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

MEMORANDUM

TO: Washington County Planning Commission

FROM: Travis Allen, Comprehensive Planner

DATE: January 10, 2021

RE: Sharpsburg Pike Holdings LLC Rezoning (RZ-21-005)

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

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

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

October 25, 2021

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

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

Dear Commissioners,

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

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

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

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

Sharpsburg Pike Holdings, LLC

Sassan Shaool, Managing Member

THE LAW OFFICE OF
ZACHARY J. KIEFFER LLC

October 29, 2021

Washington County Planning Commission
100 W. Washington Street
Hagerstown, MD 21740

Re: RZ-21-005-Sharpsburg Pike Holdings, LLC

Dear Commissioners,

Sharpsburg Pike Holdings, LLC (the "Applicant") having reviewed the recommendation from the Planning Commission in Map Amendment Application RZ-21-005, submits the attached statement as a means of addressing concerns of the capacity of the schools serving the proposed development.

As set forth in *Cremins v. County Commissioners of Washington County* 164 Md.App. 426, 883 A.2d 966 (2005), it is not mandatory that all infrastructure issues be decided at the re-zoning approval stage unless those infrastructure issues "appear to be highly unsolvable." *Cremins*, at 459. 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. *Id.*

In applying *Cremins* to the Applicant's petition, and current capacities of the schools serving the proposed development, the Applicant appreciates the Planning Commission's concerns of whether the impacts of the development on the school system are highly solvable.

Capacity issues with Rockland Woods Elementary, E. Russell Hicks Middle and South Hagerstown High need to be addressed and are a concern for both current and future development south of Hagerstown and along Sharpsburg Pike. It would be prudent and proactive for the Washington County Board of Education to look into the capacity issues of these schools now. However, the Applicant recognizes that the likelihood of this happening within the timeline for the proposed development is not high.

Therefore, Applicant is willing to develop the project in accordance with the applicable regulations of the Housing for Older Persons Act, thereby placing policies and procedures on the

19405 Emerald Square, Suite 2100 Office 202, Hagerstown, MD 21742
Office: 240-513-4332
Email: zach@zkiefferlaw.com
www.zkiefferlaw.com

development so as to operate the housing as "55 and older" housing. Developing the project as "55 and older" would exempt the project from compliance with the APFO. The age restricted housing would not add enrollment to the schools serving the development and thereby solve the issues and concerns with the development's impact on the school system.

The Applicant believes this solution to school capacity concerns and APFO compliance will alleviate the Planning Commission's concerns and render the basis for recommending denial of the application moot. The Applicant would respectfully request that in light of the proposed solution, the Planning Commission revise its recommendation to the Board of County Commissioners. Nevertheless, the Applicant would welcome any additional questions and further discussion on these or any other issues pertaining to the development.

Very Truly Yours,

Zachary J. Kieffer
Attorney at Law

Attachment