


MEMORANDUM

July 10, 2012

TO: Transportation, Infrastructure, Energy & Environment Committee

FROM:  Keith Levchenko, Senior Legislative Analyst

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

Council Staff Recommendation:

- Concur with the County Executive and the Planning Board to deny the Getachew/Wubet and Kapoor requests.
- Concur with the County Executive to conditionally approve the Shri Mangal Mandir and Glenstone PIF Requests. *NOTE: Council Staff recommends some additional conditions.*

#	Applicant	Request	County Executive	Planning Board	CE Staff Report	Maps
1	Shri Mangal Mandir Religious Educational and Charitable Trust, 11A-CLO-01	PIF Request: Requesting Public Sewer to build a new congregation center adjacent to a property with the applicant's existing temple	Approve S-3 conditioned upon a preliminary plan that conforms substantially with the proposed plan presented to the Council..	Deny. Maintain S-6	©1-3	©4-5
2	Samson Getachew & Solomon Wubet, 11A-PAX-01	Requesting public sewer in order to build a new single family home.	Deny. Maintain S-6	Concur with CE	©9	©10
3	Mitchell Rales for the Glenstone Foundation, 11A-TRV-06	PIF Request: Requesting public sewer to expand museum facilities.	Approve S-3 with conditions and restrictions	Deny. Maintain S-6	©12-15B	©16-17
4	Ravinder & Ritu Kapoor, 11A-TRV-08	Requesting public sewer to serve the existing house	Deny. Maintain S-6	Concur with CE	©36-37	©38

On April 27, 2012, the County Council received a package of four Water and Sewer Category Change requests from the County Executive. The requests (with recommendations from the County Executive and the Planning Board noted) are presented in the above chart. A public

hearing was held on June 21, 2012.

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

List of Attachments

County Executive's Transmittal Letter (dated April 24, 2012)	©A-B
CE Staff Report	©C-42
Water and Sewer Plan Excerpts (reproduced within the CE Staff Report)	
• Private Institutional Facilities (PIF) Policy	©vii-ix
• Piney Branch Restricted Sewer Service Area Policy	©x-xi
Cloverly Master Plan Excerpt	©43-45
Sandy Spring Ashton Master Plan Excerpt	©46-49
Planning Board Letter of June 20, 2012 with Planning Staff Packet Excerpt	©50-83
Excerpts from Public Hearing Testimony and Correspondence ¹	©84-116

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 staff, WSSC, and Department of Permitting Services (DPS) staff in the Executive Staff Report.

Planning Board Review

The Planning Board discussed these amendments on May 31, 2012 and concurred with Planning staff's recommendations in all four cases (see letter to Council on ©50-53 and Planning staff packet excerpt on ©54-83). The Planning Board recommendations for each request are also noted later in this memorandum. The Planning Board concurred with the County Executive's denial of two category change requests (Getachew/Wubet and Kapoor).

The two items of difference between the Planning Board and the Executive involve the two private institutional facilities (PIF) requests: Shri Mangal Mandir Religious Educational and Charitable Trust and Mitchell Rales for the Glenstone Foundation. In both cases, the Planning Board recommends denial. The Executive recommends conditional approval of both PIF cases.

¹ A full set of public hearing testimony and correspondence received are available for download at: http://www6.montgomerycountymd.gov/content/council/pdf/agenda/cm/2012/120712/20120712_Testimony_Water_Sewer.pdf

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.

Discussion

For purposes of discussion, Council Staff presents the non-PIF requests first. Then, general PIF issues are presented, followed by a discussion of the two PIF requests.

#	Applicant	Request	County Executive	Planning Board	CE Staff Report	Maps
2	Samson Getachew & Solomon Wubet, 11A-PAX-01	Requesting public sewer in order to build a new single family home.	Deny. Maintain S-6	Concur with CE	©9	©10

This 2.0 acre RC-zoned vacant outlot is located on the east side of New Hampshire Avenue, south of Ednor Road in Cloverly. The property is currently vacant. The applicant is seeking sewer service so the applicant can build a new single family home. Unrestricted public water is already approved for the property.

To serve the property, WSSC has identified a 400 foot-long low-pressure sewer extension along New Hampshire Avenue from the south. More details regarding the extension are noted on ©9.

An excerpt of the Cloverly Master Plan (1997) detailing water and sewer recommendations for the area is attached on ©43-45. Public sewerage service to RC-zoned properties is not recommended, except to relieve public health problems or to address other specific Water and Sewer Plan policies. In this case, no other Water and Sewer Plan policies apply.

Both the County Executive and the Planning Board recommend denial of the request (maintain S-6) because no Water and Sewer Plan policies or Cloverly Master Plan (1997) recommendations support public sewer for this property. Council Staff concurs.

#	Applicant	Request	County Executive	Planning Board	CE Staff Report	Maps
4	Ravinder & Ritu Kapoor, 11A-TRV-08	Requesting public sewer to serve the existing house	Deny. Maintain S-6	Concur with CE	©36-37	©38

This 2.0 acre RE-2-zoned property is located on the north side of Boswell Lane at the Glen Mill Road intersection in Potomac within the Piney Branch Restricted Access Policy area (see ©x-

xi for this policy text). The applicant is seeking public sewer to serve an existing single family home on the property. The property is already served by public water. The applicant is seeking public sewer service so that the front yard area (where the existing septic system is located) could be reconfigured for additional off-street parking.²

WSSC has identified a 900 foot long sewer extension from the Piney Branch Trunk Sewer to the east to serve the property. Further details about this extension are noted on ©37.

The property is located within the Piney Branch Restricted Sewer Service Area (see policy on ©x-xi) and does not meet any of the required criteria for approval of sewer (such as an abutting main or failed septic system).

At the public hearing, the applicant cited concerns that visitors have to park along Boswell Lane and make a dangerous walk to his house. He has inquired with the County's Department of Transportation (DOT) about getting sidewalks installed along Boswell Lane, but without success. He also notes approvals for sewer along Boswell Lane previously granted by the Council and that he is the only one left on Boswell Lane to connect. Mr. Kapoor's written testimony and additional correspondence are attached on ©84-89.

Both the County Executive and the Planning Board recommend denial of the request (maintain S-6) because no Water and Sewer Plan policies or Master Plan recommendations support public sewer for this property.

Council Staff Comments

Mr. Kapoor's property is not the only property in Category S-6 in the neighborhood. The map on ©38 shows that a number of properties immediately to the south (on Boswell Lane) and east (along Glen Mill Road, which directly connects to Boswell Lane) are also in Category S-6. The property immediately to the west of Mr. Kapoor was approved for sewer because of a failed septic system, but has not sought to extend sewer yet.

Mr. Kapoor mentions a prior Council approval in the area (RAM Investing, LLC, which was approved by the Council in November 2002). This approval was a controversial case and a noted exception to Master Plan and Water and Sewer Plan policies. The approval resolution noted that this action should not be considered a precedent for future approvals in that area.

Mr. Kapoor notes his interest in having safer visitor access to and additional parking on his property. While these reasonable concerns, the County's Water and Sewer Plan policies do not address parking and access issues resulting from septic systems on a property. Issues regarding traffic and safety along Boswell Lane (a rustic road) can be referred to DOT and the Police. Council Staff believes these issues are not within the scope of the Water and Sewer Plan or relevant to the policy issue of whether sewer should be extended to the property.

² While the Department of Permitting Services does not prohibit the vehicle parking on septic systems, the practice is not recommended due to the potential for the compaction of soil over infiltration areas and the cracking of pipes.

Council Staff concurs with the County Executive and Planning Board to deny the request.

Private Institutional Facilities (PIF) Requests

Background

The current PIF Policy from the Water and Sewer Plan is attached on ©vii-ix.

The Water and Sewer Plan has included a PIF Policy since 1996. Excerpts from an interagency PIF Working Group Report from 2005 provide some helpful background on the PIF Policy:

“The Water and Sewer Plan includes both general policies and specific policies for the provision of public water and sewer service. The PIF policy is a specific policy that can supersede other general service policies in the Water and Sewer Plan. Actions taken under the PIF Policy may also conflict with area Master Plans.”

“Private Institutional Facilities (PIFs) are defined in the Comprehensive Water Supply and Sewerage Systems Plan (Water and Sewer Plan) as “buildings constructed for an organization which qualifies for a federal tax exemption under the provisions of Section 501 of Title 26 of the United States Code (Internal Revenue Service).” Common categories of PIF uses are: places of worship, private schools, senior housing and day care centers.”

The Council has long struggled to balance the PIF Policy (which provides a means for the consideration of service for PIF uses in areas not generally intended for public water and/or sewer service) with environmental concerns, community impacts, and land-use goals.

The Planning Board has recommended denial of almost all PIF requests, citing inconsistency with applicable Master Plan recommendations.

The PIF Policy was last revised in November 2005, when the Council approved Resolution 12-1234, which precluded the provision of public water or sewer service within RDT-zoned properties, except to relieve public health problems caused by the failure of on-site systems.

Changes in the requirements for the approval of PIF requests in other zones (such as RE-1, RE-2, and other large-lot zones) were also considered by the Council (both in the context of the Water and Sewer Plan and as part of a Zoning Text Amendment that would have set impervious area caps). Some Councilmembers supported additional restrictions in these zones (such as imperviousness caps), while others felt that there should be more flexibility for PIFs in these zones if public water and sewer service in the RDT zone were to be greatly restricted. Ultimately, the Council made no changes affecting PIF requests involving non-RDT-zoned properties. Those requests continue to be reviewed on a case-by-case basis by the Council, and a number of PIF requests have been approved by the Council since November 2005.

In practice, this case-by-case review has generally focused on environmental impacts and compatibility concerns. In past approvals, the Council has worked with PIF applicants to limit imperviousness to 25% for areas outside the Patuxent watershed and has, in some cases, specified a particular sewer alignment. However, the PIF Policy itself does not contain any maximum imperviousness requirements or other environmental criteria.

General Issues Raised Regarding the Current PIF Requests Before the Council

There are two PIF requests in the current amendment package before the Council: 11A-CLO-01 (Shri Mangal Mandir) and 11A-TRV-06 (Glenstone).

In public hearing testimony and correspondence (see testimony in opposition to one or both requests on ©89A-93), concerns have been raised that approval of these requests may set unintended precedents (such as opening up sewer service within the agricultural reserve) and/or is inconsistent with past Council actions and/or Court actions with regard to the Bethel World Outreach Church request (denied by the Council in November 2005) and the First Baptist Church of Wheaton Request (conditionally approved by the Council in April 2008).

Council Staff would note the following:

- The Bethel request involved a relocated PIF use within the Agricultural Reserve (RDT-zoned property). As a result of this and several other PIF requests in the Agricultural Reserve, the Council revised the PIF Policy in November 2005 (as noted earlier) to preclude sewer to serve PIF uses on RDT-zoned properties. **Neither of the current PIF requests is in the RDT zone. Therefore neither, if approved, would undo the restrictions established in the RDT zone nor set a precedent for extending sewer into the RDT zone for future PIF requests.**
- The Bethel case (as well as the First Baptist Church request) involves a new/relocated PIF use. Both Council and Executive staff categorize the current requests before the Council as expansion of an existing PIF use.³ To the degree the County and/or the Court's positions denying the Bethel sewer request raise concerns, those concerns relate to new/relocated PIFs and not to existing PIFs.

The PIF Policy language is broad with regard to acceptable sewer extensions to serve existing PIFs (extensions are acceptable if they “do not threaten to open undeveloped land to development contrary to the intent of the relevant local area master plan.”). Under this criterion, a gravity sewer main extension that would not pass any undeveloped land is acceptable (passing land without subdivision potential that is

³ The PIF Policy does not define “new/relocating” PIF use and whether an expansion (whether on-site or on an adjacent lot) should be considered new or existing. Planning staff contend that the requests are “new/relocating” PIFs, since the Glenstone and Shri Mangal Mandir cases involve new buildings on adjacent lots from the original structure(s). However, since the new facilities will be on adjacent lots to the existing PIF uses and are to be incorporated into the existing PIF uses, Council Staff believes these PIF requests reflect expansions of existing uses rather than new/relocated PIFs.

already developed on septic is acceptable). Low-pressure main extensions (which WSSC sizes and restricts to the institutional use only) are also acceptable, even if these mains do pass undeveloped land (since those properties would not be allowed to connect to the low-pressure main). **The Executive and Council Staff believe both PIFs currently under consideration can be served by sewer alignments that meet these criteria.**

- The Bethel and First Baptist Church of Wheaton cases⁴ raise some interesting questions regarding the application of the PIF Policy for PIF requests involving new or relocating PIFs and, specifically, whether low-pressure sewer mains that abut (but do not open up service) to otherwise ineligible properties are consistent with the PIF Policy.

For PIFs that are considered new or relocating, the PIF Policy language states that requests can be approved where “main extensions will abut only properties which are otherwise eligible for community service...” However, later sections of the PIF Policy state that, “Where community sewer service for a PIF use will be provided by low-pressure mains, those mains shall be dedicated only to that PIF use and generally not eligible for additional service connections”, and “The provision of community service under this policy shall not be used as justification for the connection of intervening or nearby lots or parcels if they would not otherwise be entitled to connect to community systems...” These sections do not distinguish between existing and new/relocating PIF uses, and the discussion of intervening lots implies that extensions may in fact abut otherwise ineligible properties, but those lots would remain ineligible to connect.

For past PIF requests, both the County Executive and the County Council have taken the view that a main extension to serve a new PIF is consistent with the PIF Policy if either: the extension is a dedicated low-pressure main (regardless of any properties the main will abut) or the extension is a gravity main that will not abut any otherwise ineligible properties.

The Bethel court case, the confusing language in the PIF Policy, and the history of how the PIF Policy has been applied in the past suggest to Council Staff that **the PIF Policy should be revised (prior to the Council’s consideration of any future new or relocated PIF requests) to better reflect the intent of the County Council with regard to acceptable sewer extensions. However, Council Staff does not believe the current PIF cases before the Council (which reflect expansions of existing PIFs, not new/relocating PIFs) involve these same concerns.**

Below is a specific review of each of the current PIF cases.

⁴ In the Bethel case, the Court of Special Appeals supported the County’s position that the Bethel case could be denied, as the extension to serve the property would abut otherwise ineligible properties. In the First Baptist Church approval, the PIF will be served by a low-pressure sewer main that will abut properties otherwise ineligible for service.

#	Applicant	Request	County Executive	Planning Board	CE Staff Report	Maps
1	Shri Mangal Mandir Religious Educational and Charitable Trust, 11A-CLO-01	PIF Request: Requesting Public Sewer to build a new congregation center adjacent to a property with the applicant's existing temple	Approve S-3 conditioned upon a preliminary plan that conforms substantially with the proposed plan presented to the Council..	Deny. Maintain S-6	©1-3	©4-5

This 16.5 acre RE-2-zoned property is located on the northwest corner of the intersection of New Hampshire Avenue and Ednor Road in the Sandy Spring Ashton Master Plan area. The property is currently vacant. The applicant is seeking sewer service (through the PIF policy) to serve a new proposed congregation center. The property would also include parking to serve the new center as well as to serve the adjacent existing temple, which is also owned by the applicant and would continue to be served by an on-site septic system. Unrestricted public water is already approved for the property to be developed.

The applicant's proposed plan (see ©7), including both the parking and new building, would result in a site imperviousness of between 23 and 24 percent. This imperviousness is similar to imperviousness levels the Council has supported for other PIF requests (outside the Patuxent River Watershed), although this level of imperviousness is much greater than the imperviousness currently assumed for this property (about eight percent imperviousness for a four-lot subdivision). However, much of the imperviousness is from the parking, which only requires a building permit and stormwater management plan. The applicant is already moving forward for these approvals to build the first phase of parking.

WSSC identified two potential gravity sewer extensions to serve the property. The applicant identified a low-pressure extension as its preferred approach. These three alternatives are described in more detail on ©1-2, and a map showing each option is presented on ©5. Council Staff believes the applicant's preferred option is the superior of the three. This option involves a 1,400 foot pressure sewer extension from the project site south along New Hampshire Avenue to an existing main across from Immanuel's Church. This option is far shorter than the 4,500 foot gravity option suggested by WSSC and also avoids the stream and stream buffers (in the headwaters of the Northwest Branch). The applicants' preferred alignment is also mostly in existing right-of-way and does not require traversing the Hampshire Greens Golf Course, as WSSC's second option (a low-pressure main) would require.

At the public hearing, the Audubon Naturalist Society testified (see ©89A) in opposition to the request for environmental reasons (proximity to the headwaters of the Northwest Branch) and for community compatibility reasons. A nearby neighbor also testified in opposition (see ©11-114).

The Planning Board recommends denial of the request, noting that the request does not meet the conditions in the Sandy Spring Ashton Master Plan (1998) identified in this area for public sewer (see ©46-49). The Planning Board also contends that the request is a "new" PIF use rather than an existing PIF use and that as a "new" PIF use the request does not meet the PIF Policy requirements. *The issue of new versus expanded use was discussed earlier. Council Staff does not agree with the Planning Board's interpretation in this case.*

The Executive recommends approval of the request (restricted to the PIF use presented by the applicant), conditioned upon a maximum impervious level of 24 percent and a sewer main alignment that satisfies the requirements of the PIF Policy as verified by DEP.

Council Staff Comments

As noted earlier, Council Staff believes that as an existing/expanding PIF, the Shri Mangal Mandir request meets the requirements of the PIF policy. The request, based on the proposed plan, is also within imperviousness levels previously approved by the Council for other PIF requests. It is also likely that much of the increased imperviousness from the parking would occur anyway, as the church currently does not have sufficient on-site parking for its existing activities and is already moving forward through the regulatory process for the first phase of the additional parking.

Council Staff supports conditional approval of the request as recommended by the County Executive. However, given the environmental concerns raised regarding the site, Council Staff recommends two other conditions: 1) The applicant should be required (as part of the preliminary plan approval, stormwater management plan approval or some other appropriate regulatory mechanism) to implement environmental best practices (such as permeable pavers, green roofing, cisterns, rain gardens, etc.) to the maximum extent practicable; and 2) The sewer is to be extended to the property via a pressure sewer alignment along New Hampshire Avenue.

#	Applicant	Request	County Executive	Planning Board	CE Staff Report	Report	Maps
3	Mitchell Rales for the Glenstone Foundation, 11A-TRV-06	PIF Request: Requesting public sewer to expand museum facilities.	Approve S-3 with conditions and restrictions	Deny. Maintain S-6	©12-15B		©16-17

This 127.7 acre RE-2-zoned property (consisting of several parcels) is located on the south side of Glen Road, opposite Greenbriar Road in Potomac. The property currently includes a museum, private residence, and agricultural uses. The applicant is seeking sewer service (through the PIF policy) to serve the existing museum and to expand into a new larger museum building on the property. According to the applicant, public sewer service would avoid the need for large septic fields, which could compromise the site of the museum expansion and other landscape and environmental initiatives on the property. The residential and agricultural uses would not be served by the new sewer service. The property is served by wells and no public water service is being sought.

The Executive Staff report on ©13 provides a good summary of some of the unique aspects of this PIF request (i.e. cultural rather than religious use, the property is owned by the applicant but used by a non-profit foundation, multiple buildings to be served) but that the request (with the conditions recommended by the County Executive) meets the requirements of the PIF policy.

WSSC has identified a 6,400 foot main extension to the existing Watts Branch trunk sewer near River Road and Stoney Creek Road. However, Executive Staff note that this extension would not meet the requirements of the PIF policy. The applicant has proposed a 1,500 foot low-pressure sewer extension from Great Elm Drive, following Lake Potomac Drive and crossing Greenbriar Branch to the property (see map on ©17). Another 1,500 feet of on-site extension will be needed to reach the new museum building site.

A substantial amount of public hearing testimony and correspondence was received regarding this request. Correspondence and testimony from representatives of the applicant are attached on ©94-105 and 115-116. The applicant as well as a number of people and groups testified in support of the museum and its category change request. All of the testimony and correspondence is available for download at:

http://www6.montgomerycountymd.gov/content/council/pdf/agenda/cm/2012/120712/20120712_Testimony_Water_Sewer.pdf

The Audubon Society, Montgomery Countryside Alliance, Sugarloaf Citizens Association, and the West Montgomery County Citizens Association expressed opposition to the sewer extension (see testimony on ©89A-93) citing Master Plan concerns, environmental concerns regarding the sewer extension, and the potential precedent set by approving the extension. These groups prefer the applicant consider an on-site sewage solution, such as a septic system or package plant to accommodate an expanded museum use.

The Planning Board recommends denial of the request (see letter on ©50), noting that the property is outside the sewer envelope and that the Potomac Subregion Master Plan's peripheral sewer policy (which allows for some sewer extensions under specific conditions) is not met in this case. The Planning Board also contends that the request is a "new" use rather than expanded use and that as a "new" use the request does not meet the PIF Policy requirements. *The issue of new versus expanded use was discussed earlier. Council Staff does not agree with the Planning Board's interpretation in this case.* Planning staff have also suggested that the applicant should consider an on-site package plant solution rather than a sewer extension.

The County Executive recommends approval with a number of conditions (see ©12) to ensure consistency with the PIF policy.

Council Staff Comments

Council Staff noted earlier that approval of this request would not set a precedent for future sewer approvals in the Agricultural Reserve (which the PIF Policy specifically prohibits) or in other large lot zoned areas (where the Council has followed a case-by-case approach).

The feasibility for the applicant to pursue an on-site solution (either a traditional septic system or a package plant solution) raises interesting questions about the environmental merits of one sewage disposal option versus another. However, the PIF Policy does not require the applicant to pursue an on-site solution where feasible. In this case, a feasible sewer extension has been identified which Executive and Council Staff agree meets the requirements of the PIF Policy.

In many PIF cases, the Council is concerned about increased imperviousness resulting from extending sewer to a property in support of a PIF use. PIF uses (which often involve religious institutions) often involve a large central building and a substantial amount of surrounding parking. However, in the Glenstone case, the imperviousness on the site (an estimated 15 percent) will be quite low for a PIF request (and probably the same level of imperviousness if the applicant were to pursue an on-site solution).

While the total sewer extension (including the on and off-site portions) is longer than typical for a PIF request, the PIF Policy does not specify a maximum extension length. Also, in this case, half of the extension is on-site, which leaves about 1,500 feet for the off-site extension. The Executive and the Council consider main extension alignments on a case-by-case basis.

For Council Staff, the only major issue with this request is whether the construction or ongoing impacts of the proposed sewer extension warrant sufficient concern to oppose the request. In this case, the sewer line would cross Greenbriar Branch. However, the crossing would be a perpendicular crossing under the stream, and the applicant has offered to utilize a number of best practices to minimize the impact (see ©34-35 and ©115-116).

Council Staff concurs with Executive Staff to conditionally approve the request. Since the applicant will not need to go through preliminary plan approval for the museum expansion, Council Staff recommends that the 15 percent imperviousness cap agreed to by the applicant in correspondence to the Council be noted in the approval resolution text and that the additional condition be added that the applicant's stormwater management plan be consistent with the impervious surfaces calculations provided by the applicant.

Attachments

f:\levchenko\wssc\water and sewer plan\category changes\12 package 1\1t&e w&s changes 7 12 12.doc



068092

KL
CC
SBF
L


OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Isiah Leggett
County Executive

MEMORANDUM

April 24, 2012

TO: Roger Berliner, 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

RECEIVED
MONTGOMERY COUNTY
COUNCIL

2012 APR 27 AM 11:54

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 four proposed amendments to the County's *Comprehensive Water Supply and Sewerage Systems Plan*. Recommendations and supporting documentation addressing these amendments are included in the attached staff report. All four proposed amendments are requests for individual water/sewer service area category changes.

The recommendations for these amendments are consistent with the adopted policies and guidelines included in the Water and Sewer Plan and are consistent with local area master plan service recommendations. Nevertheless, I expect that the following cases, which both involve proposals for private institutional facilities (PIFs), will likely generate significant public testimony and worksession discussions.

Shri Mangal Mandir Religious Educational and Charitable Trust

In the case of WSCCR 11A-CLO-01 (Shri Mangal Mandir Trust), the applicant has requested a category change to allow the extension of public sewer service for the expansion of facilities for the existing Shri Mangal Madir Temple. The site is located at 17110 New Hampshire Avenue, Cloverly. The proposal includes the construction of a new congregation community building and additional parking for the new building and the existing temple. Because the site is located outside the recommended public sewer envelope, the applicant is seeking the approval for public sewer service under the Water and Sewer Plan's PIF policy.

The applicant has demonstrated that this project can satisfy the PIF policy requirements for the extension and provision of public sewer service. That service will be restricted to the PIF user's specific development proposal only. The level of impervious area proposed, while greater than might occur with a residential development, is consistent with the Council's approach to projects located outside the Patuxent River watershed. The request is recommended for conditional approval pending confirmation

A

Roger Berliner
April 24, 2012
Page 2

by the Planning Board that the formal development plan is in conformance with the proposals presented to the Executive staff and the County Council.

Glenstone Foundation Art Museum

WSCCR 11A-TRV-06 (The Glenstone Foundation) proposes the extension of public sewer service to serve the planned expansion of an art museum located on Glen Road in Potomac. The existing museum is currently served by a septic system; however, a second, larger facility is planned. Both buildings would be connected to the public sewerage system by a single, user-dedicated pressure sewer extension. This site is also located outside the recommended public sewer envelope, and the applicant is seeking the approval for public sewer service under the Water and Sewer Plan's PIF policy. Executive staff have confirmed that this use qualifies for consideration under the PIF policy.

The proposed extension of public sewer service is consistent with PIF policy requirements. This case is somewhat different from the typical PIF policy request, especially with regard to ownership of the property, which will remain with the applicant, Mitchell Rales, and not his foundation which operates the museum. To ensure conformance with the PIF policy, sewer service will be strictly limited to the museum's facilities only. The attached recommendation also includes limitations on the area of Mr. Rales' property holdings that can be approved for and receive public sewer service. The extent of the applicant's property acquisitions around the museum site has raised concerns about the extent of development and sewer service within an area not generally intended for public service. The request is filed only for the properties in the immediate vicinity of the museum's facilities; no other properties will be considered at this time for category changes and eventual public sewer service.

Staff from DEP will be available to discuss these and other amendments at worksessions with the Transportation, Infrastructure, Energy, and Environment Committee and with the full Council.

IL:as

Attachment

cc: Jay Sakai, Director, Water Management Administration, Maryland Department of the Environment
Richard Eberhart Hall, Secretary, Maryland Department of Planning
Françoise Carrier, Chair, Montgomery County Planning Board
Jerry Johnson, General Manager, Washington Suburban Sanitary Commission
Robert G. Hoyt, Director, Department of Environmental Protection
Diane Schwartz Jones, Director, Department of Permitting Services

(B)

**Montgomery County
Comprehensive Water Supply and
Sewerage Systems Plan**

Proposed Category Map Amendments

**County Executive's April 2012 Amendment
Transmittal to the County Council:**

- **4 Current 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**

**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**

**PROPOSED COMPREHENSIVE WATER SUPPLY AND SEWERAGE SYSTEMS PLAN AMENDMENTS
COUNTY EXECUTIVE'S APRIL 2012 TRANSMITTAL PACKET**

EXECUTIVE SUMMARY: PROPOSED AMENDMENTS AND RECOMMENDATIONS

Plan Amendment No. & Applicant Location - Zoning - Acreage - Proposed Use	Requested Change	Executive Recommendation & Policy Summary	Packet Page No.
CLOVERLY – NORWOOD PLANNING AREA			
WSSCR 11A-CLO-01 Shri Mangal Mandir Religious Educational and Charitable Trust 17100 Block of New Hampshire Ave. (MD 650), Cloverly RE-2 Zone; 16.53 ac. Use: Congregation center for existing, adjacent house of worship	W-1 (no change) S-6 to S-3	Conditionally approve S-3, requiring the Planning Board's approval of a preliminary plan consistent with the impervious area and sewer alignment proposals presented to and considered by the County Council. Service is limited to the proposed PIF use only. <i>Sewer service is consistent with the Water & Sewer Plan's PIF policy.</i>	Report: Pgs. 1-3 Maps: Pgs. 4-5
PATUXENT WATERSHED CONSERVATION PLANNING AREA			
WSSCR 11A-PAX-01 Samson Getachew & Solomon Wubet 16900 Block of New Hampshire Ave. (MD 650). Cloverly RC Zone: 2.00 ac. Use: one proposed single-family house	W-1 (no change) S-6 to S-1	Deny the request for S-1; maintain S-6. <i>Sewer service is inconsistent with Water and Sewer Plan sewer service policies and with service recommendations in the 1997 Cloverly Master Plan.</i>	Report: Pg. 9 Map: Pg. 10
TRAVILAH PLANNING AREA			
WSSCR 11A-TRV-06 Mitchell Rales for the Glenstone Foundation 12002, 12204, & 12702 Glen Rd., Potomac RE-2 Zone; 127.7 acres Use: expansion of existing museum use (residential and agricultural uses to remain)	W-6 (no change) S-6 to S-3	Approve S-3 for the proposed PIF use only. Additional restrictions will apply to the on-site use of public sewer service to maintain conformance with the PIF policy. The proposed sewer extension meets the PIF policy requirements. <i>Sewer service is consistent with the Water & Sewer Plan's PIF policy.</i>	Report: Pgs. 12-15 Maps: Pgs. 16-17
WSSCR 11A-TRV-08 Ravinder & Ritu Kapoor 10401 Boswell La., Potomac RE-1 Zone; 2.00 ac. Use: sewer service for the existing house.	W-1 (no change) S-6 to S-3	Deny the request for S-3; maintain S-6. <i>Sewer service is not consistent with Water and Sewer Plan sewer service policies, including the Piney Branch restricted sewer service policy. The property site is not within the sewer service envelope recommended in the 2002 Potomac Subregion Master Plan.</i>	Report: Pgs. 36-37 Map: Pg. 38

Additional Packet Items:

Water/Sewer Service Area Category Information	Pg. ii
Map Amendment Locator	Pg. iii
Status Update: Category Change Requests Recently Deferred by the County Council	Pgs. iv-v
Deferred Map Amendment Locator	Pg. vi
Water & Sewer Plan Excerpts (2003):	
• Private Institutional Facilities Policy	Pgs. vii-ix
• Piney Branch Restricted Sewer Service Area Policy	Pgs. x-xi

**PROPOSED COMPREHENSIVE WATER SUPPLY AND SEWERAGE SYSTEMS PLAN AMENDMENTS
COUNTY EXECUTIVE'S APRIL 2012 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).

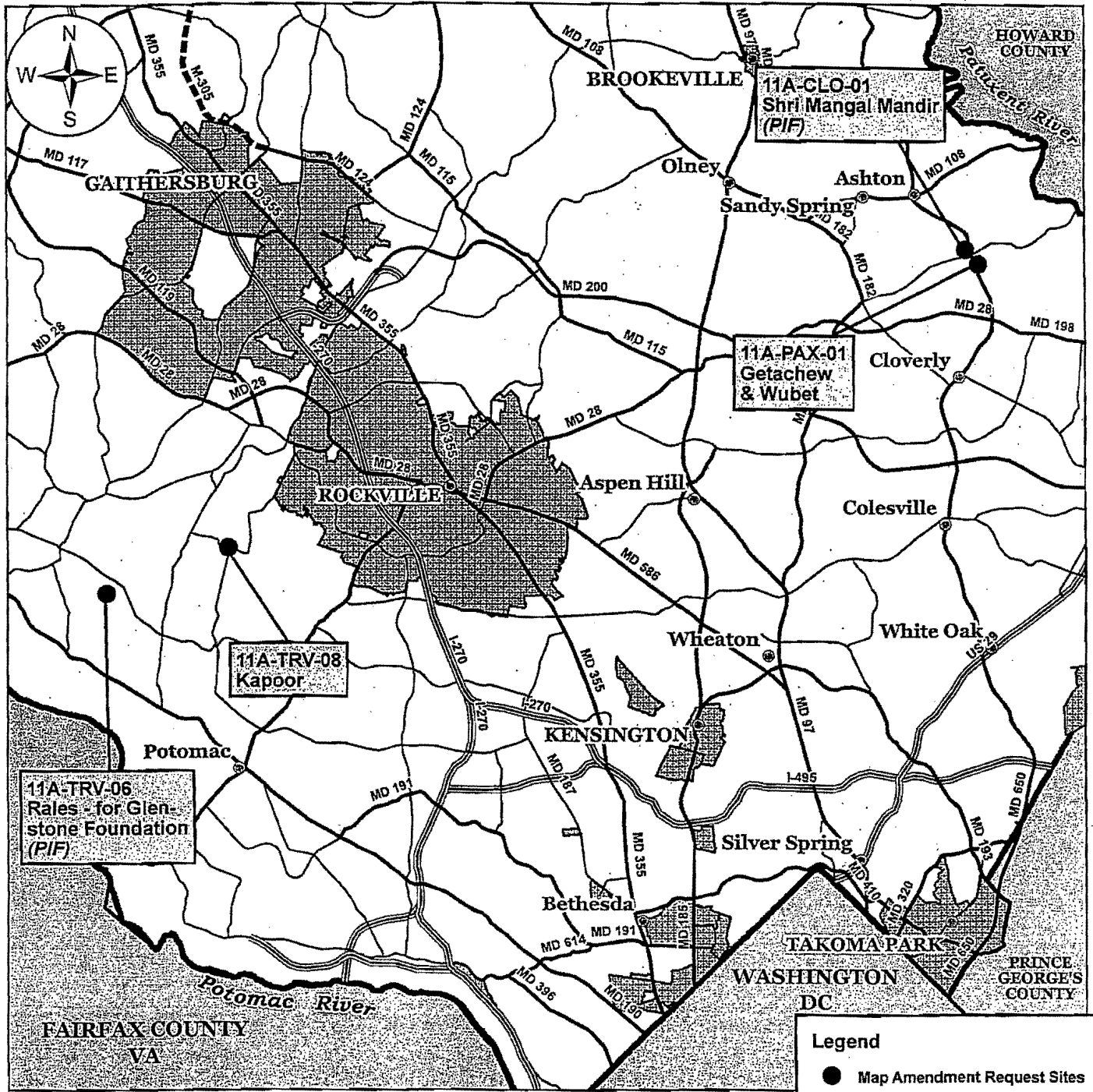
Water and Sewer Service Area Categories Table

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.

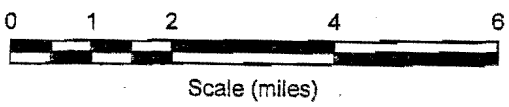

Water and Sewer Plan Map

April 2012 Transmittal: Map Amendment Locator




Legend

- Map Amendment Request Sites
- ⊙ Localities
- Major Roads & Highways
- County Roads
- State Roads & Highways
- == US Highways & Interstates
- - - Proposed Roads
- ▨ Municipalities

DEP
Water and Wastewater
Policy Group



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



COMPREHENSIVE WATER SUPPLY AND SEWERAGE SYSTEMS PLAN AMENDMENTS
County Executive's April 2012 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 should return to the Council for a decision within approximately one year of the deferral action.

Plan Amendment No. & Owner Location - Zoning - Acreage - Proposed Use	Category Change Request	Resolution & Reason for Deferral Status of Deferred Plan Amendment
WSSCR 06A-BEN-03 Maurice Gladhill Bethesda Church Rd., Damascus RDT Zone: 41.44 ac. Use: water service for approved child lots	W-6 to W-1 (Keep S-6)	CR 15-1588 (8/1/06): Deferred pending recommendations on child lots from the Ad Hoc Agriculture Working Group. Status: Awaiting Council consideration and decision on child-lot policy issues, including a proposed amendment on water service policy to the Water and Sewer Plan.
WSSCR 06A-TRV-07 Carole & Donald Dell Stoney Creek Rd. opposite Wetherfield La. RE-2 Zone: 17.29 ac. Use: proposed 8-lot single-family subdivision	W-3 (no change) S-6 to S-3	CR 15-1588 (8/1/06): Deferred pending the Council's review of the Potomac peripheral sewer service policy in the next update of the Water and Sewer Plan. Status: Awaiting completion of the 2012 update of the Comprehensive Water and Sewer Plan.
WSSCR 07A-CLO-05 Julian Patton Norwood Rd. at Norbeck Rd. (MD 28) RE-2 Zone: 27 ac. Use: proposed place of worship for the Sts. Constantine and Helen Greek Orthodox Church (on an unimproved site)	(Keep W-3) S-6 to S-1	CR 16-500 (4/8/08): Deferred for submittal and review of the church's site development plan. Status: The church has proposed to locate on the RE-2C portion of the property, which is already approved for public water and sewer service without restriction. The Planning Board approved the church's preliminary plan (120100240) for the new site on July 29, 2012 (opinion issued Oct. 4, 2010). DEP will contact the church, now the owner of the entire property, and request withdrawal of the deferred category change application.
WSSCR 07A-DAM-08 ^C Bethel World Outreach Ministries Brink Rd., Germantown RDT Zone: 119.4 ac. Use: proposed house of worship for the owner (existing farm house may remain). ^C Goshen - Woodfield - Cedar Grove Planning Area	W-6 to W-6 ^D S-6 to S-6 ^D ^D multi-use system	CR 16-500 (4/8/08): Deferred for a development proposal that conforms with RDT Zone requirements for properties with agricultural preservation easements. Status: Awaiting the applicant's submittal of a revised development plan. (Note: Litigation ^E in federal court between the applicant and the County continues over zoning and multi-use sewer system issues. ^E The church's prior suit over denial of public water and sewer service is resolved in favor of the County.
WSSCR 09A-CKB-01 Windridge Farm (for Orchard Run) Ridge Rd. (MD 27) & Brink Rd., Clarksburg RE-2 Zone: 54.37 ac. Use: Proposed senior/retire community for 225 units and community center	W-1 (no change) S-3 (PIF use only) to unrestricted S-3	CR 17-217 (7/19/11): Deferred for a decision on the request for rezoning from RE-2 to PRC. Status: Awaiting the applicant's notice that the rezoning request is moving forward towards consideration by the Planning Board and the County Council.
WSSCR 09A-PAX-06 Burtonsville Associates (for New Hope Korean Church) 16100 Block of Old Columbia Pike (former U.S. 29), Burtonsville RC Zone: 9.52 ac. Use: Proposed place of worship with 1,700-seat sanctuary, gym, kitchen, and classrooms	W-6 to W-3 S-6 to S-3	CR 17-217 (7/19/11): Deferred for the applicant's need to: <ul style="list-style-type: none"> • Submit a revised plan more sensitive to recommended impervious limits in the Patuxent watershed • Provide more information of water and sewer extension alignments and their compliance with the PIF policy • Conduct outreach efforts with local homeowner, civic and environmental organizations. Status: DEP has received tentative notice that the New Hope Korean Church has withdrawn interest in the site and that applicant is working with a new potential user, also a religious use. If correct, the applicant will need to withdraw the existing request and file a new application for this new user. In addition, a staff draft for the Burtonsville Crossroads master plan is pending presentation to the Planning Board. This master plan is intended to specifically address land use and sewer service issues for this property. Any consideration of a water/sewer category change should be deferred pending completion of the master plan.



**COMPREHENSIVE WATER SUPPLY AND SEWERAGE SYSTEMS PLAN AMENDMENTS
County Executive's April 2012 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 should return to the Council for a decision within approximately one year of the deferral action.

Plan Amendment No. & Owner Location - Zoning - Acreage - Proposed Use	Category Change Request	Resolution & Reason for Deferral Status of Deferred Plan Amendment
<p>WSCCRs 09A-TRV-03 & -03 Ted and Roxanne Smart 13000 Block of Valley Drive, Rockville RE-1 Zone: 2.20 ac. Total Use: one new single-family house on each of two existing, unimproved parcels.</p>	<p>W-3 (no change) S-6 to S-3</p>	<p>CR 17-217 (7/19/11): Deferred pending the results of the Glen Hills Area Sanitary Study. <u>Status:</u> The Glen Hills Area Sanitary Study is currently underway. Phase 1 of the study, the evaluation of the existing on-site system conditions of the neighborhood, will be completed this coming June. If needed, Phase 2 of the study, the consideration of mitigation measures for areas with poor on-site system suitability, will conclude the following October. According to DPS Well and Septic Section staff, the applicant has successfully tested one of these two parcels for a standard trench septic system for a new single-family house.</p>

Status of additional outstanding category change issues

WSCCR 11A-TRV-01 – Christopher and Christina Marshall..... The Council's approval of category S-1 under CR 17-217 (7/19/11) was disallowed by MDE. The Council has requested reconsideration of MDE's decision and is awaiting a response.

Deferrals resolved since the last update (January 2010 Packet)

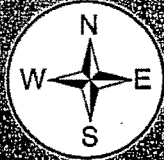
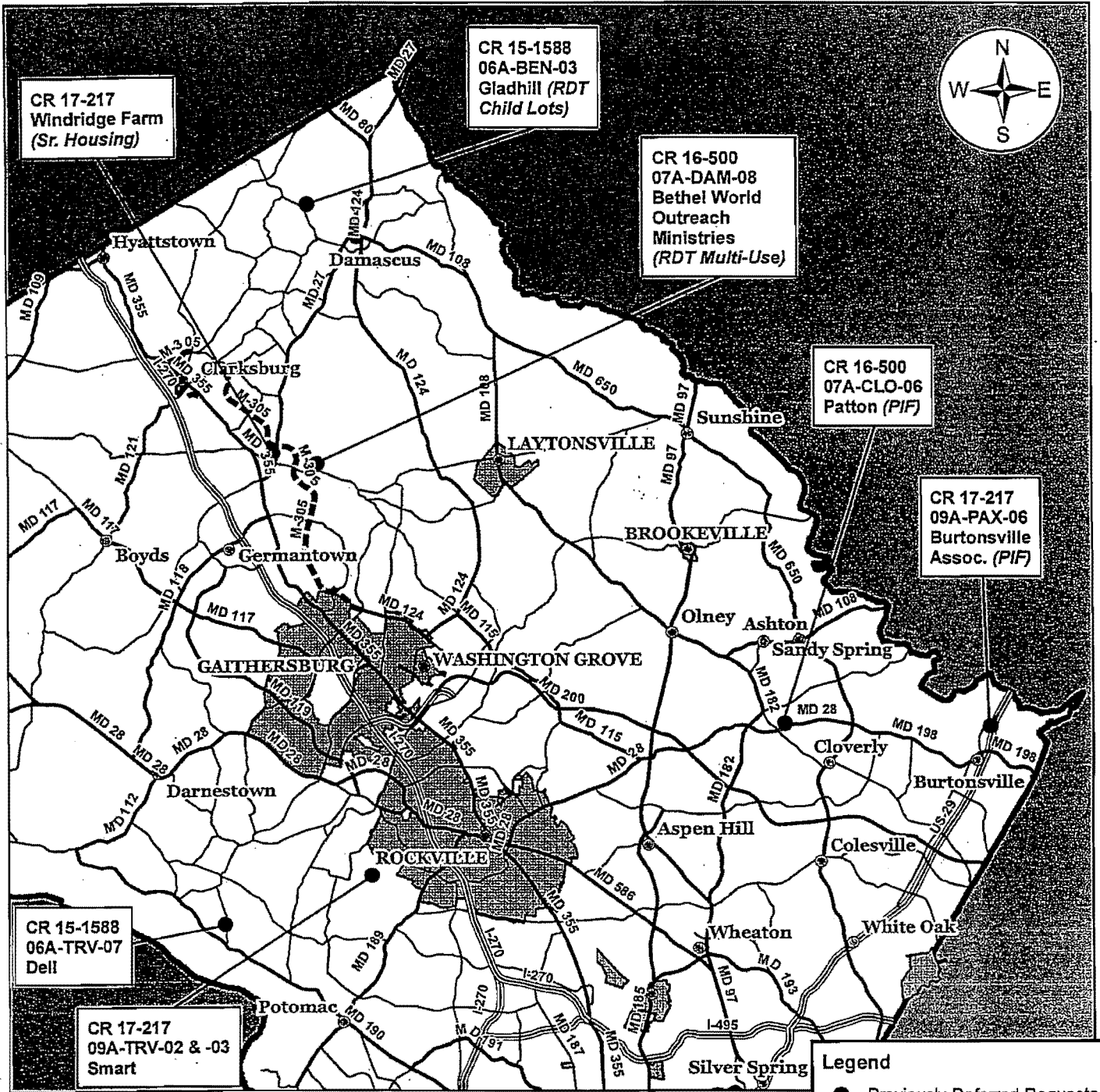
WSCCR 09A-PAX-01 – Eglise de Dieu de Silver Spring Conditionally approved for S-3 under CR 16-1519 (10/19/10); for this specific PIF use only.

R:\Programs\Water_and_Sewer\Projects\actions-COUNCIL\packets\2011\nov\ce-packet\draft-deferred-ccr-status=final.doc

✓ (V)

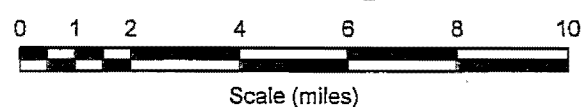


Water and Sewer Plan Map

April 2012 Transmittal: Deferred Amendment Locator



Legend

- Previously Deferred Requests
- ⊙ Localities
- Major Roads & Highways**
- County Roads
- State Roads & Highways
- == US Highways & Interstates
- - - Proposed Roads
- ▨ Municipalities

DEP
Water and Wastewater
Policy Group

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



Adopted by the County Council November 18, 2003 (CR 15-396)
Revised by the County Council November 29, 2005 (CR 15-1234)

II. POLICIES FOR THE PROVISION OF WATER AND SEWERAGE SERVICE

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.

4. Community Service for Private Institutional Facilities -- This Plan defines private institutional facilities (PIFs) as buildings constructed for an organization that qualifies for a federal tax exemption under the provisions of Section 501 of Title 26 of the United States Code (Internal Revenue Service). The provision of community water and/or sewer service to such facilities shall be addressed on a case-by-case basis by the following policies:

a. Facilities Located Within the Community Service Envelopes – For private institutional facilities located within the acknowledged water and/or sewer envelopes, service area category changes may be approved by DEP through the administrative delegation process (Section V.F.1.a.: Consistent with Existing Plans). For a specific site, the acknowledged water and sewer service envelopes may differ due to the general water and sewer service policies (Section II.D.) included in this Plan.

b. Facilities Located Outside the Community Service Envelopes – For existing or proposed PIF uses located outside the acknowledged water and/or sewer envelopes, the County Council shall consider requests for the provision of community service for PIF uses according to the following criteria:

i. Sites Abutting Existing Water and/or Sewer Mains – For cases where existing or approved water or sewer mains abut or will abut a property, service area category amendments may be approved for sites with an existing PIF use and for sites proposed for a new or relocating PIF use, excluding those zoned RDT (see subsection iii).

ii. Sites Requiring New Water and/or Sewer Mains Extensions – For cases where the provision of community service for a PIF use requires new water and/or sewer mains, the following criteria shall apply:

■ For existing PIF uses, service area category amendments may be approved for sites (excluding those zoned RDT, see subsection iii) only where required water and/or sewer main extensions do not threaten to open undeveloped land to development contrary to the intent of the relevant local area master plan.

■ For new or relocating PIF uses, service area category amendments may be approved for sites (excluding those zoned RDT, see subsection iii) where required water and/or sewer main extensions will abut only properties which are otherwise eligible for community service under the general policies of this plan.

iii. Sites Zoned Rural Density Transfer – To help preserve the integrity of the land-use plan for the County's agricultural reserve, neither community water nor sewer service shall be used to support existing or proposed PIF uses within the Rural Density Transfer (RDT) Zone. This prohibition shall apply to all PIF cases regardless of whether public service requires either new main extensions or only service connections to an existing, abutting main. The only exception allowed to this prohibition is to allow for community service to relieve health problems caused by the failure of on-site systems, as documented by the Department of Permitting Services (DPS). In the case of a public health problem, DEP and DPS staff will need to concur that the provision of community service is a more reasonable alternative to a replacement of the failed on-site

system, either by standard or alternative/innovative technologies. WSSC and DEP staff will need to concur that the provision of community service is technically feasible.

c. Main Extensions for PIF Uses – Main extensions outside the acknowledged community service envelopes, where required, shall be designated "Limited Access" consistent with the Limited Access Water and Sewer Mains policy (see Section III.A.2). Where community sewer service for a PIF use will be provided by low-pressure mains, those mains shall be dedicated only to that PIF use and generally not eligible for additional service connections. The County and WSSC may make limited exceptions to this requirement to allow for the relief of failed septic systems, where such service is technically feasible.

PIF uses may receive service from limited access water or sewer mains where the Council has specifically approved access to those mains. The provision of community service under this policy shall not be used as justification for the connection of intervening or nearby lots or parcels if they would not otherwise be entitled to connect to community systems.

Under its Systems Extension Permit (SEP) process, WSSC now requires that all commercial and institutional service applicants construct and pay for the community systems main extensions needed to serve their projects. In cases where more than one PIF use proposes to locate on a site requiring a pump and low-pressure main extension, WSSC requires that each institutional facility have a separate pump and pressure main system. The County and WSSC shall not support the provision of community sewer service for a PIF use where that service will require a WSSC-owned and operated wastewater pumping station which does not also support community sewer service for other non-PIF uses consistent with the service policies of this Plan.

d. PIF Uses In Existing Residential Structures – The Council may deny service area category amendments for PIF uses located outside the acknowledged water and/or sewer envelopes where main extensions are required for private institutional facilities seeking community service for existing residential structures. This could result in the extension of community water and/or sewer service for structures which would not otherwise be eligible for such service, and which could return to residential use.

e. PIF Policy Directions – The Council originally adopted a Water and Sewer Plan service policy addressing PIF uses with three primary goals in mind:

- To continue to support, where the provision of community service is reasonable, the county's private institutional facilities, which the Council recognized as having an important role in their communities and for their residents;
- To provide more objective and consistent criteria in evaluating PIF cases; and
- To limit the potential impact of water and sewer main extensions outside the community service envelopes to support PIF uses.

The PIF policy has accomplished the preceding goals, at least to some extent. However, it has also created unintended concerns, involving complex relationships between differing public policies and affecting private institutions needing space to locate and grow within an often fiercely competitive Real Estate market. This makes less costly land, usually located outside of the community water and sewer service envelopes and zoned for lower-density development, more attractive to institutional uses. Among the concerns which have come to the attention of both the County Council and County agency staff are the following:

- The policy has resulted in the clustering of PIF uses at the edge and outside of the acknowledged community water and/or sewer service envelopes.
- The policy has facilitated the siting of PIF uses on properties where the institutional use and its ancillary needs, especially parking, can create imperviousness far in excess of that normally resulting from residential uses, leaving little open space and creating water quality problems.

- The policy has facilitated the siting of PIF uses within the county's RDT-zoned agricultural reserve areas.
- The policy has promoted speculative interest in sites because of their potential ability to satisfy the PIF policy requirements, not because a specific private institution has a need for that site.
- The policy does not provide guidance concerning institutional subdivisions, where two or more PIF uses subdivide and locate on an existing property approved for community service.
- The policy can not address issues beyond the scope of the Water and Sewer Plan, such as community compatibility, traffic congestion, and alternate facility uses.

An interagency PIF policy working group has reviewed the PIF policy and other County regulations and ordinances, with particular attention to the preceding issues. The PIF policy as amended in this Water and Sewer Plan contains changes from the original PIF policy which address some of these concerns. Among these are a policy preventing publicly-funded support for community service to PIF uses where WSSC pumping facilities would be required, and a prohibition against providing community service to PIF uses in the Rural Density Transfer (RDT) Zone. In addition, the working group has recommended to the County Council impervious area limits for most land uses in lower-density rural and rural estate zones to help limit the environmental impacts often associated with institutional development within these zones.

The preceding policies focus on community water and sewer service for institutional uses. The working group also recognized that a prohibition on community service in the RDT Zone could result in an increase in PIF project proposals using multi-use on-site systems. The County needs to ensure that these on-site systems can provide long-term, sustainable service for their users in order to avoid the need to provide community service to relieve on-site system failures (see Section III.B.2.).

Water and Sewer Plan Recommendation

The County needs to recognize that the recommendations from the PIF Working Group represent the first efforts in addressing the community and environmental effects of large commercial and institutional land uses, especially those [[which]] that locate with the rural part of the county. At the least, the working group will need to follow up periodically to consider 1) the effectiveness of these recommendations, 2) public and development industry concerns with regard to the County's policies, and 3) the need for additional or alternative actions.

V. PROCEDURES FOR ADOPTING AND AMENDING THE WATER AND SEWER PLAN

D. Filing Individual Service Area Category Change Requests

2. Application Requirements for PIF Category Change Requests – In cases involving service area category amendments for private institutional facilities (PIFs – see Section II.C.4.), the institution seeking to use the property must act as the category change applicant. If a site is proposed for two or more PIF uses, then at least one of the proposed institutions must act as the applicant. PIF applicants need to include a confirmation of their tax-exempt status as part of their category change request.

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.

(Referenced abutting mains policy follows on the next page)



Referenced Abutting Mains Policy (Chapter 1, Section II.E.3.a.)

3. Community Service for Properties Abutting Existing Mains -- Under specific and limited circumstances, community water and or sewer service may be provided to properties which abut an existing or approved water and/or sewer main. The provision of community service requires that the property, or a structure on the property must have been established prior to the extension of the abutting main. A residence, business, or institution (church, school, etc.) qualifies as an existing structure; a barn, garage, or other type of outbuilding does not qualify. The provisions of this policy do not include community service for private institutional facilities (PIFs), which must be addressed through the PIF policy (see Section II.E.4.).

Community service must be technically feasible from the abutting main. Major water and sewer transmission mains and sewer force mains cannot support individual service connections and hookups, and therefore do not qualify abutting properties for community service under this policy.

This policy may be used in cases where a property is not otherwise eligible for such service under the general policies of this Plan. Under this policy, the provision of community service is allowed under the following circumstances:

a. Single Hookups Only -- A single water and/or sewer hookup only is allowed for an individual property or for a structure which abuts an existing or approved water and/or sewer main. The subject property or structure must predate the abutting main. A change in the property configuration due to the dedication of land for a public use such as a road right-of-way or park land shall not invalidate this allowed single hookup. Neither shall an exchange of land between adjacent, qualifying properties invalidate this allowed hookup, provided the overall number of qualifying lots and therefore allowed hookups remains the same. DEP may grant approval for this single hookup under the administrative delegation policies included in this chapter (Section V.F.2.b.: Properties Abutting Existing Mains).

DEP may direct WSSC to provide an allowed single, residential water and/or sewer hookup upon 1) staff confirmation that the property qualifies for service under this policy, and 2) DEP's receipt a category change request for the property. Only in such cases may DEP approve service from an abutting main in advance of granting the actual service area category approval. Commercial and institutional uses must first receive the required service area change.

COMPREHENSIVE WATER SUPPLY AND SEWERAGE SYSTEMS PLAN AMENDMENTS
 County Executive's April 2012 Transmittal Packet

CLOVERLY - NORWOOD PLANNING AREA MAP AMENDMENTS

WSSCR 11A-CLO-01: Pg. 1

WSSCR 11A-CLO-01: Shri Mangal Mandir Religious Educational and Charitable Trust

County Executive's Recommendation: Maintain S-6, with advancement to S-3 conditioned on the planning Board's approval of a preliminary plan that substantially conforms to the plans presented to the Council by the applicant, especially in terms of 1) a maximum impervious level of 24 percent and 2) a sewer main alignment that satisfies the requirements of the PIF policy, as verified by DEP. Sewer service will be limited to the use presented by the applicant, a congregation meeting building; no other use may connect to public sewer service without subsequent consideration and approval by the County Council.

<p>Property Information and Location Property Development</p> <ul style="list-style-type: none"> • 17100 block, New Hampshire Ave. (MD 650), Cloverly • Parcel P491, Snowdens Manor Enl; district 08, acct. no. 00706865 • Map tile: WSSC – 223NE01; MD – JT61 • Northwest quadrant, intersection of New Hampshire Ave. and Ednor Rd. • RE-2 Zone; 16.53 ac. • Sandy Spring Ashton Master Plan (1998) • Northwest Br. Watershed (MDE Use IV) • <u>Existing use:</u> unimproved <u>Proposed use:</u> congregation center for an existing, adjacent place of worship 	<p>Applicant's Request: Service Area Categories & Justification</p> <table 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-1</td> <td>W-1 (no change)</td> <td></td> </tr> <tr> <td>S-6</td> <td>S-3</td> <td></td> </tr> </tbody> </table> <p><u>Applicant's Explanation</u></p> <p>"The property had a previously approved Preliminary Plan (120060920) for 4 single family houses on septic and public water. The property has changed ownership to Shri Mangal Mandir with its existing Temple on the adjacent parcel. Their intended use is to expand its parking lot and build a new Congregation Center to be used for various religious functions. We would like to maintain S-6 [for] the northwest part of the site for the potential to build one single family house on septic.</p>	Existing –	Requested –	Service Area Categories	W-1	W-1 (no change)		S-6	S-3	
Existing –	Requested –	Service Area Categories								
W-1	W-1 (no change)									
S-6	S-3									

Executive Staff Report:

The applicant, Shri Mangal Mandir Temple, has requested a category change from S-6 to S-3 in order to provide public sewer service to a proposed congregation center on a parcel adjacent to its existing temple at 17110 New Hampshire Ave. The applicant owns the subject property. The parcel would also contain an expansion of the temple's parking lot. The applicant has expressed awareness of the adverse impact of parking on nearby streets when the temple holds large gatherings. Note that the property with the existing temple is not part of this request and would continue to use an existing septic system. The site is zoned RE-2 and is not recommended for public sewer service in the 1998 Sandy Spring Ashton Master Plan. The applicant has requested consideration under the provision of the private institutional facilities (PIF) policy. The provision of sewer service to this site is consistent with the requirements of the PIF policy.

A typical issue of concern in PIF cases involves the alignment of any needed main extension. This case involves the expansion of an existing PIF use, so according to the PIF policy, sewer service can be approved, "... only where required water and/or sewer main extensions do not threaten to open undeveloped land to development contrary to the intent of the relevant local area master plan." (See circle pgs. vii-ix for the entire PIF policy.) WSSC has proposed two alternate gravity sewer extensions and the applicant has proposed a pressure sewer extension that could serve the project (see circle pg. 5):

- WSSC's first alternative, a 4,500-foot extension to the west to an existing main at Reserve Gate Terr., is not practical from a cost and environmental standpoint. It would create substantial disruption to a stream and stream buffer along its length. This extension could also cross several large parcels which, while already developed, would have the potential for redevelopment with uses such as PIFs. The extension would abut and require easements from an unusually large number of property owners.
- WSSC's second alternative, a 1,200-foot gravity main, would extend from the site along Ford Lane, parallel and cross Endor Road, traverse part of the Hampshire Greens Golf Course, and then run between two existing residential lots to reach the existing main along Harbour Town Drive. It appears

①

**COMPREHENSIVE WATER SUPPLY AND SEWERAGE SYSTEMS PLAN AMENDMENTS
County Executive's April 2012 Transmittal Packet**

CLOVERLY - NORWOOD PLANNING AREA MAP AMENDMENTS

WSSCC 11A-CLO-01: Pg. 2

that the extension could satisfy the PIF policy requirements; all of the abutting properties are either developed with single-family houses without much potential for redevelopment or are public lands. The extension would require easements from the County and at least one private property owner. This option would also require the use of an on-site grinder pump for the new building.

- The applicant's alternative is an approximately 1,400-foot extension from the project site south along New Hampshire Avenue to an existing main crossing that street in front of Immanuel's Church. This main would likely be a low-pressure main along its length. If so, it would be a main dedicated to the applicant's use only that would not be available to any other abutting property, and therefore would satisfy the PIF policy as well. Given the pressure sewer extension, the applicant would need to install an on-site grinder pump for the new building.

As with some past projects, WSSC prefers the gravity extension option over one that requires a pressure sewer. While both the second WSSC extension alternative and the applicant's alternative have the potential to satisfy the PIF policy. The applicant's extension, although longer will likely avoid the need for easements affecting other property owners.

The applicant's proposed plan would result in an imperviousness of between 23 and 24 percent, depending on whether or not a proposed house is built on the northern part of the parcel near Cliftonbrook Lane. This is more impervious area than would be expected under a residential plan for the site, but is within a range of impervious levels the Council has found acceptable for other PIF cases outside the Patuxent River watershed. The Planning Board had previously approved a plan for a four-lot residential subdivision on the site which had approximately eight percent impervious area. Those subdivision lots were never recorded.

The applicant is proceeding with plans for the first section of the proposed parking lot, which does not require the approval of any new subdivision plan, only a building permit and stormwater plan. The parking lot's two phases will account for the majority of impervious area on the site. Construction of the proposed congregation center building will require a new preliminary plan and recordation of the site as a building lot.

Agency Review Comments

M-NCPPC – Area 3 Planning Team: This property is outside the master plan designated sewer envelope, and the master plan recommends, on page 83 that community service be provided consistent with the Comprehensive Water and Sewerage plan, which does not recommend extension of sewer to densities of less than ½ acre. The plan recommends extension of sewer to only three types of development:

- RNC zoned properties using the optional method
- Properties within the Rural Village Overlay Zone
- Properties with demonstrated health problems

This request does not meet these criteria. In addition, on page 43, the master plan recommends preserving the rural open space along New Hampshire Avenue, siting new buildings and uses to preserve open space along the road and providing for scenic setbacks. The sketch plan submitted by the applicant shows the building and a large parking lot immediately adjacent to New Hampshire Avenue. Therefore this request is not consistent with the master plan. **Recommendation: Deny S-3**

M-NCPPC – Parks Planning: No apparent Existing Park impacts. No adjacent Park lands.

WSSC - Sewer: Basin: Northwest Branch. The following options are available to serve this property:

- An approximately 4500-foot-long non-CIP sized gravity sewer extension is required to connect to the existing 18-inch sewer near Reserve Gate Ter (contract no. 65-4095). This extension would abut approximately 36 properties in addition to the applicant's. Rights-of-way would be required. Construction of this extension may involve the removal of trees, temporary disruption of stream valley.
- An approximately 1200-foot-long non-CIP sized gravity sewer extension is required to connect to the existing 8-inch sewer in Harbour Town Dr (contract no. 99-2676A). On-site pump station is required. This extension would abut approximately 7 properties in addition to the applicant's. Rights-of-way would be required. Construction of this extension may involve the removal of trees, temporary disruption of stream valley.

COMPREHENSIVE WATER SUPPLY AND SEWERAGE SYSTEMS PLAN AMENDMENTS
County Executive's April 2012 Transmittal Packet

CLOVERLY - NORWOOD PLANNING AREA MAP AMENDMENTS

WSSCR 11A-CLO-01: Pg. 3

Average wastewater flow from the proposed development: 14,400 GPD. Program-sized sewer mains are not required to serve the property. Interceptor capacity is adequate. Treatment capacity is adequate.

DPS – Well & Septic: No comment.

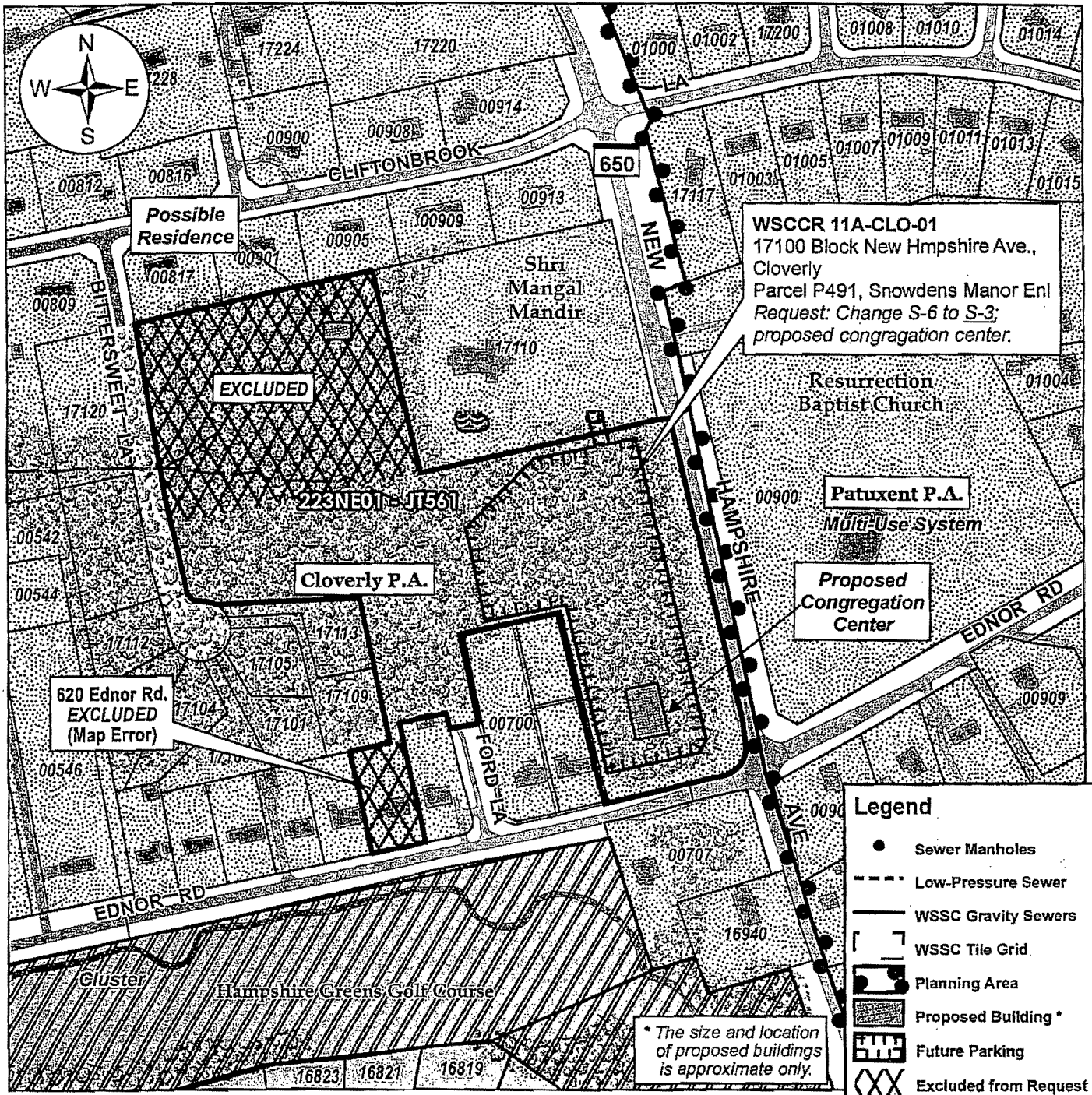
DEP note: This site was previously approved for four residential lots using septic systems.

ADS:ads/

R:\Programs\Water_and_Sewer\Projects\actions-COUNCIL\packets\2011\nov\ce-packet\staff-rpt=11a-clo-01=s.doc

Sewer Service Area Categories Map

WSSCR 11A-CLO-01 (Shri Mangal Mandir Religious Educational & Charitable Trust)



WSSCR 11A-CLO-01
 17100 Block New Hampshire Ave.,
 Cloverly
 Parcel P491, Snowdens Manor Enl
 Request: Change S-6 to S-3;
 proposed congregation center.

Possible
 Residence

EXCLUDED

Cloverly P.A.

620 Ednor Rd.
EXCLUDED
 (Map Error)

Patuxent P.A.
 Multi-Use System

**Proposed
 Congregation
 Center**

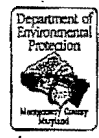
Legend

- Sewer Manholes
 - Low-Pressure Sewer
 - WSSC Gravity Sewers
 - WSSC Tile Grid
 - ▭ Planning Area
 - ▨ Proposed Building *
 - ▧ Future Parking
 - ⊗ Excluded from Request
 - ▨ Existing Parkland
 - ☼ Woodlands
- Sewer Categories**
- ▨ S-1
 - ▧ S-3
 - ▨ S-6

* The size and location
 of proposed buildings
 is approximate only.



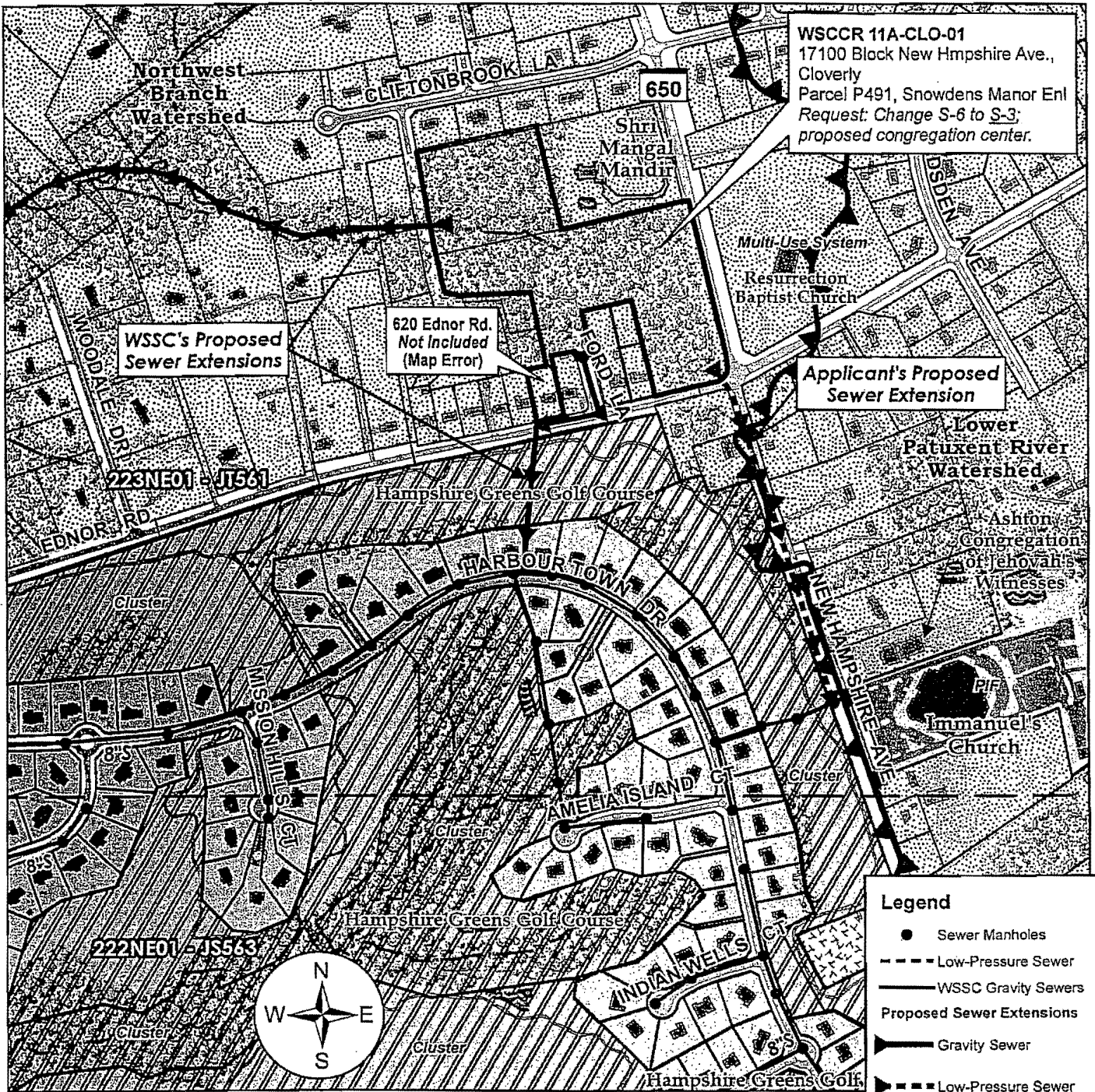
SCALE (Feet)



DEP
 Water and Wastewater
 Policy Group

Montgomery County, Maryland
 Draft 2010 Comprehensive Water Supply
 and Sewerage Systems Plan

Sewer Service Area Categories Map: WSCCR 11A-CLO-01 - Proposed Sewer Extension (Shri Mangal Mandir Religious Educational & Charitable Trust)



WSCCR 11A-CLO-01
 17100 Block New Hampshire Ave.,
 Cloverly
 Parcel P491, Snowdens Manor Enl
 Request: Change S-6 to S-3;
 proposed congregation center.

WSSC's Proposed
 Sewer Extensions

620 Ednor Rd.
 Not Included
 (Map Error)

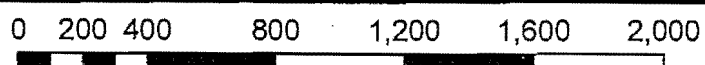
Applicant's Proposed
 Sewer Extension

Legend

- Sewer Manholes
- Low-Pressure Sewer
- WSSC Gravity Sewers
- Proposed Sewer Extensions
- Gravity Sewer
- Low-Pressure Sewer
- WSSC Tile Grid
- ▨ Existing Parkland
- ☼ Woodlands

Sewer Categories

- S-1
- ▨ S-3
- ▨ S-6



SCALE (Feet)



DEP
 Water and Wastewater
 Policy Group

Montgomery County, Maryland
 Draft 2011 Comprehensive Water Supply
 and Sewerage Systems Plan

orporation, partnership, or LLC. Please note, a contract purchaser may not file a category
range application.

2) Property/Site Description and Development:

Address See Item #1

Property's TAX ID # (please provide, if known) 00706865

Property/Site Size 16.53 Acres Identification (ie, Parcel

#) P491

Location/Closest cross-street Ednor Rd. and New Hampshire Ave.

Current Use Vacant Proposed Use Congregation Center and Parking

Subdivision Plan No. & Status N/A

(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-6 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:

The property had a previously approved Preliminary Plan (120060920) for 4 single family lots on septic and public water. The property has changed ownership to Shri Mangal Mandir with it's existing Temple on the adjacent parcel. Their intended use is to expand it's parking lot and build a new Congregation Center to be used for various religious functions. We would like to maintain S-6 the northwest part of the site for the potential to build one single family house on septic.

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. _____

COMPREHENSIVE WATER SUPPLY AND SEWERAGE SYSTEMS PLAN AMENDMENTS
 County Executive's April 2012 Transmittal Packet

PATUXENT WATERSHED CONSERVATION PLANNING AREA MAP AMENDMENTS

WSSCR 11A-PAX-01: Pg. 1

WSSCR 11A-PAX-01: Samson Getachew & Solomon Wubet

County Executive's Recommendation: Deny the request for sewer category S-1; maintain category S-6.

Property Information and Location Property Development	Applicant's Request: Service Area Categories & Justification						
<ul style="list-style-type: none"> • 16900 Block of New Hampshire Ave, Cloverly • Outlot A, Block B, Glencoe • District 05, acct. no. 01680377 • Map tile: WSSC – 223NE01; MD – JT61 • East side of New Hampshire Ave. (MD 650) south of Ednor Rd. • RC Zone; 2.00 acres • Patuxent Watershed Conservation Planning Area Cloverly Master Plan (1997) • Lower Patuxent River Watershed (MDE Use I) • <u>Existing use:</u> unimproved outlot • <u>Proposed use:</u> one single-family house 	Service Area Categories: <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 50%;">Existing</th> <th style="width: 50%;">Requested</th> </tr> </thead> <tbody> <tr> <td>W-1</td> <td>W-1 (no change)</td> </tr> <tr> <td>S-6</td> <td>S-1</td> </tr> </tbody> </table> Applicant's Explanation "Currently the property is a vacant lot with W-1 and S-6. We would like a change to S-1 so we can connect to public sewer system and build a single family dwelling."	Existing	Requested	W-1	W-1 (no change)	S-6	S-1
Existing	Requested						
W-1	W-1 (no change)						
S-6	S-1						

Executive Staff Report: The applicants have requested the approval of category S-1 to allow for the extension of public sewer service to vacant outlot on which they propose to build one single-family house. The site is zoned Rural Cluster (RC) and sewer service is therefore not consistent with either Water or Sewer Plan policies or with Cloverly Master Plan recommendations. Sewer mains are not currently available to the property; providing public sewer would require 400-foot main extension. Existing conditions and service policies do not support approval of the applicants' request; maintain S-6.

Agency Review Comments

M-NCPPC – Area 3 Planning Team: The 1997 Cloverly Master Plan states on page 91, "The extension of sewer service to residential, institutional, and special exception uses in the RC and RE-2 area is not consistent with this Plan because of potential impacts on the low-density character of both areas and conflicts with the long standing recommendation not to provide sewer service in the Patuxent watershed in order to control water quality in the reservoir." Recommendation: Deny S-3.

M-NCPPC – Parks Planning: No apparent park impact.

WSSC - Sewer: Basin: Northwest Branch. A 400-foot-long non-CIP-sized low-pressure sewer extension is required to serve the property. Most, if not all, of this extension would need to be grinder-pump and low-pressure sewer (if a portion is to be gravity sewer, then non-CIP-sized sewer will be used). This extension would connect to an existing 8-inch sewer in New Hampshire Avenue (contract no. 98-2304A) and would abut approximately 3 properties in addition to the applicant's. Rights-of-way may possibly be required. Flow from the proposed development: 300 GPD. Program-sized sewer mains are not required to serve the property. Interceptor and treatment are adequate.

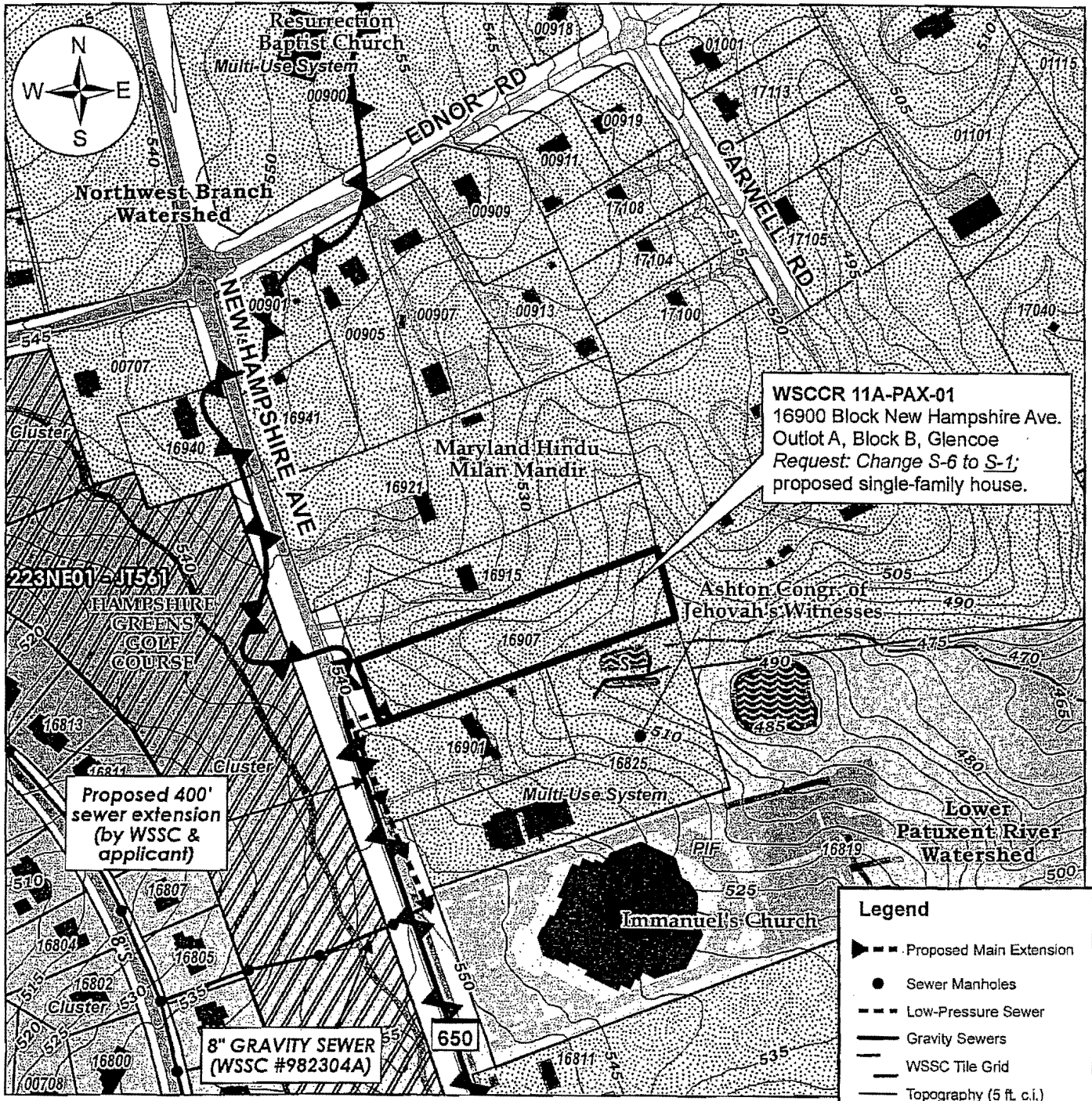
DPS – Well & Septic: The outlot failed perc tests in the 1970's due to a shallow water table. Public sewer is most likely the only way to make the outlot "build-able". Consideration (in the sewer design) should be given to other nearby parcels so that future sewer needs are met.

ADS:ads/

R:\Programs\Water_and_Sewer\Projects\actions-COUNCIL\packets\2011\nov\ce-packet\staff-rpt=11A-PAX-01.doc

Sewer Service Area Categories Map

WSSCR 11A-PAX-01 (Samson Getachew & Solomon Wubet)



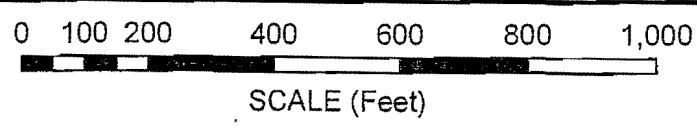
Legend

- Proposed Main Extension
- Low-Pressure Sewer
- Gravity Sewers
- WSSC Tile Grid
- Topography (5 ft. c.i.)
- Existing Parkland

Sewer Categories

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

DEP
Water and Wastewater
Policy Group



Montgomery County, Maryland
Draft 2011 Comprehensive Water Supply
and Sewerage Systems Plan

11A-PAX-01
Getachew/Wkxst

2) Property/Site Description and Development:

Address 16915 (Block-B) New Hampshire Ave, Silver Spring MD 20905
Property's TAX ID # (please provide, if known) 01680377
Property/Site Size 2.0000 Acre Identification (ie, Parcel #) _____
Location/Closest cross-street _____
Current Use Vacant lot Proposed Use Single Family dwelling
Subdivision Plan No. & Status _____

(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-1 OR No Change Multi-Use Shared
Current Sewer Category: S-6 Requested Sewer Category: S-1 OR No Change Multi-Use Shared

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

• Currently the property is a vacant lot with W-1 and S-6. We would like a change to S-1 so we can connect to public sewer system and build a single family dwelling.

Note: Continue on a separate page, if necessary

DEP Staff Use Only

Receipt Acknowledged: _____ / _____ Email OR _____ US Mail

Water _____ Sewer Sewer

WSSC Tile 223NE01

Tax Map JT561

Plan No. _____

Process Council

Master Plan Fairland (1997) Clowery (1997)

Planning Area Lower Patuxent

Zoning RC

Zoning Activity _____

Watershed Patuxent R.

CSPS Subwatershed _____

State Watershed Use Class I

GIS File _____

COMPREHENSIVE WATER SUPPLY AND SEWERAGE SYSTEMS PLAN AMENDMENTS
 County Executive's April 2012 Transmittal Packet

TRAVILAH PLANNING AREA MAP AMENDMENTS

WSSCR 11A-TRV-06: Pg. 1

WSSCR 11A-TRV-06: Mitchell Rales for the Glenstone Foundation

County Executive's Recommendation: Approve sewer category S-3 under the private institutional facilities (PIF) policy, with the following conditions and restrictions:

- Public sewer service is provided for the specific and exclusive use by the Glenstone Foundation for its existing and proposed museum facilities. No other structures on the site, including the applicant's personal residence and ancillary buildings, will receive public sewer service unless they become part of the non-profit foundation.
- Under this action, only those five properties identified in the following table as part of WSSCR 11A-TRV-06 will change from category S-6 to S-3 and will be eligible to receive public sewer service. All other properties in the applicant's holdings adjacent to or near the subject site will retain category S-6 and be excluded from public sewer service. (Other properties owned by the applicant may be considered for future sewer service by the County Council through the appropriate category change processes.)
- As a non-residential use, WSSC will require the applicant to pay all sewer extension costs and acquire any necessary sewer easements from other property owners. WSSC will allow access to the new main extension to only the museum; no other properties can connect to the pump/pressure sewer system. Extension costs can include:
 - Any odor mitigation measures required by WSSC, including those at and below the pressure sewer outfall point on Great Elm Drive, and
 - Any extraordinary sewer construction measures needed to mitigate the effects of sewer construction across Greenbriar Branch.

Property Information and Location Property Development	Applicant's Request: Service Area Categories & Justification																								
<ul style="list-style-type: none"> • 12002, 12204, & 12702 Glen Rd., Potomac (See below for additional property information) • Map tile: WSSC – 216NW12; MD – EQ63 • South side of Glen Rd. opposite Greenbriar Rd. • RE-2 Zone; 127.7 acres • Travilah Planning Area Potomac Subregion Master Plan (2002) • Watts Branch Watershed (MDE Use I) • <u>Existing use:</u> museum, private residence, agricultural <u>Proposed use:</u> expansion of existing museum use (residential and agricultural uses to remain without sewer service) 	<p>Service Area Categories:</p> <table border="1"> <thead> <tr> <th>Existing</th> <th>Requested</th> </tr> </thead> <tbody> <tr> <td>W-6</td> <td>W-6 (no change)</td> </tr> <tr> <td>S-6</td> <td>S-3</td> </tr> </tbody> </table> <p><u>Applicant's Explanation</u> (summarized from applicant's May 6, 2011, letter – attached) The applicant has proposed an expansion of an existing art museum, with the construction of a second building and additional outdoor exhibits. Public sewer service is being sought to avoid the need for large septic fields that, according to the foundation, could compromise the siting of the museum expansion and landscape and environmental initiatives. Sewer service would be provided by a dedicated low-pressure main extension through the site and along Lake Potomac Dr. to an existing gravity sewer main at Great Elm Dr. The foundation seeks approval of the request under the private institutional facilities (PIF) policy in the Water and Sewer Plan.</p>	Existing	Requested	W-6	W-6 (no change)	S-6	S-3																		
Existing	Requested																								
W-6	W-6 (no change)																								
S-6	S-3																								
<table border="1"> <thead> <tr> <th>Property Listing:</th> <th>Address</th> <th>Property I.D.</th> <th>Tax Acct. No.</th> </tr> </thead> <tbody> <tr> <td></td> <td>12002 Glen Rd.....</td> <td>Pt. Lot 3 (Par. N766), Oak Grove.....</td> <td>03039982</td> </tr> <tr> <td></td> <td>12204 Glen Rd.....</td> <td>Lot 4 (Par. N583), Oak Grove.....</td> <td>03676467</td> </tr> <tr> <td></td> <td>12703 Glen Rd.....</td> <td>Parcel P527, Belmont.....</td> <td>00390652</td> </tr> <tr> <td></td> <td>Glen Rd.....</td> <td>Parcel P600, Belmont.....</td> <td>02718853</td> </tr> <tr> <td></td> <td>Glen Rd.....</td> <td>Pt. Lot 3 (Par. N547), Oak Grove.....</td> <td>03412381</td> </tr> </tbody> </table>	Property Listing:	Address	Property I.D.	Tax Acct. No.		12002 Glen Rd.....	Pt. Lot 3 (Par. N766), Oak Grove.....	03039982		12204 Glen Rd.....	Lot 4 (Par. N583), Oak Grove.....	03676467		12703 Glen Rd.....	Parcel P527, Belmont.....	00390652		Glen Rd.....	Parcel P600, Belmont.....	02718853		Glen Rd.....	Pt. Lot 3 (Par. N547), Oak Grove.....	03412381	
Property Listing:	Address	Property I.D.	Tax Acct. No.																						
	12002 Glen Rd.....	Pt. Lot 3 (Par. N766), Oak Grove.....	03039982																						
	12204 Glen Rd.....	Lot 4 (Par. N583), Oak Grove.....	03676467																						
	12703 Glen Rd.....	Parcel P527, Belmont.....	00390652																						
	Glen Rd.....	Parcel P600, Belmont.....	02718853																						
	Glen Rd.....	Pt. Lot 3 (Par. N547), Oak Grove.....	03412381																						

COMPREHENSIVE WATER SUPPLY AND SEWERAGE SYSTEMS PLAN AMENDMENTS
County Executive's April 2012 Transmittal Packet

TRAVILAH PLANNING AREA MAP AMENDMENTS

WSSCR 11A-TRV-06: Pg. 2

Executive Staff Report:

The applicant, Mitchell Rales, has requested a sewer category change from S-6 to S-3 on behalf of the Glenstone Foundation in order to provide public sewer service to existing and proposed art museum facilities on the subject site located on Glen Road in Potomac. The applicant is not seeking the provision of public water service. The foundation, which operates the museum facilities, is a non-profit organization and as such, the provision of public sewer service is being sought under the private institutional facilities (PIF) policy in the Water and Sewer Plan. (See circle pgs. vii-ix.)

The site is zoned RE-2 and is located outside the sewer service envelope recommended in the 2002 master plan. However, the provision of public sewer service as proposed by this request is consistent with the requirements of the PIF policy, which does not require the site served to be within the planned public service envelope. No other sewer service policies specified in the Water and Sewer Plan or recommended in the master plan, including the peripheral sewer service policy, apply to the circumstances presented by this request.

This request differs somewhat from most PIF-based category change requests in several aspects:

- The PIF use is cultural, rather than the more-typical religious use; however, this has no bearing on its compliance with the PIF policy. The policy addresses any federally-recognized, not-for-profit use, and is not limited to only houses of worship.
- The property will remain under the ownership of the applicant for the foreseeable future, not the PIF user, which is responsible for the museum facilities and operation. Because of this arrangement, the preceding recommendation specifies that only the museum facilities can receive public sewer service. The applicant's private residence on the site and any associated buildings not directly related to the museum's function cannot be served by the extension of sewer service to the site.
- More than one museum building on the site will be served by the proposed main extension. This is unusual but not without precedent. While most PIF approvals, such as a church or other religious use, have a single structure served by public systems, a single service connection and hookup can serve a sanctuary building and a related structure such as a parish hall or rectory. A single pumping system, whether using one or several pumps, may serve more than one structure on a site. Only one sewer main extension will leave the property to connect with the existing WSSC sewerage system.

The applicant proposes to serve both an existing and a proposed museum building on the site. Both structures are located within the area included in this category change request. (It is reasonable to expect that smaller structures for service and maintenance may also be served.) Additional facilities for parking and a gateway entrance are proposed for locations outside the area included in this request. The applicant has stated that there are no plans to provide sewer service to these facilities. The project engineer has provided information showing that overall the existing and planned site development will result in approximately 16 percent impervious area. The applicant has acquired a number of properties adjacent to and near the project site with the purpose of creating a buffer around the museum site. *Only those properties included in the applicant's request (see the table above) are under consideration for category S-3 and public sewer service at this time.*

The applicant has proposed the use of a 1,500-foot low-pressure sewer main extension to provide sewer service to the site. An on-site pump facility will collect flows from locations on the museum site and pump them into a small-diameter sewer main running southeast and under Greenbriar Branch. The pressure sewer would leave east side of the project site, running between two residential properties to reach Lake Potomac Drive. (The applicant has proposed to run the main extension along an existing equestrian trail easement between two lots fronting on Lake Potomac Drive.) The extension would then follow Lake Potomac Drive southeast to an existing gravity sewer along Great Elm Drive. (See the map on circle pg. 17.) The applicant's project engineer has provided an explanation of the construction techniques planned for the crossing under Greenbriar Branch (see circle pgs. 34-35).

The pressure main extension will be dedicated to the museum's use only; no other properties along the sewer alignment will be allowed access to the main. Neither can other gravity or low-pressure mains be allowed to extend further from the proposed main extension to serve other properties. All of the properties located along the off-site sewer extension alignment are already improved with single-family houses. The proposed sewer main conforms to the PIF policy's requirements for the extension of service to existing PIF uses.

COMPREHENSIVE WATER SUPPLY AND SEWERAGE SYSTEMS PLAN AMENDMENTS
County Executive's April 2012 Transmittal Packet
TRAVILAH PLANNING AREA MAP AMENDMENTS

WSSCR 11A-TRV-06: Pg. 3

The gravity sewer extension alternative presented by WSSC, a 6,400-foot main extension to the existing Watts Branch trunk sewer near River Road and Stoney Creek Road, is not reasonable and would not satisfy the criteria for service in the PIF policy.

Agency Review Comments

M-NCPPC – Area 3 Planning Team Preliminary staff comments: This application is for public sewer service to serve an existing and future museum and is submitted under the private institutional policy in the County's Ten Year Water Supply and Sewerage Systems Plan. The application does not meet the Potomac Master Plan criteria for extension of sewer service.

The Master Plan recommend against extensions that would disrupt streams and their undisturbed buffer areas. Even if the proposed extension were bored below ground, any future leak, exposure of the pipe through stream relocation, or access for maintenance would disrupt the stream, which flows into the Watts Branch and into the Potomac just upstream of the County's water intake and treatment facility.

Unresolved Issues: The proposed sewer extension (the distance from the proposed museum to Great Elm Drive is approximately 3,000 linear feet) is greater in length than any previously approved by the County Council for a private institutional facility. It also differs from typical PIF applications in several other ways:

1. It is not for one specific facility, but for two and possibly more structures.
2. PIF applications typically are accompanied by detailed plans of the facility to be served. This one is not. As of January 23, 2012, the applicant is not in control of all properties depicted in sketch level plans.
3. Typically, PIF applications depend on a category change for construction to proceed. This one does not. The museum expansion can be built with septic fields. The rationale for the application includes the desire for flexibility in locating large and sculptures using heavy equipment.

Potential Alternative: Staff believes that the use of a hi-tech biological treatment plant for approximately 7000 gallons per day should be explored. The level of treatment and discharge would be higher than most municipal plants and would require concurrent State and County review. Such a plant would also not take up the space necessary for septic and reserve fields.

[DEP-note: See circle pgs. 15A-15B for expanded comments from M-NCPPC staff.]

M-NCPPC – Parks Planning: No apparent park impact.

WSSC - Sewer: Watts Branch sewer basin, Blue Plains WWTP.

- **Gravity service** to this property would require an approximately 6,400-foot-long non-CIP-sized sewer extension, connecting to the 10-inch sewer near River Road and Stoney Creek Road (contract no. 96-1649A). This extension would abut many properties in addition to the applicant's. Rights-of-way would be required. Construction of this extension may involve the removal of trees, and the temporary disruption of wetlands.
- **Pressure sewer service** would require an approximately 1,500-foot-long extension*, connecting to the 12-inch sewer in Great Elm Road. The feasibility of the pressure sewer will be evaluated when more information is available. If a pressure sewer is approved, it will be a limited access pressure sewer for this property only. Flow from the proposed development will need to be determined in the future when more information is available. Program-sized sewer mains are not required to serve the property. Interceptor and treatment capacity are adequate.

** DEP note: 1,500 feet is the length of the off-site sewer extension. Preceding comments by M-NCPPC staff have noted an extension length of over 3,000 feet. That distance adds the length of the main on the museum site to the 1,500-foot off-site extension.*

DPS – Well & Septic: The property has a preliminary plan previously approved for multiple lots for single family dwellings. The septic areas may not be adequate for larger museum facilities. Additional soil testing may be

COMPREHENSIVE WATER SUPPLY AND SEWERAGE SYSTEMS PLAN AMENDMENTS
County Executive's April 2012 Transmittal Packet

TRAVILAH PLANNING AREA MAP AMENDMENTS

WSSCR 11A-TRV-06: Pg. 4

needed and system design requirements will increase as the size of and activities associated with the museum increase.

ADS:ads/

R:\Programs\Water_and_Sewer\Projects\actions-COUNCIL\packets\2011nov\ce-packet\staff-rpt=11a-trv-06=s.doc

This application is for public sewer service to serve an existing and future museum and is submitted under the private institutional policy in the County's Ten Year Water Supply and Sewerage Systems Plan.

The Potomac Master Plan allowed for a very limited extension of sewer service for RE-2 properties at the periphery of the sewer service envelope. It specifically excluded properties adjacent to and in the vicinity of the lower Greenbriar Branch properties. This property confronts the Greenbriar properties, thus would not qualify under the peripheral sewer service policy. If the application had been to serve a residential subdivision, it would thus not have qualified.

The Master Plan does not specifically address private institutional facilities or the Rales property but did recommend against extensions that would disrupt streams and their undisturbed buffer areas. Even if the proposed extension were bored below ground, any future leak, exposure of the pipe through stream relocation, or maintenance access would disrupt the stream. These environmental concerns pertain, regardless of whether or not the application qualifies under the Council's PIF policy.

According to the applicant, septic fields would compromise the location of an additional museum and landscape and environmental initiatives. Community planning staff believes more evidence of need is required as a reasoned justification for such a lengthy extension of sewer service. The total property area is 127.7 acres with large swathes of open land available for septic fields. We understand that the applicant will provide more information regarding this issue.

To staff's recollection, the proposed sewer extension (the distance from the proposed museum to Great Elm Drive is approximately 3,000 linear feet) is greater in length than any previously approved by the County Council for a private institutional facility. It also differs from typical PIF applications in that it is not for one specific facility, but for two and possibly more structures. PIF applications typically are accompanied by detailed plans of the facility to be served. We understand that MCDEP staff will seek more detail on the proposed structure to accurately determine potential flow factors. Planning staff believe that information should also be sought regarding the long term plan for the residence (not owned by the non-profit entity). It should be factored into the flow calculations if it is intended that it be converted into a museum facility in the future.

The following are pertinent extracts from the Sewer Service Policies recommended by the *2002 Approved and Adopted Potomac Subregion Master Plan*, followed by preliminary staff comments on the proposed category change.

Sewer Service Policies: Low-Density Areas (pg. 22)

"Although this Master Plan generally recommends against the continued provision of community sewer service to low density (RE-1 and RE-2) areas, it does support limited approvals for community sewer service for the low density areas within the envelope¹ and along its currently-established edge². The focus of this limited service and expansion should be on properties which already abut existing or proposed mains³ and on properties which can be served by sewer extensions within public rights-of-way⁴. Main extensions that would disrupt⁵ streams and their undisturbed buffers areas should be avoided⁶. Any approvals granted along the currently-established edge should not be cited as justification for expanding the sewer service envelope beyond the limits recommended in the Plan⁷."

Sewer Service Recommendations (pg 23)

Provide community sewer service in the Subregion generally in conformance with the Water and Sewer Plan service policies⁸. This will generally exclude areas zoned for low-density development (RE-1, RE-2 and RC) not already approved for service from further extension of community service.

Allow for the limited provision of community sewer service for areas zoned RE-1 and RE-1 within⁹ and at the periphery¹⁰ of the proposed sewer service envelope. Exclude from this peripheral service policy properties adjacent to and in the vicinity of the Palatine subdivision and the lower Greenbriar Branch properties¹¹, and all properties within the Piney Branch Subwatershed, the Darnestown Triangle, and the Glen Hills Area (until completion of the study described on page 24, which will evaluate whether

this exclusion should continue in the future). Emphasize the construction of sewer extension, if needed¹², along roads rather than through stream valleys¹³.

¹ This property is not within the envelope.

² This property is not "along" the edge as currently established.

³ This property does not abut existing or proposed mains.

⁴ It has not been shown if the main could or should be extended entirely within a public right-of-way.

⁵ Technically it could but it would be expensive and tear up a rustic road.

⁵ Some disruption could be avoided by boring under stream.

⁶ WSSC notes that a pressure sewer on the subject property would not be a main, but that once it leaves the subject property it will be required to be in either a WSSC easement or public right-of-way which would classify it as a "main". The portion of the pressure sewer within the buffer and stream is on the Rales property but not on the same parcel/lot as the new Museum. Because the pressure sewer will cross the Rales residential lot, will it need to be in an easement and therefore be classified as a main?

⁷ The two lots that have already been granted sewer service on Lake Potomac Drive cannot be used to justify this connection.

⁸ The PIF policy is incorporated within the Ten Year Water and Sewerage Systems Plan, but should not override environmental issues identified in the Potomac Master Plan.

⁹ This property is not within the sewer envelope

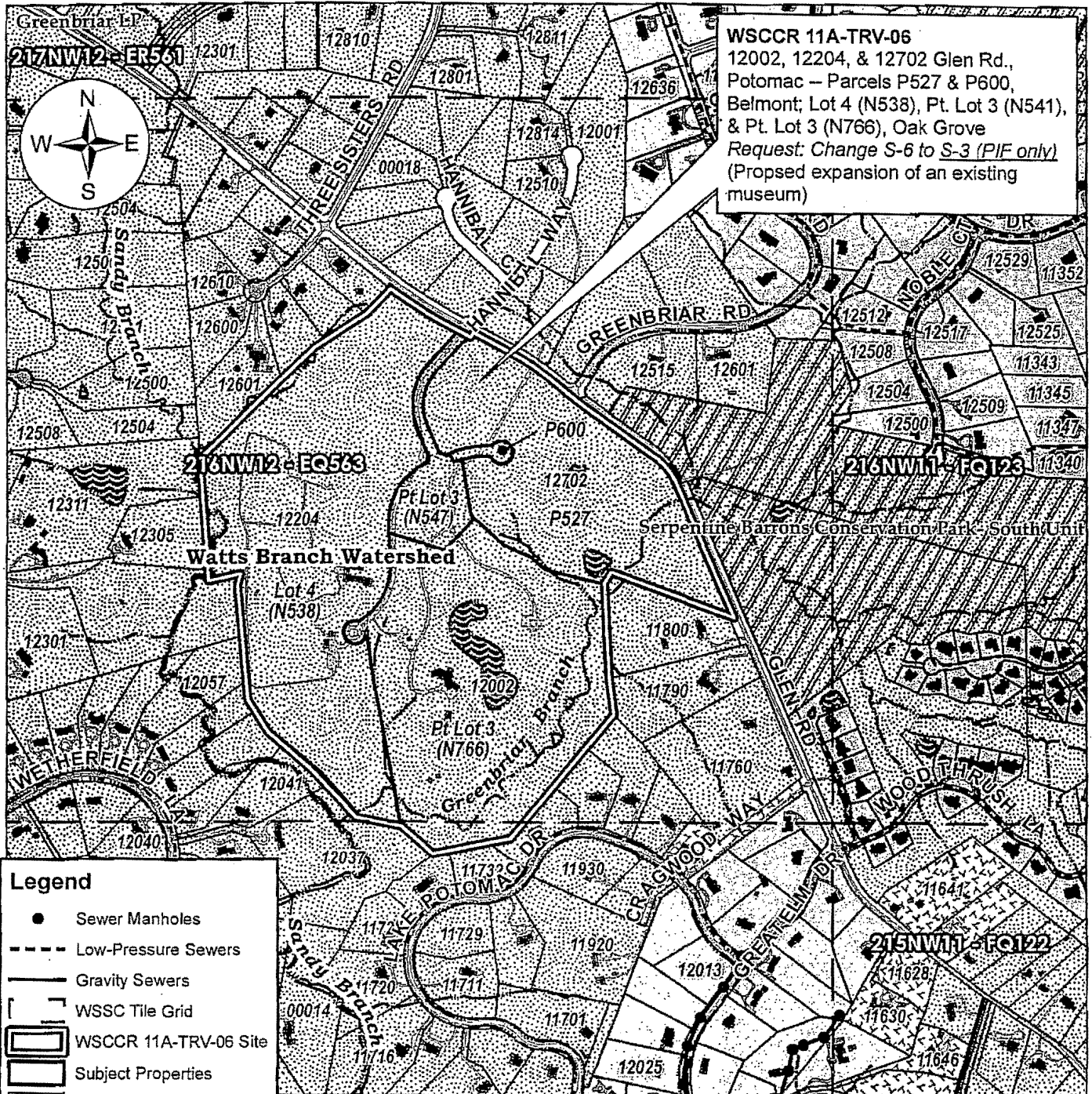
¹⁰ Not "at" the periphery, especially if you exclude the two lots given service on Lake Potomac Drive. The Potomac Plan specifically tells us not to use other approvals as justification for expansion.

¹¹ This property confronts the Lower Greenbriar Branch Properties shown on Page 83 of the Potomac Plan. It is therefore excluded from the *Peripheral Sewer Policy*.

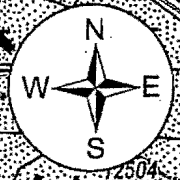
¹² Not needed if the septic field option is pursued.

¹³ Avoid stream crossings.

Sewer Service Area Categories Map WSSCR 11A-TRV-06 (Glenstone Foundation)



WSSCR 11A-TRV-06
 12002, 12204, & 12702 Glen Rd.,
 Potomac - Parcels P527 & P600,
 Belmont; Lot 4 (N538), Pt. Lot 3 (N541),
 & Pt. Lot 3 (N766), Oak Grove
Request: Change S-6 to S-3 (PIF only)
 (Proposed expansion of an existing
 museum)



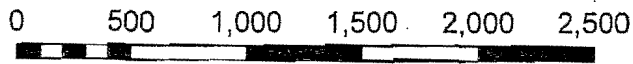
Legend

- Sewer Manholes
- Low-Pressure Sewers
- Gravity Sewers
- WSSC Tile Grid
- ▭ WSSCR 11A-TRV-06 Site
- ▭ Subject Properties
- ▨ Existing Parkland

Sewer Categories

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

Travilah Planning Area



SCALE (Feet)

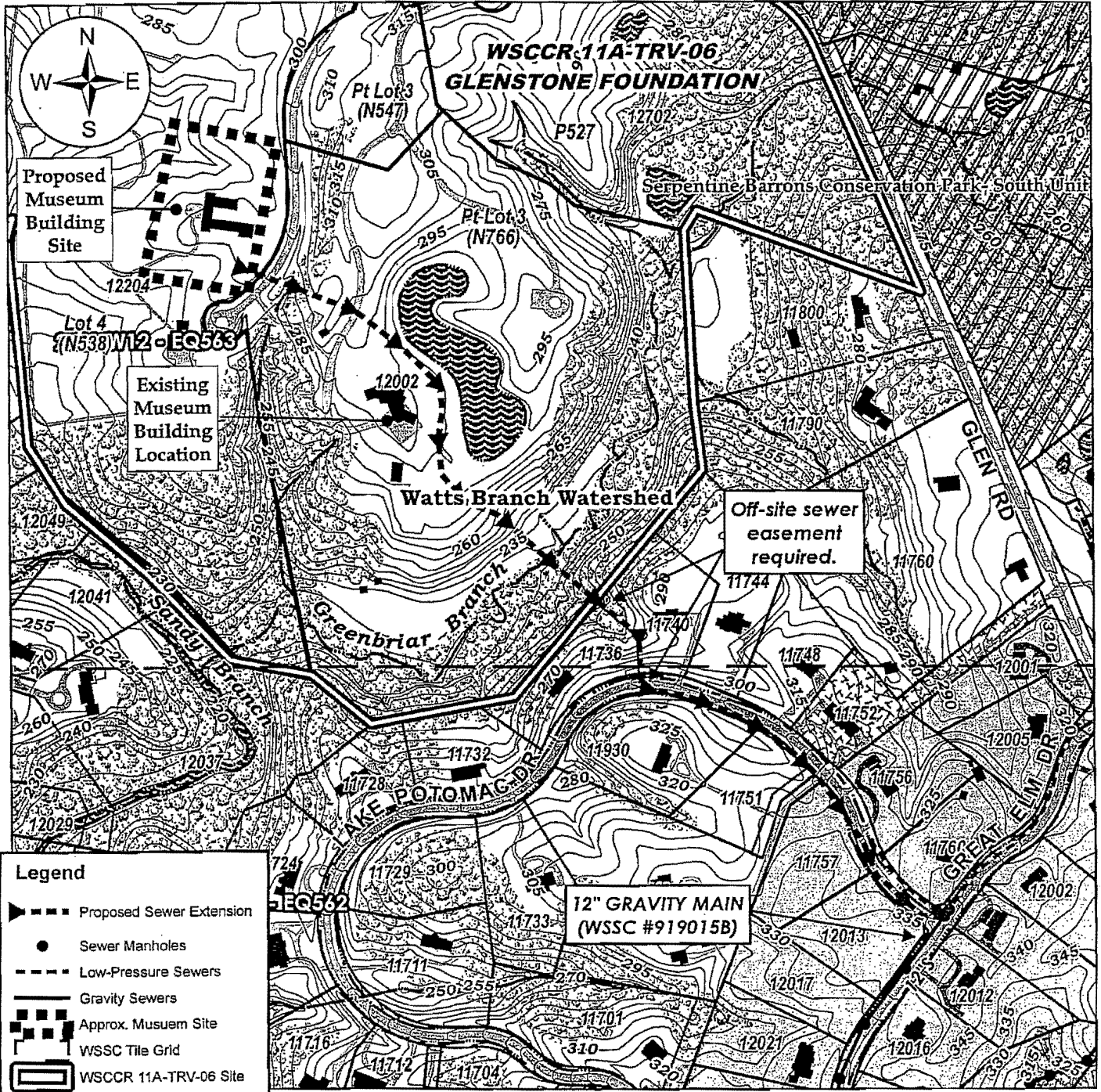
Montgomery County, Maryland
 Draft 2011 Comprehensive Water Supply
 and Sewerage Systems Plan



DEP
 Water and Wastewater
 Policy Group

Sewer Service Area Categories Map

WSSCR 11A-TRV-06 (Glenstone Foundation) - Sewer Extension Proposal



Legend

- Proposed Sewer Extension
- Sewer Manholes
- Low-Pressure Sewers
- Gravity Sewers
- Approx. Museum Site
- WSSC Tile Grid
- WSSCR 11A-TRV-06 Site
- Subject Properties
- Topography (5 ft. c.i.)
- Existing Parkland
- Woodlands

Sewer Categories

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

Travilah Planning Area



SCALE (Feet)

Montgomery County, Maryland
Draft 2011 Comprehensive Water Supply
and Sewerage Systems Plan



DEP
Water and Wastewater
Policy Group

11A-TRV-06
Glenstone
Foundation

2) Property/Site Description and Development:

Address 12002, 12702, AND OTHERS GLEN ROAD ROCKVILLE, MD 20854
Property's TAX ID # (please provide, if known) DISTRICT 06: 03412381, 02718853, 03676467, 00390652, 03039982
Property/Site Size 127.7 Ac Identification (ie, Parcel #) N547, P600, N538, P527, N766
Location/Closest cross-street Greenbriar Road
Current Use RESIDENTIAL/MUSEUM/AGRICULTURAL Proposed Use SAME
Subdivision Plan No. & Status _____

(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-__ OR No Change Multi-Use Shared
Current Sewer Category: S-6 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 LETTER.

Note: Continue on a separate page, if necessary

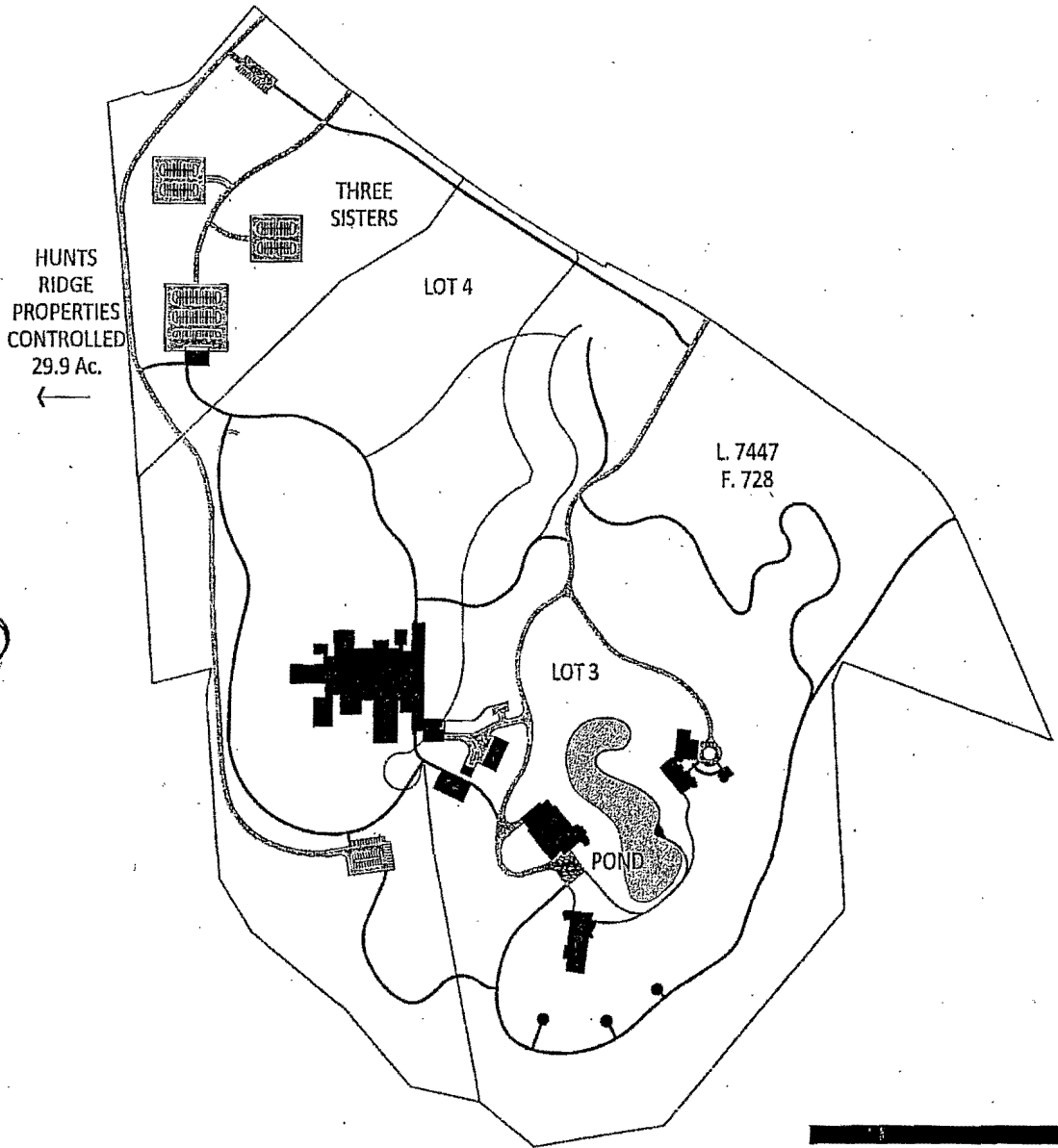
DEP Staff Use Only

Receipt Acknowledged: Email OR US Mail

Water _____
Sewer Sewer
WSSC Tile 216NW12
Tax Map EQ563
Plan No. (PENDING)
Process COUNCIL
Master Plan Potomac (2002)
Planning Area Travilah
Zoning RE-2
Zoning Activity -
Watershed Watts Br.
CSPS Subwatershed _____
State Watershed Use Class I
GIS File _____

CCRFormJuly05.doc

K:\1501-2000\1654\documents\VM1654A\planning\environmental\Water and Sewer Category Change Application to DEP.doc



IMPERVIOUS SURFACES CALCULATIONS

GLENSTONE II
ANALYSIS FOR CATEGORY CHANGE AND POTENTIAL IMPERVIOUS CAP
ULTIMATE IMPERVIOUS AREAS: (PROPOSED & EXISTING TO REMAIN)

THREE SISTERS (SEE NOTE 1):		20.29 AC
PROP. ROADWAY:	142,469 SF	3.27 AC (16.12%)
PROP. WALKING PATH:	9,774 SF	0.22 AC (1.11%)
PROP. BUILDINGS:	16,884 SF	0.38 AC (1.91%)
	169,127 SF	3.88 AC (19.14%)

LOT 4:		49.9 AC
PROP. ROADWAY:	48,712 SF	1.12 AC (2.24%)
PROP. WALKING PATH:	32,178 SF	0.74 AC (1.48%)
PROP. BUILDINGS:	43,918 SF	1.00 AC (2.02%)
PROP. GREEN ROOF:	30,000 SF	0.69 AC (1.38%)
PROP. WATER FEATURES:	21,447 SF	0.48 AC (0.96%)
EX. WALKING PATH:	14,285 SF	0.33 AC (0.66%)
	192,597 SF	4.42 AC (8.86%)

LOT 3 AND PARCEL L. 7447 F. 728:		77.2 AC
PROP. ROADWAY:	14,624 SF	0.34 AC (0.44%)
PROP. WALKING PATH:	85,382 SF	1.96 AC (2.54%)
PROP. BUILDINGS:	19,841 SF	0.45 AC (0.58%)
EX. POND:	89,498 SF	2.05 AC (2.65%)
EX. ROADWAY:	72,756 SF	1.67 AC (2.18%)
EX. WALKING PATH:	14,285 SF	0.33 AC (0.42%)
EX. BUILDINGS:	50,038 SF	1.15 AC (1.49%)
	340,672 SF	7.82 AC (10.13%)

HUNTS RIDGE (SEE NOTE 2):		29.9 AC
EX. & PROP. IMPERVIOUS:	0 SF	0.00 AC (0.00%)

TOTAL ULTIMATE IMPERVIOUS AREAS OF PROJECT:	702,348 SF	16.12 AC
--	------------	----------

*SHOWN THROUGHOUT PROJECT SITE BUT ASSUMED TO GO ON LOT 3 AND LOT 4 DELT

IMPERVIOUS AREAS TO BE REMOVED

LOT 4:		49.9 AC
EX. SURFACES AND STRUCTURES TO BE REMOVED:	87,070 SF	2.00 AC (4.01%)
	87,070 SF	2.00 AC (4.01%)

LOT 3 AND PARCEL L. 7447 F. 728:		77.2 AC
EX. SURFACES AND STRUCTURES TO BE REMOVED:	51,889 SF	1.18 AC (1.54%)
	51,889 SF	1.18 AC (1.54%)

TOTAL TO BE REMOVED FROM LOT 3 & LOT 4		3.18 AC (2.51%)
---	--	-----------------

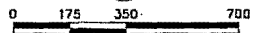
TOTAL IMPERVIOUS, INCLUDING AREAS TO BE REMOVED ON LOT 3 & 4 (FOR INTERIM CONDITION- TOTAL MAX AT ANYTIME)		19.31 AC
---	--	----------

	TOTAL IMPERVIOUS	LOT AREA	%
LOT 3, LOT 4, PARCEL L. 7447 F. 728, THREE SISTERS, & HUNTS RIDGE	19.31 AC	177.35 AC	10.89% IMPERVIOUS

- NOTES:
1. LOT 1 ON THREE SISTERS IS NOT CURRENTLY OWNED BY THE FOUNDATION. CALCULATIONS ASSUME A FUTURE ACQUISITION. LOTS INCLUDED IN THIS CALCULATION ARE LOTS 1 THROUGH 4.
 2. INCLUDES LOTS 21, 23-26, 28, 30 & PARCELS B & D
 3. CONTINGENCIES SHOULD BE APPLIED FOR FINAL DESIGN AND FUTURE DEVELOPMENT NOT CONSIDERED AT THIS TIME.
 4. IMPERVIOUS AREAS ABOVE INCLUDE 30,000 SF OF GREEN ROOF ON BUILDINGS AND APPROXIMATELY 111,000 SF OF WATER FEATURES AND POND.



Glenstone II
Potomac, Maryland
Impervious Areas
Exhibit



11A-TRV-06
Glenstone
Foundation

LINOWES
AND BLOCHER LLP
ATTORNEYS AT LAW

May 20, 2011

Barbara A. Sears
301.961.5157
bsears@linowes-law.com

Mr. Alan Soukup
Montgomery County Department of
Environmental Protection
Watershed Management Division
255 Rockville Pike, Suite 120
Rockville, MD 20850-4166

Re: Sewer Category Change Request; 127.7 Acres on Glen Road, Potomac, Maryland; Parcel Nos. N547 (Tax Account 3412381), P600 (Tax Account 2718853), N538 (Tax Account 3676467), P527 (Tax Account 0390652) and N766 (Tax Account 3039982) ("Property")

Dear Mr. Soukup:

On behalf of our client, Glenstone Foundation ("Foundation" or "Applicant"), we hereby submit the enclosed application for a Sewer Category Change Request from S-6 to S-3.

THE PROPERTY

The Property, containing 127.7 acres, is located on the west side of Glen Road in Potomac, Maryland, is zoned RE-2 and is comprised of the above-referenced parcel and tax account numbers (Exhibit "A"). The Property currently includes a private museum known as Glenstone, which is available to the public by appointment, and the residence of Mitchell and Emily Rales, founders of Glenstone.

Glenstone brings a unique cultural asset to Montgomery County. It provides an exceptional resource and learning experience for those who wish to appreciate art, architecture and landscaping. As expressed in Glenstone's Mission Statement, Glenstone seamlessly integrates art, architecture, and landscape into a serene and contemplative environment to form a unique connection between the art and visitors (Exhibit "B").

THE APPLICATION

The existing uses on the Property are served by septic systems. The Foundation proposes to expand the museum with the construction of a new museum building. In connection with the planning of that new facility, the Foundation seeks to connect to the public sewer system to avoid creation of additional large septic fields on the Property that would compromise the siting of the

Glenstone
11A-TR-06

LINOWES
AND **BLOCHER** LLP
ATTORNEYS AT LAW

Mr. Alan Soukup
May 20, 2011
Page 2

museum and planned works of sculpture, as well as the landscape and many environmental initiatives. The Property is currently served by an on-site well system. The Applicant is not seeking to change the current water category (W-6) or to hook up to the public water system.

Although not in the existing sewer envelope, the Property is proximate to it and in close proximity to existing sewer mains (Exhibit "C"). The Foundation has retained the civil engineering services of VIKA Maryland, LLC, to investigate the various alternative routes by which the Property could access public sewer service. The preferred route would provide for an on-site pump and low-pressure small diameter sewer main exiting the Property from the south and into Lake Potomac Drive for a distance of approximately 1,000 feet to an existing gravity sewer man-hole also located in Lake Potomac Drive (Exhibit "D").

The Foundation has qualified for a federal tax exemption under the provisions of Section 501 of Title 26 of the United States Code (Internal Revenue Service) (Exhibit "E"). It is planned that the Foundation will own the new museum building if the category change is granted and the project goes forward. As such, the Foundation is seeking the subject sewer service category change and access to the public sewer system pursuant to Chapter 1, Section (II) (E) (4), "Community Service for Private Institutional Facilities," of the County's approved Ten Year Comprehensive Water Supply and Sewerage Systems Plan ("Ten Year Plan"). This Section of the Ten Year Plan is typically referred to as the PIF Policy.

PIF POLICY

The Application conforms to the terms and provisions of the PIF Policy. The relevant sections of the PIF Policy in part provide as follows:

b. **"Facilities Located Outside the Community Service Envelopes –** For existing or proposed PIF uses located outside the acknowledged water and/or sewer envelopes, the County Council shall consider requests for the provision of community service for PIF uses according to the following criteria:

i. * * *

ii. **Sites Requiring New Water and/or Sewer Mains Extensions –** For cases where the provision of community service for a PIF use requires new water and/or sewer mains, the following criteria shall apply:

- For existing PIF uses service area category amendments may be approved for sites only where required

**L&B 1537770v3/11659.0001

11A-TEL-06
Glenstone

LINOWES
AND **BLOCHER LLP**
ATTORNEYS AT LAW

Mr. Alan Soukup

May 20, 2011

Page 3

water and/or sewer main extensions do not threaten to open undeveloped land to development contrary to the intent of the relevant local area master plan.

* * *

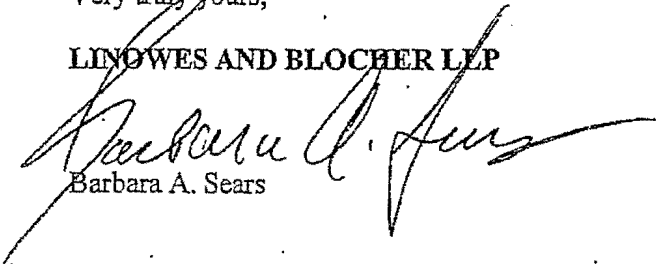
- c. **Main Extensions for PIF Uses** – Main extensions outside the acknowledged community service envelopes, where required, shall be designated ‘Limited Access’ consistent with the Limited Access Water and Sewer Mains Policy. Where community sewer service for a PIF use will be provided by low pressure mains, those mains shall be dedicated only to that PIF use and generally not eligible for additional service connections....”

As indicated, Glenstone is located outside the sewer service envelope and is an existing PIF use. The PIF Policy allows for a service area category change where, as in this case, the sewer main extension does “not threaten to open undeveloped land to development, contrary to the intent of the relevant local area master plan.” As you can see from Exhibit “D”, the proposed sewer alignment, as it exits the Property, would progress down Lake Potomac Drive to an existing WSSC gravity sewer manhole. The alignment would not “threaten to open undeveloped land to development” for two important reasons. First, as depicted on Exhibit “D”, the proposed pressure main would abut subdivided lots on Lake Potomac Drive that are already developed with single family homes. Second, the proposed sewer extension would be in the form of low pressure sewer and would, therefore, be dedicated solely to the use of Glenstone as a restricted line. Thus, even if the properties which abut the proposed sewer main extension on Lake Potomac Drive were in fact unimproved and undeveloped, they would not be able to hook into this dedicated low pressure sewer main.

For all of the above reasons, the Foundation respectfully submits that its request for a sewer category change conforms to the provisions outlined in the Ten Year Plan and should, therefore, be granted. Thank you for your assistance in this matter. Should you have any additional questions or concerns, please do not hesitate to contact me. The Applicant looks forward to working with you and the Council as this application undergoes further consideration.

Very truly yours,

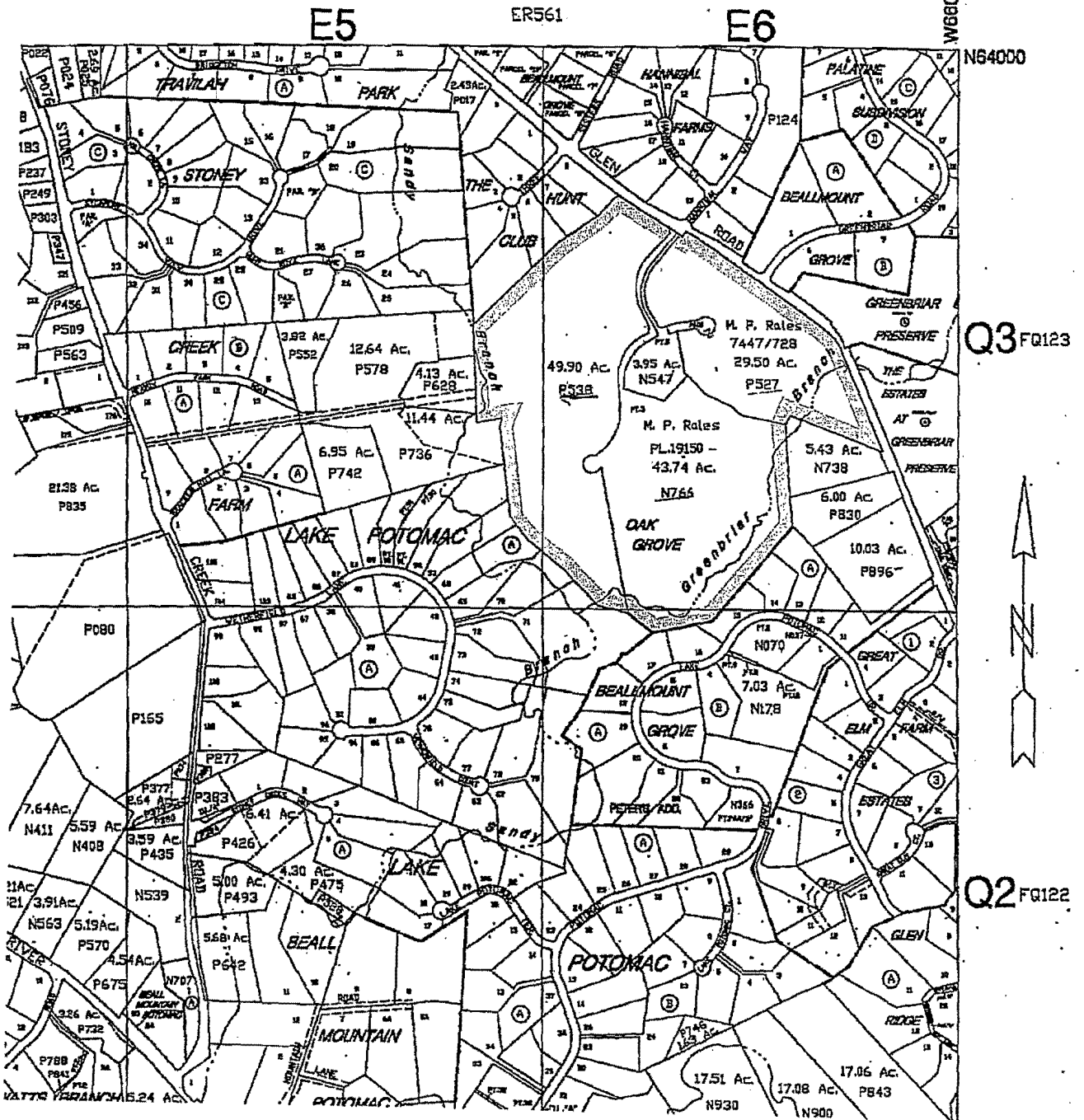
LINOWES AND BLOCHER LLP


Barbara A. Sears

Enclosures

**L&B 153770v3/11659.0001

(22)



MAP EQ
MONTGOMERY COUNTY MARYLAND

Glenstone II
Rockville, Maryland

Exhibit A

Tax Map
For Sewer Category Change Request



Mission

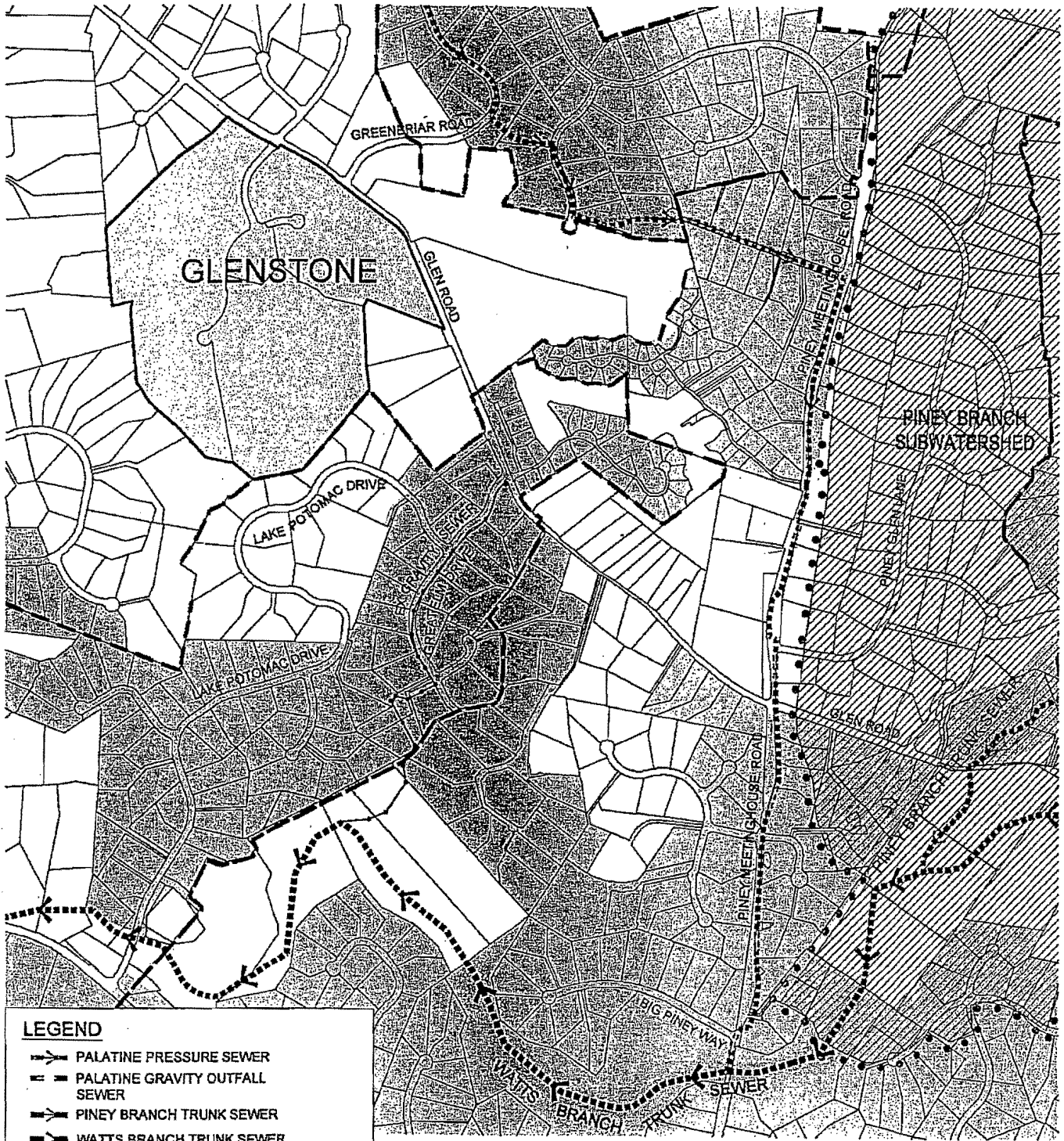
Glenstone seamlessly integrates art, architecture, and landscape into a serene and contemplative environment to form a unique connection between art and visitor. It expresses the personal vision of its founders by assembling and presenting post-World War II art of the highest quality in a series of refined architectural and outdoor spaces. These settings exist to exhibit works of art—created from 1945 through the lifetime of Glenstone's founders—that represent the greatest historical shifts in how art is seen and experienced.

Core Values

- Continuous improvement as a way of life
- Connoisseurship in art, architecture, landscape, and aesthetic experiences
- Unequivocal excellence in everything we do
- Intellectual integrity and honesty
- Long-term defines the way we think

Vision of Glenstone in 25 Years

- Glenstone will be recognized as having created a new museum model, and will be considered an essential experience for anyone with a serious interest in postwar art.
- While established art museums such as Museum of Modern Art may possess more works, none will surpass Glenstone in its unique combination of consistent quality, thoughtful presentation, and intimacy of the overall experience.
- Every work in Glenstone's collection will be acknowledged as among the very best and most significant examples of the artist's achievement.
- Glenstone's architecture will consist of the most refined physical settings, with each building existing first and foremost in service to the art, and second as a testament to the vision of the architect who created it.
- The landscape will be known as the definitive environment for art outdoors, enhancing the art and architecture and encouraging self-directed exploration and discovery.
- Glenstone will be a living legacy of the vision, connoisseurship, dedication and public-mindedness of its founders.



LEGEND

- PALATINE PRESSURE SEWER
- PALATINE GRAVITY OUTFALL SEWER
- PINEY BRANCH TRUNK SEWER
- WATTS BRANCH TRUNK SEWER
- PINEY BRANCH SUBWATERSHED LIMITS
- PINEY BRANCH SUBWATERSHED

SEWER SERVICE CATEGORY LEGEND

- AREAS CURRENTLY SERVED OR GIVEN PRIORITY FOR EXTENSION OF PUBLIC SERVICE

*NOTE: INFORMATION BASED ON MONTGOMERY COUNTY WEB-INTERFACE (GIS) SERVICE.



Glenstone II
Potomac Maryland

Exhibit C

Sewer Envelope Information
For Sewer Category Change Request



RECEIVED

OCT 11 2011

Environmental
Protection

October 7, 2011

Barbara A. Sears
bsears@linowes-law.com
301.961.5157

Mr. Callum Murray
The Maryland-National Capital Park
and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910-3760

Re: Category Change Application No. 11A-TRV-06, Glenstone Foundation ("Application")

Dear Callum:

On behalf of the Glenstone Foundation, the purpose of this letter is to respond to your requests for some further information on the Glenstone Application. Below, we have identified your requests and our responses. It is hoped this information will assist you and Staff in your review.

I. Description of Pressure Sewer Construction and Maintenance Issues

Enclosed as Attachment "A" please find a Memorandum dated October 5, 2011 from VIKA, Maryland, LLC, describing the construction details and technologies of the pressure sewer line to serve Glenstone. This Memorandum also addresses mitigation of anticipated impacts and future maintenance.

II. What are the Benefits of Public Sewer when Compared to Possible Septic Service?

Glenstone's vision is long term. Accordingly, Glenstone is planning a sustainable facility for the next 100-year timeframe. Based upon its Mission and the evaluations of its engineering experts, Glenstone strongly believes that septic is inconsistent with its environmental and long-term planning goals. Initially, septic does not facilitate the many existing and planned environmental initiatives that are part of the Glenstone Mission. These initiatives are summarized below, along with the results of evaluations made by our environmental and civil engineering consultants on the issue of the use of septic.

A. Specific environmental initiatives Glenstone is currently engaged in or plans to undertake as a part of the project:

- **Organic Lawn Care.** In 2009, Glenstone began to collaborate with Paul Tukey, recognized as one of the country's leading experts on organic lawn care. Over the past two years, the grounds maintenance program at Glenstone has become a

Mr. Callum Murray
October 7, 2011
Page 2

completely organic program. Currently, no pesticides and no synthetic fertilizers are used on the Glenstone property.

- **Pilot program with University of Maryland.** This program was initiated in July 2011 to study and develop methods for sustainable organic turf. The multi-year program was designed by the SafeLawns Foundation and University of Maryland turf grass specialists. The goal is to emerge with peer-reviewed scientific studies to settle long standing industry debates concerning natural fertilization, as well as weed, insect and disease control. There are currently 30 plots at Glenstone being studied by several graduate students as part of the curriculum for the degree. The study will continue for approximately 30 months, and the reported results will be shared with the greater academic community and local residents in an effort to advance the practices and protocol for sustainable organic turf.
- **Renewable Energy.** Glenstone currently operates on 100% renewable energy. Glenstone is the first museum in the country to offset its full energy use by buying back energy credits for wind power. Glenstone II will be designed with the intention of it too operating on 100% renewable energy.
- **Glenstone II will be Designed to Meet LEED Certification at the Silver Level and to Possibly Achieve the Gold Level.** LEED requirements such as recycling construction material, minimizing water use, capturing and recycling storm water and use of natural daylight will be employed and augmented by use of geothermal wells for heating and cooling. For a museum which necessitates a very high level of indoor environmental control, the project is seeking to achieve some of the most progressive energy reductions yet realized in comparable museum facilities.
- **Construction of a Living Building at Glenstone.** As an example of environmental stewardship, Glenstone plans to incorporate Living Building Challenge Guidelines into one of its proposed buildings. The Living Building Challenge, under the auspices of the International Living Future Institute, is a performance-based standard that incorporates 100% sustainability. A small gallery will be designed and constructed to generate its own energy with renewable resources and capture and treat all of its water, while incorporating efficient operation and high quality architectural design.
- **Compliance with the Sustainable Site Initiative.** Although the program, administered by the American Society of Landscape Architects, is in a pilot phase

Mr. Callum Murray
October 7, 2011
Page 3

until 2013, Glenstone will strive to meet the required prerequisites of the program, such as: limiting development of soils designated as prime farmland, unique farmland, and farmland of statewide importance; protecting floodplain functions; preserving wetlands; preserving endangered species and their habitats; reducing potable water use for landscape irrigation by 50 percent from established baseline; protecting and restoring riparian, wetland, and shoreline buffers; eliminating the use of wood from threatened tree species; restoring soils disturbed during construction; controlling and retaining construction pollutants, and planning for sustainable site maintenance.

- **Preservation of Green Area.** The Glenstone property which is the subject of the Application contains approximately 127 acres and was originally approved for 42 residences located on two-acre lots served by individual septic systems. The 127 acres are now identified as Lots 3 and 4 and an unrecorded Parcel (Parcel L.7447 F.728). Over the years, Glenstone and its founders have purchased approximately 44 acres of contiguous area for visual and buffering purposes¹ and hope to acquire some additional contiguous land that is well related to the existing ownership. In this regard, Glenstone hopes to purchase another three lots (Lots 1, 7 and 8) on Three Sisters Road containing approximately 6 acres if these lots become available for sale. These properties, totaling 177 acres, are shown on Attachment "B", and further addressed below. Glenstone believes that the elements associated with its long term plan will not result in an impervious area that exceeds approximately 15% of this total area as more fully discussed below. Accordingly, connecting to the public sewer as proposed under the PIF Policy will not contribute to an increase in development from that otherwise allowed in the RE-2 Zone on septics, and will best ensure the maintenance of large open space areas.

B. *Specifics of what we have learned from our consultants and others on the environmental impacts of septic fields:*

- A major concern of Glenstone is the environmental impact and long-term viability of septic. It is acknowledged among many leading scientists, policymakers and environmentalists that septic systems negatively impact our streams, lakes and the Chesapeake Bay. Septic tanks were never designed to remove nitrogen. Instead,

¹ Consisting of 9 lots on Hunt Ridge Road containing approximately 30 acres, and Lots 2, 3, 4, 5 and 6 on Three Sisters Road containing approximately 14 acres.

Mr. Callum Murray

October 7, 2011

Page 4

they facilitate the water soluble nutrient's passage into groundwater and into streams, rivers and the Chesapeake. How much nitrogen a septic tank emits compared with a sewage treatment plant depends on its location; but it can be from four to ten times as much according to water quality regulators. Although a newer, more advanced type of septic tank can reduce nitrogen and other unwanted by-products significantly, it still cannot match what a treatment plant can remove. Also, heavy rains or storm surges can overwhelm septic systems, sending contaminants into nearby surface and ground waters.²

- Glenstone is working with Buro Happold, an international environmental engineering firm based in New York on environmental design for Glenstone. As the LEED consultant for Glenstone, Buro Happold has studied the water use calculations, blackwater treatment options, and water options for the new building. These studies evaluated all available options for wastewater treatment, including on-site treatment, septic, sewer and combinations of the above. Between all the options, septic resulted in the highest negative impact on the environment due to nitrogen issues. Public sewer was recommended as the best available option in terms of overall sustainability. In this regard, it should be noted that blackwater and on-site treatments are not allowed by the Montgomery County Health Department. However, even if considered to be available, none of the on-site treatments were as effective in removing nitrogen as public sewer.

III. How will Use of Septic Fields Potentially Interfere with the Plans for Glenstone?

- Current County regulations would require Glenstone II to provide a septic field and three reserve fields totaling approximately 6.0 acres. The size of the required septic field and reserved fields restricts a large central area of the grounds in what are logical and potentially preferred areas for walkways, monumental sculptures and geothermal well fields. The probable location of the septic fields in the

² In February 2011, Governor O'Malley proposed banning the use of septic systems for developments larger than 5 lots. Additionally, Delegate Maggie McIntosh, Chair of the House Environmental Matters Committee, was chosen to lead a Task Force on Sustainable Growth and Wastewater Disposal, and Jon Laria, partner in the law firm of Ballard Spahr, was chosen to serve as vice chair. The Task Force is expected to report its findings by December 2011 to the Governor, the Speaker of the House, the President of the Senate, the House Environmental Matters Committee and the Senate Education, Health and Environmental Affairs Committee.

Mr. Callum Murray
October 7, 2011
Page 5

central area is due to the fact that much of the Glenstone grounds are wooded areas or forest. Currently, the most viable locations for septic fields are in open meadows in the center of the site.

- **Monumental Sculptures:** Glenstone currently has 12 monumental sculptures installed on the property, including important works from Richard Serra, Julian Schnabel, Tony Smith and Andy Goldsworthy. The existing footprints of these works range in size from 5 square feet to several hundred square feet and the maximum weight is approximately 165 tons. These works typically require concrete foundations for support, extending 3-6 feet into the earth. Three additional sculptures are planned in the near future on the grounds. A septic field and reserve area would preclude any new works being located in the designated area, creating an artistic "dead zone" in the middle of the site. In addition, monumental sculptures typically require cranes or heavy equipment for installation and maintenance. This means that even if a sculpture could theoretically be installed in and around the septic and reserve field area, access and maintenance would be inhibited, potentially creating further locational limitations.
- **Pathways:** Furthermore, no walkways, roads or trails may be located over a septic field, nor may trees or shrubs be planted over such areas. Therefore, by use of septic, Glenstone would lose the flexibility to initiate landscape improvements or create a different visitor experiences in the future that incorporated the subject 6 acres.
- **Geothermal Wells:** The anticipated green energy initiatives for Glenstone include the use of geothermal wells for heating/cooling. Appropriate and proper implementation of the geothermal wells requires large tracks of land. We believe that the large area needed for the septic and reserve fields may inhibit the placement of these wells as well as Glenstone's flexibility to utilize other green technologies.

A. *Conflicts in the Vision of Glenstone*

- The vision of Glenstone includes: "The landscape will be known as the definitive environment for art outdoors, enhancing the art and architecture and encouraging self-directed exploration and discovery." For all of the above reasons, we believe that Glenstone will be unnecessarily hampered in achieving its stated Mission if Glenstone is restricted to septic.

Mr. Callum Murray
October 7, 2011
Page 6

IV. What are the conceptual plans for Glenstone?

Museum Plans

It is anticipated that Glenstone II will include the following spaces: approximately 45,000 square feet of new gallery and circulation space, 25,000 square feet of art storage space, and 15,000 square feet of administrative space, as well as mechanical and other necessary support areas. Consistent with its Mission, the new building will not include an event space for rent or an auditorium for such matters as musical performances or lectures. In this regard, Glenstone II will be programmed for art viewing only, with supporting functions located in the building as noted above. Further, the art works on display will be curated from the Glenstone collection. Conceptual Plans showing the anticipated layout for Glenstone are attached as Attachments "C-1," "C-2," and "C-3" and further addressed below.

Given Glenstone's remote location and the length of a typical visit, the building program includes a small café containing approximately 4,500 square feet. The café building will include a small kitchen for the preparation of simple soups, salads and sandwiches. The use of the café, currently planned to be located on a path connecting the new museum to the existing museum, will be limited to visitors and staff, and will not be a stand-alone destination.

V. What is the Long Term Master Plan for Glenstone?

As noted above, Glenstone and its founders have acquired and hope to acquire, depending on availability, land adjacent to the approximate 127 acres that is the subject of this Application. Therefore, Glenstone has provided a concept drawing which shows the desired plan for Glenstone if the land in question is acquired and various necessary regulatory approvals obtained (Attachments "C-1" and "C-2"). The additional elements shown in this larger area are three small parking areas that are well landscaped to create an attractive critical mass of tree canopy, a well designed maintenance building, and a small gallery that would serve as an entry. These design elements are intended to remove cars visually and functionally from the visitors' art and landscape experience while, at the same time, appropriately buffering them from the surrounding area.

VI. What is the Anticipated Operating Policy?

- **Admission Policy.** While Glenstone will be open and free to everyone, all visitors must be pre-approved for timed entry admission via on-line reservations

Mr. Callum Murray
October 7, 2011
Page 7

("Reservations"). In this manner, the number and timing of visits will be controlled.

- **Schedule of Days that Glenstone will be Open.** Over time, it is planned that Glenstone will be open five days per week, including one weekend day (Saturday or Sunday) and closed Monday and either Saturday or Sunday. Achieving this schedule will be incremental. Accordingly, it is anticipated that Glenstone II will initially open two days a week and add additional days over time depending on demand.
- **Hours of Operation.** Museum Hours will be from approximately 11:00 a.m. to 5:00 p.m., or approximately 30 hours per week.
- **Cost of Admission.** Entry to Glenstone will be free of charge.
- **Anticipated Number of Visitors.** In the operation of the existing museum, every effort has been made to eliminate the possibility of crowding. To ensure a contemplative undisturbed environment – the cornerstone of the Glenstone experience – the founders have established an attendance policy based on a determination of the ideal density.

Because a typical tour will include the existing museum, the new museum and the grounds, Reservations will be approved to account for abbreviated, typical and extended tours of Glenstone, lasting an average of 2 hours, 3 hours and 4 hours, respectively. Accordingly, Glenstone intends to limit the overall maximum capacity of visitors on the grounds to 268 at any given time during the course of one day. Please note that these numbers are design maximums, and the typical (weekday) visitor numbers are expected to be significantly lower.

VII. Evaluation of Existing and Proposed Impervious Area

As requested, we have evaluated the existing and the proposed impervious area on the 127 acres that is the subject of this Application ("Glenstone Proper"), the additional land owned by Glenstone, and the land desired for acquisition if it becomes available. When existing facilities on Glenstone Proper that are proposed for removal are removed and the new planned facilities are constructed, the impervious surface on Glenstone Proper is approximately 13%. If the eight lots on Three Sisters Road are included in the calculations, the existing improvements on these eight lots removed, the Hunt Ridge

Mr. Callum Murray
October 7, 2011
Page 8

Road properties owned by Glenstone included, and the planned Glenstone improvements constructed, the total impervious surface area is approximately 11%.

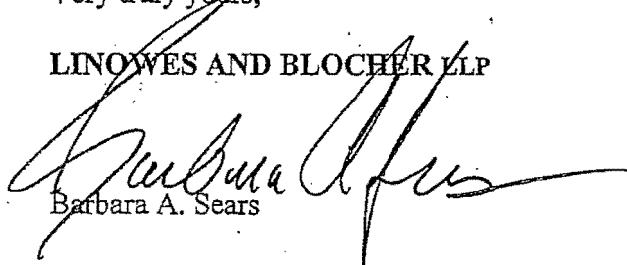
Glenstone believes a 15% impervious limit to accommodate possible future improvements or art works that fall within the impervious surface definition is appropriate for the long term if this larger area (177 acres) is included in the calculation. With regard to this 15% number, we note that the existing two-acre pond was counted as impervious, the same as if it were an asphalt parking lot. In addition, approximately 40,000 square feet of proposed green roofs, which will be contiguous with the landscape and part of the stormwater management, were also included in the impervious number and were counted the same as a membrane roof with gutters. Finally, it should be emphasized that this limited amount of impervious surface is consistent with the Mission and long term goals of Glenstone.

Based on the form of development proposed, including the integration and consolidation of large areas of open space in the project and numerous environmental initiatives to be employed, we find the grant of this Application will achieve superior protection and conservation of the natural landscape.

Thank you for your consideration. Should you have any questions or require further information, please feel free to contact me.

Very truly yours,

LINOWES AND BLOCHER LLP


Barbara A. Sears

Attachments

cc: Rollin Stanley
Mary Dolan
Katherine Nelson
✓ Alan Soukup
Mitchell Rales
Tony Cervený
Anita Ayerbe



MEMORANDUM

Date: October 5, 2011
 From: VIKA Maryland, LLC
 To: Glenstone Foundation
 Re: Glenstone Pressure Sewer Narrative

The new museum to be constructed on the Glenstone Foundation property, Glenstone II, is proposed to be served by a pressure sewer system which will connect to the existing WSSC gravity sewer system located at the intersection of Lake Potomac Drive and Great Elm Drive. This pressure sewer system will consist of a collection station, grinder pumps, approximately 3,000 feet of small (1-1/4" diameter) pressure sewer pipe, and related appurtenances such as flushing valves. The pipe alignment is approximately 1,500 feet on the Glenstone Foundation property, 215 feet through an adjacent property to Lake Potomac Drive, and 1,275 feet along Lake Potomac Drive to the existing WSSC gravity sewer system. Before exiting the Glenstone Foundation property, the pressure sewer pipe will run under an existing Class I stream. The costs of the installation will be fully borne by the Glenstone Foundation.

Construction concerns have been expressed about the construction impact of this system on the environment. These concerns include the potential impact to serpentine soils and the shallow rock associated with this type of soils that would be disturbed with the construction of the sewer line. From the soil survey, it appears that there are no serpentine soils in the alignment currently under consideration. Further, soil investigation performed did not find rock within the anticipated depth of the sewer trench. Additionally questions have been raised about potential damage to the stream, wetlands, and forested areas during the installation.

The County and WSSC are always cautious about approving additional pressure sewer systems due to maintenance concerns, such as the fact that they have been reported to have blockages due to inactivity, complaints from nearby residents regarding odors, and difficulties for property owner's to properly maintain their privately owned grinder pump system. Additionally questions have been asked about how the system could be operated without risk to the environment from a theoretical leak in the system, particularly under the stream.

However, we believe that the proposed pressure sewer system for the Glenstone property can be designed to overcome these concerns and present a better solution than a large septic field.

Construction Concerns Addressed:

While typically sewer lines such as this are installed through an open trench excavation. This conventional trenching methodology temporarily impacts the environment over the sewer route. Typically a construction crew utilizing a backhoe will excavate an open trench approximately three feet wide, install the pipe on appropriate bedding, then backfill the trench and restore the surface to conditions that existed prior to the installation. The backhoe will typically clear a path eight to ten feet wide to allow for the trenching and pipe installation. While this construction method may be used in non-environmentally sensitive areas, it is proposed that the construction in the stream, wetlands and forested areas will be achieved through a *directional boring* system. A horizontal directional drilling machine will begin drilling from a non-environmentally sensitive location on the Glenstone side of the stream. Additionally the installation through the forested areas will be achieved through directional boring.

VIKA Maryland, LLC

20251 Century Boulevard, Suite 400 ♦ Germantown, Maryland 20874 ♦ 301.916.4100 Fax 301.916.2262
 McLean, VA ♦ Germantown, MD ♦ Washington, DC

www.vika.com

34

This boring installation will not disturb the stream, wetlands or forested areas, and will surface on the opposite side of the stream or forest in a predetermined, non-environmentally sensitive location.

Typically, the boring machine will directionally bore a small diameter "pilot hole" from one side to the other of the area to be protected. The directional drill is withdrawn, pulling a mandrel, or "reamer" to enlarge the pilot hole slightly larger than the 1-1/4" diameter pressure sewer pipe. Once the "reamer" is withdrawn, the 1-1/4" pressure sewer pipe is pulled back through the hole thus avoiding impact to environmentally sensitive areas. Construction is reliable because the machine itself uses sophisticated computers and a radio transceiver to constantly monitor the telemetry of the bore as it moves under the ground. *This construction technique has been approved by the WSSC.*

Maintenance Concerns Addressed:

Maintenance concerns are easily eliminated on site as the museum has a full time maintenance staff that is experienced in such requirements. The pump system will include redundant pumps such that replacement of a faulty pump will not affect the performance. The museum, including the grinder pump system, will be served with a back-up power supply such that power failure will not affect performance. The Glenstone staff is also able to monitor the functioning of the system to ensure that it performs without issues to the community or the WSSC. Potential blockages and odors are typically caused by sewage sitting in the line during periods of inactivity resulting in odors from decomposition, and potential blockages over time. These issues will be addressed through monitoring of system such that during periods of inactivity, the system can be flushed with rain water collected on site and stored in cisterns. The pressure pipe system will contain approximately 270 gallons between the pumps and the transition manhole. Accordingly, the system could be flushed with a small volume, less than 5% of the anticipated daily flow, of captured rainwater.

Furthermore, concerns about sewage leaking from the pipe entering the stream will be alleviated through higher than routine levels of system monitoring and the implementation of sophisticated maintenance activities to mitigate possible issues, and/or to identify them before they occur. While the specific techniques will be determined at design approval since they are subject to WSSC approval, it is anticipated that they may include multiple pressure gauges to monitor pressure fluctuations throughout the pressure pipe, periodic isolation and pressure testing (to identify leaks) of critical segments of the pressure line, and potentially a casing pipe between flush valve manholes on either side of the stream as a safety pipe to catch an leakage. Through these techniques, a theoretical leak will be identified and resolved immediately.

COMPREHENSIVE WATER SUPPLY AND SEWERAGE SYSTEMS PLAN AMENDMENTS
County Executive's April 2011 Transmittal Packet
TRAVILAH PLANNING AREA MAP AMENDMENT

WSSCR 11A-TRV-08: Pg. 1

WSSCR 11A-TRV-08: Ravinder & Ritu Kapoor

County Executive's Recommendation: Deny the request for sewer category S-3; maintain category S-6.

<p>Property Information and Location Property Development</p> <ul style="list-style-type: none"> • 10401 Boswell La., Potomac • Parcel P666, Wickham & Pottinger Piney Level • District 04, acct. no. 00053133 • Map tile: WSSC – 217NW10; MD – FR31 • North side of Boswell La. at Glen Mill Rd. • RE-2 Zone; 2.00 acres • Travilah Planning Area Potomac Subregion Master Plan (2002) • Watts Branch Watershed (MDE Use I) – Piney Branch subwatershed (Mont. Co. SPA) • <u>Existing use</u>: one single-family house (built 2006) • <u>Proposed use</u>: same, sewer service for the existing house 	<p>Applicant's Request: Service Area Categories & Justification</p> <p>Service Area Categories:</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</th> </tr> </thead> <tbody> <tr> <td>W-1</td> <td>W-1 (no change)</td> </tr> <tr> <td>S-6</td> <td>S-3</td> </tr> </tbody> </table> <p>Applicant's Explanation</p> <p><i>(Summarized from the applicant's June 28, 2011, letter – attached)</i> The only acceptable location for the existing septic system is at the front of the property which allows for little to no additional parking space for visitors. Guests have to park along Boswell La. and nearby roads, and it is hazardous to walk along these roads to get to the applicant's house. The applicants have asked the County to construct sidewalks along the roads, but have not had success due to lack of support from their neighbors. Providing public sewer would eliminate the need to depend on the septic system, allow for more parking area on the property, and thereby create safer access to the applicant's home.</p>	Existing	Requested	W-1	W-1 (no change)	S-6	S-3
Existing	Requested						
W-1	W-1 (no change)						
S-6	S-3						

Executive Staff Report: The applicant has requested a sewer category change from S-6 to S-3 to allow the extension of public sewer service to an existing single-family house. The house has a functioning septic system, but according to the applicant, that system is in a location that prevents guests from parking at the house, requiring a hazardous walk to the house along local roads from where parking is available. The provision of public sewer service to this property is not consistent with either Water and Sewer Plan service policies or with master plan recommendations.

WSSC has proposed to serve the property using a 900-foot gravity main extension east to the Piney Branch Trunk Sewer (see below). This gravity sewer main extension was in part previously considered by the County Council when sewer service was approved for the R.A.M. Investments property site to the west along Boswell Lane. The Council rejected this extension to the R.A.M. site because it would require construction within the Piney Branch stream buffer and potential disruption to the stream itself. The Council instead chose a low-pressure main extension along Boswell Lane from the west to provide sewer service. That low-pressure main, constructed in 2007, does not abut the applicant's property. WSSC prefers a gravity service option for the applicant's property as opposed to a further extension of the existing low-pressure main.

The property is zoned RE-1. Under the Water and Sewer Plan's general service policies the property is ineligible for public sewer service. These policies are supported by the sewer service recommendations included in the 2002 Potomac Subregion Master Plan. The provision of public sewer service in this area is further controlled by the Piney Branch sewer service policy, which limits public sewer service in the Piney Branch watershed to properties which satisfy at least one of a series of six specific service conditions. (See circle pgs. x-xi for the entire policy.) The applicant's property does not satisfy any of the conditions that would allow for public sewer service in this watershed.

Agency Review Comments

M-NCPPC – Area 3 Planning Team: This property is outside the Potomac master plan sewer service envelope and is within the Piney Branch Special Protection Area. According to the 2002 Potomac master plan and the

COMPREHENSIVE WATER SUPPLY AND SEWERAGE SYSTEMS PLAN AMENDMENTS
County Executive's April 2011 Transmittal Packet

TRAVILAH PLANNING AREA MAP AMENDMENT

WSSCCR 11A-TRV-08: Pg. 2

Piney Branch restricted sewer access policy this property is excluded from public sewer service. 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. "

Inadequate guest parking on a lot is insufficient reason for amending the Master Plan policy. Area 3 Division staff finds this application for sewer service inconsistent with the Potomac master plan. Recommendation: Deny S-3.

M-NCPPC – Parks Planning: No apparent park impact.

WSSC - Sewer: Basin: Watts Branch. An approximately 900-foot-long non-CIP-sized sewer extension is required to serve the property. This extension would connect to the Piney Branch Trunk Sewer (contract no. 89-8066B) and would abut approximately 5 properties in addition to the applicant's. Construction of this extension may involve the removal of trees, and the temporary disruption of a stream valley and wetlands. Flow from the proposed development: 300 GPD. Program-sized sewer mains are not required to serve the property. Interceptor and treatment capacity are adequate.

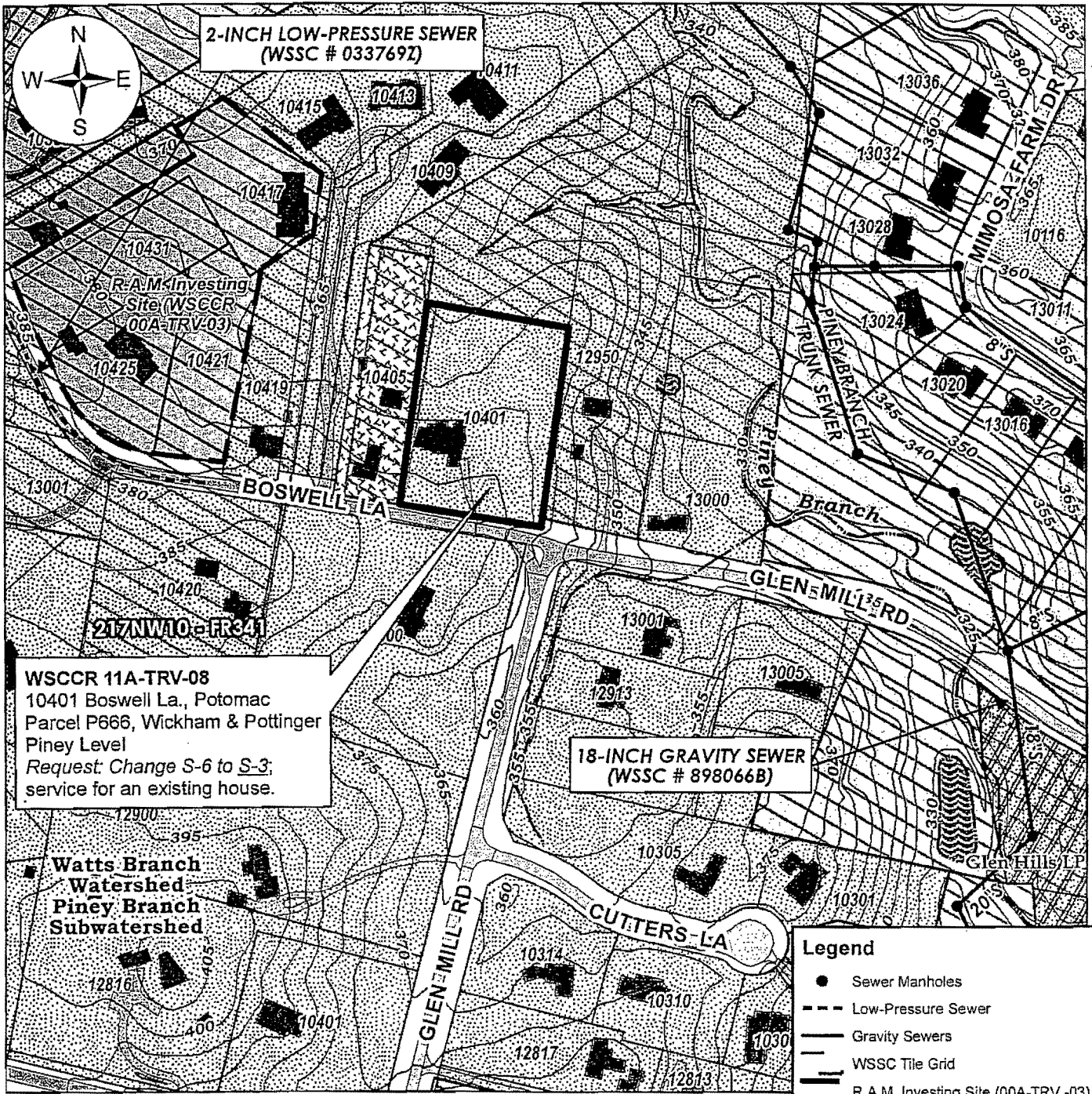
DPS – Well & Septic: Although we have no regulations prohibiting cars parking on septic systems we do not recommend it.

DEP note: The DPS maintenance tips for septic system owners state, "Avoid compacting the soil over the infiltration areas. Do not drive or park vehicles over the area and don't build a shed or driveway in this area. These activities can also crack pipes and cause the distribution box to settle unevenly, meaning that effluent will only flow into part of the drainfield."

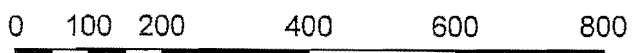
ADS:ads/

R:\Programs\Water_and_Sewer\Projects\actions-COUNCIL\packets\2011 nov\ce-packet\staff-rpt=11A-TRV-08=S.doc

Sewer Service Area Categories Map WSSCR 11A-TRV-08 (Ravinder & Ritu Kapoor)



Travilah Planning Area



SCALE (Feet)

**Montgomery County, Maryland
Draft 2010 Comprehensive Water Supply
and Sewerage Systems Plan**

Legend

- Sewer Manholes
- Low-Pressure Sewer
- Gravity Sewers
- WSSC Tile Grid
- R.A.M. Investing Site (00A-TRV -03)
- Topography (5 ft. c.i.)
- Existing Parkland
- Existing Public Sewer Envelope

Sewer Categories

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

2) Property/Site Description and Development:

Address 10401 BOSWELL LN., POTOMAC, MD 20854
Property's TAX ID # (please provide, if known) _____
Property/Site Size ~ 2 Identification (ie, Parcel #) P666
Location/Closest cross-street _____
Current Use SFH Proposed Use SFH
Subdivision Plan No. & Status _____

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

(please see attached letter)

Note: Continue on a separate page, if necessary

DEP Staff Use Only

Receipt Acknowledged: Email OR US Mail
Water Sewer
WSSC Tile 217NW10
Tax Map FR341
Plan No. _____
Process Council
Master Plan Potomac (2002)
Planning Area Travilah
Zoning RE-2
Zoning Activity -
Watershed Watts Br. - Pines Br. (SPA)
CSPS Subwatershed _____
State Watershed Use Class - I
GIS File _____

June 28, 2011

Ravinder Kapoor
10401 Boswell Ln.
Potomac, MD 20854

Dear Montgomery County Government:

This letter is an attachment to my formal application requesting one public sewer hook up for my property – I wanted more writing space to explain my situation and reason for the request. First of all, I'm a lifelong Montgomery County resident attending elementary, middle and high schools in the county and I have lived at 10401 Boswell Lane for about 5 years now. My father was a long-time employee as a librarian for the Montgomery County Public Schools. When he passed in 1996, we wanted to live close to my mother who is a single widow living in the nearby Potomac Glen neighborhood. So we bought an older house on Boswell Lane, just around the corner from my mother.

Growing up in the county, my parents always bought a home in a traditional neighborhood so building this home was quite an experience for my wife and kids. Being novices at the building process we did not plan everything perfectly, nor did we understand the county permitting process and our builder simply built the house according to design, regulations and codes. For example, when we bought the property back in 2002 our septic field was failing, there were foul odors in the backyard after heavy rains. We were getting nervous if we could even live or rent out the older house that was previously on the lot. I Emailed the county requesting sewer hook up (see attached Emails) and was given the standard response – I got busy in my life and did not pursue further at the time. My neighbor at the time, Mr. Warner, also had a failing septic and he pursued it further and was granted approval for a sewer hook up.

After living with my mother for several years, we saved up enough money to finally build our dream home. We started taking loans, getting plans, we were very nervous whether we could even get the property to perk. Perk tests were attempted ... and finally only the upper, front corner of the property perked to support a septic field. It is located immediately to the right of the house as you face the front. Again, a little short sighted planning on our part I guess because now we have a big problem. Since no one is allowed to drive or park on the septic field, there is simply no place to park when we have social gatherings. People have to park all over the street or other streets and since there is no safe sidewalk for pedestrians this causes a very big safety hazard for our guests and visitors. On two occasions (once a little girl, and another time a guest) almost got ran over because cars go so fast on Boswell and there are no speed bumps !!! We were horrified, thank goodness nothing happened so far.

I have tried everything to make it safer, we even had many of the small trees in front of the house removed in hopes that there will be a safer path and some safe parking but this has not helped because

the parking is not enough and it is still unsafe. I've pleaded with the county to put a safe side walk for my kids and guests but it is virtually impossible to get one because of the approvals required from the home owners. Since we are secluded with no neighbors or a neighborhood we like to have parties often for us and the kids to have company. So if we had a public sewer hook up, people could safely park and drive on the area next to our house for safe parking during our frequent gatherings.

So I would appreciate your approval to change our sewer category from category 6 to category 3 this is our last resort and I hope the county will do the right thing to make it safer for everyone and avoid a disaster waiting to happen. I would like to hook up to sewer for my house only, nothing else. I would imagine there would not be much opposition for my request considering the fact that we are the ONLY house north of Boswell lane that is Category 6. Seriously, EVERYONE ELSE on my street has gotten approval – it doesn't seem fair. If not addressed I may be forced to use that area for parking for safety which would make the septic field fail if it has not already done so and since there is no other area that perks we would eventually have to get hook up anyway.

I really appreciate your consideration on this serious issue. Please do not hesitate to call or email me anytime if you have questions or concerns.

Sincerely,



Ravinder Kapoor
Montgomery County Resident



FW: Council Reply

Monday, July 1, 2002 4:15 PM

From: "Kapoor, Ravinder" <Ravinder.Kapoor@jhuapl.edu>
To: "ravinderkapoor@yahoo.com" <ravinderkapoor@yahoo.com>

-----Original Message-----

From: COUNTY.COUNCIL@CO.MO.MD.US [mailto:COUNTY.COUNCIL@CO.MO.MD.US]
Sent: Wednesday, March 27, 2002 10:22 AM
To: Ravinder.Kapoor@jhuapl.edu
Subject: Council Reply

--- Received from COUNCIL.MCCMAIL 240-777-7910 02-03-27 11.22

-> Ravinder.Kapoor@jhuapl.edu

Dear Mr. Kapoor:

Thank you for your e-mail concerning sewer service in the Piney Branch Watershed in Potomac. Your e-mail was distributed to the other Councilmembers.

On March 5 the Council voted to approve the final resolution on the Potomac Master Plan. The Council resolution included language regarding exceptions to the Piney Branch Restricted Sewer Access Policy as follows:

Amend the Piney Branch Restricted Access Policy to allow single home sewer hookups in the Piney Branch subwatershed for existing lots that abut and predate an existing sewer main. This exception is for single houses only and shall not be used to allow for multiple sewer hookups for subdivision/resubdivision of existing properties.

If your property meets the requirement for this exception, then you can apply for sewer service; if it does not meet the requirement, your property would not be considered eligible for sewer service. If you are not sure whether your property meets the requirements for the exception, please contact Alan Soukup of the Department of Environmental Protection at (240) 777-7716.

Thank you for sharing your concerns with the Council on this important issue.

Sincerely,

Steven A. Silverman
Council President

SS:MLM:cge

(42)

Cloverly MP Excerpt

NOISE

Excessive noise is an environmental health problem. Noise from roadway traffic is the single most pervasive noise source in Cloverly. Transportation noise impacts usually occur on residential sites that are adjacent to heavily traveled roadways, such as arterial and major highways.

OBJECTIVE: Minimize noise impacts on existing and new development, to help provide a noise environment that is compatible with existing and proposed land uses.

RECOMMENDATIONS:

- Incorporate abatement measures where possible for existing and projected noise impact areas as part of future road widening projects.
- Continue to require noise-compatible site design for new residential development within noise impact areas along roads.

WATER AND SEWERAGE SERVICE

Community water and sewerage service in Cloverly is limited as a result of previous master plans and the *Comprehensive Water Supply and Sewerage Systems Plan* policies. The limited availability of water and sewerage service has been used in previous plans to control the density and timing of development in Cloverly. The recommendations in this Plan directly support the efforts to maintain rural character and watershed protection and they reflect changes in policies since the 1981 Plan. As a result some properties may be unable to develop to the maximum permitted in a given zone.

All of the Paint Branch watershed and all of the Northwest Branch watershed, with the exception of RE-2 zoned properties, were recommended by previous plans for water and sewerage service. The 1981 Plan specifically recommended against the provision of water and sewerage service in the Rural Cluster zone to protect the water quality of the Rocky Gorge Reservoir. The Cloverly Master Plan reconfirms the policies of the 1964 *General Plan*, the 1968 *Fairland-Beltsville Plan*, the 1980 *Functional Master Plan for the Preservation of Agriculture and Rural Open Space*, the 1981 *Eastern Montgomery County Master Plan*, and the 1993 *Functional Master Plan for the Patuxent River Watershed* in recommending that no new sewerage service or extensions occur in the Patuxent watershed. The only exception is for RE-1 zoned properties where sewer service can be provided from existing mains within the Northwest Branch or Paint Branch watersheds. In addition, community water service without sewer service within the Patuxent watershed can be considered on a case-by-case basis consistent with current policies in the *Comprehensive Water Supply and Sewerage Systems Plan*.

The Washington Suburban Sanitary Commission (WSSC) will construct an elevated water storage facility in the southwest quadrant of New Hampshire Avenue and Norbeck Road Extended on a portion of the Hampshire Greens property. The existing standpipe on Spencerville Road will be removed after the new facility is completed.

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 that in turn relies on septic suitability of soils to determine the location and number of houses. This Plan recognizes that development on individual properties in the RC and RE-2 zones may be limited due to the lack of public sewerage service. The timing

of necessary extensions of public water and sewer service should be determined by development activity and the need to correct existing health problems. Development in Cloverly in conformance with this Plan is relatively small and would not be the determining factor in the need for relief sewers downstream of Cloverly.

OBJECTIVE: Provide appropriate public sewer and water facilities with minimal impact on natural resources to reinforce land use management policies.

RECOMMENDATIONS:

- Extend community water and sewerage service in an environmentally sensitive manner. When feasible, water and sewer lines should be located outside stream buffers, especially wooded stream buffers. Where extensions or major improvements would be too damaging, alternatives such as pump-over systems and force mains should be considered, along with their fiscal impact.
- Provide community water service to all areas in Cloverly with the following limitations:
 - Extend water service in the RC zone on a case-by-case basis to residential properties that meet the recommendations of this Plan and use the cluster option of development or to properties with insufficient acreage to use the cluster option. The *Comprehensive Water Supply and Sewerage Systems Plan* was amended in April, 1995 to include specific language regarding the provision of water to cluster subdivisions in the Rural Cluster (RC) zone. The Water and Sewer Plan states that "the decision to extend or restrict water service should focus on conformance with master plan land-use and development recommendations, rather than on generalized water service areas."

This Plan recognizes that development on individual properties in the RC Zone may be limited due to the lack of water service. This limitation on development supports efforts to maintain the low-density character of these areas.

 - Extend water service to RE-2 zoned land on a case-by-case basis following the guidance of the *Comprehensive Water Supply and Sewerage Systems Plan*. Water service will improve fire protection and provide residents with the opportunity for individual hook-ups.
- 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:
 - 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.

COMPREHENSIVE WATER SUPPLY AND SEWERAGE SYSTEMS PLAN

The Montgomery County *Comprehensive Water Supply and Sewerage Systems Plan* (Water and Sewer Plan) governs the provision of water and sewer service throughout the County. The goal of the Plan is to assure that existing and future water supply and sewerage system needs of the County are satisfied in an orderly and cost-effective manner consistent with the County's land-use planning policies and other environmental and public health goals. The Plan designates one of six water and sewer staging categories for all properties in the County that are primarily based on master plan development staging strategies and/or capital program infrastructure staging. The authority to adopt and amend the Plan resides with the County Council, and the County Executive administers the Plan through the Department of Environmental Protection (MCDEP).

This Plan recommends comprehensive water and sewer service area map amendments for the Water and Sewer Plan which will place properties in the appropriate service area categories consistent with the policies of the Water and Sewer Plan and the recommendations of this Plan. MCDEP will prepare the amendments, in consultation with the M-NCPPC, for consideration by the County Council. This Plan recommends the following with regard to the provision of community water and sewer service:

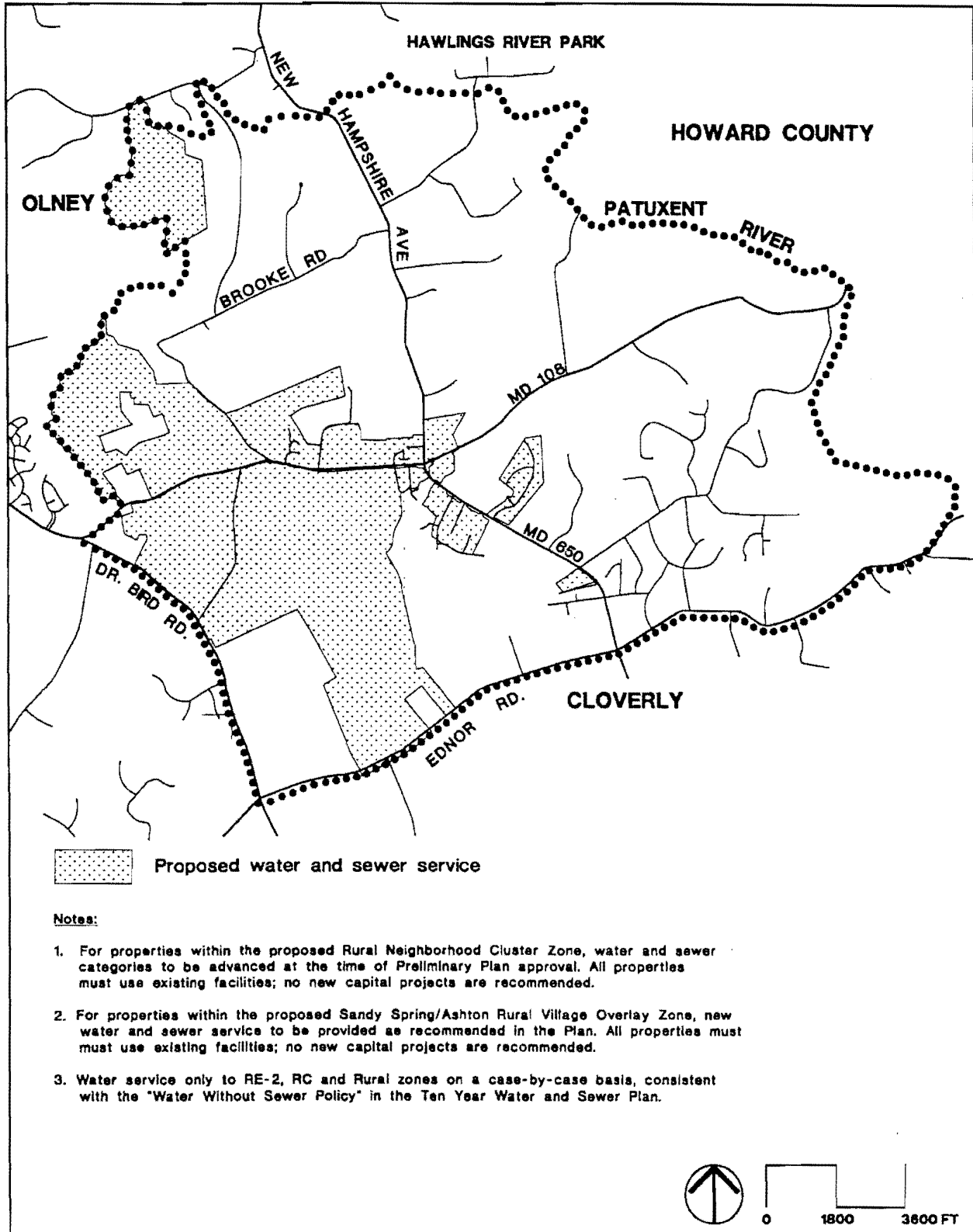
RECOMMENDATIONS:

- **Provide community service consistent with the general policies of the *Comprehensive Water Supply and Sewerage Systems Plan*.** Those policies do not generally provide for the provision of community sewer service at development densities of less than one dwelling unit per ½ acre unless otherwise recommended by an area master plan or sector plan.
- **Provide community water and sewer for the Rural Neighborhood Cluster (RNC) zone only for development utilizing the optional method and only to serve the portion of the site with the clustered development.** Provision of water and sewer for large lots (1 acre or more) developed under the optional method should be evaluated on a case-by-case basis (based upon proximity to cluster development). The provision of community water and sewer service will allow flexibility of design and preservation of large areas of rural open space that would not be possible if septic systems were required.

The flexibility of design will allow the placement of structures based on rural character principles and guidelines, rather than placement dependent on the suitability of soils to support septic systems. Community sewer service in the Sandy Spring/Ashton Master Plan area is not to be extended to development utilizing the standard method under the RNC zone. Development dependent on septic systems under the standard method, therefore, may not be able to use the 25,000 sq. ft. minimum lot size in conformance with the regulations included in *On-site Water systems and On-site Sewage Disposal Systems in Montgomery County* and the policies in the *Comprehensive Water and Sewerage Systems Plan*. Community water service for the RNC zone standard method should be evaluated on a case-by case-basis.

WATER AND SEWER SERVICE ENVELOPE

FIGURE 30



- **Community sewer and water in the Sandy Spring Ashton Master Plan area is not to be extended to development utilizing the standard method under the RNC zone.** Subdivision development under the standard method, therefore, may not be able to use the 25,000 SF minimum lot size on septic system in conformance with the *Comprehensive Water Supply and Sewerage Systems Plan*.
- **This Plan recommends community water and sewer service for properties within the Sandy Spring/Ashton Rural Village Overlay Zone as follows:**
 - To commercial, mixed commercial/residential uses and residential uses of R-200 (approximately 2 dwelling units per acre) and greater densities.
 - To properties zoned RE-1, RE-2 and Rural Cluster that use the flexibility provisions of the Village Zone which call for site plan review.
- The community has expressed many concerns about the implications of providing sewer service in the Patuxent River watershed. To address these concerns, this Plan strictly limits the areas for which community sewer service is recommended. **The provision of this service is not to be a precedent for sewer service to properties other than those specifically identified in this Plan.** This is consistent with the guidelines of the *Functional Master Plan for the Patuxent River Watershed* which provides for logical, well-planned development. In addition, this Plan recommends that sewer service for properties within the Patuxent watershed be provided by extensions from the existing Northwest Branch sewerage system, which also includes the Sandy Spring Meadows and James Creek wastewater pumping stations, this Plan further recommends development patterns that eliminate or minimize the need for substantial new capital sewer projects, such as central pumping stations and force mains. This is to minimize costs and interest in sewer-dependent development outside the recommended sewer envelope. Existing community water and sewerage systems in the Northwest Branch watershed will be able to provide service recommended in this Plan without the need for new capital projects.
- Sewerage system construction has the potential to create both short- and long-term impacts to stream systems. **Wherever possible, sewer main alignments should be carefully planned, selected and constructed to minimize stream crossings and disturbance to stream buffers, and to avoid wetlands and other natural resources.**
- **On other properties, water service only to large-lot development can be considered on a case-by-case basis.** The policies in the *Water and Sewer Plan* allow for the provision of water service only to large-lot development consistent with master plan recommendations. M-NCPPC staff, in its case by case review of requests for this type of service, should place emphasis on the conformance of the proposed development with the rural character objectives of this Plan.
- **Study the provision of sewer and water service to the Chandlee Mill Road/Brooke Road Area.** Sewage disposal and water supply problems are identified as concerns in the 1980 Plan and a renewed effort should be made to find funding and strategies to address them. The

M-NCPPC, the Washington Suburban Sanitary Commission, and the Departments of Environmental Protection, Housing and Community Affairs, and Permitting Services need to address this issue as an amendment to the appropriate chapters of the *Water and Sewer Plan*. See also pages 45-48.

As noted in the Land Use chapter, development of the Dellabrooke property using community water and sewer service under the RNC zone optional method may provide for a partial solution for this problem. This Plan recommends that consideration of how the Dellabrooke site may contribute to a solution that can be coordinated with the water and sewer category change and the subdivision processes. These solutions can include the provision of land area 1) to allow access via easements to the Dellabrooke community water and /or sewerage systems, 2) to provide for the location of a sewage pumping station to be used solely for the solution of the health problem or 3) to allow the siting of replacements for the failing on-site septic systems. The solution should also allow the existing community to continue to thrive without leading to redevelopment that would destroy the character of the existing community. (See also Page 45-48).

- **Continuation of the policy to provide sewer and water service where public health is an issue and extension of service is found to be the appropriate solution.**
- **This Plan does not recommend any formal staging of community service; the timing of water and sewer service extensions should depend on development activity, infrastructure requirements, and the need to relieve public health problems. Properties that require community water or sewer service must be in categories S(Sewer)-1, 2, or 3, and W(Water)-1, 2, or 3, indicating the highest priorities for community service, to proceed with the development process.**

PH. 6/21/12 AMEND
10 YR WATER / SEWER



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

KL
CC
SBF
LT

OFFICE OF THE CHAIR

June 20, 2012

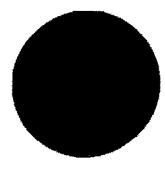
The Honorable Isiah Leggett
County Executive
Montgomery County Government
101 Monroe Street
Rockville, Maryland 20850

069088

RECEIVED
MONTGOMERY COUNTY
COUNCIL

2012 JUN 22 PM 1:53

The Honorable Roger Berliner
President
Montgomery County Council
100 Maryland Avenue
Rockville, Maryland 20850



RE: March 2012 County Council Amendments to the *Comprehensive Water Supply and Sewerage Systems Plan*

Dear Mr. Leggett and Mr. Berliner:

On Thursday, May 31, 2012 the Montgomery County Planning Board considered the above cited water and sewer service area category changes. Our recommendations are as follows:

11A-PAX-01: Getachew & Wubet

The 1997 Cloverly Master Plan states on page 91 that "The extension of sewer service to residential, institutional, and special exception uses in the RC and RE-2 area is not consistent with this Plan because of potential impacts on the low-density character of both areas and conflicts with the long standing recommendation not to provide sewer service in the Patuxent River watershed in order to control water quality in the reservoir." Because the Master Plan recommends no sewer service to any uses in the Patuxent River watershed, the Planning Board finds this application inconsistent with the Cloverly Master Plan.

Unanimous Sewer Category Recommendation: Deny S-3

The Honorable Isiah Leggett
The Honorable Roger Berliner
June 20, 2012
Page 2

11A-TRV-08: Kapoor Property

This property is outside the Potomac Master Plan sewer service envelope and it is within the Piney Branch Special Protection Area. The 2002 Potomac Master Plan confirms the Piney Branch restricted sewer access policy in the Montgomery County Comprehensive Water Supply and Sewerage System Plan. This property does not meet specific service condition within that policy and is therefore excluded from public sewer service.

Unanimous Sewer Category Recommendation: Deny S-3

11A-CLO-01: Shri Mangal Mandir

This 16.5 acre property is located outside the 1998 Sandy Spring/Ashton Master Plan designated sewer envelope. The Master Plan recommends on page 83 that community service be provided consistent with the Water Supply and Sewerage Systems Plan, which does not recommend extension of sewer to densities of less than ½ acre. This property is zoned RE-2, which permits a maximum density of two units per acre. The Master Plan recommends extension of sewer to only three other types of development:

- RNC zoned properties using the optional method
- Properties within the Rural Village Overlay Zone
- Properties with demonstrated health problems

This property does not fall within any of these categories.

Unanimous Sewer Category Recommendation: Deny S-3

The County's private institutional facility (PIF) policy states that "for new or relocating uses, service area category amendments may be approved for sites . . . where required water and or sewer main extensions will abut only properties which are otherwise eligible for community service under the general policies of this plan." The Planning Board agreed with our staff that there is a strong argument that this request is for a *new* use rather than the expansion of an existing use, as it is a different structure on a different property. Also, we were not convinced that the proposed conceptual alignments would satisfy the standard under the PIF policy for existing uses: that the sewer connection would not open the opportunity for service to currently un-served and undeveloped properties. We ask that if sewer service is granted to

The Honorable Isiah Leggett
The Honorable Roger Berliner
June 20, 2012
Page 3

this property, the sewer main alignment be required to satisfy the PIF policy as stated in the conditions proposed by the Department of Environmental Protection.

11A-TRV-06: Glenstone Foundation (Circle 12 of the attachment)

Glenstone constitutes five contiguous properties and an area of 127 acres on the south side of Glen Road, a designated rustic road in the Potomac Subregion. All five properties are outside the approved sewer service envelope within the Potomac Subregion Master Plan. Although the properties do not have any known septic limitations, the applicant seeks approval for public sewer service under the Water and Sewer Plan's PIF policy. The applicant proposes construction of a 3,000-foot pressure sewer, 1,500 feet of which would be off-site, to serve an existing museum building on one property and a proposed new and larger museum on an adjacent property. The sewer main extension is proposed to cross the Greenbriar Branch stream valley and floodplain.

In addition to establishing a sewer service envelope, the Master Plan-adopted sewer service policy set three criteria for possible extension of mains to properties at the periphery of the sewer service envelope. These criteria stated that a main extension could be considered if:

1. Properties abutted existing or proposed sewer mains
2. Mains could be constructed within public rights-of-way, and;
3. Mains avoided disruption to streams and their undisturbed buffers.

Glenstone meets none of these criteria.

The Planning Board recommends that the category change application should be denied as inconsistent with the 2002 Potomac Subregion Master Plan for the reasons stated above. Nonetheless, the County's PIF policy allows the Council to grant a sewer category change outside the sewer service envelope under certain conditions:

- For a new PIF use, a service area category change may be approved if the required main extension will abut only properties that are otherwise eligible for community service under the general policies of the Water and Sewer Plan.

The Honorable Isiah Leggett
The Honorable Roger Berliner
June 20, 2012
Page 4

- For an existing PIF use, a service area category change may be approved only where required water and/or sewer main extensions do not threaten to open undeveloped land to development contrary to the intent of the relevant local area master plan.

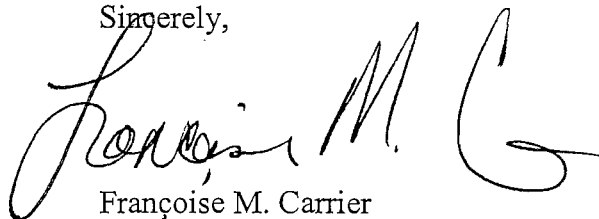
The Planning Board submits that Glenstone is arguably a *new* use because it is a new structure on a different property. As a new use, the proposed museum would not satisfy the applicable PIF test. Even if the proposed museum is considered part of an existing use, the Planning Board believes the request should be denied on master plan grounds.

In a minority opinion, Commissioner Dreyfuss stated that the Master Plan does not expressly prohibit this use, that the application is for an expansion of an existing use under the terms of the PIF policy and that it should be granted.

Sewer Category Recommendation: Deny S-3

We thank you for the opportunity to provide recommendations on these cases.

Sincerely,



Françoise M. Carrier
Chair

FC:KN/rb/kr

cc Keith Levchenko, Montgomery County Council
David Lake, MCDEP
Alan Soukup, MCDEP
Katherine Nelson, M-NCPPC Environmental Planning
Clara Moise, M-NCPPC Chairman's Office

Attachment:

Planning Board Staff Report
PowerPoint presentation regarding Glenstone



**Proposed Amendments: Montgomery County Comprehensive Water Supply and Sewerage Systems Plan
April 2012 County Council Group**



Katherine E. Nelson, Planner Coordinator, Katherine.Nelson@montgomeryplanning.org 301-495-4622



Callum Murray, Supervisor, Area 3, Callum.Murray@montgomeryplanning.org 301-495-4733



Mary Dolan, Chief, Functional Planning and Policy, Mary.Dolan@montgomeryplanning.org 301-495-4552

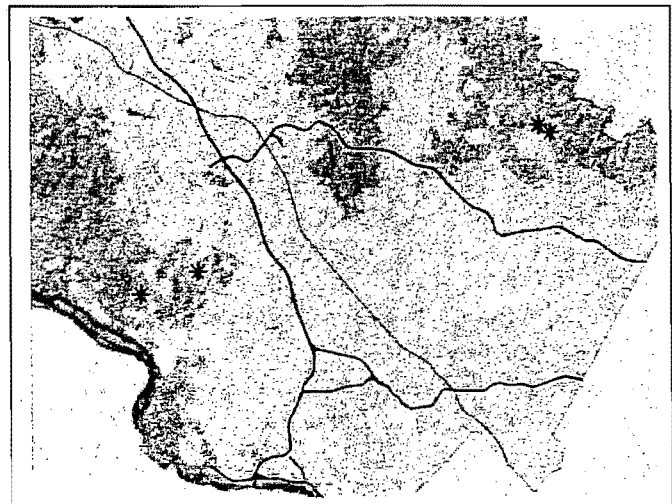
Completed: 05/25/12

Description

Council Sewer and Water Category Change Requests are:

- Referred to the Planning Board for a determination of consistency with relevant master and sector plans with recommendations to the County Council for final action.

The accompanying map shows the existing sewer envelope in tan. The properties requesting to be served are shown as asterisks. More detailed information on zoning, existing and proposed uses, and recommendations of other agencies are shown in the attached packet from the County Executive.



Summary

The Planning Board is required by State law to make a Master Plan determination for consistency on each case. Staff has found that all four cases are not supported by their respective Master Plans and recommends denial of sewer service:

- 11A – TRV-06: Getachew and Wubet
- 11A-TRV-08 Kapoor
- 11A-TRV-06 Glenstone Foundation
- 11A-CLO-01: Shri Mangal Madir

Category Change Requests

11A-PAX-01: Getachew & Wubet (Circle 9 of the attachment) Requests a change from S-6 to S-1

This two acre, RC-zoned property is located in the Patuxent River watershed. This outlot could not obtain a successful septic test when it was platted in 1974 and has remained vacant since that time.

The 1997 Cloverly Master Plan states on page 91 that "The extension of sewer service to residential, institutional, and special exception uses in the RC and RE-2 area is not consistent with this Plan because of potential impacts on the low-density character of both areas and conflicts with the long standing recommendation not to provide sewer service in the Patuxent River watershed in order to control water quality in the reservoir." Because the Master Plan recommends no sewer service to any uses in the Patuxent River watershed staff finds this application inconsistent with the Cloverly Master Plan.

Sewer Category Recommendation: Deny S-3

11A-TRV-08: Kapoor (Circle 36 of the attachment) Requests a change from S-6 to S-3

This 2-acre, RE-1 zoned property is outside the Potomac Master Plan sewer service envelope and it is within the Piney Branch Special Protection Area. The 2002 Potomac Master Plan confirms the Piney Branch restricted sewer access policy in the Montgomery County Comprehensive Water Supply and Sewerage System Plan. This property does not meet six specific service condition within that policy (Circle x of the attachment) and is therefore excluded from public sewer service.

Sewer Category Recommendation: Deny S-3

11A-TRV-06: Glenstone Foundation (Circle 12 of the attachment) Requests a change from S-6 to S-3

Recommendation

The category change application should be denied as inconsistent with the 2002 Potomac Subregion Master Plan and contrary to the land use and environmental considerations that are integral to the Plan as a whole. The proposed new museum does not meet the PIF approval threshold, and the applicant has not demonstrated the need for sewer for the existing museum.

Background

Glenstone constitutes five contiguous properties and an area of 127 acres on the south side of Glen Road, a designated rustic road in the Potomac Subregion. All five properties are outside the approved sewer service envelope within the Potomac Subregion Master Plan (See Attachment 2). The applicant seeks approval for public sewer service under the Water Supply and Sewerage Systems Plan's private

institutional facility (PIF) policy, and proposes construction of a 3,000-foot pressure sewer to serve a non-profit museum building. The extension is proposed to cross the Greenbriar Branch stream valley and floodplain.

This section of the staff report addresses the following three items:

1. Master Plan sewer service policies in Potomac
2. An explanation of the County Council's sewer service policy for Private Institutional Facilities (PIFs) and its relationship to this case
3. Conclusion

Sewer Service Policies in Potomac- Historical Perspective (From the 1980 Potomac Master Plan)

The area covered by the Potomac Subregion Master Plan has a long and complex history regarding the provision of public sewer. In order to fully understand the present policies guiding sewer service, it is essential to understand the underlying philosophy and actions of past Montgomery County Councils.

In the 1970's, the philosophy changed from one of supporting continued unlimited expansion of sewer service, to the withdrawal of service in the major portions of the Muddy, Watts and Rock Run Basin. In 1971, the Montgomery County Council, through their regulatory authority in the Water Supply and Sewerage Systems Plan, designated certain areas in these basins as ineligible for sewer service. These basins were interwoven with sewer trunks, but mains and lateral service were not available to development unless a public health problem was identified by the County's Department of Environmental Protection, or whenever the County Council found other compelling reasons to exempt specific properties from the general withholding of service to an area.

In 1980, the Potomac Subregion Master Plan established many of the zoning densities that were confirmed with the adoption of the 2002 Plan update. For the residential properties generally between Piney Meetinghouse Road and Travilah Road, south of Boswell Lane and continuing south to River Road, the 1980 Plan envisioned this area as a low density residential wedge in which the applied zoning would better protect the natural environment by minimizing the negative effects of development to the streams and natural ecosystem. The rationale was that these zoning densities would follow the General Plan and protect the environment, even with the provision of sewer to selected areas. (Sewers typically increase unit yield beyond that which can be achieved with septic systems).

The 2002 Potomac Subregion Master Plan referenced the sewer policies of the 1980 Potomac Master Plan. The 2002 Plan acknowledged that the extension of sewer service to low density residential zones (RE-1 and RE-2) was a deliberate goal of the 1980 Plan to "...take maximize advantage of the allowable density in lower density zones (RE-1 and RE-2) where it was appropriate". (p.22) The 1980 Plan established a "logical, economical and environmentally acceptable test" to evaluate individual sewer category changes on a case by case basis. The extension of sewer service into these low density zones was acknowledged to be contrary to the general sewer extension policies of the Comprehensive Water Supply and Sewerage Systems Plan.

The 2002 Plan stated "A comprehensive evaluation indicates that providing community sewer service to areas zoned for one and two acre development, and contrary to smart growth policies, has undermined the environmental emphasis of zoning areas for low density development, especially where septic suitability is marginal" (p.22). The sewer policy in the 1980 Plan resulted in environmental damage to

the local stream systems. The damage resulted from the physical construction, maintenance and repair of sewer lines, (running parallel to and across streams), from increased densities and impervious areas, and the tendency for sewer lines to leak and to contaminate streams and groundwater.

The 2002 Plan recognized the deleterious impacts of the former Plan's sewer extension policies and sought to align itself more with the sewer service policies in the Comprehensive Water Supply and Sewerage Systems Plan. The current Plan significantly curtails extensions of sewer outside the service area (envelope) and established a "peripheral service policy." The peripheral sewer policy eliminated the "logical, economical and environmentally acceptable test" and applied a more restrictive test to a more limited area within the master plan area.

The peripheral service policy allows limited sewer service outside the sewer envelope to properties zoned RE-1 and RE-2 but the focus is for properties, "which abut existing or proposed mains" and "on properties which can be served by sewer extensions within public rights-of-way." The policy also states that, "Main extensions that would disrupt streams and their undisturbed buffers should be avoided." (See page 23, Potomac MP)

On page 23 of the 2002 Potomac Subregion Master Plan, the plan makes specific sewer recommendations. Two of the four recommendations apply to the area zoned RE-2 between Piney Meetinghouse Road and Travilah Road and are as follows:

- *Provide community sewer service in the Subregion generally in conformance with the Water and Sewer Plan service policies. This will generally exclude areas zoned for low-density development (RE-1, RE-2 and RC) not already approved for service from further extension of community service.*
- *Allow for the limited provision of community sewer service for areas zoned RE-1 and RE-2 within and at the periphery of the sewer service envelope. Exclude from this peripheral service policy properties adjacent to and in the vicinity of the Palatine subdivision and the lower Greenbriar Branch properties, and all properties within the Piney Branch Subwatershed, the Darnestown Triangle and the Glen Hills Area (until completion of the study described in page 24, which will evaluate whether this exclusion should continue in the future). Emphasize the construction of sewer extension, if needed, along roads rather than through stream valleys.*

The first bullet above provides a general exclusion of continued sewer service to RE-1 and RE-2 zoned properties. The second bullet establishes the peripheral service policy for RE-1 and RE-2 zoned properties but specifically excludes from this policy certain areas defined within the Master Plan. The peripheral service policy applies directly to the property under discussion.

The objective of the peripheral policy was to curtail the large-scale expansion of the sewer envelope that occurred over the previous 20 years. The policy sets criteria for which extensions of mains can be considered both within the prescribed sewer envelope but also to properties "at the periphery" of the envelope. The language preceding the bulleted recommendations in the Plans stipulates that the policy be applied with a "focus" on properties that already abut existing or proposed sewer mains, that can be constructed within public rights-of-way and avoid disruption to streams and their undisturbed buffers.

Private Institutional Facilities (PIFs)

The following discussion cites *Bethel World Outreach Council v. Montgomery County, Maryland*, Court of Special Appeals of Maryland, September Term 2007, No. 03082. This particular PIF applied for public sewer service in an area specifically excluded for such by a local area Master Plan (The Preservation of Agriculture and Open Space, 1980). The application included a request for a "limited access sewer." (Glenstone's application is for a single, user-dedicated pressure sewer extension.)

In 2001, an application for public sewer by Bethel in the RDT Zone in an area categorized as S-6 prompted the County Council to review certain provisions in the Sewerage Systems Plan known, collectively, as the Private Institutional Facilities (PIF) policy. The Plan defines PIFs as "buildings constructed for an organization which qualifies for a federal tax exemption under the provisions of Section 5012 of the U.S. Code (Internal Revenue Service)." PIFs include churches, schools and museums. Of particular concern to the County was the proliferation of large PIFs, "outside of the acknowledged water and/or sewer envelope."

In 2003, the Council formed an interagency working group to study the issue. As noted by Council staff, one of the key concerns of the working group and the M-NCPPC was the "large impervious area that results from PIF approvals." (Staff notes that the Glenstone proposal is not a typical PIF application and the proposed maximum impervious surface is 15 percent).

In January 2005, the Council formed another working group (the PIF Working Group) that further studied the PIF issue. The PIF Working Group presented a report, dated August 29, 2005, to the Council. The Group reiterated the Planning Board's "concerns regarding the PIF Policy... and the fact that this policy allows for more intense developments of large lot zoned properties than was envisioned in area Master Plan." Council staff noted that the State of Maryland had advised that it may deny future water and sewer plan amendments that were not consistent with the Master Plan. The PIF Working Group noted that PIFs "tend to be much more intense developments" that create greater impervious area, and that "Increased impervious area correlates to lower water quality." They also observed that the "extension of sewer to serve a property can lead to future pressure to hookup additional properties causing additional environmental impacts."

On November 29, 2005, with the adoption of Resolution No. 15-1234, the Council amended the Sewerage Systems Plan, in part, to state:

"For existing PIF uses, service area category amendments may be approved for sites only where required sewer main extensions do not threaten to open undeveloped land to development contrary to the intent of the relevant local area Master Plan.

For new or relocating PIF uses, service area category amendments may be approved for sites where required sewer main extensions will abut only properties which are otherwise eligible for community service under the general policies of this plan."

(Glenstone has an existing museum on one lot and proposes a new museum on an adjacent lot. For the existing museum, the proposed sewer extension would not threaten to open undeveloped land to development. For the new museum, on an adjacent property, the proposed sewer extension does not abut properties eligible for community service).

On November 29, 2005, the Council denied Bethel's application for water and sewer service. Bethel argued that the Council could not, under the Water Supply and Sewerage Systems Plan, consider Master Plan recommendations or traffic impacts when reviewing an application for a category change. The Court of Special Appeals found that argument to be directly and unequivocally refuted by the plain language of the Plan. The Court found that that the Council had substantial justification to deny the application. "The (Water Supply and Sewerage Systems) Plan incorporates the Master Plan which recommends against the extension of public sewer."

The Council renders decisions on applications initiated by private property owners within the context of the Water Supply and Sewerage Systems Plan. The Court of Appeals has determined that "all amendments to a Master Water and Sewer Plan are, by definition, comprehensive planning actions." *Appleton v. Cecil County*, 404 Md. 92, 104, 945 A.2d 648, 655 (2008). A water and sewer service plan has "a broad or comprehensive land use planning basis." *Id.* (quoting *Gregory v. Board of County Commissioners of Frederick County*, 89 Md. App. 635, 640, 599 A.2d 469, 472 (1991)). A "legislative body's focus" in such a planning action:

Is not on a single piece of property, but rather on a considerable number of properties as they relate to each other and to the surrounding area.... These are not adjudicative determinations affecting one property owned by one person, but instead are classically legislative determinations designed to affect local and regional needs and all property owners within the planning area. *Gregory*. 89 Md. App. At 640-641, 599 A.2d at 472 (internal citations omitted).

The *Gregory* court noted that the "adoption of a particular amendment to the plan cannot be isolated from the context of the plan as a whole." 89 Md. App at 643-644, 599 A. 2d at 473. The *Gregory* court was "unable to conceive of a situation in which the adoption of an amendment to a county's water and sewerage plan would lack a comprehensive planning basis."

In the Bethel case, the Court of Special Appeals stated that "The Council acted consistently with the Master Plan (which recommends against public sewer extensions in the RDT Zone) and in furtherance of the land use and environmental considerations that are integral to the Plan."

If this is true for the public sewer service restrictions in The Preservation of Agriculture and Open Space Master Plan of 1980, it is equally true of the public sewer service restrictions in the Potomac Subregion Master Plan of 2002.

Conclusion

The Potomac Subregion Master Plan is a comprehensive plan, based on a detailed 2-year environmental inventory study, with sewer service policies and recommendations decided in advance of zoning and land use policies. The Master Plan identified one of the greatest challenges facing the Potomac Subregion to be the development of sewer service recommendations to protect the Subregion's environmental quality and water resources.

The Glenstone Property is 127 acres in area, and would therefore constitute a very significant island intrusion into the area outside the sewer service envelope. The applicant has also acquired the entire Three Sisters subdivision, (8 developed lots) and an additional 7 undeveloped lots in the abutting Stoney Creek Farms subdivision. The applicant has thus assembled a contiguous area of 203.88 acres, with

access from two rustic roads (Glen Road and Stoney Creek Road). The purpose in acquiring the additional acres is unclear, as the furthest lot is well over a half mile away from the present museum. The additional acreage is not part of the current application, but there is nothing to prevent multiple future applications based on additional museum buildings.

The applicant proposes that a pressure sewer extension cross a stream valley and floodplain. The Applicant's engineers have proposed several methods to minimize risk and to rapid resolve any leakage (P35, Executive packet). They do not rule out the possibility of a pipe leakage and the prospect of raw sewage leaking into the stream, and ending up in the Watts Branch, flowing into the Potomac just upstream of the WSSC water intake.

The 382-mile long Potomac, classed as a Heritage River, provides water for 4 million people in Maryland, Virginia, and the District of Columbia. It used to be so polluted that it was once called "a national disgrace." Thanks in large part to the Clean Water Act, water quality has dramatically improved. But according to a report released by American Rivers on May 15, 2012, the Potomac is now threatened by polluted rainwater -- wastewater overflowing from sewers and agricultural waste, and is one of the nation's most endangered rivers.

The adopted sewer service policy in the Potomac Master Plan set three criteria for which extensions of mains could be considered within the sewer envelope but also to properties "at the periphery," i.e., the provision of service would be considered if:

1. Properties abutted existing or proposed sewer mains
2. Mains could be constructed within public rights-of-way, and;
3. Mains avoided disruption to streams and their undisturbed buffers.

Glenstone meets none of these criteria.

The objective of the peripheral policy was to curtail the large-scale expansion of the sewer envelope that occurred over the previous 20 years. The applicant has not demonstrated the need for public sewer. Construction of a new museum building on 127 acres would not be precluded by the use of a maximum 6 acres for septic fields.

The Ten Year Comprehensive Water Supply and Sewerage Systems Plan approved by the Maryland Department of the Environment, and the Potomac Subregion Master Plan are in agreement that the Glenstone property is not intended to be served by public sewer. (Category S-6)

The Council's PIF policy states that for existing PIF uses, service area category amendments may be approved for sites only where required sewer main extensions do not threaten to open undeveloped land to development contrary to the intent of the relevant local area Master Plan. For the existing Glenstone museum, an extension would not threaten undeveloped land.

However, the Council's PIF policy also states that for new PIF uses, service area category amendments may be approved for sites where required sewer main extensions will abut only properties which are otherwise eligible for community service under the general policies of this plan. Glenstone's new museum does not meet this threshold for approval. The abutting properties are not eligible for community service.

Staff believes that the Bethel case offers guidance where a PIF application is at odds with the underlying Master Plan recommendations. The proposed new museum does not meet the PIF approval threshold, and the applicant has not demonstrated the need for sewer for the existing museum. In order to be consistent with the Potomac Subregion Master Plan and in furtherance of the land use and environmental considerations that are integral to the Plan as a whole, the category change application should be denied.

Sewer Category Recommendation: Deny S-3

11A-CLO-01: Shri Mangal Mandir (Circle 1 of the attachment)
Requests a change from S-6 to S-3

Master Plan Recommendation

This 16.5 acre, RE-2 zoned property is outside the 1998 Sandy Spring/Ashton Master Plan designated sewer envelope. The Master Plan recommends on page 83 that community service be provided consistent with the Water Supply and Sewerage Systems Plan, which does not recommend extension of sewer to densities of less than ½ acre. The Master Plan recommends extension of sewer to only three other types of development:

- RNC zoned properties using the optional method
- Properties within the Rural Village Overlay Zone
- Properties with demonstrated health problems

This request does not meet these criteria.

In addition, the plan states on page 85, "wherever possible, sewer main alignments should be carefully planned, selected and constructed to minimize stream crossings and disturbance to stream buffers, and to avoid wetlands and other natural resources." The first proposed WSSC sewer extension alignment for this site extends 4,500 feet along a forested stream valley. The second would cross existing forest conservation easements on Montgomery County Revenue Authority land.

With regard to the PIF policy discussed in the Glenstone Foundation application, it states that "for new or relocating uses, service area category amendments may be approved for sites . . . where required water and or sewer main extensions will abut only properties which are otherwise eligible for community service under the general policies of this plan." Since both of the proposed WSSC sewer alignments will bring sewer lines past undeveloped properties, the property is not eligible for the Private Institutional Facility (PIF) policy contained in the Water Supply and Sewerage Systems Plan.

Background

The Shri Mangal Mandir Temple has been located just north of the subject property since the late 1980's. With this category change request, the applicant seeks to build a new congregation center near the corner of Ednor and New Hampshire Avenue (see circle 7 & 8). Planning staff are currently reviewing a forest conservation plan associated with a sediment control plan. This plan proposes the construction of a parking lot and playground. The parking lot is connected to and will serve the existing temple site. The new congregation center will take the place of the playground if sewer service can be obtained. A preliminary plan would be required prior issuance of a building permit to construct the new center.

Sewer Category Recommendation: Deny S-3

CONCLUSION

Staff recommends denial of these four sewer and water category change requests.

NEXT STEPS

The Planning Board's recommendations will be transmitted to County Council during a public hearing on June 21, 2012. The County Council T&E Committee will subsequently discuss these cases before bringing them to the full Council for final decision.

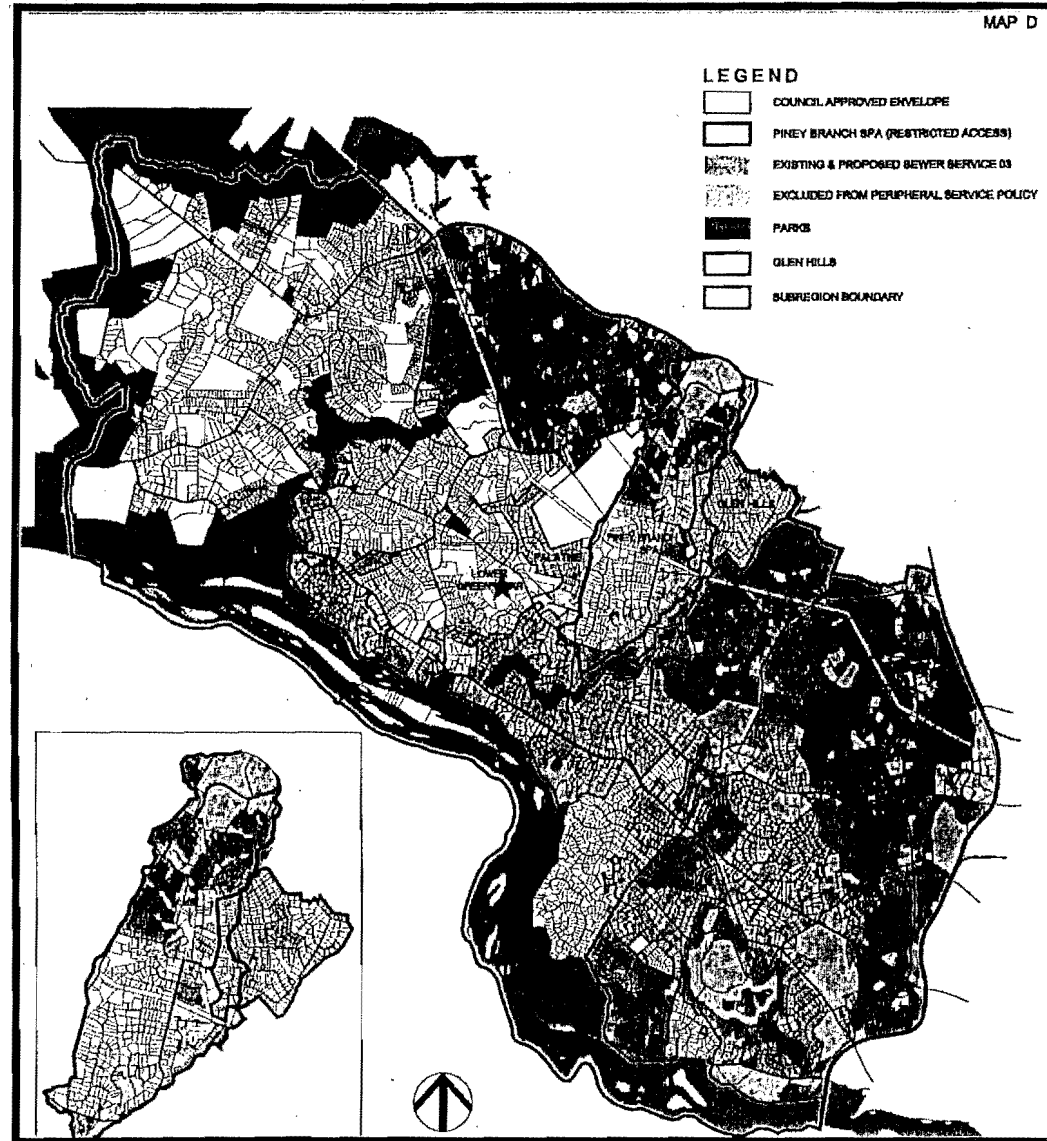
Attachments

Glenstone Foundation

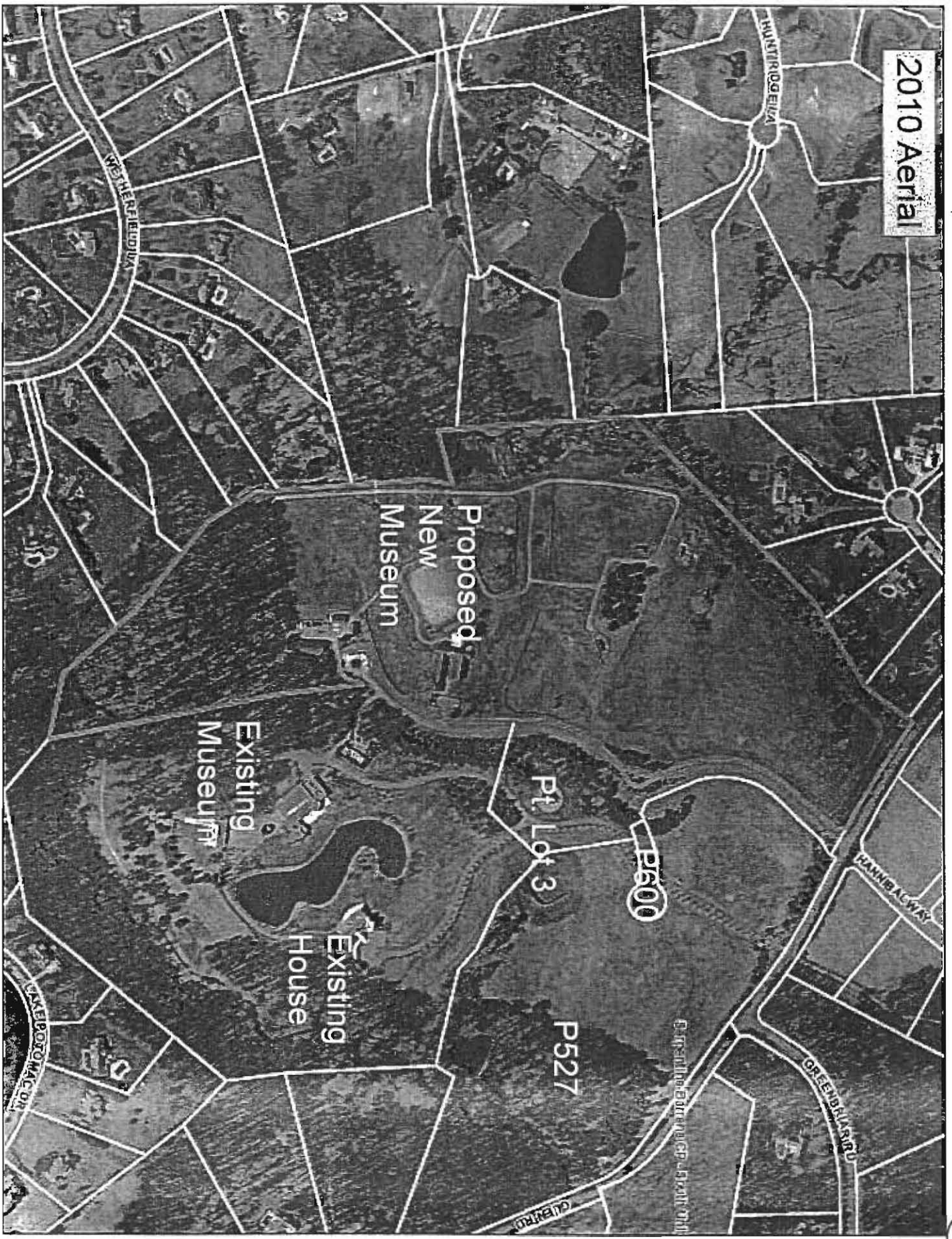
WSCCR 11A-TRV-06

Potomac Sewer Service Envelope

The Potomac Subregion Master Plan shows the Glenstone properties located outside the approved sewer service envelope.



2010 Aerial



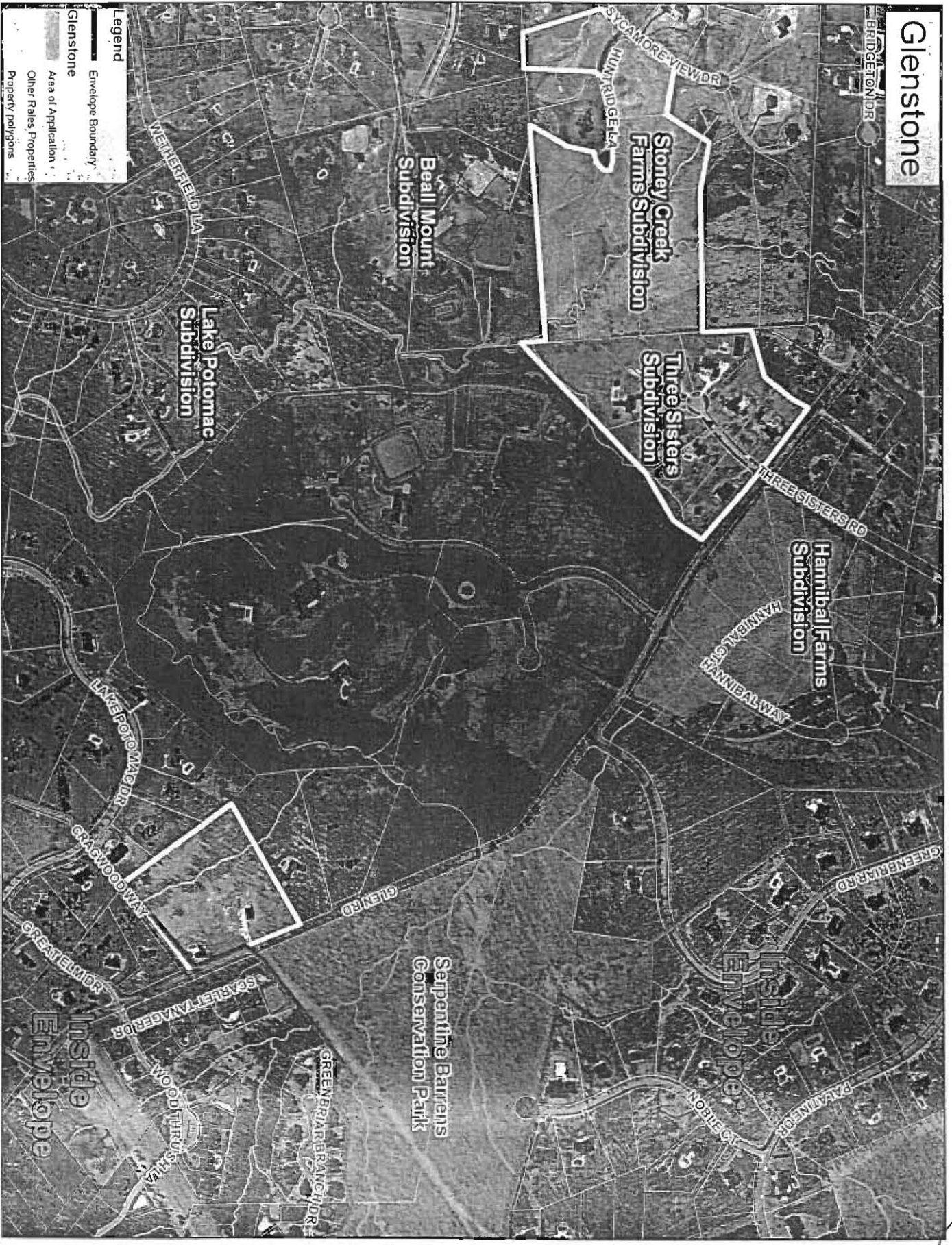
66

Glenstone



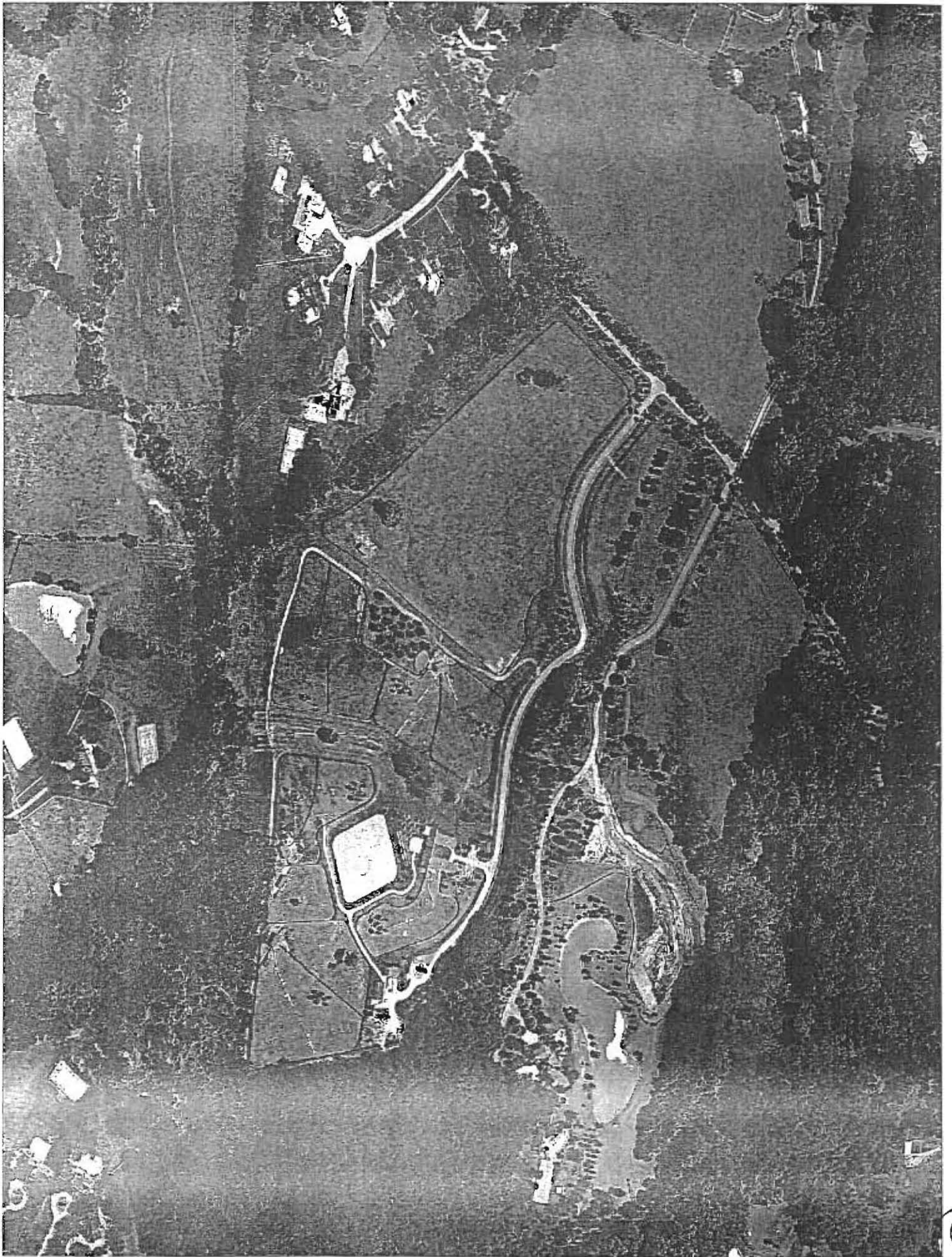
Glenstone

BRIDGEVIEW DR
GLENSTONE DR



Legend

- Envelope Boundary
- Glenstone
- Area of Application
- Other Rates Properties
- Property Polygons

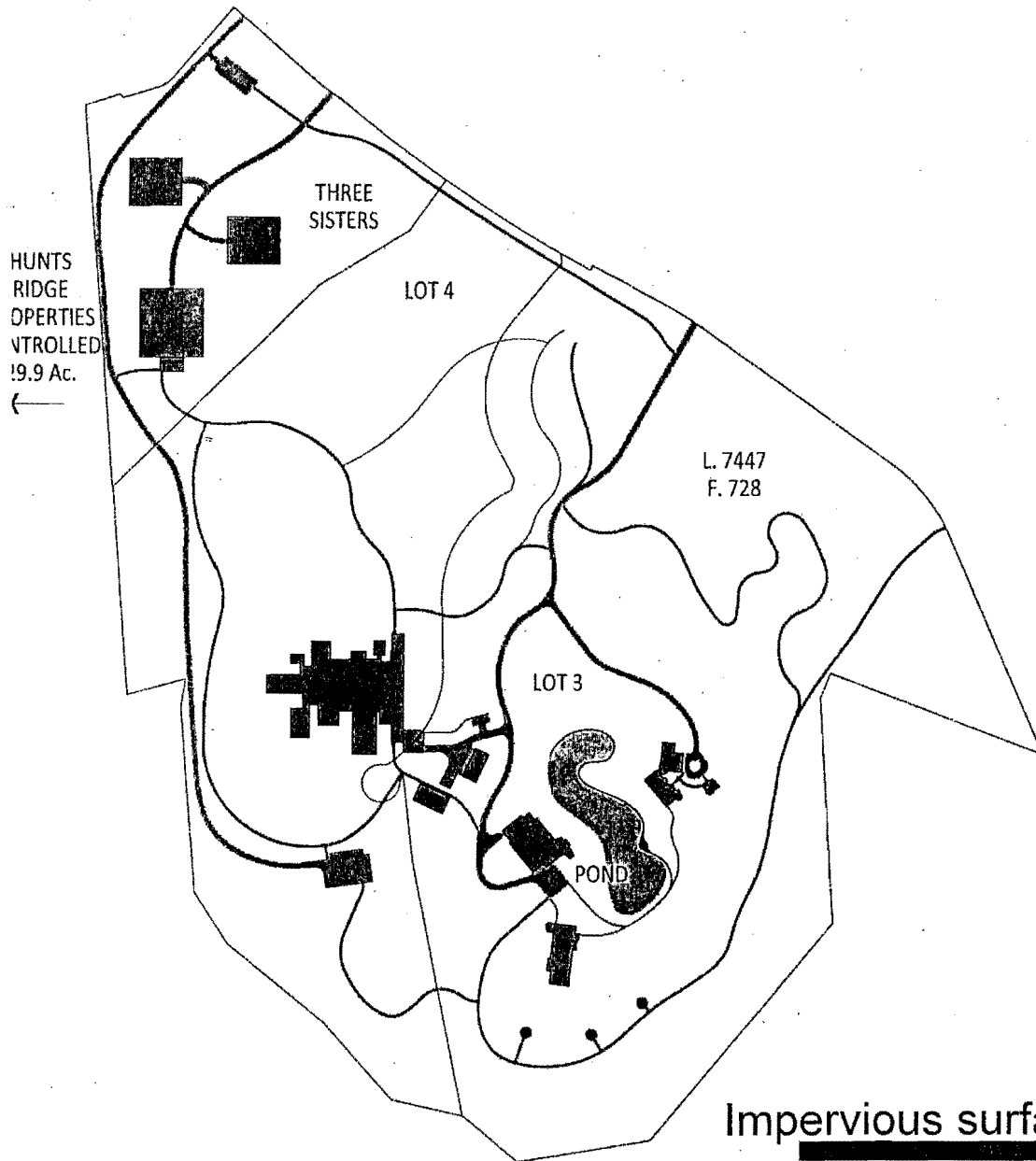








Point	Year Purchased
1	2012
2	2011
3	2010
4	2008
5	2008
6	2010
7	2011
8	2011
9, 10	2009
11, 12, 13, 14	2008
15	2009



Impervious surface 10.89%

IMPERVIOUS SURFACES CALCULATIONS

GLENSTONE II
ANALYSIS FOR CATEGORY CHANGE AND POTENTIAL IMPERVIOUS CAP

ULTIMATE IMPERVIOUS AREAS: (PROPOSED & EXISTING TO REMAIN)

THREE SISTERS (SEE NOTE 1):		20.29 AC	
PROP. ROADWAY:	142,669 SF	3.27 AC	16.12%
PROP. WALKING PATH:	9,774 SF	0.22 AC	1.11%
PROP. BUILDINGS:	10,584 SF	0.39 AC	1.91%
	163,027 SF	3.88 AC	19.14%

LOT 4:		49.9 AC	
PROP. ROADWAY:	48,712 SF	1.12 AC	2.24%
PROP. WALKING PATH:	32,175 SF	0.74 AC	1.48%
PROP. BUILDINGS:	45,973 SF	1.05 AC	2.12%
PROP. GREEN ROOF:	30,000 SF	0.69 AC	1.38%
PROP. WATER FEATURES:	21,447 SF	0.49 AC	0.99%
EX. WALKING PATH:	14,285 SF	0.33 AC	0.66%
	192,597 SF	4.42 AC	8.86%

LOT 3 AND PARCEL L. 7447 F. 728:		77.2 AC	
PROP. ROADWAY:	14,674 SF	0.34 AC	0.44%
PROP. WALKING PATH:	85,382 SF	1.96 AC	2.54%
PROP. BUILDINGS:	13,841 SF	0.32 AC	0.41%
EX. POND:	89,483 SF	2.05 AC	2.65%
EX. ROADWAY:	72,706 SF	1.67 AC	2.16%
EX. WALKING PATH:	14,285 SF	0.33 AC	0.42%
EX. BUILDINGS:	60,033 SF	1.15 AC	1.45%
	340,622 SF	7.82 AC	10.13%

HUNTS RIDGE (SEE NOTE 2):		29.9 AC	
EX. & PROP. IMPERVIOUS:	0 SF	0.00 AC	0.00%

TOTAL ULTIMATE IMPERVIOUS AREAS OF PROJECT:		702,340 SF	16.12 AC
---	--	------------	----------

*SHOWN THROUGHOUT PROJECT SITE BUT ASSUMED TO GO ON LOT 3 (A) & LOT 4 ONLY

IMPERVIOUS AREAS TO BE REMOVED

LOT 4:		49.9 AC	
EX. SURFACES AND STRUCTURES TO BE REMOVED:	87,070 SF	2.00 AC	4.01%
	87,070 SF	2.0 AC	4.01%

LOT 3 AND PARCEL L. 7447 F. 728:		77.20 AC	
EX. SURFACES AND STRUCTURES TO BE REMOVED:	51,859 SF	1.19 AC	1.54%
	51,859 SF	1.19 AC	1.54%

TOTAL TO BE REMOVED FROM LOT 3 & LOT 4		3.19 AC	2.51%
--	--	---------	-------

TOTAL IMPERVIOUS, INCLUDING AREAS TO BE REMOVED ON LOT 3 & 4 (FOR INTERIM CONDITION- TOTAL MAX AT ANYTIME)		19.31 AC	
--	--	----------	--

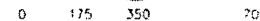
	TOTAL IMPERVIOUS	LOT AREA	%
LOT 3, LOT 4, PARCEL L. 7447 F. 728, THREE SISTERS, & HUNTS RIDGE	19.31 AC	177.35 AC	10.89% IMPERVIOUS

NOTES:

1. LOT 1 ON THREE SISTERS IS NOT CURRENTLY OWNED BY THE FOUNDATION. CALCULATIONS ASSUME A FUTURE ACQUISITION. LOTS INCLUDED IN THIS CALCULATION ARE LOTS 1 THROUGH 8.
2. INCLUDES LOTS 21, 23-26, 28, 36 & PARCELS B & D.
3. CONTINGENCIES SHOULD BE APPLIED FOR FINAL DESIGN AND FUTURE DEVELOPMENT NOT CONSIDERED AT THIS TIME.
4. IMPERVIOUS AREAS ABOVE INCLUDE 30,000 SF OF GREEN ROOF ON BUILDINGS AND APPROXIMATELY 111,000 SF OF WATER FEATURES AND POND.



Glenstone II
Potomac, Maryland
Impervious Areas
Exhibit



Applicant: "Septic does not facilitate the many existing and planned environmental initiatives that are part of the Glenstone Mission." (P26 of Executive packet)

Organic Lawn Care

Pilot program with University of Maryland for sustainable organic turf

Renewable energy

LEED Certification

Construction of a Living Building at Glenstone, with 100% sustainability

Compliance with Sustainable Site Initiative administered by ASLA

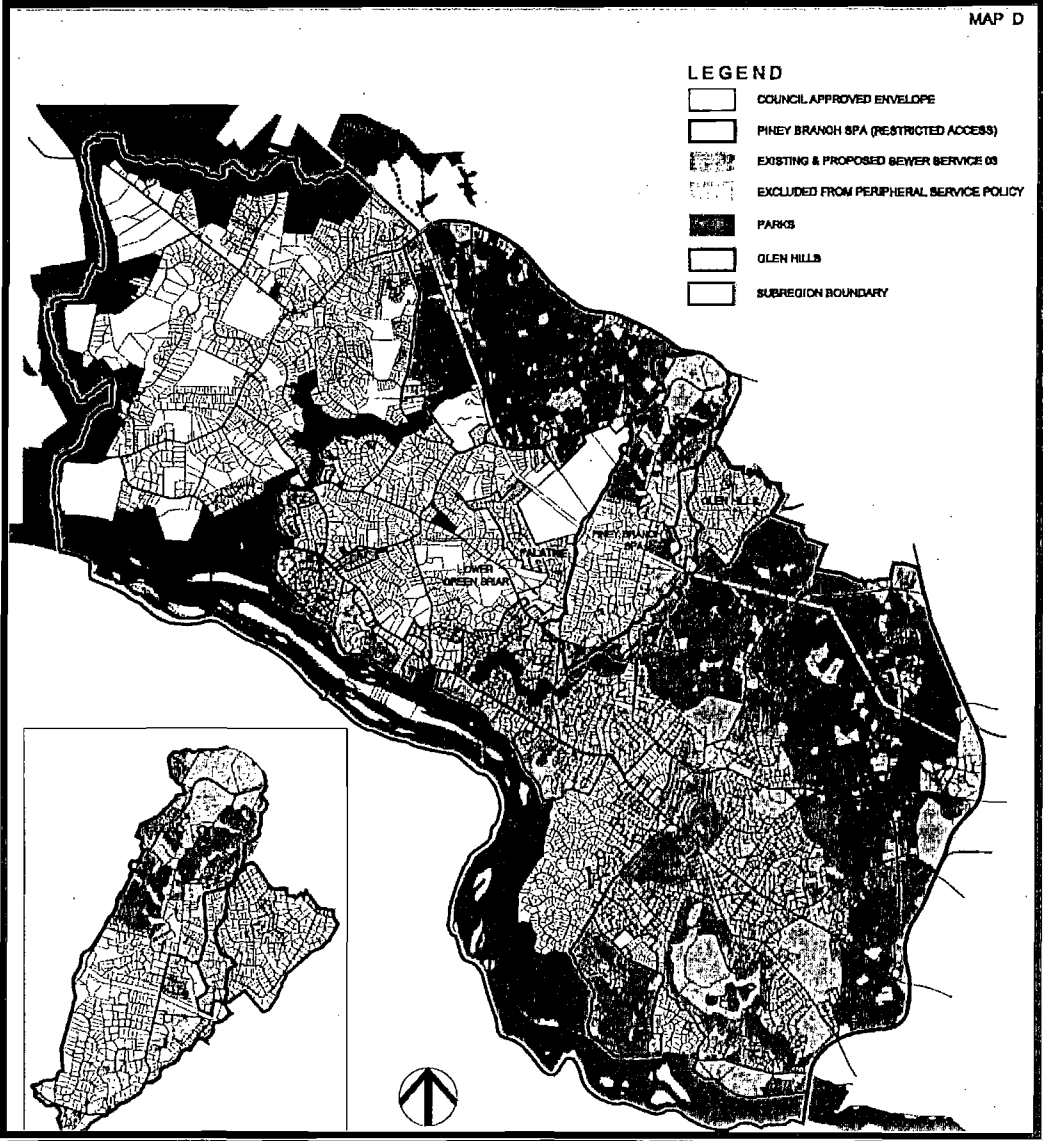
Preservation of Green Area with approximately 15% impervious surface

Applicant wishes flexibility to locate monumental sculptures on the property (p30), including 6.0 acres for future septic and reserve fields.

Potomac Sewer Service Envelope

MAP D

The Potomac Subregion Master Plan shows the Glenstone properties located outside the approved sewer service envelope.



Applicant's Proposal to address Construction and Maintenance of pressure sewer main

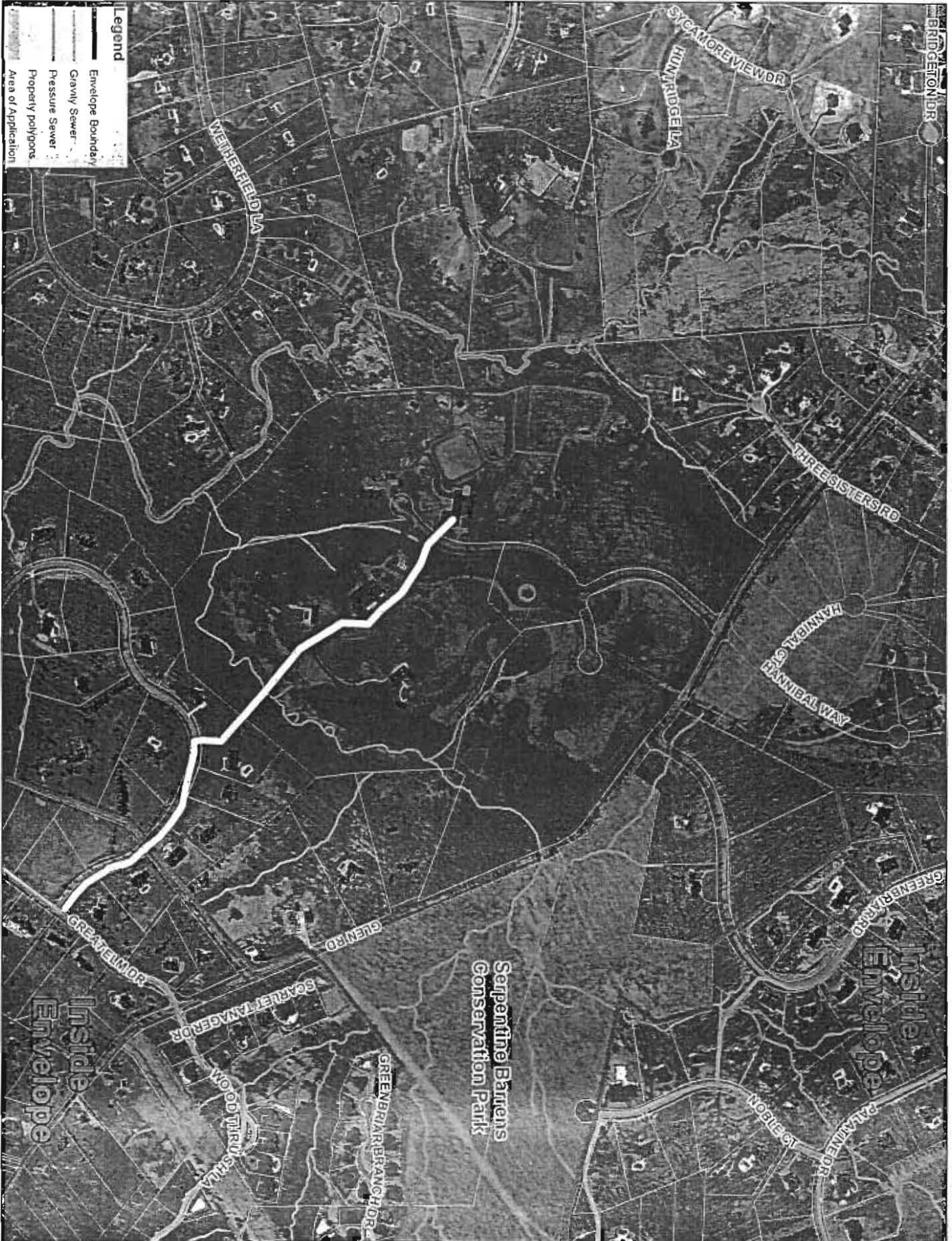
1. Directional boring
2. Pump redundancy
3. Back-up power supply
4. Monitoring function
5. Rain water flushing
6. Multiple pressure gauges
7. Periodic pressure testing
8. Potential casing pipe to catch any leakage

Applicant does not contest the possibility of a sewage leak, under pressure, directly into the stream

Owner values existing ambience of area

Policies which have created existing ambience:

1. Master Plan
2. Zoning pattern
3. Park acquisition
4. Two-lane road policy
5. Rustic roads
6. Sewer service policy



Legend

- Envelope Boundary
- Gravily Sewer
- Pressure Sewer
- Property polygons
- Area of Application

Serpentine Barrens
Conservation Park

Inside
Envelope

Inside
Envelope

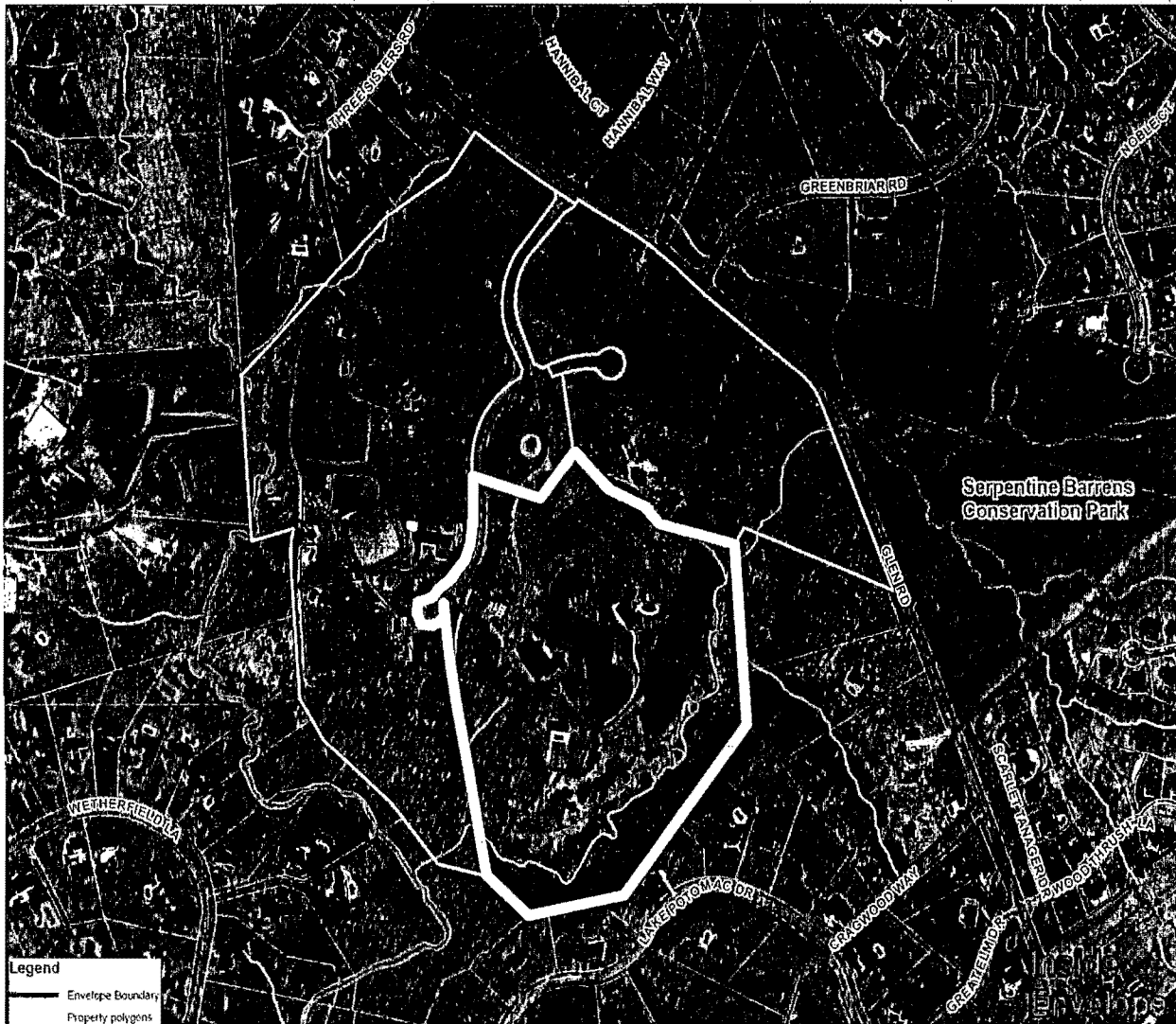
Potomac Master Plan Sewer Policy

Consider provision of service on periphery of envelope if:

1. Property abuts existing or proposed sewer main,
2. Main can be constructed within public right-of-way, and;
3. Main avoids disruption to streams and undisturbed buffers.

Glenstone meets none of these criteria

Existing Museum Property



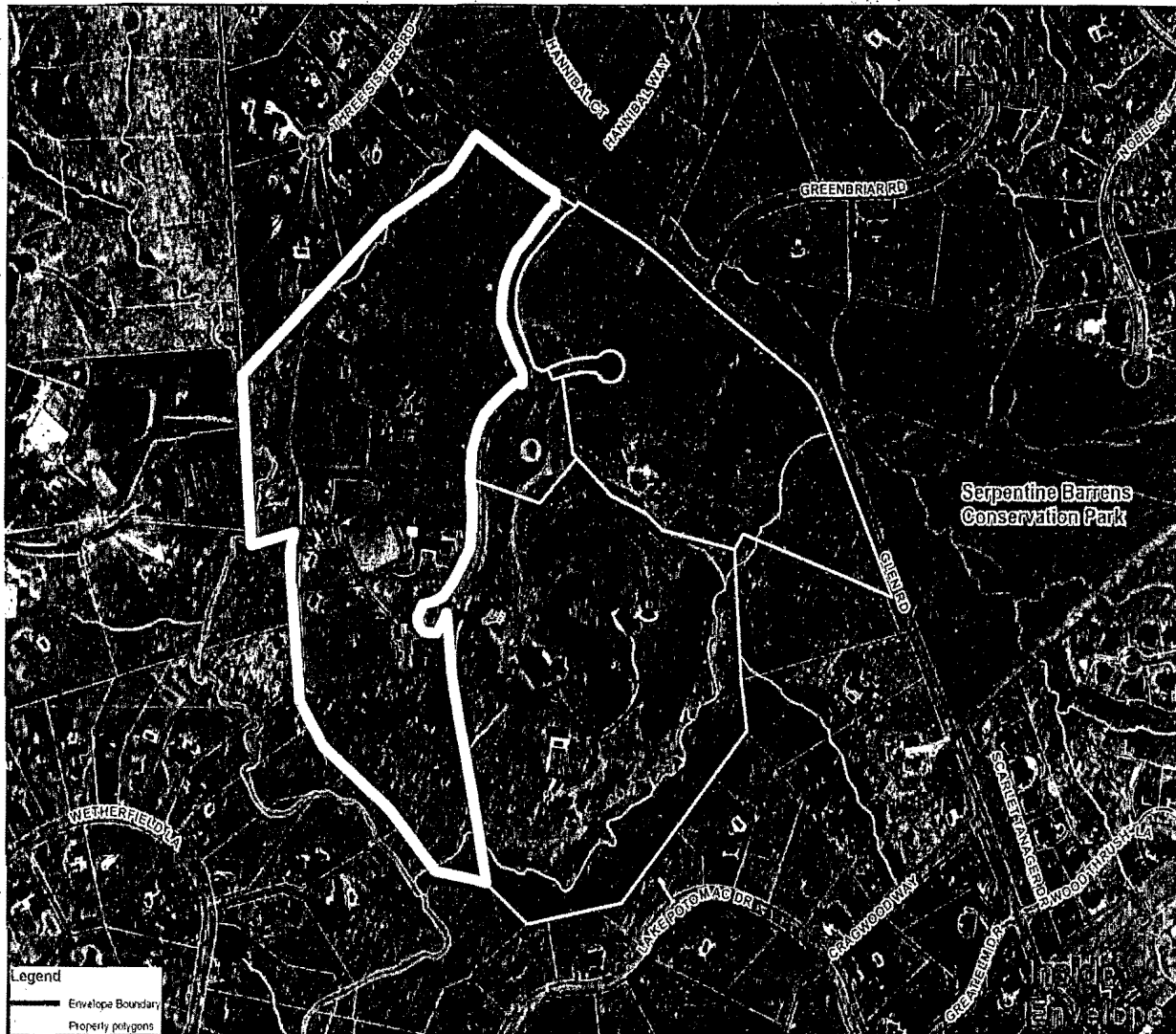
For existing PIF uses, category amendments may be approved only where the sewer main extension does not threaten to open undeveloped land to development.

The proposed sewer main would not threaten to open undeveloped land to development.

Museum has an existing septic field.

Need for sewer not demonstrated.

Proposed museum property



For new PIF uses, category amendment may be approved where the required sewer main extension will abut ONLY properties eligible for community service.

The proposed main abuts several properties outside the sewer service envelope that are ineligible for community service.

Conclusions

1. Master Plan strongly recommends against extension of sewer outside approved envelope.
2. Existing museum property qualifies for PIF consideration but is served by existing septic field with no established need for sewer.
3. New museum property does not qualify for PIF consideration as the proposed sewer main abuts properties outside the envelope that are not eligible for community sewer service.

Recommendation: Deny S-3 category change

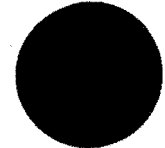
KL
CC

Marin, Sandra

From: Ravinder Kapoor [ravinderkapoor@yahoo.com]

Sent: Thursday, June 28, 2012 5:25 PM

069176



To: Montgomery County Council

Subject: My Application for Category Change WSCCR 11A-TRV-08

Dear County Council Members,

Thank you for the recent opportunity to address some of you at the Water and Sewer Plan Amendments hearing on Thursday June 21, 2012. I hope you will be approving my application for a single sewer hook up (application # WSCCR 11A-TRV-08) for our existing home so we can abandon our current septic field for use as a safe parking area for visitors to our home. Currently we have limited parking on our lot during frequent, large gatherings at our house and the only open, accessible, flat, parking area on our lot is taken up by the septic field. Visitors are forced to park and walk along busy Boswell lane and have almost been struck by passing cars on many occasions !

It was clear at the hearing how odd it was to recommend denial of our application which is based on pedestrian safety and has no impact to the surrounding environment while a billionaires application is recommended for approval, impacting hundreds of acres and whose request could be resolved using other means. This was so odd that I was approached by a Washington Post reporter (Miranda Spivack) writing a story on the Gladstone property and the oddity of our county's process that denies my application which will improve pedestrian safety while allowing to pass a billionaires application whose basis for applying was unclear. In fact, another multi-millionaire, owner of RAM Investing LLC (application # WSCCR-00A-TRV-03) received sewer hookup in 2004 and they did not meet the requirements of the master plan! The builder dragged the sewer from over 1900 ft away for that project !!! I'm asking for ONE sewer hookup to a nearby sewer main for my existing home so I can use my open space for safe parking during gatherings. I can only hope that my trusted, elected, judicious county officials' will approve my application for sewer hookup and not just approve applications from multi-millionaires and billionaires who can hire a team of lawyers, engineers, and lobbyists.

What was also apparent at the hearing and in my discussions, is that citizen and environmental groups didn't object to my application at the slightest and realize that a strict interpretation of a "Master" plan is irrelevant in my case and should not be used as the basis of rejection. In fact, Ms. Barbara Falcigno, President of the Greater Olney Civic Association (GORCA), supported our request and encouraged me to contact all of you to plead my case. Others on our street have no pressing need for public sewer and normally I would not care but after living in this home for over 6 years and experiencing near fatalities by our guests, I have to find a solution to this problem by abandoning our current septic field for adequate and safe parking.

Once our septic field is abandoned I can and will plant numerous well placed trees in that area to beautify our wonderful county. I am a hard-working, lifetime, tax-paying citizen of the county and if my application rejected while the rich applicants get approval, I will be very upset. Please do the right thing and also approve our application for a S-6 to S-3 sewer category change.

As an active member of the county I've lived in my entire life, I would request you to please approve my application. If you will not be approving, could you please explain to me why ? Thank you.

Sincerely,
Ravinder Kapoor
10401 Boswell Ln.,
Potomac, MD
ph. 301-251-2130

RECEIVED
MONTGOMERY COUNTY
2012 JUN 29 AM 8:15

84

June 21, 2012

Montgomery County Council
Rockville, MD

Dear County Council:

This letter is in regards to the Water and Sewer Plan Amendments hearing scheduled for this Thursday June 21, 2012 at 7:30pm. As a lifetime resident of the county and an active member of the community, I am writing this letter to respectfully oppose the current recommendation to deny our request for a single hook up to public sewer for our home at 10401 Boswell Ln., Potomac, MD where we have lived for over 6 years. The impetus for our request is based on hazardous conditions experienced by visitors and guests to our home who simply have nowhere to safely park except on heavily-traveled Boswell Ln. during gatherings at our house. In fact on many occasions guests were nearly hit by passing traffic. Just this last February we had a party at our home for the 5th grade boys' basketball team for which I was the coach. Due to limited parking some families had to park along Boswell lane and a child was almost struck by a passing car ! With this public sewer hookup, our existing septic field could be abandoned and used as a place to safely park for our guests. Thus far we have not allowed guests to park there because it will permanently damage our septic field. Attached is a map showing our current layout.

Over the course of time EVERYONE ON BOSWELL HAS OR WILL HAVE ACCESS RIGHTS TO SEWER HOOKUP EXCEPT ME. In fact, builder RAM Investing LLC (WSSCR-00A-TRV-03) received sewer hookup in 2004 and they did not meet the requirements of the master plan, not only that but the planning board let him sub-divide into FOUR LOTS which was ALSO against the master plan !!!! The builder dragged the sewer from over 1900 ft away for that project !!! I'm asking for ONE sewer hookup to a nearby sewer main for my existing home so I can use my open space for safe parking during gatherings. While multimillionaires and billionaires have attorneys to devise crafty ways to get category changes and permits through the county system, the average citizen is being rejected and treated unfairly at the sacrifice of their safety and well being! Please use uniform rules for everyone and not selective interpretations of out dated plans. I will be extremely disappointed to see these wealthy business men get their way while my application is rejected. That will be extremely unfair and negligent considering this is also a dangerous safety issue.

By the way, I have approached the county about getting a sidewalk installed so guests would have a safe place to at least walk along Boswell Ln but the county has already told me that constructing a sidewalk on Boswell would be almost impossible because we would need to get approval from all the homeowners on Boswell Ln.

Citizen groups no longer care about Boswell Lane anymore, because the street is now fully developed and there is nothing to restrict. I'm the only one left on Boswell Ln. who will not have the right to hook up!! The recommendation on the table regarding our

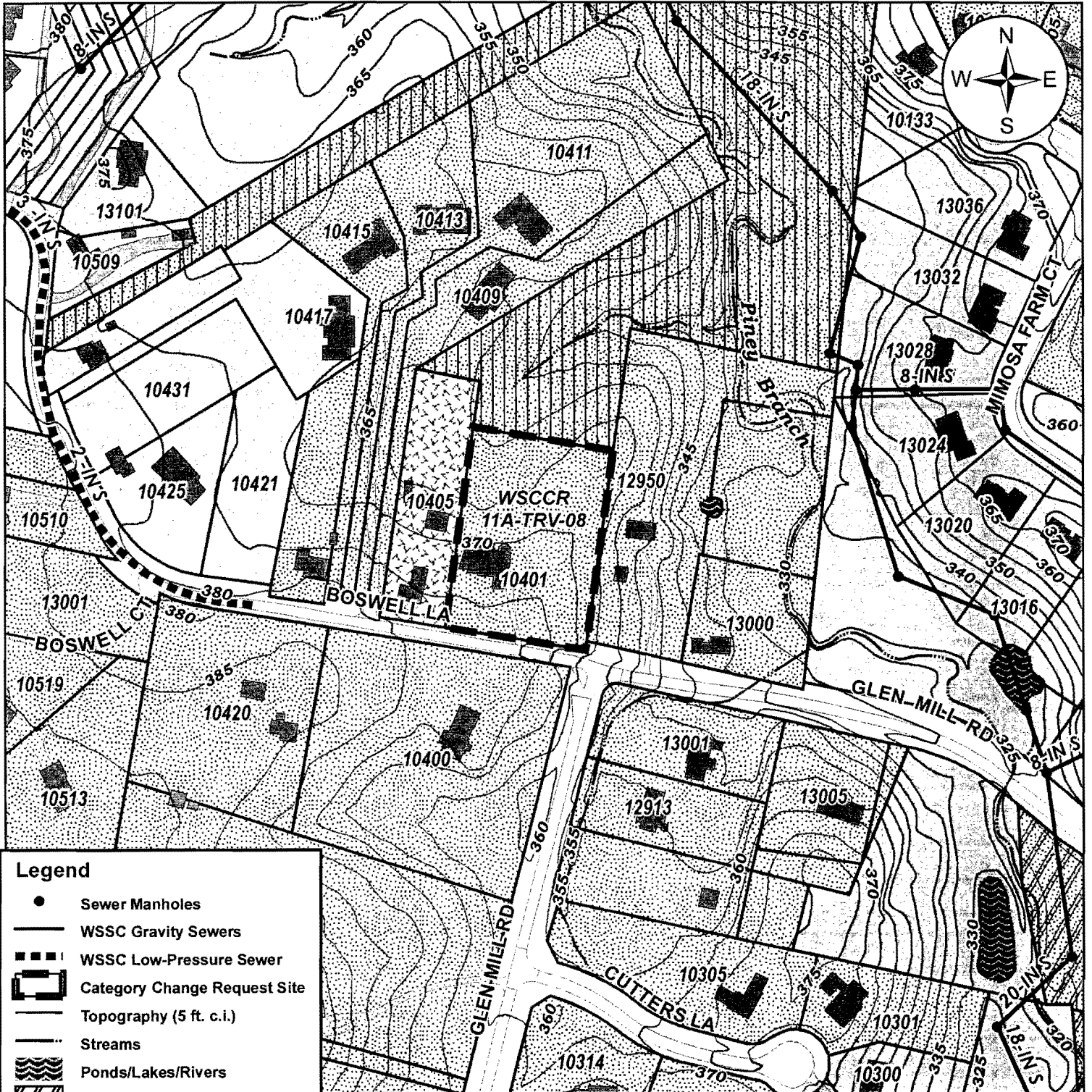
Montgomery County Council
June 21, 2012
Page 2

application is simply a strict interpretation of a "plan" that is now out dated and makes no sense to interpret literally any longer for our property. For Boswell Lane the plan was for no sewer hookup in accordance with the Potomac Master plan.

The executive recommendations provided to you are strict interruptions of a general 30 year plan from individuals who are simply doing their job. However, "Plans" change, and we adjust our plans in order to do the right thing, which in this case is to ensure citizen safety and protect our beautiful county at the same time. So I employ to the County Council's sense of practicality and judiciousness as our elected leaders to make the right decision and grant us an S-6 to S-3 category. Thank you very much for your consideration.

Regards,
Ravinder Kapoor
Homeowner
10401 Boswell Ln.
ph. 301-251-2130

Sewer Service Area Categories Map: WSCCR 11A-TRV-08 (Kapoor)



Legend

- Sewer Manholes
- WSSC Gravity Sewers
- WSSC Low-Pressure Sewer
- ▭ Category Change Request Site
- Topography (5 ft. c.i.)
- Streams
- ▭ Ponds/Lakes/Rivers
- ▭ Existing Parkland

Sewer Categories

- ▭ S-1
- ▭ S-3
- ▭ S-4
- ▭ S-5
- ▭ S-6
- ▭ Conditional Approval for S-3

0 200 400 600 800

SCALE (Feet)

Montgomery County, Maryland
 Draft 2011 Comprehensive Water Supply
 and Sewerage Systems Plan



6/20/12

DEP-WWPC 87

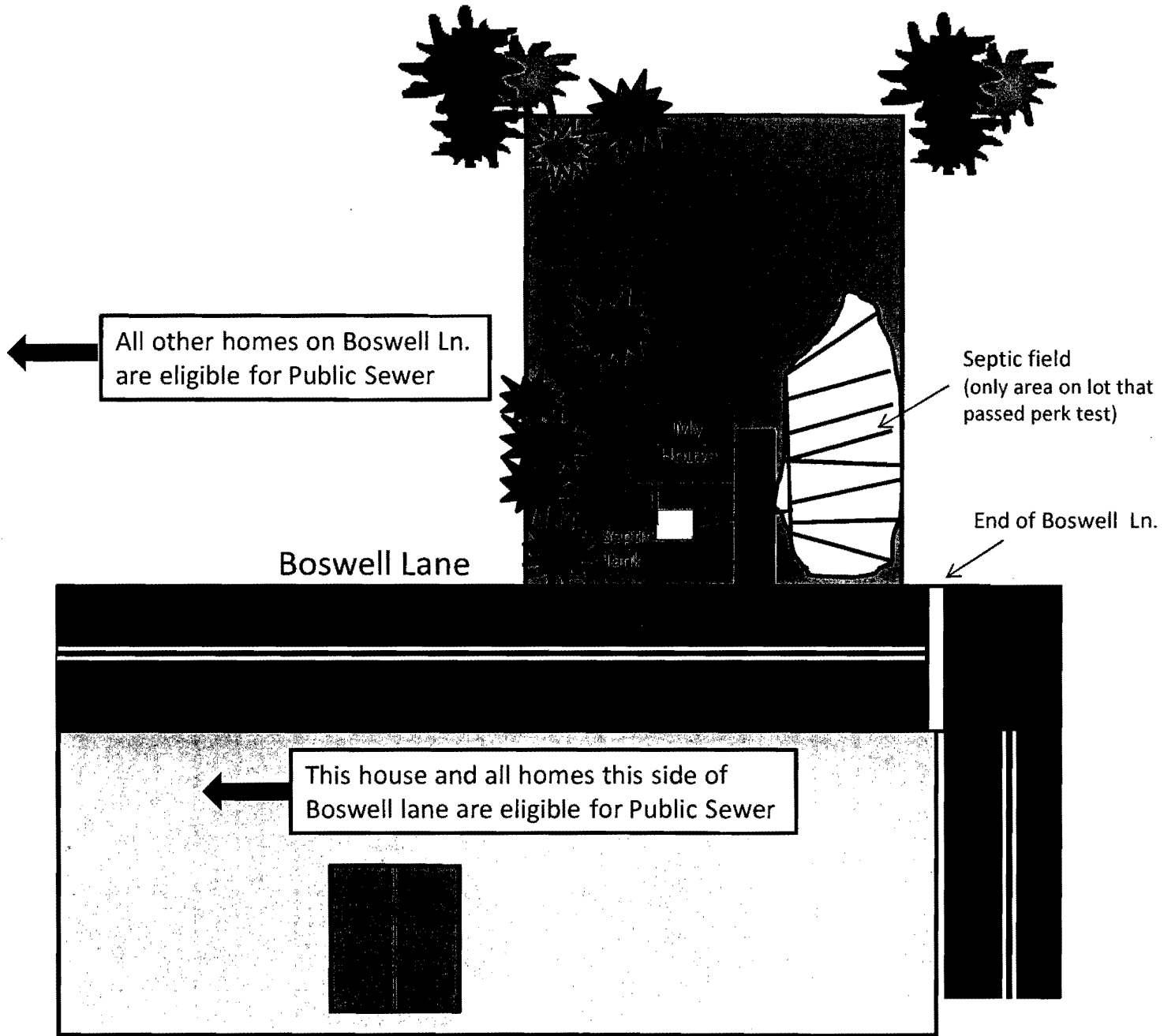
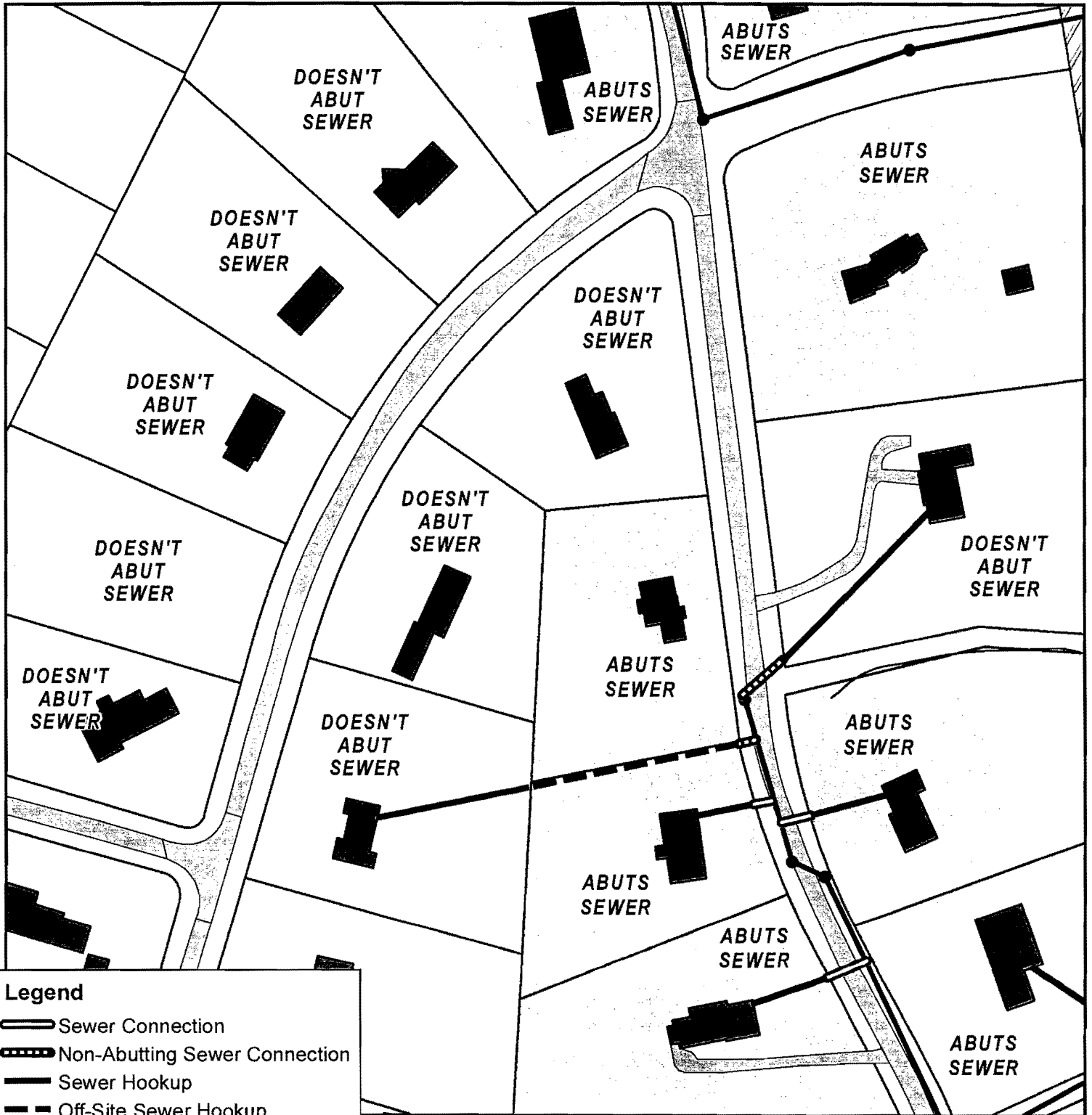


Figure 1-FX: Examples of House Connections/Hookups and Abutting/Non-abutting Properties



Legend

- Sewer Connection
- Non-Abutting Sewer Connection
- Sewer Hookup
- Off-Site Sewer Hookup
- Sewer Manhole
- WSSC Sewer Mains
- Streams
- Buildings
- Roads
- Parks

Properties

- Abuts Existing Sewer Main
- Does Not Abut Sewer Main

No Scale



AUDUBON NATURALIST SOCIETY

Connecting People with Nature in the DC Region | ANShome.org

My name is Adrienne Nicosia. I am presenting testimony tonight on behalf of the Audubon Naturalist Society and its members.

As the County builds out, your decisions regarding water/sewer changes will be even more critical in nature, especially on proposals for mega-institutions in conflict with Master Plans. Tonight, we concur with the Planning Board's recommendation of denial for all four requests.

The Council wisely created the Private Institutional Facilities (PIF) legislation, and strengthen it in 2005, to address mega-institutional sprawl. I would draw your attention to the Planning Chair's letter of June 20, 2012, to Mr. Leggett and Council President Berliner (attached), which clearly summarizes why Glenstone and the Shri Mangal Mandir Temple do not satisfy the PIF test.

While we applaud the concept of the Glenstone Museum and art collection, County staff indicate that the museum can be built using an on-site system, especially given the 127 acre plus size of the property. Further, it is well outside the water/sewer envelope and violates clear language in the Potomac Sub-region Master Plan crafted to protect the fragile network of water resources such as the Greenbrier Branch, which would be impacted by this proposal.

I want to address the Executive's staff support for this extension using a "grinder pump." It is important to note that the County argued against the use of a limited access sewer main in the Beth El case. Moreover, the Special Court of Appeals agreed with the County that a "carve out" for these types of sewage systems violated the intent of the PIF. And while former Councils have approved some gravity systems in the distant past, those actions were taken before the PIF regulations were strengthened. **If the Council agrees with DEP that a pressure system effectively moots the issue of "ineligible abutting properties" then you arguably will set a policy interpretation in conflict with the Beth El case, and render the PIF policy meaningless with respect to any property that would rely on pressure sewer - regardless of the distance or location of the extension.**

Regarding, the Shri Mangal Mandir Temple request, we again concur with the Planning Commission's recommendation to deny. This proposal fails the PIF test as well. I am attaching a Google Earth photo which also makes the case against siting this massive proposal at the headwaters of Northwest Branch, in a rural neighborhood already burdened with two large institutions in close proximity. We respectfully urge you to deny these requests.

89A

5

Montgomery
Countryside
Alliance

**Before Montgomery County Council: Proposed Amendments: Montgomery County
Comprehensive Water Supply and Sewerage Systems Plan
April 2012 County Council Group
Testimony Delivered on Behalf of Montgomery Countryside Alliance
By Caroline Taylor - June 21, 2012**

Good evening, I am Caroline Taylor I am here to provide testimony on behalf of Montgomery Countryside Alliance (MCA) and our members and supporters. After thorough review of the public materials, we have concluded that the Planning Board recommendations for denial of all four applications are sound, grounded in law and adhere to long range master plans and, therefore, deserve our support. Collectively, our vision must be long term. We must guard against short term decisions that provide dangerous precedent that too often undermine that vision.

I will address with specificity the application by Mr. Rales on behalf of Glenstone Foundation. There are several aspects of this issue that are quite clear: The museum project sounds quite wonderful. The merits of the project, though we await a specific plan, are not germane to the decision regarding sewer extension. And **the happiest news**: The project, per both Planning Board and County Executive opinions, can be achieved within the confines of the Master Plan and existing law. The County Executive's transmittal packet at circle 14 reads: "Typically, PIF applications depend on a category change for construction to proceed. This one does not. The museum expansion can be built with septic fields. The rationale for the application includes the desire for flexibility in locating large and (sic) sculpture using heavy equipment." The report goes on to suggest that innovative on-site sewerage treatment be explored. MCA hopes to discuss that unexplored option with the applicant.

Both the Planning Board and the County Executive opinions provide multiple citations to the PIF and the master plan, though the Executive's summary oddly relegates these important elements to footnotes. Notably both acknowledge that this application fails to meet the following threshold master plan criteria that require that:

1. Properties abut existing or proposed sewer mains
2. Mains should be constructed within public rights-of-way, and;
3. Mains avoid disruption to streams and their undisturbed buffers.

It was, therefore, more than a bit perplexing that the opinions arrived at opposite conclusions. The Executive opinion appears to rely on the notion that the PIF is satisfied by employing a single user pump grinder system. There is no basis for this conclusion in current law. It is ridiculous to assume that few if any could afford such a system. Currently several large scale institutions are proposing exactly the same systems in rural zones. In one of these cases, Bethel World Outreach Church, the County has vigorously defended the PIF and master plan. Granting these applications on such a flimsy basis ensures that the County's rural lands will become a holding ground for large scale public institutions with ample resources:

Thank you for the opportunity to provide comment.

Contact: Caroline Taylor, 301-461-9831 – caroline@mocoalliance.org



Protecting Our Rural Legacy

Linden Farm, 20900 Martinsburg Rd., PO Box 218, Dickerson, MD 20842 • Tel. 301-349-4889 • www.SugarloafCitizens.org

Testimony before T & E Committee, June 21, 2012
Urging DENIAL: Glenstone Museum preliminary plan #120100200, 11ATRV-06
Chris Kendrick, Treasurer, Sugarloaf Citizens' Association, Inc.

On behalf of the Board and Members of Sugarloaf Citizens' Association, we urge the Committee to uphold the critical review criteria set forth in the Public Institutional Facility (PIF) policy and Potomac Subregion Master Plan. Both were cited by the Montgomery County Planning Board in their May 31 review, and *recommendation of denial*, for application #11A – TRV-06. Their thoroughgoing report also recommended denial of three other applications; below is a summary of all four.

- 11A – TRV-06 Mitch Rales / Glenstone Foundation
 DENY: Provision of service would be considered if: 1) Properties abutted existing or proposed sewer mains, 2) Mains could be constructed within public rights-of-way, and 3) Mains avoided disruption to streams and their undisturbed buffers. *Glenstone meets none of these criteria.*
- 11A – PAX-01: Getachew and Wubet
 DENY: Application inconsistent with the Cloverly Master Plan; *no sewer service to any uses in the Patuxent River watershed.*
- 11A – TRV-08 Kapoor
 DENY: Property *does not meet six specific service conditions within the Piney Branch restricted sewer access policy*, and is therefore excluded from public sewer service.
- 11A – CLO-01: Shri Mangal Madir
 DENY: At 16.5 acres the 1998 Sandy Spring/Ashton Master Plan recommends extension of sewer to only three types of development: 1) RNC zoned properties using the optional method, 2) Properties within the Rural Village Overlay Zone or 3) Properties with demonstrated health problems; *property does not meet any of these criteria.*

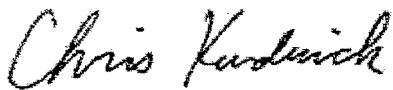
That Glenstone's proposed solution has garnered endorsements from several influential members of our community, looks nifty on paper, or happens to be well funded are *immaterial* to the essential public policies cited by our professional planners. Each of us can appreciate the public benefit in the end goal of this application, but we ask the Council to uphold Park and Planning's recommendation of denial. We acknowledge that this responsible course would represent an inconvenience to Mr. Rales' immediate vision for Glenstone, but it is, by no means, a show stopper.

The allocation of only six acres to septic infrastructure, in the more than 200 contiguous acres Mr. Rales has amassed, is all that stands between his laudable ambitions and our significant concerns

By contrast, if the Council fails to regard the advice of planners, and the considerable experience of concerned residents, we walk down a slippery and all-too-familiar slope, opening the doors to existing and unforeseen development threats on land in many rural zones.

We urge the County Council to stand behind the research and recommendations of Park and Planning staff, and ask the Glenstone team to develop a plan that fulfills their vision, while complying with both the Potomac Subregion Master Plan and PIF policy.

Respectfully submitted,



Chris Kendrick, Treasurer,
on behalf of the Board and Members of
Sugarloaf Citizens Association, Inc.

WEST MONTGOMERY COUNTY CITIZENS ASSOCIATION

P.O. Box 59335 • Potomac, Maryland 20854

Founded 1947

Testimony - June 20, 2012 - @ Montgomery County Council - Proposed Amendments to MC Comprehensive Water Supply and Sewerage Systems Plan

WMCCA fully supports **denial** of sewer on the requests before you in the Potomac Subregion but we are particularly concerned about the Glenstone property on Glen Rd. (11A-TRV-06). We have hosted a presentation by Glenstone to our Board of Directors. I have personally toured the site with Mr. Rales and his consultants in the company of former Council President Valerie Ervin. WMCCA has made our objections known to the applicant and tried to work with him on potential alternatives.

To be clear, we are not opposed to the existing Glenstone Museum, the opening of additional access to the public or the expansion anticipated on the site. We can see how this is a cultural enhancement to the entire region even though we have concerns about future impacts to Glen Rd., designated as Rustic and already facing the addition of the Greenbriar Local Park which will include a soccer field and other recreational amenities.

Mr Rales does not need sewer to build Glenstone II and we are convinced that he has the flexibility to locate 6 acres of septic on 127+ acres since he continues to buy surrounding properties. The arguments being made for using sewer undermine the very premise of *Potomac Subregion Master Plan* and threaten our highly prized Agricultural Reserve.

The criteria for a main extension under *The Potomac Master Plan* have not been met. The site does not abut any properties otherwise eligible for sewer service. Remember, here we have at least 5 properties, not one. It requires a mile extension to existing sewer. It will cross the Greenbriar Branch, a stream this County made a strategic decision to stay out of at least 15 years ago.

We agree with the Planning Board finding that this application does not meet the standards for granting a change under the PIF policy. It is a new use because it is a new structure on a different property. There are 5 separate properties, not one. Even if it were considered an existing use, it should be denied on Master Plan grounds.

Money is obviously no object here since the property owner has spent \$28 million on 6 surrounding properties just to eliminate the existing houses. To truly support the expansion of this museum, we need to see it be a model of septic innovation. We also encourage exploring new technologies for onsite sewerage treatment. Sewer is not required to build Glenstone II and it is much too risky to our established policies in Potomac and the Ag. Reserve to grant it here.

Respectively submitted, Ginny Barnes, Environmental Chair.
10311 Glen Rd. Potomac, Md. 20854 ~ (301) 762-6423 ~ ginnvbarnes@juno.com

LINOWES
AND BLOCHER LLP
ATTORNEYS AT LAW

June 29, 2012

Barbara A. Sears
bsears@linowes-law.com
301.961.5157

BY HAND AND ELECTRONIC MAIL

The Honorable Roger Berliner, President
and Members of the County Council for Montgomery County
100 Maryland Avenue
Sixth Floor
Rockville, Maryland 20850

Re: Sewer Service Category Change Request WSCCR-11A TRV-06; Glenstone Foundation

Dear President Berliner and Members of the County Council:

On behalf of the Glenstone Foundation ("Foundation") and Mitchell and Emily Rales, its founders ("Founders"), the purpose of this letter is to respond to comments and recommendations of the Montgomery County Planning Board ("Planning Board") and the Maryland-National Capital Park and Planning Commission Technical Staff ("Technical Staff"), as well as issues raised by others at the June 21, 2012, Transportation, Infrastructure, Energy & Environment Committee ("T&E Committee") public hearing and in later comments in opposition to the above-referenced application for a sewer service category change for Glenstone ("Application"). Specifically, the letter addresses why the Application conforms with the 2002 Potomac Subregion Master Plan ("Master Plan") and the Private Institutional Facilities Policy ("PIF Policy") of Montgomery County's Ten Year Comprehensive Water Supply and Sewerage Systems Plan ("Water and Sewer Plan").

BACKGROUND

Glenstone is a non-profit museum located on approximately 127 acres in the RE-2 zone on Glen Road in Potomac.¹ Additional adjacent land containing approximately 53 acres has been purchased by the Foundation or its Founders as it became available to add to the open space surrounding Glenstone. This additional land is not included in the Application. Glenstone

¹ The property, which consists of 127.3709 acres of land, was acquired by Mitchell Rales on December 5, 1986, by deed recorded at Liber 7447 at Folio 728 among the Land Records of Montgomery County.

**L&B 1859549v10/11659.0001

The Honorable Roger Berliner, President
and Members of the County Council for Montgomery County
June 29, 2012
Page 2

contains one of the world's finest collections of post-World War II art. Its mission is the seamless integration of art, architecture, and landscape into a tranquil and reflective environment and the facilitation of an intimate connection between art and visitor. The Foundation is seeking to expand the existing museum with primarily new gallery space and on-site art storage in order to fully realize its mission and allow more of its collection to be experienced by the public. Glenstone seeks a connection to the public sewer system under the PIF Policy in order to avoid the installation of large on-site septic fields that compromise Glenstone's operations and innovative environmental initiatives.²

Glenstone proposes to extend sewer service solely to its museum facilities by installing approximately 1,500 feet of off-site 1¼-inch diameter low-pressure sewer pipe to connect with the existing gravity sewer. This line would traverse one adjacent lot improved with a single-family house before entering Lake Potomac Drive (a public right-of-way) to connect with the existing WSSC gravity sewer system at Great Elm Drive, which is also a public right-of-way. The owner of the adjacent lot has indicated his willingness to provide the necessary easement for this segment of the sewer extension. The Applicant's engineering demonstrates that the sewer line can be located in an existing equestrian trail to avoid any disturbance to the neighboring lot. The sewer line would be designated limited access to provide service to Glenstone only, and no other properties would be allowed to hook up to it under the express language of the PIF Policy. (Chapter 1, Section II.E.4.c of the Water and Sewer Plan.) On the Glenstone property, the sewer line will perpendicularly cross a very narrow portion (approximately 30 linear feet) of the Greenbrier Branch stream. Glenstone has proposed that this portion of the line be installed through directional drilling under the stream to avoid disturbance. Because the stream area is narrow, the project engineer estimates that the installation of the sewer line will be complete in approximately one day. Any maintenance or potential leakage or odor concerns are easily addressed as described by the project engineer in Attachment "A" to the October 7, 2011 Letter, and the June 21, 2012 Testimony and Memorandum of Charles Irish.

The County Executive has recommended approval of the Application as consistent with the Master Plan's sewer service policies and the Water and Sewer Plan's PIF Policy, subject to certain conditions. These conditions include limiting the extension of sewer service to the

² These environmental initiatives and a description of the plans for Glenstone are explained more fully in the October 7, 2011 letter to Callum Murray, a copy of which is appended to the Executive's April 24, 2012 Transmittal to the County Council at pg. ©26; see pgs. ©26-©28 (the "October 7, 2011 Letter"). Additional testimony at the hearing further detailed these initiatives. See also, Written Testimony of Anthony Cerveny, Paul Tukey, Steve Baumgartner and Charles Irish.

The Honorable Roger Berliner, President
and Members of the County Council for Montgomery County
June 29, 2012
Page 3

presently proposed museum facilities only for the exclusive use of the Glenstone Foundation. These conditions are acceptable to Glenstone and the Founders.

At its May 31, 2012 meeting, the Planning Board considered the May 25, 2012 Technical Staff Report and found: (i) the PIF Policy was not available for Glenstone's use under the Master Plan's sewer service policies; (ii) the Application did not meet the criteria of the PIF Policy because it was "arguably a new [PIF] use" and, as such, the sewer main extension could only abut properties that are otherwise eligible for public water and sewer; and (iii) that the Application was inconsistent with the Master Plan's land use and environmental recommendations. On June 20, 2012, the Planning Board transmitted its recommendation for denial of the Application to the County Council and County Executive.³ On June 21, 2012, the T&E Committee held a public hearing on the Application. At the hearing, the T&E Committee heard from 23 speakers on Glenstone, the majority of which spoke in favor of approving the Application. As explained below, the Planning Board and Technical Staff's analyses and opposition arguments are incorrect and unpersuasive.

I. USE OF THE PIF POLICY FOR GLENSTONE CONFORMS WITH THE SEWER SERVICE POLICIES OF THE MASTER PLAN

The Planning Board and Technical Staff assert that the Application is inconsistent with the sewer service policies of the Master Plan. Contrary to this view, a reading of the plain language of the Master Plan demonstrates that the PIF Policy is available for use by Glenstone as found by the County Executive and the Department of Environmental Protection. (See pgs. 2 and ©13 of the Executive's April 24, 2012 Transmittal to the County Council.) The Master Plan explicitly states that "[t]he County's policies on the provision of community sewer service are governed by the *Water and Sewer Plan*," in addition to other state and local policies. (Master Plan, pg. 22.)

This language requires that the Master Plan's recommendations for sewer service must be considered together with the policies of the Water and Sewer Plan, which include the PIF Policy. A review of the legislative history of the PIF Policy demonstrates that the County Council has permitted sewer service exceptions outside the sewer envelope for non-profit tax-exempt entities

³ In a minority Opinion, Commissioner Dreyfuss stated that, "the Master Plan does not expressly prohibit this use, that the [A]pplication is for an expansion of an existing use under the terms of the PIF Policy and it should be granted." See June 20, 2012 Planning Board Letter, pg. 4.

The Honorable Roger Berliner, President
and Members of the County Council for Montgomery County
June 29, 2012
Page 4

such as Glenstone since 1973 to promote their recognized public benefits.⁴ It is equally clear that, when the Master Plan was approved and adopted in 2002, the PIF Policy already existed in a form substantively identical to its current form in all respects material to the Application. Therefore, the County Council and the Planning Board are presumed to have had full knowledge of the existence and availability of the PIF Policy when the County Council approved the Master Plan on March 5, 2002, and the Planning Board adopted it on April 11, 2002, and did not choose to exclude or limit the use of the PIF Policy in the Master Plan.

The Master Plan sewer service policies continue by specifically recommending the provision of “community sewer service in the Subregion *generally* in conformance with *Water and Sewer Plan* service policies. This will *generally* exclude areas zoned for low-density development (RE-1, RE-2, and RC) not already approved for service from further extension of community service.” (Master Plan, pg. 23) (Emphasis added). This language clearly recognizes that there may be potential deviations from the “general” prohibition on the extension of service to those areas in low-density zones (such as RE-2) not currently served by public sewer. Indeed, the unambiguous language of the current Water and Sewer Plan creates a list of “[s]pecial [p]olicies for [w]ater and [s]ewer service” that states “the County Council has adopted specific policies for the provision of community . . . sewer service which create *exceptions* to the general service policies,” which includes the PIF Policy. (Chapter 1, Section II.E of the Water and Sewer Plan) (Emphasis added). Therefore, the Application is in accord with the Master Plan’s sewer service policies that call for the provision of sewer service consistent with the Water and Sewer Plan, of which the PIF Policy is a long established component that permits the extension of public sewer beyond the service envelope.

As support for their position, the Planning Board and Technical Staff argue that, because the Application is inconsistent with the Master Plan’s guidance for the extension of public sewer to properties outside the sewer service envelope under the peripheral sewer service policy of the Master Plan (i.e., properties abutting existing or proposed mains that could be constructed in public rights-of-way, and those that avoid disruption to streams), it must be denied. (See June 20, 2012 Planning Board Letter, pg. 3, and Master Plan, pg. 23.) Reliance on the Master Plan’s discussion of the peripheral sewer service policy in examining the Application’s

⁴ What is now known as the PIF Policy was first adopted by the County Council through Resolution No. 13-491 on April 9, 1996. Its origins, however, lie in the sewer moratoria of the 1970’s. Although the County prohibited the expansion of sewer flows and new hookups through the adoption of County Resolution No. 7-1539 on December 11, 1973, exceptions were made for, among other things, “public service buildings,” which were defined to include those for non-profit tax-exempt organizations. This concept has carried forward to the definition of “private institutional facilities” in the current PIF Policy.

The Honorable Roger Berliner, President
and Members of the County Council for Montgomery County
June 29, 2012
Page 5

conformance with the Master Plan for an application under the PIF Policy is misplaced because Glenstone seeks a sewer category change only under the authority of the PIF Policy.⁵ The peripheral sewer service policy is only relevant to the extent the Master Plan limits its applicability in certain geographic areas but does not place similar restrictions on granting public sewer extensions under the PIF policy. As the PIF Policy was in existence well before the adoption of the Master Plan, it is both logical and legally correct to conclude that the Master Plan's failure to exclude or limit the use of the PIF Policy was intentional and that the peripheral sewer service policy limitations and exclusions in no way hinder or create new requirements pertinent to the PIF Policy. In other words, the Master Plan's discussion of the peripheral sewer service policy shows that the County Council was perfectly capable of narrowing the application of a policy when it wanted to do so. The clear language of the sewer service policies in the Master Plan restrict sewer service under the peripheral sewer service policy but do not include similar restraints on the PIF Policy.

Technical Staff's grafting of the Master Plan's constrictions of the peripheral sewer service policy upon the PIF Policy violates the bedrock principle of statutory interpretation that words will not be added to a statute to reflect an intent not revealed in the plain and unambiguous language.⁶ Thus, the peripheral sewer service policy is irrelevant to the Application and does not

⁵ The Executive Staff Report states that "[n]o other sewer service policies specified in the Water and Sewer Plan or recommended in the [M]aster [P]lan, including the peripheral sewer service policy, apply to the circumstances presented by this request." (Executive Staff Report, pg. ©13).

⁶ See, e.g., *Headen v. Motor Vehicle Admin.*, 418 Md. 559, 569 (2011) ("Under the rules of construction, we neither add nor delete language so as to reflect an intent not evidenced in the plain language of the statute; nor [do we] construe the statute with forced or subtle interpretations that limit or extend its application." (internal quotations omitted) (alteration in original); *Henriquez v. Henriquez*, 413 Md. 287, 298 (2010) ("[T]he Legislature is presumed to have meant what it said and said what it meant." (internal quotations omitted); *State v. Holton*, 420 Md. 530, 541 (2011) ("Where the statutory language is free from [any] ambiguity, courts will neither look beyond the words of the statute itself to determine legislative intent nor add to or delete words from the statute." (internal quotations omitted) (alteration in original); *Foley v. K. Hovnanian at Kent Island, LLC*, 410 Md. 128, 152 (2009) ("This Court will neither add nor delete language in a statute so as to subvert that body's plain and unambiguous intent in enacting the particular legislation."); *Stephens v. State*, 198 Md. App. 551, 559 (2011) ("If the language is clear and unambiguous, our search for legislative intent ends and we apply the language as written and in a commonsense manner. We do not add words or ignore those that are there." (internal quotations omitted); *Md. State Police v. McLean*, 197 Md. App. 430, 441, cert. denied, 420 Md. 83 (2011) ("Nothing in the language of the statute evidences such an intent, and it is not the function of this Court to supply one by interpretation.").

The Honorable Roger Berliner, President
and Members of the County Council for Montgomery County
June 29, 2012
Page 6

undermine the consistency of the Application with the Master Plan's sewer service policies, which do not exclude the use of the PIF Policy.

It is also clear that Glenstone was not founded until 2006, approximately four years after the approval and adoption of the Master Plan. It would have been impossible for the Master Plan to have identified and specifically evaluated a museum use on the Glenstone property. Through the PIF Policy, the County Council has specifically allowed the ability to permit public sewer on a case-by-case basis for such unique uses, including non-profit cultural resources such as Glenstone, when they benefit the community.

Additionally, the sewer service policies of the Master Plan express concern over damage to the environment and water resources by "facilitating development to the maximum zoning density" through the extension of public sewer in low-density RE-1 and RE-2 areas and "along stream valleys." (Master Plan, pgs. 21-22.) The Master Plan states that "[o]ne of the greatest challenges facing the Potomac Subregion and this Master Plan" is to develop land use and sewer recommendations that "protect the Subregion's environmental quality." (Master Plan, pg. 22). The Application does not facilitate maximum density because the development of Glenstone as proposed in the Application removes at least 40 proposed houses previously approved on septic systems from the Application area (127 acres) and nearly 60 from the larger Glenstone area (180 acres). Additionally, the Application would not extend a sewer line along a stream valley, but rather make an environmentally sensitive perpendicular crossing by directional drilling under a narrow portion of the stream with a 1¼-inch sewer line. Importantly, the Application serves to further the direct protection of the Subregion's environmental quality through its extensive conservation of open space, considerable limitation on imperviousness of 15 percent, and nationally recognized environmental initiatives, as more fully discussed in this letter.

Finally, according to the Technical Staff Report and testimony of the Montgomery Countryside Alliance and West Montgomery County Citizens Association, the Application did not demonstrate a need for an extension of sewer service and should, therefore, be denied. (See Staff Report, pgs. 2, 7, 8.) There are no provisions in the PIF Policy that require an applicant for a sewer category change under the Policy to establish the need for public sewer service. Reading such a requirement into the PIF Policy is inconsistent with its unambiguous language and improperly adds a regulatory provision in order to reflect an intent not evidenced in the existing text.⁷ Therefore, the Staff Report, Planning Board, and other opposition witnesses improperly relied on the Application's failure to establish a need for sewer service as a referenced basis for its recommendation to deny the sewer category change request.

⁷ See footnote 6, *supra*.

The Honorable Roger Berliner, President
and Members of the County Council for Montgomery County
June 29, 2012
Page 7

Although not a threshold criteria for uses of the PIF Policy, it is clear that large septic fields comprising approximately six acres of land are contrary to the core environmental values of Glenstone. A fundamental principle of Glenstone is continuous improvement, an attribute which is never associated with septic use. Underlying Glenstone's mission is excellence and achieving the highest quality for the long term in art, the environment and architecture. The acknowledged failure of septic systems to achieve long term viability and environmentally sensitive performance is counter to the principles for which Glenstone stands. Additionally, as outlined by others on behalf of Glenstone in written and oral testimony before the County Council, the likely location of these septic fields will interfere with several of Glenstone's environmental initiatives and museum operations, including the organic turf and landscape program, location of geothermal wells, siting of outdoor sculptures that can weigh in excess of 100 tons, placement of pathways, and use of heavy equipment such as cranes for the necessary operation and maintenance of the museum facilities.

II. THE GLENSTONE APPLICATION COMPLIES WITH THE CRITERIA OF THE PIF POLICY

As noted above, the PIF Policy is an exception to the general service policies described in the Water and Sewer Plan. Specifically, it permits the County Council, on a case-by-case basis, to approve sewer service for tax-exempt non-profit institutions located outside the sewer service envelope. The Application satisfies all requirements of the PIF Policy and should be approved.

First, Glenstone constitutes a private institutional facility (or PIF) use under the PIF Policy because it qualifies for a tax exemption under the federal tax code. (Chapter 1, Section II.E.4 of the Water and Sewer Plan.) Glenstone's status as a PIF is uncontested.

Next, the proposed sewer main extension does "not threaten to open undeveloped land to development contrary to the intent of the relevant local area master plan." (Chapter 1, Section II.E.4.b.ii of the Water and Sewer Plan.) As explained above, the proposed sewer line would traverse one improved single-family lot to reach Lake Potomac Drive to an existing WSSC gravity sewer manhole. (Exhibit "D" to the Application.) The proposed sewer line would abut only a handful of subdivided lots on Lake Potomac Drive that are already developed with single-family lots.

Additionally, Glenstone is seeking a sewer extension as an existing PIF use. Under the PIF Policy, requests for sewer extensions for existing PIF uses may abut properties that are not

The Honorable Roger Berliner, President
and Members of the County Council for Montgomery County
June 29, 2012
Page 8

eligible for public sewer service in the Water and Sewer Plan so long as the sewer line extension does not threaten to open undeveloped land to development contrary to the intent of a master plan. In contrast, for new or relocating PIF uses, the sewer extension may not abut properties that are not eligible for public service in the Water and Sewer Plan. The Planning Board incorrectly characterized Glenstone's expansion as arguably a new PIF use and concluded that, because the S-6 properties (i.e., properties not eligible for sewer service) would abut the proposed sewer line extension, the Applicant did not meet the criteria of the PIF Policy.

Contrary to the misplaced and wholly unpersuasive effort of the Planning Board to characterize the Application as one for a new PIF use, the Application is for the purpose of expanding Glenstone's *existing* museum facilities. Glenstone first opened in September of 2006. The current Glenstone museum and the proposed expansion will share identity of ownership, art collection, purpose, water and sewer utilities, driveways, walkways, and parking. The County Executive has recommended approval of the Application as an *existing* PIF use. (Executive Staff Report, pg. ©13.) Contrary to the argument advanced by the Planning Board, the PIF Policy does not restrict expansions of existing PIFs to a single building or parcel.⁸ The language of the PIF Policy makes clear that it applies to uses, not buildings. Moreover, the PIF Policy does not distinguish existing PIF uses and new PIF uses based on lots, parcels, and other subdivisions of land; it does not contain *any language at all* even contemplating this concept.⁹ To read this criterion into the PIF Policy would clearly violate the recognized and controlling principle of statutory interpretation that one must not add terms to unambiguous provisions of a law or regulation *that do not exist*.¹⁰

Furthermore, the Application is congruous with the policy directions contained in the PIF Policy. (See Chapter 1, Section II.E.4.e of the Water and Sewer Plan.) Glenstone's Application promotes two relevant goals of the PIF Policy: the continuation of support for the reasonable extension of public sewer service to PIF uses, whose important role for communities and individuals have been recognized by the County Council; and the limitation of the potential impact of main extensions for PIF uses beyond the sewer envelope. As previously noted, Glenstone is a unique Montgomery County asset that contains one of the world's most important collections of post-World War II art and is set in a beautiful environment, all of which will be

⁸ The Executive Staff Report recognizes that "a single service connection and hookup can serve" multiple buildings for a PIF use. (Executive Staff Report, pg. ©13.)

⁹ We note that the property which is the subject of the Application was acquired by Mitchell Rales in a single transaction and remains in his ownership.

¹⁰ See footnote 6, *supra*.

The Honorable Roger Berliner, President
and Members of the County Council for Montgomery County
June 29, 2012
Page 9

preserved and open to the public at no cost. The exceptional quality and extraordinary benefits of facilitating Glenstone's expansion were attested to by numerous witnesses at the June 21, 2012 public hearing. (See, e.g., Testimony of Earl A. Powell, Director, National Gallery of Art, Eliot Pfanstiehl, CEO of Strathmore, and Kerry Brougher, Chief Curator and Deputy Director of the Hirshhorn Museum.) Glenstone is also taking the significant and considerable steps described above to eliminate any negative environmental impact of the Application and serve as a model of environmental sustainability.

It is important to note that the approval of the Application would not set a precedent that would in any way limit the discretion of the County Council to deny future PIF applications, which are necessarily reviewed based on the merits of each application and the supporting facts and circumstances of the proposed use. Under the Water and Sewer Plan and Maryland law, the County Council has discretion to review and act on PIF applications on a case-by-case basis upon consideration of the pertinent facts and impacts of the proposed use.

In this regard, a significant factor that makes the Application distinguishable from many sites proposed for other PIF uses is the size of the Glenstone site and its commitment to a 15 percent impervious limitation, as well as the significant environmental initiatives outlined above. Glenstone is dedicated to preserving the natural setting, and its operational policies ensure that the expansion will have minimal traffic impact on Glen Road and will not require improvements to it, which secures its rustic qualities. Additionally, the property is neither within the RDT zone nor will the approval of the Application result in speculative interest in other surrounding sites for PIF uses. These factors are unique and not easily replicated to support other PIF applications.

The Technical Staff Report also cites the Court of Special Appeals' opinion in *Bethel World Outreach Church v. Montgomery County*, 184 Md. App. 572 (2009), to support its recommendation to the Planning Board.¹¹ The circumstances present in *Bethel* are materially distinct from those in the Application and have no bearing in this matter. The PIF use in *Bethel* (i) was located on an unimproved site in the RDT zone, (ii) sought approval under a previous

¹¹ The Staff Report purports to support its analysis with quotations from the Court of Special Appeals' reported decision in *Bethel*. (See Staff Report, pgs. 5-6.) The source of the quoted material, however, is the appellate brief filed in the case and not the Court of Special Appeals' published opinion. (Compare Staff Report, pg. 6, with County Brief, pgs. 39-40.) This language, being only argument submitted by a litigant to a court, does not serve as any persuasive and binding legal authority for the position asserted by the Technical Staff Report, and its inclusion further undermines the credibility of Staff's positions.

The Honorable Roger Berliner, President
and Members of the County Council for Montgomery County
June 29, 2012
Page 10

version of the PIF Policy which permitted the use of the PIF Policy in the RDT zone,¹² (iii) was evaluated as a new (as opposed to an existing) PIF use, and (iv) was subject to the recommendations of a different master plan. *See Bethel*, 184 Md. App. at 579. As a result, the sewer category change request in *Bethel* was reviewed under a completely different standard than that of Glenstone, which seeks a sewer main extension under the current PIF Policy as an existing PIF use in the RE-2 zone subject to the recommendations of the Master Plan.

It is also unpersuasive to argue, as the Audubon Natural Resources Society does, that the Applicant seeks approval as a new PIF use, despite abutting properties not eligible for public sewer, based on a designation of the sewer line extension as "limited access" contrary to the Court's decision in *Bethel*. This claim is erroneous. As stated earlier, the Application is for the expansion of an existing PIF use, which specifically allows the extended line to abut properties that are not eligible for public sewer and requires only that the extended line not threaten to open undeveloped land to development contrary to the Master Plan. The Application relies directly on this provision of the PIF Policy applicable to an expansion of an existing PIF use to which it fully conforms. It does not rely, as contended by the Audubon Society, on the alleged assertion that, although Glenstone is a new PIF, its sewer line extension can abut land not eligible for public sewer because Glenstone will use a limited access line.

Therefore, Glenstone's Application conforms with the specific criteria of the PIF Policy and facilitates the goals of the PIF Policy. Moreover, the grant of the Application does not threaten the County Council's discretionary authority to review future PIF Policy applications, and protects against any negative consequences of granting public sewer outside the sewer envelope.

III. THE APPLICATION COMPLIES WITH OTHER POLICY GOALS OF THE MASTER PLAN

A. Compliance with Other Policy Goals of the Master Plan

Once it is established that the sewer service policies of the Master Plan do not prohibit the Application, conformance with other policy goals of the Master Plan should be considered. In this regard, the Planning Board and Technical Staff ignore the fact that the Application squarely facilitates the realization of the Master Plan's overarching goal to promote environmental

¹² The PIF Policy was subsequently amended in 2005 by County Council Resolution No. 15-1234 to prohibit its use in the RDT zone.

The Honorable Roger Berliner, President
and Members of the County Council for Montgomery County
June 29, 2012
Page 11

sustainability. The Master Plan “is based on environmental principles” and all of its recommendations are “made in consideration of environmental objectives.” (Master Plan, pgs. 1 and 33.) This core Master Plan goal is in absolute harmony with Glenstone’s mission and directly promoted by the approval of the Application. First, as noted previously, Glenstone has committed to reducing the impervious surfaces on its property to 15 percent to conserve the natural beauty of the land and protect environmental resources. As recognized by Technical Staff in its presentation to the Planning Board, Glenstone’s project will result in an impervious level of approximately half of what it would be if its property were developed with single-family homes. The location and intensity of Glenstone’s proposed improvements would also maintain a level of density on its property well below that permitted by RE-2 zoning. Considering that on the larger approximately 180 acres now forming and buffering Glenstone, approximately 60 single-family homes on individual septic systems could have been constructed and that this area will now be largely preserved as green space, Glenstone will greatly enhance the conservation and open space recommendations of the Master Plan.

As further called for in the Environmental Principles of the Master Plan, Glenstone will “[e]ncourage an ecologically sensitive and energy-efficient development pattern, with an emphasis on respecting the environment and on conservation.” (Master Plan, pg. 33.) Glenstone continues to be dedicated to cultivating cutting edge environmental initiatives, including nationally recognized organic turf and landscape programs, the promotion of energy efficiency, and the long term preservation of precious open space. (See Testimony of Steven Baumgartner, Paul Tukey, Anthony Cerveny and Charles Irish, and October 7, 2011 Letter, pgs. 1-3.) These achievements are far better for long term environmental sustainability and protection of the natural resources and character of the Potomac Subregion than approximately 60 single-family houses on septic lots.

Therefore, contrary to the concerns raised by the Planning Board and in testimony from those in opposition, the Application is consistent with and positively promotes the Master Plan’s overarching goal of environmental sustainability and resource preservation.

IV. CONCLUSION

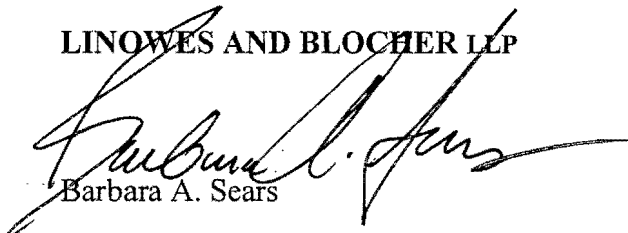
For the reasons stated above, the Application is consistent with the Master Plan’s sewer service policies because they incorporate the provisions of the Water and Sewer Plan and thereby recognize that certain exceptions to the same, such as the use of PIF Policy, would permit the provision of public sewer service to properties in the RE-2 zone beyond the service envelope. Additionally, based on its individual facts and circumstances, the Application fully conforms to

The Honorable Roger Berliner, President
and Members of the County Council for Montgomery County
June 29, 2012
Page 12

the criteria and standards of the PIF Policy, and represents a rare and unique opportunity to promote an outstanding cultural resource for the benefit of the community consistent with the very heart of the long standing PIF Policy. Finally, the Application is consistent with and promotes the environmental sustainability and conservation goals of the Master Plan. Therefore, Glenstone's Application should be granted.

Very truly yours,

LINOWES AND BLOCHER LLP



Barbara A. Sears

cc: ✓ Keith Levchenko
Alan Soukup
Glenstone Foundation
Mitchell Rales
Emily Wei Rales
Anthony Cerveny

SHRI MANGAL MANDIR RELIGIOUS AND CHARITABLE TRUST

County Council Hearing – July 21, 2012

Good evening, Pat Harris, Lerch, Early & Brewer on behalf of the Shri Mangal Mandir Religious Education and Charitable Trust. As DEP has concluded, extending sewer service to this property is consistent with the PIF policy. We are pleased with the Planning Board’s comment that if the Council were to grant the requested sewer category change, the sewer line alignment needs to be acceptable to DEP.

The Temple, which is the only meaningful Hindu temple of any size in Montgomery County, has grown significantly since it was established in 1993, as a result of an increase in population as well as an increase in interest in the facility. This growth is particularly evident in the senior and youth population who participate in religious educational studies. The Temple now has up to a total of 1,500 people at special events. Recognizing their growth, and in an effort to be a good neighbor, the Temple purchased Parcel 491 in 2008 which is immediately adjacent to the existing Temple site.

The Temple desires to do what many other congregations and religious institutions up and down New Hampshire Avenue within a stones throw of the site have done, including Ukraine Catholic Church, Immanuel’s Church, Jehovah Witnesses, Resurrection Baptist, Ashton United Methodist, Hampshire View Baptist, and Seventh Day Adventist, and that is to provide expanded facilities to accommodate their growing

population. At least two of these neighboring churches were granted sewer category changes to accommodate their growth – Immanuel Church and Ashton Methodist.

The Property is currently approved for four residential lots with septic. Thus, approving the category change would be completely consistent with the State’s objective of eliminating septic use in an effort to clean up the Bay.

As DEP has determined, the request is consistent with the PIF policy which provides in part “to continue to support where the provision of community service is reasonable, the County’s private institutional facilities which the Council recognizes as having an important role in their community and for their residents.” Without question, the sewer category change to allow construction of a structure to house an activity – religious education -- which is currently occurring in the existing public facility, satisfies this goal.

It is important to remember that the entire purpose of the PIF policy is to provide the opportunity to lift public institutions out from under the general water and sewer recommendations of the existing Master Plan if they meet the PIF criteria and if doing so is not inconsistent with the Master Plan.

The requested change would allow the Temple that has been at the present location since 1993 to continue to do exactly what they are currently doing, except in an improved environment. That is, no longer would there be different groups of various kids huddled in separate corners of a room or in a hallway in their education study groups

because of limited space. No longer would the existing events be packed into the existing facility. The category change would allow the Temple to enjoy the same advantage of additional space as the variety of other religious institutions up and down New Hampshire Avenue.

We urge the Council to approve the requested category change.

SHRI MANGAL MANDIR RELIGIOUS AND CHARITABLE TRUST**County Council Hearing – July 21, 2012**

Good evening. David Little with Gutschick, Little & Weber, engineers on behalf of the Shri Mangal Mandir Temple.

As Pat Harris explained, the request for a sewer category change would accommodate expansion of the existing Temple use in order to allow for the continuation of religious educational activities which are currently occurring. This is not, as the Staff Report erroneously stated, a new or relocating use. Because the intended use of the property does not involve a new use, a category change is permitted, provided the property does not open undeveloped land to development contrary to the intent of the Master Plan.

The proposed sewer category change would require the Temple to tie into one of the two viable sewer connections. The alternative recommended by WSSC would connect to a line on Harbor Town Drive and would require a public and private easement. The Applicant's proposal, which is much more straightforward, would simply extend the existing line further north on New Hampshire Avenue via a low pressure sewer system. It is important to note that neither of these options would open up underdeveloped land to development. The design of the system is a limited access extension such that no additional tie-ins, whether commercial or residential, would be permitted by WSSC. The

proposed line would be an exclusive line only for the Temple. The very design of the system ensures that no other use can benefit from the proposed category change and sewer line extension and thus, this requested approval will not open up any other area to development.

There are a number of other factors to emphasize in connection with the subject request:

1. Park and Planning has confirmed approval of a Forest Conservation Plan.

Upon execution of the FCP Plan, DPS will sign off on the SWM Plan for a portion of the site to allow for the construction of much needed parking;

2. The property is located outside the Patuxent watershed; and
3. The expansion of the Temple is not intended to alter the Temple's current activities.

The PIF policy is a component of the County's Water Supply and Sewage System Plan. There is nothing in the Sandy Spring Ashton Master Plan that suggests that the PIF policy should not be applicable to this site. The sewer request meets all of the requirements of the PIF policy and we urge your approval of the requested sewer change to S-3.

Thank you and I will be happy to answer any questions.

Christy O. Stebbins
542 Ednor Rd. • Silver Spring, MD 20905
caostebbins@verizon.net • 301-570-0301

21 June 2012

Roger Berliner, President
Montgomery County Council
100 Maryland Ave.
Rockville, Maryland 20850

Re: Shri Mangal Mandir Request for Sewer Category Change WSCCR 11A-CLO-01

Good evening:

My name is Christy Stebbins, and my husband and I are downstream property owners bordering the Shri Mangal Mandir.

Should the Temple's request for a sewer category change be approved so that they can build a congregation center and a 250-space parking lot, in addition to their current temple and current parking lot, at the intersection of New Hampshire and Ednor Road? No. Here's why.

If their request is approved, and all of their plans go forward, then we will have a mega-religious institution at "the crossroads"—the entry point—of a historic rural area of Montgomery County at the headwaters of the Northwest Branch, a tributary to the Anacostia. The Sandy Spring-Ashton Master Plan very clearly does not support such development and cautions how that intersection is developed because it "defines the character of the area because it serves as an entry." In this case, I urge the County Council to deny the request as per the recommendations of the Montgomery County Planning Board.

If their request is denied, however, the Temple could follow the example of the Resurrection Baptist Church just across the street from them, *who clear-cut their entire parcel in order to install a septic field*. This would be the worst of all outcomes. Please note the pictures attached to this letter.

The problem with that plan is that the parcel where the development is proposed doesn't perc. That land, originally called the Ford property, was approved for the development of four homes, but they all required sand mound septic, not a traditional septic system.

If the Temple can put their septic system under the proposed 250-space parking lot, and I understand that their current septic field is under their current parking lot, then the sewer category change should be denied so as not to disrupt other stream areas leading to the site as per the Planning Board recommendations.

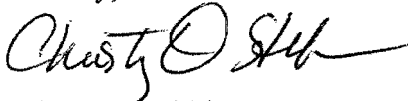
But the question of a sewer category change begs the question of the location of a mega-religious institution with total parking for 350-400 cars at the entry point of a historic

rural neighborhood, not to mention the environmental impact on the headwaters of a tributary, and the habitat loss for forest interior dwelling birds.

A few of us neighbors have met, at our request, with Temple representatives, and they have told us that what they are proposing is for our sake! They are trying to address one of the biggest complaints about the parking in the neighborhoods whenever they hold one of their large celebrations. What they do not seem to understand is that a rural residential area is not the appropriate location for such large gatherings in the first place. The Temple is not doing this for the Sandy Spring-Ashton community. They are trying to meet their own needs in a space that, in the end, is not suitable. By creating an even larger space for their gatherings, they are only going to increase the friction with the neighborhood, impact the watershed, the forests, the wildlife, and the quality of life in the Sandy Spring-Ashton area.

I urge you to deny the sewer category change.

Sincerely,



Christy O. Stebbins

Two attachments:

Sandy Spring Forest Threatened by Proposed Clear Cutting for Parking Lot Expansion Over Five Acres of a Significant Sandy Spring Forest to be Cleared for Parking/Expansion

Thank you to the Audubon Naturalist Society for preparing these images and the permission to use them.

Sandy Spring Forest Threatened by Proposed Clear Cutting for Parking Lot Expansion



Google Earth Photo of Existing Parcel

Over Five Acres of Significant Sandy Spring Forest to be Cleared for Parking/Expansion



Help Preserve Sandy Spring's Rural Character. Oppose the Temple Expansion.



17

**Testimony of Charles A. Irish, Jr. PE, LS, LEED AP
Sewer Category Change Request 11A TRV-06
Glenstone Foundation**

Good evening Council members. I am Chuck Irish, a Professional Engineer with VIKA, the local Civil Engineering Consultant to the Glenstone Foundation. I am in support of the proposed Sewer Category Change.

Connection to public sewer is the best long term way to treat waste water from this property. It provides better treatment, is sustainable over a much longer period of time, and IT is far less likely that pollutants will reach the groundwater, than through long term septic use.

My testimony will focus on the suitability of septic for the project and the engineering design, and operation of the proposed sewer. A more detailed memorandum has been provided.

Septic Suitability

The initial and reserve septic fields for the project would require approximately 6 acres. Previously, 40 two acre lots, with 40 septic fields, comprising approximately 13.5 acres, were approved on the site. However, most of these fields cannot be used for Glenstone II. Several are located in forested areas, one is in a stream valley buffer, and many are encumbered by existing and proposed improvements. This reduces the 40 approved fields to 17, which may be theoretically considered. Yet these 17 fields comprise only 4.5 acres, substantially less than the required 6-acres.

It is possible that additional septic testing, near the approved fields could yield sufficient septic area. However, as others will testify, the location of the fields would conflict, and be incompatible, with the museum operations and environmental initiatives on the property.

Public Sewer is the Best Solution

We believe that a connection to public sewer is the best long term method to treat the wastewater from this project. The Blue Plains Waste Water Treatment Plant, where this sewage would flow, provides treatment at one of the most stringent discharge permit levels in the US. This plant provides better treatment than a traditional septic system. Additional enhancements are planned for Blue Plains, as recommend by Governor O'Malley, which will further improve treatment levels.

115

Minimization of Stream Impact and Concerns about Pressure Sewer

A very short (30') segment of the proposed sewer crosses under a stream on the Glenstone property. We've developed several measures that would minimize the impact on the stream during the construction; and make the likelihood of potential leaks, statistically negligible.

- The small (1-1/4") flexible sewer line may be threaded through a larger casing pipe or sleeve, so that in the unlikely event of a leak, it would be contained by the casing pipe.
- Directional drilling under the stream would eliminate the impact of conventional construction techniques, and can be accomplished in about a day.
- Pressure monitoring and periodic isolation testing would catch potential system failures *before* sewage could leak into the stream or ground water.
- Back-up pumps and power would insure that the system performance would not be compromised.

Finally, concerns have been expressed about potential blockages and odors caused by sewage sitting in the lines. While this is very unlikely, given the anticipated flows, these issues will easily be addressed through system monitoring and line flushing, as necessary, with a very small volume of rain water, collected on-site in cisterns.

Thank you for your thoughtful consideration.

