



JOHN A. OLSZEWSKI, JR.
County Executive

MAUREEN E. MURPHY
Chief Administrative Law Judge
ANDREW M. BELT
Administrative Law Judge
DEREK J. BAUMGARDNER
Administrative Law Judge

December 11, 2024

Jason Vettori, Esquire – jvettori@sgs-law.com
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204

RE: Petitions for Special Hearing, Variance, FloodPlain Management Variance
Case No. 2024-0235-SPHAFPM
Property: 6092 and 6100 Falls Road

Dear Mr. Vettori:

Enclosed please find a copy of the decision rendered in the above-captioned matter.

Pursuant to Baltimore County Code § 32-3-401(a), “a person aggrieved or feeling aggrieved” by this Decision and Order may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Office of Administrative Hearings at 410-887-3868.

Sincerely,

A handwritten signature in blue ink, appearing to be "DJB", with a long horizontal line extending to the right.

DEREK J. BAUMGARDNER
Administrative Law Judge
for Baltimore County

DJB:dlm
Enclosure

c: *See Next Page*

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IN RE: PETITIONS FOR SPECIAL HEARING, *	BEFORE THE
VARIANCE & FLOODPLAIN	
MANAGEMENT VARIANCE *	OFFICE OF
(6092, 6100 Falls Road)	
9 th Election District *	ADMINISTRATIVE HEARINGS
2 nd Council District	
Cotton Duck Brewing, LLC *	FOR BALTIMORE COUNTY
Legal Owners	
Case No. 2024-0235-SPHAFPM *	
Petitioner	
* * * * *	* * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for consideration of Petitions for Special Hearing, Variance and Floodplain Management Variance filed on behalf of Cotton Duck Brewing, LLC (“Petitioner”), owner of the property located at 6092 & 6100 Falls Road (the “Property”). The Petition for Special Hearing requests approval of off-street parking for the proposed Class 7 Brewery under Baltimore County Zoning Regulations (“BCZR”), Section 409.6.A, and a modified parking plan pursuant to BCZR, Section 409.12. Variance relief is requested pursuant to BCZR, Section 409.6.A.2, to permit 66 off-street parking spaces in lieu of the minimum required 78 spaces for a restaurant and from BCZR, Section 235.1, to permit a building 1 ft. from the front property line in lieu of 15 ft. and 24.4 ft. from the centerline of the street in lieu of 40 ft. Lastly, a Floodplain Management Variance is requested pursuant to Baltimore County Code (“BCC”) Sections 32-8-201(ee), 32-8-201(sss), 32-8-502, 38-8-503 & 32-8-701, *et. seq.*, to permit grading and paving within the designated floodway and a flood protection setback of 0 ft. in lieu of 20 ft. from the special flood hazard area for the principal structure, grading and paving, and for such other and further relief as may be deemed necessary by the Administrative Law Judge (“ALJ”) for Baltimore County.

A public hearing was conducted on November 18, 2024, using the virtual hearing platform

WebEx in lieu of an in-person hearing. The Petition was properly advertised and posted. Christopher Paternotte, authorized representative for Cotton Duck Brewing, LLC, appeared and gave testimony in support of the Petition. John Motsco, a licensed engineer and land planner from D.S. Thaler & Associates, LLC, also appeared and gave testimony in support of the Petition. Petitioner was represented by Jason T. Vettori, Esq. of Smith, Gildea & Schmidt, LLC. Several community members appeared and gave testimony regarding the Petition. Subject to requested conditions of approval, community members did not oppose the requested relief. The file also contains written testimony from other community members not in attendance.

Petitioner submitted the following exhibits which were received and admitted into evidence: (1) Site Plan; (2) SDAT printout(s) for Cotton Duck Brewing properties; (3) GIS My Neighborhood; (4) Declaration & Agreement (JLE 46988, pp. 485-497); (5) Bill No. 10-22; (6) Preliminary Architectural Plan for Cotton Duck Brewing; (7) Traffic Report; (8) CV John Motsco; (9) BCC Section 32-4-414 (repealed); (10) DPW Design Manual Pate DF-1 Redlined; (11) Site photographs; (12) FEMA map (north of property); (13) FEMA map (subject property); (14) FEMA map (south of property); and (15) email with DPWT re: ZAC comment. The following Zoning Advisory Committee (“ZAC”) comments were received from county agencies: (1) Department of Planning (“DOP”); (2) Department of Environmental Protection & Sustainability (“DEPS”); (3) Development Plans Review (“DPR”) for DPR, Department of Public Works & Transportation (“DPWT”) & Rec & Parks (“R&P”). Subject to certain conditions, county agency comments do not indicate objection to the relief requested.

Findings of Fact

The Property is comprised of four parcels with a total land area of 11,773 sq. ft. The Property is improved with an unoccupied single-family dwelling fronting on Falls Road and a

commercial garage with a gravel surface parking area in the rear of the lot with prior authorized use as a contractor's storage yard. *See* Petitioner's Exhibit 11; *see also* County Exhibit 2. The property is split-zoned BM/DR-2 and the intended use of the lot as a Class 7 brewery is permitted by right. *See* Petitioner's Exhibit 3; BCZR §233.1. The property is located within the boundaries of the Ruxton-Riderwood-Lake Roland Community Plan Area and is subject to the provisions set forth in BCZR §233.2.E. *See* County Exhibit 1. The property lies adjacent to the Jones Falls river and occupies the riverine floodplain with vehicular and pedestrian access underneath the Falls Road overpass via Lakeside Drive. This portion of Lakeside Drive shares access to the Falls Road light rail stop and parking area of the Maryland Transit Administration's Baltimore Light RailLink (commonly referred to as Light Rail) as well as Lake Roland Park, a public park managed by the Baltimore County Department of Recreation & Parks. The Baltimore County Council enacted Bill 10-2022 to support the proposed development.

Mr. Paternotte, a principal of Cotton Duck Brewing LLC, described the property and testified to the current use of the Property, the proposed brewery and restaurant operation including the layout, scope, hours of operation, staffing, and planned improvements to the site. Mr. Paternotte further testified to the extensive outreach and collaboration with the community, occurring over several years, which resulted in the successful preparation and execution of a restrictive covenant with the Ruxton-Riderwood-Lake Roland Community recorded in Baltimore County Land Records at JLE 46988, pp. 485-497. *See* Petitioner's Exhibits 2, 3, 4 and 6. All parties testified to the positive working relationship between Petitioner and the surrounding community.

Mr. Motsco, a licensed professional civil engineer with D.S. Thaler & Associates, LLC, was accepted as an expert in civil engineering and land planning and testified to the zoning standards, flood plain regulation requirements, design and topography of the site, and the impacts

of both the riverine floodplain on the proposed improvements, and the impacts of the strict application of the zoning and floodplain regulations on those improvements. *See* Petitioner's Exhibits 1, 3 & 11.

At the direction of counsel, Mr. Motsco reviewed the project through the BCZR regulations with respect to the Special Hearing and variance relief requested under the Petition as well as the Floodplain Management regulations codified under the Baltimore County Code. Mr. Motsco confirmed in the affirmative that the project complies or satisfies the standards enumerated under BCZR and BCC Section 32, Title 8 in all respects.

In summary, Mr. Motsco testified that the off-street parking requirements prescribed for a Class 5 Brewery (Article 4E) for the proposed Class 7 Brewery were more appropriate given the property's size and configuration as well as the limited operation of the proposed brewery at this site. Mr. Motsco stated that the resulting modified parking plan as illustrated on the Site Plan was sufficient to safely park the site and would not lead to vehicles parking legally or illegally off-site on neighboring commercial lots or residential streets. Mr. Motsco further stated that the property satisfies the variance standards for the reduced number of 66 off-street parking in lieu of the required 78 spaces for the restaurant, as a significant portion of the floor plan of the brewery was devoted to brewery operations and not to floor place for diners and patrons. Further, with respect to building setbacks, the property's configuration and shape are unique and restricted by the floodplain setbacks on the rear of the property and the State Highway Administration ("SHA") easements along Falls Road accompanying the Falls Road bridge, creating a practical difficulty in complying with both building setback regulations fronting Falls Road and floodplain regulations impacting the rear of the property. Lastly, Mr. Motsco stated that the project also satisfies the standards enumerated under BCC §§ 32-8-701, 32-8-703, and 32-8-704 for the granting of a

floodplain management variance. Mr. Motsco testified that the only improvement proposed in the floodplain are surface parking areas in which only minimal grading will be performed to improve the parking areas without altering the grade or slope of the site. No buildings or structures are proposed and so both property damage and public safety are not at risk from the grant of this variance. Further, Mr. Motsco testified that because of the nature and slope of the lot, if riverine flooding were to occur it would be dispersed laterally throughout the site thus mitigating any accumulated rise. The property's unique shape, topographical features, slope, and proximity to the Falls Road bridge and associated encumbrances make it unique and denying the proposed variances would result in exceptional hardship for the Petitioner as they would be unable to develop the property at all given the restrictions imposed by the building setback and floodplain requirements.

Petitioner also submitted a traffic report prepared by Lenhart Traffic Consulting, Inc. That report concluded that the redevelopment of the site will have a negligible impact on traffic operations in the vicinity of the site. *See* Petitioner's Exhibit 7.

Several members of the Ruxton-Riderwood-Lake Roland Community Association appeared in support of the Petition. Of those members, the following individuals provided testimony at the hearing: James Cahn, Jeffrey Budnitz, and Patrick McCormack. Community members confirmed the execution and recordation of a restrictive covenant between Petitioner and the Association with agreed to terms including, but not limited to, brewery operations, hours of operation, and sound, among other provisions. *See* Petitioner's Exhibit 4. Representatives of the Association provided testimony on the history and physical contours of the site as well as detailing the collaboration with Petitioner in successfully preparing and executing a restrictive covenant. This collaboration resulted in gaining the Association's support of the Petition. Community

members testified that the proposed development would provide a significant enhancement to the community.

Conclusions of Law

SPECIAL HEARING

The Petition requests approval of off-street parking depicted on the Site Plan for the proposed Class 7 Brewery under Baltimore County Zoning Regulations (“BCZR”), Section 409.6.A, being sufficient for the proposed use, with such parking areas constituting a modified parking plan pursuant to BCZR, Section 409.12. A hearing to request special zoning relief is proper under BCZR, §500.7 as follows:

The said Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall, in his discretion, be necessary for the proper enforcement of all zoning regulations, subject to the right of appeal to the County Board of Appeals as hereinafter provided. The power given hereunder shall include the right of any interested person to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any purported nonconforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they are affected by these regulations.

"A request for special hearing is, in legal effect, a request for a declaratory judgment." *Antwerpen v. Baltimore County*, 163 Md. App. 194, 877 A.2d 1166, 1175 (2005). And, “the administrative practice in Baltimore County has been to determine whether the proposed Special Hearing would be compatible with the community and generally consistent with the spirit and intent of the regulations.” *Kiesling v. Long*, Unreported Opinion, No. 1485, Md. App. (Sept. Term 2016).

Petitioner testified that parking for the proposed use is more akin to vehicle parking for a Class 5 Brewery under Article 4E because of the particular operation of the brewery/taproom proposed. The modified parking plan as proposed on the Site Plan (Petitioner’s Exhibit 1) mirrors

the existing surface parking in area and location, but with surface, striping, and ADA improvements to comply with current county regulations for paving, materials, and ADA access.

Upon consideration of this record, I find that granting Special Hearing relief to approve off-street parking for the proposed use pursuant to the modified parking plan as illustrated on the Site Plan would be compatible with the community and generally consistent with the spirit and intent of the regulations.

OFF-STREET PARKING & SETBACK VARIANCE(S)

The Petition also requests variance relief from BCZR, §409.6.A.2, to permit 66 off-street parking spaces in lieu of the minimum required 78 spaces for a restaurant, and from BCZR, §235.1, to permit a building 1 ft. from the front property line in lieu of 15 ft. and 24.4 ft. from the centerline of the street in lieu of 40 ft. Pursuant to BCZR § 307.1, "...the [Administrative Law Judge] shall have ...the power to grant variances from height and area regulations, from off-street parking regulations, and from sign regulations only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, off-street parking or sign regulations, and only in such manner as to grant relief without injury to public health, safety and general welfare...". A variance request involves a two-step process, summarized as follows:

- (1) It must be shown the property is unique in a manner which makes it unlike surrounding properties, and that uniqueness or peculiarity must necessitate variance relief; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

Cromwell v. Ward, 102 Md. App. 691 (1995).

Petitioners have met their burden in demonstrating that the subject property is unique due to its shape, location, topography, and existing improvements. Moreover, the Property is impacted by floodplain regulations on its western boundary and frontage along a busy state road with accompanying ROW easements on its eastern boundary which significantly restrict the buildable areas on the site. For these reasons, I find that this property is unique and that special circumstances or conditions exist that are peculiar to this property.

The Site Plan and accompanying floor plans show the brewery/taproom to have limited table space for the restaurant/taproom use, with square footage for brewery operations taking up a large percentage of the floor plan. *See* Petitioner's Exhibits 1 & 6. For this reason, the parking proposed to serve patrons is less intensive than if the restaurant use predominated, which would alternatively create a need to provide additional off-street parking for dining/taproom patrons. The property is sandwiched between a waterway to the west (Jones Falls) and Falls Road to the east, creating setbacks and buffers on either side where strict compliance with one encroaches on the requirements of the other. This unique situation creates a practical difficulty in complying with the strict requirement of either BCZR setback regulations or BCC flood plain regulations. Therefore, I find that strict compliance with the Zoning Regulations for Baltimore County with respect to parking requirements and building setbacks would result in practical difficulty.

Further, for the reasons stated above, I also find that the requested variance relief can be granted in strict harmony with the spirit and intent of BCZR and without injury to the health, safety or general welfare. The proposed building replaces an existing structure and its unusual location at Lakeside but visually fronting on, but with no direct access to, Falls Road does not injure the health, safety or general welfare of the public.

FLOODPLAIN MANAGEMENT VARIANCE

Lastly, Petitioner requests approval to permit grading and paving within the designated floodway and a flood protection setback of 0 ft. in lieu of 20 ft. from the special flood hazard area for the principal structure. The only proposed development within the floodplain are improvements to the existing off-street surface parking lot to serve the brewery/taproom. No structures are proposed in the floodplain.

Pursuant to BCC § 32-8-701(a), the Administrative Law Judge shall have the power to consider and authorize or deny variances from the strict application of the requirements of Baltimore County Floodplain Management Provisions. A variance shall be approved only if it is determined to not be contrary to the public interest and where, owing to special conditions of the lot or parcel, a literal enforcement of the requirements of these provisions, an unnecessary hardship would result. "Upon consideration of the purposes of these Floodplain Management Provisions, the individual circumstances, and the considerations and limitations of this section, the Administrative Law Judge may attach such conditions to variances as they deem necessary to further the purposes of these provisions." BCC § 32-8-701(b).

Pursuant to BCC § 32-8-703, in considering variance applications, the Administrative Law Judge shall consider and make findings of fact on all evaluations, all relevant factors, requirements specified in other sections of the Floodplain Management Provisions, and the following factors:

- (a) The danger that materials may be swept onto other lands to the injury of others.
- (b) The danger to life and property due to flooding or erosion damage.
- (c) The susceptibility of the proposed development and its contents (if applicable) to flood damage and the effect of such damage on the individual owner.
- (d) The importance of the services to the community provided by the proposed development.
- (e) The availability of alternative locations for the proposed use which are not subject to, or are subject to less, flooding or erosion damage.

- (f) The necessity to the facility of a waterfront location, where applicable, or if the facility is a functionally dependent use.
- (g) The compatibility of the proposed use with existing and anticipated development.
- (h) The relationship of the proposed use to the comprehensive plan and hazard mitigation plan for that area.
- (i) The safety of access to the property in times of flood for passenger vehicles and emergency vehicles.
- (j) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
- (k) The costs of providing government services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- (l) The comments provided by MDE (NFIP State Coordinator).

Lastly, pursuant to BCC § 32-8-704, the Administrative Law Judge shall make an affirmative decision on a variance request only upon:

- (a) A showing of good and sufficient cause. Good and sufficient cause deals solely with the physical characteristics of the property and cannot be based on the character of the improvement, the personal characteristics of the owner/inhabitants, or local provision that regulate standards other than health and public safety.
- (b) A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the property. Increased cost or inconvenience of meeting the requirements of these Floodplain Management Provisions does not constitute an exceptional hardship to the applicant.
- (c) A determination that the granting of a variance for development within any designated floodway, or flood hazard area with base flood elevations but no designated floodway, will not result in increased flood heights beyond that which is allowed in these Floodplain Management Provisions.
- (d) A determination that the granting of a variance will not result in additional threats to public safety; extraordinary public expense, nuisances, fraud or victimization of the public, or conflict with existing local laws.
- (e) A determination that the building, structure or other development is protected by methods to minimize flood damages.
- (f) A determination that the variance is the minimum necessary to afford relief, considering the flood hazard.

Upon consideration of this record including the credible testimony of Petitioner's engineer, Mr. Motsco, I find there is minimal danger that materials may be swept onto other lands to the injury of others. I further find there is minimal danger to life and property due to flooding or

erosion damage at this location and there is minimal susceptibility of the proposed development to flood damage and the effect of such damage on the individual owner would be minimal given the nature of the improvements. I find that the proposed use provides a service to the community and the availability of alternative locations for the proposed use which are not subject to, or are subject to less, flooding or erosion damage are not available on this site. The development is not functionally dependent on a waterfront location but nevertheless is compatible with this location given the nature of the proposed development on this site is for surface parking areas only. The proposed use is compatible with existing and anticipated development in the area and the proposed use is compatible with the comprehensive plan and hazard mitigation plan for this area. In addition, access to the property in times of flood for passenger vehicles and emergency vehicles is located outside of the floodplain area and is therefore safe and adequate to serve the property and proposed use. Further, pursuant to Mr. Motsco's testimony, the expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action are not expected to subject the property to increase risks to persons or property. The minimal development proposed of surface parking in the floodplain does not aggravate any costs of providing government services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges. Lastly, any comments provided by MDE (NFIP State Coordinator) are included as conditions of approval as stated below.

Pursuant to BCC § 32-8-704, I find good and sufficient cause to grant the requested floodplain management variance based upon a consideration of the proposed development's impacts on health and public safety. The proposed off-street surface parking area will not pose a danger to health or public safety. A failure to grant the variance requested would result in exceptional hardship due to the physical characteristics of the property as the existing parking lot

is located in the floodplain, off-street parking is required to serve the proposed use, and the improvements to the parking area trigger floodplain management compliance. Further, the granting of this variance will not result in increased flood heights beyond that which is allowed in the Floodplain Management Provisions. The granting of this variance will not result in additional threats to public safety, extraordinary public expense, nuisances, fraud or victimization of the public, or conflict with existing local laws. Further, the development proposed of a surface parking area is protected by methods to minimize flood damages by its design and through best practices as conditioned below. Lastly, the variance requested is the minimum necessary to afford relief, considering the actual flood hazards presented by the Jones Falls at this location.

For all the reasons stated above, I find that granting this floodplain management variance is not contrary to the public interest and where, owing to special conditions of the lot or parcel, a literal enforcement of the requirements of these provisions, an unnecessary hardship would result.

THEREFORE, IT IS ORDERED this 11th day of **December, 2024**, by this Administrative Law Judge, that the Petition for Special Hearing to approve the number of spaces to be provided for the Brewery, Class 7, under Baltimore County Zoning Regulations (“BCZR”), Section 409.6.A, and a modified parking plan pursuant to BCZR, Section 409.12, be and is hereby, **GRANTED**; and

IT IS FURTHER ORDERED that the Variance from BCZR, Section 409.6.A.2, to permit 66 off-street parking spaces in lieu of the minimum required 78 for a restaurant and from BCZR, Section 235.1, to permit a building 1 ft. from the front property line in lieu of 15 ft. and 24.4 ft. from the centerline of the street in lieu of 40 ft., be and is hereby, **GRANTED**; and

IT IS FURTHER ORDERED, that the Floodplain Management Variance pursuant to Baltimore County Code (“BCC”) Sections 32-8-201(ee), 32-8-201(sss), 32-8-502, 38-8-503 & 32-

8-701, et. seq., to permit grading and paving within the designated floodway and a flood protection setback of 0 ft. in lieu of 20 ft. from the special flood hazard area for the principal structure, be and is hereby **GRANTED**.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at their own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition;
2. Petitioner shall apply best practices for stormwater and floodwater drainage for any improvements to the existing surface parking areas to accommodate and mitigate any high-volume water events. Such best practices may include, but are not limited to, materials, devices, or other means to effectively disperse or treat water to minimize risks to persons or property on site;
3. Petitioner shall comply with development requirements moving forward from county agencies as indicated in the attached ZAC comments from Planning, DPR, DPWT, and DEPS. Further approvals from those agencies are not required as part of this approval as this approval is limited to zoning and floodplain management variance review, but remain subject to county approval prior to final permit; and
4. The Declaration & Agreement with the Ruxton-Riderwood-Lake Roland Community recorded in Baltimore County Land Records at JLE 46988, pp. 485-497, or as amended by the parties or by successors in interest, is hereby incorporated but not merged into this approval.

Any appeal of this decision must be filed within thirty (30) days of the date of this Order.


DEREK J. BAUMGARDNER
Administrative Law Judge
for Baltimore County

DJB:dlm

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Peter Gutwald, Director
Department of Permits, Approvals

DATE: October 31, 2024

FROM: Vishnu Desai, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
Case 2024-0235-SPHAFPM

The Bureau of Development Plans Review has reviewed the subject zoning items and we have the following comments.

DPR: Petitioner must demonstrate how they have met the requirements of BCC 32-8-703.

DPW-T: A) Awaiting Traffic Engineering's review.
B) An ultimate land use conditions riverine flood study meeting the Baltimore County Department of Public Works and Transportation (DPWT) Design Manual and the Baltimore County Department of Permits, Approvals and Inspections (PAI) Bureau of Development Plans Review Policy Manual is required and must be submitted to PAI to be "Accepted for Filing". The applicant may be required to apply for a Zoning Hearing with the Administrative Law Judge to obtain a waiver to Baltimore County Code 32-4-414 and 32-8. The proposed structure must also meet DPWT Design Manual Plate DF-1.

Landscaping: If Special Hearing and / or Zoning Relief is granted a Landscape Plan is required per the Baltimore County Landscape Manual and a Lighting Plan is also required.

Recreations & Parks: No comment LOS & "Jones Falls" is a Recreational Greenways – Need to confirm presences of and or lack of on Subject Property. The Recreational Greenways shall be to the limits of the 100-year floodplain or the wetlands or forest buffer, whichever is greater.

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



TO: Hon. Maureen E. Murphy; Chief Administrative Law Judge
Office of Administrative Hearings

FROM: Jeff Livingston, Department of Environmental Protection and
Sustainability (EPS) - Development Coordination

DATE: October 31, 2024

SUBJECT: DEPS Comment for Zoning Item # 2024-0235-SPHAFPM
Address: 6092, 6100 FALLS ROAD
Legal Owner: Cotton Duck Brewing, LLC

Zoning Advisory Committee Meeting of October 28, 2024.

X The Department of Environmental Protection and Sustainability offers the following comments on the above-referenced zoning item:

- X Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).
- X Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).

Additional Comments:

Proposed impacts to the forest buffer may require an approved forest buffer variance prior to any permit approvals (Floodplain Management Variance Request #1)

Reviewer: Art Y. Garcia



PETITION FOR PUBLIC HEARING(S)

To be filed with the Department of Permits, Approvals and Inspections
To the Office of Administrative Hearings for Baltimore County for the property located at:

Address 6092 & 6100 Falls Road Currently Zoned BM & DR 2
Deed Reference 47827 / 00440 10 Digit Tax Account # 0909300010, 0909300021, 0909300020 & 1900008180
Owner(s) Printed Name(s) Cotton Duck Brewing, LLC

(SELECT THE HEARING(S) BY MARKING X AT THE APPROPRIATE SELECTION(S) AND ADDING THE PETITION REQUEST)

The undersigned, who own and occupy the property situate in Baltimore County and which is described in the plan/plat attached hereto and made a part hereof, hereby petition for an:

1. ☒ **a Special Hearing** under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

Please see attached

2. ☐ **a Special Exception** under the Zoning Regulations of Baltimore County to use the herein described property for

3. ☒ **a Variance** from the Zoning Regulations of Baltimore County Section(s)

Please see attached

4. ☒ **a Floodplain Management Variance** from Baltimore County Code Section(s)

Please see attached

for the following reasons: (For Variance items 3 or 4 above, indicate below what is unique about your property resulting in hardship or practical difficulty or indicate below "TO BE PRESENTED AT HEARING". If you need additional space, you may add an attachment to this petition and indicate "SEE ATTACHED" below)

TO BE PRESENTED AT HEARING

Property is to be posted and advertised as prescribed by the Zoning Regulations or County Code.

I/ we agree to pay expenses of above petition(s), advertising, posting, etc. and further agree to be bound by the Zoning Regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County or bound by the Floodplain Management laws of the Baltimore County Code.

Legal Owner(s) Affirmation: I / we do so solemnly declare and affirm, under the penalties of perjury, that I / We are the legal owner(s) of the property which is the subject of this / these Petition(s).

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Attorney for Petitioner:

Jason T. Vettori

Name - Type or Print

Signature

600 Washington Ave., Ste 200 Towson MD

Mailing Address City State

21204 / (410) 821-0070 / jvettori@sgs-law.com

Zip Code Telephone # Email Address

Legal Owners (Petitioners):

Christopher Paternotte, Authorized Representative of Cotton Duck Brewing, LLC

Name #1 - Type or Print

Name #2 - Type or Print

Signature #1

Signature #2

1014 West 36th Street

Baltimore

MD

Mailing Address

City

State

21211 / 410-978-2223

christopher@cottonduckbrewing.com

Zip Code

Telephone #'s (Cell and Home)

Email Address

Representative to be contacted:

Jason T. Vettori

Name - Type or Print

Signature

600 Washington Ave., Ste 200

Towson

MD

Mailing Address

City

State

21204 / (410) 821-0070

jvettori@sgs-law.com

Zip Code

Telephone #

Email Address

Case Number 2024-0235-SPHAFMA Filing Date 10 / 8 / 2024 Do Not Schedule Dates Reviewer JK

ATTACHMENT TO PETITION FOR ZONING HEARING

6092 & 6100 Falls Road

Case No.: 2024-_____-SPHA

(Tax ID Nos. 0909300010, 0909300021, 0909300020 & 1900008180)

2nd Councilmanic District

9th Election District

Special Hearing relief to approve:

1. The basis of the number of spaces to be provided for the Brewery, Class 7 under BCZR § 409.6.A (similar to a Class 5 Brewery (Article 4E)); and
2. A modified parking plan pursuant to Section 409.12 of the BCZR; and
3. For such other and further relief as may be deemed necessary by the Administrative Law Judge ("ALJ") for Baltimore County.

Variance relief from Section(s):

1. 409.6.A.2 of the BCZR to permit 66 off-street parking spaces in lieu of the minimum required 78 for a Restaurant; and
2. 235.1 of the BCZR to permit a building 1 foot from the front property line in lieu of 15 feet and 24.4 feet from the center line of the street in lieu of 40 feet; and
3. For such other and further relief as may be deemed necessary by the ALJ for Baltimore County.

Floodplain Management Variance pursuant to BCC Section(s):

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September 03, 2024

ZONING DESCRIPTION

COTTON DUCK BREWING

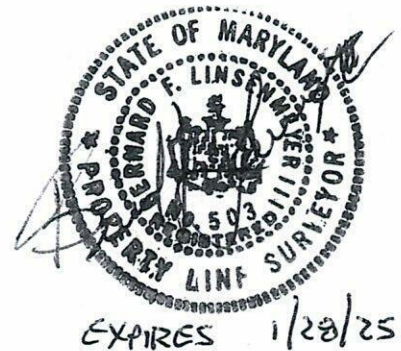
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**DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS
ZONING REVIEW OFFICE**

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For Newspaper Advertising:

Case Number: 2024-0235-SPHFMA
Property Address: 6092 & 6100 Falls Road
Legal Owners (Petitioners): Cotton Duck Brewing, LLC
Contract Purchaser/Lessee: _____

PLEASE FORWARD ADVERTISING BILL TO:

Name: Company/Firm (if applicable): Christopher Patemotte
Address: Cotton Duck Brewing, LLC
1014 West 36th Street
Baltimore, MD 21211
Telephone Number: christopher@cottonduckbrewing.com or 410-978-2223

*Failure to advertise and/or post a sign on the property within the designated time will result in the Hearing request being delayed. The delayed Hearing Case will be cycled to the end of pending case files and rescheduled in the order that it is received. Also, a \$250.00 rescheduling fee may be required after two failed advertisings and/or postings.

Revised 3/2022

Jesse Krout

From: Jason Vettori <jvettori@sgs-law.com>
Sent: Wednesday, September 18, 2024 9:48 AM
To: Jesse Krout
Cc: John Motsco (jmotsco@dsthaler.com)
Subject: RE: FLOODPLAIN MANGAEMENT VARIANCE WORDING AND PETITION FORM
Attachments: Petition Package Filed 9.5.24.PDF

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Jason T. Vettori
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
jvettori@sgs-law.com | www.sgs-law.com

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From: Jesse Krout <jkrout@baltimorecountymd.gov>
Sent: Tuesday, September 17, 2024 3:54 PM
To: Jason Vettori <jvettori@sgs-law.com>
Subject: FW: FLOODPLAIN MANGAEMENT VARIANCE WORDING AND PETITION FORM

Please be advised



PETITION FOR PUBLIC HEARING(S)

To be filed with the Department of Permits, Approvals and Inspections
To the Office of Administrative Hearings for Baltimore County for the property located at:

Address 6092 & 6100 Falls Road Currently Zoned BM & DR 2
Deed Reference 47827 / 00440 10 Digit Tax Account # 0909300010, 0909300021, 0909300020 & 1900008180
Owner(s) Printed Name(s) Cotton Duck Brewing, LLC

(SELECT THE HEARING(S) BY MARKING X AT THE APPROPRIATE SELECTION(S) AND ADDING THE PETITION REQUEST)

The undersigned, who own and occupy the property situate in Baltimore County and which is described in the plan/plat attached hereto and made a part hereof, hereby petition for an:

1. ☒ **a Special Hearing** under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

Please see attached

2. ☐ **a Special Exception** under the Zoning Regulations of Baltimore County to use the herein described property for

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Please see attached

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Legal Owner(s) Affirmation: I / we do so solemnly declare and affirm, under the penalties of perjury, that I / We are the legal owner(s) of the property which is the subject of this / these Petition(s).

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Attorney for Petitioner:

Jason T. Vettori

Name - Type or Print

Signature

600 Washington Ave., Ste 200 Towson MD

Mailing Address City State

21204 / (410) 821-0070 / jvettori@sgs-law.com

Zip Code Telephone # Email Address

Legal Owners (Petitioners):

Christopher Paternotte, Authorized Representative of Cotton Duck Brewing, LLC

Name #1 - Type or Print

Name #2 - Type or Print

Signature #1

Signature #2

1014 West 36th Street

Baltimore

MD

Mailing Address

City

State

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Telephone #'s (Cell and Home)

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Case Number 2024-0235-SPHAFMA Filing Date 10 / 8 / 2024 Do Not Schedule Dates Reviewer JK

ATTACHMENT TO PETITION FOR ZONING HEARING

6092 & 6100 Falls Road

Case No.: 2024-_____-SPHA

(Tax ID Nos. 0909300010, 0909300021, 0909300020 & 1900008180)

2nd Councilmanic District

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Special Hearing relief to approve:

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September 03, 2024

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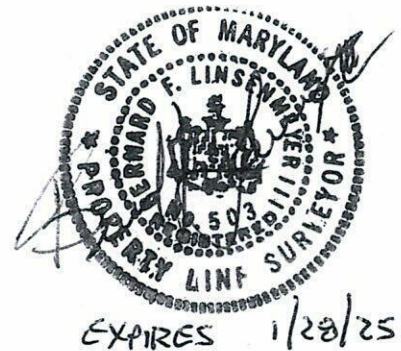
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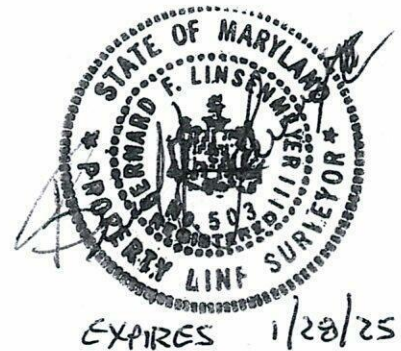
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Sent: Tuesday, September 17, 2024 3:54 PM
To: Jason Vettori <jvettori@sgs-law.com>
Subject: FW: FLOODPLAIN MANGAEMENT VARIANCE WORDING AND PETITION FORM

Please be advised

CERTIFICATE OF POSTING

ATTENTION: KRISTEN LEWIS

DATE: 10/27/2024

Case Number: 2022-0235-SPHAFPM

Petitioner / Developer: JASON VETTORI, ESQ. ~
COTTON DUCK BREWING, LLC

Date of Hearing: NOVEMBER 18, 2024

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at:
6092, 6100 FALLS ROAD

The sign(s) were posted on: OCTOBER 27, 2024

ZONING HEARING

The Administrative Law Judge of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a hearing virtually via WebEx, and/or in-person upon request (see below) for the Property identified herein as follows:

CASE # 2024-0235-SPHAFPM
6092, 6100 FALLS ROAD
W/side of Falls Rd., N/side of West Lake Ave.
Council District: 2, Election District: 9
Legal Owner: Cotton Duck Brewing, LLC

PETITION REQUEST: SPECIAL HEARING:
To approve the number of spaces to be provided for the Brewery, Class 7, under Baltimore County Zoning Regulations ("BCZR"), Section 409.6A (similar to a Class 5 Brewery (Article 4E) and a modified parking plan pursuant to BCZR.

Hearing Date: Monday, November 18, 2024 - 1:30 PM

If an in-person hearing has been requested in writing and granted, the hearing location is: The Jefferson Building, 105 W. Chesapeake Ave., Hearing Room 205, Towson, MD 21204. Please contact the Office of Administrative Hearings a few days prior to the hearing to confirm the hearing format at the phone number or email address shown below.

Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103 / Towson, Maryland 21204 / Phone 410-887-3868, ext.0
Email: administrativehearings@baltimorecountymd.gov

HANDICAPPED ACCESSIBLE

SIGN #1

Linda O'Keefe

(Signature of Sign Poster)

Linda O'Keefe

(Printed Name of Sign Poster)

523 Penny Lane

(Street Address of Sign Poster)

Hunt Valley, MD 21030

(City, State, Zip of Sign Poster)

410-666-5366

(Telephone Number of Sign Poster)

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE MEMORANDUM

TO: C. Pete Gutwald
Director, Department of Permits, Approvals and Inspections

DATE: 10/28/2024

FROM: Steve Lafferty
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 2024-0235-SPHAFMA

INFORMATION:

Property Address: 6092 and 6100 Falls Road

Petitioner: Christopher Paternotte, Authorized Representative of Cotton Duck Brewing, LLC

Zoning: BM and DR 2

Requested Action: Special Hearing, Variance and Flood Management Variance

The Department of Planning has reviewed the petition for the following:

A. Special Hearing relief to approve:

- i. The basis of the number of spaces to be provided for the Brewery, Class 7 under BCZR § 409.6.A (similar to a Class 5 Brewery (Article 4E)); and
- ii. A modified parking plan pursuant to Section 409.12 of the BCZR; and
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- iii. For such other and further relief as may be deemed necessary by the ALJ for Baltimore County.

C. Floodplain Management Variance pursuant to BCC Section(s):

- i. 32-8-201(e), 32-8-201(s), 32-8-502, 32-8-503 & 32-8-701, et seq. to permit grading and paving within the designated floodway and a flood protection setback of 0 feet in lieu of 20 feet from the special flood hazard area for the principal structure, grading and paving; and
- ii. For such other and further relief as may be deemed necessary by the ALJ for Baltimore County.

The property is situated along Falls Road, between Railroad Avenue and Lakeside Drive, and is divided between the BM and DR 2 zoning districts. Located near Interstate Highway 83, it is also part of the Ruxton-Riderwood-Lake Roland community plan area. Historically, this site has served as a contractor's equipment storage yard and a residence for many years.

Access to the property is via beneath the Falls Road overpass on Lakeside Drive, with the light rail stop in the same area. The Jones Falls River runs through the property. The surrounding area features a blend of residential dwellings, the Jones Falls River, industrial and commercial activities, and forest conservation.

The applicant proposes to demolish the existing contractor's equipment storage yard structures to construct a small brewery. Due to recent changes in floodplain development laws, a floodplain management variance is now required. While the site is currently impervious, the new development aims to improve its environmental impact on the floodplain.

Collaboration with the Ruxton-Riderwood-Lake Roland Area Improvement Association (RRLRAIA) and Councilman Patoka has been ongoing for several years to support this project. Legislation (Bill No. 10-22), led by Councilman Izzy Patoka and passed with the affirmative vote of the five-member County Council, permits this brewery use, and a covenant with the community was established to address noise concerns. Community support for the brewery has been strong.

According to § 233.2, all permitted uses must meet certain conditions. Specifically, Class 7 breweries within the Ruxton-Riderwood-Lake Roland Community Plan area must:

- i. Be fully located within 1,100 feet of the furthest pedestrian access point to the parking area of the Falls Road Light Rail stop.
- ii. Be situated on the west side of Falls Road.

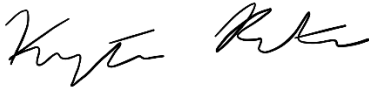
In light of the numerous discussions regarding this development, including the enactment of Bill 10-2022 in support of the project, the Department of Planning defers all decision-making to the Administrative Law Judge. However, we request the following:

- i. Submission of an architectural elevation and site plan illustrating the proposed development in color, detailing all proposed exterior elements, including parking layout, signage and outdoor seating areas, for the Department of Planning's review prior to permitting.
- ii. Inclusion in the architectural design and site plan of the buffer intended to protect the proposed development from the Jones Falls River. This measure is essential for safeguarding the river's surrounding environment.
- iii. A traffic impact analysis addressing potential challenges related to the winding nature of Lakeside Avenue, which poses issues for drivers entering and exiting the property. This analysis should particularly consider the traffic flow from light rail users in addition to brewery customers.
- iv. The Ruxton Riderwood Lake Roland Area Community Plan 2020 acknowledges a change in weather patterns due to climate change, noting an increase in the intensity and frequency of storm events. This plan highlights that in this particular area of the county, there has been a significant 71 percent increase in precipitation during intense, multi-day events. Given the flood-prone nature of the area and its close proximity to the Jones Falls River, there is a risk of riverine flooding when river flows exceed the capacity of the river channel. Consequently, applicants must demonstrate a robust stormwater management system designed to prevent potential riverine flooding to the proposed site.
- v. In light of the findings from the Ruxton Riderwood Lake Roland Area Community Plan 2020, it is essential for the applicant to take note of community preferences as revealed in the survey results included in Appendix A – Community Survey (RRLRAIA Community Survey). On page

43 (Question 10 about biking and walking), 40% of survey participants indicated that improvements to walkways, bikeways, and pedestrian and bike facilities are important. Furthermore, page 44 (Question 11 on the favorability of more or fewer walking/biking paths) shows that 86% of participants favor more walking/biking paths. Consequently, the applicant must clearly demonstrate and indicate on the site plan and architectural elevations all sidewalks, walkways, and crosswalks that connect nearby communities with the proposed development.

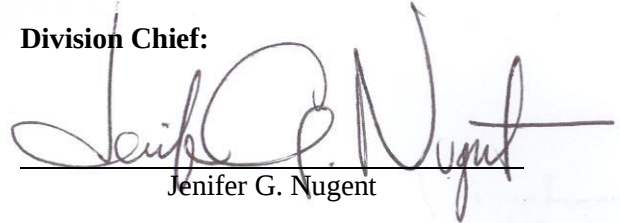
For further information concerning the matters stated herein, please contact Henry Ayakwah at 410-887-3482.

Prepared by:



Krystle Patchak

Division Chief:



Jenifer G. Nugent

SL/JGN/KP

c: Jason Vettori, Esq.
Sydney Cooper, Community Planner
Jeff Perlow, Zoning Review
Kristen Lewis, Zoning Review
Office of Administrative Hearings
People's Counsel for Baltimore County

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Peter Gutwald, Director
Department of Permits, Approvals

DATE: October 31, 2024

FROM: Vishnu Desai, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
Case 2024-0235-SPHAFPM

The Bureau of Development Plans Review has reviewed the subject zoning items and we have the following comments.

DPR: Petitioner must demonstrate how they have met the requirements of BCC 32-8-703.

DPW-T: A) Awaiting Traffic Engineering's review.
B) An ultimate land use conditions riverine flood study meeting the Baltimore County Department of Public Works and Transportation (DPWT) Design Manual and the Baltimore County Department of Permits, Approvals and Inspections (PAI) Bureau of Development Plans Review Policy Manual is required and must be submitted to PAI to be "Accepted for Filing". The applicant may be required to apply for a Zoning Hearing with the Administrative Law Judge to obtain a waiver to Baltimore County Code 32-4-414 and 32-8. The proposed structure must also meet DPWT Design Manual Plate DF-1.

Landscaping: If Special Hearing and / or Zoning Relief is granted a Landscape Plan is required per the Baltimore County Landscape Manual and a Lighting Plan is also required.

Recreations & Parks: No comment LOS & "Jones Falls" is a Recreational Greenways – Need to confirm presences of and or lack of on Subject Property. The Recreational Greenways shall be to the limits of the 100-year floodplain or the wetlands or forest buffer, whichever is greater.

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Real Property Data Search ()
Search Result for BALTIMORE COUNTY

[View Map](#)

[View GroundRent Redemption](#)

[View GroundRent Registration](#)

Special Tax Recapture: None

Account Identifier: District - 09 Account Number - 0909300010

Owner Information

Owner Name: COTTON DUCK BREWING LLC Use: COMMERCIAL/RESIDENTIAL
Principal Residence: NO
Mailing Address: 1014 WEST 36TH STREET Deed Reference: /47827/ 00440
BALTIMORE MD 21211-

Location & Structure Information

Premises Address: 6092 FALLS RD Legal Description: *
BALTIMORE 21209-2217 WS FALLS RD
300FT N OF LAKE AV

Map: Grid: Parcel: Neighborhood: Subdivision: Section: Block: Lot: Assessment Year: Plat No:
0079 0003 0033 20000.04 0000 2023 Plat Ref:

Town: None

Primary Structure Built	Above Grade Living Area	Finished Basement Area	Property Land Area	County Use
1893	1,512 SF	600 SF	11,773 SF	06

Stories Basement Type	Exterior Quality Full/Half Bath	Garage	Last Notice of Major Improvements
2 YES STANDARD UNIT SIDING/3	2 full		

Value Information

	Base Value	Value	Phase-in Assessments	
		As of 01/01/2023	As of 07/01/2024	As of 07/01/2025
Land:	191,300	191,300		
Improvements	89,900	111,200		
Total:	281,200	302,500	295,400	302,500
Preferential Land:	0	0		

Transfer Information

Seller: IMHOFF LEONARD HOWARD JR	Date: 03/03/2023	Price: \$750,000
Type: ARMS LENGTH MULTIPLE	Deed1: /47827/ 00440	Deed2:
Seller: IMHOFF LEONARD HOWARD JR	Date: 03/15/2019	Price: \$0
Type: NON-ARMS LENGTH OTHER	Deed1: /41224/ 00053	Deed2:
Seller: IMHOFF EVELYN E	Date: 06/21/2006	Price: \$0
Type: NON-ARMS LENGTH OTHER	Deed1: /15256/ 00555	Deed2:

Exemption Information

Partial Exempt Assessments: Class	07/01/2024	07/01/2025
County: 000	0.00	
State: 000	0.00	
Municipal: 000	0.00 0.00	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:

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Search Result for BALTIMORE COUNTY

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Seller: IMHOFF EVELYN E	Date: 06/21/2006	Price: \$0
Type: NON-ARMS LENGTH OTHER	Deed1: /15256/ 00555	Deed2:

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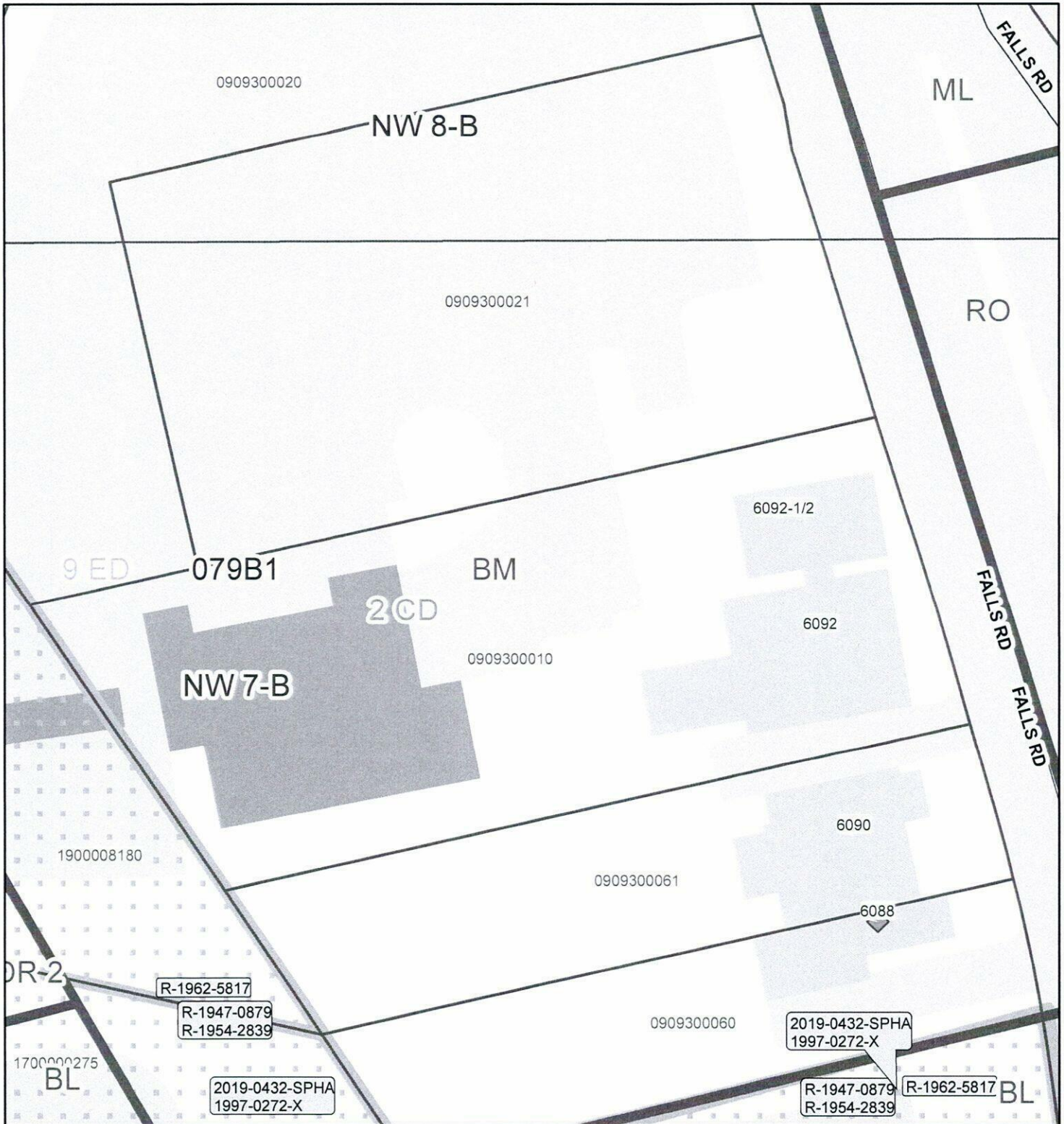
Homestead Application Information

Homestead Application Status: No Application

Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application Date:

6092 FALLS RD



Publication Date: 10/9/2024



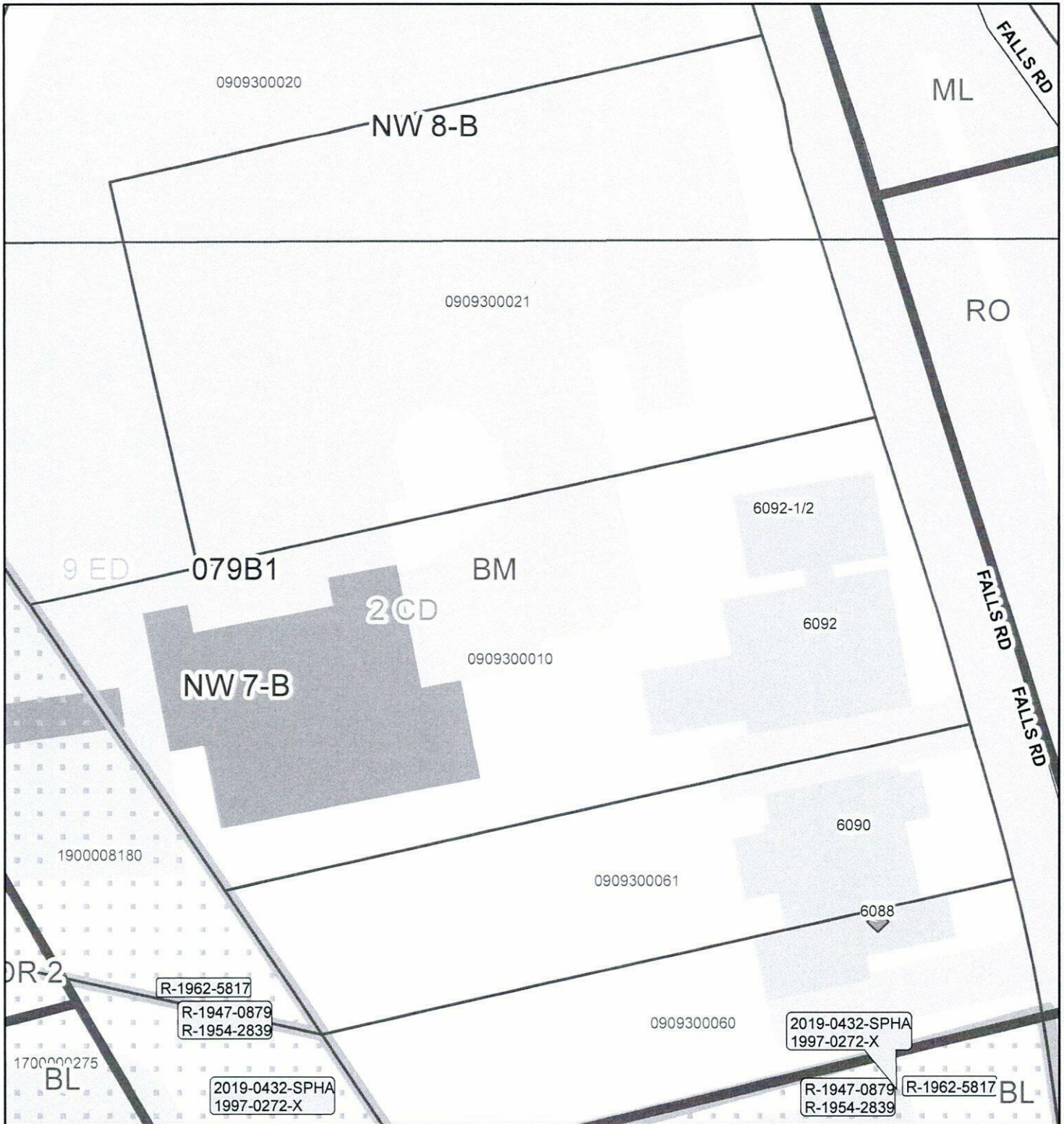
Publication Agency: Permits, Approvals & Inspections
Projection/Datum: Maryland State Plane,
FIPS 1900, NAD 1983/91 HARN, US Foot



0 5 10 20 30 40
Feet

1 inch = 30 feet

6092 FALLS RD



Publication Date: 10/9/2024



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