



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

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January 12, 2023

SENT VIA EMAIL

Paul M. Mayhew, Managing Administrative Law Judge
Maureen E. Murphy, Administrative Law Judge
The Jefferson Building
105 W. Chesapeake Avenue, Suite 103
Towson, Maryland 21204

RE: The Davey Tree Expert Company
1101 Greenwood Road
Case No.: 2022-276-SPH
Hearing Date: February 6, 2023 at 10 a.m.

Dear Judges Mayhew and Murphy,

Deborah Patterson of Sudvale Road, Pikesville Township Association President, called our office about this zoning petition. Previously, having observed preliminary work and a sign at the site, she investigated. This led to her concerns about the project. Eventually, the Department of Permits – Director Pete Gutwald and the zoning staff -- reviewed the situation and concluded the proposed use amounts to an impermissible contractor's equipment storage yard. This led to the petition for special hearing.¹

Petitioner Davey Tree Expert Company ("Davey"), arborists, request a determination that their proposed use at 1101 Greenwood Road in Pikesville qualifies as a permitted office/warehouse use. The zone is M.L.R. (Manufacturing, Light - Restricted). Baltimore County Zoning Regulations (BCZR) Secs. 248-252. The M.L.R. zone also incorporates uses permitted in the M.R. (Manufacturing, Restricted) Zone. BCZR Sec. 241.

* * *

¹ We also received an e-mail from Matt Lewis, of the Randallstown NAACP, in opposition.

The main issue is whether the principal use is just office and warehouse use or whether there is also a combined principal use for a contractor's equipment storage yard. The former uses are permitted, but the latter is not permitted.

The settled rule of law is that uses are permitted only if enumerated by right or special exception in the relevant zone. BCZR Sec. 102.1; Kowalski v. Lamar 25 Md. App. 493 (1975), Davidson, J.; People's Counsel v. Surina 400 Md. 662 (2007).

Here is the BCZR Sec. 101.1 definition:

“CONTRACTOR’S EQUIPMENT STORAGE YARD: --- The use of any space, whether inside or outside of the building, for the storage or keeping of contractor’s equipment or machinery, including building materials storage, construction equipment storage or landscaping equipment and associated materials.”

The following zones permit a contractor’s equipment storage yard: B.R. (Business-Roadside), by special exception, BCZR Sec. 236.2; M.L. (Manufacturing Light) by right, BCZR Sec. 270;² M.H. (Manufacturing, Heavy) by right, Sec. 256.1.A.1.³ They are specifically excluded from the S.E. (Service-Employment) Zone, Sec. 210.3.E.1.

For context, here are some uses which arguably share aspects of Davey’s arborist use. Construction equipment storage yards are permitted by right in the M.L. Zone, Sec. 253.1.B.3. Lumberyards are permitted in the B.R. Zone, subject to setbacks, Sec. 236.1.C and M.L. Zone, 253.1.A.30. Landscape service operations are permitted in the R.C. 2, R.C. 3, R.C.4, and R.C. 6 Zones. Secs. 1A01.2.C.16; 1A02.2.B.17; 1A03.3.B.11; 1A07.3.B; 404.3. None of these arguably analogous or overlapping uses are permitted in the M.L.R. Zone. This reinforces the interpretation presented here that the proposed use constitutes an impermissible contractor’s storage yard.

* * *

To put things in further relief, it is helpful to contrast the more restrictive definitions for the less intense office and warehouse uses:

² Although not listed explicitly in the main M.L. Zone sections, the Contractor’s Equipment Storage Yard is charted as permitted by right in the BCZR Sec. 270 Schedule. It is also arguably encompassed within the M.L. Zone permitted uses of Building Materials Storage Yard and Construction Equipment Storage Yard. BCZR Secs. 253.1.B.2, 3.

³ The Editor’s Note to BCZR Sec. 256.1.A.1 explains this subsection, enacted in 1955, refers to former Sec. 253.4, which was repealed by Bill 100-70. The former Section 253.4 listed many industrial uses, including Contractor’s Equipment Storage Yard.

“BCZR 101.1 Definitions

OFFICE — A building or portion of a building used for conducting the affairs of a business, profession, service, industry or government, including a medical office. The term "office" does not include a bank, a post office, a veterinarian's office or an establishment where merchandise is stored on or sold from the premises. [Bill Nos. 13-1980; 167-1980; 37-1988; 186-1994]

OFFICE BUILDING, CLASS A — A principal building that was originally constructed as a one-family or two-family detached dwelling and that is converted by proper permit to office use without any external enlargement for the purpose of creating the office space or otherwise accommodating the office use. For the purposes of this definition, enclosure of a porch of a house or the addition of an exterior stairway at the side or rear of the building does not constitute external enlargement. [Bill Nos. 13-1980; 170-1991]

OFFICE BUILDING, CLASS B — A principal building used for offices and which is not a Class A office building. [Bill Nos. 151-1988; 186-1994]

WAREHOUSE — A building or part of a building used or intended to be used primarily for the storage of goods or chattels that are to be sold retail or wholesale from other premises or sold wholesale from the same premises; for the storage of goods or chattels to be shipped on mail order; for the storage of equipment or materials to be used or installed at other premises by the owner or operator of the warehouse; or for similar storage purposes. (The term "warehouse" does not include a retail establishment whose primary purpose is for the sale of goods or chattels stored on the premises; however, nothing in this definition is meant to exclude purely incidental retail sales in warehouses. Further, the term does not include a truck terminal, at which any storage is minor, transitory and merely incidental to the purpose of facilitating transportation of goods or chattels.) [Bill No. 18-1976]

* * *

Davey are relocating from 6101 Falls Road in Bare Hills. They claim the proposed use is for a regional office and warehouse. Davey applied for a Grading and Paving Permit and Stormwater Management Permit. Permits B986092 and B986094 (2022). One permit was approved but one was put on hold pending zoning review.

Director of Permits Pete Gutwald and Zoning Supervisor Jeff Perlow conducted the review. This included communications with Davey's representatives. Davey apparently suggested that, unlike their Falls Road location, they do not plan to have outside storage of equipment or materials at Greenwood. This seems doubtful as a practical matter. Anyway, in the course of e-mails with Davey attorney Adam Baker, Director Gutwald observed on

October 7, 2022 that the definition of Contractor's Equipment Storage Yard includes inside storage and applies to this situation:

"Contractor's Equipment Storage Yard: --- The use of any space, whether inside or outside of the building, for the storage or keeping of contractor's equipment or machinery, including building materials storage, construction equipment storage or landscaping equipment and associated materials." Emphasis in original.

The word "including" is ordinarily illustrative and not exclusive, and may even be expansive. So, there should be no doubt that arborist's materials fit within this umbrella. Housing Authority v. Bennett 359 Md. 356, 371-372 (2000), Eldridge, J. Anyway, Davey's arborist expertise comprises landscaping.

There followed the petition for special hearing filed on November 11, 2022.

* * *

Davey acquired the property in 2019. SDAT Data says it occupies about 1.75 acres. It is shaped like an arrowhead, at the corner of Greenwood Road and the Western Maryland (now CSX) railroad tracks. It is at the end of a relatively narrow enclave zoned M.L.R. The zoning is residential across Greenwood Road and on Sudvale Road, on the other side of the railroad tracks. The uses there are single-family detached dwellings.

The SDAT Data show the existing building dates from 1971, with 15,253sf. It is a one-story building with a fairly high ceiling and three bays. It is situated west of the center of the site and backs up to the railroad tracks. Ms. Patterson says the previous use was a warehouse for storage of pinball machines. This would have been likely a permitted use and anyway did not trigger controversy.

Engineer Patrick Richardson's site plan Note 19 lists 25 parking spaces, but that appears to focus only on what is called Lot 1A, to the west of the building, with its own Greenwood Road access. There is then a large truck parking area to the east of the building, tapering to the corner. This looks like it has another 25 spaces. The size of the trucks is not stated. There is a separate access for this area.

There is no indication how these offstreet parking areas comply with BCZR Sec. 409 requirements, especially design requirements in BCZR Sec. 409.8 --- including screening and landscaping. There is no mention of the off-street loading requirement. BCZR Sec. 409.11.

Offstreet parking and loading issues may be viewed as secondary, but they do reflect on the magnitude of the operation over and above ordinary office and warehouse use.

* * *

We perused a number of documents, including these attached:

- ADC Map of Greenwood Road/Pikesville area.
- Local area map including Pikesville Township Association area
- Greenwood Road site/area My Neighborhood SDAT Data, Zoning Map, Google Earth aerial and street level photos
- Davey Tree Expert Co. 6101 Falls Road maps, SDA Data, website excerpts, Google photos and photos by Deborah Patterson
- Building Permit records for B986092 and B986094

Ms. Patterson's 6101 Falls Road photos, believed taken in 2022, show much outdoor use of equipment and materials. It seems doubtful the mass of equipment and materials could or would always be stored inside at the Greenwood site. Anyway, there will be continual transiting, loading and unloading, and associated arborist land uses outside.

The presence of office use, even headquarters office use, does not exclude or preempt consideration of other combined and/or integral principal uses. This issue came up in MGJ Properties. 2018-342-SPH (2020). The County Board of Appeals opinion is also attached. The ongoing operation had outside parking and storage along with the office headquarters and warehousing. The special hearing petition came after an enforcement case. While the situation was different in some respects, MGJ made a somewhat similar argument that office use was the principal use and the construction equipment/materials uses merely accessory. The CBA denied the petition, effectively finding a combined principal impermissible use. There was no petition for judicial review.

At this juncture, our office concurs with the position of Director Pete Gutwald and the Zoning Supervisor. It appears the proposed use exceeds ordinary office and warehouse use. I trust this letter and attached documents will be of assistance.

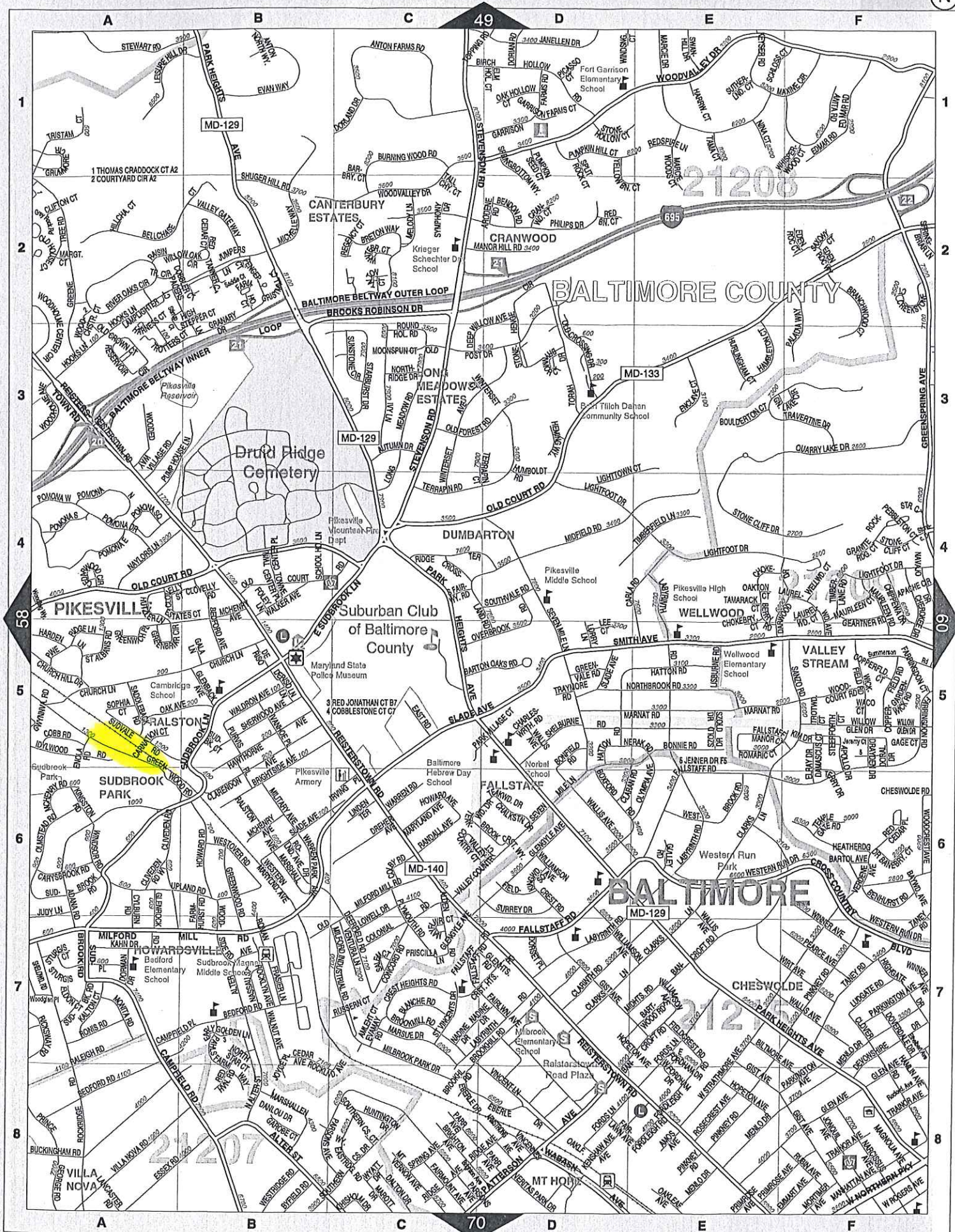
Sincerely,

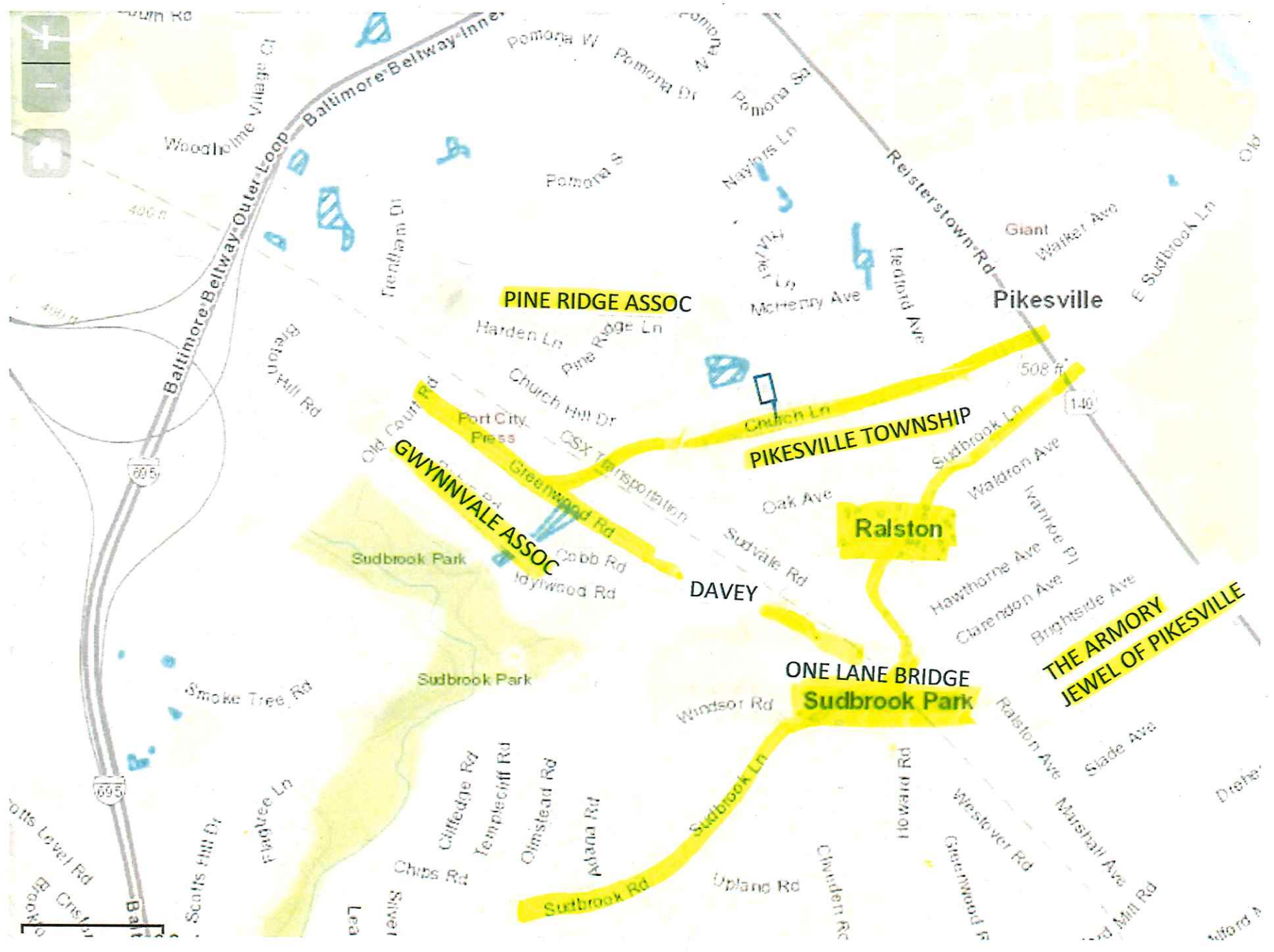


Peter Max Zimmerman

People's Counsel for Baltimore County

cc: Adam Baker, Esquire, Attorney for Petitioners, abaker@rosenbergmartin.com
Deborah Patterson, Pikesville Township Association, debfall8@gmail.com
Matt Lewis, Randallstown NAACP, randallstownnaacp@gmail.com
Jeffrey Perlow, Zoning Supervisor, jperlow@baltimorecountymd.gov
C. Pete Gutwald, PAI Director, cpgutwald@baltimorecountymd.gov
Stephen Lafferty, Planning Director, slafferty@baltimorecountymd.gov
Jenifer Nugent, Planning Office, jnugent@baltimorecountymd.gov
Brett Williams, Office of Planning, bmwilliams@baltimorecountymd.gov





Real Property Data Search ()
Search Result for BALTIMORE COUNTY

[View Map](#)

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Special Tax Recapture: None

Account Identifier: District - 03 Account Number - 1600004781

Owner Information

Owner Name: THE DAVEY TREE EXPERT COMPANY Use: INDUSTRIAL

Principal Residence: NO

Mailing Address: 1500 N MANTUA ST
KENT OH 44240- Deed Reference: /42022/ 00085

Location & Structure Information

Premises Address: 1101 GREENWOOD RD
BALTIMORE 21208- Legal Description: CHURCH LA PLAT 1.70
1300 SE OLD COURT RD
NE COR GREENWD RD &

Map: Grid: Parcel: Neighborhood: Subdivision: Section: Block: Lot: Assessment Year: Plat No:
0078 0008 0747 10000.04 0000 1 2022 Plat Ref: 0035/ 0001

Town: None

Primary Structure Built Above Grade Living Area Finished Basement Area Property Land Area County Use
1971 15,253 SF 74,052 SF 07

StoriesBasementType ExteriorQualityFull/Half BathGarageLast Notice of Major Improvements
LIGHT MANUFACTURING/ C3

Value Information

	Base Value	Value As of 01/01/2022	Phase-in Assessments As of 07/01/2022	As of 07/01/2023
Land:	224,000	224,000		
Improvements	480,700	584,300		
Total:	704,700	808,300	739,233	773,767
Preferential Land:	0	0		

Transfer Information

Seller: ARMORY HOLDINGS LLC	Date: 10/21/2019	Price: \$1,525,000
Type: ARMS LENGTH MULTIPLE	Deed1: /42022/ 00085	Deed2:
Seller: PUMPIES PROPERTIES L L C	Date: 06/01/2000	Price: \$456,000
Type: ARMS LENGTH MULTIPLE	Deed1: /14497/ 00391	Deed2:
Seller: ESSEX MANUFACTURING COMPANY	Date: 04/26/1995	Price: \$515,000
Type: ARMS LENGTH MULTIPLE	Deed1: /11021/ 00657	Deed2:

Exemption Information

Partial Exempt Assessments: Class	07/01/2022	07/01/2023
County:	000	0.00
State:	000	0.00
Municipal:	000	0.00 0.00

Special Tax Recapture: None

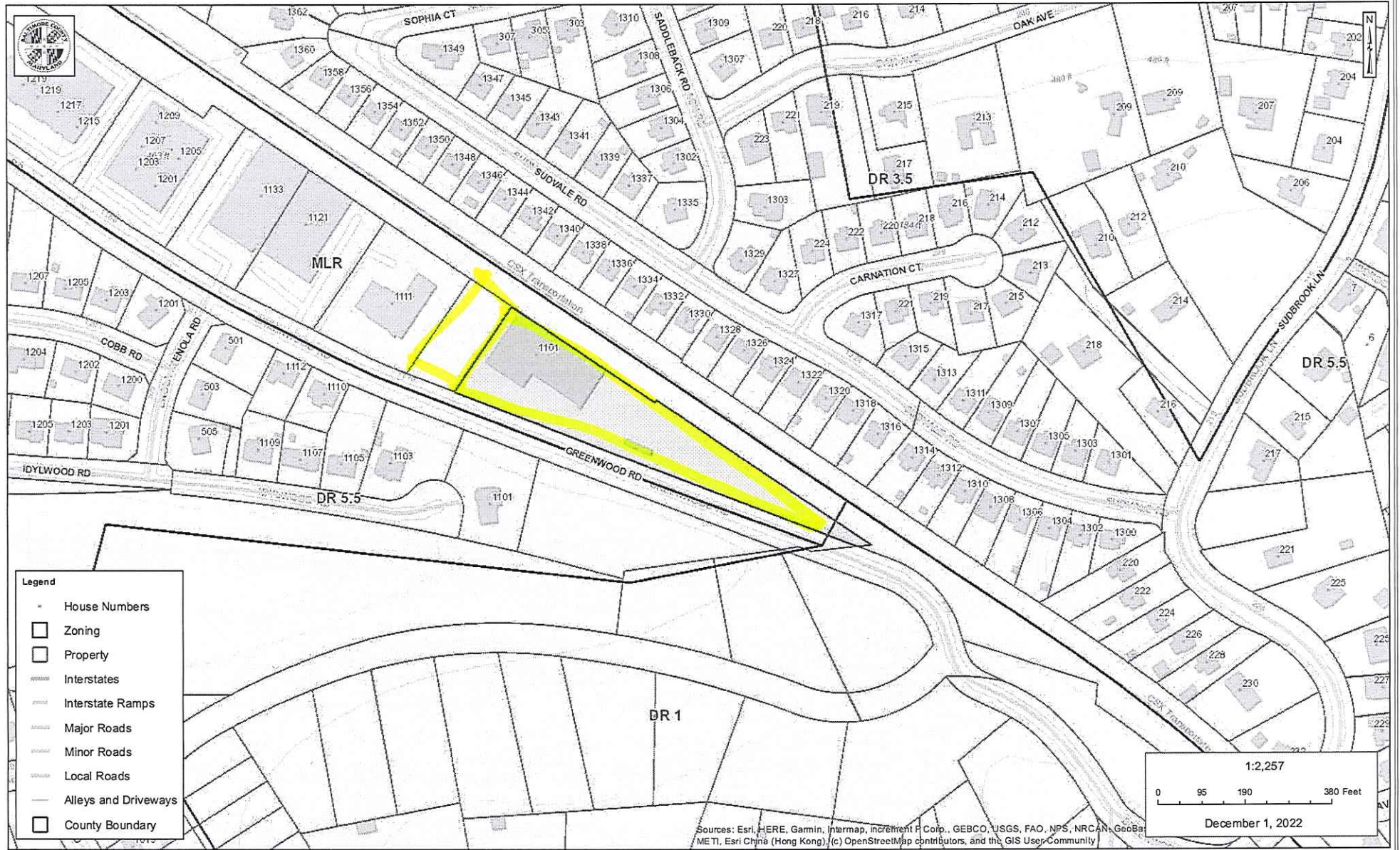
Homestead Application Information

Homestead Application Status: No Application

Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application Date:

Baltimore County - My Neighborhood



Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBasis, GEBCO, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community

Untitled Map

Write a description for your map.

Legend

-  1101 Greenwood Rd
-  Dental Source
-  Feature 1
-  Feature 2
-  Rosendorff's Bakery
-  StudioDNA Partners

1101 Greenwood Rd

Google Earth

Image Landsat / Copernicus



600 ft

Pikeville, Maryland
Google
Street View - Oct 2020



Google

Image capture: Oct 2020 © 2022 Google



1101 Greenwood Rd

All

Street View & 360°

Pikesville, Maryland
Google
Street View - Oct 2020



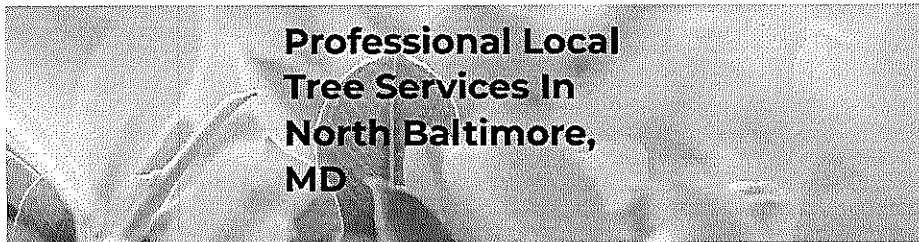
Image capture: Oct 2020 © 2022 Google



1101 Greenwood Rd

All

Street View & 360°



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Your North Baltimore, Maryland Davey Tree Office

Professional Tree Care & Tree Removal Services

Davey's ISA Certified Arborists are committed to giving homeowners and businesses the outdoor space you've always wanted with our professional tree services.

To keep your trees healthy and beautiful, our tree care solutions are designed to fit your property's needs so you can enjoy life outside.

Local to the Baltimore area, our certified arborists understand the challenges you face with regional climate conditions and common tree pests and diseases.

Our local tree services include tree removal, tree trimming and pruning, tree fertilization and plant health care, storm prep, and lawn care services.



Davey Tree North Baltimore

Manager: Todd Armstrong

Address: [6101 Falls Rd Suite 1,
Baltimore, MD 21209](#)

Tree Services Near Me:

- Aberdeen
- Joppa
- Abingdon
- Kingsville

• Baldwin

• Lutherville

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7/26/2022

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elizabethjoy
 painter 7/7/2022

Excellent
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 ensure that the
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 met my
 expectations.
 Friendly,
 knowledgeable,
 professional and
 thorough. Would
 highly recommend.

Posted to Google



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Posted to

See What Our Clients
 Are Saying

Professional Mulch Installation

Proper mulch installation is important to a healthy, thriving landscape. It can help conserve moisture, suppress weeds, and moderate soil temperature.

When mulch is too high and sits too close to a tree's trunk, it can cause damage to your tree.

CONTACT US TO MAKE AN APPOINTMENT

Tree Pest & Disease Management

Our staff of ISA Certified Arborists has the tools to help you combat insect-ridden, diseased trees.

As a property owner, it's important to be proactive about monitoring your plants for signs of pests and diseases.

Common pests and diseases in North Baltimore include:

- [Emerald ash borer](#)
- [Eastern tent caterpillars](#)
- [Mites](#)



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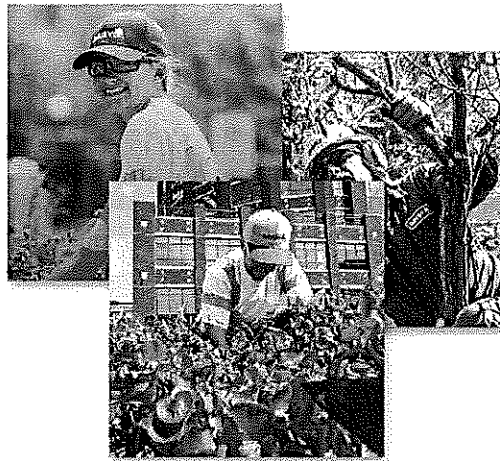


Founded In 1880 And Employee-Owned Since 1979

Strong brands. Engaged employees. Exceptional service.

With operations throughout North America, our branches have expanded, but our commitment to scientifically-based horticultural and environmental services and outstanding client service has never wavered.

Davey Tree is Ohio's largest employee-owned company and the eighth-largest in the nation.



Our Vision

We create and deliver sustainable solutions.

Our Mission

We exceed client expectations.

Our Values

Leadership

Safety

Integrity

Expertise

Leadership

Stewardship

Perseverance



A Company Of Employee Owners

Davey has been an employee-owned company for over 40 years, with employee-ownership at the heart of the company culture. Davey has thrived under the employee ownership model, becoming a billion dollar company in 2018 with more than 10,000 employees contributing throughout North America.

EMPLOYEE OWNERSHIP

Join Our Team And Grow With Us!

Looking for a rewarding career with opportunities for growth? Whether your dream office is somewhere in the great outdoors or something more traditional, we have a career path for you. We believe in providing a healthy, growing work-environment where you choose your career path and have access to constant education and the tools you need to set yourself up for continued success.

With jobs available throughout North America, Davey has an opportunity for you in the location you desire.

[VIEW CAREER OPPORTUNITIES](#)

Latest Davey News



Acquisition Press Releases

Restoration Systems Joins DRG

Davey Resource Group acquires Restoration Systems of Raleigh, N.C.

[Read More](#)

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We pride ourselves at Davey Tree on providing prompt, professional and personalized service from certified arborists that live, work and engage in your community. Contact one of our Davey Tree specialists for your residential, commercial, utility, or environmental needs.

CONTACT US

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Commercial

Utility Solutions

Environmental Consulting

Portfolio

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Knowledge Center

 Davey Tree Logo

Corporate Headquarters

1500 N Mantua St.

Kent, Ohio 44240

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Rooted In Expertise Since 1880

John Davey developed the concept of tree surgery, the idea that the health of a tree could be maintained like that of a human being when he founded The Davey Tree Expert Company in 1880. John, known as the "Father of Tree Surgery," started training the world's first tree surgeons – predecessors of the modern-day arborist. Today, the employee-owners of Davey Tree are committed to using their knowledge and expertise to deliver unmatched excellence in client experience. And they are dedicated to furthering John Davey's mission of caring for trees.

John Davey Founded The Davey Tree Expert Company In 1880.

[LEARN MORE ABOUT OUR FOUNDER](#)

Remaining True To Our Roots

The Davey Tree Expert Company has grown from a small seedling of an idea first planted by John Davey into a giant within the green industry.

Since 1880, Davey has set industry standards for tree care and become one of the largest employee-owned companies in North America. As Davey has grown, so too has its commitment to its clients, employees and the environment.

Explore The Timeline Of Davey History Below.



- **2020:** Davey partners with Certified Employee-Owned (Certified EO), the leading certification program for employee-owned companies in America.
- **2019:** Davey celebrates 40 years of employee-ownership.
- **2017:** Davey is on track to employ 9,000 across North America with total annual revenues projected to reach \$1 billion by 2020. Karl Warnke retires as CEO after 37 years of service to the Davey Company. Pat Covey is named President and CEO.
- **2016:** Pat Covey is elected president and chief operating officer.
- **2014:** The company celebrates 35 years of employee-ownership.



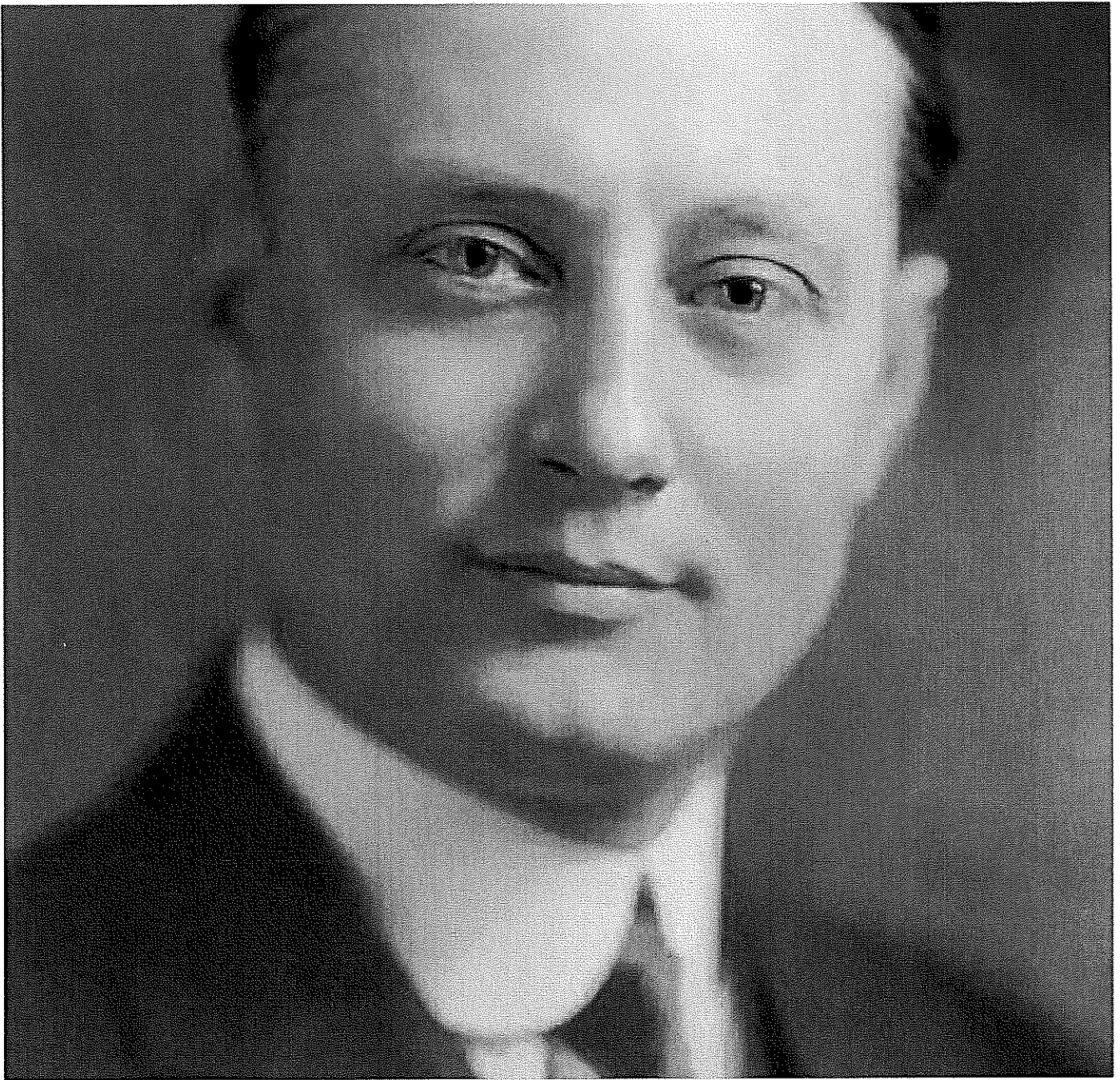
- **2012:** Davey management develops a Strategic Plan to concentrate on the company's focus and direction.
- **2006:** Davey partners with the USDA and others to begin development of the i-Tree software suite to quantify the benefits of trees.
- **1999:** Karl Warnke is elected president and chief operating officer with two decades of Davey service.
- **1995:** Davey Resource Group is established to provide an array of services to clients, including natural resource consulting, tree inventories, utility vegetation management and more.



- **1985:** Davey opens its new corporate headquarters in Kent, Ohio. That same year, Doug Cowan, who played a crucial role in the employee acquisition, is elected president and chief operating officer.
- **1984:** Davey's Residential/Commercial service line is established.
- **1982:** The Employee Stock Purchase Plan is introduced, making it easier for employees to acquire shares through payroll deduction—at a 15 percent discount.
- **1979:** Davey becomes employee-owned as the employees of the company, let by Jack Joy, acquire Davey Tree from the family.
- **1977:** Jack Joy, a 30-plus year Davey employee, is elected president and chief operating officer at the same time the Davey family announces plans to sell the company.



- **1976:** Davey is granted a patent for developing Arbor Green, a revolutionary liquid tree fertilizer.
- **1969:** Davey Tree acquires the Davey Tree Surgery Company in California.
- **1967:** Davey opens the Kent Shop in Kent, Ohio, to service the company's rapidly expanding equipment fleet.
- **1954:** The new Davey Technical Service Center opens in Kent. As home to research and development, the new facility also houses D.I.T.S. and is the predecessor to the Davey Institute.
- **1953:** Bucket trucks and brush hogs are introduced to Davey crews. These advancements come on the heels of the advent of the power chainsaw, brush chipper, chemical brush control and mist blowing, all of which were introduced to the tree care industry by the close of the last decade.



- **1946:** Martin L. Davey, Sr., dies. His son, Martin L. Davey, Jr., becomes president at age 28 just months after returning from three years of service in WWII.
- **1934:** The company begins to recover from the effects of the Depression by turning a modest profit after three straight years of losses. In the same year, Martin L. Davey, Sr., is elected Ohio's fifty-third governor.
- **1933:** The throes of the Great Depression render Davey Tree unable to make payroll. Kent office employees were put on half pay; some employees went weeks without a paycheck.
- **1930:** Davey's Canadian operations are founded.
- **1928:** Wellington Davey founds the Davey Tree Surgery Company in California.

- **1921:** Davey Tree moves into the utility line clearance market with a contract for Northern Ohio Power and Light Company.
- **1920:** Paul Davey, Martin's younger brother, introduces mechanization into the business, improving efficiency through his adaptation of pneumatic compressor technology. The compressors improved fertilization and cavity repair methods in the field, increasing efficiency and profitability. Paul would use his many patents to later found the Davey Compressor Company.
- **1909:** John Davey, as the first president, files the articles of incorporation for The Davey Tree Expert Company along with his son, Martin L. Davey, Sr., who is named general manager and treasurer.
- **1908:** The Davey Institute of Tree Sciences (D.I.T.S.) is founded to train employees in the science of tree care; the inaugural class graduates in 1909.
- **1901:** Davey publishes his book "The Tree Doctor" outlining his scientific methods for healing and caring for America's trees.
- **1880:** John Davey founds The Davey Tree Expert Company.

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Corporate Headquarters

1500 N Mantua St.

Kent, Ohio 44240

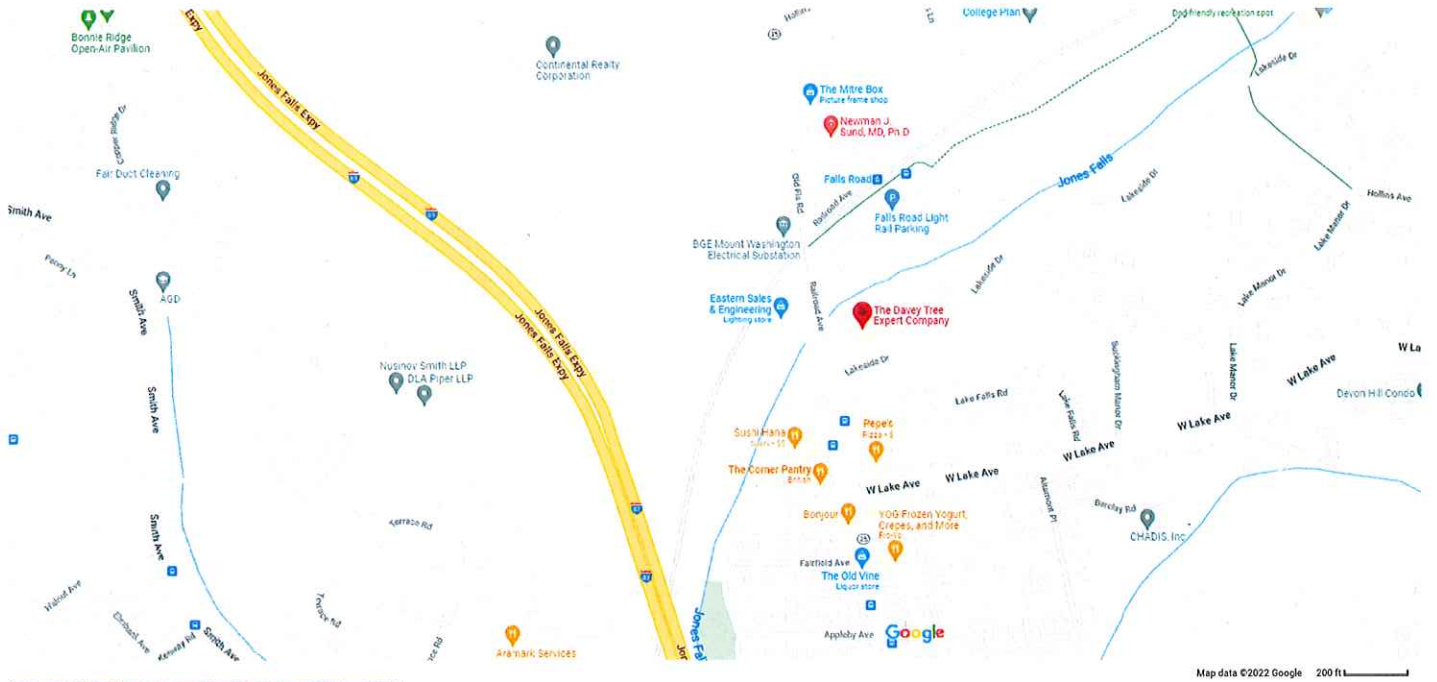
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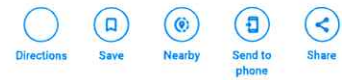
[Corporate Information](#)

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The Davey Tree Expert Company

4.0 ★★★★★ 59 reviews
Tree service



- 6101 Falls Rd, Baltimore, MD 21209
- Open · Closes 5PM
- davey.com
- (410) 946-1547
- 99F2+X2 Baltimore, Maryland
- Send to your phone

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Popular times Tuesdays

6a 9a 12p 3p 6p 9p

Photos



All By owner

Real Property Data Search ()
Search Result for BALTIMORE COUNTY

[View Map](#)

[View GroundRent Redemption](#)

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Special Tax Recapture: None

Account Identifier: District - 09 Account Number - 0903001720

Owner Information

Owner Name: GRP 6101 FALLS LLC **Use:** INDUSTRIAL
Mailing Address: C/O 1212 YORK ROAD STC C300 **Principal Residence:** NO
TIMONIUM MD 21093- **Deed Reference:** /40607/ 00163

Location & Structure Information

Premises Address: 6101 FALLS RD **Legal Description:** 3.357 AC ES FALLS RO
BALTIMORE 21210-
600 NE COR LAKESIDE DRI

Map:	Grid:	Parcel:	Neighborhood:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:
0079	0003	0008	20000.04	0000				2023	
									Plat Ref:

Town: None

Primary Structure Built	Above Grade Living Area	Finished Basement Area	Property Land Area	County Use
1930	7,954 SF		3.3500 AC	07

Stories	Basement Type	Exterior Quality	Full/Half Bath	Garage	Last Notice of Major Improvements
	STORAGE WAREHOUSE/	C3			

Value Information

	Base Value	Value	Phase-in Assessments	
		As of	As of	As of
Land:	173,500	01/01/2020	07/01/2022	07/01/2023
Improvements	274,400	173,500		
Total:	447,900	274,400		
Preferential Land:	0	447,900	447,900	

Transfer Information

Seller: DAVEY TREE EXPERT COMPANY	Date: 08/27/2018	Price: \$450,000
Type: ARMS LENGTH IMPROVED	Deed1: /40607/ 00163	Deed2:
Seller: BALTIMORE RIGGIN G CO INC	Date: 01/08/1982	Price: \$150,000
Type: ARMS LENGTH IMPROVED	Deed1: /06360/ 00733	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

Partial Exempt Assessments:	Class	07/01/2022	07/01/2023
County:	000	0.00	
State:	000	0.00	
Municipal:	000	0.00	0.00

Special Tax Recapture: None

Homestead Application Information

Homestead Application Status: No Application

Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application **Date:**



My Neighborhood

Select a Property
from the Map

enter ADDRESS or 10-DIGIT TAX ACCOUNT

6101 Falls Road

Search

Property Report - 6101 FALLS RD

6101 FALLS RD

Tax Account Number 0903001720
Owner Name GRP 6101 FALLS LLC
Premise Address 6101 FALLS RD
Tax Map 0079
Parcel 0008
Real Property Report [More info](#)
StreetView [Click for StreetView](#)
PermitReview [Permit Review Tool URL](#)

ZONING INFORMATION

Zoning [ML](#)

SCHOOL DISTRICTS

Elementary School District [West Towson ES](#)
Middle School District [Dumbarton MS](#)
High School District [Towson HS](#)

CIVIC - GOVERNMENT

Police Precinct [Towson](#)
Councilmanic District [2](#)
Congressional District [3](#)
Legislative District [11B](#)
Election District [2](#)
Voting Precinct [09-001](#)
Highway Shop District TEXAS

ECONOMIC

Commercial Revitalization District No Feature Found
Enterprise Zone No Feature Found
Economic Park Center Name No Feature Found
Economic Park Center Type No Feature Found

ENVIRONMENTAL

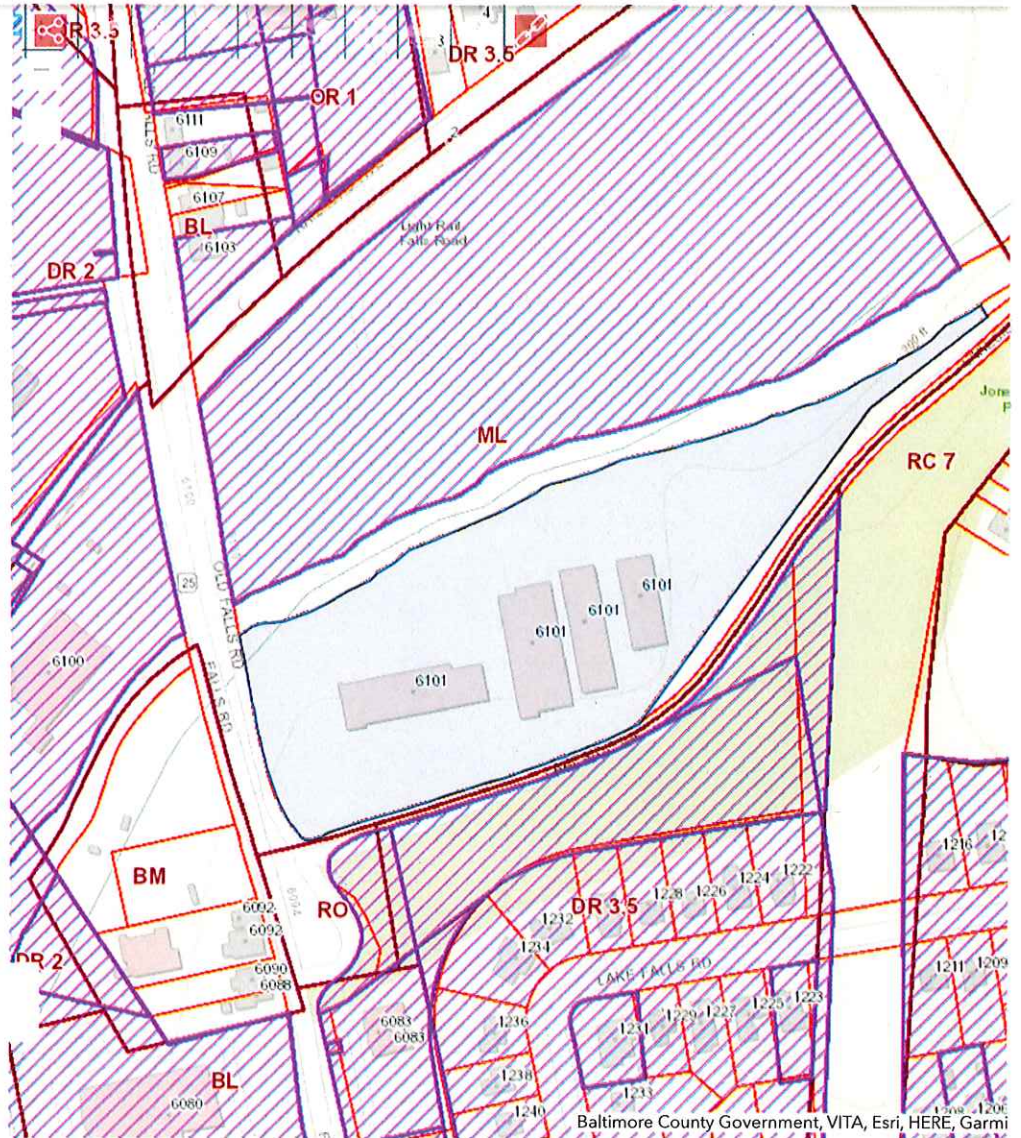
Watershed Name [Jones Falls](#)
River Basin Name Patapsco River
Subshed Name Lower Jones Falls
Soil Name Codorus silt loams, 0 to 3 percent slopes
Soil Name Manor-Urban land complex, 0 to 8 percent slopes
Soil Name Manor channery loam, 15 to 25 percent slopes

HISTORIC

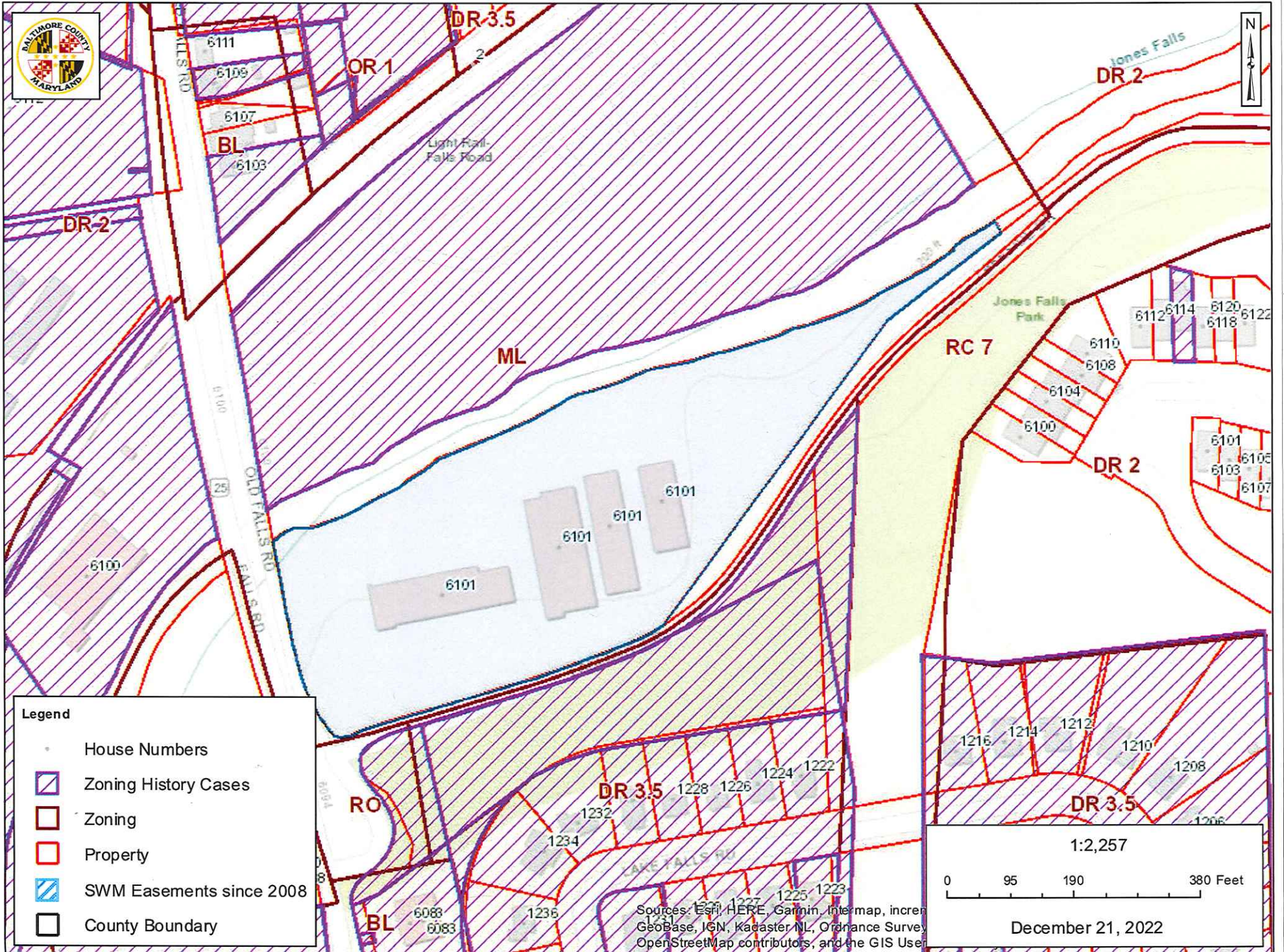
National Register Historic District Lake Roland
Baltimore County Historic District No Feature Found
Landmark Name No Feature Found
MIHP Number No Feature Found

LAND MANAGEMENT

URDL Land Type Urban
Growth Tier Description Served by public sewer and inside URDL

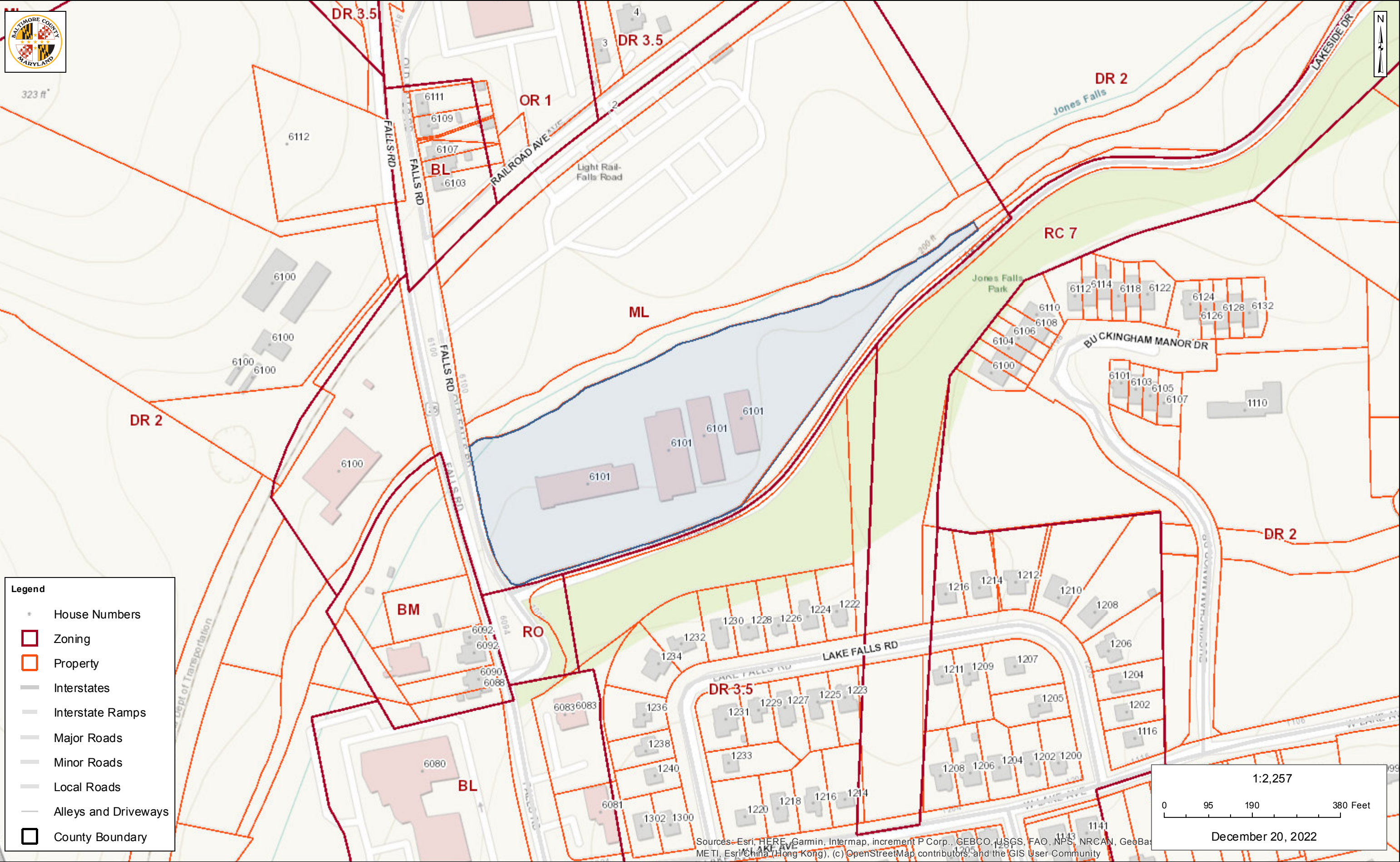


Baltimore County - My Neighborhood



Sources: Esri, HERE, Garmin, Intermap, increment P, IGN, Kadaster NL, Ordnance Survey, OpenStreetMap contributors, and the GIS User Community

Baltimore County - My Neighborhood



Untitled Map

Write a description for your map.

Legend

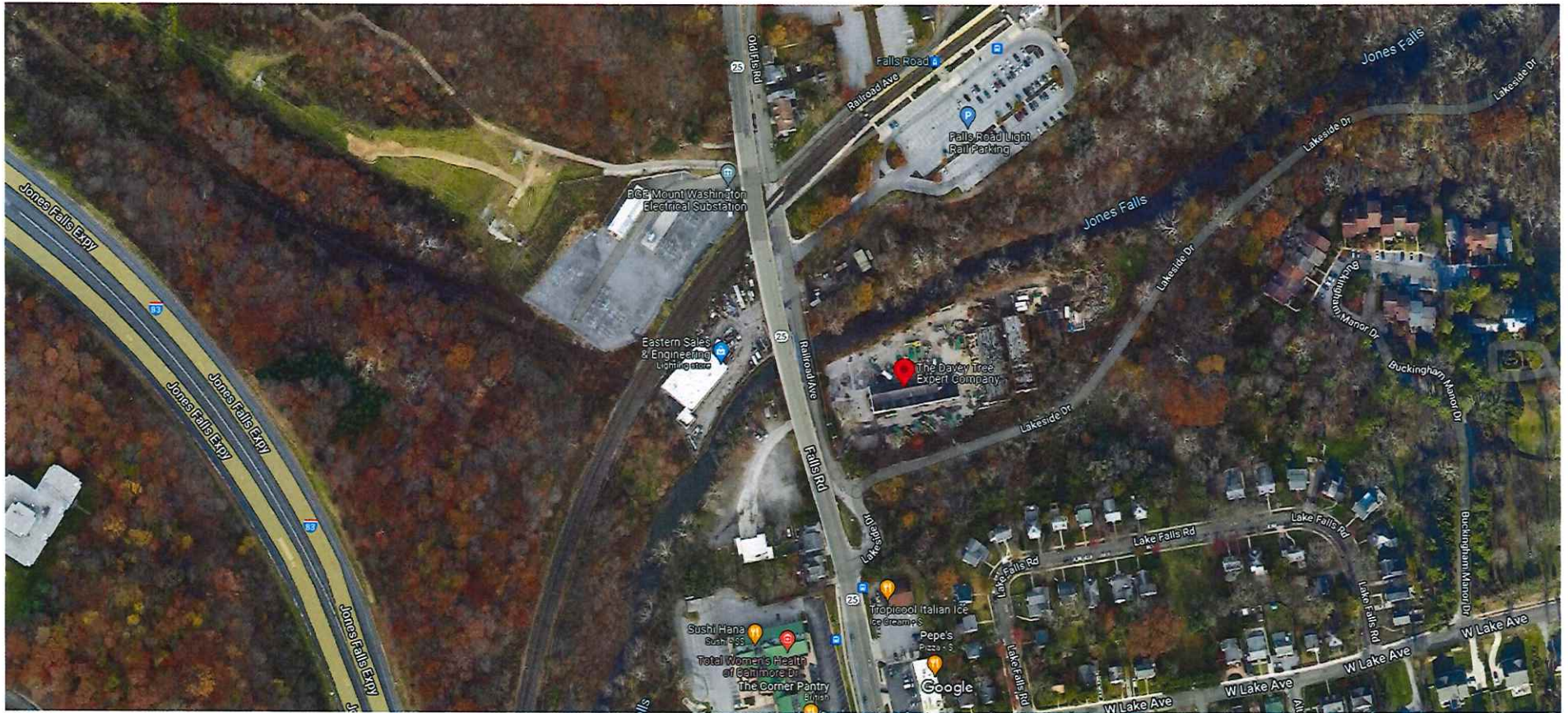
-  6101 Falls Rd
-  BGE Mount Washington Electrical Substation
-  Falls Road
-  Falls Road Light Rail Parking
-  Feature 1
-  Newman J. Sund, MD, Ph.D
-  The Davey Tree Expert Company

Google Earth

Image Landsat / Copernicus



100 ft



Imagery ©2022 Maxar Technologies, U.S. Geological Survey, USDA/FPAC/GEO, Map data ©2022 100 ft



The Davey Tree Expert Company

4.0 ★★★★★ 59 reviews

Tree service



Directions



Save



Nearby



Send to
phone



Share











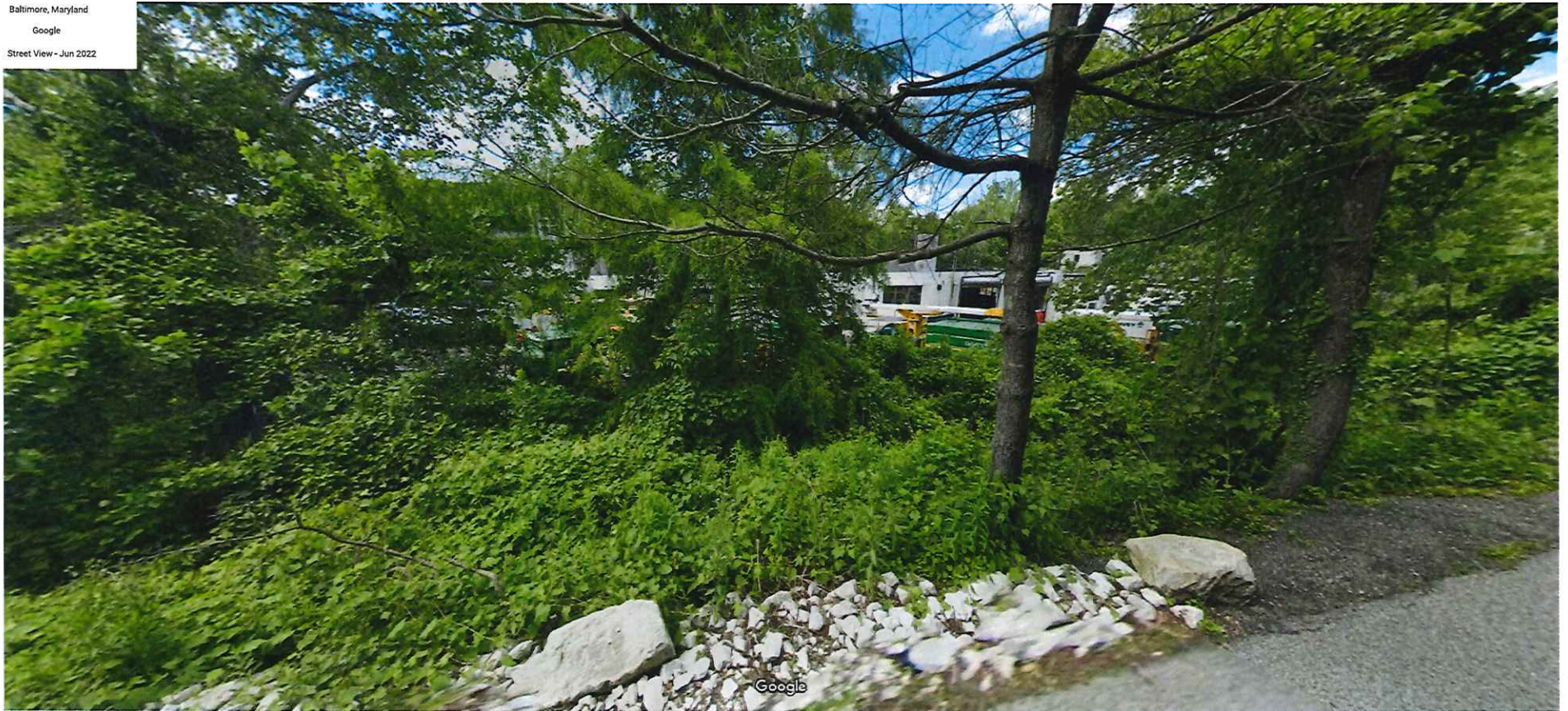


Google

Image capture: Jun 2022 © 2022 Google







PANEL BP1003M

TIME: 14:49:08 AUTOMATED PERMIT TRACKING SYSTEM LAST UPDATE 08/16/2021
DATE: 12/22/2022 GENERAL PERMIT APPLICATION DATA EDW 09:52:12

PERMIT #: B986092 PROPERTY ADDRESS
RECEIPT #: A847208 1101 GREENWOOD RD
CONTROL #: GRC- SUBDIV: NE COR GREENWD RD &
XREF #: B986092 TAX ACCOUNT #: 1600004781 DISTRICT/PRECINCT 03 01
OWNERS INFORMATION (LAST, FIRST)

FEE: 100.00 NAME: THE DAVEY TREE EXPERT COMPANY
PAID: 100.00 ADDR: 1500 N MANTUA ST, KENT OH 44240
PAID BY: APPL

DATES APPLICANT INFORMATION
APPLIED: 08/16/2021 NAME: CHUCK MEYER
ISSUED: COMPANY: MARYLAND BUILDING PERMITS INC
OCCPNY: ADDR1: 1602 PINNACLE RD
FINAL INSPECT: ADDR2: TOWSON MD 21286-1518
INSPECTOR: 03C PHONE #: 410 296-6900 LICENSE #:
NOTES: EDW

PASSWORD :

ENTER - PERMIT DETAIL PF3 - INSPECTIONS PF7 - DELETE PF9 - SAVE
PF2 - APPROVALS PF4 - ISSUE PERMIT PF8 - NEXT PERMIT PF10 - INQRY

PANEL BP1004M

TIME: 14:49:34 AUTOMATED PERMIT TRACKING SYSTEM LAST UPDATE 04/03/2022
DATE: 12/22/2022 BUILDING DETAIL 1 KLL 13:06:20

DRC#
PERMIT # B986092 PLANS: CONST 00 PLOT 8 PLAT 0 DATA 0 EL 1 PL 1
TENANT
BUILDING CODE: CONTR: TBD
IMPRV 7 GRADING ENGR: RICHARDSON ENGINEERING LLC
USE 23 GRADING SELLR:

FOUNDATION BASE WORK: GRADING & PAVING WITH ASPHALT DISTURBED AREA
50,125SF FOR PARKING LOT. ALSO, USING TAX
CONSTRUC FUEL SEWAGE WATER NUMBER 16-00-004782.NO CONSTR TO BEGIN UNTIL
1E 1E PRE-CONSTR MTG. FAILURE TO COMPLY WILL RESULT
CENTRAL AIR IN PENALTIES.SCHEDULE PRE-CON MTG IN YOUR
ESTIMATED COST PORTAL.PERMIT EXPIRES TWO YRS FROM DATE ISSUED.
20,000.00 PROPOSED USE: OFFICE & WAREHOUSES: GRADING
OWNERSHIP: 1 EXISTING USE: OFFICE & WAREHOUSES
RESIDENTIAL CAT:
#EFF: #1BED: #2BED: #3BED: TOT BED: TOT APTS:
1 FAMILY BEDROOMS: PASSWORD:

ENTER - NEXT DETAIL PF2 - APPROVALS PF7 - PREV. SCREEN PF9 - SAVE
PF1 - GENERAL PERMIT PF3 - INSPECTIONS PF8 - NEXT SCREEN CLEAR - MENU

PANEL BP1005M
TIME: 14:49:53 AUTOMATED PERMIT TRACKING SYSTEM LAST UPDATE 04/03/2022
DATE: 12/22/2022 BUILDING DETAIL 2 KLL 13:06:20

PERMIT #: B986092 BUILDING SIZE LOT SIZE AND SETBACKS
FLOOR: 53235 SIZE: 0713.52 X 0000.00
WIDTH: FRONT STREET:
GARBAGE DISP: DEPTH: SIDE STREET:
POWDER ROOMS: HEIGHT: FRONT SETB: NC
BATHROOMS: STORIES: SIDE SETB: NC/NC
KITCHENS: SIDE STR SETB:
LOT NOS: 1 REAR SETB: NC
CORNER LOT:
ZONING INFORMATION ASSESSMENTS
DISTRICT: BLOCK: LAND: 0224000.00
PETITION: SECTION: IMPROVEMENTS: 0480700.00
DATE: LIBER: TOTAL ASS.:
MAP: FOLIO:
CLASS: 07

PLANNING INFORMATION

MSTR PLAN AREA: SUBSEWER: CRIT AREA: PASSWORD:

ENTER - NEXT DETAIL PF2 - APPROVALS PF7 - PREV. SCREEN PF9 - SAVE
PF1 - GENERAL PERMIT PF3 - INSPECTIONS PF8 - NEXT SCREEN CLEAR - MENU

PANEL BP1018M
TIME: 14:50:28 AUTOMATED PERMIT TRACKING SYSTEM LAST UPDATE 04/07/2022
DATE: 12/22/2022 APPROVALS DETAIL SCREEN JNP 16:20:15

PERMIT #: B986092 CONTROL #: GRC-
AGENCY DATE CODE COMMENTS

SEDI CTL 01/13/2022 01 LMF (CITYWORKS)
ZONING 04/07/2022 12 JNP-POSSIBLE CONTRACTOR'S EQUIPMENT STORAGE YARD
PUB SERV 08/24/2021 12 SEC. REQUIRED-VKD
ENVRMNT 03/24/2022 01 TM SEC-X3514...EA-X3514
DEV MGMT 08/30/2021 01 FEES PD.-DDP FINAL
PERMITS 10 DO NOT ISSUE SEE ZONING NOTE IN CITYWORKS

01 THRU 09 INDICATES AN "APPROVAL" ** 10 THRU 99 INDICATES A "DISAPPROVAL"

ENTER - GENERAL PERMIT PF4 - ISSUE PERMIT
PF3 - INSPECTIONS PF8 - GENERAL SCREEN W/NEXT PERMIT CLEAR - MENU

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF PERMITS, APPROVALS, AND INSPECTIONS

C. Pete Gutwald

C. Pete Gutwald, AICP, Director



E. John Bryan

E. John Bryan, Building Engineer

BUILDING PERMIT

PERMIT #: B986094 CONTROL #: SWMC- DIST: 03 PREC: 01
DATE ISSUED: 04/04/2022 TAX ACCOUNT #: 1600004781 CLASS: 07

PLANS: CONST 00 PLOT 8 R PLAT 0 DATA 0 ELEC NO PLUM NO
LOCATION: 1101 GREENWOOD RD
SUBDIVISION: NE COR GREENWD RD &

OWNERS INFORMATION

NAME: THE DAVEY TREE EXPERT COMPANY
ADDR: 1500 N MANTUA ST, KENT OH 44240

TENANT:

CONTR: TBD
ENGR: MORRIS & RITCHIE ASSOC INC
SELLR: PERMIT EXPIRES TWO YEARS FROM DATE OF ISSUE.
WORK: STORM WATER MANAGEMENT DRAINAGE AREA:
0.85AC / 37,065SF PER PLANS. ALSO, USING TAX
NUMBER 16-00-004782. NO CONSTRUCTION TO BEGIN
UNTIL PRE-CONSTR MTG. FAILURE TO COMPLY WILL
RESULT IN PENALTIES. SCHEDULE PRE-CONSTRUCTION
MTG IN YOUR PORTAL.

BLDG. CODE:

RESIDENTIAL CATEGORY:

OWNERSHIP: PRIVATELY OWNED

PROPOSED USE: OFFICE & WAREHOUSES & STORM WATER MGMT
EXISTING USE: OFFICE & WAREHOUSES

TYPE OF IMPRV: OTHER

USE: OTHER - NON-RESIDENTIAL

FOUNDATION:

BASEMENT:

SEWAGE: PUBLIC EXIST

WATER: PUBLIC EXIST

LOT SIZE AND SETBACKS

SIZE: 0713.52 X 0000.00

FRONT STREET:

SIDE STREET:

FRONT SETB: NC

SIDE SETB: NC

SIDE-STR SETB:

REAR SETB: NC

PLEASE REFER TO PERMIT NUMBER WHEN MAKING INQUIRIES.

111 WEST CHESAPEAKE AVENUE, TOWSON, MARYLAND 21204

PANEL BP1003M

TIME: 14:44:59 AUTOMATED PERMIT TRACKING SYSTEM LAST UPDATE 08/16/2021
DATE: 12/22/2022 GENERAL PERMIT APPLICATION DATA EDW 10:10:58

PERMIT #: B986094 PROPERTY ADDRESS
RECEIPT #: A847209 1101 GREENWOOD RD
CONTROL #: SWMC- SUBDIV: NE COR GREENWD RD &
XREF #: B986094 TAX ACCOUNT #: 1600004781 DISTRICT/PRECINCT 03 01
OWNERS INFORMATION (LAST, FIRST)

FEE: 57.00 NAME: THE DAVEY TREE EXPERT COMPANY
PAID: 57.00 ADDR: 1500 N MANTUA ST, KENT OH 44240
PAID BY: APPL

DATES

APPLICANT INFORMATION

APPLIED: 08/16/2021 NAME: CHUCK MEYER
ISSUED: 04/04/2022 COMPANY: MARYLAND BUILDING PERMITS INC
OCCPNY: ADDR1: 1602 PINNACLE RD
FINAL INSPECT: ADDR2: TOWSON MD 21286-1518
INSPECTOR: 03B PHONE #: 410 296-6900 LICENSE #:
NOTES: EDW

PASSWORD :

ENTER - PERMIT DETAIL PF3 - INSPECTIONS PF7 - DELETE PF9 - SAVE
PF2 - APPROVALS PF4 - ISSUE PERMIT PF8 - NEXT PERMIT PF10 - INQRY

PANEL BP1004M
TIME: 14:46:51 AUTOMATED PERMIT TRACKING SYSTEM LAST UPDATE 04/03/2022
DATE: 12/22/2022 BUILDING DETAIL 1 KLL 12:57:29

DRC#
PERMIT # B986094 PLANS: CONST 00 PLOT 8 PLAT 0 DATA 0 EL 2 PL 2
TENANT
BUILDING CODE: CONTR: TBD
IMPRV 7 SWM ENGR: MORRIS & RITCHIE ASSOC INC
USE 23 SWM SELLR: PERMIT EXPIRES TWO YEARS FROM DATE OF ISSUE.

FOUNDATION BASE WORK: STORM WATER MANAGEMENT DRAINAGE AREA:
0.85AC / 37,065SF PER PLANS. ALSO, USING TAX
CONSTRUC FUEL SEWAGE WATER NUMBER 16-00-004782. NO CONSTRUCTION TO BEGIN
1E 1E UNTIL PRE-CONSTR MTG. FAILURE TO COMPLY WILL
CENTRAL AIR RESULT IN PENALTIES. SCHEDULE PRE-CONSTRUCTION
ESTIMATED COST MTG IN YOUR PORTAL.
40,000.00 PROPOSED USE: OFFICE & WAREHOUSES & STORM WATER MGMT
OWNERSHIP: 1 EXISTING USE: OFFICE & WAREHOUSES
RESIDENTIAL CAT:
#EFF: #1BED: #2BED: #3BED: TOT BED: TOT APTS:
1 FAMILY BEDROOMS: PASSWORD:

ENTER - NEXT DETAIL PF2 - APPROVALS PF7 - PREV. SCREEN PF9 - SAVE
PF1 - GENERAL PERMIT PF3 - INSPECTIONS PF8 - NEXT SCREEN CLEAR - MENU

PANEL BP1005M
TIME: 14:47:22 AUTOMATED PERMIT TRACKING SYSTEM LAST UPDATE 04/03/2022
DATE: 12/22/2022 BUILDING DETAIL 2 KLL 12:57:29

PERMIT #: B986094 BUILDING SIZE LOT SIZE AND SETBACKS
FLOOR: SIZE: 0713.52 X 0000.00
WIDTH: FRONT STREET:
DEPTH: SIDE STREET:
GARBAGE DISP: FRONT SETB: NC
POWDER ROOMS: HEIGHT: SIDE SETB: NC
BATHROOMS: STORIES: SIDE STR SETB:
KITCHENS: REAR SETB: NC

LOT NOS: 1
CORNER LOT:
ZONING INFORMATION
DISTRICT: BLOCK:
PETITION: SECTION:
DATE: LIBER:
MAP: FOLIO:
CLASS: 07

PLANNING INFORMATION
MSTR PLAN AREA: SUBSEWER: CRIT AREA: PASSWORD:

ENTER - NEXT DETAIL PF2 - APPROVALS PF7 - PREV. SCREEN PF9 - SAVE
PF1 - GENERAL PERMIT PF3 - INSPECTIONS PF8 - NEXT SCREEN CLEAR - MENU

PANEL BF1018M

TIME: 14:51:37 AUTOMATED PERMIT TRACKING SYSTEM LAST UPDATE 04/03/2022
DATE: 12/22/2022 APPROVALS DETAIL SCREEN KLL 13:00:25

PERMIT #: B986094 CONTROL #: SWMC-

AGENCY	DATE	CODE	COMMENTS
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SEDI CTL	01/13/2022	01	LMF (CITYWORKS) SC-X3226
ZONING	08/16/2021	01	JSS
PUB SERV	08/24/2021	01	VKD/JVH
ENVRMNT	03/24/2022	01	TM/SEC-X3514...EA-X3514
DEV MGMT	08/30/2021	01	FEE PD. - DDP FINAL
PERMITS	04/04/2022	01	KLL

01 THRU 09 INDICATES AN "APPROVAL" ** 10 THRU 99 INDICATES A "DISAPPROVAL"

ENTER ~ GENERAL PERMIT PF4 ~ ISSUE PERMIT

PF3 ~ INSPECTIONS PF8 ~ GENERAL SCREEN W/NEXT PERMIT CLEAR ~ MENU

IN THE MATTER OF * BEFORE THE
 MGJ PROPERTIES, LLC, LEGAL OWNER AND * BOARD OF APPEALS
 PETITIONER FOR SPECIAL HEARING ON *
 THE PROPERTY LOCATED AT * OF
 1101 BOWLEY'S QUARTERS ROAD *
 15TH ELECTION DISTRICT *
 6TH COUNCILMANIC DISTRICT * BALTIMORE COUNTY
 * Case No. 18-342-SPH

* * * * *

OPINION

This matter involves a Petition for Special hearing filed by MGJ Properties, L.L.C., (hereinafter "MGJ" or "Petitioner" or "the Company") seeking a declaration that the uses occurring on its commercial property located at 1101 Bowley's Quarters Road were proper. MGJ was represented by Lawrence Schmidt, Esquire. The Petition was opposed by numerous individuals who live in the area as well as by two local community associations (hereinafter collectively "Protestants"). Specifically, David Hash and Bowley's Quarters Improvement Association appeared pro se in opposition to the Petition. Allen Robertson, Carl and Siu Rossmark, and Kenneth Brickell were represented by J. Carroll Holzer, Esquire. Peter Max Zimmerman, Esquire, represented the Office of People's Counsel for Baltimore County, who also appeared in opposition to the Petition.

STATEMENT OF THE CASE

MGJ is a concrete contractor. It has maintained its corporate offices at the subject property since 2009. The property is zoned B.L. (Business Local). See Baltimore County Zoning Regulations ("BCZR") § 230.1.6.A. Office activity, and any accessory uses thereto, are permitted by right. It has been alleged that MGJ in recent years has been utilizing its property to store and maintain tools, equipment, and material associated with its concrete contracting business. A code enforcement citation was issued. Civil Citation No. CC1710981. That case

In the matter of: MGJ Properties, LLC
Case No: 18-342-SPH

was heard on February 28, 2018, by Administrative Law Judge Lawrence Stahl. He sustained the violation by order dated March 19, 2018, and MGJ appealed to this Board. That appeal is captioned as CBA-18-028. As is the typical practice, resolution of the violation case was held in abeyance to allow MGJ to file a Petition for Special Hearing so that the larger legal and factual issues could be resolved.

The Petition for Special Hearing was initially heard by Administrative Law Judge John Beverungen who denied the Petition in an opinion dated November 1, 2018. This *de novo* appeal followed. This Board held four days of hearings, during which, numerous witnesses testified both in support of, and opposed to, the Petition. The matter was fully briefed by counsel. The Board held a virtual public deliberation on June 30, 2020, and at that proceeding, all three Board members concluded that the Petition should be denied.

FACTUAL AND LEGAL ISSUES PRESENTED

The essential factual question in this case is whether MGJ is doing (what we can call for shorthand purposes) storage facility activity. The essential legal question is the extent to which "accessory use," as that term is utilized and interpreted in the Baltimore County Zoning Regulations (BCZR), permits the storage and maintenance of tools, equipment, and materials limited to any generic "office" or rather, whether it allows for the storage and maintenance of said tools, equipment, and materials for the business activity to which the office relates. In this instance, of course, the underlying business to which the office relates is that of a concrete contractor. As a graphic example, a bobcat is not a piece of equipment typically associated with office work. It is, however, typically associated with the concrete contracting business. In terms of that example, the question here is whether the storage and use of the bobcat exceeds the scope

of an accessory use of an office or whether it fits well within the accessory use of an office where that office serves a concrete contracting business.

The first question is a factual one: was MGJ was using its property to store tools, equipment, and materials in a manner roughly akin to, a "Building Materials Storage and Sales Yard," "Construction Equipment Storage Yard," and/or a "Contractor's Equipment Storage Yard," as those terms are defined in BCZR § 101.1. If the answer to that question is in the affirmative, it is then necessary to determine the legal issue. The legal issue is whether "accessory use" of a principal use office restricts the user to activities that are normally incidental to the operation of a generic office, or whether it permit wider activities that are incident to the underlying business to which the office relates.

In its public deliberation, the Board concluded by a preponderance of the evidence that MGJ was using its property to store and maintain tools, equipment, and materials associated with its contracting activities, and that that activity went well beyond that which could ever be rationally linked to an office use. Additionally, the Board ruled as a legal matter that "accessory use" is limited to office activity without regard to the nature of the underlying business to which the office activity relates.

THE ACTIVITY IN QUESTION

As indicated above, there were four days of testimony presented to the Board. Much of the testimony related to the nature and scope of the alleged activity involving storage yard activity. The property is approximately 1.79 acres. It is located at the intersection of Bowley's Quarters Road and Chestnut Road. It has frontage on both of those streets. As indicated above, the office use, and any accessory use thereto, are permitted by right because of the B.L. zoning.¹

¹ A small portion of the property is zoned RC 20, but that split zoning has no impact on this matter.

Petitioner purchased the property in 2009 and began using it for its corporate and administrative offices. The Company operates throughout the mid-Atlantic region. There are five buildings on the property. The front building closest to Bowley's Quarters Road is approximately 2,000 sq. ft. and serves as the main office. Approximately six to seven people work in that building. Their functions are what one typically associates with office activity: payroll, accounting, and other administrative white-collar tasks. The Company has approximately sixty other employees working on projects in the field. There is an additional 3,000 sq. ft. building which, according to Petitioner, contains an office, a bathroom and storage. There is a 400 sq. ft. building which Petitioners indicated is to be torn down, though that has not yet been done. There is also an 1,800 sq. ft. building which is similarly slated for demolition. Finally, there is an additional building in the back that Petitioner also stated was used for storage. There is a parking area between the office building and the street.

The Company's president, Mark Goloboski, testified that there is virtually no activity on the premises unrelated to what is commonly thought of as normal office activity. According to him, any trucks that go in and out are typically workers dropping off papers or picking up checks. There are no scrap materials left around, and nothing associated with concrete contracting is stored in any of the buildings. Mr. Goloboski testified that discarded rebar and concrete chunks on the perimeter of the property near an area of overgrown brush – depicted in photographs presented by Protestants -- were left over from the prior operation which was a restaurant and crab house.

Mitchell Kellman, a professional planner called by Petitioner, also testified that he saw no evidence of any activity other than office activity. His testimony, however, was not probative

on this point because he was only on the property twice for short periods of time and, by his own admission, did not look inside any of the buildings other than the office. He acknowledged that he largely relied on information obtained from Mr. Goloboski. Mr. Kellman also testified as an expert in zoning that "accessory use" of an office embraced uses related to the nature of the office's underlying business, in this case, concrete contracting. Therefore, according to Mr. Kellman, if there had been tools, equipment, and materials from the Company's contracting activities on the premises (which Mr. Kellman denied seeing), the presence of those items was lawful. The Board rejected this opinion as discussed in more detail *infra* at p. 13.

The Petitioner called two other witnesses, one local resident and one former employee, to support its argument that there were no appreciable activities on the property that exceeded normal office uses. As a factual matter, Petitioner's position was that the alleged storage activity was not occurring and the presence of any field workers or trucks was limited to employees driving to the site for brief interactions with office staff.

The Protestants called a stream of witnesses who lived in and around the area. One of these witnesses, Carl Rossmark, had kept a log over the course of months, which documented the construction related activity. Mr. Rossmark's log was composed of entries, which he, himself, heard and saw. He also took photographs of much of the activity and these photographs were introduced into evidence. Mr. Rossmark's testimony and the log that he presented document that the activity that was occurring was akin to that of a contractor's storage yard.² On the whole, the log and photographs were convincing evidence.

² Mr. Rossmark himself was a licensed contractor though clearly not on the Company's scale. Nonetheless, he does have enough firsthand familiarity with types of materials and equipment that typically characterize a contractor's storage yard so as to make his testimony particularly credible.

Another credible witness was Kenneth Brickell who has lived in his home for sixteen years. He is a direct neighbor of the Company. He cannot see the property through the trees in the summer, but he can in the winter. He is also close enough to hear the workers talking. He works for the Department of Homeland Security and United States Coast Guard, supervising maintenance of diesel equipment, and as such, he is familiar with all types of construction equipment. He testified that in the past three years, he has seen construction rubble, rebar, construction equipment, wooden forms for pouring concrete, and other such items routinely stored on the Company's site. He can hear trucks backing up and trailers being unloaded, most often around 5:30 to 6:00 a.m. or in the late afternoons, including Saturdays. The timing and volume of this activity belies any claim that the truck activity and delivery and storage activity is simply to replenish computer paper supplies or other office-related materials.

Other Protestants presented dozens of photographs and videos which showed the unpermitted activity as it occurred. *See e.g.* Testimony of Siu Cheung Rossmark. The property is within the boundaries of the Bowley's Quarter's Community Association (BQCA). Allen Robertson, zoning chairman of the BQCA testified on behalf of that community group. The BQCA opposed the Petition because, in its view, the Petition sought a ruling that would greatly expand commercial uses in B.L. zones, which are often, as in this instance, closely proximate to residences. Though serviced by public water and sewer, this area is outside the Urban Rural Demarcation Line (URDL), and the area is something of a delicate waterfront environment. This means, according to Mr. Roberts, that enhanced commercial activity (which, for example, can generate fuel-soaked runoff) can negatively impact the Chesapeake Bay. David Hash of the Bowley's Quarters Improvement Association also testified to the ongoing activity and the ever-

increasing construction equipment and storage activities that created unsightly and discordant conditions at what was a gateway to a large residential waterfront community.

Among Protestants' photographs were those showing the storage of materials like rebar and other rubble, as well as the routine use and operation of bobcats. The storage shed, which Petitioner stated was used essentially as a garage for antique cars, appeared to be a storage facility for equipment and materials, including those used to fabricate forms for concrete. Though Petitioner states that the various piles of discarded rebar and rubble were left over from the prior owner, the Board is unwilling to accept that claim. Not only is this the type of discarded material associated with concrete contracting and the appearance and quantity seemed to vary over time, but even more, it would mean that Petitioner let the rubble remain unattended since Petitioner acquired the property in 2009. It seems more likely that Petitioner discarded the rubble only to remove after the litigation commenced (and after Protestants were able to take photographs).

The Protestants' eyewitness evidence showed the activity occurring over a broad period of time, including deliveries of large equipment and materials, noise, and relocation of machinery — occurring on the property.³ Based on this collective testimony and the totality of the demonstrative evidence, including assessments of credibility by the factfinder, the Board easily concluded by a preponderance of the evidence that Petitioner was actively using the site for the fabrication and storage of materials and maintenance of equipment and tools used only in the underlying concrete contracting activities and not for the operation of its corporate offices at this

³ The Board knows from innumerable cases that the County zoning enforcement officials routinely instruct citizens to take photographs and keep diaries of activity to document possible zoning violations. No one enjoys this process. The picture taking in particular tends to aggravate the already strained relationships between neighbors. Given the County's limited resources for the investigation of these types of alleged violations, there is, unhelpfully, little alternative but for the concerned citizens to resort to that activity.

site. This factual conclusion resolves Petitioner's claim that it was not engaging in the activity.

LEGAL ANALYSIS

Because of how the Board resolves the factual question, the case then turns on the bare legal question of the meaning and scope of "accessory use." As stated above, Petitioner's position is that if it has engaged in that conduct, it is permitted to do so by right because the activity is an accessory use to an office where that office is the office of a concrete contractor. Protestants argue that that activity is, or is akin to, that which falls under the zoning categories of "Building Materials Storage and Sales Yard," "Construction Equipment Storage Yard," and/or "Contractor's Equipment Storage Yard," as those terms are defined in BCZR § 101.1. Whatever specific zoning classification may apply, Protestants' position is that the activity is not permitted as an accessory use to an office because office accessory uses relate only to, and are limited by, generic office activity without regard to the underlying business in which that office is engaged. In other words, rebar and bobcats cannot be routinely stored on the premises of an office whether the office is a concrete contractor's office or an accountant's office.

As indicated above, the MGJ property is zoned B.L. BCZR § 230.1.A.6. This section permits MGJ's office use by right. BCZR § 101.1 defines "Office" as a "building or portion of a building used for conducting the affairs of a business, profession, service, industry or government, including a medical office...." Building Materials Storage and Sales Yard," "Construction Equipment Storage Yard," and "Contractor's Equipment Storage Yard" are not permitted either by right or by special exception in a B.L. zone. BCZR §§ 230.1.A and 230.3. So, if MGJ is to conduct the activity in question here, it must do so as an accessory use.

"Accessory Use" is defined in BCZR § 101.1, in relevant part, as:

A use or structure which: (a) is customarily incident and subordinate to and serves a principal use or structure; (b) is subordinate in area, extent or purpose to the

principal use or structure; (c) is located on the same lot as the principal use or structure served; and (d) contributes to the comfort, convenience or necessity of occupants, business or industry in the principal use or structure served....An ancillary use shall be considered as an accessory use; however, a use of such a nature or extent as to be permitted as a "use in combination" (with a service station) shall be considered a principal use. ⁴ (emphasis supplied)

However broad an accessory use may be in general, § 230.1.A.11 indicates that an accessory use specifically permitted in a B.L. zone is, in relevant part, an accessory use "including signs... garages and parking spaces for the use of owners, employees, tenants, and invitees. A maximum of six coin-operated children's rides are permitted as an accessory use." These definitions provide the starting point for the analysis, and it would appear, as a first step, that the plain language of the operative sections of the BCZR preclude Petitioner's interpretation.

The language of the definition of "accessory use" in BCZR § 101.1 clearly establishes that its components are conjunctive, meaning all of the requirements must be met in order to conclude that a particular use is accessory. The language of § 230.1.A.11 does not add any additional dimension to the meaning of accessory use. It is a basic rule of statutory construction that the word "including" by itself typically is used to describe similar entries in a list. In this instance, the list of "signs, garages, and parking spaces" language of § 230.1.A.11 cannot be construed to embrace storage of construction equipment and materials. For our purposes, therefore, the activity in question here, *i.e.*, the storage of equipment, tools, and material for concrete contracting, must be customarily incident and subordinate in area or extent to the principal use as reflected in the BCZR § 101.1 definition of accessory use.

The principal use, of course, is that of an office, albeit for a concrete contractor. Common sense dictates that storage of equipment, materials, and tools is not "customarily incident to" an

⁴ Section 101.1, in a somewhat circular and rather unhelpful fashion, defines "Principal Use" as: "A main use of land, as distinguished from an accessory use."

office use *per se*. However, even using Petitioner's interpretation that the principal use is not simply "office," but rather is "concrete contractor's office," it is clear that the area utilized for the storage of equipment and materials is not subordinate or incidental to the concrete contractor's office use. The principal use is still that of an office, and even a concrete contractor's office is an office. In this instance, the scope of the so-called accessory use is far greater than what even a concrete contractor's office can justify. The testimony established that the materials and equipment that MJG was storing utilized a far larger geographic area than the office building. Additionally, the large garage building, by inference, was used as a storage facility for tools and equipment. This was a building at least as large as the office itself. It certainly was not "subordinate" to the principal use, *i.e.* office use. So even if "accessory use" could relate to the business in which the office was engaged – which the Board does not accept – the size and scope of MGJ's activity far exceeded that which an accessory use could justify. To use a cliché that was mentioned on several occasions throughout the hearing, it would be the tail wagging the dog.

Finally, in this same vein, the fabrication (here of forms for pouring concrete off site), storage of materials and maintenance of equipment and tools are uses that are associated with a use that is always occurring on a site different than the site on which the office is located. These activities are not a "use in combination." The language makes clear that under the BCZR, a permitted accessory use should relate to and support a permitted principal use (here, office use) that exists on the same property.

To accept the premise that the accessory use here could include the storage of equipment, tools and materials for concrete contracting so long as the scope is limited begs the ultimate legal question, for it would permit MGJ's storage activity but at a reduced level. This is not this Board's ruling. So, even though the Board found that the activity here exceeded the scope of an

accessory use even if accessory use means what Petitioner says it means, that is not the end of, or even necessary to, the Board's ultimate conclusion. The Board's ruling is broader than that: it is simply that where the principal use is that of an office, it is irrelevant to what business that office relates.

Going back to the regulatory scheme, the activity in question is the storage, whether inside or outside of a building, of building materials, construction equipment, machinery, landscaping equipment, and associated materials. As such, it fits within the definitions of "Building Materials Storage and Sales Yard," "Construction Equipment Storage Yard," and "Contractor's Equipment Storage Yard," as those terms are defined in § 101.1. As indicated above, none of those uses are permitted by right or by special exception in a B.L. zone. A Building Materials Storage Yard is permitted by right in the B.R. (Business Roadside) zone subject to setback requirements. A Contractor's Equipment Storage Yard is permitted in B.R. by special exception in. See BCZR § 236.1(C) and 236.2. Building Materials Storage Yard and Construction Equipment Storage Yard are permitted by right in the M.L. (Manufacturing Light) zone, and with some limitations, in the M.H. (Manufacturing Heavy) zone. See BCZR, §§ 253.1B.2 and 256.1A.3. That there are identifiable zones to which these uses are expressly designated strongly supports the conclusion that those uses are not deeply embedded as a right where some office is supporting an underlying business that stores and uses equipment, tools, building materials and the like. All of those zones permit offices by right. If accessory use is not related to the generic "office," but rather to the business in which the office is engaged, then all one would have to do is open an office in the zones which permit offices by right, have that office be associated with a business not otherwise permitted in the zone, and then claim that the area in which the office is located has become an area where a non-permitted use such as construction storage yard, a contractor's storage yard, or

a building materials storage yard is now permitted by right. This would then make the special exception designation for Contractor's Equipment Storage Yard in the B.R. zone superfluous and unnecessary. In the same light, the M.L. zone expressly permits offices by right. See § 253.1(A)(34). It separately permits, again by right, both building materials storage yards and construction equipment storage yards. §§ 253.1(B)(2) and (3). If those latter uses were office accessory uses, then those latter two sections authorizing those specific uses would be, similarly, completely superfluous. Why bother identifying something as a permitted use by right or by special exception when an office oriented to the type of business that would utilize that use solves the problem? So, beyond the plain meaning of the BCZR, the simple logic of the regulatory structure undermines Petitioner's argument.

The plain meaning of the provision and its context in the overall regulatory scheme dictate this result. *Comptroller of Md. V. John C. Louis, Inc.*, 285 Md. 527, 538-39 (1979). Therefore, the analysis above arguably resolves the entire question. Petitioner has, however, asserted a construction of the word "office" in the BCZR to embrace the business in which the office is engaged. This is an overly broad interpretation, which, as indicated in the preceding paragraph, conflicts with, makes superfluous, and/or makes illogical the presence of other definitions in the BCZR (e.g. Contractor Equipment Storage Yard), other declarations of uses by right, and other specifically denoted special exceptions. Merely because a party asserts a contrary meaning to a statute or regulation does not make the provision in question ambiguous. The assertion must be reasonable. *Tidewater/Havre de Grace, Inc. v. Mayor and City Council of Havre de Grace*, 337 Md. 338, 345 (1995) ("We are not, in short, at liberty to create an ambiguity where none otherwise exists."). Nonetheless, assuming *arguendo* that an ambiguity in the word "office" justifies a debate about the relationship of an accessory use to a principal office use, the

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interpretation by the agency charged with implementing that regulation is given great weight. *Md. Office of People's Counsel v. Public Service Commission*, 461 Md. 380, 393-94 (2018). In this instance, County Zoning Supervisor Carl Richards, who supervises the agency empowered to enforce the County zoning system, testified that storage of construction, building, and contractor's equipment and materials is not permissible as an adjunct to, or an accessory use of, an office. His agency has never permitted that practice to occur. The County Zoning Manual, which County employees use as a primary source for implementation of zoning requirements, supports this conclusion. See e.g. People's Counsel Exhibit 18. Mr. Richards could not have been more definitive. As to the relationship of accessory use to an office use, the Board can and does defer to his agency's interpretation.

Nothing said by Mitchell Kellman alters this conclusion. Mr. Kellman testified that "accessory use" is not limited to office activity but relates instead to the office's underlying business. This would mean, for example, that a concrete contractor with offices in center Towson, could first, use its parking area to store rebar, concrete chunks, bobcats, and other tools and equipment, and second, to move, stack, and arrange those materials with its bobcats and work crews throughout the course of the day. Indeed, Mr. Kellman conceded that very hypothetical. The Board views that conclusion as unsupported and without precedent. Moreover, he gave no sound explanation to justify the fact that the storage of equipment, tools, and material in this matter was to support activity occurring off-site. To accept Mr. Kellman's interpretation would turn the entire relationship of principal use and accessory use on its head. The fact that Petitioner's construction leads to an absurd result is yet one more factor supporting the Board's finding. *City of Bowie v. Prince George's County*, 384 Md. 413, 426 (2004). In short, there is

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simply no basis to conclude that, as a matter of law, an office accessory use relates to the underlying business in which the office is engaged as opposed to generic office activity.

CONCLUSION

Based on the information presented in the four days of hearings, the Board concludes as follows: (1) Petitioner's property at issue here has been and can continue to function as its office site for its concrete contracting business; (2) Petitioner has been utilizing its property to store materials, equipment, and tools for its concrete contracting operation; (3) the storage of materials, equipment, and tools for a concrete contracting business is not a permitted accessory use associated with an office as the principal use; and (4) even if the storage activity were a permitted accessory use, the activity in question far exceeds that which would be allowed as an accessory use.

ORDER

THEREFORE, IT IS THIS 14th day of December, 2020 by the Board of Appeals of Baltimore County

ORDERED that, for the reasons stated in its Opinion of this date, it is not a lawful or permitted accessory use to a principal office use for Petitioner to store materials, equipment, and tools for its concrete contracting business at the subject property, 1101 Bowley's Quarters Road; and it is further

ORDERED that an accessory use of an office permits activities that are related to general office functioning and not to the underlying business to which the office relates; and it is further

ORDERED that the Petition for Special Hearing seeking a determination that the storage of materials, equipment, and tools at the subject property as an accessory use is hereby DENIED.

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ORDERED that an accessory use of an office permits activities that are related to general office functioning and not to the underlying business to which the office relates; and it is further

ORDERED that the Petition for Special Hearing seeking a determination that the storage of materials, equipment, and tools at the subject property as an accessory use is hereby **DENIED**.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

**BOARD OF APPEALS
OF BALTIMORE COUNTY**


Andrew M. Belt, Panel Chair

see following page
Deborah C. Dopkin

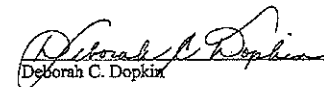
see following page
Joseph L. Evans

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Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

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Board of Appeals of Baltimore County

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December 14, 2020

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RE: In the Matter of: *MGJ Properties, LLC*
Case No.: 18-342-SPH

Dear Counsel:

Enclosed please find a copy of the final Opinion and Order issued this date by the Board of Appeals of Baltimore County in the above subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **WITH A PHOTOCOPY PROVIDED TO THIS OFFICE CONCURRENT WITH FILING IN CIRCUIT COURT.** Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Sunny Cunningham
Krysundra "Sunny" Cunningham
Administrator

KLC/taz
Enclosure
Multiple Original Cover Letters

c: See Distribution List following