



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

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Ellicott City, Maryland 21043

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Voice/Relay

Valdis Lazdins, Director

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May 11, 2017

TECHNICAL STAFF REPORT

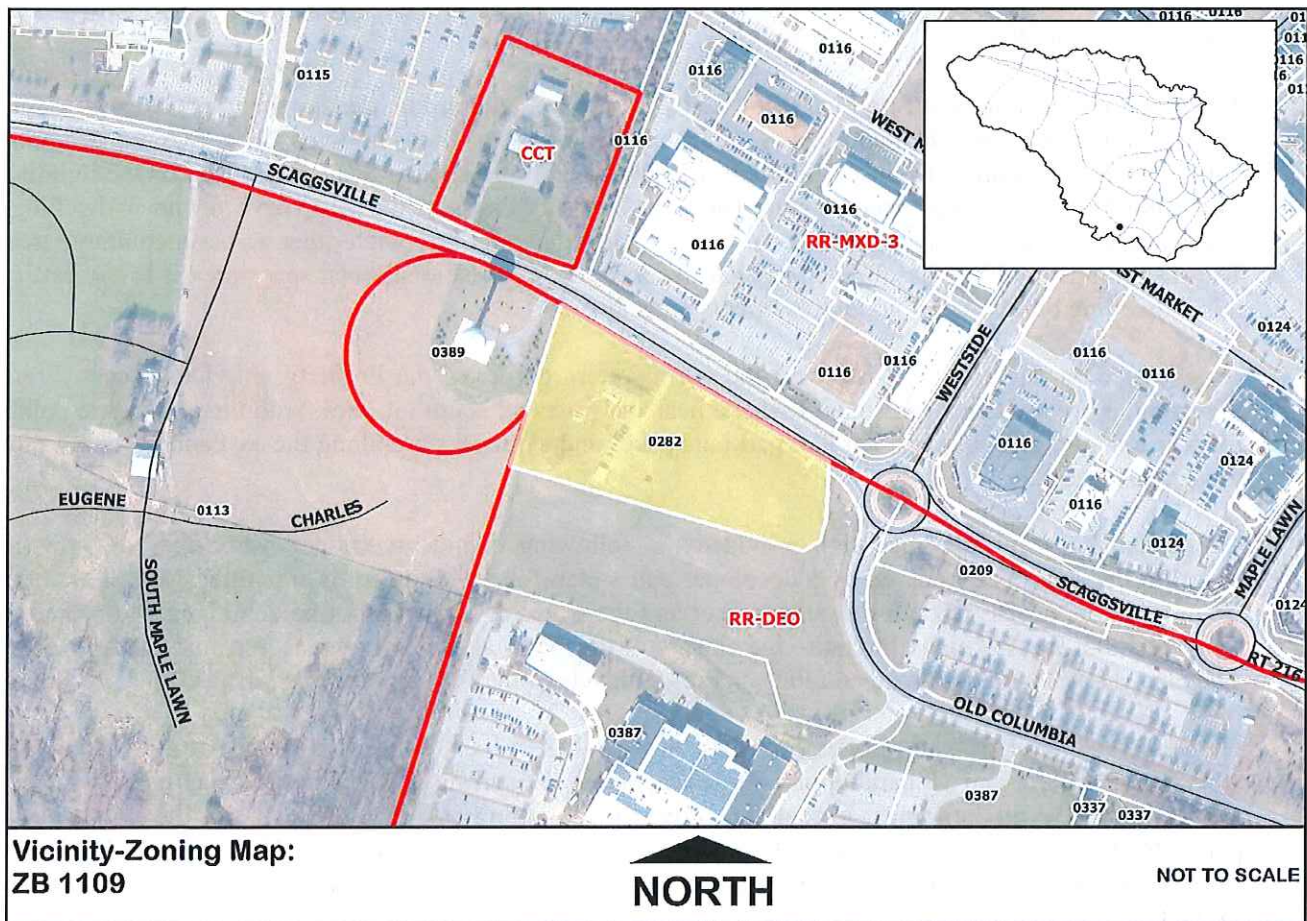
Planning Board Meeting of May 25, 2017

Case No./Petitioner: ZB 1109M – Bozzuto Homes, Inc.

Location: Fifth Election District
Southeast of the roundabout intersection of Scaggsville Road (MD 216), Old Columbia Road, and West Side Boulevard; Tax Map 46, Grid 3, Parcel 282. Currently 11475 Route 216 (the "Property").

Area of Site: 3.70 acres

Current Zoning: RR-DEO **Proposed Zoning:** R-SA-8, with site plan documentation



I. DESCRIPTION OF PROPOSAL

The Petitioner requests a Zoning Map Amendment to rezone the Property from the RR-DEO District to the R-SA-8 District, under the Section 100.0.G.2. provisions for Site Plan Zoning Petitions. The Petitioner asserts that the proposed Zoning Map Amendment is justified, based on a mistake in zoning (“Mistake”) made during the 2013 Comprehensive Zoning Plan (the “2013 CZP”).

The Property is within the Planned Service Area (“PSA”), is incorporated into the Metropolitan District, and has public sewer in the vicinity. The Property is zoned RR-DEO, and the Petitioner suggests that the RC and RR districts are specifically intended for agricultural preservation and low-density development in the Rural West. The Petitioner further states that the General Plan defines the Rural West as being outside of the Priority Funding Area and the PSA.

Consequently, the Petitioner states that any property within the PSA and zoned RR is incorrectly zoned. Further, the location of the RR-zoned Property in the PSA makes it undevelopable, because the Howard County Code, Section 16.131, requires that all residential properties in locations where public sewer is available must connect to public sewer. According to the Petitioner, “Since the Property cannot be developed with sewer under RR bulk regulations, and cannot be developed with septic under the Howard County Code, the Property cannot be developed at all. The Zoning Authority failed to take into account this regulatory taking when imposing an RR-DEO zone and, as such, this represents a mistake in zoning.”

Documented Site Plan

The proposed Documented Site Plan (the “DSP”) is for a condominium development - “Gates of Maple Lawn.” It consists of 29 single-family attached dwellings in five buildings. The two westernmost buildings each contain 8 dwellings, and are oriented roughly parallel to Scaggsville Road. One building fronts north and the other fronts south. The next two buildings, to the east, have 6 and 4 dwellings respectively, are oriented perpendicular to Scaggsville Road, and face each other across a common area. The easternmost building has 3 dwellings and faces east. A recreational open space area is to the east of this 3-dwelling building, but no improvements are shown.

An entrance on Scaggsville Road, near the northwestern corner of the Property, provides access. From this point, a private street runs in an L-shape near the west and south lot lines, with three entrance points for rear loading, garage areas. Parallel parking spaces and sidewalks are along the east and north sides of this private street.

The State Highway Administration provided the following comment: “If and when the SHA-owned parcel to the south is purchased by a developer and a plan for development is submitted, we ask that the County require access to both the SHA parcel and the Gates at Maple Lawn be combined and routed to Old Columbia Road. This will require the closure of the Gates at Maple Lawn access point on MD 216.” The plan shows a potential road entrance on the south side of the Property for this prospect.

Of the 73 required parking spaces, the plan depicts 122 spaces, comprised of 58 garage spaces, 46 “driveway” spaces, and 18 parallel parking spaces along the private street. The driveway parking spaces are available for all buildings, except the 6-dwelling building in the middle of the development. A perimeter landscape buffer is proposed, as required by the Landscape Manual. Within the buffer along Scaggsville Road a noise mitigation wall or fence may be added, based upon the results of a future noise mitigation study.

II. ZONING HISTORY

A. Subject Property

In the 1961 Comprehensive Zoning Plan, the Property was zoned R-40. It was rezoned R (Rural) in the 1977 Comprehensive Zoning Plan, and retained that zoning in the 1985 Comprehensive Zoning Plan. In the 1992 Comprehensive Zoning Plan for Western Howard County, and the subsequent 1993 Comprehensive Zoning Plan, the Property was zoned RR-DEO, which is the current zoning.

B. Adjacent Properties

All surrounding properties have the same zoning history, up to the 1993 Comprehensive Zoning Plan, when the properties across Scaggsville Road were rezoned RR-MXD-3. All other properties were zoned RR-DEO. In 2006 ZB 1039M was approved and incorporated the properties to the north, across Scaggsville Road, into the Maple Lawn Mixed Use Development. It had previously been approved under ZB 995M. No other zoning changes have occurred until the 2013 Comprehensive Zoning Plan, when the property to the southwest was rezoned R-ED-MXD-3, and the property to the northwest across Scaggsville Road was rezoned CCT.

III. BACKGROUND INFORMATION

A. Site Description

The wedge-shaped Property contains a one-story, single-family detached dwelling, constructed in the early 1950s. The Property existed well before the widening of Scaggsville Road and the construction of the adjoining roundabout, both of which affected its shape.

From an entrance on Scaggsville Road, a paved driveway extends south to a relatively large paved parking lot. At its south end is a detached accessory building and other small accessory structures, located behind the house. Except for some trees near the southwest corner, the Property is mostly an open lawn. The highest elevation is at the northwest corner of the Property, where the land slopes down to the southeast, south, and southwest.

B. Vicinal Properties

Across Scaggsville Road (MD 216), to the northwest, is Parcel 476. It is zoned CCT and is the subject of Environmental Concept Plan ECP-16-020 for an assisted-living facility. To the north of the Property is a shopping center in the Maple lawn Mixed Use Development. It consists of a large grocery store, two multi-tenant buildings, and a single-tenant restaurant building. There is an undeveloped pad site, which is labeled as a proposed future bank on the DSP.

Adjoining the east and south sides of the Property is undeveloped, excess right-of-way for MD 216. Beyond that, to the east, is Old Columbia Road and a State Highway Administration park-and-ride lot. To the south, past the right-of-way, is Parcel 387. It is zoned RR-DEO and contains the Grace Community Church. To the west of the Property is Parcel 389, the site of a Howard County water tower, and Parcel 113, which is zoned R-ED-MXD-3. It is the future site of the Maple Lawn South subdivision. According to Preliminary Sketch Plan SP-15-014, this subdivision has 176 single-family detached dwelling lots, to be subdivided and developed as an R-ED subdivision.

B. Roads

Scaggsville Road (MD 216) is classified as a minor arterial roadway with a 45 mile per hour posted speed limit. It has two east-bound lanes and two west-bound lanes that merge into one west-bound lane. There is approximately 60 feet of paving within a variable width right-of-way.

The estimated sight distance from the proposed driveway entrance is approximately 765 feet to the roundabout to the southwest and approximately 725 feet to the northwest. Precise sight distance measurements can only be determined through a detailed sight distance analysis.

According to data from the State Highway Administration, the current traffic volume on Scaggsville Road (MD 216) between US 29 and Lime Kiln Road is 18,415 AADT (Annual Average Daily Traffic).

D. Water and Sewer Service

The Property is in the Metropolitan District and the Planned Service Area.

If ZB-1109M is approved, the proposed development will be served by public water and sewer.

E. General Plan

The Property is designated as a Growth and Revitalization place type on the *PlanHoward 2030* maps.

Scaggsville Road (MD 216) in this location is depicted as a Minor Arterial on the *PlanHoward 2030* Transportation Map.

F. Subdivision Review Committee

As required by Section 100.G.2.c. of the Zoning Regulations, this site plan was evaluated by the Subdivision Review Committee ("SRC"). Subsequently on January 19, 2017, the Department of Planning and Zoning certified that the development shown on the proposed site plan has the potential to comply with all technical requirements of the reviewing agencies, without substantial changes to the plan, in subsequent subdivision and site development plan stages of review. Please refer to the attached memorandum and the SRC comments.

IV. EVALUATIONS AND CONCLUSIONS

A. Evaluation of the Petition Concerning the General Plan

The Petitioner asserts that the request to rezone the Property to R-SA-8 is in harmony with the PlanHoward 2030 General Plan, because it would be more consistent with the adjoining Maple Lawn Development as a transitional zone and that an R-SA-8 zoning is more consistent with properties located within the PSA.

The Property is within a Targeted Growth and Revitalization Area, as designated in the PlanHoward 2030 General Plan. Page 74 of that plan describes such areas as "...areas where current policies, zoning and other regulations, as well as policies suggested in PlanHoward

2030, seek to focus most future County growth.”

The following policy in *Chapter 6 Growth* is also related to the request:

Opportunities Implementation Action of Policy 6.5 *“Designate appropriate additional areas within the County’s Priority Funding Area for well-designed, compact development in order to accommodate future job and housing growth”.*

The Designated Place Types Map shows the Property located within the Priority Funding Area and PSA for water and sewer.

The current RR-DEO zoning does not support the Targeted Growth and Revitalization Area policies and is more consistent with the Rural West designation, which is described as “...area [that] is outside of the Priority Funding Area, [and] is not served by public water and sewer.” The Purpose statement for the RR (Rural Residential) District states “The 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.” The Property is not within a rural environment with low density residential subdivisions.

The proposed R-SA-8 District is consistent with General Plan policies and the development pattern of the area. On the Land Use Map, the areas to the west of the Property are undeveloped, residential land, planned for the Maple Lawn South development and the water tower. Across Scaggsville Road is land designated Commercial. The areas to the east and immediately to the south are public right-of-way, while the Grace Community Church is Institutional. The proposed R-SA-8 development of the Property would be an appropriate transition between the commercial land to the north and the institutional and residential land to the south and west.

B. Evaluation of the Petition Concerning the Change Rule

The Petitioner did not allege Change, so DPZ did not evaluate the petition from that perspective.

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 Petitioner asserts that the proposed Zoning Map Amendment is justified based on a Mistake made during the 2013 CZP. The basis for this assertion is that the Property is within the PSA and is zoned RR-DEO, which is a Rural West zoning district, intended for properties outside of the Priority Funding Area and PSA.

The Petitioner maintains that the Property is “...undevelopable under existing zoning” due to its inclusion in the PSA. DPZ concurs with the Petitioner that the RR-DEO zoning of the Property is a mistake made in the 2013 CZP, for the reasons stated by the Petitioner and for additional reasons as expressed below:

On September 13, 2010, the Zoning Board rezoned 221.1 acres of the Doughoregan Manor property from RC-DEO to R-ED (ZB 1087M). The Decision and Order for this case established that the location of a property in a Rural West zoning district and in the PSA may be considered a factor in determining mistake in zoning:

“Petitioners’ principal contention as to mistake in comprehensive zoning was based on the County Council’s inclusion of the subject property in the PSA by CB 9-2010. The Board concluded that there was substantial evidence from this change in policy by the County Council to remove the subject property from the non-PSA Rural West and put it in the area of the County in which properties must be served with public water and sewer facilities is indisputably an event or fact occurring subsequent to the 2004 Comprehensive Zoning. The Board concludes that this shows that the Council’s premise in zoning the property RC-DEO in 2004 has proven to be incorrect over time.”

A similar finding was more recently made in the Zoning Map Amendment case ZB-1107M for a 1.99-acre parcel located to the north of Scaggsville Road, approximately 1,500 feet to the southeast of the Property. ZB-1107M was a request to rezone this parcel from RR-DEO-MXD-3 to B-1 and was approved on January 26, 2017:

“The Board, based on the undisputed facts above, finds that the Petitioner presented substantial evidence that the Zoning Authority erred when it adopted the comprehensive zoning map. The basis for this conclusion is that the Property is within the PSA but is zoned RR, which is a Rural West zoning district that is intended for properties outside of the PSA.”

D. Evaluation of Site Plan Documentation Factors in Section 100.G.2.d.

1. *The compatibility of the proposed development with the existing and potential land uses of the surrounding areas.*

Currently, the Property contains a single-family detached dwelling, which is not compatible with the character of the surrounding uses. The proposed townhouse development, as depicted on the DSP, will introduce a moderately higher residential density that would be more appropriate in this setting. It will also function as a residential transition between the commercial uses to the north and the future low density residential neighborhood to the west and southwest. It will also help to screen the adjacent low-density residential neighborhood from Scaggsville Road and the shopping center.

2. *Protection of the environmental integrity of the subject property and adjoining areas in the location and design of site improvements.*

The Property has no environmentally sensitive features. The proposed development provides the required landscape buffers.

3. *The availability of safe road access for the proposed development.*

The State Highway Administration has acknowledged that the proposed access on Scaggsville Road is acceptable, based on applicable standards; although this access may ultimately be replaced by a future access to Old Columbia Road.

4. *Compatibility of the proposed development with the policies and objectives of the Howard County General Plan.*

The proposed development is in harmony with the Opportunities Implementation Action of Policy 6.5 to “Designate appropriate additional areas within the County’s Priority

Funding Area for well-designed, compact development in order to accommodate future job and housing growth". Given the unusual and constrained shape of the Property, the proposed lay-out of townhouses, roads, and open space is well-designed and accommodates housing near jobs. Further, the DSP has been revised in compliance with SRC review comments.

E. Appropriateness of Zoning District

As noted above, the RR District is no longer an appropriate zoning district because it is a Rural West District and the property is located within a Targeted Growth and Revitalization Area, with public water and sewer service in the vicinity. The following is an analysis of alternative zoning districts that may be suitable for the property:

Residential

Low density residential zoning districts would not be appropriate, given the context of the surrounding area, with commercial land use to the north, government uses to the east and west, and the location directly on Scaggsville Road. High density residential districts, such as R-A-15 and R-APT, could create compatibility issues with the future low-density residential neighborhood to the west and southwest.


Non-residential

The Property does meet the CCT District's purpose to serve as "a transition between residential neighborhoods and nonresidential development, or an arterial highway." Commercial zoning districts on the south side of Scaggsville Road are not recommended, considering the large number of existing and future commercial uses in Maple Lawn. Similarly, the POR or PEC would not be appropriate, considering the large amount of office space in Maple Lawn.

V. RECOMMENDATION

For the reasons noted above, the Department of Planning and Zoning recommends that that the request to rezone the Property from RR-DEO to R-SA-8, with the development as depicted on the DSP submitted on February 28, 2017, be APPROVED.

Approved by:

 5-11-17
Valdis Lazdins, Director Date


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



Howard County
Internal Memorandum

Subject: ZB 1109M - Bozzuto Homes, Inc.

To: Geoff Goins, Chief
Division of Public Service and Zoning Administration

From: Kent Sheubrooks, Chief
Division of Land Development 
Department of Planning and Zoning

Date: January 19, 2017

The Subdivision Review Committee (SRC) has reviewed the above referenced Zoning Petition "Site Plan" to rezone 3.70 acres from RR-DEO Zoning to R-SA-8 Zoning and provides the attached comments/responses for consideration by your Division.

The SRC certifies that the development proposal provided has the potential to comply with all technical requirements without substantial change to the plan, in subsequent subdivision and site development plan stages of review, per Section 100.0.G.2.c. of the Zoning Regulations.

If you have questions regarding the enclosed comments, please contact Derrick Jones or me of this Division.

DEPARTMENT OF PLANNING AND ZONING
Division of Land Development

January 13, 2017

COMMENTS
Plan Revision

RE: **ZB-1109M Gates at Maple Lawn** (site plan for rezoning)

* The following are comments from the Division of Land Development in response to the December 1, 2016 ZB petition (to amend the zoning map) for the above referenced project.

Frontage

1. Although this development will consist of condominium ownership, the Chief of Land Development has determined that this development is subject to the minimum public road frontage requirements. In accordance with Section 16.120(c)(1) of the Subdivision Regulations, all commercial, industrial or apartment lots shall have a minimum frontage of 60 feet on a public road that provides access to the property.

Site Analysis and Design

2. The proposed building length of 160' for the two rows of townhomes may be approved by the Director of DPZ, per Section 110.0.D.e. of the Zoning Regulations – no variance request is needed.
3. The row of six townhomes must provide at a minimum 18 feet of driveway space for the rear entry garages.
4. The area proposed for open space (and for recreational open space) satisfies this project's open space requirements.

Distances Between SFA Buildings

5. A minimum distance of 30 feet is required for single-family detached dwellings (townhomes) units that are face-to-face as outlined in Section 111.0.D.5 of the Zoning Regulations. This plan has a distance that scales at 40 feet between two row of townhome units that face to face.

Pathway

6. Both the Howard County School system and the Department of Recreation and Parks is requesting that the developer "tie in" a pathway from the proposed Maple Lawn South subdivision (to the west) with this project.



Subject: Planning Board Case No: ZB-1109M
Applicant: Bozzuto Homes, Inc.
Petition: Amendments to change the zoning district of the subject property from RR-DEO to R-SA-8

To: Zan Koldewey, Division of Public Service and Zoning Administration

From: Jim Witmer, Development Engineering Division

Date: January 5, 2017

The Development Engineering Division has reviewed the above referenced petition and offers the following:

Roads

1. Per Design Manual III, the minimum public road standards must be provided. For townhouse developments a minimum pavement width of 26' is required. The exhibit only provides 24-feet.
2. The internal roadways are illustrated at 20-feet wide. The minimum width is 26-feet. The 20-foot wide roads should not be classified as alleys unless they front another adequately sized roadway.
3. The realigned access to the existing water tower will require the approval of the DPW and possibly a public road extension.
4. Frontage improvements, sight distance, and access locations have to be approved by SHA.
5. SHIA will request a paved stub to the property to the south. With the development of the neighboring property SHA will request that the site access to MD-216 be removed.

APFO

1. Be advised that updated traffic counts for the APFO study will be required.
2. Be advised that updated background traffic will be required.

Stormwater Management

1. Stormwater management will need to meet the minimum requirements for the most current regulations. The minimum Pe of P shall be treated with Chapter 5 ESD facilities prior to utilizing Chapter 3 structural practices.
2. All discharge points have to be analyzed for offsite impacts. Additional management may be required based on known downstream flooding problems.

Noise

1. Noise mitigation will be required along MD route 216.

Public Water and Sewer

1. Sewer is not available along the frontage of the site. A sewer main extension will be required.

From: Scott Newill
Sent: Tuesday, December 13, 2016 8:56 AM
To: 'blalush@howardcountymd.gov' <blalush@howardcountymd.gov>
Subject: ZB 1109M (Gates at Maple Lawn)

Bob,

SHA has reviewed the revised access plan for ZB 1109M (Gates at Maple Lawn). SHA is in agreement with the proposed access with the following caveats:

1. The roadway improvements for CSH Maple Lawn and Maple Lawn South should be constructed prior to use & occupancy of any dwellings within Gates at Maple Lawn. This will allow for safer left turns.
2. If and when the SHA-owned parcel to the south is purchased by a developer and a plan for development is submitted, we ask that the County require access to both the SHA parcel and the Gates at Maple Lawn be combined and routed to Old Columbia Road. This will require the closure of the Gates at Maple Lawn access point on MD 216.

The developer should now submit site/construction plans to SHA District 7 Access Management. These plans should include stormwater calculations, etc. All construction within SHA r/w will require an access permit to be received from this office.

Thanks,

Scott

D. Scott Newill

Maryland Department of Transportation (MDOT)

Jones, Derrick

From: Renee Kamen <Renee_Kamen@hcpss.org>
Sent: Friday, January 06, 2017 10:50 AM
To: Jones, Derrick
Subject: RE: ZB-1109-M for Bozzuto Homes

Derrick –

The only comments we have is that this site is within the walk zone of our Fulton Campus (FES, LKMS and RHS). At preliminary plan, we'd need the County's engineer to weigh in on the safety for students to cross Scaggsville Road/MD216 (preferably in conjunction with Maple Lawn South). The ultimate would be to have this community tie into the Maple Lawn South and have the pathway wide enough and far away enough from the MD 216. I guess at this point, we'd have to put the developer on notice that this is what we would pursue in subsequent development approvals? But we'd like to pursue it.

We hope this information is helpful (and apologies for not responding sooner was out nursing an illness). Have a great day!

-renee

Renée M. Kamen, AICP, Manager

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Howard County Public School System
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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

Subject: Zoning Board Petition ZB 1109M
Submission dated December 1, 2016

To: Geoff Goins, Chief
Division of Public Service and Zoning

Through: Kristin O'Connor, Chief *Kon*
Division of Comprehensive and Community Planning

From: Karitsa Norman, Planner *KN*
Division of Comprehensive and Community Planning

Date: December 20, 2016

Recommendation

The Division of Comprehensive and Community Planning (DCCP) has reviewed ZB 1109M in relation to the County's General Plan, *PlanHoward2030*. The zoning map amendment requests rezoning of the subject parcel from RR-DEO to R-SA-8. *PlanHoward 2030* expanded the Planned Service Area (PSA) to include the parcel.

Additionally, the 2015 update of the Howard County Master Plan for Water & Sewage includes the parcel in the PSA. Based on this review, DCCP finds the zoning map amendment is consistent with the General Plan. The Plan further states:

"These properties, because of their location at the interface of the rural residential zone and the planned service area, should be designed and zoned to establish a transition that is compatible with and enhances surrounding communities." (p.70)

We thank you for this opportunity to comment on the submission and are available to answer further questions, if needed.

Aerial Photograph from the south:

