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VIA EMAIL(HivelyM@charlescountymd.gov)

Wayne Magoon, Chair
Charles County Planning Commission
c/o Melissa Hively
Clerk to the Planning Commission
200 Baltimore Street
La Plata, Maryland 20646

Re: 30525 Three Notch Road, Charlotte Hall, Maryland 20622 – St. Mary's County, Maryland Tax Map 01, Grid 16, Parcel 77, 3.80 acres, more or less; St. Mary's County, Maryland Tax Map 01, Grid 16, Parcel 43 – 21.043 acres, more or less (collectively the "Bragg Property")

Dear Mr. Magoon:

In accordance with §297-448 of the Charles County Code, our office is pleased to submit a Zoning Map Amendment ("ZMA") to rezone the Bragg Property from Rural Residential ("RR") to Community Commercial ("CC").

BACKGROUND

Two properties are subject to this Petition: the St. Mary's Gateway Property and the Williams Property (collectively the "Bragg Property"). Both properties were previously a farm field under the ownership of the Mary Bragg family. Located along the north eastern of the Charles County boundary line with St. Mary's County, the Properties lie at the gateway to both Charles and St. Mary's County in the Hughesville and Charlotte Hall area.

St. Mary's Gateway Property

St. Mary's Gateway, LLC, a Maryland limited liability company, by virtue a deed dated December 14, 2021 and recorded among the Land Records of St. Mary's County, Maryland in Liber 6024 Folio 329 (*Attachment A – Deed to St. Mary's Gateway, LLC*), is the owner of a 3.793 acre, more or less, parcel of real property identified as St. Mary's Tax Map 01, Grid 16, Parcel 77, St. Mary's Tax Account 05-017742. The property is vacant and unimproved. Previously under the same ownership as the Williams Property (described below), the St. Mary's Gateway Property was a farm field that is now primarily wooded.

The St. Mary's Gateway Property is bifurcated by the St. Mary's County and Charles County boundary line. Approximately 2.83 acres of the property is within Charles County, Maryland. There exists no legal or physical access to the St. Mary's Gateway Property within Charles County (*Attachment B-Survey by Kevin Norris LLC*). The St. Mary's Gateway Property has a St. Mary's County premise address of 30525 Three Notch Road, Charlotte Hall, Maryland 20622.

Williams Property

Sherry Kay Williams, Wendy Williams-Truitt and Lisa D. Zimmer, via a deed dated September 11, 1997 and recorded among the Land Records of St. Mary's County, Maryland in Liber 1198 Folio 85 (*Attachment C – Deed to Sherry Kay Williams, Wendy Williams-Truitt and Lisa D. Zimmer*), are the owners of a 21.043 acre, more or less, parcel of real property identified as St. Mary's Tax Map 01, Grid 16, Parcel 43, St. Mary's Tax Account 05-036240. Lying adjacent to the St. Mary's Gateway LLC Property, the Williams Property is vacant and unimproved. As noted above the St. Mary's Gateway LLC Property and the Williams Property were previously under the same ownership and operated as a farm field. Trees have overtaken the Property and it is now wooded.

The Williams Property is also bifurcated by the St. Mary's County and Charles County boundary line. Approximately 5.50 acres of the Property is within Charles County, Maryland. Similar to the St. Mary's Gateway LLC Property, there exists no legal or physical access to the Williams Property from Charles County (*Attachment B-Survey by Kevin Norris LLC*).

Bragg Property Description and Surrounding Area

The subject properties are contiguous properties which are located on the southbound side of Three Notch Road/Maryland Route 5 ("Three Notch Road") at and near the intersection of Three Notch Road and Mohawk Drive. As noted above, a portion of the rear of the Bragg Property is bifurcated by the St. Mary's County and Charles County boundary line.

The majority of the Bragg Property and the entire frontage of the Bragg Property lie within St. Mary's County. The Three Notch Rail Trail (formerly the Pennsylvania Rail Road Line) and Three Notch Road traverse the Bragg Property's frontage and bound the Bragg Property's north eastern boundary. A sign from the St. Mary's County Seventh District Optimist Club welcoming visitors to St. Mary's County and a pedestrian access point to the Three Notch Rail Trail help demarcate the area of the Bragg Property's north eastern corner. Access to this portion of the Bragg Property is via Three Notch Road. Commercial development along the northbound lane of Three Notch Road lies directly across from the Bragg Property, to include McKay's Shopping Plaza, Dollar General, Tri-County Builders, and the Schoenbauer Furniture Center.

The Bragg Property's southeastern boundary is in close proximity to the intersection of Three Notch Road, Oaks Road and Mt. Wolf Road and is bounded by Charlotte Hall Road. On the

opposite side of Charlotte Hall Road are the Light House Liquor Store, Miller's Market and the former Wentworth's Nursery.

The rear and western boundary of the Bragg Property is located within the jurisdiction of Charles County. Within Charles County, the Bragg Property is bounded by two residential subdivisions: Oakland Subdivision and Karen Knolls. Oakland Subdivision is a large lot subdivision sited along the Bragg Property's western boundary (*Attachment D – Oakland Acres Plat 60/607*). The Oakland Subdivision lots which bound the Bragg Property are between 3.8 acres and 7 acres in size. There is no access to the Bragg Property via the Oakland Subdivision and the Oakland Subdivision Plats provide no mechanism for access. The Karen Knolls Subdivision lies adjacent to the northwestern corner of the Bragg Property. The two lots within the Karen Knolls subdivision which bound the Bragg Property are 3.8 acres and 2.9 acres. There is no access to the Bragg Property via the Karen Knolls subdivision. The Karen Knolls subdivision plats provide no mechanism for access (*Attachment E – Karen Knolls Plat 21/164*).

To date, it appears that St. Mary's County has exercised exclusive jurisdiction over the Bragg Property. The portion of the Bragg Property within Charles County appears to be "escaped" property. Neither of the subject properties have a Charles County tax identification number. Both properties have a St. Mary's County tax identification number. The deeds for both properties are recorded in the Land Records of St. Mary's County and not in Charles County. With respect to the St. Mary's County Gateway LLC Property, the St. County Department of Permits and Inspections issued a Zoning Authorization Permit in 2001 for a perc test and issued another in 2019 (*Attachment F-St. Mary's County Zoning Documentation 2001 & 2019*). The Department accepted an application and issued permits for perc tests on the Williams Property in 2003, 2005, and 2007 (*Attachment G-St. Mary's County Applications for Permits dated 2003, 2005 & 2007*). In 2007, St. Mary's County Department of Land Use and Growth Management also accepted and reviewed a Concept Site Plan known as "Charlotte Hall Commons." It appears that the Concept Site Development Plan Application has expired (*Attachment H-St. Mary's County Concept Site Development Plan Application documentation dated 2007*). There do not appear to be any similar submissions within Charles County.

Zoning

Bifurcated by the St. Mary's County and Charles County boundary line, the Bragg Property is essentially split zoned.

St. Mary's County Land Use Designation and Zoning

The portion of the Bragg Property within St. Mary's County is within the Charlotte Hall Town Center and is designated on the St. Mary's County Comprehensive Land Use Map as Mixed-Use, Moderate Intensity. The Bragg Property is zoned Town Center Mixed Use ("TMX"). Per §31.10 of the St. Mary's County Zoning Ordinance, TMX zoning

[P]rovide opportunities for residential and commercial development within town centers, consistent with the Comprehensive Plan. Standards are intended to create an urban character and make the core area safe, pedestrian friendly, and visually attractive.

Town Centers, to include the Charlotte Hall Town Center, are designated growth areas (*Attachment I- St. Mary's County Zoning Map*).

Charles County Land Use Designation and Zoning

Per the 2016 Charles County Comprehensive Plan, the Bragg Property is designated as “Rural Residential”.

Rural Residential Districts are intended to allow for rural development at one unit per three acres while preserving the rural character and open space whenever possible. However, major stream valleys within these areas are also subject to a density of one unit per ten acres.

Rural Residential also provides for a full range of agricultural and farming uses and the farmer's right to farm is acknowledged with no restrictions on hours of operation of farm equipment, normal agricultural related noise and odors, and sale of farm products produced on the farm.

Rural Residential Districts are intended to accommodate residential densities up to one dwelling unit per acre with cluster development practices provided the overall gross density remains at one unit per three acres.

This area is designated as “Tier III” per the requirements of the Sustainable Growth and Agricultural Preservation Act of 2012. This designation means that the area is planned and zoned for large lot development on septic tanks as the intended predominant use. Any major subdivisions proposed in Tier III areas require public hearings per the requirements of the legislation.

While farming can and is expected to continue in the near future, the long-range land use over time can be replaced by rural residential housing on large lots as the dominant use. Therefore, the designation of Tier III is appropriate and the designation to Rural Residential (RR) is provided to match this policy. Future comprehensive rezoning of this area will be required to better match the land use designation.

When the Applicant originally reviewed the County's on-line GIS map, it appeared the Bragg Property had no base zoning designation (*Attachment J-Charles County GIS Zoning Map dated January 2022*). Upon consultation with County Staff, PGM staff verified that the Bragg

Property is zoned Rural Residential (“RR”) (*Attachment K- Charles County Zoning Map 47*). Per §297-88 of the County Code, the RR zone

[P]rovides for low to moderate residential densities in areas closer to portions of the development district and incorporated towns. These areas contain or are within the sphere of influences of community facilities and services, including schools, and are in proximity to major transportation network components.

As more fully set forth below, Charles County’s RR Zoning is inconsistent with the Bragg Property’s location, the Bragg Property’s limited access and the adjacent St. Mary’s County TMX zoning.

RATIONALE

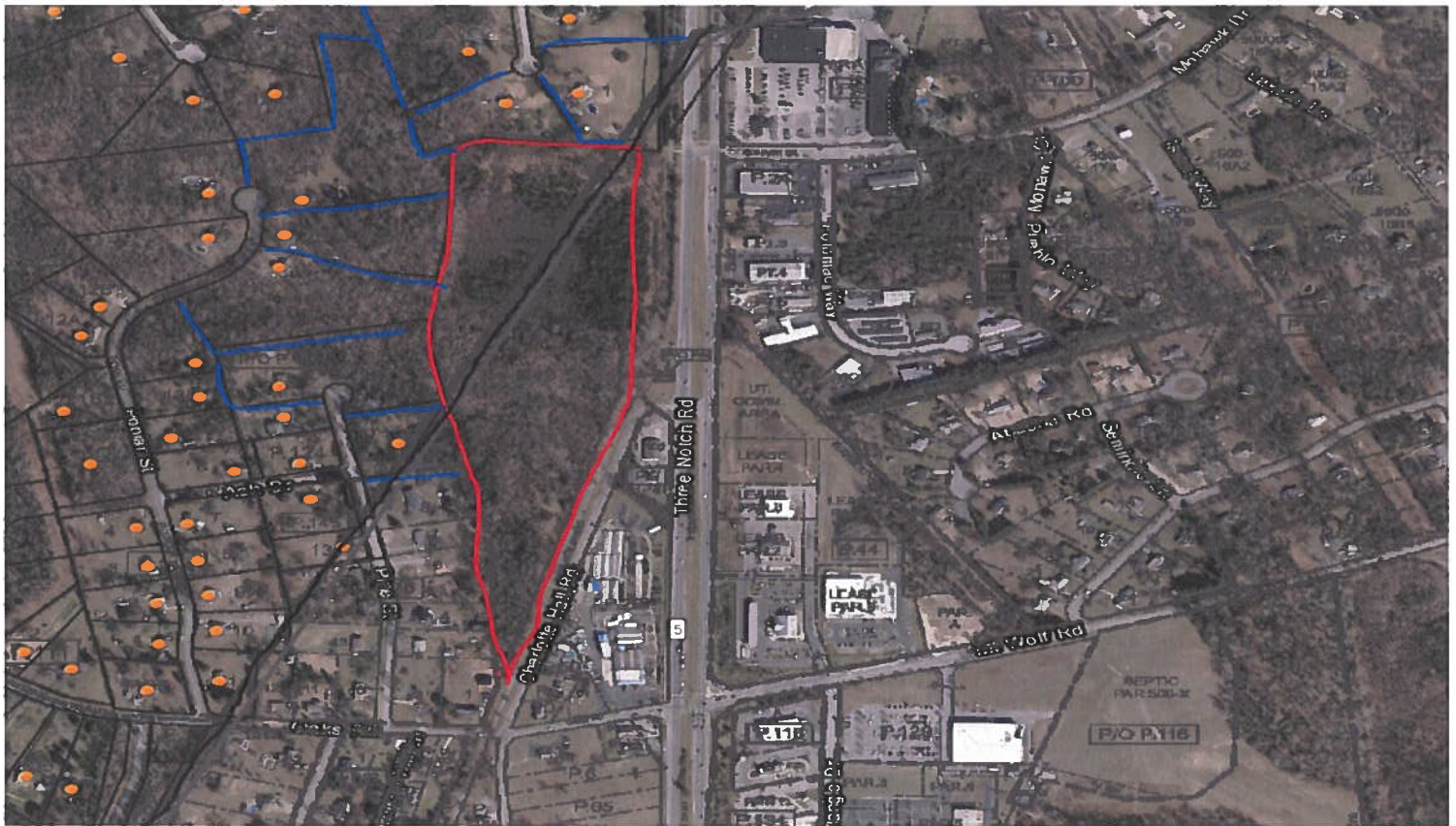
Section 4-202 of the Maryland Land Use Article of the Annotated Code of Maryland provides that original or comprehensive zoning may be changed upon a showing that there was a mistake in the prior original or comprehensive zoning or there has been a substantial change in the neighborhood since the original or comprehensive zoning. This is often referred to as the “change-mistake” rule.

Mistake

Justifying a “mistake” in original or comprehensive rezoning requires a showing that the underlying assumptions or premises relied upon by the legislative body during the immediately preceding original or comprehensive rezoning were incorrect. Mistake involves a mistake of fact versus a mistake in judgement.

In the present case, there is clearly a mistake in fact versus a mistake in judgment. A review of the record makes it clear that the County Commissioners did not engage in a site by site analysis of the various properties zoned. With respect to the Bragg Property, the Commissioners did not take into account the bifurcation of the Bragg Property by the St. Mary’s County/Charles County boundary line, access to the Bragg Property, the proximity of the Bragg Property to Three Notch Road and adjacent commercial development and St. Mary County’s exercise of jurisdiction over the Bragg Property. Had the Commissioners taken the cumulative effect of such facts into account, the Commissioners would not have designated the Bragg Property as RR zoning.

The bifurcation of the Bragg Property by the St. Mary’s County/Charles County boundary line results in the rear of the Bragg Property being zoned Rural Residential/RR and the frontage of the Bragg Property being zoned Town Center Mixed Use/TMX. The platted and developed subdivisions known as Oakland and Karen Knolls make the Bragg Property inaccessible through Charles County.



****Boundary Line shown here is not exact and shown for illustrative purposes only**

Blue – Oakland and Karen Knolls Subdivision

Red - The Property

Black – Boundary Line Between Charles and St. Mary's Counties

The Oakland and Karen Knolls lots are accessed via internal subdivision roads which provide no connectivity or connections to the Bragg Property. This leaves the portion of the Bragg Property within Charles County limited to access through St. Mary's County and via Three Notch Road/Maryland Route 5 or via Charlotte Hall Road. The lack of access would make it difficult to develop the portion of the Bragg Property which lies within Charles County consistent with RR zoning. RR zoning envision large lot subdivisions and agrarian uses. Such uses are not compatible with the heavily travelled Three Notch Road transportation corridor or the surrounding commercial and mixed use neighborhood within the Charlotte Hall Town Center.

Developing the Bragg Property under a commercial zone which is consistent with St. Mary's County TMX zone, provides an opportunity for commercial/employment development within the Charlotte Hall Town Center and is compatible with abutting commercial uses. Developing the Bragg Property under a commercial zone would also permit the "more urban character" along the Three Notch corridor. The location of the Three Notch Rails Trail along the Bragg Property

frontage enhances the “safe, pedestrian friendly, and visually attractive” development of the Bragg Property. All of these factors are consistent with the intent of St. Mary County’s TMX zone. The benefit to Charles County would be consistent compatible development along and within its borders, an attractive gateway to Charles County and the recognition of a commercial/employment tax base.

In order to develop the Bragg Property consistent with St. Mary’s County TMX zoning, Charles County would need to rezone the Bragg Property to Community Commercial. As set forth in §297-91 of the Charles County Code, the CC zone is intended to provide “a wide range of commercial uses and establishments to serve several neighborhoods in appropriate locations along major roads while discouraging strip development.” The CC Zone is compatible with the goals of St. Mary County’s TMX zoning.

CONSISTENCY WITH COMPREHENSIVE PLAN

Located along Three Notch Road at the Charles County/St. Mary’s County boundary line, the Bragg Property serves as a Gateway to both Charles County and St. Mary’s County. Chapter 7 of the Charles County 2016 Comprehensive Plan, entitled “Economic Development” identifies as the improvement of “gateways into the County” as a land use and development policy. Rezoning the Bragg Property to CC permits the development of the Bragg Property in a manner compatible with the surrounding neighborhood. This would have the effect of creating and improving the gateway into Charles County.

Chapter 7 of the 2016 Comprehensive Plan also recommends incentives for “commercial corridor revitalization that promote infilling of business uses.” The rezoning of the Bragg Property would put underutilized infill property into production.

Rezoning the Bragg Property is also consistent with the goals set forth in Chapter 3 of the 2016 Comprehensive Plan to include:

3.6 Locate future employment uses in and near existing employment areas in Waldorf (including St. Charles), in White Plains, within Maryland Airport, in the Towns, selected villages, and adjacent to the Harry Nice Bridge.

3.7 Concentrate commercial and business areas primarily in the currently developed portions of the development district and in the towns of La Plata and Indian Head, and secondarily in the development districts and village centers rather than sprawling along the County's major roads.

Chapter 3 also establishes the following action item:


3.7 Coordinate on regional issues by nurturing good, working relationships with the State, with neighboring jurisdictions especially Calvert, Prince George's, and St. Mary's Counties, and with the Towns of Indian Head and La Plata through planning agreements, plan referrals, information sharing, and consultations.

The Bragg Property abuts intense development and St. Mary County's TMX zoning. The scale of development under the CC zoning is more consistent with the patterns of development and the goals of redevelopment than the existing RR zoning.

CONCLUSION

For the reasons set forth above, the Applicant respectfully requests a rezoning of the Bragg Property from to CC Zoning. I would look forward to any questions or requests for additional materials the Planning Commission may have.

Respectfully,



Sue A. Greer