



# HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

3430 Courthouse Drive

Ellicott City, Maryland 21043

410-313-2350

Voice/Relay

Valdis Lazdins, Director

FAX 410-313-3467

May 19, 2016

## TECHNICAL STAFF REPORT

*Planning Board Meeting of June 2, 2016*

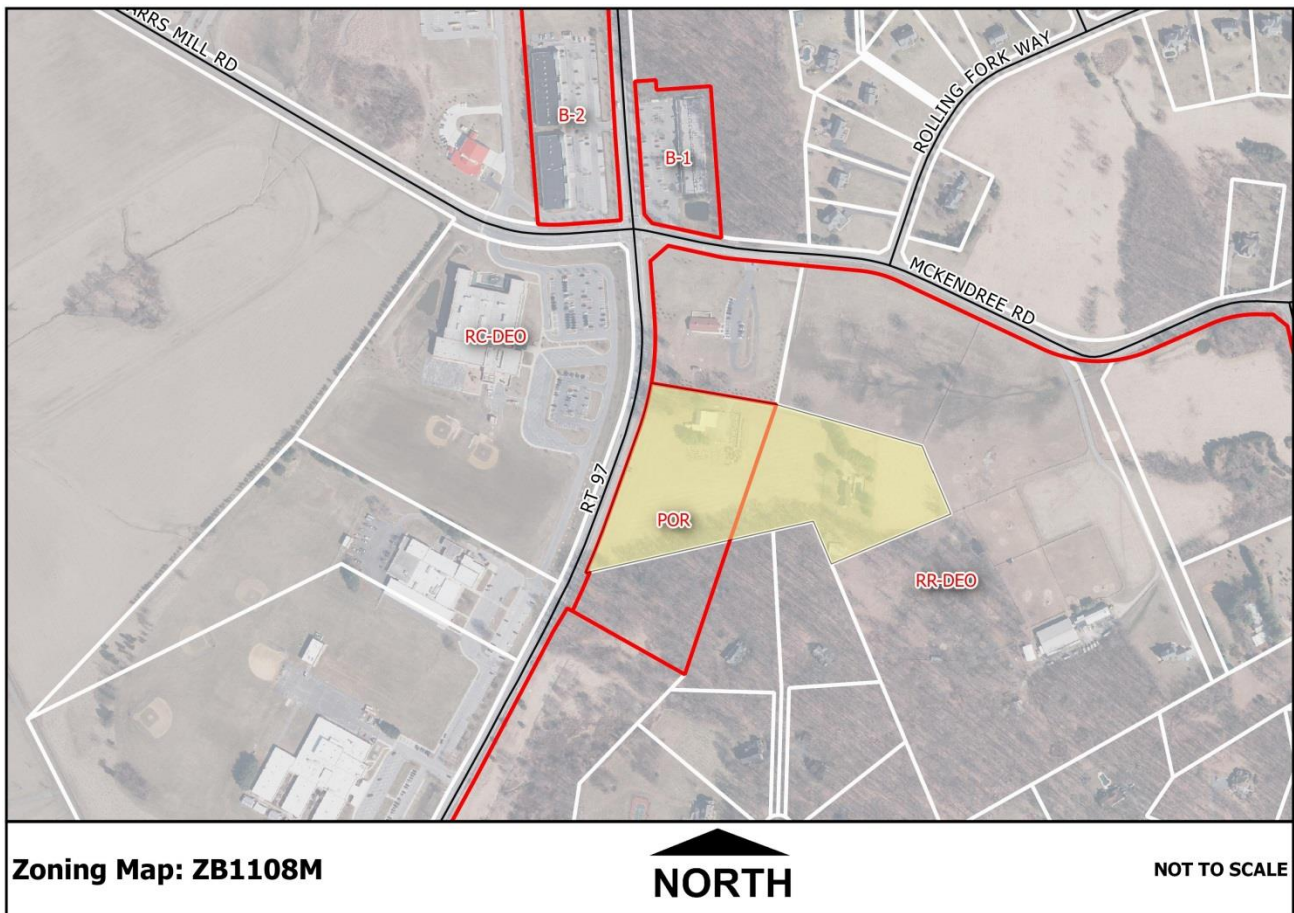
**Case No./Petitioner:** ZB 1108M – Kevin and Maria Garvey

**Location:** Fourth Election District  
East side of MD-97 approximately 500 feet south of McKendree Road  
Tax Map 14, Grid 11, Parcel 217, Lot 1; 2605 Route 97  
(the "Property")

**Area of Site:** 11.06 acres

**Current Zoning:** 5.56 acres POR  
5.5 acres RR-DEO

**Proposed Zoning:** 4.86 acres POR  
6.20 acres RR-DEO



## **I. DESCRIPTION OF PROPOSAL**

The Property is split-zoned with approximately 5.56 acres zoned POR (Planned Office Research) at the front of the Property and approximately 5.50 acres zoned RR-DEO (Rural Residential – Density Exchange Option) at the rear of the Property. The Petitioners propose to rezone 0.7 acre along the north property line from the current POR District designation to the RR-DEO District, in order to allow for the creation of two residential lots on the eastern portion of the property. The transfer of this land area will result in 6.2 acres in the RR District, which will permit two 3 acre lots with access to MD-97.

The RR (Rural Residential) District is established to allow low density residential development within a rural environment. The Rural Residential District is intended for an area of the County which is already largely committed to low density residential subdivisions. Within the RR District, agriculture is permitted as well as residential development in both cluster and non-cluster forms. Cluster development is permitted in order to protect environmental and landscape resources and to preserve agricultural land.

The POR (Planned Office Research) District is established to permit and encourage diverse institutional, commercial, office research and cultural facilities.

The Petitioner asserts that the proposed Zoning Map Amendment is justified on the basis of both a change in the character of the neighborhood and a mistake in zoning made during the 2013 Comprehensive Zoning Plan (the “2013 CZP”). These assertions are evaluated in the Evaluation and Conclusion section.

## **II. ZONING HISTORY**

### **A. Subject Property**

The Property was zoned R-40 in the 1961 Comprehensive Zoning Plan and retained that zoning until the 1977 Comprehensive Zoning Plan when it was rezoned to R (Rural). The R zoning was changed to RR-DEO during the Comprehensive Zoning of Western Howard County in 1992.

During the 2013 CZP, the property owner requested that the entire 11.06 acres be rezoned from RR-DEO to B-1. DPZ and the Planning Board did not support a rezoning to B-1, but did recommend that the western portion of the Property along MD-97 be rezoned to POR and the eastern portion remain RR-DEO. The Zoning Authority supported these recommendations and rezoned approximately 5.56 acres of the western portion of the Property to POR (Amendment No. 14.001). The 5.50 acres to the east remained RR-DEO.

### **B. Adjacent Properties**

The adjacent properties on the east side of MD-97, south of McKendree Road, have had the same zoning history as the Property. However, Lot 44 of Parcel 229, which adjoins the south side of the Property, is currently depicted on the Zoning Map as being zoned POR. This is a newly discovered mapping error.

The properties to the west across MD-97 have the same zoning history as the Property up to the Comprehensive Zoning of Western Howard County in 1992, when they were rezoned to RC-DEO.

### III. BACKGROUND INFORMATION

#### A. Site Description

The irregularly-shaped 11.06 acre Property is very wide at the frontage along MD-97 and tapers in width towards the east. An approximately 10 foot wide driveway accesses MD-97 at the northwest corner, runs along the north lot line for approximately 600 feet, and then curves south towards a two-story, frame, single-family detached dwelling that is located more than 700 feet east of MD-97. This driveway also provides access to a farm building which is located to the south of the driveway approximately 180 feet east of the front lot line. On the east side of this building is an open area that is partially enclosed by a fence. Aerial photographs show this enclosed area as being used for storage purposes.

The Property is generally level in front of the house and around the farm building, but slopes down approximately 12 feet in elevation towards the southwest corner. An open area to the east of the residence slopes down slightly towards the northeast. Except for trees at the northwest corner, next to the farm building, and along the south side lot line the area of the Property in front of the house is mostly an open lawn. There are large evergreen trees generally to the north of the house.

#### B. Vicinal Properties

North of the Property are Lot 5 of Parcel 217 and part of Lot 6 of Parcel 217. Lot 5 is the site of an animal hospital facility that was approved as a Conditional Use in BA 06-007C. Lot 6 is a 34 acre farm, the bulk of which is located east and southeast of the Property. Both properties are within the RR-DEO District.

South of the Property are Lot 31 and Lot 32 of the Glenwood Springs Section 1 Area 1 subdivision. These two lots are pipestem lots improved with single-family detached dwellings that have driveway access to Shadow Roll Court to the south. Also to the south of the Property fronting on MD-97 is Lot 44. According to the 1993 aerial photograph, this lot was once improved with a building which may have been a dwelling with driveway access to MD-97, however the lot now appears to be wooded and unimproved. The Zoning Map shows that the property is within the POR District, however; this is a recently discovered map error. The zoning should be RR-DEO.

West of the Property, across MD-97 and within the RC-DEO District, is Bushy Park Elementary.

#### C. Roads

MD-97 is an approximately 40 foot wide, two lane Minor Arterial within an existing 75 foot wide right-of-way, as shown on the 2008 Site Development Plan for the animal medical hospital to the north of the Property. The posted speed limit is 45 miles per hour.

The estimated sight distance from the approximate location of the existing driveway entrance is greater than 800 feet to the south and greater than 600 feet to the north. However, precise sight distance measurements may only be determined through a detailed sight distance analysis.

According to data from the State Highway Administration, the traffic volume on MD-97 south of MD-144 was 10,823 AADT (Annual Average Daily Traffic) as of March, 2016.

**D. Water and Sewer Service**

The Property is not in the Metropolitan District and is within the No Planned Service Area according to the Geographic Information System Maps.

The Property is served by private water and septic facilities.

**E. General Plan**

The Property is designated as a Low Density Development place type on the *PlanHoward 2030* maps.

MD-97 is depicted as a Minor Arterial on the *PlanHoward 2030* Transportation Map.

**F. Agency Comments**

See attached comments on the proposal from the following agencies:

1. State Highway Administration
2. Bureau of Environmental Health

The following agencies had no objections to the proposal:

1. Department of Recreation & Parks
2. Department of Fire and Rescue Services
3. Department of Inspections, Licenses and Permits

**IV. EVALUATIONS AND CONCLUSIONS**

**A. Evaluation of the Petition Concerning the General Plan**

The Petitioners assert that rezoning 0.7 acre of POR zoned land at a rural crossroads to RR-DEO is in harmony with **Policy 10.7 – Improve the functioning and design of rural commercial crossroads Implementation Actions a.** which states: “*Commercial Crossroads Plans. Identify and prioritize areas in the West that would benefit from planning activities that assess business and community needs and determine strategies to support the economic function and design of rural commercial crossroads.*” The basis for this assertion is that the remaining 4.86 acres of the property that front MD-97 will retain the POR District, which permits commercial development.

As stated above, **Policy 10.7 Implementation Action a.** encourages the establishment of commercial development at rural crossroads such as MD-97 and McKendree Road. DPZ does not consider the proposed rezoning to align with this policy, since it reduces the amount of land area available for commercial development from 5.56 acres to 4.86 acres and promotes additional residential development at the crossroads.

**B. Evaluation of the Petition Concerning the Change Rule**

To substantiate a change in character of the neighborhood, the petitioner must establish the “neighborhood” boundary and specify the changes that occurred after the comprehensive zoning

that altered the character of the “neighborhood”.

The Petitioners did not provide any information to establish a neighborhood boundary. The Petitioners did state that the “Glenwood Crossroads” has grown as a commercial and service center over the past 10 to 20 years, however they did not specify any substantial changes that occurred after the 2013 CZP. Furthermore, no information has been provided to show how this change at the crossroads substantiates their rezoning request. Since the 2013 CZP, there have been no approved piecemeal map amendments in the vicinity and no new development has occurred, therefore no evidence exists to support a rezoning in regards to the Change Rule.

**C. Evaluation of the Petition Concerning the Mistake Rule**

To substantiate a mistake in zoning, evidence must show that the Zoning Authority erred when it adopted the comprehensive zoning map.

The Petitioners assert that the split-zoning of the Property to POR on the west side and RR-DEO on the east side during the 2013 CZP was a mistake, because it prevents continued use of the existing residence and prevents subdivision into two residential lots. However, a Zoning District’s limitation on the use of property is not sufficient grounds to support a mistake in zoning. This argument might justify a rezoning request made during the Comprehensive Zoning process, but it is insufficient to support a piecemeal map amendment request.

The 2013 CZP detail map for Amendment No. 14.001, included in this Technical Staff Report, distinctly shows that the new POR/RR-DEO Zoning Map Line for the Property was established from the northeast corner of the adjoining Lot 44 to the southeast corner of the adjoining Lot 5. Additionally, this detail map clearly labels the acreages for the POR area and the RR-DEO area. Therefore, DPZ concludes that the Zoning Authority made a deliberate decision to rezone the western half of the Property to POR in the precise manner as is currently depicted on the Zoning Map.

**V. RECOMMENDATION**

For the reasons noted above, the Department of Planning and Zoning recommends that that the request to rezone the 0.7 acre area of the Property from POR to RR-DEO be DENIED.

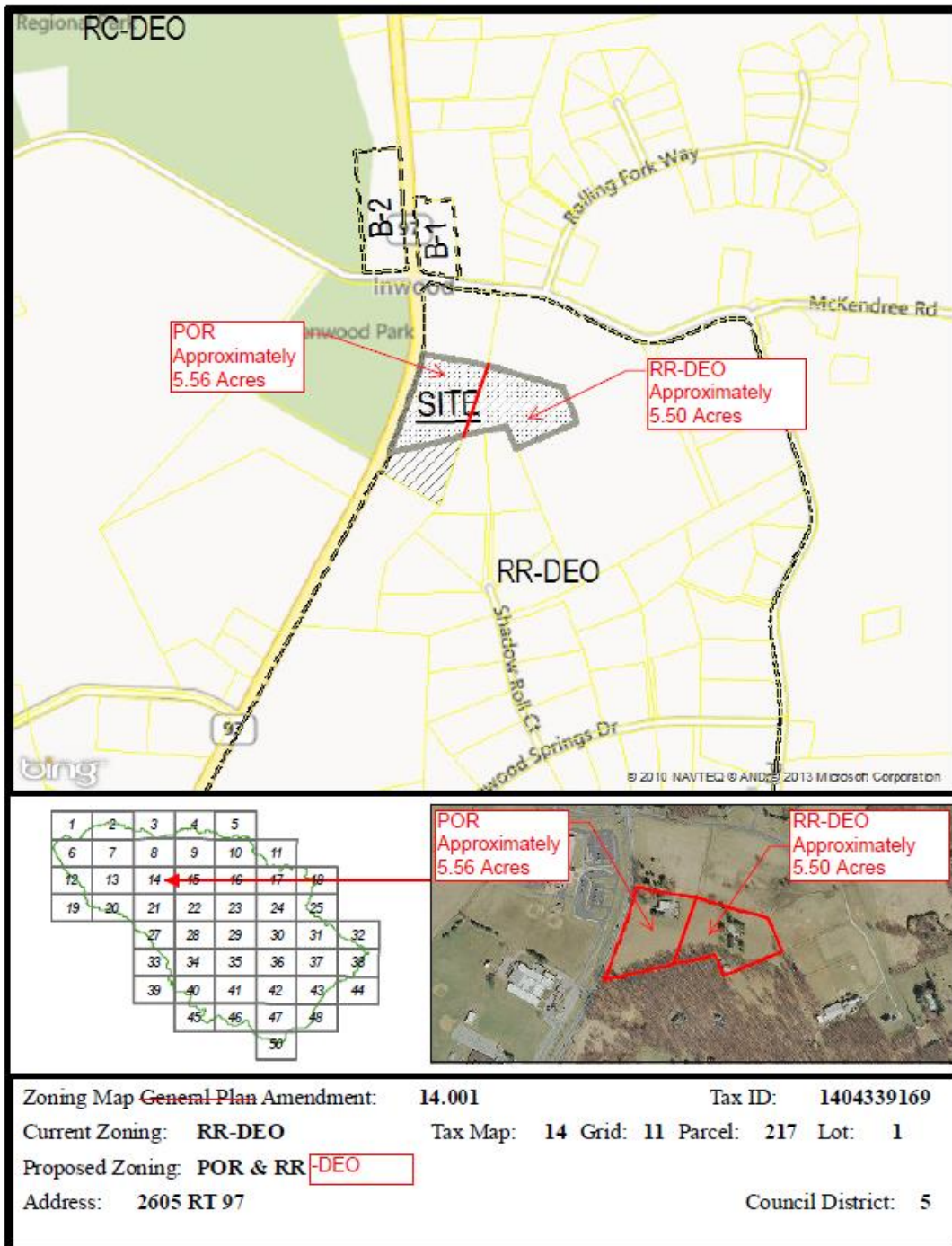
Approved by:

  
Valdis Lazdins, Director

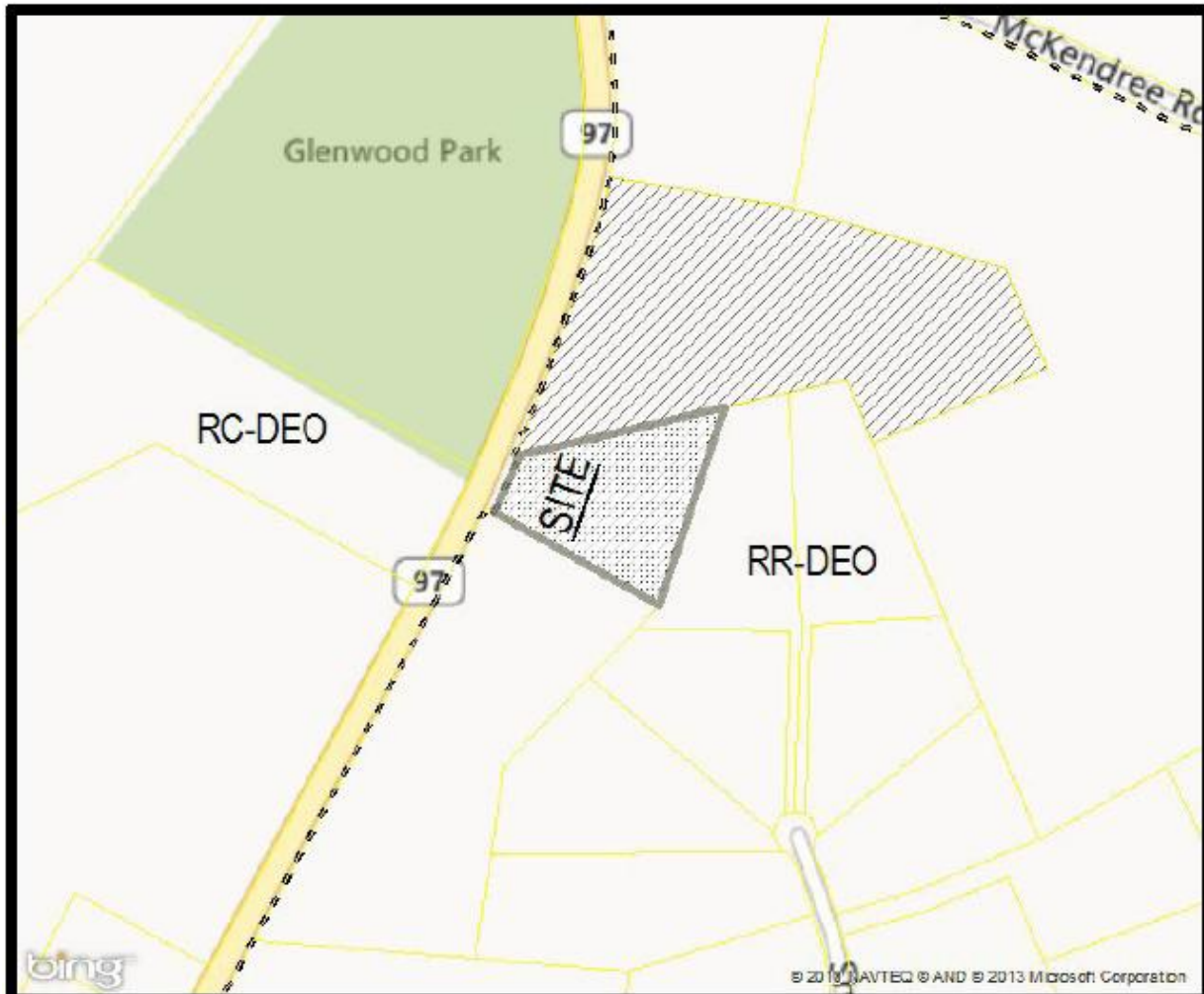
5/17/16  
Date

**NOTE: The file on this case is available for review at the Public Service Counter in the Department of Planning and Zoning.**

2013 CZP – Detailed Zoning Map for Amendment No. 14-001



2013 CZP – Detailed Zoning Map for Amendment No. 14-002



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			49	50		



Zoning Map General Plan Amendment: 14.002 Tax ID: 1404346904  
Current Zoning: RR-DEO Tax Map: 14 Grid: 17 Parcel: 229 Lot: 44  
Proposed Zoning: ~~RR~~ RR-DEO  
Address: 2669 RT 97 Council District: 5