



Prince George's County Planning Board  
Office of the Chairman

301-952-3561

November 9, 2017

The Honorable Derrick Leon Davis  
Council Chairman, Prince George's County Council  
County Administration Building  
14741 Governor Oden Bowie Drive  
Upper Marlboro, Maryland 20772

Dear Chairman Davis:

District Council Resolution 62-2017 directed the Planning Board to initiate a minor amendment to the 2013 *Approved Subregion 5 Master Plan and Sectional Map Amendment* to make zoning reclassifications of certain properties within the Master Plan boundaries, and to make amendments to the approved County Growth Boundary. Council Resolution 62-2017 contains eight amendments, three directing the Planning Board to realign the County Growth Boundary, and five directing the Planning Board to rezone properties.

On November 2, 2017, the Planning Board reviewed the three proposed minor amendments to the County Growth Boundary. The Planning Board does not support the proposed minor amendments in CR-62-2017 with one minor clarification on Amendments Four and Five. The Planning Board recommends Amendment Four and Amendment Five be further evaluated as part of the Central Branch Avenue Revitalization Sector Plan SMA already budgeted for FY18.

Enclosed is a copy of the Updated Technical Staff Report which contains the staff analysis of the proposed minor amendments. The staff analysis also reviews the public testimony received at the joint public hearing and includes the recommendations concerning the proposed minor amendments as provided above.

Thank you for considering our recommendations. If the Planning Board can be of further assistance to you regarding this matter, please contact me or call Michael Zamore, Project Leader, at 301-952-3253.

Sincerely,

Elizabeth M. Hewlett  
Chairman

Enclosures:

1. Attachment 1: Updated Technical Staff Report and Recommendation
2. Attachment 2: Memo from MNCPPC Legal, dated September 12, 2017
3. Attachment 3: Staff Analysis of Testimony from the October 10, 2017 Joint Public Hearing regarding proposed changes to the County Zoning Map for District Council worksession
4. Attachment 4: Staff Analysis of Testimony from the October 10, 2017 Joint Public Hearing regarding proposed changes to the County's Growth Boundary for November 2, 2017 Planning Board worksession.
5. Attachment 5: Planning Board Resolution, PGCPB No. 17-142
6. Attachment 6: Transcript and Exhibits from Joint Public Hearing, October 10, 2017

cc: Prince George's County Council Members  
Andree Green Checkley, Planning Director  
Scott Rowe, Acting Chief, Community Planning Division  
Wendy Irminger, Planner Coordinator, Community Planning Division

## Attachment 1

# AMENDMENTS TO THE 2013 APPROVED SUBREGION 5 MASTER PLAN (CR-62-2017)

## STAFF REPORT

The District Council, by Council Resolution CR-62-2017, adopted on July 18, 2017, directed the Planning Board to initiate a Minor Amendment of the 2013 *Approved Subregion 5 Master Plan and Sectional Map Amendment* (SMA) pursuant to the procedures described in Section 27-642 of the Zoning Ordinance. CR-62-2017 proposes to change the zoning classification of more than 2,000 acres of land within the master plan area boundaries, and amend the County's approved Growth Boundary to re-designate certain properties identified by tax account and parcel information, from the Rural and Agricultural Areas to the Established Communities policy areas. These growth policy areas were established in the *Plan Prince George's 2035 Approved General Plan* (Plan 2035), approved on May 6, 2014, the general plan for the physical development of land in Prince George's County, and reaffirmed by the 2017 *Approved Prince George's County Resource Conservation Plan: A Countywide Functional Master Plan* (RCP) approved on March 7, 2017, via CR-11-2017.

CR-62-2017 was adopted pursuant to Section 27-642 of the County Zoning Ordinance, which provides for the Minor Amendment of Approved Master, Sector, Functional Plans, and Development District Overlay Zones. Section 27-642 does not provide for amendments to the County Zoning Map. Provisions for the District Council to initiate comprehensive amendments to the Zoning Map, known as Sectional Map Amendments, are found in Sections 27-220 through 27-228, also identified as Part 3, Division 4 of Subtitle 27. Accordingly, on September 21, 2017, the Planning Board only initiated the County Council's three proposed changes (1, 3 and 8) to the County's Growth Boundary, under Section 27-642.

## BACKGROUND

- 1. Location:** Planning Subregion 5 covers approximately 74 square miles of land, equivalent to 15 percent of the total land area of Prince George's County. The master plan area includes land in south and southwest Prince George's County generally bounded by the Potomac River, Tinkers Creek, Joint Base Andrews, Piscataway Creek, the CSX (Popes Creek) railroad line, Mattawoman Creek, and the Charles County line. Planning Areas 81A, 81B, 83, 84, and 85 are included within the boundaries of Subregion 5.
- 2. Plan Approval:** The Subregion 5 Master Plan was approved by CR-80-2013, on July 24, 2013. This master plan amended the 2002 General Plan, and in its approval, the District Council made the following two amendments to the 2002 General Plan – a revision to the boundaries of the Brandywine Community Center (which the 2002 General Plan established as a possible future center), and a reclassification of approximately 10 acres from the Rural Tier to the Developing Tier. There is no relationship (in the plan text or maps) between the Subregion 5 Master Plan and the County's Growth Boundary because the concept of a Growth Boundary did not exist as a policy designation within Prince George's County at the time the Subregion 5 Master Plan was approved; the County's Growth Boundary was established by Plan 2035 (2014).

Plan 2035 states “All planning documents which were duly adopted and approved prior to the date of adoption of Plan 2035 shall remain in full force and effect, *except the designation of tiers, corridors, and centers, [emphasis added]* until those plans are revised or superseded by subsequently adopted and approved plans.” [270]

Accordingly, as of May 6, 2014, the former Rural Tier and Developing Tier, and the boundary between them, ceased to exist. However, the future land use designations, and goals, policies, and strategies for specific areas of Subregion 5 remain in effect.

**Subregion 5 Master Plan Vision:** The Subregion 5 Master Plan designates land in the Developing Tier (currently, the Established Communities policy area) as residential low, residential medium, institutional, and public and private open space. Commercial and industrial areas are distributed in relatively small concentrations in Brandywine and Clinton. Future land use in the Rural Tier (currently the Agricultural and Rural Areas policy area) is designated “Rural”, reflecting the County’s goal to preserve agricultural resources, rural character, and open space in those areas. Additionally, the 2013 Master Plan states the following reasons for retaining the current boundaries of the Rural Tier and Developing Tier at page 65:

- Thanks to significant development capacity in the Developing Tier, there is no compelling market need to increase its size, or to provide additional development opportunity. Furthermore, significant acreages of land in the Rural Tier are designated for low-density residential development.
- Moving land from the Rural Tier to the Developing Tier within the Mattawoman Creek watershed would have negative impacts on water quality in the creek and its tributaries. While development of well and septic can also affect water quality, the impacts from higher density development, including impervious surfaces and other associated impacts, would be greater.
- The Subregion 5 Master Plan’s recommended policy is to support redevelopment and infill development in existing and planned development areas rather than greenfield development that depletes natural resource lands.

3. **Plan 2035 Vision:** According to Plan 2035, Prince George’s County has not always focused its resources, policies, or development effectively. Plan 2035 addresses these issues by focusing on the principles of sustainability, with a series of policies and strategies reflecting the importance of balancing economic, social, and environmental impacts in land use decision making. The plan’s core policies include targeted and prioritized public investment of money and resources to realize meaningful change at strategic locations.

4. **Section 27-642.** – The minor amendment process is governed by Sec. 27-642 of the County Zoning Ordinance: Minor Amendment to Approved Master, Sector, Functional Plans, and Development District Overlay Zones. It reads as follows.

(a) Amendments of approved master, sector, functional plans and/or associated Development District Overlay Zones may be initiated by Resolution of the District Council, or by the Planning Board upon approval by Resolution of the District Council. At the time of initiation, a joint public hearing date shall be scheduled to occur within 60 days, in accordance with the notice requirements set forth in Sections 27-644(b)(2)(A) through Section 27-644(b)(2)(D) of this Subtitle.

(b) The minor amendment process may be utilized to:

- (1) advance the goals of an approved comprehensive plan, functional plan, or development district plan; or
  - (2) safeguard the public safety health and welfare of citizens and residents within the plan area boundaries.
- (c) The scope of the minor amendment shall be limited to:
- (1) a geographic area which is not more than 50% of the underlying plan area, but not limited to a single property or property owner;
  - (2) limited to specific issues regarding public planning objectives; or
  - (3) for the purpose of correcting errors in the text or maps in the applicable plan.
  - (4) Notwithstanding subsections (1) through (3), herein, the minor amendment process shall not be utilized for any amendment which would require major transportation analysis and/or modeling, revised water and sewer classifications, or any Adequate Public Facilities analysis.
- (d) The Resolution initiating a minor amendment shall set forth the purpose and scope of the proposed amendment, and shall state the date of the joint public hearing on the proposed amendment.
- (e) The Planning Board shall transmit a draft of the proposed amendment, a technical staff report analyzing the amendment, and the Planning Board's recommendation on the Development District Overlay Zone amendment and/or the Planning Board's adoption of the plan amendment within 30 days of the date of the joint public hearing.
- (f) Within 90 days of receipt of the Planning Board's recommendation, the District Council shall approve, approve with revisions, or disapprove the proposed minor amendment.

The proposed changes under review were intended to fall under Section 27-642(a), amendments of approved master plans.

## **PROPOSED GROWTH BOUNDARY AMENDMENTS**

These amendments are shown on Map 1.

The District Council initiated eight amendments to the 2013 *Approved Subregion 5 Master Plan and Sectional Map Amendment*. Five of these amendments propose to change zoning. The Planning Board determined that the Minor Plan Amendment process, as defined in Section 27-642, is not the correct process to use to change zoning. Therefore, the Planning Board directed staff to evaluate the three proposals in CR-62-2017 to change the County's Growth Boundary.

### Amendment Number One

Amend the County's Growth Boundary to include approximately 23.18 acres of land known as Parcels 85 and 86, Tax Map 143, Tax Account Nos. 05-0282715 and 05-0282707 within the Established Communities policy area.

### Amendment Number Three

Amend the County's Growth Boundary to include approximately 122.4 acres of land, known as Parcel 77, Tax Map 170, Tax Account No. 05-0276543 within the Established Communities policy area.

### Amendment Number Eight

Amend the County's Growth Boundary to include approximately 961 acres of land, as described in

Attachment 2 within the Established Communities policy area.

Note: For the purpose of discussing proposed changes to the County's Growth Boundary, this Staff Report does not address the properties identified in Amendment 8 in CR-62-2017 that are already designated in the Established Communities growth policy area. The excluded properties are the undeveloped lots in the Country Club Estates subdivision and land in tax accounts 11-1152032, 11-1156447, and 11-3215068.

## EVALUATION

Staff evaluated the proposed amendments of the County's Growth Boundary for conformance with Section 27-642, Amendments to Approved Master, Sector, Functional Plans, and/or associated Development District Overlay Zones, as follows:

1. Sections 27-642(c)(1) and 27-642(c)(3)
2. Sections 27-642(b)(1) and 27-642(c)(2)
  - a. Conformance with the goals and policies of the 2014 *Plan Prince George's 2035 Approved General Plan* relating to the Growth Boundary and Established Communities policy area.
  - b. Conformance with the goals and policies of the 2013 *Approved Subregion 5 Master Plan*.
3. Section 27-642(c)(4)
  - a. Transportation
  - b. Water and Sewer
  - c. Adequate Public Facilities

### 1. Conformance with Sections 27-642(c)(1) and 27-642(c)(3)

**Sec. 27-642 (c) The scope of the minor amendment shall be limited to:**

- (1) a geographic area which is not more than 50% of the underlying plan area, but not limited to a single property or property owner;

...

- (3) for the purpose of correcting errors in the text or maps in the applicable plan.

**Comments:** The proposed amendments are consistent with Sec. 27-642(c)(1) and (c)(3). They cover less than 50% of the underlying plan area. Correcting "errors in the text or maps" in the Master Plan is not the stated purpose of the proposed Minor Amendment. The current growth policy areas in the Master Plan (Rural Tier and Developing Tier) are not alleged to be erroneous. There is not even a discussion of a Growth Boundary in the Master Plan. Plan 2035, not the 2013 Master Plan, established the Growth Boundary.

**2. Conformance with Sections 27-642(b)(1) and 27-642(c)(2)**

**Sec. 27-642 (b) The minor amendment process may be utilized to:**

- (1) advance the goals of an approved comprehensive plan, functional plan or development district plan;

**Sec. 27-642 (c) The scope of the minor amendment shall be limited to:**

...

- (2) limited to specific issues regarding public planning objectives;

**Comment:**

**a. Conformance with the goals and policies of the 2014 Plan Prince George's 2035 Approved General Plan relating to the Growth Boundary.**

The amendments direct the revision of the County's Growth Boundary to reclassify lands that are currently in the Agricultural and Rural Areas policy area (outside the Growth Boundary), into the Established Communities policy area (inside the Growth Boundary).

The County's Growth Boundary represents the boundary between the Established Communities and the Rural and Agricultural Area. The Growth Boundary is a countywide policy designation that separates areas designated by the County Council for residential, commercial, or industrial development and eligible to receive public water and sewer, from areas that are designated mainly for rural and agricultural development on individual well and septic systems; these areas draw a clear distinction between where development is envisioned to occur (Established Communities and designated Centers) and where preservation is envisioned to occur. The Prince George's County's Growth Boundary was established in May 2014 with the adoption of Council Resolution CR-26-2014 approving Plan 2035. Growth boundaries generally seek to provide for, and focus growth in appropriate areas, illustrating where growth should or should not generally occur. The Growth Boundary was established through a countywide process (Plan 2035) and adopted by the District Council as the County's growth policy in 2014. In January 2017, the District Council approved the 2017 *Approved Prince George's County Resource Conservation Plan: A Countywide Functional Master Plan* (RCP), which states: *Maintain the size and configuration of the Rural and Agricultural Area in perpetuity and do not reduce the size for any reason.* (RCP, Rural Character Conservation Plan Policy 1.10, page 121). Staff finds that this is the applicable and definitive County policy on the Growth Boundary.

By its very definition, a "Growth Boundary" delineates the area within a jurisdiction where growth should occur. Where growth boundaries are successful, all growth occurs within the Growth Boundary before a jurisdiction amends the boundary or permits growth outside of it.

Policy decisions as fundamental as where growth should occur and where preservation should occur impact, and should consider, the entire County. The Subregion 5 Master Plan, as with all other master and sector plans, addresses only portions of the County. In addition, the Subregion 5 Master Plan was approved before the County Council adopted the concept of a Growth Boundary as a County policy area designation. Prior practice notwithstanding, a future amendment of the General Plan, the RCP, or another countywide functional master plan is the appropriate process to amend the Growth Boundary. Staff concurs with RCP Policy 1.10 as described above and the District Council's finding in CR-11-2017 (approved in January of this year) that stated that the growth boundary is "well-established" and "long-settled." Staff further submits that changes to a County Growth Boundary established in 2014 are premature in 2017, given vast amount of a) unbuilt, but permitted, residential units and b) undeveloped, residentially-zoned land currently within the Established Communities.



The minor amendment impacts an area of the County that is among the areas most in need of preservation, due to its agricultural land use, rural nature, and environmental vulnerability. The two state planning mandates for the PPA (Agricultural Stewardship Act of 2006, HB 2) and the Sustainable Growth and Agricultural Preservation Act of 2012 (SGA) tiers, require the county to designate areas to be preserved for agricultural and forestry uses, and to be protected from major subdivisions requiring public water and sewer service. The more intense type of development this Minor Amendment seeks to facilitate in the PPA and in the Mattawoman Creek watershed is inconsistent with actions already taken as a result of the County's compliance with state of Maryland requirements. Some of the proposed changes would negatively impact the Agricultural Conservation Plan (part of the Resource Conservation Plan) objective to preserve undeveloped land within the PPA.

Intensified residential and commercial land uses within the PPA would create a need for additional infrastructure that has not been analyzed or planned. It would alter the character of the Rural and Agricultural Area (RAA) by adding incompatible land uses, and put into jeopardy the state's certification of the County's agricultural preservation program, a threat to substantial future funding for agricultural preservation. The state of Maryland (Department of Natural Resources) has weighed in on the Mattawoman Creek watershed, which it has deemed is "at very high risk of impairment," stating that "Mattawoman represents as near to ideal conditions as can be found in the northern Chesapeake Bay, perhaps unattainable in the other systems, and should be protected from overdevelopment."

According to the established rural preservation visions and goals of the County's 2014 General Plan (Plan 2035), the 2013 Subregion 5 Master Plan, and the RCP, the Rural and Agricultural area (RAA)—including the Priority Preservation Area (PPA)—is to be preserved, enhanced, and where appropriate, restored for the purpose of protecting priority agricultural lands and ecosystems, quality open space, and a vital agriculture-based economy. The PPA is an area designated by the *Priority Preservation Area Functional Master Plan*, approved in July 2012, to meet the State requirement for a Priority Preservation Plan. The Plan contains policies and strategies to reach the County goal of placing 24,769 acres under protective easement by the year 2027. Public input received from these three planning efforts contributed to establishing policies aimed at reducing the rate of land consumed by greenfield development, minimizing development in areas of prime farm and forest acreage, and protecting water resources. The proposed Subregion 5 minor amendment is inconsistent with those visions, goals, and policies of the aforementioned comprehensive and functional plans.

This change to the Growth Boundary is inconsistent with Sec. 27-642(b)(1) of the Zoning Ordinance because it contradicts, rather than advances, several Plan 2035 policies and strategies that include:

- Policy 2 (page 112): "Limit the expansion of public water and sewer outside the Growth Boundary in Rural and Agricultural Areas"
- Strategy LU1.1 (page 110): "To support areas best suited in the near term to become economic engines and models for future development, encourage projected new residential and employment growth to concentrate in the regional Transit Districts that are designated as Downtowns (see Strategic Investment Program under Implementation section)"
- Policy 7 (page 114): "Limit future mixed-use land uses outside of the Regional Transit Districts and Local Centers"
- Policy 10 (page 116): "Retain Future Water and Sewer Service Areas in water and sewer categories S5 and W5 until additional residential development capacity is needed to meet growth projections"
- Policy 11 (page 117): "Preserve and protect the Rural and Agricultural Areas to conserve agricultural and forest resources"
- Policy 1 (page 187): "Concentrate medium- to high-density housing development in regional transit Districts and Local Centers with convenient access to jobs, schools, child care, shopping,



- recreation, and other services to meet projected demand and changing consumer preferences.”
- Policy 13 (page 218) “Preserve and enhance the County’s rural and agricultural character”

There are no Plan 2035 goals, policies, or strategies advanced by the proposed amendments.

The proposed amendments also stand in direct contradiction to the recently approved Resource Conservation Plan (2017).

**b. Conformance with the goals and policies of the 2013 Approved Subregion 5 Master Plan and Sectional Map Amendment.**

This proposal to expand the County’s Established Communities policy area is inconsistent with the Subregion 5 Master Plan’s land use policies that have designated these areas for “Rural” Future Land Use. The removal of more than 1,000 acres of land from the rural policy areas would undermine the vision of the Rural Tier which is the “protection of large amounts of land for woodland, wildlife habitat, recreation and agricultural pursuits, and preservation of the rural character and vistas that now exist.” (Master Plan, page 9) The proposal also contradicts the public facilities and transportation recommendations in the master plan, which are derived from an analysis of anticipated future needs; these calculations are based on the designated Future Land Use in the approved Master Plan (see discussion below).

In addition, the proposed amendments of the County’s Growth Boundary are inconsistent with the planning policies in the Subregion 5 Master Plan to preserve woodland, agriculture and rural character for land in Amendments 1, 3 and 8. Re-designating these properties within a policy area (Established Communities) that assumes development at suburban residential and/or commercial densities would lead to the conversion of natural resources to residential and commercial development and the accompanying infrastructure, contradicting the Master Plan’s vision, policies and recommendations for this area of Subregion 5, which is the “protection of large amounts of land for woodland, wildlife habitat, recreation and agriculture pursuits, and preservation of the rural character and vistas that now exist.” (Master Plan, p. 9)

**3. Conformance to Section 27-642(c)(4)**

**Sec. 27-642 (c) The scope of the minor amendment shall be limited to:**

...

- (4) Notwithstanding subsections (1) through (3), herein, the minor amendment process shall not be utilized for any amendment which would require major transportation analysis and/or modeling, revised water and sewer classifications, or any Adequate Public Facilities analysis.**

**Comment:**

The amendments cover a total of 27 properties containing 1,106 acres, that are currently outside the Growth Boundary in an area largely zoned for rural and agricultural development and that would rely upon individual well and septic systems. Reclassification to the Established Communities policy area would place the subject properties inside the Growth Boundary, an area designated by the County Council for residential, commercial, or industrial development and eligible to receive public water and sewer. The Subregion 5 Master Plan, the 2008 County Water and Sewer Plan, and Plan 2035 make recommendations for transportation, the environment, the provision of water and sewer services, and the adequacy of public facilities based on the expectation that the subject properties would remain undeveloped, actively preserved, or be developed with rural residential (at densities consistent with well and septic usage) or

agricultural uses.

The proposed re-designation from the RAA to the Established Communities is not consistent with the provisions of Section 27-642(c)(4) because the size of the proposed re-designation and the potential for the intensity of development envisioned by Plan 2035 for Established Communities (and, in some cases, reinforced by the District Council's concurrent proposed zoning changes) requires major transportation analysis and modeling, an Adequate Public Facilities analysis, and subsequent revision of the water and sewer classifications for these properties since the reclassification would make the properties eligible for public water and sewer, for which they are currently not eligible.

a. Transportation

CR-62-2017 includes several "whereas" clauses containing findings or statements by the District Council that attempt to establish a policy rationale for the proposed minor amendments. Several of these suggest that a purpose of the proposed amendments is to increase residential development as a way to increase tax or other revenues that can be dedicated to addressing transportation issues within Subregion 5. These are best summarized by the following clause in CR-62-2017:

*WHEREAS, in order to realize the plan vision, the District Council finds that new, responsibly planned and implemented residential development hold potential for providing dedicated funding sources to address this regional transportation issue, and the use of coordinated priority funding fees for new development projects should be explored in order to create additional dollars to address the serious transportation issues in the corridor; ..."*

In general, residential development cannot provide dedicated funding sources to address *regional* transportation issues. Any funding derived from a new development must bear a rational nexus to the transportation demand created by that development. Such new development cannot be required to fund projects to fully address the regional transportation challenges present in Subregion 5.

Additional residential development generates additional trips. If all development alleviated 100% of its own traffic impact, there would be no congestion. To expect development to alleviate its own created congestion, as well as congestion created by dozens of additional residential developments in Prince George's and Charles Counties, is an ambitious and untested approach to transportation planning that would require additional analysis beyond the scope of this minor amendment. This approach also raises legal issues related to the proportionality of exactions which requires additional analysis.

When the County undertakes an area master plan, transportation impacts are identified through a thorough analysis of the residential, commercial, and other buildout and strategies, including the need for specific transportation facility improvements such as new or expanded roads. The 2013 Subregion 5 Master Plan mitigates rather than exacerbates the traffic congestion in the US 301/MD 5 corridors by intentionally and strategically limiting development potential in the areas that are designated "Rural" on the Future Land Use Map. Without public infrastructure funding, private contributions are usually not adequate to fund public facility infrastructure, which suggests that even large amounts of new development such as that in the areas under consideration in CR-62-2017, would not contribute the funds necessary to build the improvements to relieve congestion along MD 5 and other roads in Brandywine and Clinton.

Current County and State transportation plans are based on existing plans and are inadequate to relieve the new, increased levels of traffic that would accompany the proposed growth and development pursuant to a County Growth Boundary amendment. Without analysis of data that considers transportation patterns based on specific buildout estimates regarding households, population, and jobs, staff cannot make any determinations or findings regarding the extent of the trips generated by the development that would occur pursuant to the proposed Minor Amendments, or the street/road/highway segments negatively impacted by those trips, except to state definitively that the proposed changes to the Growth Boundaries would require major transportation analysis, rendering such proposals inconsistent with Section 27-642(c)(4).

**Note:** The Subregion 5 Master Plan includes the following transportation strategy:

*Pursue and establish a variety of dedicated funding sources and strategies to complete the recommended 2030 and buildout transportation network.* (third bullet, Master Plan page 107)

Implementation of this policy requires that the County dedicate funds from a variety of sources to construct transportation improvements. This Minor Amendment does not, and cannot, establish new funding sources. Even if the existing County's Growth Boundary were changed as proposed in the proposed Minor Amendments, the infrastructure needs within the areas newly designated in the Established Communities would not be within Plan 2035's "targeted growth areas" and road improvements and other infrastructure needs would not be prioritized in the County's Capital Improvement Program (CIP). Intensifying development on the proposed properties, which is the only conceivable purpose for this amendment, will increase traffic demand. Given the location of the properties and their distances from concentrations of jobs, it can be assumed that nearly all trips will be by car; any development of the subject properties will increase the need for transportation infrastructure in the Subregion. While new developments may be required to mitigate the transportation impacts specific to their developments, the ability of new development to contribute to solving regional transportation issues, such as congestion on US 301, MD 5, MD 210, and other major commuter routes, is extremely limited. While increased residential development may generate increased residential property taxes, those taxes rarely pay the total costs incurred by such development, especially and pointedly transportation improvements.

Therefore, this proposal cannot help to realize transportation policy goals.

#### b. Revised Water and Sewer Classifications

The 2008 Water and Sewer Plan controls water and sewer category changes and requires that any water and sewer category change must be consistent with the applicable land use plan before a change can occur. The applicable land use plans are the Subregion 5 Master Plan and Plan 2035. The Subregion 5 Master Plan designates the Future Land Use for the area covered by the Minor Amendment as "Rural and Agricultural" or "Residential Low", while Plan 2035 locates the properties associated with Amendments 1, 3, and 8 outside the limit of planned water and sewer service.

If the amendments are approved, the Sewer Envelope must be realigned, and the properties affected by the change must be placed in the appropriate water and sewer categories. Additionally, the Department of Permitting, Inspections and Enforcement (DPIE) must be informed of any inconsistencies between the Sewer Envelope and the Growth Boundary. The properties associated with Minor Amendment 1 and 8 are in the 2012 Sustainable Growth and Agricultural Preservation Act Tier IV, while the property associated with amendment 3 is in Tier III. Properties in Tiers III and IV are on individual well and septic systems and not eligible for public water and sewer service.

Amending the Growth Boundary to include the properties identified as Amendments 1, 3 and 8 in the Established Communities will require a realignment of the Sewer Envelope boundary which requires a legislative amendment to the Water and Sewer Plan. This cannot be done through the minor plan amendment process and also renders the proposed amendments inconsistent with Section 27-642(c)(4).

The 2012 Sustainable Growth and Agricultural Preservation Act requires each County within the State of Maryland to designate septic Growth Tiers that limit the number of dwelling units built based on available tier-specific septic or sewer service. Prince George’s County designated its Growth Tiers using the local priority preservation area designation and sewer boundaries. All properties within Minor Amendments 1, 3 and 8 are located within Sustainable Growth Tiers III or IV (see Table 2). Residential subdivisions within Tier III shall be served by on-site septic disposal systems. Minor subdivisions within Tier IV shall be served by on-site septic disposal systems, and major subdivisions served by on-site septic disposal systems are not permitted in Tier IV. It should be noted that prior to the approval of the RCP, the property referred to as Minor Amendment 3 was within Sustainable Growth Tier I. The approved RCP made a technical correction to the Sustainable Growth and Agricultural Preservation Act Map which resulted in the subject property being moved to Sustainable Growth Tier III.

Table 2. Sustainable Growth Act Tiers

Minor Amendment #	Sustainable Growth and Agricultural Act Tier #
Minor Amendment 1	IV
Minor Amendment 3	III
Minor Amendment 8	I
Minor Amendment 8	III
Minor Amendment 8	IV

**c. Adequate Public Facilities**

In addition to transportation and water/sewer impacts, the development of residential units at the densities encouraged by policies for the Established Communities requires analysis of the impact of such development on public school enrollment, the provision of police, fire and emergency medical services, and the need for additional parks, libraries, and other necessary public facilities. The acreage proposed for inclusion in the Established Communities could yield a significant number of new residential units, with the attendant impact on transportation, water, sewer, and other public facilities and services. The impact of increased residential growth on these facilities and services is evaluated as part of any area master plan; such impacts were analyzed, and mitigating strategies approved, as part of the 2013 Subregion 5 Master Plan, based on anticipated residential buildout at that time. Changes of the magnitude proposed are inappropriate without the necessary analysis of public facility impact, and, therefore, are inconsistent with Section 27-642(c)(4).

Also, in accordance with Section 24-122.01 of the County Code (Public facilities requirements), the Planning Board may not approve a preliminary plan of subdivision if it finds that adequate public facilities (e.g. schools, police, fire and EMS, water and sewer service, roads, etc.) do not exist or are not programmed for the area within which the proposed subdivision is located. In such cases the Planning Board shall require adequate public facilities, as provided in Section 24-122.01 and in Division 4 of Subtitle 24.

Although this is not a preliminary plan of subdivision application, amending the County's Growth Boundary as proposed, will eventually result in the subdivision of land and creation of new development.

Minor Amendment 1 and Minor Amendment 8 will trigger an adequate public facilities (APF) analysis because the properties are located outside the County's Sewer Envelope. Properties outside the Sewer Envelope are outside the limit of planned water and sewer service which is the boundary beyond which community water and sewer facilities will not be approved as provided in the 2008 *Water and Sewer Plan*. Minor Amendment 3 is within the Sewer Envelope; however, it will trigger an APF review because it is located in Sustainable Growth Act Tier III. Properties within Tier III as provided in the 2012 Sustainable Growth and Agricultural Preservation Act, shall be served by on-site septic disposal systems and not by public sewer.

This requirement for APF review also makes the minor amendment inconsistent with the provisions of Section 27-642(c)(4). (Note that several properties including Parcel 8, identified as Tax Account No. 11-1156447 will not trigger an APF review because the properties are already inside the County Sewer Envelope).

Minor Amendment 1, Minor Amendment 3 and Minor Amendment 8, (except for the abovementioned properties), are also outside the Growth Boundary and are located within the designated Rural and Agricultural Areas of the Prince George's County Growth Policy Map as provided in Plan 2035. A policy of Plan 2035 is to prevent the expansion of public water and sewer outside the Growth Boundary in Rural and Agricultural Areas.

#### SUMMARY

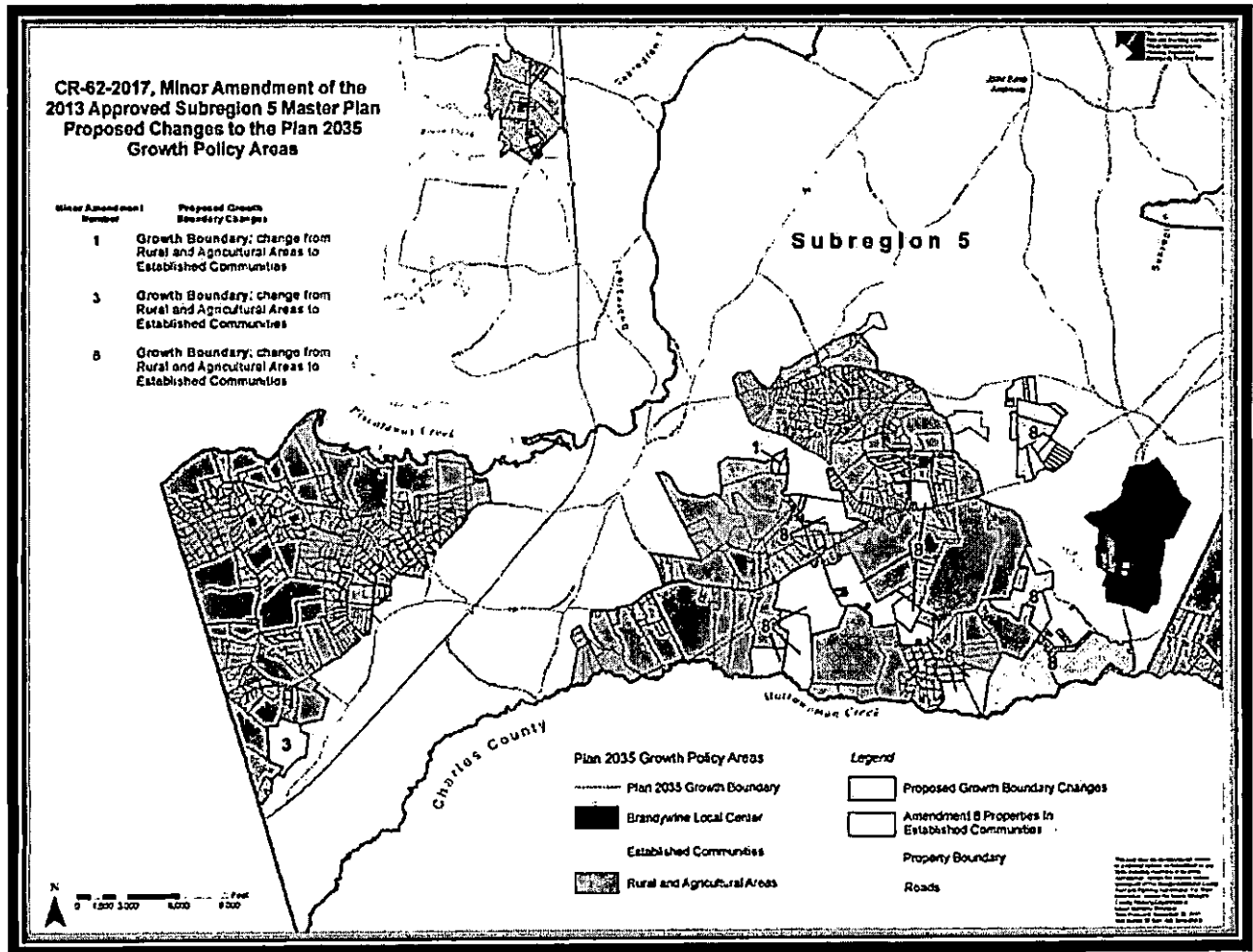
1. The proposed amendments are not consistent with Section 27-642 of the County Zoning Ordinance.
2. The proposed County's Growth Boundary changes are not consistent with and are contrary to, the policies and recommendations of *Plan 2035*, the 2017 *Approved Prince George's County Resource Conservation Plan: A Countywide Functional Master Plan*, the 2013 *Approved Subregion 5 Master Plan*, and the 2012 *Approved Priority Preservation Area Functional Master Plan*.
3. Recommendations for land use, public facilities (including water and sewer), environmental preservation, and transportation improvements in the Subregion 5 planning area (in Plan 2035, the 2017 RCP, the 2013 *Approved Subregion 5 Master Plan*, *Approved Countywide Master Plan of Transportation*, and other master plans impacted by growth in the subject area), would be compromised by the proposed amendment of the County's Growth Boundary.
4. The proposed significant transfer of acreage from the County's conservation and open space areas to a development area is not accounted for in any of the County's official area and functional master plans.
5. If the proposed re-designation was approved, the County would need to amend the Priority Preservation Area Plan and apply to the state of Maryland for re-certification of the County's Priority Preservation Areas. The resulting patchwork of preservation areas would jeopardize the state's re-certification of the County's agricultural preservation program, a threat to substantial future funding for agricultural preservation.



## FINDINGS

1. Amendments of the County Zoning Map are beyond the scope of the minor plan amendment process in Section 27-642 and cannot be approved via that process.
2. The *Approved Subregion 5 Master Plan* is not the appropriate plan through which to amend the Growth Boundary as an amendment of the Plan 2035 Approved General Plan.
3. The proposed amendments to the County Growth Boundary, reclassifying properties from the Rural and Agricultural Areas to the Established Communities are inconsistent with Section 27-642(b) and Section 27-642(c) as follows:
  - a. The proposed amendments do not advance the goals of any approved comprehensive plan or functional plan, including *Plan 2035*, the 2013 *Approved Subregion 5 Master Plan*, the 2012 *Adopted and Approved Priority Preservation Area Functional Master Plan*, and the 2017 *Approved Prince George's County Resource Conservation Plan: A Countywide Functional Master Plan*. The proposed amendments have the opposite effect, compromising the goals, policies, and strategies of these plans applicable to this area of Prince George's County and the County's Growth Policy areas.
  - b. The proposed amendments are not limited to specific issues regarding public planning objectives. The proposed amendments trigger unaddressed impacts and do not advance any public planning objectives.
  - c. The proposed amendments require major transportation analysis and modeling.
  - d. The proposed amendments require revised water and sewer classifications.
  - e. The proposed amendments require Adequate Public Facilities analysis.

**Staff Recommendation: Decline to adopt the proposed Minor Amendments.**



Map 1. Proposed Amendments to the County Growth Boundary (Amendments 1, 3, and 8)

# Attachment 2

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## MEMO

OFFICE OF THE GENERAL COUNSEL  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION



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**TO:** Elizabeth Hewlett, Chair  
Prince George's County Planning Board

Andree Green Checkley, Planning Director  
Prince George's County Planning Department

**FROM:** Debra S. Borden  
Principal Counsel

**DATE:** September 12, 2017

**RE:** CR-62-2017  
**Subregion 5 Minor Sectional Map Amendment**

CR-62-2017 was adopted by the District Council on July 18, 2017 ("CR-62"). CR-62 directs the initiation of a Minor Master Plan Amendment pursuant to Section 27-642, and the initiation of a Minor Sectional Map Amendment pursuant to the same section of the code. The problem is, a Minor Sectional Map Amendment does not exist, and for the following reasons such a process cannot exist.

In Maryland there are three methods of re-zoning property. A comprehensive map amendment, a piecemeal zoning map amendment subject to the "change or mistake rule," and a zoning text amendment which amends the text of the zoning ordinance. A comprehensive map amendment, authorized by Md. Land Use Art. §22-104(a)(2), is a legislative function of the District Council.

As stated in *Mayor & Council of Rockville v. Rylyns Enterprises*, 372 Md. 514, 535 (2002) (citations omitted):

**"[t]he requirements which must be met for an act of zoning to qualify as proper comprehensive zoning are that the legislative act of zoning must: 1) cover a substantial area; 2) be the product of careful study and consideration; 3) control and direct the use of land and development according to present and planned future conditions, consistent with the public interest; and, 4) set forth and regulate all permitted land uses in all or substantially all of a given political subdivision, though it need not zone or rezone all of the land in the jurisdiction."**

As a legislative act, comprehensive zoning is not subject to a showing of evidence to support the choice of particular zones for specific properties, and comprehensive re-zonings are exceedingly difficult to challenge in court as they carry a strong presumption of correctness and validity. While specific requests by property owners are often considered during comprehensive re-zonings, the method and extent of consideration of individual requests is solely within the discretion of the legislative body, e.g. the Prince George's County Council sitting as the District Council.<sup>1</sup>

A piecemeal rezoning is a **quasi-judicial (on-the-record) action under state law**, subject to evidence of either a change in the character of the neighborhood or a mistake in the prior comprehensive rezoning in order for the District Council to approve a change in zoning for a particular property. **The burden to prove change or mistake is on the applicant or property owner.** Because zoning necessarily impacts the economic uses to which land may be put, and thus impacts the economic return to the property owner, the requirement that there be uniformity within each zone throughout the County is an important safeguard of the right to fair and equal treatment of the landowners at the hands of the local zoning authority. The requirement of uniformity serves to protect the landowner from favoritism towards certain landowners within a zone by the grant of less onerous restrictions than are applied to others within the same zone elsewhere in the district, and also serves to prevent the use of zoning as a form of leverage by the local government seeking land concession, transfers, or other consideration in return for more favorable zoning treatment. *Rylyns Enterprises*, 372 Md. 514, 536 (citations omitted).

The **only** exception to the change or mistake rule is a **floating zone**, which must be authorized in the local jurisdiction's Zoning Ordinance, **and must contain required findings**, development standards, and locational standards. Dissatisfaction with the relative inflexibility of Euclidian zoning gave rise to the use of floating zones, the use of which is authorized in Maryland by Md.Code (1957, 1998 Repl. Vol., 2002 Supp.), Article 66B, § 10.01(a)(8). In the case of *Eschinger v. Bus*, 250 Md. 112, 118–119, 242 A.2d 502, 505–506 (1968), the Maryland Court of Appeals quoted Russell R. Reno, *Non Euclidean Zoning: the Use of the Floating Zone*, 23 Md. L.Rev. 105, 107 (1963), as follows:

In recent years a new device in zoning has developed which provides the machinery for the establishment of small tracts for use as a shopping center, a garden apartment or a light industry in accordance with a comprehensive plan for the entire municipality, and at the same time leaves the exact location of each tract to be determined in the future as demanded for a shopping center, a garden apartment or a light industry develops in a specific area. This device is the creation of special use districts for these various uses, **which at the time are unlocated districts, but which can be located by a petition of a property owner desiring to develop his specific tract for any of these special uses.** Such unlocated special zoning districts are popularly referred to as 'floating zones,' in that they float over the entire municipality until by application of a property owner one of these special zones descends upon his land thereby reclassifying it for the special use." (emphasis added). Quoted in, *Rylyns Enterprises*, 372 Md. 514, 539.

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<sup>1</sup> To the extent the local legislature has enacted rules concerning individual request during comprehensive re-zonings, the legislative body is **legally bound to follow its own rules and procedures.**

The final method to rezone property in Maryland is the zoning text amendment. A zoning text amendment is a change to the local jurisdiction's Zoning Ordinance, and is also a legislative act which is authorized by Md. Land Use Art. §22-104(a)(1). Text amendments are subject to the same procedural requirements of any other legislative enactment, except they are not subject to executive veto since they are within the sole province of the District Council.

In summary, the tools available to rezone property include comprehensive rezoning, piecemeal rezoning subject to the change/mistake rule, text amendment, and floating zones. The State, in granting local zoning authority, tightly controls how that authority shall be exercised, and therefore rezoning methods are exclusive and cannot be expanded without an act of the Maryland General Assembly. See *Rylyns*.

If the District Council intends CR-62 to initiate a comprehensive zoning map amendment, then an accurate planning and geographic area must be identified, and the SMA process must be followed. If a piecemeal map amendment is intended, then the property owners should file individual applications and conform to the change or mistake standard, or apply for MXT as a floating zone. Each individual property owner would be required to establish, in a quasi-judicial hearing, that they meet the change or mistake standard, or the findings for a floating zone.

The proposed process appears to be a hybrid of comprehensive re-zoning and a piecemeal process, because while it has been initiated by the District Council, it is targeted to re-zone only specified properties. This method of re-zoning is exactly what State law prohibits. The proposed process contemplated in CR-62 does not exist in the local ordinance and also does not exist in State law, therefore it is disallowed by State law. **The Planning Board literally has no legal process corresponding to CR-62 for either the Planning Board or planning staff to follow, with regard to the proposed re-zonings.**

As there is no local process and it appears that CR-62 is inconsistent with the laws of this state, we advise the Planning Board to recommend that the District Council amend CR-62 to correct geographic and planning area errors detailed by planning staff and, if zoning map amendments are still proposed, to initiate an SMA in accordance with Part 3, Division 4 of the Zoning Ordinance.



### **Attachment 3**

#### **Staff Analysis of Testimony from the October 10, 2017 Joint Public Hearing regarding proposed changes to the County Zoning Map for District Council worksession**

Below is an analysis of the testimony received during the public comment period for the October 10, 2017 Joint Public Hearing on the amendment of the 2013 *Approved Subregion 5 Master Plan and Sectional Map Amendment* (CR-62-2017). This analysis is organized around comments on the CR-62-2017 proposal to change the zoning of land. A staff response to the issues raised is included.

#### **Testimony in Opposition to CR-62-2017 Re-Zoning Proposal**

*Stan Fetter, Speaker 1, Exhibit 31*

*Kanita Gray, Speaker 2*

*Mildred Kriemelmeyer, Speaker 3*

*Tamara Davis-Brown, Speaker 7 Exhibit 9*

*Harry Kriemelmeyer, Speaker 8*

*Mary Forsht-Tucker, Speaker 9 Exhibit 10*

*Sarah Cavitt, Speaker 13 Exhibit 11*

*Henry S. Cole, PhD, Speaker 14, Exhibit 12*

*Adrienne Crowell, Speaker 15, Exhibit 19*

*Judith Allen Leventhal, Speaker 20, Exhibit 15*

*Tommi Makila, Speaker 13*

*Kelly Canavan, Speaker 14, Exhibit 16*

*Phillip Van Wiltenburg, Speaker 15, Exhibit 21*

*Susan Chandler, Speaker 16*

*Claudia Raskin, Speaker 18, Exhibit 17*

*Jamela Charles, Speaker 19*

*Martha Ainsworth, Exhibit 30*

*Kevin Harper, Exhibit 34*

*Joanne Flynn, Speaker 20, Exhibit 35*

*Bradley Heard, Exhibit 36*

*Bonnie Bick, Speaker 21, Exhibit 37*

*Emily Canavan, Speaker 23,*

*Millicent Allenby, Exhibit 38*

*Steven Gershman, Exhibit 20*

*John Mitchell, Exhibit 22*

*Adrienne Crowell, Speaker 9, Exhibit 19*

*Muriel Greaves, Exhibit 23*

*Rev. Dr. Delman Coates, Ph.D., Exhibit 24*

*Ronald E. Small, Exhibit 25*

**Testimony Supporting CR-62-2017 Re-Zoning Proposal**

*Thomas Haller, Speaker 16, Exhibit 13*

*James J. Robinson, Exhibit 18*

*Matthew Tedesco, Speaker 17, Exhibits 32, 33*

*William Shipp, Speaker 17, Exhibit 26*

*Mel Franklin, Exhibit 27*

## Analysis of Testimony: Re-zoning Proposal

Following is Staff's analysis of oral and written testimony received at the public hearing of October 10, 2017 and prior to the close of the public record on October 20, 2017 on proposed Amendments 2, 4, 5, 6, and 7 in CR-62-2017 proposing to re-zone land.

Speaker/ Exhibit	Testimony	Staff Analysis/Discussion
<p>Speaker 1 Exhibit 31 Stan Fetter, Citizen</p>	<p>Opposed. Expressed concerns that the requirements of the amendments are not met and that "2000+ acres" is not minor. Mr. Fetter did not see how the zoning could be justified given the lack of infrastructure and transportation improvements. He did not think that money from developers would fix the area's transportation problems, as has been proven time and again. Mr. Fetter provided examples of transportation improvements he claimed had failed in various parts of the County.</p> <p>Location for rezoning is out of line with the General Plan. Putting M-X-T along the banks of the Mattawoman Creek, Accokeek Road, Floral Park Road, miles from major transportation corridors makes absolutely no sense and flies in the face of 30 years of preservation efforts.</p> <p>Opposes amendment as it represents a new methodology for an end-run around established processes; astonishing in both scope and sheer gall. CR-62 fails on legality: Minor Amendments cannot be used where a change in water and sewer categories would be required or where a traffic study would be needed. Nothing more than a back-door attempt to rezone a very specific collection of properties to benefit one developer.</p>	<p>Staff generally concurs with Mr. Fetter's testimony.</p>

<p>Speaker 2 Kamita Gray, Citizen</p>	<p>Opposed. She promised to submit written comments. Ms. Gray thought that when rezoning to the M-X-T Zone “there are inadequate standards and there is no true definition.” She thought it was possible to get 80% residential rather than M-X-T, which would make traffic worse in the area given that the roads were only two-lane.</p>	<p>Staff generally concurs with Ms. Gray’s testimony and recommends denial of the proposed amendments.</p>
<p>Speaker 3 Mildred Kriemelmeyer, Citizen</p>	<p>Opposed. Mrs. Mildred Kriemelmeyer noted that the Chair read the applicable section of the Zoning Ordinance and it clearly showed that CR-62 was illegitimate. She did not support the idea of placing M-X-T in the middle of a rural agricultural area. She understood that the Walton Company had purchased these properties, and that the amendment coincided with all their properties, with a few exceptions.</p>	<p>Staff generally concurs and recommends denial of the proposed amendments.</p>
<p>Speaker 7 Exhibit 9 Tamara Davis- Brown, Citizen</p>	<p>Opposed. In reference to statements regarding regional transportation issues and the use of coordinated priority funding fees for new development projects in the preamble clause of CR-62-2017, Ms. Davis Brown thought that the use of development fees had been unsuccessful, allowing more housing and unfettered development that only made traffic worse. (“More houses mean more traffic.”)</p> <p>Ms. Davis Brown also did not think the requirements of Sec. 27-642(c)(4) had been met and that the proposal was not a Minor Amendment but a major rezoning of rural properties to a mixed-use zone, a zone designed to be near metro stations and major highways. She stated that in the rural and agricultural areas there was no water and sewer. Review the proposal’s legality under the County Zoning Ordinance regarding rezoning of land in</p>	<p>Staff generally concurs and recommends denial of the proposed amendments.</p>

	<p>District 9.</p> <p>Proposal goes beyond the scope of Section 27-642 of the County's Zoning Ordinance (to completely rezone land). She also noted that many of the properties were owned by the Walton Corporation. She disapproved of the resolution because 2,000 acres "is not a Minor Amendment."</p>	
<p>Speaker 8 Harry Kriemelmeyer, Citizen</p>	<p>Opposed. Thought that CR-62-2017 failed as a Minor Amendment as described in Sec. 27-642(c)(4) of the Zoning Ordinance.</p>	<p>No comment</p>
<p>Speaker 9 Exhibit 10 Mary Forsht- Tucker, Citizen</p>	<p>Opposed. Testimony focused on amendments 7 and 8. She stated that placing the M-X-T Zone in rural agricultural areas went against everything the County had advocated over the past decade.</p> <p>Ms. Forsht-Tucker did not believe CR-62-2017 met the amendment requirements as it is expressly stated under Sec. 27-642(c)(4) that the process cannot be used for any amendment requiring major transportation, water and sewer, and public facilities studies; it disallows triggering Adequacy of Public Facilities evaluation; sewer category changes. CR-62-2017 bypasses the Zoning Hearing Examiner and the Planning Department. She did not believe the amendment process could be used to do this.</p> <p>She stated further that the M-X-T Zone had few restrictions and a study was essential. The M-X-T Zone encourages a 24-hour functional environment, near a major intersection or transit hub. She thought that the proposal needed to be evaluated and it should not be in the rural tier. She also challenged</p>	<p>Two of the three amendments would require realignment of the water and sewer envelope. Staff generally concurs with the testimony and recommends denial of the proposed amendments.</p>



	the legality of changing zoning for 2,000+ acres of land through a Minor Amendment.	
Speaker 13 Exhibit 11 Sarah Cavitt, Indian Highway Area Action Council, Inc.	Opposed. Thought that CR-62-2017 would cause more sprawl when the focus should be on developing at the 15 Metro sites. She also thought that CR-62-2017 was counterproductive to the zoning rewrite. She questioned whether M-X-T would work now when it had not worked in the past. Her group supported other speakers and written testimony in opposition, and challenged that rezoning 2,000+ acres was minor.	Mrs. Cavitt's assumptions are supported by Plan 2035 which recommends that development such as that possible under the M-X-T Zone should be concentrated in designated Local Centers and Transit Districts, not scattered throughout the Established Communities.
Speaker 14 Exhibit 12 Henry S. Cole, PhD, Citizen	Opposed. Stated that M-X-T permitted anything and anything could be built in the Rural Tier. He was concerned that Amendments 7 and 8 were not 'minor' amendments. He noted that 15 of the properties were in the Mattawoman Watershed and was concerned about the environmental impacts, especially as no studies had been completed. CR-62-2017 process is a sly way to avoid public scrutiny; it precludes a full environmental impact analysis and sets a dangerous precedent for the future. Proposed rezoning may contradict restrictions for use of the Minor Amendment process.	Staff shares Dr. Cole's concerns especially as regards rural and agricultural preservation. The Subregion 5 Master Plan, Plan 2035, the Rural Conservation Functional Master Plan and others, all promote the preservation of rural resources.
Speaker 15 Exhibit 19 Adrienne Crowell, Citizen	Opposed. Stated that she lived close to the properties under amendments 4 and 5. She said M-X-T would extend operating hours for businesses and increase traffic in an area already dangerous for pedestrians. Ms. Crowell was concerned about increasing the number of liquor stores already in the area, implying that rezoning would allow more. She also expressed her concern that multifamily development would attract deviant behavior, overcrowding, and overdeveloped properties with no supporting	No comment.

	infrastructure.	
<p>Speaker 16 Exhibit 13 Thomas Haller, Attorney, Gibbs and Haller, representing Angela Chung</p>	<p>Supported Amendment 2. Noted that the R-R Zone was more compatible with adjacent R-L zoned land; has frontage on a public road; water and sewer lines within the property are available for immediate connection; the R-R Zone is more compatible with adjacent (R-L-Zoned) land. Explained chronology of past efforts to reclassify and rezone this property. Reasons are cited for rezoning the property from the R-A to the R-R Zone include the proximity of the property to the Piscataway Preserve development (R-L Zone, 10,000 – 14,000 square foot lots) through which this property has public access, and the exiting water and sewer lines that traverse it. Expansion of growth boundary only limited to this property as a tree bank, existing development and publicly owned land abut it.</p>	<p>The property owner’s position regarding reclassification of the Growth Boundary was not supported by the Planning Department or the Planning Board.</p> <p>Further, this property was placed in the Rural &amp; Agricultural Area (RAA), outside the Growth Boundary, by Plan 2035. Plan 2035 stressed the importance of preserving the Rural &amp; Agricultural Area. In the 2017 Resource Conservation Plan (RCP), the Council went further and established the following policy: <i>Maintain the size and configuration of the Rural and Agricultural Area in perpetuity and do not reduce the size for any reason.</i> RCP, Rural Character Conservation Plan Policy 1.10, page 121.</p>
<p>Speaker 17 Exhibit 33 Matthew Tedesco, Attorney, representing Piscataway Clinton, LLC</p>	<p>Support, Amendment 4. Stated that the proposed rezoning supports the goals and policies of the Subregion 5 Master Plan and the Central Branch Avenue Revitalization Sector Plan. Mr. Tedesco stated that the M-X-T Zone was explicitly supported by the Subregion 5 and the CBA plans and that the amendment would facilitate growth through zoning, to facilitate road improvements at the intersection of Brandywine Road and MD 223. He was of the view that there was a need to facilitate economic development and utilize fees, to make improvements. He thought that the M-X-T Zone drove economic development in the County and that it had adequate checks and balances through the development review process. Concluding, he stated that rezoning would facilitate development for road improvements, increased employment, and would</p>	<p>The Subregion 5 Master Plan does not explicitly support the M-X-T Zone for these properties. The CBA Sector Plan recommends Residential Mixed Use for part of the subject property, but the majority of the property is recommended for Residential Low development.</p> <p>Approximately 58 acres are proposed to be developed; this testimony represents approximately 35 acres of the 58 acres. The 2013 Sector Plan (CBA) recommendations 13 acres for “Mixed-use Residential” in the location of land presently zoned C-S-C (tax accounts 0975334 and 0975342). The Future Land Use recommendations for the remaining acreage in Amendment 4 is Residential Low or Open Space. The M-X-T Zone allows a greater variety of land uses than are</p>

	<p>meet the County's development plans, and the vision of the general plan and the Subregion 5 Plan. He noted that the Central Branch Avenue Plan had also designated this area as residential mixed-use.</p> <p>Supports rezoning from R-R to M-X-T for the following reasons: implement the vision of the CBA sector plan (p. 54) Clinton Commercial Core Focus Area; reflect recommended land use concepts; realize the recommended transportation improvements; better connectivity; promote economic development; increase employment opportunities; harmonize development and land use policies; contribute to paying for road improvements; ensure a mix of employment and residential uses with an emphasis on either residential or commercial; M-X-T can easily respond to market trends and needs; add variety and diversity of housing types.</p>	<p>recommended for this location. 'Residential Mixed-Use' is defined in the CBA plan as mixed land use types within one zone where residential is the dominant land use type. 'Residential Low' areas have residential densities of up to 3.5 dwelling units per acre. Private property designated as 'Open Space' is intended to remain open space. The Minor Amendment process is not the appropriate vehicle to rezone property.</p> <p>It should be noted that there was no testimony in support of amendment 5, also within the CBA Sector Plan area.</p>
<p>Speaker 20 Exhibit 15 Judith Allen Leventhal, Citizen</p>	<p>Opposed. She did not believe that rezoning thousands of acres to the M-X-T Zone was an amendment. She contended that M-X-T, with its few limits on density, was intended for Metro stations. She was concerned that the proposed changes would further clog unmaintained local roads and produce severe environmental and safety concerns. She called for more planning and study before such a change could occur since the change was not mandated by a court of special appeals, as she believed someone else suggested. Rather, she thought it would facilitate private landowners and not tax-paying residents living in the area.</p>	<p>Staff generally concurs with Ms. Leventhal's testimony and recommends denial of the proposed amendments</p>
<p>Speaker 13 Tommi Makila,</p>	<p>Opposed. Thought that the process would not hold water if it were to be challenged in the courts. He</p>	<p>No comment</p>

<p>Citizen</p>	<p>advised the lawyers to look again at the proposal, because the area had major transportation challenges and building more houses was not the solution. He did not believe a planner could properly explain how this was a solution. He also stated that the proposal was not minor and that its impacts would be significant. He expressed concern that the amendments only benefited a few private business interests and that was not the way to create policy.</p>	
<p>Speaker 14 Exhibit 16 Kelly Canavan, Accokeek, Mattawoman and Piscataway Creek Council</p>	<p>Opposed. Voiced strong opposition to CR-62-2017. She was concerned that it would destroy the rural tier and quality of life. She also had concerns that moving to M-X-T through this process was illegal, sketchy, and did not meet the Minor Amendment rules listed in Sec. 27-642(c)(4). She claimed that the proposal denied residents due process because it did not articulate purposes and projected impacts, and focused too much on transportation improvements though the justification defied logic. She also considered some of the master plan goals/vision quoted in the resolution as vague. She concluded that Council appeared to be for orchestrated favors for specific property owners at the expense of residents. She thought the process was rushed and minimized public input.</p>	<p>Staff generally concurs with Ms. Canavan's testimony and recommends denial of the proposed amendments.</p>
<p>Speaker 15 Exhibit 21 Phillip Van Wiltenburg, Greater Accokeek Civic Association</p>	<p>Opposed. Expressed concerns that transportation in the area was an issue, rezoning to M-X-T was worrisome, and that both the zone and the approval process were poorly defined. He thought that there were sometimes too many exemptions granted in the development process under M-X-T. Regarding the adequacy of school facilities under Sec. 10-192.01(e) of the County Code, he was concerned that the school surcharge was not adequate. He</p>	<p>Staff generally concurs with Mr. Van Wiltenburg's testimony and recommends denial of the proposed amendments.</p>

complained about receiving the notice with insufficient time to respond.

The zoning change does not meet the criteria of 27-213 for rezoning properties to M-X-T. Specifically, it requires the zoning to be near a transportation hub, which this is not. And M-X-T does not limit housing density, and does not make sense in the rural tier.

The proposed rezoning goes beyond the scope of County's Zoning Laws that allow for a Minor Amendment - Sec. 27-642(c)(4). No analysis or Adequate Public Facilities analysis has occurred to determine impacts; most of the area does not have water and sewer connection, which is already overburdened. The roads, specifically MD-5, MD-210, MD-223, MD-373, and side roads are already overtaxed and will see increased congestion.

Accokeek is already feeling the impacts of development under 4-01063. Development continues to undermine the rural nature of the surrounding area.

County Section 10-192.01.e. states "payment of the schools facilities surcharge does not eliminate any authority to apply any test concerning the adequacy of school facilities under the County's adequate public facility ordinance."

The sewer system is already overburdened and has had repeated pollution spills. As development continues it destroy green space and trees, and causes wildlife to suffer.



<p>Speaker 16 Susan Chandler, Citizen</p>	<p>Opposed. Testified against changing the zoning through CR-62-2017. She liked the area's rural character and did not like the increasing traffic.</p>	<p>No comment</p>
<p>Speaker 17 Exhibit 26 William Shipp, Attorney, representing Walton Group Companies, LLC,</p>	<p>Support. Testified in support of CR-62-2017. He noted that the Walton Companies' vision did not necessarily require rezoning to M-X-T; it could be realized under a different zone. Mr. Shipp described the type of development that would follow as "the best in class communities" and one that would provide economic vitality for the region. He said the roads were a fact of life and that the problem has not been solved because roads have not been a priority. He thought that the development funding system worked and would work in the region same as it did in Westphalia. The development would be clustered and would utilize the best environmental practices because they were committed to protecting Mattawoman Creek, and improving its quality.</p> <p>The property owner envisions a development called Tributary on the 1,000+ acres they own. They are exploring a variety of zones to achieve a "sustainably designed planned community that ... also (provides) a key component of to the regional transportation issues." They would like to work with the staff and the community to find common ground.</p>	<p>The property owner's vision is inconsistent with the goal, objectives, and recommendations for this area in the County's current master plan, general plan, and functional master plans. Should the County wish to move forward, a project of this magnitude would need to be addressed comprehensively as a budgeted Planning Department work program. Zoning is a plan implementation tool, so there would first need to be a plan that set forth the land use policies that the zoning would implement.</p>
<p>Speaker 18 Exhibit 17 Claudia Raskin, Citizen</p>	<p>Opposed "in the strongest term." She thought that counsel for the Walton Co. was missing the point in that the issue was not about wanting responsible development, but wanting no development at all. She thought that development should focus around Metro stations, not the rural tier. She was concerned that her Councilmember had not convened a</p>	<p>Plan 2035 stresses the importance of concentrating mixed-use development in its 26 designated Local Centers and eight designated Regional Transit Districts, rather than scattered throughout the County.</p>

	<p>citizen's group of the rural tier as they had promised. She was concerned that her community was going to be developed into residential communities when the focus should be on open space, recreation, and agricultural economic development, not housing. She saw a need to move away from housing as the main income stream for the County and instead focus on promoting rural activities. She expressed that the residents wanted to keep the area rural and protect the County's air and water resources. She said not everyone wants to live in a planned community.</p> <p>"The rezoning will sound the death toll for our precious rural area, erode its character, and is inconsistent with recent efforts to preserve our agricultural history, rural recreation, and farms. The change will compromise the agritourism market that has been growing in the area (wineries, recreation, small farms)."</p>	
<p>Speaker 19 Jamela Charles</p>	<p>Opposed. Rezoning to M-X-T zoning would increase traffic. She did not support residential development, especially multifamily, which she claims brings crime.</p>	<p>No comment.</p>
<p>Exhibit 27 Mel Franklin, Councilman, Prince George's County Council</p>	<p>Include in the evaluation and consideration the 2013 <i>Approved Central Branch Avenue Corridor Revitalization Sector Plan</i>.</p>	<p>Agree. A work program is included in the Planning Department's FY-2018 budget to prepare a Sectional Map Amendment to implement recommendations in the CBA Sector Plan.</p> <p>Staff proposes a major amendment to the CBA Sector Plan in its proposed FY-2019 budget: these issues can best be addressed during that process.</p>

<p>Exhibit 30 Martha Ainsworth, Chair, Prince George's County Sierra Club Group</p>	<p>This is not a "minor" amendment and does not satisfy the criteria for amendments in Zoning Ordinance Sec. 27-642. Approval of this amendment would undermine the credibility of the county's zoning system and further erode the public trust.</p>	<p>Agree. The amendment process is not the appropriate vehicle to rezone property.</p>
<p>Exhibit 32 Matthew Tedesco, Attorney, Calm Retreat, LLC; Allied-Brandywine, LLC</p>	<p>Supports the rezoning from R-R to M-X-T in Amendment 6 for the following reasons: will advance the goals of the master plan; will provide funding to the Brandywine Road Club that will fund road improvements that will reduce traffic congestion; M-X-T process will ensure development that is transit-supported and fits into the fabric of the community.</p>	<p>Approximately 90 acres of the subject properties, of which 60+/- acres is in the Brandywine Local Center and with Future Land Use Mixed-Use. The Subregion 5 Master Plan and the Master Plan of Transportation (MPOT) recommend a new arterial road through the Calm Retreat property (A-55, Accokeek Rd.) The Subregion 5 plan designates this property in the Edge area of the Brandywine Community (Plan 2035, Local) Center. The Minor Amendment process is not the appropriate vehicle to rezone property.</p>
<p>Exhibit 33 Matthew Tedesco, Attorney, Piscataway-Clinton LLC</p>	<p>Supports rezoning from R-R to M-X-T for the following reasons: implement the vision of the CBA sector plan (p. 54) Clinton Commercial Core Focus Area; reflect recommended land use concepts; realize the recommended transportation improvements; better connectivity; promote economic development; increase employment opportunities; harmonize development and land use policies; contribute to paying for road improvements; ensure a mix of employment and residential uses with an emphasis on either residential or commercial; M-X-T can easily respond to market trends and needs; add variety and diversity of housing types.</p>	<p>Approximately 58 acres may need to be assembled to create a developable block; this testimony represents approximately 35 acres. The 2013 Sector Plan (CBA) recommendations 13 acres for "Mixed-use Residential" in the location of land presently zoned C-S-C (tax accounts 0975334 and 0975342). The Future Land Use recommendations for the remaining acreage in amendment 4 are Residential Low or Open Space. The M-X-T Zone allows a greater variety of land uses than are recommended for this location. 'Residential Mixed-Use' is defined in the CBA plan as mixed land use types within one zone where residential is the dominant land use type. 'Residential Low' areas have residential densities of up to 3.5</p>

		<p>dwelling units per acre. Private property designated as 'Open Space' is intended to remain open space. The Minor Amendment process is not the appropriate vehicle to rezone property.</p>
<p>Exhibit 34 Kevin Harper, Citizen</p>	<p>Regarding Amendment 4, the concept (from loopnet.com listing) shows one-story, segmented retail with surface parking, in oversupply in Clinton, and green space is too small, unusable (no paths, benches). Need a grander design. Parcels not wide enough to accommodate recommended road improvements on MD 223. Should discontinue sprawl. Need smaller, close-by community parks, and dog parks.</p>	<p>The online development concept (in the Exhibit) for the Clinton Commercial Core is not the plan concept. CBA Plan's vision is: "A greatly enhanced and expanded Mary Surratt House and Museum, and the popular B.K. Miller store, are a destination for the region as well as local residents, and contribute to a unique synergy with new development along the corridor.</p> <p>The Boys and Girls Club recreational fields and a new recreational center provide programs and activities for teens and young adults in a pedestrian friendly environment." (p. 95) The plan's development concept emphasizes boulevard-type improvements for MD 223 and development described as: "Urban townhouse development on both sides of Woodyard Road is expected to provide residential density to support the new centers and serve as a transition between the high intensity development and lower intensity neighborhood commercial to the west.</p> <p>The Old Branch Avenue and Woodyard Road intersection becomes the crossroads for the historic part of the corridor, with the four quadrants revitalized and redeveloped with residential, recreation, and retail uses. Automobile and pedestrian circulation along Woodyard Road is greatly improved by a new multi-way boulevard that offers facilities for</p>

		<p>pedestrian, bicycle, and automobile usage.” (p. 96)</p> <p>Re: open space:</p> <ul style="list-style-type: none"> <li>• Provide a neighborhood green space that is conveniently located for the recommended town home development.</li> <li>• Ensure pedestrian and bicycle amenities such benches, bus shelters, tables, sculpture, water fountain, trash receptacles are provided in all public open spaces/plazas.</li> <li>- Install periphery sidewalk that connects the civic open space to the surrounding sidewalk and trail network...” (p. 103)</li> </ul>
<p>Speaker 20 Exhibit 35 Joanne Flynn, V.P. Greater Baden and Aquasco Civic Association</p>	<p>Opposed. She thought the focus should be on healthy communities and not grand projects such as power plants and residential development. She did not think anyone was representing the community’s interests, and thought the amendment process was “bogus”. She expressed concern that their representatives did not support them during their fights with the powerplants and other “bad development”. She was emphatic that the purpose of saving the rural tier was not so that others could get rich, but it should be saved to protect the rural landscape. Appears to be an illegal use of the Minor Amendment process. Residents were left out of the process.</p>	<p>The Minor Amendment process is not the appropriate vehicle to rezone property.</p>
<p>Exhibit 36 Bradley Heard, Citizen</p>	<p>Opposed. CR-62 exceeds the scope of a Minor Amendment in 27-642. “The resolution specifically acknowledges that there are already "continuing regional transportation challenges... that continue [to] stymie the potential for development' in the subject area and that there is insufficient "funding for infrastructure improvements ...to solve this</p>	<p>Agree. The Minor Amendment process is not the appropriate vehicle to rezone property.</p>

	<p>transportation conundrum that has a critical impact on the quality of life for residents of the planning area" (emphasis added). Yet, the resolution claims that the significant up-zoning of territory that it seeks to implement would require no major transportation analysis or adequate public facilities analysis... laughable on its face." If the Council is truly intent on comprehensively up-zoning territory in an already-crowded, non-transit-accessible part of the county, it must do so through the ordinary master planning and sectional map amendment process, which involves a great deal more public notice-and comment opportunity and professional analysis than is allowed through the "amendment " process."</p>	
<p>Speaker 21 Exhibit 37 Bonnie Bick, Citizen Mattawoman Sierra Club Campaign</p>	<p>Opposed. Would turn the rural tier into a patchwork. She reminded policymakers that for decades they said that M-X-T would be around Metro stations. She did not think it made sense to spend time on such an amendment, reminding the Councilmember that he had run against that type of development and wondered whether his change of mind had anything to do with Scottsdale, Arizona, where she said the main property owner was based. She reminded the Councilmember that the County's certified priority preservation areas needed to be protected and wondered how the state would react when the County presented a "patchwork quilt" of the rural tier. "This rezoning is also in Tier IV in the county's "Septics Bill" map, inappropriate for M-X-T." She concluded by reiterating that Mattawoman Creek was one of the most productive creeks for fishing and should be protected.</p>	<p>No comment.</p>



	CR-62-2017 "does not fit the criteria for a "minor rezoning" the large number of acres and the altering growth boundaries is inconsistent with the rules according to code. M-X-T requires transportation connection and sewer, these are not available in the areas proposed for this rezoning."	
Speaker 23 Emily Canavan, Citizen	Opposed. Stated that Minor Amendments could not include changes requiring studies on major transportation as is stated in Sec. 27-642 (c)(4). Ms. Canavan drew attention to the area's traffic issues and poor transportation planning. She thought the rezoning was illegal and would be problematic. She did not think that the proposal was a Minor Amendment as more than 2,000 acres would be converted to the Established Communities which would replace rural agriculture with high-density development.	No comment.
Exhibit 38 Millicent Allenby, Citizen	Opposed. States that this an illegal zoning process.	No comment.
Exhibit 20 Steven Gershman, Citizen	The proposed rezoning goes beyond the scope of what Sec. 27-642(c)(4) permits. The rationale and impetus of the resolution are flawed.	No comment.
Exhibit 22 John Mitchell, Citizen	The "minor" changes are false and should be rejected. Corporations should not be considered before human beings, which have to experience the traffic congestion, noise pollution and inadequate infrastructure that is stressed enough.	No comment.

<p>Speaker 9 Exhibit 19 Adrienne Crowell</p>	<p>Extending operational hours will increase traffic congestion on roads that are already crowded. Roads are unkept, and dangerous to pedestrians, particularly Shultz Road to Chris Mar Avenue. Overall, transportation infrastructure is inadequate, for example, bus transportation is only available during the week, and there are no sidewalks along Old Branch Avenue and Woodyard Road.</p> <p>Changes will result in overcrowding and overdevelopment of the Rural Tier. Residents moved here specifically for a rural setting with farms, trees, agriculture, parks, play areas, and a quiet lifestyle, which will all be destroyed.</p> <p>Overdevelopment causes air and water pollution, and destroys open space/green space, trees, and wildlife.</p>	<p>No comment.</p>
<p>Exhibit 23 Muriel Greaves, Citizen</p>	<p>We already have major traffic problems on Piscataway Road due to numerous developments with more to come. Putting M-X-T zoning in the middle of a rural and agricultural area is against everything the County has advocated for decades.</p>	<p>Agree.</p>
<p>Exhibit 24 Rev. Dr. Delman Coates, Ph.D., Mt. Ennon Baptist Church</p>	<p>The rationale and impetus of the resolution are flawed as building houses will lead to increased traffic, not decreased traffic. The proposal goes beyond the regulations of 27-642(c)(4), as a Minor Amendment cannot necessitate an Adequate Public Facilities analysis, and cannot be used for a single property owner. Because M-X-T does not limit density, it must have an Adequate Public Facilities Analysis. Infrastructure improvements should already be in place to handle the proposed development. This resolution sets a dangerous precedent that</p>	<p>Generally agree. The Minor Amendment process is not the appropriate vehicle to rezone property.</p>

	<p>developers can use to bypass the zoning process. Overall, these changes require rigorous analysis.</p> <p>Properties do not meet the criteria of 27-213 for rezoning properties to M-X-T, which requires zoning to be near a transportation hub, such as transit station. It also requires connection to water and sewer.</p>	
<p>Exhibit 25 Ronald E. Small</p>	<p>Referring to Amendments 6, 7, and 8, a study needs to be conducted to address the inadequate egress points into and out of Chaddsford community. Also, you must analyze the ability of Law Enforcement to support existing and future development.</p> <p>There are issues with inadequate infrastructure, specifically, the lack of pedestrian crossing to access the Brandywine Shopping Center at the intersection of Chadds Ford Drive and Timothy Branch needs to be addressed, existing walking/bike trails need to be incorporated into the existing community and existing commercial establishments, future transit/community based facilities, and proposed transit stops to the east side of highway 301 (Brandywine Shopping Center) need to be relocated, and the lack of properly marked pedestrian crossing on Chadds Ford Drive need to be resolved.</p>	<p>No comment</p>
<p>Exhibit 18 James J. Robinson, Pastor</p>	<p>Supported Amendment 5. Stated that the rezoning will transform the area into a “vibrant, mixed-use destination and promote compact development and jobs that will support walkable and transit services very similar to what we see going on in the Suitland Maryland area.” He said improvements to the intersection of Piscataway Road/Old Branch Avenue/Brandywine Road/Woodyard Road are overdue.</p>	<p>The Minor Amendment process is not the appropriate vehicle to rezone property.</p>

## **Attachment 4**

### **Staff Analysis of Testimony from the October 10, 2017 Joint Public Hearing regarding proposed changes to the County's Growth Boundary for November 2, 2017 Planning Board worksession.**

Below is an analysis of the testimony received during the public comment period for the October 10, 2017 Joint Public Hearing on the Minor Amendment of the 2013 *Approved Subregion 5 Master Plan and Sectional Map Amendment*. This analysis is organized around comments on the CR-62-2017 proposal to change the Plan 2035 Growth Policy Areas and boundaries by re-designating land that is currently in the Rural and Agricultural Areas to the Established Communities growth policy area. A staff response to the issues raised is included.

#### **Testimony in Opposition to CR-62-2017 Growth Policy Area Designation and Boundary Change Proposal**

*Stan Fetter, Speaker 1, Exhibit 31*

*Kamita Gray, Speaker 2*

*Mildred Kriemelmeyer, Speaker 3*

*Tamara Davis-Brown, Speaker 7, Exhibit 9*

*Harry Kriemelmeyer, Speaker 8*

*Mary Forsht-Tucker, Speaker 9, Exhibit 10*

*Sarah Cavitt, Speaker 13, Exhibit 11*

*Harry S. Cole, PhD, Speaker 14, Exhibit 12*

*Adrienne Crowell, Speaker 15, Exhibit 19*

*Judith Allen-Leventhal, Speaker 20, Exhibit 15*

*Tommi Makila, Speaker 21*

*Kelly Canavan, Speaker 22*

*Phillip Van Wiltenburg, Speaker 23, Exhibit 21*

*Susan Chandler, Speaker 24*

*Claudia Raskin, Speaker 26*

*Joanne Flynn, Speaker 28, Exhibit 35*

*Bonnie Bick, Speaker 29, Exhibit 37*

*Heather McKee Speaker 31*

*Emily Canavan, Speaker 32*

*Steven Gershman, Exhibit 20*

*Rev. Dr. Delman Coates, Ph.D., Exhibit 24*

*Martha Ainsworth, Exhibit 30*

*Bradley Heard, Exhibit 36*

**Testimony Supporting CR-62-2017 Growth Policy Area Designation and Boundary Change Proposal**

*Thomas Haller, Speaker 16, Exhibit 13*

*Thomas Haller, Speaker 16, Exhibit 14*

*William Shipp, Speaker 25 Exhibit 26*

*L. Paul Jackson, II, Exhibit 28.*

## Part A. Analysis of Testimony: Proposed Changes to the Plan 2035 Growth Policy Areas, Growth Boundary

Following is Staff's analysis of oral and written testimony received at the public hearing of October 10, 2017 and prior to the close of the public record on October 20, 2017 on proposed CR-62-2017 Amendments 1, 3 and 8 proposing to change the Growth Policy Area designations in Subregion 5.

Speaker/ Exhibit	Testimony	Staff Analysis/Discussion
Speaker 1 Exhibit 31 Stan Fetter, Citizen	Opposed. Running water and sewer there would be hugely damaging and expensive. He did not think that money from developers would fix the area's transportation problems, as has been proven time and again. Mr. Fetter provided examples of transportation improvements he claimed had failed in various parts of the County. Finally, he thought that the proposal violated Plan 2035 policies regarding development and growth in the County.	Staff generally concurs with Mr. Fetter's testimony and recommends denial of the proposed minor amendments.
Speaker 2 Kamita Gray, Citizen	Opposed.	
Speaker 3 Exhibit Mildred Kriemelmeyer	Opposed. Ms. Kriemelmeyer strongly opposed the amendment, suggesting that it should be retracted. She noted that the Chair read the applicable zoning ordinance and it clearly showed that CR-62 was illegitimate. She understood that the Walton Company had purchased these properties, and that the amendment coincided with all their properties, except for a few exceptions.	Staff generally concurs with the testimony and recommends denial of the proposed minor amendments.



<p>Speaker 7 Exhibit 9 Tamara Davis-Brown, Citizen</p>	<p>Opposed. With reference to statements regarding regional transportation issues and the use of coordinated priority funding fees for new development projects in the preamble clause of CR-62-2017, Ms. Davis Brown thought that the use of development fees had been unsuccessful, allowing more housing and unfettered development that only made traffic worse. (“More houses mean more traffic”). She thought that CR-62-2017 was ill-conceived. She claimed that developers do not pay for road improvements they promise, as those who have been to the area can see from the resulting traffic congestion. Ms. Davis Brown also did not think the requirements of Sec. 27-642(c)(4) had been met and that the proposal was not a minor amendment. She thought that Growth Boundary changes could not be made by a minor amendment and that Amendments 1, 3 and 8 contradicted Plan 2035. She stated that in the rural and agricultural areas there is no public water and sewer. She also noted that many of the properties were owned by the Walton Companies. Finally, she disapproved of the resolution because 2,000 acres is not a “minor” amendment.</p>	<p>Staff generally concurs with the testimony and recommends denial of the proposed minor amendments.</p>
<p>Speaker 8 Exhibit Harry Kriemelmeyer</p>	<p>Mr. Harry Kriemelmeyer thought that CR-62-2017 failed as a minor amendment as described in Sec. 27-642(c)(4) of the County Zoning Ordinance and threw out all the previous work to preserve the core of the Rural Tier. He did not see how the proposal could proceed.</p>	<p>See staff response to speaker #21</p>
<p>Speaker 9 Exhibit 10 Mary Forsht-Tucker</p>	<p>Opposed. She did not believe CR-62-2017 met the minor amendment requirements as it is expressly stated under Sec. 27-642(c)(4) that the process cannot be used for any amendment requiring major transportation, water and sewer, and public facilities studies. Legality of using the minor amendment process to change the Growth Boundary is questionable. She also thought that changing the (growth) boundary changed the water and sewer classification, (allowing water and sewer) where it was previously disallowed. She did not believe the minor</p>	<p>Staff generally concurs with Ms. Forsht-Tucker and recommends denial of the proposal.</p>

	<p>amendment process could be used to do this as it bypassed the Planning Board and Zoning Hearing Examiner. She thought that the proposal needed to be evaluated and it should not be in the rural tier. She also challenged the legality of changing zoning for 2,000+ acres of land through a minor amendment.</p>	
<p>Speaker 13 Exhibit 11 Sarah Cavitt, Indian Head Highway Action Council</p>	<p>Opposed. Mrs. Cavitt thought that CR-62-2017 would cause more sprawl when the focus should be on developing at the 15 Metro sites. She also thought that CR-62-2017 was counterproductive to the zoning rewrite. Her group supported other speakers and written testimony in opposition to the proposal, and challenged that rezoning 2,000+ acres was minor.</p>	<p>No comment</p>
<p>Speaker 14 Exhibit 12 Harry S. Cole, PhD</p>	<p>Opposed. Dr. Cole was concerned that the Councilmember for that district had not honored their pledge to create a task force to maximize opportunities such as recreation, inns, greenhouses, and farmers' markets, that were appropriate for the rural tier. He expressed concerns that the area was subject to "death by a thousand cuts" using a procedure [minor amendment] he thought was illegal. He noted that 15 of the properties were in the Mattawoman Watershed and was concerned about the environmental impacts, especially as no studies had been completed. Dr. Cole thought that Minor Amendment 8 changed the Growth Boundary making the area eligible to receive public water and sewer service, issues not addressed in CR-62-2017. Further, he wanted the rural areas to be considered as the future bread basket for the entire metropolitan area and a source of future employment income. CR-62-2017 process is a sly way to avoid public scrutiny; it precludes a full environmental impact analysis and sets a dangerous precedent for the future.</p>	<p>Staff generally concurs with Dr. Cole, especially regarding rural and agricultural preservation, and recommends denial of the proposal.</p>

<p>Speaker 15 Exhibit 19 Adrienne Crowell</p>	<p>Opposed. Moved to area to get away from crowding and likes the rural feel. Now suffer congested roads that need improving. Too many homes, not enough recreation centers, schools are too far. Small town will become urban nightmare. She noted that residents had moved to the area for its rural character.</p>	<p>No comment</p>
<p>Speaker 16 Exhibit 13 Thomas Haller, Attorney, Haller and Gibbs, representing Angela Chung (Amendment 1)</p>	<p>Supported. Stated his client's properties abutted the Growth Boundary and had frontage on a public road, with water and sewer lines running through the property that could provide immediate connection. Further, he noted that the Rural-Residential (R-R) Zone was more compatible with adjacent R-L zoned land. Mr. Haller claimed the owner believed CR-62-2017 could correct a mistake in the Growth Boundary. Mr. Haller claimed that his earlier effort to amend the growth boundary using the Resource Conservation Plan had been supported by both the Planning Department and the Planning Board but not the District Council, which determined that the minor amendment process was the appropriate method to amend the growth boundary.</p> <p><del>Supported. Mr. Haller, claimed that the owner received written confirmation from M-NCPPC that the Growth Boundary could be altered as part of the RCP approval process and requested a change in the Growth Boundary. M-NCPPC's approval of the RCP included a recommendation to change the Growth Boundary (PGCPB 16 44), County Council did not support this recommendation and the 2017 RCP placed the property in SGA Tier III.</del></p>	<p>The property owner's position regarding reclassification of the Growth Boundary was not supported by the Planning Department or the Planning Board.</p> <p>Further, this property was placed in the Rural &amp; Agricultural Areas (RAA), outside the Growth Boundary, by Plan 2035 which stressed the importance of preserving the Rural &amp; Agricultural Area. In the 2017 Resource Conservation Plan (RCP), the Council went further and established the following policy: <i>Maintain the size and configuration of the Rural and Agricultural Area in perpetuity and do not reduce the size for any reason.</i> (RCP, Rural Character Conservation Plan Policy 1.10, page 121). Staff believes Plan 2035 should be the guiding document for all decisions related to the Growth Boundary, including SGA tier and water/sewer categories. Staff therefore recommends against moving the Thomas Chung property into the Growth Boundary.</p> <p><del>Although the property has W4/S4 category status, these determinations were superseded by the 2014 Plan 2035, and the 2017 RCP. Staff recommends the water and sewer category revert from 4 back to 6 and the sewer envelope be realigned when the Water and Sewer Plan is next updated.</del></p>
<p>Speaker 20 Exhibit 15 Judith Allen Leventhal,</p>	<p>Opposed. She was concerned that the proposed changes would further clog unmaintained local roads and produce severe environmental and safety concerns. She called for more planning and study before such a change could</p>	<p>Staff generally concurs and recommends denial of the proposed minor amendments.</p>

Citizen	occur. Rather, she thought it would benefit private landowners and not tax-paying residents living in the area.	
Speaker 21 Tommi Makila, Citizen	Opposed. Process would not hold water if it were to be challenged in the courts. Advised the lawyers to look again at the proposal because the area had major transportation challenges and building more houses was not the solution. He did not believe a planner could properly explain how this was a solution. He also stated that the proposal was not minor and that its impacts would be significant. There should be significant outreach and education about what is being planned. He expressed concern that the amendments only benefited a few private business interests and that was not the way to create policy.	Staff generally concurs and recommends denial of the proposed minor amendments.
Speaker 22 Kelly Canavan, representing the Accokeek, Mattawoman and Piscataway Creek Council	Opposed. Voiced strong opposition, was concerned that it would destroy the rural tier and quality of life. She also considered some of the master plan goals/vision quoted in the resolution as vague. Finally, she thought that Council appeared to be for orchestrated favors for specific property owners at the expense of residents. She thought the process was rushed and minimized public input.	The proposed amendment of the County Growth Boundary would impact the rural character of the area by making properties that are not now eligible for water and sewer service, eligible. Staff recommends denial of the proposed amendment.
Speaker 23 Exhibit 21 Phillip Van Wiltenburg, representing the Greater Accokeek Civic Association	Opposed. Testified that transportation congestion was an issue and the approval process was poorly defined. Regarding the adequacy of school facilities under Sec. 10-192.01E of the County Code, he was concerned that the school surcharge was not adequate. In conclusion, he complained about receiving the notice with insufficient time to respond.	No comment.
Speaker 24 Susan Chandler, Citizen	Opposed. Testified that she likes the area's rural character and did not like the increasing traffic.	No comment.

<p>Speaker 25 Exhibit 26 William Shipp, Attorney, O'Malley, Miles, Nylen and Gilmore, Walton Group Companies, P.A.</p>	<p>Supported. Described the landowners' vision of the development as "the best in class communities" and one that would provide economic vitality for the region. He thought that the roads were a fact of life and that the problem did not get solved because roads have not been a priority for the County. He thought that the development funding system worked and would work in the region same as it did in Westphalia. The development would be clustered and would utilize the best environmental practices because they were committed to protecting Mattawoman Creek, and improving its quality.</p>	<p>The state of Maryland (DNR) has weighed in on the Mattawoman Creek watershed, which it has deemed is <i>at very high risk of impairment</i>, stating that: <i>Mattawoman represents as near to ideal conditions as can be found in the northern Chesapeake Bay, perhaps unattainable in the other systems, and should be protected...</i></p> <p>Staff is concerned that the county land use policies do not align with the landowner's vision for this area.</p>
<p>Speaker 26 Claudia Raskin, Farmer</p>	<p>Opposed "in the strongest term." Thought that counsel for the Walton Co. was missing the point in that the issue was not about wanting responsible development, but wanting no development at all. She thought that development should focus around Metro stations, not the rural tier. She was concerned that her Councilmember had not convened a citizen's group of the rural tier as they had promised. She was concerned that her community was going to be developed into residential communities when the focus should be on open space, recreation, and agricultural economic development, not housing. She saw a need to move away from housing as the main income stream for the County and instead focus on promoting rural activities. She expressed that the residents wanted to keep the area rural and protect the County's air and water resources. She claimed that not everyone wanted to live in a planned community.</p>	<p>Plan 2035 stresses the importance of concentrating mixed-use development in its 26 designated Local Centers and eight designated Regional Transit Districts, rather than scattered throughout the County. Plan 2035 defines the properties in amendments 1, 3, and 8 as best suited for low-density residential development on well and septic, agricultural activity, and forest preservation.</p>
<p>Speaker 28 Exhibit 35 Joanne Flynn, Vice President, Greater Baden, Aquasco Citizen's Association</p>	<p>Opposed. Agrees with others. Concerned with the integrity of rural areas and the proper implementation of the County's policies and plans. Her association has spent years defending and supporting Smart Growth, especially the protection, progress and perpetuation of our rural and agricultural areas. Much of the land in CR-62 is</p>	<p>Agree, in general.</p>

<p>(GBACA)</p>	<p>in Tier 4, the Priority Preservation Area, where farming and conservation are encouraged and intended to remain. State and County easement programs are working in these areas to protect properties. The proposal flies in the face of good planning, common sense. Thinks the focus should be on healthy communities and not grand projects such as powerplants and residential development. She did not think anyone was representing the community's interests, and that the minor amendment process was "bogus." She expressed concern that their representatives did not support them during their fights with the powerplants and other "bad development." She was emphatic that the purpose of saving the rural tier was not so that others could get rich, when it should be saved to protect the rural landscape.</p>	
<p>Speaker 29 Exhibit 37 Bonnie Bick, Mattwomam Sierra Club Campaign</p>	<p>Opposed. "Sierra Club, has had an active campaign to protect Mattawoman Watershed for more than 25 years. CR-62-2017 would have a negative impact on Mattawoman Creek. "Smart Growth no(t) only proposes to reinvest in areas with transportation but also to save and protect the rural areas of the county." The resulting fragmentation of the Rural Agricultural Area (the Rural Tier) would have an unacceptable lasting negative impact for all of Prince Georges County. Charles County revised and redesigned their Comprehensive Plan to protect Mattawoman Creek. They have down-zoned much of the Mattawoman to protect the water quality and hence, the fish spawning capacity of the Mattawoman - which is famous as one of the most productive fish nursery's in the Chesapeake Bay. Prince George's County has a responsibility to do the same." She reminded policymakers that for decades they said that the County's certified Priority Preservation Areas needed to be protected and wondered how the state would react when the County presented a "patchwork quilt" of the rural tier. "Converting this area much of which is within a county</p>	<p>Changing the Growth Policy Areas in the PPA and in the Mattawoman Creek Watershed is inconsistent with actions already taken as a result of the County's compliance with State planning mandates for the PPA and the SGA Act, and could put in jeopardy the State's certification of the County's agricultural preservation program – a threat to substantial future funding for agricultural preservation.</p>



	Priority Preservation Area would also be counter-productive..." She concluded by reiterating that Mattawoman Creek was one of the most productive creeks for fishing and should be protected.	
Speaker 31 Heather McKee	Opposed. Stated she wanted to live in a small town with rural character. When she moved in to this area she assumed that it would not be developed because of the wetlands and creeks that the state had spent billions to protect to clean up the Bay. She thought the County was now attempting to destroy that progress and she claimed that 1,200 housing units had already been approved in Brandywine and there were plans to remove nearly 3,000 acres of trees and only save 30 acres, and two new powerplants were being built. So, the trees were needed for air quality. She reminded the Councilmembers that their predecessors supported the rural tier and that there was a need to continue to save it for the future.	Preservation of rural character and resources is in keeping with the policies of Plan 2035 and other County plans that seek to protect agricultural resources and rural character. The 2013 Approved Subregion 5 Master Plan, Plan 2035, the 2012 Adopted and Approved Priority Preservation Area Functional Master Plan, and the 2017 Approved Prince George's County Resource Conservation Plan, all contain policies and strategies to protect the County's rural areas. This proposal does not implement existing County land use policies.
Speaker 32 Emily Canavan	Opposed. Drew attention to the area's traffic issues and poor transportation planning. She did not think that the proposal was a minor amendment as more than 2,000 acres would be converted to the Established Communities which would replace rural agriculture with high-density development.	No comment
Exhibit 28 L. Paul Jackson, II, of Shipley and Horne, P.A., representing Robin Dale Land, LLC	Letter dated October 20, 2017 received from Mr. Jackson claims that per the District Council, the property is not affected by the Subregion 5 Minor Amendment and is not listed in CR-62-2017. However, he claims his client's position is that the property is affected by the proposal since it is inaccurately listed as not being within the Growth Boundary.	See staff comments for Speaker #16
Exhibit 20 Steven Gershman, Citizen	Opposed. Growth Boundary changes cannot be made by Minor Amendment.	Staff concurs that this substantial change should not be made by Minor Amendment.

<p>Exhibit 24 Rev. Dr. Delman Coates, Ph.D., Mt. Enon Baptist Church</p>	<p>Opposed. Growth Boundary changes cannot be made by Minor Amendment.</p>	<p>Staff concurs that this substantial change should not be made by Minor Amendment.</p>
<p>Exhibit 30 Martha Ainsworth, Chair, Prince George's County Sierra Club Group</p>	<p>Opposed. CR-62 makes a mockery of policies and strategies in Plan 2035, which directs the majority of growth in the County to Regional Transit Centers. Intensely developing this part of the Mattawoman watershed will irreparably harm the quality of that resource. Will unequivocally harm the environment and quality of life. Most of the land proposed for rezoning and Established Communities is designated as Priority Preservation Areas. Audacious to suggest that creating high density development will in RAA, far from mass transit, will force facing long-standing transit issues. Creating more congestion is not the approach. Bad policy.</p>	<p>Agree, in general. However, 1,915 acres are proposed for rezoning and of that 1,106 are in the Rural and Agricultural Areas (RAA). Most of the RAA is designated as Priority Preservation Area, though not all. Development will impair Mattawoman Creek, as it is at a 'tipping point.'</p>
<p>Exhibit 36 Bradley Heard, Citizen</p>	<p>Opposed. This proposal would confound many General Plan growth policies and strategies and worsen the county's destructive pattern of exurban sprawl development.</p>	<p>Agree.</p>
<p>Speaker 16 Exhibit 14 Thomas Haller, Attorney, Haller and Gibbs, representing Karen T. Thomas (Amendment 3)</p>	<p><u>Supported. Mr. Haller claimed that his client had participated in the approval process for the RCP and requested a change in the Growth Boundary then. He claimed further, that the owner received written confirmation from M-NCPPC that the Growth Boundary could be altered as part of the RCP approval process. According to him, M-NCPPC's approval of the RCP included a recommendation to change the Growth Boundary (PGCPB 16-144, Page 5). Mr. Haller states County Council did not support this recommendation and determined that the minor amendment process was a more appropriate process to change the Growth Boundary.</u></p>	<p><u>This property was placed in the Rural &amp; Agricultural Areas (RAA), outside the Growth Boundary, by Plan 2035 which stressed the importance of preserving the Rural &amp; Agricultural Area. In the 2017 Resource Conservation Plan (RCP), the Council went further and established the following policy: <i>Maintain the size and configuration of the Rural and Agricultural Area in perpetuity and do not reduce the size for any reason.</i> (RCP, Rural Character Conservation Plan Policy 1.10, page 121). Staff believes Plan 2035 should be the guiding document for all decisions related to the Growth Boundary, including SGA tier and water/sewer categories. Staff therefore recommends against moving the Thomas property into the Growth</u></p>

	<p><u>Mr. Haller's testimony included a short history of the subject property being moved from the Rural Tier to the Developing Tier in 2009 and reverting back to the Rural Tier when that plan was overturned by the Courts.</u></p>	<p><u>Boundary.</u></p> <p><u>Although the property has W4/S4 category status, this conflicts with the 2014 Plan 2035, and the 2017 RCP. Staff recommends the water and sewer category revert from 4 back to 6 and the sewer envelope be realigned when the Water and Sewer Plan is next updated.</u></p>
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