TOWN OF BOONSBORO

DEPARTMENT OF PLANNING, ZONING & ENGINEERING
WWW.TOWN.BOONSBORO.MD.US ♦ 301-432-5690

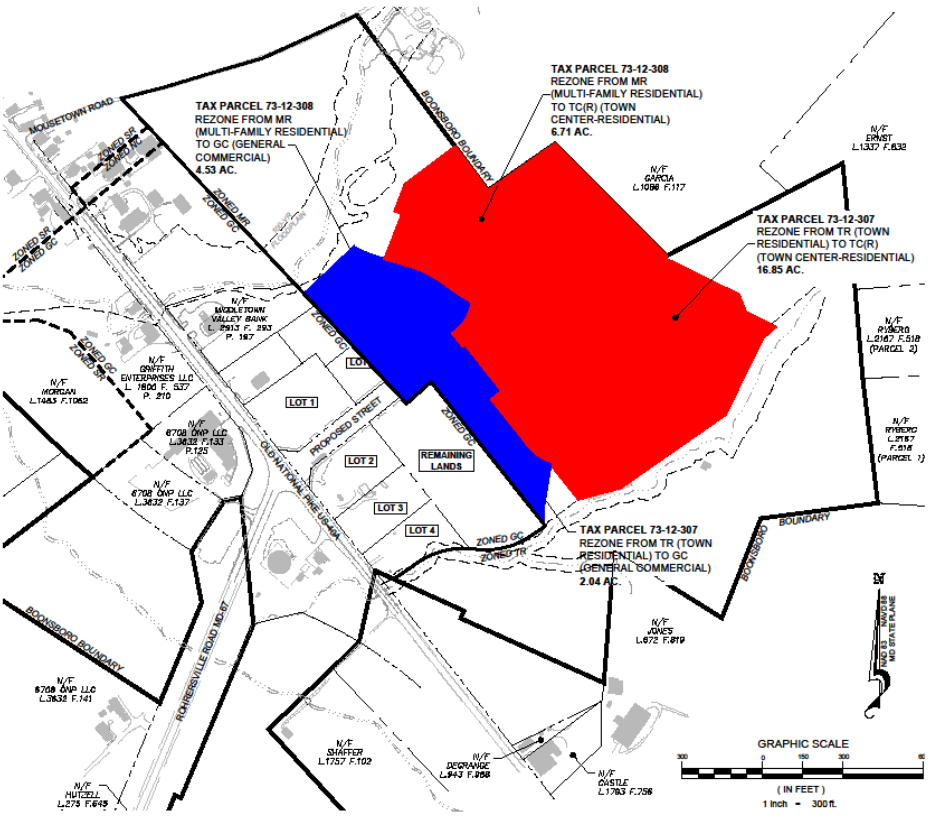
ZONING MAP AMENDMENT REQUEST: OLD NATIONAL PIKE (EASTERDAY PROPERTY)
MAYOR & COUNCIL WORKSHOP STAFF REPORT
JANUARY 22nd, 2019

PROJECT: Request for Zoning Map Amendment: BNRZ18-01(Rev) Old National Pike, Easterday Property

OWNER/APPLICANT: Preserve at Fox Gap, LLC
20320 Ayoub Lane
Hagerstown, MD 21742

PROPERTY DESCRIPTION (Tax Map / Grid / Parcel No.): 0073-0012-0307 & 0073-0012-0308, Present Zoning: Multi-Family Residential (MR) and Town Residential (TR)

PROPOSAL: Request to Change Zoning portions of the aforementioned parcels from their current zoning of Multi-Family Residential (MR) and Town Residential (TR) to the proposed zoning of General Commercial (GC) and Town Center Residential (TC(-R)).



PROJECT NOTES:

1. The Town must comply with MD Land Use Codes 4-203 and 4-204 governing the procedures for public hearings, amendments, repeals, or reclassifications relating to zoning regulations. 4-204 states that the legislative body (of the Town) may grant the amendment to change the zoning classification based upon a finding that there was either ***(a.) a substantial change in character in the neighborhood where the property is located or (b.) a mistake in the existing zoning classification.***

2. The applicant would like to change the following zoning districts on his property at Old National Pike:

   Tax Parcel 0073/0308: Rezone from MR to TC(-R) approximately 6.71 acres
   Tax Parcel 0073/0308: Rezone from MR to GC approximately 4.53 acres
   Tax Parcel 0073/0307: Rezone from TR to TC(-R) approximately 16.85 acres
   Tax Parcel 0073/0307: Rezone from TR to GC approximately 2.04 acres

3. Overall, the proposed re-zoning would rezone 6.57 acres from residential zoning to commercial zoning and 23.56 acres from residential zoning to a higher density residential zoning. The current and proposed zoning breakdown for the two parcels subject to the map amendment request are below

4. | CURRENT ZONING (approximate) | PROPOSED ZONING (approximate) |
   |---|---|
   | MR – 26.35 acres | MR – 15.11 acres |
   | TR – 44.64 acres | TR – 25.75 acres |
   | GC – 0 acres | GC – 6.57 acres |
   | TC(-R) – 0 acres | TC(-R) – 23.56 acres |

5. Please Note the Following: MR = Multi-Family Residential, TR = Town Residential, GC = General Commercial, TC(-R) = Town Center Residential

6. Section 1101.C.2. of the Boonsboro Zoning Ordinance states:
   The Planning Commission may, at its discretion, notify the Mayor & Council of its intention to conduct promptly a public hearing on such petition (Proposals Originated by a Citizen's Petition, in this instance a Zoning Map Amendment Request). Within thirty (30) days following receipt of such petition, or, if a public hearing is held, within thirty (30) days following such hearing, the Planning Commission shall transmit to the Mayor & Council a report containing its recommendations thereon, which may include additions or modifications to the original proposal.

7. Section 1104 of the Boonsboro Zoning Ordinance states:

Before enacting a map amendment that would modify, repeal or reclassify the zoning of land within the corporate limits of Boonsboro as herein provided, the Mayor and Council shall make finding of facts in each specific case including, but not necessarily limited to, the following matters:

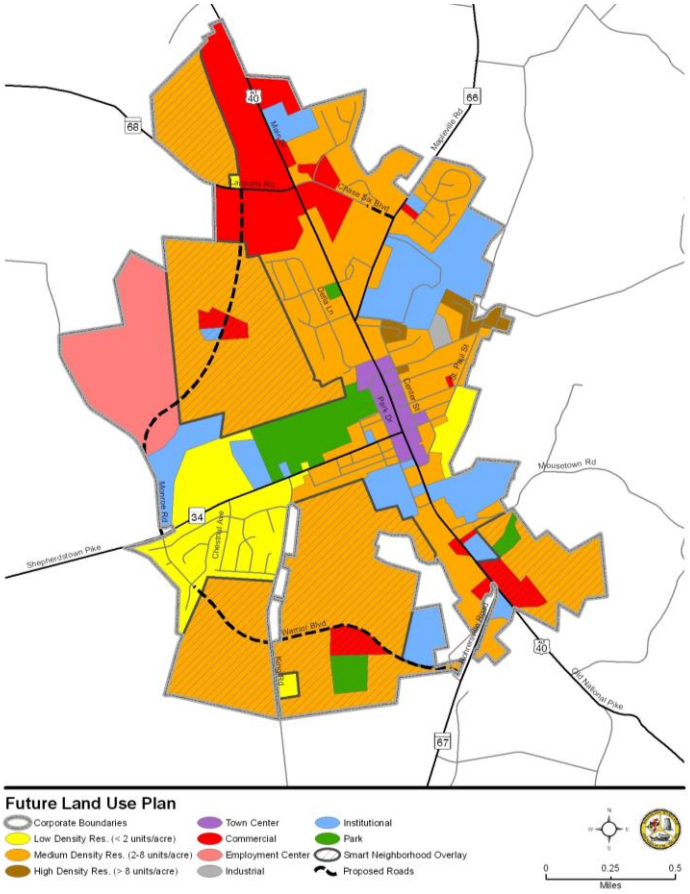
A. The report and recommendations of the Planning Commission.
B. Population changes in the area of the proposed amendment.
C. Availability of public facilities such as police and fire protection, and water and sewerage to serve in the area.
D. Present and future transportation patterns in the area.

E. Compatibility with existing and proposed development of the area.
F. The relationship of the proposed change to the adopted plan for the Town.
G. Whether there has been a convincing demonstration that the proposed rezoning would be appropriate and logical for the subject property.

STAFF COMMENTS:
Staff Application Narrative Criteria Review

A. ZONING: The area subject to the Request for Map Amendment is bordered Multi-Family Residential (MR) to the northwest, by Town Residential (TR) Zoning to the east and southeast, General Commercial (GC) Zoning to the south and southwest, and the Town's Municipal Boundary to the north. The existing zoning of the area subject to the request, Multi-Family Residential (MR) and Town Residential (TR), provides for mostly residential uses at medium densities with respect to Town Center (higher density) and Suburban Residential (lower density). The MR zoning district allows for a wide variety of residential uses, including but not limited to single family detached dwellings, townhouses, duplexes, and apartments, with a minimum lot size of 7,500 square feet for single family detached homes. The TR Zoning district is a medium to high density residential district, with minimum lot sizes of 10,000 square feet for single family homes. Residential uses allowed in the TR Zone include single family homes and duplexes, and townhomes and multi-family apartments are permitted with special exception approval.

B. CHARACTER OF THE NEIGHBORHOOD: The 2009 Comprehensive Plan describes the area around and to the north of the intersection of Old National Pike (Alt-40) and Route 67 as an area where active commercial uses are currently clustered (2-7). Most of the developed properties in this part of Town are developed linearly along Old National Pike (3-6). The Future Land Use Plan for the Town (Map 3.2) shows the property in question containing Commercial, Park (Open Space), and Medium Density Residential development (2-8 units per acre). The property sits on the edge of Town Limits, and is bordered by County land on the north, east, and south sides.



C. POPULATION CHANGES: The Town has experienced a steady 2.4-2.5% growth increase since 1970 and the 2009 Comprehensive Plan projects a continued growth rate of 2.1% throughout 2030. As of 2017, the population of Boonsboro is estimated to be approximately 3,550 residents. Actual population in Boonsboro has not met the Population Projections set forth in the 2009 Comprehensive Plan (Table 2.1, Page 2.1), which projected a population of 3,909 residents by 2015 and 4,337 residents by 2020.

D. AVAILABILITY OF PUBLIC FACILITIES: Public Water & Sewer service have been extended to the subject property. Recent upgrades to public services in the area include the South End Pump Station. There is currently capacity available for both Water & Sewer. Required upgrades as a part of the Ostertag Pass project will include sidewalks along Old National Pike. The subject property is currently served by the Boonsboro Fire Department and Boonsboro Ambulance Company.

E. TRANSPORTATION PATTERNS: The subject property fronts Old National Pike at its intersection with Route 67. This is an important area in the regional transportation network. Required improvements at the site before commercial and then residential development are

allowed to occur include a roundabout at the intersection of Alt-40 and Route 67 and the construction of Ostertag Pass, a local road designed to facilitate the commercial development of the property.

F. COMPREHENSIVE PLAN: The 2009 Comprehensive Plan states the following:

i. *Implementation for Land Use Recommendation:* Future land uses in the Town of Boonsboro will be consistent with the designations in Table 3.2 and the locations shown in Map 3.2 (shown on the previous page).

ii. *Sensitive Areas:* Areas of forest, steep slopes, streams, and floodplains exist on the property (Page 9-2). The area subject to the map amendment request lies outside of 100 year flood plain (see map below).

iii. Goal 1 of the Housing Element (Page 8-1) of the Comprehensive Plan states that the Town should look to facilitate a mix of housing that meets the needs of all Town residents. The Map Amendment request would create three different residential zoning districts on the parcels subject to the request, further diversifying the types of residential uses and densities that would be possible in the area.

iv. Page 5-7 of the Comprehensive Plan states that, as the town grows, the distribution of its park land is an important consideration. Parks intended for passive recreation and open space are permitted in all of the zoning districts subject to this request (MR, TR, TC, GC). Parks intended for non-commercial active outdoor recreation are not permitted in TC or GC (permitted in MR and TR). TC(-R) limits this further by specifying Town Center Zoning for Residential Uses only (Zoning Ordinance 305.B.). The Future Land Use Plan Map (3.2) shows a park designated on this property in the future.

v. Water System Capacity is always an important consideration (Page 4-3), and this request for a map amendment is no different. Any future development on this property, particularly for residential uses, which are a part of the map amendment request, will require an adequate land donation for a water tower, 50-80 gallon per minute well, a small well house, and a booster pump station on the property. The Washington County Water and Sewerage Plan states that the Boonsboro Utilities Commission adopted a policy requiring each developer (except minor subdivisions of 5 or less units) to provide a minimum new water supply of 108,000 gallons per day (70 gallons per minute) in the form of a new well to be connected to the existing distribution system.

vi. The two Comprehensive Plan visions that are most applicable to this map amendment request, from a staff perspective, are Growth Areas and Community Design:

a. "Growth is concentrated in existing population and business centers, growth areas adjacent to these centers, or strategically selected new centers."

b. "Compact, Mixed-use, walkable design consistent with existing community character and located near available of planned transit options is encouraged to ensure efficient use of land and transportation resources and preservation and enhancement of natural systems, open spaces, recreational areas, and historical, cultural, and archeological resources."

vii. The property subject to the request is within the Comprehensive Plan Future Land Use Plan proposed "Smart Neighborhood Overlay" zone (see Map 3.2), which has yet to be enacted. This proposed overlay zone would encourage development to adhere to the Smart Neighborhood principles described in this chapter, focusing particularly on development that encourages multiple modes of transportation and minimizes impact to sensitive environmental features. Smart Neighborhood Principles and Goals are listed on Page 3-7 of the Comprehensive Plan. This request represents a potential first step towards the realization of the Smart Neighborhood Overlay Zone envisioned in the Comprehensive Plan. However, more action in the eventual development of the property, particularly during development review, will be necessary for this request to move towards achieving the aforementioned goals.

STAFF COMMENTS (In Response to Narrative in Application):

1. 1.1. Current Population Estimates for the Town of Boonsboro show 3,553 residents. The closest residential development to the subject property is the Sycamore Run neighborhood, 0.3 miles northwest of the property along Old National Pike. The development proposed in the

Concept Plan represents approximately 100 new residential units and several commercial establishments.

2. 1.2. There is currently adequate water and sewer capacity in the Town to serve the development needs of this subject property. Specifically, there is available capacity with respect to our permitted withdrawal capacity for the Town's water system and available capacity with respect to permitted intake at the Town's wastewater treatment plant. However, this development, combined with the demand for development in other areas of the Town of Boonsboro, will stress this capacity.

3. 1.3. MD Alt 40 (Old National Pike), MD 67, and the future Ostertag Pass (currently under construction) will all serve the area and the subject property. A roundabout will be a prominent part of State Highway Improvements currently under construction at the property.

4. 1.4. This map amendment would increase the overall area with commercial zoning along MD Alt 40. The land being rezoned as commercial from residential would be contiguous with other commercial development in the immediate area. The proposed residential development in the area is located off of MD Alt 40. The commercially and residentially zoned areas of the property will remain contiguous. The overall amount of commercially zoned acreage would increase by 6.57 acres, while the overall amount of residentially zoned acreage would decrease from 70.99 acres to 64.42 acres. 23.56 of those 64.42 acres would be zoned at a higher residential density.

5. 2.0 The applicant states that the proposed rezoning conforms with the principles of the 2009 Comprehensive Plan. Specifically, the applicant states that the map amendment conforms with many of the following visions set forth in the plan: Growth Areas, Community Design, Infrastructure, Transportation, and Economic Development.

6. 2.0 The applicant specifically states that the map amendment will allow this property/area to be developed as a Smart Neighborhood in accordance with Chapter 3 of the 2009 Comprehensive Plan. The plan states, "…the Town should create a Smart Neighborhood floating zone for these properties (the 2006 annexed properties)." Smart Growth principles applied to neighborhood and community development result in a compact mix of residential and non-residential land uses and a range of housing choices with a layout that fosters pedestrian and bicycle activity, public safety, environmental protection, long-term investment, efficient use of infrastructure, and efficient provision of public services. The applicant argues that the map amendment will allow for the property to be developed in accordance with these principles, and that the fact that the Town never created a smart neighborhood floating zone provides support to their amendment request.

7. Staff feels that the map amendment request best conforms with the Community Design, Infrastructure, Transportation, and Economic Development Visions set forth by the Plan, and

generally supports the applicant's recognition of a connection between the proposed map amendment and the Smart Neighborhoods section of Chapter 3 of the Comprehensive Plan.

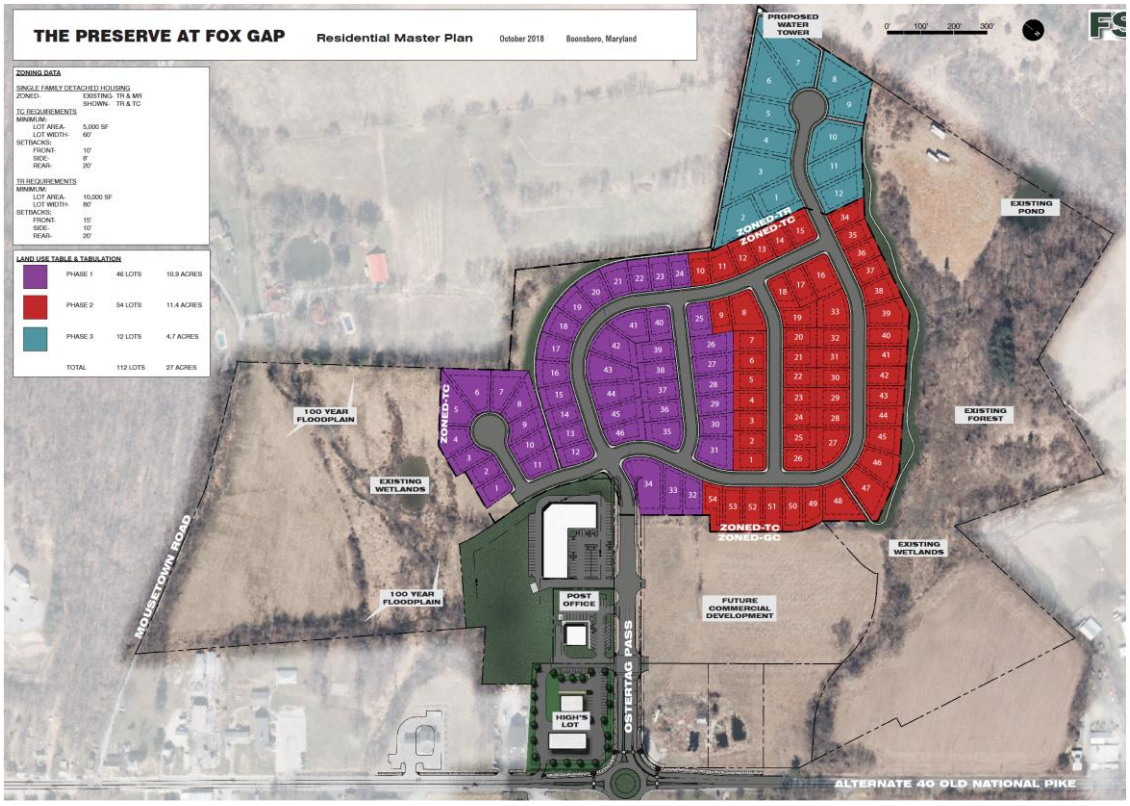
Additional Staff Comments:

1. This Zoning Map Amendment Request must comply with all of the provisions within the property owner's original annexation agreement, dated December 28, 2006, the property owner's first amendment to annexation agreement, dated March 2, 2009, and the property owner's second amendment to annexation agreement, dated April 6, 2009.

2. To date, the property owner has purchased eight (8) sewer taps from the Town of Boonsboro, for a total price of $92,880.59, as indicated in a letter dated July 18th, 2018. However, the developer is still past due on a significant portion of pre-paid sewer taps. The following spreadsheet should be updated to reflect current conditions:

DEVELOPER DUE DATE	Easterday Payment	Status	Easterday (2nd Amend) Payment	Status	Easterday's Amended Total Payment	updated 8/23/2013 - DAS Status
01/01/09	$5,487.07	paid	$5,364.92	paid	$10,851.99	paid
02/01/09	$1,745.85	paid	$1,706.98	paid	$3,452.83	paid
03/01/09	$1,895.20	paid	$1,853.01	paid	$3,748.21	paid
04/01/09	$1,352.80	paid	$1,322.69	paid	$2,675.49	paid
05/01/09	$2,179.93	paid	$2,131.40	paid	$4,311.33	paid
06/01/09	$2,291.27	paid	$2,240.26	due	$4,531.53	2nd amend due
07/01/09	$11,370.35	paid	$11,117.22	due	$22,487.57	2nd amend due
08/01/09	$2,497.55	paid	$2,441.95	due	$4,939.50	2nd amend due
10/01/09	$7,448.07	paid	$7,282.26	due	$14,730.33	2nd amend due
01/01/10	$19,184.14	paid	$18,757.05	due	$37,941.19	2nd amend due
04/01/10	$7,448.07	paid	$7,282.26	due	$14,730.33	2nd amend due
07/01/10	$10,153.22	paid	$9,927.18	due	$20,080.40	2nd amend due
10/01/10	$7,448.07	paid	$7,282.26	due	$14,730.33	2nd amend due
01/01/11	$20,057.04	due	$19,610.52	due	$39,667.56	TOTAL DUE
04/01/11	$7,448.07	due	$7,282.26	due	$14,730.33	TOTAL DUE
07/01/11	$10,063.55	due	$9,839.51	due	$19,903.06	TOTAL DUE
10/01/11	$7,448.07	due	$7,282.26	due	$14,730.33	TOTAL DUE
01/01/12	$20,057.04	due	$19,610.52	due	$39,667.56	TOTAL DUE
04/01/12	$7,448.07	due	$7,282.26	due	$14,730.33	TOTAL DUE
07/01/12	$9,971.83	due	$9,749.83	due	$19,721.66	TOTAL DUE
10/01/12	$7,448.07	due	$7,282.26	due	$14,730.33	TOTAL DUE
01/01/13	$20,057.04	due	$19,610.52	due	$39,667.56	TOTAL DUE
04/01/13	$7,448.07	due	$7,282.26	due	$14,730.33	TOTAL DUE
07/01/13	$9,877.99	due	$9,658.08	due	$19,536.07	TOTAL DUE
10/01/13	$7,448.07	due	$7,282.26	due	$14,730.33	TOTAL DUE
01/01/14	$20,057.04		$19,610.52		$39,667.56	
PD to Date	**$80,501.59**	**7.318**	**$12,379.00**	**1.125**	**$92,880.59**	
Delinquent	**$134,772.91**	**12.25**	**$198,102.98**	**18.01**	**$332,875.89**	**30.26144455**
Net Balance	$20,057.04		$19,610.52		$39,667.56	
Total	$235,331.54		$230,092.50		$465,424.04	
Taps	20		20		40	

3. The applicant submitted a concept map to accompany the Revised Zoning Map Amendment Request Map, titled, "The Preserve at Fox Gap Residential Master Plan (October 2018)." The Residential Master Plan Concept plan depicts 3 developed commercial lots (including High's and the Post Office), 4 undeveloped commercial lots labeled "future commercial development," and 112 residential lots in 3 phases spread over 27 acres on the site. The concept also denotes existing wetlands, forests, ponds, and 100-year floodplain, while showing a proposed water tower at the property's highest point.



4. The same applicant, Todd Easterday, had a Minor Subdivision Application (Lot 6) approved by the Planning Commission in January of 2018. The Boonsboro Planning Commission signed their final approval on the plan in May of 2018, and the plat was recorded on July 23, 2018 as Plat#10850 (Washington County, MD). The zoning map amendment requests within this overall request relating to general commercial align with the new lot boundaries depicted by this approved and recorded plat.

Planning Commission's Recommendation from their January 15th, 2019 Regular Meeting (from the draft minutes of the meeting)

Town Planner Strickler again went over the process for a map amendment request, noted how the planning commission was to provide a recommendation to the Mayor & Council (approve or deny), and noted that their recommendation would be taken very seriously by the Mayor & Council. He spoke about the applicant's argument for the zoning map amendment request, smart growth and smart neighborhood principles, and proposing lower residential density on other portions of the property. He spoke about the concerns raised during the public hearing and public comment periods, and that many of the concerns would be addressed during the development review phase as opposed to the map amendment request because they cannot be conditioned as a part of any approvals or denials of the request. He noted that the Annexation Agreement and Amendments should be taken into account, but that they are separate, as an issue, from the map amendment request.

The Town Planner provided his recommendation, that he recommends approval of the map amendment request based upon a mistake in the existing zoning classification with the supporting argument of the lack of a smart neighborhood overlay zone and the map amendment request allowing for smart neighborhood principles to take shape on the property. He noted that conditions should be considered in this approval of the map amendment request. He also recommended that any residential development on this property would be tightly managed and controlled by the Town, and be subject to the original annexation agreement, which provides strong development controls and does not set a rate schedule for utility benefit charges. He recommended that the original annexation agreement stay intact, and that the amendments to annexation agreement be reviewed by the Mayor & Council to see if they are still legitimate. He also noted that future development review should take into account the dedication of public parks, landscape buffers, close development controls, limitations on the number of units, and rezoning other portions of the property for lower density development. Strickler stated that the only way to be sure that no higher density would occur on the overall property would be to rezone these other portions of the property to a lower residential density. He stated the Town could do this on its own through a piecemeal rezoning or through a comprehensive rezoning.

Rico Aiello asked if the Town could add smart growth provisions to the rezoning approval. Strickler stated that you could, but because the Town has no law about smart growth or smart neighborhoods the condition would have no binding effect and therefore would not be enforceable.

David Parmelee stated that his concerns were that the conditioned approvals were not enforceable enough, and stated that he thought that the applicant needed to bring the original annexation agreement and amendments out of default as a condition of approval for the map amendment request. Doug Moore indicated his support. Discussions continued about the annexation agreement and amendments, including about the default and the developer's right to purchase sewer taps. It was noted that these issues would likely be addressed in more detail by the BMUC and Mayor & Council. Carvel asked when the original Default occurred, and Rob Maricle responded by looking at the spreadsheet and noting the last payment was in October of 2010. Strickler noted the last Default or Late Payment letter was sent to the developer in late 2012.

Rob Maricle noted the issues at hand were 1) the Default, 2) prevailing tap rates, 3) surrounding resident concerns, 4) remaining land use, 5) zoning of remaining lands, and 6) the amount of money that has been spent on tap fees and the development of the property thus far. Ed Kuczynski, at the meeting on behalf of the developer, suggested that a conversation needed to take place between the Town and the

Developer at the negotiating table with respect to the annexation agreement and amendments. He stated that conditional zoning map amendments were difficult to support. The Planning Commission discussed recommending that the Mayor & Council address the developer's annexation agreement and annexation agreement amendments. The group continued on the discussion of the separate nature of the two issues; 1) the annexation agreement and amendments and 2) the map amendment request.

Rob Maricle spoke about how the developer has indicated the remaining lands will not be developed any time soon, and that if the Town leaves the zoning on those areas of the property as is then the developer or someone they sell the property to could always develop that property at a later time. He then recommended that the zoning map amendment request be amended to take into account the additional lands. He stated a new request needed to be put in to account for these lands. Town Planner Strickler stated that the Town has the power to rezone those lands on their own. Maricle stated that the concern is that the map amendment request can be used to increase the overall density on the property, and that he would recommend to rezone, at a lower density, other portions of the property not directly addressed by the applicant's request. Strickler stated that, to protect the Town from higher density on the property in the long run, the Town has the ability to rezone the other portions of the property to a lower density.

Strickler stated that any approval must either be for the mistake or change in the neighborhood clause. He stated that a separate recommendation would be necessary for rezoning the other portions of the property to a lower residential density.

The motion was made to approve the applicant's zoning map amendment request based upon a mistake in the original zoning classification, with the additional recommendation that the Town amend the zoning map for the property's remaining lands to a lower residential density based upon smart growth and smart neighborhood concepts in order to not create more overall density on the property. The motion noted that the property and the Planning Commission's recommendation were subject to the applicant's original annexation agreement between the Mayor & Council of Boonsboro and the Easterday's dated December 28th, 2006 as amended. Carvel Wright made the motion, David Parmelee seconded the motion, and the motion passed unanimously.

The Town Planner then noted that if the Planning Commission wanted the Mayor & Council to address the annexation agreements and amendments that they can make a separate recommendation indicating so. The Commission entertained a motion and had a discussion. Ed Kuczynski stated that if the Planning Commission wanted to have their minutes reflect that the Town would not move forward with any development approvals until the Annexation Agreements were addressed, the Commission had the right to do so. The group discussed that the Town needs to actually pass an ordinance in order to officially change the zoning map.

Chairman Maricle then stated that he proposed an amendment to the first motion to reflect that the development in towards the center of the property would be developed according to smart growth principles, which would intensify that development area and therefore necessitate reducing the zoning density of the surrounding areas to balance that growth and density. David Parmelee motioned, Carvel Wright seconded, and the motion passed.

The Commission then stated that no further development of the property should occur until the Annexation Agreement and Amendments are discussed and resolved with the Town.

At the end of the agenda topic, Town Planner Strickler summarized the motions by stating that the approval is that the request is approved based upon a mistake in the existing zoning classification with the additional recommendation that the Town rezones the remaining portions of the property to a lower residential density.

BOONSBORO VETERINARY HOSPITAL

6734 Old National Pike, Boonsboro, MD 21713 · 301-432-7120
301-416-2656

Richard H. Garcia, D.V.M.
Sandra Garcia

December 17, 2018

Town of Boonsboro

Department of Planning, Zoning and Engineering

21 N. Main Street

Boonsboro, Md 21713

In re: Preserve at Fox Gap, LLC Property

We are adamantly opposed to the zoning or rezoning of the property into Multi-Family Residential or Town Residential.

We also do not understand why this is a rezoning since we have asked many times if it had been zoned. We were told that no zoning had been approved that is was at the consideration stage. We would like to ascertain when it was first approved for the zoning that is now requested.

We are also opposed to any access to Mousetown Road or any expansion of Mousetown Road. We oppose any emergency exit onto Mousetown Road as it would eventually end up as a full-time exit. Furthermore this would require a road across the streams and wet lands.

As noted a large section has been added to the Flood Plain. Any development in this area cannot be allowed.

There is a large pond and three streams that are in the area that is proposed as residential. This area is continually wet. At one time there were flags denoting that wet lands area, all of these flags were removed. This is the area that is now proposed to be zoned. We are opposed to any development of this area.

We also think that consideration should be for the migratory flyway that passes directly overhead. The birds use the pond and area for resting and breeding.

A high density housing complex will only invite problems with crime and lower property values. We did not move to the county to have it developed.

Richard and Sandra Garcia

Dr. Richard and Sandra Garcia

Preserve At Fox Gap Variance request

Mike Brown <brownm4@aol.com>
Wed 12/26/2018, 9:01 PM
To: mmck62@msn.com <mmck62@msn.com>

12/26/18

Dear City Council members,

I am writing to express my hope that our leadership in Boonsboro will pursue an inspired vision for the future of community. Will there be wise for-thought or just a patchwork of buildings? Is the vision to create a beautiful destination place that people head to for a Sunday stroll near sidewalk cafés, or urban sprawl that people try to avoid? Some say that beautiful places attract more long-term revenue than over congested places do in their quest for tax maximization.

The Preserve At Fox Gap project is destined to become the west bound gateway to Boonsboro. What is the first impression we want to make for people visiting our community? Do we want all beige suburbia subdivisions, or do we want unique homes with room to landscape trees In our neighborhoods? On 5,000 square foot lots it is doubtful that large trees befitting of beautiful rural neighborhoods will ever be able to flourish.

Builders will build whatever you let them.
The city council's job is to manage and guide growth with wisdom in order to maintain desirability in the community.
Honestly, I can't think of one positive qualitative benefit for the community in allowing denser homes at this critical location. It is my sincere hope that the council will consider the greater long term good of the city and deny the request to double the density of the Preserve At Fox Gap project.

Kindest Regards,
Michael Brown
7005 Gilardi Rd
Boonsboro, Md 21713

December 26. 2018

Town of Boonsboro

Department of Planning and Zoning

201 Main Street

Boonsboro, Md. 21713

Re: Easterday Property

Dear Sirs:

We are the property owners most affected by the Easterday changes. We were told that the contingency plan would not be a part of this application, however counsel for Easterday asked that it be attached to their application for change. This is to our knowledge the second contingency plan and there is no reason to assume that they may not change plans again once they receive a lower lot size.

We are very concerned about the environmental and water issues that this project entails.

We respectfully request that both an environmental and water impact study be done prior to any further development or changes. There are several. main water concerns. The first is water running into the major creek that runs next to our property at Boonsboro Veterinary Hospital. This creek during rains comes to the very top of the bank and also has overflow onto the Church property. All the water will run downhill and we do not want to end up with our property being flooded. The town needs to be sure that we are not going to end up like Ellicott City due to unplanned impact of houses. The next water problem is the water tower. Where is the source of this water holding tank? With the additional of two large subdivision projects already is the town going to be subject to water moratorium like what has happened in Middletown. We are concerned about the impact that this project will have on surrounding wells. All of the neighborhood is on well water and we need to be certain that this project will not impact our wells. There is also a run-off problem, there is a hollow directly behind our property that captures da great deal of the water. Once homes and asphalt are there, this water will just flood our field, it currently runs into the runoff from the mountain during rain and flows into ditch that borders both properties and then into the creek. We want to know once the project is complete is the town going to be responsible for our fields, home, and place of business if water runoff is not addressed correctly. You can be certain that once the homes are sold that Easterday's will have walked away from any of these problems and left surrounding residents to deal with any and all problems.

With respect to the retail expansion, someone may want to note that t he area is always

under water .

With regard to the environmental impact, the project lies directly under the major migration flyway. Lights, towers and removal of breeding sites will effect birds, amphibians and reptiles that currently use this area. This study and the water study should be done prior to any increase in homes for this area.

Finally we do believe it is ludicrous to think that the Easterday's want to provide for adequate housing for the town, particularly in light of the fight that they had with the town over the town spring.. This project and the need to make smaller lots is simply a way for the Easterday's to make a profit on a property that is a wetland to the detriment to the surrounding property owners.

Sincerely,

Richard and Sandra Garcia, D.V.M.

Dr. Richard and Sandra Garcia

December 26, 2018

Dear City Council,

My name is Michele McKenna and I live at 21117 Mousetown Rd. My farm is directly above the proposed development – Preserve at Fox Gap. Although I am just out of city limits, I am directly effected by the City growth because I use Mousetown Rd and Gilardi Rd daily. I have several concerns regarding the new zoning change:

1. The proposal increased density will allow for 112 homes, each will have an average of 2-3 cars per home. This is an increase of 224-336 cars turning on to Alternate 40 at least daily. The traffic has already greatly increased at the Rt 40-Sycamore Run intersection. The increase in homes will increase other traffic – from Garbage pick up, lawn services and the use of the proposed commercial gas stations and businesses.
2. The increased homes number will have increased noise and light pollution at the base of South Mountain.
3. The proposed smaller lot size of 5,000 Sq ft allows for no large trees or landscaping – the direct opposite of the beauty of our rural setting.
4. I believe builders will build as much and as cheaply as the can to increase profits – with little concern for beauty and the natural envirmonment.
5. I have concerns about the builders ability to fulfill his financial and contractual agreements.
6. I believe it is the responsibility of the City Council to control development and have a vision for restricted tasteful growth.
7. I see no advantages to the proposed decrease in lot size, except for increased profits for the builder and increased revenue for the City of Boonsboro.

Boonsboro is a quaint and charming City that has become a very desirable place to live. It is my hopes that our City Council can control the growth and keep our city's historical and rural appeal alive and well preserved.

Sincerely,

Michele A McKenna

211117 Mousetown Rd

Boonsboro, Md 21713, 301-639-5834

Mary K. Ernst
21009 Mousetown Road
Boonsboro, MD 21713
Dec. 27, 2018

Town of Boonsboro
Boonsboro Planning Commission
Department of Planning, Zoning & Engineering
21 N. Main St.
Boonsboro, MD 21713

Dear Sirs:

In reference to the rezoning of the Preserve at Fox Gap:

I am not opposed to increasing the acreage zoned GC—IF the rezoning for residential rezoning request can be denied. Commercial development, if done tastefully, would help the town financially and be a convenience for town and local residents. I am opposed to increasing the residential density.

1. No one mentioned a traffic pattern study, and there was nothing mentioned about "planned transit options" (page 7 f 11, b).

2. Ostertag Pass is listed as "a local road designed to facilitate the commercial development of the property" (page 6 of 11, top of page). The one road to access the commercial properties and the residential areas does not seem sufficient in case of fire or blockage of that road by an accident.

3a. The proposed 112 houses could easily increase the number of cars by 200 to more than 300 with expected increase in traffic through town. With no bypass in sight, one could expect major jam-ups in town and increased traffic through other developments, such as Sycamore Run.

3b. The Fox Gap layout proposed at the Dec. 18 public hearing showed single-family lots, although current zoning allows for apartment buildings, town homes and condos as well as single-family residences. If all the acreage were developed with single family houses, the total number of homes could increase from 308 to 367. At two cars per house, that would be an increase of some 120 cars between the current zoning and proposed zoning, bringing the total possibility of more than 700 cars. This number would increase with the construction of multifamily residences, such as apartments and condos.

4. Water could be a big problem in drought years. Although there is currently enough water (page 5 of II, D) the developer could be required to erect a water tower, a well house and a booster pump station (page 7 of 11 D). The lower the number of residential houses, the less likely this will be needed. On the selfish side, a water tower next to my property, near an approved perk site, likely would decrease the value of my property.

Of more concern is the effect of such a well on all the neighboring houses with their own wells. Would the town supply Washington County residents with water if their wells went dry as result of a community well drawing on the same water table.

5. I have horses on my property, and like the Joneses and the Garcias, I have concerns about children disregarding No-Trespassing

signs and being injured or worse. Will the developer be required to build solid, child-proof fences?

In conclusion, the fewer residential houses that are built on that property, the fewer problems there will be—fewer traffic jams, water restrictions, and other urban problems. For these reasons, I am opposed to residential rezoning.

Sincerely,
Mary K. Ernst
Mary K. Ernst

Gail M. Fineberg
6638 Gilardi Road
Boonsboro, MD 21713
Dec. 27, 2018

Town of Boonsboro
Boonsboro Planning Commission
Department of Planning, Zoning & Engineering
21 N. Main St.
Boonsboro, MD 21713

Dear Sirs:

I am writing to oppose the requested zoning map amendment BNRZ18-01(Rev) Old National Pike, Easterday property. This zoning change would double the population density allowed by current zoning and would allow the creation of 117 tiny lots (5,000-square feet each) on 23.56 acres lying directly below our Gilardi Road property, in Washington County.

We believe that such high density, whether in apartment buildings, town homes or single-family houses, would have a negative impact on our existing environment, particularly on water quantity and quality, the ability to breathe clean mountain air not polluted by a huge increase in traffic , the ability to still see starlight at night, and the general ambience of a quiet, peaceful mountainside setting we now enjoy.

Before acting on this zoning change request, the Boonsboro Planning Commission, Mayor and Town Council should *first complete its work* on a proposed "Smart Neighborhood Overlay" zone, which, among other elements, would require that affected property development "minimize impact to sensitive environmental features." The Fox Gap Preserve developer (Easterday) has argued that his plan complies with the Smart Neighborhood proposal and therefore should be approved—even though the Smart Neighborhood plan does not exist except in concept. He also argued at a Dec. 18, 2018, public hearing that the city had "made a mistake" by not having adopted the Smart Neighborhood Overlay zone. I suggest that Boonsboro planners made no mistake by not adopting the Smart

Neighborhood Overlay but were exercising caution to ensure that the zoning overlay would comply with the city's Comprehensive Plan adopted in 2009.

Water availability

In a Dec. 18, 2018, Staff Report, planners stated: "Any future development on this property, particularly for residential uses, which are a part of the map amendment request, will require an adequate land donation for a water tower, 50-80 gallon per minute well, a small well house, and a booster pump station on the property. Such a draw on our water table will endanger water availability to adjacent property owners and will not ensure water for so many new users into the future, especially if we have some drought years.

Environmental Impact

On page 7 of a Staff Report dated Dec, 18, 2018, planners note two Comprehensive Plan elements applicable to the Easterday re-zoning proposal. One concerns the proximity and relationship of "growth areas" to the existing town of Boonsboro, and the other states: "Compact, Mixed-use, walkable design consistent with existing community character and located near available [*sic*] of planned transit options is encouraged to ensure efficient use of land and transportation resources and *preservation and enhancement of natural systems, open spaces, recreational areas, and historical cultural, and archeological resources."*

The development site in question is located precisely between the historic battlefields of South Mountain and Antietam. Has anyone given any consideration whatsoever to the "historical cultural and archeological resources" that would be dug up and lost forever if this project goes through? Is there any requirement for an historical and archeological study, and if so, what does it say?

According to a proposed map for the "Preserve at Fox Gap," as the Easterday development is called, the only land to be set aside for open space, parks and recreation are existing wetlands, where development is prohibited by state and county laws, and some steep hillside forestland.

The creation of high-density residential lots on the remainder of the existing hillside woodlands and farmland will displace land that now absorbs run-off from South Mountain during and after historic-levels of rainfall (63 inches were recorded in our region by the end of November, and storms can

dump as much as 6-7 inches on the mountain.) Boonsboro city planners and council members must consider the potential for flood damage and attendant soil erosion and water pollution (Antietam Creek and the Potomac River are downstream) that monumental runoff will cause because the earth's natural "sponge" will be "paved over."

Fire Danger

The proposed "Preserve at Fox Gap" map shows only one access to and egress from the proposed development. Not requiring a second way out of this super-dense hillside development is a recipe for disaster in event a fire spreads from house to house or starts in adjacent brush and trees. One needs only to have followed reports of California wildfires this summer to learn what happens when people panic and cannot escape approaching fires because of traffic jams and blocked roads. I'm not a lawyer, but my guess is the city could be held liable for fatalities and property damage caused by failure to plan wisely.

Infrastructure

The developer should be required to pay his full share of sewage system taps before any development is allowed. According to the Dec. 18 Staff Report, Easterday still owes $283,879 for his share of a community sewage disposal system. He also should be required to pay for his share of all community water infrastructure so that such costs do not fall on taxpayers or purchasers.

Thank you for considering my arguments in your consideration of this matter.

Sincerely,

Gail M. Fineberg

Gail M. Fineberg

Todd C. Fineberg
6638 Gilardi Road
Boonsboro, MD 21713
December 27, 2018

Tel. 240-388-0888
Email: t.fineberg@myactv.net

Town of Boonsboro
Department of Planning, Zoning
&Engineering
21 N. Main Street
Boonsboro, MD 21713

Re: Application for Zoning Map Amendment by Preserve at Fox Gap, LLC, Case No. BNRZ 18-01

To the Town of Boonsboro Dept. of Planning, Zoning, & Engineering:

I write to you to oppose the Application of Preserve at Fox Gap, LLC to Amend the Boonsboro Zoning Map regarding property north of the intersection of Alt-40 (Old National Pike) and Md Route 67.

I and my wife, Gail, are owners of nearby property at 6638 Gilardi Road, Boonsboro. Our property, owned by us for more than 14 years, consists of a house and barn on more than 13 acres of land, including forest. This property is about ½ mile from the property subject to this zoning application.

We, and I am sure, most of the property owners on adjacent and nearby Gilardi and Mousetown roads purchased and lived in this area to be in a remote rural and forest environment that includes our own properties and state forest land as well. In addition to single-family residences on these roads near the proposed zoning amendment property, there are farm lands with cattle on them. This rural and forested lands should be viewed as "sensitive," areas needing protection as described in planning and zoning terminology applicable in Boonsboro and Maryland.

In addition to houses and farm lands on these related or adjacent properties, very little vehicle traffic passes along these roads in neighborhoods that are quiet consistent with the rural and forest natural environment.

We are also concerned that additional roads in this peaceful, quiet neighborhood may be constructed to serve the vehicles of those living in and/or serving the community about to be constructed in the amended zoning plan.

Therefore, we oppose an amendment to the Boonsboro zoning map that would allow multi-family residences in Town Center Residential zones, large numbers of additional single-family residences on many small plots of land together with commercial buildings and businesses. All of these are inconsistent with the real property uses of nearby and adjacent neighborhoods in the Boonsboro area.

The requested amended zoning will produce every day much more noise, light and traffic that is inconsistent with the living environment of many properties near or adjacent to the area subject to the area affected by the amendment.

As residents on South Mountain in the Boonsboro area near the proposed amendments and developments, my wife and I receive essential water supplies from natural water flowing down the mountain into our well system. I would expect that most of the residents on nearby Gilardi and Mousetown roads depend on this water source, as there is no public Boonsboro city water supply in this area on the edge of the zoning amendment land proposal. We are concerned that major water supply facilities on the land subject to requested zoning amendment and/or provided by the Town of Boonsboro will interfere with water supply of us and many other residents in the zoning amendment area.

The Planning & Zoning Department Staff Report on the proposed zoning amendments and residential and commercial projects indicate uncertainty as to whether the Boonsboro water supplies and sewage processing will be sufficient to handle the needs of residences and commercial buildings that will result from the requested zoning amendment and other developments expected.. Although the Boonsboro Staff Report indicates currently enough capacity to serve this development, this together with other developments "will stress this capacity." Staff Report at page 5.

We request that the zoning amendment be denied and that the water supplies of existing residents be protected and that the residents be protected from excessive sewage from the proposed projects.

We object to allowance of commercial construction in the requested zoning amendment area on Alt-40 and Highway 67 near ours and many other single-family homes. Commercial construction and activity are available in commercial zones in Boonsboro and in nearby areas in Hagerstown and Frederick, but not in the quiet, noncommercial residential zones where we and many others live.

For the foregoing reasons, I object to the Town of Boonsboro Department of Planning, Zoning, & Engineering granting the amendment to the zoning map requested by Preserve at Fox Gap, LLC, and request that the Application for Amendment be denied.

Pursuant to Section 1104 of the Boonsboro Zoning Ordinance, we request that the Department find that there has not been "a convincing demonstration that the proposed rezoning would be appropriate and logical for the subject property."

Thank you for your attention to this matter.

Best regards.

Todd Fineberg

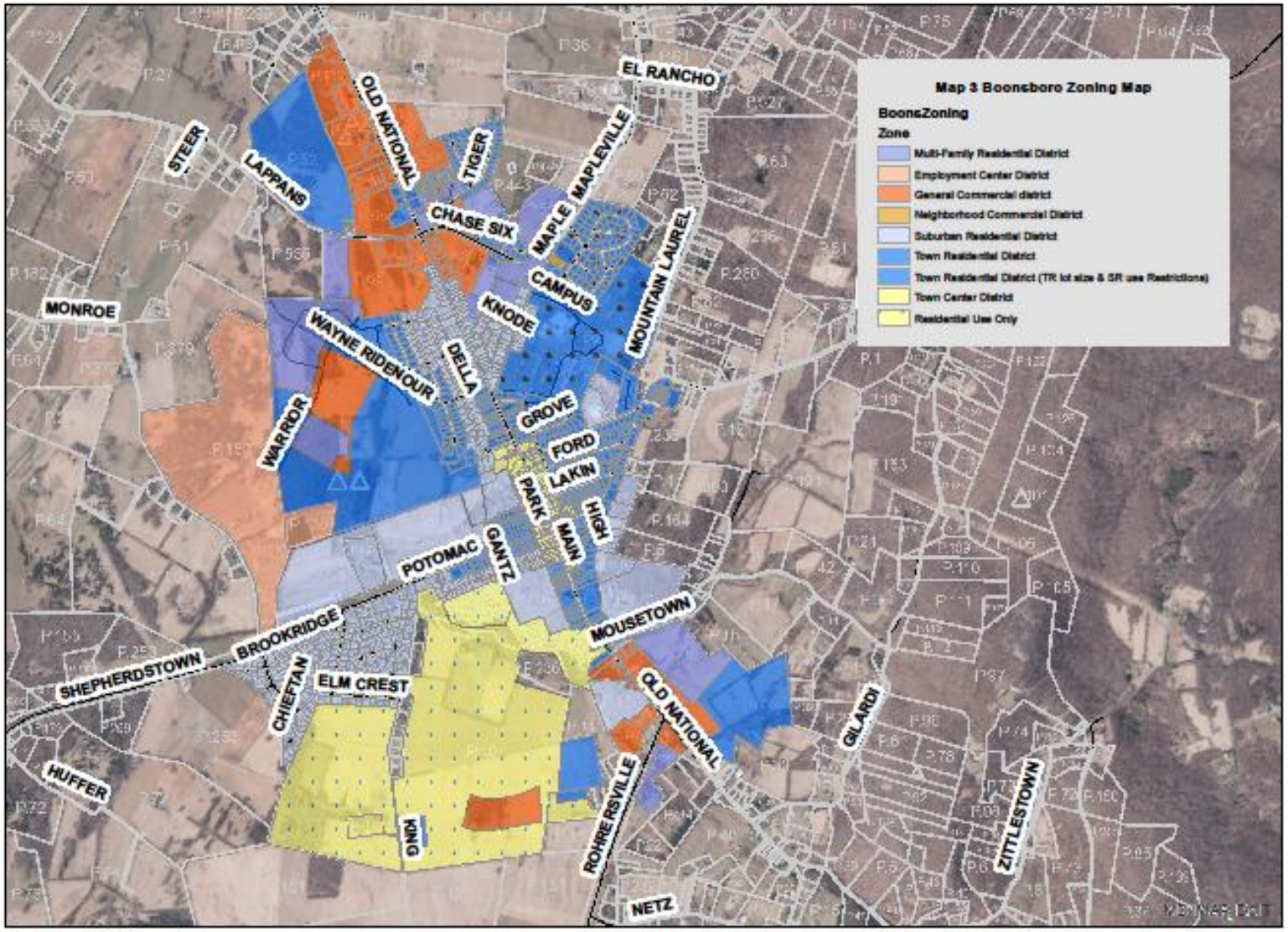
December 28, 2018

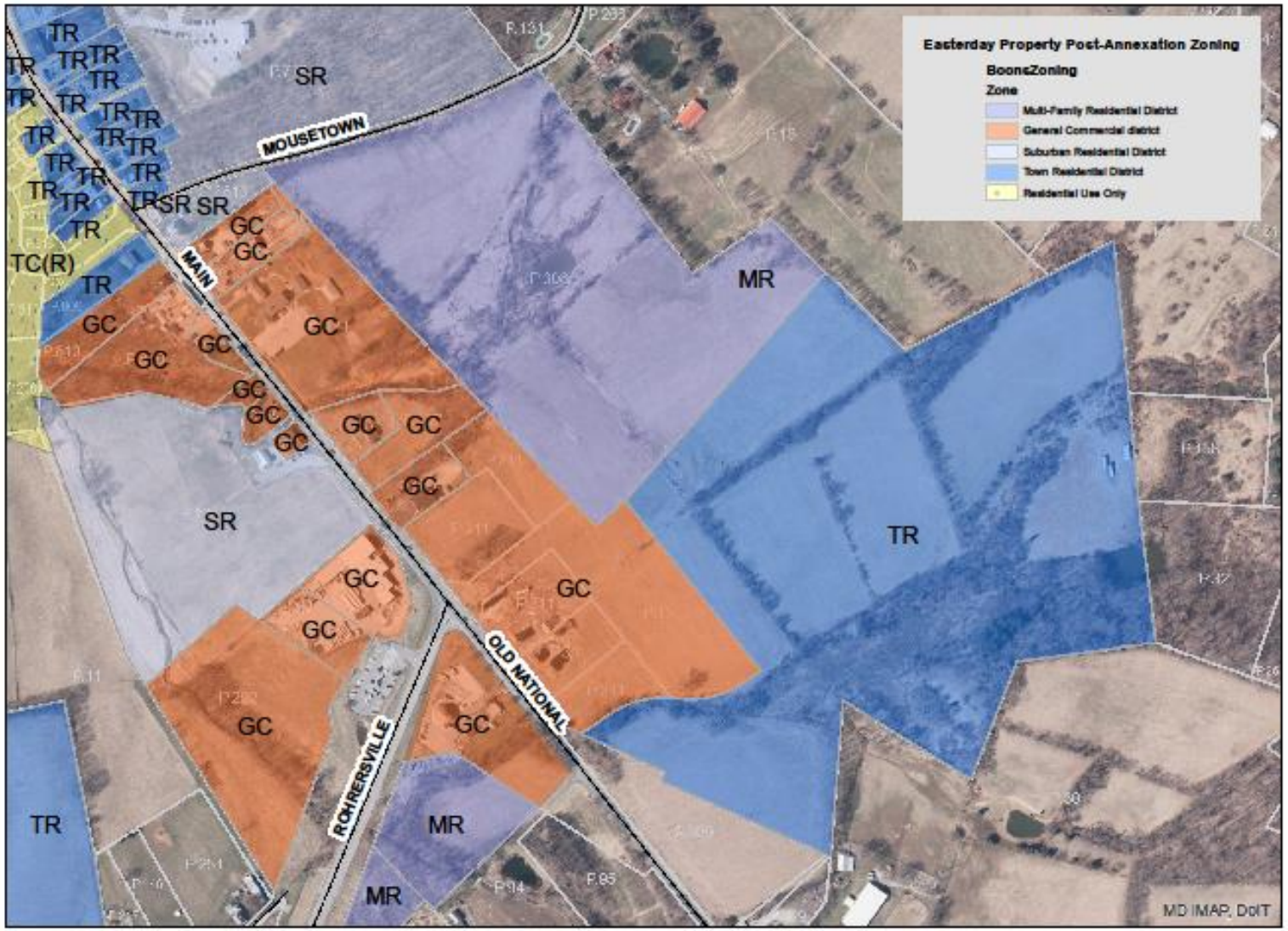
RECEIVED DEC 28 2018

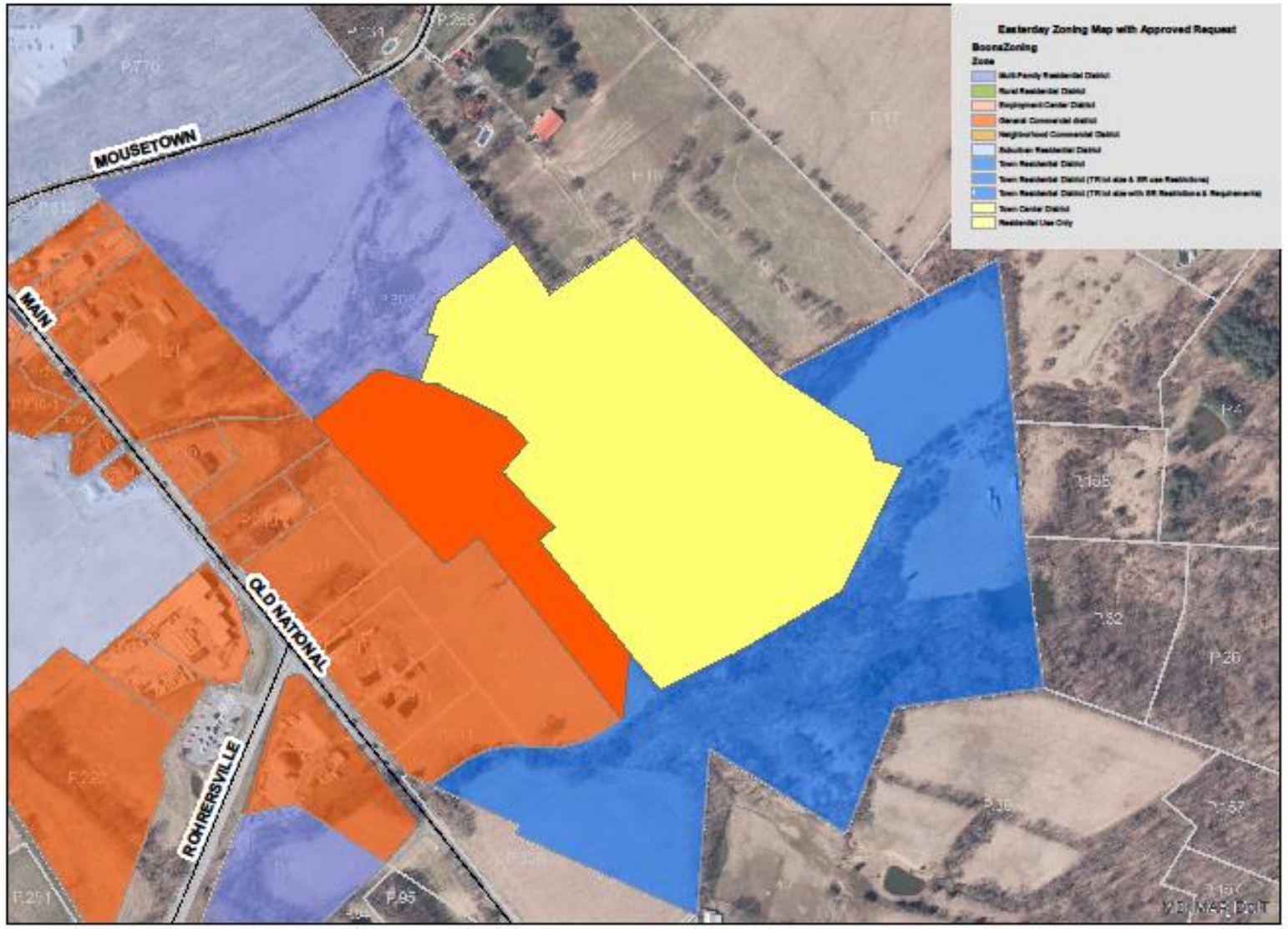
I oppose doubling the density of the Fox Gap Project. I live on Gilardi Rd. and I believe this proposal of doubling the density would not only negatively affect the community around Gilardi & Mousetown Roads, but the atmosphere of Boonsboro as a quaint town.

Thank you for your consideration to this matter.

Deb & Allen Youngbar
6826 Gilardi Rd.
Boonsboro, MD
21713


Map 3 Boonsboro Zoning Map
BoonsZoning
Zone
Multi-Family Residential District
Employment Center District
General Commercial district
Neighborhood Commercial District
Suburban Residential District
Town Residential District
Town Residential District (TR lot size & SR use Restrictions)
Town Center District
Residential Use Only
EL RANCHO
OLD NATIONAL
STEER
LAPPANS
TIGER
MAPLEVILLE
CHASE SIX
MAPLE
CAMPUS
MOUNTAIN LAUREL
MONROE
KNODE
WAYNE RIDENOUR
DELLA
GROVE
WARRIOR
FORD
LAKIN
PARK
HIGH
MAIN
POTOMAC
GANTZ
MOUSETOWN
BROOKRIDGE
SHEPHERDSTOWN
CHIEFTAN
ELM CREST
OLD NATIONAL
GILARDI
HUFFER
KING
ROHRERSVILLE
ZITTLESTOWN
NETZ


Easterday Property Post-Annexation Zoning
BoonsZoning
Zone
Multi-Family Residential District
General Commercial district
Suburban Residential District
Town Residential District
Residential Use Only
MOUSETOWN
MAIN
OLD NATIONAL
ROHRERSVILLE
SR
TR
TC(R)
GC
MR
MD IMAP, DoIT


Easterday Zoning Map with Approved Request
BoonsZoning
Zone
Multi Family Residential District
Rural Residential District
Employment Center District
General Commercial district
Neighborhood Commercial District
Suburban Residential District
Town Residential District
Town Residential District (TR lot size & SR use Restrictions)
Town Residential District (TR lot size with SR Restrictions & Requirements)
Town Center District
Residential Use Only
MOUSETOWN
MAIN
OLD NATIONAL
ROHRERSVILLE
P.770
P.266
P.95
P.26
P.57
P.251
V.D. MAR DeIT