

Kent County Planning Commission

TELEPHONE 410-778-7423

Kent County Government Center
400 High Street
Chestertown, Maryland 21620

FACSIMILE 410-810-2932

County Commissioners Hearing Room **MEETING TO BE HELD VIRTUALLY via CONFERENCE CALL**

AGENDA December 3, 2020 1:30 p.m.

COVID-19 Special Announcement Regarding Meeting Attendance

In response to the State of Emergency, individuals must refrain from attending meetings. Planning Commission meetings are live streamed (<https://www.kentcounty.com/commissioners/meeting-live-video>), and citizens may call in with questions when the Chair opens the floor for comment.

To participate via Microsoft Teams:

1. Call **1-872-239-8359**
2. Enter Conference ID: **185 804 291#**

To participate via the Kent County Conference Bridge service:

1. Call **410-810-2213**
2. Enter PIN number **55266** when prompted.

Please mute your phone / device until the Commission Chair opens the floor for comment.

MINUTES

November 5, 2020

APPLICATIONS FOR REVIEW

20-38 CK Property Management, LLC (Greenscapes Land Care, LLC) – Major Site Plan Review (Concept)
11427 Still Pond Road – Second Election District – Crossroads Commercial “CC” PC Review
(Staff: Rob Tracey)

GENERAL DISCUSSION

Zoning Text Amendment (CHR 8-2020) – Establishment of Critical Area Line Rec to CCs
(Staff: Carla Gerber)

Zoning Text Amendment (CHR 9-2020) – Amendments to Forest Conservation Provisions ... Rec to CCs
(Staff: Carla Gerber)

Chairman Election in January

STAFF REPORTS

ADJOURN

Meetings are conducted in Open Session unless otherwise indicated. All or part of the Planning Commission meetings can be held in closed session under the authority of the MD Open Meetings Law by vote of the members. Breaks are at the call of the Chairman. Meetings are subject to audio and video recordings.

Projects will not be reviewed prior to their scheduled time. All applications will be given the time necessary to assure full public participation and a fair and complete review of all projects. Therefore, the time each application is heard may be later than the time indicated on the agenda. Agenda items are subject to change due to cancellations.

Other business without assigned times may be discussed during the course of the meeting.



MINUTES

The Kent County Planning Commission met in regular session on Thursday, November 5, 2020, virtually in the County Commissioners' Hearing Room at 400 High Street, Chestertown, Maryland, with the following members attending via audio/video conference: Elizabeth Morris, Chairman; William Sutton, Vice Chairman; F. Joseph Hickman; Kim Kohl; County Commissioner P. Thomas Mason; B. Douglas Megargee; and James Saunders; Cynthia L. McCann, Esq., Planning Commission Attorney; Staff in attendance were Carla Gerber, GIS Specialist; William Mackey, Director; Robert Tracey, Community Planner; and Brian Jones, Clerk.

Ms. Morris called the meeting to order at 1:35 p.m.

MINUTES

The minutes of the September 3, 2020, meeting were approved as distributed.
The minutes of the October 1, 2020, meeting were approved as distributed.

APPLICATIONS FOR REVIEW:

20-12 Chester River Yacht & Country Club – Major Site Plan (Preliminary)

Present and duly sworn in were, Mr. Kevin Shearon, and the applicant, Mr. Dave Curran.

Ms. Gerber gave a brief overview of the proposal, citing relevant issues, the applicable laws, and staff comments.

MS. Gerber said the applicants wish to increase their onsite parking for an existing Private Club and Golf Course. The expanded parking lot of 32 additional spaces includes permeable pavers and bituminous concrete. The 175-acre property is located on Quaker Neck Road in the Seventh Election District.

Mr. Shearon shared a presentation which provided an overview of the project.

Ms. Gerber said staff recommends granting preliminary site plan approval. Ms. Gerber further noted that to receive final approval, the applicant must address and/or submit the following outstanding items:

- Approval of stormwater management and erosion and sediment control plans.
- Cost estimates and sureties for stormwater management and erosion and sediment control.
- A revised Major Buffer Management Plan, including plantings being located within or as close to the 100-foot buffer as possible.
- Address vehicular and pedestrian flow.

Ms. Morris asked if any correspondence has been received.

Ms. Gerber said no correspondence has been received.

No public input was received.

After further discussion, Mr. Hickman made a motion to grant preliminary site plan approval based on the following:

- The proposal is consistent with goals and strategies of the Comprehensive Plan.
- The Maryland Department of Transportation and Critical Area Commission approved this application.

- The applicant is addressing vehicular and pedestrian movement at the site pending input from members.
- The existing sign is proposed to be relocated.
- This proposal will not increase the demands on water and sewer or services.
- There is adequate public road access.
- A lighting plan has been provided and approved.
- The Buffer Enhancement Plan is proposing mitigation outside of the Buffer. We agree that this can be done in this case because part of the Club's charge is a water-dependent use. However, mitigation outside of the buffer needs to be located as close as possible to the buffer. Some of the proposed plantings are spread out too far from the buffer which may not be within the spirit and intent of the buffer regulations.
- Screening is provided between the parking area and Quaker Neck Road.
- The Board of Appeals approved a variance for 176-square feet of additional lot coverage within the Buffer.
- No citizen concerns were raised during the Citizens' Participation meeting.
- Prior to final approval, they will need to:
 - Obtain approval of stormwater management and sediment and erosion control plans and submit any required sureties.
 - Submit a revised Major Buffer Enhancement Plan.
 - Address vehicular and pedestrian flow.

Ms. Kohl seconded the motion, and the motion passed unanimously.

20-24 Delmarva Power and Light Company – Major Site Plan (Preliminary)

Present and duly sworn in were, Mr. John Fellows, and the applicant, Mr. David Seay.

Mr. Tracey gave a brief overview of the proposal, citing relevant issues, the applicable laws, and staff comments.

Mr. Tracey said the applicant is requesting preliminary site plan approval to expand the existing substation located at 509 Morgnec Road, to the recently purchased adjacent parcel located at 511 Morgnec Road.

Mr. Tracey said staff recommends granting preliminary site plan approval. Mr. Tracey further noted that to receive final approval, the applicant must address and/or submit the following outstanding items:

- Stormwater management and sediment control plans must be approved, and any required sureties must be submitted.
- The final landscaping plan and any required sureties must be submitted and approved.
- Payment to the Kent County Forest Conservation Fund.

Ms. Morris asked if any correspondence has been received.

Mr. Tracey said no correspondence has been received.

Mr. Hickman asked the applicant if a different colored fence rather than the one being proposed could be installed.

Mr. Seay said he would check with the engineers.

No public input was received.

After further discussion, Mr. Hickman made a motion to grant preliminary site plan approval based on the following:

- The proposal is consistent with many strategies and goals of the Comprehensive Plan.
- The State Highway administration (SHA) has no issues or concerns with County/Town approval.
- The Health Department has approved this application.
- There is no problem with vehicular and pedestrian flow.
- Applicant will need to submit a lighting plan.
- A citizen participation meeting was held on September 17, 2020. There were no issues. A narrative from the citizen participation meeting will be submitted.
- Stormwater management and sediment control plans have been submitted. These plans must be approved prior to final site plan approval.
- According to the applicant's narrative, the south, east, and west portions of the property are screened by existing vegetation and a six-foot privacy fence.
- Landscaping plans and building renderings have been submitted. The applicant plans on using more native plantings.
- No new or additional signage is proposed at this time.
- The applicant agrees to pay into the forest conservation fund.

Ms. Kohl seconded the motion, and the motion passed unanimously.

20-36 Pep-Up, Inc. – Major Site Plan Review (Concept)

Present and duly sworn in were, Mr. Kevin Shearon, and the applicant, Mr. Brian Pepper.

Mr. Tracey gave a brief overview of the proposal, citing relevant issues, the applicable laws, and staff comments.

Mr. Tracey said the applicant is requesting concept site plan review for a proposed liquid propane storage and distribution center. The liquid propane (LP) facility will be accessed by a rail spur allowing for bulk delivery by railcars. The LP will be offloaded from the railcars into one of six new 90,000 gallon above-ground storage tanks. Fixed bodied trucks will fill from the storage tanks and provide deliveries throughout the region. The property is located on Galena Road near Massey in the First Election District.

Mr. Shearon gave a brief overview of the project.

Mr. Shearon said a citizen participation plan was completed on February 28, 2019.

Mr. Tracey said the following will need to be addressed in order to receive preliminary site plan approval:

- Completed Citizen Participation Plan.
- Sediment and erosion control and stormwater management plans must be approved by the Kent Soil and Water Conservation District prior to final approval.
- Sureties for stormwater management, sediment and erosion control, and forest conservation must be posted prior to final approval.

Ms. McCann recommends completing another citizen participation plan.

Mr. Shearon said they would schedule a virtual meeting to complete another citizen participation plan.

Mr. Hickman recommended sending notices in multiple languages.

Public Input:

Kathy Florent from 12104 Galena Road asked about accidents and explosions.

Mr. Pepper said the Fire Marshal along with the Galena and Millington Fire Chiefs were satisfied with the plan.

GENERAL DISCUSSION

Cecil County Comprehensive Plan Land Use Amendment

Ms. Gerber gave an overview of the proposed amendment.

Ms. Morris recommends sending a letter from the Planning Commission explaining that the Commission reviewed the amendment and has no objections.

Zoning Text Amendment (CHR 7-2020) – Countywide Standards for Utility-Scale Solar Energy Systems

Ms. Gerber gave an overview of the proposed amendment.

Mr. Hickman said he is a board member of KCPA and did not participate in the effort to provide the standards listed in the amendment, he feels he can offer his opinion without being biased.

Public Input:

Kathy Florent asked if the amendment would address dying bushes at the solar array in Massey.

Ms. Gerber said the amendment would only apply to new solar array locations.

Janet Christenson Lewis asked if the increased setback being a half mile in the perimeter coming into a town or village is adequate.

Ms. Gerber said she thought it was adequate.

After further discussion, Mr. Hickman made a motion to send a favorable recommendation to the Kent County Commissioners.

Ms. Kohl seconded the motion, Mr. Hickman abstained. Mr. Sutton did not vote. All other members were in favor of the motion.

STAFF REPORTS

Carla Gerber:

- Working on various projects.
- Census 2020 has concluded; Kent County had a 61 percent self-response, up 4 percent from 10 years ago. Thank you to all who assisted with the census count.

Mr. Tracey:

- Kent County Agricultural Preservation Advisory Board met on October 14th to continue their discussion of updating the district criteria and easement prioritization formula. The Board is recommending changes for Commissioners' approval.
- The Kent County Historic Preservation held a work session to assist an applicant with an application for County Historic Designation.

Mr. Mackey:

- The Information Technology Department is not comfortable with supporting ZOOM. Mr. Mackey asked if the Planning Commission members were still interested in using the application for meetings.
- Working on a future date for an in-person Comprehensive Re-Zoning Taskforce meeting in December.

Ms. McCann:

- Reviewed Robert's Rules of Order regarding a member making a motion and abstaining during a vote, and it is permissible.
- Recommends amending the Planning Commission By-laws to reflect what the standard practice has been regarding ex officio members having voting privileges.
- Asked if any of the Planning Commission members received the Open Meetings Act training. At least one of the members are required have the training to close a meeting according to the Act.
- The Planning Commissioners' Association 37th Annual Conference is on the Monday, November 9th from 9 to 4 and one of the topics that will be discussed is the Open Meetings Act.

ADJOURN

There being no further business for the good of the organization, the meeting adjourned at 3:36 p.m.

Elizabeth Morris, Chairman

Brian Jones, Clerk



Kent County Department of Planning, Housing, and Zoning

To: Kent County Planning Commission
From: Rob Tracey, Community Planner
Meeting: December 5, 2020
Subject: Greenscapes Land Care, LLC
Concept Site Plan Review

EXECUTIVE SUMMARY

Request by Applicant

The applicant is requesting concept site plan review to expand his grounds care business and to perform site improvements to include new employee and trailer parking areas, stone access road, new bulk material storage bins, and a new equipment storage shed. The 2.88-acre property, located between Worton and Kennedyville, is in the Second Election District.

Public Process

Per Maryland State Law and Article VI, Section 5 of the Kent County *Land Use Ordinance* the Planning Commission shall review and approve Major Site Plans.

Summary of Staff Report

The property is zoned Crossroads Commercial "CC," and the parcel is comprised of an open field that is adjacent to the applicant's existing facility. The surrounding area is a mix of agricultural land and residential development.

The applicant has sufficiently addressed all the concept site plan standards as prescribed by the Kent County Land Use Ordinance.

Recommendation

Please note that the following will need to be addressed, in order to receive final site plan approval:

- Completed forest conservation plan.
- Sediment and erosion control and stormwater management plans must be approved by the Kent Soil and Water Conservation District.
- Sureties for stormwater management, sediment and erosion control, and forest conservation must be submitted.

PRELIMINARY STAFF REPORT

TO: Kent County Planning Commission
SUBJECT: Greenscapes Land Care, LLC
Concept Site Plan Review
DATE: November 18, 2020

DESCRIPTION OF PROPOSAL

The applicant is requesting concept site plan review to expand his grounds care business and to perform site improvements to include new employee and trailer parking areas, stone access road, new bulk material storage bins, and a new equipment storage shed. The 2.88-acre property, located between Worton and Kennedyville, is in the Second Election District.

The property is zoned Crossroads Commercial "CC," and the parcel is comprised of an open field that is adjacent to the applicant's existing facility. The surrounding area is a mix of agricultural land and residential development.

GENERAL STANDARDS

I. Permitted and Accessory Uses

- A. Comprehensive Plan: "Retain and promote existing businesses." (Page 9)
B. Applicable Law: Article V, Section 10.2 of the Kent County Land Use Ordinance establishes a site plan review requirement for all permitted principal uses and structures in the Crossroads Commercial Zoning District. Home and business services such as grounds care and landscaping are a permitted use.
C. Staff and TAC Comments: The proposed site improvements include new employee and trailer parking areas, stone access road, a new equipment storage shed, a 24' by 48' green house, twelve 12' by 18' storage bins, and one 30' by 48' storage bin.

Density, Height, Width, Bulk, and Fence Requirements

- A. Comprehensive Plan: "Insure that all new development or redevelopment meets a high standard of planning, workmanship, and design." (Page 21)
B. Applicable Law: Article V, Section 10.5 of the Kent County Land Use Ordinance establishes the Density, Height, Width, Bulk, and Fence Requirements as follows:

Table with 2 columns: Requirement (Minimum yard - Front, - Side and Rear) and Standard (100 feet, 50 feet with buffering from adjoining AZD, RCD, RC, RR, CAR, CR, V, IV, & IVCA, 30 feet from CC, C, CCA, M, EC, I, ICA-LDA & ICA which may be reduced to 0 if emergency and maintenance vehicle access are acceptably addressed and if the adjoining property is a compatible use)

Height	
- Commercial structure	45 feet
- Fence	
- Security	8 feet

C. *Staff and TAC Comments:* The site is located adjacent to land zoned Crossroads Commercial “CC.” As such, it appears that the proposed site improvements and structures meet the minimum setback requirements as outlined in the Land Use Ordinance.

II. Crossroads Commercial General Standards

A. *Applicable Law:* Article V, Section 10.6 of the Kent County *Land Use Ordinance* establishes the Crossroads Commercial General Standards.

1. The reuse of existing *buildings* is encouraged.
2. Public water and sewer systems may be required by the *Planning Commission* in a Commercial District.
3. The Department of Planning and Zoning shall approve *street* names. A name may not be approved if it duplicates or is too similar to the name of another road in the county or incorporated towns.
4. *Signs* in the commercial area shall be permitted in accordance with the *regulations* contained in Article VI, Section 2 of this Ordinance.
5. Minimum *off-street parking* and *loading* spaces shall be required of each use in a Crossroads Commercial District in accordance with the *regulations* contained in Article VI, Section 1 of this Ordinance.

B. *Staff and TAC Comments:*

- The property is served by onsite water.
- No signage is proposed at this time.
- A lighting plan has not been submitted at this time.
- The applicant meets all parking and loading requirements. The applicant proposes to install an access road to connect with the existing parking area on lot 1.

IV. Crossroads Commercial Specific Design Standards

A. *Applicable Law:* Article V, Section 10.8B of the Kent County *Land Use Ordinance* establishes the design standards which address site access, landscaping, screening, and lighting. Site access should ensure vehicle and pedestrian safety and alleviate congestion. The applicant should demonstrate that access to the project is adequate and the roads which will be impacted have the capacity to handle the traffic generated by the proposed project and will not endanger the safety of the general public.

Screening is required to protect adjoining properties and roadways from noise, glare, and uses which are visually incompatible with neighboring land uses. Screening is also required where exterior storage areas are visible from roadways, sidewalks, or nearby residential properties, or where the Planning Commission determines that additional screening is necessary to protect properties in the area. When required, the screen shall be capable of providing year-round screening and consist of coniferous and deciduous trees and plants, species and sizes of which will be chosen to best accomplish an adequate screen (i.e. evergreens used for visual screening, deciduous trees for seasonal screening). Screening may include masonry, or wooden fencing used with or without berms. Screening and fencing shall be maintained in at least the same quality and quantity as initially approved.

Lighting on the site should be sufficient to provide for the safety and security of the business, its employees, and its customers. Lighting should also be designed to avoid glare onto adjacent properties and adjacent roadways and not interfere with traffic or create a safety hazard

B. *Staff and TAC Comments:*

- The access to the project is adequate and the roads which will be impacted have the capacity to handle the traffic generated by the proposed project and will not endanger the safety of the general public.
- Onsite vehicular circulation appears to promote clearly defined access to the material storage units and greenhouse. Access by unauthorized vehicles is limited by a gate at the entrance to the site.
- The applicant's narrative states that the property will be planted with Leyland Cypress, which grow a height of 30 feet tall. These plants will be planted in two rows, with eight-foot centers, to create a green screen to protect adjoining properties and roadways from noise and glare. Please add landscaping details to the site plan.
- The Department of Public works approved this application.
- Lighting is not proposed with this project.

V. Commercial Environmental Standards

A. *Applicable Law.* Article V, Section 10.7 of the Kent County *Land Use Ordinance* establishes the Crossroads Commercial Environmental Standards, which include forest conservation and stormwater management. The purpose of these standards is to provide for the proper stewardship of the County's natural resources. Specially, it is the overall goal of the County to maintain the quality of the County's ecosystem in the face of continuing activity, growth and change.

B. *Staff and TAC comments:*

- Forest Conservation must be addressed in accordance with Article VI, Section 8 before final site plan review.
- Stormwater management must be addressed in accordance with Article VI, Section 10 before final site plan review.
- In addition, sediment control must be addressed in accordance with Article VI, Section 9 before final site plan review.

Parking and Loading

A. *Applicable Law:* Article VI, Section 1.3 of the Kent County *Land Use Ordinance* establishes the parking standards for industrial uses based on 1 parking space per 2 employees in the principal shift.

B. *Staff and TAC Comments:* The applicant meets all parking and loading requirements. The applicant's narrative states that the site will have one part-time employee. The site plan includes 11 employee parking spaces.

SITE PLAN REVIEW

A. *Comprehensive Plan:* "Insure that all new development or redevelopment meets a high standard of planning, workmanship, and design." (Page 21)

"Coordinate project review with the incorporated towns." (Page 19)

"Require developers to work with a citizen's participation program." (Page 18)

- B. *Applicable Law:* Article VI, Section 5 of the Kent County *Land Use Ordinance* establishes the procedures and requirements for site plan review. Site Development Plans are required to ensure that new development complies with the Comprehensive Plan, Land Use Ordinance, Village Master Plans and other agency requirements, thereby promoting the health, safety, and general welfare of Kent County residents.

At each stage of review the Planning Commission shall review the site plan and supporting documents taking into consideration the reasonable fulfillment of the following objectives:

- a. Conformance with the Comprehensive Plan and, where applicable, the Village Master Plan.
- b. Conformance with the provisions of all applicable rules and regulations of county, state, and federal agencies.
- c. Convenience and safety of both vehicular and pedestrian movement within the site and in relationship to adjoining ways and properties.
- d. Provisions for the off-street loading and unloading of vehicles incidental to the normal operation of the establishment, adequate lighting, and internal traffic control.
- e. Reasonable demands placed on public services and infrastructure.
- f. Adequacy of methods for sewage and refuse disposal, and the protection from pollution of both surface waters and groundwater. This includes minimizing soil erosion both during and after construction.
- g. Protection of abutting properties and County amenities from any undue disturbance caused by excessive or unreasonable noise, smoke, vapors, fumes, dust, odors, glare, stormwater runoff, etc.
- h. Minimizing the area over which existing vegetation is to be removed. Where tree removal is required, special attention shall be given to planting of replacement trees.
- i. The applicant's efforts to integrate the proposed development into the existing landscape through design features such as vegetative buffers, roadside plantings, and the retention of open space and agricultural land.
- j. The building setbacks, area, and location of parking, architectural compatibility, signage, and landscaping of the development, and how these features harmonize with the surrounding townscape and the natural landscape.

In addition, the applicant is to provide a narrative that addresses a Citizen Participation Plan and a report with the results.

C. *Staff and TAC Comments:*

- The proposal is consistent with many strategies and goals of the Comprehensive Plan.
- Onsite vehicular circulation appears to promote clearly defined access to the material storage units while also limiting unauthorized vehicles with a gate at the entrance.
- The Department of Public Works approved this application.
- The use will not place an unreasonable demand on public services and infrastructure.
- Parking and loading requirements have been met.
- The property will be served by onsite water. The Kent County Health Department approved this application with the following condition: Map 21, Parcel 255, Lot 2A, will need its own well to service the proposed greenhouse.
- Stormwater management must be addressed in accordance with Article VI, Section 10. The plan and affiliated sureties must be approved prior to final site plan approval.
- A sediment control plan must be addressed in accordance with Article VI, Section 9. The

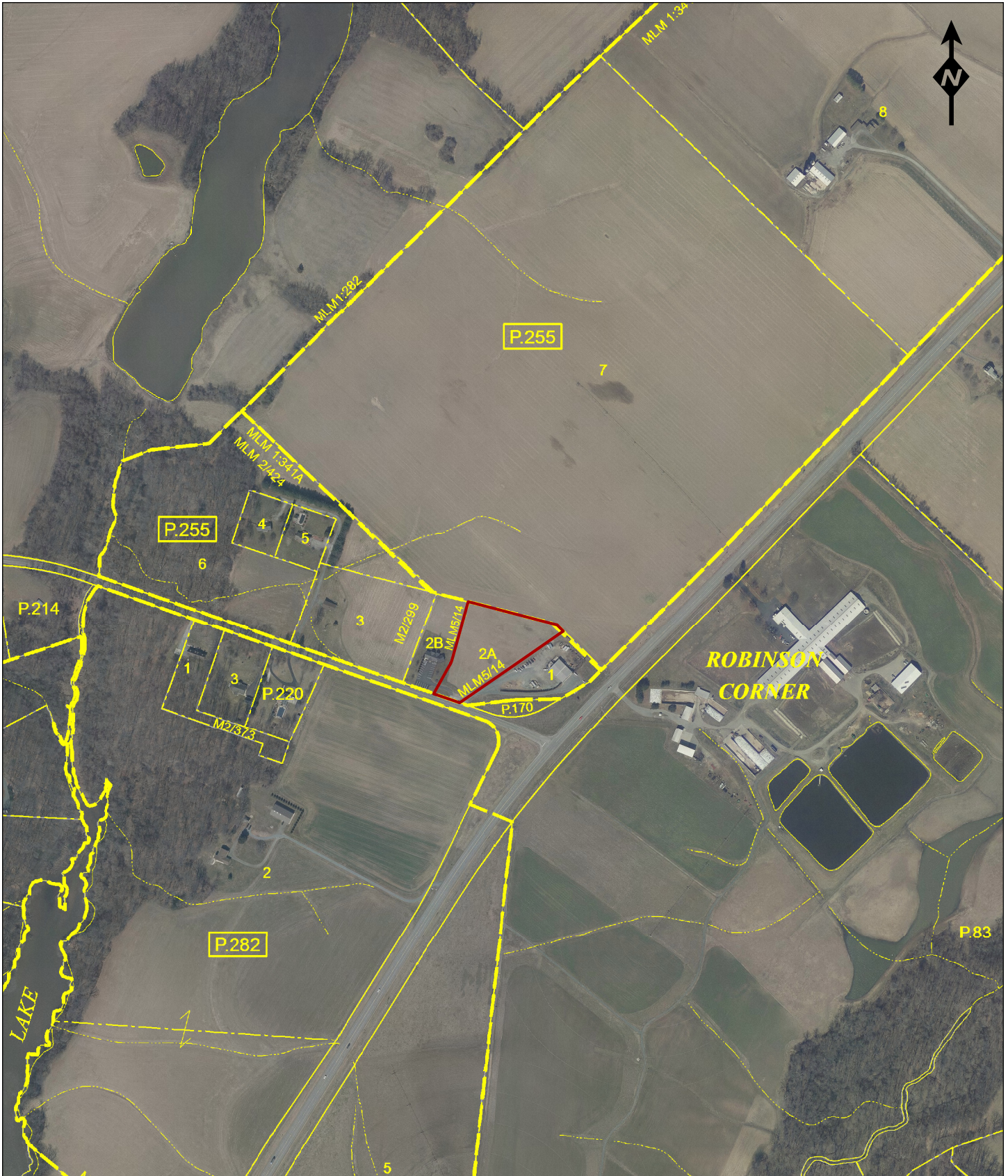
plan and affiliated sureties must be approved prior to final site plan approval.

- Details on the proposed landscaping need to be added to the site plan; sureties must be submitted prior to final site plan approval.
- Forest Conservation must be addressed.
- The applicant mailed out citizen participation letters on November 2nd. The applicant has not received any comments.
- Lighting is not proposed with this project.
- Elevation details have not been submitted.
- No signage has been proposed at this time.

STAFF RECOMMENDATION

In order to receive final site plan approval, the applicant must address and/or submit the following outstanding items:

- Completed forest conservation plan.
- Sediment and erosion control and stormwater management plans must be approved by the District.
- Sureties for stormwater management, sediment and erosion control, landscaping, and forest conservation must be posted prior to final approval.





Kent County Department of Planning, Housing and Zoning

Kent County Government Center
400 High Street • Chestertown, MD 21620
410-778-7475 (phone) • 410-810-2932 (fax)

SITE PLAN APPLICATION

File Number: 20-38 Amount Paid: 200.00 Date: 10/1/20

Project Name: Greenscapes

District: 02 Map: 21 Parcel: 255 & 170 Lot Size: Deed Ref: 890/449, 995/127 Zoning: CC

LOCATION: 11427 Stillpond Road Worton, MD 21678

PROPOSED USE: Crossroads commercial

OWNER OF LAND:

Name: Casey Hurd, Greenscapes Telephone: 410-348-2500

Address: 11427 Stillpond Road Worton, MD 21678 Email: casey@greenscapeslandcare.net

APPLICANT:

Name: Jay Silcox, Silcox Engineering Telephone: 410-490-1839

Address: 4958 Crosby Road Rock Hall, MD 21661 Email: jay@jhsilcoxpe.com

AGENT/ATTORNEY (if any):

Name: Telephone:

Address: Email:

REGISTERED ENGINEER OR SURVEYOR:

Name: Jay Silcox, Silcox Engineering Telephone: 410-490-1839

Address: 4958 Crosby Road Rock Hall, MD 21661 Email: jay@jhsilcoxpe.com

Please provide the email of the one person who will be responsible for responding to comments. Only this person will be contacted by staff and will be the person responsible for forwarding the comments or requests for additional information to any other interested parties. EMAIL:

Water Supply: [] Public System [x] On lot system

Sewerage: [] Public System [x] On lot system

TELEPHONE SERVICED BY:

ELECTRIC SERVICED BY:

NOTICE: The Planning Office is not required to make out this Application. If the Planning Department assists you, it cannot be held responsible for its contents.

Signature of Applicant [Handwritten Signature] Date: 09/30/20

DEPARTMENT OF PLANNING, HOUSING & ZONING RECEIVED 10/1/2020

[x] Concept Plan Approving Authority: Date:
[] Preliminary Approving Authority: Date:
[] Final Approving Authority: Date:

Narrative

1. Owner- CK Property Management 13031 Rosedale Cannery Rd. Still Pond. MD 21667
2. Property address- LOT 2A 2.881 AC. STILL POND RD W OF KENNEDYVILLE
 - a. Map: 0021 Grid: 0003C Parcel: 0255
3. Zoned- Cross Road Commercial
4. Current use- Commercial- Empty Lot
 - a. Proposed use- Section 10.2 Permitted Principal Uses and Structures, Paragraph 9 - Home and business services, such as grounds care and landscaping and Paragraph 18 - Retail nurseries and greenhouses. The applicant proposes to operate a grounds care and landscaping business out of this location. Greenscapes Land Care, LLC provides landscaping, hardscaping, turf care, excavation, snow removal and other related services.
5. An explanation of the viewshed, *open space*, and conservation analysis undertaken during the design of the site plan:
 - a. Landscaped to prevent poor views
 - i. There will be hedges around the entire property with Leyland Cypress which will grow to 30' tall. These trees will be planted in 2 rows with 8' centers to create a green screen.
 - b. Equipment and parking lot are in rear of property as required
 - c. Material storage in middle of lot in front of access lane
 - d. Construction is clustered together to reduce disturbance
 - e. Open space to be stabilized with grass and landscaping along the perimeter.
6. How the proposed *development* complies with the *Comprehensive Plan* and the design and environmental standards of this Ordinance.
 - a. Not clearing woodland or vegetation
 - b. Varied building massing
 - c. No signage or lights needed
 - d. Landscape screening around entire lot
 - e. Landscape screening to reduce noise pollution
 - f. Landscape and Green House use are permitted uses with in Crossroads Commercial
7. Proposed type of water and sewer service- We will not need water or electric to store materials. Plants will be stored in a Cold House to keep them from frost and wind. Material does not require any type of water
8. Number of employees- Greenscapes Land Care has 30 employees. The material storage and green house would require 1 part time employee.
9. The proposed development schedule and phases of development for all proposed construction. To be completed within 12 months
 - a. Phase 1- Parking Lot
 - b. Phase 2- Storage Bins
 - c. Phase 3- Green House
 - d. Phase 4- Rear parking lot
 - e. Phase 5- Landscape Installation

10. Statement of provisions for ultimate ownership and maintenance of all parts of the development
 - a. Ultimate Ownership – CK Property Management, LLC, leased to Greenscapes Land Care, LLC, a current Kent County business
11. Property not Located in the Critical Area
12. Property not located in the Critical Area
13. A letter will be sent in accordance with the Citizen Participation Plan

SITE DEVELOPMENT PLANS FOR Greenscapes Land Care, LLC IN THE TOWN OF WORTON SECOND ELECTION DISTRICT, KENT COUNTY, MARYLAND PREPARED FOR : CK PROPERTY MANAGEMENT, LLC

OWNER

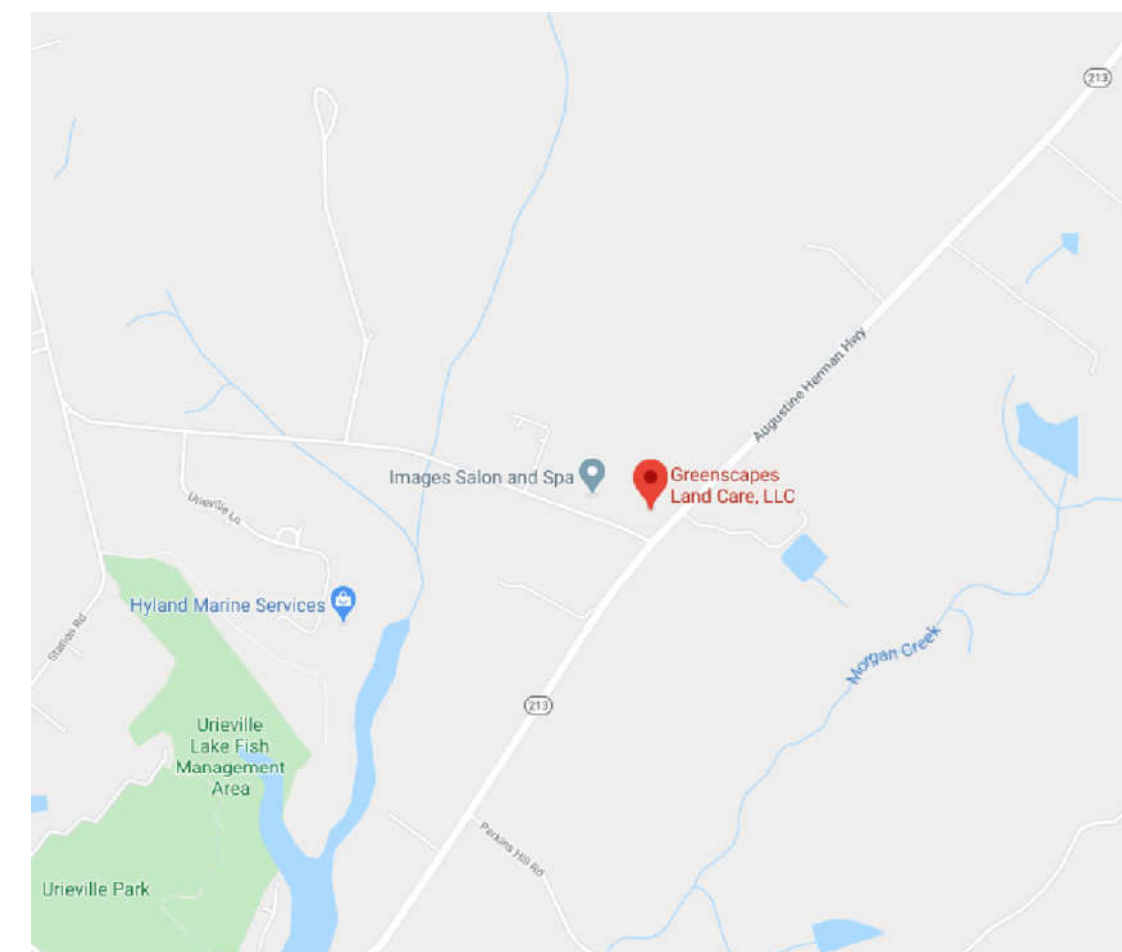
GREENSCAPES LAND CARE, LLC
c/o CASEY HURD
11427 STILL POND RD
WORTON, MD 21678
PHONE No. (410) 348-2500

ENGINEER

SILCOX ENGINEERING & DRAFTING, INC.
c/o JAY SILCOX, P.E.
4958 CROSBY ROAD
ROCK HALL, MARYLAND 21661
PHONE No. 410-490-1839

SURVEYOR

EXTREME MEASURES LAND SURVEYORS
BUCK NICKERSON, PLS
23680 RICAUDS BRANCH ROAD
CHESTERTOWN, MARYLAND 21620
PHONE No. 410-778-0147



VICINITY MAP
1,000'

TABLE OF CONTENTS

SHEET C-1 - TITLE PAGE & GENERAL NOTES
SHEET C-2 - EXISTING PLANS
SHEET C-3 - PROPOSED PLANS
SHEET C-4 - DETAILS

1. Notification of Kent County (410-778-7475) at least five (5) days prior to the start of work.
2. Prior to the start of work, the Contractor is to obtain County approval of any proposed plan changes and sequence of construction, specifically relating to installation, inspection, maintenance and removal of erosion and sediment control measures.
3. Sediment control measures are not to be removed until the areas served have established vegetative cover, or with the permission of the Kent County Sediment Control Inspector.
4. When pumping sediment-laden water, the discharge must be directed to an approved sediment trapping measure prior to release from the site.
5. All temporary stockpiles are to be located within areas protected by sediment control measures, and are to be temporary stabilized.
6. All sediment control dikes, swales, basins and flow lines to basins will be temporarily seeded immediately upon installation to reduce the contribution to sediment loading.
7. Disposal of excess earth materials on State or Federal property requires MDE Approval, otherwise materials are to be disposed of at a location approved by Dorchester County Soil and Water Conservation District.
8. Temporary soil erosion control and sediment control measures are to be provided as per the approved plan prior to grading operations. Location adjustments are to be made in the field as necessary. The minimum area practical shall be disturbed for the minimum possible time.
9. If grading is completed out of a seeding season, graded areas are to be temporarily stabilized by mulch and mulch anchoring. Mulch material shall be unweathered, unchopped small grain straw spread at the rate of 1 to 2 tons per acre. Mulch anchoring to be accomplished by an approved method, use of a mulch anchoring tool is recommended where possible.

GENERAL NOTES

10. Implementation of the sediment control plan shall be in accordance with the "2011 Maryland Standards and Specifications for Soil Erosion and Sediment Control", of the Department.
11. The Contractor is responsible for implementation and maintenance of the approved plan, and all other measures necessary to control, filter, or prevent sediment from leaving the site.
12. In case where stormwater management structures are a part of site development, removal of sediment control structures may not be accomplished before the contributing drainage area to the stormwater management structure is dewatered and stabilized.
13. On sites where infiltration techniques are utilized for the control of stormwater, extreme care must be taken to prevent all runoff from entering the structure during construction.
14. Sediment control for utility construction in areas outside of designed controls:
 - (a) Excavated trench material shall be placed on the high side of the trench.
 - (b) Immediately following pipe installation the trench shall be backfilled, compacted and stabilized at the end of each working day.
 - (c) Temporary silt fence or straw bale dikes shall be placed immediately downstream of any disturbed area intended to remain disturbed longer than one working day.
15. All points on construction ingress and egress shall be protected to prevent tracking of mud onto public ways.
16. Site information:

Area disturbed	37,400 SF
Existing impervious within LOD	0 SF
Proposed impervious within LOD	16,486 SF
Total cut	0 CY
Total fill	0 CY
Disturbed area is not within the Critical Area	
Disturbed area is not within the 100-year floodplain	
Soil types within the LOD	
Sassafras gravely sandy loam, 10 to 15 percent slopes, severely eroded (Sg2)	
Hydrologic group B	

STATEMENT OF PURPOSE AND INTENT

THE PURPOSE OF THIS SITE PLAN IS TO PROVIDE PLANS AND DETAILS FOR SITE IMPROVEMENTS TO INCLUDE NEW EMPLOYEE AND TRAILER PARKING AREA & STONE ACCESS ROAD, NEW BULK MATERIAL STORAGE BINS, NEW EQUIPMENT STORAGE SHED.

PHASE OF CONSTRUCTION

1. CONTACT THE KENT COUNTY SEDIMENT AND EROSION CONTROL INSPECTOR AT 410-778-7475 A MINIMUM OF 2 WEEKS PRIOR TO THE START OF CONSTRUCTION TO SCHEDULE A PRECONSTRUCTION MEETING PRIOR TO INITIATION OF ANY GRADING ACTIVITY.
- 1-DAY
- 2-DAYS
- 1-DAY
- 2-WEEKS
- ONGOING
- 3-DAYS
2. INSTALL STABILIZED CONSTRUCTION ENTRANCE.
3. CLEAR & GRUB AS NEEDED TO INSTALL PERIMETER CONTROLS.
4. INSTALL SILT FENCE AT THE LOCATIONS SHOWN.
5. PERFORM ROUGH GRADING PER PROPOSED CONTOURS.
6. MAINTAIN PERIMETER CONTROLS AND STABILIZE ALL DISTURBED AREAS.
7. INSTALL STABILIZATION MATTING.
8. UPON APPROVAL FROM THE KENT COUNTY SEDIMENT CONTROL INSPECTOR, REMOVE ALL TEMPORARY SEDIMENT AND EROSION CONTROL DEVICES AND STABILIZE ALL DISTURBED AREAS PER PERMANENT STABILIZATION SPECIFICATIONS FOUND ON THIS SHEET.

NOTE:
ALL SEDIMENT AND EROSION CONTROL WILL BE STRICTLY ENFORCED

STANDARD STABILIZATION NOTE:
FOLLOWING INITIAL SOIL DISTURBANCE OR REDISTURBANCE, PERMANENT OR TEMPORARY STABILIZATION SHALL BE COMPLETED WITHIN SEVEN CALENDAR DAYS AS TO THE SURFACE OF ALL PERIMETER CONTROLS, DIKES, SWALES, DITCHES, PERIMETER SLOPES, AND ALL SLOPES GREATER THAN 3 HORIZONTAL TO 1 VERTICAL (3:1), AND FOURTEEN DAYS AS TO ALL OTHER DISTURBED OR GRADED AREAS ON THE PROJECT SITE.



10/25/20

DATE

SEAL

"Professional Certification. I certify that these documents were prepared or approved by me, and that I am a duly licensed engineer under the laws of the State of Maryland, license number 26325, expiration date 06/30/22."

ORIGINAL SUBMITTAL	09/20/20
No.	Revision/Issue Date
Drawn By: JHS	
Checked By:	

Firm Name and Address
Silcox Engineering & Drafting, Inc.
4958 Crosby Road
Rock Hall, MD 21661
P: 410-699-6093
F: 866-505-2731

Jay Silcox, P.E.

Project Name and Address
CK Property Management, LLC
Map - 21 Lots - 1 & 2A
Parcel - 255 & 170
District - 02
Customer Name
Greenscapes, LLC

Sheet Title	Sheet
Date	C-1
Scale	Revision
1" = 30'	

REVIEWED FOR THE KENT SOIL AND WATER CONSERVATION DISTRICT AND MEET TECHNICAL REQUIREMENTS

APPROVED: _____ DATE _____

KENT SOIL AND WATER CONSERVATION DISTRICT

NOTE: KENT SOIL AND WATER CONSERVATION DISTRICT RESERVES THE RIGHT TO ADD, DELETE, MODIFY OR OTHERWISE ALTER THE EROSION CONTROL PROVISIONS OF THIS PLAN IN THE EVENT ADDITIONAL PROTECTION BECOMES NECESSARY.

REVIEWED FOR THE KENT SOIL AND WATER CONSERVATION DISTRICT AND MEET TECHNICAL REQUIREMENTS

APPROVED: _____ DATE _____

KENT SOIL AND WATER CONSERVATION DISTRICT

NOTE: KENT SOIL AND WATER CONSERVATION DISTRICT RESERVES THE RIGHT TO ADD, DELETE, MODIFY OR OTHERWISE ALTER THE EROSION CONTROL PROVISIONS OF THIS PLAN IN THE EVENT ADDITIONAL PROTECTION BECOMES NECESSARY.

DEVELOPERS CERTIFICATION

I (WE) CERTIFY THAT:

- A. ALL DEVELOPMENT AND CONSTRUCTION WILL BE DONE IN ACCORDANCE WITH THIS SEDIMENT AND EROSION CONTROL PLAN AND/OR STORMWATER MANAGEMENT PLAN, AND FURTHER AUTHORIZED THE RIGHT OF ENTRY FOR PERIODIC ON-SITE EVALUATION BY THE KENT SOIL AND WATER CONSERVATION DISTRICT SEDIMENT CONTROL INSPECTOR OR MARYLAND DEPARTMENT OF THE ENVIRONMENT.
- B. ANY RESPONSIBLE PERSONNEL INVOLVED IN THE CONSTRUCTION PROJECT WILL HAVE A CERTIFICATION OF ATTENDANCE AT THE DEPARTMENT OF ENVIRONMENT APPROVED TRAINING PROGRAM FOR THE CONTROL OF EROSION AND SEDIMENT BEFORE BEGINNING THE PROJECT.
- C. IT WILL BE THE RESPONSIBILITY OF THE CONTRACTOR OR SUBCONTRACTOR TO NOTIFY THE ENGINEER OF ANY CHANGE FROM THIS PLAN. ANY CHANGE MADE IN THIS PLAN WITHOUT WRITTEN AUTHORIZATION FROM THE ENGINEER WILL PLACE RESPONSIBILITY FOR SAID CHANGE ON THE CONTRACTOR OR SUBCONTRACTOR.

SIGNATURE _____ DATE _____

ADDRESS _____ COUNTY No. _____

PHONE No. _____

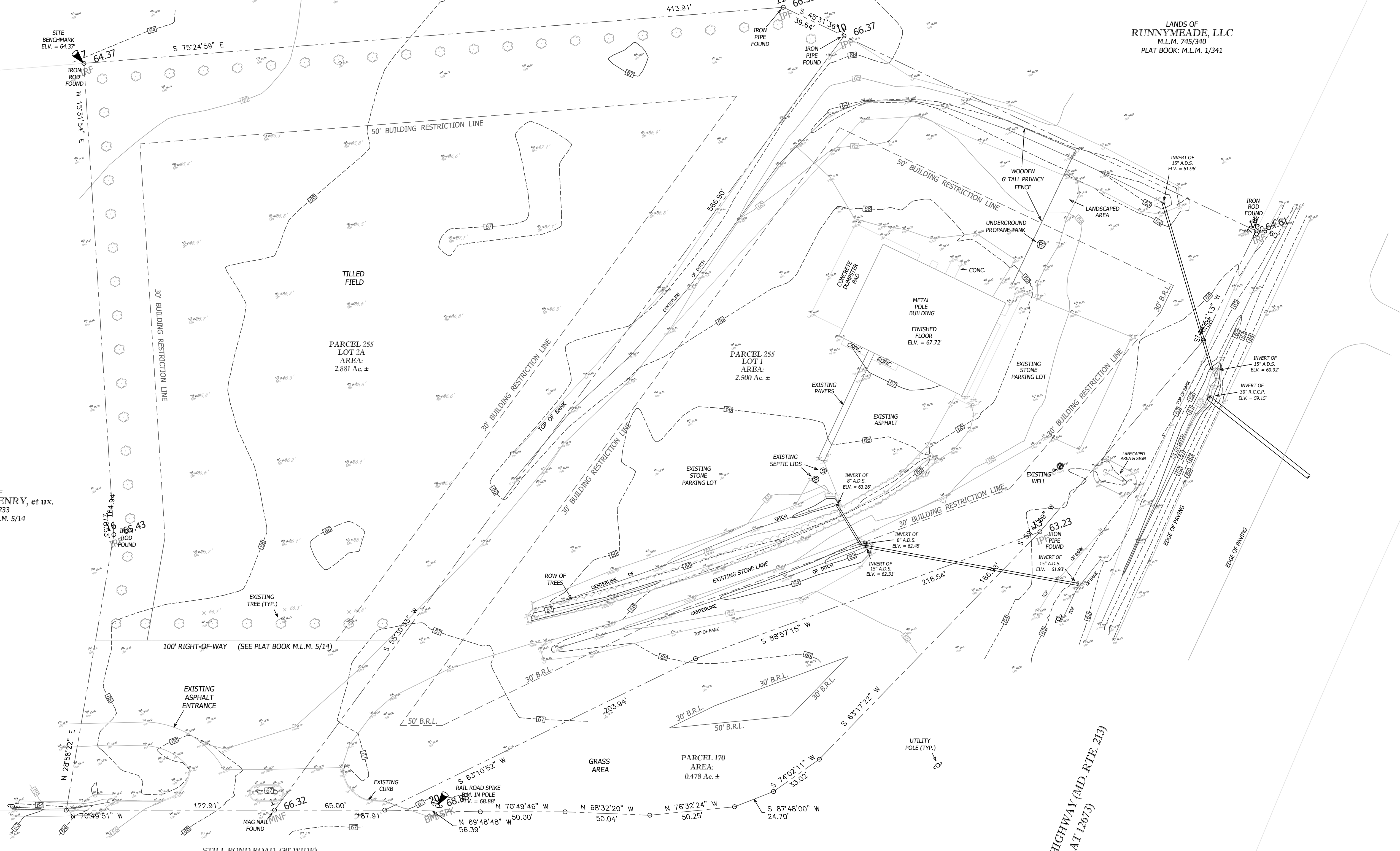
OWNER'S REPRESENTATIVE	KENT COUNTY PLANNING & ZONING
KENT COUNTY SOIL CONSERVATION DISTRICT	KENT COUNTY HEALTH DEPARTMENT



SITE BENCHMARK
ELEV. = 64.37'

LANDS OF
RUNNYMEADE, LLC
M.L.M. 745/340
PLAT BOOK: M.L.M. 1/341

LANDS OF
DANIEL D. McHENRY, et ux.
M.L.M. 829/233
PLAT BOOK: M.L.M. 5/14



NOTE:
ELEVATIONS SHOWN HEREON ARE
BASED ON NAVD 88

SITE NOTES:
PARCEL 255, LOT 1:
DEED REFERENCE: M.L.M. 890/449
PLAT BOOK: E.H.P. 2/37
PREMISES ADDRESS: 11427 STILL POND ROAD
WORTON, MD. 21678

PARCEL 255, LOT 2A:
DEED REFERENCE: M.L.M. 995/127
PLAT BOOK: M.L.M. 5/14

PARCEL 170:
DEED REFERENCE: M.L.M. 890/449
PLAT BOOK: E.H.P. 2/129

ALL PARCELS AND LOTS SHOWN HEREON ARE
CURRENTLY ZONED CC - CROSSROADS COMMERCIAL

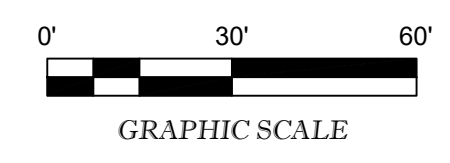
**EXISTING
LOT COVERAGE SUMMARY**

PARCEL 255, LOT 1:
BUILDING 4,849 Sq.Ft.
STONE & ASPHALT 47,672 Sq.Ft.
CONCRETE & PAVERS 2,107 Sq.Ft.
TOTAL COVERAGE 54,628 Sq.Ft.

PARCEL 255, LOT 2A:
STONE & ASPHALT 4,812 Sq.Ft.
CONCRETE 52 Sq.Ft.
TOTAL COVERAGE 4,864 Sq.Ft.

PARCEL 255, LOT 2A:
STONE & ASPHALT 24 Sq.Ft.
TOTAL COVERAGE 24 Sq.Ft.

OVERALL SITE:
TOTAL COVERAGE 59,516 Sq.Ft.



*THIS TOPOGRAPHICAL SURVEY WAS EITHER PREPARED BY A
LICENSED LAND SURVEYOR OR A LICENSED LAND SURVEYOR
WAS IN RESPONSIBLE CHARGE OVER ITS PREPARATION AND
THE SURVEYING WORK REFLECTED IN IT, ALL IN COMPLIANCE
WITH REQUIREMENTS SET FORTH IN COMAR 08.13.06.12.*

LEGEND

	DENOTES BUILDING RESTRICTION LINE
	DENOTES TOP OF BANK
	DENOTES TOE OF BANK
	DENOTES EDGE OF STONE
	DENOTES EXISTING WELL
	DENOTES SEPTIC LID
	DENOTES PROPANE TANK
	DENOTES UTILITY POLE
	DENOTES SPOT ELEVATION
	DENOTES SITE BENCHMARK



10/25/20

DATE

SEAL

"Professional Certification.
I certify that these
documents were prepared
or approved by me, and
that I am a duly licensed
engineer under the laws of
the State of Maryland,
license number 26325,
expiration date 06/30/22."

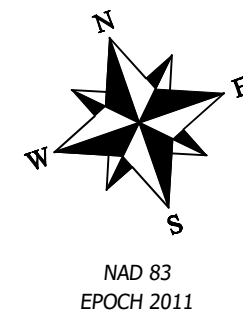
No.	Revision/Issue	Date
	ORIGINAL SUBMITTAL	03/20/20

Drawn By: JHS Checked By:

Firm Name and Address
Silcox Engineering & Drafting, Inc.
4958 Crosby Road
Rock Hall, MD 21661
P: 410-699-6093
F: 866-505-2731

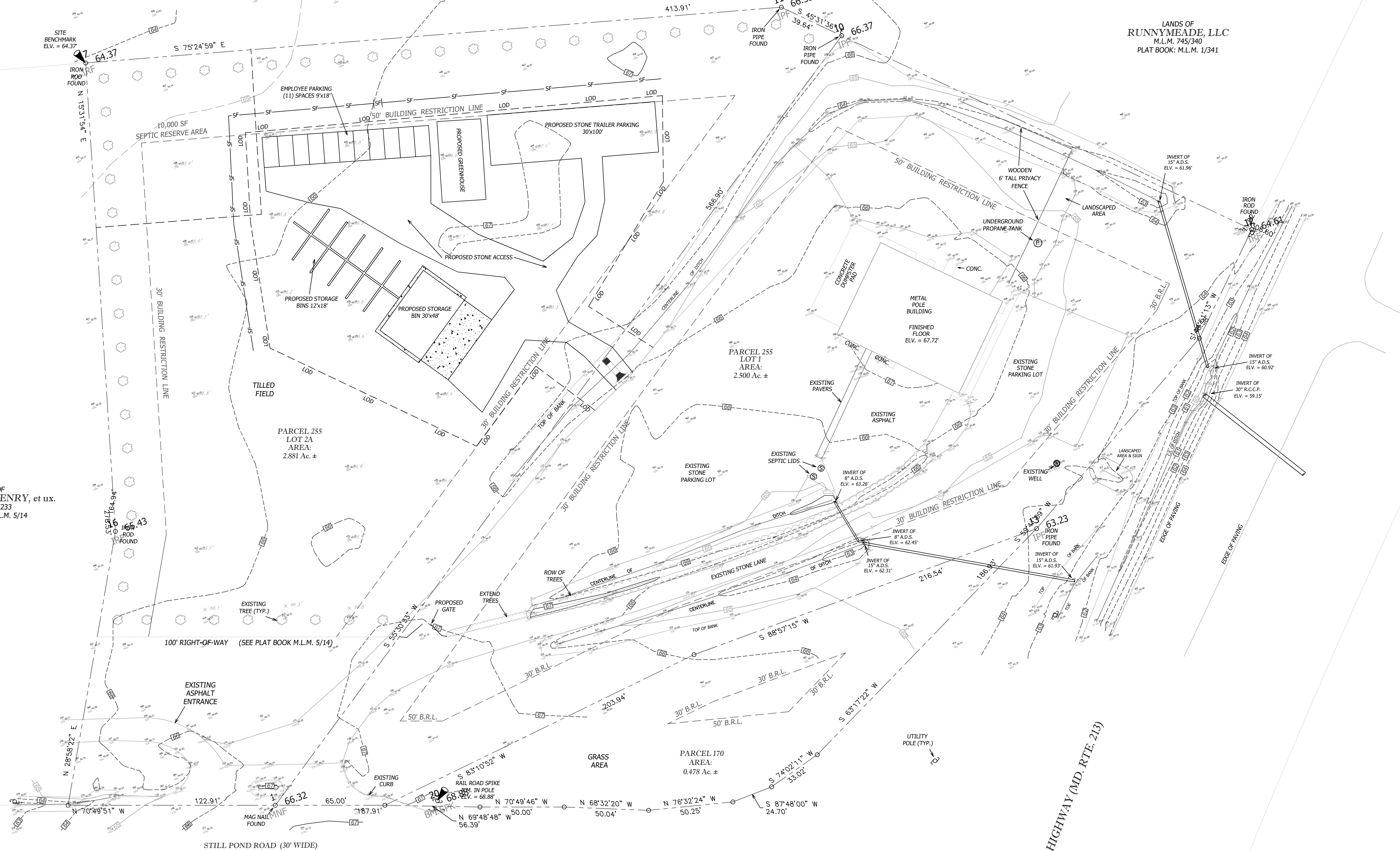
Project Name and Address
CK Property Management, LLC
Map - 21 Lots - 1 & 2A
Parcel - 255 & 170
District - 02
Customer Name
Greenscapes, LLC

Sheet Existing	Sheet C-2
Date 03/20/20	Revision
Scale 1" = 30'	



LANDS OF DANIEL D. McHENRY, et ux.
M.L.M. 829/233
PLAT BOOK: M.L.M. 5/14

LANDS OF RUNNYMEADE, LLC
M.L.M. 745/340
PLAT BOOK: M.L.M. 1/341

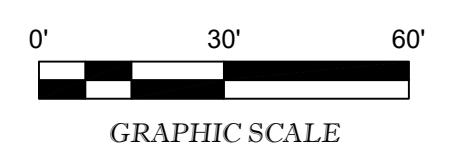


NOTE:
ELEVATIONS SHOWN HEREON ARE BASED ON NAVD 88

SITE NOTES:
PARCEL 255, LOT 1:
DEED REFERENCE: M.L.M. 890/449
PLAT BOOK: E.H.P. 2/37
PREMISES ADDRESS: 11427 STILL POND ROAD WORTON, MD. 21678
PARCEL 255, LOT 2A:
DEED REFERENCE: M.L.M. 995/127
PLAT BOOK: M.L.M. 5/14
PARCEL 255, LOT 2A:
DEED REFERENCE: M.L.M. 890/449
PLAT BOOK: E.H.P. 2/129
ALL PARCELS AND LOTS SHOWN HEREON ARE CURRENTLY ZONED CC - CROSSROADS COMMERCIAL

PROPOSED LOT COVERAGE SUMMARY

Parcel	Lot	Item	Coverage
PARCEL 255, LOT 1:		BUILDING	4,849 Sq.Ft.
		STONE & ASPHALT	47,672 Sq.Ft.
		CONCRETE & PAVERS	2,107 Sq.Ft.
		TOTAL COVERAGE	54,628 Sq.Ft.
PARCEL 255, LOT 2A:		STONE & ASPHALT	13,800 Sq.Ft.
		CONCRETE	1,440 Sq.Ft.
		BUILDING	1,248 Sq.Ft.
		TOTAL COVERAGE	16,488 Sq.Ft.
PARCEL 255, LOT 2A:		STONE & ASPHALT	24 Sq.Ft.
		TOTAL COVERAGE	24 Sq.Ft.
OVERALL SITE:		TOTAL COVERAGE	71,140 Sq.Ft.



THIS TOPOGRAPHICAL SURVEY WAS EITHER PREPARED BY A LICENSED LAND SURVEYOR OR A LICENSED LAND SURVEYOR WAS IN RESPONSIBLE CHARGE OVER ITS PREPARATION AND THE SURVEYING WORK REFLECTED IN IT, ALL IN COMPLIANCE WITH REQUIREMENTS SET FORTH IN COMAR 08.15.06.12

LEGEND

	DENOTES SOILS LINE & TYPE
	DENOTES SILO FENCE
	DENOTES LOD
	DENOTES SCE
	DENOTES BUILDING RESTRICTION LINE
	DENOTES TOP OF BANK
	DENOTES TOE OF BANK
	DENOTES EDGE OF STONE
	DENOTES EXISTING WELL
	DENOTES SEPTIC LID
	DENOTES PROPANE TANK
	DENOTES UTILITY POLE
	DENOTES SPOT ELEVATION
	DENOTES SITE BENCHMARK



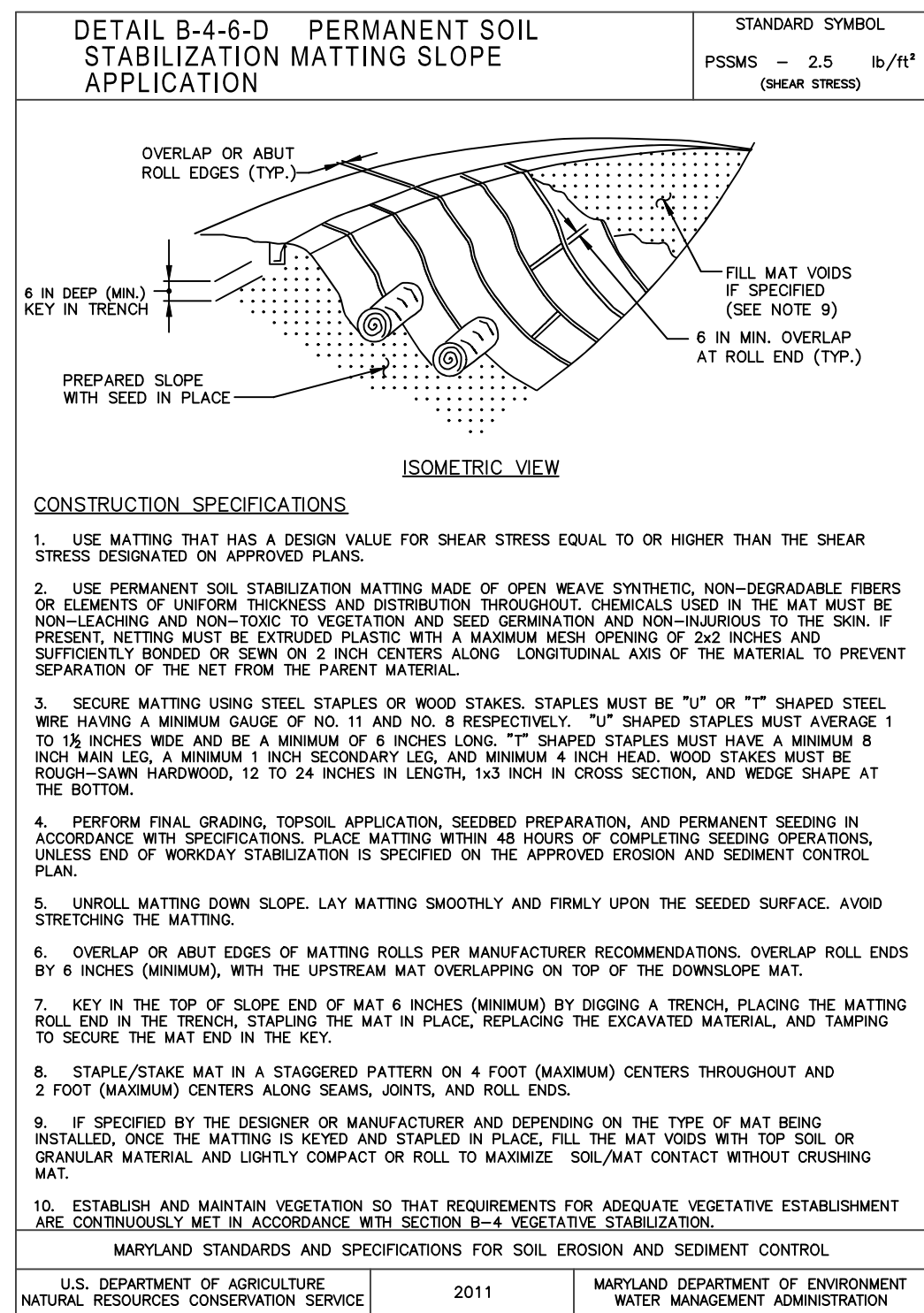
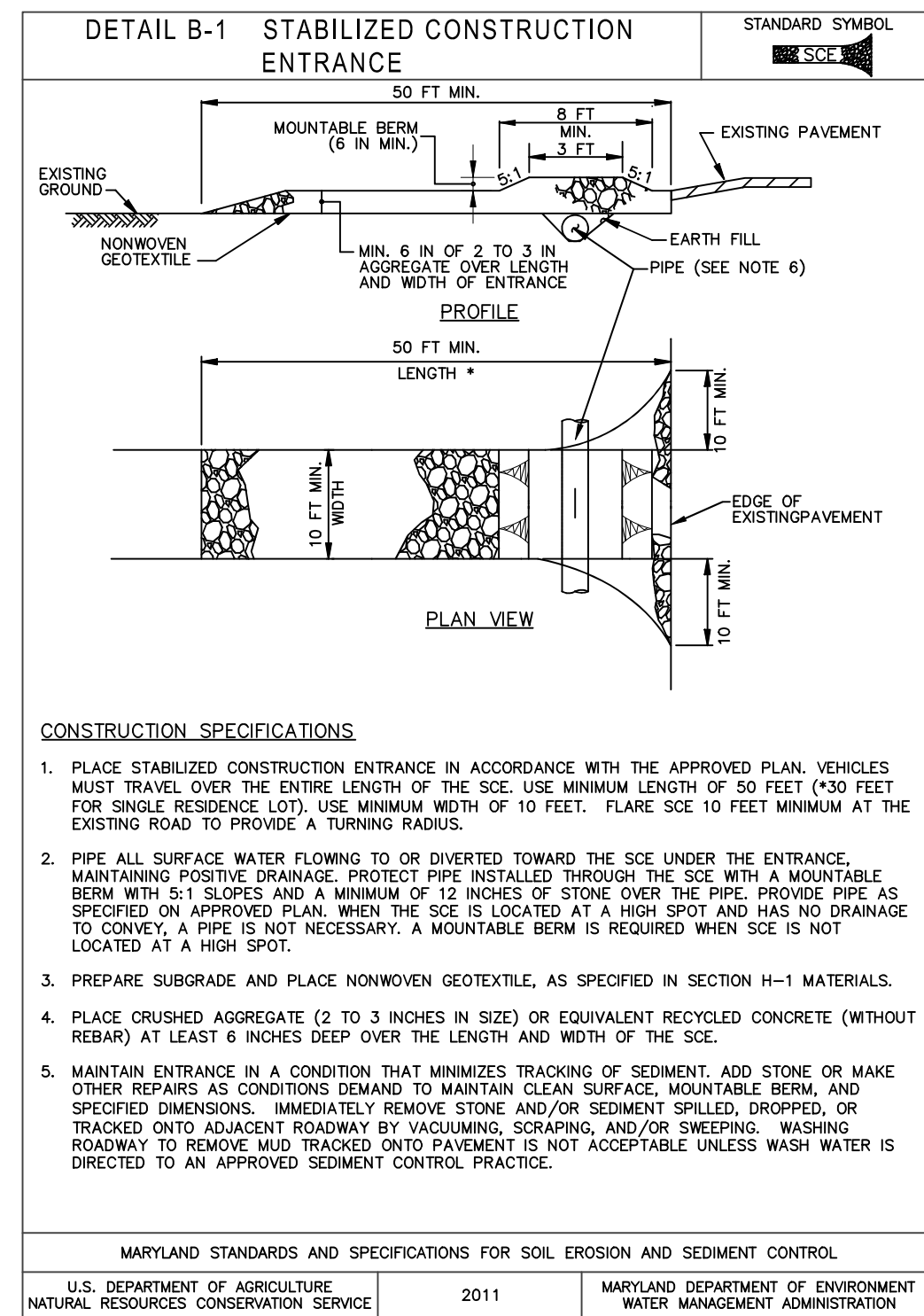
10/25/20
DATE SEAL
"Professional Certification. I certify that these documents were prepared or approved by me, and that I am a duly licensed engineer under the laws of the State of Maryland, license number 26325, expiration date 06/30/22."

ADJUSTED LOD & PARKING LOCATION	10/20/20	
ORIGINAL SUBMITTAL	09/20/20	
No.	Revision/Issue	Date
Drawn By: JHS	Checked By:	

Firm Name and Address
Silcox Engineering & Drafting, Inc.
4958 Crosby Road
Rock Hall, MD 21661
P: 410-699-6093
F: 866-505-2731
ENGINEERING & DRAFTING
Jay Silcox, P.E.

Project Name and Address
CK Property Management, LLC
Map - 21 Lots - 1 & 2A
Parcel - 255 & 170
District - 02
Customer Name
Greenscapes, LLC

Sheet Proposed	Sheet C-3
Date 03/20/20	Revision
Scale 1" = 30'	



EROSION & SEDIMENT CONTROL STANDARDS AND SPECIFICATIONS FOR VEGETATIVE STABILIZATION

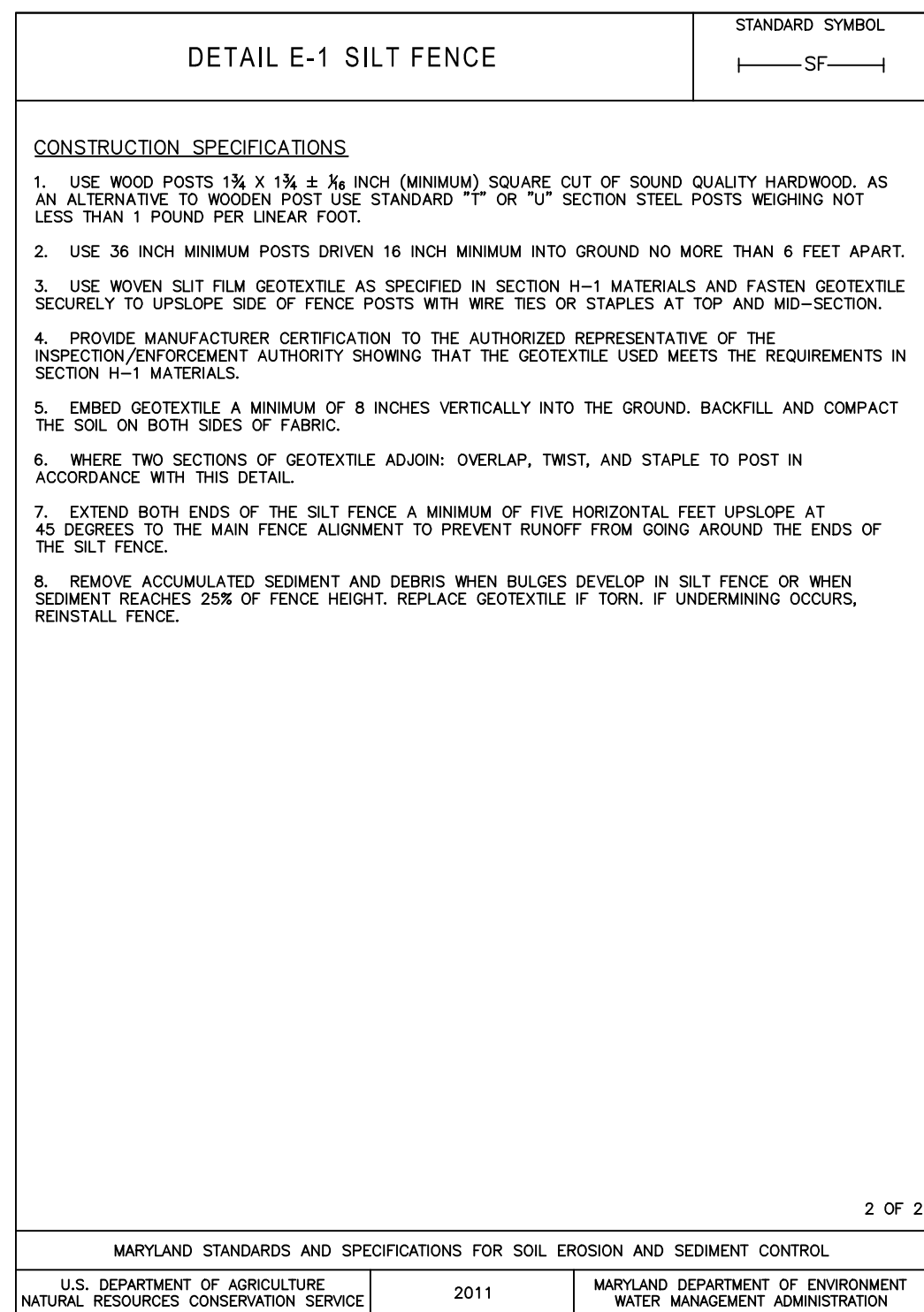
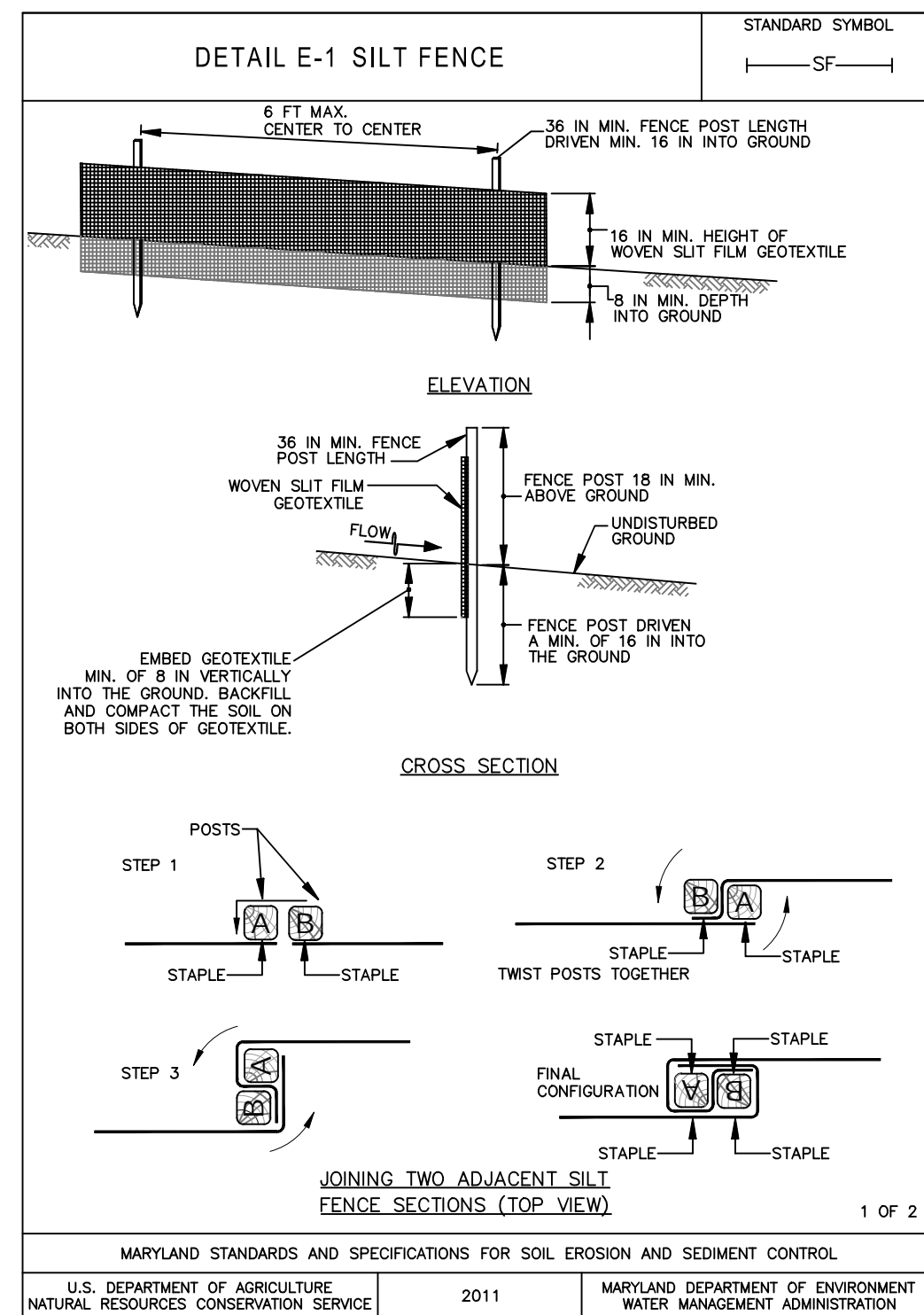
- Contractor shall install soil erosion and sediment control devices prior to any grading. Following initial disturbance or re-disturbance, permanent or temporary stabilization shall be completed within three (3) calendar days as to the surface of all perimeter controls, dikes, swales, ditches, perimeter slopes greater than three (3) horizontal to one (1) vertical (3:1) and seven days (7) as to all other disturbed or graded areas on the project site.
- All temporary erosion and sediment control devices are to be provided as indicated on this plan, with location adjustments to be made in the field as necessary, and to be maintained at the end of each working day until project completion. The minimum area practical shall be disturbed for the minimal amount of time possible.
- Clearing and grubbing shall include all trees, brush, debris, root mat and organic materials to be removed.
- Temporary seeding shall be accomplished between February 15th through April 30th, or August 15th through November 30th. During other times, temporary mulching shall be provided.
- Temporary seeding shall conform to the following applications: 436 lbs. per acre of 10:20:20; 4,000 lbs. per acre of ground limestone, to be incorporated into the soil by disking or other suitable means. Annual rye grass shall be applied at a rate of 50 lbs. per acre using suitable equipment. Mulching shall be accomplished immediately after seeding.

Seed Mixture (For Hazard Zone Fa) (From Table B-1)						
No.	Species	Appl. Rate (lb./ac.)	Seeding Date	Seeding Depth	Fertilizer Rate (10-20-20)	Line Rate
	ANNUAL RYE GRASS	50 lbs.	2/15-4/30 8/15-11/30	1/2"		
	BARLEY	96 lbs.	2/15-4/30, 8/15-11/30	1"	436 lb/ac 10 lb/ 1000 sf	2 tons/ac 90 lb/ 1000 sf
	OATS	72 lbs.	2/15-4/30, 8/15-11/30	1"		
	WHEAT	120 lbs.	2/15-4/30, 8/15-11/30	1"		
	CERIAL RYE	112 lbs.	2/15-4/30, 8/15-12/15	1"		
	FOXTAIL MILLET	30 lbs.	5/1-8/14			
	PEARL MILLET	20 lbs.	5/1-8/14	1/2"		

- Mulching shall be unchopped, unrotted, small grain straw applied at a rate of 2.2-1/2 tons per acre. Anchor mulch with a mulch anchoring tool on the contour. Wood cellulose fiber may be used for anchoring straw at 750 lbs. per acre mixed with water at a maximum of 50 lbs. of wood cellulose fiber per 100 gals of water, or with a synthetic liquid binder according to manufacture recommendations. Wood cellulose fiber used as mulch must be applied at a net dry weight of 1,500 lbs. per acre. Mix wood cellulose fiber with water to attain a mixture with a maximum of 50 lbs. of wood cellulose fiber per 100 gals. of water.
- Permanent seeding shall be accomplished between March 1st through May 15th, or August 15th through October 15th. Permanent seeding at other than specified times will be allowed only upon written approval. Permanent seeding shall conform to the following applications: Permanent seeding for sites having disturbed over five (5) acres shall use fertilizer rates recommended by a soil testing agency and the recommendations provided in the Permanent Seeding Summary Table. Permanent seeding for conditions other than listed above shall be performed at the rates and dates as provided in the Permanent Seeding Summary Table below. Fertilizer and lime amendments shall be incorporated into the top 3" - 5" of the soil by disking or other suitable means. Mulching shall be accomplished as discussed in Item #6 of these specifications.

Seed Mixture (For Hazard Zone Fa) (From Table B-1)								
No.	Species	Appl. Rate (lb./ac.)	Seeding Date	Seeding Depth	Fertilizer Rate (10-20-20)			Line Rate
					N	P205	K2O	
7	CREeping RED FESCUE KENTUCKY BLUEGRASS	60 lbs. 15 lbs.	3/1-5/15 8/15-10/15	1/4" to 1/2"	45 lb/ac 1 lb/ 1000 sf	90 lb/ac 2 lb/ 1000 sf	90 lb/ac 2 lb/ 1000 sf	2 tons/ac 90 lb/ 1000 sf
8	TALL FESCUE	100 lbs.	3/1-5/15 8/15-10/15	1/4" to 1/2"				
9	TALL FESCUE KENTUCKY BLUEGRASS PERENNIAL RYEGRASS	60 lbs. 40 lbs. 20 lbs.	3/1-5/15 8/15-10/15	1/4" to 1/2"				

- Any spoil or borrow will be placed at a site approved by the Soil Conservation District.
- All areas remaining or intended to remain disturbed for longer than three (7) days shall be stabilized in accordance with the USDA, Natural Resources Conservation Service Standards and Specifications for Soil Erosion and Sediment Control in developing areas for critical area stabilization.
- It will be the responsibility of the Contractor or Subcontractor to notify the Engineer of any deviation from this plan. Any change made in this plan without written authorization from the Engineer will place responsibility of said change on the Contractor or the Subcontractor.



INSPECTION CHECKLIST

THE CONTRACTOR SHALL NOTIFY THE KENT COUNTY SEDIMENT AND EROSION CONTROL INSPECTOR AT (410-778-7475) AT THE FOLLOWING

- THE REQUIRED PRECONSTRUCTION MEETING.
- FOLLOWING INSTALLATION OF SEDIMENT CONTROL MEASURES.
- PRIOR TO REMOVAL OR MODIFICATION OF ANY SEDIMENT CONTROL STRUCTURE.
- PRIOR TO REMOVAL OF ALL SEDIMENT AND EROSION CONTROL DEVICES.
- PRIOR TO FINAL ACCEPTANCE.

MAINTENANCE SCHEDULE

PREVENTATIVE MAINTENANCE SHALL BE ENSURED THROUGH INSPECTION OF ALL INFILTRATION SYSTEMS, RETENTION, OR DETENTION STRUCTURES BY THE KENT COUNTY INSPECTOR. THE INSPECTION SHALL OCCUR DURING THE FIRST YEAR OF OPERATION AND AT LEAST ONCE EVERY 2 YEARS THEREAFTER.

REVIEWED FOR THE KENT SOIL AND WATER CONSERVATION DISTRICT AND MEET TECHNICAL REQUIREMENTS

APPROVED: _____

KENT SOIL AND WATER CONSERVATION DISTRICT _____ DATE _____

NOTE: KENT SOIL AND WATER CONSERVATION DISTRICT RESERVES THE RIGHT TO ADD, DELETE, MODIFY OR OTHERWISE ALTER THE EROSION CONTROL PROVISIONS OF THIS PLAN IN THE EVENT ADDITIONAL PROTECTION BECOMES NECESSARY.



10/25/20

DATE

SEAL

"Professional Certification. I certify that these documents were prepared or approved by me, and that I am a duly licensed engineer under the laws of the State of Maryland, license number 26325, expiration date 06/30/22."

ORIGINAL SUBMITTAL	09/20/20
No.	Revision/Issue
Drawn By: JHS	Checked By:

Firm Name and Address
Silcox Engineering & Drafting, Inc.
4958 Crosby Road
Rock Hall, MD 21661
P: 410-699-6093
F: 866-505-2731
ENGINEERING & DRAFTING
Jay Silcox, P.E.

Project Name and Address
CK Property Management, LLC
Map - 21 Lots - 1 & 2A
Parcel - 255 & 170
District - 02
Customer Name
Greenscapes, LLC

Sheet Details	Sheet C-4
Date 03/20/20	Revision
Scale 1" = 30'	Revision

PRELIMINARY STAFF REPORT

TO: Kent County Planning Commission
SUBJECT: Zoning Text Amendment – Establishment of Critical Area Line
DATE: November 23, 2020

DESCRIPTION OF PROPOSAL

On November 17, 2020, the County Commissioners adopted a resolution to consider a zoning text amendment to amend Article III, *Districts and District Maps*, by creating a new Section 6, *Establishment of Critical Area Line*, and Article XI, *Definitions*, Section 2, definition (75) *Critical Area*, as required by the State of Maryland. The new Section will create a temporary, overlay zone that will remain in place until a new Comprehensive Land Use Ordinance and Zoning Map are adopted and become effective.

The text of Code Home Rule Bill No. 8-2020 and an overall map are attached.

APPLICABLE LAW

Article XII, Section 6 of the Kent County Land Use Ordinance establishes the standards for the review and approval of a zoning text amendment as follows.

Before taking any action on any proposed amendment, supplement, or change, the County Commissioners shall submit the proposal to the Planning Commission for review and recommendation. The Planning Commission may hold a hearing on any proposed amendment, supplement, or change before submitting its recommendation to the County Commissioners. The Planning Commission may request any pertinent data and information as it deems necessary. In its recommendation, the Planning Commission shall address:

- a. The public need for the proposed amendment; and
- b. The extent to which the proposed amendment complies with or deviates from the Comprehensive Plan and the Critical Area Law.

STAFF COMMENTS

The County and the State have been working to update the Critical Area Line for several years. State law mandates that we adopt a new line which is based on better and more recent data than was used to draw the original Critical Area Line in the 1980s. Due to unforeseen delays in drafting and adopting a new Comprehensive Land Use Ordinance, we must adopt the line as a temporary, overlay zone. Properties that are currently within the Critical Area will continue to be regulated by the established zoning district. Properties that are affected by the new line will be regulated by the most similar zoning district.

The proposal is consistent with Comprehensive Plan goals to protect and conserve the County's natural resources and sensitive environments.

STAFF RECOMMENDATION

Staff recommends sending a favorable recommendation to the County Commissioners.

RESOLUTION 2020-19

COUNTY COMMISSIONERS OF KENT COUNTY, MARYLAND

A RESOLUTION TO CONSIDER A TEXT AMENDMENT TO AMEND CHAPTER 222, ZONING, OF THE COUNTY CODE OF KENT COUNTY, MARYLAND, ALSO KNOWN AS THE KENT COUNTY LAND USE ORDINANCE, BY AMENDING ARTICLE III, DISTRICTS AND DISTRICT MAPS, BY CREATING A NEW SECTION 6, ESTABLISHMENT OF CRITICAL AREA LINE, AND AMENDING ARTICLE XI, DEFINITIONS, SECTION 2, DEFINITIONS, DEFINITION (75) CRITICAL AREA, IN ORDER TO ADDRESS REQUIREMENTS BY THE STATE OF MARYLAND RELATED TO UPDATING THE CRITICAL AREA MAPPING FOR KENT COUNTY, MARYLAND, AND BY THE ADOPTION OF A CRITICAL AREA MAP TO FUNCTION AS A TEMPORARY, OVERLAY ZONE.

WHEREAS, the Board of County Commissioners of Kent County, Maryland (the Board) may exercise its right to amend the County Code of Kent County, Maryland (the Code), by legislative action in the form of a Code Home Rule Bill to create an Act and thus propose text amendments to the Code; and

WHEREAS, in Article XII, *Administrative Procedures*, Section 6, *Amendments*, §1, the Land Use Ordinance states regarding the Board and the Code that “The County Commissioners may amend, supplement, or change the boundaries of the districts or the regulations of this Ordinance. Any amendment may be initiated by resolution of the County Commissioners...”; and

WHEREAS, the State of Maryland requires that Kent County adopt an updated Critical Area Map, based on the latest data assembled by the State of Maryland and provided to Kent County; and

WHEREAS, the updated Critical Area Map is not a rezoning, per se, and overlay zones are not treated as rezoning actions in Maryland law, nor by the Kent County Land Use Ordinance, as written; and

WHEREAS, the Board finds that to continue to preserve the natural environment, follow all State requirements, and provide for the health, safety, welfare and general morals of the community, a zoning text amendment and corresponding temporary, overlay map to address the local Critical Area is necessary;

NOW, THEREFORE, BE IT RESOLVED, that on November 17, 2020, the Board does hereby desire to entertain a proposed zoning amendment for its consideration, attached hereto as Exhibit A.

BE IT FURTHER RESOLVED that the Board refers the draft amendment for advisory review and recommendation to the Kent County Planning Commission, and thereafter to return for introduction.


ATTEST:

THE COUNTY COMMISSIONERS
OF KENT COUNTY, MARYLAND


Sallie Watson, Deputy Clerk II


P. Thomas Mason, President


Ronald H. Fithian, Member


Robert N. Jacob, Jr., Member

ADOPTED: November 17, 2020

THE COUNTY COMMISSIONERS OF KENT COUNTY, MARYLAND

**November 17, 2020
Legislative Session Day**

**Legislative Session Day
November 17, 2020**

**CODE HOME RULE
BILL NO. 8-2020**

INTRODUCED BY: P. Thomas Mason, President of the Board of County Commissioners for Kent County, Maryland.

AN ACT to amend Chapter 222, Zoning, of the County Code of Kent County, Maryland, also known as the Kent County Land Use Ordinance, by amending Article III, *Districts and District Maps*, by creating a new Section 6, *Establishment of Critical Area Line*, and amending Article XI, *Definitions*, Section 2, *Definitions*, definition (75) *Critical Area* in order to address requirements by the State of Maryland related to updating the Critical Area Mapping for Kent County, Maryland, and by the adoption of a Critical Area Map to function as a temporary, overlay zone in the County.

THE COUNTY COMMISSIONERS
OF KENT COUNTY, MARYLAND

P. Thomas Mason, President

INTRODUCED, read first time, _____, 2020, ordered posted and public hearing scheduled _____, 2020, at 6:00 p.m. in the County Commissioners Hearing Room, R. Clayton Mitchell, Jr., Kent County Government Center, 400 High Street, Chestertown, Maryland.

By order of:

Sondra M. Blackiston, Clerk

PUBLIC HEARING HAVING been posted and notice of time and place of hearing and copies having been made available to the public and the press, a public hearing was held on _____, 2020. Reported favorably [with] [without] amendments; read a second time and ordered to be considered on _____, 2020, a legislative session day.

A BILL ENTITLED CHR 8-2020 CRITICAL AREA MAP ZONING AMENDMENT

NOW, THEREFORE, BE IT ENACTED BY THE COUNTY COMMISSIONERS OF KENT COUNTY, MARYLAND that the Kent County Land Use Ordinance is hereby amended as follows:

Article III. Districts and District Maps

Section 1. Establishment of Districts

...

SECTION 6. ESTABLISHMENT OF CRITICAL AREA LINE

- 1. THE *CRITICAL AREA* LINE SHALL BE SHOWN ON THE MAP DESIGNATED AS THE “CRITICAL AREA LINE MAP OF KENT COUNTY, MARYLAND” DATED AND SIGNED BY THE PRESIDENT OF THE COUNTY COMMISSIONERS AND ATTESTED BY THE CLERK OF COUNTY COMMISSIONERS UPON ADOPTION. SUCH MAP DELINEATES THE *CRITICAL AREA* AND SHALL BE USED TO DETERMINE IF SUCH LAND IS LOCATED WITHIN THE *CRITICAL AREA*. FOR ANY LAND REFERENCED TO BE WITHIN THE CRITICAL AREA ACCORDING TO THE “CRITICAL AREA LINE MAP OF KENT COUNTY” ONE MUST FOLLOW THE CRITICAL AREA REQUIREMENTS AND REGULATIONS AS FOLLOWS.**
 - A) IF REFERENCED ON THE “ZONING MAP” AS A CRITICAL AREA ZONING DISTRICT, THEN THE ESTABLISHED ZONING DISTRICT MUST BE ADHERED BY.**
 - B) IF ACCORDING TO THE “CRITICAL AREA LINE MAP” THE LAND IS WITHIN THE CRITICAL AREA THEN THE REQUIREMENTS AND REGULATIONS OF THE MOST SIMILAR CRITICAL AREA ZONING DISTRICT AND THE ESTABLISHED CRITICAL AREA DESIGNATION MUST BE FOLLOWED. THIS INCLUDES TITLE 27 OF THE CODE OF MARYLAND REGULATIONS (COMAR).**
- 2. THIS SECTION SHALL REMAIN IN EFFECT WHILE KENT COUNTY UNDERTAKES ITS COMPREHENSIVE REZONING AND UPDATE PROCESS, WHICH WILL RESULT IN A NEW COMPREHENSIVE LAND USE ORDINANCE” AND “ZONING MAP.” THE “CRITICAL AREA LINE MAP” WILL BE INCORPORATED INTO THE “ZONING MAP” AND WILL NO LONGER BE A STAND-ALONE MAP. UPON THE ADOPTION OF THE**

COMPREHENSIVE LAND USE ORDINANCE AND “ZONING MAP,” THIS SECTION SHALL BE ABROGATED AND OF NO FURTHER FORCE AND EFFECT.

Article XI. Definitions

Section 1. General Rules of Construction

...

Section 2. Definitions

...

(75) Critical Area - All lands and waters defined in Section 8 - 1807 of the Natural Resources Article, Annotated Code of Maryland. They include:

- a. All waters of and lands under the Chesapeake Bay and its tributaries to the head of tide ~~as indicated on the State wetlands maps,~~ and all state and private *wetlands* designated under Title 169 of the **ENVIRONMENTAL ARTICLE** ~~Natural Resources Article,~~ Annotated Code of Maryland.
- b. All lands and water areas within 1,000 feet beyond the landward boundaries of state or private *wetlands* and the heads of tides designated under Title 169 of the **ENVIRONMENTAL ARTICLE** ~~Natural Resources Article,~~ Annotated Code of Maryland.
- c. Modification to these areas through inclusions or exclusions proposed by local *jurisdictions* and approved by the Commission as specified in Section 8 - 1807 of the Natural Resources Article, Annotated Code of Maryland.

...

MAP ATTACHMENT

The aforementioned Critical Area Map is hereby adopted as an attachment to the Kent County Land Use Ordinance to serve as a temporary, overlay zone until the adoption of a new zoning map pursuant to the Comprehensive Rezoning and Update (CRU) 2020-2021 process that is currently underway.

BILL NO. 8-2020

CAPITALS AND BOLD INDICATE MATTER ADDED TO EXISTING LAW.

~~Strike through~~ indicates matter deleted from existing law.

BE IT FURTHER ENACTED by the County Commissioners of Kent County that this Act shall take effect following the approval of the Maryland Critical Area Commission for the Chesapeake and Atlantic Coastal Bays.

Read Third Time _____

PASSED this _____ day of _____

Failed of Passage _____

By order of:

Sondra M. Blackiston, Clerk

THE COUNTY COMMISSIONERS
OF KENT COUNTY, MARYLAND

P. Thomas Mason, President




Ronald H. Fithian, Member

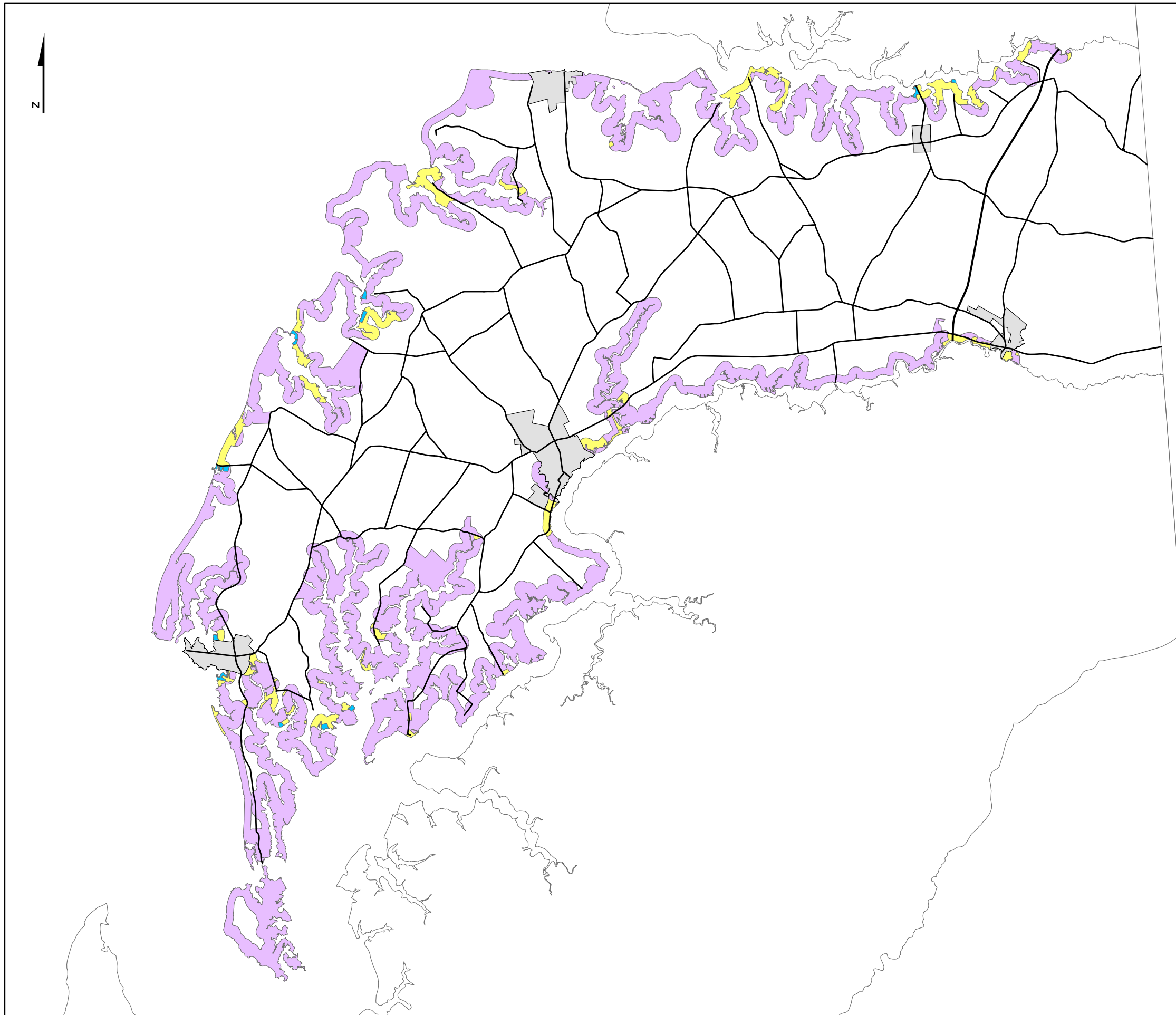
Robert N. Jacob, Jr., Member

ORDERED a fair summary thereof of the entire bill shall be published in at least one newspaper of general circulation in the County, not less than three times at weekly intervals within a four-week period.

Critical Area Line Map of Kent County, Maryland

Critical Area Designations

-  IDA (Intense Development Area)
-  LDA (Limited Development Area)
-  RCA (Resource Conservation Area)



Source: Kent County Department of Planning, Housing, and Zoning. Critical Area Line developed by MD DNR Critical Area Commission. Map prepared November 2020.

Preliminary Staff Report

To: Kent County Planning Commission
Subject: Zoning Text amendments related to changes in the Forest Conservation Act
Date: November 23, 2020

On December 1, 2020, the County Commissioners will be voting on a resolution to consider a text amendment to amend multiple sections of the Land Use Ordinance to bring Forest Conservation regulations into compliance with recent legislative changes. There are no provisions included that would extend the requirements and/or restrictions beyond those that are needed to comply with State Law.

Below is a summary of the changes and the entire text is attached.

Amend the following sections in Article V to create a two-tier review of areas that are considered priorities for retention. Disturbing priority areas listed under the new “e” will now require a waiver.

- Section 1.7.B.2, Agricultural Zoning District
- Section 3.7.B.2, Rural Character
- Section 4.7.B.2, Rural Residential
- Section 6.7.B.2, Community Residential
- Section 10.7.B.3, Crossroads Commercial

Amend the following sections in Article V to create a two-tier review of areas that are considered priorities for retention. This language was inadvertently left out of the Land Use Ordinance in 2002. Due to the new requirement for a waiver, all of “d” and “e” will be added to the Ordinance.

- Section 7.7.B.2, Village
- Section 8.7.B.2, Intense Village
- Section 11.7.B.3, Commercial
- Section 14.8.B.3, Employment Center
- Section 15.8.B.3, Industrial

Amend Article VI, Section 8, Forest Conservation, as necessary to comply with State Law.

There are several major changes. One is lowering the clearing limit for intra-family lot and single lot exemptions from 40,000 square feet to 20,000 square feet. In addition, the intra-family lot exemption no longer includes grandchildren. Another significant change is increasing the fee-in-lieu from 10 cents to 30.5 cents for development inside a Priority Funding Area (PFA) and 36.6 cents for development outside a PFA. DNR adjusts the rate annually based on the previous year’s inflation rate.

Amend Article IX, Section 3, Waivers, to add a new waiver of the forest conservation retention provisions. In order to disturb certain priority areas, the Planning Commission will have to grant a waiver.

Amend Article XI, Section 2, Definitions, as necessary to comply with State Law.

APPLICABLE LAW

Article XII, Section 6 of the Kent County Land Use Ordinance establishes the standards for the review and approval of a zoning text amendment as follows.

Before taking any action on any proposed amendment, supplement, or change, the County Commissioners shall submit the proposal to the Planning Commission for review and recommendation. The Planning Commission may hold a hearing on any proposed amendment, supplement, or change before submitting its recommendation to the County Commissioners. The Planning Commission may request any pertinent data and information as it deems necessary. In its recommendation, the Planning Commission shall address:

- a. The public need for the proposed amendment; and
- b. The extent to which the proposed amendment complies with or deviates from the Comprehensive Plan and the Critical Area Law.
- c. When reviewing an amendment to the zoning map, the Planning Commission shall address the suitability of the property in question for the uses permitted under the proposed zoning. The Planning Commission shall not recommend the adoption of the amendment unless it finds that the adoption of the amendment is in the public interest and not solely for the interest of the applicant. Failure of the Planning Commission to report to the County Commissioners within 60 days after its first meeting after the proposal was referred to them, shall be deemed approval.

STAFF COMMENTS

The proposed amendments are mandated by changes to State law. The changes are in compliance with the Comprehensive Plan which has goals to conserve existing woodlands, encourage reforestation, and promote proper forest management practices.

RESOLUTION 2020-20

COUNTY COMMISSIONERS OF KENT COUNTY, MARYLAND

A RESOLUTION TO CONSIDER A TEXT AMENDMENT TO AMEND CHAPTER 222, ZONING, OF THE COUNTY CODE OF KENT COUNTY, MARYLAND, ALSO KNOWN AS THE KENT COUNTY LAND USE ORDINANCE, TO PROVIDE FOR REQUIRED CHANGES RELATED TO FOREST CONSERVATION IN ORDER TO COMPLY WITH STATE LAW.

WHEREAS, the Board of County Commissioners of Kent County, Maryland (the Board) may exercise its right to amend the County Code of Kent County, Maryland (the Code), by legislative action in the form of a Code Home Rule Bill to create an Act and thus propose text amendments to the Code; and

WHEREAS, in Article XII, *Administrative Procedures*, Section 6, *Amendments*, §1, the Land Use Ordinance states regarding the Board and the Code that “The County Commissioners may amend, supplement, or change the boundaries of the districts or the regulations of this Ordinance. Any amendment may be initiated by resolution of the County Commissioners...”; and

WHEREAS, the Board finds there are a number of changes required by the Maryland Department of Natural Resources due to legislative changes to the State Forest Conservation Act;

NOW, THEREFORE, BE IT RESOLVED, that on Tuesday, December 1, 2020, the Board does hereby desire to entertain a proposed text amendment for its consideration, attached hereto as Exhibit A.

BE IT FURTHER RESOLVED that the Board refers the draft amendment for advisory review and recommendation to the Kent County Planning Commission, and thereafter to return for introduction.

ATTEST:

THE COUNTY COMMISSIONERS
OF KENT COUNTY, MARYLAND

Sondra M. Blackiston, Clerk

P. Thomas Mason, President

Ronald H. Fithian, Member

Robert N. Jacob, Jr., Member

ADOPTED: December 1, 2020

THE COUNTY COMMISSIONERS OF KENT COUNTY, MARYLAND

_____, 2020
Legislative Session Day

Legislative Session Day
_____, 2020

**CODE HOME RULE
BILL NO. 9-2020**

INTRODUCED BY: P. Thomas Mason, President of the Board of County Commissioners for Kent County, Maryland.

AN ACT to amend all occurrences of the sub-section entitled, *Forest Conservation*, under Article V., *District Regulations*, using model language; to amend Article VI., *Special Provisions*, Section 8. *Forest Conservation*; to amend Article IX., *Variance and Waivers*, Section 3. *Waivers*; and to amend Article XI., *Definitions*, Section 2. *Definitions*, in order to provide for the required changes related to forest conservation, so that these forest conservation provisions comply with State Law.

THE COUNTY COMMISSIONERS
OF KENT COUNTY, MARYLAND

P. Thomas Mason, President

INTRODUCED, read first time, _____, 2020, ordered posted and public hearing scheduled _____, 2020, at 6:00 p.m. in the County Commissioners Hearing Room, R. Clayton Mitchell, Jr., Kent County Government Center, 400 High Street, Chestertown, Maryland.

By order of:

Sondra M. Blackiston, Clerk

PUBLIC HEARING

HAVING been posted and notice of time and place of hearing and copies having been made available to the public and the press, a public hearing was held on _____, 2020. Reported favorably [with] [without] amendments; read a second time and ordered to be considered on _____, 2020, a legislative session day.

A BILL ENTITLED CHR 9-2020

FOREST CONSERVATION UPDATE

SECTION 1.

NOW, THEREFORE, BE IT ENACTED BY THE COUNTY COMMISSIONERS OF KENT COUNTY, MARYLAND that the Kent County Land Use Ordinance is hereby amended such that the following provisions found in Article V. District Regulations, including sub-sections 1.7.B.2., Agricultural Zoning District Specific Environmental Standards, Forest Conservation; 3.7.B.2., Rural Character District Specific Environmental Standards, Forest Conservation; 4.7.B.2., Rural Residential District Specific Environmental Standards, Forest Conservation; 6.7.B.2., Community Residential District Specific Environmental Standards, Forest Conservation; and 10.7.B.3., Crossroads Commercial Specific Environmental Standards, Forest Conservation are amended as follows, where the sub-section on Forest Conservation appears in the aforementioned:

Forest Conservation

[Note: for sub-sections a. - c., the text remains unchanged]

...

- d. The following trees, shrubs, plants, and specific areas are considered a priority for *retention* and protection and shall be left in an undisturbed condition unless the applicant demonstrates, to the satisfaction of the Department of Planning and Zoning, that reasonable efforts have been made to protect them and the plan cannot be reasonably altered.
 - i. Trees, shrubs, and plants in sensitive areas including the *non-tidal 100-year floodplain, intermittent and perennial stream protection corridors, steep slopes, non-tidal wetlands*, and critical habitats;
 - ii. Contiguous *forest* that connects the largest undeveloped or most vegetated tracts of land within and adjacent to the *site*;
- e. **THE FOLLOWING TREES, SHRUBS, PLANTS, AND SPECIFIC AREAS ARE CONSIDERED A PRIORITY FOR RETENTION AND PROTECTION AND SHALL BE LEFT IN AN UNDISTURBED CONDITION UNLESS THE APPLICANT DEMONSTRATES, TO THE SATISFACTION OF THE PLANNING COMMISSION, THAT THE APPLICANT QUALIFIES FOR A WAIVER IN ACCORDANCE WITH ARTICLE IX, SECTION 3.3 OF THIS ORDINANCE.**
 - i ïï. Trees, shrubs, and plants that are determined to be rare, threatened, or

endangered **UNDER:**

- a) **THE FEDERAL ENDANGERED SPECIES ACT OF 1973 IN 16 U.S.C. §§1531—1544 AND IN 50 CFR 17;**
- b) **THE MARYLAND NONGAME AND ENDANGERED SPECIES CONSERVATION ACT, NATURAL RESOURCES ARTICLE, §§10-2A-01—10-2A-09, ANNOTATED CODE OF MARYLAND; AND**
- c) **COMAR 08.03.08;**
- ii. ~~iv.~~ Trees that are associated with an historic *structure* or *site*, or trees that have been designated by the state or county as a national, state, or county *champion tree*; and
- iii. ~~v.~~ Any *tree* having a diameter, measured at 4.5 feet above the ground, of:
 - a) Thirty inches or more; or
 - b) Seventy-five (75%) or more of the diameter, measured at 4.5 feet above the ground, of the current State *Champion tree* of that species as designated by the Department of Natural Resources.
- f. ~~e.~~ The required *reforestation* or *afforestation* may be accomplished *on-site*, *off-site*, by contributing to a *forest bank* in the same *watershed* or by contributing to the Kent County Reforestation Fund. The preferred method of *afforestation* or *reforestation* is *on-site* or *forest banking*.
- g. ~~f.~~ Whenever possible and appropriate, *afforestation* and *reforestation* shall include native species.

SECTION 2.

BE IT, HEREBY, FURTHER ENACTED BY THE COUNTY COMMISSIONERS OF KENT COUNTY, MARYLAND that the Kent County Land Use Ordinance is hereby amended such that the following provisions found in Article V. District Regulations, including sub-sections 7.7.B.2., Village Specific Environmental Standards; 8.7.B.2., Intense Village Specific Environmental Standards; 11.7.B.3., Commercial Specific Environmental Standards; 14.8.B.3, Employment Center Specific Environmental Standards; and, 15.8.B.3., Industrial Specific Environmental Standards amended as follows, where the sub-section on Forest Conservation appears in the aforementioned:

Forest Conservation

[Note: for sub-sections a. - c., the text remains unchanged]

...

- d. **THE FOLLOWING TREES, SHRUBS, PLANTS, AND SPECIFIC AREAS ARE CONSIDERED A PRIORITY FOR RETENTION AND PROTECTION AND SHALL BE LEFT IN AN UNDISTURBED CONDITION UNLESS THE APPLICANT DEMONSTRATES, TO THE SATISFACTION OF THE DEPARTMENT OF PLANNING AND ZONING, THAT REASONABLE EFFORTS HAVE BEEN MADE TO PROTECT THEM AND THE PLAN CANNOT BE REASONABLY ALTERED.**
 - i. **TREES, SHRUBS, AND PLANTS IN SENSITIVE AREAS INCLUDING THE NON-TIDAL 100-YEAR FLOODPLAIN, INTERMITTENT AND PERENNIAL STREAM PROTECTION CORRIDORS, STEEP SLOPES, NON-TIDAL WETLANDS, AND *CRITICAL HABITATS*;**
 - ii. **CONTIGUOUS FOREST THAT CONNECTS THE LARGEST UNDEVELOPED OR MOST VEGETATED TRACTS OF LAND WITHIN AND ADJACENT TO THE SITE;**
- e. **THE FOLLOWING TREES, SHRUBS, PLANTS, AND SPECIFIC AREAS ARE CONSIDERED A PRIORITY FOR RETENTION AND PROTECTION AND SHALL BE LEFT IN AN UNDISTURBED CONDITION UNLESS THE APPLICANT DEMONSTRATES, TO THE SATISFACTION OF THE *PLANNING COMMISSION*, THAT THE APPLICANT QUALIFIES FOR A WAIVER IN ACCORDANCE WITH ARTICLE IX, SECTION 3.3 OF THIS ORDINANCE.**
 - i. **TREES, SHRUBS, AND PLANTS THAT ARE DETERMINED TO BE RARE, THREATENED, OR ENDANGERED UNDER:**
 - a) **THE FEDERAL ENDANGERED SPECIES ACT OF 1973 IN 16 U.S.C. §§1531—1544 AND IN 50 CFR 17;**
 - b) **THE MARYLAND NONGAME AND ENDANGERED SPECIES CONSERVATION ACT, NATURAL RESOURCES ARTICLE, §§10-2A-01—10-2A-09, ANNOTATED CODE OF MARYLAND; AND**
 - c) **COMAR 08.03.08;**
 - ii. **TREES THAT ARE ASSOCIATED WITH AN HISTORIC STRUCTURE OR SITE, OR TREES THAT HAVE BEEN**

DESIGNATED BY THE STATE OR COUNTY AS A NATIONAL, STATE, OR COUNTY *CHAMPION TREE*; AND

iii. ANY TREE HAVING A DIAMETER, MEASURED AT 4.5 FEET ABOVE THE GROUND, OF:

a) THIRTY INCHES OR MORE; OR

b) SEVENTY-FIVE (75%) OR MORE OF THE DIAMETER, MEASURED AT 4.5 FEET ABOVE THE GROUND, OF THE CURRENT STATE CHAMPION TREE OF THAT SPECIES AS DESIGNATED BY THE DEPARTMENT OF NATURAL RESOURCES.

f.d. The required *reforestation* or *afforestation* may be accomplished *on-site*, *off-site*, by contributing to a *forest* bank in the same *watershed* or by contributing to the Kent County Reforestation Fund. The preferred method of *afforestation* or *reforestation* is *forest* banking or *off-site afforestation*.

g.e. Whenever possible and appropriate, *afforestation* and *reforestation* shall include native species.

SECTION 3.

BE IT, HEREBY, FURTHER ENACTED BY THE COUNTY COMMISSIONERS OF KENT COUNTY, MARYLAND that the Kent County Land Use Ordinance is hereby amended as follows:

ARTICLE VI.

SPECIAL PROVISIONS

SECTION 8. FOREST CONSERVATION

...

8.2 APPLICABILITY

This Section applies to *minor* and *major site plans*, subdivisions, *public utilities* not exempt under this section and all *grading* permits for a disturbed area over 40,000 square feet excluding those areas governed by the Chesapeake Bay *Critical Area* Protection Law (Natural Resources Article, ~~Section 8-1801-1816~~ **§§8-1801-1817**, Annotated Code of Maryland). This Section also does not apply to the following:

- ...
4. The cutting or clearing of public utility rights-of-way licensed under ~~Article 78, Section 54A and 54B or 54I,~~ **PUBLIC UTILITY COMPANIES, §§7-207 AND 7-208 OR 7-205,** Annotated Code of Maryland, or land for electric generating stations licensed under ~~Article 78, Section 54A and 54B or 54I,~~ **PUBLIC UTILITY COMPANIES, §§7-207 AND 7-208 OR 7-205,** Annotated Code of Maryland, provided:
 - a. Certificates of public conveniences and necessity have been issued in accordance with Natural Resources Article 78, §5-1603(f), Annotated Code of Maryland; and
 - b. Cutting or *clearing* of the *forest* is conducted to minimize the loss of *forest*.
 5. Routine maintenance or emergency repairs of public utility rights-of-way licensed under ~~Article 78, Section 54A and 54B or 54I,~~ **PUBLIC UTILITY COMPANIES, §§7-207 AND 7-208 OR 7-205,** of the Annotated Code of Maryland.

...

 7. Non-coal surface mining regulated under ~~Natural Resources Article, Title 7, Subtitle 6A,~~ **ENVIRONMENT ARTICLE, TITLE 15, SUBTITLE 8,** Annotated Code of Maryland.
 8. An activity required for the purpose of constructing a dwelling intended for the use of the owner or a child ~~or a grandchild~~ of the owner, if the activity:
 - a. Does not result in the cutting, *clearing*, or *grading* of more than ~~40,000~~ **20,000** square feet of *forest*; and
 - b. Is the subject of a *Declaration of Intent* filed in the Department of Planning and Zoning which states that a transfer in ownership may result in the loss of the exemption.

...

 - 11. **A RESIDENTIAL CONSTRUCTION ACTIVITY CONDUCTED ON AN EXISTING SINGLE LOT OF ANY SIZE OF RECORD AT THE TIME OF APPLICATION, OR A *LINEAR PROJECT* NOT OTHERWISE EXEMPTED UNDER THIS SECTION, IF THE ACTIVITY:**
 - a. **DOES NOT RESULT IN THE CUMULATIVE CUTTING, *CLEARING*, OR *GRADING* OF MORE THAN 20,000 SQUARE FEET OF *FOREST*; AND**
 - b. **DOES NOT RESULT IN THE CUTTING, CLEARING, OR GRADING OF A FOREST THAT IS SUBJECT TO THE REQUIREMENTS OF A PREVIOUS FOREST CONSERVATION PLAN APPROVED UNDER THIS ORDINANCE; AND**
 - c. **IS THE SUBJECT OF A *DECLARATION OF INTENT* FILED IN THE DEPARTMENT OF PLANNING AND ZONING WHICH STATES THAT A**

TRANSFER IN OWNERSHIP MAY RESULT IN THE LOSS OF THE EXEMPTION.

- 12. **AN ACTIVITY ON A PREVIOUSLY DEVELOPED AREA COVERED BY IMPERVIOUS SURFACE AND LOCATED IN A *PRIORITY FUNDING AREA*.**
- 13. **MAINTENANCE OR RETROFITTING OF A STORMWATER MANAGEMENT STRUCTURE THAT MAY INCLUDE CLEARING OF VEGETATION OR REMOVAL AND TRIMMING OF TREES, IF THE MAINTENANCE OR RETROFITTING IS WITHIN THE ORIGINAL LIMITS OF DISTURBANCE FOR CONSTRUCTION OF THE EXISTING STRUCTURE, OR WITHIN ANY MAINTENANCE EASEMENT FOR ACCESS TO THE STRUCTURE.**
- 14. **A *STREAM RESTORATION PROJECT* FOR WHICH THE APPLICANT FOR A GRADING OR SEDIMENT CONTROL PERMIT HAS EXECUTED A BINDING MAINTENANCE AGREEMENT OF AT LEAST FIVE YEARS WITH THE AFFECTED PROPERTY OWNER OR OWNERS.**

8.3 GENERAL REQUIREMENTS

...

B. *Forest Stand Delineation*

...

2. *Forest Stand Delineation*

- a. *A Forest Stand Delineation (FSD) shall be submitted at preliminary site plan or subdivision review, and before application for a grading or sediment control permit unless Section 8.3.B.1 applies. A FSD shall be submitted with the application for minor site plan or minor subdivision approval unless Article VI, Section 8.3.B.1 of this Ordinance applies.*
- b. *The delineation shall be prepared by a licensed forester, licensed landscape architect or other qualified professional who meets the requirements of COMAR 08.19.06.01A and shall meet the requirements of Article VI, Section 8.4 of this Ordinance.*
- c. *The delineation shall be used to determine the most suitable and practical areas for forest conservation.*
- d. **AN APPROVED *FOREST STAND DELINEATION* MAY REMAIN IN EFFECT FOR A PERIOD NOT LONGER THAN 5 YEARS.**

C. *Forest Conservation Plans*

...

- 6. If existing *forest* on the *site* subject to a *Forest Conservation Plan* can not be retained, the applicant shall demonstrate to the satisfaction of the Department of Planning and Zoning:
 - a. How techniques for *forest retention* have been exhausted;
 - b. Why the priority forests and priority areas specified in the design standards of the zoning districts cannot be left in an undisturbed condition;
 - i. **IF PRIORITY FORESTS AND PRIORITY AREAS CANNOT BE LEFT UNDISTURBED, HOW THE SEQUENCE FOR AFFORESTATION OR REFORESTATION WILL BE FOLLOWED IN COMPLIANCE WITH NATURAL RESOURCES ARTICLE, §5-1607, ANNOTATED CODE OF MARYLAND;**
 - ii. **WHERE ON THE SITE IN PRIORITY AREAS, AFFORESTATION OR REFORESTATION WILL OCCUR IN COMPLIANCE WITH NATURAL RESOURCES ARTICLE, §5-1607, ANNOTATED CODE OF MARYLAND; AND**
 - iii. **HOW THE DISTURBANCE TO THE PRIORITY FORESTS AND PRIORITY AREAS SPECIFIED IN THE DESIGN STANDARDS OF THE ZONING DISTRICTS QUALIFIES FOR A WAIVER.**

...

8.4 PLAN REQUIREMENTS

...

E. Forest Conservation Fund

- 1. A forest conservation fund is established **THAT MEETS THE REQUIREMENTS OF NATURAL RESOURCES ARTICLE, §5-1610(h-1), ANNOTATED CODE OF MARYLAND.**
- 2. When the Kent County Department of Planning and Zoning determines that the requirements for *reforestation* or *afforestation on-site* or *off-site* cannot be reasonably accomplished **AND CREDITS GENERATED BY A FOREST MITIGATION BANK IN THE SAME COUNTY OR WATERSHED ARE NOT AVAILABLE**, the applicant shall contribute money into the *forest conservation* fund.
 - a. **FOR A PROJECT INSIDE A PRIORITY FUNDING AREA, AT A RATE OF 30.5 CENTS PER SQUARE FOOT OF THE AREA OF REQUIRED PLANTING WITH THE AMOUNT ADJUSTED BY THE DEPARTMENT OF NATURAL RESOURCES BASED ON THE PREVIOUS YEAR'S INFLATION RATE; AND**

- b. **FOR A PROJECT OUTSIDE A *PRIORITY FUNDING AREA*, AT A RATE OF 36.6 CENTERS PER SQUARE FOOT OF THE AREA OF REQUIRED PLANTING WITH THE AMOUNT ADJUSTED TO BE 20% HIGHER THAN THE RATE SET UNDER ITEM 2.A OF THIS SUBSECTION.**
- 3. 4. The money shall be paid prior to final approval.
- 4. 5. Money deposited in the local *forest conservation* fund:
 - a. May be spent on the costs directly related to *reforestation* and *afforestation*, including *site* identification, acquisition, preparation, **AND MAINTENANCE OF EXISTING FORESTS AND ACHIEVING URBAN CANOPY GOALS.**
 - b. Shall be deposited in a separate *forest conservation* fund; and
 - c. May not revert to the general fund
- 5. 6. The County shall accomplish the *reforestation* **OR** *afforestation* **FOR THE EQUIVALENT NUMBER OF ACRES**, or *forest* land acquisition for which the money is deposited within two years or ~~four~~ **THREE** *growing seasons*, whichever is the greater time period after receipt of the money.
- 6. 7. *Reforestation*, *afforestation*, *forest easement* purchase, or *forest* land acquisition paid for by this fund shall occur in Kent County or its municipalities and in the same *watershed* in which the project is located.
- 7. 8. If the *reforestation*, *afforestation*, *forest easement* purchase, or *forest* land acquisition cannot be reasonably accomplished in the same *watershed* in which the project is located, the *reforestation*, *afforestation*, *forest easement* purchase, or *forest* land acquisition shall occur within the same county or *watershed* in the state in which the project is located.

...

J. PAYMENT BY CREDITS FROM A FOREST MITIGATION BANK

- 1. **WHEN THE KENT COUNTY DEPARTMENT OF PLANNING AND ZONING DETERMINES THAT THE REQUIREMENTS FOR *REFORESTATION* OR *AFFORESTATION ON-SITE* OR *OFF-SITE* CANNOT BE REASONABLY ACCOMPLISHED, THE APPLICANT MAY CONTRIBUTE CREDITS FROM A *FOREST MITIGATION BANK*. A CREDIT IS REQUIRED FOR EACH TENTH OF AN ACRE OF AN AREA OF REQUIRED PLANTING.**
- 2. **THE CREDITS SHALL BE DEBITED FROM AN APPROVED *FOREST MITIGATION BANK* PRIOR TO FINAL APPROVAL.**

K. ESTABLISHING FOREST MITIGATION BANKS

1. **A PERSON MAY CREATE A *FOREST MITIGATION BANK* FROM WHICH APPLICANTS MAY PURCHASE CREDITS TO MEET THE *AFFORESTATION* AND *REFORESTATION* REQUIREMENTS OF THIS ORDINANCE.**

2. **THE *FOREST MITIGATION BANK* SHALL:**
 - a. ***AFFOREST* OR *REFOREST* AN AREA OF LAND IN ACCORDANCE WITH A *FOREST MITIGATION BANK AGREEMENT*;**
 - b. **BE PROTECTED BY AN EASEMENT, DEED RESTRICTIONS, OR COVENANTS WHICH REQUIRE THE LAND IN THE BANK TO REMAIN FORESTED IN PERPETUITY AND ARE ENFORCEABLE BY THE DEPARTMENT OF PLANNING AND ZONING AND THE DEPARTMENT OF NATURAL RESOURCES;**
 - c. **LIMIT THE USE OF THE LAND IN THE BANK TO THOSE ACTIVITIES WHICH ARE NOT INCONSISTENT WITH FOREST CONSERVATION SUCH AS RECREATIONAL ACTIVITIES, FOREST MANAGEMENT UNDER A FOREST CONSERVATION AND MANAGEMENT PROGRAM UNDER TAX PROPERTY ARTICLE, §8-211, ANNOTATED CODE OF MARYLAND, OR ACTIVITIES SPECIFIED IN A FOREST MANAGEMENT PLAN PREPARED BY A LICENSED FORESTER AND APPROVED BY THE DEPARTMENT;**
 - d. **USE NATIVE PLANT MATERIALS FOR *AFFORESTATION* OR *REFORESTATION* UNLESS INAPPROPRIATE; AND**
 - e. **CAUSE TREES TO BE PLANTED WHICH:**
 - i. **ESTABLISH OR ENHANCE FORESTED BUFFERS ADJACENT TO *INTERMITTENT* AND *PERENNIAL STREAMS* AND COASTAL BAYS TO WIDTHS OF AT LEAST 50 FEET;**
 - ii. **ESTABLISH OR INCREASE EXISTING FORESTED CORRIDORS, WHICH, WHERE PRACTICAL, SHOULD BE A MINIMUM OF 300 FEET IN WIDTH TO FACILITATE WILDLIFE MOVEMENT, TO CONNECT EXISTING *FORESTS* WITHIN OR ADJACENT TO THE SITE;**
 - iii. **ESTABLISH OR ENHANCE FOREST BUFFERS ADJACENT TO *CRITICAL HABITATS* WHERE APPROPRIATE;**
 - iv. **ESTABLISH OR ENHANCE FORESTED AREAS IN 100-YEAR FLOODPLAINS;**
 - v. **STABILIZE SLOPES OF 25 PERCENT OR GREATER;**
 - vi. **STABILIZE SLOPES OF 15 PERCENT OR GREATER WITH A SOIL K VALUE GREATER THAN 0.35 INCLUDING THE SLOPES OF RAVINES OR OTHER NATURAL DEPRESSIONS;**
 - vii. **ESTABLISH BUFFERS ADJACENT TO AREAS OF DIFFERING LAND USE WHERE APPROPRIATE, OR ADJACENT TO HIGHWAYS OR UTILITY RIGHTS-OF-WAY; OR**
 - viii. **ESTABLISH FOREST AREAS ADJACENT TO EXISTING FORESTS TO INCREASE THE OVERALL AREA OF CONTIGUOUS FOREST COVER, WHEN APPROPRIATE.**

3. **A PERSON PROPOSING TO CREATE A *FOREST MITIGATION BANK* SHALL SUBMIT TO THE DEPARTMENT OF PLANNING AND ZONING A:**
- a. **COMPLETED APPLICATION ON A FORM APPROVED BY THE DEPARTMENT WHICH HAS BEEN SIGNED BY AN AUTHORIZED INDIVIDUAL;**
 - b. ***FOREST MITIGATION BANK PLAN* WHICH CONTAINS A:**
 - i. **VICINITY MAP OF THE PROPOSED MITIGATION BANK SITE;**
 - ii. **SIMPLIFIED *FOREST STAND DELINEATION* WHICH MEETS UNDER SECTION 8.3.B.1;**
 - iii. **DETAILED *AFFORESTATION* OR *REFORESTATION* PLAN, WHICH SHALL INCLUDE A TIMETABLE AND DESCRIPTION OF THE SITE AND SOIL PREPARATION NEEDED, SPECIES, SIZE, AND SPACING TO BE UTILIZED, PREPARED BY A LICENSED MARYLAND FORESTER, A LICENSED LANDSCAPE ARCHITECT, OR A QUALIFIED PROFESSIONAL WHO MEETS THE REQUIREMENTS STATED IN COMAR 08.19.06.01A; AND**
 - iv. **PROPOSED 2-YEAR MAINTENANCE AGREEMENT THAT INCLUDES:**
 - a) **WATERING PLANS**
 - b) **FERTILIZING PLANS**
 - c) **CONTROL OF COMPETING VEGETATION**
 - d) **PROTECTION FROM DISEASE PEST, AND MECHANICAL INJURY**
 - e) **REPLANTING PROVISIONS WHEN SURVIVAL FALL BELOW ACCEPTABLE LEVELS**
 - f) **NAME OF COMPANY OR INDIVIDUAL RESPONSIBLE FOR TREE CARE**
 - c. **COPY OF THE DEED TO THE PROPERTY;**
 - d. **SURVEY OR OTHER LEGALLY SUFFICIENT DESCRIPTION OF THE BANK SITE FOR INCLUSION IN THE DEEDS OF EASEMENT, DEED RESTRICTIONS, OR COVENANTS;**
 - e. **TITLE REPORT OR OTHER ASSURANCE THAT:**
 - i. **THE PROPERTY IS NOT ENCUMBERED BY ANY COVENANTS OR OTHER TYPES OF RESTRICTIONS WHICH WOULD IMPAIR THE PROPERTY'S USE AS A *FOREST MITIGATION BANK*; AND**
 - ii. **THERE IS LEGALLY SUFFICIENT ACCESS TO THE *FOREST MITIGATION BANK* SITE WHICH CAN BE USED BY THE DEPARTMENT AND ITS ASSIGNEES TO INSPECT THE *FOREST MITIGATION BANK*; AND**
 - f. **DESCRIPTION OF THE SYSTEM TO BE USED BY THE PERSON OWNING AND OPERATING THE *FOREST MITIGATION BANK* TO IDENTIFY AND KEEP TRACK OF WHICH PORTIONS OF THE BANK**

- HAVE BEEN DEBITED TO MEET AN APPLICANT'S OFFSITE *AFFORESTATION* OR *REFORESTATION* REQUIREMENTS.
4. THE OWNER OF AN APPROVED *FOREST MITIGATION BANK* SHALL ENTER INTO AN AGREEMENT WITH THE DEPARTMENT WHICH CONTAINS:
 1. THE APPROVED *REFORESTATION* OR *AFFORESTATION* PLAN;
 2. THE APPROVED SYSTEM FOR MARKING AND TRACKING WHICH PORTIONS OF THE BANK HAVE BEEN DEBITED; AND
 3. AN ACKNOWLEDGMENT THAT THE BANK MAY NOT DEBIT ANY PORTION OF THE AFFORESTED OR REFORESTED LAND UNTIL 2 YEARS OF SUCCESSFUL GROWTH HAS BEEN ACHIEVED UNLESS THE BANKER HAS POSTED A BOND OR ALTERNATE FORM OF SECURITY.

ARTICLE IX.

VARIANCES AND WAIVERS

...

SECTION 3. WAIVERS

3.3 FOREST CONSERVATION

1. THE KENT COUNTY *PLANNING COMMISSION* MAY AUTHORIZE WAIVERS OF THE *FOREST CONSERVATION* RETENTION PROVISIONS OF THIS ORDINANCE SO AS TO RELIEVE UNWARRANTED HARDSHIP OR OTHER INJUSTICES ARISING OUT OF THE STRICT APPLICATION OF THESE PROVISIONS.

SUCH GRANTING OF A WAIVER SHALL COMPLY, AS NEARLY AS POSSIBLE, IN EVERY RESPECT TO THE SPIRIT, INTENT, AND PURPOSE OF THIS ORDINANCE; IT BEING THE PURPOSE OF THIS PROVISION TO AUTHORIZE THE GRANTING OF VARIATION ONLY FOR REASONS OF UNWARRANTED HARDSHIP AS DISTINGUISHED FROM VARIATIONS SOUGHT FOR PURPOSES OR REASONS OF CONVENIENCE, PROFIT, OR CAPRICE.

SUCH GRANTING OF A WAIVER SHALL NOT HAVE THE EFFECT OF NULLIFYING THE INTENT AND PURPOSE OF THESE PROVISIONS OR BE CONTRARY TO THE GOALS AND OBJECTIVES OF THE KENT COUNTY *COMPREHENSIVE PLAN* AND, WHERE APPLICABLE, THE VILLAGE MASTER PLANS. IN NO CASE SHALL ANY WAIVER BE MORE THAN A

MINIMUM EASING OF THE REQUIREMENTS AND SHALL NOT RESULT IN A CONFLICT WITH OTHER PROVISIONS OF THIS ORDINANCE.

2. UPON RECEIVING A SUBSTANTIALLY COMPLETE APPLICATION FOR A WAIVER, THE DEPARTMENT OF PLANNING AND ZONING SHALL SCHEDULE THE WAIVER FOR REVIEW BY THE *PLANNING COMMISSION*. AT LEAST 20 DAYS BEFORE THE MEETING, THE DEPARTMENT OF PLANNING AND ZONING SHALL SEND A NOTICE TO ADJACENT PROPERTY OWNERS USING THE MOST RECENT ADDRESS AS FOUND IN THE RECORDS OF THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION (SDAT) AND SHALL POST THE PROPERTY.

3. AN APPLICANT FOR A WAIVER SHALL:

- a. DESCRIBE THE SPECIAL CONDITIONS PECULIAR TO THE PROPERTY WHICH WOULD CAUSE THE UNWARRANTED HARDSHIP;
- b. DESCRIBE HOW ENFORCEMENT OF THESE RULES WILL DEPRIVE THE APPLICANT OF RIGHTS COMMONLY ENJOYED BY OTHERS IN SIMILAR AREAS;

3. IN ORDER TO GRANT A WAIVER, THE *PLANNING COMMISSION* MUST FIND ALL OF THE FOLLOWING:

- a. THAT THE WAIVER WILL NOT CONFER ON THE APPLICANT A SPECIAL PRIVILEGE THAT WOULD BE DENIED TO OTHER APPLICANTS;
- b. THAT THE WAIVER REQUEST IS NOT BASED ON CONDITIONS OR CIRCUMSTANCES WHICH ARE THE RESULT OF ACTIONS BY THE APPLICANT;
- c. THAT THE REQUEST DOES NOT ARISE FROM A CONDITION RELATING TO LAND OR BUILDING USE, EITHER PERMITTED OR NONCONFORMING, ON A NEIGHBORING PROPERTY; AND
- d. THAT THE GRANTING OF THE WAIVER WILL NOT ADVERSELY AFFECT WATER QUALITY.

4. CONDITIONS

IN GRANTING WAIVERS, THE *PLANNING COMMISSION* MAY REQUIRE SUCH CONDITIONS AS WILL, IN ITS JUDGMENT, SUBSTANTIALLY SECURE THE OBJECTIVES OF THE PROVISIONS SO WAIVED.

1. DECISION

WAIVERS FROM THE *FOREST CONSERVATION* RETENTION PROVISIONS

OF THIS ORDINANCE SHALL BE GRANTED ONLY BY THE AFFIRMATIVE VOTE OF TWO-THIRDS OF THE MEMBERS OF THE *PLANNING COMMISSION*. EACH CASE SHALL BE DECIDED AND A DECISION ISSUED NO LATER THAN 30 DAYS AFTER THE MEETING IS CONCLUDED. THE DECISION GRANTING OR DENYING THE WAIVER SHALL BE IN WRITING AND SHALL BE SIGNED BY THE CHAIRMAN OF THE *PLANNING COMMISSION*. THE DEPARTMENT OF PLANNING AND ZONING SHALL MAIL A COPY OF THE DECISION TO THE APPLICANT. THE DECISION SHALL BE MADE A PART OF THE PUBLIC RECORD OF THE PROCEEDINGS ON FILE IN THE DEPARTMENT OF PLANNING AND ZONING.

2. LAPSE OF WAIVER

AFTER THE *PLANNING COMMISSION* HAS GRANTED A WAIVER, THE WAIVER SO GRANTED SHALL LAPSE AFTER THE EXPIRATION OF ONE YEAR IF NO SUBSTANTIAL CONSTRUCTION HAS TAKEN PLACE IN ACCORDANCE WITH THE APPROVED *PROJECT* FOR WHICH SUCH WAIVER WAS GRANTED OR IF THE DECISION DOES NOT SPECIFY A PERIOD LONGER THAN ONE YEAR FOR GOOD CAUSE SHOWN.

3. AMENDMENT OF WAIVER

THE PROCEDURE FOR AMENDMENT OF A WAIVER ALREADY APPROVED OR A REQUEST FOR A CHANGE OF CONDITIONS ATTACHED TO AN APPROVAL SHALL BE THE SAME AS FOR A NEW APPLICATION.

4. APPEALS

APPEALS TO COURTS FROM A DECISION OF THE *PLANNING COMMISSION* MAY BE FILED IN THE MANNER PRESCRIBED BY LAW.

ARTICLE XI.

DEFINITIONS

...

SECTION 2. DEFINITIONS For the purpose of this ordinance, certain terms and words are hereby defined.

- 63. Commercial Logging and Timber Harvesting Operations - ~~A commercial operation that would alter the existing composition or profile, or both, of a forest,~~ **THE CUTTING AND REMOVING OF TREE STEMS FROM A SITE FOR COMMERCIAL PURPOSES,**

LEAVING THE ROOT MASS INTACT, including INCLUDES all commercial operations done by companies and private individuals for economic gain.

76. Critical Habitat Area - A critical habitat for an *endangered species* and its surrounding protection area. A critical habitat area shall
- a. Be likely to contribute to the long-term survival of the species;
 - b. Be likely to be occupied by the species for the foreseeable future; and
 - c. Constitute habitat of the species that is considered critical under Natural Resources Article, Subsection 4-2A-04 and ~~10-2A-04~~ **10-2A-06**, Annotated Code of Maryland.

76.5 CRITICAL HABITAT FOR ENDANGERED SPECIES – A HABITAT OCCUPIED BY AN ENDANGERED SPECIES AS DETERMINED OR LISTED UNDER NATURAL RESOURCES ARTICLE, §§4-2A-04 AND 10-2A-04, ANNOTATED CODE OF MARYLAND.

81. Declaration of Intent
- a. A signed and notarized statement by a landowner or the landowner’s agent certifying that the activity on the landowner’s property:
 - i. Is for certain activities exempted under this Ordinance or Natural Resources Article, ~~Subsection~~ **SUBSECTIONS 5-103 AND 5-1601—5-1612, ANNOTATED CODE OF MARYLAND;**
 - ii. Does not circumvent the requirements of this Ordinance or Natural Resources Article, ~~Subsection~~ **SUBSECTIONS 5-103 AND 5-1601—5-1612, ANNOTATED CODE OF MARYLAND;** and
 - iii. Does not conflict with the purposes of any other Declaration of Intent.
 - b. The document required under this Ordinance.

131. Forest - A biological community dominated by trees and other woody ~~vegetation, including areas that have been cut but not cleared, but not including orchards.~~ **PLANTS COVERING A LAND AREA OF 10,000 SQUARE FEET OR GREATER, INCLUDES (1) AREAS THAT HAVE AT LEAST 100 LIVE TREES PER ACRE WITH AT LEAST 50 PERCENT OF THOSE TREES HAVING A 2-INCH OR GREATER DIAMETER AT 4.5 FEET ABOVE THE GROUND AND LARGER; AND (2) AREAS THAT HAVE BEEN CUT BUT NOT CLEARED.**

140.1 FOREST MITIGATION BANK - AN AREA OF LAND WHICH HAS BEEN INTENTIONALLY AFFORESTED OR REFORESTED FOR THE EXPRESS PURPOSE OF PROVIDING CREDITS FOR REFORESTATION REQUIREMENTS.

140.2 FOREST MITIGATION BANK AGREEMENT - AN AGREEMENT ENTERED INTO BY AN INDIVIDUAL OWNING A FOREST MITIGATION BANK AND THE COUNTY WHICH COMMITS THE BANKER TO CERTAIN PROCEDURES

AND REQUIREMENTS WHEN CREATING AND OPERATING THE FOREST MITIGATION BANK.

140.3 FOREST MITIGATION BANK PLAN - A PLAN SUBMITTED FOR APPROVAL OF A FOREST MITIGATION BANK TO THE COUNTY BY AN INDIVIDUAL PROPOSING TO ESTABLISH A FOREST MITIGATION BANK.

174. Landscape Plan - A plan showing the dimensions and details for reforesting **AN AREA AT LEAST 35 FEET WIDE AND COVERING 2,500 SQUARE FEET OR GREATER IN SIZE** or landscaping, using native or indigenous plants when appropriate, and where applicable, ~~and~~ is made a part of an approved *Forest Conservation Plan*.

175.25 LINEAR PROJECT - A PROJECT WHICH IS ELONGATED WITH NEARLY PARALLEL SIDES AND IS USED TO TRANSPORT A UTILITY PRODUCT OR PUBLIC SERVICE NOT OTHERWISE CONTAINED IN AN APPLICATION FOR SUBDIVISION, SUCH AS ELECTRICITY, GAS, WATER, SEWER, COMMUNICATIONS, TRAINS, AND VEHICLES. IT MAY TRAVERSE FEE SIMPLE PROPERTIES THROUGH DEFINED BOUNDARIES OR ESTABLISHED EASEMENT RIGHTS.

179. Lot - A parcel of land whose boundaries have been established by some legal instrument such as a recorded deed or plat and which is recognized as a separate legal entity for the purposes of transferring title.

209. Net Tract Area - For *forest conservation*

a. Except in agricultural and resource areas, the total area of a *site*, including both forested and non-forested areas, to nearest 1/10 acre, reduced by the area ~~found to be within the boundaries of the non-tidal 100-year floodplain~~ **WHERE FOREST CLEARING IS RESTRICTED BY ANOTHER LOCAL ORDINANCE OR PROGRAM.**

b. In agricultural and resource areas, the part of the total *tract* for which land use will be changed or will no longer be used for primarily agricultural activities, reduced by the area ~~found to be within the boundaries of the non-tidal 100-year floodplain~~ **WHERE FOREST CLEARING IS RESTRICTED BY ANOTHER LOCAL ORDINANCE OR PROGRAM.**

c. **FOR A LINEAR PROJECT, THE AREA OF A RIGHT-OF-WAY WIDTH, NEW ACCESS ROADS, AND STORAGE, OR THE LIMITS OF DISTURBANCE AS SHOWN ON AN APPLICATION FOR SEDIMENT AND EROSION CONTROL APPROVAL OR IN A CAPITAL IMPROVEMENTS PROGRAM PROJECTS DESCRIPTION.**

217. Non-tidal wetlands - Within the *Critical Area*, those lands, excluding *tidal wetlands* regulated under ~~Article IX of the~~ Natural Resources Article, **TITLE 9**, Annotated Code of Maryland, where the water table is usually at or near the surface, or lands where the *soil* or

substrate is covered by shallow water at some time during the *growing season*, and which are usually characterized by one or both of the following:

- a. At least periodically, the lands support predominately *hydrophytic vegetation*; and
- b. The substrate is predominately undrained *hydric soils*.

Excluded from these *regulations* are farm ponds and other man-made bodies of water whose purpose is to impound water for *agriculture*, water supply, recreation, or *waterfowl* habitat purposes.

Outside the *Critical Area*, as defined by the State of Maryland, Army Corps of Engineers, Environmental Protection Agency, Natural Resources Conservation Service, U.S. Fish and Wildlife Service, and any other applicable State or Federal Agency.

246.25 PRIORITY FUNDING AREA - AN AREA DESIGNATED AS A PRIORITY FUNDING AREA UNDER STATE FINANCE AND PROCUREMENT ARTICLE, §5-7B-02, ANNOTATED CODE OF MARYLAND.

260. Reforestation - The establishment of a *forest* through artificial reproduction or *natural regeneration* and including for *forest conservation* purposes:

- a. The creation of a biological community dominated by trees and **OTHER** woody plants containing at least one hundred live trees **PER ACRE WITH AT LEAST 50 PERCENT OF THOSE TREES HAVING** the potential of obtaining a two-inch or greater diameter measured at 4.5 feet above the ground within seven years.
- b. Establishment of a *forest* according to the *Forest Conservation Technical Manual*.
- c. Landscaping of areas under an approved *landscape plan* establishing a *forest* at least 35 feet wide and covering an area of 2,500 square feet or more.
- d. **FOR A LINEAR PROJECT INVOLVING OVERHEAD TRANSMISSION LINES, IT MAY CONSIST OF A BIOLOGICAL COMMUNITY DOMINATED BY TREES AND WOODY SHRUBS WITH NO MINIMUM HEIGHT OR DIAMETER CRITERIA.**

287. Seedlings - An unbranched woody plant, less than 24 inches in height and having a diameter of less than ~~2 inches~~ **½ INCH** measured at two inches above the root collar.

314.5 STREAM RESTORATION PROJECT - AN ACTIVITY THAT

- a. **IS DESIGNED TO STABILIZE STREAM BANKS OR ENHANCE STREAM FUNCTION OR HABITAT LOCATED WITHIN AN EXISTING STREAM, WATERWAY, OR FLOODPLAIN;**
- b. **AVOIDS AND MINIMIZES IMPACTS TO FORESTS AND PROVIDES FOR REPLANTING ON-SITE AN EQUIVALENT NUMBER OF TREES TO THE NUMBER REMOVED BY THE PROJECT;**
- c. **MAY BE PERFORMED UNDER A SEPARATE STORM SEWER SYSTEM PERMIT, A WATERSHED IMPLEMENTATION PLAN GROWTH OFFSET, OR ANOTHER PLAN ADMINISTERED BY THE STATE OR**

COUNTY TO ACHIEVE OR MAINTAIN WATER QUALITY STANDARDS; AND

- d. IS NOT PERFORMED TO SATISFY STORMWATER MANAGEMENT, WETLANDS MITIGATION, OR ANY OTHER REGULATORY REQUIREMENT ASSOCIATED WITH PROPOSED DEVELOPMENT ACTIVITY.**

332.5 TIMBER HARVESTING - A TREE-CUTTING OPERATION AFFECTING 1 OR MORE ACRES OF FOREST OR DEVELOPED WOODLAND WITHIN A 1-YEAR INTERVAL THAT DISTURBS 5,000 SQUARE FEET OR MORE OF FOREST FLOOR. IT DOES NOT INCLUDE GRUBBING AND CLEARING OF ROOT MASS.

352. Watershed - The total *drainage area* contributing runoff to a single point. For *forest conservation* purposes all land lying within an area described as a sub-basin in water quality *regulations* adopted by the ~~State of Maryland~~ **DEPARTMENT OF THE ENVIRONMENT UNDER COMAR 26.08.02.08.**

SECTION 4.

BE IT, HEREBY, FURTHER ENACTED BY THE COUNTY COMMISSIONERS OF KENT COUNTY, MARYLAND that in the course of publishing this Ordinance, the Department of Planning, Housing and Zoning may correct any clerical, typographical, and grammatical errors, such as punctuation, capitalization, and spelling, and may publish a table of contents, title pages, cover pages, and graphics to improve readability so long as such items do not affect the substance of the text that is being adopted herein.

SECTION 5.

BE IT FURTHER ENACTED by the County Commissioners of Kent County that this Act shall take effect on the _____ day of _____.

Read Third Time _____

PASSED this _____ day of _____

Failed of Passage _____

By order of:

Sondra M. Blackiston, Clerk

THE COUNTY COMMISSIONERS
OF KENT COUNTY, MARYLAND

P. Thomas Mason, President

Ronald H. Fithian, Member

Robert N. Jacob, Jr., Member

ORDERED a fair summary thereof of the entire bill shall be published in at least one newspaper of general circulation in the County, not less than three times at weekly intervals within a four-week period.

BILL NO. 9-2020

**CAPITALS AND BOLD INDICATE MATTER ADDED TO EXISTING LAW,
EXCEPT § LETTERING. Strike through** indicates matter deleted from existing law. 19 of 19