this community is not happy about that proposal; our grinder pumps have been systematically damaged already just from the current neighborhood and have been steadily replaced just this year. The best thing about this community is the peacefulness and that proposed community would unfortunately obliterate that. The added traffic alone especially with one of the main roads through Black Rock would add an extreme amount of congestion. In addition, the type of proposal with much less single-family homes and more apartments and townhouses is just not some thing that anyone is looking to have in their backyard when they have been used to farmland. Two houses were immediately listed for sale in Black Rock and I am concerned that it will severely diminish the value of our homes.

Thank you for your time and consideration, Rachel Stoops

Rachel Stoops
Managing Partner
Office Environments
P. 240.520.6101
O. 240.520.9030
F. 301.797.1877

From: [Christopher Joyal](#)
To: [Baker, Jill](#); [Eckard, Debra S.](#)
Subject: RZ-21-003 Dan Ryan Group
Date: Thursday, June 3, 2021 11:40:34 AM

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Ms. Baker,

I am concerned with the level of rapid development in rural areas of Washington County, specifically the current project to add a number of high-end homes to Black Rock estates. The approval for 595 residences is concerning enough - the addition of another ~450 homes will add too many residences and too much traffic to what amounts to two-lane cow paths. Mt. Aetna Road and White Hall Road will bear the brunt of this traffic, and those roads are largely narrow, two-lane roads with no shoulders.

I wish the county would take the approach it has with other rural areas - limiting lot sizes to a few acres for high end homes - and focusing on entry level housing.

With the types of jobs coming to the area - largely warehouse and logistics management - there is a supply shortage of affordable, reasonable, entry level homes. As boomers retire and move away, the current McMansions will end up unoccupied. As their value falls, so too will entry level housing, undercutting the largest investment an already challenged Millennial and GenX population will make.

This is a "go for the quick bucks" move, and it's short-sighted. Large houses should be on large tracts, and more affordable rentals and initial purchases should be available for those first buyers. The county should shore up Hagerstown's downtown area or risk it becoming yet another bedroom community outside of Washington.

When Frederick undertook its downtown rejuvenation, the surrounding area benefited immensely. It put the downtown first. Failing to bring quality of life to the county ahead of houses will only ensure that it is outcompeted.

I bring to this the experience of someone who bought high in 2008. I moved into my renovated home just as Lehman Brothers crashed. My single family home was worth \$205K, and the Black Rock homes were in the \$400K range. The house I bought should have been there. Instead, I ended up underneath my mortgage in my new home with my old home's value gutted to \$140K. We just sold it for less than the peak and paid an enormous amount of property tax, barely breaking even on renting it for 10+ years.

This county needs to learn from the last real estate bubble and crash. It needs to build responsibly and smartly. It needs to build infrastructure and businesses up before it brings in more people. And it needs to require larger parcels per home to keep population density in check. When it approves new tracts like this, it undercuts the long-term efforts to put housing in Hagerstown.

For this reason, this rural resident is urging you to hold off on Phase II of the effort to expand Black Rock estates.

Sincerely,
Christopher Joyal
22201 Ponds ville Road
Smithsburg, MD

--

"You cannot escape the responsibility of tomorrow by evading it today," Abraham Lincoln

From: [Dean-Pam Scott](#)
To: [Baker, Jill](#)
Cc: [Eckard, Debra S.](#); dpscott1972@aol.com
Subject: RZ-21-003 Re: Dan Ryan Group's plan to construct 1148 residences behind Black Rock Estates.
Date: Tuesday, June 1, 2021 8:35:56 PM

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Re: Dan Ryan Group's plan to construct 1148 residences behind Black Rock Estates.

Dear Ms. Baker

I want to express my concerns about the Dan Ryan Group's (DRG) proposal to nearly double the amount of residences from their earlier plans.

I am retired and have lived in Brightwood Acres East for nearly four years. I previously lived through a multi-year drought before moving to Maryland.

Adequate water and sewer supply and their infrastructures are paramount in consideration. Do not approve building over 500 more housing units than were planned for on the hope of no dry years or that promised infrastructure will be realized. Water pressure was inadequate when fighting an apartment fire in Robinwood.

The BRP will be marketed as being close to I-70 for commuters. Mt. Aetna Road between Black Rock Estates and the traffic circle on SR-66 is narrow and has many curves. There is no room for pedestrians or safe bicycle travel now and Mt. Aetna should be widened for safety.

A third point of concern is the traffic flow and egress out of the proposed development. How wide are the roads in the development? (I almost bought a

home in a new development in Boonsboro, until we drove through the neighborhood: the road was tight when cars parked on the street. See E Wing Way.) If I lived on Sasha Blvd I would feel that the county lowered the value of my property by the amount of traffic. I would like to see access to an additional road besides Mt. Aetna Road.

I could not tell from the plan, but I did not see any or many residences that have accessible first floor master bedrooms and baths. Walking and biking trails would make this a more livable, likable space.

Water availability should not be compromised.

Thanks for your time.

Sincerely,

Pamela Scott

11110 Mahogany Drive

Hagerstown, MD 21742

240-818-4155

10912 Sassan Lane
Hagerstown, MD 21742
June 3, 2021

Jill Baker, Director
Washington County Department of Planning & Community Development
100 West Washington Street
Hagerstown, MD 21740

RE: Proposed PUD Revision Adjacent to Black Rock Estates

Dear Ms. Baker:

The density increase in the current PUD Concept Plan proposal is expected to generate an additional 8,109 vehicle trips per day. The current PUD Concept Plan proposal shows the only entrance and egress from the proposed PUD site as Mt. Aetna directly or via Sasha Boulevard connecting to Mt. Aetna. The entrance directly off of Mt. Aetna is located on the far east end of the proposed PUD site. The majority of the units in the current PUD Concept Plan are on the western side of the property, significantly closer to Sasha Boulevard. It is anticipated that Sasha Boulevard will be used as the main thoroughfare. Doubling the vehicle trips and placing the load on Sasha Boulevard through Black Rock Estates is unacceptable. Sasha Boulevard is a narrow two-lane road with heavy pedestrian traffic, has no sidewalks and the storm water feature on the east side of the roadway is not protected by a guard rail, suggesting that it was never intended for heavy vehicle traffic. An additional connection to another major roadway needs to be provided.

Documented review of the PUD Revision by the Department of Planning on traffic

Engineering:

A second connection to another major roadway should be provided.

Response from Morris & Ritchie Associates, Inc:

Anticipating this concern, the submitted Revised Master Plan does include two (2) Black Rock PUD April 16, 2021 Page 2 of 5 distinct points of access; 1) existing Mt. Aetna Rd, and 2) existing Sasha Boulevard. The proposed primary entrance is proposed to be a direct connection to Mt. Aetna Road and is designed to carry the bulk the community traffic via the spine road running throughout the property and a proposed boulevard-style section and roundabouts to maintain consistent traffic flows. ***The second access will be via the extension of existing Sasha Boulevard.*** Although Sasha Blvd has an existing 60' right-of-way and is designed to handle a more significant volume of traffic than it currently does, we have presently designed this as a secondary-type access with an indirect connection into the PUD to minimize impacts to existing Black Rock Estates community. Finally, various access points for potential future development to the undeveloped properties north and east of the site will be provided during the Preliminary engineering process for future connections.

Engineering :

Given the entrance design and the trip generation (8109 ADT) the road near the entrance will resemble a "Major Collector" which would carry a 300-foot access separation requirement under the highway plan. However, the concept includes single family dwellings with direct access through this section. *Consideration should be given to limiting access along the main throughfare and/or provide traffic calming to increase safety for vehicles and pedestrians.*

Response from Morris & Ritchie Associates, Inc:

The boulevard entrance off Mt. Aetna Road will have no homes fronting directly on to it. The main community spine road will include traffic calming, such as mini-roundabouts and stop signs to slow traffic down as it travels from the western portion of the PUD to the main access. Finally, we believe that having direct driveway access onto the spine road, which is strictly internal to the community, will also help slow traffic down and make it comfortable for all modes of traffic. We will provide road sections during our Planning Commission presentation to illustrate the nature of these roads.

It is clear from the responses by Morris & Ritchie that there is no regard for the impact to Sasha Boulevard, nor any thought given to creating an access off of Robinwood Drive, which is closer to the portion of the proposed PUD that will have the most units. They go at length to explain how the intricate network of roundabouts and stop signs will be calming and slow traffic down. Homes will not be facing the boulevard entrance, lessening the visual impact.

Without conscious, Sasha Boulevard will be left to bear the brunt continuous traffic, noise and safety concerns.

Clearly, the Proposed PUD Revision is a non-starter and should be sent back to the drawing board.

Sincerely,

Edward Strawther

P.O. Box 672
Funkstown, MD 21734

RECEIVED

JUN 08 2021

Washington County
Dept. of Planning & Zoning

Jill Baker, Director
Washington County Department of Planning & Community Development
100 West Washington Street
Hagerstown, MD 21740

June 4, 2021

RE: PUD Revision for Shaool Property on Mt. Aetna Road

Dear Ms. Baker:

I would like to offer the following observations concerning the proposed increase in the number of units permitted to the Black Rock PUD. These are in support of a request that all issues now identified concerning the adequacy of facilities be addressed at this time and not at a later date. There is a record of the ball being dropped in enforcing County requirements with the following examples:

1. The previous 2004 approval of the PUD specified a Community Center and a maximum of 595 residential units. The approval of the 7 lots in 2019 eliminated the community center shown in the original plan and effectively added seven residential units to the 595 approved by the County Commissioners in 2003. This was completed as a "minor" change in the PUD without public input or informing the neighbors affected (within 1000' feet).

Given there was not a replacement of the Community Center or a 7 unit reduction elsewhere in the PUD identified in that same action, it appears that the County changed the conditions of the PUD beyond its own authorizations and put the PUD in violation of the statute.

2. The original approval of the Black Rock Estates subdivision sections A & B required that a stormwater pond be constructed to County specifications and deeded to the County. As early as Feb. 7, 1995, County Engineer Terry McGee documented deficiencies in the stormwater pond and directed the developer to make corrections. Following this there are a string of annual letters from the County (Mark Stransky and others) requesting that deficiencies in the pond be corrected (repair sink holes, remove trees growing in the embankments, remove the dewatering devise).

In 2004 the developer conveyed title to the pond to the HOA which, at that time was under his sole control. Following the conveyance, control of the HOA was passed from the developer to an elected Board of homeowners, but there was no mention of the pond's deficiencies in that transaction. It appears that in 2005 the County was advised that the

developer no longer owned the pond and at the same time the HOA learned that it was now responsible for the corrections needed to make the pond acceptable to the County.

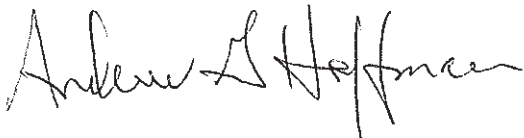
Over the next 3 years the HOA corrected the deficiencies (removed 300 trees, excavated the sink holes, removed the dewatering device and had the work certified by engineers) with the expense born by the homeowners. The homeowners in Black Rock Estates don't want another situation created where development is allowed to proceed – as it was in this case – without the County forcing the developer to correct the issues at hand. The County has control of these issues and it is inappropriate for the expense and effort to fall to residents of a development because the requirements were not properly enforced.

We see several references in the application that things “will be addressed as needed” but these issues need to be identified before development begins and requirements put in place as conditions of the development proceeding to avoid the effort and cost falling to parties other than the developer. There should be appropriate performance bonds posted at the outset of development to ensure compliance.

3. The original approval of the Black Rock Estates subdivision section C required that a public walkway and screening be constructed along Mt. Aetna Road. The walkway would be documented by an easement to be conveyed to the HOA. That easement was never conveyed to the HOA and instead was mistakenly deeded to the individual lot owners whose properties were crossed by the walkway. While the walkway is still physically present, the easement has effectively been nullified by being titled to the owners on the individual properties. The County did nothing to preserve the amenity that it had mandated.

Given the HOA's experiences with the developer and the County, we would ask that County's requirements for the PUD be documented and enforced prior to development being allowed to proceed.

Sincerely
Black Rock Estates Homeowners Association

A handwritten signature in black ink, appearing to read "Andrew Hoffman". The signature is fluid and cursive, with the first name "Andrew" and last name "Hoffman" clearly distinguishable.

Andrew Hoffman
Secretary

From: [Kim](#)
To: [Baker, Jill](#)
Cc: [Eckard, Debra S.](#)
Subject: Re: Dan Ryan project
Date: Saturday, June 12, 2021 10:51:48 AM

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Please confirm receipt of my letter of concern. Thanks!!

Sent from my iPhone

> On Jun 8, 2021, at 10:18 AM, Kim <kim.reecher@gmail.com> wrote:

>

>

>>

>> Good morning. I am writing to state my feelings about the 1,100 plus residential homes being proposed off Mt Aetna road.

>>

>> I have lived in BAE for over 25 years. I love it here. The volume of traffic that will increase is very upsetting not to mention all the other "issues" that are even more upsetting. We have sewer pumps due to sewer issues, we have okay water pressure (not the best). We have relatively low crime in our neighborhood/area for now but I am sure that will change if this many homes/apartments are approved. Please go back to the original approved proposal in the early 2000's with less than half households now being proposed. What about our schools? How are they going to be impacted????

>>

>> Please, please don't approve this expansion.

>>

>> Kim Cushwa

>>

>> Sent from my iPhone

From: dlsally@aol.com
To: [Planning Email](#)
Subject: Comments Against RZ-21-003
Date: Friday, June 11, 2021 9:18:29 PM

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Esteemed Planning Commission,

While growth in Washington County is both desirable and beneficial, I believe the request by the Dan Ryan Group to increase its proposed development of the land adjacent to Brightwood Acres East and Black Rock a disaster waiting to happen. My home's back yard is less than one-hundred feet from Mount Aetna Road. On any given day, but especially weekends, cars and motorcycles race past our house on Mt. Aetna Road. I know what 35 MPH sounds like; there are plenty of law-abiding drivers. But, these "speeders" fly past at speeds of 50 to 60 MPH.

The Washington County Sherriffs department occasionally posts a patrol vehicle near the entrance to Black Rock Golf course. And, I'm sure those deputies do their best to uphold the traffic laws. But, let's be realistic building 1,148 new residences is going to increase the number of "speeder" exponentially. Additionally, Sasha Boulevard is a straight 1/4 mile drive from Mt. Aetna Road to the proposed entrance to the DRG planned development. Sasha Boulevard is a residential road with a 25 MPH posted speed limit. Can you imagine what over 1,000 cars traveling on that road will be like?

Really, we're talking about quality of life. How will this planned development impact the lives of the families that live near and/or along Sasha Boulevard and Mt. Aetna Road?

Regards,
Dan Scally

From: [Baker, Jill](#)
To: [Joan Bowers](#)
Cc: [Eckard, Debra S.](#)
Subject: RE: Dan Ryan development
Date: Thursday, June 10, 2021 8:43:31 AM

Thank you for your comments. They will be included in the official record of the case and forwarded to the Planning Commission for their review and deliberation.

-----Original Message-----

From: Joan Bowers <jfb1132@aol.com>
Sent: Wednesday, June 9, 2021 4:09 PM
To: Baker, Jill <JBaker@washco-md.net>
Subject: Dan Ryan development

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Jill,

Please be advised that I am totally against the Dan Ryan development proposed off of My Aetna road. The development would impact our water pressure, school systems, traffic, electrical grids, I would like to request a copy of the study that proves to all residents that what is in place can support the new homes to be built. I am sure this should not be a problem to provide.

Best Regards,
Joan F Bowers

Sent from my iPhone

From: COLLEEN TOOTHMAN
To: Planning Email
Subject: Rezoning Case No RZ-21-003
Date: Thursday, June 10, 2021 3:22:46 PM

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Dear Members of the Washington Co. Planning Commission,

My name is Colleen Toothman. My husband Ron and I have lived on Kieffer Funk Rd in Chewsville for almost 33 years. Kieffer Funk Rd parallels Mt Aetna Rd 1 mile to the north and is perpendicular to Whitehall Rd. These roads of

which I just named were designed many years ago for rural farmland traffic. They are narrow, at some places too narrow for two cars to pass comfortably. They have sharp curves and hills where often you can't see oncoming traffic.

And they are not well maintained. The design could be compared to a rollercoaster. During the time we've lived here we've seen an increased use of these roads of people using them as shortcuts from Jefferson(RT. 64), from RT

40 and also from RT 70.

This week I approached the intersection of Whitehall and Mt Aetna and counted 11 cars at the 4 way stop. What this PUD is proposing is 1100 units, with a potential of a minimum of 2 vehicles per unit. That would potentially add 2200

vehicles to a road system that is barely adequate to handle the existing needs. Can you in good conscience even begin to think this proposed PUD is a viable option considering just the topic of traffic? It would be beyond dangerous

and unconscionable.

I am aware of the water pressure issue in the Black Rock development. Ron and I were told by Manny and Sasoon Shaool at least 20 years ago that their plan was to add a water tower at the crest of the hill in the development to

help with the water problem. I have not seen that included in the proposed plan but I am sure that would be their solution.

I know the current residents have many more concerns that are of great importance to them and I agree with them on every issue. Please take these concerns to heart when you make your decision concerning this project.

Sincerely,

Colleen Toothman

From: [Emeka Obidi](#)
To: [Baker, Jill](#)
Cc: [Eckard, Debra S.](#)
Subject: Protesting the plan to approve Dan Ryan to build 1,100 units behind Black Rock.
Date: Monday, June 14, 2021 8:15:34 AM

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Dear Jill Baker,

I am a resident of the Brightwood Acres East development and I am sending this email to protest the approval of Dan Ryan's request to build 1,100 units behind the Black Rock development. Approving this request will only serve to overburden our school system, increase traffic greatly to the area and potentially increase crime as well. Mr. Ryan's request to build 1,100 units of housing in our neighborhood should be denied.

Sincerely,
Chukwuemeka Obidi
11001 Palmwood Cir, Hagerstown, MD 21742

-----CONFIDENTIALITY NOTICE-----

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From: [Maria Durelli](#)
To: [Planning Email](#)
Subject: Planning Commission Public Information Meeting - June 14, 2021 Description RZ-21-003 - Morris & Ritchey Associates - Black Rock PUD Major Change Request
Date: Wednesday, June 9, 2021 9:00:28 AM

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I would appreciate just a moment of your time to express my extreme concern about the proposed inflated development of under PUD RZ-21-003 in the Black Rock Mount Aetna Area.

Years ago, when most residents purchased in Black Rock Estates, they were led to believe by WashCo Development that the future development of this area would be made up of approximately 500 homes including community centers and other community amenities. It was our understanding that it would be an extension of Black Rock Estates constructed in the same fashion as the current community with housing being comparable to the current homes. Now, the plan has been inflated to almost 4 times that number. This not only impacts utilities in the Black Rock Estates area (water is already a serious problem) but it will impact noise pollution, air pollution, emergency services, traffic congestion on Mt. Aetna and within Black Rock Estates, and the direct over population of our school districts. Not to mention the fact that the Black Rock area will be directly impacted by the types of homes that are planned for this development which are no longer intended to be similar to the current Black Rock homes..this has the potential of reducing property values in the area by connecting the proposed development directly to Black Rock Estates. To think that the Commission can even go ahead with this is unconscionable!

Respectfully, Maria and Andrew Durelli
20514 Tehrani Ln., Hagerstown, MD

Sent from my iPad

From: [Kim](#)
To: [Baker, Jill](#)
Cc: [Eckard, Debra S.](#)
Subject: Dan Ryan project
Date: Tuesday, June 8, 2021 10:18:44 AM

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>

> Good morning. I am writing to state my feelings about the 1,100 plus residential homes being proposed off Mt Aetna road.

>

> I have lived in BAE for over 25 years. I love it here. The volume of traffic that will increase is very upsetting not to mention all the other "issues" that are even more upsetting. We have sewer pumps due to sewer issues, we have okay water pressure (not the best). We have relatively low crime in our neighborhood/area for now but I am sure that will change if this many homes/apartments are approved. Please go back to the original approved proposal in the early 2000's with less than half households now being proposed. What about our schools? How are they going to be impacted????

>

> Please, please don't approve this expansion.

>

> Kim Cushwa

>

> Sent from my iPhone

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

RECEIVED

JUN 08 2021

June 3, 2021

Washington County
Dept. of Planning & Zoning

Re: Proposed PUD Development Adjacent to Black Rock Estates

Ladies & Gentlemen:

I am a resident of Black Rock Estates and am firmly opposed to the proposed PUD Development adjacent to Black Rock Estates. In addition to the concerns expressed in the March 15, 2021 letter to you of the Black Rock Homeowners Association, I submit the following;

1. The proposed PUD would completely overwhelm the sewage treatment facilities in the area. I believe the sewage lift facility located near my property is already near capacity. I do not know how many additional facilities would be required to handle the magnitude of the proposed PUD, or how they would be constructed, or if they would require a complete overhaul of the existing system, but in any event it would be extremely expensive and could impact the whole Mt. Aetna area.

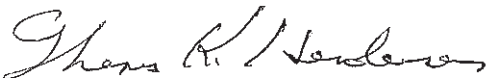
2. Black Rock Estates already has a water supply and water pressure problem. I believe the magnitude of the proposed PUD would cause significant additional supply and pressure problems that would require significant additional facilities.

3. Mt. Aetna road is the only road into and out of the area. To handle the increased traffic from the proposed PUD would require up grades to Mt. Aetna road and the intersection with Robinwood Drive, or perhaps even an additional new road.

4. I believe the magnitude of the proposed PUD would significantly stress the fire, ambulance and police services for the entire area, and might even require new additional facilities. This would also be impacted by the increased traffic on Mt. Aetna road.

5. The proposed PUD would be completely out of character with all the single family residential developments along Mt. Aetna road and would detract from all the single family home communities along Mt. Aetna road.

Sincerely,



Thomas K. Henderson
11020 Sani Lane

From: [Liz Duran](#)
To: [Baker, Jill](#); [Eckard, Debra S.](#)
Subject: RZ-31-003
Date: Tuesday, June 8, 2021 6:59:15 AM

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I am writing to beg you to not to allow Dan Ryan homes to build near the Black Rock community. This is a recipe for disaster with regard to our already congested commute as well as property values. We need well-planned, quality homes NOT more cheaply built junk like Dan Ryan builds. They build eye sores and this is the first step in creating ghettos. Our community deserves better! Please do not approve mass building. Our roads cannot handle it!

Sincerely
Elizabeth Duran

Sent from my iPhone

ROBERT and CAROLE STEPHENS

22203 Troy Lane
Hagerstown, MD
21742

June 4, 2021

Jill Baker
Director
Washington County Planning Commission
100 West Washington Street
Suite 2600
Hagerstown, MD 21740

RE: RZ-21-003

Ms. Baker:

Please accept this as a letter of opposition to the proposed expansion of the number of approved homes requested in the referenced application. Even with the current approval, we believe you will find unacceptable problems arising from the new homes. Among them will be those stated in the staff report.

If the expanded number of homes proposed is approved the problems will expand exponentially. Among them will be the need to expand the water supply, sewage disposal systems, and education and other public facilities necessary to serve the large influx of new residents. Although many of these potential problems are mentioned in the staff report there are some that are not. Among them are increased congestion on Mt. Aetna Road moving from the proposed new development to the East on Mt. Aetna. This section of the road is a winding, narrow, country road with poor visibility in many places. Little space is readily available for any expansion of this road in the most dangerous parts. It would be unrealistic to expect that all the new traffic would head to Edgewood Lane and ultimately Dual Highway to leave the new community. Those headed toward I70 will soon decide to skip the congestion inevitable in using the Edgewood Road/Dual Highway access to I70. Rather, they will opt for Mt Aetna which will then lead to either a significant increase in traffic accidents or a need to widen the road to prevent said accidents.

Another, less obvious problem will be the complaints the new neighbors will file after the wind shifts on a day when the adjacent farmers have applied liquid or solid manure to fertilize the fields. Although the state of Maryland may protect the farmers need to dispose of the waste and fertilize the land the new neighbors will likely disagree vehemently.

We do understand the Dan Ryan company wants to provide new homes at a reasonable price but ultimately they are in business to make a profit. One need only look to the problems associated with uncontrolled growth in neighboring counties to see what will result if this revision to the proposed development is approved.

With Concern,

The Stephens

Robert L. Stephens

cc: Debra Eckard

From: [Sue Hull](#)
To: [Planning Email](#)
Subject: Amendment to sections 4.26 (Solar Energy Generating Systems) of the Washington county zoning ordinance
Date: Friday, June 4, 2021 12:46:25 PM

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As concerned citizens and lifelong residents of this county we ask that you please adopt this amendment to the zoning ordinance because solar farms should not be built on prime agricultural land in rural areas. The proposed solar farm in the Cearfoss area should not happen as this area contains Prime Class 2 land. We should not be giving up any farm land to solar generating systems. There are other areas in our county better suited to their placement.

Suzanne and Harry Hull

From: [cbricker](#)
To: [Baker, Jill](#)
Cc: [Eckard, Debra S.](#); [ROBERT BRICKER](#); [kristal bricker](#)
Subject: RZ-21-003
Date: Friday, June 4, 2021 11:53:09 AM

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Ms. Baker,

I am not in favor of the requested PUD density increase by the Dan Ryan Group. A few of my concerns are traffic issues, school system overcrowding, increased crime, and the strain on public utilities. This type of urban sprawl is not needed.

Respectfully,

Chris Bricker
10613 White Hall Road
Hagerstown, Md 21740

June 4, 2021

Planning Commission
100 West Washington Street, Suite 2600
Hagerstown, MD 21740

RE: RZ-21-003 - Morris & Ritchey Associates - Black Rock PUD Map Amendment

Dear Planning Commissioners:

First, thank you for considering public input on the proposed PUD Map Amendment for approximately 220 acres of land located off of Mt. Aetna Road. Based on the staff report and backup I would like to submit the following comments for review:

- **Site Access:** The Staff report correctly identifies access to the site to be a significant concern. Although the revised Master Plan provides a secondary access point via Sasha Boulevard, the surrounding community will undoubtedly feel the negative impacts of the proposed design with the level of density being requested. And although the proposed primary entry will be designed to carry the bulk of the community traffic, the Commission is being asked to approve a major revision without a full understanding on the impacts to Sasha Boulevard or the people who live in that neighborhood. Sasha Boulevard will lead to the core of the new development and this long and strait stretch of roadway will serve as fast shortcut to the community.
- **Road design:** The Engineering Comments addressing the geometric criteria for roadways and cul-de-sac configurations are a significant concern that may impact if the viability of the plan at the proposed density. When these roadways are expanded to meet Washington County standards, it is unclear what the impact will be to the overall design and if the level of density is appropriate. Further, the increased traffic on Mount Aetna Road is a real concern that cannot be fully understood at this time.
- **Fire Protection:** The applicant has not proved that potential water improvements will meet the APFO standards and allowing significant increase in density seems to be unwise. The Hagerstown Fire Department strongly recommends that further development does not occur as proposed. There is simply inadequate water necessary and existing neighborhoods are concerned about potential implications.
- **Impact to Schools.** This issue, by far, is the most important area of concern to the parents in existing neighborhoods, as it should be for the parents who may invest in the proposed community. The significant burden of this development of the school system and consequently on our children is untenable. Staff correctly held back on recommending approval of the proposed density increase largely because of the "heavy impact to school capacities in an area that doesn't seem to have a definitive solution either from a developer perspective or from a governmental capital perspective." This is particularly true for the elementary school-aged children. Placing a heavy, unnecessary burden on WCPS staff, students, and parents must be avoided. The impact on children from extended school closures over the past year have already hit our community hard. Overextending our education resources at this time when there is no feasible solution is irresponsible.

With these concerns in mind, I respectfully request that the Commission deny the proposed PUD Map Amendment.

Best regards,

Christina & Alexander Martinkosky
20206 Mahogany Circle
Hagerstown, MD 21742

From: [John Barrett](#)
To: [Baker, Jill; Planning Email](#)
Cc: gailbarrett@myactv.net
Subject: BLACK ROCK PLANNED UNIT DEVELOPMENT-REZONING NO. RZ-21-003
Date: Sunday, May 30, 2021 11:50:46 AM

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Dear Sir:

My wife and I are writing today to voice our strenuous objections to the proposed rezoning, REZONING NO. RZ-21-003. The expected increase of traffic on Mount Aetna Road, Edgewood Drive, and Robinwood Drive will render everyday activities (shopping, commuting to work, & recreation) nearly impossible without prolonged delays. Additionally, the proposed changes will cause delays in the life saving efforts at Meritus Hospital. We already see the adverse effects of Meritus emergency and routine traffic on those three streets. The proposed changes will further slow routine and emergency traffic.

Additionally, many residents in this area use the Washington County Regional Park. They jog and walk across Mount Aetna Road to exercise, play, walk dogs, etc. There is no crosswalk, nor do current vehicles obey the speed limits. The proposed PUD change request will negatively affect safety in the area and quality of life.

We strongly urge you to deny this rezoning request.

Respectfully,

John & Gail Barrett

20308 Parkwood CT

Hagerstown, MD 21742

301-991-5558

From: [William McGovern](#)
To: [Planning Email](#)
Subject: Mount Aetna Development
Date: Friday, May 28, 2021 1:58:48 PM

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I reiterate my strong opposition to the scope of this revised PUD. The infrastructure and schools cannot handle the number of units proposed. I support the original proposal for between 500-600 units.

William L McGovern
20001 Boxwood Cir
Hagerstown, MD 21742
Brightwood Acres East

A Coronavirus-free message sent from my iPhone

Reference the increase residential density in the Black Rock PUD.

25 May 2021

Planning and Zoning Director Jill Baker, Washington County Planning Commission

Ma'am

I am a 20 year resident of Washington County, I am a home owner and I vote.

I am opposed to the rezoning of Black Rock Residential Planned Unit Development.

The rezoning is not compatible with the existing neighborhood and will greatly impact the existing infrastructure.

Many drivers use a short cut from Mt Aetna to Dual highway by using Fair Meadows Rd. It has become a speed way and would be even worse with this proposed rezoning. The posted limits of 25 MPH are not enforced with traffic zipping by at well over 35 MPH and young children playing in the front yards.

Mt Aetna is not much better with posted limits of 35 MPH and cars and trucks going over 50. Enforcement is lax and with this proposed huge increase of traffic, I cannot see any better outcome.

As far as the intersection between Mt Aetna road and White Hall road, only one of the four branches can handle any kind of traffic.

That part of the county is a wonderful rural setting with either large farms or houses which are on multi acre plots of land. Packing hundreds and hundreds of homes suggested by the rezoning will totally change the character of that part of the county and I am opposed to it.

Thanks for your time and consideration of my comments.



Joe Coleman

467 Thames St

Hagerstown MD 21740

Joe Coleman CRC@yahoo.com

RECEIVED

MAY 27 2021

Washington County
Dept. of Planning & Zoning

From: Jim Herd
To: Baker, Jill
Cc: Eckard, Debra S.
Subject: Reference RZ-21-003 DRG 1148 residences off Mt Aetna Rd
Date: Friday, May 28, 2021 11:09:07 AM

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Dear Ms. Baker

I am a 28 year resident of Brightwood East off Mt Aetna Rd. and I wanted to share my concerns over this proposal to expand the DRG development (reference RZ-21-003 DRG 1148).

The original approval of 595 residences will probably put 1200 additional cars onto Mt Aetna Rd. An increase of residences to 1148 will move that up to 2300 cars daily on that road. That's a lot. The section of Mt Aetna from Whitehall Rd east to Rt 66 is not a road adequate for more traffic. It is hilly windy and narrow. The section from Whitehall east to Robinwood Dr has been nicely upgraded sometime ago. If the traffic heads East to Robinwood that becomes the only way to access Rt 40 to travel to Rt 70. That intersection is already very busy and the additional strain will make it a much more problematic intersection. Robinwood is the only access to Rt 40 that permits a left hand turn toward Rt 70 for miles in this area.

The other routes of Mt Aetna and Day Rd. to Rt 40 force all traffic to go right and make a u turn to double back toward Rt 70. That has caused people to cheat and cut through the hotel parking lot to more easily execute a left at Day Rd. The car dealership using the hotel lot has blocked that activity but the demand to make that left turn has been demonstrated in the past and never addressed.

So unless there is a plan to relieve the strain on the Robinwood Rd intersection by upgrading and changing the Day Rd and/or Mt Aetna intersections onto Rt 40 I would like to offer a strong objection to this expansion. Additionally all of these new cars traveling the easterly path to Rt 66 to then access Rt.70 will be impractical and I would predict will result in accidents. That road would be very hard to fix.

Thanks for Your consideration I will try to make the meeting on the 7th.

Blessings and Best Regards

Jim Herd
20302 Parkwood Ct.
Hagerstown, MD 21742
410 303 7866

From: [Baker, Jill](#)
To: [Richard Pulieri](#)
Cc: [Eckard, Debra S.](#)
Subject: RE: Black Rock PUD
Date: Wednesday, June 2, 2021 10:11:55 AM

Thank you for your comments. They will be added to the official record of the case and forwarded to the Planning Commission for their review and deliberation.

Jill Baker

From: Richard Pulieri <urstars@aol.com>
Sent: Wednesday, June 2, 2021 9:56 AM
To: Baker, Jill <JBaker@washco-md.net>
Subject: Black Rock PUD

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Jill Baker, Director

We need to take a stand against this high density housing project. There are many reasons for this. First of all there is not enough water pressure to sustain this addition. During the big apartment fire a few years ago we lost all water pressure for the entire evening, nothing came out of the spigot. This happened again this year. I am not sure what caused it this last time, I assume another fire that pulled water away from our community. Secondly there are no sidewalks along Mt Aetna road. We already have had numerous pedestrians hit by motorists on Dual highway, without sidewalks this trend will extend to Mt Aetna road, especially if there are apartment buildings which would bring in people without transportation. Another issue is that there are no shoulders on Mt Aetna from White hall road to the circle at Route 66. A very dangerous situation with blind spots, hills, and increased traffic and possible pedestrians heading to the park + ride next to I-70. Fourth is the increase in traffic, will we need stoplights to safely leave our neighborhoods and aid children crossing the road to the County park? The 5th reason is concern of overcrowding in our local schools, will they be able to provide a quality education. There is also the concern that if there are any low income housing units it will bring crime to an area that has very little. I know there is a push by the nation to mix low and high income neighborhoods, but it only serves to drive down housing prices as residents flee. Low income housing should always be close to town where they can walk or take the bus. This mixing of low income has always failed and instead dragged everyone down. A perfect example is Pangborn park that everyone is afraid to go to now with all the crime right next to it. This is the land of opportunity and anyone in low income areas have the chance to better themselves and move away from these areas. Please help us stop this.

Richard Pulieri

From: [Jake Marquis](#)
To: [Baker, Jill](#)
Cc: [Eckard, Debra S.](#)
Subject: Reference RZ-21-003
Date: Thursday, June 3, 2021 10:25:10 AM

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To Whom It May Concern,

We are writing to express our concerns and opposition to the proposed building of 1,148 residences next to Black Rock Estates and Brightwood Acres East. If such a neighborhood of that size were to be constructed, it would cause a great impact to traffic, water, public safety, and schools.

Local authorities are already short staffed and worn thin. Adding not only single family homes, but townhouses and apartments would greatly increase the number of people in a small condensed area. This would put even more stress on our local public safety personnel, not to mention the traffic on Mt. Aetna road would be horrific. There is a greater risk of traffic accidents, both with vehicles and pedestrians, domestics, thefts, etc... Also, it would change the demographics of our area and hurt our home values. Apartments built in Washington County are notorious for turning into Section 8 housing. This is not a slam to individuals who live in apartments or utilize Section 8. There are places and needs in different regions for them. However, Washington County tends to have many affordable options for living, that when apartments are constructed they turn into more government funded housing. Our family moved to BAE from the North End after Courtland Manor, supposedly a luxury neighborhood, turned into a predominantly Section 8 area. This caused higher crime by drugs, thefts, and break- ins to take place. It also caused a lot of people who loitered through the neighborhoods and on the street throughout the day and night, making it less safe for kids to play and ride their bikes. If Dan Ryan is granted permission to build, they should be solely required to fully fund and financially support the hiring of more public safety personnel.

Currently our neighborhood is in the Boonsboro School District, and we believe our neighborhood should stay that way. Adding additional housing is going to add to a significant increase in Boonsboro and Smithsburg School numbers. This, when the teachers already struggle to maintain their current class size, is not a wise move for the public education system. If Dan Ryan has such a desire to build a neighborhood of this magnitude, they should build a local elementary, middle, and high school. Also, they should aid in the recruiting and salaries of the necessary staff to run these facilities. The schools should be built first, before the development gets underway. Another option, is they could provide vouchers to current Boonsboro and Smithsburg families living in that school district and impacted by their development. These vouchers would give fully funded tuition to the private school of the families choice.

There are many other concerns we have, but understand others will be expressing them. Please know we are very much opposed to this development, and would be more than happy to speak at a public hearing on the matter.

Sincerely,
Jacob and Sarah Marquis

From: [rhhenson](#)
To: [Eckard, Debra S.](#)
Subject: Fwd: RE: Black Rock New Housing Development
Date: Thursday, June 3, 2021 12:21:28 PM

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RE: RZ-21-003

===== Forwarded message =====
From: rhhenson <rhhenson@myactv.net>
To: "JBaker" <JBaker@washco-md.net>
Cc: "deckard" <deckard@washco-md.net>
Date: Thu, 03 Jun 2021 12:17:02 -0400
Subject: RE: Black Rock New Housing Development
===== Forwarded message =====

To Whom It May Concern:

We have been residents of the Brightwood Acres East development for 30 years. The reason we chose this area for our home was its proximity to town in a beautiful rural setting. If Dan Ryan's plan to add 1,148 more residences off Mt. Aetna Road goes through, this will cause a negative impact on this area. Local school systems won't be able to absorb the additional students. The roads will be more congested - the intersection at Dual Highway and Edgewood is already overcapacity at times during the day due to the nearby Meritus Medical Center/Robinwood Professional Center. Additional traffic will force more cars to travel the unsafe narrow back roads to get to Interstate 70 via Route 66. The public water system will require a major upgrade due to water pressure problems in this area. By almost doubling the number of proposed units, it seems like Dan Ryan has no regard for the tranquility of the area and only wishes to add more money to its coffers.

Please give this project careful consideration and help us to preserve our peaceful country atmosphere.

Richard and Gwen Henson
11320 Eastwood Drive
Hagerstown, MD 21742

June 3, 2021

Ms. Jill Baker, Director
Washington County Planning Commission
100 W. Washington Street, Suite 2600
Hagerstown, MD 21740

Re: Proposed additional construction
Black Rock Estates

Hello Ms. Baker:

As a resident of the Brightwood Acres East subdivision, I was surprised to discover that there is an addendum being proposed of 553 additional residences (which includes townhouses and apartments) to the already existing approved 595 units behind the Black Rock Estates/ Brightwood Acres East and the residences off of Robinwood Drive.

Having witnessed firsthand areas where Dan Ryan properties had been developed in excessive and poor planned communities, it created after a few short years; additional crime, drug use and lower property value for the surrounding areas.

As a mother with 4 girls at home, we had moved specifically to this area for its low crime, school systems and well-planned traffic and neighborhoods. Bringing in these additional units, will literally disrupt the existing housing and area, (we have an access road from the Potomac Edison relay station behind our home, that occasionally strangers will use to walk through our backyard and down our driveway to access our subdivision). It would increase trespassing & crime 10-fold coming from these additional units. Also, it will bloat the community services (rescue, police, utility, etc.) since apartments in an already congested area usually brings in transitional tenants (having managed apartment buildings in the past) and the issues that it brings with it. My family who work in the medical and paramedic fields, have attested to increased drug overdoses/injuries & death from the apartments already existing on Robinwood. Additionally, the strain on the public water will create utility interruptions, and our water pressure is already compromised from time to time.

As the director for the planning commission of Washington County, I am sure you recognize the severity of allowing these additional units to be approved. The initial 595 units in themselves will be a burden to our roads, etc. considering that a minimum of 2 occupants per unit (1,190 residents) to that small area will off-balance Mt. Aetna Road and you will have many professional and contributing citizens moving out, leaving a vacuum in their services affecting the entire community that you had accepted and are paid to protect. Also, having an access road to this subdivision by way of Sasha Blvd is both ill-conceived and dangerous to the pre-existing residents and their families.

Ms. Baker, I truly hope as a concerned citizen of Maryland that you will take these obvious issues seriously and recognize the dire situation that it will create for our community.

I am looking forward to the meeting on June 7th along with many others in our area.

Thank you for your time.

Sincerely,

Floyce Reginato

Floyce Reginato – Brightwood Acres East Resident

From: [Baker, Jill](#)
To: [Rachel Stoops](#)
Cc: [Eckard, Debra S.](#)
Subject: RE: Proposed housing
Date: Thursday, June 3, 2021 1:15:54 PM

Thank you for your comments. They will be included as part of the official record for the case file and will be forwarded to the Planning Commission for their review and deliberation.

-----Original Message-----

From: Rachel Stoops <r.stoops@oe-md.com>
Sent: Thursday, June 3, 2021 11:36 AM
To: Baker, Jill <JBaker@washco-md.net>
Subject: Proposed housing

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Good morning, I live at 20315 Parkwood Court in Hagerstown. I am extremely concerned and would like to protest the proposal for the Dan Ryan community that would be located behind Black Rock. There are multiple reasons why this community is not happy about that proposal; our grinder pumps have been systematically damaged already just from the current neighborhood and have been steadily replaced just this year. The best thing about this community is the peacefulness and that proposed community would unfortunately obliterate that. The added traffic alone especially with one of the main roads through Black Rock would add an extreme amount of congestion. In addition, the type of proposal with much less single-family homes and more apartments and townhouses is just not something that anyone is looking to have in their backyard when they have been used to farmland. Two houses were immediately listed for sale in Black Rock and I am concerned that it will severely diminish the value of our homes.

Thank you for your time and consideration, Rachel Stoops

Rachel Stoops
Managing Partner
Office Environments
P. 240.520.6101
O. 240.520.9030
F. 301.797.1877

TESTIMONY

Martin E. Brubaker

10925 Hartle Drive

Hagerstown MD 21742

Washington County Planning Commission, RZ-21-0043, Black Rock PUD

INTRODUCTION

As some of you know, I have been involved in local government planning, budget, and finance for over 50 years; as a professional staffer and subsequently in appointed and elected positions; in local governments ranging from the very largest and most complex to what I prefer to call the more right-sized jurisdictions to be found here in Washington County. I have resided on the next ridge to the east of this proposed development, about one mile away as the crow flies, for over four years and thus have much day-to-day experience with local conditions. I am testifying as a private resident and not representing any particular interest.

SUMMARY

The above application to almost double the density of the existing Black Rock PUD for its remaining northern tract from 595 dwelling units (d.u.'s) to 1,148 should be denied for the reasons summarized below:

1. Inappropriate location for increasing density.
2. Supporting external road network is very inadequate for the numbers and direction of trips to be generated.
3. Local government public service expenditures to support housing development usually exceed total revenues generated.

Reasons for these conclusions are contained in the narrative beginning on the following page.

1. Inappropriate location for increasing density.

The tract of land in question is located to the north behind and, to the east, just beyond existing Black Rock single family homes, developed over many years under terms of the original Black Rock PUD, resulting in one of the more desirable housing developments in the County. The last tract, now being proposed for major changes, is literally on the eastern edge of the County's urban corridor, overlooking productive farms along Whitehall Road. This proposal would add 552 d.u.'s to the 595 allowed under the original PUD, many in the form of multi-family units of various types.

I am not an opponent of well-planned mixed-use density in appropriate locations within the County urban corridor or within/adjacent to our municipalities, indeed have taken flak for my stance at times. I supported a mixture of housing types in Hagerstown/Washington County when I served on the County Housing Task Force in the early 2000's, the County Water and Sewer Infrastructure Commission in 2005-06, and various Comprehensive Plans and individual Map Amendments that I have worked and voted on. But "well-planned" and "appropriate location" do not apply to this application.

A rationale seems to be offered that the higher density, multifamily sections proposed merely continue similar tracts along the mixed-use Robinwood corridor, served by a modern 4-lane highway with center turning lanes. In truth there is no road connection at all to the Robinwood corridor. To reach those adjacent units requires a journey of over 5 miles and 10-15 minutes via, to the west, turning on Robinwood at the Elks or, to the east, taking Whitehall/Jefferson/Robinwood. So, no functional linkage exists and apparently cannot be developed. Indeed, all the traffic from the contiguous proposed multi-family area must flow past existing and proposed single family homes in Black Rock to reach their only outlet – Mt. Aetna Road.

The time for making these types of revisions to the Black Rock PUD has long since passed. Years ago it might have been possible to create an alternate linkage to the Robinwood Corridor and spread some multi-family housing within other earlier stages of the overall Black Rock development. But that ship has sailed and now is not the time to pile on cargo. Indeed, the next section will further emphasize why no increase in density should be granted beyond the original PUD.

2. Supporting external road network is very inadequate for the numbers and direction of trips to be generated.

It is likely that a high percentage of road trips generated in the proposed development will be oriented towards the metropolitan area to the east. If you are shopping for a new home in in the metro area and cannot qualify for the high prices, it is common to refer people and their qualifiers to the relatively low-cost developments in Wahington County, the WV panhandle, etc. especially when they can be marketed as just a "few minutes" from a major highway, in this case I-70. Thus, of the 8.109 new trips estimated to be generated, it is likely that 50-75%, or 4,000 to 6,000 will be oriented to the east.

The modern 2-lane section of Mt. Aetna Rd ends at Whitehall Road a few tenths of a mile to the east of the proposed development. Beyond that point, the Mt Aetna access to Mapleville Road and then I-70 beyond becomes a 1.4-mile route with narrower lanes, zero berm, and abrupt horizontal and vertical elevations often known as a roller-coaster, compounded with many private driveways. Whitehall Road, with north-south access to other parallel connector routes, is a narrower version of the same. The dollar cost and land disturbance of providing remedies and compensating adjacent property owners for all these County routes would be immense.

Drive that section of Mt Aetna and imagine many thousands more vehicles on a daily basis, then apply common sense. Doing a serious traffic study only after project approval is backwards but the facts are self-evident anyhow.

The preliminary County transportation review mentioned a number of issues with the proposed site plan. I would like to emphasize the sight distance issue to the west at the proposed new entrance road to Mt Aetna. From an aerial viewpoint it is hard to see the sight distance issue that requires coping with traffic that is often already exceeding 50 mph as it crests a hill out of sight just a few feet from the majority of traffic wanting to pull out going in the same direction. To take for granted that physical calming measures will suffice is putting lives on the line unless a highly-warned, expensive signaled traffic intersection is constructed where heretofore none have been necessary along Mt Aetna for the entire distance beyond Robinwood Drive.

It will be a strain to accommodate just the additional traffic from the original planned density, any more thrust onto the rural network to the east will create an intolerable situation.

3. Local government public service expenditures to support housing development usually exceed total revenues generated.

Tax base is not technically a charge of the Planning Commission, but I know it is a consideration for many Commissioners and especially elected officials in most jurisdictions. Housing is an essential element of any community and must be provided for, albeit in a rational manner. However, all but the very most expensive housing usually costs more in public service expenditures than is received via all attributable tax revenues including income, not just property, tax. Industrial, office, and commercial development usually pay the freight for local budgets. Thus, to proceed on a financial rationale despite all the planning issues would be inaccurate and most likely cost the County on an ongoing annual basis, not just through potential infrastructure requirements. The developer cannot be held to exemplary displays of housing types and typical household profiles. Even if realized they would most likely not prove cost beneficial.

CONCLUSION

The Washington County Water and Sewer Infrastructure Commission study showed ample room for a multiplicity of housing types within the urban corridor based on existing plans. The County has enjoyed only modest growth since then. Higher density should be located where transportation and other public services are more readily available, not where it creates serious problems. Any rationale of providing housing for new warehouse workers across town would seem to imply moderate income housing at this site, a contradiction, and where better sited alternative locations are available.

Besides the substantial road network issues, public officials owe existing residents a commitment. It is obvious via the existing stub road that future development was contemplated at Black Rock. However, everyone had a right to assume it would resemble the current area built up over 20 years and projected in the approved PUD. Do not break this covenant, especially with the many legitimate issues raised, plus repercussions well beyond the immediate Black Rock area.

From: [Leesa Arnold](#)
To: [Planning Email](#)
Cc: [David Arnold](#)
Subject: Mt. Aetna PUD
Date: Friday, June 11, 2021 1:54:24 PM

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Good Afternoon

My name is Leesa Arnold. I am a resident of Black Rock Estates and I am writing in concerns for the proposed PUD. My husband and I are in complete opposition of this project for the following reasons.

1. Our house backs to Mt. Aetna road, the traffic speed and noise is AWFUL at best. Police presence is minimal and I have called numerous times to complain about how fast people travel on the road. 9k cars a day would not be feasible, as what goes on now is not either. The road will not be able to support an additional 9k plus cars a day.
2. Continuation of the above but with concern for trespassing onto the properties located along Mt. Aetna. We are in the section that has the pedestrian path and I have had to call the police several times to trespass people who will not leave my property. This path is a nuisance and we want it removed. Our privacy is constantly invaded by walkers, runners and cars. This had been a bigger problem since we installed a pool. We are putting up a privacy fence but that will not stop people from using the pathway (we own to the road). The entire path is not maintained and is breaking apart, please consider removing the entire row of it or asking the developer to.
3. The PUD will derail our home values in Black Rock Estates. The homes will not be the same like and kind and will draw in all income levels.
4. Continuation of above.....different income levels will lead to more crime.
5. We do not have the water pressure to support the PUD. All of us homeowners currently suck water off the street by booster pumps and our pressure is mediocre at best. When we had a fire in the neighborhood approx 10 yrs ago, the community was without water for approximately 24 hrs
6. The schools are not prepared nor have capacity to support this. Many chose this location due to school district. There has been zero discussion on what would be done regarding the schools. Redistricting would not be ideal as many moved into the Mt. Aetna area for the Boonsboro Schools.

Thank you for taking the time to read this. This project will not be beneficial at all to the surrounding area and will lead to more problems. We sincerely hope the county will take into the consideration how disruptive the PUD will be.

Kind Regards,

Leesa and David Arnold.

Sent from Yahoo Mail on Android

RZ-21-003

From: David Seiler
To: Baker, Jill
Cc: Eckard, Debra S.; Kathy
Subject: Dan Ryan proposal for RZ-21-003
Date: Monday, June 14, 2021 3:57:39 PM

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Hello -

I am David Seiler and I have lived in Brightwood Acres East for the last 25 years. I am writing to voice my concern and disapproval of the DRG expanded housing plan for the land east of BlackRock Estates subdivision on Mt Aetna Dr east of Robinwood Drive.

I sincerely hope the Washington County Planning Board turns down the expanded DRG development proposal

My concerns are threefold:

1. Increased traffic on Mt Aetna Drive. Mt Aetna Drive is a two-lane drive that at times strains under current population. It certainly cannot possibly handle the proposed increase in traffic that will be caused by the DRG plan. There is only one main direction that traffic will flow on Mt Aetna Drive - to the West - and the existing road will not be able to handle the increase. Follow that along Mt Aetna west to Dual Hwy or along Edgewood Dr to Dual Hwy and you will create gridlock.
2. Impact on schools. The increase in the number of additional students will overflow the current capability of the existing Elementary, Middle, and Senior High schools.
3. Impact on water and sewer. The current water and sewer system is already stretched to its limits. The number of proposed structures in the DRG development will "flood" the existing infrastructure.

I realize that growth is inevitable for our County, but it needs to be done in such a way that the County and existing subdivisions will not be overwhelmed by it. Manny Shaoel has proven in the past to be concerned only with his own gain. It is up to the County to look after its residents.

Please do not approve the expanded DRG development proposal.

Best regards
David & Kathy Seiler
11009 Plumwood Circle
Hagerstown, MD.

RECEIVED

August 9, 2021

AUG 13 2021

Jeff Cline
c/o Board of County Commissioners
100 West Washington Street
Room 1101
Hagerstown, MD 21740

Washington County
Dept. of Planning & Zoning

REF: Black Rock Estates PUD

Good day.

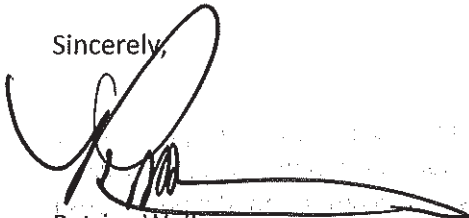
On July 5, 2010, I awakened at 3 am to a glare through my bedroom window. Before I could finish my sentence to my husband that the house diagonal from us was on fire, the roof caved in. I watched in disbelief as our heroic fire fighters from local and surrounding counties attempted to extinguish the flames with no water. They resorted to pumping pool water from a neighbor's pool on Sasha Blvd through the engines to spray the flames from the backyard of the adjacent house. This could have been very traumatic and costly for the entire area. It was later learned that the fire hydrants had no water.

Since that time, young families with young children, retirees, runners, walkers, cyclists, and dog walkers have called the development of Black Rock Estates home. We even have residents of neighboring developments frequent our area. The houses of BRE have become not just an investment but a way of life for those residing here. For that cause, I do not support the BRE PUD which would 1) convert Sasha Boulevard into a throughway; 2) add to the demand for water and further impact the lack of water pressure; 3) lower property values due to the multi-use plan being in very close proximity to BRE; and 4) increase traffic substantially on the roads in and around the development.

I submitted a photo of the end of Atlantic Drive in Hagerstown as a possible solution. There is a brick privacy wall and iron fencing for emergency access that divides the two communities, and both are aesthetically pleasing. It separates a private development from individual homes.

I believe that no one is completely against progress and development in Hagerstown. What we, the residents of BRE, are against is the impact of such development without consideration of the residents who are taxpayers and contributors to the very area to be developed. This is not a transient community but one with stable homeowners. It is my hope that the Washington County Commissioners and the City of Hagerstown would be mindful that we are part of the reason why the area is desirable. Let's grow together to the well-being of all concerned.

Sincerely,



Patrice Wallace
10933 Sasha Boulevard
Hagerstown, MD 21742

cc: Jill Baker, Director of Planning and Zoning Department

RZ-21-003

From: David Seiler
To: Baker, Jill
Cc: Eckard, Debra S.; Kathy
Subject: Dan Ryan proposal for RZ-21-003
Date: Monday, June 14, 2021 3:57:39 PM

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Hagerstown, MD.

RECEIVED

August 9, 2021

AUG 13 2021

Jeff Cline
c/o Board of County Commissioners
100 West Washington Street
Room 1101
Hagerstown, MD 21740

Washington County
Dept. of Planning & Zoning

REF: Black Rock Estates PUD

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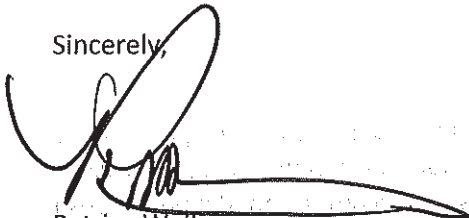
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Sincerely,



Patrice Wallace
10933 Sasha Boulevard
Hagerstown, MD 21742

cc: Jill Baker, Director of Planning and Zoning Department

From: [William T. Stryker](#)
To: [Planning Email](#)
Subject: Black Rock P D Development
Date: Tuesday, September 14, 2021 1:17:14 PM

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Jill,

I am writing in opposition to this proposed change to 1,148 units. I live at 20533 Mount Aetna Road, and will be almost directly across from the entrance of this development. In addition to the obvious issues with water pressure and school overcrowding, my biggest concern is the additional traffic on Mount Aetna Road. In addition to the backup this will create at Robinwood Drive, the narrow section of Mt. Aetna Road from White Hall Road down to the circle on Rt. 66 really needs to be looked at. I would guess that 50% of the residents of this development will be working in Washington, Baltimore or Frederick, and will be traveling this stretch of road every morning and evening. This stretch of Mount Aetna Road has 2 sharp curves, 3 blind hills, and has NO SHOULDER. I am not sure how this stretch of road could even be widened because many of the homes already have very shallow front yards. Obviously, we are also concerned about the huge drop in value that our home will take with a small city being built over the next 15 years right across the street. That's 15 years of construction that will kill our homes values. If approved, we would expect a significant drop in our property taxes.

Thank you for your consideration of our concerns.

Bill Stryker
ultrastryk@yahoo.com

Mr. Mrs. Danny and Kristy Grove
20502 Shaheen Ln.
Hagerstown, MD 21742
September 5, 2021

Board of Washington County Commissioners
100 W. Washington Street
Room 1101
Hagerstown, MD. 21740
Attn: Krista Hart
Re: Planned Unit Development RZ-21-003

Dear County Board of Commissioners,

~~Today,~~ We are writing you to voice our adamant opposition to Rezoning Proposal RZ-21-003. ~~We live in~~ As residents of Black Rock Estates ~~and~~ our property is located in an area that directly impacted by the proposed ~~building~~ Planned Unit Development. The field directly behind our ~~home property line~~ is set to be lined with new homes, townhomes, and apartment buildings all within our line of view.

First, it is clear that Mount Aetna Road, Sasha Boulevard, Whitehall Road, and other surrounding roads are not designed to support the additional traffic volumes with an estimated rate of 8,000 additional vehicle trips daily, as stated by Dan Ryan Builders. Many local residents including children walk, jog, and bike along these roads that are already dangerous for pedestrians due to the increased traffic from the Hamptons, Greenwich Park, and other surrounding communities. A development of this sheer magnitude will absolutely further impact the safety of not only pedestrian traffic, but also motorists who are attempting to enter and exit the current communities. A tremendous amount of work would need to be done to expand the roadway infrastructure to safely and efficiently support the increased traffic volumes that would result from any new community. Is the county financially prepared to pick up the “tab” for such a roadwork project, including the stretch of hilly road between the Whitehall Road and the roundabout at Route 66? We assure you that the builder does not plan to resolve these issues regardless of the negative impacts to safety, quality of life, and efficiency of daily commuting.

As you are probably already aware, water pressure is quite a problem where we live. A house in the development (on Shalom Lane) burned down about 10 years ago because firefighters could not get enough water to the home. Additionally, the fire in an apartment building in Woodbridge Apartment, where a building burned to the ground due to inadequate water pressure, directly impacted our homes here in Black Rock a few years ago. We literally had no water in the Black Rock Estates community during the evening the fire was being fought because all the water was going to fighting the fire a few miles away. This poses a significant safety hazard and highlights the inadequate water supply to an already taxed infrastructure. On a daily basis, water from our faucets within Black Rock Estates has an inadequate amount of pressure to sustain activities such

as showering, washing dishes, and other daily necessities. The problem has not been rectified in the 11 years we have resided in this community. Even adding 595 units (the original PUD proposal) would have a significant and detrimental impact on Black Rock Estates and the surrounding neighborhoods that cannot be ignored nor easily remedied.

Another unanswered question that has been brushed aside by the developer is the impact any future development, if approved, will have on our local public schools. Greenbrier Elementary and Ruth Ann Monroe Primary cannot lawfully accommodate more students. Since the Washington County Board of Education approved a budget in 2020 that states no new schools will be built for at least ten years, it does not seem remotely feasible to add even 595 dwellings to the immediate area, let alone 1,140

Black Rock Estates is a highly desirable neighborhood in the county. The homes here are unique and they are constructed with at least 90% brick or other premium materials (stucco or stone) on all sides. If this PUD is approved, property values in our neighborhood will plummet due to incomparable dwelling types being build right up against our homes. This detracts from the overall desirability of the neighborhood.

Finally, the fields behind the entirety of the Black Rock Estates community and surrounding neighborhoods are home to a variety of wildlife, ranging from deer, black bears and coyotes to rare ones, like red-tailed hawks and bald eagles. Our son was able to capture one of the eagles in flight above our backyard, as well as red-tailed hawks. Developing this land is going to destroy the natural habitat for hundreds of animals who call these fields their homes. We plan to reach out to the U.S. Fish and Wildlife Service (or other conservation authorities) to report this situation to ensure wildlife is protected and not destroyed.

Thank you for taking the time to read this letter. We urge you to vote in opposition to Planned Unit Development RZ-21-003. Not only that, we urge you to reconsider the originally approved 595 units, approved 17 years ago, as we do not believe any further development of the area behind and adjacent to Black Rock is wise for the county.

Sincerely,

Danny and Risty Grove

From: [Anita Thomas](#)
To: [Planning Email](#)
Subject: RE: Planned Unit Development RZ-21-003
Date: Wednesday, September 15, 2021 4:12 AM

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

Re: Planned Unit Development RZ-21-003

To Whom It May Concern,

I'm writing this letter to express my strong opposition to the Planned Unit Development RZ-21-003. There are multiple reasons as to why this is a terrible plan for our area of Hagerstown. I shall attempt to outline some of them here.

Firstly, I want to mention the amount of traffic this PUD would generate along Mt Aetna Road and the subsequent roads that intersect with it. It was estimated by the developer using old data they collected in 2002 that traffic trips along Mt Aetna road would increase to from 4,592 trips per day to 8,109 trips per day as a result of the increase from 595 (2002) dwellings to 1,148 dwellings. I suspect this is quite an underestimation as the PUD has almost doubled and we are 20 years later with many more cars per homes. These local roads will not be able to handle this kind of traffic increase. There is virtually no way to widen the roads and add traffic lanes beyond the short stretch of Mt Aetna Road between Robinwood Drive and White Hall Road.

This brings me to the point of how dangerous it already is on the stretch of Mt Aetna Road between White Hall Road and Route 66. There have been many occasions that I have almost been wiped out by a large vehicle or truck flying around the blind curves and straddling the lanes. This is a regular occurrence on this part of the road. It is currently unsafe and there is no way to widen this portion of Mt Aetna Road. I have blown out 2 tires as a result of vehicles cresting the hills on White Hall Road and them being almost in the center of the road. On both occasions I was run off the road and into a ditch.

I also want to mention the terrible plan of where the proposed new exit road from this PUD will intersect with Mt Aetna Road. It is planned just below the crest of a hill. People driving in the morning over this hill struggle seeing as the sun is often in their eyes. I know this because I run in the shoulder of this road and have had a few near misses because drivers are blinded by the sun and can't see. If this proposed road is built with the exit at this point there will be some terrible accidents. Drivers never adhere to the 35 m/p/h speed limit and the police do very little to enforce it. Cars regularly drive much faster.

As you are probably aware another issue that has never been resolved is the problem of water pressure. One of our Black Rock Estates neighbors lost their house due to fire. When the fire truck arrived they did not have enough water pressure to combat the fire and the house burned down. This is a tragedy that should have been addressed years ago. How can this area deal with another 1,148 homes and all their water needs?

I have lived in Black Rock Estates off Mt Aetna Road for around 12 years now. We have no sidewalks but for the most part we feel safe taking walks on the road because we know most of our neighbors. Children ride bikes and people are out walking dogs. There are only 2 entrances into the neighborhood and they are both off Mt Aetna Road. There is no through traffic. It gives us a sense of safety because for the most part the only people who drive around here, live around here. If this PUD is allowed we will see a major amount of traffic in our neighborhood. The residents of the new PUD will use Sasha Boulevard and any of the connecting roads in our neighborhood to get in and out of their neighborhood. Black Rock Estates will no longer have a calm sense of tranquility as it does now and walkers, runners, children riding bikes will be at greater risk of being injured by a car.

We have a beautiful neighborhood with stately brick homes, well kept sprawling lawns and established trees. Our neighborhood flows seamlessly into the farmland to the east of us and the golf course to the south of us. It would seem that years ago the county plan was to have density decrease towards the farmlands. This PUD will do the exact opposite and in my opinion will be an eyesore to this currently beautiful part of Washington County. The closeness of the structures proposed and the materials to be used will be in stark contrast to any of the homes along Mt Aetna Road. I believe they will lower the value of all other homes in this area.

If you were to approve this PUD you would be doing a great disservice to the tax paying residents all along Mt Aetna Road and beyond. It makes no sense to develop the land in such a way and would create infrastructure stress that cannot be resolved.

Please consider my concerns and the concerns of my neighbors. I don't personally know everyone along Mt Aetna Road but I have discussed this PUD with many people in the area and I have not yet found one person in favor of it. In fact, all those I've spoken to are

vehemently opposed to it.

Sincerely,

Anita Thomas, Resident

**20310 Ayoub Lane
Hagerstown MD 21742**

RECEIVED

SEP 20 2021

Washington County
Dept. of Planning & Zoning

Sept. 15, 2021

Dear Ms. Baker,

Please Please do not permit this
planned unit development near Black Rock Estates
on Mt. Aetna Rd.

I live in a senior community off Mt.
Aetna Rd.; the traffic in this area is already
very congested. At times, the intersection from
Rt. 40 is backed up almost to Mt. Aetna Rd.
Our roads, water supply, and sewers cannot handle
such an over-sized development. It is not
necessary to do this. This development will
greatly diminish the quality of life in our county
and our community.

Please please think of your neighbors,
do not allow this.

Sincerely,
Carolyn McCartney

9-15-2021

Dear Jill Baker,

I am writing in reference to the proposed Dan Ryan development near Black Rock Estates along Mt. Aetna Road. I live in Greenwich Park so this development would directly affect me. The infrastructure including but not limited to water, electric and sewage systems would not be able to accommodate the huge increase in population.

The roads and communication networks would also need a significant expensive upgrade. This development would have a huge negative impact on this area. I urge the Planning and Zoning Commission to continue to vote against this development and to urge the County Commissioners to also vote against this development.

Thank you for your attention to this matter.

RECEIVED

SEP 20 2021

Washington County
Dept. of Planning & Zoning

Sandra Miguel
643 Trafalgar Drive
Hagerstown, MD 21742

RECEIVED

SEP 20 2021

Washington County
Dept. of Planning & Zoning

9-15-2021

Dear Jill Baker,

As a resident of Greenwich Park, I am writing to urge you to vote no to the large proposed Dan Ryan development on Mt. Aetna Road. There would be heavy traffic congestion on Mt. Aetna as well as other connecting roads. Residents would have difficulty getting on the roads from private homes and developments, especially during rush hours. The roads were not built for the significant increase in traffic this development would create. Water pressure, sewage management and overloaded electric systems are all concerns when a huge development is proposed. Communication systems would also be adversely affected. I urge the Planning and Zoning Commission and the County Commissioners to vote against building this huge development.

Thomas Miguel



Judicial Mr. Thomas Miguel
Watch 643 Trafalgar Dr.
Hagerstown, MD 21742-1231

From: William Stryker
To: Planning Email
Subject: Black Rock PUD Development
Date: Tuesday, September 14, 2021 8:17:14 PM

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Jill,

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Thank you for your consideration of our concerns.

Bill Stryker
ultrastryk@yahoo.com

From: [Anita Thomas](#)
To: [Planning Email](#)
Subject: RE: Planned Unit Development RZ-21-003
Date: Wednesday, September 15, 2021 9:34:12 AM

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Re: Planned Unit Development RZ-21-003

To Whom It May Concern,

I'm writing this letter to express my strong opposition to the Planned Unit Development RZ-21-003. There are multiple reasons as to why this a terrible plan for our area of Hagerstown. I shall attempt to outline some of them here.

Firstly, I want to mention the amount of traffic this PUD would generate along Mt Aetna Road and the subsequent roads that intersect with it. It was estimated by the developer using old data they collected in 2002 that traffic trips along Mt Aetna road would increase to from 4,592 trips per day to 8,109 trips per day as a result of the increase from 595 (2002) dwellings to 1,148 dwellings. I suspect this is quite an underestimation as the PUD has almost doubled and we are 20 years later with many more cars per homes. These local roads will not be able to handle this kind of traffic increase. There is virtually no way to widen the roads and add traffic lanes beyond the short stretch of Mt Aetna Road between Robinwood Drive and White Hall Road.

This brings me to the point of how dangerous it already is on the stretch of Mt Aetna Road between White Hall Road and Route 66. There have been many occasions that I have almost been wiped out by a large vehicle or truck flying around the blind curves and straddling the lanes. This is a regular occurrence on this part of the road. It is currently unsafe and there is no way to widen this portion of Mt Aetna Road. I have blown out 2 tires as a result of vehicles cresting the hills on White Hall Road and them being almost in the center of the road. On both occasions I was run off the road and into a ditch.

I also want to mention the terrible plan of where the proposed new exit road from this PUD will intersect with Mt Aetna Road. It is planned just below the crest of a hill. People driving in the morning over this hill struggle seeing as the sun is often in their eyes. I know this because I run in the shoulder of this road and have had a few near misses because drivers are blinded by the sun and can't see. If this proposed road is built with the exit at this point there will be some terrible accidents. Drivers never adhere to the 35 m/p/h speed limit and the police do very little to enforce it. Cars regularly drive much faster.

As you are probably aware another issue that has never been resolved is the problem of water pressure. One of our Black Rock Estates neighbors lost their house due to fire. When the fire truck arrived they did not have enough water pressure to combat the fire and the house burned down. This is a tragedy that should have been addressed years ago. How can this area deal with another 1,148 homes and all their water needs?

I have lived in Black Rock Estates off Mt Aetna Road for around 12 years now. We have no sidewalks but for the most part we feel safe taking walks on the road because we know most of our neighbors. Children ride bikes and people are out walking dogs. There are only 2 entrances into the neighborhood and they are both off Mt Aetna Road. There is no through traffic. It gives us a sense of safety because for the most part the only people who drive around here, live around here. If this PUD is allowed we will see a major amount of traffic in our neighborhood. The residents of the new PUD will use Sasha Boulevard and any of the connecting roads in our neighborhood to get in and out of their neighborhood. Black Rock Estates will no longer have a calm sense of tranquility as it does now and walkers, runners, children riding bikes will be at greater risk of being injured by a car.

We have a beautiful neighborhood with stately brick homes, well kept sprawling lawns and established trees. Our neighborhood flows seamlessly into the farmland to the east of us and the golf course to the south of us. It would seem that years ago the county plan was to have density decrease towards the farmlands. This PUD will do the exact opposite and in my opinion will be an eyesore to this currently beautiful part of Washington County. The closeness of the structures proposed and the materials to be used will be in stark contrast to any of the homes along Mt Aetna Road. I believe they will lower the value of all other homes in this area.

If you were to approve this PUD you would be doing a great disservice to the tax paying residents all along Mt Aetna Road and beyond. It makes no sense to develop the land in such a way and would create infrastructure stress that cannot be resolved.

Please consider my concerns and the concerns of my neighbors. I don't personally know everyone along Mt Aetna Road but I have discussed this PUD with many people in the area and I have not yet found one person in favor of it. In fact, all those I've spoken to are

vehemently opposed to it.

Sincerely,

Anita Thomas, Resident

20310 Ayoub Lane
Hagerstown MD 21742

RECEIVED

September 15, 2021

SEP 23 2021

Jill Baker:

Washington County
Dept. of Planning & Zoning

We have been residents of Greenwich Park for 10 years. We have concerns regarding the implementation of a new and expanded development near Black Rock Estates. The trepidations include but are not limited to the following:

1. Traffic volume
2. Infra-structure
3. Cell tower availability
4. Subsidized housing
5. Water pressure

In a document dated 4/21/21, case number RZ-21-003, it was stated that an upgrade to water infra-structure would be done when future required flow is approached. We are in Zone 5 which already has limitations and distribution system pressure and fire flow ability even without the addition of PUD.

A water distribution plan needs to be addressed and implemented at the outset of the development rather than during the build.

Respectfully,

Glenn and Cathy Baker

Cathy Baker
Glenn R. Baker

September 22, 2021

Jill Baker
Director
c/o Planning and Zoning Department
100 West Street
Hagerstown, MD 21740

RECEIVED

SEP 28 2021

Washington County
Dept. of Planning & Zoning

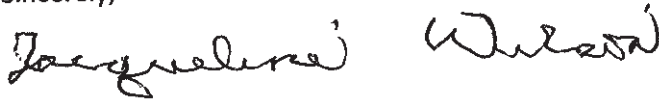
Dear Ms. Baker:

I am a resident of Greenwich Park in Hagerstown and wish to express my opposition to the request from Ryan Builders for a PUD near Black Rock Estates.

I have seen the results of high-density developments on communities in Montgomery County, especially in Rockville and Gaithersburg. Also the same thing is happening in some areas of Frederick County. This request from Ryan Builders is another step in the same direction.

I am requesting that this zoning request from Ryan Builders be denied.

Sincerely,



Mrs. Jacqueline Wilson
1858 Meridian Drive
Hagerstown, MD, 21742

Daniel Vilnit
616 Observatory Dr.
Greenwich Park
Hagerstown, MD 21742

RECEIVED

SEP 28 2021

Washington County
Dept. of Planning & Zoning

Jill Baker, Director
c/o Planning and Zoning Dept.
100 West Washington St.
Hagerstown, MD 21740

As a resident of Greenwich Park off Mt. Aetna Rd., I am writing this letter in opposition to the request by Dan Ryan Builders to build a new subdivision off Mt. Aetna Rd. near Black Rock Estates.

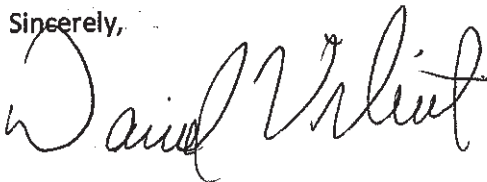
The most concerning problem is the lack of water pressure in the area. Residents in our community are already facing problems with lack of water pressure to the point of not being able to shower while our dishwashers are running. That is not nearly as concerning as the lack of pressure needed by the fire department to put out a fire in case of an emergency. There has already been a case in Black Rock Estates where a house was lost due to lack of water pressure. Also, without adding to the fire department, there will be too many homes to cover without expansion of the fire and ambulance crews.

Another concern is traffic. At peak traffic, it is difficult if not impossible to exit Greenwich Park onto Mt. Aetna Rd. safely. Many drivers are going at a high rate of speed nearing our community and the limited sight lines as they proceed from the direction of proposed community, make it very difficult to proceed from our community safely. Many of the residents of Greenwich Park are seniors that may not have the quickness needed to exit onto Mt. Aetna Rd. without causing an accident. With only one entrance to Greenwich Park this does present a major challenge for our residents. Mt. Aetna Rd. heading east becomes very winding and narrow with blind hills making that direction more difficult to use for commuting making it easier for that traffic to head west causing more traffic past Greenwich Park and traveling towards the light at Robinwood Dr. which already backs up during rush hour.

With the number of proposed homes being townhomes and apartments, the proposed community will likely draw younger families with children further burdening our already crowded schools.

I hope that these issues are considered while discussing the plans for the new community and the appropriate decision would be to NOT approve such subdivision.

Sincerely,



Daniel Vilnit

27 Sept 2021

To whom it may concern

We are opposed to the request
from Dan Ryan Builders for a PUD
near Black Rock Estates.

Why: Increased traffic on Mt Etwa
Road - A road not built
for such an increase.

Why: Further deterioration
of the already LOW
Water Pressure.

With concern:

William T. Alexander
and

Jacquelyn H. Alexander
635 Observatory Dr.
Hagerstown, MD

From: [Hart, Krista](#)
To: [Eckard, Debra S.](#); [Baker, Jill](#)
Subject: FW: Planned Unit Development RZ-21-003
Date: Thursday, September 30, 2021 8:56:37 AM

Thank you,
Krista L. Hart
County Clerk

From: sneha patel <snehar_patel@yahoo.com>
Sent: Tuesday, September 21, 2021 12:17 PM
To: &County Commissioners <contactcommissioners@washco-md.net>
Subject: Planned Unit Development RZ-21-003

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

We would like to go on record in opposition to Rezoning Proposal RZ-21-003 for the following reasons:

- Mt. Aetna Road, Sasha Blvd., Whitehall Road, and other surrounding streets are totally inadequate to support additional traffic, especially the 8K plus additional vehicle trips per day estimated by the Developer of this project.
- Water pressure is already a problem where we live and additional demand on the system will only make the problems worse.
- Additional students will put added pressure on already overcrowded Greenbriar Elementary and other area schools.
- Quality of life for the residents of Black Rock Estates and other area neighborhoods will be negatively impacted by this project.

Please vote to oppose RZ-21-003!!!

Yours truly,
Sneha Patel

September 15, 2021

Jill Baker:

The residents of Greenwich Park have concerns regarding the implementation of a new and expanded development near Black Rock Estates. The trepidations include but are not limited to the following:

1. Traffic volume
2. Infra-structure
3. Cell tower availability
4. Subsidized housing
5. School capacity
6. Water pressure

In a document dated 4/21/21, case number RZ-21-003, it was stated that an upgrade to water infra-structure would be done when future required flow is approached. We are in Zone 5 which already has limitations with distribution system pressure and fire flow ability even without the addition of PUD.

Before there is further discussion of any development, a water distribution plan must be formulated. Should the development be approved, the implementation of the water plan must be instituted prior to the build-not during or after the build.

Respectfully,

Residents of Greenwich Park

Lisa Harding

Susan Andrews

- 1) [Signature]
- 2) [Signature]
- 3) Bryan Martin
1732 Meridian
- 4) Sharon Martin
1732 Meridian
- 5) Kenneth Rendo 1730 Meridian
- 6) Felicia Candela

- 7) Jeff & Sandy Woodruff
617 Tudor Dr.
8. Carol & Tom Maschal
1808 Meridian Drive
9. David & Susan Pesh
649 Trefalgar Drive
- 10 John T. Horner
1733 MERIDIAN DR
11. Sue Hoover
1733 MERIDIAN DR
12. Cari Day (Cassie Day)
1850 Meridian Dr.
13. ROBERT & JEAN BRICKER
1731 MERIDIAN DR.

RECEIVED

SEP 23 2021

Washington County
Dept. of Planning & Zoning

September 20, 2021

To whom it may concern:

The enclosed document contains signatures that represent voices of residents who live in Greenwich Park, a development that frontages Mt. Aetna Road approximately 2 miles west of the proposed Dan Ryan development.

Respectfully,

Residents of Greenwich Park

September 15, 2021

Jill Baker:

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Before there is further discussion of any development, a water distribution plan must be formulated. Should the development be approved, the implementation of the water plan must be instituted prior to the build-not during or after the build.

Respectfully,

Residents of Greenwich Park

Susan Harvey
R. Harvey
Dianne V. Moseley
Sandra L. Becker
Laurie M. Gesteau
S. Kushan

May I Pickin' Chut
Jody Burtch
Chiff Baker
Steve Baker

September 15, 2021

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Respectfully,

Residents of Greenwich Park

Allen Wiggins
A. Wiggins
641 OBSERVATORY DR

William M. Simms Jr.
Sharon Simms
Sharon Simms
625 Tudor Dr.

Marilyn E. Mack
Marilyn E. Mack
Van Vleet 616 OBSERVATORY DR.
MARGARET SCHLOSSER 614 OBSERVATORY DR.
Mary Vileit 616 Observatory Dr.
Roxette Schindler
1847 Meridian Dr.
Patty Powerley
600 Tudor Dr.

September 15, 2021

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Before there is further discussion of any development, a water distribution plan must be formulated. Should the development be approved, the implementation of the water plan must be instituted prior to the build-not during or after the build.

Respectfully,

Residents of Greenwich Park

Jim R. Pritchard
1619 Observatory Drive

Debra K. Spielman
1870 Meridian Drive

Barbara & Tom Remond

Deborah D. Semler

John & Kathy Harvott 1884 Meridian Dr. 21742

Richard Bahrt
Carol Bahrt
1886 Meridian Dr

Linda Mumma
Tom Mumma
635 Tudor Drive

Ann Moser
609 Tudor Dr

September 15, 2021

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Before there is further discussion of any development, a water distribution plan must be formulated. Should the development be approved, the implementation of the water plan must be instituted prior to the build-not during or after the build.

Respectfully,

Residents of Greenwich Park

[Signature]
1850 Meridian Dr.

[Signature]
1802 Meridian Dr.

Jo A. Stuckey
1814 Meridian Dr.

B. J. Seif
632 Trafalgar
656 Tudor Drive
Barbara Ewald

[Signature]
640 TRAFALGAR DRIVE

Beatrice Miller
648 Trafalgar Dr.
Martha Souley
1806 Meridian Dr.

Karen M. Zupke
642 Trafalgar Drive
Hagerstown, MD 21742
Steven C. Griffith
642 Trafalgar Drive
Hagerstown, MD 21742

September 15, 2021

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Respectfully,

Residents of Greenwich Park

Sandra Miguel
643 Trafalgar Drive

Tom Miguel
643 Trafalgar Drive

Donna Jackson
659 Trafalgar Drive

Lyle F. Condo 111
Wilma Condo
641 Trafalgar Drive

Linda M. Gildersleeve
Shirley M. Gildersleeve
626 Observatory Drive

Janeane Amy
1840 Meridian Dr
Karen Hammond
1838 Meridian Dr.

Joseph S. Hamblin
Alice M. Hamblin
665 Trafalgar Drive

Alice Hamblin

September 15, 2021

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Respectfully,

Residents of Greenwich Park

Francis J. Timmins
Elizabeth M. Timmins
609 OBSERVATORY DRIVE
Kary K. Howell
Beverly Howell
619 Observatory Drive
Mary Bowman
1882 Meridian Dr

Horace Bailey
603 OBSERVATORY DR
Toni Rinehart
607 Observatory Drive
David Pickens
602 Observatory Dr
Linda Flaherty
643 OBSERVATORY DR.

September 15, 2021

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Respectfully,


Residents of Greenwich Park

Betty Ciarrappa
1753 Meridian Drive

DONNA GAUSS
627 OBSERVATORY DR.

KATHRYN PENSIS
602 TUDOR DR.

KENNETH R. HAMMOND JR
1838 MERIDIAN DR
~~1838 MERIDIAN DR~~


1749 Meridian Drive
Donald Trumble
Pauline Trumble

September 15, 2021

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Respectfully,

Residents of Greenwich Park

Jay B Moser

Susan Moser

Michael Baliff

625 Observer Dr.

Joan Baliff

Susan Connell

Nathan Priest

Nancy J. Newkirk

Jackie Newkirk

Alma L. Bailey Baker

1878 Meridian Dr.

Hagerstown, MD 21740

September 15, 2021

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Respectfully,

Residents of Greenwich Park

Wanda & Gale Stouffer, 1734 Meridian Drive
Hagerstown, MD 21742

William Powley
600 Tudor Dr.

Grace Priest
626 Tudor Dr.

Ann Cheryl
658 Tudor Drive

Judy Barron
Larry Barron
Sharon Louelace

September 15, 2021

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Respectfully,

Residents of Greenwich Park

* Dan King
1818 Greenwich Park
Hagerstown, Md 21742
* William K. LePore
Eric LePore
618 Observatory Dr.

September 15, 2021

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Respectfully,

Residents of Greenwich Park

- | | |
|-----------------------|------------------------|
| 1. Cathy Baker | 9. Christine Heacorde |
| 2. Barry L. Tucker | 10. Frances L. Linhart |
| 3. Dan Smith | 11. Linda J. Krut |
| 4. Carolyn R. Jackson | 12. Wayne Krut |
| 5. Allen L. Munton | 13. Diane Shuden |
| 6. Eric K. Murrell | 14. Robert J. Murrell |
| 7. Carolyn McCartney | 15. [Signature] |
| 8. [Signature] | 16. [Signature] |
| | 17. [Signature] |
| | 18. [Signature] |

From: Hart, Krista
To: eshalaby@gmail.com
Subject: RE: PUD rezoning application (black Rock)
Date: Thursday, September 30, 2021 8:52:01 AM

Good Morning Dr. Shalaby:

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

This response will serve to confirm that your communication has been received.

Your comment regarding the Black Rock PUD Rezoning has been shared with the appropriate members of our team.

Thank you,
Krista I. Hart
County Clerk

From: Ehab Shalaby <eshalaby@gmail.com>
Sent: Wednesday, September 29, 2021 3:10 PM
To: &County Commissioners <contactcommissioners@washco-md.net>
Subject: Fwd: PUD rezoning application (black Rock)

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

----- Forwarded message -----

From: Ehab Shalaby <eshalaby@gmail.com>
Date: Wed, Sep 29, 2021 at 3:07 PM
Subject: PUD rezoning application (black Rock)
To: <contactcommissioners@washco-md.net>, <jcline@washco-md.net>

Dear Commissioners

I want to express my deep concern regarding the application to increase the PUD behind black rock estate from 595 units to 1147 units.

As you know, the Black Rock estate is one of the places in Hagerstown with high home prices and larger size. It is the crown jewel for Hagerstown. Many doctors and professionals live in this community. We pay high property taxes.

By increasing the number of houses close to this neighborhood, will significantly decrease the prices of properties in this community and will become less attractive for professionals to work in the city. This may affect the quality of professionals moving to Hagerstown.

also, increasing traffic at Sasha blvd (where I live) and Mt. Aetna Rd is worrisome.

The water pressure in our community is poor and this will escalate further by this high number of houses.

Therefore, I appeal to you not to increase the PUD for not more than 595 units.
Thank you for listening to our concerns.

Dr. Ehab Shalaby
10925 Sasha Blvd, Hagerstown, MD 21742

From: [Hart, Krista](#)
To: [Baker, Jill](#); [Eckard, Debra S.](#)
Subject: FW: Traffic Issues
Date: Thursday, September 30, 2021 8:54:43 AM

Good Morning – I'm not sure if I've shared this comment with you....

Thank you,
Krista I. Hart
County Clerk

From: mhleatherman <mhleatherman@myactv.net>
Sent: Monday, September 27, 2021 12:18 PM
To: &County Commissioners <contactcommissioners@washco-md.net>
Subject: Traffic issues

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

I am writing to with concerns for 2 items. The first one being the development refereed to as Black Rock PUD, the other is all the proposed warehouses going into the Washington County area, but especially the one proposed near Funkstown and Dual Highway. I don't know if you travel in the Funkstown, 40 and towards the Boonsboro area much but I have lived in this area for over 30 years. I travel for my children's activities, work and errands like many do around me.

Are you aware of the traffic issues that happen when there is a accident on I70 between exits 32 and South Mountain and the impacts it has on this small area? Traffic jumps off of I70 east or west depending on the accident side and jumps onto 40 or Rt 66 and gets hit with the light at Sheetz. They may be trying to make a turn or continue on through down 40 but it will back up traffic for miles. To try and get around that slow drag, traffic then jump onto Beaver Creek Rd, where a one line bridge towards Boonsboro is located or goes into little Funkstown and those small roads and lights. You have cars, tractor trailers, delivery vehicles, etc traveling down a 2 lane back road with no shoulder and in a hurry. We have walkers, kids, development entrances, driveways and a 1 lane bridge where traffic should be traveling at 35mph. Instead you have cars going 60mph trying to speed around stopped traffic. This is every time an accident happens on I70 or rt40. What is it going to look like daily if you add another development to Black Rock area with more cars and/or warehouses to Funkstown.

I also know that traffic getting up the dual highway is terrible when this happens, my other concern is how will emergency vehicles get through to the hospital with deadlock traffic daily.

You need to think of the safety of those in the community not the money you think that it will bring into Wash Co. It will bring more headaches to those that are affected daily by the changes that you want to make to this area. People live outside the city limits because

they didn't want to have the headache of the traffic issues that you now know will drag to the area.

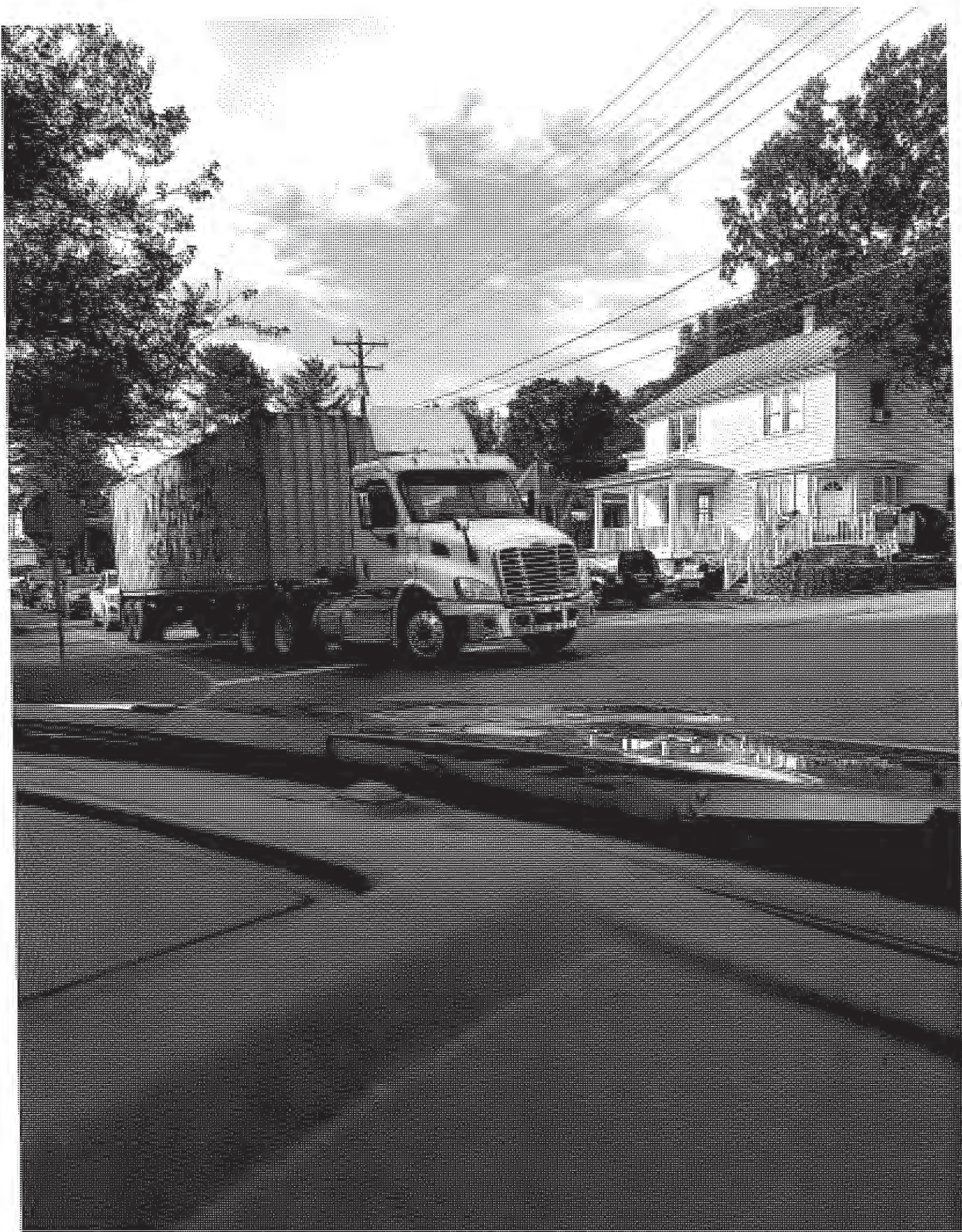
This issue was evident last Thursday (Sept 24th) when traffic was detoured or delayed because of an accident on I70 near South mountain for the whole day. At one point traffic was backed up from the Sheetz light in Boonsboro down past the Potomac Valley business on rt40. Traffic at 4:45pm was backed up on Beaver Creek Rd to Beaver Creek Church Rd from the Stop sign at rt66. I have seen traffic backed up when I70 is completely shut down backed up on Beaver Creek Rd headed towards 66 past the cross road White Hall Rd. I would say that's about a 2mile back up on a back road and I know that is what will be seen regularly if you move forward with the two proposed items in this area. People are not familiar with the area and just follow the GPS onto these little roads.

I have attached some pictures so you can see for yourself.

I would love to hear back from you!

Hannah Leatherman





I-70 EXIT 35 AT MD-66

I-70 EAST

MDOT
MARYLAND DEPARTMENT
OF TRANSPORTATION

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