

T&E COMMITTEE #2
March 30, 2009

MEMORANDUM

March 26, 2009

TO: Transportation, Infrastructure, Energy & Environment Committee

FROM:  Keith Levchenko, Senior Legislative Analyst

SUBJECT: **Worksession:** Amendments to the Comprehensive Water Supply and Sewerage Systems Plan

On February 3, 2009 the County Council received a package of 4 Water and Sewer Plan amendments from the County Executive (transmittal memorandum and amendment package attached beginning on ©C). A draft resolution is attached on ©A-B.

The Council held a public hearing on March 10.

Alan Soukup of the Department of Environmental Protection and Katherine Nelson of the Planning Board Staff are expected to attend the Committee worksession.

List of Attachments

Draft Resolution	©A-B
County Executive's Transmittal Letter (dated July 14, 2008)	©C-D
CE Staff Report	©E-54
Cloverly Master Plan Excerpts	©7-8
Water and Sewer Plan Excerpt - Laytonsville Restricted Water Service Area	©15
Water and Sewer Plan Excerpt - Piney Branch Restricted Access Policy	©23
Planning Board Staff Memorandum of March 13, 2009 to the Planning Board	©55-57
Board of Appeals Opinion, Case No. S-2674 (Lee-Llacer)	©58-60

Category Change Process Overview

The County's Department of Environmental Protection (DEP) is responsible for assembling, reviewing, and processing these amendments through the County Executive for transmittal to the Council.

DEP staff coordinates with a number of other departments and agencies and includes comments from Planning Board Staff, WSSC, and Department of Permitting Services (DPS) staff in the Executive Staff Report.

Planning Board Review

The Planning Board discussed these amendments on March 19, 2009 and concurred with the Planning Board Staff's recommendations (see ©55-57). The Planning Board recommendations for each item are noted later in this memorandum. The Planning Board concurred with the County Executive on three of the four category change requests. The one area of disagreement is with regard to the Lee-Llacer request. In that case, the Planning Board recommended denial of the sewer request (maintain S-6). The Executive recommends approval for a single-hookup.

State Approval

All amendments to the County's Water and Sewer Plan are subject to approval by the Maryland Department of the Environment (MDE). Therefore, amendment approvals by the Council are considered preliminary until MDE action.

Category Change Requests

The Executive transmitted four category change requests as presented on the following chart. For each of the cases, the Executive Staff, Planning Board Staff, and Planning Board recommendations are noted. Each case is individually reviewed below.

#	Applicant	Number	County Executive	M-NCPPC Staff	Planning Board	CE Staff Report	
						Report	Maps
1	Bryanshire Corp. (for the God Glorified Church of God in Christ)	06A-CLO-04	Deny (Maintain W-5 and S-6) since the designated non-profit user dropped out.	Concur with CE	Concur with CE	©1-2	©3
2	Manoj Maloo & Arihant Briggs Chaney LLC	08A-CLO-04	Conditionally approve S-3, requiring approval of a sewer-based preliminary plan that provides an environmental advantage over a septic-based plan	Concur with CE	Concur with CE	©6-8	©9
3	Joseph and Shirley Wang	08A-OLN-03	Approve W-3 for a single hook-up only.	Concur with CE	Concur with CE	©13-15	©16-19
4	Reynaldo & Zorayda Lee-Llacer	08A-TRV-01	Approve S-1 for a single hook-up only (may serve both structures, but cannot support subdivision of the property)	Deny, Maintain S-6	Deny, Maintain S-6	©21-23	©24

#	Applicant	Number	County Executive	M-NCPPC Staff	Planning Board	CE Staff Report	
						Report	Maps
1	Bryanshire Corp. (for the God Glorified Church of God in Christ)	06A-CLO-04	Deny (Maintain W-5 and S-6) since the designated non-profit user dropped out.	Concur with CE	Concur with CE	©1-2	©3

This 8.6 acre RE-2 zoned property is made up of two roughly equal-sized non-contiguous parts located near the intersection of New Hampshire Avenue and Bryants Nursery Road (see ©3 for a map showing both pieces of the property). The applicant (in partnership with the Church noted in the chart above) was seeking approval of public water and sewer in order to build a church on the southern property piece. The northern piece of the property was to remain undeveloped. Both parts of the property are currently unimproved.

This request was originally deferred by the Council on, July 10, 2007, pending receipt of further information regarding the intended use of the property.

On May 9, 2008 the Council received additional information from the applicant. This information included a concept drawing showing a maximum build-out of the southern piece of the property which the applicant noted would result in a total imperviousness of no more than 25 percent across the entire property (including both the southern and northern non-contiguous pieces). A new resolution (see ©1-2) was introduced on May 22, 2008.

On July 7, 2008 the T&E Committee recommended approval of the request. However, subsequent to the Committee meeting, Council Staff learned that the applicant's non-profit user was no longer interested in utilizing the property. As a result, the Committee recommendation was not acted upon by the Council and the category change request remains in a deferred status.

The Executive recommends denial of the request since the original non-profit partner is no longer associated with the request. The Planning Board concurs with this recommendation. NOTE: The merits of the request are not before the Council for discussion at this time. Rather, the issue is what to do with this request procedurally (continue deferral or deny the request).

At the March 10 public hearing, Phil Mitchell of Bryanshire Corporation noted that a new non-profit partner was now interested in utilizing the property under the same parameters discussed at the T&E Committee on July 7, 2008. He agreed to forward this information in writing to DEP and the Council

At this point, the Council has two options regarding this request.

1. Deny the request and ask the applicant to reapply for a new category change with a new non-profit partner.¹

Council Staff supports this approach since it provides for a new full review process starting with a new application to DEP, Executive and M-NCPPC review, and transmittal to the Council for public hearing, Committee review, and action. Note: Since requests involving private institutional facilities (PIFs) do not involve an application fee, there would be no additional charge to the applicant.

2. Keep the current category change request in a deferred status and allow it to come back directly to the County Council once the necessary additional information is provided to the County Executive and the Council.

This approach provides a speedier review period for the applicant, who will not have to wait until the next package of amendments is transmitted by the Executive. Instead, the request would go through the Council review process (public hearing, Committee, and action) as soon as the necessary information is provided to the County Council.

It is important to emphasize that under both scenarios, a new public hearing is required to comply with the 10 Year Water and Sewer Plan.

Council Staff supports denial of the existing request and requiring the applicant to submit a new application. Not only does this process provide for a full review of the new request, the timing of this approach will likely avail the Council of the opportunity to act on its Comprehensive Update to the 10 Year Water and Sewer Plan which is expected to be transmitted by the Executive within the next couple of months. That comprehensive update may include modifications to the Private Institutional Facilities (PIF) Policy and thus be pertinent to the Bryanshire request.

¹ Typically, a category change denial precludes reapplication for a category change for one-year. This is intended to avoid the same requests repeatedly coming back to the Council. However, if the applicant in this case identifies a new non-profit partner, Council Staff suggests that the request not be subject to this one-year restriction.

#	Applicant	Number	County Executive	M-NCPPC Staff	Planning Board	CE Staff Report	
						Report	Maps
2	Manoj Maloo & Arihant Briggs Chaney LLC	08A-CLO-04	Conditionally approve S-3, requiring approval of a sewer-based preliminary plan that provides an environmental advantage over a septic-based plan	Concur with CE	Concur with CE	©6-8	©9

This 12.5 acre RE-1 zoned property is located on the north side of Briggs Chaney Road at the intersection with Lear Lane in the Cloverly area (and is within the Upper Paint Branch Special Protection Area). The applicant is seeking public sewer in order to subdivide the property and build 8 single-family homes. Public water is already approved for the property. The property is currently vacant but was previously used as an equestrian center and residence.

An 8-inch sewer line along Briggs Chaney Road abuts the property on the southern side and could serve approximately half of the property. Service to the rest of the property will require a 200 foot extension (requiring rights of way) from Colesberg Street (north of the property). The extension would cross a stream and an associated stream buffer.

The Cloverly Master Plan (1997) includes the following language with regard to the provision of public sewer to RE-1 zoned properties in this area:

“...the approval of community sewer service to properties zoned RE-1 in the Upper Paint Branch SPA should be coordinated with the approval of subdivision plans which address the environmental concerns associated with development in these headwater areas, and which further must demonstrate an environmental benefit resulting from development supported by community sewer service, rather than that supported by septic systems.”

Based on this language, the Executive recommends approval of S-3 conditioned upon Planning Board approval of a preliminary plan which DEP and M-NCPPC staff concur demonstrates the environmental benefit as noted in the Master Plan. **The Planning Board and Council Staff concur with this recommendation.**

#	Applicant	Number	County Executive	M-NCPPC Staff	Planning Board	CE Staff Report	
						Report	Maps
3	Joseph and Shirley Wang	08A-OLN-03	Approve W-3 for a single hook-up only.	Concur with CE	Concur with CE	©13-15	©16-19

This RDT-zoned 2.24 acre property is located at the intersection of Olney Laytonsville Road (MD 108) and Golf Estates Drive just outside the Town of Laytonsville. The property contains a single-family home. The property owner is seeking approval for public water in order to have an option of hooking up to a planned water main along MD 108 which will abut his

property and in order to save substantial up-front costs by having a water connection installed at the same time as the installation of the main.

On September 23, 2008 the Council approved the provision of public water service to a number of developed properties outside the Town of Laytonsville that will abut a new water main being built to serve properties in the Town. At that time, it was noted that two additional developed properties zoned RDT were not part of that approval. The original Council approval for water service to the Town of Laytonsville included a provision that service outside the Town would be limited to properties NOT zoned RDT (see ©15).

The intent of the Council policy was to avoid further loss of agriculturally zoned land to development as a result of the extension of water service to the Town. However, in the case of both the Wang property and the neighboring property which will also abut the new main, the RDT-designation for these properties is outdated, as both properties are approximately 2.25 acres in size and already developed with single-family homes.

The Executive recommends providing a limited exception to the Laytonsville RDT Zone restricted water service policy to apply to the Wang property (21000 Golf Estates Drive) and the neighboring property (21001 Golf Estates Drive). The Planning Board and Council Staff concur.

#	Applicant	Number	County Executive	M-NCPPC Staff	Planning Board	CE Staff Report	
						Report	Maps
4	Reynaldo & Zorayda Lee-Llacer	08A-TRV-01	Approve S-1 for a single hook-up only (may serve both structures, but cannot support subdivision of the property)	Deny, Maintain S-6	Deny, Maintain S-6	©21-23	©24

This RE-2 zoned 2.54 acre property is located on Piney Meetinghouse Road north of Glen Road. The applicant is seeking public sewer to serve two existing single family homes on the property. The property is served by public water. The newer of the two homes utilizes an approved septic system. There is no approved septic system for the older home. The applicant is seeking public sewer service to serve both structures on the property. According to the applicant, providing public sewer service to the older home will enable the applicant to utilize the older home as a guest house for a caregiver.

Sewer service can be provided via an existing main along Piney Meetinghouse Road that abuts the property and the abutting mains policy of the Water and Sewer Plan allows for a hookup that could serve both homes.

This request was previously deferred by the Council in April 2008 pending Board of Appeals action on the property owner’s special exception request regarding the existing accessory building.

At the time of the Council's first discussion, testimony from the West Montgomery County Citizens Association argued for denial of the request because of concerns of "the possible precedent of allowing a sewer connection to legalize an otherwise illegal situation." (i.e. two single family homes occupied by two families on a single lot). It was further discussed that according to the record plat, the older home was supposed to have been demolished at the time of the building permit for the newer home.

On December 17, 2008 the Board of Appeals approved the property owner's special exception request with conditions (including that both houses be served by public sewer).

The Planning Board recommends denial of the request noting that the property is outside the Potomac Master Plan sewer service envelope and within the Piney Branch Special Protection Area, and not eligible via the peripheral service policy.

The Executive recommends approval of S-1 (single-hookup only, NOTE: the single hookup can serve both structures) noting that approval is consistent with the conditions of the Water and Sewer Plan's Piney Branch Sewer Restricted Access Policy (see ©23).

Council Staff concurs with the Executive recommendation to approve S-1. The issue of whether the property owner can utilize the older home on the property has now been addressed. As noted above, the property was already eligible for a single-hookup under the Piney Branch Restricted Access Policy. From Council Staff's perspective, the only outstanding issue was whether the older home on the property was an approved use. That issue has now been resolved by the Board of Appeals and approval of S-1 (single-hookup only) is consistent with Water and Sewer Plan policies.

Attachments

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Resolution No.
Introduced:
Adopted:

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: County Council

Subject: Amendments to the Comprehensive Water Supply and Sewerage Systems Plan

Background

1. Section 9-501 et seq. of the Environmental Article of the Maryland Code, requires the governing body of each County to adopt and submit to the State Department of the Environment a comprehensive County Plan, and from time to time amend or revise that Plan for the provision of adequate water supply systems and sewerage systems throughout the County.
2. Section 9-507 of the Environmental Article of the Maryland Code provides that the Maryland Department of the Environment (MDE) has 90 days to review a county governing body's action to amend the County's Water and Sewer Plan. Upon notice to the County, MDE may extend that review period for another 90 days, if necessary. At the conclusion of this review, MDE must either approve or reject the Council's action on each of these amendments, or the action is confirmed by default. Any action approved or taken by this resolution is not final until that action is approved by the MDE or the period for final MDE action has expired.
3. In accordance with the State law on December 30, 1969, by Resolution No. 6-2563, the County Council adopted a Comprehensive Ten-Year Water Supply and Sewerage Systems Plan which was approved by the State Department of the Environment.
4. The County Council has from time to time amended the Plan.
5. On, February 3, 2009, the County Council received recommendations from the County Executive regarding 4 Water and Sewer Plan amendments.
6. Recommendations on these amendments were solicited from the Maryland-National Capital Park and Planning Commission, Washington Suburban Sanitary Commission Staff, and affected municipalities.
7. A public hearing was held on March 10, 2009.

(A)

8. The Transportation, Infrastructure, Energy & Environment Committee discussed these amendments and made recommendations to the Council.
9. The County Council held a worksession.

Action

The County Council for Montgomery County, Maryland approves the following amendments to the Ten-Year Comprehensive Water Supply and Sewerage Systems Plan as shown in the attachments to this resolution.

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council



OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Isiah Leggett
County Executive

MEMORANDUM

February 2, 2009

TO: Phil Andrews, President
Montgomery County Council

FROM: Isiah Leggett 
Montgomery County Executive

SUBJECT: Transmittal of and Recommendations on Proposed Amendments to the Ten-Year
Comprehensive Water Supply and Sewerage Systems Plan

Pursuant to the requirements of the Environmental Article, Sections 9-503 through 9-506 and 9-515 through 9-516, of the Annotated Code of Maryland, I am transmitting my recommendations for proposed amendments to the County's *Comprehensive Water Supply and Sewerage Systems Plan*. Recommendations and supporting documentation addressing four plan amendments are included in the attached staff report. All four amendments are requests for individual water/sewer service area category changes. Of these four, two are requests previously deferred by the Council which can now be considered for action.

The recommendations for each amendment are consistent with the adopted policies and guidelines included in the Water and Sewer Plan and the appropriate master plans or sector plans. Therefore, they generally have little or no controversy with regard to interagency comments and recommendations. However, the following issues could generate discussion at upcoming committee and Council worksessions.

RDT-Zoned Properties Abutting Planned Water Mains near Laytonsville

This case, WSCCR 08A-OLN-03 (**Joseph and Shirley Wang**), involves an existing residential lot that will abut a new water main planned to serve the Town of Laytonsville. The property, located south of the town along Route 108, is zoned RDT. Given its zoning, the property may not receive public water service under restrictions the Council adopted in its 2001 approval of water service for the town. The intent of that prohibition—to protect existing nearby agricultural land from annexation into and upzoning by the Town—has little bearing on the circumstances affecting this and another confronting property in the Golf Estates subdivision. These lots (and the remainder of Golf Estates) are isolated from other RDT-zoned properties and are in residential use, with no significant agricultural production. The development pattern established and implemented for Golf Estates follows the requirements of the RE-2 zoning for the site, which preceded the current RDT zoning. Ninety percent of the 34 improved lots range in size between two and three acres. The provision of public water service to lots of this size is consistent with general water service policies for large-lot development.

Given these conditions, an exception to the Laytonsville restricted water service policy to allow public water service should be extended to the two RDT-zoned lots in Golf Estates that will abut the new water main along Route 108. The Council can consider allowing this exception without the concern that such an approval will act to reduce the inventory of existing, viable agricultural land near Laytonsville. The exception will not undermine the intent and effectiveness of the restricted water service policy.

Deferral for a Special Exception: Lee-Llacer Property on Piney Meetinghouse Rd.

The Council deferred a decision on this sewer category request, **WSCCR 08A-TRV-01 (Reynaldo and Zorayda Lee-Llacer)**, earlier this year. The deferral was intended to allow a decision on a requested special exception for an accessory building to proceed without undue influence on the Board of Appeals. In June 2008, the Board of Appeals deferred its decision on the special exception absent a decision concerning sewer service for the property. The issue of sewer service has a direct bearing on the accessory building, an existing care-giver's cottage, which must have access to public sewer service in order to continue on the site. Otherwise, the owners will need to demolish the building. Given that the Board of Appeals has specifically requested the Council's decision on this sewer issue, the Council should proceed with an action on this request. Sewer service for this lot, restricted to a single hookup that may serve both the primary residence and the accessory building, is consistent with the Water and Sewer Plan's policies for the Piney Branch Watershed.

Department of Environmental Protection (DEP) staff has included with the attached packet a summary of recently deferred category change requests. Along with each request, the summary includes a brief update of that request's status with regard to the deferral conditions. This information is provided to help both the Council and Executive staff track the status of ongoing deferrals and to avoid cases that might linger for years without resolution.

Staff from the DEP will be available to discuss the amendments included in this transmittal at the Transportation, Infrastructure, Energy, and Environment Committee and full Council worksessions.

IL:as

Attachment

cc: Richard Eberhart Hall, Secretary, Maryland Department of Planning
Jay Sakai, Director, Water Management Administration, Maryland Department of the Environment
Royce Hanson, Chairman, Montgomery County Planning Board
Teresa D. Daniell, Interim General Manager, Washington Suburban Sanitary Commission
Robert G. Hoyt, Director, Department of Environmental Protection
Catherine Matthews, Director, Upcounty Regional Services Center
Carla Reid, Director, Department of Permitting Services
Pradeep Ganguly, Ph.D., Director, Department of Economic Development



**Proposed Amendments:
Montgomery County
Comprehensive Water
Supply and Sewerage
Systems Plan**

**County Executive's January 2009 Amendment
Transmittal to the County Council**

4 PROPOSED WATER/SEWER CATEGORY CHANGE REQUESTS



**Montgomery County
Comprehensive Water Supply and
Sewerage Systems Plan
Proposed Category Map Amendments**

**County Executive's January 2009 Amendment
Transmittal to the County Council**

- 2 Current Category Change Requests
- 2 Previously Deferred Category Change Requests

Prepared by
The Department of Environmental Protection

Robert G. Hoyt, Director
David Lake, Manager, Water and Wastewater Policy Group
Alan Soukup, Senior Planner, Water and Wastewater Policy Group
Alicia Youmans, Planner III, Water and Wastewater Policy Group

We acknowledge and appreciate the assistance of the following
agencies in the preparation of this amendment packet:

Washington Suburban Sanitary Commission
Maryland - National Capital Park and Planning Commission
Montgomery County Department of Permitting Services
Montgomery County Department of Economic Development

**PROPOSED COMPREHENSIVE WATER SUPPLY AND SEWERAGE SYSTEMS PLAN AMENDMENTS
COUNTY EXECUTIVE'S JANUARY 2009 TRANSMITTAL PACKET**

EXECUTIVE SUMMARY: PROPOSED AMENDMENTS AND RECOMMENDATIONS

Plan Amendment No. & Owner Location – Proposed Use	Zoning & Acreage Requested Change(s)	Executive Recommendation & Policy Highlights Summary	Packet Page No.
CLOVERLY – NORWOOD PLANNING AREA			
WSCCR 06A-CLO-04 ^A Bryanshire Corp. Bryants Nursery Rd., Cloverly Use: proposed house of worship for the God Glorified Church of God in Christ (on an unimproved site) ^A <i>Deferred from CR 16-237 (7/10/07)</i>	RE-2 Zone; 8.6 ac. W-5 to W-1 S-6 to S-3	Deny the request, keep W-5 and S-6. <i>Application for PIF-based request no longer has a designated non-profit user.</i>	Report: 1 Maps: 3
WSCCR 08A-CLO-04 Manoj Maloo & Arhant Briggs Chaney LLC 1234 Briggs Chaney Rd., Cloverly Use: 8-lot single-family residential subdivision (replacing existing residential and equestrian uses)	RE-1 Zone; 12.5 ac. (Keep W-1) S-5 to S-3	Conditionally approve S-3, requiring approval of a sewer-based preliminary plan that provides an environmental advantage over a septic-based plan. <i>Public sewer service in the RE-1-zoned, Upper Paint Br. SPA (1997 Cloverly Master Plan).</i>	Report: 6 Maps: 9
OLNEY PLANNING AREA			
WSCCR 08A-OLN-03 Joseph & Shirley Wang 22100 Golf Estates Dr., Laytonsville Use: provide public water service for an existing single-family house	RDT Zone; 2.2 ac. W-6 to W-1 (Keep S-6)	Approve W-3, for one water hookup only. <i>An exception to the specific water service restrictions on properties zoned RDT in the vicinity of Laytonsville. Water service approval will not jeopardize existing agricultural uses.</i>	Report: 13 Map: 16
TRAVILAH PLANNING AREA			
WSCCR 08A-TRV-01 ^B Reynaldo & Zorayda Lee-Llacer 12009 Piney Meetinghouse Rd., Potomac Use: sewer service for the existing main residence and guest/caregiver's cottage; special exception (S-2674) pending for continuance of the guest house. ^B <i>Deferred from CR 16-500 (4/8/08)</i>	RE-2 Zone; 2.54 ac. (Keep W-1) S-6 to S-1	Approve S-1, for one sewer hookup only, which may serve both structures. S-1 approval cannot support resubdivision of this property. <i>Piney Branch restricted sewer service policy (abutting mains provision). The Board of Appeals deferred the related special exception decision pending a category change action.</i>	Report: 21 Map: 24

Other Packet Items:

Excerpt: Cloverly Master Plan (1997) Sewer Service Recommendations	Pg. 7
Water & Sewer Plan Policy Excerpt: Laytonsville Area Restricted Water Service Area	Pg. 15
Water & Sewer Plan Policy Excerpt: Piney Branch Restricted Sewer Service Area	Pg. 23
Status Update: Category Change Requests Recently Deferred by the County Council	Pg. 41

**PROPOSED COMPREHENSIVE WATER SUPPLY AND SEWERAGE SYSTEMS PLAN AMENDMENTS
COUNTY EXECUTIVE'S JANUARY 2009 TRANSMITTAL PACKET**

WATER/SEWER SERVICE AREA CATEGORIES INFORMATION

The Montgomery County Ten-Year Comprehensive Water Supply and Sewerage Systems Plan designates water and sewer service area categories for each property within the county. These service area categories determine a property's eligibility to receive public water and/or sewer service and indicate when the County and the sanitary utility (usually the Washington Suburban Sanitary Commission (WSSC)) should program water and sewerage facilities to serve those properties. (Although the actual provision of public service is often dependent on an applicant's own development schedule.) The Water and Sewer Plan is adopted and amended by the County Council; it is administered by the County Executive through the Department of Environmental Protection (DEP).

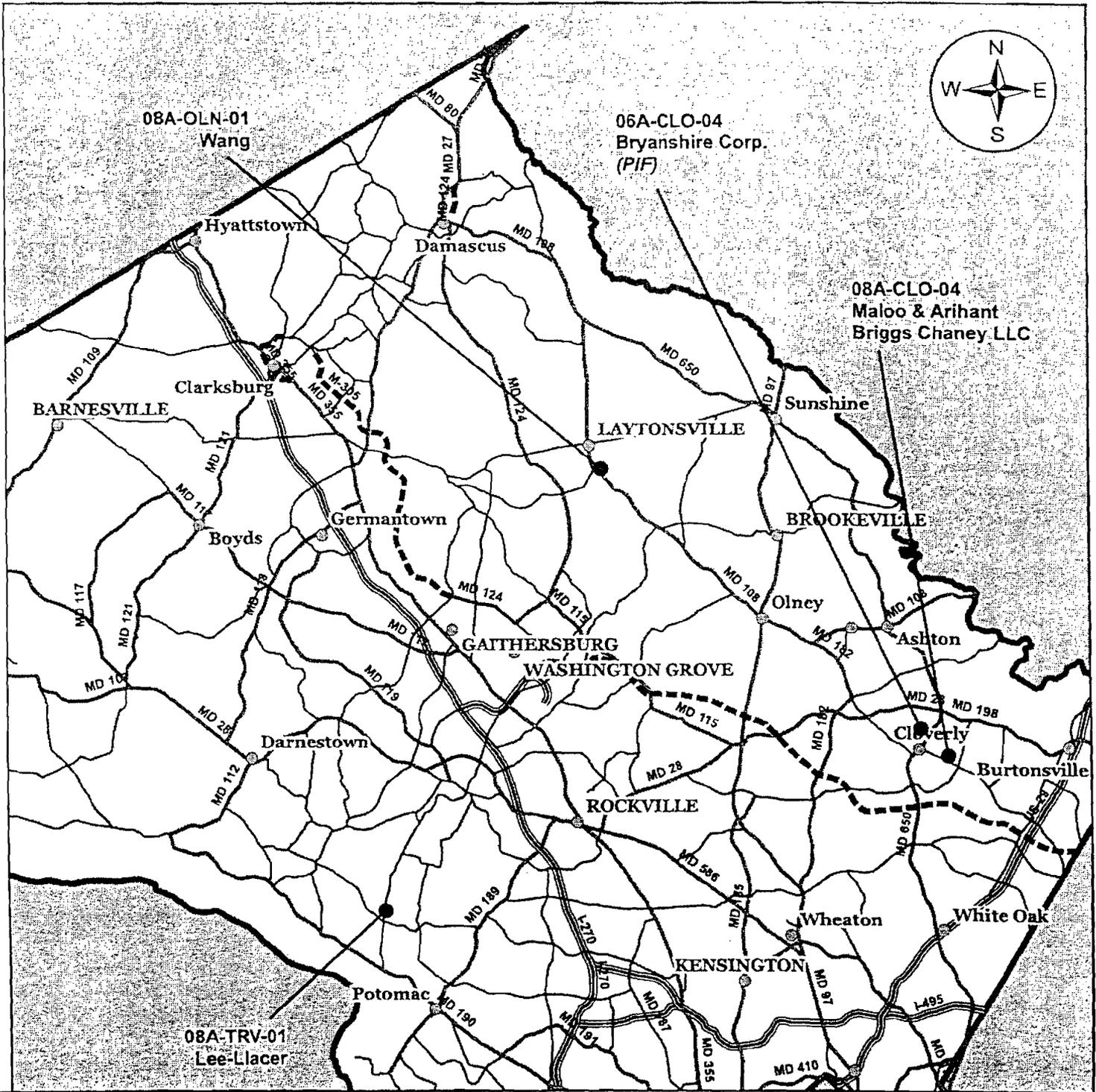
Water and Sewer Service Area Categories Table

Service Area Categories	Category Definition and General Description	Service Comments
W-1 and S-1	Areas served by community (public) systems which are either existing or under construction. • This may include properties or areas for which community system mains are not immediately available or which have not yet connected to existing community service.	Properties designated as categories 1 and 3 are eligible for to receive public water and/or sewer service. New development and properties needing the replacement of existing wells or septic systems are generally required to use public service. Properties with wells or septic systems on interim permits are required to connect to public service within one year of its availability.
W-2 and S-2	Categories W-2 and S-2 are not used in the Montgomery County Water and Sewer Plan. (State's definition: Areas served by extensions of existing community and multi-use systems which are in the final planning stages.)	Where water and/or sewer mains are financed under the front foot benefit system, WSSC will assess front foot benefit charges for mains abutting these properties unless the property has a functioning well and/or septic system. WSSC provides public water and sewer service throughout the county, except where service is provided by systems owned by the City of Rockville or the Town of Poolesville.
W-3 and S-3	Areas where improvements to or construction of new community systems will be given immediate priority and service will generally be provided within two years or as development and requests for community service are planned and scheduled.	WSSC will not serve properties designated as categories 4 or 5, but will work to program water and/or sewer projects needed to serve these areas. Permits for new wells and/or septic systems for category 4 properties will be interim permits. (See above for further information.) MCDEP may require that development proceeding on interim wells and septic systems in category 4 areas also provide dry water and sewer mains and connections.
W-4 and S-4	Areas where improvements to or construction of new community systems will be programmed for the three- through six-year period. • This includes areas generally requiring the approval of CIP projects before service can be provided.	Where water and/or sewer mains are financed under the front foot benefit system, WSSC will assess front foot benefit charges for abutting properties designated as category 4 unless the property has a functioning well and/or septic system. WSSC will not assess front foot charges for properties designated as category 5.
W-5 and S-5	Areas where improvements to or construction of new community systems are planned for the seven- through ten-year period. • This category is frequently used to identify areas where land use plans recommend future service staged beyond the scope of the six-year CIP planning period.	WSSC will neither provide service to nor assess front foot benefit charges for properties designated as category 6. Development in category 6 areas is expected to use private, on-site systems, such as wells and septic systems.
W-6 and S-6	Areas where there is no planned community service either within the ten-year scope of this plan or beyond that time period. This includes all areas not designated as categories 1 through 5. • Category 6 includes areas that are planned or staged for community service beyond the scope of the plan's ten-year planning period, and areas that are not ever expected for community service on the basis of adopted plans.	

Please note that the County does not necessarily assign water and sewer categories in tandem (i.e. W-3 and S-3, or W-5 and S-5), due to differences in water and sewer service policies or to actual water or sewer service availability. Therefore, it is important to know *both* the water *and* sewer service area categories for a property.

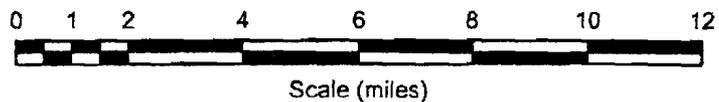
Water and Sewer Plan Map

January 2009 Transmittal: Amendment Locator

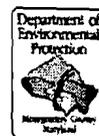


Legend

- Localities
- Major Roads & Highways
- County Roads
- State Rds & Hyws
- == US Highways & Interstates
- - - Proposed Roads



Montgomery County, Maryland
2003 Comprehensive Water Supply
and Sewerage Systems Plan



DEP
Water and Wastewater
Policy Group



CLOVERLY – NORWOOD PLANNING AREA MAP AMENDMENTS

Previously Deferred Private Institutional Facility (PIF) Policy Case

The following map amendment involves a development proposal from a non-profit group for what the Water and Sewer Plan defines as private institutional facilities (PIFs). The PIF policy creates the *limited opportunity* for exceptions to the Plan's general public service policies. It allows for the provision of water and/or sewer for PIF uses outside the public service envelopes where other residential or commercial development could not normally qualify for such service. The Council's recent practice on PIF cases has been to require that the property owner specify a PIF user for the site, and that the user provide a site-specific development plan for the project in sufficient detail to allow consideration of potential site impacts and impervious surfaces. The Council has restricted approval actions to a specific PIF user, an approval that is not transferable to another PIF user.

WSSCR 06A-CLO-04: Bryanshire Corp. (for God Glorified Church of God in Christ)

County Executive's Recommendation:
 Deny the request for categories W-1 and S-3; maintain W-5 and S-6.

<p>Property Information and Location Property Development</p> <ul style="list-style-type: none"> ▪ Bryants Nursery Rd. ▪ Parcel P760, Snowdens Manor, Art Amendment (dist.-acct.# : 05-00252293.) ▪ Map tile - WSSC: 221NE01; MD: JS62 ▪ <i>The property is split into two non-contiguous parts (see pg. 5). <u>Southern portion</u>: southwest side of Bryants Nursery Rd., west of New Hampshire Ave. (MD 650); <u>Northern portion</u>: west side of New Hampshire Ave. opposite McNeil La.</i> ▪ Cloverly Master Plan (1997) ▪ Northwest Branch Watershed (MDE Use IV) ▪ RE-2 Zone; 8.60 ac. ▪ <u>Existing use</u>: unimproved, partially wooded <u>Proposed use</u>: house of worship for God Glorified Church of God in Christ 	<p>Applicant's Request: Service Area Categories & Justification</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 50%; text-align: left;">Existing</th> <th style="width: 50%; text-align: left;">Requested – Service Area Categories</th> </tr> </thead> <tbody> <tr> <td>W-5</td> <td>W-1</td> </tr> <tr> <td>S-6</td> <td>S-3</td> </tr> </tbody> </table> <p><u>Applicant's Explanation</u></p> <p>Vacant property under contract to PIF (God Glorified Church of God in Christ). Intend to build a 29,000 SF building which will contain a sanctuary, classrooms, offices, and restrooms for 200 members.</p> <p><i>Previously deferred under CR 16-237 (7/10/07); see the staff report that follows for details.</i></p>	Existing	Requested – Service Area Categories	W-5	W-1	S-6	S-3
Existing	Requested – Service Area Categories						
W-5	W-1						
S-6	S-3						

Agency Review Comments

Please refer to the original report from the April 2007 packet, included pg. 4.

Executive Staff Report

The applicant has sought water and sewer category changes to provide public service to a proposed church site. Water service can be considered under the Water and Sewer Plan's general service policies. This RE-2-zoned area of Cloverly is not expected to use public sewer service under those general service policies, requiring that the sewer request needs to be evaluated in terms of the Plan's Private Institutional Facilities (PIF) policy.

The Council previously deferred its consideration of this request pending submittal and review of a development plan for the site (CR 16-237 on 7/10/07, see pg. 5). The T&E Committee subsequently considered a draft plan for the site, as submitted by the applicant.

However, at that time, DEP and Council staff learned that the PIF user, the God Glorified Church of God in Christ, was no longer a potential purchaser for the site. The church had already decided to relocate elsewhere. The Council requires that applicants for PIF-based category change request will have a specific non-profit institution as a designated user of the site, if that institution does not already own the subject property. Lacking such a designated PIF user, the request is recommended for denial.

(The staff report continues on the following page.)

COMPREHENSIVE WATER SUPPLY AND SEWERAGE SYSTEMS PLAN AMENDMENTS
County Executive's January 2009 Transmittal Packet

CLOVERLY – NORWOOD PLANNING AREA MAP AMENDMENTS

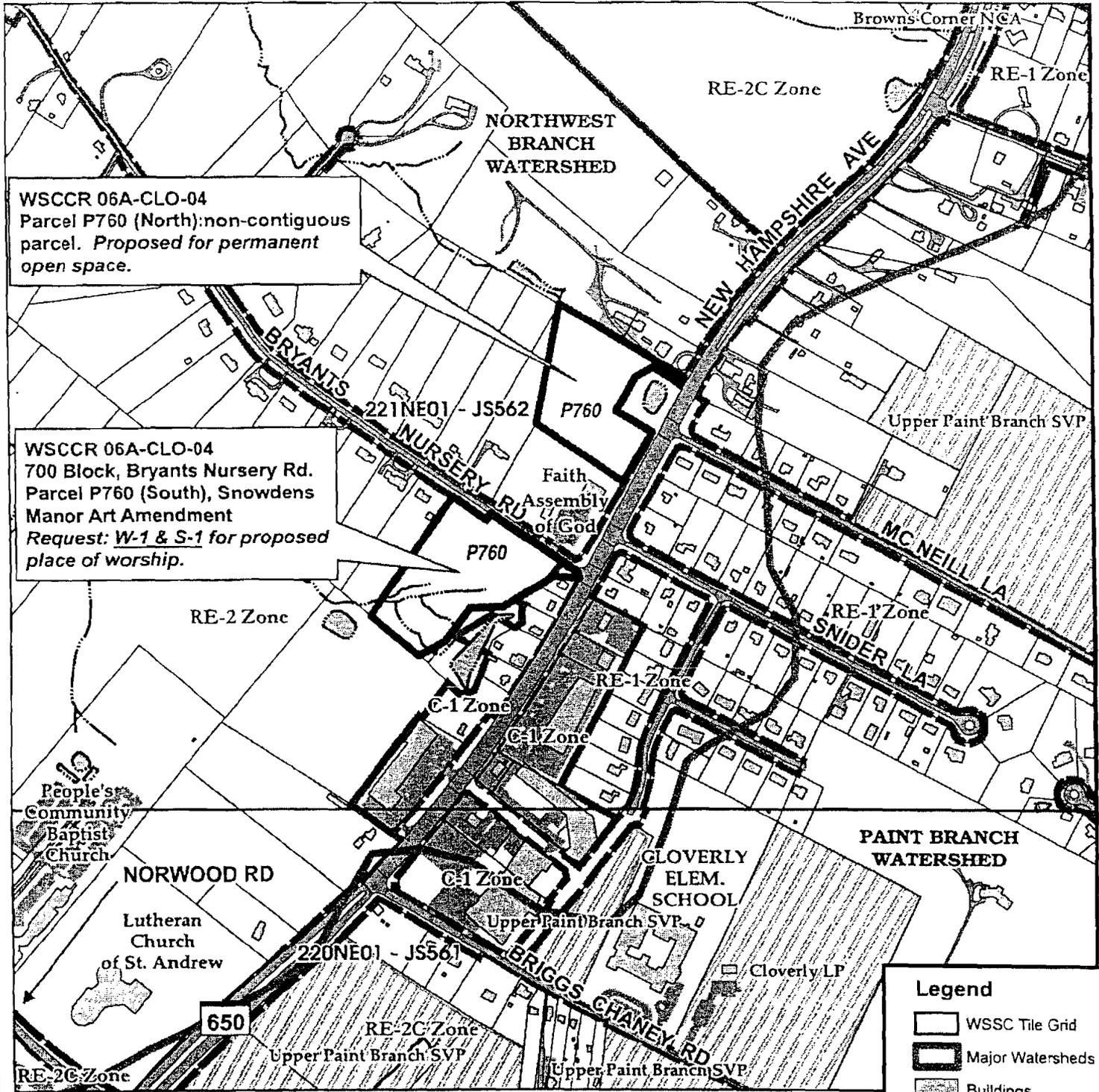
WSSCR 06A-CLO-04: Bryanshire Corp. (for God Glorified Church of God in Christ)

The applicant may file a new request with DEP if a new PIF user is designated. Because this would represent a significant change in the application, DEP staff will consider waiving the one-year refiling prohibition for denied applications.

ADS:ads

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tbl=bryanshire.doc

Water/Sewer Service Area Category Change Request Map
WSSCR 06A-CLO-04 (Bryanshire Corp. for God Glorified Church of God in Christ)

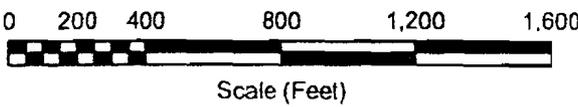
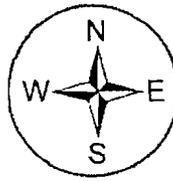


WSSCR 06A-CLO-04
 Parcel P760 (North): non-contiguous parcel. Proposed for permanent open space.

WSSCR 06A-CLO-04
 700 Block, Bryants Nursery Rd. Parcel P760 (South), Snowdens Manor Art Amendment
 Request: W-1 & S-1 for proposed place of worship.

- Legend**
- WSSC Tile Grid
 - Major Watersheds
 - Buildings
 - Roads
 - Parking
 - Streams
 - Ponds/Lakes
 - Parks
 - Zoning

Cloverly - Norwood Planning Area



Montgomery County, Maryland
2003 Comprehensive Water Supply and Sewerage Systems Plan

DEP
 Water and Wastewater Policy Group

EXCERPT FROM APRIL 2007 PROPOSED MAP AMENDMENTS REPORT

CLOVERLY – NORWOOD PLANNING AREA

WSSCR 06A-CLO-04 (Bryanshire Corp – for God Glorified Church of God in Christ)

Owner's statement: Vacant property under contract to PIF (God Glorified Church of God in Christ). Intend to build a 29,000 SF building which will contain a sanctuary, classrooms, offices, and restrooms for 200 members.

Property information: (no premises address) Bryants Nursery Rd.: Snowden's Manor, Art Amendment, P760. 8.6 acres. 00252293. 221NE01. JS62. RE-2 Zone. *Note: The property is split into two non-contiguous parts (see pgs. 42-43).*

Master Plan Area & Watershed: Cloverly (1997). Northwest Branch.

Current and Requested Category/Categories: *Corrected 6/8/07: W-5 to W-1, ~~W-5 to W-1~~ S-6 to S-1.*

WSSC: Water: A 10-inch water line in Bryants Nursery Road abuts the property (contract no. AW3678X03).

Sewer: A 400-foot-long non-CIP-sized grinder system extension is required to serve the property. This extension would connect to an existing 8-inch diameter sewer in Snider Lane (contract no. 96-1638A). Rights-of-way may be required. A dedicated grinder system (i.e., serving only the church) will be required because of the church's non-residential status.

M-NCPPC: The Cloverly Master Plan states (on page 90): "The RE-2 zoned area bordered by Norwood Road, Northwest Branch, Hampshire Greens, and New Hampshire Avenue is not recommended for sewer service. This recommendation is designed to maintain the rural character that results from low density residential development..."

The Master Plan goes on to state (page 91): "Provide community sewerage service with the following limitations: Provide sewerage service throughout Cloverly except in the RC and RE-2 zones to maintain a low-density, rural character. *The extension of sewer service to residential, institutional, and special exception uses in the RC and RE-2 area (except to relieve public health problems or to address other specific Comprehensive Water Supply and Sewerage Systems Plan policies) is not consistent with this Plan because of potential impacts on the low-density character of both areas.*" (Emphasis added) There is no prohibition on water service in the master plan. Recommendation: Deny S-1, Approve W-1.

DPS: DPS has no records of septic testing for this parcel. Site appears to have poor soils and probable shallow water table.

Executive Recommendation: Defer action on this category change request pending:

- Receipt and interagency/Council review of plan clearly showing the intended use or uses, and
- Clarification and resolution of MDE's and MDP's concerns regarding consistency with respect to the master plan.

Note: Deferred amendments have time limitations for action; please see the note on page 21 of this packet.

Executive Staff Report: The applicant requests categories W-1 and S-1 to support development of a PIF use (church) on the site. Although the owner has cited the intended user as God Glorified Church of God in Christ, there is no plan yet available for the intended use. The PIF user has recently provided DEP with some initial information concerning the proposed site development, although the information provided does not include a site plan for the subject property*. (DEP will coordinate a review of this information with M-NCPPC, WSSC, etc.) Therefore, we have recommended deferral of the request for W-1 and S-1 pending receipt and review of a development plan for the site.

* Note: The church has provided a "typical" site layout for a building of the size they intend to construct on the subject site (see pg. 41). The figure provided is **not** a plan for the Bryanshire property. The site shown is approximately 10.7 acres in size; while both parts of the Bryanshire site total 8.6 acres.

An existing water main abutting the property can provide water service. The provision of public water service to properties zoned RE-2 is consistent with master plan recommendations and with the Water and Sewer Plan service policies.

WSSC has advised that a sewer pressure extension to an existing gravity main at Snider Lane can provide sewer service. A pressure sewer extension would be dedicated exclusively to the church's use and would therefore not serve any other properties abutting pressure sewer. In this regard, sewer service could be provided in a manner consistent with the requirements of the PIF policy.

County Executive's April 2007 Water & Sewer Plan Amendment Transmittal

Individual Category Change Requests

Montgomery County uses water and sewer service area categories, in part, to identify those properties that should use public water and/or sewer service versus those that should use on-site systems, usually wells and/or septic systems.

- Categories 1 and 3 identify properties approved for public service.
- Categories 4 and 5 identify properties that currently should use on-site systems, but are proposed for public service in the future.
- Category 6 identifies properties that should use on-site systems, where public service is not planned for at least the next ten years.

Property owners file category change map amendment requests seeking to move their property from one category to another, often based on anticipated development plans. With very few exceptions, these requests seek to change categories 4, 5, or 6 to categories 1 or 3 to allow for the provision of public water and/or sewer service. The following chart presents the County Council's actions on water/sewer category map amendment requests filed with DEP and included in the County Executive's April 2007 to the Council.

Comprehensive Water Supply and Sewerage Systems Plan: Water/Sewer Category Map Amendments

Map Amendment No. Applicant (Owner) Description & Location	Master Plan & Watershed Zoning & Acreage Site Development	Water/Sewer Service Area Categories County Council Action (See Attachment B for mapping of all except the denied map amendments.)
Cloverly - Norwood Planning Area		
WSSCR 06A-CLO-04 Bryanshire Corp (for God Glorified Church of God in Christ) • Bryants Nursery Rd., New Hampshire Ave., Cloverly • Parcel P760, Snowden's Manor, Art Amendment (dist-tax acct. #05-00252293) • West side of New Hampshire Ave. (MD 650) north and south of Bryants Nursery Rd. • WSSC file 221NE01; MD tax map JS62.	• Cloverly Master Plan (1997) • Northwest Branch Watershed (MDE Use IV) • RE-2 Zone: 8.6 acres total <i>Note: The property is split into two non- contiguous parts.</i> • Existing Use: vacant. • Proposed Use: house of worship for God Glorified Church of God in Christ – sanctuary, classrooms, offices, etc.—on the southern part of the parcel only	Existing Requested W-5 W-1 S-6 S-1 Action: Defer action on the W-1, S-1 request pending receipt and Interagency review of a plan clearly showing the intended use or uses. <i>Note: Deferred amendments have time limitations for action; please see the note on page 7 of this attachment.</i>
WSSCR 07A-CLO-02 Richard Lethbridge • 219 Ednor Rd., Norwood • Parcel P477, Snowden's Manor (dist-tax acct. #05-00266962) • Either side of Peach Orchard Rd. south of Ednor Rd. • WSSC file 223NW01; MD tax map JS43.	• Cloverly Master Plan (1997) • Northwest Branch Watershed (MDE Use IV) • RE-2 Zone: 35.06 acres • Existing Use: agricultural. • Proposed Use: unspecified house of worship. <i>(Note: The institution originally intended to develop this site, Bethel World Outreach Church, has withdrawn its interest.)</i>	Existing Requested W-5 W-3 S-6 S-3 Action: Deny the request for categories W-3, S-3; maintain W-5, S-6. The applicant has not identified a non-profit user for the site needed in order to apply the Water and Sewer Plan private Institutional facilities (PIF) policy to this case. <i>Note: Denied amendments have time restrictions for reapplication; please see the note on page 7 of this attachment.</i>
Damascus Planning Area		
WSSCR 07A-DAM-04 Edmond & Joyce Rhodes • 28020 Ridge Rd., Damascus. • Parcel P270, Friendship (dist- tax acct. #12-00943043) • West side of Ridge Rd. (MD 27) south of Kemptown Rd. (MD 80). • WSSC file: 239NW09; MD tax map: FY42	• Damascus Master Plan (2006) • Bennett Creek Watershed (MDE Use I) • RC Zone: 17.7 acres • Existing Use: one single-family house. • Proposed Use: 3-lot single-family subdivision, adding 2 new houses. Plan #1-20070030, "Damascus Ridge"	Existing Requested W-6 W-3 S-6 S-6 (no change) Action: Correct W-6 to W-1, for one water hookup only, to acknowledge public water service to the existing house. Approval for unrestricted W-1, as requested for the applicant's proposed 3-lot subdivision, is conditioned on the Planning Board's approval of a preliminary plan that uses the cluster development option for the RC Zone.

CLOVERY – NORWOOD PLANNING AREA MAP AMENDMENTS

RE-1/UPPER PAINT BR. SPA DEVELOPMENT CASE

The following case involves land zoned RE-1 within the Upper Paint Branch Special Protection Area (SPA). Sewer service recommendations in the 1997 Cloverly Master Plan allow for public sewer service in the RE-1-zoned part of the SPA provided that developers successfully demonstrate an environmental advantage to using public sewer service instead of septic systems. In prior cases involving this specific master plan sewer recommendation, the advantage typically is that it allows for clustering of the lots under the RE-1 Zone standards. The cluster option results in a tighter lot layout that reduces imperviousness by reducing the length of streets and sidewalks, and also generally reducing house footprints. A cluster plan also has the potential to reduce the loss of forested areas of the site.

WSSCR 08A-CLO-04: Manoj Maloo & Arihant Briggs Chaney LLC

County Executive's Recommendation:

Maintain S-5, with advancement to S-3 conditioned on Planning Board approval of a preliminary plan which DEP and M-NCPPC staff concur demonstrates an environmental benefit from the use of public sewer service over the use of individual septic systems. The applicant or project developer will need to provide this justification as part of the preliminary plan proposal.

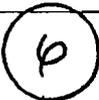
<p>Property Information and Location Property Development</p>	<p>Applicant's Request: Service Area Categories & Justification</p>				
<ul style="list-style-type: none"> • 1234 Briggs Chaney Rd • Parcels P427 & P322, Bealls Manor (dist.- acct. no. 05-272600 & -00272611) • Map tile – MD: KS11; WSSC: 220NE02 • North side of Briggs Chaney Rd. opposite Lear Lane • Cloverly Master Plan (1997) • Paint Branch Watershed (MDE Use III, Mont. Co. SPA) • RE-1 Zone; 12.5 acres • <u>Existing use:</u> vacant, was an equestrian center and residence • <u>Proposed use:</u> subdivide in to 8 lots for single-family homes (plan no. 120080430, Eco Estates) 	<p><u>Existing – Requested – Service Area Categories</u></p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">W-1</td> <td style="width: 50%;">W-1 (no change)</td> </tr> <tr> <td>S-5</td> <td>S-3</td> </tr> </table> <p><u>Applicant's Explanation</u></p> <p>Would like to subdivide and develop using the cluster, existing water and sewer about the site...<i>Please see the attached text (pg. 11) for the applicants' for full explanation.</i></p>	W-1	W-1 (no change)	S-5	S-3
W-1	W-1 (no change)				
S-5	S-3				

Agency Review Comments

M-NCPPC: The Cloverly Master Plan recommends that the approval of community sewer service to properties zoned RE-1 in the upper Paint Branch SPA should be coordinated with the approval of subdivision plans which address the environmental concerns associated with development in these headwaters areas, and which further must demonstrate an environmental benefit resulting from development supported by community sewer service, rather than that supported by septic systems.

WSSC: An 8-inch sewer line in Briggs Chaney Road abuts the property (contract no. 735784A). Please note that topography is such that approximately half the property could be served by this sewer. The rest of the property towards the north lies in the different drainage area. A gravity extension to serve this portion of the property would require approximately 200 feet of sewer extension. This extension would connect to an existing 8" sewer in Colesberg Street (contract no 683240). Rights-of-way would be required. Program-sized sewer mains are not required to serve the property.

DPS – Well & Septic: The existing facility is served currently by a small on-site sewage disposal system that was installed in 1964. In the interim, the original well has been replaced with a public water connection. Based upon the topography and the stream/pond- the use of public water and sewer would make approval of 8 lots more likely.



CLOVERLY – NORWOOD PLANNING AREA MAP AMENDMENTS

WSSCR 08A-CLO-04: Manoj Maloo & Arihant Briggs Chaney LLC

Executive Staff Report

The applicant is seeking a category change to allow the use of public sewer service for a proposed 8-lot residential subdivision. The provision of public sewer service, as conditioned above, is consistent with both Water and Sewer Plan policies and the master plan's recommendations regarding the extension of public service where it provides for a more environmentally-beneficial development plan than using septic systems.

The master plan's conditions for service in this area (see the following text) reflect the Council's concern over development using public sewer service in the RE-1-zoned part of the Upper Paint Branch Special Protection Area (SPA). The applicant's current preliminary plan (pg. 12) represents an improvement over the non-cluster plan reviewed by DEP staff prior to submittal of this request. Despite this, M-NCPPC staff have raised legitimate concerns that the current plan does not use the RE-1 cluster development option to near its fullest benefit. DEP and M-NCPPC staff will confer on the site concept and address the requirements of the recommended conditional approval language. Prior actions on these RE-1-zoned requests in the SPA support administrative consideration of a conditional approval, even when the required subdivision plans issues are not yet resolved.

WSSC reports that sewer service will require access to both an abutting 8" main along Briggs Chaney Rd. and an 200' extension to an 8" main along Colesberg Rd. The sewer extension would cross a stream and an associated stream buffer. The applicant has proposed the provision of public sewer service from Briggs Chaney Rd. The need for the sewer extension will be considered as part of the preliminary plan review.

1997 CLOVERLY MASTER PLAN EXCERPT

SEWER SERVICE RECOMMENDATIONS (pgs. 95 – 96)

- Provide community sewerage service with the following limitations:
 - Provide sewerage service throughout Cloverly except in the RC and RE-2 zones to maintain a low-density, rural character. The extension of sewer service to residential, institutional, and special exception uses in the RC and RE-2 area (except to relieve public health problems or to address other specific *Comprehensive Water Supply and Sewerage Systems Plan* policies) is not consistent with this Plan because of potential impacts on the low- density character of both areas and conflict with the long standing recommendation not to provide sewer service in the Patuxent watershed in order to control water quality in the reservoir. The presence of public water service does not justify the extension of sewer service in the RE-2 and RC zones. An exception is a part of the Gum Springs neighborhood zoned RE-2. This area is included in the existing community sewer envelope. Sewer service was extended throughout the area prior to adoption of the 1981 Plan.
 - Sewer service, where provided within the RE-1 zoned areas of the Patuxent watershed, should be extended from existing mains within the Northwest Branch and Paint Branch watersheds. New capital-size sewerage facilities, including pumping stations, should be avoided in the Patuxent watershed, except where necessary to relieve public health problems. There are small areas north of Spencerville Road that are in the Patuxent watershed but were zoned RE-1 as a result of the 1981 Plan.
 - Water and Sewer Plan policies generally do not provide for the extension of community sewer service to areas zoned RE-1, except as recommended by local area master plans. This Plan recommends such an exception, conditionally confirming the recommended sewer service area proposed in the 1981 Plan. Community sewer service is readily available to much of the RE-1 zoned areas in Cloverly due to:

CLOVERLY – NORWOOD PLANNING AREA MAP AMENDMENTS

Service extended to adjacent, more densely-zoned areas, including service to PD-2 zoned properties (this floating zone option for the RE-1 Zone was removed by the 1990 Trip Reduction Amendment);

Service extended to RE-1 cluster development which requires public sewer service in order to implement the cluster option;

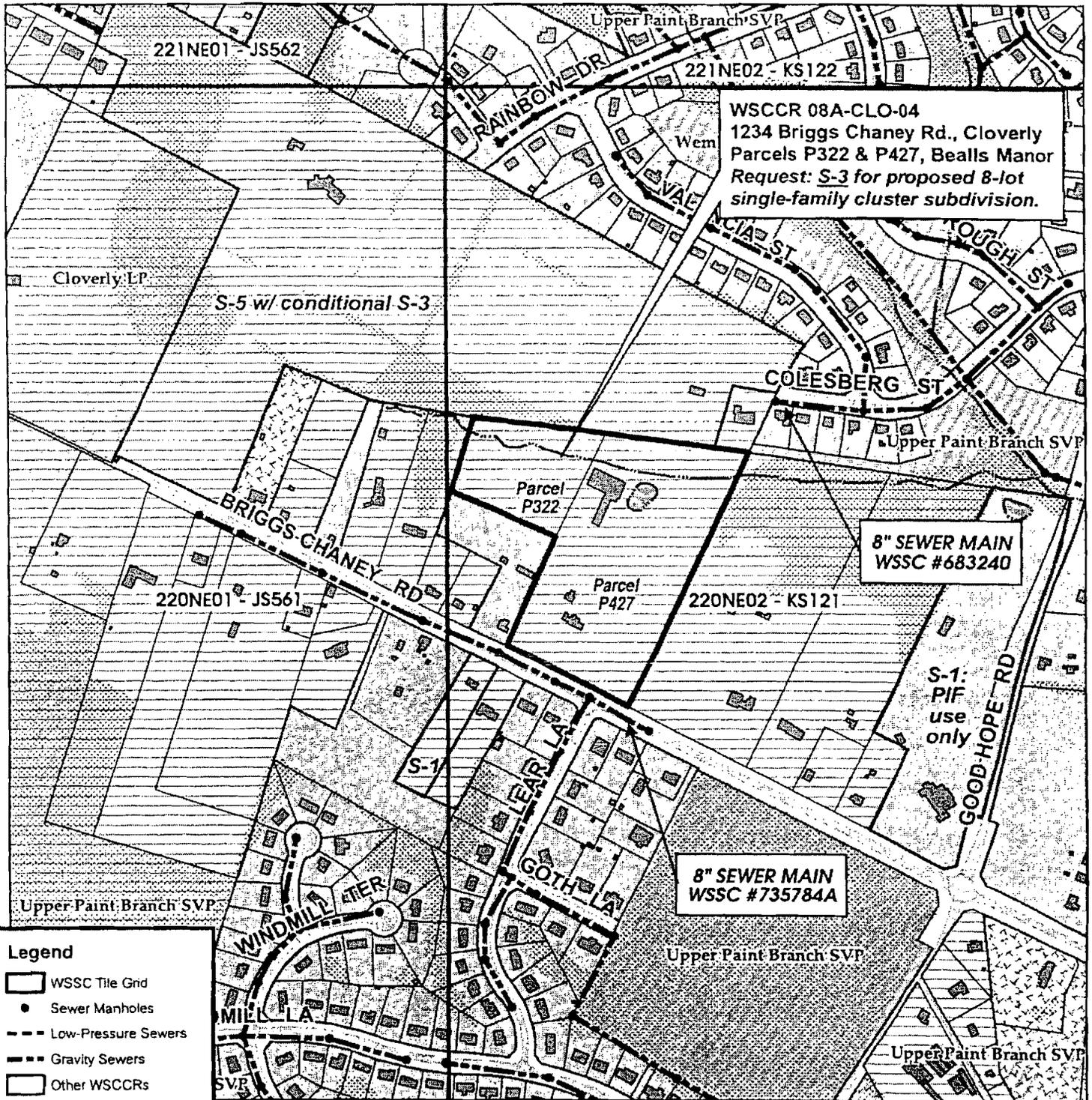
Service extended to areas zoned R-200 and rezoned to RE-1 as a result of the land use and zoning recommendations included in the 1981 Plan.

- This Plan recommends RE-1 zoning for much of the headwaters of Paint Branch which is designated as a Special Protection Area. The County Council has previously concurred with the provision of service to the RE-1 areas in Cloverly provided the main extensions were logical, economical, and environmentally acceptable. This Plan further recommends that the approval of community sewer service to properties zoned RE-1 in the upper Paint Branch SPA should be coordinated with the approval of subdivision plans which address the environmental concerns associated with development in these headwaters areas, and which further must demonstrate an environmental benefit resulting from development supported by community sewer service, rather than that supported by septic systems.
- The provision of community sewer service to areas zoned RE-2C is usually required to implement the cluster development option. Many of the RE-2C zoned areas of Cloverly—particularly along Norwood and Briggs Chaney Roads—include a mix of large parcels suitable for cluster development and smaller properties with minimal potential for subdivision and/or cluster development. Sewer service extensions provided to serve cluster development, or to serve adjacent higher-density development, are often in close proximity to these smaller properties. Where the provision of community sewer service is found to be logical, economical, and environmentally acceptable, the County Council has concurred with the provision of sewer service to these properties. This Plan endorses this policy, again confirming the recommended sewer service area proposed in the 1981 Plan.

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Sewer Service Area Categories Map

WSSCR 08A-CLO-04 (Manoj Maloo & Arihant Briggs Chaney LLC)



Legend

- WSSC Tile Grid
- Sewer Manholes
- Low-Pressure Sewers
- Gravity Sewers
- Other WSSCRs
- woodlands
- Parks

Sewer Categories

- S-1
- S-3
- S-4
- S-5
- S-6

Cloverly - Norwood Planning Area
Paint Br. Watershed

Scale (feet)

Montgomery County, Maryland
2003 Comprehensive Water Supply
and Sewerage Systems Plan

DEP
Water and Wastewater
Policy Group

1) Property/Site Description and Development:

Address 1234 Briggs Charey Road
Property's TAX ID # (please provide, if known) 00272600, 00272611
Property/Site Size 12.5 Ac Identification (ie, Parcel #) P427, P322
Location/Closest cross-street Lear Lane (Opposite)
Current Use Residence/Vacant Proposed Use Single-Family Subdivision (8 Lots)
Subdivision Plan No. & Status Submission Pending

(Note: Please attach an 8.5"x 11" copy of the state tax map with the property(ies) highlighted; this map is available at www.dat.state.md.us; click on "Real Property Data Search" and proceed from that point. If you don't have access to the Internet, and/or don't have some of the information requested above, please note that you request that DEP provide this information.)

3) Water and Sewer Service Area Categories (if you don't know, we will verify for you):

Current Water Category: W-1 Requested Water Category: W- OR No Change Multi-Use Shared
Current Sewer Category: S-2 Requested Sewer Category: S-3 OR No Change Multi-Use Shared

4) Reason for request; state current use of site and intended change in usage, if any:

See attached.

Note: Continue on a separate page, if necessary

DEP Staff Use Only

Receipt Acknowledged: _____ Email OR _____ US Mail

Water 1 Sewer 5
WSSC Tile 2ZONE02
Tax Map KS121

Plan No.
Process
Master Plan
Planning Area Cloverly-Norwood
Zoning RE-1
Zoning Activity
Watershed DAINT Branch

CSPS Subwatershed
State Watershed Use Class
GIS File

Attach

WSSUR 084-CLO-0

Reason for Request of Sewer Service Category Change for:

1234 Briggs Chaney Road (parcels P427, P322)

The subject property which is located within the Upper Paint Branch Watershed Special Protection Area is zoned RE-1. The 12.5 acre site was formerly an equestrian boarding facility with a residence. A vacant house and large equestrian barn still exist on the site. The barn immediately abuts a stream which runs through the site at the north end of the property.

The owners intend to proceed with a subdivision of the property into single-family residential lots. The unforested stream buffer area on the property as mapped on a recently prepared Natural Resources Inventory / Forest Stand Delineation Plan encompasses more than 5 acres of the site. To protect the stream, the preferred method of development is cluster using the cluster option of the RE-1 zone. Clustering smaller lots away from the stream and stream buffer area allows for the creation of a large open space parcel which will be entirely reforested. The alternative to this would be standard RE-1 lots which would extend into the environmental buffer area placing the stream, stream buffer, and forest plantings under the private ownership of 2 or 3 individual lot owners.

In order to develop this site with cluster, public water and sewer are needed. Existing water and sewer mains abut the site in Briggs Chaney Road. No encroachment into the stream buffer area is necessary to bring water and sewer into the property. The property is currently located within categories W-1 and S-5. A change of sewer category to S-3 is needed to proceed with the planned cluster subdivision.

OLNEY PLANNING AREA MAP AMENDMENTS

LAYTONSVILLE-AREA WATER SERVICE CASE

In 2001, the County Council first authorized in the Water and Sewer Plan the extension of public water service to the Town of Laytonsville. Since then, the Council has authorized WSSC financing and construction of capital and non-capital water projects needed to provide water service to the town and has granted water category change approvals for those properties that will be eligible to receive public service. Subsequently, the Council has also concurred with the provision of public water service to properties outside the town that will abut the new water mains extending along Warfield Road and Olney Laytonsville Road (MD 108). Construction of the approved water supply system is expected to begin in 2009.

In approving the town's original water service request in May 2001 (CR 14-857), Councilmembers raised a concern with regard to the RDT-zoned land in the town's immediate vicinity, much of it in active agricultural production. Some Councilmembers believed that extending the public water system would encourage the Town to annex more county land zoned RDT, rezone it for residential densities, and support the resulting new subdivisions with public water service. This would not only encourage more low-density sprawl development, but also result in the loss of more agricultural land. In an attempt to discourage this scenario, the Council's action under CR 14-857 specifically restricted any future public water service from **all** properties zoned for agricultural use both within and in the vicinity of the town. This restriction applies to county properties zoned RDT and town properties zoned AG.

RDT-zoned properties north of the town will not have access to public water service from the mains currently proposed for construction. However, two properties zoned RDT located southeast of the town are in residential use, not agricultural, and will abut the transmission mains to be constructed for public water service.

WSSCR 08A-OLN-03: Joseph & Shirley Wang

County Executive's Recommendation:

Approve W-3, for one water service connection only. This action creates a limited exception to the Laytonsville RDT Zone restricted water service policy that applies to two properties only: 21000 and 21001 Golf Estates Drive. At this time only the owners of 21000 Golf Estates Drive (08A-OLN-03) have requested a water service category change.

Service Note: With this action, the Council encourages WSSC to allow a water service connection to be constructed for this property as part of the construction of the Laytonsville water system. Because of the water service prohibition previously affecting this property, the County could not include it along with other abutting properties allowed to apply to WSSC and prepay for a water connection. Allowing the applicants to apply and pay for a connection now, rather than having to wait until after the new mains are constructed, will allow them to pay a substantially lower connection charge; typically \$2,000 now as opposed to \$6,750 later.

Property Information and Location Property Development	Applicant's Request: Service Area Categories & Justification									
<ul style="list-style-type: none"> ▪ 21000 Golf Estates Dr ▪ Lot 1, Block A, Golf Estates; dist.-tax acct.#: 01-01981091 ▪ Map tile – MD: GV51; WSSC: 229NW07 ▪ Northwest side of Golf Estates Dr. at Olney Laytonsville Rd. (MD 108) ▪ Olney Master Plan (2005); Preservation of Agriculture and Rural Open Space (1980) ▪ Hawlings River Watershed (MDE Use IV) ▪ RDT Zone; 2.24 acres ▪ <u>Existing use:</u> Residence ▪ <u>Proposed use:</u> Residence (no change) 	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; border-bottom: 1px solid black;">Existing –</th> <th style="text-align: left; border-bottom: 1px solid black;">Requested –</th> <th style="text-align: left; border-bottom: 1px solid black;">Service Area Categories</th> </tr> </thead> <tbody> <tr> <td>W-6</td> <td>W-1</td> <td></td> </tr> <tr> <td>S-6</td> <td>S-6 (no change)</td> <td></td> </tr> </tbody> </table> <p><u>Applicants Explanation</u></p> <p>"Since my property is adjacent to Rt 108 and the new water system (WSSC project #BP2938D00) has the water main run through Rt. 108, a service connection with installation of the water main can save me money if I ever wish to use the WSSC water in the future."</p>	Existing –	Requested –	Service Area Categories	W-6	W-1		S-6	S-6 (no change)	
Existing –	Requested –	Service Area Categories								
W-6	W-1									
S-6	S-6 (no change)									

OLNEY PLANNING AREA MAP AMENDMENTS

WSSCR 08A-OLN-03: Joseph & Shirley Wang

Agency Review Comments

M-NCPPC: Approve W-3.

WSSC Water: A 12-inch water line (contract no. BP2938D00) in Olney Laytonsville Rd., when constructed, will abut and can serve this property. Local service is adequate. No program-sized (CIP) extensions are required for service.

DPS-Well & Septic: The existing well has 35+ gallons/minute (GPM) flow and is 110 feet deep.

Economic Development – Agricultural Services: It's not clear why the County decided to rezone these properties to RDT when they had developed under a residential RE-2 Zone. There is no benefit in annexing these properties into the town. We may want to look at modified policy standard for properties near the development envelope that were built out under a zoning standard that preceded the RDT.

Executive Staff Report

The applicant has requested a change to category W-3 to allow the provision of public water service to an existing house from a planned water main that will abut the property. The new main is part of the water system that will serve Laytonsville. As an existing residential lot that will abut a new water main, the property would usually qualify for a single water hookup under the Water and Sewer Plan's "abutting mains" policy, regardless of its zoning. In this case, however, the property's zoning prohibits public water service under service restrictions previously adopted in the Water and Sewer Plan (see pg. 15) for RDT-zoned properties in the vicinity of Laytonsville.

The intent behind this restricted water service policy resulted from a concern that the extension of public water service to the town would eventually lead to the further loss of active agricultural land from additional annexations of adjacent RDT-zoned property. Although zoned RDT, the subject property does not support any significant agricultural use. The size of the subject property, at 2.24 acres, reflects RE-2 zoning under which the subdivision was originally established in early 1980. This lot size is consistent provision of public water service under the policies for large-lot zones under the Water and Sewer Plan. The current RDT zoning was adopted in 1981, following adoption of the 1980 Preservation of Agriculture and Rural Open Space Master Plan.

Given these three conditions (an abutting main, no agricultural use, and the prior RE-2 zoning), it is reasonable to exempt this property from the restricted water service policy, allowing the provision of public water service. This set of conditions affects only one other RDT-zoned property in the vicinity of the town: the lot across the street at 21001 Golf Estates Dr.

We further request that WSSC allow the applicants to apply and pay for a service connection as part of the pending water main construction project along Route 108. DEP allowed WSSC to accept water service applications from most abutting property owners prior to the construction of the new water mains. This provides the owners with a financial benefit, as service connection costs can more than triple for connections sought after a main is completed. Because of the water project's complexity and the number of potential service connections involved, WSSC established an abutting connection request cut-off date in October 2008. Given the service restrictions applying to this case, DEP staff could not allow a water service connection for this property without prior approval of a water category change, leaving the applicants—lacking an assurance of a service area category approval—unable to meet WSSC's application deadline.

ADS:ads

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OLNEY PLANNING AREA MAP AMENDMENTS

2003 – 2012 Comprehensive Water Supply and Sewerage Systems Plan Excerpt

Chapter 1: Objectives and Policies

Laytonsville Special Service Policies (Chapter 1, Section II.E.12.g.)

Page 1

II. POLICIES FOR THE PROVISION OF WATER AND SEWERAGE SERVICE

The water and sewer service policies addressed in this section of the Plan provide the basis for establishing what areas of the county will receive community versus individual systems service. The Plan uses water and sewer service area categories both to designate areas eligible for either community or private service and to provide a staging element for the provision of community service. These policies provide guidance not only in evaluating individual and general service area change amendments, but also in the preparation of development and water/sewer service recommendations in the County's land use master plans.

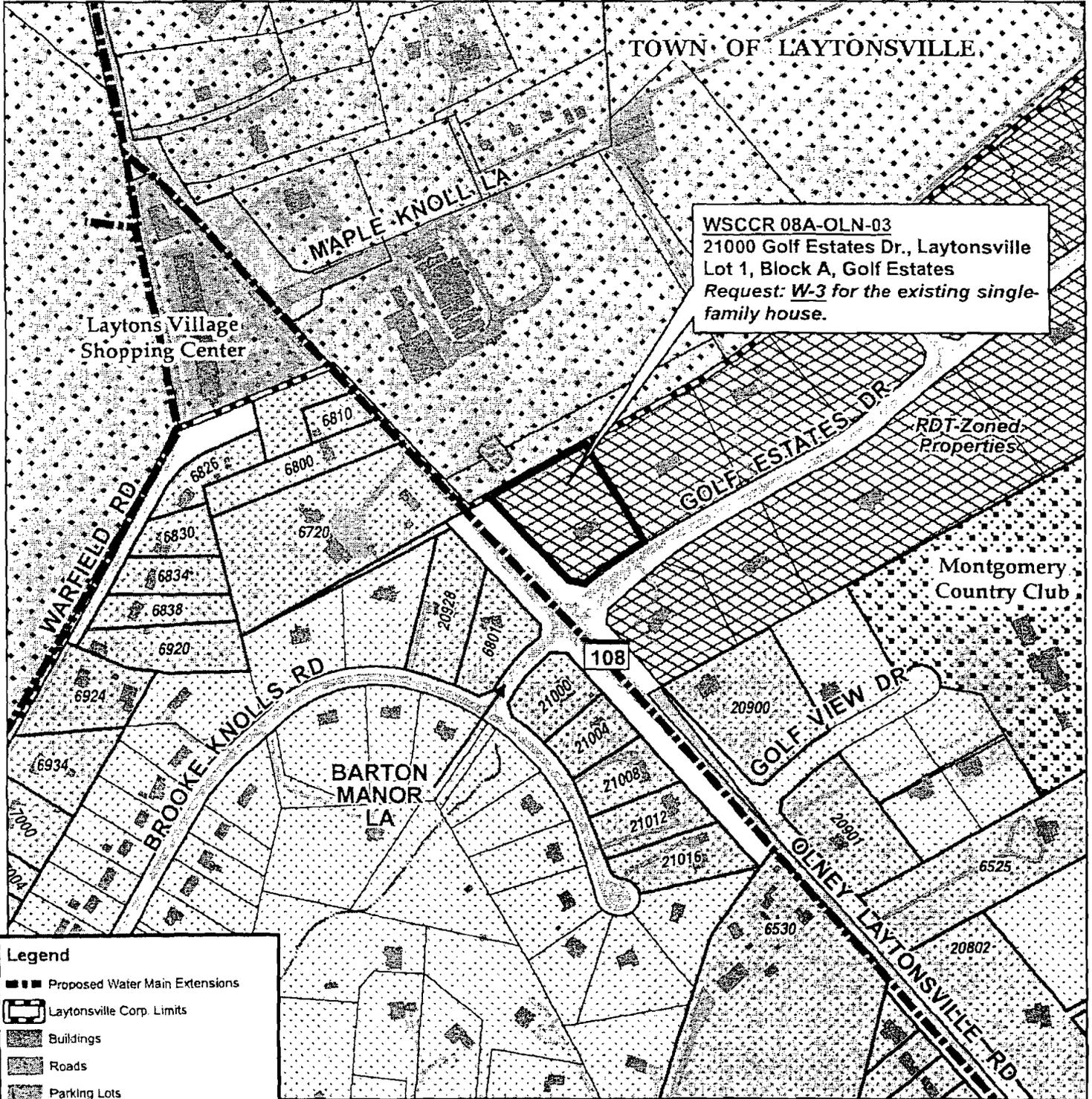
The County Council relies primarily on these service policies in evaluating and acting on Water and Sewer Plan amendments. However, the scope of the Council's responsibilities goes far beyond this Plan and includes issues such as the county-wide economic growth, public health and safety, transportation infrastructure, and public education. The Council has the authority and responsibility to consider such issues where they may affect its actions with respect to this Plan. Given this, the Council may reach conclusions regarding this Plan or its amendments which do not necessarily follow the policies provided in the following sections; in such cases, the Council will provide an explanation of the issues involved and rationale for actions that may vary from these standard policies.

E. Special Policies for Water and Sewer Service – In addition to the preceding general service policies, the County Council has adopted specific policies for the provision of community water and/or sewer service which create exceptions to the general service policies. The Council has also adopted service recommendations in local area master plans which create exceptions to the general service policies.

12. Special and Restricted Community Service Areas – In addition to the preceding policies, the County may also designate specific areas for or restrict specific areas from community water and/or sewer service in order to achieve specific development goals, to promote environmental protection, or to address other special concerns. These areas are shown in Figure 1-F3 and are listed below:

g. Laytonsville Restricted Water Service Area – In considering the possible extension of community water service to the Town of Laytonsville, the County Council expressed strong concerns about the potential annexation and development demand created by such service, particularly with regard to properties zoned for agricultural preservation adjacent to the town. In May 2001 under CR 14-857, the Council acted to permanently restrict the provision of community water service from any properties in the town currently zoned AG and from any properties adjacent to or near the town within the county zoned RDT. Although the Plan's policies generally preclude community water service to properties zoned for one unit per 25-acre density, the Council's intent is to withhold providing community water service from these properties regardless of their future zoning if annexed into the town and rezoned. The Council did allow for the provision of service to a portion of one AG-zoned property in the town occupied by a commercial horticultural nursery.

Water Service Area Categories Map WSSCR 08A-OLN-03 (Joseph & Shirley Wang)



WSSCR 08A-OLN-03
 21000 Golf Estates Dr., Laytonsville
 Lot 1, Block A, Golf Estates
 Request: W-3 for the existing single-family house.

Legend

- Proposed Water Main Extensions
- Laytonsville Corp. Limits
- Buildings
- Roads
- Parking Lots
- Abutting W-6 Properties Outside Town

Water Categories

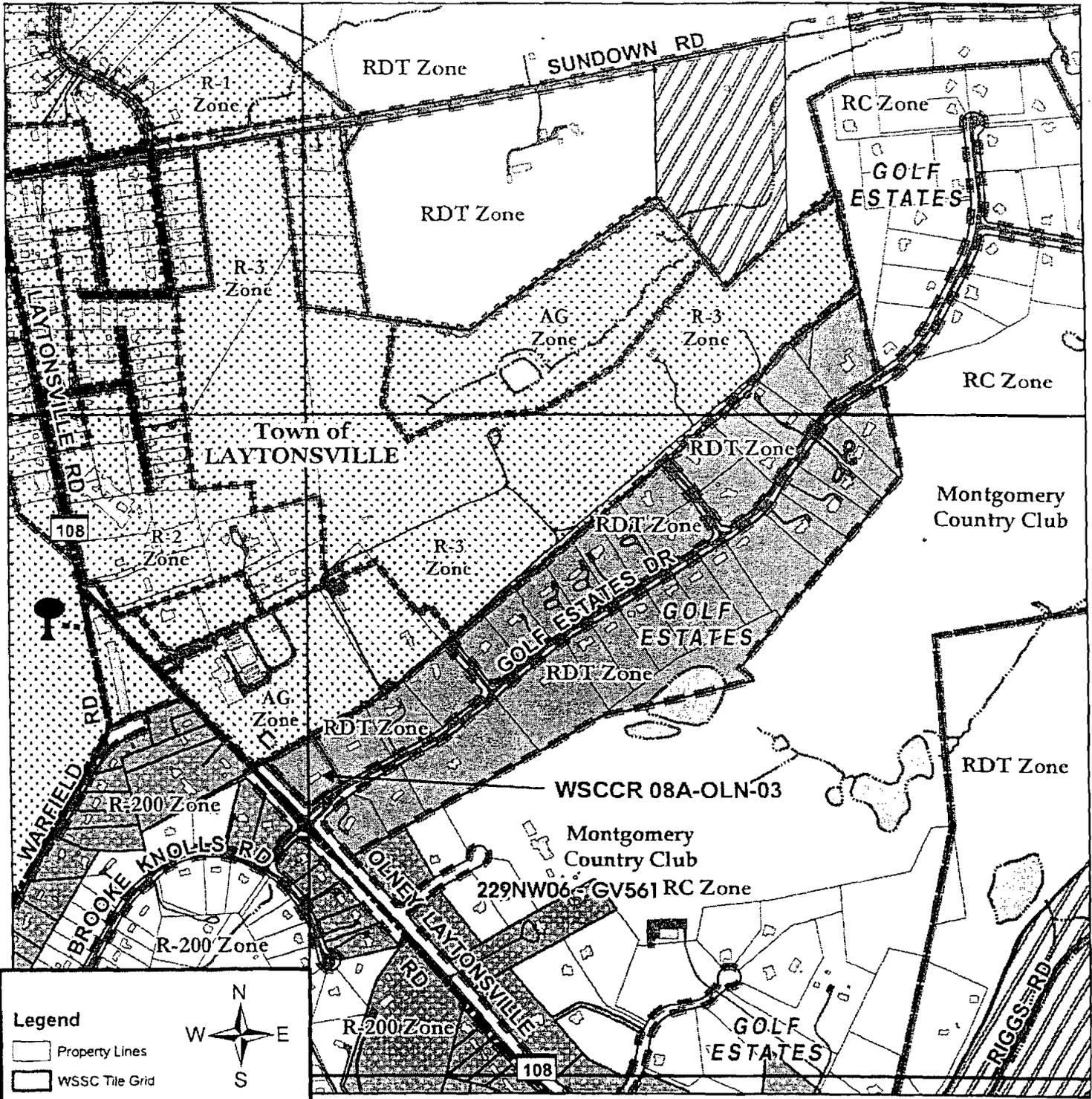
- W-1
- W-3
- W-5
- W-6
- W-6: No Future Service (RDT)
- W-6 Multi-use syst. Approved

Scale (feet)

**Montgomery County, Maryland
 2003 Comprehensive Water Supply
 and Sewerage Systems Plan**

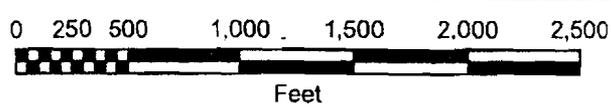
DEP
 Water and Wastewater
 Policy Group

Water/Sewer Service Area Category Change Map WSSCR 08A-OLN-03 (Wang): County & Town Zoning



Legend

- Property Lines
- WSSC Tile Grid
- Proposed Water Mains
- Laytonville Zoning
- County Zoning
- Parks
- Golf Estates (Zoned RDT)
- 2008 General Water Map Amendment
- Town of Laytonville



**Montgomery County, Maryland
2003 Comprehensive Water Supply
and Sewerage Systems Plan**



DEP
Water and Wastewater
Policy Group

**Service Area Category
Change Request Map
WSCCR 08A-OLN-03:
RDT-Zoned Properties
in Golf Estates**

**TOWN OF
LAYTONSVILLE**

SAND
TRAP
DR

BIRDIE
LA

MAPLE KNOLL DR

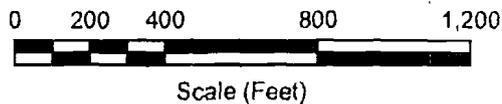
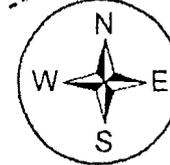
OLNEY
LAYTONSVILLE
RD

GOLF
ESTATES
DR

Montgomery
Country Club

Legend

-  Proposed Water Mains
-  Buildings
-  Roads
-  Parking Areas
-  Streams
-  Ponds/Lakes
-  RDT Zone Lots in Golf Estates
-  Town of Laytonsville
-  WSCCR 08A-OLN-03

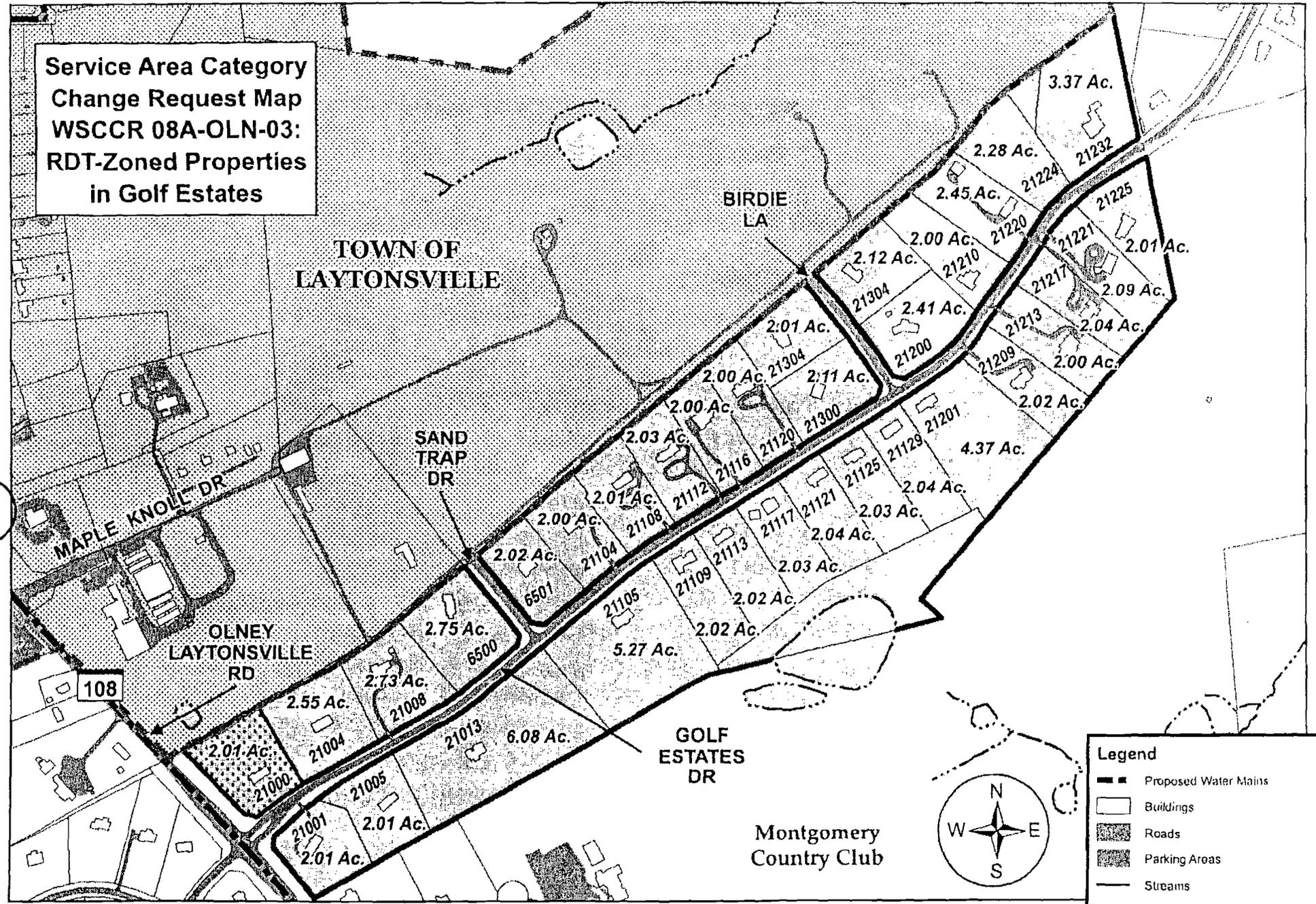


DEP
Water and
Wastewater
Policy Group

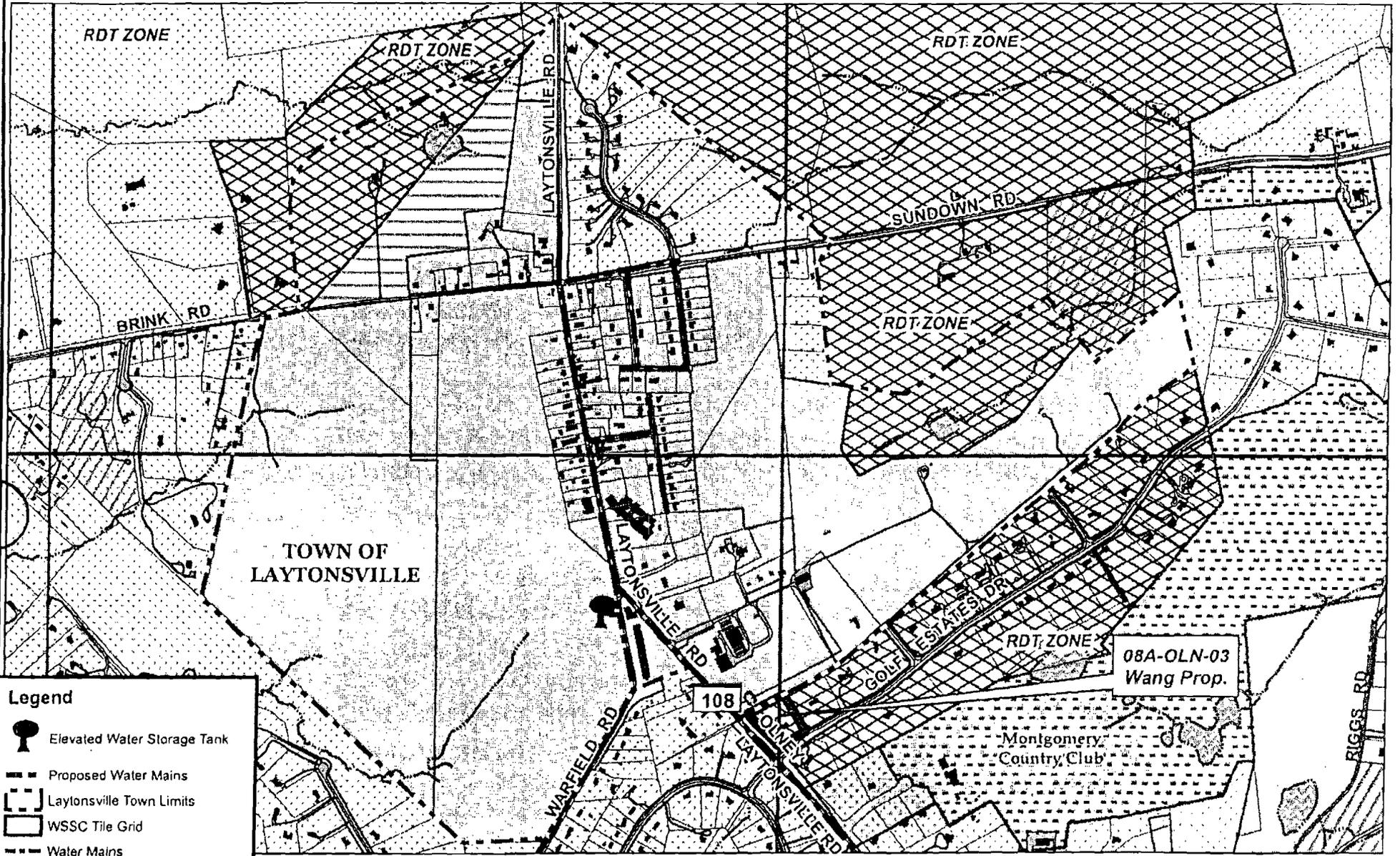
Montgomery County, Maryland
2003 Comprehensive Water Supply
and Sewerage Systems Plan

108

108



Water Service Area Categories Map: Existing Water Categories for Town of Laytonsville and Vicinity (2008)



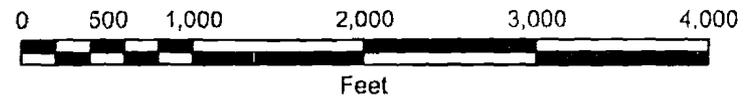
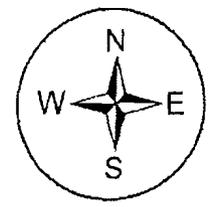
19

Legend

- Elevated Water Storage Tank
- Proposed Water Mains
- Laytonsville Town Limits
- WSSC Tile Grid
- Water Mains
- Parks

Water Categories

- W-3
- W-5
- W-6
- W-6: RDT - No Future Service
- W-6: Multi-use Syst. Approved



Montgomery County, Maryland
2003 Comprehensive Water Supply
and Sewerage Systems Plan



DEP
Water and Wastewater
Policy Group

2) Property/Site Description and Development:

Address 21000 Golf Estates Dr Laytonsville MD 20882
 Property's TAX ID # (please provide, if known) 01981091
 Property/Site Size 2.2 ACRE Identification (ie, Parcel #) LOT 1, Block A
 Location/Closest cross-street Golf Estates & Route 108
 Current Use (Well & Septic) Proposed Use Well & Septic - / Service Connection
 Subdivision Plan No. & Status Single Family Homes NO Change

(Note: Please attach an 8.5"x 11" copy of the state tax map with the property(ies) highlighted; this map is available at www.dat.state.md.us; click on "Real Property Data Search" and proceed from that point. If you don't have access to the Internet, and/or don't have some of the information requested above, please note that you request that DEP provide this information.)

3) Water and Sewer Service Area Categories (if you don't know, we will verify for you):

Current Water Category: W-6 Requested Water Category: W-3 OR No Change Multi-Use Shared
 Current Sewer Category: S- Requested Sewer Category: S- OR No Change Multi-Use Shared

4) Reason for request; state current use of site and intended change in usage, if any:

Since My property adjacent to Route 108. and the New Water system (WSSC proj # BP2938 D00) has the Water Main Run through 108 - A Service connection with installation of the Water Main can save me money if I ever wish to use the WSSC water in the future.

Note: Continue on a separate page, if necessary

DEP Staff Use Only

Receipt Acknowledged: _____ Email OR _____ US Mail

Water _____ Sewer _____

WSSC Tile _____

Tax Map _____

Plan No. _____

Process _____

Master Plan _____

Planning Area _____

Zoning _____

Zoning Activity _____

Watershed _____

CSPS Subwatershed _____

State Watershed Use Class _____

GIS File _____

CCRFomJuly05.doc

TRAVILAH PLANNING AREA MAP AMENDMENTS

PUBLIC SEWER SERVICE WITHIN THE PINEY BRANCH SUBWATERSHED

The following category change request is located within the Piney Branch subwatershed of Watts Branch. The County Council has adopted a restricted sewer service policy in the Water and Sewer Plan for this watershed (see pg. 23). In order to receive public sewer service, a property must satisfy at least one condition for service under the restricted service policy. This case involves the provision of the policy allowing for the restricted approval of public sewer service for properties that abut and predate an existing or approved sewer main. Under the policies affecting sewer service in the Piney Branch subwatershed, the scope of the "abutting mains" policy is more restrictive here than elsewhere in the county. Under the Piney Branch service restrictions, the provision of public service is not intended to support new subdivision or resubdivision of properties approved for public service.

WSSCR 08A-TRV-01: Reynaldo & Zorayda Lee-Llacer

County Executive's Recommendation:

Approve S-1, for one sewer hookup only. This single service hookup may serve both structures on the site. This approval must not support resubdivision of this property into more than one lot.

Property Information and Location Property Development	Applicant's Request: Service Area Categories & Justification						
<ul style="list-style-type: none"> ▪ 12009 Piney Meetinghouse Rd., Potomac ▪ Lot 36, Piney Glen Farm (dist.-acct.# 10-01814620) ▪ Map tile - WSSC: 215NW11; MD: FQ122 ▪ East side of Piney Meetinghouse Rd., south of Greenbriar Preserve Dr. ▪ Potomac Subregion Master Plan (2002) ▪ Watts Branch Watershed (MDE Use I) – Piney Branch subwatershed (Mont. Co. SPA) ▪ RE-2 Zone; 2.54 ac. ▪ <u>Existing use:</u> single-family house (c. 1980) and guest/caregiver's cottage. ▪ <u>Proposed use:</u> service for the existing residences; special exception (S-2674) pending for continuance of the guest house. 	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 50%; text-align: left;">Existing</th> <th style="width: 50%; text-align: left;">Requested – Service Area Categories</th> </tr> </thead> <tbody> <tr> <td>W-1</td> <td>No Change</td> </tr> <tr> <td>S-6</td> <td>S-3</td> </tr> </tbody> </table> <p><u>Applicant's Explanation</u></p> <p>"We are seeking sewer service for our existing single family house and existing accessory caregiver dwelling/guest house now served by septic systems."</p> <p><i>Previously deferred under CR 16-500 (4/8/08); see the staff report that follows for details.</i></p>	Existing	Requested – Service Area Categories	W-1	No Change	S-6	S-3
Existing	Requested – Service Area Categories						
W-1	No Change						
S-6	S-3						

Agency Review Comments

Please refer to the original report from the July 2007 packet, included at pgs. 25 - 26.

Executive Staff Report

The applicant has requested a sewer category change to S-1 to allow for public service for both an existing primary residence and an accessory building from an abutting sewer main along Piney Meetinghouse Road. The provision of public sewer service is consistent with the conditions of the Piney Branch Sewer Restricted Access Policy.

The applicants have also pursued a special exception request for the existing accessory building: the smaller, original house on the property now used as a residence for an on-site caregiver. The Council previously deferred a decision on the category change request pending resolution of the issues involved with the special exception case for the accessory building. This was consistent with prior deferral decisions where there is a concern that the Council's action on a Water and Sewer Plan amendment could influence the outcome of another independent decision process.

The special exception process resulted in a recommendation from the Hearing Examiner in support of the required special exception (pgs. 36 - 39). The Board of Appeals chose to defer action on the special exception pending the Council's decision on the sewer category change (pgs. 33 - 34). The accessory house needs public

TRAVILAH PLANNING AREA MAP AMENDMENTS

WSSCCR 08A-TRV-01: Reynaldo & Zorayda Lee-Llacer

sewer service in order to continue on the property. No documentation exists for the on-site septic system that served the accessory building. If the Council denies sewer service, then the accessory building will need to be removed.

The Council's deferral of this request has allowed the special exception action to proceed as far as possible under these circumstances. The approval of sewer category S-1, with the appropriate restrictions, should be allowed.

TRAVILAH PLANNING AREA MAP AMENDMENTS

2003 – 2012 Comprehensive Water Supply and Sewerage Systems Plan Excerpt

Chapter 1: Objectives and Policies

Piney Branch Restricted Sewer Access Policy (Chapter 1, Section II.E.12.b.)

Adopted by the County Council November 18, 2003 (CR 15-396)

E. Special Policies for Water and Sewer Service – In addition to the preceding general service policies, the County Council has adopted specific policies for the provision of community water and/or sewer service which create exceptions to the general service policies. The Council has also adopted service recommendations in local area master plans which create exceptions to the general service policies.

12. Special and Restricted Community Service Areas – In addition to the preceding policies, the County may also designate specific areas for or restrict specific areas from community water and/or sewer service in order to achieve specific development goals, to promote environmental protection, or to address other special concerns. These areas are shown in Figure 1-F3 and are listed below:

b. Piney Branch Restricted Sewer Service Area – In 1991, the County Council established a policy to restrict the availability of community sewer service in the Piney Branch Watershed, which is designated as one of the county's Special Protection Area watersheds. Through the Piney Branch Sewer Restricted Access Policy, the Council sought to limit the growth of public sewer-dependent development within and near this environmentally-sensitive watershed, particularly within the areas of the watershed zoned for one- and two-acre development. The Council subsequently amended the policy in March 1997 under CR 13-830 and again in October 2002 under CR 14-1481. By these actions, the Council has specifically designated the Piney Branch Trunk Sewer and its tributary mains as Limited Access mains (see Section III.A.2.).

This restricted access policy was recently reexamined in the context of interrelated land use, zoning, and sewer service recommendations in the 2002 Potomac Subregion Master Plan; the following conditions reflect the policy changes recommended by the new master plan. In order to be eligible for community sewer service, properties within the Piney Branch watershed must satisfy at least one of the following conditions, i. through vi.:

- i. Properties designated as Sewer Stages I or II in the 1980 Potomac Subregion Master Plan;
- ii. Properties which the Piney Branch Trunk Sewer Right-of-Way either traverses or abuts, including properties adjacent to, and commonly owned with, these abutted or traversed properties as of December 3, 1991;
- iii. Properties with approval or conditional approval for sewer categories S-1 or S-3 as of December 3, 1991;
- iv. Properties with documented public health problems resulting from failed septic systems where the provision of public sewer service is logical, economical, and environmentally acceptable; or

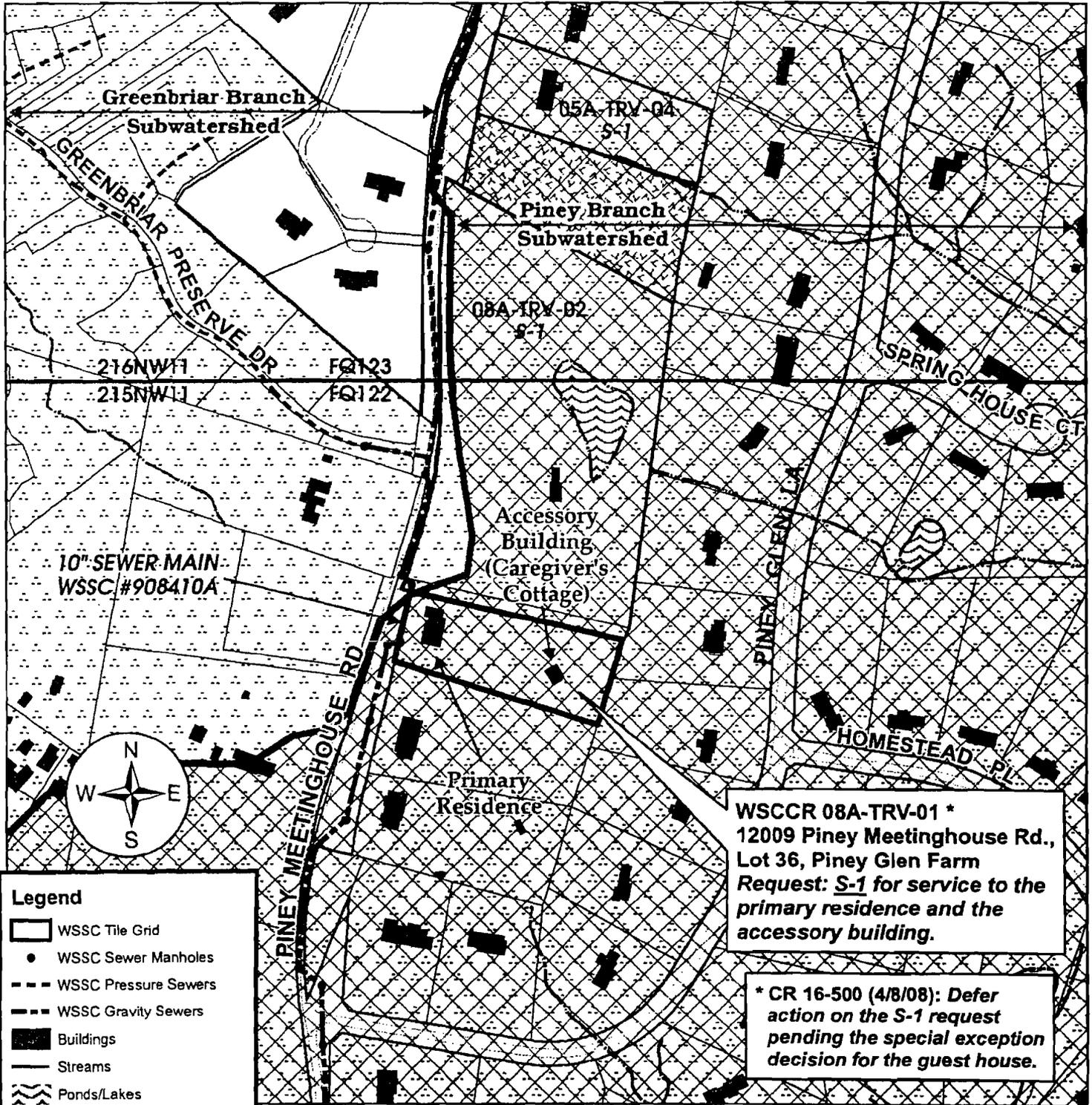
v. Properties which abut sewer mains and which satisfy the policy requirements for Section II.E.3.a.: Community Service for Properties Abutting Existing Mains – Single Hookups Only. Applicants shall not use the provision of a single sewer hookup to support subdivision or resubdivision of these properties into more than one lot. (This condition does not restrict sewer service provided to properties satisfying condition ii., preceding.)

vi. The properties zoned RE-2C located in the southeast corner of the intersection of Boswell Lane and Piney Meetinghouse Road which develop using the cluster method.

All other properties within the Piney Branch watershed are restricted from community sewer service, whether from the Piney Branch sewerage system or from other adjacent sewerage systems.

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Service Area Category Change Request Map
WSSCR 08A-TRV-01 (Reynaldo & Zorayda Lee-Llacer)



Legend

- WSSC Tile Grid
- WSSC Sewer Manholes
- WSSC Pressure Sewers
- WSSC Gravity Sewers
- Buildings
- Streams
- Ponds/Lakes
- Piney Branch Subwatershed

Sewer Categories

- S-1
- S-3
- S-4
- S-5
- S-6

WSSCR 08A-TRV-01 *
 12009 Piney Meetinghouse Rd.,
 Lot 36, Piney Glen Farm
 Request: S-1 for service to the
 primary residence and the
 accessory building.

*** CR 16-500 (4/8/08):** *Defer
 action on the S-1 request
 pending the special exception
 decision for the guest house.*

Travilah Planning Area Watts Branch Watershed

0 100 200 400 600 800 1,000



Scale (Feet)

Montgomery County, Maryland
2003 Comprehensive Water Supply
and Sewerage Systems Plan



DEP
 Water and Wastewater
 Policy Group

COMPREHENSIVE WATER SUPPLY AND SEWERAGE SYSTEMS PLAN AMENDMENTS
 County Executive's December 2008 Transmittal Packet

EXCERPT FROM TRAVILAH PLANNING AREA REPORT (JANUARY 2008)

COMPREHENSIVE WATER SUPPLY AND SEWERAGE SYSTEMS PLAN AMENDMENTS
 County Executive's January 2008 Transmittal Packet

TRAVILAH PLANNING AREA MAP AMENDMENTS

PUBLIC SEWER SERVICE WITHIN THE PINEY BRANCH WATERSHED

Background: The following category change request is located within the Piney Branch Subwatershed of Watts Branch. The County Council has adopted a restricted sewer service policy in the Water and Sewer Plan for this watershed (see pg. 53A). In order to receive public sewer service, a property must satisfy at least one condition for service under the restricted service policy. This case involves the provision of the policy allowing for the restricted approval of public sewer service for properties that abut and predate an existing or approved sewer main.

WSSCR 08A-TRV-01: Reynaldo & Zorayda Lee-Llacer							
Property Information and Location Property Development	Applicant's Request: Service Area Categories & Justification						
<ul style="list-style-type: none"> ▪ 12009 Piney Meetinghouse Rd., Potomac ▪ Lot 36, Piney Glen Farm (dist.-acct.# 10-01814620) ▪ Map tile - WSSC: 215NW11; MD: FQ122 ▪ East side of Piney Meetinghouse Rd., south of Greenbriar Preserve Dr. ▪ Potomac Subregion Master Plan (2002) ▪ Watts Branch Watershed (MDE Use I) – Piney Branch subwatershed (Mont. Co. SPA) ▪ RE-2 Zone; 2.54 ac. ▪ <u>Existing use:</u> single-family house (c. 1980) and guest/caregiver's cottage. ▪ <u>Proposed use:</u> service for the existing residences; special exception (S-2674) pending for continuance of the guest house. 	<table border="1"> <thead> <tr> <th colspan="2">Existing Requested – Service Area Categories</th> </tr> </thead> <tbody> <tr> <td>W-1</td> <td>No Change</td> </tr> <tr> <td>S-6</td> <td>S-3</td> </tr> </tbody> </table> <p>Applicant's Explanation</p> <p>"We are seeking sewer service for our existing single family house and existing accessory caregiver dwelling/guest house now served by septic systems."</p>	Existing Requested – Service Area Categories		W-1	No Change	S-6	S-3
Existing Requested – Service Area Categories							
W-1	No Change						
S-6	S-3						

Agency Review Comments
<p>M-NCPPC Staff</p> <p>Consistent with the master plan. Although this property is outside the sewer service envelope, within the Piney Branch Special Protection Area, and excluded from the peripheral service policy, it qualifies for service under the abutting mains policy.</p> <p><i>WSSC (Note: WSSC main extensions are non-CIP sized unless otherwise specified.)</i></p> <p>Sewer: Service can be provided from an existing 10" sewer main (#908410A) that abuts the property along Piney Meetinghouse Rd. Odor concerns are prevalent in this area, resulting from grinder/pressure systems that feed into the 10" gravity sewer. A gravity connection to the existing main will not be allowed at this location. On-site pumping of wastewater flows from both buildings will be allowed through a single connection to the abutting gravity sewer.</p> <p>DPS-Well & Septic</p> <p>According to Well and Septic records, only the new house has approved well and septic systems. The "old" house was supposed to be demolished at the time of building permit for the new house, as dictated on the record plat. Currently, the "old" house has no septic reserve area and is being served by a septic system for which we have no record.</p>

County Executive Recommendation (WSSCR 08A-TRV-01: Reynaldo & Zorayda Lee-Llacer)

Defer action on the request for S-1 pending a resolution of the special exception case (S-2674) for the accessory house on the property.

COMPREHENSIVE WATER SUPPLY AND SEWERAGE SYSTEMS PLAN AMENDMENTS
County Executive's December 2008 Transmittal Packet

EXCERPT FROM TRAVILAH PLANNING AREA REPORT (JANUARY 2008)

WSCCR 08A-TRV-01: Reynaldo & Zorayda Lee-Llacer

Executive Staff Report

The applicant has requested a sewer category change to S-1 to allow for public service for both an existing primary residence and an accessory building from an abutting sewer main along Piney Meetinghouse Road. The provision of public sewer service is consistent with the conditions of the Piney Branch Sewer Restricted Access Policy. The applicants are currently pursuing a special exception request for the existing accessory building, the smaller original house on the property now used as a residence for an on-site caregiver. We recommend deferral of the request for category S-1 pending resolution of the issues involved with the special exception case for the accessory building. This is consistent with prior deferral decisions where there is a concern that the Council's action on a Water and Sewer Plan amendment could influence the outcome of another independent decision process.

A complication in this case is that in order for the accessory building to continue on the property, it needs to be served by the public sewerage system. When the lot was established in 1978, a condition for the construction of the new residence was that the existing house—now the accessory building—was to be demolished. The new residence was to use an approved septic system and there was no available area for a septic system for the old house. DPS has no record of the septic system for the older house. However, the condition affecting the older house was never enforced. The current owners desire to use the accessory building as a residence for an on-site family caregiver.

Providing sewer service for both the primary residence and an accessory building is consistent with the abutting mains policy, including situations where that policy is applied under the Piney Branch Watershed sewer service restrictions. Service will be provided to both structures by a single connection to the abutting sewer main. This will support the requirement under the Piney Branch policy that sewer service to abutting properties cannot be used to promote the creation of additional lots within the watershed.

COMPREHENSIVE WATER SUPPLY AND SEWERAGE SYSTEMS PLAN
January 2008 Amendment Transmittal: Water/Sewer Category Map Amendments

Travilah - Cabin John Planning Area							
Property Information and Location Property Development	Applicant's Request: County Council Action						
WSSCR 07A-TRV-10: Travilah Oak, LLC; Han & J. Jan							
<ul style="list-style-type: none"> • 12940 – 12960 Travilah Rd., Potomac: Potomac Oak Shopping Center • *Lots 1/2, 3, & 4 (N780, N726, & N679), Boylestons Discovery (dist.-acct.# 06-00397857, 06-02232731, & 06-03063708) ⁵ • Map tile - WSSC: 217NW13; MD: ER41 • Southwest corner, intersection of Glen and Travilah Rds. • Potomac Subregion Master Plan (2002) • Watts Branch Watershed (MDE Use I) • C-1 Zone; 5.02 ac. • <u>Existing use</u>: commercial retail shopping center. • <u>Proposed use</u>: service for the existing shopping center and proposed commercial office space. <p>Note: ⁵ The Jans own only Lot 3; all other properties involved are owned by Travilah Oak, LLC.</p>	<table border="1"> <thead> <tr> <th>Existing</th> <th>Requested – Service Area Categories</th> </tr> </thead> <tbody> <tr> <td>W-1</td> <td>W-3</td> </tr> <tr> <td>S-6</td> <td>S-3</td> </tr> </tbody> </table> <p>County Council Action</p> <p>Defer action, at the applicant's request, pending additional discussions between the applicant and the neighboring community.</p> <p>Note: The Council intends that deferred amendments reach a resolution of the cited issues and return for further Council consideration within approximately one year.</p>	Existing	Requested – Service Area Categories	W-1	W-3	S-6	S-3
Existing	Requested – Service Area Categories						
W-1	W-3						
S-6	S-3						
WSSCR 08A-TRV-01: Reynaldo & Zorayda Lee-Llacer							
<ul style="list-style-type: none"> • 12009 Piney Meetinghouse Rd., Potomac • Lot 36, Piney Glen Farm (dist.-acct.# 10-01814620) • Map tile - WSSC: 215NW11; MD: FQ122 • East side of Piney Meetinghouse Rd., south of Greenbriar Preserve Dr. • Potomac Subregion Master Plan (2002) • Watts Branch Watershed (MDE Use I) – Piney Branch subwatershed (Mont. Co. SPA) • RE-2 Zone; 2.54 ac. • <u>Existing use</u>: single-family house (c. 1980) and guest/caregiver's cottage. • <u>Proposed use</u>: service for the existing residences; special exception (S-2674) pending for continuance of the guest house. 	<table border="1"> <thead> <tr> <th>Existing</th> <th>Requested – Service Area Categories</th> </tr> </thead> <tbody> <tr> <td>W-1</td> <td>No Change</td> </tr> <tr> <td>S-6</td> <td>S-3</td> </tr> </tbody> </table> <p>County Council Action</p> <p>Defer action on the request for S-1 pending a resolution of the special exception case (S-2674) for the accessory house on the property.</p> <p>Note: The Council intends that deferred amendments reach a resolution of the cited issues and return for further Council consideration within approximately one year.</p>	Existing	Requested – Service Area Categories	W-1	No Change	S-6	S-3
Existing	Requested – Service Area Categories						
W-1	No Change						
S-6	S-3						
WSSCR 08A-TRV-03: Sprigg and Christina Lynn							
<ul style="list-style-type: none"> • 11621 Glen Rd., Potomac • Parcel P156, Piney Grove Etc (dist.-acct.# 06-00405218) • Map tile - WSSC: 215NW11; MD: FQ122 • Northeast side of Glen Rd., west of Partridge Run La. • Potomac Subregion Master Plan (2002) • Watts Branch Watershed (MDE Use I) • RE-2 Zone; 2.34 ac. • <u>Existing use</u>: single-family house (c. 1910). • <u>Proposed use</u>: service for the expansion of the existing single-family house; replace aging septic system. 	<table border="1"> <thead> <tr> <th>Existing</th> <th>Requested – Service Area Categories</th> </tr> </thead> <tbody> <tr> <td>W-1</td> <td>No Change</td> </tr> <tr> <td>S-6</td> <td>S-1</td> </tr> </tbody> </table> <p>County Council Action</p> <p>Approve S-3 (for service at the edge of the Potomac Master Plan public sewer envelope.)</p> <p>Note: Approval of this request does not extend or alter the public sewer envelope recommended in the Potomac Subregion Master Plan.</p>	Existing	Requested – Service Area Categories	W-1	No Change	S-6	S-1
Existing	Requested – Service Area Categories						
W-1	No Change						
S-6	S-1						



WISCCR 08A-TRV-01
SUBMITTED ON BEHALF OF THE
APPLICANTS.

SUITE 460 | 3 BETHESDA METRO CENTER | BETHESDA, MD 20814-5367 | TEL 301.986.1300 | FAX 301.986.0332 | WWW.LERCHEARLY.COM

ATTORNEYS

HARRY W. LERCH
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DIRECT FAX 301.347.1775
HWLERCH@LERCHEARLY.COM

September 18, 2008

BY HAND DELIVERY

Mr. Keith Levchenko
Senior Legislative Analyst
Montgomery County Council Staff
Stella B. Werner Council Office Building
100 Maryland Avenue, 5th Floor
Rockville, MD 20850

RE: Sewer Category Change Request 08A-TRV-01
Reynaldo & Zorayda Lee-Llacer, 12009 Piney Meetinghouse Road, Potomac
Request for Council to Take Action on Category Change Request

Dear Mr. ^{Keith} Levchenko:

At the suggestion of Alan Soukup and on behalf of our clients and the applicants in this matter, Zorayda and Reynaldo Lee-Llacer, we are providing this update on the status of the accessory apartment special exception petition in Board of Appeals Case No. S-2674 (OZAH Case No. 06-28). In light of that status, as explained below, we are asking for your support and the Council's assistance to move forward with Sewer Category Change Request No. 08A-TRV-01.

You probably recall that the Council deferred action on the sewer category change request until resolution of the accessory apartment special exception petition (Council Resolution 16-500). Unfortunately, despite a favorable report and recommendation of approval from the Office of Zoning and Administrative Hearings last June, the Board of Appeals is deferring final decision of the special exception petition until disposition of the sewer category change request. In light of the Board's position we need your assistance to break this logjam and move forward towards a resolution of this matter.

Background

The background history of this matter provides important context for the special exception and the sewer category change requests.



ATTORNEYS

CBA-TRJ-01

Keith Levchenko
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The applicants Reynaldo & Zorayda Lee-Llacers (husband and wife) are both physicians. The husband is a retired surgeon who is now in his mid-70s and in deteriorating health. He is the former president of the Maryland Medical society, and both are highly respected professionals.

In the late 1970s, the Ted Gindes Construction Company built several houses on Piney Meetinghouse Road, one of which was purchased by the Lee-Llacers in 1979. The Lee-Llacers house was advertised as having a guest house, and they bought it with this understanding. There were many difficulties and apparent misrepresentations involved in the sales of these properties, including a possible cemetery on one or more of the properties, misrepresentations about the pending use of the Potomac quarry as a landfill, dedication of most (if not all) of the front yards for slope easements for the widening of the road, etc.

The Lee-Llacers were not shown the subdivision plat before they purchased their properties, and only later did these issues emerge. The plat of the Lee-Llacers' property showed an existing house in the rear of the property (a small cottage with slightly over 1,000 square feet) which had been built in 1946, and the plat contained a note saying that the existing house was to be removed. The Lee-Llacers were unaware of this until long after they had purchased the property. The only apparent reason ever suggested for the note on the plat was the cottage was on a septic system which had been constructed before the county kept septic records, and by the time the plat was recorded the county was apparently not approving a new septic system on a lot which already had a prior system. The Lee-Llacers' new home was also on a septic system. Both systems have worked without a problem since they purchased the house in 1980.

Neither Park and Planning nor DPS ever took any action to require the removal of the small cottage. All permits, not only for the house, but also for the new septic system were approved by the county. For several years the Lee-Llacers used the cottage as a play house for their children and as a guest house for occasional guests. Subsequently in approximately 1993 their niece and her husband began residence in the house. The niece, Margaret Pugeda, is a graduate of medical school in the Philippines, and is now assisting with the care of Mr. Lee-Llacer. The family was unaware that residence in a guest cottage for longer than six months by any guest was technically a violation of county requirements.

A few years ago, after an apparent complaint by a neighbor, a zoning inspector advised the Lee-Llacers that they would have to get a special exception for an accessory dwelling if they wanted to continue year round occupancy of the cottage. In the summer of 2006 they filed a special exception application for an accessory

apartment. The definition of "accessory apartment" includes care giver residences under limited conditions which do, in fact, apply here.

Prior to the special exception public hearing we met with the neighbors who had expressed concerns about the cottage; we reached an agreement with them. Among their concerns was the septic system serving the cottage. They feared that it could ultimately damage their well. The suggestion was made that the property could be hooked up to the sewer in Piney Meetinghouse Road. After consultation with Mr. Soukup, we learned that it is one of the few properties qualified for such a hookup because it abuts the public sewer and the main house and guest house were constructed before the sewer was constructed.¹

An agreement was reached with the neighbors that included requirements that a sewer category change be sought by the Lee-Llacers for their property, and that the Lee-Llacers would also apply for a corrective plat amendment for the 1978 subdivision plat to remove the requirement dealing with the old house. The agreement also contained requirements for landscaping, fencing, architectural improvements, and future use of the cottage.

The accessory apartment special exception request came before the County Hearing Examiner on June 22, 2007. At the outset the Hearing Examiner observed that there appeared to be a 'chicken and egg' situation as to what should come first – the special exception or the sewer category change. Mr. Soukup and Amy Hart from the Department of Environmental Protection both testified at the hearing, and the sewer and plat issues were discussed at length. The Hearing Examiner determined that he would hear the special exception application, but would hold the record open to allow the Lee-Llacers to apply for a sewer category change, and if that was approved, to apply to the Planning Board for a corrective amendment of the record plat. If both were granted, he would enter this information into the file and would make his recommendation to the Board of Appeals.

After the hearing, the Lee-Llacers immediately applied for the sewer category change. It was recommended for approval by the WSSC, by the Planning Staff, and by the Planning Board. Mr. Soukup had it on his agenda for approval as an administrative action. Shortly before that decision, West Montgomery County Citizens Association, which opposed the special exception use, requested that the change be removed from the Administrative Hearing agenda.

¹ The policy that allows such a single hookup is referred to as "the abutting mains" policy. The single hookup could service both houses.



The Council ultimately deferred action on the category change request until resolution of the special exception case. Given the Council's action, the Lee-Llacers requested that the record be closed. The Hearing Examiner proceeded with his report and recommendation on the special exception application, which was issued in June, 2008.

Hearing Examiner's Recommendation of Approval

The Hearing Examiner recommended approval of the Special Exception with conditions to the Board of Appeals. The report discussed the sewer category change and record plat issues in depth. The Hearing Examiner concluded that the accessory apartment special exception could be approved with the conditions that the sewer category change and plat correction be subsequently granted.

The relevant conditions from the Hearing Examiner's Report and Recommendation provide:

1. The proposed use cannot be approved unless the Council approves a change in the sewer category to allow Petitioners to hook up both houses to the public sewer system, so that a restrictive note requiring removal of the guesthouse can be deleted from the plat in a minor subdivision. The Council postponed action on Petitioners' request for a change in the sewer category pending action on this special exception. The grant of this special exception is therefore conditioned on Council approval of the sewer category change, and this special exception will go into effect if and when the Council approves the sewer category change.

...

3. Since the proposed use will require a minor subdivision, in accordance with Zoning Ordinance Section 59-G-1.21(a)(9)(A), approval of this special exception is conditioned upon approval of a minor subdivision by the Planning Board, deleting a restrictive note on the record plat requiring removal of the guesthouse. If changes to the site plan or other plans filed in this case are required at subdivision, Petitioners must file a copy of the revised site and related plans with the Board of Appeals.

The Hearing Examiner forwarded the report and recommendation to the Board of Appeals for final action.



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Board of Appeals Position

The Board of Appeals has not formally acted on the Hearing Examiner's report and recommendation. At its worksession on July 23, 2008, the Board Chair commented that, if required to decide the case, the board could be forced to deny the special exception petition for lack of an approved sewer category change. The Board deferred action until a decision on the sewer category change request. Once again, we could be at a standstill.

But now, at the present time, the Hearing Examiner has reviewed all of the land use issues involved, and has determined that they have been successfully resolved (subject to the two remaining steps noted above regarding the sewer category change and the plat amendment). Based upon the Hearing Examiner's favorable recommendation, we respectfully request that the Council either (1) proceed with a decision on the sewer category change request; or (2) authorize Mr. Soukup to approve it administratively in accordance with customary practices.

Based on established sewer category change policies, it is our understanding that the request should be granted. The approval of the category change request will not constitute a precedent for changing the established sewer category policies, rather, it is consistent with the adopted policies. Neither the category change nor the special exception will cause any future development. The Lee-Llacer lot has 2.55 acres and is zoned RE-2 which requires 2 acres per lot. It cannot be resubdivided. The cottage will be used only for a care giver residence, or, in the future, as a guest house in accordance with the county zoning ordinance.

Thank you for your consideration, and your ongoing assistance in this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Harry W. Leich".

Harry W. Leich
Stuart R. Barr

cc: Council Council T&E Committee (Councilmembers Nancy Floreen, George Leventhal, Roger Berliner)
Alan Soukup
Zorayda and Reynaldo Lee-Llacer
Ralph Wilson, MNCPPC
David Brown, Esq., Knopf & Brown

BOARD OF APPEALS
for
MONTGOMERY COUNTY

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(240) 777-6600

www.montgomerycountymd.gov/content/council/boa/index.asp

WORKSESSION MINUTES

Second Floor Davidson Memorial Hearing Room

Wednesday, July 23, 2008, 9:30 a.m.

ACTION ITEMS:

1. **Minutes**, June 25 and July 2, 2008 Worksessions.
Action: Approved as amended, (CGT/DKP, 3-0).
2. **A-5769, Appeal of Robert Zarnetske** (Department of Permitting Services (DPS) – Letter dated April 1, 2002). Docket from the Circuit Court affirming the Board's Opinion dated 7/15/03.
Action: Re-opened the record to include the Circuit Court Docket, (DKP/CGT, 3-0).
3. **A-5982 [A-5983, A-5984, S-5594], Appeals of Donald McGee, McGee Enterprises, and Greentree Associates L.L.C.** (Department of Permitting Services – Notice of Violation). Order from the Circuit Court notifying the Board of the grant of a Consent Motion.
Action: Re-opened the record to include the Order from the Circuit Court, (CGT/DKP, 3-0).
4. **A-6199, Appeal of Rudolph Geist** (Department of Permitting Services – Issuance of Building Permit No. 438435). Order from the Circuit Court affirming the Board's Opinion dated 8/23/07.
Action: Re-opened the record to include the Order from the Circuit Court, (DKP/CGT, 3-0).

25. **S-2674, Petition of Reynaldo and Zorayda Lee-Llacer** (accessory apartment). Hearing Examiner's Report and Recommendation. Also included is a letter from John Jassin, M.D., requesting Oral Argument and a letter from Norman Knopf, Esquire, on behalf of Linda and Gregory Locraft.

Action: Item deferred pending resolution of the sewer option connection issue. BOA to advise County Council.

26. **S-2699, Petition of ExxonMobil Corporation** (automobile filling station). Hearing Examiner's Report and Recommendation. Also included is a letter from Jody Kline, Esquire, requesting Oral Argument.

Action: (1) Denied the request for Oral Argument; (2) deferred the Hearing Examiner's Report and Recommendation, (???, 3-0).

27. **S-2711, Petition of Melody Butler d/b/a Butler Landscape Design** (landscape contractor). Hearing Examiner's Report and Recommendation. Also included are letters from Susan Carter, Esquire, and Caroline Taylor, requesting Oral Argument.

Action: (1) Denied the request for Oral Argument; (2) deferred the Hearing Examiner's Report and Recommendation, (DKP/CGT, 3-0).

PENDING ITEMS:

28. **A-6114, Appeal of Newland Communities LLC and NNP II – Clarksburg LLC** (Department of Fire and Rescue Services – Notice of Violation dated September 20, 2005). Second Status Report from Todd Brown, Esquire. (1) Re-opened the record to include the Second Status Report from Todd Brown; (2) the Board will receive Status Reports on 1/15/07 and 4/1/07 [W/S 10/25/06]. (1) Re-opened the record to include the status report from Mr. Brown; (2) Mr. Brown to provide a status/progress report to BOA at its 5/2/07 Worksession [W/S 2/28/07]. Status report from Todd Brown, Esquire [W/S 10/17/07]. Re-opened the record to include the status report from Mr. Brown [W/S 4/2/08].
29. **A-6190, Appeal of Amanda Enterprises, LLC** (Department of Permitting Services – Notice of Violation dated November 13, 2006 and Use and Occupancy Certificate No. 250849). BOA to receive a status report from the appellant by 6/15/07 [Pre-hearing Conference held on 3/14/07].
30. **S-179, David H. Shin** (coffee shop). Letter to the Board from Sook Kim requesting a transfer of the special exception (Item deferred for additional information regarding ownership of special exception property, consensus [W/S 6/25/08].



MONTGOMERY COUNTY, MARYLAND

JUN 19 2008
Environmental
[illegible]

TO: Parties to County Board of Appeals Proceedings
FROM: Office of Zoning and Administrative Hearings
SUBJECT: Transmittal of Report and Recommendation and Applicable Procedures

Enclosed is a copy of the Recommendation in County Board of Appeals **Case No. S-2674**. A decision on this matter will be rendered by the Board within the time provided by law.

As a party of record, you may request oral argument before the Board of Appeals under the provisions of Section 59-A-4.61(e) of the Montgomery County Code. The request must be filed in writing within ten days after transmittal of the Hearing Examiner's report and recommendation and must explicitly state the matters desired to be presented at the oral argument.

You will be notified by the Board of Appeals if your request for oral argument is granted and at what time and place it will occur. If the request is granted, the oral argument must be confined to the evidence of record before the Hearing Examiner. No new or additional evidence or witnesses will be considered. Prior to oral argument do not attempt to discuss this case with individual Board members since such ex parte communications are prohibited by law.

If you have any questions regarding this procedure, please contact this office.

Dated: June 18, 2008

MLG/dwm
Enclosure



Office of Zoning and Administrative Hearings

100 Maryland Avenue • Rockville, Maryland 20850 • 240/777/6660

BEFORE THE MONTGOMERY COUNTY
BOARD OF APPEALS
OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
Stella B. Werner Council Office Building
Rockville, Maryland 20850
(240) 777-6660

IN THE MATTER OF: *
REYNALDO & ZORAYDA LEE-LLACER *
Petitioners *
Zorayda Lee-Llacer *
Margaret Pugeda *
For the Petition *
Harry W. Lerch, Esquire *
Attorney for Petitioners *
***** *
Steve Morris *
Department of Housing and *
Community Affairs *
Amy Hart *
Department of Permitting Services *
Alan Soukup *
Department of Environmental Protection *
***** *
Gregory and Linda Locraft *
By David W. Brown, Esquire *
Attorney for the Locrafts *
Conditionally Supporting the Petition *
***** *
West Montgomery County Citizens Assoc. *
By George A Barnes, Zoning Chair *
Colonel John Yassin *
Opposed to the Petition *
Leo Cullinane *
Subpoenaed witness *
Took No Position in Testimony, but *
signed Opposition Letter *
***** *
Before: Martin L. Grossman, Hearing Examiner¹

Board of Appeals Case No. S-2674
(OZAH Case No. 06-28)

HEARING EXAMINER'S REPORT AND RECOMMENDATION

¹ The initial October 23, 2006, hearing, which addressed only the Petitioners' request for a continuance, was presided over by Hearing Examiner Françoise Carrier. Ms. Carrier granted the continuance, and the June 22, 2007 hearing on the merits was presided over by Hearing Examiner Martin L. Grossman. Transcript references to the October 23, 2006 continuance hearing will be preceded by the designation "10/23/06 Tr." while references to the June 22, 2007 hearing on the merits will be preceded simply by the designation "Tr." The transcript page references to the June 22, 2007, hearing on the merits are to the full page transcript (stamped "Original"), not the "miniscript" transcript because, unfortunately, their pages do not correspond precisely in this case; nor do they correspond precisely to the electronic version of the transcript.

- (i) *More spaces are required to supplement on-street parking; or*
- (ii) *Adequate on-street parking permits fewer off-street spaces.*

Off-street parking spaces may be in a driveway but otherwise must not be located in the yard area between the front of the house and the street right-of-way line.

Conclusion: Petitioners have a two-car parking pad for the guesthouse and a driveway which can hold additional vehicles. There is more than adequate off-street parking space on Petitioners' property, and the Hearing Examiner has also added a condition which limits the number and type of vehicles permitted.

D. Additional Applicable Standards

An accessory apartment must comply not only with the zoning requirements as set forth in Zoning Ordinance §59-G; it must also be approved for habitation by the Department of Housing and Community Affairs. As discussed in Part II. B. of this Report, the Housing Code Inspector's report (Exhibit 12) noted a number of items requiring correction, and a follow-up inspection revealed that all the listed deficiencies had been corrected. The Inspector's testimony indicated that occupation of the accessory apartment should be limited to no more than two unrelated persons or a family of four. Tr. 110. Petitioners have agreed to meet all conditions, and they are reflected in the following recommendations.

V. RECOMMENDATION

Based on the foregoing analysis, I recommend that Petition No. S-2674 for a special exception to permit an accessory apartment located at 12009 Piney Meetinghouse Road, Potomac, Maryland, be GRANTED, subject to the following conditions:

1. The proposed use cannot be approved unless the Council approves a change in the sewer category to allow Petitioners to hook up both houses to the public sewer system, so that a restrictive note requiring removal of the guesthouse can be deleted from the plat in a minor

subdivision. The Council postponed action on Petitioners' request for a change in the sewer category pending action on this special exception. The grant of this special exception is therefore conditioned on Council approval of the sewer category change, and this special exception will go into effect if and when the Council approves the sewer category change.

2. If the sewer category change is approved, the Petitioners must enter into a contract for completion of the hookup to the sewer line within 30 days of approval. The contract, or a separate contract, will also provide for abandonment of all septic tanks on the property, overseen by a licensed professional, to include opening and pumping out the septic tanks, crushing them, back-filling the locations, and obtaining a courtesy inspection from DPS. Petitioner will inform the Board and the parties to this case, in writing, when these steps have been completed.

3. Since the proposed use will require a minor subdivision, in accordance with Zoning Ordinance §59-G-1.21(a)(9)(A), approval of this special exception is conditioned upon approval of a minor subdivision by the Planning Board, deleting a restrictive note on the record plat requiring removal of the guesthouse. If changes to the site plan or other plans filed in this case are required at subdivision, Petitioners must file a copy of the revised site and related plans with the Board of Appeals.

4. If the Council approves a sewer category change allowing the subject site to hook up to public sewers, within 30 days after such approval, Petitioners will submit revised site and landscape plans to Technical Staff and the Board of Appeals as a proposed administrative amendment to the special exception.

5. If the Council approves a sewer category change allowing the subject site to hook up to public sewers, within 60 days after such approval, Petitioners will engage an architect to devise a plan to upgrade the façade of the cottage to make it more architecturally harmonious with the main dwelling, without adding any floor area to the cottage. A copy of any revised

plans for the façade of the cottage shall be submitted to Technical Staff and the Board of Appeals as a proposed administrative amendment to the special exception.

6. Petitioners shall notify the Board within five (5) business days of the termination of the need for a caregiver or the use thereof. The Board may then consider whether it would be appropriate to take steps to terminate or modify the special exception.

7. [If the Board grants the special exception based solely on the caregiver provision of Zoning Ordinance §59-G-2.00(a)(2)(ii), then it is recommended that the following condition be imposed: "Occupancy of the cottage during the special exception is limited to a caregiver for Reynaldo Lee-Llacer, the caregiver's spouse and up to two children." If the Board grants the special exception based on the broader provision of Zoning Ordinance §59-G-2.00(a)(2), allowing a special exception in an accessory structure "already existing on the same lot as the main dwelling on December 2, 1983," then it is recommended that the following condition be imposed: "Occupancy of the accessory apartment is limited to no more than two unrelated persons or a family not to exceed four persons." See discussion of this issue on pages 59-60 of this report.]

8. Petitioners shall be bound by all of their testimony and exhibits of record, and by the testimony of their witnesses and representations of counsel identified in this report.

9. Parking at the accessory apartment is limited to two vehicles, except for occasional transient guests, and parking of commercial vehicles and trucks of any kind is prohibited. This does not preclude delivery vehicles from making temporary stops to deliver or pick up parcels from or for shipment, during normal business hours. Storage of restaurant or other commercial equipment anywhere on the premises is prohibited.

10. Petitioners shall maintain the cottage housing the accessory apartment in accordance with standards enforced by DHCA's Division of Housing and Code Enforcement.

11. Within 30 days of special exception approval, Petitioners shall remove from the

**PROPOSED COMPREHENSIVE WATER SUPPLY AND SEWERAGE SYSTEMS PLAN AMENDMENTS
COUNTY EXECUTIVE'S JANUARY 2009 TRANSMITTAL PACKET**

Status of Category Change Requests Previously Deferred by the County Council

The Water and Sewer Plan generally intends that a deferred category change request or other Plan amendment return to the Council for a decision within approximately one year.

Plan Amendment No. & Owner Location – Proposed Use	Zoning & Acreage Request	Resolution & Deferral Justification Status of Deferred Plan Amendment
WSSCR 06A-BEN-03 Maurice Gladhill Bethesda Church Rd., Damascus Use: water service for approved child lots	RDT-Zone 41.44 ac. W-6 to W-1 (Keep S-6)	<u>CR 15-1588 (8/1/06)</u> : Deferred pending recommendations on child lots from the Ad Hoc Agriculture Working Group. (Pgs. 44 - 45) Status: Awaiting Council consideration and decision on child-lot policy issues, including a proposed amendment to the Water and Sewer Plan.
WSSCR 06A-CLO-04 Bryanshire Corp. Bryant's Nursery Rd., Cloverly Use: proposed house of worship for the God Glorified Church of God in Christ	RE-2 Zone 8.6 ac. W-5 to W-1 S-6 to S-3	<u>CR 16-237 (7/10/07)</u> : Deferred for church's site development plan. (Pgs. 3 & 5) Status: The proposed PIF user has abandoned plans for the site. Returned to Council with Jan. 2009 packet (see pg. 1).
WSSCR 07A-CLO-01^B JDH Properties Spencerville Rd. (MD 198), Spencerville Use: proposed 8-9 lot single-family subdivision. ^B Patuxent Watershed Conservation PA	RE-1 Zone 8.7 ac. W-6 to W-3 S-6 to S-3	<u>CR 16-237 (7/10/07)</u> : Deferred for: 1) a resolution of litigation over the use of the confronting Peach Orchard Estates project site, and 2) if needed, a resolution of sewer extension issues to this area north of Spencerville Rd. (Pgs. 46 - 47) Status: Litigation between Winchester Homes and the State of Maryland is proceeding, but is not yet fully resolved.
WSSCR 07A-CLO-06 Julian Patton Norwood Rd. at Norbeck Rd. (MD 28) Use: proposed house of worship for the Sts. Constantine and Helen Greek Orthodox Church (on an unimproved site)	RE-2 Zone 27 ac. (Keep W-3) S-6 to S-1	<u>CR 16-500 (4/8/08)</u> : Deferred for submittal and review of the church's site development plan. (Pgs. 48 - 49) Status: Awaiting submission of a development plan. The church may seek to relocate to the RE-2C part of this site, rather than to the RE-2 part included in this request. DEP staff anticipate that this change may require a new category change application for the RE-2C-zoned area.
WSSCR 07A-CLO-09 Neil & Laura Pullen Harding La. - Spotswood Dr., Cloverly Use: proposed 3-lot single-family subdivision (replacing one existing house). Plan no. 720070210, Pullen Property	RE-1 Zone 3.7 ac. (Keep W-3) S-5 to S-1	<u>CR 16-500 (4/8/08)</u> : S-1 for one sewer hookup only approved. Unrestricted approval deferred for further evaluation of the applicant's development plan, as related to the recommendations of the Cloverly Master Plan. (Pgs. 48 & 50) Status: The project engineer has submitted a draft plan to DEP showing an alternative septic system layout. DEP will review and discuss this plan further with M-NCPPC staff.
WSSCR 07A-DAM-08^A Bethel World Outreach Ministries Brink Rd., Germantown Use: proposed house of worship for the owner (existing house may remain). ^A Goshen – Woodfield – Cedar Grove PA	RDT Zone 119.4 ac. W-6 to W-6 ^B S-6 to S-6 ^B ^B Multi-use syst.	<u>CR 16-500 (4/8/08)</u> : Deferred for a development proposal that conforms with RDT Zone requirements for properties with agricultural preservation easements. (Pgs. 51 - 52) Status: Pending the resolution of litigation between the applicant and the County.
07A-TRV-10 Travilah Oak, LLC; Han & J. Jan Travilah & Glen Rds., Potomac Use: existing commercial retail & office space in the Potomac Oak Shopping Center (now using on-site well and septic systems).	C-1 Zone 5.02 ac. W-6 to W-3 S-6 to S-3	<u>CR 16-500 (4/8/08)</u> : Deferred, at the applicant's request, for additional discussion with the local community and local civic groups on the project. (Pg. 53 - 54) Status: DEP staff evaluating the results of additional discussions with the applicant. Further coordination with the CE's Office expected in Feb. 2009.

**PROPOSED COMPREHENSIVE WATER SUPPLY AND SEWERAGE SYSTEMS PLAN AMENDMENTS
COUNTY EXECUTIVE'S JANUARY 2009 TRANSMITTAL PACKET**

Status of Category Change Requests Previously Deferred by the County Council

The Water and Sewer Plan generally intends that a deferred category change request or other Plan amendment return to the Council for a decision within approximately one year.

Plan Amendment No. & Owner Location – Proposed Use	Zoning & Acreage Request	Resolution & Deferral Justification Status of Deferred Plan Amendment
WSSCR 08A-TRV-01 Reynaldo & Zorayda Lee-Llacer Piney Meetinghouse Rd., Potomac Use: sewer service for the existing main residence and guest/caregiver's cottage.	RE-2 Zone 2.54 ac. (Keep W-1) S-6 to S-1	<u>CR 16-500 (4/8/08)</u> : Deferred for the Board of Appeals' (BOA) decision on a pending special exception request (S-2674) for the existing cottage as an accessory building. (Pg. 24 & 27) Status: The BOA deferred a decision on the special exception pending the sewer service decision. Returned to Council with Jan. 2009 packet (see pg. 21).

ADS:ads

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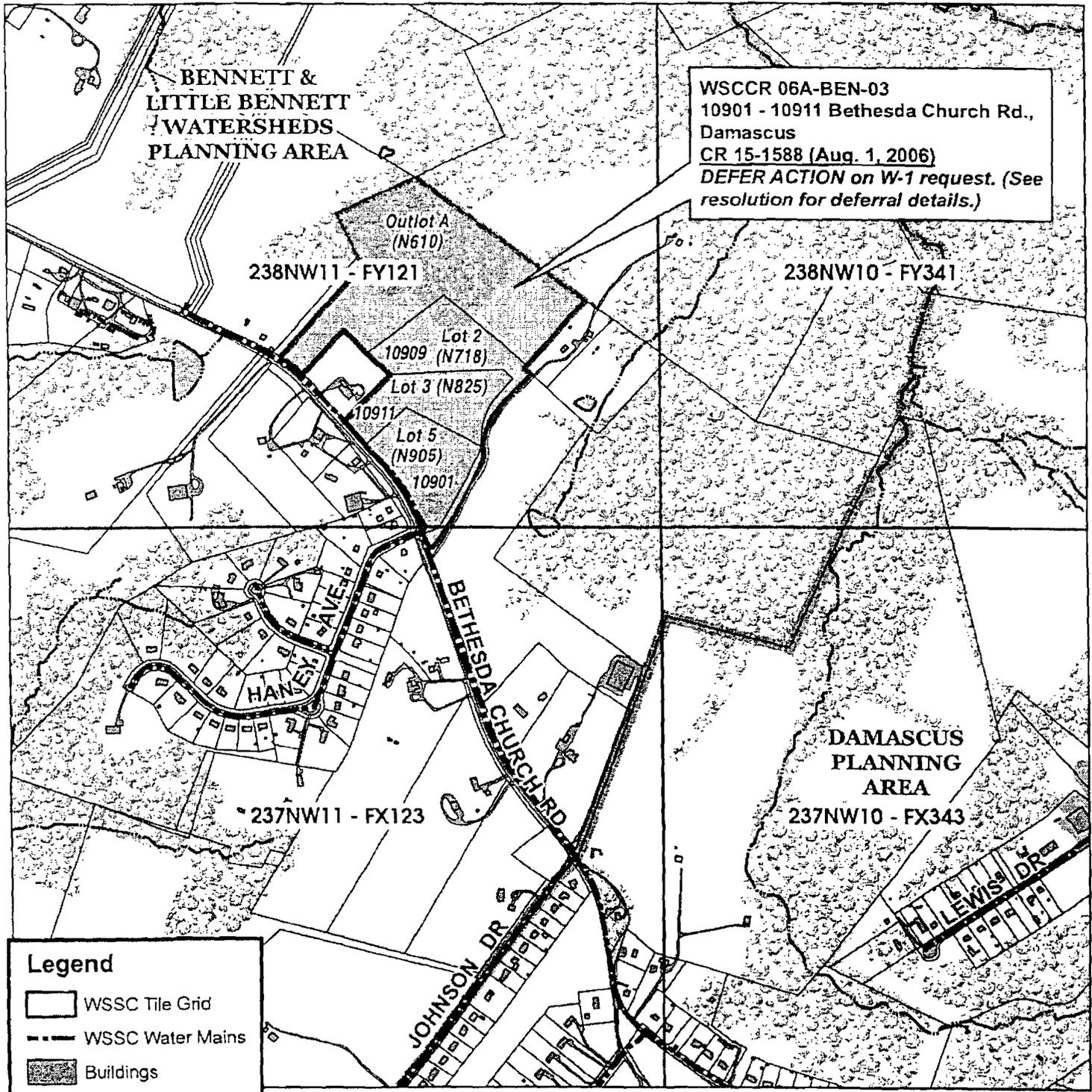
May 2006 Amendment Transmittal

Montgomery County uses water and sewer service area categories, in part, to identify those properties that should use public water and/or sewer service versus those that should use on-site systems, usually wells and/or septic systems. Categories 1 and 3 identify properties approved for public service. Categories 4 and 5 identify properties that currently should use on-site systems, but are proposed for public service within the ten-year scope of the Water and Sewer Plan. Category 6 identifies properties that should use on-site systems, where public service is not planned for at least the next ten years. Property owners file category change map amendment requests in seeking to move their property from one category to another, usually based on anticipated development plans. As indicated below, these requests most often involve changes from categories 4, 5 or 6 to categories 1 or 3 in order to secure approval for public water and/or sewer service. The following chart presents the County Council's actions on water/sewer category map amendment requests filed with DEP.

Comprehensive Water Supply and Sewerage Systems Plan: Water/Sewer Category Map Amendments

Map Amendment No. Applicant (Owner) Description & Location	Master Plan & Watershed Zoning & Acreage Site Development	Map Amendment Request Service Area Categories		T&E Committee Recommendation (See Attachment B for mapping of all except the denied map amendments.)
		Existing	Requested	
Bennett and Little Bennett Watersheds Planning Area				
WSCCR 06A-BEN-02 Clarksburg Church of God* • 23900 Clarksburg Rd. – Parcel P233, Old & New Laid Tomahawk • Map tile: 233NW13; EW342 • West side of Clarksburg Rd. opposite Piedmont Rd. (Snowden Farm Pkwy.) *representative: The Rev. Calvin Lilliston	• Clarksburg Master Plan (1994) • Little Bennett Creek (MDE Use III) and Little Seneca Cr. (MDE Use IV) Watersheds • RDT Zone; 2.37 ac. • Existing & Proposed use: existing house of worship and rectory	W-6 S-6	W-3 S-6/no change	Defer action on the W-3 category request, pending completion of the on-going sanitary survey for properties along Clarksburg Rd.
WSCCR 06A-BEN-03 Maurice Gladhill • 10901-11909 Bethesda Church Rd. – Lots 2-3 & 5, Outlot A, Mountain View Overlook • Map tile: 218NW11; FX121 • North side of Bethesda Church Rd. east of Haney Ave.	• Damascus Master Plan (2006) • Bennett Creek Watershed (MDE Use I) • RDT Zone; 41.44 ac. total • Existing use: Farm • Proposed use: Small farms (farmettes) on child lots	W-6 S-6	W-1 S-6/no change	Defer action on the W-1 request, pending the County Council's receipt of recommendations on child lots from the Ad Hoc Agriculture Working Group. <i>Note: Lot 1, not included in this amendment request, is designated as category W-1, with a restriction for one water service hookup only. (Abutting Mains policy.)</i>
Damascus Planning Area				
WSCCR 06A-DAM-04 Daniel Pipher • 25815 Woodfield Rd. – Parcels P412* & P413, Hutchcrafts Range • Map tile: FX342; 236NE10 • East side of Woodfield Rd. (MD 124) south of Bethesda Church Rd.	• Damascus Master Plan (2006) • Upper Great Seneca Creek Watershed (MDE Use I) • RE-2C Zone; 0.62 ac. total • Existing use: one single-family house and one vacant parcel • Proposed use: two single-family houses (existing house to remain)	W-1 S-6	W-1/no change S-1	Approve S-3, for one sewer hookup only for each of the two existing parcels. <i>Note: this amendment is also pending approval under administrative action AD 2006.</i>

**Service Area Category Change Map
WSSCR 06A-BEN-03 (Maurice Gladhill)**



WSSCR 06A-BEN-03
10901 - 10911 Bethesda Church Rd.,
Damascus
CR 15-1588 (Aug. 1, 2006)
*DEFER ACTION on W-1 request. (See
resolution for deferral details.)*

Legend

- WSSC Tile Grid
- WSSC Water Mains
- Buildings
- Roads
- Parking Lots
- Streams
- Ponds/Lakes
- Woodlands
- Planning Areas

Scale (Feet)

**Montgomery County, Maryland
2003 Comprehensive Water Supply
and Sewerage Systems Plan**

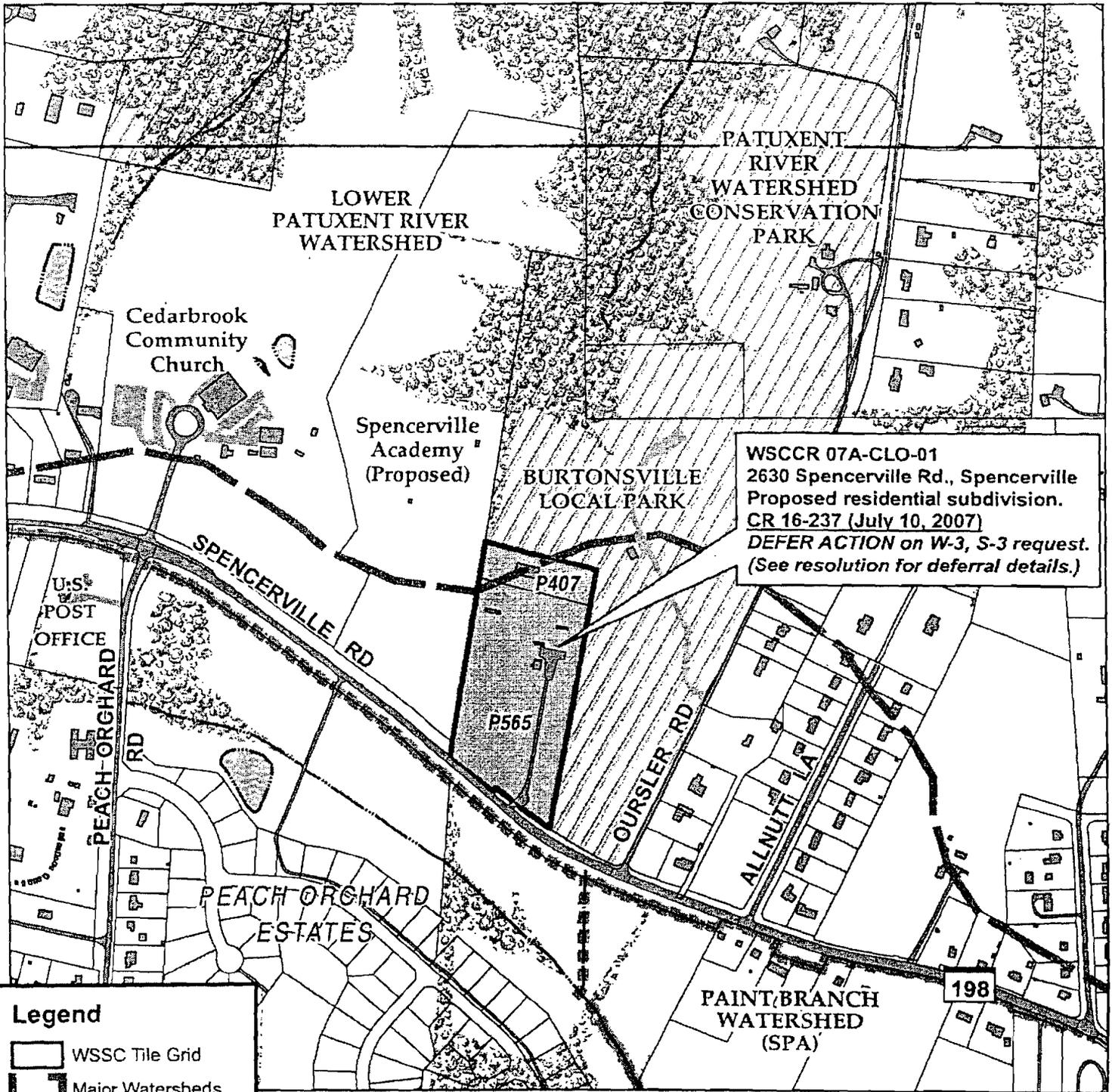
DEP
 Water and Wastewater
 Policy Group

County Executive's April 2007 Water & Sewer Plan Amendment Transmittal

Comprehensive Water Supply and Sewerage Systems Plan: Water/Sewer Category Map Amendments

Map Amendment No. Applicant (Owner) Description & Location	Master Plan & Watershed Zoning & Acreage Site Development	Water/Sewer Service Area Categories County Council Action (See Attachment B for mapping of all except the denied map amendments.)	
Olney Planning Area			
<p>WSSCR 06A-OLN-03 Lien Tran & Hoa Ung</p> <ul style="list-style-type: none"> • 17031 Georgia Ave and 17001 Old Baltimore Rd., Olney. • Parcels P530 & P497, respectively, Charles & Benjamin. (dist.-tax acct #08-00702377 [P530], #08-00702366 [P497]) • Southeast corner, intersection of Georgia Ave. (MD 97) and Old Baltimore Rd. • WSSC tile 223NW03; MD tax map HT51. 	<ul style="list-style-type: none"> • Olney Master Plan (2006) • Upper Rock Creek Watershed (MDE Use IV) • RE-2 Zone: 1.23 ac. total (P530: 0.65 acre; P497: 0.58 acre) • Existing Use: vacant. • Proposed Use: 2 new single-family houses, one on each parcel. 	<p>Existing W-1 S-6</p>	<p>Requested W-1 (no change) S-3</p> <p>Action: Deny the request for category S-3; maintain S-6.</p> <p><i>Note: Denied amendments have time restrictions for reapplication; please see the note on page 7 of this attachment.</i></p>
<p>WSSCR 06A-OLN-04 William, Jr., and Lynn Gangloff</p> <ul style="list-style-type: none"> • 4809 Bready Rd., Olney • Lot 45, Block A, Olney Acres, (dist.-tax acct. #08-03248311) • East side of Bready Rd. opposite Ridge Dr. • WSSC tile 224NW05; MD tax map HT22 . 	<ul style="list-style-type: none"> • Olney Master Plan (2006) • Upper Rock Creek Watershed (MDE Use IV) • RE-1 Zone: 2.15 acres. • Existing Use: vacant. • Proposed Use: 1 new single-family house. 	<p>Existing W-1 S-6</p>	<p>Requested W-1 (no change) S-1</p> <p>Action: Deny the request for category S-1; maintain S-6.</p> <p><i>Note: Denied amendments have time restrictions for reapplication; please see the note on page 7 of this attachment.</i></p>
Patuxent Watershed (Lower) Conservation Planning Area			
<p>WSSCR 07A-CLO-01 JDH Properties</p> <ul style="list-style-type: none"> • 2630 Spencerville Rd., Spencerville • Parcels P407 & P565, Res on James and Mary, (dist.-tax acct # 05-0254771 [P407]; #05-0254760 [P565]). • North side of Spencerville Rd. (MD198) west of Oursler Rd. • WSSC Tile 221NE03; MD tax map KS42 	<ul style="list-style-type: none"> • Cloverly Master Plan (1997) • Paint Branch (MDE Use III; Mont. Co. SPA) & Lower Patuxent River (MDE Use I) Watersheds • RE-1 Zone: 8.7 acres. • Existing Use: horticultural nursery. • Proposed Use: 8-9 lot single-family residential subdivision. <p>• If necessary, a review by DEP, WSSC, and M-NCPPC of possible sewer service extension alternatives for public sewer service to this area north of Spencerville Rd., instead of the gravity outfall through the former Peach Orchard Estates site as originally proposed. These alternatives may involve sewage pumping systems.</p> <p>Notes:</p> <ul style="list-style-type: none"> • The provision of public sewer service for RE-1-zoned properties in the Upper Paint Branch. SPA/environmental overlay zone generally requires that the applicant demonstrate an environmental advantage to using public sewer service instead of septic systems for the proposed project. • Deferred amendments have time limitations for action; please see the note on page 7 of this attachment. 	<p>Existing W-6 S-6</p>	<p>Requested W-3 S-3</p> <p>Action: Defer action on the W-3, S-3 request pending:</p> <ul style="list-style-type: none"> • A resolution of litigation against the State of Maryland concerning the ownership and use of the vacant Peach Orchard Estates subdivision that confronts this site across Spencerville Rd., and

Service Area Category Change Map WSSCR 07A-CLO-01 (JDH Properties)



Legend

- WSSC Tile Grid
- Major Watersheds
- Buildings
- Roads
- Parking Lots
- Planning Areas
- Parklands
- Woodlands



0 250 500 1,000 1,500



Scale (Feet)

Montgomery County, Maryland
 2003 Comprehensive Water Supply
 and Sewerage Systems Plan



DEP
 Water and Wastewater
 Policy Group

COMPREHENSIVE WATER SUPPLY AND SEWERAGE SYSTEMS PLAN
January 2008 Amendment Transmittal: Water/Sewer Category Map Amendments

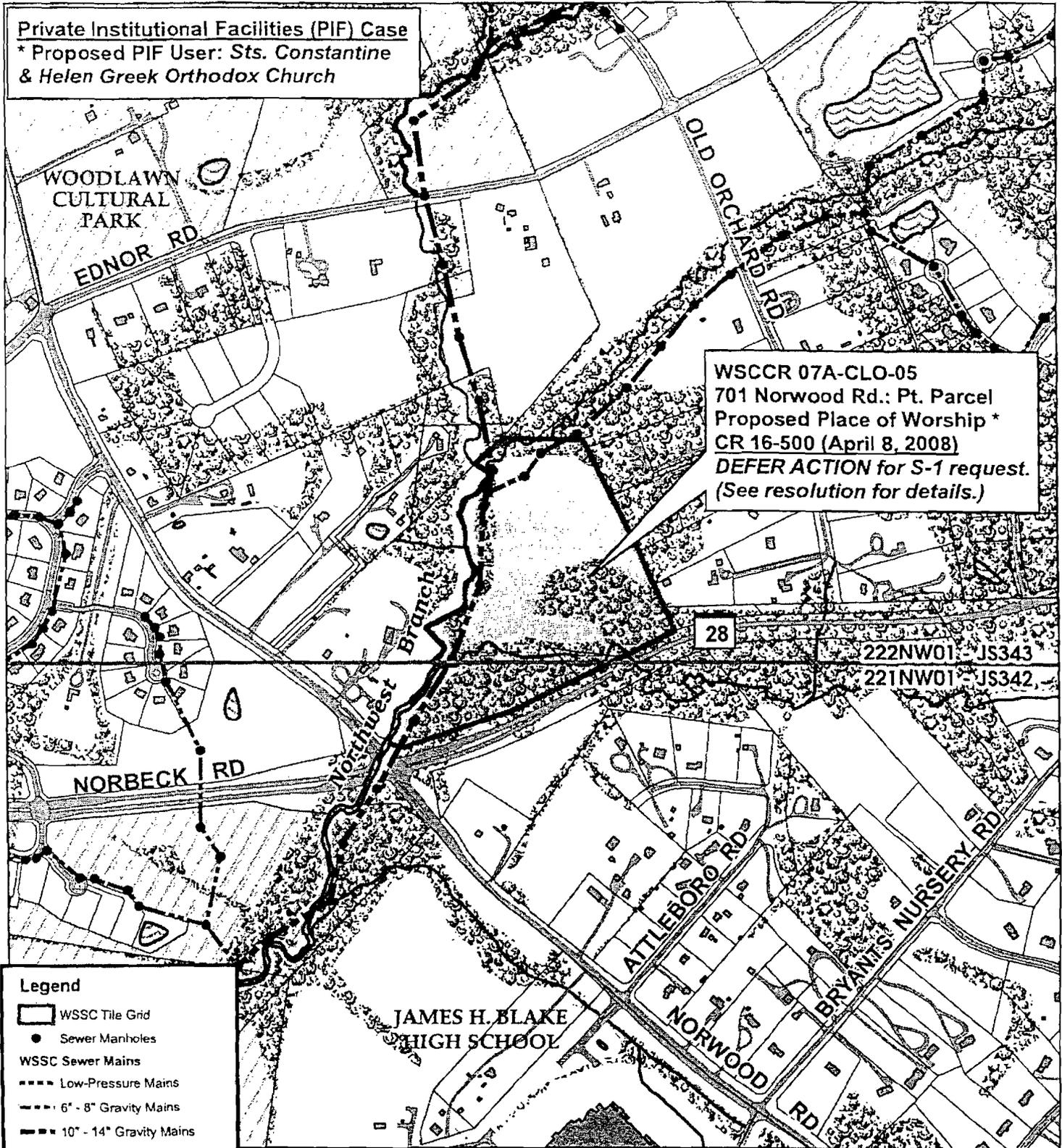
Montgomery County uses water and sewer service area categories, in part, to identify those properties that should use public water and/or sewer service versus those that should use on-site systems, usually wells and/or septic systems. Categories 1 and 3 identify properties approved for public service. Categories 4 and 5 identify properties that currently should use on-site systems, but are proposed for public service in the future. Category 6 identifies properties that should use on-site systems, where public service is not planned for at least the next ten years. Property owners file category change map amendment requests in seeking to move their property from one category to another, usually based on anticipated development plans. The following chart presents the County Council's actions on water/sewer category map amendment requests filed with DEP and transmitted to the Council for consideration in January 2008.

Cloverly - Norwood Planning Area										
Property Information and Location Property Development	Applicant's Request County Council Action									
WSSCR 07A-CLO-05: Julian Patton, et al. (Proposed PIF User: Sts. Constantine & Helen Greek Orthodox Church)										
<ul style="list-style-type: none"> • 701 Norwood Rd., Cloverly • Pt. Parcel P915, Snowdens Manor Enlarged (dist.-acct. no. 05-00273546) • Map tile – MD: JS42; WSSC: 222NW01 • North side of Norbeck Rd. (MD 28) east of Norwood Rd. • Cloverly Master Plan (1997) • Northwest Branch Watershed (MDE Use IV) • RE-2 Zone; approx. 27 ac. • <u>Existing use:</u> vacant • <u>Proposed use:</u> place of worship, Sts. Constantine & Helen Greek Orthodox Church relocating to Mont. Co. from Wash., DC 	<table border="0"> <tr> <td>Existing –</td> <td>Requested –</td> <td>Service Area Categories</td> </tr> <tr> <td>W-3</td> <td>W-3 (no change)</td> <td></td> </tr> <tr> <td>S-6</td> <td>S-3</td> <td></td> </tr> </table> <p>County Council Action</p> <p>Defer action on the request for S-1, pending interagency and County Council review of a development plan for this specific site provided by the church.</p> <p><i>Note: The Council intends that deferred amendments reach a resolution of the cited issues and return for further Council consideration within approximately one year.</i></p>	Existing –	Requested –	Service Area Categories	W-3	W-3 (no change)		S-6	S-3	
Existing –	Requested –	Service Area Categories								
W-3	W-3 (no change)									
S-6	S-3									
WSSCR 07A-CLO-07: Marc Schrecengost & Spring Lawn Farm Homeowners' Association										
<ul style="list-style-type: none"> • 17518 Country View Way, Ashton • Lot 22, Ashton Manor (dist.-acct. no. 08-03134305) – owner: M. Schrecengost; and Outlot F, Ashton Manor (dist.-acct. no. 08-03129536) – owner: Spring Lawn Farm HOA • Map tile – MD: JT41; WSSC: 223NW01 • South side of Country View Way opposite Country View Ct. • Sandy Spring – Ashton Master Plan (1998) • Northwest Branch Watershed (MDE Use IV) • RE-2 Zone; 4.00 ac. • <u>Existing use:</u> one single-family house (c. 1997) & vacant outlot. • <u>Proposed use:</u> two single-family houses (existing house to remain) 	<table border="0"> <tr> <td>Existing -</td> <td>Requested –</td> <td>Service Area Categories</td> </tr> <tr> <td>W-1</td> <td>No Change.</td> <td></td> </tr> <tr> <td>S-1*</td> <td>S-1: allow two (2) sewer hookups</td> <td></td> </tr> </table> <p>* Restricted to one (1) sewer hookup only</p> <p>County Council Action</p> <p>Deny the request for an additional sewer hookup; maintain S-1 for one sewer hookup only.</p> <p><i>Note: The applicant may not file a new request for this property before April 8, 2009, without prior approval from DEP.</i></p>	Existing -	Requested –	Service Area Categories	W-1	No Change.		S-1*	S-1: allow two (2) sewer hookups	
Existing -	Requested –	Service Area Categories								
W-1	No Change.									
S-1*	S-1: allow two (2) sewer hookups									
WSSCR 07A-CLO-09: Neil and Laura Pullen										
<ul style="list-style-type: none"> • 1300 Harding La., Cloverly • Parcels P317, Snowdens Manor Enl (dist./acct. no. 05-00252203) and P332, Family Cemetery (no. 05-00280484) ¹ • Map tile: MD – KS22; WSSC – 221NE02 • North side of Harding La., west of Pamela Dr.; either side of Spotswood Dr. at east end • Cloverly Master Plan (1997) • Paint Branch Watershed (MDE Use III, Mont. Co. Special Protection Area (SPA)) • RE-1 Zone; 3.67 ac. • <u>Existing use:</u> 1 single-family house (c. 1933). • <u>Proposed use:</u> 3-lot residential subdivision (existing house to be replaced); preappl. plan no. 7-20070210 "Pullen Property". <p>¹ This 2,600 sq. ft. parcel, owned by Edith Turner, contains a cemetery enclosed by the Pullen's parcel. DEP has included it with this request for general sewer planning purposes. No new development is expected on this property.</p>	<table border="0"> <tr> <td>Existing -</td> <td>Requested -</td> <td>Service Area Categories</td> </tr> <tr> <td>W-1</td> <td>No Change</td> <td></td> </tr> <tr> <td>S-6</td> <td>S-3</td> <td></td> </tr> </table> <p>County Council Action</p> <p>Approve S-1 for one sewer hookup only. ² Defer action on unrestricted approval for S-1 pending further M-NCPPC and DEP evaluation of the applicants' subdivision plans in light of the master plan's sewer service recommendations.</p> <p><i>Note: The Council intends that deferred amendments reach a resolution of the cited issues and return for further Council consideration within approximately one year. Subsequent administrative delegation action is possible upon agency agreement on a revised plan.</i></p> <p>² This connection/hookup <u>cannot</u> be used for a private institutional facility without subsequent review and approval by the County Council.</p>	Existing -	Requested -	Service Area Categories	W-1	No Change		S-6	S-3	
Existing -	Requested -	Service Area Categories								
W-1	No Change									
S-6	S-3									

Service Area Category Change Map: WSCCR 07A-CLO-05 (Julian Patton, et al.)

Private Institutional Facilities (PIF) Case
 * Proposed PIF User: Sts. Constantine
 & Helen Greek Orthodox Church

WSCCR 07A-CLO-05
 701 Norwood Rd.: Pt. Parcel
 Proposed Place of Worship *
 CR 16-500 (April 8, 2008)
 DEFER ACTION for S-1 request.
 (See resolution for details.)



Legend

- WSSC Tile Grid
- Sewer Manholes
- WSSC Sewer Mains
 - Low-Pressure Mains
 - 6" - 8" Gravity Mains
 - 10" - 14" Gravity Mains
 - 15" - 24" Gravity Mains
 - 26" & Larger Gravity Mains
- Buildings
- Streams
- Ponds/Lakes
- Parklands
- Woodlands
- Subject Site

Cloverly - Norwood Planning Area

Northwest Branch Watershed

0 250 500 1,000 1,500 2,000

Scale (Feet)



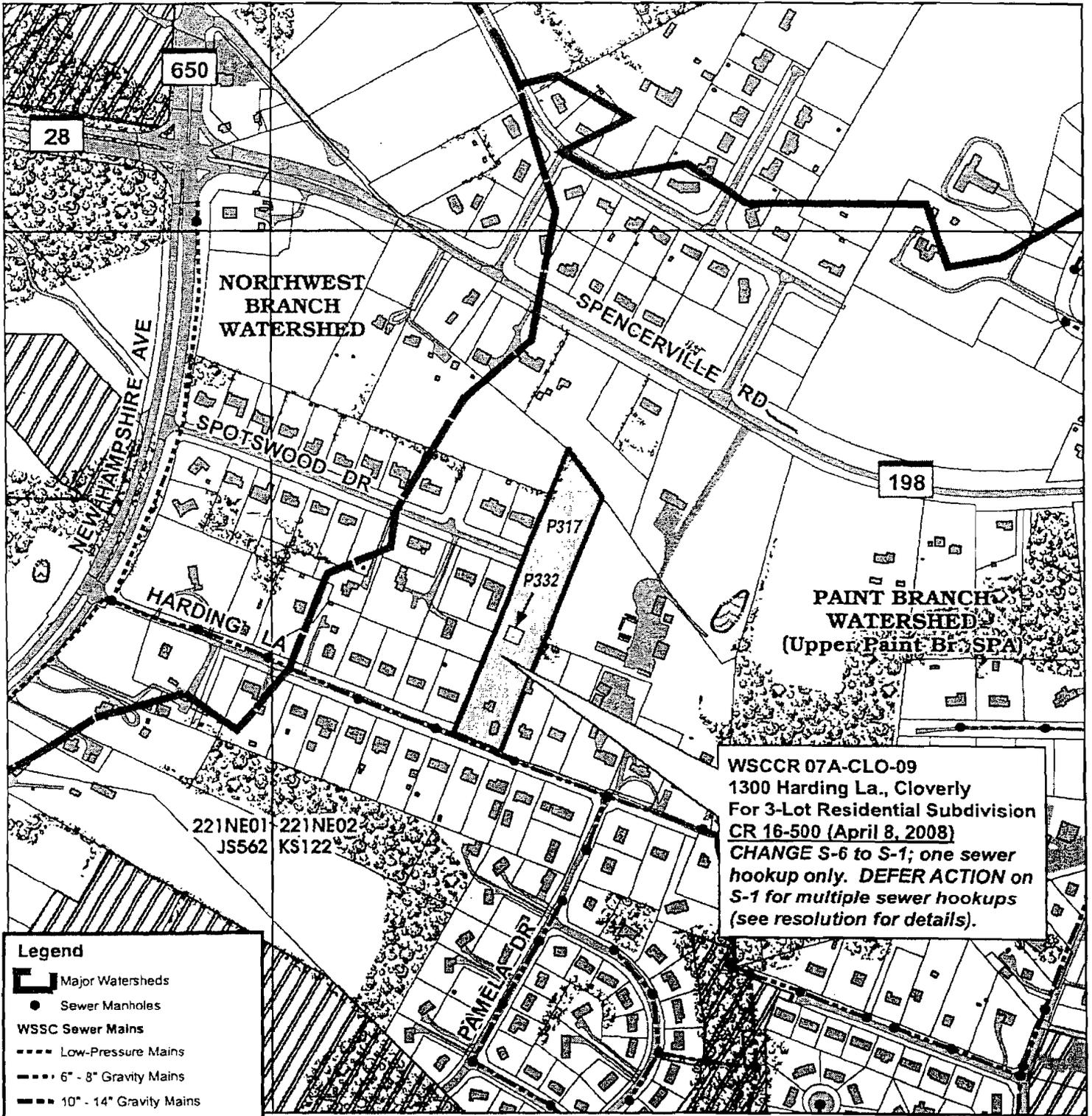
Montgomery County, Maryland
 2003 Comprehensive Water Supply
 and Sewerage Systems Plan



DEP Water and Wastewater
 Policy Group

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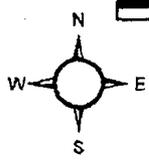
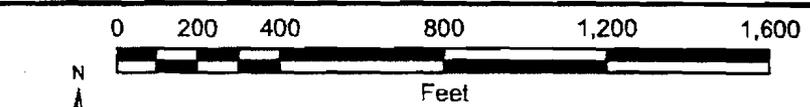
**Water/Sewer Service Area Category Change Request Map
WSSCR 07A-CLO-09 (Neil & Laura Pullen)**



WSSCR 07A-CLO-09
 1300 Harding La., Cloverly
 For 3-Lot Residential Subdivision
CR 16-500 (April 8, 2008)
 CHANGE S-6 to S-1; one sewer
 hookup only. DEFER ACTION on
 S-1 for multiple sewer hookups
 (see resolution for details).

Legend

- Major Watersheds
- Sewer Manholes
- WSSC Sewer Mains**
- Low-Pressure Mains
- 6" - 8" Gravity Mains
- 10" - 14" Gravity Mains
- 15" - 24" Gravity Mains
- 26" & Larger Gravity Mains
- Buildings
- Parking Areas
- Parklands
- Woodlands
- Subject Site



**Montgomery County, Maryland
2003 Comprehensive Water Supply
and Sewerage Systems Plan**



DEP Water and Wastewater
Policy Group

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COMPREHENSIVE WATER SUPPLY AND SEWERAGE SYSTEMS PLAN
January 2008 Amendment Transmittal: Water/Sewer Category Map Amendments

Goshen – Woodfield – Cedar Grove Planning Area

Property Information and Location
 Property Development

Applicant's Request
 County Council Action

WSSCR 07A-DAM-08: Bethel World Outreach Ministries

- 10725 Brink Rd., Clarksburg
- Parcel P999, Thomas Hog Pasture Case (dist.-acct. #02-00028903)
- Map tile – MD: FV122; WSSC: 230NW11
- North side of Brink Rd., opposite Glendevon CL
- Preservation of Agriculture and Rural Open Space Master Plan (1980)
- Middle & Upper Great Seneca Creek Watersheds (MDE Uses I & III³)
- RDT Zone; 119.37 ac.
- Existing use: farm.
Proposed use: 800-seat place of worship; Bethel World Outreach Church, relocating from downtown Silver Spring; plan no. 7-20070240 "Bethel World Outreach Center".
- ³ A 10.3-acre portion of the northwest corner of the site lies within the Wildcat Branch subwatershed (MDE Use III) of Upper Great Seneca Creek.

Existing	Requested – Service Area Categories
W-6	W-6 w/multi-use water system approval
S-6	S-6 w/multi-use sewerage system approval

County Council Action

Defer action on the request for multi-use water and sewer system approval, pending the applicant's submittal of a proposed use that is consistent with ZTA 07-07.

Note: The Council intends that deferred amendments reach a resolution of the cited issues and return for further Council consideration within approximately one year.

WSSCR 08A-GWC-01: Kirk Canaday

- 8300 Block⁴, Warfield Rd., Gaithersburg
- Parcel P554, Williams Range Near Goshen (dist.-acct. #01-00010841)
- Map tile – MD: GU123; WSSC: 228NW08
- North side of Warfield Rd., west of Doubleland Rd.
- Preservation of Agriculture and Rural Open Space Master Plan (1980)
- Middle Great Seneca Creek Watersheds (MDE Use i)
- RE-2 Zone; 2.71 ac.
- Existing use: vacant
Proposed use: one new single-family house

Existing	Requested – Service Area Categories
W-3	W-3 (no change)
S-6	S-3

County Council Action

Deny the request for category S-3; maintain S-6. DEP and DPS need to consider a sewer sanitary survey for this area to determine the extent of septic problems.

Note: The applicant may not file a new request for this property before April 8, 2009, without prior approval from DEP.

⁴ The applicant's reported street address, 8333 Warfield Rd., does not yet appear in the State's property tax account records.

Olney Planning Area

Property Information and Location
 Property Development

Applicant's Request
 County Council Action

WSSCR 07A-OLN-02: The First Baptist Church of Wheaton*

- 3110 Emory Church Rd., Olney
- Parcel P077, Chas & William (dist./acct. #08-00705848)
- Map tile: WSSC - 223NW03; MD - HS563
- North side of Emory Church Rd., west of Norbrook Dr.
- Olney Master Plan (2005)
- Northwest Branch Watershed (MDE Use IV)
- RNC Zone; 15.0 ac.
- Existing use: single-family residence.
Proposed use: place of worship (500-seat sanctuary, fellowship hall, classrooms, offices); First Baptist Church of Wheaton, relocating from its existing site on Georgia Ave. in Wheaton
- * Original owner/applicant: Frances Doherty Estate. The church acquired the property on 7/1/07.

Existing –	Requested – Service Area Categories
W-6	W-1
S-6	S-1

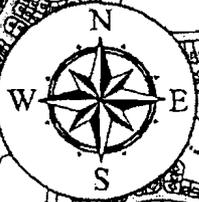
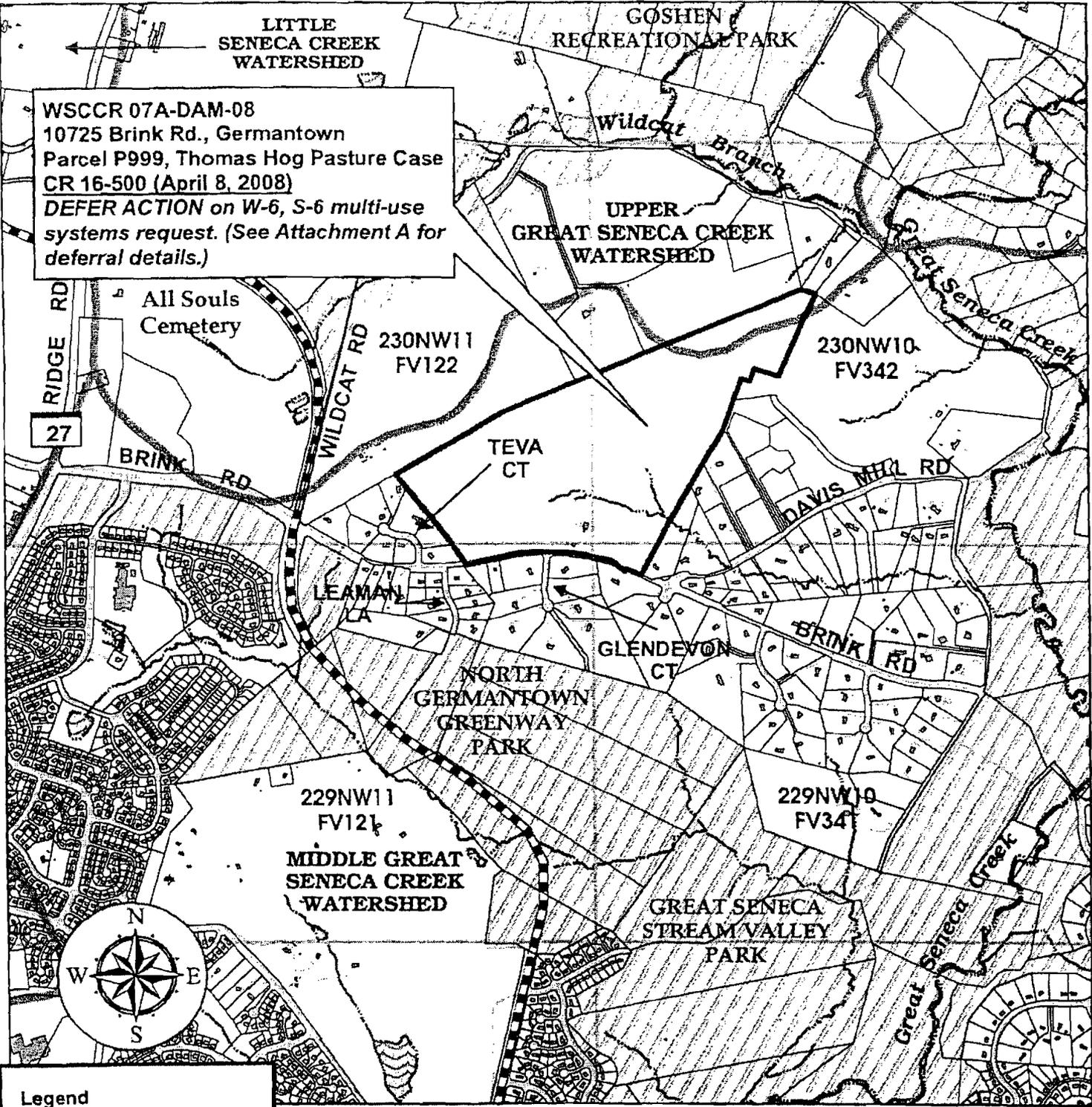
County Council Action

Maintain W-6 and S-6, with advancement to W-3 and S-3 conditioned on the Planning Board's approval of a preliminary plan that conforms to the intent of the Olney Master Plan.

Note: In its review of the applicant's preliminary plan, the Planning Board is asked to ensure that potential road improvements (such as to Emory Road) are minimized as are any deleterious environmental impacts (such as reductions in ground water quality).

Service Area Category Change Request Map WSSCR 07A-DAM-08 (Bethel World Outreach Ministries)

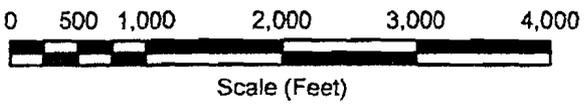
WSSCR 07A-DAM-08
 10725 Brink Rd., Germantown
 Parcel P999, Thomas Hog Pasture Case
 CR 16-500 (April 8, 2008)
DEFER ACTION on W-6, S-6 multi-use
 systems request. (See Attachment A for
 deferral details.)



Legend

- WSSC Tile Grid
- Buildings
- Existing
- Major Watersheds
- Ponds & Lakes, Major Streams
- Streams
- Proposed Roads

Site: Goshen - Woodfield - Cedar Grove Planning Area



Montgomery County, Maryland
 2003 Comprehensive Water Supply
 and Sewerage Systems Plan



DEP Water and Wastewater
Policy Group

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COMPREHENSIVE WATER SUPPLY AND SEWERAGE SYSTEMS PLAN
January 2008 Amendment Transmittal: Water/Sewer Category Map Amendments

Travilah - Cabin John Planning Area

Property Information and Location
 Property Development

Applicant's Request:
 County Council Action

WSSCR 07A-TRV-10: Travilah Oak, LLC; Han & J. Jan

- 12940 – 12960 Travilah Rd., Potomac; Potomac Oak Shopping Center
- *Lots 1/2, 3, & 4 (N780, N726, & N679), Boylestons Discovery (dist.-acct.# 06-00397857, 06-02232731, & 06-03063708) ⁵
- Map tile - WSSC: 217NW13; MD: ER41
- Southwest corner, intersection of Glen and Travilah Rds.
- Potomac Subregion Master Plan (2002)
- Watts Branch Watershed (MDE Use I)
- C-1 Zone; 5.02 ac.
- Existing use: commercial retail shopping center.
- Proposed use: service for the existing shopping center and proposed commercial office space.

Note: ⁵ The Jans own only Lot 3; all other properties involved are owned by Travilah Oak, LLC.

Existing Requested – Service Area Categories

W-1 W-3
 S-6 S-3

County Council Action

Defer action, at the applicant's request, pending additional discussions between the applicant and the neighboring community.

Note: The Council intends that deferred amendments reach a resolution of the cited issues and return for further Council consideration within approximately one year.

WSSCR 08A-TRV-01: Reynaldo & Zorayda Lee-Llacer

- 12009 Piney Meetinghouse Rd., Potomac
- Lot 36, Piney Glen Farm (dist.-acct.# 10-01814620)
- Map tile - WSSC: 215NW11; MD: FQ122
- East side of Piney Meetinghouse Rd., south of Greenbriar Preserve Dr.
- Potomac Subregion Master Plan (2002)
- Watts Branch Watershed (MDE Use I) – Piney Branch subwatershed (Mont. Co. SPA)
- RE-2 Zone; 2.54 ac.
- Existing use: single-family house (c. 1980) and guest/caregiver's cottage.
- Proposed use: service for the existing residences; special exception (S-2674) pending for continuance of the guest house.

Existing Requested – Service Area Categories

W-1 No Change
 S-6 S-3

County Council Action

Defer action on the request for S-1 pending a resolution of the special exception case (S-2674) for the accessory house on the property.

Note: The Council intends that deferred amendments reach a resolution of the cited issues and return for further Council consideration within approximately one year.

WSSCR 08A-TRV-03: Sprigg and Christina Lynn

- 11621 Glen Rd., Potomac
- Parcel P156, Piney Grove Etc (dist.-acct.# 06-00405218)
- Map tile - WSSC: 215NW11; MD: FQ122
- Northeast side of Glen Rd., west of Partridge Run La.
- Potomac Subregion Master Plan (2002)
- Watts Branch Watershed (MDE Use I)
- RE-2 Zone; 2.34 ac.
- Existing use: single-family house (c. 1910).
- Proposed use: service for the expansion of the existing single-family house; replace aging septic system.

Existing Requested – Service Area Categories

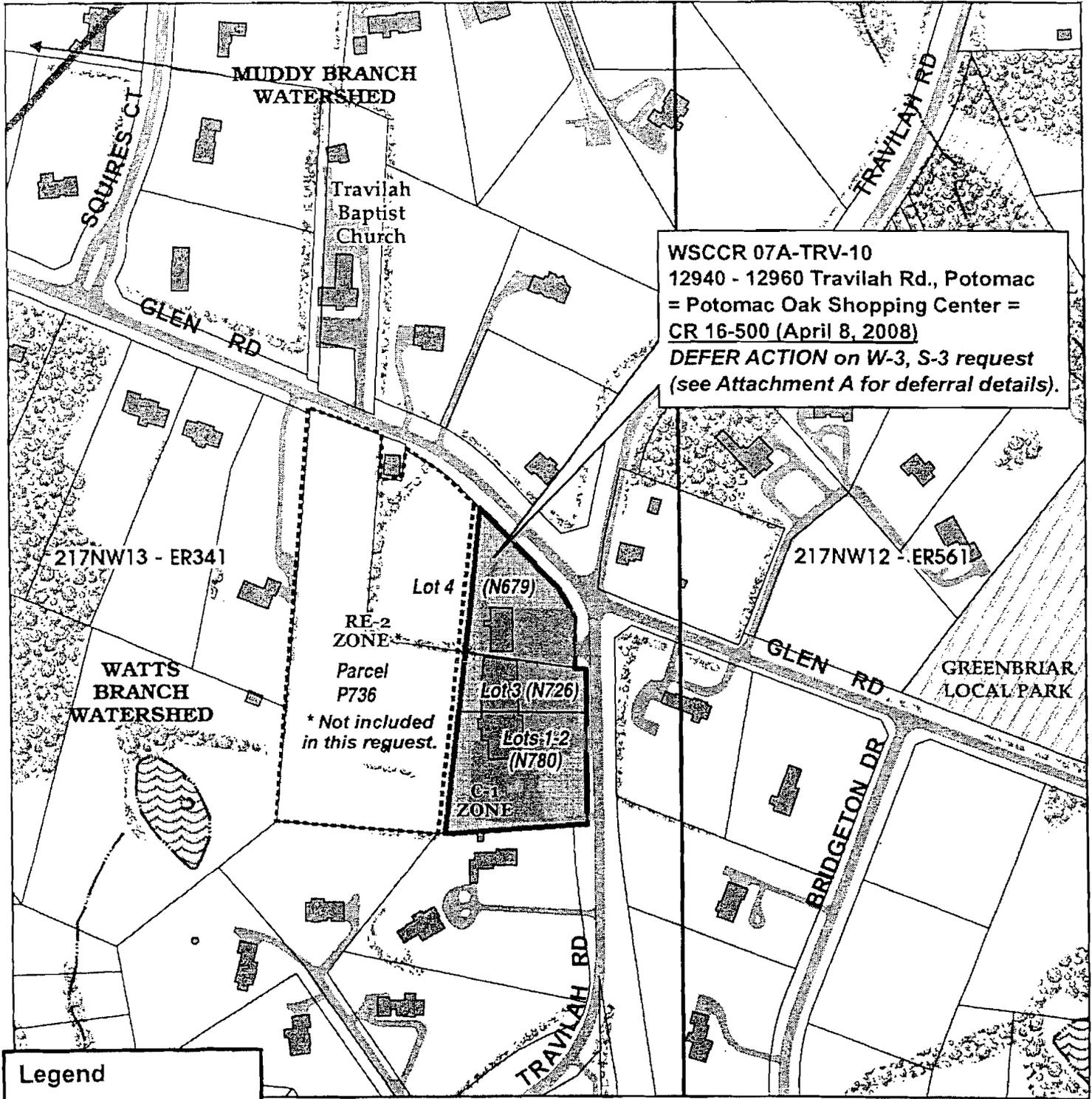
W-1 No Change
 S-6 S-1

County Council Action

Approve S-3 (for service at the edge of the Potomac Master Plan public sewer envelope.)

Note: Approval of this request does not extend or alter the public sewer envelope recommended in the Potomac Subregion Master Plan.

Service Area Category Change Request Map
WSSCR 07A-TRV-10 (Travilah Oak, LLC; Han & J. Jan)



WSSCR 07A-TRV-10
 12940 - 12960 Travilah Rd., Potomac
 = Potomac Oak Shopping Center =
 CR 16-500 (April 8, 2008)
DEFER ACTION on W-3, S-3 request
 (see Attachment A for deferral details).

* Not included in this request.

Legend

- WSSC Tile Grid
- Major Watersheds
- Buildings
- Parking Lots
- Woodlands
- Parklands

Travilah Planning Area

Feet



Montgomery County, Maryland
2003 Comprehensive Water Supply
and Sewerage Systems Plan



DEP Water and Wastewater
 Policy Group

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MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
3/19/09
Item #

March 13, 2009

MEMORANDUM

TO: Montgomery County Planning Board

VIA: Mark Pfefferle, Acting Chief *mp*
Green/Environmental Planning Division

FROM: Katherine Nelson for the Planning Department *(KN)*
(301) 495-4622

SUBJECT: Proposed Amendments: Montgomery County Comprehensive Water Supply and Sewerage Systems Plan—2009-1 (Council Group) and 2009-2 (Administrative Cases)

RECOMMENDATION (Council Cases)

Approve as recommended by the County Executive for each of the following cases:

WSSCR 06A-CLO-04 Bryanshire Corp.

Retain W-5 and S-6

WSSCR 08A-CLO-04 Maloo & Arihant Briggs Chaney LLC

Approve S-3 conditioned on the approval of a cluster development that is environmentally superior to a conventional subdivision built on septic systems.

WSSCR 08A-OLN-03 Joseph & Shirley Wang

Approve W-3 for single residential hookup only

Deny S-1 for WSSCR 08A-TRV-01 Reynaldo & Zorayda Lee-Llacer

Retain S-6

RECOMMENDATION (Administrative Cases)

Approve as recommended by the County Executive for each of the following cases:

WSSCR 09A-PAX-02 Ahedi & Idara-e-Jaferia Inc.

Approve S-1 for single residential hookup only

WSSCR 09A-URC-02 WM Rickman Construction Co, LLC

Approve S-3

WSSCR 09A-PAX-03 Kelly and Salvation Camp Ministries, Inc.

Remove from the Administrative Group

Add to the next Council Group of category changes

Transmit Planning Board Comments to the County Council and County Executive for final action.

DISCUSSION

This staff memorandum contains recommendations for category changes requiring County Council action and category changes that go through the administrative process. The Department of Environmental Protection staff has submitted the attached packages of category change requests on behalf of the County Executive.

The recommendations as listed above are in accordance with the stated goals of the associated area master plans. The staff report only highlights those cases where staff recommendations differ from the Executive's recommendation, or where significant comments should be brought to the attention of the Board. There is only one case within this group wherein the Planning staff recommendation differs from the County Executive:

WSSCR 08A-TRV-01 Reynaldo & Zorayda Lee-Llacer (pages 21-40)

The applicant is requesting sewer service for two houses on this 2.6 acre property. One home was built in 1980. The other home pre-existed the subdivision and was the main dwelling for the original farm. A note on the record plat required that the pre-existing home be removed:

Existing house on lot 36 must be removed prior to issuance of building permit for new house on lot 36. Existing well on lot 36 must be property abandoned as per Maryland water resources code.

This requirement was never enforced and the home has since been in use as a second dwelling for extended family members. In 2006 after neighbors complained, the property owner was cited with a zoning violation. In an attempt to remedy the situation the applicant filed a special exception for an existing caregiver dwelling/guest house.

In 2007 rather than deciding on the special exception request, the Board of Appeals directed the applicant to obtain a sewer category change and a plat of correction. A category change request was filed and brought to the Planning Board on February 21, 2008. The Board felt that such a complex issue, involving the Piney Branch Restricted Access Sewer, the Piney Branch Special Protection Area, a zoning violation and opposition by the surrounding community, should go through the Special Exception (assuming a Planning Board hearing) prior to receiving a sewer category change. The Council ultimately deferred action on the request until such time as the Board of Appeals acted on the special exception.

On June 18, 2008 the Board of Appeals approved a special exception to convert the pre-existing home to an accessory apartment. The approval was conditioned on both receiving public sewer service to the property and obtaining a plat of correction via minor subdivision deleting the requirement that original house be removed. This special exception was never brought before the Planning Board. Rather the Planning staff memo (dated 10/21/06 and recommending denial), that was part of the original special exception record was included in the Board of Appeals' consideration for the special exception. The applicant now seeks to adhere to the conditions of the special exception by obtaining a sewer category change.

This property is outside the Potomac master plan sewer service envelope, is within the Piney Branch Special Protection Area, and is excluded from the peripheral service policy. Under the Piney Branch restricted sewer access policy, properties that abut and predate an existing sewer main are eligible for a single hookup only. The policy was established to:

“limit the growth of public sewer-dependent development within and near this environmentally-sensitive watershed, particularly within the areas of the watershed zoned for one- and two-acre development. “

Although subdivision is not being sought on the Lee-Llacer property, Vision Division staff find this application for sewer service inconsistent with the Potomac master plan and recommend of denial of the category change for this use.

CONCLUSION

There are no other significant differences between agency recommendations in this package. A public hearing on the administrative cases will take place on **April 28, 2009** at the Department of Environmental Protection in Rockville. The T&E Committee of the County Council will discuss the Council cases on March 30, 2009.

KN:ss
Attachment

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(240) 777-6600

www.montgomerycountymd.gov/content/council/boa/index.asp

Case No. S-2674

PETITION OF REYNALDO AND ZORAYDA LEE-LLACER

OPINION OF THE BOARD

(Opinion Adopted December 17, 2008)
(Effective Date of Opinion: February 9, 2009)

Case No. S-2674 is an application for a special exception, pursuant to Section 59-G-2.00 of the Zoning Ordinance, to permit an accessory apartment. The Hearing Examiner for Montgomery County held a hearing on the application on June 22, 2007. The record in the case remained open until May 1, 2008 to allow the Petitioners time to address a restrictive note in the record plat for the property, and to pursue a sewer category change to address septic capacity on the site. The Hearing Examiner closed the record in the case on May 1, 2008, and on June 18, 2008, issued a Report and Recommendation for approval of the special exception, subject to conditions.

The subject property is Lot 36, Piney Glen Farms Subdivision, located at 12009 Piney Meetinghouse Road, Potomac, Maryland, 20854, in the RE-2 Zone

Decision of the Board: Special Exception **Granted**, Subject
to Conditions Enumerated Below.

The Board of Appeals initially considered the Hearing Examiner's Report and Recommendation at its Worksession on July 23, 2008, but deferred action on the special exception pending resolution of the site septic and sewer issues. The Board again considered the Report and Recommendation at its Worksession on December 17, 2008. After careful consideration, and review of the record in the case, on a motion by David K. Perdue, seconded by Catherine G. Titus, Vice-Chair, with Walter E. Booth and Allison Ishihara Fultz, Chair in agreement, and Carolyn J. Shawaker necessarily absent, the Board adopts the Hearing Examiner's Report and Recommendation and **grants** the special exception, subject to the following amended conditions:

1. Approval of this special exception is conditioned upon approval of a minor subdivision by the Planning Board, deleting a restrictive note on the record plat requiring removal of the guesthouse. If changes to the site plan or other plans

filed in this case are required at subdivision, Petitioners must file a copy of the revised site and related plans with the Board of Appeals.

2. Occupancy of the accessory apartment is limited to no more than two unrelated persons or a family not to exceed four persons.
3. Petitioners shall be bound by all of their testimony and exhibits of record, and by the testimony of their witnesses and representations of counsel identified in the Hearing Examiner's Report and Recommendation and in this Opinion.
4. Parking at the accessory apartment is limited to two vehicles, except for occasional transient guests, and parking of commercial vehicles and trucks of any kind is prohibited. This does not preclude delivery vehicles from making temporary stops to deliver or pick up parcels from or for shipment, during normal business hours. Storage of restaurant or other commercial equipment anywhere on the premises is prohibited.
5. Petitioners must occupy one of the dwelling units on the lot on which the accessory apartment is located.
6. There must be no guest room for rent, boardinghouse or registered living unit on the premises in addition to the accessory apartment. Petitioners must not receive compensation for the occupancy of more than one dwelling unit.
7. Petitioners must obtain and satisfy the requirements of all licenses and permits, including but not limited to building permits and use and occupancy permits, necessary to occupy the special exception premises and operate the special exception as granted herein. Petitioners shall at all times ensure that the special exception use and premises comply with all applicable codes (including but not limited to building, life safety and handicapped accessibility requirements), regulations, directives and other governmental requirements.

Catherine G. Titus,
Acting Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 9th day of February, 2009.

Katherine Freeman
Executive Director

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.